

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF JUNE 24, 2009

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of June 24, 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 9:08 a.m., on June 24, 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
 Commissioner Rudy Buendia

Staff Present: Robert Lewis, Development Services Director
 William Nicholson, Assistant Development Services Director
 Crystal Vargas, Recording Secretary
 Dave Gilbert, Senior Planner
 James Holland, Senior Planner

Legal Staff: Marianne Greene, Deputy County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

- A. Conditional Use Permit Application No. CUP09-005 - Shannon Salvano - To establish a 1,200 square foot bar room within an existing 4,200 square foot restaurant. The project is located on the west side of Lander Avenue, 400 feet south of First Street otherwise known as 8155 Lander Avenue. The property is designated General Commercial land use and zoned C-2 (General Commercial) within the Hilmar SUDP. **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG****

Planner Dave Gilbert presented the Staff Report and recommendations of approval dated June 24, 2009.

Commissioner Mobley was concerned about neighbors that are opposed and asked Planner Dave Gilbert if there is a sound barrier.

Mr. Gilbert responded that there is a sound barrier. He suggested possibly adding 2 more conditions of approval: 1. Keep back door closed 2. No loitering

Commissioner Lashbrook stated that from what she read there isn't much being changed.

Commissioner Mobley responded that the hours of operation are being extended.

Commissioner Lashbrook stated that she agrees with adding the 2 conditions.

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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 - BUENDIA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT APPLICATION NO. CUP09-005 FROM CEQA.

MOTION: M/S MOBLEY-BUENDIA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JUNE 24, 2009 AND MAKES THE 8 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 8 FINDINGS, APPROVES CONDITIONAL USE PERMIT APPLICATION NO. CUP09-005 SUBJECT TO THE 8 CONDITIONS SET FORTH IN THE STAFF REPORT WITH THE ADDITION OF 2 CONDITIONS TO READ AS FOLLOWS:

Conditions:

Planning and Community Development Department

1. Conditional Use Permit No. CUP09-005 shall grant the establishment of a 1,200 square foot bar/night club selling beer and wine only and shall be operated consistent with the approved plot plan and operational statement.
2. The hours of operation shall be limited to 11:00 a.m. to 2:00 a.m. seven days a week.
3. The number of employees shall be restricted to two (2).
4. All on-site signage shall require a building permit and shall comply with the provisions of Chapter 18.42 of the Zoning Code.
5. For the purpose of conditions monitoring, an inspection fee in the amount of **\$156** 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 rear exit door shall remain closed at all times during the hours of operation.
7. The applicant shall post a sign on the outside of the building prohibiting loitering during the hours of operation.

Commerce Aviation and Economic Development Department

8. If the applicant/owner does not currently have a Business License Permit, they shall obtain one from the Commerce Aviation and Economic Development Department. The property owner/applicant shall pay all required fees for the Business license. The property owner/applicant shall annually renew the Business License and pay all required fees.

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Public Health Department/Environmental Health Division

9. For proposed retail food facilities, one complete set of building plans and equipment specification sheets shall be submitted to MCDEH (777 West 22nd Street, Merced) for review and approval by the Division prior to issuance of a building permit. The plans and specification should be submitted to MCDEH at the same time as plans are submitted for a building permit. The plan review fee of \$654 will increase to \$677 on July 13, 2009. A plan review application form shall be submitted with the plans and specifications. Please contact Mary Coakley at (209) 710-6096 for assistance or questions.

State of California Alcoholic Beverage Control Department

10. The applicant shall obtain a Type 42 License for the On Sale Beer & Wine – Public Premises from the State of California Alcoholic Beverage Control (ABC) Department.

- B. General Plan Text Amendment Application No. GPTA 09-002 - Merced County -** To add text into the General Plan Circulation Chapter and corresponding diagram regarding the proposed Atwater-Merced Expressway for a new roadway alignment from State Route 140 to State Route 59 between the Atwater and Merced areas. The properties in this general vicinity are designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH**

Planner James Holland presented the Staff Report and recommendations of approval dated June 24, 2009.

Commissioner Lashbrook stated she did not see any documents with public comments in her packet, how the project relates to walkable communities and alternate routes of transit. Will the project spur growth?

Mr. Holland responded that the public comments are located on the CD that was attached in the commission packet due to the large amount of comments.

Commissioner Lashbrook is concerned about protection for the adjacent farmland and asked Planner James Holland if he knew what would become of it if this is built.

Mr. Holland responded that he would prefer not to speculate so he will defer any response; with observation he states the Board has the discretion to act or not act on whatever recommendation the Planning Commission makes. Also it could depend on this projects ability to attract funding which they do not have at this point in time.

Commissioner Lashbrook is also concerned that if this gets designated it changes the landowners ability to sell or not sale; would like to know what is happening with that since this could be in limbo for years.

Mr. Holland responded that by preserving the right of way we are preserving the status of the land, we are not taking away necessarily any rights an individual or corporation might have. What we are doing is preserving land use as it exists at this time.

Chairman Tanner states that basically, if we would have had this designated about 10 years ago then the elementary school wouldn't be able to build a school there?

Mr. Holland responded that he doesn't like to speculate, but one could question whether it would be, yes.

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Chairman Tanner asked if there are any more comments among commissioners.

The public hearing opened at 9:40 a.m.

Vickie Vann, 3844 W. Avenue One says she did not receive the notice only her mother did who lives next door. She states the red line on the map doesn't have a street name; the street above is Avenue Two so she is confused about where Avenue One is and how it is going to affect her. The map on projection screen is different from the one sent in the mail; the one her mother received has Belcher Avenue listed but it is not Belcher, its Buhach. She asks if Avenue One will be protected since the school is going to be built there.

Mr. Holland responds that where the expressway crosses the Avenue One alignment, it will go below grade. Avenue One will retain its present alignment and grade. The school route will be undisturbed to avoid conflict with pedestrians.

Shirley Kaylard, Gurr Road wants to know what provisions will be taken to preserve the irrigation canals since on the map it shows they will have to be taken out to widen the road.

Mr. Holland responds that there is a comprehensive list of mitigation measures adopted by MCAG as part of this process and typically what is done in these situations is that if the land is to remain agricultural, but the irrigation canal will have to be removed or rerouted; the agency in charge of the road construction right of way acquisition will fix it. As part of the acquisition process, they will have to work on realignment of the canals with MID (Merced Irrigation District). Irrigation will continue; they can not just stop it.

Edward Willman representing Mrs. Mills who has property on Hwy 59 where they plan on widening it to 4 lanes asks how is that going to affect the homes there because he understands there is a railroad right of way on that side of the road they were going to use, and it's going to put the houses closer to the road? What kind of things are they going to do for access to the homes and to protect the homes from increased noise or preventing cars from going into them?

Mr. Holland responds that they can not take away someone's rights to access their property so if MCAG does build this, they would have to have mitigation measures in place and would have to either reroute or compensate homeowners should these issues arise; the same applies to increased noise.

Todd White, 1852 Foxtail Court in Atwater asks how do we plan on funding this project, and is it going to affect us tax wise? He states Ferrari Ranch sent a letter of support because they have big plans for the area. They have a ranch on the intersection of Gurr Road where they plan to put a theater and some big retail, so basically they are going to turn their property into commercial land use instead of agricultural use. It has big economic impact for them. The communities of Atwater and Merced have plenty of vacant buildings so we don't need something else to be an eyesore along Highway 99. We need the route on an economic standpoint but only phase one which goes from Hwy 99 to Santa Fe because Castle Aviation Center needs some place to direct heavy truck traffic. The residents along the route are going to have a huge increase in heavy truck traffic and noise, but that is something not being mentioned here. We all know it is going to happen so how are you going to deal with all this increased noise? There is an overseas organization interested in bringing in heavy aircraft to Castle to take produce and stuff out from the area. He says it is a great economic impact, but from a residential standpoint; I've got a problem with it. Those are my big concerns regarding the use of the area.

Mr. Holland responds that Ferrari Ranch has no application in front of the County at this time. The planning department has not received anything from them regarding any of these plans. Mr. Nicholson may have more information about them so I will let him answer.

Bill Nicholson, Assistant Development Services Director, states that the entire area between Santa Fe south to Highway 99 is all planned for urban growth through the City of Atwater.

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Ferrari ranch and any other companies who have plans for the area would have to go through the City of Atwater. These are not projects at the County Planning department and they are not plans for this road through MCAG.

Todd White responds to Bill Nicholson by stating that MCAG had a meeting with Merced County and put out a supporting document in conjunction with Ferrari Ranch, Merced County talking about new jobs, hospital, theater, etc. There were 4 pages. There may not be an application but it's all planned and supported by MCAG and Merced County because it states this at the bottom of the document.

Bill Nicholson, Assistant Development Services Director, responds that he has never seen that document and repeats his previous comments regarding that they will still have to go through the City of Atwater for approval.

Todd White states that the City of Atwater was against it last week at a meeting which was held at the Castle Aviation Commerce Center. He says their planning staff was against it.

Chairman Tanner states that basically, as far as we are concerned there is no project and if there is a project, it has to go through the City of Atwater and they are opposed to it so it's safe to say there is no project.

Mr. Holland responds to Todd White's question regarding how this project will be funded by stating that it is on the bottom of the list for funding at this time. Number one is the completion of the UC Merced Expressway arm, number two is the Los Banos bypass and this expressway project is number three. We are relying on local resources or state resources so funding is unknown. We are solely trying to preserve the right of way at this time. To answer the question regarding noise, the mitigation which is attached to the staff report that has been identified by MCAG deals solely with construction of the expressway; there will be no long term significant noise impacts. MCAG is not proposing any mitigation regarding traffic noise.

Andy Peterson, Buhach and Elliot Avenue says this project seems really vague; we are property owners and I didn't hear any specific projections regarding traffic. I want to know how the roads are actually going to change as well as the impacts of noise, traffic and property value. My biggest concern is how cars are going to get through there. I also am curious as to why there is a slump in Elliot Avenue. Is that an interchange or an overpass? I'm very concerned with the traffic on Elliot because right now it is kind of like a cow path. How is this going to affect the future of Elliot Avenue?

Mr. Holland responds that the planning department is only here to preserve the route, we can not comment on what the purpose is for using Elliot Avenue. It looks as if Elliot will be used as a feeder road to SR-99 or Hwy 140. Why there is a dip in Elliot Avenue might have something to do with canals or something like that.

Chairman Tanner states that we are going to take a little break and try to get someone here from the Public Works Road Division to answer some of these questions and concerns. Also we will try to get someone from MCAG.

Break 10:00 a.m.

Meeting called back into order at 10:15 a.m.

Chairman Tanner calls meeting to order and states that Supervising Engineer, Steve Rough from Public Works/Road Division is here to answer the questions. Then we will continue this meeting for 30 days to allow MCAG to come here and defend their route and make it a little bit easier to get your questions answered since this is their project. He asks Planner James Holland to direct some questions from earlier to Steve Rough.

Mr. Holland asks that they first address the issue of noise mitigation talked about earlier. He asks Bill Nicholson to go over what is stated in the staff report in regards to this concern.

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Bill Nicholson clarifies the concerns of the noise explaining that the staff report does address the fact that there will be long term noise from vehicles, not just from construction. It shows specific homes which will get a noise wall.

Supervising Engineer Steve Rough from Public Works/Road Division introduces himself as a liaison between MCAG and Merced County regarding traffic concerns. There is a CD with all the traffic projections for this project located on the table. He clarifies that Buhach will no longer be the main way to get on SR-99. Elliot Avenue will be more like Buhach is today with high volume, high speed and fully signalized intersections. The reason for the dip in Elliot Avenue is to have the intersection be perpendicular.

John Fox, 3180 Belcher Avenue says he noticed on the map that Belcher Avenue is only one mile. He asks what is going to be done with it because it is not affected; are they improving it? He doesn't understand the one mile since it is longer than a mile.

Mr. Rough responds that one of their roles at the Public Works is to make sure that there are adequate connections between the agriculture areas and the Atwater Expressway. The Expressway is there to serve existing land use so when MCAG works to develop this project; it will be our role to make sure the appropriate connector roads are well developed to ensure adequate circulation to all those existing areas. Belcher Avenue will be extended if it is needed.

Chairman Tanner states that there are no more CD's. He asks James if there are anymore upstairs. He adds that if there isn't anymore, everyone can find the whole document online. Also anyone can put in a request at the planning department to receive the CD.

Mr. James Holland responds that more will have to be made.

Sharon, 1950 Green Sands Avenue asks if she will still be able to get on and off the freeway the way she is able to now and is the expressway going to be high in height. She also asks if her property value will be affected.

Mr. Rough responds that he is unable to answer her question regarding property value. He states that property values as of today are way down because of the economy. He continues by explaining Green Sands Avenue will be extended and it will connect to Belcher which will be very easy and fast to get on and off the expressway. He adds that it will be a lot safer and faster then it is now. Most of the expressway will be at grade including in this location so it will not be high in height.

Martha Hernandez, San Joaquin Road & Gurr Road asks how the widening of the roads on Ashby road will affect the homes there. She also asks if this will affect the area surrounding McSwain School on Scott Road and Hwy 140 because her kids go to school there.

Mr. Rough responds that it will not affect McSwain School. He explains he would have to look at a more detailed map in regards to the affect it will have on homes located along Ashby Road. He adds that he would be happy to take time separate from this meeting to be able to look at one with her.

Mr. Zambelli, Fox & Bellevue Road explains the map shows the road going partially through his property. He asks if he could see a detailed map as well to find out how much of his property will be taken and whether the canal on the west side of his property will be moved.

Mr. Rough agrees to meet with him to look at a more detailed map. He explains to the public that the construction plans for this project haven't been drawn up so the absolute impacts are still unknown.

Darlene Peters, 4450 N. Santa Fe Drive says she is located right against Castle Air Force Base on Santa Fe Drive. She apologizes for not writing a letter explaining that she has written many letters, and has attended every meeting for MCAG so she thought she was well heard. She continues by stating all the maps have shown the road going right through her home;

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right through the kitchen and living room. She says she has never been able to get an answer addressing the amount of property they will be taking? She asks if the Planning Commission has any pull with the consultant to please ask them to move the road over just a little bit so it will save her home. She has met with the Mayor of Atwater to try and get them to realign the route to make it more cost effective with less of an impact on property owners. She feels there are much easier ways to build this.

Mr. Steve Rough responds by inviting Darlene to meet with him as well. He addresses the whole audience by also inviting any of them to meet with him to go over more detailed maps so their questions can be answered. He explains to Darlene that the alignment path of the expressway is permanent and will not shift.

Rob Trop, 4231 W. Ashby Avenue doesn't understand how anyone can say that this isn't going to impact very many people because it is really affecting him. He says his house is being torn down completely. There are many senior citizens who also live on this same road who are on a fixed income and their homes are all paid for. This will impact them dramatically. He believes the whole plan doesn't make a lot of sense to him unless you're trying to bypass the whole town of Merced.

Mr. Rough responds by saying he has good comments and agrees that a lot of people will be impacted by this. He explains that he would never say this project isn't going to impact many people; it will impact many people and properties significantly. He continues by explaining the expressway is only one part of an entire loop system; a loop expressway all the way around Merced. What we will see in the far future is a 6 lane Bellevue Road from Hwy 59 all the way to the future Campus Parkway. It will continue down Campus Parkway until it hits Hwy 99. From there it connects to Mission and Dickinson Ferry which is the south portion of this loop. It supplements circulation for the planned growth that is already in the General plans of the City of Merced and Atwater as well as the County jurisdiction areas. This plan will accommodate what Merced will be like in the year 2035. This a long term circulation project to meet the future needs of this area.

Joe Petris, 4331 Avenue One states he has land we want to take; we have no money but we still want to tie up his land forever.

Deborah Hanning, 1921 Avenue One says she is disappointed that at a time when our state is in such financial crisis that we are going to spend time, energy, and an awful lot of money to build a road for things that don't exist yet. In regards to the comments about only taking a small amount of land from the Williamson Act Agricultural preserve, she explains there's a reason that the lands are preserved. This is third on the priority list and is years away from becoming a reality. Why would we designate this land as a preserve for an expressway instead of designating this land as a preserve for farm land and homeowners? She feels we need to be keeping it with the Williamson Act and the agricultural preserve. She doesn't understand why we would just get rid of that for roads? She states that all of them bought in the country because they want to live in the country. She believes that is what most of the people here are trying to get across to the Atwater City Council, Merced City Council, LAFCo and now the Planning Commission. She says if her and all the other property owners around her wanted to live in the city they would have purchased their homes in the city. She wants her farmland. She continues by stating they want to take more of her land to widen the road for a two block strip. Her neighbor by the name of Steiner said he would donate frontage of his land to widen the road. Well Steiner's property butts up to hers and nobody asked if she wanted to donate the front of her land yet now she is expected to so there can be a four lane road. She fears that if this gets passed today, they will start the process as money arises. She believes that property owners will lose their homes and their land. Then it will never happen or it will be fifty years off. In the meantime, the people are living in that environment with a road through the middle of their kitchen or with half of their yard taken away. They will have to live with it that way because of something that might happen in the future. She asks "how about we wait until the future and see what happens?" She thinks we should see if we even get any money. She feels we have to pull ourselves out of this recession first and fix all the problems we already have before we start a whole batch of new ones. She doesn't

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understand why we are approving something that is going to happen so far in the future. She says we shouldn't be saving land for a freeway until it's actually closer to fruition.

Chairman Tanner states that we will leave the public hearing open then in thirty days, when this comes back to us, we are going to have MCAG here to defend the alignment. As the Planning Commission, we have no jurisdiction to change the alignment. However, we will have them come explain to us why they picked that alignment along with answering all the other questions brought forth today.

Mr. James Holland states that more CD's will be available shortly if anyone would like to stick around for a few more minutes. If anyone would like to leave their name and address, he can make sure they receive one through the mail.

Commissioner Lashbrook asks if these questions will be available for MCAG to respond to when they come in.

Planning Director Robert Lewis states that this meeting is actually audio and videotaped so we'll invite MCAG to listen to the testimony today. We did have a number of communications with MCAG prior to this meeting so they knew it was going to happen. He says he will talk to Jesse Brown, the Director of MCAG, about having someone here to represent this alignment in thirty days.

Commissioner Lashbrook asks that if the Planning Commission and the Board of Supervisors doesn't approve the alignment; will it go back to the drawing board.

Chairman Tanner states that the Board of Supervisors has the final approval.

Bill Nicholson adds that the regional transportation and planning isn't done by the County for these types of projects; it's done by MCAG under state law. The authority includes the five Board members on MCAG, but there are also six city representatives. That's the body that decides alignments for roads like this. The money to build it would come from gas tax money generated locally. The Regional RTIF fee that MCAG has adopted and have gotten the cities and county to adopt, except for Livingston, goes to regional routes like this as well. This is really a regional transportation authority project. Because this property is in Merced County we need to preserve the right of way and not have people build houses that eventually have to get torn down. If in twenty years there are fifty houses built along this route, they will all have to be removed. They have to pick a road somewhere. The issue is if you don't like the alignment, you have to go to MCAG and start that process over and try to get it modified somehow. We are not in the position to build a regional road like this. We can build local roads, roads with subdivisions, we can build a road in Winton but the County isn't going to build a regional road like this. That's why we need to have MCAG come here.

Commissioner Lashbrook asks Bill Nicholson, "If the County chooses not to amend the Circulation Chapter of the County General Plan, what does that do?"

Bill Nicholson responds by stating that the right-of-way will not be preserved and people can build stores, barns, dairies, houses, anything that is allowed on their property by the zoning. Then someday when there is enough money to build the road; whoever pays for it, whether it's taxpayers or whoever, will have to buy all these extra buildings and move people out of homes. That's part of what long term planning is all about; even though it's going to take many years. You don't wait until the growth happens and then say now we need a road here. That's what we used to do. You can debate forever on where the alignment should be and whether it should hit this house or that house. Cal Trans has had do the same thing with their state projects where they have had to widen highways; it's just how it's done. Unfortunately it is a sad and long process for the people affected directly. It's all the growth in the San Joaquin Valley that is causing it.

Commissioner Lashbrook states that it seemed like we had a general consensus about wanting to have a green buffer or boundary between the cities and towns along the freeway and this completely closes that up. She wants to see if they have any plan for that or if we will

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be working that into our General Plan process. We are just holding this open and then we're going to hand it over to the City of Atwater so they will be getting any revenue from property tax. She says she would've liked to see this more into Atwater; a lot closer than it is right now. She states that she really appreciates everybody's concerns, but we are not actually voting on this project because it's already been done. What we are doing is keeping anything from being built now that will end up having to be torn down later.

Chairman Tanner asks if there are any more questions. Someone asks if the map can be fixed regarding Belcher Road and Green Sands. Mr. Holland responds that yes a clearer map will be made for the next public hearing in thirty days. Also if anyone would like a copy of the CD, he is taking names and addresses so he can mail them out.

The public hearing was left open, and continued 30 days, and representatives from MCAG will be available to answer questions.

- C. Major Subdivision Application No. MAS04-014 - "Lakeview Properties" - Ed Grossman - (Revised Tentative Map)** To subdivide a 58 acre parcel into 35 single family residential lots ranging in size from 0.65 acres to 1.8 acres, an 8.0 acre remainder parcel, and a 9.0 acre habitat preserve parcel. The property boundary is generally located near the northeast corner of Merced Falls Road and La Grange Road and continues eastward along Merced Falls Road for approximately one mile. The western portion of the property is designated General Commercial, with the balance of the property designated Low-Density Residential land use and zoned R-1 (Single Family Residential) within the Snelling SUDP. **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH**

Chairman Tanner states that this project has been continued until further notice.

VI. CORRESPONDENCE

Development Services Director Robert Lewis welcomes Marianne Greene to our legal counsel and explains that she comes to us from the San Diego area with a lot of CEQA background. We are glad to have her on board and guiding us with legal matters.

VII. GENERAL BUSINESS

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 10:54 am