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CITY OF LA HABRA HEIGHTS
MINUTES OF A REGULAR MEETING
OF THE PLANNING COMMISSION
AUGUST 25, 2009

OPENING CEREMONIES

1. CALL MEETING TO ORDER

Chairman Black called the August 25, 2009 Planning Commission Meeting to order at 7:16 p.m. in the Multi-Purpose Room, 1245 Hacienda Road, La Habra Heights, California.

ROLL CALL

Present: Chairman Larry Black, Vice Chairperson Margarita McCoy, Commissioners Dominick DiMario, Ray Fernandez and Judi Steffle.

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

Chairman Black noted that they will limit the Public Comments to three minutes for each person. We will be able to ask questions after their three minutes.

Stephen Blagden, Citron Road, spoke on how changes to the Code should be handled and noted that changes have not been correctly addressed. Any changes must be brought back before the Planning Commission if modified by the City Council. What happened to Table 7-12? The Commission needs to be aware of construction going on in the City. There is a rash of illegal height block walls being built close to the road which are unsightly.

CONSENT CALENDAR

4 APPROVAL OF MINUTES FOR June 23, 2009

RECOMMENDATION: That by Minute Action the Planning Commission approves Planning Commission Minutes for June 23, 2009.

Vice Chairperson McCoy moved to approve the June 23, 2009 Planning Commission Minutes as presented. Seconded by Chairman Black and approved as follows:

AYES: Black, DiMario, Fernandez, McCoy and Steffle
NOES: None

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5. APPROVAL OF MINUTES FOR July 28, 2009

RECOMMENDATION: That by Minute Action the Planning Commission approves Planning Commission Minutes for July 28, 2009.

Commissioner Fernandez moved to approve the Planning Commission Minutes for July 28, 2009 as presented. Seconded by Commissioner DiMario and approved as follows:

AYES: Black, DiMario, Fernandez, McCoy and Stefflre
NOES: None

PUBLIC HEARINGS

6. LOT LINE ADJUSTMENT PRJ 2009-16 TO ADJUST THE LOT LINES OF APN 8240-002-015 TO SHED 0.6 ACRE FROM THE SITE (AKA TPM 69988); TENTATIVE PARCEL MAP 69988 TO SUBDIVIDE ONE PARCEL (6.01 ACRES) INTO TWO LOTS ALONG WITH A WAIVER OF COVENANT RESTRICTING SUBDIVISION ON THE PROPERTY (APPLICANT: RAUL ANDRADE) South of 2555 Casalero Drive.

City Planner Phung presented the Staff Report, stating that the lot is surrounded by single-family homes on the north and south in La Habra Heights; vacant land on the east and on the west is Habitat Authority land in Whittier. At the time of the original sub-division in 1985, there was an earthquake fault identified and a covenant against further sub-division. Only the Council has the authority to remove those restrictions. The Planning Commission can recommend that the Council do so if they wish. An updated soils report has been done and contradicts the 1985 report. On August 14 the City Council voted 5-0 in favor of their willingness to relinquish the earthquake covenant. The sub-division was reduced from four to two lots. A lot line adjustment is prepared to add land to the property to the north which does not facilitate subdivision of the lot due to slope density and required lot size. The subdivision meets all of the requirements. We have received a letter from the Habitat Authority asking for further conditions when homes are built on the new lots. We will look into this information and update studies as needed before the City Council meeting.

RECOMMENDATION: The Planning Commission adopt Resolution 2009-10 recommending the City Council approve Mitigated Negative Declaration 2009-03, Tentative Parcel Map 69988, Lot Line Adjustment (PRJ 2009-16), and recommend waiver of the covenant prohibiting further subdivision and a restriction limiting area of development for the 6.01 acre lot located south of 2666 Casalero Drive based on the findings contained in the Resolution and subject to conditions of approval contained therein.

Vice Chairperson McCoy asked if a private driveway easement last forever and what is a blanket easement.

City Planner Phung stated that easements can last forever, but can be removed with permission from all property owners involved. Staff noted that the easement in this case is a private easement, so they could put a private street down to Lupin Hill Road, but they do not want that. The “blanket” easement noted for this project gives the water agency the right to enter the property as needed. None of the existing easements are a threat.

101 Commissioner Fernandez asked about the Code Enforcement on 2555 Casalero Drive.

102
103 City Planner Phung explained that the Code Enforcement remediation for illegal grading on
104 2555 Casalero Drive has been started. The illegal grading was started about August 17th.

105
106 Chairman Black asked if the earthquake fault is the most prominent fault in the area.

107
108 City Planner Phung answered that this is just one in a series that runs through the city. Nobody
109 has advised staff of any problems from the fault.

110
111 Chairman Black opened the Public Hearing for comments.

112
113 **Stephen Blagden**, Citron Road, commented that there is an abandoned oil well on the site that
114 should be located prior to the subdivision approval in case its location would preclude the
115 development. It is possible there could be oil contamination. The 1987 CC&R's require that
116 Casalero be extended to Lupin Hill Road along the Road easement. This grading and
117 hardscape area needs to be accounted for in the proposed sub-division and lot line adjustment.
118 The Staff Report and Resolution state that the sub-division lots must be accomplished without
119 Standard Modification or Variance. This is unclear and likely to be ignored later.

120
121 City Planner Phung explained that the abandoned oil well is located by the road, away from the
122 house. It is typical to cap an abandoned oil well and there will be a ten foot easement around
123 the cap and staff will add a condition to take care of this before a certificate of occupancy is
124 issued.

125
126 **Andrea Gullo**, representing the Habitat Authority, stated that further on-site surveys are
127 needed to determine whether the Burrowing Owls are present. This is a State sensitive group.
128 The Habitat Authority encourages building to occur outside the nesting time. The Habitat
129 Authority can provide a waiver of liability for the applicant. The Habitat Authority would like
130 to see a Condition that the fuel modification zone of 150 feet is contained outside of the project
131 site. The Habitat Authority requested that no auxiliary buildings be within that 150 foot fuel
132 modification zone. The Habitat Authority also needs to keep all artificial lighting within the
133 project site as it impacts nesting birds.

134
135 Commissioner Fernandez asked why this particular project is required to provide fencing
136 between the project site and the Habitat Authority when this is not required in other areas.

137
138 Andrea Gullo stated that they do require dogs to be on leash and on trails in other areas. This is
139 for the safety of the animals on Habitat Authority land and will also safeguard resident's dogs.

140
141 **Marguerite Smith**, Casalero Drive, stated that she is representing the four neighbors next to
142 the Andrade family. She spoke in favor of the sub-division.

143
144 **Jonathan Stevens**, representing the Andrade family, stated that the Department of Oil and Gas
145 shows the abandoned oil well and is coded as abandoned and capped. It is not on any list for
146 remediation. We should not have this as a Condition. Mr. Stevens asked that the Commission
147 consider that the fencing for the Habitat Authority would be onerous as the area is quite large
148 and would not be protective for their dog. Rather than not allowing a utility building, it might
149 serve as well to have a setback from the Habitat Authority of 150 feet.

150

151 City Planner Phung stated that Staff does not support the Condition that there be a 150 foot
152 setback for accessory buildings. The 150 foot setback is for the house.

153
154 Mr. Stevens noted that he believed the oil well was capped in 1927.

155
156 Commissioner Fernandez asked if the Habitat Authority has legal standing to impose
157 conditions on land that belongs to a resident.

158
159 Planning Commission Attorney Ballin explained that the Habitat Authority has no authority to
160 impose a Condition, but they have the right to provide comments to the Environmental
161 Document and their opinion; the mitigation that they are proposing would bring the impact of
162 the development to less than significant. It is up to the Planning Commission to weigh their
163 comments.

164
165 Chairman Black stated that their comments are actually requests not demands. He closed the
166 Public Hearing and brought the meeting back to the Commission.

167
168 Vice Chairperson McCoy asked the reason the sub-divided lots are to be developed with no
169 Standards Modifications or Variances.

170
171 City Planner Phung explained that it is required by our Development Code for sub-divisions.
172 They can place a reasonably sized house on the property without a Standards Modification or a
173 Variance.

174
175 Commissioner Fernandez noted that he does not want the Andrade family to have to fence their
176 lot line between them and the Habitat Authority. That has not been required of other families
177 bordering the Habitat Authority. He also asked if the Condition on capping the abandoned oil
178 well could be left off. He stated that he had no objection to the lot line adjustment.

179
180 Chairman Black stated that the oil well capping did not seem to be an issue.

181
182 **Commissioner DiMario moved to approve mitigated Negative Declaration 2009-03,**
183 **Tentative Parcel Map 69988 and lot line adjustment PRJ 2009-16, and Conditions. The**
184 **Resolution title was read earlier. Oil wells have to be capped. Seconded by**
185 **Commissioner Steffle and approved as follows:**

186
187 **AYES: Black, DiMario, Fernandez, McCoy and Steffle**

188 **NOES: None**

189
190 **7. CONTINUED CALL FOR REVIEW OF PRJ 2007-43 TO ALLOW STANDARD**
191 **MODIFICATION FOR RETAINING WALL HEIGHT, HARDSCAPE ALLOWANCE**
192 **AND BUILDING DESIGN FOR A PROPOSED 5,726 SQ. FT. SINGLE-FAMILY**
193 **RESIDENCE WITH A 527 SQ. FT. ATTACHED GARAGE (APPLICANT: ALEX**
194 **RESENDIZ)**

195
196 City Planner Phung presented the updated Staff Report, showing where the project is on the
197 map. The project was originally approved by staff on June 4, 2009 with the Condition that
198 there be an asphalt berm placed along the easterly edge of Coban Road. There was a Call for
199 Review on June 4, 2009 and came to the Planning Commission on July 28, 2009. The decision
200 was to bring back a large scale set of plans, evaluate security gate location and conduct meeting

201 with neighbors to explore drainage alternatives. Mr. Phung located the fire hydrant and the
202 security gate on the map. He stated that the Fire Chief told him that the Knox-box was a
203 standard provision for gates and a key is given to the Fire Department. That is not an issue,
204 although the road to the house is steep and would be difficult to access. The Fire Department
205 would probably stop at the driveway below the project site and connect to the hydrant and run a
206 hose from that point. Mr. Phung stated that he met with the neighbors and discussed how the
207 drainage works. They decided on the conditions as follows:

208
209 A Knox-Box shall be provided for the proposed security gate and comply with the requirements
210 of the Los Angeles County Fire Department:

211
212 Two dry wells shall be provided in-lieu of the filtration pit with any overflow water to be outlet
213 into a rip-rap in the landscape area subject to the satisfaction of the City Engineer:

214
215 A concrete berm shall be installed along the easterly end of Coban Road to match the existing
216 concrete berm prior to occupancy of the home.

217
218 There will be an additional 2400 square feet of hardscape. The house size is similar to the
219 surrounding homes; the building complies with setback requirements; no protected views are
220 impacted. New landscaping and drainage mitigations will substantially improve the drainage on
221 the property.

222
223 RECOMMENDATION: The Planning Commission upholds the Administration Decision for
224 approval of Standard Modification 2007-43 to facilitate the construction of a single-family
225 home at 1631 Coban Ranch Road, subject to the conditions of approval.

226
227 Vice Chairperson McCoy commented that she had asked for story poles to be put back.

228
229 City Planner Phung explained that it takes three Commissioners to request the story poles and
230 he only remembers two Commissioners asking for the story poles.

231
232 Chairman Black clarified that he thought story poles were always important, but did not think
233 in this situation that it was necessary.

234
235 Chairman Black opened the Public Hearing for Public Comment.

236
237 **Stephen Blagden**, Citron Road, stated that this application is incomplete. Story poles are
238 supposed to stay up until the end of the appeal period. The plans are conflicting on what they
239 show. The staff report and the plans do not show the same amount of hardscape. This project
240 has enough hardscape to require new SUSUMP development to provide improved drainage.
241 Plans don't show the required six parking spaces. The drainage pits are not all shown on the
242 plans. The natural drainage from 1631 needs to be accounted for. The plan still shows water
243 dumping off on Coban Road. There are no setback lines on the west side of the lot. Each Fire
244 Department has its own key for a Knox-Box and under mutual aid the responding department
245 would not have the proper key. This project should be denied without prejudice to fix the many
246 problems.

247
248 **Roy Francis** stated that in the past the hydrant saved the Patel house and the hydrant down the
249 street would not as it has low pressure. A hydrant behind a Knox-Box can cause a delay. The

250 City does not enforce the use of a Knox-Box. It would really be best to move the high pressure
251 hydrant down by the gate as it is so much better than the ones on Coban Road.

252
253 **George Edwardz** clarified the calculations he had given to the Commission on the flow from
254 the hydrants on Coban which are inadequate. He noted the problems caused by a Knox-Box.
255 He also felt the only solution is to extend the six-inch main down to the street level and place
256 the hydrant outside of the gate. This would cost approximately \$15,000.

257
258 **Sue Lung**, Coban Road, stated her concern with the security gate and would like to see the fire
259 hydrant move outside the gate. She stated that she was speaking for the others on Coban Road.
260 During the development of upper Coban Road, Los Angeles County insisted that the hydrant be
261 put in for the protection of upper Coban Road. Some living there are concerned about the
262 missing story poles so they have a better idea how the project will affect them. The septic tank
263 placement and the hard soil and the roof runoff are a concern for the drainage. We would have
264 liked to be shown on site where the different drainage devices will be.

265
266 **Cathy Houwen**, Coban Road, spoke for the neighborhood concerns along with the integrity of
267 the hill at 1631 Coban Road due to the flooding that has been happening over the last six years.
268 If the hill is saturated it is possible that it could slide in one big sheet. We need to verify that
269 there are no layers carrying water to 1631 Coban Road before beginning the project. We want
270 an independent Engineer to check, going down at least thirty feet or into the deeper bedrock at
271 various strategic places to make sure the water is not saturated deep into the hill at 1631 Coban
272 Road. There are still many points that are not in line with certain requirements and the plans
273 are incomplete at this stage. Many items are completely missing from the plans. Where is the
274 larger septic tank going to be?

275
276 **C. K. Patel**, 1870 Nabal Road, stated that he has had no complaints other than from Sue Lung.
277 Nobody else has complained to him about a water problem from his property. The only
278 instance he knew about was when a sprinkler line broke. He stated that there was not a water
279 problem transferring from one side of his hill to the other. He stated that his story poles were
280 up for a long time. The Knox-Box is very common and more practical than moving the
281 hydrant. He stated that in his opinion the owner's rights are much more important than what
282 anyone can take away from the owner. He stated he was sorry to have caused any problems for
283 his neighbors and he will take care of them. Any problems, come talk to him.

284
285 **Babu Patel**, 1631 Coban Road, explained that he had the story poles up as required and only
286 removed them when the Planning Department allowed him to. He was told to take pictures of
287 the story poles. There are only two houses behind him. In the past, Barbara provided me with
288 a list of everything I needed to do and I did that. When the new Planner came in I provided
289 what was needed to him. He stated that he got no complaints from Mr. Phung.

290
291 Chairman Black closed the Public Hearing and brought it back to the Commission.

292
293 Vice Chairperson McCoy stated that she does not consider this project to be separate from the
294 drainage problems from C.K. Patel's home.

295
296 Chairman Black stated that he doesn't look at the two properties as separate, but as a
297 Commission we are looking at 1631 Coban Road and we have to believe that the Staff and City
298 will continue with the remediation of 1870 Nabal.

299

300 Vice Chairperson McCoy stated that her question was how far along the discussion is and what
301 are the guarantees being set up in order to protect the neighborhood.
302

303 Planning Commission Attorney Ballin explained that as long the issue has some bearing on the
304 “findings” then it is relevant, if not it isn’t.
305

306 City Planner Phung explained that according to the soils and hydrology report, with the two dry
307 wells and the landscaping that will be installed, it would improve the drainage significantly.
308 Mr. Phung stated that a time-line for the remediation has been established. The “findings” for
309 this project are here and legally sufficient. The first time-line for the remediation of 1870 Nabal
310 is for them to provide a Hydrology report to Staff by August 31st. Two or three weeks after that
311 there must be a plan submitted to the City for Plan Check to review. The City has one month to
312 check and make sure those plans are adequately designed. Then we give the applicant about
313 three weeks to implement the plans.
314

315 Chairman Black asked if the Commission could condition the 1631 Coban Road project till the
316 remediation of 1870 Nabal is completed.
317

318 Planning Commission Attorney Ballin stated that we are not allowed to tie up someone’s
319 project in this manner.
320

321 Vice Chairperson McCoy stated that she does not want to go on considering this project if it
322 can’t be made to wait for the other lot’s remediation.
323

324 Planning Commission Attorney Ballin stated that if the project was denied, it would need a
325 “finding” reason for denying it. He stated that her concern could possibly fit into “finding”
326 number two, but if your finding ignores the reports that approve the action, you cannot do the
327 denial. The reports were not in the package, but are at City Hall for anyone to see. There are
328 no new reports from the last meeting.
329

330 City Planner Phung noted that the reports were reviewed by the City Engineer and found
331 sufficient.
332

333 Commissioner Fernandez asked what the proper system is, to run the water off onto Coban
334 Road or have pits under ground to catch the water. Could keeping the water in pits on the
335 property cause a landslide?
336

337 City Planner Phung stated that it is standard to use dry wells to collect the water and if excess
338 water flows, rip-rap is used to slow down and control the flow of water.
339

340 Commissioner Fernandez asked if there is any way the filtration pits can soak into the ground
341 or the bedrock.
342

343 Mr. Phung explained that a dry well takes less maintenance than a filtration pit and is flush with
344 the ground, and the water slowly filters into the ground. This will improve the drainage.
345

346 Chairman Black noted that it keeps the water off of Coban.
347

348 Commissioner Fernandez commented that he was not concerned that there were things missing
349 from the plans. The Commission is not trained to be plan checkers or Engineers. We have to

350 depend on our professionals. He stated that he wasn't concerned about the Fire Hydrant as the
351 Fire Chief had cleared the use of a Knox-Box.

352
353 Commissioner DiMario suggested that instead of moving the hydrant they put in a new one at
354 the gate.

355
356 Chairman Black noted that we have information from our experts on having the Knox-Box and
357 the hydrant from the Fire Chief. They do not consider it an issue.

358
359 The Commission discussed and agreed that they would like information given to the
360 Commission by the public as part of the packet to read ahead of time rather than just given out
361 at the meeting.

362
363 Vice Chairperson McCoy stated that she depends on setback lines to give her some idea of
364 proportions on plans, noting that there is only one on these plans. She stated that not seeing the
365 story poles when they were up makes it hard for her to come to a conclusion on the information
366 that she would ordinarily have.

367
368 Commissioner DiMario stated that he did not worry about setbacks because he knows the City
369 measures them and would catch anything that was in error.

370
371 Vice Chairperson McCoy stated that with the concern on the drainage it is very important
372 where the septic tank and cesspool are going to be. She noted that the General Plan mentions
373 the importance of the cesspools.

374
375 City Planner Phung noted that the cesspool is located in the northwest corner of the property.
376 He stated that this is satisfactory with the Engineer. He noted that the County does control the
377 septic tanks and cesspools. The City provides the permit and the County inspects it.

378
379 **Commissioner Fernandez moved to approve PRJ 2007-43 to allow Standard Modification**
380 **to facilitate the construction of a single-family home at 1631 Coban Road with inclusion of**
381 **the conditions of approval. Seconded by Commissioner DiMario.**

382
383 Vice Chairperson McCoy requested a friendly amendment to the motion that no construction
384 shall be started before the final resolution of the flooding problems in this neighborhood.

385
386 Planning Commission Attorney Ballin stated that this would not be legal. That would be
387 conditioning someone's rights.

388
389 **It was decided that the amendment would be that no construction shall be started before**
390 **the end of the 2009/10 rainy season.**

391
392 **Commissioner Fernandez stated that he would not accept this as a friendly amendment as**
393 **this would just prolong the building time for everyone.**

394
395 **Chairman Black called for a vote on the amendment, rejected as follows:**

396
397 **AYES: McCoy and Steffle**
398 **NOES: Black, DiMario, and Fernandez**

399

400 Commissioner Steffle suggested that the Patel's go to their neighbors and see the damage that
401 has already been done so they are aware of it and can be good neighbors.

402
403 The Commission approved the original motion as follows:

404
405 **AYES: Black, DiMario, and Fernandez**
406 **NOES: McCoy and Steffle**

407
408
409 **ITEMS FROM THE PLANNING COMMISSION**

410
411 **8. DISCUSSION TO CONSIDER REQUIRING PLANNING COMMISSION APPROVAL**
412 **OF HOMES OVER 4,000 SQUARE FEET**

413
414 RECOMMENDATION: No action as the Planning Commission already has the ability to
415 request a Call for Review.

416
417 City Planner Phung stated that at present the Code does not require Planning Commission
418 review of project of 4,000 square feet or more. But there is a procedure for the Planning
419 Commission to request a Call for Review regardless of the size of the project.

420
421 Chairman Black opened the Public Hearing.

422
423 **Greg Steffle**, Greenview, noted that he was in favor of the Commission seeing the projects
424 over 4,000 square feet for a threshold determination. It might not require a complete analysis,
425 but otherwise the Commission does not know what is being approved over the counter. You
426 need to know what is pending.

427
428 **Stephen Blagden**, Citron Road, stated that there would not be that many projects to approve in
429 the big picture. Projects with no problems will pass quickly. It shouldn't be that much extra
430 work for staff. They have already done the basic work. He stated that the Call for Review does
431 not note a problem; it is just oversight of the codes and General Plan and addressing of
432 neighborhood issues. It is also a hands on look at how the Codes are doing and if there are any
433 changes needed.

434
435 City Planner Phung stated that the Commission is supplied with a project activity list each
436 month so the Commission can see what Staff is approving. Every project over 1500 square feet
437 for a primary house requires a public noticing process within 500 feet. This is when neighbors
438 can express their concerns.

439
440 Chairman Black noted that a remodel would fall under the same rules. He closed the Public
441 Hearing.

442
443 Vice Chairperson McCoy noted that the City Manager has complained about the cost of the
444 Call for Review. This would be a way to avoid that. We also don't know when you turn
445 something down. This doesn't have to be 4,000 feet, we can discuss that.

446
447 City Planner Phung stated that the Commission is not supposed to have specific knowledge
448 ahead of time, but all Commissioners are to receive knowledge on a project at the same time.
449 A higher threshold for size would be better.

450
451 Planning Commission Attorney Ballin stated that he did not think there is any prohibition on
452 the Commission having knowledge of a project before a call for review. You don't have to
453 provide them a whole packet, perhaps a list.

454
455 Vice Chairperson McCoy stated that she was trying to find a way to check on things that was
456 not as expensive as a Call for Review. Just looking at lists, you do not always realize a
457 problem until people start complaining.

458
459 Chairman Black stated his concern of triggering too many Calls for Review. He stated that
460 possibly the Commissioner who gets a complaint from neighbors of a project might first
461 contact Staff and asks about it before they actually ask for a Call for Review.

462
463 City Planner Phung suggested that when staff sends out a notice for a new house would be a
464 good time for the Commission to contact staff to find out what is going on. Staff provides a
465 project status spreadsheet that identifies upcoming projects that the Commission can review.

466
467 Vice Chairperson McCoy stated that she would like to put off putting this on the next Agenda
468 so she can work with the ideas brought up at this meeting and then we can put it on a later
469 Agenda.

470
471 Commissioner Stefflre stated that she agreed as she would not be at the next Planning
472 Commission Meeting.

473
474 **ITEMS FROM STAFF**

475
476 **9. MONTHLY COMMUNITY DEVELOPMENT DEPARTMENT REPORT**

477
478 **RECOMMENDATION: Receive and File Report**

479
480 **Chairman Black moved to receive and file the report.**

481
482 **ADJOURNMENT**

483
484 Chairman Black reminded everyone to consider volunteering for the City.

485
486 **10. ADJOURNMENT OF THE MEETING BY THE CHAIRMAN**

487
488 Chairman Black adjourned the August 25, 2009 Planning Commission Meeting at 9:15 p.m.

489
490 **ATTEST:**

491
492 _____
493 **LARRY BLACK, CHAIRMAN**

494
495 _____
496
497
498 **KENNETH PHUNG, CITY PLANNER**