

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF MAY 23, 2012

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of May 23, 2012, 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 May 23, 2012, 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 - Vice Chairman
Commissioner Mark Erreca
Commissioner Rich Ford
Commissioner Greg Thompson

Staff Present: William Nicholson, Assistant Development Services Director
Kim Anderson, Recording Secretary
James Holland, Senior Planner
Jeff Fugelsang, Planner III

Legal Staff: Marianne Greene, Deputy County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

- A. CONDITIONAL USE PERMIT No. CUP11-005 - Templo la Hermosa - To construct and operate a 10,620 square foot religious facility (Church). The project site is located on the north side of Highway 140, approximately one quarter mile west of Kibby Road. The property is designated Celeste SUDP - Residential land use in the General Plan and zoned R-1 (Single Family Residential). **Continued from the April 25, 2012 hearing. JH****

Recommendation: The requested actions are to:

- 1) Adopt the CEQA Initial Study/Mitigated Negative Declaration; and
- 2) Approve Conditional Use Permit Application No. CUP11-005 based upon the project findings, and subject to the conditions of approval and mitigation measures recommended in the Staff Report.

MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED BY A VOTE OF 5 – 0, THE PLANNING COMMISSION REFERRED CONDITIONAL USE PERMIT No. CUP11-005 BACK TO STAFF FOR RESOLUTION OF A PROJECT DESIGN ISSUE AND CONTINUED THIS APPLICATION TO A FUTURE UNDETERMINED PLANNING COMMISSION HEARING.

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- B. CONDITIONAL USE PERMIT No. CUP12-006 - Scott Westbrook** - To bring into conformance an agricultural contractor facility for the purpose of storing and repairing equipment related to custom harvesting on a two acre portion of a 9.6 acre parcel. The property is located at 9525 West Highway 152, on the south side of Highway 152 and approximately one-half mile east of Arroya Avenue in the Dos Palos Y area. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural).
JF

Recommendation: The actions requested are to:

- 1) Determine that the project is categorically exempt from CEQA review under Section 15301 of the CEQA Guidelines, and;
- 2) Approve Conditional Use Permit No. CUP12-006 based on the project findings, and subject to the conditions of approval presented in the Staff Report.

Planner Jeff Fugelsang presented the Staff Report and recommendations of approval dated May 23, 2012.

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

No one spoke in favor or opposition to this application.

The public hearing closed at 9:07 a.m.

MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED BY A VOTE OF 5 – 0, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. CUP12-006, FROM CEQA.

MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MAY 23, 2012, AND MAKES THE 12 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES CONDITIONAL USE PERMIT No. CUP12-006 SUBJECT TO THE 7 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning & Community Development Department

1. Conditional Use Permit No. CUP12-006 is granted to bring into conformance an agricultural contractor facility for the purpose of storing and repairing equipment related to custom harvesting on a two acre portion of a 9.6 acre parcel, in accordance with the approved Plot Plan.
2. The project shall operate in a manner that is consistent with the approved Plot Plan and the applicant's Operational Statement. Minor Modifications may be approved by the Planning Director upon submittal of an acceptable application.
3. To ensure the facility does not have a detrimental effect on groundwater, all maintenance of equipment must be performed within the maintenance building or on paved surfaces. Additionally, drip pans should be utilized when equipment is stored for extended periods of time on open ground.
4. The applicant shall comply with all of the applicable standard conditions of approval listed in the Planning Commission Resolution No 97-1.

5. The applicant shall comply with all applicable County, State and Federal regulations. These regulations shall include, but not be limited to standards administered by the County Fire, Health, Planning, Commerce, Aviation, and Economic Development, and Public Works Departments.

County Counsel

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

SCOTT WESTBROOK & RITA WESTBROOK TRUSTEE 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 SCOTT WESTBROOK & RITA WESTBROOK TRUSTEE.

SCOTT WESTBROOK & RITA WESTBROOK TRUSTEE'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 SCOTT WESTBROOK & RITA WESTBROOK TRUSTEE, 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. SCOTT WESTBROOK & RITA WESTBROOK TRUSTEE 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 CONDITIONAL USE PERMIT NO. CUP12-006 approval, modification, or denial.

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

Commerce Aviation and Economic Development Department

7. The applicant/owner shall obtain a Business License from the Commerce Aviation and Economic Development Department. The Property Owner/Applicant shall pay all required fees for the Business License. The Property Owner/Applicant shall annually renew the Business License and pay all required fees.

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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 9:08 a.m.