

PLANNING COMMISSION MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL
1401 Marina Way South, Richmond, CA
December 7, 2006
7:00 p.m.

COMMISSION MEMBERS

Virginia Finlay, Chair
Ludmyrna Lopez, 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 7:05 p.m.

Vice Chair Williams led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Finlay, Vice Chair Williams and Commissioners, Harris, Lee and Winston

Absent: Lopez and Rao

INTRODUCTIONS

Staff Present: Janet Harbin, Hector Rojas, Carlos Pravat, Richard Mitchell, Lina Velasco, Conchelsa Towns, Steve Duran

MINUTES - None

Chair Finlay gave an overview of the procedures for speaker registration and public hearing functions and procedures. She said any decision approved may be appealed in writing to the City Clerk by Monday, December 18, 2006 by 5:00 p.m.

CONSENT CALENDAR

Chair Finlay noted the Consent Calendar consisted of Items 2, 3, 4, 5, 6, 7 and 8.

Janet Harbin recommended Item 1 be moved to the Consent Calendar, as it was a Hold Over Item to 1/4/2007.

Commissioner Harris reported the Development Review Committee met on Monday regarding Items 2 and 3 and the Committee recommended approval of both items with the following amendments:

Item 2: Amendments to condition 6 and 32, amendments to density bonus findings 1, 2, 3 and 5, and all amendments were noted in the memo distributed to the Commission.

Item 3: Amendment to CUP finding 1 and amendment to Tentative Parcel Map amendment to condition 7, and all amendments were noted in the memo distributed to the Commission.

Items requested for removal from the Consent Calendar were items 5, 6, 7 and 8 (Harris).

ACTION: It was M/S (Harris/Williams) to approve the Consent Calendar consisting of Items 1, 2, 3, and 4; unanimously approved.

Brown Act – There were no public speakers.

Items Approved:

1. **CU 1103339 – Alcoholic Beverage Control Off-Sale License at 544 Harbour Way** - PUBLIC HEARING to consider a Conditional Use Permit for relocation of an Alcoholic Beverage Control Off-Sale License Type 21 from the convenience store located at 564 Harbour Way to the grocery store located next door at 544 Harbour Way (APN: 534-340-023). C-1, Neighborhood Commercial District. Nagi Almang, owner; Mazen Elmashni, applicant. Tentative Recommendation: Hold Over To 1/4/2007.
2. **EID/TM/CU/DR 1103055 – 12th & Macdonald Mixed Use Project between 1029 & 1305 Macdonald Avenue** - PUBLIC HEARING to consider a Tentative Tract Map and a Conditional Use Permit to construct a mixed-use development for 237 condominium units and ±24,000 SF of commercial space on two city blocks bounded by Macdonald Avenue to the south, Nevin Avenue to the north, 11th to the west and 13th Street to the east (APNs: 540-092-016, 017, 018, 540-081-001, 002, 003, 004, 005, 020, 021, 024, 025, & 026), between 1029 and 1305 Macdonald Avenue. The project proposal includes a request for a Density Bonus with City concessions. Office/Commercial/Institutional (City Center Specific Plan) Zoning District. Richmond Community Redevelopment Agency, owner; AF Evans Development, Inc., applicant. Tentative Recommendation: Conditional Approval.
3. **TPM/CU 1102910 – Four Condominium Units on Cutting Boulevard between South 12th and South 13th Street** - PUBLIC HEARING to consider a Tentative Parcel Map and Conditional Use Permit for a four unit condominium Planned Residential Group on Cutting Boulevard between South 12th and South 13th Streets (APN 544-240-009). MFR-2, Residential Medium Density, Knox Cutting Specific Plan Area District. Charles Q. Fields, James J. Walton, Jr., Ed S. Wasniowski, owner; Charles Q. Fields, applicant. Tentative Recommendation: Conditional Approval.
4. **V 1103334 – Variance for a New Single Family Dwelling at 852 7th Street** - PUBLIC HEARING to consider a Variance to minimum lot width for the construction of a new single family dwelling at 852 7th Street (APN 534-023-025). MFR-1, Multi-family Residential District. NR Land Development, owner/applicant. Tentative Recommendation: Conditional Approval.

Items Discussed:

5. **V 1103335 – Variance for a New Single Family Dwelling on York Street** - PUBLIC HEARING to consider a Variance to minimum lot size and width for the construction of a new single family dwelling on York Street (APN 561-151-030). SFR-3, Single Family Low Density Residential District. NR Land Development, owner/applicant. Tentative Recommendation: Conditional Approval.

6. **V 1103336 – Variance for a New Single Family Dwelling on Cherry Street** - PUBLIC HEARING to consider a Variance to minimum lot size and width for the construction of a new single family dwelling on Cherry Street (APN 561-232-030). SFR-3, Single Family Low Density Residential District. NR Land Development, owner/applicant. Tentative Recommendation: Conditional Approval.
7. **V 1103337 – Variance for a New Single Family Residence on Duboce Street** - PUBLIC HEARING to consider a Variance to minimum lot size and width for the construction of a new single family dwelling at Duboce Avenue (APN 561-261-019-21). SFR-3, Single-family Low Density Residential District. NR Land Development, owner/applicant. Tentative Recommendation: Conditional Approval.
8. **V 1103338 – Variance for a New Single Family Residence on York Street** - PUBLIC HEARING to consider a Variance to minimum lot size and width for the construction of a new single family dwelling on York Street (APN 561-151-027). SFR-3, Single-family Low Density Residential District. NR Land Development, owner/applicant. Tentative Recommendation: Conditional Approval.

Hector Rojas gave a brief staff report of the proposal, stating that if the Variance were approved, the lots would be buildable and allow the DRB to consider plans for single family homes.

He confirmed with the Commission that Items 5, 6, 7 and 8 could all be held as one public hearing, with four separate votes.

The public hearing was opened.

Commissioner Harris said he visited the sites and noticed that Items 5 and 6 parcels were fenced off as a single construction site. He felt the two 25 foot lots for approval could have been arranged in some other manner and questioned their selection. **Ms. Harbin** said it appears there were several other lots of this size and the County has been approving similarly sized lots. She said the area has been subject to deterioration in structures, blight, and staff saw this as a possible investment in the area which could provide affordable housing.

Commissioner Lee noted Item 4's staff report discusses Section 15.04.940.030-3 of the zoning ordinance which talks about whether lots have been co-owned with the adjacent substandard lot and asked how this issue was addressed relative to the lots under discussion.

Mr. Rojas said the reason the variance process was being used was because the lots have been owned in common with adjacent lots in the past. If they were not held under common ownership, there would be no need for a variance.

Kevin Hampton, applicant, said they do not own the lots next door and he cannot force the owner to split his lot with him, and the reason they did not process a Planned Unit Development was because they do not own the lots. He discussed ownership his lots and said part of the construction equipment was his and rented, some of it was the other three owners' equipment, and much of it was blight. He felt the development's purpose was to revitalize the area, felt it was sad to have a County on one side of York fully developed and the other side in blight.

Chair Finlay questioned Item 5, York Street's properties, and **Mr. Rojas** noted there were three total owners and alternate ownerships.

Commissioner Harris felt the Commission did not do its due diligence in 2003 when a single family house on York Street was approved and they did not look at the entire project together.

Mr. Hampton said the Commission recently approved a lot split on 3rd and Main from a 50x100 to 225x100 foot lots, and he felt consistency was needed. He felt the City has approved several variances similar to his proposals over the last 3-4 years. He said the lots were already split when he purchased them.

There were no public speakers.

Mr. Rojas gave his project summary and noted staff recommends conditional approval of the variance requests in separate actions.

Commissioner Harris supported a city policy of building many 25x100 foot lots in parts of the City; however, he felt the Commission should show this in its general plan or revising the inclusionary housing ordinance to allow for it, as the City did not have a current policy to allow for it.

Richard Mitchell noted Item 4 was not in a similar category and falls within the City's intentions under the general plan. The intent of Council when the original ordinance was to have the lots developed and in using up inventory, there are questions about the history of lots due to blight and destruction. He felt there would be more discussion about lot coverage, design, size in the future, and felt each item should be considered on a case by case basis.

Commissioner Lee felt the Commission should determine whether to allow building on small remnant lots that have never been co-owned by the adjacent lots or not, and/or whether to allow building on remnant parcels that have been at one time co-owned by the adjacent parcel, which was covered by the zoning ordinance.

The public hearing was closed.

Commissioner Harris felt what is being presented was not the intent of the zoning ordinance. He obtained records for all of the lots from the County and said Item 5 was part of a 75 foot parcel, Item 6 was once part of a 50 foot parcel, as were Items 7 and 8. Less than 10 years ago, all of the parcels were owned by individuals. They now have been split. He said he could not approve the requests as presented because it did not meet the City's zoning ordinance.

Commissioner Lee agreed; but had sympathy for the unique circumstances for the lots. He wanted to approve the lots but not set a precedent for all other lots, however, he did not know whether this was possible or not, and **Attorney Carlos Pravat** felt it was not possible.

Commissioner Lee asked if the Commission could approve the requests, but not approve similar requests in the future, and **Mr. Pravat** said the Commission could approve them because it takes each project on a case-by-case basis according to facts presented to the Commission by way of making findings.

Commissioner Winston said she was confused as to how staff made Finding 1 given the language in the zoning ordinance. **Mr. Mitchell** felt the finding could apply to all proposals and felt there were special circumstances due to blighted conditions. She felt the Staff Statement for Finding 1 was an accurate statement, but she felt it did not match the Finding.

Commissioner Lee felt the statement and discussion that states, "These properties have become magnets for illegal dumping and loitering" and felt that if this was the criteria that

differentiates it from other potential applications of a similar nature, he would be inclined to approve the application due to this special circumstance. **Chair Finlay** felt a finding was not based on garbage because it can be cleaned up. She felt a finding was based on an inherent property of the land.

ACTION: It was M/S (Harris/Winston) that the Planning Commission deny V1103335 due to the Commission's inability to accept Variance Finding 1 that there are no circumstances or conditions on the subject property relative to its size, shape, topography and location that would deprive the property of privileges enjoyed by owners of other properties in the vicinity in the zoning in which the property is situated; Vote: 3-0-2-2 (Lopez and Rao absent; Lee and Williams abstained).

Mr. Pravat said a Commission is not required to justify a vote and therefore can abstain on an item and the majority of the vote on an item would move the item.

Chair Finlay said any decision approved may be appealed in writing to the City Clerk by Monday, December 18, 2006 by 5:00 p.m.

ACTION: It was M/S (Harris/Winston) that the Planning Commission deny V1103336 due to the Commission's inability to accept Variance Finding 1 that there are no circumstances or conditions on the subject property relative to its size, shape, topography and location that would deprive the property of privileges enjoyed by owners of other properties in the vicinity in the zoning in which the property is situated; Vote: 3-0-2-2 (Lopez and Rao absent; Lee and Williams abstained).

Chair Finlay said any decision approved may be appealed in writing to the City Clerk by Monday, December 18, 2006 by 5:00 p.m.

ACTION: It was M/S (Harris/Winston) that the Planning Commission deny V1103337 due to the Commission's inability to accept Variance Finding 1 that there are no circumstances or conditions on the subject property relative to its size, shape, topography and location that would deprive the property of privileges enjoyed by owners of other properties in the vicinity in the zoning in which the property is situated; Vote: 3-0-2-2 (Lopez and Rao absent; Lee and Williams abstained).

Chair Finlay said any decision approved may be appealed in writing to the City Clerk by Monday, December 18, 2006 by 5:00 p.m.

ACTION: It was M/S (Harris/Winston) that the Planning Commission deny V1103338 due to the Commission's inability to accept Variance Findings 1 that there are no circumstances or conditions on the subject property relative to its size, shape, topography and location that would deprive the property of privileges enjoyed by owners of other properties in the vicinity in the zoning in which the property is situated; and Variance Finding 3, that a Variance is an issuance of special privilege that is inconsistent with limitations on other properties in the same zoning district, relative to the parcel split of this property and other properties; Vote: 3-0-2-2 (Lopez and Rao absent; Lee and Williams abstained).

Chair Finlay said any decision approved may be appealed in writing to the City Clerk by Monday, December 18, 2006 by 5:00 p.m.

COMMISSION BUSINESS

9. Reports of Officers, Commissioners and Staff

Mr. Mitchell said activity is proceeding on the General Plan update, the planning consultant completed a tour of advisory committee members last Saturday and the City has posted various position papers on the website for comment. He noted a presentation by UC students regarding land use in the City would be held in the future and he would forward on information to the Commission. **Chair Finlay** noted this would be held on Tuesday, December 19th from 2:00 to 3:30 p.m. at the firm of MIG in Berkeley, with RSVP by December 11th.

Commissioner Harris said the Ethics Training Seminar would be held this Monday and Tuesday. He said at the League of California Cities conference, he completed the training as a Planning Commission, and **Ms. Harbin** said this seminar would be more generalized and would be helpful for Commissioners to attend.

Commissioner Winston said the Commission has requested many times that the two vacancies be filled and she is asking the current Mayor to have the vacancies filled. She said three Commissioner terms were expiring June 30th and she felt it was a hardship on current members.

Commissioner Williams wished everyone a happy holiday.

Commissioner Lee complimented the A.F. Evans group on their efforts in working with the City in getting onto the Consent Calendar with a full package.

Chair Finlay noted there was no meeting in mid-December. The next meeting in January would be held January 4th and questioned the date for the DRC session. **Ms. Harbin** suggested holding the session prior to the meeting for one hour or hold it on another evening and would determine whether there were items for DRC.

Chair Finlay asked that per the Planning Director's request, Commissioners email, send or call their list of proposed ordinance, zoning, and procedure modifications that should be reviewed and revised.

The meeting was adjourned at 8:45 p.m.
