

DRAFT
Planning Commission Minutes
Regular Meeting
July 28 2009
Martinez, CA

CALL TO ORDER

The meeting was called to order by Chair Frank Kluber at 7:08 p.m. with all members present except Commissioner Avila, who arrived after roll call.

ROLL CALL

PRESENT: Donna Allen, Commissioner, AnaMarie Avila-Farias, Commissioner, Harriett Burt, Commissioner, Jeff Keller, Commissioner, Lynette Busby, Vice Chair, Frank Kluber, Chair, and Rachael Ford, Planning Commission Alternate

EXCUSED: None.

ABSENT: None.

Staff present: Karen L. Majors, Assistant City Manager/Community Development Director, Veronica Nebb, Deputy City Attorney, Planning Manager Terry Blount, and Senior Planner Corey Simon

AGENDA CHANGES

Assistant City Manager/Community Development Director Karen Majors introduced new Commissioners Rachael Ford and Jeff Keller, noting that Commissioner Hughes term expired and Commissioner Korbmacher resigned.

PUBLIC COMMENT

Anne Mobley asked if Commissioner Ford would recuse herself on the RCD item since she was at the Design Review hearing and spoke in favor. Chair Kluber said this was not the appropriate time to ask the question.

Commissioner Avila said she would recuse herself from item 2.

CONSENT ITEMS

1. *Minutes of March 24, 2009, May 12, 2009, May 26, 2009, and June 23, 2009 meetings.*

Motion by Donna Allen, Commissioner, seconded by Mike Marchiano, Commissioner, to approve the minutes of March 24, 2009.

Motion passed. (Chair Kluber abstained)

Motion by Harriett Burt, Commissioner, seconded by Frank Kluber, Chair, to approve the minutes of May 12, 2009.

Motion passed. (Commissioner Allen abstained)

Motion by Harriett Burt, Commissioner, seconded by Donna Allen, Commissioner, to approve the minutes of May 26, 2009.

Motion passed. (Chair Kluber and Vice Chair Busby abstained)

Motion by Harriett Burt, Commissioner, seconded by Frank Kluber, Chair, to approve the minutes of June 23, 2009.

Motion passed.

REGULAR ITEMS

2. *RCD Senior Housing*

UP #09-01, DR #09-12

Public hearing to consider a to construct a 49 unit apartment project for seniors (55 years of age or older), with all rents restricted to affordable levels (i.e. all rents to be limited to 50% of Area Median Income, or less), including allowing density and height above 17 units per acre, 2 story/30 ft height limit normally permitted in the DS – “Downtown Shoreline” Zoning District, and a 10’ front yard setback; and Design Review for building elevations and landscaping, also density bonus for affordable housing, pursuant to California Government Code Sections 65915-65918 to allow 49 units per acre where a maximum of 35 units would normally be permitted, and related concessions/incentives to requirements for useable open space, maximum site coverage and subdivision map. . This project is located at 310 Berrellesa Street (block bounded by Berrellesa, Buckley, Richardson and Foster Streets).

Senior Planner Corey Simon presented the staff report discussing the General Plan, Downtown Specific Plan and Shoreline District Design Guideline policies and requirements, as well as citywide design guidelines and requirements. He also discussed details of the application, the state-mandated density bonus and CEQA exemption (but noting that the mitigation measures of the Downtown Specific Plan EIR do apply). He also noted that revised conditions of approval were presented at the dais.

Commissioner Allen commended Mr. Simon for a great job, but expressed concern about the CEQA categorical exemption. She asked whether the requirements of the Specific Plan had been met. She thought the application was incomplete or out of compliance.

Planning Manager Terry Blount said staff believes the project is exempt. Commissioner Allen confirmed with Mr. Blount that the Commission needs to decide whether it agrees with staff’s determination.

Commissioner Allen discussed concerns raised during the Specific Plan process, and a policy in the Plan encouraging ownership housing. She cited a reference in the Plan, “All new multiple residential developments shall be processed concurrently with Tentative Condominium Map.” Mr. Simon said the state-mandated density bonus regulations allow the applicant to also request a waiver from such development standards, which they have requested. Commissioner Allen

said she was unaware of that request; Mr. Simon said it was done by separate a letter to the City, not part of the application per se.

Mr. Simon said staff believes the project is consistent with the State legislation and eligible for the waiver. Assistant City Attorney Veronica Nebb commented on Attachment G, which lists the legal requirements and exceptions thereto.

Commissioner Allen said she was not disagreeing on the exemption per se; just the determination that it was categorically exempt. Ms. Nebb said the question of CEQA exemption is part of the Commission's decision tonight, but the public hearing is also part of the process, before the CEQA determination can be made.

Commissioner Allen asked if it were not categorically exempt, wouldn't there be a Negative Declaration or something for the Commission to consider. Ms. Nebb said staff decided the project fits under the Specific Plan EIR, which is why additional environmental review was not done.

Commissioner Burt commented on the extensive public process in developing the Specific Plan, which included much public concern and a goal was set to aim for ownership housing in the downtown. She noted that this project is very different, which necessitates additional environmental review in her opinion. Ms. Nebb referred to state mandates granting density bonuses to affordable housing projects, as specified in Attachment G, noting that the Commission would have to make a finding that there is a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources for the bonus to be denied.

Chair Kluber asked that any further Commission questions be postponed until after public comment has been heard.

Public hearing opened

DENI ADANIYA, RCD, discussed changes to the project since the last Planning Commission hearing, universal design elements, resident amenities and support services, property management standards and benefits of the project to the community.

PAUL PENINGER, Bay Area Economics, discussed the economic development and revitalization benefits from affordable housing projects such as this one, both short-term and long-term.

JILL WILLIAMS, architect, KTG Group, reviewed changes to the architectural plan since earlier hearings. She also discussed the story poles that were placed at the site, building facades, a photo montage of views of the project from different angles, context comparisons, section cuts to show the changes in grade as compared to existing conditions, the roof plan, sun/shadow diagrams, and the landscape plan.

Chair Kluber asked staff to have the site context plan available if necessary during public comment.

RAY RAINIERI discussed the mix of uses in his neighborhood. As a senior citizen, he expressed interest in anything and everything that affects this under-served population. He expressed full support for the project that will meet a need that has been long overlooked.

SALLY SWEETSER, expressed support for the project, its design and height, especially when compared to what is there currently. She thought it was good infill development and a good project for a transitional neighborhood between residential and commercial areas.

ANAMARIE AVILA-FARIAS said she recused herself because of the conflict of interest, but she was legally allowed to speak as a member of public. She discussed experience with her property, Villa del Sol, and the desire to contribute to economic vitality in the downtown. She stated that this project can only be beneficial to the downtown neighborhood, and can be the start for economic improvement for the area. She expressed concern that Villa del Sol will be a solo act if this project is not approved. She also noted that this project can convert to home ownership in the future when the market changes.

PAUL WILSON said he is reserving his rights to bring action against the City if this project is approved, because it does not comply with the Downtown Specific Plan. He expressed concern about the safety risks and noise from the nearby train yard and flood plain hazards. He was doubtful that economic revitalization will result, and expressed disbelief at the anticipated economic boon from residents of the proposed project. He also questioned how habitable the units will be because of the proximity to the switchyard and the distance from needed services. He also expressed that the building is out of character for the neighborhood, in terms of massing and design. He asked for compliance with the Downtown Specific Plan and the EIR as written.

KRISTEN HENDERSON asserted that the project will have a negative impact on the City's historical resources. She expressed concern about the lack of response from City staff to her request for documents. She also asserted that a conditional use permit should require CEQA review; and she was concerned about the height, cumulative impacts, nuisance standards, the HUD document, and special treatment given to the property owner. She further commented on impacts on the City's medical resources, finances, and emergency services. She agreed that Commissioner Ford should recuse herself, since she is a tenant of another property owned by the Dunivan's.

THOM SULLIVAN expressed support for the project, citing RCD's good reputation and the benefits the project will bring to a currently under-served population. He asked the Commission to approve the application.

RICHARD CABRAL said he also supports the project, but he was concerned about his loss of view, the building's height and the proposed rental use rather than ownership housing. He questioned whether that many units are really needed.

GLENN YOUNG noted his firm did the hazardous material analysis for the applicant. He indicated there was only a little found, from an unknown source but typical of the urban setting and not high enough for impacts. He stated that the water board agreed, provided there is a deed

restriction against digging once the project is built. He was supportive of the project and offered to answer questions from the Commission.

PATRICK O'LEARY, low-income senior citizen, expressed support for the project and the site. He said he hopes to live there at some point; but currently he cannot afford to live in Martinez. He noted that the site is accessible to regional medical centers, and the interview process for RCD tenants is rigorous. He asked for the Commission's approval.

RAY SLOAN expressed strong support for the project as beneficial to the community and the high quality of the project.

YVONNE MILLS was also supportive of the project, whether at that location or another, to provide low income senior housing.

BETH EISELMAN expressed concern about miscalculations, misleading statements, misrepresentations and misinterpretations on the part of the applicant. She thought the design is too tall, too dense, will have a negative effect on views, and will violate the guidelines of the Downtown Specific Plan. She also commented on economic harm to property values, the nonprofit status, the resulting lack of property taxes, and the assistance the City has already given even before the public hearing process began, the need for more ownership housing, concern about the floodplain, the reduced open space requirement and safety hazards.

Ms. Eiselman also read comments from ANNE MOBLEY and submitted photos and written documents for the record.

MARK MENESINI, born and raised in Martinez, commented on the struggles faced by many senior residents in the City. He thought this was a good project in a good location, with a good design. He encouraged the Commission to approve the project and help the City move forward.

KATTYE GILES, resident of another RCD project, commented on the benefits from living there. She asked what low-income seniors are supposed to do without affordable housing.

BARBARA WADLEY, resident of senior housing in Walnut Creek, expressed love for Martinez. She would like to live here, but there is no affordable senior housing. She asked for approval of the project.

GEORGE GUILFOYLE, resident of RCD project in Walnut Creek, commented on the blessings of living there. He indicated that most tenants there share his opinion and appreciation. He also asked for the Commission's approval.

JOSEPH POKA, senior facing retirement, expressed concern about how to live on a limited income. He would like a project like this to live in.

PAT CORR asked why the floor plan of the units was not shown, noting they will be very small units (11 sq. ft). She also expressed concern about the proximity of the train tracks, and the lack of commercial resources in the area. She did not think this is the right location.

PEGGY JEN expressed support for the project and concern about future senior housing needs. As an employee for a nonprofit that provides financing for affordable housing, she commented on the reliability of RCD in providing a long-term asset to the City.

ED KEEGAN discussed the downgrading of the City's downtown over time, noting he believes this project will provide economic revitalization for the area as well as needed senior housing. He also expressed that the downtown is an appropriate location for this density; neighborhoods evolve, things change over time. He was confident that RCD will be good neighbor, and the increased density can lead to increased vitality in the area. He reminded the Commission they are responsible for the greater good of the community, and RCD will bring that.

BARBARA SMITH, Contra Costa for Every Generation, expressed support for the project as "aging-friendly," which should be a goal for every city in the county. Her organization enthusiastically and unanimously approves.

NANCY SCHAEFER indicated she also supports the project; as a LEEDs project it will benefit the climate.

MARIA BRENNAN provided pictures taken from her porch, adding that she supports senior housing, but not at this height for this location. She stated that the blighted conditions at the site are the result of the owner not taking proper care of the property. She agreed that more business is needed in the downtown, but the community needs to support added housing. She also voiced her concern about noise impacts from the air conditioning units. She agreed with earlier speakers that Commissioner Ford should not be voting, as she is a tenant of the property owner.

NATHAN ROGERS, Greenbelt Alliance, expressed support for the project as a livable, affordable, compact development near transit. He noted this proposal will help the City meet its affordable housing goals as well, making good use of an underutilized site. He felt there is a need for well-designed infill development like this.

CHARLENE WEST, downtown business owner, expressed appreciation for the information provided by Ms. Henderson and Mr. Wilson. She was confident that the developers will do what they can to make the project succeed – the building heights can be reduced, and public transportation can take the residents to area shopping centers.

LUIGI DABERDAKU, owner of 99 Cent Store, said this development is a good project; he hopes to provide delicatessen items in the future.

RICHARD PARKER questioned why there is opposition to this project when it can bring additional business to the downtown. He was sure that the seniors will manage to get around to where they need to go. He thought private development like this is a good alternative to Redevelopment, which a vocal minority prevented. He urged the Commission to support staff's recommendation.

GWEN WATSON, Interfaith Council of Contra Costa County, expressed appreciation for the provision of 49 additional affordable senior housing.

FRED MORSE, downtown business owner and resident, expressed full support for the project and asked for Commission approval.

BOB TREBINO, local businessman, said he supports the project as change for the good. He was optimistic that this project can be a spark for the downtown.

RICH VERRILLI raised procedural issues – the lack of discussion among the Commission before public comment, questions about eligibility of Commissioner Ford to sit on the Commission for this hearing, and whether there was sufficient environmental review.

SONJA SRAOJ, downtown business owner, asked the Commission to approve the project, as it will bring more foot traffic to the area and then hopefully more businesses (grocery stores, etc.). She also commented that more activity and more people are needed to make the downtown thrive again.

MIKE ALFORD said you can tell a society by how it treats its senior citizens and affordable housing for senior citizens is needed. He noted that the Dunavin's have worked hard to bring a quality project, and more residents can bring much-needed business. He also thought that the small units can be ideal for senior residents, and he discussed promises made by RCD that the project will be senior housing mandated for 40 years. He was doubtful that seniors will bring a negative element to the City. He could see no good reason why this project should not be approved – public transit is easily accessible and this project may even bring back medical support services to the downtown.

BOB MARAZZANI, 70-year Berrellesa Street resident, commented on changes to the City over time. He expressed support for the project as an improvement for the area.

ALICIA VALLE, family-owned restaurant, expressed support for the project.

Seeing no further speakers, Chair Kluber closed public comment.

Rebuttal

Mr. Peninger responded to comments about consumer spending and the household incomes of potential residents, although he acknowledged there is no way to guarantee that it will be spent in the City.

Commission Comment

Commissioner Burt said she was appreciative of the green building practices. She asked about soundproofing from railroad track noise, and Ms. Williams discussed the results of the acoustical study and insulation needs.

Commissioner Allen asked about performance standards. Mr. Blount confirmed there are conditions of approval based on the requirements of the DSP.

Commissioner Ford asked about parking standards. Ms. Williams said there will be some subterranean parking with 26 spaces plus an at-grade lot providing almost double that required by City Code, with minimal loss of on-street parking spaces. She also noted that improved curb and gutters will make parking easier on the street. Ms. Adaniya discussed the parking studies that were done, noting that based on past experience, RCD believes the proposed parking is adequate. She indicated that the averages parking ratios at other RCD sites are .3 - .6 at their sites, and .3 - .5 at non-RCD projects.

Ms. Nebb responded to concerns raised previously about what happens when the affordability standards come off the project, noting there will need to be a deed restriction that will require Planning Commission approval to discuss increased parking requirements should the use proposal change in the future.

Commissioner Burt noted that the use likely cannot change, and Ms. Nebb reviewed different funding agency restrictions on use changes. While the City cannot require that it remain senior affordable "in perpetuity," she was confident that the deed restriction can ensure City approval of any change.

Commissioner Burt expressed concern that the use not change. Ms. Nebb said in order for it to change, the owner/developer will have to come back in and apply for a discretionary permit which will require Planning Commission approval.

Chair Kluber asked the overall RCD eviction rate for projects in the bay area. Eric Knecht, RCD, indicated that annual studies show there is generally 90-95% stability.

Chair Kluber asked about landscaping and view blockage from redwood trees and palm trees. Commissioner Marchiano said trees will not block the views, but the building height will definitely create some blockage.

Commissioner Busby asked if residential permit parking could be instituted in the area should it become an issue in the future. Ms. Nebb said yes, there is precedent in the City for similar situations.

Commissioner Busby asked about potentially providing a shuttle to the City's senior center. Ms. Adaniya discussed research into possible shuttle service, but said there is nothing definite yet. Commissioner Burt asked about the status of the City's community-based transportation study; Ms. Majors said grants or other funding might be possible, but unfortunately CCCTA will probably not be able to expand service in the near future.

Commissioner Busby asked if the City would assist in the grant process. Ms. Majors said the City can assist in the application process, but could not provide financial assistance.

Commissioner Allen asked if the parking studies done were of complexes near train stations. Ms. Adaniya said it is difficult to find comparable projects; she was not sure about that.

Commissioner Allen also asked whether onsite parking at RCD projects is always adequate. Ms. Adaniya said no, the parking ratios for those are much lower, and they currently have waiting lists. Commissioner Allen asked what happens while waiting; Ms. Adaniya said they park the cars elsewhere offsite.

Ms. Majors noted this project has greater parking ratio than most of the other RCD senior projects. Ms. Adaniya confirmed other RCD projects have assigned parking. Mr. Blount noted this project is already providing almost double what is required by the City.

Commissioner Ford asked about the senior housing density bonus requirement, based on the Housing Element. Mr. Blount said there is no requirement for the City to provide housing, but rather to provide sites for affordable housing. He discussed the Housing Element process, noting this site was identified as an opportunity site in the Housing Element. He indicated the City currently has enough sites identified, but thus far only a very small number have had housing built upon them.

Chair Kluber noted the common thread among all public comment is that the City needs senior housing, and this is the first site and the best site available to do that. He commented on his experience on the Housing Task Force. He mentioned the former DMV site and the opposition it faced originally, yet now it is an attractive building and fits well in the neighborhood. He was supportive of the project.

Commissioner Allen said she was not prepared to vote on the project tonight, although she acknowledged RCD has done quality work in the past as evidenced by the public support and the County's willingness to invest CDBG funds into the project. She was opposed to the project because of the location, and she observed that the same project could be built elsewhere in the City with the same funding. She was also very concerned about the CEQA categorical exemption and the high density exceptions. Since this is the first project under the Downtown Specific Plan, she would rather continue the item to ensure that all the guidelines are met and the environmental analysis is sufficient.

Commissioner Ford noted that the new building at the DMV site had much neighborhood opposition, but the completed project has definitely improved the area. Supports project as meeting intents and purposes of the Downtown Specific Plan. This project will bring needed renewal to the area.

Commissioner Marchiano said other than loss of views, this project is a good project that could be a cornerstone of needed revitalization to the area.

Commissioner Keller said it is nice to see a project like this for renewal of the downtown. He supports the project.

Commissioner Busby concerned about parking, but permit question was answered. Sympathy for potential lost views, but benefit to senior community.

Commissioner Burt acknowledged valid need for senior affordable housing, design is much improved over last time. Need for flexibility regarding Specific Plan in view of housing market burst. Appreciation for design of project, concern about density levels set by state, loss of views can affect property values but view ordinance addresses trees, not building heights. Discussed appeal process that is right of neighbors, as well as permit parking should parking become an issue. Cannot say health, safety or environmental issue exists that prevents density bonus. On the whole it is a very good project and will benefit the City.

Commissioner Allen expressed that it was truly unfortunate that the Specific Plan process was so long and yet this project began within a year and was given some level of support from the City with the Commission unaware. She noted that the Planning Commission needs to make findings for approval of the increased density from 17-35 units. She was also concerned about CEQA issues, and she said she believes the Commission is making many mistakes in approving this project.

Ms. Majors discussed the next steps in the process, including a possible motion directing staff to prepare conditions and a resolution of approval.

Commissioner Busby asked if bringing the motion back will reopen the public hearing. Ms. Nebb said no, it will be a consent item, although she acknowledged the public can address consent items.

Motion by Frank Kluber, Chair, seconded by Rachael Ford, Commissioner, to approve UP #09-01 and DR #09-12, to construct a 49 unit apartment project for seniors (55 years of age or older), with all rents restricted to affordable levels (i.e. all rents to be limited to 50% of Area Median Income, or less), including allowing density and height above 17 units per acre, 2 story/30 ft height limit normally permitted in the DS – Downtown Shoreline Zoning District, and a 10' front yard setback; and Design Review for building elevations and landscaping, also density bonus for affordable housing, pursuant to California Government Code Sections 65915-65918 to allow 49 units per acre where a maximum of 35 units would normally be permitted, and related concessions/incentives to requirements for useable open space, maximum site coverage and subdivision map.

Motion passed 6:1. (Commissioner Allen voted no; Commissioner Avila recused herself.)

COMMISSION ITEMS

Commissioner Allen said she was really disappointed to find out that the City sent a letter officially supporting the RCD project in 2007. She expressed that in the future, it should at least come for a cursory Planning Commission study session before the letter in support is sent.

Commissioner Allen also expressed concern that when asking for information about the project, she was directed to the applicant. She thought the City should hire consultants for any needed studies, and bill the applicant, rather than the applicant hiring the consultants.

Ms. Majors said the City Manager gave approval of the letter, and such letters are standard practice in the field. She added that RCD could not begin a funding application without such a letter.

STAFF ITEMS

Ms. Majors asked about putting an information item on the agenda related to the public notification process. Mr. Blount asked specifically what the Commission wants to consider. Commissioner Allen said onsite posting of hearings, such as Pleasant Hill does.

Chair Kluber commented on Commissioner Allen's recognition by the bocce ball organization.

COMMUNICATIONS

None.

ADJOURNMENT

The meeting adjourned at 11:00 p.m. to the next regular meeting on August 11, 2009, at 7:00 p.m. in the Council Chambers, 525 Henrietta Street, Martinez, CA 94553.

Respectfully submitted,

Approved by the Planning Commission Chairperson

Transcribed by Mary Hougey

Frank Kluber