

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF NOVEMBER 17, 2010

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of November 17, 2010, are available online at www.co.merced.ca.us/planning/plancomarchive.html.

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 November 17, 2010, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Lynn Tanner - Chairman
 Commissioner Jack Mobley - Vice Chairman
 Commissioner Mark Erreca
 Commissioner Cindy Lashbrook
 Commissioner Greg Thompson

Staff Present: William Nicholson, Assistant Development Services Director
 Kim Anderson, Recording Secretary
 Jeff Fugelsang, Planner II

Legal Staff: Marianne Greene, Deputy County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

M/S MOBLEY - ERRECA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF SEPTEMBER 22, 2010.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. CONDITIONAL USE PERMIT No. CUP10-009 - John Silva - To establish an agricultural contractor business on a 5.0 acre parcel for the purpose of storing and transporting agricultural commodities (hay). The property is located one-quarter (1/4) of a mile east of Winton Way and one-quarter (1/4) of a mile north of Eucalyptus Avenue in the Winton area. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **JF**

Recommendation: The actions requested are to:

- 1) Determine that the project is categorically exempt from CEQA review under Section 15061(b)(3) of the CEQA Guidelines, and;
- 2) Approve Conditional Use Permit No. CUP10-009 based on the project findings, and subject to the conditions of approval presented in the Staff Report.

The public hearing opened at 9:15 a.m.

Joe Prosido, neighbor, said the area used to be quiet until three years ago. More and more trucks are driving by over time. There is more traffic there than on Winton Way. There is only supposed to be 20 feet of easement and Mr. Silva is using 26 feet, the 6 feet belong to Mr. Prosido. If he wants to sell his property, there would be no value because of this operation. He asked the Commission to make the best recommendations to Mr. Silva and to help him out.

MERCED COUNTY PLANNING COMMISSION

Minutes – November 17, 2010

Page 2

Randy Taylor, Mr. Silva's neighbor for the last five years, says there is traffic in and out constantly all the time. People from town come and buy hay from Mr. Silva and wonders if Mr. Silva pays for sales tax. Why is Mr. Silva applying for a permit 5 years later? He asked the Commission to consider his concerns. There is too much noise in the area.

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

Bill Nicholson, Assistant Director, explained that the applicant did not have a building permit, so the applicant had applied for one and then was required to apply for a Conditional Use Permit for this hay business through the Planning Department and it is to legalize an existing hay operation. The area is zoned agricultural and this operation is an ag related business. The repair or other operations on the property are permitted by an Administrative Application or Conditional Use Permit, so you can have businesses such as this. The 97-1 Resolution shows the hours of operation for this type of business. Mr. Nicholson asked Jeff Fugelsang if there was any requirement on the hours of operation.

Jeff Fugelsang said the applicant wasn't proposing a limit of hours of operation as with agricultural uses its sometimes a 24 hour operation. A condition could be added to limit the hours.

Marianne Greene, County Counsel, said the Commission should consider when this hay business is at its peak time and allow 24 hour operation during that time.

Mr. Nicholson said if the applicant is encroaching upon Mr. Prosido's property, then it would be a civil matter. The Planning Department doesn't have control over that.

Ms. Greene said that if Mr. Prosido's easement is compromised then the consequences for Mr. Silva's permit would come after the resolution of that civil matter.

Mr. Nicholson added that the plot plan shows a 20 foot easement only, so if the applicant is using more than that, those are issues between the neighbors, but the County approved and recognizing it as 20 feet.

Ms. Greene said it was understood there was a concern with late night traffic in the area. She said the Planning Commission may want to add a condition restricting third parties to come onto the property to purchase hay.

Planner Jeff Fugelsang said the operational statement submitted by Mr. Silva says that the hay barn is for storage of the owners own hay and no hay sales will be made from the barn. His own perception is that Mr. Silva said it would only be his trucks going in and out from property. The site photos show a significant amount of hay on the property and Mr. Silva only had one cow on site. It is reasonable to assume that Mr. Silva would be storing hay for commercial sales. The Commission could add a condition that restricts third parties from coming onsite to purchase hay.

Mr. Fugelsang said the operational statement says there are only three hay trucks.

Chairman Tanner said he doesn't see a condition that restricts the number of trucks, but sees the conditions that states he must have adequate parking for the commercial trucks, but no condition stating that's all he can have.

Mr. Fugelsang said Condition #2 states that: "The project shall operate 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".

Chairman Tanner asked Mr. Fugelsang to read over the operational statement for the record.

MERCED COUNTY PLANNING COMMISSION

Minutes – November 17, 2010

Page 3

Mr. Fugelsang read that the property is located at 8270 N. Winton Way in Winton, CA as the owner's primary residence. There are four structures at the site: one residence, one shop, one mobile structure used as home office and a hay barn. This hay barn is for storage of the owner's hay. There are no hay sales from this barn. At the site the owner parks his three hay trucks. There is sufficient parking area for the trucks and employee cars at the site. Mostly there will be no truck activity at this site. Trucks transport hay from hay fields directly to the buyer's property. The number of people that will be at the site during peak activity use will be five including the owner. This operation is an ag operation located in an agricultural area. The waste removal and disposal is performed by Winton Waste Management Co.

Ms. Greene says the Planning Commission should consider a condition regarding the activity on the site and the operational statements saying "mostly there will be no truck activity at the site" as being too vague. She suggested specific limitations on the truck activity.

Commissioner Thompson said that's what we are here trying to figure out, whether the applicant is using the yard for his equipment or if he is using this as to impound hay. He understand the neighbors considers that this generates dust and many truck trips. Is the applicant using this to store employees personal vehicles while they are going to and from with the hay trucks or selling hay out of this site?

Chairman Tanner asked if the applicant is storing hay?

Mr. Fugelsang said the operational statement and what Mr. Silva said as well, is that no commercial hay is stored onsite and it's only for his own hay. That hay may be stored and used on another one of Mr. Silva's properties.

Commissioner Mobley said his 5 acre parcel is used for the purpose of storing and transporting agricultural commodities, but yet his operational statement seems like it would be a conflict.

Commissioner Thompson agrees that they have conflicting material. Is the applicant storing hay offsite or is he transporting equipment on and off the site?

Mr. Nicholson referenced Condition #1 in the staff report. They included the storage of hay because there is evidence that the applicant is storing hay on the site and in the nature of a normal farming operation, that isn't a big deal. So rather than debate with the applicant, they included the storage of hay, but that is different than having customers come onto the site with trucks and buy hay individually.

Commissioner Mobley asked if there is a restriction on retail establishment being conducted on agricultural land.

Commissioner Thompson said they clearly asked the applicant to get a business license for the operation. It goes past the intent of what the permit would be.

Commissioner Lashbrook would like to see this application continued so the applicant can confirm what the intent is.

Chairman Tanner says it does make a difference whether he stores hay there or not.

Mr. Fugelsang said it would also impact the approach on the roads. He added that he went on a site check of the property and said there was a significant amount of hay out there and when he asked Mr. Silva about the hay, Mr. Silva said it was for his own personal use.

Commissioner Mobley asked that this application be sent back to ask for clarification of the operational statement.

MERCED COUNTY PLANNING COMMISSION

Minutes – November 17, 2010

Page 4

Commissioner Thompson suggested that the applicant re-write his operational statement so it's clearer.

Mr. Fugelsang said he did request Mr. Silva to revise the operational statement to add more detail. Mr. Silva did state that basically it is what it is and he's not storing any commercial hay on the site.

Commissioner Thompson said he then should be able to make those representations a little more clearer for the Commission.

Commissioner Lashbrook suggested making the hours of operation more clear.

Chairman Tanner said 24-7 hours of operation is a big window.

Commissioner Mobley said the extra 6 feet of easement needs to be addressed between the applicant and the neighbor as well.

Commissioner Lashbrook asked if there is any other mitigation for the noise, such as giant berms.

Chairman Tanner said you can't restrict the noise in an agricultural area.

MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONTINUES CONDITIONAL USE PERMIT No. CUP09-013 TO THE MEETING OF DECEMBER 1, 2010, TO ALLOW THE APPLICANT TO RESOLVE ISSUES AS SUGGESTED BY THE PLANNING COMMISSIONERS AND RE-WRITE THE OPERATIONAL STATEMENT.

VI. COMMISSION ACTION ITEM (S)

None

VII. DIRECTOR'S REPORT

Bill Nicholson said the recruitment for the Development Services Director closes on November 19, 2010.

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:40 a.m.