

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF FEBRUARY 10, 2016

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of February 10, 2016, 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 February 10, 2016, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Mark Erreca - Chairman
 Commissioner Greg Thompson - Vice Chairman
 Commissioner Jack Mobley
 Commissioner Rich Ford
 Commissioner Robert Acheson

Staff Present: Mark Hendrickson, Director
 Oksana Newmen, Deputy Director Planning
 Kim Lewallen, Recording Secretary
 Brian Guerrero, Planner III
 Sandy Saechao, Planner I

Legal Staff: Michael Linden, Deputy County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

MOTION: M/S THOMPSON – MOBLEY AND CARRIED BY A VOTE OF 5 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE MAY 13, 2015 AND JUNE 24, 2015 MEETINGS.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. CONDITIONAL USE PERMIT No. CUP13-008 - Silveira Brothers Dairy #1 Expansion -
To expand an existing dairy from 1,784 cows (1,254 milking and 530 support stock) to 3,530 cows (3,000 milking and 530 support stock) on a 52 acre portion of a 258 acre farm. The project site is located on the northeast corner of Brazo Road and Santa Fe Grade, approximately one mile southeast of Newman. The property is designated Agricultural land use and zoned A-1 (General Agricultural). **BG**

Recommendations: The actions requested are to:

- 1) Certify the Environmental Impact Report, adopt the Environmental Findings of Fact, Mitigation Monitoring Program and Statement of Overriding Considerations, and;
- 2) Approve Conditional Use Permit No. CUP13-008 based on the findings and subject to the conditions of approval and mitigations measures presented in the Staff Report.

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated February 10, 2016.

Commissioner Rich Ford recused himself regarding this public hearing item.

The public hearing opened at 9:09 a.m.

MERCED COUNTY PLANNING COMMISSION
Minutes – February 10, 2016
Page 2

No one spoke in favor or opposition to this application.

The public hearing closed at 9:10 a.m.

MOTION: M/S THOMPSON - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CERTIFIES THE ENVIRONMENTAL IMPACT REPORT, ADOPTS THE FINDINGS OF FACTS, MITIGATION MONITORING PROGRAM AND STATEMENT OF OVERRIDING CONSIDERATIONS PREPARED FOR CONDITIONAL USE PERMIT No. CUP13-008.

MOTION: M/S THOMPSON - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED FEBRUARY 10, 2016, AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT No. CUP13-008 SUBJECT TO THE 15 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Conditions:

1. Conditional Use Permit No. CUP13-008 is granted to expand the existing Silveira Brothers Dairy #1 facility from 1,784 cows (1,254 milk cows and 530 support stock) on approximately 52 acres of dairy facilities, on four parcels totaling approximately 258 acres. No new construction or additions to existing structures have been proposed as part of this application.
2. The Silveira Brothers Dairy #1 Expansion project shall be located, developed and operated in a manner described on the approved plot plan, Nutrient Management Plan, Waste Management Plan, mitigation measures, mitigation monitoring and reporting program, and conditions of this permit. Any changes or proposed modifications to the approved project would be based on a written request of the applicant to the Planning Director.
3. All mitigation measures identified in the Environmental Impact Report are adopted and incorporated by reference as project conditions.
4. The project shall comply with all applicable regulations administered by the County Fire Department, Environmental Health Division, Community and Economic Development, and Public Works Departments.
5. For the purpose of conditions monitoring, an inspection fee in the amount of **\$648** 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 obtain all necessary permits, and comply with all applicable regulations administered by Federal and State agencies.

County Counsel

7. INDEMNITY AND HOLD HARMLESS AGREEMENT:

SILVEIRA BROTHERS DAIRY 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

MERCED COUNTY PLANNING COMMISSION

Minutes – February 10, 2016

Page 3

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 SILVEIRA BROTHERS DAIRY. SILVEIRA BROTHERS DAIRY'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 the Applicant, 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. SILVEIRA BROTHERS DAIRY 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. CUP13-008 approval, modification, or denial.

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

Public Works/Roads Division

8. The applicant shall improve all driveways utilized by heavy truck operations associated with the dairy with either paved or concrete approaches onto the adjacent County roadway, in accordance with Chapter 7 of the Merced County Department of Public Works Improvement Standards and Specifications.
9. The applicant shall install a 150-watt pole mounted street light at each driveway approach. All work within the County right-of-way shall require an Encroachment Permit from the County.

Merced County Division of Environmental Health

10. The dairy operation shall comply with the Merced County Animal Confinement Ordinance as follows:
 - Salt and other mineral feed supplements shall be limited to that required to maintain animal health and optimum production according to the National Research Council standards.
 - Feed management/diet optimization plan.
 - The applicant shall provide a site plan demonstrating that all off-site residences are at least 1,000 feet from the active dairy facility.
 - The applicant shall provide a vector (fly and mosquito) and odor control program to the Division to aid in evaluating manure storage practices.
 - The California Regional Water Quality Control Board requires submittal of a Nutrient Management Plan (NMP) and a separate Waste Management Plan (WMP) for all dairies. CRWQCB requires submittal of a nutrient management report by July 1 of each year.

MERCED COUNTY PLANNING COMMISSION

Minutes – February 10, 2016

Page 4

- An updated CNMP shall be submitted to Merced County whenever a dairy expansion occurs
- The applicant shall submit a signed copy of the most recent NMP and the most recent WMP reflecting the increase in facility footprint and number of cows.

Public Works/Building and Safety Division

11. You must hire an architect or engineer licensed in the state of California to draw the plans for any proposed building. The plans and calculations must be submitted to the Building Department for approval and a permit before any construction can begin. We require 4 sets of plans and 3 sets of calculations to be submitted.

Merced County Fire Department

12. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Section 503.2.1 shall be maintained at all times.
13. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a key box to be installed in an approved location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the fire code official.
14. 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.

Final Environmental Impact Report Mitigation Measures

15. The following is a comprehensive list of CEQA Mitigation Measures that are contained in both the CEQA Findings of Fact and Statement of Overriding Considerations (SOC) and Mitigation Monitoring Reporting Program (MMRP) that are applicable to the Silveira Brothers Dairy #1 Expansion project. The applicant shall be responsible to comply with all Mitigation Measures contained in the foregoing mentioned documents:

Air Quality

- AQ-3a: Reduction of ROG emissions, MMRP, page 2-1
- AQ-3b: Voluntary Emissions Reduction Agreement, MMRP, page 2-1.
- AQ-6: Minimize PM10 emissions, MMRP page 2-1.

Biological Resources

- BIO-5: Develop a Lighting Plan prior to final inspection and initiation of new Operations, MMRP page 29.
- BIO-6: Implementation of the Merced County Animal Confinement Ordinance, MMRP, page 27

Hydrology and Water Quality

- HYD-2: Provide written agreement with the California Department of Fish and Wildlife representatives of the China Island Unit for discharge of tile drainage water to the adjacent property OR maintain all tile drain water on

MERCED COUNTY PLANNING COMMISSION

Minutes – February 10, 2016

Page 5

site and cease all discharge off site to the China Island Unit., MMRP page 29.

- HYD -3a: Implement Best Management Practices, MMRP page 31.
- HYD-3b: Comply with requirements of the NMP/WMP, MMRP, 33.
- HYD-3c: Aronomic Rates for Best Management Farming Practices, MMRP, Page 35.
- HYD-3d: Salinity Report, MMRP, page 37.
- HYD-3e: Site Specific Monitoring Well Installation Plan, MMRP, page 39.
- HYD-3f: Groundwater Monitoring, MMRP, page 41.
- HYD-3g: Concentration in Groundwater of Constituents of Concern, MMRP, page 43.
- HYD-3h: Community and Economic Development Department and Division of Environmental Health Inspection, MMRP, page 45.
- HYD-6: Obtain a flood-proofing certificate and submit to the Merced County Department of Public Works Building Department for verification, MMRP page 47.
- HYD-7: Inspection of On-site Water Supply Wells, MMRP, page 49.
- HYD-8: Project sponsor shall obtain written agreement from recipients of manure exported off site in regards to rates and times for application, stormwater, wells and that manure shall not be applied within 100 feet of any domestic wells. MMRP page 51.

- B. ZONE CODE TEXT AMENDMENT No. ZCTA16-001 – County of Merced** – To amend Title 18 (Zoning Code) Section 18.26.020 Table 18-10 (Allowable Land Uses and Permit Requirements) of the Merced County Code to list emergency shelters as an allowed use without the approval of a discretionary permit in the Light Manufacturing (M-1) and General Manufacturing (M-2) zoning designations subject to specific criteria (to include separation distance from residential areas, maximum number of beds, management on-site, security as approved by the Sheriff's Office). An emergency shelter is housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person, where no individual or household may be denied emergency shelter because of an inability to pay. ZCTA16-001 also proposes to amend Section 18.56 (Definitions and Construction of Words and Phrases) by revising the emergency shelter definition and to add transitional housing and supportive housing definitions. The provisions of this text amendment would be effective in all unincorporated areas of the County of Merced. The proposed text is available at <http://www.co.merced.ca.us/index.aspx?nid=2169>.
SS

Recommendations: The actions requested are to:

- 1) Recommend the Board of Supervisors determine Zone Code Text Amendment No. ZCTA16-001 is exempt from environmental review pursuant to Section 15061(b)(3) of the CEQA Guidelines under the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment; and
- 2) Recommend that the Board of Supervisors approve Zone Code Text Amendment No. ZCTA16-001 adopting the revisions to Title 18 (Zoning Code) Section 18.26.020 Table 18-10 and Section 18.56 based upon the findings presented in the staff report.

Planner Sandy Saechao presented the Staff Report and recommendations of approval dated February 10, 2016.

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

No one spoke in favor or opposition to this application.

The public hearing closed at 9:21 a.m.

MERCED COUNTY PLANNING COMMISSION

Minutes – February 10, 2016

Page 6

MOTION: M/S THOMPSON - MOBLEY, AND UNANIMOUSLY CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS DETERMINE THE PROPOSED ZONE CODE TEXT AMENDMENT IS EXEMPT FROM CEQA UNDER SECTION 15061(B)(3) FOR ZONE CODE TEXT AMENDMENT No. ZCTA16-001.

MOTION: M/S THOMPSON - MOBLEY, AND UNANIMOUSLY CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS APPROVE ZONE CODE TEXT AMENDMENT No. ZCTA16-001.

VI. NON-HEARING ITEM(S)

- A. HOUSING ELEMENT UPDATE STUDY SESSION** – The County is currently working on an update to its Housing Element for the 2016 to 2024 planning period, as required by State law. The County must plan for its fair share of the region's housing needs of all economic segments of the community, as identified by the Merced County Association of Governments (MCAG). Specifically, of the 15,580 housing units for all jurisdictions within and including Merced County, the County is required to accommodate its fair share of 4,445 units across varying income levels. Upon adoption, the 2016 Housing Element will become a part of the Merced County General Plan. Proposed goals, policies, and programs have been prepared, along with the required housing needs assessment, constraints, and resources to be considered by the Planning Commission, and subsequently by the Board of Supervisors. The purpose of the study session is to engage in discussion with the Planning Commission on the proposed goals, policies, and programs.
No action is being sought; this is an informational item. There will be an opportunity for the public to make comment as part of this study session.

Chelsey Payne, Consultant with Mintier & Harnish gave the presentation and update on the Housing Element Update Study.

The public hearing was opened at 9:42 a.m.

Abigail Ramirez with Leadership and Counsel for Justice & Accountability, made some comments regarding the draft. She said there is a lot of talk about new constructions in the new communities. It doesn't promote infill development within the existing communities. She addressed the conversion of ag land issue; infill should be prioritized. The age of housing stock shows no renter occupied housing units built in unincorporated Counties in 2010, but it doesn't address why this is. The housing cost for low income pay 30% of income and pay more than 50% - adequate supply of affordable houses in unincorporated communities. The average monthly rent is not a reliable source (Craigslist listing). There is 198 homeless people surveyed and they believe that 329 beds are not enough. There is insufficient farm workers housing, especially in Planada. The draft mentions that 50 individuals were turned away due to lack of housing.

Commissioner Rich Ford asked how you differentiate between labor and regular housing?

Ms. Payne said there is specific housing for farm workers. Merced County has the Additional Dwelling Occupancy Monitoring Permit program and you allow for additional units in Ag areas.

Bill Nicholson, Consultant to the Planning Department, mentioned that the State does give the County numbers of their share of affordable needs. There are issues everywhere. Merced County is much more affordable. MCAG allocation was given to the County in 2009 and was an outrageous number. Most states are pushing to redevelop our existing Communities and not go into new and sprawling towns. In the past, the County got a growth rate almost double for the housing burden and this time was lower. We have done better getting a more reasonable number. The sewer and water issues will be updated.

MERCED COUNTY PLANNING COMMISSION
Minutes – February 10, 2016
Page 7

In Planada, there is a project going on with Self Help Enterprises, you would be helping yourself build the home to lower construction costs.

Commissioner Ford asked if the Groundwater sustainability plan is going to affect the Housing Element Study and what you can provide?

Oksana Newmen, Deputy Director of Planning, said Merced County is trying to coordinate those efforts and could have a huge impact on the Housing Element and General Plan.

The public hearing was closed at 10:00 a.m.

VII. COMMISSION ACTION ITEM(S)

None

VIII. DIRECTOR'S REPORT

None

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 10:03 a.m.