



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

WEDNESDAY, MAY 24, 2017

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)
Cates __, Dees __, Jones __, Limon __, Llamas __, McCoy __, 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 MAY 10, 2017.

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 Site Plan Review #2017-04 and CEQA Exemption for the Remodel and Expansion of an Existing 2,905 Square Foot Burger King Restaurant by 330 Square Feet Located within the Highway Commercial Zoning District at 525 Pacheco Boulevard, More Specifically Identified as Assessor's Parcel Number: 026-063-021.

- 1) Planning Commission Resolution No. 2017-17 – Approving Site Plan #2017-04 for the Remodel and Expansion of Burger King Restaurant by 330 Square Feet Located at 525 Pacheco Boulevard, More Specifically Identified as Assessor's Parcel Number: 026-063-021.

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

B. Public Hearing – to Consider a Recommendation to the Los Banos City Council to Amend the Special Events Ordinance.

- 1) Planning Commission Resolution No. 2017-18 – Recommending Adoption to the City Council an Amendment to the Special Events Ordinance Relating to Departmental Service Charges.

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

8. COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT.

9. COMMISSIONER REPORTS.

A. Cates

- B. Dees
- C. Jones
- D. Limon
- E. Llamas
- F. McCoy
- G. Toscano

10. ADJOURNMENT.

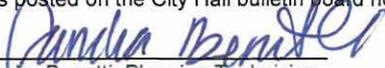
APPEAL RIGHTS AND FILING PROCEDURES

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 19th day of May 2017

**CITY OF LOS BANOS
PLANNING COMMISSION REGULAR MEETING MINUTES
MAY 10, 2017**

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 Cates 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 Dees.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Planning Commission Members John Cates, David Dees, Brett Jones, and Erik Limon; Refugio Llamas, Palmer McCoy, and Susan Toscano absent.

STAFF MEMBERS PRESENT: Community & Economic Development Director Stacy Elms, Planning Technician Sandra Benetti, and City Attorney William A. Vaughn.

CONSIDERATION OF APPROVAL OF AGENDA. Motion by Limon, seconded by Dees to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Llamas, McCoy, and Toscano absent.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF APRIL 26, 2017. Motion by Limon, seconded by Dees to approve the minutes as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Llamas, McCoy, and Toscano 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 Cates opened the public forum. No one came forward to speak and the public forum was closed.

PUBLIC HEARING – TO CONSIDER MOBILE VENDOR PERMIT #2017-01 TO ALLOW THE OPERATION OF A MOBILE FOOD TRUCK FOR ROSA OROZCO, DBA: TACO FACE TO VEND ON PRIVATE PROPERTY LOCATED AT 310 W. PACHECO BOULEVARD, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 027-152-039. Community & Economic Development Director Elms

presented the report, read two comment letters that were received into the record, noting that the applicant was present to answer question.

Commissioner Dees inquired if there were complaints received by the City on this location.

Community & Economic Development Director Elms responded that the City is aware of the ongoing issue with the request for speed bumps on Arizona Avenue and that is within the jurisdiction of the Traffic Safety Committee.

Commissioner Dees inquired if Rooney's Liquor has addressed any of the issues in the letter.

Community & Economic Development Director Elms responded that they haven't changed their operations although ownership has changed hands a few years ago and they have been operating at status quo.

Chairperson Cates opened the public hearing. DAVE JONES, resident on Arizona Avenue, spoke on behalf of residents on Arizona Avenue in opposition of taco truck at this location due to increasing traffic problems on Arizona Avenue, spoke of how garbage does blow into their yards, puzzled why nobody listens to his concerns, this compounds his problems, spoke of his frustration and asked the commission to listen to their concerns; BECKY JONES, resident on Arizona Avenue, spoke of a different taco truck that was located at the tire shop nearby in which customers had littered which accumulated in the yards of residents on Arizona Avenue, spoke of speeding traffic down this street, many of which are customers of Rooney's Liquor or the tire shop; NINIVE VILLAGOMEZ, applicant's representative, spoke of how customers will not be allowed to eat at the property site, how they don't anticipate more traffic than what is existing, and spoke of there being opportunity with the town growing.

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

Commissioner Limon inquired about the Commission's charge on traffic issues.

Community & Economic Development Director Elms responded that the Commission needs to ensure that the applicant meets the code's requirements.

Commissioner Limon inquired if the applicant will clean up trash related to their business.

Ms. Villagomez responded that they would.

Community & Economic Development Director Elms spoke of conditions that will require signage to be posted and how the unit is parked.

Commissioner Jones inquired how the applicant decided on that location.

Ms. Villagomez responded that being located on highway with better access was ideal.

Commissioner Jones inquired why they chose the northern location on the parcel.

Community & Economic Development Director Elms stated that they have to be located on pavement but they wanted to separate themselves from the commercial business.

Commissioner Jones suggested that they can locate on the southwest corner of the parcel.

Ms. Villagomez responded that they can move closer to Pacheco and can adjust time to close at 8:00 p.m.

Commissioner Jones stated that this operation may be a nuisance closer to residential side of parcel.

Ms. Villagomez stated that they have lived here for more than 20 years and spoke of how her mom and aunt have dreamt to have a business here and would like this opportunity.

City Attorney Vaughn stated that this conflict between residential and Highway Commercial is not new, how they City has been dealing with it, reminded that commercial uses are permitted in Highway Commercial, cautioned on singling out a single business but not singling out other businesses, giving direction to properly condition the use is okay, cautioned against picking out certain businesses that are permitted in that zone without heavy evidence of detrimental effects, how the answer is to properly condition the operation to mitigate issues, how the Community & Economic Development Department is taking over business licensing as part of City operations, will look at it as much more of a regulatory process, how if operations change or new come in then we will condition them for problematic businesses, how the idea of moving truck closer to Pacheco may significantly mitigate things, how the Commission's decisions can be challenged so be careful, how they can't mitigate traffic impact with conditions, this is part of being located in Highway Commercial zoning district, and pointed out that he has noticed that Rooney's Liquor is looking kind of tired these days since ownership changed.

Chairperson Cates stated that he has empathy for nearby residents, spoke of how they are tasked with whether the applicant has met requirements, and how the majority of issues brought up by Mr. Jones is prevalent because of Rooney's Liquor being there.

City Attorney Vaughn stated that significant traffic studies have been done on Arizona Avenue, how residents are not being ignored, how the Traffic Safety Committee is aware of issues, and stated that he is unsure of their new policy on speed bumps and if the street qualifies.

Chairperson Cates spoke of the need to focus on whether they meet permitting requirements, agrees with Commissioner Jones that they should be located closer to Pacheco Boulevard, and asked that the applicant make sure that customers are asked to be respectful of the neighborhood.

Commissioner Dees spoke of his understanding of the meaning to have a dream, how the applicant needs to understand residents' dreams too, wants applicant to be successful, spoke of his concern about location on the parcel being far from Pacheco, and would like assurances that trash will be picked up from customers.

Community & Economic Development Director Elms pointed out Conditions of Approval #7L regarding refuse containers, suggested that they can expand the 25 foot radius in the condition, and can add a condition to require them to be located in a specific parking stall closer to Pacheco.

Chairperson Cates thanked the applicant for their flexibility.

Motion by Dees, seconded by Limon to adopt Planning Commission Resolution No. 2017-15 – Approving Mobile Vendor Permit #2017-01 for the Operation of a Mobile Taco Truck on Private Commercial Property Located at 310 W. Pacheco Boulevard with the amendment of Condition 7L to pick up all litter on the lot before terminating business for the day and adding a condition that the unit locate in a parking stall as close to Pacheco Boulevard as possible without impeding traffic. The motion carried by the affirmative action of all Planning Commission Members present; Llamas, McCoy, and Toscano absent.

PUBLIC HEARING – TO CONSIDER SITE PLAN REVIEW #2017-01 FOR THE CONSTRUCTION OF A NEW 1,514 SQUARE FOOT SONIC DRIVE-IN RESTAURANT AND ASSOCIATED MITIGATED NEGATIVE DECLARATION FOR THE COLLEGE PLAZA SHOPPING CENTER LOCATED WITHIN THE HIGHWAY COMMERCIAL ZONING DISTRICT AT 2180 PACHECO BOULEVARD; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 428-160-022.
Community & Economic Development Director Elms presented the report.

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

Motion by Dees, seconded by Limon to adopt Planning Commission Resolution No. 2017-16 – approving Site Plan #2017-01 for the Development of a 1,514 Square Foot Sonic Drive-In Restaurant Located at 2180 Pacheco Boulevard, More Specifically Identified as Assessor's Parcel Number: 428-160-022. The motion carried by the affirmative action of all Planning Commission Members present; Llamas, McCoy, and Toscano absent.

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT. Community & Economic Development Director Elms reported that the Community & Economic

Development and Building Departments will close at 4:00 p.m. to the public each Friday to be able to do a reorganization and handle tasks, temporary until further notice, how staff will be in the office if they need us, and how she will be attending ICSC RECon conference in Las Vegas to market the City for retail development.

PLANNING COMMISSION MEMBER REPORTS.

CATES: Inquired about further development on Savemart driveway easement from Pacheco Boulevard.

Community & Economic Development Director Elm responded that there is no news yet, how they will be opening in the next couple of weeks, how the property owner is trying to work with the various agencies involved, just a matter of lining it all up, how the City is providing support and doing what we can but it's a private property matter right now that needs to be negotiated.

Chairperson Cates thanked staff and City Attorney Vaughn and spoke of looking forward to a new planner joining the department.

Community & Economic Development Director Elm stated that the City opened recruitment back in February, held two rounds of interviews, hopes to have an announcement soon.

DEES: Inquired about items coming forward to the May 24th meeting.

Community & Economic Development Director Elm responded that the special events ordinance revision will come forward that night as well as the public hearing for Burger King's Site Plan Review.

JONES: No report.

LIMON: No report.

LLAMAS: Absent.

McCOY: Absent.

TOSCANO: Absent.

ADJOURNMENT: The meeting was adjourned at the hour of 8:19 p.m.

APPROVED:

John Cates, Chairperson

ATTEST:

Sandra Benetti, Planning Technician



City of
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PLANNING COMMISSION STAFF REPORT

TO: CHAIRMAN CATES AND PLANNING COMMISSIONERS

FROM: STACY SOUZA ELMS, COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR *SE*

FOR: MAY 24, 2017

SUBJECT: SITE PLAN REVIEW #2017-04 – BURGER KING REMODEL AND EXPANSION

RECOMMENDATIONS:

1. That the Planning Commission adopt Resolution No. 2017-17 approving Site Plan Review #2017-04 for the remodel and expansion of Burger King located at 525 Pacheco Blvd.

BACKGROUND/DESCRIPTION:

On April 25, 1979, Site Plan Review #79-6 was approved by the Los Banos Planning Commission for the construction of a Burger King Restaurant. The restaurant was built in 1979 and has been serving the public since November 1979. Subsequently on May 13, 1998, the Los Banos Planning Commission approved a remodel and expansion of the existing Burger King Restaurant to allow the addition of an outdoor play land.

The Applicant, Tricon Building Solutions, is currently proposing a remodel and minor expansion of the existing Burger King Restaurant. The project is located at 525 Pacheco Blvd. between Fourth Street and Sixth Street in the Highway Commercial zoning district adjacent to Mountain Mike's Pizza to the west and Yosemite Farm Credit/Star Car Wash to the east. The purpose of the remodel is to update the building to the new 2020 exterior graphics. The existing drive-thru and parking lot will remain as is; however, the parking lot will be re-surfaced.

LOCATION AND ACCESS:

The 0.93 acres Project site is located at 525 Pacheco Blvd., between Fourth Street and Sixth Street. Access to the site is from one existing driveway on Pacheco Boulevard.



LAND USE:

Property	Land Use	Zone	General Plan
Project Site	Commercial	H-C	Commercial
North	Commercial	H-C	Commercial
East	Commercial	H-C	Commercial
South	Residential	R-1	LDR
West	Undeveloped/Commercial	H-C	Commercial

H-C = Highway Commercial

LDR = Low Density Residential

ENVIRONMENTAL ASSESSMENT:

Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, it has been determined that this project is categorically exempt from the provisions of CEQA – Article 19, Section 15301 – Existing

Facilities as the expansion to the existing structure will not result in an increase of more than 50 percent of the floor area of the structure before the addition, or 2,500 square feet, whichever is less. The proposed minor expansion will add 330 square feet to the existing building, which is 11 percent of the floor area of the existing Burger King before the addition.

SITE PLAN ANALYSIS:

Code Requirements

Pursuant to Section 9-3.2316(a) of the Los Banos Municipal Code, the Planning Commission shall review and evaluate a site plan for conformance with the applicable sections of the Code. Upon completion of the review and evaluation of a site plan review application, the Planning Commission shall either deny the site plan or shall grant or modify the site plan subject to reasonable conditions as may be imposed.

Project Design

The Project proposes to remodel and expand the existing 2,905 square foot Burger King Restaurant by 330 square feet for a total building square footage of 3,235 square feet. The expansion will occur on the west side of the building.

The proposed site plan includes a total of 37 parking spaces with 2 parking space designated for handicap parking. According to Section 9-3.2004 of the Los Banos Municipal Code, the minimum off-street parking required for restaurants is 1 parking space per each 60 square feet of customer seating area plus 1 space per each 400 square feet of noncustomer area. Pursuant to the Municipal Code, the project would be required to provide 22 total parking spaces, 1 of which is required to be handicap accessible. The proposal exceeds the required minimum parking.

Land Use

The project site is designated as Commercial according to the Los Banos General Plan and Highway Commercial (H-C) in accordance with the Zoning Map. The proposed project will not change the current restaurant use, which is an allowed/permitted use in the Highway Commercial zoning district. The proposed use is consistent with the Los Banos General Plan and Municipal Code.

Traffic

The site plan indicates that access to the site will be provided from one existing driveway on Pacheco Boulevard. No access will be allowed off of Washington Avenue. The drive thru exit will remain on Pacheco Boulevard. It is not anticipated that the expansion will have a significant impact on traffic at the project site or immediate area.

Infrastructure

No additional water, sewer, or storm drain improvements are required as a result of this project.

DESIGN REVIEW

Pursuant to Section 9-3.2818(a) of the Los Banos Municipal Code, the Los Banos Planning Commission held a study session on April 26, 2017, to provide the applicant

with feedback early on in the design process. The Commission evaluated architectural elements, landscape and site treatment, and lighting elements as described in Section 9-3.2818(c) of the Los Banos Municipal Code.

No specific suggestions were provided to the applicant at the workshop.

PROJECT REVIEW BOARD

The Project Review Board (PRB) reviewed the project proposal on April 26, 2017, for these aspects

- Building layout;
- Location;
- Orientation of all new and existing structures and the relationship to one another and surrounding properties
- Methods of landscape irrigation;
- Location and design of facilities for physically disabled persons;
- Location of fencing and other screening;
- Location and screening of refuse facilities;
- Traffic circulation on-site and off-site;
- Pedestrian and bicycle circulation and safety;
- Arrangement of off-street parking and loading facilities;
- Location and intensity of all onsite lighting; and
- Provision of municipal and public services.

The PRB has provided a positive recommendation for the development of the proposed project with conditions of approval incorporated into the project approval.

FINDINGS FOR APPROVAL:

The Planning Commission shall approve a Site Plan if it can make all of the following findings as set forth in the Municipal Code. The Planning Commission shall consider and evaluate those aspects of the project described in Section 9-3.2317(b) and 9-3.2318(c). In approving a site plan, the Planning Commission must make the following findings before approving a site plan:

1. That the proposed development is consistent with the general plan, any specific plans, and any design standards adopted by the City Council.

Restaurants are identified as permitted uses in the Highway Commercial zoning district which is consistent with the General Plan Commercial land use designation. As identified in the staff report, the project meets all design standards adopted by the City Council.

2. That the design and location of the proposed development and its relationship to existing or proposed developments and traffic in the vicinity thereof is such that it

will not impair the desirability of investment or occupation in the neighborhood; and that it will not unreasonably interfere with the use and enjoyment of existing or proposed developments in the vicinity thereof, and that it will not create traffic hazards or congestion.

Burger King and the surrounding area have been planned and designed for the purpose of High Commercial uses. The proposed design and operational characteristics of the proposed expansion, as conditioned, will not impair neighboring uses nor interfere with the other uses in the vicinity. Based on the foregoing, the proposed project will not impair the neighborhood, or interfere with the use and enjoyment of existing or proposed developments, and will not create a traffic hazard or congestion.

3. That the design of the proposed development is in keeping with the character of the surrounding neighborhood and is not detrimental to the harmonious, orderly, and attractive development contemplated by this ordinance and the general plan of the City. The updated architecture is compatible with and will enhance the surrounding neighborhood.

The design of the proposed project is in keeping with the Community Design Guidelines. The applicant received positive feedback from the Planning Commission Design Review Study Session on their proposed design.

4. That the design of the proposed development would provide a desirable environment for its occupants, as well as for its neighbors, and that it is aesthetically of good composition, materials, textures, and colors.

The proposed design is laid out in a manner that will provide an efficient and desirable environment for the surrounding neighborhood. The proposed project was reviewed by the Planning Commission during a study session and was found to be aesthetically of good composition, materials, textures, and colors consistent with the existing facility and surrounding neighborhood.

5. That the proposed use complies with all applicable requirements of the zoning district in which it is located and all other applicable requirements.

The proposed use is permitted in the Highway Commercial zoning district and is in conformance with all other applicable requirements.

6. That the overall development of the subject property is designed to ensure the protection of the public health, safety, and general welfare.

The site design allows for safe circulation of vehicles and safe pathway for handicap access as well as pedestrian access.

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 May 12, 2017. As of the date of this staff report, no written comments have been received.

RECOMMENDATION:

1. That the Planning Commission adopt Resolution No. 2017-17 approving Site Plan Review #2017-04 for the remodel and expansion of Burger King located at 525 Pacheco Blvd.

ATTACHMENTS:

1. Resolution 2017-17
 - Exhibit A: CEQA Findings
 - Exhibit B: Findings for Approval
 - Exhibit C: Conditions of Approval
2. Site Plan
3. Elevations
4. Public Hearing Notice – May 12, 2017

RESOLUTION #2017-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS APPROVING SITE PLAN #2017-04 FOR THE REMODEL AND EXPANSION OF BURGER KING RESTAURANT BY 330 SQUARE FEET LOCATED AT 525 PACHECO BOULEVARD, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 026-063-021

WHEREAS, the Los Banos General Plan was adopted in July 2009, and is the guiding document for land use in the City of Los Banos; and

WHEREAS, the subject property has a land use designation of Commercial pursuant to the Los Banos General Plan and is zoned Highway Commercial by the Los Banos Zoning Map; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, Site Plan Review #2017-04 for Burger King was determined to be Categorically Exempt from the provisions of CEQA per Article 19, Section 15301 as the project meets all the criteria for an existing facility project and it can be seen with certainty that the proposed project would not have a significant effect on the environment and the project is in an area where all public services and facilities are available and the area of the project is not environmentally sensitive; and

WHEREAS, a public hearing was duly noticed for May 24, 2017, in accordance with California Government Code Section 65091 by advertisement in the Los Banos Enterprise and by mail to property owners within 300 feet of the project boundaries on May 12, 2017, to consider and take testimony regarding Site Plan Review #2016-02; and

WHEREAS, at the May 24, 2017, Planning Commission Meeting the Los Banos Planning Commission heard and considered testimony, if any, of all persons desiring to be heard; reviewed the Project Site Plan and staff report; studied the compatibility of the applicant's request with adjacent land uses; has considered the applicant's request in accordance with the Site Plan criteria established in Section 9-3.2320 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 does hereby make the findings set forth in Exhibit A (CEQA Findings), and Exhibit B (Findings of 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 Site Plan #2017-04 for the remodel and

expansion of Burger King Restaurant by 330 square feet located at 525 Pacheco Boulevard, more specifically identified as Assessor's Parcel Number: 026-063-021, 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 24th day of May 2017, by Commissioner _____, who moved its adoption, which motion was duly seconded by Commissioner _____, and the Resolution is hereby adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

John Cates, Planning Commission Chairperson

ATTEST:

Sandra Benetti, Planning Commission Secretary

EXHIBIT A

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR SITE PLAN REVIEW #2017-04 – BURGER KING REMODEL

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. ("CEQA") and Title 14, California Code of Regulations Section 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 Quality Guidelines, Site Plan Review #2016-02 was evaluated and determined to be categorically exempt from the provisions of CEQA – Article 19, Section 15301(e) as the project meets all the criteria for an existing facility project and it can be seen with certainty that the proposed project would not have a significant effect on the environment and meets the following criteria and the addition to the existing structure will not result in an increase of more than 50 percent of the floor area of the structure before the addition, or 2,500 square feet, whichever is less.
2. Site Plan Review #2017-04 was adequately noticed on May 12, 2017, for consideration at a public meeting on May 24, 2017.
3. No further environmental documentation is required as the Site Plan Review was contemplated and adequately analyzed in the initial review.
4. Prior to considering the proposed Project, the Los Banos Planning Commission considered the Categorical Exemption.

EXHIBIT B

FINDINGS FOR APPROVAL OF SITE PLAN #2017-04 – BURGER KING REMODEL

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

1. That the proposed development is consistent with the general plan, any specific plans, and any design standards adopted by the City Council.

Evidence/Analysis: Restaurants are identified as permitted uses in the Highway Commercial zoning district which is consistent with the General Plan Commercial land use designation. As identified in the staff report, the project meets all design standards adopted by the City Council.

2. That the design and location of the proposed development and its relationship to existing or proposed developments and traffic in the vicinity thereof is such that it will not impair the desirability of investment or occupation in the neighborhood; and that it will not unreasonably interfere with the use and enjoyment of existing or proposed developments in the vicinity thereof, and that it will not create traffic hazards or congestion.

Evidence/Analysis: Burger King and the surrounding area have been planned and designed for the purpose of High Commercial uses. The proposed design and operational characteristics of the proposed expansion, as conditioned, will not impair neighboring uses nor interfere with the other uses in the vicinity. Based on the foregoing, the proposed project will not impair the neighborhood, or interfere with the use and enjoyment of existing or proposed developments, and will not create a traffic hazard or congestion.

3. That the design of the proposed development is in keeping with the character of the surrounding neighborhood and is not detrimental to the harmonious, orderly, and attractive development contemplated by this ordinance and the general plan of the City.

Evidence/Analysis: The design of the proposed project is in keeping with the Community Design Guidelines. The applicant received positive feedback from the Planning Commission Design Review Study Session on their proposed design.

4. That the design of the proposed development would provide a desirable environment for its occupants, as well as for its neighbors, and that it is aesthetically of good composition, materials, textures, and colors.

Evidence/Analysis: The proposed design is laid out in a manner that will provide an efficient and desirable environment for the surrounding neighborhood. The

proposed project was reviewed by the Planning Commission during a study session and was found to be aesthetically of good composition, materials, textures, and colors consistent with the existing facility and surrounding neighborhood.

5. That the proposed use complies with all applicable requirements of the zoning district in which it is located and all other applicable requirements.

Evidence/Analysis: The proposed use is permitted in the Highway Commercial zoning district and is in conformance with all other applicable requirements.

6. That the overall development of the subject property is designed to ensure the protection of the public health, safety, and general welfare.

Evidence/Analysis: The site design allows for safe circulation of vehicles and safe pathway for handicap access as well as pedestrian access.

EXHIBIT C

CONDITIONS OF APPROVAL FOR SITE PLAN #2017-04 – BURGER KING REMODEL

Planning:

1. The followings Conditions of Approval shall apply to and be applicable to the applicant, property owner, and/or developer and their successors in interest. Reference to applicant, property owner, and/or developer shall be interpreted to include all including the holder of a building permit or other permit issued by the city in connection with this project. These conditions shall run with the land and shall survive the issuance of an occupancy permit.
2. This Site Plan shall expire if an application for a building permit is not applied for within 24 months from date of approval. One six-month extension may be allowed by written request submitted to and approved by the Community and Economic Development Director.
3. Subject to and in addition to the conditions of approval set forth herein the development and construction of all improvements for the Project shall substantially conform to the conditionally approved Site Plan approved by the Planning Commission consisting of the site plan layout, exterior elevations, landscape plan, floor plan, and color renderings (herein after “site plan”). The applicant shall submit a revised Site Plan to the Community and Economic Development Department reflecting any modifications, additions, and conditions of approval approved by the Planning Commission within 30 days from Planning Commission approval. Said revised Site Plan shall be reviewed by the Community and Economic Development Department and stamped “conditionally approved” for purposes of providing a clear record of the approved Site Plan.
4. Full compliance with all conditions of approval shall be satisfied prior to issuance of any certificate of occupancy. Any proposed modifications to the approved Site Plan during construction and after issuance of occupancy permit shall require approval by the Community and Economic Development Director or Planning Commission as appropriate.
5. Any application for a building permit shall be reviewed by the Community and Economic Development Department for a determination as to whether such application conforms to the prior design and site development review approval by the Planning Commission.
6. 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 site plan, or the environmental determination rendered in connection with the site

plan approval, or arising out of the operation of the use or uses allowed under the site plan, save and except that caused solely by the City's active negligence.

7. Construction shall be limited to those hours specified in Section 9-3.2706 of the Los Banos Municipal Code: Monday through Friday from 7:00 am to 9:00 pm; Saturday and Sunday from 8:00 am to 5:00 pm.
8. The applicant shall comply with all requirements of other appropriate governmental agencies.
9. The applicant shall meet all requirements of the currently adopted edition of the California Building, Fire, and City of Los Banos Municipal Codes in effect at time of the building permit application.
10. The applicant shall comply with the Americans with Disabilities Act (ADA) requirements in the design, construction and maintenance of this project.
11. The applicant shall provide a copy of the conditions of approval to all contractors and subcontractors prior to commencement of construction.
12. During construction, and for safety purposes, the public right-of-way shall be kept clear of obstructions and shall be cleaned on a daily basis.
13. The applicant shall require and all contractors and subcontractors shall obtain a City of Los Banos Business License, prior to start of work on the project. All work performed on the project shall comply with the requirements of the California Business and Professions Code.
14. The applicant shall obtain any necessary encroachment permits from Caltrans or other jurisdictions prior to performing any work within that jurisdiction's right-of-way.
15. All structures, foundations, and footings for buildings on the project site shall be designed and constructed to conform to the current California Building Code, including amendments adopted by the City.
16. An engineering soils report shall be prepared in order to identify soil characteristics requiring special structural design. On-site and off-site structural design shall conform to the findings and recommendation of the engineering soils report. The report shall be prepared prior to issuance of a grading permit, subject to review and written approval by the City Engineer.
17. A minimum 200-foot separation shall be maintained between the public right-of way and material stockpiles, debris piles, or containers and equipment storage during the construction process. If such storage must be located within 200 feet of the public right-of-way, a six-foot high opaque fence shall shield the storage area from view when the storage area is inactive for more than eight hours. This requirement shall be incorporated into the specifications for all construction

plans, subject to review and written approval by the Community and Economic Development Department.

18. During construction activities, all food-related trash items shall be enclosed in sealed containers and regularly removed from the project site to avoid attracting wildlife to the project site. Pets shall not be allowed on the construction site. The proper location of the trash containers shall be subject to the review and written approval of the Community and Economic Development Department.
19. Prior to placement of combustible materials on the site, two points of all-weather access, at least one paved, shall be provided, to the satisfaction and written approval of the Fire Chief.
20. Temporary construction trailers shall be permitted only in areas immediately adjacent to or within that portion of the Site Plan where active construction is taking place. Placement of said construction trailer is subject to the written approval of the Community and Economic Development Director and shall be removed in accordance with Title 9, Chapter 3, Article 39 Temporary Use Ordinance of the Los Banos Municipal Code. The Project site shall be controlled of weeds and free of debris and litter. The applicant shall provide protection against wind and water soil erosion.
21. The development site shall be controlled of weeds and free of debris and litter. The applicant shall provide protection against wind and water soil erosion.
22. Due to the possibility that significant buried cultural resources might be found during construction, the following language shall be included in any permits issued for the project site, including, but not limited to building permits for future development, subject to the review and approval of the Los Banos Community Development Department:

“If archaeological resources or human remains are discovered during construction, work shall be halted from the find and the area shall be staked off. The project developer shall notify a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.”

23. In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City shall ensure that this language is included in all permits in accordance with CEQA Guidelines section 15064.5(e):

“If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the Los Banos Police Department contacts the coroner of Merced County to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American

Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.”

24. The Project site shall be kept in a dust-free condition during construction of the project in. Prior to issuance of a building permit, dust control requirements shall be included in all construction contract specifications to reduce significant levels of construction-related hazardous air emissions.

- a. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, or vegetative ground cover.
- b. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
- c. All land clearing, grubbing, scraping, excavation, land leveling, grading, and cut and fill activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.
- d. When materials are transported off-site, all material shall be covered, effectively wetted to limit visible dust emissions, or at least six inches of freeboard space from the top of the container shall be maintained.
- e. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at least once every 24 hours when operations are occurring. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. The use of blower devices is expressly forbidden.)

- f. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
25. Prior to issuance of building permits, the developer/applicant shall include the following requirements in all construction bids and documents including contracts (and implemented during construction activities) for the purpose of reducing diesel particulate and acrolein emissions during construction of the project:
- a. All pre-1994 model year and older diesel equipment shall be retrofitted with EPA-certified diesel oxidation catalyst filters;
 - b. Contractor shall maintain records of all purchases of diesel oxidation catalyst filters or biodiesel fuel until construction is complete; and
 - c. The SJVAPCD shall have the right to inspect all construction and demolition equipment, as well as the contractor's records at any time during demolition and construction.
26. The Project site shall include a bicycle rack. Size and location shall be approved by the Community and Economic Development Director.
27. All development impact fees shall be paid in full prior to occupancy and as a condition of issuance of an occupancy permit. The developer shall provide a receipt from the Los Banos Unified School District for all applicable school impact fees.
28. The Applicant will take reasonable steps to preserve all survey monuments. The Applicant is responsible for the preservation of survey monuments within the work area under this permit at Applicant's sole expense. If any monuments are disturbed, the Applicant is responsible for re-establishing the monuments upon completion of the permitted work. Re-establishing of monuments shall be performed by a duly licensed land surveyor and a corner record shall be filed in accordance with State law at Applicant's sole expense.
29. The applicant/operator shall have monitoring cameras in the exterior and interior of the building at all times to the satisfaction and approval of the Police Chief. The applicant shall always maintain the surveillance equipment in working order and keep the video recordings for 30 days to be made available to law enforcement upon request.

Utilities and Drainage:

30. Subject to the review and approval of the Los Banos Public Works Department, project improvement plans shall include Best Management Practices (BMPs) to reduce the introduction of oils and other contaminants to the Los Banos storm water drainage system and main canal. Water quality safeguards shall be

installed prior to occupancy of the parking lots. A water quality Best Management Practices plan shall be implemented upon occupancy.

31. A trash enclosure shall be built according to City specifications; colors, materials, and textures matching those of the main building, and provide for recycling services within. A concrete apron is required across the width of the trash enclosure opening that shall extend a minimum depth of ten feet in front of the opening. The location shall be specifically shown on the improvement plans and approved by the Community and Economic Development Director. The trash enclosure shall be large enough to accommodate the solid waste, recyclables, and wet waste. The trash bins shall have lids and the enclosure must be properly screened. The enclosure needs to follow City Standards and Specifications as well as Republic Services Standards.
32. All ground and rooftop mounted electrical, plumbing and mechanical equipment shall be screened from view of the public right-of-way by continuous parapet wall or landscaping or combination thereof.

Signage:

33. A Sign Review application, consistent with the provisions of the City's Sign Ordinance shall be submitted to the Community and Economic Development Department for review prior to the issuance of a building permit for any new or revised signage.
34. All advertising signage shall be subject to Sign Review and permit approval from both the Community and Economic Development and Building Departments, prior to installation, consistent with the development criteria of the Los Banos Municipal Code Sign Ordinance.
35. All temporary signage shall be in conformance with the Los Banos Municipal Code.
36. The applicant/operator shall provide signs prohibiting loitering on the property and/or building subject to the approval of the Community and Economic Development Director.

Design/Aesthetics:

37. The design of the improvements shall be conforming to the approved site plan. Any significant changes in color or architecture (i.e. paint, texture, material) shall require prior written approval by the Community and Economic Development Director or Planning Commission approval. The applicant shall maintain the color as presented in the site plan for the life of the project. Any changes to the site plan as to color or architecture shall require prior written approval by the Community and Economic Development Director or Planning Commission. This condition shall run with the land and be binding on successors in interest and shall be applicable beyond the issuance of an occupancy permit.

38. Downspouts shall be located within the building walls or architecturally integrated into the design and color of the structures, and there shall be no drainage across the public access ways or across the public right-of-way.
39. All rooftop mechanical equipment and appurtenances shall be screened from view from the public right-of-way and adjacent properties.

Fire Department

40. There shall be a permanent sign on the exterior of the fire control room stating "Fire Control Room".
41. There shall be HVAC smoke detector test and reset switches in the fire control room.
42. There shall be a main electrical disconnect located on the exterior of the building for Fire Department use only.
43. Commercial grade Knox Boxes shall be required on the exterior of the building in the area of the front entrance. An application can be obtained through the Fire Department. The Knox Box shall have a FDC locking cap.
44. A fire alarm control panel shall be located within the fire control room. A minimum of one (1) pull station and one (1) audio visual station shall be provided within 5' of the front entrance. The fire alarm system shall be plan checked and approved by the Los Banos Fire Department. These plans shall be through deferred submittal to the Fire Department.
45. The development shall be required to follow National Fire Protection Association (NFPA) Section Numbers 58-6.5 and 58-6.6.
46. A 10" address of contrasting color shall be provided on the southern and eastern elevations to the satisfaction of the Fire Chief.
47. The applicant/developer shall evaluate the cooking hood fire suppression system to determine if compliant. If it is found to not be in compliance, it shall be upgraded.

Public Works

48. The developer/applicant shall prepare improvement plans (separate from the building plans) submitted to the Public Works Department for the entire site and plans shall be approved by the City Engineer prior to the start of any site work. Included in those improvement plans shall be, but not limited to, topography, site, grading and drainage, utilities, circulation striping and signage, landscape, on and offsite lighting (street frontage), and offsite improvements. These improvements shall be installed per City of Los Banos Standards.

49. There shall be an ADA compliant "path of travel" extending to the building.
50. The existing and proposed utilities shall be shown on the improvement plans.
51. A Storm Water Pollution Prevention Plan (SWPPP) shall be generated if the property is greater than 1-acre. In any case Construction and Post-Construction Best Management Practices (BMP's) shall be implemented to the City's MS-4 Phase II designation.
52. The developer/applicant shall prepare a grading and drainage plan prior to the issuance of a building permit. The grading and drainage plan shall be prepared per City standards and shall be approved by the City Engineer prior to the commencement of grading and work of any kind.
53. All storm drainage shall be piped and will not be allowed to go over the driveway.
54. The Landscape Plan shall be designed to have trees meet the City Shade Canopy requirements of 50% parking stall coverage in 5 years over the parking lot area.
55. The Landscape Plan shall include areas between back of curb and edge of sidewalk.
56. Storm drain, water main, and sanitary sewer main line improvements shall be installed by the developer/applicant per the City of Los Banos Utility Master Plans.
57. All new utility services are to be under-grounded and all overhead utilities existing within the property shall be placed underground.
58. All development fees, including but not limited to all inspection fees, processing fees, landscape and light plan fees, and improvement plan fees shall be paid prior to issuance of the building permit.
59. All work performed within/adjacent to the State Right-of-Way will be subject to Caltrans Standards and Specifications, including an encroachment permit.
60. Prior to occupancy, the Developer shall form or annex the Subject Property to a Lighting and Landscaping District created for purposes of maintaining public landscape areas, signage and public lighting including a share of traffic signal maintenance costs as authorized pursuant to the Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code, and Article XIID of the California Constitution. The form, terms and conditions and the tax rate for the formation of the Lighting and Landscaping District, or in the alternative the annexation of the Subject Property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. It is the intent of the parties that the assessment of the Subject

Property will be apportioned to each parcel in proportion to the special benefit it receives. District formation or annexation shall be at the sole cost of the Developer.

61. The following note shall be on all improvement plans: The Contractor shall be responsible for protecting and preserving survey monuments and other survey markers. Any survey monuments damaged as a direct result of construction activities shall be re-established by a duly licensed land surveyor at the Contractor's sole expense. A corner record shall be filed in accordance with State law for any reset monuments at the Contractor's sole expense.

Community & Economic Development:

62. The applicant shall acknowledge and execute receipt of a copy of the foregoing Conditions of Approval.
63. No driveway access shall be granted off of Washington Avenue.
64. The applicant/operator shall be responsible for maintaining the exterior of the building free of litter and trash at all times including the parking lot areas in front and in the rear of the building. No storage of equipment, supplies, or merchandise of any kind shall be allowed in the front exterior of the building. All deliveries shall be made from the rear of the building.
65. Site Plan approval is subject and contingent upon inter-governmental review from Caltrans.
66. **This approval is conditioned upon and shall be effective upon payment in full of all outstanding invoices pursuant to the Cost Recovery Contract.**





City of
Los Banos
At the Crossroads of California

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

Date: May 12, 2017

Regarding: Notice of Public Hearing

Proposal: Site Plan Review #2017-04 – Burger King Remodel and Expansion

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider Site Plan Review #2017-04 and CEQA Exemption for the remodel and expansion of an existing 2,905 square foot Burger King Restaurant by 330 square feet. The project site is located within the Highway Commercial zoning district at 525 Pacheco Boulevard; more specifically identified as Assessor's Parcel Number: 026-063-021.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission on Wednesday, May 24, 2017, 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, Community and Economic Development Director at City Hall or at (209) 827-7000, Ext. 133.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

Additional information may be obtained from the Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Stacy Souza Elms
Community and Economic Development Director



City of
Los Banos
At the Crossroads of California

PLANNING COMMISSION STAFF REPORT

TO: CHAIRMAN CATES & PLANNING COMMISSIONERS

FROM: STACY SOUZA ELMS, COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR 

DATE: MAY 24, 2017

SUBJECT: SPECIAL EVENTS ORDINANCE

RECOMMENDATIONS:

1. That the Planning Commission adopt Resolution No. 2017-18 recommending adoption to the City Council of an amendment to the Special Events Ordinance Relating to Departmental Service Charges.

DISCUSSION:

On September 21, 2016, the Los Banos City Council adopted Resolution No. 5798 amending the application permit fees for special events. In addition, the City Council directed staff to coordinate stakeholder meetings to review and provide a recommendation for potential changes for City Council consideration. The City Council appointed two Council Members to participate in these meetings and temporarily suspended special event departmental service charges until further City Council consideration and action could be taken on the existing Ordinance.

On November 18, 2016 and January 9, 2017, Special Events Stakeholder Meetings were held to discuss the existing Ordinance, permit process, application fees, and departmental service charges associated with each Special Event Permit and a recommendation was provided to staff to bring forward to the City Council for consideration.

On April 19, 2017, the Los Banos City Council directed staff to prepare an amendment to the existing Special Events Ordinance to allow the waiver or partial waiver of departmental service charges relative to special events and establish a policy establishing criteria for such considerations to be granted.

The amendment to the Special Events Ordinance requires a recommendation from the Planning Commission to the City Council as the Ordinance is located within the Zoning Code. The proposed minor amendment is based on City Council direction and is highlighted in Attachment 2 (9-3.4111(g)).

The City Council will also consider a policy establishing waiver or partial waiver of departmental service charges relative to special events. The purpose of the policy is to set forth criteria for City Council consideration of a waiver or partial waiver. The consideration of waiver or partial waiver would only be applicable to major events (i.e. parades or similar events) as directed by the City Council and would be required to meet the following criteria subject to the sole discretion of the City Council:

- Not for profit organization serving primarily the citizens of Los Banos with tax exempt status
- Open to public free of charge
- Active service to community for one year prior to event
- A major event that has occurred at least one time previously with a Special Event Permit
- Benefits or enhances business community, provides cultural enrichment
- Event is of citywide significance
- Not a religious or political event
- Cultural, social, or recreational benefit to community
- Any other criteria as established by the City Council

The policy establishes the following events to be exempt from departmental service charges because of their long standing community based events and/or benefit to the community: May Day Parade, Veterans Day Parade, and Christmas Parade, subject to no intensification of the event.

Organizations requesting to be eligible for fee waivers may be considered upon filing a letter of request to the City. The City Council will have the sole authority to approve fee waivers or partial waivers based on the established criteria.

ATTACHMENTS

1. Resolution 2017-18
2. Proposed Ordinance Amendment
3. Public Hearing Notice – April 12, 2017

RESOLUTION NO. 2017-__

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN AMENDMENT TO THE SPECIAL EVENTS ORDINANCE RELATING TO DEPARTMENTAL SERVICE CHARGES

WHEREAS, The City Council directed the Community and Economic Development Department to review the Special events Ordinance relative to Application Fees and Departmental Service Charges for special events;

WHEREAS, the Community and Economic Development Department held stakeholders meetings to receive input from the public on Application Fees and Departmental Service Charges for special events;

WHEREAS, the Stakeholders suggested changes to the way Departmental Service Charges were applied to various types of special events;

WHEREAS, on May 10, 2017 the Planning Commission conducted a duly noticed public hearing on the proposed ordinance amendment at which time all individuals desiring to comment on the proposed ordinance amendment were heard;

WHEREAS, the proposed ordinance is attached hereto and incorporated herein by this reference as Attachment A; and

WHEREAS, the proposed ordinance does not propose any changes to City policies or regulations that would result in a direct or indirect physical environmental impact; therefore it has been determined that the proposed ordinance is covered by the general rule that the California Environmental Quality Act applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA guidelines Section 15061 (b)(3) and is not subject to environmental review.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Los Banos does hereby finds that the above recitals are true and correct and recommends that the City Council of the City of Los Banos consider and approve the attached ordinance entitled "An Ordinance of the City Of Los Banos Amending Section 9-3.411 of Article 41 Chapter 3 to Title 9 of the Los Banos Municipal Code Relating to Special Events on Public Property

The foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 10th day of May 2017, 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:

John Cates, Planning Commission Chairman

ATTEST:

Sandra Benetti, Planning Commission Secretary

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF LOS BANOS AMENDING SECTION 9-3.411 OF ARTICLE 41 CHAPTER 3 TO TITLE 9 OF THE LOS BANOS MUNICIPAL CODE RELATING TO SPECIAL EVENTS ON PUBLIC PROPERTY

WHEREAS, The City Council directed the Community and Economic Development Department to review the Special events Ordinance relative to Application Fees and Departmental Service Charges for special events;

WHEREAS, the Community and Economic Development Department held stakeholders meetings to receive input from the public on Application Fees and Departmental Service Charges for special events;

WHEREAS, the Stakeholders suggested changes to the way Departmental Service Charges were applied to various types of special events;

WHEREAS, on May 10, 2017 the Planning Commission conducted a duly noticed public hearing on the proposed ordinance amendment at which time all individuals desiring to comment on the proposed ordinance amendment were heard;

WHEREAS, on May 10, 2017 the Planning Commission adopted Resolution No. 2017 - ____ recommending that the City Council adopt an ordinance amending the Special Events Ordinance relating to Departmental service Charges; and

WHEREAS, the City Council conducted a duly noticed public hearing on the recommended changes to the Special Events Ordinance on June __, 2017 at which time all individuals desiring to comment on the proposed amendments were heard.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF LOS BANOS DOES ORDAIN AS FOLLOWS:

Section 1. Section 9-3.411 of Article 41, Chapter 3 Title 9 of the Los Banos Municipal Code is amended to read as follows:

Sec. 9-3.4111 Departmental Service Charges—Refunds.

(a) In addition to the payment of the nonrefundable permit application fee, a permittee shall pay the City for all city departmental service charges, as the same are defined in this Article, which are incurred in connection with or resulting from the permittee's activities under the permit.

(b) If city property is destroyed or damaged by reason of the event, the permittee shall reimburse the City for the actual replacement or repair cost of the destroyed or damaged property.

(c) Each permittee shall be jointly and severally liable for the payment of fees and charges required by this Article.

(d) City Billing. City departments shall submit the final invoices and billings for departmental service charges to the permittee(s) no later than ten (10) working days after the expiration date of the permit.

(e) Cash Deposit. As a condition precedent to the issuance of a permit authorizing an event, the permittee shall pay to the City a cash deposit in an amount sufficient to cover all applicable fees, including the total City departmental charges which the City estimates will be incurred in connection with the permit.

(f) Refunds. If a permittee is unable to hold or conduct an event because of inclement weather or some other cause beyond the control of the permittee, and submits a written request to the city manager for a refund of fees within ten calendar days after the date the event was to be held, the city manager may authorize a refund of fees or a prorated portion thereof, except for the nonrefundable application fee.

(g) Exemption or Partial Waiver of the Departmental Service Charges. The City Council may grant an exemption or a partial waiver of the departmental services charges.

Section 2. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 3. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 4. The proposed amendments to the Los Banos Municipal Code do not propose any changes to City policies or regulations that would result in a direct or indirect physical environmental impact; therefore it has been determined that this ordinance amendment is covered by the general rule that the California Environmental Quality Act applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA guidelines section 15601(b)(3) and is not subject to environmental review.

Section 5. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance;

and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member _____ and seconded by Council Member _____ on the ____ day of _____, 2017.

Passed on the ____ day of _____, 2017 by the following vote:

AYES: Council Members

NOES:

ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk



City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: May 12, 2017

Regarding: Notice of Public Hearing

Proposal: Special Event Ordinance Amendment

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider a recommendation to the Los Banos City Council to amend the Special Events Ordinance.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos Planning Commission on Wednesday, May 24, 2017, 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, Community and Economic Development Director, at City Hall or at (209) 827-7000, Ext.133.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described item in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

Additional information may be obtained from the Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Stacy Souza Elms
Community and Economic Development Director