Minutes

Planning Commission March 21, 2011
City of Orange Monday 7:00 p.m.

PRESENT: Commissioners Buttress, Gladson, and Merino
ABSENT: Commissioner Steiner

STAFF
PRESENT: Ed Knight, Assistant Community Development Director
Anna Pehoushek, Principal Planner
Gary Sheatz, Assistant City Attorney
Sandi Dimick, Recording Secretary

ADMINISTRATIVE SESSION

Vice Chair Buttress opened the Administrative session with a review of the Agenda.

Assistant Community Development Director, Ed Knight stated that the Agenda contained a resolution for Robert Imboden and Vice Chair Buttress would present that and also introduce the new member of the Planning Commission, Commissioner Gladson. He stated Commissioner Gladson could also make a statement that she had reviewed the videos that pertained to the agenda item on zoning.

Commissioner Gladson stated she had reviewed the DVD's and the meeting minutes and was comfortable in participating in the discussion. Mr. Knight stated there would be the presentation, approval of the minutes and then the agenda item would be opened.

Commissioner Gladson stated she would abstain from voting on the minutes. Commissioner Merino stated he and Vice Chair Buttress would make up the majority of those present at the meeting of February 23, 2011 and could approve the minutes.

Commissioner Buttress stated it appeared that they were all up to date on the Agenda item, as the tapes and minutes had been reviewed for any meetings that had been missed. She stated that she would focus on the issue areas and the discussion should be very expedient.

There was no further discussion.

Administrative Session adjourned @ 6:50 p.m.

PUBLIC PARTICIPATION: None

REGULAR SESSION:

Vice Chair Buttress welcomed Commissioner Gladson to the Planning Commission.

Presentation by Vice Chair Buttress:
Adopt Planning Commission Resolution No. 05-11 expressing appreciation to Robert R. Imboden for just shy of six years of exceptional and dedicated service to the City of Orange Planning Commission.

Vice Chair Buttress read the Resolution and presented it to Mr. Imboden.

Commissioner Merino made a motion to adopt PC Resolution 05-11 expressing appreciation to Robert R. Imboden.

SECOND: Commissioner Gladson
AYES: Commissioners Buttress, Gladson and Merino
NOES: None
ABSTAIN: None
ABSENT: Commissioner Steiner **MOTION CARRIED**

Consent Calendar:

(1) APPROVAL OF MINUTES FROM THE REGULAR MEETING OF FEBRUARY 23, 2011.

Commissioner Merino made a motion to approve the minutes from the regular meeting of the Planning Commission on February 23, 2011, as written.

SECOND: Commissioner Buttress
AYES: Commissioners Buttress and Merino
NOES: None
ABSTAIN: Commissioner Gladson
ABSENT: Commissioner Steiner **MOTION CARRIED**

Commission Business:

(2) ZONE CHANGE NO. 1258-10 – MIXED USE ZONE STANDARDS ORDINANCE AMENDMENT

Continued from Planning Commission meetings of February 23, 2011, January 17, 2011, October 4, 2010 and September 20, 2010. An Ordinance Amendment adding new Mixed Use Zoning Standards to Title 17 of the Orange Municipal Code to establish Zoning and implement the new Mixed Use Land Use designations of the 2010 General Plan and Zone Change 1258-10 applying new Zoning classifications in order to achieve consistency between General Plan Land use designations and Zoning in accordance with state law.

The City of Orange General Plan update was adopted in March 2010. The Land Use Element establishes new Mixed Use Land Use designations in four areas of the City. The supporting General Plan Implementation Plan identifies the need for the City to establish Zoning and development standards to be consistent with, and implement, the Mixed Use Land Use designations. Therefore, the City has developed new Mixed Use Zoning Standards for these areas. The subject Ordinance Amendment represents implementation of the General Plan and associated Implementation Program I-1. The Amendment adds a new Chapter 17.19 to Title 17 of the Orange Municipal Code, as well as new definitions to Chapter 17.04 of the Orange Municipal Code.

State law requires consistency to be established between the General Plan Land Use Designation and Zoning classifications. The City's Zoning classifications do not include mixed use. Therefore, Zone Change 1258-10 is needed to apply new Zoning classifications that correspond with the mixed use General Plan designations.

LOCATION: City Wide

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. 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 No. 33-10 recommending City Council approval of an Ordinance Amendment adding new Mixed Use Zoning Standards and definitions to Title 17 of the Orange Municipal Code to implement the new Mixed Use Land Use designations of the 2010 General Plan.

Adopt Planning Commission Resolution 34-10 recommending City

Council approval of Zone Change 1258-10 establishing consistency between General Plan Land Use designations and Zoning classifications in accordance with State law.

Principal Planner, Anna Pehoushek presented a project overview consistent with the Staff Report. Mrs. Pehoushek stated that the City's consultant Ron Pflugrath would provide further information on the City's decision not to incorporate a sliding scale into the provisions of the ordinance.

Mr. Pflugrath stated at the last meeting he had proposed looking at the idea of a sliding scale; as there had been some indication from the members of the audience that some smaller lots vs. larger lots might have difficulty meeting the 50% requirement. He and Staff had reviewed different sizes of lots that would be affected and had come to the conclusion that it would be very difficult to draw a hard line between what would be considered a small lot and a large lot. Once lines were drawn there would always be situations down the road where there would need to be deviations.

The other thing they had looked at was what would be the appropriate frontage setback, would it be 30%, 40% or would it be 70% because smaller lots had a bigger opportunity to provide buildings that would be adjacent to the street. The conclusion that had been arrived at was that 50% was still a good number for the long term and in some cases they would want to see 100%; but for now 50% would provide for a street wall that the City was looking for. They looked at areas that deviations could be achieved and they came to the conclusion that an Administrative Adjustment would be a vehicle that could be used in the process that would provide for a 10% adjustment. A 10% adjustment in laying out a property with parking and aisle widths would require a little bit of flexibility; if they were to state 50% was it, it could be 50' of parking and 50' of building and maybe 50' of parking would not work and a 10% deviation would work well in that situation. There could be situations where the property was so unique that a variance would be able to modify the deviation greater than 10%. Those two avenues would provide greater flexibility; rather than drawing a conclusion on small vs. large lots.

Vice Chair Buttress asked if there were any questions for Staff.

Commissioner Gladson stated she wanted to share with her colleagues that she was up to speed on the issue and had the benefit of reviewing all 4 meetings on DVD as well as reviewing the minutes.

Vice Chair Buttress opened the hearing for public comment.

James Potter, address on file, stated he appreciated the opportunity to speak and he had spoken about his concerns with not only the 50% but also the FAR regulations of 1.5. At the last Planning Commission meeting he had found out that the FAR was not something that was available to the Commissioners to modify; but was part of the zone change that he had not been quite aware of when it had been discussed and the impact it had. Because of the ramification that it caused to certain parcels and in his opinion created a

bit negative to some sites and future developments, they looked at some particular situations of parcels and the ability to building on some sites. He asked if there was a way that they could structure some exemptions to uses that the FAR's would not apply to? Specifically to restaurant uses and with Katella Grill if another restaurant wanted to take that spot they would not be able to with a 100 acre lot it could not be done as it would require a roughly 60,000 square foot building and a 3 story parking structure. In reviewing the individual parcels that were in the area it made them almost unable to be developed. If there was a fire or involuntary destruction on the property and to rebuild something similar; he was not certain it could be done. With reclassification, in leaving one wall up would a property owner be able to build something else? He saw the project as having two development potentials, either there would be a high rise building or a project with businesses below and residential above and he was not certain those would be feasible projects, even in the near future. He wanted to look at ways to mitigate the FAR at 1.5 on some parcels. That would be a great help to the community and to the City; otherwise the properties would be devalued.

Vice Chair Buttress asked Mr. Potter if he had spoken to Staff about his concerns.

Mr. Potter stated briefly.

Vice Chair Buttress closed the public hearing and asked Staff to address the comments made by Mr. Potter.

Ms. Pehoushek stated she understood the issue to address would be if there was a potential for exemptions related to FARs based on particular uses? That would become a bit problematic from the standpoint that the zoning allowed for a variety of uses and so there might be a building built for the purpose of retail and then the business went away and then a restaurant went in and then if a restaurant went away, it could be re-tooled for a different type of use. With the number of uses that could occupy a building she was not certain how they could work with an exemption for particular types of uses and it would almost lock a property into being stuck with a particular use over the course of a particular time. As far as the FAR range, it was something that had been established when the General Plan was adopted. The item that they were discussing, the Zone Change, was not the proper mechanism for making a change to the General Plan's FAR.

Commissioner Merino stated what Mr. Potter needed to hear, that there was a methodology that if an applicant came to the City with a project, that there was an appeal process. An applicant could bring in a development to Staff for approval and there was a process to request for exceptions.

Ms. Pehoushek stated there were a couple of different scenarios. If a project came forward with some level of redevelopment on an existing site, such as an in-fill or a re-tooling of existing buildings, there were provisions built into the proposed standards that spoke to working to bring a site into closer conformance with the General Plan FAR range or closer to the building frontage requirements. Staff's intention was to work with people who wanted to re-invest in their properties and to encourage positive change

without requiring hard and fast situations on a property renovation. If there was a piece of property with a total tear down with the intent of redevelopment, not caused by an act of fire or weather; in that situation that development would be held to the new standards. If it was a situation where there was a disaster that caused a building to be gone, the legal non-conforming provisions of the codes had been amended during the General Plan adoption stating that any property made legal non-conforming due to the General Plan changes would be allowed to rebuild what had previously existed.

Commissioner Merino stated what he was getting at, and what Mr. Potter had been attempting to state, was that if he did a complete tear down and he was attempting to leverage the lot for a new type of use with a more limited FAR, he would have the right to ask for a Variance or some type of consideration. He would have the right to come in and appeal the standards through the hearing process through the City.

Ms. Pehoushek stated that was correct and there would need to be a finding of a special circumstance made.

Commissioner Merino asked it was not a process that would prohibit a property owner to ask for a hearing to complete a project with changes that had not existed in the standards?

Ms. Pehoushek stated that was correct.

Commissioner Gladson stated the question had been raised during prior hearings and she asked Staff if they had run the numbers.

Ms. Pehoushek stated they had not run the numbers as it would depend on size and details of the site. They had spoken about FAR and what type of development that would lead to.

Commissioner Gladson stated it could be something that Mr. Potter could do, to work with Staff and Planners and get through the number more precisely and specifically. If the item moved forward, he would also have the opportunity to raise the issue with City Council.

Ms. Pehoushek stated the area of the City that they were referring to has a designation of Urban Mixed Use, which was intended to encourage and accommodate more development and intensity. The feedback that had been received over the course of the hearings about multi-story developments and parking structures had been discussed during the development of the General Plan and in developing those standards.

Commissioner Merino stated, to summarize, there were two issues at work; first they could not go back and re-do the Zoning that had been approved with the General Plan and adopted. In order to address Mr. Potter's concern there was a method of appeal and he was hearing that somehow he felt it was the end of the story for him, but there would be the ability to influence change in whatever he brought forth. Those were the issues as he viewed them and there was a method for any applicant to address concerns they might

have.

Vice Chair Buttress brought the item back to the Commission for any further discussion or a motion.

Commissioner Merino stated he felt Staff had made every effort, over the last 3 to 4 hearings, to address the concerns of the public and the business community. In the end there was the opportunity for anyone with a particular concern on a particular project to address that on an individual basis. In understanding that and with the proposed changes that Staff had made and with the input from the City's consultant regarding the sliding scale, he was prepared to make a motion to adopt the resolutions before them.

Commissioner Merino made a motion to recommend approval to the City Council of PC 33-10 and PC 34-10, Zone Change No. 1258-10-Mixed Use Zone Standards Ordinance Amendment, subject to the conditions contained in the Staff Report.

SECOND: Commissioner Gladson
AYES: Commissioners Buttress, Cunningham, and Merino
NOES: None
ABSTAIN: None
ABSENT: Commissioner Steiner

Commissioner Merino stated he was prepared to move the item forward as he had made the motion; but one of the things he had heard during the process was that there had been a certain level of frustration from the public and business community in the initial General Plan adoption process. There had been some folks that had expressed frustration that things had not gone their way. He wished that everyone would have taken the opportunity during the process, and he came to all the City Council Meetings, and that process had not been as well attended and people were not as involved, and he had wished that they had been. They were now asking for changes after the train had left the station. As much as he had not wanted it to be that way, he felt Staff had done a good job understanding the concerns that had been brought forth and how to mitigate those.

Commissioner Gladson stated she concurred and had supported his motion as she had been a person who had watched the meetings and watched last year when the City Council adopted the City Plan; established mixed use land use and she felt that the Planning Commission deserved a nice thank you for the work that had been done to get them to the point they were at. It had been a lot of work to go through the details of crafting new zoning. It had not been an easy thing to do. They had to get it out there to test in terms of development opportunities. She was excited to see new development and creative mixed use and she whole heartedly supported the item.

MOTION CARRIED

(4) ADJOURNMENT:

Adjournment to the next regular Planning Commission Meeting scheduled for Monday, April 4, 2011.

Commissioner Merino made a motion for adjournment to the next regular scheduled meeting of the Planning Commission on April 4, 2011.

SECOND: Commissioner Gladson
AYES: Commissioners Buttress, Gladson and Merino
NOES: None
ABSTAIN: None
ABSENT: Commissioner Merino

MOTION CARRIED

Meeting Adjourned @ 7:36 p.m.