

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

**COUNCIL CHAMBERS – CITY HALL**

**WEDNESDAY**

**MARCH 28, 2007**

**7:00 P.M.**

- CALL TO ORDER:** The meeting was called to order by Chairman Francis at 7:02 p.m.
- PRESENT:** Chairman Francis, Vice Chairman Hart, Commissioners Chaffee, Musante, and Thompson
- ABSENT:** Commissioners Bailey and Savage
- STAFF PRESENT:** Acting Director of Community Development Rosen, Acting Chief Planner Eastman, Senior Planner St. Paul, Acting Associate Planner Kusch, Senior Civil Engineer Voronel, Traffic Engineer Miller, and Recording Secretary Pasillas.
- FLAG SALUTE:** Commissioner Thompson
- MINUTES:** MOTION made by Commissioner Thompson, SECONDED by Commissioner Hart and CARRIED unanimously, by voting members present, that the Minutes of the March 14, 2007 meeting be APPROVED as written.

**PUBLIC HEARINGS**

**ITEM NO. 1**

**PRJ05-00433 - LRP05-00006. APPLICANTS: ERNIE C. KELSEY AND TOM DALTON; PROPERTY OWNERS: VARIOUS.**

A request to rezone 47 properties in the 300 and 400 blocks of West Brookdale Place from "R-1-7.2" to "R-1-7.2P". (located from Richman Avenue to Highland Avenue) (Categorically exempt under Section 15331 of CEQA Guidelines) (JEA).

Acting Chief Planner Eastman gave a brief overview of the project. A zoning map was shown which indicated both the proposed area and the notification area. Surrounding zones were described, and a background on the application process was provided. Acting Chief Planner Eastman explained that Fullerton Heritage had been asked by the property owners to be a co-applicant due to their expertise in the area of preservation zones.

Acting Chief Planner Eastman stated that the property owners of the forty seven affected properties had been invited to attend several community meetings, and surveys had been mailed. An opinion survey map was shown which indicated the various responses received, and Acting Chief Planner Eastman explained the results; 22 returned who supported, 7 returned who opposed, 6 returned requesting more information, 10 were not returned, and 2 were returned by the post office and undeliverable. Of the six surveys returned requesting more information, staff was able to contact four of the property owner's directly to discuss the change, and all four stated they were not in opposition to the request.

Acting Chief Planner Eastman explained what the changes would be if the area was changed to a preservation zone and photos of the area were displayed. Two houses in the rezone area were local landmarks, and pictures of one of the properties were shown.

Commissioner Chaffee asked how the proposed overlay zone would affect the right to build a "granny unit". Acting Chief Planner Eastman responded that the preservation zone would not change the current standards pertaining to "granny units", but it would have to comply with the preservation design guidelines and square footage limitations for the overall lot.

Vice Chairman Hart asked if the preservation zone affected the exterior of the homes only, and Acting Chief Planner Eastman responded that it was exterior only and intended to address the community aesthetics and neighborhood character.

Vice Chairman Hart asked if this change would change the current Floor Area Ratio (FAR), and Acting Chief Planner Eastman responded affirmatively. Currently the FAR was .50 (50%), which meant that the square footage of habitable area (not including garages) could be 50% of lot area, with the rezone it would drop to .40 (40%). Vice Chairman Hart asked what the average lot size was, and Acting Chief Planner Eastman responded that the mean lot size was 7,000 square feet, which would allow 2,800 square feet of habitable area. Vice Chairman Hart asked, of the homes on the block what the average size was, and Acting Chief Planner Eastman responded that the majority of the existing homes would be below the new FAR. Vice Chairman Hart asked if the preservation zone would also reduce parking requirements, and Acting Chief Planner Eastman stated that it would not reduce the number of parking spaces required, but would require only half of required spaces be in garages; therefore, a two car garage was not required, and a single car garage would be allowed, which was more consistent with the old carriage houses in character.

Commissioner Thompson asked what the staff's logic was in supporting the proposal. Acting Chief Planner Eastman responded that the request had been initiated by the public, a majority of the residences supported the proposal, it was consistent with the General Plan, and was a well preserved neighborhood in its current state. Commissioner Thompson asked if, in staff's perspective this was about taking what the General Plan considered a historically significant neighborhood that the General Plan considered a resource, and making changes by individual property owners to their properties go through a more rigorous evaluation process by various City entities, and increase the ability to stop something undesirable from happening. Acting Chief Planner Eastman responded it would enhance the review by staff of the neighborhood, and establish guidelines. The intent was to provide more regulation in maintaining the character of the neighborhood. Commissioner Thompson asked if it was conceivable that an individual property owner might want to do something today that would be approved, but would not be approved under the new guidelines. Acting Chief Planner Eastman responded affirmatively.

Commissioner Musante wanted to understand the change in FAR. Acting Chief Planner Eastman clarified that an existing house over the FAR would not need to be demolished, but they would be limited to the 40% if doing an addition. Demolition was discouraged in a preservation zone. Commissioner Musante asked if it would be possible to renovate inside, and Acting Chief Planner Eastman responded that the preservation zone did not apply to interior changes, but windows or other items that were visible to the public would be reviewed to ensure they were consistent with the neighborhood. An addition to an existing house that was either visible from the street or over 500 square feet would be referred to the RDRC for review. Demolition of the home would require going before the Landmarks Commission.

Public hearing opened.

Tom Dalton, the applicant and President of Fullerton heritage, explained that they supported the project and believed it was imperative to maintain these historical homes in the best way possible. The neighborhood was bordered on two sides by preservation zones, and this would be an excellent addition. He reminded the Commission that garages were not counted in square footage.

Commissioner Thompson asked the position of Fullerton Heritage on property owners that may want to do something to their property and were denied their individual property rights. Mr. Dalton responded that the guidelines were not overly stringent, and were written to allow freedom to remodel as long as the property stayed in the character of the neighborhood. He believed that property values could be maintained by keeping homes as traditional as possible. He added that there were no rules or regulations on changes to the interior of a home or changes in floor plan, if the streetscape was not changed. He thought it important to think of the greater good of the neighborhood. Commissioner Thompson asked if there were any examples of homes where the current approval process failed the neighborhood, and Mr. Dalton stated that an example of a house that had overbuilt the lot was 337 Brookdale.

Vice Chairman Hart asked for clarification on the designation historical landmark versus preservation. Mr. Dalton responded that a landmark district was more restrictive than a preservation overlay, and did not allow any exterior changes. The RDRC allowed changes that stayed reasonably within the context of the neighborhood. Acting Chief Planner Eastman added that the RDRC would review the project to the preservation overlay and could deviate from the guidelines when appropriate. Changes to a local landmark would require compliance with the Secretary of Interior's National Standards for Rehabilitation, which was a stricter process. Mr. Dalton reminded Commissioners that Brookdale was a potential landmark district.

Commissioner Musante asked if a preservation overlay protected home prices, and Mr. Dalton responded affirmatively, and added that he had been told by real estate professionals that preservation zones enhanced the value of the property.

Commissioner Thompson asked about the comment on one of the survey forms that said there were already enough restrictions in the current code and the proposal would make the process more difficult. Mr. Dalton responded that everything worth having was worth a little effort. He believed it created more of a challenge, but at the same time the property owner would get the wisdom of the RDRC. People appreciated the advice of the RDRC and generally wanted to save their neighborhood and keep the historic value intact.

The following people spoke in support of the proposal:

Ernie Kelsey, 400 W. Brookdale  
Bill Thornly, 301 W. Brookdale

Their points of support were:

- Giving up some of an individuals choices for the good of the neighborhood was beneficial for the whole
- The majority of the neighbors support or did not have an opinion regarding the proposal
- "No man's home should cast a shadow on another's home"
- One home in the neighborhood had already been over-built for the area and they wanted to prevent this from happening again in the future

Paul Rivet, 321 W. Brookdale, explained that he was one of the property owners whose survey was returned by the post office, due to his being out of the country. He did not have an opinion at this time and would like more information on the proposal.

Karen McDonald, 324 W. Brookdale, spoke in opposition to the proposal. She believed they did not need more laws to tell them how to maintain their homes. More rules were unnecessary, and it should be the property owner's choice if they wanted to remodel their home.

Public hearing closed.

Commissioner Musante would support. He believed 55% of the neighborhood agreed with the proposal, and it was a small percentage that was opposed. It was a nice neighborhood and the City needed to prevent incompatible structures from being built.

Commissioner Thompson discussed with Commissioner Musante what percentage he believed was large enough for him to consider it a majority of the neighborhood wanting the change. Commissioner Musante clarified that the percentage in support was not the only criteria he used in his decision.

Vice Chairman Hart asked staff what the properties with no markings on the survey response map indicated, 345 and 401 in particular, and Acting Chief Planner Eastman responded that those properties did not respond to the survey. Vice Chairman Hart asked if 22 residences that were indicated as supporting the proposal was the 55% supporting listed in the staff report, and Acting Chief Planner Eastman clarified that the four people contacted by phone who had indicated they supported the proposal were included in the percentage (26 total). Vice Chairman Hart clarified it was 26 supported and 21 were either opposed or had not been heard from. Vice Chairman Hart asked if the historical landmark had to be voted as an individual home or whole block. Acting Chief Planner Eastman responded that currently two homes in this neighborhood were identified as local landmarks, 440 and 444 Brookdale. They had been identified as having individual value themselves, either architecturally or someone important had lived there.

Commissioner Thompson stated that Brookdale was his favorite street in Fullerton, and he would like to live there. He was opposed to the proposal because he did not agree with government intervention in individual property owner's rights. He did not understand why the current regulations were not sufficient; and other than one home, the neighborhood had been beautifully maintained. He believed there needed to be a compelling reason to increase government restrictions on property owner's, and he would not support the proposal.

Commissioner Chaffee liked the neighborhood, and would support the proposal based on the facts presented. He noted that there were two preservation zones on either side of this neighborhood, and it was an area that the City had previously identified as a possible preservation zone. There was a policy in the General Plan that encouraged preservation of recognized historical and cultural landmarks and neighborhoods. That was what the City Council had directed the Planning Commission to consider and to do. Years ago, when lots were several hundred acres, it did not matter much what a homeowner did, but now we were interconnected and with that we needed to respect the rights of those around us. He would support the proposal.

Vice Chairman Hart stated that some people viewed preservation zones as negative, and some cities actually gave money to people to maintain their homes in a preservation zone. She owned a home in a preservation zone and understood it could be more costly and time consuming to maintain. She had driven on Brookdale and thought the block, and the majority of homes, were in good condition, and did not need to be redone.

Commissioner Thompson asked Vice Chairman Hart if what she was saying was that she did not see a need for individuals to change their homes, therefore pass this law. If so, why pass this proposal. Vice Chairman Hart responded that basically it would provide a "homeowner's association" for this block. Commissioner Thompson asked why she was in favor of passing a law if she could not state why. Vice Chairman Hart responded that it was setting a baseline. Commissioner Thompson stated two things that could happen; it stayed the same or you were restricting someone's freedom, and when someone wanted to do something it would be harder to get through government. We would be passing a law to increase the restrictiveness of government, and we need to have a really good reason. Vice Chairman Hart explained that the property owners were asking for the restrictions.

Commissioner Thompson stated that Commissioner Chaffee's comment regarding a mandate from City Council to add laws was incorrect. There may be some direction in the General Plan that preservation was important, but that did not necessarily equate to pass a law to make this more restrictive.

Acting Chief Planner Eastman clarified that the Planning Commission would not be passing a law, but making a recommendation to the City Council to pass the resolution.

Commissioner Chaffee if this were an application by President Homes it would be different; this was not area designated by the City, the facts were different. Freedom was relative, and in many ways peoples freedoms were being enhanced, not taken away. Commissioner Chaffee stated that Commissioner Thompson had asked for a reason, but by the time there was a reason, it was too late.

Vice Chairman Hart stated if ever a neighborhood would be right for a preservation overlay, she thought this was the right one. She was concerned with the number of people supporting, and would like to continue until more people had voiced their opinions.

Chairman Francis stated that once an area was changed to a preservation zone it never went back. He also would like to continue the item, and if possible to have the neighbors get more people involved and agreeable with the proposal.

Commissioner Thompson moved to continue.

A discussion on the survey results and percentages of people in support and opposed to the proposal was held.

Commissioner Chaffee moved to reopen public comments, and Commissioner Thompson seconded the motion.

Public hearing reopened.

Bill Thornly, 301 W. Brookdale, explained that this request had started long ago. The two no votes were from properties that were owned by a contractor. The homeownership changes may not be reflected in the current survey results. Acting Chief Planner Eastman stated the survey was done in January 2007, and that property owner did not own the property at that time.

Ernie Kelsey, 400 W Brookdale, stated that the area was surrounded by preservation zones, and building in the area was still going on, for example 406 W. Malvern just added a whole second story. The freedoms that they would be giving up were window choices, and other similar items.

The residents lived here because they loved the neighborhood. He wondered how many more monstrosities had to be built before they said enough. Commissioner Thompson asked why he believed we had to preserve the area, and Mr. Kelsey responded it was part of the City's heritage. Commissioner Thompson stated he thought things were fine on Brookdale and did not see a crisis looming.

Vice Chairman Hart understood they had worked a long time on this proposal, it was one small block, and she just wanted a few more yes votes. Mr. Kelsey responded that he had gone door to door three times and the people who had not responded will probably never respond, and if they were opposed to the proposal they would have responded.

Commissioner Thompson stated that the proposal was asking for a law, and Mr. Kelsey stated he had asked for zoning to change. Commissioner Thompson responded that those people may not want more government.

Acting Director Rosen suggested that the protocol of the Planning Commission was that presentations be made, comments be made, and Commissioners ask questions.

Commissioner Musante asked Mr. Kelsey about the instances where he believed preservation had already been disturbed, and Mr. Kelsey responded that he did not want to judge. When he had moved onto the street there was uproar over the large home that was built. Whether it looked good or not he did not want to judge, but it was bigger than other homes on the block and the scale did not fit the neighborhood.

Commissioner Musante believed a majority had spoken and the people who had not spoken were probably not going to come forward. If you want to protect a street, in a democracy the people should be allowed to do so. Commissioner Thompson responded that Commissioner Musante statement was a factual untruth to say it was not a restriction on anybody's freedom. He believed it was and that the property owner's had also stated it was. Mr. Kelsey responded that building codes could also be considered a restriction of freedoms, but were necessary.

Sharon Bultsma, 616 W. Valley View, explained that she had started this process in the Valley View and Fern area over four years ago. There was a specific process to follow, and she had walked house to house diligently, sent mail, called people, and the process took close to a year just to try and find out how many people would want this change. There were still an enormous number of people that she could never get a response from. In theory it was a good idea to try and get more responses, but it might not be possible. Commissioner Thompson stated it was supposed to be hard to limit people's freedom.

Hank Chikanisa, 406 Del Monte, lived on the street above Brookdale, which was fifteen to twenty feet higher than Brookdale. From the rear yard he could down to Brookdale, and to his left was the three-story home. He did not believe it was right to allow such buildings that impacted not only the residents on Brookdale, but also on Del Monte. He indicated that he had not received a survey, but if he was asked he would support the proposal.

Commissioner Thompson asked if Mr. Chikanisa did not want to allow someone on Brookdale to build something higher than existing roof line, and Mr. Chikanisa responded affirmatively, that he believed new construction should be built in a similar style as the existing neighborhood.

Commissioner Musante commented that it was not just the people on Brookdale supporting the proposal, but surrounding areas also supported it.

Acting Chief Planner Eastman clarified that the survey was sent to the forty seven property owners that would be directly affected.

Katie Dalton, 200 N. Cornell, explained that the preservation process had been in place since 1979. This particular neighborhood had other opportunities in the past to become a preservation zone and had chosen not to. They had come forward this time due to changes in the neighborhood. The property owner's who had previously disagreed, now saw the changes happening and realized the importance of preserving the area. She believed the problem with the two properties that were remodeled was they were redeveloped out of context with the neighborhood. She acknowledged that the property owner's would give up some personal property rights for the greater good. The majority had spoken, and if people did not care about the proposal they would not respond. Everyone had been given numerous opportunities to express their opinion; there had been two public meetings that were noticed, and a survey had been mailed. Everyone had ample opportunity to voice their opinion.

Commissioner Thompson asked if the change in the two homes she had mentioned had sparked the issue, and should the mechanisms in place now, properly applied, have prevented what they considered building out of context. Mrs. Dalton responded that the Code was applied as honestly and technically as possible.

Chairman Francis left the room at 8:27 p.m.

Mrs. Dalton did not believe they were "bad buildings"; they were just not good in this context.

Chairman Francis returned to the room at 8:28 p.m.

She commented that once a home was changed, you could not get back a classical, historic home.

Commissioner Thompson asked Mrs. Dalton how heavily she valued freedom and how heavily she valued preserving the neighborhoods, and Mrs. Dalton responded it was a matter of balancing.

Commissioner Thompson asked staff if a process was followed where the two homes Mrs. Dalton was referring to could have been prevented. Acting Director Rosen responded that he was familiar with the home on the north side of Brookdale. The applicant may have pushed the limits, but after numerous reviews staff felt it met code.

Commissioner Thompson understood that some people just will not answer, but there should be some threshold of support achieved. Mrs. Dalton agreed, and thought it very hard to believe that people who had not stated their opinion really had an opinion.

Commissioner Chaffee asked how the survey results compared with surveys completed in other preservation areas. Acting Chief Planner Eastman responded that the only other preservation rezone he had been involved in was a small street and they had received a very solid return. He understood this was approximately about the same. Commissioner Chaffee asked Mrs. Dalton if she had been involved in the preservation zones that adjoined Brookdale, and Mrs. Dalton responded affirmatively. The results as she remember were approximately 60% in favor, 30% against, and the rest no response.

Commissioner Thompson left the room at 8:33 p.m.

Mrs. Dalton commented that it was never easy, there was always debate, but people had been given ample opportunity to voice their opinion.

Commissioner Thompson returned to the room at 8:34 p.m.

Commissioner Musante asked Mrs. Dalton if she believed twenty six out of thirty three in a neighborhood such as this was about as good of majority as you were going to get, and Mrs. Dalton responded affirmatively.

Chairman Francis asked about the people who had indicated they wanted more information, and Mrs. Dalton responded that four of the six had been contacted and indicated they supported the proposal.

Acting Chief Planner Eastman clarified the numbers and percentages of the survey respondents.

Commissioner Thompson asked Mrs. Dalton if there was a possibility that some of the non-responsive property owners might be hesitant to respond negatively because of a fear of conflict, and Mrs. Dalton responded that there may be somebody, but it was not the main reason for not responding.

Commissioner Thompson commented that several people tonight stated they were very angry, and Mrs. Dalton responded that the people in the audience had been shocked at the passion he had shown tonight.

Paul Rivet, 321 W. Brookdale, commented that he would like to stay on Brookdale and expand so he could stay there longer. He certainly cared about the issue, but had been out of the country and would like more information.

Acting Chief Planner Eastman clarified that the Planning Commission was making a recommendation, and there would be another hearing for the City Council to make their decision, thus allowing Mr. Rivet an opportunity to fully understand the proposal.

Jane Bushman, 325 W. Brookdale, had moved to the street in 2000. She chose the street because of the character and charm of the neighborhood. When the neighbor to her west had added on to the back of their home, the top floor looked down into their patio and over their house and into another neighbor's bedrooms and bathrooms. She cared about what happened in their neighborhood.

Public hearing closed.

Commissioner Thompson made a motion to continue the item, and Vice Chairman Hart seconded the motion.

Chairman Francis stated he wanted to see a few more property owners in favor of the proposal before he would agree to it.

Commissioner Musante was against continuing the item. He believed that the property owners had been working on the request for two years, and a majority of the residents were in favor.

Chairman Francis thought it was less than 55% in favor, more like 54%, and Mrs. Dalton had stated that other similar surveys had 60% in favor. He thought there may be others like Mr. Rivet who needed more information.

Commissioner Thompson left the room at 8:49 p.m.

Commissioner Musante believed that the property owners had two years in which to voice their opinion.

Commissioner Thompson returned to the room at 8:50 p.m.

Commissioner Chaffee asked if there was a date certain to put in the motion so the people would know when the proposal would come back.

Acting Chief Planner Eastman stated that staff could try to survey the ten property owners that had not responded.

Commissioner Thompson believed it was not necessarily incumbent on the city to work hard to try and win support. Chairman Francis asked if a neighbor could walk over to the non-responsive properties with the survey. Acting Chief Planner Eastman responded that from staff experience in recent preservation, that having the neighbors conduct the survey had an appearance of bias, and staff's opinion on was that the City, on City letterhead, would send out the survey and provide the response information to the public. All discussions would be in a public forum. Commissioner Thompson did not believe it was incumbent on the City to do any more surveying.

Commissioner Chaffee would like a date certain so that everyone here would know when they would reopen the public hearing.

Commissioner Thompson modified his motion to continue to a date certain, and Vice Chairman Hart agreed with the modification.

Acting Chief Planner Eastman stated that the item would be continued until the April 25, 2007 meeting.

Commissioner Chaffee asked if the public hearing would be opened, and Acting Director Rosen responded that it would be up to the Planning Commission.

Vice Chairman Hart found it hard to believe that people with homes at a base price of \$750,000 had no opinion on what they could do with their home.

Commissioner Chaffee commented that the Planning Commission was only making a recommendation to the City Council, and Chairman Francis stated that there was a better chance for approval by the City Council if Planning Commission recommended approval.

Chairman Francis called the vote, and Chairman Francis, Vice Chairman Hart, and Commissioner Thompson voted in favor, and Commissioner Musante and Commissioner Chaffee voted against.

Acting Director Rosen stated that the City would provide a courtesy notice to the neighborhood of the continuance date, and staff would send surveys to the non-responsive property owners. Acting Chief Planner Eastman added the surveys would be sent out to the non-responsive property owners the following week, he would allow for a two week turnaround, and if he did not receive a response he would go door to door.

### **COMMISSION STAFF COMMUNICATION**

Acting Chief Planner Eastman stated that the April 11, 2007 meeting had been cancelled.

Commissioner Chaffee asked staff about an article in the March 27 Los Angeles Times regarding fees imposed by Caltrans, and wanted to know if the City was involved in the collection of these fees. Acting Director Rosen responded that he did not see the article, but currently the City did not collect fees for Caltrans.

Commissioner Thompson asked staff if there was a reason for the delay in receiving the minutes, and Acting Chief Planner Eastman responded that the minutes required staff review prior to being distributed to the Commissioners, and they had not been reviewed at the time the binders were distributed.

### **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 April 25, 2007 at 7:00 p.m. The April 11, 2007 meeting would be cancelled.

### **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:01 p.m.

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Janelle Pasillas  
Secretary