

**MINUTES  
PLANNING COMMISSION REGULAR MEETING  
JANUARY 3, 2012**

**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 Stoffel

Absent:       Commissioner Michael Willhite

Staff Present: John Jaquess, Community Development Director  
                  Ernie Wong, City Engineer / Public Works Director  
                  Lawrence Mainez, City Planner (arrived at 6:03p.m.)  
                  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 CONSENT CALENDAR**

**3.1 Minutes of December 6, 2011, Regular Meeting.**

**A Motion** was made by Commissioner Gamboa and seconded by Commissioner Haller to approve the Minutes of December 6, 2011, Regular Meeting, as submitted.

Motion carried on a 5 - 1 vote with the abstention of Chairman Hamerly and Commissioner Willhite absent.

(Note: City Planner Mainez arrived at 6:03pm)

01-03-2012.PC

## 4.0 OLD BUSINESS

- 4.1 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. Address: 7354 Stoney Creek Drive. APN: 1201-091-60-0-000. Representative: Bill Jamal, Infiniti Commercial, LLC. [Continued from September 20, 2011, October 4, 2011, and December 6, 2011, Planning Commission Meetings]

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 and explained the historical background from the previous Commission's Meetings, and the proposed modifications to the Boulder Avenue Sign and the feasibility of drafting a Joint Sign Agreement for the Boulder Avenue Sign with the Applicant and the Owner of the former Blockbuster Building in the future. Assistant Planner Kelleher indicated that the Applicant is in the audience and then concluded his presentation.

(Note: City Planner Mainez left the Chambers at 6:05p.m.)

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

A question was asked by Chairman Hamerly if the Joint Sign Agreement would be with the Property to the north and if so, would the Agreement be filed pending an Application submittal will be a Joint Condition of Approval instructing the Applicant(s) to work with the Stoney Creek Center Property Owner and apply the Joint Conditions of Approval, contingent on obtaining Building Permits and/or the Application would be considered by the Commission in a Public Hearing issue. Assistant Planner Kelleher responded it would be dependent on the use and process of an Application for a proposed reuse of the Building in the future.

A question was asked by Chairman Hamerly what would be the trigger mechanism for reuse of the existing Signage for a Tenant Improvement and Assistant Planner Kelleher responded there would be a Staff Review Permit required for future Building occupancy and could apply Conditions of Approval and have the Applicants work together when there would be a Sign Program proposed in the future in order to make the Boulder Avenue Sign work.

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

01-03-2012.PC

A question was asked by Vice Chairman Huynh regarding how much distance does the Boulder Avenue Sign that is located in the Public Right-of-Way need to be relocated out of the Right-of-Way. Assistant Planner Kelleher responded he had met with the Applicant's Sign Contractor and indicated the Sign is fifteen inches (15") within the Public Right-of-Way and that the Sign will need to be moved.

Mr. Bill Jamal, of Infiniti Properties of Stoney Creek Center, who is the Applicant, responded to the Commission. He stated the Sign, as it currently stands in the Right-of-Way and is in the 10 / 10 Rule (ten feet - 10' Rule). He indicated what he did have wrong was the small Sign that was in the parking lot adjacent to Blockbuster is the one that is fifteen inches (15") off and when a person is leaving the Shopping Center and make a right turn, the Sign is eight feet, eight inches (8'8") off and indicated that Sign will be removed. Assistant Planner Kelleher stated the Sign in question is the Boulder Avenue Sign and said how the Applicant's Sign Contractor who is Mark of Resource Signs, met with the Engineering Department and measured the Sign from the Right-of-Way to confirm its location and he recollected the Sign protrudes in the Right-of-Way approximately twelve inches (12") and Mark of Resource Signs confirmed the Sign needs to be modified and further explained that would not require modification of the pole that holds up the Monument Sign, but would require modification of the Monument Sign to structurally move it on the pole that is in the ground today and still relocate the Monument Sign twelve inches (12") which would also be out of the Line-of-Sight Triangle with the movement activity relocation. Mr. Jamal apologized and said that it's twelve inches (12") instead of fifteen inches (15").

(Note: City Planner Mainez arrived at 6:15p.m.)

A question was asked by Vice Chairman Huynh about if the Applicant could cut / reduce the Sign by twelve inches (12") and Assistant Planner Kelleher responded that is an option, but the solution that was brought forward by the Applicant's Representative was to physically relocate the Sign back and still retain the Sign size then would need to modify the Sign's base that would be contoured to the slope and would not overhang as it does today in the field.

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

01-03-2012.PC

Mr. Bill Jamal, 7353 Canoga Avenue, Canoga Park, California, who is the Applicant, addressed the Commission. He explained about the Wendy's Sign and Fitness 19 Sign and the proposed Sign Program. He stated that he has been asked to remove the Fitness 19 Sign and indicted how he met with Nick from Fitness 19 and requested a variance for the Fitness 19 Sign and left it remain. The Center is much brighter now and has received a lot of business with that Building Sign. For the exposure that the Fitness 19 business receives with that Fitness 19 Sign assists when there is no visibility when a person is going into Wendy's, and the Sign fits the Building and believed that the neighbors don't really mind and is listed as Building B, Part 1.

A question was asked by Chairman Hamerly what is the allowable square footage for a Building Mounted Sign and Mr. Jamal responded ten percent (10%) of the actual square footage for the entire Building and requested the Commission reconsider the Fitness 19 Sign and is a big part of the Center.

A question was asked by Chairman Hamerly if the Fitness 19 Sign is part of the Sign Program and Mr. Jamal responded how the Commission is considering for him to remove the Fitness 19 Sign, but he is requesting the Commission to reconsider. Assistant Planner Kelleher added the Fitness 19 Sign is still present in the Sign Program, as presented, and Staff has applied modified Conditions of Approval for the Fitness 19 Sign.

A comment was made by Chairman Hamerly the Conditions of Approval was modified to let the Sign stay, rather than list it in the Sign Program hat would have to be modified and include it and Assistant Planner Kelleher responded that is correct and the Sign is shown on Page 20 and a graphic depiction on Page 21 of the Staff Report and is labeled Building "A" on the North Elevation in the upper right hand corner and is Condition of Approval No. 13 on Page 63 of the Staff Report and is also displayed on the PowerPoint.

A question was asked by Vice Chairman Trang as to the Fitness 19 Building's Sign size and Mr. Jamal responded that it's eleven feet long and eighteen inches high (11'x18").

A comment was made by Chairman Hamerly the façade is more effective advertising rather than the Monument Sign that is in the ground at that particular location and Mr. Jamal responded that a person who is coming off the Freeway can see the Fitness 19 Sign and Community Development Director Jaquess added the Sign faces partly Stoney Creek Drive, and between Wendy's driveway and Fitness 19.

Chairman Hamerly asked if the Commission had any further questions for the Applicant.

01-03-2012.PC

A question was asked by Commissioner Stoffel why remove the Fitness 19 Sign and Chairman Hamerly explained what had transpired from previous Commission Meetings and the Applicant's proposal. Commissioner Haller added about the DRB's original review and with the light / illumination disturbance surrounding the residential area located on Stoney Creek and then asked if there had been any complaints received about the Sign and City Planner Mainez said no. Commissioner Haller then asked about a Wall Mounted Sign and Assistant Planner Kelleher responded and explained how the DRB reviewed the Sign Program in 2007, the Applicant proposed Building Mounted Signs to be located along Stoney Creek and the DRB took action at that time to remove all of those and require that those Signs not be installed, but a DRB Directive to install Monument Signs instead due to the impacts of the Signs on the neighbors and indicated the City has not received any comments or complaints with the installed Fitness 19 Building Mounted Sign. Mr. Jamal added the Sign does not face the residents and is at a 45 degree angle and that Fitness 19 is an Anchor Tenant and needs to keep its exposure and keeps the Center alive. He further said how Valvoline is "whistling" and has not been paying rent and is unable to collect the rent for months and there is no end in sight and the need to build the Boulder Avenue Bridge and that the Center is brighter and cleaner, but needs help.

Chairman Hamerly asked if the Commission had any further questions of the Applicant or Staff. Hearing none, he then asked if anyone would like to speak on the item.

Mr. Aysar Helo, who owns the Valero Gas Station located on Base Line and Seine, addressed the Commission. He said he owns the adjacent property to the east and would like to see the Commission support the Signage in that it would help the Applicant's business and indicated how all of the businesses on Base Line are suffering and how the economy is not like how it was four to five (4 – 5) years ago. He indicated is supportive of Signage and the City assisting not only the Applicant's business, but the local business and business owners located in that area. Mr. Helo indicated that he owns the residential properties to the east of the Project and said that his tenants would have no issues with those Signs.

A question was asked by Chairman Hamerly what is the Commission's feeling regarding the Northwestern Facing Fitness 19 Sign. Commissioner Haller responded he is supportive of leaving it and seems reasonable to leave the Sign in the Sign Program since there is has been no public input and appears that is not objectionable and both Commissioners Gamboa and Sparks concurred with Commissioner Haller's comments.

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

01-03-2012.PC

A question was asked by Commissioner Haller what is the status of the Boulder Avenue Bridge. City Engineer Wong responded the City Council awarded a Contract approximately four (4) weeks ago and that there is a Preconstruction Meeting is scheduled this Thursday. It is anticipated that Bridge construction should commence by mid-January to mid-February, and is given ten (10) months to complete the Boulder Avenue Bridge dependent on the weather. Mr. Jamal added that he is talking with the current property owner of former Blockbuster's and the Mounted Sign and indicated the trees / plants growing out of the sidewalk will be cleaned up. He requested, if possible, incorporate some kind of language in the Sign Program if he is able to come to terms with the Blockbuster's Property Owner, add some Signage for Blockbuster and Mr. Jamal further explained to the Commission of his intentions of merging the Fitness 19 parcel with the Blockbuster parcel into one parcel which would then be five and one-half (5.5) acres.

A question was asked by Chairman Hamerly if Mr. Jamal is seeing about a reverse lot line adjustment and Mr. Jamal said possibly and further indicated his attempts to purchase the property and subdivide it and install a 7/11 Convenience Market and would like to have the language in place in the Sign Program, in case if there is a lot merger. Chairman Hamerly responded that would be a benefit for the entire corner, but any modification to a Sign would require a Public Hearing and is a COA in the Sign Program and how Mr. Jamal would have to work with that future property owner. Mr Jamal responded how he working with the current Blockbuster Landlord and then thanked the Commission.

Chairman Hamerly asked if the Commission had any further questions of the Applicant or Staff. Hearing none, he then asked if anyone else would like to speak on the item. Hearing none, he then closed the Public Hearing and opened the floor for further discussion amongst the Commission.

A question was asked by Vice Chairman Huynh about if the Commission allowed the Building Mounted Fitness 19, the Commission would then be deleting Planning Conditions of Approval No. 13 and Chairman Hamerly responded that is correct and that the Commission's concurrence the form of the Motion is to delete Planning Conditions of Approval No. 13.

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

01-03-2012.PC

**A Motion** was made by Commissioner Haller and seconded by Vice Chairman Huynh to:

1. Approve ASR 011-012, a Proposed Modification to an Existing Sign Program for Stoney Creek Center, which includes a Proposal for new Monument Signs, subject to Conditions of Approval, as modified with the following:

Deleted Planning Conditions of Approval No. 13, in its entirety.

~~13. (NS) The "Fitness 19" Sign located on the westerly side of the Building must be removed.~~

and;

2. Approve the Findings of Fact.

Motion carried on a 6 - 0 vote with Commissioner Willhite absent.

## **5.0 NEW BUSINESS**

- 5.1 Revision 011-001, In-N-Out Burgers proposes to revise the approved Building Elevations for the In-N-Out Building and delete an architectural tower feature from the Plans. The Project is located at 28009 Greenspot Road, south side of Greenspot Road approximately 1,300 feet east of the 210 Freeway. Representative: John Puente Jr., In-N-Out Burgers

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

City Planner Mainez explained Senior Planner Meikle was unable to be at tonight's Meeting due to illness and then gave the presentation from the Staff Report and PowerPoint presentation and explained that the proposed modifications to the Commission to remove the pop-out over the Drive-thru as a result of the Gas Station, it will be difficult to see the Sign and to relocate it to the south side of the Building and indicated the framing is done and the turning radius is acceptable. He further indicated that the Applicant is in the audience and then concluded his presentation.

Chairman Hamerly 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.

01-03-2012.PC

Mr. John Puentes, of In-N-Out Burgers, 13502 Hamburger Lane, Baldwin Park, California, who is the Applicant's Representative, addressed the Commission. He stated the possibilities of the changes made may have happened not knowing what was going to be there before the Chevron Gas Station was approved and further explained the proposed Sign would be relocated to the South Tower.

Chairman Hamerly asked if the Commission had any question of the Applicant's Representative. Hearing none, he then asked if anyone in the audience would like to speak on the Item. Hearing none, he then closed the Public Hearing and opened the floor for discussion amongst the Commissioners.

A comment was made by Commissioner Haller that he concurs with Staff's recommendation since a person is unable to see the Sign and next time, the Commission can look for that when the Commission approves a Gas Station Canopy.

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 to Approve Revision 011-001 deleting the westerly architectural Tower from the In-N-Out Building (Amending DRB 010-004).

Motion carried on a 6 - 0 vote with Commissioner Willhite absent.

5.2 Amendment to Conditional Use Permit (CUP 01-001) and Design Review Application (DRA-011-003) to redesign the Site Plan related to a Car Wash Facility. The Project is located on two (2) adjoining parcels at the southeast corner of Base Line and Seine Avenue. Assessor's Parcel Numbers: 1201-091-61 and 62. Representative: Aysar Helo

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 and explained that the proposed Project amendments and revisions and the Applicant's request regarding Engineering Conditions of Approval and the Project's Phasing to the Commission. He further indicated that the Applicant is in the audience and then concluded his presentation.

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

01-03-2012.PC

A question was asked by Commissioner Haller regarding the status of the existing home and occupancy and if there would be any impact to it with the revisions to Phase 1. Assistant Planner Kelleher responded there would be no impact on the home, as part of the Conditions of Approval as they have been modified and that the home can be maintained at this time. City Planner Mainez added the original CUP had a Condition of Approval regarding how the home is not to be demolished and make an attempt to relocate it and over the years, the Owner has tried to do that and has not been able to relocate the home and it is the Applicant's intent to occupy and reuse the home as a restaurant / office area and would have be an amendment to the CUP Application and return to the Commission for consideration, at that time.

A question was asked by Commissioner Haller regarding how the fencing would interface with the existing home and Assistant Planner Kelleher responded the fencing will follow along the exterior of the parking stalls and extend out to Pluto and will be vinyl fencing material.

A question was asked by Commissioner Haller regarding the location of outdoor seating listed on the Site Plan and Assistant Planner Kelleher responded it is not correctly shown on the Site Plan and then showed the general outdoor seating location displayed on the PowerPoint. Both Commissioners Haller and Gamboa stated that is in front of the Handicap Ramp according to the new Site Plans and Assistant Planner Kelleher responded that it is a Loading Zone on the new Site Plan and explained he believed that it is too far over and would have to avoid it and that there are two (2) outdoor tables that are already existing in place.

A question was asked by Commissioner Haller where is the existing Trash Enclosure that is going to be converted into a Storage Building located on the Plans and Assistant Planner Kelleher said the existing Trash Enclosure is located at the southern edge of the Site adjacent to Pluto and the new Trash Enclosure will be located farther north adjacent to the Car Wash.

A question was asked Commissioner Gamboa if the Commission was also to consider approving Phase 2 and Assistant Planner Kelleher responded the Phase 2 was included to show the Commission what the future Master Plan could be for the Site and was provided only for informational purposes. Commissioner Gamboa indicated that he wanted to ensure that Phase 2 was not included for the Commission's consideration.

A question was asked by Chairman Hamerly about the environmental noise impacts on Planning Condition of Approval No. 68 of the Staff Report was triggered solely for the Car Wash or would that also be for the Outdoor Vacuums and Assistant Planner Kelleher responded about the 65 decibels exceeding to

01-03-2012.PC

the Property Line and the noise level was attributed to the Car Wash. Chairman Hamerly asked about if the Vacuums are considered a part of the operations of the Car Wash and Assistant Planner Kelleher said no, they were not considered and City Planner Mainez added the noise would be from the blowers coming into the Facility.

A comment was made by Chairman Hamerly about the Condition of Approval on the installation of a rollup door to block the ambient noise from traveling south into the residential neighborhood so the Car Wash is contained within the Structure and he then asked if there is a trigger mechanism for the Outdoor Vacuums if they get noisy and keep the noise contained to the Property so there would not be in excess of 65 decibels. Both City Planner Mainez and Assistant Planner Kelleher responded Staff had not considered that and it is not anticipated it will exceed the noise level. City Planner Mainez responded that there was an old technology and that the Vacuum cylinders have been replaced with something that is inside the Building, but Staff defers that question to the Applicant.

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

A question was asked by Commissioner Haller why was Planning Condition of Approval No. 46 proposed to be deleted and Assistant Planner Kelleher responded that Condition of Approval has been implemented.

A question was asked by Chairman Hamerly so Condition of Approval No. 46 is not superseded by the wall that is going to the west of the Trash Enclosure and Commissioner Haller responded there will be more block wall installed to the south than to the east and Assistant Planner Kelleher explained the Condition of Approval is not part of this action and was removed years ago by the DRB previously with the approval of the existing Car Wash Building and it should not have been noted in the Condition of Approval at all and apologized to the Commission.

Chairman Hamerly 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. Aysar Helo, 27767 Base Line, Highland, California, who is the Applicant, addressed the Commission. He stated that he needs to install the Car Wash, as part of the Gas Station and would be aesthetically part of the Building, otherwise, he is not making enough required to stay afloat and explained he is unable to obtain financing, at this time, to proceed with Phase 2 and wanted to make the

01-03-2012.PC

Car Wash a part of Phase 1 due to his finances. Mr. Helo indicated the Project's design is with the intention of the neighbors in mind and most of the noise will be located within the Property through the air dryers located at the middle of the Site and will not be at 65 decibels at the exit door toward the street and is not an issue. He further indicated with regards to the installation of fencing / wall, just in case, to ensure that everyone is happy to block the neighbor view when the car is being washed in the Car Wash and believed the Site Plan is better now than when it was originally approved and is farther away from the homes. When the Project was originally approved, the neighbors were approximately forty feet (40') away and during construction of the Gas Station, he was not supposed to continue the wall and was only supposed to go to Phase 1, but he continued the wall to ensure the neighbors were happy and at that time, he had a little bit of extra funds so he did it. The neighbors to the east of Parcel 2 have resided there for fifty (50) years and Mr. Helo said he wasn't going to do something that would offend them and so he installed the wall and made sure that they have it. Mr. Helo indicated that he has been here in Highland for twenty-five (25) years and considers this home. Mr. Helo then requested some of the COAs to be pushed back to Phase 2 and it would be better cost wise for him and indicated that any funds that would be needed would be coming from him personally and not from construction loans and he would appreciate any help that he could receive.

A question was asked by Chairman Hamerly if Mr. Helo meant Engineering Conditions of Approval Nos. 9, 10 and 11 and Mr. Helo responded affirmatively because of cost and because of the extra cost, he could push that cost as part of the construction loan for Phase 2 rather than from his limited personal funds.

A question was asked by Commissioner Haller what would trigger with Phase 1 and Chairman Hamerly responded Engineering Condition of Approval No. 10.

City Engineer Wong explained to the Commission Engineering Conditions of Approval Nos. 8 through 12 to the Commission and the Applicant's request to modify Conditions of Approval Nos. 8 and 12 in Phase 2 rather than in Phase 1 and Mr. Helo explained of borrowing the financial cost to the Commission.

A question was asked by Chairman Hamerly then the Applicant is requesting to defer Engineering Conditions of Approval Nos. 8 and 12 and not 10 and Assistant Planner Kelleher responded then that will impact Planning Condition of Approval No. 21 and would then be eliminated. Planning Condition of Approval No. 21, as proposed tonight, requires the Applicant return with the proposed Landscaping Plan along Pluto within the Landscape Maintenance District. Mr. Helo responded and stated when he designed the landscaping regarding sprinklers, etc. he took into account that he will eventually do, but what the Architect did was with the parking area, but is designed in the future Plans and

01-03-2012.PC

will continue with it. Mr. Helo indicated there is no problem in doing it, it is just the timing of when it will be done. With Engineering Condition of Approval No. 10, he would not like to be charged for Parcel 1 as there is no landscaping in front of Parcel 1 and any future assessment fees placed in Phase 2 and how he had met with Staff today to discuss this and Staff indicated that it is the whole thing, but reiterated his deferment request to the Commission.

For clarification, a question was asked by Chairman Hamerly regarding a portion of Engineering Condition of Approval No. 10 the intent was to assess the entire improvement of the City's portion of the improvement or only in front of Parcel 1 or also on Parcel 2. City Engineer Wong responded and explained Engineering Condition of Approval COA No. 10 that Parcel 1 is required to be annexed into a Landscape Maintenance District to pay for the Property Owner's proportionate share of the Landscape Maintenance Cost to be incurred by the City and the intent of the Conditions of Approval is to look at the Landscape Median, as a whole, from Seine Avenue to Boulder Avenue because the City will be installing a Landscape Median from Seine to Boulder.

A question was asked by Chairman Hamerly what is the proportional share of the improvement cost that the City has incurred that is being assessed to every property owner within that stretch of road based on the frontage of Base Line and City Wong responded affirmatively and explained the intent is for every project that the City has an opportunity to be Conditioned to be annexed into the Landscape Maintenance District and that it will be annexed and gave an example of Parcel 1 (new development) and Parcel 2 (future development) and as time permits and when the City has an opportunity, then each of these Parcels would be annexed into the Landscape Maintenance District and paid their proportionate share based on Parcel (street) frontage and what the Applicant is saying is that because there is no landscaping in front of Parcel 1, just of nose of the Landscape Median so therefore, there should not be any assessment on Parcel 1. However, the proportionate assessment is to be done in such a way that every Parcel pays a share into this future Landscape Median and is not just based on the area of landscaping in front of their Parcel, it is everybody's share into the Landscape Median so that it would be a fair and equitable proportion of cost to each of the Parcels.

A question was asked by Chairman Hamerly if there are properties that are along for a couple of blocks between Boulder Avenue and the Freeway Oframp, there are existing in projects there that have never come forward to the City (and City Engineer Wong interjected that they won't) (and Chairman Hamerly continued) will never be assessed so that the City potentially may only recover a twenty-five percent (25%) of the total cost through development assessment and would that be accurate. City Engineer Wong responded that would be accurate and the City

01-03-2012.PC

would pick up the cost if no one else is sharing it and the only time the City can have anyone share the maintenance cost is when there is an Entitlement Application that comes to the Commission. Mr. Helo then stated that is where he disagrees with City Engineer Wong with Parcel 1 in that there is no landscaping benefit for him and how Mr. Helo already personally does  $\frac{3}{4}$  of the landscaping of the street and when the Landscape Median and the Center are constructed, Mr. Helo said he will be paying for all of the landscaping just not paying for in front of the Gas Station portion of the Site and felt that it should be not be Conditioned to pay anything in front of it because no work is going to be done in front of Mr. Helo's location and indicated how he already pays for Seine, Pluto, and Base Line and reiterated that it should be part of Phase 2 instated of Phase 1.

A question was asked by Commissioner Haller regarding the timing of the Median improvements and when the charges start being imposed and City Engineer Wong responded the Project has been ninety percent (90%) designed and Public Right-of-Way acquisition and in approximately three to four (3 – 4) months it will be ready to go out to construction bid and will be done in approximately eight months so the landscaping will be installed by then if the Conditions of Approval is approved, then Parcel 1 will be assessed his proportionate share starting when next time the property bill (tax) in 2012. Mr. Helo said that is why he would not like to be involved with any additional taxes on the Gas Station portion until the Shopping Center (is constructed) at a later time.

A question was asked by Vice Chairman Huynh is there a time line for construction of the Shopping Center and Mr. Helo responded for the Shopping Center in today's economy, is not happening for the next two (2) years and are discussing options with Engineering is trying to design a no left turn pocket and was originally planned to be one and Mr. Helo would like to have that left turn pocket installed as soon as possible within the time of Engineering does the construction and is nothing solid yet, but that is what the discussion has been.

A question was asked by Commissioner Gamboa what about the how far does the sidewalk go on Pluto and City Engineer Wong said he believed currently, just across Parcel 1.

A question was asked by Vice Chairman Huynh about Engineering Condition of Approval No. 12 and extending the sidewalk from there and City Engineer Wong responded and explained Engineering Conditions of Approval No. 12 says as part of the Commission's approval of the Car Wash, that the Applicant will extend the sidewalk which has already been built, up to this point and go across the east end of the Project, and said that Staff has no objection if the Commission agreed to delete the sidewalk and the landscaping on Pluto until Parcel 2 develops.

01-03-2012.PC

A question was asked by Commissioner Haller to City Engineer Wong regarding that it appears for the small amount of work and what would be the cost for installing the sidewalk and landscaping across Parcel 2 and if it would be less than \$10,000 and Mr. Helo responded it's not a lot of money, but he currently does not have the extra funds and the less for him at this time, the better it is for him financially and that he is refinancing his home to pay for construction and to ensure that he won't lose the Site and said how the sales are down from this year to last year at 8.5% and is more than a month's worth of sales of gasoline and how the market is extremely competitive and that he is in trouble in that corner and needs the Car Wash to be put in.

A question was asked by Vice Chairman Huynh about where the residential area is located, there is a sidewalk located on Pluto and City Engineer Wong asked if he meant in front of Mr. Hello's property from point to that way and Commissioner Haller said no, in that there is no sidewalk, just dirt there and Mr. Helo added there is no sidewalk there.

A question was asked by Commissioner Stoffel if there is no sidewalk in front of the residence, why would we require another how ever many feet it is if it is just going to go to dirt again and City Engineer Wong responded that is what you do when you have a chance to look at the sidewalk, otherwise, you don't Condition it and will fall back to the City in the future and then Commissioner Haller said how the City has a Program for sidewalks and trying to implement a Safe Route to School Program. City Engineer Wong responded it is the City's policy so have sidewalk on all City streets and the City has been looking at new development not only developing on-site, but also take care of the streets too in front of the new projects and there would be a safe path with a street sidewalk that is in front of the Project.

A question was asked by Chairman Hamerly as to the mechanism funding to adding for the property tax assessment and why it would take an Application to trigger it and City Engineer Wong responded there are legal requirements for property annexation into a City's Landscape Maintenance District and then explained to the Commission how the property owners of the property affected would have the right to vote yes or no to be placed in the annexation and then provided an example if there is an existing development, or residential neighborhood, and suddenly, the City would come up with an idea and want to annex that neighborhood into an Landscape Maintenance District, then everyone gets to vote and they can vote no, if they do not want to be annexed into the Landscape Maintenance District and that is the situation when there is no new project. When there is a new project, the City can require and Condition the project to be annexed into the Landscape Maintenance District and part of the

01-03-2012.PC

mechanism is that the Property Owner signs a document stating that he is willing to be annexed because it is a Condition of Approval for the Project and that is why the ballot is a required legal document in order for the annexation to become legal.

A question was asked by Chairman Hamerly if the City installed in the Public Right-of-Way a water line or sewer line or some other improvement, would it automatically assess all of the property owners based on a percentage or proportionate share along their street frontage and how is that different from the Public Right-of-Way improvements and Landscape Maintenance District improvements. City Engineer Wong explained the 1972 Maintenance Act and Proposition 218 to the Commission. Chairman Hamerly then asked if it is then more of a convenience rather than a public health safety and welfare issue and if this is different with an active Application to the City for this to be triggered to help pay for the Right-of-Way improvements and City Engineering Wong responded this is subject to Proposition 218.

A question was asked by Commissioner Haller about if the City could form an Landscape Maintenance District and other ways to finance it and currently, the City is picking up whatever portion that is isn't paid for by the property owners and City Engineer responded the Condition of Approval is consistent with all the other new projects that got annexed into the Landscape Maintenance District so there is nothing new here and whenever there is a need for the City to take care of the landscaping which is in front of new developments, most of the time, the new development installed the landscaping and then paid for the maintenance of it and in this case, the City received Federal Grant funds for partially funding for the Landscape Maintenance District and landscaping and the City install the Landscape Median and that, by itself, has already relieved new development of having to build the initial improvements and we are only talking about maintenance of the landscaping.

A question was asked by Chairman Hamerly about the Conditions of Approval if the Property Owner did not maintain the improvements, then the Property could become defaulted and annexed into an Landscape Maintenance District and because of being a Public Right-of-Way improvement and not the Median and City Engineer Wong said that's right and many projects are Conditioned by the City to install Parkway landscaping which is basically located behind the curb and many times, the landscaping is maintained by the projects themselves which is the case here for this Project. Mr. Helo added he maintains the Public Right-of-Way and have an annexation already around the Gas Station, but not around the Median because he was not any part of an annexation that was required at the

01-03-2012.PC

time. Mr. Helo reiterated his request to separate Phases 1 and 2 due to the costs and is already maintaining the landscaping there and believed that within the paid property taxes there is landscaping already in there that is paid to the City. City Engineer Wong stated how Phase 1 is annexed into a District for potential maintenance of Parkway landscaping by the City if the property owner is not doing a good job and the City should take it over and the City already has that mechanism set up for the Parkway landscaping. Currently, the City is not assessing any funds for Parkway landscape maintenance because this Property Owner is doing a good job and the Parkway landscaping is done by the Property Owner, unless they are not doing a good job and the City would then take over, and the Median landscaping is done by the City due to safety concerns.

A question was asked by Commissioner Gamboa is this similar to William Homes and Dairy Queen located on Base Line has the same COA Base Line language and City Engineer Wong responded affirmatively.

A comment was made by Commissioner Stoffel that he does not like the idea of the City mandating the thing to be done and then charging the people for it and then go on. This Owner is struggling right now, and if we can delay it to the next process, I think that we should.

A comment was made by Commissioner Haller that it is a question of implementing the Policy as directed by City Council and it would be nice if it would be charged for everyone, but the City Council has established this Policy and have to enforce it equally for everyone and for every Applicant that has come forward i.e. Dairy Queen and others who have opposed this requirement, there has not been an option to defer it. Parcel 1 is developed and thinks it should be included and does not support deleting it. He is supportive of deferring the sidewalk / landscaping and would help make the south end of the development more complete, but because of the financial situation even though it is a small amount, he would support the deferring it. Mr. Helo responded if he had the funds, he would more than happy to do it and indicated that he has spent over \$200,000 on that corner that he didn't have to spend because of the original CUP Application and at the request of City Engineer Wong, he did the work for the City for the street lighting located on Seine which was originally not a part of any CUP COA and reiterated about his lack cash flow.

A comment was made by Commissioner Haller from a windshield inspection, the Project looks good.

A comment was made by Commissioner Gamboa that he does not have a problem to defer Engineering Conditions of Approval Nos. 8 and 12 into Parcel 2, but if deferring Conditions of Approval Nos. 10 and 11 into Phase 2 and Phase 2 takes five to ten (5 - 10) years to build, then it may never be built and then the City will be stuck waiting until someone builds Phase 2.

01-03-2012.PC

A question was asked by Commissioner Stoffel if there is or will be a Median there and have or not have a left turn pocket and Community Development Director Jaquess responded there is a Median in front of the Gas Station and City Engineer Wong added how there is a City Master Plan for the Median and the left turn pocket median is planned to be built. When this area develops, then a "left in only" opening can be planned to be built and then if it is to be a part of the entitlement of that portion of the Project, then it would be sufficient justification to build that left turn pocket in. However, at this time, there has been no entitlement for this piece of land and do not know if there will be actually an opening because it has not revealed or be approached to approve anything. So at this point, when the City moves forward to build the Median, it is intended to build a full width median. However, this afternoon, there has been some discussion with the Applicant that maybe after the Commission approve Phase 2 Plan, that he would return and discuss with Staff and may modify his Plan to include this portion of it in this Plan making another access point for the Car Wash and Gas Station. So if the Applicant processes this quickly and the Commission approve it, then it would give a good reason to redesign the Median to allow the left turn in pocket.

Mr. Helo stated how he has already submitted and received an approval for a Water Quality Management Plan for the Site, as it sits, right now. When Mr. Helo had purchased the Properties with the Shopping Center, and with the current down economy, reiterated it will be built, but when the economy is better. The left turn pocket is important to have it now more than later and why build it twice, when it can be done now. Community Development Director Jaquess responded that is not a part of the issue tonight.

A question was asked by Commissioner Stoffel why charge for the Median when the Project is not built yet and City Engineer Wong explained the charge for any maintenance costs of the future Median to be built by the City, is only for the developed portion of this Project only Parcel 1 and Parcel 2 won't be charged until Parcel 2 develops and the assessment would only apply to Parcel 1. Commissioner Stoffel then asked if it would be based on the measurement of the front of the Property (street frontage) and City Engineer Wong responded affirmatively.

A question was asked by Commissioner Stoffel regarding "the nose" of the Applicant's property and if does not have any landscaping, is the City only charging where the driveway whether it would be landscaped and then Chairman Hamerly explained the intersection to intersection plant material design to the Commission and that it is a proportionate share to the Applicant. Mr. Helo stated how he is the only person paying for the entire share and is not allocated with anyone else. Commissioner Haller responded the Applicant will have to pay his proportional share and Mr. Helo said that he will have to be paying for the entire thing then.

01-03-2012.PC

City Engineer Wong if the Median will be built in a certain location, it will be assigned to this Project. Chairman Hamerly stated if the Applicant's assessment would be fifty percent (50%) from Stoneycreek to the Freeway Offramp because of all of the properties located on the north side so it is the total accumulative lineal footage of the property that is fronting on the improvements and City Engineer Wong responded that is one way to look at it, but it has not been the intent. The intent has been that the assignment of this future cost be assigned to new development so if there is new development potential on the south side, then it would go to the south side. If in the future, the north side is redeveloped, then that would be a new redevelopment area would be also required to participate.

A question was asked by Commissioner Gamboa if McDonalds is responsible for part of the Median also and Chairman Hamerly responded it is not a new project and City Engineer Wong responded MdDonalds was not Conditioned to do it.

A comment was made by Chairman Hamerly said how the proportionate share was discussed and he is thinking the lineal footage on both sides of the street and that how the lineal footage of percentage starts based on 100% of anything that is touching contiguous property to the improvements as opposed to only the potential new development would be that's where the 100% starts so only the bare dirt is the 100%. To him, that the formula needs to be reexamined because that is the correct way to do it if you are talking about a proportionate share. City Engineer Wong responded that can certainly be done that way, but it has not been chosen to be done and provided an example that on Boulder Avenue where the Albertsons Shopping Center is, Albertsons paid for the entire landscaping improvements and is the same way with all of the new development. Chairman Hamerly stated how San Manuel Band of Mission Indians paid for the entire improvement on Highland Avenue which was to keep it within their aesthetics with their project. City Engineer Wong said that's right and is a matter if the Median is not paid for with new development through an Assessment District then the City ends up having to pay for it and if that is the practice, then the City is probably not going to require Landscape Median because the City does not have the source of funding. All these years, it has been is that new development installs the new Landscape Median and pays for maintenance of it whether or not they only occupy one side of the street and the City maintains it.

A comment was made by Commissioner Gamboa so then McDonalds is free and clear and City Engineer Wong you cannot go back to a project that we didn't Condition for a median at that time.

01-03-2012.PC

A comment was made by Commissioner Stoffel at that time, business was booming and people were building and they wanted to get things done and Chairman Hamerly responded that it was “cut and dry” when the requirement is placed on the new development i.e. developments located on Palm Avenue and we are talking about Landscape Maintenance District and Assessments, then the only fair way to do it is to say what is the total street frontage in the District where this Landscape Maintenance District is being created and start at 100% of total frontage of any contiguous property to the improvement is included in the tabulations. If someone has five percent (5%) exposure like on a flag lot and that is the only project, they are not going to be tagged for 100% of those Right-of-Way improvements and is not a fair share. City Engineer Wong responded but you are putting a project in Parcel 1 and the Parcel is the Project and the Commission is Conditioning this Project to take care of their portion of the landscaping maintenance responsibility. Chairman Hamerly said that he understood that, but disagreed with how the proportionate share is determined, where is the 100% of the allocation and how is that made up. To him, it should not be just the bare dirt where the pie starts getting carved up – it should be total frontage and is the only equitable way of allocating fair share. Commissioner Haller responded the City would never recover 100% cost and is a City Council Elected Policy and the Commission should implement City Council Policy and the Applicant can appeal to City Council and should be brought to City Council. Commissioner Stoffel agreed that it should be brought to City Council.

Mr. Helo stated there is no landscaping on Parcel 1 and with future Phases and charge fund up in EHR traffic costs and crossing roads and reiterated that he has not a lot of funds and wants Phase 1 as inexpensive as he can get. He further stated the more we save on and benefit in the future and he never intended to buy the added Properties and it is the timing. He owns one (1) gas station and originally hired thirteen (13) people and now he is down to six (6) employees and all that he is doing is making sure the bills are paid. Patrons are not spending extra funds on beer, ice, candy, soda, etc. and does not make money on the fuel, it is the extra items and provided an example that one (1) Car Wash come in and his profit margin is approximately \$4.00 and he would need to sell twenty cars to make that \$4.00 and that has a margin of five cents to six cents (\$0.05 - \$0.06) per gallon of fuel on a cash basis and is approximately the same when one is using a credit card. He said he has tried to compete, but without the Car Wash, he is unable to compete and how it is tough on everyone.

A comment was made by Commissioner Gamboa that he is empathetic for the Applicant and suggested the Commission go through with this and leave Engineering Condition of Approval No. 9 as written and let the City Council make a decision if the Applicant wants to take it further because the Commission is not the implementers, just how the Commission has considered other projects.

01-03-2012.PC

Chairman Hamerly responded the need to be consistent with the Application of all of the statutes plus Conditions of Approval due to consistency and concurs with Commissioner Gamboa and said then modify Engineering Conditions of Approval Nos. 8 and 12, and a matter of consistency on Engineering Conditions of Approval Nos. 9 and 10 which can be appealed to City Council.

A comment was made by Commissioner Haller to have Staff relay a message how it is a little troubling how the formula is implemented and unsure that if it is fair.

A comment was made by Chairman Hamerly that it was the first time that he has heard that and he thought when he heard the proportionate share, he started adding up the total amount of dirt that was running in front of a particular project. Commissioner Haller responded how it seems that everyone benefits so everyone shares in the costs and it seems unfair to have to the Applicant to come in more recently, he gets the extra charge. Chairman Hamerly responded that Mr. Helo is the only person who is brave enough to file an Application and then provided an example that is it like a volunteer is in the form in that everyone who takes a step backwards is the one who volunteers.

A clarification was made by Assistant Planner Kelleher if the Commission desires to delete Engineering Conditions of Approval Nos. 8 and 12 if would also include Planning Condition of Approval No. 21.

Chairman Hamerly stated so noted and then asked if the Commission had any further questions or Conditions of Approval the Commission has not yet discussed at this point. Mr. Helo said it was just the cost issues and that the other things are normal stuff and does not see any other issues with the remaining items. Mr. Helo reiterated how it is tough for everyone and provided an example how a middle-aged person is going through trash cans to collect cans in order to pay his bills and it is sad and hurts him and reiterated his reduction from thirteen (13) employees to six (6) and he appreciated whatever the Commission can do.

Assistant Planner Kelleher stated Planning Condition of Approval No. 2 also needs to be revised and provided language for the modification and Chairman Hamerly responded so noted.

A comment was made by Commissioner Gamboa how the outside picnic tables are located at the handicap ramp area and still do not know where they are and will be located on the Plans and there is not enough room and no indication for them. Assistant Planner Kelleher responded the tables exist and that it is a removal of a COA and gives the Applicant the option to place tables out there

01-03-2012.PC

and are not fixed and how the path of travel needs to be maintained. Mr. Helo responded it is there and that the sidewalk is fourteen feet (14') and Commissioner Gamboa said he didn't think so, but that is his opinion.

City Engineer Wong provided revised language for the Engineering Conditions of Approval Nos. 8 and 12. Chairman Hamerly responded regarding before the third sentence it should state at the conclusion of Phase 2 because the Applicant is agreeing to the scope and is willing to defer it to Phase 2 due to the timing discussed in the third sentence and is the trigger and City Engineer Wong responded okay, that he can do that. Chairman Hamerly stated he agreed with the change on Sentence 1, and how Sentence 3 is the trigger and concerned about deleting the Third Sentence. City Engineer responded he combined both Pluto and Base Line and once you have said it at the beginning of Sentence 1, does not need to be repeated again at the end of Sentence.

Chairman Hamerly indicated that the modified Engineering Condition of Approval No. 8 that the timing is discussed in Sentence 3: "The installation occurs shall be completed when development occurs easterly of and adjacent to the Base Line entrance" and that is the trigger. City Engineer Wong responded that he saw what Chairman Hamerly meant and that the trigger is a separate sentence and Chairman Hamerly said exactly and understood that Pluto Street and Base Line is the scope and agreed on that, but Base Line should be included in the First Sentence if City Engineer Wong is deleting the Third Sentence, he is striking the only trigger Chairman Hamerly could find when is this going to occur and City Engineer Wong yes and that he can do that and leave the trigger in the Third Sentence and Chairman Hamerly responded okay.

City Engineer Wong read the proposed revised language to Engineering Condition of Approval No. 12 to the Commission.

Chairman Hamerly asked if the Commission had any further questions.

A question was asked by Commissioner Haller to delete Planning Condition of Approval No. 21 and Chairman Hamerly responded affirmatively and modify Condition of Approval No. 2.

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

01-03-2012.PC

**A Motion** was made by Commissioner Haller and seconded by Vice Chairman Huynh to:

1. Adopt Resolution 12-001 amending Conditional Use Permit (CUP-01-001) and approving Design Review Application (DRA-011-003), all subject to the recommended Conditions of Approval, as revised with the following:

Planning Conditions of Approval

2. The proposed Project shall be constructed In two (2) Phases. Phase 1 is consisting of a Parcel (1201-091-61) located along Seine Avenue and Base Line that includes the Food Mart, Gasoline Pumps, Car Wash and Vacuum Station (western portions of the Site). Phase 2 includes approximately 23,575 square feet of Retail / Office Space (Exhibit B).
- ~~21. The Applicant shall submit to the Planning Commission for Review and Approval the proposed Landscaping along Pluto within the Landscape Maintenance District.~~

Engineering Conditions of Approval

8. Install and maintain frontage landscaping on Pluto Street and Base Line across Parcel 2 of Parcel Map 19025, including landscaping in the Parkway and the existing Planter. Design and submit a separate Irrigation System Plan for the frontage landscaping for approval by the City Engineer and City Planner. Installation of the frontage landscaping shall be completed when development occurs easterly of and adjacent to the Base Line entrance.
12. Construct six foot curb adjacent sidewalk on Pluto Street across Parcel 2 of Parcel Map 19025 when development occurs easterly of and adjacent to the Base Line entrance. Replace damaged curb and gutter as directed by the City Engineer.

and;

Findings of Fact.

Motion carried on a 5 - 1 vote with Commissioner Gamboa dissenting and Commissioner Willhite absent.

01-03-2012.PC

5.3 A Semi-annual Report of the processing of Applications per the City Council's "Come Home to Highland" Program and Policies for the period of July 1, 2011, to December 31, 2011.

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 and explained the various Applications and Department/ Division comparisons to the Commission.

A question was asked by Vice Chairman Huynh on how many Building Inspectors the City has and Community Development Director Jaquess responded one (1) full time Inspector and one (1) contracted Inspector on an as needed basis.

A question was asked by Chairman Hamerly if the Building and Safety Division does the plan checking inhouse and Community Development Director Jaquess explained the City does plan checking i.e. patios, patio covers, etc. and new buildings / construction is forwarded to Willdan

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 Vice Chairman Huynh to Receive and File the Report, as submitted.

Motion carried on a 6 - 0 vote with Commissioner Willhite absent.

## 6.0 ANNOUNCEMENTS

Community Development Director Jaquess explained the Items tentatively scheduled for the January 17, 2012, Regular Meeting.

## 7.0 ADJOURN

There being no further business, Chairman Hamerly declared the Meeting adjourned at 7:48p.m.

Submitted by:

Approved by:

---

Linda McKeough, Community Development  
Administrative Assistant III

---

Randall Hamerly, Chairman  
Planning Commission

01-03-2012.PC