

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF MAY 23, 2018

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of May 23, 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 May 23, 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: Commissioner Jack Mobley -Vice Chairman (Acting Chairman)
 Commissioner Fernando Aguilera
 Commissioner Mark Erreca
 Commissioner Robert Acheson

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

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 MEETING OF MAY 9, 2018.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. CONDITIONAL USE PERMIT No. CUP15-018 – Godhino Dairy - A request to expand an existing dairy from 1,700 cows (1500 milking and 20 support stock) to 4,700 cows (4,000 milking and 700 support stock) and construction of a new milking parlor and support structures. The project is located at the northeast corner of South Wilson Road & West Henry Miller Road in the Los Banos area, identified as Assessor's Parcel Number (APN) 070-180-028. The property is designated Agricultural land use in the General Plan and zoned A-2 (Exclusive Agricultural). CEQA: An Environmental Impact Report has been prepared for the project. **BG**

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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 CUP15-018 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 May 23, 2018.

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

No one spoke in favor or opposition to this application.

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

MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CERTIFIED THE FINAL ENVIRONMENTAL IMPACT REPORT, AND ADOPTED THE CEQA FINDINGS OF FACT, STATEMENT OF OVERRIDING CONSIDERATIONS AND MITIGATION MONITORING AND REPORTING PROGRAM FOR CONDITONAL USE PERMIT NO. CUP15-018.

MOTION: M/S ERRECA – ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MAY 23, 2018, AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT APPLICATION CUP15-018 SUBJECT TO THE 16 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Conditions:

1. Conditional Use Permit No. CUP15-018 is granted to expand an existing dairy from 1,700 animals (1,500 milking and 200 support stock) to 4,700 animals (4,000 milk cows and 700 support stock); two new freestall barns, and modifications to existing structures on 50 acres of an existing facility totaling approximately 1,200 acres.
2. The Godinho 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.

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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.

County Counsel

7. INDEMNITY AND HOLD HARMLESS AGREEMENT:

DAVID GODINHO 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 DAVID GODINHO. DAVID GODINHO'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. DAVID GODINHO will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following Conditional Use Permit No. CUP15-018 approval, modification, or denial.

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

Public Works/Roads Division

8. Construction of the new milking barn is subject to the Regional Transportation Impact Fee (RTIF). The estimate, to be paid at the Building Permit stage is \$25,520.60.

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Public Works/Building and Safety Division

9. 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

10. CAD files of the site and floor plans are requested for Pre-Planning purposes. Pre-Planning improves Fire Department response in case of an emergency. These drawings shall include the following:
 - a. Location of all fire water systems, sources and devices
 - b. Location of fire extinguishers
 - c. Location and width of aisles
 - d. Location of exits
 - e. Exit access doors
 - f. Exit signs
 - g. Height of storage
 - h. Locations of hazardous materials
11. An exit/evacuation plan for public accessible areas shall be submitted at the time of permit application.
12. In order to make a more thorough determination of your Fire Suppression/Protection requirements, plans must be submitted for plan review.
 - a. Submit all Fire Suppression/Protection Plans to the Building Division service counter.
13. An application for an Annual Combustible Liquids Permit shall be submitted at the time of permit application. (First year fee is included in review)CFC105.6.16 paragraph 3.
14. The applicant shall install Reflective Building Identification that meets Fire Department Design Specifications. Contact the Prevention Bureau for additional information.
15. If security gates are installed they shall be approved by the Fire Department.
 - a. As required, the applicant shall install and maintain a Merced County Coded “Knox” key switch or “Knox” padlock, whichever is most appropriate in relation to your needs.

Final Environmental Impact Report Mitigation Measures

16. 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 Godhino Dairy Expansion project. The applicant shall be responsible to comply with all Mitigation Measures contained in the foregoing mentioned documents:

Air Quality

- AQ-1: Approved Dust Control Plan, MMRP, page 3
- AQ-3a: Reduction of ROG emissions, MMRP, page 3
- AQ-3b: Voluntary Emissions Reduction Agreement, MMRP, page 3
- AQ-5a & AQ-6: Minimize PM10 emissions, MMRP, page 3.
- AQ-5b: Use “Tier 4 Final” construction equipment during Phase 2 of project, MMRP, page 4
- AQ-6: Implement Mitigation Measure AQ-6, MMRP, page 4.

Biological Resources

- BIO-2: Develop a Lighting Plan prior to final inspection and initiation of new Operations, MMRP page 4.

Cultural Resources

- CUL-1: Discovery of cultural artifacts or remains, MMRP, page 4
- CUL-2a: Implement Mitigation Measure CUL-1, MMRP, page 5
- CUL-2b: Discovery of human remains, MMRP, page 5

Geology and Soils

- GEO-1a: Obtain permit from DEH prior to construction of the proposed OWTS, MMRP, page 5
- GEO-1b: DEH conditions of approval, MMRP, page 5-6

Hydrology and Water Quality

- HYD-1: Submit Permit Registration Documents, MMRP, page 6.
- HYD-3a: Implement Best Management Practices, MMRP, page 6.
- HYD-3b: Comply with requirements of the NMP/WMP, MMRP, page 7.
- HYD-3c: Agronomic Rates for Best Management Farming Practices, MMRP, page 7.
- HYD-3d: Salinity Report, MMRP, page 7.
- HYD-3e: Continue membership in the groundwater monitoring network or install a site-specific groundwater monitoring system, MMRP, page 7.
- HYD-3f: Groundwater Monitoring, MMRP, page 7.
- HYD-3g: Concentration in Groundwater of Constituents of Concern, MMRP, page 7-8.
- HYD-3h: Community and Economic Development Department and Division of Environmental Health Inspection, MMRP, page 8.

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

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- B. CONDITIONAL USE PERMIT No. CUP15-019 - A. J. Borba Holsteins** - A request to expand an existing dairy from 2,550 animals (1,250 milking and 1,300 support stock) to 4,750 animals (2,400 milking and 2,350 support stock) and construct a new 32,500 square foot milk barn and support structures. The property is located at the northwest corner of West Turner Road and North Mitchell Road in the Hilmar area and is identified as Assessor's Parcel Number (APN) 045-050-007. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). CEQA: An Environmental Impact Report has been 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 CUP15-019 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 May 23, 2018.

The public hearing opened at 9:14 a.m.

No comment.

The public hearing closed at 9:14 a.m.

MOTION: M/S ERRECA- ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CERTIFIES THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTS THE CEQA FINDINGS OF FACT, STATEMENT OF OVERRIDING CONSIDERATIONS AND MITIGATION MONITORING AND REPORTING PROGRAM FOR CONDITIONAL USE PERMIT NO. CUP15-019.

MOTION: M/S ERRECA - ACHESON, AND CARRIED BY A VOTE OF 4 – 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MAY 23, 2018, AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT APPLICATION NO. CUP15-019 SUBJECT TO THE 18 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Conditions:

1. Conditional Use Permit No. CUP15-019 is granted to expand an existing dairy from 2,550 animals (1,250 milking and 1,300 support stock) to 4,750 animals (2,400 milking and 2,350 support stock) and construct a new 32,500 square foot milk barn, a 21,840 square foot expansion to an existing shade barn, and a new 67,200 square foot shade barn.
2. The AJ Borba Holsteins 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

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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.

County Counsel

7. INDEMNITY AND HOLD HARMLESS AGREEMENT:

AJ BORBA HOLSTEINS DAIRY 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 AJ BORBA HOLSTEINS DAIRY. AJ BORBA HOLSTEINS DAIRY'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. AJ BORBA HOLSTEINS DAIRY will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following Conditional Use Permit No. CUP15-019 approval, modification, or denial.

This clause for indemnification shall be interpreted to the broadest extent

permitted by law.

Public Works/Roads Division

8. Construction of the new milking barn is subject to the Regional Transportation Impact Fee (RTIF). The estimate, to be paid at the Building Permit stage is \$47,395.40.

Public Works/Building and Safety Division

9. 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

10. CAD files of the site and floor plans are requested for Pre-Planning Purposes. Pre-Planning improves Fire Department response in case of an emergency. These drawings shall include the following:
 - a. Location of all fire water systems, sources and devices
 - b. Location of fire extinguishers
 - c. Location and width of aisles
 - d. Location of exits
 - e. Exit access doors
 - f. Exit signs
 - g. Height of storage
 - h. Locations of hazardous materials
11. An exit/evacuation plan for public accessible areas shall be submitted at the time of permit application.
12. In order to make a more thorough determination of your Fire Suppression/Protection requirements, plans must be submitted for plan review.
 - a. Submit all Fire Suppression/Protection Plans to the Building Division service counter.
13. An application for an Annual Combustible Liquids Permit shall be submitted at the time of permit application. (First year fee is included in review)CFC105.6.16 paragraph 3.
14. The applicant shall install Reflective Building Identification that meets Fire Department Design Specifications. Contact the Prevention Bureau for additional information.
15. If security gates are installed they shall be approved by the Fire Department.
 - a. As required, the applicant shall install and maintain a Merced County Coded “Knox” key switch or “Knox” padlock, whichever is most appropriate in relation to your needs.

Turlock Irrigation District

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16. The existing Revocable License Agreement allowing the livestock facility to use the Irrigation District (ID) pipelines to transport dairy nutrient water to area fields is listed as Maria C. Borba. If the facility ownership has changed, the current owner needs to apply to have the RLA assigned. Any changes in the area of use must also be updated in the RLA.

Department of Conservation Division of Oil, Gas and Geothermal Resources

17. There is one abandoned dry hole gas well within the project area designated as Field Number 4. The well was abandoned in 1959 and does not meet current standards for abandonment. The well location has not been field-checked for accuracy, care must be taken to avoid construction of buildings over the well. If during the course of development of this project, any unknown well(s) is/are discovered, the Division should be notified immediately so that the newly-discovered well(s) can be incorporated into the records and investigated.

Final Environmental Impact Report Mitigation Measures

18. 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 AJ Borba Holsteins Dairy Expansion project. The applicant shall be responsible to comply with all Mitigation Measures contained in the foregoing mentioned documents:

Air Quality

- AQ-1: Dust Control Plan, MMRP, page 3
- AQ-3a: Reduction of ROG emissions, MMRP, page 3
- AQ-3b: Voluntary Emissions Reduction Agreement, MMRP, page 3
- AQ-5a: Minimize exposure of sensitive persons, MMRP, pages 3-4
- AQ-5b: Reduce PM₁₀ emissions, MMRP, page 4
- AQ-6a: Implement Mitigation Measure AQ-5b, MMRP, page 4
- AQ-6b: Complete a revised ambient air quality analysis, MMRP, page 4

Biological Resources

- BIO-1a: Consult with CDFW, MMRP page 4.
- BIO-1b: Implement CDFW mitigation measures if required, MMRP, page 4
- BIO-2a: Implement Mitigation Measure BIO-1b if required, MMRP, page 6
- BIO-2b: Pre-construction survey for Tri-Colored Blackbirds, MMRP pages 6-7
- BIO-3: Various measures, MMRP, pages 7-9
- BIO-5: Implement ACO, MMRP, page 9

Cultural Resources

- CUL-1: Discovery of cultural/paleontological resources, MMRP, page 9
- CUL-2a: Implement Mitigation Measure CUL-1
- CUL-2b: Discovery of human remains, MMRP, pages 9-10

Hydrology and Water Quality

- HYD-1: Submit Permit Registration Documents, MMRP, page 10
- HYD -3a: Implement Best Management Practices, MMRP pages 10-11

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- HYD-3b: Comply with requirements of the NMP/WMP, MMRP, page 11
- HYD-3c: Agronomic Rates for Best Management Farming Practices, MMRP, page 11
- HYD-3d: Salinity Report, MMRP, page 11
- HYD-3e: Continue membership of the Groundwater Monitoring Coalition, MMRP, page 11
- HYD-3f: Groundwater Monitoring, MMRP, page 11
- HYD-3g: Concentration in Groundwater of Constituents of Concern, MMRP, Pages 11-12
- HYD-3h: Community and Economic Development Department and Division of Environmental Health Inspection, MMRP, page 12
- HYD-6: Obtain a flood-proofing certificate and submit to the Merced County Department of Public Works Building Department for verification, MMRP page 12
- 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 51.

VII. COMMISSION ACTION ITEM (S)

None

VIII. DIRECTOR'S REPORT

Mark Hendrickson expressed appreciation for the expansion of dairies within the Merced County area. Also, stated that Rich Ford resigned as Chairman of Planning Commission, and thanked him for his outstanding public service to Merced County. Jack Mobley will act as Chairman until new seat is appointed by District 4 Supervisor, Lloyd Pareira.

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:17 a.m.