

YUBA CITY PLANNING COMMISSION
MINUTES

Regular Meeting
January 27, 2010
City Hall Council Chambers

The meeting was called to order by Chairman Starkey at 7:00 p.m. Members present were as follows:

PRESENT

Chairman Craig Starkey

Commissioner John Sanbrook
Commissioner Preet Didbal
Commissioner Satwant Takhar

Commissioner George Parker
Commissioner Jose Flores
Commissioner John Hager III

Also present were Aaron Busch, Community Development Director, Katie Ertmer, Senior Planner, Paulla Hyatt-McIntire, Counsel, and Roberta Kyle, Recording Secretary.

The Pledge of Allegiance was led by Don Covey.

The meeting minutes of November 18, 2009, were approved as written. Commissioners Takhar and Hager abstained.

Appearance of Interested Citizens: - None

Correspondence: - None

Election of Officers:

Chairman Starkey was nominated for Chairman, Commissioner Didbal was nominated for Vice Chair and Commissioner Sanbrook was nominated for Sutter County Representative, and all were elected by unanimous votes.

Commission Consideration: - None

Public Hearing:

- 1. USE PERMIT UP 09-05 FOR MONUMENT SIGN AT 3101 COLUSA HIGHWAY; ASSESSOR'S PARCEL NUMBERS: 62-020-061; APPLICANT: SIGN SOLUTIONS; PROPERTY OWNER: FIRST UNITED METHODIST CHURCH.**

Katie Ertmer, Senior Planner, presented a staff report. Ms. Ertmer explained Condition #3 that prohibits off-site advertising which was placed at the request of Cal Trans which regulates under state statute outdoor advertising adjacent to state highways. If the church were to advertise activities that are taking place off site, it would be subject to that statute and therefore they would have to obtain a permit through Cal Trans under the outdoor advertising act.

Ms. Ertmer said with respect to Condition #1 there is an exception that the changeable copy portion of the sign may not exceed 50% of the sign area which would bring it into conformance with the zoning code.

Chairman Starkey asked if the sign is approved and installed, will the two banner signs on the building be taken down.

Ms. Ertmer said those banners would be taken down.

Chairman Starkey asked about the Cal Trans chain link fence and why it is the only location that has privacy slats.

Ms. Ertmer stated she does not have an answer to that question.

Chairman Starkey said at other areas, signs are clearly visible through the chain link fence where there are no privacy slats.

Ms. Ertmer said ideally there would be no chain link fence, only nice landscaping along the frontage and stated there is not an agreement in place between the City and Cal Trans and said that those are generally executed when the property develops.

Chairman Starkey stated the intent of the sign ordinance was to keep everything looking nice and not overbearing and it seems that over the years, we have continued to allow people to go ahead and have larger signs. Chairman Starkey asked at what point do we stop that practice.

Ms. Ertmer stated that if the proposal was made in a neighborhood surrounded by R1 uses, it would be out of place and out of context, but given the fact that the church is on Hwy. 20, passersby don't necessarily know it is only R1 and only gets a 6 foot fence. Ms. Ertmer said it is consistent with signage already located along Hwy. 20.

Commissioner Sanbrook asked if only a 2 foot monument sign is allowed in the R1 district.

Ms. Ertmer said no, what is allowed is 6 feet tall and 32 square feet in area.

Commissioner Sanbrook asked if the sign would be 6 feet tall.

Ms. Ertmer stated it would be 10 feet tall, and said that their proposal is consistent with what the C2 District would allow and churches can be permitted in the C2 District.

Commissioner Sanbrook asked if the property were zoned C2, would this request have come forward.

Ms. Ertmer said no it would not have come forward.

Commissioner Sanbrook asked what the height of the chain link fence is.

Ms. Ertmer said she believes it is 4 feet high.

Commissioner Sanbrook referred to the other signs mentioned in the staff report, and asked if those are in a C District of some sort.

Ms. Ertmer said those signs are in the C3 District and are much larger than the sign that is proposed here, and said the reason for that is the square footage of those developments.

Commissioner Sanbrook stated he supports the applicant's request.

Commissioner Parker asked if the use permit would allow the applicant to upgrade to an LED sign at a later time.

Ms. Ertmer stated that this use permit does not change the zoning code in any way, which still precludes LED or moving letters, and said that changeable copy is allowed under the zoning code for churches as long as it is not larger than 50% of the area of the sign. Ms. Ertmer said the applicant would not be allowed to install a LED sign at a later date.

Chairman Starkey opened the public hearing.

Tyson Schol, 1690 Bradley Estates, sign representative for the applicant, explained the reason for the size and design of the sign.

Lois Black, 230 B Street, stated her understanding of the reason for the privacy slats on the Cal Trans fence was for traffic on the frontage road and lights from the intersection. Ms. Black also explained the reason for the signage, and stated they are trying to make sure the sign is tasteful and in compliance with what the City requires.

There being no further testimony, Chairman Starkey closed the public hearing.

Chairman Starkey asked the Commissioners what their thoughts were on the request.

Commissioner Didbal said the sign has class and looks good.

Commissioner Takhar stated that the sign looks good.

Commissioner Flores said the sign looks good.

Commissioner Sanbrook moved to A. Adopt the 6 findings, and B. Approve the requested use permit subject to 4 conditions of approval, was seconded by Commissioner Hager, and the motion passed by a unanimous vote.

- 2. ZONING CODE AMENDMENT ZC 09-01 TO AMEND THE ZONING CODE TO ESTABLISH PROCEDURES AND STANDARDS FOR APPROVING THE PERMANENT INSTALLATION OF COMMERCIAL COACHES FOR 1) K-12 SCHOOLS AND 2) OFFICES ANCILLARY TO INDUSTRIAL USES IN THE M-1 AND M-2 DISTRICTS; PROJECT LOCATION: CITY-WIDE; APPLICANT: CITY OF YUBA CITY.**

Ms. Ertmer presented a staff report highlighting the requirements for the proposed zoning code amendment, and addressed the amended Exhibit B which does not change the contents of the ordinance at all.

Commissioner Sanbrook stated he thought the object was to discourage the use of commercial coaches throughout the City on a permanent basis and feels like that purpose is being defeated with the proposed ordinance.

Ms. Ertmer said the intent is to narrowly define those instances where it may be in the City's interest to allow permanent installations of commercial coaches in locations such as schools and industrial uses where those offices would be ancillary to those primary uses.

Commissioner Sanbrook stated that he thought the intent was to encourage brick and mortar installations as opposed to the use of commercial coaches.

Ms. Ertmer said that in the industrial district where there are no design guidelines and there is no control over what they look like, encouraging brick and mortar gets to high level of design and when in the industrial district, that factor does not play into the equation because of the absence of design guidelines. Ms. Ertmer said with regard to schools, staff sees this as a fairness issue, and said if public schools are installing modular units and they are safe and ADA accessible, it really puts private schools and charter schools at a competitive disadvantage.

Commissioner Sanbrook said that makes sense.

Commissioner Parker asked if we are referring to Department of Housing coaches vs. the preapproved State Architects approval.

Ms. Ertmer stated that the Fire Department was involved in creating this ordinance and were better at getting into the 3 levels of coaches that can be installed that the DSA will approve and said the Fire Department would review them under the same conditions and those same features would apply.

Commissioner Parker asked which standards are being considered, are they the Department of Housing standards because there are some permanent foundations and asked and if the applicant can come in for a variance to ask to be put on a permanent foundation.

Ms. Ertmer stated that the Building Division would require all permanent installations to be installed on a permanent foundation, or a foundation system that comes with the coach, and said she is not certain if it is the Department of Housing standards or DSA standards.

Commissioner Sanbrook asked about mobile home sales office coach, and if that was something new.

Ms. Ertmer said that those types of uses are currently allowed in the code.

Chairman Starkey opened the public hearing.

Tim McGee, Sunsweet Growers, stated he is happy with this new proposed ordinance, and asked what a zoning clearance is. Mr. McGee said they have HUD approved coaches in the top level, and the foundations have to be HUD approved. Mr. McGee went on to say that screening the coaches can be made aesthetically pleasing.

Commissioner Sanbrook stated that screening gives a lot of flexibility either by landscaping or other means.

Mr. McGee said there is some flexibility with the building requirements that are going to be required before the zoning clearance is granted.

There being no further testimony, Chairman Starkey closed the public hearing.

Commissioner Sanbrook asked if in the industrial zone, the commercial coach can only be used as an office.

Ms. Ertmer stated that was correct and said it cannot be a stand-alone office.

Ms. Ertmer pointed out the additional finding that needs to be added to the recommendations to City Council for all three Zoning Code Amendments that states the zoning code amendments are consistent with the Yuba City General Plan.

Commissioner Takhar moved to recommend that the City Council take the following actions:

- A. Adopt the finding that, following review of the Initial Study/Negative Declaration, the proposed Zoning Code amendment to establish procedures and standards for approving the permanent installation of commercial coaches for schools and offices ancillary to industrial uses has no significant impacts on the environment.
- B. Adopt the Negative Declaration.
- C. Adopt the finding that Zoning Code 09-01 is consistent with the Yuba City General Plan
- D. Introduce and adopt the ordinance contained in Exhibit B.

The motion was seconded by Commissioner Didbal, and passed by a unanimous voice vote.

3. 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.

Aaron Busch, Community Development Director, presented a staff report and explained the purpose of the Zoning Code Amendment, and what the requirements and process for zoning clearances will be.

Commissioner Parker asked how vendors will be kept from being at the same location at the same time.

Mr. Busch stated the requirement for mobile vendors will be that they have to move every 30 minutes and cannot come back to the same spot with a 24 hour day. Mr. Busch said if there is a need to stay at a location longer than 30 minutes, the vendor would have to apply for an open air vendor permit at a fixed location. Mr. Busch said the reason for that is some of these operations act like mobile vendors but there is nothing to prevent them from going to a prime corner on the highway on private property, and setting up for 5 hours, so they will have to comply with mobile requirements and move every 30 minutes.

Commissioner Flores asked how the vending trucks will be controlled.

Mr. Busch said the City is trying to expand resources with other departments hence the use of the sticker system to make sure vendors are going through the process which is key. Mr. Busch said as vendors go through the application process, they can be reminded that they have to follow the rules, and if they are a perpetual violator, the City has the ability to revoke their permit.

Commissioner Flores spoke about the problems in other cities with mobile vending trucks, which worries him that it may happen in Yuba City.

Mr. Busch stated the City will try to be as proactive as possible with the enforcement of the new standards.

Commissioner Flores also mentioned how the vending trucks, which are operating without a permit, will sometimes put out tables and chairs to accommodate customers, and said occasionally customers will bring alcohol and drink in public.

Mr. Busch said the City will try to address such an issue with the provisions in this ordinance, and said that staff most likely will not be able to proactively enforce 100% of the time, but if complaints are received, the City will be able to respond and act due to the ordinance and use the new abatement code and citation code effectively to stop the abuse of what is being described.

Commissioner Sanbrook commended Mr. Busch on working with this difficult issue.

Commissioner Sanbrook then asked about persons who sell oranges or flowers on the corners, and asked if they will be covered by this ordinance.

Mr. Busch said they would be, since they would be considered a vendor.

Commissioner Sanbrook asked if everyone would have to get a permit.

Mr. Busch confirmed they would.

Mr. Busch continued with his staff report and went on to explain about fixed vendors and stated that this type of vendor has some difficult challenges because of the issue of competitive advantage with brick and mortar businesses.

Commissioner Sanbrook asked if there were any problems with the requirement of getting consent from the brick and mortar businesses if you locate within 400 feet and asked if there was a legal issue that is raised with reference to that issue.

Mr. Busch said not in his opinion and stated he had not heard anything from the attorney's office to that effect.

Mr. Busch noted that there were no vendors in attendance, but said he had heard from a few of the vendors before this meeting. Mr. Busch said out of fairness to the vendors, he will bring up and issue raised by a vendor. Mr. Busch said currently, the spot where a vendor is temporarily allowed to operate at, would not meet the proposed criteria because the parcel he is on is an industrial parcel, but does not meet the size requirements. Mr. Busch said it is across the street from a large medical complex, which has an obvious unmet need, but where the actual operation is located does not necessarily meet the trigger that is proposed in the ordinance.

Mr. Busch said to address this issue, if the Commission and Council desire, instead of lowering the square footage figures for industrial and office projects, provisions could be included as part of the analysis of the required Use Permit that if there is a special circumstance, the Commission could approve that exception, if the proposal meets the intent of an unmet need but does not meet the thresholds.

Commissioner Sanbrook asked if this is embodied in the draft ordinance.

Mr. Busch said no it is not. Mr. Busch said he is bringing it up because the vendors are not here tonight to address the issue themselves.

Mr. Busch said going back to the permitting criteria, mobile vendors would have to have a zoning clearance, and said there are an estimated 20 to 40 such vendors that will be required to apply for over the counter permits. Mr. Busch said that there are probably less than two fixed open air vendors, but to ensure that these types of vendors comply with the proposed standards, staff is recommending that the Use Permit process be used. Mr. Busch said proposed development standards include: be on private property, a paved surface, and ancillary to a presently permitted use on the property, so it cannot be on a vacant lot, in the middle of a parking lot, and has to be incidental to the primary use, i.e. an industrial office, or large retail user and has a one year time limit which would all be evaluated and conditioned as part of a use permit that will come before the Planning Commission.

Commissioner Sanbrook asked if there needs to be language in the ordinance to cover that.

Mr. Busch said yes, and because this is an item that will go on to the City Council, the ordinance before you is a draft, and said he has been advised by legal counsel that there are some things for legal protection that need to be included, but the spirit of the ordinance will remain intact.

Commissioner Sanbrook asked if this will create more problems.

Mr. Busch said yes, potentially, because it is an interpretation of what is meeting the intent of serving an unmet need.

Chairman Starkey stated that having room is beneficial in most cases rather than being cut and dry, and said there needs to some flexibility.

Mr. Busch recapped the purpose of the ordinance, and said staff is recommending that the Planning Commission recommend to City Council approval of the zoning code amendment.

Commissioner Parker complimented staff on their outstanding effort.

Commissioner Flores also complimented staff.

Chairman Starkey opened the public hearing.

Tim McKenna, 668 Plumas Street, President of DBA, said he hopes the Planning Commission recommends approval of the zoning code amendment to the City Council and said that since most of the vendors are food vendors, it would create food safety for the public.

Don Covey, 669 Plumas Street, thanked Mr. Busch and staff for bringing the community together regarding this issue, and creating something that a vendor could refer to so they would know what steps they would need to take in order to do business, and at the same time protect the businesses that are already there that made an investment in a brick and mortar so they are to be treated fairly also. Mr. Covey also stated that merchants and the public need to bring violations to the City's attention.

Margaret Danna, 730 Sherwood Drive, said her only comment is that the industrial building complex where one of vendors is set up is vacant, and asked where the unmet need is in an empty building. Ms. Danna said this was something that was never discussed in the meetings and said there are plenty of places where vendors can set up that have an unmet need.

Chairman Starkey asked if there were any vendors that wanted to speak. There were no vendors present in the audience to speak.

There being no further testimony, Chairman Starkey closed the public hearing.

Commissioner Sanbrook said the ordinance does not define the term unmet need, and asked if we need to specify that a building has to have a certain amount of square feet to meet the unmet need criteria.

Mr. Busch said that is correct and that the criteria helps to identify the unmet need.

Commissioner Sanbrook asked how that was received.

Mr. Busch said this particular definition was not on the table for discussion for with the stakeholders group. Mr. Busch said the group was given some examples of what was taken forward, then at the October 20 City Council meeting there was some new debate that was brought up as to who gets to define an unmet need, so the City Council asked staff to help define an unmet need. Mr. Busch said this is how the square footage figures came about because those figures represent facilities that typically have good numbers of employees associated with those particular use types, so if there is an unmet need there, there is an opportunity for a vendor to serve the unmet need.

Commissioner Hager stated he thinks Mr. Busch has obviously done a good job because none of the vendors are here, and said he thinks a real need has been satisfied.

Chairman Starkey asked if Fremont Hospital would be a potential for an unmet need.

Mr. Busch said possibly.

Chairman Starkey asked if Sunsweet and the packaging business on South Walton would be a potential for an unmet need.

Mr. Busch said yes and explained that they may have a business within 400 feet that they may have to go to, but it doesn't preclude them from locating there.

Chairman asked if these are the types of things the intent is looking at.

Mr. Busch said there are also the industrial centers out on Garden Highway, where the truss manufacturing company is, that entire loop, and there is also Lowe's.

Commissioner Takhar moved to recommend that the City Council take the following actions:

- A. Adopt the finding that, that following review of the Initial Study/Negative Declaration, the proposed Zoning Code amendment to establish procedures and standards for allowing mobile and open air vendors to operate within the City has no significant impacts on the environment.
- B. Adopt the Negative Declaration.
- C. Adopt the finding that Zoning Code Amendment is consistent with the Yuba City General Plan.
- D. Introduce and adopt the Ordinance contained in Exhibit B.
- E. Ask for Staff's direction for flexibility on use permits

Chairman Starkey stated item E. would be incorporated when it goes before the City Council.

The motion was seconded by Commissioner Parker.

Commissioner Sanbrook asked where that provision would be inserted.

Mr. Busch said he would put it in the criteria for Section 8-5.5309 Requirements to operate an open air vending operation, and said that is where the thresholds are defined on where they can be located and to also include a clause that states somewhere along the lines of "unless otherwise proved by the Planning Commission through the use permit process".

Chairman Starkey asked for a voice vote, and the motion passed unanimously.

Chairman Starkey thanked all the stakeholders and everyone who participated in the process.

4. ZONING CODE AMENDMENT ZC 10-01: ADDING SECTION 8-5.6312 "TEMPORARY BANNER SIGNS FOR ECONOMIC STIMULUS TO THE YUBA CITY MUNICIPAL CODE; APPLICANT: CITY OF YUBA CITY.

Mr. Busch presented a staff report, and explained the purpose of the zoning code amendment.

Commissioner Parker asked about streamers and inflatable elements for businesses.

Mr. Busch stated those types of devices are allowed, and said he hopes to come back before the Planning Commission and City Council to propose that the requirement be further tightened so that a temporary sales banner is just that. Mr. Busch further noted that the special event process is allowed three times a year not to exceed 90 days in a calendar year and are required to have a certain amount of time in between those events.

Commissioner Takhar asked if a business could have a banner under special events and one under this proposed ordinance.

Mr. Busch said yes, they could.

Chairman Starkey opened the public hearing.

There being no testimony, Chairman Starkey closed the public hearing.

Chairman Starkey asked Mr. Gale to comment.

Mr. Gale talked about the process of enforcement of the sign ordinance and said he felt people had a positive response.

Commissioner Sanbrook stated that Plumas Street for an example, has businesses side by side with a certain linear frontage on a public street, and said that the way he reads the ordinance you could have banner signs that would basically cover all the businesses on Plumas Street, and as long as they have 30% of their store frontage they could have one temporary banner sign.

Mr. Busch said that is correct and the way it is structured is that any retail business could use 1/3 of their store frontage to put up a temporary banner sign.

Commissioner Sanbrook asked if there was concern about there being a barrage of banners down Plumas Street on both sides.

Mr. Busch said yes that is a concern and said that is why he is pleased it is a temporary program, and said he is hearing from business owners that banners help with their sales, and said that is why the criteria is there so that there won't be one continuous banner up and down the street.

Commissioner Sanbrook asked why we need to allow a business to have a banner that tells us it's for sale or rent.

Mr. Busch used an example of a business that is not visible, and said this would allow them to go ahead and identify that the space is for lease, and if it helps to bring more business into the community, it's a positive.

Commissioner Takhar moved to deny Zoning Code Amendment 10-01, stating he understands the purpose of the ordinance, but feels this would be a step backwards. The motion was seconded by Commissioner Sanbrook, and he also stated that he feels this would be a step backwards.

Mr. Busch wanted to clarify and asked if they felt it was a step backward because of that one piece (banners) or because of the entire ordinance.

Commissioner Takhar stated it is because of the entire ordinance.

Commissioner Sanbrook withdrew his second, because he misunderstood, and thought the focus was on business owners being able to identify their spaces for sale or rent.

Due to the lack of a second motion, the motion died.

Chairman Starkey moved to recommend that the City Council take the following actions:

- A. Recommend that the City Council adopt the finding of fact that Zoning Text Amendment ZC 10-01 for the amendment of the City's Sign Code is in the public interest.

- B. Recommend that the City Council adopt the finding that Zoning Text Amendment ZC 10-01 is consistent with the Yuba City General Plan.
- C. Recommend that the City Council adopt the attached Ordinance amending the City's Sign Code to add Section 8-5.6312 "Temporary Banner Signs for Economic Stimulus" to the Yuba City Municipal Code as shown in Exhibit A.

The motion was seconded by Commissioner Parker.

There was further discussion among the Commissioners.

Commissioner Sanbrook said he feels this ordinance will defeat the concept of the corridor enhancement strategy.

Chairman Starkey said in part he does not disagree, but said the City Council is trying to promote local business in the economic downfall, and said the these are temporary banners and they have stringent requirements placed on them, and said that is why he is supporting the motion.

Commissioner Sanbrook said he understands that this was initiated by the City Council, and understands and appreciates what they are trying to achieve, but still feels it will defeat the corridor enhancement strategy.

Chairman Starkey said he thinks a lot of the things that were being addressed in the sign ordinance pertained to the clutter and junk, and says he thinks those issues have been cleared up, but long term, he would like to see improvement and get rid of the banners. Chairman Starkey further commented that he believes an individual business did not need a banner sign anyway because they have a beautiful building, and said for all the reasons the City Council is encouraging this, he sees a need to do it at this point, especially since it is temporary and hopes it will eventually go away and will see things cleaned up.

Commissioner Sanbrook said he does not understand what temporary means in this context.

Mr. Busch stated that the proposal includes a permitting process, which allows for proactive enforcement of the sign code. Mr. Busch said the banner signs will have to be permitted, have a zoning clearance and a fee paid which will make it easier to track, and ensure compliance with the sunset date. Mr. Busch said this will allow one banner for a limited period of time.

Commissioner Sanbrook asked if there was a particular segment of the business community that was advocating for the temporary banner signs.

Mr. Busch stated it was related.

Chairman Starkey asked what happens if the motion does not pass.

Mr. Busch stated that if it does not pass here, there would then be nothing to forward to the City Council, although they could pull it up and then staff would forward the Planning Commission's recommendation that it did not pass.

The motion passed by a vote of 4-3-0 with Commissioner Sanbrook voting no for the reasons and concerns he has expressed, Commissioner Didbal voting no because she was not sure how this would be enforced and tracked since there is a shortage of code enforcement, Commissioner Takhar voting no, Commissioner Parker voting yes with the same sentiments of trying to keep the encouragement of the local community that we are looking forward and trying to help them through this small bridge and that it is a short term element so he is supportive of it, Commissioner Hager voting yes stating that he hates banner signs but is in support of it because of economic conditions, Commissioner Flores voting yes because of economic conditions, and Chairman Starkey voting yes for reasons he has already expressed.

Commission Discussion: - None

Other Business:

Mr. Busch said the Feather River Mills project is moving along and that there are still two interested developers that are going through the RFP process and said the deadline for submittals is the first weekend in March. Mr. Busch thanked the two Commissioners that have stepped forward, and are looking forward to reviewing the projects and bringing forward a recommendation to the City Council.

Mr. Busch said the Lincoln East Specific Plan Public Facilities Financing Plan is moving forward, which means the last piece for that large project will soon be brought back before the Planning Commission for consideration.

Mr. Busch also updated the Commission about the impending FEMA issue. Mr. Busch said the actual mapping efforts by FEMA are continuing to be delayed but are coming. Mr. Busch said the City is part of a joint powers group with the Sutter Buttes Flood Control Agency which is actively working on an effort to fix in place the existing levee. Additionally, the SBFCA is doing an aggressive advertising campaign because there is going to be a 218 vote for an assessment on properties to generate the revenue that is necessary to do those improvements to the levee. Mr. Busch said a workshop was conducted to educate the development community, (architects, engineers, builders, realtors), on what that means once the City is mapped in the floodway. Mr. Busch said it was well attended and there was lots of good feedback in terms of information that was provided on how it will affect future development.

Report on Actions of the City Council:

Adjournment: There being no further business, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Roberta Kyle, Secretary
YUBA CITY PLANNING COMMISSION