Minutes

Planning Commission October 19, 2009 City of Orange Monday 7:00 p.m.

PRESENT: Commissioners Cunningham, Imboden, Steiner and Whitaker

ABSENT: Commissioner Merino

STAFF

PRESENT: Ed Knight, Assistant Community Development Director

Gary Sheatz, Assistant City Attorney Anna Pehoushek, Principal Planner Amir Farahani, Traffic Engineer Sandi Dimick, Recording Secretary

ADMINISTRATIVE SESSION:

Chair Steiner opened the Administrative Session @ 6:52 p.m. with a review of the Agenda.

Item No. 1, Minutes from the regular Planning Commission Meeting of September 21, 2009. There were no changes or corrections noted.

Item No. 2 General Plan Update. Chair Steiner stated the agenda contained all the resolutions and a continuation of the Circulation Element. Commissioner Whitaker asked if they were reviewing the Old Towne component of the Circulation Element. Assistant Community Development Director, Ed Knight, stated the entire Circulation Element would be open for discussion. Chair Steiner stated they would address any additional concerns during the Public Hearing.

Chair Steiner stated there had been additional contacts from concerned parties that involved their properties, one being the Chapman Hospital and there had also been correspondence regarding the Val Verde Estates mobile home park. Commissioner Whitaker asked if there would be a Public Hearing opened on each resolution and would each area require a separate vote? Chair Steiner stated he was open for suggestion; they could set aside areas that would not be questionable or require discussion. Commissioner Whitaker stated they could go forward to see how far they got with the 8 planning areas and Circulation, and asked if there would need to be a re-vote regarding the Growth Management, Natural Resources, Public Safety, Noise and Infrastructure? Assistant City Attorney, Gary Sheatz, stated the Commission would need to adopt the resolution and recommend approval of those elements to the City Council.

Commissioner Whitaker stated regarding the Circulation and Mobility Element, would the Commission be making a consensus vote? Mr. Knight stated it would depend on how clear everything was, as the element could be adopted in their motion. Chair Steiner stated he would want to note for the record that the Commission had deadlocked on their decision on the Urban Design Element.

Chair Steiner stated there would be some discussion regarding Palmyra and the reclassification to Light Industrial with the Lemon Street Focus Area, and asked if changes could be made to the resolution? Mr. Knight stated the draft resolution was not final until adopted and any changes the Commission made could be noted in their recommendation.

Principal Planner, Anna Pehoushek, stated there was a reference in the Staff Report to text changes that included a revision to a table; she handed out a copy of the table.

Mr. Sheatz stated for Focus Area No. 1, the South Tustin area that had no recommended designation change, there would be some public comment. They could allow Staff to do an analysis and have the area noticed. Those noticed would be property owners within 500' of the area or they could go through the process of a recommendation with no changes to the Commission's initial consensus. Chair Steiner asked if re-noticing was required. Mr. Sheatz stated yes, there would be re-noticing to those property owners within 500' of the Land Use designation change. Commissioner Whitaker asked on Focus Area No. 1, would all of Area No. 1 not be required to get re-noticing? Mr. Sheatz was not certain if the entire area, Yorba & the hospital had been originally noticed. Ms. Pehoushek stated the entire area had been noticed. She referred to comment letter No. 17, which stated the property owner was requesting a change that they had initially not wanted. The property was in an area of a potential Land Use change from X to Y that had not been changed in the original discussion. Essentially, the property was currently designated as Low/Medium with no change being recommended.

Commissioner Cunningham asked at what point in the discussion would he need to be recused from the discussion on Focus Area No. 1 as he had a conflict of interest. Mr. Sheatz stated he would declare that conflict initially and be recused from the discussion. Commissioner Whitaker stated Commissioner Cunningham would need to abstain from Focus Area No. 1, but should not be recused from further discussions; he would not want to create a situation when it came to the Old Towne component discussion that they would only have 2 voting members. Chair Steiner stated they would vote by each individual area, on Focus Area No. 1, Commissioner Cunningham would be recused and Chair Steiner stated on Focus Area No. 5 he would be recused. Chair Steiner stated they would hear each area separately and he would note them as resolutions 34-09.1, 34-09.2, etc.

There was no further discussion.

Administrative Session closed at 7:10 p.m.

REGULAR SESSION:

PUBLIC PARTICIPATION: None

CONSENT CALENDAR:

(1) APPROVAL OF MINUTES FROM THE REGULAR MEETING OF SEPTEMBER 21, 2009.

Chair Steiner made a motion to approve the minutes from the regular meeting of the Planning Commission on September 21, 2009 as written.

SECOND: Commissioner Imboden

AYES: Commissioners Cunningham, Imboden, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino

MOTION CARRIED

(2) COMPREHENSIVE GENERAL PLAN UPDATE – GENERAL PLAN AMENDMENT 2009-0001 AND ENVIRONMENTAL IMPACT REPORT NO. 1815-09; LEGAL NON-CONFORMING USES ORDINANCE AMENDMENT – ORDINANCE NO. 12-09

The Comprehensive General Plan Update represents a complete updating of the City's 1989 General Plan (amended in 2005), including Land Use, Circulation and Mobility, Growth Management, Natural Resources, Public Safety, Noise, Cultural Resources (Historic Preservation), Infrastructure, Urban Design, and Economic Development Elements. The General Plan establishes a Community Vision supported by goals, policies, and implementation programs.

Ordinance No. 12-09 adds Section 17.38.030 and 17.38.040 to the Orange Municipal Code relating to uses made non-conforming due to the General Plan Update and termination of non-conforming uses.

Action on this item includes adoption of the City's updated Historic Resources Inventory.

The Planning Commission commenced the public hearing process on the project on August 3, 2009, holding subsequent hearings on September 9th, September 21st, and October 5th. The Land Use, Circulation and Mobility, Growth Management, Natural Resources, Cultural Resources, Public Safety, Noise Infrastructure, Urban Design and Economic Development Elements were discussed on these dates. The discussion of the Old Towne roadway network as a component of the Circulation and Mobility Element was continued to the October 19th meeting and is the subject of a portion of this report. The remainder of this report addresses the findings of the Environmental Impact Report prepared for the General Plan Update.

NOTE: The environmental impacts of the proposed General Plan Update and its project alternatives were evaluated by Draft Environmental Impact Report (DEIR) No. 1815-09, which was prepared in accordance with the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15070 et. seq. and in

conformance with the Local CEQA Guidelines. The 45-day public review period was initiated on February 13, 2009 ending on March 30, 2009. Copies of the document were available for public review at the Orange Public Library & Local History Center (Main), Taft Branch, and El Modena Branch Libraries, and at City Hall.

Staff received 783 written comment letter(s) during the public review period, of which 656 were form letters, and an additional 52 were the same form letter with additional comments added. The City prepared a Response to Comments/FEIR document to address environmental comments received during the public review period. Both the comment letters and responses are provided as Exhibit C to this report.

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 standards affecting Focus Area-wide standards rather than a specific development project. There is no public review required.

RECOMMENDED ACTION:

Adopt Planning Commission Resolution No. PC-34-09 recommending the City Council approve General Plan Amendment No. 2009-0001.

Adopt Planning Commission Resolution No. PC-35-09 recommending the City Council approve Program Environmental Impact Report No. 1815-09 for the City of Orange Comprehensive General Plan Update.

Adopt Planning Commission Resolution No. PC-36-09 recommending the City Council approve of an ordinance adding Sections 17.38.030 and 17.38.040 of the Orange Municipal Code relating to uses made non-conforming due to General Plan Update and termination of non conforming uses.

Adopt Planning Commission Resolution No. PC-38-09 recommending City Council adoption of the City of Orange Historic Resources Inventory Update.

Chair Steiner stated the item was agendized rather broadly and there were a number of items contained within Agenda Item No. 2. There would be a re-visit of almost all the items that consensus votes had already been made upon. There would be public input taken.

Assistant Community Development Director, Ed Knight, stated the first issue was Circulation, which had been listed as Old Towne Roadway Classification, but as Vice Chair Whitaker had pointed out during the Administrative Session, the Circulation Element had not been recommended by the Commission and he asked Principal Planner, Anna Pehoushek, to provide a summary of the additional research and analysis on that component.

Principal Planner, Anna Pehoushek, introduced the members of the City's consulting team and presented an overview of the Circulation Element.

Chair Steiner opened the hearing for any questions to Staff.

Commissioner Whitaker stated on the bottom of page 6 there was a wording change which was confusing to him. He read from the report. He felt the whole idea of reclassification would be inconsistent with the Master Plan of Arterial Highways. There was an attempt to downgrade instead of what was called for in the Master Plan. He was concerned that Staff was using the word consistency, but on one hand it was consistent, but then it was noted that Staff would be working to downgrade but that created an inconsistency. He asked if it would be more clear to state that the general purposes was to maintain consistency, however, City staff would be working to reclassify roadways and downgrading to some areas? He looked at the information as downgrading being an attempt to be consistent with the County Plan. The City wanted to be consistent and the language needed to be clear.

Mr. Knight stated he understood what Commissioner Whitaker was stating, but in reality in following the process that had been shown to the Commission, they would maintain consistency with the MPAH. What was currently happening was that consistency was being maintained with the existing MPAH, and then stating that a part of the implementation process would be to seek a reclassification in order to reclassify the Orange County Plan of Arterial Highways with the reclassification of the City's local Master Plan of Streets and Highways to reflect the changes shown in the General Plan. That change was the downgrade from 4 lanes to 2 lanes for Glassell and Chapman. Consistency would be maintained with the Master Plan of Arterial Highways, following their established program to seek reclassification of some streets.

Commissioner Whitaker stated the other question he had was in reference to the top of page 7, which noted; would begin in 3 months. During the last meeting and the discussion with the City's Traffic Engineer, he had understood that the City was already working with the OCTA on the downgrade with the idea that it was going to take more time than initially anticipated. A question that had been asked was how long that process would take; it had appeared that the process had already started. He wanted to get clarification on the timeline.

Ms. Pehoushek stated there had been a sense of lacking a timeframe, as to when the process would be pursued from a Staff perspective. At the initial level of the implementation program, rather than indicating the timeframe as ongoing or open-ended, Staff felt that within 3 months of the General Plan adoption was a reasonable timeframe.

Commissioner Whitaker stated he was agreeable with the timeframe, however, he had thought that the process had already begun.

Ms. Pehoushek stated Staff had already completed one phase of discussions with OCTA, and they were attempting to get through the hearing and adoption process in order to initiate the next phase.

Traffic Engineer, Amir Farahani, stated as he had mentioned previously, Staff had already approached OCTA. They had a few meetings with members from the OCTA regarding downgrading and they had already approved the components that were in the General Plan Update. Regarding Glassell and Chapman, there had been some negotiations, but due to the timeframe and the complexity of the project, they would proceed with those areas after the General Plan Update approvals were complete. The OCTA already had given him some consensus that they would be in agreement of acceptance of the request for downgrading. The OCTA required some additional data. Staff had already included some of the surrounding streets in their study which would be submitted along with additional information that OCTA would be requesting. Staff would not necessarily wait 3 months, but as soon as the General Plan Update was approved and the OCTA was available, they would call for meetings.

Commissioner Whitaker stated he was still confused as he had thought that Staff was aware that OCTA was not able to get their process complete prior to the General Plan adoption; however, he had understood that the Commission would be receiving a time frame, based on the previous meeting minutes. He asked what the OCTA's timeframe would be.

Mr. Farahani stated the process had not been started. The OCTA had requested that the City include the downgrade information in the second meeting he had with them, and the OCTA had stated that there was not enough time and they would wait until the General Plan Update was approved. Timing was an issue and there had not been time to review the two arterials of Chapman and Glassell. The OCTA knew what the City wanted; the process had not begun in regard to setting up of meetings and personnel to start the process.

Chair Steiner opened the Public Hearing.

Michelle Carter, address on file, representing the OTPA, stated there were two primary concerns, first with the consistency issue. The OTPA understood the need to maintain consistency with the MPAH and the City's Master Plan of Streets and Highways. The issue was that the EIR had not addressed the potential of downgrading in the manner it was presented in the General Plan, in terms of the widening of Glassell and Chapman and also the issue of not widening those streets. How would the roadway infrastructure that currently existed be able to handle the additional traffic? At the previous meeting there had been several approvals in density. There were increases in density to what currently existed on the ground. Obviously if there was an increase in density there would be the need for an increase in roadway infrastructure, it begged the question of how the EIR would deal with those issues. Presumably, that would occur with the assumption that there would be an amendment of the General Plan that would be adopted and amended to maintain consistency with the, hopefully revised, County's Master Plan of Arterial Highways. At what point would the EIR analyze those issues? The OTPA's second concern was with the Historical Inventory.

Chair Steiner stated there would be additional discussion related to the Historical Inventory and she would be able to speak again during that discussion. He closed the Public Hearing.

Commissioner Whitaker stated the OTPA representative mentioned the EIR and that it had not addressed some concerns. On the bottom of page 7 he noticed that there was a draft revision of the EIR that stated that downgrading was necessary due to the fact that widening would be detrimental to a historic area, but he felt there was another component. In downgrading, if traffic was pushed to the side streets, the EIR had not addressed that potential problem.

Traffic Consultant, Tim Burne, stated the traffic study had evaluated all of the facilities throughout Old Towne and the City, and looked at, not only the potential downgrading, but also what would occur in the adjacent system if facilities were downgraded. Land Use inputs were placed into the traffic model and the increase in intensity and density that had been suggested would be inherent in the traffic analysis. Theoretically, with the streets that would be widened, Chapman and Glassell through the Plaza, the existence of an improvement to 4 lanes would not necessarily create a detrimental impact to the surrounding streets, such as Palmyra, Lemon, Grand, etc. because those facilities had the capacity to address traffic needs in the Old Towne area. What was not inherently noted in the traffic study was that the increase in traffic on those facilities would be due to, not only development in the area, but also regional development with through traffic. With regional traffic, and the Old Towne areas not being increased to 4 lanes, through traffic would find other routes and that traffic would not be drawn into the Old Towne area. The Traffic Study had evaluated what would occur and how traffic would divert through surrounding streets.

Commissioner Imboden stated on the reclassification of Palmyra, there had been letters of concern received and he wanted some clarification on those concerns.

Mr. Burne stated the issue with Palmyra Street and he understood the Traffic Study had not recommended any changes for the classification of that street. It was primarily a two lane undivided facility and would remain as such in the General Plan. The volumes forecast for Palmyra were not significantly increased. There was not a lot of diversion of traffic to Palmyra as it was not a desirable through route with stops signs, crosswalks, on street parking and other factors. There was not a need to increase capacity due to traffic and there had not been a recommendation to do so. He felt the issues were related to Policy issues, in regard to neighborhood calming strategies, which were still available and would need to be pursued through the appropriate channels. In regard to reclassification, there was no reclassification in the General Plan requested for Palmyra.

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

Commissioner Cunningham stated he was hearing what Commissioner Whitaker was referring to regarding maintaining consistency and not maintaining consistency. Words only had meaning if they were accurate, and ultimately the goal was to achieve consistency within the City and the County's Master Plan. He felt the language should reflect what would be occurring. He suggested the language could read: in order to achieve consistency with the County's Master Plan.

Commissioner Whitaker stated he agreed that something to that effect would work, with

the additional language of: by petitioning for reclassification.

Chair Steiner stated the suggestions would be to change the language to: in order to achieve consistency with the County's Master Plan of Arterial Highways, by petitioning for the reclassification, and striking the word including, and with respect to Commissioner Cunningham's suggestions, striking the word maintain. Those suggestions are well taken.

Commissioner Whitaker stated he was not comfortable with the process for reclassification within 3 months, as he thought the process had already begun. He had not gotten a very clear answer as to what the timeframe would be and what things the OCTA had needed from Staff to start the ball rolling. To have another 3 months go by after the City Council's adoption of the General Plan, he would be much more inclined to have language added that stated roadway reclassification that was currently underway and with submissions required by OCTA with a date added, he was not certain if Staff knew what submissions were required by OCTA. To start the process in 3 months after another month to month and a half went by was not good.

Mr. Knight stated Staff would need to enter a cooperative study with OCTA, and that was the reason Mr. Farahani was unsure of an exact date and nature of the requirements for that cooperative study and he deferred the discussion to Mr. Farahani.

Mr. Farahani stated as had been mentioned previously, when Staff had approached the OCTA regarding downgrading, they were told that when the General Plan was adopted the OCTA could sit down with them for discussion. Staff had begun the process, but had been stopped due to the timeframe of the OCTA. As part of the guidelines, it was a part of the procedures that needed to be followed and depending on which side they went with, they were very hopeful that they would go with the left side which would be much quicker. It was going to take several months, as Staff needed to provide the necessary information to OCTA and they in turn would need to analyze that information. If there was any clarification needed, Staff would need to go back and make modifications on the data. The approval of the downgrade would need to go before the OCTA board as well as the City Council adoption of the change.

Chair Steiner stated he felt they were hearing an answer that it would be unwise to place a number on the amount of time needed as it was not definitive.

Commissioner Whitaker stated he just wanted the process to start and his biggest objection was in the language that the process would begin in 3 months.

Chair Steiner stated would it be more agreeable if the language read shall continue upon the adoption of the General Plan Update, or commence with. Placing in a number such as 30 or 90 days was not realistic.

Commissioner Imboden stated he assumed that the necessary studies had already been completed.

Mr. Farahani stated Staff had already provided most of the information needed, but the OCTA might require further studies, it was part of the process.

Chair Steiner asked if the OCTA had shared what additional information might be required.

Mr. Farahani stated they had not been advised.

Chair Steiner stated he felt that Mr. Farahani lacked foundation to tell them, he agreed that hopefully starting someday was not desirable language. What information they were attempting to gain was not to be had.

Commissioner Whitaker stated possibly deleting the word "shall" throughout the proposal and inserting the language "which was underway" and "shall continue upon General Plan adoption".

Mr. Farahani stated that should be fine as Staff was already aware of what was being requested, it had been a matter of a timeframe that the process had not begun.

Chair Steiner stated most importantly it encapsulates the desire of the Commission and possibly the Council to get the process underway.

Mr. Knight stated he had not wanted to belabor the discussion, but what Mr. Farahani's challenge was that he had data, and it could be shared with OCTA, but the delta factor that always comes into play was that the OCTA could state they liked the data but then could ask for a model of, as an example, 17th Street at Tustin. Staff would need to then go back and produce that information.

Chair Steiner stated having to model that situation would be compliant with the proposed language.

Commissioner Whitaker asked if the language change was to the draft EIR.

Chair Steiner asked if he was referring to what appeared at the bottom of page 6.

Commissioner Whitaker stated page 7.

Commissioner Imboden stated he was satisfied with it.

Commissioner Whitaker made a motion to approve the Circulation Element of the General Plan Update with the language changes as set forth for pages 6 & 7 of the Staff Report, concerning the discussion brought forth by Commissioners Cunningham and Whitaker, with respect to the consistency language and the change as discussed in the timeline of the efforts being made for the reclassification process with OCTA, recommending adoption to the City Council.

SECOND: Commissioner Imboden

AYES: Commissioners Cunningham, Imboden, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino

MOTION CARRIED

Chair Steiner stated due to conflicts of interest he suggested having Ms. Pehoushek share additional information on each of the components as they covered them separately.

Mr. Knight stated he would have Ms. Pehoushek conclude her presentation on the Staff Report which was information on the EIR and Historic Inventory and any closing comments she might have.

Mr. Pehoushek presented an overview of the program EIR and Historic Inventory.

Chair Steiner stated the Commission was attempting to iron out the order in which they would hear the resolutions. He asked Mr. Knight what was marked as attachment B, of the Draft Resolution No. 34-09, there also appeared General Element Content, and on page 3 after Eckoff Street there appeared General Element Content. Everything that appeared under General Element Content, the Circulation & Mobility Element had already been addressed, Growth Management, Natural Resources, Public Safety, Noise Element, Cultural Resources, Infrastructure, Urban Design (which there is no recommendation for), Economic Development and the Implementation Plan, and he asked if the Commission was free to consider those under what was tentatively known as 34-09.9?

Mr. Knight stated he understood that would be acceptable, and he was not aware of any conflicts those elements had raised.

Assistant City Attorney, Gary Sheatz, stated that was correct.

Chair Steiner opened the Public Hearing.

Michelle Carter, address on file, representing the OTPA, stated she wanted to point out that there are inaccuracies in the Historical Inventory that was posted on the website and she was not certain if the Historical Inventory the Commission was voting on was another version that had not been available on the internet. The OTPA had noted, randomly, that there were problems with the inventory. For example, 221 E. Palmyra, which was a small bungalow showed as 215 E. Palmyra which was the Culver house garage. For another example, 384 S. Orange, the year the home was built is inaccurate. There were a number of discrepancies in structural integrity. They had randomly selected a few properties to review and the OTPA felt that if there were discrepancies with just a random selection that there were probably errors with the inventory in other areas of the Historic District. If the Commission was voting on the inventory that was available on the internet there are a number of inaccuracies.

Chair Steiner closed the Public Hearing. He stated that he had initially indicated that the Commission was addressing 34-09.9; actually the Resolution that was being addressed was 38-09 in his zeal to receive Ms. Carter's comments before the Commission. He

asked for any questions or additional comments and asked Mr. Knight if he wanted to respond?

Mr. Knight stated some quality checking had been completed on the inventory prior to presentation before the Planning Commission, and Senior Planner for Historic Preservation, Dan Ryan, had worked with Robert Chattel some months ago in reviewing several properties. The way Staff sees the inventory was that it is built upon the 1992 inventory and Staff was more than hopeful that it was as accurate as it could be. Would there be a possibility that there would be an error in the date of a structure or a possibility that there was a different context analysis – there might be. There were 6 volumes of information and 3000 forms, which was a great deal of information, as individual properties were considered for additions. There would be checks of those properties as they came forward for the accuracy of the records. The inventory had been built upon with the addition of the barrio areas and Eichler homes, it was living, breathing document and changes would be made as needed.

Ms. Pehoushek stated what was available on the Preservation on-line website are the very early versions of the survey forms that had been produced in 2005. Those had been posted in an effort to get information out to the community. Staff had been doing a quality control review over the last 4 years and a number of revisions had been made in the data base. A new set of forms would be transferred to the website and to the State Historic Preservation Office to formerly accept as the City's formal updated survey.

Commissioner Whitaker suggested adding to the resolution that Staff be instructed to update and maintain the Historic Inventory.

Chair Steiner asked Mr. Knight if that language was agreeable. It had appeared that it would address the concerns that changes to the document would be a continuous process.

Commissioner Imboden stated if the OTPA or individuals in the community come forward to share information that needed to be changed, he asked what would be the process to make the change.

Mr. Knight stated the City would need to come up with a specific procedure for the general public to be able to do that. It would be very valuable input.

Chair Steiner stated to the extent or the desire to accommodate the change that Commissioner Whitaker suggested to include, they were in agreement that to the extent it would be correcting minor errors, such as errors in dates as noted during Public Comment, those type of changes would not require a Public Hearing.

Mr. Knight stated he was correct.

Commissioner Whitaker made a motion to adopt Resolution 38-09, City of Orange Historic Resources Inventory Update recommending adoption to the City Council with the noted comments in language.

SECOND: Commissioner Imboden

AYES: Commissioners Cunningham, Imboden, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino

MOTION CARRIED

Chair Steiner stated they would now take into consideration Resolution 34-09, and for the record they had added subparts to the various Land Use Focus Areas contained within the draft resolution for purposes of assuring no one with a conflict would vote on a matter they would not be permitted to consider.

Chair Steiner stated they would move to 34-09.9 Cultural Resources. Staff input was not needed and he opened the Public Hearing.

Sue Vours, address on file, representing OTPA, stated at the last meeting the Staff Report listed Cultural Resources Element as an optional element and she felt it was very important that it be included in the General Plan as it replaced the Historic Preservation Element. It needed to be kept in the plan.

Chair Steiner stated he had understood that the consensus vote was to include the component in the General Plan Update.

Mr. Knight stated when the word optional was used, there were State mandated requirements and then all other elements became an optional element. Once that element was adopted by the City as a component of the General Plan, it carries the same weight and consistency requirements that all other mandatory elements required.

Chair Steiner stated that the language "optional only" pertained to the undertaking of the component.

Mr. Knight stated it was plannerease just attempting to delineate optional vs. mandatory.

Chair Steiner closed the Public Hearing and brought the item back to the Commission for further discussion or action.

Commissioner Whitaker stated the components had been discussed very well over several meetings and he made a motion to adopt Resolution 34-09.9 Cultural Resources recommending adoption to the City Council, noting that the Urban Design Element had no recommendation as the Commission had deadlocked on their decision of that component.

Commissioner Cunningham stated he had a question for Staff. In the draft EIR, under Section 5.5-2, which applies to the implementation by the Office of Historic Preservation, he had noticed a line item that stated qualified by Historic Preservation review and he asked if that was review by the Planning Commission or another body?

Mr. Knight stated he could answer that. DRC could suffice for the Historic Preservation

review; it could require additional qualifications of members appointed to the board. It could be a new Commission or the DRC with a slightly different make up of the group.

Commissioner Cunningham stated if there was a requirement to establish another Commission, would that affect property owners, such as an owner of an Eichler home in either an Historic District or a designated Neighborhood Character Area, to require review by the new Commission, DRC and the Planning Commission?

Mr. Knight stated what existed currently was the Old Towne Design Standards which created a certain layer of approvals from Staff, DRC, Planning Commission and City Council. There would be similar types of design standards for the Eichler homes. It was difficult to say what final form that would take, as the process would need Planning Commission and City Council approval, prior to implementation of a new local program. More than likely additional entitlement steps would be necessary in an Historic District, similar to those that exist in Old Towne.

Commissioner Cunningham stated he had spoken about the issue previously and he would want to reiterate his standpoint again. He appreciated the concern for the neighborhoods of Orange and he shared those concerns and love for the Eichler homes. His best friend had an Eichler home and his wife grew up in El Modena, areas that would be designated Neighborhood Character Areas, however, designating the Eichler Tract as Historic and other areas as Neighborhood Character Areas would infringe on the rights of property owners. He had not seen any evidence that the Eichler Tracts are in any danger. There was a great demand for Eichler homes and the market place more than takes care of the Eichler homes.

In regards to El Modena, he was opposed to imposing additional restrictions in that area and he questioned what character of El Modena was the City attempting to preserve? There was a tendency that over time with the regulations, there would be restrictions, and minus a compelling reason to designate areas as Neighborhood Character Areas, other than the reason that the City was able to do that, he was opposed to imposing additional restrictions on property owners. He was one of a three to one vote when the issue was presented previously and he hoped to gain support for his concerns due to the absence of a compelling reason to implement such a component in the General Plan Update.

Chair Steiner stated there had been a motion that had been made and there was not a second to that motion.

Commissioner Imboden stated that the Commission taking action on the issue in, and of itself, would not impose any additional regulations.

Mr. Knight stated that was correct.

Commission Cunningham stated at some point it would. If the guideline was created, it would necessitate additional regulations in the process.

Mr. Knight stated the issue could not be sugar coated. If the Eichlers' were to become an Historic District, unless there were very definitive, well done standards, that would keep

the Staff level, it would more than likely move toward additional reviews. It was difficult to state what would occur. An Eichler home was pretty straight forward as there were not a multitude of architectural styles contained in those homes; there was one style. They had a specific type of roof and a definitive type of fenestration, window and door design and it might be easier to make additions without the need for DRC review. He could not state that all could be done at a local level and he anticipated their inclusion would create additional guidelines for the public to follow as a result.

Commissioner Whitaker commented in regard to the identification of a Neighborhood Character Area, he asked if Staff would need to present proposals under the Conservation District Standards, such as Orange Park and the need to maintain the equestrian areas, or El Modena to preserve the low lying building character, as each one would come up, would that be the approval process?

Mr. Knight stated that was correct and Commissioner Imboden's comment and his answer stating would the action impose greater restrictions or further analysis by property owners, the answer was unequivocally no, it does not. The adoption of the Resolution would not create a new Design Standard for Eichler homes or a new Design Standard to OPA. It makes it possible, but all those possibilities and decisions would be subject to further deliberation with Commissioners and Council Members, in order for those parties to ask the same questions that Commissioner Cunningham brought forth. It was difficult for a Staff member to state that in the future it would be difficult to obtain a building permit for an Eichler home. He had to state that there would be that possibility, it could come about that way. He had reviewed other overlay districts in various areas of California for Eichler homes and those district's standards were quite detailed in what property owners could or could not do, and the review standards were fairly minimal, due to the amount of overlay detail in those districts. Would the change cause a property owner a great deal of grief, not really, as there were material, fenestration and height requirements all defined for them and there was not a need to go to another layer of approvals.

Chair Steiner stated that is all speculative and the bottom line was that they were speaking of a General Plan Update, and he was generally fine with Commissioner Cunningham's assessment regarding the need for another Commission, he was skeptical and questioned the need for that. He thought to oppose the issue out of hand would be to state that in no instance it would not be a valid idea. He felt it was to be determined on a case by case situation and absent the Commission taking action with respect to the area they were discussing he felt they could not do that. He felt it was properly undertaken at the current stage as it would allow consideration in those instances where it would be useful and it would not always be a bad idea. If I thought it would always be a bad idea I would vote no, with respect to the particular area of discussion. At the stage they were in it allowed further study.

Commissioner Imboden stated part of what they spoke of in the creation of Certified Local Government would open up a broader availability of grants. With the current designation and review process, some of those options were not available. With the changes, there was the potential for greater resources. He had not felt the proposal would present huge changes regarding the specific neighborhood designations, but rather

it was an acknowledgement of their existence which he felt being aware was not a bad thing. To move toward more restrictions would require further approvals and reviews down the road. What was currently on the table was an awareness of specific neighborhoods and that would open up a lot of opportunities.

Commissioner Cunningham asked if the Certified Local Government was dependent upon the General Plan Update designating those areas as being Historic, as it had been specified that the implementation would require further guidelines and it was not speculation as it was a definitive part of the process.

Mr. Knight stated a CLG was not required to provide an historic overlay for Eichlers.

Commissioner Cunningham stated there could be a CLG and it would be separable.

Mr. Knight stated it could be separable.

Commissioner Cunningham stated he was skeptical to move forward with an approval, as the General Plan Update had called for placing the Eichler Tract in an Historical District, and at some point there would be more restrictions imposed on those homeowners. He was reluctant to take action, they had argued over a lot of things and many of lesser importance and it went without saying that there would be more restrictions imposed on those homeowners.

Commissioner Whitaker stated he had made the initial motion and generally he agreed with Commissioner Cunningham on property rights. With respect to being able to identify areas that have a certain character or the potential to be historic, if it was not added to the General Plan Update, 20 years would go by without the chance to add that information. The General Plan would grant authority to Staff to survey those areas and designate what was appropriate for those areas and then for the Commission and Council to review and a time for Public Hearings. Community members at that time could voice whether they wanted it for their area, but if specific areas were not identified in the specific plan, then it would be another 20 years before the issue could be addressed. If something was worth preserving, he had not wanted time to pass before they could look into it. He was more concerned with the Neighborhood Character Areas. There were certain areas, such as the OPA and the equestrian areas, and Yorba Linda being one, where there was an equestrian area and property owners could come in and buy up those areas and change the landscape where the rights of property owners who had bought into equestrian properties could be challenged. He wanted to maintain and preserve the property rights of neighborhoods that people had bought into because of a specific character and to be able to identify those areas. He felt it was important to identify those areas and his initial motion still stood.

SECOND: Commissioner Imboden

AYES: Commissioners Imboden, Steiner and Whitaker

NOES: Commissioner Cunningham

ABSTAIN: None

ABSENT: Commissioner Merino

MOTION CARRIED

Chair Steiner stated the hearing would proceed with a discussion on Resolution 34-09.2, Katella Land Use Focus area.

Principal Planner, Anna Pehoushek, presented some additional information on the resolution. She stated the Planning Commission had recommended that the existing Land Use designation of General Commercial and Medium Density Residential remain intact between Glassell and California Streets and to designate the segment of the corridor between Batavia and Glassell as Urban Mixed Use rather than the General Commercial that had been proposed in the General Plan Update. It was Staff's understanding that the requested change was based on the desire to preserve the legal status of the existing Industrial Uses. Public Comment was subsequently heard at the September 9, 2009 meeting in regard to certain Industrial properties, specifically on the Carleton and Manzanita cul du sacs, and it was requested that those streets retain their current designation. Their had also been discussion regarding expanding the scope of the Legal Non-Conforming Use Ordinance Amendment, to apply the one year time frame of continuance of non-conforming legal use to all areas affected by the proposed General Plan Land Use changes. Staff would like to offer another option for the Commission's consideration for the area of the corridor of Batavia and Glassell, specifically to maintain the proposed General Commercial designation between Batavia and Glassell for the parcels on the north and south sides of Katella, with the exception of the Industrial parcels on the Carleton and Manzanita cul du sacs that do not have frontage on Katella. The change along with the adoption proposed would continue to accommodate the activities in those less visible locations for General Commercial Uses.

Chair Steiner stated addressing first the alternate option that had been proposed for the designations on the south and north side of Katella with the exception of the parcels on the Manzanita and Carleton cul du sacs, he asked if there was any desire to discuss the proposal? There was none.

Chair Steiner opened the item for Public Comment.

Rick Hamm, address on file, stated he owned a construction company, Rick Hamm Construction and he owned the property at 201 W. Carleton. It was Industrial and he ran his construction company out of it. It was difficult to understand the layout of the street, unless they walked the street. It was his understanding that the Commission or some members of the Commission were going to walk the street to get a feel for it, and he was not certain that had happened. He would paint a picture of what the property layout was. There were no parking lots, such as the retail properties that ran up and down Katella, even though they were only one block north of Katella. None of the buildings on Carleton had parking lots that would accommodate retail. His building had 2 loading docks on the front of the building, he does not know of any retail buildings that have loading docks in the front of their buildings. The building across the street also had a loading dock in front of their building. None of the buildings on the street had store fronts designated for retail and to change that would require a reverse design, his building contained offices in the front with warehouse space in the back which worked well for the purpose of his company. To accommodate retail, the offices in the front

would need to be demolished and do a construct retail open space infrastructure that would be required to accommodate retail and the offices would need to be reconstructed in the warehouse. That would be a major renovation. If the Commission had any experience placing a store front on a tilt building, that was not there, it required engineering, the panel would need to be cut and the store front installed. The tilt panels would then need to be renovated to accommodate UBC Building Code. It would be major dollars. His particular building was wired for manufacturing and had been a There is heavy, heavy electrical throughout and it would be cabinet company. impossible to develop foot traffic to support retail on this street. Retail businesses on this street would fail. One of the thoughts was that the Commission would grandfather existing businesses. He understood that to mean that the existing businesses could lease to like businesses for revenue purposes, that situation would become a hardship if a property owner needed to sell their property. He requested that the zoning be left as it existed.

Erik Ostergaard, address on file, stated he owned the building across the street from Mr. Hamm and he agreed to everything he stated. They were both perplexed as to the reason why the changes needed to be made to their buildings. They had tilt up buildings with no parking for retail. He had not understood the reason why they would need to change.

Chair Steiner closed the Public Hearing and brought the item back to the Commission for further discussion or a motion.

Commissioner Whitaker stated he was a little perplexed as during the previous discussion of August 3, 2009 he felt that they had not had a real issue in the area with the flexibility of the Urban Mixed Use Designation. They had looked at the proposal of General Commercial which would allow Industrial and it was much more in line with those uses which would be permitted by right. If a property owner wanted to redevelop their property someday, they could sell it to someone who wanted to remain Industrial and it would give them the wide flexibility. He was comfortable with where they had left the issue on August 3, 2009 to go with the Urban Mixed Use designation which would allow the Industrial uses to remain.

Chair Steiner stated he shared Commissioner Whitaker's view and with the input from the speakers, it had been the whole point of their previous discussion, to not accommodate any individual property owner, but to find the best solution for everyone. They had agreed on the designation of Urban Mixed Use and that the alternative option that had been presented was something the Commission had not needed to address.

Chair Steiner made a motion to adopt Resolution 34-09.2, Katella Corridor, recommending adoption to the City Council.

SECOND: Commissioner Whitaker

AYES: Commissioners Cunningham, Imboden, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino

MOTION CARRIED

Chair Steiner stated they would now review 34-09.1, Land Use Focus Area No. 1 Chapman Avenue/Tustin. There was a conflict of interest for Commissioner Cunningham and he was recused from the discussion.

Mr. Knight stated correspondence had been received regarding one of the parcels for the particular area, the Chapman Hospital complex and he asked Ms. Pehoushek to give an overview of that information.

Ms. Pehoushek stated since the Commission's straw vote on the 1st Focus Area, the representative of the Chapman Hospital properties had some conversations with various Staff Members in Community Development and had indicated in a letter that was distributed earlier, that the property owner was now interested in the Public Facilities and Institutions designation for the property rather than General Commercial which had been determined by the Commission. With respect to the holding zone, she would ask Mr. Knight to speak to that.

Mr. Knight stated in the Templeton Street letter there is an indication of City Council Resolution No. 95-70 which had requested a finding from the Planning Commission, and the information provided was accurate. The action left the northerly area of the Chapman complex as open space and had shown it as a holding zone where consideration would be given of a change, if and when a project is brought forward. The property owner was requesting that a holding designation be put into place. Staff was not agreeable to that as it would create a new Land Use designation. That resolution stated what the City Council had recommended and it was a record the City and Staff was somewhat reluctant to create a new Land Use designation showing that. The exhibit provided by Templeton is not entirely accurate to the open space delineation, between the Public Facility and Institutions and open space, there is an additional square of area that is open space and is noted as such in the maps that were contained in the Commissioner's packets.

Ms. Pehoushek stated the other aspect to the correspondence had to do with the manner in which the Public Facilities & Institutions Land Use category was defined and described in the General Plan. Generally what is presented on page 2 of the letter in the first paragraph, Staff is comfortable with a revision to the requested language change to read "limited accessory retail uses" as there needs to be some relationship of the retail of the institutional activity. She referred to the second paragraph to the language in italics, and stated the information was more specific than what Staff would want in the context of the General Plan and Staff was not as supportive of the language in the second paragraph.

Chair Steiner asked for clarification of the more specific comment?

Ms. Pehoushek stated the paragraph spoke about specific plans and it gets more detailed than what was typically found in a General Plan.

Chair Steiner opened the item for any questions to Staff.

Mr. Sheatz stated that he had been given a heads up ahead of time by Council and the owner of several properties and he had been directed to the resolution which was misidentified in the letter. It was actually Resolution 9570, the numbers would not have a

dash in them and he wanted that brought to the attention of the Planning Commission. The paragraph that was pointed out and his attention had been pointed to and the issue was, and he read; "although under current designation, a number of uses are permitted absent a specific project, the City Council was uncertain of the best use of the property and viewed the OS designation and Recreational Open Space as a holding designation, until at such time a particular project was brought forward". The way it had been explained to him was that the property owner was much closer to an idea or a concept, although the area identified in the resolution was not in front of the Commission and had not been part of the presentation, it was an adjacent property and the information provided would be to direct attention to the property and the resolution for the Open Space.

Commissioner Whitaker stated with the additional designation for Open Space, he was reviewing page LU34 in the General Plan Update and it appeared that part of the Open Space comes down behind the hospital and an abandoned or vacant lot, and he asked if that was the area that was being discussed.

Mr. Knight stated he believed that was correct.

Commissioner Whitaker stated the Open Space area was in Focus Area No. 1, and one of the property owner's representatives wanted to reference City Council's resolution and that would seem appropriate, as they would not be voting on any particular property, but on a Focus Area and what to do inside the Focus Area. In reviewing the map, it appeared that the Open Space was inside the Focus Area.

Mr. Sheatz stated that was correct. He had reviewed the same information and he hoped that he had not mis-spoken, it was contained in the Focus Area, but it was not one of the areas that is proposed to be changed. He believed it was left in its current state due to Resolution 9570. He believed it was appropriate to draw their attention to that, as it could be part of a larger project that could come forth.

Chair Steiner opened the hearing for Public Comment.

Tim Paone, address on file, stated he is the council for the group of owners of what is now being called the Chapman Campus Plan, which had nothing to do with Chapman University, but referred to the area where Chapman Hospital was located. He was speaking on their behalf. He apologized that much of the information had been forwarded to the Commissioners very late and that they might not have had adequate time to review the information. He might need more time than 3 minutes.

Chair Steiner stated he was considering him as the affected party's representative and he could fill them in on anything they needed to know.

Mr. Paone stated he wanted to clarify that they were not asking for a holding designation on the property, what they were requesting was that the Planning Commission acknowledge, possibly through a finding, that the property was subject to Resolution 9570 and the City Council had stated a very clear intent in 9570, it was a holding designation until a project was brought forward. They had not wanted the General Plan

Update to move forward and then have members of the community question where they were when the process was moving along. There was a plan in the works and hopefully it would be in front of the Commission in the near future. Were it not for the General Plan Update, the project would have come through as a course of the normal process. Due to the General Plan Update, it was important to address it currently. What was in the Templeton letter was a request that a few steps be taken on the property. There was some disagreement that the property had been surveyed and the description contained in the letter was accurate and that the information had been provided to Staff over the last few weeks. That would be an issue that would need to be clarified. He wanted to address Staff's response to their request, basically they were looking at the 16 acre parcel and the 7 ½ acre parcel which was currently designated as Open Space/ Recreational Open Space. The 16 acre parcel was proposed to be designated as General Commercial. The Rubik's Cube aspect of dealing with the issue was at a prior meeting John Saunders, one of the principal property owners, had come forward with his concerns in changing the Land Use designation to PFI, which was needed for the medical wellness activity center that would be the upcoming project. He had a very valid concern, if the plan was not approved or would not go forward for any reason he would not want to be left with a different type of designation that currently existed. They had been working on how to resolve that issue. He was proposing that the 7 ½ acre parcel remain in its current Open Space designation, with the recognition that it would be subject to Resolution 9570, and that the 16 acres be designated as PFI, and that the definition of PFI in the General Plan Update be expanded to include the language that was discussed by Staff earlier. That language would allow for greater flexibility and frankly, much of the language in the second paragraph was adapted from other Mixed Use areas. A specific plan had been noted in the letter as he felt it was a very useful tool. Mr. Paone stated what was before the Commission were two paragraphs that stated without a specific plan that could be done and it paralleled basically what Staff's description was. They added the limited retail uses and Staff was suggesting to add language accessory uses, and he felt there would be greater flexibility without the language accessory and the retail use description would give the Planning Commission greater flexibility in designating those uses. The second paragraph where Staff felt it was too specific; much of that language came from the City's Mixed Use description and he felt it was very similar to what was occurring elsewhere. That was intended to create an opportunity for another party to come in and develop an activity center focused around medical and wellness facilities and to do something very creative. Without being specific, and without the types of Mixed Uses being mentioned, it could create a problem in bringing a project forward and the reason for the requested language change. Lastly, the acknowledgement of Resolution 9570; he had discussions with Mr. Saunders and he is agreeable to this approach, he is fine with the requests. What would resolve everything for Mr. Saunders would be a Commercial overlay over the PFI, which would be the same that existed on Yorba. The changes would allow the project that was in the works to be brought forward.

Commissioner Whitaker stated he was reading Mr. Saunders' letter and the tone of his letter gave the impression that he was not 100% in agreement. He appeared to be fine with the requests in the Templeton letter as long as he was granted the General Commercial overlay. There had been much discussion regarding why they had not wanted to recommend the PFI designation. They had thought that with the uncertain marketplace, the property could have several tentative projects brought forth later and

with the General Commercial designation it would allow for greater flexibility. He asked instead of making the recommendation more complex, wouldn't a General Commercial designation grant them the same flexibility for their proposed project?

Mr. Paone stated it would not, and they had concerns that it would not. He had a very long conversation with Mr. Saunders and Mr. Searles, and Mr. Saunders was quite comfortable with his request as long as there was the General Commercial overlay. He authorized Mr. Paone to come before the Commission to present his request. The designation for Mixed Use designation would allow their project to come forward for an activity center. With the overlay it would work for everyone.

Chair Steiner stated he was not certain that the PFI designation with the General Commercial overlay would address the concern that had been expressed at the previous meeting. He clarified that the changes Mr. Paone was requesting was a change to the PFI description, a General Commercial overlay and acknowledgement of Resolution 9570.

Mr. Paone stated that was correct.

Chair Steiner asked if he could rationalize or explain the reference to a specific plan being used.

Mr. Paone stated he thought it was similar to a Mixed Use designation, and he borrowed a fair amount of language from that, the requirement for a specific plan was because it was expanded uses and from a planning perspective, it would be the way to go. With the type of activity center that would be proposed with many types of uses, he felt the City would want to review that in a specific plan.

Chair Steiner asked for an explanation for the word between "accessory" "limited retail" as it seemed to suggest, in theory, that the Commission is the body that is most equipped to determine the appropriateness of the proposed retail use.

Mr. Paone stated the word "limited" would limit the use and give discretion. Limited accessory or accessory in place of limited was perhaps more restrictive.

Steve Sheldon, address on file, stated he was present to discuss 446 S. Tustin and a request was for a designation change from Low/Medium Density to Medium Density. There was currently a General Plan Amendment that they had been processing with a rezone of a tract map for the property. The property owners were present and had owned the site for nearly 40 years and they had been members of the community for their entire life. The property owners wanted to redevelop the mobile home park, which was old and needed to be re-done. Their plan was for 93 town homes, with a community pool and fire pits, that would be compatible with the neighborhood. As to the Medium Density designation request, Senate Bill 375, which required integration in the planning process with transportation and planning to reduce green house gasses and reduce vehicle miles traveled, which would be one of the reasons the density designation should be added to the area. The property was on a major arterial and near two freeways, it would be good planning. SB375 that the County and City would be using, required that a sustainable community strategy be created and communities would be looking to reduce green house

gasses that would be tied to land use. The project he spoke to would be one of those land uses, with the additional density being near public transportation. Essentially the land planners at SCAG would be looking for in-fill projects and less suburban sprawl and their project would help to achieve that. He had not seen other additions that created opportunities for new housing and, in fact, he had seen a reduction in housing, Oak Street was reduced in density and Spring and Wheeler were changed due to the existing uses not being compatible with the Land Use designation. Some of the Focus Areas had a reduction in density and he felt that some of those reductions could be transferred to their property. Finally, the actual plan was for 20 units per acre, and the designation would allow 24 units per acre.

In the Commission Study Session, there had been additional environmental work needed and they would be working toward that. Mr. Sheldon stated that there had also been reference to some form of noticing and he had not understood that. They were noticed of what the action was proposed for his client's property, but not noticed about changes to adjacent properties. He felt that noticing other property owners regarding the action would be to single them out and that a noticing requirement was not necessary. Those were his comments, his rationale and he requested that the change be made to Medium Density.

Chair Steiner stated in regard to the noticing comments; was he aware to the extent that the tenants had received notice?

Mr. Sheldon stated the tenants had received notice and he had met with them numerous times and the property owner had met with them 3 years ago with the proposed project. The tenants had been present at Commission meetings to speak about the potential change and were very aware that there was a request to change the General Plan.

Chair Steiner stated that was his one issue and were the tenants aware that it was being considered currently?

Mr. Sheldon stated the tenants were not aware of that.

Tom Searles, address on file, stated he wanted to discuss where they were with the property, and property improvements regarding the Commercial Zoning and what the intentions were with a potential project. Regarding the Commercial overlay that had been suggested, he believed that it met the standards and flexibility of what they were looking for until such a time when a future project would be presented to the Commission. It was consistent with what Mr. Saunders and he himself had wanted. He had been involved in the proposed project for over 6 years and they had been working very closely to address the concerns. Secondly, as discussed previously, he had researched the document that had created the Commercial overlay to begin with and the delineation of Open Space and that survey had been provided to Staff and had been surveyed by his Civil Engineer. Additional documentation could be provided. The third item, the PFI designation in conjunction with a specific plan, had been discussed with Staff, including the Director, and the Director had concurred with him on how they wanted to proceed. They had a relatively complex Mixed Use potential project for the property.

Chair Steiner closed the Public Hearing and brought the item back to the Commission for further discussion.

Commissioner Whitaker stated there were two issues that he wanted to discuss, the accessory vs. limited and also with respect to the overlay and the Staff's position on that request?

Ms. Pehoushek stated in terms of the wording related to limited Commercial Use, by more clearly defining accessory or incidental Commercial Use would avoid having an applicant needing to come to the Planning Commission for an interpretation of what a limited Commercial Use might be. It would be more clearly defined in the definition of the Land Use designation and provided more direction to Staff and allowed decisions to be made at a Staff level. In terms of the Commercial Overlay, quite honestly what it brought her mind back to was the beginning when they were discussing Land Use alternatives for the property. One of the first things they contemplated was a Mixed Use designation that would have provided a lot of flexibility. In her opinion, if they were going in the route of establishing an overlay, they might want to take a step back. If the speaker was most interested in flexibility for their property, that could be a scenario that could be contemplated that would provide for a variety of uses. An overlay was a more complicated tool for Staff to administer. Overlays existed and they could deal with them.

Commissioner Whitaker asked if an Urban Mixed Use designation could be considered.

Ms. Pehoushek stated Staff had been working on the Urban Mixed Use and they had been making changes and it was not all in focus in her mind. The senior living continuum of care concept accommodated medical offices and what they had done specifically with hospitals. She could not definitively answer Commissioner Whitaker's question.

Mr. Knight stated it would be a permitted by right use. They were currently going through the process of creating a draft Mixed Use district.

Chair Steiner stated what they were discussing was the possibility of an Urban Mixed Use designation and they were not certain if it was actually feasible.

Ms. Pehoushek stated there were different categories of Urban Mixed Use. The Urban Mixed Use had the highest housing density potential; which would not be compatible with the adjacent property.

Mr. Knight stated to follow up on the proposed language, it would affect all the PFI uses throughout the entire city and using language such as limited retail facility; the word limited meant nothing to a planner – it could mean a lot or a little, the word accessory means something to a planner. It told them automatically what it meant and took away any lack of clarity at the counter. Staff's concern would be that these changes would apply to all the Public Facility & Institutional uses in the entire City and they wanted the type of language that was appropriate and easily interpreted at the counter without misleading an applicant.

Mr. Paone stated as long as there would be a General Commercial overlay, the language accessory with the PFI designation would be acceptable. They had attempted to review what would fit and he agreed the suggestion was a cleaner way to do it and the only other solution would be to create another type of Mixed Use category.

Chair Steiner stated the recommendation by Mr. Knight for the use of the word "accessory" in place of the word "limited" is a point well taken; particularly with respect that it would apply Citywide.

Commissioner Whitaker commented the applicant's representative stated with regard to Tustin Street there was a General Plan Amendment and if that was the case, was that the reason behind having the designation remaining the same?

Mr. Knight stated from a perspective of whether Staff thought the application that was currently in process would be a no go, absolutely not and there had not been a recommendation formulated.

Ms. Pehoushek stated as a follow up to Mr. Knight's comments; there were a few applications in the Planning Department currently that involved General Plan Amendments and as Staff dealt with the General Plan Update, they had not wanted to presuppose without complete information that they should proactively make Land Use designations until after they had gone through the process. As the General Plan moved forward and the project moved through the process, if the decision making body felt it was warranted to change the Land Use designations to accommodate the applicants so be it, Staff had not wanted to bog down the process with current applications. In terms of the property on South Tustin; one of the early Land Use designations that was being considered and that had come from the GPAC, was to designate a portion of South Tustin, including the applicant's particular parcel, with a Mixed Use designation. As they went through the process, information was provided and the Land Use change was dropped for South Tustin.

Commissioner Whitaker asked for the mobile home park residents and the proposed Mixed Use designation, why had that not been considered for a change of use?

Ms. Pehoushek stated what was before the Commission reflected the direction provided during the study sessions.

Commissioner Whitaker stated that during the Administrative Session the applicant had submitted a letter, letter No. 17 in March, and the response from Staff was that the information would be brought to the Commission for their consideration. Because comment had not raised any issues regarding the EIR, there was no response necessary. He had not recalled that it had come up before the Commission previously.

Ms. Pehoushek stated there had been a number of comment letters referencing objections to Land Use changes and they had not gone through all of those specifically in their presentations or had those been listed in the Staff Report and they were all contained in the body of the comment letters and response to comments.

Commissioner Whitaker stated during the administrative session Ms. Pehoushek had raised concerns regarding the noticing issues and if on August 3, 2009 they had pulled letter No. 17 out. Would there have been required noticing for a future hearing that would be addressing that property?

Mr. Sheatz stated it would have been strongly recommended, given the site and the previous input that had been received. It would have been recommended that noticing be given to the residents of that site and the surrounding areas and the item could have been continued for further discussion and an allowance for residents to debate the issue.

Commissioner Whitaker asked if the discussion had come up on August 3, 2009, would noticing and a continuance have occurred?

Mr. Sheatz stated he would have suggested that.

Chair Steiner stated dealing with Focus Area No. 1 Chapman and Tustin, he asked Mr. Sheatz if he had a suggestion on how they should proceed on the issue; procedurally would two separate votes be required?

Mr. Sheatz stated it could be taken care of all in one vote with specifics. There were two different areas that the Commission had been asked to consider/reconsider and he stated they should be very specific in their motion. If the Commission was looking at or considering the area south of Tustin, he would recommend continuance of that area to allow noticing.

Mr. Sheldon asked if there was a legal requirement to notice the request. He was hearing a policy procedure but not a legal requirement.

Chair Steiner stated Mr. Sheatz had presented his legal advice regarding the noticing. He clarified that the Commission was free to continue a portion of Focus Area No. 1 and to move forward with a recommendation on another portion of Focus Area No. 1?

Mr. Sheatz stated that was correct.

Commissioner Whitaker made a motion to adopt Resolution 34-09.1, Land Use Focus Area No. 1, Chapman Avenue/Tustin recommending adoption to the City Council that the initial consensus not be adopted and in its place the Land Use Designation of Public Facility & Institutions for the Chapman Hospital Campus be adopted, and the Open Space holding zone, Resolution 9570 which was referenced in the Templeton correspondence be noted with the language change striking the word "limited" and adding the word "accessory" and with a General Commercial overlay.

Commissioner Imboden asked if there were other issues in the language with regard to the use of specific plan.

Ms. Pehoushek stated they had gone through the Land Use designation, and she may have possibly missed it, but she had not noticed the use of specific plan in any of the other Mixed Use designations. It was not something that appeared to be carried over from the

other Land Use designations.

SECOND: Commissioner Imboden

AYES: Commissioners Imboden, Steiner and Whitaker.

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino
RECUSED: Commissioner Cunningham

MOTION CARRIED

Commissioner Whitaker stated in regard to the development opportunity area which had been initially noticed, there was no change recommended for that area, and even if they had taken the March 23 letter and discussed that and based on the decision from no change to a change, he asked if Mr. Sheatz would have recommended a continuance to allow noticing?

Mr. Sheatz stated that was correct.

Commissioner Whitaker stated he was attempting to understand the process. On the Katella Corridor, noticing had gone out to everyone that Katella was going to have a Land Use designation change, during the public hearing the decision was made to do something entirely different than what was noticed and the area was never re-noticed. He was wanting clarification why these areas were treated differently.

Mr. Sheatz stated the affected persons were able to be present and offer comments, and as part of the process, the Commission took that input and decisions were made. The decision was a recommendation to the City Council and affected persons could be heard again.

Commissioner Whitaker stated, on the continued item, he was attempting to understand what the reason for noticing was; as there was never a guarantee that there would not be a change to an item presented. All the persons in the development opportunity area were noticed.

Mr. Sheatz stated notices were sent that stated their property was in a Focus Area, and they also received noticing that stated there would not be a change for their property and would not have had a reason to be present at the hearing.

Chair Steiner stated many times upon hearing an item, they started with A, there was someone who wanted B and the Commission ended up with C. In those instances, there was an initial recommendation for some type of change.

Mr. Sheatz stated someone that would perceive that there could be an effect on their property would have an interest in attending a meeting or not if they were agreeable to the change.

Commissioner Whitaker made a motion to continue to a date certain of November 16, 2009, on the second part of Land Use Focus Area No.1, Resolution 34.09-1, which

covered the area on the west side of the 55 Freeway in the portion noted as a development opportunity area.

SECOND: Commissioner Imboden

AYES: Commissioners Imboden, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino
RECUSED: Commissioner Cunningham

MOTION CARRIED

Chair Steiner stated they would now hear information regarding Land Use Focus Area No. 7, Lemon Street.

Commissioner Cunningham rejoined the discussion.

Ms. Pehoushek stated Staff was seeking confirmation on the Commission's action regarding the Lemon Street Focus Area. At the time of the straw vote, the parcel including and south of Brenna Lane, was designated as Industrial with a FAR of .75. Currently those properties had a FAR of .4, which was consistent with Light Industrial M1 Zoning. The action that was taken reflected the heavier and traditional zoning and a .75 FAR was being proposed. To summarize, the recommendation that came out of the discussion established an island of Heavy Industrial Land Use properties in an area surrounded by Light Industrial designations. She wanted to confirm if that was the intent of the Commission's action or was it intended that the property be left as Light Industrial?

Commissioner Whitaker stated he had reviewed the minutes and there had not been a FAR discussion for the parcel north of Brenna Lane and the recommendation had been to keep the designation as it had existed and that had been their intent, regardless of what the FAR was.

Ms. Pehoushek stated it currently existed as Light Industrial .4, and under the General Plan Update, the Light Industrial was adjusted upward to a 1.0 FAR. The labeling of the designation was more clearly identified as Light Industrial rather than Industrial as it currently existed.

Chair Steiner stated in requesting that the designation remain as it currently existed, they could not maintain the same designation if they were to focus on the FAR.

Ms. Pehoushek stated it would be kept as the Light Industrial equivalent of a 1.0 FAR, which gave the properties development potential.

Mr. Knight stated the existing Industrial designation had a .4 FAR. All the areas around the site had already been voted on, a change to those areas to Light Industrial under the new General Plan, would be a FAR of 1.0 with a 3 story height limit. Under the proposed General Plan, there were two designations, Light Industrial and Industrial, which had a maximum FAR of .75, and essentially that would leave a small island of .75

FAR properties surrounded by Light Industrial with a 1.0 FAR. They were asking the Planning Commission for clarification. Light Industrial would be uses such as Electronics and Industrial would be uses such as foundries or automobile recycling centers.

Chair Steiner opened the hearing for Public Comment.

Peter Whittingham, address on file, stated he was representing the property at 341 W. Collins which was better known as a Commercial forming site and qualified as Non-Light Industrial, he was troubled by semantics. Currently there was no Light Industrial designation and the difference in the Light vs. Industrial was the FAR. There was a hodge podge of uses in the Brenna Lane area. There were Industrial uses in the area that would not be consistent with a Light Industrial Zoning, a .75 FAR and 3 story maximum and those businesses would be non-conforming.

When he left on September 9, 2009 he had felt there was a very clear direction to leave several of the properties in that area as they existed and to allow the current uses at those sites. The change to Light Industrial would change those properties to non-conforming uses. The properties directly across the railroad tracks which would remain as they currently existed and he thought that proximity would be the guidepost for a continuance of the current uses. He encouraged the Commission to reinforce the direction of the September 9, 2009 meeting and to allow for flexibility that currently existed to continue. FAR was irrelevant to the current property owners and the range of uses for their properties was most important.

Chair Steiner closed the Public Hearing and brought the item back to the Commission for discussion or a motion.

Commissioner Whitaker made a motion to adopt Resolution No. 34-09.7, Focus Area No. 7, Lemon Street, recommending adoption to the City Council with the change to keep the designation as Industrial as noted in the initial consensus vote of September 9, 2009.

Chair Steiner stated in order to keep the recommendation from their initial consensus vote they would be to recommending a change.

SECOND: Commissioner Cunningham

AYES: Commissioners Cunningham, Imboden, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino

MOTION CARRIED

Chair Steiner opened the discussion for Land Use Focus Area No. 3, South Main Street.

Commissioner Whitaker made a motion to adopt Resolution No. 34-09.3, Focus Area No. 3, South Main Street, recommending adoption to the City Council.

SECOND: Commissioner Cunningham

AYES: Commissioners Cunningham, Imboden, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino

MOTION CARRIED

Chair Steiner opened the discussion for Land Use Focus Area No.4, W. Chapman Avenue/Uptown Orange.

Commissioner Whitaker made a motion to adopt Resolution No. 34-09.4, Focus Area No. 4, W. Chapman Avenue/Uptown Orange recommending adoption to the City Council.

SECOND: Commissioner Imboden

AYES: Commissioners Cunningham, Imboden, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino

MOTION CARRIED

Chair Steiner opened the discussion for Land Use Focus Area No. 6, Cully Drive.

Commissioner Whitaker made a motion to adopt Resolution No. 34-09.6, Focus Area No. 6, Cully Drive, recommending adoption to the City Council.

SECOND: Commissioner Imboden

AYES: Commissioners Cunningham, Imboden, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino

MOTION CARRIED

Chair Steiner opened the discussion for Draft Resolution 35-09, including draft finding facts, overriding considerations and mitigation monitoring programs and EIR.

Mr. Knight stated as Focus Area No. 1 had been continued to November 16, 2009, they would need to continue the draft Resolution 35-09, until a recommendation had been made on that.

Chair Steiner made a motion to continue Draft Resolution No. 35-09, to a date certain of November 16, 2009.

SECOND: Commissioner Cunningham

AYES: Commissioners Cunningham, Imboden, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino

MOTION CARRIED

Chair Steiner opened the discussion for Ordinance Amendment No. 36-09. He stated it had been addressed by staff and Commissioner Whitaker had made a change to the Ordinance Amendment that had garnered support.

Commissioner Whitaker made a motion to adopt Ordinance Amendment No. 36-09, recommending adoption to the City Council.

SECOND: Commissioner Imboden

AYES: Commissioners Cunningham, Imboden, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino

MOTION CARRIED

Chair Steiner stated there was one area remaining. He noted for the record that Focus Area No. 1 which was considered as 34-09.1, Katella Avenue was .2, South Main was .3, West Chapman was .4, Old Towne would be .5, Industrial Areas .6, Lemon Street .7 and Eckhoff .8, and he asked for a motion on Resolution 34-09.8.

Commissioner Whitaker made a motion to adopt Resolution No. 34-09.8, Focus Area No. 8, Eckhoff, recommending adoption to the City Council.

SECOND: Commissioner Whitaker

AYES: Commissioners Cunningham, Imboden, Steiner and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino

MOTION CARRIED

Chair Steiner stated Resolution No. 34-09.9 was the General Element Content that included Circulation & Mobility, Growth Management, Natural Resources, Public Safety, Noise, Cultural Resources, Infrastructure, Urban Design, Economic Development and Implementation. The final focus area to be discussed was Land Use Focus Area No. 5, Old Towne and as previously discussed he would be recused from presentation as it presented a conflict of interest for him.

Mr. Knight stated, in going through the information, there was draft Resolution 34-09.A. The draft General Plan which included everything with the exception of any changes made would need a vote on attachment A as well. It could be completed currently or on November 16, 2009.

Chair Steiner stated he could not consider anything on 34-09.5 and asked if that vote could be held until November 16, 2009?

Mr. Sheatz stated the entire document was the attachment A and could be considered at the next meeting.

Chair Steiner was recused from the presentation.

Vice Chair Whitaker opened the discussion for Land Use Focus Area No. 5, Old Towne. He stated in reviewing the draft changes, he had gone back and reviewed the minutes and following the debate, he had thought that there had been a recommendation for an additional Land Use designation to include the historic multi-family properties and it had not shown up in the resolution.

Ms. Pehoushek stated Commissioner Whitaker was correct. It was part of the discussion and part of the action and it was an oversight which should be corrected.

Vice Chair Whitaker stated the recommended changes were referenced on page 25 of 29 of the September 21, 2009 Planning Commission Meeting minutes and referred to a specific designation of Low Density Residential that would allow permitted by right uses of historic multi-family properties.

Vice Chair Whitaker made a motion to adopt Resolution No. 34-09.5, Focus Area No. 5, Old Towne recommending adoption to the City Council, amending the resolution to include the designation of Low Density Residential as noted in the initial consensus vote.

SECOND: Commissioner Cunningham

AYES: Commissioners Cunningham, Imboden, and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioner Merino RECUSED: Commissioner Steiner

MOTION CARRIED

(3) ADJOURNMENT

Commissioner Whitaker made a motion to adjourn to the next regular meeting of the Planning Commission scheduled on Monday November 2, 2009.

SECOND: Commissioner Cunningham

AYES: Commissioners Cunningham, Imboden, and Whitaker

NOES: None ABSTAIN: None

ABSENT: Commissioners Merino and Steiner

MOTION CARRIED

MEETING ADJOURNED @ 10:00 P.M.