

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

450 Civic Center Drive, Richmond, CA

July 21, 2016

6:30 p.m.

**COMMISSION MEMBERS**

Sheryl Lane, Chair  
Nancy Baer  
Ben Choi, Secretary  
Jen Loy

Marilyn Langlois, Vice Chair  
Andrew Butt  
Jeffrey Kilbreth

The regular meeting was called to order by Chair Lane at 6:32 p.m.

Chair Lane led in the Pledge of Allegiance.

**ROLL CALL**

**Present:** Chair Sheryl Lane; Vice Chair Marilyn Langlois; Secretary Ben Choi; and Commissioner Andrew Butt

**Absent:** Commissioners Nancy Baer, Jeffrey Kilbreth and Jen Loy

**INTRODUCTIONS**

**Staff Present:** Planning Staff: Lina Velasco; Roberta Feliciano, Director of Planning Services Richard Mitchell and Assistant City Attorney Rachel Sommovilla

**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 Tuesday, August 2, 2016 by 5:00 p.m. and announced the appeal process after each affected item, as needed.

**CONSENT CALENDAR**

Chair Lane stated there were two Consent Calendar items and she asked if Commissioners, public or staff wished to remove an item from the Consent Calendar, and there were none.

- 1. PLN16-213: McMiller Parcel Map - PUBLIC HEARING** to consider approval of a Vesting Tentative Parcel Map to subdivide an existing parcel into two parcels at 2004 Hoffman Blvd. (APN: 560-640-001). SFR-3, Low Density Residential District. Rosalind McMiller, owner; Le Andre Davis, applicant; Planner: Jonathan Malagon; Tentative Recommendation: Conditional Approval.

2. **PLN16-198: Tacos Los Primos CUP Renewal** - PUBLIC HEARING to consider approval of a 2-year renewal of a Conditional Use Permit to operate a mobile vending unit at 546 23<sup>rd</sup> Street (APN: 515-180-018). C-2, General Commercial District. Griselda Ledesma, owner; Juan Luis Carrillo, applicant; Planner: Roberta Feliciano; Tentative Recommendation: Conditional Approval.

**ACTION: It was M/S/C (Choi/Langlois) to approve the Consent Calendar consisting of Items 1 and 2; which carried by the following vote: 4-0-3 (Ayes: Butt, Choi, Langlois and Lane; Noes: None; Absent: Baer, Kilbreth and Loy).**

### **BROWN ACT – Public Forum**

CORDELL HINDLER spoke of new ideas for 25<sup>th</sup> Street and voiced concerns with panhandling and nuisance issues of the 7-Eleven store.

### **STUDY SESSION ITEM**

3. **PLN16-038: Regulations for Base and Overlay Zoning Districts, Standards for Specific Uses, and Citywide and Special Purpose Regulations** - STUDY SESSION to receive comments on the draft amendments for new Base and Overlay Zoning Districts, including development standards and regulations for specific uses and activities, and Citywide and Special Purpose Regulations, including accessory structures, landscaping requirements, and parking and loading standards being considered as part of the Zoning Update, to bring these regulations into conformance with the City's General Plan 2030. Planner: Lina Velasco; Tentative Recommendation: Hold study Session.

Senior Planner Lina Velasco stated the item is a study session to receive comments on Modules 2 and 3 of the draft amendments for new Base and Overlay Zoning Districts, development standards and regulations and Citywide and Special Purpose regulations and to bring these regulations into conformance with the City's General Plan 2030.

She introduced Michael Dyett, Dyett & Bhatia spoke about Modules 1 and 2 and the procedures for measurement of certain items for development and how measurements are conducted in hillside districts, odd shaped lots, FAR determination, lot coverage and setbacks. As a guiding framework of the General Plan, there was correspondence between land use and interim zoning which has been carried further into base districts. They identified district names to have a correspondence with existing zoning districts and refinements in the interim zoning map.

They included a General Commercial District which had not been in the general zoning because there may still be some heavy commercial uses which are not ready for mixed use development. In single family districts, the Commission will see minimum and maximum densities, pulling garage back from the fronts of homes, introducing a coverage requirement for landscaping and open areas, they addressed hillside issues by developing rules for an upslope lot and a downslope lot, and looked at residential floor area to have less bulky new homes and to prevent over-building, and these are similarly carried into multi-family development.

They encourage alternative housing forms, the need to pull back and break up large retaining walls, getting cars in the rear and being able to see into the ground floor of buildings. He said they want larger commercial spaces so there can be flexibility for tenants and keeping parking

on the site at the rear and getting curb cuts on secondary streets. For industrial districts, the idea is to have transitional requirements in relation to the residential district, outdoor storage standards and streamlined regulations for parking, landscaping, loading, service and buildings in the freeway corridors, and he referred to the diagrams as to how standards apply.

There are a couple of overlay districts and they sought to daylight a culverted creek and making drainage more natural. They seek to build in a density increase that would allow added costs to be recouped. There are now rules for alterations of stream beds, creek setbacks, uses within the setback area, requirements for culverts, walls and other structures, and a monitoring and inspection program and dedication of drainage and scenic easements for maintenance work.

Mr. Dyett stated they met with the HPAC and discussed moving Chapter 6.06 into zoning and expanding it to have more preservation incentives through easements, historic building code and the Mills Act to allow for property tax relief, as well as a voluntary historic conservation plan.

The neighborhood councils wanted a way to tailor some of the zoning standards to individual neighborhoods. They included in the draft a neighborhood conservation overlay that would allow this fine-tuning. He then spoke about what is done about specific uses and adding to the use list and parking requirements will all be in one place under a separate article.

General citywide standards address accessory structures, projections into yards, and they added rules for height limits and they do not want chain link fencing in the City. They increased affordable housing revisions given changes in state law which offer more incentives and cost reductions, and the Housing Authority would take over screening on applicants. There are new standards for lighting and noise.

There are transportation demand requirements that apply to new multi-family and residential development over 10,000 square feet. Lastly, they took the 2015 update to the water efficient landscape ordinance and tailored it to the City of Richmond which will reduce water use in landscaped areas by about 20%.

He asked for comments from the public regarding adjustments, whether they should take a broader look at tree preservation, suggested comments on daylighting provisions and whether urban agriculture needs a separate set of standards. The Commission could confirm whether the amendments give the right job to the Housing Authority, that lighting and noise are acceptable and right-sized parking and transportation demand management standards makes sense.

Chair Lane opened the public comment period.

Public Comments:

CORDELL HINDLER, Boardmember for Park Plaza Neighborhood Council, supported the proposed charter school after having attended a recent meeting.

ART RINTELEA, Fairmede Hilltop Neighborhood Council, RANC member and union member, asked that the Commission put CUPs on charter schools and possibly moratorium, given the excessive number of schools in Richmond.

LINDA KLIEN, speaking on behalf of Steve and Susan Chamberlin, said she submitted a letter and said the proposed 1500 foot buffer between schools and fuel pipelines and storage tanks is unnecessary to protect the health and safety of children and greatly exceeds the Dept. of Education CDE requirements. She understands the City will revise the proposal to match the CDE's recommendation. The proposed 200 square foot play space per student requirement is inappropriate, as urban environments do not allow for this large amount of play space and most new urban schools provide far less. She asked that the requirement be revised or stricken. The proposed noise standards would eliminate the ability of students to take advantage of play space, given these standards are lower than in the General Plan and lower than other jurisdictions, and she suggested they be raised. Lastly, she asked the Commission direct staff to work with the schools' stakeholders to better understand school requirements and revise the proposed zoning accordingly.

NICOLAS ROMANO, speaking on behalf of Steve and Susan Chamberlin, spoke about school site standards which have been proposed without much interaction with the school community and would present any new schools in the City, and echoed statements made by Ms. Klien.

DOUG GIFFIN, Making Waves Academy, stated the school is located in the Hilltop community and has a wide range of compatible business and community uses and services, including Making Waves, YMCA, La Petite Academy, the ABC Autism Program and a post office. These are mixed with other land uses without conflicts and adjacency issues. Making Waves Academy operates under a CUP which is the perfect tool for this type of neighborhood because it gives the City discretion of businesses and he asked that schools be allowed under the CUP process. They have concerns over industrial intensification in the neighborhood based on changes, and will submit comments on this.

ALTON B. NELSON, CEO, Making Waves Academy, stated they have served Richmond for 25 years and serves 800 students and employs 120 local residents that are faculty and staff. He spoke about their scholarship program and students' pride in Richmond. He voiced concerns with proposed changes which would make their academy non-compliant and be disruptive to their students and families and he asked that the Planning Commission protects the CUP process and schools.

SHERRY SMITH, Making Waves Foundation, said their goal is to see students graduate from college and be productive and responsible citizens. She spoke about high academic opportunities for students, career readiness and planning, and enriching programs. The proposed rezoning would make it prohibitive for them to continue to serve their current and future students and families. It also appears to call into question the current use of the Autism program which also serves many students and families. They have discussed revised language with staff as to how to support their needs, but the draft does not include this in its language. She asked that the school community be sought to discuss requirements and ensure they are drafted as fair, good for students, and implementable. She requested the Planning Commission determine the community's needs for schools, and she discussed compatible nearby businesses and asked the Commission's discretion to support the needs of the community in its schools.

DAVID BLACKWELL, land use attorney and on behalf of Making Waves Academy, referred to his letter submitted earlier today and expressed concerns about the current draft set of regulations which preclude school uses in all industrial zoning districts. There has been a positive development and discussions and they hope things move in such a direction; however,

he voiced concerns regarding removal of the CUP process and the need to outreach to schools and to the school community.

JOEY WEINSTEIN-CARNS, Bay Area Director of Facilities with the California Charter Schools Association (CCSA), stated they strongly oppose the new zoning regulations which establish locational and site standards for non-exempt schools in the zoning ordinance update draft Module 2, as they will create costly, time-consuming, and unnecessary barriers to high quality charter school growth. He spoke about their track record of Richmond charter schools which serve 3,701 students, and testing which meets or exceeds state averages. He cited the General Plan excerpts regarding support of charter schools, and he noted they have wait lists of approximately 4,300 students which is more than they have in schools. Given this statistic, he asked that Richmond expand upon and replicate their educational successes, and he asked that they allow charter schools to locate in all areas by right under a CUP, and right-size standards such as play space and other requirements. He asked staff to meet with CCSA to discuss alternative locational and site standards for non-exempt schools in the zoning ordinance update.

ARTHUR FRIEDMAN, Sheppard Mullin, Richter & Hampton, San Francisco, on behalf of CCSA, stated he submitted a letter yesterday, and said he understands Mr. Dyett's comments regarding school standards needing some work. Some of their significant concerns, the regulations will preclude the ability for charter schools to open which is completely contrary to the general policy goals as well as creating significant legal problems as outlined in their letter. He spoke about rigid buffer standards which are void of proper analysis regarding risk, a blurring of the line between legitimate land use concerns and educational curricula which relates to the 200 square foot per student of play space which is not seen anywhere else and is impractical, a locational standard which calls for noise analysis and impacts on educational programming which he said is not their expertise. He asked that they be able to work with staff and the Commission to ensure reasonable standards.

THELMA WATSON said she has been a parent of a Making Waves Academy student for 8 years. She said the school is fantastic as well as its location, especially for parents and those who work. She would hate to see the school moved elsewhere and asked that the Commission and staff work with representatives.

MONICA CERVANTES said she has been a parent of a Making Waves Academy student for 10 years and asked the Commission to allow them to remain where they are now, stating they like the current safe location of the school, and said the school has excellent academic standards and it has helped her children attend college. Her children were struggling in school until they began attending Making Waves Academy and she asked not to displace the school.

PATRICIA ALBERTO said she has three children and one will become a freshman at Making Waves. The academy has allowed her daughter to excel, be on the honor roll and to be excited to go to school. The school's location is safe and accessible for many parents, said all teachers are very helpful and said Making Waves Academy is like their second home.

CECILIA NORZAGARAY provided comments regarding her support of Making Waves Academy (in Spanish).

AMY OBINYAN said the proposed zoning changes are confusing. People thought revisions were addressed at the last Planning Commission meeting in the spring, and it seems as though things have again changed to move Making Waves Academy. She said parents like the current,

safe and accessible location, stated the school is beautiful and inspiring to everybody, and the schools wants children to succeed. Students have been given so many more opportunities at Making Waves and asked to help the school remain where it is, given it provides amazing education.

Commissioner Butt asked staff to allay concerns from speakers and noted that the Planning Commission is not ultimately making a decision tonight. The City Council will receive a recommendation from the Commission and what is proposed will not shut down Making Waves Academy. He said what the revisions would do is that it would make it more difficult for the school to expand or rebuild in the event of a catastrophic event.

Ms. Velasco and Mr. Dyett both indicated this was accurate.

Commissioner Butt said it strikes him that the school has been in place for a long time and takes up a lot of land in the area, and he said it might make sense to look at a different zoning so Making Waves can continue to operate under a CUP such as a commercial versus light industrial use. He thinks while it makes sense that schools should not be located in industrial areas, but he did not see that this charter school was impacted by an industrial user.

Vice Chair Lane thanked speakers for their comments. She asked for further explanation regarding the ordinance's impact on Making Waves Academy.

Ms. Velasco explained that staff is proposing to rezone the site as part of the IL District, or light industrial district. In the interim, non-exempt schools were conditional uses; however, as they have transitioned into the comprehensive update, they have stated non-exempt schools are not allowed in the IL District.

While the interim zoning was able to work out she noted that Making Waves had submitted an expansion plan and staff has been in discussions with the school about long-term options should something like this be adopted. An option could be to create a third industrial zone that could be applied in different locations where less industrial uses occur similar to this area. This presents a challenge for staff, given the City also hears from industrial users regarding restrictions in areas where they can operate.

Therefore, staff is reviewing comments and is holding discussions. They are looking at the standards as well as what the State Department of Education is doing with standards and whether they have reductions in standards which can be brought forward.

Vice Chair Langlois stated given the school has operated very well, she thinks continuing at the site is a good idea. In terms of the broader site standards for schools throughout the City, she asked that this be looked at carefully and maintain stringent standards for the safety of children in terms of industrial sites and outdoor play areas. She asked that staff review the standards of the State Department of Education and that charter schools provide the best possible environment for health and safety.

Regarding references to noise requirements, she thinks noise of kids playing should not be a problem or be limited. She asked if there was also a noise requirement where students are not subjected to ambient noise from surrounding activities which is where she would have a concern.

Commissioner Choi echoed comments from Commissioners and thanked speakers for their comments.

Chair Lane echoed comments from Vice Chair Langlois and Commissioner Butt relating to charter school issues. In terms of the play space, there was a chart comparing play spaces at new developed schools or existing schools and comparing the square footage requirements, and she confirmed with Mr. Dyett that staff would be reviewing this and that in urban areas it may not be as large an area.

In terms of noise and pipeline issues, Chair Lane echoed comments of Vice Chair Langlois. She noted there are areas of the city much more industrially developed than where Making Waves Academy is located, and she thinks discussion will continue to occur. She asked Commissioners to comment on other areas of revisions.

Commissioner Butt referred to right-sized parking and asked for an explanation of what is proposed. Mr. Dyett explained that they reviewed all individual current requirements, conducted some peer review by a transportation consultant, and determined whether the City was requiring too many parking spaces so as to require less paving and match the requirement less than the demand. Secondly, there should be use of shared spaces during the day and evening which saves the requirements of higher parking spaces, and also open up private lots for public use.

Commissioner Butt said he assumes part of this would also be proximity to mass transit which would be included in calculations for parking, which Mr. Dyett briefly described and he cautioned that the City will not see dramatic increases in service and transit services so parking requirements will still need to be in place.

Commissioner Butt also recognized that more developments are seeking density bonuses and they seek to achieve more and more.

Mr. Dyett said they are trying to strike the right balance here in these situations. He recognized there were portions of the code where there is not a lot of discretion, but because the inclusionary program is a voluntary effort, it becomes a conversation with applicants where the City should receive community benefits with projects, so it is not a by-right situation.

Commissioner Butt referred to urban agriculture and whether it deserves separate standards, and he agrees with this to the degree clear direction can be given. He returned to the discussion regarding charter schools and asked about cultivation of marijuana which may be proximate to the school's location.

Ms. Velasco said currently the marijuana ordinance has minimum distance requirements to certain uses including schools, day care facilities, and depending on who is there first, it would be triggered. In the case of a school in the industrial district, they must be at least 600 feet away in order for the site to be viable for a marijuana permit. She noted there was a situation for a dispensary near a school, and in such cases, it is possible the CUP would be denied. Staff can add an additional standard that for a new school to be located, it must meet the minimum distance from a liquor store or a marijuana dispensary.

Commissioner Butt referred to daylighting creeks and supported these revisions. Regarding affordable housing and in-lieu of options, he noted cities are now seeing some affordability in projects, but developers have paid in-lieu fees. He asked if it would make sense to consider

more flexibility where a developer is required to develop an affordable project near transit in the urban core rather than pay in-lieu fees.

Vice Chair Langlois asked and confirmed that the Council of Industries letters were contained within the staff report packet. She echoed Commissioner Butt's comments, referred to the PowerPoint presentation slide which stated "Mandatory inclusionary rule can't apply to rentals" and asked for an explanation.

Mr. Dyett stated there was the Palmer court case in Los Angeles which said the way inclusionary units had been calculated, the judge noted this conflicted with the State's Costa Hawkins rent control bill. They removed the inclusionary for rental out altogether and only have inclusionary for for-sale projects only which are subject to the 15% set-aside. A number of other cities have supported the program Richmond City Attorney's brought forward where developers could build off-site, on-site or pay in-lieu fees. They recast the program to work in a post-Palmer environment but the way the program is written today would not pass muster with the State Supreme Court, so it needed to be fixed which is current now.

Vice Chair Langlois referred to urban agriculture and stated she did not want the City to get too restrictive, noting that she would encourage more of it. She thinks it should be as broad and as easy for those people interested in growing food and having chickens in their backyards in residential districts.

Chair Lane referred to policy issues, and she suggested making sure that staff has the information it needs:

- She noted urban agriculture was addressed and asked not to be too restrictive.
- Regarding creek district overlay, should it be mapped or have standards citywide.
- There was a question regarding tree preservation standards and whether they should apply city-wide or just to hillside subdivisions.
- Some uses can be approved with an administrative use permit and others cannot, she asked which apply.

Mr. Dyett referred to the commercial district tables and said sometimes they suggested staff handle approving certain requests. He said example include staff's handling of a farmer's market standards, commercial parking lots or mobile vending units. If there are concerns of the Commission regarding staff's handling of these types of requests, he asked to let staff know. Also, if staff is uncomfortable, they can push an administrative use permit up to the Commission for review.

Chair Lane questioned the Housing Authority's screening of affordable housing. Mr. Dyett explained that right now the applicant decides whether the applicant is at certain income levels, which is a bit too informal. Most jurisdictions want to ensure housing is being occupied by those who need it and deserve it based on their incomes. It takes the burden off of the developer as well, given the Housing Authority is willing to do this, has the time and no longer handles redevelopment.

Chair Lane concluded her questions and asked Mr. Dyett to outline next steps.

Mr. Dyett said they would like to have all written comments in by July 25<sup>th</sup> and they will be conducting outreach and following up with people. A meeting will be held with staff and at the

August 18<sup>th</sup> meeting, the Planning Commission will have the new revised responsive public discussion draft where all comments for put together. The zoning map will be posted on the website. They will take comments and advice on the map. On August 18<sup>th</sup> the Planning Commission will consider the Negative Declaration and be briefed at the September 1<sup>st</sup> meeting to start the public hearing process to receive comments on the Negative Declaration. At the Commission's October meetings, a recommendation can be made to the City Council.

### **COMMISSION BUSINESS**

#### **3. Appoint a Nominating Committee for Officer Elections**

Chair Lane stated the Nominating Committee can have up to 3 Commissioners and she asked about availability of Commissioners.

Commissioner Butt asked if there were any vacancies. Ms. Velasco stated the Commission is full, but Commissioner Loy is on maternity leave and may miss some meetings. Vice Chair Langlois stated she will miss the August 4<sup>th</sup> and September 1<sup>st</sup> meeting.

Chair Lane suggested Ms. Velasco possibly check with the City Attorney to extend the election date, and possibly appoint the nominating committee at the August 4<sup>th</sup> meeting.

#### **4. Reports of Officers, Commissioners and Staff**

Ms. Velasco reported that beginning Monday, August 8<sup>th</sup> through the 9<sup>th</sup> and 10<sup>th</sup>, the City and the National Parks Service and Rich City RIDES will host a design charette for the Richmond Wellness Trail which is a project to introduce health themed urban fitness trails into public streets. There will be an opening workshop on Monday from 6-8PM and Tuesday and Wednesday, open studio hours from 11AM-12 noon and 5-6PM, and Thursday, August 11<sup>th</sup> will be the closing presentation. All events will be held at Ridge City RIDES Community Bike Shop at 1500 Macdonald Avenue.

#### **5. Adjournment** - The meeting was adjourned at 8:13 p.m. to the regular meeting on August 4, 2016.