

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF MAY 9, 2012

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of May 9, 2012, 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 May 9, 2012, 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 Greg Thompson

Staff Present: Mark Hendrickson, Interim Development Services Director
 William Nicholson, Assistant Development Services Director
 Kim Anderson, Recording Secretary
 James Holland, Senior Planner

Legal Staff: Marianne Greene, Deputy County Counsel

Commissioners Absent: Commissioner Rich Ford

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. ADMINISTRATIVE APPLICATION No. AA12-008 - Jose Ramires - To establish a Flea Market/Swap Meet to be held on weekends on a 1.6 acre parcel located immediately southeast of the intersection of Winton Way and Santa Fe Drive. The project site is designated Winton SUDP - General Commercial and zoned C-2 (General Commercial). **JH**

Recommendations: The actions requested are to:

- 1) Determine that the project is categorically exempt from CEQA review under Section 15301 of the CEQA Guidelines, and;
- 2) Approve Administrative Permit Application No. AA12-008 based on the project findings, and subject to the conditions of approval recommended in the Staff Report.

Planner James Holland presented the Staff Report and recommendations of approval dated May 9, 2012.

The public hearing opened at 9:21 a.m.

Salvador Walle, owner of the Mercado property on Winton Way, said a traffic study of Winton Way was done, but it only covered a quarter of a mile in the area where the proposed flea market will take place. There are accidents in the area all the time and those were not included in the traffic study report.

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Rubin Webb, the Developer of the Shopping Center, said he sold part of the property to Mr. Walle, and how owns the mini-storage business. He was concerned with parking in the area so he installed a 200 foot chain link fence between the stores and mini-storage. He is concerned with the parking problems the flea market will cause and also concerned with potential break-ins at the mini-storage and the trash it will create. He asked that the parking be revised better. He has 25 parking spaces and the area is not big enough.

Kate Fish, owner of Fish's Store on Winton Way, says there is no parking for the proposed flea market, and they may have to fence their parking lot to keep flea mark cars out. There are a lot of accidents in the area on Winton Way, speeding, trains every hour, shootings and robberies.

Eloisa Perez, owner of Tequila Café, said this flea market is not a good idea. She does not want customers of the flea market using her parking area. Garbage and crime are already problems and a swap meet will make it worse.

Mike Smith, with Central California Permit Services and representing the applicant, says he has seen many different uses in the past for this property, such as a used car lot; smog shop; taco shop and he didn't hear of any problems then. He understood that the Winton MAC's main concern is the parking based on 30 vendor spots at the Flea Market and 10 parking spaces. So he revised the plot plan to reduce the vendor spots down to 20 and increase from 10 to 15 parking spaces. He agreed to post parking signs, and will have two security guards on site, and the site will be cleaned up. He also got signatures from a nearby business owner who will let him use their lot for additional parking.

Chairman Tanner asked what would the parking attendant do?

Mr. Smith said there will be a person directing the customers to the parking spaces on-site. He assured that the customers will not be parking at the Tequila Café and Mrs. Fish's parking lot as well.

Commissioner Thompson asked if there will be any food vendors on site.

Mr. Smith said only general merchandise will be sold at the flea market.

Commissioner Thompson said that if there is less food, there will be less trash. He stated they should not play loud music which has a different impact than railroad noise. He also asked if any produce will be sold at the flea market.

Mr. Smith said that issue has come up, but produce is not allowed on the site unless they obtain a produce license.

Commissioner Erreca asked what the total number of new parking spaces would be?

Mr. Smith responded he would have to go back and reconsider the total based on the revised site plan.

The public hearing closed at 9:43 a.m.

MOTION: M/S ERRECA - THOMPSON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS ADMINISTRATIVE APPLICATION No. AA12-008 FROM CEQA.

MOTION: M/S MOBLEY - ERRECA, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED MAY 9, 2012, AND MAKES THE 11 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND APPROVES ADMINISTRATIVE APPLICATION No. AA12-008 SUBJECT TO THE 15 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

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Conditions:

Planning & Community Development Department

1. Administrative Application No. AA12-008 establishes operation of a Swap Meet/Flea Market on the property known as Assessor's Parcel Number 147-190-002 for two days a week – Saturday and Sunday.
2. Permitted hours of operation for the Swap Meet/Flea Market shall be from 8:00 AM to 6:00 PM.
3. All motor vehicles, garbage dumpsters, and other miscellaneous items shall be removed, weeds removed or trimmed, and garbage cleaned up from the project site prior to the first Swap Meet/Flea Market being held. Planning staff will inspect the project site for compliance with this condition in advance of the Swap Meet use commencing.
4. All on-site parking spaces and vendor stalls shall be striped and one Handicapped space shall be designated, striped and signed prior to the Swap Meet/ Flea Market use commencing.
5. A minimum of one Swap Meet employee shall be assigned full time responsibility for managing the safe parking and movement of motor vehicles on the project site when the Swap Meet is in operation. Vehicles shall not be permitted to reverse onto Winton Way.
6. Multiple trash receptacles (garbage cans) shall be placed on the project site in the parking and vendor areas while the Swap Meet is operational. All trash generated by the Swap Meet shall be cleaned up, bagged and stored (until collection by a permitted solid waste hauler) within 24 hours of the swap meet closing on the Saturday or Sunday evening.
7. In order to provide sufficient off-street parking capacity for the project, the applicant shall enter into an off-site parking agreement (for overflow parking) with a nearby property owner and provide proof of this agreement to the Planning Department within 90 days of project approval.
8. Six months from the date of approval, the Swap Meet/Flea Market shall be returned to the Planning Commission for review of its compliance with the conditions of approval and other issues which may arise from operation of this land use. The Commission may add new conditions of approval or modify the project at this review meeting. If the commission is not satisfied that the Swap Meet has proven to be a beneficial land use for the neighborhood and community of Winton, they can set a "revocation hearing" with the intent to revoke Administrative Application AA12-008.
9. Within 30 days of project approval, the applicant shall pay a Conditions Monitoring Fee of \$486 to the Planning Department
10. The application shall comply with all applicable regulations administered by local, state, and federal government.

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County Counsel

11. Jose Ramirez must indemnify, defend and hold harmless, the County of Merced, 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 approval, modification, denial, or the exhaustion of administrative appeals associated with Administrative Application AA12-008 ("project") 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 Jose Ramirez. The liability of Jose Ramirez for indemnity under this term and condition shall apply, regardless of fault, to any acts or omissions, willful misconduct, or negligent conduct of any kind, on the part of Jose Ramirez, its 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. Jose Ramirez will on request and at its expense, defend any action suit or proceeding arising hereunder. This term and condition 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 at the time of project approval, modification, or denial, but shall also apply to all such claims and the like, after project approval, modification, denial, or the exercise or exhaustion of administrative appeals, including but not limited to actions arising from public interest, land use and environmental legal actions. 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. 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 term and condition for indemnification shall be interpreted to the broadest extent permitted by law.

Merced County Environmental Health Division

12. If the food establishment (Taco Shop) located on the property is permitted as a commissary, access to it shall not be impeded by any aspect of the swap meet.
13. Only mobile food facilities, or permanent food facilities which hold valid food facility permits issued by the MCDEH, shall be allowed to sell or distribute food at the swap meet.
14. Any swap meet food vendors shall be located within 200 feet of the permanent toilet and hand washing facilities identified on the site plan.

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Merced County Fire Department

15. The applicant shall maintain suitable clearance at the site entrance gate to allow unimpeded fire truck access during the times the Swap Meet/Flea Market is in operation

VI. COMMISSION ACTION ITEM (S)

None

VII. DIRECTOR'S REPORT

William Nicholson, Assistant Development Services Director, said the Draft Environmental Impact Report for the General Plan Update will be circulated for review in June 2012.

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:50 a.m.