

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF JANUARY 28, 2015

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of January 28, 2015 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 9:00 a.m., on January 28, 2015 in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Jack Mobley – Acting Chairman
 Commissioner Robert Acheson
 Commissioner Mark Erreca
 Commissioner Rich Ford
 Commissioner Greg Thompson

Staff Present: Mark Hendrickson, Director
 Oksana Newmen, Deputy Director-Planning
 Ana Muniz-Laguna, Recording Secretary
 Brian Guerrero, Planner III

Legal Staff: Thomas Ebersole, County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. CONDITIONAL USE PERMIT No. CUP12-014 - Matos Dairy - To expand an existing dairy from 2,800 cows to 5,100 cows and construct a number of structures totaling 190,000 square feet on a 38 acre portion of the dairy facility totaling 468 acres. The project site is located on the southeast corner of Baily Road and Quinley Avenue in the Merced area. The property is designated Agricultural land use and zoned A-1 (General Agricultural). **BG**

Recommendations: The actions requested are to:

- 1) Certify the Environmental Impact Report and adopt the Environmental Findings of Fact; and;
- 2) Approve Conditional Use Permit CUP12-014 based on the findings and subject to the conditions of approval and mitigation measures presented in the Staff Report and adopt the Statement of Overriding Considerations and approve the Mitigation Monitoring & Reporting Program.

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Brian Guerrero, Planner III gave a PowerPoint presentation and summarized the Staff Report.

Commissioner Thompson asked if there is one property owner or multiple owners and Mr. Guerrero stated it is multiple owners but they are all tied to the dairy facility.

Commissioner Thompson inquired if the applicant had easements on the 18 parcels with the various landowners to which Mr. Guerrero stated yes they do.

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

No one spoke in favor or opposition to this application.

The public hearing closed at 9:11 a.m.

MOTION: M/S ERRECA-FORD, AND CARRIED BY A VOTE OF 5-0, THE PLANNING COMMISSION CERTIFY THE ENVIRONMENTAL IMPACT REPORT AND ADOPT THE ENVIRONMENTAL FINDINGS OF FACT; AND

MOTION: M/S ERRECA-FORD, AND CARRIED BY A VOTE OF 5-0, THE PLANNING COMMISSION APPROVE CONDITIONAL USE PERMIT No. CUP12-014 BASED ON THE 9 PROJECT FINDINGS, AND THE 20 CONDITIONS OF APPROVAL AND MITIGATION MEASURES PRESENTED IN THE STAFF REPORT AND ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS AND APPROVE THE MITIGATION MONITORING & REPORTING PROGRAM.

Planning and Community Development Conditions:

1. Conditional Use Permit No. CUP12-014 is granted to expand the existing Larry Matos dairy from 2,800 cows (1,000 milk cows & 1,800 support stock) to 5,100 cows (2,100 milk cows and 3,000 support stock) and construct a new milk barn, two new freestall barns, additions to an existing freestall barn, hay barn, sprinkler pen, fresh water basin and a concrete slab on 11.3 acres for a total of 37.3 acres of dairy facilities, on 18 parcels totaling 468 acres.
2. The Larry Matos Dairy Expansion project shall be located, developed and operated in a manner described on the approved plot plan, Nutrient Management Plan, Waste Management Plan, mitigation measures, mitigation monitoring and reporting program, and conditions of this permit. Any changes or proposed modifications to the approved project would be based on a written request of the applicant to the Planning Director.
3. All mitigation measures identified in the Environmental Impact Report are adopted and incorporated by reference as project conditions.
4. The project shall comply with all applicable regulations administered by the County Fire Department, Environmental Health Division, Planning & Community Development, and Public Works Departments.

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5. 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.
6. The applicant shall obtain all necessary permits, and comply with all applicable regulations administered by Federal and State agencies.

County Counsel

7. INDEMNITY AND HOLD HARMLESS AGREEMENT:

Larry Matos 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 Larry Matos.

Larry Matos'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. Larry Matos 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. CUP12-014 approval, modification, or denial.

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

Public Works/Roads Division

8. The applicant shall improve all driveways utilized by heavy truck operations associated with the dairy with either paved or concrete approaches onto the adjacent County roadway, in accordance with Chapter 7 of the Merced County Department of Public Works Improvement Standards and Specifications.
9. The applicant shall install a 150-watt pole mounted street light at each driveway approach. All work within the County right-of-way shall require an Encroachment Permit from the County.

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Merced County Division of Environmental Health

10. The dairy operation shall comply with the Merced County Animal Confinement Ordinance as follows:
 - Salt and other mineral feed supplements shall be limited to that required to maintain animal health and optimum production according to the National Research Council standards.
 - Feed management/diet optimization plan.
 - The applicant shall provide a site plan demonstrating that all off-site residences are at least 1,000 feet from the active dairy facility.
 - The applicant shall provide a vector (fly and mosquito) and odor control program to the Division to aid in evaluating manure storage practices.
 - The California Regional Water Quality Control Board requires submittal of a Nutrient Management Plan (NMP) and a separate Waste Management Plan (WMP) for all dairies. CRWQCB requires submittal of a nutrient management report by July 1 of each year.
 - An updated CNMP shall be submitted to Merced County whenever a dairy expansion occurs
 - The applicant shall submit a signed copy of the most recent NMP and the most recent WMP reflecting the increase in facility footprint and number of cows.

Public Works/Building and Safety Division

11. A licensed architect or engineer shall design all structures to meet all local, state, and federal codes and ordinances, including but not limited to seismic and soil conditions.
12. If the property is in a flood zone the applicant shall meet FEMA requirements for structures and equipment

Merced County Fire Department

13. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Section 503.2.1 shall be maintained at all times.
14. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a key box to be installed in an approved location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the fire code official.

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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.

Merced Irrigation District

16. MID right of ways shall not be used for public access to the subject site
17. MID Lateral #15 is adjoining the southerly line of said project. All improvements must be outside of any MID right of way. Proposed Freestall C-2 may be encroaching upon said Lateral #15 right of way per the submitted Dairy Facility Figure 2 aerial plan. Applicant may choose to approach MID about purchasing said Lateral #15 strip.
18. All wastewater containing manure must be contained on the subject property and isolated from MID facilities. MID will not accept any drainage water into its facilities from the subject property or the property of assignees contracted to accept wastewater that contain manure.
19. MID laterals, canals or pipelines cannot be used by the dairy to wheel any water from the dairy site to other parts of the subject property or to the property of assignees contracted to accept wastewater.
20. The MID canals deliver irrigation water to the dairy site and supporting cropland. Wherever there is comingling of wastewater containing manure at an MID irrigation delivery point, backflow prevention devices meeting MID standards must be installed. The purpose of the installation is to keep wastewater containing manure from entering any MID facilities and contaminating the water in the facility

VI. COMMISSION ACTION ITEM (S)

None

VII. DIRECTOR'S REPORT

Mark Hendrickson, Director, thanked Mr. Thomas Ebersole, County Counsel for taking the time to attend the Planning Commission meeting, and recognized Commissioner Ford for representing the Commission at the Gustine City County Dinner.

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:19 a.m.