

**MINUTES  
PLANNING COMMISSION REGULAR MEETING  
APRIL 17, 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
		Michael Willhite

Absent: None

Staff Present: John Jaquess, Community Development Director  
Lawrence Mainez, City Planner  
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 February 21, 2012, Regular Meeting.**

**A Motion** was made by Commissioner Willhite and seconded by Commissioner Vice Chairman Huynh to approve the Minutes of February 21, 2012, Regular Meeting, as submitted.

Motion carried on a 4 – 0 – 3 vote with the abstentions of Commissioners Gamboa, Haller and Chairman Hamerly.

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3.2 Minutes of April 3, 2012, Regular Meeting.

**A Motion** was made by Commissioner Gamboa and seconded by Commissioner Sparks to approve the Minutes of April 3, 2012, Regular Meeting, as submitted.

Motion carried on a 5 – 0 – 2 vote with the abstentions of Commissioner Stoffel and Vice Chairman Huynh.

**4.0 OLD BUSINESS**

There was none.

**5.0 NEW BUSINESS**

Note: prior to the Meeting, Staff had both e-mailed and then distributed ASR 012-008 COA No. 1 to the Commission for consideration on Item 5.1. ASR 012-008 was listed on the City's Website, but was inadvertently omitted while running the hard copy of the Staff Report for the Planning Commission's Agenda Packet.

Community Development Director Jaquess announced to the Commission that it is Staff's intention to continue Item 5.3 to the May 1, 2012, Regular Meeting, in that there are other issues that Staff is evaluating that need to be brought concurrently with that Item. .

A question was asked by Chairman Hamerly that the Commission is not hearing Staff's presentation tonight on Item 5.3 and both Community Development Director Jaquess and City Planner Mainez said that is correct.

Chairman Hamerly explained to the audience if anyone was in attendance tonight for Item 5.3 that the Commission will not consider said Item.

5.1 A Minor Sign Review Application (ASR-012-008) submitted by "Freddy's Auto Electrico" for a Permanent Building Mounted Sign on an existing Commercial Building. The Project's address is 7259 Osbun Road Unit B, a two (2) parcel site located at the northeast corner of the intersection of Base Line and Osbun Road. (APN: 1192-631-14-0000). Representative: Jose Mendez

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

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Assistant Planner Kelleher gave the presentation from the Staff Report and PowerPoint presentation and explained there was a misprint in copying of the hard copy to address Condition of Approval (COA) No. 1 and was distributed to the Commission. He then further explained the proposed Project design and the Applicant's request to the Commission. He indicated that the Applicant is in the audience for any questions the Commission may have and then concluded his presentation.

Chairman Hamerly asked if the Commission had any questions of Staff. Hearing none, he then asked if the Applicant would like to make a presentation and the Applicant declined the offer. Chairman Hamerly 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. There being no further questions of Staff, or discussion amongst the Commissioners, he then called for the question.

**A Motion** was made by Vice Chairman Huynh and seconded by Commissioner Gamboa to Approve a Proposed Sign Application (ASR-012-008), a ten (10) square foot Building Mounted Sign, subject to Conditions of Approval, and Adopt Findings of Facts

Motion unanimously passed on a 7 – 0 vote.

- 5.2 Accessory Sign Review Application (ASR-012-007), Amendment No. 3 to the approved Sign Program for the Arco Gas Station Center. The Project is located at the southeast corner of Palm Avenue and Fifth Street and is identified as Assessor Parcel Number: 1201-311-48. Representative: Amer Quol.

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 indicated that the Applicant's Representative is also in the audience for any questions the Commission may have and further explained there are two (2) Representatives from San Bernardino County Weights and Measures in the audience to explain gas pricing signs, if the Commission desired. He then explained the historical background of the Project, the proposed Project design and the Applicant's request to the Commission 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's Representative would like to make a presentation.

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Mr. Amer Quol, who is the Applicant's Representative for Mr. Ahd Haddad, addressed the Commission. He explained there is an Existing Sign that is six feet (6') tall by eight feet (8') wide that is located on the corner and requires new Signage for the Restaurant and further explained instead of going horizontal for the Signage, the Sign was designed to go vertically.

A question was asked by Chairman Hamerly the reason for the proposed Amended Sign Program was to include a Restaurant Sign and Mr. Quol responded how a person sees everywhere with Car Wash Signage and that the County has issues with and are now starting with enforcement and explained the Cash / Credit Signage to the Commission. .

Chairman Hamerly asked if the Commission had any questions of Mr. Quol and hearing none, he then asked if anyone in the audience would like to speak on the Item. Hearing none, he left the Public Hearing Open and opened the floor for discussion amongst the Commissioners.

A question was asked by Commissioner Gamboa if the Applicant is permitted two (2) Signs for Gas Pricing and Assistant Planner Kelleher responded there are two (2) Gas Pricing Signs for the Gas Station; and the A-1 Sign is located on Palm Avenue and the other A-1 Sign is located on Fifth Street and that the Third Sign is a Monument Sign to identify Pad A and Pad B, the Arco Gas Station and the Car Wash and was previously included Sign Program in the Staff Report and that all three (3) Signs are proposed to be Gas Pricing Signs.

A comment was made by Commissioner Gamboa that there are two (2) Signs allowed on the Property for Signage, instead of three (3) and was a concern before the Commission originally and was the reason why the Corner Sign was made a into Monument Sign and would have two (2) Pricing Signs. Assistant Planner Kelleher responded on Page 15 of the Staff Report shows the Monument Sign approved in September, 2011, and on Page 16 of the Staff Report shows the two (2) Gas Pricing Signs.

A question was asked by Commissioner Gamboa by law, are two (2) Signs allowed for Gas Pricing Signs to be located on the Property or is it up to the Commission to decide how many Gas Pricing Signs can be installed and he remembered there was an issue that only two (2) Pricing Signs were allowed and Assistant Planner Kelleher responded that he would defer to the San Bernardino County Representatives of Weights and Measures.

A question was asked by Commissioner Willhite what is required.

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Mr. Steve McKenzie, who works in the San Bernardino County Department of Weights and Measures and who inspects gas stations, addressed the Commission. He indicated what is required is that there is a minimum of one (1) Sign that can be seen from all entrances coming in. If there is a Sign located on the corner that can be seen from Palm Avenue / Fifth Street, they only need one (1). Generally, they have more to be on the Property site and that there is no limit to the amount of Signs, as far as Weights and Measures are concerned, but have to be in the required compliance.

A question was asked by Chairman Hamerly about how the way the Gas Pricing is displayed on the Sign and what are the Standards that need to be complied with for standardizing the pricing information as displayed on the Sign, other than the Sign Copy Area and the need for the Sign to be visible.

Mr. McKenzie explained how the Signs need to be seen as people traveling going down the street for Sign visibility and wanting to go onto the Property, the Two (2) Tier Gas Pricing / Condition of Sale appropriately sized and would have to defer to his counterpart as to the legalities of that and how a Code Section was found that specifically discusses products / services and the items being advertised.

A question was asked by Commissioner Willhite about if the Two (2) Tiered Gas Pricing is not required by the State and Mr. McKenzie responded no, but the Condition of Sale is with the Two (2) Tiered Gas Pricing. If there is a single price, you do not have to say "with a Car Wash", or "Cash", since there is only one (1) price, so it does not matter.

A question was asked by Commissioner Stoffel for Mr. McKenzie to please explain and Mr. McKenzie deferred to Mr. Lampman.

Mr. Allen Lampman, who is the Acting Deputy for San Bernardino County Department of Weights and Measures addressed the Commission. He gave the historical background explaining with the multiple Conditions of Sale was Cash / Credit Gas Pricing and now with some gas stations are having the Gas Pricing with purchasing a Car Wash, a bag of ice / pizza and has created a lot of confusion for the consumer and complaints were lodged and then looked into the Vehicle Code to see if there was anything that would address this to make it more clear for the consumer and make it a bit more uniform State-wide. He then distributed copies Business / Professions Code Section 13411 on the Sale of Petroleum Products Contingent Upon Additional Purchase and indicated the first Subsection is what applies and then read then read, "Subsection A: Except as specified in Subdivision B, (which currently does not take effect and that he will explain in a moment), it is unlawful for any person to see or offer to sell

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petroleum products for use in any vehicle, as the term vehicle is defined by the Vehicle Code, on the Condition that the purchaser also must purchase or pay for any other products, merchandise, or services.” He summarized specifically the Signage that it means that you cannot have the price of the gas on the Condition that you have to buy anything else which, specifically for our purposes, means ice, pizza, and it also is going to limit Car Washes which that is a service, and is a function of buying gas that is not allowed. The rest of the Code Section specifically deals with Car Washes and that Subsection G, however, “those provisions inclusive, shall apply only during periods when the maximum retail price which may be charged for gas sold by any person in this State is established by the Federal or State Government, or any Department, Agency, Board, or other Entity, thereof.” And indicated that it is a fairly old Code Section and took place when there was gas rationing. There is no current, Federally mandated maximum retail price, so everything, except for Subsection A, does not apply and reiterated that as it states, it is unlawful for any person to sell a petroleum product with a Condition that the purchaser must also purchase another product or service and that eliminates Car Washes. Mr. Lampman agreed with the Applicant’s Representative, that car wash issue has been out there for a long time, and with this Code Section, it has always been tied to a vehicle and how it is easy to understand when a person buys gas, the car is being washed and is all part of the self-service. Now there is an issue where you have to buy a pizza, or a bag of ice, etc. and none of those are related to cars and have received many complaints. The Code Section that regulates that is also going to regulate car washes, as well. Our interpretation is that all San Bernardino County gas stations will be allowed time to remove their Car Wash Signs and will take effect immediately and several gas station owners have been asked to remove their signs already and that several of them have, except one gas station owner has filed an official Appeal to have a Hearing, and has have asked the State to make an written interpretation of what is / is not going to be enforced in this Code Section. The Appeal Hearing is going to take place after the State has rendered its decision in writing and reiterated that currently, all gas stations have been asked to remove any Car Wash Signs. The Sign can say cash / credit that is allowed and is not a Condition of Sale for the pricing of gas.

A question was asked by Commissioner Stoffel believes one of the gas stations takes not take credit cards so what about debit card and then say cash / debit and Mr. Lampman responded how Arco has had a problem in that they do not take credit and that the gas station Sign could read cash / debit.

A question was asked by Vice Chairman Huynh what about regulations for the size of letters for the Car Wash and Mr. McKenzie responded everything is in relationship to the size of the numbers and indicated that the Car Wash size of the letters would be a third and provided an example of the lettering size for the gas pricing is six inches (6”), and the Condition of Sale for the size of the “Car Wash” would be a third of the six inch (6”) lettering making the “Car Wash”

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lettering two inches (2") and reiterated that it is in the relationship to the size of the numbers and provided another example of twelve inches (12") numbers, then it would have a four inch (4") Condition of Sale Sign size .

A comment was made by Chairman Hamerly that the Commission just heard that the cash / credit is fine for a Condition of Sale, but the pricing structure could not be contingent upon purpose of additional services such as a Car Wash and not wanting to see other items on the Sign and Mr. McKenzie said that is correct.

A comment was made by Commissioner Willhite that he knows that the State Code has requirements and knows that the Sign is not required and only required to show the price / type of gas that is being sold and was discussed at the last Meeting. Whether or not the City has the ability and because the Commission is also the Design Review Board, and the Commission has to approve all signage like what the Commission approved on Item 5.1, does the Commission have the ability to set requirements as long as we do not violate what the State says for the City and Mr. McKenzie responded there is nothing in the State Law that the City can limit in the Code.

A comment was made by Chairman Hamerly the City can make it more restrictive, but not permit things that the State prohibits and Mr. McKenzie said that is correct.

Chairman Hamerly asked if the Commission had any further questions for Mr. McKenzie or Mr. Lampman. Hearing none, he then asked if anyone else would like to speak on the Item. Hearing none, Chairman Hamerly said he will leave it open.

A comment was made by Chairman Hamerly with stating by taking the contents of the Sign completely off the table and indicated in terms of the design of the Sign is moving in a negative direction and thought that the first set of approved set of Signs were more closely related to the architecture and presentation of the Project and that the proposed design of these Signs are the departure of the aesthetics and architecture of the Project. He was also concerned with the Signage's size and how he drives by the Site frequently and is struck by the proliferation of Signage and the overall composition from the street. There had been deliberations on how high up the brick should go on the Gas Pump Standards, what the Canopy should look like, what the Signage should look like both on the ground and on the Buildings. The additions keep departing further and further from the aesthetic appeal of that corner and would like to see us go back in the direction of trying to tie all of the pieces together and provided an example with the Eave Details on all of the Structures; the Fast Food Restaurant, the Convenience Center and the Car Wash in that there are three (3) different Eave Details and the documents, as presented, need to be a little more consistent. He would like to see us to get back to more consistency so that we

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have a better presentation of the Complex and that would include the Signage.

A comment was made by Commissioner Haller that he agreed with Chairman Hamerly's comments and how the Sign size is out of proportion to the Site size and the Signs are too large and it seems like we have gone back to the original proposal and then have downgraded the aesthetic appeal / appearance of the Signs and is unable to support the Applicant's request.

A question was asked by Commissioner Stoffel if all the Applicant is requesting is to add information to Pad A and Pad B, couldn't that be added somewhere else on the Signs that they already have or wasn't there room and Assistant Planner Kelleher responded that was on a previous Sign and indicated that Pad A and Pad B are listed on Page 15 of the Staff Report and is the approved Sign located at the intersection of Palm Avenue / Fifth Street and there is no Gas Pricing on this corner Sign. On Page 16 of the Staff Report were for the two (2) Monument Sign (A-1) located on Palm Avenue and Fifth Street.

A comment was made by Chairman Hamerly how there had been extensive discussion on the Signage locations and the redundancy and the Restaurant had proposed signage, and the height of the Monument Signs be reduced so they would not detract from the larger Building Mounted Signs advertising the businesses would make them more visible.

A comment was made by Commissioner Stoffel how the corner was supposed to be built up with a landscaping hill / berm and thought that it was never done and Assistant Planner Kelleher responded that is for the perimeter landscaping which has not been finalized and has not been installed and the City's Landscape Architect has to review the Plans and the landscaping today is not consistent with the approved Landscaping Plans and that Pad A and Pad B have not been finalized by the City and those things still need to occur on the Site.

A question was asked by Commissioner Willhite on Page 16 of the Staff Report regarding what about the gas pricing for diesel fuel and Assistant Planner Kelleher responded that the gas station has to have the diesel fuel listed, but the Applicant has never resubmitted and that is why Attachment 2 is included in the Staff Report to show the COAs that are in effect today.

Chairman Hamerly asked if anyone else or the Commission has any questions.

Mr. Quol stated the reason for the New Sign is that the Old Sign is too close to the landscaping and that the water irrigation has destroyed the Sign's base in one (1) year and indicated that the (New) Sign's size can be minimized. Chairman Hamerly responded there had been two (2) previous Hearings on this Project and asked if Mr. Quol was the Applicant's Representative at that time and Mr. Quol said no.

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Chairman Hamerly explained to Mr. Quol how the Commission made some allowances and accommodations for the height of the two (2) Secondary Signs because the Commission wanted to see more landscaping and the Commission did not want to see the height of the landscaping to obscure the Signs. If the irrigation system is actually damaging the Sign and limiting the longevity of it, that is more of an installation issue and because one of the Standard Conditions of Approval is the irrigation system is not supposed to spray onto the sidewalks or on the Structures so these maintenance issues are less of an issue and Mr. Quol responded that is a windy area and Chairman Hamerly responded he understood, but how irrigation systems are commonly equipped with wind sensors so that they won't come on and start spraying into the street if there is a 40 MPH wind blowing so that might be another installation issue.

A question was asked by Mr. Quol with the Two (2) Tier Gas Pricing located on Base Line with temporary signage and with across the street with the purchase of a large pizza and Mr. McKenzie responded that is the Appellant requesting an appeal.

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

**A Motion** was made by Commissioner Haller and seconded by Vice Chairman Huynh to direct Staff to prepare the Findings of Fact, Conditions of Approval and Resolution for Denial of this Application.

Community Development Director Jaquess interjected that the Commission first needs to continue the Item and bring it back to the next Hearing and Chairman Hamerly responded that was the recommendation.

Commissioner Haller amended his Motion and Vice Chairman Huynh amended his second to Continue the Public Hearing until May 1, 2012, and to direct Staff to prepare the Findings of Fact, Conditions of Approval and Resolution for Denial of the Project.

Chairman Hamerly said the Motion and Second stand as amended by Staff.

Motion unanimously passed on a 7 – 0 vote.

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5.3 Design Review Application (DRA 011-008) for the City's New Fire Station No. 1 (First Phase) which includes a 16,107 square foot four (4) Bay Fire Station Facility, 1,152 square foot detached Storage Building, and twenty-five (25) standard Parking Stalls, and fifteen (15) secured parking lot facility for City vehicles, and approximately 37,000 square feet of landscaping/open space. The Project is located at 27177 Base Line (westerly and contiguous to the Highland City Hall Facility – previously the Highland Branch Library and Post Office) (APN: 1192-421-01, 02 & 39). Representative: Joseph A. Hughes, City Manager; GV Salts, Architect (STK Architects, Inc.)

A question was asked by Chairman Hamerly if the Commission needs to take a formal action to Continue this item and Community Development Director Jaquess responded that it would be good if the Commission took an action.

Chairman Hamerly stated at the request of the Applicant, which is the City, we will continue Item 5.3 to Regularly Scheduled Meeting of the Planning Commission on May 1, 2012.

**A Motion** was made by Commissioner Haller and seconded by Commissioner Gamboa to continue this Item to May 1, 2012.

Motion unanimously passed on a 7 – 0 vote.

## 6.0 ANNOUNCEMENTS

Community Development Director Jaquess explained the Items scheduled for the Regular Meeting of May 1, 2012.

A question was asked by Commissioner Willhite if this is a new locale for Pepitos and Community Development Director Jaquess responded that Pepitos' Project is being reconfigured on the same property.

A comment was made by Commissioner Stoffel that he would be unable to attend the May 1, 2012, as he will be out of town.

## 7.0 ADJOURN

There being no further business, Chairman Hamerly declared the Meeting adjourned at 6:48p.m.

Submitted by:

Approved by:

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Linda McKeough, Community Development  
Administrative Assistant III

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Randall Hamerly, Chairman  
Planning Commission

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