

**PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL**
450 Civic Center Drive, Richmond, CA
June 5, 2014
6:30 p.m.

COMMISSION MEMBERS

Sheryl Lane, Chair
Eduardo Martinez
Andrew Butt
Melvin Willis

Ben Choi, Vice Chair
Roberto Reyes
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, Vice Chair Choi; Secretary Langlois, Commissioners Butt, Martinez, Reyes (arrived late) and Willis

Absent: None

INTRODUCTIONS

Staff Present: Senior Planner Lina Velasco and Assistant City Attorney Carlos Privat

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, June 16, 2014, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

Chair Lane noted the items recommended to be held over to a future meeting in July and she moved Commission Business up on the agenda to confirm July meeting dates.

COMMISSION BUSINESS

- 5. Reports of Officers, Commissioners and Staff**
a) Confirm July meeting dates

Secretary Langlois requested the Commission address an urgency item regarding taking a position opposing the proposed changes to the Planning Commission ordinance which the Council passed at its first reading on June 3rd. Chair Lane asked that Ms. Velasco provide some background.

Ms. Velasco reported there were two items introduced at the June 3 City Council meeting; a resolution which was adopted urging the Planning Commission to take action on the Final EIR and the Conditional Use Permit, as well as other entitlements for the Chevron Modernization Project on June 23 and 25th. Staff is holding these dates, but there was a previous motion at the last meeting for staff not to return with that project consideration until 30 days past the issuance of the Final EIR. Staff is planning to return on July 9th and 10th as needed.

Ms. Velasco said the second item was an ordinance which was introduced that would amend certain sections of the Richmond Municipal Code which talks about the powers and duties of the Planning Commission. It would state that matters having to do where the City Council took an action and returned pursuant to direction from a court would then remain in the jurisdiction of the City Council. Therefore, the Planning Commission could be an advisory but would not be a pre-requisite of the Council consideration action on that particular issue. The ordinance is anticipated to have the second reading on June 17th and would take effect 30 days afterwards, beginning July 17th. If the Commission did not take action by July 10th the Commission could lose its ability to recommend approval or denial of the project.

Secretary Langlois asked that if the Commission completes its task on July 9th and 10th, would this be the regular CEQA hearing where the Commission would be voting on whether or not to certify the EIR and issue the CUP. And, regardless of what happens with this new ordinance after this, she asked if the current process would still be in place where if anyone wanted to appeal that decision, they would have to go through the normal appeal process. Or, she asked if it would still be in the Municipal Code for future projects.

Ms. Velasco said if the Commission makes a decision by July 10th and it is not appealed, the ordinance will not come into play regarding this action. If it is appealed after that date and the project is modified, it will not need to come back to the Commission. Either way, consideration of the appeal would be at the Council's discretion anyway. If the Commission has enough information and believes it can take action, the Commission would be the decision-maker on the project unless appealed.

Commissioner Martinez referred to the ordinance passed at the first reading and said it stipulates that it only pertains to matters which the Council has previously acted and which return to the City for further proceedings pursuant to direction from the courts, such as a writ. A project was returned, but this project was not. This is an entirely different project, even according to Chevron. With this in mind, he felt this does not pertain to the Chevron Modernization Project from his understanding. Ms. Velasco said that issue was raised during the Council meeting and as it was explained by the City's outside legal counsel, this is a downsized version of the original project and any additional mitigation measures or project design features added to change or reduce impacts it is still considered as the same project so it does fall under the terminology introduced in the ordinance, and the EIR is being revised to respond to the writ. Commissioner Martinez said he begs to differ as well as others.

Assistant City Attorney Privat stated that the ordinance as proposed does not speak to projects but subject matters. Commissioner Martinez said he disagrees; and said it states "for matters subject to this code on which the City Council has previously acted and which are returned to the City for further proceedings pursuant to the directive of the court." He said it was a project and not the subject matter that was returned.

Chair Lane said she believes it was the attorney providing guidance on the EIR that has ruled on the purview, the opinion of which staff shares.

Secretary Langlois said she appreciates the explanation given by Mr. Privat and Ms. Velasco, but since the Council is poised to change this ordinance that affects the Planning Commission, it seems like it would be pertinent for the Commission to be able to weigh in on this and provide the Council the Commission's position so they have their recommendation on the ordinance amendment. She prepared a draft letter for the Commission to consider prior to the Council taking the second vote on the second reading, and asked if this could be done tonight.

Mr. Privat said if the Commission can make the findings to move on an item not on the agenda, the item has to have come up after the agenda was posted and there is need for immediate action.

Chair Lane said based on procedure, the Commission can determine the calendaring issue, go to the Consent Calendar and then address the findings at the end of the meeting.

Ms. Velasco said in terms of dates where the Commission has a quorum, staff would like to continue to hold July 9th and 10th for consideration of the Modernization Project and the EIR certification. Staff anticipates there would be a need for other projects to return to the Planning Commission. Now it seems as though what staff thought would be coming forward is not, so she suggested moving everything to the August 7th meeting, which would be the first Thursday of the month.

Chair Lane confirmed that the proposal is that the Consent Calendar Items recommended for hold-over would be considered on August 7, 2014, which are Items 1, 3 and 4; PLN 13-277, PLN14-023, and PLN11-607.

CONSENT CALENDAR

Chair Lane reported that the Consent Calendar consists of four items. She asked if there were any members of the Commission, staff or public who wished to remove any of the items on the Consent Calendar. Commissioner Butt requested removal of Item 2; PLN14-064.

Items Approved on the Consent Calendar:

CC 1. PLN13-277: AT&T Wireless Facility Upgrades - PUBLIC HEARING to consider a Conditional Use Permit to allow 4G LTE upgrades for an existing AT&T wireless facility located at 5221 Central Avenue (APN: 510-081-055). The proposed project consists of replacing six existing antennas and adding three new antennas in relocated areas. C-3, Regional Commercial District; Northern Properties LLC, owner; Christy Roberts, Applicant; Planner: Hector Rojas; Tentative Recommendation: Hold Over to a Date certain to be selected by the Commission

CC 3. PLN14-023: Sign Ordinance Zoning Text Amendment - PUBLIC HEARING to consider Zoning Text Amendment to Chapter 15.06 of the RMC to define and regulate fully animated signs and digital billboard signs. City of Richmond Planning Division, Applicant; Planner: Kieron Slaughter; Tentative Recommendation: Hold Over to a Date certain to be selected by the Commission

CC 4. PLN11-607: Bulk Materials Processing Center Conditional Use Permit Compliance Review - COMPLIANCE REVIEW and modification of the Conditional Use Permit for the Bulk Materials Processing Facility (CU1101132) at 1 Parr Blvd. (APN: 408-140-009, 408-140-008, 408-140-010, 408-140- 013). CRR; Community and Regional Recreation District; West County Landfill Inc., owner; Richmond Sanitary Services, Operator; Planner: Lina Velasco; Tentative Recommendation: Hold Over to a Date Certain to be selected by the Commission

ACTION: It was M/S/C (Choi/Martinez) to approve Consent Calendar Items 1, 3 and 4 and to hold over these items to August 7, 2014; which carried unanimously by the following vote: 7-0 (Ayes: Butt, Choi, Langlois, Martinez, Reyes and Lane; Noes: None; Absent: None).

BROWN ACT – PUBLIC FORUM – No speakers

Item Removed from the Consent Calendar:

CC 2. PLN14-064: Ledesma Auto Repair - PUBLIC HEARING to consider a Conditional Use Permit to modify an existing Conditional Use Permit to operate an auto repair facility at 1333 Cutting Blvd. (APN: 544-240-012). C-1, Neighborhood Commercial District; Chow Chen, owner; Raudel Ledesma, Applicant; Planner: Kieron Slaughter; Tentative Recommendation: Conditional Approval

Lina Velasco gave the staff report, stating the item is a request to modify an existing CUP for an auto repair facility at 1333 Cutting Boulevard. The City has experienced code enforcement issues around previous operations at this site. When the applicant requested approval of a business license, the planning department insisted that the CUP be modified to provide protections to the neighborhood regarding nuisances that have occurred often related to operations at the site.

Staff worked with the applicant and they have agreed to do some additional upgrades to the site to improve its visibility and to ensure operations have little impact on the surrounding neighborhood. Improvements include new signage, removal of the existing chain link fence with a new metal fence, new parking lot striping and paving, and new lighting and painting of the building. These improvements will be reviewed at the administrative level by the planning department if the CUP is modified. Staff has made the findings and have added conditions that address overloading of parking, improving visibility of the site, and making sure there are conditions for operations that would have minimal impact on the surrounding neighborhood but would also ensure that as the business grows there are not vehicles parked along the street, and that the hours of operation comply with the fact there are residences and a park nearby. She said staff is available for questions as well as the applicant and property owner, and staff recommends approval of the modification.

Commissioner Butt said he thinks this is an improvement of the corner, but he has questions and concerns. He asked and confirmed that the zoning that governs this is an overlap of the Knox Cutting Specific Plan and the current General Plan. He reviewed the General Plan and the property looked to be a corner node, and Ms. Velasco said she believes the node is on Harbour and Cutting, but it is identified as a mixed use medium density with a commercial emphasis, which would allow residential and commercial.

Commissioner Butt said if this were a new project being proposed, he would not be inclined to support it because he does not believe it is appropriate next to a park. But, cleaning up, renovating and reactivating an area used for a long time for this use is probably okay for him. However, he noted that an iron fence is proposed to replace the chain link fence and he asked about its height and what specifically is being proposed. He referred to the fence detail on Sheet A-4 which shows a height of 5 feet. The only reference to a height is 14'6" x 7 foot high new manual sliding gate on both sides. He asked if the proposed fence was 7 feet high.

Secondly, in looking at the Knox Cutting Specific Plan, it requires a number of things. He saw there was a condition that the applicant needs to provide a bus stop and bench in accordance with the City. The plan also requires provisions for trash cans at every corner, which he suggested adding. There are also bars on the existing windows and he asked if they would be removed. If not proposed for removal, he would require this as a condition. Also, the materials are described as stucco. There are two buildings connected by a roof and one is T-111 siding and he asked what is being proposed here. He would also like a condition prohibiting any temporary vinyl signs. He referred to the landscaping on Sheet 8.2 that calls for brown plastic 4" landscaping banding board between paving and the landscaping and he asked that this be replaced with a concrete curb. Finally, regarding lighting, he does not see anything in the plan. He suggested matching the lighting within this site and also match the fencing with that of the adjacent park for continuity.

Ms. Velasco responded, stating that the specific designs have not been reviewed and the CUP looks more to the operations. In terms of allowable height for the fence for commercial and industrial properties, it is 6 feet, but they can go up to 8 feet if they meet performance standards to screen outdoor materials or storage. In most cases, staff looks at the area and there is a larger fence in the back which was added during the code enforcement case from the previous operations. Staff anticipates the fence will not exceed 6 feet.

Chair Lane asked that the applicant or owner speak to the other items requested by Commissioner Butt.

Chow Chen, owner, clarified that their intent is to install a 6 foot fence and he commented that they are located next door to a methadone clinic. Regarding other modifications to the building, there are none proposed with the exception of lighting and painting.

Commissioner Butt said seeing that this does not go to the DRB, he wanted to be sure they were captured in the approval. He asked about bars on the windows, and Mr. Chen said if requested, they could move the bars to the inside of the window.

Commissioner Reyes echoed requested changes by Commissioner Butt and said there is an opportunity for this business to lead others in making improvements. Regarding operations, his experience with these types of businesses are that there is a lot of debris left in the yard, oils, and unregistered and non-moveable vehicles. He hopes that the business is successful and would like it kept clean.

Ms. Velasco said staff shares the Commissioners' concerns and believed this was necessary prior to continuing the operations of an auto repair facility. She pointed to a couple of conditions recommended as part of the modification which deals with ensuring that all auto repair is occurring within the building; that there is no work being done out in the parking lot; Condition No. 7 which discusses storage and the use of hazardous materials. There is a requirement to

work with the County Hazardous Materials Division and obtain licensing and ongoing inspections. Staff also added Condition No. 10 which talks about making sure that all vehicles on the site shall display a current license plate with vehicle registration or be registered as non-operational. Staff experienced vehicles on this site that were left for years and some in the end were identified as being stolen. Staff also added Condition No. 11 which talks about no auto parts or equipment shall be stored outside in the parking lot. Aside from air for tires, there should be little visibility on the site. Landscaping will be added, restriping of the lot will be done, and a driveway approach will be closed to make the intersection safer and will allow more on-street parking. She noted the hours are identified in Condition No. 5 as 8AM to 7PM Monday through Friday and 8AM to 4PM on Saturdays, and closed on Sundays.

Ms. Velasco gave staff's summary, stating it is staff's recommendation that the Commission adopts staff's recommended Conditional Use Permit findings 1 through 4 with the supporting statements of fact, and approve PLN14-064, a CUP modification for an auto repair facility, as conditioned in the attached resolution

The public hearing was closed.

Commissioner Butt made a motion to approve PLN 14-064 with the previously stated additional conditions.

Chair Lane stated she supported the additional conditions and said while the window bars are not aesthetically pleasing she supported maintaining them for security. Commissioner Butt commented that that bars are not on every window and he supported allowing some leeway. Commissioner Martinez suggested taking the owner's suggestion of putting the bars on the inside as this would alleviate any problems.

Commissioner Reyes asked about the height of the fencing, and Ms. Velasco said if certain performance standards are met, the applicant could go up to 8 feet; however, the applicant's intention is to go up to 6 feet. She discussed with the applicant whether or not he was amenable to all conditions as stated in the motion. She stated the applicant is willing to accept the additional conditions and referred to the conditions for lighting and fencing that it specifically match what is being done at the park. Mr. Chen said he believes it might be cost-prohibitive because it is upgraded to what would be used for a commercial property and he is also concerned about its availability. Ms. Velasco suggested that Mr. Chen could work within the parameters of the condition stating that the fencing and lighting be compatible with the surrounding area. Commissioner Butt concurred with the amendment.

ACTION: It was M/S/C (Butt/Langlois) to approve PLN 14-064 with staff's findings 1 through 4, supporting statements of fact, staff's conditions 1 through 18 with the following additional conditions: 1) Fence height shall be no more than 6 feet and be compatible with the style of the adjacent fence at MLK Park at the discretion of the Planning Department; 2) That the applicant add a trash recycling combination receptacle adjacent to the bus stop on the Cutting Boulevard frontage in coordination with the City's Public Works Department; 3) That there be no temporary vinyl signs at the property; 4) That the site lighting be compatible with the standard in the adjacent City park and that there be at least two pole type lights, one on Cutting Boulevard and one on Marina Way; 5) That the window bars not be visible from the outside of the project; and 6) That the applicant install a solid curb separating the landscaping from paving; which

carried unanimously by the following vote: 7-0 (Ayes: Butt, Choi, Langlois, Martinez, Reyes and Lane; Noes: None; Absent: None).

Chair Lane announced the appeal period.

URGENCY ITEM – Consideration of Draft Letter from the Planning Commission to the City Council Regarding the Chevron Modernization Project

Secretary Langlois said because the ordinance change came in the middle of the Planning Commission being part of the review process, it takes away the powers of the Planning Commission in this case. She does not understand the rationale for this, as the Commission has been timely, thorough and efficient. She is aware that when there is a General Plan Amendment, they must take an advisory role, but this is not the case. The Planning Commission normally determines land use and CEQA issues.

Secretary Langlois read from the letter, stating that while she appreciates the Council accelerating review of the Chevron Modernization Project, the Planning Commission also recognizes the application currently before the Commission is significantly different from the application which was subject to legal action 6 years ago. In order to fully review the EIR and all public input from that, the Commission has determined that a minimum of 30 days between issuance of the Final EIR and the permit hearing is needed.” She said the Commission takes its responsibility to evaluate the current application and make a decision about the EIR and CUP very seriously as it does with every land use decision, and they do not understand the rationale for curtailing their permitting powers in a way that appears tailored to this one application. Therefore, the Commission opposes the amendment to the ordinance and respectfully requests the City Council to vote against it or withdraw the ordinance at its second reading.

ACTION: It was M/S/C (Langlois/Martinez) that the Planning Commission adopt its position and request staff to forward the letter to all members of the City Council and to the Mayor; which carried unanimously by the following vote: 7-0 (Ayes: Butt, Choi, Langlois, Martinez, Reyes and Lane; Noes: None; Absent: None).

COMMISSION BUSINESS

5. Reports of Officers, Commissioners and Staff

Ms. Velasco reported that the Joint DRB/Planning Commission field trip will be held on Friday, July 18th. The route is still being determined, but there is currently majority involvement. She also reported there will be a workshop next Thursday regarding discussion of potential community benefit conditions of approval for the Chevron Modernization Project. This is the second meeting which will be in the Auditorium at 6PM, with doors opening at 5:30PM and staff encourages the public to RVSP via the website.

Commissioner Reyes asked and confirmed that Ms. Velasco attended the last workshop for the Chevron Modernization Project. He asked if there was any discussion regarding the Doctor's Hospital. Ms. Velasco said yes, this was mentioned several times in both sessions, and she said she was part of the Health and Safety meeting.

Commissioner Martinez commented that dividing the groups into separate rooms cuts down on the quality of the conversations. There were not enough sessions for him to go to what he was concerned about, and he suggested a different model.

Commissioner Willis stated that on June 9th at 6PM at the Maple Hall in San Pablo at 13831 San Pablo Avenue, a community meeting will be held regarding the closure of Doctor's Hospital. He does not have all details, but there have been calls upon the County to absorb the hospital for the long-term and they are looking at a ¼ cent sales tax countywide to try and save the hospital.

Vice Chair Choi reported that he works at Marin Clean Energy (MCE) as an Account Manager and the City of Richmond is a member of MCE. He stated AB 2145 which would in many ways make it difficult for a community choice aggregate to function in the state passed the Assembly. It is currently under Senate review and he asked those supportive of MCE contact State Senators to express their views on AB 2145.

Secretary Langlois stated that several Planning Commissioners' terms are expiring at the end of this month. Applications are available at the City Clerk's office or on-line. She believes there is a 90-day grace period, but everyone except Chair Lane's term is expiring.

Commissioner Butt applauded the Elm Play Lot which was a great Richmond project. It is a park in the middle of the Iron Triangle which is almost done and they were finalists for a Google grant of about \$500,000, but did receive \$250,000. When he was on the DRB, he encouraged them to re-use the older home instead of tearing it down and it looks fantastic.

Chair Lane had no report.

Adjournment - The meeting was adjourned at 7:36 p.m. to the next regular meeting on July 9, 2014.