

September 5, 2007

**MINUTES OF A REGULAR MEETING OF
THE TORRANCE PLANNING COMMISSION**

1. CALL TO ORDER

The Torrance Planning Commission convened in a regular session at 7:04 p.m. on Wednesday, September 5, 2007, in the West Annex meeting room at Torrance City Hall.

2. SALUTE TO THE FLAG

The Pledge of Allegiance was led by Commissioner Faulk.

3. ROLL CALL

Present: Commissioners Browning, Faulk, Gibson, Horwich, Uchima, Weideman and Chairperson Busch.

Absent: None.

Also Present: Planning Manager Lodan, Planning Associate Martinez, Plans Examiner Noh, Associate Civil Engineer Symons, Fire Marshal Kazandjian and Chief Deputy City Attorney Acciani.

Chairperson Busch noted that the Commission was meeting in the West Annex meeting room because the Council Chambers was undergoing modifications for the electronic voting system and asked that Fire Marshal Kazandjian monitor the audience to ensure that maximum occupancy for the room was not exceeded.

4. POSTING OF THE AGENDA

Planning Manager Lodan reported that the agenda was posted on the Public Notice Board at 3031 Torrance Boulevard on August 30, 2007.

5. APPROVAL OF MINUTES – July 18, July 25, and August 1, 2007

MOTION: Commissioner Gibson moved for the approval of the July 25, 2007 Planning Commission minutes as submitted. The motion was seconded by Commissioner Horwich and passed by unanimous roll call vote, with Commissioner Uchima abstaining.

MOTION: Commissioner Browning moved for the approval of the July 18, 2007 and August 1, 2007 Planning Commission minutes as submitted. The motion was seconded by Commissioner Horwich and passed by unanimous roll call vote.

6. REQUESTS FOR POSTPONEMENT – None.

7. ORAL COMMUNICATIONS #1 – None.

Chairperson Busch reviewed the policies and procedures of the Planning Commission, including the right to appeal decisions to the City Council.

8. **TIME EXTENSIONS** – None.

9. **CONTINUED HEARINGS**

9A. **PRE07-00013: MICHAEL GUZMAN**

Planning Commission consideration for approval of a Precise Plan of Development to allow first and second-story additions to an existing two-story, single-family residence on property located within the Hillside Overlay District in the R-1 Zone at 602 Paseo de la Playa.

Recommendation

Approval.

Planning Associate Martinez introduced the request and noted supplemental material available at the meeting consisting of correspondence received after the agenda item was completed.

Michael Guzman, 602 Paseo de la Playa, applicant, reported that he had met with the Youngerns (536 Paseo de la Playa) to discuss their concerns as urged by the Commission at the last meeting. Submitting renderings to illustrate, he contrasted the revised project with the original design, noting that 407 square feet have been eliminated, of which 75% percent was removed specifically to address the concerns of the Youngerns. He noted that the project meets or exceeds all setback requirements; that the maximum roof height is 16 inches lower than the existing roof; and that the project will be built according to the City of Torrance green building initiative.

Commissioner Browning noted that he was not present at the previous hearing, however, he had reviewed the audiotapes and visited the site and surrounding area several times and believed he was qualified to participate in this hearing.

Commissioner Browning stated that he would have appreciated new elevations along with the revised plans, particularly of the front the home, because when looking at the silhouette he felt it overpowered the residence to the north. He noted that even with the revisions, the FAR (floor area ratio) still exceeds 0.50.

Mr. Guzman related his belief that the bulk of the project was mitigated by breaking up the façade with a courtyard rather than building lot line to lot line, noting that the front door is 60 feet from the property line.

After a show of hands of those who wished to speak, Chairperson Busch requested that speakers limit their remarks to four minutes.

Tim Youngern, 536 Paseo de la Playa, submitted photographs of the revised silhouette taken from different areas in his yard and maintained that the proposed project would tower over his home impacting light, air and privacy. He reported that

Mr. Guzman did not share the revised plans with him and contended that the changes were made to appease the Commission, not neighbors.

Mr. Youngern stated that the revised project would still act as an airfoil and block cooling ocean breezes; that it would take away light from the south side of his home; and that it would detract from the value of his property. He further stated that privacy issues have not been mitigated because windows could be changed and the roof garden/green roof could be turned into a balcony. He maintained that street noise will reverberate off the north wall of the residence into his yard and voiced his opinion that the proposed architectural design was not in harmony with the neighborhood. He urged denial of the project, noting all of the surrounding neighbors oppose it. Responding to a question posed at the last hearing, he reported that his home has an FAR of 0.32.

Matthew Kadlick, 606 Paseo de la Playa, submitted a letter detailing his opposition to the project. He reported that he and Mr. Guzman are involved in a property line dispute and that overgrown trees on the contested property have disrupted his phone service. He contended that the project would impact his privacy and adversely affect the value of his property and that the design was not cohesive with the rest of the homes in the neighborhood.

Marjorie Hill, 539 Camino de Encanto, voiced objections to the proposed project, contending that it does not comply with the Hillside Overlay Ordinance. She expressed concerns that Torrance could go the way of other beach communities where towering structures have spread like a contagious disease choking out smaller homes.

Robert Hill, 539 Camino de Encanto, Marjorie Hill's son, indicated that he still has several concerns about the project, including the bulk and mass. He stated that according to his interpretation of the Hillside Overlay Ordinance, remodels are restricted to the preexisting limits of the structure, meaning that the proposed second story should be confined to the bulk and mass of the existing second story. He requested confirmation that the three transom windows would have sill heights of 6 feet and explained that modifications to the windows had not mitigated the privacy impact because the transom windows could be converted to full size windows in the future. He expressed concerns that the addition could create a wind tunnel due to the Venturi effect. He reported that Mr. Guzman did not contact his mother until after she submitted a letter of objection to the Planning Department.

Commissioner Faulk requested clarification regarding Mr. Hill's claim of view impact at the last hearing, noting that the silhouette for the proposed project cannot be seen from his mother's property due to trees and shrubbery.

Mr. Hill responded that they enjoy a filtered view of the sunset at the fence line, as well as a blue sky view, that would be blocked.

Albert Ortiz, 620 Palos Verdes Boulevard, voiced objections to the proposed project, citing the impact on the Youngerns' property.

Pamela Moran, president of the Riviera Homeowners Association, stated that it does not seem fair or reasonable that the enjoyment or value of one person's home should be sacrificed to increase the value of another person's home, noting that residents treasure their privacy in an increasingly crowded world. She related her belief

that the burden was on the applicant to prove that a project would not adversely impact other properties in the vicinity and urged the Commission to use caution when considering a project that could potentially harm neighbors.

Ruth Vogel, 114 Via la Soledad, noted that she is not directly affected by the project, but has lived in the Riviera area for 47 years. She related her understanding that no one has been allowed to “piggyback” onto an existing second story due to the “grandfather clause” in the Hillside Ordinance and maintained that allowing this project would set a bad precedent. She also expressed concerns about the precedent that would be set by allowing the rooftop garden. She reported that she reviewed the Hillside Ordinance § 91.41.6, but could not find the word “significant,” as it mentions only that a project may not have an adverse impact on other properties in the vicinity.

Planning Manager Lodan clarified that there is no “grandfather clause” in the Hillside Ordinance that would limit a project to the footprint of the existing structure, noting that there have been numerous cases where first and second-story additions/expansions have been approved. He explained that there may be the perception that it’s easier to gain approval for the expansion of an existing second story as opposed to starting from scratch but there is nothing in the ordinance that addresses this issue.

Commissioner Faulk conceded that the word “significant” is not in the Hillside Ordinance, but noted that it has long been the practice of the Planning Commission and the City Council to look at a project’s impact in terms of significance, especially with regard to views. He explained that the Commission commonly considers the quality of the view impacted, as well as the degree to which the view is impacted considering the totality of the overall view.

Monte McElroy, 108 Via Mesa Grande, provided background information about the Hillside Overlay Ordinance, which she helped formulate, explaining that it was meant to discourage second stories, allowing them only after all other options have been exhausted. She stated that she visited the Youngerns’ residence and observed that the proposed project would shade their house and denigrate that their yard. She maintained that there was a way to minimize the impact of the project, eliminating the bulk of the square building, so that the Guzmans could still have a beautiful home without ruining their neighbors’ view and enjoyment of their property.

Roberta Blowers, 621 Camino de Encanto, voiced objections to the project, citing the impact on neighbors’ view, air, light and privacy, as well as the impact on her view. She noted that the Hillside Overlay Ordinance simply states that a proposed development shall not have an adverse impact on other properties in the vicinity and it does not specify how much or how little and offered a dictionary definition of the word “adverse.” She voiced her opinion that the project’s FAR was too high and expressed concerns that the roof garden over the garage could easily become a deck and that obscured glass in windows meant to protect privacy could easily be replaced with clear glass at any time.

Responding to audience members’ comments, Mr. Guzman contended that Mr. Kadlick’s opposition to the project was based solely on the property line dispute. He reported that the only view affected from inside the Youngerns’ home is from a kitchen window that faces an 8-foot high wall; noted that this window didn’t exist until the home

was expanded two years ago; and voiced his opinion that this view does not deserve the same protection as a view from a preexisting portion of the house. He maintained that any impact on light and air to the Youngerns' property was mitigated by the revisions, which eliminated 20 inches along the entire north wall, including from the existing structure, and 36 inches from the rear of the home adjacent to their property. He noted that he was raised in this neighborhood and is committed to responsible development. He stated that he believed he has made substantial concessions and compromises and urged approval of the project as submitted.

James Meyers, Lean Arch, Inc., project architect, noted that he has won awards for his designs, including an award from the Los Feliz Homeowners Association for best renovation project. He reported that his firm focuses on the environmental impact of land uses and related his belief that this neighborhood was a good example of an area where homes were not being designed to take advantage of natural resources, therefore, consuming much more energy than necessary. He explained that the roof garden was not meant to be used as exterior space, but rather to provide more greenery and cool and oxygenate the air. He suggested that the proposed residence should serve as model for future development and contended that the structure's deep overhang and rectangular wings were much more in character with the ranch-style homes in this neighborhood than the Spanish-style homes being developed.

Commissioner Browning expressed concerns about the project's impact on light to the Youngerns' property.

Mr. Meyers noted that he submitted a shadow study which indicated that project would only impact the Youngerns' property very late in the afternoon during winter months. Mr. Guzman pointed out that that shadow study does not reflect the revisions which moved the north wall of the residence 20 inches further away from the Youngerns.

Commissioner Weideman questioned whether the roof garden could be accessed from the deck on the southeast corner of the residence.

Mr. Meyers explained that the roof garden will not have safety barriers around it and will not be used as a deck and that it was simply meant to mitigate heat gain on the south side of the residence and act as a view enhancement from windows within the residence as well as from neighboring properties. He reported that the roof garden will be maintained by professionals and access would be via a gate on the deck off the living room.

Commissioner Fauk related his understanding that only one window in the Youngerns' residence would be shaded by the project. Mr. Guzman confirmed that the only window affected is the Youngerns' kitchen window.

Commissioner Uchima questioned whether a one-story design was considered.

Mr. Meyers explained that expanding on the ground floor only was not feasible due to the way the existing house is designed because it would result in a massive first floor with a small penthouse on top.

In response to Commissioner Browning's inquiry, Planning Manager Lodan advised that the area called out on the plans as a deck could technically be considered a

balcony because it's accessed by living space on the same level and confirmed that it would be required to have safety railing.

In response to Commissioner Horwich's inquiry, Planning Manager Lodan confirmed that the FAR of 0.529 listed in the staff report was correct.

The Commission recessed at 8:20 p.m. Fire Marshal Kazandjian asked everyone to exit the room, so he could rearrange the chairs to provide more seating. The meeting reconvened at 8:35 p.m.

Commissioner Faulk asked that Mr. Youngern be allowed to provide clarification regarding affected windows.

Mr. Youngern reported that two windows in his home would be affected by the project, one in the laundry room and one in the kitchen/family room, however he was not concerned about the window in the laundry room.

At Commissioner Faulk's request, Mr. Meyers confirmed that the transom windows would have sill heights of at least 6 feet.

MOTION: Commissioner Horwich moved to close the public hearing. The motion was seconded by Commissioner Weideman and passed by unanimous roll call vote.

MOTION: Commissioner Browning moved to deny PRE07-00013 without prejudice. The motion was seconded by Commissioner Weideman and passed by a 5-2 roll call vote with Commissioners Faulk and Gibson dissenting.

Commissioner Weideman stated that his vote was predicated on the fact that he believed the project would have an adverse impact on light and air and he still thought the FAR was too high even though the applicant had made great strides in reducing it.

Planning Manager Lodan noted that a resolution reflecting the Commission's action would be brought back for approval at the next meeting. Chairperson Busch advised the applicant of his right to appeal the decision to the City Council.

The Commission briefly recessed to allow the room to clear.

10. WAIVERS

10A. WAV07-00011: CHESTER SMITH & ASSOCIATES (CURTIS LANE)

Planning Commission consideration for approval of a Waiver to allow less than the required front yard setback in conjunction with additions to an existing one-story, single-family residence on property located in the R-3 Zone at 606 Amapola Avenue.

Recommendation

Approval.

Planning Associate Martinez introduced the request.

Jeff Smith, representing the applicant, voiced his agreement with the recommended conditions of approval. He explained that the Waiver is necessary because the front of the house is the only area of the existing home that can be added onto. He noted that the project directly across the street has the same 10-foot setback.

In response to Commissioner Browning's inquiry, Planning Manager Lodan clarified that for zoning purposes, the front yard of this property is considered to be on Dominquez even though the address is on Amapola.

Chairperson Busch voiced support for the project.

MOTION: Commissioner Faulk moved for the approval of WAV07-00011, as conditioned, including all findings of fact set forth by staff. The motion was seconded by Commissioner Horwich and passed by unanimous roll call vote.

Planning Associate Martinez read aloud the number and title of Planning Commission Resolution No. 07-095.

MOTION: Commissioner Browning moved for the adoption of Planning Commission Resolution No. 07-095. The motion was seconded by Commissioner Faulk and passed by unanimous roll call vote.

10B. WAV07-00015: CLAYTON KAZAN

Planning Commission consideration for approval of a Waiver to allow less than the required exterior yard setback in conjunction with the construction of a three-car garage with an apartment unit on property located in the Small-Lot Overlay District in the R-2 Zone at 2204 Gramercy Avenue.

Recommendation

Approval.

Planning Associate Martinez introduced the request.

Jan Trobaugh, project architect, voiced his agreement with the recommended conditions of approval. He explained that there is no way to provide the required four parking spaces without a Waiver due to the narrow lot; confirmed that there would be no curb cut because all access will be from the alley; and noted that the Waiver is for the garage portion only and all living space will comply with setback requirements.

Commissioner Browning expressed concerns that any fence built adjacent to the new garage would encroach on City property. Mr. Trobaugh explained that the existing hedge and fence will be removed after the garage has been constructed and the garage wall will serve as the boundary for that portion of the property.

MOTION: Commissioner Horwich moved for the approval of WAV07-00015, as conditioned, including all findings of fact set forth by staff. The motion was seconded by Commissioner Gibson and passed by unanimous roll call vote.

Planning Associate Martinez read aloud the number and title of Planning Commission Resolution No. 07-096.

MOTION: Commissioner Browning moved for the adoption of Planning Commission Resolution No. 07-096. The motion was seconded by Commissioner Horwich and passed by unanimous roll call vote.

11. FORMAL HEARINGS

11A. PRE07-00018: TOMARO ARCHITECTURE (BOB AND PAT HOFFMAN)

Planning Commission consideration for approval of a Precise Plan of Development to allow the construction of a new one-story, single-family residence on property located in the Hillside Overlay District in the R-1 Zone at 109 Via Sevilla.

Recommendation

Approval.

Planning Associate Martinez introduced the request and noted supplemental material available at the meeting consisting of correspondence received after the agenda item was completed.

Louie Tomaro, project architect, voiced his agreement with the recommended conditions of approval and briefly described the proposed project. He reported that his main goal in designing the project was to keep a low profile in order to minimize the impact on neighbors and the maximum height of the new residence is only two feet above the existing ridgeline. He noted that the project was constrained by the large storm drain along the side of the property.

Bob Hoffman, 109 Via Sevilla, applicant, discussed outreach efforts. He reported that he invited neighbors to a meeting with his architect to review the plans, however, some were unable to attend and the neighbor immediately east is very opposed to the project and has declined to discuss it with him.

Michael Cotton, 120 Via La Circula, noted that he is a former president of the Riviera Homeowners Association; that he worked with the applicant on a subcommittee formed to study the issue of "mansionization" in the Hillside Overlay area; and that they put together an article for the March 2004 HOA newsletter stressing the need to communicate with neighbors when preparing to submit plans for a remodel. He stated that Mr. Hoffman followed this advice and spent a lot of time and effort trying to talk to his neighbors and came up with a one-story design that is well within guidelines in the Hillside Ordinance. Urging approval of the project, he voiced his opinion that it would have minimal impact on neighbors and that it was the type of project the Commission should encourage. He submitted a copy of the March 2004 HOA newsletter.

Steve Hara, 309 Via Colusa, voiced objections to the proposed project, contending that the only neighbors who signed letters of support are those not affected by it. He reported that he was unable to attend the meeting with Mr. Hoffman's architect, but Mr. Hoffman subsequently visited his home and exclaimed, "Oh, my God," when he

saw the view impact and offered to discuss the matter with his architect, but never contacted him again. Submitting photographs to illustrate, he maintained that the project would block the view from his bedroom and decrease the value of his property by 10-15%.

Frank Jacobs, 304 Via Colusa, reported that that proposed project would block his nighttime view of city lights and daytime view of beaches and the Hollywood Riviera, submitting photographs to illustrate. He expressed concerns about the impact on his property value, explaining that an appraiser recently estimated that the view accounts for approximately 10-15% of the market value of his home.

Robert Mills, 308 Via Colusa, maintained that the proposed project would cause him to lose 50% of his ocean/coastline view due to the two-foot increase in the height of the structure, submitting photographs to illustrate. He noted that he paid approximately \$100,000 or 20% more for his home because of the view and that he purchased this property with the understanding that views were protected by the Hillside Ordinance.

Commissioner Browning expressed concerns that Commissioners were not aware of objections to the project because no letters were submitted to the Community Development Department prior to this hearing, therefore, he had not had an opportunity to personally evaluate these claims. He commented on the difficulty of forming an opinion based on photographs.

Mr. Mills recalled that the notification letter did not ask that information be sent in advance of the hearing.

Chairperson Busch confirmed that those who object to a project are not required to submit information in advance, but explained that it's very helpful to know if there are any objections when Commissioners make site visits because it's not possible to visit every home that could potentially be impacted.

Bob de Vries, 300 Via Colusa, stated that the proposed project will rob him of a portion of his view, which he believes to be significant, and submitted photographs to illustrate.

Jo Anne Milligan, 305 Via Colusa, stated that that project would cause her to lose 95-100% of her view and result in a tremendous reduction in the value of her property.

Steve Nordel, 24002 Janet Lane, reported that he does not live within the notification area, but he was present to support Mr. Hoffman, who is a friend and a valuable member of the community. He voiced his opinion that the project was designed to cause the least intrusion on neighbors, noting the one-story design and low-pitched roof, and urged approval as submitted.

Kelly Evans, 933 Calle Miramar, stated that she supports the project and appreciates the applicant's efforts to comply with the Hillside Ordinance by coming up with a single-story design and a façade that blends with the neighborhood.

Albert Ortiz, 620 Palos Verdes Boulevard, urged approval of the project, citing the applicant's efforts to conform to the Hillside Ordinance. He noted that he does not live within the affected area.

Jim Delurgio, 209 Via El Toro, noting that he does not live within the notification area, expressed support for the project. He stated that he doesn't see how the Hoffmans could improve their property in a more responsible manner, pointing out that the project complies with all requirements and includes no Waivers of setbacks or other items Commissioners typically find objectionable.

The resident of 312 Via Colusa (name inaudible/no speaker card) stated that those who support the project are not affected by it and related her belief that it should be denied because it affects the views of at least 4 neighbors.

Mark Walther, 902 Calle Miramar, reported that he is in the process of trying to redevelop his property and the Hoffmans have agreed to support his project if he supports theirs.

Chairperson Busch advised that any private agreement Mr. Walther has with the Hoffmans was not relevant to this discussion.

Mr. Tomaro stated that he has done everything possible to minimize the impact on neighbors and the only remaining thing that could be done would be to slightly reduce the pitch of the roof.

Mr. Hoffman stated that he was disheartened by how the Hillside Overlay process tears neighborhoods apart, noting that he made a concerted effort to share his plans with neighbors. Submitting photographs to illustrate, he reported that Mr. Mills and Ms. Milligan have two-story homes with views over his house that will not be impacted. He stated that the proposed project would impact only a portion of Mr. Hara's view; that 50% of the view could be recovered by trimming shrubbery; and that Mr. Hara misquoted him and he did not say, "Oh, my God," when he viewed the silhouette from his home.

In response to Commissioner Horwich's inquiry, Mr. Tomaro indicated that he could decrease the height of the project by approximately one foot by reducing the pitch of the roof.

Commissioner Faulk stated that he shared Commissioner Browning's concern about not having an opportunity to personally evaluate claims of view impact and that he favored a continuance or would abstain if the project was voted on this evening.

Chairperson Busch indicated that he also favored a continuance.

Commissioner Horwich stated that he believed the applicant had made a remarkable effort to reach out to his neighbors and doubted that anything could be built on this lot without neighbors having some objections. He stressed the need to consider the property owner's rights as well as the rights of neighbors.

Commissioner Browning expressed support for a continuance and stated that he did not believe lowering the roof would have much effect.

Commissioner Uchima stated that he also favored a continuance and was particularly interested in seeing the impact on Mr. Hara's property. He asked Mr. Hoffman if the photographs submitted by Mr. Hara were representative of the true impact. Mr. Hoffman related his belief that the impact on Mr. Hara's view was not significant.

MOTION: Commissioner Gibson moved to continue the hearing on this matter to September 19, 2007. The motion was seconded by Commissioner Browning and passed by unanimous roll call vote.

Chairperson Busch announced that the hearing would not be re-advertised as it was continued to a date certain and requested that anyone who believes they are impacted by the project, leave contact information with staff.

11B. CUP07-00018, CUP07-00019, DIV07-00012: MUSTOPHA RIAD

Planning Commission consideration for approval of two Conditional Use Permits to allow the construction of two new detached condominium units on each parcel in conjunction with a Division of Lot for condominium purposes on properties located in the R-3 Zone at 18923 Patronella Avenue and 3531 190th Street.

Recommendation

Approval.

Planning Associate Martinez introduced the request.

Riad Itani, representing the applicant, voiced his agreement with the recommended conditions of approval and briefly described the proposed project. He noted that six units could be built on the site, but the project was scaled down to four units at staff's recommendation.

Margie Ruth, 18911 Patronella Avenue, voiced objections to the project, citing the impact on parking and traffic. She called for the elimination of red curbing on 190th Street to provide more parking. She expressed concerns about the quality of people who will live in the units and about whether they will keep the property up. She requested confirmation that the developer is bonded to ensure that any damage to neighboring properties during the course of construction will be taken care of.

Mark Imota, 18917 Patronella Avenue, expressed his opposition to the project, stating that it would block his view of Palos Verdes, intrude on his privacy, and increase traffic in the neighborhood making it hazardous for children. He voiced concerns about dust and pollution during demolition. He asked about the possibility of continuing the hearing so the notification area could be expanded.

Referring to Ms. Ruth's comments, Commissioner Horwich noted that all licensed contractors must be bonded and requested clarification of her remark regarding the quality of people who will live in the new homes.

Ms. Ruth explained that she was not concerned about their ethnicity but rather about overcrowding because there has been a problem with neighbors bringing in a lot of people to live with them without notifying the landlord.

Robert Ruth, 18911 Patronella Avenue, clarified that his wife was concerned about the contractor's being bonded because neighbors experienced damage to their foundation when another development in the neighborhood was built.

Responding to audience members' comments, Mr. Itani stated that he did not believe the four-unit project, which would replace two existing single-family homes, would impact traffic or parking. He noted that contractors are required to control dust when demolishing a structure and any asbestos must be abated. He offered his assurance that the property will be kept up, reporting that the owner of the property will live in one of the units,

In response to Commissioner Weideman's inquiry, Mr. Itani confirmed that the existing curb cut on 190th Street will be closed and all access to the project will be from Patronella.

Commissioner Weideman questioned why these lots are zoned R-3 when the property immediately to the north is zoned R-1.

Planning Manager Lodan explained that throughout this neighborhood, the first two lots of each block along 190th Street have been designated either R-3 or C-2 to create a buffer from 190th Street and the refinery.

MOTION: Commissioner Browning moved to close the public hearing. The motion was seconded by Commissioner Horwich and passed by unanimous roll call vote.

Commissioner Weideman proposed that the hours of construction be limited if the project is approved due to the proximity single-family homes.

Commissioner Faulk voiced support for the project, stating that he did not believe it would have a great impact on traffic or parking. He related his belief that the detached condominiums would have less impact on this neighborhood than apartments, which could be built on this site without Planning Commission approval.

MOTION: Commissioner Browning moved for the approval of CUP07-00018, CUP07-00019 and DIV07-00012, as conditioned, including all findings of fact set forth by staff with the following modification:

Add

- That the hours of construction shall be limited to 7:00 a.m. to dusk, Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday, with no construction on Sundays or holidays. Loud music shall be prohibited on the construction site.

The motion was seconded by Commissioner Horwich and passed by 5-2 roll call vote, with Commissioner Gibson and Chairperson Busch dissenting.

Planning Associate Martinez read aloud the number and title of Planning Commission Resolution No. 07-097.

MOTION: Commissioner Browning moved for the adoption of Planning Commission Resolution No. 07-097 as amended. The motion was seconded by Commissioner Horwich and passed by 5-2 roll call vote, with Commissioner Gibson and Chairperson Busch dissenting.

Planning Associate Martinez read aloud the number and title of Planning Commission Resolution Nos. 07-098 and 07-099.

MOTION: Commissioner Browning moved for the adoption of Planning Commission Resolution Nos. 07-098 and 07-099 as amended. The motion was seconded by Commissioner Uchima and passed by 5-2 roll call vote, with Commission Gibson and Chairperson Busch dissenting.

12. RESOLUTIONS

12A. CUP07-00017: MERCY GO (ETEHAD, LLC & REFONA, LLC)

Planning Commission adoption of a resolution reflecting their decision to deny a Conditional Use Permit to allow the operation of two take-out only restaurants on property located in the C-2 Zone at 20305 Anza Avenue.

Commissioner Weideman noted that the resolution does not address the take-out restaurant's hours of operation, which was a major point of contention during the public hearing, and recommended that a reference to this issue be included because the case is likely to be appealed to the City Council.

Chairperson Busch concurred, noting that the primary reason he voted against the project was the unwillingness of the applicant to change the hours of operation.

Planning Manager Lodan advised that staff would add a finding clarifying this issue.

MOTION: Commissioner Weideman moved for the adoption of Planning Commission Resolution No. 07-091 as amended. The motion was seconded by Commissioner Horwich and passed by 5-1 roll call vote, with Commission Faulk dissenting and Commissioner Browning abstaining.

13. PUBLIC WORKSHOP ITEMS – None.

14. MISCELLANEOUS ITEMS – None.

15. REVIEW OF CITY COUNCIL ACTION ON PLANNING MATTERS

Planning Manager Lodan reported that the City Council approved the addition at 5108 Newton Street at the August 21 Council meeting by a vote of 4-3.

16. LIST OF TENTATIVE PLANNING COMMISSION CASES

Planning Manager Lodan reviewed the agenda for the September 19, 2007 Planning Commission meeting.

17. ORAL COMMUNICATIONS

17A. Commissioner Weideman congratulated Commissioners Faulk and Horwich on being appointed to the Strategic Plan renewal committee.

17B. Commissioner Faulk commended staff for doing an excellent job on the architectural guidelines for the downtown area.

17C. Commissioner Browning reported that according to commissioner guidelines, someone from the Commission is supposed to be present when an appeal is heard by the City Council, not for the purpose of providing testimony, but rather to provide clarity regarding the Commission's action if called upon by the City Council, and suggested that the Commission should start following this procedure.

Chairperson Busch requested that staff look into this matter and report back to the Commission.

17D. Commissioner Browning reported that he had planned to request that an item from the August 15 meeting be reconsidered but subsequently learned that under the Council Rules of Order which the Commission follows, a motion for reconsideration must be made within 14 days of the original hearing, therefore he was unable to do so. He related his understanding that the Council Rules of Order may be amended to better suit the Planning Commission's needs and proposed changing the rules to allow a Motion to Reconsider to be made within 14 days of the original hearing or at the next scheduled meeting. He noted that Planning Commission meetings are frequently more than 14 days apart.

Chief Deputy City Attorney Acciani advised that commissioners may adopt any rule that aids them in doing their job and that staff should be directed to prepare an agenda item if the Commission concurs with Commissioner Browning's proposal.

Commissioner Horwich voiced support for amending the rules as Commissioner Browning proposed.

With the concurrence of the Commission, Chairperson Busch directed staff to bring back an agenda item on this matter as soon as possible.

17E. Chairperson Busch noted that the Commission will be having meetings on the General Plan and requested that one of them be held in January, if possible, since only one Commission meeting is scheduled for that month.

18. ADJOURNMENT

At 10:45 p.m., the meeting was adjourned to Wednesday, September 19, 2007 at 7:00 p.m.

Approved as Submitted October 3, 2007 s/ Sue Herbers, City Clerk
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