

MINUTES

TURLOCK CITY PLANNING COMMISSION MEETING THURSDAY, NOVEMBER 7, 2013 6:00 PM

YOSEMITE COMMUNITY ROOM TURLOCK CITY HALL, 156 SOUTH BROADWAY

COMMISSIONERS PRESENT: Bean, Brem, Dias, Hillberg, Fregosi and Salcedo

ALTERNATE COMMISSIONERS PRESENT: Badal and Pollard

COMMISSIONERS ABSENT: Hackler

STAFF PRESENT: Debra Whitmore, Deputy Director of Development Services; Mike Pitcock, Director of Development Services; Phaedra Norton, City Attorney; Rose Stillo, Senior Planner; Adrienne Werner, Assistant Planner; Dorinda Soiseth, Staff Services Technician

A. CALL TO ORDER The meeting was called to order at 6:01 p.m.

B. APPROVAL OF MINUTES

1. Special Meeting of July 18, 2013

Chairman Brem asked for corrections or a motion to approve the minutes of the July 18 Special Meeting. Motion and second (Dias/Fregosi) to approve the minutes as submitted. Carried unanimously with Commissioner Hackler and Salcedo absent and Commissioners Brem and Hillberg abstaining.

2. Regular Meeting of October 3, 2013

Chairman Brem asked for corrections or a motion to approve the minutes of the October 3 Regular Meeting. Motion and second (Hillberg/Fregosi) to approve the minutes as submitted. Carried unanimously with Commissioners Hackler and Salcedo absent.

C. ANNOUNCEMENTS – Debbie Whitmore

- 1. Special Meeting on December 19 will not be needed:** The applicant has agreed to wait until the January 16, 2014, special meeting date.
- 2. City Hall Holiday Closures:** City Hall will be closed Thanksgiving week (November 25-29) and Christmas week through New Year's Day (December 23 – January 1).
- 3. Downtown Community Visioning Workshop:** Scheduled for a special meeting on November 21, 2013

D. DECLARATION OF CONFLICTS OF INTEREST AND DISQUALIFICATIONS

Commissioner Hillberg declared a conflict with item G.1, Amendment to Conditional Use Permit 99-

03, Cornerstone Covenant Church, as he lives within 500 feet of the project.

E. **PUBLIC PARTICIPATION** - None

F. **CONSENT CALENDAR** - None

G. **PUBLIC HEARINGS**

***CONSENT**

*None

NONCONSENT

To avoid the appearance of a conflict of interest, Commissioner Hillberg steps down.

1. **AMENDMENT TO CONDITIONAL USE PERMIT 99-03 (CORNERSTONE COVENANT CHURCH)**
Rose Stillo presented the staff report on the request to permit the operation of a private preschool, Monday through Friday, from 6:00 AM to 6:00 PM at the Cornerstone Covenant Church, 4105 Crowell Road (APN: 071-001-011). She noted that this is an amendment to the original Use Permit which authorized a church at this location. The proposed project is Exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15301 [Existing Facilities], and staff is recommending approval.

The applicant, Amanda Gonzales, spoke in favor of the preschool.

Commissioner Fregosi asked about the preschool's testing and assessment process.

Ms. Gonzales answered that assessments are done in order to ascertain the development level of a child and she also provided information about their testing process.

PUBLIC HEARING:

Chairman Brem opened the public hearing. No one spoke. Chairman Brem closed the public hearing.

MOTION: Commissioner Bean moved, Commissioner Dias seconded, that the Planning Commission find the amendment to Conditional Use Permit 99-03 (Cornerstone Covenant Church) to be categorically exempt from the provisions of CEQA, and approve this amendment to Conditional Use Permit 99-03, having determined that the appropriate findings have been made, subject to the conditions of approval listed in Draft Resolution No. 2013-11. Motion carried unanimously with Commissioners Hackler and Salcedo absent, and Commissioner Hillberg not participating.

Commissioner Hillberg is reseated.

2. **CONDITIONAL USE PERMIT 2013-03 (WELTY & ASSOCIATES)** Rose Stillo presented the staff report on the request to add 1,200 square feet to an existing 2,400 square foot warehouse building and the addition of a new parking lot and outdoor employee break area, at 213 C Street (APN: 043-049-053 & 054). The proposed project is Exempt from the provisions of the California Environmental

Quality Act (CEQA) under Section 15305 [Minor Alterations in Land Use Limitations]. Rose reported that the existing building was constructed within a foot of the rear property line with the front of the building approximately nine feet from the front property line. The applicant is proposing to extend the existing building along the same footprint at the front and rear in order to maximize the use of this site. Since the current zoning would require a minimum fifteen foot setback from C Street and a ten foot rear yard setback, approval of a Conditional Use Permit is required for the new construction.

Rose advised that the applicant is proposing a wrought iron fence instead of a solid wall and said that staff has talked with the property owner directly across the alley about the proposed wrought iron fence. The owner said that this would be acceptable as long as the use of the building remained warehouse and no outdoor business activity took place. Rose advised that the project is conditioned to reflect this neighbor's concern, and said that staff recommends approval.

Chairman Brem asked about the parking spaces for the business and if the alley would be improved. Rose responded that where they are currently parking is not a legal parking space, but public right-of-way, and that improving the alley is a condition of project approval.

Daryl Jordan, representing the applicant R.B. Welty, said that there are existing offices in the warehouse, with parking for the three employees on the street.

PUBLIC HEARING:

Chairman Brem opened the public hearing. No one spoke. Chairman Brem closed the public hearing.

MOTION: Commissioner Hillberg moved, Commissioner Bean seconded, that the Planning Commission approve Conditional Use Permit 2013-03 (R B Welty & Associates), having determined that the project is Categorically Exempt from the provisions of CEQA and that all of the appropriate findings can be made, subject to the conditions of approval contained in draft Planning Commission Resolution No. 2013-12. Motion carried unanimously with Commissioners Hackler and Salcedo absent.

3. **APPEAL OF THE DENIAL OF A REQUEST TO REMOVE CONDITION #60 OF THE 2010 TIME EXTENSION FOR MINOR DISCRETIONARY PERMIT 2008-08. (MONTE VISTA CROSSINGS LLC)** Debbie Whitmore presented the staff report and said that this is a request to remove Condition of Approval #60 of the 2010 Time Extension Permit for Minor Discretionary Permit (MDP) 2008-08. The approved development in Minor Discretionary Permit 2008-08 is the construction of a shopping center consisting of approx. 209,155 sq. ft. of commercial/retail floor area (Monte Vista Crossings South) on approx. 19.29 acres located at 2701 Countryside Drive, Turlock. Condition of Approval #60 would require that the approved development provide an access point and access agreement with the property to the east (APN 088-002-005, addressed as 2531 W. Tuolumne Avenue).

Debbie advised that Condition #60 of the permit would ensure cross access to Monte Vista Crossings and provide access to all shopping areas. She said that removal of Condition #60 would not be consistent with the Northwest Triangle Specific Plan Policy 2.3b that requires all new projects

to provide linkages to adjacent sites to encourage internal circulation by automobiles to reduce traffic volumes on adjacent streets.

Debbie reviewed the reasons cited by the applicant for the appeal, and noted that staff does not concur. She said the staff recommendation is to deny the appeal and amendment to Minor Discretionary Permit 2008-08 (MDP 08-08).

Mark Hall, of Hall Equities Group, the developer and owner of Monte Vista Crossings, spoke against the denial of the request to remove Condition #60 of MDP 08-08. He stated that this was the first time they have been required to provide an access point between properties, and cited numerous properties in the Northwest Triangle Specific Plan (NWTSP) that are not sharing access points. Mr. Hall commented that in 2008 this condition was not an issue for them as they had the adjacent property in escrow, but due to the recent financial crisis they let their option lapse. Mr. Hall expressed concern that the adjacent property has not contributed to the cost of developing the area, and suggested that the two parties negotiate this together as it is an economic issue between two private property owners.

Chairman Brem asked for an opinion from the City Attorney.

City Attorney Phaedra Norton said that she concurs with staff's position as stated on page 7 of the staff report. She noted that the Hall Equities letter requesting an appeal cites the Koontz v. St. Johns River Management District case, and makes a claim that Condition #60 is both illegal and unenforceable based on this decision, but staff does not concur with this conclusion.

Brian Heron, speaking over the phone and representing the adjacent property, said that they were unaware of the request to remove Condition #60 concerning an access point between the properties. He advised of his willingness to meet with Mr. Hall as his commercial parcel will need access as conditioned in the permit.

PUBLIC HEARING:

Mark Hall, Hall Equities Group, said he does not agree with staff that he would not have legal remedies. He said that he would allow his application to expire, and then file a new application in the future to see if the City imposes the same requirement.

Brian Heron commented that his clients know that there is a requirement for access between the properties and are looking for an opportunity to develop in conjunction with the Hall Equities project, and not land-lock their parcel.

City Manager Roy Wasden spoke of the difficulty of the situation and asked if a decision could be continued to a future meeting.

Chairman Brem noted that the conditions of approval for this permit were established and accepted twice, and that the economic situation was out of the Planning Commission's purview. He would agree to continue the item so both parties could meet.

Commissioner Fregosi asked if the design review process placed a high priority on traffic flow, and if this will continue to be a priority.

Debbie Whitmore responded that the main priority is to maintain traffic flow as businesses develop.

Commissioner Fregosi said she is prepared to make a decision but will agree to continue this matter to a future meeting.

Commissioner Dias asked if access would be available from Countryside Drive.

City Engineer Mike Pitcock advised that the City is required by law to provide access but that it is necessary to limit the number of driveways for safety purposes.

Mark Hall asked that the Commission vote on the appeal tonight.

Commissioner Pollard commented that she understood Mr. Hall had not had chance to speak to the other property owner.

Mark Hall responded that the current property owner of the other parcel is Mr. Blumenfeld, but that Florsheim is in contract to purchase the site. Hall Equities has contacted Florsheim and did not get a response until recently. Mr. Hall advised that he has 12 tenants lined up for this center, and based on the timing of his project he would like to know where the Planning Commission and City Council stand so he can get back to his tenants.

MOTION: Commissioner Fregosi moved, Commissioner Bean seconded, that the Planning Commission deny the appeal and the Amendment to the 2010 Time Extension for Minor Discretionary Permit 2008-08 to remove Condition #60, contained in Draft Planning Commission Resolution No. 2013-13. Motion carried unanimously with Commissioners Hackler and Salcedo absent.

7:07 PM – Commissioner Salcedo arrives.

H. OTHER MATTERS

1. CONSIDERATION OF A RESOLUTION OF INTENTION TO INITIATE ANY AND ALL PROCEEDINGS TO STUDY AND AMEND, IF APPROPRIATE, TURLOCK MUNICIPAL CODE 9-2-125 REGARDING MOBILE FOOD FACILITIES

Debbie Whitmore provided an outline of the process and timeline to amend the ordinance. She noted that staff had received a letter from the Turlock Downtown Property Owners Association (TDPOA) requesting an emergency moratorium on mobile food vendors in the Downtown Core (DC) zoning district.

Commissioner Fregosi asked why this issue would be considered an urgency measure.

Debbie Whitmore advised that an application for a new mobile food vendor in the DC district has been received, and that the City Council will consider the urgency request.

Christopher Shawn, the applicant of the new mobile food vendor at 201 W. Main Street, said he has a 20-foot mobile food catering trailer that offers a healthy food alternative, and said that his site

meets all City standards for mobile vendors. He responded to the concerns outlined in the letter from the TDPOA, and presented a petition in support of his food trailer from local downtown businesses. Mr. Shawn asked that a moratorium not be adopted and that mobile food vendors be allowed to operate in downtown. He said his hours of operation would be daily from 11:00AM to 1:00PM for lunch, and from 5:00PM to 7:00PM in the evening.

Dana McGarry, Administrator for TDPOA, said she applauds the entrepreneurial spirit of the mobile food vendors but noted they are not required to pay taxes, such as the 42-cent per square foot tax that is paid to the TDPOA to help with the maintenance of the downtown district, that are required of "brick and mortar" businesses. She noted that downtown property owners are currently investing hundreds of thousands of dollars in their buildings, and commented that when the current ordinance was adopted there were no vacant lots in the downtown area but now there are. She asked for time to review the current policy to determine if mobile food vendors are appropriate in the downtown core.

John Jauregui, a downtown property owner and TDPOA Board Member, spoke of the recent renaissance in the downtown area as a result of local ownership and investments, and expressed concern about businesses having an even playing field. He commented that during the downtown zoning district update the mobile food vendor and vacant lot issues were not addressed, and said the process needs to be more closely reviewed which is why they are requesting a moratorium at this time.

Carrie Hernandez, owner of the Saucy Girls food truck, noted that investors have put money into a new food truck commissary, and that mobile vendors do contribute to the local economy. She does not feel mobile vendors are detrimental to downtown, but add to the community.

Mark Hernandez commented that he has invested thousands of dollars in his food truck, and that they have cleaned up their downtown area.

Eric Gonzalves, President of TDPOA, noted that vacant lots are not paying in to the Property and Business Improvement District, and that building owners have invested in City permits to improve their storefronts in order to keep the integrity of the historic buildings downtown.

Ignacio Rico, representing Catering Support Services, said they have invested money in their new business and facility.

Chairman Brem noted that Turlock allows mobile food vendors where other cities do not, and said that what is being asked is a review of the ordinance prior to approving any additional food trucks in downtown.

Danny Mann, TDPOA Board Member and downtown property owner, commented that if the door is opened for food trucks to locate downtown it will be hard to limit them.

MOTION: Commissioner Pollard moved, Commissioner Hillberg seconded, that the Planning Commission adopt a Resolution of Intention to study and amend, if appropriate, Turlock Municipal Code 9-2-125 regarding Mobile Food Facilities. Motion carried unanimously with Commissioner Hackler absent and Commissioner Salcedo not participating.

Debbie Whitmore advised that the City Council will consider this item on November 12 at 6:00 PM.

I. COMMISSIONER'S CONSIDERATION:

1. ADOPTION OF THE PLANNING COMMISSION 2014 CALENDAR OF MEETING DATES

MOTION: Commissioner Fregosi moved, Commissioner Bean seconded, that the Planning Commission adopt the meeting dates for 2014 as presented. Motion carried unanimously with Commissioner Hackler absent, and Commissioner Salcedo not participating.

J. STANISLAUS COUNTY PLANNING REFERRAL ITEMS - None

K. COMMISSIONERS COMMENTS –

Commissioner Fregosi commented on construction work that has started on Monte Vista Avenue in front of CSUS.

L. STAFF UPDATES – *Debbie Whitmore*

- 1. Avena Bella** – the apartment complex on Linwood Ave includes five buildings that are complete and occupied, with four more buildings nearing completion along with the pool.

Chairman Brem congratulated Commissioner Pollard on her recent election to the Stanislaus County Board of Education.

M. ADJOURNMENT: Having no further business Chairman Brem adjourned the meeting at 7:46 PM.

Respectfully Submitted,



MIKE BREM
Chair



DEBRA A. WHITMORE
Deputy Director of Development Services,
Secretary of the Turlock Planning Commission