

**CITY OF LOS BANOS
PLANNING COMMISSION MEETING MINUTES
OCTOBER 14, 2009**

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

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

PLEDGE OF ALLEGIANCE. Planning Commissioner Napolitano led the Pledge of Allegiance.

ADMINISTRATION OF OATH OF OFFICE TO NEW PLANNING COMMISSIONER: Assistant City Clerk/Human Resources Technician Sousa administered the Oath of Office to Chandra Lee.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Norm Donovan, Stephen Hammond, Chandra Lee, Ann McCauley, Tom Mello, Shirley Napolitano and Erasmo Viveros.

STAFF MEMBERS PRESENT: City Attorney Vaughn, Planning Director Fitzgerald, and Planning Secretary Fuentes.

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

CONSIDERATION OF APPROVAL OF ACTION MINUTES FOR THE REGULAR MEETING OF AUGUST 26, 2009: Commissioner McCauley requested that additional information be added to the Commissioner Report. Motion by Hammond seconded by Napolitano to approve the minutes as amended. The motion carried by the affirmative action 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.

RECEIVE INFORMATION FROM CHET GUINTINI – FIRE CHIEF AND TAMMY ALLARD – CODE ENFORCEMENT OFFICER ON THE ACTIVITIES OF THE CODE ENFORCEMENT OFFICER (INFORMATIONAL ITEM ONLY). Chet Guintini – Fire Chief and Tammy Allard – Code Enforcement Officer presented the report which included a power point presentation.

Commissioner Napolitano; in reference to the grocery store carts being left out; was under the impression there was an ordinance that stated there would be a fine to the store if carts were not collected; also concerned with boats, trailers, and yard service vehicles being parked in front of homes; many yard sales going on throughout the year; does this fall under Code Enforcement; Fire Chief Guintini; with regard to the shopping carts, the City is letting the stores take care of the issue themselves; Code Enforcement Officer does notify the stores and they will pick them up; with regard to the cars in the drive-way, feels this is due to the economic times; Commissioner Napolitano; more concerned with the vehicles being parked in front of the homes, on city streets; Fire Chief Guintini; any vehicle(s) parked on the streets is the responsibility of the Police Department; Commissioner Napolitano; what happens with people who have yard sales more than what is allowed within the City; Fire Chief Guintini; the Code Enforcement officer does try to keep track of this issue; Code Enforcement Officer does not work on the weekends; Commissioner Napolitano; people who have yard sales have been seen selling items that are purchased in bulk and feels the City loses out on sales tax; can

contact Code Enforcement Officer when this occurs; Fire Chief Guintini; correct; Code Enforcement Officer; does have Police volunteers who do remove the yard sales signs and they notify the Code Enforcement Officer who in turn sends out a letter to the individual; Commissioner Napolitano; what happens to the signs that are bolted up high on poles; the signs look like "professional" signs; Code Enforcement Officer Allard; has contacted the individual and informed them the sign has been removed and if it is seen again they will be fined.

Commissioner Mello; if the signs are on any type of power pole or utility pole, this is against State Code, this is illegal; contact the utility office and inform them; concerned with people who are renting and having various number of vehicles parked out in front of the home; are people allowed to live in garages; Fire Chief Guintini; no; it would depend on the situation, for example, if deemed a "labor camp" then the State is informed; if not a labor camp and just relatives living there, then the City would handle the situation.

Commissioner Viveros; in reference to the shopping carts, can the City take a more proactive approach within the coming year by sending a letter to the store informing them of this; Fire Chief Guintini; the ordinance requires the store to have a notice in front of their store to notify the public that they cannot remove a cart from the business; Commissioner Viveros; feels this is not working and take a more aggressive approach; Fire Chief Guintini; the people who are seen taking the shopping carts from the property can and are fined right on the spot; Commissioner Viveros; can the store be fined or just the individual(s); Fire Chief Guintini; both the store and the individual(s) can be fined; generally the store does not want this to happen so they do try and keep up with collecting their carts; with the economic times, the Fire Department has lost two positions, one being the Captain, which in turn would assist the Code Enforcement Officer, so the Code Enforcement Officer has had to pick up additional duties which limit what can be done throughout the City; based on a case by case basis.

Commissioner McCauley; is there a potential to get volunteers that can be utilized in the capacity to go around the City and identify these issues; Chairman Donovan; currently there are Police volunteers that currently go thru the City and report any violations; the volunteers cannot write tickets; only the Code Enforcement Officer can; Commissioner Viveros; is there a way to get the volunteers set up so that they can write tickets; Chairman Donovan; this is currently being worked on by the Chief of Police.

Commissioner Napolitano; the Police Department is curb to curb and the Fire Department is beyond the curb; what would it take in the way of personnel to get rid of some of the carts, boats, diesel trucks, and yard sales; Fire Chief Guintini; the City would be looking at hiring 4-6 people to do this; do not have the funds.

Commissioner Mello; if there could be people to volunteer to complete the paperwork from the violations, this would be a great help; there is a City that has people park in a "vacant" land area and would charge the people to park there; the City was making money and the vacant land was being utilized; feels this may be an idea that could be used for our City.

Commissioner Viveros; perhaps we could designate certain areas that have the most issues and begin there; feels that something needs to happen rather than not; Commissioner Napolitano; agrees with Commissioner Viveros that something does need to happen; Fire Chief Guintini; the issue with getting volunteers to assist the Code Enforcement Officer is that they may get in a confrontation with an individual and this volunteer gets hurt; this is a problem/issue; Commissioner Napolitano; could we utilize the Police Volunteers and have them assist the Code Enforcement Officer; need to find some solutions; Chairman Donovan; unfortunately, it is the economic times; the City cannot afford to hire the personnel needed to assist the Code Enforcement Officer.

Commissioner Viveros; what about utilizing the retired professionals that may want to donate their time to assist with completing paperwork; Chairman Donovan; has had the professionals apply, complete their paperwork, and then they do not return; Commissioner Viveros; maybe we need to advertise more; Chairman Donovan; have been advertising.

Commissioner Mello; there are the abandoned vehicles parked in front of their homes but cannot get rid of them, maybe we need to have a "City clean up day;" Fire Chief Guintini; the County does this once a year; Code Enforcement Officer; has given out the information to the individuals but they cannot get rid of the vehicle due to not having the registration; must have a clean registration in order to get rid of it.

Commissioner Napolitano; directed question to the Code Enforcement Officer; do we have sufficient municipal codes to enforce any of the issues mentioned; Code Enforcement Officer Allard; yes; has contacted the individuals; tries to do "voluntary compliance;" will give the individuals time to take care of the issue and if its not taken care of in a timely manner, then they will be fined; want the individuals to work on it; Commissioner Napolitano; the end result is to educate first and then to give them time to take care of it and then enforce the code; the concern is that we are allowing businesses to exist in neighborhoods and compete with the City businesses that are paying license fees, rental fees, insurance and sales tax and feels this is not fair; we are not only losing taxes but also making the area look blighted; Fire Chief Guintini; with regard to the large vehicles in the residential neighborhoods (semi-trucks), the Police Department enforces in this area; the driver will typically take the ticket, which is \$25.00, that is given rather than move the vehicle; this is due to not having a location to put their vehicle; Commissioner Napolitano; could the City Council request to raise the fees; Fire Chief Guintini; would need to get clarification from the Police Chief and the City Attorney on what can be done.

PUBLIC HEARING – CONSIDER ADOPTING RESOLUTION #2009-16 CERTIFYING MITIGATED NEGATIVE DECLARATION (SCH#2009081083) AND APPROVING SITE PLAN REVIEW #2009-02 FOR THE DEVELOPMENT OF A 1,055 SQUARE FOOT DOUBLE DRIVE-THRU FAST FOOD RALLY'S RESTAURANT, LOCATED AT 1330 PACHECO BOULEVARD, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 026-171-015. Planning Director Fitzgerald presented the staff report which included PowerPoint slides.

Commissioner Mello; will there be access to the restaurant from the rail trail; Planning Director Fitzgerald; yes, there will be a seating area with the fencing located right in that area; Commissioner Mello; with regard to the traffic, feels that Caltrans is making a mistake by requiring that the applicant narrow the driveways going into the restaurant, from 54 feet to 24 feet; keeping the driveways to the current width is a benefit to safety; getting off and on the highway would be an issue if shortened; the shrubbery that is between the two driveways should be eliminated and short shrubs put in its place; this eliminates the view of coming in and out of the driveways.

Chairman Donovan opened the public hearing; **Charles Ferreira – Contractor**; would like to keep the restaurant visible, or "below the waist" landscaping along Pacheco Boulevard; Commissioner Mello; in contract with Caltrans; **Charles Ferreira - Contractor**; will be shrinking the driveways and moving them from east to west; tried to negotiate with Caltrans and had no success; Caltrans thought this was a compromise.

Commissioner Napolitano; referred question to Planning Director Fitzgerald; when do we take possession of Highway 152; Planning Director Fitzgerald; this would depend on the timing of the bypass; Commissioner Napolitano; agrees that driveways are too narrow; with regard to the wrought iron fence, will it have an automated gate that would keep it from being left open; **Charles Ferreira – Contractor**; no plan on putting a gate; Commissioner Napolitano; with regard to the canopies over eating areas; these will be permanent canopy; **Charles Ferreira – Contractor**; permanent canopy, lattice type shade; Commissioner Napolitano; regarding the signage, there will be a sign on 165 and 152; **Charles Ferreira – Contractor**; under impression that it would only be visible on Highway 152; would like for people to see it when driving from east to west.

Commissioner McCauley; is the applicant following the adopted General Plan or old General Plan; Planning Director Fitzgerald; it would need to be with the old General Plan until we get LAFCO approval; from the General Plan perspective, it meets both from the old and new General Plan; Commissioner McCauley; doesn't feel there is an Agrarian style in that area; biggest concern is that she doesn't see having a fast food restaurant for this particular area; would like to see a "softer" type of look that would be more inviting to the public to bring them to the rail trail; Planning Director Fitzgerald; the General Plan, both the 2030 and the 1999, do have a commercial designation and a

fast food restaurant does fit in from either side; the applicant has incorporated quite a few elements from the Community Design Standards; it has the outside seating adjacent to the Rail Trail to draw people to the restaurant; is an odd shaped site; believes the applicant has worked with staff to incorporate the elements and work on making this project seem feasible for this area; Commissioner McCauley; does not see that the applicant has the Spanish Mission colors that should be incorporated; it has the elements of the Spanish Mission, but not the colors; **Charles Ferreira – Contractor**; this is an odd piece of property; proposed to put an almost 1100 square foot building; not much more than the minimum parking; will have a tough time finding someone to go in there that would provide a “cutesy” style building; with the amount of space provided and parking available, there isn’t much that can be put there; feels this would be a perfect spot for this restaurant; feels this would give the public a reason to go thru the Rail Trail; feels the lot is so oddly shaped that it doesn’t have a lot of uses to it; Commissioner McCauley; concern would be of the variance of the colors being used; feels the colors being used are not right; **Charles Ferreira – Contractor**; with surrounding grounds, applicant is doing all that they can possibly do; the corporate Rally’s wants to keep the 50’s appeal; Commissioner McCauley; feels that the 50’s style and Spanish Mission are not similar in style; **Charles Ferreira – Contractor**; applicant is glad to take care of the front and back of the building; Commissioner McCauley; the roof line on building is tile, Mission tile; **Charles Ferreira – Contractor**; it is a flat roof; Commissioner McCauley; what is Mission style; **Charles Ferreira – Contractor**; will be adding some ceramic tile high above the building, which would comply with one of the stipulations, in a stucco area; tile medallions, roughly 3 to 5; trying to meet some of the requirements; Commissioner McCauley; the drive-thru will be more of a pergola style; **Charles Ferreira – Contractor**; correct; basically trying to meet the requirements verbatim on the building without turning it into a mission or barnyard scene; Planning Director Fitzgerald; goal from a staff perspective was to work with the applicant to be able to maintain their trademark but still incorporate the elements of the Community Design Standards into the project itself; by some of the accents, tile inserts, wrought iron fences.

Commissioner Lee; has seen this same Mission style in Madera, CA; does not stick out like a “sore thumb;” feels the applicant is trying to make this aesthetically pleasing; feels they are trying to meet the standards; where it will be located, doesn’t feel it will take the aesthetics down from the City; feels it would create a more family environment and bring a little more variety to the City.

Commissioner Viveros; feels it is an awkward lot; it is something different for the City; its style sells itself and stands out on its own.

Commissioner Hammond; would like to caution the Commission from making the same mistakes that prior Commissions made with regard to new projects; staff has been doing great job with working with applicants to conform to the design standards; put faith in staff to put it together; the lot has sat empty for two years and feels this will be good business for the City.

Commissioner Napolitano; would not vote for this project if only going by the plans presented; feels it is not within the criteria, but does feel it connects with the rail trail and bringing the public towards the downtown area; on this particular site, corner, it is a great project; **Charles Ferreira – Contractor**; not going to be mission roof tiles; they will be ceramic roof tile accents; Commissioner Napolitano; feels it could be very well presented to the community; could build on having this 50’s style restaurant at the entrance.

Commissioner McCauley; if there were some elements from the restaurant at the Madera, CA site that could be incorporated, this may help with the issue of the colors; how informed is the applicant with the energy standards; how green it will be; **Charles Ferreira – Contractor**; the inside and electrical is a brand new concept; not really informed, but would bet that yes it is up to date with the energy standards.

Chairman Donovan closed the public hearing.

Motion by Hammond, seconded by Mello to adopt Planning Commission Resolution No. 2009-16 – Recommending approval of Certification of Mitigated Negative Declaration

(SCH#2009081083). The motion carried by the affirmative action of all Commission Members present.

Motion by Hammond, seconded by Mello to adopt Planning Commission Resolution No. 2009-16 – Recommending approval of Site Plan Review #2009-02 for the construction of a 1,055 square foot double drive-thru fast food Rally's Restaurant on Assessor's Parcel Number: 026-171-015 to the City Council of the City of Los Banos, as amended. (To include that there will be a wrought iron fence along the Rail Trail, opposed to the chain link fence.) The motion carried by the affirmative action of all Commission Members present.

PLANNING DEPARTMENT REPORT. Planning Director Fitzgerald; currently working on a Model Landscape Ordinance that staff received, which needs to be approved by the first of the year; working on an ordinance regarding Outside Sidewalk Café sales, as directed by the City Council; also continuing to work on the Zoning and Subdivision Ordinances; updating the layers on the GIS maps.

PLANNING COMMISSION MEMBER REPORTS.

STEPHEN HAMMOND: Remind everyone that next Thursday is "Take back the night" rally at 6pm, beginning at Pacheco Park going towards City Hall; on October 31st, is the 5th annual Harvest fun carnival – 9 churches involved and 40 booths, from 4pm to 8pm.

CHANDRA LEE: Nothing to report.

ANN McCAULEY: Attended the San Joaquin Valley Fall Policy Conference in Fresno, CA; need to keep the high speed rail and heavy maintenance facility in mind; attended the Community Center site visit was a great opportunity to see how it is coming along; thanked the Fire Chief and Code Enforcement Officer for bringing the information to the Commission.

TOM MELLO: Nothing to report.

SHIRLEY NAPOLITANO: Welcomed the new commissioner, Chandra Lee.

ERASMO VIVEROS: Thanked staff for great work being done; welcomed new commissioner, Chandra Lee.

NORM DONOVAN: Attended the San Joaquin Valley Fall Policy conference; very informative; need to keep the maintenance center; Connie Conway, representative for Fresno, CA, is really pushing to keep it in Fresno, CA.

ADJOURNMENT. The meeting was adjourned at 8:28 p.m.

APPROVED:

/s/ Norm Donovan
Norm Donovan, Chairman

ATTEST:

/s/ Norma Fuentes
Norma Fuentes, Planning Commission Secretary