

**MINUTES
PLANNING COMMISSION REGULAR MEETING
AUGUST 4, 2009**

1.0 CALL TO ORDER

The Regular Meeting of the Planning Commission of the City of Highland was called to order at 6:00 p.m. by Chairman Haller in the Donahue Council Chambers, 27215 Base Line, Highland, California.

Present: Commissioners Randall Hamerly, Trang Huynh, Milton Sparks, Michael Stoffel, Michael Willhite, Vice Chairman John Gamboa and Chairman Richard Haller

Absent: None

Staff Present: Lawrence Mainez, City Planner
Ernie Wong, City Engineer
Sean Kelleher, Assistant Planner
Linda McKeough, Administrative Assistant III

2.0 COMMUNITY INPUT

Mr. Kirk Wilson, 7493 Sonora Lane, Highland, California, who is a resident, addressed the Commission. He asked the Commission if the City of Highland has Building Standards for exterior decorations, flagstone, etc. A Commissioner responded that Design Guidelines are provided to the Developer and are now approved by the Commission. Mr. Wilson stated how he had attended the various meetings regarding the General Plan and the vision for the next ten to twenty (10 – 20) years, the Civic Center, etc and how the City and he wants things to look nice and how there are basic design styles within the EHR. He had complained of the Valero Gas Station located on the southeast corner of Base Line and Seine and across the street on the southwest corner of Base Line and Seine is an ARCO Gas Station. The ARCO Station has a tiled roof with Spanish architecture. The Valero Gas Station located on Greenspot Road and Boulder Avenue has a Spanish roof / awning. Mr. Wilson further explained the Valero Gas Stations located on State Street in Redlands, in Fontana also has tile roofs and asked the Commission why doesn't the one on Base Line / Seine have a tile

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roof. This one has a bright, blue band, and basic designs and looks like the Truck Stop located off of Milliken Avenue in Fontana. The Valero Gas Station should have a Spanish roof to conform to the other Valero's designs and to the existing ARCO across the street. A Commissioner responded how the Applicant had met with the approved Plans and was approved approximately four to five (4 – 5) years ago. Staff added it was approximately one (1) year ago and has evolved over the years. The Valero Gas Station is not yet complete in that it needs massing, there is no roof on the canopy, still needs landscaping and the Valero Project will be a part of the frontage towards Wendy's. Mr. Wilson was showing photographs of the various Valero Gas Stations on his cellular phone to the Commission and asked if the Developer can add to the rooftop and when a person is traveling on the 210 Freeway to get to City Hall, the Valero Gas Station does not look good. He had company at his residence and complaints were made of the Valero Gas Station. A Commissioner stated the Valero Gas Station on Greenspot Road was previously a Mobil Gas Station. Mr. Wilson kept interrupting one of the Commissioners and would not allow the Commissioner to speak and said there are dozens of Valeros around and stated to get the owner to change the roof. The Commission then thanked Mr. Wilson for his comments.

3.0 CONSENT CALENDAR

3.1 Minutes of July 7, 2009, Regular Meeting

Discussion ensued between the Commission and Staff regarding Page 4, First Paragraph, Seventh Sentence regarding if it was fifteen feet (15') or fifteen percent verbiage. ("A comment was made by a Commissioner with the proposed parking / spaces, that it can be bumped out by fifteen percent (15%) and have angled parking and need a COA for wheel stops approximately two feet (2') back at the final curb and will help keep the landscaping from being damaged.") The Commissioner indicated there were two (2) objectives going on there, trying to obtain more space in front of the Building and only three feet (3') in the Parkway exploring options on how to get more landscaping / buffer in front of the Building, but couldn't remember which. Staff responded and indicated Staff will conduct the research and will return the Minutes at the next Meeting. The Commission concurred and it was noted the July 7, 2009, Minutes were pulled from the Agenda and will be resubmitted on August 18, 2009, for the Commission's consideration.

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4.0 PUBLIC HEARINGS

- 4.1 CUP-007-008 - The subject Conditional Use Permit Application is for Construction and operation of a thirty thousand seven hundred and seven (30,707) square feet of Retail, Restaurant, Warehousing uses on the Site. The Proposed use of the Site includes two (2) Drive-thru Restaurant Facilities. The Project Site is approximately 3.75 gross acres (163,533 square feet) in size. The proposed Project is located on the southwest corner of the intersection of Boulder Avenue and Greenspot Road (APN: 1201-361-17-0-000) Representative: Bud Thatcher, Thatcher Engineering and Associates, Inc.[Continued from June 16, 2009, and July 21, 2009, Planning Commission Hearings.]

Chairman Haller then introduced the Item and its continued Public Hearing and called for Staff's presentation.

Assistant Planner Kelleher gave the presentation from the Staff Report and explained the proposed revisions to the Commission which included, but not limited to the following: 1) Revised Site Plan and landscaping; 2) the Greenspot Road driveway was relocated to the far west end of their Site; 3) relocated the Fast Food Restaurant pad inward on the Site; 4) contact was made with Southern California Edison attempting to move the driveway approach further to the west, however, it would cost \$1 million dollars to relocate the existing Edison Building and would not be feasible to place this on this Development; 5) there is a little bit of an angle at the entrance is to have a 90° intersection with the street is curved at that location; 6) added a court yard in front of Building "C" for outside dining area and accommodate additional landscaping; 7) the relocation of the Drive-thru between Buildings "B" and "C", and; 8) provided an entrance statement and a path of travel. Staff had concerns with the Trash Enclosure and had placed a COA that the Trash Enclosure would now be located in front of the Restaurant to eliminate the line-of-sight conflict. There was also concern with the turning radius at the corner which may also have a line-of-sight conflict. Assistant Planner Kelleher continued how the Applicant would install an above ground basin in Phase 1 for the water quality management system and explained the COA to the Commission. The on-site landscaping, overall, did drop by almost two percent (2%), as part of the Revised Site Plan and some of the water quality management features that were incorporated into the landscaping and explained the proposed landscaping design. The Best Management Practices were utilized and the Applicant would lose a couple of parking spaces in order to incorporate additional landscaping and then Assistant Kelleher concluded his presentation.

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Chairman Haller asked if the Commission had questions of Staff. Hearing none, he then asked if the Applicant would like to make a presentation.

Mr. Bud Thatcher, of Thatcher Engineering, 345 Fifth Street, Suite B, Redlands, California, who is the Applicant, addressed the Commission. He said that he had been on vacation. He indicated that he did listen to the Commission's comments and that the Project is on an important corner. The access to the Site is difficult and the location of the proposed driveway is the best location. With regards to the sense of place in the Project, design elements would be implemented into the Project. The Site is a triangular shaped property and explained the installation of pervious pavers at the back of the sidewalk and through the driveway from the intersection into the Project. There would be seating for outdoor dining and allow for a gathering place. There would be an amount of reduced landscaping and decreased amount of water quality features, but not with using pervious pavers. The courtyard area would be enhanced with colored concrete and will integrate some landscaping there. There were some issues with the driveway between the two (2) Buildings and explained about a proposed paver crosswalk to direct the traffic at the entrance of that driveway and personally does not see a conflict between the pedestrian traffic crossing that crosswalk and people entering that Drive-thru and indicated he felt that more than adequately handle sight distance and access issues at that location. There would be colored concrete, landscaping / shading and explained that would be submitted for design review at a later date. Mr. Thatcher further explained how the proposed Project is relative to the Greenspot Road Master Landscaping Plan with the Entry Statements, intersection, handicap parking, pillar(s) and took into concept with the triangular edge with the pillar small wall being twelve inches to eighteen inches (12" – 18") in height with color landscaping. He indicated it will make a nice statement for Greenspot Road and for the proposed Project. Mr. Thatcher reiterated the design will be submitted to the Commission for review at a later date. With regards to the trash enclosure placed in front, he prefers it in the back and believes it is in the right place / location for it and not Staff's proposed location. Mr. Thatcher then explained to the Commission of the Project Phasing and the low ground level, but open detention / infiltration basin and would landscaped with natural grasses and hydroseed and would be maintained by the Water Quality Management Plan through the Property Owner's Association. Then with Phase 3, with the construction of Building "C", the underground storm system will then be installed. He requested the Commission reconsider the COAs regarding the Trash Enclosure and the building of the underground storm drain and further explained about the infiltration system. Mr. Thatcher then said he would be happy to answer any questions the Commission may have.

Chairman Haller asked if the Commission had any questions for the Applicant.

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A comment was made by a Commissioner regarding the Entry Statement (of the Greenspot Road Master Landscape Plan) and indicated the Entry Statement should not be considered the entry to the Project Site, but an Entry Statement to the District. The Commissioner asked the Applicant to look at the District Monument, Gateway and Landscape Area in the Median. That is the Gateway Statement, not an Intermediate Statement. Mr. Thatcher responded he understands that and that is why the proposed wall height sweeping up to the height of the pillar and integrating with the Greenspot Road neighborhood is proposed.

A comment was made by a Commissioner the Gateway sense with the pavers with little pedestrian traffic, and believes something was lost in the translation. Mr. Thatcher responded that he could not agree more. The Commissioner asked about the validity of how the pedestrians are going to travel with two (2) lanes of traffic from the parking space to the Building. Mr. Thatcher responded that can be omitted, if the Commission designed with Building "B". The pedestrians from within the walkway can cross to the sidewalk and he can make this connection and install landscaping and indicated this appears to be the best path of travel. The Commissioner agreed and stated this is the shortest and best path of travel and Mr. Thatcher responded for it not to be used as an access point.

A comment was made by a Commissioner regarding the Trash Enclosure / Floor Plan in that he is less inclined to push in front of the Building and need to slide it against the Building. Staff responded the front is where there is parking and towards the south of the Structure and read Planning COA No. 105 to eliminate the line-of-sight issue.

A question was asked by a Commissioner regarding the order of parking and Staff responded that is how the Applicant presented it to Staff and it needs to be readjusted by Building "A" and still needs to be worked out.

Discussion ensued between the Commission and Staff regarding the various potential locations for the Trash Enclosure.

The following are comments made by the Commissioners with the Drive-thru and Trash Enclosure location: 1) one of the COAs the Commissioner read if there are large orders, there needs to be some way in pulling that vehicle off to the side so that other vehicles can pass through and relieve the queue and how Building "A" would block the main entrance into the Site and Building "C" a vehicle would be pulling off and blocking the southern most access to the Site; 2) the area / location is tapered that area / location and is not a nine foot (9') wide

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aisle at that end and is a tight turn. Mr. Thatcher responded he could relocate the Trash Enclosure to the east and remove the Loading Zone and would get that radius to work for the large order parking. Staff responded that Staff has the Commission's directives and is willing to work with the Applicant and Mr. Thatcher would be supportive of that.

A comment was made by a Commissioner that he is unhappy with the entire Site. There is no access to Buildings "B" and "C" without walking / going through the parking lot and walking with the traffic. The driveway is on the other side of the Jack in the Box Restaurant and also has diminished the landscaping, circulation on the west side and east side parking to Building "C" and stated how nobody wants to go through that. The Commissioner stated there is nothing to invite you onto the Site and how the Buildings are located way in the back. Mr. Thatcher responded that is how the Lowe's Building is located near the rear of the property with the parking in front of the Building, as the proposed Project has the same design concept as with the buildings down the road. A Commissioner responded that Lowe's is a Big Box Building and there were requests made by the Commission and appears the proposed Site Plan is something like the twenty-seventh (27th) version and wanted to see previous concepts with the general idea what may work better. The parking, architectural element as a monument feature similar to the Fresh and Easy proposal and having it as an anchor tenant and located on the corner of the property similar to what Fresh and Easy constructed in Loma Linda. Mr. Thatcher responded he did that Site (in Loma Linda). The Commissioner said even though it is a difficult Site, and it may be crowded, the Commissioner indicated that it shows that you can move the Big Box (Jack in the Box) out to the corner, that it will work and would give a nice street presence and monument to that corner. Mr. Thatcher responded it would block the signage and hide the Project behind it. The Developer wants a window for each Building from both streets. Mr. Thatcher explained how the Project designs were from early on, predominantly an "L" shape design for the Project. The triangular area with the flow he can do that and will work with it. He tried to work with the back because it's difficult having the odd shaped square footage, street and the rear of the property. Mr. Thatcher stated the Lowe's is located at the other end of Greenspot Road and he how he is trying to anchor the Project from his end at Greenspot Road to what is located and existing at the other end which is Lowe's. Lowe's have 4 X 4 islands and a huge field in which that is your landscape. He indicated how he tried taking the back of the property and landscape it and explained he could put in a few walkways in, but he cannot orient the parking up / down (north / south) into the Buildings because there is not enough room due to the drive aisle and the Greenspot Road Parkway. A few of the Commissioners stated they had learned a lot from the Lowe's Project.

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A question was asked by a Commissioner regarding going to Building "C" Drive-thru would a person then exit onto Greenspot Road. A Commissioner stated then after going to the Drive-thru, a person would exit on Boulder and turn right. Discussion ensued between the Commission and Mr. Thatcher regarding the Greenspot Road Median. Mr. Thatcher responded that he can remove the painted island / striping and maybe he can turn left there and indicated that was a good point. A Commissioner responded how the Applicant has the width and then install the landscaping into the Median and Mr. Thatcher responded that might be a nice feature.

A question was asked by a Commissioner about the extreme east end of the Building with the Drive-thru and Mr. Thatcher responded that it was originally set up that way and said that he can add that.

A comment was made by a Commissioner how there was some discussion having a walkway in the middle of the triangular area and that it was an option and that it is not shown. Mr. Thatcher responded and apologized in that it was just missed and there were a lot of comments and was not meant out of disrespect and can absolutely add it.

Chairman Haller said this is a Public Hearing and asked if anyone in the audience would like to speak on the Item. Hearing none, he then reopened the Item back up for discussion amongst the Commissioners.

A comment was made by a Commissioner how he is looking forward for relocation of the westerly driveway and that it is most important that this driveway be moved to the west to allow more space for the northbound movement at Boulder Avenue. Mr. Thatcher stated how the Edison Substation is also an "unsightly neighbor" and dislikes bringing the public into the Project "down the back alley" rather than "in the heart" of the Project.

Discussion ensued between the Commission, Mr. Thatcher and Staff regarding access sites and the ease of the access, northbound maneuvering traffic on both sides of the Project. There are more options for screening the Edison property, allows more landscaping within the parking lot and is sparse. There is also a need for the Applicant to dress up the street presence of the Project and also presents a difficult Drive-thru.

The following are comments made by the Commission: 1) it will be an improved site if a left turn can be made via the Edison parcel; 2) landscaping / trees to screen Edison with the interior of the Project; 3) maintain enough space with the

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Courtyard area; 4) likes the Building "C" with the Courtyard area design; 5) with the canopy, it is a nice gathering place; 6) does not have pop out / relief on the facade; 7) need landscaping against the Building; 8) unhappy with the east side of Building "C"; 9) there are traffic maneuvering issues. Mr. Thatcher responded the Applicant is willing to work with Staff with the driveway. He further said there is nothing we can do with the turn and driveway located at the southern end by Building "C", but will enhance the landscaping and pedestrian traffic from the street into the Project.

A question was asked by a Commissioner regarding Conditions of Approval on (landscape) berms located on Greenspot Road or Boulder Avenue. Staff responded there is a Municipal Code requirement stating three feet (3') in height between the edge of the Right-of-Way and the parking lot and indicated that is for all parking lots located within the City. A comment was made by a Commissioner the landscaping is tight located on the northeast side of the Project. Mr. Thatcher responded that is a one and one half foot (1'6") grade change from the street and could install a berm that is one and one-half feet (1'6") below the street on the parking side, believed that there is room and is acceptable with him. A comment was made by a Commissioner regarding a COA about a six inch (6") wide mow strip on the property line bisects the landscape area and would like to see that (the mow strip) "go away". Staff responded that the mow strip is not consistent with the Greenspot Road Landscape Master Plan. Staff added the Project will be annexed into a Landscape Maintenance District and there is no need for a mow strip. A comment was made by a Commissioner that the Commission also provided the same thing with the Lowe's project and Planning COA No. 65 on Page 26 of the Staff Report defines the landscaping. Staff responded Planning COA No. 65 can be removed / deleted and with the Project going through design process, have the Applicant show the Landscape Easement. Staff further added that Planning COA No. 52 is a Standard COA. Staff added on Planning COA No. 56, it should state "landscape fingers" and not "landscape islands" so it should read as "Landscape fingers shall have a minimum interior dimension of five feet by sixteen feet (5' X 16') of interior area, exclusive of the curb and any twelve inch (12") wide "step out", or as approved by the Planning Commission."

Discussion ensued between the Commission and Staff regarding Planning COA Nos. 107 and 108. Staff explained the Best Management Practices is a Water Quality Management Plan feature to the Commission. A comment was made by a Commissioner either way. in the easterly or westerly direction, the difference is four feet (4'), not two feet (2') and the Applicant will lose two (2) parking stalls. Discussion ensued between the Commission and Staff regarding landscaping relative to the parking stalls.

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A question was asked by a Commissioner regarding the minimum Parkway width and the latitude not to give up the Plaza space on Building "C" and suggested the Applicant push it to the north. Staff responded that is not an issue and is between ten feet to twelve feet (10' – 12') on Greenspot Road. A question was asked by a Commissioner if there will be a landscaping finger every eight (8) parking stalls and Staff responded that is correct. Mr. Thatcher stated how Lowe's has a different parking area and a Commissioner stated how the Lowe's Applicant appealed up to the City Council. Mr. Thatcher further stated the Project is over-parked for Restaurant / Office / Retail Sales use and is carving a lot out of the Project. A Commissioner responded the occupancy load is based on Restaurant use and Mr. Thatcher responded the Applicant is willing to work with that. Staff indicated that Staff's formulation was using 100% as a Restaurant use for the parking figures. Mr. Thatcher stated there are the four foot (4') lateral (landscape) islands as a Best Management Practices and is not necessary as a Water Quality Management Plan and have addressed that with an underground system. Mr. Thatcher further stated it is unnecessary to be a full four feet (4') and working with the Best Management Practices areas, and suggested to allow flexibility with the four foot (4') number. A Commissioner responded with the wheel stops, the parking space is eighteen feet (18') with a two-foot (2') overhang. Mr. Thatcher responded the four feet (4') is behind the curve.

Discussion ensued between the Commission, Mr. Thatcher and Staff regarding pervious paving, infiltration design and percolation. Mr. Thatcher stated that trees / walkway will be introduced and utilize that area and does not want to look like Lowe's with dead landscaping strips. Staff responded to Mr. Thatcher that the landscaped islands is a Best Management Practice that is not only intended to treat pollutants, but also to reduce surface flow. Staff further explained pervious pavement is another type of a Best Management Practice that will reduce surface flow. Staff stated using the parking lot landscape median will show the Project's best effort to comply with Water Quality regulations, and does not change the Site design. The landscape area is to be four feet (4') wide. With the curb being six inches (6") wide, the curb to curb distance is five feet (5') with a four foot (4') landscape area. The landscaping provides bumper space for two (2) vehicles and further explained Staff has started to use a Minimum Standard Requirement of four foot (4') landscaping requirement in other projects. Mr. Thatcher agreed with Staff and does not want to bring the photo back to the Commission with the center island having dead vegetation.

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Chairman Haller stated there are seven (7) items that have substantial changes to the Site Plan and asked if the Applicant could return in two to three (2 – 3) weeks with the Revised Site Plan or write COAs on the seven (7) items and it would take more time for the Applicant to revise the Site Plan. Mr. Thatcher responded the Applicant is willing to work with Staff for the revisions and move forward with signage, landscaping and requesting the Commission to approve the Project tonight. He further stated by coming back in two (2) weeks, the Applicant would have to redraw the Plans and the Applicant has already lost tenants because of taking so long and reiterated his request for the Commission to approve the Project tonight. A Commissioner responded if the Commission adopts the Resolution tonight, it may affect the Building Elevations, facades, the Design Review Application, etc. The difference between the Planning Commission and Design Review Process was discussed. Staff stated with the CUP Entitlement, it is inappropriate to Condition the Project and in the long run, Staff's interpretation and recommended the Applicant revise the Site Plan as part of the Entitlement. Staff indicated this is the Commission's Plan and Staff is uncomfortable working with the Applicant to interpret the Commission's directives and Staff not wanting to miss any comments and reiterated to the Commission Staff's recommendation for the Applicant is to revise the Site Plan and return to the Commission for further consideration and Mr. Thatcher agreed with Staff. A question was asked by a Commissioner regarding the latitude of the Building facades, shifting Buildings around without the COAs. Staff responded there is a lot of leverage and the process is combined now (combined DRB and PC). In the future, Staff does not want the Commission to defer issues related to landscaping, traffic flow, circulation, etc. because they are design issues. This is not at Staff level and is a Design Review process for the Commission to consider as part on a CUP / Design approval. A comment was made by a Commissioner that Planning COA No. 22B to change the verbiage from "Design Review Board" to "Planning Commission".

A question was asked by a Commissioner if Mr. Thatcher needed a recap and Mr. Thatcher responded he understands the Commission's directives and is not adopting the proposed Commission's Resolution tonight. A comment was made by a Commissioner with the Trash Enclosure, the underground Retention Basis in Phase 1 and the Applicant is requesting them in Phase 3. Mr. Thatcher stated it would be shown in the Phasing Plan.

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A question was asked by a Commissioner about vector control with the Retention Basin and Mr. Thatcher responded the water drains down in forty-eight (48) hours due to the percolation. Staff explained the recent policy regarding standing water and an open Basin that can do the job and is not an issue, but there is concern with the appearance of it and not have active landscaping on it and reiterated it is a Temporary Basin. With the concern of water ponding, if there is a heavy storm, the Basin could be fenced. A Commissioner responded if the Applicant does in Phases, it may be looking at years with the Basin, if completed in a timely manner, that is acceptable, but with Building "C", there may be a ditch out there. Mr. Thatcher responded with the current troubled economy, it is \$200,000 with an underground system and an above ground, there is dirt with a field of flowers and how the Basin drains more quickly with it being open and able for percolation. A question was asked by a Commissioner about the area not being fully landscaped and Mr. Thatcher responded it would be fully landscaped, and explained to the Commission it would be either a dirt / flat field design or a bowl design.

Discussion ensued between the Commission and Staff regarding landscape maintenance, percolation, standing water and if the standing water would kill the landscaping. Comments were made by the Commissioners that they do not want to put a financial hardship on the Developer, but also does not want to set a precedence either. Mr. Thatcher responded regarding the Best Management Practices in that there is an agreement within the document and indicated that is not a long term solution, but has to have a clear field with Building "C".

The following are comments made by the Commissioners: 1) there have been projects Conditioned before with a time frame and gave the example of Building "C" or within two (2) years; 2) there are concerns with the landscaping, the dirt Basin, the maintenance of the Basin, and liability with ponding; 3) a chain link fence would look bad; 4) with eighteen inches (18") below (grade), there needs to be a barrier and fencing is an issue. A question was asked by a Commissioner regarding overflow and Mr. Thatcher responded he will have to look at it and indicated it is an island and is a left over area. A Commissioner responded for the Applicant needs to look at all safety issues and Mr. Thatcher agreed.

Chairman Haller asked if there were any other issues. Staff responded the access location of the access on Greenspot Road in that was moved back to the original position. Mr. Thatcher added the alternative driveway to the west, originally, was in the center, now it will be in front on Building "A" and far back. A Commissioner responded regarding a temporary connection of the existing driveway to the Improvement Plans relative to Greenspot Road.

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Discussion the Commission, Mr. Thatcher and Staff ensued regarding when the Applicant would be able to submit the Revised Plans and the date certain for continuing the Public Hearing.

A Motion was made by Commissioner Hamerly and seconded by Vice Chairman Gamboa to continue the Public Hearing to August 18, 2009.

Motion unanimously passed on a 7 – 0 vote.

- 4.2 A Design Review Application (DRB 009-007) for the Re-plotting of Lots 2, 3, 9, 10, and 25 of Tract Map 17263. In addition, the Applicant is proposing Revisions to the Plan 1 and Plan 3 Building Elevations and their associated Landscaping Plans. The Project is located on the west side of Church Street approximately 150 feet south of Base Line. APNs: 1201-481-01 through 04, 07 through 11, 24, and 25. Representative: Keith Herrin, Williams Homes.

Chairman Haller then introduced the Item and its continued Public Hearing and called for Staff's presentation.

Assistant Planner Kelleher gave the presentation from the Staff Report and explained the Tract location of the Tract, Building Elevations and associated Landscape Plans to the Commission.

(Note: City Planner Mainez left the Chambers at 7:34 p.m.)

Assistant Planner Kelleher then concluded his presentation and opened the floor for discussion.

Chairman Haller asked if the Commission had any questions of Staff.

A question was asked by a Commissioner regarding Lot 25 was originally a one-story unit and now the Applicant was to place a two-story unit on the Lot. Staff responded Lot 24 is vacant and the Trail is adjacent to the east. A question was asked by a Commissioner regarding what about across the street from Lot 25 and Staff responded that, too, is a vacant Lot. The Commissioner then stated this is where he resides and explained there is a one-story element as you enter the Tract, and how the DRB had approved this Project years ago. Both a Commissioner and Staff added there were two-story units because of the down slope. The setbacks were also discussed.

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Chairman Haller asked if the Commission had any further questions of Staff. Hearing none, he then opened the Public Hearing and asked if the Applicant would like to make a presentation. The Applicant declined Chairman Haller's offer. He then asked if anyone in the audience would like to speak on the Item.

(Note: City Planner Mainez returned at 7:37 p.m.)

Ms. Leonora _____ (inaudible on the tape) who resides on the south side of the Tract, who is a resident, addressed the Commission. She stated the vegetation has not been watered and is dead where it goes down to the Trail and is a fire hazard. A question was asked by a Commissioner if that Lot is a Lettered Lot and Staff responded affirmatively and explained the original Development had been abandoned for some time and the landscaping and maintenance was not yet accepted by the City. With the proposed Project, the new Developer had cleaned up the weeds, dead vegetation and will bring back to the original condition of the Project and added with be part of this Project's Condition. She then thanked the Commission.

Mr. Andrew Kruk, 7428 Marigold, Highland, California, who is a resident, addressed the Commission. He requested to view the layout and was concerned with some design style elements and wanted to be assured they were the same. A Commissioner responded affirmatively. Mr. Kruk then thanked the Commission.

Mr. Keith Herrin, of William Homes, 21080 Airport Parkway, Suite 101, Santa Cruz, California, addressed the Commission. With regards to the Landscape Maintenance District (LMD) areas, the City owns the Lot, at this time. The Facilities are in place, and Edison and Water utilities are turned off and said for the City to turn on the Edison and Water utilities. Mr. Herrin reiterated the City has been collecting taxes for that and is now a City Lot.

A question was asked by a Commissioner about the timing of replacing the landscaping. The Applicant responded about breaking ground in sixty to ninety (60 – 90) days and will start to clean up the landscaping. Staff responded how the bank was going to discontinue paying for the Edison and Water Bills since the bank does not own it. The City consider the Water Bill for the Landscape Maintenance District a few weeks ago and Staff was agreeable to that. Until recently, Staff was unaware that the water was off and will check it out and is willing to work with the owner. The Applicant responded that would be taken care of in short order.

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A question was asked by a Commissioner about the Landscape Maintenance District and if the Plans / process were different and maybe two (2) separate issues. Staff responded the City was granted by the Original Owner for space and the City accepted the fee Title and went through the process and was recorded and indicating by accepting the ownership does not mean the Original Developer and the ownership of land is separate of the responsibility of the land. Both the Applicant and Staff stated this was added back in the COA. A question was asked by a Commissioner if the Original Developer defaults and the LMD is not installed, what is the City's future position. Staff responded there is still interest in the Project and the process for the improvements installed. The City can also do bonding and have the off-site work done. Discussion ensued regarding the Lettered Lot, LMD, start paying the utilities, the LMD annual assessment fee and the City is paying for the utility, but not the labor. A comment was made by a Commissioner that the Water utility needs to be turned on.

The following are comments made by a Commissioner on Plan 2 Floor Plan in that the windows on the Elevations centered between the bedroom and column (Page 16 of the Staff Report) and how the Floor Plan centers in the room and what is shown on the Exhibits needs to be offset by one foot to two feet (1' – 2'). With regards to Plan 3, the clear story window looks crowded (Page 23 of the Staff Report) and the pitch change on the roof and asked why is it steeper and crowds out the window.

(Note: Vice Chairman Gamboa left the Chambers at 7:54 p.m.)

Further comments were made by the Commission in that the gable roof crowds the small window and the Developer might be trying to match the pitch of the roof on the left side of the front door which seems heavier. The Applicant responded and said he will look into it.

Chairman Haller asked if anyone else would like to speak on the item. Seeing none, and there being no further questions of the Applicant or Staff, or discussion amongst the Commissioners, Chairman Haller then called for the question.

A Motion was made by Commissioner Hamerly and seconded by Commissioner Huynh to:

1. Approve Design Review Application (DRB 009-007) Amending the Plotting of Lots 2, 3, 9, 10, and 25 of Tract Map 17263;

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2. Approve the Revisions to the Plan1, as amended with the windows and Plan 3 Building Elevations, as amended to the roof and their associated Landscape Plans, subject to the Conditions of Approval, and;
3. Approve the Design Review Findings of Fact.

Motion carried on a 6 – 0 vote with Vice Chairman Gamboa absent.

- 4.3 A Parking Adjustment Application (VAR-009-001) to adjust the required number of parking spaces on-site to allow for the reuse of a Contributing Historic Structure within the City of Highland's Historic District. The Property is located on the southwest corner of Pacific Street and Palm Avenue (6906 Palm Avenue) APNs: 1191-471-13 and 16. Representative: John F. Acosta, Mountain Architecture Inc.

Chairman Haller then introduced the Item and its continued Public Hearing and called for Staff's presentation.

(Note: Vice Chairman Gamboa returned at 7:57p.m.)

Assistant Planner Kelleher gave the presentation from the Staff Report and indicated that he would be using Attachment 3 (Page 11 of the Staff Report) for his presentation. He explained to have the Commission focus on the leaseable area and off-site parking. Assistant Planner Kelleher recommended the Commission accept the parking adjustment recommended by Staff and that Staff has also been working with the Historic and Cultural Preservation Board and then concluded his presentation.

Chairman Haller asked if the Commission had any questions of Staff.

Discussion ensued between the Commission and Staff regarding Staff's formula for the ten (10) parking stalls was just for that Project or relative to the amount of the parking area within the Historic District, if the credit for the parking area be claimed by other types of businesses such as realtors, markets, banks, tenants, clients, etc. within the District and people being parked there for an extended time, if the District will be getting refurbished. The hours of operation can still be spread out with the amount of parking spaces for the mixed business uses and Staff explained how the Stater Brothers Market located in the Shopping Center on Greenspot Road and Church Street is such an example and is an active site.

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A question was asked by a Commissioner if there will be handicap access for the Building, walkway and ramps and Staff responded that will be looked at through the plan check process and added that Building and Safety Division has already reviewed part of this Design Review Application.

Chairman Haller asked if the Commission had any questions of Staff. Hearing none, he then opened the Public Hearing and asked if the Applicant would like to make a presentation.

Mr. John Acosta, III, of Mountain Architecture, Big Bear City Airport, Suite A-1, Big Bear Lake, California, who is the Applicant's Representative, addressed the Commission. He stated the basement has a five foot (5') ceiling, but he has not been down there and indicated because of cost, the basement will be filled.

Chairman Haller asked if anyone would like to speak on the item. Hearing none, he then closed the Public Hearing and opened the floor for discussion amongst the Commissioners.

The following are comments made by the Commission: 1) does not see a problem in that a person is unable to do much about the amount of parking for the Building; 2) unable to construct a parking lot down the street; 3) is a "vision street" and sees this as a pedestrian corridor where a person travels from the Town Center area down to the Historic District, and; 4) there are not many options for parking.

Chairman Haller asked if the Commission had any further questions of Mr. Acosta or Staff. Hearing none and there being no further questions of Staff or discussion amongst the Commissioners, Chairman Haller then called for the question.

A Motion was made by Vice Chairman Gamboa and seconded by Commissioner Huynh to approve the request for a parking adjustment in accordance with Land Use and Development Code Section 16.52.050 Adjustments to Off-Street Parking Requirements and the City Council Work Program for Palm Avenue Street Improvements.

Motion unanimously passed on a 7 – 0 vote.

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- 4.4 CUP009-003 - An Upgrade of an Off-Site Sale Beer and Wine License (Type 20) to an Off-Site License Beer, Wine and Distilled Spirits (Type 21) State Department of Alcohol and Beverage Control ABC for "M and G Mini-Market". The Property is located at 26710 Fifth Street on the northeast corner of the intersection of Fifth Street and Cunningham Street. APN: 1192-542-38-0000. Representative: Dick Evitt

Chairman Haller then introduced the Item and its continued Public Hearing and called for Staff's presentation.

Assistant Planner Kelleher gave the presentation from the Staff Report which included, but not limited to the following: 1) the Site location and its legal non-conforming use; 2) the Census Tract and the number ABC Licenses have been permitted; 3) the number of Calls for Service for the Crime Reporting Districts within the City of Highland. He then recommended the Commission deny the proposed Project and concluded his presentation.

Chairman Haller asked if the Commission had any questions of Staff.

Discussion ensued between the Commission and Staff regarding the number ABC Licenses permitted within the Census Tract and its pre-existing conditions and the Census Tract is revised every ten (10) years and if the Commission approves the CUP allowing the License upgrade, the Commission would have to make a Finding of Convenience and Necessity and Staff would return with a different Resolution.

Further discussion ensued between the Commission and Staff regarding the Applicant currently has a Beer and Wine Type 20 ABC License and would be able to continue to sell the Beer and Wine and not allow to upgrade to sell Distilled Spirits. The following comments are made by the Commission: 1) the Owner had the Business prior to the City changing the Zoning in that area; 2) does not want to impede anyone, and; 3) the Applicant is not adding additional structure to the Building.

Chairman Haller asked if the Commission had any questions of Staff. Hearing none, he then opened the Public Hearing and asked if the Applicant would like to make a presentation.

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Mr. Dick Evitt, 5905 Wincliff Drive, Riverside, California, who is the Applicant's Representative for M & G Market, addressed the Commission. He indicated how Staff has been gracious every time he has contacted / met with them. He stated the Store was built in 1969 – 1970 as a Circle K. The old buildings have been removed and said if the Commission approves this CUP, the Applicant's Beer and Wine License would be canceled and the ABC License upgrade would replace it and the Applicant would be unable to keep both ABC Licenses. Mr. Evitt said it's not a "Liquor Store" and that it is seventy-eight percent (78%) store and is a Convenience Market. Mr. Evitt provided an example like how the Applicant has no cans of peas to sell to his customers, so he is adding them to the Market's inventory in order for his customers to buy. The closest liquor store that sells hard liquor is Cee Vee Liquor Store and most of his customers walk to the Store. He stated when the Applicant is adding the Distilled Spirits, the Applicant is not changing the location designation and stated is a non-conforming use. With regards to the Police Report (Calls for Service), and the Applicant enforces the ABC rules and the Applicant has stopped people under 21 years of age of attempting to purchase Beer. Mr. Evitt asked about the forty-three percent (43%) Crime Reports and how many are alcohol related. He indicated the Store has been cleaned up and the coolers have milk, soft drinks, etc. in them. There is twelve feet to eighteen feet (12' – 18') of shelving located behind the cash register that is away from customers. Mr. Evitt reiterated that the Store is not a Liquor Store, but is a Convenience Store that is selling liquor and he would be happy to answer any questions the Commission may have.

A question was asked by a Commissioner if there is video monitoring equipment in the Store and parking lot and Mr. Evitt responded affirmatively.

A question was asked by a Commissioner what is the ratio of his customers buying Beer and Wine versus groceries and Mr. Evitt responded less than twenty percent (20%) of the Applicant's sales is Beer and Wine and the rest is groceries.

Ms. OK Ja Lee, 26710 East Fifth Street, Highland, California, who is the Property Owner, for M & G Market, addressed the Commission. She stated the Business can be run and follows the rules. The Building is clean both inside / outside and wants the Liquor License Upgrade for the Applicant and there is control with the ABC License. Ms. Lee stated how she has worked with 7/11 Store people and they have beautified the Store and indicated in 1990 – 1991, she owned the Business there. At that time, there was crime there in the residential area, but is not there now and reiterated how she hopes the Applicant gets the Liquor License Upgrade. She explained how she owns the Building, as well as owns other stores.

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A question was asked by a Commissioner regarding the time period of the Crime Reporting Period and Staff responded it was from March 1, 2008, to February 28, 2009, and is the most current.

A question was asked by a Commissioner regarding the percentage of the Census Tract or Call for Service is State-wide or County-wide area and Staff responded that it is the City-wide area.

Chairman Haller asked if anyone would like to speak on the item. Hearing none, he then closed the Public Hearing and opened the floor for discussion amongst the Commissioners.

A question was asked by a Commissioner regarding with the current M & G Mini-Market name, can the Applicant change the Store's name and Staff responded the Applicant can change the name, sell the ABC License and explained that it is a Land Use Entitlement.

Discussion ensued between the Commission and Staff regarding the number of ABC Type 20 and Type 21 Licenses within the Census Tract, if the Commission approved the CUP, the Applicant would be replacing their ABC Type 20 License with a Type 21 License. There was concern of over concentration the Commission could be setting a precedence, and Staff added there is overriding conditions. Staff further added off-site and on-site sale is Class 40 and 41 and is counted separate from liquor stores, restaurants, etc.

A question was asked by a Commissioner if there is an increase of crime rate and Staff responded the State of California has the legal ability due to crime statistics and that the State mandated that regulation.

The following are comments made by the Commission: 1) the number of ABC Type 21 Licenses located within the Census Tract; 2) if the Commission approved the CUP, then the ABC License would be like everyone else listed in the Census Tract, and; 3) people walk to the Store there.

Staff indicated the R-1 Zoning does not have liquor stores located in the R-1 Zone and added how Staff received the Applicant's CUP 009-002 and the CUP was then withdrawn and then the Applicant resubmitted the CUP Application.

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Staff asked the Commission if the Commission believes the Type 20 to Type 21 is an expansion of the current use. Staff added the Table is listed in the Municipal Code which defines the Liquor Licenses and that it requires a CUP when there is an upgrade. A Commissioner responded it is an expansion of the use in that the Beer and Wine alcohol and the Applicant is adding Distilled Spirits, and that it is another type of alcohol. The percentage of groceries versus alcohol in that there are twelve (12) Type 20 or Type 21 Licenses and with the crime statistics, he is not making the connection between crime and the alcohol. Another Commissioner responded the experts of California that run the ABC Liquor Licenses with the Type 20 and Type 21 uses, and the need for the Commission to rely on the experts. The problem is with the upgrade and reiterated to leave to the experts. It is a non-conforming use and does not want to have an increased use in a Residential use. The Commission is unable to make the Findings of Convenience and Necessity and is linked to crime statistics and is unable to support the Project. Another Commissioner concurred and is unable to see the Type 21 (ABC Licenses) that are listed with other local strip malls that are Zoned Commercial and hates to see the Residential Use have a Type 21 ABC License. A question was asked by a Commissioner regarding the Residential Use and it is difficult for the Business and drive the Business out of business. Staff responded the General Plan says it is Zoned Residential, but reminded the Commission the Business is a legal, non-conforming structure and use. A Commissioner indicated the Business is not being driven out, the Business was grandfathered in and the Applicant can still sell Beer and Wine. A Commissioner added if the use is vacant for 180 days, there is a potential the Applicant could not go back to the current use.

Discussion ensued between the Commission and Staff regarding the Commission's options either recommend Staff's recommendation (of denial) or make a Finding of Convenience and Necessity and have Staff return with a different Resolution for the Commission's consideration. Staff responded that Staff needs some guidance from the Commission. A Commissioner responded that this is hard and not clear. The Finding of Convenience and Necessity would have to outweigh the over saturation, crime rate and non-conforming use.

Chairman Haller stated this is a tough decision and asked the Commission if the Commission wanted to discuss it some more or entertain a Motion. There being no further questions of Staff or discussion amongst the Commissioners, Chairman Haller then called for the question.

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A Motion was made by Vice Chairman Gamboa and seconded by Chairman Haller to Adopt Resolution 09-018 Denying Conditional Use Permit 009-003 based on its Legal Non-conforming status, all subject to the recommended Findings of Fact.

Motion carried on a 4 – 3 vote with Commissioners Sparks, Stoffel and Huynh dissenting.

Chairman Haller explained to the audience the Commission's action can be appealed to the City Council within ten (10) calendar days.

(Note: Assistant Planner Kelleher left the Chambers at 8:43 p.m.)

- 4.5 SRP 009-009 – a Staff Review Permit to authorize the reuse of a vacant non-conforming residential duplex located within the City's Planned Commercial (PC) Zoning District. The property is located at 8037 Tippecanoe Avenue, near the southeast corner of Fifth Street and Tippecanoe Avenue. Representative: Jack Getzelman, Residential Mortgage Solutions, LLC.

Chairman Haller then introduced the Item and its continued Public Hearing and called for Staff's presentation.

City Planner Mainez gave the presentation from the Staff Report which included, but not limited to the following: 1) the abandonment of the Property location and its non-conforming use; 2) the Applicant is attempting to resell the Property; 3) is noted by the Municipal Code states discontinuance, regardless of use. He reiterated it is Staff's opinion and the Property has been abandoned and is discontinued use and read Staff's recommendation into the record that the Planning Commission deny the Applicant's request to reuse a vacant, non-conforming residential duplex located in the City's Planned Commercial Zoning District in accordance with the City's Land Use and Development Code Chapter 16.08.150(C) of Non-conforming Parcels, Uses and Structures (Discontinuation of Non-conforming Use). City Planner Mainez then stated the Applicant is in the audience and then concluded his presentation.

Chairman Haller asked if the Commission had any questions of Staff.

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A question was asked by a Commissioner about the present non-habitable condition of the Structure and Staff responded there has been no activity. The Property has been cleaned up, but got electricity. The City is not authorizing utilities because it is uninhabitable and suggested perhaps the Applicant could enlighten us. If the Applicant is allowed to reoccupy / resale, the Applicant would have to contact the Building Official and obtain Permits.

A question was asked by a Commissioner regarding if the Applicant expends certain monies, then what can be done with the Property and the highest and best use and whether there is an option.

Chairman Haller asked if the Commission had any further questions of Staff. Hearing none, he then opened the Public Hearing and asked if the Applicant would like to make a presentation.

Mr. Eddy Kep, of Residential Mortgage Solutions, 2800 Twenty-Eighth Street, San Bernardino, who is the Applicant's Representative, addressed the Commission. He stated he has a small business with fifteen (15) employees. He explained the Homeowner Loan Modifications and that he has been doing this long before the economy went bad and is restructuring payments. With regards to the Code Violations in 2007, the borrower would not comply and also work with frozen assets. The principle is that every asset counts and appreciates Staff's attempt. Mr. Kep said he wants to have the utilities turned on and drove by the Property today and indicated the Structure is habitable. The property across the street is commercial and also residential and has a kiddie pool out in front and the adjacent property is also residential. Mr. Kep stated he is here for the Commission to reconsider and indicated that the house is a secure house. Other investors will turn away from this and indicated the property / house is not viable to be razed and then rebuild. The property owner is next to a liquor store. The Lot is easier to be sold as a residential duplex, as opposed to a thin, commercial strip and there is no incentive for revenue.

Chairman Haller asked if the Commission had questions of the Applicant.

A question was asked by a Commissioner about the time frame for rehabilitation and Mr. Kep responded that it is not a Code Enforcement issue and the Building seems to be "occupiable" and habitable and from a real estate perspective, it can be marketable. If there are Code violations, they will be fixed and then re-evaluated and if he is allowed to sell as a residential duplex. After a recent meeting with Staff, this was the first time he had heard of the Code violations and that the borrower never contacted him.

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A question was asked by a Commissioner about the Highest and Best Use for Non-conforming use if the Applicant would have trouble selling or getting another purchaser to come in and be able to obtain financing for an existing, non-conforming use and the Applicant responded give another 180 day extension or a non-commercial use. The Commissioner responded that the Commission is unable to make the Finding to make the property and structure a commercial use. The Applicant responded that is the only asset that we (his Company) have in this type of situation and is unsure if there is a lender for it. The property was financed by FHA and that the Applicant's Company does not do loans and has partners that do them. The Applicant further indicated that he is trying to protect the investment; keep the property secure, keep the lights on and try to sell the property, if / with the Commission's approval.

A question was asked by a Commissioner regarding the property, would the City count as Low or Very Low Income. Staff responded the area south of Ninth Street is not Zoned Residential in the City's General Plan, although it is existing housing stock. Mr. Kep responded that is a disservice to the neighbors who reside there.

Discussion ensued between the Commission, Mr. Kep and Staff regarding the property is potentially listed for approximately \$200,000 and the feasibility if the property was purchased and developed a residential tract. Staff asked the Commission if it is appropriate for the property owner has vacated this use to and with the burdensome provision in the Code and the Commission is uncomfortable with making that decision, that burdensome question of whether the discontinuation and Staff read the Code Section to the Commission of the of the non-conforming use provision that the discontinuation shall include termination of use regardless of intent to resume the use. Whether or not the Applicant puts this back on the market and sells it, that is not the issue. Staff recommended the Commission uphold the Code, as recommended by Staff. Mr. Kep stated we never discontinued the use and then asked who is paying the utilities and is unsure if the property is whether or not it is still listed. Staff responded with Code Enforcement, there are no utilities and that the property / house is substandard and unfit for occupancy. There is no running water, the house is open and accessible to the homeless. A Commissioner asked if Staff can bring the Code Enforcement items forward and (who) enforced the discontinuance of the utilities. Staff responded there are issues with the homeless in there and the structure needs to be a boarded and secured to prevent illegal access.

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Discussion ensued between the Commission, Mr. Kep and Staff regarding the following: 1) there is no hot running water or heat; 2) the structure is vacant and is boarded up; 3) interested if the one front wall is falling / breaking apart; and cosmetically, is a nuisance. Staff suggested if that is that important to the Commission, this Item could be continued for two (2) more weeks. The Applicant responded Code Enforcement violations were in 2007 and the Applicant purchased in April 2008 and the utilities were on. From a lender to owner, with time spent and the utilities on, and reiterated the Code violations were in 2007. Staff responded that a Substandard Lien was filed and two (2) Commissioners indicated if there was a Certificate of Occupancy, the gas can be turned on.

(Note: The Commission recessed at 9:07p.m. and reconvened at 9:10p.m. with all Commissioners present.)

A Commissioner stated not only Code Enforcement violations in 2007, and asked if the property / house was in use in 2007. It has not been in use and explained City Council's policy, the property was not clean and with the community / area being in transition, the Developer is unable to develop as commercial.

A question was asked by a Commissioner if the property could be used as commercial. Staff responded ninety percent (90%) of the property owners located south of Ninth Street are speculative buyers and most are renters and some even long term renters. With the Staff working with the Planning Counter and Real Estate Agents, buying lot-by-lot-by and that lots are an investment and the Agents wanting to keep the units occupied and avoid Code Enforcement. In the future, Staff indicated there is nothing, at this point, but that might change. Staff further explained how San Manuel Tribe bought the Norton Air Force Base Housing and that area will slowly change with new development. The owner tonight can market and could develop that Site with office / phasing and master plan that block area. Mr. Kep responded that is not within the investor's parameters and the investor said do what you want with it. He further said there is a viable party here and had a buyer in April. Based on the discussion with the Applicant's Managements, is willing to work to secure the property and is in non-conformance. With the 2007 Code violations, that was under another buyer there. Mr. Kep then said he would love an extension with the Code violations and bring back or if the Commission feels he can rent it out and give him the option.

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A Commissioner asked the Applicant if he went inside and Mr. Kep responded affirmatively. The Commissioner indicated with a 180 days, is a routine maintenance / repair and if unable to rehab the structure with maintenance / repair and cannot extend the life of the property. Staff added how Staff has issued Permits in the area for a reroof, and do allow routine Permits, i.e. window, water heaters, painting, etc. A Commissioner requested Staff to send out Code Enforcement and report back to the Commission and feels the Commissioner would like to have the house occupied, rather than a vacant house for two to five (2–5) years. A Commissioner stated with non-resident owners, if they are unable to provide renters. The property is maintained as a rental and is non-habitable, and is not rentable. Staff stated how every parcel is at risk, unless Code Enforcement has found violations. Mr. Kep stated to keep the property / house marketable and reiterated he was made aware of the violations in April 2009, and requested the Commission to give another 180 days to get another renter in there. The utilities were an issue when “we switched hands” (changed owners) and the property is an intended rental use.

Chairman Haller then asked if there was anyone in the audience who would like to speak on the item. Hearing none, he closed the Public Hearing and then opened the floor for further discussion amongst the Commissioners.

Discussion ensued between the Commission and Staff regarding the following: 1) when Code Enforcement first got involved in November, 2007; 2) what the process / procedures Code Enforcement goes through and Substandard Lien(s); 3) the Commission makes decisions regarding the Municipal Code and Land Uses, and cannot do spot Zoning; 4) no one has resided on the property since November, 2007; 5) the Commission does not know what Code Enforcement has done now with the property; 6) it has been 180 days; 7) why did Code Enforcement go out to the property in the first place; 8) the Applicant can appeal up to City Council and Staff would prefer that; 9) (Staff) never had to go this far in the process, and; 10) would like to see City Council consider this Item.

There being no further questions of the Applicant or Staff or discussion amongst the Commissioners, Chairman Haller then called for the question.

A Motion was made by Commissioner Willhite and seconded by Commissioner Hamerly to Adopt Resolution No. 09-019, Denying the request to reuse a vacant non-conforming residential duplex located in the City’s Planned Commercial (PC) Zoning District in accordance with the City’s Land Use and Development Code Chapter 16.08, Section 16.08.150(C), Nonconforming Parcels, Uses and Structures (Discontinuation of Non-conforming Use).

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Motion unanimously approved on a 7 - 0 vote.

Chairman Haller explained to the audience the Commission's action can be appealed within ten (10) calendar days up to the City Council.

5.0 LEGISLATIVE

5.1 Land Use and Development Code Interpretation related to Chapter 16.56, Sign Regulations. The location is City-Wide.

Chairman Haller then introduced the Item and called for Staff's presentation.

City Planner Mainez gave the presentation from the Staff Report and explained about a Planned Sign Program, Monument Sign and a way to deviate the height and Sign copy area and provided the Jack in the Box Signage located on Base Line / Sterling Avenue as an example with the new Jack in the Box Corporate Logo image turned in with added height and square footage to the Sign. The Commission added the Logo area and the box was supposed to be built around it. He also provided another scenario if Jack in the Box closed and a new business (i.e. Dairy Queen) was established on the same property, how would the Signs are to be determined.

Discussion ensued between the Commission and Staff regarding how the new Logo Sign area (for Jack in the Box) is larger than the old Logo Sign area in that the new Logo and letters on the Sign's facade are tilted and the Sign area could now be between ten percent to fifteen percent (10% - 15%) larger. A Commissioner responded how Jack in the Box wanted to be unique and then their Corporation changed Corporate Logos and should be reconsidered by the Commission through the Design Review Application process. The following are further comments made by the Commissioners: 1) in the future, be like Rancho Cucamonga with their Sign Programs / designs; 2) is tired of Jack in the Box trying to be unique and then the monstrosity is constructed; 3) with the new development, does not want to turn new developers away; 4) need a policy; 5) the (Jack in the Box) Sign Program was ugly; 6) limit the Sign area – have the developer have this much square footage of Sign area and if need be, shrink the Corporate Logo. Staff responded there is a need to review the Sign Program.

Further discussion ensued regarding the Jack in the Box Sign Program and its Sign designs and the Freeway Sign design by Lowe's. Staff indicated the Freeway Sign located at Lowe's is a Multi-Tenant Sign. A Commissioner responded there is a need for an approved Freeway Sign design.

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A question was asked by Staff if flexibility within the Sign Program should be permitted in the future whereby Staff can approve minor modifications and a Commissioner responded not anymore.

A comment was made by a Commissioner regarding with Greenspot Road, there is a need to allow flexibility and yet follow the rules and then provided an example with In N Out Burger.

A question was asked by a Commissioner why didn't the Jack in the Box Sign change come back to the Commission for review and approval and Staff responded regarding the new Box shape of the Sign was interpreted to be the same as the tilted shape of the old Sign. A Commissioner responded with the architectural elements, draw a red box around the text and the Logo and if the Logo is angled, the Sign area is angled and how the maximum height and maximum area are still calculated consistently.

The following are comments made both by the Commissioners and Staff: 1) Sign heights, the line-of-sight, off-site street designs are reviewed; 2) how the Applicant wanted a unique Sign; 3) the Sign Program allows flexibility; 4) with a Freeway Sign Program, a Flag Test is conducted; 5) bring back to the Commission no matter what; 6) when the change of use goes in, and; 7) if parapets, towers are deleted, color palette changes, etc., bring back to the Commission.

Staff thanked the Commission for their feedback and explained the issue will be considered in the upcoming Sign Code Update.

6.0 ANNOUNCEMENTS

Staff explained the Items tentatively scheduled for the August 18, 2009, Commission Regular Meeting.

Chairman Haller said he will be unable to attend the August 18, 2009, Regular Meeting as he will be gone for three (3) weeks.

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7.0 ADJOURN

There being no further business, Chairman Haller declared the Meeting adjourned at 9:53 p.m.

Submitted by:

Approved by:

Linda McKeough, Community
Development Administrative Assistant III

Richard Haller, Chairman
Planning Commission

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