

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF JUNE 12, 2019

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of June 12, 2019, 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 June 12, 2019, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Mark Erreca – Chairman
 Commissioner Robert Acheson
 Commissioner Kurt Spycher
 Commissioner Fernando Aguilera

Staff Present: Mark Hendrickson, Director
 Steve Maxey, Deputy Director
 Kim Zinke, Recording Secretary
 Kristin McHaney, Recording Secretary
 Pam Navares, Planner II

Legal Staff: Jeff Grant, Deputy County Counsel

Commissioners Absent: Commissioner Jack Mobley

IV. APPROVAL OF MINUTES

MOTION: M/S ACHESON-AGUILERA, AND CARRIED BY A VOTE OF 4-0, THE COMMISSION APPROVES THE MINUTES FROM THE MEETING OF MAY 22, 2019.

V. CITIZEN COMMUNICATIONS

None

VI. PUBLIC HEARINGS

A. MINOR SUBDIVISION APPLICATION No. MS19-007 – Janice Freitas/Edie Lough - A request to divide a 3.62 Acre parcel into 2 parcels, resulting in parcel sizes of : Parcel 1 = 1.81 Acres and Parcel 2 = 1.81 Acres. The project site is located on the west side of N. Buhach Road, approximately 400 Feet south of W. Mulberry Avenue, identified as Assessor's Parcel Number (APN) 207-130-020. The property is designated McSwain Rural Residential Center land use in the General Plan and is zoned A-R (Agricultural-Residential). CEQA: Staff recommends that the Planning Commission find that the project is exempt from environmental review pursuant to Section 15315 of the CEQA Guidelines - "Minor Land Divisions." PN

RECOMMENDATION(S):

- 1) Open/close the public hearing;
- 2) Determine the project can be found exempt from environmental review pursuant to Section 15315- "Minor Land Divisions" of the CEQA guidelines; and,
- 3) Approve MS19-007 based on the findings and subject to the recommended conditions of approval .

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Planner Pam Navares presented the Staff Report and recommendations of approval dated June 12, 2019.

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

No one spoke in favor or opposition of this application.

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

MOTION: M/S SPYCHER-ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION DETERMINED THAT THE PROJECT CAN BE FOUND EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15315 – “MINOR LAND DIVISIONS” OF THE CEQA GUIDELINES.

MOTION: M/S SPYCHER-ACHESON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JUNE 12, 2019 AND MAKES THE 10 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES MINOR SUBDIVISION No. MS19-007 SUBJECT TO THE 9 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. The applicant shall comply with all applicable County, State and Federal regulations.
3. The project shall comply with all standard conditions contained in Planning Commission Resolution No. 97-1.

County Counsel

4. INDEMNITY AND HOLD HARMLESS AGREEMENT:

JANICE FREITAS/EDIE LOUGH has the contracted duty (hereinafter "the duty") to defend, indemnify and hold harmless the County of Merced, its Board of Supervisors, commissions, officers, employees, agents, and assigns (hereinafter "COUNTY") from any claim, action, or proceeding arising out of, or in connection with the COUNTY's approval of the project including, but not limited to, COUNTY's actions regarding related environmental determinations. This obligation shall extend to any such claim, action, or proceeding against COUNTY to attack, set aside, void, or annul, an approval by COUNTY. This duty shall arise at the first claim, action, or proceeding against COUNTY. In the event that a claim, action, or proceeding is brought, COUNTY shall promptly notify the applicant and cooperate fully in the defense. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

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Merced Irrigation District

5. The MID operates and maintains the Buhach Lateral B in an open lined channel within an undetermined width easement along the east line of the subject property as evidenced by that certain agreement recorded in Book 2 of Water Rights, Page 21, Merced County Records. This lateral is currently utilized as a 50 foot wide canal right-of-way. No trees or structures may be placed in the MID right-of-way.
6. The property owner must obtain a “Non-exclusive License Agreement” for all new and existing crossings over or under any MID facility, including driveways, utilities and pipelines.
7. If storm drainage is to be directed to any MID facility now or in the future, owner/applicant must enter into a “Subdivision Drainage Agreement” or a “Deferred Fee Subdivision Drainage Agreement” with the Merced Irrigation District Drainage Improvement District No. 1 (MIDDID No. 1), paying all applicable fees.
8. The developer must enter into a “Construction Agreement” with MID for any work associated with MID facilities and pay all applicable fees.
9. That septic system leach fields be a minimum of 50 feet from the MID Lateral to protect the lateral from contamination and to protect the septic system from incidental seepage from the MID Lateral.

- B. ADOPTION OF RESOLUTION FOR FINDINGS FOR VESTED RIGHTS DETERMINATION – Kelsey Ranch LP** – Adoption of the Resolution of Findings for the Vested Rights determination of mining rights on approximately 810 acres of land, generally located on the north side of Merced Falls Road, 2.5 miles east of La Grange Road in the Snelling area, identified as APN's: 043-150-001, 043-150-004, 043-010-007 and 043-160-028. The project site is designated Foothill Pasture in the General Plan and zoned A-2 (Exclusive Agricultural). CEQA: Vested Rights Determinations are not considered a project as defined by Section 15378 of the CEQA Guidelines. **BG**

RECOMMENDATION(S):

- 1) Open/close the public hearing; and,
- 2) Adopt the Resolution of Findings for the determination of Vested Rights made by the Planning Commission on May 22, 2019 for the Kelsey Ranch LP Mine.

Deputy Director Steve Maxey presented the Staff Report and recommendations of approval dated June 12, 2019.

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

John Wheat, Attorney representing applicant, stated he was available for any questions.

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

County Counsel Jeff Grant suggested that Commissioner Spycher abstain from voting due to being absent during the public hearing regarding resolution.

MOTION: M/S ACHESON-AGUILERA, AND CARRIED BY A VOTE OF 3 – 0 (COMMISSIONER SPYCHER ABSTAINED FROM VOTING), THE PLANNING COMMISSION DETERMINED TO ADOPT THE RESOLUTION OF FINDINGS FOR THE

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**DETERMINATION OF VESTED RIGHTS MADE BY THE PLANNING COMMISSION
ON MAY 22, 2019 FOR THE KELSEY RANCH LP MINE.**

VII. COMMISSION ACTION ITEM (S)

None

VIII. DIRECTOR'S REPORT

None

IX. COMMISSIONERS COMMENTS

None

X. ADJOURNMENT

There being no further business, the meeting adjourned at 9:10 a.m.