

PLANNING COMMISSION MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL
1401 Marina Way South, Richmond, CA
April 19, 2007
7:00 p.m.

COMMISSION MEMBERS

Virginia Finlay, Chair
Vacant, Secretary
Nagaraja Rao
Jeff Lee
Vacant

Vice Chair Stephen A. Williams
Zachary Harris
Vicki L. Winston
Vacant

The meeting was called to order by **Chair Finlay** at 7:00 p.m.

Commissioner Harris led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Finlay, Vice Chair Williams (arrived late) and Commissioner Lee

Absent: Winston, Rao, Harris

INTRODUCTIONS

Staff Present: Janet Harbin, Principal Planner, Hector Rojas, Associate Planner, Carlos Pravat, Assistant City Attorney; Richard Mitchell, Planning Director

1. Outdoor Vending Ordinance Study Session - STUDY SESSION to discuss and provide direction to staff for revision of the City's existing Outdoor Vendor Ordinance - Article 15.04.700 of the Richmond Municipal Code. Planner: Hector Rojas

Hector Rojas noted there were two separate ordinances before the Commission; the Outdoor Vendor Ordinance and also the Parking by Peddlers and Vendors Ordinance. He said revisions were requested by the Commission during a planning retreat held October 2006, the Commission had received many applications since the original ordinance was implemented and the a Study Session was recommended to be held to determine whether the ordinance's original intent was being carried out given current activities in the City.

Mr. Rojas gave a PowerPoint presentation in English and Spanish, noted there has been community input, change to certain corridors of the City was identified, one being 23rd Street where a committee generally agreed outdoor vending uses were not in keeping with that vision. The new vision is revitalized corridors which are attractive and attract businesses of a higher quality.

The purpose of the study session was for staff to outline current activities in the City and at a later date receive direction as to how to update the ordinances that are affecting the outdoor vendors. Staff felt it may also be in the City's best interest to also update the parking by peddlers and vendors ordinance which deals with vendors that operate a curbside or on the street.

There are two types of outdoor vendors; private property based vendors and street based outdoor vendors. There are two subtypes within the private property based vendor category; those that sell food and those that sell non-food items. The private property based vendors operate within private property and he presented a map of where such vendors operated.

Regarding the ordinance's history and its regulatory intent covering private property based outdoor vendors, the ordinance was created in 1999 in reaction to many vendors that had begun operating on private property without City review or approval. Outdoor vendors are meant to be transitional alternatives to small business incubators and were allowed to operate typically for two years.

NOTED PRESENT

Vice Chair Williams was noted present at 7:30 p.m.

Regarding the ordinance's requirements, the outdoor vendor zoning ordinance allows outdoor vendors with a conditional use permit to operate in C, M, and PC districts. He presented Exhibit A which depicted a map of operator locations. Application approvals are for two years and are then considered for an additional three year periods by the Planning Commission. The ordinance does not specify a limit on the number of renewals; other approvals required are a business license, health permits, vehicle registration, insurance and a police identification card. Some characteristics of outdoor vendors are that they must be outside of 300 feet from each other, as measured from the property line, hours of operation are established through the CUP process and there are no set hours, uses do not require parking, customers park in parking areas they locate in, the operator vehicles must be stored overnight as indicated in the CUP, the location must be paved as approved by the Public Works Department, the signage must be approved by CUP, night-time lighting must be provided as well as a bathroom within 200 feet in order to be used by employees of the truck.

Regarding current activities of private property based vendors; the City currently has 16 CUP's that have been granted since 1999. He noted the highest concentration was on 23rd Street, currently there were 6 outdoor vendors operating without a valid CUP and 5 outdoor vendors were operating with expired CUP's.

He said staff took photographs during a drive-by inspection of outdoor vendors to more accurately determine parking, uses and site conditions. He presented pictures of:

- 812 Market Street; industrially zoned, permit expires in 2008;
- 1006 23rd Street; industrially zoned, permit expired February 2006 with an application on file, sells tacos;
- No address; the operation is incorporated into the restaurant, therefore, the property owner is not affected by the ordinance because of its permanency relationship to the building;
- 710 23rd Street; Tacos Rodriguez; zoned commercial, expires in 2008, sits on a property that is shared with a Laundromat business;

- 636 23rd Street; zoned commercial; same owner as 812 Market Street, permit expired and renewal is currently under review;
- 575 23rd Street, it is a stand that offers flowers, hot dogs, but not tacos, permit expired in 2003;
- 546 23rd Street, Tacos Las Primos; zoned commercial, permit expires in 2008, the vehicle is a trailer and a good example of a large site but was approved with no parking plan. There is a table for customer seating and cars park right up against the table;
- 2025 MacDonald Avenue; Tacos Jalisco, owned by Mr. Rodriguez, zoned commercial, the owner of the Taco truck has invested a lot into the property since starting operations; incorporates a wrought iron fence, stone veneer, with nice lighting and landscaping and something the City was wanting to see in new operations;
- Cutting Boulevard, located next to the Richmond Food Center, zoned Neighborhood Commercial, permit expired in 2006, has been renewed twice, and a current application is under consideration, with no traffic circulation or parking issues;
- Outdoor vendor operating on San Pablo Avenue; Mississippi Catfish;
- Outdoor vendor operating on San Pablo Avenue on the Home Depot site; is a trailer, permit expired in 2005 with no renewals submitted;
- An example of a non-permitted vendor, but still under the requirements of the outdoor vendor ordinance.

Mr. Rojas discussed the need for staff to track outdoor vendor permits on a database system to ensure current operation status. He felt the question for the Commission was whether or not the intent of the ordinance was being met and staff is of the opinion that it is not being met. Staff receives applications, operators are granted a two-year approval, upon expiration operators request a renewal and the Planning Commission has no mechanism to indicate a stopping point, so staff is requesting that some sort of provision be created in the ordinance that creates a stopping mechanism or transition mechanism to cease operation, as the business is truly meant to transition to a permanent business.

Other considerations staff reviewed were the affects of these types of uses on other uses in the City needing facilitation, such restaurants, cafes, or other businesses that invest in property. There are many vacant buildings on 23rd Street and it is easy for people to invest in outdoor vending operations because of their low overhead. He compared the number of outdoor vendors along 23rd Street to restaurants and found they were the same.

Regarding approaches, **Mr. Rojas** noted the Planning Commission could strengthen the current ordinance to add provisions for limiting operation lengths. Another approach is to establish outdoor vendors as permanent businesses and mandate they be comparable to requirements of regular restaurants, requiring landscaping, fencing, and other site improvements. At the end of an incubation period, vendors would be required to transition to another type of business or create a permanent business, and staff recommends that as an incentive to starting another business, the site actually remain eligible for another outdoor vendor after the expiration term.

The Commission could consider allowing a maximum of one CUP and limit the Commission from reviewing several renewals. He also suggested making vendors go through a business management course so they could actually develop a business plan so it would be clear the owners would prepare for the transition. The Commission could also make these types of outdoor vendor permits administrative, set uniform operation hours, require site improvements such as landscaping and paving, prohibit sit down service and limit business to pick up service only, and also require a vendor to obtain a Board of Equalization's seller's permit whereby taxes would be collected by the State, as currently there is no tax indicated with sales. Lastly, the Commission could require 5 or more parking spaces because of their intensive use. He said currently the City does not have in place any parking standards for outdoor vendors.

Regarding the other approach is to make these businesses permanent, possible revisions include allowing vendors to operate where they are currently allowed, which **Mr. Rojas** said was listed on Exhibit A. Another approach would be to allow them permanently but only in certain districts, like industrial districts. He found in his research of other cities was that the City of San Pablo has one outdoor vendor and only allows it in the heavy commercial district which takes care of their entire corridor. The City of Richmond's highest commercial use is the C2 district and this is the district vendors were currently allowed in; however, there were two vendors that operate in the industrial district also and this was a possibility, as well.

Another alternative to making them permanent is only allowing them on all City districts except for residential, but not including the corridors of main significance. Staff has identified change corridors which include Macdonald Avenue, 23rd Street, Cutting Boulevard and San Pablo Avenue. As a requirement of the application, they would hire a landscape architect or designer and work with staff to identify site improvements.

He also found the City could possibly implement an impact fee which could be collected at the same time as the business license. Those funds would go toward the City's façade improvement program.

Street Based Outdoor Vendors

Mr. Rojas said these types of uses operate in the public right-of-way, anywhere on the sidewalk or curbside, the uses are not governed by the outdoor vendor ordinance but by the Municipal Code. They do not go through the Planning Commission and people are required to move every 30 minutes. The Police and Code Enforcement Department have had a hard time keeping them out of the street adjacent to the Home Depot. The City is needing some type of regulation that allows them to enforce them better because while these are limited to the street, other vendors could also do this on 23rd Street, on Cutting Boulevard, and San Pablo Avenue and the only enforcement used is the 30 minute time limit, which is unenforceable. Vendors typically move from each side of the street and up and down blocks, and basically operate on the same street.

It is recommended that these types of uses not be allowed to operate at curbside and only be allowed on private property. He discussed this with Engineering and they feel they can make the nexus for traffic safety and hazards for this to be justified.

Mr. Rojas noted the presentation was for information and consideration by the Planning Commission and asked for comments of Commissioners and audience members.

Commissioner Lee said in looking at the trailer on the Home Depot site, he questioned if this was an example of something that would be close to becoming a future business. **Mr. Rojas**

said the only other type of building he could compare this to would be Costco and their successful restaurant court, so the City could request them to construct an area inside the Home Depot building to convert it to a restaurant-type of service.

Commissioner Lee said he frequents vendors along the parkway very often and there is no movement of them at all, so he questioned their not being made to move. **Mr. Rojas** said the issue is that staff is unaware of some of these uses and needs to coordinate with code enforcement, possibly create a database to track and enforce them. **Commissioner Lee** said we might be giving a hard time to those who actually comply.

Chair Finlay referred to the General Plan process and the fact that mobile vendors were not incorporated into its visioning and asked for more information pertaining to this. **Mr. Rojas** said they had two Spanish-speaking workshops and many were from the Merchant's Association along 23rd Street and in staff's notes, it was clear that merchants do want the City to do something about those types of vendors because they do not see them as creating an attractive area for new businesses, 23rd Street has a problem with crime and they want police improvements. But, their main concern is creating an atmosphere that is business-conducive and attractive, and they do not feel these types of uses lend themselves to a corridor that everyone can be proud of. He said they were not informed of this meeting tonight, and he felt it might be a good idea to notice all business owners along 23rd Street so they can also participate.

Public Comments:

Rosa Rosco, said her business is at 626 23rd Street, said they are members of the Merchants Association, are also active in the Cinco de Mayo group, said her business has been in place on 23rd for 4 years and said she spoke to the chair of the association who is very happy with their business. Regarding the low cost of operating such a business, it is not truly low cost. They pay rent, gas, water, insurance, taxes, and expenses. The permit also increased from \$450 to \$900, they planted palm trees, flowers, have designated parking spaces, they have an approved commissary with a report from the inspector, have a business license, they get inspected every year and pass with flying colors, and their goal is to have a restaurant but she felt it could not happen overnight. She said the heart of their business was at 23rd Street and she wants to continue it there, they have never had a problem with police or crime and their business is clean. She felt it takes a lot of time and money and they just want to make an honest living and support their families.

Commissioner Lee asked if Ms. Rosco was equally comfortable with the standards of all other vendors under discussion tonight along 23rd Street. Ms. Rosco said she only could speak for her business.

Chair Finlay thanked Mr. Rojas for his research and presentation.

Adjournment

The meeting was adjourned at 8:11 p.m.
