

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

450 Civic Center Drive, Richmond, CA

April 5, 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 6:30 p.m.

Vice Chair Lane led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Duncan, Vice Chair Lane; Secretary Lee; Commissioners Choi, Reyes, and Soto

Absent: Commissioner Teltschick-Fall

INTRODUCTIONS

Staff Present: Hector Lopez, Lina Velasco, Carlos Privat, and Richard Mitchell

MINUTES

February 16, 2012

Commissioner Choi recommended that future minutes be transcribed with slightly more detail and Commissioners concurred.

Commissioner Soto referred to page 4 and Norman LaForce's responses. He did not recall him using the term "flip flop" and asked to strike the words and replace the sentence with, "He has offered no explanation on his position."

ACTION: It was M/S (Lane/Soto) to approve the minutes of February 16, 2012, as amended; unanimously carried (Teltschick-Fall absent).

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, April 16, 2012, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

CONSENT CALENDAR

Chair Duncan reported there are two Consent Calendar items and asked if any members of the Commission, staff or public wished to pull either of these items.

Ms. Velasco stated that a communication was received from a member of the audience regarding Item 1. Chair Duncan suggested removal of Item 1 from the Consent Calendar.

ACTION: It was M/S (Reyes/Soto) to approve the Consent Calendar consisting of Item 2; unanimously carried (Teltschick-Fall absent).

Item Approved:

- 2. PLN12-058: Super Churros Outdoor Vendor** - PUBLIC HEARING to consider a Conditional Use Permit to operate an outdoor vendor at 930 23rd Street (APN: 528-161-017). C-2, General Commercial District. Kang Sung Woo & Soo Young, owners; Erick Sanchez, applicant. Planner: Hector Rojas. Tentative Recommendation: Conditional Approval

BROWN ACT – PUBLIC FORUM - None

Item Removed from the Consent Calendar:

- 1. PLN12-023: The American Catholic Union Youth Center** - PUBLIC HEARING to consider a Conditional Use Permit to operate a youth educational center at 600 South 16th Street (APN: 544-332-024). Knox-Cutting Specific Plan (KCSP): Residential Low Density District. Rod Wilkerson, applicant. Planner: Hector Lopez. Tentative Recommendation: Conditional Approval.

Hector Lopez gave the staff report and described the request for a CUP to operate a youth educational center which would serve Richmond as well as the entire Bay Area. The applicant also proposes to include administrative offices supporting the non-profit organization providing services and education to youth. The center is operated by 10-12 volunteers and serving a maximum capacity of 13-18 clients, operating 8:00 a.m. to 5:00 p.m., 5 days a week with several parking spaces across the street on a church property. The center anticipates most clients will use public transportation, staff recommends approval with conditions.

Chair Duncan opened the public hearing and called upon the applicant.

Rod Wilkerson, Program Director for the Children's Educational Service Center project, said they are a 501(c)(3) non-profit. Their parent organization is a non-sectarian operation; the American Catholic Union, which is a different branch of the Catholic religion. Over the last 10-15 years they have been providing small grant programs to help children in other countries. Within the last few years their Board of Directors has indicated they should be focusing on local programs. Their offices have been located in Richmond for several years in a small house. The building they purchased used to be a school for the Independent Community Church. He said they would like to do some permitted rehabilitation on the building consisting of 10 classrooms. They will provide educational services for kids to obtain their GED, equivalency testing, computer and job training, as well as life counseling. They have been working with Pastor

Raymond Landry who has provided a letter of support in the packet, have also worked with the Coronado Neighborhood Council who has also provided a letter of support. He said the staff report outlines what they are proposing and said he was available to answer questions.

Commissioner Soto asked for the non-profit organization's annual budget and projected annual budget for operations in Richmond. Mr. Wilkerson said this is the first year of the project. They are in the process of talking with other non-profits regarding similar projects and he has spoken with Community Violent Solutions, the LEAP (Literacy for All Adults) Program regarding GED training, and representatives of the CCC Mental Health Services. He explained that some of the programs will have their own budgets and will function out of this facility. He did not have exact figures but would estimate the current budget runs about \$100,000 to \$150,000 a year. He stated they were able to purchase the building which was in foreclosure with cash, and they have been working on the rehabilitation out of pocket. He would say the GED training will function with many volunteers which is similar to the LEAP Program and he would guess the budget would be about \$60,000 a year for staff which does not include outfitting the room with computers and other equipment.

Commissioner Soto questioned and confirmed with Mr. Wilkerson that he is currently working with the aforementioned representatives on memorandums of understanding and they are looking to open the center in mid- to late summer. He noted the staff report indicates they have an agreement with MISSEY (Motivating, Inspiring, Supporting and Servicing Sexually Exploited Youth). Mr. Wilkerson said they have been working with Missy on the structure of the program. He said Nola Brantley, Executive Director of MISSEY, had planned to have a satellite office to serve children in the Richmond area; however, her facility burned and she has had to relocate. While she will not be as involved as she had anticipated, they will work with some of her expertise.

Pastor Raymond Landry, Richmond, voiced support of the project, said the building was built by his pastor, Tommy L. Bradford in 1992/93 and has always historically offered educational programs. They had a church fire in 2003 where they were operating a school called Project Children Outreach and they had to close down. After they built their new location across the street they were unable to keep both and had to let the building go. He was very happy when Mr. Wilkerson purchased the building and voiced interest in offering educational programs. He believes in the mission of the organization. As a social service provider and counselor for seniors and youth, at some point he will work with him on projects as well as the counseling department of his church, which is located across the street. He added that their parking lot will provide employee parking for the center. The project is a great resource to add in South Richmond, and he asked that the Commission support the project.

Commissioner Reyes said he agrees this is the right time and thinks the programs will bring real diversity to populations that need special help.

Secretary Lee said when Mr. Landry was running the school himself he asked if there were any complaints from local residents regarding activities and/or parking. Pastor Landry said their church owns several parking lots in the area and they had adequate parking for the school. They had two complaints from two neighbors; one has since moved and one neighbor is present tonight. He said they were able to provide services for 50 kids during the tenure of the school and about 30-40 students in their afterschool program. They had adequate parking, space, and were code compliant.

Daphne Primes, 649 South 16th Street, Richmond, said she and her husband have lived across

the street from the Christian Center for about 17 years and are opposed to the request. She circulated a petition in the neighborhood, many of whom are seniors and could not attend the evening meeting, as well as neighbors living in an apartment adjacent to the center. She was not sure if the Commission was familiar with the area, but said that about 7-8 years ago South 19th Street and Potrero was a 'killing ground' because of these types of facilities. Respectfully, she is not against the facility but that it not be located in her neighborhood. She and other neighbors work and come home and there are other places for this type of facility to locate. She feels the applicant has glorified the center and has labeled it as "youth educational". In June, July and August, there was major remodeling done inside the center. She asked workers what the facility would be and they told her it was going to be a shelter for battered women. She asked the Commission to take a tour inside the facility as she was not sure what they were planning to do. She did not think the facility was needed in that particular neighborhood, pointing out there is the Great Highway, Road 20, and plenty of space for this type of operation. She asked the Commission to visit the facility prior to making any decision. She also noted the building at South 19th closed for about 8 months. They had no more shootings or violence; it has become a better neighborhood, and because she cannot move anywhere else she asked the Commission to consider her comments.

Commissioner Soto asked for clarity, as Ms. Primes was referencing another facility. He asked what type of facility it was that created the problems. Ms. Primes said it was in a low income apartment building. Commissioner Soto said the staff report specifically indicates as a condition of their operation the applicant will only operate from 8:00 a.m. to 5:00 p.m. If they attempted to house battered people, this would be a violation of the CUP should it be granted. It would also subject (them) to revocation. The comments from the workers appear to be erroneous as far as the information the Commission has in its report.

Ms. Primes said she was living there 11 or 12 years ago and the same issues existed in the neighborhood. When the church was granted they had to have adequate parking which they have, but people were supposed to use the parking lot. The only time they use the lots are for funerals. Commissioner Soto said this was comparing apples to oranges, and Ms. Primes said her point is that the applicant can say one thing and they may do something else. Commissioner Soto noted that citizens could bring any issues to the attention of staff if this were to happen.

Vice Chair Lane said she is trying to understand Ms. Primes' main concern given that the current project is a youth education center. Ms. Primes said her concern is access and traffic, loitering when businesses are closed, and information she was given that the center will be a shelter for battered women.

Chair Duncan clarified that the packet received very clearly spells out the nature of the programs, hours of operation, and they also have a drawing of the facility that very clearly indicates this is an educational facility. There are no dorm rooms but rather offices and classrooms with an appropriate number of bathrooms. He confirmed with Ms. Primes that no one is allowed to spend the night there or loiter.

Vice Chair Lane said if there were things occurring in the building that were not abiding by the guidelines established in the conditions of the use permit, this is when the Commission and/or planning staff could take action.

Commissioner Reyes said because the petition was presented to the public, it is important that it be addressed, particularly if there may be something misleading. He asked Ms. Primes if she had any evidence that a youth center or shelter of any kind invites a negative element and is not

wanted in a neighborhood. Ms. Primes said she does not, but reiterated that it is not the neighborhood that is a problem, but what one brings there and puts into the neighborhood that becomes a problem.

Commissioner Reyes asked Ms. Primes again if this brings a negative element to the neighborhood. Ms. Primes pointed to the occurrence of loitering on 1st and Macdonald all night long. Commissioner Reyes commented that he has placed one youth shelter in Richmond about 10 years ago, a transitional living center about 8 years ago, and they are readying another shelter for youth with mental disabilities and all operated well without problems. He understands what Ms. Primes is saying and suggested having the applicant and operators abide by the CUP. He feels people will sign a petition without any evidence, as well.

Chair Duncan confirmed there were no other speakers.

Rebuttal – Applicant

Rod Wilkerson said they have contacted and knocked on doors in the community to talk about what they are doing. He said he would agree to do more and asked the Commission to rest assured that they are not opening a home for battered women and the workers remodeling had no knowledge of their programs. The occupancy levels available in the building limit 18-20 children who will be in the facility on an on-going basis during weekdays. They are providing educational programs for them and this is not a residential facility. Although, under the low density residential zoning, this can be used as a homeless shelter without a CUP. But, they are not going to do this. They are trying to work with the community, with kids, and with the Coronado Neighborhood Council. He said he would be happy to talk to every signatory on the petition and wants to work with the community. They want people to know what they are doing, do a good job for kids in this neighborhood and in the East Bay, and he said the kids who will come to the facility will not come to hang out but will come there for specific appointments--for counseling and/or to work on their GED, and it will be very well organized.

Ms. Primes asked if Mr. Wilkerson lives in the neighborhood, to which he said he does not, and Ms. Primes asked why he did not locate the facility on his street.

The public hearing was closed.

Secretary Lee commented that he is a big supporter of the neighborhood council process, has an extreme amount of respect for Joe Fisher and in reading his letter he expresses complete support for the project. He would have hoped that some of the issues could have come out at their meeting, but Mr. Wilkerson's offer to do additional outreach to the neighborhood makes him comfortable in supporting the CUP request.

Commissioner Reyes said because he has been in the field of working with youth and the homeless for over 10 years in Richmond and he has seen transitional youth centers open up for youth. When they opened up two 24 hour centers, they let them run for a year before telling the neighbors, and there were and are no problems associated with it if governed correctly. He also understands concerns of neighbors, but Richmond has a wonderful network of non-profits and he would encourage people to join those. He voiced support for the request with conditions.

Commissioner Soto said he is pleased to understand that even though this is a faith-based group, he was happy it would be a non-sectarian operation. He is on the Board of the RYSE Center in Richmond and has been involved with many youth development organizations and

activities throughout his professional career. If young people are given a place to go and organize themselves, a lot of youth-oriented problems can be reduced. He was also familiar with the organization of MISSEY. He knows Nola Brantley and her work is good given a very difficult population. He is also pleased to see Mr. Wilkerson's willingness to meet with anybody in the neighborhood. He appreciates Ms. Primes' comments and her feelings, but feels she is a victim of misinformation. He said he hopes she will be able to develop a partnership with the center and the neighborhood. When dealing with difficult populations it is sometimes hard for neighbors to open up to it, but he questioned options and locations for them and motioned for approval.

Vice Chair Lane said she was glad Ms. Primes attended the meeting, noting it was the forum for neighbors to express concerns or support for projects. She also recognized her concern with what she feels the facility may bring. Given the scope of the project the Commission understands it to be under the CUP, it is something she supports. She reiterated that if this were to become something not in the scope of the CUP, this is the opportunity for Ms. Primes or other neighbors to contact staff or the Commission. She voiced support for the project.

Commissioner Choi said it is not always a bad thing that one cannot choose their neighbors, but in this instance there is the opportunity for how one deals with them. From police research, the most important thing for safety in a neighborhood is that neighbors know one another. He would urge the applicant to get to know the neighbors.

ACTION: It was M/S (Soto/Reyes) to adopt Resolution 12-5 approving PLN 12-023; Conditional Use Permit for the proposed youth education center at 600 South 16th Street, subject to the conditions as recommended by staff; unanimously carried (Teltschick-Fall absent).

NEW ITEMS

3. **CU 93-35: Heads Automotive Auto Repair** - PUBLIC HEARING to consider initiation of a revocation of a Conditional Use Permit for an auto repair facility at 1333 Cutting Blvd. (APN: 544-240-012). C-1, Neighborhood Commercial District. Fundamental LLC, owner; City of Richmond, applicant. Planner: Lina Velasco. Tentative Recommendation: Schedule a Revocation Hearing.

Chair Duncan asked and confirmed with Mr. Privat that the hearing tonight is not an evidentiary hearing; the Commission is establishing whether there is enough evidence to schedule a hearing for revocation at a date certain.

Richard Mitchell stated the item before the Commission is a two-stage action; the first is that based upon evidence and any comments, the Commission can determine whether it has sufficient grounds to schedule a hearing during which the Commission would make a determination as to whether an existing CUP would be revoked or modified. The speakers may speak as to the pros and cons, convince the Commission as to the need to schedule a revocation hearing or otherwise, and the Commission's task is to determine whether it has sufficient evidence. He said the site has a long and challenged history given the number of times code enforcement and other City departments and agencies have been involved, and is before the Commission for review. If the Commission determines there are sufficient grounds for a revocation hearing, a specific date should be set, and staff is recommending the June meeting in order to prepare.

Chair Duncan asked whether procedurally he should open the public hearing, close the public hearing and make a motion based on findings that there is or is not enough evidence. Mr. Privat said a motion would be needed of the full Commission to order a full revocation hearing after the Commission has taken testimony, closes the public hearing and determines whether there are grounds.

Chair Duncan said the staff report was not clear as to the initiation for the initial inspections in 2007. He asked whether the City was walking past the property and noticed it was not in compliance with the original CUP, or, was there a neighbor complaint. Mr. Mitchell said it has been a bit of both. Code Enforcement has been involved in several instances where there were violations of blocking the sidewalks, and they had a lot to do with initiating the effort.

Chair Duncan opened the public hearing and asked for the landlord/owner of the property to speak.

Chow Chen, owner of the property, Orinda resident, said his property neighbor is a methadone clinic and while he sees there is a need for it, it creates many problems for them. He also agrees the property has not been run correctly. There have been some violations, but almost every time they have been brought to his attention he has corrected the situation. He asked the City for a little more time to bring the business up to all codes and then make a decision, stating that to take away the CUP from the property will leave little to do with the property. He said when it was empty for six months, it was invaded many times by homeless people, vandalism, debris, and he received calls from Code Enforcement saying there were trespassers on the property and he was asked to remove the garbage immediately. He said it is very difficult to operate a business at that location and given the constraints, he is working with his tenant to try to comply as much as possible.

Chair Duncan said he is very familiar with the site and the methadone clinic across from it and given the hours of the clinic, it is a very unpleasant situation. But with that said, he would like to know what the presence of a methadone clinic and people throwing garbage over Mr. Chen's fence have to do with 30 cars on the site which are not moved. He said there are for-sale signs on the cars with a gate that crosses the sidewalk and blocks the public right-of-way. He felt that the presence of a clinic is frankly immaterial to many of the charges against Mr. Chen.

Mr. Chen acknowledged the Chair's statement and said if he cannot work out the details with his tenant he will have another tenant occupy the business. This is the reason he is requesting more time to work with him. If it does not work out and the City revokes the CUP, he will not have a garage there. He questioned what kind of business the City was interested in being there because no one had been interested in renting it when it was empty.

Commissioner Soto said the staff report indicates that there were some observations made on March 6th. The Engineering Department and Building Division attempted a site inspection on March 7, 2012 but were not granted entry onto the premises. This would seem to indicate there was a conscious effort to block an inspection. Mr. Chen said he was not aware of the fact that this happened. No one called him to access the business and he only knew about it by reading the reports. Commissioner Soto said the inference in the report is that entrance was attempted but denied. Mr. Chen said it was not denied by him and he did not know about this. Commissioner Soto said he would not generally know this because he is the owner of the property and he confirmed he was unaware that this was the behavior of his tenant. Mr. Chen added that it was not in his interest to antagonize anyone.

Commissioner Reyes asked Mr. Chen how much more time he needed and Mr. Chen replied three weeks.

Public Comments:

Donald Head, tenant, Heads Automotive Repair, said the business got out of hand as far as car rotation and re-sales. He distributed pictures showing the work he has done to address the City's requests to clean up the lot and cars and to ensure it stays that way. He stated he could not keep track of the cars because he might fix 15 cars in a day and there may be 20 people renting a car every day. He said he and his father have served the community for 40 years. He has no excuses, admits he was wrong, has fired his manager and workers, and said for the last 6 years he has been managing the crime level from those coming and going from the methadone clinic, stating they respect him. Currently he must pay a mortgage, bills, and has children. The City can put him on probation and he hopes that his employees keep the lot clean. His business is good and he wants to keep it good and asked for another chance.

Secretary Lee asked if Mr. Head has read the staff report and violations. Mr. Head said he has all of the pictures and confirmed that he was amenable in addressing all violations from A-Z. He agreed things got out of hand, but he did not want to lose everything he has worked for. Secretary Lee said to the credit of Mr. Head, he physically witnessed the clean-up. Mr. Head said he takes full responsibility and will make it if given a chance to work with the City.

Commissioner Soto referred to the issue of March 7th, where the Engineering Department attempted a site inspection and they were not granted entry onto the premises. Mr. Head said he was not present that morning and he received a call from his employees who said the City was there. When Mr. Head arrived, they were on the premises. The engineer visited him today and gave him 'flying colors' and he said he wants to continue to better his business.

Commissioner Soto said he wants to continue to support good business, but it seems as if there has been a pattern of violations. Now that Mr. Head's back is against the wall, he wants to clean it up which is a good thing. He questioned how the Commission would know it will not be back hearing the matter in another 3-6 months. Mr. Head said he cleaned the business up to where it is now and can make it better. At times, people do not see things until they are slapped in the face. Given bad management with employees, he will come up with better workers and will make sure the business never gets this way again.

Commissioner Reyes said the business must be compliant and for him, he appreciates the work of Mr. Head's father, appreciates the business, and he respects the black businesses of Richmond and everything on the South side. He would like nothing but success and in looking at the photos, he has a legacy to build on in Richmond and hopes the City can work with Mr. Head. He noted that Mr. Head recognized that he made mistakes and will fix it as the boss.

Eva Hills, Richmond resident, said she is against the revoking of the CUP, stating Mr. Head has been servicing her cars for years. They have a lot of history with his father and are pleased with the work. She has never had a problem with her car and her family all grew up with Mr. Head playing Little League baseball and they have been successful in working with him. She would like to see the business continue. She commended Commissioner Reyes for his comments, and said they do not have many Afro-American auto workers that own their own business. As an Afro-American woman, she said she feels very comfortable with Mr. Head working on her car, and since she has known him, he gives her money's worth, picks up her car, returns it, and she could not ask for a better service and individual. She asked the Commission to give him the

benefit of the doubt, work with him to keep him in compliance, and not simply take away the use permit as the City needs all the businesses it can in the City, especially those that are reputable.

Commissioner Soto asked if Ms. Hills has seen the staff report and listing of violations including letting the business license lapse. Ms. Hills said she has not; she has only gone there as a customer and sees what goes on.

Chair Duncan kept the public hearing open for discussion. He said the Commission has heard testimony that Mr. Head has had a successful business for a long time. One of the problems he has is sliding backwards every time he is caught for not fulfilling the requirements of the CUP. Mr. Head cleans up the business and a while later the situation slides back into the same condition, which has been a pattern for years. He asked Mr. Head what he will do to now convince him that he is breaking the pattern.

Mr. Head said he will now act like a boss. If people do not have the money to pay for repair work on their cars, he will not take the cars. He experiences this with 3-4 customers a month and all of sudden they pile up. He does not want to claim their car if they have no money.

Chair Duncan said this really does not answer his question. Mr. Head said he was not firm in the past, but he will now do lien sales. If cars are there a week, he will put a lien on it. He will also be more firm with his employees and not treat them as friends.

Secretary Lee said what he is hearing is that Mr. Head will need to remove some of the benevolence of the previous business model. He understands the situation he faces, and Mr. Head agreed it was an entirely new “playbook” and will no longer be the “nice guy.”

Commissioner Choi said he can imagine Mr. Head works long hours. He asked if he ever had any management courses to assist in his business. Mr. Head said the way he was taught was the way his father managed his business, but he always thought his father was too firm. Instead, he wanted to be the nice guy but to be the boss, one has to have a certain demeanor and this is the only way it works. He has had no formal training.

Commissioner Choi referred back to the Chair's concerns and questioned what will be different this time. Mr. Head said it will be different this time as he has no more room for slack. He said he did not want to come before the Commission again and the business was his livelihood.

Vice Chair Lane said it sounds like Mr. Head's back is up against the wall. Speaking for herself, she would like to see small businesses thrive in the City and wants to see Mr. Head personally thrive as a businessman and someone who is contributing to the City and personally to his family. The question asked is, what will it take? She has listened to Mr. Head's comments and said she hears him say now he has now learned because he is at risk of losing his business, he is willing to change to become a better manager, has changed or fired some staff as he should be mindful of who is on site that they can take care of business. One of the reasons why there were so many cars on the lot was because he has customers come in and cannot afford to pay for the service. As a better businessman, she said he is agreeing to address this upfront with the customer to take responsibility and control. She said they have seen the photographs, and she hoped that cars are not stored there and those there should be clean. For her, she is trying to decipher what is the transformation and change and she hears him say he will change his business practices.

Mr. Head added that he represents being the only black businessman and for those kids who go to school, they can see him and they can know that they can own something.

Commissioner Soto asked and confirmed there was no one present at the meeting representing the Engineering Department. Ms. Velasco noted Code Enforcement Officer Bruciaga is present acting as a staff resource.

Commissioner Soto said in reading the report and inspection, the staff recommendation is to initiate the permit revocation and schedule a hearing in the future. He said he respects staff's time and work and he does not think staff would recommend revocation without having good cause. He would like to ask for the Code Enforcement Officer's impressions of what it has been like dealing with the automotive repair shop as a business, the on-site inspection, and said Mr. Head has perceived the situation as a problem with his employees which seems inconsistent. He also questioned whether she knew anything about the Engineering Division's experience, as well. Chair Duncan clarified and asked Officer Bruciaga to comment on the specific instance where she was not allowed access to the property.

Code Enforcement Officer Bruciaga stated her experience has always been that she was never denied any access. She did a site inspection with the Engineering Division last Friday and they were requested entry and it worked out fine. Engineering was able to produce a report, but she was not sure what occurred on March 7th. Her experience in working with Donald Head has been successful in going onto the property and doing her inspection and this included planning and building as well. She gave him a 10-day warning and to work with him until April 9th. As stated in her warning notice, she would follow-up on the warning notice. She has worked the case about 2 years now. In the past, Mr. Head has done some improvements, but does revert back. She said if by April 9th, they could go back and see what has been done and go from there. If Mr. Head does not do what he is asked to do in 10 days, he understands something else needs to be done prior to that.

Commissioner Soto said if Mr. Head does not get this resolved by April 9th and the Commission schedules the hearing, he thought they could always cancel it. Mr. Mitchell said this is correct; the Commission has the option of setting a hearing date now or postponing the matter and setting a hearing sometime after April 9th, or simply issuing a warning and return if issues continue.

Vice Chair Lane questioned and confirmed with Officer Bruciaga that April 9th is the follow-up inspection from her March 6th warning notice.

Chair Duncan asked Officer Bruciaga if she had seen the photographs taken, and Officer Bruciaga said the photographs were taken by her, but unfortunately, the warning notice was not part of the packet. She confirmed she did not see the ones passed around to the Commission this evening that shows the clean lot.

Secretary Lee said Officer Bruciaga has worked on the case for a while, knows the personalities and people involved, but it is the first time the Commission has seen it. In deference to Officer Bruciaga's experience he asked if she would be comfortable with the Commission delaying the hearing 30 days to their next meeting, allow her to go and see what the owner has done to correct the violations, and then she could provide a recommendation at the next meeting. Officer Bruciaga said yes, based upon what she has heard tonight. She gave Mr. Head a 10-day warning, has worked with him in the past but questioned the number of extensions they could really grant. She felt it would be fair from her follow-up inspection to view the property again on

April 9th and go from there. She also said that Mr. Head needs to understand that on April 9th, every violation on the list needs to be in compliance. If not, they will be back at square one again.

Secretary Lee said he has been on the Commission for about 6 years and this might be the first one he has heard, but recognized the code enforcement work. Officer Bruciaga said the Commission saw what was out there in March and she hoped she would not see any of it on April 9th.

Rebuttal – Owner

Chow Chen, owner, said since the CUP runs with the land he is the one who will suffer the greatest loss if the CUP is revoked. He could work with Code Enforcement and if it is found in violation, he would start the eviction process, and asked if this would satisfy the Commission.

Chair Duncan said he thinks this might be an element which is part of it, but frankly not the end game. Secretary Lee said he thinks there are elements of these violations that are directly under the landlord/owner's control and other elements that are not part of what the owner does. Mr. Head said agreed to do what is under his control and then there is the question of what Mr. Chen will do such as the gate issues and the more internal issues with his tenant. To some extent, he agrees it is not necessarily that having an auto repair place in that location is inherently bad, it is just that the execution seen thus far over the years has been insufficient.

Mr. Chen thanked Secretary Lee for making this distinction. He pointed out that everything that has been under his control has been resolved quickly. He does not deny total responsibility, but if it pleases the Commission, the problem will not happen anymore.

Commissioner Soto said he believes Mr. Chen's understanding is that the permit goes with the property as opposed to with the business. If he evicted Mr. Head, the permit would still not be in place if there would be a new business. He asked if the new business would have to go through the permit process all over again. Mr. Mitchell said if the current tenant was evicted, the owner still has a CUP to operate an automobile repair business on the site. Another thing the Commission could do if it did a full hearing is to modify the CUP and add some additional conditions that could contain other problems because they are not listed in the current CUP. Also, the General Plan will be adopted soon and staff will be looking at rezoning. This particular use in this particular location is not something that will be guaranteed under the new zoning because there may be limits to the site that make it no longer viable for this use. This is in the future, but staff will be reviewing as to whether this is a long-term use for that site.

Secretary Lee said he saw in the staff report for another issue is that if the building sits vacant for 6 months, the CUP would expire, and Ms. Velasco said this is correct. Secretary Lee said, therefore, if the owner needs to get a new tenant, he would have to act quickly.

Chair Duncan closed the public hearing.

Commissioner Reyes said he hears somebody who wants to maintain the business here. He thinks it is best that we all live up to our obligations around the CUP and the landlord/tenant relationship. If this is done, hopefully they can maintain the business and move forward. This was also his first time hearing the matter and was interested in helping the business operator.

Mr. Privat restated that the CUP does run with the land and that the 6 month non-use actually would require a revocation hearing and it would not be revoked as of right by non-use.

Chair Duncan said one thing the Commission could do is hold the item over for one month, such that the April 9th date passes. The Code Enforcement Officer could make the inspection and the Commission would meet on May 3rd at which point the Commission would determine if there is or is not sufficient evidence, at which point they would determine if a hearing to revoke the CUP should be scheduled. His second thought is that the Commission has enough evidence at this point and that they should, in fact, hold the hearing on May 3rd, at which point Mr. Head will have time to demonstrate that he will not backslide, that the site will be cleaned to satisfaction and that it will stay clean by the time of that meeting. He would further propose that the Commission push this date back to June 7th so he will have to keep it very clean for at least two months. He felt the Commission needs some guarantees that there is no backsliding.

Secretary Lee said he would agree with going with two months, but it would be better to hold the item over because to get prepared for the next level is another threshold of activity. He feels fairly confident that the Commission has gotten the tenant's and owner's attention and things will change and also that there is little to gain to have everybody 'suit up' for the next battle instead of holding the item over and seeing what happens next.

Commissioner Soto said he would be inclined to the second recommendation only because he feels that he must respect the work of staff. As rare as an occurrence as this is, staff would not have brought it to the Commission's attention unless it was serious enough issues related to it. He is pleased to see there is evidence of improvement, but they have also heard and seen documented evidence of repeated backsliding. Just as Mr. Head has learned he must engage in some tough love, the Commission might as well in order to ensure everybody is on the same moving together forward. If Mr. Head cleans up his act, it is great, but if he does not, then at least the ball is rolling. As Secretary Lee said, there will need to be preparation for that, and that preparation has begun with tonight's hearing.

Chair Duncan said the second reason he is proposing June 7th is, apart from guaranteeing no more backsliding, is that for Mr. Chen's point of view, the fence needs to be repaired which is an infrastructure item. April 9th is coming up quickly and he does not feel the work could be fixed that fast. Mr. Chen said he has already changed to new gates.

Vice Chair Lane referred to Secretary Lee's comments on 'suing up for battle' and asked what is involved with the revocation hearing. Mr. Mitchell said the information would be presented again and formally presented, with opportunity for everybody to speak in detail. Mr. Privat said at that time, the Commission would weigh the evidence and determine whether it would revoke the permit or modify the permit in some way. In a sense, the Commission will hear much of what it heard today and hear more detail from the City's side.

Chair Duncan said presumably, if the site is clean and it meets all the CUP criteria, it would be a short session. Ms. Velasco noted that what is attached to the staff report is a violation of the Municipal Code. There have been additional inspections related to hazardous waste. The Richmond Police Department has also done various inspections, so the requirements of the CUP are not only that it meets local regulations but also State regulations. Staff did not present all of that evidence and they have follow-up inspections that have been done, including Engineering's inspections which noted additional violations that also need to be corrected that have deadlines, as well. Most end in April. Chair Duncan said this is all the more reason to push this out to June 7th because staff will have plenty of time, and Ms. Velasco said this would be

staff's recommendation, as well. She clarified with Secretary Lee that these are some of the materials that did not get included in the packet; some occurred after the packet was sent out or there was more than enough information based on what staff had provided.

Secretary Lee questioned whether the owner and operator were aware of the additional compliance items they needed to address. Ms. Velasco said they should be, but if not, she has copies of the inspection reports and will provide them copies.

Commissioner Reyes said he feels the Commission has exceeded its role tonight and agrees there is enough evidence for the matter to go to a hearing. He supported Chair Duncan's direction to schedule it for a June date. While this is a rare occurrence, he pointed out that the most convincing argument is not someone saying they are just too nice.

Secretary Lee said he understands and agrees that a couple of months would be good. The only reason why he suggested holding this hearing over is that there are two potential solutions to the problem; one is that the landlord must get his issues resolved, but he also must either hold Mr. Head to his compliance or get a different tenant. This would provide time for an eviction process. However, this said, he was supportive of the matter being heard in 30 or 60 days. He said he did not want to be disrespectful to the code enforcement process either, and he would like to hear the item in 30 days with the full intent to schedule a revocation of the CUP if not entirely abated and hear the item for revocation in June.

Commissioner Soto said he supported this. In terms of language, he suggested the language in the recommended action; to direct staff to schedule a permit revocation hearing before the Planning Commission on June 7, 2012. Secretary Lee said he wanted an incremental step to hold this issue over to the May meeting and then make a determination at that time if the Commission wished to have a revocation hearing in June or not. Commissioner Reyes said he would second that motion because he thinks it serves the same purpose.

ACTION: It was M/S (Lee/Reyes) to continue the matter to May 3, 2012 Planning Commission meeting with the intent to schedule a revocation hearing of the CUP violations are not entirely abated unanimously approved (Teltschick-Fall absent).

4. Reports of Officers, Board Members, and Staff

Ms. Velasco said the Planning Department has been working on the Richmond Livable Corridors project which was kicked off in February. They are having the 3rd charrette which will focus on South 23rd Street and they will be looking at the node at South 23rd and Cutting Blvd. They are encouraging the public to participate in the visioning process which is to develop the charrette document which will guide development of the form-based code. All events will be held at the Galileo Club, located at 371 South 23rd Street. The opening meeting will be held Tuesday, April 10th from 5:30 p.m. to 7:00 p.m. Open studio hours will be Wednesday, April 11th from 10:00 a.m. to 2:00 p.m. and the public is welcome to walk through those hours. In addition, they will hold the closing presentation on Thursday, April 12th at 5:30 p.m. to about 7:00 p.m.

Mr. Mitchell said the April 17th City Council meeting will be a meeting where the Council will hear the initial presentation on the General Plan. They hope to hold a final round of hearings for adoption.

Chair Duncan asked for a brief update on the Northshore issue. Mr. Mitchell said the Council provided direction on the Northshore which was a compromise to permit limited development

and the addition of two policies to the General Plan that would impact the allowable development in that area.

Chair Duncan said with the protracted nature of the General Plan being put out because of the Northshore, he asked if staff has caught up with the Housing Element. Mr. Mitchell said the City has retained the services of Seifel, Associates to work with them on developing the technical aspects of the Housing Element.

Ms. Velasco said she and Mr. Rojas will be working on the Housing Element update and will start with stakeholder interviews in May and then several community meetings prior to presenting a draft to HCD. Staff does not anticipate aligning with the General Plan, but they will start soon after the adoption.

Chair Duncan asked what was happening on the moratorium on the mobile vendor ordinance. Ms. Velasco said there was a brief explanation in the staff report; part of it is because they have lost staff, have been overwhelmed with keeping the General Plan moving, and have had several community meetings and are ready to work with those same members on a public draft. Mr. Rojas anticipates that in May there would be a public draft and meeting prior to coming to the Commission in June.

Commissioner Reyes referred to the Housing Element and said he hopes for an open dialogue with folks from REDI (Richmond Equitable Development Initiative) who worked very hard and have been active. He asked that there be continued dialogue with REDI. Ms. Velasco said staff has been meeting with Christy, the new REDI contact person.

Commissioner Choi reported that he ran into a smiling, retired Lamont Thompson last week who was on his way to a softball game.

Vice Chair Lane said she was glad to hear the General Plan is moving forward and hoped for the Council's adoption. She echoed Commissioner Reyes' point, stating she feels so much has been heard and done from the public and she hoped not to recreate the wheel.

Secretary Lee reported proudly that he learned earlier this week that Supervisor John Gioia has appointed him to the Oversight Board for the successor agency for the City's Redevelopment Agency which was quite flattering. The board is comprised of 7 people and they will meet later in the month.

Commissioner Soto announced that on April 21st an Earth Day Celebration will be an organized to do clean-up of the Pt. Molate Beach Park and invited people to help. He also celebrated the decision of the Tax Assessment Appeals Board against Chevron's appeal on their property tax reassessment. Chevron acted in an arrogant fashion suggesting they could work out payment plans for the City for taxes already used, and also realized that Chevron may owe more taxes. They have billion dollar profits each quarter with unlimited resources for hiring lawyers. He interviewed Gus Kramer on his radio program this morning and found out that the legal costs for defending against Chevron are not borne by the loser but by each side. Each time Chevron appeals, they are costing the City more money.

Commissioner Reyes said they just celebrated Cesar Chavez's birthday on March 31st and due to the constraints around proclamations, something will most likely be heard later this month. He appreciated the efforts of Councilmember Beckles for doing this. He said the farmworkers had strong ties in Richmond which will be noted in the proclamation, and the birthday celebration is

scheduled for April 14, 2012 at the Greenway. Secondly, he referred to the RDA discussion and said the only State representative he knows is Mark DeSaulnier. One year ago he had an initiative on what will happen after redevelopment. He emailed him and asked if he could speak regarding what is happening in Sacramento. Lastly, he said about two weeks ago, he was driving on Macdonald Avenue about 8:15 a.m. He looked up at the Marshall Arts Academy and he saw a lit room on the second floor with young people being instructed. The Commission is to be congratulated for its approval of this project.

Chair Duncan reported receiving a letter from Jacky Thompson, Chair of the Housing Advisory Commission and Kathleen Sullivan, Human Rights and Human Relation Commission, inviting the Commission to the First Annual Boards and Commission Leadership Luncheon on April 18, 2012 in the Auditorium, 403 Civic Center Plaza. He reminded Commissioners of the need to file their Form 700 Statement of Economic Development. He also reported that he believes that in June new officers need to be elected for the Commission. Next month, he will ask for 3 volunteers for a nominating committee to arrive at names for Chair, Vice Chair and Secretary.

Adjournment - The meeting was adjourned at 8:27 p.m.