

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF NOVEMBER 6, 2013

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of November 6, 2013, 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 November 6, 2013, 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 Mark Erreca
 Commissioner Rich Ford
 Commissioner Jack Mobley

Staff Present: Mark Hendrickson, Director
 William Nicholson, Assistant Development Services Director
 Ana Muniz-Laguna, Recording Secretary
 Kim Anderson, Recording Secretary
 Oksana Newmen, Planner III

Legal Staff: Michael Calabrese, Deputy County Counsel

Commissioners Absent: Commissioner Greg Thompson

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. GENERAL PLAN TEXT AMENDMENT No. GPTA09-001 – MERCED COUNTY -
The County of Merced is considering a comprehensive update of the General Plan to revise and replace the existing General Plan, including all of the elements, the Land Use and Circulation Diagrams, and other existing goals, policies and implementation programs as needed to reflect current law and matters of public interest and concern. The 2030 General Plan will establish and implement new goals and policies for urban growth and development, for balancing population growth with economic development, infrastructure availability, agricultural preservation and natural resource protection. The State of California requires every city and county to have a comprehensive general plan, identifying current and future needs and establishing policy in seven issue areas (or elements). Merced County's General Plan addresses these seven areas and contains "optional" elements for a total of eleven elements including: economic development, land use, transportation and circulation, housing, public facilities and services, natural resources, recreation and cultural resources, health and safety, air quality and water. The 2030 General Plan would supersede the current Merced County General Plan, with the exception of the Housing Element which was updated in 2010 in compliance with State requirements.

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Recommendations: The actions requested are to:

- 1) Consider and recommend the Board of Supervisors certify the Program Environmental Impact Report; and
- 2) Consider and recommend the Board of Supervisors adopt the 2030 Merced County General Plan (GPTA09-001), based on the findings and with approval of the mitigation measures presented in the Program Environmental Impact Report.

Mr. Mark Hendrickson, Director, thanked Staff and the team of professionals who helped with the 2030 General Plan Update and gave some information regarding the goals and objectives of this plan. Mr. Hendrickson introduced Mr. William Nicholson, Assistant Development Services Director, Mr. Jim Harnish, Principal with Mintier Harnish, the General Plan Consultant, Mr. Bob Klousner, with Environmental Planning Partners, the EIR Consultant, and Ms. Kate Hart, outside Counsel.

Mr. William Nicholson addressed the Planning Commission and stated that there were two additional attachments to the Staff Report, one being a comment letter in support of the 20 acre parcel size minimum in the agricultural zone. The second is an additional proposed text amendment to the document referred to as the Background Report which included information received from the State Department of Water Resources regarding reports of past flooding in the one-hundred year flood plain and stated that a minor sentence was added. Mr. Nicholson provided the Commission with a brief background of 2000 General Plan and the main goals of the new 2030 General Plan.

Mr. Jim Harnish spoke and gave a summary of the 2030 General Plan and gave an overview of the composition of the Plan and the public outreach process. He explained that the Plan has two parts, a Background Report and the policy document.

Mr. Nicholson then provided a summary of the 2030 Merced County General Plan consisting of eleven elements. He also indicated the policy alternatives related to the General Plan Agricultural Element which offered different recommendations for the Commission to consider which may affect Mitigation Measures depending on the alternative chosen.

Mr. Bob Klousner with Environmental Planning Partners, gave a summary of the Program EIR documents and conclusions regarding the environmental impacts and the process of public review.

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

Rick Ortega, General Manager of Grassland Water District, spoke and said that he represented the Grassland Regional Resource Working Group a group that collaborates and represents the US Fish and Wildlife Service, the California Department of Fish and Wildlife, the Grassland Resource Conservation District, the California Waterfowl Association and Ducks Unlimited. Mr. Ortega stated that the working group is pleased to offer support of the General Plan Update and Final EIR contingent on the approval of the Board of Supervisors. He further thanked the efforts of Bill Nicholson and the County's consultants for their work and effort. The Grasslands are an important asset and they look forward to working with the County to protect this resource.

Ms. Amanda Carvajal, Executive Director of Merced County Farm Bureau, stated that she was pleased to see that there will no longer be any exemptions from mitigations on land that go from agricultural use to non-agriculture. Ms. Carvajal noted that while some large farmers support the 20 acre minimum parcel size, the Farm Bureau continues to stand behind the 40 acre minimum because people take advantage of the 20 acre parcels for homesites.

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Also, smaller farms don't have the ability to get financing like the County farm owners. The Farm Bureau also supports keeping the Agriculture Preserve intact but wants to keep tools in place to make sure farmers use the "convey and combine" provisions for the right reason. She conveyed that they oppose removing the Agriculture Preserve and she has been working with the Planning Department to reopen the Williamson Act. She stated that the State CFBF program has been trying to push the California Legislature for funding and Williamson Act program again possibly for next year's budget. She also indicated the Bureau understands the change to Policy LU-7.10 to use the word "discourage" rather than "oppose" (regarding the conversion of agricultural land in City spheres of influence) was made to adhere to state code. Finally, Ms. Carvajal said she thought the dearth of people in the audience indicated that people have become jaded by the process and just want to get it done. But when the Plan started it was all about agriculture and the Farm Bureau is concerned the Plan is slowly being weaned down due to the recession.

The public hearing closed at 9:47 a.m.

Commissioner Mark Erreca asked if there has been additional studies and scrutiny regarding 20 acre minimum versus 40 acre minimum, in relation to the extra scrutiny proposed in Policy AG-2.147.

Mr. Nicholson responded that the EIR is unique in addressing the 20 acre and 40 acre parcel division analysis and the conclusion was that if you went from a 20 acre to 40 acre parcel the environmental issues would be lower. However, if Policy AG-2.14 was adopted with the 20 acre minimum, requiring scrutiny of divisions that are smaller than 40 acres, it creates a mitigating effect and reduces the impact on the environment. An additional Policy AG-3.12, creates an opportunity to determine if housing will be allowed on newly divided parcels and the request for homes would be further analyzed for potential impacts on neighboring land uses.

Chairman Tanner inquired if this modification would make it a requirement to get a conditional use permit when wanting to build a home on a 20 acre parcel versus automatically having that right to build a home.

Mr. Nicholson agreed that this mitigation would make it a discretionary action to be able to build a home. By requiring a Conditional Use Permit (CUP) be obtained for someone proposing one or more homes, would make the process subject to CEQA review and a public hearing. This would be done during the subdivision application process. If no residence is proposed, the Minor Subdivision application would contain a restriction, and the map approval process would be less complex. He also stated that at some point in the future, landowners who initially did not propose any homes could come back and request a modification to the Minor Sub division map and apply for a CUP. At that time CEQA could be triggered to analyze the request.

Commissioner Ford stated he was concerned that the splitting up of parcels less than 40 acres might encourage developers to come in and build homes on the land, and asked what the protection was to ensure that this does not occur especially on prime farmland?

Mr. Nicholson responded stating that this scenario would ultimately be a decision that is scrutinized by the Planning Commission and eventually the Board of Supervisors if there is an appeal. The Planning staff would analyze the request and the Planning Commission can ultimately approve or deny any application on a case by case basis. Mr. Nicholson added that there are other land uses that have restrictions for building homes in Agriculture areas such as the 1,000 foot setback for homes near dairies.

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Chairman Tanner added that it would be up to the Planning Commission to approve the divisions and determine that agricultural use would continue.

MOTION: M/S MOBLEY –ERRECA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS CERTIFY THE PROGRAM ENVIRONMENTAL IMPACT REPORT.

MOTION: MOVED BY COMMISSIONER FORD –THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS ADOPT POLICY AG-2.13 REQUIRING 40 ACRE MINIMUM PARCEL SIZE IN AREAS DESIGNATED AGRICULTURAL MOTION DIES FOR LACK OF A SECOND.

MOTION: M/S MOBLEY –ERRECA, AND CARRIED BY A VOTE OF 3 - 1, (COMMISSIONER FORD VOTES NAY), THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS ADOPT POLICY No. AG-2.13a REQUIRING A 20 ACRE MINIMUM PARCEL SIZE IN AREAS DESIGNATED AGRICULTURAL.

MOTION: M/S MOBLEY –ERRECA, AND CARRIED BY A VOTE OF 4-0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS ADOPT POLICY No. AG-2.15 TO MODIFY THE WILLIAMSON ACT RULES OF PROCEDURE TO ALLOW EXEMPTIONS TO THE 10 ACRE MINIMUM PARCEL SIZE.

MOTION: M/S MOBLEY – ERRECA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS ADOPT THE 2030 MERCED COUNTY GENERAL PLAN (GPTA09-001), WITH APPROVAL OF THE MITIGATION MEASURES PRESENTED IN THE PROGRAM ENVIRONMENTAL IMPACT REPORT.

VI. COMMISSION ACTION ITEM (S)

None

VII. DIRECTOR'S REPORT

Mr. Mark Hendrickson commended Staff's efforts for their hard work on the General Plan and acknowledged Mr. Michael Calabrese for all his help in the process.

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 10:21 a.m.