

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF APRIL 27, 2016

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of April 27, 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 April 27, 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

Legal Staff: Michael Linden, Deputy County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

MOTION: M/S MOBLEY – ACHESON, AND UNANIMOUSLY CARRIED, THE COMMISSION APPROVES THE MINUTES FROM THE SEPTEMBER 9, 2015; OCTOBER 14, 2015; JANUARY 13, 2016; FEBRUARY 10, 2016; FEBRUARY 24, 2016; MARCH 9, 2016 AND MARCH 23, 2016 MEETINGS.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. MINOR SUBDIVISION APPLICATION NO. MS16-002 – Sagayno – Dhiloon - To convey 15.26 acres of a 20.34 acre parcel and combine with an adjacent 37.4 acre parcel under different ownership. The proposed subdivision would create a 53.44 acre remainder parcel, and 4.74 acre homesite parcel located on the South side of W. El Capitan Way. The project is located .65 miles West of N. Cortez Ave in the Delhi area, 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 Guideline and;
- 2) Approve Minor Subdivision Application No. MS16-002 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 April 27, 2016.

The public hearing opened at 9:06 a.m.

Pat Anson, neighbor, asked if the blue area on the parcel map will remain in agricultural zoning.

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Oksana Newmen, Deputy Planning Director, said the entire area is zoned agriculture. In the ag zone, we don't put in subdivisions. You would have to rezone to urban designation to change the area.

Duane Andrews, Golden Valley Engineering, said there is no intent to build more houses on the property. The five acres with the 2 houses will be leased to the buyer to plant almonds. Saganyo is retired and wants to stay there.

Commissioner Greg Thompson asked if the well will be on the 5 acres or does the remainder parcel have an independent well?

Mr. Andrews said the well is on the 5 acres and to serve the two houses.

Minnie Carter, neighbor, confirmed that everything is staying the same and Mr. Saganyo will remain on the property.

Ms. Newmen confirmed that yes he will remain on the property and basically the County is only shifting a line to wrap around the house where he is staying and farming the rest of it to combine with the remaining parcel.

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

MOTION: M/S MOBLEY – THOMPSON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION NO. MS16-002.

MOTION: M/S MOBLEY - THOMPSON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED APRIL 27, 2016, AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES MINOR SUBDIVISION APPLICATION NO. MS16-002 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.

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County Counsel

6. INDEMNITY AND HOLD HARMLESS AGREEMENT:

SAGAYNO and DHILLON 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 SAGAYNO and DHILLON.

SAGAYNO's and DHILLON'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 SAGAYNO and DHILLON, their 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. SAGAYNO and DHILLON 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.

- B. CONDITIONAL USE PERMIT No. CUP14-012 - Green Light Energy** - To construct and operate a 3.0 MW solar photovoltaic energy generating facility on a 21 acre portion of a 25 acre parcel. The property is located at Ortigalita Road, 1,800 feet north of Charleston Road in the Los Banos area. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). In accordance with CEQA, a Mitigated Negative Declaration has been prepared. **CONTINUED FROM THE APRIL 13, 2016 HEARING. SM**

Recommendations: The actions requested are to:

- 1) Recommend the Board of Supervisors adopt the proposed Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program;
- 2) Recommend the Board of Supervisors approve removal of the subject property from the agricultural preserve; and
- 3) Recommend the Board of Supervisors approve Conditional Use Permit Application No. CUP14-012 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 April 27, 2016.

The public hearing opened at 9:24 a.m.

John Mevi, neighbor on Ortigalita Rd for 49 years, is against this application. This project may interfere with his farming and will cause dust.

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Juanita Mevi, neighbor, said she is concerned for her grandkids playing outside and the effects from the solar project. Her property value will be affected.

Salina Mitchell, Green Light Energy, said the applicants will be bringing in water trucks once construction starts for the dust. The dust will be minimal and will try not to disturb surrounding property owners. There will be weed abatement around the solar panels as needed and no pesticides will be used. They will follow all conditions listed in the staff report and abide by the rules. They will hire local landscapers and grading companies in the area. She is available for any questions.

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

Commissioner Thompson confirmed that the property is zoned A-1 and added that ag related projects require a right to farm certificate. These are conditions pre-existing in the County already.

Planner Steve Maxey confirmed Commissioner Thompson's statement.

MOTION: M/S THOMPSON – ACHESON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION RECOMMENDS THE BOARD ADOPT THE PROPOSED MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM PREPARED FOR CONDITIONAL USE PERMIT No. CUP14-012.

MOTION: M/S THOMPSON – ACHESON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS TO APPROVE THE REMOVAL OF THE SUBJECT PROPERTY FROM THE AG PRESERVE FOR CONDITIONAL USE PERMIT No. CUP14-012.

MOTION: M/S THOMPSON – ACHESON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS TO APPROVE CONDITIONAL USE PERMIT No. CUP14-012 BASED ON THE 12 PROJECT FINDINGS AND SUBJECT TO THE 15 CONDITIONS OF APPROVAL.

VI. COMMISSION ACTION ITEM (S)

None

VII. DIRECTOR'S REPORT

Mark Hendrickson, Director, announced that Jeff Wilson, Business Development Manager, has accepted a position at another County. His last day will be April 29th.

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:40 a.m.