



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

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**PLANNING COMMISSION AGENDA
REGULAR MEETING OF SEPTEMBER 28, 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. EXTENSION No. 05009 – 2ND EXTENSION TO MAJOR SUBDIVISION APPLICATION No. 02012 'Miles Creek Estates Phase II' - Maxwell Construction - To extend for one year the deadline for recording the final subdivision map. The subdivision will create 28 residential lots on a 5 acre parcel located on the south side of Childs Avenue and 200 feet east of Cortez Avenue. The property is designated Planada SUDP Low Density Residential in the General Plan and zoned R-1-5000 (Residential). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner Gene Barrera**
- B. ZONE VARIANCE No. 04003 AND MINOR SUBDIVISION APPLICATION No. 04006 – Robert & Barbara Cardenas – To vary from the A-1 General Agricultural Zone minimum parcel size standard and divide a 6.02 acre parcel into 3 parcels of approximately 2 acres in size. The project site is located on Highway 152, 800 feet west of its intersection with Volta Road, and designated Agricultural in the General Plan. **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Project Planner Skip Strathearn**

VI. GENERAL BUSINESS

- A. REDEVELOPMENT PLAN FOR THE CASTLE AIRPORT AVIATION AND DEVELOPMENT CENTER – Merced County Redevelopment Agency – To review the Draft Redevelopment Plan and adopt a resolution reporting on the Plan and its conformance with the Merced County General Plan. The proposed Redevelopment Area consists of 1,867 acres located in the former Castle Air Force Base, adjacent to and north of the City of Atwater. **TO ADOPT A RESOLUTION REPORTING ON CONFORMANCE WITH THE GENERAL PLAN.****

VII. CORRESPONDENCE

VIII. DIRECTOR'S REPORT

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.

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The public hearing opened at 9:25 a.m.





Duane Andrews of Golden Valley Engineering and representing the applicant, stated there is currently no sewer yet, but soon there will be. He asked for approval of this application.

The public hearing closed at 9:26 a.m.

MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, COMMISSIONER BUENDIA ABSTAINED FROM VOTING; THE PLANNING COMMISSION REAFFIRMS THE PREVIOUS NEGATIVE DECLARATION PREPARED FOR EXTENSION No. 05009 – 2ND EXTENSION TO MAJOR SUBDIVISION APPLICATION No. 02012.

MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED SEPTEMBER 28, 2005, AND MAKES THE 6 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 6 FINDINGS, APPROVES EXTENSION No. 05009 – 2ND EXTENSION TO MAJOR SUBDIVISION APPLICATION No. 02012 SUBJECT TO THE 25 ORIGINAL CONDITIONS, WITH THE ADDITION OF CONDITION #26 AS SET FORTH IN THE STAFF REPORT AS FOLLOWS:





Conditions:

1. A final map shall be recorded within two (2) years of the Planning Commission approval date 
2. The project shall comply with the standard conditions of approval listed in the Planning Commission Resolution No. 97-1 for major subdivisions 
3. 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. The developer shall provide a letter from M.I.D. accepting storm drainage water from this proposed development into their facilities prior to recording the final map 
5. The developer shall provide centerline striping for those new roads which intersect the existing peripheral streets.
6. The developer shall include the design of improvements along the Childs Avenue frontage of Parcel 1 as shown on the Parcel Map for Blunt & Riachy, recorded in Volume 58 of Parcel Maps at Pages 40-42, Merced County Records (Assessor's Parcel Number 037-250-018). Construction of improvements along the frontage of said parcel are specified in Deferment of Construction Agreement recorded in Volume 2598 of Official Records at Page 658, Merced County Records.

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7. Easements of record shall not be obstructed or enclosed within fenced backyard of Lots 50 through 60, inclusive. Privacy fencing constructed at the building permit state shall be located at the northerly/westerly easement(s) line of said lots.
8. The subdivider shall pay a recreational parkland space and improvement fee as required by Merced County Ordinance No. 1090. Said fee is payable prior to or concurrent with the recording of the Final Map 
9. 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.
10. Release and relinquish Abutter's Rights of access to and from the entire Childs Avenue frontage of Lots 38, 39, 47, and 48.
11. A Right-To-Farm Certificate shall be placed on the face of the Final Map 
12. The developer shall use low flow, water saving showerheads, water closets, etc. in the construction of new dwellings, as well as drought tolerant landscaping. The type of low flow devices used in the construction of the home shall be coordinated with the Planada Community Services District 
13. A bicycle/pedestrian easement  shall be maintained for access purposes to and along Miles Creek, as a continuation of the easement created with "Miles Creek Phase I". Said easement is to be located on the Final Map subject to the approval of the Departments of Public Works and Planning.
14. All construction contracts shall include provisions for frequent watering of exposed earth surfaces during clearing, grading, earth-moving and other site preparation work. This mitigation measure will be implemented by the applicant prior to construction and monitored by the applicant's project manager and the Merced County Planning and Public Works Departments. (MM)
15. All construction contracts shall include provisions, which require daily cleanup of mud and dirt carried out from the construction site onto adjacent streets. This mitigation measure will be implemented by the applicant prior to construction and monitored by the applicant's project manager or the Merced County Planning and Public Works Departments. (MM)
16. Construction contracts shall include provisions for the use of soil binders or repeated soaking to maintain a crusty surface upon completion of the site preparation activities. This mitigation measure will be implemented by the applicant prior to construction and monitored by the applicant's project manager and the Merced County Planning and Public Works Departments. (MM)
17. The applicant shall be required to inform potential homebuyers of the odor problem. New homeowners shall be required to sign an affidavit acknowledging the potential odor problems resulting from the cannery operations. This Mitigation Measure will be implemented by the applicant prior to occupancy of the new homes and will be monitored by the State

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Department of Real Estate. (MM)

18. An equal balance of soil used for cut and fill purposes on-site shall be developed by the applicant's engineer; no import of fill material shall occur, except the sand required as a base for the building slabs and foundations. This will be implemented by the applicant and will be monitored by the project manager and the Merced County Department of Public Works. The applicant's engineer shall include a statement on the Improvement Plans to this effect. (MM)
19. Construction hours shall be limited from 7:00a.m. to 6:00p.m. and all construction equipment shall be properly muffled, according to state vehicle code requirements. This will be implemented and monitored by the applicant and the Merced County Planning and Public Works Departments. (MM)
20. Modify the design of the subdivision to create an open-end cul-de-sac with pedestrian access for Castillo Court. Install an attractive, high quality, solid masonry block wall, (six feet high), along the proper setback line facing Childs Avenue up to the side of the houses to create a solid barrier for all backyard areas. The materials and design of the fence shall be reviewed by the Planning Department prior to approval of the Improvement Plans and the recording of the Final Map. (MM)
21. Provide a landscaped area along the frontage of Childs Avenue, in between the sidewalk and solid wall and homes (with an automatic irrigation system) to the satisfaction of the Planning Department. Individual homeowners shall be responsible for the ongoing maintenance of the wall and landscaping. The mitigation measure will be implemented prior to occupancy of the new homes. The designs of the landscaping and solid barriers shall be submitted to the Planning Department for approval prior to recording the Final Map. (MM)
22. If any unanticipated significant cultural materials are exposed during demolition, excavation, grading or other construction, operation shall cease within 10 feet of the find and a qualified archaeologist shall be contacted for further recommendations. If any native human remains are discovered, work shall stop immediately and the County Coroner shall be contacted. All contractors or subcontractors shall be informed in writing of this possibility. In the event of discoveries of culturally significant resources, the prime contractor or project officials shall consult the Institute for Archaeological Research, Berkeley; the State Office of Historic Preservation, Sacramento; or the Native American Heritage Commission, Sacramento, for recommended procedures. This will be implemented by the applicant. The applicant shall inform the Planning Department (in writing) of the discovery or non-discovery of any significant cultural find(s) prior to issuance of any building permits. (MM)
23. The developer is advised that he/she may be obligated to comply with Federal regulations for storm water run-off issued by the U.S. EPA on November 16, 1990 (40 Code of Federal Regulations Part 122 and 124). For information and direction, contact the State Water Resources Control Board's Construction Activity Storm Water Hotline at (916) 657-1146.

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24. For the purpose of condition monitoring, a fee in the amount of **\$79.00** shall be required. The fee shall be paid prior to recordation of the Final Map 
25. Provide a signature block on the subdivision improvement plans for the Merced Irrigation District for their facilities on this property, if required.
26. The applicant shall submit a current 'Can and Will Serve' letter issued by the Planada Community Services District for Major Subdivision No. 02012, prior to recordation of the final subdivision map. 

B. ZONE VARIANCE No. 04003 AND MINOR SUBDIVISION APPLICATION No. 04006 – Robert & Barbara Cardenas – To vary from the A-1 General Agricultural Zone minimum parcel size standard and divide a 6.02 acre parcel into 3 parcels of approximately 2 acres in size. The project site is located on Highway 152, 800 feet west of its intersection with Volta Road, and designated Agricultural in the General Plan. **TO APPROVE THE NEGATIVE DECLARATION AND APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.**

Planning Consultant Robert Borchard presented the Staff Report and Recommendation dated September 28, 2005.

The public hearing opened at 9:40 a.m.

Mike Smith, CCPS, stated that he feels findings #3 and #6 can be made. The land can't be farmed due to poor soil and feels the parcel is improperly zoned. He asked for approval of this application.

Chairman Sloan stated that he is concerned with Environmental Health problems with the variance and there objection with the creating a small parcel in and A-1 zone and not based on ground water. He can't remember that parcel ever being farmed. It has very poor soil. He has no problem with approving this variance.

Commissioner Bettencourt asked if there is irrigation on the property currently. Mr. Smith replied no.

Bill Nicholson, Planning Director, explained that one issue with variance is that there are a lot of old parcels out there that were created a long time ago. The right that the applicant has is to have an agricultural parcel in the A-1 zone and use it how the neighbors use it. To get a second home you must have 6 acres or more. The neighbors that have only one acre can't get additional homes. The applicant can't meet the standards by having parcels to sell by separate ownership. The hardship is that they bought 6 acres, not 1 acre. They are asking for a privilege to split their parcel in a matter that was done years ago. That would be considered a special privilege.

Chairman Sloan stated that he is still in favor of approving this application. He feels it doesn't make any sense to deny this since it doesn't effect agricultural land preservation.

Barbara Cardenas, applicant, stated that she has no intent to leave this property. She would like her two daughters to live on the property with her. One already has a home and a second home will be built once the property is divided. She said the daughters will not be able to sell their parcels to anyone outside the family. She stated that there are 2 wells on the property and she asked for approval of this application.

Kathi Hendrix, neighbor, states that she agrees with Bill. She is opposed to this application. She feels the split is better financially, but she is against it. If this variance is allowed for the applicant, then others should be allowed to have variances approved as well. She doesn't understand why the property is zoned A-1.

Commissioner Bettencourt asked how many homes are currently on the property. Mr. Nicholson replied that there are currently 2 homes on the property. The applicant stated that there is no problem getting water to the new homes.

The public hearing closed at 9:56 a.m.

MOTION: M/S TANNER - BETTENCOURT, AND CARRIED BY A VOTE OF 3 - 2, NAY BY COMMISSIONER BUENDIA AND COMMISSIONER MOBLEY, THE PLANNING COMMISSION APPROVES THE NEGATIVE DECLARATION PREPARED FOR ZONE VARIANCE No. 04003 AND MINOR SUBDIVISION APPLICATION No. 04006.

MOTION: M/S TANNER - BETTENCOURT, AND CARRIED BY A VOTE OF 3 – 2, NAY BY COMMISSIONER BUENDIA AND COMMISSIONER MOBLEY, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED SEPTEMBER 28, 2005, AND MAKES THE 7 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 7 FINDINGS, APPROVES ZONE VARIANCE No. 04003 AND MINOR SUBDIVISION APPLICATION No. 04006 SUBJECT TO THE 5 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. Zone Variance No. 04003 shall be valid as long as Minor Subdivision Application No. 04006 is valid.
2. The Parcel Map shall be recorded within two years of the Planning Commission approval date.
3. The project shall conform to Planning Commission Resolution No. 97-1.
4. The project proponent shall obtain an encroachment permit from Caltrans and shall construct the encroachment to Caltrans standards prior to the recordation of the Parcel Map. The project proponent shall satisfy all requirements of Caltrans relating to state drainage facilities as outlined in the agency's letter to the Merced County Planning and Community Development Department dated March 25, 2004.
5. The project shall meet all requirements of the Merced County Fire Department regarding access for improved lots without street frontage. Fire Department access shall conform to Article 9 and Appendix III-D of the Uniform Fire Code.

VI. CORRESPONDENCE

None

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VII. GENERAL BUSINESS

- A. REDEVELOPMENT PLAN FOR THE CASTLE AIRPORT AVIATION AND DEVELOPMENT CENTER – Merced County Redevelopment Agency** – To review the Draft Redevelopment Plan and adopt a resolution reporting on the Plan and its conformance with the Merced County General Plan. The proposed Redevelopment Area consists of 1,867 acres located in the former Castle Air Force Base, adjacent to and north of the City of Atwater. **TO ADOPT A RESOLUTION REPORTING ON CONFORMANCE WITH THE GENERAL PLAN.**

Planning Director Bill Nicholson gave a brief presentation on the Redevelopment Plan for Castle Airport Aviation and Development Center. He also provided a revised copy of the Redevelopment Plan and asked for the Commission to support removal of Section 418 “Minor Variations”.

No one spoke or made any comments regarding this application.

TANNER – MOBLEY, CARRIED BY A VOTED OF 5 – 0, THE COMMISSION ADOPTS RESOLUTION NO. 05003 FINDING CONFORMITY OF THE REDEVELOPMENT PLAN WITH THE MERCED COUNTY GENERAL PLAN AND RECOMMENDS THE BOARD OF SUPERVISORS TO ADOPT THE REDEVELOPMENT PLAN FOR THE CASTLE AIRPORT AVIATION AND DEVELOPMENT CENTER WITH THE DELETION OF SECTION NO. 418 “MINOR VARIATIONS”.

VIII. DIRECTOR'S REPORT

There will be a General Plan Steering Committee meeting September 28, 2005 at 1pm.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 10:30 a.m.