

**MINUTES  
PLANNING COMMISSION REGULAR MEETING  
JANUARY 4, 2011**

**1.0 CALL TO ORDER**

The Regular Meeting of the Planning Commission of the City of Highland was called to order at 6:02p.m. by Chairman Hamerly in the Donahue Council Chambers, 27215 Base Line, Highland, California.

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

Absent: Commissioner Richard Haller

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

**2.0 COMMUNITY INPUT**

There was none.

**3.0 CONSENT CALENDAR**

**3.1 Minutes of August 17, 2010, Regular Meeting.**

**A Motion** was made by Commissioner Gamboa and seconded by Vice Chairman Huynh to approve the Minutes of the August 17, 2010, Regular Meeting, as submitted.

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

09-21-10.PC

#### 4.0 PUBLIC HEARINGS

##### 4.1 A Conditional Use Permit Application (CUP 008-012) for the entitlement of a Three (3) Phased Project which includes:

- a. Phase I - Service Station / Convenience Store
- b. Phase II - Conversion of an existing Apartment Complex into a 36 room Motel
- c. Phase III- New Three-story, 36 room Motel adjoining Phase II Motel for a combined total of 72 rooms

The proposed Project is located on an approximate 2.11-acre Site consisting of four (4) adjoining properties located at the northwest corner of Highland and Victoria Avenues (26492 Highland Avenue, and 6446 & 6476 Victoria Avenue) (APNs: 0285-742-07, -08, -09 & -10).

At the Applicant's request this, Item has been Continued four (4) times since the Planning Commission initially opened the Public Hearing at its August 17, 2010, Meeting.

Representatives: Balbir Jhavar, Applicant; Michael Murphy, Architect and John Peterson, Attorney.

Chairman Hamerly identified the Item and called for Staff's presentation.

Senior Planner Meikle distributed a document that had revised language proposed by the Applicant's Legal Counsel for Planning COA Nos. 2b and 61 and then gave the presentation from the Staff Report and PowerPoint presentation. He explained the historical background and a brief overview of the proposed Project to the Commission. He indicated that Staff is in agreement with the proposed revised language and that the Applicant is present, but he is waiting his Legal Counsel to arrive to make a presentation and then concluded his presentation.

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

Discussion ensued between the Commission and Staff regarding the proposed modification and how the Applicant is required to enter into a Development Agreement with the City that provides a time line for the conversion of the Apartments and that the Development Agreement will provide said time line. The original language of Planning Conditions of Approval (COA) No. 2b on Pages 17 and 26 of the Staff Report were also discussed.

09-21-10.PC

Further discussion ensued between the Commission and Staff regarding the proposed Development Agreement, would it be an attachment to the CUP Application, rather than separate from the CUP.

Concerns were raised by a Commissioner regarding the CUP COAs with reference to the Building and Safety Division's various Codes Editions and how the Development Agreement time period says ten (10) year time frame and construction could extend beyond ten (10) years and requested clarification. Staff suggested the date of approval be to whatever the current Code Edition version is in effect at that time and Staff responded on Page 48 of the Staff Report for Building and Safety Division's General Conditions that that language could be placed in the Development Agreement indicating to use the latest / current versions of the Building Codes, rather than stating the 2007 Edition version. Staff indicated with the Extensions beyond the ten (10) year time frame, that Staff intentionally left that open for debate amongst the City Council in whatever they are comfortable with and that it could possibly take another ten (10) years or longer for construction since the Development Agreement is different as opposed to a CUP in that it is a Land Use issue and also possibly have economic incentives to extend the time out.

Discussion ensued between the Commission and Staff regarding Page 8 of the Staff Report that the Gas Pricing Sign is Planning COA No. 57, and not Planning COA No. 56.

Discussion ensued between the Commission and Staff regarding Page 25, Planning COA 1.b third line state that the Planning Commission grant the Extension and not the City Planner and that the time period requesting an Extension is sixty (60) days and not thirty (30) days.

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

Mr. John Peterson, 633 West Fifth Street, Los Angeles, California, who is the Applicant's Legal Counsel, addressed the Commission. He apologized for arriving late for the beginning of the Public Hearing and then thanked Staff and the City Attorney for addressing the issues and indicated the meetings were productive and beneficial for all concerned. He then asked if the proposed revised language was incorporated into the COAs. The Commission advised him that Staff reported the proposed revisions and were reflected. Attorney Peterson then requested Engineering COA No. 16 regarding the Raised Median and before he could finish, Mr. Jhavar interrupted him and was advised to back off that particular request which Attorney Peterson complied and then requested the Commission adopt Staff's recommendation.

09-21-10.PC

Chairman Hamerly asked if the Commission had any questions of Attorney Peterson.

Discussion ensued between the Commission, Attorney Peterson and Staff regarding the proposed modifications / revisions to the proposed COAs. Attorney Peterson responded that he does not object to the proposed modifications / revisions and he then thanked the Commission.

Chairman Hamerly asked if there was anyone who would like to speak on the item. Hearing none, he then left the continued Public Hearing open and opened the floor for discussion amongst the Commissioners.

A question was asked by a Commissioner if this Public Hearing is for the CUP Application and not for Design Review and Staff responded that is correct.

Discussion ensued between the Commission and Staff regarding the language for Planning COA No. 11 on Page 28 of the Staff Report which Staff clarified that the separate, smaller Building on the west side of Phase 2, which is located behind the existing Pawn Shop, is to be converted into a Motel and Staff's concern of not wanting to have an on-going multi-family use with part of the property with a Motel that is a commercial use. When the main block of apartments is converted, that separate (smaller) Building will also be converted at the same time.

Commissioner Gamboa indicated with regards to the CUP Application, he feels that the conversion is the wrong thing to do and felt that the Site could be better used if the Apartments were demolished before the Motel conversion. With looking at the conversion, and understands this is not a Design Review, but the way the conversion is to a Motel is just a glorified apartment. He cannot see approving this, at this juncture and is a gateway to the City and as much traffic that flows between the Casino, and he was opposed to the proposed Project before and he is still opposed to it today.

Chairman Hamerly asked Commissioner Gamboa if his concerns could be addressed adequately at Design Review or if it is a principle that he thought that the Building in no way, shape or form could be converted to an acceptable structure and Commissioner Gamboa responded that he thought it could not be converted in any shape or form and that felt that it is an apartment. You cannot convert an apartment into a Motel and make it look decent. The way that the layout is of the Apartments, it doesn't coincide with addition of Phase 3 and does not blend in well with the Gas Station and the Gas Station is too crowded. He indicated there is no flexibility for a better use and suggested to expand the Gas Station and then create a better looking Motel behind the Gas Station and that is why he is unable to support the CUP and Chairman Hamerly stated Commissioner Gamboa's comments are so noted.

09-21-10.PC

Discussion ensued between the Commission and Staff regarding the time frame restrictions between Phases 2 and 3 and the construction of the proposed Motel / Apartments in that it could possibly be forty (40) years before the Project is completed, with the possible Time Extensions. Staff explained how Attorney Peterson is referencing Phases 2 or 3 to obtain Permits and the intent of addressing Phase 2 for the Apartment Conversion and with Phase 3, it could be longer with the Time Extensions. Staff added with the Apartment conversion because of the existing structure, there is no way to ensure that Phase 3 would ever be built. Even with the COAs and Agreement would be in place for implementation, the City could not require the Applicant to build Phase 3, or the Applicant could choose not to do Phase 3, because of the economy, selling the Property, abandonment, etc. The CUP Application runs with the Land Use and how there are some projects located in Highland that are abandoned. If a structure is uninhabitable and if Phase 2 is implemented, there is a layout for Site circulation and then how Code Enforcement issues relative to public nuisance would come into play such as trash accumulation, vehicles abandoned, weed abatement, etc. and that there is an existing single family residence within Phase 3. Code Enforcement and how the Applicant may not have landscaping installed, but would have to have the property maintained were also discussed.

There being no further questions of Staff or discussion amongst the Commissioners, Chairman Hamerly closed the Public Hearing and then called for the question.

**A MOTION** was made by Vice Chairman Huynh and seconded by Commissioner Stoffel to:

1. Adopt a Mitigated Negative Declaration and direct Staff to File a Notice of Determination with the San Bernardino County Clerk of the Board, and;
2. Adopt Resolution 10-013 approving Conditional Use Permit Application (CUP 008-012); subject to the recommended Conditions of Approval, as modified with the following:

Planning Conditions

- 1.b Where circumstances beyond the control of the Applicant cause delays which do not permit compliance within the time limitation established in this Section, the Planning Commission may grant an extension of time for a period of time not to exceed an additional twelve (12) months. An Application for an Extension of Time must

09-21-10.PC

be set forth in writing, stating the reasons for the Extension, and must be filed with the Planning Division a minimum of sixty (60) calendar days prior to the expiration of the Conditional Use Permit. Such Application shall be filed together with the City's processing fee, as established by the City Council.

- 2.b. (NS) Prior to the issuance of any Construction Permits by the City, the Applicant shall enter into a Development Agreement in accordance with the City's Land Use and Development Code Section 16.08.080, ensuring the timely "Conversion" of the Existing Apartment Structure / Use to a Motel Type Use. the Development Agreement shall include a provision requiring the Applicant to obtain formal Design Review Approval from the Planning Commission for each of the three (3) Phases contemplated herein prior to development of that Phase only. For each respective Phase, the Applicant shall apply for and obtain appropriate Permits from the Building and Safety Division. By way of example, formal Design Review Approval and Permits for Phase 1 does not require concurrent Design Review Approval and permits for Phases 2 or 3; rather each Phase may be applied for, reviewed and approved separately. The Development Agreement shall require the Applicant to commence construction to convert the existing Apartment Structure / Use to a Motel Structure / Use (Phase 2) within ten (10) years of said Development Agreement approval. The Development Agreement may include time extensions for any of the three (3) Phases, as deemed appropriate and agreed to by both the City and Applicant and other conditions, terms, restrictions, or requirements, as determined by the Planning Commission and City Council to be in the public interest. The Applicant shall pay all applicable fees related to the execution of said Development Agreement.
61. Alcohol sales permitted by the pre-existing Type 21 Liquor License issued by the ABC for the existing Premises shall continue to be a permitted use at the Service Station / Convenience Store contemplated in Phase 1 of the proposed Development. No alcoholic beverages shall be consumed on any exterior portion of the property unless expressly permitted by the existing ABC License.

09-21-10.PC

## Building and Safety Division Conditions

### First General Condition

All structures shall be design in accordance with the current California Building Codes adopted at the time by the City of Highland, Ordinance No. 319. Plans submitted after January 1, 2011, shall be designed to the current California Building Code series. Design all structures to comply with Seismic Design Category D, wind speed 85 MPH, at exposure "C". Habitable structures shall comply with the California Energy Code requirements.

and

3. Adopt the Findings of Fact.

Motion carried on a 4 – 2 vote with Commissioners Gamboa and Sparks dissenting and Commissioner Haller absent.

#### 4.2 Housing Element of the General Plan

2006 – 2014 General Plan Housing Update (GPA 007-002) Planning Period of January 1, 2006 – June 30, 2014) The location is City-Wide.

Chairman Hamerly identified the Item and then called for Staff's presentation.

City Planner Mainez gave the presentation from the Staff Report and explained the historical background to the Commission and then concluded his presentation.

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

Discussion ensued between the Commission and Staff regarding the R-4 Designation and Zone Change for Multi-Family sites by Right-of-Zone and there are no discretionary entitlements, such as a CUP Application, or a Specific Plan Application, but would still require a Design Review Application and Development

09-21-10.PC

Standards would come into play and be considered by the Commission. The feasibility of modifications was also discussed and Staff also explained the proposed Resolution in the Agenda Packet had the incorrect date and had formatting issues which were corrected for signature, if the Commission adopts the Resolution tonight. City Planner further explained Page 107 of the Staff Report on part of the Housing Element Program No. 9 in the first two (2) Paragraphs in Paragraph 9b. First Paragraph / Sentence refers to Sites 279 – 296 in Table 8.1A (Appendix A) in that there is an error in that and that it was taken out of Exhibit “A” at the direction of HCD, and placed it on Pages 8-19 and 8-20 of the Housing Element. In the middle of the Second Paragraph, Sites 279 – 296 in Table 8.1A (Appendix A) and would insert Pages 8-19 and 8-20.

Further discussion ensued between the Commission and Staff regarding various rezoning scenarios / examples / issues were discussed and Staff explained Zoning is the City’s “police powers” and the property owner may not agree with the City’s Zoning, but the City has the discretion over the Land Use Designation of the property, and that surrounding neighbors might have an issue also and added that the sites are vacant land, for the most part. Staff further explained when the Housing Element is adopted, it then becomes Policy and the Zoning has to be consistent with that and if the Council does not Rezone the property, it would then be mandated to amend the Housing Element which would have to go back and renegotiate with the State. Staff then explained the State process further to the Commission if the Housing Element was not adopted.

Discussion ensued between the Commission and Staff regarding Appendix B and the Zone Change Area Sites identified starting on Page 202 of the Staff Report (the color pages) and if the Commission approved this Item, what the next step in the process would be. Size / configuration / clustering of parcels and parcel consolidation were discussed.

Further discussion ensued between the Commission and Staff regarding the Design Review process and Design Standards for quality projects would return to the Commission for consideration and how the State indicates that Specific Plans are too discretionary and how the State wants to see approval “on the ground” and that a developer could use a CUP Application Entitlement with an overlay and used how the Greenspot Village and Marketplace Specific Plan Application was pulled back as an example. Staff added how there still will be a Specific Plan prepared on the Orange County property in that it is out of the Housing Element.

Page 207 of the Staff Report regarding Zone Change 4 on property located on Victoria Avenue / 210 Freeway and that no Applications have been submitted were also discussed.

09-21-10.PC

Discussion ensued between the Commission and Staff regarding Zone Change 3 and whether or not if that would change the vision for the Base Line Corridor and Staff responded that the R-2-C density increased from 9 du/acre up to 20-30 du/acre and Staff added that particular property was adjacent to an existing higher density Multi-Family Zone and how the vacant properties will be placed on the Large Table on the previous Appendix on Page 177. A comment was made by a Commissioner that there needs to be a safety valve for the increased density and the need to consolidate properties in order to obtain said increased densities.

Chairman Hamerly asked if the Commission had any further questions of Staff.

Discussion ensued between the Commission and Staff regarding the feasibility of exchanging / deleting properties in Zones 3 and 4 in order to balance them out and an example was given if a development comes in and the project does not fit the property and Staff explained that it is more of an authorization process and the feasibility of RHNA allocation and density bonuses and if the development would be for lower income housing. Staff added that it would not happen if someone wanted to rezone the R-4 property from residential to commercial and how R-4 Zoning meets the RHNA requirement. With regards to the underutilizing property relative to no net loss to the seven (7) Sites and trying to achieve / exceed said density was also discussed.

Chairman Hamerly asked if the Commission had any further questions of Staff. Hearing none, he then opened the Public Hearing and asked if anyone in the audience would like to speak on the Item. Hearing none, he then closed the Public Hearing and there being no further questions of Staff, or discussion amongst the Commissioners, he then called for the question.

**A MOTION** was made by Vice Chairman Huynh and seconded by Commissioner Sparks adopt Planning Commission Resolution No. 11-001 recommending the City Council approve the following:

1. Adopt a Negative Declaration for the 2006-2014 General Plan Housing Element Update and direct Staff to file a Notice of Determination with the San Bernardino County Clerk of the Board, and;
2. Adopt a City Council Resolution Certifying the City's 2006-2014 Housing Element in accordance with the Department of Housing and Community Development (HCD) conditional approval letter dated October 1, 2010.

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

09-21-10.PC

## **5.0 LEGISLATIVE**

There were no Items.

## **6.0 ANNOUNCEMENTS**

Community Development Director Jaquess explained the Items tentatively scheduled for the January 18, 2011, and February 1, 2011, Regular Meetings. He also explained in March, vacancies will be declared vacant on Commissioner Haller and Chairman Hamerly as their terms will be expiring and would have to reapply and Staff will notify them of the status.

Discussion ensued between the Commission and Staff regarding how sometimes the Commissioners are approached regarding status of various projects and are unable to provide an answer and requested the feasibility of the Commission receiving Project updates. Staff responded and explained Building Permits were approved for In-N-Out last week, but have not been issued yet; Greenspot Village and Marketplace has a Development Partner identified, but the City has not seen a copy of the Partnership Agreement yet and awaiting that before going forward to the next step; and there is a Chevron Gas Station project that is supposed to be submitted to the City soon.

A Commissioner indicated if there is a significant update, have Staff provide a five-minute e-mail to the Commission and then asked if City Council receives updates and that the Commissioner had heard the Council would like to get it also. Staff explained there is a Weekly Report prepared, but does not include Project Status Reports and have the public contact Planning, but Staff indicated that Staff will give it a try regarding the status of projects via e-mail.

Further discussion ensued between the Commission and Staff regarding San Bernardino County Flood Control property and the status of the City's Agreement with the County regarding selling said property and indicated there are details that still need to be worked out.

Discussion ensued between the Commission and Staff regarding the status of the recent flooding in Highland and how the Southern Baptist Convention organization which also helped with Hurricane Katrina's victims will be coming to Highland to assist in digging mud out of people's homes and will provide labor for replacing drywall. The City Council's Subcommittee will be considering to expand the Neighborhood Revitalization Program to include The Village area that may be eligible for Grants / loans from the City.

09-21-10.PC

Discussion ensued between the Commission and Staff regarding the time frame status on the Boulder Avenue Bridge in that it will remain closed until it is replaced and there are environmental issues that have to be addressed with Fish and Wildlife and whether or not businesses located in that area are affected.

Discussion ensued between the Commission and Staff regarding the time frame status for repairing the Alabama Street Bridge and there are environmental issues that have to be addressed with Fish and Wildlife.

Discussion ensued between the Commission and Staff regarding the homemade "Rock Plant" signs located on Orange Street that is within City limits. Staff responded that Staff would complete a Complaint Form.

Discussion ensued between the Commission and Staff regarding the existing ARCO AM/PM open for business during construction located on Palm Avenue / Fifth Street and being dangerous / unsafe in that there is no way to back out after getting fuel and that the circulation issue is blocking the whole street. Staff responded that the construction will be done quickly and will Staff will bring it to the attention of Public Works.

Commissioner Sparks had suggestions for temporary circulation located at Base Line / Boulder Avenue since the Boulder Avenue Bridge is out. Discussion ensued between the Commission and Staff regarding the temporary circulation pattern and how the traffic signal located at Base Line / Webster Street is slow circulating. Staff responded how there is timing for all signalizations and that Staff will forward Commissioner Sparks' suggestions to City Engineer Wong.

Staff requested the Commission to submit their Municipal Code Books to Staff so they can be updated.

There were no further Announcements.

## **7.0 ADJOURN**

There being no further business, Chairman Hamerly declared the Meeting adjourned at 7:25p.m.

Submitted by:

Approved by:

---

Linda McKeough, Community  
Development Administrative Assistant III

---

Randall Hamerly, Chairman  
Planning Commission

09-21-10.PC