

CITY OF CERES
PLANNING COMMISSION
MINUTES

January 20, 2009

MEETING CALLED TO ORDER: 6:01 p.m.

ROLL CALL:

PRESENT: Del Nero, Kachel, Kline, Smith, Williams

ABSENT: None

ALSO PRESENT: Community Development Director Kenneth H. Craig, Planning Manager Barry Siebe, City Engineer Glenn Gebhardt, Interim City Engineer Michael Brinton, City Attorney Mike Lyons, Associate Planner James Michaels, Administrative Secretary Linda Ryno, Secretary Lara Ahuna

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Chairperson Del Nero.

ELECTION OF CHAIRPERSON AND VICE CHAIRPERSON:

Chairperson Del Nero asked if there were any nominations for Chairperson. Commissioner Smith nominated Commissioner Williams. Seconded by Commissioner Kline. Carried 5/0

Chairperson Williams then nominated Commissioner Smith for Vice Chairperson. Seconded by Commissioner Kline. Carried 5/0.

APPROVAL OF MINUTES:

1. December 15, 2008.

It was moved by Vice Chairperson Smith, seconded by Commissioner Kachel to approve the minutes as presented. Carried 5/0.

CONFLICT OF INTEREST DECLARATION:

None

CITIZEN COMMUNICATION:

None

APPROVAL OF AGENDA AS POSTED (OR AMENDED) AND CERTIFICATION OF POSTING:

It was moved by Vice Chairperson Smith, seconded by Commissioner Del Nero to approve the agenda as posted. Carried 5/0.

CONSENT CALENDAR:

None

NEW BUSINESS:

2. General Plan Determination of Compliance- Courthouse Facilities, 2744 2nd Street.

Planning Manager Siebe gave a report.

Commissioner Del Nero stated there might be a possible conflict with him being an employee of Stanislaus County and requested clarification from City Attorney Lyons.

City Attorney Lyons responded by suggesting that there could be a conflict and it would be best if Commissioner Del Nero conflicted out. Commissioner Del Nero left the room.

Commissioner Kline asked if the transfer of court house facilities had occurred.

City Attorney Lyons responded the law requires the findings of consistency. If non-consistency is found, the County could overrule.

Vice Chairperson Smith commented that the letter in the agenda packet stated that transfer had not occurred, but is expected to occur within the next several months.

The public hearing was opened at 6:12 p.m. Seeing no one in the audience, Chairperson Williams closed the public hearing.

It was moved by Commissioner Kline, seconded by Commissioner Smith to adopt PC Resolution 09-04. Carried 5/0.

Chairperson Williams invited Commission Del Nero to rejoin the panel.

PUBLIC HEARINGS:

3. 08-18 CUP; Public hearing for a proposal to consider a conditional use permit to establish a bar/cocktail lounge with live entertainment at 3018 E. Service Road.

Associate Planner Michaels gave a report.

The public hearing was opened at 6:16 p.m.

Stacy Wellnitz of Commercial Architecture, 1300 10th Street # Suite B Modesto, representing the applicant, advised the Commission the applicant's violations occurred in 1998 and 2003 and further, the applicant has had 13 ABC licenses and has had only two violations.

The public hearing was closed at 6:17 p.m.

Commissioner Kline commented that he thinks the bar's corner location might not have enough parking for the proposed use.

Director Craig reminded the Commission that application of the zoning ordinance applies to the whole site, not just a building within that site. He further commented that if the Commission has a concern with the location, that they would need to make findings relative to that.

Vice Chairperson Smith commented that because the proposed use is within 300 feet of a residential use, a Conditional Use Permit is required.

Planning Manager Siebe further clarified that the Mitchell Road Corridor Specific Plan requires a conditional use permit if a residential use is within 300 feet even if the residence is a nonconforming use in a commercial zone.

Vice Chairperson Smith re-iterated that if the house were gone, then the use would not require a conditional use permit.

Commissioner Kachel asked if the project was routed to the Public Safety Department. Associate Planner Michaels responded that it had, and they had no concerns.

The public hearing was re-opened at 6:23 p.m.

Stacy Wellnitz of Commercial Architecture advised the Commission that it's very difficult to lease retail space in the end cap of a center and they wanted to preserve that for a commercial use.

The public hearing was closed at 6:24 p.m.

It was moved by Commissioner Kline, seconded by Commissioner Del Nero to adopt PC Resolution 09-04. Carried 5/0.

4. 08-12 SPSP; Public hearing for a specific plan site plan proposal to construct a 17,340 square foot commercial building for retail use and a drive-thru pharmacy at the northeast corner of Mitchell Road and Fowler Road.

Associate Planner Michaels gave a report.

Planning Manager Siebe commented that staff had several discussions with the applicant and that after the agenda packet was distributed, the applicant requested changes shown in the red-line document that is on the dais in front of them. Planning Manager Siebe further commented that because staff had just recently received the information, staff had not had the opportunity to evaluate the changes requested by the applicant.

Director Craig commented that it's unusual to get changes this late. Normally, staff would recommend the Commission continue the public hearing to allow staff time to evaluate the changes requested by the applicant, but in an attempt to keep the applicant's timeline, staff is suggesting the Planning Commission go through the Exhibit A proposed by the applicant, line by line.

Director Craig further commented that there is one particular item for the Commission to consider, which is condition 8 as it relates to the applicant's request to not underground the utilities; that is a City Council policy decision.

Commissioner Williams suggested the Planning Commission take a 10 minute recess to review the new document received from the applicant and then re-convene with their questions.

City Attorney Lyons responded that the Planning Commission has complete control over the meeting and as such, can continue the item or take a recess to discuss and then re-convene.

Director Craig suggested opening up the public hearing.

The public hearing was opened at 6:43 p.m.

Chris Peto of Halferty Development Company, LLC., 199 South Los Robles Avenue Suite 840, Pasadena, representing Rite Aide, asked the Commission not to continue the item; that they considered approximately five items to be crucial and that time is of the essence to them.

Vice Chairperson Smith suggested the Planning Commission review the key items as identified by Mr. Peto and leave the other changes requested by Mr. Peto as recommended by staff.

Chairperson Williams asked Mr. Peto what are his key items of concern.

Mr. Peto responded that there are at least 11 conditions tied into the site plan. He further continued that the key items are B3, B5, B6, B8, C5, and Fire Condition 1D.

At 6:48 p.m., Chairperson Williams requested a 10 minute recess to review the redline changes.

The Planning Commission reconvened at 6:54 p.m.

Director Craig suggested the Planning Commission discuss the key items as presented by Mr. Peto:

- 3a. Two pavement markings that a fire station is nearby. Insignificant issue.
- b. Director Craig clarified that when reference is made to the site plan as shown on Exhibit A, that is the applicant's revised Exhibit A, not that as proposed by staff.
- c. Pork chop island. Staff will be reviewing to make sure it's an appropriate design.
- d. Staff will review.
- e. Planning Manager Siebe explained that staff was concerned about connectivity. If the overflow parking is on the west side of the site along Mitchell, pedestrians would have the Mitchell sidewalk for connectivity.
Commissioner Kline expressed his concerns because of parking issues across the street at In-Shape Fitness.
Planning Manager Siebe responded that staff is recommending the deletion of condition 3e.

Planning Manager Siebe introduced Mike Becker of K.D. Anderson, traffic engineering firm to discuss item 3f. Mr. Becker commented that after more review, he is recommending the drive thru exit be moved out another car length to the east.

Director Craig commented that since the applicant has made that change, that the Planning Commission accept it as part of the revised Exhibit A.

Condition 5. Director Craig said that while the applicant would like the lot line adjustment acted on after construction is complete, staff believes it will create problems.

Condition 6. Director Craig said that the irrevocable reciprocal access and parking maintenance agreement could probably be submitted later than staff is recommending and that prior to issuance of a certificate of occupancy would be acceptable. After further discussion with the Commission, staff is recommending that condition 6 be kept as originally submitted by staff.

Condition 8. Director Craig said there are three poles on Mitchell. The City's General Plan requires that any utilities under 64kv go underground, which is why staff is recommending that these utilities be placed underground. He further recommended that clarification be received from the City Council on applicability of the General Plan to this project.

Vice Chairperson Smith asked why the properties to the north and south were not required to underground utilities. Director Craig responded that he couldn't answer that as the properties developed before he was hired.

C5. Director Craig explained that the applicant wants to pay old fees, even though they had not submitted a development application prior to the effective date of the new fees. The timeline for fees is based on when a building permit application is submitted, which has not been done yet. Director Craig continued that only the City Council can waive fees.

Fire Division, Condition 1d. Staff asked Mr. Peto why he is requesting this change. Mr. Peto responded that they want to limit open easement and who will benefit from the easement. Mr. Peto addressed the Commission and stated his issue is with the way the condition is written, not with the emergency vehicle-access. Mr. Peto stated that they wanted to limit the easements across the location for better control.

Director Craig commented that it sounds like the applicant is willing to leave the condition as written and allow staff to work with them.

C10. Mr. Peto commented that the condition also talks about easement; he has a landscape easement. Interim City Engineer Brinton said the location was okay.

Mr. Peto then addressed the items. He said:

Condition B5. Wants the lot line adjustment recorded before the certificate of occupancy. Originally, Rite Aid should be under construction now, but it appears it will now be June or July.

Condition B8. Utility poles. Mr. Peto referenced Director Craig's comment that there were three existing poles; they show there are only two. Wants to verify there's only two.

Condition C5. Mr. Peto stated they have been working on project for 18 months and that he feels the fees should be based on when the application was submitted, not when the building permit application is submitted.

Commissioner Del Nero asked if the existing Rite Aid would close. Mr. Peto responded that he is not involved with the backfilling of the existing Rite Aid. He did comment that he understood that Save Mart, as owner of the existing Rite Aid, is interested in expanding their store if Rite Aid vacates.

It was moved by Vice Chairperson Smith, seconded by Commissioner Kline to adopt PC Resolution 09-01. Carried 5/0.

It was moved by Commissioner Kachel, seconded by Vice Chairperson Smith, to adopt PC Resolution 09-02 with the following modifications:
Delete condition 3e.

Condition B8. Ask for a determination by the City Council.

Carried 5/0.

5. 08-26; Recommendation to the City Council to approve adoption of a Condominium Conversion Ordinance.

Director Craig gave a report and stated that he received a letter from Davidon Homes; although they are no longer the applicant, they still gave their concerns.

Director Craig opened the floor for comments.

Commissioner Kline questioned if there are multiple units in a complex and the owner wants to convert only one or two units.

Director Craig responded that could be a possibility, although it's not likely. The reality is the cost would be too high and it would be cost effective to just do the whole complex. Mr. Craig further commented that if it did happen, staff would have to address it accordingly.

Commissioner Kline asked about Section D, E, and F on page 11 of the staff report and why Condition D would have to be modified by the Planning Commission, but Conditions E and F would be modified by the City Council?

Director Craig responded he believes the City Council has the final authority, but the Planning Commission will be making recommendation to the City Council. He also said that Condition 11D should be the City Council.

The public hearing was opened at 8:17 p.m. Seeing no one in the audience, the public hearing was closed.

It was moved by Commissioner Kline, seconded by Commissioner Del Nero, to adopt PC Resolution 09-03. Carried 5/0.

PUBLIC MEETINGS:

None

UNFINISHED BUSINESS:

None

MATTERS INITIATED BY PLANNING COMMISSION AND STAFF:

None

REPORTS/COMMUNICATION:

Commissioner Del Nero thanked staff for a great four years.

Commissioner Kline congratulated Commissioners Kachel and Del Nero to their re-appointments and then asked when they have information to be included after the agenda has been delivered, to give the Commission a starting point.

Commissioners Del Nero and Kachel thanked the Commission and staff for all their help.

Director Craig apologized and said staff would do that in the future. He also congratulated the Commission on their re-appointment.

Chairperson Williams thanked staff and the Commission for choosing her as new Chairperson and for having confidence in her.

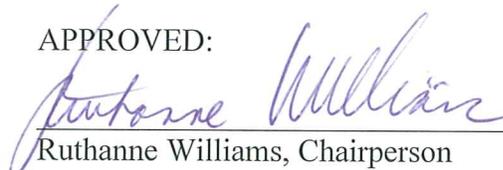
Director Craig introduced the new City Engineer, Glenn Gebhardt and the new Engineering Secretary, Lara Ahuna.

Planning Manager Siebe reminded the Commission about the 32nd Annual Workshop on Saturday.

ADJOURNMENT:

The Commission adjourned at 8:28 p.m. to the next regularly scheduled Planning Commission meeting of Tuesday, February 17, 2009.

APPROVED:


Ruthanne Williams, Chairperson

ATTEST:


Kenneth H. Craig, Secretary