

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF NOVEMBER 28, 2012

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of November 28, 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 November 28, 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 Mark Erreca
 Commissioner Greg Thompson

Staff Present: William Nicholson, Assistant Development Services Director
 Kim Anderson, Recording Secretary
 Malinda Farias, EH Office Assistant III
 Jeff Fugelsang, Planner III

Legal Staff: Marianne Greene, Deputy County Counsel

Commissioners Absent: Commissioner Rich Ford
 Commissioner Jack Mobley

III. APPROVAL OF MINUTES

MOTION: ERRECA – THOMPSON AND CARRIED BY A VOTE OF 3 – 0, THE COMMISSION APPROVED THE MINUTES FROM NOVEMBER 14, 2012.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. **ZONE CHANGE No. ZC12-002 – Ryan LaChapell – To change the zoning of 0.25 acres from Single-Family Residential (R-1) to Multiple-Family Residential (R-3). The project site is located 100 feet east of the Hinton Avenue and Shell Street intersection within the Delhi Specific Urban Development Plan (SUDP). **JF****

Recommendation: The actions requested are to:

- 1) Recommend the Board of Supervisors determine the project is exempt from CEQA review under Section 15183, Projects Consistent with a Community Plan or Zoning, of the CEQA Guidelines; and
- 2) Recommend the Board of Supervisors approve the project based on the project findings, and the condition of approval presented in the Staff Report.

Planner Jeff Fugelsang presented the Staff Report and recommendations of approval dated November 28, 2012.

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Commissioner Thompson asked if there were documents for Notice of Merger of Lots? And stated “some of the lots don’t have road frontage”

Planner Jeff Fugelsang said the merger application is separate and would be submitted later.

William Nicholson, Assistant Development Services Director stated that property owners can voluntarily merge their property through a Voluntary Merger which is different than through a Certificate of Compliance which is recorded with approval of a property line adjustment.

Commissioner Thompson asked if there is a land locked parcel?

Planner Jeff Fugelsang stated the applicant was to merge the area when the two duplexes will be built with his other lots so they will not be land locked anymore.

Applicant and Owner Ryan LaChapell stated he plans on merging the two properties on the south, there will be parking entrance into the properties and he will be obtaining a permanent easement.

Commissioner Thompson stated the applicant is trying to create rental properties and should provide access to the tenants. If he owns the property in front, he doesn't need to grant himself an easement.

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

No one spoke in favor or opposition to this application.

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

MOTION: M/S ERRECA – THOMPSON AND CARRIED BY A VOTE OF 3 – 0, THE PLANNING COMMISSION RECOMMENDS THE BOARD OF SUPERVISORS EXEMPT ZONE CHANGE No. ZC12-002 FROM CEQA.

MOTION: M/S ERRECA – THOMPSON AND CARRIED BY A VOTE OF 3 – 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED NOVEMBER 28, 2012, AND MAKES THE 7 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND RECOMMENDS THE ZONE CHANGE No. ZC12-002 SUBJECT TO THE 1 CONDITION SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Planning & Community Development Department

1. RYAN & PAMELA LACHAPPELL 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 RYAN & PAMELA LACHAPPELL.

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RYAN & PAMELA LACHAPPELL'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 RYAN & PAMELA LACHAPPELL, 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. RYAN & PAMELA LACHAPPELL 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 ZONE CHANGE NO. ZC12-002 approval, modification, or denial.

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

VI. COMMISSION ACTION ITEM (S)

None

VII. DIRECTOR'S REPORT

William Nicholson, Assistant Development Services Director, stated the General Plan Update Draft Environmental Impact Report and the Draft General Plan Update will be ready for mailing on Friday, November 30, 2012. This will start the 60 day public review period that will end on January 30, 2013. The hearing process will probably begin in April of 2013.

VIII. COMMISSIONERS COMMENTS

Chairman Tanner stated he received a CD on the High Speed Rail project and asked if the Planning Commission was involved in the California High Speed Rail project. Bill Nicholson responded the High Speed Rail project is not something the Commission will be acting on. The County did not send out the CD to the Commission. It is a State of California project.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:15 a.m.