PLANNING COMMISSION

MEETING MINUTES

DATE: OCTOBER 7, 2014 **CALLED TO ORDER: 6:00 P.M.**

MEETING LOCATION: City Council Chambers
450 East Latham Avenue
Hemet, CA 92543

1. CALL TO ORDER:

PRESENT: Vice Chairman Greg Vasquez, and Commissioners Vince Overmyer and Michael Perciful
ABSENT: Chairman John Gifford, Commissioner Rick Crimeni

Invocation and Flag Salute: Vice Chairman Greg Vasquez

2. APPROVAL OF MINUTES:

A. Minutes of the Planning Commission meeting of September 16, 2014

It was **MOVED** by Commissioner Vince Overmyer and **SECONDED** by Commissioner Michael Perciful to **APPROVE** the Minutes of the Planning Commission meeting of September 16, 2014.

The **MOTION** was carried by the following vote:

AYES: Vice Chairman Greg Vasquez, and Commissioners Vince Overmyer and Michael Perciful
NOES: None
ABSENT: Chairman John Gifford, Commissioner Rick Crimeni

3. PUBLIC COMMENTS:

There were no members of the public who wished to address the commission regarding items not on the agenda.

PUBLIC HEARING ITEMS

4. TENTATIVE TRACT MAP 36759 (MAP 14-002) TRES CERRITOS EAST SPECIFIC PLAN - A request for Planning Commission review and approval of a tentative tract map for conveyance (financing) purposes only. The subdivision

proposes to divide 165.83 acres into 14 large numbered lots for future sale and development, and 23 lettered lots for future public facilities and landscaping. There will be no "buildable" lots created by this subdivision, as future subdivision maps will be required to be filed for the individual large lots prior to development. The site encompasses the Tres Cerritos East Specific Plan, located on the northwest corner of Devonshire Avenue and Cawston Avenue. The Commission will also consider a Notice of Determination that the project is consistent with land uses and the Final Environmental Impact Report (FEIR) that was adopted for the Tres Cerritos Specific Plan No.90-009.

PROJECT APPLICANT INFORMATION:

Owners:	Signal Family Hemet, LLC; Omni Financial, LLC; & MJ&M, LLC
Engineer:	Mike Medofer - Medofer Engineering
Planner:	Ron Running - Contract Planner
Project Site:	Northwest corner of Devonshire Avenue and Cawston Avenue
APN:	448-100-001 thru -018, 448-110-001 thru 015, 007 thru -022, and 444-020-024 thru -025

CDD Elliano reported that the applicants have requested that the matter be continued to the October 21 Planning Commission Meeting; however, public comments can be taken at this meeting.

Vice Chair Vasquez opened the public hearing.

Leonard Salabao, 440 North Cawston Avenue, who works for the Eastern Municipal Water District, a homeowner in Hemet for eight years, directed his comments to the worsening conditions around his neighborhood, with debris in the parks, graffiti, crime, poorly maintained landscape in public places. He would support more businesses in the community, but felt that more housing would increase the problems already mentioned.

Vice Chair Vasquez invited him to attend the October 21st Planning Commission meeting and to also voice his concerns to the City Council.

Mrs. Jacobo, 420 North Cawston, expressed concerns about homeless in the neighborhood, sidewalks to accommodate children going to three schools in the area, speed bumps to control traffic, better street lighting, and flooding control.

Aldo Jacobo, 420 North Cawston, mentioned the drainage problems and asked what the Commission was planning to do about them when reviewing this project.

Vice Chair Vasquez suggested they come to the October 21 meeting to discuss these issues with the applicant and get their responses. He then asked for a motion to continue the public hearing to October 21, 2014.

It was **MOVED** by Commissioner Vince Overmyer and **SECONDED** by Commissioner Michael Perciful to **CONTINUE** the public hearing on this issue to the October 21, 2014 Planning Commission Meeting.

The **MOTION** was carried by the following vote:

AYES: Vice Chairman Greg Vasquez, and Commissioners Vince Overmyer and Michael Perciful
NOES: None
ABSTAIN: None
ABSENT: Chairman John Gifford and Commissioner Rick Crimeni

5. **APPEAL NO. 14-001 (CUP AMENDMENT 14-001, SHOOTERS SPORTS BAR AND BILLIARD) Continued Public Hearing from September 16, 2014** - An appeal to the Planning Commission of the Community Development Director's approval of Conditional Use Permit Amendment 14-001, which would allow recorded music and dancing for patrons at an existing restaurant/sports bar and billiard hall previously approved under Conditional Use Permit 10-015, located at 121 E. Florida Avenue.

PROJECT APPLICANT INFORMATION:

Appellant:	Judith McPherson, Property Owner
Applicant:	Bill Alden, Business Owner, Shooters Sports Bar & Billiard
Planner:	Emery J. Papp - Principal Planner
Project Location:	121 E. Florida Avenue
APN:	443-281-001

(CDD Elliano presented the staff report, including background for the appeal.)

City Attorney Jex outlined the issues of the case and referred to Shell Oil vs. San Francisco, a case with similar issues. His conclusion was that the language of the lease agreement (which is not within the purview of the Planning Commission) demands that the property owner consent to any uses of the property other than as a restaurant and sports bar, which the lease outlines as the sole use with no other use permitted.

In the opinion of the City Attorney's Office, the City should not expand the rights of the parties but act to preserve the status quo of the original CUP, which does not include DJ and dancing, until the city can obtain the property owner's consent; or second, get a judicial interpretation, directing whether DJ and dancing is an allowed use under the terms of this lease.

His recommendation was that the Planning Commission have a motion and vote to rescind the Conditional Use Permit Amendment, and if there is an agreement between tenant and landowner, the tenant may reprocess the CUP without paying any additional fees.

Michael Hesse, 4515 Tyler Street, Riverside, attorney for the applicant Bill Alden, cited several cases in support of his argument that California law greatly favors unrestricted use of leasehold property by lessees; that the use applied for in the permit is a use that's permitted in the downtown area, according to the zoning code; and that an ambiguity and a restriction of use of leased property by a tenant shall be construed in favor of unrestricted use.

Bill Alden, 2488 Grace Street, Hemet, indicated the various public relations and advertising elements he had proposed to develop his business and the lack of cooperation he had from the landlord. He said he is presently looking for other places to relocate. He also left the hearing early for health reasons.

Barry Swan, 3233 Arlington Avenue, Suite 203, Riverside, attorney for the appellant, asked the Commission if they are prepared to be judges in interpreting what the lease means. He stated that doing anything other than the conservative approach would open the proverbial Pandora's Box. He also argued that the lease was not ambiguous, citing the word "sole" as it appears in the lease.

Vice Chair Vasquez closed the public hearing and stated his opinion that it is not the Planning Commission's role to interpret landlord-tenant contracts. Since the City Attorney returned with his opinion, that being that the amendment was given improperly, his recommendation was to rescind the CUP Amendment, and Vice Chair Vasquez supported his recommendation.

Commissioner Overmyer also supported the City Attorney's recommendation, hoping ultimately that the landlord and tenant could resolve their issues so the business could survive and prosper in the downtown area.

Commissioner Perciful agreed that he wanted to see the parties work it out, but the Planning Commission is not the venue to do that. The Commission's purpose is to make a determination on the Conditional Use Permit Amendment Appeal and take the guidance of the City Attorney. He also stated that he wants to see this business succeed and do well. He is not anxious to see another vacant building in the city.

It was **MOVED** by Commissioner Vince Overmyer and **SECONDED** by Commissioner Michael Perciful to **RESCIND** the Community Development Director's approval of the Conditional Use Permit Amendment No. 14-001 without prejudice to the tenant; and **ACKNOWLEDGE** that if the situation is resolved between the owner and tenant or a judicial determination is obtained, the tenant may reprocess the application without paying a new fee, provided the application is submitted within one year of the date of this action.

The **MOTION** was carried by the following vote:

AYES:	Vice Chairman Greg Vasquez, and Commissioners Vince Overmyer and Michael Perciful
NOES:	None
ABSTAIN:	None
ABSENT:	Chairman John Gifford and Commissioner Rick Crimeni

WORK STUDY REPORTS

6. WORK STUDY: CONDITIONAL USE PERMIT CUP 14-001 (SUN EDISON) - A Work Study session for the Applicant, Sun Edison, and their consultant team to provide an introduction of the proposed project to the Planning Commission, and to identify potential issues that may require additional review prior to the formal public hearing for the project.

CDD Elliano noted that because two of the Commission members were going to be absent for this meeting, the applicant requested that the work study be continued to the next meeting, October 21, 2014.

Vice Chair Vasquez directed staff to continue Item No. 6 to the October 21, 2014 Planning Commission meeting.

DEPARTMENT REPORTS

7. CITY ATTORNEY REPORTS: (Nothing to report.)

8. COMMUNITY DEVELOPMENT DIRECTOR REPORTS:

A. Update Report regarding the status of inactive entitlements approved by the Planning Commission during the period of 2009-2014

CDD Elliano requested that this item be moved to the November 4st Planning Commission meeting because Chairman Gifford had requested the report and he is absent.

B. Report on actions from the September 23, 2014 City Council Meeting

CDD Elliano reported that the only Planning Department matter before the Council was the first public hearing regarding the City's Update to User Fees. It was continued to the October 14 council meeting. The soonest the fee updates would go into effect would be January 1, 2015. When asked by Commissioner Perciful if the fees were increasing or decreasing, CDD Elliano answered that in terms of the building department, some of the fees were reduced, and there were more categories created so there was more exactitude in terms of what was being charged for. Many Planning and other department fees are higher than the current fees; however, the fees are very much on par in a comparison with surrounding communities.

9. PLANNING COMMISSION REPORTS:

A. Chairman Gifford (Absent)
B. Vice Chair Vasquez (Nothing to report)
C. Commissioner Perciful (Nothing to report)
D. Commissioner Overmyer (Nothing to report)
E. Commissioner Crimeni (Absent)

10. FUTURE AGENDA ITEMS:

- **A.** TTM 36759: Conveyance Map for Tres Cerritos East
- **B.** Zoning Ordinance Amendment regarding senior housing uses in Commercial zones
- **C.** Site Development Review (SDR 14-002) for a 120-unit senior apartment project
- **D.** CUP 14-007 for a Metal Recycling Facility
- **E.** Update on the Temporary Sign ordinance
- **F.** Zoning Ordinance Amendment regarding Storage Containers in Commercial & Industrial Zones.

10. ADJOURNMENT

It was unanimously agreed to adjourn the meeting at 7:23 p.m. to the regular meeting of the City of Hemet Planning Commission scheduled for **October 21, 2014 at 6:00 p.m.** to be held at the City of Hemet Council Chambers located at 450 E. Latham Avenue, Hemet, CA 92543.

John Gifford, Chairman
Hemet Planning Commission

ATTEST:

Melissa Couden, Records Secretary
Hemet Planning Commission