

**PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL**

450 Civic Center Drive, Richmond, CA

March 1, 2012

6:30 p.m.

COMMISSION MEMBERS

Charles Duncan, Chair
Jeff Lee, Secretary
Ben Choi
Roberto Reyes

Sheryl Lane, Vice Chair
Carol Teltschick-Fall
Andrés Soto

The regular meeting was called to order by Chair Duncan at 6:35 p.m.

Vice Chair Lane led in the Pledge of Allegiance.

ROLL CALL

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

Absent: Secretary Lee; Commissioner Choi

INTRODUCTIONS

Staff Present: Kieron Slaughter, Hector Rojas, Lina Velasco, Carlos Privat and Richard Mitchell

MINUTES

None

CONSENT CALENDAR

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, March 12, 2012, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

Chair Duncan stated there are two Consent Calendar items and asked if any members of the Commission, staff or public wished to pull either of these items. He noted a communication was received from the Making Waves Foundation regarding agenda item PLN11-614: Accurate Auto Body and its proximity to adjacent schools. Their concerns included environmental issues and asked for a postponement of the hearing on this item, as a representative from the Making Waves Foundation could not be in attendance. Therefore, Chair Duncan pulled this item from the Consent Calendar for a full public hearing.

ACTION: It was M/S (Soto/Reyes) to approve Item 4 and pull Item 2 from the Consent Calendar; unanimously carried.

Item Approved:

- 4. PLN12-031: Sanabria Recycling** - PUBLIC HEARING to consider a Conditional Use Permit to operate a small recycling facility at 301 4th Street (APN: 538-162-008). C-1, Neighborhood Commercial District. Abdo & Rahma Madhigi, owners; Marcelo Sanabria Ortega, applicant. Planner: Hector Rojas.

Brown Act – Public Forum - None

Item Removed from the Consent Calendar:

- 2. PLN11-614: Accurate Auto Body** - PUBLIC HEARING to consider a Conditional Use Permit to operate an auto collision repair facility at 2975 Technology Court (APN: 405-371-025). M-1, Industrial/Office Flex District. Christine Lun, owner; Tiffany Silva, applicant. Planner: Hector Rojas.

Associate Planner Hector Rojas reported on staff review of potential impacts in the areas of noise, hazardous waste, air quality, related state and federal regulations, and the City's noise ordinance. Additionally, staff recommended conditions of approval state that repair related activities be performed indoors, and all shop rollup doors be closed during use of any repair equipment, and to obtain all appropriate permits and inspections through the County Hazardous Materials Program and Bay Area Air Quality Management District's Permitting Program. Staff recommended approval based on findings and statements of fact, subject to the recommended conditions of approval.

Commissioner Soto referenced the letter from the Making Waves Foundation which denied receiving a prior notice of this hearing. Associate Planner Rojas said that the Foundation did acknowledge receiving the staff report which was sent to the Foundation's director. Mr. Rojas explained that a noticing list is generated by computer programs that pull information from the County Tax Assessor's records to generate their property owners' mailing list. As well, the City publishes a meeting notice in the newspaper. He confirmed that both notice and staff report had been sent to the same address.

Tiffany Silva, owner, gave a brief history of the family business. She said there are many misconceptions of collision repair centers. Admittedly, there are some auto body shops that are disreputable, but she said their business operates under a higher standard specializing in insurance repair. Accurate Auto Body is one of the two first Green businesses in Contra Costa County, they are environmentally-minded, and care about their employees. She did her research by contacting the Bay Area Air Quality Management District about relocating next to schools, telling them of the types of water-based paints they use and the new state-of-the-art paint department which includes a new spray booth and filtration systems which recycle waste. She was told that based on this plan and type of usage they would receive their permit. She would abide by the right-to-know notice as required.

Ms. Silva contacted Making Waves to meet regarding any concerns they may have but spoke only to the assistant and was unable to secure a meeting with the Director. She either was told that they were aware that their business was moving in and had no concerns, or received no response to her request for contact should they wish to discuss it. However, when she heard they indeed may have concerns, she called and left a message but did not hear back from them.

Vice Chair Lane noted the applicant's distinction between an auto body shop and collision repair center. She asked if there was a difference. Ms. Silva said the distinction can be in the condition and size of the establishment who may also customize and restore vehicles. A collision repair center works on new vehicles and insurance work.

Commissioner Teltschick-Fall said she surmised that the applicant did reach out to the neighbors and was not able to determine the concerns that Making Waves may have. Ms. Silva said she would be willing to hear their concerns. Commissioner Teltschick-Fall said she respected their environmentally safe efforts.

Associate Planner Rojas pointed out that the staff report covered the three areas of concern for Making Waves and elaborated on them as well as stating that the conditions of approval adequately address these concerns.

Commissioner Soto said he believed the applicant did everything that was required of them to meet the CUP. Noting that Making Waves did not exercise their opportunity to be represented at the public hearing, he was inclined to support staff's recommendation.

Commissioner Reyes commented that staff did their due diligence.

Chair Duncan said it is assumed that sound will be mitigated. Ms. Silva said that in addition to door/wall mitigations, the compressor will be located in a sound-proof room.

Chair Duncan noted no opposition to this application, and the members of the public that were in support of same deferred in favor of a motion.

The public hearing was closed.

ACTION: It was M/S (Soto/Duncan) to approve PLN11-614 Conditional Use Permit to operate an auto collision repair facility at 2975 Technology Court as recommended by staff; unanimously carried.

1. **Staff Presentation on the New Partners for Smart Growth Conference - A PRESENTATION** by staff who attended and presented at the 11th annual New Partners for Smart Growth Conference in San Diego, CA on February 1st through the 5th, 2012. Planner: Kieron Slaughter.

Assistant Planner Kieron Slaughter highlighted some of the conference's session topics such as wetlands restoration, transportation planning, urban growth, and hillside preservation. He said he had received a diversity scholarship to attend this conference which was an excellent opportunity to learn, network and exchange ideas with other government officials. He also toured San Diego to view some of their Smart Growth projects.

Senior Planner Lina Velasco along with Lisa Wise of Lisa Wise Consulting and Stefan Pellegrini of Opticos Design presented at the conference on the topic of *Essential Component of the 21st Century Community: Housing for the Missing Middle*, which focused on medium-density housing. Her presentation this evening included an illustration of housing types in existing Richmond neighborhoods, and the need to have development standards to accommodate these housing types in the zoning ordinance.

Commissioner Reyes asked about blending affordable housing into existing developments, to which Ms. Wise replied that there is a need to create regulations for this type accommodation for this kind of development. The zoning ordinance allows affordable housing in single-family residential districts, for example, with a Conditional Use Permit, but smaller lot sizes, parking, set-backs, open space and other restrictions make affordable housing prohibitive.

Vice Chair Lane asked if there had been any discussion at the conference about mixed-use projects. Mr. Slaughter replied that one of the more popular sessions included this topic and said that cities should not always mandate residential over retail as it has been found to leave an overabundance of vacant retail space. They recommended a more flexible form of uses on the ground floor which changes as the economy changes.

Commissioner Soto asked about the substance of the session *Using Health as a Messaging Tool*. Mr. Slaughter said that Gabino Arredondo, Health and Wellness Outreach Coordinator, attended the health related sessions but was not in attendance this evening. He would be in contact with him and request he report to the Commission on these sessions. He added that elected officials and decision makers are encouraged to attend this conference.

Commissioner Teltschick-Fall asked if any members of staff participated in the bus tours and what was observed in terms of efforts to improve food, physical activity environments and safety. Mr. Slaughter said he was part of the Smart Growth bus tour and observed dozens of examples of work of which the majority was in-fill. He saw mixed-use projects that were successful and those that were not, and one of their more innovated and successful projects in which they installed a graffiti art studio where youth can develop art in a controlled, safe environment, as well as sell art. Mr. Slaughter said he did not go on the food and gardens tour; however, he believed Mr. Arredondo had taken the tour and would include it in his report to the Commission.

Chair Duncan asked if the conference was going to publish a reader. Mr. Slaughter replied that a link from the City's website to conference's website will soon be available and notice of same will be given to the Commission.

- 3. PLN11-640: La Selva Restaurant - PUBLIC HEARING** to consider a Conditional Use Permit to upgrade the restaurant's existing ABC License from a "Type 41 – On-Sale Beer & Wine" to a "Type 47 – On-Sale General." at 1049 23rd Street (APN: 530-210-034). C-2, General Commercial District. Dario & Angela Rabak, owners; Jesus Segura, applicant. Planner: Hector Rojas

Chair Duncan noted that staff's recommendation was to deny this application.

Associate Planner Rojas presented the staff report stating that the applicant desired to expand their existing ABC License and hours of operation. The Richmond Zoning Ordinance states Use Permits for alcoholic licenses must meet five criteria in order to be approved. Staff found that the proposed request did not meet 4 of the 5 criteria required for approval. Details of this determination were based on the analysis presented in the staff report and associated documents.

Brown Act – Public Forum

Luis Alfredo Aribe, representing the Segura family, told of the numerous recent complaints from both the Police and Health departments. Up until this point, for the last 13 years, complaints had

been minimal equaling one per year. He believed that the recent complaints began shortly after the Planning Department awarded a CUP to build an annex to the restaurant. He said that there were many opportunities for improvement; however, the decrease in revenues prohibits this possibility.

Commissioner Soto spoke of the previous application to improve the empty lot and the Commission had voted in favor of going forward with that project. Having driven past the restaurant, he noted the lack of progress on the lot which indicates a lack of commitment on an approved project.

Mr. Aribé explained that the CUP was approved in mid-March 2011 and the complaints started coming in April. The restaurant revenues decreased considerably and he admitted funding was not secured prior to the project.

Commissioner Soto said there had been complaints from neighbors saying that restaurant customers used all the street parking, indicating a large volume of patrons within the establishment. He remarked that a petition signed by neighbors expressed concern about turmoil, proliferation of crime, and open prostitution enticement; however, there is no evidence of this in the police report. He asked why these people would make those comments.

Mr. Aribé replied that they had met with some of the neighbors and discovered that their concerns were related to a business located next to La Selva.

Commissioner Reyes concurred that some of the complaints began to surface around the same time as the issuance of the CUP. He added that Richmond was a very aggressive community when it comes to the permitting and sale of alcohol. There are a number of business organizations that are directly involved with the community that can help. He also said that he did not believe that extended hours of service would be conducive to creating a better neighborhood.

Chair Duncan noted that the staff report was very clear in that the restaurant owners violated the terms of their previously approved CUP. He recalled that there was a lot of contrary testimony expressing concerns regarding trouble in the street which predates Mr. Aribé's assertion that the complaints started more recently. Chair Duncan said that the Commission was being asked to save his business at the expense of public safety.

Commissioner Soto commented that with the extensive history of violations of the current CUP, it would appear that the existing ABC license could be at risk. He felt that some of the points of contention as stated in the petition could be overstated; however, it was his theory that people would not have signed the petition if they didn't feel strongly that there was a problem.

Public Comment:

Naomi Williams, Chair of the West County Alcohol Policy Working Group (WCAPWG), noted that with all the facts before them, she urged the Commission to deny the application.

Jan Mignone, President of the North and East Neighborhood Council, said that their Council had many discussions about questionable activities taking place at the restaurant such as unattended outdoor cooking. Commissioner Reyes said that with other businesses in the neighborhood with similar issues, this could be an opportunity to find a remedy to these situations. Ms. Mignone said that the Council would support lively, successful nighttime

activities.

A.J. Jelani, President of the Belding Woods Neighborhood Council, expressed his desire to make things work successfully. Businesses such as La Selva look toward their neighborhood council's during vulnerable times. He had asked the owners of La Selva to bring to their Council feedback from their neighbors in an effort to address their concerns but has yet to receive any. The Council is always open to serve the neighborhood.

Chair Duncan captured what Mr. Jelani was saying by stating that the Council is making efforts to give the owners a constructive outlet for some of these issues.

Commissioner Soto said the police report indicated that most of the complaints are from 8:00 PM into the night at which time the surrounding businesses have closed up for the night, which limits impact on these businesses.

Sgt. Christa Capielli, Regulatory Unit for the City of Richmond Police Department, said she was asked to report on complaints associated with La Selva. She told of a protest letter which was sent to the ABC noting 12 different events that took place from April to December 2011 which she believed were associated with a broader picture of 23rd Street, in general. She pointed out that other events took place in addition to those stated in the letter such as constant complaints and calls for services from area neighbors regarding fights, drunk drivers, and noise and nuisance complaints. Most disconcerting is the fact that La Selva has violated specific conditions set by the ABC, and the ABC is currently investigating these issues.

Commissioner Reyes asked if the owner owned and/or operated any other establishments and if they were experiencing similar issues as with La Selva. Mr. Aribe said they owned another restaurant in Marin County and have met all the obligations required of them. Commissioner Reyes noted the disparity between the two businesses. Mr. Aribe enumerated the differences between the two businesses and their locations.

The public hearing was closed.

Commissioner Teltschick-Fall commented that as the conditions of the previous approval had not been met, she would not be inclined to grant another one. She hoped the applicant would work with the neighborhood council in an effort to solve the problems and meet the existing requirements of their conditional use permit.

Vice Chair Lane was on the Commission when the initial CUP was granted. It was an opportunity to support a small business. She said it was unfortunate that those changes had not been realized. Based on the testimony, it was unclear that the expansion of hours and service of alcoholic spirits would turn things around. Although she supports small businesses that are trying to do well for their employees and community, she did not feel she could support this application. She commended the neighborhood councils in their efforts to help these businesses become successful.

Commissioner Soto said he would like to see the restaurant owners make it a priority to complete the initial project as it is a major obstacle in proving of their commitment. As well, he suggested working toward repairing relationships with neighbors.

Commissioner Reyes agreed that improvements based on the previous permit would go a long way in obtaining possible additional entitlements.

ACTION: It was M/S (Reyes/Soto) to deny PLN11-640 as recommended by staff; unanimously carried.

3. Reports of Officers, Board Members, and Staff

Assistant City Attorney Carlos Privat said that for future reference the City administers a revolving loan fund for existing small businesses for which applicants can apply. Commissioners suggested staff let the applicants of the previous item be aware of this.

Ms. Velasco announced they are planning the next design charrette for the Livable Corridors Design project which will focus on San Pablo Avenue and upper Macdonald, east of the Civic Center. The event will take place in a vacant tenant space at 12660 San Pablo Avenue from March 19th through the 23rd. Commissioner Reyes said that the aforementioned area has a wealth of non-profits and hoped there was a way to incorporate the Livable Corridors projects with the non-profit community.

Commissioner Soto commented that there was no change in the light at Bloom Drive and Hilltop which is still operating on about a three second clock. He would hope that someone would address this. Ms. Velasco said that following the meeting in January she had spoken to the traffic engineer and was told that this had been corrected. She agreed to follow-up with him.

Vice-Chair Lane inquired as to the status of the General Plan – North Shore and if it was to go back to City Council. Director Mitchell replied that North Shore had been scheduled to go to Council on March 6th but was postponed until March 21st. Vice-Chair Lane commented that there was an issue on the website with access to the General Plan. Assistant Planner Rojas said they would look into this.

Vice-Chair Lane asked how the elimination of the Redevelopment Agency might impact the City of Richmond. She thought this issue could be address and discussed in a study session for a future Planning Commission meeting. Director Mitchell agreed that it is a worthy subject and one that every city in the state is still trying to answer. Alan Wolken of the Redevelopment Agency staff has announced his retirement Unlike some cities, Richmond did not have a lot of properties held in redevelopment, but a successor agency has been organized to manage the financial commitments of the Redevelopment Agency but the City's ability to use the Agency as a tool is gone for now.

Adjournment - The meeting was adjourned at 8:23 p.m.