

**MERCED COUNTY PLANNING COMMISSION**  
**MINUTES FOR MEETING OF JUNE 22, 2016**

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The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of June 22, 2016, are available online at [www.co.merced.ca.us/planning/plancomarchive.html](http://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 June 22, 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 Robert Acheson

Staff Present:                     Mark Hendrickson, Director  
  Kim Lewallen, Recording Secretary  
  Steven Maxey, Planner III  
  Sandy Saechao, Planner I

Legal Staff:                       Tom Ebersol, Deputy County Counsel

Commissioners Absent:           Commissioner Ford

**III. APPROVAL OF MINUTES**

**MOTION: M/S THOMPSON – ACHESON, AND CARRIED BY A VOTE OF 4 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE MAY 11, 2016 MEETING.**

**IV. CITIZEN COMMUNICATIONS**

None

**V. PUBLIC HEARINGS**

- A.     CONDITIONAL USE PERMIT APPLICATION No. CUP16-002 – Feather Ranch Kennel -**  
To establish a dog kennel for up to 300 dogs, including a dog training and a dog blood donor component. The project site is located on the south side of E. Sandy Mush Road, 1380 feet west of S. Bliss Road in the Merced area. The property is designated Agricultural land use and zoned A-1 (General Agricultural). **SM**

**Recommendations: The actions requested are to:**

- 1) Find the project categorically exempt from additional CEQA review under section 15303 "New Construction or Conversion of Small Structures" and 15183 "Projects Consistent with a Community Plan or Zoning" of the CEQA guidelines.
- 2) Approve conditional use permit No. 16-002 based on the findings and proposed conditions included in the staff report.

Planner Steve Maxey suggested continuation of this application to an unknown hearing and the project will be re-noticed when the hearing date is chosen.

A letter was handed out to the Commissioners from Vincent Foster stating his several concerns regarding this application.

The public hearing opened at 9:04 a.m.

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Vincent Foster, neighbor within 300 ft., wrote a letter to the Commissioners with his concerns. He feels that there is an impact of the Hazardous Substances would bring potential underground water contamination and air born toxic dust. He feels there would be ambient noise level potential produced from the 300 dogs in training. He objects to the application.

Art DeJager, Vista Verde Dairy, says his property is two miles from the proposed site. He is concerned with the noise and sanitation and agrees with Mr. Foster.

The public hearing closed at 9:12 a.m.

**MOTION: M/S THOMPSON – MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONTINUES THIS APPLICATION TO AN UNKNOWN FUTURE PLANNING COMMISSION HEARING.**

- B. ADMINISTRATIVE APPLICATION No. AA16-023 – Mario Madriz – To establish a semi-mobile food vendor in the parking lot of an existing restaurant. The project site is located on the northeast side of Santa Fe Drive and approximately 4,100 feet west of Highway 59 within the City of Merced Planning Area. The property is designated Industrial land use and zoned C-2 (General Commercial). **SS****

**Recommendations: The actions requested are to:**

- 1) Find the project exempt from CEQA review under Section 15061(b)(3), “Common Sense”, of the CEQA Guidelines; and
- 2) Approve Administrative Application No. AA16-023 based on the findings and subject to the conditions of approval in the Staff Report.

Planner Sandy Saechao presented the Staff Report and recommendations of approval dated June 22, 2016.

The public hearing opened at 9:16 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:17 a.m.

**MOTION: M/S THOMPSON - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS ADMINISTRATIVE APPLICATION No. AA16-023 FROM CEQA.**

**MOTION: M/S THOMPSON – ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JUNE 22, 2016, AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES ADMINISTRATIVE APPLICATION No. AA16-023 SUBJECT TO THE 11 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Community and Economic Development Department

1. Administrative Permit Application No. AA16-023 shall operate in accordance with the approved Plot Plan and Operational Statement.
2. Minor Modifications may be approved by the Planning Director upon submittal of an acceptable application.

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3. The applicant shall comply with the Merced County Zoning Code Development Standards required for semi-mobile food vendors (Section 18.47.79.D) including, but not limited to the following:
  - a. The operating hours shall be from 8:00 am to 6:00 pm, Monday through Sunday.
  - b. There shall be adequate trash receptacles adjacent to the semi-mobile food vendor.
  - c. The site shall be kept clean and free of litter at all times. Trash and garbage shall be removed from the site at the end of each day.
  - d. Waste water generated by this use shall not be released on-site or into any storm drainage or irrigation system.
  - e. Grease shall be disposed per requirement of the Division of Environmental Health.
  - f. No additional advertising sign except a sign attached to the semi-mobile food vendor shall be reviewed and approved by the Community and Economic Development Director.
  - g. A copy of the administrative permit shall be kept with the operator at all times and shall not be transferable to another operator.

### County Counsel

#### 4. INDEMNITY AND HOLD HARMLESS AGREEMENT:

MARIO MADRIZ has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, commissions, officers, employees, agents and assigns (hereinafter "COUNTY") from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, expert witness and consultant fees and other costs 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 MARIO MADRIZ. MARIO MADRIZ 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 MARIO MADRIZ, their employees, subcontractors, agents, and officers. The duty shall extend to any allegation or 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 notice of filing a lawsuit, claim, petition, or allegation of liability against COUNTY. MARIO MADRIZ will on request and at its expense, defend any action suit or proceeding arising hereunder. This clause and shall not be limited to any claim, petition, demand, liability, judgment, award, interest, attorney's fees, expert or consultant witness fees, legal research fees, staff and administrative costs, administrative record costs, materials, and costs 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, including but not limited to actions arising from public interest, land use and environmental legal actions, brought against the COUNTY following Administrative Permit No. AA16-023 approval, modification, denial, or the exercise or exhaustion of administrative appeals. Attorney's fees shall include any and all attorneys fees but not be limited to attorneys fees and staff time incurred by the offices of COUNTY counsel. COUNTY shall have full discretion to select legal counsel of its own choosing to represent COUNTY, at a cost not exceeding the prevailing and reasonable rates for counsel practicing environmental and land use law in the State of California, or practicing any other area of law that the

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COUNTY determines the Claim may reasonably require. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

### Building and Safety Division

5. Any extension cords used for power the truck will have to be rated for outdoor use, protected from damage if in a vehicle route of travel, and one continuous run from the power source to the truck.

### Division of Environmental Health

6. The semi-mobile food operator shall obtain and maintain a current stationary mobile food facility permit issued by MCDEH.
7. The semi-mobile food vehicle shall be located within 200 feet travel distance of an MCDEH-approved toilet and permanent hand washing station. The food vehicle staff shall have access to this restroom at all times the vehicle is parked on-site. If the restrooms are locked, the food vehicle staff must have a key in their possession.
8. The mobile food facility operator shall provide to MCDEH food program staff a current, valid document from the restroom owner indicating the days and times the restrooms are available and granting permission for the mobile food vendor staff to use the restrooms. A copy of the permission document shall be kept on the mobile food facility.
9. The mobile food facility shall not obtain any water from the premises, nor shall any wastewater from the food facility be drained to any on-site septic system, on-site community sewer connection, or to the ground surface. No solid waste (trash, etc.) from the mobile food facility shall be disposed on the parcel.
10. The mobile food facility shall immediately cease operating if the water supply to the restrooms fails or the on-site septic system or sew connection fails.
11. The mobile food facility must report to its approved commissary at least once every day for cleaning, discharge of waste water, re-stocking water and food, and all other required functions.

- C. GENERAL PLAN TEXT AMENDMENT No. GPTA16-001 – Merced County Housing Element Update and Land Use Element Amendment** – The purpose of the Housing Element is to identify the County’s housing needs; to set goals and objectives with regard to housing production, rehabilitation and conservation; and to define the policies and programs the County will implement to achieve housing requirements. The Draft Housing Element Update is a policy document intended as a guide to decision makers in meeting the County’s housing goals and objectives over the eight year planning period from 2016 to 2024, including the provision of affordable housing for very low, low and moderate income groups. As required by State Law, the County has also prepared an amendment to the Land Use Element to identify “disadvantaged unincorporated communities”. These communities consist of a cluster of residences with income below 80% of the State median income level, and identifies the condition of the following community services; water, wastewater, storm water and fire protection. **SS**

### **Recommendations: The actions requested are to:**

- 1) Recommend the Board of Supervisors adopt the Negative Declaration in conformance with CEQA Guidelines; and
- 2) Recommend the Board of Supervisors adopt the Merced County General Plan Housing Element Update and Land Use Element Amendment based upon the findings presented in the staff report.

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Chelsea Payne with Mintier Harnish gave a brief presentation on the General Plan Text Amendment No. GPTA16-001 – Merced County Housing Element Update and Land Use Element Amendment.

The public hearing opened at 9:31 a.m.

Nikita Daryanani from the Leadership Counsel for Justice & Accountability, handed out a letter to the Commissioners and also for the record. She feels that issues raised in her March 1, 2016 remain unaddressed and suggestions ignored.

Commissioner Thompson asked for confirmation that the Planning Commission is not adopting this Housing Element today and they are just making a recommendation to the Board, correct? Ms. Payne said yes. Commissioner Thompson said this Housing Element acts as a framework for the development in providing for the needs of the Community and does not replace the individual requirements of projects, so if he were to have a subdivision project in any of the areas or out, it does not replace the requirement of the water supply and quality or any other requirement in the Community Plan or development, correct? Ms. Payne, said yes that is correct.

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

**MOTION: M/S THOMPSON – MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION RECOMMENDS THAT THE BOARD OF SUPERVISORS ADOPT THE NEGATIVE DECLARATION PREPARED FOR GENERAL PLAN TEXT AMENDMENT No. GPTA16-001 IN ACCORDANCE WITH THE CEQA GUIDELINES BASED ON THE TWO CEQA FINDINGS IN THE STAFF REPORT.**

**MOTION: M/S THOMPSON – MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS APPROVE GENERAL PLAN TEXT AMENDMENT NO. GPTA16-001 ADOPTING THE HOUSING ELEMENT UPDATE AND THE LAND USE ELEMENT AMENDMENT OF THE MERCED COUNTY GENERAL PLAN BASED ON THE SIX PROJECT FINDINGS PRESENTED IN THE STAFF REPORT.**

**VI. COMMISSION ACTION ITEM (S)**

None

**VII. DIRECTOR'S REPORT**

None

**VIII. COMMISSIONERS COMMENTS**

None

**IX. ADJOURNMENT**

There being no further business, the meeting adjourned at 9:35 a.m.