

MINUTES OF THE REGULAR MEETING OF THE FULLERTON Planning Commission

COUNCIL CHAMBERS – CITY HALL

WEDNESDAY

DECEMBER 13, 2006

7:00 P.M.

- CALL TO ORDER:** The meeting was called to order by Chairman Savage at 7:02 p.m.
- PRESENT:** Chairman Savage, Vice Chairman Francis, Commissioners Bailey, Fitzgerald, Hart, and Musante
- ABSENT:** Commissioner Thompson
- STAFF PRESENT:** Acting Director of Community Development Rosen, Acting Chief Planner Eastman, Senior Planner St. Paul, Acting Senior Planner Allen, Director of Engineering Hoppe (first item only), Senior Civil Engineer Voronel, Civil Engineer Thuy Nguyen (first item only), and Recording Secretary Pasillas.
- FLAG SALUTE:** Commissioner Musante
- MINUTES:** MOTION made by Commissioner Musante, SECONDED by Commissioner Bailey and CARRIED 5-0, with Commissioner Fitzgerald abstaining, that the Minutes of the October 25, 2006 meeting be APPROVED AS WRITTEN.

7:00 P.M. SESSION

PUBLIC HEARINGS

ITEM NO. 1

PRJ06-00398 – SUB06-00012. APPLICANT AND PROPERTY OWNER: HEUNG S. SHIN.

Staff report was presented pertaining to a request for abandonment of a 40-foot wide portion of an 80-foot public right-of-way on property located at 1010 Crestview Drive (between Euclid Street and the intersection of La Mesa Drive and Valley View Drive) (R-1-20 zone) (Categorically exempt under Section 1532 of CEQA Guidelines) (YVO/AKU).

Senior Civil Engineer Voronel gave a brief overview of the request. A map was displayed indicating the applicant's property and the area of the requested abandonment. The December 14, 2005 request for an 80-foot abandonment by the same applicant was explained, and a brief history of the right-of-way was given. A surveyor's map and pictures were shown and the applicant's encroachments onto the right-of-way were identified. The water line running under the right-of-way was described, as was the recreation trail.

Chairman Savage requested clarification of the Planning Commission's December 14, 2005 recommendation to the City Council and the City Council's February 21, 2006 response. Senior Civil Engineer Voronel responded that the Planning Commission had recommended denial of the 80 foot abandonment request to the City Council, and the City Council denied the application for abandonment.

Commissioner Musante asked if there had been the same property owner for both abandonment requests, and Senior Civil Engineer Voronel responded affirmatively.

Chairman Savage asked if the City Council required removal of the encroachments, and Senior Civil Engineer Voronel answered that the City Council supported the preservation of open space and very clearly directed code enforcement to require removal of all encroachments. Chairman Savage asked if the code enforcement process was currently in motion or had been delayed due to this new application, and Senior Civil Engineer Voronel responded that code enforcement action was in progress.

Commissioner Hart stated that if the abandonment was denied she did not want to see it come back as a 30', 20' or 10' request. Acting Director Rosen explained that, by City Ordinance, the City must allow an application every six months if the fees are paid, and the City cannot deny anyone the right to make an application to the City. Commissioner Hart asked if an application could be submitted even if the property was in violation, and Acting Director Rosen responded that it was a separate action, either civil or criminal, that did not prohibit an application. The only way to stop applications every six months would be to buy the property.

Public hearing opened.

The applicant, Heung S. Shin had Brian Han, a Fullerton resident and pastor of the Southern Community Church, as his translator. The applicant passed out a letter to the Commissioners and staff. Mr. Han read the letter as Mr. Shin's statement to the Planning Commission.

Mr. Han spoke in support of the abandonment. He had seen the subject property and stated it was very steep. He agreed that recreational areas were needed, but not this area. He did not believe the water line was within the 40-feet requested, and added that the applicant was not going to build any permanent structures, he just wanted to prevent other people access to his property.

Joseph Shin, the son of the applicant, displayed paperwork given to his parents indicating they could use the property without the erection or construction of permanent buildings. In order to combat erosion his father had planted trees, and added the fence to support the trees. He explained that Resolution 4624 showed partial acceptance of the dedication to the south east. He believed it was wrong to say his parents stole property (as stated by adjacent residents). Joseph Shin stated that there would be 25 feet left for the trail, which was enough because the outlet to Euclid Street was only ten feet. In regards to the water line, he had a letter in which the City staff had said 40 feet might be enough, although they might not have known a trail was there. He showed an engineering map from the Water Department showing they only required 20 feet of open space from water line. He then displayed an assessor's parcel map showing the proposed access to Hiltcher Park. He explained that the encroaching structure was a chicken coop, which the City had said was not considered a permanent structure, and that and the trailer had been removed. The only item not removed was the fences, because they were supporting the trees. Joseph Shin stated that his parents believed they had the right for the encroachments until the City wanted to use the property for a street, at which time they would be removed. He added that they were letting the trail remain open and maintaining it, and the trees they planted helped to hold up the land.

Commissioner Hart asked Joseph Shin if his parents had been provided a tract map when the property was purchased and he responded that he was unaware, but stated his parents knew where their property was. Commissioner Hart asked why they thought they had more of a right to the property than anyone else, and Joseph Shin answered that his parents had seen that neighbors doing the same thing, so his mother researched and found out that the only way to have

full use of the property was to get an abandonment from the City. Commissioner Hart asked if he was saying his mother believed the land was originally taken from their parcel, and he responded affirmatively.

Hey Shin, the daughter of the applicant, explained that her parents were not trying to take the trail, they just wanted to make the area a safer place. She stated that the trail users were not there at night, and people parked cars there at night. She added that whatever the decision was, the area needed to be taken care of and made safe.

Mrs. Shin, the applicant's spouse, did not understand why people had complained for 16 years about her encroachment. She believed that people complained because they wanted the land. She had proof the land was hers, but did not want to reveal the source. She was very hurt from all the people complaining. When they first moved to the property, 16 years ago, a neighbor complained. Mrs. Shin went to the City and was told she could use property as much as she wanted, but only trees could be planted, therefore, she tried to make a "tree fence". She had chicken wire down to protect her animals, and understood she would have to remove obstructions if the City wanted to make a street. She had removed all chicken coops and structures and the two stables, so there were no more structures encroaching. A neighbor wanted to use the back access as street and she did not believe they had that right. Mrs. Shin stated that she had submitted all her documents, pictures, and proof to the City Council, and they did not review it. She was very disappointed they did not listen to her side. She added that she believed the staff report had several mistakes; the opposing emails were not from trail users but from the neighbors. She wanted to use the land as her own until a street came through.

The following people spoke in support of the abandonment:

John Chang, 131 S. Bayberry Court, Fullerton
Kim Scully
Mikki Paek, 1864 Conejo Lane, Fullerton
Brian Hahn, 2016 Calle Miranda, Fullerton

There reasons for support were:

- The area was a nuisance at night with teenagers hanging out and smoking
- The empty space attracts bad behavior
- The trail was beautiful, but does not require the whole 80 feet
- Neighbors cannot hear the noise at night
- The Shin's saved the trail with sandbags after the 1992 rain
- The shin's take care of the trail, keep it clean, planted trees
- City does not take care of the area
- It was necessary for the protection of the Shin's property and family
- When it rains the area was a mess, but the Shin's always take care of it

The following people spoke against the abandonment:

Patricia Polcyn, 750 N. Carhart Avenue, Fullerton
Tina Truebe, 927 W. Fern Drive, Fullerton
Jeffrey Beale, 928 W. Fern Drive, Fullerton
Philip Lamontague, 1328 W. Fern Drive, Fullerton
Stephen Ramsdell, 4822 Daroca Way, Buena Park
Peter Alexander, 1028 Crestview Drive, Fullerton

Carol Wink, 754 Carhart, Fullerton
Collin Lamontague, 1328 W. Fern Drive, Fullerton
Phyllis Crane, 1034 Crestview Drive, Fullerton
Doug Crane, 1034 Crestview Drive, Fullerton

There reasons for opposition were:

- The property was public land and belongs to the citizens of Fullerton
- Have never heard any partying, or seen trash or defecation
- Only observation was the trail was regularly used for hiking, cycling and horseback riding
- The Shin's have been previously told to stop encroachment and refused
- Decision made on the property would set precedence for the future
- Trails are highly valued and an asset to the City
- People from all over Orange County come to Fullerton to use the trails
- The steep hill was liked by the trail users
- Giving away 16,000 square feet that was heavily used was not in the publics' best interest
- The Shin's encroachment had actually pushed dirt from the trail onto the neighbors property
- The area was a trail head for other trails
- The high-pressure water line serves the whole street, not just the Shins
- The Shin's are requesting abandonment not for protection, but for their own private use
- Thought the issue was settled last year, and there are no compelling arguments to allow the abandonment
- Shin's knew what the property boundaries were when they bought the property
- Have seen runners and bicycle riders having to detour around the encroachment
- The trail was a beautiful area that should be save for everyone to use
- Desire to keep as much open space as possible in Fullerton
- To interfere with a portion of the trail would interfere with the overall trail plan
- If the Shin's are worried about their safety they should build a wall on their property
- The Shins have no more right to the land than anyone else

Public hearing closed.

Vice Chairman Francis stated that originally many trails were set to be streets, but were not needed, and therefore they were kept for public use as trails. The City had found a better use for the area than a street. The City was not in the business of giving away land; they were usually looking for additional land. Vice Chairman Francis asked if there were a way to prevent the continuously making of an application. Acting Director Rosen was not aware of a way, but added that the City Attorney could be consulted. Vice Chairman Francis was not willing to give away any land and if code enforcement could not take care of the problem he would take the Mayor there personally to see what could be done.

Commissioner Fitzgerald believed the Shins misinterpreted the Planning Commission decision last year. They did not vote to deny an 80 foot abandonment, but denied any abandonment. This easement was for the people of Fullerton.

Commissioner Bailey would not support. He did not believe the applicant's encroachment was done in malice, but the prior owner probably said it was public property and they believed they could use it until the City wanted it back, which the City now does. He would not agree to any encroachment, and wanted staff to survey neighboring properties also, and make sure the City got back the entire trail.

Commissioner Musante would not support, and believed it was in the City's best interest to get their property back.

Commissioner Hart was trying to understand the Shins and if they were led down the wrong road. She understood they wanted privacy, but did not believe taking property that was not theirs was the right way. She believed the City had been lack in code enforcement and needed to follow through. The Shins had done what they had been allowed to do. She would not support an 80 foot, 40 foot, or two foot abandonment.

Chairman Savage agreed with other commissioners.

The title of resolution PC-06-40 RECOMMENDING to the City Council denial of an abandonment of an approximately 400-foot-long and 40-foot wide segment of public right of way located on West Valley View drive between fern drive (La Mesa Drive) and Euclid Street was read and further reading waived. MOTION by Commissioner Bailey, SECONDED by Commissioner Fitzgerald and CARRIED unanimously by voting members present that said Resolution be ADOPTED AS WRITTEN

A five minute recess was taken at 8:43

ITEM NO. 2

PRJ06-00452 – ZON06-00073. APPLICANTS: TOPAZ FULLERTON, LLC AND ARCHITECTS ORANGE; PROPERTY OWNER: FREDERICKSON ENTERPRISES, INC.

Staff report was presented pertaining to a request for a major development project for the construction of a retail center consisting of five buildings totaling 50,301 square feet on a 4.51-acre property located at 1101 & 1201 S. Euclid Street and 1001, 1015, 1021, 1027, 1031, 1035, 1037 and 1207 West Orangethorpe Avenue (northwest corner of Euclid Street and Orangethorpe Avenue in a Community Improvement District) (C-2 zone) (Categorically exempt under Section 15332 of CEQA Guidelines) (HAL).

Acting Senior Planner Allen gave a brief overview of the project. The request was explained and overhead photos, a site plan, the landscape plan, and elevations for Major A, Major B and Pad A were shown. A conceptual materials board was given to the Commissioners to review. The project was recommended for approval by the Redevelopment Design Review Committee (RDRC) on November 16, 2006. Staff's recommendations were explained along with clarifications to Condition 3 and the Engineer's Letter regarding relocation or replacement of a traffic signal.

Vice Chairman Francis asked about the dodge dealer using the area, and Acting Senior Planner Allen stated that she had not heard anything. Acting Director Rosen explained that the City had tried to attract an auto dealer and was unsuccessful.

Public hearing opened.

The applicant, Larry Lake, President of Lake Development Group, was excited to bring the project forward. He explained that it had taken several years to secure the property due to a long-term ground lease. He was in agreement with all conditions recommended by staff, including the extensive offsite costs, approximately two million dollars, for street lights and undergrounding utilities.

Vice Chairman Francis asked if Pad B would be brand new, and Mr. Lake responded that there would be all new buildings. The current tenants are on a month-to-month lease and the project should be started within several months. Vice Chairman Francis asked if they had found any tenants yet, and Mr. Lake responded that Tesco, a store similar to Trader Joes, was planned for, and they were also talking to Rite-Aid and Washington Mutual, among several other smaller tenants. The property was located near a good intersection, had good visibility, and good car counts. They were looking for strong, long-term tenants. Vice Chairman Francis asked about the land behind this property, the strip mall, and if the developer had tried to obtain that property. Mr. Lake responded that they had made some inquiries, but the price was too prohibitive.

Commissioner Fitzgerald asked if there would be a separate property management company for this property. Mr. Lake responded that it was unknown at this time, but they would probably use the same company they used on other properties they owned, the Olson Company.

Commissioner Bailey asked what type of store Tesco was, and Mr. Lake responded that it was the fourth largest company in Europe, and it was a new concept for west coast. It was a grocery store, with high-end brand items. Commissioner Bailey did not want to see a new development with a big black asphalt lot and just a few trees. Mr. Lake explained that the landscape would be a big part of the project, and would be maintained and kept up. Commissioner Bailey wanted to know if Mr. Lake had done any other projects in Orange County, and Mr. Lake responded negatively.

Mary Huddleston, 1018 W. Hill Avenue, had lived in the area behind where the Pad A buildings would be for twenty-eight years, and was concerned with her privacy. She wanted to know if there would be an alley in back of the pads facing her back wall, and Chairman Savage responded no. Mrs. Huddleston then asked if there would be access for people to walk by her back fence, and Acting Chief Planner Eastman explained that there would be a service access in that area. Mrs. Huddleston stated that the fence was five or six feet tall and she liked their privacy. She wanted to know if the fence would be raised, and Acting Chief Planner Eastman explained that it was not indicated, but there was a landscape buffer between the property line and the sidewalk. Acting Senior Planner Allen added that "Yew Pine" would be planted as a screen tree, and code required a setback which was why the building jogged the way it was shown. Acting Chief Planner Eastman clarified that there would be a shrubbery buffer between Pad A and Mrs. Huddleston's property. Mrs. Huddleston then asked if the shrubbery would drop debris in her pool, where the trash for the restaurants would be located, if there would be any windows facing her property, where the trash pick up would be, what were the time limits for deliveries, during construction what would be done to control the dirt and dust in her yard and pool, what was the completion date for the construction, and who would she contact in the future if she had problems during construction.

Commissioner Bailey stated that it was not unheard of for a resident to work directly with the developer, and asked Mrs. Huddleston to keep an open mind to working with them.

Thomas Huddleston, 1018 W. Hill, was concerned with his wife's health and the effects of the dust and dirt on her. He was also concerned where the debris and dirt would go when the demolition began. He had just put \$5,000 into his pool and did not want to have any more problems.

George Brillo, from Don Carlos restaurant, stated that he was never given an opportunity to lease at the property, and that the developer did not want mom and pop businesses. He explained that he was still operating the restaurant and wanted to continue. He had investors and would like to build at the location.

Mr. Lake responded to Mrs. Huddleston's concerns. The shrubbery would be a pine which would not have many droppings (evergreen tree vs. deciduous). He would give Mr. and Mrs. Huddleston

a business card so they could contact him with any concerns. He explained that they intended to use the same contractor as they had used on other projects, and invited them to meet with both him and the contractor to work out any concerns. In terms of trash, the grocery store had a trash compactor, and trash bins would be located on the side of Building A. There were no windows on the back of the building, just exit doors, and this use should be an improvement over what had been there in the past. Regarding Don Carlos restaurant, they had not taken any applications for Pad A, and could not speak with Mr. Brillo several years ago because the project was not defined. He would be willing to speak with him now, should the development be approved.

Chairman Savage added that staff's recommended Condition 22 required maintaining a wet-down construction site to keep dust down.

Commissioner Fitzgerald asked the start date for the project, and Mr. Lake responded that demolition was scheduled for January, construction would begin in April or May, and completion would take about one year, which would be approximately May 2008.

Vice Chairman Francis stated that Don Carlos was a staple in the community, and believed they had the best Mexican food in town. Mr. Lake responded that almost half of the multi-tenant building would be dedicated to food establishments.

Acting Chief Planner Eastman explained that Condition 17 required the project landscaping to go back to RDRC for review, and he recommended that Mrs. Huddleson attend. He added that a contact person for her could be provided through staff. The hours of delivery for major tenants A and B were staff recommended conditions, and the other tenants were unknown at this time.

Chairman Savage asked if the current site had any limits, and Acting Chief Planner Eastman responded that they did not.

Public hearing closed.

Commissioner Fitzgerald believed the project would be a real improvement to the area; she liked the design, and was excited about the Tesco. She was pleased that the developer was willing to work with staff and concerned citizens. She would support the project.

Commissioner Hart concurred with Commissioner Fitzgerald and would support.

Vice Chairman Francis believed it was a major improvement for the area, and hoped that there would be a Don Carlos in there when the project was completed. He would support.

Commissioner Bailey would support.

Commissioner Musante would support. He was impressed with Mr. Lake and his willingness to work with the residents.

Chairman Savage agreed with the other commissioners and would support.

The title of RESOLUTION PLANNING COMMISSION-06-41 APPROVING a request for a Major Development Project for the construction of a retail center consisting of five buildings totaling 50,301 square feet on a 4.51-acre property located at 1101 & 1201 S. Euclid Street and 1001, 1015, 1021, 1027, 1031, 1035, 1037 and 1207 West Orangethorpe Avenue was read and further reading waived. MOTION by Commissioner Hart, SECONDED by Commissioner Musante and

CARRIED unanimously by voting members present that said Resolution be ADOPTED AS WRITTEN

Acting Chief Planner Eastman explained the appeal process.

ITEM NO. 3

PRJ06-00477 – ZON06-00078. APPLICANT: GIBRIL SERGHINI; PROPERTY OWNER: PU KI CHONG.

Staff report was presented pertaining to a request for a Conditional Use Permit to operate a hookah and oxygen lounge for patrons 18 years of age and older on property located at 305 North State College Boulevard (approximately 489 and 672 feet south of Chapman Avenue) (O-P zone) (Categorically exempt under Section 15301 of CEQA Guidelines) (HAL)

Acting Senior Planner Allen gave a brief overview of the project. Overhead photos were shown and the request was explained. The criteria staff used for analyzing another hookah establishment that was recently approved were explained, along with the conditions and parking requirements. These conditions would apply to the current project. The conditions of approval for the proposal were explained, and they were similar to conditions placed on the other hookah lounge within the City. Clarifications to conditions two and three were explained.

Chairman Savage asked if there were any problems with the existing hookah lounge, and Acting Senior Planner Allen explained that it had been six months and there were no complaints or police report relating to violations of the conditions of approval. There had been one code complaint with the business heating coals outside in the back alley, and code enforcement was working with the owner. Chairman Savage stated that he had visited the hookah lounge and saw the grills. Acting Senior Planner Allen explained that a Weber-type grill was used to heat the coals, and they were then transported to the customers. Chairman Savage asked if there had been any problems with the neighbors, and Acting Senior Planner Allen responded that there had been one complaint regarding the heating of the coals in the alley. Chairman Savage asked if the hours of operation for the proposed hookah lounge would be the same as the existing hookah lounge, and Acting Senior Planner Allen stated they would be slightly less due to an existing CUP on the project site. Chairman Savage wanted to know why staff requested a condition requiring there not be an admittance charge. Acting Senior Planner Allen explained that one problem with hookah establishments in the City of Anaheim was from those hookah lounges that operated as night clubs, which generally charged a fee for admittance. Chairman Savage asked if the fire department was aware of live charcoals being passed around couches and other flammable fabrics. Acting Senior Planner Allen responded affirmatively, and added that flame retardant materials and other safety measures were taken. Acting Chief Planner Eastman added that the Fire Department was aware of issues regarding this type of business and Fire Department concerns would be addressed during the building permit process.

Public hearing opened.

The applicant, Gibril Serghini, stated that he intended to keep the neighborhood safe; he had spoken with the neighbors and wanted to work with them. He would comply with the conditions and neighbors requests if directed so by the City.

Chairman Savage asked the applicant about the oxygen business, and if they would generate oxygen. The applicant responded that the oxygen would be flavored, but was not pure oxygen. A generator would take oxygen from the air; therefore, this was a purely recreational use not medical

in any way. There would be no oxygen tanks. Chairman Savage asked how this lounge would compare to the existing lounge, and the applicant responded that there would be more light, more signage, and additional windows. He added that because the neighbors were concerned with people jumping in their yards he was willing to work with them to find a solution.

Commissioner Bailey asked if it would be possible for a person to have too much oxygen, and the applicant responded affirmatively. Commissioner Bailey asked what would happen if a person had too much oxygen. The applicant stated there would be symptoms of discomfort and possibly convulsions, but this type of situation would be due to the use of medical oxygen. Commissioner Bailey asked if there was such a thing as oxygen toxicity, and if something like that were to happen would the applicant know a person was having a problem. The applicant responded that this was not medical grade oxygen, and was just used to provide a good feeling, purely a recreational use. Commissioner Bailey was concerned with the dispensing of something to people who believed the business operator knew what he was doing; how could they be sure it would be handled correctly. The applicant explained that providing oxygen at the percentages they would have would cause no problems, as supported by the documents handed out. The applicant added that research had shown that up to 30 minutes per day of this type of oxygen use would not cause harm, and he intended to limit use to ten minutes which would be regulated by a punch card.

Chairman Savage asked how the oxygen would be dispensed, and the applicant responded through the nose. Chairman Savage asked if use would provide a brain boost or increase in energy, and the applicant stated it was strictly recreational.

Commissioner Hart asked if you bought usage by the minute, and the applicant responded affirmatively, and clarified that each person would be limited to ten minutes per day.

The following people spoke in opposition to the project:

Leslie Paulsen, 218 N. Concord Avenue, Fullerton
Jacki Neal, 300 Concord Avenue, Fullerton
Martha Adams, 301 N. Concord Avenue, Fullerton
Chris Paulsen, 218 N. Concord Avenue, Fullerton

There reasons for opposition were:

- Wall at back of property was not tall enough
- Customers of the previous business at the location would jump the fence and go through the neighbors yards
- Late night hours were a concern, especially if the applicant were to get them extended
- Already one hookah lounge in the neighborhood
- Have been kept up until three or four in the morning with noise from this location
- Do not want neighborhood children exposed to the negative influences from this type of business
- Do not believe that the applicant would be able to control patrons once they leave the building
- Applicant not being honest
- Concerned with deception – applicant represented the business as a café
- Do not need more places for kids to go to “feel good”
- Sound carries a long way at night
- Hookah was popular in San Francisco, do not want Fullerton turning into a San Francisco

The following person spoke in favor of the project:
Francesca Serghini, the applicant's mother
Mr. Chong, owner of the property

The reasons for support were:

- The applicant was concerned with children and the community and would not want to harm either
- The design would be classy, not trashy
- The property owner was disappointed with the previous business (internet café) and their behavior
- Wanted to be a good neighbor and would have strict landlord/tenant terms

Chairman Savage asked the hours of operation for the restaurant, and Mr. Chong responded

Commissioner Bailey asked how long the tagging on the building would remain, and Mr. Chong responded that next week the building would be repainted and in January the pavement would be re-done.

Commissioner Fitzgerald asked about the perimeter fencing and Mr. Chong explained that in 1998 he went to the neighbors to see what they wanted and built a block wall to reduce noise. The addition of a security guard at the new hookah cafe was his idea.

The applicant stated that his business would not be a hookah "lounge"; it would be a café, similar to a Starbucks with a plus. He had pictures from the other hookah lounge; he had met with the owners and did not believe they intended to be causing problems. Mr. Serghini added that he was willing to work with the neighbors. He explained the tobacco/hookah process, and a sample of the hookah tobacco was passed to the Commissioners.

Public hearing closed.

Vice Chairman Francis had experienced opening a business where a bad business had previously been. The Planning Commission had given him a chance and now that location was a classy area. He would be willing to give this applicant a try with the condition that if they had three verifiable complaints they would come back for review.

Commissioner Bailey did not like the idea, and did not think it was a good location for this type of use. He would not support the project.

Commissioner Fitzgerald agreed with Commissioner Bailey. She also believed this was not the right place for this use, and thought there was a need to address the CUP for the entire property. She would not support the project.

Commissioner Hart stated that there was one existing hookah lounge, and although there were some issues to work out, she believed the applicant was on the right track. The property owner was interested in maintaining the property and working with neighbors, and she thought cameras or security to maintain the parking lot would help. She had some concerns with residential property backing up to commercial uses, so some issues with noise would need to be addressed. She would support the project.

Chairman Savage agreed with Commissioner Bailey and Commissioner Fitzgerald. He was concerned with the restaurant closing prior to the café. He also thought the café would create an

attractive nuisance in a parking lot that was not visible from State College, where policing would be difficult. He would not support the project.

Commissioner Musante would support the project. He was impressed by the owner of the property and his willingness to work with the residents. He liked the condition requiring a review in six months if there were problems. He believed they had granted one hookah lounge a CUP and this proposal was equally good.

Vice Chairman Francis stated that being a business owner, he understood how the applicant would probably spend \$100,000 to put the business in place, and nothing would scare him more than having to go before the City for a CUP review. He added that with three police calls he could lose his money. He believed the neighbors would be the first ones to make a call.

Commissioner Fitzgerald agreed that the applicant was probably capable of running this type of business, but believed the site was not right.

Commissioner Fitzgerald moved to deny the application, Commissioner Bailey seconded. Motion failed to pass with Commissioner Fitzgerald, Chairman Savage, and Commissioner Bailey voting in favor and Commissioner Hart, Vice Chairman Francis, and Commissioner Musante voting against the motion.

Vice Chairman Francis moved to approve the application, Commissioner Hart second. Motion failed to pass with Vice Chairman Francis, Commissioner Hart, and Commissioner Musante voting in favor and Chairman Savage, Commissioner Fitzgerald, and Commissioner Bailey voting against the motion.

Acting Director Rosen explained that with a tie vote the motion failed, the application was denied, and the applicant had ten working days to appeal.

OTHER ITEMS

COMMISSION/STAFF COMMUNICATION

Chairman Savage explained that elections for chairman and vice chairman would be done at the next regular meeting in January.

Acting Chief Planner Eastman explained that Commissioner Fitzgerald's term would terminate at the end of year, but she may continue until a new commissioner was appointed, which would probably be in February.

Commissioner Bailey stated he had received two letters with events that were past; Acting Director Rosen explained that there had been no meetings in November, and unfortunately the mail was held until the current meeting.

Vice Chairman Francis commented that in the required ethics class it was explained to them that emails were subject to subpoena. He asked if it would be possible to keep a separate email address with the City. Acting Director Rosen stated he would speak with the IT department to see what was available.

REVIEW OF COUNCIL ACTIONS

Acting Director Rosen gave a brief report on recent City Council meetings.

PUBLIC COMMENTS

Judith Kaluzny stated she had made a mistake in the first paragraph of a letter she had sent to the commissioners, and gave the corrected version.

AGENDA FORECAST

The next regularly scheduled Planning Commission meeting would be January 24, 2007 at 7:00 p.m. The December 27, 2006 and January 10, 2006 meetings have been cancelled.

ADJOURNMENT

There being no further business the meeting was adjourned at 10:59 p.m.

Janelle Pasillas
Secretary