

MINUTES APPROVED AT THE PC MEETING ON APRIL 1, 2021

**PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL**

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

COMMISSION MEMBERS

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

Absent: Commissioner Yu-Hsiang (Michael) Huang

INTRODUCTIONS

Staff Present: Planning Staff: Hector Lopez, Roberta Feliciano, Community Development Director Lina Velasco, and Attorney James Atencio

MINUTES – None.

AGENDA – None.

CONSENT CALENDAR –

Chair Tucker gave a brief overview of the consent calendar's policies and procedures.

1. PLN20-061: St. John Missionary Baptist Church Recreational Facility PUBLIC HEARING to consider a Conditional Use Permit and Design Review Permit to construct a ±10,000 square foot recreational facility to serve an existing Baptist Church and associated off-site parking lot improvements at 29 Eight St. (APN: 538-410-027). RM-2, Medium Density Residential District. St. John Missionary Baptist Church, owner; Abdul Esmail, applicant Planner: Hector Lopez Tentative Recommendation: Conditional Approval

Commissioner Agarwal requested that the item be removed from the Consent Calendar.

BROWN ACT – Public Forum

S. JUDY IVERSON requested a summary of the Commission's discussion that was taken at the last meeting regarding project PLN20-269, Richmond Hills Initiative. Chair Tucker disclosed that the item will be heard later in the meeting.

NEW BUSINESS

1. PLN20-061: St. John Missionary Baptist Church Recreational Facility PUBLIC HEARING to consider a Conditional Use Permit and Design Review Permit to construct a ±10,000 square foot recreational facility to serve an existing Baptist Church and associated off-site parking lot improvements at 29 Eight St. (APN: 538-410-027). RM-2, Medium Density Residential District. St. John Missionary Baptist Church, owner; Abdul Esmail, applicant Planner: Hector Lopez Tentative Recommendation: Conditional Approval

Mr. Lopez explained that the project will have a two-story structure of approximately 9,800-square feet which included a basketball court and rooms. The existing parking lot located on the site will be the new location of the recreational facility and the church owns the vacant lot across A-Street where parking for the new facility will be held. Surrounding structures included residential and non-conforming industrial uses and the Greenway Trail is located at the south portion of the site.

The project was reviewed by the Design Review Board (DRB) and was approved on December 9th, 2020.

The project requires a Conditional Use Permit and the project met all required setbacks as well as required Development Standards. The hours of operation for the facility are 3:00 pm to 10:00 pm on weekdays and on Saturdays from 9:00 am to 9:00 pm. Due to the hours of operation exceeding the permitted hours of operation by one hour, the application requested a modification of the hours.

Staff recommended approval of the project.

Abdul Esmail, architect and representative of the St. John Baptist Church, emphasized that the church has been in the City for 77-years. The project will provide a public benefit to the community and enhance the street. The Church's vision is to bring kids off the streets and provide them a safe space.

Kevin Hall, Pastor of St. John Baptist Church, shared that he has been the Pastor of the church for over 26-years. He envisioned the new facility helping the community. The project did not benefit the church financially and the project is entirely funded by the church.

Commissioner Agarwal supported the project but she wanted to understand why the applicant did not discuss concerns and suggestions raised by the neighborhood. Also, she wanted to understand the applicant's thoughts regarding the comments that the neighborhood had suggested. Mr. Esmail announced that the suggestions raised were discussed at length and changes were made. He added that due to the facility's size, many of the suggestions could not be accommodated. The existing fence is used to limit vandalism to the existing facility and is not proposed to be removed. To green up the space on the south side, a living wall will be planted. Commissioner Agarwal felt that adjustments could be made to accommodate the feedback received from the public. Mr. Hall urged the Commission and the community to be realistic about safety and aesthetics.

Commissioner Harrison concurred that safety is paramount for the facility and he agreed that having the gym on the trail is not practical. He asked if there is a City requirement that the project parking lot be located on the same parcel as the project, if street trees will be planted the

entire length of the existing church or just in front of the new facility, construction hours, and if there is a need to add pedestrian safety features for the offsite parking lot. Mr. Lopez stated that parking can be located up to 300-feet away from a project, street trees will be planted on the two sides that are to be developed, the Building Code has requirements regarding construction hours, and the applicant will provide pedestrian safety features.

Vice Chair Loy supported the project and she encouraged the applicant to work with partners who are improving the Richmond Greenway. She inquired if the applicant has reviewed Kieran Slaughter's suggestions and Mr. Esmail disclosed that he has not received the recommendations. Mr. Lopez noted that there is a bio-swell in the rear of the lot and so a pathway and a lockable gate is not feasible. Commissioner Loy asked if there could be a pathway over the bio-swell if funding is raised and Mr. Lopez shared that the entry of the building is less than 50-feet from the Richmond Greenway and he did not believe there should be another access to the Greenway. Mr. Esmail noted that the lighting on the new facility would light up the Greenway Trail and provide safety for that section. The DRB has added that the new facility shall not use over 3,000k for their light fixtures.

Commissioner Soofiani supported the project. She liked how the entryway is pronounced. She also wanted to know if the new facility could be mirrored so that the north side of the proposed facility faces the Greenway to address the community concern about the "eyes on the Greenway " and the proposed entrance becomes a corner treatment at the corner of 8th street and Greenway. She noticed the new parking lot was over capacity and suggested taking the seven additional parking spaces and making them into a green space that faced the Greenway. She inquired if the church has explored ways to maximize the parking lot's usage in the morning when it is empty. Mr. Esmail shared that having a full glass face that faced the Greenway would cause a safety and security concern. The extra parking spaces are needed for the church and enhanced landscaping will be provided in the parking area. The church has not explored opening up the parking lot to the community because of vandalism. Mr. Hall shared that the parking lot is used throughout the entire week for various activities.

Commissioner Brubaker believed the project to be well designed and will be a beautiful addition to the street. He commented that there is a way to grow the Greenway as a public space and provide minimal adjustments to the project to facilitate that growth. He asked if the exit on the west side of the building is a required exit and Mr. Esmail confirmed that is correct. Commissioner Brubaker inquired if there is a plan for the setback space between the residences and the project. Mr. Esmail answered there is no plan for the space other than a path of exit.

Chair Tucker announced that his father was a longtime congregant of the church on S. 52nd Street. He emphasized that the project is a gym and having windows would impact the users of the gym. He inquired what would happen if the the Commission is to consider an encroachment into the Greenway. Mr. Lopez answered that the Greenway could not be encroached upon. Chair Tucker asked how the project would be impacted financially if the church implemented the suggestion made by the public. Mr. Esmail restated that the condition made by the DRB has already been included in the project and several of the public's suggestions have been discussed at length with the DRB as well as the public.

Public Comment:

OSCAR GARCIA, President of the Iron Triangle Neighborhood Council, shared that the neighborhood is excited about the project but the council requested that the applicant provide

more outreach to the neighborhood. The council supported the comments made by Kieran Slaughter.

KEIRAN SLAUGHTER emphasized that the suggestions in his letter are based on adopted policy and facts. He acknowledged that the project proposes windows on the ground floor facing the Greenway already and his suggestion was to move those to the middle of the facility and make them operable. He encouraged the Commission to review the newly constructed projects in the area that have achieved the same criteria that he suggested. He concluded that he loves the project.

RON HOLTHUYSEN shared that the architect and pastor never presented the plans to the Iron Triangle Neighborhood Council and if they had, that would have prevented the entire discussion the Commission was having. He announced that having a blank wall and parking lot along the Greenway destroyed the whole concept of the Greenway.

Commissioner Agarwal wanted to see more public involvement and that small adjustments can be made to the project to accommodate the public's suggestions and provide safety and security for the church. Mr. Hall stated that he has never been invited to any of the neighborhood counsel's meetings but the church does have a liaison that attends the meetings. He predicted that Mr. Esmail would be glad to meet with the neighborhood council. Mr. Esmail added that the project has received input from congregation members and they are taxpayers. He added that there were no community members present at the DRB meeting even though the City sent out notification.

Commissioner Brubaker suggested a 6-foot access double door be placed on the Greenway side and have that door be turned to a glass door in the future when the church feels the conditions are right. He foresaw the door being used as an emergency exit until the church felt it was right to change it to an access point.

Vice Chair Loy supported Commissioner Brubaker's suggestion as well as Commissioner Agarwal's suggestion of communication.

The discussion commenced among the Commission of what the next step should be. Chair Tucker supported the idea of holding the item to the next Planning Commission meeting to allow for the applicant and the community to discuss the project.

ACTION: It was M/S/C (Tucker, Loy) to continue the item to April 1st, 2021; which carried by the following vote: 6-0-1 (Ayes: Tucker, Loy, Agarwal, Brubaker, Harrison, Soofiani; Noes: None; Absent: Huang).

- 2. PLN20-269: Richmond Hills Initiative General Plan and Zoning Amendments PUBLIC HEARING** to consider a recommendation to the City Council of a General Plan Amendment amending the text and maps of the 'Land Use and Urban Design' and 'Conservation, Natural Resources, and Open Space', and 'Housing' elements and Zoning Amendments to Articles 15.04.202, 15.04.206, and 15.04.611 of the Richmond Municipal Code and rezone to OS-H, Hillside Open Space, to implement the Richmond Hills Initiative, a voter initiative, adopted in 2017. (APNs: APNs: 435-200-007, 435-200-008, 435-190-001, 435-300-009, 435-190-001, 435-230-007, 435-230-006, 435-180-005, 435-240-002, 435-230-005, 435-230-004, 435-230-042, 435-230-043, 435-230-013, 435-230-012, 435-230-020, 435-230-040, 435-230-023, 435—230-021, 435-230-011, 435-230-015, 435-230-050, 435-230-009, 435-230-014,

435-230-045, 435-230-038, 435-200-004, 435-210-007, 435-210-007, 435-230-052, 435-230-051, 435-180-008, 435-230-030, 435-230-028, 435-230-027, 435-230-008, 435-230-046, 435-210-001, 435-210-006, and 435-240-001). Current Zoning: RL1, Single Family Very Low Density Residential, AG, Agricultural, and PA, Planned Area District. City of Richmond, applicant Planner: Lina Velasco Tentative Recommendation: Recommend Adoption to City Council

Ms. Velasco introduced Michael Dyett with Dyett and Bhatia who is the consultant on the item.

Michael Dyett reported that the Voter's Initiative called Richmond Hills Initiative was presented to City Council in 2017 and Council adopted it. Following the adoption, a complaint was filed, the Superior Court decided that the item should be moved to the Court of Appeals who sent it back to the Superior Court in 2019 and requested a new Writ of Mandate be drafted. In June of 2020, the Superior Court issued the Writ of Mandate which kicked off the process that had columnated into the proposal that was before the Commission.

The purpose of the amendment was to align the General Plan with the Richmond Hills Initiative that was adopted to resolve any inconsistencies. Zoning also needed to be consistent with the General Plan and so the zoning regulations proposed to be updated as well.

The subject area is located south of San Pablo Dam Road on the east side of the City. New maps were drafted that outlined the perimeter of the Richmond Hills Initiative area.

To accommodate the adopted Richmond Hills Initiative, staff created a new section, CA-17, that specified all the policies and standards as well as added the detail that is needed regarding permissible land uses open space, development envelopes, maximum floor area, and several others.

The amendment also allowed landowners who wished to develop parcels located within the perimeters to transfer their development credits to a Receiving Area.

The Richmond Hills Initiative provided alternative housing sites for the Housing Element that replaced the 800 units that are located within the Richmond Hills.

In terms of zoning regulations, a new Open Space District was created called the Open Space Hills District (OSH) for the Richmond Hills area. The transfer of development credits was folded into the existing Transfer of Development Rights Program located within the zoning regulations.

To appease the requirements of Senate Bill 330, Staff increased the density in the CM-4 and CM-5 Districts. To create security for property owners who feel that their land has been taken from them, the owner can apply for a Reasonable Use Exception (RUE) which can be granted or denied by the Planning Commission and is appealable to City Council.

In terms of CEQA, voter initiatives are exempt from CEQA and the amendments protected open space and allowed for a density transfer of development previously evaluated in the General Plan EIR and Article XV environmental documents.

After receiving and reviewing public comments, Staff recommended that the Commission consider adding clarifying language to Page 3.45 that read "application of a policy, ordinance or plan is barred", to add a phrase to Page 3.10 stating "when density increases are adopted in

order to comply with Government Code Section 663000 et seq in order to effectuate a voter initiative”, and to modify the last bullet on Page 3.3 to read “through amendments to Article XV”.

Staff’s recommendation was to adopt the Resolution recommending that City Council adopt the proposed amendments to the General Plan and Zoning as detailed in the accompanying Exhibit B and C, as modified by the amendments proposed in response to public comment.

Commissioner Agarwal wanted to understand the rationale behind removing the Richmond Hills area from potential housing development. Mr. Dyett emphasized that the proposed amendments addressed the concern around removing potential sites for housing development.

Commissioner Brubaker understood from a public comment letter that the CM-4 and CM-5 Districts should not accommodate development now because the worth of the credit disappears. He inquired if the Transfer Program is a party-to-party program or if there is a bank. Mr. Dyett answered that the build-out of the CM-4 and CM-5 District will be equal to the units lost with the proposed Richmond Hills Initiative and are not part of the Transfer Program. In terms of the Transfer Program, there could be a bank but it is not limited to a bank. Commissioner Brubaker supported community outreach to all property owners as well as to owners within the receiving areas.

Commissioner Soofiani asked what Staff’s strategy is to communicate how the Transfer Program works and what changes were made to the CM-4 and CM-5 Zones. Mr. Dyett predicted that if the Commission recommended the changes, Staff would develop a more robust education and outreach program. He explained that the only change to the CM-4 and CM-5 Zones is that density is increased by 10 percent.

Vice Chair Loy encouraged the City to explore all styles of communication for the outreach and education program.

Commissioner Harrison was comfortable with Staff’s recommendation.

Chair Tucker requested how many property owners were being impacted by the changes. Ms. Velasco disclosed that there are 38 parcels and some have shared owners.

Commissioner Agarwal wanted to hear the impacted developer’s point of view on the Development Credit Program. Chair Tucker declared that almost all of the owners of the 38 parcels impacted have been involved in the discussions throughout the years.

Public Comment:

SUSAN CODY shared that she is a realtor and agreed with Commissioner Agarwal that the changes are unfair to landowners. Her client cannot build a home on their property due to the new amendments. She emphasized that there has been no communication between landowners regarding the changes or any information about the Development Credit Program.

JOSEPH SARAPOCHILLO wanted to understand the RUE process better. He asked if the land can be used for agriculture purposes and what does the process look like.

JOSEPH DESCHENE is an adjacent neighbor and echoed Mr. Sarapochillo’s comments about using the land for agricultural and educational purposes. He mentioned that San Pablo Dam

Road carries a lot of traffic and allowing development in Richmond Hills will exacerbate those impacts.

ALEX MORTAZAVI stated his company has been the owner of 22 of the 38 parcels for over 20-years. He emphasized that the Development Credit Program is not well established and does not provide clear guidelines on how it works. He shared that his company planned to build senior housing units on their property and now they cannot.

PETER SUMMIT commented that the El Sobrante Community is supportive of preserving and protect the Richmond Hills. He concluded that the initiative has been available to the public to review since 2017 and the initiative was found defective in one instance by the judge and Staff was before to Commission to rectify that error.

RUBEN RASOWE supported the initiative and she agreed with Mr. Duchene's comments regarding traffic and San Pablo Dam Road.

DICK SCHIEDER thanked staff and the consultant for their work. He supported the initiative.

Vice Chair Loy asked if agricultural use is allowed and requested that legal address the judge's ruling. Mr. Dyett concurred that agricultural uses are allowed. Holly Wittily confirmed that the court ruled in the City's favor on all but one issue which addressed the inconsistencies in the General Plan.

Chair Tucker requested when the process will be in place for the Transfer of Development Rights Program and will the public be involved in the development of the plan. Mr. Dyett clarified that there already is a process in place for the Transfer of Development Rights Program and has been available for 4-years.

Commissioner Agarwal reemphasized that taking land away from folks and allocating land in a different part of town to them is poor practice. Ms. Velasco proclaimed that the receiving areas are located in areas where the City predicts growth will occur. Commissioner Agarwal requested that the receiving locations be sent to developers and get their opinions on it. Mr. Dyett reemphasized that Commissioner Agarwal's request is already in place and developers can come before the Commission and the Council with any disagreements they have.

Commissioner Harrison agreed that the Commission is not deciding on how to help each landowner negotiate what they may or may not be able to do with their land.

ACTION: It was M/S/C (Harrison, Loy) to adopt Resolution 21-03 and the subsequent amendments that were described by Mr. Dyett and recommend to the City Council to approve the General Plan and Zoning amendments to implement the RHI Voter Initiative and encourage the Council to ensure that Staff embarks on an outreach program as soon as possible after adoption; which carried by the following vote: 5-0-1-1 (Ayes: Tucker, Loy, Brubaker, Harrison, Soofiani; Noes: None; Abstain: Agarwal; Absent: Huang).

COMMISSION BUSINESS

7. Reports of Officers, Commissioners and Staff – Ms. Velasco announced that staff is still working on a date and time for a retreat.

Commissioner Brubaker announced that he is interested in attending Commissioner training held by outside organizations such as the League of California Cities. Chair Tucker seconded that and requested that staff provide more information.

8. **Adjournment** - The meeting was adjourned at 9:19 p.m. to the next regular meeting on April 1, 2021.