

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

450 Civic Center Drive, Richmond, CA
September 5, 2013
6:30 p.m.

COMMISSION MEMBERS

Sheryl Lane, Chair
Roberto Reyes
Ben Choi
Melvin Willis

Eduardo Martinez
Andrew Butt
Marilyn Langlois

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

Chair Lane led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Lane, Butt, Choi, and Martinez

Absent: Commissioners Langlois, Reyes and Willis

INTRODUCTIONS

Staff Present: Jonelyn Whales, Senior Planner; Lina Velasco, Senior Planner; Richard Mitchell, Director of Building and Planning Services, James Atencio, Assistant City Attorney

MINUTES - None

AGENDA

Chair Lane provided an overview of meeting procedures for speaker registration, public comment and public hearing functions. She said items approved by the Commission may be appealed in writing to the City Clerk by Monday, September 16, 2013, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

CONSENT CALENDAR

Chair Lane reported that the Consent Calendar consisted of one item. She asked if there were any members of the Commission, staff or public who wished to make any changes or recommendations regarding any of the items on the Consent Calendar.

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

Consent Calendar Approved:

- 1. PLN13-137: Proposed Outdoor Dining For The Assemble Restaurant - PUBLIC HEARING** to review and consider modification of an existing Conditional Use Permit to allow outdoor dining at the Assemble Restaurant at 1414 Harbour Way South (APN:560-181-103). M-4, Marine Industrial District. Ford Point, LLC, owner; Joey Orton, applicant; Planner: Jonelyn Whales; Tentative Recommendation: Conditional Approval

BROWN ACT – PUBLIC FORUM

Cordell Hindler suggested that an old fashioned discoteca, perhaps with a Studio 54 theme, or movie house would help Richmond to increase tourism, generate revenue, and attract commercial tenants.

Items removed from the Consent Calendar: None

NEW ITEMS

- 2. PLN12-214: 43-Unit Affordable Housing Development - PUBLIC HEARING** to consider the following: (1) Conditional Use Permit for a 25% parking reduction from 68 to 47 spaces, (2) Design Review Permit to construct a 43-Unit Residential Development; and (3) Recommendation to the City Council for a Rezoning of eleven vacant parcels totaling 1.35 acres to MFR-2 to comply with the General Plan 2030. The applicant proposes to construct 43 affordable townhomes at 1200 through 1300 Fred Jackson Way (formerly Filbert Street) (APN: 561-162-031, -032, -033, -034; 561-192-029, -030, -031; 561-151-007, -008, -009, -011). SFR-3, Low Density Single-Family Residential District. Community Housing Development Corporation, owner; Joanna Griffith, applicant; Planner: Jonelyn Whales; Tentative Recommendation: Recommend Approval to City Council

Senior Planner Whales gave the staff report, request to approve a Conditional Use Permit (CUP) for a 25% parking reduction from 68 to 47 spaces, and a Design Review Permit to construct a 43-unit residential development and recommendation to the City Council for the rezoning of eleven noncontiguous vacant parcels totaling 1.35 acres to MFR-2. The proposed project includes five building types ranging in size from five to eleven units per building in a 3-story townhome configuration with units ranging from 500 to 1,188 square feet in size.

On May 25, 2013 the City Council adopted the General Plan update and approved land use classification changes for parcels within various neighborhoods, of which this North Richmond neighborhood is one. Staff is proposing to rezone the currently designated medium density, which corresponds with the zoning classification MFR-2, parcels to multi-family medium-density residential. The applicant has also requested a CUP for a parking reduction from the required 68 parking spaces to a total of 47. The applicant is offering residents the opportunity to participate in a transportation demand incentive program, which would provide them with AC Transit Easy Passes for a reduced rate or free of charge, to encourage use of the transit. Staff has also found that with some reconfiguration of the existing standard sized parking spaces, the project could net five additional compact vehicle spaces.

Ms. Whales stated that the Design Review Board reviewed and approved the project on August 14, 2013, with a recommendation to the Commission for approval of the Design Review Permit.

Commissioner Butt asked and Ms. Whales confirmed that the parking has not yet been redesigned. Ms. Whales also confirmed that a condition of approval reflecting the fact that only the five additional spaces would be compact spaces was or could be included.

Chair Lane called upon the applicant.

Joanna Griffith, Assistant Director of Real Estate Development, Community Housing Development Corporation of North Richmond, invited questions from the Commission.

Chair Lane requested clarification on ownership of the proposed units, to which Ms. Griffith explained they would be rental units.

Chair Lane asked what motivated the reduction in parking spaces.

Ms. Griffith explained that the decrease in parking allows for an increase in units, which makes the project more competitive with regards to state funding.

Chair Lane asked the applicant to describe the transit incentive program.

Ms. Griffith explained that they were working with AC Transit to offer residents the opportunity to obtain free or reduced cost bus passes.

Commissioner Butt asked whether there were any provisions for bicycle parking.

Ms. Griffith confirmed. She explained that they were looking into installing bicycle racks on each of the three blocks and would be comfortable adding a condition of approval to that effect.

Commissioner Butt asked and Ms. Griffith confirmed that they plan to install a play structure in the tot lot.

Commissioner Martinez inquired about the price range of the units.

Ms. Griffith explained that rents would be limited to 30% of the residents' monthly incomes, which would equal roughly \$550 to \$680 per unit.

Commissioner Martinez noted that North Richmond is limited in its access to grocery stores and asked what services, if any, the applicant can provide to residents.

Ms. Griffith explained that they are currently working to develop another project on Fred Jackson Way that would include a healthy corner food store. In the interim, they offer a mobile farmer's market that comes to the community each week and provides residents with access to fresh produce.

Chair Lane asked and Ms. Griffith confirmed that they supported staff's suggestion for five additional compact parking spaces.

Commissioner Butt referred to the landscape plan and commended the applicant on adding trees along Fred Jackson Way. He noted that the plantings only appear between Sanford and Duboce and said he would like see it carried all the way down to Willard Avenue.

Chair Lane asked that the project approvals be explicit in explaining that residents will be offered free or reduced AC Transit passes.

Public Comment:

Charice Duckworth, Development Project Manager with the City Housing and Community Development Department, said the department has supported this project since 2008. The city funded the acquisition of eight parcels and contributed \$1.4 million in HOME funds to the project for predevelopment.

The public hearing was closed.

Ms. Whales summarized the staff recommendation; approval of the proposed CUP and Design Review permit and adoption of the resolution recommending approval of the proposed rezoning to the City Council.

Commissioner Butt moved the staff recommendation and requested three additional conditions: 1) that the parking be redesigned as described by staff to accommodate the allowed ratio of compact parking spaces, 2) that the applicant provide bicycle parking on each block, and 3) that the applicant provide street trees, where none currently exist, on the full frontage of Fred Jackson Way between Willard and Duboce Avenue.

To Chair Lane's earlier comments, Ms. Whales explained that the implementation of the transit program would be monitored through submission of quarterly reports by the applicant.

ACTION: It was M/S (Butt/Martinez) to approve PLN12-214, with staff findings and recommendations as well as additional conditions noted by Commissioner Butt; unanimously carried.

3. PLN13-131: Regulation Of Cash For Gold Businesses - PUBLIC HEARING to consider recommending to City Council a Zoning Text Change amending Richmond Municipal Code sections 15.04.013 Use types, 15.04.020 Definitions, 15.04.220.040 C-2 Conditional Uses, and 15.04.230.040 C-3 Conditional Uses, to list cash for gold businesses as Conditional Uses requiring a Conditional Use Permit to operate. City of Richmond, applicant; Planner: Jonelyn Whales; Tentative Recommendation: Recommend Approval to City Council

Ms. Whales gave the staff report, recommendation to the City Council regarding Zoning Text Changes to the Richmond Municipal Code related to cash for gold businesses. Staff is currently working on a proposal, as directed by the City Council, to establish a new land use classification activity type for second hand dealers including "cash for gold" businesses, as well as develop regulations for such activity types. There are currently four cash for gold businesses throughout the city. These businesses are subject to strict state regulations; however, enforcement is typically left to the local jurisdiction. Given that staff has experienced a surge in requests and inquiries for these types of businesses, staff asked the City Council to adopt an interim urgency ordinance to allow time to research various options for regulating their operation. On July 30, 2013, the City Council adopted Urgency Ordinance No. 15-13, which established a temporary moratorium on second hand dealers including, but not limited to, cash for gold businesses. The Council also directed staff to continue to study the regulations governing these types of businesses and to generate community input regarding their operations.

Staff is proposing several options, one being a zoning text amendment to establish cash for gold businesses as a commercial activity and to establish zoning districts whereby these businesses

could operate. Other options under consideration are an ordinance amendment to restrict these types of businesses in certain commercial zoning districts with a conditional use permit (CUP).

At present, the Zoning Ordinance does not contain any definition or guidance regarding pawn shop or second hand articles related activities, therefore these businesses currently operating within the city are not regulated. Section 21641 of the California Business and Professions Code defines a “secondhand dealer” as any person whose business includes buying, selling, trading or accepting for sale, consignment or auction and secondhand personal property. It also defines a pawn broker as an individual or business offering secured loans to people with items of personal property as collateral. The Department of Justice requires applicants interested in obtaining a pawn broker or secondhand dealer license to submit to a live scan and background check through the local police department. The city’s Municipal Code also requires that individuals engaged in the receipt and sale of second hand articles obtain valid identification from sellers, hold items for ten days prior to resale, and keep a log of each transaction to be made available to the police department upon request.

Ms. Whales stated that staff has surveyed approximately fifteen neighboring jurisdictions relative to their management of cash for gold or secondhand dealer operations. The adjoining City of San Pablo has instituted a moratorium which was recently extended an additional nine months to allow staff time to modify land use policies pertaining to such businesses. Staff found that ten of the cities surveyed require some sort of discretionary approval and six require a CUP, which allows the Planning Commission to apply specific conditions on their use. Concerns generally related to this type of use include an increase in crime immediately surrounding the use, increased signage, and security.

Staff is asking that the Commission consider and provide direction regarding the following options:

1. Define gold buying as a Miscellaneous Retail Store, which allows this type of business to continue as a permitted use;
2. Establish a distinct classification and special standards for gold buying businesses, which would require a CUP and allow the city to impose location, operational and development standards controlling the use. Key features to consider would be proximity to sensitive uses, proximity to similar uses, signage restrictions, video surveillance and hours of operation. This would require a Zoning Ordinance amendment that would also establish which zoning districts would permit such a use;
3. Establish a CUP for gold buying businesses that would allow the city to impose limitations on location and standards of operation on a case by case basis;
4. Revise the definition of Non-depository institutions such as check cashing facilities to include cash for gold businesses, requiring a CUP like other non-depository institutions.

Ms. Whales requested feedback from the Commission.

Commissioner Butt asked if there have been any specific incidents or calls for service relative to these uses.

Ms. Whales said “no”; however, several surrounding cities have reported several.

Commissioner Butt asked and Ms. Whales confirmed that check cashing businesses are currently regulated by a CUP within the C-2 and C-3 districts.

Chair Lane requested clarification on options 2 and 3.

Ms. Whales explained that option 2 creates a land use classification with prescribed conditions and standard provisions for all businesses meeting the definition of a cash for gold business, with an opportunity for the Commission to impose additional conditions as deemed appropriate. Option 3 also requires a CUP, but the specific requirements would be determined by the Commission on a case by case basis.

Commissioner Martinez questioned why a cash for gold business might require different standards than a traditional pawn shop.

Ms. Whales agreed that they create a similar environment and said staff would recommend that the two uses fall under the same classification. She also noted that there are not currently any pawn shops operating within Richmond.

Public Comment:

Cordell Hindler said cash for gold businesses are likely responsible, at least in part, for a rash of robberies throughout the Bay Area. He said he did not recommend allowing them to operate in Richmond.

Commissioner Choi said he was surprised to learn there are not specific regulations on this type of use and that he was pleased to see this come forward. He, Chair Lane and Commissioner Butt indicated their preference not to distinguish between for cash for gold and pawn shop uses.

Chair Lane said she was not convinced the use warranted a special classification but that a CUP should be required at minimum in order address issues such as location, hours of operation, and safety. She also said she viewed this as a very different function from check cashing operations.

Commissioner Butt agreed that the use warrants a CUP at minimum, although perhaps not a special classification. He made a distinction between this type of use and that of a liquor store where proximity to sensitive uses can be a serious issue, though acknowledged that there may be issues he was unaware of. He said he supported some level of regulation to stem the growing onslaught of this type of business, which is an eyesore and has the potential to encourage dishonest behavior.

Commissioner Martinez made an argument for the establishment of special standards. He said that businesses such as these flourish in a difficult economy and have the distinct potential to become predatory over their customers if not closely regulated.

Chair Lane disagreed and said she viewed check cashing operations, which can be opportunistic in terms of fees, as more predatory than gold purchasers who typically offer a set price for a set amount and type of product. She suggested that it might be wise to establish a cap on how many of these operations are allowed in the city.

Commissioner Butt asked and Ms. Whales confirmed that medical marijuana dispensaries are currently regulated as a special use.

With regards to the potential for predatory tendencies, Ms. Velasco said they have learned from the police department that the scales used in these businesses are not regulated by the state as

they are in other uses. One benefit of a CUP is the opportunity to regulate that aspect of the business to ensure that customers are not being taken advantage of. She stressed that it is an evolving industry, with some operators being more oriented towards the jewelry aspect and others more towards the cash. She also noted an increase in property crimes in the city, to which the increase in these types of businesses may be a contributing factor.

Commissioner Choi asked and Ms. Whales confirmed that options 2 and 3 are similar; option 2 explicitly states what the standards are versus and allows the Commission to impose additional conditions whereas option 3 which addresses each use on an individual basis.

Commissioner Martinez asked if the Commission has the authority to institute a ratio of profit per transaction in order to guard against predatory practices. He explained that while pawn shops deal with objects whose value is somewhat subjective, the sale of gold is more standardized and based on an objective value of weight so it would seem appropriate.

Commissioner Butt said the Commission's discussion had convinced him that special standards are in fact appropriate here.

Chair Lane asked and staff explained that check cashing operations are not special class but rather a commercial activity that requires a CUP to which staff and the Commission can impose conditions. She said she was not opposed to special standards for cash for gold businesses but thought check cashing operations presented similar concerns and the city should revisit the potential to create a special classification there as well.

Ms. Whales suggested that could be included as part of the Zoning Ordinance update process.

Commissioner Choi thought the police department could elucidate many of the issues related to the use and asked if they had shared any recommendations with staff.

Ms. Whales said "no."

Commissioner Martinez asked why option 4 was of interest to staff.

Ms. Whales explained that as an existing component of the Zoning Ordinance, it would be a quick solution to simply add cash for gold businesses to the definition of non-depository institutions similar to check cashing facilities.

Chair Lane summarized the Commission's direction that staff explores option 2 further. She reiterated her desire to see something similar related to check cashing facilities, perhaps as part of the Zoning Ordinance update, as well as the Commission's interest in establishing a cap on these types of businesses in the city.

COMMISSION BUSINESS

4. Reports of Officers, Commissioners and Staff

Ms. Velasco reported that the Commission's packet included a notice from UC Berkeley and Lawrence Berkeley National Laboratory that their Draft Long Range Development Plan for the Richmond Bay Campus is available for public review and comment.

Director of Building and Planning Services Mitchell reported that there are a number of projects ranging from warehousing and distribution to infill housing in the pre-application stage. These projects will ultimately come before the Commission for evaluation of consistency with the General Plan.

Commissioner Choi encouraged the Commission and public to review the South Shoreline Specific Plan webpage. He also invited everyone to attend the Grid Alternative Solarthon at 8 a.m. on Saturday, September 7th at Nevin Park.

Chair Lane said she is pleased to see that projects like that in Item 2 are still viable and is particularly pleased to see more family housing in Richmond.

Adjournment - The meeting was adjourned at 7:45 p.m. to the next regular meeting on September 19, 2013.