



**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 JUNE 9, 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; Gloria Bettencourt

**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. Continued from the May 26, 2004 meeting.**
- B. 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. Continued from the May 26, 2004 meeting.**

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- C. APPEAL NO. 04001 – Val Court – To appeal staff’s determination that a former bar/cocktail lounge has lost its non-conforming status. The property is located on the northwest corner of Lincoln and West Side Boulevards in the Livingston area on land designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural) (2.3 acres). **TO UPHOLD OR DENY THE APPEAL. Project Planner Dan Skidmore****
- D. ZONE VARIANCE APPLICATION No. 04004 and MINOR SUBDIVISION APPLICATION No. 04021 – Rick Gaestel - To vary from the minimum parcel size (6,000 Square Feet) in the R-1 zone and divide an 11,761 square foot parcel into two separate parcels. Parcel 1 = 3,049 sq. ft., and Parcel 2 = 8,712 sq. ft. The parcel is located on the north side of Green Street, and 70 feet east of Montgomery Street which is designated as Snelling Specific Urban Development Plan (SUDP) - Residential in the Merced County General Plan and zoned R-1 (Single-Family Residential). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Dan Skidmore****
- E. MINOR SUBDIVISION APPLICATION No. 04007 – Schlies Family Trust - To subdivide a 153.4 acre parcel into five parcels: Parcel 1 = 30.00 Acres, Parcel 2 = 30.00 Acres, Parcel 3 = 30.16 Acres, Parcel 4 = 32.05 Acres and Parcel 5 = 31.09 Acres. The property is located on the north side of Childs Avenue, approximately one half mile west of Plainsburg Road in the Planada area. The land is designated Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland****
- F. ADMINISTRATIVE PERMIT NO. 241 AND CONDITIONAL USE PERMIT No. 1825 (tracking number AA 03112 – Bart Ramirez (Ramirez and Sons Trucking) – To consider revocation of Administrative Application No. 241 and Conditional Use Permit No. 1825, which allowed the location and expansion of an agricultural trucking and equipment storage business, for non-compliance with conditions of approval. The property is located on the north side of Le Grand Road, at its intersection with Santa Fe Avenue, designated Le Grand Specific Urban Development Plan (SUDP) Industrial in the General Plan and zoned M-1 (Light Manufacturing). **TO REVOKE, MODIFY, OR RETAIN THE EXISTING PERMITS. Project Planner James Holland****

**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 JUNE 9, 2004**

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A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of June 9, 2004, 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 9:08 a.m., on June 9, 2004, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

**II. ROLL CALL OF COMMISSIONERS**

Commissioners Present:      Commissioner Larry Whitney  
   Commissioner Lynn Tanner – acting Chairperson  
   Commissioner Gloria Bettencourt

Staff Present:                      William Nicholson, Planning Director  
   Kim Lewallen, Recording Secretary  
   James Holland, Planner III  
   Dan Skidmore, Planner II

Legal Staff:                        Ruben Castillo, County Counsel

Commissioners Absent:        Chairman Steve Sloan, absent, excused

**III. APPROVAL OF MINUTES**

**M/S WHITNEY - BETTENCOURT, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF MAY 26, 2004.**

**IV. CITIZEN COMMUNICATIONS**

None

**V. PUBLIC HEARINGS**

**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. Continued from the May 26, 2004 meeting.****

Planner James Holland presented the Staff Report and Recommendation dated June 9, 2004.

The public hearing opened at 9:18 a.m.

Commissioner Whitney asked if the hours will be noted as an additional condition of approval. Planner James Holland answered yes.

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Mike Smith, CCPS, indicated that the business will be open 7 days per week. He asked for approval of this application. Commissioner Tanner asked about the landscaping for this project. Mr. Smith replied that they would like to put in small planters instead of a fence. Planner Holland indicated that the applicant will need to submit a landscaping plan.

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

**MOTION: M/S WHITNEY – BETTENCOURT, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. 03015, FROM CEQA.**

**MOTION: M/S WHITNEY - BETTENCOURT, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED JUNE 9, 2004, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES CONDITIONAL USE PERMIT No. 03015 SUBJECT TO THE 8 CONDITIONS WITH THE ADDITION OF CONDITION #9 REGARDING THE HOURS AND DAYS PER WEEK THE BUSINESS WILL BE OPEN AS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

### **Conditions:**

1. Conditional Use Permit Application No. 03015 is for a proposed used car lot with a single family residence to be used as an office.
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 satisfy Improvement Level 2 requirements of Chapter 16.08, Improvement Requirements, of the Merced County Code along the Broadway Avenue frontage of the property. For this, the applicant may choose to enter into Deferment of Construction Agreement. The applicant shall pay the current fee for processing the agreement. This agreement shall be executed prior to the issuance of any building permit or within three months of the approval of this permit, whichever comes first.
5. The applicant shall obtain an Encroachment Permit from the Department of Public Works, Roads Division, pay the required permit fees, and construct a paved rural "agricultural" type driveway approach at the access point onto Broadway Avenue in conformance with the Merced County Public Works Improvement Standards and Specifications. This shall be done within three months from the date of administrative permit approval or prior to the issuance of the Certificate of Occupancy by the Department of Public Works, Building and Safety Division.
6. 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.

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7. A minimum of four 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.
8. 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.
9. The hours of business of the used auto dealership shall be no more than from 7:00 a.m. to 6:00 p.m., seven days a week.

**B. 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. Continued from the May 26, 2004 meeting.****

Planner James Holland presented the Staff Report and Recommendation dated June 9, 2004.

The public hearing opened at 9:28 a.m.

No one spoke in favor or opposition to this project.

The public hearing closed at 9:28 a.m.

**MOTION: M/S WHITNEY – BETTENCOURT, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. 04009, FROM CEQA.**

**MOTION: M/S WHITNEY - BETTENCOURT, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED JUNE 9, 2004, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT AND BASED ON THOSE 10 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION No. 04009 SUBJECT TO THE 5 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 approval date, as required by the Subdivision Map Act and Merced County Subdivision Code.
2. The applicants shall comply with all applicable County, State and Federal regulations.
3. The project shall comply with the following requirement of the Department of Public Works Roads Division:

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- a. To complete the property owners half of an ultimate 80-foot wide right-of-way width, the property owner(s) shall dedicate to the County of Merced, annotated on the parcel map, an additional 10-foot width of right-of-way along the entire frontage of Arboleda Drive, excluding the section fronting an existing residence on the northwesterly section of proposed Parcel 1.
  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 currently serving the whole property.
  5. A Right-To-Farm statement shall be placed on the face of the Parcel Map consistent with Ordinance No. 1213.
- C. APPEAL NO. 04001 – Val Court – To appeal staff's determination that a former bar/cocktail lounge has lost its non-conforming status. The property is located on the northwest corner of Lincoln and West Side Boulevards in the Livingston area on land designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural) (2.3 acres). **TO UPHOLD OR DENY THE APPEAL. Project Planner Dan Skidmore****

Planner Dan Skidmore presented the Staff Report and Recommendation dated June 9, 2004.

The public hearing opened at 9:32 a.m.

Mike Smith, CCPS, handed out letters and an aerial photograph of the property to the Commissioners. He stated this lounge has been existing for 60 years. The owners are not abandoning this project. He felt it shouldn't be in a non-conforming status.

Susan Smith, family member with the Courts, stated that this property has been in the family for 80 years and it has always been zoned Commercial. She owns this property along with her brother. They have leased this property out a few times over the years. They do not want to abandon this property.

Val Court, owner, stated that he has worked hard on this property and has been working with Merced County willingly. There was a bad tenant before that cost them the ABC license.

Marie Court, a relative, indicated that this bar has been there a long time and she is looking forward for re opening of this lounge. She intends on keeping better track of the property. She asked the Commission to review the application and make a consideration.

Leon Martinez, Code Enforcement Officer with the Planning Department, stated the a determination was made because the property use was discontinued not abandoned. The building permit states that the applicant put the property as a Single Family dwelling, so it was approved that way. The ABC license was revoked, not suspended in January 2003. They can sell or relocate the license to another business or location. That did not occur, so ABC revoked the license.

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Commissioner Tanner asked if ABC rejected the license on the location, so the person that has that license can take it to another location. Mr. Martinez answered that it could not be reestablished at this location, it had to be relocated to another premise. The license can not be sold to another family member however. The property was not used as a store. When the license was revoked in 2003, they closed the business because nothing was being sold.

Marvin Marques, Livingston resident, stated that he has never heard any complaints in regards to this project site. There were no problems when the bar was opened.

Judy Rupe, Livingston resident, stated that the area residents could always go to the Tavern. There is no other place to gather. The area needs the Tavern.

Mike Sperry Jr., the future Tavern owner, asked to permit for Mike's Tavern. He is attempting to bring back the Tavern. He is applying for a new license from ABC. He is hoping to open the Tavern on August 20, 2004. He gave the Commissioners a list with 230 area residents' signatures in support of this Tavern. He has the support of most local officers. He asked for consideration of this project. He doesn't want to lose this property.

Lydia Spector, of the Merced County Building Division, stated that the Court's family took out a permit to do a re-roof for a single family dwelling, but the Building Division did not do an inspection. The records at the Building Division state that the property owners signed on as a Single Family Dwelling and not as Commercial as it should have been.

Commissioner Whitney asked if it was possible for someone to unknowingly make a mistake in filling out the forms for a building permit? Ms. Spector replied no. They asked if they want forms for a Commercial or Residential property, so they can tell them the proper fees and get the correct copies of the maps from the owner. The worker at the building permit counter takes the information verbally from the property owner.

Mike Smith, CCPS, couldn't understand why no inspections were done on either building permits.

Val Court, owner, felt that he was given the wrong information. The building permit clerk didn't give him the option of choosing Commercial or residential.

The public hearing closed at 9:30 a.m.

**MOTION: M/S WHITNEY – BETTENCOURT, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION UPHOLDS THE DECISION TO APPEAL NO. 04001.**

**10 MINUTE BREAK**

- D. ZONE VARIANCE APPLICATION No. 04004 and MINOR SUBDIVISION APPLICATION No. 04021 – Rick Gaestel -** To vary from the minimum parcel size (6,000 Square Feet) in the R-1 zone and divide an 11,761 square foot parcel into two separate parcels. Parcel 1 = 3,049 sq. ft., and Parcel 2 = 8,712 sq. ft. The parcel is located on the north side of Green Street, and 70 feet east of Montgomery Street which is designated as Snelling Specific Urban Development Plan (SUDP) - Residential in the Merced County General Plan and zoned R-1 (Single-Family

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Residential). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Dan Skidmore**

Planner Dan Skidmore presented the Staff Report and Recommendation dated June 9, 2004.

The public hearing opened at 10:50 a.m.

No one spoke in favor or opposition to this application.

**At the request of the applicant, this application has been continued to June 23, 2004.**

- E. MINOR SUBDIVISION APPLICATION No. 04007 – Schlies Family Trust - To** subdivide a 153.4 acre parcel into five parcels: Parcel 1 = 30.00 Acres, Parcel 2 = 30.00 Acres, Parcel 3 = 30.16 Acres, Parcel 4 = 32.05 Acres and Parcel 5 = 31.09 Acres. The property is located on the north side of Childs Avenue, approximately one half mile west of Plainsburg Road in the Planada area. The land is designated Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland**

Planner James Holland presented the Staff Report and Recommendation dated June 9, 2004.

The public hearing opened at 10:53 a.m.

Daniel Vera, neighbor, does not want to see this property divided for hobby farm use. He feels the best farmland is out there.

**At the request of the applicant, this application has been continued to the July 14, 2004.**

- F. ADMINISTRATIVE PERMIT NO. 241 AND CONDITIONAL USE PERMIT No. 1825 (tracking number AA 03112 – Bart Ramirez (Ramirez and Sons Trucking) – To** consider revocation of Administrative Application No. 241 and Conditional Use Permit No. 1825, which allowed the location and expansion of an agricultural trucking and equipment storage business, for non-compliance with conditions of approval. The property is located on the north side of Le Grand Road, at its intersection with Santa Fe Avenue, designated Le Grand Specific Urban Development Plan (SUDP) Industrial in the General Plan and zoned M-1 (Light Manufacturing). **TO REVOKE, MODIFY, OR RETAIN THE EXISTING PERMITS. Project Planner James Holland**

Planner James Holland presented the Staff Report and Recommendation dated June 9, 2004.

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

Bart Ramirez Sr., owner of Ramirez Trucking, stated that he realizes that they are out of compliance. He would love to upgrade the property, but due to financial reasons this is not possible. He is not trying to avoid being in compliance. He would have to borrow \$300,000 to do curb and lighting improvements. He asked for any recommendations the Commission may have.



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Planner James Holland suggested that no fencing will reduce the cost of the improvements.

Commissioner Tanner asked what the major costs of the improvements are. Planner Holland responded the curb, gutter, drainage and lighting will cost around \$50,000. He recommended phasing the project improvements. Mr. Ramirez indicated that he can not put up front that much money.

Ed Ramirez, owner, stated that 50% of Le Grand does not have curb and gutter and indicated that Madison St. does not have curb and gutter either which is the cross street in front of their business.

William Nicholson, Planning Director, indicated that the County is working with Planada to get a grant to install curb and gutters. He stated that there business is an ag trucking business and it could be moved to an ag zoned property.

Mike Edwards, Public Works Asst. Director, stated that there is a potential for cost sharing. The community of Le Grand will eventually have curb and gutter. They may allow a 5 year phasing plan. They are will to work with the Ramirez family.

Bart Ramirez indicated that he has talked to Supervisor Gloria Keene to try and get some grants for curb and gutter, but they haven't been able to.

The public hearing closed at 11:29 a.m.

Mr. Nicholson indicated to the Planning Commission that they have 3 options: 1) they could approve a 60 day revocation improvement period. 2) they could make modifications to the conditions; or 3) they could revoke the permit and find the applicants an ag property for there business. He stated that they have had the same conditions for 10 years and they can't go for another 10 years.

Commissioner Tanner stated that he would like to see a priority list from Ramirez trucking and to see those priorities get done. He wants to see improvements in 60 days. Mr. Nicholson and Mr. Ramirez both agreed to work together and come back in 60 days before the Commission to see the progress made.

**This item was continued to the August 11, 2004 meeting to allow a 60 day period for the applicants to improve the property.**

## VI. CORRESPONDENCE

None

## VII. GENERAL BUSINESS

None

## VIII. DIRECTOR'S REPORT

June 18, 2004 at 9:00 a.m. will be the Special Planning Commission meeting so the Commissioners can tour the Jaxon Mine site.

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**IX. ADJOURNMENT**

There being no further business, the meeting adjourned at 11:35 a.m.