

**PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL**
450 Civic Center Drive, Richmond, CA
December 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, Claudia Garcia, David Tucker and Yu-Hsiang (Michael) Huang

Absent: Jen Loy

INTRODUCTIONS

Staff Present: Planning Staff: Lina Velasco, Emily Carroll, Director of Planning & Building Services Richard Mitchell, and Senior Assistant Attorney Carlos Privat

MINUTES –

October 18, 2018

ACTION: It was M/S/C (Butt, Claudia) to approve the Minutes of October 18, 2018; which carried by the following vote: 6-0-1 (Ayes: Langlois, Baer, Butt, Garcia, Huang, Tucker; Noes: None; Absent: Loy).

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, December 17, 2018, by 5:00 p.m. and she announced the appeal process after each affected item, as needed.

CONSENT CALENDAR –

- 1. PLN18-146: Cannabis Cultivation Conditional Use Permit PUBLIC HEARING** to consider a Conditional Use Permit for a medical cannabis cultivation facility in a 6,600 SF building at 435 S.2nd Street (APN: 550-090-018). IL, Industrial Light District. Zeiss Family Partnership LP, owner; Point Richmond Development, applicant Planner: Jonelyn Whales Tentative Recommendation: Conditional Approval

Vice Chair Butt announced that he would be recusing himself from this item and would not be participating in the Consent Calendar vote.

- 2. PLN18-171: Cannabis Cultivation and Manufacturing Conditional Use Permit PUBLIC HEARING** to consider a Conditional Use Permit for a medical cannabis cultivation and manufacturing facility in two industrial buildings totaling 11,200 SF located at 525 and 543 S. 31st Street (APN: 549-193-022 &-023).IL, Industrial Light District. Theiss-Nyland Helge Tre, owner; David Preece, applicant Planner: Jonelyn Whales Tentative Recommendation: Conditional Approval

Vice Chair Butt announced that he would be recusing himself from this item and would be not be participating in the Consent Calendar vote.

- 3. PLN18-265: The Study Wine Bar Conditional Use Permit PUBLIC HEARING** to consider a Conditional Use Permit to establish a wine bar with a Type-42 on-sale beer & wine, public premises ABC License within an existing winery at 1401 Marina Way South (APN: 560-181-058). CM-5, Commercial Mixed-Use, Activity Center District. Marina Westshore Partners, LLC, owner; Noel Diaz, applicant Planner: Roberta Feliciano Tentative Recommendation: Conditional Approval

- 4. PLN18-123: T-Mobile Wireless Small Cell Site PUBLIC HEARING** to consider a Conditional Use Permit to install a T-Mobile wireless small cell site with a canister enclosing an antenna, supported by a pole attachment support arm and associated pole affixed equipment shroud on a pole within the public right of way located adjacent to 2100 Grant Avenue. RM-2, Medium-High Density Multifamily Residential District. PG&E, owner; T-Mobile, applicant Planner: Emily Carroll Tentative Recommendation: Conditional Approval

Chair Langlois requested this item be pulled from the Consent Calendar.

- 5. PLN18-128: T-Mobile Wireless Small Cell Site PUBLIC HEARING** to consider a Conditional Use Permit to install a T-Mobile wireless small cell site with a canister enclosing an antenna, supported by a pole attachment support arm and associated pole affixed equipment shroud on a pole within the public right of way located adjacent to 2732 Downer Avenue. RL-2, Single-Family Low Density Residential District. PG&E, owner; T-Mobile, applicant Planner: Emily Carroll Tentative Recommendation: Conditional Approval

Chair Langlois requested this item be pulled from the Consent Calendar.

- 6. PLN18-130: T-Mobile Wireless Small Cell Site PUBLIC HEARING** to consider a Conditional Use Permit to install a T-Mobile wireless small cell site with a canister enclosing an antenna, supported by a pole attachment support arm and associated pole affixed equipment shroud on a pole within the public right of way located adjacent to 2901 Garvin Avenue. RL-2, Single-Family Low Density Residential District. PG&E, owner; T-Mobile, applicant Planner: Emily Carroll Tentative Recommendation: Conditional Approval

Chair Langlois requested this item be pulled from the Consent Calendar.

Commissioner Tucker asked Staff to provide which neighborhood associations received money for neighborhood beautification and how that was tracked for future items.

ACTION: It was M/S/C (Baer, Garcia) to approve the Consent Calendar Items 1, 2, 3 with Chair Langlois's request to pull Items 4, 5, and 6; which carried by the following vote: 5-0-1-1 (Ayes: Langlois, Baer, Garcia, Huang, Tucker; Noes: None; Absent: Loy; Abstain: Butt).

ACTION ITEMS

Ms. Velasco suggested that the Commission hear Items 4, 5, and 6 together but make a separate vote for each item.

- 4. PLN18-123: T-Mobile Wireless Small Cell Site PUBLIC HEARING** to consider a Conditional Use Permit to install a T-Mobile wireless small cell site with a canister enclosing an antenna, supported by a pole attachment support arm and associated pole affixed equipment shroud on a pole within the public right of way located adjacent to 2100 Grant Avenue. RM-2, Medium-High Density Multifamily Residential District. PG&E, owner; T-Mobile, applicant Planner: Emily Carroll Tentative Recommendation: Conditional Approval
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- 6. PLN18-130: T-Mobile Wireless Small Cell Site PUBLIC HEARING** to consider a Conditional Use Permit to install a T-Mobile wireless small cell site with a canister enclosing an antenna, supported by a pole attachment support arm and associated pole affixed equipment shroud on a pole within the public right of way located adjacent to 2901 Garvin Avenue. RL-2, Single-Family Low Density Residential District. PG&E, owner; T-Mobile, applicant Planner: Emily Carroll Tentative Recommendation: Conditional Approval

Ms. Carroll announced that the proposed nodes would be installed on existing utility or street light poles within the public right of way. The proposed sites were reviewed and recommended for approval by the Design Review Board at their November 14, 2018 meeting. Staff's recommendation was that the Planning Commission approve the projects.

Chair Langlois requested of Staff a status update on if the City Council had adopted the proposed policy and Wireless Ordinance amendments updates that the Planning Commission had recommended at their November 2018 meeting for the Wireless Ordinance. Mr. Johnston, Telecom Law Firm, stated that City Council had voted to introduce amendments to the Wireless Ordinance and adopted a Resolution that adopted the Small Cell Wireless Policy. She asked for a definition of Small Wireless. Mr. Johnston announced that the definition for Small Wireless had not been codified yet but would be on January 14, 2019 by FCC. She requested how many small wireless cells sites the City currently had and Ms. Velasco announced there were approximately 31 but only half had been fully constructed. She wanted to know if the City would be updated if any of the technology were to be updated. Mr. Johnston announced that the City would receive an application for a change but there would be no public hearing. She inquired where the signs would be placed that read there were high RF emissions in the area. Mr. Johnston explained that the signs were required by federal and California Public Utility Commission rules. The signs would be placed on the pole where the equipment was installed

and was mainly to caution utility workers that there was active equipment on the pole. In terms of the legal actions that were being brought by several Cities against the whole order for Small Cell Wireless, those cases were in the preliminary stage.

Commissioner Garcia asked if the 60-day shock clock pertained to upgrading existing equipment and the 90-day shock clock pertained to new equipment. Mr. Johnston confirmed that was correct.

Commissioner Tucker requested clarification on the 5G waves versus 1G, 2G, 3G, and 4G. Mr. Johnston explained that 5G waves were still within the frequency spectrum that the FCC allowed and often ran on lower frequencies than the 4G.

Mr. Froissart, planner with MD7 representing ExteNet, announced that MD7 had worked with City Staff and the Design Review Board on what sites would be most appropriate to deploy the small wireless cells. PLN18-28 was to be located on 28th Street near Downer Avenue, the antenna was to be 20-feet at the center line above ground level, the equipment cabinet started at 7 ½-feet and went to 12 ½-feet, and both the antenna and cabinet were to be covered with shrouds. PLN18-130 was proposed to be located on the corner of 29th Street and Garden Avenue, the antenna was to be 20-feet at the center line above ground level, the equipment cabinet started at 7 ½-feet and went to 12 ½-feet and all equipment was to be covered in a shroud. PLN18-123 was to be located at the corner of 21st Street and Grant Avenue, the antenna center line was to be at the height of 23-feet above ground level, the equipment cabinet started at 7 ½-feet and went to 12 ½-feet and all equipment was to be covered in a shroud.

Commissioner Baer asked who owned the existing 30 applications that were approved by the City. Ms. Velasco stated that most of the applications were for T-Mobil but some were for Sprint. She inquired if there had been any vandalism on the cabinets and Mr. Froissart explained that he was not aware of there being any cases of vandalism.

Chair Langlois wanted to know why the proposed locations were located in areas that were least preferred. Mr. Froissart confirmed that the sites were chosen in order to address higher demand areas throughout the City.

Commissioner Garcia asked if the 20 feet above ground was a standard height to have the antennas. Mr. Froissart articulated that the antennas were high enough to not affect residents but low enough that the frequency would affect coverage.

Public Comment:

DAVID SMITH, resident of Richmond, announced that he lived close to the proposed site of PLN18-28. He was concerned that the residences located at that site had houses that were high enough to be located in the 5-foot radius of RF emissions that were emitted by the antenna. He stated that he had great coverage at his home and was concerned about the RF emissions that the antenna would be putting off.

KATHERINE BELL agreed with all the points the previous speaker stated and added that notice to residents that were within the vicinity of any small cells was not adequate. She was concerned that Richmond was being targeted to become a testing ground for 5G because it was easier to pass small cells in Richmond than other cities in the country.

NATALIA LAWRENCE, resident of Richmond, articulated that she lived close to one of the proposed locations and she lived in a 3-story home. She was concerned about the RF emissions coming into her home. She pointed out that various cell companies could be implementing these small cells and many would co-exist on one pole with 10-feet in between antennas. She did not like the process that the City took on informing the residents about small cells and the implementations of the technology.

Chair Langlois asked Mr. Johnston to explain how various cell companies could co-exist on one pole. Mr. Johnston explained that poles have a weight capacity and so that limited co-existing on poles and would be very unlikely.

Commissioner Baer requested to hear from Daniel Row, an engineer at Hammett and Edison, about RF emissions from the antennas. Mr. Row explained that RF emissions were simulated and calculated at ground level and the top floor and roof of near by buildings. The sites were only passed if all the sites simulations were below what the FCC set standard was. She wanted to know if a person could be affected by the emissions if they were to stand below the antenna. Mr. Row stated no and that was because the antennas were directional and only send out a beam that was 10-12 degrees wide. Mr. Johnston added that the RF emissions reports were to show the worst-case scenario and that the proposed small cells emitted far less that the report reported.

Chair Langlois asked what the FCC's standards were. Mr. Row stated that 4 watts per kilogram were the threshold for which no noticeable effects from RF emissions was noticed. All the proposed small cells were well below that threshold.

Commissioner Tucker asked if emission could go through walls of home or rooftops. Mr. Row stated that RF emissions did not travel well through solid objects. He asked Mr. Elliot if there was any data showing that there was a gap in coverage by T-Mobil. Mr. Froissart stated that T-Mobil did not have any data that showed that a gap was in the proposed areas.

Discussion ensued among Chair Langlois and Mr. Johnston about a significant gap finding. Mr. Johnston articulated that the City of Richmond did not have a significant gap finding.

Mr. Johnston announced that if an application were deemed within the spectrum of the RF emission standards that the FCC had made, then that application could not be denied on just RF emissions.

Ms. Velasco summarized for Commissioner Baer that the City Council had recommended adoption of the Wireless Ordinance amendments but was not happy about it. City Council had announced that they would be writing a letter to the FCC President voicing their concern about the Small Cell Policy. She added that it was not Staff's intention of cutting out the public hearing process, the timeframes just didn't allow for those hearings to occur.

Commissioner Garcia requested that Staff prepare a map that showed all of the approved and proposed sites for small cell wireless.

Discussion ensued between the Commission and Mr. Johnston on legal matters pertaining to what would happen if the Commission were to deny the applications, what was happening with the other Cities in their litigations against the FCC, and what criteria the Commission would have to make in order to deny the applications.

Commissioner Tucker advised that the City Council start holding community workshops or town halls so as to inform the public of the 25 applications for small cell wireless that were pending.

Chair Langlois suggested that the City Council consider a significant gap finding in the Wireless Ordinance. If there were to be a workshop for the other pending applications, she suggested that other neighboring City advocacy groups be invited.

All applications were to be denied because the following findings could not be found and why. Finding #1: the small cells were not consistent with the General Plan, Finding #2: the small cells caused visual blight, Finding #7: the small cells were placed in the least preferred locations, and Finding #8: the Commission had not seen a thorough analysis of all possible locations.

Vice Chair Butt voiced concern that the locations of the three applications were located in the poorer, minority, language barriered neighborhoods.

ACTION: It was M/S/C (Langlois, Garcia) to deny PLN18-123 based on that the following findings were not met Finding #1, Finding #2, Finding #7, Finding #8; which carried by the following vote (Ayes: Langlois, Baer, Garcia, Huang, Tucker, Butt; Noes: None; Absent: Loy).

ACTION: It was M/S/C (Langlois, Baer) to deny PLN18-128 based on that the following findings were not met Finding #1, Finding #2, Finding #7, Finding #8; which carried by the following vote (Ayes: Langlois, Baer, Garcia, Huang, Tucker, Butt; Noes: None; Absent: Loy).

ACTION: It was M/S/C (Langlois, Garcia) to deny PLN18-130 based on that the following findings were not met Finding #1, Finding #2, Finding #7, Finding #8; which carried by the following vote (Ayes: Langlois, Baer, Garcia, Huang, Tucker, Butt; Noes: None; Absent: Loy).

BROWN ACT – Public Forum – None

NEW BUSINESS

COMMISSION BUSINESS

7. Reports of Officers, Commissioners and Staff –

Ms. Velasco stated that Staff was hosting a community workshop on the Inclusionary Housing Ordinance on December 13, 2018, at 440 Civic Center Plaza in the multipurpose room. City Hall was to be closed on December 24th, 2018 and reopening on January 2, 2019. The Planning Commission's next meeting was to be held on January 17, 2019.

Mr. Mitchell announced his retirement. The Commission voiced their appreciation to Mr. Mitchell.

8. Adjournment - The meeting was adjourned at 8:49 p.m. to the next regular meeting on January 17, 2019.