

**CITY OF CERES
PLANNING COMMISSION
MEETING MINUTES
April 18, 2022**

Planning Commission conducted this meeting in accordance with California Government Code Section 59453, Subdivision (e) of the Ralph M. Brown Act (California Government Code Section 54950, Et. Seq.), Ceres Resolution No. 2022-06, and the Federal Americans with Disabilities Act.

MEETING CALLED TO ORDER: 6:02 p.m.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Chairperson Smith.

ROLL CALL:

PRESENT: Commissioners: Del Nero, Johnson, Kachel, Martinez,
Chairperson Smith

ABSENT: None

ALSO PRESENT: Director of Community Development Christopher Hoem,
Senior Planner James Michaels, Economic Development
and Redevelopment Manager Anthony Sims, Associate
Engineer/Interim Public Works Director Sam Royal, City
Attorney Josh Varinsky, Administrative Secretary Ann
Montgomery

CONFLICT OF INTEREST DECLARATION:

None

CITIZEN COMMUNICATIONS:

None

CONSENT CALENDAR:

1. Clerk's Report of Posting. The Agenda for the regular meeting of the Planning Commission of April 18, 2022 was posted on April 13, 2022.
2. Approval of Minutes
 - a. March 21, 2022 (Johnson absent)

3. Lot Line Adjustment (LLA) 22-03; Resolution No. PC 22-06; Approving a Lot Line Adjustment for Ceres Gateway Center, LLC., to adjust an existing property line shared between two properties located at the southwest corner of Service Road and Mitchell Road.

ACTION: It was moved by Commissioner Del Nero; seconded by Commissioner Martinez to approve Items 1 and 3 on the Consent Calendar. Motion passed by the following vote:

AYES: Commissioners Del Nero, Johnson, Kachel, Martinez, Chairperson Smith
NOES: None
ABSENT: None

ACTION: It was moved by Commissioner Kachel; seconded by Commissioner Martinez to approve Item 2.a. on the Consent Calendar. Motion passed by the following vote:

AYES: Commissioners Del Nero, Kachel, Martinez, Chairperson Smith
NOES: None
ABSENT: None
ABSTAIN: Commissioner Johnson

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

None

PUBLIC HEARINGS:

4. Conditional Use Permit (CUP) 22-08; A proposal for a Conditional Use Permit entitlement to allow an existing snow cone/iced coffee business to operate on a year-round basis at 2000 Central Avenue. Hector Irasava and Violet Saveh, applicants.

Senior Planner, James Michaels presented the staff report.

Commission Discussion:

- Commission Kachel inquired about the size of the building.

Mr. Michaels replied that it is less than 120 square feet; he believes it's close to 10' x 10' or 10' x 11'.

- Commissioner Kachel asked when the business was originally approved. It stated in the staff report that it was only allowed for six months because of the size. What's the thinking behind that direction?

Mr. Michaels explained that that's actually written in the code for Administrative Permits. He believes the idea is when it's more than 120 square feet, it would typically be a building permit for a more permanent building, that would be required. The code actually talks

about if it's less than 120 square feet. That was the process there. That's been in the code for quite some time and that was the thought there.

- Commissioner Kachel confirmed that there's no restroom in there.

Mr. Michaels concurred and noted that the customers would be utilizing the restroom facilities at the La Sequoia supermarket, as well as the employees.

- Commissioner Martinez inquired about their current operating months.

Mr. Michaels explained that typically it would be April through October and that has been consistent throughout the years. They were more of a summer operation, and it wasn't until last October that the applicant approached him to discuss the possibility of extending their permit, as a trial. They were looking to do some other items, such as coffee.

- Commissioner Martinez verified that the plan was to allow only two cars in their drive-thru.

Mr. Michaels confirmed no more than that at any one time.

- Commissioner Martinez asked if there would be any penalty or anything that would happen if they can't continue to keep only two cars in their drive-thru at any one time because hypothetically, if an employee is making a drink, how are they going to also manage the cars in line as well.

Mr. Michaels explained that there would have to be at least one other employee, that would have to be on the look out to see that and direct folks accordingly. If we had multiple complaints about queuing out in Central Avenue, that would be something we'd have to pay attention to, note it and maybe have to make some adjustments to the Conditions or evaluate further and see what may need to be done.

- Commissioner Martinez confirmed that currently there are no potential penalties in place.

Mr. Michaels replied, not as such; not yet.

- Commissioner Martinez inquired if this was the first time the applicant has requested something like this.

Mr. Michaels said for year-round, yes.

- Commissioner Del Nero asked if this type of business needs a business license.

Mr. Michaels responded, yes and stated that Heaven's Snow does have one.

- Commissioner Del Nero verified with Mr. Michaels that it's for 6 months, and this will be year-round, if it's approved. Commissioner Del Nero asked if there's any other business in town like this.

Mr. Michaels replied, no; not to staff's knowledge. The only one you could compare this to, that might have some similarities would be the single food truck operators that we might have. Other than that, this would be the first.

- Commissioner Del Nero remarked that during Christmas, he knows that this may be a far-fetched question; we grant, let's say Home Depot to block off their area to put Christmas trees. Is this what we're talking about or is this something totally different?

Mr. Michaels explained that with Home Depot, that was part of their Use Permit, that allowed them to do that on an annual basis. They could choose to do it or not. In this case, the applicant would have the right to do it year-round, but only on this particular property. If they decided certain things were not working out, the use goes away. If it's not utilized in some other fashion that's appropriate, then the Use Permit would generally go away. It's supposed to be continuous; it typically runs with the land.

- Commissioner Martinez asked if the applicant plans on making additions to the building or are they going to cut in a drive thru.

Mr. Michaels replied that there wouldn't be enough room where this is located. Essentially, they'll be taking back the parking spaces for access. So, what you see there, basically they're allowed to do the one, just to the west end of the building, like a pop-up thing for shade; a shade structure that they typically might have during the summer or maybe winter, during operating hours. But that would be it; that would be the limit.

- Commissioner Martinez inquired if they plan on taking orders at the window or do they plan on building a menu further down.

Mr. Michaels responded that as far as he knows, it will be orders at the window. The applicant can probably elaborate on that though.

- Commissioner Johnson stated that Commissioner Martinez addressed the drive-thru issue; enforcement of a line not backing up onto Central Avenue. He sees a very likely scenario and feels that enforcing that is going to be kind of hard.

Mr. Michaels explained that what could happen is, this could be a step-by-step basis. So, depending on how the operation goes, once the drive-thru is implemented; if we get complaints, we could evaluate it and see if there are any options. If there are, we can work with the applicant and plan on doing that. If after those measures are still not working, and it appears to be a nuisance, staff might do a further evaluation and then bring it back to the Commission for some type of review and then possibly revoking the Use Permit. That we do have as part of the Conditions of Approval; that if it didn't work out, couldn't work out, and it was more, shall we say, not good for the community, a safety issue, then the Commission at that time would have the opportunity to revoke that Use Permit.

- Chairperson Smith noted that she has some follow-up on questions that were asked previously:
 - Question from Commissioner Kachel about the size of the building being 120 square feet, and James noted that was due to the fact that anything over 120 square feet requires a building permit. Chairperson Smith asked if the building has electricity and water?

Mr. Michaels remarked that they have the opportunity; they would have to get that; that is correct. An electrical permit would be done through the Building Division. Mr. Michaels believes it has been a condition on previous Administrative Permits.

- Commissioner Smith verified that right now, in order to operate, they have to have electricity and water. So, those are separate permits; it doesn't require an entire building permit, just an electrical.
- With regard to the Health Department, the Health Department also regulates this type of activity. She read in the Condition that the Health Department approval does not allow any food preparation. They are allowed to see pre-packaged food, and she thinks for preparing food, they have to have access to hot water. They also have to have a designated restroom location. Chairperson Smith inquired if this means they have some sort of documentation from La Sequoia Market regarding use of their restrooms.

Mr. Michaels confirmed that La Sequoia Market has provided staff a letter giving them permission and support what Heaven's Snow is doing.

- Chairperson Smith verified that this includes the use of the restroom by the employees as well as the customers.
- Some questions were already asked, but Commissioner Smith stated she has some concerns about the drive thru issue. While there's no enforcement mechanism, it would be more based on a complaint basis. Hypothetically, let's say, that this Conditional Use Permit, with the drive thru was approved. And, it wasn't working out, and it comes back to the Commission. So, the whole Conditional Use Permit is revisited, and it could be reissued, excluding the drive thru. And the same holds true for tonight. The Conditional Use Permit could be issued excluding the drive thru.

Mr. Michaels confirmed that is correct.

- Chairperson Smith stated that she was interested, and she thinks she received a response about the other surrounding businesses. In fact, those four corners seem to be hopping right now with George's Liquor opening recently and his grill and gas station. She inquired if these businesses, including George's and the others that are in the area, were all notified.

Mr. Michaels noted that the Property Owners were notified.

- Chairperson Smith remarked that that doesn't necessarily mean that the businesses were notified.

Mr. Michaels confirmed that is correct, but explained that the businesses have seen that snow cone shack operating for years and feels that staff would have heard by now if there were concerns.

The Public Hearing was opened at 6:28 p.m.

- John Warren, Ceres resident

Mr. Warren expressed his concerns with the drive thru aspect of this project, explaining that it will be difficult for the customers to park after placing their order at the drive thru window, as the parking spaces are facing the other direction. He also noted that traffic may back up onto Central Avenue, and inquired that if the two employees are busy preparing the coffee beverages, who is going to go out and direct traffic and who is going to have the training to direct traffic. He also asked about employees going out to ask someone to move their car as they only allow two in the line; what's going to happen when the person says they don't want to move their car. Mr. Warren thinks the drive thru might have some problems to begin with that should be thought out before experimenting and then trying to come back and correct something that should never have gone forward. Drivers are very discourteous, and he feels it's going to be hard for an employee to go out and ask someone to move their car and have that person not comply. Mr. Warren stated he doesn't think there is space adequate for a drive thru and he thanked the Commission for hearing his comments.

- Gene Yeakley, Ceres citizen

Mr. Yeakley inquired if this business is considered paralleled to sidewalk vending, and if it is, are they going to comply with all the sections and codes; there's like 10 pages just in Chapter 17 on sidewalk vending even though that business is pretty much stationary, having been there for a long time. He also wanted to know if when the Planning Department was reviewing their request for certain things, if the Sidewalk Vending code was part of their decision to move forward.

Mr. Michaels explained that this is not part of the Sidewalk Vending ordinance; this was a completely separate permit use that has been going on since 2007. It wasn't intended to be considered a sidewalk vendor, as a sidewalk vendor would just have a table and maybe a chair, with their product.

- Violet Saveh, Heaven's Snow co-owner (applicant)

Ms. Saveh thanked the Commission for allowing her and her husband to serve this community. We've been here for a long time and have made lots of friends. She understands a lot of the concerns that were mentioned and as owners of a small business, the last thing they want to see is someone getting hurt, complaints or any kind of accident. She explained that within the last 14 years, they have taken lots of measures; trained their employees, and they are consistently training as we are working throughout the day. As far as permits go, our permits have always been for six months, due to the fact that the City of Ceres never used to allow temporary or any food trucks to be allowed in the City limits. She and her husband are the third owners. The stand has been there currently for almost 30 years. They were given the 6-month Conditional Permit due to that reason; however, when things have changed the last couple years, we decided that since we're doing six months, we'd like to go ahead and do something for the winter since a lot of students and customers are asking us and also to give our employees the ability to work year-round. We came across a local Ceres coffee roaster and decided why not. They're local and we'd like to continue to serve if the City allows it. We worked with Mr. Michaels and she would like to thank him and for everybody else for allowing them to do that. Their customers continue loving their coffee and they want to continue doing that year-round.

Ms. Saveh continued; as far as the drive thru goes, she doesn't think it's going to be more of a drive thru. She explained what their anticipation and goal is, is just to let the people who are elderly, handicapped, a mom that has lots of kids in the vehicle, that just can't get

out, just to order and then the employees will be handling the money and order taking and have them park. Employees will be taking the order out to them or giving them the option to get out and pick up their order at the front window. Nothing is going to be handed out to them through the window. And there will be a sign indicating no more than two vehicles.

Also, Ms. Saveh understands there was a question brought up as far as two food permits being on the file. She explained that they do have six employees and she is anticipating on hiring two more. They do also employ two to three employees at a time in the stand. They've never had a problem or accident as far as driving people the right direction; parking, paying and then parking, or restroom or any of that. Having had any issues, she thinks their landlord would have been the first to notify the City, she's sure.

Ms. Saveh stated that everything that was brought up was very understood and they know that safety is their number one and always has been their number one concern. If we can give this a try, as a permit, it would be great; especially like she said, for our elderly, our handicapped. With the whole Covid situation, a lot of people are still not feeling comfortable completely getting out of their vehicle and being around other people. She feels this would be a positive thing more than a bad thing.

Chairperson Smith thanked Ms. Saveh for speaking to the Commission and for her time.

The Public Hearing was closed at 6:41 p.m.

Commission Discussion:

Commissioner Kachel stated that he appreciated the applicant's comments. He thinks they're trying very hard to make this work. He does have some issues, however. Basically it's a seasonal or temporary business, as it sits right now and has been for 15 years now. It's in a facility which is extremely small and it just sort of sits there. He's concerned particularly with the drive-thru portion of this. If you go in a more commercial drive thru, you see bollards posted, usually metal to keep cars from hitting buildings. Those are for safety reasons. They're usually posted next to the order window, which is usually a microphone where you order and then you go pick it up at the window. Then there's also the bollards there to prevent you from hitting the window or the building at that location. We don't have any of those safety features here that he could see and that really concerns him for the people who are inside the building. It's kind of a difficult place to maneuver into. You come in off of north bound on Central; you turn in there and try to pull up to the window; then they take your order and money (he understands that part); but then as the gentleman spoke earlier, the parking spaces up near the store are usually full and the parking spaces right next to the shack are going the other direction. So, you'd have to go up and around and turn around. He just doesn't think a lot of thought has been put into the drive thru portion of this from a safety point of view and from an operational point of view. He explained that when he was a young man, he actually was trained as a flagman. He worked construction during the summers and he did flagging, where you have a stop sign and a flag and everything else. He never thought he'd use that experience in anything in his life again, but tonight it's reminding him of how scary that can be, trying to get people to listen to you, even though you have a hard hat, a vest, a flag and a stop sign, to get them to do what you want them to do; what your job is requiring you to do. The gentleman earlier indicated that he was concerned about young people going out there, trying to get people to obey. He knows that maybe people driving to and from work is a little different than people getting a snow cone or a coffee, but it's not easy. People just are difficult to deal with at times and he's concerned with that. He hadn't thought of that until the

gentleman brought it up. For all those reasons, he just has some real concerns about the drive thru portion. He can't support that part of it at all. He understands what they're trying to do, but he also noted that they've been in business for 15 years and now they want to go basically into a permanent business. It might be time to get a permanent building at a location where it's appropriate and they can have a better entrance and exit. Mr. Kachel mentioned that we've got a relatively new drive thru in Ceres on another street in another location, which is built right at the entrance of a major shopping area, and that location is a little bit less than ideal, at least in his opinion, as to how it operates because the drive thru filters right into the ingress and egress for that facility. For all those reasons and he hopes that made sense, he just can't support the project.

Commissioner Johnson stated that Commissioner Kachel pretty much covered his direction. The year-round thing doesn't really bother him, but the drive thru; he just sees a lot of problems with that.

Commissioner Martinez noted that Commissioner Kachel said a lot of his sentiments as well. He can get behind the year-round operation, but the drive thru is a concern for him from a safety standpoint, from code enforcement. He understands the applicants, where the people would just pay, and then drive away and park, but you're driving toward the direction of oncoming traffic. He'd like to mention in that photo, it looks like most of those stalls were filled. There's nothing blocking that transformer right there, which looks like that's where they draw their power from, so he would hate to see a car hit that. And, he does have some concerns about having high school aged children try to tell adults in their car, they need to move. So, he also agrees with Commissioner Kachel and that is a pretty big concern of his.

Commissioner Del Nero stated that after hearing everybody, he really doesn't have too much to add. It can be, and he's directed traffic himself in uniform, and it is kind of scary. With that, he will support what Commissioner Kachel said.

Chairperson Smith agreed and noted that Commissioner Kachel said it very well. In addition to the concern about being able to control the drive thru traffic, there's already so much traffic there with two schools and George's Grill and the market and the Bingo Hall, and there's a four-way stop; she has real concerns about traffic queuing up onto Central Avenue. She's not in favor of a drive thru component. She thinks the year-round has some potential on it's own. She's grateful to see that the business is doing well enough to consider that. She knows that they serve a lot of people in that neighborhood as well as the school, but she would not be able to support the drive thru.

Having said that, Chairperson Smith asked the Commission if anyone would like to make a motion; either the motion on the agenda item or another motion that might make some adjustments to the current recommendation.

Commissioner Martinez asked if the Commission could vote on them separately; voting on the year-round permit and then voting on the drive thru or is it conditionally one or other.

Chairperson Smith replied that she's sure that the City Attorney is with us, but said she thinks that if we were to not approve the drive thru, it would be this Conditional Use Permit without the drive thru component. So, it would just be a single motion saying "move to approve the Conditional Use Permit without the drive thru component."

Mr. Michaels stated that Chairperson Smith is correct, so it would mean that Condition B.2. would be eliminated from the proposal, as that's the one that has to do with the drive thru.

Chairperson Smith stated, having said that, she asked the Commission if there is a motion anyone would like to promote.

Director of Community Development, Christopher Hoem suggested that in lieu of eliminating the Condition that Mr. Michaels just mentioned, it may be revised to still talk about a drive thru, but prohibit it, if that's the desire of the Commission.

Mr. Hoem explained that if you're silent on it, then it's a mystery; but, if you call it out, then it's something that you've discussed, that you're prohibiting from having happen.

Chairperson Smith noted that an example would be, "Approving the Conditional Use Permit 22-08, and prohibiting the use of a drive thru, eliminating Condition B.2. and prohibiting the use of a drive thru under the permit."

- Violet Saveh approached the podium to speak, stating she had quick question.

Chairperson Smith informed Ms. Saveh that she's closed the public hearing at this point, but would give her a quick opportunity, as the Commission is trying to deliberate.

- Ms. Saveh stated that as she mentioned earlier, their intent is not to do a drive thru. Their whole purpose was, if they could have something that could at least minimize or be given a condition where they could help out people who are handicapped or elderly and can't get out of their vehicle mainly.

Chairperson Smith responded that she appreciates that and we heard that when Ms. Saveh stated that initially in case any of the Commissioners didn't recall that. And she doesn't think that a drive thru permit or condition is required for Heaven's Snow to assist customers in their cars. She thinks that can still continue, and to bring customers out their drinks doesn't require a drive thru condition.

Mr. Michaels confirmed that is correct.

Chairperson Smith stated that the choices are:

- Approve the recommendation as staff has made it
- Approve the recommendation with prohibiting any type of drive thru
- Not allowing the issuance of the Conditional Use Permit at all

ACTION: It was moved by Commissioner Martinez; seconded by Commissioner Del Nero to approve Conditional Use Permit 22-08, eliminating Condition B.2., specifically prohibiting a drive-thru use. Motion passed by the following vote:

AYES: Commissioners Del Nero, Johnson, Kachel, Martinez, Chairperson Smith
NOES: None
ABSENT: None

NEW BUSINESS:

None

PUBLIC MEETING(S):

None

UNFINISHED BUSINESS:

None

MATTERS INITIATED BY PLANNING COMMISSION AND STAFF

None

REPORTS:

Administrative Secretary, Ann Montgomery announced that our esteemed Commissioner Kachel celebrated his birthday yesterday and asked that we all wish him a belated happy birthday.

ADJOURNMENT

The Commission adjourned at 6:56 p.m. to the next regularly scheduled meeting of Monday, May 2, 2022.

APPROVED:



Laurie Smith, Chairperson

ATTEST:



Christopher Hoem, Secretary