

**MERCED COUNTY PLANNING COMMISSION**  
**MINUTES FOR MEETING OF MARCH 14, 2012**

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The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of March 14, 2012, are available online at [www.co.merced.ca.us/planning/plancomarchive.html](http://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 9:00 a.m., on March 14, 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  
  David Gilbert, Senior Planner

Legal Staff:                       Marianne Greene, Deputy County Counsel

Commissioners Absent:           None

**III. APPROVAL OF MINUTES**

**MOTION: M/S MOBLEY – ERRECA AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION APPROVES THE MINUTES FROM FEBRUARY 8, 2012.**

**IV. CITIZEN COMMUNICATIONS**

None

**V. PUBLIC HEARINGS**

**A.     **MAJOR MODIFICATION No. MM11-014 TO CONDITIONAL USE PERMIT No. CUP08-011 – Hilmar Cheese** - To expand the existing Hilmar Cheese Processing Facility by constructing approximately 570,000 square feet of new buildings and improvements on four parcels totaling 123 acres. The largest addition involves a 106,000 square foot administrative office building on the south side of August Avenue. The project site is located at the northwest and southwest corners of Lander Avenue and August Road in the Hilmar area. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural).  
**DG****

**Recommendation:** The actions requested are to:

- 1) Adopt the Mitigated Negative Declaration, and
- 2) Approve Major Modification No. MM11-014 based on the project findings, and subject to the conditions of approval and mitigation measures.

Planner David Gilbert presented the Staff Report and recommendations of approval dated March 14, 2012.

Commissioner Thompson said he noticed that the waste water treatment is not a requirement under the conditions in the staff report but 34 acres is to be annexed for approval by LAFCO.

## MERCED COUNTY PLANNING COMMISSION

Minutes – March 14, 2012

Page 2

Planner David Gilbert said Hilmar Cheese and the Hilmar County Water District received word from LAFCO Staff to establish a contract to prepare a Municipal Service Review, so it should be submitted soon.

Commissioner Thompson asked if the Hilmar County Water District has indicated that they have adequate water capacity.

Mr. David Gilbert said they do have adequate water capacity.

The public hearing opened at 9:15 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:16 a.m.

**MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION ADOPTS THE MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM REPORT PREPARED FOR MAJOR MODIFICATION No. MM11-014 TO CONDITIONAL USE PERMIT No. CUP08-011 WITH 17 MITIGATION MEASURES.**

**MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MARCH 14, 2012, AND MAKES THE 10 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MAJOR MODIFICATION No. MM11-014 TO CONDITIONAL USE PERMIT No. CUP08-011 SUBJECT TO THE 23 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

### **Conditions:**

#### Planning and Community Development Department Conditions:

1. Major Modification No. MM11-014 to Conditional Use Permit No. CUP08-011 is granted for the expansion of the Hilmar Cheese processing facility by constructing 556,800 square feet of improvements including an administrative office building, a solar energy electrical generation facility, a cream processing building, expansion of an existing cold storage building, and installation of an anaerobic digester on four parcels totaling 123 acres.
2. All construction shall be conducted in a manner that is consistent with the plot plan and the operational statement. Minor modifications to the approved permit may be reviewed and approved by the Development Services Director.
3. For the purpose of conditions monitoring, an inspection fee in the amount of **\$648** 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. All conditions of approval under CUP08-011 shall continue to apply to this Major Modification application.

**MERCED COUNTY PLANNING COMMISSION**

**Minutes – March 14, 2012**

**Page 3**

6. All mitigation measures identified in the Final Initial Study/MND and Mitigation Monitoring and Reporting Program are adopted and incorporated by reference as project conditions, and shall appear on the project plans submitted to obtain a Building Permit.

County Counsel

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

HCC Properties, Ltd. 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 Applicant.

HCC Properties, Ltd'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 the Applicant, 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. Applicant 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 Project approval, modification, or denial.

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

Public Works Department/Road Division Conditions:

8. Applicant shall provide a detailed drawing showing the proposed design of the mid-block pedestrian/golf cart crossing on August Road.

Public Works/Building and Safety Division

9. Building plans shall be completed and submitted by a California licensed engineer or architect to the Building & Safety Division for review and approval prior to any construction activity. Refer to attached handouts for further requirements for State, Federal, and Local Ordinances.

## MERCED COUNTY PLANNING COMMISSION

Minutes – March 14, 2012

Page 4

10. All existing storage and/or fuel tanks shall conform to regulations from the Fire Department and the Environmental Health Divisions.

### Division of Environmental Health

11. The applicant shall submit an updated Hazardous Materials Business Plan electronically.
12. Changes to the ammonia refrigeration system shall need to be reviewed by Environmental Health California Accidental Release Program staff and may require changes to the risk management plan for the hazardous material.

### Fire Department

13. All construction shall be completed in a professional manner and in compliance with all provisions of the current California Building Standards Code and all referenced documents contained within. The Code Sections cited below are specific to your project and provided to assist you, however, they are not intended to be all-inclusive.
14. The applicant shall meet the fire flow requirements per the California Fire Code. In addition, all options shall be approved by the Fire Department.
15. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction.

### Turlock Irrigation District

16. Development adjoining TID canals shall construct a solid masonry or concrete wall at least six feet in height next to the District's right-of-way.
17. Properties that no longer irrigation or have direct access to water or drainage facilities shall apply for abandonment from the District.
18. Developed property adjoining irrigated ground shall be graded so that the finished grade elevation is at least six inches above irrigated ground. A protective berm shall be installed to prevent irrigation water from reaching non-irrigated properties.
19. The District shall review quitclaim irrigation and drainage easements.
20. The District shall review and approve all maps and plans of the project.
21. If there are any irrigation facility modifications, the applicant shall provided irrigation improvement plans and enter into an Irrigation Improvement Agreement.
22. A Facility Change shall be required for any pole or electrical facility relocation.
23. A 13-foot Public Utility Easement shall be dedicated along all street frontages.

**MERCED COUNTY PLANNING COMMISSION**

**Minutes – March 14, 2012**

**Page 5**

Final Initial Study/Mitigation Negative Declaration Mitigation, Monitoring and Reporting Program

The following is a comprehensive list of CEQA Mitigation Measures that are contained in both the Final IS/MND, in the Mitigation Monitoring and Reporting Program (MMRP) and incorporated by reference in the CEQA Findings herein, that are applicable to the project. The applicant shall be responsible to comply with all Mitigation Measures contained in the foregoing mentioned documents:

Air Quality

1. AQ-1: Implement a Dust Control Plan During Construction, MMRP, page 3
2. AQ-2: Voluntary Emissions Reduction Agreement, MMRP, page 5

Biology

3. BIO-1: Worker Awareness Program, MMRP, page 5
4. BIO-2: MM Alternative 1: Obtain CESA 2081 Management Authorization to Protect Swainson's hawk Nests and to Mitigate for Foraging Habitat Loss, MMRP, page 5
5. BIO-3: Avoidance Measures to Protect Other Migratory Birds, MMRP, page 9

Cultural Resources

6. CR-1: Stop Work for Buried Cultural Deposits, MMRP, page 9
7. CR-2: Stop Work for Human Remains, MMRP, page 10

Geology and Soils

8. GEO-1: Preparation of a Design Level Geotechnical Report, MMRP, page 11

Hazardous Materials

9. HM-1: Soil Testing for Spilled Hazardous Materials, MMRP, page 11

Water Quality

10. HYD-1: Storm Drainage System Compliance, MMRP, page 11

Noise

11. NOI-1: Implementation of a Noise Control Plan, MMRP, page 12

Public Services

12. PS-1: Automatic Aide Agreement with Merced & Turlock Fire Departments, MMRP, page 13

Transportation/Traffic

13. TR-1: Construction Management Plan, MMRP, page 12
14. TR-2: Pay Traffic Impact Fees, MMRP, page 13
15. TR-3: Pedestrian Safety Measures, MMRP, page 13
16. TR-4: Emergency Vehicle Access, MMRP, page 14
17. TR-5: Provide Bicycle Parking, MMRP, page 14

**VI. COMMISSION ACTION ITEM (S)**

None

**MERCED COUNTY PLANNING COMMISSION**

**Minutes – March 14, 2012**

**Page 6**

**VII. DIRECTOR'S REPORT**

Paul Fillebrown, Interim Planning Director, thanked Planning Staff for putting the environmental document and staff report together for the Hilmar Cheese application in a fairly quick time.

**VIII. COMMISSIONERS COMMENTS**

None

**IX. ADJOURNMENT**

There being no further business, the meeting adjourned at 9:17 a.m.