MINUTES

PLANNING COMMISSION MEETING

SEPTEMBER 22, 2003

The meeting of the El Cajon City Planning Commission is called to order at 7:00 PM.

PLEDGE OF ALLEGIANCE

COMMISSIONERS PRESENT:	TURNER, HANSON-COX, BURGERT, AGURS, AMBROSE
COMMISSIONERS ABSENT:	NONE
OTHERS PRESENT:	RAMIREZ, Senior Planner LOUGH, Assistant City Attorney KRULIKOWSKI, City Traffic Engineer SHUTE, Associate Planner ALVEY, Assistant Planner MOSSAY, Minutes Clerk
MINUTES OF 09/08/03:	Motion by AGURS, second by HANSON-COX to approve the Minutes of September 8, 2003, pro forma. Motion carries 4-0, TURNER abstains due to absence at the 9/8/03 meeting.

AMENDMENT OF CONDITIONAL USE PERMIT 254 – New Life Family Church
(continued public hearing) Resolution No. 9847
P.C. Meeting 9/22/03

The subject property is located on the north side of E. Washington Avenue between Avocado and Taft Avenues, and addressed as 402 E. Washington Avenue; APN 488-333-31 & -34 and 488-350-03 & -08; General Plan Designation: Low-Medium Density Residential.

Request expansion of an existing religious facility (church) in the R-1-6 zone. *Continued from the meeting of September 8, 2003.*

ALVEY states the New Life Family Church is requesting to construct a 1,500-square foot nursery and office addition to the main church building and also to construct a 5,500-square foot Youth Center building. The church will continue to have regular services on Wednesdays, Thursdays, and Sundays, but eventually they would like to utilize the Youth Center on a daily basis. The existing building directly north of the parking area will be demolished in order to accommodate an expanded parking area. New landscaped areas are also proposed along the East Washington Avenue right-of-way and also dispersed throughout the new parking area.

The request was continued from the Planning Commission meeting of September 8, 2003. The continuance was requested so that the applicant could address some issues that arose in conjunction with the Public Works Department requirements for this project. The result of these comments is a slightly modified CUP site plan that is before the Commission this evening.

In order to ensure compatibility with the surrounding properties, staff has requested a six-foot solid fence be erected adjacent to all surrounding single-family homes where one currently doesn't exist. Staff has also included a condition that limits the hours of operation for the church to 9:00 p.m. Staff believes that with the improved fencing and the limitation on the hours of operation, the expanded church will be compatible with surrounding properties. Staff recommends that the Planning Commission grant the amendment of Conditional Use Permit 254 subject to the conditions contained in the staff report.

The public hearing is now open.

Jan LAKE, 661 Avocado Avenue, El Cajon CA 92020, lives two doors down from the church. Until one month ago, he has been the senior pastor at the church for the past 21½ years. He is now a bishop over 60 churches in Southern California, and New Life Family Church is one of those 60 churches.

In the years the church has been there, they have always had an outreach to youth in their community. Some nine years ago, they began a strong outreach towards youth. It has now grown under the leadership of the new senior pastor, Danny Slagle, who was the youth pastor. They are running in excess of 75 to 100 youth every Thursday night. It requires accommodating more facilities and a better facility for them to be able to function on Thursday nights. They also have a group of 20-30 younger youth that meets on Wednesday nights who would be meeting in the building as well. The building will also be used for the Sunday morning children's ministries and future youth ministries on Sunday mornings.

The church feels this expansion is something the community needs. As stated by Mr. Alvey, they want to have something there for youth after school that would probably be open between 2:30 or 3:00 pm and 7:00 pm to allow the students to come, have computers where they can do their homework and have game rooms available for them, as they do now. It would be fully staffed.

AMBROSE asks how the church supervises that many young people.

LAKE answers they have a staff of about ten young adults that help supervise. They are volunteers.

AMBROSE asks who supervises the young adults?

LAKE says Dan Slagle, the new senior pastor, who has been the youth pastor for the last nine years, supervises the young adults.

In response to AMBROSE, LAKE states Mr. Slagle is always present when the youth are there.

AMBROSE says this was an issue at the last hearing. One of the church's neighbors spoke about the lack of supervision of some of the young people after they left the church's facility.

LAKE comments they are not angels, that is for sure, but they are kids who are being reached and impacted with the gospel as well as having a social life at the church. He realizes they get noisy sometimes, but it doesn't usually go past 9:00 pm. The kids are loaded on the bus and taken home.

In response to AMBROSE, LAKE is in agreement with all the conditions of approval in the staff report.

No one else comes forward on this item.

Motion by TURNER, second by BURGERT to close the public hearing on Amendment of Conditional Use Permit 254. Motion carries 5-0.

Under discussion, AMBROSE states this amendment will be a real improvement.

TURNER states this particular church has done a great service for the community. They have been there 36 years. She knows the youth program has made an impact on the community as well. She, too, thinks this expansion will be a fine improvement.

Motion by TURNER, second by BURGERT to GRANT Amendment of Conditional Use Permit 254, in accordance with the staff report. Motion carries 5-0.

This is final action unless appealed to the City Clerk's Office by October 6, 2003 at 5:00 pm.

AMENDMENT OF ZONING ORDINANCE SECTION 17.54.290 – Planning Commission
(public hearing) Resolution No. 9848
P.C. Meeting 9/22/03

Consideration of amendment of Zoning Ordinance re: separate water meters for apartments converted to common interest development.

RAMIREZ states last month the City Council discussed a request from Councilmember McClellan to delete the requirement for separate water meters when apartments are converted to condominiums. Staff's report to Council dated August 6, 2003 and included as an attachment to the staff report, outlines some advantages and disadvantages of keeping the requirement. By a 3-2 vote, the City Council referred this matter to the Planning Commission for its consideration of an amendment to delete the current requirement for separate water meters.

The main benefits of separate water meters is that they allow the individual unit owners to monitor and control their own water use as well as the resulting sewer charge, which is based on water consumption. Without separate meters, the homeowners' association pays for everyone's water and sewer service charges from the monthly homeowners' fees. The report to Council points out that a higher billing rate applies to sewer charges when multiple units are served by a single water meter. The development community points to the high cost of modifying a building to re-plumb for separate water service as a reason to delete the requirement for separate meters. However, none of the development representatives indicated they would reduce the sale price of a converted apartment by the amount of savings if they were not required to provide separate water meters.

Staff has identified an alternative to eliminating the separate meter requirement, which was apparently not addressed by the City Council at either the August 12 or August 26th Council meeting. As an option to deleting the requirement altogether, the Commission may wish to discuss modifying the ordinance to specify that one meter be provided for all interior household uses and another meter be provided for all exterior uses. At least this way the sewer charge will apply only to household use and the water use for irrigation would be exempt from that charge.

Staff's recommendation is that the Planning Commission approve the amendment to delete the requirement. This item has been jointly noticed and is due to go to the City Council at their meeting of October 14, 2003.

TURNER asks if there have been any conversion projects in the City that have been approved without separate meters?

RAMIREZ is aware of possibly two projects that were allowed to record a final map without the separate water meters being installed. This was inadvertent and staff intends that that requirement be made to apply until the ordinance might be amended to delete the requirement.

AMBROSE asks if staff researched other communities on how they address this issue of conversions to condos?

RAMIREZ is not aware that that kind of information was sought after. This report was prepared before Mr. Griffin went on vacation and his records in the file don't indicate other jurisdictions' practices.

AMBROSE thinks it would have been helpful to know what some of the neighboring communities are doing in this regard.

The public hearing is now open.

Joseph SCARLATTI, Westone Management Consultants, 710 Camino de la Reina, Suite 129, San Diego, speaks for his client base, which represents about 600 units approved for conversion. To answer the question about what other jurisdictions do, Westone Management has applications in 17 different jurisdictions, and all but three jurisdictions had required separate water meters. They are now dealing with Chula Vista and the County of Riverside to also have their ordinances changed the way that it was proposed by the El Cajon Planning Department, which is two water meters—one for the HOA (homeowners' association) and one for the common area, i.e., sprinklers, pools, etc.

SCARLATTI read in the staff report that it would be $10-20,000 to convert units to have separate water meters. He thinks that is a light figure. With the cost of labor and the shortage of labor, it is closer to $25,000, including the cost of the water meter, if it were even possible to do. Most of the time, the problem is the water is running under the buildings, two feet below, and down the center of the buildings. There is cold water coming into these units from one direction. In most of these projects, there is common hot water coming from other areas. There is water coming from two directions. Separately metering these is impossible to do. They have looked at sub-metering and that doesn't work either.

The water is charged out through an HOA by the size of the unit, the number of bedrooms and the most likely number of people living in any unit. To say that every unit pays the same water fee is an incorrect statement. Westone Management had a real estate company do an analysis for them and the conclusion was that a young family today on common water would pay about $95 a year more than if it was separately water metered. If they were to put separate water meters in, their mortgage payment would increase by $96 a month. He thinks for a young family, common water is probably more acceptable. In this jurisdiction, almost all of the current condominiums are already on a single water meter and there seems to be no difficulty.

HANSON-COX asks if the developers' plans are to pass on the savings to the homeowners to help reduce the cost?

SCARLATTI says at the moment developers are passing on a certain amount of the savings. For example, an almost 700-square-foot, one bedroom, totally renovated condo conversion at Ballantyne and Madison, is selling at $139,000. He suggests the savings is there.

HANSON-COX wants to make sure, because the way she sees it, the whole idea why the developers want to do this is to save the money to hopefully reduce the cost. If that is the case, she would like to have that passed down to the homebuyer.

SCARLATTI says the other part of the problem is that when he originally started coming before the Commission with these applications, they were talking $15-18,000 for a renovation cost. His clients are now spending closer to $30,000. If the building is in sad shape on the outside, such as on Ballantyne, where new roofs and windows were required, it gets up to $35-38,000 a unit. When you start to add $20-25,000 more for separate meters, they are out of business.

Jack WASSON, 2820 Via Orange Way, Suite J, Spring Valley, CA 91978, owns 908 S. Sunshine, which is presently a project that is under review for condominium conversion. It is a 19-unit building that he bought completely unaware that such a rule existed. His understanding when he bought the building with the intentions of creating some more affordable housing, as he has said before the City Council, he is in the mortgage business, making residential home loans, mostly to first-time homebuyers. That is when he became aware of how much of a shortage there was of affordable housing. A condominium is a starter home for someone on the rent schedule, because they can't afford $400,000 for a single-family detached house, which is the median price in San Diego County and El Cajon.

That is when he became interested in buying units, fixing them up, putting far more into them than he actually recovers in additional costs, because what he gets back in a sale is based on square footage. There is only minimal consideration in an appraisal or evaluation for the improvements he puts in. However, he does almost completely redo the interior of the units. As a general contractor, the renovation costs he is putting in are about $35,000 per unit. He would have no choice but to not put in the renovation of the new heating and air conditioning, appliances, electrical, plumbing, windows, roof, etc. He has that choice versus paying the water meter. The cold water lines are run down the middle of the building and they are two feet under the slab. You add those two costs together—renovation, new construction of the same unit from scratch, it is around $75-80,000 a unit. It is totally impractical to take a unit and do the renovation and pay $25-30,000 just for water meters. He would have no choice but to leave them as apartments—condominiums would be out of the question if that were an actual requirement.

Kathryn JOHNS, 1380 Conejo Court, El Cajon CA 92021, has two points she wishes to discuss regarding the water meters. First, the one thing that isn't being addressed is the fact that water is our most precious resource in California. We are desperately in need of water and are looking in every direction for water. Individuals should not have to subsidize the utilities for their neighbors. Water conservation will be practiced if they have to pay their own bill. If they don't have to pay their own bill, she doesn't understand, without individual water meters, how it is going to be separated out so everyone is not paying for those that are not being careful. Again, as was stated in the report, the sewer price is predicated on the water usage.

As to the ordinance itself, the ordinance package may not directly state that separate meters are needed, but it does say in that packet, "See associated ordinances related to the apartment conversions." She has a copy of the ordinance—if she can have a copy of the ordinance, why can't the developers and contractors that are doing this work, have a copy of this ordinance? She has to wonder why these units have been done without the separate water meters because it is an ordinance on the books and also, why did the inspectors not catch this when they were filing the reports on these inspections? Who is being held accountable at this point? Did the contractors and developers not plan for these water meters so this money wasn't incorporated into their estimates when they first did it?

JOHNS also states Terry Moore, the managing partner of Mustard Seed Development, was at the City Council meeting and he said this is not a big problem—it is just an inconvenience. He said t is not going to be, and she is paraphrasing, a "deal breaker". It is not anything that would make him leave El Cajon. She would like to know what penalties they are going to be seeing for the developers or contractors who have already done these buildings and not put in the water meters.

AMBROSE says the penalties are something beyond the Planning Commission land use authority. Punishing anyone who approved this is something the Planning Commission doesn't have any authority to do. Only the City Council has authority to take action.

JOHNS doesn't understand why the City Council is looking to repeal a law they had on the books, now that the ordinance has not been followed. Not only do they want to repeal it, they want to make it retroactive. As a citizen of El Cajon, she has to wonder why this is being done at this time and why it is being done in this way. Especially with, (as Joseph Scarlatti said), 500-600 units right now in development. That is an incredible amount of money that is being saved by the developers. If it is not being passed on, this is a good thing for the purchasers of the property, but what about the water conservation, what about their ability to pay their bill and only their bill?

Kim SABALA, 1029 Vernon Way, El Cajon CA 92020, doesn't have a problem at this point regarding not putting in the individual water meters. She suggests, as the staff report indicates, at least at minimum to have the irrigation separately monitored and each building have a separate shut off. Maybe not a separate water meter, but definitely a separate shut off valve for the water serving each individual building or row. Shutting down the whole building of 25-50 people is an inconvenience. Everybody isn't gone all the time. Her suggestion is to definitely separate the irrigation, as staff recommends, and then each building should be required at some point to have separate shut offs.

AMBROSE asks for staff's comments on separate shutoff valves for each of the buildings.

RAMIREZ says it sounds like it would be feasible. The Commission could direct staff to follow up with a request to the building official and include that in the record that goes to City Council, if the Commission takes action tonight.

AMBROSE asks how the units got approved and "slipped through the cracks" without being required to install the water meters? Does staff know how that happened?

RAMIREZ doesn't have the background information to address that in either of the cases she is aware of.

In response to AMBROSE, RAMIREZ says it probably did involve the Building Division. That was something that was addressed by Jim Griffin at the Council meeting and it is not reflected in the Council's minutes in any detail.

Steven WORLEY, 15131 Picturesque Point, El Cajon CA 92021, is a small developer. They do infills and have started doing second-family residences and granny flats. Although this ordinance doesn't specifically state granny flats and second-family residences, he believes that this does impact them and that it is associated. Second-family residences are on the coattails of this ordinance being required to also have water meters. When you look at the intent of a second-family residence, which to provide inexpensive housing for family members and also to provide an alternative income for people so they can afford housing in the El Cajon area, adding the cost of $10-15,000 to a $60,000 project, seems like an inordinate expense. The only advantage that he can see, and he has done extensive research on this, was that there was an additional $25 a month charge for a service fee. He is sure the city of El Cajon would just as soon not get the $25 and not have to send out the separate sewer billing. It doesn't appear to be a money issue.

WORLEY is currently being required to add water meters to two granny flats on East Madison and it involves digging up the street, installing a separate lateral, and putting in a meter. He owns six three-on-ones and they all survive very well with one water meter. Of course, they were done prior to this law being in effect. If the Planning Commission is going to change the ordinance, he would like to see it also include granny flats and second-family residences.

AMBROSE doesn't know if that can be done this evening. This issue wasn't advertised, so he is not sure the Planning Commission can even go there tonight. He thanks Mr. Worley for his input.

LOUGH confirms that is correct for the reasons AMBROSE stated.

Chris CHRISTENSEN, 4527 Third Street, La Mesa, has a newly established business called "*condoconversions.com*". The purpose of establishing this business is to facilitate the development process both for developers interested in converting apartments to condominiums here in El Cajon as well as to eventually establish a

homebuyers resource center to educate potential homebuyers in common-interest development ownership. He wants to focus tonight's conversation back on the issue.

He supports the Planning Commission opposing the imposition of separate water meters, and adds the old saying, "If it ain't broke, don't fix it." He doesn't mean to be glib, but there are certain other jurisdictional overlays which both give you the power to add that at this point or at a future point, but it also gives the individual homeowners the right and the obligation and the opportunity to impose that on themselves. He would suggest that the Planning Commission stick with the market solutions, that is through the homeowners' association process and the Department of Real Estate process, through the budgetary items that allows a homeowner and a homeowners' association to eventually do this.

CHRISTENSEN states with the Department of Real Estate's budget items, different sizes of units are accounted for in the homeowners' association fees. There is compensation for larger and smaller units and the homeowners' association fees are what will pay the community's water fee. He would also suggest that having all the eyes of the homeowners in that community on the community water bill, you would have a self-regulated sense of restricted use.

To summarize, he suggests that the Council and the Commission go on the path they have continued to go on, which is to provide market solutions for developers to provide homeownership opportunities in El Cajon and not to impose restrictions such as this.

Motion by AGURS, second by HANSON-COX to close the public hearing. Motion carries 5-0.

AMBROSE asks staff if there are any additions or suggestions after hearing the public testimony?

RAMIREZ states, in summary, that separate water meters clearly serve to benefit the future homeowners of the units to be converted. Aside from a portion of a monthly homeowners' association fee that is going towards irrigation of common area landscaping (or other water uses such as for a swimming poo), the homeowner will only pay for water use in their respective household. Any other staff comments have already been reflected by the speakers.

AGURS reiterates there were comments about why certain things were allowed to happen. It is not that they were "allowed to happen", it is that when these units were built, they were built as central systems. Even older, existing condominiums have a central system without separate meters. So there is no one at fault to point a finger at and ask how this could happen. Those things were already in existence. Whether the water meters are separate for irrigation or separate for the individual buildings, the homeowners' association (HOA) fee is going to cover the water cost anyway.

AGURS suggests that at this point there are no savings to pass on to the individual purchasers. Once the whole project is completed, then that will establish a baseline price or market value for the units to be sold. He doesn't want people to think that there is some fictitious dollar amount that is going to be able to cut back, because it doesn't exist. The only issue as far as what it costs to put in an individual meter, is based on labor, the cost of the meter and everything else. It has nothing to do with the savings that can go back to a potential purchaser because that is a fictitious number. Based on that, looking at the direction the City is going in as far as creating affordable housing opportunities for first time homebuyers, including tenants in El Cajon, he thinks that they are going in the right direction by changing or deleting the ordinance requirement. It is just something that makes sense. By leaving the ordinance the way it is, the City is posing an unnecessary burden on the developer and, in the long term, will actually prevent first time homebuyers from being able to get into the affordable housing market.

TURNER adds that one of the speakers suggested a separate shutoff valve for the buildings. She thinks that is a very good idea and would like to see that put into the ordinance. Another speaker asked about the granny flats and the separate residences. She thinks that needs to be turned over to staff and have a report come back to the Commission. She thinks it is unfortunate that a couple of projects snuck through but at the same time, she can understand why we are having to do that as a cost-saving measure for the homeowners and builders.

RAMIREZ has several follow-up comments. First, responding to Commissioner Agurs' statement about the homeowners' association fee covering the water cost anyway. The distinction made in the staff report is that a higher rate applies for sewer service when there is a single meter to serve multiple number of units. One way or another, the people who end up living in those converted apartments will not be able to control the rate that the City charges for their sewer service. If the separate meter requirement is retained in the Ordinance, then those future homeowners get the benefit of a lower rate.

RAMIREZ then responds to Commissioner Turner's remarks on the desire for a shut off valve. Staff would prefer that that be investigated with the Building Division. It certainly seems reasonable, but since they don't have the benefit of that input this evening and it was not included in the report, perhaps it could be included in a cover report that goes to the City Council along with this evening's minutes.

RAMMIREZ addresses Mr. Worley's request that the City also eliminate the requirement for separate water meters for second family units. Mr. Worley did contact staff earlier today and was sent a copy of the application for the purpose of initiating a zoning ordinance amendment. That would be the appropriate way to bring the matter back to the Planning Commission, since it was explained that that request can't be included in this item that is going on to City Council.

On the issue of making this ordinance retroactive, City Attorney Foley indicated that retroactivity was not recommended when this was discussed at the City Council level on

August 26, 2003. She believes that would still be the City Attorney's office recommendation this evening.

TURNER asks, since it was broached, if that means the other two projects are going to have to have separate water meters?

LOUGH isn't sure about the exact status of those separate projects. This is not an unusual problem where a building official, plan checker, and numerous people review plans and in larger projects like these, oftentimes something will be missed. There is specific tort claim immunity against cities for mistakes like that, because they do happen. People are human and mistakes are made occasionally. Because of that, if the project in question, and he is speaking hypothetically because he doesn't have the facts on the particular projects in front of him, has been issued a building permit and they have expended substantial sums thereupon; in other words, in reliance in that building permit, then the City would have a difficult time going back and retroactively making them follow a new set of standards, even though that set of standards existed at that time. It is called a "vested right". Cities can do that--he has both defended and prosecuted those kinds of cases where a mistake was made. Judges uniformly do not enforce laws whenever those mistakes are made, to take the law school example out of it and use practical reality. It would be a City Council call on whether or not to authorize code enforcement for the City Attorney to file an action. If they did, the Court would look at the intent of the parties. The Ordinance says it has to be there, but by submitting the plans, did the person reasonably rely upon those? It would be a difficult case. It is very seldom that you go back on—usually the missed problem isn't that big—usually it is a minor thing like a setback.

Regarding the retroactivity issue—whenever you adopt an ordinance, it is effective from that point forward. At Council the other day, they had a policy that came back. They questioned how that policy applies. This is different than a policy. An ordinance is a law. The ordinance becomes effective 30 days after the second reading of the Council, assuming it is approved. Projects from that point on, regardless of where they are in the pipeline, could take advantage of that. If there are projects out there right now, they would have the right to take advantage of that rule. However, projects that have already been approved, gone through the public hearing process, that particular condition is a condition of approval of their map, staff can not go with an eraser and cross something out of a map condition that has been approved at a public hearing, because that would violate the due process rights of those persons who attended the public hearing, or who might have if they had known that had been an issue. That becomes a due process problem for the City for staff to be delegated the ability to retroactively change the Commission's decision or the Council's decision, whether the law changes or not. It would depend on the circumstance of each situation. There is no "bright line" retroactivity.

TURNER appreciates LOUGH clarifying that, because she kept hearing the word "retroactivity" and she knows an ordinance is a law. From her understanding now, they would be managed separately.

LOUGH says he has worked with some jurisdictions where, when you walk in and file your application, that is the law at that time, and they try to make you stick to that. In El Cajon, the City Council allows, and this is typical, if something is in the pipeline that hasn't received final approval, it can still take advantage. Many projects are held up until a favorable law will take affect and then they will submit their final or go back for amendments. If it was just a staff condition, then that ordinance could apply. If it is a public hearing and that public hearing is closed and has been approved, staff cannot reverse a public hearing decision.

HANSON-COX conserves water, so she would rather have her own water meter. A good example is, if all these units are connected together and there is a leakage somewhere, and you have your own water meter, then they will know where the leakage is, and they will not have to turn off the whole complex. However, if it is going to keep the cost down and be able to create some affordable housing for young families to buy their first home, and then she is for that. She rather they stay in El Cajon then move out of California all together.

Motion by HANSON-COX, second by AGURS to RECOMMEND APPROVAL of an Amendment of Section 17.54.290.D of the Zoning Ordinance to delete the requirement for separate meter for each unit, in accordance with the staff report.

Under discussion, AMBROSE asks if the Commission wants to consider the requirement of two meters, one for irrigation and one for household use? He thinks outside irrigation is where the most amount of water is wasted.

TURNER, BURGERT and HANSON-COX agree with that.

TURNER states the staff was going to look into separate shutoff valves.

AMBROSE says that is something that the Building Division has to research and then take to the City Council.

RAMIREZ wants to be certain that the Planning Commission is giving a clear message to the City Council. She is hearing the majority of commissioners speaking in favor of a compromise solution that is not exactly what the recommendation in the staff report reads.

AGURS asks if staff can restate their recommendation?

RAMIREZ asks if the Commission means the alternative recommendation?

AMBROSE answers yes.

LOUGH states that is needed because we want to make sure the motion maker and the seconder both agree. He thinks there was a slight modification after the motion and the second.

RAMIREZ states the alternative recommendation would be to modify Section 17.54.290.D to specify that one meter be provided for all interior household uses and another meter be provided for all exterior uses. As a side note, because often developments have units in more than one building, the suggested language doesn't mean that there would only be two water meters on the property. It would be one for every building that has units and a separate one, which is called a house meter, for the common area water usage.

AMBROSE asks if this was the intent of the motion maker and the second maker?

HANSON-COX and AGURS answer affirmatively, and ask to have the amended motion restated for the record.

RAMIREZ says the motion would go something like this: "Recommend approval of an amendment of Section 17.54.290.D to modify the requirement for water meters, specifying that one meter be provided for all interior household uses and another meter be provided for all exterior uses".

LOUGH clarifies that no more than one meter is required for the interior and the exterior. The developer can, if they decide to, provide more meters. The Ordinance minimum would be one interior and one exterior meter.

HANSON-COX needs more clarification. Is it one exterior for the whole complex, one interior per section, each building?

LOUGH responds "no". It would be one for all interior connections, regardless of number of buildings. One for all of the interior units, regardless of which building they are in, and one for all the exterior irrigation. That is the minimum standard. The way it is written is "a separate sewer lateral" and then adding "or water meter" for each occupancy is not required. It is sort of a negative, so that is why he wanted that clarified.

AGURS is seconding that at a minimum, one for living, one for common.

The vote is now taken on the amended motion as stated by RAMIREZ and clarified by LOUGH. Motion carries 5-0.

This is a recommendation to the City Council.

RAMIREZ states this item was noticed in advance and will be going to the City Council on Tuesday, October 14, 2003.

ZONE RECLASSIFICATION 2237 – Ortega
(public hearing) Resolution No. 9849
P.C. Meeting 9/22/03

The subject property is located on the east side of South Sunshine Avenue between Palm and East Lexington Avenues, and addressed as 347 S. Sunshine Avenue; APN 488-171-07; LUC 1111A; General Plan Designation: Low Medium Density Residential.

Request to rezone property from the R-1-6 (Residential One Family 6,000 sq. ft.) zone to the R-2 (Multiple Family) zone.

RAMIREZ states the property owners are requesting rezoning of their property from R-1-6 to R-2. The parcel contains about 10,500 square feet and is occupied by a single-family residence and a three-car garage. The proposed R-2 zone is consistent with the General Plan designation of the subject property of "Low Medium Density Residential", with a range of 10-18 dwelling units per net acre. In order to be considered for a change in zoning, the subject property must meet minimum lot width and lot area requirements. The R-2 zone requires a 65-foot lot width. The subject property is 70 feet, and therefore exceeds this requirement. The subject property also exceeds the minimum 6,500 square-foot lot area.

The subject property is located in a neighborhood of older, one-story homes. Because many parcels are only 50 feet wide, the midblock public alley is used for access to off-street parking. This is also the case for the three-car garage on the subject property. The vicinity surrounding the site is still recognized for its stable character as a single-family residential neighborhood. Properties are well maintained and homeownership dominates this area.

The area surrounding the site is generally zoned R-1-6. If the subject property is approved for R-2, as requested, it would allow two units on the property. The two units would be equal to a density of about 8.3 units per acre and technically can be attached or detached for rent or for sale.

The applicant should be aware, however, that the City Council for several years has consistently opposed new apartment development in multiple-family residential zones. Recently, almost every residential development approved for ten or more units per acre, has been a common-interest subdivision. Consequently, over the past six years, no residential rezoning proposals for higher density have been approved where there were no homeownership opportunities to follow. Given the current regional demand for housing and the Council's ongoing support of homeownership opportunities, staff believes that City's action to approve the R-2 zone for this site could have a positive impact on the local housing market.

At the writing of this report, staff had not received any public inquiries about this item. If the applicant is successful in obtaining the City Council's approval of the R-2 zone, it is noted that Item B1 of the Public Works Department requirements must be completed in order for the rezoning to become effective.

Staff's recommendation is for the Planning Commission to recommend approval of this action to rezone the property from R-1-6 to R-2 with the single condition being Item B1 from Public Works.

The public hearing is now open.

No one comes forward on this item.

Motion by TURNER, second by HANSON-COX to close the public hearing. Motion carries 5-0.

Motion by TURNER, second by BURGERT to RECOMMEND APPROVAL of Zone Reclassification 2237, in accordance with the staff report. Motion carries 5-0.

This item will be going on to the City Council and is scheduled for the City Council's meeting of October 14, 2003.

PLANNED UNIT DEVELOPMENT 211 – CC Monterra LLC for Roanoke, a California Limited Partnership
(public hearing) Resolution No. 9850
P.C. Meeting 9/22/03

The subject property is located on the west side of Roanoke Road between West Park Avenue and East Main Street, and addressed as 300 Roanoke Road; APN 488-112-41; existing LUC 1142A, proposed LUC 1142B; General Plan Designation: High Density Residential.

Request to convert existing 16-unit apartment complex to common interest development in the R-4 (Multiple Family, High Density) zone.

AND

TENTATIVE SUBDIVISION MAP 521 – CC Monterra LLC for Roanoke, a California Limited Partnership
(public hearing) Resolution No. 9851
P.C. Meeting 9/22/03

The subject property is located on the west side of Roanoke Road between West Park Avenue and East Main Street, and addressed as 300 Roanoke Road; APN 488-112-41; existing LUC 1142A, proposed LUC 1142B; General Plan Designation: High Density Residential.

Request a one-lot subdivision map in the R-4 (Multiple Family, High Density) zone.

SHUTE states these two items may be opened simultaneously for the public hearing and decided upon separately.

This item is a conversion of an existing 16-unit apartment complex to a common interest development. The applicant has prepared and submitted the Physical Elements Report as required for every conversion, which addresses most of the issues and identifies some things that need to be fixed with the subject property. The items identified as needing immediate repair or replacement include roofs, upgrades to the exterior and interior and landscape areas. All of these items are listed in more detail in the staff report, and included as conditions of approval.

The other requirements deal with interior features, such as upgrades to the kitchens and bathrooms. This is something the Planning Commission has asked for, based upon the need for energy efficiency and water efficiency. Those things that are health and safety related have also been required in other projects. The staff would like to add two changes to the conditions of approval. First, add a condition for energy-efficient glazing which was not included as a condition of approval. Second, change Condition 5(f)(1)(k) to include HVAC instead of AC. He asks if that could be included in the motion.

Staff is recommending that the Planning Commission recommend approval of this PUD for the 16-unit conversion and also recommend approval of the map that accompanies this for the conveyance of ownership for each of those units.

AMBROSE asks where staff wants to add the energy-efficient glazing?

SHUTE answers adding a Condition 5(f)(4).

AGURS asks staff if there is a central system in each unit?

SHUTE answers staff didn't want to limit it to just air conditioning. Staff wanted to make sure that heating and the venting were also included in that condition.

AMBROSE confirms that both heating and air conditioning is what staff is looking for.

SHUTE answers that is correct.

HANSON-COX asks if staff is asking to have just the tiles replaced on the roof? The condition states, "replace all roofs". Is staff asking to have just the tiles replaced, the felt, or the entire roof?

SHUTE states that is in relation to what was stated in the Physical Elements Report. The report is stating that the roof system needs to be replaced inside eight years, and staff believes it should be replaced now.

AMBROSE confirms staff meant “all roofs”.

The public hearing is now open.

Corbett KERR, 4595 Mercurio Street, San Diego, CA 92130, represents the applicant, Davlyn Communities. He asks if the two additional changes staff recommended can be looked into and investigated. He doesn’t know if the building can deal with the heating. He doesn’t know physically if that is doable, so he can’t adequately argue that issue. Can the applicant get back to the Commission on these conditions?

AMBROSE says these are recommendations to the City Council at this point and asks staff to respond to this question.

RAMIREZ states Mr. Shute has the Property Condition Assessment Report that was distributed to the Planning Commission; the speaker is specifically referring to Section G on HVAC.

SHUTE adds the Physical Elements Report that is required is making the recommendation that the applicant budget for the replacement of all HVAC units. Nothing new is being added by staff--it is in the report made by the applicant’s engineer.

AMBROSE states the report says these are split heating and air conditioning units. He is assuming they are one and the same.

KERR is sure it won’t be a problem, as far as everything that is included in the report. All the recommendations that are made in that report they try to do anyway, so a lot of this is moot. But he wanted to speak now just in case it came up at the Council and he could speak there.

AMBROSE states this is going on to the City Council and if there are issues that the applicant feels need to be resolved, it can still be discussed with City Council. He thinks the applicant probably doesn’t want the Planning Commission to continue this and wants to get this issue resolved. He thinks the applicant would rather go on to City Council and take that issue with them to City Council.

No further comments are offered.

Motion by AGURS, second by HANSON-COX to close the public hearings on Planned Unit Development 221 and Tentative Subdivision Map 521. Motion carries 5-0.

Under discussion, AGURS states this is going to the City Council. There has been no one lining up at the podium to speak either for or against it. There is a much more detailed Physical Element Report than what has been done in the past, which is something that the Commission has been looking for.

Motion by AGURS, second by BURGERT to RECOMMEND APPROVAL of Planned Unit Development 211 in accordance with the staff report, adding a Condition 5f)(4) to read: "Replace all single-glazed doors and windows with energy-efficient glazing", and changing Condition 5f)(1)(k) to read "Replace all HVAC units with energy-efficient units." Motion carries 5-0.

Motion by AGURS, second by BURGERT to RECOMMEND APPROVAL of Tentative Subdivision Map 521 in accordance with the staff report. Motion carries. 5-0.

These are recommendations to the City Council and are scheduled for the City Council meeting of October 14, 2003.

CONDITIONAL USE PERMIT 1910 – Planning Commission (Epsten & PADEN)
(administrative public hearing) Continue to November 24, 2003
P.C. Meeting 9/22/03

The subject property is vacant and located on the west end of Oakdale Avenue, west of North Second Street; APN 489-310-20; General Plan Designation: General Retail Commercial.

Request consideration of possible revocation of conditional use permit for outdoor storage of motor homes and RVs due to noncompliance with conditions of approval.

Assistant City Attorney LOUGH states since this is a revocation hearing, there is a higher standard of review. Because of that, a more formal hearing is required and all witnesses are to be sworn in, including any persons speaking for or against the item as well as all staff members. They are to testify under penalty of perjury. All persons wishing to testify at this hearing are asked to stand and take the oath.

Tom PADEN (applicant), Harry POLIS (property owner), and staff members Barbara Ramirez and Tony Shute are sworn in by LOUGH.

RAMIREZ states this request by the Planning Commission is to consider the revocation of Conditional Use Permit 1910, which was approved approximately 18 months ago for the temporary storage and sale or rental of manufactured homes and mobile or modular offices on the subject property in the C-2 zone. The consideration of revocation is due to failure to abide by the conditions of approval. In March of 2003, one year after the Planning Commission originally approved CUP 1910, the contractor for the applicants

took out a permit to install a foundation under a mobile home so that it could be used as a caretaker's unit, as shown on the approved CUP site plan. The site plan has not been posted merely for the fact that it doesn't reflect the existing conditions on the subject property.

Since the initial one-year period to establish this use has ended, the applicant requested a six-month continuance or extension to satisfy conditions of approval. The request was granted. Nevertheless, no work had been done toward satisfying the conditions of approval contained in the Planning Commission's Resolution No. 9618. The conditions of approval are few. Firstly, the main Planning condition of approval calls for the paving of the yard with asphalt aggregate. This has not been done. Secondly, the Public Works requirement for widening or dedication of an additional five feet of drainage easement adjacent to the existing 10-foot drainage easement has not been completed. Thirdly, the Building Division condition of approval includes extension of a sewer line and the placement of the caretaker's unit on a foundation. This has not been completed. At some point between March 24th and June 27th of this year, the applicants began moving manufactured homes and office units onto the property without having complied with any of the required conditions of approval.

June 27th is a key date in this case because that is when the staff began receiving formal complaints. The first complaint came from a nearby resident that modular homes were being stored and that homeless persons were living on the subject property. Inspections by City staff and a police officer confirmed the accuracy of this complaint.

Another complaint was received from a nearby resident in a condominium development that stated homeless were living on the property, mobile homes were being stored and tree trimmings were allowed to remain on the property long enough to be giving out a very unpleasant odor.

Staff has received a letter from the property manager of Madison Plaza, a nearby shopping center on the west side of Second Street between Oakdale and Madison. This letter is included in the staff report attachments and was written in response to the public notice for this item. The letter writer recommends that the Commission revoke this conditional use permit because of the accumulation of homeless people that has been allowed to occur on the subject property.

Staff received a phone call from Mr. PADEN last week. Mr. PADEN wanted staff to know that the current state of affairs of the subject property and the problems over the past 18 months are due to his contractor not performing. The contractor has officially withdrawn from this job and staff received written notice to that effect.

In conclusion, staff believes that none of the conditions of approval have been satisfied and has verified that this site is being used for its intended purpose anyway. Additionally, the building permit for the foundation, which was to have been installed to support the caretaker's unit, expired today without any apparent progress towards legalizing the caretaker's unit. In further looking for facts to support the

recommendation, staff did not find any evidence that the caretaker's unit has been connected to the requisite utilities or that permits were even taken out by anyone for such connections. Further, in response to staff's inquiry last week to the Finance Department, it was indicated that no license has ever been issued to conduct business on the subject property. It appears clear to staff that even 18 months was not long enough for the conditions of approval to be completely satisfied. Staff recommends that the Commission revoke this conditional use permit for temporary storage and sale or rental of manufactured homes and mobile or modular offices from the subject property and for reasons stated in the staff report.

The public hearing is now open.

Tom PADEN, 1143 E. Main Street, is one of the applicants. Steve Epsten and he were the primary applicants on this property. Epsten runs Bert's Office Trailers and owns Viva Mobilehomes on the same property. They applied for the permit and took another man in on the project to do the work because he is the contractor. He [the contractor] gave them every excuse in the world. Harry POLIS is the property owner. They would have meetings with this contractor and he [the contractor] was blaming everybody in the world and was taking their money. He blamed Helix Water District for months--they finally get the water in. Then he blames the City's Public Works Department as the reason he couldn't get the sewer in—Public Works couldn't find the sewer.

On the letter for the extension, it is not his (PADEN's) signature. The first time he knew about this is when he [the contractor] called him (PADEN) at the end of July and told him that he was pulling out of the deal. He is the only one that had any units on the property. Steve Epsten has never put a unit on there and he won't put his units there because of the homeless problem. The contractor owes PADEN a lot of money for what he has done.

PADEN states Harry POLIS, the property owner, is here willing to tell the Planning Commission that he will guarantee, as the property owner, that they will get the sewer in and get the work done. All PADEN is asking for is some time. The man (the contractor) told him this and he went on vacation the middle of August and didn't get back until the middle of September and he [PADEN] couldn't do anything. He is asking for a 90-day extension so everything can get done—get the sewer line in and get through with the trenching--he has already made arrangements to get the aggregate months ago. He bought the home to go on there months ago.

PADEN states there are a couple of things he would like cleared up. There is a drainage ditch [on the site] and they were asked to give an additional five feet. They don't know how to give it other than just not park anything there so that the City can come in and clean it if they have to. They want clarification on that because this is the first he heard about them not doing it. Secondly, he doesn't need any kind of license for the property. His license is for 1143 E. Main Street and he only goes to the property to show units; that is, when he finally gets the units there.

AMBROSE asks how Mr. PADEN was notified about the hearing tonight?

PADEN answers Mr. POLIS told him and then Steve Epsten and he received the staff report in the mail today.

RAMIREZ asks the Chair which items the Commission would like staff to address at this point.

AMBROSE thinks staff should start with the license issue. The speaker has stated that he does not need a license for this location because he already has a business license in the city of El Cajon at another location.

RAMIREZ is not able to confirm what the business license section of the Finance Department does in terms of multiple locations.

LOUGH states that is background fact. If Mr. PADEN has a business license at another location, it could apply to this one. Regardless, it is not something that is an issue on this particular matter. The question the Commission has before them isn't regarding the business license; it is with compliance with the CUP.

RECESS from 8:22 – 8:28 PM
(in order to assist the speaker with auxiliary audio aids)

AMBROSE asks whose units are still on the property now?

PADEN states they belong to a fellow up the street from his office that the other man let bring there. He can tell him to get them off if it is a problem. They are not his units. He does not have a unit on there. As he has said, Steve Epsten has never put a unit on there, because of the homeless problem. They have wanted to get the night watchman there, but they have had all of this stuff going on.

AMBROSE asks staff to respond to the five-foot dedication for the drainage easement brought up earlier.

KRULIKOWSKI states he wasn't sworn in, because he didn't expect to speak; however, he would suggest the speaker come to the Public Works Department and they can assist him in getting the information that he would need. It does require a dedication for the five feet. The reason for it is that it is an easement to maintain the drainage and behind. The old easements are not wide enough to get some of the vehicles in that the Public Works needs to get in to maintain it.

PADEN says they understand that. Mr. POLIS dedicated that at the public hearing, but nobody has ever told them what to do. Do they draw a line there?

LOUGH states that is why he needs to go to Public Works. It is a procedure that needs to be followed. It is a recorded document and part of the standard approval process.

AGURS states one year has already expired plus an additional six-month extension has expired. Regardless of whether someone the applicant hired or brought into the deal screwed up, if there is a partnership, everyone is equally responsible. If he is just an employee, then ultimately the owner of the business is still responsible. He is uncomfortable with the applicants knowing that things needed to be done and it has been at least 18 months. Why have they not done anything at all?

PADEN states Mr. POLIS, the property owner, and he have met with this man (the contractor) many times and have called him. He would say he is working with the water district, and then the Public Works and Public Works couldn't find where the sewer line was. He had every excuse in the world. They kept paying and nothing ever got done. Mr. POLIS owns the land. He is willing to guarantee that the sewer line gets in there, if they can get this extension.

AGURS asks if there was ever any communication with the City staff/Planning Division explaining these problems?

PADEN answers "no". The contractor was doing all of the legwork. They turned it over to the contractor and he kept coming back to them and saying he was having these problems. He said Public Works couldn't find the sewer line. Then they finally found it and now they are going to cut the hookup fee in half because of the problems they are having. They got every excuse in the world. The contractor forged his name to the six-month extension—he didn't even know it.

AGURS comments it got the applicant six extra months.

HANSON-COX asks if the applicant physically lives in El Cajon.

PADEN said he used to live in El Cajon. He lives in Spring Valley now. He lives in a manufactured home in a mobile home park.

HANSON-COX asks if he ever comes out to check the property and check on the status of the work to see how far they have come along?

PADEN answers they would drive by there and then they would talk to him. They did dig a trench and they brought the water in.

HANSON-COX asks when he was first aware that those manufacturing units were being stored on the property?

PADEN says the contractor put them in himself a long time ago, because they were working on it and he said no problem.

HANSON-COX asks if the applicant double-checked to see if there was a problem with that?

PADEN answers he probably should have, but he didn't.

AMBROSE comments in all the years Mr. PADEN has been in El Cajon, he is a little disappointed this has happened the way it has, because this is just not like Mr. PADEN. He thinks this one got away from Mr. PADEN. He thinks Mr. PADEN depended on somebody who was unreliable.

PADEN agrees and says the property owner would like to speak.

Harry POLIS, 1339 Horsemill Road, El Cajon CA 92021, is the property owner, and owns the whole parcel including the hotel and gas station. He is on that property at least three or four times a day. He used to run the business there for 20 years—it was Harry's Family Restaurant. Regarding the homeless situation, if you can do something about it, he would be happy to hear it. The City has the same problem he has. Every day he throws them out. He put a 10-foot fence around the property, but they come over the Cal Trans fence because it is lower. There is nothing he can do about that. They want to put someone in there to take care of it and chase them out. He doesn't know what else he can do. He did put the water in when he was told he had to put it in. There is water on the property right now. He didn't know about this partnership the applicant had. If he had known, he would have stopped it a long time ago himself. It was all news to him---he just heard today that he had a partner.

AMBROSE asks if the property owner suspected something was going wrong after all these months? There is no caretaker there and he knew that one of the requirements was to have a caretaker. There was nobody watching the property 24/7.

POLIS says he was there at least three times a day, maybe more. His wife is the manager of IHOP, which is right next door to the property. Don't tell him they didn't watch it—they have a large investment there.

AMBROSE is not saying that. But he knows that the reason the caretaker was going to be on the property was to guard against that kind of issue. He is already aware of the homeless issue because he has businesses there. He knows they take advantage of any situation.

POLIS says he has thrown them out a hundred times himself. He put in the ten-foot fence. The wind blew down the fence they had for the association. He put in his own fence. That wasn't his fence. He wanted to put it in there anyway to keep the homeless out of there. What the contractor did to Mr. PADEN he did not know about. He did not know he was a partner. He thought he was just working for him. He wanted to take care of it as much as anyone else—it is his property. He will take responsibility, as the owner, that it will be done within 90 days. He did put the water in, which is there now. He pays sewer charges and he doesn't have water running on the property.

Ethne JOHNSON, 551C Oakdale Lane, El Cajon CA 92021, is a nearby resident. It is a cul-de-sac they are talking about. There are 84 units. She is on the Board and has been the neighborhood watch captain for 13 years at the end of that cul-de-sac. The homeless is a tremendous problem with this storage. There are people going over the ten-foot fence. It borders the motel side and Mr. POLIS has put up a five-foot chain link separating the condo area—her property from there. The homeless climb over there nightly. Even a lady was taking take out food because the people were living on that property. Right now there are three cars plus a fifth wheeler that is stored there. There are about five half-units of the manufactured homes. She has no objection to the storage, but the homeless access this low chain link fence. Bicycles are chained to the fence on her side all the time, which the homeless use. When they stop them from coming over, they walk down to the off ramp on Second Avenue. There is an opening in the ten-foot fence by the trash by the motel and they just walk through the opening. They climb over her fence and come through her area constantly. That is one problem.

JOHNSON continues, stating there has never been, to her knowledge, any refuse or trash removed from the property. With the rain and heat and the smell and everything else, they do have a dump on that property right now that needs to be removed. They do check this.

As far as the drain, she had the City health department out two weeks ago because of the stench, the mosquitoes and the flies. That is an open drain. She had the City put saw horses over a steel grate that goes over the sidewalk that has been torn, so someone stepping off won't be injured on that drain. She wants the Commission to be aware of these problems.

As far as the business, JOHNSON was here at the initial hearing on April 23rd. She thought that there could be no business on what was granted that day without a concrete wall placed between the condos and the property. She thought it was only a storage usage that had been offered that night and that no business was to be done on that property as far as bringing people in.

AMBROSE confirms the real issue Ms. Johnson has is with the homeless more than anything else and what is going on out there.

JOHNSON adds the trash and taking care of the drain are also concerns.

AMBROSE confirms that Johnson has not had a problem with the storage of the mobile homes.

JOHNSON answers that is not the problem. She has called Tom PADEN because of the various situations there during the hearings. She thinks a taller fence would even help to protect them. The little fence doesn't do anything—the homeless are constantly coming over and hooking bicycles and walking through. They go from Oakdale over to Madison. It is just a thoroughfare there. A taller fence would certainly help and also sealing it so they are not walking from one end to the other.

AMBROSE asks if she thinks having a fulltime manager on the property would help keep the homeless out of there?

JOHNSON answers that was the condition they certainly looked forward to 1½ years ago.

AMBROSE reaffirms that a taller fence and a caretaker on the property would go a long way in solving many of the problems.

JOHNSON thinks that would solve many problems immediately.

Ronald J. BULINSKI, 595 Wayne Avenue, El Cajon CA 92021, lives to the west of the property under consideration. His property abuts the storage property. He can verify that there have been homeless people at least going through that area and probably staying there. His wife called someone in the City or Police Department about two months ago and a police officer finally came out and went into the property, through a gate in the BULINSKI's fence that is usually kept closed. They let the police officer go into that property. She checked around and came back and said that there is evidence that homeless have been on the property and are using it. The other thing is that the chain link fence that is on the north side of the property (he thinks it was put up by Caltrans when the freeway went through) has been cut—there is an opening cut in it, so the homeless can walk along the freeway and then come into the storage property from that direction.

BULINSKI's neighbor gave him a letter addressed to D. Guyer. He asks for permission to read the letter.

AMBROSE says that would be fine.

BULINSKI says the letter is from **Libby L. HOWELL**, 587 Wayne Avenue, El Cajon CA 92021, BULINSKI's next-door neighbor. It reads:

> "Our property is adjacent to the subject site near Oakdale Avenue, which has become most undesirable. Transients are frequently seen living in the manufactured homes stored there, with or without permission. Those persons who could walk out of the area obviously do not wish to be seen and almost daily toss their duffle bags over a fence, then follow the bag, leaping into a private area of very nice apartments where a "No Trespassing" sign is posted. What is to keep these undesirables from leaping over our fences where older women are living alone in the daytime? Some are alone at night. Her home was broken into twice in the past. Police have been called to report the trespassers, but our complaints are usually ignored. Once a car thief was being sought after abandoning the stolen car, but the obvious place where such a person might be hiding was not searched. We do not wish this to continue without posting some kind of watchman or overseer to keep

those undesirable persons from making that area their temporary homes. Thank you for your immediate attention to this matter by denying any further conditional use permit to the above locations. Sincerely yours, Libby L. HOWELL."

BULINSKI submits the letter to the Assistant City Attorney.

AMBROSE asks what BULINSKI thinks the solution is at the property?

BULINSKI says there is somebody living on the property now. He has seen him go in and out of one of the homes. There is also a trailer stored there which isn't there all the time. At times, it has been towed out and is missing and then comes back several days later. He doesn't know whose trailer it is or who is using it or if anybody is using it now.

AMBROSE asks if BULINSKI believes this permit should be revoked or does he think it should be enforced with a caretaker on the property and they clean it up. What is his preference?

BULINSKI thinks it is apparent that he has been given a year and a half to get these items done. If the contractor he hired was not able to do this, he should have gotten another contractor to do it—a more reliable contractor.

AMBROSE thinks if the units are pulled off the property and it is just a vacant lot…

BULINKSI adds it has been that way in the past and there have been homeless in the lot before it was used for this purpose.

AMBROSE states revoking the permit wouldn't make the homeless issue go away.

BULINSKI says not entirely, but it is more attractive to the homeless with houses there. He noticed also that a new unit or two have been put on the property either today or yesterday.

AMBROSE asks Mr. PADEN to respond to this.

PADEN returns to the podium and states Mr. POLIS told him that they moved two units around on the lot, but there is nothing new going on there since about August 1st, when Mr. Jackson [the contractor] took his stuff off, all but three units that are there. Also, the unit BULINSKI mentioned that is on there and leaves and comes back, is one of the neighbors in the neighborhood. He asked them if he could keep his fifth wheel there. They are letting him store his fifth wheel there. He takes it out and brings it back. They have no one living on that property, because they haven't put the unit on there for the caretaker. He still has it in his other storage.

AMBROSE confirms there is no one living there that he permits to live on there. Is that what he is saying? Apparently there are people living on the property without his permission.

PADEN answers that is right. But he has a man that is ready to live there as soon as they can get things done. They bought a unit that is being stored at his other storage lot.

AMBROSE asks the applicant if he had less than the 90 days he has asked for, how quickly could he do it?

PADEN doesn't know. He doesn't know how long it will take to get the permit for the sewer line and get a contractor to put it in. You have to go with a lateral all the way out in the street.

LOUGH recommends to wait until the Commission hears from everyone in the audience and then the Commission might want to bring the gentleman back at that point. He thinks there is at least one more person who had raised their hand. He also has many issues to address.

AGURS confirms, for the record and for clarification, that PADEN said the current units on the property now are not his units or Mr. POLIS' units—they are someone else's who was allowed to put them on there.

PADEN answers that is correct.

AGURS asks not one half mobile home, not anything belongs to PADEN?

PADEN says what belongs to him on the property is a little Ford pickup. There is a trailer that you would haul trash on and it has a room strapped to the top of it that they are moving off. That is all he has on the property.

AGURS asks if it is a room or a camper shell?

PADEN says it is a room that they took off the side of an older mobile home. They took it off and put it on the trailer and now it should be going off in the next week or so. But it is sitting on a flatbed trailer that he can haul a car or trash or whatever on.

RAMIREZ would like Mr. PADEN to indicate whether the red camper shell stored in the northwesterly corner that looks like it belongs on the bed of a pickup truck is his.

PADEN thinks that that camper shell was there when they took over, because there have been other people there. There are concrete slabs and stuff. He has no idea when it got there or how it got there. It is not his. But he can have it hauled away as trash. They have hauled trash off of there, by the way.

POLIS returns to the podium. He states the camper shell RAMIREZ is referring to was brought in by his partner. He asked him what it was doing there and that he wants it off of there. He said he would take it off. He never did. It doesn't belong to him [POLIS] and it doesn't belong to PADEN. They will take it away.

RAMIREZ asks for clarification from Mr. Polis when he uses the term "partner". Staff believes this is in reference to the contractor. She asks for his name.

POLIS says yes, he is a contractor. His name is Ed Jackson.

BULINSKI returns to the podium. In reference to what Mr. PADEN said that no one is living on the property now, he has seen this man living there for several weeks. He goes in and out of one of the houses. He has a car there. In fact, today there was a station wagon parked next to the house. He has had visitors come in through the gate, so he believes he has a key to the gate. BULINSKI thought he was a caretaker or watchman.

AMBROSE confirms that somebody is living on the property, based on BULINSKI's observation.

BULINSKI answers yes, in one of the houses, as well as any homeless people that may come in and out.

PADEN returns to the podium. Two of the units that were brought on there by another person, the guy is in there working on those units getting them ready to take somewhere else, but he is doing work on them.

AMBROSE asks then he is not living there, he is working there?

PADEN says he is not living there—he lives in a half million-dollar house by Cottonwood Golf Course. He is in and out. He is working on those units—he owns them and that is his business.

AMBROSE doesn't know how the rest of the Commission feels about this, but they are going to have to find out how things are going to go here.

LOUGH asks for the person's name for clarification for the record.

PADEN says his name is Ishmael GAMBOA. His wife owns a business ON E. Main Street across from CoCo's. It is called La Pacifica Mobile Homes. Those are his units.

JOHNSON returns to the podium. She confirms this man (she points to BULINSKI) is correct. There is no one that even reaches this description. There is somebody living on there and he climbs over the fence. She is sure the gentleman he (she points to PADEN) is referring to would have a key to the gate and they have been living there in one of the units and walking through her area. One of the units was opened at 6:30

p.m. tonight and the door was open. She lives there so she sees this and he (PADEN) is referring to somebody else who probably does come and work on it, but it is not the gentleman PADEN is referring to. He has lived there for quite some time.

For the record, LOUGH states the speaker was pointing to the condition holder. He comments that on a revocation, usually more leeway is given. That is why he hasn't jumped up and said everyone gets one bite of the apple.

LOUGH addresses a few points. Staff has looked at the original signature of Mr. Paden on his application and the one on the continuance letter. They do look significantly different. He is not an expert on signatures. It appears to the average person that the signatures are different.

LOUGH notes as far as the conditions to the property, these are things the applicant has to talk with staff about, so there is no way of giving them an approval tonight saying it is okay within a certain time period. Assuming the Commission were to move this along somehow with any sort of continuance, they need a status report back. He strongly suggests the Commission leave this public hearing open so the members of the public can come back on anything that is done. He is slightly disturbed by the lack of notice, if one of the applicants received it today. That does disturb him about proceeding with revocation tonight.

On the issue of removing stored items, what he would suggest in this case, is the Commission look at a short-term continuance: leave the public hearing open, so the public can come back and tell the Commission about progress. He has some suggestions that the Commission might want to follow, which are merely suggestions. The first would be removal of all storage units and anything on the property immediately. If they do not belong to the people there, if they do not claim ownership, then they should be able to get them off rather quickly. Secondly, that the Commission and the applicant make contact with the police. The City has problems with homeless because of parks and other issues. There are certain constitutional prohibitions, but this is a strict trespass case. If the property owner were to work closely with the police, perhaps a referral from the Commission through staff to the Police Department to assist might help, because the police have many priorities and there are many homeless issues that the Police Department deals with on a daily basis.

On the removal of the trash, any continuance between now and then, a positive report back from the neighbors would help the Commission figure out where to go next time.

Regarding the drainage issue, they need to go to Public Works immediately to figure out what needs to be done instead of asking the Commission. Talking with a knowledgeable person in Public Works is critical, because it seems to be affecting the neighbors also.

The fence issue should be taken care of to the extent they can take care of it as soon as possible. As far as the Cal Trans portion of the fence, perhaps the property owner

talking directly with Cal Trans to get it fixed. Once Cal Trans is put on notice, that is a dangerous condition and they will be required to fix it right away or else they are exposed to liability themselves. It would be important that somebody talk to Cal Trans, preferably the landowner, because it would be in concert with what needs to be fixed on their property, on Cal Trans or the public property.

LOUGH states the next available meeting where the Commission would have sufficient time to address this case would be in 45 days, on November 24, 2003. The Commission could continue the public hearing, keep it open, allow the residents to come back, allow the applicant to come back, and then see what progress has been made at that point. He thinks the Commission has done a very good job tonight with the way they have asked the questions and allowed everyone to speak. That would give them a chance to move forward at that point either with revocation or maybe establishing new conditions which staff could have time to draft. He would not recommend waiting 90 days to see what happens. Even if they can't finish within that 45 days, the Commission would be able to look at progress and that would help the neighbors see progress hopefully earlier, and they wouldn't have to wait three months into the winter, where there would be more significant problems. LOUGH adds that normally he doesn't take this step of talking about this, but it is a complicated issue.

TURNER mentions that some type of security should be there for the next 45 days.

LOUGH agrees. All of the issues overall, the cleaning up, the removing of the attractive nuisance that brings in the homeless. If you are down to a clean vacant lot, he thinks that would go a long way. It would put the property in a zero or starting position, so the Commission could determine if this is something that they can go forward on or not under the existing CUP.

TURNER thinks the applicants were trying to be nice to neighbors by allowing other people to store things on the property. La Cresta Mobile Home shouldn't be there. She knows LOUGH is saying to remove all of them, but also the tractor trailer. This is not the use for this property. The applicant should understand the use of this property.

LOUGH agrees and suggests that staff could write a letter saying this needs to be removed. Because right now it is hard to tell who is at fault sometimes. All that the neighbors know is that there is a problem there and they don't care who is at fault--they want it fixed.

AGURS asks, because right now there are conditions under the current CUP that haven't been complied with and if the Commission is going to leave the hearing open and not take action tonight and couldn't put other conditions on, could the Commission just give recommendations to the staff for additional things the Commission would like to see done?

LOUGH says absolutely. Then there would be direction—the Commission could recommend staff investigate particular issues. He can see the dilemma of the neighbors

from their perspective, revoke or comply, because which would be better or worse. Maybe with a little time we can figure that out. Right now, with the mess that it is in, it is harder to figure it out. If the site gets cleaned off and staff investigates particular conditions, they could come back with some recommendations. The neighbors have been very helpful as far as their testimony tonight in clarifying the issues. That would be a way that the Commission could approach it next time--in a comprehensive manner. It would be nice to do it sooner, but looking at the future schedule, it would be crammed it into a 15-20 minute hearing. That doesn't serve anyone.

AMBROSE states the City Attorney has recommended a 45-day continuance on this item.

LOUGH corrects his calculation. The Planning Commission meeting of November 24, 2003 would be in 60 days. That is the first available meeting that isn't totally closed already. The City will renotice. If you continue to a date certain, the public knows when it will be, but the continued public hearing will be renoticed anyway.

TURNER still has a major concern that there are two businessmen from the city of El Cajon who allowed this to go on for 18 months and didn't ask questions. This is a huge concern for her.

AMBROSE shares that concern. At the same time, he thinks that the homeless are still an issue regardless of what the use is on that property. If they pulled out of there tomorrow and didn't go forward with the permit, the residences near the property still have to deal with the homeless.

TURNER agrees with this, but thinks the owner of this property and the applicant have to understand where this Commission is coming from and how important the next 60 days is to clean up this property and not allow all these things to go on. Even though they hired a contractor, they are still responsible.

AGURS would like to see them come into compliance. He would also like to see if there can be some frequent monitoring from Code Compliance or whomever on a weekly or bimonthly basis, so that they are not waiting until ten days before it is time to come back in here to start the process. If it is trashed up, they need to start now to try to come in compliance with some of those conditions. He would like to get some feedback from staff as far as what they think would be a reasonable time for people to go out and check up on this particular property on a regular basis.

BURGERT has a concern that if they bring the property back down to a zero or neutral position, they are right back where they were 18 months ago. Where is the accountability? The applicant has had over a year. If the Commission gives him another 60 days approximately to come back here, it is either going to be fixed or we are going to look like a bunch of fools. He doesn't like that. The applicant has had ample time. Everybody else is held accountable. Everybody else has to follow the

rules. If his fellow Commissioners feels it is appropriate to go for another 60 days, he will support it, but he feels there has been ample time.

LOUGH states the other option is to revoke tonight and make specific findings. He would help the Commission with that. Then the permit holder could appeal it to the City Council.

BURGERT asks, for clarification, if one of the issues is that they haven't been given adequate notice? Is that a major problem?

LOUGH says it is not a major problem, and in a normal hearing it wouldn't matter, because they are here tonight. It is not of major consequence, since the property owner and the applicant are both here, but it is slightly concerning.

BURGERT says if the Commission proceeds with giving them the extra 60 days, he would encourage the neighbors and the applicant to be most vigilant in taking care of their due responsibilities. Especially with the neighbors, if they feel strong enough to come back and let the Commission know about it. Likewise, he is going to be going by this place and he is going to be watching. He will be curious to see if they get it all straightened out.

AMBROSE states in all the years he has been on the Commission, he has never seen Mr. PADEN here on other issues like this. He considers Mr. PADEN to be a reputable businessman. He thinks Mr. PADEN did get misled and is convinced that anybody can get misled at least once. He is willing to give him the benefit of the doubt that he got in with an disreputable person, but at the same time, the buck stops here. He still is ultimately responsible. If he had a history of having some other problems in the City, he probably would have less sympathy than he does right now. AMBROSE likes to look at person's track record and their past business dealings in the City.

HANSON-COX is concerned that the applicant mentioned that he goes by there every day or every other day and that he was not acknowledging and seeing everything that was going on. Also, in looking at the pictures and seeing the overgrowth, and she knows they were taken at the end of June, but she owns commercial property as well. She is there every other week chopping down weeds to make sure, especially in the summer time with fire, it is maintained. She agrees, in the one instance, that maybe if he does get everything cleaned up and he does try to adhere to what the original agreement was, and with a caretaker on there, maybe that will help the neighborhood and will help with the homeless. But by the same token, if you are going by there every other day, you have to notice what is going on. Seeing things on there, seeing an abandoned vehicle, it looks like to her, she would have been questioning and handling it right away, instead of having the Commission ask him what he is going to do, and he says he will remove it tomorrow, if the Commission wants him to. He should have removed it some time ago. She thought she heard PADEN say at one instance that the contractor gave permission to another person to store these units on the lot, and then she heard him turn around and say the person who owns them is working on them

because he owns the units. If he is working on them, that means PADEN knows he owns them, and she would have thought he would have them moved, unless the guy is paying for storage on there. She thinks, in one instance, to keep the hearing open for 60 days and see what happens. Instead of waiting until the last minute to get this resolved, maybe they will start tomorrow and start getting this cleaned up and be good neighbors.

Motion by TURNER to CONTINUE the consideration of possible revocation of Conditional Use Permit 1910 to the Planning Commission meeting of November 24, 2003, and for the applicant and the property owner doing due diligence on this property to bring it back to its original state. She asks if that is the correct wording?

LOUGH adds to direct staff to sit down with the permit holder and develop a plan between now and then for short and long-term compliance. Staff was talking of recommending interim progress reports, but he doesn't want to do that because they have a public hearing here and he wants to keep everything within the context of that public hearing. He doesn't want the property owners to not know about something that has been discussed. They need to hear it the same as everyone else. By the 60th day coming back, things should be in good shape on the property and with a plan for finishing off the foundation, the place going in, the caretaker coming in, there should be milestones at that point that have already been worked out between staff and the permit holder.

TURNER asks if she needs to list items, such as removal of all storage units, no trespassing, trash removal, fixing the fence, the drainage?

LOUGH says yes, just what she just did is fine.

TURNER adds the security of the property.

LOUGH thinks leaving the public hearing open is critical. That gives the neighbors the chance to monitor and come back and testify.

AMBROSE says the City Attorney mentioned earlier about the Commission making contact with the Police Department regarding the homeless issue out there.

LOUGH says he was going to do that in a separate motion.

AGURS says he also mentioned the permit holder. Some of the issues we have been talking about involve the property owner and the business owner. He would like to see both of them involved with the process, that way we don't hear, "Well I didn't know he talked to the property owner instead of the business owner."

LOUGH says that is an excellent point and he asks that the motion be amended to include that.

Motion by TURNER, second by BURGERT to CONTINUE the consideration of possible revocation of Conditional Use Permit 1910 to the Planning Commission meeting of November 24, 2003, directing staff to work with the property owner and the applicant on short and long-term compliance, including immediate removal of all storage units and trash and addressing the fence and drain issues. Motion carries 5-0. This item will be renoticed.

AMBROSE states this is a continuance to the Planning Commission meeting of November 24, 2003. He suggests that Mr. PADEN and Mr. POLIS make phone calls to City staff tomorrow and get an appointment as soon as possible and get a plan of action and start cleaning things up. He adds that dogs are really great security.

In response to AMBROSE, RAMIREZ says the City will renotice and they will be certain to contact property owners within 300 feet as well as all of the speakers whose names appear in the record this evening.

VARIANCE 941 – Le Alcala
(public hearing) Resolution No. 9853
P.C. Meeting 9/22/03

The subject property is located on the south side of East Washington Avenue between Leland Place and Washington Heights Road, and addressed as 733 Ballard Street; APN 493-120-05; existing LUC 1111A, proposed LUC 1111I; General Plan Designation: Low Density Residential.

Request to develop a lot with no frontage on a dedicated public street, in the R-1-6 (Residential One Family 6,000 sq. ft.) zone.

SHUTE states this is a request to allow construction of a house on a lot that does not front on a dedicated public street. The ordinance does require that a lot front on a public street in order to gain access and, of course, build a single-family dwelling. The subject property is one of nine properties, however, that does not front on a public street and takes access from an unimproved private driveway.

These properties were annexed to the City in 1958 from the County in that condition. Since staff supports making all the four findings required to grant this variance, staff recommends that Variance 941 to develop a lot without frontage on a dedicated public street with a single-family residence, subject to the development standards of the R-1-6 zone, be granted subject to those conditions contained in the staff report.

AGURS asks, since it was annexed in 1958, does that mean these properties have a prescriptive easement across that private driveway?

LOUGH hesitates to answer that. From what he knows in the staff report, he doesn't feel confident to answer. That is a private issue between them and he would hate to give a legal opinion on something like that.

SHUTE adds that those properties have been using this private driveway for access for a number of years.

The public hearing is now open.

No one appears to speak on this item.

AMBROSE asks if the two people in the audience are wishing to speak on this item.

SHUTE states the Moricis are neighbors to this property. They own all the property in the area off south of E. Washington. He was also granted a variance for the same means just a couple of years ago.

AMBROSE thinks this is straightforward and if any commissioner has had a chance to go out and visit the property, they can see what the situation is. It looks like it deserves a variance. He thinks staff has called it right in this case.

Motion by AGURS, second by BURGERT to close the public hearing. Motion carries 5-0.

AGURS says since it is straightforward and that right now it is basically landlocked property. Even though they have some private issues of access that have been probably going on longer than five years, they have some right to use it since it has been going on that long.

Motion by AGURS, second by TURNER to GRANT Variance 941 in accordance with the staff report. Motion carries 5-0.

This action is final unless appealed to the City Council. The appeal period ends on October 6, 2003 at 5 pm.

PREDRAFTED RESOLUTIONS

To reflect the actions of the Planning Commission on tonight's agenda items.

Motion by AGURS, second by BURGERT to adopt Resolution Nos. 9847, 9848, 9849, 9850, 9851 and 9853 pro forma. Motion carries 5-0.

ORAL COMMUNICATIONS

There is none.

CORRESPONDENCE

There is none.

ADJOURNMENT

The meeting of the El Cajon City Planning Commission adjourned at 9:25 PM this 22nd day of September 2003.

_____
Anthony AMBROSE, Chair

ATTEST:

_____
James S. GRIFFIN, Secretary