

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Planning and Community Development

BOARD AGENDA # 9:15 a.m.

Urgent

Routine



AGENDA DATE October 2, 2007

CEO Concurs with Recommendation YES NO

(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Consideration of an Appeal of Planning Commission's Decision for Use Permit Application No. 2002-30, Salida Hulling Association

(Please note: Department of Planning and Community Development is requesting this hearing be canceled.)

STAFF RECOMMENDATIONS:

1. Cancel the public hearing on the appeal of the Planning Commission's Decision for Use Permit Application No. 2002-30, Salida Hulling Association; and,
2. Set a public hearing for October 23, 2007 at 9:15 a.m. to reconsider an appeal of Use Permit Application No. 2002-30, Salida Hulling Association, a request for an almond hulling & shelling facility on approximately 50.42 acres, in A-2-40 (General Agriculture) zoning district, located on the northeast corner of State Route 132 (Maze Boulevard) and Dakota Avenue intersection, Modesto area, APN: 007-024-006. This matter is a continuation of an appeal considered on November 4, 2003, by the Board of Supervisors, however, this appeal is based on different grounds.

FISCAL IMPACT:

There are no fiscal impacts associated with this item.

BOARD ACTION AS FOLLOWS:

No. 2007-803

On motion of Supervisor Grover, Seconded by Supervisor DeMartini

and approved by the following vote,

Ayes: Supervisors: Grover, DeMartini, and Chairman O'Brien

Noes: Supervisors: Monteith

Excused or Absent: Supervisors: None

Abstaining: Supervisor: Mayfield

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

This item was originally scheduled to be heard at a public hearing on October 2, 2007 at 9:15 a.m. Notices of the public hearing were inadvertently not sent to adjacent landowners in a timely manner as required by law. The Department recommends that the October 2, 2007 public hearing be rescheduled to October 23, 2007 at 9:15 a.m. so that adequate public notices can be provided to neighboring landowners.

STAFFING IMPACT:

There is no staffing impact associated with this action.

ATTACHMENTS:

1. Letter dated September 17, 2007 from Marc Chytilo, Office of Marc Chytilo, Environmental Law

*D-1

LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

September 17, 2007

Chair William O'Brien
Stanislaus County Board of Supervisors
c/o Clerk of the Board
1010 Tenth Street, Suite 6500
Modesto, California 95354
Attn: Assistant Clerk of the Board Liz King

By Fax: (209) 525-4420

BOARD OF SUPERVISORS
2007 SEP 17 P 3:56

RE: Appeal of Planning Commission Action on the Salida Hulling Association Project

Chairman O'Brien, Members of the Board of Supervisors and Clerk of the Board:

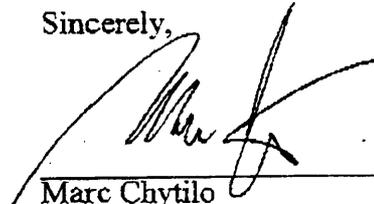
This office represents the Friends of the Central Valley (Friends). Friends appeared before the Stanislaus County Planning Commission on September 6 and raised objections to the certification of the final environmental impact report (FEIR) and proposed Conditional Use Permit (CUP) for the Salida Hulling Association.

By this letter, Friends appeals the Planning Commission's action in its entirety, including the certification of the FEIR, all findings, conditions, and project approval. We reserve the right to raise any other issues, objections and challenges we may identify up to the time of the public hearing on this appeal.

As you know, this project's procedural status is unusual since the current review is already a continuance of a prior appeal filed by Robert and Monica Ramos. The County has committed that the Board's de novo review of the current Salida Hulling Association project would be considered a continuation of the prior appeal, and as such no further appeal or appeal fee would be required. The Applicant's attorney, Tom Terpstra, has concurred.

We will be providing the Board further information explaining Friends' concerns for this project in relatively short order. Mr. Doering, Mr. Terpstra and I have agreed to work cooperatively to advance this appeal to the Board as quickly as we can, but preserving the ability to raise and present the important issues that are involved.

Sincerely,



Marc Chytilo

CC: John Doering, County Counsel, by fax: (209) 525-4473
Thomas Terpstra, Applicant attorney, by fax (209) 599-5008

MARC CHYTILO
P.O. Box 92233 • Santa Barbara, California 93190
Phone: (805) 682-0585 • Fax: (805) 682-2379
Email: airlaw5@cox.net

LAW OFFICE OF MARC CHYTILO

ENVIRONMENTAL LAW

October 1, 2007

Chair William O'Brien
 Stanislaus County Board of Supervisors
 c/o Clerk of the Board
 1010 Tenth Street, Suite 6500
 Modesto, California 95354
 Attn: Assistant Clerk of the Board Liz King

By Fax: (209) 525-4420

BOARD OF SUPERVISORS
 2007 OCT -1 P 3:29

RE: Salida Hulling Association Appeal - Revised Hearing Date, Item V. -

Chairman O'Brien, Members of the Board of Supervisors:

This office represents the Friends of the Central Valley (Friends). Friends has been involved in the Salida Hulling Association Conditional Use Permit process.

We are advised by County Counsel that the original hearing set for October 2 will be cancelled and rescheduled. We provide this letter with our suggestions for rescheduling the hearing.

We previously submitted a letter, and members of the public and FOCV appeared before you to request an evening hearing. **We restate the request for an evening meeting.** There is substantial public interest and controversy in this project application. Those members that have followed the project have now been required to schedule and reschedule this hearing, which acts to discourage public involvement. An evening hearing is justified for this project.

County Counsel previously rejected dates beyond October 16 as exceeding the 45 day appeal hearing period set forth in Stanislaus County Code § 21.112.060 C. County staff are now suggesting the hearing could be heard on October 23. If the County maintains consistency with the earlier interpretation, the hearing must be held on October 16. **October 16 is an evening hearing and would be acceptable to us.** We recognize that one Board member has travel plans, but strict compliance with the Code and Counsel's prior interpretation requires an October 16 hearing.

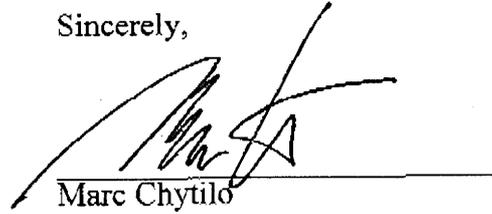
If the Board determines to reject the prior interpretation and schedule this for hearing after October 16, the 45 day period should not be considered a limitation, and a later evening hearing should be scheduled. **Your Board next meets in the evening on November 20, an acceptable date to Friends.**

In the event the Board wishes to hear this matter earlier, we suggest that the Board consider a special evening hearing to consider this item. Assuming the Board would want to have this heard sooner, **we suggest the evening of Thursday October 25.**

Chair William O'Brien
October 1, 2007
Page 2

Thank you for considering our concerns in this matter.

Sincerely,



A handwritten signature in black ink, appearing to read 'Marc Chytilo', is written over a horizontal line. The signature is stylized and cursive.

CC: Thomas Terpstra, Applicant attorney, by fax (209) 599-5008
John Doering, County Counsel, by fax (209) 525-4473

NOTICE OF PUBLIC HEARING FOR
APPEAL OF USE PERMIT APPLICATION 2002-30
SALIDA HULLING ASSOCIATION

NOTICE IS HEREBY GIVEN that on October 23, 2007, at 9:15 a.m., or as soon thereafter as the matter may be heard, the Stanislaus County Board of Supervisors will meet in the Basement Chambers, Lower Level, 1010 10th St., Modesto, CA, to hear an appeal of the Planning Commission's approval of a request for an almond hulling & shelling facility on approximately 50.42 acres, in A-2-40 (General Agriculture) zoning district, located on the northeast corner of State Route 132 (Maze Boulevard) & Dakota Avenue intersection, Modesto area APN: 007-024-006. The project will consist of shelling plant, dryer, office, shop & truck scale. Certification of a Final EIR will be considered. The Final EIR and environmental documents for this project may be downloaded from the County website at: <http://www.stanco-planning.org>

NOTICE IS FURTHER GIVEN that at the said time and place, interested persons will be given the opportunity to be heard. Material submitted to the Board for consideration (i.e. photos, petitions, etc.) will be retained by the County. If a challenge to the above application is made in court, persons may be limited to raising only those issues they or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board. For further information call (209) 525-6330.

BY ORDER OF THE BOARD OF SUPERVISORS

DATED: October 2, 2007

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk of
the Board of Supervisors
of the County of Stanislaus,
State of California.

BY:



Susan E. Seibert, Deputy Clerk



BOARD OF SUPERVISORS

2007 OCT -3 A 10: 47

October 2, 2007

NOTICE OF RESCHEDULED PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT the Stanislaus County Board of Supervisors will hold a public hearing on **Tuesday, October 23, 2007**, at a meeting starting at **9:15 A.M.** in the Joint Chambers, 1010 10th Street, Basement Level, Modesto, California, to consider the following:

APPEAL OF PLANNING COMMISSION'S APPROVAL OF USE PERMIT NO. 2002-30 – SALIDA HULLING ASSOCIATION – Construction and operation of an almond hulling and shelling facility on a 50.42 acre parcel in the A-2-40 (General Agriculture) zoning district, located on the northeast corner of State Route 132 (Maze Boulevard) and Dakota Avenue intersection, in the Modesto area.

The property is further identified as Assessor Parcel Number 007-024-006.

The appeal also includes the Planning Commission's Certification of a Final EIR. The Final EIR and environmental documents for this project may be downloaded from the County's web site at: <http://www.stanco-planning.org>

At the above noticed time and place, all interested persons will be given an opportunity to speak.

Materials submitted to the Board of Supervisors for consideration (i.e., photos, slides, petitions, letters, etc.) will be retained by the County and cannot be returned. Comments may be submitted by U.S. mail, email: planning@mail.co.stanislaus.ca.us or fax: (209) 525-5911.

If you challenge the above item in court, you may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission, at or prior to, the public hearing.

For further information, please call (209) 525-6330, or email: planning@mail.co.stanislaus.ca.us.

PROOF OF SERVICE BY MAIL - CCP 1013a, 2015.5

I declare that: I am employed in the County of Stanislaus, California.

I am over the age of eighteen years and not a party to the within entitled cause; my business address is:

Stanislaus County Administration Building
Department of Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

On October 2, 2007, I served the attached Notice of Public Hearing
(Date)

APPEAL OF PLANNING COMMISSION'S APPROVAL OF USE PERMIT NO. 2002-30 - SALIDA HULLING ASSOCIATION on the parties listed below in said cause, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Modesto, California, addressed as follows:

SEE ATTACHED LIST

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on October 2, 2007, at Modesto, California.
(Date)

Michelle Alfaro
(Type or print name)


Signature

**DECLARATION OF PUBLICATION
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident
Of the County aforesaid; I am over the age of
Eighteen years, and not a party to or interested
In the above entitle matter. I am the printer
And Principal clerk of the publisher
of **THE MODESTO BEE**, printed and
Published in the **City of MODESTO**, County
Of **STANISLAUS**, State of California, daily,
For which said newspaper has been adjudged a
Newspaper of general circulation by the Superior
Court of the County of **STANISLAUS**, State of
California, under the date of **February 25, 1951**,
Action No. 46453; that the notice of which the
annexed is a printed copy, has been published in
each issue thereof on the following dates, to wit:

OCTOBER 13, 2007

I certify (or declare) under penalty of perjury
That the foregoing is true and correct and that
This declaration was executed at
MODESTO, California on

OCTOBER 13, 2007


Signature

**NOTICE OF PUBLIC HEARING FOR
APPEAL OF USE PERMIT APPLICATION 2002-30
SALIDA HULLING ASSOCIATION**

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NOTICE IS FURTHER GIVEN that at the said time and place, interested persons will be given the opportunity to be heard. Material submitted to the Board for consideration (i.e. photos, petitions, etc.) will be retained by the County. If a challenge to the above application is made in court, persons may be limited to raising only those issues they or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board. For further information call (209) 525-6330.
BY ORDER OF THE BOARD OF SUPERVISORS
DATED: October 2, 2007

ATTEST: CHRISTINE FERRARO TALLMAN,
Clerk of the Board of Supervisors of the County of Stanislaus, State of California.
BY: /s/Susan E. Seibert, Deputy Clerk
OCTOBER 13, 2007