

AGENDA DATE: March 21, 2006



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AGENDA ITEM

ITEM NO. _____
District 4

SUBJECT:

Continued public hearing to consider an appeal of the Planning Commission's approval of Special Use Permit No. PSP 04-110.

REQUEST(S):

Deny the appeal submitted by Tuttle & McCloskey, Attorneys at Law, representing the City of Dinuba and uphold the Planning Commission's decision to approve Special Use Permit No. PSP 04-110.

SUMMARY:

Special Use Permit No. PSP 04-110 was requested by Salvador Medina, 39701 Road 88, Dinuba, CA 93617 (Agent: John Tamez, 11509 Avenue 416, Orosi, CA 93618) to allow the assemblage of people for entertainment purposes including on-site sale of alcoholic beverages on 3.80 acres in the M-1 (Light Manufacturing) Zone located at 2099 E. El Monte Way, on the north side of El Monte Way (Avenue 416), approximately 1,000 feet east of Crawford Street (Road 88), in Dinuba. The applicant proposes to convert a packing shed/cannery into a setting for special events such as weddings, receptions, and parties and to sell alcoholic beverages in conjunction with events.

On February 7, 2006, a public hearing was held before your Board. After considerable testimony was received, the matter was continued and staff was directed to prepare a resolution with findings for denial of the appeal and upholding the conditions adopted by the Planning Commission as modified by the board. A draft resolution for Board use is attached.

FINANCING:

Not applicable

ALTERNATIVES:

None recommended

INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:

None

SIGNATURE REQUIREMENTS:

The County Administrative Officer/Clerk of the Board of Supervisors or authorized Deputy to attest to the Resolution.

ADMINISTRATIVE SIGN OFF:

RESOURCE MANAGEMENT AGENCY

Deborah S. Kruse, Assistant Director
Development Services Branch

Henry Hash, Director

Contact: Beverly Cates, Project Planner, 733-6291 ext. 4223

Submittal Date: March 8, 2006

cc: Dan McCloskey, Tuttle & McCloskey, Attorneys at Law, 750 East Bullard, Suite 101, Fresno, CA 93710
Daniel L. Meinert, City of Dinuba, 405 East El Monte Way, Dinuba, CA 93618
Salvador Medina, 39701 Road 88, Dinuba, CA 93617
John Tamez, 11509 Avenue 416, Orosi, CA 93618

Attachment A – Draft Resolution for PSP 04-110

Attachment B – Standard Conditions of Approval for Special Use Permits

ATTACHMENT A

BEFORE THE BOARD OF SUPERVISORS

COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF SPECIAL USE PERMIT)

RESOLUTION NO. _____

APPLICATION NO. PSP 04-110)

Resolution of the Board of Supervisors of the County of Tulare denying the appeal filed by Tuttle & McCloskey, Attorneys at Law, representing the City of Dinuba and upholding the Planning Commission's approval of Special Use Permit No. PSP 04-110, requested by Salvador Medina, 39701 Road 88, Dinuba, CA 93617 (Agent: John Tamez, 11509 Avenue 416, Orosi, CA 93618) to allow the assemblage of people for entertainment purposes including on-site sale of alcoholic beverages on 3.80 acres in the M-1 (Light Manufacturing) Zone located at 2099 E. El Monte Way, on the north side of El Monte Way (Avenue 416), approximately 1,000 feet east of Crawford Street (Road 88), in Dinuba.

WHEREAS, the Board of Supervisors has given notice of its intention to consider the appeal of a Special Use Permit as provided in Section 18 of said Ordinance No. 352 and as provided in Section 65905 of the Government Code of the State of California, and

WHEREAS, a public hearing was held and an opportunity for public testimony was provided at a regular meeting of the Board of Supervisors on February 7, 2006 and

WHEREAS, at that meeting of the Board of Supervisors, public testimony was received and recorded from Sal Medina, applicant and Bernice Green, former owner of the property in support of the proposal and Mariam Dianne Noroian Appledorn, George Noroian Jr., Daniel L. Meinert, Deputy City Manager, and Dan McCloskey, Attorney for the City of Dinuba in opposition to the proposal.

NOW, THEREFORE, BE IT RESOLVED as follows:

A. This Board of Supervisors hereby certifies that it has reviewed and considered the information contained in the Initial Study/Negative Declaration for the proposed project together with any comments received during the public review process and responses to those comments, in compliance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Environmental Quality Act of 1970 prior to taking action on the project.

B. This Board of Supervisors hereby adopts the following findings of fact as to the reasons for denial of the appeal and upholding the Planning Commission's approval of this application:

1. The applicants are requesting a Special Use Permit to allow the assemblage of people for entertainment purposes including on-site sale of alcoholic beverages on 3.80 acres. The site is located at 2099 E. El Monte Way, on the north side of El

Monte Way (Avenue 416), approximately 1,000 feet east of Crawford Street (Road 88), in Dinuba. The applicants propose to provide a setting for special events such as weddings, receptions, parties and special events and to sell alcoholic beverages in conjunction with events. Said use not to exceed a cumulative intensity of 3 events in any one-week period (Sunday through Saturday).

2. The site is zoned M-1 (Light Manufacturing) and contains a vacant packing shed/cannery. The properties to the north are zoned M-1 and R-A (Rural Residential) and contain an orchard. To the east, the properties are zoned R-1 (Single Family Residential) and contain an orchard, field crops, and rural residences. The land to the west is zoned M-1, C-2 (General Commercial) and R-1 and is vacant. On the south, the property is within the City of Dinuba and contains a commercial shopping center.
3. The proposed use is considered to be an “assemblage of people for educational or entertainment purposes” which is a use listed in Section 16(B) of the Tulare County Zoning Ordinance. Uses listed in this section are considered special uses in the M-1 Zones and a Special Use Permit must be approved prior to establishment.
4. The 1963 Tulare County General Plan – Dinuba Area, designates the subject site as “Service Commercial & Limited Industrial.” The subject site is zoned M-1, which is consistent with the land use designation. Further, since the proposed use is allowed in the M-1 Zone with use permit approval, it can be considered consistent with the land use designation if the use permit is approved.
5. The subject is located within the Urban Improvement Area and Urban Area Boundary of Dinuba. The Tulare County Urban Boundary Element states a policy that encourages new development to occur within the city limits. Prior to accepting the application, Staff placed the project as “incomplete” until the applicant approached the City of Dinuba for annexation. Staff contact with the City originally stated that they were not interested in annexing the property. In February 2005, the City indicated it was interested in annexing the property with a rezoning of C-4 which is compatible with the proposed use and that the project should be developed to City standards. A letter received on October 23, 2005 indicated the City’s interest in annexation of the property and that rezoning would be C-3, a zone district that does not include a social club dancing facility or the sale of alcoholic beverages as an allowed use without a conditional use permit.
6. A letter received on November 28, 2005, indicated further concerns with the proposed project. Specifically, there were concerns related to the anticipated use of properties to the northeast and west for single-family residences. These concerns land use, noise and privacy have been responded to through providing additional conditions or revisions for this Special Use Permit.

7. The Urban Boundary Element policy will be implemented by imposing conditions of approval that require development to City of Dinuba standards. Due to the time lost with the City's reversing direction, the Commission did not require the applicant to seek annexation first.
8. The applicant states that the operation will be year round with hours for a receptionist working Monday through Thursday, 8:00 a.m. to 5:00 p.m. and events Friday through Sunday 6:00 p.m. to 12:00 midnight. All businesses used (caterers, etc.) will provide their own employees. The applicant anticipates 1-20 employees per event. The gathering size is estimated to be 200-600 people. There is a 67,000 sq. ft. concrete slab that will provide 200 parking spaces. The existing 20,000 square foot building is proposed to be divided into two halls with a kitchen and entry.
9. The number of parking spaces as proposed is adequate for a total of 600 people (one space for every three people, under the Planning Commission Development Standards).
10. Traffic and Trip Generation: The project Initial Study / Negative Declaration (IS/ND) considered potential traffic impacts based upon a worse case scenario for the proposed use. The subject site has frontage on Avenue 416, formerly a County-maintained road with a right of way width of 82 feet at this location. The City has provided updated information that the City has maintained this roadway since the early 1990s. The pavement width is 32 feet consisting of asphalt concrete surfacing and the estimated Average Daily Traffic (ADT) is 7,700, according to the 2001 Tulare County Pavement Management System. The ultimate right of way width in areas under County jurisdiction is 84 feet.
 - a) As discussed in the IS/ND, the proposed project has the potential to generate a large number of trips over a short period of time, but in terms of average annual daily traffic, the traffic generation potential of the project is less than significant (170 vehicular trips per day as the worst case scenario). The ADT for Avenue 416 was, in the IS/ND estimated to be 7,700 vehicles and the road considered to be at Level of Service (LOS) A. The majority of the vehicles will be entering and exiting the site during non-peak hours. Based on this analysis, the LOS will remain at A. It is considered unlikely that the traffic generated by the proposed project could bring the LOS below C, such that it could be determined to be a potentially significant impact, even if the original ADT is substantially larger. Therefore, traffic impacts are still considered to be less than significant.
 - b) As indicated in the IS/ND, the subject site is located alongside a public road (Avenue 416), which is straight and flat in this location. Access and sight distance concerns are therefore less than significant. Craig Anderson, RMA Engineering, has recommended road and site improvements that are recommended conditions of approval to meet

County standards. Since the traffic generated would be almost entirely passenger vehicles and delivery trucks, the potential to accelerate physical deterioration of Avenue 416, is also considered to be less than significant. The Tulare County Association of Governments reviewed the project for traffic impacts and indicated no comment. For these reasons, the checklist items noted are still considered to be less than significant.

11. Public Services:

- a) Police Services - The City indicates that the proposed project will cause operational impacts to the City Police Department operation, as they are likely to be the first responder. It is acknowledged that the project may adversely affect City Police Services, however with adherence to the following conditions of approval, impacts on Public Services are considered to be less than significant.
 - The applicant shall apply for annexation into the City of Dinuba
 - Security arrangements during events shall be made to the satisfaction of the Tulare County Sheriff's Department. A copy of the contract with a security company shall be submitted to the RMA Code Compliance Coordinator prior to each event (unless there is no change in the contract since the previous event).
- b) Fire Services - The City indicates that the proposed project will cause operational impacts to the City Fire and Ambulance Department operations, as they are likely to be the first responder. It is acknowledged that the project may adversely affect City Fire and Ambulance Department services, however with adherence to the conditions of approval, impacts on Public Services are still considered to be less than significant.
- c) Public Works Services - The City indicates that the proposed project will cause operational impacts to the City public work operations, as they maintain East El Monte Way/Avenue 416. It is acknowledged that the project may adversely affect City Public Works Services, however with adherence to the conditions of approval, impacts on Public Works Services are considered to be less than significant.

12. Health and Sanitation:

- a) Water and Sewer Service - The City indicates that there is no ability to connect to City water and sewer without annexation. Annexation to the City is a condition of approval. However, as a temporary measure should the annexation process be a prolonged one, the property owner has the option to apply for and meet County standards for well and septic service. With these conditions of approval, impacts related to health and sanitation are considered to be less than significant.

- b) Storm Drainage - The City indicates that storm drainage must be retained on-site. This has been added as a condition of approval, and impacts related to drainage are considered to be less than significant.
13. The Environmental Assessment Officer has approved preparation of a Negative Declaration for public review for the project, indicating that the project will not have any significant environmental impacts.

C. This Board of Supervisors, after considering all of the evidence presented, found that the establishment, maintenance, and operation of the use of building or land applied for PSP 04-110 would not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

AND, BE IT FURTHER RESOLVED as follows:

A. This Board hereby finds there is no substantial evidence that said Special Use Permit will have a significant effect on the environment and determines that the Negative Declaration for said Special Use Permit reflects the independent judgment of the County and has been completed in compliance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Environmental Quality Act of 1970.

B. This Board hereby denies the appeal filed by Tuttle & McCloskey, Attorneys at Law, representing the City of Dinuba and upholds the Planning Commission's approval of Special Use Permit Application No. PSP 04-110, subject to modification of conditions, as follows:

1. The applicant shall apply for annexation of the property into the City of Dinuba and will construct site improvements to meet City of Dinuba street, access, drainage and other development standards once annexation is approved.
2. Domestic water and sewer service shall be obtained from the City of Dinuba. If the City declines connection, well and septic systems may be installed to meet County and State standards for the proposed use and utilized until City of Dinuba services are available.
3. A driveway approach shall be constructed and surfaced as per the City of Dinuba Improvement Standards at each new or existing point of access to Avenue 416. The applicant or his contractor shall obtain an encroachment permit from the City of Dinuba, prior to doing any work within the road right-of-way.
4. The applicant shall make all necessary arrangements for the relocation of all overhead and underground public utility facilities that interfere with any improvement work to be performed by the applicant. The applicant shall also make necessary arrangements with the public utility company affected for the cost of relocating such facilities and the County will pay no portion of relocation cost.
(RMA Engineering)

5. All on site parking areas and driveways shall be surfaced for all-weather conditions and be maintained so that dust and mud do not create conditions detrimental to surrounding roadways. (RMA Engineering)
6. Exiting shall comply with Article 12 of the Uniform Fire Code and Chapter 10 of the Uniform Building Code. (Fire Department)
7. Security arrangements during events shall be made to the satisfaction of the Tulare County Sheriff's Department. A copy of the contract with a security company shall be submitted to the RMA Code Compliance Division Manager prior to each event (unless there is no change in the contract since the previous event). (RMA Planning)
8. The kitchen will be subject to the permit requirements set forth in the California Uniform Food Facility Law. The applicant shall submit two complete sets of the building plans to the Tulare County Health and Human Services Agency - Environmental Health Services Division (TCEHSD) prior to issuance of any building permits.
9. Parking shall be provided only in the areas designated on the site plan. (RMA Planning)
10. The applicant shall obtain all necessary building and occupancy permits, as required by the Resource Management Agency. (RMA Planning)
11. A solid fence shall be constructed (or slats installed in the chain link fence) along the east property line. If new walls or fences are installed, or existing ones modified, in connection with the assemblages of people approved under this use permit, said walls or fences shall comply with the Planning Commission's Development Standards. (RMA Planning)
12. The operation will be year round with hours for a receptionist working Monday through Thursday, 8:00 a.m. to 5:00 p.m. and events Friday through Sunday 6:00 p.m. to 12:00 midnight. All businesses used (caterers, etc.) will provide their own employees. The number of persons assembled on the site at any one time shall not exceed a total of 600 and the use of the site for the assemblage of people shall not exceed a cumulative intensity of 3 events in any one-week period (Sunday through Saturday). Assemblages of up to 50 persons without alcohol or music are not included in the 3 events per week limit. (RMA Planning)
13. Restroom facilities shall be provided with a minimum ratio of one toilet per 100 people. Portable restrooms shall be removed from the property, or hidden from view from outside the property, within 24 hours before and after an event. (RMA Planning)
14. Music, live and/or recorded, associated with events held on-site shall not be permitted between the hours of 12:00 a.m. (midnight) and 10:00 a.m. (RMA Planning)

15. Light sources should be kept low to the ground and focused inward on the site.
16. The site shall be cleaned of all trash within 48 hours after an event to avoid littering of the adjacent properties and roadways. All solid waste shall be disposed of at an approved County landfill or recycled.
17. Curb, gutter, sidewalk and paveout are required to be constructed along the Avenue 416 frontage(s) of the subject site. The paveout shall consist of asphalt over aggregate base and is necessary to properly tie the curb and gutter into the existing pavement. The curb, gutter, sidewalk and paveout shall be constructed in accordance with the City of Dinuba Improvement Standards. The design of the curb, gutter and paveout shall be submitted to the City for approval. The feasibility of the curb, gutter and paveout shall be evaluated during the design process. The City will make the final determination on the feasibility of the curb, gutter and paveout. If the curb, gutter and paveout are determined to not be feasible, then the County will prepare a long term deferred improvement agreement to be signed by the property owner.
18. If curb and gutter is not determined to be feasible, then an asphalt drive approach shall be constructed at each proposed and / or existing point of access to Avenue 416. The asphalt drive approaches shall be constructed in accordance with the City of Dinuba Improvement Standards.
19. The applicant shall post the address adjacent to the driveway approach along Avenue 416 frontage, using 6" numerals on a contrasting background.
20. Traffic circulation and Fire Department access shall comply with the Uniform Fire Code and as designated by the Fire Warden.
21. An automatic fire suppression system shall be installed in the kitchen ventilation hood.
22. Provisions for fire and life safety shall comply with the Uniform Fire Code and Uniform Building Code regulations.
23. An on-site fire hydrant system shall be installed per Tulare County Improvement standards and as designated by the Fire Warden.
24. Inside fire sprinklers and alarm system shall be installed as required in compliance with the Uniform Fire Code and as designated by the Fire Warden.
25. Provisions for fire and life safety shall be completed by the applicant and inspected by the Fire Warden prior to use or occupancy of the facilities.
26. The applicant shall retain all drainage from the property on site, both during and after construction.

27. Standardized conditions as set forth in Planning Commission Resolution No. 5976 as amended by Resolution Nos. 6013, 6334 and 6702 shall apply to this application (see Attachment No. 1).
28. The applicant shall sign an agreement in a form approved the County Counsel to Indemnify and hold the County harmless from any cost or liability with respect to alleged non compliance with CEQA or any other applicable law.

The foregoing resolution was adopted upon motion of Supervisor _____, seconded by Supervisor _____, at a regular meeting of the Board of Supervisors on the 21st day of March, 2006, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: C. BRIAN HADDIX
COUNTY ADMINISTRATIVE OFFICER
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk