

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF MARCH 23, 2016

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of March 23, 2016, 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 March 23, 2016, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Mark Erreca - Chairman
 Commissioner Greg Thompson - Vice Chairman
 Commissioner Jack Mobley
 Commissioner Rich Ford
 Commissioner Robert Acheson

Staff Present: Mark Hendrickson, Director
 Oksana Newmen, Deputy Director Planning
 Kim Lewallen, Recording Secretary
 Steve Maxey, Planner III

Legal Staff: Michael Linden, Deputy County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

- A. **MINOR SUBDIVISION APPLICATION No. MS15-018 – Aerias Trust/Joan Lopez - To divide an 84.14 acre parcel into 2 parcels, resulting in parcel sizes of: Parcel 1 = 35.04 acres, and Parcel 2 = 49.14 acres. The property is located at the Northwest corner of San Juan Road and Highway 152 in the Dos Palos area. The property is designated Agricultural land use and zoned A-1 (General Agricultural). SM****

Recommendations: The actions requested are to:

- 1) Find the project exempt from CEQA review under Section 15183, "Projects Consistent with a Community Plan or Zoning" of the CEQA Guidelines and;
- 2) Approve Minor Subdivision Application No. MS15-018 based on the project findings and subject to the conditions of approval presented in the Staff Report.

Planner Steve Maxey presented the Staff Report and recommendations of approval dated March 23, 2016.

The public hearing opened at 9:04 a.m.

Duane Andrews, Golden Valley Engineering, said he is available for any questions, and he is asked for approval of this application.

The public hearing closed at 9:05 a.m.

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MOTION: M/S THOMPSON - MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION No. MS15-018 FROM CEQA.

MOTION: M/S THOMPSON – MOBLEY, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MARCH 23, 2016, AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION APPLICATION No. MS15-018 SUBJECT TO THE 6 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Community and Economic Development Department

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the approval date, as required by the Subdivision Map Act and Merced County Subdivision Code.
2. Prior to parcel map recording, the applicant is to provide a recorded well access ("Shared Well") agreement between the owner of the two properties. If the parcels will be owned by the same party at the time of map recording, a note shall be placed on the parcel map indicating that a Shared Well agreement will be required at the time of sale of either parcel. An easement for well access shall be indicated on the map.
3. In conjunction with submittal of the final map for review, the applicant shall apply for an administrative permit with the Community and Economic Development department for transfer of the existing permit from Parcel 1 to Parcel 2, as shown on the proposed plot plan.
4. The applicant shall comply with all applicable County, State and Federal regulations.
5. A note shall be placed on the face of the parcel map stating that any new residences will be subject to review and approval of a conditional use permit from the County, as per General Plan Policy AG-3.12, or as otherwise permitted by the County subject to the current policies in place at the time of the request.

County Counsel

6. INDEMNITY AND HOLD HARMLESS AGREEMENT:

AREIAS TRUST 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 AREIAS TRUST.

AREIAS TRUST'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 AREIAS TRUST, 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

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allegation of liability against County. AREIAS TRUST 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 project approval, modification, or denial.

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

VI. NON-HEARING ITEM

- A. **OVERVIEW OF PROPOSED ORDINANCE – AGRICULTURAL MITIGATION** – The proposed ordinance details the purpose and intent, definitions, and requirements of implementing the adopted General Plan policy requiring mitigation for the loss of agricultural land at a 1:1 ratio of land converted to land placed under a conservation easement. The ordinance will apply to all General Plan Amendments and rezoning of productive farmland from an agricultural to an urban designation, and for discretionary projects on productive agricultural designated land that involve a non-agricultural use.

This ordinance is being presented to the Planning Commission for general information and review, but does not require a formal recommendation to the Board of Supervisors. There will be an opportunity for the public to make comment during this review session.

Oksana Newmen, Deputy Director of Planning, gave the overview of the Proposed Ordinance for the Agricultural Mitigation. A recommendation for this is not needed at this time.

Commissioner Thompson asked if it is active farmland, would an easement of 1:1 be required at the time of entitlement.

Ms. Newmen said the report details the mitigation and is required prior to the final map recording.

Commissioner Ford asked if the cities were approached or can LAFCO approve?

Ms. Newmen referred the question to Bill Nicholson, Executive Officer for LAFCO.

Bill Nicholson, Consultant and Executive Officer for Merced LAFCO, said LAFCO accepts the mitigation measure if land requires an easement. So far no cities have required mitigation. LAFCO has said they would adopt the Statement of Overriding Considerations if the City did. As of today, it wouldn't apply to the Cities by LAFCO, but it is a process where the County can encourage Cities to follow this. There Ferrari Ranch project Atwater/Merced Expressway, that project is a commercial project into the City as 1:1 ag mitigation. It may not be a standard policy all the time. LAFCO could adopt as a policy of their own.

Commissioner Ford asked if someone pays the in-lieu fee instead of the actual mitigation, are those fees used as operating money for the trust?

Mr. Nicholson said they work with the Central Valley Farmland Trust, Bill Martin, they are accounting oriented. When they get money, they put into a separate account for buying easements and monitoring. If the developer or landowner negotiates with the Farmland Trust, he can get 20, 40 or 100 acres, all the County needs is verification for that acreage.

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They have more land than other Counties under easement. An annual monitoring report on all easements they are monitoring, every year they go to the Board of Supervisors.

VI. COMMISSION ACTION ITEM(S)

None

VII. DIRECTOR'S REPORT

None

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:27 a.m.