

**MINUTES  
PLANNING COMMISSION REGULAR MEETING  
MAY 5, 2009**

**1.0 CALL TO ORDER**

The Regular Meeting of the Planning Commission of the City of Highland was called to order at 6:00 p.m. by Chairman Haller at the Donahue Council Chambers, 27215 Base Line, Highland, California.

Present: Commissioners Randall Hamerly and Michael Willhite, Vice Chairman John Gamboa and Chairman Richard Haller

Absent: None

Vacancy: One

Staff Present: John Jaquess, Community Development Director  
Ernie Wong, City Engineer  
Lawrence Mainez, City Planner  
Sean Kelleher, Assistant Planner  
Angela Aguilar, Planning Technician  
Linda McKeough, Administrative Assistant III

The Pledge of Allegiance was led by Chairman Haller.

**2.0 COMMUNITY INPUT**

There was none.

**3.0 CONSENT CALENDAR**

**3.1 Minutes of January 20, 2009, Regular Meeting.**

**A Motion** was made by Commissioner Hamerly and seconded by Vice Chairman Gamboa to approve the Minutes of January 20, 2009, as submitted.

Motion carried on a 4 – 0 vote with one vacancy.

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## 4.0 PUBLIC HEARINGS

- 4.1 CUP-008-006 - The subject Conditional Use Permit Application is for the expansion of an existing Gas Station and construction of a New Fast Food Restaurant. The expansion of the Gas Station will include the installation of four (4) new gas pump islands, a new Automated Drive through Carwash, and a 509 square foot storage area expansion for the existing Convenience Store. The Applicant is also proposing a new one thousand eight hundred square foot (1,800 sq. ft.) Fast Food Restaurant with an outside dining area. The Project site is approximately 1.44 acres in size. The Project is located at the southeast corner of Palm Avenue and Fifth Street and is identified as Assessor Parcel Numbers: 1201-311-26, 30, 31, 32. Representative: Alex Cuevas, AGC Design Concept, Inc.

Chairman Haller introduced the item and called for Staff's presentation.

Assistant Planner Kelleher gave the presentation from the Staff Report. He explained the proposed Project which included the Site location, preserving the existing trees, the design of the Fast Food Restaurant, the design of the four (4) islands for gas pumps and a Storage Building to the Commission. He further explained the varied hours of operation. Staff also noted the existing residential building located on the adjacent parcel to the east is an illegal non-conforming use, but how various design elements have been included in the Project to protect that use. Staff supports the Applicant's Restaurant to operate as a 24 hour use. Assistant Planner Kelleher then concluded his presentation.

Chairman Haller asked if the Commission had questions of Staff.

A comment was made by a Commissioner regarding the proposed 24 hour operation being limited to drive-thru windows only and asked if this is not a Drive-thru Restaurant should this be permitted. Staff responded drive-thru restaurants such as Farmer Boys Restaurant allows dine in, as a 24 hour use, as well. Chairman Haller asked if the Commission had any further questions of Staff.

A question was asked by a Commissioner regarding the Original Plans showing water and vending machines and Staff responded that is part of the Gas Station's Plans.

Chairman Haller 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.

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Mr. Alex Cuevas, 201 North First Avenue, Arcadia, California, of AGC Design Concept, who is the Applicant's Representative, addressed the Commission. He stated that he is here to answer any questions the Commission may have.

Chairman Haller asked if the Commission had any questions of the Applicant. Hearing none, he then asked if anyone else would like to speak on the item. Hearing none, Chairman Haller then left the Public Hearing open and opened the floor for discussion amongst the Commissioners.

A question was asked by a Commissioner regarding the COA for noise control. Concerns were raised regarding the noise generated from the Car Wash (the Building adjacent to Residential uses) if it is not necessarily applied here. Staff responded to the south of the Project is the Safety Kleen company which is primarily an industrial use and that the proposed Project is near to the San Bernardino International Airport and noise is inconsequential for the proposed Project. Staff added with the hours of operation for the Commission to review COA No. 22 which limits the hours of operation to 9:00 p.m. Staff added further if the existing house to the east is removed, the Applicant can return for further consideration of the hours of operation.

A question was asked by a Commissioner if the Car Wash water can be recycled and Staff responded the Applicant is proposing to do that with this Project. Another question was asked by a Commissioner regarding that it was not important to have water recycling as a COA and Staff reiterated the Applicant is proposing this. A comment was made by a Commissioner that it may be part of the Building and Safety Code and Staff responded there are provisions listed in the Code on that and possibly the Applicant could answer that question. A suggestion was made by a Commissioner that this be part of the Applicant's proposal and also place on future car washes and have the COA be a requirement for the Applicant. Staff responded that a note can be placed on the Applicant's Plans and would be a Staff directive from the Commission.

Chairman Haller asked the Applicant's Representative if he objected to an added COA requiring recycling the water for the Car Wash. Mr. Cuevas responded there would be no problem with the COA and indicated the water used at the Car Wash is approximately ninety percent (90%) recyclable water.

A question was asked by a Commissioner regarding how the trucks are sitting at one entrance waiting to gain access to the Convenience Store. Mr. Cuevas responded the City decided to close one street and is a COA and indicated the trucks come in on the east side for ARCO deliveries. A comment was made by a

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Commissioner regarding how the road and gravel trucks park at an angle and enter off of Palm Avenue and exit off of Fifth Street and Mr. Cuevas responded the trucks are parking in one corner. The Commissioner stated a gas tank truck is interesting to watch it maneuver through the existing parking lot and Mr. Cuevas responded when the Applicant has to send the Plans to ARCO for approval, and ARCO has agreed to the maneuver proposed for other trucks to unload fuel.

A question was asked by a Commissioner regarding Planning COA No. 23 and how Staff arrived at that parking area calculation and if that included the Drive-thru and Car Wash area. Staff responded and explained how Staff arrived at that 42 parking space number and was not inclusive of the Drive-thru or Car Wash area, but did count the spaces at the Gas Pump Islands.

Chairman Haller asked if anyone else would like to speak on the item.

Mr. Aysar Helo, 28809 Harwick Drive, Highland, California, who is a resident, addressed the Commission. He stated that he is familiar with gas stations and if the Applicant requires to have 42 parking spaces, then the Applicant should have 42 parking spaces, not counting the Gas Pump Islands. Mr. Helo reiterated his concern is the Applicant has to have equal 42 parking stalls, as Mr. Helo has to be within his own design Project.

Discussion ensued between the Commission and Staff regarding Planning COAs. The Commission wanted to add the following: No. 17 add the verbiage, "in accordance with the Plans and Details approved by the Design Review Board." No. 26 add the verbiage, "or obstruct accessible paths of travel."

A question was asked by a Commissioner on COA No. 29, if there was going to be interior of the Building regarding storm water runoff and Staff responded the runoff will drain out at the bottom of the wall. A Commissioner was concerned about water runoff being dumped onto the sidewalk. The Commission also wanted to add Planning COA No. 62 verbiage regarding recycling water at the Car Wash and Staff proposed the following verbiage: "The Applicant shall be required to recycle the wash water to the maximum extent feasible." The verbiage for the added COA No. 62 was acceptable to the Commission.

A comment was made by a Commissioner regarding the Applicant's proposed Elevations, as submitted, would not make it through the DRB due to the Project being very plain aesthetically on the Buildings.

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Chairman Haller asked if anyone else would like to speak on the item. Hearing none, he then closed the Public Hearing and there being no further questions of the Applicant or Staff, or discussion amongst the Commissioners, Chairman Haller then called for the question.

**A Motion** was made by Vice Chairman Gamboa and seconded by Commissioner Hamerly to:

1. Direct Staff to File a Notice of Determination for a Mitigated Negative Declaration with the San Bernardino County Clerk of the Board; and,
2. Adopt Resolution 09-011 Approving Conditional Use Permit 008-006, all subject to the recommended Conditions of Approval, as amended with the following:

Planning COA

- No. 17. Prior to issuance of a Certificate of Occupancy by the City, all landscaping, irrigation or other construction shown on the approved Landscaping and Irrigation Plans, including any walls and fences, shall be installed in accordance with the Plans and Details approved by the Design Review Board.
- No. 26. The Applicant / Developer shall install a bicycle rack near each Building. Each bike rack shall park a minimum of three (3) bicycles. The bike racks shall be located in areas where they will not impede the flow of pedestrian traffic or obstruct Accessible paths of travel.
- No. 62 (NS) The Applicant shall be required to recycle the wash water to the maximum extent feasible.

3. and the Findings of Fact.

Motion carried on a 4 – 0 vote with one vacancy.

A comment was made by a Commissioner that he is looking forward for the DRB to review the Applicant's Plans.

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## 5.0 LEGISLATIVE

- 5.1 DCI 009-001 – A request for Development Code Interpretation of a proposed “Tattoo Studio” use within the Mixed Use (MU) Zoning Districts throughout the City.. The location is within the City’s Mixed Use (MU) Zoning Districts. Representative: Sharif Hageali.

Chairman Haller introduced the item and called for Staff’s presentation.

City Planner Mainez explained he will give the presentation and that Planning Technician Aguilar is here to answer any questions the Commission may have. In addition, City Planner Mainez further explained the Applicant is in the audience and proceeded to give the presentation from the Staff Report. He explained the historical background and how the Applicant provided information tonight and can provide additional details for the Commission’s consideration. He distributed a copy of Title 16, Section 16.20 comprising of the Commercial Districts to the Commission and further explained the use is similar and no more intense than a Photographic or Artist Studio and then City Planner Mainez concluded his presentation.

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

Mr. Sharif Hageali, 6792 Wilmont Lane, Highland, California, who is the Applicant, addressed the Commission. He distributed a document binder which stated on the front cover, “Proposal for Steel and Ink Tattoo Studio” and is here to answer any questions the Commission may have. Mr. Hageali then summarized what was inclusive in the distributed document and explained the Legislative laws regarding tattooing for cosmetics inclusive of the inspection process, the location of where he would like to locate his business, as well as San Bernardino County and the San Bernardino County Health Department Regulations.

A question was asked by a Commissioner if the tattoo artists have to have a special certificate for tattooing. Mr. Hageali responded there is a license for each individual tattoo artist and the Facility has an annual inspection, and if there are complaints filed, the authorities would conduct a reinspection.

A question was asked by a Commissioner if there are no specific regulations of what the City does, it’s the County and Staff responded they are bound by the County and State Regulations. Mr. Hageali added he has to ensure of the set up and handling of equipment / needles, etc.

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A question was asked by a Commissioner about tattooing minors and Mr. Hageali responded a tattoo can be applied on eighteen (18) year olds and body piercing on fifteen (15) year olds with the consent of a legal guardian / parent.

A question was asked by a Commissioner if the Applicant follows Regulations and Mr. Hageali responded affirmatively.

A comment was made by a Commissioner to confirm that minors are not allowed to pick the tattoos, just hole piercings. The Commissioner stated has gone by certain tattoo parlors and does not want to see any loitering outside the building and the Commissioner added that his daughter has a tattoo. Mr. Hageali responded that he, too, does not like loitering and that he has another business in San Bernardino and people are not “hanging out” at that location either. Mr. Hageali explained that he is considering a location across the street from Highland City Hall. He further explained the Facility is controlled and he has been in business for a long time and wants something that is really nice and can be proud of.

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

A question was asked by a Commissioner regarding the Business License process of the individual tattoo artists. Mr. Hageali responded and explained the individual has an apprenticeship for one (1) year, needs to submit / complete a Form with the Health Department and procedures of handling equipment, etc. A question was asked by a Commissioner if the individual is State certified or County certified and Mr. Hageali responded County certified. A question was asked by a Commissioner regarding the individual is certified with the local Health Department, as opposed to a State License and Mr. Hageali said that is correct. A comment was made by a Commissioner thinking the use is no more intense than a Doctor’s office, a Chiropractic Office and not a medical procedure, but there are health issues / concerns and equipment disposal and how the Medical Offices are equally regulated and the use could be met. I

Chairman Haller asked if the Commission had any further questions of the Applicant. Hearing none, he then asked if there was anyone in the audience who would like to speak on the item. Hearing none, he then opened the floor for discussion amongst the Commissioners.

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A question was asked by a Commissioner regarding the Mixed Use in the Town Center area in that where else could the Use be applied in. Staff responded this was presented in the Town Center at the Meeting of May 2, 2006, and that's why the Minutes were included in the Staff Report and the Use in other Districts as they would come up and indicated the Finding is similar and no more intense in the General Commercial (GC), Neighborhood Commercial (NC), Planned Commercial (PC), Village Commercial and there will be other Districts, also. A question was asked by a Commissioner then that would open up many areas in the City and Staff responded affirmatively and would prepare a Staff Review regarding the hours of operation, parking, etc. A question was asked by a Commissioner on the number allowed in the City. Staff responded that we don't set a number. There are beauty salons, nail salons, gas stations, adult entertainment, etc. and explained that marketing is key here. A comment was made by a Commissioner maybe there will be one (1) or two (2) and would be more competitive and another Commissioner stated there are four (4) in Redlands on Orange Street.

A question was asked by a Commissioner regarding the COAs and how close together in distance the studios could be and Staff responded would take a Code Amendment and Ordinance.

A question was asked by a Commissioner if Staff recalls why tattoo studios were not included in 1994. Staff responded it was not popular then and is a trend now. The Code is designed to tap into and give the Commission authority and Staff then read in at the end of the Table 16.22 and explained there is now a hookah shop which may be considered a smoke shop.

A question was asked by a Commissioner wanting background why not listed originally and what about tanning beds. Staff responded the Uses would have to be added to the Code by amending it. Staff added with a Day Spa / Tanning Salon was not going in the direction of Massage Parlors i.e. Surreal Salon and explained the Floor Plan and read at the end of the Table 16.22 and further explained to the Commission that the Commission has just to interpret / determine the proposed Use is similar and no more than other Uses listed in the Code.

The following are comments made by the Commissioners: 1) the individual is overseen by the County Health Department, the disposal of equipment i.e. the Use fits in with the setting of Neighborhood Commercial District and is reviewed

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on a case-by-case basis; 2) can implement COAs when obtaining a City Business License; 3) can install “No Loitering” Signs; 4) still uncomfortable with Staff’s recommendation and is health related services, and; 5) there are health related issues and needs to be addressed. Staff responded that can be added if the Commission desires and the Commission concurred.

Discussion ensued between the Commission and Staff regarding the Mixed Use District. A comment was made by a Commissioner that the Use is a stand alone Project and may not want that Use on Greenspot Road. A question was asked by a Commissioner if Greenspot Road is a Special Mixed Use District, as opposed to a Commercial District and Staff responded that is correct. The Commission does not like Staff’s recommendation, as proposed, and there would have to be an amendment in Section B of the proposed Resolution.

Chairman Haller asked if anyone else would like to speak on the item. Seeing none, and there being no further questions of the Applicant or Staff, or discussion amongst the Commissioners, he then called for the question.

**A Motion** was made by Commissioner Hamerly and seconded by Vice Chairman Gamboa to:

1. Direct Staff to File a CEQA Notice of Exemption with San Bernardino County Clerk of the Board, and;
2. Adopt Resolution 09-010, as amended, determining that a “Tattoo Studio” type use is similar and no more intense than an “medical, dental and related health services for humans, including laboratories, clinics and the sale of articles clearly incidental to the services provided” type of use permitted by a Staff Review (SRP) Application within the Mixed Use (MU) Zoning District.

Motion carried on a 4 – 0 vote with one vacancy.

## **6.0 ANNOUNCEMENTS**

Staff explained there is no DRB or Planning Commission Meetings on May 19, 2009, due to Staff attending the ICSC Conference in Las Vegas. A Special Planning Commission Meeting has been scheduled for Thursday, May 21, 2009,

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at 6:00 p.m. for the Greenspot Village and Marketplace Project and explained Staff received the EIR.

Commissioner Willhite explained he will be out of town on May 21, 2009 and will be in Utah.

Everyone wished all a Happy Cinco de Mayo!!!

**7.0 ADJOURN**

There being no further business, Chairman Haller declared the meeting adjourned at 6:55 p.m.

Submitted by:

Approved by:

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Linda McKeough, Community  
Development Administrative Assistant III

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Richard Haller, Chairman  
Planning Commission

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