

**MERCED COUNTY PLANNING COMMISSION**  
**MINUTES FOR MEETING OF NOVEMBER 2, 2016**

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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 November 2, 2016, 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 November 2, 2016, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

**II. ROLL CALL OF COMMISSIONERS**

Commissioners Present:           Commissioner Greg Thompson - Chairman  
  Commissioner Rich Ford - Vice Chairman  
  Commissioner Mark Erreca  
  Commissioner Robert Acheson

Staff Present:                     Mark Hendrickson, Director  
  Steve Maxey, Deputy Director  
  Kim Lewallen, Recording Secretary  
  Brian Guerrero, Planner III

Legal Staff:                      Jeff Grant, Deputy County Counsel

Commissioners Absent:         Commissioner Mobley

**III. APPROVAL OF MINUTES**

**MOTION: M/S ACHESON – FORD, AND CARRIED BY A VOTE OF 4 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE OCTOBER 12, 2016 MEETING.**

**IV. CITIZEN COMMUNICATIONS**

None

**V. PUBLIC HEARINGS**

**A.     CONDITIONAL USE PERMIT No. CUP15-014 – Wickstrom Jersey Farms -To modify existing herd numbers from 3,640 head (2,075 milking, 1,565 support stock) to 3,575 total head (2,750 milking, 825 support stock), repurpose existing freestall barns and construct an 87,225 square foot special needs barn. The property is located on the southeast corner of Columbus Avenue and Turner Avenue in the Hilmar area. The property is designated Agricultural in the General Plan and zoned A-1 (General Agricultural). **CONTINUED FROM THE OCTOBER 12, 2016 HEARING. BG****

**Recommendations: The actions requested are to:**

- 1) Adopt the Initial Study/Mitigated Negative Declaration based upon the CEQA findings listed in the Staff Report, and;
- 2) Approve Conditional Use Permit No. CUP15-014 based on the findings and subject to the conditions of approval listed in the Staff Report.

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated November 2, 2016.

The public hearing remained open from the October 12, 2016 hearing.

No one spoke in favor or opposition to this application.

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

**MOTION: M/S ERRECA - FORD, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION ADOPTS THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION BASED UPON THE CEQA FINDINGS FOR CONDITIONAL USE PERMIT NO. CUP15-014.**

**MOTION: M/S ERRECA - FORD, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED NOVEMBER 2, 2016, AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT NO. CUP15-014 SUBJECT TO THE 25 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Planning and Community Development Conditions:

1. Conditional Use Permit No. CUP15-014 is granted to modify the existing Wickstrom Jersey Farms dairy facility from 3,640 cows (2,075 milk cows and 1,565 support stock) to 3,575 cows (2,750 milk cows and 825 support stock) on approximately 35 acres of dairy facilities, on ten parcels totaling approximately 282 acres. Construction includes a new 87,225 special needs barn. A calf hutch area, three existing open heifer pens and a heifer solid settling basin will be removed as part of this application. After removal, the area will be used for equipment storage.
2. The Wickstrom Jersey Farms 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 subject to an application approved by the Community and Economic Development Department.
3. All mitigation measures identified in the Initial Study/Mitigated Negative Declaration 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, State and local agencies.

Cultural Resources Regulatory Requirements

7. CUL-1:

If removal of the corrals will also involve removal of any barns or sheds over 45 years old, prior to demolition, the project proponent shall retain a historical resources consultant for evaluation and formal recordation of these historic structures if deemed historic. The historical resources consultant shall submit records of the historic structures to CCIC, as appropriate.

8. CUL-2:

- A. If buried cultural resources such as chipped or ground stone, midden deposits, historic debris, building foundations, human bone, or paleontological resources are inadvertently discovered during ground-disturbing activities, work shall stop in that area and within 100 feet of the find until a qualified archaeologist or paleontologist can assess the significance of the find and, if necessary, develop responsible treatment measures in consultation with Merced County and other appropriate agencies.
- B. If remains of Native American origin are discovered during proposed project construction, it shall be necessary to comply with state laws concerning the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (NAHC). If any human remains are discovered or recognized in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
  - The County coroner has been informed and has determined that no investigation of the cause of death is required; and
  - If the remains are of Native American origin:
    - √ The most likely descendants of the deceased Native Americans have made a recommendation to the landowner or person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC 5097.98; or
    - √ The NAHC has been unable to identify a descendant, or the descendant failed to make a recommendation within 24 hours after being notified.
- C. According to the California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052). Section 7050.5 requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If the remains are determined to be Native American, the coroner must contact the NAHC.

County Counsel

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

DUANE WICKSTROM 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 DUANE WICKSTROM. DUANE WICKSTROM'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. DUANE WICKSTROM 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. CUP15-014 approval, modification, or denial.

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

Merced County Division of Environmental Health

10. The applicant shall file and maintain an accurate hazardous materials business plan with Merced County Division of Environmental Health and maintain compliance with all applicable hazardous material regulations.
11. The dairy operation must comply with the Merced County Animal Confinement Ordinance (Merced County Code, Title 18, Chapter 18.48 ANIMAL CONFINEMENT FACILITIES) or subsequent revisions.
12. Under the county ordinance, a Comprehensive Nutrient Management Plan (CNMP) combines a NMP and WMP. An updated CNMP is required whenever a dairy expansion occurs or is proposed which involves a 10% or greater increase in the count of dry and milk cows combined. The CNMP must reflect full build out of any proposed expansion (number of cows, land use, wastewater storage, etc.).

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13. The Central Valley Regional Water Quality Control Board (CVRWQCB, Region 5, Sacramento) requires submittal of a Nutrient Management Plan (NMP) and a separate Waste Management Plan (WMP) by all dairies. Updated waste management plans and nutrient management plans must be submitted to CRWQCB whenever a dairy expansion occurs or is proposed (15% or greater increase in the count of dry and milk cows combined if operating under General Order no. R5-2007-0035 or any increase in operating under a specific WDR). An Updated nutrient management plan must be submitted when there is a change in waste application areas.
14. CVRWQB requires submittal of an Annual Report by July 1 each year.

### Public Works/Building and Safety Division

15. An architect or engineer licensed in the state of California must be hired 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. All drawings must be submitted electronically via CD/Flash Drive.
16. The buildings may require a soils report from a licensed geotechnical engineer that will have to be reviewed by the engineer for design compliance before submittal. The buildings/structures may also qualify for a waiver to the soils report under some circumstances and as long as certain conditions are met in the designs. Please contact the Building Division at your earliest convenience to set up a time to discuss these options further.
17. Mandatory measures of the 2010 California Green Code for a structure must be specified in the plans.

### Merced County Fire Department

18. If security gates are installed they shall be approved by the Fire Department. As required, the applicant shall install and maintain a Merced County coded “knox” key switch or “knox” padlock, whichever is most appropriate in relation to your needs.
19. The applicant shall install reflective building identification that meets Fire Department Design Specifications. Contact the Prevention Bureau for additional information.
20. Water requirements will be calculated during plan review.

### Turlock Irrigation District (TID)

21. There is an existing 36” irrigation pipeline belonging to Improvement District (ID) 1021, known as the Riverside Ditch; that is located along the eastern boundary of the “primary dairy parcel”. This pipeline must be protected at all times during construction.
22. The applicant has an existing Revocable License Agreement (RLA) to utilize the aforementioned ID facility to transport dairy nutrient water to all the fields that are shown to receive “waste water” per the maps provided by the applicant. The RLA establishes the terms and conditions under which the ID facilities can be used. This includes, but is not limited to, blending “fresh”

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water with the nutrient water and flushing the line clean after each use. No nutrient water is permitted to backflow into Lateral 8, which delivers water to the ID pipeline.

23. The owner/developer must apply for a facility change for any pole or electrical facility relocation. Facility changes are performed at the developer's expense.

### San Joaquin Valley Air Pollution Control District

24. The proposed project is subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review). Since this facility is currently permitted with the District (N-7081 Wickstrom Jersey Farms, Inc.), any modification that would result in a change in emissions or change in method of operation/equipment requires the submittal of and Authority to Construct (ATC) Permit application. The applicant has submitted an ATC Permit application (District Project #N-1152875) and is going through the District's permitting process. In addition please note that starting construction before receiving an ATC may result in a violation of District regulations and be subject to enforcement action.

### IS/MND Mitigation Measures

25. The following is a comprehensive list of CEQA Mitigation Measures that are contained in the Mitigation Monitoring Reporting Program (MMRP) that are applicable to the Wickstrom Jersey Farms Dairy Expansion project. The applicant shall be responsible to comply with all Mitigation Measures contained in the foregoing mentioned document:

#### Air Quality

- AQ-1: Dust Control Plan/Construction Notification Form, MMRP, page 3.
- AQ-2a: Odor Control Plan, MMRP, page 3-4.
- AQ-2b: Implement nuisance control measures set forth in Mitigation Measures HAZ-1 and HAZ-1b, MMRP, page 4

#### Cultural/Historical Resources

- CUL-1: Consult with a historic resources consultant for structures over 45 years of age being removed, MMRP, page 4
- CUL-2: Qualified archaeologist or paleontologist for discovery of resources, NAHC for remains of Native American Origin, or discovery of human remains, MMRP, page 3-4.

#### Geology

- GEO-1: Submit Permit Registration Documents, MMRP, page 5.

#### Hazards and Hazardous Materials

- HAZ-1a: Vector Control Plan, MMRP, page 5.
- HAZ-1b: BMPs outlined in ACO, MMRP, page 6.

Hydrology and Water Quality

- HYD-1a: Implement Best Management Practices, MMRP, page 7.
- HYD-1b: Comply with requirements of the NMP/WMP, MMRP, page 7.
- HYD-1c: Agronomic Rates for Best Management Farming Practices, MMRP, page 7.
- HYD-1d: Salinity Report, MMRP, page 7-8.
- HYD-1e: Site Specific Monitoring Well Installation Plan, MMRP, page 8.
- HYD-1f: Groundwater Monitoring, MMRP, page 8.
- HYD-3g: Concentration in Groundwater of Constituents of Concern, MMRP, page 2-6.
- HYD-1h: Community and Economic Development Department and Division of Environmental Health Inspection, MMRP, page 2-6.
- HYD-5: Project sponsor shall obtain written agreement from recipients of manure exported off site in regards to rates and times for application, storm water, wells and that manure shall not be applied within 100 feet of any domestic wells. MMRP page 8-9.
- HYD-3: Inspection of On-site Water Supply Wells, MMRP, page 9.
- HYD-4: Implement GEO-1, MMRP, page 9

Land Use

- LU-1a: Implement odor control measures set forth in Mitigation Measure AQ-2a, MMRP, page 9
- LU-1b: Implement the nuisance control measures set forth in Mitigation Measures HAZ-1a and HAZ-1b, MMRP, page 9.

**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 9:09 a.m.