

**City of Scotts Valley
PLANNING COMMISSION
MEETING MINUTES**

MEETING DATE/TIME: Thursday, April 9, 2009 @ 6:00 p.m.

DATE APPEAL PERIOD ENDS: April 23, 2009 at 5:00 p.m.

LOCATION:
City Hall
One Civic Center Drive, Scotts Valley

POSTING: The agenda for
this meeting was posted at City
Hall on 3/31/09 by Planning staff.

CALL TO ORDER: Chair Muth called the meeting to order at 6:05 p.m.

ROLL CALL Present: Commissioners Muth, Bassett, Patterson and Bowen
Staff: ICDD Westman, SP Bateman, AS Schwartz

ORAL COMMUNICATIONS: None.

ALTERATIONS TO CONSENT AGENDA: None.
(Commission may remove or add items on the Consent Agenda)

CONSENT AGENDA:

- 1) Planning Commission Minutes: March 26, 2009, Regular Meeting.

M/S Patterson/Bassett

To approve the Consent Agenda Minutes as presented.

3/0 Carried

(Commissioner Bowen abstained, since he was not present at the previous meeting)

ALTERATIONS TO PUBLIC HEARING , REGULAR OR DISCUSSION AGENDA:

None.

(Commission may remove, add or re-arrange items on the Public Hearing or Regular agenda)

PUBLIC HEARING AGENDA:

- 2) Consideration of a one year time extension for Design Review No. DR01-015 for the construction of a two story 135,899 square foot office building on a 17.6 acre undeveloped parcel on La Madrona Drive.

**City of Scotts Valley, Planning Department.
Staff Planner: Senior Planner, Taylor Bateman**

SP Bateman gave the project presentation.

Chair Muth opened the public hearing at 6:09 p.m.

Reuben Helick spoke as the agent representing Title Two for the extension. This morning Title Two went to the County and paid property taxes owed.

Paul Bach spoke on the item. He discussed the issues of payment of back taxes and monies owed to City of Scotts Valley. He stated that Title Two owes \$170,000 to the City for taxes due on the subject property. He discussed Title Two ownership characteristics and issues surrounding various past activities of the Corporation. Mr. Bach said approval of this time extension removes another leverage that the City has to get Title Two to pay monies owed. He discussed other application monies owed to the City. He stated that approving this application, when Title Two owes monies, may be illegal.

Frank Kertai spoke on the item. He stated that he had submitted written comments earlier this afternoon. He objects to the approval of this time extension application. He discussed legal implications of approving this application without payment of fees due to the City by Title Two, citing a previous court case from Southern California. He discussed enforcement issues pertaining to past due fees owed. Mr. Kertai stated that the State has a lien on the property for monies owed.

Doug Waidehofer. He stated that a one year extension is too long. It would be better to let this current application expire and let the applicant re-apply.

Richard Johnson with Title Two spoke on the item. He stated that current finance and tax issues do not pertain to this time extension request. He discussed the amount of previous taxes and fees paid to the City. Mr. Johnson stated that the site is zoned and suitable for commercial development, as proposed.

Chair Muth closed the Public Hearing at 6:24.

Commissioner Patterson asked if staff had heard anything from the City attorney on this matter. ICDD Westman stated that the issues raised in the public hearing have been discussed at length with the City attorney, and her opinion is that previous fees and taxes due do not have any bearing on this application.

Commissioner Bassett stated that he doesn't feel finance issues are pertinent to this particular application. He noted that he had just received Mr. Kertai's letter, due to technical difficulties, and had copies distributed to staff and the other Commissioners. He asked if the City attorney is aware of the legal case that Mr. Kertai had cited. ICDD Westman said she was not sure if the City attorney was aware of the case, but she did feel that those issues were not applicable, nor should they affect the processing of this particular application. City staff could not discuss this today, nor receive Mr. Kertai's email, because systems were not working. Commissioner Bassett asked if she was comfortable with the staff report? ICDD Westman stated that she is comfortable with the staff recommendation.

Commissioner Bowen asked what the difference is between a permit and an application. ICDD Westman replied that in this case, we are talking about building permits versus planning

applications. Commissioner Bowen asked if the public will get another chance to speak on this item after this meeting. ICDD Westman replied that no, once this application is approved the applicant is entitled to the permit. Commissioner Bowen stated that he feels the negotiations with Title Two are helpful in getting the project development into town, and then getting Title Two out of the City's business. He said that we need to consider the economy, and people working together to make this development occur. He felt that he doesn't want the City to take over property and have that tax burden. ICDD Westman stated that, to her knowledge, the City has not made any financial contributions to Title Two.

Chair Muth asked if the City would get the property in a foreclosure. ICDD Westman replied that if the City obtained the property from foreclosure, they would probably put it up for sale.

Chair Muth stated that she feels that she needs to go with what the City attorney says is legally correct. In her five years on the Commission, they have never turned down a similar time extension application. She feels it is fair to grant this application.

Commissioner Bassett stated that he did not hear compelling evidence tonight to not move forward with staff recommendations. He said that the allegations and issues raised tonight are serious, and should be discussed with the City attorney, City Manager and Development Director and then brought back before the Commission if things change. He would like to move forward with this application and take a vote.

Chair Muth asked for a motion to approve Resolution 1585. Commissioner Patterson made the motion to approve.

**M/S Commissioner Patterson/Commissioner Bassett
To approve Resolution #1585.
4/0 motion passed.**

There were no additional discussion items. A brief discussion followed concerning Commissioner Bassett, and if he would miss the next meeting, and also what the two items were on the agenda. Commissioner Bassett confirmed that he will not be attending the next meeting. ICDD Westman replied that the two agenda items are the Holiday Inn Express project and a 6-lot land division on Scotts Valley Drive.

Commissioner Bassett requested a report from the City attorney on her opinion of the issues raised in Mr. Kertai's letter.

The hearing adjourned at 6:37p.m.

Approved: _____

Deborah A. Muth, Chair

Attest: _____

Susan Westman, Interim Community Dev. Director

