

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF MARCH 28, 2012

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of March 28, 2012, 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 9:00 a.m., on March 28, 2012, 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 Mark Erreca
 Commissioner Rich Ford
 Commissioner Greg Thompson

Staff Present: Paul A. Fillebrown, Interim Development Services Director
 William Nicholson, Assistant Development Services Director
 Kim Anderson, Recording Secretary
 Jeff Fugelsang, Planner III

Legal Staff: Marianne Greene, Deputy County Counsel

Commissioners Absent: Commissioner Jack Mobley - Vice Chairman

III. APPROVAL OF MINUTES

MOTION: M/S ERRECA – FORD, AND CARRIED BY A VOTE OF 4 – 0, THE COMMISSION APPROVES THE MINUTES FOR FEBRUARY 22 AND MARCH 14, 2012.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

- A. **CONDITIONAL USE PERMIT No. CUP12-003 - Wiebren Jonkman, Diamond J. Farms -****
To bring into conformance an agricultural contractor facility for the purpose of storing and repairing equipment related to custom harvesting and farming on a two acre portion of a 20.5 acre parcel. The property is located on the north side of Sandy Mush Road and approximately one-half mile east of Highway 59 in the Merced area. The project site is designated Agricultural land use 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 15301 of the CEQA Guidelines, and;
- 2) Approve Conditional Use Permit No. CUP12-003 based on the project findings, and subject to the conditions of approval presented in the Staff Report.

Planner Jeff Fugelsang presented the Staff Report and recommendations of approval dated March 28, 2012.

The public hearing opened at 9:05 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:06 a.m.

MOTION: M/S ERRECA - FORD, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. CUP12-003 FROM CEQA GUIDELINES.

MOTION: M/S ERRECA - FORD, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MARCH 28, 2012, AND MAKES THE 12 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT No. CUP12-003 SUBJECT TO THE 12 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning & Community Development Department

1. Conditional Use Permit No. CUP12-003 is granted to bring into conformance an agricultural contractor facility for the purpose of storing and repairing equipment related to custom harvesting and farming on a two acre portion of a 20.5 acre parcel, in accordance with the approved Plot Plan.
2. 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 Planning Director upon submittal of an acceptable application.
3. To ensure the facility does not have a detrimental effect on groundwater, all maintenance of equipment must be performed within the maintenance building or on paved surfaces. Additionally, drip pans should be utilized when equipment is stored for extended periods of time on open ground.
4. The applicant shall comply with all of the applicable standard conditions of approval listed in the Planning Commission Resolution No 97-1.
5. For the purpose of conditions monitoring, an inspection fee in the amount of **\$162.00** 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.
6. 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.

County Counsel

7. INDEMNITY AND HOLD HARMLESS AGREEMENT:

WIEBREN JONKMAN, DIAMOND J. FARMS has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract, writ of mandamus, or otherwise. This duty shall include, but not be limited to, claims, petitions, or the like for bodily injury, property damage, personal injury, contractual damages, writ of mandamus, or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents, commissions, boards, and officers of WIEBREN JONKMAN, DIAMOND J. FARMS.

WIEBREN JONKMAN, DIAMOND J. FARMS's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of WIEBREN JONKMAN, DIAMOND J. FARMS, its agents, subcontractors, employees, boards, and commissions. The duty shall extend to any allegation, claim of liability, or petition, except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first claim, petition, or allegation of liability against County. WIEBREN JONKMAN, DIAMOND J. FARMS will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following CONDITIONAL USE PERMIT NO. CUP12-003 approval, modification, or denial.

This clause for indemnification shall be interpreted to the broadest extent permitted by law.

Commerce Aviation and Economic Development Department

8. The applicant/owner shall obtain a Business License 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.

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Department of Public Works/ Road Division

9. The Applicant shall improve the existing driveway approach used by the Project trucks accessing onto Sandy Mush Road to conform to the design requirements of Drawing DW-04 of Chapter 7 of the Merced County Department of Public Works Improvement Standards and Specifications for Rural Agricultural Driveway Approaches. Applicant must obtain an Encroachment Permit from the County to perform said driveway improvements.

Fire Department

10. **ACCESS:** Fire apparatus access roads shall have an unobstructed width of not less than 20 feet, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches. **(CFC 503.2.1)**

FIRE FLOW REQUIREMENTS: All projects shall meet the fire flow requirements as per California Fire Code. In addition, all options shall be approved by the Fire Department.

508.1 Required water supply. *An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction.*

Department of Public Health/ Environmental Health Division

11. All existing septic tanks must be protected from vehicular traffic and flooding. Leach line areas are to be unpaved, contain no structures, and be protected from flooding and compaction (vehicular traffic, etc.). The leach line replacement area (commercial, agricultural, industrial: 300% of required leach field) is to be unpaved and contain no structures.
12. The presence of agricultural equipment and a shop often involves maintenance, repairs, and fuel storage. Used oil is a hazardous waste.

Any hazardous material *stored* on-site over threshold quantities (55 gallons, 200 cu. ft. or 500 pounds) requires that a hazardous material business plan (HMBP) be filed with the Division of Environmental Health. *Any quantity* of hazardous waste *generated* on site also requires that a HMBP be filed.

An annual fee is charged for storing and for generating hazardous material. The fee is based on amount and type of hazardous material.

VI. COMMISSION ACTION ITEM (S)

None

VII. DIRECTOR'S REPORT

Interim Planning Director Paul Fillebrown announced his retirement and introduced the new Interim Director Mark Hendrickson.

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Mark Hendrickson, the newly appointed Interim Planning Director, introduced himself to the Planning Commissioners and said he is looking forward to working with Planning Commissioners and Planning staff.

Assistant Planning Director Bill Nicholson thanked Mr. Fillebrown for working with the Planning Department and wished him a happy retirement.

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:10 a.m.