

CITY OF CERES
PLANNING COMMISSION
MINUTES

August 18, 2014

MEETING CALLED TO ORDER: 6:00 p.m.

ROLL CALL:

PRESENT: Chapman, Del Nero, Kachel, Molina (arrived 6:03 p.m.), Smith

ABSENT: None

ALSO PRESENT: City Manager/City Engineer Toby Wells, Director of Community Development Tom Westbrook, City Attorney Mike Lyons, Redevelopment & Economic Development Manager Steve Hallam, Associate Planner James Michaels, Secretary/Deputy City Clerk Ann Montgomery

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Chairperson Chapman.

APPROVAL OF MINUTES:

1. **ACTION:** It was moved by Commissioner Kachel; seconded by Commissioner Del Nero to approve the minutes from the meeting of July 21, 2014. Motion passed by the following vote:

AYES: Commissioners Chapman, Del Nero, Kachel, Smith

NOES: None

ABSENT: Molina

CONFLICT OF INTEREST DECLARATION:

None

CITIZEN COMMUNICATIONS:

None

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

ACTION: It was moved by Commissioner Kachel; seconded by Commissioner Del Nero to approve the agenda as posted (or amended) and certification of posting. Motion passed by the following vote:

AYES: Commissioners Chapman, Del Nero, Kachel, Smith
NOES: None
ABSENT: Molina

CONSENT CALENDAR:

None

PUBLIC HEARING:

None

NEW BUSINESS:

2. 14-06 PC-CC Determination (Occupancy Use in Industrial Zones)

Associate Planner, James Michaels presented the staff report.

Mr. Westbrook further explained that this is something that is unique for the Commission. Generally, staff presents projects with the Commission; Conditional Use Permits, everything is fairly structured; make an approval with staff or against staff. This one is really thinking about opening up your minds. What's going to be appropriate for the City? Recently, we had the Bonsu Conditional Use Permit. This kind of falls along those same lines. As Mr. Michaels mentioned, we've seen an increase in the number of people who would like to occupy these areas. Our General Plan, back when it was adopted back in 1997, suggested that in light-industrial areas, recreational uses could be considered, but it didn't go any farther than that, and it didn't give any direction in terms of what those uses might be. Subsequent to that, the zoning code was never updated to reflect that General Plan back in 1997. So therefore these types of uses; recreational uses are not designated or classified in that "light-industrial" zoning designation. So really the question that staff has before the Commission is, should it be? Should they be expanded to occupancy uses or should we formally and kind of continue to prohibit those types of uses? As was indicated in Mr. Michaels' staff report, there are two existing facilities. One that's on Foundry Court that was approved a number of years ago and the second is Bonsu Elite Athletics that was just approved at the last Planning Commission meeting. If the Commission makes a decision that says no, they want to preserve industrial areas for our industrial users, then we would have to deal with those two uses as some future point. One of the things about a recreational use and an occupancy use is generally those have different parking demands. So, when they're moving into an industrial area, those have

much less requirements in terms of parking. Generally, the newer buildings are all going to be handicap accessible, but the older buildings are not. If there is a recreational use, or an occupancy type use, there are different demands in terms of how many restroom facilities would be needed and so forth. So, it's not just simply moving in, where in a commercial designation, generally you wouldn't run into that. Everything is going to be set up to where there would be enough space for those uses. As Mr. Michaels indicated, we are looking for some direction. We anticipate that this will be forwarded onto the City Council, to get a similar direction from them, which may result in a zoning code amendment, but it may not either. Because we do get these requests on a frequent basis, we feel that it's our duty to be able to give the best information to those people at that time. We do have an individual that suggested they would like to move from a commercial designation to an industrial designation. Mr. Michaels and I are available to answer any questions the Commissioners may have.

Commissioner Del Nero inquired if the Planning Division received any feedback from people in the industrial area regarding these different types of entities coming in.

Mr. Westbrook states that the response is pretty much non-existent, and the reason being "non-existent" is because there's only two such facilities. The Bonsu Athletics has only been operating for a couple of months. There hasn't been any feedback regarding that. The other is off of Foundry Court, which is an industrial building that's largely still unoccupied. There are still vacant spaces up there, and there's not a lot of conflict between the industrial users and the recreational ones. We don't have feedback from an industrial perspective saying that they would like them or would not like them in their areas.

Commissioner Smith asked, let's say we go with Option 1; what happens to the two CUP's that we've authorized?

Mr. Westbrook replied that his recommendation would be that they continue operation until their use permit date would terminate. For the Bonsu Athletics; their termination date is three years from a month ago. For the other facility, theirs is approaching where they'll actually need to renew it in November. If that was the determination and the direction provided by the Commission and ultimately the Council, the recommendation for that specific user would be to augment their date so theirs would terminate at the same time that Mr. Bonsu's would, so there wouldn't be any necessary moving of that business right away.

Commissioner Smith stated that the way she understands it, is that the zoning ordinance and the General Plan is silent.

Mr. Westbrook explained that the General Plan encourages recreational uses in the light-industrial designation and correspondingly in the zoning code, you would find out what that definition is and it would be listed somewhere, and it's not. We don't have a definition, so if the Council/Commission were interested in creating one, then that direction would be provided and staff would work on that.

Commissioner Smith asked if it was silent to the process, so it doesn't describe that it's required via a CUP.

Mr. Westbrook explained there is a section of the code that talks about unlisted uses, and so that's where the CUP is being generated. It's not the cleanest way to do it. Realistically, it should be included in the zoning code if it was going to be permitted.

Commissioner Smith stated that when she's looking at the comparison of the cities within the County, it's 6 of the 9 that allow occupancy and recreational uses through the CUP process.

Mr. Westbrook added that it would be specific to their code. He's assuming that each of those jurisdictions has a zoning designation and under Conditional Use, it would list the types of uses that would be permitted, and our code does not have that.

Commissioner Smith inquired if that was one of the Options.

Mr. Westbrook confirmed that it is Option 2.

Commissioner Smith read Option 2 – *“Recommend to the City Council that the Zoning Ordinance and General Plan be amended to specifically list the recreational uses and occupancy uses to be conditionally permitted in the City's industrial zones.”* And right now, it doesn't do that.

Mr. Westbrook stated that is correct.

Commissioner Smith remarked that one of the things that is troubling is, do we fill up our industrial parks with recreational uses because the space leases for a cheaper amount. That's problematic and she's kind of just speaking to the Commission. Maybe Mr. Westbrook might have something to contribute. The CUP process, she thinks we talked about during the last meeting, is \$1200, and as is the renewal process after three years. She doesn't know what the savings is between commercial and industrial, or light-industrial property, but she is wondering if a \$1200 CUP application fee may be a deterrent enough for a business.

Mr. Westbrook remarked that he didn't think that it would be. Generally the industrial rate is going to be far cheaper than the commercial rate, so they probably recoup all of that cost in the first six months of operation.

Mr. Westbrook pointed out that Commissioner Smith has hit something that staff struggles with. When you have industrial users, such as the manufacturing or warehousing storage of chemicals, etc., they can go in only two zoning designations in the City. We have around 38 zoning designations. Businesses, such as the recreational uses and the occupancy can go in almost any commercial designation so there is more flexibility for these types of uses. Maybe two or three years ago, the economy wasn't so

good. If we could get people into a space, that would be great. Sometimes this policy consideration is kind of like popping the cork on a champagne bottle. Once you do it, it's going to be a little bit hard to get the cork back in if you change your mind in the future. It's not so worrisome for an occupancy or recreational use under a lease option, but if somebody purchased a property and went through a Conditional Use Permit process and built their building, that would be pretty difficult to get them to relocate.

Commissioner Smith added it is a tough decision, especially when you look at what is happening throughout the county. Nobody is flat out prohibiting it.

Mr. Westbrook remarked that he thought Newman and Riverbank prohibited it.

Commissioner Smith stated that Newman has a CUP for occupancy. Riverbank prohibits churches, private clubs and meeting facilities, but they allow recreational with the CUP.

Mr. Westbrook added that Newman prohibits churches, but they do have meeting halls.

Mr. Westbrook continued, and so, the question for us is, do you say okay to recreational type uses that are in the industrial, but limit the occupancy, which are the social halls, bingo halls and churches. Do you continue to exclude; that's the question?

Commissioner Smith responded, so what happens here tonight, is that the Commission chooses one of these or provides some sort of modification of one of these options. It is taken to the City Council and they...

Mr. Westbrook continued,...and the Council will provide direction to staff, that they want to keep the code the way it is, and then no action would take place. Or they could suggest that they want to make these expressly prohibited and then we wouldn't be processing any in the future. What that does from a staff prospective is that if Mr. Michaels or I are at the front counter or someone calls and says, I want to put an indoor soccer facility in this 50,000 square foot building, we tell them no. They don't get to a \$1,200 conditional use permit process. If there are options available for them, then they would be spelled out in the code requirements after a code amendment was completed.

Commissioner Smith suggested that we talk about that 50,000 square foot indoor soccer facility. Is there commercial property that would accommodate that in the city limits?

Mr. Westbrook asked, of a commercial building or an industrial building?

Commissioner Smith replied, if we said they can't go in an industrial area.

Mr. Westbrook responded, not without closure of a significant store. You could probably have a small facility in the old Rite Aid building that's about 30,000 square feet. He knows generally the indoor soccer fields aren't a regulation field; they are a little bit smaller, but perhaps you could have something like that. Again, for that specific use, not being able to generate enough income to actually pay for improvements to the building

and to pay rent.

Commissioner Smith commented, in that particular case; which is a real case, if the Commission selects Option A, they won't come to Ceres.

Mr. Westbrook clarified that they wouldn't come to Ceres in an industrial designation. They wouldn't be prohibited from going to a commercial facility if they could make the financial numbers work.

Commissioner Smith added, but we don't have anything. They could build.

Commissioner Kachel stated that he thinks that the last five minutes have been just exactly what he wanted to talk about. Mr. Westbrook said it's like a champagne bottle, tube of toothpaste, Pandora's Box; the more you talk, the more he's understanding the position that you're taking because you look at the couple that we've had come in. They're very small, very little traffic, very little parking required, but then, where do you draw the line; at size, but then, parking can always be problematic. You say industrial is open in the daytime, and these tend to be night time. Maybe yes, maybe no as time goes by. He guesses he's just expressing a bit of doubt as to what way to go here. When he came in (to the meeting) he thought he had an idea of what would work, but the more you talk... He's had some experience with this before, particularly a social hall, which just flat out moved into a light-industrial district just north of Modesto. They used to be on McHenry Avenue and they just kind of moved in there and they're still there years and years later. He doesn't know if they ever amended the ordinance or not. We can just say, let's have a use permit, but with use permits, you want to have some sort of criteria, he thinks as to what's in the definitions, of what you're allowing and what you're not. He's having trouble, and perhaps the Council has other ideas, or the Commissioners have other ideas, as to how to define those. But, he's wrestling with that. He's not opposed to it, necessarily, but as Commissioner Smith said, the one business is in basically a vacant industrial building now, so it's better than nothing. On the other hand, where does it stop? Indoor soccer, he guesses can bring a lot of people in.

Mr. Westbrook added that there could be batting cages, kart-racing facilities; there are a number of different things that a business could have.

Commissioner Smith added that's where it pushes the envelope, is what are we missing out on as appropriate use in those buildings, because we have a batting cage, and a training facility. That's where she gets really confused, so is happy that this is before the Planning Commission.

Commissioner Kachel believes that's what you want to have available; these zones are created with certain uses in mind, and if we are somehow are allowing conditional uses, that maybe don't quite fit the definition, then maybe it'll be okay. You're right, then maybe we're prohibiting something else from going in. We just don't know; it's so speculative.

Commissioner Molina inquired if we might get some input from the City's Redevelopment & Economic Development Manager, Steve Hallam.

Mr. Hallam stated that this is kind of awkward because he's part of staff, and there's a recommendation from staff before the Commission. He was sitting in the audience, thinking about Bonsu Athletics. It is interesting that it is marginally, (see sometimes he thinks it might really be a zoning district issue, because with Bonsu, it's hard to describe that as an industrial zone. It's almost a heavy commercial there along Railroad Avenue, where you have the furniture store with their showroom, you have Bill's Drywall with Ace Hardware; it's almost a quasi heavy commercial district. If he were up there with the Commission, he might have said that it's not an inappropriate use in that particular location.) Philosophically, he's kind of with Planning. We have fewer and farther between where we can place legitimate industrial land uses. He's probably more concerned with institutional occupancy uses, and he's dealing with the downtown now to rethink a downtown that is a religious zoning district. And, it's unfortunate that has taken away some opportunity for vibrant commercial because we've filled vacant commercial space with non-commercial land uses. Mr. Hallam thinks that will work itself out as things change. Because churches, (does our ordinance allow churches in residential zones? Mr. Westbrook replied yes), typically those occupancy uses have a much broader area. They can go in commercial and residential areas with a use permit. And those recreational uses, while they may not be able to go in residential zones, they can go in commercial. He was looking at what Mr. Westbrook did, and 3 may be another option, where it kind of does what the Newman, Riverbank does. You kind of preclude uses that may not be appropriate.

Chairperson Chapman remarked that we don't want to put Mr. Hallam on the spot, and he's absolutely right, we do have a staff report in front of us. We don't want to minimize any of the work that was done there. He believes that Commissioner Molina was just looking for an additional perspective from Mr. Hallam's experience.

Mr. Westbrook added that staff uses all resources that are available. He and Mr. Michaels ran this by Mr. Hallam. Mr. Westbrook believes that Commissioner Molina is looking at this from an economic prospective. Do we have a lot of folks looking for industrial land? Mr. Westbrook thinks that you're seeing that demand come back. Generally evidence of that, is people looking to build new industrial buildings, as kind of a spec and then to get a tenant after they are constructed. They're confident in their read of the market place, that the economy in terms of manufacturing and industrial uses is coming back or they wouldn't be proposing to build buildings.

Chairperson Chapman had one quick question. You'd said that the existing, not the Bonsu Athletics, but the other business, their timeframe would be augmented to be in line with Bonsu, correct? Would it be a three year period?

Mr. Westbrook replied that would be his recommendation. They're supposed to come back by November for that extension request. Whatever happens here, we would just make their timetable the same as Bonsu's.

Chairperson Chapman asked, hypothetically if Option 1 is recommended to the Council and the Council chooses Option 1, and those two businesses that are now in line for a three-year period; at the end of the three-years there is no extension, there is no CUP, they're done. They, as a business would have to plan to move to another location in three years.

Mr. Westbrook confirmed that is correct.

Commissioner Molina added, possibly out-of town if they don't own a property or a building.

Chairperson Chapman continued, or find a building in a non-industrial location that permits recreational use.

Commissioner Kachel asked if the square footage of those two uses was known.

Mr. Westbrook and Mr. Michaels responded that the Bonsu Athletics is approximately 6,400 square feet and the Zumba is around 5,000 sq. feet.

Commissioner Kachel remarked that these are sizes that could reasonably be expected to be found in commercial zones within Ceres.

Mr. Westbrook responded you could have a facility of that size. The old Hollywood Video before it changed to the clothing store, there were a couple of gyms that were doing specialized training that wanted to go in there. That building is about 8,000 square feet. There would've been no issue with a recreational use occupying that building.

Commissioner Kachel asked, is there a major cost difference between commercial and industrial when these users are looking at those two zones. Is that why they're focusing on the industrial?

Mr. Westbrook replied, because it's cheaper to locate in an industrial space. Generally the areas are unimproved on the inside and can be configured easily into a space the tenant desires. So for Mr. Bonsu, he doesn't want to build anything inside. He's laying down the carpet and putting up the equipment. He doesn't have to tear anything down. The commercial space generally has carpet; it might have interior walls or something that would need to be removed. One, it's cheaper to locate in an industrial zone due to rent costs and two, it's generally configured to be a big open space, and easily to improve. So beyond what the monthly lease rate would be, sometimes there are less tenant improvements that are required to actually get into the building.

Commissioner Kachel commented, in essence, typically those tenant improvements are consistent with any commercial use which goes in these zones, if they need to make adjustments.

Commissioner Molina inquired, when we say “conditional” are we able to regulate what goes in and what not just so we don’t straight out shut down the options of anyone coming in at all.

Mr. Westbrook explained that one of the options is to be specific in the types of uses that can be permitted. There may be some that the Commission feels are appropriate and some the Commission feels are not appropriate. The Commission could make that recommendation to the Council and they could change the code accordingly. For example, if it were yes to recreational uses but no to occupancy uses; that’s a pretty easy determination to make.

Commissioner Molina asked, which kind of falls under Option 3?

Mr. Westbrook replied yes.

Commissioner Molina stated that the only thing he was doubting himself with, was this “permitted by right.”

Mr. Westbrook explained that a “permitted by right” is: didn’t need anything from the Planning Commission to be approved. So, if I have a permitted use and I’m moving my use into a building, it can be done administratively. If it needs a building permit, sometimes it may, sometimes it may not; I can just simply get a building permit. If it doesn’t need a building permit, it is a permitted use in the zoning code, all I need to get is my business license, then I can move in. Mr. Westbrook doesn’t believe we would recommend these types of uses to be a “by right” or a permitted use in this zoning designation. That’s what this means, I don’t need anything from the Planning Commission and/or the City Council to move in.

Commissioner Molina asked, but, if we have it set up where it needs to go the Planning Commission, then we have a little more grip on what goes in.

Mr. Westbrook remarked that is correct; there’s the ability to do that. Anytime uses are required to get a Conditional Use Permit in the zoning designation, then each and every application would come before the Planning Commission.

Commissioner Kachel inquired, do we have any church or social halls operating in the industrial districts at this point in time that we know of?

Mr. Westbrook responded, yes, there was one he believes that had kind of been in existence before that area was zoned. It’s off of Central Ave; it’s a bingo hall church. It’s both and it has a light-industrial designation, but it’s been there for 40 years.

Commissioner Molina inquired, do we have many pending Conditional Uses out there right now that we would know about ahead of time.

Mr. Westbrook stated that those are the only two previously approved recreational use in

industrial zoning designations.

Commissioner Molina asked, they haven't given the City any problems; everything is good, so far?

Mr. Westbrook responded, for Bonsu, it's so new that there haven't been any issues. The other facility, he hasn't done any records checks with our Police department, but nothing has been brought to his attention that there have been issues out there. Again, we're looking at something that was probably done in an economy that went down. All these cities that permit these things, with conditional use permits, who knows what economic cycle happened decades ago. They could say, "Hey, we have an extremely high vacancy rate in our industrial, how can we combat that?" If we opened it up to these other recreational and occupancy uses, they're pretty much stuck if they want to prohibit them at some future point.

Commissioner Smith remarked, that's a good point. If certain uses are allowed through the conditional use permitting process, we can approve or deny; it's not an automatic. As part of our deliberation, we can consider what the vacancy rate is, what the economy is, what the particular use is as well as all the other things that we consider.

Mr. Westbrook commented that he would agree 100% in a perfect world that the Planning Commission could do exactly what Commissioner Smith said. The reality of it is going to be different. We get into a position where maybe we've allowed a half-dozen type uses and then you get to the one that maybe the parking isn't sufficient or it's in an area of town and there's a neighbor that's really opposed to it, and we say no; we could perhaps find ourselves in a unique circumstance and unable to say no. They should all be based upon their own parameters, that there's enough parking and everything works. The truth behind the matter, is perhaps it would be difficult to deny someone if they weren't meeting all the standards. And we're really not asking to establish any standards with this direction, but rather should it be permitted with the CUP or not?

Commissioner Smith remarked, the fact that you have to go through the process, implies that it's a permit at the discretion of the Commission, not that you make these findings, and meet the findings and you're in, but that the Planning Commission makes the determination based on a multitude of things, not necessarily all that are written down.

Mr. Westbrook stated that's correct, and in the mind of an applicant, they're thinking, all I need is the CUP process. It's going to take me a little while to get, and I paid \$1200, but I'm going to get it in the long run.

Commissioner Smith said, you see why she's struggling because she is struggling between the strict constructionist her and the economic developer her. She wants the signs to be a specific size, wants everyone to follow the sign rules, pick up your garbage, keep your façade clean, and play nice in the sandbox. On the other hand, she recognizes that there are circumstances that require special attention, and the economics of the community drive some of those exceptions. Option 1 bothers her because it doesn't

allow any flexibility, but she gets it. She feels that Option 2 is almost a nice compromise. She doesn't know.

City Attorney, Mr. Lyons commented on the Conditional Use Permit issue. He thinks that the issue boils down to what Mr. Westbrook was referencing, is the need for consistency and approach to those conditional use permits. It seems to him that the only way to ensure the degree of consistency that the Commission would have to exercise in dealing with the request for uses, would be there would have to be some reasonable specification of further defining the types of uses and the conditions that would be applicable. Where you obviously get in trouble with the conditional use permit, if you just say, you can have it with a conditional use permit. From time to time the standards get blurred, and then what was good for one isn't good for another. Obviously you can't just say on a conditional use permit, oh, right now we just don't want this one. It just becomes difficult.

Commissioner Smith replied, but that's not what she's suggesting; she's not suggesting "willy, nilly." She's suggesting that the circumstances of the economic circumstances, the vacancy rate at the industrial park, the typical things that we'll be considering; the parking, things of that nature. But if we have a robust economy, and we have light and industrial users banging down our door and somebody wants to do personal training, she would say that would be easy to say no. Having the ability to approve a conditional use permit allows us that flexibility. If we say no, then in a down economy, those structures would remain vacant and maybe that business won't have to start up because they can't afford anywhere else in the commercial area. That's why she's saying the strict constructionist and the economic developer are fighting inside of her to try to come up with a happy solution. She knows what's going to happen when this goes to the Council; they're going to be having this discussion. If we were to go with Option 1, it needs to come with a long list of, these were our hesitations. She doesn't want to send a message to the City Council that we're not cognizant of the economic impact of something so rigid.

Mr. Wells remarked, one of the challenges of going down to option number 2 and getting five years down the road, and having approved 10 of similar of these, and the 11th comes in and we're full. And your vacancy is now zero and you really want that space. That consistency issue then conflicts. You're saying we can't allow the next personal trainer here because everything else is full. That's the fine line balancing act. Frankly, we're in this situation and having to make this difficult decision because of the economy that we're in. The economy has put us in a situation where those spaces are vacant. When things are better, we shouldn't, in theory, have this problem. But maybe it's a bigger question that we need to look at our overall zoning and do we have the right spread of those uses for where we want to be? An option for the Commission to consider and he and Mr. Westbrook had talked about this briefly; we are hoping to get started on our General Plan Update here in the near future. Maybe this is something that goes with that or you do some kind of a band-aid approach to kind of get to when that's done. That General Plan process will take a couple of years and it trickles down to zoning code. The economy is what we're in. This is a difficult conversation, because just like you

said, and from a City Manager perspective, he puts that hat on and looks at that. He wants every opportunity for this community to succeed, but at the same time he wants the right people in the right places. He was quoted on TV last week, about partners and being in the right place for the right success. Sometimes saying no is okay, if they're not going to be successful there. So that's a real tough call here.

Chairperson Chapman stated with no further questions for staff, the meeting is brought back to the Commission for final comments or thoughts.

Commissioner Kachel commented that he has lots of thoughts but is not exactly sure where he wants to go with this. As Commissioner Smith said, somehow making certain that the City Council understands and perhaps they've wrestled with this issue already, he doesn't know. He realizes how serious this is and he does like Mr. Wells' comment about it might be an appropriate thing to do in a General Plan Update. He thinks it's a big enough issue. When you think about a couple of personal trainers, it's one thing but when you talk about occupancy uses, which are the ones that concern him, and in his experience have been. You get them in there and they pretty much do whatever they want to do and some of them are difficult to deal with. He tends to like Mr. Wells' comment about let's maybe roll this into a General Plan Update, where we can get a serious overview of what we have in each zone and what's allowed in each zone and do any of these zones need to be adjusted or amended or left as they are. He thinks from what we've heard so far, we've got enough commercial for the kinds of things we've seen so far, at least the two, that they can find commercial within the City limits right now. And that's important for him to know. So, in short term, there are places for them to go. He liked the idea that Mr. Westbrook had about extending the other use for 3 years to the same period of time as the one we just had. That seemed very fair to him. And then perhaps roll that into the General Plan Update, where we'd get a major comprehensive look as it fits in with the entire General Plan, which is usually a major thing to do. That's kind of where he'd like to go with it.

Commissioner Smith remarked that the suggestion he's making is, identify a potential short term solution though one of these options or some option that we create that's not one of these. And then as part of our recommendation include the recommendation that the General Plan Update be initiated to address the entire issue.

Mr. Wells added that really he is just throwing another idea out there. Staff is asking for direction, and if the Commission is not ready to provide that direction, in essence we can continue this and the Commission can chew on this a little more, or we can take it to Council. In essence, it comes back to the Commission anyways.

Commissioner Smith remarked, that she votes to chew.

Mr. Wells continued, we're really just throwing out kind of the breadth of the options here. So, one the Commission could pick one of these options, we could take it to Council and have them chew on it. Two, the Commission could say they're not ready yet, they want to chew on this a little bit more before they do that. The third one is to

kick the can down the road, where I mentioned the General Plan. You could not do anything now. Staff doesn't like that because it puts us in a position of having to keep telling people, well, we're still in this gray area; there's nothing in our code that says you can, but you might be able to maybe kinda sorta because other people have just built it and got away with it. That's really the challenge of staff of not wanting to be in that weird gray spot for a couple of years because that's the potential. We would like to have some direction between now and then, but also know that really the fix is the General Plan Update. That's going to take us a couple of years.

Commissioner Smith inquired if this is the potential subject of a joint study session?

Mr. Wells replied, it could be.

Commissioner Smith stated this may be a surprise, but she's actually leaning towards Option 1, because as much as her economic developer side is pulling on her to allow uses and encourage business, she thinks Ceres is in desperate need of structure and order, definitive rules and procedures to encourage development. You can see that it's hurting her, because it seems contrary to the whole concept of economic development. But, in reality it establishes the foundation that's necessary for the future. So, if somebody could look at what she's saying that's going to "dis-incentify" development. And it could for those that are shopping for a price, but what we're ultimately looking for is not somebody shopping for a price, but somebody shopping for a home. And, in order for them to want to live in our community, we need to be organized and structured so that we can present the best environment for new business.

Commissioner Kachel remarked that was very well said.

Commissioner Molina stated, he wishes he could combine Commissioner Smith's comments with his. He doesn't want to see us shutting down to the possibility of allowing something, because right now we're talking about vacancy rate. Do we know exactly how many buildings are empty, and what they're being used for? Are we talking about the light-industrial or the entire industrial?

Mr. Michaels replied that we're looking at both zone districts that we have; light-industrial and the general industrial.

Commissioner Molina confirmed we are talking about the entire industrial. So, if we say let's allow businesses to go in there, they could go into the light and general industrial. Assuming we go ahead and chew on this a more and get some more information; quick question. When we allow a Conditional Use Permit, does the building owner have a say in how long they're going to be there? Because we could say we allow the Conditional Use Permit for three years, but the business owner only has the lease for one year.

Mr. Westbrook replied, the building owner has the ultimate say. The building owner cannot lease to them. The building owner is not involved in the entitlement process in terms of the length of time, but the building owner, if they don't want a specific user in

their building, they don't lease to them.

Commissioner Molina inquired further; when it comes to an application, the Commission doesn't even see the building owner.

Mr. Westbrook clarified that the building owner signs the application, and the building owner is notified of the public hearing. If they choose to attend, they can participate in the process if they would like.

Commissioner Molina remarked, to an extent, there are people who are going to be in the way of allowing it or not. The Planning Commission would have a say, the building owner would have a say, and the City Council would be involved at one point. He asked, is Option 1 saying, leave it at zero, no uses of any kind?

Mr. Westbrook confirmed that is correct.

Commissioner Molina asked, right now, we only know of two them, right?

Mr. Westbrook explained that both businesses went through the process, so those are the two that we know of that operate legally. He doesn't know of anybody that operates illegally.

Commissioner Molina asked, in the types of businesses that we're talking about, that would come in to fill those empty spaces, would be job generating businesses as well. So that's what we're looking forward to?

Mr. Westbrook clarified in terms of industrial users?

Commissioner Molina replied yes.

Mr. Westbrook responded yes, they would be manufacturing; they would be industrial type uses; job generating uses.

Commissioner Molina remarked, okay, we need jobs.

Mr. Wells added, but the difference is a gymnastics studio or a karate studio generally are owner occupied, meaning the people who are working at a karate studio are usually the owner and a family member. So there is a difference in job. And your point about who owns the building; they own the building and they have a vacant space, they want the space filled. So, they're okay with whatever use is in there, because they want the rent from that building. But, in terms of jobs, that's a blanket statement but generally speaking, we're going to get more jobs off of an industrial use than we are from any recreational use. And the same thing, especially when you take into consideration the occupancy idea of a non-profit going in there for a meeting space. That's not jobs. So, when you put that hat on there, the use of what it was intended for does create jobs, but industrial and those other uses are not going to create that same level of jobs.

Commissioner Molina commented that that makes sense. Obviously the word industrial means we're looking for those types of businesses. We want job generating businesses in there, but he's with him; he's 50% there. The business owner in him says, "let us." He doesn't want us to shut down to the point where, okay now we may be the reason why we're driving businesses out of Ceres because we don't have a place. They don't own a building or have the money to buy and build and so on. He does see that a lot of cities have Conditional Use Permits and Ceres, "no, no, no." He doesn't know. Like what was said, saying no is good sometimes, but he doesn't want to be the "no, no nothing." He doesn't think he's ready to move on and say let's go ahead and go for it. He'd like to perhaps inquire more. He understands that job generating businesses would go in the industrial areas, but then maybe a layout of what types of business could go in there if we did allow a Conditional Use Permit. And kind of have something to go off of. That karate studio, he completely understands. We have one here and it's owner run, and so on. It would generate jobs for the nephews during the summer. He's split too.

Chairperson Chapman stated for himself, he agrees with the Commissioners. It is a difficult decision. It's hard to kind of balance the economic benefit versus the long term planning of the area. For consistency purposes, he thinks staff's recommendation of Option 1 makes the most sense right now because we need to set some sort of expectation for the future for that potential for the light-industrial zone. He can see us getting five or six different businesses in there and saying this is great. And then someone comes in and says, well you know, if we would've had those two buildings we could've come in and brought in all these jobs, but you've got these other things in here, and it makes it really tough and then there's no consistency. And then maybe that word gets around and no, don't come to Ceres because they don't have any light-industrial because they've got everything filled with all these other types of businesses. He thinks we have to think big picture. He's willing to support Option 1 at this time.

Commissioner Molina asked if whatever we vote on will be a permanent vote.

Chairperson Chapman replied that this is just a recommendation to the Council. They're probably going to hash it out too, which is my understanding; correct?

Mr. Westbrook confirmed, that this would go before the Council for their consideration. If they suggest that we change a portion of the code, that text amendment has to come back to the Planning Commission for recommendation at that time. So this isn't the end of it, so to speak.

Commissioner Molina stated he would like to ask one more thing, if he may. So let's say we go with prohibiting everything; just for the sake of peace of mind, he inquired if staff is seeing movement in applications as far as the type of businesses that we're looking for to fill in the industrial areas.

Mr. Westbrook responded that he believes he mentioned earlier that we've recently had a couple of applications for new industrial buildings. That means that generally the supply

is down or there's somebody who wants to open an industrial business within our community. So we are seeing those pick up. Obviously it's not up to the level it was back in 2004 and 2005, but we are seeing an increase in folks that are interested in industrial properties.

Commissioner Molina added that he just hit a point too, thinking of the future in the future. It also makes sense to have a foundation of this is what we're expecting to go in there. Today, maybe that's where he is, today we need small businesses, we need all the money we can generate and so on, but if we're looking at setting up other foundation for a long-term. Then, he'd like to go on record on setting the foundation for that.

Mr. Westbrook remarked that the other thing that Option 1 provides, as Mr. Wells indicated, Option 1 is a more immediate thing and helps staff address that issue today. That doesn't mean that this issue still can't be analyzed when the General Plan is updated.

Commissioner Kachel stated that Mr. Westbrook just said pretty much what he was going to say. Staff's recommendation for Option 1 is based on exactly that. And what Mr. Wells said as well, is right now, you've got people coming in and staff isn't quite sure how to deal with them. What this does is make you go into the ordinance and come up with uses that you don't want in the zone, and then bring that through the hearing process of the ordinance, which would then go to City Council as well. And then however that ends up is how it ends up for the time being. And that again wouldn't prohibit the General Plan thing. Option 4 would be to the tune it over option, he guesses, but that leaves staff in a very vulnerable and awkward situation, not every day, but potentially quite a few times where staff is not quite sure and need to get these things before the Commission and we're not quite sure. So, he's ready to support Option 1 himself.

ACTION: It was moved by Commissioner Molina; seconded by Commissioner Kachel to approve 14-06 PC – CC with the recommendation of Option 1 to the City Council. Motion passed by the following vote:

AYES: Commissioners Chapman, Del Nero, Kachel, Molina, Smith
NOES: None
ABSENT: None

Commissioner Smith wants to make sure that when this goes to Council that it is thoroughly explained the discussion that the Commission had, and in fact she wants to know when this goes to Council because she thinks it's important that this isn't presented in such a way that it's not understood that the forward thinking that we're demonstrating here. The Council will clearly look at this from an economic development perspective and question probably the Commission's sanity. She just wants to make sure she knows; obviously non-concerned.

Mr. Westbrook stated that he and Mr. Wells will be there to represent the Planning Commission in the discussion.

**ADJOURN AS THE PLANNING COMMISSION TO THE CERES DOWNTOWN
REVITALIZATION AREA BOARD**

MEETING CALLED TO ORDER: 6:56 p.m.

ROLL CALL:

PRESENT: Commissioners Chapman, Del Nero, Kachel, Molina, Smith

ABSENT: None

ALSO PRESENT: City Manager/City Engineer Toby Wells, Director of
Community Development Tom Westbrook, City Attorney
Mike Lyons, Redevelopment & Economic Development
Manager Steve Hallam, Associate Planner James Michaels,
Secretary/Deputy City Clerk Ann Montgomery

CONFLICT OF INTEREST

None

NEW BUSINESS

3. FY 2013-14 Quarter (4th) Report for period ending June 30, 2014.

Redevelopment & Economic Development Manager, Steve Hallam presented the staff report.

Chairperson Chapman stated that he appreciates all of Mr. Hallam's hard work and his presentation this evening.

ACTION: It was moved by Commissioner Smith; seconded by Commissioner Molina, to accept the FY 2013-14 Quarter (4th) Report for period ending June 30, 2014. Motion passed by the following vote:

AYES: Commissioners Chapman, Del Nero, Kachel, Molina, Smith

NOES: None

ABSENT: None

RECONVENED AS THE PLANNING COMMISSION at 7:07 p.m.

PUBLIC HEARING:

None

PUBLIC MEETING(S):

None

UNFINISHED BUSINESS:

None

MATTERS INITIATED BY PLANNING COMMISSION AND STAFF

None

REPORTS:

Mr. Westbrook:

- This Saturday, August 23rd at the Tuolumne River Lodge there will be an event called, “Smoke on the River.” This is a barbeque event, with live bands and goes from 10 a.m. – 6:00 p.m. Tickets in advance are available from him at \$10 each. He will be there working in some capacity and hopes to see the Commissioners at the event.

Mr. Wells:

- Whitmore Avenue PG&E project is finally complete. PG&E will return early next year when they get started on the project on the other side of Whitmore, on the other side of the freeway. Fortunately though, they’ll be doing the work before we overlay the roadway. That is being coordinated with them pretty tightly, with the idea that they’ll complete the work that they started on this side of the freeway. Then we have a project beginning in the summer of 2015 where we’ll build the rest of Whitmore Avenue between Blaker and Morgan to the full configuration; two lanes in each direction, with a center turn lane and get the intersection of Whitmore and Morgan built to its ultimate configuration. That’s a project that’s in design currently. We’re very hopeful to get that project done because that will eliminate a big road block at that intersection.
- We do have a huge Capital Improvement budget this year that is about 50 something projects; that’s approximately \$20 million. The Engineering department is working very diligently on a lot of construction design projects.
- The City is recruiting for City Engineer and HR Analyst. If the Commission knows of anyone in those two fields that is looking for a job, we are looking for good people.

ADJOURNMENT:

The Commission adjourned at 7:11 p.m. to the next regularly scheduled meeting of Monday, September 15, 2014.

APPROVED:



Dave Chapman, Chairperson

ATTEST:



Tom Westbrook, Secretary