

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF JUNE 27, 2018

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of June 27, 2018, are available online at www.co.merced.ca.us/planning/plancomarchive.html.

I. CALL MEETING TO ORDER

The regularly scheduled meeting of the Merced County Planning Commission was called to order at 9:00 a.m., on June 27, 2018, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL OF COMMISSIONERS

Commissioners Present: Acting Chairperson Jack Mobley
 Commissioner Fernando Aguilera
 Commissioner Robert Acheson
 Commissioner Mark Erreca

Staff Present: Mark Hendrickson, Director
 Kim Zinke, Recording Secretary
 Kristin McHaney, Recording Secretary
 Brian Guerrero, Planner III
 Maya Tjahjadi, Planner I

Legal Staff: Jeff Grant, Deputy County Counsel

Commissioners Absent: None

IV. APPROVAL OF MINUTES

MOTION: M/S ACHESON – ERRECA, AND CARRIED BY A VOTE OF 4 – 0, THE COMMISSION APPROVES THE MINUTES FROM THE JUNE 13, 2018 MEETING.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. REVOCATION OF CONDITIONAL USE PERMIT CUP15-016 - Based upon failure to comply with the approved conditions of permit approval. The property is approximately 6 acres in size and is located on the north side of Second Avenue and 550 feet east of North Petaluma Avenue in the Delhi area. The property is designated as Agricultural in the General Plan and zoned A-1 (General Agricultural) in the zoning code. **MT**

RECOMMENDATION(S):

- 1) Staff recommends that the Planning Commission revoke Conditional Use Permit No. CUP 15-016, and order the property owners to immediately cease all related activities on the property based on the findings listed in the Staff Report.

Planner Maya Tjahjadi presented the Staff Report and recommendations of approval dated June 27, 2018.

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The public hearing opened at 9:02 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:02 a.m.

MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION RECOMMENDS THE REVOCATION OF CONDITIONAL USE PERMIT CUP13-013, AND ORDERS THE PROPERTY OWNERS TO IMMEDIATELY CEASE ALL RELATED ACTIVITIES ON THE PROPERTY BASED ON THE 7 FINDINGS LISTED IN THE STAFF REPORT.

- B. CONDITIONAL USE PERMIT No. CUP13-013 - Blue Sky Dairy Expansion - Luis Agueda** – A Request to expand an existing dairy from 1,400 animals (1,200 milk cows, 200 dry cows) to 5,366 animals (2,750 milk cows and 2,616 support stock); construct three freestall barns, a special needs barn, heifer pens, an additional silage pad, calf hutch area, a mechanical manure separator, stacking and processing pit, and installation of a pipeline to transport excess wastewater to an existing off-site wastewater storage pond on approximately 33 acres of an existing farm consisting of seven parcels and totaling approximately 450 acres. The dairy is located on the east side of Fox Road, .25 miles north of Santa Fe Drive in the Atwater area. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). CEQA: An Environmental Impact Report was prepared for the project.
BG

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Certify the Final Environmental Impact Report, adopt the CEQA Findings of Fact, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program; and,
- 3) Approve Conditional Use Permit Number CUP13-013 based on the findings included in the staff report and subject to the proposed conditions of approval and mitigation measures.

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated June 27, 2018.

The public hearing opened at 9:20 a.m.

Thomas Barela spoke of his concern with the wastewater effecting the nearby ground water and drinking water. Also expressed concerned with the dairy's close distance from the city limits. Written statement was also submitted by Mr. Buriella.

Matthew Freitas spoke of his concerns with possible effects the dairy may have on his business, Santa Fe Driving Range, such as offensive odors as well as the how the drinking water could be effected by the release of the wastewater due to the dairy's close proximity to the business.

Raadha Jacobstein, EIR Consultant, stated that the water quality in the area has been analyzed. Mitigations and regulations required for dairy to comply with to ensure water quality.

Brian Guerrero stated that if there are future concerns from surrounding residents or businesses they may call the department and steps would be taken by department as well as dairy owner to ensure dairy is in compliance.

The public hearing closed at 9:25 a.m.

MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CERTIFIED THE FINAL ENVIROMENTAL IMPACT REPORT, ADOPTS THE CEQA FINDINGS OF FACT AND STATEMENT OVERRIDING CONSIDERATIONS AND MITIGATIONS MONITORING AND REPORTING PROGRAM FOR CONDITIONAL USE PERMIT NO. CUP13-013.

MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JUNE 27, 2018 AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT NO. CUP13-013 SUBJECT TO THE 20 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Conditions:

1. Conditional Use Permit No. CUP13-013 is granted to expand an existing dairy from 1,400 animals (1,200 milk cows, 200 dry cows) to 5,366 animals (2,750 milk cows and 2,616 support stock); three freestall barns, a special needs barn, heifer pens, an additional silage pad, calf hutch area, a mechanical manure separator, stacking and processing pit, and installation of a pipeline to transport excess wastewater to an existing off-site wastewater storage pond on approximately 33 acres of an existing farm consisting of seven parcels and totaling approximately 450 acres.
2. The Blue Sky Dairy Expansion project shall be located, developed and operated in a manner described on the approved plot plan, Nutrient Management Plan, Waste Management Plan, mitigation measures, mitigation monitoring and reporting program, and conditions of this permit. Any changes or proposed modifications to the approved project would be based on a written request of the applicant to the Planning Director.
3. All mitigation measures identified in the Environmental Impact Report are adopted and incorporated by reference as project conditions.
4. The project shall comply with all applicable regulations administered by the County Fire Department, Environmental Health Division, Community and Economic Development, and Public Works Departments.
5. For the purpose of conditions monitoring, an inspection fee in the amount of **\$648** shall be required. This fee shall be paid within 30 days of the approval date. Should additional inspections be required, inspection time shall be billed to the applicant / property owner at the established hourly rate at the time of the inspection. This permit will not be considered valid until the conditions monitoring fee has been paid.
6. The applicant shall obtain all necessary permits, and comply with all applicable regulations administered by Federal and State agencies.

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County Counsel

7. INDEMNITY AND HOLD HARMLESS AGREEMENT:

DANNY AGUEDA has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract, writ of mandamus, or otherwise. This duty shall include, but not be limited to, claims, petitions, or the like for bodily injury, property damage, personal injury, contractual damages, writ of mandamus, or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents, commissions, boards, and officers of DANNY AGUEDA. DANNY AGUEDA's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of the Applicant, its agents, subcontractors, employees, boards, and commissions. The duty shall extend to any allegation, claim of liability, or petition, except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first claim, petition, or allegation of liability against County. DANNY AGUEDA will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following Conditional Use Permit No. CUP13-013 approval, modification, or denial.

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

Public Works/Roads Division

8. To reduce the potential for pavement raveling at the edge of Fox Road when heavy trucks access and leave the site, the Applicant shall install paved (or concrete) rural driveway approaches utilized by heavy trucks. Please refer to Merced County Standards and Specifications Drawing DW-03, and DW04/04A (Chapter 7). Applicant shall obtain and pay for an Encroachment Permit prior to beginning any construction along County's right-of-way.
9. Any and all storm water runoff shall be maintained on-site.
10. Applicant shall install a 150-watt pole-mounted street light at each driveway approach used by project trucks.

Public Works/Building and Safety Division

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

Merced County Fire Department

12. All driveways accessing the parcel shall be surfaced with an approved all weather driving surface 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)
13. 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)
14. All projects shall meet the fire flow requirements as per the CFC. In addition, all options shall be approved by this office.
15. 507.1 Required water supply: An approved water supply capable of supplying the required 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.

Merced Irrigation District (MID)

16. Nothing shall be allowed on MID right-of-way without express written approval by MID.
17. Absolutely no drainage of any kind may be discharged to any MID facility.
18. MID facilities cannot be utilized for wheeling wastewater at any time.
19. A backflow prevention device (meeting MID standards) must be installed at all MID water delivery points.

Final Environmental Impact Report Mitigation Measures

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

Air Quality

- AQ-3a: Reduction of ROG emissions, MMRP, page 2-1
- AQ-3b: Voluntary Emissions Reduction Agreement, MMRP, page 2-1
- AQ-5: Reduce ammonia concentrations, MMRP, page 2-1.
- AQ-6: Minimize PM₁₀ emissions, MMRP, page 2-1
- AQ-7a: Odor Control Plan, MMRP, pages 2-1 through 2-2
- AQ-7b: Implement nuisance control measures set forth in Mitigation Measures HAZ-1a, HAZ-1b and HAZ-1c, MMRP, page 2-2

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Biological Resources

- BIO-1a: Consult with CDFW on potential loss of Swainson's Hawk foraging habitat, MMRP, page 2-3.
- BIO-1b: If necessary after consultation, CDFW pre-approved CEQA mitigation measures shall be required, MMRP pages 2-3 through 2-5
- BIO-2a: Implement Mitigation Measure BIO-1b if necessary, MMRP page 2-5
- BIO-2b: Reduction of project-related impacts to active bird nests, MMRP, page 2-5
- BIO-3: Preconstruction surveys for burrowing owls, MMRP pages 2-5 through 2-6
- BIO-4: Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to Ground Disturbance, MMRP pages 2-6 through 2-8
- BIO-6: Implement ACO, MMRP, page 2-8
- BIO-10: Minimize project-related lighting, MMRP page 2-8

Cultural Resources

- CUL-1: Discovery of cultural artifacts or remains, MMRP, page 2-8
- CUL-2a: Implement Mitigation Measure CUL-1, MMRP, page 2-9
- CUL-2b: Discovery of human remains, MMRP, page 2-9

Nuisance Insects (Revised Draft EIR Chapter 9)

- HAZ-1a: Vector Control Plan, MMRP page 2-9
- HAZ-1b: ACO Operational Measures: MMRP pages 2-9 through 2-10
- HAZ-1c: Install triple row of large-leaf trees along the south, west and north boundaries of the project site, MMRP, page 2-10

Hydrology and Water Quality

- HYD-1: Submit Permit Registration Documents, MMRP, pages 2-10 through 2-11
- HYD-3a: Implement Best Management Practices, MMRP, page 2-11
- HYD-3b: Comply with requirements of the NMP/WMP, MMRP, page 2-11
- HYD-3c: Agronomic Rates for Best Management Farming Practices, MMRP, page 2-11.
- HYD-3d: Salinity Report, MMRP, page 2-12
- HYD-3e: Continue membership in the groundwater monitoring network or install a site-specific groundwater monitoring system, MMRP, page 2-12
- HYD-3f: Groundwater Monitoring, MMRP, page 2-12
- HYD-3g: Concentration in Groundwater of Constituents of Concern, MMRP, page 2-12
- HYD-3h: Community and Economic Development Department and Division of Environmental Health Inspection, MMRP, page 2-12
- HYD-6: Flood Protection Analysis Implementation, MMRP pages 2-12 through 2-13

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- HYD-7: Well Inspections by DEH, MMRP page 2-13
- HYD-8: Project sponsor shall obtain written agreement from recipients of manure exported off site in regards to rates and times for application, storm water, wells and that manure shall not be applied within 100 feet of any domestic wells. MMRP, page 2-13

Land Use Compatibility (Revised Draft EIR Chapter 11)

- LU-2a: Implement odor control measures set forth in Mitigation Measure AQ-7a, MMRP page 2-14
- LU-2b: Implement nuisance control measures set forth in Mitigation Measures HAZ-1a, HAZ-1b, and HAZ-1c, MMRP page 2-13

VII. COMMISSION ACTION ITEM (S)

None

VIII. DIRECTOR'S REPORT

Director Mark Hendrickson informed Commissioners that staff will be moving forward with paperless distribution of Planning Commission packets.

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:29 a.m.