

# MINUTES

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## REGULAR MEETING OF THE LANCASTER PLANNING COMMISSION

April 19, 2010

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### CALL TO ORDER

Chairman Vose called the meeting to order at 6:00 p.m.

### INVOCATION

Reverend Maxine Schiltz of Revealing Truth Church did the invocation.

### PLEDGE OF ALLEGIANCE

Chairman Vose led the Pledge of Allegiance to the flag of the United States of America.

### ROLL CALL

Present: Commissioners Burkey, Harvey, Haycock, Malhi and Chairman Vose.

Absent: Commissioner Jacobs and Vice Chair Smith.

Also present were the Deputy City Attorney (Joe Adams), Principal Planner (Silvia Donovan), City Engineer (Carlyle Workman), Associate Planner (Chuen Ng), Assistant Planner (Chris Aune), Economic Development/Redevelopment Director (Vern Lawson), Recording Secretary (Joy Reyes), Recording Secretary (Marion Coleman), and an audience of approximately 58 people.

### CONSENT CALENDAR

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#### 1. APPROVAL OF MINUTES

It was moved by Commissioner Haycock and seconded by Commissioner Malhi to approve the Minutes from the Regular Meeting of March 15, 2010. Motion carried with the following vote (5-0-0-2):

AYES: Commissioners Burkey, Harvey, Haycock, Malhi and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Jacobs and Vice Chair Smith.

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**CONTINUED PUBLIC HEARINGS**


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**2. General Plan Amendment 04-07, Zone Change 04-08, and Tentative Tract Map No. 62759**

Chairman Vose opened the public hearing at 6:05 p.m. to hear a request by Empire Land, LLC, for (1) Amendment of General Plan land use from Non-Urban (0.4 to 2.0 dwelling units per acre) to Urban Residential (2.1 to 6.5 dwelling units per acre); (2) Rezoning the property from Rural Residential 2.5 acres (one dwelling unit per 2.5 acres or a minimum net area of 100,000 square feet) to R-7,000 (one dwelling unit per a minimum net area of 7,000 square feet); and (3) A subdivision for 655 single family residential lots in the R-7,000 Zone; located on 160± acres on the southwest corner of 50<sup>th</sup> Street West and Avenue H.

The reading of the staff report was waived, and there were none in the audience who wished to speak in opposition to the request. Public hearing closed at 6:05 p.m.

It was moved by Commissioner Harvey and seconded by Commissioner Haycock to adopt Resolution No. 10-08 denying General Plan Amendment 04-07, Zone Change 04-08, and Tentative Tract Map No. 62759 without prejudice. Motion carried with the following vote (5-0-0-2):

AYES: Commissioners Burkey, Harvey, Haycock, Malhi and Chairman Vose.  
 NOES: None.  
 ABSTAIN: None.  
 ABSENT: Commissioner Jacobs and Vice Chair Smith.

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**NEW PUBLIC HEARINGS**


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**3. Conditional Use Permit No. 88-15**

Chairman Vose opened the public hearing at 6:06 p.m. to hear a request by Lancaster Redevelopment Agency and A.V. Auto Mall Associates, to amend Section A.1 of the Antelope Valley Auto Mall Design Standards to expand the allowable range of uses permitted in the Auto Mall, including the sales and leasing of recreational vehicles, located on ±49 acres at the northwest corner of 10th Street West and Avenue K-8.

Staff report was presented by Vern Lawson, Redevelopment Agency Director. There were none in the audience who wished to speak in opposition to the request. Public hearing closed at 6:07 p.m.

It was moved by Commissioner Burkey and seconded by Commissioner Malhi to Adopt Resolution No. 10-15 approving Conditional Use Permit No. 88-15 (Amended). Motion carried with the following vote (5-0-0-2):

AYES: Commissioners Burkey, Harvey, Haycock, Malhi and Chairman Vose.  
 NOES: None.  
 ABSTAIN: None.  
 ABSENT: Commissioner Jacobs and Vice Chair Smith.

**4. Conditional Use Permit No. 07-07**

Chairman Vose opened the public hearing at 6:08 p.m. to hear a request by Set of the Sail, LLC, for construction of three commercial buildings totaling 26,925 square-feet in the CPD Zone, located on 2.27± gross acres on the south side of Avenue I, approximately 150 feet east of Challenger Way (10<sup>th</sup> Street East).

The reading of the staff report was waived. There were none in the audience who wished to speak in opposition to the request. Public hearing closed at 6:08 p.m.

It was moved by Commissioner Malhi and seconded by Commissioner Haycock to Adopt Resolution No. 10-11 denying Conditional Use Permit No. 07-07 without prejudice. Motion carried with the following vote (5-0-0-2):

AYES: Commissioners Burkey, Harvey, Haycock, Malhi and Chairman Vose.  
NOES: None.  
ABSTAIN: None.  
ABSENT: Commissioner Jacobs and Vice Chair Smith.

**5. Conditional Use Permit No. 09-02**

Chairman Vose opened the public hearing at 6:09 p.m. to hear a request by Apostolic New Life Ministry, Inc., for construction of a 4,881 square-foot addition to an existing church in the R-7,000 Zone, located on 0.92± gross acres located at 43233 7<sup>th</sup> Street East (approximately 150 feet north of Avenue K-8).

Staff report was presented by Chuen Ng.

Chairman Vose inquired clarification of the phrase “denying without prejudice” as meaning the applicant may resubmit an application without restriction. Chuen Ng replied the applicant does have that option to resubmit if desired.

Chairman Vose advised that the intent of the Commission is not to limit the opportunity for any religious organizations to expand their facilities, but to streamline the process that applicants make timely applications and complete the environmental documents.

Chuen Ng stated that the City has an obligation to move projects forward and to complete the application process in a timely manner.

There were two speakers from the audience, one opposing and one favoring the request.

Scott MacDonald stated he was concerned that the church parking would spill into the existing residential area, and that the residents would have the possibility of viewing the back of a strip mall-type building.

Cynthia Spears, speaking on behalf of the Apostolic New Life Ministry, stated that they are aware the church is in a residential area. She stated the church was growing and providing various services to the community.

Chairman Vose asked Ms. Spears if she was aware of the recommendation to deny the request, and if she was representing the church. Ms. Spears stated she was a member of the church, and the pastor was also present. She added that there was a miscommunication between the church and Staff as to the process of the conditional use permit. Chairman Vose advised Ms. Spears to contact Staff concerning the process.

The applicant, Pastor Kasey Marsh, approached the podium and addressed the Commission. He stated he had been attempting to contact the City for over one year, but had been unsuccessful. He stated that it was his first time hearing of the project being denied, and was requesting the Commission to not deny the request.

Chairman Vose explained to Pastor Marsh that if the City does not move an application along, the Commission cannot properly evaluate the project. He stated that the required environmental review had not been provided and other proper steps to be followed in order to move forward with the application.

Pastor Marsh asked Staff if the environmental documents were all that was needed to complete the application. Staff advised Pastor Marsh that he needed to contact the engineer who had been provided with everything that was needed to complete the application. Pastor Marsh could also contact Staff for more information, or if he had any further questions concerning the process.

Commissioner Burkey asked the applicant to explain what measure he exercised to contact the City. Pastor Marsh stated he had come personally to the City. He was instructed that the process would take some time, and that the documents had not processed yet, and to be patient. He stated that as far as he was concerned, all paperwork had been given to Staff.

Commissioner Burkey asked Staff as to the additional cost of processing a conditional use permit if the applicant had to re-apply. Staff responded it would be approximately \$7,000. Commissioner Burkey then questioned the applicant concerning procedures that would be taken if given an extension of 60 days to have proper documents submitted. The applicant responded he would contact A.V. Engineering, whom he hired, to complete the preparation of documents for the conditional use permit.

There were no other speakers in the audience who wished to speak in opposition to the request. Public hearing closed at 6:25 p.m.

Chairman Vose asked Joe Adams, the Deputy City Attorney, if extending the agenda item another 30 to 60 days would have any effect on the application.

Joe Adams stated that extending the agenda item another 30 to 60 days would not have any effect on the application, because the applicant is requesting for the extension.

Commissioner Burkey questioned the advice in reference to postponement or continuation of the agenda item.

City Attorney responded that it would be prudent to submit the matter to Staff as materials due to Staff. He concluded that it would be difficult to predict as to the timeline for submission of documents by the applicant.

It was moved by Commissioner Burkey and seconded by Commissioner Malhi to defer Conditional Use Permit No. 09-02 back to Staff to redesign the project, with the cost of the noticing to be the burden of the applicant. Motion carried with the following vote (5-0-0-2):

AYES: Commissioners Burkey, Harvey, Haycock, Malhi and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Jacobs and Vice Chair Smith.

## **6. Conditional Use Permit No. 10-04**

Chairman Vose opened the public hearing at 6:30 p.m. to hear a request by Crosspoint Development, LLC, to add Type 21 (Off Sale General for beer, wine, and distilled spirits) for the primary off-sale of alcoholic beverages at an existing mini-mart with gasoline sales in the CPD (Commercial Planned Development) Zone, located at 1006 West Avenue H.

Staff report was presented by Silvia Donovan. There were five speakers from the audience, three opposing and two favoring the request.

The applicant, Mike Cohen, stated he was an officer and partner of Crosspoint Development, LLC. He mentioned that his partner, Ronnie Yona, and other employees of the company were present with him. He stated he did not feel that the store was responsible for the high crime rate in the area, and that since the opening of the business it would seem that the crime would have been reduced. He stated that due to the extreme economic recession, funding from lenders was interrupted several times. He stated that funding resumed later but at a slower pace and higher cost, therefore, the project was phased and only able to be completed at a smaller scale, which included the gas station and convenience store. He added there were plans to build Phase II to include a 10,000 square-foot strip mall and fast-food restaurant. He stated that many customers have requested a larger variety of products and alcoholic beverages, but he does not have a license to sell alcohol, thus, losing the ability to serve a large base of customers. He stated the customers have to drive out of their way to purchase these products. He stated the following are justifications for the request: (1) the sale of alcohol would serve a specific need of the community, and is consistent with the City of Lancaster plans, designs, and construction of the peripheral loop, including West Avenue H. Having the convenience of alcohol on the arterial loop would help to reduce the unnecessary side trips, and reduce flow of traffic to the interior of the city limits if the people can be served on the loop. This establishment is zoned commercial, intended to serve that need and purpose of the zone. (2) The existing building setbacks, stringent training of employees, and numerous security cameras will prevent any adverse effects the distance waiver may have on the adjacent properties, uses, or residents. The establishment will not sell alcoholic beverages in single containers, and will ensure that there will be no loitering. Furthermore, they have a license for tobacco sales, and their employees thoroughly check proof of age identifications, and on occasions have refused sales to adults suspected of purchasing tobacco for minors. (3) The shopping center is operated hands-on by the

officers who are present daily. Employees are highly qualified, and the manager, William Hartman, has more than 14 years of experience managing approximately 13 gas stations for a major national corporation, which has never had a case of alcohol violation. (4) To their knowledge, there are no schools or churches within the 300- or 1,000-foot radius of the establishment, and there are approximately 50 residential houses that are impacted. To the north of the property is undeveloped land zoned as heavy industrial. All other residents are fully developed, and they do not see the possibility of other residential properties being built, therefore, an impact is not foreseen with this conditional use permit. (5) They maintain strong and established guidelines for operating a solid business strictly following government codes and regulations. The establishment is open 24-hours a day, seven days a week (24/7), and as of the opening of the establishment in January 2010, it has not had any safety issues. The customers are pleased with the service, and have had numerous positive feedbacks. Some of the employees are residents in the area. (6) They believe the approval for sale of alcohol will not increase the overall crime in this area. Based on customer comments, the lack of sale of alcohol at the location will not prevent them from driving elsewhere to farther distances to purchase the product. (7) It is located near the City of Lancaster Maintenance Yard, which is east of the establishment, and City employees constantly drive by the shopping center.

Dolores Barnett stated that she knew the area, and there were no signs indicating that a Vallarta was nearby. She stated there are not any local stores to shop in that area, and many stores on Avenue I have shut down. She stated the store was in a convenient area for nearby workers during lunch, and for purchasing alcoholic beverage on their way home. She stated that she was in favor of alcohol beverage sales at the store.

Shannon Flannery stated she was in favor of the location of the store for the convenience to purchase cigarettes, soda, and fuel. She stated the store was within walking distance from her residence, and not providing alcohol beverages does not prevent her from driving to other stores to purchase alcohol. It just makes it more inconvenient.

Ken Jones stated he lived on the east side of Lancaster. He is an employee of Lancaster Baptist Church (the Church), and had originally approached the Commission on this project at the original hearing concerning the sale of alcohol, and they were assured there would not be any sale of alcohol. He stated that several members of the Church lived in the area, and the project was not to include alcohol sales, but a market where they could shop. He stated that now that the store is not making the money that was expected, alcohol sales are being required, which is what was agreed would not be sold. He stated that the Church was not in opposition to the mini-market providing food, beverages, and gas, but the convenience of alcohol beverages is what they opposed. He stated that the church has a ministry that deals with alcoholics, and felt this would not be an advantage to them. He emphasized that the reason the City of Lancaster has one of the best alcohol ordinances in the State of California is to prevent establishments like this cropping up all over the city. He concluded that the store has not contributed to the crime in the area, and will not contribute to the crime in the area if it does not sell alcohol beverages.

Debriana Jones stated she was a teacher. She resides approximately four blocks from the store, and objected the project to sale of alcohol because it is so rampant, and that there were two schools in the proximity of the store. She stated there was a liquor store on Avenue I, one block from her home. She stated that children are very impressionable; teenagers want to make an impression on older people, and making alcohol more accessible would be a very imprudent thing to do, and concluded that the permit be denied.

Ray Chavira distributed a hand-out of stats on “Leading Causes of Death, 2006” (Antelope Valley and San Fernando). He stated that with respect to the crime issue, the State Department of Alcohol Beverage Control (ABC) has not declared the project area as a high crime area. He stated that the hand-out indicated that the allowable Type 21 or liquor license (beer, wine and distilled spirits) has already been met. He stated that the license permits two, which the census shows two existing tracts, and would call undue concentration into play. He stated that in Resolution No. 10-13, paragraph 1.c., staff refers to protection, health, safety, and welfare of the community. He stated the hand-outs are from the County Service Planning Area 1 and 2 Medical Specialist doctors of the listed areas. He continued that recently, the local newspapers have been writing articles of how risky it is to live in the Antelope Valley, especially for smoking-related health diseases. He pointed out on the hand-out in reference to pre-mature deaths in the Antelope Valley, with the number one being motor vehicle accidents that were alcohol-related. He added the death rate was at an all-time high, but was coming down as of today. He requested the Commission to take a global view of the project, and expressed that a venue that mixes drinking and driving is a gas station, which may affect the health and welfare of the community in years to come.

There were no other speakers in the audience who wished to speak in opposition to the request. Public hearing closed at 6:50 p.m., and reopened at 6:51 p.m., for the applicant’s rebuttal.

The applicant, Mike Cohen, stated that in 2008, he made the presentation for the project and was questioned if he would sell alcohol, to which he responded that he would not. He directed the Commission to the PowerPoint presentation, and stated that at the time in 2008, an economic down-turn was not expected, and two-thirds of the shopping center is now closed. He stated that he was informed by Staff that legally he could apply for an alcohol license. He stated that there was not a school location visible, and the schools are closer to the stores on Avenue I that sell alcohol. He requested that the demographics not be considered in the neighborhood regarding the request for alcohol sales.

Public hearing closed at 6:53 p.m.

Chairman Vose read Staff’s recommendation, and stated that the sale of alcohol does require a conditional use permit. He questioned Staff if it was correct that based on the proximity of the residential neighborhood, the application is not within the approval recommendation of the ordinance. Silvia Donovan responded that was correct. Chairman Vose continued that it is true that any applicant can apply for a conditional use permit for a Type 41 in this zone, however, since it is adjacent to residential property, Staff is recommending denial of the application. Silvia Donovan responded to the affirmative.

Commissioner Burkey expressed concerns that if the Commission decided to approve sale of alcohol, it could create a precedent for future conditional use permit applications, negative to the goal and growth of the City.

Chairman Vose stated that the ABC guidelines are always a concern with regards to the proximity of residential areas to businesses that sell alcohol, and could not recall any of those projects being approved.

It was moved by Commissioner Harvey and seconded by Commissioner Burkey to Adopt Resolution No. 10-13 denying Conditional Use Permit No. 10-04. Motion carried with the following vote (5-0-0-2):

AYES: Commissioners Burkey, Harvey, Haycock, Malhi and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Jacobs and Vice Chair Smith.

## **7. Conditional Use Permit No. 10-05**

Chairman Vose opened the public hearing at 6:58 p.m. to hear request by Lancaster Promenade II, LLC, for construction of a 23,375 square-foot three-story, mixed use building for an independent movie theater, office space, bookstore, café, including on-site sale and consumption of alcohol (beer and wine) in conjunction with the movie theatre, located on 0.27± gross acre, at the southwest corner of Fig Avenue and Lancaster Boulevard.

Staff report was presented by Silvia Donovan.

Commissioner Vose pointed out the modification of time on page 4 of the staff report, and on page 2 of the Conditions List (Condition No. 12), from 1:30 p.m. to 1:30 a.m.

Commissioner Vose questioned Staff if the reason the project was before the Commission as a conditional use permit is for the on-site sale of the consumption of alcohol in the theatre.

Silvia Donovan responded that the Specific Plan requires conditional use permit for the sale of alcohol in the theatre to come before the Planning Commission.

The applicant, Scott Ehrlich, stated he was a partner of Insite Development, and alcohol is not a primary goal in the theatre, and asked the Commission to envision incorporating it as part of the experience. He stated the bookstore and theatre were ways to invite more people to spend more time along the boulevard.

Commissioner Burkey asked the applicant to explain “the experience”. The applicant responded, as an example similar to Hollywood Bowl, meals are served inside the theatre. Meals are not prepared in the theater, but ordered online (picnic basket), allowing guests to arrive 30 minutes early before the movie.

Chairman Vose stated, as a personal observation, projects that have deadlines are sometimes rushed through, and possibly some things may be overlooked or missed, therefore, there is a concern for thoroughness in the completion of the job.

Scott Ehrlich responded that if the Commission were to check his “track record”, he is very thorough with any task; he will not stop until the job is done right and complete, and Staff is aware of this.



Commissioner Burkey stated that in viewing the drawings, the east and south side of the building appeared very commercial. He asked the applicant if the design would be improved for the sides of the building.

Scott Ehrlich responded that he viewed the drawings with Staff for the first time and was appalled. He concluded that he has made changes, and prepared something that he feels the Commission and Staff would be pleased with for the building.

Josh Mann stated that he was President of the Boulevard Association and represented approximately 175 businesses of Downtown Lancaster. He stated that there was much concern about the public investment in downtown, and expressed that he applauded the Commission for their vision of the project, and approving the Downtown Specific Plan, and the elements of the streetscape design under construction. He stated that with public investment that has been made, they are able to attract private investment dollars, which are helping to build a cultural hub for Downtown Lancaster, and for the entire Antelope Valley to enjoy. He stated that the Lancaster Promenade project is very important to him because of his love for movies, and he felt the theatre would add a cultural dimension that the Antelope Valley lacks. He commented to the Commission and Staff who attended the Planning Institute in Monterey that the same project exists there, and concluded that he was looking forward to the Commission and Staff's support in the project.

There were none in the audience who wished to speak in opposition to the request. Public hearing closed at 7:15 p.m.

Commissioner Burkey requested Staff to explain the process of approval for the design elements of the building.

Silvia Donovan responded that Staff reviews and ensures that the applicant's plan meets the requirements of the Lancaster Downtown Specific Plan. Staff would then have applicant's plan be brought before the Commission for concurrence.

It was moved by Commissioner Harvey and seconded by Commissioner Malhi to Adopt Resolution No. 10-14 approving Conditional Use Permit No. 10-05. Motion carried with the following vote (5-0-0-2):

AYES: Commissioners Burkey, Harvey, Haycock, Malhi and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Jacobs and Vice Chair Smith.

## **8. Conditional Use Permit No. 10-09**

Chairman Vose opened hearing at 7:18 p.m. of request by Guido and Claudia Gil, for on-site sale and consumption of alcohol (Type 41, sale of beer and wine for a bona fide restaurant) for an existing restaurant located at 518 West Lancaster Boulevard.

An uncontested hearing letter was received from the applicant agreeing to all conditions. The reading of the staff report was waived and there were no speaker cards submitted.

Public hearing closed at 7:18 p.m.

It was moved by Commissioner Haycock and seconded by Commissioner Malhi to Adopt Resolution No. 10-16 approving Conditional Use Permit No. 10-09. Motion carried with the following vote (5-0-0-2):

AYES: Commissioners Burkey, Harvey, Haycock, Malhi and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Jacobs and Vice Chair Smith.

**9. City-wide Rezoning: Draft Zoning Map / Mixed Use Ordinance / Public, Open Space, and Special Purpose Zones Ordinance**

Chairman Vose opened the public hearing at 7:19 p.m. to hear a request by the City of Lancaster, for rezoning to bring all properties within the City into conformance with the City of Lancaster 2030 General Plan adopted July 14, 2009, including adoption of (1) the City-wide Lancaster Zoning Map, (2) the Mixed Use zoning ordinance, and (3) the Open Space, Public and Special Purpose zoning ordinance, located City-wide.

Staff report was presented by Chuen Ng with a PowerPoint display. There were none in the audience who wished to speak in opposition to the request. Public hearing closed at 7:24 p.m.

Chairman Vose thanked Chuen Ng for his hard work and effort, and stated the last zoning map revision was in 1997.

It was moved by Commissioner Burkey and seconded by Commissioner Harvey to Adopt Resolution No. 10-17, recommending to the City Council approval of the City-wide Lancaster Zoning Map (Exhibit "A"). Motion carried with the following vote (5-0-0-2).

AYES: Commissioners Burkey, Harvey, Haycock, Malhi and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Jacobs and Vice Chair Smith.

It was moved by Commissioner Harvey and seconded by Commissioner Haycock to Adopt Resolution No. 10-18, recommending to the City Council approval to include the Mixed Use zoning ordinance (Exhibit "B"), Title 17, Chapter 10, to the Lancaster Municipal Code. Motion carried with the following vote (5-0-0-2).

AYES: Commissioners Burkey, Harvey, Haycock, Malhi and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Jacobs and Vice Chair Smith.

It was moved by Commissioner Haycock and seconded by Commissioner Malhi to Adopt Resolution No. 10-19, recommending to the City Council approval of an amendment to the Open Space, Public and Special Purpose zoning ordinance (Exhibit “C”), Title 17, Chapter 20, to the Lancaster Municipal Code. Motion carried with the following vote (5-0-0-2).

AYES: Commissioners Burkey, Harvey, Haycock, Malhi and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Jacobs and Vice Chair Smith.

**DIRECTOR'S ANNOUNCEMENTS**

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None.

**COMMISSION AGENDA**

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None.

**PUBLIC BUSINESS FROM THE FLOOR - NON-AGENDA ITEMS**

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Chairman Vose opened this portion of the meeting allowing public business from the floor.

Speaker Richard Holmes addressed the Commission and stated his matter of concern was with the Redevelopment Agency, and hoped that the Commission could help him to lead him in the direction to receive a response. He stated he was in receipt of several renewal notices of his lease that had been placed on the door at his residence from Lancaster Redevelopment Agency.

Chairman Vose advised Mr. Holmes that the matter would need to be handled by the Lancaster Redevelopment Agency, and informed him of the business hours.

Commissioner Burkey expressed farewell remarks and appreciation to the Commission and Staff of his last evening as a Planning Commissioner.

**ADJOURNMENT**

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Chairman Vose declared the meeting adjourned at 7:35 p.m., to Monday, May 10, 2010, at 5:30 p.m., in the Planning Large Conference Room, City Hall.

ATTEST:

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JAMES D. VOSE, Chairman  
Lancaster Planning Commission

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BRIAN S. LUDICKE, Planning Director  
City of Lancaster