

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF SEPTEMBER 9, 2015

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of September 9, 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 September 9, 2015, 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
 Ana Muniz- Laguna, Recording Secretary
 Sandy Saechao, Planner I

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 No. MS15-007 - Frank Azevedo-** To subdivide a 139.7 acre parcel into four parcels: Parcel 1= 20 acres, Parcel 2 = 40 acres, Parcel 3 = 45.6 acres, and Parcel 4 = 34.1 acres. The project site is located on east side of Whitworth Road, approximately 2,700 feet south of Gun Club Road in the Gustine Area. The property is designated Agricultural land use and zoned A-1 (General Agricultural). **SS**

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. MS15-007 based on the project findings and subject to the conditions of approval presented in the Staff Report.

Commissioner Ford recused himself from the vote on this Minor Subdivision.

Planner Sandy Saechao presented the Staff Report and recommendations of approval dated September 9, 2015.

The public hearing opened at 9:08 a.m.

Duane Andrews with Golden Valley Engineering, said the applicant is in the audience and is available to answer any questions. There are no issues. He asked if the condition regarding housing be softened. It is a hard condition when preparing the map for subdivisions.

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Commissioner Mobley asked if the applicant waived their right to put an addition on the property. Mr. Andrews said no, they are waiving their rights until someone would apply for a Conditional Use Permit. He asked that a note be added on the conditions to explain that.

Mark Hendrickson suggested the Commission add additional language on Condition #2, "unless otherwise permitted by the County".

The public hearing closed at 9:10 a.m.

MOTION: M/S ERRECA - THOMPSON, AND CARRIED BY A VOTE OF 4 - 0, WITH COMMISSIONER FORD ABSTAINING FROM THE VOTE, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION No. MS15-007 FROM CEQA.

MOTION: M/S THOMPSON - ACHESON, AND CARRIED BY A VOTE OF 4 – 0, WITH COMMISSIONER FORD ABSTAINING FROM THE VOTE, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED SEPTEMBER 9, 2015, AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES MINOR SUBDIVISION No. MS15-007 SUBJECT TO THE REVISED LANGUAGE FOR CONDITION #2 AND THE 7 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. A notice shall be placed on the face of the parcel map waiving the right to construct any new residences on the parcels created through Minor Subdivision No. MS15-007.
3. A notice shall be placed on the face parcel map stating that in order to provide for the continued possible delivery of irrigation water to each parcel, easements shall be provided as needed for each parcel to have direct access to Central California Irrigation District (CCID) irrigation facilities.
4. The applicant shall comply with all applicable County, State and Federal regulations.

Fire Department

5. The applicant shall install Reflective Building Identification that meets Fire Department Design Specifications.
6. The applicant shall install and maintain a Merced County Coded Knox lock if Fire Department approved security gates is installed.

County Counsel

7. INDEMNITY AND HOLD HARMLESS AGREEMENT:

FRANK AZEVEDO 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.

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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 FRANK AZEVEDO.

FRANK AZEVEDO 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 FRANK AZEVEDO, 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. FRANK AZEVEDO 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. COMMISSION ACTION ITEM(S)

- A. Establish Commission Chair and Vice-Chair Rotation Process** – To establish a process by which the position of Chair and Vice-Chair would regularly rotate.

MOTION: M/S THOMPSON – FORD, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION NOMINATES MARK ERRECA AS CHAIRMAN AND GREG THOMPSON AS VICE-CHAIRPERSON OF THE PLANNING COMMISSION EFFECTIVE AT THE NEXT PLANNING COMMISSION MEETING AND VOTES TO ROTATE THE CHAIR POSITION EVERY OCTOBER.

VII. DIRECTOR'S REPORT

None

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:25 a.m.