

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

**COUNCIL CHAMBERS – CITY HALL**

**WEDNESDAY**

**JULY 25, 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 Bailey, Chaffee, Savage
- ABSENT:** Musante, Thompson
- STAFF PRESENT:** Acting Chief Planner Eastman, Senior Planner St. Paul, Acting Senior Planner Allen, Senior Civil Engineer Voronel and Secretary Pasillas
- FLAG SALUTE:** Commissioner Bailey
- MINUTES:** MOTION made by Commissioner Bailey, SECONDED by Vice Chairman Hart and CARRIED unanimously, by voting members present, that the Minutes of the June 27, 2007 and July 11, 2007 meetings be APPROVED as modified (June 27, 2007, Page 70, "Vice Chairman Hart asked Mr. Patel if his..." to "...asked Mr. Fox...")

**PUBLIC HEARINGS**

**ITEM NO. 1**

**PRJ07-00106 – TR-16410 -- ZON07-00016 – LRP07-00001. APPLICANT: MARGIT ALLEN; PROPERTY OWNER: FULLERTON HUGHES LLC.**

A request for a major site plan and tract map to construct 136 attached residential condominium units and amend the Amerige Heights Specific Plan (Amendment #1) to change the northern 10 acres of the area currently identified as Mixed-Use with Elder Care Overlay to a residential neighborhood (Neighborhood 6) and eliminate the Elder Care Overlay in its entirety on property located on the south side of Hughes Drive, between Bastanchury Greenbelt Park and Nicolas Street (Specific Plan District) (Previously certified EIR) (HAL).

Acting Senior Planner Allen gave a brief overview of the project. A map of the Amerige Heights area was shown and the request was explained.

Acting Senior Planner Allen explained the three applications before the Commission; Amendment #1 to the Amerige Heights Specific Plan, a Tentative Tract Map, and a Major Site Plan.

The Specific Plan Amendment was for a fifteen acre portion of the mixed-use area. The Amendment proposed to remove the Elder Care Overlay and to create residential neighborhood number six, leaving a five-acre portion of the sight which would remain mixed-use only (no overlay). The change would decrease the number of units overall for Amerige Heights.

The Tentative Tract Map would create four lots; the main 7.53 acre lot would be a residential site bounded by three open space lots, two of the lots combined to a 1.53 acre site and would accommodate parks, and the other 0.94 acre lot would be open space slope and trail area.

The Site Plan was shown and described. The development would contain 136 units in two, three, and four bedrooms (49 two bedrooms, 59 three bedrooms, and 28 four bedrooms). The parking requirement was 384 spaces, and the developer had provided 387 spaces in a combination of garage spaces (each unit would have a two-car garage), 78 on-site guest spaces, and 40 spaces on the public street (Hughes Drive).

Three architectural styles were proposed; Lofts, Parkview Towns, Greencourt Towns. The Loft units would be the first seen heading west on Hughes Drive, and front both on Hughes Drive and the north/south internal drive. The exterior would be stucco, wood and metal siding accents. The Parkview Towns would frame the western portion of the site. The Greencourt Towns would be located central to the project, facing a common courtyard.

Open space calculations required 104,600 square feet on-site, and the applicant had provided for 108,676 square feet on the ground, plus balconies above grade.

The Redevelopment Design Review Committee (RDRC) had reviewed the proposal for architecture and recommended approval to the Planning Commission. Due to the amendment of the Specific Plan, the Planning Commission would make their recommendation to the City Council, which would then give the final approval or denial.

Commissioner Chaffee asked why the Elder Care Overlay was created and what the difference in parking requirements was. Acting Chief Planner Eastman stated that he was not part of the original Amerige Height project, but understood that the Elder Care Overlay was a concept to accommodate the area's desire to have this type of use. Parking met Code requirements when counting guest parking on Hughes Drive. The Amerige Heights Specific Plan identified open space requirements for the Elder Care, and the Elder Care would have allowed for a four-story building with retail on the bottom. This proposal would not have any retail and would have a three story maximum height.

Commissioner Chaffee asked if the forty spaces on the public street (Hughes) were counted to meet the parking requirement, and would this use be a more impactful use. Acting Chief Planner Eastman responded that staff had looked at traffic impacts to make sure it was consistent with the original Environmental Impact Report (EIR). Counting parking on the public street had been allowed previously with the MBK project. Although a retail business center, R & D Park, or senior residential would have different characteristics, staff did not believe this proposal was significantly more impactful and may be less impactful in some cases.

Commissioner Chaffee asked if the open space calculation included Launer Park, and Acting Senior Planner Allen responded negatively; staff had looked at the open space on the 7.53 acre site only. Commissioner Chaffee asked if there would be less park acreage with this proposal, and Acting Senior Planner Allen responded negatively, stating that it would relocate the Launer park extension from the northern side to the southern side, but the acreage had been determined separately by the Development Agreement. The Development Agreement had been modified several times, and would come before the Planning Commission as a separate item.

Commissioner Savage asked if a parking and traffic study had been done to see how parking was in Amerige Heights as of now. Acting Senior Planner Allen explained that the traffic and parking

analysis had looked at impacts this project would have on adjacent intersections and whether it met code. Commissioner Savage asked if the Specific Plan had met expectations in regards to parking, and Acting Chief Planner Eastman responded that in general it did, but several areas have not, i.e. those developments with tandem parking require an adjustment in the resident's behavior. This project only included two car garages, similar to MBK, and when staff had reviewed MBK there were no apparent parking problems beyond what would be expected for a townhouse development. Commissioner Savage had visited Amerige Heights in the evening, and it appeared that the private streets were crowded. Acting Chief Planner Eastman stated that part of this came from the tandem parking in the Olson project, and also from the apartments. Commissioner Savage asked if there had been any requests from the surrounding neighborhoods to remove the overnight parking ordinance on public streets, or add restrictions to parking on private streets. Acting Chief Planner Eastman responded that to his knowledge, no. He clarified that on-street parking complaints would be received by the Engineering Department.

Vice Chairman Hart asked if this parcel was originally zoned commercial, and Acting Senior Planner Allen explained that the zoning was Amerige Heights Specific Plan, and within the Specific Plan the property was designated Mixed Use with an Elder Care Overlay, which would allow for full commercial or elder care with commercial on the bottom. Vice Chairman Hart asked if the property were developed fully commercial what the parking requirement would be, and Acting Senior Planner Allen responded the standard commercial rate was 1 per 250.

Vice Chairman Hart asked the activity relationship between a warehouse use and a residential use in terms of traffic. Acting Senior Planner Allen explained that each had their own traffic pattern and peak hour demand.

Commissioner Savage asked if there had been any impact analysis of commercial mixed use versus residential on public services such as fire, police, and tax revenues. Acting Senior Planner Allen responded that no analysis had been done for this project, but clarified that the rezone to residential only affects the northern half of the undeveloped Mixed Use zone, and the southern portion would remain Mixed Use, with only the Elder Care use being removed.

Commissioner Chaffee asked about the 50% overnight parking, and Acting Senior Planner Allen explained that the Specific Plan Amendment added language to ensure that the majority of parking for guests was on-site and available at night, therefore the Specific Plan Amendment allowed no more that 50% of the guest parking to be adjacent off-site streets.

Public hearing opened.

Steve Sheldon, Sheldon Group, passed out a "Community Outreach Program" brochure he had prepared. He explained that the Development Agreement would be presented to the Commission at a future meeting as a separate item, and part of that proposal may include the construction a community center at their expense (up to \$1.5 million). Upon completion, the HOA would own the facility. As for this proposal, he stated that they agreed with all of staff's recommended conditions of approval.

Commissioner Chaffee asked if the parking on Hughes Drive would be open to everyone, and Mr. Sheldon responded affirmatively.

Marilyn Harris, 2408 W. Flower, asked if there was Mello-Roos included in this project. Acting Chief Planner Eastman explained that the financial structure of the original Amerige Heights development included some Community Facility Districts (CFD), although he was not versed in

the specifics of the financial arrangements in the existing Development Agreement. This site, to his knowledge, did not directly pay into that Mello-Roos.

Ms. Harris commented that when Amerige Heights was first designed it was supposed to be a place you could live “from cradle to grave”, and included child care, schooling, shopping, living, and a senior care facility. This elder care was an important piece of the project, as was the ballpark. Every time the developer comes before the City Council or Planning Commission they get extensions and changes. SunCal was never forced to live up to their agreements. Staff’s answer to all the questions is “they don’t know”. The point is that the developer was not held to the original agreement. Ms. Harris had been monitoring the contamination on site from the former Hughes operator, and described the current status. She believed it was necessary to hold SunCal to their original agreement.

Ms. Harris addressed a letter from the Fullerton Joint High School District that had been provided to the Commissioners. She believed the schools were short students, and just needed to re-district. She stated that the letter was bogus, and there was not an overcrowding of students.

Mark Elliot, President of the Amerige Heights Master HOA, stated that they supported the project as it had been presented to the community and HOA Board. There were still some issues to be resolved between the developer, the community, and the City. He understood the concern with change, but hopefully those concerns with parks, etc. would be addressed to the homeowner’s satisfied.

Commissioner Savage asked Mr. Elliot how long he had lived in the neighborhood, and Mr. Elliot responded “since six month after it was first built”. Commissioner Savage asked about the parking situation, and Mr. Elliot responded that the biggest concern was the challenge of people not using garages as intended. There was also some concern with parking on Starbuck and Hughes, and they had spoke with the Police Department to enforce the parking rules. Commissioner Savage asked if the City was enforcing the overnight parking statute, and Mr. Elliot responded on occasion, but not regularly.

Commissioner Chaffee asked if there was one HOA, and Mr. Elliot explained that there were several; the Amerige Heights Master Association and sub-associations for the different subdivisions. The parks and major private streets were maintained by the Master Association.

Vice Chairman Hart left the room at 7:58 p.m.

Vice Chairman Hart returned to the room at 7:59 p.m.

Art, a resident of Amerige Heights asked what the original intention of the Elder Care Overlay was. Chairman Francis responded that it was a zone. Acting Chief Planner Eastman further explained that it was created for this Specific Plan, and would include retirement and assisted living type facilities. It was an overlay, which would allow for mixed use. Art asked what the tradeoff was for the typical homeowner, and Chairman Francis responded this was private property that owner was proposing to do something with. Acting Chief Planner Eastman added that the development showed a considerable amount of community open space, which was required by the Specific Plan. Art commented that, as a homeowner, they were promised something, and this was a compromise for the community center. Acting Chief Planner Eastman explained that the community center part of the Development Agreement Amendment would come before the Planning Commission prior to the project moving to the City Council. He clarified the community center was part of the existing Development Agreement with the master developer, and was a separate item.

Commissioner Chaffee left the room at 8:02 p.m.  
Commissioner Chaffee returned to the room at 8:03 p.m.

Ms. Harris stated that this was not a separate prop; people had bought these homes with the idea that Elder Care would be there. She believed it was wrong to present the project as a single owner who wanted to rezone. This was part of the package deal that was sold to the homeowner's in Amerige Heights.

Vice Chairman Hart asked Ms. Harris if she lived in Amerige Heights, and Ms. Harris responded that she did not, but she had spoken against the density in Amerige Heights and the pollution underground during the planning stages. Vice Chairman Hart asked if she worked for the agency providing the contamination information, and Ms. Harris responded that she did not, she was just concerned and believed this project was a disgrace. Vice Chairman Hart asked where the reports regarding hazardous contaminants came from, and Acting Chief Planner Eastman explained that the City received reports from the Department of Toxic Substances Control (DTSC) regarding the monitoring wells in Amerige Heights. Ms. Harris explained her opinion of the status of the monitoring wells and hot zone behind Target. Vice Chairman Hart asked Ms. Harris if she felt the contamination was detrimental to the residents, and Ms. Harris responded that the area was contaminated. The original problems that made this project controversial had not been discussed tonight.

Commissioner Chaffee asked where the community center was to be located, and Ms. Harris responded that she did not remember. Acting Chief Planner Eastman indicated the area on the map.

Chairman Francis asked if everything had been built that was promised, and Acting Chief Planner Eastman explained that most of what was required had been built.

Steven Menke, MBK/Radcliff Subdivision resident and HOA Board member, supported this type of development rather than a commercial use. He did not see a potential benefit to the residents of Amerige Heights if the site was developed into commercial uses. He supported the residential use.

Commissioner Savage asked Mr. Menke the status of parking in his neighborhood, and Mr. Menke responded that it could be better, but any problems were primarily the fault of people not using their garages. He had not seen any enforcement of overnight parking on Hughes Drive. Commissioner Savage asked if overnight parking was enforced would it become a parking problem, and Mr. Menke responded that people needed to change their mentality to use their garage for cars.

Judith Kaluzny, 400 N. Malden, stated that the change being asked for in development that was the subject of a great deal of discussion during the planning and negotiation of Amerige Heights. There was a reason for this part of the plan, and now the developer wanted it changed. Now developers were promising things for Amerige Court and the Transportation Center. She asked if they would be held to their agreement. Ms. Kaluzny called this type of zoning "AG Zoning" or "anything-goes". She wondered what the point of planning was if you could change whenever you wanted.

Andy, a resident of Amerige Heights, understood the questions about parking and traffic. He described the congested morning school traffic, and did not believe it was safe. He believed they

needed more parks, yet the City wanted to build houses and make money. They bought into the whole project when they purchased their homes. There had been no police presence in the area. He also believed there was some type of corruption going on.

Vice Chairman Hart asked Andy if he attended his HOA meetings, and he responded negatively. Vice Chairman Hart suggested he address some of his concerns through the HOA.

Commissioner Bailey left the room at 8:27 p.m.  
Commissioner Bailey returned to the room at 8:28 p.m.

Mr. Elliott commented that when had moved into this community the only promise implied by the developer was for parks, a community center, streets, a basketball court and eventually a sports park. There was no document with any promise for an elder care facility, or anything else to be constructed in this area. When the original homeowner's moved in it was still the Raytheon Radar site. The homeowner's were waiting for the community center and thought this was the best use and fit for the community. As for school safety, the HOA's in the community had been working with the City, Police Department, and schools to address this issue.

Vice Chairman Hart asked if there had been dialog in community regarding this project, and Mr. Elliott responded that there had and this was the first time he had heard negative comments regarding the development of this property.

Commissioner Bailey had gone out and looked at the area. He did not believe this area made sense to add more retail commercial use. Mr. Elliott believed that as the property had been developed it held no commercial appeal.

Public hearing closed.

Chairman Francis called a five minute recess.

Public hearing reopened.

Mr. Sheldon believed the community center was an important part of the Amerige Heights Specific Plan, and the City had spent more than allocated for the sports park and had run out of funding. He believed their proposal of paying up to \$1.5 million of developer money to build the community center, and then give it to HOA was good. The Elder Care Overlay was not a requirement, just an opportunity, and they were not taking away anything required. Regarding the parking they had looked at other developments in the area and believed there was adequate parking the way the project was designed.

Commissioner Savage asked Mr. Sheldon if he agreed with all of staff's recommended conditions, including number fifteen which addressed parking, and Mr. Sheldon responded affirmatively.

Commissioner Chaffee asked if the \$1.5 million planned for the community center was above and beyond the standard fees, and Mr. Sheldon responded affirmatively and added that it would be part of the Development Agreement. Commissioner Chaffee asked Mr. Sheldon how he believed he could help the parking situation, and Mr. Sheldon responded that enforcement of parking in garages had to be done by the HOA's.

Commissioner Chaffee asked if the Amerige Heights Specific Plan had a total number of residential units to be built, and if this would add to that number. Acting Chief Planner Eastman

responded that the number of standard residential units had been accommodated through all of the existing developments; the Amerige Heights site had been built out at this point. The 400 Elder Care beds still available for development, which equated to approximately 200 dwelling units (per the Zoning Code), would be used up by the 136 standard townhomes in this project. Commissioner Chaffee asked if this would totally build out all of the residential entitlements in the Specific Plan, and Acting Chief Planner Eastman responded, that generally, yes. He added there may be a few units (less than twenty) unaccounted for.

Commissioner Chaffee was concerned with using Hughes Drive to meet parking requirements. He believed if a project was under parked the City would pay for it in later years. Generally, it was required to have all parking on-site, yet here the City had allowed off-site parking in other parts of Amerige Heights. This amendment did not have to follow what was done in other parts of Amerige Heights. He would like to add a condition that all required parking be on-site. Mr. Sheldon responded that Hughes Drive was part of the overall community. They had looked at the Radcliff development and they did not have a problem with parking. He did not believe this proposal would negatively impact the neighbors. Commissioner Chaffee stated that something different could be done with an amendment, and Mr. Sheldon agreed.

Commissioner Chaffee asked, regarding any ground water contamination, if the plume might spread, and if there was a disclosure issued to potential buyers. Mr. Sheldon explained that they had completed the phase one studies, and this development would be above grade from area spoken of.

Public hearing closed.

Commissioner Savage would like to see the Police Department enforce the parking requirements the same way throughout the City. He was concerned with parking in Amerige Heights, yet he agreed with the developer that it was consistent with the surrounding neighborhoods. He would like to add strong language to this recommendation to the City Council urging them to complete a parking study of the Amerige Heights area. He commented that he had been in business thirty years, and understood the need to make a plan, but he also understood that you had to be prepared to make changes. The Amerige Heights Specific Plan had been set in motion seven years ago as a theory, and it was now time to look at what was built and decide if it was zoned accordingly.

Acting Chief Planner Eastman commented that this project had been a complicated development from the beginning. Although he was not a part of the original plan, he had read the Amerige Heights Specific Plan and it allowed overnight parking on private streets. This proposed development was consistent with what was allowed before, and staff had tried to remain consistent.

Commissioner Savage asked if a parking study would be expensive, and Acting Chief Planner Eastman responded that he understood the developer already had an engineering firm do an assessment of the parking on the MBK site.

Commissioner Savage did not have a problem with the street being used for parking; he just wanted to ensure there were enough spaces to handle overnight parking.

Vice Chairman Hart believed that unless the City was ready to change the parking requirement this proposal appeared to be parked adequately per Code. She did not think the site was suitable for commercial. Things had evolved and changed in the past seven years and this was consistent

with the surrounding properties. She also liked the developer's commitment to building the community center, which had not had funding. She will support the project.

Commissioner Bailey agreed with Vice Chairman Hart. He thought residential would be good for this space. He was slightly concerned with parking, but believed the seventy-eight spaces on-site would handle overnight guests. He would support the project.

Commissioner Chaffee was concerned with eliminating mixed use property. Prior to the Amerige Heights Specific Plan, the City had several committees try to come up with what the Fullerton citizens wanted to see on that property, and they had wanted high-tech type business and parks. He believed that a residential use fit the area, but would like to see the \$1.5 million for the community center bonded before the project went before the City Council. He would support the project when the Development Agreement locked in the community center.

Acting Chief Planner Eastman stated that the intent of both staff and the developer was to go to City Council with both this recommendation and the Development Agreement at the same time. He also clarified that the "Mixed Use" designation in Amerige Heights actually referred more to a mix of industrial, R & D, office, and retail, not the traditional view of retail and residential.

Commissioner Savage commented that it was a separate subject and would be heard at a separate hearing, and was not an appropriate discussion for this hearing.

Commissioner Chaffee stated that the \$1.5 million was offered at this meeting, and he believed it was proper to insure that the community center offer was completed.

Commissioner Savage believed this project was consistent with the surrounding neighborhoods, but thought this was an opportunity to make parking adjustments if needed. He would support the project, but would like the City Council to look at parking before giving their final approval.

Commissioner Savage made a motion to approve the project with an added condition that a more in depth parking study be conducted prior to the project going before City Council. There was no second, so the motion died.

Acting Chief Planner Eastman clarified that a parking study was completed for this site and a survey of the adjacent MBK property had been done. Commissioner Savage clarified that he wanted a study of Amerige Heights as a whole.

The title of RESOLUTION PC-07-17 APPROVING a resolution of the Planning Commission of the City of Fullerton recommending approval of a Major Site Plan and Tract Map to construct 136 attached residential condominium units and amend the Amerige Heights Specific Plan (Amendment #1) to change the northern 10 acres of the area currently identified as Mixed-Use with Elder Care Overlay, to a residential neighborhood (Neighborhood 6) and eliminate the Elder Care Overlay in its entirety, on property located on the south side of Hughes Drive between Bastanchury Greenbelt / Fullerton Sport Complex and Nicolas Street was read and further reading waived. MOTION by Commissioner Chaffee, SECONDED by Commissioner Bailey and CARRIED 5-0, with Commissioners Musante and Thompson absent, that said Resolution be ADOPTED AS WRITTEN.

## **OTHER ITEMS**

None

## **COMMISSION STAFF COMMUNICATION**

Acting Chief Planner Eastman discussed the summer “go-dark” date, which had previously been discussed for August 22, 2007. There were two items scheduled for this date, and Acting Chief Planner Eastman explained that the Commission could continue the items to a date in September, or hear the items on August 22 and go dark for the September 12 meeting. The Commissioners agreed to hold the August 22, 2007 meeting and cancel the September 12, 2007 meeting.

Commissioner Chaffee was concerned with the lack of enforcement by the Police Department with overnight parking, and would like to see improved enforcement in the Amerige Heights area. Acting Chief Planner Eastman stated these were valid complaints, and the best course of action would be for him to speak with his Council representative; parking was not under the purview of the Planning Commission. Acting Chief Planner Eastman would speak with the Police Department to tell them of the Commissioner’s concerns.

Commissioner Savage stated that he wanted the City Council to be made aware of his concerns with the parking situation, but did not necessarily want to have the Police Department go to Hughes Drive and start issuing tickets.

## **REVIEW OF COUNCIL ACTIONS**

Acting Chief Planner Eastman gave a brief report on recent City Council meetings.

## **PUBLIC COMMENTS**

Ms. Harris stated she was not opposed to change when it made sense. She had concerns with the traffic and speed on Bastanchury. She was confused as to what Commissioner Savage’s position was on parking in the Amerige Height area. She was disappointed and shocked at the cavalier attitude of the Planning Commission, and believed they needed to “tighten up”.

## **AGENDA FORECAST**

The next regularly scheduled Planning Commission meeting would be August 8, 2007 at 7:00 p.m.

## **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:37 p.m.