

**MINUTES
PLANNING COMMISSION REGULAR MEETING
SEPTEMBER 20, 2011**

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 Hamerly in the Donahue Council Chambers, 27215 Base Line, Highland, California.

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

Absent: Commissioner Michael Stoffel

Staff Present: John Jaquess, Community Development Director
 Sean Kelleher, Assistant Planner
 Linda McKeough, Administrative Assistant III

The Pledge of Allegiance was led by Chairman Hamerly.

2.0 COMMUNITY INPUT

There was none.

3.0 MINUTES

3.1 Minutes of September 6, 2011, Regular Meeting.

A Motion was made by Commissioner Gamboa and seconded by Vice Chairman Huynh to approve the Minutes of September 6, 2011, Regular Meeting, as submitted.

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

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4.0 CONSENT

There were no Items.

5.0 OLD BUSINESS

There were no Items.

6.0 NEW BUSINESS

- 6.1 A Modification to an Existing Sign Program for Stoney Creek Center (ASR 011-012). The Project is generally located at Boulder Avenue and Jasper Street. The address is 7354 Stoney Creek Drive. APN: 1201-091-60-0-000. Representative: Bill Jamal, Infiniti Commercial, LLC.

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

Assistant Planner Kelleher gave the presentation from the Staff Report and the Powerpoint Presentation He stated how this started out as a Code Enforcement case and then explained the Project's design details, layout and Sign locations and Conditions of Approval to the Commission and indicated the Applicant is not in attendance tonight and then concluded his presentation.

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

Discussion ensued between the Commission and Staff regarding how the "Fitness 19" Sign was illegally installed on the west side of the Building and the Initial Sign Program was for only Building Mounted Signs. It was also discussed how Staff had e-mailed and sent by Regular Mail a copy of the Staff Report last Thursday and that the Applicant had received / confirmed the e-mail Staff Report and thanked Staff for it and the Applicant did not provide any comments and was the last time that Staff had any contact with the Applicant.

Further discussion ensued between the Commission and Staff regarding how a Monument Sign allows for street frontage and Signage visibility / advertisement for the various Tenants, but what does a Monument Sign achieve that a Building Mounted Sign does not and that Staff can only bring forward what the Applicant submits / proposes and how the Applicant did not want to include the "Fitness 19" Sign in the Sign Program and was a business decision on the Applicant's part. A comment was made by Chairman Hamerly if the Applicant authorized "Fitness 19" to install that Sign or the Applicant is not defending their Tenant by including said Sign and indicated this is an odd mix that the "Fitness 19" Signage that makes the most sense is not included in the Sign Program and Assistant Planner

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Kelleher responded how this was an interesting Project to process.

A comment was made by Chairman Hamerly how the Applicant is not in attendance, but is interested in hearing the Applicant's side before rendering a decision and Assistant Planner Kelleher affirmed how the Applicant is not here tonight.

A comment was made by Commissioner Gamboa how Staff pointed out at the last Meeting, the Applicant does not have to be in attendance and that the Commission may render any decision they want to make.

Discussion ensued between the Commission and Staff regarding how far below the Monument Sign located on Boulder Avenue is, the size of the Sign base and typical street elevation, and how there is approximately six feet (6') grade differential between the Monument Sign and the retaining wall which is measured from the City sidewalk and that the grade of the landscaped area adjacent to the sidewalk is level.

A comment was made by Chairman Hamerly there is a host of issues: Staff is recommending that the Individual Tenant Sign Panels need to be redesigned, the Base material to be redesigned, and toss back to the Applicant and have the Applicant to address the comments and redesign the Signs, and show what the Base is to look like, what the proposed Tenant Panels are to look like, and if the Applicant wants the each of his Tenants to have a Sign Panel, that may affect the width / height of the six foot (6') surface area which may need to be adjusted of the Sign Panels and he then recommended to open the Item for discussion amongst the Commissioners.

Discussion ensued between the Commission and Staff regarding how the Applicant is not in attendance and the Commission rendering a decision tonight, the feasibility of the Applicant appealing the Commission's decision to the City Council, in order for a complete review by the Commission, there are design issues that need to addressed and how the Application is judged to be incomplete; i.e. what is the Base material, how is the Applicant going to adjust the Tenant Panels to reflect Staff's comments / recommendations. Staff reiterated how the Applicant confirmed that he received the Staff Report last Thursday, but did not supply any additional comments to Staff.

A comment was made by Commissioner Willhite how the Applicant had built the Signs without approval and normally, if the Applicant had approval, the Commission would have seen what the Applicant was proposing and would have then made the changes. Chairman Hamerly responded then the Commission would be designing the Sign for the Applicant at that point, and that is not a role that he wants to place the Commission / Design Review Board into by designing the Signs. The Commission makes recommendations and amend COAs and

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return the Application to the Applicant and have him resubmit to the Commission when it reflects the architectural character of the Complex and to avoid that in which it would be setting a precedent.

A question was asked by Commissioner Willhite what is the Applicant's incentive and Assistant Planner Kelleher stated how the Applicant has received several Citations from Code Enforcement and while Planning is processing the Application, Code Enforcement has stayed with additional Citations and then upon the completion of this Hearing, the Citations resume. Chairman Hamerly responded unless the Commission continues this matter, it may draw the matter out even more and Assistant Planner Kelleher agreed.

A question was asked by Vice Chairman Huynh if the Applicant may ignore the Commission and go and Appeal to City Council and Assistant Planner Kelleher responded any decision the Commission makes, the Applicant has that option and Community Development Director Jaquess added an appeal to City Council would probably not be as effective with the Applicant not attending the Commission Meeting.

The following are comments made by Chairman Hamerly regarding depending on how the Commission's rejection: 1) the Commission does not see the Exhibits complying with the Standards; 2) does not see the necessity for having all four (4) Monument Signs on-site, and; 3) does not like the composition of the Signs because that are not reflective of the architectural character. If these are justifiable grounds for the Commission's rejection, this would be in the City Council's Packet with the Commission's process for the Application's rejection.

Discussion ensued between the Commission and Staff regarding the feasibility of adding Conditions of Approval (COA) on the Sign Program has to be six (6) square feet and not adding additional Signage and the need for the Applicant to comply with the Sign Program. There are two (2) Monument Signs that could go and not use because the of lack of visibility for identifying the Tenants from Boulder Avenue, with Boulder Avenue being closed, people drive through the Complex when it is not a thoroughfare in order to see who the Tenants are. Stoney Creek is not a main thoroughfare and there is visibility for the businesses there and does not need a Monument Sign and how the street driveway is not a street and that Monument Sign is gone and the Sign located on Jasper is debatable.

A question was asked by Commissioner Gamboa regarding the feasibility of the Commission recommending the removal of the Sign located on Stoney Creek and Assistant Planner Kelleher responded affirmatively and that it can be added as a COA to the Sign Program and further explained how the "Fitness 19" Sign, it is not included with the Sign Program and was noted as a COA and Staff primary concern in approving said Sign is that Staff does not know the square footage of

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the "Fitness 19" Sign and the Applicant did not obtain a Building Permit and would have to be brought back with Sign details into the Sign Program.

A question was asked by Commissioner Willhite if the all of the Signs could be removed and Assistant Planner Kelleher responded affirmatively and explained if the Commission would deny the Application, the Applicant would be required to remove all of the Signs. Commissioner Willhite responded then if the Applicant wanted Signs, he would have to design something and submit to the Commission for consideration that would meet the City Code and Assistant Planner Kelleher responded that is correct.

A comment was made by Vice Chairman Huynh that this is a serious matter with the Business Owner, he should be here to defend his case, somehow in that he might ignore this and did this without Permits and with Code Enforcement the Citations issued were \$100/day and Staff indicated it is \$500/day.

A comment was made by Chairman Hamerly how a lot doesn't make sense and even the Contractor is not here tonight and not too many of them would want their reputation tarnished by building something knowing full well that it does not have a Permit and the Signs appear to be professionally designed and Staff responded the Contractor's name is not on the Plans.

A comment was made by Commissioner Willhite regarding if the Commission denies the Project and the feasibility of also removing the "Fitness 19" Sign, as well and Assistant Planner Kelleher responded affirmatively and the Application is already under notice for the removal of the "Fitness 19" Sign by Building and Safety and Code Enforcement and Staff will be required to return to the Commission a set of Findings of Facts for consideration.

Commissioner Gamboa made a recommendation along with Commissioner Willhite that the Commission deny the Application and Vice Chairman Huynh concurred with the Motion and added it might give the Applicant motivation to look at this seriously and his concern about public safety from the structural aspect of view and there are a lot of unanswered questions and the Applicant not here.

A comment was made by Commissioner Willhite how the Applicant had to run electric to the Sign and what kind of materials that were used and its depth and was concerned about public safety.

Assistant Planner asked for clarification with the Motion for the "Fitness 19" Sign and Commissioner Gamboa responded no, in that it was just a recommendation and that the Commission is still in discussion with the Item and Staff said that is fine, but requested clarification for the Findings of Facts when the Commission does take whatever the action / Motion is.

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A comment was made by Commissioner Sparks if the Commission denies the Application, the Applicant would have to return if he really wanted the Project in that the City Council could look at the Commission's Minutes showing how the Applicant was not at the Meeting. Chairman Hamerly responded not necessarily, that is why the Findings are so important because the City Council needs to know what was the basis on the Commission's decision.

A question was asked by Commissioner Willhite about the relocation of two (2) Monument Signs and Assistant Planner Kelleher responded the one located on Boulder Avenue is in the Right-of-Way and needs to be relocated and the Jasper Street Sign is located in the clear line-of-sight triangle which needs to be relocated and further explained about the Stoney Creek and Boulder Avenue Signs to the Commission.

A question was asked by Commissioner Haller regarding who engineered the Signs and Assistant Planner Kelleher responded the Applicant did not provide any of that information to Staff.

A comment was made by Chairman Hamerly that this is a public health, safety and welfare issue as the Commission is unsure what Design Standards were used to design the Signs; don't know about the footings, electrical and are primary concerns. There is also non-conformance with the City Standards in the absence of an approved Sign Program, non-compatibility with the primary architectural elements of the Center.

A comment was made by Commissioner Haller to COA address those concerns, but the Commission does not know what the answer is so need to produce those and present to Staff for approval which is somewhat abnormal because normally, the Commission likes to see what it is approving and Commissioner Willhite stated to Commissioner Haller that clears up why and if the Commission denies this Application is because one (Monument Sign) cannot be there and two (Monument Signs) have to be relocated and the other Sign doesn't meet the City Sign requirements.

A comment was made by Chairman Hamerly if the Sign Program is approvable, the Sign located on Stoney Creek, but that is the only one that doesn't have to be removed because it is not in the Right-of-Way, or not blocking the Line-of-Sight Triangle and doesn't meet the size requirements and no logical basis for it and being immediately adjacent to a Billboard-sized Building Mounted Sign that it's hard to justify any of these Signs in their present location / configuration and need to state that in the Findings .

A question was asked by Commissioner Willhite can the "Fitness 19" Sign be removed and Assistant Planner Kelleher responded it be included to add to the COAs.

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A comment was made by Chairman Hamerly that the "Fitness 19" Sign is a Code Violation, it makes more sense, than any of the proposed Monument Signs and is supportive of the "Fitness 19" Sign before supporting the Monument Sign that is located at the Building's corner.

A comment was made by Commissioner Gamboa, but the Commission cannot support it because it's not proposed Sign Program and Chairman Hamerly said exactly.

A question was asked by Vice Chairman Huynh when the Signs were built and Assistant Planner Kelleher responded after the Boulder Bridge went down and Community Development Director Jaquess added how it had showed up like over the weekend. Assistant Planner Kelleher added it appeared to have footings and explained how a person can see underneath the Sign on Boulder Avenue and see the metal posts that are holding up the Sign.

Chairman Hamerly asked the Commission if it is comfortable about the Findings, as stated, or if there is anything else the Commission would like to add and Commissioner Willhite asked Staff if it is clear and Assistant Planner Kelleher responded that he has a couple of items and can prepare them into the Findings and bring back in two (2) weeks to the Commission for consideration.

A question was asked by Chairman Hamerly if the Commission rejects the Sign Program, it automatically turns it into a Code Enforcement violation compliance issue and the Signs would have to be removed, but for clarity's sake, does it have to be stated in the COA or in the Motion. Assistant Planner Kelleher responded upon the Commission's determination tonight, Staff has a standing meeting with Code Enforcement in the morning.

A question was asked by Commissioner Haller when will this become effective and Community Development Director Jaquess responded if it is the Commission's action tonight is to indicate the Commission's intent and then continue the Item, pending the Findings in two (2) weeks and then the action will be final when the Commission adopts the Resolution with the Findings and then the Commission's action will be appealable for ten (10) days after that and Assistant Planner Kelleher added for clarification, there will be no Resolution with this Item, just the Findings of Fact.

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

A Motion was made by Commissioner Haller and seconded by Commissioner Gamboa the Planning Commission's intention is to deny the Sign Program Application 011-012 based upon the stated Findings of the Commission and

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Direct Staff to prepare a Revised Findings of Facts and bring it back in two weeks for approval.

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

A question was asked by Vice Chairman Huynh what about the Applicant shows up at the next Meeting and asked the Commission to reconsider and Assistant Planner Kelleher responded the Public Hearing is closed. Community Development Director Jaquess added the Commission can reopen it and if the Commission wants, the Commission may reopen and rehear the Item.

- 6.2 A Modification to an Existing Sign Program for Jack in the Box Restaurant (ASR 011-018). The Project is located at the southwest corner of Sterling Avenue and Base Line. The address is 25699 Base Line. APN: 0278-121-39. Representative: Travis Crouser, CNP Signs and Graphics.

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

Assistant Planner Kelleher gave the presentation from the Staff Report and PowerPoint presentation. He explained what the Applicant has previously installed, the Project's design details and the COAs to the Commission. He also provided a detailed historical background on how the Applicant has installed the Display Boards on the side of the Building, when they were initially approved in 2008. They do not match the architectural style and that the Display Boards were to be used as an alternative to the Window Mounted Signs, however, this was not memorialized in the COAs or in the records. At this time, the Applicant would be able to install the proper Signage to do them both on the Windows, as well as Building Mounted, as shown in the Rendering. Staff has recommended that the Signs that were installed being that they were not in compliance with the initial Design Review approval, be removed and the Applicant would potentially have the ability to reinstall these Signs that were previously approved by the DRB, if the Commission shows that it's appropriate, and also if the Commission determines that the Building Mounted Signs are appropriate, a COA could be added that would require the Window Signs be removed and how the Commission has some options with the Wall Mounted Signs. He added the Sign's Copy Area and Height are acceptable with the Municipal Code and that both the Applicant and Owner are in the audience and then concluded his presentation.

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

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Discussion ensued between the Commission and Staff regarding the Exhibits and the Modified Sign Program that were in the Agenda Packet. Staff stated how the Display Cases are not included with the Sign Program and is part of the Signage and Staff showed a picture of Jack and how there was no clear direction with Jack or the DRB. Staff explained how the Exhibits dealt with window graphics as shown on the Rear of the Building and how the window signage depicts sale items. Staff further explained the locations of the Display Cases.

A comment was made by Chairman Hamerly that there are a couple of Exhibits that he did not see that being included in the Packet and the Exhibit showing the Building Mounted Signs that were installed, and not what was part of the proposed Sign Packet and Assistant Planner explained the Exhibit is showing what the DRB approved in 2008 and that the Building Mounted Signs were approved and were not installed by the Applicant. Instead, the Signs that are shown in the lower right hand corner are the ones that were installed.

Chairman Hamerly stated the Packet the Commission has is the Applicant's proposed Modified Sign Program and if the Signs are not showing on the Elevations, they are not part of the Sign Program and Assistant Planner Kelleher responded that is correct and explained that the Display Cases were not technically included as part of the Original Sign Program, but were included as part of the Building's architecture and were treated as Display Cases and not as Signs.

Discussion ensued between the Commission and Staff regarding public art displays as opposed to supplemental advertising and how in the Original proposals showed pictures of Jack in those Display Cases and there was no clear direction as to whether pictures of Jack were appropriate or advertising their sale items were not clarified by the DRB.

A question was asked by Chairman Hamerly how other Exhibits that dealt with Window Graphics that appeared to be more art than advertising is that what Staff is referring to and Assistant Planner Kelleher responded those graphics that were shown are only on the Rear of the Building and are installed today and the Applicant is doing window signage that depicts their sale items and showed on the Powerpoint presentation the locations of such.

A question was asked by Chairman Hamerly if the Commission approves the Building Mounted Signs that are advertising, then the Commission could draft a COA, saying the Commission would give the Applicant these, but the Window Signage showing the advertising would have to "go away" but the graphics / artistic intent would remain and are not technically a part of the Sign Program because they are not Signs. Even though the graphics are in the Sign Package doesn't necessarily mean the Commission is treating them as Building Signs, as

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long as they are not advertising something and Assistant Planner Kelleher responded that is correct.

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

A comment was made by Vice Chairman Huynh that he had been by the Building twice about 5:00a.m. and did not see the neon lights on the Building, except for in the Entry Way. Assistant Planner Kelleher explained on the PowerPoint presentation the location of the red portion is at the top of the Building and how the Code is clear with outlining a Building is a strictly prohibited, but is in the Sign Program and if is acceptable to the Commission.

A comment was made by Chairman Hamerly then the Commission would have to consider the entire Building as a Sign if it's an element of a Sign, because it's not highlighting a Sign. He then asked if the Commission had any further questions of Staff. Hearing none, he then asked if the Applicant would like to make a presentation.

Mr. Sahid Amad, who is the owner of the Jack in the Box, addressed the Commission. He stated he wanted to make a point with the Neon lighting and indicated that he knows that it's clearly stated in the Code, but if a person passes by the Jack in the Box at night, it's hard to see it because of the Building's color and the lack of street lighting. With regards to the neon lighting, he has other Jack in the Box Restaurants and has experienced that people are more aware the Jack in the Box is there and is necessary to help the Applicant survive in this economy.

Chairman Hamerly asked if there are any Interior illuminated Signs and Mr. Amad responded, no, except for the "Open" Sign. Staff added how the Building Mounted Signs are internally illuminated, along with the Building's address and added that all three (3) Existing Signs that are on the Building today, and which Staff has circled, are proposed to be changed out and redesigned with the Jack in the Box Logo and reiterated how they, and the old Signs, are internally illuminated.

A question was asked by Chairman Hamerly what is the Applicant proposing to be illuminated by the Neon. The Applicant's Representative responded the Building itself and how it is hard to see the Building at night without the Neon lighting and that the Neon at night brings out architectural design of the Building and will attract customers with its beauty.

Vice Chairman Huynh asked what time when the Building is closed, is the Neon lighting turned off and reiterated when he went by, it was 5:00a.m. and the Applicant's Representative responded the Building closes between 2:00a.m. – 3:00a.m. and the Neon lighting is turned off and added there is no business in

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that area and has spent a lot of money and noticed there are questions with the Signage on the Building that advertises the special sale items that the Applicant needs them. The Applicant's Representative felt even with the Neon lighting, it would increase the business, but so far it has not done anything for the Applicant and how the Applicant is losing money at that location and has invested \$1.5 million.

A question as asked by Chairman Hamerly if the Signage is ineffective, is there something the Applicant would feel more effective that would supplement a Sign Program or is the Sign Program the vehicle that would be necessary to enhance the business. The Applicant's Representative responded if they were given a forty foot (40') high Sign that would attract more customers and is visible on Base Line, but would be also visible on Sterling. Assistant Planner stated how there is no Signage as part of the Sign Program on Sterling, but the Applicant could propose one as part of their Sign Program and Chairman Hamerly stated that is not in the Application Packet.

Discussion ensued between the Commission, the Applicant's Representative and Staff regarding if there would be enough space located on Sterling to accommodate a Sign, but not a forty foot (40') high Sign and the feasibility of having a Sign similar to the one located on Base Line.

Assistant Planner Kelleher explained the Applicant would have to return and this could be the Second Amendment to the Sign Program or another option is to continue this Item in order for the Applicant to propose a Signage on Sterling. The length of the Right-of-Way would change on how tall the Sign would be permitted to be and explained how both street frontages are calculated together or individually in order to establish the Sign height and he is unsure what the Base Line street frontage is and is unable to say if the Sterling Sign would be taller than what is permitted in the Sign Program and Staff is willing to explore that with the Applicant and appears that it is almost the same amount of room on the Parkway on both street to install a similarly width Sign on Sterling.

A question was asked by Commissioner Gamboa if the Applicant explored the use of LED lighting instead of installing the Neon and Applicant's Representative responded the Contractor is no longer working with Jack in the Box and how the Neon was installed by one of the Owners, but is not in that business right now, but has his own business remains silent.

A comment was made by Chairman Hamerly that he is supportive if the Applicant desires / feels that the added Sign would help their business and the given proximity / architecture of the Building itself was almost designed to be a Sign and is readily identifiable that it is a Jack in the Box and if the Monument Sign has to be reduced in scale / height, based on the ratio of the total amount of street frontage, will that be more effective means of advertising the business than

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accentuating the Building. The Applicant's Representative responded how a Sign located on Sterling would be a Jack in the Box Logo and explained how the customers would be able to see the specials that are offered. The Applicant's Representative knows the Jack in the Box Building is there, but indicated if a person drives on Sterling, the southerly wall hides the Jack in the Box Building and Logo on Sterling and if the customer pulls up even further, that is when the Jack in the Box is visible.

Another comment was made by Chairman Hamerly how the southerly wall blocks Jack in the Box Signage and the Applicant's Representative responded affirmatively and how the Signage would help a lot, but then explained how they do not know how much it will, because they haven't tried it. The Building Signage is to attract the customers and is not a Jack in the Box Logo and how the customers would like to view the special sale items and how the economy is affecting the Jack in the Box business.

A question was asked by Chairman Hamerly if the Small Frame Signs are more effective than the larger Window Signs would be able to advertise the special sale items and if the Applicant had to choose, which one would be more effective. The Applicant's Representative responded that the Window Signs are more effective and that Jack in the Box needs to have the Window Signs also that are required by Jack in the Box for certain displays, i.e. a Steak Burger, Jack in the Box states that the Applicant requires has to have that on the Window, but it is not listed as a special and then there is not enough space to install the Signage specials. Community Development Director Jaquess responded there is a Code limitation that is enforced City wide, in that the maximum window coverage of windows is twenty-five percent (25%). Assistant Planner Kelleher added that the Window Graphics have been incorporated into the measurements. He then explained how the DRB considered for those Signs for the window graphics placed at the rear of the Building, those were incorporated into the Sign Program, as a consideration of the Commission and were under different Codes at that time, which allowed for a greater amount of window graphics, but were also used to screen the kitchen equipment within the Building so it couldn't be seen from the outside and also allow light in with meeting the two different Standards and the DRB allowed that flexibility for them to be covered 100%.

Chairman Hamerly indicated how the Sign Subcommittee had security concerns from the Highland Police Department not wanting more than a certain percentage of the windows obscured and want to be able to drive up to the Building and see into the business and be able to assess the situation and then explained if there is a window graphics that has a color capacity factor that is greater than fifty percent (50%) and drive up to the Building and not being able to see into the business and Assistant Planner Kelleher responded how the windows can be tinted.

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Assistant Planner Kelleher explained with regards to the Monument Sign, he had Grading Plans with him and that the two (2) frontages are both a little over 150 feet in length and the Municipal Code allows for the Monument Signs to be a maximum of eight feet (8') tall with the Sign Copy extending up seven feet (7') from finished grade high and the Copy Area would be allowed to be fifty-four (54) square feet and then stated so the Applicant could do the same Monument Signs on both Base Line and Sterling.

Chairman Hamerly asked the Applicant's Representative if he would consider to continue this Item and consider the addition of a Second Monument Sign to be located on Sterling and the Applicant's Representative responded affirmatively.

A comment was made by Commissioner Willhite agreed with the northerly Sterling Sign but it needs to be close to the intersection, otherwise the Sign on the side a person won't be able to see it

A comment was made by Commissioner Gamboa that the Neon lighting is still an issue and how it was installed without the proper Permits and wanted to find out what the Applicant wants to do and Chairman Hamerly responded if the Commission wanted to resolve that issue at this Meeting or at the Continuation and added how the Applicant indicated that he would like to keep the Neon lighting, but is unsure if it's part of the Sign Program, because it's not technically a Sign, but it is with it's orientation. Assistant Planner Kelleher added that Neon is addressed in the Sign Code so it would be considered a Sign.

Discussion ensued between the Commission and Staff regarding whether or not the allowance of LED up lighting similar to the formerly Blockbuster Video Building and with the Chevron's Canopy having Blue LED accent lighting located within a channel and washing the Pump Awning's Façade and Staff reiterated that in the Code that Neon lighting outlining the Building / Structure is prohibited and read that Section to the Commission.

Further discussion ensued between the Commission and Staff regarding the Chevron's Canopy lighting.

A question was asked by Commissioner Willhite if there is an alternative lighting the Applicant could use in order to light the Building and the Applicant's Representative responded he didn't know, but could look into it. Assistant Planner Kelleher responded with the landscape planters, have the lights shine with an up lighting on the side of the Building and could be considered and not part of the Signage. It was his understanding after speaking with Senior Planner Meikle that on other projects, it was an up lighting illuminating method and not a directly exposed tube of light.

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A comment was made by Chairman Hamerly there might be more detail on the Continuation the Applicant may want to consider and have the Applicant submit some documentation to justify the use of the channelized lighting and if took as a directive, that the source of the light be completely concealed and not be exposed if the Applicant would want to illuminate the parapet. The Applicant may want to explore LED lighting / operating costs would be less expensive from a power standpoint and explore the up lighting option on three (3) sides and suggested around the perimeter of the Building the possibility of flush lighting that would up light the Building and that might be the most effective way of advertising the Building. The Applicant's Representative responded okay and Mr. Amad added if the Commission could ignore some of the details.

A comment was made by Chairman Hamerly how the Commission can ignore some things, and there other things the Commission does not want to set a precedence for and explained how it was placed into the Code for some very specific reasons and did not want to see a proliferation of some types of Neon, as long as the lighting is an accent and is done tastefully and not having the lighting source clearly visible and the Applicant can still get the illumination of washing the Building without the source exposed.

Commissioner Gamboa added how this was done without Permits and Assistant Planner Kelleher responded if the Item is continued and have the Applicant prepare documentation showing ways to modify pictorial examples and Chairman Hamerly responded to have a typical sectional detail showing how it is shielded / screened.

Discussion ensued between the Commission, Mr. Amad and Staff regarding the time frame / date for the proposed Continuation and whether or not to have the Neon lighting on while the Commission is in the process with this Application.

A Motion was made by Commissioner Haller and seconded by Commissioner Gamboa that at the request of the Applicant, the Planning Commission continue this Item to October 18, 2011.

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

Mr. Amad and the Applicant's Representative then thanked the Commission.

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7.0 ANNOUNCEMENTS

Community Development Director Jaquess explained the Items tentatively scheduled for the October 4, and 18, 2011, Regular Meetings.

Community Development Director Jaquess explained how the City Council considered the Thatch Appeal and the City Council's action with a lot of debate and with a split vote of 3 – 2 in overturning the Commission / Staff's action regarding the approval of the Thatch family rebuilding the house and indicated how the Appellant had a better prepared organized presentation to the Council. The City Council directed Staff to return with a Proposed Resolution that will include language based on the Council's action, here is a new Policy how Staff interprets modifications to non-conforming uses in the Industrial and Business Park Zones and how the Resolution is written to accommodate not only the Thatch's circumstance, but everyone else in the future.

Discussion ensued between the Commission and Staff if someone who wants to rebuild if there is twenty-five percent (25%) remaining walls visible to the outside of the structure(s) and if interior walls alterations would be allowed and examples were given. Community Development Director Jaquess responded how Staff is suggesting in the City Council Staff Report that the City Council may want to direct Staff to initiate a Code Amendment to change the non-conforming use provision back to the 2005 status.

8.0 ADJOURN

There being no further business, Chairman Hamerly declared the Meeting adjourned at 7:15 p.m.

Submitted by:

Approved by:

Linda McKeough, Community Development
Administrative Assistant III

Randall Hamerly, Chairman
Chairman Planning Commission

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