

**MINUTES OF THE REGULAR MEETING OF THE FULLERTON PLANNING COMMISSION**

**COUNCIL CHAMBERS – CITY HALL**

**WEDNESDAY**

**FEBRUARY 28, 2007**

**7:00 P.M.**

- CALL TO ORDER:** The meeting was called to order by Vice Chairman Hart at 7:03 p.m.
- PRESENT:** Vice Chairman Hart, Commissioners Bailey, Chaffee, Musante, Savage, and Thompson (arrived at 7:20 p.m.)
- ABSENT:** Chairman Francis
- STAFF PRESENT:** Acting Director of Community Development Rosen, Acting Chief Planner Eastman, Senior Planner St. Paul, Acting Senior Planner Allen, Senior Civil Engineer Voronel, and Recording Secretary Pasillas.
- FLAG SALUTE:** Commissioner Savage
- MINUTES:** MOTION made by Commissioner Savage, SECONDED by Commissioner Bailey and CARRIED unanimously by voting members present, with Commissioner Chaffee abstaining, that the Minutes of the January 24, 2007 meeting be APPROVED as written.

**PUBLIC HEARINGS**

**ITEM NO. 1**

**PRJ06-00613 – PM2006-283. APPLICANT: KELLY CARLYLE; PROPERTY OWNER: REHABILITATION INSTITUTE OF SOUTHERN CALIFORNIA.**

Staff report was presented pertaining to a request for approval of a tentative parcel map for condominium purposes on property located at 130 Laguna Road (northwest corner of Laguna Road and Laguna Drive) (C-2 zone) (Categorically exempt under Section 15315 of CEQA Guidelines) (JEA).

Acting Chief Planner Eastman gave a brief overview of the request. A map of the Providence Center was displayed and the request explained. In October 27, 2005 the Planning Commission approved the Providence Center Development, although this subdivision was not considered at that time. No interior or exterior changes were proposed and a maintenance and performance agreement will be required. Staff recommended approval subject to the conditions outlined in the Staff Report.

Public hearing opened.

The applicant, Kelly Carlyle, explained the reason for the proposal. The Rehabilitation Institute of Southern California (RISC) provided various services to the community. The proposal was necessary for tax purposes. If a non-profit (RISC) and a for-profit business shared ownership of the same building, it would threaten the tax exempt status of the RISC. To preserve the tax

exempt status of the RISC it was necessary to establish separate ownership. She was agreeable with staff's recommended conditions.

Vice Chairman Hart asked who owned the parcel currently, and the applicant responded that the RISC currently owned the building in full, but the proposed division would allow the air space subdivision and allow a for profit to own the addition which had not yet been constructed.

Public hearing closed.

Commissioner Chaffee stated that he had worked with the RISC previously in Orange and believed they provided a good service to the community. He would support the proposal.

The title of RESOLUTION PC-07-04 APPROVING a resolution of the Planning Commission of the City of Fullerton granting a Parcel Map to subdivide a single lot into two commercial condominium units on property located at 130 Laguna Road was read and further reading waived. MOTION by Commissioner Savage, SECONDED by Commissioner Bailey and CARRIED unanimously by voting members present, that said Resolution be ADOPTED AS WRITTEN.

## **ITEM NO. 2**

### **PRJ07-00037 – ZON07-00006. APPLICANTS: KENNETH AND LINDELL ZIEG.**

Staff report was presented pertaining to a request for a minor site plan to operate a pet grooming vocational school on property located at 145 West Whiting Avenue (north side of Whiting Avenue, approximately 85 feet east of the centerline of Malden Avenue) (C-3 zone) (Categorically exempt under Section 15301 of CEQA Guidelines) (HAL).

Commissioner Chaffee recused himself due to his office lease which was within 500' of the subject property. He left the room at 7:15 p.m.

Acting Senior Planner Allen gave a brief overview of the project. She explained the background of the project. In August 2006 the Staff Review Committee (SRC) approved the project with conditions. In September 2006 the Planning Commission denied an appeal and upheld the SRC approval. In December 2006 the City Council granted the appeal, which overturned the prior approvals, and denied the project without prejudice, which meant an application could come back at any time to re-request a similar use. The City Council's action was based on the premise that there were questions regarding the underlying grooming business.

The specific application before the Planning Commission was for a pet grooming school. The proposed hours were within the hours of the grooming business, 9:00 a.m. to 4:00 p.m., with evening hours of 6:00 p.m. to 9:00 p.m. by appointment only. Sunday would also be by appointment only if a student needed extra tutorial time and there were dogs that needed service. The school's students would function as the employees, and there would be a limit of eight students to one teacher. This is a State accredited program, and will prepare the students to enter the job market as pet stylists.

An aerial view of the property was displayed, as were photos of the building. The floor plan was displayed and the specific uses of the various areas within the building were explained.

Commissioner Thompson arrived at 7:20 p.m.

The conditions of approval set the operating parameters of the business consistent with the underlying grooming parlor license in terms of number of dogs, hours of operation, and the location of where the activities would take place. The approval of the grooming school would not add additional hours, additional dogs, or additional business activities to this license. The conditions also include the provision of a trash enclosure located away from the adjacent residence to the west, a condition to reduce direct light into adjacent properties, and conditions aimed to resolve existing discrepancies between the property owner and neighbor regarding easements. They would also establish a review opportunity in six months after the initial operations began to ensure compliance with the conditions.

Commissioner Musante asked Acting Senior Planner Allen to describe the adjoining properties. Acting Senior Planner Allen explained that the property to the east, 139 Whiting, was a residential property in the commercial zone (C-3), and the property to the west, 147 Whiting, was a mixed-use property with offices and residential in the commercial zone (C-3). Both were single-story buildings.

Commissioner Savage asked for clarification on why the City Council had upheld the appeal, and Acting Senior Planner Allen responded that the City Council believed that making a decision on the grooming school was inappropriate due to the questions raised on the approval of the underlying grooming business. Because decisions on the grooming school were based on the school being part of an existing grooming business, the City Council was concerned with approving the school while questions remained regarding the approval of the underlying business.

Commissioner Bailey asked if a Conditional Use Permit (CUP) was required, and Acting Senior Planner Allen responded that a Minor Site Plan, not a CUP, is required for a vocational school. Typically a Minor Site Plan would be reviewed by the SRC. Due to the history of appeals on this project staff had chosen to bring the project before the Planning Commission.

Commissioner Savage asked why the grooming business did not require a CUP, and Acting Senior Planner Allen responded that the commercial zoning ordinance specified certain uses as permitted and certain uses as prohibited. Staff historically treated a grooming parlor as a use consistent with other permitted retail uses, and therefore allowed without going through the CUP process. Commissioner Savage asked if that would be true for all grooming shops in Fullerton, and Acting Senior Planner Allen stated that any use that was a grooming parlor alone was not processed with a CUP. Acting Chief Planner Eastman added that the Minor Site Plan process for vocational schools had conditions that could be placed on it, and staff had recommended conditions.

Vice Chairman Hart asked if the grooming salon required a Minor Site Plan, would the vocational school change that. Acting Chief Planner Eastman explained that the grooming use was a permitted use, and the vocational school required the Minor Site Plan.

Commissioner Bailey asked why a condition was not included requiring a review by the Planning Commission if there were three verifiable complaints, and Acting Senior Planner Allen responded that the Commission could add that requirement if they desired.

Public hearing opened.

The applicant and property owner, Lindell Zieg, the owner and operator of Lisha's Grooming Salon, explained that she had wanted to purchase property where she could run her business. After coming to the City to verify that the property at 145 Whiting could be used for dog grooming, she had purchased the property. She had come back to the City to see if she could expand her business to include a trade school and was told it was a permitted use with a Minor Site Plan. She

described the attachment people had with their pets, and the need for additional trained groomers in the community. She would be teaching a curriculum that would be certified by the State, and would continue to report to the Orange County Animal Control. She had not received any citations in the twenty two years her pet grooming business had been established on E. Chapman Avenue.

A video of the property was shown and Ms. Zieg described the use. She explained the improvements that had been made to the building (central heat and air, HEPA filters, and sound proofing) in an effort to alleviate the neighbor's concerns.

Ms. Zieg explained that as she had lobbied for this project she had come to know the downtown area. Approximately 65% of her existing clients lived in this part of town and would be able to walk to her business. She described her existing staff and the numerous inquiries she had received from people wanting to enroll in the grooming school and from people wanting to hire her students.

Commissioner Savage asked who lived in the residence above, and Ms. Zieg stated she rented out the property. She added that if the area was not kept clean or she was a bad neighbor to her renters she would lose a source of income. Many improvements had been made to ensure that her renters, and the adjacent neighbors, would not be disturbed. The facility would be quiet and peaceful, both for the animals and the neighbors. Any disruptive dogs would have their owner called so they could be picked up.

Commissioner Musante had visited the site and liked the improvements. He wanted to know if Ms. Zieg anticipated problems with the neighbors. Ms. Zieg responded that she had not anticipated any of the problems she was having; she thought she was just moving her existing business. She assumed that because the City and Animal Control had both signed off that there would be no problems.

The following people spoke in support of the project:

Julie Cooper, 145 W. Whiting, Fullerton  
Annika Santalahti, 615 Beverly Drive, Fullerton  
Cindy Taylor, 22430 Starwood Drive, Yorba Linda  
Stephanie Wold, 145 W. Whiting, Fullerton  
Jennifer Rogers, 1180 N. Holly, Anaheim  
Nicolle Naito, 432 Pinehurst Avenue, Placentia

Their points of support were:

- Grooming school will benefit the community
- Appropriate use for a mixed-use zone
- Nearby restaurants serving alcohol cause more of a disturbance
- Not a high intensity use
- Ms. Zieg was a conscientious business person
- No complaints had been filed in over 20 years at Ms. Zieg's existing business
- Pets were like family members and people want a safe and responsible place to take their animals for grooming
- Dog grooming is a good source of income for many people, including people who need flexible work schedules
- Petition of support signed by people living in the neighboring mixed-use apartment property
- This growth and development should be looked at as progress

The following people spoke against the project:

John Magor, 517 W. Whiting Avenue  
Michael Erman, 139 W. Whiting Avenue  
Judith Kaluzny, 400 N. Malden  
Lynn Chidester, 517 W. Whiting Avenue  
Dee Erman, Placentia  
Larry Klees, 138 Malvern Avenue  
Dorian Hunter, 400 Virginia Road

Their points of opposition were:

- Dog care facility not on the list of permitted uses
- License for grooming parlor not given by Orange County Animal Control
- Planning Commission should let the City Council make the decision
- Kennel is not allowed in a C-3 zone
- Do not want urine and dog waste next to their home
- This type of business should be located away from residents
- Three property owners involved and all should have equal rights
- License was for dog grooming and dog daycare
- Definition of kennel was four animals of any age for more than four hours for any purpose
- City Council stated kennel not allowed in a C-3 zone
- No CUP has been applied for
- Pet shops were eliminated in 1974 as a permitted use in C-3 zone
- CUP required for child daycare, why not for dog daycare
- 46 dogs permitted means 92 trips per day
- Grooming parlor would evolve into a kennel
- The integrity of the process was in question
- Decrease in property value for the neighboring property's
- Need to set a precedent now to protect the residents from future mixed-use properties
- New owner not communicating with existing neighbor's and had cut down a neighbor's orange tree
- Ms. Zieg was encroaching on neighbor's property
- There are 23 residential dwellings within 1000' of this property and the noise will carry
- The trade school was a cover-up for a kennel
- Not just a person coming in and out, but also a dog which may bark
- Kennels belong in a more rural area

Commissioner Bailey stated that Ms. Kaluzny had come by his office earlier in the week. He asked Ms. Kaluzny if she was against a commercial use at this location, or just this type of use in this location. Ms. Kaluzny responded that it was not an approved use for this location. Commissioner Bailey stated a retail use could possibly have more trips per day.

Commissioner Savage stated he met with Ms. Zieg at the site today, and described his site visit.

Commissioner Bailey asked Ms. Chidester how she knew there would be complaints, and she responded that there would be sixty animals at the location, and with the proximity of the neighboring properties she felt certain that it would have an effect on their quality of life.

Commissioner Thompson clarified that the appeal was not approved in a closed session; it was denied without prejudice by the Council in a public hearing.

Ms. Zieg stated the school required a Minor Site Plan, and was denied without prejudice. She expressed her understanding that the City Council had gone behind closed doors and they came back with the Mayor and City Council recommendation that if she kept the kennel license application it would require a CUP. If she obtained a grooming parlor license from Animal Control, and voided the kennel license, it would be within the Code.

Commissioner Bailey left the room at 8:37 p.m.

Vice Chairman Hart asked if there would be dogs on the premises overnight, and Ms. Zieg responded negatively.

Commissioner Thompson stated that at the current location she was licensed as a dog groomer and she was approved by Animal Control to do dog grooming at the new location. Ms. Zieg responded affirmatively. Commissioner Thompson questioned whether Animal Control would allow a grooming school at the new location, and Ms. Zieg responded that she would need a Minor Site Plan for the school. Commissioner Thompson asked for clarification on what the City Council had recommended and Ms. Zieg stated she was told if she wanted to continue the process with the kennel license she had applied with, she would need a CUP. The other option would be to obtain a grooming license, which she currently had.

Acting Director Rosen explained that the previously approved license was approved in 2005. The Animal Control license lists the types of businesses that could be approved by Animal Control; and the kennel box had been checked. The box was checked, but there were conditions added that there would be daycare only and no overnight.

Commissioner Bailey returned to the room at 8:30 p.m.

Commissioner Thompson asked for the definition of a kennel, and Acting Director Rosen responded that the City did not have a definition for a grooming parlor in the Code, but the definition for a commercial kennel was "any kennel maintained for the purpose of boarding, breeding, raising, or training dogs or cats for a fee or for sale".

Commissioner Thompson asked for clarification if the proposed grooming business was a kennel, and Acting Director Rosen stated that by City and County definitions this was not a kennel. Assistant City Attorney Barlow added that no other definition of a kennel would apply, and this business was not treated as a kennel under the City's Zoning code.

Commissioner Savage left the room at 8:44 p.m.

Ms. Zieg explained how Animal Control had come to list her license as a kennel, and after the City Council hearing in 2006 she spoke with Animal Control who stated they had made a mistake in the classification, and issued a new license. She displayed the license that she currently had, and also examples of grooming parlor licenses held by similar uses in the area.

Commissioner Savage returned to the room at 8:45 p.m.

Ms. Zieg explained that Animal Control would have to sign off that she was in compliance; they would oversee her business and would be called in if any complaints were made. She would have a County license and State certification, and those agencies would also oversee her business.

She had obtained petitions with signatures from surrounding neighbors and clients in support of this business. There were more pets in surrounding neighborhood than she would have on site; for example, the Promenade Apartments allowed pets and many of their tenants would be her clients. She had previously done business with Ms. Kaluzny prior to becoming her neighbor, and she would like an opportunity to be judged based on how she has operated her business and will continue to do so. Her current location was near a residential area and she had never had a complaint.

Ms. Kaluzny stated that Title 11 of the Fullerton Municipal Code contained the definition of kennel, "more than four dogs or cats, more than four months old, for any purpose". Boarding as defined in the dictionary was to provide shelter and food. This was a dog daycare license and the dogs could remain there until 9:00 p.m. She believed her property also had value as a rental property. Her tenant was three feet from the wall, and would be disturbed by the noise. She depended on the income from her property.

Commissioner Savage asked to see the site plan and Ms. Kaluzny described where her property was in relationship to her rental properties.

Commissioner Musante stated that no dog grooming would be done in the area three feet from her rental, and Ms. Kaluzny stated it would be the noise from the clients coming and going with their dogs that would disturb her and her tenants.

Public hearing closed.

Acting Director Rosen clarified that no information was disclosed from the closed session of the City Council to the applicant or anyone else in community; it was against the law to do so. The applicant had been given an overall general direction by the Acting Director of Community Development, and told that what he would approve as the Acting Director would be a grooming license. The staff report contained a listing of all the other businesses in the City that had operated under a grooming license. He clarified for the Planning Commission that what was before them was a Minor Site Plan for a vocational school; the grooming license had already been approved. The question before the Commission was whether the operation of the vocational school and its impact on the neighbors could be mitigated through conditions or with modifications to the plans.

Commissioner Bailey clarified that the business to groom pets was already approved, and they were just hearing the school portion. Acting Director Rosen confirmed.

Commissioner Thompson stated this was an easy decision for him. There was already an approved grooming facility, and this use would not substantively change the circumstances of the existing business. He believed this use was appropriate for the area. He understood the fears of the neighbors, but it was a C-3 zone, and he was confident that most of the fears would be unsubstantiated over the next year. He had visited this site and her previous location and believed the new facility was much more substantial. The doors would be closed, the windows would not need to be open for ventilation, and he did not believe it was going to be a loud, obnoxious business next to the residences. He will support the project.

Vice Chairman Hart asked how many animals would be allowed, and Assistant City Attorney Barlow responded that the number of animals was limited by both by the County permit and the City, and staff had included a condition in the proposed resolution that the number of animals at the trade school was to coincide with the number allowed for grooming purposes.

Commissioner Savage stated that the City of Fullerton was known as an education community, and vocational education was every bit as important as other types of education. This was a C-3 zone, and the problem was residential in a commercial zone, not commercial in a residential zone. This could be appealed to the City Council. The proposal was for a training school much like a school for barbers. He had gone to the site today, and agreed with Commissioner Thompson that it was a first class facility. There was an ample parking lot, and on the 139 Whiting side there was 1 ½"-2" thick sound wall. The building was air conditioned so doors and windows would not be open. On the 147 Whiting side there was a brick wall and no grooming would take place on that side. According to Assistant City Attorney Barlow and staff this was not a kennel. He will support the project.

Commissioner Musante agreed with Commissioner Thompson and Commissioner Savage, and believed the problem started with bad information from the County. This business was allowed in this zone, and Ms. Zieg had twenty two years in business with no citations. He will support the project.

Commissioner Bailey agreed with the other Commissioners, but would like to add two conditions. He stated that there would be dogs groomed there regardless if there was a vocational school, and he did not believe there to be a need to stop the school. He would like to add a condition that there would be no overnight boarding of animals, and also add a condition that if there are three verifiable complaints that it will come back to the Commission for review.

Commissioner Musante asked if condition nine would cover his concerns, and Commissioner Bailey responded negatively. He understood that the County license said no overnight care, but wanted to add a condition that the City also said no overnight care. He wanted the neighbors to have an outlet to contact city personnel if there was a problem.

Commissioner Thompson asked what was considered a verifiable complaint, and Acting Director Rosen responded that a Community Preservation Officer or Police Office would go out and confirm the complaint. Commissioner Thompson stated he would agree to the added condition.

Vice Chairman Hart had visited the facility and believed the applicant had done a remarkable job trying to make the facility sound proof and clean. She believed it was compatible with the grooming and a vocational school was a permitted use. She will support the project.

The title of RESOLUTION PC-07-05 APPROVING a resolution of the Planning Commission of the City of Fullerton APPROVING a request for a Minor Site Plan to operate a pet grooming vocational school on property located at 145 West Whiting Avenue was read and further reading waived. MOTION by Commissioner Savage, SECONDED by Commissioner Musante and CARRIED unanimously by voting members present, that said Resolution be ADOPTED AS MODIFIED by adding a condition that if there were three or more verifiable complaints within a twelve month period the Minor Site Plan would be reviewed by the Planning Commission.

Acting Director Rosen explained the appeal process.

Commissioner Chaffee returned to the room at 9:20 p.m.

### **OTHER ITEMS**

None

**COMMISSION/STAFF COMMUNICATION**

Commissioner Savage stated that he will not be present at the March 28, 2007 meeting.

**REVIEW OF COUNCIL ACTIONS**

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

**PUBLIC COMMENTS**

None

**AGENDA FORECAST**

The next regularly scheduled Planning Commission meeting would be March 14, 2007 at 7:00 p.m.

**ADJOURNMENT**

There being no further business the meeting was adjourned at 9:22 p.m.

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Janelle Pasillas  
Secretary