Minutes

Planning Commission May 18, 2009 City of Orange Monday–7:00 p.m.

PRESENT: Commissioners Cunningham, Merino, Steiner and Whitaker

ABSENT: Commissioner Imboden

STAFF

PRESENT: Ed Knight, Assistant Community Development Director

Gary Sheatz, Assistant City Attorney Anna Pehoushek, Principal Planner Sandi Dimick, Recording Secretary

ADMINISTRATIVE SESSION:

Chair Steiner opened the Administrative Session @ 6:55 p.m. with a review of the Agenda.

Item No. 1: Approval of the minutes from the regular Planning Commission meeting on April 20, 2009. Commissioner Cunningham stated he would abstain from the vote as he had not been present at the April 20, 2009 Planning Commission meeting. No changes or corrections were noted.

Item No. 2: Ordinance Amendment updating the City's requirements, criteria and minimum standards for the use of artificial turf as landscaping. Chair Steiner asked Staff how the item had been publicized. Principal Planner, Anna Pehoushek stated the item had been publicized in the newspaper. She had received one phone call from an artificial turf company inquiring where the City was going with the Ordinance and why the City appeared so against the product. Commissioner Whitaker stated the Ordinance had general coverage which also included Old Towne; he asked if the item would present a conflict of interest for him? Assistant City Attorney, Gary Sheatz stated it was a general Ordinance and applied as such and would not present a conflict of interest. Chair Steiner stated the Ordinance would equally apply to all. Chair Steiner stated that he had previously had contact with a resident regarding artificial turf. Commissioner Merino stated the discussion on artificial turf had also been brought to the City Council.

Item No. 3: Ordinance Amendment establishing consistency within the City's off-street parking and loading requirements related to parking space dimensions in parking structures. Chair Steiner asked if the item was being heard basically for clean up, to correct the Ordinance with the addition of language to cover parking structures. Ms. Pehoushek stated that was correct.

Chair Steiner asked for any additional news from Staff. Assistant Community Development Director, Ed Knight stated the upcoming Planning Commission would have 3 items to be heard. Chair Steiner asked if there was anything on the General Plan. Mr. Knight stated that the General Plan could be brought to the Planning Commission in July. Ms. Pehoushek stated it could be on the Agenda for the second meeting in July. Mr.

Knight stated that Ridgeline and Rio Santiago were in the draft EIR stage with the review in the process. Those items could possibly be heard before the end of the year. Maguire Orange Center continues to move ahead.

Commissioner Merino stated he had heard a possible proposal that the Governor could raid local funds depending on the outcome of the election. Mr. Knight stated what the Governor could do in a fiscal crisis was to borrow money from local municipalities with a 3 year window to pay the funds back, and he had heard that mentioned as well. The State would not know the outcome of that decision until after the election.

Administrative Session closed at 7:00 p.m.

REGULAR SESSION:

PUBLIC PARTICIPATION: None

CONSENT CALENDAR: None

(1) APPROVAL OF MINUTES FROM THE REGULAR MEETING OF APRIL 20, 2009

Commissioner Merino made a motion to approve the minutes from the regular Planning Commission Meeting of April 20, 2009 as written.

SECOND: Commissioner Whitaker

AYES: Commissioners Merino, Steiner and Whitaker

NOES: None

ABSTAIN: Commissioner Cunningham ABSENT: Commissioner Imboden

MOTION CARRIED

NEW HEARINGS:

(2) ORDINANCE AMENDMENT UPDATING THE CITY'S REQUIREMENTS, CRITERIA, AND MINIMUM STANDARDS FOR THE USE OF ARTIFICIAL TURF AS LANDSCAPING

The draft Artificial Turf Ordinance Amendment contains modifications to Sections 8.04.020 and 17.04.031 of the OMC as well as modifications to the City's Landscape Standards and Specifications and Historic Preservation Design Standards for Old Towne.

LOCATION: Citywide

NOTE: The draft Ordinance Amendment is categorically exempt from

the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15305 (Class 5 – Minor Alterations in Land Use Limitations) because it involves a modification to citywide and Old Towne-wide

standards rather than a specific development project or focused geographical area.

RECOMMENDED ACTION:

Adopt Planning Commission Resolutions 19-09 and 20-09 recommending City Council approval to amend Sections 8.04.020 and 17.04.031 of the Orange Municipal Code reflecting changes to the landscape provisions to address artificial turf and the City's Landscape Standards and Specifications and Historic Preservation Design Standards for Old Towne.

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

Chair Steiner opened the hearing for any questions to Staff.

Commissioner Whitaker stated the use of artificial turf that had been seen lately on athletic fields used the type of artificial turf constructed of rubber pellets. St. John's in Old Towne had artificial turf with the rubber pellets. He asked if that type of prohibition for the historic district meant that upon the end of life of such an artificial turf field that schools that used that type of artificial turf, which stood up better under wear, would need to go to a different type of artificial turf. Was that the intent of the Ordinance and were those types of uses prohibited even in a commercial setting such as a school?

Ms. Pehoushek stated on an application such as the St. John's playing field where it was located in an historic district and was not visible from a public right of way, it could be used. In terms of the filler material, Staff was providing guidance discouraging people from using those types of materials. As there would not be a permit required or a review process required through the City for installation of an artificial turf product, the City would not get involved in dictating what the filler material would be.

Commissioner Merino asked, on the enforcement piece; if the artificial turf became unsightly or violated one of the provisions of the Ordinance would Code Enforcement within the City have the capability to cite or bring to the attention the situation to the homeowner, or was there some type of enforcement mechanism to remediate the issue?

Ms. Pehoushek stated there had been language added to the Declaration of Nuisance section specifically on behalf of Code Enforcement to allow them to have something that they could go to directly in the Code which addressed artificial turf. Language that currently existed was much more general and was about landscaping and had references to weeds or dead grass that were not applicable to artificial turf.

Commissioner Merino stated that a member of the community that had an issue could call Code Enforcement, such as a situation where the artificial turf had reached a point where it was unsightly or pleasing to the eye. He asked if Code Enforcement would be able to make that determination as well.

Ms. Pehoushek stated that was correct.

Commissioner Merino addressing the Assistant City Attorney, Gary Sheatz stated on the provisions or separations for Old Towne that had a different standard and therefore, precluded or added additional standards for a homeowner who wanted to use artificial turf; he asked if that was in anyway encroaching on property rights or constitutional limitations, that were not already being applied to the Old Towne area?

Mr. Sheatz stated the issue had been reviewed. In the Staff Report there was a section that discussed the rationale for why it would be precluded in Old Towne. It was on a rationale basis and it was enough to cover what the intent was.

Chair Steiner stated just to be clear that rationale basis was maintenance of the district in the form that it had existed in the past and the lack of artificial turf being available during that time.

Chair Steiner opened the hearing for Public Comment.

Jeff Frankel, address on file, representing the OTPA, stated OTPA's position was that the Ordinance should prohibit the use of artificial turf district wide. He believed they would need to exclude sports fields as Chapman would not want to pull up their whole field. He was not aware that St. John's had an artificial turf field. He understood the need for water conservation and the OTPA would encourage the use of drought tolerant plants and native plants, however, artificial turf was inappropriate for the historic district along with plastic windows, fencing and siding, etc. Artificial grass besides being historically inaccurate had a synthetic look, absorbed heat, it was hot to walk on, the color faded over time and synthetic turf also replaced grass space which would have absorbed carbon dioxide and emitted oxygen. They had also seen what had happened with vinyl fencing. Although it was not an approved material for the district, vinyl fences had popped up throughout the district and homeowners were rarely cited; if at all. The OTPA's fear was that, like vinyl fencing, artificial turf would creep from back to side to front yards with little or no enforcement. The Standards required that all materials used on historic buildings be in kind materials. Additions to those buildings which were required to be built to the rear and out of the public's view also required that authentic materials be utilized. To be consistent, those Standards should be applied to landscaping. Mr. Frankel stated his position was that the use of plastic grass or artificial turf should be prohibited in Old Towne and throughout the historic district.

Chair Steiner brought the item back to the Commission for further discussion.

Commissioner Merino asked Mr. Sheatz if it would be possible to meet the intent of both the law and the City Council's direction; which was to provide some opportunity to homeowners in the Old Towne district and if the City were to recommend a blanket ban as suggested by the OTPA; would the City still be covered or would that be a potential for inordinately restricting homeowner rights in the Old Towne district?

Mr. Sheatz stated they would be covered to the extent that the City would come up with the rationale of why the product could not be used in areas that were not visible from the public right of way. The current issue was that it was allowed to be used in areas that were not visible from the public right of way. If Staff were to come up with reasons why

it should be banned completely from areas where someone walking down the sidewalk would never see it, then that would be o.k.

Commissioner Merino stated that would be counter to the reason why the Old Towne Design Guidelines existed. It was an appearance issue in the larger issue of the Old Towne fabric. If someone could not see it, how could that be used as a logical explanation?

Mr. Sheatz stated that was correct, he would not know how that finding could be made.

Commissioner Merino stated that was what he was getting at and would there be any support for that type of a finding? It appeared to him that there would not be that support.

Mr. Sheatz stated he was not aware of any support for that type of a finding.

Commissioner Merino stated it appeared clear the concerns presented by OTPA in regard to the appearance; if there was any type of degradation or any negative appearance of some artificial turf, that the City would have a remedy in Old Towne to immediately address that. He asked Staff if that was correct?

Ms. Pehoushek stated the language and provisions that were presented that dealt with visibility from the public right-of-way in Old Towne and dealt with degraded artificial turf in a side area, Ms. Pehoushek stated she took that back; as she meant artificial turf would not be able to be installed if it was visible from the public right-of-way.

Commissioner Merino stated if there was something that became visible, OTPA could notify Code Enforcement and there would be a remedy to address that.

Chair Steiner closed the public hearing and brought the item back to the Commission for further discussion.

Commissioner Whitaker stated he had listened to the Staff Report and believed it was a reasonable approach and compromise based on the needs for water conservation and the incentives being provided by the Municipal Water District of Orange County; as well as the items that were provided that dealt with appropriate aesthetic appearance of artificial turf not only in Old Towne, but throughout the City of Orange. With respect to Old Towne, he believed the restrictions that were placed regarding the out of sight areas for installation were appropriate because his analogy was that additions were allowed on historic structures inside the foot line or below the sight line of the roof in order to preserve the appearance of the property from the street scape. The Ordinance was exactly in line with that. It was a new product, a new addition that was being allowed in an area where it would not destroy the historic appearance of the neighborhood and he would support the item. He asked Mr. Sheatz if separate resolutions were required to adopt the Ordinance presented.

Mr. Sheatz stated approval would require separate motions.

Commissioner Cunningham stated he echoed the comments of Commissioner Whitaker and he felt it was a good addition especially in an era that required the use of less water. It would allow homeowners more options to reduce their bills.

Commissioner Cunningham made a motion to adopt Resolution PC 19-09, recommending approval to the City Council to amend Sections 8.04.020 and 17.04.031 of the Orange Municipal Code to reflect changes to the landscape provisions to address artificial turf subject to the conditions contained in the Staff Report

SECOND: Commissioner Whitaker

AYES: Commissioners Cunningham, Merino, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Imboden

MOTION CARRIED

Commissioner Cunningham made a motion to adopt Resolution PC 20-09, recommending approval to the City Council of the amendments to the City's landscape standards and specifications and historic preservation and design standards for Old Towne regarding the use of artificial turf subject to the conditions contained in the Staff Report.

Chair Steiner stated he agreed with the comments that were presented and that both resolutions offered the citizens of Orange an option for an acute need and that the restrictions that were in place respected the need for historic preservation.

SECOND: Commissioner Whitaker

AYES: Commissioners Cunningham, Merino, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Imboden

MOTION CARRIED

(3) ORDINANCE AMENDMENT ESTABLISHING CONSISTENCY WITHIN THE CITY'S OFF-STREET PARKING AND LOADING REQUIREMENTS RELATED TO PARKING SPACE DIMENSIONS IN PARKING STRUCTURES

Ordinance No. 17-08, adopted by the City Council in December 2008 included modifications to required parking space dimensions. The amendment addressed open parking spaces, but inadvertently overlooked the dimensions of spaces in parking structures. The subject Ordinance Amendment establishes consistent dimensions for spaces in both.

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) because it involves a modification to citywide standards rather than a specific development project or focused geographic area.

RECOMMENDED ACTION:

Adopt Planning Commission Resolution 22-09 recommending City Council approval of an Ordinance amending Section 17.34.110.E of the Orange Municipal Code to modify parking structure space dimensions.

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

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

Chair Steiner made a motion to adopt Resolution PC 22-09, recommending approval to the City Council an Ordinance Amendment to Section 17.34.110.E of the Orange Municipal Code to modify parking structure space dimensions, subject to the conditions contained in the Staff Report and noting the item was categorically exempt from CEQA.

Chair Steiner stated he had initially had concerns when the Ordinance had been initially presented and he believed Commissioner Imboden also had those concerns; considering City Council's adoption of the original proposed changes it made good sense to support the amendment to the Ordinance.

Commissioner Merino stated he would be happy to second the motion and that he had been in favor of the Ordinance when it had been initially presented and he continued to be in favor of the wider stalls for the future of planning in the City.

SECOND: Commissioner Merino

AYES: Commissioners Cunningham, Merino, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Imboden

MOTION CARRIED

(4) ADJOURNMENT

Chair Steiner made a motion to adjourn to the next regular meeting of the Planning Commission on Monday, June 1, 2009.

SECOND: Commissioner Merino

AYES: Commissioners Cunningham, Merino, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Imboden

MOTION CARRIED

MEETING ADJOURNED @ 7:25 P.M.