



**PLANNING AND COMMUNITY  
DEVELOPMENT DEPARTMENT**

**Robert A. Lewis**  
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Equal Opportunity Employer

**PLANNING COMMISSION AGENDA  
REGULAR MEETING OF DECEMBER 19, 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. MS07-032 - David & Sherrie Van Vliet - To divide a 115.46 acre parcel into four parcels and a remainder parcel: Parcel 1 = 20.0 acres, Parcel 2 = 20.62 acres, Parcel 3 = 20.0 acres, Parcel 4 = 20.0 acres, and remainder parcel = 34.84 acres. The project is located on the north side of Keyes Road, 2,000 feet west of Fields Road in the Snelling 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. Continued from the December 5, 2007 meeting. BG****

**B. CONDITIONAL USE PERMIT APPLICATION No. CUP07-012 - John Garcia - To bring into conformance an existing used car sales lot, located on 1.56 acres that includes recreational vehicle sales. The project site is located at the northwest corner of Ashby Road and Beachwood Drive in the Franklin-Beachwood area and designated Franklin-Beachwood SUDP General Commercial land use in the General Plan and zoned C-2 (General Commercial). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the November 28, 2007 meeting. JH****

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- C. ZONE VARIANCE No. ZV07-004 AND MINOR SUBDIVISION APPLICATION No. MS07-043 - Humberto Vera** - To vary from the minimum 20 acre parcel size in the A-1 zone and divide a 33.6 acre parcel into two parcels: Parcel 1 = 12 acres and Parcel 2 = 21.6 acres on property located on the east side of Central Avenue, 800 feet south of Almond Avenue in the Winton 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. Continued from the November 28, 2007 meeting. JH**
- D. CONDITIONAL USE PERMIT No. CUP07-024 - V.O.J.E. INC** – To stockpile 5,000 tons of aggregate material and to allow truck parking and truck minor maintenance on a portion of a 50.39 acre parcel. The project site is located at the northeast corner of Arboleda Drive and Childs Avenue in the Merced area. The property 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. GB**
- E. CONDITIONAL USE PERMIT No. CUP07-019 - Hector Martinez** - To establish a used car lot and construct a 4,590 sq. ft. building for the purpose of relocating an existing used car dealership on a 0.52 acre parcel. The project is located on the east side of Winton Way and 100 feet north of Santa Fe Drive in the Winton SUDP area. The project site is designated General Commercial land use in the General Plan and zoned C-2 (General Commercial). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. GB**
- F. CONDITIONAL USE PERMIT No. CUP07-021 - Apostolic Redemption Church** - To build a 9,000 sq. ft. church facility and to build two 4,800 sq. ft. residential duplex units on two parcels totaling 3.0 acres, located on the south side of Childs Avenue, 300 feet east of "D" Street in the Merced area. The project site is designated Merced SUDP - Low Density Residential and zoned R-2 (Two-Family Residential). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG**
- G. 2<sup>ND</sup> MODIFICATION No. MM07-024 TO CONDITIONAL USE PERMIT NO. CUP96-015 - California Psychiatric Transitions** - To add a 20,000 square foot addition onto an existing rehabilitation facility, to increase patient beds from 50 to 98, and to increase the number of employees from 75 to 125, on property located on the east side of Hinton Avenue, 1000 feet north of August Road in the Delhi area. The subject property is designated Delhi Community Plan - Low Density Residential land use in the General Plan and zoned R-1 (Single Family Residential). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH**

**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 DECEMBER 19, 2007**

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A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of December 19, 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 9:10 a.m., on December 19, 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  
   James Holland, Senior Planner  
   David Gilbert, Senior Planner  
   Brian Guerrero, Planner I  
   Gene Barrera, 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 NOVEMBER 28, 2007 AND DECEMBER 5, 2007.**

**IV. CITIZEN COMMUNICATIONS**

None

**V. PUBLIC HEARINGS**

**A.      MINOR SUBDIVISION APPLICATION No. MS07-032 - David & Sherrie Van Vliet - To divide a 115.46 acre parcel into four parcels and a remainder parcel: Parcel 1 = 20.0 acres, Parcel 2 = 20.62 acres, Parcel 3 = 20.0 acres, Parcel 4 = 20.0 acres, and remainder parcel = 34.84 acres. The project is located on the north side of Keyes Road, 2,000 feet west of Fields Road in the Snelling 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. Continued from the December 5, 2007 meeting. BG****

Planner Brian Guerrero presented the Staff Report and Recommendations dated December 19, 2007.

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The public hearing was open from the December 5, 2007 meeting.

Julie Barcelos, Mid Valley Engineering, states that the almond orchards are active and some newly planted almonds are active as well. The parcels will be put in the name of the applicants children and they are just creating paper lines with no land use changes. She asked for approval of this application.

Maureen McCrory, Valley Land Alliance, stated that the engineer from Mid Valley Engineering does not acknowledge the need for the split now and the children can add up to 5 homes per parcel. She requested to use different criteria or count for the average parcel sizes.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, agrees with the Planning Departments staff report and indicates that long term impacts need to be evaluated. The splits in the past are becoming a trend. She does not agree that these are paper lots.

Dave Van Vliet, applicant, wants to split the property for his children and they will not put homes on the parcels and states that the property will remain active in farming.

The public hearing closed at 9:32 a.m.

**1<sup>ST</sup> MOTION: M/S LASHBROOK – BUENDIA, MOVED TO DENY MINOR SUBDIVISION APPLICATION No. MS07-032 (NAY BY COMMISSIONER TANNER, COMMISSIONER MOBLEY AND CHAIRMAN SLOAN), THE MOTION TO DENY THE APPLICATION DIED WITH A VOTE OF 2 - 3.**

**2<sup>ND</sup> MOTION: M/S TANNER – MOBLEY, AND CARRIED BY A VOTE OF 3 – 2, (NAY BY COMMISSIONER LASHBROOK AND COMMISSIONER BUENDIA), THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. MS07-032, FROM CEQA.**

**MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 3 - 2, NAY BY COMMISSIONER LASHBROOK AND COMMISSIONER BUENDIA, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED DECEMBER 19, 2007, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT FOR MINOR SUBDIVISION APPLICATION No. MS07-032, APPROVES MINOR SUBDIVISION APPLICATION No. MS07-032 SUBJECT TO THE 9 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.

Department of Public Works Road Division

4. Keyes Road, a 50 foot wide county road fronts the southerly boundary of the property on the opposite side of a 40 foot lateral. This portion of Keyes Road has not been formally dedicated to Merced County for road purposes. If the property owner owns the underlying fee to the center of Keyes Road, the existing 25 feet centerline, shall be dedicated to the county for public road purposes on the parcel map.
5. Figmond Avenue, a 40 foot wide county road fronts the northerly boundary of the property. A 20 foot strip of this road lying in the west half of Section 31, T4S, R14E has not been formally dedicated to Merced County for road purposes. The property owner shall dedicate, notated on the parcel map, this 20 foot strip for road purposes, measured from the centerline of Figmond Avenue.
6. In addition to the existing undedicated 20 foot strip on Figmond Avenue, to complete the property owner's half of a 60 foot ultimate right-of-way on Figmond Avenue, the property owner shall dedicate, notated on the parcel map and additional 10 feet along the Figmond Avenue frontage.

Merced Irrigation District

7. The applicant must enter into an appropriate crossing agreement with the District for any crossings over or under MID facilities including, but not limited to, driveways, utilities or conduits, existing and future.
8. That MID irrigation water delivery be ensured to all new parcels and an irrigation easement be provided from the existing irrigation delivery gate currently serving the whole property if there is not an irrigation delivery located within each parcel.
9. That applicant will not discharge any drainage water from the property into MID facilities.

- B. CONDITIONAL USE PERMIT APPLICATION No. CUP07-012 - John Garcia -** To bring into conformance an existing used car sales lot, located on 1.56 acres that includes recreational vehicle sales. The project site is located at the northwest corner of Ashby Road and Beachwood Drive in the Franklin-Beachwood area and designated Franklin-Beachwood SUDP General Commercial land use in the General Plan and zoned C-2 (General Commercial). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Continued from the November 28, 2007 meeting. JH**

**This application was continued to the January 23, 2008 Planning Commission meeting. The representative, Mike Smith with CCPS, agreed to continue this application.**

- C. ZONE VARIANCE No. ZV07-004 AND MINOR SUBDIVISION APPLICATION No. MS07-043 - Humberto Vera -** To vary from the minimum 20 acre parcel size in the A-1 zone and divide a 33.6 acre parcel into two parcels: Parcel 1 = 12 acres and Parcel 2 = 21.6 acres on property located on the east side of Central Avenue, 800 feet south of Almond Avenue in the Winton 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. Continued from the November 28, 2007 meeting. JH**

Planner Brian Guerrero presented the Staff Report and Recommendations dated December 19, 2007.

The public hearing opened at 9:59 a.m.

Mike Smith, CCPS, stated that at the last meeting, the applicant indicated that they agreed to keep the property in farming. The property line adjustment in the past was used to create a parcel to the north. The property split is to buy a member of the family out. They agreed to go into the Williamson Act, but it's not a permanent easement.

Maureen McCrory, Valley Land Alliance, states that the zone variance is not needed and does not meet the criteria for the variance and is worse than a minor subdivision. Family estate planning can be done without a property split. She argues that a zone variance is precedent setting. She asked the Commission to deny this project.

Diana Westmoreland-Pedrozo with the Merced County Farm Bureau, concurs with staff recommendations, however of granting a zone variance because of the canal is precedent setting and will have an impact on the County. She feels this is not estate planning.

Mr. Smith added that the average parcel size is 12 acres in the area and follows the natural split.

Ms. McCrory asked if the Williamson Act application has been submitted. Chairman Sloan said a condition can be added to require that. Ms. McCrory stated that she would still be against this application and parcel splits should not be approved.

The public hearing closed at 10:15 a.m.

Commissioner Lashbrook states that access to the canal is an asset, not a special hardship. Every time a parcel is split, its easier for the next one, as parcels get smaller in the area.

There was discussion between Counsel Bob Gabriele and Commissioner Lashbrook on the separate CEQA findings regarding the motion.

**MOTION: M/S LASHBROOK - BUENDIA, AND CARRIED BY A VOTE OF 4 - 1, (NAY BY CHAIRMAN SLOAN), THE PLANNING COMMISSION DENIES ZONE VARIANCE No. ZV07-004 AND MINOR SUBDIVISION APPLICATION No. MS07-043 DUE TO THE INABILITY TO MAKING FINDINGS 4, 5 & 6 AS WRITTEN IN THE STAFF REPORT.**

- D. CONDITIONAL USE PERMIT No. CUP07-024 - V.O.J.E. INC – To stockpile 5,000 tons of aggregate material and to allow truck parking and truck minor maintenance on a portion of a 50.39 acre parcel. The project site is located at the northeast corner of Arboleda Drive and Childs Avenue in the Merced area. The property 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. GB****

**This application has been continued to an unknown Planning Commission date. Correspondence was received from the California Department of Transportation and further analysis will be required by Planning Staff.**

- E. CONDITIONAL USE PERMIT No. CUP07-019 - Hector Martinez - To establish a used car lot and construct a 4,590 sq. ft. building for the purpose of relocating an existing used car dealership on a 0.52 acre parcel. The project is located on the east side of Winton Way and 100 feet north of Santa Fe Drive in the Winton SUDP area. The project site is designated**

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General Commercial land use in the General Plan and zoned C-2 (General Commercial). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.**  
**GB**

Planner Gene Barrera presented the Staff Report and recommendations of approval dated December 19, 2007.

The public hearing opened at 10:51 a.m.

Victor Flores, owner, feels this application would be a good opportunity for the community.

The public hearing closed at 10:52 a.m.

**MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. CUP07-019, FROM CEQA.**

**MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED DECEMBER 19, 2007 AND MAKES THE 8 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 8 FINDINGS, APPROVES CONDITIONAL USE PERMIT No. CUP07-019 SUBJECT TO THE 26 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**  
**Conditions:**

Merced County Planning and Community Development Department:

1. Conditional Use Permit Application No CUP07-019 is intended for the construct a 4,590 square foot building for the relocation of an existing used auto sales lot on a .52 acre parcel.
2. The project shall be developed in a manner that is consistent with the approved plot plan and the Applicant's Operational Statement. Minor modifications may be approved by the Development Services Director upon the submittal of an acceptable application.
3. The applicant shall comply with all of the standard conditions of approval listed in the Planning Commission Resolution No 97-1 (attached).
4. For the purpose of conditions monitoring, an inspection fee in the amount of **\$304** 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.
5. The applicant shall comply with the provisions of zoning code Section 18.47.16 providing operational standards for Automobile Sales.
6. The applicant shall comply with all applicable County, State and Federal regulations.



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7. The hours of operation of the used car dealership shall occur between the hours of 8:00 am and 8:00 pm, and is approved to be open for business 7 days a week.
8. A maximum of four individuals shall be employed at the site.
9. The use of the parking lot shall be limited to public parking with the exception of three (3) parking spaces which will be dedicated for used vehicle sales.
10. The property owner of the project site shall abate and graffiti on the premises within one week of the graffiti being placed on the project site.
11. The property owner shall utilize a neutral color scheme on the exterior siding of any structure located on the project site.

Commerce Aviation and Economic Development Department:

12. The applicant/owner shall obtain a Business License Permit from the prior to operating the Business. The Property Owner/applicant shall pay all required fees for the Business license. The Property owner/applicant shall annually renew the Business License and pay all required fees.

Merced County Public Works Department Road Division:

13. The applicant will reconstruct curb, gutter or sidewalk only where modification is necessary, such as opening or closing a “curb cut” for a driveway. The property owner is responsible for providing appropriate handicap access. It is the county’s responsibility to repair and maintain the existing curb, gutter, and sidewalk not affected by the proposed use.
14. The applicant shall retain an engineer to assess storm drainage and the best method to capture runoff and direct the runoff to a drainage system serving the area.
15. The right-of-way width for Winton Way is 100 feet. The plot plan shall be revised to reflect this width. The builder shall not occupy any portion of the right-of-way.
16. Construction plans prepared by a Civil Engineer shall be submitted to the Department of Public Works for review and approval. Existing topographical features and proposed new facilities shall be shown. A site grading plan shall be included in the set.
17. The applicant shall upgrade/install street lighting along the parcels to conform to County standards.
18. The alley along the parcel shall be reconstructed. If the applicant wishes to use the alley as an access to the project, improvements of the entire alley from the entrance at Park Avenue will be required. The county does not maintain alleys. Alleys are not in the county’s maintained road system. Each property owner is responsible for the condition of the alley along their parcel.

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19. All improvements within county right-of-ways and modifications to existing public infrastructure shall be done under encroachment permit(s) obtained from the Department of Public Works/Road Division and subject to inspection and approval by a Road Division inspector.

The Merced Irrigation District:

20. If the subject property storm water runoff discharges into the County storm pond at Cottage and Santa Fe Drive, the property owner would be required to enter into an Agreement of Inclusion with the Merced Irrigation District Drainage Improvement District (MIDDID No. 1), paying all applicable fees.

The Buildings and Safety Division:

21. You must hire an architect or engineer licensed in the state of California to draw the plans for this building. The building must be made handicap accessible and all appropriate details should be included in the plans. The plans and calculations must be submitted to the Building department for approval and a permit before any construction can begin.
22. The handicap parking is not set up legally. The loading zone area must be on the passenger side.
23. All of the doors open inward. Doors used for exiting of 10 people or more must be open in the direction of travel when exiting.
24. There is only a 5 foot setback on the sides and rear of the building. That requires that those walls be on at least 1 hour fire resistive construction. Also, any openings such as doors and windows are required to have protection rating of at least 45 minutes.

Environmental Health Division:

25. No environmental impacts were noted during review of this application; however, any quantities of hazardous materials stored on-site over threshold quantities will require that a hazardous material business plan (HMBP) be filed with this Division. Likewise any hazardous wastes generated or stored on-site will trigger the HMBP requirement. Contact Vickie Hayer at (209) 381-1083 to obtain information.

Fire Department:

26. The applicant shall implement all applicable requirements of the County Fire Department as prescribed in the Uniform Fire Code (UFC) and National Fire Protection Association (NFPA) Standards prior to issuance of a building and/or occupancy permit.

- F. **CONDITIONAL USE PERMIT No. CUP07-021 - Apostolic Redemption Church** - To build a 9,000 sq. ft. church facility and to build two 4,800 sq. ft. residential duplex units on two parcels totaling 3.0 acres, located on the south side of Childs Avenue, 300 feet east of "D" Street in the Merced area. The project site is designated Merced SUDP - Low Density Residential and zoned R-2 (Two-Family Residential). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG**

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Planner David Gilbert presented the Staff Report and recommendations of approval dated December 19, 2007. Merced Irrigation District submitted additional Conditions of approval to be included with staffs conditions.

The public hearing opened at 11:01 a.m.

Duane Andrews, Golden Valley Engineering, reviewed the added Merced Irrigation District's conditions and agrees with all conditions. He asked the Commission to support this application.

Diana Westmoreland-Pedrozo, Merced County Farm Bureau, is concerned with how the County is working with the City of Merced on approving projects that will be annexed into their community. The roads on Gerard and Tyler Avenue are in bad condition. Bill Nicholson, Assistant Development Services Director, explained that the whole area will be annexed in logical pieces. The sewer, landscape, parking and other improvements will be designed to City of Merced standards as projects will get annexed to the City over time. Ms. Pedrozo stated her concern with the drainage basin and how that will be drained. There are problems with e-coli in that region. There is concern where the drainage water is going. She doesn't have problems with the actual project, but concerns in that area.

The public hearing closed at 11:06 a.m.

**MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. CUP07-021 FROM CEQA.**

**MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED DECEMBER 19, 2007, AND MAKES THE 8 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 8 FINDINGS, APPROVES CONDITIONAL USE PERMIT No. CUP07-021 SUBJECT TO THE 29 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Planning and Community Development Department

1. Conditional Use Permit Application No. CUP07-021 proposes to construct a 9,000 square foot church and two (2) 4,800 square foot residential duplex units on 3.0 acres and shall be developed and operated consistent with the approved plot plan, elevations, floor plans, and operational statement.
2. Applicant/property owner shall comply with all Conditional Use Permit conditions as contained in the Planning Commission Resolution No. 97-1.
3. Applicant/property owner shall comply with all Federal, State, and Local Agencies regulations
4. For the purpose of condition monitoring, an inspection fee in the amount of **\$304** 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

5. The applicant shall meet all applicable requirements of the Merced County Fire Department for compliance with the Uniform Fire Code.

Public Works/Building & Safety Division

6. Building plans shall be completed and submitted for the duplex units prior to any construction. Because the duplex units are Residential R3 occupancies you are not required to use a licensed engineer or architect for the plans, however it is highly recommended
7. An engineer or architect licensed in the state of California shall draw up and submit building plans for the church. The church building shall be handicap accessible and all appropriate details for the building and the parking lot shall be included in the plans. The plans and calculations are to be submitted to the Building & Safety Division of Public Works for approval and a permit before any construction can begin.

Public Works/Road Division

8. The property owner/applicant is required by Section 16.08.040 to construct Level 2 Improvements. Generally, this includes but is not limited to construction of curbs, gutters, sidewalks, driveways, and installation of street lighting as well as dedication of right-of-way to accommodate necessary improvements. Improvements shall be constructed prior to the road division signing off on issuance of occupancy for the church building or residences proposed. Improvements shall be constructed to City of Merced standards and subject to inspection by Merced County. Improvement plans shall be submitted to the Department of Public Works, subject to approval prior to issuance of an encroachment permit required for the construction of said improvements.
9. The property owner shall dedicate an additional 17 feet of right-of-way along the Childs Avenue frontage per City of Merced standards for ultimate right-of-way on Childs Avenue of 94 feet, or 47 feet measured from centerline.
10. The applicant shall retain a Licensed Civil Engineer for the design and construction of an on-site storm drainage basin, or provide a design which ties into other drainage facilities in the area, if any. Currently, the site includes four separate properties. If the properties remain separate, drainage easements will be required to insure that adequate drainage of the site is maintained in the event that any of the parcels are sold.
11. The driveways shall be designated as “Entrance Only” and “Exit Only”.

City of Merced

12. Prior to issuance of a building permit from Merced County, the property owner shall apply and receive an encroachment permit from the City of Merced. The improvements required by this encroachment permit will include the widening of Childs Avenue to a fully improved 94-foot wide arterial street including but not limited to curb, gutter, park strip, street trees, and sidewalk.

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13. Prior to issuance of a building permit, the property owner shall dedicate 30 feet of property along the rear of the property to the City of Merced for future use as part of a 60-foot wide local road to be extended in an east-west alignment. The site plan shall be modified to show at least one driveway connection between this future road and the project parking lot.
14. In order for sewer service to be provided to the newly created parcel, the property owner shall request a sewer agreement with the City of Merced. This agreement shall be approved by the City Council.
15. All on-site parking shall comply with City Standards. This shall include the size and location of all parking stalls as well as the aisle widths and materials used for the parking surface. In addition, parking lot trees shall be installed at a ratio of one (1) tree for every six (6) parking stalls.
16. An on-site fire hydrant shall be provided.
17. Upon annexation, the two parcels created by the revised site plan shall be merged into one parcel.
18. As shown on the revised site plan, some of the required parking for the church will be on the newly created parcel. The property owner shall sign and record a parking agreement between the two parcels allowing the church use of and access to the parking stalls on the newly created parcel.
19. The storm basin shall be designed to allow future access to the road to be constructed on the south side of the property. A driveway shall be constructed on-site at the time of church construction for future use with this access.
20. All signage for the site shall conform to the City of Merced Sign Ordinance. No flashing or neon signs shall be allowed. Signage shall be limited to wall signs and/or a decorative wall sign or monument sign complying with Chapter 17.36 of the City's Zoning Ordinance. All signs shall be reviewed and approved prior to the property owner applying for a sign permit with the County of Merced.
21. All changes to the site shall be approved by the City of Merced prior to being submitted to the County of Merced for any building permits or other approval. A materials and color samples for the buildings shall be submitted to the City of Merced prior to construction.

Environmental Health Division

22. Any septic systems or wells that exist within unincorporated areas of the County shall be abandoned under permit from Environmental Health.
23. If storm water is to be discharged to any MID facility, the owner/applicant shall enter into a "Subdivision Drainage Agreement" with the Merced Irrigation District Drainage Improvement District No. 1, paying all applicable fees.

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24. A "Construction Agreement" between the owner and the MID shall be executed for any work associated with MID facilities.
25. The property owner must obtain a "Non-exclusive Driveway License Agreement" for all crossings over or under any MID facilities, including utilities, bridges and pipelines.
26. A signature block will be provided for MID on all Improvement Plans.
27. Placing the Zentner Lateral in an underground pipeline meeting MID standards. MID would then ask for an appropriate width deeded easement in exchange for the quitclaiming of the existing unspecified width easement for both the Zentner and Zentner "A" laterals.
28. Upgrading the Zentner Lateral "A" pipeline to current MID engineering criteria.
29. The irrigation easements should be kept clear for MID access. IF there are to be fence installed across MID's easements, permission must be acquired from MID and either removable fence sections or access gates constructed to MID standards would be allowed.

- G. 2<sup>ND</sup> MODIFICATION No. MM07-024 TO CONDITIONAL USE PERMIT NO. CUP96-015 - California Psychiatric Transitions - To add a 20,000 square foot addition onto an existing rehabilitation facility, to increase patient beds from 50 to 98, and to increase the number of employees from 75 to 125, on property located on the east side of Hinton Avenue, 1000 feet north of August Road in the Delhi area. The subject property is designated Delhi Community Plan - Low Density Residential land use in the General Plan and zoned R-1 (Single Family Residential). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH****

Planner James Holland presented the Staff Report and recommendations of approval dated December 19, 2007.

Commissioner Lashbrook asked if the Delhi MAC had any comments regarding this application. Planner James Holland indicated they reviewed the project at their meeting and were in support of approving this project. The Commission also discussed the onsite trees and landscape buffers.

The public hearing opened at 11:27 a.m.

Ramon Torres, representative, agrees with the conditions in the staff report and thanked James Holland for his work on this application process.

The public hearing closed at 11:30 a.m.

**MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS 2<sup>ND</sup> MODIFICATION No. MM07-024 TO CONDITIONAL USE PERMIT NO. CUP96-015, FROM CEQA.**

**MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED DECEMBER 19, 2007, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES/DENIES 2<sup>ND</sup> MODIFICATION No. MM07-024 TO**

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**CONDITIONAL USE PERMIT NO. CUP96-015 SUBJECT TO THE CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Planning and Community Development Department

1. Modification No. MM07-024 to Conditional Use Permit Application No CUP96-015 proposes a 20,500 square foot expansion of an existing mental health rehabilitation facility on 7.2 acres of land located on Hinton Avenue, approximately 1,000 feet north of August Road, in the Delhi SUDP.
2. The project site shall be developed and operated in a manner that is consistent with the approved site plan and the applicant's Operational Statement. Minor modification may be approved by the Development Services Director.
3. The applicant shall comply with the standard site improvement conditions provided in Planning Commission Resolution 97-1 (Attached).
4. The applicant shall revise the site plan to provide for full (Type A) landscaping of the eastern property boundary or, alternatively, construct a minimum 6 feet masonry wall along this boundary consistent with Section 18.38.04.G.3.a of the Zoning Code. The proposed fire lane shall be redesigned as necessary to meet these requirements.
5. The applicant shall revise the site plan to provide for a net increase of at least 20 on-site parking spaces and submit improvement plans to the Planning and Public Works Departments demonstrating compliance with Section 18.40.04 of the Zoning Code in advance of any building permit submittal.
6. For the purpose of conditions monitoring, an inspection fee in the amount of **\$400** 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.

Department of Public Works Building and Safety Division

7. The applicant must apply for a construction permit from the Building Department, with 4 complete sets of plans and 3 sets of calculations being submitted for review. All plans must be completed by a California Licensed Engineer or Architect and be wet stamped and signed by that person. The entire facility will also have to meet applicable requirements for handicap accessibility and this should be shown on the submitted plans.

Department of Health Environmental Health Division

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8. Any hazardous materials stored on-site over threshold quantities (55 gallons for liquids, 200 cubic feet for compressed gases, or 500 pounds for solids) will require filing of a Hazardous Material Business Plan (HMBP) with the Division. Similarly, the on-site generation of any hazardous or medical wastes will require filing of a HBMP with the Division.

Turlock Irrigation District

9. The irrigation pipeline running along the eastern boundary of the project site shall be upgraded to current Turlock Irrigation District (TID) standards.
10. The Turlock Irrigation District shall review and approve all maps and plans of the project. If it is determined that irrigation facilities will be impacted, the applicant will need to provide irrigation improvement plans and enter into an Irrigation Improvements Agreement for the required irrigation facility modifications. There is a District Board approved time and material fee associated with this review.
11. Developed property adjoining irrigated ground must be graded so that finished grading elevations are at least 6 inches higher than irrigated ground. A protective berm must be installed to prevent irrigation water from reaching non-irrigated projects.
12. A 13 foot Public Utility Easement must be dedicated along all street frontages.
13. The owner/developer must apply for a facility change for any pole or electrical facility relocation. Facility changes are performed at developer's expense.
14. The District's electrical utility has existing overhead and underground power lines within this facility. Underground Service Alert must be notified before digging.

**VI. CORRESPONDENCE**

None

**VII. GENERAL BUSINESS**

Robert Lewis thanked the Commissioners, Staff for all their hard work.

Gene Barrera, Planner II, will be leaving the Planning Department. His last day is December 28, 2007.

**VIII. DIRECTOR'S REPORT**

None

**IX. ADJOURNMENT**

There being no further business, the meeting adjourned at 11:35 a.m.