

## PLANNING COMMISSION MEETING

In compliance with Americans with Disabilities Act, If you need special assistance to participate in this meeting, please contact the Planning Secretary at (805) 524-1500 ext. 113, 48 hours prior to the meeting in order for the City to make reasonable arrangements to ensure accessibility to this meeting (28 CFR 35.102-35.104 ADA Title II).

No New Business will be Considered by the Planning Commission after the Hour of 11:00 p.m. unless a Majority of the Planning Commission Determines to Continue beyond that Hour.

**Memorandums:** Memorandums relating to agenda items are on file in the Planning Department. If you have questions regarding the agenda, you may call the Planning Dept. (805) 524-1500 ext. 113 or visit the Planning Dept. in City Hall for information. Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Planning Dept. in City Hall during normal business hours.

## AGENDA

### ITEM

### REFERENCE

#### 1. CALL TO ORDER

#### 2. PLEDGE OF ALLEGIANCE

#### 3. ORAL COMMUNICATIONS

This is the opportunity for citizen presentations or comments not related to agenda items, but within responsibility of the Planning Commission (please do not exceed 5 minutes per topic).

#### 4. CONSENT CALENDAR

4a. Minutes of the June 23, 2010, Special Planning Commission Meeting.

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4b. Minutes of the July 12, 2010, Special Planning Commission Meeting.

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#### 5. PUBLIC HEARINGS

5a. Conditional Use Permit 10-02 (CUP 10-03), Request Approval to Obtain an ABC license for On Sale Beer and Wine, *Double AA Café*.

Memo

**Location:** 501 Santa Clara St. **Zoning:** CBD

**Applicant:** Dustin Anderson, 1947 Grand Ave., Fillmore, CA 93015.

**Purpose:** Open the public hearing and receive public testimony.

**Recommendation:** Adopt Planning Commission **Resolution 10-856**, Granting CUP 10-03, to allow On Sale Beer and Wine subject to Conditions of Approval.

Reso

- 5b.** Development Permit 10-02 (DP 10-02), Variance 10-01 (VAR 10-01), **Memo**  
Proposal for the Rebuild of a Single Family Residence on a legal  
Nonconforming 3750 sq. ft. lot and Request to Deviate from the  
Development Standards by reducing setbacks.

**Location:** 333 Mountain View St.

**Zoning:** Residential Low (RL)

**Applicant:** William Lindsay, PO Box 1025, Santa Paula, CA 93061.

**Purpose:** Open the public hearing and receive public testimony.

**Recommendation:** Adopt Planning Commission Resolutions:

**Resolution 10-854,** Approve DP 10-02 subject to Conditions of Approval. **Reso**

**Resolution 10-855,** Approve VAR 10-01, subject to Conditions of Approval. **Reso**

**6. BUSINESS ITEMS -None**

**7. REPORTS and COMMUNICATIONS**

- 7a.** Community Development Director **Oral**  
**7b.** Planning Commission **Oral**

**8. ADJOURNMENT**

- 8a.** The Planning Commission adjourns to the next regular Planning Commission meeting  
scheduled for October 20, 2010, 6:30 p.m., in the City Council Chambers, 250 Central  
Ave., Fillmore, CA 93015.

**Next Regular City Council Meeting  
September 28, 2010**

PLEASE NOTE: If you challenge the actions of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in the public notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing (Calif. Gov't Code § 65009).

Any legal action by an applicant seeking to obtain judicial review of the Planning Commission's decision on a hearing listed on this agenda may be subject to the 90-day filing period of, and governed by, Code of Civil Procedure Section 1094.6.

## MINUTES

### CALL TO ORDER

6:30 p.m., Chair Douglas Tucker called the Planning Commission meeting to order, and led the assembly in the Pledge of Allegiance. Planning Commissioners present were: Chair Douglas Tucker, Vice Chair Tom Fennell, Mark Austin, and Diane McCall. City staff present were: Community Development Director Kevin McSweeney, City Attorney Theodore Schneider, City Engineer Tom Scott, Assistant Planner Manuel Minjares and Planning Secretary Denise Beauduy. Absent (excused): Commissioner Vance Johnson.

### ORAL COMMUNICATIONS

There were no comments.

### CONSENT CALENDAR - Approved

The Consent Calendar consisted minutes of May 19, 2010 Planning Commission meeting. There was a motion and second to approve the Consent Calendar as submitted. Motion: McCall; Second: Fennell. Ayes: Austin, Fennell, McCall and Tucker. Noes: None. Abstain: None. Absent: Johnson. Motion Carried 4:0.

### PUBLIC HEARING

*Modification #1 to CUP 92-01, Request to Change Alcoholic Beverage License from Type 41 (On Sale Beer and Wine- Eating Place) to Type 47 (On Sale General; Beer, Wind and Distilled Spirits – Eating Place) for Ay Chihuahua Restaurant, 1145 Ventura Street, Mario Galvez, Applicant.*

6:31 p.m., Chair Tucker opened the public hearing and Assistant Planner Manuel Minjares presented the staff report. Mr. Minjares stated the purpose of the public hearing was to modify an existing Conditional Use Permit that was approved in 1992 to establish the on sale beer and wine license. Mr. Minjares said the land use activity is consistent with the land use designation for the Commercial Highway zone of the General Plan and Zoning Ordinance and Planning staff is recommending approval. Mr. Minjares said there were additional conditions regarding surveillance equipment that were imposed by the Sheriff's Dept., but they were not in the original packet that went out to the Commission. Mr. Minjares distributed the revised Conditions of Approval to the Commission.

Mr. Minjares said the surveillance equipment consists of eight (8) cameras that will be installed inside the restaurant and outside the restaurant to monitor the activity in the restaurant and the parking lot. The surveillance system includes a hard drive with the capacity to record thirty (30) days of video footage. Mr. Minjares said the condition states the Sheriff's Dept. has the authority to inspect the installation and equipment to make sure it is functioning properly. Mr. Minjares said the Applicant is required to schedule an inspection with the Building Dept., to determine if

improvements have to be made to bring the restaurant into compliance with the ADA accessibility requirements. The Applicant, said Mr. Minjares, has reviewed the revised Conditions of Approval and is in agreement with them.

### **Questions and Comments**

Commissioner Fennell questioned if the surveillance cameras are required by ABC. Mr. Minjares responded the cameras were not required by ABC but it is required by the Sheriffs Dept. Mr. Minjares said the Zoning Ordinance requires the Sheriff's Dept. to review applications for ABC Licenses and the Sheriff's Dept. imposed the condition for surveillance. Commissioner Fennell asked if the Condition could be removed if the Commission did not agree with it. Mr. Minjares responded the condition could be removed if that is direction from the Commission.

Commissioner McCall asked if the Applicant is aware of the condition to provide surveillance. Mr. Minjares stated the Applicant was already planning to install surveillance equipment before the condition was imposed, and he is in agreement with it.

Commissioner Fennell stated his concern that the Sheriffs Dept. could go in at any time and asked to review the tapes without a warrant.

Mr. Minjares responded the purpose of the surveillance equipment is to assist police with an investigation if a crime occurs in the restaurant.

Mr. Schneider reviewed the language of Condition #57 and said the condition gives the Sheriff's Dept. the authority to inspect the surveillance equipment to make sure that it is installed correctly and pointed in the right direction; it does not give the Sheriff's Dept. the authority to request the tapes and review them any time they wish.

Commissioner McCall commented that if the Applicant agrees with the condition then there should not be an issue.

Commissioner Austin commented that it would be beneficial to applicant to have 24-hour notice.

Commissioner Tucker requested specific language be inserted to ensure the surveillance equipment is working.

There were no other comments or public testimony, and the public hearing was closed.

### **ACTION**

#### **Planning Commission Resolution 10-848 was Adopted**

It was moved and seconded to adopt Planning Commission Resolution 10-848, approving Modification #1 to CUP 92-01 to allow the Applicant to modify the on sale beer and wine ABC License to include distilled spirits. The motion for approval included: the additional conditions imposed by the Sheriff's Dept., conditions 55 through 57; revised language of Condition 57 to address specifically the inspection of the installation of the surveillance equipment; Condition 58 was added for the Sheriff's Dept. to provide advance notice of 24 hours prior to the inspection of the surveillance equipment. Motion: Tucker; Second: Austin. Ayes: Austin, Fennell, McCall and Tucker. Noes: None. Abstain: None. Absent: Johnson. Motion Carried 4:0.

## **REPORTS and COMMUNICATIONS**

6:42 p.m., Mr. McSweeney updated the Commission on various projects throughout the city:

Farmers Market – an application for a Temporary Use Permit has been submitted for a Farmers Market on Friday nights beginning on August 13<sup>th</sup> from 4:00 – 9:00 p.m. Mr. McSweeney said the Farmers Market will be located on the NE Corner of Sespe and Central Avenues and there will be approximately 30 booths. The application was submitted by the property owner, Thom Kestley.

Commissioner McCall asked if the Farmers Market would be in competition aware of Friday night football games during football season. Commissioner McCall suggested staff inform the applicant about Friday night football.

July 4<sup>th</sup> Block Party Permits – the deadline for submitting block party permits is June 21<sup>st</sup>, so that City staff has sufficient time to review the applications. The Planning Dept. has advertised the process on the City website and on Channel 10.

July 4<sup>th</sup> Car Show - Fillmore & Western Railway submitted the application for a Temporary Use Permit for the car. The application review is complete, and the permit is ready to issue.

Downtown Specific Plan Requirement for 1/3 retail – due to the vacancy rate downtown, the City Council questioned whether or not to remove the requirement from the Downtown Specific Plan for retail in the first third of storefronts along the street. The merchants are against removing the requirement but are flexible to allow a large office use. The City Council directed Planning staff to study the matter.

Mr. McSweeney said the downtown area will gain two new businesses: a teahouse and a restaurant and catering business. Mr. McSweeney said Mr. Minjares is working with both merchants to process storefront rehabilitation applications.

Mr. McSweeney said the Business Park Property Owners approached the City Council last night and asked for clarification of the Conditions of Approval and asked the Council to consider their request at the July 13<sup>th</sup> City Council meeting. The item would have to be before the Planning Commission first and the Commission would make a recommendation to the City Council. Mr. McSweeney asked the Commission to have a special meeting on July 14<sup>th</sup>. Mr. McSweeney said Planning staff needs more information and staff has a lot of work ahead of them.

Commissioners Fennell and McCall said they had family vacation plans and would be out of town.

## **ADJOURNMENT – 6:53PM**

There being no further business to come before the Planning Commission, the meeting was adjourned to the next regular Planning Commission Meeting scheduled for August 18, 6:30 p.m. in the City Council Chambers, 250 Central Avenue, Fillmore, CA 93015.

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Denise Beauduy  
Planning Secretary

PLANNING COMMISSION  
CITY OF FILLMORE  
250 CENTRAL AVENUE  
FILLMORE, CA 93015

JULY 12, 2010  
SPECIAL MEETING  
6:30 PM

## MINUTES

### CALL TO ORDER

6:32 p.m., Chair Douglas Tucker called the Planning Commission meeting to order and led the assembly in the Pledge of Allegiance. Planning Commissioners present were: Chair Douglas Tucker, Vice Chair Tom Fennell, Vance Johnson and Dianne McCall. City Staff present were: Community Development Director Kevin McSweeney, City Attorney Theodore Schneider, Public Works Director Bert Rapp City Engineer Tom Scott and Planning Secretary Denise Beauduy. Absent (excused) Commissioner Mark Austin.

### ORAL COMMUNICATIONS

No Comments

### PUBLIC HEARING

*Request to Modify Conditions of Approval By Revising Condition E5. Modifications to Four Projects Within the Business Park:*

- A. Mod #4 to TTR 5785, DP 07-01 (Perry Ranch), APN's: 046-0-050-160; 046-0-050-170, Fillmore Riverview, LLC., 660 Newport Center Drive, Suite 930, Newport Beach, CA 92260, Applicant.
- B. Mod #2 to TTR 5784, DP 07-02 (Coe Property), APN: 046-0-060-110, Fillmore Industrial Park, Attn: KDF Communities, 660 Newport Center Drive, Suite 930, Newport Beach. CA 92660, Applicant.
- C. Mod #2 to TTR 5803 (Maxwell Property), APN's: 046-0-060-010; 046-0-060-160, Sespe Creek Properties, LLC., 1253 Coast Village Road, Suite 105, Santa Barbara, CA 93108, Applicant.
- D. Mod #3 to DP 07-03, CUP 08-03, LLA 08-02 (The Stop), APN's: 052-0-160-010; 052 160-070. Request to Grant a One-Year Time Extension for DP 07-03. TSAF, LLC., 28212 Kelly Johnson Dr., # 275, Valencia. CA 91355, Applicant.

6:34 p.m., Chair Tucker called for the staff report and opened the public hearing. Mr. McSweeney presented the report and said four property owners in the Business Park would like clarification of the Conditions of Approval for the Business Park. On June 22, 2010, Planning staff received four separate applications from the developers of Perry Ranch and the Coe property, Jack Maxwell, and the developer of The Stop. Mr. McSweeney said the developers are asking for a modification to Condition E5 which has to do with the timing of flood plain analysis.

Mr. McSweeney said the Business Park was approved by the City Council on March 11 2008. When the Business Park was approved, only a portion of the Perry Ranch property was in the flood plain, but the levee was extended to protect the new Water Recycling Plan, and the levee removed that portion of Perry Ranch out of the flood plain. Approximately three months after the EIR was approved, FEMA released a preliminary draft FIRM that placed all property located west of A Street, including the Business Park, into the 100 year flood plain. Mr. McSweeney said the Engineering Dept. reviewed the map and identified errors. The City argued successfully that the map was incorrect and FEMA withdrew the map. Mr. McSweeney said the Developers in the Business Park would like to make it clear that they are not in the flood plain right now and they could pull building permits. The developers are asking to modify Condition E5 which states occupancy shall not occur on any lot that is within the 100 year flood plain. Mr. McSweeney said the Developers are concerned that if they are under construction, and the new FIRM indicates the Business Park is in the flood plain, City staff will enforce the FIRM, which will cause significant changes to those projects while they are under construction. Mr. McSweeney said City staff supports the all of the applicants re for the modification to Condition E5 and gave staff's recommendation for the applicants to comply with the FMC Chapter 6.16 as it relates to Flood Prevention.

Mr. McSweeney said approved tract maps in the Business Park expired in March 2010; however, due to the economy, the Governor took legislative action to extend the expiration date for tract maps throughout the state to March 2012. Because Development Permits were approved along with the Tract Maps, the Zoning Ordinance allows for expiration of the Development Permits to be extended as well. Mr. McSweeney said the entitlement for The Stop is only a Development Permit, but the developer submitted a letter requesting an extension prior to the expiration deadline. Mr. McSweeney gave City staff's recommendation to extend the Development Permit for one year.

Commissioner Tucker clarified that the modification of Condition E5 was not requested by all the developers in the Business Park. Mr. McSweeney responded that there are seven projects in the Business Park, but only four applications were submitted; the modification will not affect the other three projects.

Commissioner Tucker asked if the reason the projects in the Business Park would be in the flood plain is because the levee is 6 – 8 feet too short. Mr. McSweeney stated the Business Park is currently not in the flood plain, but there are measures such as raising the levee or raising the building pads to remove development from the flood plain..

Commissioner Tucker asked if the City is liable= if FEMA determines the Business Park is in the flood plain, and flooding occurs during a 100-year storm event or if the levee is determined to be inadequate. Mr. McSweeney responded if FEMA determines there are projects in the flood plain then Engineering staff will review those projects and require the development to be removed from the flood plain. Mr. Schneider responded the City is not liable if FEMA deems the levee inadequate.

Commissioner McCall asked for the time frame for FEMA to conclude their studies. Mr. McSweeney responded FEMA estimates it will take approximately two years so they will present

new data in 2012. Commissioner McCall asked if the projects are constructed in the Business Park, and FEMA determines the Business Park is in the floodplain, would the developer have to comply with Chapter 6 of the FMC. Mr. McSweeney if the buildings are already constructed and the FIRM changes then the flood insurance rates change. The developers are concerned that they may have to modify projects that under construction; the developer does not want to get caught in the middle of construction. If the developers are not issued building permits before FEMA makes a determination that the Business Park is in the floodplain then the developers would have to follow Chapter 6.16 of the FMC.

Commissioner Tucker asked why the Business Park is before the Planning Commission if FEMA is not going to make any changes prior to 2012. Mr. McSweeney said a modification to the Conditions of Approval can not be done administratively. This modification is required to be reviewed by the Planning Commission and the Commissioner will make a recommendation to the City Council. As for the urgency, Mr. McSweeney deferred to the Applicants.

Jack Maxwell, Sespe Creek Properties, LLC, Santa Barbara, CA. Mr. Maxwell stated he owns 19 acres west of D Street and north of River Street in the Business Park. Mr. Maxwell said he supports the revision of the Condition E5 and said it is important to have this resolved in order to move the projects forward. Mr. Maxwell stated his concern with the local and national economy which may not allow for construction. Mr. Maxwell said that he may build only two buildings before 2012, and there is the potential for his property to be in the floodplain. No one will want bring in 8 – 10 feet of dirt to raise the site; it will be cost prohibitive. Mr. Maxwell said it is important to resolve the issue with the levee so that is it not a floodplain issue and will allow us to build and obtain flood insurance.

Lisa Patricio, Attorney, Cox, Castle & Nicholson, 2049 Century Park East, 28<sup>th</sup> Floor,. Ms. Patricio stated she was representing Business Park developers and expressed support for City staff's recommendation. Ms. Patricio said there is a slight change in the language for Condition E5 in the staff report and asked if that language is accurately reflected in the resolutions.

Mr. McSweeney responded the resolutions do not reflect the change because it would be part of the motion. Mr. McSweeney said the condition as suggested by staff states: prior to building permits issuance the applicant shall comply with FMC Chapter 6.16 Flood Damage Prevention. Mr. McSweeney said staff would like to strike the words: prior to building permit issuance.

Ray Harper, KDF Communities, LLC. Mr. Harper addressed the urgency of the matter. Mr. Harper said there are some transactions pending that involve joint venture partners and lenders, and the one thing they will not deal with is uncertainty. FEMA may have new maps in 2012 or 2015; FEMA is not sure. Mr. Harper said they visited the General Council of FEMA in Washington several months ago on this very issue and it is still very confusing. Mr. Harper said the modification they are asking for takes away the uncertainty; it may cost more to build or they may have to raise the buildings, but they will be able to build.

There were no other public comments.

**Planning Commission Comments**

Commissioner Tucker said he is in favor of the Business Park; it is good for the community and will help the community. Commissioner Tucker stated his concern that the Business Park may become piece meal when FEMA presents the new FIRM and the other projects are ready to move forward and asked if there is any way to make the design uniform. Mr. McSweeney responded the Business Park Master Plan that was adopted is a comprehensive plan. Mr. McSweeney said not all projects proposed in the Business park will move forward; the self-storage business is not moving forward because the project was terminated. New applications will have to go through and environmental review process.

Mr. Schneider made a comment that FEMA is in control of making the floodplain determination not the City. The City has an ordinance on the books that deals with building in the floodplain, but the City does not determine the location of the floodplain and is not imposing any new conditions on development.

6:56. public hearing closed.

Commissioner Johnson commented piece meal development is the order of the day, and maybe it would not be if this was before us 25 years ago.

**ACTION**

**(Perry Ranch)**

**Planning Commission Resolution 10-849 was Adopted.**

It was moved and seconded to adopt Planning Commission Resolution 10-849, Recommending the City Council approve Modification #4, amendment to Condition E5 of the Conditions of Approval for Development Permit 07-01, TTR 5758 (Perry Ranch), Condition E5 has been revised to E5a and E5b: E5a, Public Improvements shall be completed prior to the City Council acceptance of the public improvements. E5b, The applicant shall comply with Chapter 6.16 of the FMC, "Flood Damage Prevention". Motion: Johnson; Second: Tucker. Ayes: Fennell, Johnson, McCall and Tucker. Noes: None. Abstain: None. Absent: Austin. Motion Carried 4:0.

**ACTION**

**(Coe Property)**

**Planning Commission Resolution 10-850 was Adopted.**

It was moved and seconded to adopt Planning Commission Resolution 10-850, Recommending the City Council approve Modification #2, amendment to Condition E5 of the Conditions of Approval for Development Permit 07-02, TTR 5784 (Coe Property), Condition E5, has been revised to E5a and E5b: E5a, Public Improvements shall be completed prior to the City Council acceptance of the public improvements. E5b, The applicant shall comply with Chapter 6.16 of the FMC, "Flood Damage Prevention". Motion Johnson; Second McCall. Ayes: Fennell, Johnson, McCall and Tucker. Noes: None. Abstain: None. Absent: Austin. Motion Carried 4:0.

**ACTION**

**(Maxwell Property)**

**Planning Commission Resolution 10-851 was Adopted.**

It was moved and seconded to adopt Planning Commission Resolution 10-851, Recommending the City Council approve Modification #2, amendment to Condition E5 of the Conditions of Approval

for TTR 5803, the Maxwell Property. Condition E5, has been revised to E5a and E5b: E5a, Public Improvements shall be completed prior to the City Council acceptance of the public improvements. E5b, The applicant shall comply with Chapter 6.16 of the FMC, “Flood Damage Prevention”. Motion Johnson; Second McCall. Ayes: Fennell, Johnson, McCall and Tucker. Noes: None. Abstain: None. Absent: Austin. Motion Carried 4:0.

**ACTION**

**(The Stop Property)**

**Planning Commission Resolution 10-852 was Adopted.**

It was moved and seconded to adopt Planning Commission Resolution 10-852, Recommending the City Council approve Modification #3, amendment to Condition E5 of the Conditions of Approval for Development Permit 07-03. Condition E5, has been revised to E5a and E5b: E5a, Public Improvements shall be completed prior to the City Council acceptance of the public improvements. E5b, The applicant shall comply with Chapter 6.16 of the FMC, “Flood Damage Prevention”. Motion Johnson; Second McCall. Ayes: Fennell, Johnson, McCall and Tucker. Noes: None. Abstain: None. Absent: Austin. Motion Carried 4:0.

**ACTION**

**(The Stop Property)**

**Planning Commission Resolution 10-853 was Adopted.**

It was moved and seconded to adopt Planning Commission Resolution 10-853, Granting a one-year time extension for Development Permit 07-03. Motion: Johnson; Second: McCall. Ayes: Fennell, Johnson, McCall and Tucker. Noes: None. Abstain: None. Absent: Austin. Motion Carried 4:0.

**REPORTS and COMMUNICATIONS**

Mr. Schneider gave an update of the court decision for the case involving the City of Fillmore and the owner of the El Dorado Mobile Home Park. Mr. Schneider reported the owner of the EL Dorado Mobile Home Park sued the City of Fillmore over an incomplete application for a mobile home park condo conversion. The owner of El Dorado Mobile Home Park filed an application with the Planning Dept., approximately six months ago, for a condo conversion of the park. The application went before the Planning Commission and was deemed incomplete. The attorney for the owner of the park filed an appeal which went before the City Council. The City Council adopted a resolution denying the appeal and determined the application was incomplete. The judge ruled on El Dorado’s writ of mandate that the application for condo conversion is incomplete

**ADJOURNMENT – 6:58 PM**

There being no further business to come before the Planning Commission, the meeting was adjourned to the next regular Planning Commission Meeting scheduled for August 18, 6:30 p.m. in the City Council Chambers, 250 Central Avenue, Fillmore, CA 93015.

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Denise Beauduy  
Planning Secretary



**CITY OF FILLMORE**

CENTRAL PARK PLAZA  
250 Central Avenue  
Fillmore, California 93015 -1907  
(805) 524-3701 • FAX (805) 524-5707

September 22, 2010

TO: Planning Commission

THROUGH: Kevin McSweeney, Community Development Director 

FROM: Manuel Minjares, Assistant Planner

SUBJECT: **Conditional Use Permit 10-02, 501 Santa Clara Street,  
Dustin Anderson, Applicant –Request for a Type 41 ABC On-Sale  
Beer & Wine License for a Restaurant.**

**SUMMARY:**

The Applicant, Dustin Anderson, submitted an application for a Conditional Use Permit for the approval of a Type 41 ABC On-Sale Beer & Wine license for his Restaurant. The Zoning Ordinance requires Planning Commission to approve the Conditional Use Permit for Alcohol Beverage Licenses in the Central Business District.

**RECOMMENDATION:**

The Planning Department staff recommends the Planning Commission take the following action:

1. Adopt Resolution 10-856, approving Conditional Use Permit 10-02, subject to the conditions of approval.

**BACKGROUND AND ANALYSIS:**

On August 30, 2010, the business owner filed a Planning Permit application for a Conditional Use Permit for Planning Commission consideration of a Type 41 ABC on-sale beer & wine license. Zoning Ordinance Section 6.04.0615.2 requires the approval of a Conditional Use Permit for ABC licenses in the Central Business District zone. Zoning Ordinance section 6.04.615.3.A contains the following land use district specific standards for projects requesting approval of an ABC license:

1. The structure subject to the "ABC" license shall not be occupied by an adult entertainment business.

**Compliance** - The structure subject to the ABC license will be occupied by the Double A Café restaurant and will not operate an adult entertainment business.

2. The Conditional Use Permit application shall be reviewed by the Police Department Prior to Commission approval

**Compliance** - The application was reviewed by the Police Department. The Police Department is requiring that a video camera surveillance system be installed.

The application meets the land use specific standards for projects requesting approval of an ABC license. Additionally, the project has been conditioned to comply with the City's noise standards and to obtain all the required permits from the Ventura County Environmental Health Department.

Zoning & General Plan

The zoning and General Plan Land Use Designation of the site is "CBD" for Central Business District. The property is presently undergoing interior and exterior improvements in preparation of the opening of the Double A Café restaurant. Restaurant's are a permitted uses in the CBD zone and General Plan land use designation. The proposed ABC license would not conflict with the zoning or General Plan designation of the site.

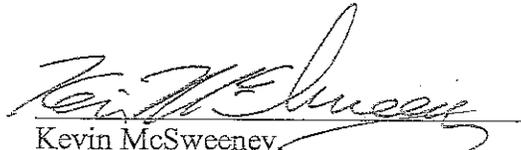
California Environmental Quality Act (CEQA)

As proposed this petition is exempt from further review under Class 1, Existing Facilities, section 15301, because the restaurant is existing and new construction is not proposed.

Prepared By:

Reviewed By:

  
Manuel Minjares  
Assistant Planner  
Planning Department

  
Kevin McSweeney  
Community Development Director  
Planning Department

Attachments:

1. Resolution 10-856, Conditional Use Permit 10-02
2. Conditions of Approval

**CITY OF FILLMORE  
PLANNING COMMISSION RESOLUTION 10-856**

**GRANTING  
CONDITIONAL USE PERMIT 10-02  
ON-SALE ABC BEER & WINE LICENSE**

**501 SANTA CLARA STREET  
DUSTIN ANDERSON, APPLICANT**

**WHEREAS**, The Planning Commission has been petitioned to grant Conditional Use Permit 10-02 for the purpose of on-sale beer & wine for a restaurant located at 501 Santa Clara Street; and

**WHEREAS**, The Community Development Director caused a notice of date, hour and place for a public hearing on September 22<sup>nd</sup>, 2010 before the Planning Commission published on September 9<sup>th</sup>, 2010 in the Fillmore Gazette and mailed to the applicant and all property owners within 300 feet of the exterior boundaries of the subject property in accordance with Section 6.04.8015 of the Fillmore Zoning Ordinance; and

**WHEREAS**, the City of Fillmore Planning Commission finds the following as fact:

1. The Conditional Use Permit is specifically for the property located at 501 Santa Clara St., A.P.N. 053-0-060-150, and is not transferable to another property.
2. The applicant is Dustin Anderson, 1947 Grand Ave., Fillmore, CA 93015.
3. The property owner is J.C. Morris Partnership, 1024 Ventura St. Fillmore, CA 93015.
4. The project consists of the approval of a Type 41 on-sale beer and wine Alcohol Beverage license for a restaurant at the subject address.
5. The "project" was properly reviewed and documented per the requirements of the California Environmental Quality Act (CEQA) in that, the project is considered categorically exempt per CEQA Section 15301(a) Existing Facilities.
6. All written and oral comments and correspondence on the project have been responded to and all incorporated accordingly.
7. The proposed project as conditioned per exhibit "COA" complies with the Zoning Ordinance.
8. Based on the above findings, supporting environmental documentation, oral and written testimony, the staff report (dated 9/22/10), and the record as a whole, the Planning Commission finds the following, as required by the "Conditional Use Permit" and Alcohol Beverage Control License section of the Zoning Ordinance (Section 6.04.720 and 6.04.615):

- a. The structure is not associated with “adult entertainment,” and
  - b. This permit has been reviewed by the County of Ventura Sheriff’s Department prior to Planning Commission approval, and
  - c. On sale of beer, wine is associated with an approved restaurant.
9. The above section of the Fillmore Municipal Code identifies findings that are required for the granting of Conditional Use Permits. These findings are hereby incorporated by reference summarized below:
- a. The project is permitted within the subject zoning district and complies with all applicable requirements in that the applicant is requesting a Conditional Use Permit for an ABC license type 41 of on-sale of beer & wine per Zoning Ordinance sections 6.04.0615.3A and 6.04.70.
  - b. The project is consistent with the General Plan in that the property is designated as Central Business District (CBD) and a restaurant serving beer, wine is an allowable use with the approval of a Conditional Use Permit.
  - c. The project shall be compatible with existing and future projects in the area in that the surrounding area consists of residential uses and retail uses, including restaurants in that the project has been conditioned to comply with noise standards and building code standards to ensure its compatibility with existing and future projects in the area.
  - d. Approval of the project is in compliance with the requirements of CEQA in that the project is categorically exempt per section 15301(a) Existing Facilities.
  - e. There will be no potential significant adverse effects from the project on the environment in that the on sale of beer & wine associated with a restaurant has been determined to be categorically exempt per section 15301(a) Existing Facilities of the California Environmental Quality Act.
  - f. The project site is physically suitable for the type and density/intensity of the proposal in that the proposed use will be within an existing commercial building which is not proposed to expand, and that the on sale of beer & wine is permitted by the zoning ordinance with the approval of a Conditional Use Permit.
  - g. There are adequate provisions for utilities and public health/safety in that existing commercial building is served by existing utilities to the restaurant and the applicant is currently working with the Ventura County Health Department to obtain the required permits for the new restaurant.
  - h. The project will not be detrimental to the public health/safety in that the use of the building will be reviewed by the Fire Department, the Building and Safety Department, Ventura County Health Department and Planning Department.

According to the Fillmore Municipal Code, all of the above findings must be made by the Planning Commission in order to grant a Conditional Use Permit. Based on the public testimony, staff report, conditions, environmental documentation and, the record as a whole, the Planning Commission finds that the project satisfies the required findings.

**NOW, THEREFORE, BE IT RESOLVED**, that based upon the above facts, the Fillmore Planning Commission does hereby adopt Planning Commission Resolution 10-856 for the purpose of approving Conditional Use Permit 10-02.

**PASSED AND ADOPTED** by the Planning Commission of the City of Fillmore on this 22<sup>nd</sup> day of September, 2010 by the following votes:

---

Douglas Tucker, Chair  
Planning Commission

ATTEST:

---

Denise Beauduy  
Planning Secretary

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**EXHIBIT "COA"**

**CONDITIONS OF APPROVAL  
CONDITIONAL USE PERMIT NO. 10-02  
501 SANTA CLARA STREET  
DUSTIN ANDERSON, APPLICANT**

**RECITALS**

**A. AUTHORITY FOR THIS DOCUMENT**

The conditions and terms contained in this exhibit are applied to permit " "CONDITIONAL USE 10-02" (THIS PERMIT) and are applied under the City's authority regarding discretionary permits (Section 6.04.70 of the Fillmore Municipal Code).

**B. IDENTIFICATION OF THE SUBJECT PROPERTY**

The subject property is located at **501 Santa Clara Street** and is identified as Assessor Parcel Number **053-0-060-150**. The subject property is subject to the conditions and terms contained in this exhibit.

**C. DESCRIPTION OF PROJECT AUTHORIZED BY THIS PERMIT**

The PROJECT consists of the approval of a Conditional Use Permit for a Type 41 ABC On-Sale Beer & Wine license for a restaurant to be implemented in one phase. All conditions of this permit are applicable upon implementation of Phase I, unless so specified in this document.

**D. RESPONSIBILITY OF APPLICANT**

The following conditions are the responsibility of the Applicant (Dustin Anderson), or any of their successors or assigns.

**E. BASIS UPON WRITTEN DOCUMENTS**

THIS PERMIT is based on the following written documents referred to as EXHIBITS "COA" (CONDITIONS OF APPROVAL) and "SR" (STAFF REPORTS). All activity on the subject property is to be in compliance with all requirements and direction, as set forth in the above Exhibits.

The conditions and terms in this document shall prevail over all omissions, conflicting notations, specifications, dimensions, typical sections and the like, which may or may not be shown on the PLANS.

**F. LIFE OF THIS DOCUMENT**

The conditions and terms contained in this document apply to the subject property indefinitely or, until such time that this document is modified according to the process identified in paragraph "I" of this document. THIS PERMIT IS NOT TRANSFERRABLE TO ANOTHER PROPERTY.

G. TIME TO EXERCISE PERMIT

THIS PERMIT shall be substantially initiated or it shall expire on September 22, 2010. Substantial initiation of THIS PERMIT shall be determined at the sole discretion of the CITY. Any extension of THIS PERMIT shall be processed per Section 6.04.6645 of the Fillmore Municipal Code.

H. PROCEDURE FOR MODIFICATION OF THIS DOCUMENT

Any proposed modification of this document shall be processed per Section 6.04.6650 of the Fillmore Municipal Code.

I. INDEMNIFICATION AND HOLD-HARMLESS STATEMENT

The APPLICANT shall indemnify, exonerate and hold harmless, the CITY and all officers and employees thereof, against all claims, demands, and causes of action arising out of improvements constructed within the project.

The APPLICANT agrees as a condition of approval of this permit, to defend, at the sole expense of the APPLICANT, any action brought against the CITY based upon approval of this permit. The APPLICANT shall reimburse the CITY for any costs and attorney's fees that the CITY may be required to pay as a result of any such action. The CITY may, as its sole discretion, participate in the defense of such action, but such participation shall not relieve the APPLICANT of the above obligations.

Any activity or structure pursued by the APPLICANT, authorized by this permit shall further constitute acceptance of all conditions and obligations imposed by the CITY on this permit. The APPLICANT, by said acceptance, waives any challenges as to the validity of these conditions.

J. COMPLIANCE WITH THIS DOCUMENT PRIOR TO AUTHORIZED ACTIVITY/USE

The APPLICANT shall comply with and satisfy all applicable conditions of this permit prior to being authorized to begin construction activity or prior to being allowed to occupy any structures.

Authorization to begin construction is to be granted by the Building Official upon presenting the Administrative Clearance Form to the Building Official with all required signatures.

Authorization for occupancy is to be granted by the Building Official upon having a final occupancy inspection conducted by the Project Planner, the Building Inspector, and the Fire Chief, and then having the Building Official issue a Certificate of Occupancy. Any required public improvements are to be completed to the satisfaction of the City Engineer prior to the Building Official issuing a Certificate of Occupancy.

Authorization shall not be granted if the proper and requested information is not presented in a neat and timely manner.

K. COMPLIANCE WITH ALL APPLICABLE CODES AND REGULATIONS

All activity and construction pursuant to this permit shall comply with all applicable codes and regulations including, but not limited to, the Fillmore General Plan, the Fillmore Zoning Ordinance, the Downtown Specific Plan, the California Building Code (2007 version) and the Uniform Fire Code.

L. PAYMENT OF FEES/DEPOSITS

All required Fees shall be paid by the APPLICANT prior to the issuance of a building permit.

CONDITIONS

1. The applicant shall be required to comply with Zoning Ordinance section 6.04.18.14, Noise Attenuation.
2. The applicant shall be required to obtain all necessary permits from the Ventura County Environmental Health Department.
3. Signage shall be posted on the subject property prohibiting loitering.
4. There shall be no consumption of alcoholic beverages in the parking lot unless a temporary use permit is issued.
5. Alcoholic beverages shall only be sold between the hours of 8:00 a.m. and 12:00 a.m. (midnight) on each day of the week.
6. Exterior advertising on the subject property shall be maintained in compliance with all of the requirements of the City Zoning and Municipal ordinances.
7. The Applicant shall be required to have a modification application approved by the Planning Commission to change its ABC license from a Type 41 to a Type 47 prior to serving distilled spirits to its customers.
8. The applicant shall be required to install a video surveillance security system with a Digital Video Recorder (DVR) equipped with a 30 day hard drive recording capacity and eight security cameras and to monitor the inside and outside area of the business.
9. The Sherriff's Department shall have the authority to inspect the installation of the surveillance system to ensure its conformance to the conditions of approval.
10. The Sheriff's Department shall be required to provide the property owner with a 24 hour notice in advance of their requested inspection unless otherwise authorized by the property owner.

11. The applicant must maintain the surveillance system to ensure that it is functioning properly. The failure of the applicant to maintain the surveillance system will cause the city to exercise its authority to terminate the CUP for failure to comply with the conditions of approval.

**In Acknowledgement and Agreement:**

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Douglas Tucker, Chair  
Planning Commission

---

Dustin Anderson,  
Business Owner

---

William L. Morris III  
Property Owner

**END OF CONDITIONS**

Planning Commission Resolution 10-856  
Conditional Use Permit 10-02  
September 22, 2010  
Page 4 of 4

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## CITY OF FILLMORE

CENTRAL PARK PLAZA  
250 Central Avenue  
Fillmore, California 93015 -1907  
(805) 524-3701 • FAX (805) 524-5707

September 22, 2010

TO: Planning Commission

THROUGH: Kevin McSweeney, Community Development Director 

FROM: Manuel Minjares, Assistant Planner

SUBJECT: **Development Permit 10-02 & Variance 10-01 – Request for Planning Commission Approval for the Rebuilding of a Single Family Dwelling on a 25 Foot Wide Lot.**

### SUMMARY:

Planning Department staff presented a screening application submitted by the applicant to obtain Planning Commission feedback on the rebuilding of a single family dwelling unit on a 25 foot wide substandard lot. The applicant submitted three different options for Planning Commission to consider on May 19, 2010. The Planning Commission selected the option to locate the house toward the rear of the property and to provide a one-car garage or carport in the front of the property.

### RECOMMENDATION:

Staff recommends the Planning Commission take the following action:

1. Adopt Planning Commission Resolution 10-854, approving Development Permit 10-02, subject to conditions of approval.
2. Adopt Planning Commission Resolution 10-855, approving Variance 10-01, subject to conditions of approval

### BACKGROUND AND ANALYSIS:

The applicant is proposing to construct a 960 sq. ft. 3-bedroom single story, single-family dwelling unit with either a single-car carport or one-car garage at 333 Mountain View Street. The site was previously developed with a 960 sq. ft. single-story dilapidated dwelling unit with no off street parking.

The Residential Low (RL) zoned property is constrained by its width, property size and lack of access to a rear alley. The property measures 25' in width by approximately 150' in length for a

total area of approximately 3,750 sq. ft. These dimensions are far under the minimum development standards for lot width (50') and lot area (6,000 sq. ft.) within the RL zone. Further complicating matters is the minimum side setback requirement of 10' (can be reduced to 5' with Fire Department approval) for dwelling units. Finally, Zoning Ordinance Section 6.04.3415(1), Off Street Parking Standards indicates that a two car garage is required for the development of a single-family detached dwelling.

The Planning Commission reviewed the three options presented to them by the applicant during the screening and took the constraints relating to the size of the property under consideration and made the following comments:

1. Option B was the preferred site plan layout of the Planning Commission. The Planning Commission also acknowledged the need for off-street parking and were open to the idea of either a one-car garage or carport.
2. Set the dwelling further back on the property.
3. Submit a soils report
4. Pay special attention to the architectural design of the carport or garage.
5. One Planning Commissioner indicated that if the applicant were to seek reduction to the 2-car garage requirement that the dwelling should have an affordability restriction recorded, restricting the unit for rental or sale to very low or extremely low income families.

## ANALYSIS

### *Site Plan:*

The applicant is proposing to build the unit to its previous footprint and has taken the advice of the Planning Commission and set the dwelling further back on the lot. This site design choice has improved the project in that it has reduced the proximity of the proposed dwelling from the adjacent residential structures and has given the applicant enough room in the front setback to provide a one-car garage or carport and an additional, uncovered space on the driveway.

The Planning Commission expressed that they were open to a design that incorporated either a one-car garage or one-car carport. Based upon this feedback, the applicant has submitted elevations and a site plan for both a one-car garage and one-carport with the intent to allow the Planning Commissioners the opportunity the option to select the structure they feel is best is the most compatible to the project and neighborhood. The applicant did express his preference for a one-car carport explaining that he felt it would allow for a better view of the home from the street whereas a one car garage with its enclosed walls would partially obstruct that view. Planning staff is seeking the direction of the Planning Commission on this issue.

### *Architecture:*

The property is located within the Conservation/Preservation Overlay district and as such the Planning Department and Planning Commission expressed the need for the proposed structures to be designed with special attention to the quality of architecture. The applicant is proposing a dwelling with craftsman elements including a gable roof with lap siding, decorative Hardi-shingle siding, and covered entry porch. The proposed design elements are consistent with that of other dwellings within the Conservation/Overlay District.

*Variance*

At 20' in width, the dwelling unit could not be rebuilt to its previous footprint and meet the 5' side yard setback required per the 1994 Zoning Ordinance. The applicant is therefore seeking a variance on the north and south side setbacks to the dwelling unit and the southerly side setback to the one-car carport or garage due to the narrow width of the lot. The setback reductions to the dwelling include a 2' side yard setback reduction to the south side setback and a 3' side yard setback reduction to the north side setback. The applicant is also proposing a 2' south side setback reduction to the carport/garage. The applicant is also seeking a reduction to the off-street parking requirement of a 2-car garage to either a one-car garage or carport. The project is otherwise in conformance with the RL Zone development standards.

It is the opinion of Planning Department staff that given the narrow width of the property, the City's Residential Low development standards would deny the property of privileges enjoyed by other property in the vicinity and under identical zoning district classification, and therefore warranted a variance for the requested development standard reductions.

California Environmental Quality Act:

This project is exempt from the California Environmental Quality Act (CEQA) under Class 3 New Construction, Section 15303(a).

**FISCAL IMPACT:**

No anticipated fiscal impact

Prepared By:

Reviewed By:

  
Manuel Minjares,  
Assistant Planner  
Planning Department

  
Kevin McSweeney,  
Community Development Director  
Planning Department

Attachments: Site Plan, Floor Plan, Elevations

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**CITY OF FILLMORE  
PLANNING COMMISSION RESOLUTION 10-854**

**APPROVING  
DEVELOPMENT PERMIT 10-02**

**FOR  
CONSTRUCTION OF A SINGLE FAMILY RESIDENCE AND ONE-CAR  
GARAGE/CARPORT**

**333 MOUNTAIN VIEW STREET  
BILL LINDSAY, APPLICANT**

WHEREAS, The Planning Commission has been petitioned to act on a request for a Development Permit 10-02 (DP 10-02) and Variance 10-01 (VAR 10-01), for the purpose of constructing a single-story, 960 square foot single family residence with a detached one-car garage/carport.

WHEREAS, The Community Development Director caused a notice of date, hour and place for a public hearing on September 9<sup>th</sup>, 2010, before the Planning Commission to be published in the Fillmore Gazette and mailed to the applicant and all property owners within 300 feet of the exterior boundaries of the subject property in accordance with Section 6.04.8025 of the Fillmore Zoning Ordinance; and

WHEREAS, Based upon the evidence presented, the Planning Commission makes the following findings of fact:

1. The subject property is identified as Assessor Parcel Numbers 053-0-074-070.
2. The property is currently owned by Anne Stirling Hastings, 441 Alosta Drive, Camarillo, California 93010.
3. The project has been reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and the proposed project is considered exempt under Class 3, New Construction, Section 15303(a).
4. The property is legal nonconforming with the adopted elements of the 2003 General Plan in that the lot size is 3,750 sq. ft.
5. The property is legal nonconforming to the applicable zoning regulations contained in the Development Permit § 6.04.66 of the Zoning Code incorporated in Ordinance 94-701 adopted November 22, 1994.
6. The application for a new single family residence requires a Development Permit per Zoning Ordinance Section 6.04.6610(1).
6. The Fillmore Planning Commission is the review authority per Zoning Ordinance Section 6.04.5005, Table IV-1.
8. As the Review Authority, the Planning Commission is required to hold a noticed public

hearing for proposed projects per Section 6.04.80 of the zoning ordinance.

9. The Development Permit is authorized pursuant to the provisions contained in the Development Permit section of ordinance 94-701 as identified below:
  - a. The proposed development is one permitted within the subject zoning district and complies with all of the applicable provisions of the Zoning Ordinance, including prescribed development/site standards/guidelines and any applicable design guidelines; in that the construction of a single family dwelling is permitted within the Residential Low zone. The applicant is applying for a Variance in conjunction with this Development Permit to reduce the zoning development standards the project could not comply with given the constraints of the property.
  - b. The proposed use is consistent with the intent of the 1988/2003 General Plan, in that the lot upon which the proposed dwelling unit will be rebuilt is legal nonconforming and is permitted to developed with a single family dwelling with the approval of a Development Permit and Variance.
  - c. The proposed development would be harmonious and compatible with existing and future developments within the zoning district and general area, as well with the land uses presently on the subject property in that the surrounding neighborhood consists of other single family dwelling units developed on similarly sized lots with similar setbacks and the applicant is proposing a one-car garage/carport to come closer to conformance with the City of Fillmore Zoning Ordinance.
  - d. The approval of the Development Permit for the proposed use is in compliance with the requirements of the California Environmental Quality Act (CEQA) in that the project is considered exempt under Class 3 New Construction Section 15303(a).
  - e. There will be no potential significant negative effects upon environmental quality and natural resources that could not be properly mitigated and monitored in that the project is a single family residence to be located within an existing residential neighborhood.
  - f. The subject site is physically suitable for the type and density/intensity of the use being proposed in that the project site is legal nonconforming and the proposed single family dwelling can be permitted with a Development Permit and Variance.
  - g. There are adequate provisions for public access, water, sanitation and services to ensure that the proposed use would not be detrimental to public health and safety in that infrastructure services exists in the public right of way adjacent to the site.
  - h. The design, location, size and operating characteristics of the proposed use are compatible with the existing and future land uses and will not create significant noise, traffic or other conditions or situations that may be objectionable or detrimental to other permitted uses operating nearby or adverse to the public interest, health, safety, convenience or welfare of the City.



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**CITY OF FILLMORE  
PLANNING COMMISSION RESOLUTION 10-855**

**APPROVING  
VARIANCE 10-01**

**FOR  
CONSTRUCTION OF A SINGLE FAMILY RESIDENCE AND ONE-CAR GARAGE  
333 MOUNTAIN VIEW STREET  
BILL LINDSAY, APPLICANT**

WHEREAS, The Planning Commission has been petitioned to act on a request for a Variance 10-01 (VAR 10-01) and Development Permit 10-02 (DP 10-02), for the purpose of rebuilding a single-story, 960 square foot single family residence with detached one-car garage/carport.

WHEREAS, The Community Development Director caused a notice of date, hour and place for a public hearing on September 9<sup>th</sup>, 2010 before the Planning Commission to be published in the Fillmore Gazette and mailed to the applicant and all property owners within 300 feet of the exterior boundaries of the subject property in accordance with Section 6.04.8025 of the Fillmore Zoning Ordinance; and

WHEREAS, Based upon the evidence presented, the Planning Commission makes the following findings of fact:

1. The subject property is identified as Assessor Parcel Numbers 053-0-074-070.
2. The property is currently owned by Anne Stirling Hastings, 441 Alostia Drive, Camarillo, California 93010.
3. The project has been reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and the proposed project is considered exempt under Class 3, New Construction, Section 15303(a).
4. The property is legal nonconforming with the adopted elements of the 2003 General Plan in that the lot size is 3,750 sq. ft. .
5. The property is legal nonconforming to the applicable zoning regulations contained in the Development Permit § 6.04.66 of the Zoning Code incorporated in Ordinance 94-701 adopted November 22, 1994.
6. The reduction to the Residential Low Development standards requires a Variance per Zoning Ordinance Section 6.04.6410.1(C) & (E).
7. The Fillmore Planning Commission is the review authority per Zoning Ordinance Section 6.04.5005, Table IV-1.
8. As the Review Authority, the Planning Commission is required to hold a noticed public hearing for proposed projects per Section 6.04.80 of the zoning ordinance.
9. The Variance is authorized pursuant to the provisions contained in the Variances section of ordinance 94-701 as identified below:

- a. That there are special circumstances applicable to the property, including location, shape, size, surroundings or topography so that the strict application of this Ordinance denies the property of privileges enjoyed by other properties in the vicinity and identical zoning district classification, in that the lot upon which the proposed structure is to be constructed upon is legal nonconforming in terms of its lot size and width, which prevents it from being able to meet all of the current zoning standards.
- b. That granting of the Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zoning district and unavailable to the property for which the Variance is sought, in that the surrounding area is comprised of substandard lots that do not meet current zoning standards that would not be allowed to be expanded or developed without a Variance.
- c. That granting the Variance will not be detrimental to the public health, safety, or welfare, or injurious to the property or improvements in the vicinity and zoning district in which the property is located in that proposed dwelling has been situated on the property in such a way to distance it from adjacent dwellings with similar setbacks. The dwelling must also be designed to meet the requirements of the California Building Code and Uniform Fire Code.
- d. That granting the Variance does not constitute a special privilege inconsistent with the limitations upon other property in the vicinity and zoning district in which the property is located in that there are other properties in the neighborhood of a similar lot size.
- e. That granting the Variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel in that the surrounding area is zoned Residential Low and the proposed single family dwelling is a permitted use within that zone.
- f. That granting the Variance will not be inconsistent with the General Plan, in that the proposed single family dwelling is consistent with the General Plan Land Use designation of Residential Low.

NOW THEREFORE, be it resolved, that the Planning Commission does hereby grant approval of Variance 10-01, subject to Conditions of Approval (Exhibit 'COA').

PASSED AND ADOPTED by the Planning Commission on this 22<sup>nd</sup> day of September, 2010, by the following votes:

---

Douglas Tucker, Chair  
Planning Commission

ATTEST:

---

Denise Beauduy,  
Planning Secretary

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**EXHIBIT "COA"**

**CONDITIONS OF APPROVAL  
DEVELOPMENT PERMIT 10-02 & VARIANCE 10-01  
333 MOUNTAIN VIEW STREET  
BILL LINDSAY, APPLICANT**

**RECITALS**

**A. AUTHORITY FOR THIS DOCUMENT**

The conditions and terms contained in this exhibit are applied to DEVELOPMENT PERMIT 10-02 (DP 10-02) and VARIANCE 10-01 are applied under the City's authority regarding discretionary permits (Sections 6.04.66 & 6.04.64 of the Fillmore Municipal Code).

**B. IDENTIFICATION OF THE SUBJECT PROPERTY**

The subject property is residential property addressed 333 Mountain View Street and is identified as Assessor Parcel Number 053-0-074-070. The subject property is subject to the conditions and terms contained in this exhibit.

**C. DESCRIPTION OF PROJECT AUTHORIZED BY THIS PERMIT**

The PROJECT consists of the construction of a new single-story, 960 square-foot single-family residence with a detached attached garage. All conditions of this permit are applicable upon implementation of the first phase, unless so specified in this document.

**D. RESPONSIBILITY OF APPLICANT**

The following conditions are the responsibility of the Applicant, Bill Lindsay, or any of their successors or assigns.

**E. BASIS UPON GRAPHIC ILLUSTRATIONS ("THE PLANS")**

THIS PERMIT is based on the following graphic illustrations referred to as EXHIBITS "S" (SITE PLAN), "F" (FLOOR PLANS) and "E" (BUILDING ELEVATIONS). These exhibits represent the minimum information that is to be expected on subsequent construction documents that are used to implement the project. All interpretations and construction documents shall be based on the above Exhibits (dated September 22, 2010).

**F. BASIS UPON WRITTEN DOCUMENTS**

THIS PERMIT is based on the following written documents referred to as EXHIBIT 'COA' (CONDITIONS OF APPROVAL). All activity on the subject property is to be in compliance with all requirements and direction, as set forth in the above Exhibits.

The conditions and terms in this document shall prevail over all omissions, conflicting notations, specifications, dimensions, typical sections and the like, which may or may not be shown on the PLANS.

G. LIFE OF THIS DOCUMENT

The conditions and terms contained in this document apply to the subject property indefinitely or, until such time that this document is modified according to the process identified in paragraph "I" of this document. THIS PERMIT IS NOT TRANSFERRABLE TO ANOTHER PROPERTY.

H. TIME TO EXERCISE PERMIT

THE DEVELOPMENT PERMIT shall be substantially initiated or it shall expire on September 22, 2011. Substantial initiation of THIS PERMIT shall be determined at the sole discretion of the CITY. Any extension of THIS PERMIT shall be processed per Section 6.04.6645 of the Fillmore Municipal Code.

I. PROCEDURE FOR MODIFICATION OF THIS DOCUMENT

Any proposed modification of this document shall be processed per Section 6.04.6650 of the Fillmore Municipal Code.

J. INDEMNIFICATION AND HOLD-HARMLESS STATEMENT

The APPLICANT shall indemnify, exonerate and hold harmless, the CITY and all officers and employees thereof, against all claims, demands, and causes of action arising out of improvements constructed within the project.

The APPLICANT agrees as a condition of approval of this permit, to defend, at the sole expense of the APPLICANT, any action brought against the CITY based upon approval of this permit. The APPLICANT shall reimburse the CITY for any costs and attorney's fees that the CITY may be required to pay as a result of any such action. The CITY may, as its sole discretion, participate in the defense of such action, but such participation shall not relieve the APPLICANT of the above obligations.

Any activity or structure pursued by the APPLICANT, authorized by this permit shall further constitute acceptance of all conditions and obligations imposed by the CITY on this permit. The APPLICANT, by said acceptance, waives any challenges as to the validity of these conditions.

K. COMPLIANCE WITH THIS DOCUMENT PRIOR TO AUTHORIZED ACTIVITY/USE

The APPLICANT shall comply with and satisfy all applicable conditions of this permit prior to being authorized to begin construction activity or prior to being allowed to occupy any structures.

Authorization to begin construction is to be granted by the Building Official upon presenting the Administrative Clearance Form to the Building Official with all required signatures.

Authorization for occupancy is to be granted by the Building Official upon having a final occupancy inspection conducted by the Project Planner, the Building Inspector, and the Fire Chief, and then having the Building Official issue a Certificate of Occupancy. Any required public improvements are to be completed to the satisfaction of the City Engineer prior to the Building Official issuing a Certificate of Occupancy.

Authorization shall not be granted if the proper and requested information is not presented in a neat and timely manner.

L. COMPLIANCE WITH ALL APPLICABLE CODES AND REGULATIONS

All activity and construction pursuant to this permit shall comply with all applicable codes and regulations including, but not limited to, the Fillmore General Plan Update, the Fillmore Zoning Ordinance, the California Building Code (2007), the Uniform Fire Code, the Subdivision Map Act, and the "Standard Specifications for Public Works Construction".

M. PAYMENT OF FEES/DEPOSITS

All required fees shall be paid by the APPLICANT prior to the issuance of a building permit, including but not limited to development impact fees and building permit fees.

CONDITIONS

The following conditions are organized by CITY Department.

ENGINEERING AND PUBLIC WORKS

GENERAL

- E1. Public improvements shall be completed prior to the City's acceptance of the improvements and the development. An Encroachment Permit is required for the new driveway improvements. Temporary occupancy permits may be permitted at the sole discretion of the City.
- E2. The Applicant shall be responsible for all actions of his contractors and subcontractors until such time as the improvements have been accepted by the City of Fillmore.
- E3. The Applicant shall pay the cost of revising the Water and Sewer Master Plan and City utilities atlas to reflect the new improvements constructed by this project.

GRADING

- E4. Prior to issuing a building permit, the Applicant shall file with the Building Official a soils report prepared by a Geotechnical Engineer, who is registered in the State of California.
- E5. If the lot will be graded a grading plan shall be included in the construction plans. The grading plan shall incorporate the recommendations of the approved soils report. The plan shall also contain certificates, acceptable to the City, signed by a Soils Engineer verifying conformance to the soils report and recommendations. Grading improvements shall be inspected as needed by the Soils Engineer.
- E6. All grading shall be completed per the approved grading plan and conform to Appendix Chapter 33 of the Uniform Building Code and/or as recommended by the Soils Report submitted for the project.

E7. All abandoned irrigation lines and other obstructions on the project site, shall be removed and properly disposed of from the site. Proper backfill and compaction of voids shall be subsequently accomplished to provide protection against settlement.

E8. It is the contractor's responsibility to use watering, dust fences or other methods as directed by the City Engineer to control dust throughout the construction operation.

E9 All grading/construction debris shall be removed from the project site and disposed into a dump site prior to any exaction or fill operations and/or as directed by the City Engineer. The Applicant, his agents or employees shall be responsible for the removal and cleanup of any spill of materials or debris on public streets during the entire grading operation.

#### SEWER

E10. The method of sewage and waste disposal shall be by means of a community disposal system. All sewer system improvements shall meet or exceed the City's standards and ordinances. Separations between water mains and sanitary sewers shall be maintained as required by the State Department of Health and as directed by the City Engineer.

#### WATER

E11. The locations of water services shall be stamped or marked on the face of curb in conformance with the City of Fillmore Public Works requirements.

E12. Water meter, water service and water meter box shall conform to the current City standard. If the water meter is replaced, the new water meter shall be radio reporting meter of a type approved by the City Engineer.

#### DRAINAGE

E13. The Applicant shall install required drainage facilities concurrently with rough grading operations or provide an interim drainage and erosion control plan to be approved by the City, and construct interim improvements, for mitigating any potential flooding and erosion adversely affecting adjacent properties and public rights of way. Erosion control measures shall be in place and maintained for the period of November 15 through April 15.

E14. The water drainage system shall be designed to allow flow to drain into a street, alley or other approved drain in such a manner that will not result in standing water depressions of land.

E15. The Applicant shall procure easements or consents for any diversion of historical drainage flows, changes in drainage conditions or acceptance of any additional water flowing from all affected landowners upstream or downstream of development.

E16. Drainage gradients for all building pad areas shall not be less than 1% percent nor greater than 1.5% percent.

### GAS, ELECTRIC, UTILITIES

E17. All utility plans shall be coordinated with the respective utility companies. Prior to final utility design, preliminary utility designs shall be submitted for review and approval by the City Engineer. Cable, electric and telephone utilities shall be underground, buried in conduit.

### BUILDING & SAFETY

B1. Before starting any work, the Applicant shall designate in writing an authorized representative who shall have complete authority to represent and act for the Applicant. Such written authorized shall be submitted to the Community Development Department. Said authorized representative shall be present at the site of work at all times while work is actually in process on the development. During periods when work is suspended, arrangements acceptable to the City shall be made for any emergency work that may be required.

URGENT WORK – Whenever orders are given by the City to the Applicant's representative, Superintendent, or Foreman, to complete work required for the convenience and safety of the general public because of inclement weather or any other dangerous condition, and said orders are not immediately acted upon by such person, the City may do, or have such work done, by others at the Applicant's expense.

NUISANCE WORK – When the project causes a nuisance to the public and the City notifies the Applicant in writing of the nuisance, the Applicant shall resolve the problem causing the nuisance within 36 hours. If the Applicant fails to correct the nuisance in a timely manner the City may do or have such work done by others at the Applicant's expense.

B2. All work shall comply with the current California Uniform Building Code, Uniform Fire Code, and all local, State and Federal regulations.

### TECHNOLOGY

T1. For basic services the new residence shall be provided with dual RG6 Quad or Tri shielded coax cable and dual CAT5e from demarcation block panel.

T2. For satellite services the residence shall be provided with a minimum of two dual RG6 with ground wire from structured wiring panel terminating in a weather tight J-Box. J-Box location should be located towards rear of home on the south side of the structure.

T3. For wireless services the residence shall be provided with a minimum of dual RG6 and dual CAT5e with ground wire from structured wiring panel terminating in a weather tight J-Box. J-Box location shall be located facing designated area for wireless antennas that serve the area.

T4. For inside the residence dual RG6 Quad or Tri shielded coax cable and Dual CAT5e shall be installed to at least one location per room.

T5. All wiring shall be terminated, tested and labeled from structured wiring panel to the end of the line.

T6. Structured wiring panel with modules shall be installed to support basic services. All panels shall have at least one duplex installed, on a dedicated circuit.

### **FIRE**

F1. All roof covering materials shall consist of State Fire Marshall-approved, noncombustible, fire retardant materials.

F2. Address numbers, a minimum of six (6) inches in height, shall be installed prior to occupancy and shall be illuminated and readily visible at night. The Fire Chief shall approve the method of illumination.

F3. Smoke detectors, approved by the State Fire Marshall, shall be installed in all areas leading to sleeping rooms.

F4. Automatic fire sprinklers shall be provided as required by the Fillmore Fire Chief.

F5. No burning of combustible refuse material shall be permitted the subject property.

### **PLANNING**

P1. The new one-car garage shall be equipped with a roll-up door.

P2. The applicant shall be required to submit a landscaping plan indicating the location, size, and type of plant materials. Landscaping improvements must include the parkway in front of the subject property.

P3. Landscaping and automatic irrigation shall be installed in all landscaped areas, including the front yard and parkway. Building permits will not be issued and no landscaping is to be installed until the Community Development Director approves the landscaping plan.

P4. Prior to issuance of certificate of occupancy all landscaping improvements must be completed to the satisfaction of the Community Development Director.

P5. The applicant shall be required to install one 24 inch box Camphor Tree (*Cinnamomum camphora*) with a minimum 2 inch trunk planted approximately 30 feet o.c. from existing trees fronting adjacent parcels. The tree shall be 8-12 feet in height with a minimum 4 foot wide head at the time of planting.

P6. The applicant shall be required to submit color samples of the exterior finish material for

the review and approval of the Community Development Director prior to building permit issuance

P7. FUGITIVE DUST - The applicant shall be required to comply with the provisions of Rule 55, Fugitive Dust, as adopted by the Ventura County Air Pollution Control Board on June 8<sup>th</sup>, 2008. Rule 55 applies to any disturbed surface area, or man-made condition capable of generating fugitive dust, including bulk material handling, earth-moving, construction, demolition, storage piles, unpaved roads, track-out, or off-field agricultural operations.

Copies of Rule 55 may be obtained at [www.vcapcd.org](http://www.vcapcd.org) under Rule Development (Current Rules and Regulations).

P8. All on-site utilities shall be required to be installed underground per 1994 Zoning Ordinance Section 6.04.1805.24.

P9. The applicant shall be required to design the one-car garage/carport with a minimum unobstructed inside dimension of 10 feet by 20 feet.

## SPECIAL CONDITIONS

### ENGINEERING AND PUBLIC WORKS

S1. Prior to Building Permit issuance, the applicant shall show the following on the site plans:

- Existing and proposed utilities in the public right of way and onsite to the building footprint, including sewer main and laterals, water main and services, fire hydrants proposed and nearest existing, street lighting proposed and nearest existing, storm drains, gas lines, telephone lines, cable and Edison lines (underground and overhead including poles). The sewer, water and storm drain shall be shown with size and type of pipe. The plans shall also include gas, electrical and cable service that is existing and proposed.
- Stationing of any new or existing sewer laterals from the nearest existing manhole. Sewer lateral slope and elevation of point of connection and lateral elevation at right-of way shall be shown for new sewer laterals.
- The linetype for each type of utility shall be shown distinctly and existing improvements shall be faded and dashed and proposed improvements shall be bold and continuous.
- The site plan shall contain project title and address of owner and permit number, vicinity map, unabridged line type, symbol and abbreviation legend. Each symbol shall be distinct and existing symbols to be dashed and/or faded and proposed symbols to be bold and continuous. The site plan shall be prepared on 24x36" sheets to engineers scale not greater than 1"=30'.

**IN ACKNOWLEDGEMENT & AGREEMENT:**

\_\_\_\_\_  
Douglas Tucker,  
Planning Commission Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Anne Stirling Hastings,  
Property Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
William Lindsay,  
Applicant

\_\_\_\_\_  
Date

**END OF CONDITIONS**