



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

FEBRUARY 25, 2015

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)

Baker __, Cates __, Faktorovich __, Hammond __, McCoy __, Spada __,

Toscano __

4. APPROVAL OF AGENDA.

Recommendation: Approve the agenda as submitted.

5. CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF FEBRUARY 11, 2015.

Recommendation: Approve the minutes as submitted.

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

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

A. Public Hearing – To Consider Cottage Food Operation Permit #2015-01 at the residence of 1656 Hemlock Drive for Chris Barreras (d.b.a. B4nAfter Services) located within the Low Residential zoning district (R-1) and more specifically described as Assessor's Parcel Number: 431-103-010.

1) Planning Commission Resolution No. 2015-03 – Approving Cottage Food Operation Permit #2015-01 for 1656 Hemlock Drive, More Specifically Identified as Assessor's Parcel Number: 431-103-010.

Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing, and adopt resolution as submitted.

8. COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT.

9. COMMISSIONER REPORTS.

A. Baker

B. Cates

C. Faktorovich

D. Hammond

E. McCoy

F. Spada

G. Toscano

10. ADJOURNMENT.

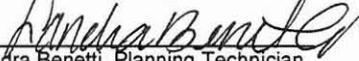
APPEAL RIGHTS AND FILING PROCEDURES

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

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

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

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


Sandra Benetti, Planning Technician

Dated this 20th day of February 2015

**CITY OF LOS BANOS
PLANNING COMMISSION MEETING MINUTES
FEBRUARY 11, 2015**

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

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

PLEDGE OF ALLEGIANCE. The pledge of allegiance was led by Commissioner Cates.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Planning Commission Members John Cates, Stephen Hammond, Palmer McCoy, Tom Spada, Susan Toscano; Todd Baker and Arkady Faktorovich absent.

STAFF MEMBERS PRESENT: Assistant Planner II Stacy Elms, Planning Technician Sandra Benetti, City Attorney William Vaughn.

CONSIDERATION OF APPROVAL OF AGENDA. Motion by Cates seconded by Hammond to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission Members present, Baker and Faktorovich absent.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF DECEMBER 10, 2014. Commissioner Cates stated that he would be abstaining from the motion due to not having prior knowledge of the meeting.

Motion by Hammond seconded by Cates to approve the agenda as submitted. The motion carried by the following roll call vote: AYES: Cates, Hammond, Toscano, Spada; NOES: none; ABSTAIN: McCoy; ABSENT: Baker and Faktorovich.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF JANUARY 14, 2015. Motion by McCoy seconded by Toscano to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission Members present, Baker and Faktorovich absent.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE

POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. Chairperson Spada opened the public forum. No one came forward to speak and the public forum was closed.

PUBLIC HEARING – TO CONSIDER CONDITIONAL USE PERMIT #2015-01 TO ALLOW AN INCREASE IN MAXIMUM DISPLAY AREA AND HEIGHT FOR ONE FREE STANDING SIGN FOR DR. BAZ LOCATED AT 1415 BADGER FLAT ROAD, MORE SPECIFICALLY DESCRIBED AS ASSESSOR’S PARCEL NUMBER: 430-010-014. Chairperson Spada announced that the applicant withdrew their applicant; therefore, the public hearing was cancelled.

PUBLIC HEARING – TO CONSIDER EXTENDING THE DEVELOPMENT AGREEMENT FOR THE VILLAGES AT STONECREEK IIA AND III. Assistant Planner II Elms recused herself from the meeting for this item due to a conflict and left the Council Chambers.

City Attorney Vaughn presented the staff report, which included a PowerPoint presentation.

Commissioner Toscano inquired as to who bids out for landscape and lighting.

City Attorney Vaughn stated that back when the City was looking for new development and establishing fees, the cost of the Landscaping and Lighting Districts was negotiated to a “not to exceed” number and carried on over the years, spoke of how this has been a problem in some districts and no problem in others depending on improvements and costs, and how the City is trying to get away from that now by implementing “pro rata share” wording in the development agreement.

Chairperson Spada opened the public hearing. No one came forward to speak and the public hearing was closed.

Motion by Cates seconded by McCoy to adopt Planning Commission Resolution No. 2015-01 – Recommending to City Council Approval of First Amendment to Development Agreement Relative to the Development Known as “Villages at Stonecreek IIA and III.” The motion carried by the affirmative action of all Planning Commission Members present, Baker and Faktorovich absent.

PRESENTATION AND TRAINING REGARDING THE CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION. City Attorney Vaughn presented the training, which included a PowerPoint presentation.

COMMUNITY DEVELOPMENT DEPARTMENT REPORT. Assistant Planner II Elms spoke of how the City will be hosting a facility tour for the Planning Commission on Friday, March 13th to tour the Public Works Department, Fire Department, and Police Department; how the next Planning Commission meeting will have an item for a Cottage Food Operation, how we are heading into our Housing Element and hiring a consultant,

and hold opportunity for public participation, and how the Planning Commission will make a recommendation to the City Council.

PLANNING COMMISSION MEMBER REPORTS.

BAKER: Absent.

CATES: No report.

FAKTOROVICH: Absent.

HAMMOND: Spoke of the annual Women's Conference on February 20-21, 2015 at Bethel Community Church and invited the ladies to attend.

McCoy: Spoke of how he is looking forward to the City facilities tour and getting to know his fellow Commissioners.

SPADA: Spoke of his upcoming retirement celebration on Saturday, April 25, 2015 at Hecker Pass Winery and invited all to attend.

TOSCANO: No report.

ADJOURNMENT. The meeting was adjourned at the hour of 8:10 p.m.

APPROVED:

Tom Spada, Chairperson

ATTEST:

Sandra Benetti, Planning Technician



City of
Los Banos
At the Crossroads of California

PLANNING COMMISSION STAFF REPORT

TO: CHAIRMAN SPADA AND COMMISSIONERS
FROM: STACY SOUZA ELMS, ASSISTANT PLANNER II *SE*
FOR: FEBRUARY 25, 2015
SUBJECT: COTTAGE FOOD OPERATION PERMIT #2015-01 – B4 N AFTER SERVICES

RECOMMENDATION:

1. That the Planning Commission adopts Resolution No. 2015-03 approving Cottage Food Operation Permit #2015-01 at the residence of 1656 Hemlock Drive for Chris Barreras (d.b.a. B4 n After Services).

PROJECT BACKGROUND/DESCRIPTION:

AB 1616 which relates to Cottage Food Operation (CFO) went into effect on January 1, 2013. A CFO is an enterprise at a private home where specific low-risk food products that do not require refrigeration are prepared or packaged for sale to consumers. Private homes, as defined by the State, are dwellings, including an apartment or other rented space, where the CFO operator resides. Customers may visit the residence to purchase the products and a CFO can have one full-time equivalent employee, not counting family members.

Sales for a CFO may either be done as a "direct sale", which is a transaction between a CFO operator and a consumer where the food is purchased directly from the CFO or "indirect sale", which is interaction between a CFO and a third party retailer and consumer. According to AS 1616 gross sales for a CFO cannot exceed \$35,000 annually in 2013, \$45,000 annually in 2014 and \$50,000 annually in 2015 and beyond. CFO's are permitted to produce: baked goods without cream, custard or meat fillings, such as breads, biscuits, churros, cookies, pastries and tortillas; candy, such as brittle and toffee, chocolate covered non perishable foods such as nuts, and dried fruit; dried pasta, dry baking mixes; fruit pies, fruit empanadas and fruit tamales; granola, cereals and trail mixes; herb blends and dried mole paste; honey and sweet sorghum syrup; jams, jellies, preserves and fruit butter; nut mixes and nut butters; popcorn; vinegar and mustard; roasted coffee and dried tea; waffle cones and pizzeles.

CFO's must complete a food processor course, instructed or approved, by the California Department of Public Health within three months of being registered or permitted and are also required to receive approval from Merced County Environmental Health.

There are sanitary regulations that are applicable and are monitored by the California Department of Public Health. Those regulations include: the packaging, preparation and handling cannot occur concurrent with other domestic activities; no infants, small children or pets may be in the home kitchen during the preparation, packaging or handling; equipment and utensils need to be clean and maintained in a good state of repair; all surfaces, equipment and utensils shall be washed, rinsed and sanitized prior to each use; food and equipment storage areas need to be maintained free of rodents and insects and smoking is prohibited in areas used for packaging, preparation, storage and handling of food items during preparation.

The CFO law imposes certain responsibilities and limitations on local jurisdictions. With the new law, a city or county shall not prohibit a cottage food operation in any residential dwellings but instead, shall do one of the following: 1) classify a CFO as a permitted use of residential property for zoning purposes; 2) grant an administrative permit to use a residence as any CFO that complies with local ordinances; 3) require any CFO to apply for a use permit to use a residence for its operation. The City of Los Banos enacted an Ordinance that requires an administrative permit.

Under State law the only control the local government may have is placing reasonable requirements relating to spacing and concentration, traffic control, parking and noise control relating to the home uses.

The applicant is requesting approval of a Cottage Food Operation Permit to allow a Cottage Food Operation for baked goods without cream to be conducted from a single family residence located at 1656 Hemlock Drive (See vicinity map). The location is zoned R-1. The applicant indicates that there will be no employees associated with the operation however, state law would allow for one employee. The applicant has stated that they will be delivering products to their customers and operations will be Tuesday thru Saturday 9 a.m. to 5 p.m.

As part of the processing of the home based cottage food operation, the Merced County Department of Environmental Health must review and approve the proposal. A condition of approval of the City permit is that prior to commencing operation the applicant must provide the City with the approved Merced County permit.

In accordance with the Cottage Food Operation Ordinance, Section 9-3.3904, the applicant has provided the following permit information:

<input checked="" type="checkbox"/> Complete Permit Application	<input checked="" type="checkbox"/> Business License (pending PC approval)
<input checked="" type="checkbox"/> Two pictures of the front exterior of the home	<input checked="" type="checkbox"/> Two pictures of the home kitchen preparation area
<input checked="" type="checkbox"/> Site Plan	

LOCATION AND ACCESS:

1656 Hemlock Drive; APN: 431-103-010.



COTTAGE FOOD OPERATION PERMIT ANALYSIS

Code Requirements

According to the Los Banos Municipal Code, the Planning Commission is the decision making authority for any initial application of a permit to operate. Once the initial permit is approved, subsequent permits are approved by the Community and Economic Development Director or designee.

Cottage Food Operations are subject to the following criteria set forth in the Municipal Code:

- a) Each cottage food operation shall conform to all State and County laws, regulations and requirements.

Conditions of approval have been incorporated into the project to ensure that the applicant complies with the criteria of the State and County laws, regulations, and requirements.

- b) Foods allowed for the cottage food operation must be in accordance with those listed as “approved” foods by the California Department of Public Health (CDPH).

The Applicant is proposing to produce baked goods without cream in accordance with the California Department of Public Health.

- c) The operator of a cottage food operation shall reside within the residential unit used for such activity as their primary residence.

The Applicant does reside at 1656 Hemlock Drive as their primary residence.

- d) No more than twenty-five (25%) percent of the private dwelling may be utilized for the cottage food operation.

The residential dwelling unit is 2,650 square feet. The Cottage Food Operator will be utilizing only the kitchen area which is less than 662 square feet.

- e) Only the home kitchen, meaning that which is primarily intended for use by the residents of a home may be utilized for preparation of cottage food operations.

The applicant has stated that only the home kitchen will be used for the preparation of food products.

- f) No physical conversions or alterations to the residential nature and character of the residential unit where a cottage food operation is being conducted shall be allowed in conjunction with the cottage food operation.

No physical alterations to the residence are being proposed at this time.

- g) No portion of any building other than the primary residence may be utilized for any aspect of the cottage food operation.

No other building will be used for the operations of the Cottage Food business.

- h) No cottage food operation shall be located within three hundred (300') feet of another such operation.

This is the first Cottage Food Operation Permit in the City of Los Banos and no other such use is located with 300-feet of the project site.

- i) All cottage food operations shall conform to the requirements and restrictions of the Los Banos Municipal Code Noise Control.

Conditions of approval have been incorporated into the project to ensure any adverse affects will be mitigated to comply with the Noise Ordinance.

- j) Only those individuals residing within the residential unit, as their primary residence, shall participate in a cottage food operation, except for a full-time equivalent employee.

The only participant of the business will be residing in the home. The applicant is not anticipating having an employee at this time.

- k) Customers of any cottage food operation shall be prohibited from consuming any products purchased from the cottage food operation on the property where such product was produced.

Conditions of approval have been incorporated into the project to ensure no food will be consumed by customers on-site.

- l) Where a cottage food operation is conducted from a residential unit within a multi-family residential complex, the operator of the cottage food operation shall police, clean and maintain the property with regard to discarded items that may result from the cottage food operation.

The operation will not be conducted from a residential within a multi-family unit complex.

- m) Violations of criteria and conditions of a cottage food operation shall result in the revocation of the business license and permit issued by the City of Los Banos.

Conditions of approval have been incorporated into the project to ensure the applicant understand all criteria and conditions shall be met at all times.

- n) No signage or advertising on the site is allowed.

Conditions of approval have been incorporated into the project to ensure that the applicant complies with the criteria of the Los Banos Municipal Code.

- o) Gross sales cannot exceed those limits as established by the State of California.

The State of California will regulate gross sales as they pertain to this Cottage Food Operation.

- p) All persons who prepare or package cottage food products shall complete a food processor course instructed by the California Department of Public Health within the next three (3) months.

Merced County Health Department will ensure the applicant completes the required food processor course within the next three (3) months. Copies of each certificate issued are to be submitted to the Community Development Department within three (3) months of permit issuance.

In addition to the criteria established in Section 9-3.3905, the Planning Commission may add conditions or approval related to **spacing/concentration, parking, traffic control, and noise** with the initial permit to operate.

PUBLIC COMMENT:

A public hearing notice was published in the Los Banos Enterprise on February 13, 2015. As of the date of this staff report no comments have been received.

APPLICABLE ORDINANCES/GUIDELINES:

Los Banos Municipal Code – 9-3.3901 – 9-3.3907

RECOMMENDATIONS:

That the Planning Commission adopts Resolution No. 2015-03 approving Cottage Food Operation Permit #2015-01 at the residence of 1656 Hemlock Drive for Chris Barreras (d.b.a. B4 n After Services).

ATTACHMENTS:

1. Resolution #2015-03
 - Exhibit A CEQA Findings
 - Exhibit B Project Findings
 - Exhibit C Conditions of Approval
2. Photos
3. Plot Plan
4. Cottage Food Operator Ordinance
5. CDPH General Information
6. Public hearing notice

RESOLUTION No. 2015-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS APPROVING COTTAGE FOOD OPERATION PERMIT #2015-01 FOR 1656 HEMLOCK DRIVE, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 431-103-010

WHEREAS, the applicant has requested that the City of Los Banos consider a Cottage Food Operation Permit for 1656 Hemlock Drive, more specifically identified as Assessor's Parcel Number: 431-103-010; and

WHEREAS, Cottage Food Operation Permit #2015-01 has been determined to be categorically exempt from the provisions of CEQA per Article 19, Section 15301, Existing Facilities; and

WHEREAS, staff has performed necessary investigations, prepared a written report, and recommend approval of this Cottage Food Operation Permit application subject to conditions; and

WHEREAS, a public hearing notice was advertised in the Los Banos Enterprise on February 13, 2015 and notices were mailed to property owners within 300 feet of the site as required by the Los Banos Municipal Code and Government Code Section 65091; and

WHEREAS, the Los Banos Planning Commission has held a public hearing, reviewed said Cottage Food Operation Permit request and staff report, has studied the compatibility of the applicant's request in accordance with the criteria established in Section 9-3.3905 of the Los Banos Municipal Code; and

BASED UPON THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, the Planning Commission of the City of Los Banos hereby makes the appropriate findings set forth in Exhibit A (California Environmental Quality Act (CEQA) Findings), and Exhibit B (Findings for Approval), attached hereto and incorporated herein by this reference.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of Los Banos does hereby approve Cottage Food Operation Permit #2015-01 located at 1656 Hemlock Drive, subject to the Conditions of Approval set forth in Exhibit C, 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 25th day of February, 2015 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 Spada, Planning Commission Chairman

ATTEST:

Sandra Benetti, Planning Commission Secretary

EXHIBIT A

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR COTTAGE FOOD OPERATION PERMIT#2015-01 – CHRIS BARRERAS

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. (CEQA) and Title 14, California Code of Regulations 15000 et seq. (the CEQA Guidelines), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

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

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Guidelines, the project was evaluated within the context of those guidelines and found to be categorically exempt from the provisions of CEQA per Article 19, Section 15301 for existing facilities, as the primary use of the dwelling unit will not be intensified or altered and no impacts on environmental resources would be expected to occur.
2. Cottage Food Operation 2015-01 was adequately noticed on February 13, 2015 for consideration at a public meeting on February 25, 2015.
3. No further environmental documentation is required as the Cottage Food Operation was contemplated and adequately analyzed in the initial review.
4. The proposal is consistent with the Los Banos General Plan as it meets the use and density standards specified within.
5. The proposal is consistent with the Los Banos Zoning Ordinance as it meets the use and development standards specified within.

EXHIBIT B

FINDINGS FOR APPROVAL OF COTTAGE FOOD OPERATION PERMIT #2015-01 – CHRIS BARRERAS

FINDINGS FOR APPROVAL:

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

1. The project is consistent with the City of Los Banos General Plan “Low Density Residential” designation in that the project meets the use and density standards specified within and the primary use of the dwelling unit will not be altered.
2. The proposal is consistent with the Los Banos Municipal Code in that it meets the criteria and required findings as specified in Section 9-3.3905 of the Code.
3. The proposed use will not be a nuisance or detrimental to the public health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use as the use of a Cottage Food Operation will not alter the existing primary use of the residential dwelling unit as a residence.
4. The proposed use is compatible with the adjacent uses, properties and neighborhoods and will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City as the proposed use will be conducted within the premises in accordance with all State and County regulations and requirements.

EXHIBIT C

CONDITIONS OF APPROVAL FOR COTTAGE FOOD OPERATION PERMIT #2015-01 – CHRIS BARRERAS

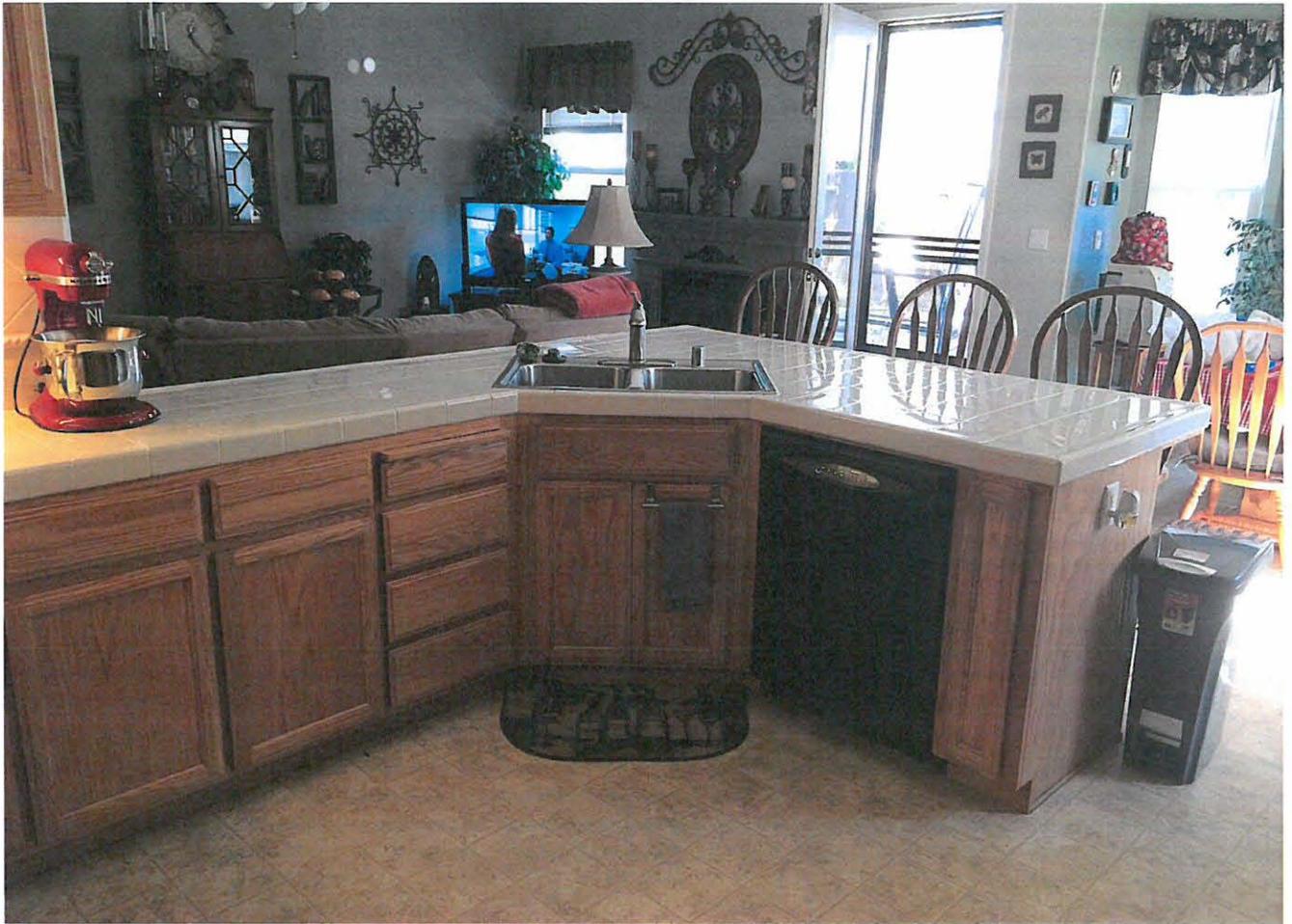
Planning:

1. The Cottage Food Operation Permit is for the use of an enterprise at a private home to produce baked goods that do not require refrigeration located at 1656 Hemlock Drive; more specifically identified as Assessor's Parcel Number: 431-103-010.
2. Subject to and in addition to these Conditions of Approval, Cottage Food Operation Permit #2015-01 shall substantially conform to the approved Cottage Food Operation Permit including but not limited to the application on file with the Community and Economic Development Department, staff report and exhibits.
3. No signage or advertising is allowed on the premises.
4. The Cottage Food Operation shall obtain a City of Los Banos Business License before commencing operation.
5. The Cottage Food Operation shall comply with all applicable laws including, but not limited to, the applicable building, zoning, housing, fire, safety, and health regulations.
6. The Cottage Food Operation shall obtain registration from Merced County Environmental Health.
7. The Cottage Food Operation shall complete the California Department of Public Health approved food processing course within three (3) months from Planning Commission approval.
8. The Cottage Food Operation shall submit a copy of the Merced County Environmental Health permit to the Community and Economic Development Department within three (3) months from Planning Commission approval.
9. The Cottage Food Operation shall conform to all State and County laws, regulations, and requirements.
10. The foods produced by the Cottage Food Operation shall be in accordance with those listed as "approved" foods by the California Department of Public Health (CDPH).
11. The operator of the Cottage Food Operation shall reside within the residential unit used for such activity as their primary residence.

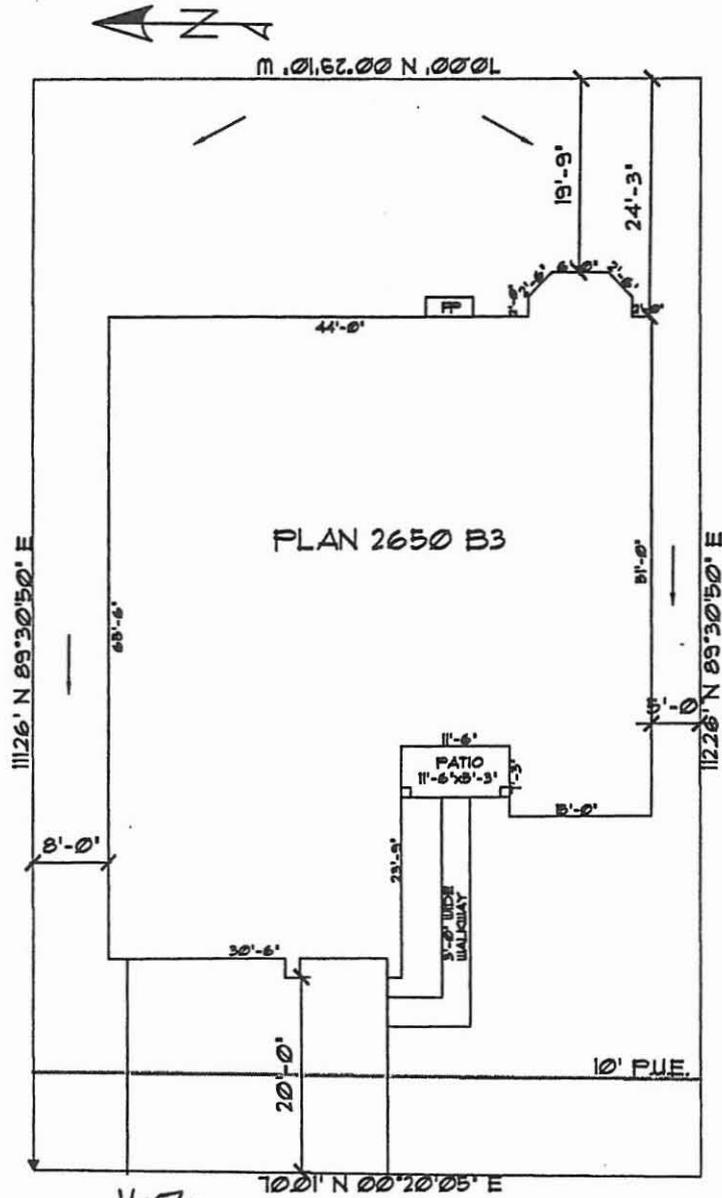
12. No more than 25% of the private dwelling may be utilized for the Cottage Food Operation.
13. Only the home kitchen, meaning that which is primarily intended for use by the residents of a home may be utilized for preparation of the Cottage Food Operation.
14. No physical conversion or alteration to the residential nature and character of the residential unit where the Cottage Food Operation is being conducted shall be allowed in conjunction with the Cottage Food Operation.
15. No portion of any building other than the primary residence may be utilized for any aspect of the Cottage Food Operation.
16. All Cottage Food Operation shall conform to the requirements and restrictions of the Los Banos Municipal Code Noise Ordinance.
17. Only those individuals residing within the residential unit, as their primary residence, shall participate in the Cottage Food Operation, except for one full-time equivalent employee as permitted by State law.
18. Gross sales cannot exceed those limits as established by the State of California.
19. The applicant shall comply with all applicable City ordinances specified in the Municipal Code and other requirements, laws and policies of other governmental agencies in the conduct and operation of said business.
20. The Planning Commission reserves the right to review and/or revoke this Cottage Food Operation should the City receive complaints or should the applicant not adhere to the Conditions of Approval. The City may amend or impose new conditions to mitigate adverse affects to the neighborhood.
21. 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 Use Permit, or the environmental determination rendered in connection with the Cottage Food Operation approval, or arising out of the operation of the use or uses allowed under the Cottage Food Operation, save and except that caused solely by the City's active negligence.
22. The premises of the subject site shall not be inconsistent with the Conditions of Approval and shall not be operated in a manner that deviates from the approved Cottage Food Operation, which shall

constitute a violation and may result in the revocation or modification of the permit upon written notice.

23. The Cottage Food Operation permit shall be required to be renewed annually. The permit is to be on the premises at all times and is nontransferable. The permit shall expire 12 months commencing from the date of Planning Commission approval and may be renewed on an annual basis.
24. If the use is discontinued for a period of six (6) months, this Cottage Food Operation shall lapse and become void.







1650
 1714 HEMLOCK DRIVE

TRACT NO. 98-02
 LOT NO. 41
 LOS BANOS, GARDENS #5
 UNIT NO. 1
 ANDERSON HOMES
 DRAWN BY: JF SCALE: 1"=20'

APPROVED

plans and specifications shall not be changed, modified or altered without authorization from the Building Official. *als* 7-9-03

RECEIVED
 JUN 27 2003
 BY: _____

Los Banos Municipal Code

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[Title 9 PLANNING AND ZONING](#)

[Chapter 3 ZONING](#)

Article 39. Cottage Food Operation

Sec. 9-3.3901 Definition and purpose.

The definition and purpose of cottage food operation shall be as described in Section 9-3.201 of this chapter. (§§ 2, 3, Ord. 1108, eff. July 5, 2013)

Sec. 9-3.3902 Permit required.

No person may operate within the City without first having in his or her possession a cottage food operation permit issued by the City in accordance with this chapter. No permit granted herein shall confer any vested right to any person or business for more than the permit period. All cottage food operations shall comply with the provisions of this chapter as they may be amended hereafter. The operation of a cottage food operation shall be permitted in all private homes subject to the criteria and conditions as established. (§§ 2, 4, Ord. 1108, eff. July 5, 2013)

Sec. 9-3.3903 Permit period.

All cottage food operation permits issued by the City to operate in private homes pursuant to Section 9-3.3902 shall be limited to a permit period of one calendar year. (§§ 2, 5, Ord. 1108, eff. July 5, 2013)

Sec. 9-3.3904 Application for permit to operate.

A person desiring to run a cottage food operation shall submit a written application for a permit to operate in a form acceptable to and with all supporting information required by the Community Development Department. Such application shall be accompanied by a nonrefundable, nontransferable application fee in an amount as established by resolution of the City Council. Any such permit shall be required to be renewed annually and a separate nonrefundable, nontransferable application fee shall be paid yearly for such renewal applications. The permit is to be on the premises at all times. Permits to operate are nontransferable.

- (a) Every cottage food operation shall obtain a City of Los Banos business license.
- (b) As part of the permit to operate application, the applicant shall provide the following:
 - (1) All items as required on the Los Banos Uniform Application.
 - (2) Two (2) pictures of the front exterior of the home, showing the driveway and off street parking locations.
 - (3) Two (2) pictures of the home kitchen, preparation and storage area for the cottage food operation.
 - (4) A site plan, including sufficient parking for the employee and customers.
- (c) The following may constitute grounds for denial of a permit to operate or a renewal application:
 - (1) The proposed cottage food operation does not comply with all applicable laws including, but not limited to, the applicable building, zoning, housing, fire, safety and health regulations;
 - (2) The applicant has knowingly made a material misstatement in the application for a permit to operate;
 - (3) Failure to obtain registration from Merced County Environmental Health;

- (4) Failure to complete California Department of Public Health (CDPH) approved food processing course;
 - (5) Failure to submit copy of Merced County Environmental Health permit registration to the Community Development Department;
 - (6) Violation of criteria or conditions from previous cottage food operation permit.
- (d) The Planning Commission shall be the decision making authority for any initial application of a permit to operate. The Community Development Director or designee shall be the decision making authority for any renewal application of a permit to operate. (§§ 2, 6, Ord. 1108, eff. July 5, 2013)

Sec. 9-3.3905 Criteria.

The following criteria shall apply to cottage food operations in addition to other conditions of approval as may be added through the permit process:

- (a) Each cottage food operation shall conform to all State and County laws, regulations and requirements.
- (b) Foods allowed for the cottage food operation must be in accordance with those listed as “approved” foods by the California Department of Public Health (CDPH).
- (c) The operator of a cottage food operation shall reside within the residential unit used for such activity as their primary residence.
- (d) No more than twenty-five (25%) percent of the private dwelling may be utilized for the cottage food operation.
- (e) Only the home kitchen, meaning that which is primarily intended for use by the residents of a home may be utilized for preparation of cottage food operations.
- (f) No physical conversions or alterations to the residential nature and character of the residential unit where a cottage food operation is being conducted shall be allowed in conjunction with the cottage food operation.
- (g) No portion of any building other than the primary residence may be utilized for any aspect of the cottage food operation.
- (h) No cottage food operation shall be located within three hundred (300') feet of another such operation.
- (i) All cottage food operations shall conform to the requirements and restrictions of the Los Banos Municipal Code Noise Control.
- (j) Only those individuals residing within the residential unit, as their primary residence, shall participate in a cottage food operation, except for a full-time equivalent employee.
- (k) Customers of any cottage food operation shall be prohibited from consuming any products purchased from the cottage food operation on the property where such product was produced.
- (l) Where a cottage food operation is conducted from a residential unit within a multi-family residential complex, the operator of the cottage food operation shall police, clean and maintain the property with regard to discarded items that may result from the cottage food operation.
- (m) Violations of criteria and conditions of a cottage food operation shall result in the revocation of the business license and permit issued by the City of Los Banos.
- (n) No signage or advertising on the site is allowed.
- (o) Gross sales cannot exceed those limits as established by the State of California.
- (p) All persons who prepare or package cottage food products shall complete a food processor course instructed by the California Department of Public Health within the next three (3) months.

Copies of each certificate issued are to be submitted to the Community Development Department within three (3) months of permit issuance. (§§ 2, 7, Ord. 1108, eff. July 5, 2013)

Sec. 9-3.3906 Conditions.

In addition to the criteria established in Section 9-3.3905, the Planning Commission may add conditions of approval related to spacing/concentration, parking, traffic control and noise control with the initial permit to operate. The conditions of approval established by the Planning Commission will be a requirement on all subsequent renewals and can only be modified by the Planning Commission after a public hearing. (§§ 2, 8, Ord. 1108, eff. July 5, 2013)

Sec. 9-3.3907 Suspension/revocation of permit to operate.

(a) **Violation and Noncompliance.** The Community Development Director or designee may refuse to renew a permit or may revoke or suspend an existing permit on the grounds that the permit holder has failed to comply with the permit conditions or other requirements of this chapter. If a suspended permit lapses during the suspension period, a new application must be filed at the end of the suspension period. In any such case, the permit holder shall have the right to appeal in the time and manner set forth in this section.

(b) **Revocation and Suspension of Permit to Operate.** When the City concludes that grounds for denial, suspension, revocation or refusal to renew a permit to operate exist, he or she shall serve the applicant or permit holder, personally or by certified mail, with a notice of denial or notice of intent to suspend, revoke or refuse to renew permit.

This notice shall state:

- (1) The reasons for the proposed action;
- (2) The effective date of the decision;
- (3) The right of the applicant or permit holder to a hearing; and
- (4) That the decision will be final if no hearing request is filed within five (5) business days.

(c) **Hearings and Appeals.** Hearing and appeals of the decision of the Community Development Director or designee or the Planning Commission shall be conducted in the same manner provided by Sections 9-3.2326 through 9-3.2328. (§§ 2, 9, Ord. 1108, eff. July 5, 2013)

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COTTAGE FOOD OPERATIONS

Assembly Bill (AB) 1616 authored by Assembly Member Gatto, [Chapter 415, Statutes of 2012](#), was signed into law by Governor Brown on September 21, 2012, and became effective on January 1, 2013. The bill allows individuals to prepare and/or package certain non-potentially hazardous foods in private-home kitchens referred to as “cottage food operations” (CFOs).

AB 1616 creates a two-tier cottage food operator registration and permitting system to be enforced by local county or city environmental health agencies: 1) “Class A” cottage food operators are those operations that sell CFO prepared foods directly to the public (at the home where the cottage food operation is located or at a community event), and 2) “Class B” cottage food operators are those operations that sell CFO prepared foods either indirectly through restaurants and stores or both directly to the public as well as indirectly to the public via sale to retail food facilities such as restaurants and markets. There are different requirements for “Class A” and “Class B” cottage food operations. “Class A” cottage food operations must submit a completed self-certification checklist approved by the local environmental health agency when they submit their registration application. “Class B” operations must submit a permit application and be inspected prior to obtaining a permit from the local environmental health agency. All cottage food operations must be registered or permitted by their local environmental health agency before commencing business. Please contact your local environmental health agency for more information.

All cottage food operators will have to meet specified requirements pursuant to the California Health and Safety Code related to preparing foods that are on the approved food list, completing a food processor training course within three months of registering, implementing sanitary operations, creating state and federal compliant labels, and operating within established gross annual sales limits.

The local environmental health agency may inspect the permitted or registered area of the private home in which the cottage food operation prepares, handles, or stores food (1) prior to issuing a permit to “Class B” CFOs and (2) on the basis of a consumer complaint where there is reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated provisions of law related to cottage food operations.

Cottage food operations are not allowed to manufacture potentially hazardous foods, acidified foods, or low acid canned food products that would support the growth of botulism if not properly prepared. These foods, as well as other foods not on the approved foods list, are regulated by the California Department of Public Health (CDPH). The enactment of AB 1616 provides cottage food operators with the opportunity to operate a small scale food business. Once the cottage food operation exceeds the gross sales volume established in the law, they must move their operations to a commercial processing facility and register with the CDPH under the Processed Food Registration Program. You may contact CDPH at (916) 650-6516 for more information about registration.



City of
Los Banos
At the Crossroads of California

**COMMUNITY AND ECONOMIC DEVELOPMENT
DEPARTMENT**

Date: February 13, 2015

Re: Notice of Public Hearing

Proposal: Cottage Food Operation #2015-01 – 1656 Hemlock Drive

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider Cottage Food Operation #2015-01 at the residence of 1656 Hemlock Drive for Chris Barreras (d.b.a. B4nAfter Services). The property is located within the Low Residential zoning district (R-1) and more specifically described as Assessor's Parcel Number: 431-103-010.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission on Wednesday, February 25, 2015 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Assistant Planner II at City Hall or at (209) 827-7000, Ext. 133.

Persons wishing to provide oral comments on the proposed project may do so at this meeting or may provide written comments on this matter prior to the public meeting. Written comments may be sent by U.S. Mail or hand delivered to the City of Los Banos City Hall at 520 "J" Street, Los Banos, California 93635. Please be advised that should the action by the City Council be challenged in court, you may be limited to only those issues raised at the public hearings or by written comment per Government Code Section 65009.

THE CITY OF LOS BANOS

Stacy Souza Elms
Assistant Planner II