MERCED COUNTY PLANNING COMMISSION MINUTES FOR MEETING OF DECEMBER 2, 2009

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of December 2, 2009, 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 9:05 a.m., on December 2, 2009, 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 Cindy Lashbrook

Staff Present: Robert Lewis, Development Services Director

William Nicholson, Assistant Development Services Director

Kim Anderson, Acting Recording Secretary Evie Gassaway, Acting Recording Secretary

James Holland, Senior Planner Jeff Fugelsang, Planner II

Legal Staff: Marianne Greene, Deputy County Counsel

Commissioners Absent: Commissioner Rudy Buendia

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

Tom Grave, Merced resident, stated he appreciated the dedication of Planning Commissioners for performing their duties. He also discussed the importance of water for land use planning in this area, and gave some historic statistics. Water conservation and reclamation are important for the future.

V. PUBLIC HEARINGS

A. CONDITIONAL USE PERMIT NO. CUP08-009 - Iglesia Jesucristo es la Respuesta (Jesus Christ is the Answer Evangelical Church) - To establish a privately owned recreational area for the purpose of holding church retreats on a 1.75 acre portion of a 17.88 acre parcel. The project site is located on the east side of Bryant Avenue, approximately one-half mile south of Valeria in the Dos Palos area. The property is designated as 'Agricultural' in the General Plan and zoned A-1 (General Agricultural). THE ACTION REQUESTED IS TO MAKE A PROJECT ENVIRONMENTAL DETERMINATION AND TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JF

Planner Jeff Fugelsang presented the Staff Report and recommendations of approval dated December 2, 2009.

The public hearing opened at 9:22 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:23 a.m.

Commissioner Lashbrook raised questions regarding the previous illegal construction and use of the property and suggested the addition of a condition for Mitigation. The applicant has paid fines up to this point. She added that ag mitigation may be needed for the leach field area.

Planner Jeff Fugelsang stated that this project was initially a part of Fresno County, but resubmitted to Merced County in April 2008, so this has been in process since 2006.

Chairman Tanner asked if alfalfa can be grown on the leach line. They can irrigate still.

Bill Nicholson, Asst. Development Services Director stated that there is an Environmental Health condition that states that septic tanks can not be paved over or impacted by vehicle traffic. Growing alfalfa wouldn't be a conflict.

Commissioner Lashbrook feels alfalfa would have an impact on the leach lines so there will be an impact to farmland needing mitigation. Bill Nicholson responded we don't have a significant impact identified in the Initial Study so you would need to recirculate the document. An impact would typically be about 20 acres. One acre is not considered an agricultural impact.

MOTION: M/S MOBLEY - ERRECA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION ADOPTS THE MITIGATED NEGATIVE DECLARATION PREPARED FOR CONDITIONAL USE PERMIT NO. CUP08-009 WITH 6 MITIGATION MEASURES.

MOTION: M/S MOBLEY - ERRECA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED DECEMBER 2, 2009, AND MAKES THE 12 FINDINGS SET FORTH IN THE STAFF REPORT AND BASED ON THOSE 12 FINDINGS, APPROVES CONDITIONAL USE PERMIT NO. CUP08-009 SUBJECT TO THE 43 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning & Community Development Department

- 1. Conditional Use Permit No. CUP08-009 is granted to establish a privately owned recreational area on an existing 1.75 acre home site of a 17.88 acre parcel for the purpose of holding church retreats. The project includes the conversion and expansion of the existing 4,200 square foot barn into an 8,177 square foot retreat center which will include the following amenities: six (6) classrooms, an assembly hall with a stage, commercial kitchen and dining area, two offices, and an attached restroom and shower facility. Additionally, it will establish two designated camping areas, a gravel parking lot area for 12 vehicles and one bus, and utilize the existing pool, barbeque, and picnic area.
- 2. The project shall operate in a manner that is consistent with the approved Plot Plan and the applicant's Operational Statement.
- 3. The recreational area shall allow for the attendance of 50 members twice a month and up to 150 members twice a year for major holidays.
- 4. The hours of operation shall be from Friday at 10:00 am through Sunday at 7:00 pm, twice a month.
- 5. The project shall comply with Section 10.60.040, *Noise Control*, of the County Code.
- 6. The project shall utilize methods of ridesharing to reduce the number of vehicle trips generated.

- 7. The use of amplified sounds shall be limited to the conference facility. Amplified sounds outdoors shall be prohibited at all times.
- 8. The applicant shall submit formal parking and circulation plans for review within 30 days of the approval of this permit.
- 9. Seven (7) foot opaque landscaping shall be installed to screen the project from public right-of-ways and adjacent properties as required in Section 18.37.020 of the Merced County Zoning Code.
- Landscaping and irrigation plans consistent with Section 18.38.040 of the Merced County Zoning Code shall be submitted for review within 30 days of the approval of this permit.
- 11. The use shall not encroach on agricultural or existing vacant lands. Should the applicant wish to expand the project beyond the footprint of the existing home site, a Minor Modification Application to the Conditional Use Permit would be required and the Initial Study/ Mitigated Negative Declaration would need to be amended to address the these concerns.
- 12. The applicant shall comply with all of the applicable standard conditions of approval listed in the Planning Commission Resolution No 97-1.
- 13. For the purpose of conditions monitoring, an inspection fee in the amount of \$810.00 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.
- 14. 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.

Department of Public Health/ Division of Environmental Health

- 15. Main Building Kitchen Septic System Existing System. The existing grease trap serving the three compartment sink in the kitchen must be inspected regularly and emptied as needed in order to keep grease from entering the septic tank and leach lines. The grease must be disposed of in an approved manner.
- 16. The location and capacity of the existing septic tank, the presence of sanitary 'T's, and the location, length, and depth of the leach lines must be determined by a licensed septic tank pumper and/or installer. The sewer line between the kitchen and septic tank must be located. All other buildings/appliances/fixtures utilizing this septic system are to be identified. A report and plot plan with this required information must be provided to this office. MCDEH approval of the septic system serving the kitchen should be issued before additional work is done on the facility or use of the facility is allowed.

- 17. Large Restroom/Shower Building Special Septic System Required. The large restroom/shower building is located east of, and connected to, the main building. No septic system exists for this facility. A special system (mound system in this case) is required to maintain the required five foot separation between the bottom of the trench and ground water. The special system must be designed by a registered civil engineer, certified engineering geologist, registered environmental health specialist, or other competent person acceptable to the Division of Environmental Health who is both knowledgeable and experienced in the field of sewage disposal system design and installation. The plot plan and supporting engineering data relative to the site, soils and designed system must be submitted to the Division of Environmental Health for evaluation and final approval.
- 18. Building permits for this facility should not be issued until the proposed special system design has been approved by MCDEH.
- 19. Small Restroom/Shower Building Septic System (located southwest of the main building). The location and capacity of the existing septic tank, the presence of sanitary 'T's, and the location, length, and depth of the leach lines must be determined by a licensed septic tank pumper and/or installer. All other buildings/appliances/fixtures utilizing this septic system are to be identified. A report and plot plan indicating this required information must be provided to this office. MCDEH approval of the septic system serving the small restroom/shower building should be issued before additional work is done on the facility or use of the facility is allowed.
- 20. Single-Family Residence Septic System. The location of the residence's existing septic tank and leach lines must be determined by a licensed septic tank pumper and/or installer. All other buildings/appliances/fixtures utilizing this septic system are to be identified. A report and plot plan indicating this required information should be provided to this office before additional work is done on the facility or use of the facility is allowed.
- 21. Septic System Protection. Septic tanks, active leach lines, and leach line replacement areas must not be paved over. The ground over leach lines must not be compacted by vehicle traffic. Septic tanks and leach lines must be protected from vehicle traffic by physical barriers. Sewer mains from buildings to septic tanks must be constructed to current codes.
- 22. Single-Family Residence Allowed Use. The residence and its appliances (sinks, toilets, showers, laundry facilities) must not be used by anyone except the permanent residents and their personal guests. The residence and its facilities are not to be used by visitors to the retreat facility.
- 23. Pool and Spa. The pool and spa (and associated shower) must not be used by anyone except the permanent residents and their personal guest unless the property owner obtains a permit from Environmental Health to operate a public pool.
- 24. Facility Plot Plan. The applicant must submit a plot plan of the entire facility, drawn to scale, indicating the location of all buildings, pool and spa, septic tanks, leach line areas, leach line replacement areas, pavement (black top, concrete, brick), driveways, designated parking areas, all other areas where vehicles have access to drive or park, and areas subject to flood irrigation.

25. Food Facility. Unless permitted by Environmental Health, food prepared on the premises shall not be provided (sold or given) to other than church members and guests (i.e. not provided to the general public).

Department of Public Works/ Roads Division

- 26. The applicant shall dedicate 30 feet of road right-of-way measured from the centerline of Bryant Avenue along the frontage of the property; thereby fulfilling this property's half of a 60-foot ultimate right-of-way. The applicant shall provide a legal description and exhibit prepared by a California Licensed Land Surveyor for the dedication. The property owner shall sign the deed prior to issuance of building permits or implementation of use authorized by this Conditional Use Permit.
- 27. The applicant shall install a paved asphalt driveway approach and a county standard streetlight at the entrance/exit on Bryant Avenue. The applicant shall obtain an encroachment permit(s) for installation of the improvements and pay the necessary fees.

Fire Department

- 28. An inspection of the facility shall be conducted by the Merced County Fire Department/Fire Marshal's Division to assure compliance with all applicable codes prior to issuance of the Conditional Use Permit. The required inspection is needed to determine if the existing facilities meet all current fire and life safety code requirements, including but not limited to: Kitchen facility protection, site access, building egress, emergency lighting, assembly use, alarm system, fire extinguisher placement, emergency evacuation procedures and existing fire service water supply.
- 29. A detailed parking plan shall be submitted for review and approval to the Merced County Fire Department/ Fire Marshal's Office.
- 30. The facilities shall not be used for any purpose and is not to be occupied until a permit is issued and all violations are corrected, inspected, approved, and a Certificate of Occupancy is issued.
- 31. If security gates or bollard locks are to be installed or existing on site. They shall be approved by this office. As required, including the installation of a Merced County coded "Knox" key switch or "Knox" padlock, whichever is most appropriate in relation to your needs. (CFC Sec. 506)
- 32. All driveways accessing the parcel shall be surfaced with an approved all weather driving surfacing material. 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. (CFC Sec. 503) Fire apparatus access roads shall have an unobstructed width of not less than 20 feet except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 13 feet 6 inches. (CFC 503.2.1)
- 33. Project shall meet the fire flow requirements as per California Fire Code. In addition, all options shall be approved by this office.

- 508.1 Required water supply. 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.
- 508.2 Type of water supply. A water supply shall consist of reservoirs, pressure tanks, elevated tanks, water mains or other fixed systems capable of providing the required fire flow.
- **508.2.1 Private fire service mains.** Private fire service mains and appurtenances shall be installed in accordance with NFPA 24
- 508.2.2 Water tanks. Water tanks for private fire protection shall be installed in accordance with NFPA 22.
- 508.3 Fire flow. Fire flow requirements for buildings or portions of buildings and facilities shall be determined by an approved method or Appendix B.
- Areas without water supply systems. For information regarding water supplies for fire-fighting purposes in rural and suburban areas in which adequate and reliable water supply systems do not exist, the fire code official is authorized to utilize NFPA 1142 or the International Wildland-Urban Interface Code.
- 34. Building and project shall meet current California Fire Code Requirements and its entirety. This would also include a Fire Safety Plan in place.

Department of Public Works/ Building and Safety Division

- 35. This building may not be used for any purpose and is not to be occupied until a permit is issued and all violations are corrected, inspected, approved and a Certificate of Occupancy is issued.
- 36. Failure to obtain a Building Permit and approval from County agencies prior to construction. A Building Permit is required by State and Local law prior to constructing any building unless specifically exempted under the Building Code (Section 16.16.020 C).
- 37. Failure to obtain required inspections as specified in the *California Building Code, Appendix Chapter 1, Section 109.3*. In order to comply with this section, it shall be the Owner and Contractor's responsibility to hire an approved third party engineering/inspection company to provide reports to the Building Official to prove that the construction meets the plans and specifications and complies with the code.

CEQA Mitigation Measures

38. **AESTHETICS-1:** To compensate for the change in the existing visual character, the applicant is required to provide landscaping around the proposed amenities subject to approval by the Planning Department.

- 39. **AIR-1:** All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.
 - All onsite unpaved roads and offsite unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
 - All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.
 - When materials are transported off site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least 2 feet of freeboard space from the top of the container shall be maintained.
 - All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the. visible dust emissions.) (Use of blower devices is expressly forbidden.)
 - Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
 - Compliance with the District's Regulation VIII would reduce construction particulate matter impacts to levels that are considered less-than-significant.
- 40. **BIO-1:** If construction activities are conducted during the typical nesting bird season (February 15 September 15), pre-construction surveys shall be conducted by the qualified biologist prior to any construction activity or vegetation removal to identify potential bird nesting activity, and:
 - If active nest sites of bird species protected under the Migratory Bird
 Treaty Act are observed within the vicinity of the project site, then the
 project shall be modified and/or delayed as necessary to avoid direct take
 of the identified nests, eggs, and/or young;
 - If active nest sites of raptors and/or bird species of special concern are observed within the vicinity of the project site, then CDFG shall be contacted to establish the appropriate buffer around the nest site. Construction activities in the buffer zone shall be prohibited until the young have fledged the nest and achieved independence; and,
 - Active nests shall be documented by a qualified biologist and a letterreport shall be submitted to the County, U.S. Fish and Wildlife Service (USFWS), and CDFG, documenting project compliance with the Migratory Bird Treaty Act and applicable project mitigation measures.

- 41. **BIO-2:** If construction is proposed during the nesting season for Swainson's hawk (March 1 September 15), pre-construction surveys shall be conducted to identify active nests with 1000 feet of the project site.
 - If a nest is identified, CDFG shall be contacted to determine if project construction may proceed during the nesting season. Avoidance measures may include establishing an exclusion zone during construction or monitoring the nest during construction to determine if project activities are affecting the nesting cycle. The applicant must submit proof of CDFG consultation and notify Merced County (Planning and Community Development) prior to construction activities.
- 42. **CULT-1:** If archeological materials or paleontological materials are identified, work on that portion of the project shall cease until a resources protection plan conforming to CEQA Section 15064.5 is prepared by a qualified archeologist and/or paleontologist and approved by the County of Merced Development Services Director or authorized representative. Project work may resume in compliance with such plan. If human remains are encountered, the County Coroner shall be contracted immediately and the provisions of State Law carried out.
- 43. **TRAFFIC-1:** The applicant shall dedicate a 30 foot road right-of-way measured from the centerline of Bryant Avenue along the frontage of the property. The applicant shall provide a legal description and exhibit prepared by a California Licensed Land Surveyor for the dedication. The property owner shall sign the deed prior to the issuance of building permits or implementation of use authorized by this conditional use permit.
- B. MAJOR SUBDIVISION APPLICATION No. MAS05-015 'Park Street Estates' Jim Abbate—
 To divide three parcels totaling 31.8 acres into 100 single family residential lots with an average size of 6,538 square feet each, with 2.5 acres of open space also being provided. The project site is bounded by Childs Avenue to the south, Miles Creek to the southeast and the Planada Canal to the northeast. The property is located within the Planada SUDP and designated Low Density Residential in the General Plan and zoned R-1-5000 (Single Family Residential). THE ACTION REQUESTED IS TO MAKE A PROJECT ENVIRONMENTAL DETERMINATION AND TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH

Planner James Holland presented the Staff Report and recommendations of approval dated December 2, 2009.

Commissioner Lashbrook asked if there is a Traffic Study requirement.

Planner James Holland said this is addressed in the Initial Study and was done in the Planada Community Plan update process was the Public Works was insistent on effective traffic for the Community. Public Works is satisfied with the data provided.

Commissioner Lashbrook said she would like to see verbiage on a landscape ordinance. Have they addressed the concern with the Community regarding the funding for longterm.

Mr. Holland said formation of a landscape maintenance district is part of the approval of the application. They do support the Community's concern for effective landscaping.

Commissioner Lashbrook asked if the open space in the back includes security.

Mr. Holland said it would include security such as lighting. There would be no separate provision for an increase in sheriff services.

Chairman Tanner asked what kind of inventory there is with subdivisions in Planada.

Mr. Holland said there are a substantial amount of subdivisions in Planada. Two other subdivisions are in the permit process currently in Planada, but there is not a big number of paper lots and the area does not have a big vacancy issue.

Chairman Tanner asked if the applicant has a "can and will serve" letter for sewer and water.

Mr. Holland said the letter expired in January 09', but a new can and will serve letter will be required at final map recordation time.

Commissioner Lashbrook said a more detailed groundwater study is needed.

The public hearing opened at 10:05 a.m.

John McCullough, BCA Engineers, said he has no comments but is available to answer any questions.

Tom Grave, Merced resident, stated that 499 proposed dwellings are needed to require a water study. There is no job and housing balance. Who will live in these homes? Merced County has too many vacant homes.

Mr. Holland handed the Commission a new comment letter from Marsha Burch.

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

The Commission took a 15 minute break to review the new letter submitted by Marsha Burch.

Mr. Holland briefly reviewed and discussed the points made by Marsha Burch. She raised five issues, but the letter does not raise any new issues. Mr. Holland stated said there is no "Tiering" and what was done in the Initial Study was in compliance with State law. He added that the SB610 threshold is 500 residential units and this project is only 100 units. The level of analysis presented is appropriate. The Planada Community Services District (PCSD) is its own lead agency and the County responsibility is to comment on the document on the matter the PCSD may circulate. The Initial Study was circulated and available for 30 days and was mailed to the State Clearinghouse and they circulate the document to the responsible agencies which includes the Regional Water Control Board and no comments were received. The analysis in the Initial Study is therefore adequate. The State is working on final standards dealing with global warming. The County hasn't been given any information on this issue. We are not in a position to Mitigate. The Initial Study adequately addresses issues raised by Marsha Burch.

County Counsel Marianne Greene concurs with Mr. Holland's analysis.

Bill Nicholson, Assistant Development Services Director, explained that we are not tiering off a Negative Declaration. In this case, we went through every topic in the Initial Study. The issue with the separate lead agency, Planada Community Services District, was part of the litigation on the Community Plan. The County needs a final Can and Will Serve letter from the PCSD and the map will not be recorded until the letter is received. The Building Department won't allow a building permit until all fees have been paid.

MOTION: M/S MOBLEY - ERRECA, AND CARRIED BY A VOTE OF 3 - 1, NAY BY COMMISSIONER LASHBROOK, THE PLANNING COMMISSION ADOPTS THE MITIGATED NEGATIVE DECLARATION PREPARED FOR MAJOR SUBDIVISION APPLICATION No. MAS05-015 WITH 3 MITIGATION MEASURES.

MOTION: M/S MOBLEY - ERRECA, AND CARRIED BY A VOTE OF 3 - 1, NAY BY COMMISSIONER LASHBROOK, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED DECEMBER 2, 2009, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 10 FINDINGS, APPROVES MAJOR SUBDIVISION APPLICATION No. MAS05-015 SUBJECT TO THE 27 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS: Conditions:

Planning & Community Development Department

- 1. A Final Map shall be recorded within two years of the Planning Commission approval date as required by the Merced County Subdivision Code.
- 2. This project shall comply with the applicable Standard Conditions in Planning Commission Resolution No. 97-1.
- 3. A 'Right to Farm' notice shall be placed on the title of all residential lots located within 120 feet of the Planada Canal or Miles Creek alignments.
- 4. The masonry wall to be constructed around the perimeter of the property adjacent to the Planada Canal and Miles Creek alignments (see Condition #20) shall be designed in conformance with the guidelines provided in the Planada Community Plan. A proposed design for the wall shall be submitted to the Planning Department as part of the subdivision improvement plan process required for recordation of the Final Map and shall be reviewed by the Planada Municipal Advisory Council prior to the commencement of construction.
- 5. Prior to approval of the Final Map, the developer shall submit a current 'Can and Will Serve' letter for the project issued by the Planada Community Services District and shall demonstrate to the satisfaction of the County that all improvements required by this letter have been made or bonded for.
- 6. For the purpose of conditions monitoring, an inspection fee in the amount of \$486 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.

Public Works/Road Division

- 7. Satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 of the Merced County Code, which generally includes dedication of right-of-way and public utilities easements, roadway construction and installation of matching pavement along existing roadways, street lighting, storm drainage system and to install underground or relocate utilities and irrigation facilities.
- 8. Satisfy Improvement Level I requirements as set forth in Chapter 16.08 of the Merced County Code, which generally includes dedication of right-of-way and public utilities easements, roadway construction and installation of matching pavement along existing roadways, streetlighting, storm drainage system and to install underground or relocate utilities and irrigation facilities.

- Dylan Way and Tyler Street are duplications of existing County road names and shall be changed to the satisfaction of the Department of Public Works and Fire Department. Dylan Way shall consist of two distinct road designations pursuant to Section 17.04.050.B of the Merced County Code.
- 10. In accordance with the "Method of Apportionment" set by the Planada Storm Drainage Assessment District No. 98-1, the property owner shall pay a contingent assessment amount equal to \$2,363.34 for each new parcel created. This fee shall be paid to the Department of Public Works Road Division prior to recordation of the final map.
- 11. The design of offsite improvements along peripheral roads such as but not limited to Santander Avenue and Park Street shall be included in the subdivision improvement plans for Park Street Estates; however, construction shall be pursuant to the terms of a Deferment of Construction Agreement recorded August 11, 2005, as Document # 2005062353, Merced County Records, for Minor Subdivision No. 05018.
- 12. Provide reserve strips, or non-access strips, at dead end streets.
- 13. Prior to recording the final map the owner shall provide all documentation and pay all fees associated with forming a landscaping maintenance zone of benefit in County Service Area No.1 for a Class I Bikeway within linear park or open space area.
- 14. Replacement of existing street asphalt concrete pavement for water, sewer, or storm drainage trenches shall exceed the actual trench width by three (3) feet instead of six (6) inches as shown on Drawing EB-O 1 of the Merced County Department of Public Works Improvement Standards and Specifications, or as directed by the Department of Public Works.
- 15. All lot grading shall be completed, all underground improvements shall be installed and aggregate base material on all streets shall have been rough graded and compacted, prior to the issuance of any building permits. The developer shall enter into an agreement with Public Works that no occupancy shall take place until such time as all improvements are completed.
- 16. Provide centerline striping for those new roads which intersect the existing peripheral streets.
- 17. Developer/Applicant is advised that he/she may be obligated to comply with Federal Regulations for storm water runoff issued by the U.S. EPA on November 16, 1990 (40 Code of Federal Regulations Parts 122, 123 and 124). For information and direction, contact the State Water Resources Control Board's Construction Activity Storm Water Hotline at (916) 341-5537, e-mail:stormwater@swrcb.ca.gov or visit their website at www.swrcb.ca.gov.

Merced Irrigation District (MID)

18. That applicant is to obtain a "Non-exclusive License Agreement' for all crossings over or under any MID facilities, including roadways, bridges, utilities and pipelines.

- 19. MID requires access along the entire north bank of Miles Creek with a minimum drivable width of 16-feet for flood control channel maintenance, including placement and leveling of extracted spoils, performed with large, heavy equipment.
- 20. The developer shall construct a masonry wall, meeting MID standards, at the outside toe of the embankment (right-of-way and fee strip) of Miles Creek and the Planada Canal for the full length where the proposed development and said creek and canal interface. Provisions to accommodate storm water runoff generated between the creek/canal and the block wall should be included in the design. Anti-graffiti landscaping would also be mutually beneficial, and the design will be submitted for review by the Planada MAC as noted in Condition #4. MID requires adequate space along the embankment for maintenance and the deposition of spoils.
- 21. Require a limitation of access from the subdivision to Miles Creek for vehicles, animals and pedestrians. No dumping of any kind or illegal disposal of any harmful or toxic material is allowed. Lots within the subdivision shall have no access rights to Miles Creek and not be allowed to install any gates or other openings in the block wall/fence common between the subdivision and Miles Creek. The above access limitations will be shown as a non-access limitation on all recorded maps.
- 22. A signature block to be provided for MID on all Improvement Plans that affect MID property.

Native American Heritage Commission

23. In the event presently unknown archaeological or historical resources are discovered during future on site construction activities, all work shall immediately cease until a resources protection plan conforming to CEQA Section 15064.5(e) is prepared by a qualified archeologist and approved by the County of Merced Community Development Director or authorized representative. Project work may resume in compliance with such a plan. If human remains are encountered, the County Coroner shall be contracted immediately and the provisions of State Law carried out.

United States Fish and Wildlife Service

24. Prior to any site disturbance, including commencement of any site improvements necessary for recordation of the final subdivision map, or, the issuance of any building permit, a qualified biological consultant approved by the County shall be retained by the project proponent to survey the project site for the presence of San Joaquin kit fox and kit fox dens. The findings of this survey shall be communicated to the Merced County Department of Public Works and Planning Department within 10 days of its completion. No approvals for any site disturbance or construction activities shall be given until this survey has been reviewed by the County. In the event the survey identifies the presence of San Joaquin kit fox on the property, no further approvals shall be given, or a final map recorded, until an Incidental Take Permit for the project has been obtained from the United States Fish and Wildlife Service.

Mitigation Measures

- 25. To ensure there is no take of any burrowing owl~ that may move in to the site between the time the biological survey was completed and the initiation of ground breaking/construction activities, a pre-construction survey shall be conducted to determine if burrowing owls are occupying the project site prior to such construction occurring on the site between February 1 and September 15. The survey shall take place no more than 30 days prior to the start of ground breaking/construction activities, and a copy of the survey shall be provided to the Merced County Planning and Community Development Department no less than 20 days prior to the proposed construction start date. The survey shall be conducted by a qualified biological consultant who, if burrowing owls are observed, shall propose mitigation in accordance with protocol approved by appropriate regulatory agencies to reduce potential impact on any burrowing owls on the project site to a less than significant level. The biologist shall base any temporal construction restrictions (i.e. setbacks around natal burrows) on the location of the nest to construction activities.
- 26. To ensure that there is no take of any Swainson's hawk that may move in to the site between the time the biological survey was completed and the initiation of ground breaking/construction activities a pre-construction survey within 0.25 miles of the project site shall be conducted by a qualified biological consultant to determine the presence of nesting Swainson's hawks prior to any construction occurring on the project site between March 1 and September 15. The survey shall take place no more than 30 days prior to the start of ground breaking/construction activities, and a copy of the survey shall be provided to the Merced County Planning and Community Development Department no less than 20 days prior to the proposed construction start date. Should a nest be discovered within 0.25 miles of the project site, temporal construction restrictions may be necessary to eliminate the potential for noise disturbance to the nesting hawks. The consultant, who shall consult with appropriate regulatory agencies on possible mitigation, shall base the necessity for restrictions on the location of the nest in relation to construction activities.
- 27. Prior to any site disturbance, including commencement of any site improvements necessary for recordation of the final subdivision map, or, the issuance of any building permit, a qualified biological consultant approved by the County shall be retained by the project proponent to identify any trees that could be used by nesting raptors and/or other birds. These trees shall be clearly marked on-site and the maximum possible number of these trees shall be retained during construction of the project. The retention effort may require the redesign of the site plan. Should it be necessary to remove any trees that could be used by nesting raptors and/or other birds to accommodate development and site redesign is not feasible due to site characteristics, the trees shall be felled between September 15 and January 31, outside of the nesting season. The proposed tree retention or removal plan recommended by the biological consultant shall be reviewed and approved by the Merced County Planning and Community Development Department no less than 20 days prior to implementation. The project proponent shall state in writing to the Merced County Planning and Community Development Department as to why it is necessary to remove any identified tree. The Planning and Community Development Department shall determine the replacement ratio for any identified raptor (or other bird) nesting tree removed from the project site.

VI. <u>CORRESPONDENCE</u>

None

VII. GENERAL BUSINESS

There will not be a Planning Commission meeting on December 16, 2009.

VIII. <u>DIRECTOR'S REPORT</u>

None

IX. <u>ADJOURNMENT</u>

There being no further business, the meeting adjourned at 10:52 a.m.