

PLANNING COMMISSION MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL
1401 Marina Way South, Richmond, CA
November 4, 2010
7:00 p.m.

COMMISSION MEMBERS

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

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

Commissioner Lane led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Duncan, Vice Chair Lane, and Commissioners Beckles, Choi, and Soto

Absent: Secretary Lee and Commissioner Teltschick-Fall

INTRODUCTIONS

Chair Duncan congratulated Commissioner Beckles on her election to the City Council.

Staff Present: Lamont Thompson, Jonelyn Whales, Lina Velasco, and Mary Renfro

MINUTES

October 7, 2010

Commissioner Soto requested correction to page 4; to replace “Choi” with “Soto” at the bottom of the page just prior to Adjournment.

ACTION: It was M/S (Soto/Choi) to accept the minutes of October 7, 2010, as amended; unanimously approved.

CONSENT CALENDAR

Chair Duncan noted there were no Consent Calendar items on the agenda.

Brown Act – Public Forum

Luis Fierro of 12929 San Pablo Avenue, Richmond, stated he watches the Commission meetings on television and spoke regarding his opposition to a taco truck being located next to his business along San Pablo Avenue, which affects the success of his business.

Ms. Velasco stated staff has been working with the speaker, stated the mobile vendor was approved by the Planning Commission via a Conditional Use Permit. The issue was brought to the attention of staff after the appeal period had expired and notices were mailed to property owners and at times tenants do not receive the notice. The CUP is valid for two years, and at that time, should a renewal be submitted, a similar process will occur.

Commissioner Beckles confirmed that the name of his business is La Americas Taqueria.

Chair Duncan asked that the letters received by staff by Mr. Fierro be filed within the file of the mobile vendor receiving the CUP.

Paul Larudee, Alliance of Californians for Community Empowerment (ACCE), Richmond, spoke regarding their organization's concern with neighborhood and community issues facing low and moderate income residents, stated their members have worked on affordable housing, a community land trust, the impact foreclosures have had on the Richmond community, and are concerned with the limited public meetings on the Housing Element planned for review on November 8, 2010. He requested the Planning Commission hold a study session and further opportunities for the community to provide comments and feedback on the Housing Element document.

Bruce Sutorius, ACCE, Richmond, supported and echoed the comments of Mr. Larudee regarding the request made of the Commission.

Commissioner Soto said the City's Planning Commission should be involved in all phases of the General Plan update including the Housing Element. He learned through staff that there are plans that the Element will ultimately return to the Planning Commission for its review and public hearing and there is a reason it is separate and apart from the General Plan update. He said in order to have the broadest impact, more than one public hearing would be something to consider besides the Planning Commission hearing, as there are tenant group, community housing advocates, and non-English speaking persons.

Chair Duncan announced that the Housing Element public meeting will be held November 8, 2010 at 6:00 p.m. in the Council Chambers.

Commissioner Lane asked that staff provide the purpose of the Housing Element meeting, as well as an agenda and follow-up from the meeting for the public's benefit.

HOLD OVER ITEM:

Chair Duncan provided an overview of meeting procedures for speaker registration and public hearing functions and procedures. He said items approved by the Commission may be appealed in writing to the City Clerk by Monday, November 15, 2010, by 5:00 p.m.

Recusal:

Chair Duncan announced his recusal for Items 1 and 2 due to the proximity of his personal residence. He noted Vice Chair Lane will preside over both applications and he will return for agenda item 3 and the remainder of the agenda.

- 1. PLN 10-138: Outdoor/Sidewalk Dining for the Up and Under Pub Restaurant - PUBLIC HEARING** to review and consider modification of an existing Conditional Use Permit to allow outdoor dining and indoor live entertainment at the Up and Under Pub restaurant at 2 W. Richmond Avenue (APN: 558-122-020). C-1, Neighborhood Commercial District. Richard Lompa, owner; Nathan Trivers, applicant. Planner: Jonelyn Whales. Tentative Recommendation: Conditional Approval

Vice Chair Lane opened the public hearing.

Ms. Whales confirmed that there was one speaker against and two speakers in favor of the item. She gave the staff report and a description of the request to allow the business to serve food and alcohol in an outdoor setting on the sidewalk and to provide indoor, live amplified entertainment. She reported that the project went before the Pt. Richmond Neighborhood Council and a letter was received from them requesting that an additional condition be added.

Ms. Whales described the business operations, noted there are no disturbances or nuisances, and the applicant requests the modification of the Conditional Use Permit (CUP) be granted.

Commissioner Soto referred to the memo from Peter Minkwitz, President of the Pt. Richmond Neighborhood Council, who refers to Condition number 2; however, the staff memo refers to Condition 9. Ms. Whales noted staff modified the condition so it would be at the end of the previous conditions placed on the project.

Nathan Trivers, Owner/Operator of Up and Under Pub Restaurant, prefaced his presentation, stating he has a baby due to arrive and may need to leave the meeting abruptly. He said he is grateful and blessed to have opened a successful business in Richmond, said he is happy that there is demand to expand his business for customers, noted the Up and Under Pub Restaurant will set the precedence for outdoor sidewalk seating. He thanked staff's help with writing the ordinance and the City Council to pass the ordinance to allow him to do this. They meet all space requirements, has 27 employees most of which are Richmond residents, and the outdoor dining will increase business, add more jobs, add sales tax revenue, and will also put more eyes on the streets. He said they have beautified the building and area; people want to enjoy themselves eating outside on the patio, as well as be entertained and listen to music.

Public Comments:

Rebecca Ross, Richmond, said she works at Hilltop and they send many guests down to the Up and Under and everyone returns very happy. Adding outdoor eating would add to this. She has watched the restaurant grow and be a very enjoyable, local family establishment, and she asked for approval.

Peter Minkwitz, Richmond, President of the Pt. Richmond Neighborhood Council, said last month they considered outside dining and it was approved without any conditions. They liked the design and drawings, and everyone believed it brings a European flavor to the Point. At the last meeting, their Land Use Design Committee reviewed the application for live music inside and it was approved with conditions. Their letter outlines the conditions, one of which was to be able to review the matter and be able to withdraw the approval within 12 months if the music becomes a problem for the neighborhood. However, they do not expect it will, as there is music inside now, and live music complying with the noise ordinance should not be a problem. This also had unanimous support, with one abstention, and he said the Up and Under Pub

Restaurant has been a great addition to the Point. He said there is live music at the Baltic and this would serve as an additional venue.

Robert Lane, Richmond, said he is a member of the Land Use Committee of the Pt. Richmond Neighborhood Council, said he supported approval; however, under the new items, there is a matter that seeks to modify the CUP of the same establishment, and he thinks it is premature to take this item prior to knowing whether the CUP will be modified or whether there will be sanctions.

Commissioner Soto questioned whether Mr. Lane was speaking about the music. Mr. Lane noted that Condition 2 is violations of the previous Planning Commission conditions to the CUP for the premises. Those violations should be cleared before Item number 2 is heard and ruled upon. He felt it was also very vague and ambiguous, as the staff report indicates outdoor sidewalk dining for Up and Under and says nothing about music in the title. In the text, it states outdoor dining and indoor, live entertainment. Further, it talks about conditional approval but nothing about what those conditions might be so that the public can ascertain their position as to those conditions before the Commission. In the future, staff should be instructed to be more thorough in what it states on the agenda so that the public has ample opportunity to identify what action is being considered.

Commissioner Soto said he believes this is what it states and Ms. Whales confirmed that the agenda states this clearly; for allowing outdoor dining and live entertainment. Mr. Lane stated the nine conditions are not listed, and Ms. Whales noted they are part of Attachment 2 of the staff report, which she provided to him.

Rebuttal – Applicant

Nathan Trivers, Owner/Operator of Up and Under Pub Restaurant, thanked Mr. Lane for his support.

Mr. Lane waived rebuttal.

Ms. Whales briefly summarized staff's recommendation for approval to allow outdoor dining and live entertainment at the establishment.

Commissioner Soto noted that in 12 months, there will be a review, and he questioned whether this would be done once. Ms. Whales noted this is up to Planning Commissioners, but staff recommends this be done once, and if there are problems, the matter can return to the Commission via code enforcement.

Vice Chair Lane read the modified condition into the record; "The live entertainment activity to be reviewed by the Planning Commission in 12 months and may be modified if there have been reported complaints associate with live entertainment at the restaurant." She questioned Mr. Trivers regarding the additional condition and she confirmed with Mr. Trivers that he has read it, understands it, and agrees with it.

The public hearing was closed.

ACTION: It was M/S (Soto/Beckles) to approve PLN 10-138 as amended with the additional condition number 9; carried unanimously (Duncan recused).

NEW ITEMS:

- 2. PLN 09-120: Noncompliance with Design Review Permit in the Point Richmond Historic District** - RECEIVE written and oral comment from all interested persons to determine whether grounds may exist to take one of the following actions with regard to a design permit condition addressing an eagle statue on the top of a contributing structure in the Point Richmond National Register Historic District at 2 W. Richmond Avenue (APN: 558-122-020): (1) direct staff to issue citations, (2) schedule a hearing to consider modification or revocation of the design review permit, or (3) schedule a hearing to consider modification or revocation of the CUP. If grounds may exist for modifying the design review or conditional use permit, INITIATE an action to modify the permit by directing staff to schedule a modification hearing on a date certain. Richard Lompa, owner; Nathan Trivers, applicant. Planner: Jonelyn Whales.

Vice Chair Lane opened the public hearing.

Ms. Whales noted there were a total of four speakers, three of which are owners of the establishment. All have signed up as being against it and are opposed to the Commission taking any action this evening on the item. She gave the staff report and brief overview of the matter, stating the item was reviewed by the DRB who were presented with the option of directing staff to enforce action by issuing citations to the owner of the building. In 2009, HPAC reviewed plans for exterior renovations to the building as it is a contributing structure to the Pt. Richmond National Register Historic District. They found the eagle statue on the front of the building was inconsistent with the Secretary of the Interior's Standards, Standard 3, which states each property shall be recognized as a physical record of its time, place and use, and changes that make a false sense of historical development such as adding features or elements from other buildings shall not be undertaken. At the time Mr. Trivers was pursuing his CUP, the eagle was removed from the building because it was part of the condition of the CUP. Later, within the last 6 months, staff was notified by residents that the eagle had been placed back onto the roof of the building and staff recommends the Commission receive oral and written comments to determine whether grounds exist to modify the CUP or take some type of enforcement action for failure to comply with the condition of approval regarding the eagle. Staff has three different recommendations:

- 1) If grounds exist for modifying the design review permit, initiate action to modify the permit by directing staff to schedule a modification hearing on a date certain; or
- 2) If grounds exist for taking enforcement action, direct staff to either initiate an action to revoke the CUP for the property by scheduling a revocation hearing, or issue citations to the owner of the building; or
- 3) Direct staff to issue a citation to the property owner for each day of the infraction persists.

Staff believes that instead of modifying or revoking the permits, the Commission direct staff to take immediate action to enforce the condition by issuing citations to the property owner. This will directly impact the property owner, who is owner of the statue rather than the tenant of the premises.

Vice Chair Lane noted there are four speakers in opposition to the item and Mr. Lompa, the owner, would have ten minutes to speak first.

Public Comments:

Richard Lompa, property owner, spoke of his bewilderment from the process, cited the process as being flawed, and the eagle is no more than a personal accessory to the building. He said it is there because he wants it there, the environment is a rugby pub and the American rugby team is called the Eagles, and also because he is extremely patriotic. He feels he is being discriminated against and singled out beyond belief, and he noted that Plunge is not even close to what it used to look like. It began as a community reading room or trainmaster building, and it was moved to a City street, and somehow it changed to a bank building. He said the DRB has made discretionary judgments on other buildings and currently there are major and minor murals on buildings as well as a large peace symbol. He asked to know who is so opposed to the eagle and said he would give 100 meals to whoever could tell him what the actual objection is. He said Nathan Trivers has been highly successful running the business and he is surprised that the City could go as far as taking the eagle down forcibly.

Commissioner Beckles said she personally thinks the eagle looks good and is a nice addition to the building, acknowledged his creativity and citing of what the eagle represents as a symbol, but she asked why not go back to the DRB rather than simply defying the condition. Mr. Lompa stated he took the eagle down because its paint was peeling off and he repainted it gold. He said he personally thinks that the Historic Preservation Committee is unfamiliar with the actual rules they are working under. The Secretary of Interior's rules is nothing but flexible, which he read a portion of.

Commissioner Soto said his challenge is that Mr. Lompa, as owner, signed off on conditions at approval and there are procedures in place if one wants to modify those conditions. He questioned why Mr. Lompa is not going through that process and instead are trying to defy the City's previous condition and going into violation status and not going through due process.

Ernest Lompa, Martinez, said he owns two businesses in the City and employs about 40 people, stated "life, liberty and the pursuit of happiness" were created a long time ago and he understands that the City must enforce the law, but they are going against something that is an individual creative situation and not being held down by the government. He said Richmond is constantly being held down and taking a position on the eagle will take it down more. He said attacking his father for this is going against what this country was created on and is not right. He asked that the Commission allow individuality flourish and let Richmond grow. He cited tall cell towers on top of a 60 year old building, and he did not understand the issue, an old medical building with a medical symbol to indicate doctors are in the building, there are two crosses on top of the catholic church, and he asked to let individuality flourish.

Connie Lompa, Richmond, does not know what she can add except that this was never meant to be a statement about the structure of the building and always meant to be an ornament that represented the nature of the pub. Being married to someone who loves eagles, she has a lot of them in her home. She hopes the Commission will take this into consideration, appreciate what it represents to her husband, and that it was never meant to harm anyone.

Robert Lane, Richmond, differed with both Lompa's as the country was not necessarily based on being able to do whatever you want to do, but founded on the rule of law. The rule of law in this situation exists because the Planning Commission has three conditions of approval of the

CUP; 1) take down the eagle; 2) take Venus out of the window; and 3) the front door was not appropriate to the historical structure. Mr. Lompa has done nothing with those three conditions and is a scofflaw. The objection is not to the eagle but to the people who have made decisions for him to abide by. As Mr. Soto has indicated, there are certain procedures Mr. Lompa can use to bring this back to the attention of DRB or the Planning Commission, and he is not a victim.

There was no rebuttal period.

Ms. Whales stated there are three different options:

- 1) If grounds exist for modifying the design review permit, initiate action to modify the permit by directing staff to schedule a modification hearing on a date certain; or
- 2) If grounds exist for taking enforcement action, direct staff to either initiate an action to revoke the CUP for the property by scheduling a revocation hearing, or issue citations to the owner of the building; or
- 3) Direct staff to issue a citation to the property owner for each day of the infraction persists.

The public hearing was closed.

Commissioner Soto said to him, the matter has nothing to do about the eagle. He loves birds and eagles and to him, this seems to be a clear cut case of failure to abide by conditions and failure to take advantage of procedures that are in place to allow for requests for modifications of conditions. He asked Mr. Lompa this directly and did not get an answer as to why he did not take advantage of the process. He was looking for some mitigating evidence to determine what the motivation would be, and he has not heard this.

Vice Chair Lane agreed and felt it was more of an enforcement issue and one of non-compliance with original CUP conditions. Commissioner Soto added that the allegation was made that this is a personal vendetta against Mr. Lompa and he has not seen any evidence of this either. It is not about the eagle or about Mr. Lompa, but about following the rules.

Commissioner Choi pointed out that the standards of Richmond have been cited. He questioned if the interests of the neighborhood or those of the HPAC and standards pursued were a localized issue. Ms. Velasco said the HPAC is appointed by the City Council. There is a subcommittee that reviews DRB and Planning Commission applications dealing with historic properties, which West Richmond Avenue is a contributing structure to the Pt. Richmond Historic District. When reviewing those applications and providing a recommendation, they look at the guidelines along with the local context of the historic structure. There are various districts within the City, but while the speaker pointed out examples, not every property in Richmond is historic on the National level or the Local Register.

Commissioner Soto suggested a motion to direct staff to issue a citation.

Assistant City Attorney Renfro stated there is an additional option; the Commission could request the property owner to submit an application to modify the condition of approval so that it goes back through that process to the Design Review Subcommittee. It would return back to the DRB for consideration. The Commission could ask this be done by a date certain, and if Mr. Lompa decides not to submit by that period, the Commission could recommend staff undertake enforcement proceedings through issuance of citations or modifying the CUP.

Commissioner Beckles questioned what would be done in the meantime, as he indicated he kept the eagle up because he wanted to which is a blatant disregard to the rules. She asked to

add that part of this would require him to remove the eagle within a certain amount of time prior to this going before the DRB. Ms. Velasco said this could be requested; while Mr. Lompa's application is being considered, that he be made to remove the eagle until he obtains permission. This will then show he is acting in good faith and all of the points can be considered.

Commissioner Soto withdrew his earlier motion. He said the Commission wants to give Mr. Lompa the opportunity to enter into a procedural matter, and in good faith comply with the existing regulations. To give it more teeth, should he fail to do this during the application process and by the time the issue is heard, that penalties would be retroactive to this date should there be non-compliance during the process or by the time we achieve the hearing date.

Ms. Renfro said she was not sure the City could issue an administrative citation that can be issued for every single day the violation exists, or back date the violation. The Commission can make it a very tight schedule, i.e., take the eagle down by November 8, 2010 or citations will begin to issue on that date, and then apply to the DRB for modification of the condition and every single day the eagle remains up or is put back up, there it is a separate violation or citation.

Ms. Whales questioned if it was possible to ask the owner if this is something he would pursue in the future because he may want a final answer from the body based on staff's recommendation.

Richard Lompa said the HPAC is strictly an advisory group. The DRB is strictly an advisory group and both have no power. He suggested this example as grounds to terminate both bodies. He said he does not want the Planning Commission to postpone anything and he asked for the fullest punishment tonight. He will appeal the matter to the City Council, and he will take the matter to court because it is no different than asking someone to take a flag off of their building. He said he is not removing the eagle unless a judge orders him to remove it from the building.

Ms. Renfro stated that any enforcement decision by the Planning Commission is appealable pursuant to Section 15.04.980.030 of the Municipal Code. Decisions made by the Commission under the Zoning Ordinance with reference to its enforcement and interpretation may be appealed to the City Council as long as the decision is not prescribed as final in the individual section which authorizes the decision. She has looked into the various provisions to enforce and none of them are prescribed as final. Therefore, the Commission could not actually issue a citation before the 10-day appeal period has ended.

ACTION: It was M/S (Beckles/Soto) to direct staff to issue a citation to the property owner after the appeal period for each day the infraction of maintaining the eagle on the roof persists; unanimously approved (Duncan absent).

Ms. Renfro noted that items approved by the Commission may be appealed in writing to the City Clerk by Monday, November 15, 2010, by 5:00 p.m.

Noted Present:

Chair Duncan returned to the dais and was noted present.

- 3. PLN 10-123: New Vocational School** - PUBLIC HEARING to consider a conditional use permit for a vocational education school at 228 W. Richmond Avenue (APN: 558-140-022). MFR-1, Multi-Family Residential District. Georgena Mcdonald, owner; Kevin McDonald, applicant. Planner: Lamont Thompson. Tentative Recommendation: Conditional Approval

Lamont Thompson gave the staff report and description of the request for a CUP for a vocational education school. The school will have a total of 1 instructor and a maximum of 12 enrolled students on site at any time, open from 8:00 AM to 9:00 PM Monday through Friday; however, the applicant asks to be able to operate on weekends. The applicant does not have the ability to provide on-site parking; however, off-street parking for non-residential uses can be located on private property within no more than 1500 feet from the property line of the business. Staff has identified the lack of on-site parking as a potential impact to the surrounding neighborhood and recommends the Commission consider whether the school should be required to provide off-street parking as a condition of approval. The parking and loading standards allow the Commission to specify the minimum number of off-street parking spaces.

The applicant's attorney does not feel parking should be required and has stated through correspondence that the owner has paid into a parking assessment district in 1980 and should be given parking space credit in lieu of providing off-street parking. The parking district referred to was established to provide funds for paving and striping parking spaces along a portion of land abutting the railroad right-of-way on Railroad Avenue. Commercially zoned owners were required to pay into the district. The one-time payment made varied in amount. Staff did not find the parking district file containing records of property owner payment; however, staff asked the property owner and applicant attorney to provide documentation which was not provided that would support the claim. Recently, staff received a letter that indicated they did pay into the district. Staff believes it is highly unlikely that the residentially zoned property would be required to pay into a commercially-zoned parking district. Staff also reviewed the records and found a 1971 document and map that demonstrates this property was zoned residential.

Mr. Thompson continued, stating that the Commission through the CUP process is required to review the project's potential impacts to ensure the appropriateness of the use at that particular location. To assist the Commission, staff conducted a survey of parking requirements for trade schools in other cities and found the minimum number of spaces range from zero to one parking space for each student. Important to address is whether the Commission finds that there is adequate, existing parking in the area to accommodate the proposed use or whether approval of the project should be conditioned upon providing some off-street parking. Staff recommends the Commission receive oral and written comments from all interested individuals. Staff also received a letter from Andrew Butt that summarizes some of the concerns relating to on-street parking and their impacts to the neighborhood.

The public hearing was opened.

Public Comments:

Joshua Genser, Richmond attorney representing the applicant, apologized to the Commission and to the Pt. Richmond Neighborhood Council for the applicant not appearing before the neighborhood council and said the council will not meet until December and the applicant is willing to have the matter continued. He also emphasized that the operation is arc welding, there will be no chemicals involved, appropriate modifications have already been installed to the interior of the building which the Fire Marshal has signed off subject to the CUP approval and he

said the risk is minimal if non-existent. The only issue is the parking requirement. The three reasons he believes there should be no parking requirement is:

1. A conditional use is a use in the City by zoning ordinance that has said it wants this use in a neighborhood except that it is possible that such use would impose an extraordinary burden. He said conditions could mitigate any burden, such as parking. He said a very important point is, should an extraordinary burden going to be greater in the conditional use than it would be under a permitted use. Then, the Commission should look at the difference between the permitted use and the conditionally permitted use and say, if a conditionally permitted use will require more parking than permitted uses, then the impact ought to be mitigated. He said if the City is to impose conditions on conditional uses, comparing the building to zero use, the City would condemn most of the buildings along Macdonald Avenue, 23rd Street and Pt. Richmond. If compared to a permitted use, then the conditional uses become possible.
2. Specifically in the zoning ordinance is an entire section on parking requirements, and the preface to the chapter states, "these apply only to new developments" and do not apply to changing uses of existing buildings. By allowing the parking requirements to be a condition under the CUP, staff is asking to shoehorn a requirement not in the zoning ordinance into it. They believe this is also inappropriate.
3. He said unfortunately, the City has lost all records of the Parking Assessment District. The owner of the property is elderly and ill and does not have her check register from 30 years ago, but she specifically remembers paying into it because she actively fought against the District and remembers Mr. Butt coming to her home to convince her to try and support the District. And, when she lost the battle, she had to pay into it. Therefore, her property should receive credit for having contributed to the addition of parking in Pt. Richmond.

Mr. Genser said lastly, his client did strike a deal with the Catholic Church across the street to use three spaces in their lot, but he still does not want the Commission to impose this as a condition. He hopes that the Commission is convinced that the project is worthy and not impose the parking condition and not act on it until January, as they must appear before the neighborhood council.

Kevin McDonald, Richmond, said his dad and uncle were welders at the Richmond Shipyard during the war and he is semi-retired machinist and welder, and it has been his dream to work with the youth in Richmond. He thinks the school would be a great thing for students and he hopes to get a chance to train welders toward them having a good career.

Michael Becker, Richmond, said they want to be able to open the school and train students. They have 50 on a waiting list and most are from single parent homes who are on the verge of either failing or having an opportunity to learn a trade and join a union. He said they can provide state certification, take them to the union and get them a job. He discussed his and his family's ties to Richmond and he hopes to get the kids trained for a livable wage and get them off the streets and away from crime.

Chair Duncan said the hours of operation range between 8:00 AM and 9:00 PM, assuming people who work during the day would have night classes, or those who work in the evening would start early in the morning. He questioned whether there would be 12 students staggered across the day or would it be 12 students between 9:00 AM to 5:00 PM and then another set of students in the evening. Mr. McDonald said proposed is 12 students per 4-hour class, and 2 or 3 shifts throughout the entire day.

Chair Duncan referred to gas welding condition, and said Commissioner Lee is a racing car driver who has an interest in welding and he questioned whether or not the education should include gas welding. Chair Duncan stated that gas welding would preclude the use of this property for the applicant's purpose. Mr. McDonald agreed and said it would only be arc welding which would provide students with their qualification to the union, and they would take the rest of the training to move forward.

Chair Duncan referred to the issue of parking, and noted that, there are spaces at the parking lot across the street.

Chair Duncan said having a welding operation in the middle of a wooden historic downtown makes people nervous, and he thinks it would be wise for the applicant to appear before the neighborhood council to discuss both the parking issue and specific use with neighbors.

Commissioner Beckles referred to correspondence and disclosing correspondence with the community, she received an email from the community requesting anonymity and confirmed that the Commission and staff had received it and has read it. She asked whether it should remain anonymous. Ms. Renfro said if a member of the public submits it to the Commissioner, it is considered public. Commissioner Choi noted the email was forwarded by another individual and Ms. Renfro said once it comes to the Commissioner, it is still considered public. Chair Duncan suggested staff make the email available to the applicant.

Commissioner Choi said parking is the main issue and he asked what the number of required spaces in a permitted use would be. Mr. Thompson said there is a list of permitted uses. Requirements for parking for residential zone is 2 spaces, buildings in the commercial district are not required to have any parking; however, in this case, the applicant is not permitted under the permitted uses and permitted under conditional uses and the Commission is supposed to review the specific impact that the use imposes upon the community. In the zoning ordinance, no number is specified, and the Commission has total discretion of assigning a number. He polled the City of Oakland, Novato, and San Pablo to find out what they do in their jurisdictions. Oakland does not require parking in parts of town where there is public transportation. In Novato, it is 1 space per 500 square feet. If this was applied, no parking would be required if the school were in Oakland. In Novato, the requirement would be 3 spaces. San Pablo requires 1 space per 150 square feet. He left this up to the Commission and he was hoping that the community would provide more input and steer the Commission toward a decision.

Tom Waller, Hercules, Richmond Chamber of Commerce Board of Directors, presented a letter signed by Judith Morgan, President of the Chamber, said the Board considered the matter and brings no particular recommendation or position, but underscores the notion of precedence with regard to the conditional use. He said any use of land or building in Richmond brings with it potential impacts, and the Commission's role is to identify mitigation of any impacts. He hopes that the consideration for a conditional use is done in accordance with what permitted uses would have and not compare it to zero use. There is some parking impact associated with permitted uses in the area and there is no evidence that all 12 students would have a car, whether there is public transportation, and their point is to ask the Commission to consider any impacts or potential mitigation of a conditional use associated with what impacts are associated with permitted use and not with no use. On a personal note, everyone is interested in economic vibrancy in Richmond, and there is a hope that an overriding law is one of reasonableness.

Robert Lane, Richmond, said he thinks the project is laudable both from a use standpoint and from a business standpoint and should be supported. He is on the land use committee of the Pt. Richmond Neighborhood Council, and he thinks that perhaps comments that local input might be best served when the matter is returned. He confirmed with Mr. Thompson that the request is a permitted use with a CUP and that if an application came in for a multi-family use for 5 or 10 units, then he confirmed that parking would be needed depending upon the bedroom count. He asked that all information be sorted out with the thought that the school is something needed as a business and resource for Richmond youth. He also questioned the number of instructors and the total number of students which is something to take into consideration when the item returns.

Commissioner Soto questioned if it was contemplated that students would have to transport equipment or materials relative to their training on a daily basis. Mr. McDonald stated the school provides all of the equipment as well as helmets and gloves. He confirmed some students may be riding by motorcycle or bicycles, and noted that many that have registered are taking the bus which is located down the street.

Chair Duncan questioned building upgrades to accommodate arc welding, and Mr. McDonald stated they have already completed the upgrades which are subject to the approval of the CUP. The Building Division wants to resolve closure of a skylight issue. They have already done the fireproofing of the sheetrock, steel fabrication, everything considered flammable has been addressed, and all electrical has been upgraded, as well as the requirement for a disabled accessible restroom.

Chair Duncan said because the item will return in January, he left the public hearing open.

ACTION: It was M/S (Soto/Choi) to hold over PLN-2010-123 to the January 6, 2011 Planning Commission meeting; unanimously approved.

COMMISSION BUSINESS

4. Reports of Officers, Commissioners and Staff

Ms. Velasco reminded the public and the Commission that on Monday, November 8, 2010 at 6:00 p.m., the City will be having a Community Input Session to review the draft goals and policies and implementing actions of the Draft Housing Element. There will be Spanish translation provided at the meeting. Staff will also provide a deadline at the meeting to receive written comments from the public. Draft findings, goals, policies and implementing actions are available on the City's General Plan Update website.

Commissioner Soto acknowledged the Spanish translation and questioned staff's outreach strategy on both the Spanish and Mien speaking community. Ms. Velasco said as part of the City's Health and Welfare Element, staff has been working with various schools in Richmond and non-profit community-based organizations on outreach, and has prepared a Spanish flyer. However, the entire document is not translated and she said comments will be taken and considered. Staff also sent out email blasts and has provided significant outreach. In terms of the Mien population, staff has not provided this type of translation in the past, but if needed, can provide it which will require an additional meeting.

Commissioner Soto stated that much of the language can be technical in nature for lay people. He asked that, if possible, a synopsis document be provided in Spanish.

Vice Chair Lane echoed sentiments of Commissioner Soto and supported community outreach beyond posting on the website, Spanish translation, and suggested that organizations be asked to provide translation services, as well. She asked to identify when the Study Session will occur so people can plan accordingly.

Commissioner Soto said he is proud of the City of Richmond. He said the election was the most expensive ever in the City and much of it was focused on misinformation and distortion, and he was glad that the City is moving in a new and better direction.

Adjournment

The meeting was adjourned at 9:07 p.m.