Minutes

Planning Commission June 17, 2013
City of Orange Monday 7:00 p.m.

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

STAFF PRESENT: Leslie Aranda Roseberry, Planning Manager
Anna Pehoushek, Principal Planner
Robert Garcia, Associate Planner
Doris Nguyen, Associate Planner
Gary Sheatz, Assistant City Attorney
Mark Schwartz, Recording Secretary

Chair Steiner called the meeting to order at 7:02 p.m.

ROLL CALL: All Commissioners present.

PUBLIC PARTICIPATION: None

CONTINUED OR WITHDRAWN ITEMS:

Chair Steiner stated that agenda item 4.4 will not be heard tonight, but will be continued at a later date.

PLANNING MANAGER REPORT:

Planning Manager Roseberry stated there was nothing additional to report.

PRESENTATION OF RESOLUTION TO RAYMOND GRANGOFF:

Chair Steiner presented Ray Grangoff with a resolution for his exceptional service to the City of Orange Planning Commission.

APPEAL ANNOUNCEMENT:

Chair Steiner reviewed the appeal process.

1. CONSENT CALENDAR:

1.1 APPROVAL OF MINUTES FROM THE REGULAR SCHEDULED PLANNING COMMISSION MEETING OF MAY 20, 2013.

Commissioner Steiner made a motion to approve the meeting minutes from the May 20, 2013 Planning Commission meeting as written.

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

MOTION CARRIED

2. COMMISSION BUSINESS:

2.1 GENERAL PLAN ANNUAL PROGRESS REPORT

Principal Planner Pehoushek presented the Progress Report for submission and acceptance by the Commission. Commissioner Gladson made a motion to receive the report.

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

MOTION CARRIED

3. NEW HEARINGS:

3.1 ORDINANCE AMENDMENT – DEVELOPMENT STREAMLINING

An Ordinance to streamline the City's design review process for certain development applications, and establish sign regulations for the City's mixed use zoning districts. Revisions to the City's Tustin Street Design Standards, Design Guidelines for the Amendment to the Southwest Redevelopment Project Area and Infill Residential Design Guidelines are also proposed in conjunction with the ordinance.

LOCATION: Citywide

NOTE: The draft Ordinance Amendment is exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15305 (Class 5 – Minor Alterations in Land Use Limitations).

RECOMMENDED ACTION:
Adopt Planning Commission Resolution 25-13 recommending City Council approval to streamline the design review process for certain development applications and establish sign regulations for mixed use zoning districts.

Principal Planner Anna Pehoushek presented a project overview consistent with the Staff Report on this item.

Chair Steiner opened the floor to speakers from the public. There were none. Several commissioners lauded the resolution, and felt it would be good for the City and applicants in the future.

Commissioner Gladson motioned to adopt Planning Commission Resolution 25-13 recommending City Council approval to streamline the design review process for certain development applications and establish sign regulations for mixed use zoning districts.

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

MOTION CARRIED

3.2 CONDITIONAL USE PERMIT NO. 2884-12, DESIGN REVIEW COMMITTEE NO. 4658-12 AND MINOR SITE PLAN 0712-12 – YAGHI RESIDENCE

The applicant proposes to relocate an existing one-car garage, add 198 SF to an existing contributing 1920 Bungalow home and construct a new two-story 1,301 SF detached second unit with an enclosed 248 SF garage. The property is zoned R-4 and the General Plan Land Use Designation is Medium Density Residential.

LOCATION: 437 S. Olive Street (Old Towne Historic District)

NOTE: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15303 (Class 3 – New Construction or Conversion of Small Structures) because the proposal includes the construction of a second dwelling unit in a residential zone, Section 15331 (Class 31 – Historic Resource Restoration/Rehabilitation) consists of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Building, and Section 15332 (Class 32 – In-Fill Development Projects) because the project proposal includes the construction and addition of an existing unit as well as the construction of a new unit.

RECOMMENDED ACTION:

Adopt Planning Commission Resolution 27-13 allowing the relocation of an existing one-car garage, the construction of a new 198 SF addition to a contributing 1920 Bungalow home and the construction of a two-story 1,301 SF detached second unit with an enclosed two-car garage.

Planning Manager Leslie Aranda Roseberry presented a project overview consistent with the Staff Report on this item.

Commissioner Gladson asked whether the applicant was a Mills Act recipient. Planning Manager Roseberry said she would look that up and include it in all future communications regarding the item.

Jon Califf, address on file, the architect for the project, spoke as the applicant. He mentioned that the paneling would not be real wood, but manufactured Hardie material, since the real wood available today isn't the same quality as what was used originally, and real wood installed now wouldn't last very long. The Hardie

material will take paint and otherwise look like wood, and will last a very long time.

There were no other speakers.

Commissioner Buttress motioned to adopt Planning Commission Resolution 27-13 allowing the relocation of an existing one-car garage, the construction of a new 198 SF addition to a contributing 1920 Bungalow home and the construction of a two-story 1,301 SF detached second unit with an enclosed two-car garage, subject to the conditions contained in the Staff Report.

Commissioner Gladson praised the applicant, architect, and the plans for being very well thought out and thorough.

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

MOTION CARRIED

3.3 CONDITIONAL USE PERMIT NO. 2894-13, VARIANCE NO. 2224-13, DESIGN REVIEW COMMITTEE NO. 4667-13, AND MINOR SITE PLAN REVIEW NO. 0721-13 – STARBUCKS COFFEE COMPANY

The applicant proposes to construct a new 24-hour, 890SF Starbucks coffee shop consisting of a drive-thru, walk-up service window, and a 200 SF outdoor seating area on a vacant lot. There is no indoor seating at this location.

LOCATION: 1630 E. Chapman Avenue

NOTE: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15303 (Class 3 – New Construction or Conversion of Small Structures) because the project consists of a new building with less than 10,000 SF of floor area.

RECOMMENDED ACTION:
Adopt Planning Commission Resolution 26-13 approving the allowance of a new 24-hour Starbucks coffee shop with a drive-thru and walk-up service window on a vacant lot.

Associate Planner Robert Garcia presented a project overview consistent with the Staff Report on this item.

Commissioner Cathcart asked if the revised landscape plan had been approved by the Design Review Committee. Mr. Garcia stated that the revised plan was approved at the June 5th meeting of the Design Review Committee.

Commissioner Correa asked if the police had approved the plan, since having a 24-hour outside seating area could potentially pose problems. Mr. Garcia stated that the police had approved the plan, on the condition that the landscaping not be more than 3 feet tall from the Chapman Ave side so visibility from the street could be maintained. Commissioner Correa also asked if the City Traffic Engineer had approved the plan, since it looked like several cars might be making left-hand turns into the property from Tustin Ave, which might clog up traffic on that street. Mr. Garcia stated that the Traffic Engineer had approved the plan.

Chair Steiner opened the item to public hearing.

Terry Matz, address on file, spoke as applicant and introduced Slade Blanchard, Micah Body, Selena Delgado, Greg Denson, Rob Dupratt, and Rob Kean, addresses on file, to answer questions. Mr. Matz stated that he thought the process has been done well by the applicants and the City so far, and appreciates the concerns mentioned by the Design Review Committee throughout the process.

Mr. Blanchard stated that he was excited about the project because it could relieve some of the crowds from the Starbuck's stores around it during peak hours. He also stated he believes that Starbucks has learned a lot from their previous drive-thru locations, and has incorporated much of what they have learned into the design of this location.

Commissioner Buttress asked how many employees would be on site for each shift. Mr. Blanchard stated that the plan was for 4 employees per shift to be on the property. He also stated that the deliveries would mostly be happening in the middle of the night, not during the peak operating hours, which should eliminate any potential traffic problems from long customer lines existing while delivery trucks were trying to get to the site.

Commissioner Gladson asked how the timing of the store was going to work. Mr. Blanchard stated that the goal for the flow rate was 45 seconds per customer, which means that each new spot in line comes to the order window within 45 seconds, and each order is fulfilled within 45 seconds of the previous order being fulfilled. He also mentioned that as far as departing traffic, the prevailing flow would be toward the 55 freeway, which customers can easily get to when leaving the location.

Commissioner Correa asked how loitering would be discouraged and how the restrooms would keep from being used as shelters by homeless people. Mr. Blanchard stated that the employees have been used to self-policing these things at similar locations and that the restrooms would have a keyed entry, so people couldn't just walk up and go into the restrooms.

Mr. Kean spoke on the traffic flow situation. He stated that Starbucks had recorded traffic flows at similar locations, including asking customers whether they were making a separate trip to Starbucks or whether their trip was on the way to something else. This data was used to determine that for drive-thru only locations, the maximum queue was 8 cars or less 100% of the time on weekdays, and a 9 car queue on the weekends for 5 minutes only. For full service locations with walk-up and drive-thru, the queue reached 10 cars one time for 5 minutes at each of two locations studied. Other than that, the queue was 9 or less. This data was taken during peak hours. As a result of this study, the employees have been encouraged to park in the two spots most likely to be blocked by a long queue of over 8 cars.

Commissioner Correa stated he was concerned based on the queue he sees at the 17th Street Starbucks drive-thru window, which often spills out into the street during peak hours. He also stated that he was concerned about the volume of cars turning left off of northbound Tustin Ave. and whether that would back traffic up on Tustin Ave. during busy times. Mr. Kean mentioned that people can turn left there currently, and traffic doesn't seem to be a problem. He also mentioned that a left turn there is legal, and even if there are a lot of cars

making that turn, they should have opportunities as traffic clears to make those turns in a timely manner.

Mr. Blanchard mentioned that the previously referenced store on 17th Street in Santa Ana has outdated technology, which will be upgraded soon to reduce the backup. Technology upgrades planned include revising the interior layout and updating the exterior sound system.

Chair Steiner asked Mr. Matz if all 48 conditions in the Staff Report were accepted by Starbucks. Mr. Matz stated that they were.

Commissioner Buttress motioned to adopt Planning Commission Resolution 26-13 approving the allowance of a new 24-hour Starbucks coffee shop with a drive-thru and walk-up service window on a vacant lot, subject to the conditions contained in the Staff Report.

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

MOTION CARRIED

Chair Steiner mentioned that item 4.4 has been removed from the agenda for this meeting and will be placed back on the agenda at a future meeting.

Chair Steiner called a five-minute recess at 8:05 to set up the presentation for the next item.

Chair Steiner re-convened the meeting at 8:12.

3.4 TRACT MAP 28-11 AND TENTATIVE TRACT MAP 16405 – ROSSITER RANCH TRAILS MODIFICATION

The applicant is requesting that the City exercise its easement rights to allow the construction of off-site trails to replace those required by the original Rossiter Ranch entitlements. The applicant proposes to vacate the existing west and south trails within the development and replace them with trails on adjacent City and County trail easements. The eastern trail alignment within the Rossiter Ranch development would remain as is.

Staff is requesting that the Planning Commission review the concept of the subject application to determine if the proposal to exercise the City's trail easement rights is a proposal that the City is willing to consider.

LOCATION: Jack Pine and Nicky Way

NOTE: If the proposal is supported, the applicant will provide the necessary information to determine compliance with the California Environmental Quality Act (CEQA).

RECOMMENDED ACTION:
A resolution will be provided at a future hearing date based on the Planning Commission action. Staff is requesting that the Planning Commission make a recommendation to the City Council by choosing one of the options described in the Analysis Section.

Associate Planner Doris Nguyen presented a project overview consistent with the Staff Report on this item. She also mentioned that staff is asking the Commission to approve, deny, or continue the item for further discussion.

Commissioner Gladson asked if there was an incomplete application from the applicant. Ms. Nguyen stated that was correct, and that staff is asking if the Planning Commission will consider the concept of what is proposed before all the final documents and reports are completed and filed. Commissioner Gladson asked if this was then a conceptual discussion on the easement question itself. Ms. Nguyen stated that was correct. Commissioner Gladson then asked Assistant City Attorney Sheatz if there was any legal direction the Planning Commission should be cautious of in discussing this item. Mr. Sheatz said "don't mess up," meaning that this is likely the first time this type of question has come up, and this Planning Commission's recommendation should go to the City Council for approval. Commissioner Gladson said that the land use question was the main reason this was coming before the Planning Commission. Chair Steiner asked whether the county was willing to quitclaim their easement as part of this proposal, and Ms. Nguyen stated that they seemed willing to do so.

Robert VonEsh spoke as applicant showing maps of the area under discussion and explained the proposal for the city to consider. The Colony is the housing

association next to the property in question. He explained that he was asking for the trails to be moved onto the public easements, which he believed was the original intent for these easements. The trails would be moved over about 15 feet, and the land they would be moved onto is undevelopable land. He stated that this proposal would put very little burden on the city, and that the developer would be willing to bear most of the costs for this proposal. He also stated that he had reached out to The Colony's President Art Bass (although he said they have not connected) and discussed the liability issues with Mr. Sheatz as well. He believes the members of the equestrian community would benefit from this proposal as well, as it allows existing trails to be in a better position to connect to future trails as well, without 90 degree turns in the path. Mr. VonEsh stated that the Orange Park Association (OPA) approved the plan with 2 conditions: put up temporary trails while these are being modified, and conform to City standards. He stated that he would be willing to meet both of those conditions. He also stated he believes the easement land was originally designed to be used as a horse trail, and isn't suitable for any other use anyway. Mr. VonEsh stated that this proposal would allow homeowners to make full use of their yards, which they can't do now because of the setback requirements associated with the trails. This use is simply what other homeowners have done with similar properties around the area as well. Also, the proposal will have only a negligible financial impact on the City. He stated that he feels this is a small thing to ask of the City, and it will have a tremendous benefit to the homeowners.

Commissioner Cathcart asked how many homes this proposal would have an impact on. Mr. VonEsh stated that at least the 3 home lots adjoining the trails would benefit from the proposal and that most of the homes in the proposal have had residents living there for years rather than months.

Commissioner Buttress stated that any property deed would have disclosed that there was an easement on the property. Mr. VonEsh stated that the deed wasn't clear that the result was that owners wouldn't be able to do what they wanted with their property.

Commissioner Gladson asked if the owners of the six lots affected by this proposed change, who will be responsible for bearing the cost of this change, knew what the actual cost was going to be. Mr. VonEsh clarified that the developer, LSUN, would pay to move the trails, and the ongoing maintenance of the easement would be the Rossiter Ranch Homeowner's Association. Commissioner Gladson asked if the lots were an acre in size, and also how far the setback from the easement would be. Mr. VonEsh confirmed that the lots were an acre in size, and explained that the minimum distance to put up, for example, a masonry wall, would be 5 feet away from the easement. Commissioner Gladson stated that it looked like the photo of the lots showed that they appeared to be large enough to do many of the things Mr. VonEsh is stating that the homeowners are claiming they are unable to do with the current situation. Mr. VonEsh agreed that it looks that way, but that many of the Rossiter Ranch homeowners, once they start looking into those choices, find that many of them don't fit where it looked like they would have fit.

Commissioner Buttress asked how far into Lot 2 the horse trail went into. Mr. VonEsh showed on the map how far it went.

Commissioner Cathcart expressed that the homeowners knew what they were getting into (or should have known), and wondered why the City should have to take action to help them.

Mr. VonEsh explained that Martin vs. VanBerg is a case in Paso Robles where a homeowner bought a piece of land with a defined fence border, and when they tried to improve it, they did a survey, and the courts found that they were entitled to more property than they thought they had originally purchased. Mr. VonEsh stated that this was an example of someone buying property and getting something different from what they thought they were getting. He also explained that these homeowners are genuinely surprised by the effect of these easements.

Commissioner Cathcart explained that it was unusual that the problem was simply that residents couldn't put their pools where they wanted.

Mr. VonEsh explained that it was indeed unusual, and explained that he was really asking for compassion from the Planning Commission, and argued that moving the trails wasn't going to hurt any other citizens. The Planning Commission, specifically Commissioner Cathcart, seemed to indicate that people with this amount of money don't need compassion from the city. Mr. VonEsh said that should be irrelevant, and that this was a genuine surprise to the homeowners, which should be the only criteria.

Chair Steiner stated that written correspondence from two citizens, Dan Zettler, and Ken Kriebel, was put into the record as well.

The floor was opened to public speakers.

Bob Myers, Colony resident, stated his thanks to the Planning Commission for the Staff Report, and stated that there was no way that the easement's effect could have been a surprise to the homeowners. He felt that the removal of the horse trail would simply be to benefit the homeowners and increase their lot size. He also stated that he suspects the developer told the potential homeowners that they would have room to do what they wanted with their property prior to the sale. The horse trail was originally located off the property line, and years ago the City had to ask them to move it back on to the property line. The trails were in place before any of the Rossiter Ranch properties were built. Also, moving the horse trail would force elimination of historic eucalyptus trees, and/or would completely change the look of the properties in The Colony. The dead end for the horse trail was put in by the developers just a few months ago. He also asserted that there is no reason to put the burden for this on the City or other property owners when this was a known challenge prior to the Rossiter Ranch homeowners purchasing their properties.

Jackie Fortier, 37-year resident near the entrance to The Colony, stated that she loved the pastoral look of the area, and that the proposed change would ruin the look and feel of the area, and harm her property value.

Michael Granek, a Rossiter Ranch resident and owner of Lot 4, admitted that he knew there was an easement when he bought the property, but didn't know that the result of that easement was that he wasn't going to be able to build a wall along the edge of his property.

Art Bass, president of The Colony Homeowner's Association, stated that he had not been contacted by anyone from Rossiter Ranch regarding this issue. The fence for the horse trail goes all the way back to 1975, while the fence where the trail dead ends is a recent development. Mr. Bass pointed out that the horse trail is the back end of the Rossiter Ranch homes, but is the front end of The Colony homes—he stated that the Rossiter Ranch developers didn't seem to care what it looked like, and that they had done a poor job of installing the fence they put up at the trail's dead end. He also stated that the developer's claims that the Rossiter Ranch Homeowner's Association will bear the costs and liability for this project means that they will need to enter into an agreement with The Colony Homeowner's Association in perpetuity regarding these arrangements. He stated that it looked like the developer was under duress at this point to accommodate the homeowners, and that they were trying to shift the responsibility onto the City to help them deal with that duress.

Tom Davidson thanked the City staff, and stated that this matter goes back a long way. He also said this is a multi-use trail, not just an equestrian trail. This is an open trail, even though it may not look like it. This is an important link, and should connect to the Santiago Oaks Canyon trails at some point. Mr. Davidson said he was against a "do-over" where any trails are established and subsequently then re-established to impact different homeowners at a later date.

Greg Raab, resident of The Colony, presented a petition signed by all 28 residents of The Colony, who oppose the proposal to move the horse trail. He submitted the original signed proposal to the Planning Commission. He also stated that he feels the developer likely told them they could do things that they are now finding out they can't do because of the easement.

Barry Evans, 23-year resident of The Colony, thanked the City staff, and stated that he thinks this proposal is simply a land grab, and that the Rossiter Ranch homeowners and developer either knew or should have known about the easement and its effect on development. He also stated that moving the horse trails would almost certainly harm the 100-year-old eucalyptus trees next to them.

Laura Thomas, resident of Orange Park Acres and Orange Park Association President, stated that the OPA's position is not to have any burden or liability put on The Colony. OPA supports the connection of trails, and the property values have increased because of the trails and parks in Orange. She also stated that in real estate transactions, homeowners are always apprised of everything about their

property, including something like an easement. She suspects that any changes the Rossiter Ranch Homeowner's Association may agree to now could potentially be changed at a later date.

Steve Reed, resident to the south side of Rossiter Ranch, stated that Lot 2 already has block walls and a swimming pool. He expressed his concern over the liability issues if the trails are moved to adjoin to his property.

Ann Myers, 26-year resident of The Colony, expressed concern that the 100-year-old eucalyptus trees and other very old oak trees would be damaged or moved in the process of moving the trail.

Mr. VonEsh explained that these concerns are not a surprise to him. He stated that change brings fear of the unknown, which he feels is a lot of what he is hearing. The easements are supposed to provide some reassurances about the future and provide a means of redress of grievances if things don't happen as planned. Mr. VonEsh also handed Mr. Bass a copy of the letter he said he sent to Mr. Bass. Upon looking at the letter, Mr. Bass responded that it was the wrong address, which explained why the two parties hadn't come together prior to the meeting. Mr. VonEsh explained that he and his firm also like trees, and recognize their importance to home values. He also explained that people who are smart and sophisticated, like the Rossiter Ranch homeowners, were surprised by the effects of the easements, which weren't on any documents they would have signed upon purchasing the lots.

Commissioner Correa stated that the proposal seems to affect only one or two properties, and finds it odd that this only became an issue in the last 10 years, even though the easements were established decades ago. Also, he stated that moving the trails would destroy 100-year-old trees and other natural habitat features, which he doesn't feel good about supporting.

Commissioner Gladson stated that this issue was a technical headache, and she was leaning toward option "B" at the beginning of the evening, but that after the meeting she now supports option "A" to deny the application. She expressed disappointment that the developer's solution to the problem was to shift the responsibility back to the City.

Commissioner Gladson motioned to adopt option "A" as described in the analysis section of the Staff Report, which is to recommend to the City Council to deny the application.

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

MOTION CARRIED

4. ADJOURNMENT:

Commissioner Buttress motioned to adjourn until the next regularly scheduled meeting on Monday, July 1, 2013.

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

MOTION CARRIED