MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF APRIL 28, 2010

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of April 28, 2010, 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 April 28, 2010, 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 Greg Thompson
Staff Present:	Robert Lewis, Development Services Director William Nicholson, Assistant Development Services Director James Holland, Senior Planner Dave Gilbert, Senior Planner Jeff Fugelsang, Planner II Kim Anderson, Recording Secretary Evie Gassaway, Recording Secretary
Legal Staff:	Marianne Greene, Deputy County Counsel
Commissioners Absent:	None

III. APPROVAL OF MINUTES

M/S MOBLEY - ERRECA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF MARCH 10, 2010.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. CONDITIONAL USE PERMIT No. CUP09-006 - Mid-Valley Agricultural Services – To establish an agricultural fertilizer distribution, storage and sales facility on a 15.5 acre parcel. This new facility will consist of a 19,300 sq. ft. building used for office and warehouse space, a tank farm, fuel island and equipment storage areas. The project is located at the southeast corner of Eucalyptus Avenue and Sultana Drive in the Livingston area. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **JH**

Recommendation: The actions requested are to:
1) Adopt the Mitigated Negative Declaration in conformance with CEQA; and
2) Approve Conditional Use Permit No. CUP09-006 based on the project findings, and subject to the conditions of approval presented in the Staff Report.

Planner James Holland presented the Staff Report and recommendations of approval dated April 28, 2010.

The public hearing opened at 9:42 a.m.

Larry Beck, owner of Mid Valley Agricultural Services, says his company has been in existence since 1983 with 6 locations throughout the Valley. They have been operating at the present location since 2000 with employment of 30 people. When they started at the location, sales were about 4.5 million, sales have increased to almost 13 million. They have outgrown that facility and there are not enough parking spaces on the property. The traffic is very intense during harvesting time. The approval of this facility would be more adequate. He thanked those that have worked on this project. They will comply with all the rules and it is there intent to be good neighbors.

Doug Wells, member of LFA, and also serves on the Livingston Farmers Association Board, says there is an impact on the property to the south of this property. This is an almond stockpile yard. In early spring this is a station for bees. Water storage runoff is to the northwest of that site and there can be bees looking for water. If the runoff contains chemicals, it can impact the bees. The holding pond is filtered but it is not a carbon filter. All the water will percolate or evaporate. How will groundwater be monitored? Property values do decrease and most will not want to build a home next to a chemical facility. Some land value is lost. He hopes to work out these issues out with the applicant. If there are issues with the mitigation measures, can this application be heard by the Planning Commission or Board of Supervisors again to be modified or changed?

Planner James Holland responded and said that the County Code Compliance Division is responsible for ensuring the mitigation measures are followed.

Mr. Wells asked Mr. Beck if January 2011 is the starting date for construction. He is under the impression that they want to start construction as soon as possible.

Byron Kirasaki, Mid Valley Agricultural Services Branch Manager, understands Mr. Wells concerns. He stated that chemicals are prepackaged and there is no mixing of chemicals on the site. There are no plans at this time for a fertilizer blending system. If they do plan for the system, they will follow all County, State and Federal regulations.

The public hearing closed at 9:53 a.m.

Marianne Greene, County Counsel, received a request from Cindy Lashbrook saying she has a conflict of interest. Ms. Greene asked for advanced notice from any Planning Commissioner stating whether they have a conflict with a particular application to allow analysis on her part. In Commissioner Lashbrooks' letter, she says she lives 3-4 miles from Mid Valley Agricultural Services. She has no financial interest from this project, but she purchases supplies from Mid Valley Agricultural Services. The vote will make no difference in her buying habits. Ms. Greene says if the decision affects the Commissioner's financial interest in a material way, then there would be a conflict and a vote would not be allowed. Ms. Greene said it doesn't appear to be foreseeable that Commissioner Lashbrooks' financial interest would be materially affected by this decision. She is not supplying goods and services to this store. She asked Commissioner Lashbrook if this would affect her skill, zeal and diligence in assessing this project.

Commissioner Lashbrook said no, this wouldn't affect her.

Commissioner Lashbrook understands the concerns regarding bees, but being that most pesticides are in closed containers. Is it triple wash going into that water? Do the bees have a water source? Can they put a tank where the bees are?

Mr. Kirasaki repeated that chemical mixing is not done there. We do not receive empty pesticide containers on site. They will be washed and contained onsite. There is no chemical spilling.

County Counsel Marianne Greene, asked for the name of the proprietor for the Indemnity Agreement.

Mr. Kirasaki said Mid Valley Agricultural Services is the sole proprietor. Ms. Greene asked for the name of the President of the company. Mr. Kirasaki said the President of Mid Valley Agricultural Services is Larry Beck. Ms. Greene would like to add Larry Beck to the Indemnity Agreement as the President.

MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION ADOPTS THE MITIGATED NEGATIVE DECLARATION PREPARED FOR CONDITIONAL USE PERMIT No. CUP09-006 WITH 7 MITIGATION MEASURES.

MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED APRIL 28, 2010, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 10 FINDINGS, APPROVES CONDITIONAL USE PERMIT No. CUP09-006 SUBJECT TO THE 22 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning and Community Development Department

1. Conditional Use Permit Application No. CUP09-006 is granted for an agricultural fertilizer distribution, storage and sales facility on a 15.5 acre parcel. This new facility will consist of a 19,300 sq. ft. building used for office and warehouse space, a tank farm, fuel island and equipment storage areas. This approval specifically excludes the open air blending or mixing of agricultural chemicals and fertilizers. The facility shall be developed and operated in a manner consistent with the submitted operational statement and approved site plan. Minor modifications to this Conditional Use Permit may be approved by the Development Services Director.

2. Applicant/property owner shall comply with all Conditional Use Permit conditions as contained in the Planning Commission Resolution No. 97-1.

3. Applicant/property owner shall comply with all Federal, State, and Local agency regulations.

4. The applicant/property owner shall submit a detailed landscaping plan for review that includes an installation timeline and irrigation plan as part of the building permit plan submittal package for this facility. The submitted landscaping plan shall also provide for the planting of suitable (drought resistant) trees along the southern property boundary.

5. For the purpose of condition 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 at the established hourly rate at the time of the inspection.

Public Works Building & Safety Division

6. Building plans must be completed by a licensed engineer or architect and permit applications submitted prior to the start of any work. Four sets of plans and three sets of calculations should be provided for any permit submittal.

7. All buildings, walkways, restrooms, offices and all other facilities are required to be handicapped accessible. Handicapped accessibility must be detailed on any plans that are submitted for building permits.

Environmental Health Division

8. Any hazardous material stored on-site over threshold quantities shall require a Hazardous Materials Business Plan be filed with the Environmental Health Division. A new Hazardous Materials Business Plan must be submitted within 30 days of any relocation. Contact Vickie Hayer at (209) 381-1083.

9. The applicant must apply for and obtain a Public Water System (PWS) permit for the proposed facility from the Environmental Health Division prior to issuance of a certificate of occupancy by the Building and Safety Division. The water well and wellhead construction must meet the requirements of a public water system well.

10. A plot plan, drawn to scale and showing proposed well and sewage disposal system locations, must be submitted with the Building Permit Application. Include a 100% leach line replacement area (300% replacement area for systems serving commercial facilities). The septic tank and leach line area (including replacement area) are to be unpaved and protected from compaction (traffic, etc.). The Merced County Division of Environmental Health (MCDEH) will review the application and determine the septic system specifications.

Public Works Road Division

11. To complete the property owners half of a 60-foot ultimate right-of-way, 10 feet of right-of-way shall be dedicated along Eucalyptus Avenue and Sultana Drive, including a 50 foot radius curve (fillet) at the southeast corner of Sultana Drive and Eucalyptus Avenue. This is in addition to the existing 20-foot right-of-way width on each road.

12. The access points to the facility shall be paved with county standard driveway approaches. A county standard streetlight shall be placed at each access point to adequately light the driveways. Installation of driveway approaches and lighting shall be done under encroachment permit(s) obtained from the Department of Public Works/Road Division and subject to inspection and approval by a Road Division inspector. The applicant is responsible for paying permit fees.

San Joaquin Valley Air Pollution Control District

13. The applicant/property owner shall contact the San Joaquin Valley Air Pollution Control District Small Business Assistance Office at (550) 230-5888 to determine the applicability of any District Rules or Regulations to the proposed project.

Merced Irrigation District

14. The project shall not discharge any drainage water of any type from the property into MID facilities.

County Counsel

15. Larry Beck, President and Mid Valley Agricultural Services, Inc., must indemnify, defend and hold harmless, the County of Merced, its Board of Supervisors, commissions, officers, employees, agents and assigns (hereinafter "County") from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, expert witness and consultant fees and other costs and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the approval, modification, denial, or the exhaustion of administrative appeals associated with Mid Valley Agricultural Services (CUP09-006) 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 Mid Valley Agricultural Services, Inc. The liability of Larry Beck, President, and Mid Valley Agricultural Services for indemnity under this term and condition shall apply, regardless of fault, to any acts or omissions, willful misconduct, or negligent conduct of any kind, on the part of Larry Beck, President and Mid Valley Agricultural Services, Inc., their employees, subcontractors, agents, and officers. The duty shall extend to any allegation or 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 notice of filing a lawsuit, claim, petition, or allegation of liability against County. Larry Beck, President and Mid Valley Agricultural Services, Inc., will on request and at their expense, defend any action, suit, or proceeding arising hereunder. This term and condition and shall not be limited to any claim, petition, demand, liability, judgment, award, interest, attorney's fees, expert or consultant witness fees, legal research fees, staff and administrative costs, administrative record costs, materials, and costs and expenses of whatsoever kind or nature, that may arise at the time of project approval, modification, or denial, but shall also apply to all such claims and the like, after project approval, modification, denial, or the exercise or exhaustion of administrative appeals, including but not limited to actions arising from public interest, land use and environmental legal actions. Attorney's fees shall include any and all attorney's fees but not be limited to attorney's fees and staff time incurred by the offices of County counsel. County shall have full discretion to select legal counsel of its own choosing to represent County, at a cost not exceeding the prevailing and reasonable rates for counsel practicing environmental and land use law in the State of California, or practicing any other area of law that the County determines the claim may reasonably require. This term and condition for indemnification shall be interpreted to the broadest extent permitted by law.

<u>Mitigation Measures</u>

16. MM-Biology-1.
Tree removal shall occur outside of the nesting season (September I through February 28). If trees must be removed during the nesting season (March 1 through September I), preconstruction surveys for nesting birds shall be conducted within 250 feet of the project site. Surveys shall be conducted no more than 14 days prior to initiation of construction. If active nests are located, construction shall be halted until a fledging has occurred as determined by a qualified biologist. Alternatively, CDFG may be consulted to determine if project construction is likely to impact nesting individuals and if construction may proceed. If construction proceeds, CDFG may require additional mitigation, including the presence of a biological monitor to ensure

that construction does not result in nest abandonment.

17. MM-Biology-2.
Prior to issuance of a building permit, and no less than 14 days and no more than 30 days prior to ground disturbance or commencement of construction, a qualified biologist shall conduct a protocol level survey to determine the presence of the San Joaquin kit fox. In the event that this species is detected during protocol-level surveys, consultation with the California Department of Fish and Game (DFG) and the United States Fish and Wildlife Service (USFWS) shall be required to discuss how to implement the project and avoid "take." If "take" cannot be avoided, acquisition of a State Incidental Take Permit and corresponding federal take permit will be required prior to project implementation. If the survey identifies potential dens (defined as burrows at least four inches in diameter that open up within two feet), potential den entrances shall be dusted for three calendar days to register track of any San Joaquin kit fox present. If no San Joaquin kit fox activity is identified, potential dens may be destroyed. If San Joaquin kit fox activity is identified, then dens shall be monitored to determine if occupation is by an adult fox only or is a natal den (natal dens usually have multiple openings). If the den is occupied by an adult only, the den may be destroyed when the adult fox has moved or is temporarily absent. If the den is a natal den, in coordination with the USFWS, a buffer zone of 250-feet shall be maintained around the den until the biologist determines that the den has been vacated. Where San Joaquin kit fox is identified, the provisions of the USFWS's published Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance (June 1999) shall apply (except that preconstruction survey protocols shall remain as established in this paragraph). These standards include provisions for educating construction workers regarding the kit fox, keeping heavy equipment operating at safe speeds, checking construction pipes for kit fox occupation during construction, and similar low or no-cost activities.

18. MM-Cultural - 1
If potentially significant archaeological resources are discovered during ground disturbing activities associated with construction of the proposed project, all work within 100 feet of the find shall stop until a qualified archaeologist can assess the significance of the find, and, if necessary, develop appropriate mitigation measures in consultation with Merced County and other appropriate agencies and individuals. If significant resources are discovered, a formal evaluation using CEQA criteria will be conducted to determine if further study, test excavations, or data recovery procedures are necessary.

19. MM-Cultural-2.
In the event that human remains are discovered on the project site, all project-related construction shall cease within a 100-foot radius of the remains. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, the following shall occur: The Merced County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are Native American, s/he shall notify the Native American Heritage Commission (NAHC) within 24 hours and the NAHC will attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall re-inter the human remains and items associated with Native American burials on the

property in a location not subject to further subsurface disturbance.

20. MM-Geology-1.
Prior to the issuance of building permits, the project applicant shall obtain a site specific soils report from a qualified California licensed soils engineer. The applicant's engineer must review the report before finalizing foundation designs to ensure that all requirements from the soils engineer are met. The soils report must be submitted to the Merced County Building and Safety Division as part of any building permit application.

21. MM-Hydrology-1.
Prior to the issuance of building permits for the proposed project, the applicant shall prepare and submit to the County of Merced a site-specific SWPPP as part of the NPDES General Construction Activities Stormwater Permit. The site-specific SWPPP will require the construction contractor to incorporate the SWPPP Best Management Practices (BMP) measures into all aspects of the project and meet Merced County construction requirements. The BMPs will include measures for management and operation of construction sites to control and minimize the potential contribution of pollutants to storm runoff from these areas. These measures address procedures for controlling erosion and sedimentation and management of all aspects of the construction to ensure control of potential water pollution sources.
Construction phase BMPs will include:
• dust control
• minimal use of water for dust control (only as much as needed)
• dry sweeping and/or storm drain inlet control measures (e.g. sandbags filter fabric, fiber rolls, etc.)
• install silt barriers around sensitive areas and wherever earthwork activities might result in erosion and sediment transport
• stabilize stockpiled soils (if any)
• post-construction stabilization or revegetation
• runoff control
The measures included in the SWPPP will be monitored regularly for effectiveness. If a measure is found to be ineffective, it will be redesigned or replaced immediately.

22. MM-Noise-1.
The Applicant shall implement the following measures during project-related construction:
• Construction activities shall be limited to between 7 a.m. and 6 p.m., Monday
Saturday, to avoid noise-sensitive hours of the day. Construction activities shall be prohibited on Sundays and holidays.
• Construction equipment noise shall be minimized by muffling and shielding intakes and exhaust on construction equipment (per the manufacturers specifications) and by shrouding or shielding impact tools.

B. ADMINISTRATIVE APPLICATION No. AA10-003 - Tudor Reyes - To establish a semi-mobile food vendor within the existed parking lot of an established convenience store on a 9.31 acre parcel. The project site is located at 3823 North Highway 59, south of Pettinotti Road in the Merced area. The property is designated General Commercial land use in the General Plan and zoned C-1 (Neighborhood Commercial). **JF**

Recommendation: The actions requested are to:
1) Determine the project is categorically exempt from CEQA; and
2) Approve Administrative Application No. AA10-003 based on the project findings, and subject to the conditions of approval presented in the Staff Report.

Planner Jeff Fugelsang presented the Staff Report and recommendations of approval dated April 28, 2010.

The public hearing opened at 10:07 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 10:08 a.m.

MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS ADMINISTRATIVE APPLICATION No. AA10-003 FROM CEQA.

MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED APRIL 28, 2010, AND MAKES THE 11 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 11 FINDINGS, APPROVES ADMINISTRATIVE APPLICATION No. AA10-003 SUBJECT TO THE 9 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning & Community Development Department

1. Administrative Permit No. AA10-003 is granted to allow Tudor Reyes (applicant) to operate a semi-mobile food vendor (catering) truck with seating in the parking lot of an existing convenience store located at 3823 North Highway 59 in the Merced area.

2. The project shall operate in a manner that is consistent with the approved Plot Plan and the applicant's Operational Statement. Minor Modifications may be approved by the Development Services Director upon submittal of an acceptable application.

3. If the Administrative Permit is not implemented within one year, it shall expire and become null and void. The Planning Commission may extend the Permit if a request is filed by the applicant prior to its expiration.

4. The applicant shall comply with the Merced County Zoning Code Development Standards required for semi-mobile food vendors (Section 18.47.280.D) including, but not limited to the following:

    a. The operating hours shall be limited to 9:00 am to 9:00 pm, Monday through Friday.

    b. There shall be adequate trash receptacles adjacent to the semi-mobile food vendor.

    c. The site shall be kept clean and free of litter at all times. Trash and garbage shall be removed from the site at the end of each day.

    d. Waste water generated by this use shall not be released on-site or into any storm drainage or irrigation system.

e. Grease shall be disposed per requirement of the Division of Environmental Health.

f. No additional advertising sign except a sign attached to the semi-mobile food vendor shall be reviewed and approved by the Development Services Director.

g. A copy of the administrative permit shall be kept with the operator at all times and shall not be transferable to another operator.

County Counsel

5. Tudor Reyes and Central Valley Concrete must indemnify, defend and hold harmless, the County of Merced, its Board of Supervisors, commissions, officers, employees, agents and assigns (hereinafter "County") from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, expert witness and consultant fees and other costs and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the approval, modification, denial, or the exhaustion of administrative appeals associated with Administrative Permit No. AA10-003 ("project") 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 Tudor Reyes and Central Valley Concrete. The liability of Tudor Reyes and Central Valley Concrete for indemnity under this term and condition shall apply, regardless of fault, to any acts or omissions, willful misconduct, or negligent conduct of any kind, on the part of Tudor Reyes and Central Valley Concrete, its employees, subcontractors, agents, and officers. The duty shall extend to any allegation or 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 notice of filing a lawsuit, claim, petition, or allegation of liability against County. Tudor Reyes and Central Valley Concrete will on request and at its expense, defend any action suit or proceeding arising hereunder. This term and condition and shall not be limited to any claim, petition, demand, liability, judgment, award, interest, attorney's fees, expert or consultant witness fees, legal research fees, staff and administrative costs, administrative record costs, materials, and costs and expenses of whatsoever kind or nature, that may arise at the time of project approval, modification, or denial, but shall also apply to all such claims and the like, after project approval, modification, denial, or the exercise or exhaustion of administrative appeals, including but not limited to actions arising from public interest, land use and environmental legal actions. Attorneys fees shall include any and all attorneys fees but not be limited to attorneys fees and staff time incurred by the offices of County counsel. County shall have full discretion to select legal counsel of its own choosing to represent County, at a cost not exceeding the prevailing and reasonable rates for counsel practicing environmental and land use law in the State of California, or practicing any other area of law that the County determines the claim may reasonably require. This term and condition for indemnification shall be interpreted to the broadest extent permitted by law.

Department of Public Health/ Environmental Health Division

6. A stationary mobile food preparation unit (aka semi-mobile food vendor) must

be operated within 200 feet travel distance of an approved, readily available, permanent toilet and hand washing facility for use by facility employees. If a permanent structure where food is stored, prepared, served or consumed is provided for customers at the site, then a permanent restroom must be available for customer use. In either case, written permission from the restroom owner should be provided indicating who has permission to use the restrooms.

Fire Department

7. Access to the existing business or structures on the property shall be maintained.

   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. (CFC 503.4)

   This may be required,

   Where required by the fire code official, approved signs or other approved notices shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Signs or notices shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility. (CFC 503.3)

8. *If applicable, for fire protection system or equipment,*

   CFC Section 508.5.4 Obstruction. Posts, fences, vehicles, growth, trash, storage and other materials or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately discernible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

9. If applicable, temporary membrane structures if erected shall require a permit set forth by the California Fire Code.

   2403.2 Approval required. Tents and membrane structures having an area in excess of 200 square feet and canopies in excess of 400 square feet shall not be erected, operated or maintained for any purpose without first obtaining a permit and approval from the fire code official.

C. **CONDITIONAL USE PERMIT NO. CUP09-015 - Michael Ryel -** To allow multiple light industrial land uses at an existing business park on a 4.5 acre parcel. The project site is located on the east side of Highway 59, one-fifth mile south of Gerard Avenue in the Merced SUDP. The property is designated as General Commercial land use in the General Plan and zoned M-1 (Light Manufacturing). **JF**

Recommendation: The actions requested are to:
1) Determine the application is categorically exempt from CEQA, and

2) Approve Conditional Use Permit No. CUP09-015 based on the project findings, and subject to the conditions of approval.

Planner Jeff Fugelsang presented the Staff Report and recommendations of approval dated April 28, 2010.

The public hearing opened at 10:11 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 10:12 a.m.

MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION REFERRED THIS APPLICATION BACK TO PLANNING STAFF.

D. **RESCIND APPROVAL OF MAJOR SUBDIVISION No. MAS06-011 - "Lucca Villas" - Pietro Bandoni -** To divide 22.2 acres into 17 single family residential lots ranging from 1.0 acres to 1.97 acres in size. The project is located on the east side of Leeds Road, 1,450 feet north of Olive Avenue in the Merced area. The property is designated Merced Rural Residential Center #1 Agricultural Residential land use in the General Plan and zoned A-R (Agricultural-Residential). **DG**

Recommendation: The actions requested are to:
1) Rescind previous adoption of the Mitigated Negative Declaration that was prepared in conformance with CEQA, and
2) Rescind approval of Major Subdivision Application No. MAS06-011 by the Planning Commission on October 28, 2009, that included nine project findings, 37 conditions of approval, based on policy direction from the Board of Supervisors on January 26, 2010.

Planner David Gilbert presented the Staff Report and recommendations of approval dated April 28, 2010.

The public hearing opened at 10:15 a.m.

Pete Bandoni, owner, said this project was approved in October 2009 and nothing has changed since then on the property. He would like to move forward with his application.

The public hearing closed at 10:17 a.m.

MOTION: M/S MOBLEY - ERRECA, AND CARRIED BY A VOTE OF 4 - 0, WITH COMMISSIONER THOMPSON ABSTAINING FROM THE VOTE, THE PLANNING COMMISSION RESCINDS THE PREVIOUS ADOPTION OF THE MITIGATED NEGATIVE DECLARATION THAT WAS PREPARED IN CONFORMANCE WITH CEQA.

MOTION: M/S MOBLEY - ERRECA, AND CARRIED BY A VOTE OF 4 - 0, WITH COMMISSION THOMPSON ABSTAINING FROM THE VOTE, THE PLANNING COMMISSION RESCINDS APPROVAL OF MAJOR SUBDIVISION NO. MAS06-011 BY THE PLANNING COMMISSION ON OCTOBER 28, 2009, THAT INCLUDED NINE PROJECT FINDINGS, 37 CONDITIONS OF APPROVAL BASED ON POLICY DIRECTION FROM THE BOARD OF SUPERVISORS ON JANUARY 26, 2010.

E. **MAJOR SUBDIVISION No. MAS06-011 - "Lucca Villas" - Pietro Bandoni -** To divide 22.2 acres into 17 single family residential lots ranging from 1.0 acres to 1.97 acres in size. The project is located on the east side of Leeds Road, 1,450 feet north of Olive Avenue in the Merced area. The property is designated Merced Rural Residential Center #1 Agricultural Residential land use in the General Plan and zoned A-R (Agricultural-Residential). **DG**

Recommendation: The actions requested are to:
1) Adopt the Mitigated Negative Declaration in conformance with CEQA, and

2) Approve Major Subdivision Application No. MAS06-011 based on the project findings, and subject to the conditions of approval.

Planner David Gilbert presented the Staff Report and recommendations of approval dated April 28, 2010.

Commissioner Lashbrook asked if the lot sizes that are lower than an acre within the Rural Residential Center.

Planner Dave Gilbert said in some areas that provide a sewer system they are 3 units per acre. It is very unlikely because of the cost of putting in the water treatment plant, so most lots are 1 acre minimum or larger.

The public hearing opened at 10:29 a.m.

Pete Bandoni, owner, says he has not received one complaint from his neighbors regarding this project. He asked for approval and would like to move forward.

The public hearing closed at 10:31 a.m.

County Counsel Marianne Greene said comments were received from Marsha Burch and also Ginger Bandoni. County Counsel's office has not had time to read the comments to allow an opportunity to respond, so she is asking for continuance of this project.

Chairman Tanner said the public hearing will be open for comments at the next hearing for this project and this will be advertised and notified again.

MOTION: M/S MOBLEY - ERRECA, AND CARRIED BY A VOTE OF 4 – 0, WITH COMMISSIONER THOMPSON ABSTAINING FROM THE VOTE, THE PLANNING COMMISSION CONTINUED THIS APPLICATION TO AN UNKNOWN PLANNING COMMISSION DATE.

VI. CORRESPONDENCE

None

VII. DIRECTOR'S REPORT

The new Commissioner, Greg Thompson was welcomed by Planning Staff and the Planning Commissioners.

VIII. ADJOURNMENT

There being no further business, the meeting adjourned at 10:35 a.m.