

PLANNING COMMISSION REGULAR MEETING MINUTES
July 19, 2022 – 6:00 P.M.

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 Chair Hamerly at the Donahue Council Chambers, 27215 Base Line, Highland, California.

Present:	Chair	Randall Hamerly
	Vice Chair	Chandra Thomas
	Commissioner	Edward Amaya
	Commissioner	Jarrold Miller
	Commissioner	Jessica Sutorus

Staff Present: Lawrence Mainez, Community Development Director
Kim Stater, Assistant Community Development Director
Gary Chambers, Code Enforcement Officer
Camille Goritz, Administrative Assistant III

The Pledge of Allegiance was led by Chair Hamerly.

COMMUNITY INPUT (ITEMS NOT ON THE AGENDA)

None

CONSENT CALENDAR

1. Minutes from the July 5, 2022 Regular Meeting.

A MOTION was made by Commissioner Miller, seconded by Commissioner Amaya, to approve the minutes as amended. Motion carried, 4-0-1, with Vice Chair Thomas abstaining.

PUBLIC HEARINGS

2. A Public Hearing to declare the existence of a Public Nuisance in accordance with Title 8, Chapter 8.32, of the Highland Municipal Code, and authorize the abatement thereof, at the Properties generally located at 27059 5th St. & 27048 3rd St., Highland, CA 92346, Tax Assessor's Parcel Numbers 1192-631-10, 1192-631-11, 1192-631-24, 1192-631-25, & 1192-631-26.

Code Enforcement Officer Chambers presented the staff report.

Chair Hamerly opened the public hearing.

Jorge Garcia, Representative, stated we bought the property in April 2022 with Crow Holdings and were unaware of that at this time until the seller gave us this information. Officer Chambers reached out to us regarding the Public Hearing letter, and we've been in contact with the tenant Bill Morgan. We are finding solutions out to get him off the property because our goal is eventually to develop that property and we also want to make sure that we have a relationship with the City. Within a few weeks we are going

to submit the Design Review Application and we are requesting for 60 days to give us some time to work that out with the with the tenants.

Chair Hamerly asked how did Mr. Morgan represent the lease agreement or occupancy agreement that he drafted with you on sale of the property?

Jorge Garcia stated we inherited the lease back, upon acquiring the property. Mr. Morgan is leased until December is what we found out.

Chair Hamerly asked is a lease agreement binding under the terms of sale it is an illegal basis for the agreement? If they don't have the legal basis for renting the property or leasing the property for the use for which it's been leased, does that constitute a binding agreement upon sale?

Community Development Director Mainez stated no. Those private agreements are civil issues, this is not a part of the action tonight. This is totally illegal use determination, the agreements to purchase, sale, lease, and rent is irrelevant.

Chair Hamerly stated to make sure in the record that we understand that even though there is an inherited lease agreement with Mr. Morgan, that it would not be binding upon the purchaser of the property because it was not a legal basis for the use that they are using the property for at this time.

Chair Hamerly closed the public hearing.

A MOTION was made by Commissioner Amaya, seconded by Commissioner Miller, to adopt Appeals Board Resolution No 2022-014, declaring the existence of a public nuisance on Properties generally located at 27059 5th St. & 27048 3rd St., Highland, CA 92346, and order the abatement thereof. Motion carried, 5-0.

RESOLUTION NO. 2022-014

A RESOLUTION OF THE PLANNING COMMISSION/APPEALS BOARD OF THE CITY OF HIGHLAND, CALIFORNIA, DECLARING THAT A PUBLIC NUISANCE EXISTS ON THE PROPERTIES IDENTIFIED AS APN's 1192-631-10, 1192-631-11, 1192-631-24, 1192-631-25, and 1192-631-26, GENERALLY LOCATED 27059 5th St. and 27048 3rd St. AND ORDERING THE OWNERS OF THE PROPERTIES TO ABATE THE NUISANCE CONTAINED THEREON.

3. A Public Hearing to declare the existence of a Public Nuisance in accordance with Title 8, Chapter 8.32, of the Highland Municipal Code, and authorize the abatement thereof, at the Property generally located at 26562 3rd St., Highland, CA 92346, Tax Assessor's Parcel Number 1192-551-07.

Code Enforcement Officer Chambers presented the staff report.

Chair Hamerly stated on page 3, very first paragraph, last line of the exhibit dated November 18, 2021. Mr. Villarruel is misspelled.

Chair Hamerly opened and closed the public hearing.

A MOTION was made by Commissioner Amaya, seconded by Vice Chair Thomas, to adopt Appeals Board Resolution No 2022-015, declaring the existence of a public nuisance on the Property generally located at 26562 3rd St., Highland, CA 92346 and order the abatement thereof. Motion carried, 5-0.

RESOLUTION NO. 2022-015

A RESOLUTION OF THE PLANNING COMMISSION/APEALS BOARD OF THE CITY OF HIGHLAND, CALIFORNIA, DECLARING THAT A PUBLIC NUISANCE EXISTS ON THE PROPERTY IDENTIFIED AS APN: 1192-551-07, GENERALLY LOCATED AT 26562 3rd ST., HIGHLAND, CA 92346, AND ORDERING THE OWNERS OF THE PROPERTY TO ABATE THE NUISANCE CONTAINED THEREON.

4. A Public Hearing to declare the existence of a Public Nuisance in accordance with Title 8, Chapter 8.32, of the Highland Municipal Code, and authorize the abatement thereof, at the Properties generally located at 25112 3rd St., San Bernardino, CA 92410, Tax Assessor's Parcel Numbers 0279-151-14.

Code Enforcement Officer Chambers presented the staff report.

Chair Hamerly stated page 2, immediately following the June 1st, 2021, on the next line should be October 7, 2021, not October 7, 2022.

Chair Hamerly opened the public hearing.

Jose Ojeda Applicant stated Mr. Gary Chambers is lying because when I had a meeting with Mr. Mainez, he stated that there is an ordinance for the whole City of Highland that prohibit storage containers. I have drove around and can see plenty of them, and I have stopped by and asked the mayor how long the containers have been there for, and they said four years. It seems that Mr. Mainez and Mr. Chambers pick and choose how to apply the law. Looking at you guys here, this is what's wrong with this city. First, I was misled because it says 25112. 3rd Street in San Bernardino which is my address. If I knew it was in Highland, trust me, I wouldn't buy the property. The things that I have heard that you guys are racist. There is 1, 2, 3, 4 and 5 Commissioners, and we have only one Hispanic.

Two Commissioners raised their hands to say they are also Hispanic.

Jose Ojeda apologized and said he was looking at their name plates. I know people from Burrtec and I after I drop my containers, two days later Mr. Gary left me a nice note and a block away from my property, there's a glass business with a storage container, still there. I asked them for the violations from 2021 and 2022 and many of the places that I've been around are not on the list. They are not applying the law across the board. I don't have a problem complying, but the law applies to everyone, not only me. I tried to speak to Mr. Mainez, the Mayor, and Council Member Chavez, and Mr. Mainez has a cynic attitude. I asked to put a few trees up and they said you are not allowed to put anything there and when I bought that property it was a junk yard, homeless encampment. My neighbors thanked me when I bought the property because I cleaned up the property. My cousin has three trucks. This region is going to be logistic driven; we are working on a plan to expand the development of the airport. In a year we're going to be gone, why are you harassing us? I feel that I've been singled out. If you guys want to proceed with this nonsense, why don't we start going to the Burrtec yard, but they have a

contract with the City, right? This is what I call unfairness, I'm a business guy, but when I see I have been singled out, I don't agree with it.

Lukas Feles, Public Speaker stated being an adjacent property owner to Mr. Ojeda. I had trucks on my property that I had pallets on them, and I moved them, which cost be a little bit of money in rent. Our property has a family trust and I'm not part of that right now, but one day it will be mine. The property has two lots that have trucks on it and we've been told to move and we're trying the best we can, but it's frustrating when we see companies like Burrtec and other companies on 5th Street and Del Rosa Avenue that have containers. I was in escrow and my escrow fell out, I 45 days away, maybe 60 of being done, I would have been retired. I would have no longer been the City of Highlands problem, but it fell out because of the City of Highland and San Bernardino was waiting to rezone that to industrial use and I am right in the middle of it. Let's get this rezoned, and developers are coming in, and they just want my property. We had homeless on our property with \$800,000 warrants out for their arrest, and the police ask if do you want to prosecute? Yes, all those calls of homeless people and most all the damage you can't get away from violence, it happens anywhere. I beg City of Highland and San Bernardino to get this thing rezoned industrial. Please give us all a chance, and once this zoning happens and all that is done, I think you will see all your problems go away.

Chair Hamerly asked if Burrtec was City of Highland or City of San Bernardino and if they are in the airport zone?

Community Development Director Mainez stated yes, I believe they're referring to some property that's being used by Burrtec, but I hate to speculate. If it is at that one, it is in the City of Highland, and they would be part of the Specific Plan Amendment. Again, I don't want to speculate if it is that property in the City, they are grandfathered in and already went through a process, so I don't anticipate them changing the property or the use.

Chair Hamerly stated since it's a Specific Plan, so that would be its own zoning designation, it would not have to rezone?

Community Development Director Mainez stated correct, and because that's not on the agenda tonight, I'm reluctant to really get into it too much tonight.

Odir Estrada, Public Speaker stated I am one of the drivers for Mr. Ojeda, and since the time that we've been parked there, I have only seen one homeless there. the lot is always quiet and maintain it to be clean. There is only 3 trucks and it's our livelihood, we are just doing our jobs for our families.

Alex Ojeda, Public Speaker stated I am Jose Ojeda's cousin, and those are my trucks and trailers there. I've been parking them for roughly a couple months. I am here to show support for him. He has really cleaned it all up, and there are times there is a lot of tagging and he goes out there and he cleans it to make sure it looks clean for the city. He's cleaned up the homeless situation that's been there, there was homeless people when we first started parking there and now there's hardly anybody there.

Chair Hamerly stated part of the correspondence back and forth between your cousin and the City, he was saying that you had parked your trucks at another location and it was not available to you anymore?

Alex Ojeda stated correct.

Chair Hamerly asked so there was no other location that was available for your vehicle? Alex Ojeda stated no, the parking situation around San Bernardino and Highland areas, is not very big in order to go to different places and he was kind enough to help me out and let me park there for a few months.

Chair Hamerly asked how long would you need to be able to relocate your vehicles?

Alex Ojeda stated honestly, I would have to start looking in order to even give you an estimated time to figure out how to get my trailers and trucks moved. 90% of time they are not there, we are on the road most of the time.

Chair Hamerly asked would you say that that 60 day is a reasonable amount of time for you to relocate the vehicles or what would be a fair amount of time?

Alex Ojeda stated until I start looking to figure out how much it is to relocate the trucks and to find another parking situation, I would be able to give you a better time frame.

Commissioner Miller stated Mr. Ojeda did state a request for six months based on the timeline of May 3rd, 2022, and six months, that will put us to November.

Chair Hamerly stated Mr. Feles and Mr. Ojeda both mentioned a timeframe for the rezoning of the property, and I know they're targeting the rezoning the entire district for the airport master plan. The land use trucking services and terminals is only allowed in the Business Park (BP) Zoning District and the catch phrase here is if ancillary to a permanent warehousing or other related business on the property. I just want to make sure that everyone in attendance understands that the application of the code is uniformly applied for all similar zones within the city, and that's what constitutes the violation. The other thing the triggering action in each of these incident reports, the very first line and every single one of them stated this case was originally initiated due to a complaint received. The city doesn't have enough staff to constantly go around and patrol the city looking for violations.

It's usually reacting to an active complaint, so if there's a violation occurring somewhere in the city and somebody sees it, you notify the city and that is what prompts them. The first is it's not necessarily a violation of zone to have trucking services or storage on a business property, as long as the property is zoned and as long as the storage is an ancillary use to the primary use of the property. Those are stated clearly in the report, and I just want that reaffirmed for the record. If they wish to pursue a rezoning of the property to something that would be appropriate for the use for which it's intended or is presently being used that is always an avenue that's available to them, and then we would see you back before the Planning Commission and ultimately the City Council.

Vice Chair Thomas stated we have had several cases come before us like trucking and storage container on a property, it's all about zoning, and I think a lot of time that education and outreach portion may be missed. You as a property owner or someone occupying the property probably don't understand the municipal code and so I

understand how it can seem like it's solely attack on you. I can assure you there's been many, many properties that have come across just like this situation, including the speaker that spoke this evening and when you get a notice of violation or an administrative civil liability from the code enforcement officer, that's at opportunity for property owners to have that education and outreach. There were several notices of violations and although they requested six months from now, I think it would be a fair compromise for both to meet somewhere in the middle where it's not 60 days and it's not 120, but it's 90 days, because we want to be fair and representative of all that have come before us. I would like to make it consistent for all the cases that we have seen so far.

Jose Ojeda stated I am asking six months, being a truck driver is very hard and stressful.

Vice Chair Thomas asked so in 120 days you're making the commitment to us tonight that in 120 days if the officer goes out there, those trucks will be moved? If you're granted 120 days.

Jose Ojeda stated yes.

Vice Chair Thomas stated I would like to change my position and I'll support the 120 days.

Ivan Garcia, Public Speaker asked what are the fees to rezone the property so he can continue to store these trucking? Can we come up with a solution from now until the next 6 months?

Chair Hamerly stated as I stated earlier that rezoning is the option that's available to every property owner. The timeframe and the fees for doing that, the staff would have to be the ones to answer that, but that is obviously that's the preferred course of action so that the present use would then be illegally conforming use pending the rezoning.

Community Development Director Mainez stated this is irrelevant for the action tonight. The fees are probably about \$15,000 and it could take up to 90 days to get to a public hearing and there's no guarantee. Are they asking special privilege just for their property? If so, that's spot zoning we wouldn't do, again, it would be almost as complicated as doing a Specific Plan for the airport which is already in the process. In addition to standards, we'd have to look at design guidelines, not just the use, it is a lot more complicated. Giving the applicant more time is fine, it is their prerogative if they want to submit an application, and ultimately, would go to Planning Commission and City Council for approval. There is no advantage for this applicant, the proper was to do this is speaking to staff first and getting the zone clearance first.

Chair Hamerly closed the public hearing. Stated in the Resolution item number 7 and 9, 60 days will be changed to 120 days which will be equivalent of the 6 months originally asked back dated to May 3, 2022, which would be November 3, 2022.

A MOTION was made by Vice Chair Thomas, seconded by Commissioner Amaya, to adopt Appeals Board Resolution No. 2022-016, as amended declaring the existence of a public nuisance on Properties generally located at 25112 3rd St., San Bernardino,

California 92410 (within the corporate boundaries of the City of Highland), and order the abatement thereof. Motion carried, 5-0.

RESOLUTION NO. 2022-016

A RESOLUTION OF THE PLANNING COMMISSION/APPEALS BOARD OF THE CITY OF HIGHLAND, CALIFORNIA, DECLARING THAT A PUBLIC NUISANCE EXISTS ON THE PROPERTY IDENTIFIED AS APN 0279-151-14, GENERALLY LOCATED AT 25112 3rd ST., SAN BERNARDINO, CA 92410 (WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF HIGHLAND), AND ORDERING THE OWNER OF THE PROPERTY TO ABATE THE NUISANCE CONTAINED THEREON.

ANNOUNCEMENTS

The next Planning Commission meeting is scheduled August 2, 2022 at 6:00 p.m.

ADJOURN

There being no further business, Chair Hamerly declared the meeting adjourned at 7:25 p.m.

Submitted by:

Approved by:

Camille Goritz, Administrative Assistant III
Community Development Department

Randall Hamerly, Chair
Planning Commission