



City of Yuba City
Planning Division Agenda Report
Planning Commission Meeting

March 24, 2010

DATE: March 18, 2010
TO: Yuba City Planning Commission
FROM: Community Development Department
SUBJECT: Agenda Report – Meeting of March 24, 2010

Commission Consideration:

ZONING CODE AMENDMENT ZC 09-02: AMEND SECTION 4-9.816 UNLAWFUL PARKING PEDDLERS AND VENDORS; ADD SECTION 8-5.53 SPECIAL PROVISIONS FOR MOBILE AND OPEN AIR VENDING OPERATIONS TO THE YUBA CITY MUNICIPAL CODE; APPLICANT: CITY OF YUBA CITY.

Project Description:

The proposed Zoning Code Amendment represents an amendment to the City's Municipal Code and Zoning Ordinance relating to standards for operating mobile and open air vending businesses within the City limits. Specifically, the amendment proposes to modify Section 4-9.816 of the Municipal Code so that any proposed vending operator must comply with the proposed standards being prescribed by the new Section 8-5.53 in the City's Zoning Ordinance.

Background:

On January 27, 2010 the Planning Commission recommended approval of the proposed Zoning Code Amendment relating to vending operations within the city. The proposed ordinance was then forwarded to the City Council for their consideration at their February 16th meeting. After receiving new input (that was not raised at the January 27th Planning Commission meeting), the Council continued the proposed ordinance, and created an Ad-hoc Committee who was tasked with working with the stakeholder's group on the new issues that were raised.

On February 25th the Ad-hoc Committee met to discuss the issues that were raised about the proposed ordinance. At the conclusion of the meeting, the group had reached a general agreement on certain recommended changes to the proposed ordinance. Those changes are highlighted in the attached ordinance (Exhibit A). Per the Council's

request, the proposed changes were brought back before the Council at their March 16th meeting. The Council supported the proposed modifications and recommended forwarding the ordinance back to the Planning Commission for their action.

Given the nature of the recommended changes to the proposed ordinance, the project must be forwarded back to the Planning Commission for their review and action in accordance with Government Code Section 65857.

Analysis:

Several modifications were proposed to the ordinance by the Ad-hoc Committee in order to clarify the intent and applicability of the proposed standards. All of the proposed modifications are identified in the attached redlined ordinance (Exhibit B). The more noteworthy recommended changes are noted below:

- Written permission must be provided when vending (mobile) from a public or private parking lot.
- The use of amplified music or horns (e.g. ice cream trucks) must comply with the City's Noise Regulations.
- A mobile vendor can operate within the vicinity of a school, park or playground on a city street – written permission is needed to operate on the grounds of said facilities.
- No tables, chairs, shade structures, or other site furniture is allowed for customers of the mobile and open air vendors.

The final proposed change discussed was the issue of applicability of the ordinance to the three pre-existing vendors. The Ad-hoc Committee expressed concern about having to weaken the standards of the proposed ordinance for the sake of accommodating the pre-existing vending businesses since those businesses did not comply with all recommended standards. Therefore, it was suggested that those three pre-existing vending businesses be allowed to continue to operate as pre-existing non-conforming businesses as long as those businesses did not expand or modify their business beyond their current operation. It was further recommended that the City enter into a separate agreement with each vending operator to ensure that the business owner is not allowed to transfer the approval to a different business type. The group discussed the issue and generally agreed to the proposed concept.

In addition to the proposed changes in the attached ordinance, two items of clarification were discussed at the March 16th Council meeting that dealt with issues to be addressed as part of the future agreements between the City and the three pre-existing vendors. The first item is the need to include a maximum time limit for non-use of the three sites being recommended for receiving pre-existing status. If the individual vendors do not use their respective sites for purposes of operating their approved vending business for a prescribed period of time, then the agreement between said vendor and the City will become null and void. Staff recommends a maximum period of

time of six months for non-use which should long enough to accommodate poor weather or any other reason(s) for not occupying either of the three sites.

The other item raised was the clarification about the ability to transfer operating rights of the business to another individual. The proposed language states that rights are not transferable. While there was discussion at the Ad-hoc committee about the business rights being allowed to transfer as long as the business did not change, there is concern about this potential provision. Therefore, to clarify per the Council's direction, the future agreement with the three individual pre-existing vendors will specify that any rights provided in the agreement will not be transferable in any matter.

Recommended Actions:

Staff recommends that the Planning Commission take the following actions:

- A. Recommend that the City Council take the following actions:
 - a. Introduce and adopt the Ordinance contained in Exhibit A.