

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF APRIL 13, 2011

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of April 13, 2011, are available online at www.co.merced.ca.us/planning/plancomarchive.html.

I. CALL MEETING TO ORDER

The regularly scheduled meeting of the Merced County Planning Commission was called to order at 9:00 a.m., on April 13, 2011, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Lynn Tanner - Chairman
 Commissioner Jack Mobley - Vice Chairman
 Commissioner Mark Erreca
 Commissioner Rich Ford
 Commissioner Greg Thompson

Staff Present: Paul A. Fillebrown, Interim Development Services Director
 William Nicholson, Assistant Development Services Director
 Kim Anderson, Recording Secretary

Legal Staff: Marianne Greene, Deputy County Counsel

Commissioners Absent:

III. APPROVAL OF MINUTES

M/S MOBLEY - ERRECA, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF MARCH 23, 2011.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. ADMINISTRATIVE APPLICATION No. AA11-007 - Sebero Guzman - To establish a semi-mobile food vendor within the parking area of an existing farm supply store on a 1.2 acre parcel. The project site is located on the north side of Santa Fe Drive, 170 feet west of Ballico Avenue in the town of Ballico. The property is designated Commercial land use in the General Plan and zoned C-2 (General Commercial). **DG**

Recommendation: The actions requested are to:

- 1) Determine that the application is exempt from CEQA review under Section 15061(b)(3) of the CEQA Guidelines, and;
- 2) Approve Administrative Application No. AA11-007 based on the project findings and subject to the conditions of approval presented in the Staff Report

Planner David Gilbert presented the Staff Report and recommendations of approval dated April 13, 2011.

The public hearing opened at 9:11 a.m.

Michael Smith with CCPS and representing the applicant and property owner, said he agrees with the fifteen conditions and they are aware of the changes made and are OK with those changes, and he asked for approval of this application.

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Norman Passadori, neighboring property owner in Ballico, said he attended the hearing last month regarding the approval of the taco truck in Ballico. He said he was concerned with the hours of operation for the proposed taco truck will not allow required access to restrooms since the Ranch Supply store nearby closes at 5pm and the taco truck would be open until 6pm. He acknowledged that the change in hours of operation have been made already to the conditions.

Planner David Gilbert said there is an agreement between the taco truck operator and the property owner. The property owner didn't understand why he was signing the letter to allow the taco truck to utilize the restrooms. He called and requested that the hours be changed to coincide with the hours of the Ranch Supply store. This could come back as a modification in the future if the hours change. The hours are from 10am to 6pm Monday through Friday. The Ranch Supply Store owner will be around until 6pm though the store closes at 5pm.

The public hearing closed at 9:13 a.m.

MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS ADMINISTRATIVE APPLICATION No. AA11-007 FROM CEQA.

MOTION: M/S MOBLEY - ERRECA, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED APRIL 13, 2011, AND MAKES THE 10 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES ADMINISTRATIVE APPLICATION No. AA11-007 SUBJECT TO THE 15 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning & Community Development Department

1. Administrative Permit No. AA11-007 is granted to allow Sebero Guzman (applicant) to operate a semi-mobile food vendor (catering truck) within the parking area of an existing farm supply store located at 11256 Santa Fe Drive in the community of Ballico.
2. The project shall operate in a manner that is consistent with the approved Plot Plan and the applicant's Operational Statement. Minor Modifications may be approved by the Development Services Director upon submittal of an acceptable application.
3. If the Administrative Permit is not implemented within one year, it shall expire and become null and void. The Development Services Director may extend the Permit if a request is filed by the applicant prior to its expiration.
4. The applicant shall comply with the Merced County Zoning Code Development Standards required for semi-mobile food vendors (Section 18.47.280.D) including, but not limited to the following:
 - a. The operating hours shall be limited to 10:00 a.m. to 6:00 p.m. Monday through Friday, 10:00 a.m. through 1:00 p.m. Saturday, and closed on Sunday. The proposed table shall be removed from the plot plan.
 - b. There shall be adequately sized, and covered trash receptacles next to the semi-mobile food vendor.
 - c. The site shall be kept clean and free of litter at all times. Trash and garbage shall be removed from the site at the end of each day.

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- d. Waste water generated by this use shall not be released on-site or into any storm drainage or irrigation system.
 - e. Grease shall be disposed per requirement of the Division of Environmental Health.
 - f. No additional advertising sign except a sign attached to the semi-mobile food vendor shall be utilized and any sign shall be reviewed and approved by the Development Services Director.
 - g. A copy of the administrative permit shall be kept with the operator at all times and shall not be transferable to another operator.
5. For the purpose of conditions monitoring, an inspection fee in the amount of **\$324.00** shall be required. This fee shall be paid within 30 days of the approval date. Should additional inspections be required, inspection time shall be billed to the applicant at the established hourly rate at the time of the inspection.
 6. The property owner shall stripe the seven parking spaces in front and next to the supply store as shown on the plot plan, with one of those parking spaces being a "Van Accessible" handicap parking space.

County Counsel

7. **INDEMNITY AND HOLD HARMLESS AGREEMENT:**

Sebero Guzman has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, commissions, officers, employees, agents and assigns (hereinafter "COUNTY") from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, expert witness and consultant fees and other costs and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract, writ of mandamus, or otherwise. This duty shall include, but not be limited to, claims, petitions, or the like for bodily injury, property damage, personal injury, contractual damages, writ of mandamus, or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents, commissions, boards, and officers of Sebero Guzman. Sebero Guzman liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct, or negligent conduct of any kind, on the part of Sebero Guzman, their employees, subcontractors, agents, and officers. The duty shall extend to any allegation or claim of liability, or petition, except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of COUNTY. This duty shall arise at the first notice of filing a lawsuit, claim, petition, or allegation of liability against COUNTY. Sebero Guzman will on request and at its expense, defend any action suit or proceeding arising hereunder. This clause and shall not be limited to any claim, petition, demand, liability, judgment, award, interest, attorney's fees, expert or consultant witness fees, legal research fees, staff and administrative costs, administrative record costs, materials, and costs and expenses of whatsoever kind or nature, that may arise during the term of this Agreement, but shall also apply to all such claims and the like, after the term of this contract, including but not limited to actions arising from public interest, land use and environmental legal actions, brought against the COUNTY following Conditional Use Permit No. AA11-007 approval, modification, denial, or the exercise or exhaustion of administrative appeals. Attorney's fees shall include any and all attorney's fees but not be limited to attorney's fees and staff time incurred by the offices of COUNTY counsel.

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COUNTY shall have full discretion to select legal counsel of its own choosing to represent COUNTY, at a cost not exceeding the prevailing and reasonable rates for counsel practicing environmental and land use law in the State of California, or practicing any other area of law that the COUNTY determines the Claim may reasonably require. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

Department of Public Health/ Environmental Health Division

8. A stationary mobile food preparation unit (aka semi-mobile food vendor) must be operated within 200 feet travel distance of an approved, readily available, permanent toilet and hand washing facility for use by facility employees. If a permanent structure where food is stored, prepared, served or consumed is provided for customers at the site, then a permanent restroom must be available for customer use. In either case, written permission from the restroom owner should be provided indicating who has permission to use the restrooms and the days and times the restrooms are available. The food vehicle cannot operate unless the restrooms are available. The restrooms must be inspected and approved by MCDEH.
9. A mobile food facility shall have a permit from MCDEH to operate in Merced County. Call MCDEH at 381-1100 to get a vehicle inspection appointment. Bring a completed form to the inspection. Unless the vehicle also has an AA permit from the Planning Department for a semi-mobile food vendor business, the vehicle is not allowed to be stationary. Call Mary Coakley at (209) 710-6096.

Commerce Aviation and Economic Development Department

10. If the applicant/owner does not currently have a Business License Permit, they shall obtain one from the Commerce Aviation and Economic Development Department. The property owner/applicant shall pay all required fees for the Business license. The property owner/applicant shall annually renew the Business License and pay all required fees.

Public Works/Building & Safety Division

11. Employees shall be provided with accessible restrooms, including the path of travel to the restrooms and shall comply with the requirements of the 2010 California Building and Plumbing Code.
12. In food preparation areas, fixture requirements may be dictated by health codes of the 2010 California Plumbing Code.
13. Each dining area if provided shall have one wheelchair seating for each 20 seats provided.
14. Provide Accessible Parking if one accessible space is required, that space shall be "Van Accessible" located, marked and signage as required per the 2010 California Building Code.
15. All electrical equipment and cords shall be secured and protected per the 2010 California Electrical Code

VI. COMMISSION ACTION ITEM (S)

None

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VII. DIRECTOR'S REPORT

William Nicholson, Assistant Development Services Director, the Joint Study Session between the Board of Supervisors and the Planning Commissioners will be set for May 3rd at 1:30 in the Board Chambers.

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:19 a.m.