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**CITY OF LA HABRA HEIGHTS**  
**MINUTES OF A REGULAR MEETING**  
**OF THE PLANNING COMMISSION**

**MARCH 24, 2009**

**OPENING CEREMONIES**

**1. CALL MEETING TO ORDER**

Chairman Larry Black called to order the regularly scheduled Planning Commission Meeting for March 24, 2009 at 7:12 p.m. at the Multi-Purpose Room, 1245 Hacienda Road, La Habra Heights, California.

**ROLL CALL**

Present: Chairman Larry Black, Commissioners Brent Grebbien, Tony Liu, Margarita McCoy, Carl Westerhoff and Alternate Don Tilley.

Staff present: City Planner Kenneth Phung, and Planning Commission Attorney Daniel Ballin

**2. FLAG SALUTE**

Chairman Black led the flag salute.

**3. ITEMS FROM THE PUBLIC NOT ON THE AGENDA**

**Stephen Blagden**, Citron Road, stated his opinion that the Planning Commission should have a standing Call for Review on projects exceeding a 3,000 square foot threshold to monitor code effectiveness, insure protection of resident's property rights and to become more proficient with the code. Mr. Blagden noted that he had contacted the Attorney General's office about how code changes were made. He had tried many times to get the City Council to make changes on Code items in the proper way with no results and contacted the Attorney General's office to get the City to make changes in the correct way. California Environmental Quality requirements still have not been met. Mr. Blagden noted that the CEQA document before you tonight is still not correct. When properly done, an EIR will probably be required. He noted problems that can be caused by the code changes. Code change impacts should be looked at before they are made, not after. They also have to be consistent with the General Plan.

**CONSENT CALENDAR**

**4. APPROVAL OF MINUTES FOR FEBRUARY 24, 2009**

**RECOMMENDATION:** By Minute Action the Planning Commission approve Planning Commission Minutes for February 24, 2009.

50 Commissioner Grebbien moved to approve the February 24, 2009 Planning Commission  
51 Minutes as presented. Seconded by Commissioner Liu and approved as follows:

52  
53 **AYES: Black, Grebbien, Liu and Westerhoff**  
54 **NOES: None**  
55 **ABSTAIN: McCoy**

56  
57 **PUBLIC HEARINGS**

58  
59 **5. PRJ 2009-05 FOR LOT LINE ADJUSTMENT, GENERAL PLAN AMENDMENT, AND**  
60 **ZONE CHANGE TO FACILITATE THE CONSTRUCTION OF A REPLACEMENT**  
61 **WATER TANK AT 1500 EAST SKYLINE DRIVE (APPLICANT: MIKE GUALTIERI;**  
62 **LA HABRA HEIGHTS COUNTY WATER DISTRICT)**

63  
64 Chairperson Westerhoff recused himself from this item so he would not have to be recused  
65 from the City Council.

66  
67 City Planner Phung presented the Staff Report. He showed an aerial map of the project site  
68 which showed a 630,000 gallon water tank and the surrounding area. In each direction is  
69 vacant Habitat Authority land and on the East is a single family home. The lot line adjustment  
70 is to add .56 acre to increase the acreage to 1.07 acres to facilitate a larger water tank. To make  
71 this adjustment it will need a General Plan amendment and a Zone change from Open Space  
72 Resources (OSR). The water tank will be replaced by a 2 million gallon water tank with a  
73 height of 24 feet and a diameter of 125 feet. It will be set approximately 50 feet further back  
74 than the present water tank, so it will be further away from the single family home. The  
75 purpose for this change is because water is deficient for proper fire protection and more water  
76 is needed for La Habra Heights. Mr. Phung showed a diagram of the proposed water tank in  
77 comparison to the present one and noted that there will be landscaping to screen the new tank.  
78 Mr. Phung stated that the Water Company had objected to many of the conditions that were  
79 requested, and most of the conditions were removed. The only conditions they will have is  
80 Planning Condition number 5 to indemnify the City, and Engineering Condition number 10  
81 which will be amended to \$120,000 bond. He stated that all of the Environmental analysis has  
82 been completed. Article 7 does not apply to Public Facilities or Open Space for setbacks. City  
83 Planner Phung had the following recommendation:

84  
85 **RECOMMENDATION:** The Planning Commission **ADOPT Resolution No. 2009-06**  
86 **recommending the City Council approve PRJ 2009-05 to permit a Lot Line Adjustment, and**  
87 **General Plan Amendment and Zone Change from Open Space Conservation to Public Facilities**  
88 **to facilitate the construction of a 2 million gallon water tank at 15000 East Skyline Drive,**  
89 **subject to the findings contained in the staff report, and make findings in support thereof.**

90  
91 City Planner Phung stated that the Planning Commission cannot specify the size of the trees as  
92 one of the Conditions, as that does not apply to Public Facilities.

93  
94 Chairman Black opened the Public Hearing.

95  
96 **Brad Cooke, President of the La Habra Heights County Water District thanked the Attorney,**  
97 **City Manager and City Council for their help and stated that the Water District should start**  
98 **building the tank starting this summer. Mr. Cooke verified that the new tank would be the**  
99 **same height and elevation as the old one. He noted that there have been two meetings with**

100 nearby residents on the landscape plans and we will be making some of the trees more mature  
101 to speed up the screening process. We did go through the Negative Declaration process and  
102 some of the concerns could have been taken care of at that time by the residents and City  
103 Council. Mr. Cooke stated that Howard White has been ill and has resigned from the Water  
104 District and we have appointed Pam McVicar as a Director in his place. Mr. Cooke confirmed  
105 to Commissioner McCoy that the path to the Habitat Authority will be kept open. He noted  
106 that the water rates will probably not go up and we will receive more water rights with the lot  
107 adjustment. The paving by the old tank will be left through new tank construction but will then  
108 be removed.

109  
110 **Stephen Blagden**, Citron Road, stated that he was not opposed to the construction of the new  
111 tank, but was opposed to the City's vacation without requesting additional requirements and  
112 mitigations by the Water District. The General Plan Safety Element 18 states that the City shall  
113 request that the La Habra Heights County Water District provide an analysis of local flooding  
114 inundation potential from each of its reservoir tanks. He stated that he could not find that this  
115 was required of this project. They should also consider the possibility of land-slide  
116 possibilities. The upper zone tank seems to be on a land-slide area. The lot line adjustment  
117 does not conform to Article 7. All zones are to be covered by Article 7 not just residential.  
118 The slope of the lot requires a 1.6 acre lot. Other City codes are not complied with. Standards  
119 Modifications are required if all of the codes are not met. If there are exemptions, they should  
120 be listed as such, not as false findings.

121  
122 **Sonna McCoy**, Suncrest Court, stated that it is important to hide the view of the new water  
123 tank for those who live near it. She stated that she would like to see a berm in front of the new  
124 tank and would like to know how many taller trees they are going to plant. She also noted that  
125 they have suggested a scenic mural on the tank with the landscaping in front. These ideas  
126 should be explored.

127  
128 Chairman Black closed the Public Hearing and brought it back to the Commission. He stated  
129 that they are looking for approval of Resolution No. 2009-06 including the vacation of all of  
130 the conditions except Conditions 5 and 10.

131  
132 Planning Commission Attorney Ballin stated that most of the Conditions were not the  
133 Conditions that would usually be placed on a Water District but Conditions 5 and 10 should be  
134 there.

135  
136 Commissioner McCoy encouraged the Water District to have the mural painted on the tank.

137  
138 Chairman Black stated that the landscape plan is important.

139  
140 City Planner Phung stated for the record that Condition 10 will read **"The applicant shall be**  
141 **responsible to the City for any damages caused to public streets and shall post a bond in**  
142 **the amount of \$120,000 as a means of assuring repair of any streets by the applicant's**  
143 **trucking activity."**

144  
145 **Commissioner Liu moved to adopt Resolution No. 2009-06 on PRJ 2009-05 getting rid of**  
146 **all Conditions except Conditions 5 and 10 (as amended). Seconded by Commissioner**  
147 **Grebbien and approved as follows:**

148  
149 **AYES: Black, Grebbien, Liu, McCoy and Tilley**

150 **NOES: None**  
151 **RECUSED: Westerhoff**

152  
153 **6. AMENDMENTS TO ARTICLE 7 (DEVELOPMENT CODE AND ZONING**  
154 **ORDINANCE), ARTICLE 8 (ADMINISTRATIVE DECISION) AND ARTICLE 12**  
155 **(DEFINITIONS)**

156  
157 City Planner Phung presented the Staff Report. He stated that in 2007 the City Council created  
158 an Ad Hoc Municipal Code Committee comprised of Council Members Brian Bergman, Layne  
159 Baroldi, Planning Commission Chair Larry Black, and the Community Development  
160 Department to ferret out inconsistencies, mistakes, overlaps and unnecessary restrictions within  
161 the development code. This developed some recommendations for code changes from Staff,  
162 the Committee and at the Planning Commission meetings. These amendments are what we are  
163 considering today. The amendments have already been heard by the City Council and are  
164 included in Resolution No. 2009-01.  
165

166 (1). Section 7.12.30 A Clarifies landscape screening requirements for new structures and  
167 additions.

168 (2). Section 7.14.40 H Exempts hardscape and grading to 12 feet in width that is more than 35  
169 feet beyond the point of access to the parcel.

170 (3). Section 7.14.40 W Defines minimum parcel dimensions for newly created lots.

171 (4). Section 7.17.40 B Exempts agricultural uses from permanent graded area subject to  
172 Standards Modification: and exempts pools from hardscape.

173 (5). Section 7.17.40 I Exempts hardscape and grading for roads constructed within a driveway  
174 easement or private street to serve another parcel.

175 (6). Section 7.19.80 Amends Table 7-12 of the Residential Development Standards to include  
176 Standards Modification process for additional access points to a parcel.

177 (7). Section 8.3.50 Allows approval time limits of two (2) years; additional one (1) year by  
178 Staff and one (1) year by Planning Commission.

179 (8). Section 12.2.10 Delete View Corridor definition.

180 (9). Section 12.2.10 Amends Local and Primary view definitions to clarify view definition and  
181 identify procedure for appeal.

182 (10). Section 12.2.10 Amends definition of All Weather Surface as any driveway or road from  
183 every building to a public street which is useable by fire apparatus.

184 (11). Section 12.2.10 Provides definition for agricultural grading, all weather surface, single-  
185 story structure and story.  
186

187 A CEQA inquiry was filed with the California Attorney General's office and after a City  
188 Attorney review it was determined that a "Negative Declaration" instead of a "Categorical  
189 Exemption" should have been used for the first round of Code Amendments prepared by the  
190 Planning Staff. Therefore, the legal counsel in an abundance of caution recommended that all  
191 of the code changes be packaged together and reprocessed through CEQA as a "Negative  
192 Declaration" for Planning Commission and City Council approval. City Planner Phung noted  
193 that Mr. Blagden had also stated that "greenhouse gas" was caused by vehicles and Counsel  
194 researched this and strongly disagrees. Mr. Phung stated that his recommendation is as  
195 follows:  
196

197 **RECOMMENDATION:** The Planning Commission **ADOPT Resolution No. 2009-01**  
198 recommending that the City Council review the Initial Study and recommend approval of the  
199 Negative Declaration (2009-01), and approve the amendments to Article 7, Article 8, and

200 Article 12, subject to the findings contained in the staff report, and make findings in support  
201 thereof.

202  
203 Commissioner McCoy expressed her concern that this should include a "Negative Declaration".  
204

205 City Planner Phung stated that in his opinion the amount of negative impact from these code  
206 changes would not apply to many properties and would be insignificant.  
207

208 Chairman Black opened the Public Hearing.  
209

210 **Judy Ennis** noted that in her opinion the fine tuning of these codes seems to be moving toward  
211 more development and increasing impervious coverage. More will be handled over the  
212 counter. It is not the building that draws people here.  
213

214 **Norm Zezula** noted that counting only the first 35 feet of a driveway and not counting  
215 swimming pools will increase unlimited grading and impervious coverage. The General Plan  
216 requires that grading and impervious coverage must be limited. Previous projects were limited  
217 on these items. Will these changes cause a problem with previous approvals under the old  
218 code? Someone who does the most grading and impervious coverage will not even have to  
219 come before the Planning Commission.  
220

221 **Julia Higgs** stated we have very little flat ground to build on and most of the lots have a steep  
222 grade and have many safety problems. These concerns should not be covered over. These  
223 problems can cause many dangers for the properties below them. How is the City going to  
224 protect us? Making these changes retroactive would make the dangers even worse. Ms. Higgs  
225 recommended that the only change that should be made is for agricultural grading.  
226

227 **Stephen Blagden**, Citron Road, noted that these code changes will be negatively impacting the  
228 property rights, views and property values of most residents to the benefit of a small minority  
229 of builders and outside developers. There has been very little publicity on these changes. Mr.  
230 Blagden commented on how the different changes will make things worse and violate the  
231 General Plan. Mr. Blagden stated that they should say no to these changes.  
232

233 Chairman Black closed the Public Hearing and brought the meeting back to the Commission.  
234

235 Commissioner McCoy stated that she has been against the code changes as she supports the  
236 codes as written. Our lots are all different and the usual codes for other cities cannot be used  
237 for us and the codes fit the city. The Standards Modifications take care of the different  
238 problems. It is the Commission's responsibility to look at each individual case and make a  
239 decision on the project.  
240

241 Commissioner Westerhoff stated that he was not worried about the changes and if they are  
242 wrong someone will write to the Attorney General's Office and it will be straightened out. He  
243 stated that the Commission has not made the Codes work and we have a reputation in the  
244 community that we make it so difficult for the people to deal with us and get things resolved,  
245 that people will go to extraordinary lengths to avoid coming to us. He stated that the new code  
246 severely restricted the amount of hardscape allowed and people cannot understand why it  
247 should be so difficult to have long driveways or a pool because of the hardscape restriction.  
248 The changes increase fairness to the residents.  
249

250 Commissioner Grebbien stated that he thinks that some of the changes are reasonable and a few  
251 could be taken out and handled by the flexibility we have as a Commission. He stated that he  
252 saw no reason not to support these changes.

253  
254 Commissioner Liu stated that he agreed with Commissioner Grebbien and we have gone  
255 through these items many times. The changes have been a team decision.

256  
257 Chairman Black stated that the issues are controversial The Commission wants to make the  
258 codes work as fairly as possible and still follow the General Plan.

259  
260 Commissioner McCoy stated that she thought the main problem was that the people didn't want  
261 to come before the Commission and she could not understand why that is.

262  
263 The Commission discussed why the residents want to avoid coming before the Planning  
264 Commission. They also discussed the need for the Planning Commission to get involved  
265 before so much money is involved for the project owner.

266  
267 **Commissioner McCoy moved that the Planning Commission disapprove all of current**  
268 **changes suggested for the code.**

269  
270 **The motion died for lack of a second.**

271  
272 **Commissioner Westerhoff moved to adopt Resolution No. 2009-01 recommending that the**  
273 **City Council review the initial study and recommend approval of the Negative**  
274 **Declaration 2009-01 and approve the amendments to Article 7, Article 8, and Article 12.**  
275 **Seconded by Commissioner Liu.**

276  
277 Commissioner Liu stated that the Ad Hoc Committee made courageous decisions on this  
278 subject to make the code clearer and his opinion was that this would be to the benefit of the  
279 city.

280  
281 **The motion was approved as follows:**

282  
283 **AYES: Black, Grebbien, Liu, and Westerhoff**

284 **NOES: McCoy**

285  
286 **ITEMS FROM THE PLANNING COMMISSION**

- 287  
288 8. There were no comments from the Planning Commission.

289  
290 **ITEMS FROM STAFF**

- 291  
292 9. **MONTHLY COMMUNITY DEVELOPMENT DEPARTMENT REPORT**

293  
294 **RECOMMENDATION: Receive and File Report.**

295  
296 Chairman Black directed that they Receive and File the report.

297  
298 **ADJOURNMENT**

299

300 Chairman Black asked that people volunteer to help in the city. Chairman Black adjourned the  
301 March 24, 2009 Planning Commission meeting at 9:05 p.m.

302  
303 **ATTEST:**

304  
305  
306 \_\_\_\_\_  
307 **LARRY BLACK, CHAIRMAN**

308  
309  
310 \_\_\_\_\_  
311 **KENNETH PHUNG, CITY PLANNER**