



CITY OF FULLERTON
PLANNING COMMISSION/LANDMARKS COMMISSION
REGULAR MEETING MINUTES
DECEMBER 12, 2018, 7:00 P.M.
Council Chamber
303 West Commonwealth Avenue
Fullerton, California

7:01 p.m.

CALL TO ORDER

Vice-Chair Gaarder called the meeting to order at 7:01 p.m.

Dunlap absent

ROLL CALL

Present: Vice-Chair Gaarder, Commissioners Cantor, Gambino, Shanfield, Carvalho and Pendergraft

Absent: Chair Dunlap

Staff Present: Ted White, Community Development Director; Matt Foulkes, Planning Manager; Christine Hernandez, Associate Planner; Ivy Tsai, Deputy City Attorney; Janet Ragland, Administrative Assistant

PLEDGE OF ALLEGIANCE – Led by Commissioner Shanfield

None

PUBLIC COMMENTS

CONSENT CALENDAR (Item 1)

It was moved by Commissioner Gambino, seconded by Commissioner Carvalho, to approve the consent calendar as written.

Motion carried 6-0-1, Dunlap absent.

The November 28, 2018 Minutes were approved as written

1. MINUTES – November 28, 2018

RECOMMENDED ACTION: Approve the November 28, 2018 Planning Commission/Landmarks Commission Meeting Minutes as written.

None

COMMUNICATION DISCLOSURE – Commissioner communication disclosure regarding agenda items.

PUBLIC HEARINGS

Adopted Resolution PRJ18-0000376 – ZON18-00072. APPLICANT: LARRY ROVIRA;
No. PROPERTY OWNERS: LARRY AND THERESA ROVIRA.
PC-2018-28,
denying the
request

Minutes:

Associate Planner Hernandez provided a staff report and presentation on a request for a Conditional Use Permit (CUP) for a student housing dormitory affiliated with California State University, Fullerton in an existing single-family dwelling on property located at 1155 West Orangethorpe Avenue.

The subject property is listed as a Historic Landmark (HL-61 Gardiner House). There proposed student housing will provide 16 parking spaces (14 striped, 2 garage), spaces 12-16 require removal of portion of lawn area in the rear of the property, spaces 1-4 require the widening of a portion of the driveway towards the eastern property line.

A dormitory is defined as “A building intended or used principally for sleeping accommodations, where such building is related to an educational or public institution, including religious institutions, but excluding fraternities and sororities.”

The following components were considered in the analysis of the CUP request: Parking (Conditions 3-7), Noise/Operational Characteristics (Conditions 1-2, 11, 16-18), Maintenance of Site (Conditions 8-10, 12-15).

Vice-Chair Gaarder invited the applicant to address the commission at 7:10 p.m.

Applicant Larry Rovira indicated that owned a small student housing group who purchase and operated student housing across the country. Mr. Rovira also mentioned that he is a Planning Commissioner for the City he lives in. Mr. Rovira indicated that he has met with only two neighbors because they either turned their back or are not real happy with the type of business that he runs. we’ve been straight forward and honest with them, I’ve been called a liar, a slum lord, I’ve been cursed at, my live-ins have been called names, gay, black, whatever, no matter what you all do the only thing about this process is the staff have been absolutely great especially Christine.

I already own a CUP in the City of Fullerton, some of you have lived in the City quite some time and knew Highland Market you know my in-laws, I’ve been involved with the City on the Board of Directors at CSUF, I’ve been the Alumni President there, worked with previous Police Chief on operations to help them with cleanup, I’m not a real bad guy no matter what some of them may say and what they’ve said to me on my phone when I’ve given my contact information, I’m not trying to bamboozle or get into the neighborhood to take anything away from them, I have a strategy that works for student housing that the university supports, we put together a 20-page presentation and gave it to the Department, we worked with them for months hand in hand with what is the right thing to do with the site, not sure if you’ve been by it, sure been on your radar for a while, the money that we put into the house to improve it is so much better than when it was left by the previous owner. When I bought it I heard nothing but bad things about the previous owner

and I don't know him for the life of me, all I know is that Mrs. Hogan from Saint Mary's goes over there and picks oranges on the property and gives it to the homeless, I know Mrs. Hogan because her son and I lived together in college so she would tell me good things about him but I didn't hear anything good from my neighbors about him, I'm not trying to blast the neighbors before they blast me, I know what's going to happen here, they came in with pitchforks and torches, it's not my first rodeo, I get that but we've done everything to comply with rules and regulations and to be a good neighbor, when we first worked with the City in our application there were several things that we brought up to them that were very proactive, Christine and her team came back with a couple more items and I didn't even flinch, you're right I overlooked that it makes sense, I will say that in the last week I got probably about 15-20 more addendum items I need to look at and some I do question, if we proactively work with the City my CUP with my other property I've owned it for 17 years no complaints no threats haven't been in front of the Council, I've already proven I can manage one within your City and I have 10 others across the country I manage, I haven't had any revoked from the City no issues, most important thing I have concern with brought up to Christine I want to come in front of you every year to prove that I am a good landlord that I am a good investment in the City, the economic impact on the presentation you saw is \$180,000 annually from the dormitory is from the kids going out buying gas, by eating at the local restaurants and we start multiplying what they do every month where they shop the local owners are going to be pretty excited about that it's a great influx, the biggest thing I have a concern with is I don't think the neighbors really understand it's the old they don't want it in their backyard and that's their right and it's the same thing I have the right to apply for the CUP and within the law do the right things and I think I've done everything with that, a couple of the bullet points that they have on the items after the neighbors speak and after you make some recommendations shoot it down or if you agree with it, if you agree with it there are some items I want to address one is taking down the back gate I agree there needs to be no ingress/egress emergency exit only from day one no parking on Porter Avenue from day one that has been my statement but to take down that back gate so if we don't get along in a year or two years or if I get tired of this in 10 years to have that back gate taken off really takes away from the heritage of that property, we've added 72 new plants we took up all the old carpeting and redid the floors we legally put air conditioning units top and bottom when it was 105 degrees in there in the summer it was unbearable on that property, we've done everything the right way with the City so when you look at some of the items and you have questions about numerous came as soon as the announcement came out about our CUP from the neighbors, in my conversation with Christine I didn't balk at any of them, again tearing down that gate doesn't make sense putting a black tarp over it so you can't see through for whatever reason they think we're running a meth lab over there whatever scare over there they don't want to see I'm fine with that we could tear it down that does not make sense, saying that they can only have 16 guests over there for 10 people if they do a Friendsgiving and the 10 people bring their parents that's 30 right there I guarantee you I have a neighbor next door that will be over the fence new fence that I put in I didn't ask the neighbors to pay for so there have been no financial strains on the neighbors they'll be taking pictures saying I've counted them and they have 30 instead of 26 people over there which to me is childish, they have my number I gave them my number I'm not hiding from anything we gave them our house manager our house manager is a Sergeant in the Reserves of the US Marines they know who he is they have his number the only time I got a phone call when I got cursed at I got sworn at and I got threatened and I gave it to my attorney I didn't go to the City a neighbor I get why he has issues with it he's been there 34 years but when he wants to sell I'll buy his house I'm not afraid of that I want to be a good neighbor the only one who talks to us is the renter next door out of the 20 homes that got hit five of those are

renters so the other 15 I know there's probably eight standing behind me ready to kill me but it's not just an overwhelming Mr. Rovira's wrong take him out so you probably all read it I know you all got letters/voicemails/emails from the people I don't think we want to be here all night long I want to do the right thing and I will do the right thing and if I don't have students in there and again I have the support of the University I'm going to have someone in there and if I have a CUP I have restraints I have to abide by certain rules if not I got enough money I can rent it out to anybody I want within the rules and regulations set by the City and I guarantee you some of the neighbors may not like the people I put in there I may just put my daughter in there with her dog no offense I'm not moving back to the City of Fullerton I really love the City I love the opportunity you all give but this could have been worked out a lot better but I guess not in my backyard so that's my song and dance to you all I do hope you support the resolution I would not have come through to the City and spent the money we did if I did not think this was right or if it was illegal and I will make this statement to you as of now I may be over the limit of people I'm renting to I have two people staying there for the month of December they were in there a little bit before November because of the issues with the fires and they needed housing and I'll be straightforward and honest with you on that so if you want to fine me a \$100 because it's worth it the stuff the kids had to go through with the fires I'm a good person believe it or not did I go over with my set limit yes but I'm going to be honest with you on that and I think I have a good enough story and they are going to be out by January 1 once everything gets settled with insurance want to look at 20 page presentation I put together

Commissioner Shanfield stated this was the first information she has gotten. Not gotten any phone calls; all fresh and new to her.

Mr. Rovira: Lucky you

Shanfield: Have questions based on letter reading about the noise level and parties, about the apartment complex. Is it, was it, will it be a fraternity house?

Rovira: No, by the stipulation it won't be a fraternity house.

Shanfield: But was it?

Rovira: Orangethorpe is not a fraternity house. Will it be one in the future? No ma'am. Will there be meetings there for a fraternity or sorority? No ma'am. Will there be letters? No. The whole issue with what everyone else thinks it's going to be is not true. I'm going to make money because I have a relationship with the University and they're impacted. If it's the baseball team, which I wanted to move in there because I'm a big baseball booster and I went to school with the coach, or a sports team because the money directly goes from athletics to me. It doesn't go to the students and then to me. It goes straight to me. It's very good for me so, I don't have that intent because I have to come in front of you guys every year. If those two years go by and say I lay low and they think I BS everybody, guess what happens on year three and you're still a Commissioner and I come back up? I'm not going to have that 1.1 million dollar investment of mine goes away. So I'm not that dumb to do it. Will there be a fraternity or sorority person in there? A gay, lesbian, an African American, a Republican? Yes, there probably will be, but I can't regulate that. I can't stop that.

Shanfield: I just wondered if it was a fraternity house because it sounds like, in some of the information we got, one time the address was used as the site for...

Rovira: Absolutely. When we first did it I presented to three groups - a sorority, a fraternity and also the baseball team. So when we had an initial meeting there in February, I forgot when the first call came in, Shirley in Code Enforcement came. There was nothing in the house. I presented the house, it was a Sunday afternoon, people cheered, we posted pictures, it didn't happen. People are going to say what they want to say so if people aren't happy with me putting Republicans in there or Democrats or whoever.

Shanfield: With the conditions that are set forward now, as students move in, how are they educated and given the conditions? How is that enforced by you as well as your General Manager?

Rovira: There's a contract. On that contract will be the rules and regulations. One of the rules that was added was amplified music and no outdoor concerts. That will be added in too so when they sign the contract all of that will be there. It will show where they can park and say no parking on Porter, so on and so forth. That will be in the contract. They break the rules and regulations, they break the contract, they are evicted. Takes 30 days to get them out. If the house manager can protect our country and die for us, I think he can protect the contract that I give him to make sure they follow the rules and regulations. The other thing that is important is he wants to make sure because he does not have an invested interest. He actually works for the City of Fullerton, by the way, in the Museum as an intern. He doesn't want to lose creating this opportunity. He doesn't want this place to get torn down and messed up and neither do I. That's why I spent \$100,000 in 10-months refurbishing the property. We haven't shied away from Code Enforcement coming over to investigate. We haven't shied away from the neighbors coming over to talk to us, not once. They see me now, I just get a dirty look. They run away, close their door and shut the blinds.

Shanfield: It does sound like there's been some noise problems and that kind of thing.

Rovira: I haven't got one phone call. There hasn't been one complaint filed, and if there was, they know who they need to reach out and contact. In the very beginning, it was 3:00 p.m. on a Sunday after a baseball game or something, people playing catch outside and a neighbor said they were loud. Quiet hours are 9:00 p.m. to 8:00 a.m. That means they are not on the balcony talking to their parents on the phone. It's $\frac{3}{4}$ of an acre. The Orangethorpe side is so noisy you can't hear a conversation. Farther in back, near Porter Avenue, it kind of echoes. When I purchased the property a lot of plants were dead. I spent over \$2,000 trimming, cleaning, revitalizing these trees, putting in nutrients. They became so healthy I got a phone call from the neighbor saying I better get over and clean up my leaves that blew over to his yard, which I did, and trim the tree back. Then I was told I didn't do a good enough job trimming the tree back. I'm not a professional gardener or landscaper. I did a good job responding quickly to a complaint from the neighbor.

Commissioner Cantor: What's the current use for the property?

Rovira: Renting it out right now.

Cantor: Is it a single family that you're renting to?

Rovira: No, individuals.

Cantor: How many individuals?

Rovira: Six. I think the rule I read was, and I may be wrong, two people per room for total of 6. Code Enforcement called earlier in the week and said that someone called and complained that

is not the rule. I'm trying to get the definition from the City. If I'm wrong I'll make that change. I read two people per room, total of 3 rooms could be used, and that was 6.

Cantor: So six people in a single family zone. Has it always been six people?

Rovira: From my knowledge, yes.

Cantor: So your testimony, in front of this Commission, is that your property has only been rented to six people at any given time?

Rovira: That I know of, yes. They will argue the point that there's probably 100 people living there, but I don't think that's true either.

Cantor: You said that you had some objections to the conditions that were going to be imposed should this Commission grant your CUP. You mentioned that you objected to the closure of the gate.

Rovira: No, sir.

Cantor: Elimination of the gate?

Rovira: It was to add the gate. I'm in full support of them not using it as ingress or egress, except for emergency vehicles, but to destroy the gate. That is permitted.

Cantor: I've got that one. Are there any others that you would like the Commission to consider abandoning?

Rovira: It wasn't abandoning, it was actually more modifying.

Cantor: Great, let's hear them.

Rovira: Condition number 3 - The maximum number of guests to not exceed the available parking spots; 16. If I'm reading that, 10 people living there, they can have 16 guests. I'm not sure if that's the number even though we're now paying over \$12,000 in taxes on the property and one of our rules to stipulate is not to park in front of any of the neighbors houses, park in front of our property or the median that's across. I think that number, to be fair, because we will go in front of the Commission every year for the next two years or any time after that, can be at least 30, 35, 40. After the first year, if it seems obscene or absurd, then either we modify it down or I lose the CUP. The intent is, and it has always been, rules and regulations. There are no open parties. I came in from the very beginning on that. This is not to be a party house. No matter what a neighbor will say, people were outside talking, singing, dancing around, whatever they will do, that at some point in time...

Cantor: So guest numbers is an issue, what else?

Rovira: Number 13 talks about replacing the barren landscape area. As we all know, the home was homesteaded in 1860 and I keep on letting the City be aware that we want to make sure that we support the heritage of the site and that building. I don't know if anyone has Googled it, but I also own President Ford's old home, which is a historical building in Ann Arbor, Michigan. We want to preserve that as well too, especially as we continue to lose our Presidents of the United States. We've invested and taken care of it. We've not modified the outside. We've actually made it better. I got a little bit of clarity from Christine on it, I did not think taking out the ivy in front of the Orangethorpe Avenue median was a good idea. It wasn't beneficial for anybody and what would I replace it with? What is of that era? I'm not really sure. So there are on the east side are the trees and they fall down there's leaves and there are plants and stuff like that on the west side of

the driveway there's some patches but there's some ivy that grows around the orange trees. 13 orange trees on the property that we continue to maintain. There isn't that much of a barren land. There's green grass in front of the house all the way to the back.

Cantor: Great, so barren landscape. Anything else?

Rovira: There's an understanding if the Commission supports it that our trashcans are inside and covered. When I ask why, there is so much definition. I just want to make sure it's in there so nobody goes off the reservation on it.

Rovira: I respect that, but we agreed let's take down the shed. I thought it's been there forever attached on the house. Can we move our trashcans there because we will still have our trashcans picked up on Porter? They've been picked up there at least since 1950 or whatever. You start trash service on that side of the street so that's where the trashcans have always gone, on Porter side so they wouldn't go through the ingress/egress. There's just another gate to the west side of the property that they take the trashcans out. I did not think it would be fair that they would have to take the trashcans $\frac{3}{4}$ of an acre, all the way up to the front, because what I don't want to happen is that then they sit off the front over behind the gate. I live in Chino Hills and we have a rule that...

Cantor: Going to hit the pause button on you. For staff, is the shed issue a non-conforming structure historical issue? What's the reason we're making them take it out?

Planning Manager Foulkes: There's no record of a permit for the shed structure adjacent to the garage. It's not part of the historic listing.

Cantor: Great, thanks very much.

Rovira: I didn't put it there so I'm fine with that.

Cantor: So we've got the barren issue, we've got the trashcans and the shed. What else?

Rovira: That was it.

Cantor: Great.

Rovira: I'm very easy to work with, believe it or not.

Cantor: No other questions for the applicant at this time.

Rovira: I appreciate the time and energy and if I don't get called back up after I get grilled over here and called everything on the face of the earth, I know I will, so if I get an opportunity to readdress I'd like that opportunity. If not, I thank you for the time and energy that we had. Christine, thank you. Matt, thanks.

Vice-Chair Gaarder opened public comments at 7:36 p.m.

The following members of the audience spoke in opposition to the project:

- Liz Savage stated that she lives on west Porter and has never met Mr. Rovira. Despite living two doors away and being outside a lot, she just found out his name, does not have his contact information and had never seen him. There has been an issue with the house since the beginning of the year with noise. The first thing she noticed was a fraternity gathering (photos provided). Their Facebook page states they found a home and that address is listed as the fraternity. She called CSUF Greek Life Advisor and he confirmed to her they changed their address. She asked if he was aware they don't have a CUP to

operate as a fraternity on that property and he did not. She then filed a complaint with the City. The fraternity was there chanting, yelling, raving and calling out. The parcel is in the middle of the block and the house faces east. All of their backyards are along there all the way to the alley. The north part faces houses across the street with small children. 16 spots to be dorm student living to eat, sleep, study and go to school; not for parties and gatherings. Go rent a hall if want to have Friendsgiving. Advertised as investment in Fullerton. His other property is not in compliance with a CUP for a fraternity.

- Grant Gonsior stated that he lives next door to Larry's property and complained about the trees coming over the fence. He asked him to come trim them, which he did, but only trimmed half. He asked him to come back and he did. We're not here because we think Larry is doing something illegal. He's taking care of the property. Larry told him Daniel is in charge of the house. His first experience was about a month after the boys moved in. At 10:00 p.m. on a Monday night they had about 10 people over to the house. They were drunk in the backyard, screaming and yelling, police came, he was woke up repeatedly, found drunken students in parkway 3:30 a.m. and girls in backyard screaming, yelling, giggling drunk. Few weeks later beer pong 3:00 Sunday afternoon, all drunk, yelling, screaming and cursing. He could hear this in his house with the doors and windows closed and the television on. He made Larry aware and he said he would check into it. Daniel came over and introduced himself and assured him it would never happen again. A few weeks later the second beer pong party occurred. He spoke to Larry and Daniel called him and thought he was picking on him because he's a young person and if anyone else was making noise it wouldn't be a problem. He told him it was not because he's young but respect for the neighbors and not playing beer pong on weekends. The third beer pong party happened and he talked to Larry and was told Daniel had been removed from the house and it wouldn't be a problem anymore he got a new guy in there. A week later he ran into Daniel and asked why he was there, thought Larry kicked you out. Daniel him he wouldn't believe a thing Larry says about anything, he still lives here. Trashcans left in street, motorhome parked on Porter Avenue.
- Tom Hallam - 1206 West Porter northwest corner of Larry's lot, loud parties, garage is against my kitchen yelling/screaming in there, the bedroom windows are above my pool, affect sale of his home someday, punching bag up against block wall rattling house asked to move over
- Don Dische - Porter Avenue homeowner 38 years, reiterate what Grant and Liz said, live across street from it, think bad idea, always like quietness of area and family oriented and this use would not be, don't want to disclose that when sell house some day
- Kathleen Jensen - 1149 West Porter Avenue 15 years directly across the street, quiet family oriented street, main concern dormitory housing property value, buy as starter home have kids would say 10+ guys living across street and don't feel safe, uncomfortable with trashy motorhome parked out there for days with tickets on window, main concern have issue with being student housing college behavior, seen them use gate trashcans out for days want to feel safe and comfortable and want peace lost that if people are rowdy parties and don't have respect for neighbors
- Tom Sheehan - Orangethorpe side of view two doors down from this property 1213 West Orangethorpe Avenue since 1999 raised family there good neighborhood quiet, disagree

Orangethorpe side is noisy, cars parked in front of house and median side, Sunday morning student undressing changing clothes in front of car, always admired the house and wanted an owner who appreciated it and keep historic value and history of house, hope you realize what's going on here and not let it happen

Vice-Chair Gaarder invited the applicant to respond to public comments and answer Commissioner questions.

Rovira: Doesn't know whose motorhome it is either, for clarity Julian? is reserve marine house manager doesn't know whose motorhome it is, Danny removed as house manager, unaware if belongs to someone living/visiting will get it moved, trashcans been left out we can fix that I get the understanding but to sit here and be called a liar that I'm a professional "BS"er no I'm retired from Miller Coors as National Account Executive I sold beer ran beer companies I'm not a politician am involved with my city I do the right thing if I knew there was a professional beer pong team living there I'll put a stop to it we had one conversation on it and I have no problem sharing the voicemail I got from Grant on that and that was it he told you when he had a complaint and he addressed it with me I took care of it and maybe had to do twice because didn't understand his message when had to trim things back on the tree but I'm willing to work on it the neighbors in front this is the first time I've heard that the gentleman on Orangethorpe and I will disagree with him and I think everyone else that is a noisy street so if someone was undressing in front of the house let me know we'll take care of it I don't know who it was but if it was an everyday occurrence absolutely someone would call me and we'd nip it in the bud when there has been a problem nip it in the bud I try to look for the CUP on 2117 Teri place when rectified and given to City that CUP travels with the property unless City Council takes it away so we still have CUP Christine I will email it to you so you can share with young lady who says we don't have one for 2117 we've had that for 17 years and that was 10 years beforehand there hasn't been a CUP in the City of Fullerton that has been taken away from a property owner because when they hear that there are issues and complaints we rectify it because there are barstools on a patio no one come by City and wrote complain and told me they can't be out there I'm sorry I don't know all the rules and regulations that we have I haven't studied enough for 17 years drive by there tomorrow it's one of the cleaner ones in the back because we actually lock our trashcans so she can call me whatever name she wants to call me I will send over the CUP that is given and granted by the City let me know if the knuckleheads are being knuckleheads and we'll slap them we'll fix it I don't want to spend the money and come back in front of you again and continue to put money in the building and get it taken away there's no one else on Orangethorpe here complaining maybe because we made friends or maybe because most of those rental houses but if you look at our property how it is clean we have maintained that heritage how we will continue to maintain that heritage more so than a lot of those other homes on Orangethorpe and even one or two on the back side of Porter we take a better care when we moved in there everybody complained about the apartment at the end of Porter I am the new target they are the ones parking when I visit the property I'm picking up their trash I'm not picking up my residents trash and if it is the residents leaving the trash and creating the problem I will nip in the bud or I'll pull the CUP I'll give it back whatever we need to do but again I've proven to be a good property owner in the City of Fullerton for 17 years I will continue to do it with this opportunity we've been given restraints by the City what we can and cannot do if there's something that needs to be modified approach me

Gaarder: When I looked at this the closeness of your house patio on west side to your neighbors what sound barriers are there or what would you be willing to consider? What's feasible there or it might be the water tower? Is that the water tower?

Rovira: That water tower is not used one of our neighbors on the Porter side on the back side of us I actually know the grandson from CSUF baseball very pleasant neighbors and very good and when there's been an issue they have addressed it with me if kids are beating a bag against the wall I'll have them move it nobody has said anything to me about beating up a punching bag I was told that the tin shed back there was ugly and move it the very first day but I don't think I need to do it the deck on the water tower is not being used the second story is not being used one of the conditions from the department is to have a structural engineer address how that's being used we're not using it the bottom part there's a washer and dryer in that room and that is it you see the stairs on the water tower going up that room isn't used for anything and if it is being used for something I'm unaware of it maybe the neighbors can address it to me because there's a different key padlock on that one and we'll make sure we don't want it to be used I've asked if I could take it down but I was told I couldn't take down the water tower but we don't want that to be used it doesn't make any sense not going to be lived in not going to be used

Gaarder: What kind of space is there between the main structure of the house and the western wall?

Rovira: On that wall I would say at least 20-30 feet. I was asking my neighbors behind me.

Gambino: I think you have a site plan that says nine feet. Site plan is kind of weak.

Foulkes: The site plan shows 17 feet between the western property wall and the western property line. That's how it's dimensioned on the site plan.

Rovira: Which is a lot larger than a normal house, but the intent is not for that to be used. I don't want it to be used. I think the liability going down those stairs.

Gaarder: Would you be open to considering further review beyond two years?

Rovira: Absolutely I have no problem you want to do it every year for 5 years whatever you want to do or when conditions arise I have no problem doing that I guess professionally I'm a broker have real estate license so on presentation presented to department the impact for property values going up in that area I think it was 6 or 8 percent based upon the valuations of the property this was done and we presented in September or October to the department the values had actually gone up there have been two properties sold over there and they went over asking price so I understand where some of the property owners don't want to be next to a dorm or some guys or girls or whatever it is I understand that but for them to say it's going to drive down and they're not going to get the resale value that's not true especially in Orange County especially in Fullerton unless something goes wrong this week with Trump.

Gambino: You said it's not used as a fraternity and you don't intend to use it as a fraternity house and it never has been.

Rovira: Correct.

Gambino: There may be a disconnect somebody has presented us with information that shows maybe on social media or CSUF's website that it's Sigma Pi's address for their facilities and there's

pictures of what seems to be fraternity events and perhaps even yourself at a fraternity event so am I missing something or what is it I'm seeing here?

Rovira: So when the complaint happened in September beginning of March the guys jumped the gun we had talked to the City we were still presenting the property and it is not on their social media the gentleman who is Greek Affairs didn't know anything about it he's no longer with the University received letter from Associate Vice President of University supporting our plan for student housing that's in the packet in March was everybody jumping the gun absolutely no longer on website my website I have my properties and I have student housing property

Gambino: So what you're saying is they mistakenly...

Rovira: They jumped the gun.

Gambino: And in the end it was not to be that so the pictures of an event with everyone wearing their stuff...

Rovira: Correct, me handing the key to the gentleman, correct.

Gambino: So are these pictures not real? I don't understand.

Rovira: No, because Shirley Reyes (Code Enforcement Officer) came in right after that and took pictures of the house and went through everything and even in the application...

Gambino: No, but pictures of what seems to be a fraternity event and perhaps you were there as well.

Rovira: Correct, it was a Sunday as people had called and on the Fullerton Digest people were talking about it oh we heard a big cheer and so on at that point in time we had talked to them we'd talked to a sorority as well renting the place we were not renting to them we do not have a contract with Sigma Pi did everyone jump the gun? Yes, the City came out with an investigation they went through their investigation she came back to investigate what was happening nothing is on there if you look on their social media they're 800 North State College you look at their pictures on social media they're not having their functions there are there individual members from the University who are affiliated in one shape or form? Yes, and I have that right to rent to whoever it is I'm not going to rent it to the fraternity or sorority because I know what I'm going to put through with the neighbors on CUP for that I know that they don't want that in our rules and regulations everybody has read it and it was on the agenda they're not allowed to have open parties for someone to say they are just going to eat sleep and study pretty boring life no offense and people will do that and good for them but you got to have a social life and I'm not saying that I want 50 people or 100 people there I'm just saying I think the number is right now 26 the department is recommending round it give me a 30 number give me a 40 number a better number than you have parking here and we're just going to give you a roundabout number because it's too ambiguous whereas I don't want someone to sit there and say well I see 16 cars there and start counting heads and its wrong I want to work with them so give me that right number

Gambino: So under the advice of our attorney, and she is very astute and very good at making sure everything's fair, she wanted me to share these photos. I don't know if you've seen them before.

Rovira: I've seen them. I saw them when Shirley had submitted the complaint from the City.

Gambino: So then you know what I'm talking of?

Rovira: Yes.

Gambino: I just wanted to give you that opportunity.

Rovira: And so at that time when Shirley closed the case she found that it wasn't warranted it's not being operated as a fraternity house and that was the only complaint filed with the City until a week ago when signs went up on our property and the letters went out and then everybody got letters

Gambino: You answered my question, thank you.

Rovira: Thank you.

Pendergraft: Mr. Rovira, you purchased the house as an investment or the property as an investment, correct?

Rovira: Yes sir.

Pendergraft: And with the thought of converting it into a dorm for student housing? That's what your business does, correct?

Rovira: Or rent to a large family or something like that, yes correct.

Pendergraft: I don't know whether you've said that there is an open Code Enforcement issue on the property at the current time. Are you aware of that?

Rovira: Yes, I am and it happened as soon as the letters came out and so I've been engaged with Shirley on that, correct.

Pendergraft: And what's the specifics of the issue?

Rovira: She's saying that we have too many people living there and again in my earlier statement I did say I was housing two extra people to the end of the year because of the fire thing we can rectify that but I've had open communication with her and the City department so I've always said you want to come over and visit lets come over and visit

Pendergraft: So we've had those two Code Enforcement items that you're aware of - one earlier in the year and then this one that was just recent.

Rovira: But the other one came up because the letter going out that we were applying for a CUP if that letter never went out and if I wanted to be subversive to the neighbors and to the Council and to the City I would never have submitted the CUP which is a cost and I would have hid behind the branches of the Gardiner house but that was never my intent my intent was to do the right thing

Pendergraft: Alright, thank you.

Carvalho: When exactly did you file the CUP?

Rovira: Summer.

Carvalho: So you're saying the second Code Enforcement case was generated following the summer?

Rovira: Yes sir, the second was following the notification that was mailed to the neighbors after Thanksgiving and the posting went out in our front yard.

Carvalho: But the Code Enforcement complaint about having nine students living there?

Rovira: That was after Thanksgiving.

Carvalho: Correct.

Rovira: That was the second one.

Carvalho: So that's the second one?

Rovira: Correct and the first one was, I don't know, the first week in March, end of February whatever it was and then it was closed in April

Carvalho: So your statement about perhaps not even filing the CUP just kind of fighting City Hall perhaps...

Rovira: Well that's not my style that's why I'm here I'm applying for it because I want to do the right thing

Carvalho: ok

Rovira: So we started working on it.

Foulkes: The application was submitted on September 17th and we had met with Mr. Rovira prior to the application submittal so mid to late summer of last year was when this project got started.

Carvalho: Not after he purchased it, like the first of the year?

Foulkes: The purchase date is February so...

Rovira: February 22nd

Foulkes: Between February and August we had some limited interactions related to the Code Enforcement case that was ultimately closed, but the application submittal date is September 17th.

Carvalho: So in February was the first Code Enforcement case?

Foulkes: The initial complaint was closed soon after it was opened, there is an open case we're working with Shirley Reyes on and Mr. Rovira has been responsive to that but it was not yet closed so that's why we referenced it as open in the report.

Carvalho: Thank you.

Rovira: Thank you very much for the opportunity.

Foulkes: Vice-Chair Gaarder if I could take a moment before you have any more deliberation to just clarify a couple of the conditions of approval and maybe try to address some of the questions some of the concerns from Mr. Cantor condition #3 in the condition of approval says the maximum number of guests shall not exceed the number of available parking spaces within the property pursuant to the approved site plan so the intent of that condition is to limit the number of guests to 6 so we have 10 occupants we have to presume when we're writing our conditions that every single visitor will drive separately that may or may not be true but in terms of writing conditions of approval that are objective and measureable we can count cars it's much more difficult to count individual people so our condition says there are 10 occupants there must be 10 parking spaces there are 6 additional spaces which is one more than the code requires which is 1.5 spaces so there can be up to six guests

Gaarder: Explain how that interacts. I saw 0.5 spaces per resident in a dorm style approval.

Foulkes: The Code requires 1.5 spaces for every occupant, so there's 10 occupants resulting in 15 required parking spaces. The applicant has proposed 16 which is 1 more than the minimum code requirement for a dormitory use. Condition #8, Mr. Rovira referenced to install solid fencing where it does not already exist along the Porter Avenue frontage. Right now along Porter there is a solid wood fence that goes along the majority of that property line where the gate and driveway access is from Porter Avenue is wrought iron with wrought iron gate, the condition says this wrought iron shall be replaced with solid fencing and a solid gate only in areas where it's not already wood fencing

Carvalho: So that existing wood fencing is approximately 3½ feet tall?

Foulkes: Taller than that, probably between 4 and 5 feet tall.

Carvalho: If the fencing is not sufficiently tall or just for looks, there would need to be a taller fence.

Foulkes: Staff agrees with this recommendation and would support a condition to increase the height.

Foulkes: Condition No. 13 related to the repair of dead or barren landscaping, there are some areas within the parkway and front yard area that are currently dirt. These areas should be replaced with appropriate groundcover to meet this requirement. Regarding the conditions related to trash, there are conditions related to over-sized items and the removal of trash cans after trash day. These conditions are related to issues that the City has experienced on other student housing properties.

Shanfield: If the CUP does not pass tonight, where would that leave the property owner?

Foulkes: If the CUP were to be denied tonight, the applicant would have the option to appeal the denial to the City Council. Alternatively, if the denial were not appealed, the home could still be used for residential purposes, but could not be a dormitory, fraternity or student housing.

Gambino: But there would be nothing to preclude him from renting the house to multiple individuals?

Foulkes: There is a provision in the Municipal Code which regulates the number of rooms that can be rented to no more than 3 rooms. There is nothing to stop the owner from renting to a number of people through a single lease agreement as a "family unit" as that term is loosely described, but he could not rent to more than 3 individuals through separate agreements.

Cantor: If the Planning Commission were to deny the CUP, the applicant would not be able re-apply for a 6-month period?

Foulkes: That is correct, the applicant would not be able to submit a substantially similar application at this location for 6-months.

Gaarder: Would Planning Commissioners like to comment.

Cantor: In my two-years on this Planning Commission, I've never had an applicant come to the microphone and threaten their neighbors with a dog. Pretty taken aback by that one. So the folks in the audience know, the Commission does not have any advanced information prior to the packet being released so the information we receive is the first we are hearing about it. I have to say that this was one of the strangest presentations from an applicant that I have ever seen, and I will leave it at that.

Gambino: When this application first came up, I was guessing that there was going to be some parking issues, as that is a common issue in this area. It seems that might not be as much of an issue in this case. I'd like to support this application, but I can't bring myself to do it. I recall how I acted in college and that is the nature of young people. For me, this is just completely out of place with the residential neighborhood. The use doesn't seem to fit. If CSUF wants to provide more housing, they should be investing in their own university to provide additional housing near campus. This property is not even remotely close to the university and because of that, existing neighborhoods have to bear the brunt of this student housing issue. The other concern that I have is incentivizing R-1 areas to become more commercial, rental projects. There are places where higher density housing should go, but this type of use in this location, is not appropriate. Truth of the matter is that no matter how badly the applicant wants to control what happens at this property, the nature of students is that things are going to happen that will be beyond the applicants control. Also unrealistic to try to limit the number of people living at the house. Difficult to enforce this requirement. I have to think about the people that have lived there for 30-40 years, I have to think about them first and preserve the community. We have seen this not go well before in other parts of the City where we are placing college students amongst existing neighborhoods.

Gaarder: These types of requests occur when colleges are not providing enough housing near the university. Clearly this home is different in size and scope than with the rest of the homes in the neighborhood. I think I could support this item, if there were a few additional restrictions. Especially along the side closest to the neighboring property, perhaps with a higher wall to provide additional privacy. Need to consider that this applicant could also use this home for a sober living facility with 6 or fewer individuals with no oversight from the City. The property owner is here to make money, and we need to think that he will be doing something with this property. Need to work with the other commissioners on how to craft conditions to ensure that this property is only a dormitory, but not sure if the other commissioners are interested.

Shanfield: I feel like every decision I make should improve the property for the City and for the neighborhood. It sounds to me that the alternative to renting the property to family or even to a sober living facility would be quieter and less impactful than what is proposed. This is not the place for this type of use. They have shown that in the past year that they are not the best fit for this area. Not enough that the property owner has agreed to address issues when they come up. If he does not live there, it is not fair to the neighbors to have to call each and every time there is an issue. My recommendation is to not accept this use and look for another use of the property.

Pendergraft: Agree with most of the comments provided by Mr. Gambino and I share his concerns. The property is 4x's the size of the neighboring properties, and so the likelihood that this will be rented by a single family is very low. I typically defer to the property rights of the owner, but in this case I cannot. You are completely changing the character for the neighborhood and that is

something I cannot do. Thank to you to the audience for coming out and being civil and respectful for this discussion.

Carvalho: Whether you are a renter or an owner, it doesn't matter in my mind. I look at the land use issues and the issue of the application that is before me. The proposed use is allowed by discretion by the Commission. Strictly looking at land use compatibility, I do not see this use as compatible with the surrounding neighborhood. With that, I will not be able to support this application. I also think that parking would be an issue for this property. The back of the home would become a parking lot for the residents that could be used at all hours of the day and for those reasons I will not be supporting this application.

It was moved by Commissioner Gambino, seconded by Commissioner Shanfield, to deny Resolution No. PC-2018-28, entitled:

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FULLERTON, CALIFORNIA, DENYING A CONDITIONAL USE PERMIT TO ALLOW A STUDENT DORMITORY ON A HISTORIC PROPERTY LOCATED IN THE R-1-7.2 (SINGLE-FAMILY RESIDENTIAL, MINIMUM LOT SIZE 7,200 SQUARE FEET) ZONE AT 1155 WEST ORANGETHORPE AVENUE

Motion carried 6-0-1, Dunlap absent.

The Planning Commission took a brief recess from 8:42 p.m. – 8:48 p.m.

REGULAR BUSINESS (Taken out of order by direction of Vice-Chair Gaarder and consent by Planning Commissioners)

Receive and file 2. UPDATE ON EFFORTS TO DEVELOP A MILLS ACT PROGRAM

Planning Manager Foulkes provided a Memorandum and update on a Resolution of Intention that came before the Planning Commission and City Council in August 2017 regarding the formation of a Mills Act Program in the City of Fullerton. The presentation included:

- ❖ History
- ❖ Mills Act Program Overview
- ❖ Mills Act Participation
- ❖ Eligibility – “Qualified Historical Property”
- ❖ Staff Recommendation – Eligibility
- ❖ Revenue Impacts
- ❖ Staff Recommendation – Revenue
- ❖ Program Administration
- ❖ Program Establishment/Roles

Vice-Chair Gaarder opened public comments at 9:06 p.m.

Property owner Larry Rovira spoke in support of the program.

There were no other speakers and Vice-Chair Gaarder closed public comments at 9:07 p.m.

Commissioners' shared their recommendations and Mr. Foulkes answered their questions regarding this item.

PLANNING COMMISSION / LANDMARKS COMMISSION / STAFF COMMUNICATIONS

Vice-Chair Gaarder shared a housing factoid regarding mobility.

Planning Manager Foulkes thanked the outgoing Planning Commissioners for their service.

Commissioner Shanfield inquired about marijuana prohibition coming back to the Planning Commission within the next year for zoning review.

REVIEW OF COUNCIL ACTIONS

Planning Manager Foulkes announced the following City Council action taken December 4, 2018:

- Approval of an Exclusive Negotiating Agreement with a developer looking to build a hotel on the Fullerton Transportation Center parking lot directly across from the train station.

AGENDA FORECAST

The January 9, 2019 Planning Commission meeting will not be held.

The next Fullerton Planning Commission/Landmarks Commission meeting will be held on January 23, 2019, at 7:00 p.m., in the Council Chamber, 303 West Commonwealth Avenue, Fullerton, California.

9:42 p.m.

ADJOURNMENT – Vice-Chair Gaarder adjourned the meeting at 9:42 p.m.

Janet Ragland, Clerk to the Planning Commission