

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF JANUARY 21, 2015

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of January 21, 2015 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 January 21, 2015 in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Jack Mobley – Acting Chairman
 Commissioner Robert Acheson
 Commissioner Mark Erreca
 Commissioner Greg Thompson

Staff Present: Mark Hendrickson, Director
 Oksana Newmen, Deputy Director-Planning
 Ana Muniz-Laguna, Recording Secretary

Legal Staff: Richard Flores, County Counsel

Commissioners Absent: Commissioner Rich Ford

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

- A. ITEM CONTINUED FROM THE JANUARY 14, 2015 MEETING REGARDING
CONDITIONAL USE PERMIT No. CUP12-017 - WRIGHT SOLAR PARK LLC -**
To construct a 200 Megawatt solar photovoltaic energy facility containing solar panels, battery storage, power inverters, and voltage transformers on approximately 2731 acres of land. The project site is designated Foothill Pasture, zoned A-2 (Exclusive Agricultural), and located southwest of the intersection of I-5 and SR 33/152 and south of Billy Wright Road in the Los Baños area. **ON**

Recommendations: The actions requested are to:

- 1) Consider formulating a recommendation to the Board of Supervisors addressing possible adoption of the Project Environmental Impact Report, including a Mitigation Monitoring and Reporting Program, prepared in accordance with CEQA Guidelines; and;
- 2) Consider formulating a recommendation to the Board of Supervisors that addresses possible approval of Conditional Use Permit Application No. CUP12-017, including cancellation of Williamson Act Contracts, based upon the project findings and subject to the recommended conditions of approval provided in the Staff Report.

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Ms. Oksana Newmen, Deputy Director, recapped the PowerPoint presentation from January 14, 2015 and summarized the Staff Report.

Ms. Sally Zeff, the environmental consultant for the project and staff at ICF International, introduced herself to the Commission and discussed the Environmental Impact Report (EIR) analysis regarding the project and addressed concerns raised in a letter from the San Joaquin Valley Raptor Rescue Center.

Mr. Troy Rahmig, biologist for ICF International spoke and addressed the Commission regarding the EIR biological impact for the project.

Ms. Newmen clarified to the Planning Commission that they were being asked today to give a recommendation to the Board of Supervisors on the CEQA and the multiple aspects of the project. She informed the Commission that the applicants are given a list of approved contractors from which to choose from regarding EIR's and that ICF International is among the approved contractor on that list.

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

Ms. Marilyn Wright addressed the Commission and stated she would like further details on the project and how the implementation on it would impact her as a neighbor. She stated that she is concerned that putting this project on this land would take this land out of circulation for growing crops.

The public hearing closed at 9:35 a.m.

MOTION: M/S ERRECA-THOMPSON, AND CARRIED BY A VOTE OF 4-0, THE PLANNING COMMISSION RECOMMENDS TO THE BOARD OF SUPERVISORS ADDRESSING ADOPTION OF THE PROJECT ENVIRONMENTAL IMPACT REPORT, INCLUDING A MITIGATION MONITORING AND REPORTING PROGRAM, PREPARED IN ACCORDANCE WITH CEQA GUIDELINES: AND;

MOTION: M/S ERRECA- THOMPSON, AND CARRIED BY A VOTE OF 4-0, THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF CONDITIONAL USE PERMIT APPLICATION No. CUP12-017, INCLUDING CANCELLATION OF WILLIAMSON ACT CONTRACTS, BASED UPON THE 10 PROJECT FINDINGS AND SUBJECT TO THE 23 CONDITIONS OF APPROVAL PRESENTED IN THE STAFF REPORT.

Community and Economic Development Department

1. Conditional Use Permit Application No. CUP12-017 is granted to allow the construction and operation of a 200 megawatt solar voltaic power plant located on approximately 2,730.55 acres of agricultural land in unincorporated Merced County. The project is located on 13 parcels of land that are separately identified on page 2-3 of the Draft Environmental Impact Report.
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, Decommissioning and Reclamation Plan, 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. The project shall comply with all applicable public health, safety, and welfare regulations administered by the County of Merced.
4. The applicant shall construct, sign, and stripe a minimum of seven permanent parking spaces, including one handicapped parking space, immediately adjacent to the proposed Operations and Maintenance Building. This parking area shall be completed prior to the issuance of any certificate of occupancy for the building.
5. Prior to issuance of a building permit, the project applicant must obtain all necessary permits and written authorizations and must demonstrate compliance with all applicable regulations administered by Federal and State agencies.
6. No later than 60 days prior to the commencement of any site preparation activities, the project owner shall submit a construction parking and circulation plan for review and approval by the Department of Public Works and Community and Economic Development Departments. Such plan shall include a Transportation Demand Management Plan consistent with the guidance found in Caltrans' 2009 *Transportation Management Plan Guidelines* to the extent applicable." Upon review of the project owner's construction staging, parking and circulation plan, the Public Works Director, in his discretion, has the authority to adjust the timing for completion of Transportation/Traffic mitigation measures so long as they are completed prior to occurrence of the significant transportation or traffic impacts the mitigation measures are designed to address (e.g., peak construction employment).
7. Any proposals to add new signs, or modify existing signs, must meet the sign standards for the A-1 Zone provided in Section 18.42 of the Zoning Code.
8. No later than 60 days prior to the proposed commencement of any site preparation activities, the project owner shall enter into an agreement with the County that provides for the full funding of all project mitigation monitoring, coordination, and inspection activities required through approval of this conditional use permit application. Such agreement shall provide for the full reimbursement of all reasonable county expenses and identify the Community and Economic Development Department as the coordinating agency responsible for processing of consultant contracts, billing, and liaison with other county departments.
9. Approval, construction, and operation of the Wright Solar Park project (Conditional Use Permit No. CUP12-017) is subject to implementation of all the CEQA Mitigation Measures identified in the adopted Project Environmental Impact Report and Mitigation Monitoring and Reporting Program. All CEQA Mitigation Measures are adopted by reference as Conditions of Approval. Non implementation of any adopted mitigation measure, without the prior written consent of the County and any affected or responsible agency and approval of any necessary environmental studies, shall be grounds for reconsideration of permit approval by the County. If during the final design of Transportation/Traffic mitigation measures, conditions and/or constraints are discovered that render a mitigation measure infeasible, the County shall review and approve equally effective alternate measures to address the relevant impact.
10. At the discretion of the Board of Supervisors, renewal of Conditional Use Permit CUP12-017 may be required after 20 years of facility operation. Notice of such a requirement shall be mailed to the project owner no less than 6 months in advance of any review date.
11. The applicant shall obtain and maintain wildland fires insurance for the duration of the project life, with County as additional insured, until decommissioning has been completed. A copy of the policy shall be provided to the Community and Economic

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Development Department prior to issuance of the first building permit.

12. Immediately following the cessation of Project business operations or the abandonment of the Project, the applicant shall implement the Reclamation Plan, to decommission and reclaim the soil to fulfill the restoration.
 - a) Prior to issuance of the first building permit, and to the satisfaction of the Merced County Planning Director, applicant shall establish a Reclamation Plan Fund, including a graduated funding timeline linked to construction phases. Payments to the Reclamation Plan Fund shall commence no later than upon issuance of first Project occupancy permit.
 - b) Prior to the issuance of the first occupancy permit, the applicant shall post a performance bond to ensure completion of the activities under the Reclamation Plan.
 - i. Financial assurances for the Reclamation Plan will be reviewed annually and adjusted for inflation, as necessary, by the Merced County Planning Department to determine if finances are sufficient to perform reclamation of the Project. Financial assurances must be adjusted if, during the annual review, finances are determined, by the Merced County Community and Economic Development Department, to be insufficient to fully implement the Reclamation Plan.

It is the intent of this requirement that the Fund, along with the residual value of installed improvements, shall provide sufficient financial assurances for Merced County to decommission the Project and fully restore the property in compliance with the San Joaquin kit fox conservation easement requirements following the cessation of business operations or the abandonment of the Project if the applicant does not properly decommission the Project and fund full reclamation.

13. Temporary uses on land not proposed to be used for project facilities and operation by limited to 50 acres.

Department of Public Works Road Division

14. Applicant shall enter into a Road Maintenance Agreement with the Department of Public Works, which stipulates that after completion of project construction activities the applicant shall restore all County roadways which were used in the transport of import material to the project site to like or better condition.
15. Applicant shall construct a rural agricultural driveway approach at each proposed access at an existing paved County road (i.e. Billy Wright Road) in accordance with Chapter 7 (Driveways) of the Merced County DPW Improvement Standards & Specifications. Said construction shall require an Encroachment Permit from DPW.

Health Department/ Division of Environmental Health

16. Any hazardous materials stored on-site over threshold quantities shall require that a hazardous materials business plan (HMBP) be filed with the Division of Environmental Health. New HMBP's must be submitted electronically at <http://cupa.co.merced.ca.us>
17. Any unused wells in the project area will be considered abandoned, under the Merced County Well Ordinance, and will need to be destroyed under permit from MCDEH.

Public Works Department/ Building and Safety Division

18. The applicant shall hire an architect or engineer licensed in the state of California to draw the plans for the proposed system. The plans must be submitted to the Building Division for approval and a permit before any construction can begin.
19. California requires that all proposed commercial structures must first obtain a soils report completed by a licensed geotechnical engineer. That report must be reviewed by the building design engineer to incorporate any mitigating measures into the design drawings. Two copies of the report must also be submitted as part of the building permit application.
20. Prior to the submittal of any building permit application, the applicant shall schedule a meeting with the Building Division to determine the best method of submittal for building permits and agree specific submittal requirements for the required permits.

Merced County Fire Department

21. All access driveways should be paved with an approved all weather driving surface and be at least 20 feet in width. Any security gates shall be approved by the Fire Department prior to installation.
22. The project shall meet fire flow requirements as identified in the California Fire Code.

County Counsel

23. INDEMNITY AND HOLD HARMLESS AGREEMENT:

Wright Solar Park LLC and Frontier Renewables LLC have 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 both Wright Solar Park LLC and Frontier Renewables LLC.

Wright Solar Park LLC and Frontier Renewables LLC'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 Wright Solar Park LLC and/or Frontier Renewables LLC, 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. Wright Solar Park LLC and Frontier Renewables LLC 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

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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.

VI. COMMISSION ACTION ITEM (S)

Mr. Hendrickson welcomed Mr. Robert Acheson as the new Commissioner to the Planning Commission and thanked him for willing to be a part of the Commission.

VII. DIRECTOR'S REPORT

None

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:36 a.m.