

MINUTES
CITY OF CARSON
PLANNING COMMISSION REGULAR MEETING
CITY COUNCIL CHAMBERS
701 East Carson Street, 2nd Floor,
Carson, CA 90745

August 11, 2009 – 6:30 P.M.

- 1. CALL TO ORDER** Chairman Faletogo called the meeting to order at 6:38 P.M.
- 2. PLEDGE OF ALLEGIANCE** The Salute to the Flag was led by Commissioner Verrett.
- 3. ROLL CALL**

Planning Commissioners Present:
*Brimmer, Brown, Faletogo, Gordon,
*Graber, Park, Schaefer, Saenz,
Verrett (*Commissioners Brimmer and Graber arrived following approval of the Agenda.)

Planning Commissioners Absent:
None

Planning Staff Present: Planning Officer Repp, City Attorney Wynder, Assistant City Attorney Adrienne Konigar-Macklin, Senior Planner Signo, Associate Planner Newberg, Associate Planner Song, Housing Manager Freschauf, Recording Secretary Bothe
- 4. AGENDA POSTING CERTIFICATION** Recording Secretary Bothe indicated that all posting requirements had been met.
- 5. AGENDA APPROVAL** Vice-Chair Saenz moved, seconded by Commissioner Schaefer, to approve the Agenda as submitted. Motion carried (Commissioners Brimmer and Graber had not yet arrived.)
- 6. INSTRUCTIONS TO WITNESSES** Chairman Faletogo requested that all persons wishing to provide testimony stand for the oath, complete the general information card at the podium, and submit it to the secretary for recordation.
- 7. SWEARING OF WITNESSES** City Attorney Wynder

8. ORAL COMMUNICATIONS

For items **NOT** on the agenda. Speakers are limited to three minutes.

None.

9. CONSENT CALENDAR

None

10. CONTINUED PUBLIC HEARING

None

11. PUBLIC HEARING

A) Design Overlay Review No. 1324-09

Applicant's Request:

The applicant, Watson Land Company, is requesting to provide site improvements and a façade renovation for a 59,000-square-foot concrete tilt-up building located in the Manufacturing Light (ML) zoning district and within the Merged and Amended Redevelopment Project Area. The subject property is located at 1950 East 220th Street.

Staff Report and Recommendation:

Associate Planner Song presented staff report and the recommendation to WAIVE further reading and ADOPT Resolution No. 09-2264, entitled, "A Resolution of the Planning Commission of the city of Carson recommending approval of Design Overlay Review No. 1324-09 to the Redevelopment Agency to provide site improvements and a façade renovation to a 59,000-square-foot building located at 1950 East 220th Street."

Chairman Faletogo opened the public hearing.

Stefan Rubendall, representing the applicant, offered to answer any questions the Commission may have.

Henry Roy, resident, asked when the 223rd Street/Wilmington Avenue improvements will take place.

Planning Officer Repp indicated that the project is soon to go out for bid.

There being no further input, Chairman Faletogo closed the public hearing.

Planning Commission Decision:

Commissioner Graber moved, seconded by Commissioner Brown, to approve the applicant's request, thus adopting Resolution No. 09-2264. Motion unanimously carried.

11. PUBLIC HEARING

B) Tentative Tract Map No. 067049

Applicant's Request:

The applicant, Colony Cove Properties, LLC, is requesting to permit a conversion to resident ownership of an existing mobile home park containing 404 units with an additional 21 potential units permitted under a previously approved permit (Modification to Special Use Permit No. 106-74). The subject property is located at 17700 Avalon Boulevard.

Staff Report and Recommendation:

Planning Officer Repp presented the staff report and the recommendation to WAIVE further reading and ADOPT Resolution No. 09-2265, entitled, "A Resolution of the Planning Commission of the city of Carson recommending Denial of Tentative Map No. 067049 to the City Council to permit a mobile home park conversion to resident ownership for Colony Cove located at 17700 Avalon Boulevard."

Chairman Faletogo opened the public hearing.

Sue Loftin, legal counsel representing the applicant, expressed her belief staff report does not set forth any justification to recommend a denial of the applicant's request, and stated they have provided enough information to make the determination this is a viable and genuine conversion. She noted her objection to staff's use of the words "nominal residential ownership" of the park in the first paragraph of staff's report; with regard to Section 4 of the Resolution, she noted for the record that this is not legally an affordable housing project, stating these points are further addressed in the response correspondence that had been provided to staff and the Commission today (of record).

Ms. Loftin expressed her belief people are opposed to the conversion because they are misinformed, and she commented on the purchase assistance/funding that will be available, including FHA and Mobilehome Park Resident Ownership Program (MPROP). She added there are no capital improvement pass-throughs for the residents under the state rent control statutes.

Tom Casparian, Gilchrist & Rutter, stated that staff's report is incorrect where it asserts the discussions of the courts and the state are split regarding the authority of the city to impose conditions or to deny conversions or that the law is unclear, noting he has personally been involved in several cases throughout the state regarding the level of authority at the local government level regarding Code 66427.5, which the court recognizes as the operative statute here; that nine different court decisions have held the level of the residents' support is not a legal ground for denial; and that the cases confirmed El Dorado Park in Palm Springs is still the law. He added the El Dorado case also held that the income level of the residents is not a legal ground for denial; stated that all three times this has gone to court for this city, the courts have ruled that this city has acted illegally in denying or blocking conversions; that this city has also delayed the conversion by at least two years; that the courts have ruled that any level of resident support for the conversion was also illegal; and added that the court requires this Planning Commission to approve the Colony Cove conversion this evening.

City Attorney Wynder noted that any statement which suggests this city has ignored the published opinion is incorrect; pointed out there is only one published opinion in the Fourth Appellate District, which is the El Dorado case; and noted that part of that decision has been superseded due to changes in the state law. He added that all other opinions referred to by Mr. Casparian are unpublished decisions of the court. He expressed his belief that staff's recommendation is appropriate, highlighting the unsettled status of the law; advised that the Sonoma County ruling that will be announced on September 14th may have a material impact on the outcome of this application; stated this city acknowledges that an unfavorable outcome in the Sonoma County matter will have a material, adverse impact on the city's ability to continue the recommended denial; and that a favorable outcome may have a very dramatic difference. He stated this city, as well as other counties and cities throughout California, are awaiting that September decision.

Planning Officer Repp explained that the Agenda prepared for this evening's cases erroneously noted staff's recommendation for this matter as an approval, noting this was a clerical error and that it does not match the recommendation in staff report and resolution.

City Attorney Wynder stated the action being recommended tonight is based on the administrative report considered as a whole; that it rests within the Planning Commission's sound discretion after listening to the evidence tonight; and regardless of the Planning Commission's action, he advised that the City Council has unanimously directed his office and staff to settle and resolve this conversion, noting that they are vigorously working towards that in good faith.

Mr. Casparian stated he disagrees with the City Attorney, reiterating the El Dorado finding is a binding decision across the state and is currently the law of the state regardless of its current consideration in the Court of Appeals.

Bill Smalley, resident, highlighted HR 6197, an amendment to the Older American's Act, a resolution addressing the prevention of elder abuse; stated this resolution gives all levels of government the authority and the responsibility to adopt regulations to prevent elder abuse, neglect, and exploitation of the elderly; commented on some of the distressing comments he's heard from the elderly residents who are very worried about the proposed conversion; and expressed his belief this effort is an assault on the elderly in this park, noting that he talked with one elderly woman who repeatedly talked about suicide because of her fear of this conversion. He stated the survey of support made it very clear that the vast majority of residents do not want the conversion. He urged the Commission to deny the applicant's request this evening and to wait until the Court of Appeals renders its decision.

John Goolsby, resident, pointed out that the residents overwhelmingly indicated their opposition to the proposed conversion and questioned why this can take place with AB 930 in place; and he expressed his belief that Ms. Loftin's accounting of the number of residents in support of the conversion is inflated.

Shirley Holte, resident, stated that these residents moved into this park because they wanted to live in a senior mobile home park, noting its affordability and quiet atmosphere; stated that the residents are disgusted with this entire process; and urged the Commission to deny the applicant's request.

Chairman Faleto go recessed the meeting at 8:17 P.M. and reconvened the meeting at 8:28 P.M.

Planning Officer Repp advised that the City Council has unanimously directed staff and the City Attorney's Office to work with the applicant and the residents to arrive at a settlement agreement and

resolve the issues of this conversion. She noted that the City Council will make the final decision in this matter.

Bonnie Coombs, resident, noted her opposition to converting this park and making it a family park, expressing her belief this is elder abuse. She questioned how 70-, 80-, and 90-year-olds will be able to qualify for a loan and pay those loans off, stating this burden will be placed on their families after they pass on. She added that the stress is negatively affecting the elderly residents.

Spencer Haneline, resident, stated the survey had many errors on it and was not easy to understand, was not agreed to by the resident association and questioned the accuracy of the summary of surveys. He stated that the vast majority of the residents are opposed to the conversion.

William Davis, resident, noted his opposition to this conversion.

Sarah Cogut, resident, questioned how the applicant is legally able to change the status of this being a mobile home park where people pay rent for the space their homes occupy, noting the loan papers for her home indicates "mobile home," not "condo." She stated if the applicant receives approval, he should replace all the mobile homes with actual condominium buildings.

Louis Cogut, resident, noted he had nothing further to add to the previous speaker's comments.

Paul Randall, resident, stated that most of the residents are on fixed incomes and questioned where they will find the money to continue to live in this converted park. He stated it is doubtful banks will loan these senior residents any money at their ages. He stated that there are many empty spaces at the El Dorado Park in Palm Springs as a result of its conversion.

Frances Mooney, resident, stated if this should be approved, the time limit for first right of refusal should be extended from 90 days to 180 days, noting the residents will need the additional time to read and understand all the documents they will be receiving.

Ms. Loftin reiterated there still is some misunderstanding in terms of the financing that will be available to the residents and stated that additional meetings will be scheduled to assist the residents; and she stated that consideration will be given to extending the 90-day period to 180 days, as suggested by Ms. Mooney. She asked the Commission to approve the request this evening.

There being no further input, Chairman Faletogo closed the public hearing.

City Attorney Wynder clarified that for low and very low income residents, their rents will escalate according to the lesser of two formulas and all residents can remain renters and not be required to purchase their space unless lawfully removed for nonpayment of rent or other breaches of law.

Planning Commission Decision:

Chairman Faletogo moved, seconded by Vice-Chair Saenz, to deny the applicant's request, thus adopting Resolution No. 09-2265. Motion unanimously carried.

12. **WRITTEN COMMUNICATIONS** None

13. **MANAGER'S REPORT** None

14. **COMMISSIONERS' REPORTS**

Commissioner Park noted his pleasure with City Council's decision to bring back the Country Western Fair, encouraging everyone to participate in that event.

Vice-Chair Saenz requested, and received, an update on the use of digital signage displays.

Commissioner Schaefer suggested information regarding mobile home conversions be placed on the City's website.

15. **ADJOURNMENT**

At 8:58 P.M., the meeting was formally adjourned to Tuesday, August 25, 2009, 6:30 P.M., City Council Chambers.

Chairperson

Attest By:

Secretary