

**DESIGN REVIEW BOARD MEETING**  
Multipurpose Room, Civic Center Building, Basement Level  
450 Civic Center Plaza, Richmond CA 94804  
March 27, 2013  
6:00 p.m.

**BOARD MEMBERS**

|                   |                          |
|-------------------|--------------------------|
| Ray Welter, Chair | Brenda Munoz, Vice Chair |
| Robin Welter      | Eileen Whitty            |
| Mike Woldemar     | Don Woodrow              |
| Brant Fetter      |                          |

Chair Ray Welter called the meeting to order at 6:04 p.m.

**ROLL CALL**

**Present:** Chair Ray Welter, Vice Chair Brenda Munoz, Boardmembers Brant Fetter (arrived late), Robin Welter, Eileen Whitty, Mike Woldemar and Don Woodrow

**Absent:** None

**Staff Present:** Jonelyn Whales, Hector Lopez and James Atencio

**APPROVAL OF MINUTES** - None

**APPROVAL OF AGENDA**

**ACTION: It was M/S (Whitty/Woldemar) to approve the Agenda; unanimously approved (Fetter absent).**

**Public Forum - Brown Act** - None

**CONSENT CALENDAR:**

Chair Ray Welter noted the agenda consists of two Consent Calendar items. Item 1 is withdrawn from the agenda and Item 2 is recommended to be held over to April 10, 2013.

**ACTION: It was M/S (Woldemar/Whitty) to approve the Consent Calendar consisting of Item 1 (withdrawn) and Item 2 (hold over to April 10, 2013); unanimously approved (Fetter absent).**

**Items Approved on the Consent Calendar:**

**CC 1. PLN11-010 AT&T WIRELESS TELECOMMUNICATION FACILITY**  
Description **(HELD OVER FROM 3/13/2013)** REQUEST FOR DESIGN REVIEW APPROVAL TO INSTALL A NEW WIRELESS TELECOMMUNICATION FACILITY CONSISTING OF A 64-FOOT FAUX EUCALYPTUS MONOPOLE TREE AND ASSOCIATED EQUIPMENT.  
Location 4075 LAKESIDE DRIVE  
APN 405-371-010  
Zoning M-1 (INDUSTRIAL/OFFICE FLEX DISTRICT)

Owner CALIFORNIA AUTISM FOUNDATION  
Applicant TRILLIUM CONSULTING ON BEHALF OF AT&T  
Staff Contact HECTOR LOPEZ **Recommendation: WITHDRAW FROM THE AGENDA**

**CC 2. PLN12-214 FILBERT TOWNHOMES DEVELOPMENT**

Description DESIGN REVIEW APPROVAL TO DEVELOP A 43-UNIT INFILL HOUSING PROJECT CONSISTING OF SPANISH COLONIAL TOWNHOMES ON A ±51,000 SQUARE FOOT PARCEL.

Location 1300 FILBERT STREET  
APN 561-192-029  
Zoning SFR-3 (SINGLE-FAMILY LOW DENSITY RESIDENTIAL)  
Owner COMMUNITY HOUSING DEVELOPMENT  
Applicant COMMUNITY HOUSING DEVELOPMENT  
Staff Contact JONELYN WHALES **Recommendation: HOLD OVER TO 4/10/2013**

**BOARD BUSINESS:**

**A. Staff reports, requests, or announcements**

**1. Study Session – Parking Lot Standards, Landscape Bond, and Signage**

Ms. Whales indicated she distributed sections of the City’s zoning ordinance for the parking lot diagram submitted to the DRB in October as well as an attached memorandum which she and Hector Lopez reviewed in response to Boardmember Woldemar’s comments. She also distributed sections 15.04.820 and 15.04.810 of the zoning ordinance which is what the diagram is based off of.

Chair Ray Welter questioned whether landscaping and parking would be discussed at the same time.

Boardmember Woldemar said what triggered the study session for him was so the Board could talk about and interpret what the zoning ordinance says because of its vagueness. When the Board reviewed the grocery store at the Lucky’s/Albertson’s site at Macdonald and San Pablo, he thought there should be a tree in the parking lot for every four parking space, but this was not approved. In addition, the ordinance requires “10% of the site area shall be landscaped”, there is an additional requirement that “10% of the parking area shall be landscaped” and in addition, “every fourth car shall have a tree.” Therefore, he questioned the boundaries of each of these 10% requirements. He referred to the diagram which includes all front yard landscape and in his mind; this is not part of the parking lot but part of the site. Therefore, there would have been more landscaping in the parking lot. He believes parking lots should include landscaping for peninsulas, the 90 degree corner where one changes direction in a parking lot, and also the area outbound of the curb, whether it is a tire stop or the sidewalk curb.

Mr. Lopez said another question is whether these requirements apply to required parking. In some instances, such as the warehouse project, there was more parking that was designated for employees and customers, as well as truck parking. Boardmember Whitty said because the applicant had more parking in the plan, the DRB could only require that the required parking area be properly landscaped and not the excess area. She thinks in that case, something new should apply like a lesser restriction or increase the amount of site landscaping. Boardmember Woldemar thought that the ordinance is silent on this issue.

Mr. Lopez said the section talks about the parking standard for different land uses. Chair Ray Welter read section A which states, "All commercial/industrial off-street parking area shall be provided with drought-resistant live plant material over a minimum of 10% of the parking lot area. At least 50% of the required landscaping shall be interior to the parking lot area." Therefore, it just refers to parking lot area.

Boardmember Woldemar referred to page 203, Landscaping Requirements, and under Part B, it states "Parking Areas"; "In addition, a minimum 10% of all site area devoted to parking shall be landscaped unless otherwise specified by the Development Review Organization (DRO)." This is the topic that came up and that DRO is similar to the DRB. Therefore, the DRB could grant a variance on this particular statement. In principle, if they were in Davis or Sacramento, the objective is to get shade over cars. The purpose of requiring landscaping in parking lots was to break up the scale, break up the sea of asphalt and help the visual impacts of it. He suggested looking at the back side of the Ford Building which has no landscaping. Unfortunately, there are no rules in place to tell the Board this is how it should be interpreted. It seems that there needs to be some sort of policy statement that gets passed down all the way through the structure so everyone is playing by the same rules. He said another example is what to do with a retail car lot. Clearly all the designated visitor and employee parking should be done. The other part of the lot should not be treated differently than the sales yard in front of Costco and Home Depot. There are some exceptions which could be cataloged and done.

Boardmember Woldemar said another example that would apply here is the Kaiser Hospital surface lot. In the middle are a couple of bio swales which is clearly part of the parking lot and should apply to the tree count based on his interpretation.

Chair Ray Welter asked if the tree count has a minimum parking lot size it applies to or is it general. Boardmember Woldemar said it must be a 12-car lot before it kicks in the standard, but this is not to say there is not a landscaping requirement. This is to say there is no tree requirement until the 13<sup>th</sup> car is added. Chair Ray Welter noted that the diagram has 13 cars and is missing trees, but he recognized that for this kind of parking lot, it would be difficult to plant 4 trees. Ms. Whales said it is especially difficult given there are 3 existing trees in the parking lot.

Boardmember Woldemar said this is supposed to be counted and done at the site plan development stage. If trees cannot be located, a variance is needed and he does not see the DRB making exceptions for this. More difficult is the C3 element. Boardmember Robin Welter said this will become stricter and in a heat island effect, she questioned whether an overhead structure would count in the percentage of square feet that is covered or shaded. Chair Ray Welter clarified there is no current shade requirement in the City of Richmond.

Boardmember Whitty questioned whether green roofs would count as part of the required landscaping for the site. All board members felt technically it should because it meets the requirements. Boardmember Woldemar said this touches on the next point—the recommendation for landscaping for maintenance purposes. The City requires trees and planting be put in but the next year it could be dead and there is no easy recourse. Ms. Whales briefly discussed the release of a \$100,000, 20-year development bond posted by the owners, Seres-Regis, owners of the land that the Whole Foods development is built on requires landscaping.

Boardmember Woldemar said the landscape requirement for commercial is not that different for industrial. Mr. Lopez said the reason is because of setback requirements. Normally commercial properties are adjacent to residential uses which trigger landscaping requirements.

The Board discussed the definition of parking lot area which is where “cars go” and Boardmember Woldemar questioned the side areas, which are inside the parking area. Boardmember Whitty disagreed and felt the small strip areas should be included as part of the parking lot landscaped areas. Chair Ray Welter said they are talking about landscaped areas and not the trees or percentage of site versus percentage of parking. Boardmember Woldemar referred to the industrial parking lot reviewed by the Board a couple of weeks ago and said the parking was set back from the main street 30-50 feet. He asked if the slice of landscaping on either side of the driveway from the public sidewalk all the way into the curb should be part of the landscaping applicable to the parking lot requirement of 10%. Boardmember Whitty said it either is or it is not. Boardmember Robin Welter said this is designed as a separate concept typically than the parking lots itself; it will blend into something else in the future. Chair Ray Welter said if this count as part of the parking lot and all landscape requirements can be put there, he asked what about the rest of the parking lot. Using that argument, he would say this is not part of the parking lot. Boardmember Whitty suggested the Board define the “parking lot” and Ms. Whales said this was difficult and staff needs guidance to distinguish what the Board considers as a parking lot.

Boardmember Whitty said whether the driveway is 10 inches or 100 feet, this is not part of the parking lot, and Chair Ray Welter noted it will start with the first parking stall after the driveway entrance.

Ms. Whales asked about the drive stops and where there is parking on the sides of a lot. She asked if they were including this, as well. Boardmember Woldemar pointed to his sketch of the area devoted to parking or vehicular access. The heavier areas equal 10% of the bigger area, whether it is in blocks like he presented, or peninsulas, or corners. Mr. Lopez asked if the area down on the left side would count, and Boardmember Woldemar said no; this is part of the site area in his opinion and part of the 10% of the site, which is a calculation.

Chair Ray Welter said the way Boardmember Woldemar has drawn it makes sense in relation to the parking areas, which are the same as the landscaped areas. It is the same idea where you have a landscaped area and curb, which is where the parking starts. He indicated that this is probably where a bio swale might be placed on the site.

Boardmember Woldemar said he was looking for consensus as the ordinance provides too much flexibility. Boardmember Robin Welter thinks it should be back of curb to back of curb and she thinks circulation is separate from parking. If the site is restricted and they want to install less trees, they could apply for a variance in terms of an exception or exemption. However, he believes the Planning Commission and City Council should grant these and the DRB should indicate this in the minutes; that they are making an exception and identify the reason.

Boardmember Woodrow said Boardmember Woldemar has been thinking about this for a long time. He saw this diagram after 7:00 p.m. and he is not on board with it. He asked if there has been anything said that will involve the City Code being changed. Ms. Whales said no; we are just discussing a graphical interpretation of the current text. Boardmember Woodrow asked where this appears so that applicants can see it. Boardmember Woldemar said on the website today one would find the drawing which is public and the staff’s presentation of their collective view of what the ordinance says. Boardmember Woodrow said as soon as someone talks about what the ordinance says, he asked if this would require a change in the ordinance so it is clear, and therefore, wouldn’t the Council have to vote on this. Ms. Whales disagreed and said the Planning Director has the ability to set policies based on interpretations of the actual text in the zoning ordinance, this privilege is published in first section of the zoning ordinance. Chair Ray

Welter noted that the County Board of Supervisors for San Francisco has bulletins that interpret things they add as something printed, and this could be done similarly for Richmond. Ms. Whales read the beginning of the Section 15.04.330.030 of the Zoning Ordinance which states, "Similar uses may be permitted by interpretation of the Planning Director or designee."

Chair Ray Welter said if the DRB tightens up the language, he asked how the applicant would receive this information. Ms. Whales said it is on the website and there is a hard copy at the planning counter. If changed, we will switch the revised version with the existing.

Boardmember Woldemar noted that in the enabling ordinance for the DRB under the responsibilities section, Item 3; "Whenever there is any question regarding the interpretation of this chapter or its application to any specific case or situation, the DRB shall interpret the intent of the chapter by written decision and such interpretation shall be followed in applying said revisions."

Boardmember Woodrow referred to what applicants will get and he asked that it be in print and on-line which would be very helpful, to which the Board and staff agreed.

Chair Ray Welter clarified that staff has enough to finalize the parking area language. Boardmember Robin Welter asked about identifying where trees are located; after the wheel curb or located in the parking lot. Boardmember Woldemar said the ordinance states "in the parking lot" and the Board defined the parking lot as back of curb to back of curb, and the exterior of the parking lot is clearly not and is part of the 10% site area, and trees need to go in the cross hatch area as illustrated on the diagram.

Noted Absent: Assistant City Attorney Atencio was excused at 6:40 p.m.

Chair Ray Welter said they would not change anything with the trees because it says "within the parking area" which is straight-forward. Mr. Lopez clarified with Boardmember Woldemar that it means that trees in the parking lot is back of curb to back of curb and not the perimeter, the objective of which is to break down the scale of the parking lot. He said pedestrian walkways through the lot are part of the landscaping, but trees around the perimeter and not within the parking lot are not applicable. What are not defined are trees in the site's 10% area is up to the landscape designers, and the Board can ask them to put in more trees. Boardmembers discussed the Grocery Outlet application and when the change of use triggers new site percentages for parking.

Chair Ray Welter concluded the parking and landscaping discussion. He referred to the landscape bond, and Ms. Whales distributed language for the landscape bonds. She said once the City moved from Marina Bay, they no longer had a safe on site to hold the bonds, although Finance can maintain them if a program is implemented. There have been projects in the City which required landscape bonds in the past and some that did not. The last subdivision requiring a bond in the City was Signature Properties residential development in Marina Bay. These types of bonds do not come up often. At this time staff is trying to determine when they would need to require a certificate of deposit or a bond from a surety company.

Chair Ray Welter questioned and clarified what Chapter 15.04.8.20 stated, and Ms. Whales said it was part of the commercial landscaping. It does not go into detail about landscape bonds and staff could not find any language regarding the posting of bonds. Staff did not want to go too far back with the landscape design and development guidelines but it does not mention bonds. It

only states that landscaping needs to be maintained. Although in the past, staff has always required bonds for landscaping with larger projects.

Chair Ray Welter questioned and confirmed that bond language will be folded into this as the ultimate intent, and it will need to go through the Planning Commission and to the City Council. Boardmember Woldemar said when a set of conditions is written for any commercial project of which there is landscaping, staff will include a condition that states something to the effect that the applicant or owner shall execute a landscape bond in the appropriate amount prior to the issuance of a certificate of occupancy similar to when there is a secondary unit, staff shall write in there shall be a recording that the secondary unit goes on for perpetuity. It expands the conditions but makes the applicants aware that there will be the need for a bond for a certain amount and time, and staff will simply need to work out the right kind of language to indicate when it does not apply. Boardmembers favored this language for commercial projects and industrial projects.

Boardmember Woodrow questioned how the bond amount is set, and Ms. Whales said staff bases it on the valuation of landscaping materials. Boardmember Woldemar said some jurisdictions require that the applicant provide a cost estimate made by the appropriate landscape professional as a way to validate this.

Chair Ray Welter questioned if staff was thinking about a minimum project cost before this kicks in or if it is industrial or commercial, the applicant would pay some sort of bond. Ms. Whales said this is why staff is bringing this in front of the Board, as they need to establish that threshold. They always thought about the larger subdivisions of 20 or more units, but they need to be specific for staff to implement. Boardmember Woldemar said when 4-plexes were built, they would be required to plant the front yard, common open space in the back and they would be required to maintain it. This is where a bond applies. Boardmember Robin Welter noted that in a townhome development, CC&R's would address this through the homeowner association. Chair Ray Welter said it would be important that the City has something that applies to the developer of the project and HOA's because they can calculate their HOA fees. Boardmember Woldemar said usually there is a timeframe and not something in perpetuity when they can get their bond monies back. Boardmember Robin Welter said usually it is about 5 years as a maximum.

Boardmembers questioned whether the bond would apply to new or renovated projects, and Chair Ray Welter said he was not sure. Boardmember Woldemar suggested writing something to the effect that some percentage of the site area that changes be required for a bond. Mr. Lopez said he would be concerned that the bond may be perceived as a fine, and he questioned whether as a condition of approval, bonds would take effect if applicants do not maintain their property. The Board said this would be an enforcement activity and Boardmember Robin Welter suggested that the owner could be required to do an annual report as a condition of return of their bond monies. Boardmember Woldemar said a reduced bond amount could also be implemented as time goes on as an incentive. He suggested talking with other jurisdictions that have this type of ordinance and develop something to return to the Board.

Boardmember Woodrow said this bond is about trying to ensure an applicant does what they have to do and must do over the years. He asked about the City's maintenance of landscaping, and referred to the plantings in front of the Plunge. He asked if the City has any control over this landscaping, and Boardmember Woldemar said he thinks this was undertaken some time ago and the budget was impacted. He confirmed 1988 was during a water drought and conservation and drought-tolerant planting was important. If it does not apply now, he suggested removing it from the books, or if it still does, the City should enforce it.

**B. Board member reports, requests, or announcements - None**

**Adjournment:**

The Board adjourned at 7:10 p.m. to the next meeting on April 10, 2013.