

**PLANNING COMMISSION REGULAR MEETING  
COUNCIL CHAMBERS, RICHMOND CITY HALL**  
450 Civic Center Drive, Richmond, CA  
February 16, 2017  
6:30 p.m.

**COMMISSION MEMBERS**

Sheryl Lane, Chair  
Nancy Baer  
Claudia Garcia  
Vacancy

Marilyn Langlois, Vice Chair  
Andrew Butt  
Jen Loy

The regular meeting was called to order by Chair Lane at 6:30 p.m.

Chair Lane led in the Pledge of Allegiance.

**ROLL CALL**

**Present:** Chair Sheryl Lane; Vice Chair Marilyn Langlois; and Commissioner Andrew Butt, Jen Loy and Claudia Garcia

**Absent:** Commissioner Nancy Baer

**INTRODUCTIONS**

**Staff Present:** Planning Staff: Jonelyn Whales, Jonathan Malagon and Lina Velasco, Director of Planning Services Richard Mitchell and Attorney James Atencio

**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, February 27, 2017 by 5:00 p.m. and she announced the appeal process after each affected item, as needed.

**CONSENT CALENDAR**

Chair Lane stated the Consent Calendar consists of Items 2, 34, 5 and 6. She asked whether staff, Commissioners or the public wished to remove any items from the Consent Calendar.

Ms. Velasco stated there is a request to remove Item 5 from the Consent Calendar. Commissioner Butt requested removal of Item 6.

**Items Approved on the Consent Calendar:**

**CC3. PLN16-635: CCCA North Marijuana Cultivation** PUBLIC HEARING to consider a Conditional Use Permit for marijuana cultivation at 955 Hensley St. (APN: 561-322-019). IG, Industrial General District. Keeby James P & Caroline, owner; CCCA North, LLC, applicant; Planner: Jonelyn Whales; Tentative Recommendation: Conditional Approval.

**CC4. PLN16-737: Allegro Dance Studio** - PUBLIC HEARING to consider a Conditional Use Permit for a commercial entertainment and recreation use at 12012 San Pablo Avenue (APN: 501-241-002, -010, -012 and -013). CM-4, Commercial Mixed-Use, Gateway/Node and IS-1, Interim Study Zone Overlay (Form-Based Code) District. RI Albany LLC, owner; Allegro Dancers, Inc., applicant; Planner: Jonathan Malagon; Tentative Recommendation: Conditional Approval

**ACTION: It was M/S/C (Langlois/Butt) to approve the Consent Calendar consisting of Items 3 and 4; which carried by the following vote: 5-0-1 (Ayes: Butt, Garcia, Langlois, Loy and Lane; Noes: None; Absent: Baer).**

**BROWN ACT – Public Forum** - None

Ms. Velasco requested Items 5 and 6 be moved ahead of Items 2 and 1.

**Items Removed from the Consent Calendar:**

**CC5. PLN16-366: T- Mobile Wireless Communications Facility Modification** - PUBLIC HEARING to consider a Conditional Use Permit modification to add three new panel antennas and three radio remote units on the rooftop of an existing building, concealed behind a screen that will be painted to match the exterior of the building, at 5221 Central Avenue (APN: 510-081-055). CR, Commercial Regional District. Northern Properties LLC, owner; Jacqueline Smart Steinberg, applicant; Planner: Jonathan Malagon; Tentative Recommendation: Conditional Approval.

Jonathan Malagon gave the staff report regarding the request for approval of modification of a CUP for an existing wireless communications facility, and he briefly described modifications.

JACQUELINE SMART STEINBERG, Applicant, representing T-Mobile said she was available to answer any questions.

There were no questions of Commissioners, and Chair Lane opened the public comment period.

JIM REEVES, Richmond, said he owns the property behind this structure and building and he displayed photographs of existing antennas and voiced opposition to the project, stating antennas would not be shielded and he believes T-Mobile would not comply with what the City requires of them. Several people from the neighborhood were also present who oppose the project. He said he works as Supervisor of PG&E's electrical crews for over 38 years and he does not even allow his crews to go near these facilities before they are energized and now they are being put above homes. He cited the owner's disregard for the property, stating there is graffiti and homeless encampments nearby and thought the antennas and structures would also be defaced. There is 100 foot radius required for the poles for antennas to be away from homes

and currently his property is only 60 feet away and his neighbor's is 50 feet away, and another neighbor is 80 feet away. He also asked that T-Mobile crews not work in the middle of the night.

Vice Chair Langlois said she recalled when this same building and wireless communications facility came to the Commission about one year ago, and she confirmed Mr. Reeves spoke to the Commission at that time. She said there were antennas already and they were modified at that time. She asked if the construction of the modification was done in the middle of the night.

Mr. Reeves said anytime modifications are done, they are performed at night because they do not want to disturb businesses during the day. He asked that work be done during normal business hours due to noise to nearby residents. He also confirmed that the distance from the antennas except for the rear ones to residences do not meet the 100 foot requirement. He said several of their dogs have had cancer, the next door neighbor and closest to the antennas at 50 feet away just found out she has breast cancer, and he did not want the radiation coming down on them. He cannot sell the property or rent it and people see the antennas and do not think it is safe.

Vice Chair Langlois spoke about Richmond's ordinance update which she was involved in, and they applied the strictest standards they could under federal law. She asked and confirmed Mr. Reeves wants the antennas shielded under the proposal tonight. He said last year, AT&T was supposed to put shields up on theirs and they did not.

Chair Lane asked and confirmed the applicant did not wish to rebut. She asked Commissioners

The public hearing was closed.

Commissioner Butt asked if there were conditions for shielding of the antennas at any time in the past. Mr. Malagon said the speaker referred to a previous application about 6 to 8 months ago for the AT&T modification. He did not believe shielding was part of the project. For this application, shielding is included in the plans as well as in conditions of approval.

Commissioner Butt said there are several more antennas along the south end of the building and he asked if there were previous CUPs for these prior installations. Mr. Malagon found the previous CUPs for T-Mobile and for AT&T, but not for the antennas on the building rooftop.

Commissioner Butt stated Condition No. 16 talks about graffiti abatement which shall promptly be removed at the applicant's sole cost and expense no less than 48 hours from notification of the City or discovery by the permittee. He asked if the intent was the building or the screening.

Mr. Malagon said this is standard language in the wireless ordinance and includes the equipment area, wireless facilities for stand-alone facilities, and he was not sure if it included buildings or not.

Commissioner Butt said the entire area is affected with graffiti and he suggested extending the condition's language for it to apply to the building as well. Mr. Atencio said he had no problem with requiring this, and Commissioners agreed as well.

Vice Chair Langlois asked to add a condition of approval that any work on modifying the wireless facilities be completed between the hours of 7AM and 8PM. Mr. Malagon said this is

the intent of Condition No. 9 regarding adverse impacts. Vice Chair Langlois asked that this be made more specific given neighbors' concerns.

Vice Chair Langlois asked if the screening structure was 10 or 15 feet high. Mr. Malagon stated it is 15 feet high.

Commissioner Butt said he will propose an additional condition that the applicant provide screening for all equipment and that this be vetted by the DRB. Mr. Atencio stated the application will be going before the DRB and said staff will ensure screening is required by the DRB as part of permit review. Ms. Velasco said Commissioner Butt is suggesting that the applicant be responsible for concealing other facilities owned and operated by other carriers.

Commissioner Butt said he is looking at the overall building as a facility, which it is. The owner is receiving money for all of the antennas and he wants them all shielded and believes the owner should be responsible for it.

**ACTION: It was M/S/C (Butt/Langlois) to approve PLN 16-366 with staff's recommended four findings and recommended conditions with three additional conditions; 1) that Condition 16 be amended such that graffiti abatement applies to the building itself and not just wireless equipment; 2) that screening be applied to all wireless equipment on the rooftop subject to DRB approval; and 3) that any maintenance and/or construction be done during normal business hours from 8AM to 6PM; which carried by the following vote: 5-0-1 (Ayes: Butt, Garcia, Langlois, Loy and Lane; Noes: None; Absent: Baer).**

**CC6. PLN16-576: Lifelong Medical Care Clinic - PUBLIC HEARING** to consider a Conditional Use Permit and Design Review Permit to construct a three-story, 33,742 square-foot medical clinic on the southeast corner of Harbour Way and Bissell Avenue (APN: 540-290-025). CM-5, Commercial Mixed-Use, Activity Center and IS-1, Interim Study Zone Overlay (Form-Based Code) Districts. Lifelong Medical Care Inc., owner; Alexis, Burck, applicant; Planner: Roberta Feliciano; Tentative Recommendation: Conditional Approval.

Mr. Malagon, on behalf of Ms. Feliciano, gave the staff report and description of the request for a CUP and design review permit to construct a medical clinic. He said the clinic has been operating at the site since 2014 and is one of 3 locations in Richmond. The application was deemed complete on November 15, 2016 and staff brought the project to the DRB under the interim zoning regulations. On January 25, 2017 the DRB voted to recommend approval of the project to the Commission and recommended inclusion of two conditions regarding treatment of exterior columns and site lighting, and staff recommends the Commission adopt the Statement of Facts for CUP findings 1-4 and 4 design review findings approving the project, subject to conditions in the resolution.

Chair Lane asked and confirmed there were no speakers.

Commissioner Butt applauded Lifelong Medical Care for putting in a permanent building on the site. He referred to bike parking for 2 spaces and recommended increasing this to 6 to 8 spaces. He asked how the applicant addresses trash on site.

Alexis Burck, SGPA Architecture and Planning, applicant, responded that trash is stored on site and there is a separate bio-hazard trash area within the trash room which is hauled out

periodically during the week for pickup. The trash room will be sized to adequately address the amount of refuse. This may change if the bin sizes need to change once the project is developed. She clarified there is no dumpster as the facility will not generate enough trash to need one, and if trash increases, they will expand the bins to accommodate it.

Regarding bike parking, the facility operators are planning to include interior long-term bike parking inside the building.

The public hearing was closed.

Commissioners voiced their pleasure in seeing the permanent structure and look forward to its completion.

**ACTION: It was M/S/C (Butt/Garcia) to approve PLN 16-576 with staff's recommended four findings and four conditions of approval; which carried by the following vote: 5-0-1 (Ayes: Butt, Garcia, Langlois, Loy and Lane; Noes: None; Absent: Baer).**

**CC2. PLN16-313: Accurate Auto Body Repair - PUBLIC HEARING** to consider a Conditional Use Permit and Design Review Permit to construct a new 24,600 SF auto body repair facility at 3303 Richmond Parkway (APN: 405-372-001). IL, Industrial Light District. Pacific Richmond LP, owner; Doug Giffin, Campus II, LLC, applicant; Planner: Jonelyn Whales; Tentative Recommendation: Conditional Approval.

Jonelyn Whales gave the staff report and overview of the request for a CUP and design review permit to construct and relocate an auto body repair facility. The DRB had previously recommended approval for the architecture of the building with conditions, and she described the facility and said painting booths will be regulated by BAAQMD and there are additional conditions relating to this. She noted a condition she requested rewording to add "typical" hours of operation from 7AM to 6PM and closed on weekends and said Doug Giffin, Richmond Properties on behalf of Accurate Auto Body is present to answer any questions.

Chair Lane called on the applicant.

DOUG GIFFIN, Campus II, LLC, gave a PowerPoint presentation regarding the project and provided background on the family-owned Accurate Auto Body and their desire to move and build a larger building across from their current operations. The business will employ 25 to 30 employees, described the location of both locations, nearby facilities, support of the Hilltop Neighborhood Council, addition of amenities to the neighborhood which includes 310 feet of sidewalk, additional street trees and landscaping. He discussed BAAQMD's issuance of spray booths and conduct of a health risk assessment and regulations. He asked that the Commission approve the CUP and owner Tiffany Silva was present to briefly comment.

TIFFANY SILVA, owner of Accurate Auto Body with his husband Dan and father Ed Silva, gave a brief background of their family and the start of the business in 1984. She is president of the California Auto Body Association's East Bay Chapter and also sits on the Contra Costa Advisory Board for their automotive department. She gave a background on their operations in Richmond and previously, San Pablo and growth of the business and sales.

Chair Lane referred to the revision of "typical" hours and confirmed there may be times when the business may be open just a bit earlier or later depending on their work flows.

The public hearing was closed.

Vice Chair Langlois thanked the owner and applicant and supported the business and made a motion to approve the CUP.

**ACTION: It was M/S/C (Langlois/Loy) to approve PLN 16-313 with staff's recommended findings and conditions; which carried by the following vote: 5-0-1 (Ayes: Butt, Garcia, Langlois, Loy and Lane; Noes: None; Absent: Baer).**

**HOLD OVER ITEM**

- 1. PLN16-654: Point Pinole Business Park – Phase III Development Plan - PUBLIC HEARING** to consider: (1) adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and 2) approval of the Final Development Plan for Phase III of Point Pinole Business Park, including a Design Review Permit to allow construction of two industrial buildings totaling  $\pm$  312,700 SF proposed at the terminus of Giant Road, east of Atlas Road (APN: 405-030-045 &-046). PA, Planned Area District. Pinole Point Properties LLC, owner; John Diemer, applicant; Planner: Jonelyn Whales; Tentative Recommendation: Conditional Approval.

Jonelyn Whales gave the staff report and background on the request for the Commission to adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (NDMMRP) which was written for the entire site of 364 acres, which she briefly described. Response to comments were received and included in the packet.

Based on prior approvals for the entire site, the Commission is also asked to approve the Final Development Plan and design review permit. She briefly described the project's location and adjacent development, phases of the project, and said the DRB recommended approval for the design as being in compliance with the tentative development plan and urban design strategies for the overall business park which she described.

The applicant is present as well as Mike Kent, environmental consultant to respond to any questions. A letter was received from EBRPD this afternoon regarding Condition No. 18 of the resolution referencing the trail. Staff would like to include language for a turn-around located at the western end of the new trail to be incorporated in the trail design to serve as a viewing area along the Bay Trail and as an interim terminus point to the Bay Trail. Condition No. 18 has additional language after its original wording as follows: "The applicant shall also dedicate an Emergency Vehicle Maintenance Access Easement to EBRPD allowing EBRPD vehicle access to the new trail and viewing area from Giant Road."

Lastly, Ms. Whales also stated Condition No. 17 does not match the language contained in the MMRP and staff asks that the condition reflect what is included in this program. She said there are three speakers in favor of the project.

Vice Chair Langlois questioned the edits to Condition No. 17, and Ms. Whales deferred this to the applicant and said because this will take some time with regulatory agencies, and language is part of Attachment 3 under the MMRP on page A-10.

Chair Lane called upon the applicant.

Hector Viñas, President of One Corp, applicant, thanked the Commission for considering their project, and said they are developers for various national companies and they were asked to find a location in the East Bay and decided on Richmond. He described the main distribution facility as Sleep Train and they will bring over 100 jobs to the area. They are a well-run company and good corporate citizen. He said they look forward to the Commission's approval so they can start operations as soon as possible. Their architect, Richard German and civil engineer Mike Mallani are available to answer any questions.

Public Comments:

BOB SEWELL, Hercules, Business Manager of Plumbers and Steamfitters Local 159 based in Martinez, said they met with staff and voiced concerns with any developer becoming a partner with mechanical trades to bring in local jobs. They were receptive to their comments and he urged approval of the project so local workers can build it.

DAN TORRES, Richmond, Business Agent for Sprinkler Fitters, UA Local 483, said they represent over 1200 men and women in the Bay Area, many of which live in Contra Costa County and Richmond. He also serves on the Richmond Workforce Development Board and encouraged the Commission to approve the project.

TOM HANSEN, Martinez, Business Manager of the Electricians Local 302, said they met with One Corp. who are one of the most honest developers and asked the Commission to approve their project and said they will be good for the City and in future projects.

BRUCE BRUEBAKER, TRAC, said they previously attended the DRB and now before the Planning Commission to ensure the two conditions 18 and 19 regarding the Bay Trail be implemented by the applicant. He also requested the Commission consider adding the opportunity to provide benches to overlook an existing water feature which would be an amenity for the Bay Trail and also for employees of the facility.

Vice Chair Langlois said she was happy to hear testimonial from building trades and with TRAC. She asked the applicant to respond to the feasibility of adding a bench. Mr. Viñas said they would support this whole-heartedly.

Commissioner Butt asked and confirmed with Mr. Viñas that bike parking was provided for outside and that the project meets landscaping requirements which was discussed at the DRB meeting.

Vice Chair Langlois questioned the letter received from the Native American Heritage Commission and concerns and responses to the letter. It states no Native American tribes traditionally and culturally affiliated with the project area requested consultation with the lead agency. She noted there are Richmond Native Americans and heritage sites. On page 2, it states agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation. She supported the project and asked to add a condition for the City to at least make an attempt to initiate consultation that may have some affiliation with the area.

Michael Kent, environmental consultant, stated in the CEQA process there are a couple of approaches regarding such affiliations; one is AB 52 which is the subject of the letter and which has specific requirements for tribal consultation. In addition, a general requirement states that

regardless of whether AB 52 applies or not that they do an investigation of archaeological or historical resources on the site. In this case, before receiving the letter, in the Negative Declaration and EIR done in the 1990's, both reviewed this question and found none on site. It added a general mitigation that in the case that buried resources are found during construction, there is a process to stop construction and evaluate resources and address these.

Commissioner Garcia asked and confirmed that letters were sent out to Native American Tribes during the CEQA process per SB 18.

The public hearing was closed.

**ACTION: It was M/S/C (Butt/Langlois) to approve PLN 16-654 including adoption of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approval of the Final Development Plan for Phase 3 of the Point Pinole Business Park, including a design review permit, and with added conditions; 1) that two benches be added at the Bay Trail by the viewpoint, and 2) that staff add a condition regarding EBRPD as follows: "A turnaround located at the western end of the new trail shall be incorporated into the trail design to serve as a viewing area along the Bay Trail and to also serve as an interim terminus point to the Bay Trail. The applicant shall also dedicate an Emergency Vehicle Maintenance Access Easement to EBRPD allowing EBRPD vehicle access to the new trail and viewing area from Giant Road.";** which carried by the following vote: 5-0-1 (Ayes: Butt, Garcia, Langlois, Loy and Lane; Noes: None; Absent: Baer).

### **COMMISSION BUSINESS**

7. **Reports of Officers, Commissioners and Staff** – Commissioner Garcia reported that she and Commissioner Loy will discuss the appointment of Secretary at the next meeting. Chair Lane noted that staff will agendize appointment of the Secretary vacancy at its next meeting.

Vice Chair Langlois voiced concern that Richmond Wholesale Meats has withdrawn their appeal of the Planning Commission decision made in October. She asked to have an update on steps of compliance with the CUP for that business. Also, she has heard Pacific East Mall is or has been sold. She recalled that the City Council had asked the Planning Commission to review the history and background of the digital advertising sign at the mall. Since it is changing ownership, she suggested this be agendized in the future. Mr. Mitchell said staff does not have any factual information regarding the purchase, but staff can schedule review of the sign as requested.

Chair Lane reminded Commissioners that Form 700 Statement of Economic Interests forms are due early April.

8. **Adjournment** - The meeting was adjourned at 7:45 p.m. to the regular meeting on March 16, 2017.