



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

Robert A. Lewis
Director

2222 "M" Street
Merced, CA 95340
(209) 385-7654
(209) 726-1710 Fax
www.co.merced.ca.us

**PLANNING COMMISSION AGENDA
REGULAR MEETING OF OCTOBER 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; 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 PERMIT APPLICATION No. AA07-051 - Brian Costa - To establish an agriculturally related transportation equipment parking and storage yard for up to 10 trucks/trailers. The project site is located on the west side of Roselawn Avenue and north of Harding Road in the Turlock area. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. GB****
- B. MAJOR SUBDIVISION APPLICATION No. MAS07-004 - "Atwal Subdivision" - Ranbir Atwal - To subdivide a .79 acre parcel into 5 residential lots of between 6,000 sq. ft. and 7,602 sq. ft. in size. The property is located at the southeast corner of Plainsburg Road and Terry Street in the Planada area and designated Planada Community Plan Low Density Residential and zoned R-3 (Multi-Family Residential). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH****
- C. CONDITIONAL USE PERMIT APPLICATION No. CUP07-012 - John Garcia - To bring into conformance an existing used car sales lot, located on 1.56 acres that includes recreational vehicle sales. The project site is located at the northwest corner of Ashby Road and Beachwood Drive in the Franklin-Beachwood area and designated Franklin-Beachwood SUDP General Commercial land use in the General Plan and zoned C-2 (General Commercial). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH****

- D. **MINOR SUBDIVISION APPLICATION No. MS07-037 - Gonzalo Sotelo** - To divide a 43.76 acre parcel into two parcels; Parcel 1 = 20.71 acres and Parcel 2 = 23.05 acres. The project site is located a ½ mile south of Cottonwood Road, one mile west of Whitworth Road in the Gustine area and designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. BG**

- E. **MINOR SUBDIVISION APPLICATION No. MS07-040 - Pereira Trust** - To divide two parcels totaling 93.9 acres into 3 parcels: Parcel 1 = 46.8 acres, Parcel 2 = 22.5 acres and Parcel 3 = 24.6 acres. The property is located at the northeast corner of Charleston Road and Jersey Road in the Los Banos area and designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. BG**

- F. **ZONE VARIANCE No. ZV07-002 AND MINOR SUBDIVISION APPLICATION No. MS07-034 - Dan Paradiso** - To vary from the minimum A-1 parcel size of 20 acres by 18 acres, and divide a 31.75 acre parcel into 2 parcels: Parcel 1 = 29.75 acres and Parcel 2 = 2 acres on property located on the north side of Pioneer Road and east of Canyon Road in the Los Banos area. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH**

- G. **2ND EXTENSION No. EXT07-022 TO MAJOR SUBDIVISION APPLICATION No. MAS04-009 - Ranchwood Contractors** - To extend the expiration date for the "Savanna" subdivision for one year, on property located at the southwest corner of Savanna Road and Santa Fe Avenue in the Le Grand area. The project site is designated Le Grand SUDP - Low Density Residential and zoned R-1 (Single Family Residential). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG**

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.

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF OCTOBER 24, 2007

A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of October 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 9:10 a.m., on October 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
 James Holland, Senior Planner
 Brian Guerrero, Planner I
 Gene Barrera, Planner II

Legal Staff: Bob Gabriele, Deputy County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

M/S MOBLEY - TANNER, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF OCTOBER 10, 2007.

IV. CITIZEN COMMUNICATIONS

Tom Grave, Sueno Ct., Merced, referred to the CEQA Guidelines, Exemption 15061 (b)(3). The General Rule exemption is not typically used according to a quoted text in the CEQA Guidelines.

V. PUBLIC HEARINGS

A. ADMINISTRATIVE PERMIT APPLICATION No. AA07-051 - Brian Costa - To establish an agriculturally related transportation equipment parking and storage yard for up to 10 trucks/trailers. The project site is located on the west side of Roselawn Avenue and north of Harding Road in the Turlock area. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. GB**

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

The public hearing opened at 9:20 a.m.

MERCED COUNTY PLANNING COMMISSION

Minutes – October 24, 2007

Page 2

Mike Smith, CCPS, reviewed the staff report and agrees with Condition #9 being deleted.

Dan Tallman, representing the Swanson family, who are the property owners to the east, states that the family is concerned with the Code Enforcement on the area and does that mean there is enforcement on the property. Planner Gene Barrera stated that is correct. Mr. Tallman added that the family looks at this business as a trucking business and not an agricultural business because of what Mr. Costa, the applicant, is hauling. He states that there is an unpermitted use of fuel storage and a barn that was not permitted originally. The hours of operation states 7am to 5pm and he feels a trucking company would have difficulty working between those hours. There are more trucks than the permit allows. He asked that these items be addressed. Chairman Sloan asked how many trucks are parked out there. Mr. Holmes wasn't sure but says they are exceeding the allowable number of trucks based on the permit.

John Machado, neighbor, feels that this project is not an agricultural operation and does not fit the A-1 zoning.

Paul Machado, neighbor, stated his opposition to the expansion of the business. He would like to see some limitations set. This property is for agricultural and feels it is being used as Industrial. He believes that 10 trucks are too many to be parked on the property.

Brian Costa, applicant, reassured the concerned neighbors that he is not adding an additional 10 trucks for parking. He is using the trucks he already has. He built a driveway near the easement for the purpose of parking those trucks, but does not block the easement.

Chairman Sloan asked Mr. Costa if the truck drivers drive out of state during the year. Mr. Costa indicated that the drivers do go out of state everyday. Mr. Costa stated that as far as industrial area goes, he is not fixing trucks on the property and his property is close to the freeway for a reason. He wants to work with the neighbors to ensure his business is run properly.

Brandon Edal, neighbor, feels that the neighbors were not considered at all in the planning process. He doesn't agree with the ag related uses of the trucks, but he doesn't want to take away Mr. Costa's way of living. He has been operating the business without permits. Mr. Costa added that he is not expanding his operation.

The public hearing closed at 9:35 a.m.

MOTION: M/S TANNER – MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS ADMINISTRATIVE PERMIT APPLICATION No. AA07-051 FROM CEQA.

MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED OCTOBER 24, 2007 AND MAKES THE 11 FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES ADMINISTRATIVE PERMIT APPLICATION No. AA07-051 SUBJECT TO THE 16 CONDITIONS WITH CONDITION #9 BEING DELETED AS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

MERCED COUNTY PLANNING COMMISSION
Minutes – October 24, 2007
Page 3

Conditions:

Planning and Community Development Department Conditions:

1. Administrative Application No AA07-051 is to permit the use of an agricultural related truck parking facility in a manner that is consistent with the approved plot plan and the Applicant's Operational Statement. Minor modifications may be approved by the Development Services Director upon submittal of an acceptable application.
2. The applicant shall comply with all of the applicable standard conditions of approval listed in the Planning Commission Resolution No 97-1.
3. For the purpose of conditions monitoring, an inspection fee in the amount of **\$250** 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 / property owner at the established hourly rate at the time of the inspection. This permit will not be considered valid until the conditions monitoring fee has been paid.
4. The hours of operation of the agricultural related truck parking facility will occur between the hours of 7:00 am and 5:00 pm.
5. The applicant shall comply with all applicable County, State and Federal regulations. These regulations shall include, but not be limited to standards administered by the County Fire, Health, Planning, Commerce, Aviation, and Economic Development and Public Works Departments.

Commerce Aviation and Economic Development Department Condition:

6. The applicant/owner shall obtain a Business License Permit from the Commerce Aviation and Economic Development Department. The Property Owner/Applicant shall pay all required fees for the Business license. The Property Owner/Applicant shall annually renew the Business License and pay all required fees.

Public Works Department Road Division and Building Division Conditions:

7. Within 90 days of approval of Administrative application No AA07-051, the applicant shall install county standard driveway approaches at the entrance(s) and exit(s) of the site. This shall be done under encroachment permit obtained from the Merced County Road Division and subject to inspection and approval by a Road Division inspector. The applicant shall pay current encroachment permit fees prior to the issuance of the encroachment permit.
8. Trucks entering and exiting the site shall be empty. If loaded trucks are to enter, exit, or otherwise be stored on the site, the applicant shall enter into a Roadway Impact Agreement with the Road Division. The applicant shall agree to pay an impact fee of \$2.00 per loaded truck entering or exiting the site. The applicant/property owner shall provide the necessary grant deed(s) for the preparation of the agreement.

Environmental Health Division Condition:

9. A Hazardous Material Business Plan is required for an operation such as currently exists. Contact Vickie Hayer (381.1083) or Kerri Gibbons (381.1094).

Fire Department Conditions:

10. Ensure Emergency Access at all times. Merced County Coded Knox Box or Knox key switch is required. (UFC 902.4). You will need to get Knox box order form through Merced County Fire Department located at 735 Martin Luther King Jr. Way in Merced, (209) 385-7347.
11. On site water storage for fire protection shall be provided. 30,000 gallons are required for this project, based upon NFPA Standard 1142. Water supply connections, hydrants or risers shall be located not more than 250 feet from any point of a significant building, measured from outside (NFPA 24 & 1141). Please submit a plot plan, showing the storage tank location and fire department access, for review and approval.
12. Ensure fuel tanks are properly permitted and meet code requirements for storage, dispensing, and secondary containment, as well as all applicable codes. (UFC Article's 79 & 80)
13. Access Road minimum requirements of 20 feet unobstructed width, 13 feet 6 inch vertical clearance , all weather driving surface of at least 0.33 compacted class 2 aggregate (Road Base) capable of supporting 25 tons, and all other applicable code requirements for turn-a-rounds etc., shall apply. (UFC Article 9)

Building Division Conditions:

14. The Building Division has been unable to locate ay permits for the Barn, the Office, and the Fuel Tank. All of these items require building permits. Also, the office for this commercial operation must be completely handicap accessible and must provide handicap parking.
15. All buildings require that plans be submitted for building permits. Any structures related to the business must have plans completed by a licensed engineer or architect in the State of California.
16. All buildings should be legalized as a condition of approval.

B. MAJOR SUBDIVISION APPLICATION No. MAS07-004 - "Atwal Subdivision" - Ranbir Atwal - To subdivide a .79 acre parcel into 5 residential lots of between 6,000 sq. ft. and 7,602 sq. ft. in size. The property is located at the southeast corner of Plainsburg Road and Terry Street in the Planada area and designated Planada Community Plan Low Density Residential and zoned R-3 (Multi-Family Residential). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH**

Planner James Holland presented the Staff Report and Recommendations of approval dated October 24, 2007.

The public hearing opened at 9:47 a.m.

Alfred Alvarez, Public Works/Road Division, states that he contacted Mr. Atwal, the applicant, regarding the clearing of weeds on the property and suggested adding a condition about safety issues coming onto the property from the roadway.

Jeff Wilson, Code Compliance Manager, indicated that the 97-1 Resolution contains conditions which state the property owner shall maintain the site, so adding a condition to the staff report is not necessary.

MERCED COUNTY PLANNING COMMISSION

Minutes – October 24, 2007

Page 5

The public hearing closed at 9:49 a.m.

MOTION: M/S TANNER - BUENDIA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS MAJOR SUBDIVISION APPLICATION No. MAS07-004, FROM CEQA.

MOTION: M/S TANNER - BUENDIA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS OF APPROVAL DATED OCTOBER 24, 2007, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MAJOR SUBDIVISION APPLICATION No. MAS07-004 SUBJECT TO THE 9 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning and Community Development Department

1. A Final Map shall be recorded within two years of the Planning Commission approval date as required by the Merced County Subdivision Code.
2. At submittal of the Final Map for technical review, the common property line between Lots 1 and 2 shall be relocated to provide a 60' minimum width for Lot No. 2.
3. Prior to recording the Final Map, the applicant shall submit a landscaping plan to the Planning and Community Development Department, that provides for the planting of 2 -15 gallon trees at the front property line of each lot and installation of a 5' landscape strip and 6' masonry wall along the Plainsburg Road property boundary to eliminate driveway access. Fencing along the Terry Street frontage of Lot 3 shall be landscaped to minimize the potential for graffiti.

Department of Public Works Road Division

4. 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, street lighting, storm drainage system, and to install underground or relocate utilities and irrigation facilities. Existing power poles in conflict with required improvements, such as but not limited to sidewalk and intersection [wheelchair] ramps, shall be either relocated or replaced with underground facilities at the developer's option.
5. Release and relinquish all abutters' rights of access to and from the entire Plainsburg Road frontage of Lots 1, 2, and 5.
6. If the Planning and Community Development Department requires Parkway Strips along Plainsburg Road pursuant to Figure 4.3 of the Planada Community Plan, then prior to recordation of the final map, the owner shall provide all documentation and pay all fees associated with annexing the property into the Monte Vista Landscaping Maintenance Zone of Benefit No. 333 in County Service Area Number One. The developer shall be responsible for installation of all improvements including a 6-foot high masonry wall at the back of the parkway strip and within the Plainsburg Road right of way or landscaping easement.
7. 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.

MERCED COUNTY PLANNING COMMISSION

Minutes – October 24, 2007

Page 6

8. 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.
9. Developer/Applicant is advised that he/she may be obligated to comply with all applicable requirements of the San Joaquin Valley Air Pollution Control District. Regulation VIII Record Keeping Forms and District Rules and Regulations may be obtained at www.valleyair.org or by calling (209) 557-6400.

C. CONDITIONAL USE PERMIT APPLICATION No. CUP07-012 - John Garcia - To bring into conformance an existing used car sales lot, located on 1.56 acres that includes recreational vehicle sales. The project site is located at the northwest corner of Ashby Road and Beachwood Drive in the Franklin-Beachwood area and designated Franklin-Beachwood SUDP General Commercial land use in the General Plan and zoned C-2 (General Commercial). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH**

At the request of the applicant, John Garcia, this item has been continued to the November 28, 2007 meeting.

D. MINOR SUBDIVISION APPLICATION No. MS07-037 - Gonzalo Sotelo - To divide a 43.76 acre parcel into two parcels; Parcel 1 = 20.71 acres and Parcel 2 = 23.05 acres. The project site is located a ½ mile south of Cottonwood Road, one mile west of Whitworth Road in the Gustine area and designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. BG**

Planner Brian Guerrero presented the Staff Report and Recommendations of approval dated October 24, 2007.

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

Duane Andrews, Golden Valley Engineering, indicated that the owners farmed the property as one unit and the applicant is splitting the property between brothers. The irrigation is a micro drip system and they will continue to farm. He asked the Commission to support this application.

Joe Silva, adjacent property owner, stated that Bunker Road is the access to his property and there is traffic, noise and dust constantly. Regarding this application, the parcels have no live tress and the applicants have no concern for agriculture. There are 13 trailers in the area. He is against this application.

Maureen McCrory, Valley Land Alliance, requested the Commission reject this application for the following reasons: Valley Land Alliance has consistently argued against parcel splits on A-1 lands that have met the threshold of the General Plan and been approved under the general rule exemption under CEQA. The 20 acre minimum and the general rule exemption have been inappropriately applied to recent application requests. She adds that there has not been an applicant who has indicated that their long term intent is to develop their property or change the land uses associated with their subdivision. She asks the Commission to not find this application appropriate under the general rule exemption. The Common sense exemption under CEQA guidelines section 15061 (b)(3) only applies "where it can

MERCED COUNTY PLANNING COMMISSION

Minutes – October 24, 2007

Page 7

be seen with certainty that there is no possibility that the activity in question will have a significant effect on the environment". She asked for this application to be denied.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, submitted a letter with photographs for the record. The letter states that she does not agree with the Planning Departments recommendations that minor subdivisions are exempt from CEQA review under Section 15061 (b)(3) the "General Rule Exemption". The General Rule Exemption for Minor Subdivisions is not good policy for Merced County to use. The "common sense" exemption under CEQA Guidelines section 15061 only applies where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. In addition to evaluating the impacts caused by the project, the County must assess whether cumulative effects of the project require an EIR. Using the General Rule Exemption for minor subdivisions is not consistent with the general plan goals and policies under the land use or agriculture chapter. There is an impact on agricultural operations when minor subdivisions and the cumulative impacts must be analyzed according to CEQA. Ms. Pedrozo submitted maps showing the access to the property from Cottonwood Rd. and showing the dead orchard that is owned by the applicant. The previous parcelization that occurred in the region has created several land-locked parcels that must drive from a ½ mile to get to Cottonwood Road. The parcel directly west is dead and has a new home that has an access route. She asked the Commission to deny this application and to stop using the General Rule Exemption for Minor subdivision application as a standard procedure.

Tom Grave, Alliance for Responsible Growth, would have liked to see Diana Westmoreland-Pedrozo's handout and felt the presentation should have been on the overhead to view and would create substantial evidence on the record that would question the exemption. Commissioner Lashbrook would like to see current pictures as well and is concerned about the misrepresentation of this application. Robert Lewis, Planning Director, states that there is no public policy on the subject. He wasn't contacted personally by Mrs. Pedrozo. However, in the past, applicants and representatives have been allowed to make presentations.

Mr. Grave added that Ms. Pedrozo made a compelling case for the loss of trees. He thought that the Planning staff was not in support of this application. Bill Nicholson clarified the findings and that Planning Staff could not find the property is consistent with the average parcel sizes in the area (Finding #3). Mr. Grave asked if there is a database that shows the property split requests for past and future applications. Robert Lewis states that the GIS system is currently being worked on, but is not completed for public information due to financial and personnel constraints.

Bob Gabriele, County Counsel, states that this is his first case where the evidence presented by the public creates substantial evidence for the record. He encouraged anyone with information to provide it to staff sooner than the day of the Planning Commission meeting. He does not have an opinion on the project, but pointed out the clear evidence submitted today.

Commissioner Mobley states that the mobile home condition is a Code Enforcement issue. He feels that the property is not in active production. Mr. Andrews said he was told the property was being irrigated and farmed, but he did not visit the property himself. Chairman Sloan asked how long the property owners have lived there. Mr. Andrews said they have owned the property for 4 years.

MERCED COUNTY PLANNING COMMISSION

Minutes – October 24, 2007

Page 8

Bob Gabriele also added that the legal standard regarding the “common sense” exemption requires “no possibility” of an impact. If there is legitimate questions based on evidence, there could be an impact and if there is a dispute over the concerns then there is a reasonable argument and an Initial Study or an environmental evaluation is needed.

The public hearing closed at 10:32 a.m.

MOTION: M/S LASHBROOK - BUENDIA, AND CARRIED BY A VOTE OF 4 – 1, NAY BY CHAIRMAN SLOAN, THE PLANNING COMMISSION DENIES MINOR SUBDIVISION APPLICATION No. MS07-037 DUE TO THE INABILITY TO MAKE FINDINGS 1, 7 & 8.

BREAK 11:00 TO 11:10

- E. MINOR SUBDIVISION APPLICATION No. MS07-040 - Pereira Trust -** To divide two parcels totaling 93.9 acres into 3 parcels: Parcel 1 = 46.8 acres, Parcel 2 = 22.5 acres and Parcel 3 = 24.6 acres. The property is located at the northeast corner of Charleston Road and Jersey Road in the Los Banos area and designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. BG**

Planner Brian Guerrero presented the Staff Report and Recommendation dated October 24, 2007.

The public hearing opened at 11:12 a.m.

Larry Bowers, BCA, states this property is in agricultural production and the family would like to settle the estate. There are no structures on the property.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, believes the Pereira Family is keeping the property in agricultural production, but also referenced her letter from Item D (Minor Subdivision MS07-037). She asked the Commission to look at the impacts of approving subdivisions and stop using the general rule exemption.

The public hearing closed at 11:14 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. MS07-040 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 OF APPROVAL DATED OCTOBER 24, 2007 AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION APPLICATION No. MS07-040 SUBJECT TO THE 3 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning & Community Development Department

MERCED COUNTY PLANNING COMMISSION

Minutes – October 24, 2007

Page 9

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.

F. ZONE VARIANCE No. ZV07-002 AND MINOR SUBDIVISION APPLICATION No. MS07-034 - Dan Paradiso - To vary from the minimum A-1 parcel size of 20 acres by 18 acres, and divide a 31.75 acre parcel into 2 parcels: Parcel 1 = 29.75 acres and Parcel 2 = 2 acres on property located on the north side of Pioneer Road and east of Canyon Road in the Los Banos area. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH**

Planner James Holland presented the Staff Report and Recommendations of approval dated October 24, 2007.

The public hearing opened at 11:27 a.m.

Larry Bowers, BCA, states that the property is currently in agriculture for row crops, and a homesite. The purpose of the division is to put the property back into two parcels that previously existed, and were combined at the request of the property owner when he thought the City of Los Banos was going to take his land for an airport. There are no structures on the property.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, asked the Commission to consider the General Rule exemption. She referenced her letter handed to the Commission for Item D.

The public hearing closed at 11:30 a.m.

MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 – 0, WITH CHAIRMAN SLOAN ABSTAINING THE VOTE, THE PLANNING COMMISSION EXEMPTS ZONE VARIANCE No. ZV07-002 AND MINOR SUBDIVISION APPLICATION No. MS07-034 FROM CEQA.

MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, CHAIRMAN SLOAN ABSTAINING THE VOTE, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS OF APPROVAL DATED OCTOBER 24, 2007, AND MAKES THE 8 FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES ZONE VARIANCE No. ZV07-002 AND MINOR SUBDIVISION APPLICATION No. MS07-034 SUBJECT TO THE 4 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning and Community Development Department

1. Zone Variance No. ZV07-002 shall be applicable as long as Minor Subdivision Application No. 07-034 does not expire and is valid.
2. The Parcel Map shall be recorded within two years of the Planning Commission approval

MERCED COUNTY PLANNING COMMISSION

Minutes – October 24, 2007

Page 10

date.

3. The applicant shall comply with all applicable provisions of the Merced County Code.
4. A Right-to-Farm notification will be placed on the Parcel Map in compliance with the County Code.

- G. 2ND EXTENSION No. EXT07-022 TO MAJOR SUBDIVISION APPLICATION No. MAS04-009 - Ranchwood Contractors** - To extend the expiration date for the "Savanna" subdivision for one year, on property located at the southwest corner of Savanna Road and Santa Fe Avenue in the Le Grand area. The project site is designated Le Grand SUDP - Low Density Residential and zoned R-1 (Single Family Residential). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG**

Planner David Gilbert presented the Staff Report and Recommendation of approval dated October 24, 2007.

The public hearing opened at 11:36 a.m.

Kevin Malone, Golden Valley Engineering, had no comments regarding this application and asked for approval of the extension.

The public hearing closed at 11:37 a.m.

MOTION: M/S TANNER - BUENDIA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS 2ND EXTENSION No. EXT07-022 TO MAJOR SUBDIVISION APPLICATION No. MAS04-009, FROM CEQA.

MOTION: M/S TANNER - BUENDIA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED OCTOBER 24, 2007, AND MAKES THE ORIGINAL FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES 2ND EXTENSION No. EXT07-022 TO MAJOR SUBDIVISION APPLICATION No. MAS04-009 SUBJECT TO THE 32 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning & Community Development

1. The Final Map, or all map phases, shall be recorded within two years of the Planning Commission approval date.
2. The project proponents shall obtain and submit an Unconditional Water and Sewer Commitment Notice from the Le Grand Community Services District prior to recordation of the Final Map, or a first phase Final Map.
3. Water and sewer improvements shall be constructed and applicable user fees paid as per the specifications and requirements of the Le Grand Community Services District.
4. A sound wall shall be constructed to reduce exterior noise exposure in outdoor

MERCED COUNTY PLANNING COMMISSION

Minutes – October 24, 2007

Page 11

activity areas and the level of noise affecting exterior building facades. The wall shall be constructed in accordance with Table II of the *Acoustical Analysis, Savanna Subdivision, Merced County California, July 23, 2004, and Revised August 1, 2004*, prepared by Brown-Buntin Associates, Inc. The sound wall shall be continuous without gaps or openings and should be constructed of a dense material such as masonry blocks or stucco on both sides of a wood/steel frame. The sound wall shall be constructed in accordance with Chapter 18.37.07 of the Merced County Zoning Code, Title 18. The sound wall shall be constructed prior to the issuance of a certificate of occupancy for any lot which is affected by railroad noise as identified in the Acoustical Analysis.

5. Acoustic baffles shall be installed on the interior side of attic vents on the residences that face, or are perpendicular to, the Santa Fe railway on Lots 1, 3, 4, and 44. Certificates of occupancy shall not be issued for the residences on these parcels if acoustical baffles are not installed on the residences on these parcels.
6. A Right-To-Farm statement shall be placed on the face of the Final Map or any phased Final Maps consistent with County Ordinance No. 1213.
7. Construction equipment used at the site shall be equipped with catalysts/particulate traps to reduce particulate and NOx emissions unless demonstrated to be infeasible by project contractors.
8. 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.
9. The project shall comply with the Standard Conditions in Planning Commission Resolution No. 97-1.
10. 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.

Merced County Fire Department

11. Any phasing of the proposed subdivision shall be subject to review by the Merced County Fire Department.
12. The minimum fire hydrant flow of 1,000 gallons per minute for residential areas shall be required by the Merced County Fire Department.

Environmental Health Division

13. All abandoned wells and septic tanks must be properly destroyed in accordance with Merced County standards and under permit and inspection from the Division of Environmental Health.

Public Works/Road Division

14. The project proponents shall 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, street lighting, storm drainage system and underground or relocate utilities and irrigation facilities.
15. All lot and street 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 project proponent shall enter into an agreement with public works that no occupancy shall occur until such time as all improvements are completed.

MERCED COUNTY PLANNING COMMISSION

Minutes – October 24, 2007

Page 12

16. The project proponent shall release and relinquish all abutter's rights of access to and from the entire Santa Fe Avenue frontage of the subdivision.
17. The applicant shall install landscaping with automatic irrigation systems along the noise wall and rear yard wall along Savanna Road to the satisfaction of the Planning Director in consultation with the Parks & Recreation Division. Walls adjacent to these landscaped areas shall be masonry.
18. The project proponent shall pay all costs and provide all documents necessary to form or annex into the landscaping and park maintenance zone of benefit for McPherson Subdivision No. 03001 prior to recording of the Final Map. The areas to be covered by the zone of benefit are landscaping along all perimeter walls and participation in the park maintenance in the adjacent McPherson subdivision.
19. The project proponent shall be financially responsible for all cost associated with upgrading the existing storm drain pump station located within the American Heritage Homes No. 1 Major Subdivision No. 898 with the inclusion of storm water runoff from the Savanna Subdivision. The project proponent shall be financially responsible for all costs associated with expanding the American Heritage Homes No. 1 storm drain retention basin within McPherson Subdivision No. 03001. Should it be demonstrated that the upgraded storm water drainage basin is inadequately sized to serve as both a drainage basin and park; the project proponent shall dedicate land within the Savanna subdivision for park use.
20. Pay the local parkland dedication and improvement fees as required by County Ordinance No. 1090 prior to recording the final map.
21. The project proponent shall complete a property line adjustment with the property to the west prior to the recordation of the Final Map or first phase Final Map to eliminate standard Remainder parcels A, B, C, and D as identified on the tentative map or shall convey and combine the Remainder parcels prior to recording a Notice of Completion or prior to occupancy of any homes with Savanna, whichever occurs first.
22. The project proponent shall construct temporary turnarounds at the Santa Maria Drive and/or McPherson Drive dead-end streets if the Savanna Final Map, or any phase of the Final Map which encompasses the dead-end street areas, records prior to the McPherson Subdivision No. 03001 Final Map.
23. The project proponent shall reconstruct Savanna Road from its centerline. The project proponent shall share in the cost to reconstruct the north half of Savanna Road. The project proponent shall realign Savanna Road to intersect Santa Fe Avenue as nearly as possible at a right angle and reconstruct the intersection.
24. The project proponent shall construct speed humps with subdivision improvements if McPherson Drive and Santa Maria Drive go through to Taylor Avenue with McPherson Subdivision No. 03001.
25. The developer shall provide centerline striping for those new roads which intersect the existing peripheral streets.
26. The terms of a Deferment of Construction Agreement recorded in Volume 3372 at Page 261, Merced County Records, shall be implemented by the project proponent.
27. The owner of Parcel 1 as shown on the Parcel Map for Toby Rolfe & Terry Rolfe recorded in Volume 84 of Parcel Maps at Pages 5 and 6, Merced County Records,

MERCED COUNTY PLANNING COMMISSION

Minutes – October 24, 2007

Page 13

shall quitclaim all right, title, and interest in the temporary leach/septic easement shown on said map prior to recordation of the Final Map for the Savanna Subdivision, or any phase Final Map encompassing the affected area.

- 28. Prior to recordation of the final map creating new County roads, the property owner shall provide all documentation and pay all fees associated with forming a road maintenance zone of benefit in County Service Number 1 for extended road maintenance services which includes, but is not limited to, street sweeping.
- 29. The developer shall pay the Regional Transportation Impact Fee (RTIF) pursuant to Chapter 5.60 of the Merced County Code, as adopted by the Board of Supervisors and adjusted for inflation, at the building permit stage.
- 30. The developer shall pay \$500.00 per lot at the building permit stage as a proportionate share of the cost to finance a comprehensive traffic and circulation study of Le Grand, or to finance improvements, until such time as the Board of Supervisors adopts Bridge and Thoroughfare fees for Le Grand. The developed shall pay adopted Bridge and Thoroughfare fees at the building permit stage.

Merced Irrigation District

- 31. The project proponent shall enter into a “Subdivision Drainage Agreement” with the Merced Irrigation District Drainage Improvement District (MIDDID No. 1), paying all applicable fees, prior to the recordation of the Final Map, or first phase Final Map.

State Water Resources Control Board (SWRCB)

- 32. The project proponent may be required to comply with Federal Regulations for storm water runoff issued by the Environmental Protection Agency on November 16, 1990 (40 Code of Federal Regulations Part 122, 123, and 124). Construction activities disturbing five or more acres are required by the State Water Resources Control Board (SWRCB) to obtain a General Construction Activity Storm water Permit and a National Discharge Elimination System (NPDES) permit. Prior to the initiation of grading, the project proponent shall contact the State Water Resource Control Board’s Construction Activity Storm Water Hotline at (916) 657-1146 to determine if the project is subject to applicable storm water runoff permits. If subject to this permitting the project proponent will be required to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to water quality during construction of the project. If the project is subject to this permitting process, the project proponent shall obtain all required permitting and submit a copy of the approved plans to the Merced County Planning and Community Development Department prior to the issuance of grading permits for the project. If not subject to this permitting process, the project proponent shall submit verification to that effect to the Planning and Community Development Department.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

Focus Group meetings have been set for November 13th and 14th at the Merced County Administration Building. The information will be available on the Merced County website.

Robert Lewis, Planning Director, suggested the Planning Commission meet in November for a workshop to discuss current issues and impacts on Merced County.

MERCED COUNTY PLANNING COMMISSION

Minutes – October 24, 2007

Page 14

Bob Gabriele, County Counsel, proposed a closed session based on current and recent litigation to explain, update and discuss what the legal issues are and how they apply and implicate the decision making process and would like to provide each of the Commissioners the benefit of his legal analysis of the cases and issues raised.

The Commissioners agreed to a workshop in November and Planning Staff will set a date.

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 11:46 a.m.