

CITY OF ONTARIO PLANNING COMMISSION

MINUTES

July 24, 2012

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CITY OF ONTARIO PLANNING COMMISSION

MINUTES

July 24, 2012

REGULAR MEETING: City Hall, 303 East B Street
Called to order by Chairman Delman at 6:30 p.m.

COMMISSIONERS

Present: Chairman Delman, Vice-Chairman Gage, Downs, Gregorek, Hartley, Reyes, and Willoughby

Absent: None.

OTHERS PRESENT: City Attorney Martinez, Planning Director Blum, Assistant Planning Director Murphy, Associate Planner Clarice Burden, Assistant City Engineer Lee, Sr. Management Analyst Scott Melendrez, Deputy Fire Chief Andres, and Planning Secretary Govea

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was led by Mr. Gage.

ANNOUNCEMENTS

None at this time.

PUBLIC COMMENTS

No one responded from the audience.

CONSENT CALENDAR ITEMS

A-01. MINUTES APPROVAL

Planning Commission Minutes of June 26, 2012.

A-02. ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN REVIEW FOR FILE NO. PDEV12-005: A Development Plan to construct a 520,000 sq-ft industrial building on 24.9 acres within the M3 (General Industrial) zone, located at 5125 East Ontario Mills Parkway. Staff is recommending the adoption of a Mitigated Negative Declaration of environmental effects for consideration. **Submitted by Hillwood Investment Properties** (APN: 0238-021-02).

- A-03. IMPLEMENTATION PLANS FOR THE CITY OF ONTARIO:** Consideration of the City-wide Streets Master Plan; Sewer Master Plan; Storm Drain Master Plan; and, Water/Recycled Water Master Plan; City initiated. City Council action is required. **Submitted by City of Ontario.**

It was moved by Gregorek, seconded by Willoughby, to approve the Consent Calendar items as presented. Commissioner Gage recused himself from A-01 Minutes approval. The motion carried 7 to 0 with Gage recusing on Agenda item A-01.

Chairman Delman requested a brief report from staff regarding the Hillwood development and the master plans.

Associate Planner Clarice Burden showed the site plan and elevations of the proposed industrial building.

Ned Sciortino, Hillwood Investment Properties, appeared before the Planning Commission. He stated this is the second project they are moving forward with in the City of Ontario.

Mr. Delman stated he likes the layout and design of the building.

Mr. Gregorek complimented the applicant on a job well-done working with staff on the enhancement of the building.

Mrs. Hartley stated she likes what they are doing with the dock doors since it is unusual to see them hidden from the public.

PUBLIC HEARING ITEMS

- B. ENVIRONMENTAL ASSESSMENT AND SPECIFIC PLAN AMENDMENT REVIEW FOR FILE NO. PSPA12-001:** An amendment to the Ontario Festival Specific Plan, allowing as a land use option, the development of a maximum of 472 dwellings on 37.6 acres of land, at a maximum density of 12.55 dwelling units per acre, in place of the maximum 392 dwellings and 155,000 square feet of commercial uses that are currently allowed by the specific plan on the affected parcels. Staff is recommending the adoption of an Addendum to the Ontario International Centre Environmental Impact Report (EIR No. 80-3), previously certified by the Ontario City Council, with a Statement of Overriding Considerations, on December 16, 1980. **Submitted by Brookfield Residential** (APNs: 210-631-01 through 11; and 210-181-06, 09, 10, 28, 29 & 39). City Council approval is required.

Assistant Planning Director Scott Murphy made a brief staff report culminating in staff recommendation that the Planning Commission recommend approval of File No. PSPA12-001 to the City Council, pursuant to the facts and reasons contained in the staff report and attached resolution.

No discussion from the Planning Commission.

PUBLIC TESTIMONY

Dave Bartlett, Vice-President, Brookfield Residential appeared and spoke. He thanked the Planning Commission and Planning staff for their work and assistance on the project. He spoke about this project helping to achieve a “balanced community” for Ontario.

Mr. Blum stated that based on discussions with staff and the City Attorney, staff is requesting a continuance on this item to the August 28, 2012 Planning Commission meeting to give staff time to research more information.

As there was no one else wishing to speak, Chairman Delman closed the public testimony

PLANNING COMMISSION ACTION

Motion by Gage to continue File No. PSPA12-001 to August 28, 2012 meeting, seconded by Downs. Voice roll call carried 7 to 0 to continue the item.

C. APPEAL OF STAFF’S DETERMINATION ON THE LEGALITY OF A THIRD

UNIT: Appeal of staff’s determination that a third unit is not legally permitted for property located at 212 East Granada Court within the R1, Single Family Residential, zoning designation. This action is not a project under the California Environmental Quality Act. **Submitted by Paul Munoz** (APN: 1048-252-07).

Assistant Planning Director Scott Murphy presented the staff report. He stated that staff is recommending the Planning Commission approve a resolution to deny an appeal and upholding staff’s determination that a third unit is not legally permitted for property located at 212 East Granada Court, pursuant to the facts and reasons contained in the staff report and attached resolution.

Mr. Gage asked if the original home was built in 1941.

Mr. Murphy stated the permit on file states the house in front was built in 1941 and the house toward the back is believed to have been constructed in the early 1900’s.

Mr. Downs asked if the unit in question could possibly be used for recreational purposes rather than a living environment.

Mr. Murphy stated that is correct.

Mr. Gregorek asked about the zoning of the property.

Mr. Murphy stated it changed from R2 to R1 in 1994.

Mr. Gregorek asked how long it was in the R2 zone.

Mr. Murphy stated for at least a forty-year period it was zoned for multiple units.

Mr. Gregorek asked when the third structure was constructed.

Mr. Murphy answered it was most likely constructed in the 1990's.

Mr. Willoughby asked if it is true that we have no record of permits for this property prior to or since 1992.

Mr. Murphy stated that is correct.

Mr. Willoughby asked if the permits would have had to been issued before 1992 when it was zoned R2.

Mr. Murphy answered yes.

PUBLIC TESTIMONY

Paul Munoz, owner, appeared and spoke. He stated when he bought the home there was already a third unit. He provided photographs to the Planning Commissioners. He stated there are two garages in the front portion of the property and there is a 420 square foot structure toward the back of the property that was sold to him with a notarized affidavit. He stated he was told by Code Enforcement that it was not used as a rental unit. He is asking to keep the construction in original state. He stated there are 17 duplexes and 21 triplexes surrounding his property and this unit is being taken away because the City of Ontario has no record of the unit.

Mr. Reyes asked Mr. Munoz if he has any approved plans or permits that came with the purchase of the home.

Mr. Munoz stated he has no permits on any of the structures.

Mr. Reyes asked if he has contacted the Building Department for approved plans.

Mr. Munoz answered yes he has been in contact with the Building Department and no permits were found.

Mr. Reyes asked if he currently resides in any of the structures.

Mr. Munoz answered no.

Mr. Gage asked Mr. Munoz if he knows which year the third unit was constructed.

Mr. Munoz answered no.

Mr. Gage asked if the unit appeared to be ten, fifteen or forty years old.

Mr. Munoz stated it looked older than ten years and it was not in good condition at the time of purchase.

Mr. Willoughby asked if the real estate profile showed it was a duplex at the time of purchase.

Mr. Munoz stated yes.

Mr. Willoughby asked if prior to closing escrow if Mr. Munoz checked to see what was permitted.

Mr. Munoz stated at the time of purchase he was mainly concerned with any outstanding Code Violations.

Mr. Willoughby asked again if he checked for permits.

Mr. Munoz stated yes he did check for permits and there was no evidence found for a third unit. He has the original blue prints.

Mr. Gregorek asked if the prior owner had record of when he first purchased the property.

Mr. Munoz did not recall.

Mrs. Hartley asked if the third unit is behind the double garage.

Mr. Munoz answered yes.

As there was no one else wishing to speak, Chairman Delman closed the public testimony

Mr. Gregorek asked what the owner would have to do to the existing property if his appeal is denied.

Mr. Blum stated he would have to remove the kitchen facility and return the structure to a non-habitable unit.

Mr. Gregorek asked if he would have to remove the restroom.

Mr. Blum answered no.

Mr. Gregorek asked if staff had any aerial photos of the property.

Mr. Blum stated that staff agreed that an approximate 450 square foot structure exists. The issue is if it was permitted to be a habitable structure and no aerial view will show that.

Mr. Gregorek agreed stating it is not a matter of when it was built, what matters is what was permitted for use there.

Mr. Blum agreed.

Mr. Reyes asked if every unit has to have a certain amount of garages or car ports.

Mr. Blum answered yes under the current Development Code that is true but not under the former Development Code.

Mr. Reyes asked if under the current Development Code if the third unit would be non-conforming.

Mr. Murphy stated the fact that the property is zoned R1 and there are multiple units there makes this a non-conforming situation.

Mr. Downs stated he is surprised the title company did not notice the third unit.

Mr. Blum referred to the owner's comment referencing documentation from the real estate office stating it was a duplex. It may have been listed as a duplex because the third unit was not permitted.

Mr. Downs spoke about a possible inspection prior to the purchase.

Mr. Blum stated the City does not do inspections prior to sale.

Mr. Downs stated he was referring to the outside inspector.

Mr. Blum stated just because the City or the County does not have permits does not mean the permit has been lost; it may in fact, mean they do not exist.

Mr. Willoughby stated the buyer is responsible for researching permits and assumes responsibility for unauthorized construction.

PLANNING COMMISSION ACTION

Staff's Determination on the legality of a third unit. It was moved by Willoughby, seconded by Gregorek, to adopt a Resolution to uphold staff's determination that a third unit is not legally permitted for property located at 212 East Granada Court. Roll call vote: AYES, Downs, Gage, Gregorek, Hartley, Reyes, Willoughby, and Delman; NOES, none; ABSENT, none. RECUSE, none. The motion was carried 7 to 0.

MATTERS FROM THE PLANNING COMMISSION

Old Business Reports From Subcommittees

Historic Preservation (Standing): This subcommittee did not meet.

Airport Land Use Compatibility (Ad-hoc): Mr. Blum stated staff has been working with Cities of Montclair, Upland, Fontana, Rancho Cucamonga, Chino, and County of San Bernardino to obtain the inter-agency collaborative agreement. The City Council adopted the agreement at their July 17, 2012 meeting. He thanked the subcommittee who consisted of Mr. Delman and the late Planning Commissioner Fred Nelsen. Mr. Blum presented the Planning Commission with ALUCP airplane souvenirs.

Mr. Delman thanked Cathy Wahlstrom, Principal Planner and Lorena Mejia, Associate Planner for their dedicated work on the agreement.

Development Code Review (Ad-hoc): This subcommittee did not meet.

Zoning General Plan Consistency (Ad-hoc): This subcommittee did not meet.

ABC Licensing Guidelines Committee (Ad-hoc): This subcommittee did not meet.

New Business

Mr. Gregorek asked Marco Martinez if the Brown Act issue will affect the City of Ontario.

Mr. Martinez stated the issue should not affect the City of Ontario.

Mr. Blum stated we will continue as a city to operate as we always have.

Mr. Gregorek appreciates the Conditions of Approval for the shopping center on Walnut Avenue and Vineyard Avenue. He asked if there is a separate legal counsel for this type of review.

Mr. Blum answered yes, there is a separate legal counsel for these types of reviews and the property owner has been cited since then.

Mr. Gregorek spoke about the prevention of truck parking at same property.

Mr. Blum stated he is taking the position of “not sure” if this is a matter of Planning or Code Enforcement per his discussion with Planning Department staff. The city attorney’s office is in review of this matter.

Mr. Gregorek spoke about weed abatement issues.

Mr. Blum stated typically this is reserved for vacant properties due to the liability factors.

Mr. Gregorek spoke about possible additional provisions for the revision of the Development Code.

Mr. Blum stated he will give the information to Scott Murphy, Assistant Planning Director to forward to Chuck Mercier, Senior Planner.

Mr. Reyes spoke about other shopping centers that may be in worse condition and how we can make our City more aesthetically pleasing.

Mr. Blum agreed with Mr. Reyes and stated these concerns come with more legal issues.

Mr. Martinez stated he has ideas but are not on tonight’s agenda.

Mr. Delman spoke about the application available on smart phones called, “My Ontario.”

Mr. Blum spoke about the roles of Planning Commission to the City Council.

Mr. Delman spoke about the installation of new water pipes on Euclid Avenue between 4th Street and 5th Street.

Mr. Blum spoke about the historical value and nature of the curbs in the area Mr. Delman referred to on Euclid Avenue by the new water pipes.

NOMINATIONS FOR SPECIAL RECOGNITION

None at this time.

DIRECTOR'S REPORT

None at this time.

ADJOURNMENT

The meeting was adjourned at 7:48 p.m. Mr. Delman motioned to adjourn, seconded by Mr. Gregorek.


Secretary Pro Tempore


Chairman, Planning Commission