

PLANNING COMMISSION MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL
1401 Marina Way South, Richmond, CA
March 5, 2009
7:00 p.m.

COMMISSION MEMBERS

Virginia Finlay, Chair
Stephen A. Williams
Charles Duncan

Vice Chair Nagarajo Rao
Jeff Lee, Secretary
Vacant

The meeting was called to order by Chair Finlay at 7:03 p.m.

Chair Finlay led in the Pledge of Allegiance.

Chair Finlay, Commissioners and staff thanked Commissioner Williams for his many years of service, noting that his term of office was expiring and he was termed out of office. All Commissioners recognized Commissioner Williams for his mentorship, guidance, opinions and spirit of volunteerism. Commissioner Williams thanked fellow Commissioners and staff for their support and recognition.

ROLL CALL

Present: Chair Finlay, Vice Chair Rao, Secretary Lee and Commissioners Duncan and Williams

Absent: None

INTRODUCTIONS

Staff Present: Kieron Slaughter, Richard Mitchell and Mary Renfro

MINUTES

March 1, 2007

ACTION: It was M/S (Rao/Lee) to approve the minutes of March 1, 2007; unanimously approved (Duncan abstained).

April 26, 2007

ACTION: It was M/S (Rao/Lee) to approve the minutes of April 26, 2007; unanimously approved (Duncan abstained).

May 3, 2007

Chair Finlay had corrections to the minutes which were provided to staff.

ACTION: It was M/S (Rao/Lee) to approve the minutes of May 3, 2007; unanimously approved (Duncan abstained).

February 5, 2009

Chair Finlay had corrections to the minutes which were provided to staff.

ACTION: It was M/S (Rao/Duncan) to approve the minutes of February 5, 2009, as amended; unanimously approved.

CONSENT CALENDAR

Chair Finlay provided an overview of the Consent Calendar, meeting procedures for speaker registration and public hearing functions and procedures. She said certain items approved by the Commission may be appealed in writing to the City Clerk by Monday, March 16, 2009, by 5:00 p.m.

Chair Finlay said there were currently no Items listed as Consent Calendar items, and she asked to move Item 1 (hold over item) to the Consent Calendar.

Secretary Lee asked to discuss the sequence of events for Item 1, stating the Item was for a variance for minimum lot width, and side yard setback for an accessory structure. The agenda report talks about an Initial Study and additional environmental analysis. He suggested the Commission first determine whether or not findings could be made for the variance before going further into the process of environmental analysis.

Ms. Renfro agreed with Secretary Lee and noted there is an exemption from CEQA; a project is not subject to CEQA if it cannot be approved. Therefore, if staff conducts an analysis and finds that the variance findings cannot be made, no further environmental analysis would be required.

Chair Finlay confirmed there were no public speakers for Item 1 and that the recommendation was for the applicant to complete further environmental analysis.

Secretary Lee confirmed with Ms. Renfro that prior to requiring an Initial Study, staff will first analyze whether or not the findings can be made for the variance and then proceed from there.

ACTION: It was M/S (Duncan/Rao) to adopt the Consent Calendar consisting of Item 1; Vote: 4-1 (Lee voted no).

Item Approved:

- 1. TPM/V/PLN08-060 – Kowalski Residential Tentative Parcel Map & Variance, 367 Western Drive - PUBLIC HEARING** to consider a Tentative Parcel Map to subdivide an existing residential lot into two lots, and a variance for minimum lot width, and side yard setback for an accessory structure at 367 Western Drive (APN: 558-185-003). SFR-2, Single Family: Very Low Density Residential District. Stephen & Patti Kowalski, owners/applicants. Planner: Kieron Slaughter

Brown Act – Public Forum

David Vincent, Richmond, invited the Planning Commission to a dedication of the restoration of Richmond Plunge on March 14, 2009 from 11:00 a.m. – 1:00 p.m. The ceremony will be held at 11:30 a.m. and a proclamation from the Mayor will be read. When completed, the Plunge will be the most modern in the United States and will have natural and artificial ventilation, ultra violet water filtration which will remove chlorine from the water. It will also have radiant and solar heating and it is currently the largest indoor pool in California.

Item Discussed:

- 2. Public Convenience and Necessity Ordinance Amendment for Alcohol Sales - PUBLIC HEARING** to adopt new zoning regulations pertaining to Conditional Use Permits for retail sales of alcoholic beverages to provide clear, consistent, and uniform guidance to findings of public convenience and necessity. Planner: Kieron Slaughter. Tentative Recommendation: Recommend Approval to City Council.

Kieron Slaughter gave the staff report and a brief background on the City's requirements for findings prior to approving CUP's for sales of alcoholic beverages. The ordinance before the Commission would clarify findings in cases where there is an over-concentration of licenses in a particular census tract. He said staff contacted and received support of the ordinance from the West County Policy Working Group and he discussed the staff handout on the active number of licenses in the City with a description of their types.

Chair Finlay questioned what staff was trying to accomplish with the new language. Mr. Slaughter said Councilmember Butt specifically requested the change and had questions regarding an appeal brought to the City Council. Staff researched other jurisdictions in California and crafted similar findings that need to be made in instances where there are undue concentrations of ABC licenses. This provides the City with more authority in determining whether the uses are justified and whether or not they would be contributing to positive or negative change in the area.

Secretary Lee confirmed there was an appeal of PLN08-035; CUP for gift baskets containing food and wine, where the applicant was required to have a small retail distribution shop to conform to ABC's rules. There was some confusion as to whether his application was justified, whether it was the right fit for the area and whether it would contribute to higher crime. The application was approved by the Commission, it got appealed, and the City Council denied the appeal, upholding the business's licensing.

Public Comments:

Naomi Williams, Chair of the West County Policy Working Group, thanked the Planning Department for tightening up the ordinance relating to a public convenience. She asked that if possible, an amendment be made to page 3; factors that the Planning Commission should consider when reviewing the application, and asked that the reference to one mile be increased to two miles for items #5 and #6 of the staff report.

Commissioner Duncan questioned and confirmed that the function was not necessarily a requirement of an ABC license but more so for additional data or guidelines when approving or denying an application.

Chair Finlay believed that with as many as distinct districts and neighborhoods in Richmond, it is a huge territory, and she would want to see the locations first drawn out on a map.

Commissioner Duncan agreed and said some neighborhoods are quite small and the impact might be huge.

Ms. Williams said she believed that Census Tract 3780 where Wal-Mart is and the ABC license on Collins are about two miles apart and in the same census tract. Chair Finlay said she understands, but even though it is the same census tract she questioned if the two miles added another dimension and felt there might be consequences as a result. Ms. Williams said her request was not firm, but simply a consideration for the Commission to consider.

Secretary Lee believed the same could be accommodated by having two lists; those within a mile and those within one to two miles. Mr. Slaughter noted the problem with this would be that the ABC website uses census tract and not mileage, which would be somewhat challenging for staff to determine.

Commissioner Duncan questioned whether or not the City's criteria not be distance but census tract proper. Mr. Slaughter felt both could be used to determine impacts; however, census tracts are not always clearly drawn, they may jog or jag around, and do not always correlate.

Secretary Lee suggested staff provide a satellite image and put dots on it and he could visually determine the mileage. Mr. Slaughter said this might be a challenge, as some may be overlooked because they are not always organized around a certain location. He noted licenses can be looked up by license number, address, and census tract from ABC's website.

Chair Finlay said, however, dots and uses vary -- a retail use might serve 10 people a year compared to a full blown liquor store or alcohol being served out of a gas station. Mr. Slaughter believed staff could come up with a way to cross-reference locations, produce a map and include them in staff reports to further provide the Commission with added information.

Ms. Renfro suggested the Commission might want the burden to be placed on the applicant to submit it as part of their application materials; however, staff would have to check it. Commissioner Duncan did not feel most applicants had the technology to do this and questioned whether or not information would be accurate.

Vice Chair Rao confirmed with staff that satellite mapping was an accessible and free tool which staff could utilize.

Secretary Lee referred to 1A of the resolution and confirmed that what is underlined is new, and what is stricken is proposed to be removed.

Commissioner Duncan said the Commission has had two applications over the past several months that had revocation language having to do with non-occupancy in a building for six months. He believed a perspective applicant might be confused as to whether there is a hearing or whether the license is revoked automatically after six months. Secondly, he said previously, Attorney Carlos Privat had indicated that this language was being amended in the ordinance.

Ms. Renfro said in this amendment, it would not be included. The language is taken from a very precise section; Section 15.04.910.080 h.1, to keep it simple. However, she agrees that the language on revocation was unclear. She was not aware of an ordinance drafted now, but said staff could undertake this. Unless there is a very specific statement in the CUP that says, under what conditions the CUP would simply expire and go away, the Commission must give due

process and hold the hearing to determine whether or not it should be taken away. If the term, revoked is used, it implies there is a hearing.

The public hearing was closed.

Commissioner Duncan questioned how the one mile reference was formulated, and questioned whether it was one mile plus the census tract.

Secretary Lee suggested amending Item #5 to state, "one and two mile radius" per Ms. Williams' request. Mr. Slaughter said if the term, "radius" was included it would include a complete two-mile circle which would be challenging. Secretary Lee withdrew his request.

Commissioner Duncan suggested "one mile and the census tract". Chair Finlay questioned whether or not this was redundant. Ms. Renfro said in the staff report is a list of things the Planning Commission could consider. Factors can be added, so whether or not the factor of census tract is redundant or not, was administrative. She said it could be excluded or listed as another factor.

Mr. Slaughter believed that a good idea would be to map the locations on a census tract map and show the Commission the map with a one mile radius in order to spatially get a sense of where they are. Commissioners agreed with adding the census tract language.

MOTION: Commissioner Duncan made a motion; seconded by Vice Chair Rao to adopt Resolution No. 09-07 to adopt new zoning regulations pertaining to Conditional Use Permits for retail sales of alcoholic beverages to provide clear, consistent, and uniform guidance to findings of public convenience and necessity; recommending approval of the ordinance in Attachment 1 to the City Council, as amended, to require Item #5 to include, "the number of licenses within a one mile radius and within the census tract of the proposed license location."

DISCUSSION: Chair Finlay questioned if the same language should be included in Item 6, as well, and Commissioners agreed with the amendment.

ACTION: It was M/S (Duncan/Rao) to amend the previous motion and adopt Resolution No. 09-07 to adopt new zoning regulations pertaining to Conditional Use Permits for retail sales of alcoholic beverages to provide clear, consistent, and uniform guidance to findings of public convenience and necessity; recommending approval of the ordinance in Attachment 1 to the City Council, as amended, to require Item #5 to include, "the number of licenses within a one mile radius and within the census tract of the proposed license location" and Item #6 to read, "The type of licensed premises within a one mile radius and in the census tract of the proposed license location, and the extent to which the proposed license would cause a further over-concentration of that particular type of premise in the area;" which carried unanimously.

Chair Finlay thanked staff for the ABC license information, and noted there was one liquor license for every 757 residents in the City of Richmond.

COMMISSION BUSINESS

3. Reports of Officers, Commissioners and Staff

Vice Chair Rao requested an update on the actions taken by the City Council on combining the DRB and Planning Commission and questioned whether the Commission would remain the same or be called something else in the future. Ms. Renfro agreed to provide a report after Reports of Officers.

Secretary Lee reported that he attended the UC Davis Extension course on the Role of a Planning Commissioner which he said was excellent and recommended new and existing Commissioners attend the course.

Ms. Renfro agreed and said their Law Clerk was researching resources available for new Commissioners.

Ms. Renfro said that although the City Council had not explicitly refuted the actions taken in February 2007, there was a resolution passed. It appears that staff is under direction not to carry that out, but to go in a different direction. Measures have been drafted but not introduced or adopted to carry out the direction in February 2007.

She reported that the City Council, on a motion from Councilmember Rogers, amended the action taken earlier in the year to limit the hold-over period if a person has not served all of the terms listed for that Board and Commission. She said there are Boards with both 3 and 4 terms. If someone has not served the full number of terms, then they are entitled to hold over until they are re-appointed after making application, or someone else is appointed. No 90-day rule applies to that person. However, if someone has served the full number of terms permitted, that person would stay in only 90 days. She said this does not affect the current Planning Commission, and staff is re-drafting the ordinance under the new 90-day rule.

Vice Chair Rao confirmed the new Planning Commissioners appointed were: Jovanka Beckles, Sheryl Lane and Carol Teltschick-Fall. All existing Planning Commissioners with expiring terms, except for Commissioner Williams who was termed out, were re-appointed.

Secretary Lee thanked Ms. Renfro for clarifying the language.

Mr. Mitchell gave an update on the General Plan, said staff is reviewing an administrative draft and will be returning it to MIG for modifications. It will then be released around mid-April. There would then be a two-month review period and then come to the Planning Commission for working sessions in July and August. A review of the Draft EIR will occur toward the end of August through October, and public hearings on the Draft Final EIR and Draft Final General Plan will be held in November/December.

Mr. Mitchell noted that staff was concurrently working on update of the Zoning Ordinance, and the update would most likely be in the first quarter of 2010. The Commission's involvement would begin in April with working sessions beginning in July and August.

Secretary Lee questioned whether the Commission would return to meeting twice monthly. Mr. Mitchell said this would depend on the workload and what the Commission would like. He said the City was currently in a significant economic downturn and the number of projects was minimal.

Chair Finlay congratulated and clarified new Commissioner terms will end June 30, 2011. She congratulated fellow Commissioners for their re-appointments and said their terms will end June 30, 2010.

She reported speaking with Mr. Privat regarding training of Commissioners, and depending upon how soon training can be offered, she suggested holding a half day retreat on findings, motions, and operating under law for new Commissioners.

Chair Finlay reminded Commissioners to file their Form 700 Statement of Economic Interests, said she was pleased to see Commissioner Lee speak to the City Council about the Chevron plan changes and she requested a report be brought back to the Commission on it.

Public Forum - None

Adjournment

The meeting was adjourned at 8:02 p.m.