

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF AUGUST 12, 2015

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of August 12, 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 August 12, 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 Greg Thompson
 Commissioner Mark Erreca
 Commissioner Rich Ford
 Commissioner Robert Acheson

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

Legal Staff: Michael Linden, Deputy County Counsel

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

- A. **CONDITIONAL USE PERMIT No. CUP12-004 - Homen Dairy Farms** - To expand an existing dairy from 3,602 cows to 7,720 cows and construct a new shade addition, a heifer shade, special needs barn, three freestall barns, an exercise pen and an addition to an existing silage slab on a 73 acre dairy facility. The project site is located on the south side of Sandy Mush Road, and 0.5 Miles west of Lone Tree Road 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, adopt the Environmental Findings of Fact, Mitigation Monitoring Program and Statement of Overriding Considerations, and;
- 2) Approve Conditional Use Permit No. CUP12-004 based on the findings and subject to the conditions of approval and mitigations measures presented in the Staff Report

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated August 12, 2015.

The public hearing opened at 9:08 a.m.

Commissioner Thompson asked if all the land is under the same ownership. Planner Brian Guerrero said he believes they are all owned by the same owner. The applicant confirmed that they are all owned by him.

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

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MOTION: M/S ERRECA - THOMPSON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. CUP12-004 FROM CEQA.

MOTION: M/S ERRECA - FORD, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED AUGUST 12, 2015, AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT No. CUP12-004 SUBJECT TO THE 11 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Conditions:

1. Conditional Use Permit No. CUP12-004 is granted to expand the existing Homen Dairy Farms, LP from 3,602 cows (1,705 milk cows & 1,897 support stock) to 7,720 cows (3,360 milk cows and 4,360 support stock) and construct a new shade addition; heifer shade; special needs barn; three freestall barns; exercise pen; and an addition to an existing silage slab on a total of 73 acres of dairy facilities, on seven parcels totaling 1,032 acres.
2. The Homen Dairy Farms, LP 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.
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:

HOMEN DAIRY FARMS, LP 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 HOMEN DAIRY FARMS, LP. HOMEN DAIRY FARMS, LP's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or

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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. HOMEN DAIRY FARMS, LP 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. CUP12-004 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.
10. The project is subject to the Regional Transportation Impact Fee (RTIF) in the amount of \$43,524.27

Merced County Division of Environmental Health

11. 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

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- 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

12. You must hire an architect or engineer licensed in the state of California to draw the plans for any proposed building. The plans and calculations must be submitted to the Building Department for approval and a permit before any construction can begin. We require 4 sets of plans and 3 sets of calculations to be submitted.

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.
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.

Final Environmental Impact Report Mitigation Measures

16. The following is a comprehensive list of CEQA Mitigation Measures that are contained in both the CEQA Findings of Fact and Statement of Overriding Considerations (SOC) and Mitigation Monitoring Reporting Program (MMRP) that are applicable to the Homen Dairy Farms, LP Expansion project. The applicant shall be responsible to comply with all Mitigation Measures contained in the foregoing mentioned documents:

Air Quality

- AQ-3a: Reduction of ROG emissions, MMRP, page 2-1
- AQ-3b: Voluntary Emissions Reduction Agreement, MMRP, page 2-1.
- AQ-6: Minimize PM10 emissions, MMRP page 2-1.

Biological Resources

- BIO-1a: Loss of foraging habitat for Swainson's hawk, MMRP pages 2-1.
- BIO-1b: Protocol Nesting Surveys & Nest Avoidance & Loss of Foraging Habitat for Swainson's Hawk, MMRP pages 2-2 through 2-4.
- BIO-2a: Implementation of Mitigation Measure BIO-1b, MMRP, page 2-4.
- BIO-2b: Pre-construction survey for nesting birds, MMRP, page 2-4.
- BIO-4: Pre-construction surveys for burrowing owl, MMRP, page 2-5.
- BIO-5: Protection of the San Joaquin kit fox and/or American badger, MMRP pages 2-5 to 2-7.
- BIO-7: Implementation of the Merced County Animal Confinement Ordinance, MMRP page 2-7.
- BIO-11: Lighting Plan, MMRP page 2-7.

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Cultural Resources

- CUL-1: Discovery of unanticipated buried cultural or paleontological resources, MMRP page 2-7
- CUL-2a: Implementation of C–L-1, MMRP page 2-8.
- CUL-2b: Discovery of human remains, MMRP pages 2-9.

Hydrology and Water Quality

- HYD-1: Submit Permit Registration Document (PRD) for the Construction General Permit Order 2009-0009-DWQ, MMRP, pages 2-8.
- HYD -3a: Implement Best Management Practices, MMRP page 2-8 and 2-9.
- HYD-3b: Comply with requirements of the NMP/WMP, MMRP, page 2-9.
- HYD-3c: Agronomic Rates for Best Management Farming Practices, MMRP, page 2-9.
- HYD-3d: Salinity Report, MMRP, page 2-9.
- HYD-3e: Site Specific Monitoring Well Installation Plan, MMRP, page 2-10.
- HYD-3f: Groundwater Monitoring, MMRP, page 2-10.
- HYD-3g: Concentration in Groundwater of Constituents of Concern, MMRP, page 2-10.
- HYD-3h: Community and Economic Development Department and Division of Environmental Health Inspection, MMRP, page 2-10.
- HYD-6: Construction of an access road along the south and west sides of the composting area, MMRP page 2-10.
- HYD-7: Inspection of On-site Water Supply Wells, MMRP, page 2-13.

VI. COMMISSION ACTION ITEM (S)

None

VII. DIRECTOR'S REPORT

None

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:10 a.m.