

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

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

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

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

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

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

CONSIDERATION OF APPROVAL OF AGENDA. Motion by Hammond seconded by McCoy to approve the agenda with the amendment of first hearing item 7B - Public Hearing – to Consider Recommending to the Los Banos City Council General Plan Amendment #2015-01, Zone Change #2015-01, and Tentative Parcel Map #2015-01 for Habitat Humanity Westside Merced County, Inc. for the Rezone of Three (3) parcels Currently Zoned Low Density Residential (R-1) into Medium Density Residential (R-2) with a Remainder 3,300 Square Foot Parcel to Highway Commercial (H-C), and to Re-subdivide Three (3) Existing Parcels into Four (4) Parcels with a Remainder Located on Assessor’s Parcel Numbers: 026-044-012, 013, and 014. 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 FEBRUARY 25, 2015. Motion by Cates seconded by Baker to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission Members present.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. Chairperson Spada opened the public forum. No one came forward to speak and the public forum was closed.

PUBLIC HEARING – TO CONSIDER RECOMMENDING TO THE LOS BANOS CITY COUNCIL GENERAL PLAN AMENDMENT #2015-01, ZONE CHANGE #2015-01, AND TENTATIVE PARCEL MAP #2015-01 FOR HABITAT HUMANITY WESTSIDE MERCED COUNTY, INC. FOR THE REZONE OF THREE (3) PARCELS CURRENTLY ZONED LOW DENSITY RESIDENTIAL (R-1) INTO MEDIUM DENSITY RESIDENTIAL (R-2) WITH A REMAINDER 3,300 SQUARE FOOT PARCEL TO HIGHWAY COMMERCIAL (H-C), AND TO RE-SUBDIVIDE THREE (3) EXISTING PARCELS INTO FOUR (4) PARCELS WITH A REMAINDER LOCATED ON ASSESSOR'S PARCEL NUMBERS: 026-044-012, 013, AND 014. Assistant Planner II Elms presented the staff report, which included a PowerPoint presentation.

Chairperson Spada opened the public hearing. Ned Ryan, Habitat for Humanity representative, spoke regarding their endeavors and emphasized that their projects will result in homeownership, and how only building one single family residential unit per parcel.

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

Assistant Planner II Elms recommended the addition of two conditions to Planning Commission Resolution #2015-06 that approval would be contingent on the City Council's approval of the general plan amendment and zone change as well as a condition that the orientation of the front of the lot of Parcel 4 would be on the 64 foot side.

Motion by Toscano seconded by McCoy to adopt Planning Commission Resolution No. 2015-05 – Recommending Approval of a General Plan Amendment and Zone Change for Property Located at 537, 543, and 547 M Street, More Specifically Identified as Assessor's Parcel Numbers: 026-044-012, 013, and 014. The motion carried by the affirmative action of all Planning Commission Members present.

Motion by Cates seconded by Hammond to adopt Planning Commission Resolution No. 2015-06 – Approving Tentative Parcel Map #2015-01 for the Re-subdivision of Three Parcels into Four Parcels with a Remainder on Assessor's Parcel Numbers: 026-044-012, 013, and 014 with the addition of a condition that approval would be contingent on the City Council's approval of the general plan amendment and zone change as well as a condition that the orientation of the front of the lot of Parcel 4 would be on the 64 foot side of the parcel. The motion carried by the affirmative action of all Planning Commission Members present.

PUBLIC HEARING – TO CONSIDER A VARIANCE FOR NOISE ASSOCIATED WITH CONSTRUCTION OF THE LOS BANOS COURTHOUSE PROJECT LOCATED AT 1159 G STREET, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 026-161-007. Assistant Planner II Elms presented the staff report, which included a PowerPoint presentation.

City Attorney Vaughn emphasized the Conditions of Approval #s 8-12 for this resolution.

Commissioner Baker inquired as to how other builders are able to abide by the municipal code while building during the hot hours of the day.

Assistant Planner II Elms spoke in terms of construction and how often times construction crews out here are mostly building houses and not two-story concrete steel buildings and emphasized that the State is trying to meet a deadline.

Commissioner Faktorovich spoke of his concern regarding how this may start a precedent in regards to variances for noise.

City Attorney Vaughn spoke of how each case is fact specific, how granting approval on one particular project doesn't necessarily allow every other project to have a noise variance, how it doesn't bind us to granting a variance every time a request comes through, how all requests are different from the next, OSHA rules having changed in regards to construction sites so employers are more aware of heat as a source of problems for employees and their need to mitigate heat exhaustion, how the Commission needs to decide if justification is appropriate and if conditions of approval have mitigated against any inconvenience to the general in regards to public health, safety, and welfare generated from the project, and how each request needs to be viewed as fact specific.

Commissioner Cates pointed out that former business Lindeman Produce was running 24/7 during the season, how he would assume that the decibel levels of this use would probably have exceeded the levels we are talking about today, how the nearby residential uses were also already present while Lindeman Produce was in business.

Commissioner Toscano inquired that if the applicant starts at 5:30 a.m., would they end by 2:30 p.m.

Assistant Planner II Elms responded that the variance is only for the applicant to begin before 7:00 a.m. and that the municipal code doesn't mandate them to stop at 2:30 p.m. She also stated that their operational statement said that the applicant would cease work during the hottest parts of the day.

Chairperson Spada spoke of how he would recommend no work until 9:00 a.m. on Sundays (no variance), need to restrict the level of sound when starting at 5:30 a.m., third party monitoring sound might be appropriate at the applicant's expense, his concern for the people living in the area, supports allowing them to start at 5:30 a.m. but how what they do should be limited, and how the noise level should not exceed 85 decibels with a time duration of 15 minutes until 7:00 a.m.

Commissioner Toscano suggested the addition of a condition that a noise barrier be added to the eastern boundary of the project area.

Commissioner McCoy inquired if the public hearing notice was published in other languages.

Assistant Planner II Elms responded that the public hearing notice was posted, published, and mailed out in English which is in accordance with government code.

City Attorney Vaughn responded that this is not an issue and is not required to be in other languages.

City Attorney Vaughn listed off the additional conditions that the Commission has accumulated so far that include no pile driving from 5:30 a.m.-7:00 a.m., no rock crushing from 5:30 a.m.-7:00 a.m., no variance for Sundays, the decibel level shall not exceed 85 over a 15 minute period from 5:30 a.m.-7:00 a.m., the applicant would pay the cost to measure the sound they are creating during those hours if requested, correction to item 12 that would state that sound barrier would be along the northern boundary and possibly may require to have a sound barrier for eastern boundary.

Commissioner Toscano suggested adding these conditions to the adoption of the resolution.

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

Motion by Faktorovich seconded by McCoy to adopt Planning Commission Resolution No. 2015-04 – Recommending Approval of Noise Variance Permit #2015-01 to Allow Construction Associated with the Los Banos Courthouse Project to Commence Work at 5:30 A.M. Each Day at the Location of 1159 G Street adding the conditions that no pile driving occur from 5:30 a.m.-7:00 a.m., no rock crushing occur from 5:30 a.m.-7:00 a.m., no variance for Sundays, the decibel level shall not exceed 85 over a 15 minute period from 5:30 a.m.-7:00 a.m., the applicant would pay the cost to measure the sound they are creating during those hours if requested, correction to item 12 that the sound barrier would be for the northern boundary, and the addition of a condition to have a sound barrier for eastern boundary. The motion carried by the affirmative action of Planning Commission Members Cates, Faktorovich, Hammond, McCoy, Spada, Toscano; Baker opposing.

PUBLIC HEARING – TO CONSIDER AND MAKE A RECOMMENDATION TO THE LOS BANOS CITY COUNCIL TO ADOPT A NEW UPDATE TO THE MOBILE VENDOR ORDINANCE LOCATED IN TITLE 9, CHAPTER 3, ARTICLE 36 OF THE LOS BANOS MUNICIPAL CODE. (CONTINUE TO MARCH 25, 2015).

Assistant Planner II Elms presented the staff report, noting the continuance of the meeting.

Chairperson Spada opened the public hearing. No one came forward to speak and the public hearing was continued to March 25, 2015.

Motion by McCoy seconded by Hammond to continue the Public Hearing to Consider and Make a Recommendation to the Los Banos City Council to Adopt a New Update to the Mobile Vendor Ordinance Located in Title 9, Chapter 3, Article 36 of the Los Banos Municipal Code to March 25, 2015. The motion carried by the affirmative action of all Planning Commission Members present.

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT. Assistant Planner II Elms spoke of the upcoming facility tour for the Planning Commission on Friday, spoke of a lot of exciting activity coming forward for this department, spoke of the planning and vision of dusting off old projects and bringing them back, signed off on eight residential permits today, preparing for the floodgates to open, and spoke of how busy the Planning Commission will be soon.

PLANNING COMMISSION MEMBER REPORTS.

BAKER: No report.

CATES: No report.

FAKTOROVICH: No report.

HAMMOND: No report.

McCOY: No report.

SPADA: No report.

TOSCANO: No report.

ADJOURNMENT. The meeting was adjourned at the hour of 8:25 p.m. to 1:00 PM, Wednesday, March 13, 2015 in the Council Chambers at City Hall at 520 J Street to Tour City Departments including the Public Works Department at 411 Madison Avenue, the Fire Department at 333 Seventh Street, and the Police Department at 945 Fifth Street.

APPROVED:

/s/ Tom Spada
Tom Spada, Chairperson

ATTEST:

/s/ Sandra Benetti
Sandra Benetti, Planning Technician