



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

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**PLANNING COMMISSION AGENDA
REGULAR MEETING OF NOVEMBER 7, 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. GENERAL PLAN AMENDMENT No. GPA07-007 - County of Merced - To amend the General Plan land use designation from Agricultural to Highway Interchange Center (H-I-C) Commercial for six parcels totaling 5.16 acres. The project is located at the northeast corner of Gonzaga Road and San Luis Drive in the Santa Nella area and zoned C-2 (General Commercial). **TO RECOMMEND THE BOARD OF SUPERVISORS APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG****
- B. ADMINISTRATIVE APPLICATION No. AA07-077 - Maria Sanchez - To establish a semi-mobile food vendor on an existing convenience store property located west of Hwy 59 South of Cone Avenue in the Merced area. The project site is designated General Commercial Land Use in the General Plan and zoned M-1 (Light Manufacturing). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG****
- C. CONDITIONAL USE PERMIT No. CUP07-025 - Edward Penick - To bring into conformance an existing agricultural equipment repair facility and to permit a 60' x 80' agricultural equipment storage and repair shop on property located on the south side of Bradbury Road and 3/4 of a mile west of Vincent Road in the Delhi SUDP. The project site is designated Delhi Community Plan - Low Density Residential in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. BG****

- D. **MINOR SUBDIVISION APPLICATION No. MS07-041 - Frank Baba** - To create two parcels of 20.15 acres each on property located on the southwest corner of Linwood Road and Pepper Street in the Ballico 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. BG**
- E. **MINOR SUBDIVISION APPLICATION No. MS07-035 - Bear Creek Ranch Partnership** – To divide a 103.4 acre parcel into 4 parcels Parcel 1 = 32.12 acres and Parcels 2, 3 and 4 = 23.76 acres each in size on property located on the north side of Olive Avenue, ½ mile west of Arboleda Drive in the Merced 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**
- F. **DEVELOPMENT AGREEMENT FOR CONDITIONAL USE PERMIT APPLICATION No. CUP07-005 AND MINOR SUBDIVISION APPLICATION No. MS07-011 - Pacific Holt Corporation** - To adopt an ordinance entering into a development agreement in accordance with Article 2.5 of Chapter 4 of Division 1 of the Government Code pertaining to the rights and responsibilities of both the property owner and Merced County regarding the construction of a 19,375 square foot agricultural well drilling, pumping, and repair facility and the division of 32.15 acres into a 5.0 acre parcel and a 27.15 acre remainder parcel. The project site is located at the southeast corner of Highway 59 and Vassar Road in the Merced area. The project site is designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO RECOMMEND THE BOARD OF SUPERVISORS APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG**

VI. **CORRESPONDENCE**

VII. **GENERAL BUSINESS**

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.

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF NOVEMBER 7, 2007

A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of November 7, 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 9:13 a.m., on November 7, 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 Rudy Buendia

Staff Present: Robert Lewis, Development Services Director
 William Nicholson, Assistant Development Services Director
 Kim Anderson, Recording Secretary
 David Gilbert, Senior Planner
 Brian Guerrero, Planner I
 James Holland, Senior Planner

Legal Staff: Bob Gabriele, Deputy County Counsel

Commissioners Absent: Commissioner Cindy Lashbrook

III. APPROVAL OF MINUTES

M/S MOBLEY - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF OCTOBER 24, 2007.

IV. CITIZEN COMMUNICATIONS

Monty Tomlinson, Celeste resident, gave a handout to the Commissioners regarding the proposed homeless shelter on E. Hwy 140 between Santa Fe and Kibby Road. He is against the project and states that the crime will increase, there would be more traffic, there is a lack of businesses within walking distance. There would also be an increased drain on water and sewer systems at capacity. The residents often deal with poor water pressure and backed up sewer systems. The value of homes would be affected as well. The letter also contained signatures of surrounding neighbors in opposition to the proposed project.

V. PUBLIC HEARINGS

- A. GENERAL PLAN AMENDMENT No. GPA07-007 - County of Merced - To amend the General Plan land use designation from Agricultural to Highway Interchange Center (H-I-C) Commercial for six parcels totaling 5.16 acres. The project is located at the northeast corner of Gonzaga Road and San Luis Drive in the Santa Nella area and zoned C-2 (General Commercial). **TO RECOMMEND THE BOARD OF SUPERVISORS APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG****

Planner David Gilbert presented the staff report and recommendations of approval dated November 7, 2007.

The public hearing opened at 9:27 a.m.

No one spoke in favor or opposition to this application.

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

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS GENERAL PLAN AMENDMENT No. GPA07-007 FROM CEQA.

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS TO APPROVE GENERAL PLAN AMENDMENT No. GPA07-007 BASED ON THE ABILITY TO MAKE THE FINDINGS AND CONDITIONS AS LISTED IN THE STAFF REPORT.

- B. ADMINISTRATIVE APPLICATION No. AA07-077 - Maria Sanchez - To establish a semi-mobile food vendor on an existing convenience store property located west of Hwy 59 South of Cone Avenue in the Merced area. The project site is designated General Commercial Land Use in the General Plan and zoned M-1 (Light Manufacturing). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG****

Planner David Gilbert presented the staff report and recommendations of approval dated November 7, 2007.

The public hearing opened at 9:31 a.m.

Brenda Esquives, 331 S. Hwy 59, and owner of a taco truck nearby the proposed application, is concerned that there are too many taco trucks in the area already. This project would affect her business. She states that another taco truck was in the area for 3 weeks and not permitted. She asked the Commission to reconsider this application.

Chairman Steve Sloan asked if there were any other permits in the area for taco trucks. Ms. Esquives, states that there is a taco truck right off of the freeway on Martin Luther King Jr. Way and another one is located within the Merced County Fairgrounds.

Commissioner Mobley feels that the traffic flow in the area would be rough. Planner Dave Gilbert added that the area is somewhat congested. He did a site visit around 2pm one day and the traffic was not bad.

Maria Sanchez, applicant, understands Ms. Esquives's concerns, but she would like to make a living as well. She feels that the convenience store Shannon's has room for the taco truck. She should have an opportunity to open the taco truck like anyone else would and not restrict competition.

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

Commissioner Mobley voiced his reservations of the crowding and possibly a safety issue. Chairman Sloan added that Shannon's traffic is busy. Commissioner Buendia asked how big the taco truck is. Planner Dave Gilbert states that the taco truck is 10 ft. wide and 18' long and would be parked behind the store and showed on the aerial map where it would be placed. Commissioner Mobley suggested a different parking spot for the taco truck since the proposed spot does not have enough room and is located behind the gas station islands. Mr. Gilbert indicated if the taco truck was moved further back, customers would not be able to see the truck from the Hwy 59. Chairman Sloan feels that the proposed spot for the taco truck is a poor choice of location. He is not against the mobile vendor, but its not a good location to place one. Commissioner Buendia suggested a site visit of the property.

Bob Gabriele, County Counsel, indicated for the record that the congestion, safety issues are sufficient enough to support reconsideration. There is no practical problem with the proposal to take it out of qualifying for an exemption.

Chairman Sloan expressed his concerns with the safety and traffic issues. He suggested continuing this application for the opportunity to look at the site to see if the use would be practical. Mr. Gabriele recommended the Commission to address their concerns with this project and view the traffic patterns while on the site visit. Chairman Sloan suggested the Commission visit the site on their own time to get different perspectives of the site.

Bill Nicholson, Assistant Development Services Director, added that the Public Works/ Road Division would not be responsible for the roads on the Hwy 59 and that CalTrans would be the Department that would comment on any issues raised regarding the road safety.

Chairman Sloan moved to continue this application to the November 28, 2007 meeting.

This item has been continued to the November 28, 2007 Planning Commission meeting to allow the Planning Commissioners to make a site visit regarding this project.

- C. CONDITIONAL USE PERMIT No. CUP07-025 - Edward Penick** - To bring into conformance an existing agricultural equipment repair facility and to permit a 60' x 80' agricultural equipment storage and repair shop on property located on the south side of Bradbury Road and 3/4 of a mile west of Vincent Road in the Delhi SUDP. The project site is designated Delhi Community Plan - Low Density Residential in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. BG**

Planner Brian Guerrero presented the staff report and recommendations of approval dated November 7, 2007.

The public hearing opened at 10:18 a.m.

Edward Penick, applicant/owner, states that he has been at the property for 25 years and has had no complaints from his neighbors. He asked for approval of this application.

The public hearing closed at 10:19 a.m.

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. CUP07-025, FROM CEQA.

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED NOVEMBER 7, 2007, AND MAKES THE 12 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 12 FINDINGS, APPROVES CONDITIONAL USE PERMIT No. CUP07-025 SUBJECT TO THE 14 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. Conditional Use Permit Application No. CUP07-025 is to legalize an existing agricultural equipment repair business and to add a 60'x 80' storage and repair shop. The facility shall be located in a manner as described in the plot plan, submitted application and operational statement. Minor Modifications may be approved by the Development Services Director.
2. The applicant shall comply with all standard conditions of approval listed in the Planning Commission Resolution No. 97-1.
3. For the purpose of conditions monitoring, an inspection fee in the amount of **\$300** 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/ property owner at the established hourly rate at the time of the inspection. This permit will not be considered valid until the conditions monitoring fee has been paid.
4. The applicant shall comply with all applicable County, State and Federal regulations.
5. The hours of operation for the agricultural repair shop facility shall occur between the hours of 7:00 am to 7:00 pm daily. No more than two (2) employees shall be allowed.
6. The applicant shall install two parking spaces according to standards described in Section 18.40.02 of the Merced County Zoning Code.
7. The applicant shall install Type A typical opaque screens to satisfy landscape requirements as detailed in Section 18.38.04 F 3(a).
8. The applicant/property owner shall maintain the landscaping, buildings and parking area at all times.

Environmental Health Division:

9. Hazardous materials stored on the site, over the threshold quantities, require that a hazardous material business plan (HMBP) be filed with this Division.

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(Threshold quantities – 55 gallons of liquid, 200 cubic feet of compressed gas or 500 pounds of solid) Contact Vickie Hayer at (209) 381-1083.

10. The applicant shall install an on-lot sewage disposal system that is permitted through the Division.
11. The applicant shall obtain a permit from the Division if a new water well is installed.

Public Works Department Conditions:

12. The property owner shall enter into a Deferment of Construction Agreement with the Department of Public Works for Level 2 Improvements as prescribed in Chapter 16.08.040 of the Merced County Code. The applicant shall provide the grant deed(s) and legal description(s) necessary for the preparation of the agreement. The applicant shall pay the current processing fee for the preparation agreement. The agreement must be signed by the property owner(s), notarized, and recorded prior to the issuance of any new building permit.

Building and Safety Division Conditions

13. The applicant should properly stripe and install signage for a handicap space on his site and as close as reasonably possible to the main entrance. He will also need a loading zone for that parking as required by the code.

Turlock Irrigation District Conditions:

14. Business activities on site must not impact the ability of the irrigation pipeline, running from west to east approximately 100-feet south of Bradbury Road, to deliver water to downstream parcels.

- D. MINOR SUBDIVISION APPLICATION No. MS07-041 - Frank Baba - To create two parcels of 20.15 acres each on property located on the southwest corner of Linwood Road and Pepper Street in the Ballico 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. BG****

This item has been continued to the November 28, 2007 meeting.

- E. MINOR SUBDIVISION APPLICATION No. MS07-035 - Bear Creek Ranch Partnership – To divide a 103.4 acre parcel into 4 parcels Parcel 1 = 32.12 acres and Parcels 2, 3 and 4 = 23.76 acres each in size on property located on the north side of Olive Avenue, ½ mile west of Arboleda Drive in the Merced 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****

Bear Creek Ranch Partnership submitted a request to continue this application to the November 28, 2007 meeting and Planning staff agreed.

- F. DEVELOPMENT AGREEMENT FOR CONDITIONAL USE PERMIT APPLICATION No. CUP07-005 AND MINOR SUBDIVISION APPLICATION No. MS07-011 - Pacific Holt Corporation - To adopt an ordinance entering into a development agreement in accordance with Article 2.5 of Chapter 4 of Division 1 of the Government Code pertaining to the rights and responsibilities of both the property owner and Merced County regarding the construction of a 19,375 square foot agricultural well drilling, pumping, and repair facility and the division of**

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32.15 acres into a 5.0 acre parcel and a 27.15 acre remainder parcel. The project site is located at the southeast corner of Highway 59 and Vassar Road in the Merced area. The project site is designated as Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **TO RECOMMEND THE BOARD OF SUPERVISORS APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG**

Planner David Gilbert presented the Staff Report and Recommendations of approval dated November 7, 2007.

The public hearing opened at 10:27 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 10:28 a.m.

MOTION: M/S TANNER - BUENDIA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS ADOPT THE DEVELOPMENT AGREEMENT PREPARED FOR CONDITIONAL USE PERMIT APPLICATION No. CUP07-005 AND MINOR SUBDIVISION APPLICATION No. MS07-011.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

Robert Lewis, Development Services Director, reminded the Planning Commission of the closed session/luncheon from 11am to 2pm on November 28, 2007, following the regularly scheduled Planning Commission meeting to discuss existing litigation with County Counsel's office.

Merced County General Plan Focus Group meetings will be held on November 13 and November 14th in Room 301 and Room 310. The schedule is available on the Merced County Planning website.

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 10:31 a.m.