

**CITY OF LOS BANOS  
PLANNING COMMISSION REGULAR MEETING MINUTES  
JULY 12, 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:** Vice Chairperson McCoy 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 David Dees, Brett Jones, Refugio Llamas, Erik Limon, Palmer McCoy, and Susan Toscano; John Cates absent.

**STAFF MEMBERS PRESENT:** Community & Economic Development Director Elms, Associate Planner Rudy Luquin, Planning Technician Sandra Benetti, and City Attorney William A. Vaughn.

**CONSIDERATION OF APPROVAL OF AGENDA:** Motion by Dees, seconded by Jones to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Cates absent.

**CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF JUNE 28, 2017.** Motion by Limon, seconded by Llamas to approve the minutes as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Cates absent.

**PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE PLANNING COMMISSION 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.** Vice Chairperson McCoy opened the public forum.

MARLENE SIEMILLER ALVES, Marlene's Signs & Designs, spoke of signage issues downtown, the need to form a sign committee to involve local business owners, spoke of how local businesses are scared of Code Enforcement who is issuing citations to those who are not in compliance, how the current code is unfair to business owners, and the need to address these concerns.

JOHN D. AGUILAR, Los Banos, spoke of his concern regarding signage, how he lived in San Jose for 30 years, how there aren't any problems in San Jose regarding signage, his business is to sell to the public, spoke of being in the army twice, how he was a broker for 20 years, paid his license fees, how it is important to have signage so he could advertise his business, his concern regarding having to pay for a permit in order to get a permit, how the City charges fees when utility bill payments are received late and water is turned off, and how he pays income tax.

[NAME WITHHELD], location of residency unknown, spoke of how he doesn't believe in standing for the pledge of allegiance, asked where administrative fees go that are charged to people, how beautification act is a great idea but it hasn't gone anywhere, the lack of programs for homeless to get a business license or to get off the street, and asked the Commission to have more of an effect on the community and reach people.

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

**PUBLIC HEARING – TO CONSIDER A CEQA EXEMPTION AND A CONDITIONAL USE PERMIT TO ALLOW THE OPERATION OF A LARGE FAMILY DAY CARE FACILITY FOR LITTLE HANDS DAYCARE, OPERATED BY HEATHER SCHAEFER, LOCATED IN THE LOW DENSITY RESIDENTIAL ZONING DISTRICT AT 1517 MAYWEED DRIVE, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 430-032-018.**

Community & Economic Development Director Elms recused herself from the Council Chambers at 7:17 p.m. due to a conflict in living within 500 feet of this project site.

Associate Planner Luquin presented the staff report, which included a PowerPoint presentation, noting that one comment was received via email regarding parking, and noted that the applicant was present to answer any questions.

Commissioner Dees inquired how many employees would be at this facility.

Associate Planner Luquin responded that the state requires an additional provider after 8 children.

Commissioner Dees inquired if that means that the facility could have as many 14 kids with only 2 providers.

City Attorney Vaughn responded that small and large family daycares are favored by the state to be in residential areas and the state has preempted local jurisdictions from regulating anything above noise, parking, and traffic; and reminded the Commissioners that they are charged with zoning and planning type questions and not operational questions since that is regulated through the state.

Commissioner Dees spoke of his concern regarding parking for a business in a residential area.

City Attorney Vaughn responded that parking for up to two vehicles is required and spoke of how, historically, dropping off and picking up at these facilities are at different hours and doesn't usually occur at one time.

Commissioner Dees spoke of his concern regarding the mailing of notices to a 300 foot radius and how that doesn't take into account future property owners who may be concerned about this operation, and his concern regarding traffic.

Commissioner Jones inquired how close the next closest large family daycare is.

Associate Planner Luquin responded that the nearest one is located at 1027 Cardoza Road, which is over 2,000 feet away.

Commissioner Jones inquired about the nearest small family daycare.

Associate Planner Luquin responded that the code only speaks to large family daycares.

Commissioner Limon spoke of large family daycares, how his wife operates one, traffic being minimal, and how kids are dropped off at staggered times.

Commissioner Dees inquired how we can mitigate issues around traffic.

City Attorney Vaughn responded that could be done by requiring staggered hours of loading and loading time and point and stated that it has to be such a substantial problem that it cannot be mitigated with conditions.

Vice Chairperson McCoy opened the Public Hearing.

HEATHER SCHAEFER, Little Hands Daycare owner, spoke of how she and her husband run the daycare and they both park in their garage, how she has never had any complaints or issues, how she has been in business for almost eleven years.

Commissioner Dees thanked her for coming forward and answering questions, spoke of the need to have great quality daycare here, this being in a brand new development, really important to get it right and do the right thing, not being against the operations, just want to understand it, and wants to make sure neighbors will be happy with her there.

Commissioner Limon inquired about the applicant moving multiple times and spoke of feeling for her.

Ms. Schaefer explained why she had moved and how this will be her final location.

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

Vice Chairperson McCoy inquired how we monitor that notice about parking has been given to parents.

Associate Planner Luquin responded that he presumes that staff would receive a copy for the file.

Commissioner Jones commented that this location is a little more open than her previous location on the street.

City Attorney Vaughn stated that there is ample open space for parking here compared to her previous location on a cul-de-sac.

Ms. Schaefer stated that she never had to follow a requirement in the past regarding sending a notice to parents regarding parking but does talk to them and let them know, and stated that she will do it if it is a condition.

Commissioner Llamas stated that this applicant knows the process and is well versed in the requirements for this permit and he sees no issues in approving this permit.

Motion by Limon, seconded by Jones to adopt Planning Commission Resolution No. 2017-20 – Approving Conditional Use Permit #2017-01 to Operate a Large Family Day Care in the Low Density Residential Zoning District (R-1) Located at 1517 Mayweed Drive, More Specifically Identified as Assessor's Parcel Number: 430-032-018. The motion carried by the affirmative action of all Planning Commission Members present; Cates absent.

Community & Economic Development Director Elms returned to her seat at 7:48 p.m.

**PUBLIC HEARING – TO CONSIDER THE SAN LUIS ESTATES MITIGATED NEGATIVE DECLARATION (SCH #2016101002) AND ASSOCIATED VESTING TENTATIVE TRACT MAP #2015-03 FOR THE SUBDIVISION OF APPROXIMATELY 5.5 ACRES INTO 25 SINGLE-FAMILY RESIDENTIAL LOTS RANGING FROM 6,000 SQUARE FEET TO 9,519 SQUARE FEET, LOCATED ON THE SOUTH SIDE OF SAN LUIS STREET BETWEEN JEFFREY ROAD AND MILLER LANE, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 428-121-012.**

Community & Economic Development Director Elms presented the staff report, which included a PowerPoint presentation, noting that there were comment letters received which were incorporated into the staff report, and noted that the applicant was present to answer any questions.

Commissioner Dees inquired about the concerns that were outlined by the Native American Daughters group in their comment letter.

Community & Economic Development Director Elms responded that it was about tribal cultural resources and was just letting staff know that there was an update with CEQA and we needed to be in compliance, spoke of how she contacted the land use attorney who assured her that the text was amended and there is a grace period, and how the City did an addendum to cover all bases to be in compliance with the concerns listed in the letter.

Commissioner Toscano spoke of her concerns regarding traffic at San Luis Street and Mercey Springs Road.

Community & Economic Development Director Elms spoke of Mercey Springs being a state highway and how Caltrans did provide comment letter agreeing with the traffic impact analysis.

Vice Chairperson McCoy opened the Public Hearing.

GEARY COATS, Coats Consulting, spoke on behalf of the property owner regarding this being an infill site with existing services and utilities, went through several renditions of design of this development, in compliance with school district regarding fees, and thanked staff and the Commission for their consideration.

Commissioner Toscano stated that the development has two cul-de-sacs off of San Luis Street and inquired about those addresses and street names.

Mr. Coats stated that the developer will label the street names.

Community & Economic Development Director Elms stated that addresses are created by the Fire Chief and street names have to be approved by staff.

Commissioner Jones inquired if the land owner plans on building homes.

Mr. Coats responded that the property owner is a builder but has been in contact with someone who is interested in building the lots, but it is subject to negotiations.

Commissioner Jones inquired when they will break ground if the owner does it.

Mr. Coats responded that they would do so by Spring 2018.

Vice Chairperson McCoy inquired if the property owner is aware of property rights with the Central California Irrigation District (CCID).

Mr. Coats responded that he is aware.

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

Vice Chairperson McCoy inquired if there is a groundwater well there.

Community & Economic Development Director Elms responded that staff is not aware of one but the condition to remove the well is incorporated just in case one is found.

Motion by Limon, seconded by Toscano to adopt Planning Commission Resolution No. 2017-21 – Approving Mitigated Negative Declaration (SCH#2016101002), Addendum, and Mitigation Monitoring/Reporting Plan for the San Luis Estates Located on the South Side of San Luis Street between Jeffrey Road and Miller Lane, More Specifically Identified as Assessor’s Parcel Number: 428-121-012. The motion carried by the affirmative action of all Planning Commission Members present; Cates absent.

Motion by Dees, seconded by Llamas to adopt Planning Commission Resolution No. 2017-22 – Approving the San Luis Estates Vesting Tentative Tract Map No. 2015-03 for the Subdivision of Approximately 5.5 Acres into 25 Single-Family Residential Lots Located Generally on the South Side of San Luis Street, between Jeffery Road and Miller Lane, More Specifically Identified as Assessor’s Parcel Number: 428-121-012. The motion carried by the affirmative action of all Planning Commission Members present; Cates absent.

Vice Chairperson McCoy called for a five minute recess at 8:18 p.m.

The Planning Commission meeting resumed at 8:23 p.m.

**PUBLIC HEARING – TO CONSIDER A RECOMMENDATION TO THE LOS BANOS CITY COUNCIL REGARDING THE LOS BANOS GENERAL PLAN LAND RESOURCES AMENDMENT AND DRAFT SUBSEQUENT ENVIRONMENTAL IMPACT REPORT (SCH #2016051033) (CONTINUED FROM JUNE 28, 2017).**

Community & Economic Development Director Elms presented the staff report, which included a PowerPoint presentation, noted that two comment letters were received, and noted that Richard James with EMC Consulting & Planning Group was present to answer questions as well.

Vice Chairperson McCoy opened the Public Hearing.

BREANNE RAMOS, Executive Director for Merced County Farm Bureau, spoke of how her agency will continue to request the City to put in place a policy with one on one mitigation.

JEFF ROBERTS, Assemi Group, spoke of also working as a farmer, in favor of staff recommendations, how there is a condition in the SEIR that is pretty firm, how this is a lot of cleanup of language to make it consistent with what is in place already, the use of conservation easements isn’t as common as some people think, how it is actually pretty rare in many places around California, how his organizations also own land inside the City of Los Banos as well as outside the boundaries, and spoke of being concerned

about Los Banos placing themselves at a competitive disadvantage with a policy like agricultural mitigation in place.

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

Commissioner Jones inquired if staff is just cleaning up language.

Community & Economic Development Director Elms responded that staff is essentially cleaning up language, addressed the graphic within that staff report which cleans up Figure 5-4 and is critical and needs to be corrected so we don't have conflict with important farmland designations, how doing this would not impact existing developments, it needs to be cleaned up for future annexations for consistency, and it is a hurdle staff has to go over each time projects are analyzed environmentally.

Commissioner Jones inquired what entitlements it affects.

Community & Economic Development Director Elms responded that it only affects annexations.

Commissioner Jones inquired if it saves money for the City or creates more studies.

Community & Economic Development Director Elms responded that it doesn't create more studies, but it helps us correctly identify what is out there.

Commissioner Dees inquired if this will affect future development in the sense that we are trying to conserve farmland and the cost will go up any time someone wants to develop.

Community & Economic Development Director Elms responded by stating that would be the case if we entertained the request by LAFCo and Farm Bureau to provide a conservation easement or mitigation agreement, it would at that point increase cost of development, City sees it as an economic disadvantage to Los Banos and cities around us if we implement that, we haven't included that as a mitigation measure, but we have included a mitigation measure to existing measures to ensure ag land isn't prematurely converted.

City Attorney Vaughn spoke of how the main findings for the project have to be consistent with general plan which is this document, since there was an erroneous classification on some of the properties within sphere of influence and city limit it is inconsistent to have farmland that is categorized with urban development on it and have to jump through these hoops each time a finding has to be made, this is just to clean it up to accurately reflect what the current land use is, a Subsequent Environmental Impact Report will be done to study the environmental affect of doing that, this is essentially a clerical change, the consultant has clearly identified that and the responses to those comments, how this is not a new general plan, just making it more consistent with what we are actually doing, how there is minimal change other than

correcting an error, it would not be creating less or more farmland or development, and how we are not doing a new general plan right now or opening it up to analyze the entire general plan at this time.

Vice Chairperson McCoy stated that his job depends on ag, spoke of private rights, how he has a hard time telling people what they can and cannot do, and the need to be cognizant that land belongs to families and farmers.

City Attorney Vaughn stated that you have that competing interest versus the interest of what that particular landowner may be doing environmentally, that is why there are groups like the Farm Bureau who have special interests, balance this with environmental concern, CEQA process is complex, and how we are trying to mesh all of these competing interests and principles by following this process.

Motion by Dees, seconded by Limon to adopt Planning Commission Resolution No. 2017-23 – Certifying a Subsequent Environmental Impact Report (SCH#2016051033), and Mitigation Monitoring/Reporting Plan for the Los Banos General Plan Land Resources Amendment. The motion carried by the affirmative action of all Planning Commission Members present; Cates absent.

Motion by Limon, seconded by Dees to adopt Planning Commission Resolution No. 2017-24 – Recommending Approval to the City Council of the Los Banos General Plan Land Resources Amendment. The motion carried by the affirmative action of all Planning Commission Members present; Cates absent.

### **COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT.**

Community & Economic Development Director Elms introduce Associate Planner Rudy Luquin who just joined us and spoke of his background in planning.

Associate Planner Luquin spoke of being excited to join the City of Los Banos and feels it will help further his involvement with the City.

### **PLANNING COMMISSION MEMBER REPORTS.**

**CATES:** Absent.

**DEES:** Welcomed Associate Planner Luquin, spoke of Harbor Freight Tools which had their grand opening, and thanked staff for their work and explanation for the last public hearing item.

**JONES:** No report.

**LIMON:** Welcomed Associate Planner Luquin and spoke of doing an interview on ABC 30 Action News this morning.

**LLAMAS:** No report.



**McCOY:** Welcomed Associate Planner Luquin and inquired about the public forum comments regarding signage and utility payments.

Community & Economic Development Director Elms reminded the Commission that public comment can only be in the realm of the jurisdiction of the Planning Commission, so the comment on utility payments is out of that realm, and spoke of how the comments regarding signage is being addressed and will go to the City Council.

Commissioner Toscano inquired what Ms. Siemiller Alves meant regarding taking down signage.

Community & Economic Development Director Elms responded that several businesses on I Street have not been in conformance with the sign code and have been approached by Code Enforcement.

Vice Chairperson McCoy inquired how to address a concern about shutting off water for a veteran.

Community & Economic Development Director Elms responded that he should talk to the Finance Director.

**TOSCANO:** Welcomed Associate Planner Luquin.

**ADJOURNMENT:** The meeting was adjourned at the hour of 9:23 p.m.

APPROVED:

*/s/ John Cates*  
John Cates, Chairperson

ATTEST:

*/s/ Sandra Benetti*  
Sandra Benetti, Planning Technician