



City Hall Council Chambers \* 520 J Street \* Los Banos, California 93635

## PLANNING COMMISSION

### ACTION MINUTES for the Regular Meeting of Wednesday, April 11, 2007 7:00 PM

I. **CALL TO ORDER**

Pledge of Allegiance was led by Osborn.

II. **ROLL CALL**

Commissioners Present: Anderson, Hammond, Lewis, Osborn, and Chairman Donovan  
Staff Present: Planning Manager LeVan, Planner Farinha, Public Works Director  
Chisam, City Attorney Vaughn and Secretary Solano

III. **CONSIDER APPROVAL OF AGENDA**

On Motion by Anderson, seconded by Lewis it carried by a 5-0 vote to approve the agenda for April 11, 2007 as corrected with the correct address of **1272 4<sup>th</sup> Street** not ~~1242 4<sup>th</sup> Street~~ on Item 7A.

V. **CONSIDER APPROVAL OF ACTION MINUTES**

On Motion by Anderson seconded by Osborn it carried by a 5-0 vote to approve the minutes of the adjourned meeting of April 5, 2007 with the added conditions that were missed.

V. **PUBLIC FORUM – NONE**

VI. **PUBLIC HEARINGS**

A. **ORDINANCE AMENDMENT #2007-01 AND USE PERMIT #2007-01, WOODY'S CHICAGO STYLE, FOR PROPERTY LOCATED AT 1301 WEST PACHECO BLVD. (LOWE'S). ASSESSOR PARCEL NUMBER: 083-040-057. RESOLUTION NO. 2007-20 (ORDINANCE) AND 2007-19 (USE PERMIT).**

Approval of the Ordinance would allow mobile/moveable structure vendors to operate 365 days a year instead of the currently allowed 180 days, and not require an independent power source. Approval of the use permit would allow a moveable structure vendor to operate at Lowe's 180 days a year.

**Recommend:**

- **Denial of the Ordinance Amendment**
- **Adopt Planning Commission Resolution No. 2007-19 recommending approval of Use Permit 2007-01 with Findings and Conditions of Approval.**

Planner LeVan presented the project referring to the staff report that was prepared for the Commissions review. Anderson stated that by virtue of remaining in one location for 365 days a year that this business would qualify as a permanent business. Vaughn reminded the Commissioners about protocol for the meeting.

The Public Hearing was opened. **Josh Meyers** of Woody's Chicago Style stated that he had some questions as to why the City only allows for mobile vendors to operate 180 days in a year. Anderson stated that she did not know the answers but she believes that if a business is allowed for 365 days it becomes permanent. **Meyers** stated that he understands that they are different from a permanent business but they do pay their rent to Lowes. **Meyer** stated that they also pay state and local taxes. Anderson stated that she believes this type of business is a positive thing for Lowe's but would like to see another type of structure. **Meyers** stated that they

took pictures along the way to show the difference between their structure and other types of mobile vendors. He explained that the trailer is brought out every morning and taken away every night to an appointed commissary. **Meyers** stated that their business has a very good reputation. Anderson stated that she believes that they are a good facility but by allowing Woody's the City would have to allow every other mobile vendor to operate in the same fashion.

**Meyers** stated that they have done everything in the right way which he is sure a lot of vendors don't do. **Meyers** stated that they really believe that they would be a positive influence for the city. Osborn believes that by allowing this ordinance amendment then the city is opening the doors to more problems. Lewis asked what taxes are generated from this type of business. **Meyers** stated that they general sales taxes. Lewis asked if they have ever operated inside of a Lowe's. **Meyers** stated that there is only one location in Seattle and it's something they can still look at but Lowe's does prefer them outside. Besides the fact the Lowe's does modifications to their buildings on a regular basis. Hammond asked if all they locations are 365 days a year. **Meyers** answered in the affirmative except for one that is seasonal due to weather conditions. **Dave Anderson** stated that he was at the meeting when the Council made this ordinance and he believes that it had to do with extension cords and clearances in front of buildings. **Meyers** stated that the way their cart sits nobody can walk behind it and also Lowe's has a very wide sidewalk area so they are not in the walk way. No one else the public hearing was closed.

Hammond asked if the applicant could apply for a variance instead that would change the days of operation. Vaughn answer in the negative, stating that mobile/moveable vendor's code is very specific. Lewis asked if there was a permanent structure inside Lowe's would it be different. Vaughn stated that yes it would make it a permanent business and they wouldn't have to come to the Commission for approval.

On Motion by Anderson, seconded by Osborn it carried by a 5-0 to deny Ordinance Amendment 2007-01.

On Motion by Lewis, seconded by Osborn it carried by a 5-0 vote to adopt Planning Commission Resolution No. 2007-19 recommending approval of Use Permit 2007-01 with Findings and Conditions of Approval

**B. TENTATIVE PARCEL MAP #2007-02, DANIEL NATION FOR PROPERTY LOCATED AT THE SOUTHEAST CORNER OF H AND 2<sup>ND</sup> STREETS. ASSESSOR PARCEL NUMBER: 025-162-021. RESOLUTION NO. 2007-14.**

Approval would allow the division of an 18,750 square foot parcel into two parcels. Parcel 1 = 9,375 square feet and Parcel 2 = 9,375 square feet.

**Adopt Planning Commission Resolution No. 2007-14 approving Tentative Parcel Map #2007-02 with Findings and Conditions of Approval.**

Planner LeVan presented the project referring to the staff report that was prepared for the Commissions review. Lewis asked is this request was only for Parcels A and B. LeVan answered in the affirmative. Lewis asked if there will be another site plan review for the remainder of the parcels. LeVan answered in the negative explaining that the Commission has already approved a site plan review for this area. Lewis asked if the 6' chain link fence is going to permanent. LeVan stated that it may just be temporary fence used during construction. LeVan stated that he believes a masonry wall was approved for the project.

The public hearing was opened. **Bill Morris** stated that the site plan was previously approved, and the only thing before the Commission is the parcel map. **Morris** asked if the improvements on the alley have to be done prior to recording. Chisam answered in the affirmative. Lewis asked if the chain link fencing was permanent. **Daniel Nation** stated that there will be a masonry wall on the east side of the property and no fencing on H Street, at the alley there will be chain link fence to protect the ac/heating unit. No one else came forward to speak therefore the public hearing was closed.

On Motion by Anderson, seconded by Osborn it carried by a 5-0 vote to adopt Planning Commission Resolution No. 2007-14 approving Tentative Parcel Map #2007-02 with Findings and Conditions of Approval.

**C. VESTING TENTATIVE PARCEL MAP #2007-05, STONECREEK PROPERTIES FOR PROPERTY LOCATED AT THE SOUTHWEST CORNER OF PACHECO BLVD. AND ORTIGALITA ROAD. ASSESSOR PARCEL NUMBERS: 083-040-052, 053, 055, 056, AND 058. RESOLUTION NO. 2007-15.**

Approval would allow the division of 13.7 acres into 10 parcels ranging in size from .69 acres to 1.59 acres.

**Adopt Planning Commission Resolution No. 2007-15 approving Vesting Tentative Parcel Map #2007-05 with Findings and Conditions of Approval.**

Planner LeVan presented the project referring to the staff report that was prepared for the Commissions review. Anderson asked if the individual projects would be back for site plan review. LeVan answered in the affirmative.

The public hearing was opened. **Brian Curtis** of Stonecreek Properties came forward to answer questions. There were no questions of the applicant and no one else came forward to speak, therefore the public hearing was closed.

On Motion by Lewis, seconded by Osborn it carried by a 5-0 vote to adopt Planning Commission Resolution No. 2007-15 approving Vesting Tentative Parcel Map #2007-05 with Findings and Conditions of Approval.

**D. TENTATIVE TRACT MAP #2006-10 AND VARIANCE #2007-01, NEXT STEP HOMES FOR PROPERTY LOCATED WEST OF MERCEY SPRINGS ROAD AND NORTHEAST OF LAURELWOOD DRIVE. ASSESSOR PARCEL NUMBER: 082-030-022. RESOLUTION NO. 2007-12.**

Approval would allow the subdivision of 3.6 acre parcel into 15 single-family residential lots in an R-1 (Low Density Residential) zone and the variance would allow Lot 1 to vary from the minimum lot size requirements of the R-1 zone district.

- **Adopt Planning Commission Resolution No. 2007-12 approving Tentative Tract Map #2006-19 with Findings and Conditions of Approval.**
- **Adopt Planning Commission Resolution No. 2007-21 approving Variance #2007-01 with Findings and Conditions of Approval.**

Planner Farinha presented the project referring to the staff report that was prepared for the Commissions review. Anderson asked if a landscaping plan been submitted to staff. Farinha answered in the negative. Anderson stated that the report states that no fencing is proposed but the plans show a masonry wall along Mercey Springs Road. Osborn asked what the Commission is supposed to be approving landscaping or subdivision. Osborn stated that it seems the Commission is missing some important information, LeVan informed the Commission that staff had asked for more information but the applicant was unable to get it all together.

The public hearing was opened. **Arsenio Ayan** stated that he doesn't know the exact details for the masonry wall but it will match the neighboring subdivisions. Anderson asked if there would be fencing around the project. **Ayan** stated that during construction there will be fencing for safety reasons. Anderson asked if the landscaping would be done as the property develops. **Ayan** stated that he was informed at the last minute that they needed landscaping plans so his architect was not able to get them done in time for the meeting. **Ayan** also stated that according to the documentation that was given to them it was stated that they didn't have to submit landscaping until final map stage. Chisam stated that it is standard policy that all improvements such as landscaping, sound walls, lights, curb and gutter are approved with the final map by the City Council. Lewis stated that because of the small size of the project the landscaping along the streets is usually done before the applicant can start pulling permits. On larger projects the Commission usually sees the entire area plan. Lewis stated that the report stated more custom homes here and she is concerned that the public improvements will not be done. Chisam stated that all those public improvements will be bonded so that if the applicant/developer can't finish them then the City will do the work. Anderson had a concern with the external of the project and not knowing what things are going to look like. Chisam stated that the Commission can make a recommendation that they want to review those plans before the final map goes to City Council. Chisam stated that perhaps a conceptual plan could be asked for by the Commission. Lewis stated that she is concerned with this project fitting aesthetically with other projects in the area. Lewis doesn't want to approve a project that she can't see. **Ayan** stated that this project is an

infill also they are not sure what's being constructed on either side of them. He would like to be able to come back with landscaping and improvements plans to get the Commissions approval. Osborn asked when the landscaping would be done. **Ayan** stated that perhaps in about a week but not quite sure. They want to be consistent with the neighborhood, but there is not much going on either side of them. Hammond asked if he knew what elevation will be on the lots. **Ayan** stated that all they are asking approval for is the tentative map they won't be able to sell until the final map is approved. Ayan would ask for a condition that states that they have to have their improvements approved before they can go forward. Lewis also asked that Ayan make sure that no two-story homes are places behind existing single story homes. **Ayan** stated that they met with Alderete and they will be meeting with him to sign an agreement for mitigation fees for the school district. **LBUSD Superintendent Alderete** stated that he did meet with Ayan. Alderete asked to be able to submit a document into the record. Primarily they did have concerns with the project but they will set aside those concerns if the applicant agrees with mitigation #8. But he would like to see a condition of approval added that states that the developer shall sign a fee mitigation agreement with the school district. Vaughn stated the City can't put that condition into the resolution. **Alderete** stated that their primary concern is that this project didn't have a negative declaration and they believe that it needs one. Anderson asked why this study was not done. LeVan stated that the conclusion of staff and EMC was that this project did not warrant a study,

**Added Conditions:**

Prior to final map approval improvement plans shall come back to the Commission for approval this shall include landscaping, lighting, masonry wall, fencing plan, elevation plans, etc.  
No two story homes backing to single story homes

On Motion by Lewis, seconded by Osborn it carried by a 5-0 vote to adopt Planning Commission Resolution No. 2007-12 approving Tentative Tract Map #2006-10 with Findings and Conditions of Approval as amended.

On Motion by Lewis, seconded by Osborn it carried by a 5-0 vote to Adopt Planning Commission Resolution No. 2007-21 approving Variance #2007-01 with Findings and Conditions of Approval.

**E. TENTATIVE PARCEL MAP #2007-06 AND VARIANCE #2007-02, MIKE REGALADO FOR PROPERTY LOCATED AT SOUTHWEST CORNER OF MADRONE STREET AND TEXAS AVENUE. ASSESSOR PARCEL NUMBER: 027-202-020. RESOLUTION NO. 2007-16.**

Approval would allow the subdivision of a 12,000 square foot parcel into 2 parcels. The variance would allow one lot to vary from the minimum lot size requirements of the R-1 zone district.

- **Adopt Planning Commission Resolution No. 2007-16 approving Tentative Parcel Map #2007-06 with Findings and Conditions of Approval.**
- **Adopt Planning Commission Resolution No. 2007-17 approving Variance #2007-02 with Findings and Conditions of Approval.**

Planner Farinha presented the project referring to the staff report that was prepared for the Commission review. Lewis stated that there are newer homes being built in that area, are they the minimum lot size. Farinha stated that he did not know. Lewis wanted to make sure everything is consistent in that area. Anderson stated that the report states that the older home is being demolishing but isn't there a new home there now, Farinha answered in the affirmative. Anderson stated that she didn't see how the Commission can make a determination that would allow for a smaller lot when all other lots are regular lots. LeVan stated that the crux of the matter is that the applicant was going off a letter that was written 20 years ago but staff explained to him that the letter was null and void a year after it was written. Vaughn stated that in approving a variance the Commission needs to make sure the neighborhood is not being affected in an adverse way.

The public hearing was opened. **Mike Regalado** stated that the houses are mirror images of each other. He believes that this house will conform to the area. Lewis stated that she was more concerned with the newer homes that are being built. **Regalado** informed that he had submitted for a permit about 2 years ago. Anderson stated that the fence between this property and the auto repair business is in really bad condition will it be replaced. **Regalado** stated that only if the business owner would share the cost. Lewis asked who the owner of the fence is. **Regalado** stated that it's a community fence owned by him and the auto repair business, he will

see if the owner is willing work with him to do repairs. No one else came forward to speak therefore the public hearing was closed.

**Added Condition:**

Existing fence between project site and auto repair business must be replaced and/or repaired.

On Motion by Osborn, seconded by Hammond it carried by a 5-0 vote to adopt Planning Commission Resolution No. 2007-16 approving Tentative Parcel Map #2007-06 with Findings and Conditions of Approval as amended.

On Motion by Osborn, seconded by Hammond it carried by a 5-0 vote to Adopt Planning Commission Resolution No. 2007-17 approving Variance #2007-02 with Findings and Conditions of Approval.

**VII. GENERAL BUSINESS**

**A. SITE PLAN REVIEW #2007-05, ALFONSO MESA FOR PROPERTY LOCATED AT 1272 FOURTH STREET. ASSESSOR PARCEL NUMBER: 026-044-024. RESOLUTION NO. 2007-18.**

Approval would allow a residential house located in the H-C zone district to be converted to a commercial use for a car stereo installation business.

**Adopt Planning Commission Resolution No. 2007-18 approving Site Plan Review #2007-05 with Findings and Conditions of Approval.**

Planner Farinha presented the project referring to the staff report that was prepared for the Commissions review. Anderson asked where the cars that are being worked on would be parked. Also how many employee parking spaces will there be. Anderson asked if there is only one entry point on 4<sup>th</sup> Street. Farinha answered in the affirmative and informed the Commission that the applicant is building a carport type structure where cars that are being worked on will be parked. Hammond stated that the plans that were submitted show some walls being removed, don't these plans have to be stamped by an engineer. Chisam stated that Building Department will make that determination. Lewis stated she is concerned additional parking that is being offered, where is it located. Farinha stated that it is located at the residence to the north and is off the alley. Lewis asked if this applicant does use the parking where will the resident park. LeVan stated that if the parking isn't in the alley it will be in front of the house. Lewis asked if any elevation improvements are going to be done to the building. Farinha answered in the negative. Lewis stated that in one of the pictures it shows some foundation work being done what is that. Farinha informed the Commission that the applicant is converting the back bedroom to a garage and making it ADA compliant. Lewis asked if there would be two stalls for installation work. Farinha answered in the affirmative Osborn asked if this is the same business as that is now located on Mercey Springs Road. Farinha was not aware.

The public hearing was opened. **Alfonso Mesa Jr.**, stated that the cars that are being working on will be in parked in the garage, most jobs take about 50 minutes. Anderson asked where the parking spaces are located. **Mesa** stated that there is a carport off the alley. Anderson asked about signage for the building. **Mesa** stated that they would like to put one on the side wall of the building so that it faces Pacheco Blvd. Anderson asked how many employees work at the business. **Mesa** stated that it's only himself and his father and they will either ride their bikes or walk to work as they live nearby. Anderson asked about noise levels from testing the stereo. **Mesa** stated that they only test for about 2 minutes and there will be no loud music in the store. Donovan asked if they do all their work by appointment. **Mesa** answered in the affirmative. Hammond asked their current location has an installation area. **Mesa** answered in the negative. Hammond asked if they would be keeping the location on Mercey Springs Road. **Mesa** answered that it will close once this location is open. Lewis asked what the hours of operation would be. **Mesa** stated that it will be 9:00 am – 5:00 pm. Lewis asked how many parking spaces were available. **Mesa** stated that they have 3 on site and two others they were offered by neighbor. Lewis asked if the applicant had considered doing any improvements to the outside of the building. **Mesa** stated that they are replacing the old fence with new wrought iron fence around the property, planting some palm trees, and doing a little more landscaping. Hammond asked if the applicant perhaps talked to Enterprise about parking spaces. **Mesa** stated that they approached Dairy Queen and Enterprise but were told no. **Paula Molina** of

1247 4<sup>th</sup> Street stated that she is concerned about sound and noise, she works from home and she is always on the phone doesn't want to have her work day interrupted. **Mesa** stated that all work will be done in the installation bays and that are going to have those insulated , they will do there best to keep the noise down during testing. No one else came foreword to speak therefore the public hearing was closed.

**Added Conditions:**

Improvements shall be done on the front elevations to make the building more uniform, i.e. mechanical equipment needs to be screened, maybe some new windows, building should have a more finished look.

Landscaping in front needs to be replaced or at least add some more plants.

A "Right Turn Only" sign shall to be installed at the driveway for customers exiting the property. Elevation plans must come back for approval.

On Motion by Osborn, seconded by Hammond it carried by a 5-0 vote to Adopt Planning Commission Resolution No. 2007-18 approving Site Plan Review #2007-05 with Findings and Conditions of Approval as amended.

**VIII. COMMISSIONERS REPORTS**

- o Anderson: No report.
- o Lewis: Thanked the Commission and Planning Department for allowing her to miss meetings.
- o Hammond: No report.
- o Osborn: No report.
- o Donovan: No report.

**IX. PLANNING MANAGER'S REPORT**

- o LeVan informed the Commission that he would be out of the office next week attending the National Planner's Conference in Philadelphia.
- o Chisam informed the Commission that at their next meeting they would have the traffic engineer showing traffic model of the city.

**X. ADJOURNMENT**

The Planning Commission meeting of April 11, 2007 was adjourned at the hour of 9:30 PM.

Respectfully Submitted,

Rachel M. Solano  
Planning Commission Secretary

APPROVED BY THE PLANNING COMMISSION ON:

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APPROVED BY:

JOHN LeVAN  
**PLANNING MANAGER**

***ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the Planning Commission. For further detail of this meeting please refer to the audiotape(s).***