

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF JANUARY 11, 2012

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of January 11, 2012, 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 9:03 a.m., on January 11, 2012, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Lynn Tanner - Chairman
 Commissioner Jack Mobley - Vice Chairman
 Commissioner Mark Erreca
 Commissioner Rich Ford
 Commissioner Greg Thompson

Staff Present: Paul A. Fillebrown, Interim Development Services Director
 William Nicholson, Assistant Development Services Director
 Kim Anderson, Recording Secretary
 Jeff Fugelsang, Planner III

Legal Staff: Marianne Greene, Deputy County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

MOTION: M/S MOBLEY – ERRECA, AND CARRIED BY A VOTE OF 5 – 0, THE PLANNING COMMISSION APPROVED THE MINUTES FROM THE DECEMBER 21, 2011 HEARING.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. **CONDITIONAL USE PERMIT No. CUP11-013 – Clay Berlier - To establish an agricultural contractor facility for the purpose of storing agricultural related construction equipment (dairy, produce, and equipment storage buildings) on a two acre portion of an 18.9 acre parcel. The property is located on the northwest corner of Moran Avenue and Bert Crane Road in the McSwain area. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **JF****

Recommendation: The actions requested are to:

- 1) Determine that the project is categorically exempt from CEQA review under Sections 15301 and 15061(b)(3) of the CEQA Guidelines, and;
- 2) Approve Conditional Use Permit No. CUP11-013 based on the project findings, and subject to the conditions of approval presented in the Staff Report.

Planner Jeff Fugelsang presented the Staff Report and recommendations of approval dated January 11, 2012.

The public hearing opened at 9:09 a.m.

No one spoke in favor or opposition to this application.

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The public hearing closed at 9:10 a.m.

MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. CUP11-013 FROM CEQA.

MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JANUARY 11, 2012 AND MAKES THE 13 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES CONDITIONAL USE PERMIT No. CUP11-013 SUBJECT TO THE 13 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning & Community Development Department

1. Conditional Use Permit No. CUP11-013 is granted to establish an agricultural contractor facility for the purpose of storing agricultural related (dairy, produce and equipment storage building) construction equipment on a two acre portion of an 18.9 acre parcel.
2. The facility is permitted to utilize the one acre arena and a portion of the barn into a storage area and office for an agricultural related construction business. Equipment to be stored includes, but not limited to, trucks, tractors, trailers and forklifts. All equipment shall be stored in an orderly manner and parking shall be oriented consistent with the approved Plot Plan.
3. The general business hours of operation, when equipment is to be moved on and off site, shall be from 7:00 am to 6:00 pm, daily. However, employees are permitted to be onsite when necessary.
4. No more than 15 pieces of equipment and 14 company pick-up trucks shall be stored onsite.
5. To ensure the facility does not have a detrimental effect on groundwater, all maintenance of equipment must be performed on paved surfaces with drip pans. Additionally, drip pans shall be utilized when equipment is stored for extended periods of time on open ground.
6. Annual grading shall be performed prior to rainy seasons. Such grading shall be designed to keep storm water on site.
7. The facility is subject to additional standard conditions of approval listed in the Planning Commission Resolution No 97-1.
8. Modifications to this permit may be granted by the Planning Director upon submittal of an acceptable application.
9. For the purpose of conditions monitoring, an inspection fee in the amount of **\$162.00** shall be required. This fee shall be paid within 30 days of the approval date. Should additional inspections be required, inspection time shall be billed to the applicant / 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.

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10. The applicant shall comply with all applicable County, State and Federal regulations. These regulations shall include, but not be limited to standards administered by the County Fire, Health, Planning, Commerce, Aviation, and Economic Development, and Public Works Departments.

County Counsel

11. **INDEMNITY AND HOLD HARMLESS AGREEMENT:**

CLAY & MICHELLE BERLIER has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract, writ of mandamus, or otherwise. This duty shall include, but not be limited to, claims, petitions, or the like for bodily injury, property damage, personal injury, contractual damages, writ of mandamus, or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents, commissions, boards, and officers of CLAY & MICHELLE BERLIER.

CLAY & MICHELLE BERLIER's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of CLAY & MICHELLE BERLIER, its agents, subcontractors, employees, boards, and commissions. The duty shall extend to any allegation, claim of liability, or petition, except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first claim, petition, or allegation of liability against County. CLAY & MICHELLE BERLIER will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following CONDITIONAL USE PERMIT NO. CUP11-013 approval, modification, or denial.

This clause for indemnification shall be interpreted to the broadest extent permitted by law.

Commerce Aviation and Economic Development Department

12. The applicant/owner shall obtain a Business License from the Commerce Aviation and Economic Development Department. 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.

Department of Public Works/ Road Division

13. Applicant shall construct a rural agricultural driveway approach on the north side of Moran Avenue, in accordance with Chapter 7, Driveways, of the Merced County DPW Improvement Standards and Specifications. Said construction shall require an Encroachment Permit from DPW.

VI. COMMISSION ACTION ITEM (S)

None

VII. DIRECTOR'S REPORT

Bill Nicholson, Assistant Development Services Director, handed out information for a Planning Commissioners workshop taking place on January 28, 2012.

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:11 a.m.