

**CITY OF LOS BANOS
PLANNING COMMISSION REGULAR MEETING MINUTES
AUGUST 22, 2018**

***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 Spada.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Planning Commission Members John Cates, David Dees, Brett Jones, Palmer McCoy, Tom Spada, and Susan Toscano.

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 McCoy, seconded by Spada to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission Members present.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF JULY 11, 2018. Motion by McCoy, seconded by Spada to approve the minutes as submitted. The motion carried by the affirmative action of all Planning Commission Members present.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE ADJOURNED JOINT CITY COUNCIL/ PLANNING COMMISSION MEETING OF JULY 25, 2018. Motion by Spada, seconded by Dees to approve the minutes as submitted. The motion carried by the affirmative action of all Planning Commission Members present.

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.

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

PUBLIC HEARING – TO CONSIDER A CONDITIONAL USE PERMIT AND CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO SECTION 15301 (EXISTING FACILITIES) TO ALLOW THE USE AND OPERATION OF A HOME OCCUPATION BUSINESS INVOLVING EMPLOYEES WITHIN THE LOW DENSITY RESIDENTIAL ZONING DISTRICT (R-1) FOR REECE BLEVINS DBA: REECE’S PAINTING LOCATED AT 1845 CHABOT COURT, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBER 083-404-028 (CONTINUED FROM AUGUST 8, 2018). Associate Planner Luquin presented the staff report, which included a PowerPoint presentation, and noted that the public hearing was continued from August 8, 2018.

Commissioner Spada stated that the applicant doesn’t plan on having employees at the house and inquired why he needs this Conditional Use Permit.

Associate Planner Luquin responded that the Los Banos Municipal Code allows a Home Occupation business license in a residential zoning district as a use by right but if they want employees then they need a Conditional Use Permit.

Commissioner Spada clarified his question and asked if that was true even if they aren’t at the home.

Community & Economic Development Director Elms responded that the Los Banos Municipal Code does not take that into consideration.

Commissioner Spada inquired if the code can be changed since this doesn’t make much sense.

Community & Economic Development Director Elms responded that this has been a discussion we’ve had at the staff level, how staff will work on it, but this business needs a business license now so that’s why we are here, and how staff does agree that the code should be amended.

Commissioner Dees spoke of his support for this idea to amend the code and how this seems to be very wasteful of time and money.

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

Motion by Dees, seconded by Spada to adopt Planning Commission Resolution No. 2018-15 – Approving Conditional Use Permit #2018-07 for the Use of a Home Occupation with Employees within the Low-Density Residential Zoning District (R-1) Located at 1845 Chabot Court, More Specifically Identified as Assessor’s Parcel

Number 083-404-028. The motion carried by the affirmative action of all Planning Commission Members present.

PUBLIC HEARING – TO CONSIDER A STATUTORY EXEMPTION FROM CEQA PURSUANT TO SECTION 15268 (MINISTERIAL PROJECT) AND TO CONSIDER A RECOMMENDATION TO THE LOS BANOS CITY COUNCIL TO ADOPT AN ORDINANCE TO ESTABLISH THE REGULATION AND PROCESSING OF ACCESSORY BUILDINGS AND STRUCTURES (SHADE CANOPIES, PATIO COVERS, SHEDS, CARPORTS, AND OTHER OUTBUILDINGS OR STRUCTURES) IN THE LOW DENSITY AND MEDIUM DENSITY RESIDENTIAL ZONING DISTRICTS (R-1 AND R-2) (CONTINUED FROM JULY 11, 2018 AND AUGUST 8, 2018).

Community & Economic Development Director Elms presented the staff report, which included a PowerPoint presentation, noted that the public hearing was continued from July 11, 2018 and August 8, 2018, and covered the specifics and revisions to the shade canopy requirements.

Commissioner Dees asked for staff to define the term clear vision triangle and stated that it could be an issue in the future.

Community & Economic Development Director Elms responded that this would be a simple definition that we can add.

Commissioner Dees spoke of his concern that staff didn't discuss other details in this ordinance tonight including pool setbacks and pergolas.

Community & Economic Development Director Elms responded that the issues brought forth in the public hearing back in July were regarding shade canopies so that's why staff is addressing only that tonight.

City Attorney Vaughn stated that the entire ordinance was introduced at meeting back in July, how staff had said they would come back with relief for the comments and concerns presented at that meeting, and how the Planning Commission didn't direct staff to come back and present the entire ordinance again.

Commissioner Dees agreed to move forward then.

Commissioner Spada thanked staff and legal counsel for the work on this ordinance and addressing everyone's concerns and agreed that we should adjust the wording of the "clear vision triangle".

Commissioner Jones stated that this is actually common wording in other cities.

City Attorney Vaughn stated that there is a standard engineering definition for "clear vision triangle" and we'll talk to the City Engineer to ensure our definition conforms to that definition.

Commissioner McCoy commented that notices were mailed to interested parties and inquired how that list was determined.

Community & Economic Development Director Elms responded that the list included some properties that the Code Enforcement Division had contacted, as well as folks who came to the public meeting in January, and also from those who had spoken at the previous public hearing.

Commissioner McCoy inquired if everyone on that list will be notified when this is adopted by City Council.

Community & Economic Development Director Elms responded that staff will notify them of the adoption as well as send a registration form and walk them through that process and assured the Planning Commission that staff will do their best effort to let these folks know.

Commissioner McCoy stated that if there was a change in tenant that would require removal and inquired about what would happen if the owner wanted it there to stay.

Community & Economic Development Director Elms responded that it's a way to provide some relief to those actively using it, how it's always been against the code but never enforced, and how eventually they will all be phased out over time.

Commissioner McCoy inquired why the Conditions of Approval state that in ground pools needs a 3 foot fence and above ground needs 5 foot fence.

Community & Economic Development Director Elms responded that it's a typo and Condition of Approval #2 should say minimum height of 5 feet.

Chairperson Cates re-opened the continued public hearing. GUILIANO MEZZINA, Los Banos, thanked Planning Commission and staff since this has been a sore subject for a while, spoke of how the changes were rectified so existing shade canopies can be grandfathered, and thanked everyone for listening and addressing the problem fairly; GAVINO VILLA, Los Banos, spoke of how he attended previous meeting at the community center, was embarrassed of some citizens behavior even though staff was trying to hear everyone out and do something about it, and thanked the Commission and staff.

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

Motion by Spada, seconded by Jones to adopt Planning Commission Resolution No. 2018-14 – Recommending to the City Council Adoption of an Ordinance Amending Article 18, Chapter 3, of Title 9 of the Los Banos Municipal Code and Adding Article 44 to Chapter 3, Title 9 relating to Accessory Buildings and Structures and adding definition to “Clear Vision Triangles”. The motion carried by the affirmative action of all Planning Commission Members present.

PUBLIC HEARING – TO CONSIDER A CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND A CONDITIONAL USE PERMIT TO ALLOW THE VARIATION OF THE HIGHWAY COMMERCIAL SIGN STANDARDS FOR ROSS DRESS FOR LESS LOCATED IN THE HIGHWAY COMMERCIAL ZONING DISTRICT AT 1400 MERCY SPRINGS ROAD, SUITE A, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBER: 083-130-053. Associate Planner Luquin presented the staff report, which included a PowerPoint presentation.

Commissioner Dees inquired if Savemart also asked for variation in signage allowance.

Community & Economic Development Director Elms responded that they did not get a variance for signage, but their frontage is much larger so they didn't need an extra allowance.

City Attorney Vaughn stated that the formula has a max that would trigger a Conditional Use Permit process if it's larger than what the threshold is in the code.

Commissioner Spada stated that this is a common sense move, how he absolutely supports it, and how he is thankful to Ross for bringing more jobs to Los Banos.

Commissioner Dees stated that it's always great to have new businesses in Los Banos, how he understands this is necessary, and how you can't see it from the highway very well.

Chairperson Cates opened the public hearing. MITCH CHEMERS, spoke on behalf of Ross Dress for Less, thanked staff and the Planning Commission, spoke of how the storefront is tucked away, carefully studied this site, creates parity in the shopping center, Savemart blocks the tenant space from Mercey Springs Rd., brings good balance, the sign is critical for identity, that minimum size is hypercritical, and how they appreciate staff's help.

Commissioner McCoy inquired if all Ross signs are plain white in the lettering.

JEFF SEELEY, West Coast Vice President of Real Estate for Ross Dress For Less, responded that there are two different signs, how one is white and the other is blue, and how the determination is based on background color of the façade.

Commissioner Jones inquired what determined them settling on this location versus other locations in town.

Mr. Seeley responded that this was his third attempt in finding a location in Los Banos, how other frontages didn't work, they looked at the old Savemart which went into foreclosure, how they have a relationship with the owner of the new Savemart building,

how they are excited for the new location, and how they feel this will be a very successful location.

Commissioner Spada inquired about the status on the entrance from Pacheco Boulevard into this shopping center.

Community & Economic Development Director Elms responded with a brief update that the property owner is still working on acquiring that access, working with Union Pacific Railroad for a private easements, Caltrans and City have also been involved, and how the City is supportive.

Chairperson Cates thanked Ross for bringing this business to Los Banos and securing a location here and thanked staff for working with the applicant as well.

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

Motion by McCoy, seconded by Dees to adopt Planning Commission Resolution No. 2018-16 – Approving Conditional Use Permit 2018-08 to Allow the Variation of the Highway Commercial Zoning District Sign Standards for Ross Dress for Less Located in the Highway Commercial Zoning District at 1400 Mercey Springs Road, Suite A, More Specifically Identified as Assessor's Parcel Number: 083-130-053. The motion carried by the affirmative action of all Planning Commission Members present.

PUBLIC HEARING – TO CONSIDER A CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND A CONDITIONAL USE PERMIT TO ALLOW THE OPERATION OF A PERFORMING ARTS AND FITNESS FACILITY (THE ACADEMY OF PERFORMING ARTS & FITNESS), OPERATED BY REGINALD GRIMES, LOCATED IN THE GENERAL INDUSTRIAL ZONING DISTRICT AT 150 WEST G STREET, SUITE I, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 081-110-013. Associate Planner Luquin presented the staff report, which included a PowerPoint presentation.

Commissioner Dees spoke of a previous applicant who came forward for a Conditional Use Permit in this location and how there were issues regarding the use of the bathroom.

Community & Economic Development Director Elms recapped that the Planning Commission asked to remove the Condition of Approval wording regarding supervision from an adult while the children use the bathroom, how Diversity Fitness/Elite Cheer had already confirmed in their operational statement that they would do that, and how there will also be a condition on the business license that she needs to operate in accordance with her operational statement.

Commissioner Dees stated that this location wasn't designed for this use and how this is inconsistent with the overall plan for the City.

Commissioner Jones spoke of how it is hard to judge based on other businesses there if there is a safety issue, how it is kind of up to the business owner themselves to determine if the location is suitable for them or if there are any issues, how the Planning Commission should only stop something from going in there if there is a legitimate problem.

Commissioner McCoy inquired if staff is looking at this area and changing the land use designation in the General Plan Update.

Community & Economic Development Director Elms responded that this has turned into more of a business park, how the City has a deficiency in locations suitable for fitness studios and gyms, how this business was previously located in a different industrial location which was recently purchased, and the new owner has not been interested accommodating her use/lease.

Commissioner McCoy stated that Condition of Approval #13 talks about cameras and inquired if it was also required for the previous applicant.

Community & Economic Development Director Elms responded that these Conditions of Approval are the same as what was approved for the previous applicant.

Chairperson Cates stated that it is the Planning Commission's responsibility to look out for health, safety, and welfare of the community.

Chairperson Cates opened the public hearing. GUILIANO MEZZINA, Los Banos, inquired if there is rear entrance access as well or if the access is only from the front, spoke of how that location will be a problem if they have to enter from Willmott Ave., and how he would suggest that the applicant look for a different location if there are children involved with this business.

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

Commissioner Dees responded to Mr. Mezzina's comments that Suite I appears to have two entrances with one thru the interior hallway and one from the exterior.

Motion by Spada, seconded by Jones to adopt Planning Commission Resolution No. 2018-17 – Approving Conditional Use Permit #2018-09 for a Performing Arts and Fitness Facility at 150 W. G Street, Suite I, More Specifically Identified as Assessor's Parcel Number: 081-110-013. The motion carried by the affirmative action of all Planning Commission Members present.

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT.

Community & Economic Development Director Elms thanked Mario Pena from Merced County Workforce Investment for being present tonight, reported that Commissioner Erik Limon has submitted his resignation from the Planning Commission effective today, read his resignation letter into the record, and spoke of how he will be missed, and how

great the National Night Out event was for the community, might be able to be at the Tomato Festival as well.

PLANNING COMMISSION MEMBER REPORTS.

CATES: Thanked staff and City Attorney Vaughn for their work on the accessory structures ordinance, appreciated comments from the community as well, sometimes this can be a thankless job, how we try to accommodate the best we can, sorry to see Erik Limon resign from the Planning Commission but much respect to him, how the solar project coming may help some of our commuters stay local, and the great turnout from National Night Out as well.

DEES: Spoke of how he is a member of the Workforce Development Board, gave a shout out to Mario Pena for his partnership, how Los Banos is getting a 2,000 acre solar project, how the project will go for about 3 years and employ about 200 people, and how this will help our economy grow.

JONES: No report.

McCOY: Thanked staff for sending him flowers during his time of bereavement.

SPADA: Apologized for missing the last Planning Commission meeting, spoke of how his wife was hospitalized for 8 days, and thanked staff for their work on putting together and preparing for these meetings.

TOSCANO: Inquired about the status of Wienerschnitzel and Sonic.

Community & Economic Development Director Elms responded that Wienerschnitzel still needs to work on a few things for their building permit and then it can be finalled and get their business license and stated that Sonic has submitted their civil improvement plans to the Engineering Division then will apply for their building permit.

ADJOURNMENT: The meeting was adjourned at the hour of 8:43 p.m.

APPROVED:

/s/ John Cates

John Cates, Planning Commission Chairperson

ATTEST:

/s/ Sandra Benetti

Sandra Benetti, Planning Technician