



PLANNING COMMISSION MINUTES OF AUGUST 15, 2019

The San Joaquin County Planning Commission met in regular session on August 15, 2019 at 6:30 p.m., in the Public Health/Planning Commission Auditorium, 1601 East Hazelton Avenue, Stockton, California.

The meeting was called to order by Randy Hamilton, Chair.

The Pledge of Allegiance to the flag was given.

Roll Call:

(present)

Commissioners

Randy Hamilton, Chair
James Grunsky, Vice-Chair
Kitty Walker
Sheri Midgley
Stan Morri

County Staff

Mark Myles, County Counsel

Awni Taha, Department of Public Works

Steven Shih, Environmental Health Department

Community Development Department Staff

Zayante (Zoey) P. Merrill, Interim Director
Jennifer Jolley, Principal Planner
Stephanie Stowers, Senior Planner
Corinne King, Counter Manager
Juanita Huerta, Code Enforcement Office
Giuseppe Sanfilippo, Associate Planner
Domenique Martorella, Office Assistant Specialist

APPROVAL OF PREVIOUS MEETING MINUTES:

1. Minutes from 11/01/2018 and 7/18/2019.

MOTION:

It was moved, seconded (Morri/Midgley), and passed with a vote of 5-0-0 to:

1. Approve and accept both sets of minutes in one motion.

VOTE:

AYES: Midgley, Morri, Grunsky, Walker, Hamilton

NOES:

ABSENT:

ACTION ITEMS:

1. **USE PERMIT NO. PA-1900030 OF KEITH & DENISE POWELL (C/O QUARTAROLI & ASSOCIATES)** to expand an existing 34,035 square foot crane rental facility to include the construction of a 14,400 square foot equipment storage building with an 8,000 square foot roof overhang. (Use Type: Equipment Sales & Repair - Heavy Equipment, Sales) The project site is located on the east side of Comconex Road, 300 feet north of State Route 120, east of Manteca (Supervisorial District: 3). **CONSENT**

(This item is continued from the May 2, 2019, Planning Commission Hearing)

MOTION:

It was moved, seconded (Walker/Grunsky), and passed with a vote of 5-0-0 to:

1. Approve the Negative Declaration and approve the Use Permit application with the Findings and Conditions of Approval contained within the Staff Report, with the addition of the amended Environmental Health Conditions of Approval letter.

VOTE:

AYES: Midgley, Walker, Grunsky, Morri, Hamilton

NOES:

ABSENT:

2. **VARIANCE NO. PA-1900044 OF PANELLA TRUST (C/O MIKE HAKEEM)** to reduce the minimum required front yard setback for a ten (10) foot tall solid fence in the AG-40 (General Agriculture, 40-acre minimum) zone from the required thirty (30) feet to one and a half (1.5) feet from the front property line. The project site is located on the northeast corner of North Davis Road and West Peltier Road, Lodi (Supervisory District: 4).

Giuseppe Sanfilippo, Associate Planner, introduced the staff report into the record.

Commissioner Walker asked for clarification on the height of the columns and fence shown in the picture of the northern gate for the property.

Mr. Sanfilippo specified the columns are ten feet in height and the fence is seven feet in height.

Commissioner Walker asked for clarification on the location of landscaping and drainage improvements.

Mr. Sanfilippo stated that the landscaping and drainage improvements made are located within the right of way for North Davis Road.

Commissioner Walker asked if the improvements within the right of way are subject to the enforcement action.

Awni Taha, Interim Engineering Services Manager for the Development Services Division, stated he is not aware of any encroachment permits for the improvements.

Commissioner Walker asked what the appropriate action would be regarding the improvements.

Mr. Taha stated he is unsure if ditch was existent; it seems the rocks were placed by the property owner. Mr. Taha stated the focus today is regarding the wall, and the other items would be addressed separately.

Commissioner Walker stated that it is important if things move ahead on the wall to know what status the additional improvements have when evaluating the project as a whole.

Zoey Merrill, Interim Director for Community Development Department, stated that the landscaping and drainage improvements are not listed as part of the existing Code Enforcement violations; if a complaint was filed Code Enforcement would contact Public Works to determine if the improvements would require permitting or if it would be in violation.

Commissioner Walker asked why the previous wall on the property was not in violation.

Director Merrill stated that depending upon the construction of the previous wall it is possible that it would have been permitted.

Jennifer Jolley, Principal Planner, stated that an open, seven foot fence is permitted within the AG-40 zone without a building permit; up to three feet of height may be solid construction with the remaining four feet of height being open construction, such as chain-link or wrought iron.

Commissioner Walker asked if the previous wall was ok at the property.

Both Director Merrill and Ms. Jolley stated they are not aware the construction details of the previous wall, and cannot confirm nor deny that wall was would have been approved for installation.

PUBLIC HEARING OPENED:

PROPONENTS:

Mike Hakeem, Attorney for Property Owner, gave the history of the wall and landscaping. Mr. Hakeem stated they were installed approximately twenty years ago, and that the wall was closed at the bottom and open at the top. Mr. Hakeem stated the intent was to deter trespassers.

Mr. Hakeem provided pictures of similar fences in place on neighboring properties, to demonstrate these properties share the same benefits as required for the Findings on this project.

Mr. Hakeem stated that the majority, if not all of the fences are on or very near the property line for the property in which they are installed.

Commissioner Walker asked if all the fence examples were located on Davis Road.

Mr. Hakeem stated the fences are from properties within a five to ten minute drive of the project property.

Commissioner Walker asked if the right of way is known for the other properties used as examples.

Mr. Hakeem stated he did not check the right of way for the other streets.

Mr. Hakeem stated that Finding 1 can be made as the project property would be denied the privileges enjoyed by other surrounding properties if the variance is not granted.

Commissioner Walker asked Public Works about the likelihood of developing additional right-of-way space required on the road.

Mr. Taha stated the right-of-way is eighty feet, planned for eighty feet, and the need is unlikely currently but that cannot be guaranteed in the future.

Commissioner Walker asked if the variance is granted and the right-of-way is needed in the future, would it require additional acquisition cost due to the improvements in the right-of-way.

Mr. Taha said the right-of-way exists currently, and if expansion is needed the area containing the improvements would be used.

Commissioner Hamilton asked if the road was a twenty foot road when the initial fence was approved.

Mr. Taha stated he is unsure if the fence was approved; it is an older installation and he was unable to locate any information regarding the construction.

Director Merrill clarified that the initial fence, as described, would have been a permitted use for the property and would not have required a permit to be issued by the county for the construction.

Commissioner Hamilton asked the property owner, Bob Panella, asked how many homes are on the dead-end road besides his.

Mr. Panella stated there are three other homes.

Commissioner Hamilton asked if there were any complaints about the wall that Mr. Panella or County Code Enforcement was aware of.

Director Merrill stated there is an enforcement case, which means there was either a complaint or the county learned of the violation and took action. Director Merrill offered to provide additional information regarding the neighboring properties, if the Chair was interested.

Commissioner Hamilton commented that the property is a country parcel on a dead-end road, the fence was there and the applicant made it a nicer-looking fence for their property and the neighborhood properties, and it improves the road. Commissioner Hamilton said he was surprised that Code Enforcement didn't have any bigger fish to fry than a wall that has been there for twenty years. Commissioner Hamilton said that on his return trip from visiting the site he saw nine other parcels that probably were not in compliance. Commissioner Hamilton said there are many parcels with similar fences; some of them permitted and some of them are not.

OPPONENTS:

None.

PUBLIC HEARING CLOSED.

MOTION:

It was moved, seconded (Grunsky/Midgley), and passed with a vote of 4-1-0 to:

1. Approve application PA-1900044 based upon the Findings:
 - 1) The Applicant's property is on a dead end road and is part of the existing agricultural community which currently has many other residences with fences similar in both height and placement as compared to the fence on the applicant's property.
 - 2) The Applicant's fence is not different in size or placement from many of the other fences that are currently existing in the adjacent agricultural community. As such, the granting of the Variance will not constitute a grant of a special privilege as the use is consistent with many of the other residential fences in the area.
 - 3) The Variance Application is for the approval of the existing fence only and would not authorize a use or activity which is not otherwise expressly authorized by the regulation(s) governing this parcel of property.

VOTE:

AYES: Grunsky, Midgley, Morri, Hamilton
NOES: Walker
ABSENT:

3. MODIFICATION PROCEEDINGS NO. PA-1900102 OF AMARBIR & BALWINDER SINGH (C/O SAN JOAQUIN COUNTY) to modify the conditions of approval of Site Approval No. PA-1600172 for the parking of one (1) truck and two (2) trailers on a parcel. The project site is located on the north side of Northland Road, 2,500 feet east of South Castle Street, Manteca (Supervisory District: 3).

Corinne King, Counter Manager for the Community Development Department, introduced the staff report into the record.

PUBLIC HEARING OPENED:

PROPOSERS:

Johnathan Mott, Deputy District Attorney of San Joaquin County, spoke to the number of calls to the Sheriff's Department for service regarding the property. Mr. Mott stated that the District Attorney attempted to work with the property owner regarding the incidents to no avail. Mr. Mott stated that due to the resources and time involved with the ongoing issues the District Attorney is in favor of revoking the project.

Commissioner Walker asked why revoking the project would make the issue go away, as far as the District Attorney is concerned.

Mr. Mott stated that would remove the time and resources spent on complaints and provide a timely resolution for the community, as no trucks would be allowed at the property.

David Tian, Neighbor, provided pictures of the project property taken from within the neighborhood. Mr. Tian spoke to the history of issues at the property. Mr. Tian provided a video showing the trucks leaving the project property and demonstrating the noise caused by said trucks. Mr. Tian stated that the truck parking has caused a number of issues for his family and the neighbors, and he is in favor of revocation.

Stewart Gesler, Neighbor, spoke to the negative impact the project has on the neighborhood and the families within it. Mr. Gesler stated that trucks at the property are STAA classified trucks and the streets in the area are not STAA approved routes; the trucks are travelling illegally to the project property. Mr. Gesler stated he is in favor of revocation.

OPPONENTS:

Mr. Singh's son stated he spoke to his father following proper process for the project, offered apologies to the neighbors, and stated they will accept the Planning Commission's decision on the project.

REBUTTAL:

None.

PUBLIC HEARING CLOSED.

Commissioner Walker asked why the Community Development Department recommended modification instead of revocation for this project.

Director Merrill stated that the department made the modification recommendation in response to the issues with the project, but stated that ultimately it is up to the Planning Commission to decide if the modification or revocation is the best solution.

Commissioner Walker asked if the modification would require the owner to use a different truck than what they have been using at the site.

Director Merrill stated that at the time when the permit was issued the department, as a practice, did

not consider the STAA routes in issuing the permits. When a permit is issued, the permittee is required to abide by the laws. Director Merrill stated that as the road could change from non-STAA to an STAA route or vice versa this limitation was not included in the land use permit.

Corinne King, Counter Manager for Community Development Department, stated that only non-STAA trucks have been observed during Code Enforcement site visits.

Commissioner Walker stated that it seems the owner is already in conformance with the modifications being recommended, questioned why the modifications would be needed, and asked if it was to ensure future changes would be in conformance with the modifications.

Ms. King stated it would strengthen the Conditions of Approval, stated that the road for the project is non-STAA, and therefore STAA trucks should not be permitted for the project.

Director Merrill stated it would make it more efficient for enforcement with clarified usage.

Commissioner Morri asked to clarify that no one has observed an STAA truck at the project site.

Juanita Huerta, Code Enforcement Officer for the Community Development Department, stated she has not observed STAA trucks at the project site on any visitation.

Commissioner Hamilton asked if there were any site visits after midnight.

Mrs. Huerta stated she had not been out to the site after midnight.

Commissioner Hamilton requested that the representative for the Sheriff's Department speak on their experience with the project.

Bill Hughes, Abatement Coordinator for San Joaquin County Sheriff's Department, said that according to the application filled out for the project, no STAA trucks were proposed and no noise would be generated. Mr. Hughes stated there are photographs of STAA trucks at the property, more than one truck at the property, and complaints from the neighbors regarding constant running of refrigeration units. Mr. Hughes stated he spoke to the project owner to resolve the issues but the problems continued. Mr. Hughes stated he is in favor of revocation as it would stop the expenditure of resources for enforcement.

Commissioner Hamilton spoke to the resources already spent on enforcement, his familiarity with the noise that trucks running refrigeration can generate, and that he is in favor of revocation.

MOTION:

It was moved, seconded (Walker/Morri), and passed with a vote of 5-0-0 to:

1. Revoke Site Approval No. PA-1600172.

VOTE:

AYES: Morri, Walker, Midgley, Grunsky, Hamilton

NOES:

ABSENT:

The meeting adjourned at 7:43 P.M.

Randy Hamilton, Chair

Zayante (Zoey) P. Merrill, Secretary