

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

450 Civic Center Drive, Richmond, CA
September 6, 2018
6:30 p.m.

COMMISSION MEMBERS

Marilyn Langlois, Chair	Andrew Butt, Vice Chair
Nancy Baer	Jen Loy
Claudia Garcia	Michael Huang
David Tucker	

The regular meeting was called to order by Chair Langlois at 6:30 p.m.

ROLL CALL

Present: Chair Marilyn Langlois, Vice Chair Andrew Butt; Commissioner Nancy Baer, Jen Loy, Claudia Garcia, David Tucker and Yu-Hsiang (Michael) Huang

Absent:

INTRODUCTIONS

Staff Present: Planning Staff: Lina Velasco, Hector Lopez, and Attorney Carlos Privat

MINUTES –

June 7, 2018

ACTION: It was M/S/C (Baer, Garcia) to approve the Minutes of June 7, 2018; which carried by the following vote: 6-1-1 (Ayes: Langlois, Baer, Loy, Garcia, Huang Tucker; Noes: None; Abstain: Butt).

June 21, 2018

ACTION: It was M/S/C (Baer, Garcia) to approve the Minutes of June 21, 2018; which carried by the following vote: 6-1-1 (Ayes: Langlois, Baer, Loy, Garcia, Huang Tucker; Noes: None; Abstain: Butt).

AGENDA

Chair Langlois provided an overview of meeting procedures for speaker registration, public comment, and public hearing functions. She said items approved by the Commission may be appealed in writing to the City Clerk by Monday, September 17, 2018, by 5:00 p.m. and she announced the appeal process after each affected item, as needed.

CONSENT CALENDAR –

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

1. **PLN18-163: The Factory Bar Conditional Use Permit** PUBLIC HEARING to consider a Conditional Use Permit to establish a bar with outdoor seating and a Type 48 (on-sale general, public premises) ABC license within an existing commercial building at 12513 San Pablo (APN: 518-040-011). CM-3, Commercial Mixed Use, Commercial Emphasis and IS-1 Form Based Code Overlay District. Van Hanh Nguyen, owner; Marcus Hibser, applicant Planner: Roberta Feliciano Tentative Recommendation: Conditional Approval

Commissioner Baer requested that Item 1 be removed from the Consent Calendar.

Chair Langlois announced that per Staff's request this item would be heard first after the Brown Act.

2. **PLN18-225: Point Richmond Social Club Conditional Use Permit** PUBLIC HEARING to consider a Conditional Use Permit to establish a restaurant with outdoor seating and a Type 41 (on-sale beer and wine, eating place) ABC license within an existing commercial mixed use building at 401 South Garrard Blvd. (APN: 558-450-001). CM-2, Commercial Mixed-Use, Neighborhood District. Integrated Property Company II LLC, owner; Timothy Manhart, applicant Planner: Roberta Feliciano Tentative Recommendation: Conditional Approval

ACTION: It was M/S/C (Loy, Butt) to approve the Consent Calendar with Commissioner Baer's request to remove Item 1; which carried by the following vote: 7-0 (Ayes: Langlois, Butt, Baer, Loy, Garcia, Huang, Tucker; Noes: None).

BROWN ACT – Public Forum

CORDELL HINDLER, Richmond, announced that in terms of the marijuana cultivation project, the Cortez-Stege Neighborhood Council had not been inactive for years. He suggested to the Commission that there needs to be a spa located in downtown Richmond with a rainforest theme.

NEW BUSINESS

1. **PLN18-163: The Factory Bar Conditional Use Permit** PUBLIC HEARING to consider a Conditional Use Permit to establish a bar with outdoor seating and a Type 48 (on-sale general, public premises) ABC license within an existing commercial building at 12513 San Pablo (APN: 518-040-011). CM-3, Commercial Mixed Use, Commercial Emphasis and IS-1 Form Based Code Overlay District. Van Hanh Nguyen, owner; Marcus Hibser, applicant Planner: Roberta Feliciano Tentative Recommendation: Conditional Approval

Ms. Velasco summarized the item for the Commission. The project was located on San Pablo Avenue in the Richmond Heights Neighborhood. The applicant did present the project to the Richmond Heights and the North and East Neighborhood Councils who then provided letters of support for the project. The project was found to be consistent with the General Plan with the land use classification of medium intensity and mixed use commercial emphasis.

The applicant proposed to improve the front façade of the building by squaring the front arches, adding contemporary storefront windows, gooseneck lighting, and a tenant blade sign. Surrounding businesses included auto shops, salons, and retail shops. Due to residents abutting the western side, the applicant proposed to improve the western fence with a concrete

wall with translucent fiberglass panels and installing a landscaping buffer to help with potential noise pollution. New landscaping included nine new trees, a planter strip facing the street and a 3-foot landscaping strip along the northern property line. The applicant had agreed to limit the hours of the outdoor patio to 10:30 pm, Sunday through Thursday, and 11 pm Friday and Saturday.

Staff recommended that the Planning Commission approve the project subject to the recommended conditions.

Marcus Hibser, Applicant, announced that the goal of the bar was to be a gathering area to meet friends or have birthday parties. He stated that this kind of gathering area was missing from the neighborhood and that was the main comment the community had.

He announced that they met with the Wilson School because of the project's proximity to the school. They voiced that they had no concerns. Also, the local police department had guided the applicant to the proposed location where they thought a bar would be suitable.

He stated that they plan to work with local construction companies and to hire local goods and beers to have in the bar. He voiced that the Staff report reported that there would be four bike parking spaces but more spaces have been added to the plans.

Commissioner Baer stated that the reason she asked for the item to be pulled from the Consent Calendar was to add a condition that the applicant formalizes their Tree Planting Plan. She would like to change the hours of operation for the patio on the weekday to 10 pm instead of the proposed 10:30. Mr. Hibser articulated that he was amenable to both those conditions but he wanted to know if one of the proposed 40-foot trees at the rear of the building could be replaced with a shorter tree due to neighbor concerns. Commissioner Baer noted that any question about the height of trees had to be discussed with the City Arborist if the condition was added.

Commissioner Tucker wanted to know if food was planned to be served and he wanted to know about how many parking spots the project would have. Mr. Hibser answered they did not plan to serve food but snacks would be available. Mr. Hibser announced that there was one parking space but there would be a lot of street parking and he planned to rent parking spaces from surrounding businesses.

Commissioner Loy suggested that the applicant look into a brewery called Origin and to keep an open dialog with the surrounding neighbors.

Chair Langlois asked if any group could meet at the bar but not buy alcohol and she wanted to know how the applicant planned to mitigate people congregating outside if the permit allowed the business to stay open until 2 am. Mr. Hibser answered that any group could meet there and he did not see a problem with them not buying a drink. He explained that there would be a bouncer at the front entrance who would help keep people from congregating at the front entrance.

Public Comment:

CORDELL HINDLER, Richmond, suggested that the Commission add a Condition of Approval to have the Fire Marshal inspect the structural integrity of the building. He added that he loved the project.

ANTONIO SILVA announced that he owned the Apartment Complex directly across the street from the proposed project. He stated that he was concerned about the noise but was happy to hear that the applicant had made adjustments to the plans to help mitigate it.

KERRY DUNIGAN stated that she lived one block away from the proposed project and she announced that her neighbors were all concerned about parking, noise, and the late hours of operations. She was happy to hear that the applicant voiced his willingness to continue to work with the neighbors on their concerns.

TIM MANHART articulated that he owned a coffee shop just down the street from the proposed project and he was in support of the project.

KAREN BUCHANAN stated that she was in support of the project.

KEVIN ANDERSON voiced that he lived about 5 houses down from the proposed project. He urged the Commission to really think about the neighbors and place Conditions of Approval on the project that would mitigate any impacts those neighbors might endure. He was also concerned about noise, parking, and operating hours.

Mr. Hibser commented that the code did not require the project to have any parking spaces but he was confident that there would be enough parking on San Pablo Avenue and adjacent businesses. In terms of hours of operations, he stated that fiscally the business could not close the patio area any earlier than 10 o'clock.

Chair Langlois asked if there would be heat lamps on the patio and Mr. Hibser announced that the plan was to have fire pits.

Commissioner Baer wanted to know what the occupancy was for both the patio and the interior space. Mr. Hibser answered that the indoor space was 72 and the patio could hold 30 to 40 patrons.

Commissioner Garcia inquired about how the applicant planned to keep people off the patio area once it's closed. Mr. Hibser stated that the patio would be fenced to keep people out and there would be no smoking outside on the patio.

Commissioner Tucker asked how the music system would work. Mr. Hibser said it would be piped in music with no live bands.

Vice Chair Butt articulated that he was concerned about noise and asked the applicant if they had plans to do any acoustic walls to help mitigate that. Mr. Hibser stated they proposed a concrete wall, sound reflector, and landscaping to mitigate the noise from the patio.

Commissioner Loy suggested that the applicant advertise to patrons that they needed to respect the neighborhood in terms of parking and noise.

The public hearing was closed.

Commissioner Baer informed the public that if the project were approved and there were issues, the public could contact the Planning Department to share their complaints. She requested an additional Condition of Approval be added that the applicant in consultation with the City

Arborist plant 9 trees. Her second requested Condition of Approval was to change the closing hours of the patio to 10 pm for the patio on weekdays.

Chair Langlois asked Staff that if the hour of operation were a problem for neighbors after approving the project, could the Commission come back at a later time and change the Conditional Use Permit. Ms. Velasco answered that the Commission could do that if they found that there was a violation of the permit. Chair Langlois voiced that she supported Commissioner Baer's two additional Conditions of Approval.

Commissioner Tucker asked Staff if there were any surrounding businesses that were open until 2 am in the area. Ms. Velasco stated nothing that was in close proximity.

Discussion commenced among the Commission about how food trucks would operate with the business. Ms. Velasco told the Commission that food trucks at other similar business don't normally stay past 9 pm and if patrons wanted food, then food would be delivered to the door of the establishment. She also stated that any food truck that would visit the site could not stay longer than 30-minutes unless a permit was granted by the City through a CUP to stay longer. Mr. Privat stated that a food truck was not part of the current application and if the business wanted a food truck then they would have to come back to modify their permit.

Vice Chair Butt voiced to add a Condition of Approval stating that food trucks could not visit the project after midnight.

ACTION: It was M/S/C (Butt, Baer) to approve the Conditional Use Permit for PLN18-163, the Factory Bar, with Staff recommendations and findings and the additional Condition that any food truck operating in proximity and in conjunction with the business would be allowed up until midnight but not after and that the backyard patio area be open only until 10 pm Sunday thru Thursday and that the planting plan proposed by the applicant be included as a condition in conjunction with the City Arborist's recommendations; which was carried by the following vote: 7-0 (Ayes: Langlois, Butt, Baer, Loy, Garcia, Huang, Tucker; Noes: None).

Study Session

3. PLN18-211: Sims Metal Conditional Use Permits STUDY SESSION to review Sims Metal operations and related Conditional Use Permits at 600-700 S. 4th St. (APNs: 560-240-040; 560-250-022, -025 and -027). IW, Water-Related Industrial District. Sims Metal USA Corporation, owner Planner: Hector Lopez Tentative Recommendation: Provide and Receive Comments

Ms. Velasco stated that the item was before the Commission for their review and suggestions on potential areas of revisions on the Sims Metal Conditional Use Permit. On June 5, 2018, the City Council directed the City Manager to initiate revocation proceedings by the Planning Commission of Sims CUP in response to a fire that occurred at the site.

The existing Conditional Use Permit once had a 5-year compliance review condition but in 2002 that condition was removed.

VISPI PATEL, Vice-President and General Manager, announced that he was going to give an educational speech about the company on what they do, their purpose, their goals, and how they help the community.

Sims Metal Management has been in operation since 1988 in the City of Richmond. The operations included buying recyclable metal from the surrounding community, the metal is prepared and then shipped to steel mills to be made into new steel.

Sims Metal annually exports over 200,000 tons of specific recyclable steel grades to steel mills. They employ 80 employees and over 40 percent live in the Richmond/San Pablo area. Some employees are union employees and they buy and trade with over 90 businesses in Richmond. They have supported over 50 community organizations including Total Led Ministries, Washington PTA, and Richmond ONS.

Sims Metal not only has to abide by the existing CUP but also many environmental and safety agencies including the U.S Environmental Protection Agency (EPA), California Air Resources Board, and Richmond Fire Department. They use the most advanced technology to help mitigate dust and to help keep the area clean and free of pollutants. They are a zero-storm waste water discharge facility.

A fire broke out on January 30th, 2018 and it was the first significant fire they had experienced in the 30-years of operation. The company has an extensive safety check protocol for hazardous material in cars, washer machines, and other recyclable goods. Since the fire, the company has taken steps to lower the risk of another fire. Some steps included fire breaks along three sides of the piles, separating light iron machines from the vehicle piles, an advance floor camera system that monitors the temperature in the metal piles and that the light iron pile be restricted to a height of 30-feet. After receiving community input, the company purchased a fire truck that could shoot foam onto a fire and to help keep it contained until the fire department arrives.

In terms of noise control, they have purchased state of the art alarms called directional sound alarms which do not carry sound outside of the facility. They have installed containers along the fence line to dampen noise and they would continue to do this in areas where it is warranted.

In terms of dust control, they have state of the art sweeper trucks, water trucks, and anti-tracking mats. Trees have been planted along Hoffman Blvd. to help mitigate visual impacts and also a two high container wall. Plans were in the works to improve visual impact mitigations.

Commissioner Garcia stated that the Staff report had said the light iron piles would be 25-feet tall but Mr. Patel had said it was 30-feet tall. Also, there was a letter received from the Richmond Fire Department that requested that the light iron piles be limited to 25-feet. Mr. Patel said that he would have to look into it but a limit to 25-feet could be obtained.

Ms. Velasco announced that there was only one CUP permit that could be found that pertained to the Sims facility and it was CU85-40. There was a compliance review that took place in August 1999 which the City adopted findings to approve the first 5-year compliance review. Those findings were amended in 2002 which removed certain new conditions in the CUP. She continued to go over with the Commission a brief history of amendments that took place over the years to the CUP.

She added that Staff was interested in hearing from the Planning Commission about what areas they wished to see added to the CUP.

Chair Langlois asked when the last compliance review had occurred for operations. Ms. Velasco stated it was in 1999.

Vice Chair Butt asked Staff if there was any record of why the 5-year operation compliance review was removed and if the fire department did regular inspections at the facility. Ms. Velasco stated that Sims had a direct line of communication with the surrounding neighborhood council and that was the main reason why the compliance review was removed by the PC. In terms of fire inspection, she was not sure how often inspections took place.

Chair Langlois wanted to know if any of the new fire prevention measures that Sims Metal had implemented could be put in the CUP. Ms. Velasco stated they were not in the existing CUP and so they could be added as new conditions. She suggested to leave it flexible in that the fire department could modify its suggestions on how to do things to prevent a fire.

Chair Langlois added that she would like a condition to be added that encouraged the use of the directional noise devices for trucks when backing up.

Chair Langlois asked about what kind of complaints from the community had been received and Ms. Velasco stated that there had been noise complaints over the years but it was generally concentrated around ship loading. Chair Langlois wanted more information about the toxins that could be in the soils that could impact the surrounding neighborhood. Ms. Velasco reiterated that the Sims property was mainly paved and that helped mitigate any toxins from going into the soil.

Commissioner Loy wanted to know what the next steps would be. Ms. Velasco explained that Staff would take any feedback from the Commission and work with Sims on a modified CUP and then bring it back to the Commission for further review.

Commissioner Baer did not like the containers that were being used for screening and asked Mr. Patel where he was planning to put additional screening. Mr. Patel announced that Sims Metal was happy and willing to work with any other organizations to beautify the area. Commissioner Baer articulated that she was concerned about the north side of the property facing the Santa Fe neighborhood where there had been complaints about noise.

Commissioner Tucker voiced that a letter had been received from the public complaining about black dust and the smell of burning metal. Mr. Patel emphasized that nothing at the facility produced black dust of any kind. In terms of the burning metal smell, the facility did use flames to cut metal down to size and generally that process did not produce a smell.

Vice Chair Butt read a passage from a watershed report that was conducted in 2016 by Contra Costa Clean Water Program. The passage stated that toxic sediment had accumulated in crevices along the fence line on 4th Street, in the railroad tracks that were at the rear entrance of the facility and along Hoffman Street. He went on to state that he was concerned about the toxic sediment, odors, noise, pollution, aesthetics, and fire hazard issue.

Vice Chair Butt suggested ideas for new conditions for the CUP that included there be fence line monitoring for noise and pollutants, reinstallation of the perimeter landscaping, reinstating the 5-year review, including the Richmond Fire Department's recommendation to the conditions in the CUP, additional trees on Hoffman and lastly a painted two-way bicycle track along Hoffman Blvd.

Scott Miller, Chief Corporate Council for Sims Metal, declared that the Sims Metal Management site had never been part of the Heckethorn superfund site. He went on to state that Sims was never contacted or provided the watershed report that Vice Chair Butt mentioned.

Public Comment:

CORDELL HINDLER, Richmond, explained that Sims Metal had done a presentation to the Marina Bay Neighborhood Council in February 2018 about the fire and they had presented to the Richmond Neighborhood Coordinating Council that same month.

Commissioner Loy stated that she supported Vice Chair Butt's suggestions and she wanted every mitigation Sims Metal was currently doing in terms of noise and fire to be listed in the modified CUP.

Commissioner Baer supported both Commissioner Loy's and Vice Chair Butt's suggestions. She wanted to have an operational and landscape compliance review the first year after implementing the new CUP, then a 3-year review, then a 5-year review and then every 5-years after that. If the Parks Department or the City Arborist recommended it when she was open to dropping the landscaping compliance review but not the operational compliance review. Also, that the fire department be involved.

Commissioner Huang wanted to know if Sims shared any of the regulatory agencies' inspections with the City. Mr. Patel said all the inspections were public information.

AVI ATID articulated that he owned a business across the street from Sims Metal. He said there is a visual dust layer on his company's vehicles and odors but he was not 100 percent sure if it was coming from Sims Metals. He suggested that a study be done, like the previous mentioned water shed study, to evaluate the dust and odors and figure out where they were coming from.

Chair Langlois concurred with all the previous Commissioner suggested conditions.

COMMISSION BUSINESS

7. Reports of Officers, Commissioners, and Staff – Commissioner Baer had attended the third community meeting for Point Molate.

Chair Langlois asked when the Planning Commission would review Point Molate again and Ms. Velasco stated it was coming to the Commission on October 4th, 2018.

8. Adjournment - The meeting was adjourned at 9:44 p.m. to the next regular meeting on October 4, 2018.