

MINUTES OF THE REGULAR MEETING OF THE FULLERTON PLANNING COMMISSION

COUNCIL CHAMBERS – CITY HALL

WEDNESDAY

SEPTEMBER 26, 2007

7:00 P.M.

- CALL TO ORDER:** The meeting was called to order by Vice Chairman Hart at 7:02 p.m.
- PRESENT:** Vice Chairman Hart, Commissioners Bailey, Chaffee, Musante, and Savage
- ABSENT:** Chairman Francis and Commissioner Thompson
- STAFF PRESENT:** Community Development Director John Godlewski, Acting Chief Planner Eastman, Acting Senior Planner Allen, Senior Planner St. Paul, Assistant City Attorney Tom Duarte, and Secretary Pasillas
- FLAG SALUTE:** Commissioner Musante
- MINUTES:** MOTION made by Commissioner Musante, SECONDED by Commissioner Savage, and CARRIED unanimously, by voting members present, that the Minutes of the August 8, 2007 and August 22, 2007 meetings be APPROVED as written.

PUBLIC HEARINGS

CONDITIONAL USE PERMIT CUP-887B. APPLICANT: MEDIA GIANT; PROPERTY OWNER: GING L. GIN.

A request to amend Conditional Use Permit CUP-887A to expand an existing restaurant into the adjacent tenant suite on property located at 3159 Yorba Linda Boulevard (north side of Yorba Linda Boulevard at the intersection of Sapphire Road) (C-2 zone) (Categorically exempt under Section 15301 of CEQA Guidelines) (HAL)

Acting Senior Planner Allen gave a brief background for the request. In 1993, Conditional Use Permit (CUP) 887 approved a 2,200 square-foot restaurant with a Type 41 ABC license and shared parking. In 2005, CUP 887A was approved to change the Type 41 ABC license to a Type 47 ABC license. In 2007, CUP 887B was submitted to increase the square footage to 3,300 square feet. The Type 47 ABC license and shared parking would remain.

A site plan was shown and the surrounding tenants were described. Acting Senior Planner Allen described the parking requirements, and the shared parking analysis.

Staff recommended the conditions of the prior CUP be carried forward. Additionally, staff had included a condition to ensure construction plans and permits for the existing building, the expansion and the non-permitted patio be obtained prior to occupancy.

Acting Senior Planner Allen discussed a letter received from a neighboring resident and explained that the resident had previously complained to the ABC, but had not expressed concern to staff at the time.

Staff recommended approval of the request.

Commissioner Savage asked how many parking spots would remain after the cell tower was completed, and Acting Senior Planner Allen responded there would be four. Commissioner Savage asked if the parking lot in back could be made unavailable after dark to prevent it from becoming an attractive nuisance. Acting Senior Planner Allen explained that the parking lot had been previously fenced. The cell tower approval required the fencing be removed.

Commissioner Bailey agreed with controlling the parking in the rear. Acting Chief Planner Eastman clarified that the cell tower conditions had been added by the Planning Commission during an appeal.

Commissioner Chaffee asked why the parking was calculated on usage at 6:00 p.m. and later, rather than the business hours of 11:00 a.m. to 11:00 p.m. Acting Senior Planner Allen responded that peak hour demand occurred after 6:00 p.m.

Public hearing opened.

Mike Winters, 3159 Yorba Linda Blvd., the owner of Mickey's, stated that there was a gate in the back that was locked at night; therefore, to access the parking in the rear after dark you would have to walk around the building. He had spoken to the landlord and he intended to install an electronic fence that would allow employee-only parking in the rear. Mr. Winters also stated he would be installing cameras to monitor the rear parking area. He stated that he was allowed to use the parking at the Vendome Liquor during the evening hours, which was his busiest time. He was not that busy during the lunch hours.

Vice Chairman Hart asked Mr. Winters if he agreed with the proposed conditions, and Mr. Winters responded affirmatively. Acting Chief Planner Eastman clarified that the conditions were the same as the existing CUP, with the additional condition regarding building permits for existing work and TI's for new space.

Mr. Winters addressed the letter received from the neighbor and stated that he was working with the ABC to get approval to install a sound proof shade to prevent noise traveling to the neighbors.

Commissioner Chaffee asked if the sound screen could be added as a condition to ensure it was completed, and Mr. Winters responded that he would install it regardless.

Commissioner Bailey asked about the walk-through gate that would be kept locked and if there was another way to access the rear parking lot. Mr. Winters explained that you would have to go around the building or out one of the tenant doors to get access.

Public hearing closed.

Commissioner Bailey did not have a problem with allowing this change, and suggested Mr. Winters try to contact the neighbor who had complained to address her concerns. He did not see a need to condition the back parking lot as it was not under the care or custody of the applicant. He also did not see a reason to condition the noise abatement.

Commissioner Savage agreed with Commissioner Bailey and would support. There was no history of problems in the back lot, other than the letter they had received. He believed the owner of the business was acting in good faith.

Commissioner Musante would support and liked the shared parking as an efficient use of land.

Commissioner Chaffee would support the project, but he would like to condition the noise abatement.

Vice Chairman Hart believed the applicant was responsible and trying to be a good neighbor. She would support.

The title of RESOLUTION PC-07-21 APPROVING a resolution of the Planning Commission of the City of Fullerton recommending approval of a request to amend Conditional Use Permit CUP-887A to expand an existing restaurant into the adjacent tenant suite on property located at 3159 Yorba Linda Boulevard was read and further reading waived. MOTION by Commissioner Savage, SECONDED by Commissioner Chaffee, and CARRIED 5-0 by voting members present, that said Resolution be ADOPTED AS WRITTEN.

PRJ07-00346 – ZON07-00075. APPLICANT: PAUL LEE; PROPERTY OWNER: SHUN H. KO.

A request for a Conditional Use Permit to convert an existing restaurant to a restaurant with a karaoke facility on property located at 1050 West Valencia Drive (south side of Valencia Drive, approximately 180 feet west of Euclid Street) (C-2 zone) (Categorically exempt under Section 15303 of CEQA Guidelines) (AKU)

MOTION made by Commissioner Bailey, SECONDED by Commissioner Musante and CARRIED unanimously that said item be CONTINUED to a date uncertain.

PRJ05-00377 – ZON05-00041 - ZON05-00042 - PM2005-159. APPLICANT: HPA; PROPERTY OWNER: SCIF FULLERTON, LLC.

A request to modify Conditions No. 2 and No. 5 of Resolution PC-05-42 which specified the method for determining parking per unit on a previously approved Major Site Plan, Conditional Use Permit, and Parcel Map to construct 21 industrial condominium units on property located at 1300 East Valencia Drive (southwest corner of East Valencia Drive and Sally Place) (M-P zone) (Categorically exempt under Section 15302 of CEQA Guidelines) (HAL).

Acting Senior Planner Allen explained the item had come before the Planning Commission in 2005 and had been approved. This request was to modify conditions two and five, which had to do with parking. A site plan was shown, and Acting Senior Planner Allen described the request.

During the original approval process, several conditions were placed on the project related to parking, and the applicant has found, and staff agreed, that are problematic when you try to apply them and sell the property.

Condition two dealt with parking and what would be provided for the site as a whole. Regardless of how the units were built-out, the site would be parked for office, manufacturing, and warehouse uses based on a 25%, 40%, and 35% allocation, respectively. The intent of the original condition was to ensure the location could distribute future expansion of uses within the existing building. For example, if a business needed additional office space.

Condition five as originally written said that those percentages would also apply to how the units as they were built out. The spaces would be limited to build-out based on those percentages. The problem was, particularly with a warehouse or storage business, 35% warehouses was small, and the way the condition was written made this an unattractive selling point for the development.

Staff had worked with the applicant to come up with the requested modifications. Acting Senior Planner Allen explained the effect on the number of parking spaces that the modification to condition two would be no change. She described how the change to condition five would allow a change in use, but not impact parking.

Staff recommended approval of the modifications to conditions two and five.

Commissioner Savage asked if the street was counted in parking, and Acting Senior Planner Allen responded no. Commissioner Savage asked if the parking requirement had to do with the overall project, therefore limiting future tenants. Acting Senior Planner Allen explained that condition five would be applied on a per unit basis. Acting Chief Planner Eastman clarified that the parking was common parking shared through the condominium. Prior to pulling a permit for a tenant improvement, the tenant would need the property manager's (association) approval and staff would review

Vice Chairman Hart asked if this request was to allow more flexibility with the manufacturing and warehouse percentages, and not so much flexibility with the office. Acting Senior Planner Allen responded that based on Code requirements there would not be much more than 25% office.

Commissioner Savage asked if the original approval had 6,000 square feet less building and nine more parking spaces than actually built. Acting Senior Planner Allen clarified that the applicant had provided plans with the additional square footage and the Director had made a decision that it was consistent with the CUP. Commissioner Savage stated that there had been problems with industrial condominium complexes and parking previously. Acting Chief Planner Eastman stated that the point of the conditions was to avoid that situation. It would require the CC&R's to be written in a way that would comply with Code and Planning Commission approval

Commissioner Chaffee understood the change to condition five, but was confused by the wording in condition two. He did not think the work "minimum" was needed, and "parking shall be provided on-site at a minimum allocation of..." was redundant. He thought the condition could be worded better. Acting Chief Planner Eastman clarified that the intent was written for the site as a whole.

Commissioner Bailey asked if the wording should be changed at this point, or the item continued. It was decided to open public hearing and revisit this issue.

Public hearing opened.

Alfonso Lopez, HPA Architects and project manager, explained that he would be working with the Magellan Group and the CC&R's attorney to finalize the wording. The intent of the modification was to provide prospective tenants some flexibility in use. Historically speaking, manufacturing and warehouse tended to fluctuate, and this change would accommodate that.

Commissioner Musante believed it better to deal with number of spaces rather than percentages. Acting Chief Planner Eastman responded that if a property owner wanted to do a

tenant improvement or modify a building, and eliminate spaces while still meeting the criteria, it could cause a problem. Code established minimum parking per square footage, and this would prevent tenants from exceeding what their parking allocation was, in the project as a whole. The site was built to meet this ratio.

Commissioner Savage asked what the parking requirement would be in an all office, 10,000 square-foot building. Acting Chief Planner Eastman responded four spaces per 1,000 square feet (40 spaces). Commissioner Savage continued by stating that the owner would have to go to his neighbor's and borrow parking. Acting Chief Planner Eastman stated that the CC&R's would prevent this situation. Any change to the CC&R's would require the neighbor's agreement and the City would also have to agree to changes. Commissioner Savage asked if the City would prevent 10,000 square foot office because it would exceed the limits, and Acting Chief Planner Eastman responded affirmatively.

Commissioner Musante asked what would happen if 15% was office, 30% manufacturing, and 30% warehouse, and the rest was not utilized. He believed what was being established was the minimum number of spaces for each of those uses. Acting Chief Planner Eastman clarified that the minimum number of spaces was established in condition five as 1.75 spaces or 7 spaces per 10,000 square feet. Acting Chief Planner Eastman added that condition two only had to do with the entire site and providing parking, it gave staff and the Planning Commission the ability to rationalize how the parking requirement had come to be in the future, for the site as a whole.

Vice Chairman Hart felt the percentages needed to be included in the wording to prevent misunderstanding.

Acting Chief Planner Eastman suggested the following wording for condition two: "parking shall be provided for the entire 12.10 acre site based on a distribution of 40%, 25%, 35%..."

Commissioner Musante asked where the flexibility was if the percentages were set and Acting Chief Planner Eastman explained that staff did not wish to provide flexibility for the entire site beyond what Code would allow, but felt the flexibility was more applicable to condition five.

Public hearing closed.

Commissioner Chaffee agreed with the intent, but suggested using the calculated ratio rather than the percentages, i.e. "Parking for this site shall not be less than 1.75 parking spaces for every 1,000 square feet of building area constructed on the entire 12.1 acre site."

Vice Chairman Hart believed it was easier to understand when the percentages were included. Acting Chief Planner Eastman stated the intent of the condition was to make it clearer as to how the number was derived.

Commissioner Chaffee believed they were talking about a minimum amount of parking for the site, not how an individual owner would work their parking.

Commissioner Savage believed the CC&R's would add clarity.

Commissioner Musante asked what they were trying to accomplish with condition two, and Acting Senior Planner Allen responded that the project proposed to construct minimal office space. If parking was provided based on the original build-out during original construction, in

the future as businesses looked to expand office and other uses within their units, they may be a deficit in parking.

Commissioner Bailey left the meeting at 8:12 p.m.

Commissioner Musante understood the intent was to prevent zero office, zero manufacturing, or zero warehouse. He wanted to know why the percentages needed to add to 100%, when talking about minimums. Acting Chief Planner Eastman responded that condition two had to do with the allocation of parking for the entire site. The project as approved met that allocation, but the original condition was poorly worded. The other issue related to condition two, was if someone added square footage to their unit in the future, how you would allocate parking for that addition so it was fair to the other owners.

Commissioner Bailey returned to the meeting at 8:14 p.m.

Commissioner Musante believed you could take the three percentages and cut them in half, 12.5%, 20%, and 17.5%, which would provide the minimum number of spaces you could have. With the percentages adding to 100% there was no flexibility.

Acting Chief Planner Eastman read wording recommended by Director Godlewski: "Total project onsite parking has been provided based on an assumed allocation of 25%, 40%, 35%, resulting in a total allocation of 1.75 spaces per 1,000 square feet. Individual tenants may build out a mix of uses in any combinations so long as 100% of the space does not exceed a total of 1.75 parking spaces per 1,000 square feet of space".

Commissioner Chaffee moved to adopt staff's recommended resolution based on Director Godlewski's language for condition two, and Commissioner Musante seconded the motion.

Commissioner Savage cautioned that rewording from the dais could be dangerous since the applicant had not had a chance to review the wording. He was agreeable with the proposed wording.

Assistant City Attorney Duarte clarified that the intent remained the same, and suggested the Commission approve the resolution and have staff reword condition two.

Commissioner Bailey motioned that the wording of condition two be changed, and the wording on condition five be accepted as presented, and the resolution brought back before Planning Commission for approval. Motion withdrawn.

Commissioner Musante asked if continuing the item until the next meeting would impact the developer, and Commissioner Bailey stated he did not want to continue the item.

Assistant City Attorney Duarte suggested adoption of the resolution, with condition five left as worded, and direct staff to draft language based upon the intent to reword condition two. He clarified that the direction of the Commission was clear and the Resolution did not have to return to the Planning Commission for approval.

The title of Resolution PC-07-22 APPROVING a resolution of the Planning Commission of the City of Fullerton modifying Conditions No. 2 and No. 5 of Resolution PC-05-42 which specified the method for determining parking per unit on a previously approved Major Site Plan, Conditional Use Permit and Parcel Map to construct 25 industrial condominium units on

property located at 1300 East Valencia Drive was read and further reading waived. MOTION by Commissioner Bailey, SECONDED by Commissioner Chaffee, and CARRIED 5-0 by voting members present that said Resolution be ADOPTED.

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

Adjourned as Planning Commission at 8:26 p.m.
Reconvened as Landmarks Commission.

PRJ05-00730 – ZON05-00102. APPLICANT: MATTHEW HOWE; PROPERTY OWNER: ERNESTO SAVEDRA.

A request to determine consistency with, or otherwise request a modification to, a previously approved Minor Development Project for certain windows on the west and south elevations of the main dwelling and the exterior stairs on the second dwelling on property located at 218 and 220 N. Lincoln Avenue, (east side of Lincoln Avenue, approximately 273 feet north of Wilshire Avenue) (R-2P zone) (Categorically exempt under Section 15303 of CEQA Guidelines) (HAL).

Acting Senior Planner Allen explained that the project had previously been approved by the Planning Commission in 2005-06. That approval included demolition of the existing dwelling, which was in a Preservation Zone, and construction of a two-story main dwelling of 1,298 square feet and a 450 square foot second dwelling over a two car garage. The plans had been approved and construction was underway. The project was before the Landmark Commission tonight to review the completed and proposed changes to determine if they were consistent with the original approval, and if not, could the modifications be approved.

Acting Senior Planner Allen described the changes and displayed photos of the items that had been completed. Staff believed the two window changes on the south elevation of the front unit were consistent with the original approval. Staff did not believe the changes to the turret windows and the proposed change to the rear-unit stairs were consistent with the approval, nor with the typical Spanish Colonial design.

Acting Senior Planner Allen displayed pictures of some typical Spanish Colonial buildings with stairs similar to those approved.

Acting Senior Planner Allen stated that the Redevelopment Design Review Committee (RDRC) concurred with staff's analysis and would not support the modifications as proposed to the turret and stairs. They strongly favored construction per the approved plans.

Vice Chairman Hart asked if the stairs and turret were clearly identified on the original plans, and Acting Senior Planner Allen responded that they were.

Public hearing opened.

Matthew Howe, the applicant, explained that the reason for the change on the turret was for engineering requirements; four Simpson strong walls were needed, and the smallest arched vinyl window he had been able to purchase were 2' wide x 72", not 16" width as approved. Because of the size of the windows and the strong walls, he believed this was the way it needed to be done.

Vice Chairman Hart asked if the proposed windows were the same distance from each other, and Mr. Howe responded that they were not. From the inside the windows, as proposed,

provided somewhat increased privacy, but from the outside the appearance was similar to what had been approved.

Commissioner Musante asked the size of the windows shown in the photographs, and Acting Chief Planner Eastman responded they had not been measured.

Commissioner Savage asked if a window could be made to fit and Mr. Howe responded that they did not make a 16" vinyl arch window. Commissioner Savage asked if the applicant had looked at wood windows, and Mr. Howe stated they were much more costly, and the owner preferred to have vinyl windows.

Vice Chairman Hart asked if the original seven windows would be casement windows, and Mr. Howe responded alternatively. However, of the four revised windows he made the two front windows open and the two on the side fixed. Vice Chairman Hart commented that whoever designed the windows had to have been aware of the requirements of the Preservation Zone.

Vice Chairman Hart asked about the changes in the stairwell and why he had requested these changes, and Mr. Howe responded that, as designed, the stairs would take up more yard space.

Commissioner Bailey asked if there was a storage area under the stairs on the approved drawings, and Mr. Howe responded there would be a small storage area. Commissioner Bailey stated that before the Landmark Commission today was the revised staircase, and Mr. Howe stated that he was not happy with this revision, and he would like to propose a different revision.

Commissioner Musante asked if the Landmark Commission required 16" windows, could they be made, and Mr. Howe stated that they could be made, but would be approximately three times the cost.

Katie Dalton, 200 N. Cornell, and a representative of Fullerton Heritage, commented that the project had gone through multiple levels of review, including three times before the RDRC, and she would like the Landmark Commission to require the builder and owner to build the home as approved; she agreed with staff's recommendations.

Mrs. Dalton continued by explaining that the Spanish Colonial design called for symmetry and equal spacing in the turret, and the original design met those requirements. Wood windows would not rot if they were properly maintained, and the 16" windows could be purchased. Concessions were made during the original approval process, and to continue making concessions would be detrimental to the neighborhood. The stairwell, as designed, added character to the second dwelling.

Public hearing closed.

Acting Chief Planner Eastman explained the two parts to the Commission's decision; first they would determine if the changes were consistent with their previous approval, and if they believed they were not consistent, the second decision would be whether or not to approve the modifications as being consistent with the Residential Preservation Design Guidelines.

Commissioner Savage agreed with staff's recommendation and the RDRC's opinion.

Commissioner Bailey believed the builder had good intentions, but it was important to maintain consistency with the design guidelines. He would support the motion.

Commissioner Musante would support the motion.

Commissioner Chaffee believed the turret was a significant, prominent feature and needed to be consistent with the original plans.

Acting Chief Planner Eastman explained the second part of the Commission's decision; the applicant as submitted modifications, and the Commission needed to either approve or deny the request for modification, or continue the item.

MOTION by Commissioner Musante, SECONDED by Commissioner Savage, and CARRIED 5-0 to deny any change to the approved plans.

Commissioner Bailey commented that things could change during construction, and it was good to be open to change, but these changes did not meet the Preservation Zone guidelines.

Vice Chairman Hart liked the buildings and many of the details, however, the turret needed to be the jewel of the building, and the stairwell needed to be completed as on the plans. She understood constructions costs, but wanted the building built as approved.

The title of RESOLUTION HL-07-02 APPROVING a resolution of the Landmarks Commission of the City of Fullerton determining consistency with, or otherwise denying modification of a previously approved Minor Development Project on property located at 218 and 220 N. Lincoln Avenue was read and further reading waived. MOTION by Commissioner Savage, SECONDED by Commissioner Bailey, and CARRIED 5-0 that said Resolution be ADOPTED AS WRITTEN.

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

Adjourned as Landmark's Commission.
Reconvened as Planning Commission.

OTHER ITEMS

None

COMMISSION STAFF COMMUNICATION

Commissioner Savage asked for an update on the University Height's project, Acting Chief Planner Eastman explained that staff had two separate architects provide a peer review and prepare letters stating if it was consistent with approval, and if not how to remedy. Since that meeting Acting Chief Planner Eastman had met with the University Foundation and they would identify what changes they were willing to make to bring it into consistency. At this point they had indicated they were not willing to landscape or irrigate the wall. The requirement to maintain a landscaped/irrigated wall of this size would require repelling down, which would still be required without landscaping/irrigation to maintain/prevent weeds.

Commissioner Bailey asked if the Planning Commission had approved the project, the developer built the project, then they asked to make changes, and staff agreed to the changes. Acting Chief Planner Eastman responded that City Council had given the final approval. The project included a specific plan, and at the approval hearings the developer had indicated they would landscape the wall. In reviewing the landscape plans it was noted that they were not

proposing to landscape the entire wall, only the top and bottom which would eventually grow together. Also, the developer had proposed trees at the bottom of the wall. The developer had proposed something different and staff had approved that modified landscape plan and the developer moved forward.

Commissioner Savage appreciated staff's work to clear up this issue on what he considered a significant problem.

Commissioner Chaffee asked about a letter the Commissioner's had received regarding the Twilight Hookah Lounge. Acting Chief Planner Eastman explained that the Planning Commission had previously approved the lounge, and a neighboring resident had indicated the lounge was not in compliance with the CUP conditions. A City inspection confirmed that all conditions were not being met and notice of violation was issued. The Fire Department had also notified the owners of a fire hazard, and given them 30 days to comply with requirements.

Commissioner Bailey asked about a fatality within the City that had been mentioned at a recent City Council meeting, and Acting Chief Planner Eastman explained the accident that had begun with drinking in the downtown, and ended with a fatal accident at Chapman and Clark.

Vice Chairman Hart stated that concrete was being dumped at 1103 Richman Knoll and asked if permits were required. Acting Chief Planner Eastman responded that he was aware of a property in that general area that had a Code Enforcement case currently under investigation, but would check to see if it was 1103 Richman Knoll.

Commissioner Bailey asked what the status of the old Donald Duck Orange Juice facility was, and Acting Chief Planner Eastman stated that the City had proposed purchasing a portion of the property, but the asking price was excessive. There was a possibility, based on a number of factors including the condition of the property, that it may warrant imminent domain action.

Commissioner Musante asked the status of the study being completed on downtown drinking, and Acting Chief Planner Eastman explained that the current moratorium would last until January 2008. City staff had worked to draft a new ordinance to address concerns, and hoped to have a final draft in the next several weeks. Staff would meet with business owners and concerned others in October to review the draft ordinance, and then it would come before the Planning Commission and City Council.

Acting Chief Planner Eastman introduced Director Godlewski to the Commissioner's.

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 October 24, 2007 at 7:00 p.m. The October 10, 2007 meeting had been canceled.

ADJOURNMENT

There being no further business the meeting was adjourned at 9:32 p.m.

Janelle Pasillas
Secretary