

MINUTES

REGULAR MEETING OF THE LANCASTER PLANNING COMMISSION

July 20, 2009

CALL TO ORDER

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

INVOCATION

Commissioner Burkey did the invocation.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Present: Commissioners Burkey, Ervin, Haycock, Jacobs and Malhi, Vice Chair Smith and Chairman Vose.

Absent: None.

Also present were the Deputy City Attorney (Joe Adams), Planning Director (Brian Ludicke), Principal Planner (Silvia Donovan), Associate Planner (Chuen Ng), Assistant Planner (Brigitte Ligons), City Engineer (Carlyle Workman), and Recording Secretary (Tess Epling).

PUBLIC BUSINESS FROM THE FLOOR

No speaker cards.

UNCONTESTED PUBLIC HEARING

CONSENT CALENDAR

1. APPROVAL OF MINUTES

Approval of the Minutes from the regular meeting of June 15, 2009, was deferred to the August 17, 2009, meeting.

CONTINUED PUBLIC HEARINGS**2. CONDITIONAL USE PERMIT NO. 07-19 and Tentative Tract Map No. 70238**

Chairman Vose opened the public hearing at 6:03 p.m. to hear a request by Jusdyco, Inc.: Lancaster, LLC for the construction of a residential planned community of 155 individual detached airspace condominiums, with 1.9 acres of common open space in the MDR (Moderate Density Residential, 6.6 to 15 dwelling units per acre) Zone on 14.3± gross acres located on the northeast corner of 50th Street West and Lancaster Boulevard. An uncontested hearing letter was received last minute.

Silvia Donovan presented the staff report.

She indicated this item had been continued from May 18, 2009, to allow the applicant to work with staff on the following items: 1) guest parking availability; 2) trash dispenser location on trash day; 3) additional recreational amenities; 4) clarification on the 20 x 20 garage – free of utilities and storage; 5) walkability and traffic on Lancaster Boulevard; and 6) a confirmation statement of single ownership on the Covenants, Conditions and Restrictions (CC&Rs).

The applicant has rectified these items accordingly: 1) The site plan has been revised to allow for 33 off-site and 11 on-site spaces for a total of 44 guest parking spaces. 2) The site plan was redesigned for the trash dispenser locations by providing bulb-outs adjacent to private driveways on interior streets. These bulb-outs prohibit parking adjacent to the curb, and this design would provide the trash dispensers to be placed in a location that would prevent on-street traffic conflicts. 3) The applicant has increased the size of the common open space from 1.7 acres to 1.9 acres. They have added a 2,777 square-foot recreational room with an enclosed pool. Additionally, each unit would receive a patio base. 4) The minimum garage size is 20 x 20 – clear of utilities for each unit, and the applicant is providing a large storage space within each garage. 5) The units are designed next to interior streets facing outwards so that there is visibility and pedestrian walkability. 6) The City Attorney has indicated that owner occupied tenure cannot be imposed by the City so that was not added in the CC&Rs. These changes take care of the six items the Commission had questions on and staff is recommending that the Commission approve CUP 07-19 and Tentative Tract Map 70238, subject to the conditions and modifications proposed by the application.

Staff feels that elevations for the project need improvement as the City Council is pushing for 360-degree architecture. Therefore, Staff is requesting that the applicant work with staff to improve architectural treatments on the elevation. Vice Chair Smith asked if it was stated that the City cannot impose owner occupied tenancy. Silvia Donovan responded that was correct. Vice Chair Smith wanted to know where that came from. Joe Adams stated that restriction could be imposed between private owners. He stated that the City imposing owner occupied tenancy in this context raises issues from a constitutional and policing aspect; further, courts do not generally uphold such decisions when imposed by cities. Commissioner Haycock made a visit to a site in Santa Clarita by a different builder, and spoke to one of the residents who stated that all units were owner occupied. The resident stated that as far as he knew, that was a condition of purchasing the units. Ms. Haycock wanted to know if there was some way to research this issue

further. Could staff work with the builder to make some type of agreement? Joe Adams stated that this issue could be researched further, but further research would not speak to enforceability and the liability the City may incur; these are separate issues. Other cities have done this and the courts have refused to uphold those conditions. He further indicated that you can certainly work with a developer and express your intentions in regard to tenancy, but the major concern is imposing this as a condition and the developer being required to restrict tenancy to the owner. Commissioner Haycock indicated that she knew of several instances where investors have bought 16-20 units in a tract, represented that they were going to occupy them and signed documents stating such, but later it was discovered that they were investors. Commissioner Haycock stated that given the location of this project, it could easily turn into a rental unit; therefore, she would like to see it explored further.

Chairman Vose stated that according to the Deputy City Attorney we may have the ability to impose the condition but we do not have the ability to regulate. Deputy City Attorney Joe Adams recommends that we do not impose the condition. Commissioner Ervin stated that if the developer agreed to what the City is asking, that would not be the City forcing them to do it. Chairman Vose stated that the point is not to impose the condition since there is no sanction to hold the developer to it.

Applicant, Victor Vera stated that his intention is to sell each unit and keep the units owner occupied. His intention is to get younger families to live there. Basically, he envisions this project as being a starter home, which will attract a younger clientele like his 24-year old son and his wife who are currently renters. Vice Chair Smith inquired about the asking price of these homes. Mr. Vera stated they must be competitive with KB Homes who are selling similar homes in the range of \$200K-\$250K. Mr. Vera stated his lots are all the same size. Commissioner Burkey wanted to know what steps were being taken to insure that first buyers occupied the units. Mr. Vera stated that he has asked his selling department to make sure to screen applications, and to go out of their way to make sure these buyers are the occupants. Commissioner Burkey stated that he has seen new tracts that have contracts that state that the property will be owner occupied; will that be a part of this tract's contract? Mr. Vera stated that the owner is responsible for taking care of his unit for as long as he lives there. Vice Chair Smith asked if the landscaping would be the responsibility of the owner or an HOA. Mr. Vera responded that it would be the responsibility of the HOA, but the private area in each unit is to be maintained by the owner. Chairman Vose asked if the entire project had to be landscaped to City standards. Ms. Donovan verified that as being correct. Commissioner Haycock asked if this project would be gated. Mr. Vera stated that units facing the future school have their entrances to the street so it would be difficult to have the project gated.

Jeff Little, representing the applicant stated there will definitely be HOA fees. He indicated they had drafted a contract that states each unit will be owner occupied. He stated his staff had met with Chairman Vose, and all are in agreement on several items. He further indicated his intention to meet with the Architectural and Design Committee to gain further insight on how to make the project more aesthetically pleasing. He reiterated that the units would be owner occupied, and the price would be higher than expected for a rental. He stated his engineer could not be present but he would answer any further questions.

Randy Viall, opposing the project, stated that it is nice to hear the developer wants this project owner occupied. Mr. Viall wanted to know if a traffic study had been completed relative to the increased traffic on Lancaster Boulevard. There is a dirt road that runs from 40th Street West to 50th Street West, and we currently have problems with high speed traffic. He has five kids and is concerned that this project will bring increased traffic, and present a danger to his children playing in the road. Additionally, will there be a block wall around this complex? Will the HOA fees include maintenance such as graffiti removal?

Chairman Vose closed the hearing at 6:26 p.m.

Vice Chair Smith revisited the trash issue. Would the trash cans have to be taken to the main street? Ms. Donovan stated that the applicant had redesigned the site with bulb-outs to remedy the trash situation.

Commissioner Burkey inquired at the last meeting, if it was important for the resident to add three trash containers. Ms. Donovan indicated that the applicant checked with the trash provider, and learned that only two containers were needed.

It was moved by Commissioner Smith and seconded by Commissioner Burkey to adopt Resolution No. 09-13 approving Conditional Use Permit No. 07-19 and Tentative Tract Map No. 70238, including revised site plan and conditions. Motion carried with the following vote (7-0-0):

AYES: Commissioners Burkey, Ervin, Haycock, Jacobs and Malhi, Vice Chair Smith and Chairman Vose

NOES: None.

ABSTAIN: None.

ABSENT: None

NEW PUBLIC HEARINGS

3. ONE YEAR EXTENSION

a. TENTATIVE TRACT MAP 61574

Brian Ludicke asked Chairman Vose to remove this item from the agenda due to the passing of Senate Bill 333, which grants an automatic two-year extension to all active tentative tract maps. The applicant withdrew his request and the item was not heard.

4. CONDITIONAL USE PERMIT NO. 09-04

Chairman Vose opened the public hearing at 6:32 p.m. The applicant is seeking a conditional use permit for on-site sale and consumption of alcohol (Type 47, sale of beer, wine

and distilled spirits for a bona fide restaurant) for Schooners Patio Grille, Inc. in the CPD (Commercial Planned Development) Zone.

Brigitte Ligons presented the staff report because a speaker card was submitted. An uncontested hearing letter was received from the applicant stating agreement to the conditions of approval as stated in the staff report.

Ms. Ligons indicated that based on the floor plan and discussions, this site meets the requirements of a bonafide restaurant. The main hours of operation are from 11 am to 2 am, Monday through Saturday, and 10 am to 12 am on Sunday. The applicant has proposed to provide on-site security, closed circuit cameras, and an ambience that will provide a pleasant dining experience. The Sheriff's department is not opposed to granting an alcohol CUP for this site.

The applicant stated that he was in agreement with the conditions imposed by the City and he was ready to answer questions.

There was a speaker who wished to comment, as follows:

Julie Plaisance, resident of Lancaster, CA, opposes another establishment in her area that sells alcohol. Ms. Plaisance stated that she teaches students who live less than a mile from this project. She is not anti-business or anti-alcohol. She doesn't feel the area needs another establishment that will encourage parking lot fights, and loud motorcycles roaring down the street after the last call for alcohol.

Public hearing closed at 6:39 p.m.

Commissioner Ervin asked if this establishment was a restaurant or a dance hall. Ms. Ligons stated that the applicant had not requested a license for entertainment. They have only asked for permission to sell alcohol, and conduct business as a restaurant. Chairman Vose related concerns that the outside patio/dining area appeared to encroach onto the parking lot and handicap access ramp. Further, it appears to be 28 feet from the front door to the edge of the sidewalk. Assuming the CUP is approved, what can be done to rectify this? Carlyle Workman stated that the handicap access would be one of the items inspected by Building and Safety department through the permitting process prior to approval of a building permit. Mr. Workman stated that not enough details were currently available to determine exact requirements of the applicant. Chairman Vose stated his concern was that the proposed plan will encroach about 2,500 square feet into a sidewalk and landscape area. He is further concerned about Title 24 and how this will be dealt with. Based on the site plan, he does not see how this will work. Mr. Ludicke stated that there are a number of different agencies that will look at the tentative improvement plans. The Health Department will look at the plans from the standpoint of food service; the Fire Department will examine them in terms of access and emergency capability. It is fairly typical of new developments and modifications to have a shift in plans as a result of something that is discovered or found later. From a CUP standpoint where alcohol sales are approved, we want the plans to be substantially in conformance with what is approved. Items not in conformance are dealt with adequately in subsequent reviews.

Commissioner Burkey wanted to know what would be the requirement on the patio area for fencing, gating and keep people from going in / coming out. Mr. Ludicke stated there has to be some kind of defined barrier where alcohol consumption is allowed. Mr. Ludicke did not know if this was left to ABC. He stated the applicant may be able to provide a better answer but there has to be some type of control if alcoholic beverages are consumed in that outdoor area. Chairman Vose stated it appears access into the patio area will be controlled through inside of the building. Commissioner Burkey stated he's concerned with the iron fence at only 3½ feet high, whereby a minor could easily jump over the fence to get in to the patio area, and join others who have legally purchased alcohol.

It was moved by Vice Chair Smith and seconded by Commissioner Malhi to adopt Resolution No. 09-25 approving Conditional Use Permit No. 09-04. Motion carried with the following vote (7-0-0-0):

AYES: Commissioners Burkey, Ervin, Haycock, Jacobs and Malhi, Vice Chair Smith and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: None.

5. Amendment to Title 17 (Zoning Ordinance) of the Lancaster Municipal Code

Chairman Vose opened the public hearing at 6:49 p.m. to hear the following request by the City of Lancaster to amend Title 17 (Zoning Ordinance) of the Lancaster Municipal Code, modifying the Wind Energy requirements and add Section 17.08.332, which would regulate non-commercial wind energy conversion systems in the residential zones. This item was continued to the August 17, 2009, meeting.

There was a speaker who wished to comment, as follows:

One speaker, Nicole Parson commented that the City was doing a good job. She commented on the wind energy, climate change and global warming, and the importance of the EIR. Ms. Parson stated she would be more than happy to answer questions.

Chairman Vose closed the public hearing at 6:52 p.m.

It was moved by Commissioner Burkey and seconded by Commissioner Haycock to continue this item to the regular Planning Commission meeting of August 17, 2009. Motion carried with the following vote (7-0-0-0):

AYES: Commissioners Burkey, Ervin, Haycock, Jacobs and Malhi, Vice Chair Smith and Chairman Vose.

NOES: None.

ABSTAIN: None.

ABSENT: None.

6. HOUSING ELEMENT REVISION

Chairman Vose opened the public hearing at 6:54 p.m. to hear a request by the City of Lancaster to update the Lancaster General Plan Housing Element to address housing needs for planning period January 1, 2006, to June 30, 2014. Mr. Ludicke stated by way of background that a year ago the Planning Commission voted for the Housing Element, which was given to California HCD for review and certification. HCD responded that they had several concerns regarding the housing element in its current form.

Chuen Ng presented the staff report.

Mr. Ng presented the revised Housing Element, and provided a brief background overview. He stated there are two remaining issues to address, to achieve State certification: 1) provision of adequate sites and development of these sites "by right"; and 2) the permitting of transitional and supportive housing in residential zones. The City's housing needs allocation is roughly 12,800 units, and 5,133 of these units are for low and very low-income households. The City has enough vacant multi-family sites to accommodate this number. However, the State would like to see that development of these sites be processed administratively (in-house). HCD would also like developers to achieve the maximum allowable density "by right," as opposed to an exchange for amenities.

Senate Bill 2 was passed to allow transitional and supportive housing as residential uses subject to only those restrictions that apply to other residential uses of the same type in the same zone. We have included several specific actions in the Housing Element to reflect the changes required by HCD. We will still be able to review CUPs in commercial zones and mixed use zones. We wanted the language to specify that the Commission would be able to review CUPs in commercial and mixed use zones as well as in MDR and HDR zones. Chairman Vose inquired that since the City Council imposed a light industrial buffer around the prison, would emergency shelters be able to locate there? Mr. Ng responded they would. Another specific action in response to SB No. 2 allows for emergency shelters by right. Five additional specific actions were included in the revised housing element.

Commissioner Jacobs asked how what we have now will affect group homes/transitional homes. Mr. Ng stated if there's a proposal for a group home for six persons or more, a Director's Review application is required. We would have to allow that use, and we would only be subjected to Building and Safety and health requirements. Chairman Vose asked if the modifications that were being recommended were in conformance with state law. Mr. Ng responded they were. Mr. Ludicke added that in the last couple of years, the City has already made some modifications in its licensing. We do have some additional modifications, which will need consultation with legal counsel to bring remaining zoning and development codes in compliance with the Senate bill. Commissioner Jacobs asked if the item passed today, whether the City would be looking at still making some requirements. Mr. Ludicke stated that in terms of

the Housing Element, the City will comply with legislation. There will be some kind of subsequent ordinance that would need to be recommended to City Council with regards to amendments to the code.

Chairman Vose asked if we would need to work on zoning regulations in the next 18 months. Mr. Ludicke stated yes, but the Commission would see some revisions sooner. In order to comply with HCD's request, Staff has recommended policies and specific actions that will remove the conditional use process in zones that are almost exclusively to accommodate moderate and high density housing. Staff has not recommended that for the City's commercial zone or mixed use zone. The City has not done this because we have sufficient sites available within those moderate and high density zones that we do not need to rely on the land that designated under the now adopted General Plan for mixed use. Chairman Vose asked what the benefit to the community as a whole was by having the housing element certified by HCD. Mr. Ludicke stated that if you have a certified Housing Element and you are challenged by a developer or a housing advocacy group, there is a presumption that you are in compliance with state law. The City has been successful attracting developers that receive grant money and loans for infrastructure that involves revitalization programs such as our own Downtown. These programs are very competitive, and one factor the State looks at is if the jurisdiction has a certified housing element. Jurisdictions with a certified housing element have a better chance of receiving funds.

Speaker Nicole Parson stated that she was not aware the Senate Bill was on the agenda. She provided comments on transitional homes, housing program, real estate, and disabled persons.

Chairman Vose closed the public hearing at 7:20

It was moved by Commissioner Jacobs and seconded by Vice Chair Smith to receive public testimony on the General Plan Housing Element and approve Resolution No. 09-18, recommending to the City Council approval of an update of the General Plan Housing Element, in accordance with the corrections provided by the State Department of Housing and Community Development (HCD) (see Exhibit "A"). Motion carried with the following vote (7-0-0-0):

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

DIRECTOR'S ANNOUNCEMENTS

City Council hearing on the 60th Street West and Avenue L projects is scheduled for tomorrow.

Tess Epling's promotion was announced.

COMMISSION AGENDA

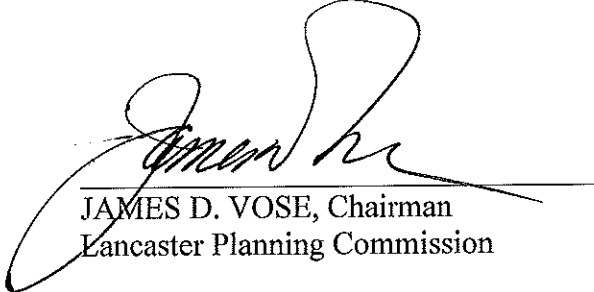
None.

PUBLIC BUSINESS FROM THE FLOOR - NON-AGENDA ITEMS

None.


ADJOURNMENT

The meeting is adjourned at 7:21 p.m. to Monday, August 10, 2009, 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