



# City of Los Banos

*At the Crossroads of California*

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## AGENDA

### PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS  
520 J Street  
Los Banos, California

**July 11, 2012**

*If you require special assistance to attend or participate in this meeting, please call the Planning Secretary @ (209) 827-7000 extension 118 at least 48 hours prior to the meeting.*

*The City of Los Banos complies with the Americans with Disabilities Act (ADA) of 1990.*  
\* \* \* \* \*

*Si requiere asistencia especial para atender o participar en esta junta por favor llame a la oficina de la Secretaria del Departamento de Planificación al (209) 827-7000 extensión 118 a lo menos de 48 horas previas de la junta.*

*La Ciudad de Los Banos cumple con la Acta de Americanos con Deshabilidad (ADA) de 1990.*

*Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the meeting and in the Planning Department's office located at City Hall, 520 J Street, Los Banos, California during normal business hours. In addition, such writings and documents may be posted on the City's website at [www.losbanos.org](http://www.losbanos.org).*  
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*Cualquier escritura o los documentos proporcionaron a una mayoría del Departamento de Planificación con respecto a cualquier artículo en este orden del día será hecho disponible para la inspección pública en la reunión y en la oficina del Secretaria del Departamento de Planificación del City Hall, 520 J Street, Los Banos, California durante horas de oficina normales. Además, tales escrituras y los documentos pueden ser anunciados en el website de la Ciudad en [www.losbanos.org](http://www.losbanos.org).*

1. CALL TO ORDER. **7:00 PM**
2. PLEDGE OF ALLEGIANCE.
3. ROLL CALL: (Planning Commission Members)  
Faktorovich \_\_, Hixson \_\_, Lee \_\_, Lewis \_\_, Mello \_\_, Rosin \_\_, Toscano \_\_

4. APPROVAL OF AGENDA.  
*Recommendation: Approve the agenda as submitted.*

5. CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR MEETING OF JUNE 13, 2012.

*Recommendation: Approve the minutes as submitted.*

6. PUBLIC FORUM: Members of the public may address the Commission on any item of public interest that is within the jurisdiction of the Commission, including agenda and non-agenda items. No action will be taken on non-agenda items. Speakers are limited to a five (5) minute presentation.

7. PUBLIC HEARINGS: If you challenge the proposed action as described herein in court, you may be limited to raising only those issues you or someone else raised at the public hearing described herein or in written correspondence delivered to the City at, or prior to, the public hearing.

A. Public Hearing – To Analyze and Determine Conformity with the Underlying General Plan Land Use Diagram of an Elementary School on the Site of the Former Merced Community College by the Los Banos Unified School District Located on Approximately 10 Acres at the Southeast Corner of Mercey Springs Road and Scripps Drive; More Specifically Identified as Assessor's Parcel Number: 083-100-036.

1) Planning Commission Resolution No. 2012-12 – Pursuant to Government Code Section 65402 and Public Resources Code Section 21151.2 Relative to the Los Banos Unified School District's Proposed Acquisition of the Property Located on the Southeast Corner of Mercey Springs and Scripps Drive on the Former Merced Community College Site.

*Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing and adopt Planning Commission Resolution No. 2012-12 as submitted.*

8. COMMUNITY DEVELOPMENT DEPARTMENT REPORT.

9. COMMISSIONERS REPORTS.

A. Faktorovich

B. Hixson

C. Lee

D. Lewis

E. Mello

F. Rosin

G. Toscano

10. ADJOURNMENT.

**APPEAL RIGHTS AND FILING PROCEDURES**

Any person dissatisfied with an act or determination of the Planning Commission may appeal such act or determination to the Planning Commission by filing written notice with the Planning Commission Secretary not later than five (5) business days (excluding holidays) after the day on which the act or determination was made. An appeal must state the act or determination which is being appealed, the identity of the applicant and his/her interest in the matter, and set forth in concise statement(s) the reasons which render the Commission's decision unjustified or inappropriate. (Los Banos Municipal Code Section 9-3.2326)

Concerning an action taken by the Planning Commission related to Chapter 2 Articles 1 through 17 of the Los Banos Municipal Code "Subdivisions", if a subdivider or other affected property owner is dissatisfied with any action of the Commission with respect to a tentative map or the nature and extent of improvements recommended or required he/she may within fifteen (15) days after such action appeal to the Planning Commission Secretary for a public hearing on the matter. An appeal must state the action being appealed, identify the agenda item by agency number or project title, and set forth in concise statement(s) the reasons for the appeal. (Los Banos Municipal Code Sections 9-2.807)

Appeals must be in writing and include the appellant's name and address and original signature. A filing fee of \$150.00 must accompany the notice of appeal.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.

  
Stacy Souza Elms, Planning Commission Secretary

Dated this 3<sup>rd</sup> Day of July, 2012

**CITY OF LOS BANOS  
PLANNING COMMISSION MEETING MINUTES  
June 13, 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 Faktorovich led the Pledge of Allegiance.

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

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

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

**CONSIDERATION OF APPROVAL OF ACTION MINUTES FOR THE REGULAR MEETING OF MAY 23, 2012:** Motion by Faktorovich, seconded by Toscano to approve the minutes as submitted. The motion carried by the affirmative vote of all Commission Members present. Absent: Lee, Lewis and Mello.

**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 REVISING A CONDITION OF APPROVAL FOR USE PERMIT #2011-05 FOR ANTHONY GOMES ELECTRICAL SERVICES LOCATED AT 2028 PRINCETON COURT; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 083-310-058.** Community Development Director Fitzgerald presented the staff report.

Commissioner Hixson, asked if the business is growing; Anthony Gomes, applicant; yes, the business is growing everyday; Commissioner Hixson, asked if the applicant is required to come back each time he hires an employee; Community Development

Director Fitzgerald, the condition has been changed to employees so that the applicant does not have to come back so long as there is no impact to the neighborhood; Chair Rosin, would this only apply to the applicant's business or would the Planning Commission be setting a precedent for all businesses; Community Development Director Fitzgerald; the conditions are specific to this business and would not be setting a precedent.

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

Motion by Toscano, seconded by Hixson to adopt Planning Commission Resolution No. 2012-11 – rescinding Resolution No. 2011-17 and approving Use Permit #2011-05 for the use of a home occupation with employees in the Low Density Residential Zoning District. The motion carried by the affirmative action of all Commission Members present. Absent: Lee, Lewis and Mello.

**COMMUNITY DEVELOPMENT DEPARTMENT REPORT:** A new sushi restaurant will be opening July 8<sup>th</sup> in the Baskin Robbins shopping center; Family Dollar will be coming forward soon; Alzheimer/Assisted Living project will be coming back to the Commission to continue their project in phases.

**PLANNING COMMISSION MEMBER REPORTS:**

**ARKADY FAKTOROVICH:** Nothing to report.

**VERN HIXSON:** Nothing to report.

**CHANDRA LEE:** Absent.

**DEBORAH LEWIS:** Absent.

**TOM MELLO:** Absent.

**TRACEY ROSIN:** Excited to see renovations on I Street; wanted to know if Walmart has set a construction schedule; stated that the Farmer's Market is open in Pacheco Park Saturday mornings 7:30 am to 11:00 am.

**SUSAN TOSCANO:** Nothing to report.

**ADJOURNMENT.** The meeting was adjourned at the hour of 7:18 p.m.

APPROVED:

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Tracey Rosin, Planning Commission Chair

ATTEST:

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Stacy Souza Elms, Assistant Planner/ Planning Commission Secretary



*City of*  
**Los Banos**  
*At the Crossroads of California*

**PLANNING COMMISSION STAFF REPORT**

**TO: CHAIR ROSIN AND PLANNING COMMISSIONERS**

**FROM: PAULA FITZGERALD, AICP, COMMUNITY DEVELOPMENT DIRECTOR**

**FOR: PLANNING COMMISSION MEETING OF JULY 11, 2012**

**SUBJECT: ELEMENTARY SCHOOL AT THE SOUTHEAST CORNER OF MERCY SPRINGS AND SCRIPPS DRIVE ON THE FORMER MERCED COMMUNITY COLLEGE SITE**

**RECOMMENDATION:**

1. That the Planning Commission Approves Resolution #2012-12 in accordance with Public Resources Code Section 21151.2 and Government Code Section 65402 relating to the acquisition of the southeast corner of Mercey Springs and Scripps Dr. for the construction and operation of an elementary school. The property is more specifically identified as Assessor's Parcel Number: 083-100-036.

**Background**

Public Resources Code Section 21151.2 and Government Code Section 65402 require that school districts inform the local land use jurisdiction of intent to purchase and develop facilities; and that the local jurisdiction, in turn, provide a report to the school district within 30 days with a recommendation regarding site acquisition.

On June 20, 2012, the Los Banos Unified School District sent the attached letter requesting a Planning Commission report on their proposed site for a new elementary school. The site in question is the former Merced Community College at the southeast corner of Mercey Springs Road and Scripps Drive. Los Banos Unified School District intends to purchase the property, demolish the existing buildings and construct and operate an elementary school.

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## Discussion

The letter references Government Code Section 65402, which says that if property is to be acquired for a school site, conformity with the General Plan must be shown. Additionally, if a potential site is found to be inconsistent with the General Plan (or the Zoning Ordinance), the Governing Board of the School District has the right to overrule it with a two-thirds vote.

The site currently has a General Plan Land Use Designation of Commercial, schools are not specifically mentioned, but nor are they prohibited. Also, it is recognized that public facilities, such as elementary schools, are needed to serve the community. The Los Banos Zoning Map currently has the property zoned as R-1 (low density residential), it should be noted that schools are a use by right in the R-1 and Commercial Zoning Districts (if it were rezoned to meet the General Plan Designation).

The following General Plan Goals provide for consistency: LU-G-3 –Ensure that new development provides for infrastructure, schools, parks, neighborhoods, shops and community facilities in close proximity to residents; LU-G-14 –Provide appropriate settings for a diverse range of civic, institutional , and community land uses; C-G-3 – Make efficient use of existing transportation facilities and, through coordinated land use planning, strive to improve accessibility to shops, schools, parks and employment centers and reduce total vehicle miles traveled per household to minimize vehicle emissions and save energy; PFU-G-1 –Provide superior educational opportunities for children and all members of the community.

The letter from the School District also references Public Resources Code Section 21151.2, which is for the purpose of promoting the safety of pupils. The Planning Commission is to investigate the proposed site and must submit to the School Board a written report of the investigation and its recommendations concerning acquisition of the site. The Code further goes to state that the Board shall not acquire title to the property until the report of the Planning Commission has been received and if the report does not favor the acquisition of the property for a school site, the School District shall not acquire title to the property until 30 days after the Planning Commission report is received.

The primary concern relating to Public Resources Code Section 21151.2 pertaining to this site would be in accordance with the California Department of Education school site selection and approval guide relating to proximity to major roadways. The California Code of Regulations, Title 5, Section 14010(e), states: "The site shall not be adjacent to a road or freeway that any site-related traffic and sound level studies have determined will have safety problems or sound levels which adversely affect the educational program." Also, Trucks traveling on public roads - including interstate freeways, state highways, and local roads - often contain the same hazardous materials that railcars on railroads contain. Although the quantities of materials being carried on trucks are smaller for a double trailer or tanker in comparison to a railcar, trucks have a greater incidence of accidents, spills, and explosions than do railcars. Moreover, the protective enclosures of a truck are not as strong as are those of a railcar. The Code of

Regulations goes on to say that when evaluating a site near a major roadway, a school district needs to analyze risk relating to the distance from the near edge of the roadway to the site, how heavy the traffic flow is, how many trucks utilize the roadway during the time staff and students are present, is a safety or sound barrier is necessary and how students will cross the highway to get to school safely. A complete traffic analysis is required to identify potential safety concerns. Without seeing a site plan or the traffic study and without knowing what the mitigation measures are, some of the primary concerns for safety are: the existing sidewalk gap on the east side of Mercey Springs, north of the site, which creates an issue regarding safe pedestrian access to the school site; the Scripps Drive and Mercey Springs uncontrolled intersection and the increased vehicular and pedestrian traffic; and the Berkeley Drive and Mercey Springs intersection increase in vehicular and pedestrian traffic.

### **Summary/Conclusion**

The Planning Commission of the City of Los Banos finds the proposed development of the elementary school to be consistent with the General Plan, provided that the traffic/pedestrian safety concerns are addressed and appropriate mitigation measures are established and improvements are made.

### **Environmental**

Pursuant to the California Environmental Quality Act (CEQA), Article 19, Section 15061 (b)(3) of the Guidelines for Implementation, the analysis for consistency is exempt from review as it can be seen with certainty that there is no possibility that the activity (analysis only) in question may have a significant effect on the environment.

### **PUBLIC COMMENT:**

A public hearing notice was published in the Los Banos Enterprise and notices were mailed out to property owners within a 300' radius of the Project site on June 29, 2012. As of the date of this staff report, no comments have been received.

### **RECOMMENDATION:**

1. That the Planning Commission Approves Resolution #2012-12 in accordance with Public Resources Code Section 21151.2 and Government Code Section 65402 relating to the acquisition of the southeast corner of Mercey Springs and Scripps Dr. for the construction and operation of an elementary school. The property is more specifically identified as Assessor's Parcel Number: 083-100-036.

### **ATTACHMENTS:**

1. Resolution 2012-12
2. Letter from LBUSD
3. Public Hearing Notice

## RESOLUTION No. 2012-12

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS PURSUANT TO GOVERNMENT CODE SECTION 65402 AND PUBLIC RESOURCES CODE SECTION 21151.2 RELATIVE TO THE LOS BANOS UNIFIED SCHOOL DISTRICT'S PROPOSED ACQUISITION OF THE PROPERTY LOCATED ON THE SOUTHEAST CORNER OF MERCY SPRINGS AND SCRIPPS DRIVE FOR THE CONSTRUCTION AND OPERATION OF AN ELEMENTARY SCHOOL

**WHEREAS**, On June 20, 2012, the Los Banos Unified School District submitted a letter to the Community Development Department pursuant to Public Resources Code Section 21151.2 and Government Code Section 65402; and

**WHEREAS**, said letter requested Planning Commission consideration of General Plan Conformity with a written report and recommendations concerning pupil safety for the property located at the southeast corner of Mercy Springs and Scripps Dr. within 30 days of receiving the notice; and

**WHEREAS**, the proposed request is in compliance with the State public Resources Code Section 21151.2 and Government Code Section 65402; and

**WHEREAS**, a public hearing notice was advertised in the Los Banos Enterprise on June 29, 2012 and notices were mailed to property owners within 300 feet of the site as required by the Los Banos Municipal Code and Government Code Section 65091; and

**WHEREAS**, the Planning Commission has analyzed the request made by Los Banos Unified School District and has considered all testimony, pertinent documents and the staff report as presented at the Planning Commission public hearing on July 11, 2012.

**NOW THEREFORE**, the Planning Commission of the City of Los Banos does hereby find, determine and resolve as follows:

**SECTION 1.** The Planning Commission hereby finds and determines that the proposed acquisition of the property at the southeast corner

of Mercey Springs and Scripps Dr. by the Los Banos Unified School District for future use as an elementary school is consistent and in conformity with the following goals of the Los Banos General Plan:

- 1) LU-G-3 – Ensure that new development provides for infrastructure, schools, parks, neighborhood shops and community facilities in close proximity to residents.
- 2) LU-G-14 – Provide appropriate settings for a diverse range of civic, institutional and community land uses.
- 3) C-G-3 – Make efficient use of existing transportation facilities and through coordinated land use planning, strive to improve accessibility to shops, schools, parks and employment centers and reduce total vehicle miles traveled per household to minimize vehicle emissions and save energy.
- 4) PFU-G-1 – Provide superior educational opportunities for children and all members of the community.

**SECTION 2.** The Planning Commission's recommendations concerning the acquisition of the site regarding pupil safety and comprehensive community planning pursuant to Public Resources Code 21151.2 are as follows:

1. A traffic study should be completed and mitigation measures must be established and put in place prior to the operation of the property as an elementary school as there are pupil safety concerns as the proposal includes locating an elementary school on a major roadway with uncontrolled intersections to the north and south and a sidewalk gap to the north on the east side.
2. As the District is considering a site near a freeway, an acoustical engineer should be hired to determine the level of sound the location is subjected to and to assist in designing the school and related facilities.
3. Because there is potential for an adverse effect on students, faculty and the Community, a complete CEQA analysis should be completed to analyze areas where mitigation may be needed.

**SECTION 3.** Pursuant to the California Environmental Quality Act (CEQA), Article 19, Section 15061 (b)(3) of the Guidelines for Implementation, the analysis for consistency is exempt from review as it can be seen with certainty that there is no possibility that the activity (analysis only) in question may have a significant effect on the environment.

The foregoing resolution was introduced at a regular meeting of the

Planning Commission of the City of Los Banos held on the 11<sup>th</sup> day of July, 2012 by Planning Commissioner \_\_\_\_\_ who moved its adoption, which motion was duly seconded by Planning Commissioner \_\_\_\_\_, and the Resolution adopted by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

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Tracey Rosin, Chairman

ATTEST:

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Stacy Souza Elms, Planning Commission Secretary



# Los Banos Unified School District

1717 South Eleventh Street  
Los Banos, California 93635-4800  
Telephone (209) 826-3801 Fax (209) 826-6810  
www.losbanosusd.org

June 20, 2012

Ms. Paula Fitzgerald  
Planning Director  
City of Los Banos  
520 J Street  
Los Banos, CA 93635

**Subject: Notice of Proposed School Site Acquisition by the Los Banos Unified School District for a New Elementary School**

Dear Ms. Fitzgerald:

In accordance with Public Resources Code Section 21151.2 and Government Code Section 65402, this letter serves as notice to the City of Los Banos regarding the proposed acquisition of the following subject property for construction and operation of an elementary school:

The former site of Merced Community College, consisting of approximately 10 acres at the southeast corner of Mercey Springs Road (CA-165) and Scripps Drive in the City of Los Banos, Merced County.

We request that the Planning Department/Planning Commission analyze the subject property to determine conformity with the underlying General Plan Land Use Designation so that a written report of the investigation and the Planning Commission's recommendations concerning acquisition of the site can be submitted to our governing board.

Please submit findings to Dr. Steve Tietjen, Superintendent, Los Banos Unified School District, 1717 S. 11<sup>th</sup> Street, Los Banos, CA 93635, within **30 days of receiving this notice.**

If you should have any questions regarding this request, please contact me at 209.826-3801.

Sincerely,

  
Steve M. Tietjen, Ed.D.  
Superintendent

Cc Lesley Taylor, School Site Solutions, Inc.

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Steve M. Tietjen, Ed.D., *Superintendent*  
Dean Bubar, *Assistant Superintendent-Administrative Services*



# City of Los Banos

*At the Crossroads of California*

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## PLANNING DEPARTMENT

Date: June 29, 2012

Regarding: Notice of Public Hearing

Proposal: Acquisition of a site for construction and operation of an elementary school

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission in accordance with Public Resources Code Section 21151.2 and Government Code Section 65402 relating to the acquisition and construction of an elementary school on the site of the former Merced Community College by the Los Banos Unified School District located on approximately ten (10 acres) at the southeast corner of Mercey Springs Road (CA-165) and Scripps Drive, more specifically described as Assessor's Parcel Number: 083-100-036.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission to analyze the subject property to determine conformity with the underlying General Plan Land Use Designation on Wednesday, July 11, 2012 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Paula Fitzgerald, Community Development Director at City Hall or at (209) 827-7000, Ext. 114.

Persons wishing to provide oral comments on the described proposal may do so at this meeting or may provide written comments on this matter prior to the public meeting. Written comments may be sent by U.S. Mail or hand delivered to the City of Los Banos City Hall at 520 "J" Street, Los Banos, California 93635. If no comments are received prior to or on the above date, it will be assumed that no comments are being offered. The public is also informed that should this matter, at some future date go to court, court testimony is limited to only those issues raised at the hearing per Government Code Section 65009.

THE CITY OF LOS BANOS

  
Paula Fitzgerald  
Community Development Director