

MINUTES APPROVED AT THE PC MEETING ON APRIL 1, 2021

PLANNING COMMISSION REGULAR MEETING

Teleconference
February 4, 2021
6:30 p.m.

COMMISSION MEMBERS

David Tucker, Chair	Michael Huang	Jonathan Harrison
Jen Loy	Masoomah Sharifi Soofiani	
Bruce Brubaker	Alpa Agarwal	

The regular meeting was called to order by Chair Tucker at 6:31 p.m.

ROLL CALL

Present: Chair David Tucker; Vice Chair Loy, Commissioner Alpa Agarwal, Bruce Brubaker, Jonathan Harrison, and Masoomah Sharifi Soofiani

Absent: Yu-Hsiang (Michael) Huang

INTRODUCTIONS

Staff Present: Planning Staff: Emily Carroll, Hector Lopez, Jonelyn Whales, Community Development Director Lina Velasco, and Attorney James Atencio

MINUTES –

November 19, 2020

ACTION: It was M/S/C (Loy, Brubaker) to approve the November 19, 2020 meeting minutes as presented; which carried by the following vote: 5-0-1-1 (Ayes: Tucker, Loy, Brubaker, Agarwal, Soofiani; Noes: None; Absent: Huang; Abstain: Harrison).

AGENDA

CONSENT CALENDAR – None.

BROWN ACT – Public Forum – None.

[The Commission moved to Item 2]

NEW BUSINESS

1. PLN20-043: Garbelmann New Residence PUBLIC HEARING to consider a Conditional Use Permit and Design Review to construct a two-story, single-family dwelling on a vacant parcel located within the –S, Shoreline Overlay District at 357 Western Dr. (APN: 558-185-006). RL-1, Single Family Very-Low Density Residential and – S, Shoreline Overlay District. Rudi

Garbelmann, owner; Brad Gunkel, applicant Planner: Hector Lopez Tentative Recommendation: Denial

Commissioner Brubaker recused himself from the item because he owned property within 300-feet of the subject property.

Mr. Lopez announced that the proposal is for a new single-family residence. The proposed residence is roughly 2,340-square feet, two-stories with three bedrooms and two bathrooms, and a 440-square foot two-car garage. The residence is to be constructed on a vacant 6,000-square foot L-shaped parcel that was created in 2009.

The Planning Commission and City Council approved the Parcel Map with conditions in 2009. The site is located in the RL-1 zone and the Shoreline Overlay District. Any new single-family residence that are greater than 1,200-square feet and two-story required a Major Design Review. All projects located in the Shoreline Overlay District are subject to the approval of a Conditional Use Permit (CUP) by the Planning Commission. The maximum height in the shoreline area may be reduced below the maximum height of the base zoning district if the Planning Commission determines that a lesser height would better protect public views from public rights-of-way.

On November 18th, 2020, the Design Review Board (DRB) held a public hearing to consider making a recommendation on the design to the Commission. Modifications to the project made by the applicant were considered minor and did not address the larger issues and direction provided by Staff and the DRB. The DRB determined that the project was not harmonious or compatible with the surrounding buildings, the design was out of context with human scale by having 12-foot ceiling heights, the upper rooftop deck invaded privacy to adjacent properties and roof forms were too dramatic for the sensitive nature of the coastal zone. Section studies were requested from the application and he did not provide them. The DRB and Staff suggested that the applicant make the suggested changes and come back. The applicant announced that he would not make any more additional changes. The DRB unanimously voted 7-0 to not recommend approval of the proposed design to the Planning Commission.

Staff's recommendation was to deny the project's CUP and Design Review.

Commissioner Agarwal pointed out that in drawings the house is shown blocking the view of the shoreline. She asked if the City has guidelines regarding scenic areas and views and if the project violates those views. Mr. Lopez emphasized that the Shoreline Overlay District does have requirements and Staff's determination is that the building does violate the views due to its height. Commissioner Agarwal predicted that the Spanish-style home that the applicant has pointed out was constructed in the past, the City has no oversight over that project, and now the City is trying to move forward and protect views. Mr. Lopez confirmed that is correct.

Commissioner Soofiani pointed out that the surrounding homes are similar in mass to the proposed project, but those homes were built before the Shoreline Overlay was implemented. Ms. Velasco answered that the Shoreline Overlay was implemented in November of 2016.

Rudi Garbelmann, the applicant, disclosed that the project's current timeline has lasted over 14-months with seven meetings in total with the City. The project started the process in December of 2019. It was modified after receiving feedback and the Neighborhood Council approved the project. Further modifications were conducted after a study session with the DRB.

At the next DRB meeting Staff recommended approval of the project with the condition that the rooftop deck be removed and make modifications to the butterfly roofline. Mr. Garbelmann argued that several of the surrounding homes have rooftop decks and the deck is on the back of the home where there are no properties. The neighbor who originally raised the issue has moved and the new owner supports the project. He requested that the Planning Commission remove the condition to remove the rooftop deck.

In regards to the butterfly roof, several nearby homes have that roof style, and as Staff confirmed there are no applicable design guidelines in the neighborhood. All views are preserved and through modifications, the home now stands 14-feet lower than the maximum allowable height. The meeting minutes confirm that the majority of the DRB was in favor of the roof design. He requested that the Planning Commission remove the condition regarding the roof form.

In terms of lowering the plate height, as was suggested by Staff to preserve views, Mr. Garbelmann stated that will only lower the rear portion of the house and have no impact on the view from the street. Such a change would result in major modifications to the interior layout of the home.

Public Comment:

JONATHAN LIVINGSTON, Chair of the DRB, encouraged the applicant to return to the DRB so discussion can continue and ultimately result in approval of the design. The DRB was close to approving the design with slight modifications but the applicant demanded a vote before a consensus between the Board and the applicant could be made. With minor modifications, the DRB felt that the design fit in with the surrounding context and environment. A subcommittee of the DRB met with the applicant where a subcommittee member provided a simple sketch rendering of a possible solution. The applicant disclosed that they would not be making further changes to the project and the meeting ended.

SIMON, supported development on the lot but agreed with the DRB's recommendations. He disclosed that there were no heights listed on the renderings and the notice for the hearing was hidden. He was concerned about the excavation of 9-feet down and that it may compromise the first-story windows. He agreed that if the home was lowered and the roof was rotated 90-degrees, the view would be preserved.

CLAIRE ARBOR wanted to see the lot developed but felt that the applicant was not being truthful and boundaries continued to be pushed in the proposed design. The City is partial at fault due to the many constraints it imposed on the lot when the lot subdivision was approved. She wanted the Planning Commission to uphold the DRB's vote. She mentioned that the Spanish-style house nearby is over height and the owner paid penalties to San Francisco Bay Conservation and Development Commission (BCDC) because they violated the BCDC's standards.

ALLISON LYNN announced that she is the owner of the home with the competing roof form. The house was built in 1970 as were the homes with the two butterfly roofs. The Spanish-style home as well as the two butterfly roof homes are the only homes located within the Shoreline Overlay District. She attended the DRB meeting and found the applicant hostile and disrespectful. She encouraged the Planning Commission to upon the DRB's vote.

BILL SWIMMER disclosed that his home is between the Spanish-style house and the proposed project. He shared that the new house will be very imposing to his home. He agreed with Ms. Lynn's comments regarding the applicant's attitude at the DRB meeting. He concluded that he supported development on the lot but the house was too big as proposed.

Commissioner Harrison asked the applicant how many decks remain on the proposed plans and if the reflective materials have been removed. Mr. Garbelmann shared that there are two decks and the reflective materials have been removed.

Commissioner Agarwal asked what the rationale was for Mr. Garberlmann to request a vote from the DRB without working with them and how did it work if the Planning Commission approved the project. Mr. Garbelmann restated that the conditions regarding the rooftop deck and the roof form should not have been in the discussion. Those two components were already approved in the prior Conditions of Approval. Ms. Velasco mentioned that the DRB made a recommendation to the Planning Commission and the Commission can agree or disagree with that recommendation. If the Commission approved the project as is or approved with conditions, the Commission would need to provide Statements of Fact providing evidence of how the Findings can be made. Mr. Lopez added that the decision made by the Commission can be appealed to City Council.

Commissioner Soofiani asked if the applicant has studied lowering the building by one-story and if there are restrictions in terms of sea-level rise if the building is lowered. Mr. Garbelmann shared that the prior approval made by the Commission and the BCDC stated that the structure needed to be 17-feet back from the cliff edge. The house cannot be lowered anymore because of those restrictions.

Commissioner Harrison wanted to know how the depth of the building's floor is 9-feet below grade and have there been any grade plans that demonstrate that. Mr. Garbelmann mentioned that the property was surveyed and story poles were installed. Based on the recording of where the ground was to the top of the structure, it was 8-feet 8-inches that was dug down. The garage would not be down 9-feet but some of the structure behind the garage would be down 9-feet.

Commissioner Loy questioned if any further discussions between the applicant and the DRB have taken place. Mr. Garbelmann reported there have been no further discussions. He felt strongly that the evidence he provided dismisses the need to remove the rooftop deck and the butterfly roof.

Chair Tucker emphasized that many people like the design but the issue is whether the view is going to be obstructed. He requested confirmation that the adjacent neighbor is no longer concerned about privacy as well as how obstructed the views are from the houses in front of the project. Mr. Garbelmann restated that there was a change of occupancy and the new neighbor provided a written comment disclosing that he no longer had concerns. Mr. Lopez disclosed that the neighbor was not specific about if his privacy concerns were addressed in his letter. Ms. Velasco declared that the Commission can direct Staff to acquire additional information and have that brought to a future meeting. Mr. Lopez restated that the applicant did not provide any diagrams that showed how the neighbors' views in front are impacted.

Chair Tucker felt that there were many unanswered questions and supported bringing the project back after Staff collects more information regarding the privacy issue and the stationary blockage of the view. He wanted to understand the construction impact on the area as well. Mr.

Lopez announced that there will be conditions that directly relate to construction impacts but those apply at a later date.

Commissioner Harrison clarified that there was no definitive description of how the 9-foot depth was being measured and what it applied to. He agreed that the topography of the homes surrounding the project is at the same height as the project and views may be blocked. He agreed with Chair Tucker's suggestion to have the item come back.

Commissioner Soofiani did not understand the 17-foot setback from the shoreline. Mr. Lopez restated that the 17-foot setback was part of the prior Conditions of Approval when the property was subdivided. Brad Gunkel, the architect, clarified that per the prior conditions, no excavation or construction could occur within 17-feet of the top of the slope at the cliff.

Commissioner Agarwal wanted Staff to present how the applicant meets or does not meet the whole requirement around views in the public interest. Mr. Gunkel mentioned that information would be helpful to know.

Ms. Velasco shared that if the Commission decides to bring the item back, Staff would provide modified recommendations once all the documentation the Commission has requested has been received.

Commissioner Agarwal wanted to see the DRB involved in the discussions among Staff and the applicant.

ACTION: It was M/S/C (Harrison, Tucker) to continue the item to a date uncertain so that Staff can further review the view, the privacy issue, and the clarification of the rules and ordinances that govern views; which carried by the following vote: 5-0-2 (Ayes: Tucker, Loy, Agarwal, Harrison, Soofiani; Noes: None; Absent: Brubaker,Huang).

[The Commission moved to Reports of Officers]

2. PLN20-355: CEQA Procedures, TDM Ordinance Amendments and VMT Guidelines
PUBLIC HEARING to consider a recommendation to the City Council (1) amendments to the Richmond Municipal Code Article 15.04.612, Transportation Demand Management, (2) repealing and replacing the City of Richmond's Guidelines and Procedures for the Implementation of the California Environmental Quality Act ("CEQA"), and (3) adopting the 2020 Contra Costa Transportation Authority ("CCTA") Vehicle-Miles Traveled ("VMT") Methodology for application within Richmond. City of Richmond, applicant Planner: Jonelyn Whales Tentative Recommendation: Recommend Adoption to City Council

Charlie Knox, Principle at Place Works, presented the item to the Commission. The purpose of the project was to update CEQA Guidelines for Development and Review, bring into compliance with the City's Transportation Demand Management (TDM) with the June 2020 guidance that was implemented by CCTA, and to bring the City into compliance with Senate Bill 743 which changed the measure of potential impacts from Level of Service (LOS) to VMT.

Senate Bill 743 focused on placing housing and services near public transportation and discouraged sprawl. It also focused on the regional reduction of traffic emissions which resulted

in the City being required to use VMT instead of LOS, but LOS is still being used to predict future impacts for new development.

The City's TDM offers two options for new developments. One was to receive a certification by Green Trip and Green Trip provided a blanket approach for new developments to make sure that new developments provide and reduce the potential for single-occupancy vehicle trips. The other option was to adopt the CCTA approach which was more expensive and modern.

The CEQA update included, but was not limited to, the new state allowance for Accessory Dwelling Units (ADU), definitions for streamlining, the clarification that the Planning Commission and City Council are decision making authorities, new exemptions along with the new TDM requirements, and VMT requirements.

As per the CCTA, VMT is measured differently based on what type of use is it measuring. Residential, employment, and retail are the main categories that apply to VMT. For residential development, VMT is measured based on how many miles are being added to a project per resident. For employment, VMT is measured per employee and for retail, VMT is measured per service population. The goal of VMT was to determine how many more miles a project will create instead of how many more trips. The way a project can become exempt or stay exempt is by meeting the 15 percent reduction of single-occupancy trips criteria. For residential to become or stay exempted, VMT per resident has to be t less than 85 percent than the county-wide average. For employment to become or stay exempt, the baseline project-generated home-to-work VMT has to be less than 85 percent of the nine-county Bay Area average. For retail to stay or become exempt, the baseline project-generated VMT per service population has to be less than 85 percent of the countywide average.

Any project that is exemption from CEQA is exempted from the TDM requirements. Single-family homes, a multi-family project that are 20-unit or less, local serving retail except for drive-thrus, Association of Bay Area Governments (ABAG) areas along major bus routes, housing in areas where VMT per resident is less than 85 percent of the countywide average, employment in areas where home to work VMT is less than 85 percent of the Bay Area average and 100 percent affordable housing are all exempted.

Staff's recommended action was to hold the public hearing, adopt Resolution No. 21-01 recommending that City Council amend the TDM Ordinance, replace CEQA Implementation Guidelines and Procedures, and adopt the 2020 CCTA VMT methodology.

Commissioner Brubaker believed the City was taking an important step and he fully supported it. He asked if the City required a LOS analysis and who made that determination. Ms. Velasco stated that there are LOS obligated evaluations for regional routes of significance under Measure J. It also depended on the CEQA analysis of the project but if the project is exempted or not. Mr. Knox added that it is in the best interest of the project to evaluate the most impacted intersections. Commissioner Brubaker encouraged Staff to not require a LOS evaluation unless there is a true need for it because the City should be prioritizing the VMT metric. He continued with who chooses if the project uses the CCTA approach or Green Trip. Ms. Knox added the developer makes a proposal and the City can approve it or suggest a different approach. Commissioner Brubaker commented that it would be nice to have all the language from the CCTA inserted into the TDM Ordinance instead of having it spread out throughout the ordinance. His final question was if there are exempted areas that have a lower VMT than the statewide requirement located within the City. Mr. Knox predicted there may be areas within the City where there is a lot of housing within proximity to transit or popular destinations.

Commissioner Agarwal asked if VMT is going to exceed 85 percent for a project, does the City deny the project. Also, has the City created a map that shows what the VMT is for that area and why does the City have to approve the VMT metric if it is a state mandate. Mr. Knox explained that it is not an automatic no. Ms. Velasco added that the City would most likely recommend a Mitigation Measure to bring the VMT percentage down. Ms. Velasco disclosed that there is no map showing what projects have exceeded VMT but she announced that the Citywide VMT average is better than the countrywide VMT average. Mr. Knox announced that the Metropolitan Transportation Commission (MTC) is launching a project that looks at reducing VMT for private development areas. Several regional agencies and transit providers are trying to find ways to encourage transit use and reduce single-occupancy vehicle trips. He explained that the Planning Commission is not approving VMT but more approving the implementation of it.

Chair Tucker predicted that the changes will not go into effect until April/May 2021 and Ms. Velasco confirmed that they will go into effect 30-days after the second reading at Council. Chair Tucker asked if there are projects in the pipeline that will be affected by the change and how often does the VMT average gets adjust within the City's plan. Ms. Velasco expressed that Staff is already working with projects in the pipeline and they are up to speed on what the new changes are. Mr. Knox shared that development is not the driver of the averages. It is more are the dense areas served by alternatives modes of transportation. He believed that the regional VMT averages are updated quarterly.

ACTION: It was M/S/C (Brubaker, Loy) to adopt Resolution No. 21-01 recommending to the City Council one: approval of amendments to Article 15.04.612 of the Richmond Municipal Code related to Transportation Demand Management; two: repeal and replacement of City Council Resolution 125-03 regarding guidelines and procedures for limitation of the CEQA; and three: adopting the 2020 CCTA VMT methodology for application within Richmond as shown in Exhibits A, B, and C; which carried by the following vote: 6-0-1 (Ayes: Tucker, Loy, Brubaker, Agarwal, Harrison, Soofiani; Noes: None; Absent: Huang).

[The Commission moved up to Item 1]

COMMISSION BUSINESS

7. Reports of Officers, Commissioners, and Staff – Ms. Velasco announced that Staff and the Chair are working on scheduling a retreat for the Commission to do training.

Commissioner Loy shared that U.C Berkeley is having an outbreak of COVID-19 cases and encouraged the public to be safe and follow precautionary measures.

Chair Tucker encouraged the public to support local Richmond businesses.

8. Adjournment - The meeting was adjourned at 9:00 p.m. to the next regular meeting on February 18, 2021.