

**CITY OF LOS BANOS  
PLANNING COMMISSION MEETING MINUTES  
NOVEMBER 9, 2016**

*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 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 McCoy.

**ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT:** Planning Commission Members John Cates, Arkady Faktorovich (arrive at 7:01 p.m.), Erik Limon, Palmer McCoy, and Susan Toscano; Refugio Llamas and Tom Spada absent.

**STAFF MEMBERS PRESENT:** Senior Planner Stacy Elms, Planning Technician Sandra Benetti, Police Chief Gary Brizzee and City Attorney William Vaughn.

**CONSIDERATION OF APPROVAL OF AGENDA.** Motion by McCoy, seconded by Limon to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Faktorovich (arrived at 7:01 p.m.), Llamas and Spada 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.** Vice Chairperson Cates opened the public forum. No one came forward to speak and the public forum was closed.

**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 (CONTINUE TO A DATE CERTAIN).** Senior Planner Elms noted the applicant had requested to continue the item and asked the Planning Commission to continue the public hearing to Tuesday, December 13, 2016 at 7:00 p.m.

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

Motion by McCoy, seconded by Toscano to continue 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 to Tuesday, December 13, 2016 at 7:00 p.m. The motion carried by the affirmative action of all Planning Commission Members present; Llamas and Spada absent.

**PUBLIC HEARING – TO CONSIDER A CEQA CATEGORICAL EXEMPTION AND SITE PLAN REVIEW #2016-11 FOR THE ADDITION OF A NEW 55,180 SQUARE FOOT WAREHOUSE BUILDING FOR KAGOME, INC. LOCATED WITHIN THE GENERAL INDUSTRIAL ZONING DISTRICT AT 333 JOHNSON ROAD; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 081-110-005.**

Senior Planner Elms presented the staff report, which included a PowerPoint presentation, noting that applicant was present to answer any questions.

Vice Chairperson Cates opened the public hearing. DENNIS BRAZIL, Kagome, Inc., introduced his team and contractor that were present and spoke of their operations and their growth; Commissioner McCoy thanked the applicant for expanding; Mr. Brazil complimented Planning staff; Commissioner Toscano inquired if the applicant will hire more people; Jaime Sandoval, Kagome, spoke of how they have been hiring, how the problem is retaining, how they are growing 10-15% a year, and how they are primarily tomato based but have lately been into specialty sauces; Patti Lowe, Kagome, spoke of how they are currently storing product in Modesto so now they will be able to bring that product here; Mr. Sandoval stated that they have 173 employees right now with ten positions open; Vice Chairperson Cates spoke of the great relationship between Kagome and the City and thanked them.

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

Motion by Limon, seconded by Faktorovich to adopt Planning Commission Resolution No. 2016-52 – Approving Site Plan #2016-11 for the Addition of a New 55,180 Square Foot Warehouse Building for Kagome, Inc. Located at 333 Johnson Road, More Specifically Identified as Assessor's Parcel Number: 081-110-005. The motion carried by the affirmative action of all Planning Commission Members present; Llamas and Spada absent.

**PUBLIC HEARING – TO CONSIDER AND MAKE A RECOMMENDATION TO THE LOS BANOS CITY COUNCIL TO AMEND ARTICLE 35, OF TITLE 9, CHAPTER 3 OF THE LOS BANOS MUNICIPAL CODE TO REGULATE THE PERSONAL, MEDICAL,**

**AND COMMERCIAL USE OF MARIJUANA IN THE CITY OF LOS BANOS.** City Attorney Vaughn presented the staff report, which included a PowerPoint presentation.

There was discussion among Commissioners, staff, and legal counsel regarding growing marijuana in a greenhouse being classified as indoor and administrative penalties for code violations.

City Attorney Vaughn spoke of how the City wants to get a sense of where these grows are, use registrations as an educational tool, how some jurisdictions require permitting, and how permitting gets to be too much and the man power is not something staff would support.

Police Chief Brizzee presented a PowerPoint presentation including history of marijuana law in Los Banos, what the new law says, and the State of Colorado's experience with legalizing recreational use of marijuana.

Police Chief Brizzee clarified that registration isn't to generate revenue and how its an opportunity to educate the public on do's and don'ts of growing.

Vice Chairperson Cates opened the public hearing. KATHY BALLARD, Los Banos, inquired if licensing isn't until 2018 then is this something we will see now; City Attorney Vaughn stated that law says you can smoke, ingest, and cultivate it now personally but cannot commercially; Mrs. Ballard stated that the problem is in public areas, how its not defined, and inquired if we can add that businesses can have signs to say it's a public place and cannot smoke; City Attorney Vaughn stated that the City can define it for ourselves as far as enforcement and how there are lots of non-public public areas in which we would have to put signs; Mrs. Ballard stated that if we have all these restrictions but it's allowed in surrounding communities and it affects us then there isn't funding to help us; City Attorney Vaughn responded that it is correct and pointed out that the Act says if we ban commercial then we aren't entitled to the funding; Police Chief Brizzee stated that if we want the funding then we have to allow it here, how it would be very labor intensive and costly with inspections if we do allow commercial; Mrs. Ballard spoke of how it sounds like its more dangerous to grow inside and inquired if it takes a lot of water; Police Chief Brizzee spoke of how a lot of the info he has read says marijuana is a large consumer of water, how he thinks there are ways to do indoor grows safely, how outdoor cultivation is a source of problems including odor and theft, how we want people to register so we can educate them to use safe practices, trying to control the impact it has on everyone else in the community, trying to do reasonable regulations to minimize impacts we have seen; Mrs. Ballard inquired if the purpose of registration is to locate the plants; City Attorney Vaughn responded that its to educate the grower as well.

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

Commissioner McCoy stated that the Act says we can impose a reasonable tax.

City Attorney Vaughn responded that it says you can tax it, how it has to be thru a voter initiative, not sure what the components of the tax would be, if the Planning Commission was interested in allowing any type of commercializing then we would have to look into that, how we can take advantage of what the law says local government can do, if you do nothing then you leave it to the state to determine what kind of activities occur in the City, how staff is working under parameters of what the state says, how staff is attempting to work within what the law says we can do so it minimizes the effect on those who don't want it, and how staff thinks this is what our response should be to this law.

Police Chief Brizzee spoke of how if we allow the law to move forward without imposing an ordinance then we will go out to a house to people who are growing and smoking outside and affecting neighbors who can't take their kids outside to play and staff would have no tools to help.

Commissioner McCoy stated that we are making people register and expend staff time for people who won't do it and staff won't do anything with it.

Police Chief Brizzee clarified that the idea with registration is that when people do fail to register it is a violation and we can affect a change on the situation and also how we can educate the public.

Commissioner Limon spoke of being happy that staff is taking extra effort to suppress this, how he wants to protect his family from the effects of marijuana, the need to prohibit the outside cultivation, and his support that this ordinance is justified.

Vice Chairperson Cates spoke of how its an obvious responsibility for the Planning Commission, how hopefully we'll have some semblance of control as much as we can without it taking away state rights, and inquired if this will continue to be enhanced moving forward.

Police Chief Brizzee responded that this is what staff will present to Council.

City Attorney Vaughn stated that if the City wanted to change any part of the commercialization then the ordinance can be amended, how we don't want to jump into this until we see what the other experiences in the state are, and how personal use and cultivation won't be changing.

Motion by McCoy, seconded by Limon to adopt Planning Commission Resolution No. 2016-53 – Recommending to the City Council an Ordinance Amending Article 35, of Title 9, Chapter 3 of the Los Banos Municipal Code to Regulate the Personal, Medical, and Commercial Use of Marijuana in the City of Los Banos. The motion carried by the affirmative action of all Planning Commission Members present; Llamas and Spada absent.

**CONSIDERATION OF APPROVAL OF THE CANCELLATION OF THE REGULAR PLANNING COMMISSION MEETING OF NOVEMBER 23, 2016.**

Motion by McCoy, seconded by Faktorovich to Approve the Cancellation of the Regular Planning Commission Meeting November 23, 2016. The motion carried by the affirmative action of all Planning Commission Members present; Llamas and Spada absent.

**CONSIDERATION OF APPROVAL OF THE CANCELLATION OF THE REGULAR PLANNING COMMISSION MEETING OF DECEMBER 14, 2016.**

Motion by Limon, seconded by McCoy to Approve the Cancellation of the Regular Planning Commission Meeting December 14, 2016. The motion carried by the affirmative action of all Planning Commission Members present; Llamas and Spada absent.

**CONSIDERATION OF APPROVAL OF THE CANCELLATION OF THE REGULAR PLANNING COMMISSION MEETING OF DECEMBER 28, 2016.**

Motion by McCoy, seconded by Limon to Approve the Cancellation of the Regular Planning Commission Meeting December 28, 2016. The motion carried by the affirmative action of all Planning Commission Members present; Llamas and Spada absent.

**COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT.** Senior Planner Elms reported that staff will ask to call a Special Meeting on Tuesday, December 13, 2016 at 7:00 p.m.

**PLANNING COMMISSION MEMBER REPORTS.**

**CATES:** Spoke of his appreciation for staff and the work the Commission does and inquired if there is any information for the sit down restaurant in the Stonecreek Plaza.

Senior Planner Elms stated that staff cannot yet release the information but it will be fast-casual dining.

**FAKTOROVICH:** No report.

**LIMON:** No report.

**LLAMAS:** Absent.

**McCOY:** Spoke of his appreciation for staff and working for the public as a Commissioner.

**SPADA:** Absent.

**TOSCANO:** No report.

**ADJOURNMENT:** The meeting was adjourned at the hour of 8:34 p.m.

APPROVED:

*/s/ Tom Spada*  
Tom Spada, Chairperson

ATTEST:

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