



Board Agenda Item 7

DATE: September 1, 2020

TO: Board of Supervisors

SUBMITTED BY: Steve E. White, Director
Department of Public Works and Planning

SUBJECT: Initial Study No. 7568 and Classified Conditional Use Permit No. 3632
(Applicant/Appellant: Luis Bravo)

RECOMMENDED ACTION(S):

1. **Consider appeal of Planning Commission's denial of Classified Conditional Use Permit Application No. 3632, proposing to allow an agricultural commercial center consisting of an approximately six-acre flea market with related improvements on a 78.18-acre parcel in the AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District; and**
2. **If the Appeal is granted and the Planning Commission's denial of Classified Conditional Use Permit Application No. 3632 is overturned:**
 - a. **Adopt Mitigated Negative Declaration prepared for Initial Study Application No. 7568 and approve the proposal subject to project Mitigation Measures and Conditions of Approval;**
 - b. **Make the required Findings specified in Fresno County Zoning Ordinance, Section 873(f) for approval of the Classified Conditional Use Permit Application No. 3632; and**
 - c. **Adopt Resolution approving Classified Conditional Use Permit Application No. 3632 for a flea market, with Conditions of Approval.**

The subject property is located on the north side of W. Jayne Avenue approximately 2,556 feet west of its intersection with S. El Dorado Avenue and 6.4 miles east of the nearest city limits of City of Coalinga (23436 W. Jayne Avenue, Coalinga, CA) (APN 073-090-20S)

This item was originally scheduled to be heard before your Board on April 14, 2020. On April 13, 2020, after being made aware of additional public project-related concerns, the Applicant's Representative requested that your Board continue the item. Following that request, at the April 14, 2020 hearing, your Board continued the item to a date uncertain.

The subject request before your Board is an appeal of the Planning Commission's denial of the subject application (8 to 1) at its February 13, 2020 hearing. The Zoning Ordinance requires the Board to determine, independent from the decision of the Planning Commission, whether the application should be approved, approved with stated conditions, or disapproved. A copy of the Planning Commission's action is included as Attachment A. The property would be used for an agricultural commercial center consisting of a flea market with related improvements. This item pertains to a location in District 4.

ALTERNATIVE ACTION(S):

If your Board is unable to make the required Findings for granting the Permit, you may make a motion to deny the appeal and uphold the Planning Commission's decision. Alternatively, your Board may approve the request with additional or modified conditions of approval other than those recommended by Staff.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. Pursuant to the County's Master Schedule of Fees, the Applicant/Appellant paid \$9,555.00 in land use processing fees for the CUP Application request. The Applicant/Appellant also paid \$508.00 in fees to appeal the Planning Commission's denial.

DISCUSSION:

Pursuant to Zoning Ordinance Section 873(F), in order to approve CUP 3632, the following Findings must be made:

1. That the site for the propose use is adequate in size and shape to accommodate said use and all yards, spaces, wall and fences, parking, loading, landscaping and other features required by this Division, to adjust said use with land and uses in the neighborhood.
2. That the site for the proposed use related to streets and highways is adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
3. That the proposed use will have no adverse impact on abutting property and surrounding neighborhood or permitted use thereof.
4. That the proposed development is consistent with the General Plan.
5. That the conditions stated in the resolution are deemed necessary to protect the public health, safety, and general welfare.

The Planning Commission Staff Report dated February 13, 2020, (Attachment B) provides additional information on the proposed flea market and related improvements; including Staff's analysis. In its action to deny the proposal, the Commission was unable to make Finding No. 3 based on their conclusion that the project would have an adverse effect on the surrounding properties due to a lack of safety services, noise and increased traffic.

Background

The Project site is on the north side of W. Jayne Avenue approximately 2,556 feet west of its intersection with S. El Dorado Avenue and 6.4 miles east of the nearest city limits of the City of Coalinga. The subject proposal entails the development of an agricultural commercial center consisting of an approximately six-acre flea market with related improvements on a 78.18-acre parcel in the AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District.

At the February 13, 2020, Planning Commission hearing, the Applicant/Appellant gave testimony in support of the application stating that the flea market would provide family entertainment that was not otherwise available in the area. There was no testimony in opposition; however, there was one letter (e-mail) in opposition (Attachment C) citing concerns with the project's effect on the adjacent property's potential future uses, noise, and possible camping at the site. There were no letters of support for the project.

After receiving Department staff's presentation and considering the Applicant/Appellant's testimony in support of the subject application, the Planning Commission approved a motion to deny the Project and the associated Mitigated Negative Declaration (MND). During the meeting, the Planning Commission expressed concern that the project was not needed because similar services could be accommodated in the City of Coalinga, which is located within seven miles of the site, the proximity of the site to the state prison and state hospital, and general concerns about public safety, noise, alcohol sales, hours of operation, and traffic.

The Applicant/Appellant filed the appeal, included as Attachment D, on February 18, 2020, stating the appeal was based on the fact that the project meets all standards and there will be no adverse impacts to surrounding properties. In addition to the appeal document, Staff notes that recommended project conditions of approval have been included as Attachment E, and the Mitigated Negative Declaration has been included as Attachment F.

Since the Planning Commission's denial of the project. The Applicant/Appellant has provided a Revised Operational Statement (Attachment G) to provide further clarification in their proposed operations. Operational time limits of the proposed use were clarified to indicate specific times for vendor sales and cleanup, specifically that all sales activities terminate by 9:00 p.m. with the site vacated by 10:00 p.m. Additionally, information regarding the hours of operation for the sale of alcohol was provided including prohibiting alcohol sales during the first year of operation. Staff notes that the proposal to prohibit sales of alcohol for the first year does not allow evaluation of the potential issues related to alcohol consumption onsite and as such, staff recommends that alcohol be either allowed to be sold subject to the hours proposed (11:00 a.m. to 8:00 p.m.) or be prohibited. Revisions also include the addition of recommendations from the Fresno County Sheriff's office, regarding practices to deter the sale of stolen property and enhance cooperation with the Sheriff's Office.

Prior to the April 14, 2020 Board Hearing there were five additional pieces of correspondence received which included three letters in support of the project and the applicant, one neutral correspondence, one email in opposition, and written testimony from the applicant's representative in support. These were included with the April 14, 2020 Board Agenda Item.

If your Board determines that they are able to make the required Findings for granting approval of CUP No. 3632, it may adopt the draft resolution on file with the Clerk to approve the appeal, approving Conditional Use Permit No. 3632 with the revised June 10, 2020 Operational Statement, and adopt the MND (Attachment F) prepared for Initial Study (IS) No. 7568 subject to the project Mitigation Measures and staff's recommended Conditions of Approval shown in Attachment E. In such an approval action, your Board may also consider staff's recommendation regarding the on-site sale of alcohol as noted above.

If the Board determines that they are unable to make the required findings for granting CUP No. 3632. The Board may make a motion to deny the appeal and uphold the Planning Commission's decision.

REFERENCE MATERIAL:

BAI #4, April 14, 2020

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - G
On file with Clerk - Resolution

CAO ANALYST:

Debbie Paolinelli