

**MINUTES OF PLANNING COMMISSION MEETING  
OF THE CITY OF LOS ALAMITOS**

**January 13, 2014**

**1. CALL TO ORDER**

The Planning Commission met in Regular Session at 7:00 P.M., Monday, January 13, 2014, in the Council Chambers, 3191 Katella Avenue; Chairperson Grose presiding.

**2. PLEDGE OF ALLEGIANCE**

*The Pledge of Allegiance was led by Chairperson Grose.*

**3. ROLL CALL**

**Present: Commissioners:** Cuiilty, Daniel, DeBolt, Grose, Loe, Riley and Sofelkanik.

**Staff:** Community Development Director Steven Mendoza  
Planning Aide Tom Oliver,  
Assistant City Attorney Lisa Kranitz  
Dawn Sallade, Part-Time Clerical Aide

**4. NEW COMMISSIONER INTRODUCTION**

*Introduction of Mary Anne Cuiilty.*

Community Development Director Mendoza introduced and welcomed the new Planning Commissioner Mary Anne Cuiilty and gave a brief description of her background.

**5. ORAL COMMUNICATIONS**

*Chairperson Grose opened the meeting for Oral Communications.*

*There being no persons wishing to speak, Chairperson Grose closed Oral Communications.*

**6. PLANNING COMMISSION REORGANIZATION**

*This report provides relevant information for the Planning Commission's annual reorganization, by the election of Chair and Vice-Chair.*

Chair Grose sincerely thanked the Planning Commission for their support and help throughout the year.

Chair Grose opened the nominations for the Office of Chair.

Chair Grose nominated Commissioner Loe.

There being no further nominations, Chair Grose closed the nominations.

Unanimously Carried: The Planning Commission appointed Commissioner Loe to the Office of Chair.

Chair Loe opened the nominations for the Office of Vice-Chair.

Commissioner Daniel nominated Commissioner Sofelkanik.

There being no further nominations, Chair Loe closed the nominations.

Unanimously Carried: The Planning Commission appointed Commissioner Sofelkanik to the Office of Vice-Chair.

Chair Loe commented that he hopes he can do half as good a job as Commissioner Grose did because she did an excellent job as Chair.

**7. APPROVAL OF MINUTES**

Approve the Minutes of the Regular meeting of December 9, 2013.

*Motion/Second: Grose/Loe*

*Carried 5/0/2. (Cuiilty and Sofelkanik abstained.)*

**8. CONSENT CALENDAR**

None.

***Chairperson Loe readjusted the Agenda to hear Staff Report #10A first due to a large number of residents in the audience.***

**10. STAFF REPORTS**

**A. Removal of Local Landmark Designation for 10872 Chestnut Street.**

The City Attorney is recommending the removal of May 2012 Local Landmark designation by the Planning Commission.

Recommendation to adopt Resolution No. 14-03, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, AUTHORIZING THE REMOVAL OF PROPERTY AT 10872 CHESTNUT STREET, LOS ALAMITOS, CALIFORNIA 90720 (APN: 242-203-02), FROM THE INVENTORY OF ARCHITECTURAL, CULTURAL, AND HISTORIC RESOURCES AND FURTHER REMOVE ANY LOCAL LANDMARK DESIGNATION".

Community Development Director Steven Mendoza summarized the Staff Report, referring to the information contained therein, and indicated he's prepared to answer questions from the Planning Commission. He commented that in the next few months Staff and the City Council are going to look at the process of which this was done and take a look at amending the Code when it comes to Local Landmarks or eliminating it altogether. This may be done at a future meeting of the Council. He indicated that the Commission is here tonight to try and fix a perceived wrong. Staff realizes that some of the safety measures

that they could have implemented to help avoid signature confusion at the time such as a title report or notarized signatures. The resolution as presented tonight removes the designation from this property only; there may be a resolution in the future that removes subsequent properties or changes the process altogether.

*Commissioner Grose declared a conflict of interest as she owns property within 300 feet of the property and excused herself from the Chamber.*

Commissioner DeBolt asked if the City Council was actually the correct body to deal with this issue. He referred to a letter from Mr. Levine that was passed out to the Commission before the meeting began, and spoke about the allegations of criminality and fraud and negligence on the part of the City and the \$500,000 claim which has been filed with the City.

Assistant City Attorney Lisa Kranitz explained that the Planning Commission is the body that put the designation on to begin with so the Planning Commission would be the one to take the designation off. Also, the City Council will be looking at this subject matter as a whole; Staff did have contact with the attorney last week who indicated that he doesn't expect to pursue this any further once the designation has been removed.

Vice-Chairperson Sofelkanik commented that if the Commission proceeds tonight, then he sees it, in a sense, as an admission of all allegations.

Assistant City Attorney Kranitz explained that there are three problems with this: it's just not the allegation of the forged signature, there's a second property owner that does not show up in the Orange County database. When she ran the information through a different program, it shows that there was a trust and two property owners. The third problem is that this should have had a public hearing to begin with and somehow there was none. This is not an admission that the City was negligent in any way; the City received the applications and it matched the single owner in the database. Staff will ask for a quick title report through our services and we'll have notarized signatures for the application if this Landmark designation is to continue so that there is never an allegation again that the person who signed isn't the person who was supposed to sign. There was really no negligence on the part of the City. The City's information is only as good as the Orange County Assessor's Office database that they pull from and they only inputted one property owner's name.

Vice-Chairperson Sofelkanik indicated that that was fine and we're looking into the future and addressing future issues regarding this designation but his concern is that Staff received a letter from Los Alamitos Museum Association that basically disputes Mr. Levine's representation of forgery so it looks to him like there's evidence that needs to be looked at and, maybe once that decision is made on what action occurred, the City could get a new letter from Mr. Levine that if, in fact, the signature was not a forgery, then perhaps he could retract some of the language making that allegation.

Assistant City Attorney Kranitz explained that the claim itself will be processed through the normal claims procedure or, once this is done, the City will ask the attorney to formally redraw the claim once the City can show him that the designation has been removed.

Vice-Chairperson Sofelkanik asked about the allegation of forgery and Assistant City Attorney Kranitz explained that that is not for the Planning Commission to determine whether a forgery had occurred or not. Setting aside the forgery issue, regardless of whether there was a forgery, the City Attorney's office would still recommend that the historical designation be rescinded. There was not the designation of a second property that has an interest in the property and the Code does say that all property owners are supposed to sign. Also, the fact that the proper procedure was not followed because there was no noticed public hearing with mailed notices to the addressees of the property, the owners of the property, or people within a 300 foot radius of the subject property. These are all very legitimate reasons to rescind the designation.

Chairperson Loe explained that he doesn't view this as an issue of forgery or not; he said he didn't look at it that way but looked at it as Staff was bringing this back up and do we want to keep it or not keep it on the Landmark designation list? The Commission doesn't really even have to have any reason at all or any findings to change this designation.

Assistant City Attorney Kranitz pointed out that there is no procedure set forth but she said she feels it's important to know that even the Museum Association has agreed that the historical designation should be rescinded not just for this one property but for all of the properties listed.

Commissioner DeBolt said he read the historical portion of the Code and he said he doesn't see where there is any way to remove any of the remaining three properties from the list unless the property is destroyed or unless they're moved.

Assistant City Attorney Kranitz said that the other three properties are not the subject of discussion tonight.

Commissioner DeBolt then commented that the real subject then for him is the allegations of a forgery and that a criminal act has been performed. If this was just a matter of ownership, then why didn't the attorney just write "just a matter of ownership"? There are allegations of forgery and fraud and if it was perpetrated, is the City a victim of the fraud as well? Was the City's Staff negligent in doing this or was the Commission at the time negligent as well? Additionally, a \$500,000 claim was filed against the City as well and he thinks this whole thing should be taken and handed to the City Council at their next meeting and let them handle it. He then asked Assistant City Attorney Kranitz if the City knows who owns the subject property. Is there a title report? The Commission doesn't know any of this information.

Assistant City Attorney Kranitz responded that in looking at the commercial title information, the sister had quit claimed into a trust and the brother had an interest in the property, also.

Commissioner DeBolt said he looked up the information on Data Quick (as he's in "the business") and he came up with information that showed "Reinhart Meyer" as the sole owner of the property as of 2007. He wonders if other titles have been processed since 2007. He said before the Planning Commission does anything, there needs to be a lot more information obtained. Also, the City Council is the body to handle this; the Planning Commission is not the body to handle litigation, etc.

Commissioner Daniel asked if the City Council is aware of this whole issue.

Community Development Director Mendoza said the City Council is well aware of what Staff is doing tonight. There is an attorney from the complainant and the attorney for the City that both agree on the action helps reduce the City's risk. Tonight is a Risk Management decision. To reduce the risk and get the claim removed and then the City Council will review the issue holistically at a future date.

Commissioner Daniel indicated he's in "the business" as well and pointed out that title searches can be correct or not. He commented, just as Commissioner DeBolt said, one of the issues the City had in the past was not having a title report and believing something that was told to us. He asked if we have a title report that shows that actually the people that own this property are the ones that sent this letter to the City or are we going to make another mistake again by not having the right owner when we do this. He pointed out that the first time this went before the Commission, they didn't have the correct owner, a title report, and a grant deed. He asked if the City had these documents tonight.

Community Development Director Mendoza said that City Staff agrees that a deed filed with a claim could be a twelve year old deed and twenty subsequent deeds could have been recorded after that. Staff also knows they didn't follow the proper procedures and Staff could give somebody cause by the fact that we never had the public hearing to begin with and whether it's valid at all. Staff also understands that the data that's supplied by the County is only as good as the person entering the data and the field in which it comes up. Commissioner DeBolt's information that he has brought up when he ran a report is the same thing that Staff receives; Staff probably believed it and probably ran with it at that time as being the truth. Staff did not run title reports; Staff still doesn't have title reports. From a Risk Management point of view we want to make sure that we remove this from the historic designation, get the claim reduced and follow the City Attorney's recommendation regarding the claim.

Commissioner DeBolt asked if Staff was directed by the City Council to bring this to the Planning Commission first.

Community Development Director Mendoza answered that he was directed by the City Attorney.

Vice-Chairperson Sofelkanik pointed out that it might be wise to continue this; get all the necessary documentation that needs to be reviewed, have it available for the Commission's review and also, maybe in that interim, have the attorney and the Museum Association possibly work out their issues regarding the forgery and the fraud allegations. Perhaps at that time, they could submit a letter without those allegations and then the Commission could proceed or put this at the feet of City Council to deal with.

Community Development Director Mendoza said he thinks that the City Council will deal with this in the future but removing the designation tonight minimizes the risk. Regardless of the signature being right or wrong, Staff didn't follow the normal process for which these designations were established.

Commissioner Daniel indicated he feels that perhaps instead of continuing this item, maybe we should let this whole thing go through and listen to what people have to say and then have another discussion. He said the whole goal it seems to him is that the owner wants this designation off the property so they can do something with it.

Chairperson Loe said once again that he doesn't see this as an issue with fraud; it's not the Commission's job to determine whether there was fraud committed or not and he really doesn't care if there was or wasn't. He said he doesn't feel it's for him to determine. He said he sees this coming as a Staff Report to the Commission now to rescind this property from the list and he doesn't see how anybody is disagreeing with the Commission tonight. He said he understands the Commissioner's concerns; he said they could always abstain from taking action on it if they choose but he sees it more as just an issue that is coming before the Commission that came before the past Commission before and the Commission is going to hear it out. If there is nobody from the public that has any issues with it tonight, then he doesn't see why the Commission can't overturn it without admitting anything.

Assistant City Attorney Kranitz explained that Staff wrote a revised resolution before the meeting tonight and included the wording that the City had been contacted by an attorney regarding the property owner who had provided documentation showing there were two owners of the property but only one signature and the owners and signature of the owner that was obtained did not appear to be the person's actual signature. Staff and Commission can certainly add a finding, "Whereas..." and whatever you want in there that says, "The Planning Commission in no way is making any determination as to whether this was a forgery in rescinding the Local Landmark designation". Also, "Whereas, the Los Alamitos Museum Association has also recommended taking this off since they are the ones who brought the application forward with the property owner's signature to begin with." She indicated Staff can include all that in the

resolution; that's not a problem so the Planning Commission is making it very clear that they're not making any determination regarding the forgery.

Commissioner Daniel added that we could even go one further and if the true owner wants to put it back on the list and give the City the appropriate document and we have a public hearing, we'll even look at putting it back on the list if the proper owners want them to.

Vice-Chairperson Sofelkanik pointed out that the allegations of the fraud and forgery aren't made towards the City; they're made towards the individuals that solicited the signature which would be the Museum Association. Also, with regard to the resolution, there's language in it that states there is a document which states there are two owners. Do we have that document?

Community Development Director Mendoza explained that in advance of today, Assistant City Attorney Kranitz has prepared a new resolution that the Commission doesn't have as yet that gets a little more deep than the resolution included in the packets and provides a little more detail regarding the case. The Commission does not have the revised resolution but the information from the claim is all available to them and has been passed out to them.

Assistant City Attorney Kranitz said that in the information from the claim, they included the grant deed dated 1984 that showed the sister included as well.

Commissioner DeBolt pointed out that the Commission made a decision based upon a recommendation and somebody comes in with the deed from 1984, a threat of a forgery, and says, "I have a claim for \$500,000 and either you take it off the list or I'm going to sue you.", and so with no proof, no verification on any one of those...the forgery, the fraud, the negligence and any verification up until tonight, of who really owns that property, we're expected to take this off this list and then cross our fingers and hope that all of these assumptions are correct when what we probably ought to do and what we should do, is just hand it to the body that gets to hire the attorneys and order a title report and just send it to the Council who hasn't seen it. He asked if the Council has had a meeting yet?

Assistant City Attorney Kranitz mentioned once again that she did go on line and she got the transfer history on the property.

Commissioner Daniel explained that she could go on that transfer history and then pull the grant deed and then it can be added to the resolution that it won't be effective until it's in your possession.

Commissioner Daniel said he believes that the concept is the Commission put the designation on the property; they didn't maybe do everything they were supposed to do as far as a public hearing, etc. What Staff is trying to do is put it back the way it was before this happened and if somebody else in the future wants to come before the Commission and put it on the list, then this Commission will do it the right way but all we're trying to do is correct some

errors that were made. The goal is so the property could be remodeled, or sell it, etc.

Commissioner DeBolt said he doesn't disagree with Commissioner Daniel's comments but he thinks the issue is that they just don't have all the information.

*Chairperson Loe opened the item for public comment.*

Marilyn Poe, citizen and President of the Los Alamitos Museum Association, said the Commission has a letter in front of them that the Association submitted to recommend that this property be removed from the Historic Landmark designation. They are also requesting that the other three properties on the list be removed as well. She explained that the Board never had the intent or interest in affecting the property value of any property; the desire was to enhance the properties by acknowledging in a public way their significance to our community's history. They were under the understanding that this was a ceremonial designation only and absolutely had no legal ramifications. They do know that Mr. Meyer did sign the statement standing in front of the property after it was explained to him what the Association was trying to do. It was on a clipboard and his stature was a little bent over and he was standing signing it right there after discussing with him what this was all about. He actually had expressed that he was real happy to have part of their property, because there's two properties on the lot, the front house is the one that the Association wanted to have the designation. They are very sorry for any inconvenience to the family, to the City, to the Staff; they had every intention to do something good; not to have anything that would be detrimental to anyone. The Association really would recommend and hope that the Commission would remove this designation this evening so that the family can move on with their plans.

Jody Schloss states that the only concern that she has is since this happened with one home, could it possibly happen with some of the other ones? She said she understands the City is going to address this in the future and all properties on the list will be checked. The Commission is saying that since there was a forgery, the Commission wasn't involved in any of that and are not to blame for that. She states she understands that but she's just curious about why the City just doesn't take care of all the properties all at once unless this person who is asking for it to be done right away, he's got a buyer or something similar.

*There being no further speakers, Chairperson Loe closed the item for public comment and brought it back to the Commission for their comments.*

Commissioner Riley stated he agrees with Ms. Schloss and wonders why, if we're going to do this to one property, shouldn't we do all of the properties at once to show we're not being swayed?

Assistant City Attorney Kranitz said the reason to do this one property separately is because the City does have a claim in on this one. She said that what's happened is that Mr. Meyer has died and she's not exactly sure how the sister

became aware of this but thinks she became aware of it with the probate/estate. The reason for doing this one property now is because this one has the claim. If the owner does want to do something with this property, we want to minimize any potential claim that if something comes up or they can't market it to how they feel they should market it in the next month until this designation is cleared up, then the potential liability for the City increases. This is why the City Attorney gave the recommendation for doing this as quickly as possible.

Commissioner Riley asked if the true motivation for doing this is not necessarily that the City is being threatened by a lawsuit but rather that it's come to light that the City didn't notice this properly, then it seems suspect that we're focusing so much on one property rather than the whole group that was affected by the failure in procedure to begin with.

Chairperson Loe indicated he agrees with Commissioner Riley and thinks the Commission could make that recommendation to Staff that they come back with all of the properties to deal with.

Assistant City Attorney Kranitz said she just pulled up the 2007 Quit Claim Deed where for no consideration, Grantor Ella May Roberts releases, remises and forever quit claims to Ella May Roberts, Trustee of Ella May Roberts Revocable Trust, dated August 24, 2007, that 50% ownership in trust in that real property in the city of Los Alamitos described in Exhibit A attached hereto". So, as the 1984 Grant Deed shows, each sibling was given half the estate.

Chairperson Loe pointed out that he feels that there's enough to give the Commission reasonable doubt that they should proceed.

Commissioner Riley said the issue of ownership is immaterial; if the City didn't follow process, then all of these property designations needs to be changed because the City didn't do it right to begin with. He said he just wants to ensure that the City is treating all of the properties in question the same way in taking them off because the City treated them all the same way in putting them on.

Assistant City Attorney Kranitz confirmed that all of the properties were indeed placed on the list at the same time. It was in 1984, a grant deed gave this to the brother and sister as tenants in common. The City knows that in 2007 the sister still owned 50% ownership in trust because she quit claimed her share into a revocable trust. That answers the question that there were two property owners.

Commissioner DeBolt said he hates to beleaguer the point but, with all due respect to the attorney, he worked for a title company for 2-1/2 years doing exactly this. That deed in 1984, as soon as he looked at it, he felt that somebody that didn't know what they were doing when they prepared the deed. He said you don't grant to a son and a daughter; you grant to an unmarried man, a married man, a single woman, etc., and you lay out the interest. There are no interests in that deed. You don't know what interest she has or he has. She declares that she has a 50% interest and she quit claims that but you don't know

for certain. She could have a 10% interest or whatever. The ownership is determined by a title company that will give you the complete chain of title all the way up to date and with that, you can act with certainty and everything we're doing is as speculative as when it was first done.

Commissioner Riley said that that is what the City is trying to fix. As he said before, ownership is immaterial. If the City didn't do this correctly, then the City needs to take them off the list and if people are interested in putting them back on and doing it the right way, then we can go back and do it the right way.

Commissioner DeBolt commented that with this particular property and doing this by itself, to him, it's the surrounding circumstances of the litigation that makes this different and why the Commission shouldn't be doing it on its own; do them all collectively at one time. If there's a potential lawsuit, let the Council deal with it. If there's a time issue, the Council is meeting in a few days.

Vice-Chairperson Sofelkanik said he agrees with Commissioner Riley in that ownership is immaterial; it's a procedural matter. If there's urgency with regard to time, as Commissioner DeBolt said, the Council can take this into consideration under threat of litigation and deal with it at their next meeting. He said he would like to see all the properties packaged and brought back before the Commission for removal on the basis of procedural error regardless of ownership.

*Chairperson Loe said he agrees with all the speakers but made the motion to approve Resolution No. 13-03, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, AUTHORIZING THE REMOVAL OF PROPERTY AT 10872 CHESTNUT STREET, LOS ALAMITOS, CALIFORNIA 90720 (APN: 242-203-02), FROM THE INVENTORY OF ARCHITECTURAL, CULTURAL, AND HISTORIC RESOURCES AND FURTHER REMOVE ANY LOCAL LANDMARK DESIGNATION".*

Assistant City Attorney Kranitz asked for time to add in the "Whereas..." clauses to the resolution as she spoke about earlier in the meeting.

*Chairperson Loe withdrew his motion.*

Assistant City Attorney Kranitz indicated the change she made to the resolution. It is:

- *WHEREAS, Section 17.22.040B of the Los Alamitos Municipal Code requires a public hearing; and*

Commissioner DeBolt stated that if he were going to vote on that resolution as written, he would want a finding added and worded, "It was revealed to the Planning Commission at the meeting that the prior approvals were not duly

noticed at the time and there was a determination or recommendation by the City Attorney that the prior approvals were not properly noticed”.

In response to Commissioner DeBolt's comment, Community Development Director Mendoza stated that the item was placed on the agenda in 2012 as, “Staff Report”, not “Public Hearing”.

Commissioner Daniel asked the question that if the Planning Commission put these properties on the Landmark Designation list without a public hearing, can the Commission remove them without a public hearing.

Assistant City Attorney Kranitz explained that this first came up based on the attorney's letter and the claim that was filed with the City. The City Attorney looked at the allegations that were made, determined that there was a second person who had an interest in the property and based on that, regardless of the fraud allegation, because there was a second person who appears to have some ownership interest, there should have been two signatures. The Staff Report was prepared. As Staff was going through the packet last week, she brought up the point about the public hearing and that's when they went back and they looked at the old minutes and they found out, after they had already made the recommendation on the Staff Report and based on the fact that there was only one owner, not two, that signed the application, that now there was even a bigger problem. That's why the other properties were not noticed because the agenda had been set, everything was out and it came up after the fact. It was one more reason for the City Attorney's office to recommend to get the property off as soon as possible. They talked to the attorney last week for a brief conversation. The City Attorney said, “So, will this end it?” and he said, “It's certainly going to be my recommendation to the client; I can't see pursuing anything as long as we get the designation off of there”.

*Chairperson Loe made the motion to approve the newly worded Resolution No. 13-03, entitled, “A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, AUTHORIZING THE REMOVAL OF PROPERTY AT 10872 CHESTNUT STREET, LOS ALAMITOS, CALIFORNIA 90720 (APN: 242-203-02), FROM THE INVENTORY OF ARCHITECTURAL, CULTURAL, AND HISTORIC RESOURCES AND FURTHER REMOVE ANY LOCAL LANDMARK DESIGNATION”.*

Vice-Chairperson Sofelkanik said he would like it not to appear on the resolution that the Commission is making any findings. If it could say, “The City Attorney is making the finding that it was procedurally improper.” He said he would like that language to be added.

Assistant City Attorney Kranitz said she could add:

- *WHEREAS, the City Attorney has determined that Resolution No. 2012-03 was adopted without the required public hearing and recommends that the designation be removed from 10872 Chestnut Street;*

Commissioner DeBolt said he felt that since the City is handling this, the whole thing should be contingent upon a full and complete release from the attorney of all fees, costs and charges and the City has no expenses as a result of this being completed in such a quick and decisive manner so that they were able to market the property and that there is to be a letter issued that the attorney redraws all the allegations and the complaints.

Assistant City Attorney Kranitz stated that if this is done, now there's a real problem because of the word "contingent".

Commissioner DeBolt then said the Commission should negotiate on behalf of the City at least to get the fees; the City isn't going to get any expense in this because the City has no bargaining chip once the designation is removed for the Council to negotiate any fees or anything. They will have gotten what they wanted.

Chairperson Loe observed that they can sue the City no matter what. They can sue the City whether the designation is left on or removed. He said the Commission has to make an educated decision on what's best right now.

Assistant City Attorney Kranitz said the City is going on good faith that they really just want the designation removed. The problem is if the Commission is making the finding that they're doing this solely because of the public hearing issue and the Planning Commission is recommending that the designation is removed on all the other properties, then there's no reason for the attorney to give any release.

*The motion was seconded by Commissioner Daniel.*

*Motion/Second: Loe/Daniel*

*Carried: 5/1/1.*

*Commissioner DeBolt requested that the reason for his "No" vote be placed in the record. He explained he voted no because specifically he feels that the Commission was rushed and he feels that the record will bear that out into making the decision for whatever reason he doesn't know that the reluctance to go to the City Council given the allegations of a forgery which is a criminal act, the allegations of fraud and negligence by the City and the Planning Commission, and the filing of the \$500,000 claim against the City. Taken altogether, the publication notwithstanding, or the lack of it notwithstanding, that materialized at this meeting, that this should have been referred to the City Council for their disposition.*

**Commissioner Grose returned to the Chamber at 8:18 PM.**

## 9. PUBLIC HEARING

### A. Consideration of a Request for a Conditional Use Permit (CUP) 13-11 to Allow Crossfit Fitness Classes in the Planned Light Industrial (P-M) Zone.

Consideration of a Conditional Use Permit to allow an indoor recreation establishment (fitness classes) in the Planned Light Industrial (P-M) Zone (Applicant: Nicole Liska, Crossfit Recoil.)

Staff recommends the adoption of Resolution No. 14-01, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT (CUP) 13-11 TO ALLOW AN INDOOR RECREATION ESTABLISHMENT (CROSSFIT RECOIL) AT 10595 BLOOMFIELD STREET IN THE PLANNED LIGHT INDUSTRIAL (P-M) ZONING DISTRICT, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (APPLICANT: NICOLE LISKA – CROSSFIT RECOIL)."

Planning Aide Tom Oliver summarized the Staff Report, referring to the information contained therein, presented a Power Point presentation and indicated he's prepared to answer questions from the Planning Commission.

*Chairperson Loe opened the item for public comment.*

Nicole Liska, Applicant, indicated she understands and approves the conditions of approval and thanked the Planning Commission for their consideration.

*There being no further speakers, Chairperson Loe closed the item for public comment and brought it back to the Commission for their comments.*

*Commissioner Grose made the motion to adopt Resolution No. 14-01, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT (CUP) 13-11 TO ALLOW AN INDOOR RECREATION ESTABLISHMENT (CROSSFIT RECOIL) AT 10595 BLOOMFIELD STREET IN THE PLANNED LIGHT INDUSTRIAL (P-M) ZONING DISTRICT, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (APPLICANT: NICOLE LISKA – CROSSFIT RECOIL)."*

*The motion was seconded by Vice-Chairperson Sofelkanik.*

*Motion/Second: Loe/Sofelkanik*

Commissioner DeBolt said he thought it might serve the City and the business owner well if the City might consider expanding the permitted uses in the PM zone to include any type of use that have classes but of a limited size for the size of the location and have a start and stop time where it's not open 24-hours a day with continual traffic.

Planning Director Mendoza recommended discussing this under Item #12, Commissioner Reports, and the Commission could direct Staff to bring back a Notice of Intention to talk about that topic at another meeting.

*Chairperson Loe called for the vote.*

*Carried: 7/0/0.*

**B. Consideration of the Draft Comprehensive Update of the City's Housing Element for the Reporting Period of 2014-2021.**

Consideration of General Plan Amendment No. 14-01 updating the City Housing Element and associated Mitigated Negative Declaration for the Reporting Period of 2014-2021.

Recommendation to adopt Resolution No. 14-02, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THE CITY COUNCIL ADOPT GENERAL PLAN AMENDMENT 14-01 INCORPORATING AN UPDATED HOUSING ELEMENT INTO THE GENERAL PLAN AND A MITIGATED NEGATIVE DECLARATION FOR THE SAME".

Community Development Director Mendoza summarized the Staff Report, referring to the information contained therein and answered questions from the Planning Commission.

*Chairperson Loe opened the item for public comment.*

Jody Schloss, Resident, indicated she's against the City's recommendation because there is no land to put affordable housing. She pointed out that Cypress doesn't do this and they have open land but they don't care. The City has affordable housing already and have done their share.

*There being no further speakers, Chairperson Loe closed the item for public comment and brought it back to the Commission for their comments.*

In response to Commissioner DeBolt's question regarding penalties, Assistant City Attorney Kranitz explained that penalties include not being eligible for grants and lawsuits from people who can stop development altogether in the City because they argue the City has no valid General Plan.

Responding to Commissioner Sofelkanik's question, Assistant City Attorney Kranitz said the City has complied with what was required already and if we can get this approved tonight and the City Council approves it at their next meeting, we'll get it to Sacramento by February 11<sup>th</sup>, and the City will get the 8-year cycle instead of the 4-year cycle.

Commissioner Sofelkanik asked if Staff could make an assumption regarding why Cypress wouldn't file something like this.

Planning Director Mendoza indicated that Cypress has actually filed their Draft Housing Element; he said he saw a letter on line where they did file it with the State and received preliminary approval on August 7, 2013.

Commissioner Sofelkanik asked if there would be any benefit to any city (a city that is built out like Los Alamitos), to fail to file this.

Planning Director Mendoza indicated he would question any city that wouldn't want to be in compliance with State law and risk receiving the stated penalties.

*The Commission and Staff went through the Draft Housing Element and a discussion ensued with no changes or corrections being made.*

*Commissioner Grose made the motion to adopt Resolution No. 14-02, entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THE CITY COUNCIL ADOPT GENERAL PLAN AMENDMENT 14-01 INCORPORATING AN UPDATED HOUSING ELEMENT INTO THE GENERAL PLAN AND A MITIGATED NEGATIVE DECLARATION FOR THE SAME".*

*The motion was seconded by Commissioner DeBolt.*

*Motion Carried 7/0/0.*

**C. Consideration of Zoning Ordinance Amendment 13-05 – Topics Include “Detached Guesthome”, “Guest House”, “Accessory Structures”, and “Driveways”.**

Consideration of a possible Zoning Ordinance Amendment to clarify Los Alamitos Municipal Code definitions and Codes pertaining to the terms “Detached Guesthome”, “Guest House”, “Accessory Structures”, and “Driveways”. (Citywide) (City initiated).

Staff recommends CONSIDERATION OF POSSIBLE CHANGES TO THE LOS ALAMITOS MUNICIPAL CODE TO CLARIFY DEFINITIONS AND CODES PERTAINING TO THE TERMS “DETACHED GUESTHOME”, “GUEST HOUSE”, “ACCESSORY STRUCTURES”, AND “DRIVEWAYS”.

Planning Aide Tom Oliver summarized the Staff Report, referring to the information contained therein and answered questions from the Planning Commission.

**GUEST HOUSE**

Commissioner Grose brought up “Guest house” first and asked about the number of bathrooms and bedrooms a guest house could have. Also, could they have a kitchen?

Planning Aide Oliver indicated that the guest house can have a bathroom, no kitchen and the number of bedrooms is unlimited as it stands now.

Commissioner Grose observed that the Code needs to be tightened up right down to the size of the unit, the number of bedrooms allowed (maybe one or two bedrooms and one bathroom) and perhaps even place time limits as to how long a guest can stay in the unit. She said she even questions whether we should even be putting guest houses on the residential lots.

Planning Director Mendoza explained that a second dwelling unit is required to be in the Code; the State has told us that we need to loosen our rules and put second dwelling units in our Code. A second dwelling unit has very defined square footage; can't exceed 640 sq. feet and must have a parking space. We know what a second dwelling unit is; we think it's defined pretty well and when somebody wants to build one, the City says they need to build a garage or an enclosed parking space/carport as well. A guest house is something a little less than that. An easy answer to the issue of a guest house is to remove the definition altogether and if you want to build something in your backyard that you want to live in, it's a second dwelling unit or it's nothing.

Commissioner Daniel commented that for a second unit to be built, the residence has to be zoned for a second unit.

Planning Director Mendoza explained that that was not true. In any R-1 zone, a second dwelling unit can be built; the impediment is whether or not you can get another garage or a carport for it. It can be rented out but you have to live in one of them. You can't be an absentee landlord and covenants are recorded. The State allows us to do that.

Commissioner Daniel felt that this definition should be eliminated from the Code.

The rest of the Commissioners concurred.

*Chairperson Loe opened the item for public comment.*

*Commissioner Daniel made the motion RECOMMENDING THAT STAFF BRING BACK A RESOLUTION AMENDING THE CODE TO REMOVE REFERENCE TO GUEST HOUSES OR GUEST HOMES FROM THE MUNICIPAL CODE.*

*The motion was seconded by Commissioner DeBolt.*

*Motion Carried 7/0/0.*

## **ACCESSORY STRUCTURES**

Planning Director Mendoza explained that the next topic for discussion is "Accessory Structures" and what else can be built in the backyard.

Commissioner Daniel asked what some of the allowed accessory uses are.

Planning Director Mendoza indicated that accessory structures are defined as, "A detached subordinate structure, the use of which is customarily incidental to that of the main structure or the main use of the land which is located on the same parcel with the same structure or use." He commented that the definition doesn't say "inhabitable"; it doesn't say "storage"; and it doesn't say "garage". It doesn't say what it could be so Staff finds that people have been using this looseness to their advantage.

Commissioner Daniel asked about the paragraph in front of the one that Planning Director Mendoza referred to where it talks about garages, greenhouses, storage sheds, studios and asked where that was from.

Planning Director Mendoza explained that that is from 17.38030, another section of our Code.

Commissioner Daniel asked if those items he referred to need to be permitted currently. Planning Director Mendoza explained that the resident does need to come to the City and obtain a building permit for an above ground swimming pool for example but somebody building a 6x8 storage shed does not need one due to it being under 120 square feet (such as a Tuff Shed).

Commissioner DeBolt commented that there is a third definition for an accessory structure and that's under Section 15.04 of the Building Code and it defines an accessory structure that is: "1) Either solely for the parking of no more than two cars or, 2) A small low cost shed for limited storage less than 150 square feet and \$1,500 in value." He said he stumbled into this third definition but it's under the heading of "Flood Plain Management" and wondered why that information would be under that heading.

Planning Director Mendoza answered that he had no idea it was there.

Commissioner DeBolt said his thought on this is that if you look at the two definitions that are in the report, both 38.030 and 76.020, he thinks that part of the confusion in 030 starts off by referring to "accessory uses and structures that are customarily related to the residence" and then 020 says, "accessory structure means..." and it says essentially the same as 030; it seems to him that 030 needs to be deleted completely. Then in 020, he feels Staff's problem is the term "subordinate". Why is that an issue? Subordinate can mean several things; it can be smaller size, of lesser anything and so he's just wondering if we ought to just modify that to just to say that an accessory structure means that it can even be attached; he said he doesn't know why it has to be detached.

Planning Director Mendoza pointed out then that would be a part of the main structure.

Commissioner DeBolt acknowledged this but accessory structure means a structure the use of which is customarily incidental to that of the main structure or the main use of the land. Just forget the “subordinate” aspect of it and it’s an added structure; it’s detached. It would obviously have to come to the Commission for approval and it could be anything; it could be a garage, a shed or something else.

Planning Director Mendoza pointed out that accessory structures don’t always come to the Commission.

Commissioner DeBolt acknowledged this and said as long as they’re within the setbacks, etc.

Vice-Chairperson Sofelkanik asked if “subordinate” and “incidental” are redundant.

Planning Director Mendoza answered that in all reality those words help him make the argument of why a 2,000 square foot garage was not acceptable behind a house that was only a thousand square feet; because it wasn’t subordinate and it wasn’t incidental to the house.

Commissioner DeBolt thought that it could be; if he lived in his house and his hobby is cars, the house is the primary function and use; the City doesn’t allow somebody to build a freestanding and storage garage in a residential area without a house. There’s got to be a residence there.

Planning Director Mendoza agreed and said that’s a question for the Commission – do we want super garages to be allowed?

Vice-Chairperson Solfelkanik said we could extend that to not just garages but to greenhouses, storage sheds and studios as they can all be larger than the main structure.

Commissioner Daniel observed that what Staff means by “subordinate” is almost related to that structure and that it has to have something to do with and have some benefit to that house.

Commissioner Riley said that anybody can make an argument that the structure has something to do with the main house. He said it’s hard to argue that a garage that’s twice as big as a house is subordinate or incidental to the main structure. He said that he felt that size is a factor in this and if others agree with this, then you say, “Accessory structures can’t be more than a certain percentage of the primary structure”. Limit it to 40% or 50% or whatever seems like a reasonable number and then is that the living square footage of the house or is that the total square footage including the garage?

Vice-Chairperson Solfelkanik commented that they might want to talk about that because there is nothing that says you can’t have multiple accessory structures.

Commissioner Riley suggested tying that in with the lot coverage.

Commissioner DeBolt said his feeling is if the lot's big enough, and the side yards are wide enough, why not allow a multi-car garage?

Commissioner Grose pointed out that you're also opening it up for noise with people working in their workshops, etc.

Commissioner DeBolt pointed out that the City has a noise ordinance in place. He said he feels people are entitled to use their property in just about any way they like.

Vice-Chairperson Solfelkanik asked what would be the problem in having some language that gives a percentage of the size of the main structure into how large you can build your accessory structure? Also, do we want to have multiple accessory buildings or do we limit it to one?

Commissioner Daniel said it has to be a percentage also of your lot size; you don't want to allow somebody to just make their whole backyard into a garage or something similar.

Commissioner Riley agreed with this.

Planning Director Mendoza pointed out the development standards for how much you can build on a lot are pretty solid and really the only place where somebody can exploit this is a wedge lot in a cul-de-sac or Carrier Row. There will be exceptions to what he just said but Carrier Row is where Staff is seeing it occur. Staff saw a four car garage built on a house that was a thousand square feet and the guy didn't want to live in the main house but remain in Huntington Beach; he just wanted to park his cars and work on them all the time. So that got Staff thinking that maybe we need to tighten our Codes and take a look at them. Then Staff received a complaint from a next door neighbor saying, "Well, they're always working on cars with loud power tools" but he pointed out that he could have a power tool in his one-car garage and make the same noise. If the Commission is fine with the super garage, then we just perfect the Code.

Commissioner DeBolt commented that when we talk about a super garage, we're carrying it out to the extreme. He said it seems to him that there are some neighborhoods that the characteristics of the neighborhoods are such that it's more amenable. The people in that area are more likely to have RV's because they can get them into their backyards; they're going to have more toys simply because they have the land to do it.

Commissioner Daniel wondered whether it maybe needs to come before the Commission for approval.

Commissioner DeBolt said he agrees and maybe that is what needs to happen because we're talking about narrow areas. He said he doesn't think this is a problem in any other part of the City.

Planning Director Mendoza agreed but there will probably be minor exceptions but the general part of the City is built out with housing tracts which are pretty tight.

Vice-Chairperson Solfelkanik pointed out that we might see that in properties that back up against the river; we've allowed them to build on that land.

Planning Director Mendoza said that that was true; they don't have the width but they certainly have the depth.

Commissioner DeBolt questioned once again, "What's the problem with that?".

Assistant City Attorney Kranitz said you can always create a two-tiered process that the Commission can set a percentage where it's simply allowed and anything over X-percent means a CUP goes back there.

Planning Director Mendoza said that anything over a detached 2-car garage or 3-car garage would fall under that.

Commissioner DeBolt agreed that anything over than two cars that now you're getting into the notion of a monster garage.

Planning Director Mendoza said the Commission might have simplified the whole discussion. Is that a 20x20 detached garage is a permitted use and anything that exceeds 20 feet would come before the Commission for consideration or review. He said he's not saying there's a problem in the City but there have been a couple of incidents that he doesn't think the Code really had the teeth to dissuade someone from building what he thought was a commercial use in their backyard. He indicated what he's hearing from the Commission tonight is perhaps bring back the Use Table, where it says Residential Uses, with a footnote that says conditional if it exceeds 20x20 footprint.

Chairperson Loe said he doesn't like that at all. First off, we're in an environment in Los Alamitos where we don't have excessive encumbrances on our houses; we have more than half of Orange County with HOA's with all kinds of controlling factors. He said he's good to a point but he thinks a 20x20 accessory structure is too restrictive for that. He says he thinks it's not allowing people to do what they want to do with their houses and it's encumbering certain lots that can generate something and certain lots that can't generate something.

Assistant City Attorney Kranitz asked if he would rather see a percentage?

Chairperson Loe said he could probably go with the percentage idea but he doesn't like a stated size that's a one size fits all for every structure in the City of Los Alamitos.

Vice-Chairperson Sofelkanik suggested using a percentage of the main house or structure.

Commissioner DeBolt said we should talk about what an accessory structure is; it's just not a garage we're talking about. An accessory structure, according to the definition, could be a swimming pool or a gazebo among other things. He felt that part of the problem is the definition of "structure". If we look up "structure" in the Code, it is anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground (17.76.020). He said he could see limiting a garage if you want to be specific but now we're into the realm that Chairperson Loe is talking about; we're being so restrictive. For example, he spoke about the plastic slide he erected for his grandchildren that sets outside in the backyard that is an accessory structure according to the Code.

Planning Aide Oliver explained that Staff has to make people move slides among other things because the neighbor can see them and complains to the City which then sends a Notice of Violation saying, "You have a structure that is within the five-foot setback". The City has made people move umbrellas, pop-up tents, built-in BBQ's, etc.

Commissioner Daniel thought the erection of a structure into the property line is the key; the City is not saying you shouldn't be able to put anything there but you really shouldn't be able to put a pop-up tent on the property line. What the City is saying is people within that 5 feet are violating this and that's why they're going out and citing them.

Planning Aide Oliver commented that sometimes people have a driveway that goes along the side of the house and they want to park their car there, they put a pop-up over the car and it's behind their front setback but it's on the side setback and the neighbor can see it so the City makes them take it out.

Planning Director Mendoza explained that the outdoor kitchen is something that is requested a lot. A detached outdoor kitchen, 5 feet away from their property line, doesn't always satisfy everyone; many times they want it closer to the property line. Usually people build them without the City's consideration but we catch them on the gas line.

Commissioner DeBolt said apart from something like a gas line, it seems to him that if you're not in the setback, you should be able to do anything you want to do as it's your backyard. If a neighbor has a two-story house and they're looking down into your backyard and they don't like what they see, well, that's tough. In the front yard/property, that's a different issue and he would have a problem with that.

Commissioner Daniel asked about a trampoline in a yard.

Planning Director Mendoza explained that a trampoline is not a permanent structure, is not constructed and is easy to move.

Planning Aide Oliver indicated the City does not allow a trampoline in the front yard of a property.

Planning Director Mendoza explained that Staff just wanted to bring this forward and see if these issues are shared by the Commission. If the Commission doesn't share the same issues, Staff is okay to leave it as it is.

Commissioner Daniel felt that this is an issue that needs to be addressed but he's not sure exactly how to do it tonight.

Planning Director Mendoza commented that we may not have an answer with just one discussion.

Commissioner Daniel commented that we need to be careful about the size but he has a tendency to agree that you can't just make everything fit into a nice little box but it's proportioned to the house, it's proportioned to the lot size; that may mean that one person can only build a one-car garage but another person can build a three-car garage, etc.

Planning Director Mendoza said perhaps the second resident, because of the size of his house, warrants a three-car garage.

In response to Chairperson Loe's question, Planning Director Mendoza explained that he could always deny a request and the applicant could then appeal it to the Planning Commission which is their right according to our Code.

Commissioner DeBolt asked what the cost to appeal is and Planning Director Mendoza indicated it would be thousands of dollars to do that.

Commissioner DeBolt said that that is the problem and that again creates a burden on the public and we make it prohibitive.

Chairperson Loe felt that the way the Code is right now, it is less prohibitive. If the Commission is going to take action to make it more prohibitive, it's even worse. We're going to tighten things up and cause more cost to come before the Commission.

Commissioner Riley said he thinks the Commission is needed to clarify; we would define what people can do by right and then what we need to take a look at and get input.

Commissioner DeBolt said he agrees and doesn't think that's restrictive. Right now, everything is ambiguous and subjective to Staff and, of course, they incur the wrath of the public. But on the other hand, if you make it by right, if we have a concern about garages, for example, then if we allow by right a certain number of cars, say two, in the back or if it's an accessory structure in the back, then if they want anything more than that, then they can appeal it to the Commission for a decision.

Commissioner Riley commented that when people know what they can do by right, they're very comfortable to plan and to decide on issues. He observed that that's what the Commission does; they decide what they think is reasonable to allow people to do and not reasonable to do. The Commission does it all the time. He said it's just a matter of deciding what the numbers are going to be.

Chairperson Loe commented that 99.9% of the time it is the Director and the Staff that are making these decisions. The Commission does such small, minute decision making and he feels it has worked just fine thus far.

Commissioner Riley said he agrees and he thinks the Commission has a good relationship with Staff but thinks that if the Staff changes in the future, we could end up with some bad decisions so why not tighten the Code up a little bit and give the guidelines that the public and Staff needs so that everybody can be comfortable or at least know what they have. It defines things so that people know what they're getting into.

Commissioner Grose suggested putting in a percentage of the size of the home and lot so somehow you value the house and the lot. She said there's got to be some formula on a percentage that would help guide this.

Planning Director Mendoza commented that if directed, Staff could bring back formulas from other cities to see what they've used.

Chairperson Loe felt that that is probably one of the best things to do, to look at other cities and get information from them.

Jody Schloss commented that the one thing she thinks is not good for the public is if the Community Development Director needs interpretation by the Commission on an item, she said she doesn't think that the residents should have to pay to bring it to the Planning Commission. The Code is pretty well defined and there may be some things that need to be changed or tightened up a little bit, but if it's been working so far, even in Carrier Row, except for a few incidents, if it comes to that point, you can say, "Okay... I'm going to turn this over to the Planning Commission and not charge for that". Now, if the resident is obstinate and they're asking for something that is just way beyond the Code, then they should pay for it if they want to get a CUP or bring it to the Planning Commission for an appeal. But if there's an interpretation that needs to happen, then maybe that can happen even in a workshop without the person being there, or could come to a meeting. If Staff's interpretation is different than what the

Planning Commission thinks it should be, then the resident shouldn't be charged for bringing it to the Commission.

Chairperson Loe said that's happened before; it's happened lots of times when Staff sees something they're not quite sure about, you want to put it in front of the Commission for interpretation.

Planning Director Mendoza said that that is correct but there still is a charge for it. He said he doesn't have the authority of waiving fees and neither does the Commission. He said that Ms. Schloss has brought up an interesting thought in that some large cities have a hearing body in between the Planning Commission and the Director; those are usually larger cities and they do a hearing in a conference room. There's a cost to bring something to the Commission. There's Staff time involved and if the applicant that's receiving the benefit isn't paying for it, then the general public is paying for it. The argument is that the person receiving the benefit from the service should pay for the service just like the person getting the building permit is the one getting the inspections and should be paying for it and the general public shouldn't.

Commissioner Riley observed that the fees aren't engineered to generate profit or revenue for the City; it's there just to cover cost.

Planning Director Mendoza said that was correct. The prohibitive costs is getting their drawings in a condition that Staff can understand. Somebody can sketch something on a piece of paper and hope that the Building counter will approve it but really if you're going to bring a document to the Planning Commission, you're seven people that really need to understand it and so the applicant has to pay an architect to do the drawings. When we bring the Commission sloppy drawings, Staff isn't proud of it and it makes everyone look bad and the number of questions increase. A cost of a CUP is about \$1,000 which covers a number of things such as mailing labels, circulation, postage for public notices, etc.

Commissioner Riley said that again this goes back to the Commission defining what an applicant can do by right with minimal expense and then what is going to be the upper realm that they're going to have to come and pay some extra money for, correct? So, if someone is looking at building some huge extravagant garage, they're probably going to be willing to pay the associated fees with bringing that to the City. That's how he sees this. To him it's a matter of defining where's that differentiator going to be; what are we going to define as by right and what are we going to define as a CUP. Personally, he said that's the way to go.

Commissioner's Daniel and DeBolt said they agree with Commissioner Riley.

Commissioner Riley said perhaps that's part of it, too. Structures are pretty much everything. Accessory structures are permanent and those are things that need to be talked about.

Commissioner Grose asked if Staff could come back with some comparisons of what other cities have done so the Commission can look at it before they make a final decision.

Planning Director Mendoza said that was a good idea and will bring up some other comparable things that other cities are doing regarding scale, proportion and things like that.

## **DRIVEWAYS**

Planning Director Mendoza indicated that the next topic is "Driveways". He asked if somebody could have a horseshoe driveway which takes two aprons; should someone have two driveways to go back to their garage in their detached backyard on both sides of the house? Those kinds of things are silent in the Code. Therefore, Staff is challenged not just that it's not in the Code, but the applicant can say, "Tell me where it's not allowed". Most of the public don't want any assumptions in a Code. They want Staff to have evidence that it's not allowed. The Director saying it's not permitted, isn't enough sometimes. They'll push and push for evidence.

In response to Commissioner Daniel's question, Planning Director Mendoza said you can have a driveway as wide as the garage. A driveway cannot exceed the width of your garage. That's codified.

Planning Aide Oliver pointed out that if the person has an RV, it doesn't go in a garage and the Code allows them to drive it into the backyard and park.

Planning Director Mendoza also pointed out that they can't pave the area between the parkway and the garage.

Planning Aide Oliver explained that what they end up doing is installing the kind of bricks that allow grass to grow between them and they drive across that to get to their paved driveway behind the front.

Planning Director Mendoza said another issue Staff is always trying to defend is that the fact the driveway cannot exceed the width of the garage and, therefore, the no man's land between your driveway and your property line that's two to five feet wide, a lot of people want to pave it because it's hard to maintain. Staff is challenged with people asking if they can pave that area and when the Code says that the driveway can't be any wider than the garage, it doesn't allow you to pave that for a driveway. The reason Staff is bringing this up is to find out if the Commission is fine with the Code or do you want to loosen up or change the Code as it relates to that no-man's land.

Commissioner Daniel said he feels they shouldn't be allowed to pave that no-man's land (in between the driveway and the property line), they shouldn't be allowed to put a car on it, either.

Vice-Chairperson Sofelkanik said he agrees with Commissioner Daniel.

Commissioner Daniel stated further that they shouldn't even be allowed to put a motor home in the backyard, either. They shouldn't be allowed to put their motor home within five feet of the property line as well.

Planning Director Mendoza asked if we could get the full consensus of that driveway issue.

Commissioner Grose indicated she's okay with it..

Planning Director Mendoza said he's hearing the driveway not exceeding the width of the garage is acceptable; keep that the way it is.

The Commission concurred.

Planning Director Mendoza asked about horseshoe driveways and what everybody thought of those.

Vice-Chairperson Sofelkanik said he thought there should only be one curb cut for each lot.

Commissioner indicated he feels the same way as long as it's the width of the garage.

Commissioner Riley felt that you should only be able to put your driveway in the area directly in front of your garage. He said he can see where people can put a horseshoe driveway in but it's not fitting within that area that's directly in front of the garage.

Planning Director Mendoza said most of the lots in Los Alamitos are not Ranch or Pasadena homes or Villa Park homes that are really wide and are susceptible to that but we have no where in our Code that says the City Engineer shall not permit two aprons or two curb cuts. From a planning point of view, when somebody plans their improvements on their home, they come to Planning first so it helps if Planning has it somewhere in its Code and it takes care of it right there. It's very visible. The intent is there if somebody is buying property in the City, they know what they're buying, they know what they qualify for and they know what kind of requirements there are and neighbors know what's going to be allowed next door to their homes. The expectation of what's going to be next to you is in the Code and you're ready for it. A lot of the time we want to have a conditional use or an appeal because we want to involve the public as an opportunity to speak and for them to be notified and/or for them to chime in. When things are codified into a Code, the public knows what to expect from an organization, a city, and future property values.

Commissioner Daniel asked if a person can remodel a house and have two one-car garages separate from themselves.

Planning Director Mendoza said that right now he would have a hard argument saying he would not approve a second driveway for the resident. In the Code, you can build two garages away from each other with separate curb cuts but he would really rather not do that.

Commissioner Daniel said he felt that one curb cut per parcel would be good.

Vice-Chairperson Sofelkanik thought the words "per frontage" is better and Commissioner DeBolt concurred.

Jody Schloss pointed out there are some lots that are existing that have curb cuts on two different streets as they are corner lots and have two separate garages with two separate driveways and asked if these will be grandfathered in. She then asked what will happen when the owner goes to sale the house; is this going to be a problem?

Planning Director Mendoza answered that these houses are only grandfathered in if it was permitted at one time. If they can show him a permit, then they're grandfathered in.

Jody Schloss asked the question if the houses are not permitted, is the City going to make them tear down the garage?

Planning Director Mendoza responded that the City is not that active in Code Enforcement currently. But the next buyer certainly would be surprised. A fundamental question is, "Do you think that begins to deteriorate a neighborhood?" and, if so, then these kinds of regulations are necessary.

Vice-Chairperson Sofelkanik pointed out if we allow curb cuts on two different frontages, there should be language that they access the same driveway so you don't have a curb cut on a corner lot going to two different driveways as Ms. Schloss mentioned.

Commissioner Daniel said he felt it should be one curb cut per parcel for the width of the garage and if they want to do a second curb cut on a corner lot, they can come before the Commission for approval.

*There being no further speakers, Chairperson Loe closed the item for public comment and brought it back to the Commission for their comments.*

Planning Director Mendoza indicated he would like to see if there is consensus among the Commission for Commissioner Daniel's suggestion.

The Commission concurred.

Planning Director Mendoza indicated he's going to make the recommendation that it'll be a Site Plan Review and not a Conditional Use Permit. He asked Planning Aide Oliver if this would be less expensive for the resident.

Planning Aide Oliver indicated that the Site Plan Review (for a minor) is \$1,200 as opposed to \$1,000 for a CUP.

Planning Director Mendoza said he believes this dialogue was very helpful in Staff bringing back to the Commission a comprehensive three recommendations for Codes regarding guest homes, accessory structures and driveways. He said he felt Staff has enough direction about how the Commission wanted it but they can still make little tweaks when Staff brings the resolutions for approval.

## **10. STAFF REPORTS**

### **A. Removal of Local Landmark Designation for 10872 Chestnut Street.**

The City Attorney is recommending the removal of May 2012 Local Landmark designation by the Planning Commission.

*This item was heard at the beginning of the meeting before the Public Hearing section of the agenda.*

## **11. ITEMS FROM THE COMMUNITY DEVELOPMENT DIRECTOR**

Planning Director Mendoza pointed out that the Commissioners all received a new update of "Rosenberg's Rules" for their binders.

Planning Aide Oliver said he wanted to respond to Commissioner DeBolt about the request he had regarding what things require building permits. The Building Department web page has what things require building permits and what do not.

In response to Planning Director Mendoza, Planning Aide Oliver indicated he would make copies of this information and send them to all the Commissioners.

## **12. COMMISSIONER REPORTS**

Commissioner DeBolt suggested considering expanding the uses in the PM zone to allow for classes that have definite start and end times; limited by the available parking and that type of thing. This is suggested to accommodate the changing business demographics that are occurring.

Commissioner Daniel commented that regarding some of the industrial parcels, Planning Director Mendoza mentioned maybe making some of the frontages, giving them an opportunity to be retail instead of industrial.

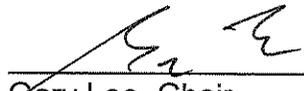
Planning Director Mendoza answered that this should have been brought up during the recession of 2004 and 2005. The City has always said that retail uses can't be in an industrial area but we have retail uses on frontages of industrial developments, especially along Katella. So, maybe it's time to start thinking about maybe retail uses to promote retail uses and sales tax that some of these arterial frontage industrial developments may be better suited for these kind of uses. A CUP is an impediment for retail being allowed.

Commissioner DeBolt suggested looking at this item at the same time Staff looks at his previous suggestion.

Planning Director Mendoza said Staff will bring the Commission a Notice of Intent for this item as well.

**13. ADJOURNMENT**

The Planning Commission was adjourned at 10:45 P.M. The next meeting of the Planning Commission will be held at 7:00 P.M. on **Monday, February 10, 2014**, in the City Council Chamber.

  
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Gary Loe, Chair

ATTEST:

  
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Steven Mendoza, Secretary