

Planning Commission Minutes
Regular Meeting
March 24, 2009
Martinez, CA

CALL TO ORDER

Acting Chair Mark Hughes called the meeting to order at 7:02 p.m. in the Council Chambers.

ROLL CALL

PRESENT: Donna Allen, Commissioner, Harriett Burt, Commissioner, Lynette Busby, Commissioner, Michael Marchiano, Commissioner, and Mark Hughes, Acting Chair.
EXCUSED: Frank Kluber, Chair
ABSENT: AnaMarie Avila Farias, Commissioner

Staff Present: Karen Majors, Assistant City Manager/Community & Economic Development Director, Tim Tucker, City Engineer, Corey Simon, Senior Planner & Anjana Mepani, Assistant Planner

AGENDA CHANGES

None.

PUBLIC COMMENT

None.

CONSENT ITEMS

1. Minutes of, February 24, 2009, meeting.

On motion by Harriett Burt, Commissioner, seconded by Michael Marchiano, Commissioner, the Commission present voted to approve the Minutes of February 24, 2009 meeting. Motion passed. Yes: Harriett Burt, Commissioner, Lynette Busby, Commissioner, Michael Marchiano, Commissioner, and Mark Hughes, Acting Chair, Abstain: Commissioner Donna Allen
(Commissioners Avila and Kluber absent.)

2. Capital Improvement Program - Five Year 2009-2014 Planning Commission consideration of the City of Martinez Five Year 2009-2014 Capital Improvement Program, and finding of General Plan conformance. (TT)

Tim Tucker, City Engineer, gave a brief description of the Capital Improvement Program. Commissioner Burt asked some questions regarding street repairs. The Commission asked about the Measure H bonds. Acting Chair Hughes asked about the order of the projects that are going to be done with the Measure H bonds. There was discussion with the commission.

On a motion by Harriett Burt, Commissioner, second by Lynette Busby, Commissioner, the Commission present found the Capital Improvement Program consistent with the General Plan.

REGULAR ITEMS

3. *Silva Residence UP #08-13, DR #08-24 Public hearing to consider a proposal to construct a new single-family residence on a 1.3 acre parcel. The applicant is requesting design review approval and approval of an exception to building height limitations to allow a maximum building height of approximately 26 feet where a maximum of 25 feet is permitted; and design review for building elevations and landscaping. This project is located at 4804 Northridge Road. Applicant: Bill Hess*

Senior Planner, Corey Simon presented the staff report.

Bill Hess, contractor for the applicant gave a summary of the project, explaining the process they went through.

Public hearing open

Elverna Braakson, 4795 John Muir Rd, backs the project. She said she was very happy about the project & looks forward to it being built.

Seeing no further speakers, Acting Chair Hughes closed the public hearing.

Commission Comment

The Commission had a brief discussion and all agreed it was a very nice project.

On a motion by Commissioner Marchiano, seconded by Commissioner Burt, the commission present voted to approve Use Permit #08-13 and Design Review #08-24.

4. *Lujan Residence VAR #08-06 Public hearing to consider a variance to allow completion of a partially built, non-conforming carport without the normally required side yard setback on the street side of a corner lot located at 1292 Paradise Drive. Applicant: Jimmy Lujan*

Anjana Mepani, Assistant Planner presented the staff report. Staff recommended denial of the variance request.

Commissioner Allen asked about the fence needing a variance. Staff provided clarification and that a variance was not needed.

Jimmy Lujan, applicant, spoke about his project stating others have similar structures in the neighborhood. The applicant provided pictures to the Commission of what the completed carport may look like. Commissioner Hughes commented that the structure

fits better in a rural setting as shown in one of the pictures. The applicant discussed his landscaping and new fence on his property, which he said adds value to the neighborhood. The applicant said that the carport would not look cheap and would fit into the appearance of the yard.

Commissioner Burt discussed that the applicant should have reviewed his project with the City and inquired about permits before beginning construction of the carport. The applicant stated that he did not know that the carport required permits and thought that building permits were not needed for temporary structures. The Commission asked the applicant if the carport was temporary. The applicant responded that the carport would be used as a permanent structure.

The Commission mentioned that there are no special circumstances with the subject lot that would justify a variance. Commissioner Marchiano stated that the carport may seem higher than 10 feet from the sidewalk and may seem to be 12-14 feet since the carport sits on a raised concrete pad.

Public hearing open

Mat Hattich, 1282 Paradise Drive, spoke in favor of the project.

Craig Teegarden, 1287 Paradise Drive, spoke in favor of the project.

John Ryncarz, 1647 Martindale Drive, spoke in favor of the project.

Gene Breniman, 444 Diablo Way, spoke in favor of the project.

Robert D. Aue, Sr., 412 Diablo Way, spoke about the project and was opposed.

Raymond Lujan, 1341 Paradise Drive, is the brother of Mr. Lujan and spoke in favor of the project.

Barry Jackson, 413 Diablo Way, spoke about the project and was opposed.

Rebuttal

Mr. Lujan provided a rebuttal and answered the Commissioners questions. The applicant stated that the side yard is wasted space and was trying to make use of it by constructing the carport. Applicant also stated that his rear yard might be small for a carport since there is a retaining wall in the rear yard. The applicant asked the Commission for advice and direction.

Commissioner Busby asked the applicant about why there was a long time delay between the variance application and the receipt of the stop work order. Applicant cited family issues. Commissioner Busby also asked the applicant about the number of vehicles parked on the property and in the existing garage. The applicant stated that he has a total of five cars (some of which are collectable/hobby cars) and a trailer on the property, and

that he uses the garage. The applicant stated that some of the cars on the property belonged to his sons and would be moved off site in the future.

Commission Comment

The Commission discussed the proposal and discussed how a variance would not apply to the proposal, as there are no special circumstances with the subject lot. The Commission discussed that the applicant is able to place the carport at other locations on the property, while meeting zoning requirements. Staff stated that if the applicant revised the location and proposal to meet zoning requirements then the applicant would apply for a building permit and the project would not need to return to the Commission.

The Commission asked staff about fire hazard issues concerning the carport. Staff said that the applicant spoke to the building department and would avoid a fire hazard by only covering the roof portion of the carport, with the sides remaining uncovered. Staff stated that if the sides of the carport were covered, those would have to be fire rated and there would be issues with the bedroom window, which provides fire egress. Staff stated that it was unclear from the applicant's proposal as to what materials would be used for the roof; it was clarified to be metal sheathing.

On a motion by Commissioner Busby, seconded by Commissioner Allen, the commission present voted to deny Variance #08-06.

STAFF ITEMS

None.

COMMISSION ITEMS

5. *Election of the Chair & Vice Chair.*

The Commission discussed whether to continue with this item. It was decided that Chair Kluber would continue as Chair so it was decided to elect Chair Kluber for one more year.

On a motion by Commissioner Busby, seconded by Commissioner Allen, the Commission present voted for Frank Kluber to continue to be Planning Commission Chair.

On a motion by Commissioner Burt, seconded by Commissioner Allen, the Commission present voted for Lynette Busby to be Planning Commission Vice Chair.

COMMUNICATIONS

Karen Majors - notified the Commission about a code enforcement issue that was going to be coming to Planning Commission on April 14, 2009, regarding livestock in the Muir Oaks area.

Commission discussed timing of public speakers and asked that the City Council's policies and procedures be shared with them and they will discuss this item at the next

meeting.

ADJOURNMENT

Meeting adjourned at 8:45 p.m. to the regular meeting on April 14, 2009, at 7:00 p.m. in the Council Chambers, 525 Henrietta Street, Martinez, CA 94553

Respectfully submitted,

Approved by the Acting Planning
Commission Chairperson

Transcribed by,

Mark Hughes

DRAFT

Planning Commission Minutes
Regular Meeting
May 12, 2009
Martinez, CA

CALL TO ORDER

The meeting was called to order at 7:05 p.m. by Chair Frank Kluber, with all members present except Commissioners Allen, Avila and Busby, who were excused.

ROLL CALL

PRESENT: Harriett Burt, Commissioner, Mark Hughes, Commissioner, Michael Marchiano, Commissioner, and Frank Kluber, Chair.

EXCUSED: Donna Allen, Commissioner & Lynette Busby, Commissioner

ABSENT: AnaMarie Avila Farias, Commissioner

Staff Present: Karen Majors, Assistant City Manager/Community & Economic Development
Corey Simon, Senior Planner, Bill Dillard, Code Enforcement Officer & Veronica Nebb, City Attorney

AGENDA CHANGES

There were no agenda changes.

PUBLIC COMMENT

Julian Frazer noted he had brought his horse tonight, not based on the item on tonight's agenda but coincidentally. He commented that the town is losing its rural character, and the Park & Recreation Commission should be the one deciding land use issues, since living here is like living in a park.

Seeing no further speakers, Chair Kluber closed public comment.

CONSENT ITEMS

None.

REGULAR ITEMS

1. *James Von Waldegg Citation
Appeal hearing for Administrative Citation #118, Case No. 2029114 M.M.C. Section: 22.12.080
– Number of horses per acre of land. Staff requests the Planning Commission hear an appeal of an Administrative Citation issued to the property owner for allowing more than four large animals at this location, 4847 Northridge Road.*

Nebb discussed the Administrative Citation adopted in 2005 - this is the first appeal hearing under that ordinance. She explained Commission's role as hearing examiner and final decision-making body. This item is not appealable to the Council. The Assistant City Attorney's role is advisory to Commission.

Code Enforcement Inspector Bill Dillard presented staff report. He also responded to questions from the Commission, as follows:

Kluber asked why a citation was issued to Von Waldegg, owner of property, not owner of horses. Dillard explained what happens on the property is the owner's responsibility. Dillard explained that he had been dealing with Renee Corley because the owner of property said he was unable to monitor or enforce her activities.

Burt asked how he was able to determine number of horses, and whether they were mature horses (older than year and half). Dillard reviewed process, based on direct observation. He stated it was very difficult to get all six horses in every picture. Nothing in regulation addresses whether it has to be same the horses every time. The issue is the number of horses at any one time.

Burt asked if there have been similar complaints on other properties in the area. Dillard said yes; in each case he had contacted owners.

Jill Renee Corley asked Nebb about appeal rights to City Council. Nebb read from ordinance stating that hearing body is final decision-maker, with right to appeal to superior court.

Ms. Corley reviewed her rebuttal/corrections to the staff report. She discussed history of Muir Oaks CC&Rs and the incorrect counting of the horses by Mr. Dillard, and incorrect application of the ordinance.

Hughes asked Ms. Corley if the six horses in the photos in the staff report are the same ones on the property. Ms. Corley said some are, some are not.

In response to a question from Kluber, she confirmed she would be in violation once the horses are over 18 months.

Commissioner Burt commented on the grandfather clause allowing more horses to be kept than what existed at the time of annexation. She noted that key thing is the "grandfather" clause. Once the number decreased the "grandfather" clause expired.

Senior Planner Corey Simon discussed the City's view of "grandfather" clauses since annexation. Nonconforming status of this property expired when the number of horses fell below the allowed number.

Marchiano asked how additional square footage for an additional horse is calculated. Staff confirmed was in this City Code. Hughes stated that City regulations supersede CC&Rs. Ms. Corley said no. Ms. Nebb confirmed CC&Rs are irrelevant to this proceeding, which is to enforce City law.

Kluber asked Dillard if horses were in view when he visited site, or whether any were under than 18 months. Dillard said according to his knowledge, yes, in fact there was one occasion when there were 7. He also noted that municipal code states up to one year, not 18 months (actually Webster's Dictionary definition).

Corley said veterinarian guidelines 18 months - 2 years

Hughes asked about today's status at the site. Dillard said as of today, in compliance.

Public comment open

GILBERT FRENCH asked the current address of owners of the horses - Corley confirmed she does not reside in Muir Oaks. She is representing Mr. Von Waldegg.

CURTIS Schwreckinghaus, Muir Oaks resident, commented that the issue is the condition of the horses and their living conditions. He shared photos of inadequate setting and quality of life at the site.

SUSAN BUTLER, neighboring property owner, stated that Ms. Corley does not speak for all the residents of Muir Oaks. She commented on cruelty to the horses from inadequate setting - dangerous fencing, smell, flies, dust. Said Ms. Corley keeps more than limit until someone complains then will move some to be in compliance.

CONSTANCE SCHWRECKINGHOUSE, neighbor, said her understanding of the regulations was it's legal to keep 2 horses per 1 acre, or 1 per 20,000 s.f. She asked the Commission about other code requirements not being met - no stockpile of manure, clean-up so that it does not impact neighbors. Not a clean environment - if it were might not even be here. Main victims are horses, others are neighbors. No one wants to prevent horses in Muir Oaks.

PAUL ENGLER noted City has burden of proof; problem is age of horses, definition of yearling. Not easy to tell age of horse just by looking. Alleged violation is not related to cleanliness. Asked what happens if visitor brings horse to stay a few days. Kluber deferred to staff at later time.

Burt asked Mr. Inger whose property is across from his - Mr. Inger said Jeffreys owned the property.

Mr. Dillard commented on his qualifications to assess age of horses.

FLOWER stated that since Ms. Corley is in compliance now - what's the big deal. Also noted that placenta in street may not be Ms. Corley's fault. Urged discretion in passing judgment on neighbors.

JULIAN FRAZIER said he is very familiar with the neighborhood from his time on City Council and riding school bus through area. If concerns about how animals are being kept, call Animal Control. Issue is how many horses - clarification should be as to whether additional square footage allows additional animals. He would rather see another animal than another house; impacts are less. Also noted that this hearing is different from most PC hearings - Ms. Corley should have right to present all information she wants to, otherwise may have lawsuit.

JAN COPE, Muir Oaks resident, said area promotes neighborliness. Guidelines were put into effect to lessen neighbor impacts. She acknowledged Ms. Corley has beautiful horses, but she

does not like the way they are taken care of. She questioned whether number of horses is good use of the land.

JULIE FRENCH commented on the continually-increasing and ever-changing number of horses on the property. Discussed negative quality of life impacts. Thanked Mr. Dillard for his efforts.

LAURA DELFINO discussed 1987 Planning Commission ruling allowing additional horses on half-acre portions. Changing horses is normal part of training/raising horses, as long as total number is in compliance. She noted Mr. Dillard spends a lot of time responding to complaints from residents in Muir Oaks. Responded to pictures from Schwreckinghouse of her horses - they are well bred horses and are well cared for. Pictures were taken after heavy rainfall drained onto her property. Expressed frustration with harassment from neighbors and inconsistent complaints.

DENNIS KOCI, neighbor across the street, said the issue is what the land is able to support, not acreage alone. Discussed conditions at the site, including sometimes as many as nine or ten horses at one time. Expressed support for Mr. Dillard's citation.

STEVE BRAMLIST said there should be a balance between where people and horses can live in common. He commended the City for taking action; encouraged even greater vigilance.

DEAN OLSON said he was not interested in changing the CC&Rs. Believes horses and humans can live in harmony, in compliance with CC&Rs and City Code.

DEANNA COUSINS said if the site was not a health hazard, the number of horses would not be an issue either; also impact on property values.

Meeting recessed briefly (5 minutes).

The Commission recessed briefly and reconvened with all members present as indicated.

Seeing no further speakers, Chair Kluber closed the public hearing.

Rebuttal

Ms. Corley responded to "slanderous" allegations made by other residents: including flies, cruelty, placenta, cleanliness and maintenance of site, age of horses, dust control, number of horses, and amendment process for CC&Rs.

Commission comment

Marchiano clarified that the issue is the number of full-grown horses on the site at the time and whether it was in violation at the time. If so, there is only one conclusion. Confirmed City Code supersedes CC&Rs. He asked Mr. Dillard if he saw more than four full-grown horses. Dillard said yes.

Hughes – the toughest issues are those that pit neighbor against neighbor. He expressed appreciation for Corley family and their reputation and expertise. He agreed with Marchiano the on issue. He acknowledged that today Corley is in compliance. Hughes suggested as incentive

for her to stay in compliance he would recommend suspending the violation fee unless the property becomes noncompliant again.

Burt commented on urban wildlife interface issues, as evidenced by recent fire in Santa Barbara. She discussed the purpose of “grandfather” clauses which was to ease the transition from recently annexed areas with City regulations. She noted the expiration provision for grandfather clause was very clear – if number drops below four horses for more than one year. She also expressed her appreciation for work done by Code Enforcement. She recommends upholding his citation. She could support Commissioner Hughes’ suggestion to suspend the citation and fine, with the understanding that from now on she would comply.

Kluber thanked staff and Nebb, Ms. Corley, and the audience for their participation in the process. Expressed regret for the neighbor dispute. Ideally he would have liked to be there when the citation was issued, but instead will have to rely on Dillard’s expertise regarding the basis for the citation. He would support staff’s citation.

Nebb explained process for making the ruling and options available to the Commission as the ruling body. Dillard explained that original violation for \$100 was cancelled with agreement by Corley and Van Waldegg to keep number in compliance.

Motion to uphold Staff’s finding of non-compliance with Section 22.12.080 regulating the number of livestock allowed be limited to four at any time in compliance with Zoning Ordinance for RR-40 at this location. In addition uphold the issuance of Administrative Citation #118 in the amount of \$200 for failure to comply by allowing six horses on the above referenced property from December 3, 2008 through February 9, 2009, and direct that a written decision be prepared and brought back for approval at next meeting.

Communications: None.

COMMISSION ITEMS

Burt recommended participation in walking tour of downtown as prepared by Historical Society.

STAFF ITEMS

There will be a second PC meeting this month.

ADJOURNMENT

Meeting adjourned at 10:05 p.m. to the regular meeting on May 26, 2009, at 7:00 p.m. in the Council Chambers, 525 Henrietta Street, Martinez, CA 94553

Respectfully submitted,

Approved by the Acting Planning Commission
Chairperson

Transcribed by,

Mark Hughes

Planning Commission Minutes
Regular Meeting
May 26, 2009
Martinez, CA

CALL TO ORDER

Vice Chair Lynette Busby called the meeting to order at 7:13 p.m. in the Council Chambers with all members present except Commissioner Avila and Chair Kluber.

ROLL CALL

PRESENT: Lynette Busby, Vice Chair, Mark Hughes, Commissioner, Harriett Burt, Commissioner, Donna Allen, Commissioner and Mike Marchiano, Commissioner

EXCUSED:

ABSENT: Frank Kluber, Chair and AnaMarie Avila Farias, Commissioner

Staff Present: Karen Majors, Assistant City Manager/Community & Economic Development, Terry Blount, Planning Manager and Corey Simon, Senior Planner

AGENDA CHANGES

None.

PUBLIC COMMENT

None.

CONSENT ITEMS

None.

REGULAR ITEMS

1. *The Kingdom Financial LLC Meeting to review a request of R.M. Harris Co. to reestablish a nonconforming use (storage, dispatching and maintenance of an average of 45 school buses) pursuant to Martinez Municipal Code Section 22.38.060; Abandonment of Nonconforming Use. The property was rezoned from M-R&D/LI (Mixed Use District - Research and Development/Light Industrial) to R-1.5/PD (Multi-Family Residential; 1,500 sq. ft. minimum site area per dwelling unit; with approved Planned Development) in September 2006. This project is located at 1000 Howe Road.
Applicant: David Harris, RM Harris (CS)*

Senior Planner Corey Simon presented the staff report.

Vice Chair Busby asked staff whether Laidlaw was still the owner of the bus business. Mr. Simon said First Student is a successor company to Laidlaw.

Gary Cook, Real Estate Manager for First Student, said that First Group is the parent company of First Student, First Transit etal.

Ms. Majors said if there is even be question of a conflict of interest, Vice Chair Busby should recuse herself.

Vice Chair Busby turned the meeting over to Commissioner Hughes and left the dais.

Commissioner Allen said she was somewhat troubled by the whole concept of re-establishing a nonconforming use, yet she understood the economic situation. She expressed concern about the precedent that could be set.

Mr. Simon said the City Attorney said the intent is to ensure there is no obsolescence of use. He clarified that the request does require Planning Commission approval, however, as would any similar requests in the future. He also stated that any impact on surrounding property owners needs to be considered.

Commissioner Allen confirmed that some rigid proof of the pre-existing use is required. Mr. Simon said that was one intent of this hearing tonight.

Commissioner Allen confirmed with staff that the former use was light industrial, which allowed storage, including buses. Mr. Simon said yes, but bus storage, maintenance and use is unique from light industrial use.

Planning Manager Blount said staff tried to craft a resolution to address the specific parameters.

Public comment open

Commissioner Hughes opened the public hearing.

Dave Harris, manager of Kingdom LLC, discussed history of ownership and planned use at time of purchase, including Trumark proposal, subsequent rezoning, downturn in market, extensions granted to Trumark and ultimate termination of sale contract. His construction company cannot generate enough business to cover expenses of the property. He is now is actively seeking a tenant for the property. First Student has expressed interest in returning to the site. Contact in form of a letter to neighbors, resulted in three calls. Information passed on to First Student for further contact. From 2000-2005, Laidlaw leased space for school bus parking and maintenance. No fueling of buses would be allowed to address neighbor concerns. Applicant would like to establish a 5-year lease with First Student.

Allen asked where buses are stored now; applicant deferred to First Student

Susan Morehead, First Student, answered the questions. She stated that First Student is currently ordering buses. This is a new venture providing school bus operation; not transit operation. First Student is school bus arm of First Group.

Hughes asked about neighbor phone calls. Morehead deferred to Brian Retford, the operations manager. He discussed questions received from neighbors and responses; including hosing of buses, backup alarms on school-buses, environmental concerns, landscaping, and employee

parking.

Susan Morehead also noted that the newer busses have lower emissions and shorter idling times. Hughes asked about efforts to minimize their carbon footprint. Morehead said the newer busses have the lowest emissions possible and are state of the art. California has strictest standards for school busses.

PAULA NELSON, neighbor, said that when the bus use was there it was horrible. With 45 buses, even 5 minutes of idling each creates overwhelming noise and fumes. Her children have asthma, which greatly improved when buses left.

She asked the Commission to not approve reinstatement because of the health risks from diesel exhaust to her family.

Ray Gonzales, closest neighbor to property, questioned how much notification was given. He expressed concern about 45 buses starting at 5:45 A.M. He made many complaints in past, with no response. Dust, odors, possible Saturday field trips. Sound wall would help some.

Lynn Spear expressed concern about the days when the air is very still. Exhaust from 45 busses with temperature inversion will affect air quality in the neighborhood. She was ready to call Air Quality in past.

Jeremy Moreno, new resident, said trucks nearby are loud in the mornings - he can only imagine what it will be like. He is a UPS driver, so he has some experience. He asked if there might be a closer location to where the routes will actually be, to reduce impact on environment.

Rebuttal

Harris said biggest problem seems to be exhaust from the buses. First Student has assured everyone here that new equipment will be used, with lowest emissions possible. There will be no buses parked at back of property near the residential area, which should diminish the diesel impacts. He reiterated that no fueling onsite except from aboveground, will be allowed.

Burt asked if the map enclosed is the same configuration when Laidlaw was operating. Harris said yes,

Allen asked how many buses Laidlaw operated. Response: Unknown.

Hughes asked about environmental impacts, including traffic, emissions.

Simon said no additional studies were done since it was a prior use.

Burt asked First Student if they were a nationwide business. They respond yes. What is impact of other yards; any studies done? The representative said she would check and report back. The representative said other facilities in California and Bay Area; she listed them. Most are fairly similar to this one. She acknowledged impacts, but also the benefit to the economy from 45 new jobs. The San Francisco location is in midst of a residential area.

Burt said there will be environmental impact on the residential area. Allen asked if there are any other sites near residential development. First Students Rep replied no.

Hughes said he was struggling to find merits of the project and expressed his concern about impacts on the community; not sure 45 buses can be parked on the site.

Harris discussed where buses would be parked.

Marchiano asked about egress times - applicant said one hour usually. Marchiano asked about sports team transportation? First Student's Representative said could be but only a small number of busses are used.

Hughes asked if the First Student Representative would be willing to limit hours of operation; she said she would consider it. She also noted that a 5 minute idling rule is the state regulation for school busses.

Hughes said not enough info to support application at this point.

Hughes asked about fueling offsite; The representative said some of their yards do have offsite fueling. She also noted stringent safety program and training of drivers.

Marchiano asked about employees talking onsite in early morning. What about soundwall?

Burt asked about offsite fueling - would it be practical for this site? Harris & First Student representative stated that the busses fuel in more than one location each day and usually in morning or afternoon.

Public comment re-opened.

Graden Travis, commercial real estate broker, gave more background on the property.

Travis noted that much of the area is light industrial, including Bonito Trucking next to Harris' site.

Travis also mentioned an additional issue, in that lot is not paved. Dust has greatly diminished since Laidlaw left.

Virginia Gonzales expressed total opposition to the project - noise, air quality. She asked Commission not to approve.

Ray Gonzales asked how many letters were sent out. He said they had say in previous uses, but since 168 new units have been built they should have a say.

Hughes asked staff about notification process - Simon said 300' radius from edge of site. Probably 1/3 of the homes on Parkway were sent letters.

Paula Nelson acknowledged there could be other uses, but it is the noise and exhaust that is the issue.

Mr. Moreno asked if other locations were being considered. Hughes said this issue is not relevant to the issue.

Moreno commented on the impact of exhaust on children.

Nancy Spier commented on odor problems from exhaust and health risks; also dust from non-paved surface.

Rebuttal: Harris said since Laidlaw moved out they have been using the Laidlaw area for storage of equipment, etc. Never has had anyone complained about dust. He did not think it will be an issue. Buses will drive slowly and orderly in and out of the lot.

Public hearing closed.

Commission Comment: Burt asked staff for clarification re Housing Element impact. Concern about possible 5-year lease. Blount stated it will still be zoned residential. Majors said there was discussion about changing the zoning back to light industrial, but not recommended. This would be an interim use.

Hughes said he could not support the project; sympathetic to the neighbors. There are mitigation measures that could be instituted, but nothing proposed at this time.

Allen is not supportive either. She is concerned about whether it is a good idea to reinstate nonconforming use, but was open-minded given the economic situation. Since it is not use permit, the City cannot condition the use. Rezoning back to light industrial would require greater notification and likely less support. She agreed with Hughes that there is no benefit to the City or its residents. Since no Use Permit, no environmental review can be required either. Expressed sympathy with Mr. Harris' financial situation, but maybe there is another use that is more palatable to neighbors.

Burt echoed Allen on her concerns. She does not think this would be a step in the right direction. No way for a win-win outcome, unlike other projects that come before the Commission. She does not support the return, although expressed sympathy to Mr. Harris and First Student. Encouraged him to continue looking for other options, but consider neighbors in doing so.

Marchiano said he was split; appreciated the neighbors' concerns, but acknowledged Howe Road has been industrial for a long time. He supports bringing in new businesses to increase tax base, but 45 buses (larger than Laidlaw's) just brings dust and noise. He is opposed to the use.

Motion: deny the request of R.M. Harris Co. to reestablish a nonconforming use (storage, dispatching and maintenance of an average of 45 school buses) pursuant to Martinez Municipal Code Section 22.38.060.

The Commission recessed briefly and reconvened with all members present as indicated.

Vice Chair Busby returned to the meeting and to the dais. Commissioner Hughes turned the meeting over to her.

2. Housing Element Update.

Planning Manager Terry Blount presented a brief report updating the Commission on the process.

The Commission and staff discussed the make-up of the Commission, selection process, meeting schedule and public involvement. At the request of Commissioner Hughes staff agreed to email the membership list to the Commission.

COMMISSION COMMENT

Communications: None.

STAFF ITEMS

COMMISSION ITEMS

Burt asked about rumors regarding number of units along Shell Avenue that would include an increase in the number of units.

Simon said the owner has applied for general plan amendment, rezone, etc. for 46 units (condos). Still waiting for next action by owner. This application will need an Initial Study to address parking, circulation, traffic, aesthetic issues.

Staff also noted interest in applicants wanting to come before Commission with their requests, regardless of past history, neighbors or staff etc. Simon discussed steps in process.

Burt asked about 1111 Haven Street, and staff discussed status.

Allen asked about public notice process, whether sandwich board signs have been considered (like done in PH).

Busby said Council decision. Busby asked if it should be agenized.

Burt asked when the RCD project will be back before Commission; staff said August. Burt said she will not be here 2nd Tuesday in July and possibly a meeting in June.

Discussion of upcoming agenda items.

In response to comment from Busby, discussion of packet delivery issues.

Burt said especially notification of meeting cancellations as early as possible.

ADJOURNMENT

Vice Chair Busby adjourned the meeting at 9:05 p.m. to the next regularly scheduled meeting on Tuesday, June 9, 2009.

Meeting adjourned at 10:05 p.m. to the regular meeting on May 26, 2009, at 7:00 p.m. in the Council Chambers, 525 Henrietta Street, Martinez, CA 94553

Respectfully submitted,

Approved by the Acting Planning Commission
Chairperson

Transcribed by,

Mark Hughes