

MINUTES OF THE REGULAR MEETING OF THE FULLERTON PLANNING COMMISSION

COUNCIL CHAMBERS – CITY HALL

WEDNESDAY

MAY 14, 2008

5:00 and 7:00 P.M.

CALL TO ORDER: The meeting was called to order by Vice Chairman Musante at 5:03 p.m.

PRESENT: Vice Chairman Musante, Commissioners Savage, Chaffee, Whitaker, Francis, and Richmond

ABSENT: Chairman Bailey

STAFF PRESENT: Community Development Director Godlewski, Acting Chief Planner Eastman, Senior Planner Allen, Senior Civil Engineer Voronel, Senior Civil Engineer Bowers, Engineering Director Hoppe, Redevelopment Manager Kovac, Parks Project Manager Curiel, Assistant City Attorney Adams, and Clerical Assistant Flores

FLAG SALUTE: Commissioner Savage 5 P.M. Session
Commissioner Francis 7 P.M. Session

MINUTES: MOTION made by Commissioner Savage, SECONDED by Commissioner Whitaker, and CARRIED 5-0, with Commissioner Francis abstaining, that the Minutes of the Regular Meeting of February 27, 2008 be APPROVED AS WRITTEN.

MOTION made by Commissioner Savage, SECONDED by Commissioner Richmond, and CARRIED 6-0, that the Minutes of the Regular Meeting of March 26, 2008 be APPROVED AS WRITTEN.

MOTION made by Commissioner Savage, SECONDED by Commissioner Musante, and CARRIED 6-0, with Commissioners Whitaker, Chaffee, and Francis noting they were not present at the meeting, that the Minutes of the Regular Meeting of April 9, 2008 be APPROVED AS WRITTEN.

MOTION made by Commissioner Richmond, SECONDED by Commissioner Musante, and CARRIED 6-0, with Commissioners Whitaker, Chaffee, Savage, and Francis noting they were not present at the meeting, that the Minutes of the Regular Meeting of April 23, 2008 be APPROVED AS WRITTEN.

PUBLIC COMMENTS

None.

PUBLIC HEARINGS

5:00 P.M. Session

The following items were heard out of order.

FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM. To consider the Five-Year Capital Improvement Program (Fiscal Years 2008-2009 – 2012-2013) and its consistency with the General Plan.

Engineering Director Hoppe gave a brief overview of the projects that are included in the amended 2008-2009 fiscal year Capital Improvement Program (CIP). He stated the total value of the CIP was about 60 million; 35 million for the CIP and 22 million for redevelopment. Director Hoppe explained there are a total of 47 projects, and gave a brief overview of some of the projects, which include:

- Lemon Street resurface
- Raymond Avenue Grade Separation
- Street and Landscape Improvements in the Downtown area
- Traffic Signal at Harbor Blvd/Houston Ave
- Puente Street Bicycle Trail Connection
- Upgrade & Rehabilitation of City Reservoirs
- Basque Maintenance Services Parking Addition
- Addition/Expansion of Library
- Tentative Community Center Fullerton “Community” Center
- Library expansion
- Combining Senior Center/ Boys and Girls Club facilities

Commissioner Richmond asked about the State College Grade Separation money returned to the fund balance. Engineering Director Hoppe stated that money was allocated through a federal grant and an environmental clearance was not obtained through the original environmental review with Cal Trans. He explained a full environmental assessment would have to be done, rather than a negative declaration, which means property, will not be acquired and construction will not commence for at least a year. He noted the money was returned to fund balance.

Commissioner Chaffee asked about the millions of dollars involved in the “in-and-out” transfers. Engineering Director Hoppe explained a lot of the projects are delayed and rather than carrying the money over as a large unspent liability, the money was returned to fund balance, and will be re-appropriated as needed.

Commissioner Chaffee asked about the in/out transfers on A-3. Engineering Director Hoppe explained the money being transferred in and out is from the general operating budget, and not the CIP.

Commissioner Chaffee asked if the money going in/out was held somewhere. Engineering Director Hoppe stated Administrative Services Director Steinberg will be providing that information to Council on June 3, 2008.

Vice Chairman Musante asked what was involved with the downtown street and landscape improvements. Senior Civil Engineer Voronel explained the project was phased, and would include sidewalk improvements on Commonwealth Avenue starting at Highland going to Lemon. She stated the existing sidewalk on both sides would be removed and reconstructed with new

sidewalks that will mimic the pattern installed at Lemon and Pomona, on the north side of Commonwealth. Senior Civil Engineer Voronel noted Magnolia and Palm trees would alternate 15 feet apart in trying to keep with the uniform theme on Commonwealth. She further noted the project will include storm drain improvements on Malden, which will pick up surface flow at the Malden and Commonwealth intersection.

Vice Chairman Musante asked if the sidewalks would be widened, and Senior Civil Engineer Voronel responded no.

Vice Chairman Musante asked for the projective date of completion for the Fullerton Community Center. Engineering Director Hoppe noted the earliest they would get approval from Council is June and he estimated construction would begin within 2 years.

Commissioner Savage asked about the grade separation at Raymond. Engineering Director Hoppe explained OCTA was given approval from CTC to fund the project, and the preliminary environmental and feasibility alignment studies will be initiated beginning the next fiscal year around September.

Commissioner Chaffee asked how the Raymond grade separation relates to the State College grade separation. Engineering Director Hoppe stated the plans are 95% complete and the issue is trying to get environmental clearance.

Public hearing Opened/Closed

MOTION by Commissioner Richmond, SECONDED by Commissioner Francis, and CARRIED unanimously by voting members present to RECOMMEND APPROVAL to the City Council.

APPLICANT: FULLERTON REDEVELOPMENT AGENCY. A request to amend the boundaries of the merged Fullerton Redevelopment Project Area, Amendment No. 1, as previously approved by the Planning Commission.

Commissioner Savage recused himself from the item because he owns property within sub area #2. Commissioner Whitaker recused himself from the item because he owns property within 500 feet of property proposed for removal of the Redevelopment area.

Redevelopment Manager Kovac explained the City currently has four existing project areas and the City Council approved the survey area, which allowed the Planning Commission to select the boundary for the amendment area to be added to the four existing Redevelopment project areas, which were merged in 2006. Redevelopment Manager Kovac referenced an Amendment Area exhibit and explained the two Amendment Sub Areas. He recommended amending the boundaries of the Amendment Area to delete the following parcels:

- 301 S. Acacia/1526 E. Walnut
- Mobile Home Park located at the 1800 block of W. Orangethorpe

Redevelopment Manager Kovac referenced an exhibit, and noted where the parcels were located. He requested the Planning Commission find the Redevelopment Plan is consistent with the City's General Plan. He noted the Redevelopment Plan is not site specific, but provides a mechanism to provide tools to promote rehabilitation and construction activities through various financing mechanisms. Redevelopment Manager Kovac explained when the General Plan is amended the Redevelopment Plan will automatically be changed and amended. He

noted a program Environmental Impact Report (EIR) was prepared for the amendment to evaluate traffic, air quality, hydrology/water quality, hazards, noise, public services and utilities. Redevelopment Manager Kovac stated the public review period for the draft EIR ends on June 13, and the Agency and City Council will consider the certification of the EIR on July 1, 2008. The Redevelopment Agency recommending the Planning Commission adopt PC-08-16 to amend the boundaries of the merged Redevelopment Project Area as previous approved, and to adopt PC-08-17, which will find the Redevelopment Plan prepared for the amendment conforms to the City's General Plan, recommend the City Council certify the draft EIR and recommend approval of the proposed Redevelopment Plan prepared for the amendment.

Commissioner Richmond asked if 1800 W Orangethorpe had a potential for being a blighted area, and Redevelopment Manager Kovac believed it was not.

Lester Mioshi, GRC Redevelopment Consultants, stated GRC was the consulting firm providing technical assistance to the Agency for the amendment. He explained GRC conducted a parcel by parcel field study of the proposed amendment area including the mobile home park. Mr. Mioshi explained the mobile home park did not meet the state laws minimum requirement for physical blight, but eventually could become blighted.

Commissioner Francis asked if it can become blighted by removing it. Mr. Mioshi stated generally speaking mobile home parks are usually situated within commercial corridors and are not the best use of that property.

Commissioner Chaffee asked if the Commission was being asked to recommend certification of the Draft EIR prior to the public comment period running. Redevelopment Manager Kovac responded yes and stated the comment period will run until June 13, 2008. Acting Chief Planner Eastman clarified that the City is not obligated to provide public comment prior to Planning Commission reviewing the document because the Planning Commission is not making the certification.

Vice Chairman Musante asked if any single family or multiple family residences were contemplated for the area, and Redevelopment Manager Kovac explained it will be consistent with what the General Plan allows.

Public hearing opened.

Bruce Hostetter, 205 N Cornell Ave, asked if the boundaries were going to be approved and the EIR will have a public hearing at a later date. Redevelopment Manager Kovac explained the Planning Commission will be making recommendations for approval of the amendment, and certification of the EIR. He noted the EIR and the Amendment will be considered at the City Council meeting on July 1, 2008.

Acting Chief Planner Eastman clarified comments could be provided in writing during the comment period, which will go to the City Council.

Mr. Hostetter stated the Planning Commission was a review body, which has a great deal of potential in terms of making recommendations to the City Council. Mr. Hostetter had the following comments regarding the EIR:

- Concerned about sustainability
- Believed Planning Commission should go beyond the recommendations in the EIR

- Should be the responsibility of the Planning Commission and the City Council to consider the impact of the necessity of increasing capacity of waste treatment systems
- City should decrease the requirement for new construction of expanded infrastructure by low water equipment, irrigation systems, and drought tolerant planting
- Stated there are models in other cities making it possible for those communities to reduce their costs, reduce their liabilities, and to improve their quality of life
- Apply to the concept of zero waste and energy conservation
- EIR is broken into water and energy areas, but has no section on sustainability

Commissioner Chaffee asked Mr. Hostetter if he wanted to add mitigation measures. Mr. Hostetter stated there was a requirement for drought tolerant plants in commercial projects, and did not apply to residential. He believed there could be incentives for those mitigation measures. He noted there were green building programs such as LEED for homes and LEED for new construction and Build-It Green that talk about increasing energy efficiency.

Commissioner Chaffee asked if there were models in other cities where they have included sections on sustainability in the EIR. Mr. Hostetter responded he did not know.

Vice Chairman Musante asked if other cities should be approached to see if they have taken measures into account before approving programs. Mr. Hostetter noted he participates in a program called Orange County Green Connect, which was putting on a forum on June 20, 2008 to share best practices.

Public hearing closed.

Commissioner Chaffee asked if there was a time constraint. Redevelopment Manager Kovac stated the comment period ends June 13 and the City Council meeting is July 1, 2008. He explained if the City Council meeting is pushed back, the base year will be missed and money will be lost for the year, and a revised fiscal officer report will be needed with a new assessed value that will be used as the base year.

Acting Chief Planner Eastman clarified an EIR is prepared to assess impacts that are created by amending Redevelopment Areas. He explained that sustainability is a policy issue, and not an assessment of impacts.

Vice Chairman Musante talked about an article from the Register talking about the problems with the current drought the State of California is in. He stated that he would like to see drought tolerant plants in residential areas. He read a letter from the Metropolitan Water District, which talked about the benefits of the California Friendly Home Program dealing with drought tolerant plants to reduce water use. Vice Chairman Musante believed that drought tolerant plants should be proposed in all residential projects.

Commissioner Richmond stated that he received a beautification award from the City, and believed drought tolerant plants were “awful”, but believed that conserving water was important.

Commissioner Chaffee asked if residential areas were excluded from the EIR’s drought tolerant mitigations. Redevelopment Manager Kovac clarified the drought tolerant requirement only applies to multi-family residential, and what was excluded was single family owner-occupied residences and mobile home parks.

Vice Chairman Musante proposed adding “and residential projects” into the Draft EIR for the merged Fullerton Redevelopment Project Area on page 4, after drought tolerant plants in all commercial and industrial projects and in public areas, and residential projects.

Commissioner Chaffee was concerned about recommending approval to the City Council prior to the Public Comment period expiring.

Vice Chairman Musante recommended continuing the item to allow for revisions to the Draft EIR.

Acting Chief Planner Eastman clarified the EIR should be considered in conjunction with the recommendation on the Merged Redevelopment Area.

Commissioner Chaffee recommended having a meeting talking about sustainability.

Commissioner Francis stated the Commission could make recommendations to the City Council for future development. He stated he did not know enough about drought tolerant plants to hold the item up.

City Attorney Adams stated Vice Chairman Musante’s suggestion can be made in the form of a comment to the consultant during the comment period.

Acting Chief Planner Eastman clarified there were two resolutions. The first would be PC-08-16, which is a recommendation of the removal of deletion area A from the proposed amendment area as shown on Exhibit A, and a recommendation to remove deletion Area B from the proposed amendment area as shown on Exhibit B and to authorize the Secretary of the Planning Commission to transmit a copy of the Resolution to the Agency for consideration.

The title of RESOLUTION PC-08-16 APPROVING a Resolution of the Planning Commission of the City of Fullerton amending the boundaries of the merged Fullerton Redevelopment Project Area, Amendment No. 1, as previously approved by the Planning Commission was read, and further reading waived. MOTION by Commissioner Richmond, SECONDED by Commissioner Francis, and CARRIED unanimously by voting members present, that said Resolution be ADOPTED AS WRITTEN.

Acting Chief Planner Eastman stated the second resolution was a recommendation to the City Council to certify the Draft EIR and a recommendation to the City Council that the location purpose and extend of any agency activities are carried out, that conform to the General Plan, and determine that the Redevelopment Plan is consistent with the General Plan, recommend approval of the plan, and to authorize the Secretary of the Planning Commission to direct a copy of the resolution to Council.

Vice Chairman Musante asked if a motion or suggestion can be made that the Planning Commission would like to see drought tolerant landscaping be addressed in the EIR for all residential properties. Acting Chief Planner Eastman stated a motion could be made that the Draft EIR for the proposed amendment be modified pursuant to the suggested language for drought tolerant plants for all residential properties.

Commissioner Francis stated he does not want to mandate that drought tolerant plants be used, but that City Council look into it.

Vice Chairman Musante stated that he would motion to recommend approval of the Draft EIR with a stipulation that Council consider an amendment to summary of impacts and mitigation measures that would include drought resistant landscaping for all residential projects.

For clarity Acting Chief Planner Eastman read Section 3 of Resolution PC-08-17 which states the Planning Commission has received and reviewed the Draft EIR for the proposed Amendment and recommends that the City Council and Agency certify the Environmental Impact Report prepared for the Amendment, and that they consider drought tolerant plants for residential properties.

Commissioner Chaffee stated that he did not want to change the wording in the EIR, but as a comment believed sustainability in general should be considered wherever possible in terms of mitigation measures, particularly with drainage, and not limiting it to drought tolerant plants.

The title of RESOLUTION PC-08-17 APPROVING a Resolution of the Planning Commission of the City of Fullerton making its report and recommendation to the Fullerton City Council finding the Redevelopment Plan for the merged Fullerton Redevelopment Project Area, Amendment No. 1, to be in conformance with the Fullerton General Plan; recommending certification of the Draft Environmental Impact Report prepared for Amendment No. 1; and recommending to the City Council that said Redevelopment Plan be approved. MOTION by Commissioner Musante, SECONDED by Commissioner Francis, and carried 3-1 with Commissioner Richmond voting against the motion, that said Resolution be ADOPTED AS AMENDED.

MOTION by Vice Chairman Musante, SECONDED by Commissioner Chaffee, and carried unanimously by voting members present to adjourn to the 7:00 p.m. session.

7:00 P.M. Session

The following items were heard out of order.

PRJ08-00072 – TTM-17094 – ZON08-00026 – ZON08-00027 – SUB08-00002. APPLICANT: RICHARD HAMM; PROPERTY OWNER: CITY OF FULLERTON. A request for a mixed use project proposed on existing City parking lots on the north and south sides of the 100 block of W. Amerige Ave., and on property at 138 W. Amerige Ave., 140 W. Amerige Ave., 112 N. Malden Ave. and 118 N. Malden Ave. The proposal includes up to 124 residential units and 40,000 sq. ft. of commercial space. Components of the project include; 1) a six-story building, comprised of five stories of residential condominiums above ground floor commercial and parking, including subterranean and mezzanine parking levels; 2) a three-story commercial building with a fourth-story mezzanine tower; and 3) a six-level (five stories in height) public parking structure with approximately 700 parking spaces to be provided, including 460 public spaces. Applications associated with the proposal include a Major Development Project, Conditional Use Permit request to consider a Floor Area Ratio (FAR) above the base FAR of 2.0, to allow shared parking and off-site parking; a Tentative Tract Map for condominium purposes; a Zoning Adjustment to consider reduced parking lot dimensions; and an Abandonment of portions of Amerige Avenue (north side of West Amerige Avenue, between approximately 215 and 590 feet west of the centerline of Harbor Blvd.; and the south side of West Amerige (between approximately 170 and 637 feet west of the centerline of Harbor Boulevard) (An addendum to a previously certified Environmental Impact Report (SCH# 2006061034) has been prepared pursuant to Section 15164 of CEQA Guidelines) (JEA).

Acting Chief Planner Eastman stated that there were revisions to the plans, and the draft addendum to the certified EIR. He recommended that the Planning Commission continue the item to the May 28, 2008 meeting.

MOTION by Commissioner Savage, SECONDED by Commissioner Richmond, and CARRIED unanimously by voting members present to CONTINUE the project to a DATE CERTAIN of May 28, 2008.

PRJ08-00071 – ZON08-00026, APPLICANT AND PROPERTY OWNER: DAVID STYFFE. A request for a variance to construct a 728 square-foot habitable addition (1st floor 195 sq. ft.; 2nd floor 533 sq. ft.) including two (2) new bedrooms, on a triangularly-shaped lot approximately 3,175 sq. ft. in area. The project proposes to provide approximately 746 sq. ft. of open space (a 25% reduction of the required 1,000 sq. ft.) and have a Floor Area Ratio (FAR) of .54 (an 8% increase of the maximum floor area ratio of .50) on property located at 700 N. Hall (eastern side of the intersection of Grove Place and Hall Avenue, abutting the Fullerton Creek Channel.) (R-1-7.2 zone) (Categorically exempt under Section 15301 of CEQA Guidelines) (HAL)

Commissioner Savage recused himself because he owns property within a 500-foot radius.

Senior Planner Allen referenced an aerial photograph, and explained the request. The property was created in 1923 as a result of a subdivision that involved the lots on the north and south side of Grove Pl. She noted that the property was the smallest lot in the tract, and currently on the property was a single story two bedroom home. The applicant was proposing to add a small addition to first floor and add a second floor. Senior Planner Allen explained that the project complies with the development standards for the zone with two exceptions; the floor area ratio and open space. Senior Planner Allen explained the floor area ratio variance and open space requirements. Lots in this tract have existing dwellings which range from 800 sq. feet to 1679 sq. feet. The maximum floor area ratio is 0.5. Even with the proposed 0.54 floor area ratio, the property would be approximately 1000 sq. feet under the maximum floor area the other properties in the neighborhood could develop to. Senior Planner Allen explained the tract has a mix of 2 and 3 bedroom dwellings, and the applicant was proposing a 3 bedroom dwelling, which was consistent with the development potential of the neighborhood. She noted that there was a strip of land that is owned by the flood control district that is not part of the channel, but does function as additional open space to the project property. She further noted the space was not part of the applicant's property, however they maintain it and it functions as additional open space for the property. Senior Planner Allen stated the property is a small triangular shape, which deprives the property of privileges enjoyed by others in vicinity. She noted there was no additional development potential that is being granted through the request than what would be available to other properties. Additionally, the variance would not approve a use that is not otherwise permitted in the zone. Staff recommended that the variance request be granted.

Commissioner Richmond asked how many other two story buildings were in the tract. Senior Planner Allen referenced the site plan, and responded two

Public hearing opened.

David Styfee, 700 N Hall Ave, explained that his family of four needs more room than the 984 sq. feet they currently have. He stated it has become difficult for his two children to share a small bedroom, as well as one bathroom. Mr. Styfee noted the strip of land between his property and Orange County Flood Control Channel has functionally served his family. He stated that although he could not build on it, he does maintain it and has been fenced in as part

of the backyard space. Mr. Styfee stated that he would like a nice 3 bedroom, 2 bathroom house that will be comfortable for his family.

Bill Cooper, 1316 Riverside Dr., stated that there was a 12 foot channel easement, and he did not want to see a two story house. He stated that he had to maintain the 0.5 floor-area-ratio required when he was building his addition. He stated that he was not able to increase his property size because of the ratio, and was concerned about the County easement.

Commissioner Francis asked Mr. Cooper what he did to his house. Mr. Cooper responded that he added 630 sq feet to his house on the lower level.

Commissioner Francis asked Mr. Cooper if he asked the City for a variance. Mr. Cooper responded that his architect handled everything. Commissioner Francis asked Mr. Cooper if his item was heard by the Planning Commission and Mr. Cooper responded no.

Mr. Styfee stated that he was not proposing to build on County property. He stated that he did not have the alternative of building on the first floor because he has a unique lot. Mr. Styfee stated he was trying to build a decent size house for his family.

The Committee viewed an aerial photograph of the neighbor's property versus the subject property.

Public hearing closed.

Commissioner Whitaker believed that the property warrants an exception. He stated that it is desirable for a family to make an addition work, instead of moving. He believed there was no harm to any of the neighbors by granting the variance.

Commissioners Chaffee, Francis, and Richmond were in support of the project. Commissioner Francis believed that the applicant was not asking for too much.

The title of RESOLUTION PC-08-15 APPROVING a Resolution of the Planning Commission of the City of Fullerton granting a variance to increase the floor area ratio to 0.54 (54%) and reduce the required open space to 746 square feet on property located at 700 North Hall Avenue, was read and further reading waived. MOTION by Commissioner Francis, SECONDED by Commissioner Richmond, and CARRIED unanimously by voting members present, that said Resolution be ADOPTED AS WRITTEN.

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

PRJ07-00366 – PRE08-00010. APPELLANT: NICK LOMBARDO. An appeal of the Redevelopment Design Review Committee's denial of an outdoor patio on property located at 101 South Harbor Boulevard (southwest corner of Harbor Blvd and Commonwealth Ave in the Restaurant Overlay District) (C-3 zone) (JEA).

Commissioner Francis recused himself from the item because one of the applicants was an employee of his, and he has two businesses within a 500-foot radius. He left the meeting at 7:32 p.m.

Commissioner Savage returned to the room at 7:32 p.m.

Acting Chief Planner Eastman referenced a site plan, and explained the request. The applicant was proposing a patio to the back of an existing restaurant under construction. The property has a restaurant overlay zoning designation. Acting Chief Planner Eastman clarified the applicant has not been approved to sell alcohol, but has filed an application for an Administrative Restaurant Use Permit (ARUP). Acting Chief Planner Eastman explained the design of patio, which contained a wrought iron base and a glass above that for a 6 foot height. He noted the 2 existing palm trees would remain, and the planter at the base would be removed to accommodate additional seating space. Acting Chief Planner Eastman referenced the site plan and explained the seating proposal. He noted the applicant was proposing to tint the windows, and hang drapes to screen the outside from the inside. Acting Chief Planner Eastman explained the patio in the back was reviewed by the Redevelopment Design Review Committee (RDRC) and they were concerned with the patio cover. The Committee believed the patio cover did not add quality to the downtown area, was not compatible with the existing building, and more detail was needed. The RDRC denied the Minor Development Project and the applicant was appealing their decision. Acting Chief Planner Eastman explained there were recommended conditions that were required at the time of the moratorium, and appropriate for the site. The property is located in a Community Improvement District and Central Business District, which is subject to design guidelines. He explained there are required considerations that include the review of the patio design and layout, review of the exterior improvements of the building and providing unobstructed windows. He further noted the RDRC expressed their concerns and asked the applicant to come back with revisions to the patio cover. The applicant felt he liked the way the patio cover was designed and did not want to modify it, so the RDRC denied the project. Acting Chief Planner Eastman explained the code identified the Commission must consider the RDRC's comments regarding architectural style, compatibility with area, and the image portrayed to the public. Additionally, the approval of a Minor Development Project is based on the following criteria for this specific project:

1. Pleasant character
2. Desired character for the area
3. Recognize outdoor nature of exterior spaces
4. Preserve public views from unreasonable encroachment
5. Minimize noise
6. Consider shadow and climatic conditions
7. Design compatibility with the developing area
8. Coordinate exterior design
9. Limit the number of material on exterior building faces

Staff recommended the Planning Commission deny the appeal and uphold the RDRC's denial. Staff recommended conditions, should the Planning Commission approve the project.

Commissioner Savage asked if the Commission can recommend design changes. Acting Chief Planner Eastman explained the Commission could make modifications to the project, uphold the RDRC decision or overturn it with conditions such that the project will meet the criteria.

Public hearing opened.

Nick Lombardo, Applicant, explained that he was trying to bring an upscale clientele to downtown. He believed that many of the problems in downtown were because the patios are low wrought iron fences. Mr. Lombardo stated that in conversations with City staff he hired a design team to aesthetically design the patio for a classy look. He believed that the moratorium was put in place for change, and his patio was a change from the existing problem patios in downtown. He stated that his architect and designer were present to explain the integrity of the

patio. Mr. Lombardo believed that the RDRC wanted something different from what the Police Department and Planning Department want.

Ben Pollock, Total Concept Designs, stated that his company has done all of the interior space planning for the restaurant. He stated that the Idea with the patio was to take some of the interior concept to the outside. Mr. Pollock explained the large features of the building if incorporated into the patio would enclose it and make it constraint. He handed out color renderings to the Commission, and explained the materials. Mr. Pollock referenced a sample railing, and explained the design of the fence.

Lisa Reckman, Interior Designer, explained the materials, flooring, and fabrics of the project. Ms. Reckman referenced photographs of the patio furniture and light fixtures, and explained the different color shades.

Mr. Pollok stated the simple design of the patio cover was a concern for the RDRC; but he believed the simplicity with the design tends to draw away from the monolithic building.

Commissioner Savage referenced the Commonwealth elevation and believed the roof could be flat. Mr. Pollock responded the design team was concerned about runoff and drainage. Commissioner Savage stated the parapet could be parallel and a gutter system could be put inside to take the water out beyond the parapet. Mr. Pollock responded there are other ways he could visually reflect a horizontal line from Commonwealth.

Commissioner Savage asked if the exit door to the sidewalk was an emergency exit only. Mr. Pollok stated the door was an emergency exit only and would have an emergency exit only sign. Acting Chief Planner Eastman clarified the project was conditioned so the door is an exit only door affixed with an audible alarm.

Commissioner Whitaker believed the RDRC's concerns about aesthetics were subjective. He believed the primary elements of the building are the arched portions of the windows, and asked if there was discussion about carrying that theme. Mr. Pollock stated there was no discussion about following the arches, and stated the patio design relates to the restaurant.

Commissioner Whitaker stated the Commonwealth Avenue north side was of concern to him. Mr. Pollock responded the scope of the building in relation to the patio is overwhelming.

Vice Chairman Musante requested clarity on the patio cover. Mr. Pollok stated the Commonwealth elevation has a full cover that extends over the entire patio from the building, with exception to the openings for the existing palm trees.

Vice Chairman Musante asked if there was a reason the applicant did not come back with a design the RDRC had suggested. Mr. Pollok stated there were suggestions to tie it into the building. However, he believed they had met all the required criteria.

Mr. Lombardo stated that he could not explain the integrity of the patio at the first RDRC meeting and came back a second time with his designer. He believed he could come before the Planning Commission and explain the project better.

Vice Chairman Musante asked if the appeal was denied, where it would go from there. Acting Chief Planner Eastman explained the applicant can appeal the decision to City Council or come back with something different. He clarified the RDRC liked the patio design, just not the patio cover or the pitch. Acting Chief Planner Eastman explained that the RDRC suggested adding a

parapet to give the patio cover the appearance of a flat roof, and the roof behind the parapet would be pitched to accommodate drainage. The applicant felt he liked his design; therefore the RDRC had no choice but to deny the application.

Mr. Pollok stated that a recommendation was that the elevation reflect a more horizontal element, and he believed it was obtainable without creating overwhelming structural issues.

Commissioner Savage asked the applicant if he had a problem with the window tinting recommended by staff, and Mr. Pollock responded no.

Commissioner Chaffee stated he was not concerned with the project. He did not believe there was a solitary line of thought by the RDRC. Commissioner Chaffee stated that Committee Member Silber was concerned about the wear and tear of the patio cover, and asked what would protect the patio cover from moisture. Mr. Pollok explained there would be roofing material on the top that is weather and water resistant.

Commissioner Chaffee believed a parapet would take care of the view from Commonwealth, so there is a horizontal line and not a slope, and he would condition it that way.

Public hearing closed.

Vice Chairman Musante asked staff to summarize what the RDRC's objections were, and what Commissioner Savage recommended. Acting Chief Planner Eastman explained the RDRC liked the patio, but were concerned about the patio cover. They believed the patio cover was not unique and did not reflect the quality and design for the location. The RDRC asked the applicant to go back and look at other designs that might work. The applicant believed it was a quality design and came back and explained the design aspects of the patio and the cover, and provided samples and materials. Based on the information the applicant provided, the Committee members tried to come up with solutions to integrate aspects of the building into the patio cover. They recommended using larger posts to get more mass, raising the height of patio cover to be similar to the banding on the building, and providing for a parapet to give it a horizontal look. Acting Chief Planner Eastman noted the RDRC's objective was not to design the patio cover for the applicant, but give guidance. The applicant indicated he liked what he had and decided to come before the Planning Commission.

Commissioner Savage stated there are recommendations to not copy a historic building when adding something to it. Acting Chief Planner Eastman clarified the intent is that the historic building stand out as a testament of its time, and the addition should reflect certain components of the historic building, but clearly identified it of this time and place. He added that the property is not historic, so the context is not the same.

Vice Chairman Musante believed the RDRC have done an outstanding job at sending an applicant back to the drawing board when a project does not conform to the rest of downtown. He stated that he would remand the project back to the RDRC for modifications.

Commissioner Richmond asked if the patio meets all zoning requirements, and Acting Chief Planner Eastman responded yes. Commissioner Richmond believed the RDRC was vague, and would approve the project as is.

Commissioner Chaffee stated that he would like to uphold the appeal as modified. He liked the patio and stated it looked interesting. Commissioner Chaffee believed it was not necessary to

be exactly like the building. Commissioner Chaffee stated he would uphold the appeal with a parapet modification.

Commissioner Whitaker understood the RDRC preferring the patio relate to the building. He believed the designer has used commendable materials to look upscale. He supported the project with the adjustment to the roofline, and staff's recommended conditions.

Commissioner Savage believed he would like to see the revised renderings before approving the project. He asked if staff could be involved in the approval process. Vice Chairman Musante believed the Director of Community Development could approve any changes.

Commissioner Savage recommended continuing the item to the May 28 meeting to allow the applicant to make modifications to the renderings.

City Attorney Adams recommended opening the public hearing for the applicants consent to come back before the Commission.

MOTION by Commissioner Chaffee, SECONDED by Commissioner Richmond to re-open the public hearing.

Mr. Lombardo asked if the project could be approved with the recommendation to modify the parapet.

Vice Chairman Musante stated there were a number of concerns the RDRC had. He stated he would like to send it back to the RDRC for modification, or approval by the Director of Community Development.

Mr. Pollok suggested continuing the project to the next meeting so he can bring back a modified elevation.

City Attorney Adams recommended continuing the item and giving the applicant direction as to what the Commission would like to see. Commissioner Chaffee stated he would like to see how the sight line will be corrected.

MOTION by Commissioner Chaffee, SECONDED by Commissioner Whitaker, and CARRIED unanimously by voting members present to CONTINUE the project to a DATE CERTAIN of May 28, 2008.

Commissioner Savage stated there could be an arch etched on the window with the restaurant name.

OTHER ITEMS

None.

COMMISSION STAFF COMMUNICATION

Acting Chief Planner Eastman stated 500-foot radius maps have been included in the Commissioners binders. The Commission discussed cancelling a meeting for vacation purposes. Commissioner Whitaker noted he would not be present at the June 11, 2008 meeting. Commissioner Richmond noted he would not be present for the July 9 and 23 meetings. Vice

Chairman Musante and Commissioner Chaffee noted they would not be present at the July 23, 2008 meeting.

REVIEW OF COUNCIL ACTIONS

Director Godlewski gave a brief overview of recent City Council actions.

AGENDA FORECAST

The next regularly scheduled Planning Commission meeting will be May 28, 2008 at 7:00 p.m.

ADJOURNMENT

There being no further business the meeting was adjourned at 8:50 p.m.

Susana Flores
Clerical Assistant