

**MINUTES
PLANNING COMMISSION REGULAR MEETING
AUGUST 18, 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 Vice Chairman Gamboa in the Donahue Council Chambers, 27215 Base Line, Highland, California.

Present: Commissioners Randall Hamerly, Trang Huynh, Milton Sparks, Michael Stoffel, Michael Willhite and Vice Chairman John Gamboa

Absent: Chairman Richard Haller

Staff Present: John Jaquess, Community Development Director
Lawrence Mainez, City Planner
Ernie Wong, City Engineer
Bruce Meikle, Senior Planner
Sean Kelleher, Assistant Planner
Linda McKeough, Administrative Assistant III

Boy Scout Troop 19 presented and posted the colors and then led the Pledge of Allegiance.

2.0 COMMUNITY INPUT

There was none.

3.0 CONSENT CALENDAR

3.1 Minutes of June 2, 2009, Regular Meeting.

The Minutes were pulled for discussion. Commissioners Huynh and Stoffel stated they would be abstaining from these Minutes since at that time, the Planning Commission and Design Review Board were two (2) separate entities.

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Discussion ensued between the Commission and Staff on Page 3 regarding the non-conforming building and the demolishing of everything and the Commission wanting to ensure accuracy pertaining to the Code Enforcement issues and the Highland Municipal Code regarding SRP 009-005.

On Page 3, Second Paragraph, Second Sentence, a comment was made by a Commissioner for clarification purposes to include specific Application the Applicant had submitted and requested that to be inserted the specific Application. Staff had listened to the Tape and the Applicant did not say what type of Permit, so Staff had conducted research on this with the Building and Safety Division regarding the Permit. The said Sentence then amended to read as follows: "He stated how he had submitted the Special Review Permit Application dated April 2, 2008, to the City in which Code Compliance Officer Richard Garcia had advised that the Property Owner had a non-paved parking space and further explained he was given one (1) month to install a Code compliant parking seventeen feet (17') to the north for parking on the property line and had a Special Inspection."

On Page 3, Second Paragraph, Fourth Sentence was amended to read as follows: "Staff had viewed the Assessor Parcel Map and found the existing house was built on the property line."

On Page 3, Second Paragraph, Sixth Sentence was amended to read as follows: "The open patio cover was built back in 1949 and the bathroom ceiling is between seven inches to eight inches (7" – 8") below the Code's acceptable minimum and needed to be demolished and reiterated how the house was built in 1949."

Discussion ensued regarding on Page 4, Second Paragraph, regarding the sizes of the ceiling joists and floor joists were possibly regarding the roof structure and the Commission requested to Staff review further for accuracy. And was amended to read as follows: "A question was asked by a Commission if Mr. Marquez had changed the roof line and had to remove the rafters and Mr. Marquez responded affirmatively and he removed the ceiling joists, floor joists and removed most of the structural framing."

On Page 4, Eighth Paragraph was amended to read as follows: "A question was asked by a Commissioner if a semi-truck ran into the house, would the Property Owner be able to rebuild and Staff responded no, because there was more than 50% damage in relation to a non-conforming structure, it had received damage greater than 50%."

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On Page 5, Fifth Paragraph was amended to read as follows: “(Note: City Engineer Wong returned at 6:28 p.m.)

On Page 6, Last Paragraph, Third Sentence was amended to read as follows”
“This is an older neighborhood and the City is not allowing construction of new houses.”

On Page 7, Fourth Paragraph was amended to read as follows: “(Note: City Engineer Wong left at 6:48 p.m.)

On Page 9, Fifth Paragraph was amended to read as follows: “(Note: City Engineer Wong returned at 6:54 p.m.)

A Motion was made by Commissioner Hamerly and seconded by Commissioner Willhite to approve the Minutes of June 2, 2009, as amended.

Motion carried on a 3 – 0 vote with the abstentions of Commissioners Huynh, Sparks, Stoffel and Chairman Haller absent.

3.2 Minutes of July 7, 2009, Regular Meeting.

Approved, as submitted.

3.3 Minutes of July 21, 2009, Regular Meeting.

Approved, as submitted.

A Motion was made by Commissioner Hamerly and seconded by Commissioner Willhite to approve the Minutes of July 7, 2009, and July 21, 2009, as submitted.

Motion carried on a 6 – 0 vote with Chairman Haller absent.

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4.0 PUBLIC HEARINGS

- 4.1 A Tentative Tract Map Application (TTM-008-002) and a Conditional Use Permit Application (CUP-008-002) to adopt a Planned Development Document and subdivide a 22.92 gross acres parcel of land into 133 detached single-family residential lots with various community amenities. The Project is to be located on the southeast corner Greenspot Road and Orange Street. (APN: 1201-401-01). Representative: Hal Woods, Centerstone Communities, Inc. (Continued from the July 21, 2009, Commission Hearing.

Vice Chairman Gamboa then introduced the Item and its continued Public Hearing and called for Staff's presentation.

Staff distributed an E-mail from Mr. Mark Diamond, of Highland, to the Commission for consideration. Assistant Planner Kelleher gave the presentation from the Staff Report and indicated the date for the continuance request listed in the Staff Report is October 6, 2009, and not October 20, 2009. He further explained how Staff was provided additional information at the end of July and is willing to work with the Applicant and the Property Owner.

Vice Chairman Gamboa asked if the Commission had questions of Staff and the Commission responded no. He then explained to the audience the Commission would not be taking action on this Item and indicated to the audience to notify Staff, in writing that they would like to be notified of the next Meeting for this Item.

Mr. Dan Kenny, 92033 Elder Creek Lane, Highland, California, and Mr. Jerry Adams, 6723 Royal Oaks Road, Highland, California, will wait to provide testimony until the next Meeting.

Ms. Marianne Briody, 28573 Foxboro, Highland, California, who is a resident, addressed the Commission. She stated that she resides in the EHR and is opposed to the Project because of increased traffic congestion and that the "rush hour" is bad now. There is also noise and air quality to consider. She does not like the Gun Range to be removed. Ms. Briody is not a patron of the Gun Range, but likes to have the Gun Range remain there as it provides a service to the public. Vice Chairman Gamboa requested she place her comments in writing and submit them to the City Staff.

Mr. Richard Endsley, 29112 Sandlewood Place, Highland, California, indicated he would wait until the October 6, 2009, Meeting.

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Vice Chairman Gamboa announced and indicated he should of relinquished the Vice Chair to hear this Item since he resides within five hundred feet (500') of the proposed Project has a conflict of interest but would be all right this time, since no action is taken by the Commission tonight.

There being no further comments from the Commission or from the Public, Vice Chairman Gamboa then called for the question.

A Motion was made by Commissioner Willhite and seconded by Commissioner Huynh to continue this Item to the Commission's October 6, 2009, Regular Meeting.

Motion carried on a 6 – 0 vote with Chairman Haller absent.

Vice Chairman Gamboa then thanked the audience for their attendance.

- 4.2 CUP 007-008 - The subject Conditional Use Permit Application is for the Construction and operation of a thirty thousand seven hundred and seven (30,707) square feet Commercial Project consisting of Retail, Restaurant and Warehousing uses on the Site. The Proposed use of the Site includes two (2) Drive-thru Restaurant Facilities. The Project Site is approximately 3.75 gross acres (163,533 square feet) in size. The Project is to be located on the southwest corner of the intersection of Boulder Avenue and Greenspot Road (APN: 1201-361-17-0-000). Representative: Bud Thatcher, Thatcher Engineering and Associates, Inc. [Continued from June 16, 2009, and July 21, 2009, and August 4, 2009, Planning Commission Hearings.]

Vice Chairman Gamboa introduced the Item and its continued Public Hearing and called for Staff's presentation.

Staff distributed two (2) documents dated August 18, 2009, with additional changes to the proposed Engineering COAs for the Commission's consideration. Then Assistant Planner Kelleher gave the presentation from the Staff Report and explained the proposed changes in the Engineering COAs and gave a brief summary of what transpired at the last Commission Meeting, the overall Project and reconfiguration of the Project's circulation. Staff still has questions about which Phase will the underground basin be installed and stated the COAs are still written for the basin to be underground. Assistant Planner Kelleher then concluded his Staff presentation.

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Vice Chairman Gamboa asked if the Commission had any questions of Staff.

Discussion ensued between the Commission and Staff regarding if the Project's proposed Landscape Plan is in compliance with the City's Greenspot Road Landscape Master Plan. Staff responded the Project's Landscape Plan will be submitted to the City's Landscape Architect for review and then will be brought to the Commission for consideration as a Design Review Application and is noted in Planning COA No. 9.

Vice Chairman Gamboa 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. Bud Thatcher, of Thatcher Engineering, 345 Fifth Street, Suite B, Redlands, California, the Applicant's Civil Engineer, addressed the Commission. He stated that Staff has adequately covered the items and having connectivity with the Landscape Median. He further indicated that he has read the Staff Report and concurs with the COAs, with the exception of 42 and Staff's recommendation. With regards to the water quality feature in Phase 1 and Phase 2, the above ground basin will handle the water quality feature. Mr. Thatcher explained the 100 year flood to the Commission and with a ten (10) year storm there would be approximately six inches (6") in the infiltration system and would be installed in Phase 3 along with the construction of Building "C" and then could delete Planning COA No. 103 that is listed on Page 32 of the Staff Report and replace the proposed Engineering COA No. 6 listed on Page 37 of the Staff Report with the following revised language: "Install treatment control BMPs including, but not limited to, an aboveground infiltration system sized to treat the entire site prior to occupancy of any Building in Phase 1 and Phase 2. An underground infiltration system sized to treat the entire site shall be installed prior to occupancy of any Building in Phase 3. (Mr. Thatcher stated if the Commission desired, it could add the additional language here.) Utilize a CDS unit or approved equal, to pre-treat storm runoff upstream of the infiltration system." He explained this language could replace / in lieu of the above ground basin in Phase 1 and Phase 2 and underground basin in Phase 3. Mr. Thatcher then said he would be happy to answer any questions the Commission may have.

Vice Chairman Gamboa asked if the Commission had any questions of the Applicant.

Discussion ensued between the Commission, Mr. Thatcher and Staff regarding access between the two (2) Buildings, the enhanced landscaping at the end of Building "C". A question was asked by a Commissioner about the Landscape Median. Mr. Thatcher responded there was a painted median proposed there at one time, but likes the current proposed layout.

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The following are comments made by the Commission: 1) without coming in and affecting traffic, the painted median would not affect the driveway; 2) the Landscape Median was deep enough to create two (2) aisles and was suggested in lieu of the painted median suggestion; 3) is comfortable with the twenty-eight foot (28') width and with what is proposed along Building "C"; 4) there is a concern with the exit of the Drive-thru behind Building "C" in that it is too tight for that area and with the traffic, there is a need to explain the Drive-thru is located there, otherwise, a person "is asking for trouble". Mr. Thatcher responded the width from curb-to-curb is forty-eight feet (48') and that is why the extra width is there to be able to have the Drive-thru service. A question was asked by a Commissioner why there is no right turn around the Drive-thru and indicated concern with vehicles going around back of Building "C". Mr. Thatcher responded one (1) solution is to have a painted strip between the island / aisle and extend the stripe and install a Yield Sign.

Vice Chairman Gamboa asked if the Commission had any further questions of the Applicant.

Discussion ensued between the Commission, Mr. Thatcher and Staff regarding the installing a fence on top of the basin. The basin would be masqueraded with wildflowers and topped with the fencing and not get into the down slope. A Commissioner asked if Staff was aware of this and Staff responded there is a type of fencing that is pleasant to the eye if the Applicant wants to go / proceed in that direction. A question was asked by a Commissioner regarding if the time frame between Phase 2 and Phase 3, which might be one (1) or two (2) years. Mr. Thatcher responded that he was unsure of the time frame, but the way how the bonding was set up for the Project, all the money would be coming back to the investors is in Phase 3 for the Building occupancy.

Mr. Jian Torkien, of ICO Real Estate Group, 9663 Santa Monica Boulevard, Suite 737, Beverly Hills, California, who is the Applicant, addressed the Commission. He stated that he, too, was unsure of the time frame between the Phases 1 and 2. Once we would get a Tenant for Phase 1, the chances of building out Phase 3 will be much better.

Discussion ensued between the Commission, Mr. Thatcher and Staff regarding the saturation and the necessity of permanent fencing as opposed to temporary barriers on a 4:1 slope, the proposed Grading Plan and Conceptual Basin Plan has a high water line and the elevation is approximately sixty-seven feet (67'). Mr. Thatcher responded when the Site was graded, it was graded low and will be

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adjusted to match the storm drain at a 100 year storm which is approximately two feet (2') in height. Staff responded that Staff was looking at the basin design which shows a ponding of five feet to six feet (5' – 6') of water and has concern about the liability. Staff has to verify the ponding is indeed, two-feet (2') and not five feet to six feet (5' – 6') and the requirement for fencing will be contingent upon that verification.

Further discussion ensued between the Commission, Mr. Thatcher and Staff regarding water runoff relative to the sixty-four foot to sixty-six foot (64' – 66') elevations, the City's storm drain outlet and how the Project's underground chamber system and City's storm drain will connect. Staff then explained why Engineering COA No. 103 was not stricken if the Commission moves forward with the Project. Vice Chairman Gamboa asked if the Applicant agreed and Mr. Thatcher asked about Engineering COA No. 26, about showing it (on the Plan) if one is not necessary. Discussion ensued between the Commission and Staff regarding the language of the Revised Engineering COA No. 26 that was distributed earlier to the Commission. A comment was made by a Commissioner how the Commissioner would rather see wildflowers rather than a steel tube fencing for the basin. Engineering COA No. 26 was revised as follows: "Design grading and on-site improvements to drain Phase 1 and Phase 2 of the project site to an above ground detention basin ~~underground infiltration system~~. Provide a means to convey any overflow drainage from the infiltration system to a storm drain lateral to be constructed by the City at the northwest corner of the site. If the storm drain lateral has not been constructed by the City at the time Phase 1 develops, convey the flows to a drainage outlet at Greenspot Road to prevent ponding of water within the Site, with a design as approved by the City Engineer, at the location of the future lateral. Install landscaping, irrigation, fencing and an access gate for the basin, as approved by the Planning Commission, pending final approval by the City Engineer of the need of fencing and an access gate." Vice Chairman Gamboa asked Staff if Staff was okay with Engineering COA No. 103 being deleted and Staff responded affirmatively.

A question was asked by a Commissioner regarding the southwest corner and how the front of Building "A" is offset and if it could be realigned and then that area be dedicated to landscaping. Mr. Thatcher asked to move the Building east or west and the Commissioner responded move it to the west. Mr. Thatcher responded if moved to the west, he could install the additional landscaping. A comment was made by a Commissioner to have the Applicant to "flush out" the landscaping in the corner feature. The number of Median Shade Trees is a 4:1 ratio for the trees and the Commissioner said that it "looks thin". Mr. Thatcher responded he would check into that and he then thanked the Commission.

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Vice Chairman Gamboa 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. Hearing none, Vice Chairman Gamboa then closed the Public Hearing and opened the floor for further discussion amongst the Commissioners.

Discussion ensued between the Commission and Staff regarding Planning COA Nos. 31 and 52. A comment was made by a Commissioner that at the last Meeting regarding a Standard COA if plant materials are removed, they need to be replaced with plant materials similar size and species at the time of removal and stated he would like to see the Project's integrity scheme is preserved. Staff responded that sounds like a Design Review process. The Commissioner responded if it is a COA, then the COA needs "more teeth" since the Findings of Fact doesn't seem to. Staff responded the Municipal Code and CUP is used with the land use and the Commissioner responded and gave the example if a Project is seen and has thirty (30) trees, it needs thirty (30) trees. Staff responded that would be the same process as enforcement. Discussion ensued between the Commission and Staff regarding tree removal and not replaced with anything; street trees, ornamentation, need to set time limit of replacing trees and have / use Code Enforcement. A question was asked by a Commissioner what is the mechanism for enforcement and Staff responded with the existing trees, it is a 2:1 ratio. The Commissioner responded it is a good idea, but if something is in place, and the Developer violates that, then something could be done. Staff responded that was a function of the Planning Division a few years ago, and when Planning did the plan check, Planning sent a notice to the Developer of the inconsistency. Planning had stopped doing this because of being so busy, but if the Commission desires, Planning can start this back up again. The following are comments made by the Commission: 1) find a provision and bring it back to the Commission; 2) be a directive to Code Enforcement as opposed to the Commission doing a COA; 3) is an Enforcement issue – have Code Enforcement conduct an inspection on an annual basis or every two or three (2 – 3) years and require the Developer to maintain the Site, and; 4) Parkway maintenance was discussed. Staff responded there is Planning COA No. 49, requiring the Landscape Maintenance District and the Commissioner responded he was happy with that.

Discussion ensued between the Commission and Staff regarding Planning COA 59 and using planter diamonds and wheel stops and Staff responded there are no diamonds proposed in the Project. In addition, Planning COA No. 62 and how the Mitigation Measures are cross referenced were discussed. A comment was

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made by a Commissioner how Planning COA No. 76 is redundant with another proposed COA and Staff then explained the added COAs are to include the Mitigation Measures as COAs to clarify them from the Initial Study and the Mitigated Negative Declaration.

There being no further discussion or questions of the Applicant or Staff, Vice Chairman Gamboa then called for the question.

A Motion was made by Commissioner Hamerly and seconded by Commissioner Stoffel to:

1. Adopt a Mitigated Negative Declaration and Mitigation Monitoring Program and direct Staff to File a Notice of Determination with the San Bernardino County Clerk of the Board; and,
2. Adopt Resolution 09-014 Approving Conditional Use Permit (CUP-007-008), all subject to the recommended Conditions of Approval, as amended with the following:

Revised Planning COAs ---

35. All rooftop mounted mechanical equipment shall be screened from public view. This can be accomplished by Architectural Treatments or parapets equal in height to the tallest piece of roof-mounted equipment.
38. Trash / Recycling Enclosures are required on-site. The receptacles and enclosures shall be of sufficient size to accommodate the trash generated by the uses served. All outdoor storage of trash, garbage, refuse, and other items or materials intended for discarding or recycling collection shall be screened from public view on at least three (3) sides by a solid decorative wall not less than five feet (5') in height, or alternatively, such material or design approved by the Planning Commission. The fourth side shall contain a solid metal gate maintained in working order and remaining closed except when in use. A hose bib shall be installed within the enclosure to allow for regular cleaning.

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62. (NS) The Project's Landscape Plans shall be in conformance with the City's Conceptual Landscape Master Plan for Greenspot Road / Golden Triangle Policy Area.
- a. Landscaping within Greenspot Road Right-of-Way and Landscape Maintenance District shall not count towards parking lot landscaping requirements (see Condition No. 61 for possible adjustments).
- ~~103. (NS) The proposed Storm Tech Infiltration Basin proposed as part of Phase 3 of the Project shall be constructed as part of Phase 1 of the Project.~~

Revised Engineering COAs

- ~~A*2A. Utilize a 10 foot minimum radius at the southerly end of the planter island located westerly of the Building "A" Drive-thru.~~
- C.6. Install treatment control BMPs including, but not limited to, an above ground detention basin ~~underground infiltration system~~ sized to treat the entire site prior to occupancy of any building in Phase 1 and 2. An underground infiltration system sized to treat the entire site shall be installed prior to occupancy of any building in Phase 3. Utilize a CDS unit or approved equal, to pre-treat storm runoff upstream of the infiltration system.
- C.17. Install and pay Southern California Edison to energize one decorative street light on Greenspot Road west east of the ultimate project entrance location and a marblelite street light on Boulder Avenue south of the project entrance. The property owner shall be responsible for payment of energy charges for 12 months following energizing of the street lights. Complete street light improvements prior to occupancy of any Building in Phase 1.
- A.26. Design grading and on-site improvements to drain Phase 1 and Phase 2 of the Project site to an above ground detention basin ~~underground infiltration system~~. Provide a means to convey any overflow drainage from the infiltration system to a storm drain lateral to be constructed by the City at the northwest corner of the site. If the storm drain lateral has not been constructed by the City at the time Phase 1 develops,

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convey the flows to a drainage outlet at Greenspot Road, with a design as approved by the City Engineer, at the location of the future lateral. Install landscaping, irrigation, fencing and an access gate for the basin, as approved by the Planning Commission, pending final approval by the City Engineer of the need of fencing and an access gate.

C.27. Construct a drainage system to intercept and convey the off-site tributary drainage from the culvert crossing Boulder Avenue to an above ground detention basin prior to occupancy of any building in Phase 1 and 2. ~~A storm drain lateral to be constructed by the City at the northwest corner of the site. If the storm drain lateral has not been constructed by the City at the time of Phase 1 develops, convey the flows to a drainage outlet, with a design, as approved by the City Engineer, at the location of the future lateral.~~

A. 27A Replace the above ground detention basin with an underground infiltration system prior to occupancy of any building in Phase 3.

and;

the Findings of Fact.

Motion carried on a 6 – 0 vote with Chairman Haller absent.

It was noted this would include the Commission's Directives.

Mr. Thatcher then thanked the Commission.

(Note: City Engineer Wong and Assistant Planner Kelleher left at 7:04p.m.)

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- 4.3 A Second Submittal by Regency Centers, the Applicant requesting approval of Amendment No. 1 to Conditional Use Permit 007-009 to add a Freeway-oriented Community Business Sign to the previously approved Entitlement for the "Highland Crossroads" commercial Project. The "Highland Crossroads" Project consists of an approximate 8.5-acre Site located on the south side of Greenspot Road approximately 1,300 feet east of the 210 Freeway. Representative: James Dillavou, Senior Manager

Vice Chairman Gamboa introduced the Item and called for Staff's presentation.

Staff distributed e-mail documents currently dated August 6, 2009, and August 11, 2009, to the Commission and Senior Planner Meikle gave the presentation from the Staff Report then explained the Applicant's Representative is in the audience and recommended approval of the proposed Sign. Senior Planner Meikle concluded his presentation and then opened the floor for questions from the Commission.

Vice Chairman Gamboa asked if the Commission had any questions of Staff.

A question was asked by a Commissioner if a flag test was conducted. Staff responded initially, yes, and indicated those points are referenced in the Staff Report and that there was a previous Study Session Flag Test conducted.

A question was asked by a Commissioner will the Sign be straight or face toward the Freeway and Staff responded the Site Plan was provided by Regency Centers is at a 90° angle to the Freeway and is more visible to the northbound traffic, rather than the southbound traffic and is above the San Bernardino County Flood Control Levee.

Vice Chairman Gamboa 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. Jim Dillavou, of Regency Centers, 915 Wilshire Boulevard, Suite 2200, Los Angeles, California, who is the Representative for Regency Centers, addressed the Commission. He explained the Site design and location, and that Denny's is to due to have a pylon sign. Mr. Dillavou then explained how In and Out Burger was attempting to make a deal for a Freeway Sign with TREH PARTNERS, but was unsuccessful and then returned to Regency Centers to do the Project with the contingency of a Pylon Sign. He then stated the approval of the proposed

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Sign is consistent with the Sign Code. Mr. Dillavou indicated Regency is also dealing with Chevron contingent upon the Pylon Sign. He further explained the height of the Sign is compatible with the height of the Buildings. He would then be happy to answer any questions the Commission may have.

A question was asked by a Commissioner with In N Out Burger and Chevron is their request specifically for a Pylon Sign or just signage visible from the Freeway and Mr. Dillavou responded they wanted a Pylon Sign.

A comment was made by a Commissioner that the proposed Sign height is sixty-two feet (62'). There is also opportunity for independent building mounted signage on the Buildings located on the Site and would be visible from the Freeway. At sixty-two feet (62'), the Freeway Signage is a monolith and its scale across the Wash is not in character or mass with the Golden Triangle Policy Area and also is less expensive with Building signage. Mr. Dillavou responded that a vast majority of In N Out Burgers have Freeway signage and is flexible with the signage and Building mounted sign is not preferred.

A question was asked by a Commissioner about the Del Taco signage and Mr. Dillavou responded he was not privy to those discussions with TREH PARTNERS regarding the Freeway Panel Signage. A comment was made by a Commissioner that there are eight (8) open Sign Panel vacancies and thought there would be less vacancies and that In N Out Burger would be next to Del Taco and hates to see the Commission approve another Freeway Sign between LA Fitness and Staples and the vacant parcel. As for business purposes (perspectives), if the (Existing Freeway) Sign was filled up completely, the Commissioner could understand and stated the need to fill the (Existing Freeway) Sign up first and not have vacancies. Mr. Dillavou responded that it is an economics issue and how money is requested for a Sign Panel and is a deal breaker. A Commissioner responded the General Plan provides a Policy direction. The language of the General Plan is trying to control the environment of the Golden Triangle Policy Area and this Sign is not a (City) vision. Freeway signs should be located one on the north side and one on the south side of Greenspot Road and is the Gateway and everything else could be handled with a Sign Program. The impacts are to be minimized and the solution is building a taller Building facade facing the Freeway and use the Monument Sign to direct customers. Mr. Dillavou responded that the use is not visible from the Freeway and suggestions to put the Sign on the existing Freeway Sign is unacceptable to his Tenant and does not work and is trying to deliver Tenants to the City. Mr. Dillavou further stated he is the messenger here and how the Tenant wants a Pylon Sign.

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A question was asked by a Commissioner if marketing studies were done on Greenspot Road with the east / west traffic and the Applicant said that the Freeway traffic is what got them there.

A statement was made by a Commissioner either way, it will be appealed up to City Council and another Commissioner responded that the Commissioner cannot base his decision on if the Commission's action is appealed. Another Commissioner stated that he believes all Commission decisions matter to the City Council.

Discussion ensued between the Commission and Staff regarding By-Right-of-Zone parcels and the Commission's concern about setting a precedent. Staff explained on the north side of Greenspot Road is a Specific Plan and with a Comprehensive Sign detail and will not get a number of Freeway Signs on the south side. The maximum is possibly two to three (2 – 3) signs to be located on the north side of Greenspot Road and which is also a part of the proposed Sign Program for the Specific Plan. The Major Tenant generates the most for the Developer. Staff further explained the Commission is obligated to review all of the facts tonight and receive the Commission's comments on design, colors, shape, etc.

A question was asked by a Commissioner regarding the Building Elevation parapet's height of twenty-five feet (25') and the feasibility of making a Finding regarding the proposed Freeway Sign height and orientation. Staff responded it is appropriate for the Freeway Sign and meets the intent of the Greenspot Road Golden Triangle Policy Area. A question was asked by a Commissioner what is the tallest elevation of Building height on-site and Staff responded LA Fitness and the parapet above the front entrance is approximately forty-five feet (45') tall.

Discussion ensued between the Commission, Mr. Dillavou and Staff regarding Major Tenant 1 and Major Tenant 2 prominent signs, limit the Tenants on the Freeway Sign, and could put signs on the back of the Buildings. Mr. Dillavou responded aesthetically, it could be a four-sided sign similar to the Citrus Plaza in Redlands and asked if it would satisfy the Condition. A Commissioner responded there are more reservations with a four-sided sign and the rationale is to advertise for the Freeway in that one (1) direction makes little sense. Mr. Dillavou stated with In N Out Burger traffic, that is why the Sign is situated for view from the Freeway. A Commissioner said the Applicant is requesting 1,000 square feet which would then be 500 square feet on each side of the Sign.

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Mr. Doug Goodman, of Goodman and Associates, 2079 Sky View Drive, Colton, California, who is the Applicant's Representative for the proposed Specific Plan site on the north side of Greenspot Road, addressed the Commission. He stated that his clients will be both happy and not happy to see the Sign. Last weekend, he went to San Diego and did not see one (1) Freeway-oriented sign ¼ mile away from the Freeway of this (proposed Sign) size. If the Commission approves this, he suggested the Commission drive between fifteen miles to sixty miles (15 – 60) to other communities and see what they have done. His clients might locate in the next community and not submit an application and then encouraged the Commission this is an important decision and setting a precedent. He then thanked the Commission.

Mr. Tom Robinson, of JLM – TREH, of the Highland Crossing's, 4590 MacArthur Boulevard, Suite 500, Newport Beach, California, addressed the Commission. He indicated the Minutes (in the Staff Report) are misleading and how he had met with the Mayor, Regency Centers and LA Fitness different times. He also had gone to the ICSC to see about a proposal and it's hard to prove because LA Fitness made a deal and the paperwork is still going back and forth with In N Out Burger. Chevron is working with them for the last eight (8) months and recapped they will not make a deal with them. Mr. Robinson explained about Lindora and wanted to show the e-mails to the Commission. He then explained about the Freeway Sign monolith being located ¼ mile away from the Freeway and distributed Mr. Glen Elssmann's e-mail to the Commission for review. He then read the e-mails dated July 28, 2009, to the Commission regarding Lindora, Mission Development / Vestar and knew before Regency Centers about working out the deals. Mr. Robinson indicated In N Out Burger is out by two (2) years. There is a \$30 million dollar investment and they (TREH PARTNERS) are not going anywhere. With regards to installing a big (Freeway) Sign, he is not against signage and that other people / tenants will want to be placed on the Freeway Sign. Mr. Robinson encouraged the Commission not deviate from Policy and that In N Out Burger has other options and hopes the Commission will make the right decision and he, too, wants quality development. The Applicant will have 820 square feet (of signage) for a five to six (5 – 6) acre parcel. Mr. Robinson said he has done the same thing as the previous speaker (with traveling) and has not seen a Freeway Sign located ¼ mile in from the Freeway. With regards to the north side of Greenspot Road, Mission Development, if the property is not broken up, and how the San Bernardino County Flood Control property is not a done deal, a person will be able to see the proposed Sign from the north side. The Freeway Sign is pointed towards EHR and a person will see it every day and night both on the north and south sides. Mr. Robinson then said he is willing to make same deal to In N Out Burger as LA Fitness and indicated the area does not need another Freeway Sign in the Golden Triangle Policy Area and would be happy to answer any questions the Commission may have. He then thanked the Commission.

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Vice Chairman Gamboa asked if anyone else would like to speak on the Item.

Mr. Ed Horovitz, 25152 Via Catalina, Laguna Niguel, California, (of JLM - TREH), addressed the Commission. He gave the following comments: 1) the Commission made the correct decision the last time that a non-Freeway site should not be asking for a Freeway-oriented Pylon Sign; 2) a precedence will be set and the Applicant is asking for a Freeway Sign not located on a Freeway site – you need to have a Freeway Site for a Freeway Sign; 3) critical issue and JLM – TREH PARTNERS made a deal; 4) LA Fitness is “proof of the pudding” and that will probably also happen with In N Out Burger. Mr. Horovitz then thanked the Commission.

Mr. Dillavou stated In N Out Burger had asked and was given six (6) weeks with TREH PARTNERS and unable to reach a deal for the signage which would cost \$36,000 / year and indicated it is cost prohibitive. With TREH PARTNERS, it would cost \$1,500 / month for the In N Out Burger signage located on his Site and need to clear up with the City whether it is interested in having a Tenant. Mr. Dillavou then thanked the Commission.

Mr. Robinson stated JLM – TREH is willing to make a Fair Market deal and does not believe their costs are out of line with the market or the proposed use.

Vice Chairman Gamboa asked if anyone else would like to speak on the item. Hearing none, he then closed the Public Hearing and opened the floor for discussion amongst the Commissioners.

The following are comments made by the Commission: 1) he had traveled north at 10:00 p.m. and there are no street lights; 2) the Sign is tall and more than 1,000 feet from the Freeway; 3) the Sign is like a big, illuminated billboard; 4) also likes In N Out Burger establishments and there is one in San Bernardino at Tippecanoe; 5) the proposed Freeway Sign is too big and too tall and not near the Freeway; 6) not in favor of the proposal or of Staff recommendation, at this time; 7) everything sets a Commission precedence; 8) not ready to approve a Freeway Sign that is not by the Freeway; 9) if important to have traffic getting to the business, then need to have the business by the Freeway; 10) a Freeway Sign is not located on a Freeway parcel and not prepared to approve the proposal.

A question was asked by a Commissioner what is the reasoning for Staff recommending approval and Staff responded for signage along two (2) pads along Greenspot Road and may have signage on the back of the Building. This is a way to achieve signage and the Golden Triangle Policy Area allows flexibility

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and the Applicant has a Sign Program too and the possibility of getting Tenants on those pads. The Commissioner responded he is not a Developer or a Tenant, and suggested to lower the Sign and make one (1) side and one (1) In N Out Burger, Chevron located on the northbound side facing towards the center on Greenspot Road since there is more traffic in that area and would be a draw if unable to make the Freeway Sign. The Commissioner indicated that Jack in the Box is also to be located on Greenspot Road and explained the number of Sign Panels on the (Existing) Freeway Sign and if the Applicant is willing to work on the one side.

A question was asked by a Commissioner who controls the Freeway Signage that says "Gas, Food, and Lodging" and Staff responded Caltrans. A question was asked by a Commissioner if the Freeway Signage has the little green logos and says "whatever Restaurant, Gas, etc. take (at) the Next Offramp (Exit)..." if someone wants something advertised in the City and Staff responded the City has never been involved with that. Another Commissioner stated he has seen that on the east coast and suggested possibly having the In N Out Burger signage on the back of the Major Tenant Building. Staff responded and said that initially, there was a conversation with Regency Centers to have the Sign on the Building 2 Building signage for the Freeway and Regency Centers did not move forward with this. A Commissioner said that he doesn't believe it's 1,000 square feet and another Commissioner stated with the flag test history, it is a viable commercial center and that it could hurt them financially without advertising facing the Freeway.

The following are further comments made by the Commission: 1) the Commission needs to be consistent with its decisions and has to be a defensible action based on the General Plan, Land Use, Municipal Code, etc.; 2) negotiate for the spot next to Del Taco or on the back of the Major 2 Building, or wait and go on the Mission Development site.

Note: Mr. Dillavou got up to speak, but was advised the Public Hearing was now closed.

The Commission continued their comments: 3) entertain a thirty-six foot (36') high Sign and no higher than LA Fitness if the deal breaks or needs visibility by the Freeway; 4) concerns with setting a precedence; 5) thinks that In N Out Burger would be an outstanding addition to Highland and that a lot of people here would like an In N Out Burger; 6) there is also a Building Mounted Sign for signage; 7) suggested with the architectural features, place on the Existing Sign;

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8) will In N Out Burger be happy to come to Highland; 9) hate to see another Pylon Sign; 10) little (commercial) pads need advertisement; 11) with the major background, is unable to say one way or the other; 12) what is listed in the General Plan, and; 13) don't know who is going to be happy.

Vice Chairman Gamboa asked if the Commission had any further comments. Hearing none, he then called for the question.

A Motion was made by Commissioner Hamerly to deny the Applicant's Request and return to the Planning Commission with a Resolution for denial.

Discussion ensued between the Commission and Staff regarding if the Commission needed to state the Findings and Staff indicated it was not. A question was asked by a Commissioner about if Staff needs to return with a Denial Resolution and Staff responded no, and that the Commission's decision can be appealed to the City Council.

Seconded by Commissioner Huynh.

Motion carried on a 5 – 1 vote with the dissention of Commissioner Willhite and Chairman Haller absent.

Vice Chairman Gamboa explained the Commission's action on the proposed Project can be appealed to the City Council within ten (10) calendar days.

The Commission recessed at 8:05p.m. and reconvened at 8:12p.m. with Commissioners Hamerly, Huynh, Sparks, Stoffel and Willhite and Vice Chairman Gamboa present.

- 4.4 Toll Brothers is requesting a Revision to the Conditions of Approval for Tract 16914 (SUB 04-001), in particular, deleting Planning Condition No. 11 requiring fifteen percent (15%) of the Units within the Tract be single-story units. Tract 16914 is a sixty (60) Lot Subdivision located on an approximate 54-acre Site on the north side of Oak Creek Channel and east of Plunge Creek at the terminus of San Benito Street. Representative: Brad Hare, Senior Project Manager for Toll Brothers

Commissioner Huynh explained he has a conflict of interest since he resides within the Tract and is unable to participate in the Item.

(Note: Commissioner Huynh left the Dais at 8:13p.m.)

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Vice Chairman Gamboa introduced the Item and called for Staff's presentation.

Senior Planner Meikle gave the presentation from the Staff Report then explained the Applicant's Representative is in the audience. He then concluded his presentation and then opened the floor for questions from the Commission.

Vice Chairman Gamboa 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. Brad Hare, of Toll Brothers, 725 Town and Country Road, Suite 500, Orange, California, who is the Senior Project Manager / Applicant, addressed the Commission. He stated the Project is a high end luxury Development and the one single-story (design) is the least desirable. There are ten (10) Floor Plans with a couple of two-story Plans with forty (40) different variations within the neighborhood. He further explained the request and then asked if there are any questions the Commission may have.

Vice Chairman Gamboa asked if the Commission had any questions of the Applicant.

A question was asked by a Commissioner if the Applicant had heard any feedback from other Developers if this is a Southern California phenomenon or a Regional Development phenomenon or a Nation-wide phenomenon and Mr. Hare indicated it is a Southern Californian phenomenon and added with the multiple Floor Plans, he is unable to obtain buyers and how the buyers want additional square footage and like the two-story element styles. Price per square foot equations and the Applicant having ten (10) different Floor Plans that are preplotted and are unable to sell were also discussed. Mr. Hare stated there are eighteen (18) units remaining to be built and will continue to have the Pick Your Plan / Pick Your Lot design and six (6) of those final eighteen (18) units will be / required to be one-story units. He further indicated the Plans 9 and 10 are smaller in size and have tried selling the single-story unit element. A question was asked by a Commissioner if there are alternatives with the single-story units with the Pick Your Plan / Pick Your Lot design and Mr. Hare responded no, but still is offering the single-story units.

Discussion ensued between the Commission and Mr. Hare regarding the accounting for the existing Homeowners, if the Lots will be blocking a view or is a privacy issue, there are still eighteen (18) Lots available and the Applicant is not locked into single-story units on primary corner lots and a comment was made by

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a Commissioner in that the last time, there was a COA requirement for single-story units to be located on primary corner lots. Another Commissioner stated how someone did speak up the last time and it was resolved with the Homeowner. The roof line design top and not blocking views were also discussed. Comments were made by a Commissioner he would like to see a single-story Floor Plan with larger square footage to be located in the neighborhood and otherwise, a person would feel like they were in a tunnel. Mr. Hare asked if the Commissioner had been there in the neighborhood and the Commissioner responded affirmatively.

Vice Chairman Gamboa 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.

Ms. Lisa Trask, 30680 La Cresta Street, Highland, California, who is a resident, addressed the Commission. She said that she did not have a single-story unit built and displayed photographs to the Commission of the two-story unit looking onto her property. A person can see Calle De Rio or La Cresta streets from Lowe's and a person will notice that the houses look like "McMansion" after "McMansion". She further stated how people move here to Highland because of the aesthetics and the fifteen percent (15%) single-story requirement. Otherwise, it is like down in Riverside County or at Murrieta having a box house, after box house, after box house, and that the Lots are supposed to be view lots. There are various versions of the Mediterranean style design and with the Pick Your Plan / Pick Your Lot Program. Ms. Trask asked if the buyers did not want one-story units or is it for the Developer's profit and believed it was for the Developer's profit. Ms. Trask further stated she wanted a one-story unit and has a row of "McMansions" behind her. There are six (6) more houses and she knows people who want 3,000 square foot single-story units and indicated with single-story units, it is still a profitable market. Mr. Hare responded that is the adjacent neighborhood and there are nineteen (19) Lots along the Flood Channel and two (2) are not built, at this time. He cannot guarantee those two (2) Lots will be single-story units. The market drives the house prices and he indicated that he is building (the houses) as fast as possible.

Vice Chairman Gamboa asked if anyone else would like to speak on the item. Hearing none, he then closed the Public Hearing and opened the floor for discussion amongst the Commissioners.

Discussion ensued between the Commission and Staff regarding there are eighteen (18) vacant Lots and of those Lots, six (6) are for single-story Lots and currently, there are sixty (60) Lots in the Subdivision.

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Further discussion ensued between the Commission and Staff regarding the fifteen percent (15%) requirement being single-story homes.

The following are comments made by the Commission: 1) thinking sympathetically, it is a different type of market; 2) have the Applicant market ten (10) unique single-story Elevations; 3) the Applicant has been pushing this, but has one (1) Plan and four (4) Elevations; 4) in the Newport (Beach) area, there are long single-story units located there and with the Hacienda Plan with court yards, fountains, that were sold from \$1.7 – \$3 million there, and; 6) that there are buyers for single-story units are out there. A question was asked by a Commissioner if the Commission does not approve the Applicant's request, will the six (6) Lots be vacant and Staff responded the Project is Conditioned for a total of nine (9) Lots in the Subdivision to be single story and hold the Developer to the fifteen percent (15%) being single-story units. Staff added when the Developer would get at that point of the required nine (9) Lots, the Developer would not have to build additional single-story homes (in the Subdivision). There are different Elevations and Styles the Applicant is offering. Comments were made by the Commission then it is statistically possible and that it would look goofy to have six (6) (single-story units) in a row.

There being no further comments from the Commission or questions of Staff, Vice Chairman Gamboa then called for the question.

A Motion was made by Commissioner Hamerly and seconded by Commissioner Stoffel to deny the Applicant's Request to delete Planning COA No. 11 for Tract 16914 eliminating the requirement that fifteen percent (15%) of the Units be single-story units.

Motion carried on a 5 – 0 vote with the abstention of Commissioner Huynh and Chairman Haller absent.

Vice Chairman Gamboa explained the Commission's action on the Applicant's request which can be appealed to the City Council within ten (10) calendar days.

(Note: Commissioner Huynh returned to the Dais at 8:38p.m.)

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5.0 LEGISLATIVE

- 5.1 Determination that the City's Acquisition of Real Property and the Demolition of existing structures therein are consistent with the City's General Plan, or part thereof, in accordance with Government Code Section 65402. The Property locations are as follows: 27159 Base Line (APN: 1192-421-01), and 27169 Base Line (APN: 1192-421-02).

Vice Chairman Gamboa introduced the Item and called for Staff's presentation.

City Planner Mainez gave the presentation from the Staff Report and explained the Commission's action tonight is simply making a determination of General Plan consistency, explained the Town Center Policy Vision and then concluded his Staff presentation.

Vice Chairman Gamboa asked if the Commission had any questions of Staff.

Discussion ensued between the Commission and Staff regarding whether the Commission will review and Landscape Plan after demolition, the property will be vacant for many years, the feasibility of the Building materials be recycled and a suggestion was made about this would be an opportunity of having the City consider contacting a charitable organization before the demolition for the materials. Staff responded the City Manager is precluded by Law and cannot let people take items from the City property. A question was asked by a Commissioner about liability and Staff responded when issuing a Demolition Permit, the Demolition Contractor may salvage items from the Building and with the demolition process, there is a Recycling Plan that needs to be submitted and is a part of the Demolition Permit. A question was asked by a Commissioner regarding the paving, windows, etc. and Staff responded the fixtures are pretty old and are not very salvageable that Staff was in the Post Office earlier today and one of the switches arced. Staff then explained the dates on Pages 1 and 9 of the Staff Report are incorrect and are to be revised to Friday, July 15, 2009, when the City acquired the Library and on July 29, 2009, the City acquired the Post Office.

Vice Chairman Gamboa asked if the Commission had any questions of Staff.

Discussion ensued between the Commission and Staff regarding the Site being vacant and in the interim, the City not wanting any vandalism to occur and the Site will be used for a new Fire Station. There is no funding or schedule of construction has been determined, at this time.

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

A Motion was made by Commissioner Hamerly and seconded by Commissioner Huynh to adopt Resolution No. 09-020 determining the Acquisition and the Demolition of existing structures located at 27159 and 27169 Base Line is consistent with the City's General Plan, or part thereof, in accordance with Government Code Section 65402.

Motion carried on a 6 – 0 vote with Chairman Haller absent.

6.0 ANNOUNCEMENTS

Staff explained the Items tentatively scheduled for the September 1, 2009, Commission Regular Meeting.

7.0 ADJOURN

There being no further business, Vice Chairman Gamboa declared the Meeting adjourned at 8:52 p.m.

Submitted by:

Approved by:

Linda McKeough, Community
Development Administrative Assistant III

John Gamboa, Vice Chairman
Planning Commission

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