

MERCED COUNTY PLANNING COMMISSION

MINUTES FOR MEETING OF MARCH 26, 2008

A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of March 26, 2008, 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 March 26, 2008, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: 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
 David Gilbert, Senior Planner
 Brian Guerrero, Planner I

Legal Staff: Bob Gabriele, Deputy County Counsel

Commissioners Absent: Commissioner Jack Mobley

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

Maureen McCorry, Valley Land Alliance, raised an issue that she brought up to the Planning Commission meeting of March 12, 2008, that Commissioner Lashbrook raised an issue with the minutes of the February 27, 2008, meeting regarding issues of accessing documents in advance of public hearings. She submitted a transcript of the exact wording she used at the previous meeting so there is no confusion and possibly the Planning Commission minutes could be amended. She is required to submit comments 8 days in advance to the hearing, but she would not have access to the staff report to review. The public should have access to the staff reports. The point is for the public to obtain new information before the hearing.

Colette Alvernaz, Livingston resident, stated that a plan is needed for agriculture. She submitted a 20 page public records request to the Planning Department to get access to the easements on the 42 inch sewer trunk line and there were numerous questionable activities raised on the easements and she is submitting a 20-page document. According to the December 7, 2004, staff report, the updated Wastewater Master Plan was due to come out in one to two weeks and it did not have the proposed Ranchwood sewer trunk line in it. She received minutes from the Livingston City Council meetings regarding the 42 inch sewer trunk line and the City of Livingston approved an agreement with Ranchwood Homes for construction of a sewer line, and voted to conduct a Joint Special meeting of the City Council and Planning Commission on January 12, 2005.

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They adopted a Resolution providing direction for the preferred annexation and development scenario for the Livingston General Plan update. The City of Livingston did not meet its proposed growth rate in its 1999 General Plan. Why such a higher proposed growth rate? As long as Merced County allows the 42 inch sewer trunk line to remain in the ground it threatens her farm. She asked for the County's help. The developers come in and buy agricultural land and start a huge development project and claim they are "just farming" and they continue with urban development that threatens to put her farm out of business. She asked the Commission what the plan is for agricultural land. She also submitted the minutes from City of Livingston January 12, 2005 and Page 4 of the minutes from City of Livingston City Council meeting of December 21, 2004 meeting, along with her letter for the record.

V. PUBLIC HEARINGS

- A. **1st MODIFICATION No. MM07-025 TO CONDITIONAL USE PERMIT No. CUP05-031 AND MINOR DEVIATION No. MD08-004 - Merced County Housing Authority** - To revise the approved site development plan for the Felix Torres Housing Center by allowing construction of the previously approved child care facility on the southeast corner of the site and to reduce the required front yard setback for three proposed buildings. The property is located on the west side of Plainsburg Road, approximately one quarter mile north of the Planada SUDP Boundary. It is designated Agricultural in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. This item was continued from the February 27, 2008 meeting. JH**

Planner Brian Guerrero presented the Staff Report and recommendations dated March 26, 2008.

Commissioner Lashbrook asked if the 1 acre portion where the childcare is being moved to a part of the Conditional Use Permit and Negative Declaration. Planner Brian Guerrero answered that it was a part of the Conditional Use Permit for the Farm Labor Camp.

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

David Corser, Planada Association, states that he has been fighting against the placement of this project for four years and feels a great deal of frustration if this project is passed. He feels that the applicants have defied the authority of the Planning Commission by placing the infrastructure down already without the proper approvals. He gave a history of the project, which included 400 signatures that are against this project from 2004. There was a prime location for the seasonal camp on Gerard Avenue and it did have the Head Start program there. They hauled out the used trailers and placed two of them at the new site. He doesn't feel that used trailers from Merced College are the best for the children's daycare instead of the \$17 million facility that was promised when the Conditional Use Permit was approved in 2005 and is offensive. A Grand Jury report showed that Mr. Dee Tatum was involved in the property trading relating to this project and received a 50% discount on the property where he now has his home on Gerard Avenue and at the same time Pacific Holt Corporation had an arrangement with the Housing Authority to place model homes on government owned properties on the one acre lot that is being considered today and feels this is outrageous. Pacific Holt Corporation along with Gloria Keene are the people that came to the Planning Commission to rezone this project in 2003 or 2004 and accomplished the Housing Authority project. There are no stop signs, no yield signs, no traffic lights, the road is completely uncontrolled

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and there is nothing in the original Conditional Use Permit that addresses these issues. He objects to the modification of this project. He also submitted a settlement agreement between the Planada CSD and the San Joaquin Raptor Rescue Center that states there is no sewer capacity.

Richard Graves, Merced County Building Division, submitted a letter to the Planning Commissioners for the record. The letter states that the Head Start project was initiated by the Stanislaus County Office of Education in cooperation with the Housing Authority. The project was started without a building permit from Merced County Building & Safety Division or any other approvals from other County Departments based on the idea that it was a State school project and therefore exempt from local review. This is not state owned land and not a state required educational program. Mr. Graves spoke to a Deputy Director of the California Division of State Architects office and was advised that this project should be under local jurisdiction. DSA is not involved in this project, they have not looked at the project, therefore had not had State review. The owners also employed a third party inspector effectively to perform inspections on site that would normally be performed by the Building Department inspectors. These inspections are covered in Chapter 17 of the California Building Code and by a Special Inspection Policy in place at Merced County Building Division. The Building Official must approve all Special Inspectors before they are allowed to perform inspection work. In the event they are performing inspection normally performed by a government agency, Merced County, we would need a contract with insurance and indemnification in place. The County already hires independent firms such as these to perform plan check and inspection services. Building Division was not aware this site work and underground construction was happening until it was nearly completed and brought to their attention by James Holland of Merced County Planning. When he was notified that site work was nearly completed, he requested plans be submitted to their office for review and payment of plan check fees. Some plans were submitted by Garth Pecchenino on February 26, 2008, however, the required plan check fees were not paid until March 7, 2008. At that time, work was also supposed to be stopped at the site, but that did not occur. The Supervising Inspector visited the job site on March 13, 2008, and officially stopped all work.

Chairman Sloan indicated that Mr. Graves would not have enough time to read 3 pages of the letter into the record in the five minute allotment time. The Commissioners received the letter and suggested Mr. Graves go to the last page of the letter and read the last paragraph which has the most important information regarding this project.

Mr. Graves continued on stating all deficiencies listed, including Fire Department comments, can and will be corrected through the building permit process. Any construction already completed that does not meet code will need to be corrected. The Housing Authority will be required to pay penalty fees as required by Merced County Code for starting construction without first obtaining building permits. The County Building Code would allow a commercial building to be located right on a property line with the proper fire protection. The Zoning Code is more restrictive than the Building Code in this case and requires a greater set-back from Plainsburg Road. Whatever the Planning Commission approves will be allowable by the building code. The Building Department recommends that the Planning Commission approve this modification so the Housing Authority can modify and re-submit its building plans with all corrections for issuance of a Building Permit.

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Maureen McCorry, Valley Land Alliance, submitted a letter to the Planning Commissioners for the record. She states that the public should have information on all letters submitted regarding this project. Mr. Graves submitted important information and would like to see the letter that he gave to the Commissioners. She feels the Housing Authority is being rewarded for not getting the proper building permits. Her questions were not answered regarding the daycare facility. She asked the Commission if they read the materials submitted by Valley Land Alliance at the Planning Commission meeting of February 27, 2008. The building of the project went ahead despite the hearing being continued for 30 days and concrete was poured. The Planada MAC was told that this was going to be deferred indefinitely and they are not respected. She asked the Planning Commissioners to read her re-submitted letters.

Nicole Alvernaz, Livingston resident, submitted a letter for the record from Mary Stillhan that was submitted at the Housing Authority meeting of March 13, 2008. The letter states that at the January 15, 2008, meeting of the Board of Commissioners, she shared that she had earlier submitted to Ms. Rennise Ferrario, Executive Director of the Housing Authority of the County of Merced, her 60 day resignation from the position she had held for over 13 years with the Agency. She stated that she would submit to you in writing an explanation for her resignation. She never had problems with the Housing Authority, but had concerns regarding Ms. Ferrario's behavior and actions and experienced a hostile work environment. She was told by Chairman May to look for another job. He said he was old school and that he believed that the Executive Director should be able to do whatever they wanted to do.

Chairman Sloan asked if this letter is pertinent to this application. Ms. Alvernaz believed that this letter is saying that Housing Authority is doing things they shouldn't be doing. Chairman Sloan stated that employee issues are not within the purview of this Commission. Ms. Alvernaz added that the reason that Ms. Stillhan is resigning is because she was being asked to do things that are illegal. Chairman Sloan asked if the issue had anything to do with this application. Ms. Alvernaz said the point is the way the Housing Authority went about this application. Chairman Sloan asked if there are any specific allegations or facts in the letter pertaining to this application that she could give the Commission. This Commission is not accepting employee matters. Ms. Alvernaz said she is only trying to establish a pattern of the Housing Authority doing questionable actions which forced Ms. Stillhan to resign. Chairman Sloan stated that facts regarding this application are what the Commission wants to hear, but if they are general allegations to what Ms. Stillhan thinks is happening in the Housing Authority Department, it's not what the Planning Commission can consider. Ms. Alvernaz stated that Mary Stillhan could produce evidence of the allegations and suggested she be contacted for the facts.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, submitted a letter to the Planning Commissioners for the record. This project cannot legally rely on the Planada Community Plan for the project. She takes exception on the Housing Authority's reliance of a Negative Declaration that was prepared on November 8, 2005. The County is piecemealing projects, don't communicate with other departments, and she is totally confused on what has happened. She is horrified at the process taken by developers and special agencies. The Commission is considering a project that doesn't have all the facts. In making the finding of "no significant finding", it fails to properly analyze the impacts to groundwater. According to authors, "the groundwater basin has been experiencing overdraft conditions from

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1970-2000, with greater declines in groundwater levels in the eastern section of the sub-basin and then goes on to talk about state and federal water projects that impact the Westside of our country that somehow mitigates the declining water table in the Planada and Le Grand area. There is a disconnect between the Board of Supervisors and the Planning Department and the Community Service Districts. It's a problem that they can annex a property into the Service District. The applicant put in buildings and concrete and they are pressuring for this application because of grants. Stormwater drainage is completely removed in the report and there is an issue with water quality on the eastern edge. The Negative Declaration for this project is out of date and there are safety issues. She has learned that the Planada Community Services District has reached a settlement over a legal challenge involving its proposed Wastewater Treatment and Expansion project. She requests that County direct staff to investigate the relevance of this settlement of the District's ability to provide services. She asked the Commission to take off their blinders and take a look and do things properly. She submitted a copy of the Farm Bureau's newspaper that discusses responsible decisions.

Colette Alvernaz, Livingston resident, stated that she is concerned with this project. She was wondering when developers will be made to follow the rules. She asked why developers ignore Merced County rules and regulations. They should be held accountable. Agriculture needs to be protected. This Housing Authority project destroys agriculture. When you put children out in the middle of an agricultural area, you are endangering them to some farming practices that are not good. You need to stand up and just say no to the people. The applicant violated the code so the project should not go forward.

Bryant Owens with the Planada Association submitted a letter to the Planning Commission for the record. He states that he is against this project over the violations of the Zone Code. There are issues regarding the sewer district. They decertified their Environmental Impact Report for the wastewater treatment plant expansion. This calls into question their ability to serve this project. The settlement agreement will show how many connections the District actually has. March 31, 2008, is the date the District has to show this information. He asked the Commission to either deny or delay this project to allow the review of all documents submitted including Can & Will Serve letters. The Housing Authority shouldn't be given a pass for defying your authority on this project. He has read the letter from Mary Stillhan and if the Commission is looking for specific examples of the actions she was subjected to while working for the Housing Authority, they applied for a sufficiency grant in 2008 and the Executive Director falsified her qualifications to serve as the Administrator of that grant and part of that money has been used to pay her salary. There are significant environmental effects from this project and he disagrees with staff's conclusion that the Negative Declaration is sufficient. There is a 1,000 ft setback from dairies required by the County, but the dairy nearby this project produces a foul stench and is a significant air quality issue. This project has been in the wrong place for the benefit of a real estate deal and put Dee Tatum in a very cherry property at a fire sale price. Staff has not provided all the information to review and respectfully requested the Commission deny this project or delay the application for further review including the settlement agreement. The sewer district has not submitted an application for a boundary extension as of yesterday, so they are without authority to serve the Felix Torres Camp.

Don Borgwardt, Director for Development of the Housing Authority, stated that he would like to address the more relevant issues raised by the public. The

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development has taken place and there is infrastructure. He is not denying wrongdoing, but says there was a miscommunication between the Housing Authority and the Stanislaus School District concerning the ability to move forward on the project. They have since been in meetings to try and resolve the issues. The project is relevant to the Community of Planada and to abandon the project would abandon the usefulness of the facility. He is asking to be allowed to continue working with the County to complete this project. He believes this project would improve the area. He apologized and said they were not trying to deceive anyone. They are trying to improve the conditions of the farmworkers and ask that the Planning Commission approve this project.

Curt Royer, Public Works/Road Division, wanted to add that the Public Works Department originally reviewed the Conditional Use Permit in 2006 and made a number of recommendations to the Planning Commission. Regarding the minor modification that Housing Authority is requesting, the Public Works conditions are to remain the same which includes the review of both structural integrity of Plainsburg Road and the traffic circulation and safety issues. Public Works is asking to keep the conditions the same.

Hal DeArmond, Stanislaus County Office of Education, states that this project is here to serve the children. This project is badly needed in the Community of Planada. There are two sites within a short distance to this project and they are very small compared to the Felix Torres Camp facility. These projects are to support the agricultural workers in the area and a daycare facility is needed for their children. This is a safe environment and good learning place for the children. He asked the Commissioners to approve this project. They estimate this project will support a \$57,000 payroll and generally try to hire people from the local area. The grant will expire on April 30, 2008, if they aren't able to complete this.

The public hearing closed at 10:25 a.m.

The Planning Commissioners took a 15 minute break to review documents submitted.

David Fuentes, Merced County Planning Code Enforcement Officer, handed out a Request for Code Enforcement to the Commissioners that was submitted to the Planning Department by Bryant Owens on February 28, 2008, showing a complaint regarding the construction of infrastructure, sidewalks, curbs, gutters, utility stubs and maintenance structures, beginning in advance of permitting for the site. Mr. Fuentes stated that he has since contacted Mr. Borgwardt and Richard Graves regarding these concerns and they indicated that all infrastructure construction has ceased and are presently resolving all issues for this site. Commissioner Lashbrook asked if the one-acre parcel is separate from this project and the answer was no. The present infrastructure that is there now is conduits, storm drains, sewer, building pads, and paving completed by Teichert Construction Company. Inspection of the storm drains, water lines, and sewer lines has been completed and has been inspected by Construction Inspection Consultant of Stewart and Stewart, Inc. sometime in November or December.

Bob Gabriele, Deputy County Counsel, stated that a number of submittals were given and he wanted to make sure the applicant had the opportunity to review and consider all points that were raised verbally and in writing, and have the opportunity to comment. He suggested an immediate review of the submittals that wasn't

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verbalized by a witness. He asked the Building Official to be prepared to come back before the Planning Commission in light of comments made to also provide supplemental testimony. He reviewed the testimony letter from Mary Stillhan regarding her resignation letter and said the Commission has the legal authority and duty to evaluate all submittals for purpose of determination and relevance. There was no direct reference to this project and nothing approximating the project. There has been indication of mistrust by public members on the part of one or more persons from the Housing Authority. Although credibility is a factor to take into account in evaluating evidence, that letter has raised generic, unspecific types of actions and dishonesty, which is not relevant and not material to the business of the Commission. It is up to the Chair and Commissioners to determine whether or not to consider it as evidence.

Commissioner Lashbrook questioned the deadline date of April 30, 2008, for the grant. She asked if there is a chance of getting that extended since she is familiar with other grants being extended, and also, is Mr. DeArmond confident there is going to be sewer services available. Mr. DeArmond stated that there is always an opportunity to apply for an extension but there is no guarantee it would be granted. There is a regulation in the process to apply for an extension and it would be up to the Federal Office of Head Start whether or not it would be extended. Commissioner Lashbrook asked if the facility within the town of Planada is something that is expandable.

Mr. DeArmond replied that it was located at the High School Campus and there is no usable space left on that campus. Commissioner Lashbrook asked if in the long run, is this intended for the inhabitants of the farm workers or will it be open to the Community. Mr. DeArmond answered that it would be available to the Community that met eligibility requirements. Commissioner Lashbrook asked if the grant was for the portables in the facility. Mr. DeArmond stated that the only plan they had was to install the modulars.

Commissioner Tanner said that a lot of information was received and would like to see this project continued for two weeks to get a chance to review all documents submitted.

Commissioner Lashbrook asked if anyone could talk about the availability of the hookups to the sewer. Mr. Borgwardt said they do have a Can and Will Serve notice and had a project on Gerard Avenue previous to this facility. The State shut the facility down due to the fact that the units have become so worn they no longer wanted to fund the facility. They then began the process to rebuild. They did take those sewer connections there and asked the Planada Community Water District to provide a Can and Will Serve notice to transfer those sewer connections to the new facility. Commissioner Lashbrook asked why the demolished site wasn't rebuilt. Mr. Borgwardt stated that the 11 acres was not enough for the units and the facilities would have been too spread apart. They looked for acreage and the Community came up with some suggestions, but the current location was available to be acquired for development. Generally, the majority of people have approved of this location. The Planada MAC reviewed this project and there was some opposition to the project, but the Planada MAC reviewed it again recently and was in favor of it. They are moving forward with the housing funding which is a separate grant.

Bryant Owens added that there has been a number of new residential homes since the Felix Torres Camp on Gerard Avenue had been closed. The sewer district has

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since given away all of those existing services. The capacity of the sewer district hasn't changed but they have extended the services to an additional 100 homes since the demolition of the Felix Torres Camp.

David Corser stated that this project is outside the legal bounds of the sewer district. There is no offering of a Can and Will Serve letter outside the service district boundaries.

Commissioner Lashbrook stated that she is concerned with the possibility of more asthma and health related issues with the almond orchard on one side of the facility and a dairy on the other side. There is more information submitted that needs to be considered and feels continuing this application is a good idea.

Richard Graves commented that all deficiencies that exist on the plans will be corrected and the Fire Department is in the process of approving the plans and will have a correction list. Building Department is working with Housing Authority to ensure that the plans submitted are being corrected and will meet all codes. Due to the fact that building was started prior to a building permit, according to the Building Code, the applicant will have to pay a penalty fee under the Merced County ordinance and will be assessed at building permit issuance. He noted that the California Building Code allows for a commercial building to sit right on the property line with a fire rated wall, so the Zoning Code for the County is more restrictive than the Building Code. If anyone starts a project before the building permit there is a penalty fee which is double the permit fee.

Bob Gabriele said that the County never encourages starting construction before a Building Permit is obtained, but it does happen in Commercial and Industrial type projects. Mr. Graves said it does happen. Mr. Gabriele asked for confirmation on whether an agreement is reached for the project to be assessed with the additional penalty fees. Do they look at the project differently in terms of compliance or looking against the project? Mr. Graves stated that this project is treated equally as any other project. The only additional problem is making sure that the work that has been completed is in compliance with the Building Code.

Commissioner Lashbrook asked if this application would be before the Commission if the Code Enforcement request had not been received from Bryant Owens.

Robert Lewis, Development Services Director, stated that the Planning Department found out about the Code Enforcement request the day before the Planning Commission on February 27, 2008, so the answer is no. Mr. Gabriele stated that the answer would be yes and we would be identifying and addressing code enforcement issues even if it wasn't brought forward by a citizen at the public hearing. Mr. Lewis said the way Mr. Gabriele termed it, yes, but the way he understood the question from Commissioner Lashbrook was, who found out first and so his answer was no.

Chairman Sloan reminded the audience that the original Conditional Use Permit was approved and what is being considered today is a modification to the site plan. This is not an additional application for the Conditional Use Permit and it's not a revocation hearing. He feels the testimony given sounds as a revocation hearing rather than a modification. There were many letters received at the hearing today. It is his intention to continue this application to the April 9, 2008, hearing to allow review of documents and reminded the audience that the public hearing is closed and will not be reopened on April 9, 2008.

This item has been continued to the April 9, 2008, Planning Commission meeting.

- B. 1st EXTENSION No. EXT08-003 TO MAJOR SUBDIVISION APPLICATION No. 05010 - "Mancebo Estates" - To divide a 7.6 acres into six (6) one acre lots, and a 0.86 acre storm basin located east of Gurr Road, approximately 200 feet north of Bronco Lane in the Merced area and designated as Agricultural-Residential in the General Plan and zoned A-R (Agricultural Residential). THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE EXTENSION. DG**

Planner Lona Franklin presented the Staff Report and recommendations of approval dated March 26, 2008.

The public hearing opened at 11:22 a.m.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, understood that there was a study sent out in the McSwain area on the water quality and septic issues because of the concentration out there. She asked what the results were of that study and if there was any consideration in the larger picture, not just this project, for what is going on out in the McSwain area.

Bill Nicholson, Assistant Development Services Director, couldn't answer what the full results of the study were, but the Environmental Health Department did change the septic system design standards to meet Regional Water Quality Control Board concerns.

The project area is isolated south of Franklin-Beachwood and a mile and a half away from the McSwain area so it is not covered in the McSwain study. Ms. Pedrozo asked if the area was affected by the flooding two years ago. She feels the General Plan update should address water quality, flooding, and storm drainage issues.

The public hearing closed at 11:24 a.m.

Commissioner Lashbrook asked how many of these one-acre sites are left open. Bill Nicholson stated this is what is known as an Isolated Urban designation that dates back to the 60's or 70's. There were about 15 to 20 spots with this designation. The General Plan was changed and the map was submitted two years ago. In the McSwain area there is 70-80% buildout. This site is a unique case and does not go to LAFCo. The expansions of Rural Residential Centers needs to be addressed in the General Plan update.

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINES THE PREVIOUS NEGATIVE DECLARATION PREPARED FOR MAJOR SUBDIVISION APPLICATION No. 05010 REMAINS VALID FOR THIS EXTENSION NO. EXT08-003.

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MARCH 26, 2008, AND MAKES THE 15 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 15 FINDINGS, APPROVES 1st EXTENSION No. EXT08-003 TO MAJOR

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SUBDIVISION APPLICATION No. 05010 SUBJECT TO THE 20 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning & Community Development Department

1. Approval of this extension extends the period of time for recording the final map for one year to expire on January 25, 2009. This condition replaces Condition #1 in the January 25, 2006 and January 9, 2008 reports.
2. The Project shall comply with the mitigation measure contained in the Mitigated Negative Declaration and Initial Study related to Noise.
3. This project shall comply with the Standard Conditions in Planning Commission Resolution No. 97-1.
4. The applicant shall comply with all of the applicable local, state and federal regulations including, but not limited to, County Fire, Health, Planning and Public Works Departments.
5. For the purpose of mitigation and/or condition monitoring, a fee in the amount of **\$276** shall be required prior to the recordation of the Final Map.
6. Prior to recording the final map, the developer shall submit a landscaping plan to the Merced County Planning Department that provides for the installation of a fence and landscaping screen around the proposed storm water detention basin.
7. Streets shall be named and designated pursuant to Section 17.04.050.B of the Merced County Code.

Merced Irrigation District (MID)

8. The developer shall enter into a "Subdivision Drainage Agreement" with the Merced Irrigation District prior to the recordation of the final map.

Public Works Department/Road Division

9. The developer shall satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 of the Merced County Code. Such improvements generally include dedication of right-of-way and public utility easements, roadway construction and installation of matching pavement along existing roadways, streetlighting, storm drainage system and undergrounding or relocation of utilities and irrigation facilities. Rolled curb and gutter shall include the radiuses at the intersection of Mancebo Court and Gurr Road.
10. The applicant shall release and relinquish all abutter's rights of access to and from the entire Gurr Road frontage of Lot 1.
11. 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.

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- The developer shall enter into an agreement with Public Works that no occupancy shall take place until such time as all improvements are completed.
12. Ten feet (10') of Gurr Road right of way along the frontage of Parcel 1 as shown on the Parcel Map for Willard Hoyt, et ux., recorded in volume 38 of Parcel Maps at Page 45, Merced County Records is in excess of right of way required for road purposes and shall be abandoned with the recordation of the final map.
 13. The storm detention drainage basin shall be constructed with 4:1 (horizontal:vertical) or flatter side slopes beginning 10 feet inside of the fence or property line along with an 8:1 sloped ramp to allow access for maintenance vehicles to the bottom of the basin. The storm drain basin shall have direct access to a publicly maintained road; minimum width of access shall be 20 feet, with a 12-foot width, 4-inch thick, Class 2 aggregate base road compacted to 95% relative compaction.
 14. Provide centerline striping for those new roads which intersect the existing peripheral streets.
 15. The developer shall provide all documentation and pay all fees necessary to annex the property into the B & B Rancheros Lighting and Maintenance Zone of Benefit No. 217 in County Service Area Number One prior to recordation of the final map.
 16. Construction activities disturbing five or more acres are required by the State Water Resources Control Board (SWRCB) to obtain a General Construction Activity Stormwater Permit and a National Discharge Elimination System (NPDES) permit. Prior to the initiation of grading, the project sponsor shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to water quality during construction of the project.
 17. 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.
 18. The project shall be subject to the current Law Enforcement Facilities Impact Fee established by Resolution No. 2004-148, adjusted for inflation, in place at the time of building permit issuance.
 19. The project shall be subject to the current Fire Facilities Impact Fee established by Resolution No. 2004-149, adjusted for inflation, in place at the time of building permit issuance.
 20. The project shall be subject to the current Regional Transportation Impact Fee (RTIF) pursuant to Chapter 5.60 of the Merced County Code and established by Ordinance No. 1749 in place at the time of building permit issuance.

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- C. CONVEY AND COMBINE MINOR SUBDIVISION APPLICATIONS No. MS08-003 AND No. MS08-004 - Pete Pedrelli** - To divide a 106.41 acre parcel into 2 parcels: Parcel 1 = 41.86 acres and Parcel 2 = 64.55 acres. After the initial division is recorded, the next step is to create a 5.0 acre home-site parcel from the 64.55 acre parcel and to convey and combine the remaining 59.55 acres with the adjacent 41.86 acre parcel under the same ownership, resulting in a 101.41 acre parcel. The project is located on the north side of Lincoln Road and east side of Orchard Way in the El Nido area. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG**

Planner David Gilbert presented the Staff Report and recommendations of approval dated March 26, 2008.

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

Maureen McCorry, Valley Land Alliance, submitted a letter to the Commissioners for the record on the Felix Torres project and it was not included in the packet. She wanted to make sure they got it so they can consider it for the April 9, 2008, meeting since the public hearing for that item is closed.

She is here today because there are numerous approvals that have taken place by County since the last General Plan Update. She feels CEQA is being ignored. On February 17, 2008, staff reported that there were 446 minor subdivisions between 2002 and 2007, and received an Excel report that showed 324 minor subdivisions. They are not here to oppose individual applicants, but the General Plan Update is going to take about 3 years to be complete. They argue that the Zoning Code is out of compliance with this General Plan. She read the staff report and there is no analysis. What are the impacts? Maxwell Norton with UC Cooperative Extension submitted a letter stating that this project would have agricultural impacts long term and the letter was ignored. There is a letter from Fish & Game that would require environmental review and feels that has been ignored, as well. She asked the Commission to look at the materials she submitted and the transcript from the meeting of January 25, 2005. She asked that staff be more judicious when they talk about the average parcel size. They do not see this as valid in protecting agriculture land. She asked the Commission to reject this application or put in real conditions.

Lydia Swilley, daughter of the applicant, stated that this is a five acre split for herself because she built a home there 17 years ago and this is the process that she was told was needed per the County in order to get it finalized and into her name. The acreage surrounding it is all agriculture and will remain in the family. The parcels will not be sold off.

The public hearing closed at 11:49 a.m.

Commissioner Lashbrook looked at the comments from US Fish & Wildlife and Fish & Game and is uncomfortable with using the common sense exemption all the time and seems like some projects should require an Initial Study. She is sure this is a good project.

Robert Lewis, Development Services Director, stated that staff looks more closely now at CEQA and making determinations and we do have Minor Subdivisions being processed today that are subject to Initial Studies. There are a total of 56 projects currently under CEQA review.

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MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS CONVEY AND COMBINE MINOR SUBDIVISION APPLICATIONS No. MS08-003 AND No. MS08-004, FROM CEQA.

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MARCH 26, 2008, AND MAKES THE 11 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 11 FINDINGS, APPROVES CONVEY AND COMBINE MINOR SUBDIVISION APPLICATIONS No. MS08-003 AND No. MS08-004 SUBJECT TO THE 5 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning & Community Development Department

1. A parcel map for both Minor Subdivision Application No. MS08-003 and Convey and Combine Minor Subdivision Application No. MS08-004 shall be recorded together in sequence as noted above and 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.
4. A note shall be placed on the parcel map that a biological survey shall be required and reviewed by the California Department of Fish and Game before any type of ground disturbance or the issuance of a building permit for the construction of any structure on the project site.
5. A note shall be placed on the parcel map that no additional residences beyond what is allowed by the Zoning Code once the convey and combine parcel map is recorded.

- D. 1st EXTENSION No. EXT08-004 TO ADMINISTRATIVE APPLICATION No. AA06-079 - Santa Rita Farms LLC (Gallo) - To extend for one year the deadline to construct an Anaerobic Digestion System which manages dairy bio-solids more effectively and produces a propane substitute as a by-product on an existing dairy located on the west side of Bert Crane Road, approximately 1 mile south of Highway 140 in the Atwater area. The project site is designated Agricultural land use in the General Plan and zoned A-2 (Exclusive Agricultural). THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE EXTENSION. BG**

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated March 26, 2008.

The public hearing opened at 11:55 a.m.

Greg Thompson, representative for Santa Rita Farms, stated that he would be available for any questions the Commissioners may have for him.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, states that she supports this extension. She feels that dairies need to look at alternative energy sources so she encourages the Planning Department to work with applicants through the General Plan to help with the management of our natural resources.

The public hearing closed at 11:57 a.m.

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINES THE PREVIOUS NEGATIVE DECLARATION PREPARED FOR ADMINISTRATIVE APPLICATION No. AA06-079 REMAINS VALID FOR THIS EXTENSION NO. EXT08-004.

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MARCH 26, 2008, AND MAKES THE 11 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 11 FINDINGS, APPROVES 1st EXTENSION No. EXT08-004 TO ADMINISTRATIVE APPLICATION No. AA06-079 SUBJECT TO THE 7 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning & Community Development Department

1. Administrative Application No. AA06-079 to installed an anaerobic digestion system that converts manure (dairy bio-solids) into methane gas (bio-gas) that is piped to a nearby cheese plant to fuel a boiler, which shall be located and operated in a manner as described on the approved plot plan, submitted application and operational statement. Minor modifications may be approved by the Planning Director.
2. Approval of this extension shall extend the period of time of the Administrative Application No. AA06-079 to January 24, 2009.
3. The digester system and pipelines shall be maintained and in properly working order at all times.
4. The application shall comply with all applicable regulations administered by the County. These regulations shall include, but not be limited to standards administered by the County Fire, Health, Planning, and Public Works Departments.
5. If the use authorized by this permit is abandoned or discontinued for over one year, the Planning and Community Development Department shall initiate revocation proceedings at a public hearing before the body that originally approved the permit.
6. For the purpose of condition monitoring, an inspection fee in the amount of **\$294** shall be required. This fee shall be paid within 30 days of the approval date. Should

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additional inspections be required, inspection time shall be billed to the applicant at the established hourly rate at the time of the inspection.

Environmental Health Division

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

- E. MINOR SUBDIVISION APPLICATION No. MS07-058 - Chris Robinson** - To divide a 1,027.20 acre parcel into 3 parcels and a remainder resulting in parcel sizes of: Parcel 1 = 198.63 acres; Parcel 2 = 343.18; Parcel 3 = 165.25 acres, and Remainder Parcel = 320.14 acres under a parcel map waiver on property located on the east side of Highway 59, approximately 1/2 mile north of Youd Road in the Snelling area. The project site is designated Agriculture land use in the General Plan and zoned A-2 (Exclusive Agriculture). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. This item was continued from the March 10, 2008, Hearing Officer meeting, then referred to the Snelling MAC meeting of March 12, 2008, and scheduled for this Planning Commission meeting. DG**

Planner David Gilbert presented the Staff Report and recommendations of approval dated March 26, 2008.

The public hearing opened at 12:08 p.m.

Maureen McCorry, Valley Land Alliance, requested that the Minor Subdivision application referenced be properly combined with the Conditional Use Permit referenced in the pipeline for a portion of the same property. This is one project and requires environmental review prior to be considered for approval. She looked at maps and tried to figure out how they line up but she is the public and should be educated on the total impacts in order to understand what is being proposed. She submitted with her comments a Fish and Game letter which states "CEQA Guidelines defines "project" to mean the whole of an action that may result in either a direct or reasonably foreseeable indirect physical change in the environment. The CEQA document should adequately address all impacts to natural resources of the project site." What the Commission is being asked to do today is consider a part of a project that is seeking approval. Not only is there one project but we have one project that has been assigned to 2 individuals. It is important for the public to be aware that a sand and gravel application is coming down the pipe for this area and involves the Merced River. Five public agencies have created easements on the Merced River. The staff report provided at the Hearing Officer meeting of March 10, 2008, looks different from the staff report presented for today. The word "easement" didn't appear in the initial staff report. This project needs to be directed back to the Planning Department with the idea of convey and combining the Conditional Use Permit and the parcel split so they can get a bigger picture, and so the public can understand the total project.

We are getting part of the project today, and it appears that in an attempt by the applicant to gain approval by the agencies, they are lining up the parcels to match up with the easements that were created many years ago.

The one-mile radius analysis does not apply. The area is a prime area for natural resources. She asked for continuance of this application or the combining of the two applications and submitted a Nature Conservancy map. A sand mine is probably going to have some impacts. She has never had to parcel down with her family's farm to better manage the farm.

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Commissioner Lashbrook asked if the conservation easement is entirely in the river area and what is the applicant able to do or not do on the land.

Chris Robinson, applicant, stated that the conservation easement is essentially a contract that has specific language and he has agreed to subdivide it into no more than eight different pieces.

Commissioner Lashbrook asked what agency this was with and what the purpose of the easement was. Mr. Robinson has been working with Wildlife Conservation Board, which is the agency, and has been working with them for 15 years on the restoration and the completion of the conservation area which occurred at the August 23, 2007 meeting when he received funding to complete the project. The project is now just less than 400 acres in size and he continues to work with the Wildlife Conservation on environmental restoration projects on this river and elsewhere.

Commissioner Lashbrook asked if there is active farming there currently or is the land mostly for wildlife and will Mr. Robinson be able to start any mining projects on that land. Mr. Robinson replied that within the conservation area, there is 25 acres that was felt best to be lowered at some point, so the rights were specifically reserved in the document to mine that specific area and shown on the map which is not near the sand pit. The sand pit is an historical operation.

Chairman Sloan stated that the proposals for mining are in the future and should be considered at that time on its own merit and not a part of today's application.

Mr. Robinson introduced for the record, to prove their dedication to farming, a plaque he received from the Board of Supervisors in 2000 and a Unit Citation award given in 2002. He added that he does own over 6,000 acres in Merced County and he has placed over 4,000 acres in conservation easements and he has plans, but none are for developing. It was agreed to lower the 25 acres to be able to farm, not to build houses.

The public hearing closed at 12:22 a.m.

Bill Nicholson, Assistant Development Services Director, explained that multiple applications are received often and there is communication between planners and oversight by a Supervisor. Consultants will be doing the CEQA and Environmental review for the mining application. The property is 165 acres and the mining area for this project is 40 acres. The proposed application separates out a large easement along the river bottom. Regarding the mining operation, it will go through CEQA, though not sure at what level, but a definite minimum of a Negative Declaration. The proposed application has no bearing on the mine. The Minor Subdivision is large parcels and not a serious environmental issue.

Bob Gabriele, Deputy County Counsel, requested additional language to explain how or why piecemealing is involved or how or why it's not involved from a technical Planning perspective. Mr. Nicholson explained that the concept of piecemealing in this case would be for four parcels, three and a remainder, and would the County's approval of this Minor Subdivision be connected to the mining application or would it prejudice future consideration by approval of this subdivision today. Neither is the case, the mining operation is considered on its own merit. The operations and

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reclamation are independent of this parcel size as a 40 acre piece. The parcel division has relevance for the easement primarily.

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. MS07-058, FROM CEQA.

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MARCH 26, 2008, AND MAKES THE 11 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 11 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION No. MS07-058 SUBJECT TO THE 3 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Merced County Planning and Community Development

1. A Certificate of Compliance along with an “Exhibit Map”, legal descriptions of all Proposed Parcels, and the Waiver Certificate, shall be recorded within two (2) years of the Hearing Officer approval date as required by the 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, if and when a Parcel Map is recorded, along with the Exhibit Map notifying any potential buyer that the property is in the vicinity of active farming operations and residents may be subject to inconveniences or discomforts resulting from the pursuit of agricultural operations.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

None

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 12:40 p.m.