



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

William Nicholson
Director

2222 "M" Street
Merced, CA 95340
(209) 385-7654
(209) 726-1710 Fax
www.co.merced.ca.us

**PLANNING COMMISSION AGENDA
REGULAR MEETING OF MAY 26, 2004, 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; Steve Sloan, Chairman; Lynn Tanner

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 No. 03015 - Stephanie Mallea -** To establish a used car lot, and use an existing vacant building for an office and approve a future 400 square foot storage building. The property is located on the north side of Broadway Avenue 125 feet west of Manchester Avenue on land designated as Atwater Specific Urban Development Plan (SUDP) Highway Interchange land use in the General Plan and zoned C-2 (General Commercial) (±11,700 square feet). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Renee Foster**
- B. MAJOR SUBDIVISION APPLICATION No. 04001 – Lexington Park** To subdivide 8.75 acres into 42 residential lots on property located east of Lexington Avenue, approximately 1000 feet north of Christian Avenue in an area designated as Dos Palos Specific Urban Development Plan (SUDP) Residential and zoned R-1 (Single Family Residential). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert King**

STRIVING FOR EXCELLENCE

- C. **MINOR SUBDIVISION APPLICATION No. 03035 – John Zoria** - To divide a 138-acre parcel into three 20-acre parcels and a 26.7 acre parcel with a 51.3 acre remainder located southeast of the intersection Volta and Pioneer Roads in the Los Banos area designated as Agricultural in the General Plan and zoned A-1 (General Agricultural.) **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert King**

- D. **MINOR SUBDIVISION APPLICATION No. 04009 – John Borba Jr. and Cecilia Borba** - To subdivide a 224.1-acre parcel into three parcels: Proposed parcel sizes are: Parcel 1 = 25.0 acres, Parcel 2 = 26.0 acres and Remainder Parcel = 172.8 acres. The property is located on the northeast corner of the intersection of Arboleda Drive and McHenry Road and is designated Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland**

- E. **MINOR SUBDIVISION APPLICATION No. 03083 & ZONE VARIANCE APPLICATION No. 04006 - Wright Trust** - To divide one 38.6-acre parcel into two parcels: Parcels 1 = 20 acres and Parcel 2 = 20 acres. To vary from the 20-acre parcel size minimum by two-tenths acres. The property is located on the northwest corner of Dwight Way and Sunset Drive in the Livingston area. The subject property is designated as Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Mark Hamilton**

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 – May 26, 2004

Page 2

- B. MAJOR SUBDIVISION APPLICATION No. 04001 – Lexington Park** To subdivide 8.75 acres into 42 residential lots on property located east of Lexington Avenue, approximately 1000 feet north of Christian Avenue in an area designated as Dos Palos Specific Urban Development Plan (SUDP) Residential and zoned R-1 (Single Family Residential). **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert King**

Planner Robert King presented the Staff Report and Recommendation dated May 26, 2004.

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

Kevin Malone, Golden Valley Engineering, stated that they have reviewed the conditions and they have no issues.

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

MOTION: M/S WHITNEY - TANNER, AND CARRIED BY A VOTE OF 4 – 0, THE PLANNING COMMISSION APPROVES THE NEGATIVE DECLARATION PREPARED FOR MAJOR SUBDIVISION APPLICATION No. 04001.

MOTION: M/S WHITNEY - TANNER, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED MAY 26, 2004, AND MAKES THE 2 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 2 FINDINGS, APPROVES MAJOR SUBDIVISION APPLICATION No. 04001 SUBJECT TO THE 19 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 Midway Community Services District.
3. 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.
4. Street designations shall conform to Section 17.04.050.B of the Merced County Code.
5. Street names shall be to the satisfaction of the Roads Division and Fire Department, specifically renaming Mariposa Court as it is already in use and Manzanita shall be either north-south or east-west, but not both.

MERCED COUNTY PLANNING COMMISSION

Minutes – May 26, 2004

Page 3

6. The Lexington Avenue roadway section along the subdivisions frontage shall be constructed to provide a minimum of 24 feet from centerline to curb face.
7. The developer shall release and relinquish all abutters' rights of access to and from the entire Lexington Avenue frontage of lots 3, 28, 29 and 42.
8. Provide a letter from the Central California Irrigation Water District (CCID) accepting storm drainage water into their facilities prior to recordation of the final map.
9. The developer shall construct a storm drainage facility within the boundary of the Lexington Park subdivision as shown on the tentative map.
10. All lot grading shall be completed, all underground improvements shall be installed and aggregate base material on all new streets shall have been rough graded and compacted, 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.
11. The developer shall provide centerline striping for those new roads of intersecting Lexington Avenue,
12. The developer is advised that they 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 contact the State Water Resources Control Board, Construction Activity Storm Water Hotline 916-341-5537 or www.swrcb.ca.gov
13. 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.
14. This project shall comply with the Standard Conditions in Planning Commission Resolution No. 97-1.
15. An approved water system capable of a minimum fire flow of 1,000 gallons per minute is required for single family residential. (UFC Appendix III-A and MCC 9.24.280)
16. Construction activities disturbing one 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. As required by regulations implementing the Construction Stormwater Permit, the SWPPP shall include:

MERCED COUNTY PLANNING COMMISSION

Minutes – May 26, 2004

Page 4

- A. Specific and detailed Best Management Practices (BMPs) to mitigate construction related pollutants, including sediments. These controls would include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricant, paints, solvents, and adhesives) with stormwater. The SWPPP would specify properly designed centralized storage areas that keep these materials out of the rain and/or protected from the wind.
 - B. Dust control BMPs for the stabilization of exposed surfaces and to minimize activities that suspend or track dust particles. For heavily traveled and disturbed areas, wet suppression (watering), chemical dust suppression, gravel or asphalt surfacing, temporary gravel construction entrances, equipment wash-out areas, and haul truck covers can be employed as dust control applications. Permanent or temporary vegetation and mulching, and sand fences can be employed to prevent sediment-laden stormwater from reaching receiving waters, or to force stormwater to drop their sediment load onsite.
 - C. The SWPPP is required to specify a monitoring program to be implemented by the construction site supervisor. SWRCB personnel, who may make unannounced site inspections, are empowered to levy appropriate fines if it is determined that the SWPPP has not been properly prepared and implemented.
17. Prior to submission of improvement plans or Final Subdivision Maps, the project sponsor shall determine the capacities of offsite stormwater transmission facilities and detention ponds to receive storm flows from the project area. Should any deficiencies be noted, the project applicant shall be required to either improve downstream facilities or retain or detain stormwater on site to avoid potential adverse effects. The results shall be reviewed and approved by the Merced County Department of Public Works prior to approval of improvement plans or the Final Subdivision Map.
18. Enter into a Development Agreement in accordance with Section 65864 et seq. of the California government Code, pay \$500.00 per lot at issuance of each house building permit as a proportionate share of the cost to finance a comprehensive traffic and circulation study for subsequent road impact fees due to new development.
19. 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.
- C. MINOR SUBDIVISION APPLICATION No. 03035 – John Zoria - To divide a 138-acre parcel into three 20-acre parcels and a 26.7 acre parcel with a 51.3 acre remainder located southeast of the intersection Volta and Pioneer Roads in the Los Banos area designated as Agricultural in the General Plan and zoned A-1 (General Agricultural.) TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert King**

Planner Robert King presented the Staff Report and Recommendation dated May 26, 2004. He indicated that a revised map was submitted to resolve the water district issues. He recommended denial of this application.

MERCED COUNTY PLANNING COMMISSION

Minutes – May 26, 2004

Page 5

The public hearing opened at 9:24 a.m.

Larry Bowers, of B.C.A., asked if the Commissioners received a letter from CCID that they reviewed the project and had no concerns. The Commissioners did receive this letter in their packets. He stated that he had discussions with San Luis Water District, and he stated that this meets their concerns in terms of the water district boundary. He was available to answer any questions.

Commissioner Tanner asked how the remainder parcel is going to receive water. Mr. Bowers replied that they receive CCID water. They have a well on the site. One reason is for financing purposes. He stated that the well is in the north east corner of Parcel 3.

Chairman Sloan indicated that he has a problem with the drainage on the Remainder and Parcel 4 all draining down into separate 20 acre parcels to the outside canal where the drainage water collects. If those parcels were to be sold, how would that be rectified? Mr. Bowers responded that the intent is to separate the parcels for financing reasons.

John Zoria, applicant and owner, stated that their plan is to put in a system with agreements between the water districts and put in a sprinkler and micro sprinkler to have no run-off. He feels that the biggest concern with the water districts is the parcel in San Luis Water district, the people from CCID don't want water from there canal. They are less concerned with the property outside of the district.

Chairman Sloan stated that he does not see the need for three 20 acre parcels. Mr. Zoria replied that his bank would like him to have smaller parcels so that it is more valuable and to help with the financing and to continue farming.

Chairman Sloan said these have potential for being sold as home-sites. He doesn't want that to happen and doesn't like the configurations. He is against this application. Mr. Zoria stated that he is willing to fix this in any way he can.

Commissioner Gloria Bettencourt asked if Parcel 2 & 3 have road frontage. Chairman Sloan responded that Parcel 2 & 3 only have ingress and egress on the canal bank. However, these would be widened for future homes. The only access is off the Delta-Mendota canal. Mr. Zoria agreed.

The public hearing closed at 9:34 a.m.

MOTION: M/S TANNER - WHITNEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DENIES MINOR SUBDIVISION APPLICATION No. 03035 DUE TO THE INABILITY TO MAKE THE LISTED FINDINGS AND CONDITIONS AS LISTED IN THE STAFF REPORT.

- D. MINOR SUBDIVISION APPLICATION No. 04009 – John Borba Jr. and Cecilia Borba - To subdivide a 224.1-acre parcel into three parcels: Proposed parcel sizes are: Parcel 1 = 25.0 acres, Parcel 2 = 26.0 acres and Remainder Parcel = 172.8 acres. The property is located on the northeast corner of the intersection of Arboleda Drive and McHenry Road and is designated Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland****

MERCED COUNTY PLANNING COMMISSION

Minutes – May 26, 2004

Page 6

Planner James Holland presented the Staff Report and Recommendation dated May 26, 2004.

Commissioner Tanner asked if in the future a home was to be built on Parcel #2, and because it is part of the dairy, can he sell it? Planner Holland responded that he could do that, but the residence would become non-conforming. They would not be able to expand the residence, only remodel. Any expansion of the residence would require a new permit before the Planning Commission.

The public hearing opened at 9:49 a.m.

Gary Grinder, of Grinder Land Surveying, stated that proposed parcels 1 and 2 are not used as drainage for the dairy.

Chairman Sloan stated that in other words those two parcels could not be considered to be part of the dairy. Planner Holland responded that this matter is being pursued with the Environmental Health Division. Environmental Health felt the subdivided parcels will still be considered part of the dairy irrigation area.

Commissioner Tanner asked if they have enough land to take care of the nitrates associated with the dairy. Planner Holland wanted to make sure that there is sufficient land available to provide for proper nutrient disposal. The Planning Department believes these parcels should be considered part of the dairy.

William Nicholson, Planning Director, explained that the new Animal Confinement Ordinance has a provision that any dairy has to comply, but there is a timeline by January 1, 2006 that all dairies need to come into compliance. He stated that this application should be continued to allow Environmental Health to make the needed determination. Chairman Sloan indicated that this is an important issue. Mr. Grinder stated that Mr. Borba split this up two years ago and at that time, a nutrient evaluation was done and it complied at that time. The purpose is to give his son a portion of his inheritance.

Commissioner Tanner would like Environmental Health to come in and take a look at this property. Chairman Sloan agreed that this item should be continued so Environmental Health can address these issues.

Todd Borba, 1620 S. Arboleda Merced, stated that the parcels are accessible for irrigation if needed. Chairman Sloan told Mr. Borba that they are concerned that under the new regulations that their dairy won't be put into a non-compliance situation which would be difficult for the operation. Whether those two parcels were included in the original plan or not, they may be in non-compliance in 2006 which would not be a good position to be in. The information from Environmental Health would be for the benefit of the dairy.

The Commission agreed to have this item continued to the June 9, 2004 Planning Commission meeting.

- E. MINOR SUBDIVISION APPLICATION No. 03083 & ZONE VARIANCE APPLICATION No. 04006 - Wright Trust** - To divide one 38.6-acre parcel into two parcels: Parcels 1 = 20 acres and Parcel 2 = 20 acres. To vary from the 20-acre parcel size minimum by two-tenths acres. The property is located on the northwest corner of Dwight Way and Sunset Drive in the Livingston area. The subject property is designated as Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Mark Hamilton**

MERCED COUNTY PLANNING COMMISSION

Minutes – May 26, 2004

Page 7

Planner Mark Hamilton presented the Staff Report and Recommendation dated May 26, 2004.

The public hearing opened at 10:06 a.m.

Mike Smith, CCPS, stated that this project was submitted before the Commission as a Minor Subdivision only to split it into two 20 acre parcels, but the parcel to the south fell short of the 20 acre. They disagree with that, but asked for consideration from the Commission. The land was recorded as a 40 acre parcel on the deed. There are several parcels in the area that are 20 acres already similar to what the Wright family is trying to do now. He accepts the listed conditions in the staff report and asked for approval of this project.

Zenon Frago, 2029 Bluejay St., Atwater, is working to purchase on a contingency that it does divide the north half of that property. His parents live on the property to the north and currently they are farming the 76 acres to the north and he is farming almonds on Mr. Wright's property and stated if this application is approved he will continue to farm and plans to move in there and keep it agricultural. He talked to Mr. Wright about purchasing the property, but the price was too high at that time.

The public hearing closed at 10:13 a.m.

Chairman Sloan indicated that he has supported 20 acre splits in the past was because it did provide an opportunity for young people to get into agriculture. The rationale for this split is consistent with what he feels these 20 acre parcels should be used for.

MOTION: M/S WHITNEY - TANNER, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. 03083 & ZONE VARIANCE APPLICATION No. 04006, FROM CEQA.

MOTION: M/S WHITNEY - TANNER, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED MAY 26, 2004, AND MAKES THE 15 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 15 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION No. 03083 & ZONE VARIANCE APPLICATION No. 04006 SUBJECT TO THE 4 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the Planning Commission's approval date as required by the Subdivision Map Act and Merced County Subdivision Code. Each parcel shall show a gross area of 20 acres unless the Zoning Code is amended or unless a zone variance is granted.
2. A Right-to-Farm Certificate shall be placed on the parcel map notifying the potential buyers of the resulting parcels that the property is in the vicinity of active farming operations and residents may be subject to inconveniences or discomforts resulting from the pursuit of agricultural operation, consistent with Ordinance No. 1213.

MERCED COUNTY PLANNING COMMISSION

Minutes – May 26, 2004

Page 8

3. The owner shall dedicate to the County of Merced, annotated on the parcel map, 30-foot and 10-foot additional widths of right-of-way for road purposes, along the entire frontages of Dwight Way and Sunset Drive, respectively, with a 50-foot radius fillet (curve) at the northwest corner of Dwight Way and Sunset Drive intersection as shown on submitted plot plan.
4. The applicant shall provide for the delivery of irrigation water to each proposed parcel by providing easements that allow for the effective service of each parcel from the existing irrigation delivery gate or pipeline that serves the whole property such. Such easement shall be identified on the parcel map.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

Ruben Castillo handed out a Section of the County Ordinance to the Commissioners discussing the amended sections regarding Planning Commissioners rules for the Planning Commission meetings for the benefit of the new Commissioner, Gloria Bettencourt.

June 18, 2004 at 9 a.m., the Commissioners will visit the Jaxon Mine site.

VIII. DIRECTOR'S REPORT

The Planning Commissioner's workshop will be on June 4, 2004. Steve Sloan and Gloria Bettencourt will attend.

A Resolution will be done through the Board of Supervisors regarding the General Plan Steering Committee meetings.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 10:41 a.m.