



City of Riverbank
Planning Commission Meeting
City Hall North • Council Chambers
6707 Third Street • Suite B • Riverbank • CA 95367

Agenda

Tuesday, February 21, 2017 – 6:00 P.M.

<u>CALL TO ORDER:</u>	Chair:	McKinney
<u>ROLL CALL:</u>	Chair:	McKinney
	Vice Chair:	King
	Commissioner:	Stewart
	Commissioner:	Tabacco
	Commissioner:	Villapudua

CONFLICT OF INTEREST

Any Planning Commission Member or Staff who has a direct Conflict of Interest on any scheduled agenda item to be considered is to declare their conflict at this time.

1. PUBLIC COMMENTS (No action to be taken)

At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission Board. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission Board.

2. CONSENT CALENDAR

All items listed on the Consent Calendar are to be acted upon by a single action of the Planning Commission Board unless otherwise requested by an individual Planning Commissioner Member for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item 2.A: Posting of the Agenda. The Agenda for the February 21, 2017 Planning Commission Meeting was posted on the City Community Center bulletin board, City Hall North & South bulletin boards, Post Office, city website and emailed to the Library on February 17, 2017.

Item 2.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 2.C: Approval of the Minutes of the December 20, 2016 Planning Commission Meeting, having been read by the individual Commissioners and stands approved as submitted.
Abstain from voting: Chair McKinney.

Item 2.D: Approval of the Minutes of the January 17, 2017 Planning Commission Meeting, having been read by the individual Commissioners and stands approved as submitted.
Abstain from voting: Chair McKinney and Commissioner Villapudua.

Recommendation: It is recommended that Planning Commission approve the Consent Calendar by roll call vote.

3. PUBLIC HEARINGS

Continued Item 3.1: Revocation of Conditional Use Permit No. 05-2007 and Business License - Action on Code Enforcement Case #2015-0209 for 209 Concepts – **Location:** 6607 Callander Avenue, APN: 075-004-046. Repeated violations of the City’s zoning code and conditions of approval of CUP 05-2007 have resulted in the City’s decision to move forward to revoke the conditional use permit and/or business license on the property. Business owner was given a 30 day extension by the Planning Commission at the December 20, 2016 meeting, then another 30 day extension at the January 17, 2017 meeting.

Recommendation: Approval by roll call vote

4. PLANNING COMMISSION INFORMATION (Information Only – No Action)

Item 4.1: Workshop Topic - Findings

Item 4.2: Annual Stanislaus County Planning Commissioners Workshop to be held Saturday, March 18, 2017 in Newman California.

Item 4.3: Resignation of Planning Commissioner Carlos Villapudua.

5. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION (Information Only – No Action)

None

6. UP-COMING MEETING AGENDA ITEMS (Information Only – No Action)

Item 6.1: Conditional Use Permit Modification 17-0001 – Galaxy Theaters – Modification of CUP 01-2013. Property is located at 2525 Patterson Road, APN: 075-0008-029.

7. ADJOURNMENT – The next regular Planning Commission meeting – March 21, 2017 @ 6:00 p.m.

AFFIDAVIT OF POSTING

I, Janet Smallen, do hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted 72 hours to the meeting in accordance to the Brown Act.

*Posted this 17th day of February, 2017
Janet Smallen, Sr. CDS*

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 Development Services Department at (209) 863-7128 or jsmallen@riverbank.org. Notification 72-hours before the meeting will enable the City to make reasonable arrangements to ensure any special needs are met. [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 Planning Commission shall be in English and anyone wishing to address the Planning Commission 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 6:00 p.m.

COMMISSION AGENDAS: The Planning Commission agenda is posted pursuant to the California Brown Act, which only requires these agenda title pages to be posted near the entrance of the location where the meeting is to be held and, when technologically able, on the City's website. Additional documents may be provided by the City in its efforts of transparency to keep the public well informed. The agenda packet (agenda plus supporting documents) are posted for public review at the Development Services Department, 6617 Third Street, Riverbank, CA and at www.riverbank.org upon distribution to a majority of the Planning Commission. A subscription to receive the agenda can be purchased for a nominal fee through the City Clerk's Office.

PUBLIC HEARINGS: In general, a public hearing is an open consideration within a meeting of the Planning Commission Board, for which special notice has been given and may be required. During a specified portion of the hearing, any resident or concerned individual is invited to present protests or offer support for the subject under consideration.

Televised/Video of Meetings: Charter – Channel 2; AT&T Uverse – Channel 99
Visit www.riverbank.org to connect to meeting videos. (Note: Technical difficulty occurs on occasion preventing the televising or recording of the meeting.)

City Hall Hours: City Hall is open Monday – Thursday: 7:30 am – 5:30 pm and Fridays: 8:00 am – 5:00 pm; CLOSED alternating Fridays.

QUESTIONS: Contact the Developmental Services Department at (209) 863-7128.

Any documents that are not privileged or part of a Closed Session provided to a majority of the Planning Commission after distribution of the agenda packet, regarding any item on this agenda, will be made available for the public inspection at North City Hall, 6707 Third Street, Riverbank, CA during normal business hours.



City of Riverbank

6707 Third Street • Riverbank, CA 95367-2396
Phone: (209) 869-7128 • Fax: (209) 869-7126

NOTICE OF CONTINUANCE

AFFIDAVIT OF POSTING NOTICE OF CONTINUANCE:

Item 3.3: Revocation of Conditional Use Permit No. 05-2007 and Business License / Resolution 2016-020 - Action on Code Enforcement Case #2015-0209 for 209 Concepts – **Location:** 6607 Callander Avenue, APN: 075-004-046. Repeated violations of the City's zoning code and conditions of approval of CUP 05-2007 have resulted in the City's decision to move forward to revoke the conditional use permit on the property.

POLICY FOR PUBLIC NOTICE POSTING REQUIREMENTS

I, JANET SMALLEN, SR. COMMUNITY DEVELOPMENT SPECIALIST, declare as follows:

That I am the Sr. Community Development Specialist of the City of Riverbank. That at a regular meeting of the City Planning Commission of the City of Riverbank held January 17, 2017, said Public Hearing Item was continued to the February 21, 2017 Planning Commission Meeting.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 18th day of January 2017.

/s/ Janet Smallen,
Sr. Community Development Specialist
City of Riverbank

For official use only:

Posted: 1/18/17	Publish: n/a	Remove: 02/22/17
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City of Riverbank
Planning Commission Meeting
6707 Third Street • Riverbank • CA 95367

MINUTES
Tuesday, December 20, 2016

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

CALL TO ORDER/ROLL CALL:

Present: Chair Villapudua; Commissioners: King, Steward, and Tabacco

Absent: Vice Chair McKinney

CONFLICT OF INTEREST: Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one declared a conflict.

1. PUBLIC COMMENTS (No action to be taken)

At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission.

None

2. CONSENT CALENDAR

All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item No. 2.A: Posting of the December 20, 2016, Planning Commission Meeting Agenda.

Item No. 2.B: Approval of the December 20, 2016, of the Planning Commission Meeting Agenda.

ACTION: *By motion moved/second (Stewart / Tabacco / passed 4-0) to approve Consent Items 2.A and 2.B as presented; motion carried by unanimous Planning Commission roll call vote.*

Ayes: Stewart, Tabacco, King, and Chair Villapudua

Nays: None

Absent: McKinney

Abstained: None

Item No. 2.C: Approval of the Minutes of the March 15, 2016 Planning Commission Meeting.

ACTION: *By motion moved/second (Tabacco / King / passed 3-0) to approve Consent Calendar 2.C as submitted; motion carried by Planning Commission roll call vote.*

Ayes: Tabacco, King, and Chair Villapudua

Nays: None

Absent: McKinney

Abstained: Stewart

Item No. 2.D: Approval of the Minutes of the July 19, 2016 Planning Commission Meeting

ACTION: *By motion moved/seconded (Tabacco / Stewart / passed 3-0) to approve Consent Calendar Item 2.D as submitted; motion carried by Planning Commission call vote.*

Ayes: Stewart, Tabacco, and Chair Villapudua

Nays: None

Absent: McKinney

Abstained: King

3. PUBLIC NOTICE

Item 3.1: Development Agreement No. 01-2016 / Dept. File # 16-0014 – Hayes 4, Phase 2 Tentative Map 07-2004 – Resolution 2016-018 and recommend to City Council approval of an Ordinance –

The project consists of a Development Agreement to clarify the original conditions of map approval specific to the Hayes 4, Phase Two development, adds map life, clarifies storm water drainage concepts and conditions of approval. The project consists of 9.40 gross acres and would result in 49 single-family detached residential lots consisting of about 5,000 square feet (overall density of 5.21 du/gross acre), a 0.98 park/basin, and associated street, sewer, water, and storm drainage improvements. The project site has a General Plan Land Use Designation of Low Density Residential (LDR) and is zoned Single Family Residential (R-1). **Location:** The proposed project is located in Riverbank and is bound by Central Avenue to the East and is directly South of California Avenue. The project site is further identified as APN 062-022-003.

Pursuant to the California Environmental Quality Act (CEQA), an Initial Study has been prepared by the Lead Agency (City of Riverbank). This Initial Study (IS) has been circulated to the Governor's Office of Planning and Research (OPR) for consultation with other Responsible Agencies as SCH# 2016092072. The review period for the Initial Study closed on October 31, 2016 and all comments received have been incorporated into the revised IS presented in the Public Hearing. Based on the IS it has been determined that the proposed Project would not have a significant effect on the environment.

Consultant John B. Anderson presented the staff report; The Planning Commission and Staff discussed the item.

Chair Villapudua opened the public hearing at 6:29 p.m.

- *Mr. Rick Mummert, Owner of Benchmark Engineering, Modesto, was present for questions on behalf of Mr. Mark Wilbur.*
- *Chair Villapudua closed the public hearing at 6:30 p.m.*

ACTION: *By motion moved/seconded (Tabacco / Stewart / passed 4-0) to approve Item 3.1 as presented. Motion carried by unanimous Planning Commission roll call vote.*

Ayes: King, Stewart, Tabacco, and Chair Villapudua

Nays: None

Absent: McKinney

Abstained: None

Item 3.2: TPM 02-2016 / Dept. File# 16-0008 / Resolution 2016-019 – Marlene Kuffel – request to divide one (1) large parcel into four (4) lots of 5,000 square feet each and a remainder. The General Plan designation for the site is Mixed Use (MU). CEQA Categorical Exemption: Article 19, Section 15315 Minor Land Division & Section 15332 In-Fill Development Projects. **Location:** 0 Ward Avenue, APN: 075-010-065 and APN: 075-010-064.

Planning and Building Manager Donna Kenney presented the staff report; Staff and Commission discussed the item.

Chair Villapudua opened the public hearing at 6:41 p.m.

- *Mr. Bill Houck, Project Engineer, spoke in favor of the project and responded to questions.*

Chair Villapudua closed the public hearing at 6:44 p.m.

ACTION: *By motion moved/seconded (Stewart / Tabacco / passed 4-0) to approve Item 3.2 as presented. Motion carried by unanimous Planning Commission roll call vote.*

Ayes: King, Stewart, Tabacco, and Chair Villapudua

Nays: None

Absent: McKinney

Abstained: None

Item 3.3: Revocation of Conditional Use Permit No. 05-2007 and Business License / Resolution 2016-020 - Action on Code Enforcement Case #2015-0209 for 209 Concepts – **Location:** 6607 Callander Avenue, APN: 075-004-046. Repeated violations of the City's zoning code and conditions of approval of CUP 05-2007 for 209 Concepts have resulted in the City's decision to move forward to revoke the business license for 209 Concepts and the conditional use permit on the property.

Planning and Building Manager Donna Kenney presented the staff report; Staff and Commission discussed the item.

Chair Villapudua opened the public hearing at 7:01 p.m.

- *Mr. Jaime Lopez, Riverbank, provided interpretation assistance to Property Owner Mr. Sanguino in representing his case to the Commission.*
- *Mr. Nicolas Lopez, Operator of the business 209 Concepts, spoke on his behalf.*
- *Chair Villapudua closed the public hearing at 7:17 p.m.*
- *The Planning Commission and Staff discussed the item.*

ACTION: *By motion moved/second (Tabacco / King / passed 4-0) to approve continuing Item 3.3 for further consideration to the January 17, 2017 Planning Commission meeting to provide the Business Owner with additional time to address noticed violations, and to receive a progress report of the matter by Staff. Motion carried by unanimous Planning Commission roll call vote.*

Ayes: King, Stewart, Tabacco, and Chair Villapudua

Nays: None

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Minutes from December 20, 2016

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Absent: McKinney

Abstained: None

4. COMMISSION ITEMS (Information Only – No Action)

Item 4.1: Annual Nomination and Appointment of Chair and Vice Chair – Per Planning Commission Rules and Procedures.

Planning and Building Manager Donna Kenney presented the staff report.

ACTION: By motion moved/seconded (Stewart Tabacco / passed 4-0) to approve Commissioner Anthony McKinney as Chair and Commissioner Larry King as Vice Chair in accordance with the Rules and Procedures. Motion carried by unanimous Planning Commission roll call vote.

Ayes: King, Stewart, Tabacco, and Chair Villapudua

Nays: None

Absent: McKinney

Abstained: None

5. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION (Information Only – No Action)

Item 5.1: Del Rio Tank and Wells Project. CEQA comment period November 7 - December 22, 2016.

Planning and Building Manager Donna Kenney reported on this item.

6. UP-COMING MEETING AGENDA ITEMS (Information Only – No Action)

Item 6.1: CUP 02-2016 – Mobilitie, LLC – request to install antennas within city light poles within city rights-of-way at various locations throughout the city, including one (1) located at Oakdale Road and Patterson Road. Site ID: 9CAB009302-A.

Item 6.2: Architecture and Site Plan Review 03-2016 – Jason Huckabee – request for architecture and site plan review of the Del Rio Theater building located at 3300 Atchison within the Downtown Specific Plan area. The proposed project includes a remodeled restaurant/piano bar, coffee shop with drive-thru, and banquet hall, a Conditional Use Permit for serving alcohol and a future lot merge. APN: 132-009-001.

Item 6.3: Development Agreement 01-2016 – Chris Hayes – approval of a Development Agreement between the City and the developer of the Hayes 4 Phase 1 subdivision. Property is located at Claus Road and Central Avenue. APN 062-022-022/-019.

Planning and Building Manager Donna Kenney reported on these items.

7. ADJOURNMENT – There being no further business, the meeting was adjourned at 7:50 p.m.

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk/Recorder
Riverbank Planning Commission
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Carlos Villapudua, Chair
Planning Commissioner



City of Riverbank
Planning Commission Meeting
6707 Third Street • Riverbank • CA 95367

MINUTES
Tuesday, January 17, 2017

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

CALL TO ORDER/ROLL CALL:

Present: Vice Chair King, Commissioner Stewart and Commissioner Tabacco

Absent: Commissioner: Chair McKinney and Commissioner Villapudua

CONFLICT OF INTEREST: Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one declared a conflict.

1. PUBLIC COMMENTS (No action to be taken)

At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission.

None

2. CONSENT CALENDAR

All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item No. 2.A: Posting of the January 17, 2017, Planning Commission Meeting.

ACTION: *By motion moved/second (Stewart / Tabacco / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Tabacco and King

Nays: None

Absent: McKinney and Villapudua

Abstained: None

Item No. 2.B: The Agenda for the January 17, 2017, Planning Commission Meeting.

ACTION: *By motion moved/second (Stewart / Tabacco / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Tabacco and King

Nays: None

Absent: McKinney and Villapudua

Abstained: None

Item No. 2.C.1: The Minutes of the December 20, 2016 Planning Commission Meeting, Item was removed from the consent calendar as the minutes had not been prepared yet for approval.

3. PUBLIC NOTICE

Item 3.1: CUP 02-2016 – Mobilitie, LLC – Request to install antennas within city light poles within city rights-of-way at various locations throughout the city, including one (1) located at Oakdale Road and Patterson Road. Site ID: 9CAB009302-A. CEQA Categorical Exemption: Article 19, Section 15332 In-Fill Development Projects.

- Donna Kenney presented item 3.1 and power point presentation.
- David Griffith with Mobility spoke on behalf of the project.
- Commissioners asked Mr. Griffith questions pertaining to his project.
- Mr. Griffith answered the Planning Commissioners questions they had in regards to his project.
- Public Hearing was opened at 6:15 p.m.
- Being there were no comments the Public Hearing was closed at 6:16 p.m.
- Planning Commission discussed item and voted.

ACTION: By motion moved/second (Tabacco / Stewart / passed 3-0) was approved with up to 10 locations throughout the city will update resolution with this notation: motion carried by unanimous roll call vote. Conditional Use Permit 16-0010 / Resolution 2017-001.

Ayes: Planning Commissioners: Stewart, Tabacco and King

Nays: None

Absent: McKinney and Villapudua

Abstained: None

Item 3.2: Architecture and Site Plan Review 03-2016 and Conditional Use Permit 02-2016 – Jason Huckabee – Request for architecture and site plan review of the Del Rio Theater building located at 3300 Atchison within the Downtown Specific Plan area. The proposed project includes a remodeled restaurant/piano bar, coffee shop with drive-thru, and banquet hall, a Conditional Use Permit for serving alcohol and a future lot merge. APN: 132-009-001. CEQA Categorical Exemption: Article 19, Section 15332 In-Fill Development Projects.

- Donna Kenney presented item 3.2 and power point presentation.
- Jim Shaw, Architect for applicant spoke on behalf of the project for applicant.
- Planning Commission discussed item and asked a question of Mr. Shaw and Mrs. Kenney.

- Mr. Shaw and Mrs. Kenney answered the question the Planning Commission had in regards to the project.
- Tony Zaia, property owner of the project spoke on behalf of his project and answered the questions the Planning Commission had also in regards to the drive-thru for the coffee shop.
- Jim Shaw also answered the questions the Planning Commissioners had for the stacking and entry of the drive thru for the coffee shop.
- Public Hearing was opened at 6:35 p.m.
- Being there were no comments the Public Hearing was closed at 6:36 p.m.
- Planning Commission discussed item and voted.

ACTION: *By motion moved/second (Tabacco / Stewart / passed 3-0) was approved as submitted: motion carried by unanimous roll call vote. Architecture and Site Plan Review 03-2016 / Resolution 2017-002.*

Ayes: Planning Commissioners: Stewart, Tabacco and King

Nays: None

Absent: McKinney and Villapudua

Abstained: None

ACTION: *By motion moved/second (Tabacco / Stewart / passed 3-0) was approved as submitted: motion carried by unanimous roll call vote. Conditional Use Permit 02-2016 / Resolution 2017-003.*

Ayes: Planning Commissioners: Stewart, Tabacco and King

Nays: None

Absent: McKinney and Villapudua

Abstained: None

Continued Item 3.3: Revocation of Conditional Use Permit No. 05-2007 and Business License -
 Action on Code Enforcement Case #2015-0209 for 209 Concepts – **Location:** 6607 Callander Avenue, APN: 075-004-046. Repeated violations of the City's zoning code and conditions of approval of CUP 05-2007 have resulted in the City's decision to move forward to revoke the conditional use permit and business license on the property. Business owner was given a 30 day extension by the Planning Commission at the December 20, 2016 meeting.

- Donna Kenney presented item 3.3 and power point presentation.
- Public Hearing was opened at 6:40 p.m.
- Being there were no comments the Public Hearing was closed at 6:41 p.m.
- Planning Commission discussed item and asked Mrs. Kenney questions.
- Mrs. Kenney responded to the Planning Commission's questions.
- Planning Commission decided to give an additional 30 day extension and to have an update at the February 21, 2017 Planning Commission meeting.

ACTION: *By motion moved/second (Tabacco / Stewart / passed 3-0) was approved to continue item an additional 30 days and to be discussed and reviewed at our next Planning Commission meeting to be*

held as submitted: motion carried by unanimous roll call vote. Conditional Use Permit 02-2016 / Resolution 2017-003.

Ayes: Planning Commissioners: Stewart, Tabacco and King

Nays: None

Absent: McKinney and Villapudua

Abstained: None

4. COMMISSION ITEMS (Information Only – No Action)

None

5. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION (Information Only – No Action)

None

6. UP-COMING MEETING AGENDA ITEMS (Information Only – No Action)

Item 6.1: Development Agreement 01-2016 – Chris Hayes – approval of a Development Agreement between the City and the developer of the Hayes 4 Phase 1 subdivision. Property is located at Claus Road and Central Avenue. APN 062-022-022/-019.

Item 6.2: Architecture and Site Plan Review 02-2016 – Jason Huckabee – request for architecture and site plan review of a new 2,500 square foot office building located at 6800 Third Street (Reed's Garage site) within the Downtown Specific Plan area. A second, similar building is proposed for future construction on the same site. APN: 132-009-023.

8. ADJOURNMENT – There being no further business, the meeting was adjourned at 6:57 p.m.

ATTEST:

Donna M. Kenney
Recording Secretary

APPROVED:

Larry King, Vice Chair
Planning Commissioner

**CITY OF RIVERBANK
PLANNING COMMISSION
STAFF REPORT**

ITEM NO:	3.1	February 21, 2017
APPLICATION:	Continuation of Revocation of Conditional Use Permit No. 05-2007 and Business License at 6607 Callander Avenue, 209 Concepts – Action on Code Enforcement Case #2015-0209.	
PROPERTY OWNERS:	Arnulfo and Maria Sanguino	
BUSINESS OWNER 209 CONCEPTS:	Nicholas Lopez	
LOCATION:	6607 Callander Avenue, rear ½ of building APN: 075-004-046.	
GENERAL PLAN DESIGNATION:	Community Commercial (C/C)	
DOWNTOWN SPECIFIC PLAN:	Highway Boulevard	
PROJECT PLANNER:	Donna M. Kenney, Planning and Building Manager	
RECOMMENDATION:	Revoke Conditional Use Permit (CUP) No. 05-2007 and/or the Business License for 209 Concepts based on the Municipal Code and CUP violations.	
ACRONYMS:	CUP – Conditional Use Permit RMC – Riverbank Municipal Code	

I. EXECUTIVE SUMMARY:

209 Concepts, an automobile repair and paint business at 6607 Callander has been found in violation of zoning code requirements and conditions of approval attached to the property's conditional use permit for the use of an auto paint

booth. Documented violations go back to 2010 and, although city staff has sent letters, conducted on-site visits, and met with the business owner at City Hall on several occasions, the same violations keep occurring.

II. BACKGROUND AND ANALYSIS:

At their regular meeting of December 20, 2016 the Planning Commission voted to continue this item for 30 days so that the business owner had an opportunity to address the violations. At their regular meeting of January 17, 2017, they extended the abatement period for an additional 30 days because abatement was incomplete. Since the business owner did not appear at the January hearing, staff hand-delivered a letter in English (Attachment 2) to him and followed up by mailing the same letter to him and the property owner in Spanish (Attachment 3) so there would be no confusion as to what the business owner was expected to do.

Staff conducted a site visit on February 14, 2017. The unabated violations include the items below:

1. Pursuant to RMC 153.092 (Q)(2), all work shall be conducted within a building. Violation addressed. ✓
2. Pursuant to RMC 153.092 (Q)(3), the businesses must meet off street parking requirements. Staff observed the rear parking area still contains one temporary structure on wheels that needs to be removed that blocks the parking area. The business owner has not striped parking spaces or provided a dedicated handicap parking space. He states he needs to power wash the parking area, seal the surface and then stripe. Not providing a handicap parking space is a violation of the American with Disabilities Act ("ADA").
3. Pursuant to RMC 153.092 (Q)(4), cars to be stored more than 24 hours shall be stored within the building or storage area surrounded by a six (6) foot high solid fence (out of the required setback areas). Vehicles were observed by staff parked out-of-doors on Sunday evening, February 5, 2017 and several early weekday mornings before 209 Concepts opened for business. There is a negative aesthetic impact on a major route through the City.
4. Pursuant to RMC 153.094 (A)(2), no fence that limits visibility shall be constructed in excess of three (3) feet in height within the front or side yard of a corner lot. Violation addressed. ✓

5. Pursuant to Section 105.1 of the 2013 CA Building Code, submit plans and applications for any structures built without a permit. There is still one temporary accessory structure on wheels located in the rear parking area that needs to be removed. It is large enough to require a building permit but would not be permitted because it cannot be properly secured in high wind conditions.
6. According to a Condition of Approval placed upon the project by the Planning Commission on April 17, 2007, the business owner shall keep the building in good repair and general appearance and not allow any business activity on the site to interfere with the peaceful enjoyment of neighboring sites. Stored outdoor junk is more organized but still being kept outside the building. There is still a junk desk in full view of Callander, a negative aesthetic impact.

In reviewing any use permit, the applicant must introduce evidence in support of his case sufficient to enable the Planning Commission to find that the establishment, maintenance, or operation of the use or building, under the circumstances of the particular case, would not be detrimental to the health, safety and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city. Staff discussed the submission of evidence of abatement with Mr. Lopez during two site visits. As of the writing of this staff report, no such evidence (photos, letter, haul receipts, etc.) has been submitted.

III. RECOMMENDATION:

Recommendation is to revoke the business license for 209 Concepts and/or Conditional Use Permit 05-2007 based on a history of continued violations to Municipal Code sections and required Conditions of Approval.

Respectfully Submitted By:

Donna M. Kenney
Donna M. Kenney
Planning and Building Manager

Attachments:

1. Resolution No. 2016-020
2. Resolution No. 2016-021
3. Letter in English
4. Letter in Spanish

**City of Riverbank
Planning Commission
Resolution No. 2016-020**

Resolution of the City of Riverbank Planning Commission
Revoking Conditional Use Permit No. 05-2007 for an auto paint booth
and the Business License for 209 Concepts at
6607 Callander Avenue (APN: 075-004-046)

Whereas, The Planning Commission held public hearings on December 20, 2016, January 17, 2017 and February 21, 2017 to consider revoking Conditional Use Permit (CUP) No. 05-2007 for an auto paint booth and the business license for 209 Concepts located at 6607 Callander Avenue, zoned as Highway Boulevard in the Downtown Specific Plan, for repeated violations of the CUP's Conditions of Approval; and

Whereas, The Planning Commission reviewed and considered the appropriate documents regarding the effects of the violations; and

Whereas, The Planning Commission of the City of Riverbank could not make the following findings to keep the CUP in effect:

1. The site is physically suitable for the proposed type and intensity of development permitted by CUP No. 05-2007 and does not cause any impacts on surrounding properties.

Pursuant to RMC 153.092 (Q)(2), all work shall be conducted within a building. Staff has documented that cars continue to be parked outside when the business was closed. Six (6) cars were observed by staff parked out-of-doors on Sunday, February 5, 2017 in early evening when the business was closed. In addition, the same and/or similar cars were observed parked out-of-doors early in the morning on weekdays before the business was open. This is a negative aesthetic impact on a major route through the City.

Pursuant to Section 105.1 of the 2013 CA Building Code, submit plans and applications for any structures built without a permit. Staff observed one temporary accessory structure remains and needs to be removed. It is large enough to require a permit but would not be permitted because it cannot be adequately secured during high wind. There is a negative impact in that it blocks the parking area.

2. The approval of CUP No. 05-2007 for the property located at 6607 Callander Avenue is not detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood.

Pursuant to RMC 153.092 (Q)(3), businesses must meet off street parking requirements. The rear parking area contains one temporary structure blocking required parking spaces. As observed by staff, striping for parking and a handicap parking space have not been provided. It has a negative impact in that it is a violation of the Americans with Disabilities Act ("ADA") to not provide handicap parking.

Pursuant to RMC 153.092 (Q)(4), cars to be stored more than 24 hours shall be stored within the building or storage area surrounded by a six (6) foot high solid fence (out of the required setback areas). Staff observed vehicles parked out-of-doors after and before business hours. It is a negative aesthetic impact for vehicles on a major route through the City.

3. According to a Condition of Approval placed upon the project by the Planning Commission on April 17, 2007, the business owner shall keep the building in good repair and general appearance and not allow any business activity on the site to interfere with the peaceful enjoyment of neighboring sites.

There are aesthetic, noise, air quality, and parking impacts created by this business that interfere with the peaceful enjoyment of neighboring sites, including the outdoor storage of junk and vehicles, and temporary structures causing impacts to street parking. It is also a negative aesthetic impact for vehicles traveling a major route through the City.

Therefore, Be It Resolved, the Planning Commission of the City of Riverbank hereby finds based on a lack of sufficient evidence supplied by the applicant and evidence demonstrated in the public record that the establishment, maintenance and operation of the use and business has, under the circumstances of this particular case, been detrimental to the health, safety, and general welfare of persons residing and working in the neighborhood of such use and business and is detrimental and injurious to property and improvements in the neighborhood and to the general welfare of the city. The Planning Commission hereby revokes the use permit to allow the auto paint booth and the business license for 209 Concepts, located at 6607 Callander Avenue.

Passed and adopted by the Planning Commission of the City of Riverbank at a regular meeting held on the 21st day of February 2017, by the following vote____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Attest:

**Donna M. Kenney, Secretary
Planning and Building Manager**

Approved:

Anthony McKinney, Chairperson

**City of Riverbank
Planning Commission
Resolution No. 2016-021**

Resolution of the City of Riverbank Planning Commission
Revoking the Business License for 209 Concepts at
6607 Callander Avenue (APN: 075-004-046)

Whereas, The Planning Commission held public hearings on December 20, 2016, January 17, 2017 and February 21, 2017 to consider revoking Conditional Use Permit (CUP) No. 05-2007 for an auto paint booth and the business license for 209 Concepts located at 6607 Callander Avenue, zoned as Highway Boulevard in the Downtown Specific Plan, for repeated violations of the CUP's Conditions of Approval and the City's Zoning Code; and

Whereas, The Planning Commission reviewed and considered the appropriate documents regarding the effects of the violations; and

Whereas, The Planning Commission determined there have been repeated violations of a Condition of Approval placed upon the project by the Planning Commission on April 17, 2007, requiring that the business owner shall keep the building in good repair and general appearance and not allow any business activity on the site to interfere with the peaceful enjoyment of neighboring sites.

Therefore, Be It Resolved, the Planning Commission of the City of Riverbank hereby finds based on insufficient evidence supplied by the applicant to support his business and evidence demonstrated in the public record that the establishment, maintenance and operation of the business has, under the circumstances of this particular case, been detrimental to the health, safety, and general welfare of persons residing and working in the neighborhood of such use and business and is detrimental and injurious to property and improvements in the neighborhood and to the general welfare of the city. The Planning Commission hereby revokes the business license for 209 Concepts, located at 6607 Callander Avenue.

Passed and adopted by the Planning Commission of the City of Riverbank at a regular meeting held on the 21st day of February 2017, by the following vote ____:

AYES:

NAYS:

Riverbank Planning Commission
February 21, 2017
Resolution No. 2016-021
Page 1 of 2

ABSENT:

ABSTAIN:

Attest:

**Donna M. Kenney, Secretary
Planning and Building Manager**

Approved:

Anthony McKinney, Chairperson



City of Riverbank Community Development Department

Planning Division ≈ Building Division ≈ Code Enforcement Division

6707 Third Street, Riverbank, CA 95367 Office (209) 863-7124 FAX (209) 869-7126

January 18, 2017

Nicolas Lopez
Arnulfo and Maria Sanguino
6301 Tina Lane
Riverbank, CA 95367

RE: 6607 Callander Avenue – Case #2015-0209

Dear Mr. Lopez,

As you know, the Planning Commission met on December 20, 2016 to discuss code violations at your business named 209 Concepts at 6607 Callander Avenue in the City of Riverbank. You were in attendance to answer their questions and they offered you thirty (30) days to abate the violations or risk losing the Conditional Use Permit (CUP) for the paint booth and your business license. During December and for most of January you worked on correcting those violations. When staff conducted a site visit on January 11, 2017, we found that you had made progress but had not completed all the items they asked you to abate.

During the Planning Commission meeting last night, January 17, 2017, staff updated the Planning Commission on your progress and with comparison photos. Below is the information provided to them:

1. RMC 153.092 (Q)(2) – All work shall be conducted within a building.
Original discussion - Staff has driven by the business numerous times and has observed vehicles being worked on in the parking lot. A vehicle chassis has been seen parked in front of the building over the past week.
Update – Painted vehicle parts were seen drying in the parking lot.
2. RMC 153.092 (Q)(3) – The businesses must meet off-street parking requirements.
Original discussion - You were asked to draft and submit a parking plan but have not done so. You have not shown your required nine (9) parking spaces, including a handicap space on your site plan nor have you shown the front tenant's parking separately as we requested.
Update – While the business owner has painted lines for two parking spaces in the rear, staff did not see a marked handicapped space or has received a parking plan.
3. RMC 153.092 (Q)(4) – Cars to be stored more than 24 hours shall be stored within the building or storage area surrounded by a six-foot high solid fence (out of the required side setback area).

Original discussion - You stated to staff on several occasions that you do not intend to comply with the requirement of parking all overnight vehicles within the building.

Update - The new business in front has had cars parked outdoors overnight because 209 Concepts business owner Nicholas Lopez still has not removed a vehicle lift and disabled vehicles from within the front bays or business items from the front office.

4. RMC 153.094 (A)(2) – No fence that limits visibility shall be constructed in excess of three feet in height within the front or side yard of a corner lot.

Original discussion - City staff required you to remove the tarps and plywood from the wrought iron fence as it did not meet city standards and obstructed the view of vehicles entering and leaving your parking lot.

Update – Most tarps, wood, and metal have been removed from the wrought iron fence but one red piece remains up front and the rear fence has not been changed.

5. RMC 53.05 (A) – Discontinue releasing non-stormwater discharge, including an outdoor sink.

Original discussion - You have blocked the outdoor sink so that it cannot be used to transport dirty water to the street but staff has required you to remove the sink.

Update – the sink has been removed.

6. Section 105.1 of the 2007 CA Building Code – Submit plans and applications for any structures built without a permit.

Original discussion - Tent / carport type temporary structures had been erected in the side yard to cover vehicles being stored or worked on. The temporary structures, which are in poor condition, shall be removed. Any accessory structures needed for storing parts or equipment shall not be located in the required parking spaces and shall have a building permit if 120 square feet or larger in size.

Update - The rear parking area still contains one temporary structure. One has been removed.

The Planning Commission was pleased with the progress you have made but wants you to continue. They have given you thirty (30) days to finish abating the violations. If you have not completed your abatement by their February 21, 2017 regular meeting, they will hold a vote on revoking your CUP and business license.

If you have any questions, I can be reached at dkenney@riverbank.org or (209) 863-7124.

Sincerely,

Donna M. Kenney, AICP MCRP
Planning and Building Manager

cc: Michele Garcia
Neighborhood Improvement Specialist



City of Riverbank Community Development Department

Planning Division ≈ Building Division ≈ Code Enforcement Division

6707 Third Street, Riverbank, CA 95367 Office (209) 863-7124 FAX (209) 869-7126

18 de Enero, 2017

Nicolás López
Arnulfo and María Sanguino
6301 Tina Lane
Riverbank, CA 95367

RE: 6607 Callander Avenue – Case #2015-0209

Estimado Señor López,

Como sabe, la Comisión de Planificación se reunió el 20 de diciembre del 2016 para discutir violaciones de código en su negocio llamado 209 Concepts en el 6607 Callander Avenue en la Ciudad de Riverbank. Usted estuvo presente para responder a sus preguntas y le ofrecieron treinta (30) días para disminuir las violaciones o el riesgo de perder el Permiso de Uso Condicional (CUP) para la cabina de pintura y su licencia comercial. Durante el mes de diciembre y durante la mayor parte de enero usted trabajo en corregir esas violaciones. Cuando el personal realizó una visita al sitio el 11 de enero de 2017, descubrimos que usted había progresado pero no había completado todos los artículos que le pidieron que disminuya.

Durante la reunión de la Comisión de Planificación, la noche del 17 de enero de 2017, el personal actualizó la Comisión de Planificación sobre su progreso y con fotos de comparación. A continuación se muestra la información que se les proporciono:

1. RMC 153.092 (Q) (2) - Todo el trabajo se realizará dentro de un edificio.
Discusión original - El personal ha pasado por el negocio numerosas veces y ha observado los vehículos en los que se está trabajando en el estacionamiento. Un chasis de vehículo se ha visto estacionado en frente del edificio durante la semana pasada.
Actualización - Las piezas pintadas del vehículo se vieron secándose en el estacionamiento.
2. RMC 153.092 (Q) (3) – Los negocios deben cumplir con los requisitos de estacionamiento a fuera en la calle.
Discusión original - Se le pidió que elaborara y presentara un plan de estacionamiento, pero no lo ha hecho. Usted no ha mostrado sus nueve (9) plazas de estacionamiento requeridas, incluyendo un espacio para minusválidos en su plan ni ha mostrado el estacionamiento del inquilino delantero por separado como le pedimos.
Actualización - Aunque el dueño del negocio ha pintado líneas para dos plazas de estacionamiento en la parte trasera, el personal no vio un espacio marcado para discapacitados ni ha recibido un plan de estacionamiento.
3. RMC 153.092 (Q)(4) Los vehículos que se almacenen por más de 24 horas deberán ser almacenados dentro del edificio o en una área de almacenamiento rodeada por una cerca sólida alta de seis pies (fuera de la zona lateral requerida).
Discusión original - Usted declaró al personal en varias ocasiones que usted no tiene la intención de cumplir con el requisito de estacionar todos los vehículos durante la noche dentro del edificio.

Actualización - El nuevo negocio en frente ha tenido vehículos estacionados al aire libre durante la noche porque el dueño de 209 Concepts el Señor Nicholas López todavía no ha quitado un ascensor de vehículos y los vehículos discapacitados de dentro de las bahías frontales o artículos de negocios de la oficina.

4. RMC 153.094 (A) (2) - Ninguna cerca que limite la visibilidad debe ser construida en exceso de tres pies de altura dentro del patio delantero o lateral de un lote de esquina.

Discusión original - El personal de la ciudad requirió que usted quite las lonas y la madera de la cerca pues no satisface estándares de la ciudad y obstruyó la vista de los vehículos que entran y que salen de su estacionamiento.

Actualización - La mayoría de las lonas, madera y metal han sido removidos de la cerca de hierro, pero una pieza de color rojo sigue adelante y la cerca trasera no se ha cambiado.

5. RMC 53.05 (A) - Deje de liberar la descarga de aguas no pluviales, incluyendo un fregadero al aire libre.

Discusión original - Usted ha bloqueado el fregadero al aire libre de modo que no se pueda utilizar para transportar el agua sucia a la calle pero el personal le ha requerido quitar el fregadero.

Actualización: se ha eliminado el fregadero.

6. Sección 105.1 del Código de Edificación de CA de 2007 - Presente planes y solicitudes para cualquier estructura construida sin permiso.

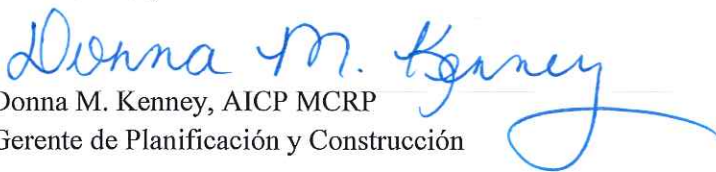
Discusión original - En el patio lateral se habían erigido estructuras provisionales tipo carpa / carpa para cubrir los vehículos que se almacenan o les están trabajando. Las estructuras temporales, que se encuentran en malas condiciones, se eliminarán. Las estructuras y accesorios necesarios para el almacenamiento de piezas o equipo no deberán estar ubicadas en los espacios de estacionamiento requeridos y tendrán un permiso de construcción si son de 120 pies cuadrados o más.

Actualización - El área de estacionamiento trasero todavía contiene una estructura temporal. Se ha eliminado uno.

La Comisión de Planificación se mostró satisfecha con los progresos que ha logrado, pero quiere que continúe. Le han dado treinta (30) días para terminar de reducir las violaciones. Si no ha completado su reducción para la fecha del 21 de febrero de 2017 que es la fecha de la reunión ordinaria de la Comisión en cual tiempo la Comisión mantendrá una votación sobre la revocación de su CUP (Permiso de Uso Condicional) y su licencia comercial.

Si tiene alguna pregunta me puede contactar al dkenney@riverbank.org o (209) 863-7124.

Sinceramente,


Donna M. Kenney, AICP MCRP
Gerente de Planificación y Construcción

cc: Michele Garcia

Especialista en Mejoramiento de Vecindarios