

AGENDA

City of Riverbank Community Development Department
Planning Commission Meeting **Tuesday, July 15, 2008–7:00 p.m.**
6707 3rd Street - Riverbank, California 95367

CALL TO ORDER: Chair Stewart.

ROLL CALL:

Chair: Stewart
Vice Chair: Bray
Commissioners: Hughes, Lopez.

CONFLICT OF INTEREST

Declaration by Staff or members of the Planning Commission who would have a direct Conflict of Interest on any scheduled agenda item.

BUSINESS FROM THE FLOOR (No action to be taken)

At this time members of the public may comment on any item not appearing on the agenda. It is recommended to keep your comments between 3 to 5 minutes. Under State Law, matters presented under this item cannot be discussed or acted upon by the Planning Commission at this time. For items appearing on the agenda, the public will be invited to make comments at the time the item comes up for Commission consideration. At all times, please use the microphone.

1. CONSENT CALENDAR

Consent Items are items on this agenda designated by an Asterisk (*) next to the item number, requiring a Planning Commission Public Hearing but which, following an initial evaluation by Staff, have been found to be consistent with existing City of Riverbank policy and General Plan and are, therefore, recommended for "routine" approval. Prior to actual Planning Commission consideration, the Chairperson will open the Public Hearing and ask if anyone present wishes to discuss any of the items. If you want a particular agenda item removed for the "Consent" please speak up and advise the Chairperson. That item will then be withdrawn from the "Consent" and reviewed. The remaining "Consent" items, for which there are no voice objections, will be handled by a single action of the Commission.

Item 1.A: Posting of the Agenda. The Agenda for the July 15, 2008 Planning Commission Meeting was posted on the City Chamber bulletin board and the City Hall South bulletin board on July 9, 2008.

Item 1.B: Approval of the Agenda. This provides an opportunity for the Planning Commission or Staff to recommend that an item be placed on the agenda for discussion or to adjust the proposed agenda to allow an item to be taken out of order.

Item 1.C: Approval of the Minutes. The Minutes of the June 17, 2008, Planning Commission Meeting, having been read by the individual Commissioners and stands approved as submitted.

Recommendation: Approval of Consent Calendar items by roll call vote.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the Community Development Department Counter at City Hall South located at 6617 3rd Street, Riverbank during normal business hours.

2. PUBLIC HEARINGS

3. NEW BUSINESS

4. COMMISSION ITEMS

Item 4.1 – Workshop to discuss proposed Zoning Text Amendment 01-2008 in regards to regulating locations and operation of fast food restaurants.

5. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

6. UP-COMING MEETING AGENDA ITEMS

7. ADJOURNMENT

I, Danise Huey, Senior CDD Specialist for the City of Riverbank, certify that I caused to be posted copies of the Riverbank Planning Commission Agenda for the regular Meeting on July 15, 2008 in the areas designated below on July 9, 2008.




Danise Huey, Senior CDD Specialist

Riverbank City Hall North, 6707 3rd Street
Riverbank City Hall South, 6617 3rd Street

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the Community Development Department Counter at City Hall South located at 6617 3rd Street, Riverbank during normal business hours.

AGENDA ITEM NO. 1.A
DATE & TIME OF POSTING

Date: July 9, 2008 Time: 12:00 pm

Verified by: 
Danise Huey, Senior CDD Specialist

NOTICE REGARDING AMERICANS WITH DISABILITIES ACT: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Building & Safety Director (209) 869-7101. Notification 48-hours before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 35.102-35.104 ADA Title II].

NOTICE REGARDING NON-ENGLISH SPEAKERS: Pursuant to California Constitution Article III, Section IV, establishing English as the official language for the State of California, and in accordance with California Code of Civil Procedures Section 185, which requires proceedings before any State Court to be in English, notice is hereby given that all proceedings before the City of Riverbank City Council shall be in English and anyone wishing to address the Council is required to have a translator present who will take an oath to make an accurate translation from any language not English into the English language.

GENERAL INFORMATION: The Riverbank Planning commission meets on the third Tuesday of each month at 7:00 p.m.

COMMISSION AGENDAS: Copies of the Planning Commission agendas are available for public review at the Community Development Department Office, 6617 Third Street on the Friday prior to the meeting or at the time of the scheduled meeting.

QUESTIONS: Contact the Community Development Department at (209) 863-7120.

WITNESS BY: 

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the Community Development Department Counter at City Hall South located at 6617 3rd Street, Riverbank during normal business hours.

1-C

MINUTES
City Of Riverbank Planning Commission
June 17, 2008 Meeting

CALL TO ORDER/ROLL CALL :

Present: Commissioners Stewart, Bray, Stewart, and Lopez.

Absent: None.

CONFLICT OF INTEREST: None.

BUSINESS FROM THE FLOOR: This is the opportunity of the audience to raise issues which are not on the agenda. Although no action may be taken tonight, the Planning Commission may direct staff to report on the issue(s) raised at a later Planning Commission Meeting.

1. CONSENT CALENDAR: Approval of matters listed under the Consent Calendar is considered routine. There will be no discussion of items listed under the Consent Calendar unless a member of the Planning Commission or the public requests that it be removed from the Consent Calendar for separate discussion and consideration.

The following Consent Items were approved as follows:

Consent Agenda Item No. 1.A

Posting of the June 17, 2008, Planning Commission Meeting.

Consent Agenda Item No. 1.B

The Agenda for the June 17, 2008, Planning Commission Meeting was approved as submitted.

Consent Agenda Item No. 1.C

The Minutes of the May 20, 2008, Planning Commission Meeting were approved as presented.

2. PUBLIC HEARING ITEMS

Item 2.1: TM No. 02-2006 and Rez No. 01-2006 (PD-71), Lyn Tremain - Request To Develop 36 Lot PD In A R-1 Zone Located On The N/E corner Of Kentucky Ave. and Claus Rd. Apn: 062-022-027.

The Public Hearing was opened for persons wishing to speak for or against the Item. Present to speak for the item was Lynn Tremain the applicant and Phil Morris of Morris Survey. Tim Ogden, the Director of Housing and Economic Development was there to mention the Army Depot, an existing industrial area was just south of the new development. Commissioner Bray mentioned he would like a gate not to be installed to disconnect the community and the project. Being no further comments the public hearing was closed. A motion was made by Commissioner Hughes, and seconded by Commissioner Lopez, with a 3-1 vote as carried Stewart-yes, Hughes-yes, Lopez-yes, and Bray-No, passed and approved the conditions of Resolution 2008-009.

Item 2.2: Renewal of Conditional Use Permit Application No. 06-2006 – To add a modular building (2840 sqft) to be used as educational and life training classes at the Community Casa – located at 2201 Morrill Road, APN: 075-057-001, 002, 003 and 004.

The Public Hearing was opened for persons wishing to speak for or against the Item. Being no comments the public hearing was closed. A motion was made by Commissioner Bray, and seconded by Commissioner Hughes, unanimously carried by Commissioners present, to approve the conditions of Resolution 2008-008.

Item 2.3: Conditional Use Permit Application No. 01-2008 Trong Vuong – Request to expand an office for an existing self storage business. Located at 2754 Sierra Street, APN: 075-009-046.

The Public Hearing was opened for persons wishing to speak for or against the Item. Being no comments the public hearing was closed. A motion was made by Commissioner Bray, and seconded by Commissioner Lopez, unanimously carried by Commissioners present, to approve the conditions of Resolution 2008-010.

Item 2.4: Parcel Map Application No. and Rezone Application No. 01-2008 – Riverbank Family Apartments: A Request to develop a 65 unit multi-family planned development (PD-74) project. Located on the S/E corner of Patterson and Claus Roads. APN: 132-047-067, 068, 069. A mitigated negative declaration will be considered.

The Public Hearing was opened for persons wishing to speak for or against the Item. Present to speak for the project was Mike Kelly and Ken Koss, the applicants. A member of the community that didn't give her name is very concerned about the existing crimes in the neighborhood and is concerned that the new project would make it worse. Being no comments the public hearing was closed. A motion was made by Commissioner Bray, and seconded by Commissioner Hughes, unanimously carried by Commissioners present, to approve the conditions of Resolution 2008-007.

3. NEW BUSINESS

Item 3.1: Revised boundaries for the Riverbank Reinvestment Project Amendment 1.

The Public Hearing was opened for persons wishing to speak for or against the Item. Present to speak about the amended project was Tim Ogden, the Director of Housing and Economic Development. Being no further comments the public hearing was closed. A motion was made by Commissioner Bray, and seconded by Commissioner Hughes, unanimously carried by Commissioners present, to approve Resolution 2008-011.

4. COMMISSION ITEMS

1. It was mentioned that Bess Tollefson and Robert Cairns resigned from the Planning Commission.
2. J.D. will be attending the Valley Blueprint Presentation.

5. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

None.

6. UP-COMING MEETING AGENDA ITEMS

None.

7. ADJOURNMENT

There being no further comments, the meeting was adjourned.

Respectfully Submitted

Danise Huey, Recording Secretary

CITY OF RIVERBANK PLANNING COMMISSION
Agenda Item No. 4.1 - Staff Report

M E M O R A N D U M

DATE: July 17, 2008
TO: Planning Commission
FROM: Emily Pino, Associate Planner
SUBJECT: ZOTA 01-2008 – Fast Food CUP

RECOMMENDATION: Workshop to discuss Zoning Ordinance Text Amendment 01-2008, subject to the conditions in the attached resolution.

BACKGROUND:

The California Center for Public Health Advocacy's January, 2007, study, "Searching for Healthy Food: The Food Landscape in California Cities and Counties," found that in Stanislaus County, there are 4.79 times as many fast food restaurants and convenience stores as supermarkets and produce vendors. Retail food environment plays an important role in determining health. In order to act on a decision to eat a nutritious diet, the consumer must have information about the nutritive value of a food choice and be able to find and afford it. The California Center for Public Health Advocacy recommends that steps be taken to assure a healthy food environment in all California communities.

The California Center for Public Health Advocacy calls on federal, state and local policy makers to enact policies that promote a healthy food environment for all Californians. This includes setting reasonable limits on the number of fast-food restaurants and convenience stores in California neighborhoods and requiring food retailers such as fast food restaurants to provide consumers with nutritional information for all items on menus and menu boards.

Previous studies, including a 2005 study conducted by the Boston Children's Hospital, have found a relationship between available food outlets and health:

- Where there are high numbers of fast-food restaurants compared to grocery stores, there are also higher rates of diabetes, cardiovascular disease, and cancer.

- People who live near supermarkets are more likely to eat more fruits and vegetables and less likely to be obese.
- Eating at fast-food restaurants is associated with consuming more calories and fewer vegetables; it is also associated with higher rates of obesity.
- People consistently underestimate how many calories are in fast-food meals.

ANALYSIS:

The precedent has been set that zoning may be used as a means to promote public health and safety. Many California cities, including Riverbank, have passed zoning laws that reduce alcohol availability by restricting the density and location of alcohol retailers. Zoning laws have provided a useful tool for reducing alcohol-related health problems. The prevalence of fast food outlets offering menus filled with nutritionally deficient food and promoting “super-sized” portions, in combination with a scarcity of healthy alternatives, is an important public health issue. Studies suggest that communities can combat the public health threat posed by fast food by issuing zoning laws that restrict where and how fast food outlets can operate. Zoning laws that limit individuals’ access to fast food and provide access to healthy food alternatives could help reduce the prevalence of obesity.

The positive association between fast food, unhealthy diets, and obesity suggests that by reducing access to fast food restaurants and displacing them with healthier alternatives, local governments could encourage healthier eating patterns in their communities. Because public health is included within the public interest, any condition that promotes public health should be upheld under the public interest test. This also conforms to the Guiding Principle of the City’s Adopted Vision, “Our City government, guided by the public interest, should be an active leader in improving the quality of life in Riverbank.”

Another common public health concern raised with respect to fast food outlets is that the traffic generated from drive-through service, as well as their generally automobile-oriented design, adversely affects such things as pedestrian safety, congestion, and air and environmental quality. In general, courts find that preventing traffic hazards is a legitimate objective of zoning. Also, the auto-oriented nature of fast food outlets conflicts with the following Guiding Principles of the City’s Adopted Vision:

- *Our City should be safe and healthy for all our residents.*
- *Our streets and public spaces should be designed with people in mind, not only for the convenience of cars.*
- *We will design our community so that people can walk, bicycle, or use public transit if they choose not to drive.*

Fast food outlets have demonstrated having the potential to create a nuisance with the litter, noise, traffic, loitering, air pollution, and odors they can generate.

Fast food outlets use disposable containers which contribute to litter and impact landfills, their building designs often clash with desired community aesthetics and distinctive character, and they can be detrimental to a supportive environment for new small business innovations and to the fostering of a diverse retail base. These aspects of fast food outlets conflict with the following Guiding Principles of the City's Adopted Vision:

- *Commercial corridors, such as Patterson Road, should be attractive, unique, pedestrian-friendly centers of commerce to enhance the City's character.*
- *Our City can grow without being overcome by traffic, noise, air quality, or other impacts that would sacrifice the small-town character.*
- *The air we breathe and the water we use affect our health and well-being. We want growth and development to maintain high standards for the quality of our air and water.*
- *Small, locally-owned businesses are an important part of the unique character of Riverbank and essential to a healthy local economy.*

Of all the potentially negative aspects of fast food outlets, the effects on public health and the environment are perhaps the most direct and the most disconcerting. Thus, the attached zoning ordinance text amendment is primarily designed to mitigate the impact of fast food outlets on public health and environmental quality.

CONCLUSION:

Considering the significant public health affects of fast food establishments, and the City's responsibility to protect the public interest through protection of public health, staff recommends the approval of ZOTA 01-2008.

Planning Commission

Resolution No.

Adoption of ZOTA 01-2008

WHEREAS, the California Center for Public Health Advocacy's January, 2007, study, "Searching for Healthy Food: The Food Landscape in California Cities and Counties," found that in Stanislaus County, there are 4.79 times as many fast-food restaurants and convenience stores as supermarkets and produce vendors; and

WHEREAS, studies show that where there are high numbers of fast-food restaurants compared to grocery stores, there are also higher rates of diabetes, cardiovascular disease, and cancer; and

WHEREAS, zoning laws that limit individuals' access to fast food and provide access to healthy food alternatives could help reduce the prevalence of obesity and related health issues in the United States; and

WHEREAS, traffic generated from drive-through services adversely affects such things as pedestrian safety, congestion, and air and environmental quality; and

WHEREAS, The City has adopted a Vision Statement stating that Our City government, guided by the public interest, should be an active leader in improving the quality of life in Riverbank; and

WHEREAS, The City has adopted a Vision Statement stating that our City should be safe and healthy for all our residents.

WHEREAS, The City has adopted a Vision Statement stating that we will design our community so that people can walk, bicycle, or use public transit if they choose not to drive; and

WHEREAS, The City has adopted a Vision Statement stating that our streets and public spaces should be designed with people in mind, not only for the convenience of cars; and

WHEREAS, The City has adopted a Vision Statement stating that small, locally-owned businesses are an important part of the unique character of Riverbank and essential to a healthy local economy; and

WHEREAS, The City has adopted a Vision Statement stating that commercial corridors, such as Patterson Road, should be attractive, unique, pedestrian-friendly centers of commerce to enhance the City's character; and

WHEREAS, The City has adopted a Vision Statement stating that our City can grow without being overcome by traffic, noise, air quality, or other impacts that would sacrifice the small-town character; and

WHEREAS, The City has adopted a Vision Statement stating that the air we breathe and the water we use affect our health and well-being. We want growth and development to maintain the high standards for the quality of our air and water; and

WHEREAS, Zoning Ordinance Text Amendment 03-2006 reads:

FAST-FOOD RESTAURANTS

§153.375 PURPOSE.

The general purpose of regulating the location and operation of fast-food restaurants is to protect and promote the public health, safety, and general welfare by limiting the number of fast food establishments in certain areas; ensuring that fast-food establishments are oriented toward pedestrian traffic, not only auto traffic; enhancing neighborhood character through building design; providing information to consumers about the nutritional value of food served; and limiting the environmental degradation caused by the disposal of containers in which food is distributed.

§153.376 USE PERMIT REQUIRED.

*(A) Fast-food restaurants are not permitted by right, although they could be developed with a conditional use permit. A **FAST-FOOD RESTAURANT** is defined as any establishment whose principal business is the sale of foods or beverages in a ready-to-consume state, from a limited standardized menu, for consumption within the building or off-premises, and whose principal method of operation includes: (1) sale of foods and beverages in paper, plastic or other disposable containers; and/or (2) service of food and beverages directly to a customer in a motor vehicle.*

(B) The City may allow fast-food restaurants only if each of the following are fulfilled and the governing body has deemed the use appropriate to the site and in conformance with the City's Adopted Vision:

- (1) *Any fast-food restaurant may not exceed 3,000 square feet. Only one fast-food restaurant is permitted per parcel, lot or track on which all or a portion of a building is located.*
- (2) *The location in relationship to major roads and the impact on neighborhoods shall be evaluated.*
- (3) *No parking shall be located between fast-food restaurants and public streets.*
- (4) *To the maximum extent practicable, fast-food and other pad sites shall be clustered together to define street edges.*
- (5) *The primary entrance to the restaurant shall be oriented toward the public street and sidewalk.*
- (6) *Traffic impacts on surrounding streets shall be evaluated and mitigated if necessary.*
- (7) *All fast-food restaurants shall provide consumers with nutritional information for all items on menus and menu boards.*
- (8) *Fast-food restaurants are prohibited from using polystyrene foam, otherwise known as Styrofoam, food service ware for food prepared and served in Riverbank. Any disposable food service ware for food prepared and served in Riverbank, must be compostable or recyclable unless there is no suitable product that is within 15% of the cost of non-compostable or non-recyclable alternatives. (There is no cost exemption for Styrofoam).*
- (9) *Provision of bicycle racks is required. The number of bicycle parking spaces shall be at least 5% of the total car parking spaces. City approved bike racks shall be placed in a well-lighted area and placed in an accessible location visible from the building's entrance and/or parking area.*
- (10) *Litter, odors, exterior design, signage, concentration of like uses, and the extent to which the use enhances the unique characteristics of the surrounding area shall be evaluated.*
- (11) *Food products containing trans fat shall not be allowed.*
- (12) *Specific design guidelines must be met. Façades should be articulated and incorporate architectural features to provide visual interest. Windows, awnings, entry areas, and/or arcades shall total at least 60 percent of the façade length facing a public street.*

Architectural methods shall be used to conceal flat roof tops. Mansard style roofs are highly discouraged. Use of trademark colors on signs, façades, or roofs may be restricted if found to be incompatible with the desired character of the area.

(13) For all fast-food restaurants, a minimum distance of five hundred (500) feet shall exist between the subject site and the nearest point of an elementary, junior high, or senior high school site, a public recreation area, or any residentially zoned property.

(C) Drive-through facilities are highly discouraged, but may be permitted only if the following criteria are fulfilled:

(1) The primary entrance to the restaurant shall be directly accessible from the public sidewalk and/or primary internal walkway without the need to traverse parking aisles, travel lanes, or drive-through lanes.

(2) Sufficient stacking spaces for drive-thru lanes shall be provided and shall not impede any pedestrian connections to the restaurant.

(D) Fast-food and/or drive-thru restaurants that are either existing or have received final approvals on the effective date of the ordinance codified in this section are allowed to continue in existence subject to the terms and conditions of this code and the conditional use permit or other discretionary permit permitting them and may apply for and may be granted Conditional Use Permit extensions under this code.

NOW THEREFORE, BE IT RESOLVED by the City of Riverbank Planning Commission in the approval of ZOTA 01-2008 subject to those conditions established by **Resolution No.** and as illustrated in Exhibit "A", Section 153.076, 153.077, 153.092, 153.093, and 153.375 of the City of Riverbank Code of Ordinances.

Passed and adopted by the Planning Commission of the City of Riverbank at a regular meeting held on the **19th of August, 2008**, by the following vote:

AYES:

NOES:

ABSENT

ABSTAIN:

Approved:

Joan Stewart
Chairperson, Planning Commission

Attest:

J.D. Hightower, Secretary
Community Development Director

FAST-FOOD RESTAURANTS

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- (B) The City may allow fast-food restaurants only if each of the following are fulfilled and the governing body has deemed the use appropriate to the site and in conformance with the City's Adopted Vision:
- (1) Any fast-food restaurant may not exceed 3,000 square feet. Only one fast-food restaurant is permitted per parcel, lot or track on which all or a portion of a building is located.
 - (2) The location in relationship to major roads and the impact on neighborhoods shall be evaluated.
 - (3) No parking shall be located between fast-food restaurants and public streets.
 - (4) To the maximum extent practicable, fast-food and other pad sites shall be clustered together to define street edges.
 - (5) The primary entrance to the restaurant shall be oriented toward the public street and sidewalk.

- (6) Traffic impacts on surrounding streets shall be evaluated and mitigated if necessary.
 - (7) All fast-food restaurants shall provide consumers with nutritional information for all items on menus and menu boards.
 - (8) Fast-food restaurants are prohibited from using polystyrene foam, otherwise known as Styrofoam, food service ware for food prepared and served in Riverbank. Any disposable food service ware for food prepared and served in Riverbank, must be compostable or recyclable unless there is no suitable product that is within 15% of the cost of non-compostable or non-recyclable alternatives. (There is no cost exemption for Styrofoam).
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 - (10) Litter, odors, exterior design, signage, concentration of like uses, and the extent to which the use enhances the unique characteristics of the surrounding area shall be evaluated.
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- (C) Drive-through facilities are highly discouraged, but may be permitted only if the following criteria are fulfilled:
- (1) The primary entrance to the restaurant shall be directly accessible from the public sidewalk and/or primary internal walkway without the need to traverse parking aisles, travel lanes, or drive-through lanes.

- (2) Sufficient stacking spaces for drive-thru lanes shall be provided and shall not impede any pedestrian connections to the restaurant.
- (D) Fast-food and/or drive-thru restaurants that are either existing or have received final approvals on the effective date of the ordinance codified in this section are allowed to continue in existence subject to the terms and conditions of this code and the conditional use permit or other discretionary permit permitting them and may apply for and may be granted Conditional Use Permit extensions under this code.