

**MERCED COUNTY PLANNING COMMISSION**  
**MINUTES FOR MEETING OF AUGUST 22, 2007**

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A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of August 22, 2007, 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 9:09 a.m., on August 22, 2007, 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 Cindy Lashbrook  
  Commissioner Rudy Buendia

Staff Present:                     Robert Lewis, Development Services Director  
  William Nicholson, Assistant Development Services Director  
  Kim Anderson, Recording Secretary  
  Jeff Wilson, Code Compliance Manager  
  David Gilbert, Senior Planner  
  Brian Guerrero, Planner I  
  Oksana Newmen, Planner II

Legal Staff:                     Bob Gabriele, Deputy County Counsel

Commissioners Absent: None

**III. APPROVAL OF MINUTES**

**M/S MOBLEY - BUENDIA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF AUGUST 8, 2007.**

**IV. CITIZEN COMMUNICATIONS**

Tom Grave, Merced resident, commented that the General Plan Issues and Opportunities Report from Mintier & Associates, noted issues with the current General Plan that allows 20 acre parcels in Agricultural areas. Some of the problems listed include ranchettes create a rise in farm prices by driving up land values on surrounding agricultural land, increase on the exposure of residences to agricultural practices. They impact the wildlife and can reduce opportunities for open space preservation. It also has an impact on the quality and quantity of groundwater. He wants to know how the General Plan is addressed, and how do we justify exempting agricultural parcel splits from CEQA when our County consultant study shows concerns. He also asked what has happened with the past parcel splits.

**V. PUBLIC HEARINGS**

**A.       MINOR SUBDIVISION APPLICATION No. MS07-022 - Bear Creek Ranch Partnership - To divide a 262.60 acre parcel into 5 parcels consisting of: Parcel 1 = 59.74 acres, Parcel 2 = 50.27 acres, Parcel 3 = 51.16 acres, Parcel 4 = 51.16 acres and Parcel 5 = 50.27 acres. The project is located on the west side of Plainsburg Road, north of the Planada SUDP and one half mile north of East Highway 140. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH****

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Planner Brian Guerrero presented the Staff Report and Considerations dated August 22, 2007.

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

Rod Hawkins, representative for the applicant, stated that he is available for any questions. There is no change in the use of the property. The Genieva Farms and Bear Creek Ranch partnership is the reason for the division. The property is being used and maintained. He added that one smaller parcel will be utilized for asset management.

Commissioner Mobley asked if some of the land is being mortgaged to pay for the operations. Mr. Hawkins replied yes. Commissioner Mobley asked if the property will ever be developed in the future. Mr. Hawkins doesn't see any homes being built in the future, but wasn't certain.

Commissioner Lashbrook asked how old the trees are on the property.

Jim Corcelius, principle in Bear Creek Ranch, stated that the younger trees are 6 years old and the older trees are around 20 years old.

Commissioner Lashbrook stated that she is not comfortable with splitting the property and having only one water source. Mr. Corcelius stated that he could dig another well if needed.

Kim Rogina, Planada MAC member, states that this property is prime farmland and the MAC voted to deny this project.

Diana Westmoreland-Pedrozo, Merced Co. Farm Bureau, asked the Commissioners to deny this project. She feels that Minor Subdivisions in the County are not exempt from CEQA review. The County must assess whether cumulative effects of the project required an Environmental Impact Report. This land proposing to be subdivided was part of a proposal last year called the Village of Geneva and asked how it can be exempt from environmental review when it was a part of a large proposed development. This is not consistent with the General Plan and there is an impact on agricultural operations when Minor subdivisions are approved. She feels a hydrological study needs to be done for the Merced Groundwater Basin development.

Bryant Owens, Plainsburg Rd., had concerns with what is permissible on subdividing parcels. If this property is split, there could possibly be a potential of 30 homes built on the parcels. He recommends the Commission to deny this project.

Maureen McCrory, Valley Land Alliance, argued for common sense on agricultural splits. The 50.27 acre split minimum needs to be looked at in context of prior proposals on the site. She asked how Mr. Hawkins could state urban development may happen some day. The parcel is unique since there are not many rural residential homesites nearby.

Jean Okuye, Livingston resident, stated that two parcels will be affected by the proposed subdivision. Farmland is being taken away and needs to be protected.

David Corser, Planada Association, stated that the residents in the Felix Torres Labor camp can live and work in close proximity. The 250 acres is part of a larger proposal with Ranchwood and Pacific Holt. There is no need to bail out developers who didn't get their project approved, so the application should be denied.

Mr. Hawkins added that they are 50-59 acre parcels, not ranchettes for farming. If the applicant in the future was for urban development, people could comment, but the split is for agricultural purposes.

Chairman Sloan stated that the previous application was denied a year ago and has nothing to do with the current application by law.

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Commissioner Lashbrook asked if economic viability is part of the General Plan.

Robert Lewis, Development Services Director, stated that this application is consistent with the General Plan policy and zoning.

Commissioner Lashbrook added she can't make the findings and feels the project is not exempt from CEQA.

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

**MOTION: M/S LASHBROOK - BUENDIA, AND CARRIED BY A VOTE OF 3 – 2, NAY BY CHAIRMAN SLOAN AND COMMISSIONER TANNER, THE PLANNING COMMISSION DENIES MINOR SUBDIVISION APPLICATION No. MS07-022 DUE TO THE INABILITY TO MAKE THE FINDINGS IN THE STAFF REPORT.**

- B. CONDITIONAL USE PERMIT No. CUP07-008 - Martin DeJager - To construct a fifth conventional residence for a family member and move a fourth dairy employee onto the property within an existing dairy facility. The project is located at the northeast corner of Pfitzer Road and Hunt Road in the Gustine area. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG**

Planner David Gilbert presented the Staff Report and Considerations dated August 22, 2007.

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

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, agrees with staffs recommendations and states that this project is a viable agricultural operation.

The public hearing closed at 10:14 a.m.

**MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. CUP07-008, FROM CEQA.**

**MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED AUGUST 22, 2007, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES CONDITIONAL USE PERMIT No. CUP07-008 SUBJECT TO THE 9 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Planning and Community Development Department

1. Conditional Use Permit Application No. CUP07-008 shall allow a fifth conventional residence for a family member (daughter).
2. This project shall comply with the applicable Standard Conditions in Planning Commission Resolution No. 97-1.
3. A Right-to-Farm Certificate shall be recorded prior to the issuance of the building permit to notify subsequent occupants of the inconveniences of farming operations.

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4. The additional permanent residences shall be subject to a yearly occupancy monitoring permit with the regulations administered by the Planning Department.
5. The property owner shall sign an affidavit provided by the Planning Department attesting to the qualifications of the occupants which shall be recorded prior to the issuance of the building permit.
6. 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.
7. For the purpose of condition monitoring, an inspection fee in the amount of **\$150** 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.

Environmental Health Division

8. The fifth residence shall be subject to employee housing regulations. Please contact Hassan Golbad at (209) 381-1077 for the requirements

Public Works/Building & Safety Division

9. Building plans shall be submitted for review and approval prior to the start of any construction.

- C. GENERAL PLAN AMENDMENT APPLICATION No. GPA06-007, ZONE CHANGE APPLICATION No. ZC06-008 AND MAJOR SUBDIVISION APPLICATION No. MSA06-013 - Stanley Morimoto - To change the General Plan land use designation from Cressey SUDP - Commercial to Cressey SUDP - Agricultural-Residential and to change the zoning from C-2 (General Commercial) to A-R (Agricultural-Residential) for 1.4 acre portion of a 27.0 acre parcel and a Major Subdivision to divide 24.8 acres into 11 one acre lots ("Meadow View") with a 13.8 remainder parcel. The project is located on the northeast side of Santa Fe Drive and west of Cressey Way in the Cressey area. **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG****

Planner David Gilbert presented the Staff Report and Considerations dated August 22, 2007.

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

John McCullough, BCA, had no comments but was available to answer any questions.

Maureen McCrory, Valley Land Alliance, stated that more residential land is not needed and the Commission should wait until the General Plan is updated.

Charles Magneson, owner of land across the street, farms his land and is opposed to more homes being built in that area.

Jean Okuye, Olive Avenue, asked why this property is being taken out of commercial.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, asked the County to participate in a groundwater study in this area.

The public hearing closed at 10:30 a.m.

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**MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 – 1, NAY BY COMMISSIONER LASHBROOK, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS TO ADOPT THE MITIGATED NEGATIVE DECLARATION PREPARED FOR GENERAL PLAN AMENDMENT APPLICATION No. GPA06-007, ZONE CHANGE APPLICATION No. ZC06-008 AND MAJOR SUBDIVISION APPLICATION No. MSA06-013 WITH 6 MITIGATION MEASURES.**

**MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 - 1, NAY BY COMMISSIONER LASHBROOK, THE PLANNING RECOMMENDS THE BOARD OF SUPERVISORS TO APPROVE GENERAL PLAN AMENDMENT APPLICATION No. GPA06-007, ZONE CHANGE APPLICATION No. ZC06-008 AND MAJOR SUBDIVISION APPLICATION No. MSA06-013 SUBJECT TO THE 31 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Planning & Community Development Department

1. The Final Map shall be recorded within two years of the Board of Supervisor's approval date.
2. This project shall comply with the applicable Standard Conditions in Planning Commission Resolution No. 97-1.

Public Works/Road Division

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 to install underground or relocate utilities and irrigation facilities.
4. Release and relinquish all abutters' rights of access to and from the entire Santa Fe Drive frontage of Lots 9, 10 and 11.
5. Provide a letter from M.I.D. accepting storm drainage water from this proposed development into their facilities prior to recording the final map.
6. Prior to recordation of the final map creating new County roads, the owner shall provide all documentation and pay all fees associated with forming a road maintenance zone of benefit in County Service Area Number One for extended road maintenance services which includes, but is not limited to, street sweeping.
7. The developer shall construct roadway improvements along the frontages of the parcel identified at Assessor's Parcel Number 140-060-025 surrounded by the proposed subdivision.
8. Prior to recordation of the final map, the owner shall provide all documentation and pay all fees associated with forming a sewage maintenance zone of benefit in County Service Area Number One for the purpose of monitoring onsite septic systems.
9. The developer shall provide improvements to the existing Cressey Park as determined by the Department of Public Works Parks and Recreation Division equivalent to the local recreational park land fee obligation.

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10. Barriers along the southwest boundary of the subdivision determined necessary to reduce exterior noise exposure in compliance with Chapter IV of the General Plan shall be constructed with subdivision improvements. The owner shall provide all documentation and pay all fees associated with forming a maintenance zone of benefit in County Service Area Number One for sound wall graffiti abatement and landscaping, if required along the wall, prior to recordation of the final map.
11. Provide centerline striping for those new roads which intersect the existing peripheral streets.
12. 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.
13. 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 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).
14. Developer/Applicant is advised that he/she may be obligated to comply with all applicable requirements of the San Joaquin Valley Air Pollution Control District. Regulation VIII Record Keeping Forms and District Rules and Regulations may be obtained at [www.valleyair.org](http://www.valleyair.org) or by calling (209) 557-6400.

### Environmental Health Division

15. A setback of 4 feet for every foot of slope shall be required for all sewage disposal systems and 100% replacement areas.
16. Percolation tests and soils profile analyses shall be conducted on at least 4 lots. This area may contain severe hardpan, which must be penetrated when installing the sewage disposal system.
17. All residential lots shall be required to install special sewage disposal systems that are capable of reducing the total nitrogen in the effluent to below 10 mg/l.

### Merced Irrigation District (MID)

18. Ward Canal shall be placed in an appropriate sized underground pipeline to MID standards. MID is amenable to selling its 80-foot wide fee strip to the property owner and take back an appropriate width easement.
19. The property owner shall obtain a "Non-exclusive Driveway License Agreement" for all new and existing crossings over or under any MID facility, including driveways, utilities, and pipelines.
20. A signature block shall be provided for MID on all Improvement Plans associated with MID facilities.
21. No structures or trees shall be allowed within the MID easement.

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22. If storm drainage is to be directed to any MID facility now or in the future, the property owner/applicant shall enter into a “Subdivision Drainage Agreement” or a “Deferred Fee Subdivision Drainage Agreement” with the Merced Irrigation District Drainage Improvement District No. 1 (MIDDID No. 1) paying all applicable fees.
23. The property owner shall enter into a “Construction Agreement” with MID for any work associated with MID facilities and pay all applicable fees.
24. All septic system leach fields shall be a minimum of 20 feet from the under grounded MID canal to protect the lateral from contamination and to protect the septic systems from incidental seepage from the MID canal.
25. Any dedicated streets that cross MID facilities shall require a “Joint Use Agreement” between MID and the County of Merced.

### Mitigation Measures

26. To ensure there is no take of any burrowing owls that may move in to the site between the time the biological survey was completed and the initiation of ground breaking/construction activities a pre-construction survey shall be conducted to determine if burrowing owls are occupying the project site prior to such construction occurring on the site between February 1 and August 31. The survey shall take place no more than 30 days prior to the start of ground breaking/construction activities, and a copy of the survey shall be provided to the Merced County Planning and Community Development Department no less than 20 days prior to the proposed construction start date. The survey shall be conducted by a qualified biological consultant who, if burrowing owls are observed, shall propose mitigation in accordance with protocol approved by appropriate regulatory agencies to reduce potential impact on any burrowing owls on the project site to a less than significant level. The biologist shall base any temporal construction restrictions (i.e. setbacks around natal burrows) on the location of the nest to construction activities (MM).
27. To ensure that there is no take of any Swainson’s hawk that may move in to the site between the time the biological survey was completed and the initiation of ground breaking/construction activities a pre-construction survey within 0.25 miles of the project site shall be conducted by a qualified biological consultant to determine the presence of nesting Swainson’s hawks prior to any construction occurring on the project site between March 1 and September 15. The survey shall take place no more than 30 days prior to the start of ground breaking/construction activities, and a copy of the survey shall be provided to the Merced County Planning and Community Development Department no less than 20 days prior to the proposed construction start date. Should a nest be discovered within 0.25 miles of the project site, temporal construction restrictions may be necessary to eliminate the potential for noise disturbance to the nesting hawks. The consultant shall base the necessity for restrictions on the location of the nest in relation to construction activities (MM).
28. Prior to the issuance of building permits, or commencement of grading related to the project, a qualified biological consultant approved by the County shall be retained by the project proponent to identify any trees that could be used by nesting raptors and/or migratory birds. These trees shall be clearly marked on-site and the maximum possible number of these trees shall be retained during construction of the project. The retention effort may require the redesign of the site plan. Should it be necessary to remove any trees that could be used by nesting raptors and/or migratory birds to accommodate development and site redesign is not feasible due to site characteristics, the trees shall be felled between September 15 and January 31, outside of the nesting season. The proposed tree retention or removal plan recommended by the biological consultant shall be reviewed and approved by the Merced County Planning and Community Development Department no less than 20 days prior to implementation. The project proponent shall state in writing to the

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Merced County Planning and Community Development Department as to why it is necessary to remove any identified tree. The Planning and Community Development Department shall determine the replacement ratio for any identified raptor (or migratory bird) nesting tree removed from the project site (MM).

29. Grading and/or construction activities shall not occur within 20 feet of the drip line of the elderberry shrubs within and adjacent to the project site. If grading and/or construction is to occur within 20 feet of the drip line of the elderberry shrubs the project applicant shall consult with the United States Fish and Wildlife Service to further assess the potential impacts to the valley elderberry longhorn beetle and determine the need for mitigation. Should the valley elderberry longhorn beetle be de-listed from its federal Threatened status prior to project construction, this mitigation measure shall not apply to the project (MM).
30. Prior to the issuance of building permits or commencement of grading related to the project, the project proponent shall obtain Army Corps of Engineers (ACOE) verification on the jurisdictional status of potential Waters of the U.S., including wetlands, located on the project site, i.e. the Ward Canal. If the Ward Canal is verified to be such waters, the project proponent shall obtain all necessary ACOE permitting, as well as any necessary California Department of Fish and Game and Regional Water Quality Control Board permitting, prior to any disturbance to the canal (MM).
31. Prior to recordation of the final map for the project, the project proponent shall have an acoustical analysis prepared to determine potential noise impacts from railroad noise on affected parcels within the subdivision. The analysis shall propose remediation to reduce exterior noise levels on these lots to meet the standard contained in the Merced County General Plan. The acoustical analysis and proposed remediation shall be submitted to the Merced County Planning and Community Development Department for review and approval prior to commencement of work on the remediation facilities. The construction of a noise barrier shall be in accordance with section 18.37.07 of Title 18, the Merced County Zoning Code (MM).

**D. GENERAL PLAN AMENDMENT APPLICATION No. GPA07-005 AND ZONE CHANGE APPLICATION No. ZC07-005 - County of Merced - To change the General Plan land use designation from Agriculture (Fresno County) to Agricultural (Merced County) and change the zoning designation from AE-20 (Exclusive Agricultural) (Fresno County) to A-1 (General Agricultural) (Merced County) for 4,175 acres or 6.52 square miles of agricultural land. The project is bounded by the Merced County line and the City of Dos Palos to the north and west, Merrill Avenue to the south and Custer Avenue to the east. **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG****

Planner David Gilbert presented the Staff Report and Considerations dated August 22, 2007.

The public hearing opened at 10:41 a.m.

Maureen McCrory, Valley Land Alliance, asked why the zoning will change from A-2 to A-1. Planner David Gilbert replied that the zoning is AE-20 which is a Fresno County zoning and will change to A-1, but that both zonings mean they are the 20 acre minimum.

The public hearing closed at 10:43 a.m.

**MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS APPROVE GENERAL PLAN AMENDMENT APPLICATION No. GPA07-005 AND ZONE CHANGE APPLICATION No. ZC07-005 DUE TO THE ABILITY TO MAKE THE FINDINGS IN THE STAFF REPORT.**

**E. 1<sup>ST</sup> MODIFICATION No. MM07-014 to CONDITIONAL USE PERMIT No. 3668 - Merced**



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**River Mining** - To amend the approved Reclamation Plan for Merced River Mining LLC to add an Interim Management Plan in order to provide for the maintenance of an inactive mine site on property located on Merced Falls Road, 1.15 miles west of Hornitos Road in the Snelling area. The project site is designated Agricultural and Foothill Pasture land use in the General Plan and zoned A-2 (Exclusive Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. ON**

Planner Oksana Newmen presented the Staff Report and Considerations dated August 22, 2007.

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

Ed Tuttle, neighbor, stated that the applicant went well over the tonnage. He asked where they will be mining now. The applicant broke all the rules they agreed to and the property should be monitored more closely. His property was flooded for a year and a half. He asked what the definition of surface tailing mining is.

Jeff Wilson, Code Compliance Manager, stated that the applicants are 40,000 tons over (810,000 is permitted). Surface mining of tailings includes all tailings created by earlier dredger mining. Mr. Tuttle said the surface is above grade in his view and what about the new mining. Mr. Wilson added that the proposal was submitted to the Planning Department and is still under review and is the same 74 acres. If they are going to get anything moved out of site, they have to go deeper.

David Hinton, neighbor, said his garage is flooded and mold is in his home. His home is ruined. He wants to know who is going to pay for the water damage done to his home.

Bill Nicholson, Assistant Development Services Director, responded that the earlier hydrological studies were inconclusive as to the source of flooding. But due to complaints and overmining beyond the CUP approved limit, the County shut two mines down. Any liability for flood damage is a civil matter between landowners.

Bob Gabriele, County Counsel, stated that the liability issue is beyond the County to make a determination. The Planning Commission and the Planning Department is not responsible for the flooding.

Frank Escobar, Merced Falls Rd., stated that the applicant has violated before so why is this application being considered again if they are not complying.

Chairman Sloan indicated that this application is for an Interim Management Plan for an inactive mine site. This is not for additional mining.

The public hearing closed at 11:14 a.m.

**MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS 1<sup>ST</sup> MODIFICATION No. MM07-014 to CONDITIONAL USE PERMIT No. 3668, FROM CEQA.**

**MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED AUGUST 22, 2007, AND MAKES THE 13 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 13 FINDINGS, APPROVES 1<sup>ST</sup> MODIFICATION No. MM07-014 to CONDITIONAL USE PERMIT No. 3668 SUBJECT TO THE 5 CONDITIONS WITH CONDITION #5 BEING MODIFIED AS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Planning & Community Development Department

1. The Minor Modification is granted to allow the applicant to implement an interim management plan (IMP). The IMP shall implement erosion control, dust control, water quality control, weed abatement, hazardous material containment, security of stored equipment, and financial assurances, as indicated in the IMP document.
2. The application shall comply with all applicable regulations administered by local, county, state, and federal government.
3. All conditions of existing permits associated with the subject property shall remain in effect. (Conditional Use Permit CUP 3668)

Surface Mining and Reclamation Act (SMARA) Regulations

4. The interim management plan will expire within five (5) years of this approval date. The operator may request to extend the IMP for a period of five (5) years, or the County may require the reclamation process be completed in accordance with the approved IMP. Extension of the IMP will require findings that the operator has complied fully with the IMP.
5. The applicant shall submit the financial assurance estimate, to be reviewed and approved by the State of California Office of Mine Reclamation (OMR), within thirty (30) days of approval for the final financial assurance amount. The financial assurance shall be in the form of a Surety Bond, Certificate of Deposit, Letter of Credit, or Trust Fund.

- F. MINOR SUBDIVISION APPLICATION No. MS07-021 - Chet Sumpter - To divide an 85.5 acre parcel into 3 parcels consisting of 37 acres, 20 acres, and 28.5 acres, located northwest of Cozzi Road & Highway 152 in the Dos Palos area. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH****

Planner Brian Guerrero presented the Staff Report and Considerations dated August 22, 2007.

The public hearing opened at 11:21 a.m.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, asked the Commission to deny any subdivisions until the General Plan Update is complete.

Tom Grave, Sueno Ct., Merced, questioned the purpose of this subdivision and what does “family planning” mean as the reason for the split.

Larry Bowers, BCA, stated that the split is for financial reasons as they need money for their farming operations and also for estate planning for the applicants children in the future.

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

**MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 - 1, NAY BY COMMISSIONER LASHBROOK, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. MS07-021, FROM CEQA.**

**MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 4 - 0, NAY BY COMMISSIONER LASHBROOK, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED AUGUST 22, 2007, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 10 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION No. MS07-021 SUBJECT TO THE 4 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Planning & Community Development Department

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the approval date, as required by the Subdivision Map Act and Merced County Subdivision Code.
2. The applicant shall comply with all applicable County, State and Federal regulations.
3. A Right-to-Farm Certificate shall be recorded prior to issuance of any building permits to notify subsequent occupants of the inconveniences of farming operations and the priority to which Merced County places on such operations.
4. The project shall comply with all standard conditions contained in Planning Commission Resolution No. 97-1.

**VI. CORRESPONDENCE**

None

**VII. GENERAL BUSINESS**

Merced County Association of Governments staff member Rich Green, gave a brief Presentation on the Regional Blueprint "Options and Choices" Workshop.

**VIII. DIRECTOR'S REPORT**

None

**IX. ADJOURNMENT**

There being no further business, the meeting adjourned at 11:55 a.m.



**PLANNING AND COMMUNITY  
DEVELOPMENT DEPARTMENT**

**Robert A. Lewis**  
*Director*

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**PLANNING COMMISSION AGENDA  
REGULAR MEETING OF AUGUST 22, 2007, 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; Cindy Lashbrook; Lynn Tanner; Rudy Buendia; Steve Sloan, Chairman

**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. MINOR SUBDIVISION APPLICATION No. MS07-022 - Bear Creek Ranch Partnership -** To divide a 262.60 acre parcel into 5 parcels consisting of: Parcel 1 = 59.74 acres, Parcel 2 = 50.27 acres, Parcel 3 = 51.16 acres, Parcel 4 = 51.16 acres and Parcel 5 = 50.27 acres. The project is located on the west side of Plainsburg Road, north of the Planada SUDP and one half mile north of East Highway 140. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH**
- B. CONDITIONAL USE PERMIT No. CUP07-008 - Martin DeJager -** To construct a fifth conventional residence for a family member and move a fourth dairy employee onto the property within an existing dairy facility. The project is located at the northeast corner of Pfitzer Road and Hunt Road in the Gustine area. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG**
- C. GENERAL PLAN AMENDMENT APPLICATION No. GPA06-007, ZONE CHANGE APPLICATION No. ZC06-008 AND MAJOR SUBDIVISION APPLICATION No. MSA06-013 - Stanley Morimoto -** To change the General Plan land use designation from Cressey SUDP - Commercial to Cressey SUDP - Agricultural-Residential and to change the zoning from C-2 (General Commercial) to A-R (Agricultural-Residential) for 1.4 acre portion of a 27.0 acre parcel and a Major Subdivision to divide 24.8 acres into 11 one acre lots ("Meadow View") with a 13.8 remainder parcel. The project is located on the northeast side of Santa Fe Drive and west of Cressey Way in the Cressey area. **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG**

- D. **GENERAL PLAN AMENDMENT APPLICATION No. GPA07-005 AND ZONE CHANGE APPLICATION No. ZC07-005 - County of Merced** - To change the General Plan land use designation from Agricultural (Fresno County) to Agricultural (Merced County) and change the zoning designation from A-2 (Exclusive Agricultural) to A-1 (General Agricultural) for 4,175 acres or 6.52 square miles of agricultural land. The project is bounded by the Merced County line and the City of Dos Palos to the north and west, Merrill Avenue to the south and Custer Avenue to the east. **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG**
- E. **1<sup>ST</sup> MODIFICATION No. MM07-014 to CONDITIONAL USE PERMIT No. 3668 - Merced River Mining** - To amend the approved Reclamation Plan for Merced River Mining LLC to add an Interim Management Plan in order to provide for the maintenance of an inactive mine site on property located on Merced Falls Road, 1.15 miles west of Hornitos Road in the Snelling area. The project site is designated Agricultural and Foothill Pasture land use in the General Plan and zoned A-2 (Exclusive Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. ON**
- F. **MINOR SUBDIVISION APPLICATION No. MS07-021 - Chet Sumpter** - To divide an 85.5 acre parcel into 3 parcels consisting of 37 acres, 20 acres, and 28.5 acres, located northwest of Cozzi Road & Highway 152 in the Dos Palos area. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH**

VI. **CORRESPONDENCE**

VII. **GENERAL BUSINESS**

Merced County Association of Governments – Presentation on the Regional Blueprint “Options and Choices” Workshop.

VIII. **DIRECTOR’S REPORT**

IX. **ADJOURNMENT**

**APPEALS**

Any person may appeal any action of the 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, and for subdivisions, the deadline is the following Monday at 5:00 pm. Please note that appeals may not be submitted on days that the County is officially closed.

Appeals of Development Services 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.