

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

**COUNCIL CHAMBERS – CITY HALL**

**WEDNESDAY**

**OCTOBER 24, 2007**

**7:00 P.M.**

**CALL TO ORDER:** The meeting was called to order by Chairman Francis at 7:05 p.m.

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

**ABSENT:** Commissioner Thompson

**STAFF PRESENT:** Community Development Director John Godlewski, Acting Chief Planner Eastman, Acting Senior Planner Allen, Senior Planner St. Paul, Acting Associate Planner Kusch, Senior Civil Engineer Voronel, Traffic Engineer Miller, Redevelopment Project Manager Kovac, Captain Mayes, Assistant City Attorney Tom Duarte, and Secretary Pasillas

**FLAG SALUTE:** Commissioner Musante

**MINUTES:** MOTION made by Commissioner Savage, SECONDED by Commissioner Chaffee, and CARRIED unanimously, by voting members present, that the Minutes of the September 26, 2007 meeting be APPROVED as written.

**CONSENT CALENDAR**

**ITEM A.**

**PARCEL MAP PM-2005-159. APPLICANT: THIENES ENGINEERING; PROPERTY OWNER: SCIF FULLERTON, LLC.**

A request for a 12-month time extension for a parcel map on property located at 1300 East Valencia Drive.

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

**PUBLIC HEARINGS**

The following items were heard out of order.

**APPLICANT: FULLERTON REDEVELOPMENT AGENCY**

A Resolution of the Planning Commission of the City of Fullerton Selecting and Designating the Boundaries of the Merged Fullerton Redevelopment Project Area, Amendment No. 1, and approving and Adopting a Preliminary Plan Formulated for the Redevelopment of Said Area.

Commissioner Savage abstained from this item as he owned property within the area being discussed.

Charles Kovac, Redevelopment Project Manager gave a brief overview and explained the existing four project areas and displayed a map that indicated their locations. On June 14, 2005 the Redevelopment Agency held a strategic update workshop where they had made several recommendations; this item addressed the final recommendation, to expand the City's Merged Fullerton Redevelopment Project Area. On August 7, 2007, City Council approved the survey area boundaries for the potential inclusion of additional areas in the Merged Project Area.

The Preliminary Plan was considered a framework document in that it was very general in nature. A map indicating the proposed Amendment Area was displayed and the various areas described. If the Preliminary Plan was approved and the Amendment Area selected tonight, the Preliminary Plan would be forwarded to the Redevelopment Agency in November 2007. The Planning Commission would also have an additional opportunity to view the amendment again when the Draft Redevelopment Plan was brought before them. The entire process would take approximately nine months and should be concluded sometime in June 2007.

Commissioner Chaffee asked if the various areas indicated on the map in red were currently in existence; and if they were created at various times, when did they expire. Project Manager Kovac responded that Project Areas One and Two expired in 2016, Project Area Three expired in 2017, and Project Area Four, a non-tax increment project, would expire in 2021. This additional territory would have its own time frame, a 30 year plan from 2008 until 2038, with an opportunity to add an additional 15 years for the sole purpose of paying back any existing debt on this Amendment Area.

Commissioner Chaffee asked how the tax increment would work with the new territory, and when it would begin to accrue. Project Manager Kovac responded it would begin in approximately one and a half years, and would be very minute in the beginning. All merged Project Areas could share finances.

Commissioner Chaffee asked why some areas had not been included, and Project Manager Kovac responded that they had excluded most residential, especially owner-occupied single-family residential. Multi-family homes had been included.

Vice Chairman Hart asked if the expanding and adding would take away existing money from the other Redevelopment Project Areas, and Project Manager Kovac responded that the Amendment Area may need money at the beginning to implement projects/programs, and that funds could be moved from one project to another and pay it back later. However, the goal was not to take money from other areas, but it was a possibility.

Commissioner Musante believed it to be a win-win situation for City, and asked if there was a downside. Project Manager Kovac responded that he had seen none; the area was decaying and this was an opportunity to fix the area. The money coming in would be used for infrastructure improvements and also to help assist in airport improvements to make the airport a more viable asset to City. Lester Miyoshi of GRC Consultants further stated that there is no

downside to the City/Agency but taxing entities such as the County of Orange and school districts will receive less property tax funds as more of the property tax money will be diverted to the Agency to be used for improvements in the Amendment Area.

Public hearing opened.

No one from the public wished to speak.

Public hearing closed.

The title of RESOLUTION PC-07-25 APPROVING a Resolution of the Planning Commission of the City of Fullerton selecting and designating boundaries for the proposed merged Fullerton Redevelopment Project Area, Amendment No. 1, and approving and adopting a Preliminary Plan for the Redevelopment of said area was read and further reading waived. MOTION by Commissioner Musante, SECONDED by Commissioner Bailey, and CARRIED 5-0 by voting members present, that said Resolution be ADOPTED AS WRITTEN.

Commissioner Savage returned to the meeting.

**PRJ07-00053 – ZON07-00096. APPLICANTS: TRILLIUM COMPANY AND T-MOBILE; PROPERTY OWNER: POST OFFICE VILLAGE PARTNERS**

A request for a variance of the maximum height in proximity to a property line with a residential zone classification to construct a new 50-foot high wireless telecommunication facility (monopalm) setback approximately 30 feet from a residentially-zoned property at 1310 East Chapman Avenue (south side of Chapman Avenue, approximately 500 feet east of Raymond Avenue) (C-1 zone) (Categorically exempt under Section 15303 of CEQA Guidelines) (BSP).

Acting Chief Planner Eastman explained that the applicant had requested the item be continued to the November 14, 2007 meeting.

Motion by Commissioner Bailey, seconded by Commissioner Savage, and carried unanimously by voting members present to continue the item to the November 14, 2007 meeting.

**PRJ07-00344 – ZON07-00073 – ZON07-00074 – TTM-17162 – LRP07-00006 – LRP07-00007 – LRP07-00008. APPLICANTS: SHELDON GROUP AND JPI DEVELOPMENT; PROPERTY OWNER: PACIFIC CHRISTIAN COLLEGE**

A request for a mixed-use development with 363 student-oriented residential units, 30,000 square feet of retail/commercial uses, a 12,000-square-foot leasing office and recreation center, and a seven-level parking structure with 1,182 parking spaces on property located at 2545-2565 E. Chapman Avenue, 501 N Commonwealth Avenue, and 2450 E. College Place (northwest corner of Commonwealth and Chapman Avenues, south of East College Place); excluding 2550 E. College Place (College Terrace Apartments). The proposed project would require (1) a Major Development Project to review the site plan, architecture, and conceptual landscaping; (2) a Specific Plan to set the development and use standards for the site; (3) a Conditional Use Permit to operate a student-oriented housing development; (4) a Zoning Amendment to change the zoning classifications from R-3 and O-P to Specific Plan District (SPD); (5) a General Plan Revision to change the Office land use designation to High Density Residential, and to add SPD as a zoning classification consistent with the land use designation of High Density Residential; and (6) a Tentative Tract Map. (Environmental Impact Report) (HAL).

Acting Senior Planner Allen explained the site location was the northwest corner of Commonwealth and Chapman Avenues. The property owner was Hope International University, the applicant was JPI Development, who was represented tonight by Steve Sheldon, and the City's Environmental Consultant was Bon Terra Consulting.

An aerial photo of the property was displayed. Currently there were two apartment buildings, with a total of seventy-nine units, and three office buildings, with slightly over 100,000 square feet. The proposed project was for 363 student-oriented apartment units, totaling just over 1,250 beds, and included a leasing office, indoor recreation facilities of approximately 12,000 square feet, as well as commercial space of 30,000 square feet.

The project included six discretionary actions. The RDRC had previously reviewed the design component of the project, and the Commission would be making a recommendation on the project to the City Council.

The Specific Plan would establish both the development standards and the land-use regulations for the site. It would facilitate the student-oriented residential design, and also control the land uses that would be perpetuated on the site. Permitted uses would be limited to those uses allowed in the C-2 commercial zone, and the conditionally permitted uses were student-oriented housing and restaurant with alcohol.

The Major Development Project proposed a project with a Floor Area Ratio (FAR) of 1.88, lot coverage of 72%, and density of 53.4 dwelling units per acre. Ground floor setbacks are at ten feet, and the project was four stories. Retail parking was proposed at one space per 250 square feet, for a total of 120 spaces. Residential parking was at .85 spaces per bed for a total of 1,062 spaces. This number was based on the applicant's survey of CSUF students and residents in surrounding apartments. The proposed stall size was a "Universal Stall", which would be 8.5 feet by 18 feet.

A site plan was displayed and explained. The residential and commercial spaces would wrap the parking garage, which would be seven levels and include partially subterranean and rooftop parking. The 30,000 square feet of commercial space would line the frontage on north Commonwealth Avenue and wrap the corner west on Chapman, and the remainder of the ground floor would be residential units. The second, third and fourth floors were identical to each other and would wrap the parking structure in the center.

The interior of the residential rooms was essentially a private dorm-type environment, with multiple beds in each room. There were one, two, three and four bedroom units, with bathrooms varying with the configuration, and a shared living room and kitchen facility in each room.

The height of the buildings ranged between fifty and sixty feet, with the parking structure in the center rising to sixty-two feet. Tower features in several locations would rise to sixty-eight feet.

Elevations were displayed and explained. The architecture had been designed to be more modern and contemporary to match surrounding properties. Prospective photos were displayed. An elevation of the view from the College Terrace Apartments was displayed to address concerns that the residents there would be looking at the parking structure.

The Major Development Project also included common open spaces between interior amenities, as well as outdoor courtyard spaces. Interior amenities included an indoor recreation area,

business offices, computers, and game rooms. Five courtyards had been provided, including one with a pool, adjacent to the leasing office and the indoor recreation area. The proposed landscaping was described.

A conceptual design was displayed of the Commonwealth Avenue edge showing the possible pedestrian walkways. Landscaping changes between commercial and residential were described.

A Conditional Use Permit (CUP) was required by the Specific Plan for student-oriented housing use, to ensure the use was compatible with the surrounding area. The housing facility would have twenty-four hour a day, seven days a week, onsite management. A Code of Conduct policy, which would lead to eviction if not followed, would be enforced. There would be no storage on or attached to balconies, and the City would have the ability to modify the CUP for non-compliance or violations of City regulations.

The Zoning Amendment was needed to change the zone from the existing zoning of both Office-Professional (O-P) on the western side of the property, and R-3 limited-density, multi-family residential on the eastern side of the property, to the Specific Plan District (SPD).

The General Plan revision changed the existing designation from office to high-density residential. The eastern side of the project was already designated high-density residential. The General Plan Revision would also add the Specific Plan District as the zoning classification, which was consistent with the high-density residential General Plan designation.

The Tentative Tract Map would consolidate multiple lots into one lot, and create the ability for separate ownership of the commercial spaces only. Acting Chief Planner Eastman clarified that as part of the Tentative Tract Map there would be an abandonment of public sewer and utility easements, which would be relocated into the public street.

Staff had received sixteen comments letters during the forty-five day Environmental Impact Report (EIR) comment period.

The EIR had looked at the impacts of the project on multiple areas, and identified where impacts were significant, then mitigated those impacts to less than significant levels. Mitigation measures that had been identified included air quality, biological resources, cultural resources, geology, hazards and hazardous material, hydrology and water quality, noise, traffic, and utilities and service systems.

Although the air quality impacts had been mitigated, there were several that remained significant and unavoidable. Short term impacts included demolition, grading, and the application of architectural coatings, which would cause the allowable limits to exceed the thresholds and therefore be significant and unavoidable. Long term impacts both from the motor vehicles associated with the project as well as natural gas combustion associated with the project or with the energy for the project would also be significant and unavoidable.

Staff recommended the following actions:

- Recommend to Council, adoption of the mitigation measures and mitigation monitoring and reporting program.
- Recommend to Council, adoption of findings of fact and statement of overriding considerations, because there are impacts which can not be mitigated to a level less than significant (no feasible way to lessen or avoid the remaining significant impacts)

related to air quality, and the benefits identified for the project outweigh the reduction or avoidance of these impacts).

- Certification of the Environmental Impact Report (EIR).
- Recommend to Council, approval of the Specific Plan, Development Project, Conditional Use Permit, Zoning Adjustment, General Plan revision, and Tentative Tract Map.

Staff recommended the following finding, in addition to the findings provided in the staff report; while the no project/no development alternative was considered the environmentally superior alternative did not meet the objectives of this project. Although the environmentally superior alternative would be to do nothing, the benefits of this project would outweigh that.

Vice Chairman Hart asked for clarification on what a student-oriented facility was, and did it mean that families were not allowed. Acting Senior Planner Allen explained that the developer was not affiliated with any of the Universities, and could not prohibit families, but the property would be marketed towards students.

Vice Chairman Hart asked if there were restrictions as to the number of inhabitants per unit, and Acting Senior Planner Allen responded that the applicant could better answer this question.

Commissioner Savage asked where the 120 retail parking spaces were located and if they were separated from residential parking. Acting Senior Planner Allen explained that the retail parking was on the ground floor, and a ramp would lead to the residential parking levels above.

Commissioner Savage asked where guest parking would be located, and Acting Senior Planner Allen responded that there had not been any guest parking specifically designated, but the applicant could address the sharing of retail parking that would not be in use overnight.

Commissioner Savage asked if the General Plan designation was currently high density, and Acting Senior Planner Allen explained that the property on the east was designated high density, and the property on the west was designated commercial.

Commissioner Savage asked if there would be a way to keep the tenants from parking in the commercial spaces, and Acting Senior Planner Allen stated that the intention was to time restrict the commercial parking, and each residential unit would have assigned parking spaces.

Commissioner Savage asked if the reduced size parking spaces would require the same square footage as mixed compact and full size spaces. Acting Senior Planner Allen deferred this question to the applicant.

Commissioner Savage commented that 85% of the beds had a parking space, and asked if the justification was the standard high-density zoning requirements were applied to this project. Acting Senior Planner Allen explained that the 85% was the applicant proposed number based on a survey the applicant had conducted of residents in surrounding apartments, which were mainly student housing units. Staff had concerns, but as they looked at this project, it appeared to be designed close to where students were going and encouraged pedestrian or bike travel to the University's.

Commissioner Savage asked if the parking requirement had been compared to senior housing, and Acting Senior Planner Allen responded that it had not. Acting Chief Planner Eastman added that senior housing was not compared as there did not seem to be as much pedestrian use.

Commissioner Savage asked if the setback on the building was eighteen feet from the curb and questioned how that compared to the multi-family residential and commercial standards. Acting Senior Planner Allen responded that the residential street setback was fifteen feet, and the commercial setback was ten feet.

Vice Chairman Hart asked if the existing zoning was R-3, Acting Senior Planner Allen clarified the existing and proposed zoning classification and General Plan designation. She noted the current inconsistency between the R-3 Zoning and the High Density Residential General Plan designation on the eastern portion of the property.

Vice Chairman Hart asked how many commercial spaces were proposed, and Acting Senior Planner Allen responded 120. Vice Chairman Hart asked if they would use these spaces for overnight or overflow parking, and Acting Senior Planner Allen responded that the applicant would discuss this in their presentation.

Commissioner Chaffee asked about the EIR concept of an "Education District or Gateway", and stated that it had been addressed in the report as though it existed. He wanted to know if an Education District or Gateway existed today, or was it conceptual. Acting Senior Planner Allen responded that it was conceptual at this time, but there was a strong designation by the community. The issue had been raised in the General Plan update process, but this location was being considered the first parcel of what would later be designated as an Educational District. Acting Chief Planner Eastman clarified that currently no documents were in place that identified such a district, but there were numerous university and educational facilities in the area, and it had been argued at General Plan update meetings that this was an educational district, whether it had been formally identified or not.

Commissioner Chaffee asked if this district was created what would it do, i.e. would there be an outline of street-scapes, special rules, etc. Acting Chief Planner Eastman responded it had yet to be decided; it could be architectural, it may identify uses appropriate for the area. Commissioner Chaffee commented that however the educational district was drawn, this parcel would be part of the district.

Commissioner Chaffee stated the traffic study trip generation was based on the Trip Generation handbook, which took the number of units to come up with trips per day, then took the existing use and subtracted it out to come up with the net increase in the daily trips. He wanted to know how the initial trip number from the manual was generated. Traffic Engineer Miller explained that the ITE Trip Generation Handbook was a compilation of experiential data gathered throughout the nation for various types of uses. He had taken traffic counts at the surrounding intersections, and looked at the differential between this use and the ITE numbers, to determine level of service for the various intersections. Commissioner Chaffee stated that the chart in the report indicated a number of apartment units and gave a number for peak use. This project was not rental of apartments, but a rental of beds. This was a non-family unit, and the students had different job times, different class times, etc., and may only travel together for social-type events. This type of use may have a different count than a typical family unit. Traffic Engineer Miller expressed his opinion that this calculation was conservative. The ITE Handbook did not address the type of proposed student housing specifically. Commissioner Chaffee commented that CSUF had a master plan and would be building additional dorms. The occupants that may end up living here might possibly from the community college which had no onsite housing, and those students would need to drive to school, to their jobs, etc. Traffic Engineer Miller explained that they had also looked at alternative methods of transportation. He also questioned whether a student would be willing to pay parking fee at the college in addition to their rent at this facility. Commissioner Chaffee commented that the project was projected to generate 3,926 net new

daily trips in the air quality section of the EIR, and if that number was wrong than the traffic analysis and air quality study were wrong.

Commissioner Chaffee asked why the air quality in the parking garage had not been analyzed as to its effect on residents and how it would be vented. Dana Privit, Bon Terra Consulting, stated that typically there was not an air quality health risk study done for a parking structure because there were building design standards that ensured venting and setbacks from uses. Air quality buildups had not been an issue; typically, air quality problems were associated with an enclosed area and cars or trucks idling for a long period of time.

Commissioner Chaffee asked why the sewer capacity study had been deferred when there may not be enough capacity. Senior Civil Engineer Voronel responded that the sewer study would identify deficiencies. With this study the City can determine, with a certain confidence, if this project would contribute to a deficiency or if the capacity would be sufficient. A sewer study had been conducted in 1984 for a built-out City, and it identified deficiencies at that time which had been addressed at that time. Because zoning and density changed, a sewer study would be required. During the study, the engineer would come up with calculations to identify any deficiencies. A condition was included that would require the developer to pay their fair share in upgrading the sewer system or physically install an upgraded sewer, if it was needed. Commissioner Chaffee understood the Engineer's letter, but he believed sewer capacity should have been addressed in the EIR.

Commissioner Chaffee commented that water flow had been identified as inadequate and a bond was required to rectify that condition; he wanted to know why the City had not looked at the sewer in advance. Senior Civil Engineer Voronel explained the condition which would require the applicant to physically install or upgrade the sewer, or pay their fair share, if it was determined that the sewer was inadequate.

Commissioner Chaffee asked why, with the passage of Assembly Bill 32, the California Global Warming Act had not been addressed. Ms. Privit responded that the intent was to provide a qualitative analysis in the document that addressed and identified uses currently on site, as well as proposed uses. At this point in time there were no adopted thresholds under CEQA to base a study on. Under AB 32 there were plans to address modifications to the way development and transportation occurred, to minimize the carbon footprint. Most documents try to address it on a qualitative or quantitative basis. At this point, what was done for the purpose of the draft EIR was to qualitatively address the types of uses proposed and look at those issues associated with global warming. One way to minimize the carbon footprint was to limit vehicle miles traveled, and typically a student would not be making as many trips when they lived adjacent to the university. Commissioner Chaffee commented that the EIR addressed the green house gas aspect indirectly, but it had not been put together in a statement about global warming or the new legal requirements of AB 32. Acting Chief Planner Eastman clarified that AB 32 was a policy direction by the state, but it did not identify the criteria or levels a project would need to satisfy. Commissioner Chaffee stated the bill directed the AQMD to establish some standards, which they had not yet done. Acting Chief Planner Eastman explained that the problem at this point was to try and figure out what AB 32 meant; most projects identified in California as not complying with AB 32 were those projects that had to do with expansion into undeveloped areas and not establishing growth boundaries. Infill and urban area projects had not been identified as having an impact related to AB 32. Commissioner Chaffee believed it would be hard to say that a 1,200 car garage had no greenhouse effect, and a green building system could help mitigate these effects.

Commissioner Chaffee would like the applicant to consider adopting a green building system to mitigate any global warming impact, or possibly L.E.E.D. certification.

Commissioner Chaffee addressed errors in the Specific Plan that he believed needed to be corrected:

Page 2.2 – “immediately adjacent property to the west is developed with a commercial retail center”, it was actually an office building immediately adjacent, and the retail was on the other side of the office building.

Page 4.5 – mistake in the trip generation data. “Based on projects traffic study, a total of 380 average daily trips”; with 1,200 cars there would surely be more trips than 380.

Page 2.9 - The project was discussed as “the” gateway to the education district. It may be one gateway, but not “the” gateway.

Page 4.17 - drawing was too small to read .

Page 6.2 – regarding technology and energy efficiency, he would like the applicant to consider adding L.E.E.D. certification in this spot

Page 6.3 – stated, with a CUP, you could have a restaurant with alcohol; he did not believe this was a good location for this type of use, and would like to exclude it as a possibility.

Commissioner Chaffee would also like to have discussion on the gateway concept. He believed Chapman, off the 57 freeway, was desolate and the City needed to address. He would like to add a condition to figure out what that gateway may be, and then this project should be compatible with a gateway for Chapman Avenue. He would like to see arbor like effect as you came off the freeway, similar to Harbor Blvd. near Disneyland, with signage. He wanted like to address the area as a whole, not piecemeal.

Commissioner Chaffee questioned the possibility of allowing a restaurant with alcohol and the appropriateness of locating it below student housing, Acting Chief Planner Eastman explained that the City and the developer had looked at this issue, and the City would require a CUP for a restaurant with alcohol. Current Code did not require restaurants with liquor to have a CUP. He further explained that the City was currently looking at downtown issues and possible modifications to Code. With a CUP the City would look at each individual restaurant, it would come before the Planning Commission, and conditions specific to each would be applied.

Commissioner Savage stated that the General Plan update was in process, and asked when it would be complete. Senior Planner St. Paul responded that the update process would be complete sometime in summer 2008.

Commissioner Musante believed this was a dense project, and asked staff if they had consulted with other cities with similar type housing to see what they have observed. Acting Senior Planner Allen responded that staff had not; the applicant may provide information on similar properties. Commissioner Musante commented that downtown had its problems and this project looked at placing a large number of students in a confined area. He suggested the possibility of designating one floor for older or international students to reduce rowdiness. Commissioner Musante also commented that he did not believe pools and student housing should be mixed.

A five minute recess was called.

Acting Chief Planner Eastman stated that during the recess a resident had requested to speak prior to the applicant due to the late hour. Chairman Francis explained that the applicant had indicated his presentation would take approximately ten minutes, and the Commission decided to hear the applicant first.

Public hearing opened.

Steve Sheldon, the applicant, gave an overview of JPI. The Company had a separate student housing division that provided fully furnished apartments, which included kitchens. Mr. Sheldon explained their experience with student housing and described the application, management, and Code of Conduct process. Units were leased by the bed and the applicant was required to have three times the rent as a deposit. On the first violation of the Code of Conduct there would be counseling with the resident. The second violation would involve counseling with both the resident and the guarantor, and presentation of the eviction process. The third violation would result in eviction. JPI did not serve alcohol at any JPI student living event and alcohol was only allowed within the residence. The rules were consistently applied and this prevented most problems.

Mr. Sheldon continued by explaining their public outreach program, which had involved direct mailings, outreach letters, one-on-one briefings, small and large community meetings, presentations to business and other community organizations. Hope University, Western School of Law, Cal State Fullerton, and the Chamber of Commerce all supported the project.

Mr. Sheldon stated he agreed with the 130 conditions of approval, but expressed concern with the condition which regarded draining of water from the balconies and roof. The proposed balcony scupper was described and any water that did drain would be a very small amount, based on their previous experience. The RDRC had expressed concern with water sheet flow over balcony and discoloration of the stucco, and they would be willing to accept a condition requiring water not come in contact with building.

Mr. Sheldon explained that it was to their benefit not to under park the project. Parking had been based on Code requirements, an area analysis, and experience with similar projects. A student dorm would be parked at .5, this project had been parked at .8, therefore it provided 437 more spaces than a dorm of similar size would require. JPI had commissioned studies at CSUF and other nearby campuses, and surveyed students. One question they had asked was "do you own a car", and approximately 73-81% of CSUF students did.

Regarding guest parking, JPI proposed to consolidate their 63 guest spaces with the 120 commercial spaces. The peak hour for commercial was approximately 1:00 p.m., while the peak hour for the guest was during the evening, so they would have a reciprocal agreement between the two.

The following people spoke in opposition of the project:

Rick Price, 757 Virginia  
John Silber, 125 W. Amerige Avenue  
Jane Beck, 2495 Santa Ysabel  
Betsy Gibbs, 205 N. Cornell  
Howard Wang, 21619 Parkview Court  
Tony Bushala

The points of opposition were:

- Already a traffic and parking problem in the area
- Parking on residential streets is a problem
- Project not ready to move forward

- Significant deficiencies; project is two blocks long but pretending to be one block, setback is too narrow, sewer capacity issue,
- Impact on air quality, and the effect on nearby children
- Good idea for a different, less congested location
- 180' long hallways are unsafe
- What type of quality of life will the students have
- Make design more human scale, less dense, and provide a more appropriate education environment
- "Cluster" concept with shared bathrooms would increase the sense of community among the students
- Most parents would rather have their student live in a unit without a kitchen, but with a dining hall provided
- Students do drive to off campus jobs and activities
- The property looks bad now, why has it not been maintained
- No compelling reason to change the zoning for this project
- Site plan is bad; need to look at old site plan and try to make this project work with what is already there
- Most college-age students do have cars, and the project is deficient in parking
- Water from the balconies will streak the building making it look old

The following people spoke in support of the project:

Robert Hebert, 2624 Pearson Avenue  
 Tina Javid, 444 N. Harbor Blvd.  
 Vicki Solomon, 2000 Rolling Hills  
 Debra Pember, 215 S. Hart Place  
 Theresa Harvey, 70 Rodeo Road  
 Pat Soderquist, 3100 San Juan Drive  
 Jeff Greene 1240 Deerpark Drive #63  
 Rick Crane, 110 E. Wilshire Avenue, Suite 300  
 John Derry, 708 Oakcrest Avenue, Brea  
 David Poole, 6010 E. Silverspur Trail  
 Bill Dickerson, 542 N.

The points of support were:

- A positive project for the City
- Need for student housing near the universities
- Economic benefit to the City through property taxes and school fees
- JPI is one of the better developers in this field
- Like the Code of Conduct
- Will encourage neighboring buildings to improve their properties
- Will stimulate business in the area
- Progressive
- Need to embrace change and work with the developer to mitigate concerns
- Children attend local colleges and there is a need for this type of project
- Give students a good image of Fullerton and encourage them to stay in the City after graduation
- Not adding to the population in the area, just taking care of the current population
- Great start to building a gateway

- Fills a current need
- University's have grown and this is an opportunity to address this need
- Underutilized piece of property
- Current buildings are worn out and look bad
- Many of the student's social activities take place on campus, where students will already be, resulting in less car usage
- Currently an ugly entrance to the City
- Provide students with nearby eating, shopping, and social activities
- Support the project with minor changes in massing and color
- JPI was chosen as the developer because their values mirrored those of a conservative Christian university (Hope International)
- Living atmosphere as designed is conducive to the student lifestyle
- Retail will provide opportunity for student employment
- Many families can not afford to rent an apartment, this will provide affordable housing for students
- Had spoken with other student housing facilities that worked with JPI and they all agreed that JPI worked to meet the needs of the community and students
- Typically, most students who live in student housing do not have cars
- Possibility of shuttle from this development to CSUF and the downtown area
- CSUF in the largest university in the Cal State system and there is a need to provide housing

Cameron Irons made the following comments:

- Tenants in nearby offices complain that there are no amenities within walking distance
- He was excited to development in the area
- He would like to see a Specific Plan that covered from Nutwood to Chapman, and the 57 freeway to State College
- It made sense to tear the current building down rather than renovate it
- Some type of shuttle between this project, the schools, and the downtown area needed to be provided

Mr. Sheldon addressed some of the concerns expressed:

- Increased traffic – students were already coming to the area, and this project would not create more trips; instead it would take some of the vehicles off the street and encourage pedestrian use.
- JPI would hire a bike consultant to find ways to encourage non-vehicle trips to the neighboring campuses.
- As for the design – the RDRC had looked at the project and approved it with conditions. JPI had gone through an exhaustive architectural process and this was a well designed project.
- Hallways would be seven feet wide. JPI manages twenty two similar properties (approximately 13,000 students) and knew how to design a functional, timeless building. The pools, lounge, tanning room, etc. would encourage students to stay on campus.
- Had recently spoken with CSUF regarding housing a wing of their students.
- Application tonight was not for a restaurant with alcohol; they would only allow a restaurant in the commercial space, not a stand alone bar.

Mr. Sheldon stated the project would raise \$1.0 million for the Redevelopment Agency.

Commissioner Savage asked if two people could occupy one bed. Mr. Sheldon responded negatively, and clarified that each unit would have four beds, with one person each. Commissioner Savage asked if overnight guests would be allowed, and Mr. Sheldon responded that guests were allowed, but not permanently. Commissioner Savage asked if a married couple could rent one room, Mr. Sheldon explained they could rent a one bedroom unit.

Commissioner Savage asked the difference in square footage between having a mix of compact and standard spaces, versus what was being proposed. Mr. Sheldon responded that it was about equal. The proposed space size was similar to what was used in other locations. Maneuverability and the width of the travel aisle had also been addressed.

Commissioner Savage understood the 120 parking spaces for commercial, but asked where guests would park. Mr. Sheldon explained the proposed plan. The high demand for retail was around 1:00 p.m., while the high demand for guest parking was at night, and therefore complimented each other. Instead of segregating the two uses, they would like to combine the spaces and let them work together, with the possibility of that a parking pass would be required for overnight guests, and a section limiting parking to 90 minutes may be posted for retail.

Lance Hanna from JPI stated that their company had been hired by other companies and campuses to manage their student housing. One facility they manage was very similar to the proposed, with the same type parking. He described the parking enforcement at that property.

Commissioner Musante asked about the concept of smaller pods rather than the long hallways, and Mr. Sheldon explained that the pod concept was more like a dorm and this project was a different type of unit. Commissioner Musante stated he was concerned with softening the student mix, would like to see more collaboration between JPI and CSUF. Mr. Sheldon stated he had exchanged emails and had discussed this project with officials from CSUF. Mr. Hanna explained the market surveys they had conducted, and the results of these surveys indicated that the majority of students wanted more privacy. Many parents also believe their students' needs were best met by apartment-style housing.

Acting Chief Planner Eastman informed the Commission that it was now 11:00 p.m. and typically at this point the Commission would determine if they wished to consider additional items tonight. The Commission decided to hear all remaining items.

Commissioner Chaffee asked if satellite dishes would be allowed, and Mr. Sheldon explained that the Specific Plan (and lease agreements) would prohibit satellite dishes, but the units would be provided high speed internet and cable access.

Commissioner Chaffee asked Mr. Sheldon if they included a shuttle as part of the proposal, and Mr. Sheldon responded that they looked into a shuttle at this location, and have operated shuttles at other properties, but did not believe there would be much need for one at this location. Also, an OCTA bus stop was located in front of the building.

Commissioner Chaffee asked if they had considered basic LEED certification, and Mr. Sheldon explained that the project complied with Title 24. Commissioner Chaffee stated that Title 24 compliance was the minimum required by law, but he was looking for more.

Commissioner Savage stated he had met Mr. Sheldon at a Chamber meeting and briefly discussed the project. He wanted to know if the trees shown in the renderings were proportional in scale to what would be put in. Mr. Sheldon responded that the project was

conditioned to go before the RDRC for landscape plan approval, and they would determine the appropriate size. Commissioner Savage commented that he would like to see a minimum 24" box.

Public hearing closed.

Commissioner Savage believed there was support throughout the City for this project. He agreed this type of project was needed near the colleges, but was concerned with parking not being adequate since there was already a problem with parking. There appeared to be support for some type of educational district, but he believed it inappropriate to approve this project now while the topic was still under discussion. He thought it was a well thought out project, but he still had concerns with parking. He would not support the project tonight.

Commissioner Bailey had met with the applicant to discuss the project. He believed student housing was needed in this City, and he liked the secure, hidden parking. He did not like the architecture. He had visited the property and walked between the buildings currently there. He believed the scale and mass of this proposal was too great, there was not enough open space, he did not see a compelling reason to change the zoning in the area, and would not support the zone change or the project.

Vice Chairman Hart believed JPI was capable in their developments, and this was a quality, attractive design with many positive aspects. She expressed concern with making a change to six major components, especially the change to the Specific Plan District, and would like to find out the impact of these changes on other parts of the City. She did not believe traffic, parking, and sewer issues had been fully addressed. There was not a need to rush the project through, and she would not support the project tonight.

Commissioner Chaffee commented that he was against the Tentative Tract Map for commercial condos as he was against the concept of split ownership. He believed it would be difficult to manage parking and security issues, and there may also be an incompatibility of uses. He would like to see the building mass reduced, particularly at the corner, and the orientation changed to run north and south. He had a problem with open space, and believed students needed the open space. He supported the idea of this type of project here, but would have liked to have had input earlier in the project. There were still issues remaining with the EIR, and more time was needed to resolve them. He would like to settle on the overall gateway and education district prior to approving a project such as this.

Commissioner Musante liked the project but believed it could be great. He would like to continue the item and allow the applicant to address some of the issues discussed today. He believed the project was close to the campuses, which already had all the recreational amenities, and this project needed to provide more outdoor, quiet study areas, more greenery, and soften the impact of this many students by having a specific floor for older students. He would like consideration given to making this a "green building". He also did not like the long, three story structure, with the 180' foot hallways and double entry's.

Commissioner Musante asked what would happen if the project was turned down tonight, and Acting Chief Planner Eastman explained that the Commission was making a recommendation to the City Council. Commissioner Musante did not like the idea of sending a project to Council that they probably would not approve, and Acting Chief Planner Eastman reiterated that the Commission was making a recommendation to City Council, and if the applicant was willing the Commission could entertain the idea of continuing the item.

Chairman Francis believed the experience was with a company that had 13,000 beds in several states. This item would go before the City Council and they would have the last say.

Commissioner Musante made a motion to continue the item to the November 14, 2007 meeting. The motion died for lack of second.

Commissioner Musante commented on the ramifications of voting to not recommend to City Council.

Commissioner Bailey asked if the applicant could withdraw their request to go before Council, redesign the project to address the concerns expressed tonight, and then file a new application. He did not believe it was feasible to continue the item and make the changes made prior to the November 14, 2007 meeting.

Assistant City Attorney Duarte clarified that the motion included both CEQA and EIR certification, and Acting Chief Planner Eastman identified project in its entirety. Chairman Francis clarified that the motion recommended denial to City Council in its entirety.

Commissioner Bailey motioned to deny the project and not recommend certification of the EIR. The motion was seconded by Vice Chairman Hart, and CARRIED 4-2, with Chairman Francis and Commissioner Musante voting against the motion. Acting Chief Planner Eastman stated that staff would return to the Commission at a later date with the denial resolution with findings specific to the issues raised by the Commission.

Senior Civil Engineer Voronel and Traffic Engineer Miller left the meeting

**PRJ07-00100 – CUP-238B. APPLICANT: DAVE DUCHENE; PROPERTY OWNER: TEXORA.**

A request to modify Conditional Use Permit CUP-238A to expand an existing automotive repair facility on property located at 148 S. Lloyd Avenue (east side of Lloyd Avenue, approximately 200 feet south of Commonwealth Avenue) (C-H zone) (Categorically exempt under Section 15301 of CEQA Guidelines) (AKU).

Acting Associate Planner Kusch gave a brief overview of the project, including a history of an existing Conditional Use Permit (CUP) associated with the property. Mr. Kusch explained that the request before the Planning Commission was to modify the CUP to expand an automotive repair facility. The proposal included the addition of three office buildings and two carport structures. In addition, the applicant was proposing expanded hours of operation.

An aerial view of the facility was shown and the proposed site plan displayed. Staff had added a condition of approval which would limit the use of the carport facilities to temporary storage of vehicles and the preparation of the vehicles for auto body work and/or painting. The property included space for employee parking off the adjacent alley. There was also a requirement to maintain a fire access lane on the property.

As conditioned, the Site Plan met or exceeded the applicable development standards, and since the CUP was modified in 2001, staff had not received any complaints from neighboring residents.

Staff recommended approval based on findings and subject to the recommended conditions that had been provided in the staff report.

Commissioner Chaffee asked if conditions number six and twelve were the same, and Acting Associate Planner Kusch confirmed that they were, and number twelve would be removed. Commissioner Chaffee also commented that item twelve from the previous approval appeared to be missing, and Acting Associate Planner Kusch explained that the provision of a indemnify / hold harmless agreement was now part of the application process.

Public hearing opened.

The applicant, Dave Duchene, had been operating the business the same way as proposed, and the request was to make temporary buildings permanent, and improve the looks and efficiency of the location. The carports are proposed to be used to clean vehicles and similar tasks, and he needed to provide some type of protection from the elements for the vehicles and his employees.

Chairman Francis asked if the automotive work was done in the large building, and Mr. Duchene responded affirmatively.

Desiree Garcia, 1861 W. Carol Drive, expressed the following concerns:

- Parking and traffic, and their effect on the safety of the kids in the neighborhood
- Saturday or Sunday traffic and parking problems
- Unattractive cars that were “bondo’d” or taped off, and parked on Lloyd and Carol Avenues
- Fumes from paint entering their yard and house
- Employees testing cars on the street, which sometimes included skidding down the street
- A mobile home was parked at the location with clothes hanging on the outside
- Cars parked in front of her driveway and her neighbor’s driveway

Chairman Francis commented that the issues Ms. Garcia had identified as problems could possibly be Code issues. Ms. Garcia stated that they had contacted the Police Department numerous times.

Commissioner Bailey commented that the Air Quality Management District (AQMD) regulated issues such as the paint fumes. He also suggested Ms. Garcia speak with the applicant and try to work out some of the issues.

Commissioner Savage asked if this business was using the street to park the cars they worked on, and Ms. Garcia responded affirmatively.

Commissioner Musante asked if there had been problems with prior owners, and Ms. Garcia responded that there had not. Commissioner Musante asked Ms. Garcia if she had brought the problems to the owner’s attention, and if so, what his response was. Ms. Garcia stated that she had spoke with the owner and he told her that he had too many cars and not enough room.

Martin Garcia, 1861 W. Carol Drive, expressed the following concerns:

- He had called the Police Department twice when cars had been left in the alley. This business frequently parked cars in the alley which blocked the neighbor's access
- The business loaded and unloaded trucks in front of his home, and created an environment that was not safe for kids

Ms. Garcia did not understand how the applicant could expand their business or increase their hours when there already was a problem.

Commissioner Savage commented that Conditions 17 and 18 required the applicant to comply with all federal, state, and local laws, and also three or more sustainable complaints would be cause for a revocation proceeding.

Commissioner Chaffee asked if it was posted for two hour parking on Ms. Garcia's street, and Ms. Garcia responded there was two hour parking on Lloyd, and unlimited parking on Carol.

Mr. Duchene stated that the parking problem was not generated from his business, but instead he believed it was from the two neighboring automobile dealers. The only work he intended for Saturday and Sunday would be an automobile sales dealer who sold vehicles by appointment. There should not be any paint fumes as his paint booth was in compliance with AQMD regulations.

Commissioner Bailey asked the applicant if he would agree to a condition prohibiting the business from parking vehicles on Lloyd Avenue south of the alley and on Carol Avenue. Mr. Duchene responded that his lease agreement prohibited their parking on Lloyd Avenue or Carol Avenue.

Maria Duchene, the applicants wife, suggested Ms. Garcia speak with the landlord of the property about the parking problem.

Seton Montgomery, 2115 W. Juno Avenue, Anaheim, had a business at this location and also experienced similar problems. He and his employees parked their personal and work-related vehicles on the subject property. He had also experienced problems with vagrants in the area parking their vehicles and motor homes on the street or alley. He was willing to deal with any problems that were brought to his attention.

Public hearing closed.

Commissioner Chaffee asked if there were CUP's governing other uses in the area, and Acting Chief Planner Eastman responded that he was unsure, but he did know that Community Preservation and the Fire Department had been to one neighboring site to address Code violations.

Commissioner Chaffee would like to change the wording of condition eight and add "painting" to activities that must be done inside.

Commissioner Bailey wanted to add a condition requiring that business vehicles shall not park south of the alley or within the residential area.

Vice Chairman Hart asked if the current CUP limited the business to Monday through Friday, and now the applicant had asked to add business hours on Saturday and Sunday. Acting Chief Planner Eastman replied affirmatively.

Commissioner Savage would agree to allow the selling of cars on Saturday and Sunday, but had a problem with allowing industrialized work on the weekends. He would like to add this requirement as an additional condition.

The title of RESOLUTION PC-07-23 APPROVING a Resolution of the Planning Commission of the City Of Fullerton approving a modification to Conditional Use Permit CUP-238a to expand an existing automotive repair facility on property located at 148 S. Lloyd Avenue was read and further reading waived. MOTION by Commissioner Chaffee, SECONDED by Commissioner Savage, and CARRIED 6-0 by voting members present, that said Resolution be ADOPTED AS AMENDED, to prohibit parking on Lloyd south of the alley, to modify condition eight so the first sentence reads "All automotive repair, maintenance, and painting shall be done in the building", and to add a condition to indicate only automobile sales be permitted on Saturday and Sunday".

**PRJ06-00362 – LRP06-00011. APPLICANT: CITY OF FULLERTON.**

To consider and recommend modifications to Title 15 of the Fullerton Municipal Code pertaining to medical marijuana dispensaries. (Categorically exempt under Section 15061 of CEQA Guidelines) (BSP).

Senior Planner St. Paul explained that the issue of allowing medical marijuana dispensaries in the City had been discussed before, both by the Planning Commission and the City Council. On December 5, 2006 the City Council approved an interim moratorium prohibiting dispensaries. On January 16, 2007 the Council extended the moratorium until December 4, 2007 and directed staff to work with the Planning Commission to identify appropriate operation standards should the Council elect to allow this type of dispensary.

A discussion was held and following are the items identified by staff and the Planning Commission (**in bold**) as items to be considered:

General regulatory standards

- Determine specific zoning districts – permitted in specific Commercial zone(s), except Central Business District commercial (C-3, i.e. Downtown) – Creates finite dispensary locations, will not be permitted in residential.
- Determine maximum/minimum separations from school, churches, residential zones and uses, day cares, parks and other sensitive uses – required separation could range from 500 to 1000 from sensitive uses. Could be used in tandem with specific zoning designations or stand alone. **Discussion required on appropriate distance or buffer separation.**
- Regulate the minimum staffing/employee levels – 1 manager/1 employee at any one time, minimum age 21, manager to knowledgeable in state and federal laws, and understand community relations to resolve operational issues. **All employees state qualified, possible limited background check (discussion with staff required).**
- Restrict the hours of operation – 8am -5pm, limited weekend hours. **Expand hours on possibly one or more days to accommodate people working during day.**
- Require verification of compliance with CA Health and Safety Code – Although presently required – written statement from applicant stating all H & S code requirements met.

- Language releasing the City from all liability – releases City from legal responsibility. Use not allowed per federal laws. Could be raided by DEA or have other secondary negative impacts.

#### General operational standards

- Medical marijuana dispensary agreement – Creates permanent record, could be renewed annually, it is not discretionary, could include liability language and operational standards listed below as part of agreement.
- Notification of residents, businesses and property owners in a specified proximity- Due to sensitivity of use, notification of general vicinity – similar to 300' radius notification.
- Require site, floor and operational plans and approved by the Director of Community Development – Site design and floor plan design – design to include unobstructed view into interior of building. **Also subject to Police review and approval.**
- A security plan – included as part of site and floor plan submittal – to include uniformed security guards, surveillance cameras, alarm systems, lighting plan.
- No signage advertising the availability of marijuana – to include no window signage, murals or paintings depicting or inferring business use.
- Require graffiti and litter removal – within 24 hours
- No on-site consumption of marijuana – no on-site or interior of building self medication.
- Limit marijuana packaging and products to prevent marketing to the youth – **Packaging should have name and address of business on label.**
- Restrict the sale of non-medical ancillary products, such as food, alcohol or tobacco, and drug paraphernalia.
- **Medical marijuana should be in smokable form only – no distribution of processed items including cookies, brownies, etc.**
- Implement measures to ensure that dispensing is issued to qualified patients and caregivers – written verification that patients and caregivers are qualified.
- No plants grown on-site.
- There shall be no doctor recommendations for medical marijuana made on site.
- Posting of public contact information and assure an on-site “community relations” employee is available to resolve operational problems
- Report change of ownership. – within 10 days, new agreement required to include standards
- Subject to Fullerton Police verification
- On-site storage of patient medical records – subject to periodic inspections by city officials and/or Police

- **No person under the age 18 shall be permitted on-site. All minors (under 18 years of age) to accompanied by legal guardian to obtain medical marijuana.**
- **Create fine procedure for business not in compliance with standards.**

Public hearing opened.

Jim Williams, 1019 Harmony Lane, believed the issue was regulation. Many businesses complained that doing business in the City was difficult, and he wanted to make this a very difficult process. If the process was too easy Fullerton would become a "pleasure island" since most of the surrounding cities did not allow medical marijuana dispensaries. He understood people had health problems, but he believed this use would involve a significant amount of money and illegal drugs which would lead to increased crime. He would argue to the City Council that this type of business should be prohibited, and the City should make it virtually impossible to run this type of business.

Commissioner Savage agreed with Mr. Williams statements.

Public hearing closed.

Chairman Francis asked why the City Council was considering this issue at this time, and Acting Chief Planner Eastman explained that the City Council recognized that California had approved medical marijuana Compassionate Use Act. What the City Council directed of staff and the Planning Commission was to look at how they could regulate these dispensaries if they approve the use.

Commissioner Savage had spoken with Dr. Jones, and both he and Dr. Jones were confused by what the Commission was asked to do, which was to allow an illegal business into the City. There were numerous references available that pointed to the problems associated with this type of business. If this is a pharmaceutical use why not dispense it in a pharmacy. Acting Chief Planner Eastman responded that if the pharmacy was federally licensed they would lose that license if they broke federal law.

Acting Chief Planner Eastman stated that staff had been charged by City Council to come up with recommendations to address the compassionate desire of the people and minimize the secondary effects of this type of business. Staff preferred not to require a CUP for this use so as to avoid the City being in a discretionary position.

Captain Mayes explained that background checks could be restricted to just possession or use of controlled substances convictions if so directed. He also explained that the marijuana was sometimes sold as consumables for people who were unable to smoke it due to health reasons, i.e. emphysema.

### **OTHER ITEMS**

None

### **COMMISSION STAFF COMMUNICATION**

Commissioner Savage stated that he may be absent from the next meeting, and asked what items were scheduled to be heard. Acting Chief Planner Eastman responded that the medical marijuana draft criteria and ordinance, the downtown regulatory draft ordinance, and the St. Jude medical office building were all scheduled to be heard on November 14, 2007.

Commissioner Musante suggested the Commission hold two sessions when this many items were on the agenda.

**REVIEW OF COUNCIL ACTIONS**

None.

**PUBLIC COMMENTS**

None

**AGENDA FORECAST**

The next regularly scheduled Planning Commission meeting would be November 14, 2007 at 7:00 p.m.

**ADJOURNMENT**

There being no further business the meeting was adjourned at 1:20 a.m.

---

Janelle Pasillas  
Secretary