



Planning Commission
Meeting Date: November 16, 2017
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Regular Item

PLANNING COMMISSION REVIEW OF JUNE 21, 2017 DIRECTOR OF PLANNING LETTER IDENTIFYING REVISED USE PERMIT NO. 96-18 AS NULL AND VOID PURSUANT TO SECTIONS 17.70.050(B) & (C); LOCATED ON THE EAST SIDE OF I-5 FREEWAY AT JELLY'S FERRY ROAD INTERCHANGE; APN: 009-530-69; OWNERS: ROLLING HILLS PARTNERS

Requested Action(s)

RECOMMENDATION:

Staff recommends that the Planning Commission take one of the following actions:

- A. Move to determine that Revised Use Permit No. 96-18 is null and void pursuant to Tehama County Zoning Code Section 17.70.050(B)&(C); as indicated in the Director of Planning's June 21, 2017 Letter based on the substantial evidence presented herein and the Findings in Attachment F.**

Or

- B. Move that the Planning Commission take no action and request the Board of Supervisors hear said request.**

Or

- C. Reverse the Director of Planning's Determination that the Revised Use Permit No. 96-18 is Null and Void Pursuant to Tehama County Zoning Code Sections 17.70.050(B)&(C) and that the Use Permit is vested based on the Findings within Attachment G.**

Background Information:

On April 19, 2003 revised Use Permit No. 96-18 became null and void based on Tehama County Zoning Code Section 17.70.050(B), which states "*In any case where a use permit has not been used within one year after the date of granting thereof, then without action by the Planning Commission, the Use Permit (UP) granted shall be null and void*" (See Conditions of Approval dated April 18, 2002, as Attachment A). On April 18, 2002 Tehama County approved substantial revisions to Use Permit No. 96-18 with 29 Conditions, 16 of the Conditions were also Mitigation Measures from previous environmental documents adopted on the 141.14 acre project site. The project included; the construction of a combination Gas Station/Mini-Mart, 100 Unit R.V. Park, 60 unit Motel, Restaurant and the associated improvements including the preliminary design for

an open and closed sewer treatment facility (See Plot Plan and Sewage Treatment System, Attachment B).

In an attempt to accommodate the owner's representative assertions regarding the development of the site and its uses, the Planning Director met with the individuals on the subject property, after engaging in numerous correspondences between Rolling Hills Partners associates, legal counsel and others. These actions ultimately lead the Director on June 21, 2017 to write a letter to the owner's legal representative that relayed the Tehama County Code and acknowledged that Revised Use Permit No. 96-18 was Null and Void as indicated on page 6 of the April 18, 2002 Use Permit's Conditions of Approval (See Attachment A). In fact, the Planning Director, also expressed in her letter that the Use Permit was not only null and void pursuant to Tehama County Code Section 17.70.050(B) as quoted above, but also pursuant to Section 17.70.050(C), which is relevant as well and states "*In any case where an active use permit has been abandoned for a period of six months, the use permit shall be deemed null and void*" (See Planning Department Letter Dated June 21, 2017, Attachment C). As indicated above, there have been several correspondences between Tehama County and the Rolling Hills Partners legal counsel, Mr. Bart Fleharty esq. from Wells Small Fleharty & Weil regarding the legitimacy of Use Permit No. 96-18 moving forward after a decade or more of inactivity and no developed use(s) on the property. Therefore, Mr. Fleharty has requested that the County set a hearing to bring forth the matter and rescind the Planning Directors letter dated June 21, 2017, which states that the Use Permit No. 96-18 has no vested rights and in fact according to the code is null and void (Rolling Hills Partners Legal representatives letter dated September 14, 2017 and Exhibit's A-G, as Attachment D). On October 17, 2017 the Tehama County Board of Supervisors agreed to bring the item before the Planning Commission for a hearing to determine vesting.

Attachment List:

Interpretation Blue Tent Cr. UP 96-18 11-16-17 (PDF)
Interpretation Blue Tent Cr. UP 96-18 11-16-17 Attachment A Revised User Permit 96-18 COA Dated April 18, 2002 (PDF)
Interpretation Blue Tent Cr. UP 96-18 11-16-17 Attachment B Revised project (PDF)
Interpretation Blue Tent Cr. UP 96-18 11-16-17 Attachment C DOP Null and Void Determination Letter June 21, 2017 (PDF)
Interpretation Blue Tent Cr. UP 96-18 11-16-17 Attachment D Property Owners Legal Council Correspondence (PDF)
Interpretation Blue Tent Cr. UP 96-18 11-16-17 Attachment E COA Evaluation (PDF)
Interpretation Blue Tent Cr. UP 96-18 11-16-17 Attachment F Findings (PDF)
Interpretation Blue Tent Cr. UP 96-18 11-16-17 Attachment G PD Determination Overtuned Findings (PDF)
Interpretation Blue Tent Cr. UP 96-18 11-16-17 Attachment H PC Staff Report Modify Con No. 21 (PDF)
Interpretation Blue Tent Cr. UP 96-18 11-16-17 Attachment I Rev UP 96-18 adopted MND (PDF)
Blue Tent Attachment J 11-16-17 (PDF)