



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

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**PLANNING COMMISSION AGENDA
REGULAR MEETING OF AUGUST 24, 2005, 9:00 A.M.
2222 "M" STREET, BOARD ROOM, THIRD FLOOR,
MERCED, CALIFORNIA**

I. CALL MEETING TO ORDER

II. ROLL CALL OF COMMISSIONERS

Jack Mobley; Steve Sloan, Chairman; Lynn Tanner; Gloria Bettencourt; Rudy Buendia

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. MAJOR SUBDIVISION APPLICATION No. 05008 - San Luis Ranch (Phase II) - To divide 237 acres into 544 residential lots and a remainder Parcel on property located east of State Highway 33, approximately ½ mile south of Henry Miller Road on land designated as Low Density Residential in the Santa Nella Community Specific Plan and zoned R-1-5000 (Single Family Residential). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner Robert King**
- B. CONDITIONAL USE PERMIT No. 05015 - Ramiro Rodriguez - To consider locating a semi-mobile food vendor on property located on the northwest corner of Stephens Street and Schendel Avenue in the Delhi area. The property is designated as Delhi SUDP Commercial in the General Plan and zoned C-2 (General Commercial) (.73 acres). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner Robert King**

- C. **MINOR SUBDIVISION APPLICATION No. 05021 – Stillman Family Trust** – To divide 157 acres into seven parcels; Parcels 1 through 6 being 20 acres in size and Parcel 7 being 36.8 acres. The project is located on the north side of Childs Avenue, 750 feet east of Burchell Avenue in the Planada area designated Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland**
- D. **ADMINISTRATIVE APPLICATION No. 05030 – Victor Santoyo** – To locate a Semi-Mobile Food Vendor business (Taco Truck) on a vacant 0.6 acre parcel located at the southern end of the El Nido SUDP, immediately east of State Highway 59. The project site is designated Commercial-Transition (C-T) in the General Plan and zoned C-2 (General Commercial). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland**
- E. **ZONE CODE TEXT AMENDMENT No. 05002 - M.A. Maxwell** - To modify Chapter 18.08 - Residential Zones of the Merced County Zoning Code to allow considering a possible 10 percent reduction to the minimum lot width at front lot line requirement based upon consideration of certain criteria in all residential zoning districts (Interior and Corner Lots, but not Cul-de-sac or Bulb Connection Lots). This Zoning Code Text Amendment will apply countywide. **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Dave Gilbert**

VI. CORRESPONDENCE

VII. DIRECTOR’S REPORT

- A. **Items of interest pertaining to the Planning Commission**

LUNCH BREAK

1:00 PM

VIII. GENERAL BUSINESS

- A. **Joint Study Session with the Board of Supervisors – Agricultural Mitigation Recommendations from the Countywide Agricultural Preservation Strategies (CAPS) Committee**

VIII. 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.

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

Richard Strong, representative for the applicant, thanked staff for their work on this application and he is available for any questions.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, asked if the San Luis Water District is supplying water to this district. Chairman Sloan stated yes. Ms. Pedrozo asked Chairman Sloan if he is still a member of the San Luis Water District board. Chairman Sloan answered in the affirmative. She said there appears to be a conflict of interest if Chairman Sloan votes on this project since he was involved in approving water for this subdivision and asked for County Counsel's opinion.

Ruben Castillo, County Counsel, stated that there may be a conflict of interest and advised Chairman Sloan that he should reclude himself and turn the meeting over to the Vice Chairman Lynn Tanner. Chairman Sloan agreed and Commissioner Lynn Tanner chaired the remaining portion of this application.

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

MOTION: M/S MOBLEY - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, CHAIRMAN SLOAN ABSTAINING THE PLANNING COMMISSION EXEMPTS MAJOR SUBDIVISION APPLICATION No. 05008, FROM CEQA.

MOTION: M/S MOBLEY - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, CHAIRMAN SLOAN ABSTAINING THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED AUGUST 24, 2005, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES MAJOR SUBDIVISION APPLICATION No. 05008 SUBJECT TO THE 17 CONDITIONS WITH CONDITION #13 BEING DELETED AS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. A Final Map shall be recorded within two years of the Planning Commission approval date as required by the Merced County Subdivision Code.
2. Prior to the issuance of building permits the applicant shall provide the Planning and Community Development Department evidence that school development fees have been resolved to the satisfaction of the Gustine Unified School District.
3. No grading shall be undertaken for the subdivision until completion of the following steps which partially implement the EIR on the Santa Nella Community Specific Plan:
 - a. The Habitat Conservation Plan (HCP) for the site has been approved by the U.S. Fish & Wildlife Service;
 - b. On-site Kit Fox corridor easements have been granted and funding has been deposited to ensure the proper management and maintenance of these corridors as outlined in the HCP;
 - c. The applicant demonstrate a good faith effort to enter into a Memorandum of Understanding (MOU) with the U.S. Fish and

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Wildlife Service, State Department of Fish & Game, and various State and Federal agencies to ensure the long-term management of the Kit Fox corridors. This MOU is anticipated to be completed in approximately 12 months.

4. Prior to the Recordation of the Final Map the applicant shall provide the Planning and Community Development Department with “Can and Will Serve Letters” from both the San Luis Water District and the Santa Nella County Water District.
5. A noise study shall be prepared prior to recordation of the Final Map to determine whether projected noise levels will exceed 65 dBA Ldn. If sound exceed 65 dBA, measures to reduce noise levels (screening or increased setbacks) shall be identified and implemented as part of the project, and identified on the subdivision improvement plans. Sound alteration measures along Highway 33 shall incorporate landscaping improvements consistent with the guidelines in the Santa Nella CSP.
6. Satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 of the Merced County Code.
7. Release and relinquish all abutters’ rights of access to and from the entire Vera Cruz Drive and Highway 33 frontage as directed by the Public Works Roads Division.
8. Notwithstanding Condition No. 3, all lot and street grading shall be completed prior to 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.
9. Provide temporary turnarounds at the ends of Street 1 and Street 12.
10. The developer is obligated to comply with Federal Regulations for storm water runoff issued by the United States Environmental Protection Agency (CFR 122 – 124).
11. Two points of access are required for emergency vehicle access (UFC 902.2.1). Emergency access points shall be provided to the satisfaction of the Merced County Fire Department.
12. Clearly delineate and label the proposed off-site drainage basin.
13. The developer shall form, annex to, or include Zones of Benefit for Landscape Maintenance, Street Lighting, and Storm Drainage.
14. This project shall comply with the Standard Conditions in Planning Commission Resolution No. 97-1.
15. Provide a Class I Bike Routes along Street1.
16. A condition monitoring fee of **\$480.00** shall be required prior to the recordation of the Final Map.

- B. CONDITIONAL USE PERMIT APPLICATION No. 05015 - Ramiro Rodriguez** - To consider locating a semi-mobile food vendor on property located on the northwest corner of Stephens Street and Schendel Avenue in the Delhi area. The property is designated as Delhi SUDP Commercial in the General Plan and zoned C-2 (General Commercial) (.73 acres). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Robert King**

This item has been continued to the September 14, 2005 meeting.

- C. MINOR SUBDIVISION APPLICATION No. 05021 – Stillman Family Trust** – To divide 157 acres into seven parcels; Parcels 1 through 6 being 20 acres in size and Parcel 7 being 36.8 acres. The project is located on the north side of Childs Avenue, 750 feet east of Burchell Avenue in the Planada area 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 August 24, 2005.

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

Tom Stillman, applicant, stated he has owned and farmed this property for 15 years. He plans no changes to the property. He stated that 66% of the property adjacent to him is 20 acres or less. He also stated that he will look into the possibility of Williamson Act Contracts for his land. He will continue to preserve farmland. He has no problem with the public agencies comments. He asked for approval of this application.

Mary Fury, neighbor, passed out a letter to the Commissioners asking for denial of this application. She states that if there is a sale of this property could result in construction of one or more homes per parcel, increasing potential conflicts with existing agricultural use of the land. Each home site would need a well and septic system. She feels a water study is needed and an EIR is necessary.

Larry Rodriguez, neighbor, also has a concern with the well water. He feels that new homes will be built eventually there and would like to keep the land as agricultural.

Doug Galloway, neighbor east of the project, stated that maintenance of the existing on-site drainage is critical. Without it his property will be flooded with the flow of water from Mr. Stillman's property. The wells must run properly at all times.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, stated that she is against the premature parcelization of agricultural land. She asked that the Commissioners join the MID meeting happening on September 6th. She feels that there is no guarantee of these parcels remaining in agriculture if they are sold.

Alicia Rodriguez, neighbor, stated that the quantity of water is a concern of her family. She feels the Stillman's property is used more for recreational purposes.

Mark Mayo, dairy owner, is concerned about houses being built if parcels are sold off. He has an agreement with Mr. Stillman to use some of this land for disposal of

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dairy wastes. His land is in the Williamson Act and he plans to farm there for generations. He is committed to preserving agricultural land.

Joyce Stillman, applicant, stated that the property is only used for grading. They only want to improve the land.

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

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 5 – 0, THE PLANNING COMMISSION DENIES MINOR SUBDIVISION APPLICATION No. 05021 DUE TO THE INABILITY TO MAKE THE LISTED FINDINGS IN THE STAFF REPORT.

- D. ADMINISTRATIVE APPLICATION No. 05030 – Victor Santoyo – To locate a Semi-Mobile Food Vendor business (Taco Truck) on a vacant 0.6 acre parcel located at the southern end of the El Nido SUDP, immediately east of State Highway 59. The project site is designated Commercial-Transition (C-T) in the General Plan and zoned C-2 (General Commercial). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland****

Planner James Holland presented the Staff Report and Recommendation dated August 24, 2005.

The public hearing opened at 11:08 a.m.

Mike Smith, CCPS, stated that restrooms and electricity are available for this project. He agrees that hours of operation should be from 10am to 8pm. He asked for approval of this application.

Commissioner Buendia asked if there is handicapped parking available. Mr. Smith indicated that no handicapped parking spaces were proposed.

Chairman Sloan asked if Mr. Smith's client would be ok with reducing the hours of operation to 8pm from 10 pm. Mr. Smith replied that his client will agree to that change.

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

MOTION: M/S TANNER - BETTENCOURT, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION EXEMPTS ADMINISTRATIVE APPLICATION No. 05030, FROM CEQA.

MOTION: M/S TANNER - BETTENCOURT, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED AUGUST 24, 2005, AND MAKES THE 11 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 11 FINDINGS, APPROVES ADMINISTRATIVE APPLICATION No. 05030 SUBJECT TO THE 10 CONDITIONS WITH A MODIFICATION TO CONDITION #3A REGARDING THE HOURS OF OPERATION AS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

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1. Administrative Permit No. 05030 is to allow Victor Santoyo to locate and operate a semi-mobile food vending business on a 0.6 acre parcel known as Assessors Parcel Number 075-050-012. The property is located immediately east of state Highway 59 in the El Nido SUDP, approximately 950 feet south of its intersection with El Nido Road.
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 applicant shall comply with the Merced County Zoning Code Development Standards required for Semi-Mobile Food Vendors (§18.47.79.D) including, but not limited to the following:
 - a. Operating hours shall be limited to be between 10:00 a.m. to 8:00 p.m. on weekdays, Saturdays and Sundays.
 - b. Adequate trash receptacles shall be located adjacent to the vehicle.
 - c. The site shall be kept clean and free of litter at all times. Trash and garbage shall be removed from the site at the end of each day (§18.47.79.D.9.).
 - d. Wastewater generated by this use shall not be released on-site or into any storm drainage or irrigation system (§18.47.79.D8.).
 - e. Grease shall be disposed of consistent with the requirements of the Division of Environmental Health.
 - f. With the exception of a sign attached to the vehicle and approved by the Planning and Community Development Director, no additional signage shall be allowed on the property.
 - g. The approval to operate a semi-mobile food vending business on the subject property provided under Administrative Permit No. 05030 shall not be transferable to another operator.
4. The applicant shall consult with the Public Works Road Division to determine whether paving of the area to be used by his vending operation with either concrete or asphalt is required.
5. The applicant shall provide a minimum of three on-site parking spaces in the location shown on the approved plot plan. The parking spaces shall be clearly marked and signed and a minimum of one space sized and signed for handicapped use.
6. The applicant shall provide for the lighting of approved parking and vending areas consistent with the requirements of Section 18.40.04.E of the Zoning Code.
7. The applicant shall provide on-site restroom facilities for the truck operator, consistent with Health Department requirements.
8. The proposed vending truck shall be supplied with approved on-site water and power.
9. The applicant shall improve the existing site access driveway to CalTrans standards and obtain an encroachment permit for work (if any) done within the State right-of-way.
10. For the purpose of mitigation and/or condition monitoring, an inspection

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fee in the amount of **\$144** shall be required. This fee shall be paid prior to initiation of the semi-mobile food vending business.

- E. ZONE CODE TEXT AMENDMENT No. 05002 - M.A. Maxwell** - To modify Chapter 18.08 - Residential Zones of the Merced County Zoning Code to allow considering a possible 10 percent reduction to the minimum lot width at front lot line requirement based upon consideration of certain criteria in all residential zoning districts (Interior and Corner Lots, but not Cul-de-sac or Bulb Connection Lots). This Zoning Code Text Amendment will apply countywide. **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Dave Gilbert**

Planner Dave Gilbert presented the Staff Report and Recommendation dated August 24, 2005.

The public hearing opened at 11:24 a.m.

Duane Andrews, Golden Valley Engineering, recommended to the Planning Commissioners to approve the Zone Code Text Amendment.

The public hearing closed at 11:25 a.m.

MOTION: M/S TANNER – BETTENCOURT, AND CARRIED BY A VOTE OF 3 - 0, COMMISSIONER MOBLEY AND COMMISSIONER BUENDIA ABSTAINED FROM VOTING DUE TO A CONFLICT OF INTEREST, THE PLANNING COMMISSION EXEMPTS ZONE CODE TEXT AMENDMENT No. 05002, FROM CEQA.

MOTION: M/S TANNER - BETTENCOURT, AND CARRIED BY A VOTE OF 3 - 0, COMMISSIONER MOBLEY AND COMMISSIONER BUENDIA ABSTAINED FROM VOTING DUE TO A CONFLICT OF INTEREST, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED AUGUST 24, 2005, AND MAKES THE 6 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 6 FINDINGS, APPROVES ZONE CODE TEXT AMENDMENT No. 05002.

VI. CORRESPONDENCE

Ruben Castillo presented to the Planning Commissioners the Common Law Doctrine of Incompatible Offices.

VII. GENERAL BUSINESS

- A. Joint Study Session with the Board of Supervisors – Agricultural Mitigation Recommendations from the Countywide Agricultural Preservation Strategies (CAPS) Committee**

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

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There being no further business, the meeting adjourned at 11:38 a.m.