



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

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Equal Opportunity Employer

**PLANNING COMMISSION AGENDA
REGULAR MEETING OF MARCH 12, 2008, 9:00 A.M.
2222 "M" ST., THIRD FLOOR, BOARD CHAMBERS, MERCED, CA 95340**

This Agenda and all supporting documentation for each hearing item is available online at www.co.merced.ca.us/planning/plancomarchive.html

Members of the public are advised that all pagers, cellular telephones and any other communication devices are to be turned off upon entering the Board Chambers.

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. MS08-001- Jimmy Romero - To divide a 28.72 acre parcel into a 1.15 acre financial parcel for a family member homesite and a 27.57 acre remainder on property located on the north side of Santa Rita Grade and 2,000 feet east of San Juan Road in the Dos Palos area. The project site is designated Agricultural in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.** Referral up based on evidence, testimony and documentary evidence that established a "controversy" with respect to the project from the Hearing Officer meeting of February 25, 2008. BG**

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- B. MINOR SUBDIVISION APPLICATION No. MS07-054 - David Baker** - To divide five parcels totaling 789 acres into 3 parcels and a remainder parcel with sizes of: Parcel 1 = 40 acres, Parcel 2 = 40 acres, Parcel 3 = 41 acres with a remainder parcel of 668 acres. The property is located at the northeast corner of Harmon Road and Highway 152 in the El Nido 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. Referral up based on evidence, testimony and documentary evidence that established a “controversy” with respect to the project from the Hearing Officer meeting of February 25, 2008. DG**
- C. ADMINISTRATIVE APPLICATION No. AA07-110 - Rafael Veliz & Miriam Aguilar** - To allow a semi-mobile food vendor at an existing automotive repair facility on property located on the west side of Highway 59, 600 feet north of Gerard 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**

VI. CORRESPONDENCE

VII. GENERAL BUSINESS

Michael Belluomini with the Merced Union High School District will be giving the Planning Commission a presentation on the District's Five Year Facility Plan.

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 MARCH 12, 2008

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of March 12, 2008, are available online at www.co.merced.ca.us/planning/plancomarchive.html.

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 March 12, 2008, 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
 Crystal Vargas, Recording Secretary
 Brian Guerrero, Planner I
 David Gilbert, Senior Planner

Legal Staff: Bob Gabriele, Deputy County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

Commissioner Lashbrook asked for more clarification of Maureen McCorry's comments in the Planning Commission minutes, in regards to her statements about the shortage of time allowed to add correspondence to the Planning Commission packets. Chairman Sloan felt that Ms. McCorry's comments were accurate in the Planning Commission minutes.

M/S MOBLEY - BUENDIA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF FEBRUARY 27, 2008.

IV. CITIZEN COMMUNICATIONS

Maureen McCorry, Valley Land Alliance, stated that there were inaccuracies in the Planning Commission minutes as well as the previous Hearing Officer minutes, and understands it is difficult for staff to take accurate notes so quickly, but she has many important facts that are not included in the minutes. She also said the deadline of 8 days to submit comments to be included in the staff report is not enough time and had wanted to submit comments by email for the Planning Commissioners to review prior to today's hearing, but staff determined the information was not relevant to submit to the Planning commissioners to review in advance of the hearing.

V. **PUBLIC HEARINGS**

- A. **MINOR SUBDIVISION APPLICATION No. MS08-001- Jimmy Romero** - To divide a 28.72 acre parcel into a 1.15 acre financial parcel for a family member homesite and a 27.57 acre remainder on property located on the north side of Santa Rita Grade and 2,000 feet east of San Juan Road in the Dos Palos area. The project site is designated Agricultural in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Referral up based on evidence, testimony and documentary evidence that established a “controversy” with respect to the project from the Hearing Officer meeting of February 25, 2008. BG**

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated March 12, 2008.

The public hearing opened at 9:30 a.m.

Wendy Romero, the applicant's daughter, stated that she has lived on the property for over 10 years in a mobile home and her entire family is near the property. Her family is only asking to remove the mobile home to allow them to build a new home. There have never been crops on the land since the family has owned it. This project is consistent with the Zoning Code and all other County requirements.

Maureen McCorry, Valley Land Alliance, stated that she is not opposing the family involved in this application, however is worried that a sellable parcel will be created if things went wrong. She feels that the Zoning Code is out of whack with the General Plan and it may be consistent with the Zone Code but the Zone Code doesn't make any sense. Secondly, the General Rule exemption is being ignored and this project is in blatant disregard for the General Plan. This project was originally scheduled for the Hearing Officer but is too complicated for that level of hearing. The 1 mile radius is not an adequate distance for the cumulative impact analysis in an agricultural community. They are talking about Countywide cumulative impacts. They are asking the Commission to consider these points in making a decision and that the Zone Code provision should be removed until the General Plan update is completed.

Duane Andrews, Golden Valley Engineering, stated that he has done dozens of these types of Minor Subdivision applications since 1995, they have never seen a foreclosure, and that these people are strong family farmers that will not let a stranger sit in the middle of their property. This project is the first one of its type to be heard at the Planning Commission level and that they are the most basic, most simple applications that they do.

The public hearing closed at 9:37 a.m.

Commissioner Lashbrook stated that it is hard to get a conventional loan for a farm over 5 acres and there isn't much of a financial option for farmers. She is for the continuation of family farming and she supports this application. They are not splitting the property to sell and believe that they want to keep the property in the family.

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MOTION: M/S TANNER – MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. MS08-001, FROM CEQA.

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MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MARCH 12, 2008, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 10 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION No. MS08-001 SUBJECT TO THE 6 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning and Community Development Department:

1. A Conditional Certificate of Compliance along with an “Exhibit Map”, legal descriptions of the Financing Parcel and the Remainder, and the Waiver Certificate, shall be recorded within two (2) years of the Planning Commission approval date as required by the Merced County Subdivision Code.
2. Recording of the documents stated in Condition No. 1 does not create the “Financing Parcel” as a separate legal parcel or instrument that can be conveyed to others. The parcel can only be created through the mortgage holder foreclosure and judicial proceedings if the mortgagee defaults on the loan.
3. The applicants shall comply with all County, State, and Federal regulations.
4. A “Right-to-Farm” Certificate shall be recorded, if and when a Parcel Map is recorded, along with the Exhibit Map notifying any potential buyer of the “Financing Parcel” that the property is in the vicinity of active farming operations and residents may be subject to inconveniences or discomforts resulting from the pursuit of agricultural operations.

Merced County Building & Safety Division:

5. The owner must get a demolition permit prior to removing the existing mobile home.
6. The owner must have a soils report done by a licensed soils engineer prepared for this site. That report must be submitted with plans for the new house when the applicant decides to build.

- B. MINOR SUBDIVISION APPLICATION No. MS07-054 - David Baker - To divide five parcels totaling 789 acres into 3 parcels and a remainder parcel with sizes of: Parcel 1 = 40 acres, Parcel 2 = 40 acres, Parcel 3 = 41 acres with a remainder parcel of 668 acres. The property is located at the northeast corner of Harmon Road and Highway 152 in the El Nido 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. Referral up based on evidence, testimony and documentary evidence that established a “controversy” with respect to the project from the Hearing Officer meeting of February 25, 2008. DG****

Planner David Gilbert presented the Staff Report and recommendations of approval dated March 12, 2008.

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

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David Heinrichs, Fremming, Parsons and Pecchenino, representing the Bakers, provided the Planning Commissioners with a map showing lot configurations and there is no change in land use. This application is for financial planning and farm management. There are 2 wells along the Eastside Bypass, and a pipeline on the north line of parcels 2 and 3 that provide water to parcels 1 and 2.

Maureen McCorry, Valley Land Alliance, stated that her comments are not directed towards the applicants and their issue is with County policy. She states that the staff report shows 7,235 acres of the 7,850 acres are over 80 acres in the area and 60% of the area is over 200 acres in size, that this proposal is going to drastically change the landscape in this region, and that it violates the General Plan. They don't see any agricultural justification for these divisions. She submitted 2 maps and a document showing the impacts in the area for the Commissioners to review. She stated that according to the US Fish & Wildlife Service, this property is in the recovery region for the upland kit fox and the applicants' land is at the center of the areas targeted as Valley floor linkages between natural communities. To say this project is exempt from CEQA is a mockery. It is clear that this area is considered to be recovery area for the Kit Fox. The Mariposa Slough, Fresno River bed and the East Side Canal provide habitat in this area. The applicants' land is in a flood plain and the water quality and quantity is a concern. It appears that the applicant has been conducting natural gas explorations on its neighboring properties and how does that impact their potential land use? Despite the applicant's intent, approval of this application will allow for legally saleable parcels along with the opportunity to add residences through an administrative hearing process. She asked the Commissioners to consider a condition of approval that no further home sites are permitted on the parcels created by this application. These are significant issues being raised today.

Lisa Baker, applicant's daughter, stated that she has been working with her father for 11 years and she built a home on the property 5 years ago and her family has been farming the parcel for 45 years and they don't have plans to develop the property or sell off parcels. She wants to be able to own her own home since her father currently owns it now, and that is the reason for the subdivision. No farmland will be taken out of production. There will be no changes in the use and their family is not in the gas exploration business.

The public hearing closed at 10:05 a.m.

The Planning Commissioners took a 15 minute break to review all documents submitted by Maureen McCorry.

Chairman Sloan stated that he is a long time farmer and he is very familiar with this property and was offered this property about 15 years ago but said he wasn't interested in purchasing it. The Bakers have done a great job since then on farming the property and it shows their devotion to agriculture and farming the property. He has no doubt that the applicants will keep the property in agricultural use.

Commissioner Lashbrook asked if the Department of Fish & Game had any comments on any endangered species or the recovery plan. Planner Dave Gilbert said that a number of agencies were sent referrals and the agencies had no comments regarding this project and they had 14 days to respond and did not.

Commissioner Lashbrook asked if a condition can be added to guarantee that too many homes can't be built on this property. She asked if the applicant would agree to that condition. Planner Dave Gilbert stated that the applicant could be asked about the condition, but he did talk to the applicant about placing a condition on the map that the project site remains in agricultural production and the applicant agreed to that as a condition.

Commissioner Tanner stated that the applicant has the right to take the 5 existing parcels and reducing them to 40 acre parcels in size and the owners are allowed to build a home on each parcel and he feels this is a good application. The parcel sizes are not being reduced, they are making bigger parcels. The arguments have been reduced, so why restrict the applicants.

Chairman Sloan agrees with Commissioner Tanner and doesn't understand why this application is being argued since the applicant is only asking for 40 acres parcels. The Planning Commissioners should not be hearing this application today and feels it should have been automatically heard by the Hearing Officer. He recommended that the applicant and property owner not agree to a new condition that would prevent the addition of new homes to the property. He would not agree to the condition himself and feels that adding such a condition is ludicrous.

Commissioner Mobley is not sure why we would have to restrict homes on these lots when we don't on others. The applicants had the lots already. Commissioner Lashbrook felt there should be some verbiage for the next General Plan. Commissioner Mobley added that the General Plan update may change some of these rules for the future, but the current rules are what should be followed for this application.

Chairman Sloan states that the minimum parcel sizes are 20 acres on A-1 lots and the applicant is asking for a minimum of 40 acres and feels this application should be automatic. They have been on the property farming for 45-50 years, have spent millions of dollars on the property, and have done a great job with it. He has no doubt as to their commitment to farming and for the Commissioners to be questioning whether they were going to sell off 40 acre parcels is just plain stupid and should not be challenged. Commissioner Lashbrook wanted to set a new policy to create a condition to protect farming. Chairman Sloan wants to set policies at the appropriate time and not while this application is being heard.

MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. MS07-054, FROM CEQA.

MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS OF APPROVAL DATED MARCH 12, 2008, AND MAKES THE 12 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 12 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION No.

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MS07-054 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.

Department of Transportation (Caltrans)

4. If the applicant intends to conduct any work within the Highway 152 right-of-way an encroachment permit shall be required

- C. ADMINISTRATIVE APPLICATION No. AA07-110 - Rafael Veliz & Miriam Aguilar - To allow a semi-mobile food vendor at an existing automotive repair facility on property located on the west side of Highway 59, 600 feet north of Gerard 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 March 12, 2008.

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

Mike Smith, CCPS, reviewed the staff report and is in agreement with the 11 conditions and asked for approval of this application.

The public hearing closed at 10:26 a.m.

MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS ADMINISTRATIVE APPLICATION No. AA07-110, FROM CEQA.

MOTION: M/S TANNER - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS OF APPROVAL DATED MARCH 12, 2008, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE

**9 FINDINGS, APPROVES ADMINISTRATIVE APPLICATION No. AA07-110
SUBJECT TO THE 11 CONDITIONS SET FORTH IN THE STAFF REPORT AS
FOLLOWS:**

Conditions:

Planning and Community Development Department

1. Administrative Application No. AA07-110 proposes to allow a semi-mobile food vender to be located within the paved area of existing auto repair facility and shall be located in a manner as described on the approved plot plan, submitted application and operational statement. Minor modifications may be approved by the Development Services Director.
2. 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.
3. If the Administrative Permit is not implemented within one year, it shall expire and become null and void. The Planning Commission may extend the Permit if a request is filed by the applicant prior to its expiration.
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.
5. The applicant shall comply with the Merced County Zoning Code Development Standards required for semi-mobile food vendors [Section 18.47.79(D)] including, but not limited to the following:
 - a. The operating hours shall be limited to 9:00 a.m. to 10:00 p.m. everyday.
 - b. There shall be adequate trash receptacles adjacent to the semi-mobile food vendor.
 - c. The site shall be kept clean and free of litter at all times. Trash and garbage shall be removed from the site at the end of each day.
 - d. Waste water generated by this use shall not be released on-site or into any storm drainage or irrigation system.
 - e. Grease shall be disposed per requirement of the Division of Environmental Health.
 - f. No additional advertising sign except a sign attached to the semi-

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mobile food vendor shall be reviewed and approved by the Development Services Director.

6. Administrative Application No. AA07-110 shall not be transferable to another operator.

Public Works/Building and Safety Division

7. The semi-mobile food vendor shall be self-contained for potable water, waste water, and power within the truck. Electrical connections to the convenience store may be permitted if approved by the Public Works/Building Division as meeting County Codes.

Environmental Health Division

8. Adequate toilet facilities for use by food service personnel shall be available within 200 feet of the stationary mobile food preparation unit. A letter from the store operator/owner shall be placed on file with Environmental Health Division so stating.
9. A Health Permit to Operate for 2008 shall be obtained from the Environmental Health Division.

Commerce, Aviation and Economic Development

10. The applicant shall obtain a Business License from the Commerce, Aviation and Economic Development Department.

Merced County Fire Department

11. Applicant shall comply with all Fire Department regulations. Please contact Pat Wright at (209) 385-7347 ext. 4882.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

Diane Hockelsmith with the Merced Union High School District gave the Planning Commission a brief presentation on the District's Five Year Facility Plan.

Bill Nicholson thanked the Planning Commissioners for attending the joint Planning Commission/Board of Supervisors workshop and good input was received. There will be an additional 15 workshops coming in May 2008.

Robert Lewis, Development Services Director, clarified that the Planning Commission packets are

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available on our website one week prior to meetings.

Commissioner Lashbrook asked that the General Plan Update focus groups are split up better so that the public can attend more of them. There needs to be better public notice of the focus group meetings and joint study sessions so there is better attendance, and there was much better attendance at the first joint study session.

County Counsel Bob Gabriele stated that, from a legal perspective, the dais dialog for agenda item B was excellent and encourages the Planning Commissioners individually to express their perspectives on the record showing publicly their analytic evaluation process and perspectives. The Commissioners apply and interpret policy in connection with each project and is very helpful to both staff and members of the public to air out perspectives. On a prior application, all Commissioners had something to say which was very important. He stated that the more each Commissioner expresses themselves, it helps everyone involved.

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 10:47 a.m.