

# STANISLAUS COUNTY PLANNING COMMISSION

## MINUTES

REGULAR MEETING

February 7, 2019

1. **ROLL CALL:** Meeting called to order at 6:00 p.m.  
Present: Chair Scott Hicks; Marjorie Blom, Kenneth Buehner, Marc Etchebarne, Wayne Mott, Perfecto Munoz, Wayne Zipser  
  
Absent: Thomas Maring  
  
Staff Present: Angela Freitas, Director; Miguel Galvez, Deputy Director; Rachel Wyse, Senior Planner; Kristin Doud, Senior Planner; Kristen Anaya, Assistant Planner; Jeremy Ballard, Associate Planner; Thomas E. Boze, Assistant County Counsel; Tera Chumley, Senior Management Consultant, Chief Executive Office; Angie Halverson, Senior Land Development Coordinator, Public Works; Bella Badal, Senior Environmental Health Specialist, Department of Environmental Resources; Angelica Duenas, Confidential Assistant IV; Jennifer Akin, Planning Commission Clerk
2. **PLEDGE OF ALLEGIANCE**
3. **CITIZEN'S FORUM** – No one spoke.
4. **APPROVAL OF MINUTES**
  - A. January 17, 2019  
Etchebarne/Blom (6/0) **APPROVED.**  
Commissioner Buehner abstained.
5. **CORRESPONDENCE**

Director Freitas informed the Commissioners of various items of correspondence placed before them this evening:

  - A. Letter dated February 1, 2019, from Shiloh School District, regarding Consent Items 7-C – Use Permit and Development Agreement Application No. PLN2018-0097 – Legacy Nursery, LLC – 5737 California Ave and 7-D – Use Permit and Development Agreement Application No. PLN2018-0098 – Legacy Nursery, LLC - 6812 California Ave.
  - B. Letter dated February 4, 2019, from Marlen Glatke-Gwerder, regarding Consent Item 7-D – Use Permit and Development Agreement Application No. PLN2018-0098 – Legacy Nursery, LLC – 6812 California Ave.
  - C. Letter dated February 5, 2019, from Paradise School District, regarding Consent Items 7-C – Use Permit and Development Agreement Application No. PLN2018-

0097 – Legacy Nursery, LLC – 5737 California Ave and 7-D – Use Permit and Development Agreement Application No. PLN2018-0098 – Legacy Nursery, LLC - 6812 California Ave.

- D. Memo dated February 7, 2019, from Stanislaus County Department of Public Works, regarding Consent Item 7-C – Use Permit and Development Agreement Application No. PLN2018-0097 – Legacy Nursery, LLC – 5737 California Ave.
- E. Memo dated February 7, 2019, from Stanislaus County Department of Public Works, regarding Consent Item 7-D – Use Permit and Development Agreement Application No. PLN2018-0098 – Legacy Nursery, LLC – 6812 California Ave.

## 6. CONFLICT OF INTEREST

- A. Commissioner Etchebarne – Non-Consent Items 7-B – Use Permit and Development Agreement Application No. PLN2018-0110 – Prem Gen Corp – 536 El Roya Ave.; 7-C – Use Permit and Development Agreement Application No. PLN2018-0097 – Legacy Nursery, LLC – 5737 California Ave.; and 7-D – Use Permit and Development Agreement Application No. PLN2018-0098 – Legacy Nursery, LLC – 6812 California Ave.
- B. Commissioner Zipser – Non-Consent Items 7-C – Use Permit and Development Agreement Application No. PLN2018-0097 – Legacy Nursery, LLC – 5737 California Ave.; and 7-D – Use Permit and Development Agreement Application No. PLN2018-0098 – Legacy Nursery, LLC – 6812 California Ave.

## 7. PUBLIC HEARINGS (\* - Consent Items)

Commissioner Hicks informed the public that there were no consent items.

\* **CONSENT ITEMS** – None.

### **NON-CONSENT ITEMS**

- A. **VESTING TENTATIVE PARCEL MAP AND EXCEPTION APPLICATION NO. PLN2018-0072 – ODOM – MORRISON ROAD** - Request to subdivide a 15.21± acre parcel into two parcels of 9.4± and 5.8± acres in the A-2-5 (General Agriculture) zoning district. An exception to the Subdivision Ordinance is requested to create a parcel without frontage on a County-maintained road. Proposed Parcel “1” will take access to Frymire and Morrison Roads via existing road easements. The project is located at 16300 Morrison Road, between Orange Blossom and Frymire Roads, north of the Stanislaus River, in the Knights Ferry area. The Planning Commission will consider adoption of a CEQA Negative Declaration for this project. APN: 002-043-024.  
Staff Report: Kristen Anaya, Assistant Planner, Recommends **APPROVAL**.  
Public hearing opened.  
**OPPOSITION:** None.  
**FAVOR:** None.  
Public hearing closed.  
Blom/Zipser (7/0) **APPROVED THE STAFF RECOMMENDATIONS AS OUTLINED IN THE STAFF REPORT.**

**6:11 p.m. - Commissioner Etchebarne left Chambers.**

- B. USE PERMIT AND DEVELOPMENT AGREEMENT APPLICATION NO. PLN2018-0110 – PREM GEN CORP – 536 EL ROYA AVE.** – Request to establish an indoor commercial cannabis cultivation, nursery, and distribution operation in three phases within three existing 5,000 square-foot warehouses in the M (Industrial) zoning district. A Development Agreement is included in the project request. The project is located at 536 El Roya Avenue, South of Yosemite (HWY 132) Blvd, in the Modesto area. The Planning Commission will consider finding that no further analysis under CEQA is required pursuant to CEQA Guidelines Section 15183 (Consistency with a General Plan or Zoning for which an EIR was certified). APN: 036-008-033.  
Staff Report: Jeremy Ballard, Associate Planner, Recommends **APPROVAL**.  
Public hearing opened.  
**OPPOSITION:** None.  
**FAVOR:** Dave McConnell, property owner; DeAnn Edwards, project agent/Chief Financial Officer  
Public hearing closed.  
Motion made by Commissioner Blom to recommended approval to the Board of Supervisors as outlined in the staff report failed for lack of a second.  
There was no further discussion and a second Motion was entered.  
Zipser/Mott (5/1) **RECOMMENDED DENIAL TO THE BOARD OF SUPERVISORS.**

**7:04 p.m. – Commissioner Zipser left Chambers.**

- C. USE PERMIT AND DEVELOPMENT AGREEMENT APPLICATION NO. PLN2018-0097 – LEGACY NURSERY, LLC – 5737 CALIFORNIA AVE.** – Request to establish a mixed-light commercial cannabis nursery operation within an existing 2,500 square foot agricultural storage barn in the A-2-40 (General Agriculture) zoning district. A Development Agreement is included in the project request. The project is located at 5737 California Avenue, between Stone and Texas Avenues, south of Maze Boulevard (HWY 132), in the Modesto area. The Planning Commission will consider finding that no further analysis under CEQA is required pursuant to CEQA Guidelines Section 15183 (Consistency with a General Plan or Zoning for which an EIR was certified). APN: 012-055-011.  
Staff Report: Kristin Doud, Senior Planner, Recommends **APPROVAL**.  
Public hearing opened.  
**OPPOSITION:** Mark Wolfe, Teresa Gamboa, Dave Couchman, Richard Ulm, Frank Gwerder, Art Bowman, John Morse, Mary-Lynn Ott

**7:41 p.m. – Recessed.**

**7:50 p.m. – Reconvened.**

**OPPOSITION (CONT.):** Sonia Arellano, Kelly Stein, Lisa Ott, Ed Sharini; Clements Ott, Frances McCarthy, Jason Ward, David Warda  
**FAVOR:** Jennina Chiavetta, applicant; Shayla Henry, security consultant; Arlen Peters, Ashley Etchebarne, Jacob Verburg  
Public hearing closed.  
Motion made by Commissioner Munoz to recommended approval to the board of supervisors as outlined in the staff report failed for lack of a second.

There was no further discussion and a second Motion was entered.

Blom/Buehner (3/2) **RECOMMENDED DENIAL TO THE BOARD OF SUPERVISORS.**

**Roll Call Vote:** Ayes Commissioners – Blom, Buehner, and Mott.  
Noes Commissioners – Hicks and Munoz.

**D. USE PERMIT AND DEVELOPMENT AGREEMENT APPLICATION NO. PLN2018-0098 – LEGACY NURSERY, LLC – 6812 CALIFORNIA AVE. –**

Request to establish a mixed-light commercial cannabis nursery operation, in phases within three 10,080 square-foot greenhouses in the A-2-40 (General Agriculture) zoning district. A Development Agreement is included in the project request. The project is located at 6812 California Avenue, on the southeast corner of S. Hart Road and California Avenue, south of Maze Boulevard (HWY 132), in the Modesto area. The Planning Commission will consider finding that no further analysis under CEQA is required pursuant to CEQA Guidelines Section 15183 (Consistency with a General Plan or Zoning for which an EIR was certified). APN: 017-003-020.

Staff Report: Kristin Doud, Senior Planner, Recommends **APPROVAL.**

Public hearing opened.

**OPPOSITION:** Mark Wolfe, Marlen Glattke-Gwerder, George Avila, Richard Ulm, Teresa Gamboa; Simeon Franklin, Rick Crandell, Frank Gwerder, Kelly Stein, Larry Inderbitzen, Dick Ehrler, Mary-Lynn Ott

**FAVOR:** Jennina Chiavetta, applicant.

Public hearing closed.

Munoz/Mott (4/1) **RECOMMENDED APPROVAL TO THE BOARD OF SUPERVISORS AS OUTLINED IN THE STAFF REPORT WITH THE ADDITION OF CONDITIONS OF APPROVAL NO. 47 AND 48, AS OUTLINED IN THE MEMO DATED FEBRUARY 7, 2019 FROM COUNTY PUBLIC WORKS, TO READ AS FOLLOWS:**

47. Prior to the issuance of a building or grading permit, or the issuance of a business license for the project, whichever comes first, an Irrevocable Offer of Dedication (IOD) shall be made for the frontage of California Avenue. California Avenue is classified as a 60-foot Local roadway. The current right-of-way width at the project site is 50-feet, with the existing half width being 25-feet wide on the south side of the road. The required half-width of right-of-way along the parcel's frontage is 30-feet. The remaining distance of 5-feet from the centerline shall be dedicated as an Irrevocable Offer of Dedication along the California Avenue frontage.

48. Prior to issuance of a building or grading permit, or the issuance of a business license for the project, whichever comes first, an Irrevocable Offer of Dedication (IOD) shall be made for the frontage of South Hart Road. South Hart Road is classified as an 80-foot Major Collector roadway. The current right-of-way width at the project site is 40-feet, with the existing half width being 20-feet wide on the east side of the road. The required half-width of right-of-way along the parcel's frontage is 40 feet. The remaining distance of 20-feet from the centerline shall be dedicated as an Irrevocable Offer of Dedication along the South Hart frontage.

**Roll Call Vote:** Ayes Commissioners: – Blom, Mott, Hicks, Munoz.  
Noes Commissioners: – Buehner.

**9:25 p.m. – Commissioners Etchebarne and Zipser returned to Chambers.**

**8. OTHER MATTERS (NOT PUBLIC HEARINGS) – None.**

**9. REPORT OF THE PLANNING DIRECTOR**

**BOARD OF SUPERVISORS ACTIONS**

January 29, 2019: Approved to set the Public Hearing for February 12, 2019, to consider the Planning Commission's Recommendation to Approve Rezone Applications No. PLN2018-0141 – Palm Estates and Wenstrand Ranch; and PLN2018-0055 – DJM Investments; Use Permit and Development Agreement Applications No. PLN2018-0094 – Lyfted Farms, Inc. – 5271 Jerusalem Court; and PLN2018-0095 – Lyfted Farms, Inc. – 5266 Jerusalem Court.

February 5, 2019: Adopted the Recommendation of the Nuisance Abatement Hearing Board regarding 5301 9<sup>th</sup> Street, Keyes, CA and 5631 Terminal Avenue, Riverbank, CA, authorizing the recovery of costs associated with abatement of the properties.

**MISCELLANEOUS & ON THE HORIZON**

Planning Commission

February 14, 2019: Special Meeting has been cancelled.

February 21, 2019: One Time Extension in the Oakdale area; one Rezone in the Modesto area; one Use Permit and Williamson Act Cancellation in the Newman area; and three Use Permit Development Agreements in the Modesto area.

**10. ADDITIONAL MATTERS AT DISCRETION OF THE CHAIR – None.**

**11. ADJOURNMENT**

The meeting was adjourned at 9:27 p.m.

Signature on file. \_\_\_\_\_  
Angela Freitas, Secretary

(The above is a summary of the minutes of the Planning Commission. Complete audio recordings and videos of the meeting are available from the Planning Department or on our website: <http://www.stancounty.com/planning/agenda/index.shtm>.)