MINUTES
PLANNING COMMISSION REGULAR MEETING
DECEMBER 1, 2009

1.0 CALL TO ORDER

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

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

Absent: Commissioner Trang Huynh

Staff Present: John Jaquess, Community Development Director
Ernie Wong, City Engineer
Lawrence Mainez, City Planner
Linda McKeough, Administrative Assistant III

2.0 COMMUNITY INPUT

There was none.

3.0 CONSENT CALENDAR

There were no items.

4.0 PUBLIC HEARINGS

4.1 Consideration of an Appeal (APP-009-003) of the City's Planning Division determination to deny a Lot Line Adjustment Application for an existing United States Post Office Facility (Highland Branch)(LLA-009-003). The Project is located at 7744 Webster Avenue, Highland, CA 92346 (generally located at the southeast corner of Boulder Avenue and Eucalyptus Avenue within the City of Highland Corporate Boundaries) (APNs: 1201-351-04 and 1201-351-11).

12-01-09.PC

APPELLANT: United States Postal Service (Represented by Douglas Boynton, Dunn & Boynton Licensed Surveyors, Inc.)

Chairman Haller introduced the item and called for Staff' presentation.

City Planner Mainez gave the presentation from the Staff Report and indicated Mr. Douglas Boynton and Mr. David Moore who are the Applicant's Representatives, are in the audience. He then concluded his presentation and stated the Applicants are here to answer any questions the Commission may have.

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. Doug Boynton, President of Dulin and Boynton, 729 East Willow Street, Signal Hill, California, addressed the Commission. He stated that he is the one who filed the Appeal as the Post Office's Representative (Licensed Surveyor). Mr. Boynton said there are two (2) parts; one is from the financial side of the Project for improvements and defer to the Postal Attorney and the City Attorney and the other is the Lot Line Adjustment (LLA) side and hopefully, will answer any technical questions and defer to Mr. David Moore regarding the property.

Mr. David Moore, Senior Vice President, of NAI Capital, Commercial Real Estate Services, Worldwide, 2280 Market Street, Suite 150, Riverside, California, who is the Applicant's Representative, addressed the Commission. He provided a brief background indicating the Post Office is looking to dispose of their assets Nationally in trying to bolster up their bottom line and stated that NAI Capital has been brought in and he is the Post Office's Representative disposing assets as their Broker Representative, and NAI Capital has a national contract in disposing of the assets with the Post Office and is involved with $100 Million of development projects annually, different companies throughout the State, as well as he recently did the Moreno Valley Tire Recycling Center. He is familiar with development practices. He explained dealing with a Federal Agency, they are trying to take two (2) parcels that they bought; they built the Post Office on the one (1) parcel located north with a small remainder parcel and another one (1) located on the south and would like to merge those two together and sell it as one to the public at large. If this is Conditioned upon a Development Plan, the Post Office has to convey the property and will have to enter into escrow with an undetermined period of time. The buyer would have to commit to coming to the City and hiring Architects / Engineers and going through the process of a Development Plan in order to get the Conditions of Approval (COA) for approval

of the future development and in escrow, both the Architect and Engineer costs would be $100,000 as an ultimate development. From a practical standpoint, the LLA or Lot Merger (LM) would be allowed to create individualized parcels. If Condition the sale, if the Appeal is denied, the Post Office will have an extremely difficult time in disposing of the asset and is counter productive to the City's goals. The City wants it to be owned by someone and the Post Office does not want to develop it. Mr. Moore further indicated how he was born here and resides in Redlands and the area has grown and for the Commission to Deny the Application, is creating a significant issue. He cited 66428 of the Subdivision Map Act and the Project be exempt and is a Special Land Use District in that area and that's where the hold up is. He indicated the LM will occur and understand the difficulties of the Post Office assets, transaction and achieving goals and dealing with the Federal Entity, not a private party, but dealing with the Government, there is a need for the Commission to step back from a practical standpoint and overturn Staff's recommendation, yet he understands where Staff is coming from and further indicated that this is counter productive for the City. Mr. Moore said there are other ways to go down that road which are more complicated, and would create more burden on Staff, the City Attorney and the Post Office and all parties involved. He said for maybe we should apply some common sense since there are no Guidelines, City Staff has to recommend Denial, but as the Commission, can understand Staff's recommendation and that it makes more sense to allow a LM, so that the Post Office can dispose of the property, because at the end of the day, the Commission is agreeing in creating two (2) parcels. The Commission is not agreeing to development, Land Use, variances or anything else. The Commission has the Development Code at its disposal to impose on this project in the future. Also included the opportunity to force downstream (development) into agreement with the Post Office for access for the southern portion for ingress / egress. If challenged for the ingress / egress on located Webster, there is over 600 feet of frontage and should not be a problem and understands what is imposed upon the Denial.

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

Commissioner Hamerly said the Ordinance is broad and why would it be a major inconvenience to draft the Guidelines indicating this is a parameter for developability on this parcel. This case has to pass a high bar with its unusual location and configuration, the height, density, setbacks are a starting point of Development Standards. Mr. Moore responded he agrees with Commissioner Hamerly's statement and if the Commission Conditions the Project today, the Development Standards never get broader / looser – they get stricter. In this economy, it is not going to get any better anytime soon and has worked on a

National basis in this business for thirty-two (32) years and we are in it for the long haul. Mr. Moore explained if Development Standards were applied for that property and in a few years, it was purchased by a developer and the Development Standards became more strict and then Mr. Moore shows a piece of paper stating to the developer he does not have to do that now as this was COAs back on this particular date and the Commission had limited their powers with the COAs placed on the property today. Wouldn't the Commission want the ultimate powers, at that time, dictate what would occur on that parcel because nine times out of ten, it will be more restrictive than today and offered that as a counter.

Commissioner Hamerly stated that he takes minor exception to that and that any use that is going to go in there it has to come before the Commission and also go through Design Review. There are no COAs on a LLA and Development Standards are adopted with Boulder Avenue / Webster Street and being consistent and enforcement of LLA and Reverse LLA the City tries to apply Standards uniformly.

Chairman Haller stated this will benefit the Post Office as it adds value to the property and there are ground rules for developing property and cannot understand why the Post Office won't do it and the Commission has to make Findings that the LLA is acceptable and to assure Zoning / Development Standards and the Commission is unable to make those Findings as there is no data for the Commission to make those Findings.

Commissioner Hamerly said especially under Planned Development.

Chairman Haller indicated there are lots of issues and there are two (2) that are significant – it is the shape and with ingress / egress access might be required from the Post Office and that there is no access on Boulder Avenue and reiterated about the need for ground rules and perplexed why the Post Office won't do it. Mr. Moore responded the vision of the Post Office is not the vision of the person buying it, and how the Post Office is not in a position-wise or manpower-wise and not knowing with the current economy. He further stated the Post Office cannot sell this property in the current configuration and provided a worse case scenario. If the Appeal is Denied tonight, another option the Post Office has is to keep that sliver of property and sell the legally assessed parcels to convey that without any restrictions and, at that time a person would come to you asking what can I do with this. The Post Office is trying to make the parcel a

little larger and the Application goes through the City Departments with Development Standards and if it is a CUP or any other requirements, a Denial of the Application and the Post Office is appealing that Denial and to reasonably move forward with the LM and that is what he is after and Mr. Moore further indicated what is on the table tonight is a flat denial what the Commission's options are if the Commission agrees with Staff's recommendation or the Commission say no merge the parcels and allow the LM and for the Post Office to sell this. Possibly, tomorrow he would take a different course of action and sell the southern parcel and then it is a moot point in that there is no ability for anybody to do anything until they come to the City and want to develop that triangular piece of property. He said the Post Office is proactive and requested the Commission be proactive and believed the Post Office's approach is a little more sound.

Commissioner Stoffel asked Staff the main reason for Denial was the lack of Guidelines.

City Planner Mainez said yes, lack of Development Standards and assurance that the LLA won't impede future plans of development and that there is a Signalized intersection and provided examples of different development plans and the access locations to the Commission. The LLA / LM would be easy and is almost administrative and provided an example of the future Dairy Queen Standards, i.e. lot size, adjust lot lines, setbacks, and reiterated the need to know Development Standards within the PD District.

Commissioner Stoffel said there is no way of allowing a LLA and saying this is what the Standards are.

Mr. Moore asked about the size of the parcel that exists today and Mr. Boynton said he is not sure for Lot B, but believes it is 4.2 acres. Mr. Moore asked how much of the northern parcel has been cut off that we are requesting to be added to the southern parcel and Mr. Boynton responded two (2) acres.

Mr. Moore said can do so much more and indicated to take a tiny parcel of two (2) acres and could sell today without Standards (referring to small triangle lot at the southerly portion of subject property – Parcel 3). The Post Office sell the two (2) acres that would never be developed or create a four (4) acre parcel and not use. This would be for a mixed use for four (4) acres as opposed to the two (2) acres and does not want to do that and is in a Special District. From a practical standpoint, since I could do it anywhere else in the City, but I just can't do it here since it is in a Special District.

Chairman Haller stated how anywhere else in the City, the City has Standards that it can evaluate and ascertain whether it is a developable parcel with the LLA and unsure of how to make that Finding here not knowing what the rules of the game are. The Commission needs to make certain Findings and is a legal risk to the City to approve what Mr. Moore is suggesting. Chairman Haller indicated someone could buy the land and someone could come in and sue the City because certain assumptions were made when he bought the property and finds out that is no longer valid, there is no documentation, no analysis that was made so you are asking the City to take on liability, as I see it.

Mr. Moore responded no, the City is not taking on any liability because I cannot develop a property. How can I sue the City because the City is not telling me that I can or cannot do something. It is the responsibility as a buyer of the property, to be diligent to come to the public body that has any jurisdictional responsibility. He then provided an example with a facility handling widgets and indicated the Commission would look at the Guidelines and find out that widgets are not allowed there, but can allow something else there. Mr. Moore stated you will not be placed in a lawsuit situation. On the lower two (2) acre parcel, can put a Fast Food Restaurant or a commercial strip with a Fast Food Restaurant that you don't want there, but is allowed in the Zoning Code and I have the proper Land Use and then a strip of nothing between it and the Post Office. The Commission is not dealing with private parties or a developer and reiterated dealing with Federal Government is challenging. The Post Office would stop the process, sell off the property and deal with it in the future and indicated he felt for Staff in that there are no Guidelines and have asked to play a game, but we don't have any rules to play with and asked is this his understanding. Commissioner Stoffel responded that is what he was thinking, clearly.

City Planner Mainez added don't think of it as a legal challenge, but think if we approve the LLA, the Post Office has the potential to restrict future development and the design of it. Will it achieve the vision for the Golden Triangle Policy Area in that will it allow that mixed use and optimize the development or what the Applicant eluded to as another strip commercial or Fast Food Restaurant that doesn't function well. We want to place lot lines, do a shopping center where there is logical and viable space for development. He told the Commission don't be afraid that someone is going to challenge the City because they bought a piece of property that is a weird shape and cannot develop it and that would be a stupid decision on their part. The required Master Plan is a discretionary review, whatever the Application desires i.e. a Planned Development Document or Specific Plan so there is some form to the development the City is comfortable with. He just wanted to add that for the question.

Commissioner Hamerly indicated he agreed with the premise is four (4) acres is better than two (2) acres and asked how Mr. Moore would be representing a property is for sale with more development challenges and being marketable and adding the two (2) acres to it would not be as equally marketable, or desirable and is not following the logic on that. Mr. Moore responded that is one of the oldest speculative moves in the world and said that it is on the market for about $1.1 Million and appraised at $6.00 / square foot. He then provided an example how he has sold 7,000 – 8,000 or 10,000 square feet at $6.00 - $7.00 / square foot and the results of that.

Commissioner Hamerly said if the little sliver of property is marketable and Mr. Moore responded he could sell it to a dozen people. Commissioner Hamerly indicated that is what he is not following and that there would be more problems / challenges given with that sliver of land than it would be for the entire 4.2 acre parcel. Mr. Moore responded this is like a hostage situation. He is going to hold hostage the person who wants to buy that property and the one next door to the Post Office and go through the LLA and Development Plan and I am going to hold them hostage to pick that little piece of property from him and said that is what the difference is going to be. You end up in a hostage taking standpoint which happens on an on-going basis. Mr. Moore said for the savvy guy, who takes the little piece of property right now and eventually, the Trailer Park will be going away (on Greenspot Road / Orange Street) and eventually, that little piece in front of the Schools will be built, and further explained with the Stater Brothers Plaza (located on Greenspot Road / Church Street) and Albertson's up the street that is one of the few, best developable properties left in that particular area in Highland so someone will pay and provided an example that in the last ten (10) years, he was also involved with the property across the street at Von's located in front of the School and that $20.00 / square foot sounds good and that is what is going to happen.

Commissioner Hamerly said there have been some projects that have been scuttled and there are Standards that say you cannot land lock property and have to make accommodations for access and provided an example. Mr. Moore responded it will not be land locked and there is access. Commissioner Hamerly responded if it is not a viable property to develop and that 4.2 acres is more marketable, but everything is speculative and needs to do a due diligence, the sale contingent upon Development Standards. Mr. Moore responded how can you take and create a contingency on an asset that you have no control over other than your police powers as a public body and the Zoning and Land Uses and that you are affectingly condemning that property. Commissioner Hamerly

responded it is not condemnation because developers do that all the time they option a piece of property with $5,000 - $10,000, and want 120 days to whatever and try to record the Map, or come up with a Specific Plan to see what is the maximum amount what they could get out of that piece of property. This has been done on an optional basis on due diligence and said how you (the Post Office) would sell the property on a contingency basis and you would have to come up with a Plan before you close the sale, because the City cannot record the LLA, you cannot sell the property until the LLA / LM has gone through. Mr. Moore responded the Commission is dealing with the Post Office who has lost $3.8 Million by the closure of September, 30, 2009. If the Post Office can squeeze $125,000 out of that southern parcel and that I can sell it, which I probably could, they are going to sell it in a month. It will be Conditioned upon Title Insurance and under the laws of the Federal Government for the sale. He appreciates everything the Commission is saying, but the issue is dealing with an Entity that will do something that is not necessarily how we would do it as normal individuals in the course of our doing business. The City has a real potential that the City can end up hurt at the end of the day and have that corner vacant for the next ten to fifteen to twenty (10 – 15 - 20) years because the Federal Government will not spend another dime on this and will not appeal anything, no Development Plan. Mr. Moore further indicated he has a fiduciary contract to market the property on a National basis, and somebody will pick up and flip the property, and probably double or triple what the person bought it for, but heard what Commissioner Hamerly is saying. Commissioner Hamerly responded (the Post Office) does not have a long term picture for developing property and has a short term vision and the Post Office is not qualified to do a Parcel Map (PM). Yet, they hired a Consultant who is capable and qualified and can do a PM they have invested to maximize the value on the property and spend another $10,000 for a Planner to do some Guidelines that would establish rules for development for a piece of property. Mr. Moore responded that ain't gonna happen how the Post Office will spend the money and he will be immediately ordered tomorrow to put the southern portion on the market and all this would be for naught and a sad situation. He provided another example dealing with the Federal Government and Hurricane Katrina. He said the property was appraised at $6.00 / square foot and is considering a price reduction and has been on the market since May, 2009. He just found out yesterday about the City's letter dated June 20, 2009, that the Application was denied and thought this was all done. With every municipality that he has dealt with, this has been an over the counter type of a situation. There is that Special District on there and understands that, but if we reach a loggerhead today and we can't get this done, we are going to end up

with a train wreck and nobody wants that. I don't want to see this in my community, I live here and my children are raised here, as well as the Commission's families are here and hate to make out the Post Office as monsters, but dealing with an Entity that is scrambling Nationally, to get as much cash as they can. They expect a shortfall this year in excess of $3 billion and in serious trouble. Mr. Moore knows what the Post Office's parameters are and the Commission will virtually have ten (10) years down the road, maybe the property will develop or maybe not and let's move forward it's a Federal Agency and do the LM, and as a back up Plan, which Mr. Moore really does not want to consider today and would exacerbate the situation. The Commission has COAs that the Commission can do and a flat Denial and there are other options the Commission could take i.e. a Conditioned Certificate of Compliance, setbacks, Webster, Right-of-Way, etc. Commissioner Hamerly stated it is a Lot Line. Mr. Moore stated how the Condition could state that (the buyer) would have to do the Development Plan within time and reiterated for the Post Office do a Development Plan and hire a Architect / Engineer to go further ain't gonna happen.

Commissioner Hamerly asked about encumbrances / Entitlement putting on a LLA with Conditionally approving this so that the sale can go forward, but when the Title transfers, whoever purchases this piece of property is going to do so with the full knowledge and understanding that this parcel is absolutely worthless until this document is recorded and has been approved by the Commission. Essentially, this is the issue and it does not have Development Standards. The LLA is contingent upon a successful recordation of Development Standards for Parcel B.

City Planner Mainez responded that part of the Condition is referencing Standards and what is the biggest impediment to develop the Site are the shape and improvements and access. If the Commission wants Staff to work with the City Attorney, the Applicant's Attorney for language for the document that could be recorded with the LLA. The (Conditioned) Certificate of Compliance would tell the Post Office / future property owner that development to the south side will have access to the Post Office and provided an example with the Post Office's parking lot, the back, and would be reciprocal opportunities. The biggest obstacle / delay would be hoping the Attorneys could work out something in which there could be a Condition that would not impede development on that south side and working directly with the Post Office regarding shared access and parking.

Commissioner Hamerly stated he could see the Post Office not wanting anybody on the south side using their parking spaces, but connecting to the south edge of the parking lot and have two (2) viable means of ingress / egress from the south parcel and no one will approve access onto Boulder Avenue and having access along Webster Street, you are now creating some Site circulation problems because the top part of the parcel is really the only viable location to locate a building and when you start factoring setbacks, and then there are parking configurations that are not laid out for vehicles.

City Planner Mainez responded and appreciated the design discussion, but is the responsibility of the Applicant to come back and submit a Plan and the questions of parking and access issues.

Commissioner Hamerly responded the ability for Parcel / Lot B through an emergency to get out through the drive aisle in the parking lot and not forgive any Parking Standards and the parking lot has to be self-contained. Whatever is proposed on Lot B, you will have to be able to park it and cannot count parking spaces located in front of the Post Office or on the street. Mr. Moore responded the solution is to create a merger and a Condition with the cross easement agreed upon for access and not for reciprocal parking, but will allow fire truck access and unsure if the Post Office would agree to that, but is a practical solution. Commissioner Hamerly said the Fire Trucks would want a 80 foot radius going through there and the only way to achieve that is come in at the north end and be able to make a broad turn and head out to the north. Mr. Moore responded the southern tip would be removed and be a grand entrance, landscaping, signage, parking up above Webster, Boulder Avenue and could do a mixed use and the path of least resistance if there is an agreement to the merger, Conditioned upon a recorded cross easement agreement between Lot A and Lot B, and that the cross easement would be for vehicular access. Commissioner Hamerly said there would have to be two (2) things: assuming the LLA is supported, the access agreement has to be done and also have some verbiage saying this parcel is not developable until it has the recorded Development Standards just like any other thing in that District. City Planner Mainez requested not to make it a Condition and Commissioner Hamerly reiterated the encumbrances. City Planner Mainez requested the LLA not be recorded until the access agreement be worked out and filed concurrently and further cautioned the Commission not to separate access from the parking, the need for shared parking and access for all vehicles, not just for fire safety and encouraged the Commission not to separate the two. Commissioner Hamerly said you need to separate the parking because Lot A is the Post Office and need

twelve (12) spaces plus handicap parking and are self-contained. City Planner Mainez reemphasized his point with an example of a shopping center with multiple uses and have to do a parking analysis, the hours of operation might benefit the development in the future and not do a typical commercial strip. Commissioner Hamerly asked if Staff would Condition the LLA to have shared parking agreement for the hours that the Post Office is closed, Lot "A" could Conditionally use some of the parking spaces for overflow. Mr. Moore stated the Post Office is run by the Federal Government and restrictions now for security and that murder in the first cause of death at post offices. He would rather have the parcel to stand on its own and don't know if the Post Office would agree to allowing people / vehicular access for parking on their particular property and may have issues with that. The Post Office may have lesser issues and Mr. Moore explain to the Post Office that from a vehicular standpoint, to be able to allow the flow of traffic and any Development Plan would be based on (lot) crossing easement agreement for ingress / egress and leave it at that. He believed that parcel can be developed in such a way that it stands on its own. A mixed use development would be acceptable to the City and be self contained and that the cross easement might work.

Commissioner Willhite asked City Engineer Wong about realigning Webster Street in the future and City Engineer Wong responded the north leg of Webster street will curve to the west to line up with a proposed entrance to the Greenspot Village and Marketplace development. Commissioner Willhite asked if the City is taking anything off the bottom parcel for this new intersection and City Engineer Wong said yes. Commissioner Willhite asked how much and City Engineer Wong responded there is a conceptual developed plan that shows the proposed realignment, although he is unable to tell the Commissioner the distance accurately without referring to the plan, he estimated around thirty to forty feet (30' – 40'). The idea is to match Webster Street with the proposed entrance.
Commissioner Hamerly said it would be for the alignment for Planning Area 3 main access and City Engineer Wong said yes. Mr. Moore said he is involved with the relocation of people on the 215 and the Freeway, he was retained as an expert witness on a couple of cases right now in that there was a partial taking of a property could render the remainder parcel undevelopable forcing you to take the whole thing. The City might end up buying this whole piece of property for the then appraised price. Even though you might not to do that, but now you have made a property that has stand on its own, that is separately assessed and has its own APN that has nothing to do with this one, now you have just have bought that property, potentially. Mr. Moore said if he was the owner and I have a condemning authority coming to me, I am going to fight and force you to take

my whole property. Or, if you take my property, you have to make me whole, not only from a value standpoint, but then you would have to be able to do something for me. He then explained how the Credit Union video sign in which he bought that residence on behalf of the Credit Union then the sign sets on the back half of that property. Caltrans condemned the property and took the front half of that property and paid the Credit Union $30,000 for access they cut off from the side street and the street in front of the Freeway. The Credit Union bought the property for $100,000, sold the front half to Caltrans for $50,000 and then Caltrans gave them back $30,000 for this access so it cost Caltrans $80,000, the Credit Union now has half of the property for $20,000 and is recorded in public record and verifiable. Mr. Moore stated in effect, there are a lot of moving parts here and we have a bottleneck, collectively, to where the City may end up in buying this whole thing from some speculator. City Planner Mainez stated that is speculation and don't think we need to go down that path and sounds like a threat. Mr. Moore interjected no, it's not a threat and City Planner Mainez continued and suggested the Commission need to look at what Staff is presenting in terms of Zoning and Zoning Standards. There are no Standards to determine where the proposed lot lines should be, at this point, and the Post Office owns all three (3) properties. The Applicant has made a compelling argument for me and is saying the same thing as every developer has said to the Commission when they come to the podium in that the process is very difficult for the developer and the need to hire an Architect / Engineer to create a project that has to meet the Standards of Highland and how the bar is raised. The Post Office shouldn't be treated any different. The Commission should be aware of that there is a provision in the City's Code that requires, and the City can impose it, require the Applicant to merge all the Lots into one (1) Lot and, in this case, it might be an option. Tonight, the Agenda is to support Staff's Denial and if need be, the Applicant could appeal up to City Council.

Commissioner Hamerly asked it this was not an oversight in their Design Landscape Standards, and the Project was never reviewed at this level. From a landscape standpoint, it never would have been approved so then Lot B that is now under the purview of the Postal Service. In his knowledge, all they would have to do is weed abatement on that and would have a permanent eyesore. Unless the City has some kind of enforcement authority, do not know what the benefit of the whole area is Lot A and is the Post Office's responsibility and if we are unable to make them landscape it and maintain it and all they have to do is weed abatement, it is not an attractive option. The Post Office has Lot A and get what we can in "B" and keep the bar high so this is a comparable quality project to what is going in across the street. City Planner Mainez responded and asked

whether the Commissioner was suggesting to Condition them to put in landscaping in Lot B and Commissioner Hamerly said no and was a two (2) part question and how City Planner Mainez suggested there are two (2) things. The first was there are provisions in the Municipal Code that say the Commission could approve a LLA, or Merger of Parcels A & B now become Parcel A and is one (1) piece of property. If the Commission did not have the purview or the jurisdiction authority to make them landscape it to City Standards, what kind of teeth does that provision have because now, the only enforcement authority we have is public health and safety so now it's weed abatement on what is now left over and becomes a permanent mess on the corner. City Planner Mainez responded and said he does not know how to solve the weed problem and that it is an on-going problem City-wide with vacant land. Commissioner Hamerly stated that is the only enforcement authority that we have because we cannot say that yes, you have to landscape it, put in this percentage and irrigate it and it's not going to happen. City Planner Mainez said once we approve any parcel adjustments to under a LLA, the City has the authority to sign off on a Certificate of Compliance and that document records the parcel adjustments and that is where we have the teeth in this whole process. Or doing nothing is an option, too, that they could keep the parcel lines where they are and don't be concerned about them selling that parcel to the south, that triangle piece. It occurs everywhere in the City and that it is a legal lot, hopefully, that they could sell off, but that is not the issue tonight. Commissioner Hamerly stated how there had been a developer about how there was a single family residence to be constructed on a fifteen foot (15') wide lot and City Planner Mainez said that is why the Commission should deny this LLA in that this is a unique Zoning District and required the Site have a Master Plan. Community Development Director Jaquess added with some earlier discussion about the developing a Condition to the LLA which we don't usually do. Normally, the LLA is approved, or not approved. Conditioning the LLA might be worth exploring and the mechanism for enforcing the Condition later on. Staff would need to check with the City Attorney for suggestions and if it would be legally possible to Condition a LLA and if the Commission wishes to take that direction, you can direct Staff to look at the option. He further stated look at the options, write the COAs regarding access and return in two (2) weeks for the Commission's consideration. Commissioner Hamerly stated this seems straight forward with access and with the Development Standards. If the Development Standards are in place, it is a slam dunk on the LLA and that is the only thing holding up the approval. In the absence of the Development Standards, the Applicant is basically saying there is no way we are going to get that out of the Post Office. Then it becomes contingent upon that LLA being officially approved at some time in the future

when someone comes in and purchases Lot B and have to record that Development Standards, whatever they may be. Part of the discovery is when the purchaser is knowing full well that Webster Street being realigned with something on the books for access on the marketplace across the street. About taking a property and a purchaser stepping into the picture right now, is going to have to do discovery and will find that he will be losing a little bit of this and can adjust their offer, accordingly, if they think there is value being taken. In my mind, it is correcting a bad situation because it is giving them a broader south property line, better access, and a continuous flow of traffic coming out of a very large development right past their front door so it provide added value.

Chairman Haller asked what is the pleasure of the Commission.

Commissioner Sparks stated there is no parking on Webster Street on one side of where the Schools are located, or no ingress / egress on Boulder Avenue, realign the bottom of Webster Street and how will that affect people when dropping off / picking up the children from Schools twice a day. Currently, there is no parking there and realigning Webster Street will affect the Schools. Commissioner Hamerly stated won't affect the easterly side of Webster, but will be affected is the sharpness of the turn where Webster Street transition onto Boulder Avenue. City Engineer Wong responded about the impacts on the Schools. There is a parking lot located on the west side of the School Buildings, and has two (2) driveways; a north and a south driveway. Webster Street will remain a straight section up to the south driveway and then start to curve to the west. There will still be a need to reconstruct some of the street improvements along the School's parking lot when Webster Street is aligned.

Vice Chairman Gamboa asked if the Public Hearing is still open and Chairman Haller responded affirmatively.

Commissioner Stoffel asked if the Commission is to approve the LLA, when the property is sold, why wouldn't people have to come to the Commission for approval. Community Development Director Jaquess responded they would, the point that Staff is making is that today, there is one ownership of a whole area and from an overall design standpoint, there is some advantage to be able to integrate, to some extent, between those two (2) for long term uses. If the Commission approved the LLA, as proposed, it would eliminate any opportunity of sharing cross over access, or whatever. Commissioner Stoffel said it's the Federal Government and Mr. Moore stated about the access issues and the parcel should be able to stand alone on Development Standards for parking. Not

withstanding the arguments City Planner Mainez gave, in that they were valid because there are extraordinary after hour uses, but he does not believe the Post Office will want people parking there. He further stated what the Post Office wants, but might accept a COA with a cross access agreement and reiterated the Post Office might buy off on that.

Chairman Haller asked about drainage in general and cross lot drainage. Community Development Director Jaquess responded the parking lot drains out onto Boulder Avenue and City Engineer Wong added future development drainage will need access to flow into Post Office Site. Chairman Haller asked about the direction / travel of the flow and the current drainage pattern and Mr. Moore responded through WQMP requirements. City Engineer Wong added there is a curve and Chairman Haller asked what about the back. City Engineer Wong displayed a drawing to the Commission and explained how the drainage is south of this location. If looking at sharing access, could see about sharing drainage. Mr. Moore stated I don't want to muddy up the waters and dealing with people in San Francisco and Denver who have no knowledge of this property, project, etc. He is willing to do a lot of things, on behalf of his Client who to assist you in this process. But, at the end of the day, if we cannot be reasonable on how we approach this process, the Post Office will dig in and you will then have this really ugly, awful piece of property for who knows, how long. If the merger is not allowed, you are going to have that band of property that will be weed abated forever and they will flip the small southerly piece that someone will be willing to buy it. At the end of the day, we could take one of the main entrances of Highland and blow it and both the Commission and he do not like what is on the table, and downstream, this could be a train wreck and wants to avoid that.

Chairman Haller said normally, the Commission is willing to work with the Developer / property owner and would say the Commission wants an integrated commercial development, at the end of the day when it is all developed, but the Federal Government says carve it off, have it as a stand alone development and not have any reciprocity, storm drainage and cross lot drainage.

Commissioner Hamerly said the drainage will naturally flow to the south and not seeing the cross lot drainage being an insurmountable issue. The developer will not want to crowd to the north and tie in with the existing Post Office. Commissioner Stoffel said he wanted as much buffer as possible and Commissioner Hamerly continued with his statement on having a greenbelt / buffer, or whatever, so not to have to look at all the Postal vans lined up, and 100% paving in the parking lot, but it needs to be dressed up and creating that

buffer is the way to do it and believes that drainage is not going to be an issue. Mr. Moore responded with WQMP requirements, percolation testing, swales and what is retained on-site, retention and off-flow is already in the City's WQMP in Development Guidelines. City Engineer Wong stated if the Commission is going in the direction that the City is going to approve the LLA, subject to COAs, such as requiring a reciprocal access easement and a drainage easement, etc. Staff can look into it further. We don't know where the Post Office is draining to the vacant parcel. The City did not have an opportunity to review the Grading Plan because the City did not have the authority to issue the Grading Permit and we have very little input or knowledge about this project, therefore, he cannot tell the Commission what are the issues related to future development of the vacant property south of the Post Office and would like to address these issues after further review. City Engineer Wong said it would take several weeks to prepare COAs which are intended to be acceptable to the Post Office, yet provide the maximum flexibility for future development. City Planner Mainez added if the Commission feels comfortable, the City Attorney said it is something that could be done, but has to be very focused and given the District, City Planner Mainez said he would feel more comfortable in returning to the Commission for consideration / approval in that it is something that is precedent and not wanting Staff to do arbitrarily. Community Development Director Jaquess agreed. Vice Chairman Gamboa also agreed, but with the Federal Government came in their own Grading Plans and Building Standards and it doesn't fit with anything in the City already and come back with COAs like what the Commissioners and Staff said and do it that way and the Federal Government will do what they want anyway and they have already. At least this way, the Commission will have something to deal with on the section that the Post Office sells.

Commissioner Willhite had concerns with the Post Office's chain link fencing and the feasibility of deleting that and Commissioner Hamerly said through Landscaping Standards and Design Review and City Planner Mainez responded will do follow up to that question. Commissioner Willhite stated with the City's best interest and for the Residents of Highland get this into a private developer's hands, then you won't have these weed abatement problems, we would get property taxes and right now, it is tax exempt and are not getting anything from it and you can't do much with them and would be a great benefit for the City and the Residents if somehow we could remove the chain link fencing and a lot of his neighbors are upset about that one and would be a good plus. If there is some way to work this out and come back to the Commission, he would agree with that. Commissioner Stoffel said about coming up with another option.

Mr. Moore reiterated and cited the Subdivision Map Act Section 66499.35 regarding a Conditional Certificate of Compliance and reasonable Standards applied that the City can invoke on and maybe what the Commission may want to do and will the Federal Government do. He reiterated the Federal Government may dig in their heels and stated this was done in Northern California and explained that situation to the Commission. He does not want to come off as being threatening, or being belligerent or arrogant, but he said how he knows his Client and he is trying to offer the most honest position the Post Office is going to take.

Community Development Director Jaquess suggested Staff explore a Conditional LLA and verifying with the City Attorney for best solution for the COAs and what information is known to the future buyer. He then recommended to continue this item in order for Staff to work with the Applicant and return on January 5, 2010. Commissioner Stoffel responded he would be gone. Mr. Moore responded he doubted if they could make it in January, 2010. Community Development Director Jaquess said how about February 2, 2010 and Mr. Moore responded that is better than the January, 2010. Commissioner Hamerly said that it is at the discretion of the Applicant. Commissioner Willhite asked Staff what would then be the Commission's recommendation and Community Development Director Jaquess responded based on the Staff Report, and Commissioner Hamerly said overriding in the Denial by saying we want these COAs because we would be approving the LLA, subject to the COAs and need to revise the Resolution and make supporting Findings.

A Motion was made by Commissioner Hamerly continue the Public Hearing to February 2, 2010, and encourage Staff to pursue negotiations with the Applicant for recordation of some Conditions for allowing cross lot access, and in terms of the language of the Conditions requiring the development to have a master plan or a specific plan for Parcel / Lot B.

Community Development Director Jaquess said he understood.

Vice Chairman Gamboa seconded the Motion.

Commissioner Willhite was concerned about the drainage and City Engineer Wong responded he will look into it if any cross lot drainage is beneficial to the Post Office and the new development, and if necessary, it will be part of the Conditions.

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Commissioner Hamerly explained he did not place that into the Motion specifically because he wanted to keep whomever the party is who purchases Lot B, as free as possible for encumbrances involved with the Postal Service. If it is already on the books that they know that they can connect to a point certain, through the north property line into the parking lot, that is an easy thing to determine. But keeping everything else as to be self-contained as possible, would be his general recommendation.

City Engineer Wong said if the Post Office Site drains to the south, it is not likely that the Post Office will be receptive to build something new within its property so that there is no cross lot drainage and City Planner Mainez agreed. Mr. Moore responded that means hire an Architect. Commissioner Hamerly said Lot B with the full knowledge of the buyer has to prepare that Plan in order to move ahead and the Post Office is out of the picture, but it needs to be put into the official document so that they are doing their due diligence and prepare their own Development Standards in keeping with the District's Standards and Mr. Moore responded he liked that.

Motion carried on a 6 – 0 vote with Commissioner Huynh absent.

Mr. Moore stated how he appreciates the Commission in their time and effort in this discussion and how we all want the same thing for the City of Highland. Even though the Post Office does not necessarily have same vision for the City, but we all do as a community.

5.0 LEGISLATIVE

There were no Items.

6.0 ANNOUNCEMENTS

Community Development Director Jaquess explained the Items tentatively scheduled for the December 15, 2009, Commission Regular Meeting.

7.0 ADJOURN

There being no further business, Chairman Haller declared the Meeting adjourned at 7:23 p.m.

Submitted by:

Linda McKeough, Community
Development Administrative Assistant III

Approved by:

Richard Haller, Chairman
Planning Commission

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