

MINUTES

REGULAR MEETING OF THE LANCASTER PLANNING COMMISSION

November 15, 2010

CALL TO ORDER

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

INVOCATION

Chairman Vose did the invocation.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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), Associate Planner-Environmental (Jocelyn Swain), City Engineer (Carlyle Workman), Recording Secretary (Joy Reyes), and an audience of approximately 24 people.

CONSENT CALENDAR

1. APPROVAL OF MINUTES

It was moved by Commissioner Terracciano and seconded by Commissioner Malhi to approve the Minutes from the Regular Meeting of October 18, 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.

CONTINUED PUBLIC HEARINGS

2. Conditional Use Permit No. 08-17

Chairman Vose opened the public hearing at 6:05 p.m. to hear a request by Sandra Yavitz, James Wood, and Patrick Wood, for an Alcoholic Beverage Control Type 21, Off-Sale General License (beer, wine and spirits) for a new drug store, located on the southeast corner of 15th Street West and 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. There were none in the audience who wished to speak in opposition to the request. Public hearing closed at 6:06 p.m.

It was moved by Commissioner Hall and seconded by Commissioner Wheeler to adopt Resolution No. 10-26 approving Conditional Use Permit No. 08-17. 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

3. Conditional Use Permit No. 91-10 (Amended 2)

Chairman Vose opened the public hearing at 6:07 p.m. to hear a request by Ukani Enterprise, Inc., to construct a 125 square-foot building for office and storage, and a 968 square-foot self-service car wash in the CPD Zone, located at 42420 60th Street West (Northeast corner of 60th Street West and Avenue L-8).

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. 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 Harvey and seconded by Commissioner Malhi to adopt Resolution No. 10-48 approving Conditional Use Permit No. 91-10 AM2. 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. General Plan Amendment No. 10-01, Zone Change No. 10-02, and Conditional Use Permit No. 10-22

Chairman Vose opened the public hearing at 6:09 p.m. to hear a request by Beautiful Earth Group, LLC, for (1) Amendment of the General Plan land use designation for the subject property from UR (Urban Residential and C (Commercial) to NU (Non-Urban Residential); (2) Rezoning of the property from R-7,000 (Single Family Residential, minimum lot size 7,000 square feet) and CPD (Commercial Planned Development to RR-2.5 (Rural Residential, one dwelling unit per 2.5 acres); (3) Construction of a photovoltaic solar generating facility comprised of two 19 MW solar fields in the Rural Residential 2.5 (RR-2.5) Zone, located 180± acres bounded by Avenue H, Avenue H-8, 80th Street West and 90th Street West.

Commissioner Malhi stated for the record that he had met with Josh Mann and Lex Heslin on November 3, 2010, to discuss the project.

Chairman Vose stated there were two letters received (dated and posted November 15, 2010), from the Los Angeles Audubon Society and the California Department of Fish and Game (CDFG).

Brian Ludicke read the staff report. He stated that the applicant has acquired the property, the development of the residential project previously approved on the site is not moving forward, and a solar project has been proposed.

Commissioner Hall inquired if there would be a need for separate motions, since there were two resolutions. Brian Ludicke affirmed there would be separate motions for the zone change and the conditional use permit.

Commissioner Hall stated the letter from the Audubon Society seems to request a regional bird survey, and asked if that regional survey was expected to be conducted at the developer level.

Brian Ludicke responded that staff had met with a representative of the Audubon Society, and their concerns expressed were regional in nature, and felt the project should be considered in conjunction with all solar projects. He stated that due to the project site being only 180 acres, and with an approved development project that can go forward in theory, it would be excessive to place that level of responsibility on this project.

Chairman Vose noted to the Commission that all reviewing agencies are aware of the process for public review of project documents, and the timeline the developer has to meet.

Commissioner Harvey asked Jocelyn Swain to expound on the Audubon Society's letter in reference to the survey protocol for sensitive species of birds being inadequate.

Jocelyn Swain responded that the project did not perform protocol surveys for sensitive species of birds. She stated the staff requires an applicant to do a general biological assessment, which would be to walk on-site with a biologist, view what habitat is present and suitable for, and

make a recommendation. In this case, this is old agricultural land, and the biologist did not feel that there was suitable nesting habitat for Swainson's hawk; hence, there would not be protocol surveys. She stated that if there was a burrowing owl found, one of the mitigation measures is to perform a burrowing owl survey on the site prior to construction.

Chairman Vose asked if the site was active with burrowing owls. Jocelyn Swain responded that there was no indication whether it was active. Burrowing owl was not found, what was found was a burrow with owl pellets and white-wash.

Commissioner Terracciano referenced the closing paragraphs from the Department of Fish and Game regarding the Swainson hawk's survey, and asked if the burrowing owl was a separate issue.

Jocelyn Swain confirmed the issues were separate, and added the applicants were not being conditioned to do protocol Swainson hawk's survey since there were no suitable habitat for them on site. The nearest nest is approximately five (5) miles north. She stated the applicant is required to do a nesting bird survey prior to construction to make sure there are no nesting birds on site. In the event that there are nesting birds, construction cannot proceed until the birds have fledged the nest, and conditions have been met with Fish and Game regarding that species.

Applicant Lex Heslin, President/CEO of Beautiful Earth Group, and Andrew Williams, Director of Project Development, introduced themselves to the Commission. Lex Heslin stated they spent over a year in California in search of a location before finding a site in Lancaster. He stated when decided to pursue the project, employees were moved to the area. He stated they were doing their best to comply with the City requirements, being a partner with the City; public outreach; hired Passantino and Associates to do public outreach and Tetra Tech as engineers, and mailings were sent in a one-half mile radius of the project to inform residents in the area. Two open houses have been held at the Del Sur School including residents of Antelope Acres, the school district, local development agencies, and Chambers of Commerce. He stated that they have explained to those who may be impacted by the project, namely potential stakeholders, and added that they were received positively by the residents of Antelope Acres. He concluded the property is previously disturbed land and farm site; additionally, because the location of the site is near the Southern California Edison Del Sur Sub-station no additional transmission infrastructure will need to be built.

Speaker in favor: Mel Layne, President of the Greater Antelope Valley Economic Alliance (GAVEA), stated the mission of the alliance is to attract, retrain, and grow jobs in the Antelope Valley. He stated that unlike other business that wait until there is trouble, Beautiful Earth reached out to the Alliance first upon entering the area to purchase property, and the Alliance was able to advise and help Beautiful Earth become acquainted with the area. He was in favor because the goal is to bring jobs and help the environment become more energy sufficient. The project would put the property to good use; a farmland or a residential project would require more water to be used.

There were none in the audience who wished to speak in opposition to the request. Public hearing closed at 6:31 p.m.

It was moved by Commissioner Wheeler and seconded by Commissioner Terracciano to adopt Resolution No. 10-49 recommending to the City Council approval of General Plan Amendment No. 10-01 and Zone Change No. 10-02. 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.

It was moved by Commissioner Harvey and seconded by Commissioner Hall to adopt Resolution No. 10-50 approving Conditional Use Permit No. 10-22; the approval of Conditional Use Permit No. 10-22 is not valid until the effective date of the General Plan Amendment No. 10-01 and Zone Change No. 10-02. 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. Amendment to Title 17 of the Lancaster Municipal Code (Zoning Ordinance)

Chairman Vose opened the public hearing at 6:33 p.m. to hear a request by the City of Lancaster, to amend Title 17 (Zoning Ordinance) of the Municipal Code modifying various sections to implement requirements for development projects to meet the requirements of the adopted City of Lancaster Design Guidelines.

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 6:34 p.m.

It was moved by Vice Chairman Jacobs and seconded by Commissioner Harvey to adopt Resolution No. 10-51 recommending to the City Council approval of an amendment to the Zoning Ordinance, Title 17 of the Lancaster Municipal Code. 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

None.

COMMISSION AGENDA

Commissioner Hall commented that he was surprised concerning the regional survey that the Audubon Society referenced. He stated, as an example, it appeared that if someone purchased pre-disturbed land, the purchaser would not have to conduct a survey. He then added, if the owner purchased land expecting to build and discovered there was a hawk three miles away and suddenly the owner would have to set-off half of the property. He concluded there has to be some way that the Commission could “over-arch” the process.

Chairman Vose responded there was a process. He stated, in his opinion, agencies should be held accountable for their actions just as the Commission is held accountable; and the protocol is once the document is circulated for public review, and all agencies review, there is a timeline and people are obliged to meet that timeline, again the same way as the Commission is obliged to meet a timeline by properly publishing and going through the process. He expressed being skeptical of people who cannot get their act together and respond in a timely manner. He added, first of all, whether the person is valid or not is always a question, but when one does not meet the minimum standard, how can you place credibility to the correspondence? He stated that was his personal view and it was just like anything you do in life, there are rules and regulations to follow. He continued, as an example, someone is driving over the speed limit on Lancaster Boulevard, three weeks later a citation is received in the mail, and questioned if one would have expected to be stopped at the time of the violation (probably), and would have paid the ticket (maybe); and expressed that, to him, the situation was the same; there is a 30-day period to respond to the survey and the outside agency responded late, and asked whether the agency’s comments be given credibility. He shared that he has experienced missing a deadline with his own projects and it is very uncomfortable to have to back-up, rewind, and spend thousands of dollars that had not been anticipated just to pay ransom; that is really what the Audubon Society and CDFG are asking the developer to do, come to the table and beg forgiveness and by doing that the developer will be giving hundreds of acres of mitigation land to maintain and perpetuity, and thousands of dollars in cash to maintain. He expressed it was not the wrong thing to do, but it should at least be timely.

Commissioner Hall stated that was his concern: What if the developer does come in as good faith to develop and all of a sudden there is a gun stuck in their rib saying you have a nesting bird problem or you have water-like habitat?

Commissioner Vose reiterated that’s the risk a developer takes and part of the process. He stated, assuming the Council approves, if a permit were pulled, and the developer goes out in the middle of March or April, a nesting bird survey will have to be conducted, that is the law; if they find habitat or suspected species, the developer will have to mitigate the impact as laid out in the environmental documents noted by staff and available for everyone to review.

Commissioner Terracciano stated when the developer purchased the property they have the opportunity to conduct a feasibility study to address these issues before purchasing.

Commissioner Vose reiterated that, for example, if all of a sudden a pair of burrowing owls decides to nest there and have never been there before, the issue has to be dealt with; it is the risk of development.

PUBLIC BUSINESS FROM THE FLOOR - NON-AGENDA ITEMS

None.

ADJOURNMENT

In memory of Silvia Donovan's father, Raymond L. Rodriguez, Chairman Vose declared the meeting adjourned at 6:42 p.m. to Monday, December 13, 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