

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

**COUNCIL CHAMBERS – CITY HALL**

**WEDNESDAY**

**APRIL 25, 2007**

**7:00 P.M.**

**CALL TO ORDER:** The meeting was called to order by Acting Chairman Savage at 7:03 p.m.

**PRESENT:** Commissioners Bailey, Chaffee, Musante, Savage, and Thompson

**ABSENT:** Chairman Francis, Vice Chairman Hart

**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 Bailey

**MINUTES:** MOTION made by Commissioner Thompson, SECONDED by Commissioner Musante and CARRIED unanimously, with Commissioners Bailey and Savage abstaining, that the Minutes of the March 28, 2007 meeting be APPROVED as corrected – page 25, second paragraph, "...that the preservation zone would change the current standards..." to "that the preservation zone would not change the current standards...".

**PUBLIC HEARINGS**

**ITEM NO. 1**

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

Staff report was presented pertaining to 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) (Continued from March 28, 2007).

Commissioner Bailey recused himself from this item.

Commissioner Thompson MOTIONED to continue this item due to the absence of Chairman Francis and Vice Chairman Hart. The motion died for lack of a second.

Acting Chief Planner Eastman gave a brief background on the proposal. He explained that the item had been continued from March 28, 2007, therefore he would not be repeating the original staff report, but would provide the details of what had happened since that meeting.

Acting Chairman Savage stated that although he was not at the last meeting, he had read staff's report and the minutes and had familiarized himself with the project.

Acting Chief Planner Eastman displayed a zoning map and identified the properties that had received notice of tonight's meeting. The zoning for the various neighborhoods surrounding the project site were also indicated.

Acting Chief Planner Eastman explained that since the March 28, 2007 Planning Commission meeting, staff mailed an opinion survey to the seventeen property owners that had not responded with a firm opinion to the original survey. The final responses to the two surveys were as follows:

- 27 in support of the preservation zone
- 11 opposed to the change in zoning
- 5 need more information
- 0 did not receive a response
- 4 had no opinion

At this point staff had received a survey from all affected property owners, although five indicated they would like more information

Staff was recommending approval to the City Council.

Commissioner Thompson stated that he had spoken with Acting Chief Planner Eastman earlier in the day and had asked him to describe the conversation he had with the property owners. Acting Chief Planner Eastman explained that he had attempted to provide only the factual information, and assisted the property owners in locating additional information if they desired. He also explained that the biggest issue most residents had with the preservation zone was the limit in square footage allowed. Commissioner Thompson asked if specific square footage examples were used in any of the conversations, and Acting Chief Planner Eastman responded that he had tried to address the specific concerns of each property owner, and for those that were concerned he had tried to clarify how it would affect them specifically.

A discussion was held regarding several ways of stating the buildable square footage reduction:

- From 50% of lot size to 40% of lot size, a 10% reduction; versus
- A 20% reduction in building size, as one compares overall allowances

Acting Chief Planner Eastman stated that staff had tried to explain with realistic examples of what it would mean to the individual property owner, and staff's representation was the changes as stipulated by the code.

Commissioner Thompson stated he was curious about any intended or unintended bias, and Acting Chief Planner Eastman responded that staff tried very hard to not express bias. The data provided was based purely on the survey response, and did not include any telephone call opinions, which may be unreliable or interpretative

Acting Chairman Savage asked if the square footage of the affected lots was available, and Acting Chief Planner Eastman responded the lots ranged in size from two 4,500 square foot lots on Highland Avenue, to a 13,670 square foot lot on Brookdale Place.

Acting Chairman Savage asked if people were aware of the size of home they could build, and Acting Chief Planner Eastman stated that those who asked were provided the information. The amount of information provided was determined by the individual and how much information they requested. Some requests were specific, some were general.

Acting Chairman Savage asked if the size of the various homes was available, and Acting Chief Planner Eastman responded that he did not have that information available. Acting Chairman Savage asked the size of the home at 337 Brookdale, and Acting Chief Planner Eastman responded that he did not have the size memorized. Commissioner Thompson stated he had spoken with the builder of that home today and he believed the home was 4,700 square feet.

Acting Chairman Savage believed the problem with the house at 337 Brookdale was that it was out of proportion to what was surrounding it. He wanted to know if it met current code requirements, and Acting Director Rosen stated it was consistent with the current zoning. Acting Chairman Savage did not like the height relative to the side yard setback. He asked if there were height limitations and Acting Chief Planner Eastman described the code regarding building height. Acting Chairman Savage asked if someone could build a three-story house, and Acting Chief Planner Eastman responded that code allowed for a maximum height of thirty feet, but did not allow for a third story; however, in response to Acting Chairman Savage's question, if it were allowed, a three-story building could be built within the thirty foot height limit.

Commissioner Chaffee asked how the current survey results compared with the previous survey, and Acting Chief Planner Eastman explained the various differences.

Commissioner Chaffee clarified that the Planning Commission was making a recommendation to the City Council.

Public hearing opened.

One of the applicants, Tom Dalton, President of Fullerton Heritage, explained that this neighborhood had pride of ownership and understood the need to maintain the historic nature of the neighborhood. He had owned a home in Fullerton for 30 years, and had been in the preservation zone for 27 years. He was not aware of anyone who had moved into a Preservation Zone and then wanted to have the Preservation Zone removed. You could drive through the neighborhoods in the area and see what types of buildings were built before the Preservation Zone was in place. He also reminded the Commissioners that garages were not counted in the calculations for the FAR.

Commissioner Thompson apologized to anyone who felt uncomfortable or as though they were being cross examined at the last meeting, and would try to keep his questions to a factual nature tonight.

Ernie Kelsey, the other applicant and a resident of the neighborhood, stated that everyone who had wanted to state their opinion regarding the proposed change had responded, and he would like to see the Planning Commission recommend approval and send the proposal to the City Council for their approval.

The following people spoke in opposition of the proposal:

- Mr. Bushala, founder of Fullerton Heritage
- Hugh Risdon, 312 W. Brookdale Place
- Bob Tuller, 328 W. Brookdale Place
- Kevin Floy, W. Valley View Drive
- Bill Thornley, 301 W. Brookdale Place
- Marjorie MacShane, 859 N. Grandview
- Karen McDonald, 324 W. Brookdale Place
- Bill Carpenter, W. Valley View Drive
- Paul Rivet, 321 W. Brookdale Place

There points of opposition were:

- Did not believe the City should infringe upon an individual's property rights
- Home at 337 W. Brookdale Place met City Code requirements, and appeared large due to the elevated lot, and the sizes of the neighboring homes
- Preservation Zone will lower property values
- Homes were being maintained in style and scale and they did not need anyone to tell them how to maintain the historical look
- Have not established what historical standards are
- If a person was required to make repairs to match their historical home and could not afford these materials, they could be required to sell their home
- Let individual homeowner's get historical plaques for their individual homes
- Each property owner should have the right to do what they want to with their property as long as it met City code
- This issue has caused much neighborhood fighting, animosity, and hard feelings
- Some large homes, some small homes, make the neighborhood unique
- Rights of the individual are as important as the rights of a group
- Bought a home that was not in the Preservation Zone, and if the zoning is changed they are stuck with the change
- People who are supporting this proposal have already expanded their homes to the maximum
- Like the neighborhood and intend to keep the integrity of their home regardless of what is decided, just do not want to have their rights taken away
- Lack of restrictions also affect surrounding neighbors on streets other than Brookdale

The following people spoke in favor of the proposal:

- Katie Dalton, 200 N. Cornell
- Charlotte Chamberlain, 440 W. Brookdale

Their points of support were:

- Preservation Zone design guidelines are very lenient and are designed to maintain the character of each individual home
- Will not stop modification, but will add some restrictions, to allow tasteful changes to be made
- Encourages homeowners to take care of the original material so it would not have to be replaced

- Research has shown that a Preservation Zone protects home prices because historical homes are a limited stock
- Each house may not be individually historic, but the neighborhood together was
- Restrictions on FAR are still lenient enough to allow a large, useable home

Public hearing closed.

A five minute recess was called at 8:44 p.m.

Acting Chief Planner Eastman explained to the Commissioners that a member of the audience had prepared a chart of the lot and building sizes on Brookdale. Commissioner Musante asked staff to collect the information, and Acting Chairman Savage directed staff to present the information to the Planning Commission.

Commissioner Chaffee asked if relief was available to allow a building larger than the 40% FAR, and Acting Chief Planner Eastman explained that code could allow for a 10% increase through the Minor Site Plan process, if there were unique circumstances. Anything over 10% would require findings, and the project would go before the Staff Review Committee.

Commissioner Chaffee asked what other properties in the City were designated as eligible for a Preservation Zone, and Acting Chief Planner Eastman responded that there was a map included in the staff report with likely areas indicated. Acting Chief Planner Eastman clarified that the Preservation Zone was not technically a historic classification, so the "P" overlay could be applied to areas that were not identified as historic, but had a heightened historic character considered worthy of preserving.

Acting Chairman Savage understood paint was not part of preservation zone, and Acting Chief Planner Eastman stated a permit was not required to paint a property. Acting Chief Planner Eastman stated that paint color had never been a "preservation" problem.

Acting Chairman Savage asked about restrictions on patios in the rear yard, and Acting Chief Planner Eastman stated that he was not familiar with any Preservation Zone restrictions that had to do with patios, just the regular restrictions under the current R-1-7.2code.

Acting Chairman Savage asked if there were any restrictions on view blockage, or if views were not protected under City code, and Acting Chief Planner Eastman stated there was no view preservation restrictions in the City code.

Acting Chairman Savage thought the roof on the "roof house" added to the home's character. He wanted to know if the roof could be regulated by the Preservation Zone; would it require that the same roof be used if it was necessary to replace the roof. Acting Director Rosen explained that staff would encourage replacement of the roof as it was designed. If that was not possible, staff would work to come up with a suitable replacement, and help the property owner find someone to repair/restore the roof.

Acting Director Rosen reported on the numbers provided by the resident which reflects the overall character of neighborhood. Acting Director Rosen felt the numbers appeared consistent with what staff would expect for the neighborhood. The existing homes ranged from 1,200 to 4,500 square feet. The chart demonstrated the difference of what would be allowed between the existing zoning and the proposed Preservation Zone was approximately 700

square feet on average per lot. It appeared that seven or eight homes had the maximum build out under current code, and most of the others would still have development potential.

Commissioner Thompson stated had spent several hours on Brookdale last Sunday and thought the neighborhood was beautiful. He believed there were a number of homes that had not been improved to the level they could be if they were to be purchased by someone who had the resources and commitment to improve the home. Many of the homes represented a significant asset to the owner, and the degree of buildability would be drastically reduced by this change. He believed that someone who wanted to purchase and build on Brookdale would probably spend \$1.5 million and would want a large home, which the Preservation Zone would limit. People wanted the maximum return on their home and this would diminish the value. The issue had divided the neighborhood, and a lot of bad feelings have come about from this process. Commissioner Thompson read a letter from Kyle McGoff describing his opinion on the neighborhood, and he also read a list of the names of property owners whose property rights would be diminished if this project passed. Commissioner Thompson thought that losing 700 square feet per home was a lot to lose. Between the last meeting and this meeting he had learned that there was much more passion on the side against having their property rights taken away, and he would like to see more coming together. Commissioner Thompson thought that maybe there was a middle ground, a diminishment of the reduction of buildable area, or possibly they could create a new type of Preservation Zone that was an opt-in Preservation Zone, and over time people could be convinced to opt-in.

Commissioner Musante stated that paint, patios and views would not be affected by this change. He understood that property rights needed to be considered, however, too much consideration of property rights would result in no Code at all. A historical market driven preservation had preserved the home at the point it was in today, and a property may change hands six to eight times before the home was outlived. A property owner could add on an average of 700 square feet. The City Council would ultimately make this decision, and staff had indicated the City would work with the homeowners.

Commissioner Thompson asked if statistics they had heard was that the average amount of square footage that could be added was 700 square feet, and Acting Director Rosen clarified that 700 square feet was the delta between what you could currently add on and what you could add on under the Preservation Zone, based on the statistics presented.

Commissioner Chaffee commented that he had read the law that spoke of the overlay of the Preservation Zone, and routine maintenance and painting were exempt as long as the original design was maintained. The purpose was to encourage no harm to the architectural character of the building. He suggested that the law itself may need to be reviewed, particularly relating to the amount of FAR allowed, as long as the setback and character were preserved. Rules and regulations were designed to protect people and their property, He saw the Preservation Zone as preserving rights. Commissioner Chaffee noted that on two sides of the proposed zone were two Preservation Zones, and there were no problems he was aware of. The General Plan recognized and encouraged preservation of historical and cultural landmarks and neighborhoods. Years ago there was a greater distance between homes and no one cared what a neighbor did to their home. Now, homeowners were interconnected, and he would like to see the law revisited by City Council. He will support this project.

Acting Chairman Savage was encouraged by what he had heard, and believed the real minority was the "roof house" with the large home built next door, and he hoped to do something to prevent that from happening again. He had spoke with three realtors regarding

the impact of that large home and had been told that the saleability of that home had been damaged. The proximity and height ratio (mass) of the home next to the “roof house” was offensive, and the root problem was had to do with setback requirements in the City. He had a problem with taking away property rights, and believed that the square footage requirements and the architectural review was a double whammy. He liked the idea of making a recommendation to City Council to review the Preservation law, but felt a Preservation Zone was better than doing nothing.

Commissioner Thompson spoke with Acting Chief Planner Eastman regarding the process to modify the Preservation Zone guidelines.

Acting Director Rosen suggested two motions; one addressing the proposal before them and another directing staff to return with a Resolution of Intent to consider modifying the ordinance dealing with the Preservation Zone.

Commissioner Thompson proposed different recommendation. He believed if the proposal was approved and then they were to make a recommendation to modify the guideline they would be eliminating their ability to ensure that the modification would happen. He would like to continue this item for the purpose of allowing City Council to modify the Preservation Zone.

Commissioner Thompson motioned to continue to a date not certain and make a recommendation to City Council to examine the current Preservation Zone laws to make them friendlier to property rights.

Acting Chairman Savage stated that one person had already been damaged, and there was nothing to stop another house similar to the home at 337 Brookdale from being built. Acting Director Rosen explained that there was not a moratorium in place restricting construction in a Preservation Zone.

Commissioner Thompson added to his motion a recommendation to City Council requesting they put a moratorium in place restricting construction in a Preservation Zone until they had reviewed the current law. There was no second so the motion died.

Commissioner Musante thought they were obligated to vote on this item, there had been an extensive hearing last month, and he did not believe they should tell City Council to change the rules as that was their responsibility.

Commissioner Musante MOTION to recommend approval, Commissioner Chaffee  
SECONDED

Acting Chairman Savage offered a substitute motion recommending to the City Council that they remove the square foot limit from the preservation zone, and it was seconded by Commissioner Thompson, with an additional recommendation that City Council initiate a zoning amendment to increase the FAR in the Preservation Zone.

Commissioner Musante and Commissioner Chaffee voted against the substitute motion, and Acting Chairman Savage and Commissioner Thompson voted for the motion, motion failed.

Commissioner Musante, Acting Chairman Savage, and Commissioner Chaffee voted for Commissioner Musante’s original motion, and Commissioner Thompson voted against.

Acting Chairman Savage motioned to direct staff to return with a resolution of intent, and Commissioner Chaffee seconded. Passed unanimously.

The title of RESOLUTION NO. PC-07-08 APPROVING a resolution of the Planning Commission of the City of Fullerton RECOMMENDING to the City council a change in the zone classification from "R-1-7.2" to "R-1-7.2P" on properties located in the 300 and 400 blocks of West Brookdale Place, between Richman Avenue and Highland Avenue, including 613 and 617 North Richman Avenue was read and further reading waived. MOTION by Commissioner Musante, SECONDED by Commissioner Chaffee and carried 3-1, with Commissioner Thompson voting against, that said Resolution be ADOPTED AS WRITTEN.

Commissioner Bailey returned to the meeting at 9:56 p.m.

## **ITEM NO. 2**

### **PRJ07-00108 – PM-2006-245 – ZON07-00015 – ZON07-00026. APPLICANT: HABITAT FOR HUMANITY; PROPERTY OWNER: FULLERTON REDEVELOPMENT AGENCY.**

A request for a minor development project, including a tentative parcel map and additional incentives available under density bonus provisions, to develop two (2) affordable residential condominium units on property located at 430 West Valencia Drive (south side of West Valencia Drive, between approximately 391.5 feet and 455 feet east of Richman Avenue, in a Community Improvement District) (R-3 zone) (Categorically exempt under Sections 15315 and 15303 of CEQA Guidelines) (HAL).

Acting Senior Planner Allen gave a brief overview of the project and explained the request. The project was before the Planning Commission due to the Parcel Map. She also clarified that the Commissioners had been provided with a revised Engineering letter.

Public hearing open.

The applicant, Mark Korando, Sr. Vice President for Habitat for Humanity, stated he had read and agreed with staff's recommended conditions.

Commissioner Musante asked how the program would work when a person wanted to sell their home. Mr. Korando explained that Habitat for Humanity would maintain a first right of refusal to purchase for sixty years at a set price, which ensured they met the forty five year standard set by the RDA laws of California. The DDA had been structured so that they would at least meet the forty five year period, but the retention of first right would run sixty years.

Commissioner Chaffee asked when they would break ground, and Mr. Korando responded that they anticipated June 2007, with the close of escrow on the first homes in December 2007.

Acting Chairman Savage asked if this would be a condominium situation, with fees paid to a Homeowner's Association (HOA), and what would happen if the property was not maintained. Mr. Korando explained the Covenants, Conditions, and Restrictions (CCR's) on each development that gave Habitat for Humanity the right to remedy any issue within the HOA's purview, such as paint and plumbing, and then lien the property. This particular property was part of a nine home, three site, project and they would all pay into an HOA. Habitat for Humanity will not maintain a presence on the HOA board, they did have a mentorship.

Commissioner Thompson asked the nature of the sale of the land and the deal between the Redevelopment Agency and Habitat for Humanity, and Acting Senior Planner Allen explained

that the property had been purchased and was owned by the Redevelopment Agency. The DDA had the Agency responsible for acquisition, clearing of the land, reimbursement of permit fees, and any public improvements; Habitat was responsible for the construction.

Commissioner Thompson asked how the purchase price of the land was determined, and Acting Director Rosen responded that the Agency purchased the land at market price, and the transfer to Habitat was at a below market price. Mr. Korando explained that there was a silent first against each homeowner, so that the market rate price for the property, the cost for the permits, and the cost of public improvements would be divided amongst the nine homeowner's, and in return for the silent first there was the affordability period recorded against the property. It was a forgivable loan at the end of the affordability period, which was forty five years. The City's incentive was to provide the State required affordable housing.

Commissioner Bailey asked about the new street indicated on the map, and Acting Chief Planner Eastman responded that the new street had been constructed.

Commissioner Chaffee asked if the Redevelopment Agency's 20% set aside money had been used to acquire the property, and Acting Director Rosen responded affirmatively.

Public hearing closed.

The title of RESOLUTION NO. PC-07-09 APPROVING a Resolution of the Planning Commission of the City of Fullerton for a Minor Development Project, including a Tentative Parcel Map and additional incentives available under density bonus provisions, to develop two (2) affordable residential condominium units on property located at 430 West Valencia Drive was read and further reading waived. MOTION by Commissioner Bailey, SECONDED by Commissioner Musante and CARRIED unanimously that said Resolution be ADOPTED AS WRITTEN.

### **COMMISSION STAFF COMMUNICATION**

Commissioner Chaffee described his recent trip and the work he had done with his family for Habitat for Humanity.

Acting Chairman Savage explained that he may be out of town for next meeting. He would let staff know.

Acting Director Rosen let the Commission know he had taken a new job as the Community Development Director for the City of Buena Park. His last day with the City of Fullerton would be May 17, 2007.

### **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 May 9, 2007 at 7:00 p.m.

**ADJOURNMENT**

There being no further business the meeting was adjourned at 10:19 p.m.

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Janelle Pasillas  
Secretary