



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

May 11, 2011

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.

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.

- 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 APRIL 13, 2011

Recommendation. Approve the minutes as submitted.

6 CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE ADJOURNED MEETING OF MAY 3, 2011

Recommendation. Approve the minutes as submitted.

7 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

8. 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 – Consider Approval of Vendor Permit #2011-01 for the Operation of One Ice Cream Truck in the Residential Zoning Districts of the City of Los Banos.

1) Planning Commission Resolution No. 2011-06 – Approving Vendor Permit #2011-01 for the Operation of One Ice Cream Truck in the Residential Zoning Districts.

Recommendation. Receive staff report, open the public hearing, receive public comment, close the public hearing and adopt Planning Commission Resolution No. 2011-06 as submitted.

B. Public Hearing – Consideration of the Proposed Stonecreek North Annexation Into the City of Los Banos, (Including Pre-Zoning, Area Plan, and a General Plan Amendment) Consisting of Approximately 362 Acres of Land Generally Located at the Northwest Corner of SR 152 and Badger Flat Road, More Specifically Assessor's Parcel Numbers: 081-120-003, 081-140-002, 081-140-003, 081-140-004, 081-140-005, 081-140-006, 081-140-007, 081-140-008, 081-140-009, 081-140-010, 081-140-011, 081-140-012, 081-140-013, 081-140-015, 081-140-016, 081-140-017, 081-140-018, 081-140-019, 081-140-020, 081-140-024, 081-140-027, 081-140-028, 081-140-029, 081-140-030, 081-140-031, 081-140-033, 081-140-036, 081-140-037, 081-140-038, 081-140-045, 081-140-046 and 081-140-049.

1) Planning Commission Resolution No. 2011-07 – Denial of the Application or Process the Application With An Urban Decay Analysis and Fiscal Impact Analysis or Process the Application Without An Urban Decay Analysis and Fiscal Impact Analysis

Recommendation Receive staff report, open the public hearing, receive public comment, close the public hearing and adopt Planning Commission Resolution No. 2011-07 as submitted.

9. PLANNING DEPARTMENT REPORT

10. COMMISSIONERS REPORTS

A. Faktorovich

B. Hixson

C. Lee

D. Lewis

E. Mello

F. Rosin

G. Toscano

11. 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 9-3.2226)

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.



Norma Fuentes, Planning Commission Secretary

Dated this 6th day of May, 2011

**CITY OF LOS BANOS
PLANNING COMMISSION MEETING MINUTES
APRIL 13, 2011**

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 Mello 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, Chandra Lee, Deborah Lewis, Tom Mello, and Susan Toscano.

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

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

ADMINISTRATION OF OATH OF OFFICE TO NEW PLANNING COMMISSIONERS: Assistant City Clerk/Human Resources Technician Sousa administered the Oath of Office to Vern Hixson and Tracey Rosin.

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

CONSIDERATION OF APPROVAL OF ACTION MINUTES FOR THE REGULAR MEETING OF MARCH 9, 2011: Motion by Lee, seconded by Faktorovich to approve the minutes as submitted. 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.

APPOINT PLANNING COMMISSION CHAIRPERSON AS A MEMBER OF THE TRAFFIC SAFETY COMMITTEE. Planning Director Fitzgerald to present report.

Motion by Faktorovich, seconded by Lewis to approve the appointment of Planning Commission Chairperson Mello to the Traffic Safety Committee. The motion carried by the affirmative action of all Commission Members present.

Commissioner Toscano recused herself at 7:08 p.m. due to a conflict with the public hearing item.

PUBLIC HEARING – CONSIDER RECOMMENDING APPROVAL OF USE PERMIT #2011-02 FOR THE USE OF A SPRAY BOOTH FOR AUTO RESTORATION AT QUISTIAN AUTO LOCATED AT 1202 F STREET. Assistant Planner Souza presented the staff report.

Chairman Mello, asked staff if the use permit was pending approvals from the different government agencies and departments involved; Assistant Planner Souza; yes; Chairman Mello, has staff received any public comments to date; Assistant Planner Souza; no.

Chairman Mello opened up 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. 2011-05 – Approving Use Permit #2011-02 for the use of an Auto Restoration Spray Booth for Quistian Auto located at 1202 F Street The motion carried by the affirmative action of all Commission Members present.

Commissioner Toscano returned to the meeting at 7:12 p.m.

PLANNING DEPARTMENT REPORT. Welcomed the new Planning Commissioners, updated the Commission on the status of the Wendy's project; staff is working on updating the Subdivision Ordinance as well as the Improvement Standards and Specifications.

PLANNING COMMISSION MEMBER REPORTS.

ARKADY FAKTOROVICH: Nothing to report.

VERN HIXSON: Nothing to report.

CHANDRA LEE: Informed the Commission and public of a fundraiser for her niece.

DEBORAH LEWIS: Nothing to report.

TOM MELLO: Nothing to report.

TRACEY ROSIN: Nothing to report.

SUSAN TOSCANO: Nothing to report.

ADJOURNMENT. The meeting was adjourned at the hour of 7:18 p.m., to 4.30 p.m., Tuesday, May 3, 2011, at City Hall Council Chambers, 520 J Street, Los Banos, California, to conduct a joint City Council/Redevelopment Agency and Planning Commission Los Banos Community Bus Tour

APPROVED

Tom Mello, Chairman

ATTEST

Norma Fuentes, Planning Commission Secretary

CITY OF LOS BANOS
ADJOURNED PLANNING COMMISSION MEETING MINUTES
MAY 3, 2011

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the Planning Commission.

CALL TO ORDER: Chairman Mello called the Planning Commission Meeting to order at the hour of 4:30 p.m.

PLEDGE OF ALLEGIANCE. Was recited

MEMBERS OF THE PLANNING COMMISSION PRESENT: Faktorovich, Hixson, Lee, Lewis, Mello, Rosin, and Toscano.

CONSIDERATION OF APPROVAL OF AGENDA: The agenda was approved by a consensus of all 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 to speak and the public forum was closed.

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY AND PLANNING COMMISSION COMMUNITY BUS TOUR. No action taken, informational item only

ADJOURNMENT. The meeting was adjourned at the hour of 6:12 p.m.

APPROVED:

Tom Mello, Chairman

ATTEST

Norma Fuentes, Planning Commission Secretary



City of
Los Banos
At the Crossroads of California

PLANNING COMMISSION STAFF REPORT

TO: CHAIR MELLO AND COMMISSIONERS
FROM: PAULA FITZGERALD, AICP, PLANNING DIRECTOR
FOR: PLANNING COMMISSION MEETING OF MAY 11, 2011
SUBJECT: VENDOR PERMIT #2011-01

RECOMMENDATIONS:

- 1 That the Planning Commission approves Vendor Permit #2011-01 for the operation of one ice cream truck in the Residential zoning districts of the City of Los Banos.

PROJECT: Vendor Permit #2011-01
LOCATION: Residential Zoning Districts
APPLICANT: Jeffrey Luis
BUSINESS NAME: Happy Day Ice Cream

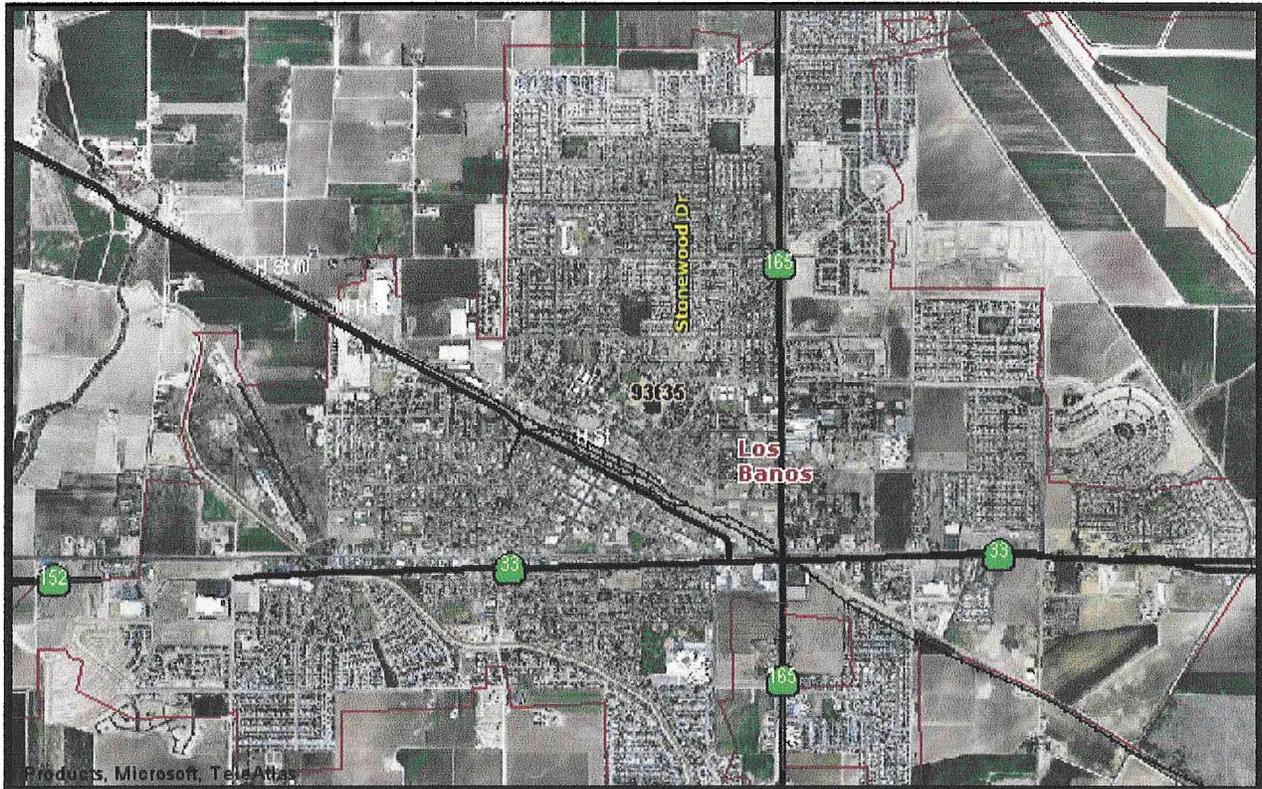
PROJECT BACKGROUND/DESCRIPTION:

The requested vendor permit is for the operation of one ice cream truck in the Residential zoning districts of the City of Los Banos. The proposed operations would be Monday thru Saturday from 10:00am to 6:30pm. The applicant is proposing to vend various pre-packaged ice cream, candy, chips and beverages from the mobile unit.

In accordance with the Mobile Vendor Ordinance, the applicant would only be allowed to operate 180 consecutive calendar days.

LOCATION AND ACCESS:

Residential zones City wide.



VENDOR PERMIT ANALYSIS

Code Requirements

According to Section 9-3.1725.050 of the Los Banos Municipal Code, The Planning Commission is the decision making authority for any initial application of a permit to operate a mobile vending unit, once the initial permit is approved, subsequent permits are approved by the Planning Director

Staff believes the proposed vendor permit is consistent with Section 9-3.1725.060 of the Los Banos Municipal Code Mobile Vendor Ordinance. In accordance with the required operational requirements of the Mobile Vendor Ordinance, the proposed operation will be healthy, safe and convenient for the citizens of Los Banos. Conditions of approval have been incorporated into the project to ensure that the applicant follow the required level of cleanliness, quality, safety and security required by the Municipal Code.

Existing Vendor Permits

The following is a list of Vendor Permits approved by the Planning Commission for operation in the Residential Zoning Districts of the City of Los Banos:

Business Name	Business Owner	Vendor Type
Rainbow Ice Cream	Israel & Maria Hernandez	1 Ice Cream Truck
Nubia's Ice Cream	Leonor Calvo Baez	2 Ice Cream Truck & 3 Carts
Good Times Ice Cream	Onkar Chumber	1 Ice Cream Truck
Mendoza's Delicious Snow Cones	Alberto Mendoza	1 Cart
CA Del Sur	Felix Ambrosio	7 Carts
Fun Time Ice Cream	Haridutt Karrha	1 Ice Cream Truck
Domeli Ice Cream	Charanjit Singh	1 Ice Cream Truck
Preet Ice Cream	Malkiat Singh	1 Ice Cream Truck
Saab Ice Cream	Manpreet Singh	1 Ice Cream Truck

PUBLIC COMMENT:

A public hearing notice was published in the Los Banos Enterprise on April 29, 2011. As of the date of this staff report no comments have been received.

CONCLUSION:

The proposed vendors permit substantially conforms to the criteria and guidelines designated in the Los Banos Municipal Code. The use will provide convenience for the residents of the community and will preserve the safety and welfare of the surrounding area.

APPLICABLE ORDINANCES/GUIDELINES:

Los Banos Municipal Code – 9-3.1725

RECOMMENDATIONS:

1. That the Planning Commission approves Vendor Permit #2011-01 for the operation of one ice cream truck in the Residential zoning districts of the City of Los Banos.

ATTACHMENTS:

1. Resolution #2011-06 approving Vendor Permit #2011-01
Exhibit A Project Findings
Exhibit B Conditions of Approval
2. Mobile Unit Photos
3. Merced County Environmental Health Permit
4. Auto Registration
5. Auto Insurance
6. Proof of liability

RESOLUTION No. 2011-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS APPROVING MOBILE VENDOR PERMIT #2011-01 FOR THE OPERATION OF ONE ICE CREAM TRUCK IN THE RESIDENTIAL ZONING DISTRICTS

PROJECT NAME AND NUMBER:

Happy Day Ice Cream - Vendor Permit #2011-01

PROJECT DESCRIPTION:

To authorize the issuance of a vendor permit for the operation of one ice cream truck in the public right of way, within the Residential zoning districts of the City of Los Banos

LOCATION:

City wide – public right of way

PROJECT APPLICANT:

Jeffrey Luis

WHEREAS, the applicant has filed an application with the City of Los Banos for a Vendor Permit to allow the operation of one mobile ice cream truck in the Residential zoning districts of the City of Los Banos.

WHEREAS, a public hearing notice was advertised in the Los Banos Enterprise on April 29, 2011 in accordance with the Los Banos Municipal Code and California Government Code Section 65091, and

WHEREAS, the Los Banos Planning Commission held a public hearing on May 11, 2011, at which time interested persons had an opportunity to provide testimony; and

WHEREAS, at the May 11, 2011 Planning Commission Meeting the Los Banos Planning Commission, heard and considered testimony, if any, of all persons desiring to be heard, and reviewed said Vendor Permit request and staff report, and considered the applicant's request in accordance with the Vendor Permit criteria established in Section 9-3.1725 of the Los Banos Municipal Code.

BASED ON THE EVIDENCE PRESENTED AT THE PUBLIC HEARING the Planning Commission of the City of Los Banos hereby makes the findings set forth in Exhibit A attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that based upon the foregoing the Planning Commission of the City of Los Banos does hereby approve Vendor Permit #2011-01 to permit the use of one ice cream truck in the public right of way within the Residential zoning districts of the City of Los Banos, subject to the Conditions of Approval set forth in Exhibit B, attached hereto and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 11th day of May 2011 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:

Tom Mello, Chairman

ATTEST

Norma Fuentes, Planning Commission Secretary

EXHIBIT A

FINDINGS FOR APPROVAL OF VENDOR PERMIT #2011-01 – JEFFREY LUIS

FINDINGS FOR APPROVAL.

The City of Los Banos Planning Commission hereby finds as follows.

- 1 The applicant has provided all of the information to the Planning Department as required by the Mobile Vendor Ordinance.
- 2 The proposed operation is consistent with the Mobile Vendor Ordinance.

EXHIBIT B

CONDITIONS OF APPROVAL FOR VENDOR PERMIT #2011-01 – JEFFREY LUIS

Planning:

- 1 The Vendor Permit is for one ice cream truck to sell prepackaged ice cream, candy, chips, water and soda in the residential zoning districts, the permit shall expire after 180 calendar days from date of issuance.
- 2 The applicant shall comply with all other requirements, laws and policies of other governmental agencies in the conduct and operation of said business including the Merced County Environmental Health Department.
- 3 The Vendor Permit shall be limited to a permit period of 180 consecutive days during any calendar year
- 4 The mobile vendor shall obtain a City of Los Banos Business License and renew such license each year
- 5 A background check through the Los Banos Police Department must be obtained for the mobile vendor and each person operating or vending out of the mobile unit prior to issuance of a Business License
- 6 The applicant shall comply with the applicable requirements of the Los Banos Municipal including but not limited to the following:
 - a. The mobile vendor unit shall not operate within three hundred (300) feet of any church, school grounds, park, playground or City-operated recreation center
 - b. The mobile vendor unit shall not operate within one hundred (100) feet of any street intersection.
 - c. In the Residential zoning districts, the mobile vendor shall move not less than four hundred (400) feet at least every ten (10) minutes and may not return more than three times to a previous location or within four hundred (400) feet of a previous location on the same calendar day
 - d. The permitted hours of operation are from 9:00am to 7:00pm.
 - e. The mobile vendor shall not be located within four hundred (400) feet of another mobile vendor

- f. The mobile vendor shall not be located or maintained on public property, including bicycle pathways, walking trails, public parks or inconsistent with any other City regulations.
- g. The operation shall not interfere with access, driveways, aisles, circulation or fire lanes and hydrants and shall not operate in a place where the operation will create an unsafe condition.
- h. The mobile vendor shall display, in plain view and at all times, current permits and licenses.
- i. While vending, drive wheels of the mobile vending unit shall be chocked in such a manner as to prevent movement.
- j. The mobile vending unit shall be entirely self-sufficient in regards to gas, water and telecommunications.
- k. The mobile vendor shall not discharge items onto the sidewalk, gutter, storm drainage inlets or streets.
- l. The mobile vending unit shall be maintained in a safe and clean manner at all times
- m. While moving, a mobile unit may utilize amplified music, provided that such music shall not exceed eighty (80) decibels of ten (10) feet from the source as measured by a sound level meter. Any amplified music shall cease while the mobile vending unit is stopped for vending purposes.
- n. The mobile vendor operating the mobile unit as defined by the Health and Safety Code shall operate out of a commissary pursuant to Health and Safety Code Section 114295.
- o. The mobile unit shall be equipped with refuse containers large enough to contain all refuse generated by the operation of such a unit, and the vendor of the mobile unit shall pick up all refuse generated by such operation within a twenty-five (25)-foot radius of the unit before such unit is moved. The mobile vendor shall not dispose of any trash or refuse in any such public or private trash receptacle other than a trash receptacle owned, operated or otherwise provided by and under the control of such vendor
- p. No mobile vending shall be permitted except after the mobile vending unit has been brought to a complete stop and parked in a lawful manner
- q. The mobile vendor shall install signage in a visible location on the mobile vending unit indicating that loitering is not permitted.

r The mobile food vendor shall enforce the no loitering rule.

- 7 The applicant agrees to indemnify, hold harmless, and defend the City of Los Banos, its officers, agents and employees from any and all liability or claims that may be brought against the City of Los Banos arising out of its approval of this permit, or the environmental determination rendered in connection with the permit approval, or arising out of the operation of the use or uses allowed under the permit, save and except that caused solely by the City's active negligence
8. The mobile unit shall not be inconsistent with the Conditions of Approval and shall not be operated in a manner that deviates from the approved vendor permit, which shall constitute a violation and may result in the revocation or modification of the permit upon written notice to the owner of the subject unit.





Norma Fuentes

From: Coakley, Mary [MCoakley@co.merced.ca.us]
Sent: Tuesday, April 12, 2011 11:17 AM
To: 'norma.fuentes@losbanos.org'
Subject: Happy Day Ice Cream truck

Dear Ms. Fuentes,

The purpose of this message is to provide you with documentation that Happy Day Ice Cream truck has a Health Permit-to-Operate and is in good standing with this agency. As we discussed a few minutes ago, new procedures have put our bookkeeping/clerical staff extremely behind in sending out permit certificates.

Thank you for your attention,

Mary J. Coakley, REHS
Senior Environmental Health Specialist
MCDEH
Los Banos office
Tel. 710-6096

Merced County Mobile Food Facility Checklist NOV. 2010

Mobile Facility Name (as shown on vehicle) HAPPY DAY ICE CREAM		License Plate Number 5K02341
Address (as shown on vehicle) *only city, state and zip required LOS BANOS, CA 93635		Telephone number: (83) 254 2764
Address (mailing):		
Owner's Name: JEFF LUIS	Program Element Number 0142	Facility Number:
Remarks: KEEP A COPY OF THIS REPORT IN THE TRUCK AT ALL TIMES		Approved Foods ICE CREAM NOVELTIES PRE-PACKAGED CANDY, CHIPS, & BEVERAGES
Specialist Signature <input checked="" type="checkbox"/> Passed <input type="checkbox"/> Failed <i>[Signature]</i>	Date: 3/14/11	Reinspection Signature <input type="checkbox"/> Passed <input type="checkbox"/> Failed Date: Sticker # 5110
Vehicle Operator's Signature (Initial inspection)/date: <i>[Signature]</i>		Vehicle Operator's Signature (On final inspection)/Date:
Type	Type of food	
FOOD SAFETY TRAINING CERTIFICATE NOT REQUIRED		
A	Produce, Prepackaged, non-potentially hazardous food (NPHF) items (chips, candy, canned or bottled drinks) PE 0142	
B	Prepackaged, potentially hazardous foods (PHF)—Catering trucks PE 0133, ice cream trucks or carts PE 0142 Whole fish and whole aquatic invertebrates PE 0134 Bulk dispensing of non-potentially hazardous beverages (no ice used)	
C	<ol style="list-style-type: none"> 1. Non-prepackaged, non-potentially hazardous food requiring no preparation other than heating, baking, popping (corn PE 0134), blending, assembly, portioning or dispensing (cotton candy, churros, pretzels, snow-cones PE 0134) 2. Preparation of non-potentially hazardous ingredients into non-potentially hazardous food 3. Hot dog, cappuccino and other coffee-based or cocoa-based beverages that may contain cream, milk, or similar dairy products PE 0134 and frozen ice cream bars, which may be unwrapped for the purpose of adding condiments. 	
CURFLL/CalCode sections	Requirements	A B C
114265(a) */ 114299	Name and city, state and zip of business on 2 sides. Letters for name of business to be 3" high, 3/8" stroke. Letters for city, state and zip and permittee name shall be at least 1" high on 2 sides. Lettering to contrast with vehicle color. (phone number no longer required)	
114265(b)/ 114301	All equipment, cabinets and compartments to be smooth, readily accessible, and cleanable. No unfinished wood. Construction joints must be tight fitting. Equipment and utensils shall be constructed of non-toxic materials.	
114265(e)/ 114303b	Food, food contact surfaces, and utensils shall be protected from contamination at all times. All single service utensils shall be protected from contamination in approved dispensers. Food contact surfaces/utensils shall be cleaned and sanitized in accordance with §114090	
114265(h)/114315 114265(i)/114295	Facility must operate within 200' of approved, readily available toilet and handwashing facilities. Shall operate out of an approved commissary, reporting there for cleaning and service operations. The commissary form shall be submitted denoting pertinent operations to be performed.	
114265(d)/114305c	All food products remaining at end of day shall be stored only in an approved commissary.	
114265(c)/114305a	All food is to remain on facility, except for approved restocking of product, during operation.	
114265(f)/113980	All food shall be obtained from an approved source.	
114265(g)/114077	All condiments are to be protected from contamination. All self-service condiments are to be prepackaged or in approved dispensing devices.	
114303b	All MFF equipment/utensils shall be protected from potential contamination, kept clean, in good repair, and be free of vermin.	
113725.1	The Operator shall maintain the last routine inspection report at the food facility/unit.	
114285	Private homes/rooms shall not be used for conducting food facility operations.	
114317	The Mobile Food Facility shall operate in a sanitary location (surrounding area)	
114319 & b	Non-food items (chemicals) shall not be stored in the food prep. or food storage area. Chemicals shall be stored in a separate cabinet or drawer.	
114297	Cleaning/servicing-MFF shall be cleaned and service at least once during the operating day.	



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/12/11

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

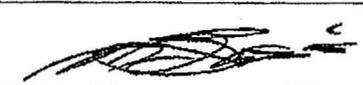
PRODUCER West American Insurance Brokers 1848 Willow Pass Road, Suite #206 Concord, CA 94520 Phone (925)726-4007 Fax (925)726-3807		CONTACT NAME: Michael Burris PHONE (A/C, No, Ext): (925)726-4007 FAX (A/C, No): (925)726-3807 E-MAIL ADDRESS: waib1@msn.com	
INSURED Happy Days 725 Elmwood Dr. Los Banos, CA 93635- 925		INSURER(S) AFFORDING COVERAGE INSURER A: Mt. Vernon Insurance Co. INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			MGL011M9745	04/12/2011	04/12/2012	EACH OCCURRENCE \$ 1,000,000.00 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000.00 MED EXP (Any one person) \$ 5,000.00 PERSONAL & ADV INJURY \$ 1,000,000.00 GENERAL AGGREGATE \$ 2,000,000.00 PRODUCTS - COMP/OP AGG \$ 2,000,000.00
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N <input type="checkbox"/> N/A If yes, describe under DESCRIPTION OF OPERATIONS below						<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Ice Cream Concessionaire, outdoor, multiple locations

CERTIFICATE HOLDER Evidence of Insurance	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 



A Public Service Agency

THIS VALIDATED REGISTRATION CARD OR A FACSIMILE COPY IS TO BE KEPT WITH THE VEHICLE FOR WHICH IT IS ISSUED. THIS REQUIREMENT DOES NOT APPLY WHEN THE VEHICLE IS LEFT UNATTENDED. IT NEED NOT BE DISPLAYED. PRESENT IT TO ANY PEACE OFFICER UPON DEMAND. IF YOU DO NOT RECEIVE A RENEWAL NOTICE, USE THIS FORM TO PAY YOUR RENEWAL FEES OR NOTIFY THE DEPARTMENT OF MOTOR VEHICLES OF THE PLANNED NON-OPERATIONAL STATUS (PNO) OF A STORED VEHICLE. RENEWAL FEES MUST BE PAID ON OR BEFORE THE REGISTRATION EXPIRATION DATE OR PENALTIES WILL BE DUE PURSUANT TO CALIFORNIA VEHICLE CODE SECTIONS 9552 - 9554.

EVIDENCE OF LIABILITY INSURANCE FROM YOUR INSURANCE COMPANY MUST BE PROVIDED TO THE DEPARTMENT WITH THE PAYMENT OF RENEWAL FEES. EVIDENCE OF LIABILITY INSURANCE IS NOT REQUIRED WITH REGISTRATION RENEWAL OF OFF-HIGHWAY VEHICLES, TRAILERS, VESSELS, OR IF YOU FILE AS PNO ON THE VEHICLE.



WHEN WRITING TO DMV, ALWAYS GIVE YOUR FULL NAME, PRESENT ADDRESS, AND THE VEHICLE MAKE, LICENSE, AND IDENTIFICATION NUMBERS.

***** DO NOT DETACH - REGISTERED OWNER INFORMATION *****



A Public Service Agency

REGISTRATION CARD VALID FROM: 11/30/2010 TO: 11/30/2011

MAKE	YR MODEL	YR 1ST SOLD	VLF CLASS	*YR	TYPE VEH	TYPE LIC	LICENSE NUMBER
GMC	1969	1969	AD	2010	32V	31	5K02341

BODY TYPE MODEL	MP	MO	AX	WC	UNLADEN/G/CGW	VEHICLE ID NUMBER
VN	G	SM	2	C	04000	PS10HJA10135

TYPE VEHICLE USE	DATE ISSUED	CC/ALCO	DT FEE RECVD	PIC	STICKER ISSUED
COMMERCIAL	01/20/11	24	01/20/11	9	Z9322728

PR EXP DATE: 11/30/2010

REGISTERED OWNER
LUIS JEFFREY SABINO
725 ELMWOOD DR

AMOUNT PAID
\$ 97.00

LOS BANOS
CA 93635



AMOUNT DUE	AMOUNT RECVD
CASH :	
CHECK :	
CREDIT :	97.00

LIENHOLDER



City of
Los Banos
At the Crossroads of California

PLANNING COMMISSION STAFF REPORT

TO: CHAIR MELLO AND PLANNING COMMISSIONERS
FROM: PAULA FITZGERALD, AICP, PLANNING DIRECTOR
FOR: PLANNING COMMISSION MEETING OF MAY 11, 2011
SUBJECT: STONECREEK NORTH ANNEXATION AND GENERAL PLAN AMENDMENT

RECOMMENDATION:

- 1 That the Planning Commission provides a recommendation for one of the following:
 - a. Recommends denial of the Stonecreek North Annexation and General Plan Amendment;
 - b. Staff and the applicant proceed with processing the project with the Economic and Urban Decay Analysis and Fiscal Impact Analysis; or
 - c. Recommends that staff and applicant proceed with processing of the project without the Economic and Urban Decay Analysis and Fiscal Impact Analysis.

BACKGROUND:

In late 2005 the developer submitted an Area Plan boundary map which included approximately 850 acres. This Area Plan boundary map was brought before the Council January 18, 2006 for their consideration prior to the applicant expending funds for the preparation of the entitlement materials. Through December 31 of 2005 there had been 596 new single family residential permits pulled and the City was at its peak for development. The City Council approved the boundary and the developer commenced working on their plans.

In March of 2006 the developer submitted a Preliminary Annexation Map/Conceptual Land Use Diagram (see attached) Also, in 2006, there were 322 new single family residential permits pulled.

Then in March of 2007 the developer submitted the Area Plan (see attached Proposed Land Use Plan) with land uses that included much more commercial uses than the previous plans had shown. In September of 2007 a scoping meeting was held for the EIR and the preparation of the environmental documents began. In 2007, there were 114 new single family residential permits pulled.

In 2008 the EIR was still being prepared for the uses shown on the 2007 Area Plan on the full 810 acres and the market was really collapsing within the City, there were no new single family residential permits pulled.

In 2009, the finishing touches were being put on the City's 2030 General Plan and Planning Staff met with the applicant numerous times as they realized their plan wouldn't work in light of the economy Due to the condition of the economy and working with the project proponent, staff made changes to some of the land use designations within the General Plan to work with the proposal. Again, in 2009, there were no new residential permits pulled.

The 2030 General Plan was approved and the General Plan EIR was certified on July 15, 2009. During 2009, the applicant decided to scale the development back, increase their commercial uses and reduce the majority of the residential uses that they had planned. On July 10, 2009 the Administrative Draft of the Stonecreek North Area Plan EIR was received. Staff started reviewing the document but the applicant was in the process of changing their plan so it really wasn't relevant and the review could not be completed.

In May of 2010, the applicant submitted three copies of their revised plan which included 362 acres as opposed to the full 810 acres. Staff reviewed the plan, requested changes and inquired about the environmental review for the document. The applicant was initially going to have their EIR revised but it made more sense for them to tier off of the newly certified General Plan EIR as it would be more cost effective and the environmental impacts could be thoroughly evaluated. The applicant hired InSite Environmental who prepared an addendum. The addendum was reviewed by staff and changes were requested; said changes have not been submitted to this point. Again, in 2010, there were no new residential permits pulled.

Things were moving forward and at this point it was appropriate to begin to develop deal points for the Pre-Annexation Development Agreement. In reviewing items to be addressed, the current fiscal position of the City needed to be analyzed so the costs of a new annexation could be determined. Due to the economy, the City had faced significant reductions in property and sales tax, increases in commercial vacancies, declining investment in the City's commercial core, public infrastructure in vacant subdivisions which the city has to maintain, 1,860 vacant residential lots waiting for

issuance of building permits, 2,187 lots with partial entitlements, over 1,100 acres of vacant land planned and approved for commercial and residential development within the existing City limits and a large number of foreclosures in residential units driven in part by the oversupply

Staff wrote a letter to the applicant explaining the potential problems due to the economy and stated that preliminarily it appeared that the annexation was not in the best interest of the City and that a denial would most likely be recommended (see letter from City Manager, attached).

The letter gave the developer the option of going to the Planning Commission and City Council with the narrow question of denial without preparation of all the entitlement documents (i.e. Development Agreement, CEQA). At that time, the developer stated that they wanted to move forward with the full package and that they would be in contact with the City in the beginning of 2011 to start discussing deal points.

In the end of February, the City Attorney received a draft development agreement from the applicant's attorney. The Development Agreement was very generic and didn't cover any of the issues that would be needed to ensure that the development was "paying it's own way". Staff believes that a financial analysis is necessary to analyze the project and determine its full impact. As part of the codified submittal requirements for applications that was approved by the City Council, there is a statement that says staff may deem additional submittal information is necessary to adequately analyze the project, complete environmental review or make recommendations to the Elected or Appointed Officials. Staff inquired with special legal counsel and was informed that additional studies could be required to evaluate direct and indirect fiscal impacts.

With that, staff contacted Susan Goodwin of Goodwin Consulting Group (who is very well respected by local government and developer's and has done work for the City in the past) and discussed the perceived issues. Based upon experience and the problems within the City, it was suggested that an Economic and Urban Decay Analysis and Fiscal Impact Analysis would serve City needs. Goodwin Consulting Group prepared the scope and sent it to the City (see attached). Staff then sent a letter along with the scope to the applicant informing them of the studies and requesting comments (see attached). The applicant sent a letter back to staff stating that they wanted fifteen days to evaluate their options and then sent an additional letter stating they were requesting the option of taking the project before the Planning Commission and City Council to evaluate the question of denial and whether the Economic and Urban Decay Analysis and Fiscal Impact Analysis studies are necessary (see attached).

The City of Los Banos has experienced significant reductions in taxes, both in property and sales tax. The straight property tax base has decreased 51.46% since the 2005-2006 fiscal year and it is not anticipated that it will begin to increase for the next couple of years, and when it does, it is expected to be a very slow crawl upwards. The sales tax base decreased 13.48% since the 2005-2006 fiscal year and more than likely the sales tax will not increase dramatically for a number of years. Overall, the General Fund

revenues have decreased 68% since the 2005-2006 fiscal year. This substantial reduction has brought about reduced public safety and community services for the residents and layoffs of staff to accommodate significant revenue reductions. In addition there is substantial acreage available for development within the existing City limits. The vacant parcel acreage breakdown is as follows.

- 376 acres with Area Plan entitlements
- 399 acres with Tentative Map entitlements
- 201 acres of paper lots
- 184 acres of vacant commercial property
- 90 acres of vacant residential property
- 53 acres of vacant rail trail property

Further, included in the above, there are 177 acres of vacant property with public infrastructure that must be maintained by the City, which causes additional strain on the general fund. Finally, once property is annexed into the City, the City is required to provide services, particularly, public safety. The revenue sharing agreement between the City of Los Banos and Merced County is currently set up so that upon annexation, the County keeps the bulk of the taxes, even though services are provided by the City. Again, this causes undue strain on the general fund and City expenditures are much greater than the revenue provided.

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 April 29, 2011. As of the date of this staff report, no comments have been received.

RECOMMENDATION:

1. That the Planning Commission provides a recommendation for one of the following:
 - a. Recommends denial of the Stonecreek North Annexation and General Plan Amendment;
 - b. Staff and the applicant proceed with processing the project with the Economic and Urban Decay Analysis and Fiscal Impact Analysis, or
 - c. Recommends that staff and applicant proceed with processing of the project without the Economic and Urban Decay Analysis and Fiscal Impact Analysis.

ATTACHMENTS:

1. Letter to Applicant from City Manager, September 22, 2010
2. 2006 Preliminary Annexation Map/Conceptual Land Use Diagram
3. 2007 Proposed Land Use
4. 2010 Proposed Land Use
5. Scope of Studies from GCG
6. Letter from Planning Director to Applicant re Studies
7. Letter from Applicant to Planning Director re Studies
8. Letter from Applicant to Planning Director re Question of Denial
9. Resolution 2011-07



Sept, 22, 2010

Stonecreek Properties
Attn: Larry Anderson
1420 S. Mills Avenue, Suite A
Lodi, CA 95242

Subject: Stonecreek North Annexation

Dear Mr Anderson,

Staff has had ongoing meetings as part of the evaluation of the Stonecreek North project. This evaluation has been conducted against the backdrop of the City's efforts to create a balanced budget for the current fiscal year as well as the future. The current economic climate has not only had a profound negative effect on the development community but on the City as well. Most economic forecasts suggest that California, and particularly that of the Central Valley will face a very long, slow climb towards recovery. The recent turbulent economic cycle has resulted in the following changes in the City's budget, ability to deliver core services, and community vision:

- Significant reductions in property taxes.
- Significant reductions in sales taxes.
- Increases in commercial office and retail vacancies.
- Declining investment in the City's commercial core.
- Major public infrastructure in vacant subdivisions which the City must maintain and provide service.
- 1,860 vacant residential lots waiting for issuance of building permits.
- 2,187 lots that have already received partial entitlements by the Planning Commission and/or City Council.
- Over 1,100 acres of vacant land planned and approved for commercial and residential development within existing City limits.
- An alarming turnover in residential properties due to foreclosures, driven in part by the oversupply

In response, the City has reduced the number of staff and compensation to the remaining City employees. Thus, the City has fewer staff and lower revenues available to provide services to existing developed property and approved projects.

It is staff's assessment that continued physical expansion of the City, in light of all of the existing opportunities for development which already exist within the City, is not in the City's best interest at this time. Stonecreek North and other annexations will result in diluting limited City services even further, and likely will divert critical public and private investment from those areas which are already within the City's service boundaries. The City core will continue to see disinvestment, exacerbating a worsening condition.

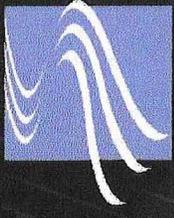
Potential, unconfirmed uses for properties in Stonecreek North can be accommodated within the City's limits, and staff is committed to working with those users.

Staff would like to meet with you and your representatives to see how you would like to proceed. Staff is prepared to make its recommendation and in the alternative, present an option for approval to the Planning Commission and City Council. As application processing is the developer's financial obligation, this expense may be for naught if the City Council concurs in staff's recommendation. An option is to take the narrow question of a denial up to the Commission and Council. This does not require completion of the CEQA documentation or a full staff report. If the Council directs staff to proceed with the project, then staff will implement that decision. If the Council concurs in staff's position, you will avoid the added expense that comes with traditional application processing. Staff will work with you to implement either approach.

Sincerely,

Steve Rath
City Manager

cc: Mayor and Council Members
Chairperson and Planning Commission Members
William A. Vaughn, City Attorney
William W. Abbott, Land Use Attorney



STONECREEK
PROPERTIES

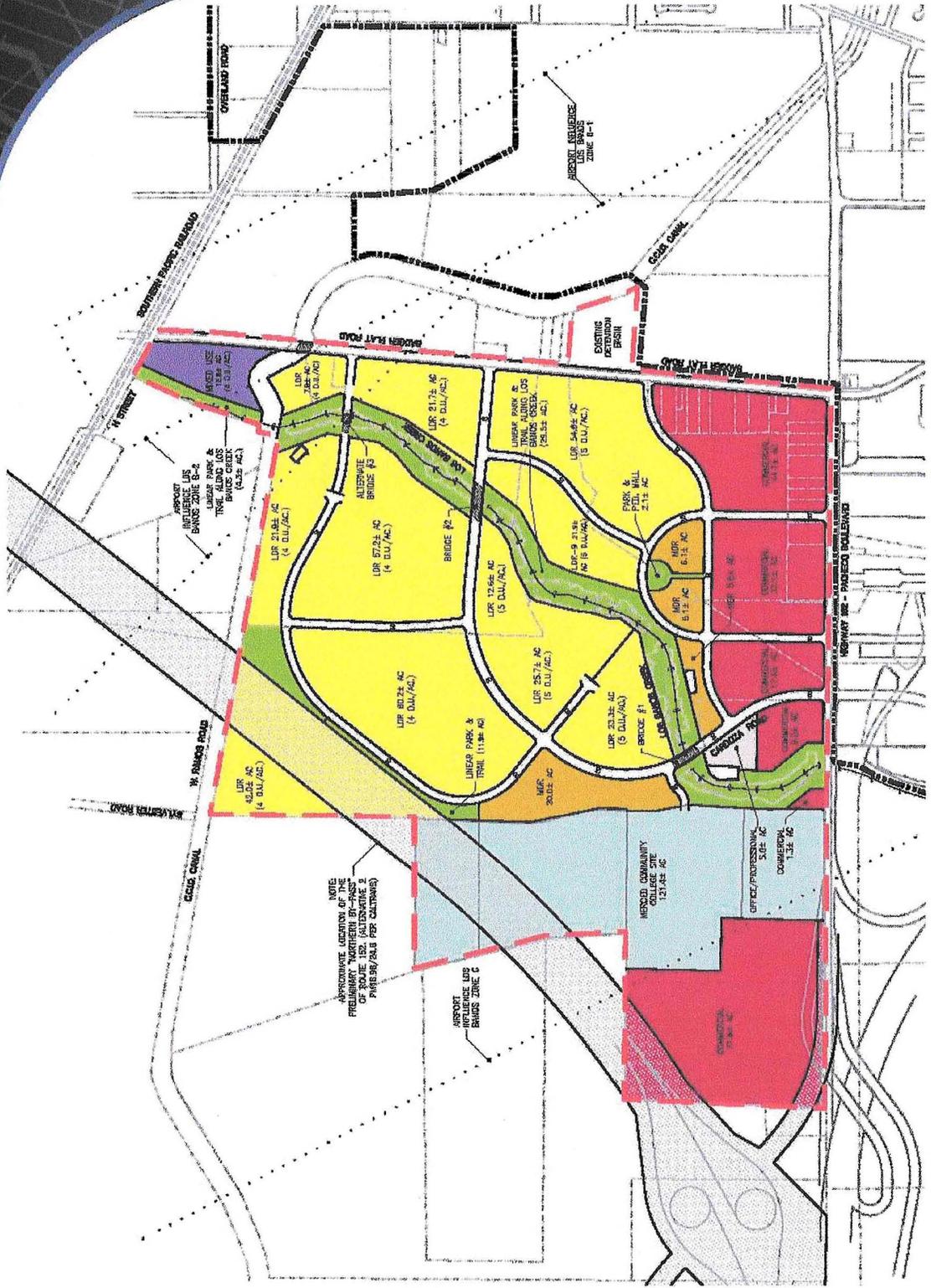
Legend

- Low Density Residential
- Medium Density Residential
- Public Facility
- Commercial
- Mixed Use
- Office/Professional
- Parks and Open Space
- Boundary Line
- City Limits

Vicinity Map



STONECREEK NORTH Area Plan



NOTE
APPROXIMATE LOCATION OF THE
PRELIMINARY "NORTHERN BR-PASS"
UP TO THE 22' EASEMENT AND 3'
PARKING/PAV PER CONTRACT

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PRELIMINARY "NORTHERN BR-PASS"
UP TO THE 22' EASEMENT AND 3'
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PRELIMINARY "NORTHERN BR-PASS"
UP TO THE 22' EASEMENT AND 3'
PARKING/PAV PER CONTRACT

STONECREEK NORTH Area Plan



STONECREEK
PROPERTIES

Legend

- Low Density Residential
- Park
- Civic & Institutional
- Commercial
- Employment Park
- Medium Density Residential
- High Density Residential

Boundary Line

City Limits

Vicinity Map



PROPOSED LAND USE - Alternate A
Exhibit G

Scale 1"=1000'

May 2010



EXHIBIT A

CITY OF LOS BANOS STONECREEK NORTH

ECONOMIC AND URBAN DECAY ANALYSIS FISCAL IMPACT ANALYSIS SCOPE OF WORK

I. Economic Impact and Urban Decay Analysis

California court cases in recent years involving certain commercial development projects have centered on whether such projects could produce adverse economic impacts that lead to urban decay. The potential urban decay, resulting from new businesses in the proposed project displacing existing businesses in nearby older areas, may be considered an environmental impact within the scope of CEQA's environmental review. Goodwin Consulting Group, Inc. (GCG) will evaluate the potential economic impacts of the proposed Stonecreek North development (Project) on existing businesses and commercial areas in Los Banos (City) to provide a factual basis for CEQA evaluation. The tasks to complete the economic impact and urban decay analysis are described below:

1. GCG will review the July 2009 report prepared by Bay Area Economics entitled *Economic Impact and Urban Decay Analysis for Proposed Walmart Expansion Project in City of Los Banos, CA*. GCG will also review Project land use maps and other materials that may document or define the proposed development plans. In addition, GCG will review other pertinent documents prepared by or for the City or private entities that may allow for a better understanding of the local commercial environment in which the proposed Project would exist. Current and other applicable data and analyses gleaned from these reports will be incorporated into the GCG analysis.
2. GCG will collect data and conduct interviews with community representatives to assess the local marketplace. GCG will meet with staff from the City, contact data sources such as the State Board of Equalization and Merced County Association of Governments, and meet with brokers, developers, the Los Banos Chamber of Commerce, any other local business alliances, and others to summarize historical growth trends, analyze the outlook for the City, and compile City economic and demographic statistics. In addition, GCG will review the City's HdL retail sales statistics (if available), General Plan policies, and any specific plans and related policies relevant to the area of the Project.
3. GCG will generally define a competitive market area to identify businesses and commercial locations most likely to be affected by the Project. For the two commercial components of the proposed project (approximately 163 acres of highway retail commercial and 30 acres of medical office uses), GCG will evaluate demand within the market areas. GCG will also consider projected population and employment growth and the corresponding impacts on household income, household spending patterns, the extent of retail sales capture or leakage,

and demand for office space. GCG will review and analyze statistics and trends associated with sales and leasing activity, inventory of vacant land acreage and building square feet, building vacancies, and other market factors to determine if the existing supply of applicable commercial land uses within the City is keeping up with or exceeding existing demand. Since the City already has data on commercial/industrial acreage and square feet (developed, vacant, and approved but not yet built), GCG will only collect the data it needs to supplement the City data.

The analysis will be more accurate and comprehensive if a detailed inventory of the appropriate types of retail businesses and corresponding square footage is developed. It is assumed that much of the required information will be available from the Chamber, merchant associations, and other sources; however, if requested, GCG will also conduct site surveys to augment available data. These walking surveys will target sensitive commercial clusters around the City (including the downtown area) that GCG and City staff will identify together. A separate budget is set forth in Exhibit B below if the City requests that GCG conduct the on-site surveys.

4. Based on data collected and information produced in Tasks 1 through 3 above, GCG will merge the supply and demand dynamics and describe the market depth for the two key types of commercial uses envisioned for the Project. Since the Project's composition is undetermined at this time and may include a variety of possible retail categories, supply and demand dynamics associated with up to eight potential retail tenant types/stores will be analyzed. The analysis may demonstrate that sufficient demand exists now for some or all of the Project, that demand will develop over time and warrant some or all of the new Project in the future, or that enough demand will never materialize to support some or all the new Project without adversely impacting existing merchants or commercial areas to an extent that could force them out of business.

The degree and duration of impacts on existing businesses, including the possibility of displacement, will be evaluated. If displacement is anticipated, GCG will determine if the closing of these businesses could lead to long-term vacancies, the extent to which such vacancies could result in the deterioration of the buildings where the businesses were located, and whether they could culminate in adverse physical changes that lead to conditions consistent with blight.

5. GCG will summarize the analysis in a report; the analysis will be limited to one development scenario. Technical analysis will be presented in easy-to-read charts and tables, which will be attached to, and referenced in, the document. GCG will review a draft of the analysis and summary document with the City, then make any appropriate changes to the analysis and finalize the document.
6. Once discussions with Stonecreek (which are covered in Phase III below) are concluded, GCG will prepare materials to present the urban decay analysis to the Planning Commission and City Council.

II. Fiscal Impact Analysis

GCG will assist the City in evaluating the fiscal impacts associated with annexation of the Project based on the current tax sharing agreement between the City and the County of Merced. The impact will compare the ongoing revenues that will be generated by the development within the Project to the ongoing costs associated with public services that will be provided by the City. The tasks set forth below do not include analysis of the fiscal impacts to the County if the Project is developed within the City boundaries. The tasks to complete the fiscal impact analysis include the following:

1. In addition to the information collected for the Economic and Urban Decay Analysis, GCG will work with City staff to compile information and develop assumptions regarding the residential land uses, public improvements, and demographic characteristics of the Project. This task will produce many of the base assumptions to be used in the fiscal analysis, including, but not limited to, the following: (i) number and type of dwelling units, and acreage and square footage for the community college component of the Project, (ii) projected market values and sales prices by land use type, (iii) proposed public improvements, including road lane miles, parkway and median square footage, park acres, landscaped areas, natural open space, active recreational areas, and (iv) residential and community college demographic characteristics, including population per household and average household income, and students/faculty/staff per acre.
2. GCG will identify fiscal parameters relevant to the Project area, including, but not limited to: (i) the total property tax rate for each tax rate area (TRA) included within the area, (ii) a breakdown of the general levy tax allocation factors from the County Auditor-Controller for each TRA, and (iii) the distribution of tax revenues within each TRA. GCG will review the tax sharing agreement between the City and County and incorporate the corresponding distribution of property tax into the fiscal model to produce the base annexation scenario.
3. GCG will analyze the City's current operating budget and work with appropriate department heads to develop case study and per-capita multiplier assumptions for applicable fiscal revenues and expenses. As part of this analysis, GCG will evaluate ongoing revenue sources, taking into account specific budget items such as: (i) the property tax allocation after the ERAF shift and application of the tax sharing agreement, (ii) sales tax revenue from the base sales tax percentage and the Prop 172 sales tax rates, (iii) transfers from other departments, agencies and organizations, and (iv) other recurring revenue. Based on the budget review and meetings, GCG will identify existing and planned service standards, and the unit cost of providing operations, maintenance, and services associated with all recurring costs to the City after annexation of the Project.
4. GCG will develop a dynamic computerized fiscal model that will incorporate City revenue and cost factors and provide a tool to easily compare alternatives, run iterations, and provide sensitivity analysis of the most significant variables. GCG's model will be used to analyze and estimate fiscal impacts on the City, including (i) recurring annual revenues accruing from the Project, and (ii) recurring annual costs incurred by the City from provision of public services and operation and maintenance of public facilities. Total recurring fiscal impacts at buildout of the Project will be presented, as well as impacts on an annual basis.

5. To the extent negative fiscal impacts are forecasted, GCG will identify the annual burdens that would result if a community facilities district or assessment district was formed to mitigate anticipated deficits. If short-term deficits are determined to exist, GCG will provide alternatives to mitigate the funding gaps during the development period.
6. GCG will summarize the analysis and findings in a fiscal impact report. Technical analyses will be presented in easy-to-read charts and tables, which will be attached to and referenced in the report. GCG will review a draft of the report with City staff, incorporate comments, and produce a final report for circulation.
7. Once discussions with Stonecreek (which are covered in Phase III below) are concluded, GCG will prepare materials to present the fiscal impact analysis to the Planning Commission and City Council.

III. Coordination with Stonecreek

After draft reports have been provided to Stonecreek, it is likely that Stonecreek and its consultants will have questions and comments regarding the reports. This phase of GCG's scope of work includes any tasks other than meetings (which are covered below) that may be needed as part of the ongoing coordination effort with Stonecreek. Such tasks might include reviewing and responding to comments submitted by Stonecreek or its consultants, making changes to the analyses based on the outcome of meetings between the parties, and/or providing additional information to support the assumptions used in GCG's reports. A separate budget is estimated for this task in Exhibit B below, and the budget anticipates up to two iterations of the analyses before one new set of final reports is produced.

IV. Meetings

GCG will attend meetings as needed to complete the scope of work set forth above. Such meetings may include, but will not be limited to, the following:

- Meetings with City staff to formulate assumptions, collect data, determine service standards, develop cost estimates and revenue assumptions, and review draft findings
- Meetings with City staff and Stonecreek to discuss the draft reports, evaluate alternative assumptions, and present sensitivity analysis
- Meetings with the Planning Commission, City Council, and/or LAFCO to present the findings of the urban decay analysis and fiscal impact analysis.

EXHIBIT B

**CITY OF LOS BANOS
STONECREEK NORTH**

**ECONOMIC AND URBAN DECAY ANALYSIS
FISCAL IMPACT ANALYSIS
BUDGET AND FEE SCHEDULE**

Services

In association with the scope of work set forth above, the following budgets will apply:

Economic and Urban Decay Analysis (without on-site surveys by GCG):	\$43,000
On-site Walking Surveys:	\$ 8,000
Fiscal Impact Analysis:	\$32,000
Coordination with Stonecreek:	\$15,000
Meetings (per meeting):	\$ 2,000

These budgets represent maximum amounts not to be exceeded, subject to the limitations identified below. Additional consulting services beyond those included in the scope of services may be provided within the maximum budget if total hourly billings are less than the budget maximum. Alternatively, if the scope of services can be completed for less than the maximum budget, only the hours actually expended will be billed. Following is the schedule of hourly service rates for GCG:

<i>Goodwin Consulting Group, Inc.</i>	
Managing Principal	\$240/Hour
Principal	\$230/Hour
Vice President	\$205/Hour
Senior Associate	\$185/Hour
Associate	\$160/Hour
Analyst	\$140/Hour
Research Assistant	\$85/Hour

** The rates reflected above are valid through December 31, 2011 and may be adjusted thereafter*

Expenses

In addition to fees for services, GCG shall be reimbursed for direct expenses, including mileage, photocopying, data sources, courier, overnight delivery, and long-distance telephone expenses, not to exceed a total of \$1,500.

Billing Structure

GCG shall submit monthly invoices to the City providing details of services rendered and expenses incurred. Out of Scope Services, as defined below, will be billed at the hourly rates listed above if performing such Out of Scope Services causes the maximum budget to be exceeded.

Out of Scope Services

GCG shall bill on a time and materials basis if Out of Scope Services are provided and billings for these services cause the maximum budget to be exceeded. Out of Scope Services may be included, but are not limited to, the following:

- Substantial revisions to the draft reports due to changes in proposed land uses or other major assumptions
- Analysis of fiscal impacts on public agencies other than the City
- Formation of a special district to mitigate fiscal deficits



City of
Los Banos
At the Crossroads of California

April 5, 2011

Ray DeSa
1851 Airway Dr
Suite E
Hollister, CA 95023

RE: Stonecreek North Project

Dear Mr DeSa.

As you know, staff has expressed to you a number of concerns regarding the Stonecreek North Annexation and the potential negative impact that the annexation of 358 acres would have on Los Banos City Government, Municipal Services, and the community at large from a fiscal standpoint. The letter from Steve Rath, City Manager, dated September 22, 2010 describes those concerns in more detail.

In light of the foregoing, staff believes that in order to adequately analyze the project there needs to be an independent Economic Impact and Urban Decay Analysis. Susan Goodwin, from Goodwin Consulting Group (GCG), was contacted and has prepared a scope and proposal for the above mentioned studies, please see attached.

City applications for Annexations, Area Plans, etc., state that staff may require additional information necessary to adequately analyze a project. In this case, staff believes such a study is necessary. The costs associated with the Goodwin studies, as proposed, would be paid from the current project deposit on account with the City.

The City is anxious to get this process moving as we know you are. Therefore, I would appreciate any comments you may have regarding the studies and the proposal by Friday, April 8th 2011.

Sincerely,

Paula Fitzgerald, AICP
Planning Director
City of Los Banos

Cc. Steve Rath, City Manager, William A. Vaughn, City Attorney

THOMAS H. TERPSTRA

ATTORNEY AT LAW

A PROFESSIONAL CORPORATION

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April 11, 2011

Paula Fitzgerald, AICP
Planning Director
City of Los Banos
520 J Street
Los Banos, California 93635

Re: Stonecreek North Project

Dear Ms. Fitzgerald:

As you are aware, this office represents Stonecreek Properties. I am in receipt of your letter dated April 5th, in which the City proposes to require both an Economic Impact Analysis and an Urban Decay Analysis for the Stonecreek North Area Plan, at a total cost of at least \$100,000. Your letter requested a response by last Friday. At this point, Stonecreek Properties is evaluating its legal position as it relates to the processing of this project. Accordingly, Stonecreek Properties is not in a position to move forward with the requested studies at this time. You will know our position within the next 15 days.

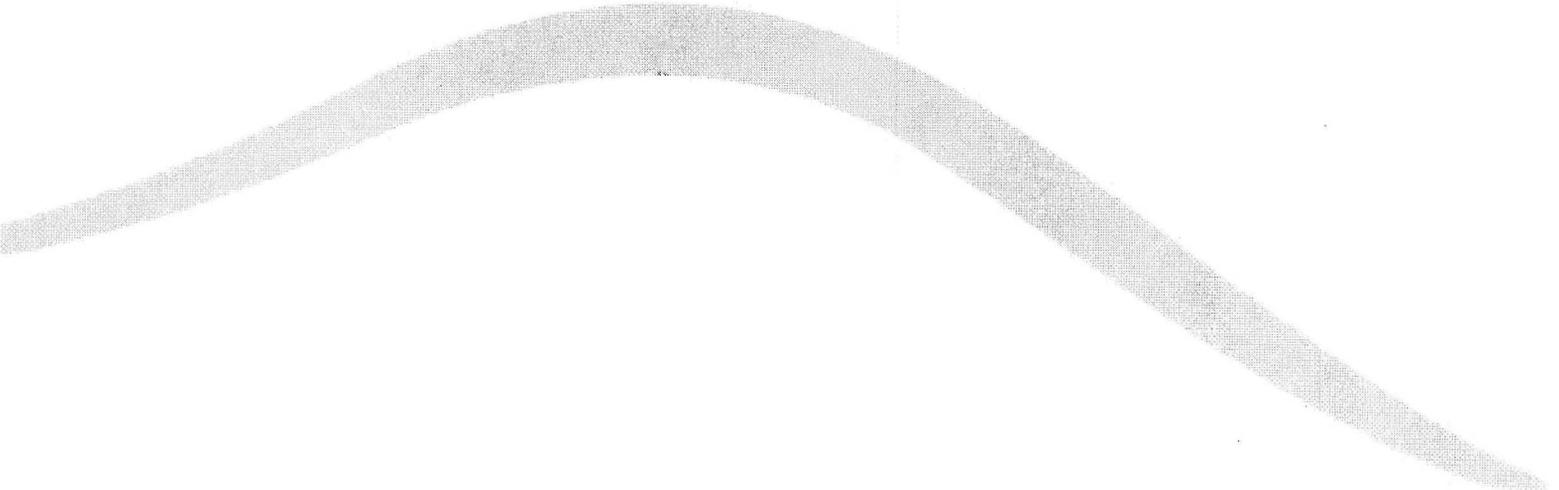
Very truly yours,

Law Office of Thomas H. Terpstra



Thomas H. Terpstra
Attorney-at-Law

THT: rr



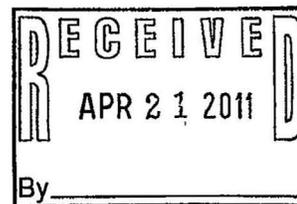
THOMAS H. TERPSTRA

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April 19, 2011



Paula Fitzgerald, AICP
Planning Director
City of Los Banos
520 J Street
Los Banos, California 93635

Re: Stonecreek North Project

Dear Ms. Fitzgerald:

This letter is in further response to your letter dated April 5, 2011. Stonecreek Properties believes that the economic and urban decay studies demanded by staff are unwarranted, unduly burdensome, and will operate to deny our project a timely hearing before the Planning Commission and City Council. **Other than the recent WalMart Supercenter EIR, which voluntarily included an economic and urban decay section in response to grocery union opposition, no project in the history of Los Banos has ever been required to conduct such studies.** Moreover, City Manager Steve Rath's September 22, 2010 letter reveals that staff already believes that our project will negatively affect City services, and it is our candid assessment that no professional study will alter staff's judgment.

Mr. Rath's letter also offered the following: *"An option is to take the narrow question of denial up to the Commission and Council. This does not require completion of the CEQA documentation or a full staff report."* Upon further reflection, and in view of staff's latest demands, we are prepared to accept Mr. Rath's offer. While considering staff's overall recommendation, the City Council could also consider whether the proposed studies are necessary. Accordingly, we request a hearing before the Planning Commission and City Council to take up staff's recommendation of denial. Please schedule the Planning Commission hearing at your earliest convenience.

Very truly yours,

Law Office of Thomas H. Terpstra


Thomas H. Terpstra
Attorney-at-Law

THT: rr

RESOLUTION No. 2011-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS RECOMMENDING DENIAL OF THE ANNEXATION AND GENERAL PLAN AMENDMENT FOR THE PROJECT KNOWN AS STONECREEK NORTH WHICH IS APPROXIMATELY 362 ACRES LOCATED NORTH OF PACHECO BLVD AND WEST OF BADGER FLAT ROAD EXTENDING PAST THE MERCED COMMUNITY COLLEGE

PROJECT NAME:

Stonecreek North – Annexation and General Plan Amendment

PROJECT DESCRIPTION:

The applicant is requesting the question of denial be taken to the Planning Commission and City Council relating to the Annexation and General Plan Amendment for the Stonecreek North project which is approximately 362 acres.

LOCATION:

North of Pacheco Blvd and west of Badger Flat Road extending past the Merced Community College.

PROJECT APPLICANT:

Stonecreek Properties, LLC

WHEREAS, the applicant has requested that the City of Los Banos consider the question of denial for an Annexation and General Plan Amendment for 362 acres north of Pacheco Blvd. and west of Badger Flat Road extending past the Merced Community College known as "Stonecreek North"; and

WHEREAS, the Los Banos Planning Commission held a public hearing, reviewed the proposed Annexation, Area Plan, General Plan Amendment and staff report and has considered this request; and

WHEREAS, in light of the current economic conditions, the City is coping with significant reductions in sales and property tax, substantial increases in commercial and residential vacancies, declining investment within the commercial core and approximately 1100 acres of planned or approved undeveloped land within the existing City limits, and

WHEREAS, expansion of the City limits, in light of development opportunities available within the City is not in the best interest of the City at this time, and

WHEREAS, in response to the economic conditions, the City has reduced staff and has lower revenues available to provide services to existing developed property and approved projects within the City limits, and

WHEREAS, the annexation of 362 acres will divert critical public and private investment from those areas which are already within the service boundaries; and

WHEREAS, the annexation would not provide the revenues to balance expenditures that would be incurred by the City and would provide a drain on the General fund; and

WHEREAS, there is adequate land within the existing City limits to accommodate development needs for a considerable amount of time; and

WHEREAS, Planning staff has requested additional information in accordance with the submittal requirements codified by the City Council in order to deem the application complete and the applicant is disputing the need for this additional information; and

WHEREAS, a public hearing notice was advertised in the Los Banos Enterprise on April 29, 2011 and mailed to property owners within a 300 foot radius of the project site as required by the Los Banos Municipal Code and Government Code Section 65091, and

WHEREAS, the Planning Commission of the City of Los Banos does hereby make the appropriate findings set forth in Exhibit A (Findings of Denial), attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Los Banos, based upon the findings set forth in Exhibit A (Findings of Denial), attached hereto and incorporated herein by reference, does hereby recommend denial of the Annexation and General Plan Amendment known as Stonecreek North.

The foregoing resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the ____ day of _____, 2011 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:

Chairman Mello

ATTEST:

Norma Fuentes, Planning Commission Secretary

Exhibit A

Findings in Support of Denial of The Stonecreek North Annexation and General Plan Amendment – 362 Acres North of Pacheco, West of Badger Flat and Extending West of the Merced Community College

- 1. Further expansion of the City limits, along with a significant increase in residential and commercial development inventory does not serve the City's interests at this time.**

The Stonecreek North Annexation and General Plan Amendment includes 362 acres. The City has experienced significant reductions in both sales and property taxes, the overall General Fund revenues have decreased 68% since the 2005-2006 fiscal year. The decreased General Fund revenue has brought about reductions in public safety and community services and the annexation of 362 acres would divert the critical remaining services from existing residents and commercial and residential properties.

The Stonecreek North Annexation and General Plan Amendment includes 362 acres of development proposed for residential and commercial development. The City currently has over 1100 acres of vacant planned and approved land within the existing City limits. The substantial amount of vacant land within the current City limits provides adequate development opportunities.

There are many commercial and residential vacancies within the City, adding 362 new acres of land will further decrease investment, both public and private, to these existing structures.

The revenue sharing agreement between the City of Los Banos and Merced County is currently set up so that upon annexation, the County keeps the bulk of the taxes, even though services are provided by the City. Again, this causes undue strain on the general fund and City expenditures from an annexation of this size are much greater than the revenue provided.

RESOLUTION No. 2011-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS RECOMMENDING STAFF AND THE APPLICANT CONTINUE PROCESSING THE ANNEXATION AND GENERAL PLAN AMENDMENT FOR THE PROJECT KNOWN AS STONECREEK NORTH AND RECOMMEND THE REQUIREMENT OF THE URBAN DECAY ANALYSIS AND FISCAL IMPACT ANALYSIS PROPOSED BY GOODWIN CONSULTING GROUP AND REQUESTED BY STAFF IN ORDER TO ADEQUATELY ASSESS

PROJECT NAME:

Stonecreek North – Annexation and General Plan Amendment

PROJECT DESCRIPTION:

The applicant requested the question of denial be taken to the Planning Commission and City Council relating to the Annexation and General Plan Amendment for the Stonecreek North project which is approximately 362 acres prior to completing all the entitlement documents. If the Planning Commission and City Council deem it appropriate to continue processing the application, the applicant is requesting the Planning Commission and City Council make a determination as to whether the Urban Decay Analysis and Fiscal Impact Analysis requested by staff are necessary to process the project.

LOCATION:

North of Pacheco Blvd and west of Badger Flat Road extending past the Merced Community College.

PROJECT APPLICANT:

Stonecreek Properties, LLC

WHEREAS, the applicant has requested that the City of Los Banos consider the question of denial for an Annexation and General Plan Amendment for 362 acres north of Pacheco Blvd. and west of Badger Flat Road extending past the Merced Community College known as "Stonecreek North"; and

WHEREAS, if it is deemed appropriate to continue processing the submittal, the applicant is requesting the Planning Commission and City Council

make a determination as to whether the Urban Decay Analysis and Fiscal Impact Analysis requested by staff are necessary to process the project; and

WHEREAS, in light of the current economic conditions, the City is coping with significant reductions in sales and property tax, substantial increases in commercial and residential vacancies, declining investment within the commercial core and approximately 1100 acres of planned or approved undeveloped land within the existing City limits, and

WHEREAS, it appears expansion of the City limits, in light of development opportunities available within the City may not be in the best interest of the City at this time; and

WHEREAS, in response to the economic conditions, the City has reduced staff and has lower revenues available to provide services to existing developed property and approved projects within the City limits, and

WHEREAS, the annexation of 362 acres will likely divert critical public and private investment from those areas which are already within the service boundaries, and

WHEREAS, without further analysis, it appears the annexation would not provide the revenues to balance expenditures that would be incurred by the City and would provide a drain on the General fund, and

WHEREAS, Planning staff has requested additional information in accordance with the submittal requirements codified by the City Council in order to adequately analyze the project and potential fiscal impacts and the applicant is disputing the need for this additional information; and

WHEREAS, after reviewing the staff report and attachments and taking public testimony, the Planning Commission of the City of Los Banos does believe the project processing can move forward but that the Urban Decay Analysis and Fiscal Impact Analysis requested by staff are appropriate in order to adequately analyze the project; and

WHEREAS, a public hearing notice was advertised in the Los Banos Enterprise on April 29, 2011 and mailed to property owners within a 300 foot radius of the project site as required by the Los Banos Municipal Code and Government Code Section 65091, and

WHEREAS, the Los Banos Planning Commission held a public hearing, reviewed the proposed Annexation and General Plan Amendment and staff report and has considered this request.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Los Banos, does hereby recommend that staff and the applicant

continue to process the Stonecreek North project and recommends that the Urban Decay Analysis and Fiscal Impact Analysis proposed by Goodwin Consulting Group and requested by staff are necessary to adequately analyze the project.

The foregoing resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the ____ day of _____, 2011 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

Chairman Mello

ATTEST

Norma Fuentes, Planning Commission Secretary

RESOLUTION No. 2011-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS RECOMMENDING STAFF AND THE APPLICANT CONTINUE PROCESSING THE ANNEXATION AND GENERAL PLAN AMENDMENT FOR THE PROJECT KNOWN AS STONECREEK NORTH AND RECOMMENDS THE PROCESSING OCCUR WITHOUT THE URBAN DECAY ANALYSIS AND FISCAL IMPACT ANALYSIS PROPOSED BY GOODWIN CONSULTING GROUP AND REQUESTED BY STAFF

PROJECT NAME:

Stonecreek North – Annexation and General Plan Amendment

PROJECT DESCRIPTION:

The applicant requested the question of denial be taken to the Planning Commission and City Council relating to the Annexation and General Plan Amendment for the Stonecreek North project which is approximately 362 acres prior to completing all the entitlement documents. If the Planning Commission and City Council deem it appropriate to continue processing the application, the applicant is requesting the Planning Commission and City Council make a determination as to whether the Urban Decay Analysis and Fiscal Impact Analysis requested by staff are necessary to process the project.

LOCATION:

North of Pacheco Blvd and west of Badger Flat Road extending past the Merced Community College.

PROJECT APPLICANT:

Stonecreek Properties, LLC

WHEREAS, the applicant has requested that the City of Los Banos consider the question of denial for an Annexation and General Plan Amendment for 362 acres north of Pacheco Blvd. and west of Badger Flat Road extending

past the Merced Community College known as "Stonecreek North"; and

WHEREAS, if it is deemed appropriate to continue processing the submittal, the applicant is requesting the Planning Commission and City Council make a determination as to whether the Urban Decay Analysis and Fiscal Impact Analysis requested by staff are necessary to process the project; and

WHEREAS, in response to the economic conditions, the City has reduced staff and has lower revenues available to provide services to existing developed property and approved projects within the City limits, and

WHEREAS, the annexation of 362 acres will not divert critical public and private investment from those areas which are already within the service boundaries, and

WHEREAS, the annexation would provide the revenues to balance expenditures that would be incurred by the City and would not provide a drain on the General fund; and

WHEREAS, Planning staff has requested additional information in accordance with the submittal requirements codified by the City Council in order to adequately analyze the project and potential fiscal impacts and the applicant is disputing the need for this additional information; and

WHEREAS, after reviewing the staff report and attachments and taking public testimony, the Planning Commission of the City of Los Banos does believe the project processing can move forward and that the Urban Decay Analysis and Fiscal Impact Analysis requested by staff are not necessary in order to adequately analyze the project; and

WHEREAS, a public hearing notice was advertised in the Los Banos Enterprise on April 29, 2011 and mailed to property owners within a 300 foot radius of the project site as required by the Los Banos Municipal Code and Government Code Section 65091, and

WHEREAS, the Los Banos Planning Commission held a public hearing, reviewed the proposed Annexation and General Plan Amendment and staff report and has considered this request.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Los Banos, does hereby recommend that staff and the applicant continue to process the Stonecreek North project and recommends that the Urban Decay Analysis and Fiscal Impact Analysis proposed by Goodwin Consulting Group and requested by staff are not necessary to adequately analyze the project.

The foregoing resolution was introduced at a regular meeting of the Planning

Commission of the City of Los Banos held on the ___ day of _____, 2011 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

Chairman Mello

ATTEST

Norma Fuentes, Planning Commission Secretary