

PLANNING COMMISSION MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL
1401 Marina Way South, Richmond, CA
September 1, 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 6:35 p.m.

Chair Duncan read an email received from Vice-Chair Sheryl Lane regarding on the birth of her son, Ashton, who was born at 10:30 p.m. on Monday, August 29, 2011, weighing in at 7 lbs., 2 oz. and 19.6" long, and she and her husband are thrilled.

Chair Duncan led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Duncan, Secretary Lee; Commissioners Choi, Reyes, and Teltschick-Fall

Absent: Vice Chair Lane and Commissioner Soto

INTRODUCTIONS

Staff Present: Lamont Thompson, Jonelyn Whales, Richard Mitchell, Carlos Privat, and Kieron Slaughter

MINUTES

July 7, 2011:

ACTION: It was M/S (Lee/Teltschick-Fall) to approve the minutes of July 7, 2011; 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, September 12, 2011, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

CONSENT CALENDAR

Chair Duncan noted there were two items on the Consent Calendar; Items 1 and 2. He asked whether members of the public, staff or the Planning Commission wished to remove any item.

Commissioner Teltschick-Fall requested removal of Item 2 from the Consent Calendar.

ACTION: It was M/S (Choi/Reyes) to approve the Consent Calendar consisting of Item 1; carried unanimously.

Consent Calendar Items Approved:

1. **PLN11-083: 700-Auto Service & Training Center Conditional Use Permit - PUBLIC HEARING** to consider a request to operate an automotive repair and training facility at an existing automotive retail center at 12380 San Pablo Avenue. (APN: 519-200-016). C-2, General Commercial District. ACFI 1999-2, LLC, owner, Hee Lee, applicant. Planner: Jonelyn Whales

Brown Act – Public Forum – No speakers

Item Removed from the Consent Calendar:

2. **PLN11-469: Golden 7 Quick Stop Conditional Use Permit - PUBLIC HEARING** to consider a Conditional Use Permit for an eating establishment as part of an existing convenience store and gas station at 575 23rd Street (APN: 514-220-032). C-2, General Commercial District. Guadalupe Garcia, owner; Norris J. Mitchell, applicant. Planner: Kieron Slaughter.

Chair Duncan stated there is no applicant present for the public hearing, but suggested hearing the item.

Kieron Slaughter stated the applicant is requesting Commission approval for a Conditional Use Permit to allow an eating establishment at an existing gas station and convenience store at 575 23rd Street with the proposed hours of 6:00 – 9:00 p.m. The applicant also plans on remodeling the existing kitchen and selling typical fast food items in addition to groceries, beverages and snacks. The site is in the Beldan Woods neighborhood and was originally developed as an automobile service station providing gas and automobile repair and the Golden 7 Quick Stop Food and Gas has been operating for the past 10 years at the location, and has also maintained an active ABC license which is deemed approved at this time.

In addition, the location also has a permitted florist in operation on the site and the applicant proposes to make additional improvements to the site that the applicant and staff developed. Those include the parking lot being resealed and re-stripped, identify parking, the dumpsters being relocated and screened, improvement of the façade for a new front sign and removal of bars and clutter in front of the window.

Mr. Slaughter stated staff heard from the Beldan Woods Neighborhood Council and they have taken no position.

Lastly, staff also is recommending some additional landscaping so it matches the overall improvement to the site and those conditions are located in the resolution. Staff added additional safety conditions, and in conclusion staff recommends approval of this project, believes it is compatible with the surrounding vicinity, and meets the applicable zoning, landscaping and parking requirements.

Secretary Lee questioned whether the store has a new owner thus necessitating CUP approval. Mr. Slaughter replied the applicant is adding a new use to the site for serving hot food, and a CUP is required for eating establishments.

Commissioner Teltschick-Fall said she visited the site and she asked if there is a mobile florist on site. Mr. Slaughter replied yes, stating the florist sets up shop on an interim basis, sometimes on the weekends or for holidays. He has been there a few times and noted they operate around 5 or 6PM depending on the weather, and he noted their location is depicted on the site plan.

Commissioner Teltschick-Fall commented that the merchant is requesting fast food and the City does not yet have a healthy food ordinance, but until one is adopted, the City does have a policy to encourage healthy food, particularly in certain neighborhoods. She went inside the store and they do have a variety of canned foods which indicates demand; however, the majority of foods are chips, candy, and beverages. She noted the store was very clean and orderly, but she saw a lot of possibility for healthy improvements. She said Janet Johnson works with the business community on energy efficiency audits, and asked if staff could approach her to work with the applicant. Mr. Slaughter said while he was not sure there was a nexus and the actual application, he could encourage the applicant to sell healthy foods.

Commissioner Teltschick-Fall said the City has a vibrant community of growing and selling fresh foods and matching a retailer with a supplier is the best way to grow the economy in the supply of healthy foods in neighborhoods. She agreed to provide a contact for the Agriculture Council to Mr. Slaughter. She also noticed the wall in the location of the florist and suggested a mural. Regarding the outside of that shop, it was not clean and cars were racing through the area. She suggested speed control as well as some plantings for the other wall which is used for parking which she felt would provide a nice visual appeal.

Commissioner Reyes supported Commissioner Teltschick-Fall's suggestion, thanked the business for improving the site, and noted the County is moving quickly to establish a healthy food ordinance and is close to enacting this. They are asking some of the vendors for the County to provide more healthy food and snacks, and he agrees that more than likely it will be some fast food, but it is an opportunity to enlighten the community, particularly that area where there are many school aged children. He also said that in terms of the local vendors and producers, he would look to newly established co-ops to provide some assistance which would retain business in Richmond instead of people going elsewhere to purchase fresh foods.

The public hearing was closed.

Secretary Lee made a motion to approve the item, applauded staff's efforts to improve the visuals at the site, and asked to add two conditions which will enhance this further. He referred to Attachment 3 and the unsightly billboard sign, which is inconsistent with what the City wants along 23rd Street and is of no benefit. He asked that the billboard be removed at the owner's expense.

Mr. Privat said the Commission is restricted from doing this as a condition of approval, as the owner must indicate their consent of this. Secretary Lee said CBS is the owner of the billboard, it is a leased sign, and he would like this condition added if possible. The next condition is that parking be limited to 2 hours. There is a white van which is utilized to perform the business of the florist. Part of conditioning for mobile vendors is for them to have parking on-site.

Mr. Privat asked if Secretary Lee is asking to limit street parking to 2 hours. If so, the Commission would need to go through Public Works to accomplish this. He added that the Commission could not make this a condition for this project, as the project is a request for allowing food in an existing establishment.

Director of Building and Planning Services, Richard Mitchell said the approval cannot be conditioned on anything relating to the public street. As a result of this discussion, staff can contact the City Engineer to determine where they are in planning for timing of parking and where in the City can 2-hour parking be established versus all day parking. Regarding the billboard sign, staff would need to review its updated sign ordinance and process for removing a sign.

Secretary Lee disagreed, stating the sign is a large part of the look and function of the site and business in general. Mr. Mitchell suggested the Commission direct staff to further research these two items, but the conditions could not be tied into the motion as part of approval. Mr. Privat concurred, and added that signs carry First Amendment rights that go beyond land use and approvals.

Chair Duncan acknowledged the sign issue, but relative to parking, there is a lot of parking on site. He asked if it would not be appropriate, based on the mobile vendor issue, to ask that the florist van be parked in the lot rather than on the street. Mr. Privat suggested review of the CUP for the florist and said the van is most likely required to be parked on the lot and enforcement could be taken up. Mr. Slaughter clarified that the florist is not considered a mobile vendor. He agreed to look into the parking regulations for the florist operation, but said enforcement of parking regulations of 'for sale' automobiles are also a challenge for 23rd Street.

Secretary Lee said he did not agree with staff's assessment and maintained his original motion.

Commissioner Teltschick- Fall questioned and confirmed with Mr. Slaughter that the DRB did not review the request. She said that since the applicant is not present, she suggested the item be continued until more information is known. She asked the City to provide more assistance to this business and encourage them for healthy choices, as well as look into the possibility for a mural, the removal of the billboard sign and the van parking issue, as well. Mr. Slaughter noted that the applicant did seek professional experience from a sign company to develop the façade. Commissioner Teltschick-Fall said, however, there were no before or after photos of what the improvements would look like after clean-up.

Secretary Lee supported continuance of the matter to understand visually what the business will look like, and this would also allow staff to follow up on issues with the sign and parking, and determine whether conditions could be imposed. Mr. Slaughter noted the sign specifications include wording that states, "All existing window signs will be removed and existing top window panes will be boarded flush to match the wall. Existing bars on the windows will be removed." He said in terms of the billboard, the City Attorney indicated his advice and he agreed that to add a condition of approval that the applicant cannot operate until a billboard is removed requires a nexus. He noted that the applicant was already agreeable to improvements to the site as far as striping and resealing.

Chair Duncan said if the Commission were to approve the request, understanding the billboard issue cannot be conditioned, he asked how it would be pursued as an issue, given there is no nexus for this application. Mr. Privat said the Commission would simply ask staff to work with the applicant to remove the sign and serve healthy food, but the CUP could not be conditioned

on having this done. He reiterated that the CUP is to sell food under the existing establishment, and he cautioned the Commission to force such conditions. Mr. Slaughter stated staff could work with the Engineering Department to follow up on the request for 2-hour parking, as well.

Commissioner Teltschick-Fall asked if a condition could be placed on the applicant to require fresh foods be sold. Mr. Privat said no; there is no ordinance that mandates individual applicants to do this.

Chair Duncan asked if Secretary Lee would like his motion voted on or withdraw it. Secretary Lee said he would accept holding the item over to better vet the issue regarding the billboard. He thinks it is integral to the parking lot, as there are other conditions for the parking lot. Details about the sign can be taken up at the next meeting. Mr. Privat said the request is a CUP to serve food. Secretary Lee said the Commission has put conditions on the CUP relative to the appearance of the facility and the parking lot in Condition 12.

Chair Duncan said he believes the parking lot is a possibility. He thinks the sign is a thorny issue and he thinks it can be addressed and in time removed, given a process. More importantly, he is worried that the Commission does not allow the business to operate in the meantime. He suggested making a commitment to pursue the issue of the sign apart from the CUP and to have staff work with the Engineering Department to address the parking. Mr. Slaughter concurred with this suggestion.

Chair Duncan supported taking a vote on the original motion.

Commissioner Choi said while he knows all Commissioners have preferences for certain conditions, he can also see difficulty for the small business owner to perform to everyone's satisfaction. He said when first shown, the City was very happy with the scope of improvements, and he therefore did not want the perfect to become the enemy of the good in this situation.

Chair Duncan confirmed there was no second to the motion. Secretary Lee withdrew his original motion.

AMENDED MOTION: Secretary Lee made a motion to continue the item in order to determine what the establishment will look like when completed and to further pursue the issue of the billboard sign removal as part of the parking lot improvement conditions. There was no second to this motion.

Mr. Privat said if the Commission did not have information it needs to make a decision, it could certainly hold over the item and request more information.

Chair Duncan summarized the request for information as: 1) determining who the owner is of the billboard sign and its prognosis; and 2) discuss with Engineering Department to determine whether 2-hour parking can be established.

Secretary Lee said Commissioner Teltschick-Lee also requested a rendering to see what the façade will look like. Mr. Slaughter pointed out this is not a design review application, and staff must be fair to the applicant that if they are simply applying to serve food, the item provides related details. He said if Commissioners or Boardmembers want to provide volunteer or pro bono work to the applicant, it can, but staff feels sufficient information has been provided for the application at hand.

Commissioner Teltschick-Fall agreed to provide her comments to staff and did not support holding it over. Mr. Slaughter added that the applicants have been very cooperative and agreeable in the process and said he could discuss with them the possibility to serve healthy foods, work with Engineering on parking, and further research the billboard, but to hold them hostage until these things to be resolved could take some time and there is also no nexus.

Secretary Lee noted these items are not design review related items, but items related to approval of the CUP. Mr. Thompson said items addressed in the staff report were more related to health and safety and visibility for police. Signage was removed from windows to improve safety. They also asked the applicant to change some of the signage on the façade because the sign was put up without a permit and did not conform to the sign area requirements. This is why the new sign is proposed. With regards to the parking lot, the nexus is that the applicant is proposing an eating establishment, and staff wants clearly defined parking spaces. The applicant agreed to pave over the lot and stripe it. There are not any real design issues and staff is simply trying to address the health and safety of it. Secretary Lee noted that Conditions 13-15 address this.

Commissioner Choi said he is concerned that the applicant's good faith efforts to improve the site have opened the door for problematic situations as a result of adding food to the business. He expressed that he did not want to set a precedent that the Commission, while receiving an inch, will take a kilometer.

Chair Duncan said the original motion was withdrawn. There is a suggestion to hold over the application one month until additional information is obtained from staff. By doing so, the owners will be held up, and he asked for an alternative motion.

Commissioner Reyes thanked the owners for improving the site and corridor.

ACTION: It was M/S (Reyes/Teltschick-Fall) to approve PLN11-469: Golden 7 Quick Stop Conditional Use Permit, and (as amended by Chair Duncan) to ask that staff pursue the issue of parking with the Engineering Department and pursues recommending to the owners that they serve healthy foods; the motion carried by a vote of 4-1-2 (Lee voted no; Lane and Soto absent).

Chair Duncan said items approved by the Commission may be appealed in writing to the City Clerk by Monday, September 12, 2011, by 5:00 p.m.

COMMISSION BUSINESS

2. Reports of Officers, Commissioners and Staff

Chair Duncan reported receiving an email from Commissioner Teltschick-Fall earlier this week notifying that she had been fined for not filing for Form 700 – Statement of Economic Interests, after not having received enough notification. Two other Commissioners received 2 days' notification prior to the penalty being enforced, and he commented that Commissioners were volunteers and should not be charged for doing a volunteer job.

Mr. Mitchell reported that on Tuesday, September 13th, staff has scheduled a Retreat for the Commission from 9:00 a.m. to 3:00 p.m. at the Harbor Master's Office. He also announced that Planning held their first meeting with property owners of multi-family buildings to assist in

crafting a soft story program to address building and structural problems with buildings that may have a very soft first floor. It will be a community outreach effort that will run for several months. The website is being updated with links of other cities' information.

He also reported that the City received an \$800,000 grant to develop a form-based code for all corridors in the City. Daniel Perlit with Optikos Design is the lead on the program and he will work on simplifying the process of filling in auto-centric locks located in some of their key corridors, such as the West Coast Motors site and its development potential in the future.

Lastly, he reported a good deal of tenant interest in both of the vacant grocery stores at the corner of MacDonald and San Pablo Avenue. An environmental remediation contractor has been in the old store to clean it out and make the shell more attractive for a new tenant.

Commissioner Teltschick-Fall commented that receipt of the grant is great news. She asked and confirmed that the effort will be combined, as there are several firms involved, as well. She asked what types of uses are proposed for the MacDonald and San Pablo Avenue sites. Mr. Mitchell said it is still a range of possibilities. The ex-Safeway site is not likely to have another grocery store for some time. However, on the ex-Albertson's site, a grocery store could come in because the long-term restriction has expired.

Chair Duncan questioned and confirmed Mr. Slaughter was aware of the CATS program in San Francisco which focuses on a soft story ordinance, and Chair Duncan agreed to forward additional information to staff.

Commissioner Reyes referred to the Lucky's site on San Pablo Avenue and the old Hacienda Restaurant and confirmed that both are owned by the same owner.

Adjournment

The meeting was adjourned at 7:32 p.m.