

**CITY OF LOS BANOS
PLANNING COMMISSION MEETING MINUTES
APRIL 11, 2012**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the Planning Commission. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

CALL TO ORDER: Chair Rosin called the Planning Commission Meeting to order at the hour of 7:00 p.m.

PLEDGE OF ALLEGIANCE: Planning Commissioner Lee led the Pledge of Allegiance.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Arkady Faktorovich, Vern Hixson, Chandra Lee, Deborah Lewis, Tom Mello, Tracey Rosin and Susan Toscano.

STAFF MEMBERS PRESENT: Community Development Director Fitzgerald, City Attorney Vaughn and Assistant Planner Elms.

CONSIDERATION OF APPROVAL OF AGENDA: Motion by Lee, seconded by Mello to approve the agenda as submitted. The motion carried by the affirmative vote of all Commission Members present.

CONSIDERATION OF APPROVAL OF ACTION MINUTES FOR THE REGULAR MEETING OF JANUARY 25, 2012: Motion by Lee, seconded by Hixson to approve the minutes as submitted. The motion carried by the affirmative vote of all Commission Members present.

CONSIDERATION OF APPROVAL OF ACTION MINUTES FOR THE REGULAR MEETING OF MARCH 14, 2012: Motion by Lee, seconded by Faktorovich to approve the minutes as submitted. The motion carried by the affirmative vote of all Commission Members present.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE COMMISSION ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE COMMISSION; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. No one came forward and the public forum was closed.

PUBLIC HEARING – CONSIDERATION OF APPROVAL OF USE PERMIT 2012-01 FOR THE USE OF A LARGE FAMILY DAYCARE AT 1235 BLUEGRASS COURT; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBER: 430-034-025. Community Development Director Fitzgerald presented the staff report; received

three comment letters in opposition of the day care that were included in the agenda packet; in addition, three comment letters were received the day of the public hearing.

Commissioner Faktorovich; is there an age limitation for children; Community Development Director Fitzgerald; not aware if the State has limitations; the applicant has provided an operational statement which states the age of children under her care; City Attorney Vaughn; age limitations are dealt through State licensing; that area is not under the jurisdiction of the City; Commissioner Mello; how many off-street parking spaces are required; Community Development Director Fitzgerald; two off-street parking spaces in the drive-way; Commissioner Mello; where will employees park; Heather Schaefer, Applicant; the employee will park in the drive-way; there is room for four vehicles in the drive-way; Commissioner Lewis; is there anything in the comment letters that can be read; Community Development Director Fitzgerald; the letter regarding the CC&Rs states that City staff and City Council reviewed the CC&Rs and were a major selling point for homebuyers; Community Development Director Fitzgerald; clarified the City does not regulate CC&Rs; any applicable issues regarding CC&Rs would need to be dealt civilly; State code trumps CC&Rs; received a letter in support of the project; Commissioner Lee; wanted the Commission to only take into consideration the four areas which the Commission has jurisdiction; applicant has not received any complaints; stated that all of the comment letters with complaints are a nine minute walk from the home; felt the Commission should to take into consideration the applicant has had good history with the City in providing good child care; Commissioner Hixson; stated he lives across the street from a large family daycare and has no issues.

Chair Rosin opened the public hearing; **Heather Schaefer, Applicant**; gave the Commission background on herself; addressed concerns regarding the use of her daycare from the neighborhood; **Steve Cutuchague; Los Banos resident**; felt the Planning Department was doing everything to circumvent his questions; is extremely sensitive to noise; wanted the Commission to know that a Large Family Daycare is a commercial business; bought his residence because of the strict CC&Rs; stated that the Planning Department can regulate Large Family Daycares; the applicant has been operating since the beginning of March and has destroyed the neighboring fence; stated there is not two parking spaces in the drive-way, because it cannot be utilized when the neighboring houses are built; wanted the Planning Commission to know his rights; **Stacy Saucedo; Los Banos resident**; chose to purchase a home in the neighborhood because of the safe and friendly environment; her 20 month old attends Little Hands Daycare; chose this daycare because of the close proximity to her home; has no issues with this daycare being at the end of her block; has not witnessed an increase in traffic; parents driving down the block drive very slowly; does not want restrictions to be placed on the daycare that would affect the care of her child; **Able Gomes; Los Banos resident**; does not understand the complaint from the resident regarding the Anderson Homes fence being destroyed; has been helping the applicant fix the backyard with permission from the property owner; pointed out the close proximity of Oliveira Park to the residents in opposition and the location of public schools in residential subdivisions; **Amber Silva; Los Banos resident**; does not have issues with the daycare being located across the street from her house; has complete view of the court from her home and has not witnessed any speeding down the block; the children from the

neighborhood play in the court; has not heard additional noise contributing from the daycare being located on her street.

No one else came forward and the public hearing was closed.

Chair Rosin; stated the Commission is required to follow State requirements whether residents agree or disagree; appreciates the residents coming forward for public comment; Commissioner Mello; asked what are the operating hours; Heather Schaefer, Applicant; 7am to 5:30pm; Commissioner Lewis; spoke to the applicant and two residents located on Turquoise Court who are in opposition; understands the need for daycare and the residents' concerns for the well being of their homes; read the California Health and Safety Code regarding family daycare homes; stated there are no grounds to base a denial due to the State's requirements.

Motion by Lee, seconded by Faktorovich to adopt Planning Commission Resolution No. 2012-02 – approving Conditional Use Permit #2012-01 for the use of a Large Family Day Care located at 1235 Bluegrass Ct. The motion carried by the affirmative action of all Commission Members present.

PUBLIC HEARING – CONSIDERATION OF APPROVAL OF USE PERMIT 2012-02 FOR THE USE OF A LARGE FAMILY DAYCARE AT 2086 HASTINGS DRIVE; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 083-443-029.

Community Development Director Fitzgerald presented the staff report.

Chair Rosin opened the public hearing; no one came forward and the public hearing was closed.

Motion by Lee, seconded by Hixson to adopt Planning Commission Resolution No. 2012-03 – approving Use Permit #2012-02 for the use of a Large Family Day Care located at 2086 Hastings Drive. The motion carried by the affirmative action of all Commission Members present.

City Attorney Vaughn excused himself from item 7c as he represents the Amabile family.

PUBLIC HEARING – CONSIDERATION OF APPROVAL TO CERTIFY THE NEGATIVE DECLARATION (SCH#2012031018) AND APPROVE SITE PLAN REVIEW #2012-01 FOR LES SCHWAB, A 12,009 SQUARE FOOT FULL SERVICE TIRE CENTER AT THE PROPERTY LOCATED NORTH OF PACHECO BOULEVARD, EAST OF MERCEY SPRINGS ROAD AND DIRECTLY EAST OF ESPANA'S RESTAURANT; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 428-140-049.

Community Development Director Fitzgerald presented the staff report.

Mike Oxman, Applicant's Representative; gave a brief overview of the company; Craig Stockbridge, GBD Architects; gave a power point presentation.

Commissioner Toscano; what drive-way entrance will be used more frequently; Craig Stockbridge, GBD Architects; the front entrance is located closest to the shared drive-way which will probably be used primarily; Commissioner Toscano; is the shared driveway going to be widened; Craig Stockbridge, GBD Architects; the driveway will be widened to 50 feet; Commissioner Mello; are locals going to be hired; Mike Oxman, Applicant's Representative; yes, the Manager will come from another store and may bring a couple of employees; Commissioner Mello; will the historical monument be factored into the landscaping; Michael Amabile, Property Owner; the historical value of the property is the building; the monument will be moved over to the building; the applicant is providing more parking for the restaurant; Commissioner Mello; will the noise from the tire center affect the restaurant's patio; Michael Amabile, Property Owner, when the restaurant is busiest in the evening, the tire center will be closed; the restaurant will be adding additional landscaping around the patio to help with noise; Commissioner Faktorovich; how many employees will this facility have; Mike Oxman, Applicant's Representative; 15-20 employees in the first year; Commissioner Faktorovich; what wages will employees receive; Mike Oxman, Applicant's Representative; salary range is comfortable and higher than minimum wage; Commissioner Hixson; did the property owner approach Les Schwab; Michael Amabile, Property Owner; Les Schwab approached the Amabile family.

Chair Rosin opened the public hearing; no one came forward and the public hearing was closed.

Motion by Lee, seconded by Faktorovich to adopt Planning Commission Resolution No. 2012-04 – certifying the Negative Declaration (SCH#2012031018) and approving Site Plan Review #2012-01 for the construction of Les Schwab a 12,009 square foot tire center located on Assessor's Parcel Number: 428-140-049. The motion carried by the affirmative action of all Commission Members present.

PLANNING DEPARTMENT REPORT: Received the preliminary plans for a submittal next to Food 4 Less; the IGR from Caltrans was received for Dollar General; all the architectural plans have been approved for the gas station located on the south east corner of Mercey Springs/Overland by their corporate office; the AM/PM/ McDonalds project will be going to LAFCo on April 26, 2012; the Community Development Department started a Facebook page for economic development and community events.

PLANNING COMMISSION MEMBER REPORTS:

ARKADY FAKTOROVICH: Nothing to report.

VERN HIXSON: Nothing to report.

CHANDRA LEE: Fundraiser for Relay for Life at Me n Eds Pizzeria on April 19, 2012.

DEBORAH LEWIS: Gave condolences to Commissioner Toscano on the passing of her uncle; asked staff to include proof of publication for public hearing notices with agenda packets.

TOM MELLO: A lot of questions have been asked regarding the transitional homeless housing discussed at the previous meeting; would like the Commission to come up with questions for the Planning Department; main concern is if additional money is not obtained, who is responsible to pay for operations; Community Development Director Fitzgerald; the City would apply for the grant but would turn it over to Merced County Community Action Agency who would own the property; once the grant is complete in three years, Merced County Community Action Agency would utilize their operating fund to continue to maintain the program and building as that is what they do.

TRACEY ROSIN: The Planning Commission only facilitated the public hearing for the CDBG Grants.

SUSAN TOSCANO: Would like to be informed of public notices.

ADJOURNMENT. The meeting was adjourned at the hour of 8:24 p.m.

APPROVED:

/s/ Tracey Rosin
Tracey Rosin, Chair

ATTEST:

/s/ Stacy Souza Elms
Stacy Souza Elms, Assistant Planner/ Planning Commission Secretary