



ACTION MINUTES

Planning Commission

Planning Commissioners:

D. Miguel Guerrero	Chair
Christine Scott Thomson	Vice Chair
Gail Donaldson	Commissioner
Steven Keller	Commissioner
Erika Mendez	Commissioner
Deepak Sohane	Commissioner
C. Tito Young	Commissioner

REGULAR MEETING

Thursday, June 25, 2020

6:30 PM

Council Chambers

1. CALL TO ORDER

The meeting convened via teleconference at 6:30 p.m. by Chair D. Miguel Guerrero. The Chair read aloud a statement announcing that the meeting was being conducted by teleconference pursuant to the Brown Act waivers provided for under the Governor's Executive Order in response to the COVID-19 State of Emergency.

2. ROLL CALL

Present: (6) Chair D. Miguel Guerrero
Vice Chair Christine Scott Thomson
Planning Commissioner Gail Donaldson
Planning Commissioner Steven Keller
Planning Commissioner Erika Mendez
Planning Commissioner C. Tito Young

Excused Absence: (1) Planning Commissioner Deepak Sohane

3. PUBLIC COMMENT

An unidentified caller, who said he had been an Emeryville resident for 40 years, expressed appreciation to staff for ensuring compliance with the Brown. Also, the caller opined that the Planning Commission is pro-developer because, even though it is a requirement of the General Plan, the Planning Commission has not adopted the wishes of the residents by creating more parks.

4. APPROVAL OF ACTION MINUTES OF MAY 28, 2020

A motion was made to approve the Action Minutes.

Moved: Donaldson
Seconded: Thomson
Ayes: (6) Donaldson, Keller, Mendez, Young, Thomson, Guerrero
Noes: (0)
Abstain: (0)
Absent: (1) Sohane

5. COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Director Bryant reported on actions by the City Council in May and June. He noted that there had been a community meeting on the 3600 San Pablo Avenue affordable housing project on June 23, and that a second Planning Commission study session was planned for July 23 [subsequently rescheduled to September 24] and a City Council study session was scheduled for September 1, prior to staff approval of the project. He also noted that this was Commissioner Donaldson's last meeting after over 14 years on the Commission, saying that it was staff's great pleasure to work with her for all that time, and that she will be greatly missed. A presentation will be made to her at the next meeting.

6. DISCLOSURE OF CONFLICTS OF INTEREST AND EX PARTE COMMUNICATIONS

None.

7. PUBLIC HEARINGS

- 7.1 **47th Street Homes (UPDR18-002)** – Consideration of a Conditional Use Permit and Design Review application to demolish four existing single-unit homes and replace them with three duplexes on one parcel at 1034-1042 47th Street. CEQA Status: this project is exempt from environmental review under State CEQA Guidelines Section 15303(b) which applies to new construction or conversion of apartments, duplexes and similar structures designed for not more than six dwelling units, and the "common sense exemption" at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment. General Plan Land Use Classification: Medium Density Residential; Zoning District: Medium Density Residential (RM) (Applicant: Mark Forbes C/O Rhoades Planning Group) (Owner: Forbes Properties II LLC) (APN: 49-1175-8-3)

Navarre Oaks, Assistant Planner, gave the staff presentation and responded to Commissioner questions.

Mark Forbes, F.E. Forbes Company; Mark Rhoades, Rhoades Planning Group; and Toby Long, Toby Long Design, applicants, presented and responded to Commissioner questions.

The public hearing was opened.

An unidentified caller spoke against the development, saying that the families moving in will be white and middle to upper-middle class or it will be turned into student dorms; either way it will displace the existing darker skin, lower income residents.

Nanci Pecker, 1012 47th Street, spoke against the development echoing the sentiments of the first speaker. She said she disagreed with the applicant that, while the proposed units may look appealing, they are modern modular structures that look alike and do not fit in with the cozy homes on the street. She said there was a need for an environmental impact study on the removal of the very large trees.

Kate Mulcoy spoke against the project. She said that, while it is not the purview of the Planning Commission, families do not move to Emeryville because of the school system. She said on-street parking is difficult, and the proposed parking at the rear of the project is seemingly impossible to access. She echoed the previous speakers' concerns about the negative impact of expensive units on racial and socio-economic diversity and said she envisions single techie people with multiple vehicles moving into the units.

Mimi Fils-Asmé, resident of 1038 47th Street for 20 years, spoke against the project, and expressed exhaustion over the process, saying that, while Mr. Forbes is allowing her family to stay for an additional year, her current rent is \$2,400, not \$1,300, and she does not know

whether her family will be able to afford one of the new units. She also expressed concern about the parking, and agreed that people of color will be gone from the neighborhood.

Jaleel Griffith-Stout, 1037 47th Street, said she has lived across the street from these units for 15 years and expressed opposition to the project. She said that Mimi is her neighbor and good friend, and agreed with earlier speakers that, while the ivy needs to be removed from the trunks of the trees, the removal of the huge, mature trees will have a negative environmental and personal impact. She said she was disappointed that this unattractive development is still being proposed in this close-knit neighborhood. It is not family-friendly to rip children from their homes so somebody can make more money.

Dana Westmoreland, 1046 47th Street, said she has spoken against the project in past meetings, letters and emails. She said she is very concerned for the trees, which are homes to several hawks and an extension of a nearby park. She agreed with the earlier speakers that the parking will be difficult to access and the car exhaust will have a negative impact on her home next door. She also questioned the rental potential of the units and said they are cookie-cutter and prefab, and lack charm. She expressed concern about the impacts on her property of the proposed demolition and construction.

Kate Mulcoy requested to speak again, which Chair Guerrero allowed. She spoke about the cost to rehabilitate the existing homes, and said that Mark Forbes is not hurting for money; he could do that instead of building these new units. She said she was troubled on hearing that Ms. Fils-Asmé pays \$2,400 for a one bedroom unit with no heat.

Assistant City Attorney Andrea Visveshwara addressed the Chair, saying that if one person had additional speaking time, then everyone else should also be permitted to speak for an additional three minutes.

Jorge Lopez said he lives across the street from the units and spoke against the development, saying that the neighborhood is cozy and the proposed development is ugly. He suggested that the existing units be refurbished instead, and expressed shock over the loss of the beautiful trees and concern for the fate of the family being displaced during a pandemic.

The unidentified caller spoke again, saying that Jane Jacobs began the moral, ethical and aesthetic movement to save America from the urban renewal of the 1940s and 1950s, where poor people were routed out of cities, and taught the valuable lesson that cities are dynamic when they have new and old architecture. As a contractor for 40 years, he said he disagreed with the applicant's statement that it would be too expensive to rehabilitate these craftsman bungalows compared to the proposed development that would use fake, shoddy materials that will not stand the test of time.

Mimi Fils-Asmé, spoke again and confirmed that she is paying \$2,400 per month in rent.

Dana Westmoreland spoke again and expressed shock at the amount of rent being paid by Ms. Fils-Asmé. She predicted that the new tenants will likely have two cars and will not use transit, particularly during the pandemic. She expressed disappointment at having to fight against this proposal just so the developer can make more money, and appealed to the Planning Commission to make it stop.

Nanci Pecker spoke again saying that, having listened to the second round speakers, a word that describes the proposal is greed. She said she agreed with the other speakers that the existing homes could be rehabilitated.

Director Bryant mentioned the correspondence that had been received by staff and forwarded to Commissioners, one in favor of the project from Demetra Wash, and two opposed to the project from Katie Mulcoy and Dana Westmoreland.

The public hearing was closed.

Following lengthy deliberations, during which a majority of Commissioners echoed the concerns of the public speakers, Commissioner Keller made a motion to continue the item to a future meeting with direction to the applicant to address the concerns raised by the Commission in their deliberations. Assistant City Attorney Andrea Visveshwara stated that the Commission is required to identify the policies and standards of the City's Municipal Code, General Plan, and Design Guidelines that are not being met in deciding to continue the item. There was no second to the motion and, following further deliberations, Commissioner Keller withdrew his motion.

Mark Rhoades, Applicant, said they were willing to voluntarily agree to a condition of approval that, when the new units are completed, Ms. Fils-Asmé could move into one of them at her current rent.

Following further deliberations, Commissioner Donaldson moved to recommend to the City Council that the project be denied based on the net loss of affordable units, that the project is detrimental to the existing conditions, its failure to meet the General Plan goal to have a mix of housing types, its failure to meet the Housing Element goal of meeting the RNHA requirements for affordable units, which we are behind on, and the detriment to the city and neighborhood of the loss of mature trees that provide ecological benefits, including reducing air pollution and providing mental and physical health benefits. Commissioner Young seconded the motion. There was discussion about continuing the item to allow staff to draft a resolution to this effect, with specific language to address the Commission's concerns. Following further discussion, it was clarified that the motion was not to continue the item, but to disapprove the resolution of approval prepared by staff, and to forward a recommendation to the City Council that the application be denied based on the reasons articulated by Commissioner Donaldson.

Moved: Donaldson
Seconded: Young
Ayes: (4) Donaldson, Mendez, Young, Guerrero
Noes: (0)
Abstain: (2) Keller, Thomson
Absent: (1) Sohane

- 7.2 Cannabis Regulations Amendments (ORD20-003)** – Consideration of amendments to Article 2 of Chapter 3 and Article 22 of Chapter 5 of the Planning Regulations at Title 9 of the Emeryville Municipal Code to allow cannabis manufacturing businesses in additional zoning districts and to allow reduced distances between cannabis sales activities and parks, Greenways and other sensitive uses. CEQA Status: This project is exempt from environmental review under the “common sense exemption” at Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment.

Miroo Desai, Senior Planner, gave the staff presentation and responded to Commissioner questions.

The public hearing was opened.

An unidentified caller spoke in favor of the amendments, saying that marijuana is no more dangerous than fat and salt.

Nasser Azimi, Ohana dispensary owner, spoke in favor of the amendments, saying this will enable the City to invite other cannabis manufacturers and operators, as Emeryville has a lower tax rate. He said that his proposal to move his present dispensary into the Broken Rack building across the street would be distinctly separate from the restaurant and bar operation, and the pool hall vibe will be maintained.

The public hearing was closed

A motion was made to recommend City Council adoption of the proposed amendments.

Moved: Keller
Seconded: Mendez
Ayes: (6) Donaldson, Keller, Mendez, Young, Thomson, Guerrero
Noes: (0)
Abstain: (0)
Absent: (1) Sohane

8. STUDY SESSION

8.1 Pedestrian and Bicycle Plan Scope of Work (STUDY20-001) – A study session on the scope of work for a request for proposals for a consulting team to prepare the next Pedestrian and Bicycle Plan.

Diana Keena, Associate Planner, gave the staff presentation and responded to Commissioner questions.

The public comment was opened.

An unidentified caller requested that the plan address problems with the previous plan.

The public comment was closed.

The Commissioners recommend adding outreach in parks and housing complexes; lessons learned from the 2012 plan; micromobility, including electric bicycles and scooters; safe routes to parks; emulating great bike cities such as Amsterdam, Copenhagen, Portland, and Boulder; considering a second way to access the peninsula such as using a tunnel; LED lighting on pedestrian bridges; secure medium-term bike parking such as for movie-goers; free bike parking for residents of apartment and condominium complexes; trip times on wayfinding signs; and a broader title such as Micromobility Plan or Active Transportation Plan. Commissioners commented that Emeryville could be a premiere bicycle and pedestrian city, and the plan should be avant-garde and aim high.

9. PLANNING COMMISSIONERS COMMENTS

Commissioners expressed their appreciation for Commissioner Donaldson's years of service and contributions, particularly in the landscape design field. Commissioner Donaldson responded that it has been a rewarding and sometimes challenging experience, and it has been a privilege to work with such great, dedicated people who give lots of thought to making Emeryville such a great town.

10. ADJOURNMENT

The meeting was adjourned at 10.04 p.m.

THE NEXT SCHEDULED REGULAR MEETING WILL BE HELD ON THURSDAY, JULY 23, 2020 AT 6:30 P.M. IN THE CITY COUNCIL CHAMBERS, CITY HALL, 1333 PARK AVENUE, EMERYVILLE, CA 94608 OR VIA TELECONFERENCE IN ACCORDANCE WITH THE GOVERNOR'S EXECUTIVE ORDER.