Minutes

Planning Commission February 4, 2013
City of Orange Monday 7:00 p.m.

PRESENT: Commissioners Buttress, Cathcart, Gladson, Grangoff and Steiner
ABSENT: None

STAFF PRESENT: Leslie Aranda Roseberry, Planning Manager
Anna Pehoushek, Principal Planner
Gary Sheatz, Assistant City Attorney
Sandi Dimick, Recording Secretary

REGULAR SESSION:

Chair Steiner called the meeting to order at 7:03 p.m.

Roll Call

All Commissioners present.

PUBLIC PARTICIPATION:

None

Commission Reorganization:

Election of Chairperson and Vice Chairperson

Commissioner Cathcart made a nomination for Commissioner Steiner to continue as Commission Chairperson. Commissioner Grangoff made a nomination for Patricia Buttress to continue as Commission Vice Chairperson.

SECOND: Commissioner Buttress
AYES: Commissioners Buttress, Cathcart, Gladson, Grangoff and Steiner
NOES: None

MOTION CARRIED

PLANNING MANAGER REPORT:

Planning Manager, Leslie Aranda Roseberry, stated Staff would be looking for a continuance to a date certain of March 4, 2013 for item No. 3, Title 17 (Zoning Amendment-Transitional/Supportive Housing). There was nothing further to report.

Chair Steiner reviewed the appeal process.

Consent Calendar:

(1) APPROVAL OF MINUTES FROM THE REGULAR SCHEDULED MEETING OF JANUARY 21, 2013.

Commissioner Buttress made a motion to approve the meeting minutes from the January 21, 2013 Planning Commission meeting as written

SECOND: Commissioner Gladson
AYES: Commissioners Buttress, Gladson, Grangoff and Steiner
NOES: None
ABSTAIN: Commissioner Cathcart

MOTION CARRIED

New Hearings:

(2) TITLE 17 (ZONING AMENDMENT-TRANSITIONAL/SUPPORTIVE HOUSING

An Ordinance amending Title 17 (Zoning) of the Orange Municipal Code to allow the "transitional housing" and "supportive housing" in Single-Family Residential, Duplex Residential, Multi-Family Residential, and Public Institution zoning districts either as a "permitted" or "conditionally permitted" use, pursuant to State law.

LOCATION: Citywide

NOTE: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15305 (Class 5 – Minor Alterations to Land Use Limitations). This exemption applies to projects involving minor alterations to land use limitations, which do not result in changes in land use or density. The proposed Ordinance Amendment falls under a Class 5 categorical exemption because it involves a minor amendment to the Zoning Code that adds definition for transitional and supportive housing and establishes land use regulations allowing those uses in zoning districts where similar housing types are already allowed. Therefore, it does not change land use or density. It also does not propose or require physical changes to any specific property.

RECOMMENDED ACTION:
Adopt Planning Commission Resolution 06-13 recommending the City Council approve an Ordinance amending Title 17 (Zoning) of the Orange Municipal Code to allow for Transitional Housing and Supportive Housing in Single-Family Residential, Duplex Residential, Multi-Family Residential and Public Institution Zoning districts.

Chair Steiner stated Staff was seeking a continuance to a date certain.

Planning Manager Leslie Aranda Roseberry, stated Staff was seeking a continuance to the March 4, 2013 Planning Commission Meeting in order to allow Staff to look at some additional clarifications on the topic.

Chair Steiner made a motion to continue Title 17 (Zoning) Amendment-Transitional/ Supportive Housing to a date certain of March 4, 2013.

SECOND: Commissioner Buttress
AYES: Commissioners Buttress, Cathcart, Gladson, Grangoff and Steiner
NOES: None

MOTION CARRIED

Chair Steiner stated he had received a speaker's card on the item that had been moved for a continuance. He asked Assistant City Attorney, Gary Sheatz, if comments on the item could be taken although the item would not be heard until March 4, 2013?

Mr. Sheatz stated yes, comments could be taken.

Dan Graupensperger, address on file, stated any confusion about the subject was his own and not Staffs. He stated, reading from his written comments, Item No. 3.1 Title 17 Zoning change had him concerned. Currently there were some of the same facilities in his neighborhood and he felt the neighborhood could not support more of them. It was his understanding that the proposed zoning changes would make it easier for more transitional housing to be put in place. He had been unable to find out what the proposed changes would be. He asked if the Planning Department would be posting the changes in order for the public to study, prior to the Commission making their recommendation to the City Council. Currently as he understood from an internet source, the bar was set pretty low and the Planning Department would only have administrative duties, basically they would rubber stamp facilities that wanted approval. If it got any lower than that, he would not know where they would go with that. According to the OMC, the facilities should be good neighbors. He could not find a mechanism for holding them to that. There were certain rules that required them to have information about persons who would be staying in a facility, they could not be felons or there could not be more than 2 persons on probation and other things such as that. He was a fireman for 36 years in the City and he had gone on calls to those types of facilities multiple times in one week and if he was a neighbor living next to a facility, he would not want that. His concern was that there were two empty houses on his street and if a facility moved into this home, he would not be able to sell his home. It was not that the homes housed bad people or that the people running the facilities were trying to "herd cats", and he got that and people had to live someplace, it was just that it would make a huge impact on the neighborhood. The bar was being set lower and he was not sure what they would do. Maybe there were State requirements, but he was unable to find out any information and he had not known where to look for the information. He read the OMC and he kind of sort of understood it, he was just a lay guy and he was trying to understand the ins and outs of it.

Chair Steiner stated there could not be a response to his comments as the item was not opened as a public hearing, but the Planning Commissioners had attended a briefing, separately, to review the materials and to understand the issues involved. They would be prepared to discuss that information at the meeting on March 4, 2013. In the mean time, he suggested that any questions be directed to Planning Staff.

Mr. Graupensperger stated he had emailed staff member, Jennifer Le, however, she may not have had time to respond before the meeting.

(3) ZONE CHANGE 1268-12-KATELLA-UMIX ZONING

Rezone properties in the Katella Corridor 2010 General Plan Land Use Focus Area to Urban Mixed Use (UMU) in order to establish consistency between General Plan land use designation and zoning in accordance with State law.

LOCATION: Properties between Batavia Street and the western City limit in the Katella Corridor General Plan Land Use Focus Area.

NOTE: Final Program Environmental Impact Report (EIR) No. 1815-09 for the Comprehensive General Plan Update was certified on March 9, 2010 and prepared in accordance with the California Environmental Quality Act (CEQA). The proposed activity is within the scope of the previously approved General Plan and is adequately described in the previously certified General Plan Program EIR for purposes of CEQA.

RECOMMENDED ACTION:
Adopt Planning Commission Resolution 07-13 recommending the City Council approve and adopt the Draft Ordinance rezoning properties in the Katella Corridor 2010 General Plan Land Use Focus Area between Batavia Street and the western City limit to Urban Mixed Use (UMU) to establish consistency between the Urban Mixed Use General Plan Land Use Designation and Zoning Classification.

Principal Planner, Anna Pehoushek, presented a project overview consistent with the Staff Report.

Chair Steiner opened the item for any questions for Staff. There were none.

Chair Steiner opened the item to public speakers.

James Potter, address on file, stated between different family members he represented the area on the north side of Katella between Batavia and Main and on the south side between Main and Katella. The biggest concern was the overall process and uses in the development standards as some of the properties were under-utilized. Katella frontage property with the FAR that was part of the Urban Mixed Use designation, at a 1.5 minimum, which forced building multi-story parking structures. Between now and whenever Urban Mixed Use might be appropriate, if ever, what would occur with the property? It limited the ability for re-development or re-construction or a major alteration to existing properties toward a more retail-oriented situation. With the combination of FAR and set backs and other restrictions that were in the development

standards, there were a few minor issues, but the larger problem he had was with the development standards.

Steve Prothero, address on file, stated he was speaking on the same properties that were addressed by Mr. Potter, it was the same family he was his cousin. One of his previous concerns on a project were the limitations that were placed on him by the City on possible re-development of the property. Ms. Pehoushek had provided him with regulations covering non-conforming properties and it seemed that those made the situation much more liberal in how the properties could be upgraded in the interim. As far as Urban Mixed Use was concerned, he could support it, but he was not certain how that would function. He was concerned previously in having Katella be an 8 lane highway with zero set backs for the buildings. The parkway strip would be way too narrow and push people right to the edge of traffic and that had been a concern and he was not sure what had ultimately occurred. Those were his concerns.

There would probably not be much commercial use. Because of the nature of Urban Mixed Use and speaking with the Irvine Company, a gentleman that was in charge of such projects, had realized that there was not much success with ground floor retail for more than servicing the needs of residents such as dry cleaning and small grocery stores. That was one of the problems he had.

Chair Steiner asked Ms. Pehoushek to speak to the points brought up by Mr. Potter and specifically the development standards and the FAR issue he had addressed?

Ms. Pehoushek stated the new Mixed Use development standards were not so new; the standards established a different framework for development along the Katella corridor and all mixed use areas along Town and Country, Uptown Orange and South Main Street that worked toward development that was more oriented to the street, unless geared to setting buildings way back in a deep parking lot. The concept was to establish a new mix of uses that lent to vibrancy of the street environment. The Mixed Use areas were those areas that had a fair amount of pedestrian activity. They spoke a lot about the Katella corridor that a lot of the pedestrian activity occurred at night when all the events were happening at the different venues in the area. The development standards responded to the environment that the Land Use designation was attempting to create in that area. There were limitations placed on how parking should be oriented to the street and it was a more restrictive environment that had not totally precluded street-oriented parking, but it re-defined how the City approached parking in particular commercial properties. There was a maximum set back in that particular area from the front property line of 10’ and variations were allowed for up to 20’ if there were different features incorporated into a development project that provided some type of pedestrian amenity or added to the vibrancy of the street. It could be a restaurant with outdoor dining or some other type of landscape feature or plaza space. There were some elements of flexibility in the code to encourage creativity from the development community. Mr. Potter was correct; the focus of the standards was to encourage development that was more oriented to the street and the vastness of a particular area or Urban Mixed Use zones they were oriented around.

With respect to FAR, the FAR range in the Mixed Use zone was 1.5 to 3.0 and what the City had done was traditionally in areas that re-development was being looked at was to look at the FAR of an existing site and if it was much lower than what the City was striving for, the City would work with the applicant to bring the FAR up to the current range or the maximum possible. It had traditionally been the City's practice and they worked with applicants and hoped that applicants would work with the City and recognize what was attempting to be accomplished in a certain area. The City wanted to work with applicants and their specific property constraints to find a mutually agreeable solution.

Ms. Pehoushek stated in terms of Mr. Prothero's comments, and he had noted that the code allowed for very flexible language, particularly for those properties zoned CR. When the CR zoning was put in place in the 1990's in an effort to accommodate property owners at that time, the City acknowledged that property owners could look back to the original industrial zoning that was in place so if a move was made to transition a property away from industrial use to something else and that had not worked out, they could go back to the original industrial zoning standards. When the City Council adopted the General Plan, there was a lot of concern and sensitivity about doing away with that special caveat of commercial recreation district along Katella. When the code change was adopted, that code provision was carried forward into the new section of the code dealing with non-conforming situations. If the zone changes were to go forward, a property owner could have a full spectrum of options on their property from industrial to residential.

Chair Steiner asked if the legal non-conforming remained indefinitely.

Ms. Pehoushek stated yes.

Commissioner Gladson stated the whole issue of housing opportunities that the re-zoning would bring in regard to the City's RHNA allocation and the Staff Report clearly laid that out. She asked to have some clarification that if they lost the site for housing, that they would need to find a new site for housing opportunities?

Ms. Pehoushek stated in the latest RHNA allocation that applied to the housing element of the code because of what the City had proposed to do and because of the capacity of the Urban Mixed Use districts to accommodate housing. The latest round of allocations only assigned the City approximately 390 housing units. That was a nice number for the City to get. One possibility, as the re-zoning was not yet complete, was that HCD could look at the RHNA allocation differently because the housing opportunity sites for 1800 units had not yet materialized. HCD had required in other areas of the State, required jurisdictions to select specific parcels to be re-zoned for housing and frankly the City had not wanted to be in that position. The zoning that was being proposed had not required housing to be on any particular site, it merely provided opportunities for housing to be created. It was entirely up to the property owners to develop housing or not. The mixed use zoning standards had not required housing to be built on every site. They needed to track how available housing sites were developed and not tip the scales to the point where

there were no more housing opportunities. In a practical level, the City felt that the market would balance it all out, certainly housing would not be appropriate on every site that was re-developed and a Mixed Use project would not be appropriate on every single site. The City anticipated that some sites would develop into housing and some might be 100% commercial and some mixed use. The standards were pretty flexible and getting back to Commissioner Gladson's questions, the City had not wanted to be in a position of having to choose sites in commercial or industrial zones, or even lower density residential zones that they had to specify to have zoning changes to have higher density housing in areas that had not made sense or areas that it would never have been encouraged for it to happen. It was a reality that they could face and the City was not certain of what would occur until they got into the housing element process with HCD. There had been informal conversations with the HCD staff as to where the City was in their process and what zoning changes were still being proposed. HCD was aware that the process was not complete. They were trying to stay ahead of the game.

Chair Steiner closed the public hearing and brought the item back to the Commission for further discussion or action. He stated City Council had dealt with the situation on April 26, 2011 and the Planning Commission had been down that road before and had supported the recommendation of Staff. He asked if there was a feeling that the 2 to 2 vote that had been previously arrived at might be at a point of a unanimous vote or a majority vote with the new make up of the current City Council.

Ms. Aranda Roseberry stated there was the feeling that there was a much better possibility that a determination would be made, rather than a split vote.

Commissioner Gladson stated when she first took her seat with the Planning Commission re-zoning was one of the issues she had first addressed and she had viewed 4 previous meetings on DVD and had supported it then and would support the zone change again. It was a great opportunity to tell the market to pay attention to Katella and there were opportunities to explore, with lots of options and lots of flexibility, and she was excited about it and encouraged to move the item forward to the City Council.

Commissioner Gladson made a motion to adopt PC No. 07-13, recommending approval to the City Council of Zone Change 1268-12-Katella UMIX Zoning, subject to the conditions contained in the Staff Report.

SECOND: Commissioner Buttress
AYES: Commissioners Buttress, Cathcart, Gladson, Grangoff and Steiner
NOES: None

MOTION CARRIED

(4) ADJOURNMENT

Commissioner Buttress made a motion for adjournment to the next regular scheduled meeting of the Planning Commission on Wednesday, February 20 2013.

SECOND: Commissioner Gladson
AYES: Commissioners Buttress, Cathcart, Gladson, Grangoff and Steiner
NOES: None

MOTION CARRIED

Meeting Adjourned @ 7:38 p.m.