

SUTTER COUNTY PLANNING COMMISSION

MINUTES

September 18, 2013
Supervisors Chambers
Hall of Records
466 Second Street, Yuba City

1. Call to Order

Chairperson Basi called the meeting to order at 6:00 p.m.

2. Roll Call

Chairperson Basi requested the clerk call the roll of the Commission. The following members were present and excused:

Members Present: Commissioners Lal Chima, Angel Diaz, Mike Geraldo, Robert Norton, Zac Repka, John Sanbrook and Chairperson Paul Basi

Members Excused: None

Staff Present: Principal Planner Doug Libby, Senior Planner Steve Geiger, Deputy County Counsel Janet Bender, and Office Assistant Kathy Ferguson

3. Pledge of Allegiance

Principal Planner Libby led the audience, staff and Commission in the Pledge of Allegiance.

4. Approval of Minutes

The minutes of the meeting of August 21, 2013 were approved as submitted on motion of Commissioner Sanbrook, seconded by Commissioner Basi and carried by a voice vote of the Commission, with Commissioner Diaz abstaining.

5. Comments from the Public

None.

Public Hearings

6. **Project #13-011** - A variance to allow a second monument sign for an existing gas station and convenience store that is 149.8 square feet in area and 23'-9" in height; EC (Employment Corridor) District; 1281 O'Banion Road, Yuba City; Assessor's Parcel Number: 23-300-159; Applicant/Property Owner - Balwinder and Dalbir Dhami (Staff recommends denial; project is exempt from CEQA)

Senior Planner Geiger summarized the previously circulated staff report stating the proposed sign would be 2.3 times larger than the current sign area allowed and would be nearly 2.4 times taller than the current sign height allowed.

Chairperson Basi asked about the existing convenience store height. Senior Planner Geiger stated he did not know. Chairperson Basi asked about the height of the canopy in relation to the store. Senior Planner Geiger stated they appear to be similar in height.

Commissioner Chima referenced the redwood trees outside the fence on the property directly south of the applicant's and questioned if the trees inside the fence were planted later. Senior Planner Geiger stated it would have been the applicant's choice and addressed in their landscape plan. Commissioner Chima believes the fence was on the outside of the trees until Caltrans moved the fence in regards to the widening of the highway. Senior Planner Geiger stated he did not know. Commissioner Chima asked if the trees could be removed or topped and stated the trees and shop building obstruct the view when traveling north. Senior Planner Geiger stated the trees were required to be planted as a condition of approval for the use permit approved for the Antonini Trucking business.

Commissioner Sanbrook thanked staff for preparing a comprehensive staff report and acknowledged that he had walked the site. Commissioner Sanbrook wanted to clarify the variance is in regards to varying the height of the sign and the area of the sign. Senior Planner Geiger stated it is for a second monument sign to exceed both the size and height requirements of the Zoning Code. Commissioner Sanbrook asked if they are allowed to have three (3) signs. Senior Planner Geiger stated they are allowed 1 monument sign per 300 feet of street frontage, so that would equal two (2) for the west side of the property along State Highway 99. They would also be allowed one (1) on the south side for a total of three (3) monument signs for this site.

Commissioner Sanbrook questioned how the second row of trees on the property directly south was established. Senior Planner Geiger stated possibly the land owner planted them. Commissioner Sanbrook referenced the redwood trees located on the west side of Antonini property were required as a condition of approval of the use permit in 2003. Senior Planner Geiger stated staff believes the trees do not result in enough of an obstruction to require the size of the sign proposed. He also noted that by locating the sign so far north of the intersection, the applicant is creating a need for a larger sign so that it can be seen by vehicles traveling north on Highway 99. Commissioner Sanbrook stated he walked along the side of the road from south of Antonini property to

the intersection and he could not see the establishment and feels the applicant wants to alert traffic and eliminate any safety issue.

Commissioner Sanbrook referenced the gas station located near Oswald and Highway 99 and asked when their sign was installed. Senior Planner Geiger stated he did not know, but noted there have been no variances approved for signs in this area. He noted that an owner can resurface the face of an older, non-conforming sign, but no change to the height of the sign is allowed.

Commissioner Diaz agreed with Commissioner Sanbrook's comment of receiving a very comprehensive staff report. Commissioner Diaz asked if special privileges define a variance. Senior Planner Geiger stated staff reviews surrounding properties to see if they benefit more than the subject property. Commissioner Diaz stated it is a disadvantage to the property owner, if traffic cannot see the sign or business. Senior Planner Geiger stated the Zoning Code does not guarantee every business will have an unobstructed view of their signage. Commissioner Diaz asked what the scenic roadway is and have there been other variances approved in this area. Senior Planner Geiger explained General Plan Policy ER7.2 references Highway 99; and stated there have not been any variances approved in this area for any similar projects.

Commissioner Chima stated it appears the property owned by Antonini trucking comes out closer to the highway. Senior Planner Geiger stated it is possible. Commissioner Chima stated that while he was at the location, four (4) semi-trucks were fueling up which is their major business and the semi-trucks do not want to break to make the turn. Commissioner Chima stated he does not feel it is a special privilege, but a special circumstance.

Commissioner Geraldo questioned the differences between a pole sign and a monument sign. Senior Planner Geiger explained the sign code requirements. Commissioner Geraldo questioned if they approve the variance is it for all three (3) signs or just one (1). Senior Planner Geiger replied the variance is for just the one specifically proposed. Commissioner Geraldo asked if the safety issue had been considered.

Chairperson Basi stated there has been a lot of discussion about the intersection and the dangers and hazards. Chairperson Basi reminded the Commission they should be asking questions; not expressing their personal feelings about this project.

Chairperson Basi opened the public hearing.

Jagga Dhami, 370 N. Walton Avenue, Yuba City, stated he disagrees with a lot of the information in the staff report. Mr. Dhami commented on staff reports from other jurisdictions regarding variances with monument signs and feels the lack of visibility of their property constitutes a special circumstance. Chairperson Basi stated the Planning Commission knows the ordinances and laws and has to review each case independently.

Mr. Dhami presented a power point presentation to the Planning Commission. Mr. Dhami expressed several concerns and stated he feels the sign would enhance the visual characteristic. If the project is not approved they will have to install a 5' x 8' sign. He continued that he has concerns about the safety hazard and stated there is no visibility along Highway 99 northbound due to the trees and that the Dhami property is the only property that has a drainage canal adjacent to the highway.

Commissioner Sanbrook questioned if they have a franchise agreement with Shell and are they requiring the new sign. Mr. Dhami states yes they do have an agreement with Shell and no there are no requirements for the new sign. Chairperson Basi asked who is paying for the new sign. Mr. Dhami stated the gas station is primarily responsible.

Chairperson Basi asked Mr. Dhami for three (3) reasons why he feels they should approve a variance. Mr. Dhami replied: 1) the safety issue; 2) visibility; and 3) unfair visibility advantage of the other three properties at this intersection.

Commissioner Chima asked that for the benefit of the applicant; can the County talk with Caltrans to help out regarding the issue of the trees if they are on their property? Commissioner Chima stated if the trees are removed, there would be no need for the larger sign. Principal Planner Libby responded that if the trees are a condition of a use permit it would have to come back to the Commission for removal of that condition and if the trees are on Caltrans property, there would need to be a conversation with them.

Barbara LaVake, indicated she resides on O'Banion Road, and stated that she supports the Dhami business and the request for the variance. Ms. LaVake stated they have cleaned up the property and only the family works the business.

Dalbir Dhami, owner of Dhami's Market, stated that she appreciates their customers signing a petition and feels the safety and the visibility go together and asked that they grant the variance.

Chairperson Basi closed the public hearing.

Commissioner Repka stated he went to the site and walked the frontage and drove the highway several times and stated there are special circumstances due to the redwood trees on the property to the south and there is not enough time, once one sees the existing sign, to move to the deceleration lane for a safe turn.

Commissioner Diaz stated he feels that businesses should have the opportunity to succeed. He believes special circumstances exist due to the safety and visibility issues, that approving the variance would not grant a special privilege, and he recommends approval.

Chairperson Basi agrees with Commissioner Diaz's comments. Chairperson Basi stated he supports the project, feels there is a safety hazard there, does not think the sign will impact aesthetics, and there should be an opportunity for the business to increase.

Commissioner Norton stated as a group we have an opportunity to help small businesses improve their business.

Commissioner Sanbrook stated he supports small business in the community and asked if they could condition a variance. Principal Planner Libby stated yes.

Commissioner Sanbrook stated the zoning ordinance recognizes a hardship is grounds to deviate due to special circumstances to grant a variance.

Commissioner Chima stated he agrees with the Planning Commissioners' comments; stated that County staff could not have foreseen the redwood trees one day creating a problem and they did their job; and stated that he supports the project.

Principal Planner Libby asked if the Planning Commission is supportive of the proposed sign in regards to both the area of the sign and the height deviation.

Commissioner Chima replied the sign height and area is needed for the distance, so a lane change can be made safely for vehicles accessing the property.

Principal Planner Libby stated to recommend approval of the variance; the Planning Commission will need to specify findings. Staff has heard the following from the Commission: set back of the subject property; visibility and safety issues due to the redwood trees on the property directly south has resulted in a hardship being created for the applicant. Principal Planner Libby stated that in cases where approval findings have not been prepared, traditionally the Planning Commission would continue the public hearing so that staff could prepare the findings, and the project would then come back to the Planning Commission for action.

Senior Planner Geiger referenced that if a recommendation for approval is forwarded, a few conditions are required to be added to the project. Caltrans will require an encroachment permit for any work in their right of way. Also, the proposed sign will need to meet requirements of the Agriculture Department for gas sales signage. These requirements would be forwarded to the Board of Supervisors in the staff report as conditions.

Commissioner Repka made a motion to find the project is Categorically Exempt from CEQA and the Guidelines under Section 15311(a), which applies to projects for on-premise signs, and recommended approval of Project #13-011 (Dhami) to the Board of Supervisors; a variance application to allow a second monument sign for an existing gas station and convenience store that is 149.8 square feet in area and 23'-9" in height, stating the project meets the California Government Code Section 65906 and the Sutter County Zoning Code Section 1500-8412. There are special circumstances applicable to the property related to its surroundings. Visibility of the subject property is greatly reduced due to the redwood trees planted south of the property and safety is an issue; and the location of the building due to the property setbacks from the highway which does not apply to other nearby properties. Granting of the variance does not provide special privileges as the applicant's property is at a disadvantage by the current

surroundings; and the Commission also finds there is a hardship to the business as imposed by visibility, safety and setback issues. The project is also consistent with the Sutter County General Plan.

Commissioner Diaz seconded the motion, which carried by a unanimous roll call vote (7-0).

7. Miscellaneous Business from the Commission/Staff

A. Possible cancellation of the first meeting in October (October 2, 2013)

Principal Planner Libby stated according to the By-laws (B1a) a motion and a second is required for the cancellation of a meeting. The meeting of October 2, 2013 was cancelled on motion of Commissioner Diaz, seconded by Commissioner Basi and carried by a unanimous voice vote. Principal Libby stated the next meeting will be on October 16, 2013.

B. Report on the Actions of the Board of Supervisors

Principal Planner Libby stated the Board of Supervisors held a study session on August 27, 2013 regarding the future development of commercial solar facilities in the unincorporated County. The Board of Supervisors felt they needed to hear from a broader voice regarding the matter, so they requested a joint study session later in the fall with the Planning Commission and inviting Yuba Sutter Farm Bureau, Yuba Sutter Chamber of Commerce, and others that may have an interest in the topic.

Commissioner Sanbrook commented that Kern County has already adopted regulations in regards to solar facilities and we might want to take a look at them.

C. Planning Commission/Board of Supervisors Discussion Topics

None.

D. Other Business and Reports

Chairperson Basi discussed the Commission's protocol and that there seems to be a lot of personal thoughts being brought up at the time staff is presenting a project which is not fair to the applicant. Chairperson Basi stated that he believes that after the public hearing has been closed and it's brought back to the Commission, this is the appropriate time for Commissioners to discuss their thoughts or comments. Chairperson Basi stated the Commissioners get their packets in advance, giving the Planning Commissioners time to do their due diligence before the meeting and giving them time to read through the staff reports and if they have any questions, they can contact staff to have questions answered.

Principal Planner Libby stated that is consisted with the Rules and Procedures.

8. Adjournment

There being no further business, Chairperson Basi adjourned the meeting at 7:49 p.m.

Respectfully Submitted,

Doug Libby, AICP
Principal Planner
Sutter County Planning Commission

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