



**PLANNING AND COMMUNITY  
DEVELOPMENT DEPARTMENT**

**Robert A. Lewis**  
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 NOVEMBER 1, 2006, 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. GENERAL PLAN AMENDMENT GPA05-009, ZONE CHANGE No. ZC05-010, and MAJOR MODIFICATION APPLICATION No. MM05-016 to Conditional Use Permit (CUP) No. 2870 - Black Diamond Aggregates, Inc. - Continued from September 27, 2006.** To amend the General Plan from Snelling RRC #1, Residential to Agricultural with a concurrent rezoning from Agricultural Residential (A-R) to General Agricultural (A-1), and modify CUP-2870 to allow below grade level mining and change the reclamation plan's end land use from agricultural to open space on property located southwest of the intersection of Highway 59 and Snelling Road. APN's: 043-040-33, 37, 43 and 043-080-006, consisting of 154 acres. CEQA: Mitigated Negative Declaration. Owner/Applicant: Reed Family Vineyards/Black Diamond Aggregates, Inc. (JW)
- B. CONDITIONAL USE PERMIT No. CUP06-012 – Hannibal Yousef -** To establish an automotive smog emission testing and repair shop located at 7552 Lander Avenue, east of Lander Avenue and south of Dayton Avenue in the town of Hilmar designated General Commercial in the General Plan and zoned General Commercial (C-2). APN: 017-051-022 in the town of Hilmar, consisting of 0.16 acres. CEQA: Exempt. Owner/Applicant: Singh/Yousef. (DG)

- C. **1<sup>st</sup> EXTENSION No. EXT06-015 to MAJOR SUBDIVISION APPLICATION No. MAS03-019 – Tom Owens** - To extend for one-year the expiration date of the tentative map "Lindgren Cottages", located southwest of Bloss Avenue and Pearl Street, designated Hilmar SUDP Medium Density Residential in the General Plan and zoned Planned Development (PD). APN's: 017-041-027 & 028 in the town of Hilmar, consisting of 1.8 acres. CEQA: Negative Declaration. Owner/Applicant: Waterson Enterprises/Owens. (DG)

VI. **CORRESPONDENCE**

VII. **GENERAL BUSINESS**

VIII. **DIRECTOR'S REPORT**

IX. **ADJOURNMENT**

**APPEALS**

Any person may appeal any action of the Development Services 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 and Community Development 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 1, 2006**

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A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of November 1, 2006, 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 9:10 a.m., on November 1, 2006, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

**II. ROLL CALL OF COMMISSIONERS**

Commissioners Present:      Commissioner Jack Mobley  
   Commissioner Steve Sloan-Chairman  
   Commissioner Lynn Tanner  
   Commissioner Gloria Bettencourt

Staff Present:                      Robert A. Lewis, Development Services Director  
   William Nicholson, Assistant Development Services Director  
   Kim Lewallen, Recording Secretary  
   Jeff Wilson, Code Compliance Manager  
   David Gilbert, Senior Planner

Legal Staff:                        Walter Wall, Deputy County Counsel

Commissioners Absent:        Commissioner Rudy Buendia

**III. APPROVAL OF MINUTES**

**M/S MOBLEY - TANNER, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF OCTOBER 11, 2006.**

**IV. CITIZEN COMMUNICATIONS**

None

**V. PUBLIC HEARINGS**

**A.      GENERAL PLAN AMENDMENT GPA05-009, ZONE CHANGE No. ZC05-010, and MAJOR MODIFICATION APPLICATION No. MM05-016 to Conditional Use Permit (CUP) No. 2870 - Black Diamond Aggregates, Inc. - *Continued from September 27, 2006.* To amend the General Plan from Snelling RRC #1, Residential to Agricultural with a concurrent rezoning from Agricultural Residential (A-R) to General Agricultural (A-1), and modify CUP-2870 to allow below grade level mining and change the reclamation plan's end land use from agricultural to open space on property located southwest of the intersection of Highway 59 and Snelling Road. APN's: 043-040-33, 37, 43 and 043-080-006, consisting of 154 acres. CEQA: Mitigated Negative Declaration. Owner/Applicant: Reed Family Vineyards/Black Diamond Aggregates, Inc. (JW)**

**MERCED COUNTY PLANNING COMMISSION**  
**Minutes – November 1, 2006**  
**Page 2**

Code Compliance Manager Jeff Wilson presented the Staff Report and Recommendations dated November 1, 2006. Bruce Stuebing from Resource Design Technology was available to answer any questions the Commission may have. Wendy Bogdan, from the Downey-Brand law office and representing Black Diamond Aggregates Inc. presented additional information and background for the Black Diamond Aggregates project.

The public hearing opened at 9:45 a.m.

Chairman Sloan had questions regarding the width of the greenbelt south of HWY 59 and north of the boundary for mining activities. Mr. Wilson replied that the width is approximately 100 feet to 250 feet and Bruce Steubing stated that it is approximately 165 feet in length.

He also had questions regarding whether the Conditions of Approval specified how many phases to be mined in relation with concurrent reclamation.

Code Compliance Manager Jeff Wilson stated that the reclamation plan indicates that reclamation will occur in six (6) phases. Mr. Wilson also stated that the project is for mining to occur over a 15 year time frame in six (6) phases with concurrent reclamation occurring.

William Nicholson, Assistant Development Services Director, stated that Condition #3 addresses the reclamation of the site and needs to be modified to include the phasing of the project as it relates to reclamation occurring concurrently with mining activities.

Commissioner Tanner asked how much of the mining will be under water. Mr. Wilson indicated that based on the approved permit it has currently been mined to grade level. There hasn't been any mining in the water table at this time. In addition, Mr. Wilson stated that the proposed expansion would be for wet mining due to mining activities occurring below grade in the "perched water" table.

Robert Bauer, Snelling, stated that the community is opposed to this project, however, he is not. Snelling is a historical place to live. There is habitat in Snelling and he is worried about transportation issues.

The public hearing closed at 9:55 a.m.

Commissioner Mobley asked how many more truck trips will take place if this project is approved. Mr. Wilson indicated that there is an existing level of truck trips established by the current on-site operation and there will be no new traffic trips generated. The truck trips that are currently generated by the project site are directed away from the Community of Snelling rather than through the Community of Snelling.

**MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION APPROVES THE MITIGATED NEGATIVE DECLARATION PREPARED FOR GENERAL PLAN AMENDMENT GPA05-009, ZONE CHANGE No. ZC05-010, and MAJOR MODIFICATION APPLICATION No. MM05-016 TO CONDITIONAL USE PERMIT (CUP) No. 2870.**

**MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED NOVEMBER 1, 2006, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES GENERAL PLAN AMENDMENT GPA05-009, ZONE CHANGE No. ZC05-010, and MAJOR MODIFICATION APPLICATION No. MM05-016 TO CONDITIONAL USE PERMIT (CUP) No. 2870 SUBJECT TO THE 18 CONDITIONS WITH A MODIFICATION BEING MADE TO CONDITION #3 AS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

1. Major Modification No. 05-016 to Conditional Use Permit No. 2870 is granted for the following:
  - Maximum production – 2.5 million cubic yards of sand and gravel.
  - Life of Permit: Maximum of fifteen years (until 12/31/2021).
  - Maximum Area to be excavated: 154 acres.
  - Maximum depth of excavation: 206 feet above mean sea level, with an average depth of 211 feet above mean sea level.
  - All mining and related uses shall be located, developed, and operated in a manner described on the approved plot plan, cross sections, elevations, and the conditions of this permit.
2. Hours of Operation shall be limited to the following:
  - Excavation shall be limited to 6AM to 6 PM.
3. Reclamation of the site shall conform to the approved Reclamation Plan. Reclamation of the project area will be concurrent with the mining activity. The maximum extent of any unreclaimed area will be approximately 10 – 12 acres. Revegetation of the side slopes and the 20 foot buffer areas to the Ingalsbe/Ruddle Ditch and the Scott Ditch will be monitored by a qualified botanist for a 5 year monitoring period. Revegetation success criteria shall be a minimum of 50 % cover. If success criteria is not met by Year 3 of monitoring, a planting program will be implemented as provided and described in the Reclamation Plan and supporting Mitigation Measures. Mining shall occur in six phases as indicated in the Reclamation Plan and reclamation shall occur concurrently with mining activities as each phase is completed and mining commences on the subsequent phase.
4. The operation of the site shall comply with all the mitigation measures recommended in the Mitigated Negative Declaration and are adopted and incorporated by reference as project conditions.
5. The project shall comply with standard conditions listed in Planning Commission Resolution No. 97-1.
6. Prior to exercising the permit, the applicant shall provide the County with an updated financial guarantee for reclamation of the site in the amount acceptable to the Planning and Community Development Director and incorporating relevant recommendations of the Department of Conservation's Office of Mine Reclamation.

## MERCED COUNTY PLANNING COMMISSION

Minutes – November 1, 2006

Page 4

7. Upon completion of the project, all the machinery and equipment associated with the mining operation shall be removed from the property, unless it will be used for the planned reclaimed use of the site.
8. The applicant shall furnish the Planning and Community Development Director with a report describing compliance with the reclamation plan by July 1st of each year. With each report, the permittee shall provide a map to scale, showing current progress and mining reclamation.
9. The Planning and Community Development Director or his designee shall review the report and inspect the mining operation to determine and assure continuing compliance with the approved reclamation plan and the Conditions of Approval. The applicant shall pay the County the actual cost of conducting inspections, annually or at other times, and shall make available to the Planning and Community Development Director such information necessary for determining compliance.
10. If the Conditional Use Permit is not used within one year, it shall become automatically void without further action. The Planning Commission may extend the Conditional Use Permit if a request is filed by the applicant prior to its expiration. (Zoning Code Section 18.50.09B).
11. If the use authorized by the Conditional Use Permit is abandoned or discontinued for a period of one year or more, the Planning and Community Development Department may initiate revocation proceedings at a public hearing before the Planning Commission.
12. During the life of the project, the project sponsor shall comply with the requirements of regional, state, and local agencies with jurisdiction over the project or resources affected by the project.
13. Prior to the sale/transfer/lease of the project site and/or operations, the applicant shall notify the Planning Department of said transaction. The intent of this condition is solely to keep the County apprised of the owner and operator of the site.
14. The proposed Reclamation Plan shall include a 20 foot buffer "levee" at 2:1 slope between the south side of Ingalsbe/Ruddle Ditch and the new open water/wetland areas created by the proposed mining. A similar 20 foot buffer shall also be established between the new slope and the Scott Ditch.
15. The Reclamation Plan shall include a provision that revegetation of the side slopes and the 20-foot buffer areas to Ingalsbe/Ruddle Ditch and Scott Ditch be monitored by a qualified botanist to determine if revegetation success criteria are met during the 5-year monitoring period. The Plan shall include a measure that states if success criteria are not met by Year 3 of monitoring, then the Operator shall implement a planting program to enhance the colonization of the pond side slopes and buffer areas by native wetland and riparian vegetation.
16. If bone is uncovered that appears to be human, the Merced County Coroner shall be contacted. If the coroner determines that the bone is likely to be

**MERCED COUNTY PLANNING COMMISSION**

**Minutes – November 1, 2006**

**Page 5**

Native American in origin, then the Native American Heritage Commission, in Sacramento, shall be contacted to identify most likely descendants.

17. The 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) 341-5537, e-mail: [stormwater@swrcb.ca.gov](mailto:stormwater@swrcb.ca.gov), or visit their website at [www.swrcb.ca.gov](http://www.swrcb.ca.gov).

**Public Works Conditions**

18. The Applicant shall provide a roadway impact evaluation to determine the potential impact on Merced County roadways and pay a fair share contribution to the Merced County Road Fund or shall enter into a Roadway Impact Agreement with Merced County. The agreement will stipulate that the applicant will keep accurate records of all loaded heavy trucks entering and exiting the site. Once a year, the applicant will contribute \$2.00 into the Merced County Road Fund for every loaded truck that enters or exits the site. The Agreement will stay in effect for 15 years, if the project terminates before, the Agreement will be void.

- B. CONDITIONAL USE PERMIT No. CUP06-012 – Hannibal Yousef** - To establish an automotive smog emission testing and repair shop located at 7552 Lander Avenue, east of Lander Avenue and south of Dayton Avenue in the town of Hilmar designated General Commercial in the General Plan and zoned General Commercial (C-2). APN: 017-051-022 in the town of Hilmar, consisting of 0.16 acres. CEQA: Exempt. Owner/Applicant: Singh/Yousef. (DG)

Planner David Gilbert presented the Staff Report and Recommendation dated November 1, 2006.

The public hearing opened at 10:25 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 10:25 a.m.

**MOTION: M/S TANNER – MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. CUP06-012, FROM CEQA.**

**MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED NOVEMBER 1, 2006, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES CONDITIONAL USE PERMIT No. CUP06-012 SUBJECT TO THE 12 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

1. Conditional Use Permit Application No. CUP06-012 is for a proposed

## MERCED COUNTY PLANNING COMMISSION

Minutes – November 1, 2006

Page 6

automotive smog and auto repair shop to be located within an existing 2,000 square foot building on a .16 acre parcel and shall be developed and operated consistent with the approved plot plan and operational statement.

2. All repairs and storage of parts, accessories, etc. shall be within a fully enclosed building.
3. Outside storage of junked and/or wrecked cars shall be prohibited.
4. Outside storage of cars being worked on and old parts including tires shall be allowed for a maximum of 30 days. Areas used for storage of cars awaiting repair and old parts including tires shall be completely screened from public view.
5. All on-site signage shall require a building permit and shall comply with the provisions of Chapter 18.42 of the Zoning Code.
6. All on-site lighting shall be directed away from adjacent properties and public rights-of-way.
7. For the purpose of condition monitoring, an inspection fee in the amount of **\$392.00** shall be required. This fee shall be paid within 30 days of the approval date. Should additional inspections be required, inspection time shall be billed to the applicant at the established hourly rate at the time of the inspection.

### Fire Department

8. The applicant shall meet with or submit plans to the Fire Department showing compliance with Fire Code requirements (number of fire extinguisher, hazardous materials storage, addressing of the building, etc.).

### Environmental Health Division

9. A Hazardous Materials Business Plan shall be submitted to the Division of Environmental Health. Contact Vickie Hayer, Hazardous Materials Program Specialist at (209) 381-1083.

### Public Works/Building & Safety Division

10. Building plans shall be completed by a licensed engineer or architect from the State of California. The plans shall include all relevant details for handicap accessibility, handicap parking, use of the building, occupancy load calculations, and compliance with the recycling ordinance.

### Caltrans

11. The property owner shall provide a copy of the encroachment permit for the current access to the property along Highway 165. If there is no encroachment permit on file, the property owner shall apply for an encroachment permit to legalize the existing entrance along Highway 165.

### Public Works/Road Division

**MERCED COUNTY PLANNING COMMISSION**

**Minutes – November 1, 2006**

**Page 7**

12. The property owner/applicant shall satisfy Improvement Level 2 requirements for the Lander Avenue frontage as set forth in Chapter 16.08 of the Merced County Code. The improvements shall be constructed to Caltrans standards. As an alternative to constructing the improvements, the property owner may enter into a Deferment of Construction Agreement with Merced County Road Division. The Deferment of Construction Agreement shall be signed, notarized, and a processing fee of \$200 shall be collected prior to issuance of any building permit or within 6 months of implementation of conditional use permit, whichever occurs first.

- C. 1<sup>st</sup> EXTENSION No. EXT06-015 to MAJOR SUBDIVISION APPLICATION No. MAS03-019 – Tom Owens** - To extend for one-year the expiration date of the tentative map “Lindgren Cottages”, located southwest of Bloss Avenue and Pearl Street, designated Hilmar SUDP Medium Density Residential in the General Plan and zoned Planned Development (PD). APN's: 017-041-027 & 028 in the town of Hilmar, consisting of 1.8 acres. CEQA: Negative Declaration. Owner/Applicant: Waterson Enterprises/Owens. (DG)

Planner David Gilbert presented the Staff Report and Recommendation dated November 1, 2006.

The public hearing opened at 10:20 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 10:20 a.m.

**MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION REAFFIRMS THE PREVIOUS NEGATIVE DECLARATION PREPARED FOR 1<sup>st</sup> EXTENSION No. EXT06-015 to MAJOR SUBDIVISION APPLICATION No. MAS03-019, FROM CEQA.**

**MOTION: M/S TANNER – MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED NOVEMBER 1, 2006, AND MAKES THE ORIGINAL FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE ORIGINAL FINDINGS, APPROVES 1<sup>st</sup> EXTENSION No. EXT06-015 to MAJOR SUBDIVISION APPLICATION No. MAS03-019 SUBJECT TO THE 22 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

1. The Final Map shall be recorded within two years of the Board of Supervisors approval date.
2. Water and sewer improvements shall be constructed and applicable user fees paid as per the specifications and requirements of the Hilmar County Water District. A current “can and will serve” letter shall be received from the District prior to recording the Final Map.
3. The applicant shall satisfy Improvement Level I requirements as set forth in Chapter 16.08 of the Merced County Code, which generally includes dedication of right-of-way as shown on the tentative map and public utility easements, roadway construction and installation of matching pavement

**MERCED COUNTY PLANNING COMMISSION**

**Minutes – November 1, 2006**

**Page 8**

along existing roadways, street lighting, storm drainage system and underground or relocate utilities and irrigation facilities. A 10-foot wide public utility easement shall be dedicated along the Bloss Avenue frontage of the property.

4. Provide a letter from the Turlock Irrigation District (TID) accepting storm drainage water from this proposed development into their facilities prior to recording the final map. Provide a signature approval block for TID and Hilmar County Water District on the Improvement Plans.
5. Bloss Avenue shall be constructed with a 24 feet from the centerline to the face of curb.
6. The entry and exit gates shall be set back 25 feet south of the Bloss Avenue right-of-way line.
7. The subtitle of the final map shall include FOR CONDOMINIUM PURPOSES.
8. Prior to recordation of the final map, the owner shall obtain an offsite storm drainage easement from the Hilmar Christian Tabernacle Church located on Lots 60 and 61 as shown on the map of Hilmar High School Tract in Volume 7 of the Official Plats at Page 27, Merced county Records, also known as Assessor's Parcel Number 017-041-025.
9. The developer shall relocate the irrigation structure at the northeast corner of the property and replace the private irrigation pipeline outside of the Bloss Avenue road right-of-way to serve Lots 60 and 61, if the owner of said property, Hilmar Christian Tabernacle Church, does not relinquish their water rights through abandonment out of the TID.
10. Conditions, Covenants, and Restrictions shall be submitted to the Department of Public Works for review of maintenance provisions for the private roadway and storm drainage system in addition to graffiti abatement for the fence along Bloss Avenue and maintenance of the fence and any required landscaping.
11. 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.
12. 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 11/16/90 (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) 341-5537, e-mail: [stormwater@swrcb.ca.gov](mailto:stormwater@swrcb.ca.gov), or visit their website at [www.swrcb.ca.gov](http://www.swrcb.ca.gov).
13. Access gates, if any, must be approved with a Merced County coded 'Knox' key switch or an acceptable alternative. Access gate plans shall be

**MERCED COUNTY PLANNING COMMISSION**

**Minutes – November 1, 2006**

**Page 9**

submitted to the Fire Department for approval.

14. An approved water system, including at least one onsite fire hydrant, capable of a minimum fore flow of 1,000 gallons per minute is required for one or two family residential buildings.
15. Approved addressing or numbers shall be placed on premises in such a position as to be plainly visible and legible from the street fronting the property.
16. The developer will need to supply a set of improvement plans for review by the Hilmar County Water District Engineer, with calculations for water, sewer and storm drainage demand from the site. Also, the storm drainage for the site with storage of a 10-year storm event will need to be designed in accordance with Merced County standards.
17. Pay the local parkland dedication and improvement fee as required by County Ordinance No. 1090 prior to recording the final map.
18. Prior to the final map recordation, the parking spaces shall be realigned to better distribute the parking around the site.
19. The project shall be subject to the current Regional Transportation Impact Fee, established by Ordinance No. 1749, at the time of building permit issuance.
20. The project shall be subject to the current Law Enforcement Facilities Impact Fee established by Resolution No. 2004-148, adjusted for inflation, in place at the time of building permit issuance.
21. The project shall be subject to the current Fire Facilities Impact Fee established by Resolution No. 2004-149, adjusted for inflation, in place at the time of building permit issuance.
22. The project shall be subject to the revised Hilmar Bridge and Major Thoroughfare Area of Benefit Fee based upon the community specific plan update in progress; however, the project will be subject to the current fee established by Resolution No. 94-284 if building permits are issued prior to adoption of the updated community specific plan and the revised Hilmar Bridge and Major Thoroughfare Fee.

**VI. CORRESPONDENCE**

None

**VII. GENERAL BUSINESS**

None

**VIII. DIRECTOR'S REPORT**

None

**IX. ADJOURNMENT**

**MERCED COUNTY PLANNING COMMISSION**  
**Minutes – November 1, 2006**  
**Page 10**

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