

MINUTES APPROVED AT THE PC MEETING ON JUNE 20, 2024

PLANNING COMMISSION REGULAR MEETING COUNCIL CHAMBERS, RICHMOND CITY HALL

Council Chambers
March 7, 2024
6:30 p.m.

COMMISSION MEMBERS

	Jen Loy	Gay Timmons
Jonathan Harrison, Vice Chair	Alpa Agarwal	Alexander Golovets
Bruce Brubaker, Secretary	Aaron He	

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

ROLL CALL

Present: Vice Chair Jonathan Harrison; Secretary Bruce Brubaker; Commissioner Gay Timmons; Commissioner Alexander Golovets

Absent: Commissioner Aaron He; Commissioner Jen Loy; Commissioner Alpa Agarwal

INTRODUCTIONS

Staff Present: Planning Staff: Planning Manager Hector Rojas; City Attorney James Atencio
Planning Technician Rae Alberts

MINUTES – Vice Chair Harrison deferred the approval of the minutes to the next scheduled meeting when there would be a quorum of Commissioners who attended the February 1, 2024 meeting.

AGENDA

CONSENT CALENDAR –

Vice Chair Harrison stated there were no Consent Calendar items on the Agenda.

[The Commission moved to the Brown Act – Public Forum]

BROWN ACT – Public Forum

Planning Manager Hector Rojas indicated there were no public commenters.

[The Commission moved to New Business]

NEW ITEMS

1. PLN24-012: Mariscos Los Reyes Restaurant Alcohol Sales

PUBLIC HEARING to consider a Conditional Use Permit Amendment to expand the restaurant's alcohol sales from on-sale beer & wine (ABC License Type 41) to on-sale beer, wine, and distilled spirits (ABC License Type 47). As part of the Use Permit Amendment, the applicant is also requesting permission to provide indoor live

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entertainment and outdoor seating at 761 23rd Street (APN: 529-180-007). CM-3, Commercial Mixed Use, Commercial District.
Ana Navarro, owner; Jose Reyes, applicant
Planner: Rae Alberts Tentative Recommendation: Conditional Approval

Vice Chair Harrison announced the item and called for staff's report.

Planning Manager Hector Rojas introduced Planning Technician Ray Alberts who provided the staff report for the Conditional Use Permit amendment to expand the sale of beer and wine on-site to include distilled spirits at Mariscos Los Reyes Restaurant, changing from the current ABC Type License 41 to ABC License Type 47. The applicant is also requesting permission to provide indoor live entertainment as well as outdoor seating at 761 23rd Street, in the CM-3 Commercial mixed-use zone of the commercial district. It is an area intended to be a vibrant walkable area. The applicant has a building under construction that is about 70% complete. Photos have been included in Exhibit B of the staff report. The Type 47 license maintains that drinks be consumed with a meal and that the establishment remain an eating establishment, drinks cannot be ordered on their own. Multiple entities support the application, including the Richmond Police Department, who provided comments. All letters are included with the staff report. Staff recommend approval under the condition that alcohol remains behind an indoor only bar. Live Entertainment is to be allowed three nights a week as well as Sunday afternoons. Input from the 23rd Street Merchants Association and the neighborhood council indicated general support for live entertainment. The Police Department indicated concerns from loud noise complaints and safety during periods with live entertainment. To mitigate their concern the applicant agreed to having a security guard present during live entertainment and the live entertainment will take place inside the building only. The residences above the restaurant were constructed with considerable sound proofing. Staff recommends the outdoor seating be postponed until the applicant can show the area has been modified to allow for ADA compliance. The applicant is also requesting an amendment from the previously approved closing time of 10 PM to a closing time of 11 PM. The applicant has indicated they would likely not stay open until 11 PM upon opening, however, would like to leave that option open for future flexibility of special events and live entertainment. The Police Department ultimately supported the hours of operation extension with initial concern regarding overconsumption of alcohol in the late hours of the night.

Standards included in the zoning code:

- Meeting light, noise, and performance standards
- Using recyclable food ware
- Installing security cameras
- Maintaining the restaurant and outdoor area in good repair
- Remaining compliant with signage standards about alcohol sales to minors, loitering, public drinking, and possession open containers.

Staff recommends Conditional Approval to include:

- That alcohol remains behind an indoor only bar.
- The outdoor seating be postponed pending ADA compliance.
- Live entertainment be allowed on Thursday, Friday, Saturday evenings and Sunday afternoons.

[Vice Chair Harrison moved into clarifying questions from the Commission to staff.]

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Vice Chair Harrison inquired if allowing flexibility on items such as the outdoor seating and extending the business hours would require them to return to the Planning Commission. Planner Alberts explained that the way the conditions are written, the applicant would not have to return to the Commission and allows for administrative approval providing the project meets zoning requirements.

Secretary Bruce Brubaker asked if there is a condition in the approval for the extension of the business hours and what it says regarding alcohol and entertainment. Planning Technician Alberts responded that the alcohol and entertainment conditions are not specific towards hours of operations and the applicant would have to return to the Planning Commission if they wanted to extend the hours past 11 PM.

[Vice Chair Harrison opened the Public Comment]

Applicant Jose Reyes spoke in regard to the project and that it is a family restaurant and hoped the Planning Commission would vote for approval and responded to the Commission's question that his sister owns the building, he owns the restaurant.

PUBLIC COMMENTS

Vice Chair Harrison noted there were no public comments in the room, Planning Manager Rojas stated there were no raised hands on zoom.

[Vice Chair Harrison closed the public hearing and moved to Commission Comments.]

Secretary Brubaker commented that it is within the Commission's purview to add an additional condition regarding the sale of alcohol, and suggested they consider ending the sale of alcohol at 10 PM, an hour prior to the closing of the restaurant. He drove by the building and stated that it's a beautiful building that will be an asset to the street, he's glad to see the addition of residences above the restaurant and is in support of the project as a whole. It's a shame a low fence cannot be added to the sidewalk to allow outdoor seating and serving of alcohol and noted in some cities the use of parklets is quite common, however those also do not allow outdoor alcohol service.

Commissioner Golovets inquired if the residences were for rent or for sale. Mr. Reyes answered that current plan is for them to be apartments.

Vice Chair Harrison commented he agreed with Secretary Brubaker and stated he would be in support of modifying the service of alcohol hours beginning at 11 or noon, in addition to the cut off time of 10 PM.

Secretary Brubaker asked if they were any other conditional permits such as that within the City.

Planning Manager Rojas replied he was not aware of any, but that would be within the Planning Commission's purview if they chose to add that condition.

ACTION: It was M/S/C (Brubaker, Timmons) to approve the Conditional Use Permit Amendment to expand the restaurant's alcohol sales from on-sale beer & wine (ABC License Type 41) to on-sale beer, wine, and distilled spirits (ABC License Type 47). As part of the Use Permit Amendment, the applicant is granted permission to provide indoor

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live entertainment Thursday through Sunday; and outdoor seating at 761 23rd Street (APN: 529-180-007) once zoning compliance has been proven; and limit the sale of alcohol to 10 PM; which carried by the following vote: 4-0-3 (Ayes: Harrison, Brubaker, Timmons, Golovets); Noes: None; Absent: He, Loy, Agarwal

Vice Chair Harrison noted that anyone wishing to appeal the Planning Commission's decision can do so by filing an appeal application to City Council and paying appeal fees to the City Clerk's office by March 18, 2024.

[The Commission moved to Item 2 of the Agenda]

2. **PLN24-061: Bulk Materials Processing Center Conditional Use Permit**

PUBLIC HEARING to complete a 5-year compliance review and consider modification of the Conditional Use Permit (CUP) for the bulk materials processing center facility (CU1101132) at 1 Parr Blvd. (APNs: 408-140-009, 408-140-008, 408-140-010, & 408-140-013). OS, Open Space District.

West Contra Costa Sanitary Landfill (WCCSL), owner; Republic Services C/O Peter Nuti, applicant

Planner: Lina Velasco

Tentative Recommendation: Adopt Resolution

Vice Chair Harrison announced the item and called for staff's report.

Director of Community Development Lina Velasco introduced Rose Radford, Director at R3 Consulting Group, and offered that the Planning Commission is allowed to request a Conditional Use Permit review that would prompt a review of the conditions of permits approved by the Commission. This item is the third compliance and 5-year review of their CUP that was approved five years ago.

R3 Consulting Group Director Radford reported this is a self-reported compliance review of the conditions, additionally the applicant is present to answer any questions. The City requested R3 facilitate the review. The permit was issued in 2004 for the landfill's bulk material processing center (BMPC), which began operations in 2006. Compliance is reviewed on a 5-year cycle and this review covers the period from 2017 – 2022. Aerial photos are included in the staff report. This facility also has a county permit that is nearly identical to the City's CUP, additionally they hold a State permit for the operational requirements which requires monthly review, and an Environmental Impact Review (EIR) which contains many key operational parameters. The primary use of the site is to transfer street garbage from Richmond to an open landfill. There is also a construction demolition debris sorting area and a recently upgraded composting facility for yard trimmings that is picked up weekly from streets. R3 coordinated with the Richmond Fire Department and the Water Resource, Bay Area Air Quality Management District (BAAQMD), San Francisco Bay Regional Water Quality Control Board (SFRWQCB), Trails for Richmond Action Committee, and RecycleMore during this five year review. There are some activities of the facility located off-site, thus proper signage is required and must be maintained. In the prior 5-year review the Fire Protection Plan was amended so that was a key consideration in this review, as well as odor and fire occurrences, weed control, litter fencing, compost marketing, emissions test approval by BAAQMD is pending due to Air District changing their requirements; a plan is in place. Fire related concerns as well as odor concerns listed in the prior review have since been mitigated through operational improvements and are no longer an issue. One of the City's conditions is that all vehicles are weighed, however they allow smaller vehicles through without being weighed and as such those fees are established based on a volumetric charge.

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Their storm water run off has been highly improved and now collects into a lined pond that is then treated. The roads have been improved for easier emergency access if needed. The City continues to track the tonnage diversion of material.

[Vice Chair Harrison moved into clarifying questions from the Commission to staff.]

Seeing no questions, Vice Chair Harrison opened the public hearing.

[Vice Chair Harrison moved to Public Comment]

PUBLIC COMMENTS

Vice Chair Harrison noted there were no public comments in the room, Planning Manager Rojas stated there were no raised hands on zoom.

[Vice Chair Harrison closed the public hearing and moved to Commission Comments.]

Vice Chair Harrison inquired about food waste being composted. Director Radford indicated that all food waste that is biodegradable should be composted, including bones.

Secretary Brubaker commented it was a great report and it seems positive. He noted there had been a lot of weeds along the trail and that seems to have improved. He would be interested in future reviews if the amount of tonnage and composting information could be included, he believed there would be community interest in that information as well.

Commissioner Gay Timmons inquired if the facility was licensed through California Department of Food and Agriculture (CDFA) for the sale of compost. The applicant [name not provided] stated they are regularly visited and inspected by CDFA. The first Wednesday of each month they participate in the free compost program. Individuals are allowed up to two cubic yards of compost, interested parties should bring their own shovel and buckets.

ACTION: It was M/S/C (Timmons, Brubaker) to Approve the modification of the Conditional Use Permit for the bulk materials processing center facility (CU1101132) at 1 Parr Blvd. (APNs: 408-140-009, 408-140-008, 408-140-010, & 408-140-013). OS, Open Space District., which carried by the following vote: 3-0-4 (Ayes: Harrison, Brubaker, Timmons); Noes: None; Abstain: Golovets; Absent: He, Loy, Agarwal

Vice Chair Harrison noted that anyone wishing to appeal the Planning Commission's decision can do so by filing an appeal application and paying appeal fees to the City Clerk's office by March 18, 2024 and thanked R3 and staff for the presentation.

[The Commission moved to Item 3 of the Agenda]

3. **PLN23-306: TransMontaigne Terminal Expansion Project**

STUDY SESSION to provide and receive comments on the proposed expansion of the existing TransMontaigne Terminal, which would include construction of a new truck canopy, above ground tank, and associated rail infrastructure at 488 Wright Ave (APN: 560-280-012; -008). The Planning Commission will not be acting on this project during the Study Session. The Commission will consider acting on the project at a later date pending completion of the environmental review. IW, Water-Related Industrial District. TransMontaigne Operating Company, LP, owner; Michael Brandes, applicant

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Planner: Hector Rojas

Tentative Recommendation: Provide Comments

Vice Chair Harrison announced the item and called for staff's report.

Planning Manager Rojas introduced contracted planners Shawna Brekke-Read and Cecilia Jaroslowsky with MIG, who provided the staff's presentation. Staff are seeking review of the project, public comments, and for the Commission to provide feedback to the staff and the applicant. The project includes storage and services for petroleum products and renewable feed stocks and does not handle crude oil. It uses a 3rd party pipeline, however, does not ship products out through those pipelines. The project areas are located within the northern portion of the site. The subject project includes two lots totaling 14.5-acres and is developed. The main parcel has frontage along Wright Avenue, the second parcel is generally underwater, as it abuts Marina Bay. [TIMESTAMP 1:08 – 1:11 No Volume on video] The project includes the removal of a 5,000 gallon below grade tank to be replaced with a new above ground tank of the same size, the demolition of the 2-bay canopies and the new construction of one 4-bay canopy, and the extension of the existing rail line. The new truck canopy will be located 24 feet from the front property line and 73 feet from the side property line. The above ground tank would be set back 215 feet from the front property line and 19 feet from the east side property line, both complying with development zoning standards. The total roof area of the new truck canopy is 7,200 square feet (sf) and is 80 x 90 feet, with a maximum height of 23 feet. It will be partially enclosed at the east and west locations by seven feet, and thirteen feet at the north and south elevations. The bottom portion of the structure would have a minimum open area eight feet tall. The project is currently under review by staff and an initial study is required and requires a design review permit for additions greater than 1,000 sf in this district, and a CUP to allow chemical and mineral and explosives storage. Due to the proximity to the shoreline the project also requires review and approval by the San Francisco Bay Conservation and Development Commission (BCDC). The project is consistent with the Port General Plan land use designation, complies with the zoning requirements as set forth in the IW, Water Related Industrial District; and will be constructed in compliance with the current California Building Code. The project requires the approval of a BCDC permit, which the applicant is required to receive prior to the approval of the building permit. Community outreach took place on November 17, 2023 and to date have not received any comments from the public. Agency responses include Contra Costa County Fire, East Bay Municipal Utility District (EBMUD), and PG&E.

[Vice Chair Harrison moved into clarifying questions from the Commission to staff.]

Commissioner Timmons inquired if that land is a dock or filled and how moving the storage container up is going to work for storm water than general drains down. The consultants deferred to the applicants on that question. Michael Brandes with TransMontaigne and Katie Chamberlin with Anchor QUA answered the area where the below ground storage tank is located is not on fill. Part of the land is near the dock, and part of it was an old shipyard during World War II, which is fill. The tank is used as part of the loading rack for trucks, so it is in a closed loop system on the site. They want to construct the new tank above ground so that it can be inspected and maintained much more easily. The tank uses a sump pump to move drainage through the existing lines.

Commissioner Golovets asked if the truck canopy was for the purpose of protecting the trucks entering and exiting the facility. Mr. Brandes stated it was mostly used to limit petroleum contact water and to assist in diverting the stormwater into the lined collection pond to be treated.

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Commissioner Golovets inquired what happens to the water after it's treated. Mr. Brandes responded that the water gets pumped through an interceptor that separates the petroleum and the water, from there into filtering. It is then transferred to an existing tank onsite that is tested by EBMUD for metrics and from there can be sent down through EBMUD for treatment.

Vice Chair Harrison did not have any questions.

Secretary Brubaker also had no questions.

[Vice Chair Harrison moved to Public Comment]

PUBLIC COMMENTS

Vice Chair Harrison noted there were no public comments in the room, Planning Manager Rojas stated there were no raised hands on zoom.

Commissioner Brubaker asked staff about the timing of the BCDC permit as related to the City's permitting process as well as the EIR. Planning Manager Rojas explained that typically their process is to rely on Richmond's EIR, so they don't conclude their permit issuance until the EIR has been completed, even if they are applied for concurrently. The building permit is conditional based upon the BCDC permit issuance.

Secretary Brubaker noted that there is a new signal and upgraded rail systems going on at the intersection of Wright Avenue and Harbor Bay and questioned if this project will be required to pay a portion of those upgrades. Planning Manager Rojas replied that is the reason for the initial review, and the same commented/question was asked by Commissioner He through email. Staff will need to conduct a nexus study to determine if this project will have an impact on that intersection and what the fair share would be based on that study. Staff looks to having that study conducted as part of that project.

Katie Chamberlin offered the TransMontaigne reasons for the upgrades to the site.

Secretary Brubaker requested more information about the need to supply the increasing market for sustainable fuel. Mr. Brandes explained that currently the facility stores an array of renewable fuel, including renewable diesel and ethanol, both are part of the national clean air initiatives. Renewable feed stock is also becoming a big thing.

[Vice Chair Harrison moved to Commission business]

COMMISSION BUSINESS

4. Appoint Nominating Committee for Officer Elections

Vice Chair Harrison deferred this item to the next meeting with the hope that the full Commission will be present.

5. Reports of Officers, Commissioners and Staff –

Planning Manager Rojas reported there was a workshop earlier in the week for the City's Accessory Dwelling Units (ADU) guidebook and preapproved plans. It was well attended for using solely social media for marketing of the workshop. Budget constraints did not allow for

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mail outs. The City's architects are in the process of developing two ADU prototype drawings for detached buildings. Currently the city is receiving about 100 applications per year for construction of ADUs. He will keep everyone posted when the construction drawings are completed.

Vice Chair Harrison inquired if that would be heard by the Planning Commission. Planning Manager Rojas responded that ADU's are allowed, and the creation of two prototypes, when used, would eliminate the need for a Planning Commission review. Staff will bring forward the prototypes to the Design Review Board, if the Planning Commission is interested, an information study item can be Agendized when the time is right.

6. Adjournment - The meeting was adjourned at 8:07 p.m.

The next regular meeting on April 4, 2024.