

**MINUTES
PLANNING COMMISSION REGULAR MEETING
APRIL 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
 Commissioners John Gamboa
 Richard Haller
 Milton Sparks
 Michael Willhite

Absent: Vice Chairman Trang Huynh
 Commissioner Michael Stoffel

Staff Present: John Jaquess, Community Development Director
 Ernie Wong, City Engineer / Public Works 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 CONSENT CALENDAR

3.1 Minutes of February 21, 2012, Regular Meeting.

A comment was made by Commissioner Gamboa regarding his abstention from the Minutes. .

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

A comment was made by Commissioner Haller regarding his abstention from the Minutes.

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A comment was made by Chairman Hamerly regarding his abstention from the Minutes.

Discussion ensued between the Commission and Staff with the number of abstentions of Commissioners Gamboa, Haller and Chairman Hamerly and with the absences of Commissioner Stoffel and Vice Chairman Huynh there is not a quorum today in order to approve the Minutes.

Community Development Director Jaquess recommended to roll the Minutes over to the next Commission's Regular Meeting due to not having a quorum to approve the Minutes and the Commission concurred to roll them over.

4.0 OLD BUSINESS

There was none.

5.0 NEW BUSINESS

- 5.1 Amendment to Conditional Use Permit (CUP 01-001) and Design Review Application (DRA-011-003) to redesign the Site Plan and Phasing Plan to allow for a secondary access onto Base Line. The Project is located on four (4) adjoining parcels at the southeast corner of Base Line and Seine Avenue. Assessor's Parcel Nos. 1201-091-61, 1201-091-62, 1201-091-39, 1201-091-40. 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 the proposed historical background and design of the proposed Project's driveway design, the City's proposed Median Project that the City is working on and the Applicant's requests to the Commission. He then explained on Page 17 of the Staff Report that in the proposed Resolution that Planning Condition of Approval No. 2 states that there is one table for outside dining and it should state three tables for outside dining and apologized for the typographical error. He then explained the various proposed additions, revisions and deletions of Conditions of Approval (COAs) to the Commission. Assistant Planner Kelleher indicated that the Applicant is in the audience and would be happy to answer any questions the Commission may have and then concluded his presentation.

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

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A question was asked by Commissioner Willhite regarding the dimensions and that he had no problem with right in / right out, but he was concerned with the driveway and the left-in turn pocket with how many cars can stack within the left in turn pocket and how some cars would be sticking out in the lane. City Engineer Wong responded that turn pocket has not been designed yet and also not decided how long that turn pocket needs to be. It is shown by the Applicant only as a left turn in only pocket but the final length will be decided by City Staff. Commissioner Willhite stated that it is not feasible and reiterated with having a right in / right out is not a problem, there is a problem at the traffic signal located at Stoney Creek in that there are too many turn pockets in close proximity and City Engineer Wong responded that the City's Median Project that the Stoney Creek Median will be extended and no longer allow a left turn in or out.

Chairman Hamerly asked if the Commission had any further 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, 28809 Harwick Drive, Highland, California, who is the Applicant, addressed the Commission. He stated he is here to answer any questions the Commission may have and then explained how he did not want to cut into the street again and this would be the right time to do it one time and get it over with.

A question was asked by Chairman Hamerly regarding the Lantana and COA would conform to the Street Improvement Planting Plan and does that also include a hierarchy of Street Trees in addition to the shrubs and ground cover and Assistant Planner Kelleher responded how the COA, as it is written, is meant to reflect the existing landscaping while incorporating the Water Efficient Landscaping Ordinance as well, and that the City's Landscape Architect has reviewed the proposed Landscape Plan, as submitted, and indicated that it is in general conformance with the Street Improvement Plans, which are not finalized yet, but is similar to what is existing on the property and complies with the Water Efficient Landscape Ordinance. Assistant Planner further explained how there will be some changes with the landscaping, but is generally following the lines in that there will be no trees on the south or east of the driveway because that is where the Future Conceptual Master Plan shows the parking and drive aisles will be located there and are looking at low landscaping that will add some color

A question was asked by Chairman Hamerly if there is a Streetscape / Median Landscape Standards and how the COA would impact and the need for compliance with the Median Standards and Streetscape Landscape Standards and Assistant Planner Kelleher responded that the City does not have one, but is in the process of designing them and that Community Works Design Group, who is the City's Landscape Architect Firm, did win the contract and will be reviewing the said Plans.

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A comment was made by Chairman Hamerly that in the future, the Applicant may have to tear out landscaping and then incorporate the Streetscape Landscaping Standards and asked does the City know what certain type plant materials that will be in the future Streetscape Landscape Standards that the Applicant could at least install some ground cover for now so that all of the bare dirt is landscaped and then would be less expensive to completely improve the Median / Right-of-Way. Assistant Planner Kelleher responded that STB Landscape Architects, prepared the Landscape Plan for the Applicant which is in the Commission's Packet, was designed to match the existing on-site landscaping while also meeting the Water Efficient Landscape Ordinance and has been preliminarily reviewed by the City's Landscape Architect and the COAs before the Commission have the City's Landscape Architect's comments regarding the Landscape Plan and reiterated that the City's Landscape Architect is also working on the Median design and is taking all of the items into consideration as to how the COAs are written.

A comment was made by Chairman Hamerly that he was not asking about the Site landscaping, but was within the Street Improvements and then asked if there would be additional work in the future when the Street Improvements are installed and Assistant Planner Kelleher responded affirmatively, within the Median. Chairman Hamerly then asked within the Right-of-Way and Assistant Planner Kelleher responded no, that would be installed as part of the Project.

A question was asked by Chairman Hamerly if do we have / have not a hierarchy in Street Trees right now and Assistant Planner Kelleher responded that the Applicant is proposing to match the existing street trees where they are located in the area where they are concurrently in front and Chairman Hamerly responded those are the trees that were installed as part of this Project, but are those going to be the trees that are adopted as part of the Street Improvement Plan and Assistant Planner Kelleher responded we do not have that information. Community Development Director Jaquess added that it has not been brought before the Commission or City Council yet. Chairman Hamerly responded that is why he keeps asking because if the Applicant installs 24" box trees, or something like that, it would be a shame to take them out if it is decided to install a different Street Tree and would be a wasted effort. It would look nice for now, but the Applicant is going to have to replace all those trees when and if we adopt a certain type of tree for the Streetscape Landscape Standards unless what the Applicant has installed is going to be the "Default Standard" for the Street Trees for this section of Base Line. Assistant Planner Kelleher responded there is no mechanism in the Conditional Use Permit (CUP) Application or the Amended to the CUP to require the Applicant to go back and remove the trees so the Applicant's trees will remain unless there is a Condition requirement in the Streetscape/ Median design in the future.

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A comment was made by Chairman Hamerly that he thought was the whole point of doing the explorations were for the Street Improvement Plans so that we could have consistent corridor all the way down through. With the General Plan and the envisioning process, we wanted to have consistent corridors along Base Line, Fifth / Greenspot Road and Assistant Planner Kelleher responded that those are General Plan Policies which have not been enacted upon and Community Development Director Jaquess and the only alternative is to not require planting trees.

A comment was made by Chairman Hamerly if it would be better not to require the Applicant plant the major elements of the landscaping, at this time, he could fully landscape groundcover and inexpensive materials, but he would be more interested in seeing more cohesive Street Improvement Plan, so that it does have some consistency all the way down Base Line, so that we remain true to the vision of the General Plan. Then, at that time whenever it may occur, then the Applicant could install the major trees and Community Development Director Jaquess responded there is not a time line for that..

Mr. Helo stated he could install temporary groundcover, if the Commission desires, until the City comes up with a design and does not have a problem to accommodate that and see that the appearance would be nice looking rather than what is currently there now and he then asked what about having the trees not planted and leaving them in the box above ground and Chairman Hamerly responded they may not stay where Mr. Helo would put them and wouldn't remain on-site and that he does not want the Applicant to duplicate his efforts. Assistant Planner Kelleher added they wouldn't stay when the Applicant would put them and that they wouldn't grow the same rather than being planted in the ground.

A question was asked by Mr. Helo if the number of trees would be three (3) trees and Assistant Planner Kelleher responded that it would be four (4) trees.

A comment was made by Commissioner Gamboa that he agreed that he would not recommend installing the trees if they don't know what the corridor is going to look like.

A question was asked by Chairman Hamerly if that could be used as a Directive to Staff for the Applicant that at some future date, when the Street Improvement Palette is developed that the Applicant agrees to finish his Landscape Plan and the Commission could even say the Applicant has an approval for the Site, which is for the purpose of this Meeting, but as long as his landscape in the Parkway matches the Street Improvement Plan Plant Palette, that since we approved that Corridor Palette, we would be approving the Plant Palette that is going in the frontage that is going in front of the Applicant's Project.

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A question was asked by Assistant Planner Kelleher to City Engineer Wong what about the Sidewalk Plan and City Engineer Wong responded that we not looking at the Sidewalk Plan, just the Median Plan. Assistant Planner Kelleher added that the Commission is going to have the same issue as there is also another Project Application down the street that Staff is currently processing where there is a large area landscaped in front of ARCO which will potentially not have trees in it either in that proposed Project's frontage.

A comment was made by Chairman Hamerly how at one point, how we had an entire section of the Greenspot Parkway Median, where there was a hierarchy of trees that were both in the Parkway Median, as long and as well as some signage, lighting and all of that was in the documents the Commission looked at and if there would be a similar Corridor Improvement Plans for this section, in the works, as well, and if the Commission would see something like that and Assistant Planner Kelleher said probably not and explained how the existing development projects are on both sides of the street, for the most part are in place, such as the ARCO Gas Station, Valero Gas Station, Wendy's, Blockbuster Video Building, project on Base Line / Reedy taking place, McDonald's and how there are single family residences in between so the only Projects are Mr. Helo's proposed Project and another proposed project on the north side of Base Line between the Freeway / Seine so that there is not that much property expect to develop in the future as on Greenspot Road, how the area had been vacant for over one (1) mile and believed that Median Plans were not prepared for that property. Chairman Hamerly responded that it was a whole street section and we always talk about the envisioning process and the whole point of having the Plans developed so when projects do come forward at least the Commission has something that we have a Standard for this and how the Commission had even a discussion on extending a sidewalk when there are no sidewalks off of Pluto and reiterated that at least the Commission would have the Plan in place so when a project comes forward and there may not be another project along Pluto, at least we've got the sidewalk has been improved right there on Pluto and the same logic would seem to apply at least on Base Line. Assistant Planner Kelleher said we are looking at this proposed Project's Master Plan to be built out in four to five (4 – 5) years and the Base Line Landscape Master Plan Design is not on the City Council Work Program and there is nothing foreseeable to do a Landscape Plan and how the Commission had previously approved the Applicant's Project located on the other side of Seine from Stoney Creek to the Freeway and reiterated there is no mechanism to change with McDonald's, etc.

A question was asked by Chairman Hamerly what about the former Blockbuster Video Building if there would be a new Conditional Use Permit Application if there is a new applicant and Community Development Director Jaquess responded no, and would depend on the use and would probably be a Tenant Improvement.

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A comment was made by Chairman Hamerly given all of that, in his opinion is to go forward with the Landscaping, as proposed, as it is better than nothing and Commissioner Willhite agreed and he then asked is it going to match what is on the corner and Assistant Planner Kelleher responded that it would match the rest of the Site.

A comment was made by Commissioner Gamboa that he has no problem either way, but would hate to see the Applicant doing double work. Mr. Helo responded that it is about the timing of the construction of the Median and then asked what is the timing for the Median's construction and City Engineer Wong responded that the City's Project is scheduled to go out to construction bid in six (6) months and then construction will start in nine (9) months for the Median so if it fits Mr. Helo's timeline, that maybe Mr. Helo could wait. Mr. Helo stated that he agreed to hold off with planting the trees until the City installs their trees and that at that time, we will plant the trees and City Engineer Wong responded how the design for the Median Landscaping will be done in a couple of months so Mr. Helo does not have to wait until the City installs its trees before Mr. Helo installs his trees. Mr. Helo said that his Project could be Conditioned as per the trees in the Median and would rather have it nice looking and that he is not happy with the trees he has now. Assistant Planner Kelleher responded then the Commission would be looking at these trees along the Applicant's frontage and the Valero Gas Station's frontage will not be matching then.

A comment was made by Commissioner Willhite that he thought it would be if they would all match on one side rather than in the street.

A comment was made by Commissioner Gamboa agreed and if you would already have the trees on one side, it would probably be better and go ahead and put them on there and would look kind of "funky". Have the Applicant plant now while the Applicant has it all under construction rather than leaving it out and having to put it back in so if it is going to match the other developed frontage. If we wait to see what is in the Median, then like how Assistant Planner Kelleher says that it will not match the other frontage.

A comment was made by Commissioner Willhite how the Median does not have to match the front and Community Development Director Jaquess responded that typically, the Median trees do not match the Parkway trees and how there is a different approach now with the financing ability with the City's public infrastructure / road improvements / landscaping projects without Redevelopment monies and Grant monies.

A comment was made by Commissioner Willhite to have the Applicant put the trees in and Commissioner Gamboa added to leave it as is then.

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Chairman Hamerly asked if the Commission had any further questions of the Applicant or Staff. 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 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 Commissioner Gamboa that the Planning Commission:

1. Adopt Resolution 12-004 Amending Conditional Use Permit (CUP-01-001) and approving Design Review Application (DRA-011-003), all subject to the recommended Conditions of Approval, as modified with the following:

Planning Conditions of Approval

- *2. The proposed Entitlements permit the construction and operation of a 3,451 square foot Food Mart / Quick Service (Fast Food – Take Out) with 3 tables for outside dining, Type 20 ABC License (Beer & Wine), Gasoline sales, and a 1,090 square foot Carwash / Vehicle Vacuum Station Facility, and related Site improvements on approximately two (2) acres of land located at the southeast corner of Base Line and Seine Avenue (APNs 1201-091-39, 1201-091-40, 1201-091-61, and 1201-091-62) and illustrated on Exhibits included herein.

And;

2. Findings of Fact.

Motion carried 5 – 0 vote with Commissioner Stoffel and Vice Chairman Huynh absent.

(Note: Assistant Planner Kelleher left the Chambers at 6:31pm)

6.0 ANNOUNCEMENTS

Community Development Director Jaquess thanked the Commissioners for attending the Citrus Harvest Festival and hoped that they enjoyed in which they concurred. He then explained the items that are tentatively scheduled for the April 17, 2012, Regular Meeting. In addition, he explained about the proposed

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Family Dollar Store Project to be located adjacent to Baker's is tentatively scheduled for the Commission's consideration sometime in June.

A question was asked by Commissioner Gamboa regarding if the Family Dollar Store proposed from the Streetscape overall design of the area will influence the design of the Family Dollar Store and Community Development Director Jaquess responded with the Site Plan is similar to what the Fresh and Easy Project was to go there. City Engineer Wong added with the Median Master Plan is becoming a real project and the City is now implementing.

A comment was made by Commissioner Gamboa he can remember the Site Plan for the Town Center Concept was for the overall area and remembers how someone had made a presentation to the Commission. Community Development Director Jaquess responded how the proposed Family Dollar Store Project is not looking at the overall (Town Center Concept) Site Plan and will be a Conceptual Plan that shows how it could fit in, but won't be making any commitments to what the ultimate configuration of that property and City Engineer Wong added there was pre-planning with the Fresh and Easy Project.

A question was asked by Commissioner Willhite regarding the process to modify/add to the Sign Code and to start with who and Community Development Director Jaquess responded in order to amend the Sign Code, it starts with the City Council direction to initiate a Work Program with the process at the City Council's initiative and indicated that Staff just finished that process relatively recently in which there was an amendment to the Sign Code.

A comment was made by Commissioner Willhite there are complaints with the Gas Stations' Gas Signs and the State is reviewing the State Code and that may solve part of the problem, but with the Stations that are in violations awaiting for legal opinion from the State of California and Community Development Director Jaquess responded the City has no authority over the pricing of the Gas Signs by State law in that area and are pre-empted. Commissioner Willhite stated that is not his understanding from talking with Weights and Measures, the City can do an Ordinance as long as it doesn't conflict or violate the State law, but require each Gas Station can post only the highest price for each type of gas and that is all that they are allowed to post so all Stations will be posting just their credit price, whatever that is, just the highest one for each of types of gas.

A question was asked by Chairman Hamerly if Commissioner Willhite is talking about what they were calling misleading pricing where if you pay cash, you get the car wash and Commissioner Willhite said that is correct or if you would buy a pizza or a bag of ice, whatever.

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Mr. Helo stated how he agreed with Commissioner Willhite and stated that he had started this and one of the reasons that he did is how everyone was complaining about the gas prices and how they could not afford gas prices and food so what Mr. Helo did was a person would buy gas from him, and the person buy the pizza, he did not need to make the profit off the pizza, so what Mr. Helo did was to give the person back Mr. Helo's profit on the pizza and give it back to the person in free gas. To make that legal, he called prior to doing anything with the Signs, he met with Mr. Steve McKenzie, Weights and Measures Manager. At Mr. McKenzie's direction told Mr. Helo this is the legal way of doing it is to show it as a condition of sale and how you have to post what a person is selling. Mr. Helo's original idea was that does not sell a lot of pizzas, but people buy them together, the profit from the pizza, he does not mind to give the person free gas.

A comment was made by Commissioner Willhite this is not going to prevent that. This is to prevent all of the Signs or four or five (4 – 5) different pricing Signs and this is going to have to make every Station post their highest price and that doesn't say that you cannot offer discounts and Mr. Helo interjected by State law, they have to show and Commissioner Willhite interjected that is what is being interpreted right now. Mr. Helo responded that he is sure that the legal is if you sell gas for \$1.00/gallon for cash; \$1.50/gallon for credit card, or if you sold it with a bag of ice, or with a car wash, as long as you post them on your entrance on both streets. Mr. Helo provided an example if he did not have those signs posted he would receive a violation at his Valero Gas Station. He has not received any violations at his Valero Gas Station and that the nearby Gas Station has several violations and reiterated that he has not personally received any violations from Weights and Measures. Mr. Helo explained the reason did not put his price sign with the pizza purchase is because legally to do that is to put pizza offer next to the gas prices and how it had cost him \$2,000 in order to cut into the price sign.

A comment was made by Community Development Director Jaquess interjected that there is a problem in talking about something that is not on the Agenda and is not appropriate to have this discussion and appreciates the comments, but does not want to get into it because it is not on the Agenda for discussion. If the Commission wants to talk about gas pricing and the law relative to gas pricing, he would be glad to bring it back on a future Agenda for discussion as a new item.

A comment was made by Chairman Hamerly the Commission cannot suggest or recommend additions or modifications to given Ordinances or would the Commission make a recommendation to City Council for consideration if there were an issue about anything and Community Development Director Jaquess responded and thought that the Commission would make a recommendation to the City Council or something along those lines. Chairman Hamerly stated then it would have the effect of being a City Initiated General Plan Amendment or Ordinance Amendment and Community Development Director Jaquess said right

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and how the City Council initiated that process then the City can initiate that.

There were no further announcements.

7.0 ADJOURN

There being no further business, Chairman Hamerly declared the Meeting adjourned at 6:22p.m.

Submitted by:

Approved by:

Linda McKeough, Community Development
Administrative Assistant III

Randall Hamerly, Chairman
Planning Commission

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