

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

**COUNCIL CHAMBERS – CITY HALL**

**WEDNESDAY**

**AUGUST 22, 2007**

**7:00 P.M.**

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

**PRESENT:** Chairman Francis, Vice Chairman Hart, Commissioners Bailey, Chaffee, Musante, Savage and Thompson

**ABSENT:** None

**STAFF PRESENT:** Acting Chief Planner Eastman, Acting Senior Planner Allen, Acting Associate Planner Kusch, Senior Civil Engineer Voronel, Assistant City Attorney Christian Bettenhausen, and Secretary Pasillas

**FLAG SALUTE:** Commissioner Bailey

**MINUTES:** MOTION made by Commissioner Savage, SECONDED by Vice Chairman Hart, and CARRIED unanimously, by voting members present, that the Minutes of the July 25, 2007 meeting be APPROVED as written, and that approval of the August 8, 2007 minutes be continued.

**PUBLIC HEARINGS**

**PRJ07-00281 – PARCEL MAP PM-2007-193. APPLICANT AND PROPERTY OWNER: RSP DEVELOPMENT, LLC.**

A request to subdivide a property into two parcels on property located at 1108 La Mesa Drive (east side of La Mesa Drive, approximately 300 feet south of Valencia Mesa Drive) (R-1-20 zone) (Categorically exempt under Section 15315 of CEQA Guidelines) (AKU).

Commissioner Savage recused himself from this item.

Acting Associate Planner Kusch gave an explanation of the request and displayed a site plan. The property was currently vacant and zoned R-1-20. The R-1-20 zone represents minimum lot sizes for subdivisions, in this case 20,000 square feet. The proposed parcels would be 25,866 square feet and 26,082 square feet. The proposed parcel map was displayed and explained.

Acting Associate Planner Kusch noted there were three lots in the immediate area with similar lot sizes and frontages, and staff believed the subdivision was consistent the general subdivision pattern of the area in terms of lot sizes and street frontages. Approval of the parcel map would not approve the conceptual plans that had been provided. Staff had not received any comments from the public regarding this request.

Staff recommended approval of the Parcel Map based on the findings and subject to the conditions contained in the staff report.

Public hearing opened.

Peter Alexander, the applicant, had discussed the proposed conditions with staff and agreed to them.

Don Hodgson, 1077 La Mesa, was opposed to the lot split. He believed the density surrounding his property was doubling due to the many lot splits around him. Minimally, he would like to see design standards similar to the Pico-Carhart design guidelines. He was also concerned with on-street parking in front of his home, and would like to see the applicant provide on-street parking in front of these two lots.

Vice Chairman Hart asked the size of his lot, and Mr. Hodgson responded it was approximately 35,000-37,000 square feet.

Phyllis Crane, 1034 Crestview Drive, was in favor of the lot split. The current owners had eliminated an eyesore in the neighborhood by removing the existing home that had deteriorated. She was concerned with the best and most reasonable use of property in the area, to prevent multiple homes from being put on this large lot. She believed it was better to have two large lots where the size of the home could be somewhat controlled, rather than one huge mansion on the one large lot.

Public hearing closed.

Commissioner Musante would support the request. The property would be improved and this would be a good use of the property, rather than one mansion that would not fit within the neighborhood.

Commissioner Chaffee asked if there was a grade difference between the street and the property, which would prevent street parking. Acting Associate Planner Kusch displayed a site photo and described a slope at the front of the property. Commissioner Chaffee asked if parking could be provided on the property, and Senior Civil Engineer Voronel responded that it was a rural area with a fifteen foot, unpaved, unimproved shoulder, with a slight slope. Code required an eight foot flat area, and grading would have to adhere to this requirement.

Commissioner Chaffee believed it was a good use for this property and would support.

Vice Chairman Hart asked if the setback for the property began after the eight foot flat area. Acting Chief Planner Eastman stated that the minimum setback was the average of the neighboring properties, and would begin at the public right-of-way. Senior Civil Engineer Voronel clarified that it was a twenty four foot roadway, and from the centerline, twelve feet of paved and thirteen feet of unpaved were needed. Vice Chairman Hart stated that in other rural areas people had built right up to the roadway. Acting Chief Planner Eastman responded that an encroachment permit was required to build anything, such as a mailbox or wall, in the public right of way.

Vice Chairman Hart believed this was a good property for subdivision. She sympathized with Mr. Hodgson, but believed R-20 was still a nice piece of property. She would support.

The title of RESOLUTION P-07-20 APPROVING a resolution of the Planning Commission of the City of Fullerton recommending approval of a Parcel Map to subdivide one parcel into two lots on property located at 1108 La Mesa Drive was read and further reading waived. MOTION by

Commissioner Bailey, SECONDED by Commissioner Musante, and CARRIED 6-0, that said Resolution be ADOPTED AS WRITTEN.

Acting Chief Planner Eastman explained the 10-day appeal process.

Commissioner Savage returned to the meeting.

**PRJ07-00283 - ZON07-00062. APPLICANT AND PROPERTY OWNER: LEONARD FIEDOROWICZ.**

A request for a Conditional Use Permit to construct a detached 525-square-foot garage with a 525-square-foot second story studio, on property located at 404 Delphine Place (west side of Delphine Place, approximately 130 feet north of Chapman Avenue) (R-1-7.2 zone) (Categorically exempt under Section 15303 of CEQA Guidelines) (HAL).

Chairman Francis left the meeting at 7:27 p.m.

Acting Senior Planner Allen gave a brief description of the project. An overhead picture was displayed as were current photos of the property.

The purpose of the Conditional Use Permit (CUP) was to review the request in the context of the neighborhood to ensure it was compatible with the site and surroundings, and also to review the application in terms of the detached habitable space requirements, which were explained to the Commissioners.

Acting Senior Planner Allen displayed the site plan. The proposed structure was at the rear of the property and would take access from the alley. Elevations were shown and described.

Staff believed the project complied with the detached habitable accessory building requirements and with the development standards for the zone, and it was reasonably compatible and not detrimental to the surrounding neighborhood. Staff had not received any comments from the public regarding this request.

There were two other homes in the neighborhood with second story additions, and if a two-story attached addition had been requested it would not have come before the Planning Commission.

Chairman Francis returned to the room at 7:30 p.m.

Staff's recommended conditions were explained, and staff recommended approval of this CUP.

Vice Chairman Hart asked if because it was a studio without a kitchen it could exceed the 30% of the primary structure maximum requirement, and Acting Senior Planner Allen responded affirmatively. She explained that the 30% requirement would be for a full limited second dwelling unit which would have a kitchen and would be a dwelling without the deed restriction. It would still need to meet lot coverage and open space requirements.

Public hearing opened.

Leonard Fiedorowicz, the applicant, agreed with the proposed conditions. The purpose of the addition was to provide additional room for his family, and also provide more garage space.

Public hearing closed.

Commissioner Savage would not support because he believed at some point this structure would become a habitable space. Acting Chief Planner Eastman stated that the size of the dwelling would allow the conversion of this structure to a limited second dwelling unit by meeting certain requirements.

Commissioner Chaffee liked the design of the proposed structure, open space was double the required amount, and he would support.

Acting Senior Planner Allen left the meeting.

The title of RESOLUTION PC-07-19 APPROVING a resolution of the Planning Commission of the City of Fullerton recommending approval of a request for a Conditional Use Permit to construct a detached 525-square-foot garage with a 525-square-foot second story studio on property located at 404 Delphine Place was read and further reading waived. MOTION by Commissioner Bailey, SECONDED by Commissioner Musante, and CARRIED 6-1, with Commissioner Savage voting against, that said Resolution be ADOPTED AS WRITTEN.

Acting Chief Planner Eastman explained the 10-day appeal process.

Adjourned as Planning Commission and reconvened as the Landmarks Commission at 7:39 p.m.

**PRJ06-00185 – ZON06-00033. APPLICANT: BILL ANGELL. PROPERTY OWNER: DOUGLAS KNUDSON.**

A review of a construction project to determine conformance of window and framing details with the plans approved pursuant to a Major Development Project on property located at 201 N. Lincoln Avenue, (northwest corner of Lincoln and Wilshire Avenues) (R-2P zone) (Categorically exempt under Section 15303 of CEQA Guidelines) (JEA).

Commissioner Chaffee recused himself from this item.

Acting Chief Planner Eastman described the request and a site plan was displayed. The property was zoned R-2P, a duplex zone in a preservation zone, and was located in a potential Landmark District area as identified by the City's Historic Properties Survey.

A timeline of the project was provided:

June 29, 2006 – RDRC recommended approval of a proposed duplex project.

July 12, 2006 – Landmarks Commission approved the project subject to twenty one conditions.

February 2007 – Building Permits issued.

Project construction was nearly complete at this time. In late July staff received a complaint regarding conformance to the approved plans.

July 24, 2007 – Staff reviewed building plans and inspected the site, where they noted inconsistencies between what was approved and what was built.

August 9, 2007 – RDRC reviewed the project as it related to their recommendation, and they believed it was not consistent with what they recommended approval on.

Photos from staff's July 24, 2007 inspection were shown, along with photos taken August 17, 2007. Pictures of the windows were shown and the problem was explained. The windows, as

installed, abutted each other; what had been approved by the Landmarks Commission and the Building Department was a post in the middle with a sill on the bottom. The contractor had indicated that the sill would be installed, but after the stucco rather than before as indicated on the approved plans. Staff did not believe that the installed windows complied with what was approved. Photos of the windows on neighboring properties were shown, and Acting Chief Planner Eastman explained the historic characteristics of the various windows

Acting Chief Planner Eastman displayed the plans that had been reviewed by the Commission and describe the post and sill as approved, versus as installed.

Acting Chief Planner Eastman described additional detailing that had been provided in the approved plans which had not been completed at this time. The rear garage door had been installed, but had not yet been painted to match the entry door as required. Tile coping along the top of the parapet had not yet been installed, and the faux clay pipe venting had not been applied. Lighting had not yet been installed.

The garage door facing Lincoln Avenue, which was conditioned to be a more decorative door, was not installed. Staff had approved a steel carriage door that had the look of wood, which would have hardware on it to complete the historic look. The garage doors were conditioned to be painted to match the house entry doors.

Acting Chief Planner Eastman explained that the applicant had provided staff a letter and photos of neighboring properties, copies of which had been given to the Commissioner's, stating that they believed the windows, as constructed, were within the intent of the Preservation Zone and consistent with the Landmarks Commission's approval. They had expressed concern with this change being required as the project was near completion.

Chairman Francis asked if the windows were required to be wood, and Acting Chief Planner Eastman responded that the Landmarks Commission approval indicated they could be vinyl or an alternative with the appearance of traditional wood windows, but the plans that the Building Department had approved indicated they would be wood. Chairman Francis asked if the post position was a condition, and Acting Chief Planner Eastman responded it was not a condition, but was what was shown in the approved plans.

Acting Chief Planner Eastman explained that some changes had been made between the plans the Landmarks Commission reviewed and the plans that were approved by the Building Department. An example was the window size and height had been revised due to bedroom egress requirements.

Chairman Francis asked how many windows were involved in this discussion, and Acting Chief Planner Eastman responded eight windows, paired in four openings.

Commissioner Bailey asked about the garage door fronting on Lincoln Avenue, and Acting Chief Planner Eastman responded that staff had approved a faux carriage door made of steel, which would have hardware attached. This door had not been installed.

Chairman Francis asked about the back garage door and what would be allowed. Acting Chief Planner Eastman explained that the door would be painted a dark brown, wood color, as had been allowed in other areas in the neighborhood. Chairman Francis asked why it would not match the front garage door, and Acting Chief Planner Eastman responded it was not identified during the Landmarks Commission hearing as being significant.

Commissioner Thompson asked what the Commission's options were. Acting Chief Planner Eastman explained that they could determine the project as constructed was in conformance with what was approved and consistent with the design guidelines in the Preservation Zone, or determine it was not in conformance and direct staff to act accordingly, which would prevent signing off on the final permit until the windows had been installed per approved plans.

Commissioner Savage asked about the front garage door and if it would look like what had been approved. Acting Chief Planner Eastman responded it was a steel door, and based on the information that was provided by the manufacture, it was similar to other garage doors in the area. Commissioner Savage believed the subject of matching the front and back garage doors came up during the previous hearing.

Chairman Francis asked if staff gave a variance to allow the front and back garage doors to be different. Acting Chief Planner Eastman explained that what the Commission approved was slightly different than the conceptual plans, based on staff's recommended conditions that were adopted, and the conversation and conditions provided by the Commission at the meeting.

Commissioner Thompson commented that many of the conditions on this project allowed for staff to approve the detail of certain items, and asked if the property owner was given some latitude during the process. Acting Chief Planner Eastman responded that any latitude was given prior to the issuance of building permits, and was based on brochures and other details that were provided by the applicant. Commissioner Thompson stated that it was clear that what was built did not match what was approved. Acting Chief Planner Eastman explained that typically what the Commission saw were not construction drawings, and, based on certain building and construction requirements, minor deviations could be allowed.

Acting Chief Planner Eastman stated that staff did not believe the windows, as installed, were consistent with the Landmarks Commission approval, therefore they had brought the project before the Landmarks Commission for a determination of conformity.

Chairman Francis asked Acting Chief Planner Eastman to read the letter received from Chairman Craig Duncan on behalf of the RDRC; Acting Chief Planner Eastman read the letter.

Commissioner Bailey left the room at 8:16 p.m.

Public hearing opened.

Commissioner Bailey returned to the room at 8:18 p.m.

Bill Angell, Blue Ribbon Design, stated that the faux clay pipe vents would be put in place, the added tile coping would be completed, and the light fixtures would be approved by staff prior to purchase and installation. The wooden sills were a detail issue, and he believed it was better to have them installed by their finish contractor after the stucco. During the course of construction several issues had come up and he had been in contact with staff. In regards to the windows, he had decided to put the windows together without the post. In previous conversations with Acting Chief Planner Eastman they had discussed the detail of the windows and he had referred to the property at 1109 E. Wilshire Avenue as being similar to what they wanted. The plan was drawn with a post, but there was not a detail drawing. The post he had installed was vinyl and a component of the window. He was concerned that there was not a definitive, specified book that a resident could go to and get the details of how these projects should be done. He also

believed there should be an inspection process to insure that the projects were built as staff wanted. He believed this problem was a lack of clarity and a lack of inspection on the part of the City, and now he was being asked to repair the situation.

Mr. Angell explained that the windows had been delivered on April 20, installed in May, sat in framing for more two months, and it was not until late July that someone complained about the windows. There were inconsistencies throughout the project; he was now being asked to remove a tree, landscape, and irrigate the city right-of-way, which was not a condition.

Vice Chairman Hart asked why the archway design was changed, and Mr. Angel explained that two archways were elliptical, but the third arch was approved as a full-radius arch, which was inconsistent with the two elliptical arches, therefore they made the change so they would match.

Commissioner Thompson asked how it happened that items were done differently than approved, and Mr. Angel explained that the approved plans were a guideline for construction. During construction various issues came up and needed to be addressed and worked out. Commissioner Thompson stated that he sensed Mr. Angel felt he was being asked to make changes late in the game, and that he should be provided with specific guidelines and inspections. Mr. Angel responded that in the Preservation Zone guidelines and inspections were needed.

Commissioner Savage asked about the garage door. Mr. Angel explained that the carriage style door that the Commission had conditioned was very expensive. The condition required a carriage style door with an appearance of the time frame of the home. The cost of a wooden carriage door was \$4,500 to \$8,000, and he had come up with an alternative that cost \$2,400. Commissioner Savage asked why the pictures submitted for approval included a \$4,500 door, yet what was put in was a \$2,400 door. Mr. Angel responded that he was unaware of the cost at the time the drawings were prepared, and that carriage door style was added as a condition during the original hearing.

Commissioner Thompson stated that the drawings Mr. Angell had provided to the Commission were general in concept, and he did not think it was an intentional bait-and-switch.

Mr. Angell explained that the carriage doors were an additional expense to his client, based on a condition that was added during the approval process, and he had tried to save his client some money. Staff had not required the back garage door to be a carriage door, only to be painted to look like wood.

Commissioner Thompson did not feel the process was clear. He believed that specific guidelines were needed, and that would help to prevent the builder/owner from making costly changes.

Commissioner Bailey asked Mr. Angel about his request for guidelines, and stated that this was the first time a project had come back to the Landmarks Commission with a problem like this since he had been on it.

Commissioner Savage left the room at 8:40 p.m.

Vice Chairman Hart remembered the project coming before the Landmarks Commission previously, and she was against the slider windows in the back. She stated that staff had tried

to be sensitive to the property owners' costs, and had tried to work with them. Mr. Angel said he would have been glad to make the changes at an earlier stage.

Commissioner Savage returned to the room 8:42 p.m.

Richard Daybell, RDRC Member, wanted to see the City maintain the Preservation Zone program. He did not think deviating from the approved plans should be allowed. There had always been a center divider (post) in the plans, which was what had been approved. Staff did not have a problem with the arches in the doors, but he did. He would like to see the contractor correct the window discrepancy. Mr. Daybell had been in construction and he understood that it was his job to conform to the plans as designed and approved. The architect was responsible for the construction and sticking to the design, not staff.

Commissioner Bailey asked what the purpose of the post was in between, and also about other windows in the area. Mr. Daybell responded that it was the style typical of the era for which the home was built. He believed that eliminating the post was a mistake in construction that needed to be corrected. Commissioner Bailey asked if the windows were specifically discussed during the RDRC hearing, and Mr. Daybell responded that the plans showed a post and that was what they had considered.

Vice Chairman Hart asked if there were specific requirements for the size of the windows, and Acting Chief Planner Eastman responded that the RDRC does not typically review the actual working drawings, but the plans clearly indicated that a post was intended to be between the windows with the size of windows graphically shown.

Mr. Daybell added that the garage doors should be constructed as they were shown during the approval process, regardless of cost.

Vice Chairman Hart asked if it would be advantageous to have the RDRC periodically inspect projects in the preservation zone, and Mr. Daybell responded that it was the builder's responsibility to build the project according to the approved plans. He believed it would be advantageous to hold a workshop with the RDRC, Planning Commission, and the building inspectors so that everyone would understand the Preservation Zone requirements.

Commissioner Musante stated that Mr. Angel had indicated he would comply with the other missing items and wanted to know if Mr. Daybell would be satisfied. Mr. Daybell responded that when the project was complete all items needed to be in place correctly. Commissioner Musante asked about the change in the arch, and Mr. Daybell responded that the arches on the alley were not circular arches. Acting Chief Planner Eastman responded that the plans Mr. Daybell was referring to were the approved construction plans, which did not reflect exactly what the RDRC and Landmark Commission reviewed. The project as constructed matched the plans reviewed and approved by the RDRC and Landmarks Commission.

Chairman Francis left the room at 8:52 p.m.

Katie Dalton, Fullerton Heritage, stated that the importance was in the details, and the details had not been followed. The final approved plans were the contract, and Mr. Angel needed to adhere to the plans. She believed that regardless of how it looked, it did not meet the approved plans or the design guidelines. The post between the windows was typical of the area and time period. If the wooden windows that were called out in the final approved building plans were

installed, the post would have had to be installed and this problem would not have occurred. The sill skirting was important, but she was not concerned with how it was installed.

Chairman Francis returned to the room 8:55 p.m.

Mrs. Dalton stated that this process had been around for a long time and typically ran smoothly. When it did not, it usually involved a failure of the contractor to follow the plans. Another project at 143 Cornell did not follow the plans and installed aluminum sliders. They had been required by the RDRC to remove them and install the wood windows called out in the approved plans.

Mrs. Dalton continued by explaining that this property was at a key corner and needed to adhere to the guidelines. Sometimes structures at the back of a property were given some leniency because they were not as visible from the street. The builder was allowed to use sliders on the back side as a concession to cost, but he had promised to do the detail on the other three sides. The fact that the problem was not discovered until late in the construction process went back to the builder. At the original hearing Mr. Angell had stated he was familiar and comfortable with the Preservation Zone Guidelines.

Mrs. Dalton believed it was incumbent of the Commission to enforce the guidelines, whether or not they agreed with them. The City Council approved the Zoning Ordinance many years ago. The Design Guidelines were developed and approved by the Planning Commission, Landmarks Commission, and the City Council, and the projects go through a review process. To respect the intentions of the City as well as the people who bought property in the Preservation Zone the Design guidelines needed to be enforced.

Public hearing closed.

Commissioner Thompson commented that he was not pleased with the number of inferences that implied that a huge degree of dishonesty or intent to mislead by the builder was undertaken. The only factual change that was not allowed by staff was the post between the windows. The post was in the plans and should have been there. With respect to the other changes made after the conceptual design, they were approved by staff. The process allowed staff to approve these changes, and the builder made a good explanation for the lack of the post. The problem with this type of guidelines was that there were too many opinions of what matched and met the guidelines. He did not think it was fair, after the fact, to require the builder to go back and make changes when staff had given him latitude previously.

Commissioner Musante read Recommended Findings number one from the Staff Report. He stated that staff, a member of the RDRC, and Katie Dalton had taken time tonight to explain the Guidelines and the deviations. He believed that to make a concession now would start a precedent. If a builder presented plans, and they were approved, he should have to conform to them. He believed the deviations were significant and inconsistent with the Landmarks Commission's approval.

Commissioner Savage believed the garage doors were 30% of the elevation, and to bring the elevations to the Commission with \$4,500 to \$8,000 garage doors, and then change to \$2,500 door, was bait-and-switch. He was aware that these were not unique doors. As for the sills, the detail that was drawn on the plan was a typical sill detail that was designed for a specific reason, and after installation of the windows they should not be adding on sills. He thought the project looked great overall. Changes needed to be made in the construction process due to unforeseeable conditions and there needed to be some latitude. The City had spent a fair

amount of time (which equates to money) on this project, yet the concern appeared to be the builder or property owner's cost. He had no sympathy for allowing deviations because a certain amount of time had gone by. There was a general agreement between the RDRC and many of the Commissioners that these issues needed to be corrected, and he would support a motion of non-conformance.

Commissioner Thompson stated that the reason for this meeting was not that the builder requested it, but that staff had requested it. Many implications of a bait-and-switch had been made, and that was not the impression he had gotten.

Commissioner Bailey stated that the City had a Preservation Zone, and the homes within those zones needed to follow the guidelines, whether you agreed with them or not. In this case, staff had given leeway to the builder in many areas, but the post between the windows would break up the area and he wanted to see the post put in.

Vice Chairman Hart owned a building in the Preservation Zone and she had to make it conform when it was built. She was sometimes frustrated with the various requirements, but she had to make sure her project met the Guidelines. She believed staff had worked with the developer and made concessions, specifically in the back of the building, but she believed the posts were important and they should be put in. She would support a finding of non-conformance.

Commissioner Thompson wanted to ask the applicant if he believed the project was out of conformance with the Guidelines, and Commissioner Savage stated that the builder had indicated the project was within the Guidelines in a letter he had written to staff.

Chairman Francis stated that it appeared staff had worked with the builder, and by Acting Chief Planner Eastman bringing the project before the Landmarks Commission he was still working with them. It appeared as if corners were cut and cheap windows were installed.

The title of RESOLUTION PC-07-21 APPROVING a resolution of the Landmarks Commission of the City of Fullerton determining the construction of windows and framing does not comply with the plans approved pursuant to a major development project on property located at 201 N. Lincoln was read and further reading waived. MOTION by Commissioner Savage, SECONDED by Commissioner Bailey, and CARRIED 6-0, that said Resolution be ADOPTED AS WRITTEN.

Acting Chief Planner Eastman asked if the Landmarks Commission desired to have the builder install the sills as designed when the window post was installed, along with the coping, vent pipes, and lighting. Chairman Francis indicated that it could be handled at staff's discretion.

Commissioner Musante asked Acting Chief Planner Eastman about the sills, and responded he would like them to be installed per the approved plans.

City Attorney Christian Bettenhausen stated that the motion was made in accordance with staff's recommendation that the deviations from the approved plans were significant and inconsistent with the Landmarks Commission's review and original approval; therefore, it would cover any deviations that staff had indicated. If the Commission wished to limit it to only the windows then it needed to be clarified.

Acting Chief Planner Eastman and City Attorney Christian Bettenhausen stated they would look into whether this item could be appealed.

Adjourned as Landmarks Commission and reconvened as Planning Commission at 9:25 p.m.

Commissioner Chaffee returned to the room at 9:25 p.m.

A five minute recess was called.

### **OTHER ITEMS**

None

### **COMMISSION STAFF COMMUNICATION**

Commissioner Savage reiterated concerns he had with the retaining wall at University Heights. At the last meeting he had requested information from staff regarding the University Heights project, and he had received and reviewed the information. He asked the Commissioners to look at several pages he had marked in the Specific Plan. He explained that, at the last meeting, the City Attorney had stated that the Planning Commission had passed jurisdiction on to the City Council, and if the Commissioners had concerns they should speak with their Council Members regarding this issue. Commissioner Savage stated he had spoken with Acting Chief Planner Eastman and the City Manager, and staff was working to ensure the project came out as designed. He had also spoken with Bill Dickerson from the University, who agreed that he would talk with the developer, and Council Members Richard Jones and Sharon Quirk, who were both concerned with this project. He had met with Council Member Don Bankhead and also Richard Price, a former Planning Commissioner, and they too were interested in what was required compared to what was done. He had spoken with Jim Alexander from the University, who asked him to sit in on some meetings with the City, and if staff believed it would be helpful he would attend. He received a letter from Bill Dickerson indicating they had a plan and intended on following the plan. Based on the letter Commissioner Savage did not believe there was cooperation from the University.

Chairman Francis stated he went to look at the wall with Mayor Sean Nelson last week and he concurred that it was a problem.

Acting Chief Planner Eastman stated that Council would need to make the determination as to what needed to be done. There was a condition that required the landscape design plan be approved by the Director of the Community Development, and staff hoped to work with the University to come to an agreement that would meet what was approved.

City Attorney Christian Bettenhausen reminded the Commission that this time during the meeting was supposed to be for brief comments, and not discussion of items not on the agenda. Acting Chief Planner Eastman clarified that staff communication was an opportunity to ask general questions of staff and report on items to the Planning Commission.

Chairman Francis asked if this item could be added to the agenda for discussion at a future meeting, and the Commission's recommendations forwarded to the City Council. Acting Chief Planner Eastman stated it could be done.

Commissioner Savage asked City Attorney Christian Bettenhausen if they could hold a workshop, and City Attorney Christian Bettenhausen responded they could, but he was not sure of what their jurisdiction was. Chairman Francis believed they would have findings and those findings could be forwarded to the City Council.

Commissioner Savage requested a copy of the actual tapes from the Planning Commission meeting, and for staff to report back on this issue at the next meeting. He was concerned that the further the project went, the harder it would be to correct.

Commissioner Chaffee asked if the landscape plan had been approved, and Acting Chief Planner Eastman stated the plans had been reviewed prior to building permits being issued, and were approved by Joel Rosen, Acting Director of Community Development.

Commissioner Chaffee asked if the specific plan addressed the landscape requirements, and would any change require an amendment to the specific plan. Acting Chief Planner Eastman stated the specific plan was an ordinance, and as such the developer needed to comply. If a permit was issued and prior to completion it was determined it was not in conformance with law, it could become a legal interpretation.

Commissioner Chaffee asked if individuals could complain about a project not conforming to the specific plan. City Attorney Christian Bettenhausen stated citizens could complain and file lawsuits challenging approvals. Commissioner Chaffee asked if there was a political process, and City Attorney Christian Bettenhausen said a citizen could make a complaint to staff or write a letter.

Commissioner Thompson, based on City Attorney Christian Bettenhausen comments about this item not being on the agenda and therefore the Commission should keep their comments brief, left the meeting at 9:57 p.m.

Commissioner Musante asked about the letter received today from Bill Dickerson, and Acting Chief Planner Eastman advised the status of the plans.

### **REVIEW OF COUNCIL ACTIONS**

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

### **PUBLIC COMMENTS**

None

### **AGENDA FORECAST**

The next regularly scheduled Planning Commission meeting would be September 26, 2007 at 7:00 p.m. The September 12, 2007 meeting had been canceled.

### **ADJOURNMENT**

There being no further business the meeting was adjourned at 10:04 p.m.