



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

William Nicholson
Director

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**PLANNING COMMISSION AGENDA
REGULAR MEETING OF NOVEMBER 19, 2003, 9:00 A.M.
2222 "M" STREET, BOARD ROOM, THIRD FLOOR,
MERCED, CALIFORNIA**

I. CALL MEETING TO ORDER

II. ROLL CALL OF COMMISSIONERS

Larry Whitney; Kimberly Clauss; Steve Sloan, Chairman; Lynn Tanner; David Wager.

III. APPROVAL OF MINUTES

IV. CITIZEN COMMUNICATIONS

Public opportunity to address the Planning Commission on items of interest over which the Planning Commission has jurisdiction.

SPEAKERS

If you would like to address the Planning Commission on any item on the agenda, please pick up a 3" x 5" card in the foyer, fill it out with your name, address, and item you wish to speak on, and give it to someone at the staff table (to the left of the podium) prior to speaking.

V. PUBLIC HEARING

- A. CONDITIONAL USE PERMIT 03001 - Michael & Veronica Brasil - To establish a New Dairy facility for 600 Milk Cows for a property located on the northwest corner of First Avenue and Griffith Avenue in the Stevinson area, designated Agricultural land use in the General Plan. The zone is A-1 (General Agriculture) (130 acres). **TO CERTIFY THE ENVIRONMENTAL IMPACT REPORT, AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the October 29, 2003 special meeting. Project Planner Mark Hamilton****

STRIVING FOR EXCELLENCE

- B. MAJOR SUBDIVISION APPLICATION NO. 03012 – Wathan/Castanos –** To divide 237 acres into 346 residential lots of approximately 6,200 to 7,800 square feet each on 97 acres with a remainder of approximately 140 acres, on land designated as Low Density Residential Land use in the Santa Nella Community Specific Plan and zoned R-1 (Single Family Residential) and R-1-5000 (Single Family Residential 5,000 square foot minimum) on property located east of State Highway 33, north of the Delta Mendota Canal and approximately ½ mile south of Henry Miller Road. **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the October 22, 2003 commission meeting. Project Planner Robert King**
- C. ADMINISTRATIVE PERMIT APPLICATION NO. 03087 - Domingos Freitas –** To approve a waiver from the Animal Confinement regulations that all new residences be built at least 1000 feet from off-site dairy facilities. The property is located on the south side of Pioneer Avenue, approximately 5,100 feet east of Ortigalita Road in the Los Banos area. The site is designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural) (1.5 acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the October 22, 2003 commission meeting. Project Planner Mark Hamilton**
- D. CONDITIONAL USE PERMIT APPLICATION No. 03009 - Sofia Ludwig/Pedro Lopez -**To establish a used car-lot with an existing retail store located on the northwest corner of Winton Way and Park Avenue which is designated as Winton Specific Urban Development Plan (SUDP) Commercial land use in the General Plan and zoned C-2 (General Commercial) (.35 acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the October 22, 2003. Project Planner Mark Hamilton**
- E. MAJOR SUBDIVISION APPLICATION No. 03001 - Ranchwood Contractors -** To divide two (2) lots totaling 19.0 acres into 96 residential building lots between 6,000 and 15,300 square feet in size. The subject properties are located on the south side of Savanna Road, and 580 feet east of Sante Fe Avenue, in the Le Grand Specific Urban Development Planning Area (SUDP). The properties are designated as Le Grand SUDP - Low Density Residential land use in the General Plan and are zoned R-1 (Single-Family Residential). (19.0 Acres). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland**
- F. MINOR DEVIATION No. 03017 - H&S Development -** To allow a reduction in required side yard setbacks from 15 feet to 10 feet for 9 corner lots in the Casa De Suenos subdivision (MAS 02017). The subject properties are located at the southeast corner of Cody Street and Stanford Avenue in the Planada Specific Urban Development Planning Area (SUDP). The properties are designated as Planada SUDP Low Density Residential land use in the General Plan and are zoned R-1-5000. **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland**



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- G. GENERAL PLAN TEXT & MAP AMENDMENT No. 03003 – Albert & Betty Mancebo** –To amend the Merced County General Plan text to allow expansion of isolated urban areas, and to expand Isolated Urban Area No. 5 by 15.6 acres, and to amend the Merced County General Plan land use diagram by redesignating property located on the southeast corner of Gurr Road and Southern Pacific Avenue from Agricultural to Agricultural-Residential. The zone is A-R (Agricultural Residential) (15.6 acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Dan Skidmore**
- H. ADMINISTRATIVE PERMIT APPLICATION No. 03105 – Hargurnam Singh** – To consider revocation of an Administrative Permit (98006) for an existing mobile food vendor for failing to comply with previous conditions of approval, located at the corner of Walnut Avenue and Santa Fe Drive in the Winton area. The property is designated Winton SUDP – General Commercial and zoned C-2 (General Commercial). **TO REVOKE, MODIFY OR RETAIN THE EXISTING PERMIT. Project Planner Desmond Johnston**

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

None

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

APPEALS

Any person may appeal any action of the Planning Director or Planning Commission within five (5) calendar days after the day the action is made. [Within ten (10) calendar days of action on subdivisions]. The deadline for appeals of Planning Commission actions, excluding subdivisions, is 5:00 p.m. on the Monday following the Planning Commission meeting. Please note that appeals may not be submitted on days that the County is officially closed.

Appeals of Planning Director's actions may be filed with the Planning Department and appeals of Planning Commission actions may be filed with the Clerk of the Board of Supervisors. Appeals must state appellant's name, action appealed and reasons for appeal. A filing fee set by Resolution of the Board of Supervisors must be submitted with the written appeal.

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF NOVEMBER 19, 2003

A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of November 19, 2003, 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 9:19 a.m., on November 19, 2003, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Larry Whitney
 Commissioner Kimberly Clauss
 Commissioner Steve Sloan-Chairman
 Commissioner Lynn Tanner
 Commissioner David Wager

Staff Present: William R. Nicholson, Planning and Community Development
 Director
 Desmond Johnston, Deputy Director
 Kim Lewallen, Recording Secretary
 James Holland, Planner III
 Mark Hamilton, Planner I

Legal Staff: Ruben Castillo, County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

M/S WHITNEY - CLAUSS, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF OCTOBER 22, 2003 AND OCTOBER 29, 2003.

IV. CITIZEN COMMUNICATIONS

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, asked if the public hearing has been closed for Conditional Use Permit No. 03001 – Michael & Veronica Brasil, because she would like to make comments.

Chairman Sloan indicated that at the October 29th meeting, the public hearing was closed, but if there are direct questions to members of the audience, they can come up to the podium. She can submit any letters she may have though.

Ruben Castillo, County Counsel, indicated to the audience that the Planning Commission will open a hearing, receive evidence on an application and allow the audience to give comments, and then the public hearing is closed and all the comments are deliberated upon by the Commission. The only part of the meeting that was continued from the October 29th meeting was the decision process for the Conditional Use Permit for Brasil Dairy and not the public testimony.

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V. PUBLIC HEARINGS

- A. **CONDITIONAL USE PERMIT No. 03001 - Michael & Veronica Brasil - To establish a New Dairy facility for 600 Milk Cows for a property located on the northwest corner of First Avenue and Griffith Avenue in the Stevinson area, designated Agricultural land use in the General Plan. The zone is A-1 (General Agriculture) (130 acres). TO CERTIFY THE ENVIRONMENTAL IMPACT REPORT, AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the October 29, 2003 special meeting. Project Planner Mark Hamilton**

Commissioner Wager asked to be excused from this project stating that he is close to the Mitchell Family. Chairman Sloan excused Commissioner Wager from this application decision.

Deputy Director Desmond Johnston passed out letters from Robert Mitchell on behalf of Mitchell Family Trust, a letter from Seasholtz Companies, Smith Brothers and Orrin and James R. Burns.

Gene Smith, of Quadknopf Inc., responded to issues raised in the correspondence. He stated that the site is not in Merced Irrigation District (MID) or the Stevinson Water District. MID does deliver surplus water to the project area. He indicated that a Foster Farms letter was received before the EIR was done indicating that they have no objections to this application. This letter did not raise a CEQA or environmental issues. He stated that impacts on hydrology, this is adequately covered in the EIR and through the Animal Confinement Ordinance. The 1,000 ft. setback for neighboring residences is not an EIR issue. There are no setback issues for this project.

William Nicholson, Planning Director, stated that the EIR did not identify any groundwater problems as a result of this dairy. He also stated that the Planning Department provided adequate notice for the EIR and hearing as required.

Chairman Sloan asked Mr. Smith if there were any discussions with representatives of the dairy industry concerning the Mitchell Trust? Mr. Smith responded no.

Mr. Nicholson stated that the most detailed letter was from Robert Mitchell, which Gene Smith responded to.

Commissioner Clauss feels that Merced County has been addressing the issues for the dairy industry with the EIR.

MOTION: M/S WHITNEY - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CERTIFIES THE ENVIRONMENTAL IMPACT REPORT FOR CONDITIONAL USE PERMIT No. 03001, 19 MITIGATION MEASURES AND THE MITIGATION MONITORING PROGRAM, ADOPTS ALL RELATED ENVIRONMENTAL FINDINGS AND THE STATEMENT OF OVERRIDING CONSIDERATION.

MOTION: M/S WHITNEY - CLAUSS, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED NOVEMBER 19, 2003, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT AND ITS ATTACHMENT AND, BASED ON THOSE 10 FINDINGS, ADOPTS THE MITIGATION MONITORING

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PROGRAM, AND APPROVES CONDITIONAL USE PERMIT No. 03001 SUBJECT TO THE 25 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. The project shall be located, developed, and operated in a manner as described on the approved plot plans and ground water management plans.
2. The project shall comply with all applicable regulations administered by the County Fire, Health, Planning, and Public Works Departments.
3. The project shall comply with all conditions and mitigation measures of this permit.
4. For the purpose of condition monitoring, an annual inspection fee in the amount of **\$300.00** shall be paid prior to issuance of any building permit.
5. The applicant shall dedicate 10 feet of right of way along the Griffith Avenue frontage of the property to achieve a total half width of 30 feet, which is deemed necessary for rural roadways.
6. The applicant shall construct a paved driveway approach and install a streetlight (on wooden pole) at the proposed truck access onto First Avenue.
7. The applicant shall either make a payment of \$15,000 to the County Road Fund to pay for the cost of improving the project's frontage on First Avenue and Griffith Avenue, or enter into a Road Impact Agreement with the County that will specify other equivalent means of improving the described road frontage (MM).
8. The federal EPA, California Air Resources Board, and/or San Joaquin Valley Air Pollution Control District should sponsor and complete detailed emissions studies of air emissions from all area of confined animal facilities, including emissions rates from various sources, activities, and facilities. Concurrently, these agencies should evaluate and document the effectiveness of various emissions control options for managing or lessening air pollutant emissions from confined animal facilities. Upon completion of the emissions studies set forth above, and should it be determined that controls on emissions from confined animal facilities are necessary to reach attainment status, the SJVAPCD should incorporate the resulting emissions inventory into its attainment planning for criteria pollutants for which the Air Basin is in nonattainment (currently ozone and PM₁₀) (MM).
9. Pre-construction surveys for kit fox shall be performed. A qualified biologist shall conduct these pre-construction surveys no less than 14 days and no more than 30 days prior to any construction-related activities. The primary objective is to identify kit fox habitat features (potential dens and refugia) on the project site and evaluate them sufficiently to ascertain if a kit fox is using them. If an active kit fox den is detected within (or immediately adjacent to) the area of work, the USFWS will be contacted immediately to determine the best course of action. If no kit fox activity is detected, the work shall continue as planned and a written report will be submitted to the Corps and Service within five days after completion of the surveys. The applicant shall follow the Standardized Kit Fox Construction Practices developed by the

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USFWS (1997) and described in the Mitigation Monitoring Program (MM).

10. A qualified ornithologist shall conduct a pre-construction survey for nesting raptors (including both tree and ground nesting raptors) on site within 30 days of the onset of ground disturbance, if ground disturbance is to occur during the breeding season (February 1 to August 31). These surveys shall be based on the accepted protocols (e.g., as for the burrowing owl) for the target species. If a nesting raptor were detected, an appropriate construction buffer would be needed (up to 250 feet). The actual size of the buffer would depend on species, topography, and type of construction activity that would occur in the vicinity of the nest. A qualified ornithologist shall conduct pre-construction surveys for burrowing owls during the non-breeding season. Pre-construction surveys during the non-breeding season are not necessary for tree nesting raptors, as they are expected to abandon their roosts during construction (MM).
11. If burrowing owls are detected on site during the non-breeding season, they can be passively relocated by placing one-way doors in the burrows and leaving them in place for a minimum of three days. Once it has been determined that owls have vacated the site, the burrows can be collapsed and ground disturbance can proceed (MM).
12. Project-related lighting shall be minimized and directed away or shielded from sensitive areas. Minimizing and/or directing/shielding lighting away from sensitive areas will ensure that disruption of night-active species will not occur. This will help reduce or minimize any accelerated nighttime predation rates on the dairy and adjacent agricultural fields. Around residences and other areas where it may be appropriate, landscaping shall be used to shield the agricultural fields from additional lighting (MM).
13. If, in the course of project construction or operation, any archaeological or historical resources are uncovered, discovered, or otherwise detected or observed, activities within 50 feet of the find area shall cease. A qualified archaeologist shall be contacted and advise the County of the site's significance. If the County deems the findings significant, mitigation measures shall be prescribed that fully meet the intent of Mitigation Measure CUL-1 prior to any resumption of work in the affected area of the project. If, in the course of project construction or operation, any skeletal remains are uncovered, discovered, or otherwise detected or observed, activities in the affected area shall cease. A qualified archaeologist, the County Planning Director, the County Coroner and the Native American Contact shall be consulted, and appropriate measures shall be required that may include avoidance of the burial site or reburial of the remains (MM).
14. For all new or expanding confined animal facilities, the Division of Environmental Health shall make a final inspection of the facility prior to the commencement of operations to confirm the dairy meets all local and state requirements (MM).
15. Prior to receiving a final inspection from the Merced County Environmental Health Division to permit operations to begin for the Brasil Dairy, the project sponsor shall have a plan where positive drainage shall be included in project design and construction to ensure that excessive ponding does not occur. The design shall comply with Title 3, Division 2, Chapter 1, Article 22,

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§646.1 of the Food and Agriculture Code for construction and maintenance of dairy or facility surroundings, corrals, and ramps (MM).

16. Prior to receiving a final inspection from the Merced County Environmental Health Division to permit operations to begin for the Brasil Dairy, the project sponsor shall not have dirt or unpaved corrals, or unpaved lanes, be located closer than 25 feet from the milking barn or closer than 50 feet from the milk house. Corral drainage must be provided (MM).
17. Prior to receiving a final inspection from the Merced County Environmental Health Division to permit operations to begin for the Brasil Dairy, the project sponsor have a paved (concrete or equivalent) ramp or corral shall be provided to allow the animals to enter and leave the milking barn. This paved area shall be curbed (minimum of 6 inches high and 6 inches wide) and sloped to a drain. Cow washing areas shall be paved (concrete or equivalent) and sloped to a drain. The perimeter of the area shall be constructed in a manner that will retain the wash water to a paved drained area. Paved access shall be provided to permanent feed racks, mangers, and water troughs. Water troughs shall be provided with: (1) a drain to carry the water from the corrals; and (2) pavement (concrete or equivalent) which is at least 10 feet wide at the drinking area (MM).
18. Prior to receiving a final inspection from the Merced County Environmental Health Division to permit operations to begin for the Brasil Dairy, the project sponsor have the cow standing platform at permanent feed racks shall be paved with concrete or equivalent for at least 10 feet back of the stanchion line (MM).
19. Prior to receiving a final inspection from the Merced County Environmental Health Division to permit operations to begin for the Brasil Dairy, the project sponsor shall recognize that as unpaved areas are cleaned, depressions tend to form, allowing ponding and increased infiltration. Regular maintenance shall include filling of depressions. Personnel shall be taught the correct use of manure collection machines (wheel loaders or elevating scrapers) (MM).
20. The Regional Water Quality Control Board should evaluate the potential emissions to groundwater of salts, nutrients, and other substances from all areas of confined animal facilities, including corrals, treatment ponds, and cropped application fields. Based on the results of this study, the Regional Water Quality Control Board should adopt uniform standards that apply to all confined animal facilities within the Central Valley for permitted seepage rates from all areas, including corrals, treatment ponds, and application fields; maximum permeability rates for areas that require lining to prevent ground water degradation; and implementation of a anti-degradation policy for groundwater (MM).
21. The applicant shall complete the purchase of the 40 acres immediately west of the project site (County Assessor's Parcels 055-131-001 and 002) and shall design all wastewater disposal and conveyance facilities in accordance with the requirements of the County's Animal Confinement Ordinance and the approved CNMP. In addition, all future cropping on the added acreage shall comply with the requirements of the CNMP (MM).

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22. Prior to receiving a final inspection from the Merced County Environmental Health Division to permit operations to begin for the Brasil Dairy, the project sponsor shall ensure that all existing water supply wells are to be inspected by the Merced County Division of Environmental Health to ensure that each well is properly sealed at the surface to prevent infiltration of waterborne contaminants into the well casing or surrounding gravel pack. If any of the wells are found not to comply with the Merced County Well Ordinance standards, the applicant shall retain a qualified professional as described in the County Well Ordinance to install the required seal or functional equivalent (MM).
23. The Merced County Environmental Health Division shall maintain compliance for the operations of the Brasil Dairy and further continued with monitoring by the Merced County Mosquito Abatement District, the project sponsor shall be held responsible if fly nuisance conditions are confirmed, and are attributable to operations at a confined animal facility, the Division of Environmental Health shall require the owner/operator to remedy the nuisance condition within a specified period of time. The Division shall notify the parties reporting the nuisance of its findings, and shall provide follow-up inspections to ensure that the nuisance condition is cured. Should the condition persist, the Division shall initiate an enforcement action against the offending operator (MM).
24. The Merced County Environmental Health Division shall maintain compliance for the operations of the Brasil Dairy and further continued with monitoring by the Merced County Mosquito Abatement District, the project sponsor shall make sure that all confined animal facilities shall implement the following Best Management Practices to address potential fly problems that may arise from the approval of the proposed Dairy facility. The Best Management Practices are described in the Mitigation Monitoring Program (MM).
25. The Merced County Environmental Health Division shall maintain compliance for the operations of the Brasil Dairy and further continued with monitoring by the Merced County Mosquito Abatement District, the project sponsor shall use cultural and biological methods for controlling flies at confined animal facilities may be augmented with prudent use of insecticides registered for use at California dairies and other confined animal facilities by the California Department of Pesticide Regulation. These chemicals are used only in compliance with Federal and State laws and regulations regarding pesticide storage, application, and disposal. Chemicals classified as restricted materials shall be applied only under permits issued by the Merced County Agricultural Commissioner. Only a State licensed Pesticide Applicator shall apply restricted pesticides. Insecticides shall be prepared and applied in conformance with practices recommended by the University of California Cooperative Extension and the manufacturer. The chemical pest control measures are described in the Mitigation Monitoring Program (MM).

- B. MAJOR SUBDIVISION APPLICATION No. 03012 – Wathan/Castanos – To divide 237 acres into 346 residential lots of approximately 6,200 to 7,800 square feet each on 97 acres with a remainder of approximately 140 acres, on land designated as**

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Low Density Residential Land use in the Santa Nella Community Specific Plan and zoned R-1 (Single Family Residential) and R-1-5000 (Single Family Residential 5,000 square foot minimum) on property located east of State Highway 33, north of the Delta Mendota Canal and approximately ½ mile south of Henry Miller Road. **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the October 22, 2003 commission meeting. Project Planner Robert King**

This project has been continued to the December 17, 2003 Planning Commission meeting.

Commissioner Wager returned to the voting process for the remainder of the meeting.

- C. ADMINISTRATIVE PERMIT APPLICATION No. 03087 - Domingos Freitas – To approve a waiver from the Animal Confinement regulations that all new residences be built at least 1000 feet from off-site dairy facilities. The property is located on the south side of Pioneer Avenue, approximately 5,100 feet east of Ortigalita Road in the Los Banos area. The site is designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural) (1.5 acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the October 22, 2003 commission meeting. Project Planner Mark Hamilton****

Planner Mark Hamilton made a brief update of the Staff Report and Recommendations dated November 19, 2003.

The public hearing had remained open from the October 22, 2003 meeting.

Mike Smith, CCPS, asked for approval of this project with the listed 7 conditions.

The public hearing closed at 9:50 a.m.

Commissioner Tanner asked if any comments were received from the dairies. William Nicholson, Planning Director, responded no, there were no comments received.

MOTION: M/S WHITNEY - CLAUSS, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS ADMINISTRATIVE PERMIT APPLICATION No. 03087, FROM CEQA.

MOTION: M/S WHITNEY - CLAUSS, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED NOVEMBER 19, 2003, AND MAKES THE 6 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 6 FINDINGS, APPROVES ADMINISTRATIVE PERMIT APPLICATION No. 03087 SUBJECT TO THE 7 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. Administrative Permit No. 03078 is granted to locate a new single-family residence on the subject property as shown on the approved plot plan.

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2. 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.
3. The property owner signs and records a Right-to-Farm Certificate before issuance of a building permit.
4. This Administrative Permit No. 03087 is not transferable to another residence nor does it allow additional residences on APN# 083-180-001.
5. The applicant will need to move the mobile home as far as possible from the dairy corrals on the north side of Pioneer Road.
6. Prior to recordation of right of way and the RTF Certificate, the applicant shall provide County Environmental Health with a plot plan for approval, showing any existing well and where it is located, or the location where he proposes to drill a well, and, where his neighbor's well and septic system is located.
7. For the purpose of mitigation and/or condition monitoring, an inspection fee for \$92.00 shall be required. This fee shall be paid before issuance of a building permit.

D. CONDITIONAL USE PERMIT APPLICATION No. 03009 - Sofia Ludwig/Pedro Lopez -To establish a used car-lot with an existing retail store located on the northwest corner of Winton Way and Park Avenue which is designated as Winton Specific Urban Development Plan (SUDP) Commercial land use in the General Plan and zoned C-2 (General Commercial) (.35 acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the October 22, 2003. Project Planner Mark Hamilton**

Planner Mark Hamilton presented the Staff Report and Recommendation dated November 19, 2003.

The public hearing was left opened from the October 22nd meeting.

Mike Smith, Central California Permit Services, stated that they are not required to have a fence surrounding the property. The parking situation is in the street. He asked for approval of this project.

The public hearing closed at 9:59 a.m.

Commissioner Clauss asked if it is the request to have this item continued to receive a new plot map. Planner Hamilton replied yes.

William Nicholson, Planning Director, indicated that they can remove the fence, but you can't drive over a curb. They need to redesign the access to the facility since it's within the public right-of-way.

William Nicholson, Planning Director, indicated that they were negligent in not getting a revised plot plan from Mike Smith for this project.

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Commissioner Wager asked whether a condition could be added on the staff report to receive a revised plot plan instead of continuing this application. Chairman Sloan is also opposed to continuing this project. Mike Smith indicated he has no problem with preparing a new revised map for this project.

MOTION: M/S WAGER - WHITNEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT APPLICATION No. 03009, FROM CEQA.

MOTION: M/S WAGER - WHITNEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED NOVEMBER 19, 2003, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES CONDITIONAL USE PERMIT APPLICATION No. 03009 SUBJECT TO THE 8 CONDITIONS AS SET FORTH IN THE STAFF REPORT WITH THE ADDITION OF CONDITION #8 TO RECEIVE A REVISED PLOT PLAN AS FOLLOWS:

Conditions:

1. Conditional Use Permit Application No. 03009 is for a proposed used car lot that proposed to use 200 square foot for the car-lot and office space to be located within the Thrift Store on the project site.
2. The applicant shall comply with all of the standard conditions of approval listed in the Planning Commission Resolution No 97-1.
3. For the purpose of condition monitoring, an initial inspection fee in the amount of **\$92.00** shall be paid prior to issuance of a building permit.
4. The Owner/Applicant shall obtain an Encroachment Permit from the Department of Public Works/Road Division, pay the required permit fees, and replace the two existing driveway approaches on Winton Way with Type 2 Commercial driveways. Work shall be in accordance to the Merced County Public Works Improvement Standards and Specifications. This shall be completed within three month from the date of conditional use permit approval.
5. The applicant shall provide lighting for their parking lot area that is consistent with the standards provided in subsection 18.40.04.E of the Merced County Zoning Code.
6. A minimum of 5 parking spaces for the exclusive use of the proposed car lot shall be provided on the project site. The parking spaces shall be clearly striped in accordance with Section 18.40 of the Merced County Zoning Code and include 1 appropriately signed and painted handicapped parking space.
7. The applicant shall comply with all provisions of Subsection 18.47.16 of the Merced County Zoning Code regulating the operation of automobile sales dealerships.
8. The applicant will work with the Planning and Public Works departments to revise the plot plan to clearly identify the driveway access, on-site and on street parking spaces and used car lot spaces.

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BREAK

- E. MAJOR SUBDIVISION APPLICATION No. 03001 - Ranchwood Contractors - To divide two (2) lots totaling 19.0 acres into 96 residential building lots between 6,000 and 15,300 square feet in size. The subject properties are located on the south side of Savanna Road, and 580 feet east of Santa Fe Avenue, in the Le Grand Specific Urban Development Planning Area (SUDP). The properties are designated as Le Grand SUDP - Low Density Residential land use in the General Plan and are zoned R-1 (Single-Family Residential). (19.0 Acres). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland****

Planner James Holland presented the Staff Report and Recommendation dated November 19, 2003.

The public hearing opened at 10:32 a.m.

Duane Andrews, Golden Valley Engineering, agrees with the whole staff report. He went to the MAC three times and are ok with everything.

Kendall Jones, Le Grand resident, stated that they live in a quiet area and are opposed to the application. He asked why they have to build new homes in the country.

Glen Bradford, Le Grand resident, stated that there is a water issue in this area already. He stated he will have to drill another well if this project is approved.

William Nicholson, Planning Director, indicated that 300 ft. notices is a proper standard and the Planning Department has done that and he also stated that the water is controlled by the Le Grand Community Services District. They spoke of two new locations for 2 new wells. Commissioner Wager asked how many wells are in Le Grand now. Planner James Holland responded there are 2 functioning wells right now and soon there will be 3.

Richard Kilgore, Superintendent for the Le Grand Community Services District, stated that they are a loop system. He indicated right now Taylor Street is not a loop system. He stated that this project would loop Taylor Street.

Commissioner Tanner asked Mr. Kilgore if he would still have to drill wells if the project is approved or not. Mr. Kilgore replied yes, he would still have to.

Marlena Jones, neighbor, asked which way the new homes are going to face? Planner James Holland responded that since she is just next door to the new homes, she should be looking at the back yards of the new homes being built.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, stated that water is a key issue for this project. She asked how service will keep going if Le Grand keeps growing. She feels a hydrology study needs to be done.

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Glenn Bradford stated that Le Grand is short of water and how can this project be approved?

Bryant Owens, Le Grand resident, stated that Mariposa Way is in decay. He handed out a letter to the Commissioner stating his position on this project. He asked the Commission to reconsider the plans to approve this subdivision. He stated that the Le Grand Community Plan is 10 years out of date. He feels that the Environmental Study was not enough notice and he asked for postponement of this application.

Janell Cook, Le Grand resident, asked the Commission to consider the need for this new housing. She has been a Le Grand resident all her life and feels this project should go forward.

The public hearing closed at 11:10 a.m.

Commissioner Wager stated that the Board of Supervisors adopted the Le Grand Plan and the project is in the SUDP. He stated that these 96 units will bring in another well in Le Grand to better service Le Grand.

Mr. Nicholson explained that the Le Grand Community Services District prepared a water master plan several years ago. They did their own Environmental Review.

Commissioner Tanner asked if the new well being built would cover more than 96 homes? Mr. Nicholson stated that it would cover more than 96 homes.

MOTION: M/S WAGER - WHITNEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION APPROVES THE NEGATIVE DECLARATION PREPARED FOR MAJOR SUBDIVISION APPLICATION No. 03001.

MOTION: M/S WAGER - WHITNEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED NOVEMBER 19, 2003, AND MAKES THE 12 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 12 FINDINGS, APPROVES MAJOR SUBDIVISION APPLICATION No. 03001 SUBJECT TO THE 26 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. The Final Map shall be recorded within two years of the Planning Commission approval date.
2. Water and sewer improvements shall be constructed and applicable user fees paid as per the specifications and requirements of the Le Grand Community Services District.
3. Any phasing of the proposed subdivision shall be subject to review by the Merced County Fire Department.
4. The minimum fire hydrant flow of 1,000 gallons per minute for residential areas shall be required by the Merced County Fire Department for final acceptance of the subdivision.

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5. The project proponents shall submit a current “can and will” serve letter from the Le Grand Community Services District prior to recordation of the final map.
6. All abandoned wells and septic tanks must be properly destroyed in accordance with Merced County standards and under permit and inspection from the Division of Environmental Health.
7. The project proponents shall satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 of the Merced County Code, which generally includes dedication of right-of-way and public utilities easements, roadway construction and installation of matching pavement along existing roadways, street lighting, storm drainage system and underground or relocate utilities and irrigation facilities.
8. The developer shall be financially responsible for all costs associated with upgrading the existing storm drain pump station located within the American Heritage Homes No. 1 Major Subdivision No. 898 with the inclusion of stormwater runoff from the McPherson Subdivision.
9. The project proponents shall obtain a letter from M.I.D. accepting storm drainage water from this proposed development into their facilities prior to recording the final map.
10. The owner shall convey and combine the substandard Remainder parcel with the property to the east prior to the recordation of the final map for McPherson Subdivision No. 03001, or shall complete a property line adjustment prior to final map recordation to effect elimination of a substandard Remainder parcel.
11. The owner shall dedicate a 1-foot non-access strip across the Santa Maria Drive dead-end street.
12. The developer shall reconstruct Savanna Road from centerline. The developer shall share in the cost to reconstruct the north half of Savanna Road. The developer shall reconstruct the Savanna Road and Sante Fe Avenue intersection.
13. All lot and street grading shall be completed prior to the issuance of any building permits. The developer shall enter into an agreement with public works that no occupancy shall take place until such time as all improvements are completed.
14. The developer shall provide centerline striping for those new roads, which intersect the existing peripheral streets.
15. The Developer/Applicant is advised that he/she may be obligated to comply with Federal Regulations for storm water runoff issued by the U.S. EPA on November 16, 1990 (40 Code of Federal Regulations Parts 122, 123 and 124). For information and direction, contact the State Water Resources Control Board's Construction Activity Storm Water Hotline at (916) 657-1146.
16. A Right-To-Farm statement shall be placed on the face of the Final Map

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consistent with County Ordinance No. 1213

17. The developer shall design the proposed stormwater drainage detention basin (Lot A) to maximize the amount of land available for seasonal and permanent recreational use.
18. The developer shall provide the portion of Lot A that is identified as suitable for permanent recreational use (not subject to inundation), with park equipment (benches, playground equipment and the like) suitable for the use and enjoyment of residents of the McPherson Subdivision.
19. The cost of the land in Lot A made available for seasonal and permanent recreation, together with the cost of the equipment required under Condition 18, shall be deducted from the Parks and Recreation fees ordinarily charged under Ordinance No. 1080.
20. The owner shall form a landscaping and park maintenance zone of benefit prior to recordation of the final map of the McPherson Subdivision to include the park space created in response to Approval Conditions 17 and 18.
21. In order to preserve and enhance the aesthetic quality of the area, the developer shall, to the maximum extent feasible, vary building setback and design features for the homes to be constructed on Lots 5 – 22 and Lot 96 of the McPherson Subdivision.
22. Construction equipment used at the site shall be equipped with catalysts/particulate traps to reduce particulate and NOx emissions unless demonstrated to be infeasible by project contractors.
23. 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.
24. Street trees shall be provided in the front yard of each lot. The tree species shall be accepted by the County Department of Public Works Parks and Recreation Division and Planning Department as part of the improvement plan approval process.
25. This project shall comply with the Standard Conditions in Planning Commission Resolution No. 97-1.
26. For the purpose of mitigation and/or condition monitoring, a fee in the amount of **\$276.00** shall be required. The fee shall be paid prior to recordation of the Final Map.

- F. MINOR DEVIATION No. 03017 - H&S Development** - To allow a reduction in required side yard setbacks from 15 feet to 10 feet for 9 corner lots in the Casa De Suenos subdivision (MAS 02017). The subject properties are located at the southeast corner of Cody Street and Stanford Avenue in the Planada Specific Urban

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Development Planning Area (SUDP). The properties are designated as Planada SUDP Low Density Residential land use in the General Plan and are zoned R-1-5000. **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland**

Planner James Holland presented the Staff Report and Recommendation dated November 19, 2003 and also passed out a letter from Mary Fury to the Commissioners.

The public hearing opened at 11:26 a.m.

Bryant Owens, Le Grand resident, feels that this application should be approved.

John Sessions, H/S Development owner, stated that they obtained approval of the plan and map for the Casa De Suenos subdivision prior to the new Planada Community Plan. He would like people to build a house that they have chosen. He stated they would not request another deviation in the future. The homes selected for the lots require 65 foot lot width rather than the existing 60 foot. The affected homeowners asked him to ask the Commissioners to approve the request. Mr. Sessions offered to modify the proposal and eliminate some lots from consideration.

Diana Westmoreland-Pedrozo, Merced resident, is in support of the Planning staff's recommendation.

The public hearing closed at 11:35 a.m.

MOTION: M/S CLAUSS - WHITNEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS MINOR DEVIATION No. 03017, FROM CEQA.

MOTION: M/S CLAUSS - WHITNEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED NOVEMBER 19, 2003, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 10 FINDINGS, DENIES MINOR DEVIATION No. 03017.

- G. GENERAL PLAN TEXT & MAP AMENDMENT No. 03003 – Albert & Betty Mancebo** –To amend the Merced County General Plan text to allow expansion of isolated urban areas, and to expand Isolated Urban Area No. 5 by 15.6 acres, and to amend the Merced County General Plan land use diagram by redesignating property located on the southeast corner of Gurr Road and Southern Pacific Avenue from Agricultural to Agricultural-Residential. The zone is A-R (Agricultural Residential) (15.6 acres). **TO MAKE AN ENVIRONMENTAL FINDING AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Dan Skidmore**

This item has been referred back to staff to prepare an initial study.

- H. ADMINISTRATIVE PERMIT APPLICATION No. 03105 – Hargurnam Singh** – To consider revocation of an Administrative Permit (98006) for an existing mobile food vendor for failing to comply with previous conditions of approval, located at the corner of Walnut Avenue and Santa Fe Drive in the Winton area. The property is designated Winton SUDP – General Commercial and zoned C-2 (General Commercial). **TO REVOKE, MODIFY OR RETAIN THE EXISTING PERMIT.**

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Project Planner Desmond Johnston

Planner Desmond Johnston presented the Staff Report and Recommendation dated November 19, 2003.

The public hearing opened at 11:44 a.m.

Mike Smith, of CCPS and representing the applicant, stated that the compliance issues are with the property owner and not the owner of the mobile food vendor. He stated that Environmental Health shut down the vendor because of the condition of the mobile food vendor. The mobile food vendor was sold to the current owner and he meets the codes and requirements. He feels the revocation should not be directed to the vendor owner.

Commissioner Wager asked if the property owner were on the permit for compliance on the permits?

Deputy Director Desmond Johnston stated that in this case, the owner of the food vendor is not on the permit.

Commissioner Wager asked if the permit is in Singh's name? Mr. Johnston answered that it is in the property owner's name, Mr. Singh.

Jeff Paalsgard, Environmental Health, stated that they always issue the Health Permits to the operator of the mobile food vendor. The land use permit was issued to the property owner however. They asked for revocation of the land use permit from the property owner. The mobile food vendor was immediately closed due to the truck being dirty and dumping of grease in the Winton Sanitary District. He is recommending that this application be revoked. They permit the mobile to go anywhere in the County as long as they have the proper permits.

Ruben Castillo, County Counsel, stated that the mobile food vendor can be operated anywhere in the County, just not at the particular site where it was. Mr. Paalsgard agreed.

Commissioner Clauss asked if the land use owner of this lot, the one that allowed the violations to occur is the applicant. Mr. Paalsgard replied no, he is just the holder of the land use permit.

William Nicholson, Planning Director, stated that the Administrative Permit issued by the Planning Commission was for this site and it went to the landowner, who is also the applicant. The violation letter goes to the mobile food vendor operator.

Commissioner Tanner asked if notification was given to the landowner and the owner of the truck? Mr. Paalsgard stated that he gave a letter to both.

Abel Kouser, owner of the mobile food vendor, stated that he took care of the problems. He stated that the food vendor is now clean. He asked the Commission to give him a 90-day chance. Chairman Sloan asked if he recently bought the truck? Mr. Kouser replied that Mr. Paalsgard came by his property and gave him the revocation letters on November 11, 2003.

Leon Martinez, Code Compliance Manager, stated that he had a meeting with Mr. Kouser to make him aware of the problems with the previous operator. He felt that

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Mr. Kouser would overcome the issues and clean up the property and they also hired a person to police the area after each day. He also stated that the only thing that has changed is the owner of the truck.

Mr. Paalsgard indicated to the Commission that Environmental Health only issues one permit to one type of facility.

Ruben Castillo believes the mobile food vendor could come back and ask for the permit. Commissioner Tanner asked if the permit is revoked, they cannot come back for two years on the same location? Mr. Nicholson stated that is correct.

Marla Splories, Winton resident, also on the Winton MAC, stated that particular site has been cleaned between Walnut Avenue and Santa Fe. The area is full of trash and debris. She feels we do not need anymore mobile food vendors in Winton. She is also hoping for revocation of the permit.

Mr. Kouser again stated that since early November, there has been no garbage in that area. He asked for a 90 day chance.

The public hearing closed at 12:13 a.m.

MOTION: M/S WAGER - CLAUSS, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION REVOKES ADMINISTRATIVE PERMIT APPLICATION No. 03105 DUE TO THE INABILITY TO MAKE THE CONDITIONS AND FINDINGS AS LISTED IN THE STAFF REPORT.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

December 3, 2003 – Special Meeting of the Bettencourt Ranch project.

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 12:15 p.m.