

**MINUTES OF THE
PLANNING COMMISSION MEETING
JANUARY 23, 2019**

The Imperial County Planning Commission convened a Meeting on Wednesday, January 23, 2019 at 9:00 a.m. in the Board of Supervisors Chambers, El Centro, California.

Staff present: Director Jim Minnick; Assistant Director, Michael Abraham, Planner IV, Joe Hernandez, Planner III, Diana Robinson, Planner I, Mariela Moran, Planner I, Isabel Patten, Clerk Michelle Garcia and GIS Tech Derek Newland.

Chairman Rudy Schaffner called meeting to order at 9:00 a.m.

I. Roll Call: Commissioners present: Schaffner, Kalin, Bergh, Cabañas, Castillo, Wright, Medina and Roben.

Absent: Zuno and Zendejas

II. Pledge of Allegiance:

III. Approval of Minutes: Chairman Schaffner entertained a motion to approve the Planning Commission Minutes for **January 9, 2019** meeting as submitted by staff. Motion was made by Vice Chairman Kalin seconded by Commissioner Cabañas and carried on the affirmative vote by the Commissioners present Schaffner (yes), Kalin (yes), Bergh (yes), Cabañas (yes), Castillo (yes), Wright (yes), Medina (yes) & Roben (yes).

1. Consideration of **Conditional Use Permit #18-0037** as submitted by Crown Castle, who proposes to renew entitlements for previously approved Conditional Use Permit #03-0018 for an existing 200-foot telecommunications tower with ancillary equipment. The proposed CUP #18-0037 would supersede the previously approved CUP #03-0018 since its 15-year time limit has reached expiration. On property legally described as Lot 11, Block 4, Desert Highlands unit #1 of Tract 571, Township 9 South, Range 9 East SBB&M. Assessor's Parcel Number 001-022-022-000, (3842 Scott Drive, Desert Shores,), (Supervisorial District #4). The Commission took the following actions;

Jim Minnick, gave a brief description of the project, and introduced Planner I, Mariela Moran to read the project into the record.

Mariela Moran, Planner I, read the project into the record and was there to answer any questions from the Commission.

Chairman Schaffner, asked the representative to come forward to the podium and introduce themselves and state their name and address to the record.

Andrea Urbas, **Crown Castle** stated she read the project and agreed with all the terms and conditions of approval.

Chairman Schaffner, opened/closed the public portion of the meeting, he then turned it over to the Commission for any questions or comments.

Chairman Schaffner, entertained a motion

a. Motion made by commissioner **Kalin** and seconded by Commissioner **Bergh** and carried on the affirmative vote by the Commissioners present; Schaffner (yes), Kalin (yes), Bergh (yes), Cabañas (yes), Castillo (yes), Wright (yes), Medina (yes), and Roben (yes); to find that Conditional Use Permit #18-0037 is categorically exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines and that no further environmental documentation is necessary; and approve Resolution(s), supporting findings and Conditional Use Permit #18-0037 (subject to all the conditions), and authorize the Planning and Development Services Director to sign the CUP contract upon receipt from the permittee.

Jim Minnick, Director, stated that the project stands approved by this Commission if any member from the public wishes to appeal this decision, must do so within 10 days of approval with the Planning Department with a \$650.00 filing fee.

Commissioner Roben, stated he would abstain due to conflict of interest.

2A. Continued from January 9, 2019 Consideration of **General Plan Amendment #18-0002** as submitted by Solana Energy Farms 1, LLC proposing to change the land use designation of an approximately 320 acre parcel from "Agriculture" to "Industrial" for the purpose of cannabis cultivation. On property legally described as Lot 7 of FM 27-8, also being the Southeast ¼ and a Portion of the Northeast ¼ of Section 22, Township 12 South, Range 9 East, in an unincorporated area of the County of Imperial. Assessor's Parcel Number 018-170-049-000, (Supervisory District #3).

2B. Continued from January 9, 2019 Consideration of **Conditional Zone Change #18-0003** as submitted by Solana Energy Farms 1, LLC proposing to conditionally rezone approximately 320 acres from A-2 (General Agriculture) to M-1 (Light Industrial) for cannabis related activities only. On property legally described as Lot 7 of FM 27-8, also being the Southeast ¼ and a Portion of the Northeast ¼ of Section 22, Township 12 South, Range 9 East, in an unincorporated area of the County of Imperial. Assessor's Parcel Number 018-170-049-000, (Supervisory District #3).

2C. Continued from January 9, 2019 Consideration of **Tract Map #00991** as submitted by Solana Energy Farms 1, LLC proposing to subdivide an approximately 320 acre parcel into eight +/-42 acre lots for the purpose of cultivating cannabis on one of the proposed lots. On property legally described as Lot 7 of FM 27-8, also being the Southeast ¼ and a Portion of the Northeast ¼ of Section 22, Township 12 South, Range 9 East, in an unincorporated area of the County of Imperial. Assessor's Parcel Number 018-170-049-000, (Supervisory District #3).

2D. Continued from January 9, 2019 Consideration of **Conditional Use Permit #18-0016** as submitted by Solana Energy Farms 1, LLC for the cultivation of cannabis, as required per Title 9 Land Use Ordinance, Division 4 Chapter 6. On property legally described as Lot 7 of FM 27-8, also being the Southeast ¼ and a Portion of the Northeast ¼ of Section 22, Township 12 South, Range 9 East, in an unincorporated area of the County of Imperial. Assessor's Parcel Number 018-170-049-000, (Supervisory District #3). The Commission took the following actions;

Jim Minnick, gave a brief description of the project, and introduced Planner III, Diana Robinson to read the project into the record.

Diana Robinson, Planner III, read the project into the record and was there to answer any questions from the Commission.

Jim Minnick, stated the Commission is seated as 10 members, there are 7 commissioners present in order to make a motion one direction or the other is to have at least 6 Commissioners

Chairman Schaffner, asked the representative to come forward to the podium and introduce themselves and state their name and address to the record.

Jurg Heuberger, representing the applicant, stated he read the project and agreed with all the terms and conditions of approval

Chairman Schaffner, opened the public portion of the public portion of the meeting.

Brian Flynn, Lozeau Drury, stated they submitted some extensive written comments on this Mitigated Negative Declaration including two expert opinions, one from Dr. Shawn Smallwood with a PHD in Ecology and S.W.A.T. Consulting Firms. He mentioned he just wanted to highlight a few issues they saw on the document, stated the document does not mention the totality of the project, the court of appeals from California has stated numerous times that you need to cover the entire project from start to finish in the CEQA document to inform the public of what is happening. He then stated this project only mentions the first phase of this project and many times referenced that "the cultivation of cannabis operations in its first phase would require approximately 10 acre feet of water. First phase of cannabis operations will generate no more 15-20 vehicular trips. The first building would be 34,000 square feet with subsequent building possibly 3 to 5 new buildings will be built after that and would require 2.25 megawatts of power but again that is only in its first phase. He stated they are not addressing the full construction and operational effects of this project and by addressing only the first phase of development on Lot 7, it is not addressing the full Air Quality, Traffic, Odor, Green House Gas Emission's and impacts on Biological Resources. Beyond just the development of that one sub division plot there are also references to developing the other seven plots that are being built there and to permit them to also have cannabis operations, so this Mitigated Negative Declaration is falling short of showing the totality of the project. Stated there are issues with Air Quality and Green House Gas Emissions, no modeling has been done, the Imperial County Air District recommends that when developing a Mitigated Negative Declaration, an Air Quality analysis is required to use preliminary modeling to assess impacts if any. Reading through the document there is no reference to how much will be emitted or what the thresholds are. Also, no health risk assessment so for example in the construction and operation of the project there can be diesel particulate matter which is not a criteria air pollution matter but is a known human carcinogen. The State of California Office of Environmental Health hazard assessment says that health risk impacts should be evaluated and in particular diesel particulate matter and because there is no preliminary assessment done on this we don't know what those levels are and whether they exceed the level set by the Air Quality district and what the increase cancer risks might be too vulnerable populations. He continued by saying the document fell short of assessing the Biological Resources and stated the document only looked at burrowing owls and that flat tailed horned lizard, Dr. Shawn Smallwood has identified potentially 61 other special status species and similar to the Air Quality Emissions no surveys were done and are relying on past environmental reports to say which species will be there and where they are and he pointed out these species switch locations from time to time stated burrowing owls move every 3 years and to rely on a past document to where these animals will be now is inappropriate. Stated there is no mention of fencing in which most cannabis farms have fencing and security around them which can either entrap animals or stop migration. Odor and traffic come down to a cumulative impact on what this project actually is and questions arise such as; Is it one building

or two buildings?, how much power will they use? Those mitigation measures should be in that document and enforced by the Commission.

Mike Mohamad; applicant, stated he believes the determination of a Mitigated Negative Declaration is sufficient, he then stated that the letter sent was verbatim to another person's sent 3 years ago and obviously haven't read the whole package because they would have seen that they have scrubbers for the air and there won't be anything emitted to the outside air, there will be no odor, no particular matter, nothing will be emitted from inside the building to the outside air. He stated that as far as the animals he doesn't know how to address that stated he agreed with the recommendation of the Planning Department that a Mitigated Negative Declaration will be sufficient.

Commissioner Bergh, asked if they were going to have a fence

Mike Mohamad, stated yes, and mentioned that it was in the package

Commissioner Bergh, stated he was going based off of what Mr. Flynn said. He then asked if he didn't believe he needed to be mitigated as far as the other species in the property.

Mike Mohamad, stated there have been EIR studies done on the property for solar and it has been addressed numerous times, he then stated he doesn't believe they have ever been on the property, like he mentioned before the letter they sent was a verbatim letter that he believes they send out and has just been regenerated from something 3 years ago to make it easier for themselves to dispute it. He really does not believe the animals will be a problem they don't plan on doing anything to harm them and stated that everything has been addressed.

Commissioner Bergh, stated as far as the water is concerned, what would be the ultimate water use going to be and what aquifer it will come out of.

Jurg Heuberger, stated the current project has had extensive water studies done within the last 15 years, and identifies the capacity to be around 2100 to 2300 acre feet. The property as you know is zoned for agriculture and can be farmed at an average of 8-10 acre feet of water.

Jim Minnick, stated that was correct.

Jurg Heuberger, stated as far as the fencing, solar project fencing is already there on he believes lots 4 & 5.

Chairman Schaffner; asked if it was going to be a wall.

Jurg Heuberger, asked if he was referring to a concrete wall, and stated no. He then continued by saying there have been two full EIR's done on the site. The first project was the Seville Solar Farm, although it did not fully address Lot 8.

Chairman Schaffner, asked if IID wanted to sell them power

Mike Mohamad, stated to his understanding the capacity on that line far exceeds anything that they would ever need. They have extra solar capacity that is available to buy right now so they will probably use power onsite during the daytime.

Commissioner Castillo, asked why not use your solar power and save a lot of expense.

Mike Mohamad, stated they hope to but you never know talking to the district.

Commissioner Castillo, asked in regards to the usage of water is that a recycling situation.

Mike Mohamad, stated yes, nothing used for the inside the building for the growing is going back into the ground, everything will be recycled and reused. Nothing will go into the septic system

Commissioner Medina, asked how close the nearest resident to that site is.

Mike Mohamad, Blu-Inn he believes, he stated what he likes about this place is that they have water and power and its proximity to people is pretty much nonexistent. They specifically tried to put it away from people.

Commissioner Medina, asked if they were able to speak to the residents and of their feeling about this project being so close to their homes.

Jim Minnick, stated that the Blu-Inn RV Park is seasonal.

Commissioner Castillo, asked if they were notified.

Jim Minnick, stated no they are too far out of the range but they would have availability through the newspaper. Generally residents are notified within a half a mile radius.

Vice Chairman Kalin, stated he thinks the fact that this is located in such an isolated area and using non IID water makes this an ideal use for the land. Stated the project is really well suited for this location and the use of the water

Chairman Schaffner, stated he has a problem with the project as a whole but if you're going to do it this is the place to do it.

Chairman Schaffner, entertained a motion

- b. Motion made by commissioner **Kalin** and seconded by Commissioner **Cabañas** and carried on the affirmative vote by the Commissioners present; Schaffner (yes), Kalin (yes), Bergh (yes), Cabañas (yes), Castillo (yes), Wright (yes), and Medina (yes), to adopt the "Mitigated Negative Declaration with Mitigations Monitoring and Reporting Program" by finding that the proposed project with the proposed Mitigation Measures will not have a significant effect on the environment as recommended at the Environmental Evaluation Committee (EEC) meeting held on November 15, 2018; make the De Minimus Finding as determined at the November 15, 2018 EEC hearing that the project will not individually or cumulatively have an adverse effect on Fish and Wildlife Resources, as defined in Section 711.2 of the Fish and Game Codes; and to recommend to Board of Supervisors to approve the Resolutions with Findings for General Plan Amendment #18-0002
- c. Motion made by commissioner **Kalin** and seconded by Commissioner **Cabañas** and carried on the affirmative vote by the Commissioners present; Schaffner (yes), Kalin (yes), Bergh (yes), Cabañas (yes), Castillo (yes), Wright (yes), and Medina (yes), to recommend to Board of Supervisors to approve the Codified Ordinance with Findings for Conditional Zone Change #18-0003 modifying APN 018-170-049-000 to M-1 Zone, and recommend to Board of Supervisors to adopt the Ordinance modifying Division 25, Chapter 70 "Open Space; and to recommend to Board of Supervisors to approve Conditional Zone Change #18-0003, subject to all of the conditions.

- d. Motion made by commissioner **Kalin** and seconded by Commissioner **Cabañas** and carried on the affirmative vote by the Commissioners present; Schaffner (yes), Kalin (yes), Bergh (yes), Cabañas (yes), Castillo (yes), Wright (yes), and Medina (yes), to recommend to Board of Supervisors to approve the Resolutions with Findings for Tract Map 991; and to approve Tract Map 0991, subject to all of the conditions.
- e. Motion made by commissioner **Kalin** and seconded by Commissioner **Cabañas** and carried on the affirmative vote by the Commissioners present; Schaffner (yes), Kalin (yes), Bergh (yes), Cabañas (yes), Castillo (yes), Wright (yes), and Medina (yes), to recommend to Board of Supervisors to adopt the Findings and Resolution(s), and approve Conditional Use Permits 18-0016 subject to all of the Conditions of Approval and authorize the Planning and Development Services Director to sign the CUP upon receipt from the applicant.

Jim Minnick, Director, stated that the project is recommended to the Board and there is no appeal for this project.

- I. **Public Comments:** NONE
- II. **Commissioner Comments:** NONE
- III. **Planning Directors Comments:** Rib Cook Off 01/26/19

Adjournment: Meeting was adjourned at 9:31 A.M



Submitted by Rudy Schaffner;
Chairman of the Planning Commission

Attest:



Jim Minnick, Director of
Imperial County Planning Commission

Michelle Garcia PC Recording Clerk
MGIS:\PLANNING CLERICAL\MINUTES & RESOLUTIONS\2019\01 23 19 PC MINUTES.docx