Minutes

Planning Commission May 20, 2013
City of Orange Monday 7:00 p.m.

PRESENT: Commissioners Buttress, Cathcart, 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
Sandi Dimick, Recording Secretary

REGULAR SESSION:

Chair Steiner called the meeting to order at 7:00 p.m. He introduced Daniel Correa, who was in the audience, and stated he had been appointed to the Planning Commission and that would give them 2 planners on the Commission and that was refreshing. He was pleased that Mike Alvarez had made that appointment. Mr. Correa would join them at the next meeting in June.

Roll Call

All Commissioners present.

PUBLIC PARTICIPATION:

None

PLANNING MANAGER REPORT:

Planning Manager Leslie Aranda Roseberry stated there was nothing additional to report.

Chair Steiner reviewed the appeal process.

Consent Calendar:

(1) APPROVAL OF MINUTES FROM THE REGULAR SCHEDULED PLANNING COMMISSION MEETING OF MAY 6, 2013.

Commissioner Gladson made a motion to approve the meeting minutes from the May 6, 2013 Planning Commission meeting as written.

Commissioner Buttress stated she would second the motion with a correction to page 6.

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

MOTION CARRIED

NEW HEARINGS:

(2) GENERAL PLAN CONFORMANCE FINDING FOR FY 2013-2014 THROUGH FY 2019-2020 SEVEN-YEAR CAPITAL IMPROVEMENT PROGRAM

The Capital Improvement Program (CIP) serves as a single comprehensive plan of proposed capital improvement projects for the budget year FY 2013-2014 and the six years thereafter. In accordance with State law, the City must determine that the CIP is consistent with the General Plan.

NOTE: Staff has reviewed the list of projects identified in the CIP and determined that a number of projects will involve the need for preparation of environmental documentation in accordance with the California Environmental Quality Act (CEQA). Those documents will be prepared during project refinement and finalized prior to the awarding of contracts by the City Council.

RECOMMENDED ACTION:

Find the projects identified within the proposed Seven-Year Capital Improvement Program are consistent with the City's General Plan.

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

Chair Steiner opened the item to any questions for Staff. He stated that several of the CIPs would require environmental documentation under CEQA.

Chair Steiner asked for further discussion or action.

Commissioner Buttress stated she would accept the CIP. She asked Assistant City Attorney Gary Sheatz if she should even continue with a motion due to her association with Southern California Edison and the work that Edison participated in, in conjunction with the City of Orange?

Mr. Sheatz stated if there were just a few situations, in the grand scale, it would be nice to understand the number or how many and without further research, he would not be able to state a number.

Commissioner Buttress stated she had highlighted quite a few situations in review of the proposal.

Chair Steiner stated to be on the safe side Commissioner Buttress could recuse herself from the project's discussion.

Commissioner Buttress stated she would recuse herself from the remainder of the hearing for the CIP General Plan Conformance.

Mr. Sheatz stated they were down to 3 Commissioners.

Chair Steiner asked for an alternate Commissioner to proceed with a motion.

Commissioner Buttress left the dais.

Commissioner Gladson made a motion to recommend approval to the City Council of the General Plan Conformance Finding for FY 2013-2014 Through FY 2019-2020 Seven Year Capital Improvement Program, subject to the conditions contained in the Staff Report.

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

MOTION CARRIED

(3) ZONE CHANGE 1264-12 – CRAIG DRIVE RAILROAD RIGHT-OF-WAY

The applicant is proposing to relocate their used automobile dealership to the industrial district. A CUP is required for the retail sales and showroom of used automobiles in the industrial district.

LOCATION: **VACANT LOT - APN 094-593-28**

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 Guidelines Section (15168c) allows the use of a previously certified Program EIR to cover "later activities" subject to the following findings:

- The project would not have effects that were not examined in the Program EIR; and
- No new significant impacts (or a substantial increase in the severity of an impact) would occur and no new mitigation measures are required.

Because the land use assumptions of Program EIR No, 1815-09 included the site's existing Low Density Residential 2 to 6 du/acre (LMDR) General Plan Land Use designation, impacts for future potential density increases on the site have been evaluated in the EIR. Table LU-3 of the General Plan Land Use Element identifies Single-Family Residential (R-1-7) as consistent with the LDR General Plan designation. Since the zoning will be changed to Single-Family Residential (R-1-7), consistent with the existing LDR General Plan designation, the proposed activity falls within the scope of the previously approved General Plan, and is adequately described in the previously certified Program EIR No. 1815-09 for purposes of CEQA.

RECOMMENDED ACTION:

Adopt Planning Commission Resolution 22-13 recommending that the City Council approve Zone Change 1264-12 to amend the Zoning map to designate an unzoned vacant piece of land to an R-1-7 Zone.

Associate Planner Doris Nguyen presented a project overview consistent with the Staff Report.

Chair Steiner opened the item for any questions for Staff.

Commissioner Buttress stated the General Plan designation was low density residential and was there any other zoning classification that could fall under that, other than R-1?

Ms. Nguyen stated no.

Chair Steiner stated with the Kinder Morgan right-of-way and so forth, if a property owner wanted to extend their yard back up to the easement could they build a patio or other structure?

Ms. Nguyen stated yes, they could build a shed or open trellis and they could extend their home to 60% and all the way up to 10' from the new property line.

Chair Steiner opened the Public Hearing and invited the applicant to address the Commission.

Michael McKinney, address on file, stated he was representing the applicant, Carlos San Roman, who was also available to answer any questions they might have. The proposal was for zoning of a previously un-zoned piece of property that actually went back quite a ways and was once railroad property. Mr. San Roman would retain what was currently the Kinder Morgan easement which was on the railroad property and he purchased the railroad property in 2005. He would retain that section to allow for ingress or egress and to ensure there would be no land lock ability on the property.

Chair Steiner stated there were other public speakers and he would invite them to speak.

Jody Hess, address on file, asked if she purchased land would that be a separate parcel to their current property or would it be added and would that purchase cause her property to be reassessed?

Ms. Nguyen stated it would not be separate, the property line of the current property would be moved back and subject to a new assessment.

Ms. Hess stated on the 30' easement that would be retained by the property owner, was there a plan to loosely pave the area for ingress and egress? She was aware that there were gates at each end of the property and would the gates remain?

Ms. Nguyen stated the City would not allow permanent structures to be built on the easement property. There could be the use of decomposed granite and the installation of a gate was up to the property owner.

Ms. Hess stated it could become a security issue and those were all of her questions.

Karih Shannon, address on file, stated she was a realtor and the situation had been going on for a number of years and there had been private meetings and escrows that had been opened. There was one realtor that had gotten the ball rolling, which was insane. The possibility was that when she was backing up to it from Malena was just north of

Palmyra, if she was not willing to buy the extra property, her neighbor could purchase her share. She wanted them to look at the end result scenario, it was a mess. The situation would allow, for example, her neighbor to the south of her to purchase the area behind her property and the neighbor could own land in an "L" shaped form, behind her property. She questioned the intent. It was about the big buck and it had always been about that. The City had proposed to sell a property on the west side of the Santa Ana Creek on Walnut that was actually listed and she could not believe it, and she questioned the games that were being played and she was appalled. The property had been the way it was and the property should remain that way. There was a pipeline that should not be taken lightly; there could be a disaster. To allow the Craig homes to be extended, which had plenty of square footage already, and most people who lived there were elderly and had those homeowners wanted more and would they be able to maintain the extra property? She saw the immediate greed of the proposal and it appalled her. As a citizen who lived adjacent to the property and being a realtor, common sense was not ruling. For someone to have privately bought that was an idiot. Those were her views and those were her neighbors; she was representing her neighbors.

Chair Steiner asked Ms. Nguyen if she could speak to the issue of purchasing an adjacent parcel.

Ms. Nguyen stated a property owner who had not chosen to purchase or extend their property would allow the situation of an adjacent property owner being allowed to purchase that portion of property and it would provide for an "L" shaped property lines. The homes on Malena Drive were not affected.

Chair Steiner asked the applicant to address some of the concerns presented.

Mr. McKinney stated the lots would be provided for sale to the homeowners that were immediately adjacent to the property first. To his knowledge, there had not been any escrows opened and there was not a realtor that was associated with the transactions, other than a railroad realtor that had been involved in 2005. He was not certain what Ms. Shannon was referring to. If a homeowner had not wanted to purchase any additional property, the lots would be available to other adjacent residents.

Commissioner Gladson asked if the properties would be available to a non-adjacent property owner.

Mr. McKinney stated no, as that would create a land lock.

Commissioner Gladson asked if there had been any discussions with a third party to perhaps hold the property as a nature way?

Mr. McKinney stated there had not been any thought to that use. The current long parcel that was the property right-of-way would remain as an access area, retained by Mr. San Roman.

Commissioner Gladson asked for clarification on whether the gas line runs the entire length of the area?

Mr. McKinney stated yes and well beyond. The applicant was willing to work with the City in the event there needed to be any site improvements. They would be hesitant to identify a product such as DG, as they would not pave the area. Kinder Morgan had not wanted the area paved.

Commissioner Gladson stated Kinder Morgan would retain easement rights and would have access for the pipeline access.

Mr. McKinney stated that was correct and they currently maintained their equipment and would continue to do so.

Commissioner Gladson stated if property was purchased the owners would need to be aware of any obligation they had to Kinder Morgan.

Mr. McKinney stated Mr. San Roman would keep the easement as his own and ingress and egress would be provided by Mr. San Roman for access to the petro lines. Anyone who was interested in purchasing additional property would be made aware of what was at the back of their property and the limitations of encroaching on the pipeline.

Carlos San Roman, address on file, stated the pipelines were approximately 12" off of the wall and another was 12 to 15', depending where it went on the curve. He would retain all of that and there would always be open space all around it and he would always leave access to the pipeline available. He lived there and he wanted a bigger backyard. He had attempted to create an extension to his yard, years ago with a group of people and it fell through; he had gone back and purchased the property. No one would be over the pipeline.

Commissioner Gladson stated in practice, it could be feasible that parcels north and south, some on Craig and some on Ruth, could opt to purchase the additional footage.

Mr. San Roman stated only on Craig, other properties would extend over the pipeline and extensions would not occur there; the pipeline would always be open or have access to it.

Commissioner Gladson stated there would be deep rear yards for properties that sat on Craig Drive.

Mr. San Roman stated he had not wanted too much property.

Chair Steiner asked what was the lot size for that area?

Mr. San Roman stated he would roughly think the lots were around 7,000 square feet.

Chair Steiner stated he knew a lot about the Kinder Morgan pipe line and it went from Wilmington to San Diego and another leg that went to Las Vegas.

Mr. San Roman stated his family had owned the property since 1967 and he remembered when the pipeline went in.

Commissioner Gladson asked if the pipeline was the one that had tied into the Orange Packing House.

Mr. San Roman stated the original McPherson House was on the other side and the train would come through to pick up oranges. When he was growing up the train would come through to go up to Conrock quarry, and it used to come by twice a day. When Prado Dam broke and there was a flood, the site was abandoned until Kinder Morgan acquired it.

Chair Steiner asked if there was anyone else that wished to speak.

Dr. Nichols, address on file, stated he had lived in Orange since 1974. He lived on Craig Drive and he had a personal interest in the proposal. He wanted to expand his yard and would want to do everything in the best interest of everyone that was concerned. He supported the action.

Chair Steiner stated the situation boiled down to whether a property owner wanted to or had not wanted to add to their property. He closed the hearing to public comment and brought the item back to the Commission for further discussion or action.

Commissioner Gladson stated the property needed to be zoned to be in compliance with the General Plan, and that was enough of a reason to support the designation to single family residential or R-1. It was an unusual piece and some challenges for the applicant. It would be complicated and complex. It allowed for protection for the safety issues that were present with the pipeline. She had not seen it as more than a rear yard expansion. It was appropriate. She would recommend approval.

Commissioner Gladson made a motion to recommend approval to the City Council of PC Resolution No. 22-13, Zone Change 1264-12, subject to the conditions contained in the Staff Report, noting the item was categorically exempt from CEQA.

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

MOTION CARRIED

(4) CONDITIONAL USE PERMIT NO. 2900-13 – WORK IT CARDIO

The applicant proposes a fitness studio for instructional group classes in a commercial center. A Conditional Use Permit is required for the instructional use.

LOCATION: 1632 E. Katella

NOTE: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15301 (Class 1 – Existing Facilities) because the project includes no expansion of the existing building.

RECOMMENDED ACTION:

Adopt Planning Commission Resolution 23-13 approving the allowance of a 3,000 SF fitness studio for instructional use.

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

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

Chair Steiner invited the applicant to address the Commission.

Brandy Bordolon, address on file, stated she was the owner of Work It Cardio in Orange and she was excited to bring fitness, health and wellness into the community. They were a family friendly organization and wanted to offer their services to families, recognizing that fitness was also an issue for teenagers and youngsters, to promote fitness for them they offered Zumba, yoga and kickboxing. They promoted a healthy life style with good habits.

Chair Steiner asked if the site was on the east side of Tustin close to Mayfair and if they would offer just three (3), one hour (1) classes?

Ms. Bordolon stated that was correct. They currently would have classes primarily in the evening for people who worked during the day and wanted to take classes in the evening or on Saturday mornings.

Commissioner Gladson asked if it was Ms. Bordolon's first enterprise.

Ms. Bordolon stated for her it was. There was another location in the City of Stanton.

Commissioner Gladson stated there were 15 Conditions of Approval and she asked if the applicant was agreeable with those.
Ms. Bordolon stated there was one question she had. Not all of the members who used

their facility drove; some people walked or might be dropped off by a family member. If their facility exceeded 20 students; would that be ok?

Mr. Garcia stated the site would retain 15 parking spaces and anything over that would be exceeding the Conditions of Approval.

Commissioner Gladson asked if there was a 5 space cushion.

Mr. Garcia stated the condition limited the site to 20 students. It was Condition No. 1.

Chair Steiner stated he would want businesses that came to the City of Orange to be successful and he was concerned the limit might constrain that business.

Ms. Bondolon stated in terms of growth, it was something they were thinking of and there was enough space at the site for double the amount of people. If she had not needed anything additional as far as the parking was concerned, she would still want to be able to expand the limit of people allowed.

Commissioner Buttress asked if a maximum of 30 would be more agreeable.

Mr. Garcia stated that would still be within the allowed number for parking spaces.

Ms. Bondolon stated that was agreeable.

Commissioner Cathcart stated he wanted to make a correction; there was not a Tustin Avenue in Orange, only a Tustin Street.

Mr. Garcia apologized for the error.

Commissioner Buttress made a motion to adopt PC Resolution 23-13, approving CUP No. 2900-13-Work It Cardio, subject to the conditions contained in the Staff report and with a modification to Condition No. 1 from 20 students to a maximum of 30; noting the item was categorically exempt from CEQA.

SECOND: Commissioner Buttress
AYES: Commissioners Buttress, Cathcart, Gladson, 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 Monday, June 3, 2013.

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

MOTION CARRIED

Meeting Adjourned @ 7:43 p.m.