

**Minutes of the Regular Meeting of the
Lemoore Planning Commission
October 12, 2009**

Vice-Chairperson Elgin called the meeting to order at 7:00 p.m.

Attendance: Norgaard, Meade, Marvin and Elgin
Absent: Kendall, Clement and Ormonde

Public Comments and Inquiries: No Public Comments

Approval of Minutes of Meeting of September 28, 2009.

It was moved by Commissioner Marvin, seconded by Commissioner Norgaard, to approve the minutes of September 28, 2009 as submitted.

AYES: Marvin, Norgaard, Meade and Elgin
NOES: None
ABSTAIN: None
ABSENT: Kendall, Clement and Ormonde

Gated Communities Policy Discussion

Joe Mendiola, Assistant Planner, stated that the feedback forms received from the Commissioners are put together as a summary of the responses and included in the packet. He stated that the consensus that he received, was that everyone was in favor of gated communities. He asked if his assessment was correct. He stated that if it was not the correct assessment, then he needed to know what is the correct assessment and what decision would the Commission like delivered to City Council.

Commissioner Meade stated that the majority of the Commission thinks that gated communities should be considered with conditions. He stated that there were differences of opinions on what the conditions might be and that the consensus that Gated Communities should be allowed under certain circumstances but did not know what those circumstances were. Meade stated that he spent the last 5 days in Carlsbad and spent some time driving around looking at gated communities. He stated that there were many large gated communities and he was not in favor of seeing large gated communities in Lemoore.

Commissioner Marvin stated that he agreed with Commissioner Meade and from the maps that were given gated communities wouldn't work.

Mendiola stated that the criteria form is designed to get to the fine points and to form a policy that everyone agrees to. Mendiola asks if everyone agrees that of his assessment that Gated Communities should be considered with conditions. He stated that the aerials that were included were to give the Commissioners an idea of what is out there in the community, but none are proposed for gated communities.

Commissioner Norgaard stated that he was not sure of Commissioner Meade's statement that the majority was in favor of Gated Communities, but that Carlsbad had a lot of them and he wouldn't want them in Lemoore.

Commissioner Meade stated that was his personal opinion, when he looked through the survey results of the 6 respondents, one of which was himself, he felt that the majority thought that Commission should consider gated communities. He stated that he had seen many large gated communities in Carlsbad and as an example he would not like to see Victory Village, which has approximately 230 to 280 homes, as a gated community. He stated that the Golf Course has a much small number of homes, and that makes sense. Meade stated that there is a market for gated communities and that might be a quality of life for some people in the City and he thinks that they should give it to them, but he did not want to see this on a large scale.

Commissioner Norgaard stated that he understood some of what Commissioner Meade was stating, but that in regards to what the conditions should be he did not think that the Commissioners were qualified to make those conditions. He stated that he felt that the highly paid Planning folks who know the traffic in and out, etc., should come up with these. Norgaard stated that he is concerned about how many walkways go to the park, schools or wherever, and he thought that it's almost more important than the main entrance.

Norgaard stated that from the inception, the housing development has to include in their plans to end up in a gated community and that even then where do you put the walkways or do you, or do you just leave them out. Norgaard stated that he had talked to Mendiola and stated that he would like to have seen information on the present gated communities in town; he would like to see a comparison, how bad they have been thought through, are they impossible to get through from one end to the other, how many pedestrian walk-throughs are there, and are the existing gated communities are they worth a hoot, much less to add to what we have, what are the good and bad points.

Mendiola stated that the purpose of this is to be more proactive and a little less reactive to try and fix problem after it's occurred, or have the subdivision be built and it's not what was expected to be. He stated that the purpose of the criteria form is to get minimum or maximum allowances. He stated that part of the planning process is to look at the future and determine what if scenarios and that was what they were there for. He stated that the aerials were given as examples so that they could visualize that area as a proposed gated community and determine what effects if any they would have on the surrounding neighborhoods either positive or negative. Mendiola stated that the criteria form was for Commission to document their responses as they reviewed the aerials and give them examples. He stated that the questions that needed to be answered by the Commissioners were to give staff direction so that they know how to draft the ordinance. Mendiola stated that ultimately staff wanted to catch the problems at the time that the developers come in with a project

Commissioner Elgin asked if the developable land that is left in the City is PUD. Planning Director Smyth replied just about. Elgin stated that she appreciated staffs need for Commissions direction because she knows that staff spends a lot of time with the developers prior to bringing to Planning Commission, and that Planning staff would like to tell the developers, "yes, Commission will accept" or "no", Commission will need more. She stated that staff does try to read Commission's minds, they try to know what is going on, because they don't want to come in front of Commission with a project that they know won't be approved and not only does it cost staff time, it costs the developers money.

Planning Director Smyth stated that staff had invited a few developers like Steve Butler with Valley Oak Apartments and the developer for Village at Acacia as they had expressed interest in the past to have a gated community. She stated that at one point in time there was talk that Jonathon Homes might consider gating their subdivision. She stated that the Pierce subdivision and the Lake View Apartments were the only current gated communities.

Commissioner Meade stated that from a vehicular stand point and from an Educational stand point, walking distance for bus stops are required. He stated that for Kindergarten students it's a ½ mile; for grades 1 thru 8 it's 1 mile; for grades 9 thru 12 it's a 1½ mile; and Special Education programs under Federal Law require portal to portal access to where children live, which means their front door to the Schools front door. He stated that portal to portal is federally sensitive and they solely had problems with the multi-family. He stated that as educators they had to be aware of the access in and out almost like emergency vehicles. He said that in his 2 years of portal to portal transportation he did not recall a problem in Lemoore with the gated communities.

Mendiola stated that all gated communities then should be required to have ADA access.

Commissioner Norgaard asked the Planning Director if it read that gated communities will be allowed and the structure thereof will be reviewed by Planning Director and developer before the inception of the plan and if it could be a general statement.

Planning Director Smith stated that what she heard was conditional allowance, meaning that there has to be some kind of condition. She stated that as an example of a variance, in the Lemoore's Code, it states that to even be considered for a variance, 3 findings need to be made, then based on the findings, if they don't meet the findings, you can tell the applicant that they don't meet the findings, but I can't stop you from applying, but based on those finding, she could let them know that legally she could not show compliance unless Commission sees a different way of viewing the request. She stated that what she had heard from Council and Commission was that there should be some conditions.

Smyth gave an example of the Faun Terrace Apartments where the owner wanted to put up gates. She stated that this site is shown as number 3 on the survey, and the layout has one access point from the street then stops. It has 3 little cul-de-sacs that come in, and that it doesn't make since to put a gate where you can't get a Fire Truck in.

Commissioner Meade stated that in this example case gating would not make since and questioned if there is a minimum number of access ports egress that the City has for any development that would apply to this type of thing. Mendiola stated that the Fire Department requires for 2 ingress and egress for every 40 units.

Vice Chair Elgin asked if the gate was more of the hindrance for circulation. Director Smyth stated that it was both.

Commissioner Norgaard stated that all the criteria that were being brought up should be criteria for allowing or not allowing gated communities. Director Smyth stated that was correct and what staff wanted to get from Commission. Norgaard stated that he shouldn't have to know as much as the Planning staff because he doesn't have a degree in Planning and felt that the staff should be the ones to come up with a minimum criteria that is acceptable. He stated that staff should report all there findings to Commission and if it met all the criteria, then that was what the applicant had to have.

Commissioner Meade stated that they were the board members of the community that have common sense about how the community works, how things flow, and what is acceptable and what is not. He stated that was what made Lemoore a community, as opposed to an organism. He stated that Planners can deal with organisms and Commission has the opportunity to add some life and culture to that to make Lemoore what it is. Vice-Chair Elgin stated that the Commission represents the people.

Commissioner Norgaard stated that he didn't agree, because he didn't think that the developer could be cost effective if he had to entertain every detail.

Commissioner Meade mentioned that it was up to the Planning Director to make Commission's details work.

Commissioner Marvin stated that he agreed with both Commissioners. He stated that the Planners should set the minimum and as Mendiola stated that the point of entrance should be one or two vehicles wide. Marvin stated that staff should come up with the minimum and Commission should add to it. He stated as an example if a developer comes in, Planning can give him the minimum standard and state that Planning Commission may add additional conditions.

Mendiola stated that the Federal Government has very basic minimum standards, and that each Community may have special items for special issues that they need to address. He stated that if this City had a high rate of special needs students the basic minimum standards wouldn't be enough and is Commission okay with the basic minimum standards.

Vice Chairperson Elgin opened the meeting to Mr. Butler at 7:35 p.m.

Steven Butler stated that he is the developer for the Valley Oak Apartments, a 73 unit development located on Hanford-Armona Road between Cinnamon and 17th Avenue. He stated that they were about 60 days away from opening and that he had been working with Planning staff for close to 2 years and one of his concerns going into the project was that he was interested in gating his community. He stated that the Commissioners were all on the right track, that they did have common sense and he understood the concerns of the State. He stated that the developers already have a basic minimum standard that they have to comply with at State level. He stated that there are minimum standards with ADA especially with special needs and all developments have to be ADA compliant.

Butler stated that the development is required to be two percent ADA compliant which would be two units and his project has four units. They have a minimum of entrances and exits and they are required to have two. He stated that the project has loading zones and buses or vans can drive up to the front door, and they have pedestrian gates. He stated that the City of Lemoore has a standard 27 foot minimum, for fire Department they require 18 feet minimum to get a fire truck into the facility, which is acceptable to the Police department. He stated that there is a minimum for doing gated communities; you can't stack cars in the street. He stated that if they were allowed gated communities, they would be required to give access to Fire and Police to a lockbox in front, so if the gate is closed they would have a key to open gates. They would have the gates opened from the time the kids go to school until about 6 p.m., and have a touch box for guests. He stated that the idea for gated communities is security for our tenants.

Commissioner Marvin asked if Butler had the gates on the Site Plan. Butler stated that he had it there from the beginning hoping that the City would someday allow gated communities. He stated that at the site now he has all the gates in place even though it's not functional, hoping that the City would reconsider gated communities. Mr.

Butler invited Commission to visit the site. Commissioner Meade asked about the movement of the gate. Butler stated that is was a rolling gate because of the size of the site. He stated that one thing that he did think should be required, and he has already talked to the Fire Department about is, a back up battery for the gates to automatically open if the power is cut. He stated that there is another system but didn't think that the Volunteer Fire Department could afford it, which is the strobe system that would probably cost half a million dollars.

Commissioner Norgaard asked Butler if he thought there were some areas in Lemoore where he would not be able to comply with the minimum standards. He stated that a statement could put in there that based on the California minimum standards, would take care of itself. Planning Director stated that there was not a standard for gated communities. She stated that you would get standard minimums from the Fire and Police Departments and any other agency involved. Butler stated that older units can be retrofitted with gates as long as they meet the criteria.

Vice Chair Elgin stated that she wanted to see in writing from Fire Chief Gibson what the minimum requirements are and the stacking room.

Butler stated that the appeal for gated communities is security for the tenants. He said that he has found that the Lemoore and Hanford area are different, and the people here are different than people in Fresno. He stated that when it came to someone renting, he considers his development a little upper scale, than some of the others that are here. He stated that it is an amenity that is almost a necessity for the renter's security and that would be one of the criteria that they look for when renting. Commissioner Norgaard thanked Mr. Butler.

Vice Chair Elgin stated that maybe if the Commissioner should start by looking at the property that is not developed yet and set standards for those undeveloped properties. Planning Director Smyth stated that at our last discussion the only clear direction that staff received was on Cambridge Lennar / DeVante Villas that is wedged between Liberty Middle School and the future elementary school and Hanford-Armona Road and Cinnamon. She stated that it is surrounded by several arterial streets, with seven entrances. She stated that the Commission's and Council's consensus previously was no way should this be gated.

Commissioner Elgin stated that they needed to come up with the standards and they need to start going down the list. She asked if single family residences should have a maximum. Planning Director asked if there should be a minimum. Mendiola stated that picture number one would be the single family residence. Commissioner Norgaard asked if 20 units would be worth the developer's time. Planning Director stated that the only subdivision that she could think of would be Holly Oaks adjacent to the Golf Course. Elgin asked if not units then what about acreage and if there was a minimum of maximum.

Mr. Butler stated that if you have a lot of entrances and exits it would be a very difficult thing for Fire and Police. He stated that if you had one or two ways in and out he could understand a gated community, but with an abundance of entrances it would be very hard to control.

Elgin asked if at 60 units you had to have two or at 40. Director Smyth stated that for every 40 you had to have two. Commissioner Meade stated that he was in favor of the multi-family residences being gated communities. Commissioner Elgin agreed, and stated that any new developments or any under construction should have the option. Mendiola stated that if the existing multi-family units apply and they meet the lower thresholds that are set under a Conditional Use Permit, they will be allowed to do a gated community.

Commissioner Marvin stated that in regards to the questionnaire, persons 1, 2, & 3 answered almost the same and in some instances all 6 answered the same and stated isn't that direction. He stated that Commission could not determine the size minimum or maximum. The minimum won't be acceptable for the builder and the maximum were discussed and it didn't matter how big it is as long as long as it meets the criteria. He stated that with the survey, the minimums from Fire, Police, and School districts.

Mendiola stated that he then can conclude that as far as the number of units, access points, and entrance size, will be determined by the minimum standards determined by Police Department, Fire Department, ADA, and what ever staff has.

Vice Chair Elgin stated that she thought that if we set the standards to low, every community that came in on the Westside is going to have a gate on it, and that is what they want to stay away from.

Commissioner Marvin asked Elgin that if the communities asked to be gated doesn't Commission have to tell them if they can have it or not and if we thought that they needed a pocket park we would tell them.

Vice Chair Elgin stated that Commission already has that opportunity under the PUD.

Planning Director Smyth stated that there were no additional ones and pointed out on the transparency map of the bike path the connectivity of streets and how it is anticipated to go through there and staff would ask if it was inhibiting or hindering, bike path traffic, pedestrian traffic, and other traffic going through those areas. She asked if there should be a turnaround as Mr. Butler has at his project.

Jeff Britz, City Manager stated that on behalf of the Volunteer Fire Department there are significant issues here regarding the time that it takes to get to the lockbox and open the device or if someone was having a heart attack and the ambulance is responding while they are waiting; time is being taken away from the persons that are needing the assistance. He stated that the gates that swing normally are crash sensitive, so if you crash into them they pop open.

Mendiola stated that Britz had some valid points that something that is there to protect you can also be a hindrance.

Britz stated that the Communities that are gated now most are non-functional so they haven't been a problem because they don't work. He stated that whatever decision that Planning Commission made, the Fire Department would work with it, and if they have to wait for the gates to open the Commission will have to live with the consequences.

Commissioner Meade mentioned that there is a thing of freedom of choice. He continued that if an individual chooses to live in a Gated Community he believes that they should have that choice if it's available to them, and if it takes extra time for the gate to open then they are accepting the consequences. He continued that as a School person he was required to put crash able gates, because if there were an emergency, the emergency vehicle could crash through the gates and do what they needed to do, and I think they should have that right. He mentioned that if Commission prohibits that choice, he stated that he thought that was wrong.

Commissioner Norgaard stated that crash able gates should be required.

Mendiola stated that Commission has agreed that an 18 foot minimum on the entrance and asked if they would consider making it a condition of the one feature that Mr. Butler mentioned on the separate visitors separation and turnaround. Commissioner agreed.

Commissioner Meade asked if on the Westside there were dedicated walkways or a bike path that goes in and out of the potential development and wouldn't it take precedence over the Gated Community and would not allow a Gated Community to block them off..

Planning Director explained that in the General Plan there is a proposed bike path that would be parallel with the railroad. Staff worked with Victory Village on their improvement drawing and the bike path comes in at the park and will cross easily through to the College.

Mr. Butler suggested that they could place walkway gates that allow bike paths or walkways to go through the subdivision and still be a Gated Community.

Director Smyth stated that she did check with the City Attorney on Gating a Public Park that is within a subdivision which would not be allowed.

Smyth asked the City Attorney if you have a Gated Community what happens to the streets and what happens to a Home Owners Association (HOA). The Attorney stated that it would definitely have to convert public streets to private streets. The persons then in the Community would have to pay for the private streets maintenance and they would have to form an HOA.

Commission Meade asked how that differed from an LLMD.

Planning Director stated that the difference between LLMD and HOA is that LLMD is a financing mechanism to excerpt monies to pay for landscaping and lighting. An HOA collects it and maintains the streets within.

Commissioner Norgaard stated that he and Commissioner Marvin were in agreement that they didn't want the Gated Communities but they weren't going to be the hold out and say you can never have it.

Mendiola stated that he would recap what he has understood.

- Allow Gated Communities for multi family and single family
- No minimum or maximum criteria for units or acreage
- Require turnarounds for visitor along with ADA and Fire Department accessibility for the entrances
- Road will become sole responsibility of the HOA
- They can not hinder or block any existing or proposed bikeways or walkways
- ADA accessibility throughout
- Fire and Police accessibility
- Crash Gates

Anything that the applicant may propose to the Planning Commission would be reviewed at that time.

Mendiola asked who pays for the repair on the crash gates. All agreed the Developer.

Mr. Butler stated the Home Owners Association.

Vice Chair Elgin stated that she did not want the Westside to turn into a Gated Community, and continued that she could not come up with a reasonable standard.

Commissioner Marvin asked if the Westside was broken up into four blocks.

Director Smyth stated that there were a total of 19 parcels, 4 of which were being looked at by Cambridge Lennar, Mangano, Grisal and Victory Village a few years ago.

Mendiola suggested that Commission revisit the policy on a periodic basis to see if it still meets the goals that Commission wanted to meet and if it doesn't then make the changes.

Vice Chair Elgin asked Britz what would happen if two large subdivisions went in on the Westside and were approved for a Gated Community and a third development came in and requested to be a Gated Community and Commission decided they didn't want a third.

Britz stated that they would have work with the criteria. Commission would have to choose one of the criteria to turn down the third Gated Community otherwise if they complied with the criteria and Commission says that they just changed their mind, then Commission would have trouble.

Commissioner Meade stated that if for some reason there was an occasion that this needed to be revised that could make that decision from Council and believed their did not need to be a sunset clause.

Mendiola stated that he will bring a draft ordinance for Commission review to the meeting of October 26, 2009.

Director Smyth stated that there will be two Public Notices; one will be October 26 before Commission, and the second notice for City Council on November 17, 2009. She continued that staff would get together with Fire Department and see if they have specific standards. Vice Chair Elgin stated that she believed that Police also needed to be involved especially for the stacking area. Commissioner Marvin stated that the school districts should also be involved. Mendiola asked Meade who would be the person to talk to for the school district. Commissioner Meade stated that he would get Mendiola that information.

Director Smyth stated that what she was hoping to get from this meeting was a yes/no on each of the aerial examples so that staff has a better idea of what is expected. Vice Chair Elgin asked the Commission for general consensus if they believed the example aerials might be considered for gating. The response was item #1 for Liberty/DaVante was no, item #2 for Country Club Villas was yes only if throat ok, item #3 for Faun Terrace was no, item #4 for Alderwood Apartments was yes only if 2nd entrance opened, item #5 for Sugar Plum subdivision was yes if throat ok, item #6 for Valley Oak Apartments was yes, item #7 for Victory Village subdivision was no, and item #8 for Fox Street Villas was yes.

PLANNING DIRECTOR'S REPORT:

Planning Director reminded Commission that Rotary was having their annual crab feed. She continued with a reminder of the Valley Land Use meeting on Friday October 16, 2009, and stated that the two commissioners that

are signed up need to meet in front of City Hall at 7:15 in that morning. She continued that our next meeting is on October 26, 2009.

COMMISSION'S REPORT AND REQUEST FOR INFORMATION:

There was none.

ADJOURNMENT: The meeting adjourned at 8:45 p.m.