

**CITY OF CERES  
PLANNING COMMISSION  
MINUTES**

**April 17, 2017**

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

**PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Chairperson Del Nero.

**ROLL CALL:**

**PRESENT:** Commissioners: Kachel, Molina, Smith, Chairperson Del Nero

**ABSENT:** Commissioner Condit

**ALSO PRESENT:** Director of Community Development Tom Westbrook, City Manager Toby Wells, Director of Engineering Services/City Engineer Daryl Jordan, Redevelopment and Economic Development Manager Steve Hallam, City Attorney Christopher LaGrassa, Administrative Secretary/Deputy City Clerk Ann Montgomery

**CONFLICT OF INTEREST DECLARATION:**

None

**CITIZEN COMMUNICATIONS:**

- Leonard Shepherd – 2841 Fowler Road, Space 71, Ceres, CA

Mr. Shepherd remarked as he looks at the esteemed Planners of the City, he was reminded of the Scottish scholar and famous poet, Robert Burns' quote, translated in English, "The best laid plans of mice and men often times go awry." He noted that he has a different slant on that quotation; "The worst laid plans of mice and men often times get put through." He advised the Commission to give a great deal of thought as to the outcome of their decisions, not just for today or tomorrow, but twenty years from now, fifteen years from now.

**CONSENT CALENDAR:**

1. Clerk's Report of Posting. The amended Agenda for the regular meeting of the Planning Commission of April 17, 2017 was posted on April 13, 2017.
2. Approval of Minutes
  - a. April 3, 2017 (all present)

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**ACTION:** It was moved by Commissioner Smith; seconded by Commissioner Kachel to approve the Consent Calendar. Motion passed by the following vote:

**AYES:** Commissioners Kachel, Molina, Smith, Chairperson Del Nero

**NOES:** None

**ABSENT:** Condit

**CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR**

None

**PUBLIC HEARING:**

3. Zoning Ordinance Text Amendment (ZOTA) 17-04; consideration for proposed Ordinance No. 2017-1039, amending Ordinance No. 2015-1035 – Marijuana Cultivation and Delivery, Sections 18.04.002 – Definitions and Imperative Provisions and 18.46.20(B) – Prohibited Uses of the City of Ceres Municipal Code, to allow a Development Agreement for the Kase Manufacturing project located at 4111 Brew Master Drive. Kase Manufacturing, applicant.

City Manager, Toby Wells gave a Power Point presentation, explaining that this item isn't a full package, recognizing that the Development Agreement, Zoning Text Amendment and Ordinance are still being worked on. Since they're not quite finished yet, we're asking to continue this item to the next meeting on May 1, 2017. This presentation will provide the Commission an overview and background to explain how the Council got to the position of where we're at today and give the Commission the framework for the meeting on May 1<sup>st</sup>.

Commission Questions:

Commissioner Kachel inquired if the proposed permitting process would be the equivalent of a business license type of permit approval through the City.

Mr. Wells explained that it would be more like a Conditional Use Permit without Planning Commission; closer in line to a building permit, but with a little bit more teeth to it because it's going to require a couple of inspections. It's still going to follow under the permit issuance process, but because of the visits to it, it's going to be a little different. This process is going to be more involved with Mr. Westbrook's staff, Code Enforcement and probably the Police Department as well. Also potentially the Fire Department would be involved, depending on the intricacy of how folks are doing it. There's a wide range of growers; novice to the more experienced growers, in terms of how they would be doing this inside their homes; a very simple approach versus complex.

Commissioner Molina asked, in the interest of the property owner and future property owner, in terms of the structure, does that have any negative side effects to the house itself, in case they want to sell the house later on?

Mr. Wells stated that's a really good question and no one quite knows the answer to that yet. It's more of a legal question than anything else. As it stands today, there are no disclosure requirements, but he would speculate that at some point that would be some

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kind of law, requiring disclosure of those activities. The concerns that have been expressed from other cities: air quality; potential for molds - if you're having a situation with high humidity, controlled environment without proper ventilation, you might have some mold; drainage - depending on how it's set up on the watering process; a watering can vs. a drip system. All of those things are ranges where there could be potential where someone would need to provide disclosure on that. Under Real Estate Law, any modification, you're supposed to disclose it. But, then anyone who has bought a house recently, there's that long list and big stack of papers that you sign; those are all those legal requirements. There's nothing in there that he's aware of today, relative to marijuana. He would be shocked if it doesn't show up at some point over the next couple years.

Mr. Wells explained the framework that will be brought back to the Commission at the next meeting; the Zoning Text Amendment, the Ordinance and the Development Agreement. With consultation from the Deputy City Attorney, staff's recommendation is that the Commission ask any questions; if the Commission would like to open the Public Hearing and take public testimony, and leave the Public Hearing open and continue it to date certain, that would allow us to take formal action to review the full documents at the next meeting on May 1<sup>st</sup>.

**The Public Hearing was opened at 6:34 P.M.**

- Hiram Cueto - 2237 Service Road, Ceres, CA

Mr. Cueto stated that he had a question regarding this presentation, noting that he understands the Commission is considering three of the 17 license types. The question is in regards to laboratory services or testing. Apparently this is something that the Commission is not considering. He currently owns an environmental lab and he has an interest in possibly setting up a cannabis testing lab. Obviously he is following what the City is going to recommend in the end, noting he has been following it very closely. His question is, if it's not approved for testing, which he assumes there will not be a lot of labs trying to set up this kind of testing in this city; if there could be a way of asking for his Conditional Use Permit for a testing facility, if it is not one of those license types that the City may recommend opening up in 2018.

Mr. Wells explained that Council did not give that direction to explore that option at this time. So, the idea of that process without Council direction; we're not pursuing that at this point in time. But that doesn't mean that we wouldn't at some point in the future. At the end of the day, it was a concept that we need to go slow, and make sure we've picked the ones that we know we can deliver on and be willing to adopt and adapt over time, as with the existing ordinance, that wouldn't be allowed. It's not being considered as part of this, but if Planning Commission wanted to make that recommendation for Council to consider it, that is something they could do. Again, we asked specifically which of those items and the testing did not rise to the top level at this point in time, although obviously, it can be considered at a future date.

Commissioner Smith clarified that the Council direction was to explore options only related to medicinal marijuana use. No commercial; recreational use. She noted that she's not completely up to date on the law; in order to take advantage of any taxing opportunities, if you want to allow commercial use, don't you have to be doing that. Her

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question is this, does the allowing of laboratories or testing facilities as a commercial use, if you don't include that as part of your approval process now and adopt whatever sort of taxing or fee related activity by January 1<sup>st</sup>, you'll miss the opportunity or are there going to be future opportunities for that?

Mr. Wells explained that you don't miss any opportunities. A tax does require a vote of the people, which has to be at a normal, regular election. The soonest the City of Ceres would be able to put a process to tax on the ballot would be November 2018.

Commissioner Smith stated, scratch the use of the term "tax;" permit, fee, whatever regulatory fee. She stated that she thought all of that had to be in place before January 1<sup>st</sup>.

Mr. Wells remarked that it is not required to be in place. The State licensing, and that's again on the medical side where it's really clear that a local business cannot operate without local approval before they even apply to the State license. In essence, the control is here (locally), which is what most folks like about the legislation. Local control is still fully in place. Those decisions can be made at the local level, and if it waits 6 months, a year or two years, the local jurisdiction gets to make that decision as to when and if they want to pursue that option.

Commissioner Smith asked, when the Council was considering whether or not to allow commercial use, what kind of information did they receive to make that decision?

Mr. Wells explained that the Council received a similar presentation to this, with a little more background information on what the different layout of options are. Most folks, when they think about those activities, mainly focus on the dispensary, which is really kind of the end use. Referring to a slide; when you look at the range of spectrum of other uses out there, that's where the Council was looking at the potential for uses that may be consistent with some uses that we already have in the community.

Commissioner Smith inquired if staff provided any economic impact information?

Mr. Wells replied that they didn't as part of that conversation, but obviously there is clearly a "value-add" potential, but there's other ways to do it other than a "tax." There are fee structures and other things that are being explored at the current time and will be part of the Development Agreement.

Commissioner Smith clarified that when she was talking about "tax," she was referring to an excise or sales tax.

Mr. Wells stated there are two different variations there. The interesting thing, AUMA specifically said that you cannot charge a sales tax on medical products. You can still charge an excise tax or a business license tax on medical product, but it's kind of an odd little difference, but it doesn't prohibit from a fee structure or anything else on the business license side. There are a number of variations there. But those would likely, at least under Council direction currently, be handled under a development agreement type of approach at this point in time. It will most likely be reconsidered next year, depending on what happens. If anyone is reading any legislation right now, there are all kinds of conversation about how these licenses look. There's a trailer bill out there at the State

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level about potentially combining some of the two laws. It's a very fluid situation.

Commissioner Smith remarked that surely there's going to be a lot of adjustments as we move through this process and find out what's working and what's not working. There's a lot of fear and concern and what does this mean to Stanislaus County, which already has what everyone would agree is a significant drug problem. And, what is it going to mean to public safety. There are a lot of things to consider.

Commissioner Smith asked if Ceres is participating with the effort Stanislaus County is initiating.

Mr. Wells confirmed that we are active participants in that. That County-wide conversation is in essence a City Manager, an elected official and a representative from legal for each of the cities. All nine cities in the County are meeting on a monthly basis, to try to be on the same page. But as you might suspect, ten different agencies have ten different thoughts as to how this may or may not affect their particular jurisdiction. The full range of spectrum is represented, from "Nope, we won't allow anything," to "Hmm, we're open to anything" and everything in between.

Commissioner Smith stated, so it would be fair to say that the Council's direction was initially to explore medical uses or commercial uses, and delay or not consider at this time, any recreational commercial uses. But that doesn't pre-empt it from coming back for consideration at some future date as the dust settles and we start to understand what the implications are of everything.

Mr. Wells remarked that is correct.

Chairperson Del Nero inquired about Mr. Cueto's question; what he's thinking about is what the State wants to regulate from grows that are for sale, right?

Mr. Wells explained there's a specific license for the testing piece of it at the State level. As a local agency, we can limit that as well. So, we can create a process for that as well. We can say yes or no to that, whether we want that in our City. We have complete control over any of those licenses. We can specifically decide whether we want to or not want to include that.

Chairperson Del Nero stated, in the future, if we did, they probably could hire somebody to test it.

Mr. Wells stated, but again, for that business to operate in the City of Ceres, we would specifically have to provide them authorization either through a license or some other arrangement. We have to specifically authorize that use in the City limits before they're allowed to get a State license.

Commissioner Molina asked if Mr. Cueto's inquiry fits into what we're discussing right now, as far as staff bringing it to Council with some sort of recommendation to allow something like that.

Mr. Wells replied no, that is not included. It was not part of the Council's direction.

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- Tim Nicolau – 4110 Brew Master Drive, Ceres, CA

Mr. Nicolau stated that he was aware that this project was coming onboard, but he thought that we were going to be talking about what this project was proposing to bring to the community, or what we're up against by this project coming into the community.

Commissioner Smith explained that will be at our next meeting on May 1<sup>st</sup>. The item is being continued. The City Manager had stated they are not prepared to discuss the item tonight, so we're just having some educational information about what will be coming on May 1<sup>st</sup>.

**ACTION:** It was moved by Commissioner Smith; seconded by Commissioner Molina to continue the Public Hearing to May 1, 2017. Motion passed by the following vote:

**AYES:** Commissioners Kachel, Molina, Smith, Chairperson Del Nero  
**NOES:** None  
**ABSENT:** Commissioner Condit

**NEW BUSINESS:**

None

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

**MEETING CALLED TO ORDER:** 6:45 P.M.

**ROLL CALL:**

**PRESENT:** Board Members Kachel, Molina, Smith,  
Board Chairperson Del Nero

**ABSENT:** Board Member Condit

**ALSO PRESENT:** Director of Community Development Tom Westbrook,  
City Manager, Toby Wells, Director of Engineering  
Services/City Engineer Daryl Jordan, Redevelopment and  
Economic Development Manager Steve Hallam, City  
Attorney Christopher LaGrassa, Administrative  
Secretary/Deputy City Clerk Ann Montgomery

**CONFLICT OF INTEREST:**

None

**NEW BUSINESS**

4. Ceres Downtown Revitalization Area Board (CDRAB) FY 2016-17 Quarterly Report – 3<sup>rd</sup> Quarter.

Redevelopment and Economic Development Manager Steve Hallam presented the 3<sup>rd</sup> Quarter Report.

Board Questions and Discussion:

Board Member Molina inquired about the process for having Stanislaus State University advertise with banners in Ceres, as they do all over in the City of Turlock. It would be beneficial.

Mr. Hallam stated that if the Board would like to explore that, he will be happy to do that.

**ACTION:** It was moved by Commissioner Smith; seconded by Commissioner Kachel to accept the Ceres Downtown Revitalization Area Board (CDRAB) FY 2016-17 Quarterly Report – 3<sup>rd</sup> Quarter. Motion passed by the following vote:

**AYES:** Board Members Kachel, Molina, Smith, Board Chair Del Nero  
**NOES:** None  
**ABSENT:** Board Member Condit

5. Status of Delinquent Assessments From Applicable Businesses in the Ceres Downtown Revitalization Area.

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

Board Questions and Discussion:

Commissioner Smith thanked Mr. Hallam for following up on this.

**ACTION:** It was moved by Commissioner Smith; seconded by Commissioner Kachel to accept the Status Report. Motion passed by the following vote:

**AYES:** Board Members Kachel, Molina, Smith, Board Chair Del Nero  
**NOES:** None  
**ABSENT:** Board Member Condit

6. Ceres Downtown Revitalization Area Board Annual Report.

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

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Board Questions and Discussion:

Board Member Smith remembered a while back the Board had talked about the Assessment Area. She believes the City Attorney, Nubia Goldstein was looking into options associated with expanding the area, but she doesn't recall there being a report on this.

Mr. Hallam replied that there was a report at the CDRAB meeting, he believes in July and he will send that to the Board. There were a number of obstacles, and the biggest concern was, we could open it up and the whole thing could go away.

Board Member Smith remarked we discussed this, but was this the report from the City Attorney.

Mr. Wells explained that we gave the Board the report and the moral to the story is, if we open it up and try to expand the limits; likely, it would fail.

Mr. Hallam added that we included a memo from the City Attorney with that report.

Board Member Smith requested that be included with the report as well.

Mr. Wells explained that the problem with that was that the mechanism that was used to form the district is very limited in its application going forward. So, what you got in the hand is probably the best option, because if you try to expand it, the vote that would be required to expand it, would likely have it voted down.

Board Member Smith asked if we talked about other possible options; is that included in the memo?

Mr. Wells stated yes that was included.

Mr. Hallam noted that we talked about expansion of the boundaries, to maybe picking up Whitmore Avenue.

Board Member Smith clarified that we talked about other types of districts to replace this extremely old structure, which is really the problem.

Mr. Wells replied that is correct.

Board Member Smith stated the second item she would like to discuss is the Façade Improvement Program. She asked Mr. Hallam if he recalled how long the City has been offering this.

Mr. Hallam stated that it became effective in the Fall of 2015.

Board Member Smith remarked it's only been two years, but it's pretty clear, and we haven't had any applicants, any bites.

Mr. Hallam remarked that we've had two bites, noting that he met with them, they reviewed the program, but the prevailing wage requirement scared them away. But,

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ironically too, both buildings have been updated, privately.

Board Member Smith asked if there's a way to put this funding into a capital improvement line item without identifying a specific program, and then we can, during the budget year, discuss what the program would be, whether it be way-finding signs or some other program. She doesn't want to take it out of the budget and go through an exercise to appropriate funding for something. But, she doesn't want to fund something that's not going to happen.

Mr. Hallam explained that he thinks the way we did it, was like the placeholder on the Way-Finding Signage, with it being a line item in the adopted budget by Council. If we decide, in August, September or whenever, if we look at the improvements and decide we'd like to take some of that and shift it over to Way-finding Signage because it's your reserve that you said, we'd like to spend it and do something. We would do a budget amendment request at Council to just move it.

Board Member Smith inquired if we can change it to Downtown Incentive instead of Façade. It says Downtown Façade. Can we move, at this moment, to amend this proposed budget; instead of funding a Downtown Façade Program, to fund a Downtown Incentive Program?

Mr. Hallam replied that yes, the Board can recommend that.

Board Member Smith stated she just doesn't think that the Façade Program is going to be effective. The Incentive Program is broad enough that we can have a future discussion about what does that mean.

Mr. Hallam suggested that strategy to go about that would be to recommend introduction of another line item in the budget, to be a placeholder, Downtown Incentive Program (specifics to be determined), and out of that \$25,000, maybe leave \$5,000 in the line item for Façade Improvement Program.

Board Member Smith asked why.

Mr. Hallam explained he would recommend leaving it in the budget with some funding, so if somebody walks in and wants to do it, we don't have to go back to the Council and request a budget amendment because \$5,000 theoretically would do three and half façade matches on design assistance, which is what the Board's portion is funding; on matching grant on design assistance. The Council's portion set aside was for the actual work. But having the line item still in the annual report with a dollar amount; it's a nominal amount. It doesn't have to be \$5,000, but he's thinking it's a placeholder. Then you could recommend a new activity and reallocate some of that.

Mr. Wells added, if you put zero there for that Design Façade, then you're effectively eliminating that program. So you should take action to recommend elimination of that program. Otherwise, leave something in there or the program is unfunded.

Board Member Smith remarked then we could to choose at some time during the fiscal year to use that money; we just make a motion to appropriate the funding.

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Board Member Smith stated she'd like to hear from the Board, how they feel about the discussion on re-appropriating the Downtown Façade funding; creating a new line item, Downtown Incentive Program, moving \$20,000.00; leaving \$5,000.00 in the Façade Program. That is what she would support and wonders how the rest of the Board feels.

Board Member Molina inquired, we don't know what the incentive is going to be.

Board Member Smith suggested that we should have a discussion about this probably before July 1st.

Mr. Hallam stated, what came out of that February workshop, was business permit assistance stipend if somebody wanted to do a project to help facilitate the fees connected with building permits. He thinks the incentive is broader. The recommendation would be; it would be very appropriate for the Board to say that money from our reserves is going nowhere. Let's create an additional category, put a placeholder and put money in it. He'd say, before we start discussing the specifics, let's let the Council adopt the annual report with the Board's recommendation. Then we know that they've bought into it too. Then in July we can meet to begin to format what are the options of the Downtown Incentive Program.

Board Member Smith agreed.

Board Member Kachel remarked, that's a great suggestion.

**ACTION:** It was moved by Board Member Smith; seconded by Board Member Kachel to adopt the Ceres Downtown Revitalization Area Board Annual Report with the recommendation that the appropriation for the Downtown Façade Program be reduced to \$5,000, and a new line item be created for "Downtown Incentive Program" and \$20,000 be placed in that expenditure item. Motion passed by the following vote:

**AYES:** Board Members: Molina, Kachel, Smith, Board Chair Del Nero  
**NOES:** None  
**ABSENT:** Board Member Condit

**RECONVENED AS THE PLANNING COMMISSION** at 7:22 P.M.

**PUBLIC MEETING(S):**

None

**UNFINISHED BUSINESS:**

None

**MATTERS INITIATED BY PLANNING COMMISSION AND STAFF**

None

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**REPORTS:**

Chairperson Del Nero wished Commissioner Kachel happy birthday!

Director of Engineering Services/City Engineer Daryl Jordan reported on the 4<sup>th</sup> Street project; there will be brackets on each of the street lights, which we can hang flags on or banners on throughout that corridor.

**ADJOURNMENT:**

The Commission adjourned at 7:23 p.m. to the next regularly scheduled meeting of Monday, May 1, 2017.

APPROVED:



Gary Del Nero, Chairperson

ATTEST:



Tom Westbrook, Secretary

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