

PLANNING COMMISSION MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL
1401 Marina Way South, Richmond, CA
June 2, 2011
6:30 p.m.

COMMISSION MEMBERS

Charles Duncan, Chair	Sheryl Lane, Vice Chair
Jeff Lee, Secretary	Carol Teltschick-Fall
Ben Choi	Andrés Soto
Roberto Reyes	

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

Vice Chair Lane led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Duncan, Vice Chair Lane; Commissioners Choi, Reyes, Teltschick-Fall

Absent: Secretary Lee, and Commissioner Soto

INTRODUCTIONS

Staff Present: Lamont Thompson, Hector Rojas, Richard Mitchell, Carlos Privat and Kieron Slaughter

MINUTES

April 7, 2011:

Commissioner Reyes requested the following amendments to names of speakers: ‘Allegría’ is spelled with one ‘l’, and Antonio Medrano should be spelled correctly.

Chair Duncan referred to page 7 and asked that ‘Discornia’ be changed to ‘Tiscornia’. He commented that the minutes were very well done and accurate.

ACTION: It was M/S (Reyes/Lane) to approve the minutes of April 7, 2011, as amended; carried unanimously.
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Chair Duncan provided an overview of meeting procedures for speaker registration, public comment and public hearing functions. He said items approved by the Commission may be appealed in writing to the City Clerk by Monday, June 13, 2011, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

CONSENT CALENDAR

Chair Duncan noted there was one item on the Consent Calendar. He asked if there were items to be removed or added.

Commissioner Lane noted receipt of a letter from the Santa Fe Neighborhood Counsel and asked that Item 3 be removed for discussion.

Brown Act – Public Forum – No speakers

HOLD OVER ITEMS:

- 1. PLN10-225: Mill Residence** - PUBLIC HEARING to consider a Conditional Use Permit approval that would allow the creation of a Planned Residential Group. The applicant proposes to convert the two existing residences on site to a planned Residential Group, which would allow the 450 +/- square foot beach house dwelling situated on the lower portion of the site to be expanded by 990 +/- square feet, totaling 1,440 +/- square feet at 875 Ocean Ave. (APN: 558-233-011). SFR-2, Single Family Very Low Density Residential District. Don Mill, owner/applicant. Planner: Lamont Thompson.

Lamont Thompson gave the staff report and described the request of the applicant for a Conditional Use Permit (CUP). Staff believes all findings could be made for a PUD except for consistency with the General Plan due to calculations requiring a maximum of one dwelling unit. Because the second structure is so large, staff believes it would not qualify as a second dwelling unit and included it as part of the density. Staff informed the applicant of staff's recommended denial and he wanted to discuss density calculations, given the fact there are many ways to calculate it. Therefore, the Commission can determine whether or not it can make the finding that density can be calculated to be consistent with the General Plan.

Chair Duncan noted that if findings can be made, staff will prepare a resolution for action to be taken at the next Commission meeting.

Commissioner Reyes questioned and confirmed with Mr. Thompson that only the most current up to date and pertinent information would be presented regarding the project.

Chair Duncan opened the public hearing.

Don Mill, owner/applicant, said they propose an additional structure so their intended family members can use the second building. They are planning the first net zero energy building in the City for the project. The site is on the beach. He noted there are 4 other properties on Ocean Avenue which have beach sites and drop down about 15 feet in height from the street. All 4 have existing beach houses existing now. He distributed a photo of his beach house permitted 24 years ago by the city and BCDC. At the time, they received a BCDC permit for this and upon contacting them, they indicate that because they have an existing permit and they are not pushing the footprint any closer to the bay, they support approval if the City supports approval.

Mr. Mill said the other 4 homes on the beach have no space and therefore, there is not a remote possibility that this could be done on any other parcel. It will not set a precedent in the neighborhood. He pointed out that his property is situated across the street from a 118,000 square foot site zoned residential, that Chevron uses for a greenbelt and buffer to their refinery.

He presented their planned concept and a comparison with the 4 other beach front homes, noting that the Commission recently approved one second dwelling unit. He presented elevations of the building, said they met with DRB Members Michael Woldemar and Andrew Butt who reviewed the plans and while it must go to the Board, they saw no problem with it. He said letters of support are contained in the Commission's packet as well. They presented the project to the Pt. Richmond Neighborhood Council's Design Review and Land Use Committee and received unanimous approval, and a speaker was present to address questions.

Mr. Mill stated they believe the General Plan allows the Commission specific latitude to grant this Planned Residential Group; under LU-3 it states, "The maximum number of allowable units may vary from those outlined in the General Plan; however, the maximum allowable density indicated in the specific plan in the site or area must conform to the General Plan land use designation for that particular site or area." He noted that their parcel after the proposed addition will be 60% smaller than all of their neighbors, and their current lot size is significantly larger or double the average lot size. What is even more in their favor is their site density will be less than any of their neighbors after the addition.

Commissioner Teltschick-Fall asked to run through the comparison of a formal definition for density in the General Plan and the interpretation Mr. Mill was trying to show to the Commission. Mr. Mill said the General Plan states 5 units per acre on the site. What staff pointed out is that the site is generally 1 acre or more, which is not their case. For Planned Residential Groups, they are not done in small areas. He said his interpretation of the zoning ordinance is that they are entitled to a subdivision because they have an old property, but this is not what they want. The distinction is that the finding cannot be made for 5 units per acre on their nearly 11,000 foot property but you can in the area, which is why this does not create precedent.

Commissioner Teltschick-Fall said if Mr. Mill translated just his site to that formula rather than applying it to the entire neighborhood, she asked if he would still be within the guidelines. Mr. Mill said no. On their specific site, they do not get to 2 units at 5 units per acre nor does any other of their 4 neighbors who have these buildings on the beach, including the subdivision, including the 3 units on the property two doors from them.

Commissioner Teltschick-Fall confirmed with Mr. Mill that if one converts it down to the square feet of each site, none of the sites in this area meet the 5 units per acre.

Public Comments:

Peter Minkwitz, President of Pt. Richmond Neighborhood Council, said he noticed in the announcement that the Commission had not heard from their council and approval of this item was published in their minutes of October. Their Land Use Design Review Committee fully

explored the project and provided a unanimous recommendation to approve it. As an aside, he attended the open house in mid-September. When one stands there and sees the proposed project relative to what is there, there is not a big change. Apparently, the only neighbor affected has approved the project and sees no issues. He asked the Commission to consider a favorable vote.

Commissioner Reyes referred to the meeting with the Pt. Richmond Neighborhood Council, and he asked if any members met with staff to study the project. Mr. Minkwitz said he was not sure. Rod Satre is Chair of the committee; they reviewed the design, and indicated he did not know if there were any General Plan conflicts raised when it was presented.

Chair Duncan noted an email was received from Mr. Thompson stating that the Pt. Richmond Neighborhood Council had reviewed and approved the project.

Commissioner Teltschick-Fall said it looks like the parking requirements are covered on page 3. Mr. Thompson agreed and noted the applicant provided 4 parking spaces; 2 for each unit.

Lewis Buchner, co-applicant, reiterated that this is an extremely green project and one that should be encouraged as infill. It is small in scale, very well built, highly insulated, net zero energy, rainwater collection, and it has a very low impact on the land and community. They have support of the neighborhood and noted only one neighbor can actually see the project that is very supportive. As far as the General Plan issue, it clearly states that density can be calculated by the site or the area. Also, the document talks about how to look at density from a planning point of view which specifically states it is important to look at the landscape scale and not the immediate building site sale. Unique to the neighborhood is 100,000 square feet of Chevron owned property who have no intentions of building there and see it as a buffer. He added that all neighbors have higher density than they do and they meet the General Plan requirements when looking at the area density. It sets no precedent for any part of Richmond and therefore it gives them to develop a great project.

Chair Duncan verified there were no speakers who are against the project, and he closed the public hearing.

Commissioner Choi said he has questions about interpretation which is what this decision will be pivoting on; whether the Commission is required to view density from the way staff outlined versus the applicant's interpretation.

Chair Duncan said the argument that the density on the property versus the density on the area is the crux of the issue and it starts to be a math problem, and Mr. Thompson deferred to legal counsel.

Mr. Privat stated Mr. Thompson's interpretation of application of net area is how it is consistently applied by planning staff. In this respect, when applied literally, this project would not meet the density requirements. Staff has looked at the unique circumstances of this location, the ability for development of the surrounding area, and the analysis prepared by their attorneys and thinks there is a possibility that a court could look favorably on a different interpretation of density. However, he cannot tell with any certainty what the result would be or whether or not

there would be a challenge. There is flexibility based on these circumstances to interpret net area as is requested by the applicant. It can be based on testimony and arguments made before the Commission. Also, it can be based on the way the Commission interprets, analyzes and acts on its rules.

Commissioner Choi questioned if the Commission was being cognizant of all ramifications of this in terms of setting a precedent and suggested facilitation of a discussion. Mr. Thompson said he reviewed this carefully and he believes there would not be a precedent set in this case given the unique circumstances, the project's relation to the water, and its designation as SFR2 properties.

Vice Chair Lane said her questions were answered by this discussion which related to interpretation of area versus site density and precedent questions.

Commissioner Teltschick-Fall said her concerns were one of setting a precedent and the quality of the neighborhood and designs to be maintained. She appreciates the attention to the green approach to building, the fact that the neighborhood has welcomed the project that the project does not have a very large footprint, parking is addressed, and as long as the City is not violating something by taking the area interpretation of density, she is supportive of the project.

Commissioner Reyes said he is a big believer of sticking to the General Plan and having worked with it, having heard arguments on both sides, this particular area is hemmed in by Chevron on one corner and not a lot of room to plan. He thinks they are somewhat restricted and a lot of work went into the testimony. He thinks if there is a way to get through this without opening up some flood gates, he thanked the applicant for building green and infill, and wants to be sure the Commission does not provide an opportunity for a precedent to be set for others.

Chair Duncan said he also believes to sticking to the letter of the ordinance; however, one reason the Commission serves is to make interpretations and when somebody has a unique situation, it should be judged. This is a clear instance where he thinks the Commission can find that by using the area density method of calculation they can arrive at making the complete findings. The applicant has been very transparent and it seems like a superb project that will actually benefit the neighborhood. On page 3, the chart talks about the site features and they meet or exceed all requirements except for the density issue. Therefore, he is looking favorably at the project and suggests staff craft a resolution that addresses the density issue based on a calculation having to do with the larger area and perhaps not just the site, at which point the Commission can make all of the findings.

Commissioner Teltschick-Fall said if appropriate, she suggested the statement might include the unique setting of the site close to a buffer zone in a greenbelt area, as well, since it does abate the impact on density.

Chair Duncan said implicit in that is the unique situation that it would not create precedent.

Chair Duncan questioned whether the public hearing needed to remain open, and Mr. Thompson suggested the Commission continue the matter to a date certain. Mr. Privat agreed that the matter

could be continued at which time, the Commission could adopt a resolution with the recommended action to approve it.

ACTION: It was M/S (Duncan/Choi) to continue PLN10-225 to July 7, 2011; carried unanimously.

- 2. PLN09-048: Making Waves Academy Expansion - PUBLIC HEARING** to consider Design Review Permit and Conditional Use Permit amendments for expansion of the existing Making Waves Academy Charter School at 4123 Lakeside Drive. The expansion includes construction of a new 41,400 square-foot two-story classroom building and associated site improvements at 2900 Technology Court (APNs: 405-371-012, 405-371-028). M-1, Industrial/Office Flex District. Making Waves Foundation, Inc., owner; Dara Youngale, applicant. Planner: Hector Rojas. Tentative Recommendation: Conditional Approval.

Hector Rojas gave the staff report and gave a PowerPoint presentation of the request for design review permit and Conditional Use Permit amendments to expand an existing charter school. He provided a background of the originally approved CUP and design review permit, an aerial of the current site, description of expansion of the program to include an additional high school program component at the middle school which involves demolition of a 17,000 square foot office building at 2900 Technology Court. He said the scope of work includes construction of a new 41,400 square foot classroom and office building where the middle school would operate and the new high school program would take over the currently renovated facilities at Lakeside Drive, and the hours of school operation would be the same. He presented the site plan, amenities proposed, elevations, and noted that the DRB reviewed the proposal on April 27, 2011 and unanimously recommended approval to the Planning Commission, with HGIT Architects receiving accolades in terms of the design. He introduced Steve Abrams, representing the applicant, who developed a traffic impact analysis for the project. He will also review some of the findings of the impact study included in the staff report and the traffic operations plan.

Steve Abrams, Abrams Associates Traffic Engineering, said he personally prepared traffic and safety study for 9 different schools in the City of Richmond. This particular project was different in that Making Waves does not have the standard trip generation of a normal school because they go to school all day and do not get out at 2:30 p.m. Their traffic is higher during the PM peak hour than a typical school. There is solid evidence that high school students generate 10%-15% less trips per student than a middle school does due to more carpooling and independent riding of transit to school. Also, this particular school has a type of program where siblings tend to get priority which reduces trip generation; however, they did not make any reductions to account for that.

The Level of Service (LOS) results are one main criterion for analyzing the project. In this case, there were no problems or standards exceeded at any of the nearby intersections. The primary focus was to keep more queuing on street because a fair amount occurs on Lakeside Drive with the existing school. Everybody lines up on the street and comes into the driveway with the pick-up area right there, and they wanted to install some 'Keep Clear' markings in front of some of the driveways so any queuing that does occur would not block driveways. They also wanted to change the 'Yield' sign at Technology Court to a 'Stop' sign which is warranted by additional

school pedestrians. He said as part of addressing the queuing problem, they reversed the direction of the flow which achieves the goals of separating the exit driveway further away from the Technology Court intersection and being able to queue 35 cars on the site.

Mr. Abrams concluded his presentation, stating that he and the applicant met with the neighboring property owner who has concerns about queuing and cars in front of the street in front of her property, which he briefly outlined as being addressed.

Commissioner Teltschick-Fall asked about bicycles in the plan, and Mr. Abrams noted the main ways people visit the site are by car and bus, given the location of the project in a business park. Mr. Rojas added that in the design, staff has accommodated for bike racks if one wanted to travel by bike.

Mr. Glen Holtzclaw, Executive Director, Making Waves Foundation, Inc., who introduced the academy and its mission in Richmond, which is to bring students and their families to the program from the 5th grade through middle and high school to completion of undergraduate school. They have converted their model to a charter school model and are currently serving over 1,000 students, 400 of whom are now in the charter school format, with an additional 100 students to arrive in the fall high school project. They believe their holistic model attacks educational problems and asked the Commission for their support and approval of the project.

Vice Chair Lane questioned how expansion of the school is approved. Mr. Holtzclaw said their charter oversight is the Contra Costa County Office of Education and they presented their model and an amendment to their charter, which was adopted unanimously by their Board.

Commissioner Teltschick-Fall said she researched the school and was impressed. The program has been successful over time and she asked Mr. Holtzclaw to comment on future expansion on this site. Mr. Holtzclaw said they have a maximum capacity at this site to serve 800, 5th grade through 12th grade students and would love to be able to serve more students at another site.

Commissioner Reyes supported the school and its mission, and said he was surprised that no Latinos were on their Board. Mr. Holtzclaw noted this circumstance will soon be remedied.

Chair Duncan said as an architect, he asked how they would phase the project with children attending the school. He relayed his experience when his high school doubled in size and in the chaos of construction, students were distracted. Mr. Holtzclaw noted that next year's incoming 5th grade class will be housed at the Pacific Academy facility where they actually began. Grades 7, 8 and 9 will be in the existing facility, and if the project progresses on time, the following fall, they will be ready to move all middle school students into this facility and fill up the high school.

Mr. Rojas added that the project meets the zoning criteria for the district it is located in and also advances some of the City's General Plan policies, and staff recommends conditional approval.

Chair Duncan confirmed there were no other public comments.

Commissioner Teltschick-Fall said she was impressed with the results that the school has published on their website, appreciates the landscaping and voiced support for approval.

Vice Chair Lane stated she also supports the project. Commissioner Choi echoed support and hoped to see more of the same direction in Richmond.

ACTION: It was M/S (Reyes/Lane) to adopt Resolution 11-13 approving 4 findings of the Conditional Use Permit and all conditions of approval for the design review permit and CUP; carried unanimously.

Item Removed from the Consent Calendar:

3. **PLN11-057: El Campesino Market Conditional Use Permit - PUBLIC HEARING** to consider a proposal that would allow an eating establishment and convenience store at 925 Cutting Blvd. (APNs: 550-301-023, -204). C-1, Neighborhood Commercial, SFR-3, Single-Family Low Density Residential District. Jonathan Bermudez, owner; Bacilia Macias, applicant. Planner: Kieron Slaughter. Tentative Recommendation: Conditional Approval.

Kieron Slaughter gave the staff report and description of the request for a Conditional Use Permit to operate an eating establishment and convenience store. He reviewed specifics of the subject site which was originally developed as a service station and has closed. The site in 2009 was approved for a CUP; however, the CUP has not been acted upon. The applicant also owns an existing market at 232 23rd Street which has a CUP, and staff conducted a site visit. He noted the location is adjacent or nearby a Nystrom United Re-Vitalization Effort (NURVE) and this project is consistent with improvements in the area. Mr. Slaughter described the project's consistency with the General Plan and said staff received a letter from a representative from the Sea Horse Motel who expressed concerns over the location of the establishment and whether it would obstruct views to their business. Staff felt the applicant's design was more desirable. The applicant also met with DRB Member Michael Woldemar who provided advice to the applicant which is reflected in the plan. The applicant met with the Santa Fe Neighborhood Council on February 24, 2011 who believed there were too many markets in the area and that the safety of the project should be a priority. They registered their opposition through an attached letter. Staff is sensitive to safety concerns and feels the applicant addressed concerns through conditions of approval. The site also borders the Coronado Neighborhood Council. The applicant met with them on March 16, 2011 and the applicant has indicated they are in support of the project but expressed concerns with safety and alcohol sales. The applicant; however, is not planning on selling alcohol.

In conclusion, Mr. Slaughter noted the proposed use is compatible with commercial and residential uses in the vicinity, it meets all zoning requirements including landscaping and parking and staff feels the project will bring an active use to a blighted and closed site.

Commissioner Teltschick-Fall referred to the existing market and photographs of its interior. She likes the fact that there is fresh food in the market and asked how similar the second site would be to the proposed market. Mr. Slaughter suggested the applicant respond.

Commissioner Reyes questioned and confirmed the project was in the Redevelopment area.

Chair Duncan opened the public hearing.

Bacilia Macias, architect for owners, presented colored renderings she shared with the neighborhood councils and Boardmember Woldemar. The business is very similar to the types of foods offered at the other market and there will also be a meat market. No alcohol will be sold at the facility. Business hours will be from 7:00 a.m. to 9:00 p.m. and it is a family-owned business. Safety and loitering is a very important factor to the owners, as well, and they have met with lighting companies to get photometric charts done to appropriately light the site. The owner has also agreed to install security cameras to dissuade unwanted loitering. She described the project's kitchen services to the neighborhood and new athletic field and said they took time and care to address all issues. She acknowledged the project is different than the other location, but said the need is the same. To the hotel's concerns, they would provide eating amenities to those guests within walking distance, are limiting their signs on the building, and have addressed safety concerns through lighting and designed landscaping.

Commissioner Teltschick-Fall referred to what is offered in the restaurant, there are exciting food movements in Richmond and she asked if the applicant was willing to work with local food providers. Ms. Macias said right now their family prepares and sells the food and they purchase their food locally.

Commissioner Reyes said many do not know the risk involved in opening such an establishment, and it only stands to increase foot traffic and good food. He said it appears the applicant has addressed those who have submitted correspondence, some of which are based on personal opinions. He voiced support of the project and hoped for its success.

Public Comments:

Cynthia Haden, Santa Fe neighborhood resident, voiced concerns with blight with their taco trailer, building materials stored outside the building, deteriorated landscaping, poor lighting, loitering, signage, and security concerns, given the area.

Vice Chair Lane clarified Ms. Haden's concern with a mobile taco trailer that stays on the property overnight, and is supposed to be gone in the morning but is not removed.

Commissioner Reyes noted the site was empty for 5 years, and he questioned what the site was like prior to the current applicants took ownership. Ms. Haden said they had no equipment or building materials there; just a vacant lot with structures on it and blighted.

Commissioner Teltschick-Fall referred to the architectural plans for the site and asked if the neighborhood council would consider this to remediate the current blight. Ms. Haden said she does not think the business fits in with the neighborhood. There is a Mexican market two blocks up, fresh foods, and a taco truck that services the area as well.

Commissioner Teltschick-Fall questioned whether there was current loitering on site. Ms. Haden said no, but she said once something operates there, people will loiter for purposes other than shopping and eating beyond 9:00 p.m.

Commissioner Teltschick-Fall asked if there was a loitering problem at the market two blocks away, and Ms. Haden said yes; loitering in front of the market and in the parking lot. Commissioner Teltschick-Fall questioned if neighboring businesses were notified. Mr. Slaughter responded that businesses and residences within 300 feet were notified, and staff received one letter from the Sea Horse Motel.

Commissioner Reyes said he does not think it is against the law to hang out, but said he was more interested in crime. Also, since the majority of residents in Richmond will be or are Latino, people will see more markets in neighborhoods and would welcome those wanting to open businesses.

Janie Holland, President, Santa Fe Neighborhood Council, stated the problem for the neighborhood council is the fact that it is an outdoor eatery and not an indoor restaurant. The area serves as a gateway to Pt. Richmond, Marina Bay and the Santa Fe neighborhood. There is a new sports park down the street, they have no problems with businesses coming into the area, but they are trying to rid the community of blight, drugs, crime, and she has worked tirelessly on these types of projects which they feel do not fit within the community. They do not welcome the business on this corner. They want Santa Fe neighborhood to have a beautiful market and not an outside eatery. They feel it will bring about loitering after hours.

Chair Duncan said what he is hearing is “no” but not hearing “why” and “a better solution is”. He asked what Ms. Holland would suggest opening on the corner. Ms. Holland said their concern is just the outdoor eatery, but they support the indoor fresh foods market.

Vice Chair Lane referred to Ms. Holland’s letter and she thinks some of the concerns outlined in the letter will be addressed, such as blight, lighting, and signage. He confirmed that the main concern of the council is the outside eatery, and there was no discussion about operating hours, and people cannot go inside the eatery, as it is nothing but a taco truck. The architect explained that it is a truck but it will be covered and they do not feel the use is good for the location. If this were removed from the request, they would be supportive of the market only.

Commissioner Reyes said the matter was discussed at the March, April and May meetings, and clarified that the Neighborhood Council did not take a vote on the matter. Ms. Holland said when the applicants came to the neighborhood council in February, they directed them to talk with the Nystrom United Re-Vitalization Effort (NURVE) which they did, and she would have hoped that they would have returned.

Commissioner Reyes noted that for the purposes of this meeting, Ms. Holland was a resident and not representing the vote of the neighborhood council. Ms. Holland said she is representing the council who has held discussion about the matter. They took no vote because the applicants never returned.

Chair Duncan asked if Ms. Holland read the staff report, resolution and conditions of approval, one of which (#15) has to do with revocation of the CUP. Ms. Holland said yes. Chair Duncan asked if she would consider adding something to the condition which suggests not meeting other conditions of approval. For example, if complaints are on-going, this could be cause for revocation of the CUP if they do not meet the criteria for approval.

Assistant City Attorney Privat noted that the applicant is required to comply with the CUP and its conditions regardless. Staff can bring a revocation hearing before the Board for any violation of a CUP. Therefore, by operation of law, it is already in place.

Chair Duncan indicated to Ms. Holland the neighborhood council has recourse; if there is loitering, the police and planning can be called and a complaint can be made. If there are enough of those, a revocation hearing could be held. He added that it provides the neighborhood with an outdoor eatery which is much better than what is currently blight. It also puts more eyes on the street, and if given a chance, it is a pretty healthy thing to do. Ms. Holland disagreed and said this is not the neighborhood council's opinion and it is not something they want. Chair Duncan said that coming from experience, this is worthy of a chance and the neighborhood council has recourse in revoking the CUP.

Rhonda Harris, Vice President, Santa Fe Neighborhood Council, said she feels the Commission is not serving the best interests of its City's residents by not allowing the Sea Horse Hotel owners to speak. Many people do not know of the City's process. Even though the council did not hold a vote, the majority disapproved of the plan. She has been on the Board of the Nystrom United Re-Vitalization Effort (NURVE) for 8 years. It has always been desirable to develop that entire area. What they did not do is given the restaurant a chance to find out what the concept plan is for the entire area which goes from Cutting up to Marina Way. She said the council's letter is also not an 'opinion' but from those representing the neighborhood council. She said she has lived in Santa Fe neighborhood for 26 years, she cited the killing of a Palestinian man on Cutting, and there are still drive-by shootings in the Santa Fe, Coronado and Cortez area. If people sit outside eating and gang members drive by, the reality is, someone will get killed. This type of eatery is not in the plan which lends to discussion, re-planning, and getting more information from the applicants and neighborhood councils.

Chair Duncan questioned the plan cited by Ms. Harris. Mr. Mitchell responded that there is a preliminary discussion about developing a plan from the corridor in this area. The General Plan shows this returning with a commercial face along both sides of the street. One Councilmember has expressed a strong interest in conducting a community planning process around that corner in conjunction with the Nystrom United Re-Vitalization Effort (NURVE). Applicants should be aware that the City is going through a General Plan Update which calls for all traditional old service station sites which are very low density, to eventually become high density sites. The reality is this will not occur right away because there is no market to support this. He said the planning process can continue, the General Plan will hopefully be adopted, and in the short term, it is not likely the City will see the kind of investment coming to that area to realize the long-term vision. If the applicant wishes to move forward, understanding that the long-term vision is that the sites will be redeveloped.

Vice Chair Lane noted Ms. Harris mentioned that she felt that as a neighborhood council they did not have an opportunity to hold further meetings with the applicant to discuss how to resolve concern, that being the outdoor eatery. She asked if there were other concerns to be resolved. Ms. Harris said it is not only the outside eatery, but the Nystrom United Re-Vitalization Effort (NURVE) is in motion. Therefore, she questioned where this would place the applicant, as the plan does not include the proposal in its plan.

Commissioner Reyes questioned if the plan would come with investors, or would it be more of a conceptual direction. Ms. Harris said it will involve 5 major capital projects which are in motion and 3 of the projects are almost complete. She said the Redevelopment Agency will provide outreach to the community and they will come up with ideas of what they want to see in the area in concert with the General Plan.

Commissioner Reyes said a part of him feels that businesses do not get to be chosen on an individual basis but rather formed through a 'happy accident.' He questioned the types of industries will be developed. Ms. Harris said this will come from the collaborative outreach effort, and there are investors interested in developing the area.

Commissioner Teltschick-Fall said she appreciates the vision and the need to set high standards for the neighborhood council, understands the difficulties of planning a vision without financing in place, but what she is hearing is that outside eatery is the problem and also that there is another vision that has not yet come to fruition and the eatery may violate that vision. With a high density corner, she sees many plans with eateries included and she questioned whether the proposal could grow into the vision and become a part of it. If it is not successful, it could be an interim improvement to the corner. In terms of it being an outdoor versus indoor eatery, it does not seem there has been any discussion between the neighborhood council of the conditions proposed, as every item has been addressed and mitigated. She questioned the possibility of adding some indoor seating like the applicant's other market and suggested some compromise in the short term while the long-term vision is moving forward.

Ms. Harris said the applicant never came to NURVE, she felt the proposal needs more discussion and it is too soon to be approved.

Rebuttal - Applicant

Ms. Macias, applicant, said she has listened to public comments, understands the security issues, attended school and knows the area well, they took a great deal of care in realizing what makes people less afraid of certain corners, and the family still wants to make an investment in this corner. It could grow into what NURVE has envisioned for the entire area and it is a lot better than what exists now. They met with Boardmember Woldemar on advice from staff because they wanted everybody's input to understand what is happening in the area for the short and long term. They kept Lashanda Wilson in the loop and noted NURVE is still in the process of creating its vision, and looks forward to the opportunity to grow and meet the corner's needs.

Janie Holland, Santa Fe Neighborhood Council, said this is the gateway which comprises of 3 neighborhood councils; Santa Fe, Marina Bay and Pt. Richmond. Coronado has been named a

few times, but she was not sure why, and she noted they did come to the Santa Fe neighborhood council. They are not trying to fight with the applicants but want the opportunity to provide input into the proposal. If they do not like what is proposed, they need to know. If they feel they can work it out, then that will be through discussions, but the process has not been followed.

Chair Duncan said what strikes him is there has been a lack of communication. He thinks both Ms. Holland and Ms. Macias need to get together and address issues. His inclination is to approve the project only because all of the safeguards are in place that would dissuade concerns. Given the choice of having continued blight on a corner or a corner developed that could eventually fold its way into as a solid 'brick and mortar' business in a higher density situation under the NURVE plan, it seems this is a good start. He suggested holding the item over one month to allow time for the Santa Fe Neighborhood Council and the applicant to resolve problems. He questioned as to whether or not outside seating was absolutely necessary, and Ms. Macias said it only came about because the family started out with taco trucks and many people coming from work put out benches and have an informal setting. They thought of designing something nice, introducing landscaping and finishes to create something more formal in the hopes it becomes an established business.

Chair Duncan asked for a straw poll from the Commission.

Vice Chair Lane suggested discussion continue for 30 days because the Commission has always asked that issues be worked out between the applicant and neighborhood councils.

Commissioner Choi disagreed and said he feels a bad precedent would be set to continue the matter. He has seen other instances where it is easy to say 'no' and time is important to start up an investment. Both parties had ample opportunity to communicate and it seems the applicant was diligent in addressing as many concerns as they could.

Commissioner Teltschick-Fall said she likes this project, thinks the applicant has put in a lot of thought and time into the project, and while she understands the reality the architectural drawings hold up to the City's scrutiny. She thinks if the business is successful, it could grow into something even better. The part that bothers her is similar to Vice Chair Lane; a breakdown in communication. The neighborhood council did not vote, the applicant did not return, and she respects the fact that it would be important for the neighborhood to welcome the business instead of having people opposed.

Commissioner Reyes said he was prepared to approve the item largely because the item was on the Consent Calendar. Both sides prepared as well as staff, and he has seen miscommunication. He believes that the item was discussed for 3 months by the neighborhood council and did not know what would change in one month, unless the applicant agreed to hold off.

Chair Duncan questioned whether it would be a hardship for the applicant to go back to the neighborhood council. Ms. Macias said she is hearing that the neighborhood council is opposed to the outdoor eatery and she was not sure if a compromise would be reached as there is not a lot to work with because it is a major element behind the entire business.

Commissioner Teltschick-Fall questioned if there would be compromise for reduced outdoor seating and some limited indoor seating. Commissioner Choi questioned whether or not cultural aspects should be considered, as an outdoor eatery is one of the most attracted parts because it builds community.

ACTION: It was M/S (Reyes/Choi) to approve PLN11-057 subject to findings and conditions of approval. Motion Carried by a vote of 4-1-2. Ayes: Choi, Teltschick-Fall, Reyes, Duncan. Noes: Lane. Absent: Lee and Soto.

Chair Duncan said the item may be appealed in writing to the City Clerk by Monday, June 13, 2011, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

COMMISSION BUSINESS

4. Select Nominating Committee for Election of Officers

Chair Duncan asked that the Commission select a Nominating Committee of two members whose task is to nominate officers; the Chair, Vice Chair and Secretary. This vote would be taken in July.

Commissioner Choi and Commissioner Reyes both volunteered to serve as Nominating Committee.

5. Reports of Officers, Commissioners and Staff

Mr. Privat noted that deliberations of the Nominating Committee must be made in public and he alerted the Commission of any Brown Act infractions through serial emails/phone conversations.

Chair Duncan questioned the status of the mobile vending ordinance, and Mr. Rojas said the item is moving along and this week, they had their first Health Impact Assessment Meeting and are in the data gathering phase. They are planning to put together a subcommittee meeting that would discuss land use issues to involve location, design, where vendors should be located and best practices prior to returning to the next community meeting.

Commissioner Choi questioned if the prior item discussed was originally a taco truck. Mr. Rojas noted he assembled a list of all outdoor vendors that operated in Richmond since 1997 and he did not see a permit issued for that location; however, he knows that he has seen a vendor park there. He said essentially, the applicant will provide the same type of service that a mobile vendor would provide, but it is being formalized with a foundation and therefore, a 'brick and mortar' business.

Adjournment

The meeting was adjourned at 8:17 p.m.