

MINUTES

REGULAR MEETING OF THE LANCASTER PLANNING COMMISSION

June 21, 2010

CALL TO ORDER

Planning Director Brian Ludicke called the meeting to order at 6:00 p.m.

INVOCATION

Reverend Maxine Schiltz of the Revealing Truth Church did the invocation.

PLEDGE OF ALLEGIANCE

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

ORGANIZATION OF THE PLANNING COMMISSION

Election of Chair

Brian Ludicke opened nominations for Chair of the Planning Commission. It was moved by Commissioner Harvey and seconded by Commissioner Malhi to approve James Vose as Chair of the Planning Commission. Brian Ludicke asked Commissioner Vose if he would accept the nomination and Commissioner Vose affirmed. There were no other motions to nominate for Chair, and nomination was closed. Motion carried with the following vote (7-0-0-0):

AYES: Commissioners Hall, Harvey, Jacobs, Malhi, Terracciano, Vose, and Wheeler.

NOES: None.

ABSTAIN: None.

ABSENT: None.

Brian Ludicke turned the meeting over to Chairman Vose.

Election of Vice Chair

Chairman Vose opened nominations for Vice Chair of the Planning Commission. It was moved by Commissioner Malhi and seconded by Commissioner Harvey to approve Dan Jacobs as Vice Chair of the Planning Commission. Chairman Vose asked Commissioner Jacobs if he would accept the nomination and Commissioner Jacobs affirmed. There were no other motions to nominate for Vice Chair and nomination was closed. Motion carried with the following vote (7-0-0-0):

AYES: Commissioners Hall, Harvey, Jacobs, Malhi, Terracciano, Wheeler, and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: None.

ROLL CALL - NEWLY SEATED PLANNING COMMISSION

Present: Commissioners Hall, Harvey, Malhi, Terracciano, Wheeler, Vice Chairman Jacobs, and Chairman Vose.

Absent: None.

Also present were the Deputy City Attorney (Joe Adams), Planning Director (Brian Ludicke), Principal Planner (Silvia Donovan), Traffic Engineer (Michelle Cantrelle), Associate Planner Environmental (Jocelyn Swain), Recording Secretary (Joy Reyes), Recording Secretary (Marion Coleman), and an audience of approximately 30 people.

PRESENTATIONS

Recognition of former Planning Commissioners Dana Haycock, Sandy Smith, and Larry Burkey, who was not present, was conducted by Chairman Vose and Planning Director Brian Ludicke.

CONSENT CALENDAR**1. APPROVAL OF MINUTES**

It was moved by Commissioner Malhi and seconded by Vice Chairman Jacobs to approve the Minutes from the Regular Meeting of May 17, 2010. Motion carried with the following vote (7-0-0-0):

AYES: Commissioners Hall, Harvey, Malhi, Terracciano, Wheeler, Vice Chairman Jacobs, and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: None.

NEW PUBLIC HEARINGS

2. One Year Extension**a. Conditional Use Permit No. 83-20 Amended 2**

Chairman Vose opened the public hearing at 6:10 p.m. to hear a request by the Grace Lutheran Church, for a five-phased remodel and expansion of a private school in the R-7000 zone, including a preschool building, daycare building, additional classrooms, administrative facilities, library, multi-purpose room/gymnasium, ball fields, and parking to accommodate each phase of the expansion, located at 856 West Newgrove Street.

Brian Ludicke recused himself from the hearing, and stated that he was a member of the Grace Lutheran Church, and, for the record, he was not involved with the review or formulation of the recommendation in the staff report.

The reading of the staff report was waived since an uncontested hearing letter was received from the applicant stating agreement to the conditions of approval as stated in the staff report, and there were none in the audience who wished to speak in opposition to the request. Public hearing closed at 6:11 p.m.

It was moved by Commissioner Harvey and seconded by Vice Chairman Jacobs to grant a one-year extension to June 15, 2011, based on the findings listed below and subject to the revised Resolution 08-07. Motion carried with the following vote (7-0-0-0):

AYES: Commissioners Hall, Harvey, Malhi, Terracciano, Wheeler, Vice Chairman Jacobs, and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: None.

3. Conditional Use Permit No. 08-17

Chairman Vose opened the public hearing at 6:12 p.m. to hear a request by James Wood, Patrick Wood and Sandy Yavitz, for Alcoholic Beverage Control Type 20 (Off-Sale Beer & Wine) license for a new drug store in the C (Commercial) Zone, located at the southeast corner of 15th Street West and Avenue J.

Brian Ludicke reported that Staff received a letter from the applicant requesting a 30-day continuance to the July 19, 2010, Planning Commission regular meeting. He stated that the applicant indicated there were issues to be finalized with the potential tenant. Staff recommended that the continuance be granted. There were none in the audience who wished to speak in opposition to the request.

It was moved by Commissioner Hall and seconded by Commissioner Malhi to grant a 30-day continuance to the July 19, 2010, Planning Commission meeting. Motion carried with the following vote (7-0-0-0):

AYES: Commissioners Hall, Harvey, Malhi, Terracciano, Wheeler, Vice Chairman Jacobs, and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: None.

4. Conditional Use Permit No. 10-03

Chairman Vose opened the public hearing at 6:16 p.m. to hear a request by TA – High Desert, LLC to construct a 20-megawatt solar photovoltaic electric generation facility in the Rural Residential 2.5 Zone, 216± acres bounded by 100th Street West, 97th Street West, Avenue H and Lancaster Boulevard.

An uncontested hearing letter was received from the applicant stating agreement to the conditions of approval as stated in the staff report. The staff report was read by Brian Ludicke. He stated that Staff believes this is the kind of project that the Planning Commission and City Council were looking to encourage by the change in the previous zoning code. He added that several years ago, the site was proposed for construction of 700-800 single-family dwelling units. He stated that there is a small impact, if any, which would be created by the project and it does not create an impact on schools, traffic, and water usage in comparison to more intense urban-style development. He concluded that Staff recommends approval and stated the applicant has indicated in an uncontested hearing letter in agreement to the conditions of approval as stated in the staff report.

Jason Evans, representative of the applicant, approached the podium, and stated he had been leading the permitting and community outreach effort for the photovoltaic project. He stated that the company, TUUSSO Energy, is a venture-backed, utility-scaled solar developer who focuses on photovoltaic projects, and are also committed to building projects with minimal impacts to the environment and the community. He stated that he would highlight some of the features of the project that demonstrate the commitment of building projects with minimal impacts. He expressed that the 200-acre site at 100th Street West and Avenue I is ideal for solar development. The land is fallow agricultural, and does not provide habitat to any protected animals. There were two on-site wells to meet the very limited water demand, and two residences near the project area. He stated that they have been proactive in their construction and development activities to avoid impacts in the community, and have met with organized groups in the area, including Antelope Valley Acres, Antelope Valley Conservancy, and immediate neighbors to solicit feedback on the proposal, and incorporated the feedback into the design. He stated there is a future dust control plan during construction that will also include desert appropriate ground cover to ensure there is no on-going source of dust pollution. Although there were no protected species discovered on the site, pre-construction surveys would be conducted to avoid biological impacts. He stated there is very low visual footprint, but numerous features have been incorporated to further soften the view of the plant. He added that some of the features would be to surround the plant with a perimeter of trees, and motion-activated downward shielded lighting to prevent being a source of light pollution

in the rural area. He stated, in finalization, that the project would bring benefits to the Lancaster area by creating jobs in construction, as well as the on-going demand of operation of maintenance of the plant. He added that local services and businesses would be used and supported during the construction, and tours would be provided to local elementary and middle schools when the project is completed, to generate interest in this country's renewal resources. He concluded that he looked forward to working with the City to ensure the project a success.

Dave Gomez approached the podium, and stated he was with the National Electrical Contractors Association in IBEW Local 11, and speaking in favor of the project. He expressed the project would bring local jobs to the area, and trusts the Commission to keep that in mind.

John Dewar, resident of Lancaster, approached the podium, and stated he was in favor of the proposal. He believed the project to be positive for the community and Lancaster. He stated that he had spent many years in the Los Angeles area where, as a child, he had a hard time breathing with the smog and air pollution, but the Lancaster area was green. He stated that the project would create jobs, both on-going and immediate. He concluded that he saw nothing but good and a feather in the cap of the Commission with the proposal being passed.

Marshall Chance approached the podium, and stated he had lived in Lancaster for 10 years, owned a house not more than one mile away, and is in favor of the project. He is an electrician and also a State certified photovoltaic installer. He continued that he looks forward to working on the project if passed, and agreed with Mr. Dewar stating that nothing goes bad with going green. He added that he witnesses dirty energy going out, and he observes the effect daily. He concluded that his grandchildren live in Lancaster, and he would never be afraid for them to play near a photovoltaic plant.

Ralph Madison approached the podium, and stated he had just come in from work in Pico Rivera which is a two-hour drive, and he was in favor of the project. He stated he had been waiting for the project for over one and one-half years, because he does this line of work, and has taken courses to prepare to be a future worker for the solar site. He quoted the Mayor as stating the City of Lancaster to be the solar capital of the United States, and he, therefore, welcomes the project. He concluded that he has done much research and hope to be a part of the project.

L. Dean Webb, resident of Lancaster, stated he supports solar and wind power but opposed the project. He stated that on disturbed soils, photovoltaic technology uses less water. He stated that TA – High Desert has made good moves in working toward these goals, but he thinks that an environmental impact report (EIR) would help clarify the process by adding more details. He stated that an EIR would give the community of Antelope Acres and west side AV residences more time for comments. He stated additionally, a more thorough coverage on plant, wildlife, dust control and other issues would be helpful. If an EIR is not required for the project, it would become harder to ask for a larger project that would require more water usage. He stated the City Council was looking into the northeast section of Lancaster for a solar facility at one time, and it was not clear to him that the City has a general plan. He stated a “checkerboard” mixing could develop in residential and commercial projects. He recalled that the developer commented on bringing school children on tours, which he thought was a good objective. He also recalled the comment of having a 50-acre section of land, which would be left as open space, and suggested to develop a desert restoration project in conjunction with the Antelope Valley Resource Conservation District Nursery or some other group as an educational tool. He commented that the environmental mitigation money paid by the developer to the City should be used for import of

environmental improvements, and not as the City fund. He concluded that should the facility be sold, the environmental regulations dealing with plants, animals, open space, etc., should also be stipulated in the new usage plan.

Pearl Ament, opposed to the project, approached the podium and stated she wanted to speak on the aesthetics value of the area. She expressed that she had lived in the area for approximately 30 years, and felt the project would change the character of the existing site. She stated that LA County Land Use Pattern Goal LU-1 requires that maintenance enhances the whole atmosphere of the unincorporated Antelope Valley. She concluded that there was nothing rural about a generating facility.

Chairman Vose informed Ms. Ament that the project was in the City of Lancaster, in response to her quote of reference to LA County land use. Ms. Ament acknowledged and stated the project was in LA County.

Ginger Stout, opposed to the project, approached the podium and stated she represented the Antelope Acres Town Council. She stated that the residents of Antelope Acres did not consider the project to be anything more than an electrical generating plant, and if a person does not live near this type of plant, it is not understood of the impact on the neighborhood. She expressed that if an EIR had been conducted, much more would have been discovered of what takes place on the land. She stated that the Antelope Acres Town Council requested an EIR quoting from a suit in the City of Antioch which stated, "your conformity of a project to the General Plan does not independently justify a finding of no significance". She cited "CEQA Guidelines, Section 15065 states an EIR must be prepared if a project would have effects that are individually limited but cumulatively considerable when viewed together with the effects of related projects". She stated that there were already 500 acres on the west side that are being projected and presented as solar projects in that area. She added that the whole area is becoming like one big solar generating plant. She continued to read that the President of the company, Mr. Owens, stated if anyone lived near the proposed area, the project would have a significant impact on the scenic vista of which was the reason many people moved in the area. She added that many residents are able to view the mountains and that is what makes the area rural, as opposed to blocking the view, making it urban. She stated they would like to see that addressed in an EIR. She commented the project is not a solar farm; it is more of an industrial generated facility or a business. She continued that at 90th Street West and Avenue I, an EIR was required for a project at that location, and according to the EIR in comparison to the proposed project, there is a potential for a seismic substance, which is not mentioned, and an EIR would present that information. She concluded that there were many points that could be mentioned, and again requested the Commission to conduct an EIR on the project that would indicate good faith that the Commission cared about the residents and ecology being "green".

Judith Fuentes, also a member of the Antelope Acres Town Council opposed to the project, approached the podium. She stated that solar generating facility projects in Kern County are required to prepare an EIR, and currently, there are 12 requiring preparation. She stated that in the immediate LA/Kern County west side area, there were approximately nine (9) similar projects proposed that would send power to the grid not directly for use in the Antelope Valley. She read a listing of similar projects: Quarmon, Sempra, Element Powers, TUUSSO, Rosamond Solar, AV Solar, William Springs Solar and Rosamond Solar Array in Kern County. She cited that "cumulative impacts may be caused either by future phases of the project under construction, or by other closely related past, present, and reasonable foreseeable future projects. CEQA Guidelines,

Section 15355.” She concluded by requesting the Commission to address the need for an EIR before approving the project, and issued a handout to Staff.

Public hearing closed at 6:38 p.m.

Chairman Vose requested Staff to address the concerns of the EIR and subsidence issues.

Jocelyn Swain, Assistant Planner Environmental, responded that the EIR for 90th Street West and Avenue I was conducted in 1990, or the late 1980’s, before the subsidence map was updated. The State’s seismic hazards map that is utilized to review areas of subsidence was updated in 2005, and subsidence is not a concern in the project area at this present time. She stated that with respect to the aesthetics, a report was conducted that is referenced in the Initial Study, and the report is available for review at City Hall. She stated a survey was performed of people driving on public right-of-way or from their property on whether they would still be able to see what is considered views of the valley and mountain areas in all directions, and whether or not the project would block available views open to the general public. She stated that because the panels for the site would be only eight (8) feet tall, the views of the valley and surrounding mountains could still be observed. She added that when driving past the project area, it will not be open farmed land or open desert, but it will be fenced with trees surrounding the property to block the views of the flat voltaic panels. To have a significant cumulative impact, there has to be cumulatively considerable contribution from a project to the overall impact of the resource area. She stated that there may be some areas that are considered cumulative impact, which are site specific; for example if one developer builds in an area, and another developer builds northwest of same area, there is no geological cumulative impact, because the grading on one site does not affect the grading on another site. She added that areas which may have issues with cumulative impact, potential issues are traffic, air quality, biological resources, and cultural resources. The project does not have a significant impact in any of those resource areas, and does not cumulatively contribute to any significant cumulative project impact. She stated there is very little traffic generated by the project, and when added to the general traffic area, the difference would not be noticed as in a cumulative impact in a commercial development, which would increase traffic. She stated there are air quality impacts that are less than significant with the standard conditions of the Dust Control Plan, which had to follow the Antelope Valley Air Quality Management District rules and regulations, therefore does not generate conditions that would cumulatively contribute to a significant impact. She concluded with respect to biological resources, a preliminary biological survey, a second survey for burrowing owl, and a focus plant survey were conducted, and there was nothing on the project area site. She stated that when construction commences, there will be another survey conducted to ensure there is no impact, and nothing has moved into the area. She concluded that there are no impacts on the project area site that because of other solar projects in the area would contribute to an overall loss of habitat to additional species.

Chairman Vose questioned Staff on the procedure in reference to the mitigation monitoring plan 30-days prior to the construction ground disturbance activity, if a burrowing owl survey would need to be conducted, and were there burrowing owls identified on or near the site.

Jocelyn Swain responded that the Department of Fish and Game (F&G) would have to be contacted to inquire how they wished to proceed. She stated that what typically happens if it is breeding season and burrowing owls are found, all work stops, and no one can move forward. She explained that construction would have to wait until the baby owls have fledged and moved away

from the nest. She added if it is not active breeding season and an owl was found on the site, F&G requires that the owls be passively relocated and a trap door be placed on the nest, so that the owl cannot return back into the nest. She stated if active breeding pairs are found on the site, it is typically required to mitigate with the purchase of six-and-one-half (6 ½) acres for every breeding pair or single adult found, but F&G identifies what the conditions would be at the time of identification.

Chairman Vose stated that Staff mentioned that the dust control in the Initial Study was identified as not significant in mitigation measures proposed. Staff responded that was correct, as it is required by law, and it is not a mitigation matter to comply with Antelope Valley Air Quality Management District Rule 403.

Brian Ludicke stated that Mr. Webb inquired of how biological mitigation fees are used within the City. In response, Staff stated that any of the fees collected are kept in a separate account, and the only body that is authorized to allow expenditure of the fees is the City Council, whereby a formal vote has to be taken. He added the fees do not go into the City's general fund.

Commissioner Hall requested clarification on the electrical power not staying in the Antelope Valley.

Brian Ludicke responded that the City does not have the authority over that and the applicant is in the process of agreement with Southern California Edison (SCE). He stated any power would go into the grid system purchased by SCE, and the destination of that power is at the discretion of the power company distributor.

Commissioner Harvey directed her question to Jocelyn Swain, and inquired concerning the purpose of two visits that were mentioned for the biological survey, and the timing between the visits.

Jocelyn Swain responded that when an application is submitted to the City, it is a requirement to submit a biological survey. She stated the applicant submitted the first survey in January 2010, which included recommendations. F&G reviewed the recommendations and requested for follow-on surveys, which the applicant conducted in April 2010 on burrows nesting birds and endangered plant species.

Chairman Vose inquired as to when breeding season began, and Staff replied the beginning of March to August or September, depending upon the type of plant or bird species.

Chairman Vose re-opened public hearing at 6:50 p.m., to allow rebuttal and response from the applicant.

Jason Evans responded to concerns expressed by stating that many studies were conducted to support the mitigated negative declaration, including visual, cultural, air quality, biology, traffic, and noise studies, which were submitted to the City. He stated that all the studies supported the findings of the mitigated negative declaration that there is no significant affect. He added that in terms of the biology study, they had biologists who conducted studies in December 2009, March 2010, April 2010, and recently completed the last study in June 2010. He stated another study will be conducted in October 2010 before the groundbreaking. He reiterated that biologists had been walking the site looking for burrows, Swainsons hawks, and Alkali Mariposa lilies, and none were

found. He stated that he thought the nine projects that were mentioned by Judith Fuentes, though in the vicinity of their project, were in the preliminary stage, and are not projects that are identified by TA – Hi Desert. He added that there were two other projects they are conducting which are not in the Lancaster area. He stated that their projects do not cumulatively contribute to the impacts of the other projects mentioned by Ms. Fuentes. He concluded that the project is fully consistent with the type of land use that the rural residential zoning amendment was intending to encourage, and the conditional use permit should be granted.

Public hearing closed at 6:54 p.m.

It was moved by Commissioner Hall and seconded by Commissioner Wheeler to adopt Resolution No. 10-27 approving Conditional Use Permit No. 10-03. Motion carried with the following vote (7-0-0-0):

AYES: Commissioners Hall, Harvey, Malhi, Terracciano, Wheeler, Vice Chairman Jacobs, and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: None.

5. Conditional Use Permit No. 10-10

Chairman Vose opened the public hearing at 6:56 p.m. to hear a request by Nirmal Gill of Magoo's Pizza Restaurant for on-site sale and consumption of alcohol (Type 41, sale of beer and wine) for a proposed restaurant in an existing building, located at 1324 West Avenue I.

Silvia Donovan read the staff report and added that the applicant install a trash enclosure to match exterior material buildings, with a trellis cover.

Chairman Vose requested the applicant to approach the podium to confirm that the condition for the trash enclosure to be installed was understood. Mr. Gill approached the podium and agreed to the installation of the trash enclosure on the site in conformance with the City ordinance.

Frances Lane, resident of Lancaster, approached the podium and stated she was in favor of the project. She concluded that she desired to see a business in the area instead of an empty building.

Public hearing closed at 7:00 p.m.

It was moved by Commissioner Terracciano and seconded by Commissioner Malhi to adopt Resolution No. 10-28 approving Conditional Use Permit No. 10-10. Motion carried with the following vote (7-0-0-0):

AYES: Commissioners Hall, Harvey, Malhi, Terracciano, Wheeler, Vice Chairman Jacobs, and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: None.

6. Conditional Use Permit No. 10-11

Chairman Vose opened the public hearing at 7:01 p.m. to hear a request by the Super Center Concepts (Superior Grocers) for an addition of incidental off-sale of alcoholic beverages at a proposed Superior grocery store (Type 21, off-sale general) in the CPD (Commercial Planned Development) Zone, located at 1010 East Avenue J.

The reading of the staff report was waived since an uncontested hearing letter was received from the applicant stating agreement to the conditions of approval as stated in the staff report, and there were none in the audience who wished to speak in opposition to the request. Public hearing closed at 7:02 p.m.

It was moved by Commissioner Wheeler and seconded by Vice Chairman Jacobs to adopt Resolution No. 10-29 approving Conditional Use Permit No. 10-11. Motion carried with the following vote (7-0-0-0):

AYES: Commissioners Hall, Harvey, Malhi, Terracciano, Wheeler, Vice Chairman Jacobs, and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: None.

7. Conditional Use Permit No. 10-12

Chairman Vose opened the public hearing at 7:03 p.m. to hear a request by the CEC (Chuck E Cheese) Entertainment, Inc., to allow family entertainment with an arcade, and on-site consumption of alcohol (Type 41, sale of beer and wine for a bona fide restaurant) for Chuck E Cheese in the CPD Zone, located at 44410 Valley Central Way.

Alice Winters, representative of the applicant, approached the podium and stated that she was from the corporate office of Chuck E Cheese in Irving, Texas. She stated that Chuck E Cheese had been located in Lancaster since 1993, and this was one of the smallest stores that the company owned. She stated that when informed of the larger building, they were ready to make the move to continue to service the people of the Lancaster and surrounding areas.

There were none in the audience who wished to speak in opposition to the request. Public hearing closed at 7:06 p.m.

It was moved by Commissioner Harvey and seconded by Commissioner Terracciano to adopt Resolution No. 10-30 approving Conditional Use Permit No. 10-12. Motion carried with the following vote (7-0-0-0):

- AYES: Commissioners Hall, Harvey, Malhi, Terracciano, Wheeler, Vice Chairman Jacobs, and Chairman Vose.
- NOES: None.
- ABSTAIN: None.
- ABSENT: None.

DIRECTOR'S ANNOUNCEMENTS

Brian Ludicke informed the Commission that the City-Wide Rezoning approved by the Commission on April 19, 2010, was scheduled to be heard by the City Council on June 22, 2010.

COMMISSION AGENDA

Chairman Vose welcomed the new Commissioners.

Chairman Vose also stated that he had observed the proliferation of “boot-leg” political advertisement signs in various areas of the city, which were an eyesore and needed to be removed.

PUBLIC BUSINESS FROM THE FLOOR - NON-AGENDA ITEMS

None.

ADJOURNMENT

Chairman Vose declared the meeting adjourned at 7:11 p.m., to Monday, July 12, 2010, at 5:30 p.m., in the Planning Large Conference Room, City Hall.

JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:

BRIAN S. LUDICKE, Planning Director
City of Lancaster