

**MERCED COUNTY PLANNING COMMISSION**  
**MINUTES FOR MEETING OF MAY 14, 2014**

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The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of May 14, 2014 are available online at [www.co.merced.ca.us/planning/plancomarchive.html](http://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 14, 2014 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  
   Commissioner Greg Thompson  
   Commissioner Mark Erreca  
   Commissioner Rich Ford

Staff Present:                      Mark Hendrickson, Director  
   Oksana Newmen, Interim Deputy Director-Planning  
   Ana Muniz-Laguna, Recording Secretary  
   Jeff Fugelsang, Planner III  
   Brian Guerrero, Planner III

Legal Staff:                        Trevor Finneman, County Counsel

Commissioners Absent:        None

**III. APPROVAL OF MINUTES**

**MOTION: M/S MOBLEY - ERRECA, AND CARRIED BY A VOTE OF 5 – 0, THE COMMISSION APPROVE THE MINUTES FROM THE MARCH 26, 2014 AND APRIL 09, 2014 HEARINGS.**

**IV. CITIZEN COMMUNICATIONS**

None

**V. PUBLIC HEARINGS**

**A.      CONDITIONAL USE PERMIT No. CUP13-011 – Sirius Solar - Green Light Energy Corporation - To construct a 1.5 megawatt photovoltaic solar energy generation facility on a 9.5 acre portion of two parcels totaling 23 acres. The project site is at the northwest corner of Mission Avenue and Santa Fe Avenue in the Planada area. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **JF****

**Recommendations:** The actions requested are to:

- 1) Recommend to the Board of Supervisors adoption of the Mitigated Negative Declaration; and;
- 2) Recommend to the Board of Supervisors approval of the Mitigation Monitoring

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and Reporting Program, approval of Conditional Use Permit No. CUP13-011 based on the project findings, subject to the conditions of approval and mitigation measures, and removal of the project site from the Williamson Act Agricultural Preserve.

Jeff Fugelsang, Planner III, gave a PowerPoint presentation and summarized the Staff Report.

Commissioner Thompson asked if the 23 acres consisted of two separate legal parcels and Mr. Fugelsang agreed that they would be separate parcels. Mr. Thompson inquired if during construction there would be traffic that would traverse property lines and would this be considered encroachment. Mr. Fugelsang stated that since the project is considered a public utility and not a private energy generation facility, that crossing property lines would be ok.

Commissioner Mobley asked for the status in the process of Assembly Bill (AB) 32. Mr. Fugelsang stated that some preliminary research has been gathered but percentages have not been quantified as of yet.

The public hearing opened at 9:11 a.m.

Commissioner Thompson asked

The public hearing closed at 9:12 a.m.

**MOTION: M/S MOBLEY-ERRECA, AND CARRIED BY A VOTE OF 5-0, THE PLANNING COMMISSION FIND THE PROJECT EXEMPT FROM CEQA REVIEW UNDER SECTION 15183 OF THE CEQA GUIDELINES; PROJECTS CONSISTENT WITH A COMMUNITY PLAN OR ZONING; AND**

**MOTION: M/S MOBLEY-ERRECA, AND CARRIED BY A VOTE OF 5-0, THE PLANNING COMMISSION APPROVE MINOR SUBDIVISION APPLICATION No. MS14-001 BASED ON THE 11 PROJECT FINDINGS AND SUBJECT TO THE 9 CONDITIONS OF APPROVAL PRESENTED IN THE STAFF REPORT.**

Community and Economic Development Department

1. Conditional Use Permit No. CUP13-011 is granted to allow the construction of a 1.5 megawatt (MW) solar photovoltaic (PV) energy generating facility on a 9.5 acre portion of two parcels totaling 23 undeveloped acres, in accordance with the approved site plan and operational statement.

2. The solar photovoltaic electrical generating facility and project shall be located, developed and operated in a manner described on the approved Plot Plan, Project Description, CEQA Mitigation Measures, Mitigation Monitoring and Reporting Program, and Conditions of Approval of this permit. The operation of this facility shall cease no later than 30 years from the Commercial Operation Date. Any subsequent changes must be made in accordance with Merced County Code section 18.50.

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3. All CEQA Mitigation Measures identified in the Mitigation Monitoring and Reporting Program are adopted and incorporated by reference as project conditions of approval.
4. The project shall comply with all applicable public health, safety, and welfare regulations administered by the County of Merced, and in particular the County Fire Department, the Health Department/ Environmental Health Division, the Community and Economic Development Department, and Public Works Department/ Road and Building and Safety Divisions.
5. For the purpose of conditions monitoring, an inspection fee in the amount of \$972.00 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. Immediately following the cessation of Project business operations or the abandonment of the Project, the applicant shall reclaim the site to pre-project conditions. Prior to the issuance of the first occupancy permit, the applicant shall place a financial assurance (bond or letter of credit) dedicated specifically for the project to the benefit of Merced County. The County and Green Light Energy Corporation will determine an appropriate amount for the financial assurance instrument. It is the intent of this requirement that the instrument shall provide sufficient financial assurances for Merced County to decommission the Project and fully restore the property following cessation of business operations or the abandonment of the Project if the applicant does not properly decommission the Project and fund full reclamation.

County Counsel

**7. INDEMNITY AND HOLD HARMLESS AGREEMENT:**

Green Light Energy Corporation 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 Green Light Energy Corporation.

Green Light Energy Corporation'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 Green Light Energy Corporation, 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. Green Light Energy Corporation will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees,

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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 Project approval, modification, or denial.

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

Fire Department

8. Comply with the requirements in the Fire Department's letter dated October 8, 2013.

CEQA Mitigation Measures

9. The following is a comprehensive list of CEQA Mitigation Measures applicable to the project and are contained in the Mitigation Monitoring and Reporting Program (MMRP). These measures are incorporated by reference into the Conditions of Approval. The applicant shall be responsible to comply with all Mitigation Measures as referenced herein: MM4.1.1, 4.3.1, 4.3.2, 4.4.1, 4.4.2, 4.4.3, 4.4.4, 4.4.5, 4.4.6, 4.4.7, 4.5.1, 4.5.2, 4.5.3, 4.5.4, 4.6.1, 4.12.1, 4.12.2, 4.16.1.

**VI. COMMISSION ACTION ITEM (S)**

None

**VII. DIRECTOR'S REPORT**

Mr. Hendrickson introduced and welcomed Brian Guerrero as the new Planner III for the CED Department.

**VIII. COMMISSIONERS COMMENTS**

None

**IX. ADJOURNMENT**

There being no further business, the meeting adjourned at 9:19 a.m.