

CALL TO ORDER - PLEDGE OF ALLEGIANCE - ROLL CALL

Mayor Schroder called the meeting to order in the Council Chambers at 7:11 p.m. with all members present.

PRESENT: Rob Schroder, Mayor, Lara DeLaney, Councilmember, Mark Ross
Councilmember, Michael Menesini, Vice Mayor, and Janet Kennedy,
Councilmember.

EXCUSED: None.

ABSENT: None.

PRESENTATION(S)/PROCLAMATION(S)

PUBLIC COMMENT

(COMPLETE SPEAKER CARD AND GIVE TO CLERK) Reserved only for those requesting to speak on items not listed on the Agenda.

Richard Verrilli commented on the public hearing process and how it would be fairer to the appellants and the applicant if the items are separated. Mr. Verrilli also had concerns whether the Environment Impact Review process was correctly followed. Assistant City Attorney Veronica Nebb explained that the Planning Commission did take action on the EIR in endorsing the staff's determination that the project was exempt from further environmental review.

Paul Wilson requested that the Mayor inquire if any of the Councilmembers have a conflict of interest so that they can recuse themselves before the hearing on Item #1.

Phillip Ciaramitaro announced a Music Festival, the Ferry Point Park Fall Music Festival, on October 9-11, 2009; he encouraged the public to attend.

Mike Alford hoped that everyone could express themselves in a civil manner and walk away with the knowledge that they had their say. He encouraged the Council not to continue the matter but to make a decision on the issue tonight.

CONSENT CALENDAR

MOTION WAIVING READING OF TEXT OF ALL RESOLUTIONS AND ORDINANCES.

PUBLIC HEARING(S)

1. Public hearing to consider a resolution denying the appeal and upholding the Planning Commission's decision by approving requested Use Permit, Granting of Density Bonus, Concessions and Waiver of Development Standards pursuant to State Law, and Design Review Approval for Construction of a 49 Multiple Dwelling Unit Project for Seniors (55 years of age or older), with Rents Restricted to Affordable Levels, with Density and Height above that Normally Permitted and Reduced Front Yard Setback at 310 Berrellesa Street.[C.Simon/T.Blount/9.06.01.40]

Mayor Schroder reviewed the process that would be followed in the hearing tonight. Assistant City Attorney Veronica Nebb outlined the legal implications of the appeal before the Council. Assistant City Manager Community and Economic Development Karen Majors presented the staff report. She discussed the application details and required approvals, hearings by the Design Review Committee and the Planning Commission, and the appeal issues.

Senior Planner Corey Simon reviewed the consistency with the General Plan and the Central Martinez Specific Area Plan, Downtown Specific Plan, goals and policies of the Specific Plan's Downtown Shoreline District; Zoning and Use Permit requirements, Design Guidelines, Character Defining, and compliance with General Design Review Guidelines.

Planning Manager Terry Blount reviewed the impacts on potential historic resources, applicability of the State Mandated Density Bonus and other laws applicable to housing and the applicability of the CEQA Exemption to this project. He concluded with the staff recommendation that the appeals be denied and the Planning Commission approval be upheld.

Councilmember Ross asked what parcels were assembled to develop the project. Mr. Simon acknowledged that none were assembled in this case, although the assemblage of parcels is only one of the 8 criteria listed in the Downtown Specific Plan needed for approval of a use permit for the added density, and it was not expected that all of the criteria be met.

Kristin Henderson, Appellant #1, discussed the basis for her appeal - noting she was not opposed to senior housing and was very supportive of revitalization or increased density in the downtown area. She reviewed what she thought were false statements made by staff, including the requirement for a conditional use permit, the determination that the project is "superior" in order to grant the density requested, view impacts, onsite amenities, tree removals, the provision of open private space, building massing, design/appearance of the project, landscaping, historic impacts, and the size of the units.

Kristina Lawson of Miller Starr Regalia, representing appellant Beth Eiselmann, Tim Platt, and Harlan Strickland, discussed her experience as a land use environmental attorney. She reviewed the purpose of the appeal - to identify an issue that was not done properly, the mandatory CEQA duty of the City. She discussed the State Density Bonus Law, noting it does not exempt a project from compliance with CEQA, and concluding that the project is not consistent with the City's

General Plan, Specific Plan and Zoning regulations. She also stated that the project is therefore vulnerable to challenge and litigation, not something the City should want to face. She encouraged the Council to send the project back for a more complete CEQA analysis.

Tim Platt stated that he believes the project has value, but it needs to be a better fit for the neighborhood - either with a different design or in another location. He also discussed errors and omissions in the staff report submitted to the Council, including density, Downtown Specific Plan requirements for a variety of housing types, identification of the location as an "opportunity site," and the necessary criteria for approving density bonuses.

Harlan Strickland noted that one of the goals of the Downtown Specific Plan is revitalization, and he did not think this project will meet that goal. He also noted that this project will not contribute property tax, which will result in a deficit to the City's General Fund.

Dan Sawisalk, Executive Director of Resources for Community Development, discussed the background and experience of the company, public partners, lenders, investors, other projects they have done, awards received, property management, and types of resident social services.

Deni Adaniya, Project Manager, gave an overview of the proposed project, including deed restriction, provisions allowing the seniors to "age in place," accessibility features, onsite amenities, and neighborhood outreach efforts. She noted there was a letter from Sue Raney, the Mayor of Walnut Creek, regarding the RCD project in that city. She then introduced Steve Murphy of Bay Area Economics.

Steve Murphy, Bay Area Economics, discussed the consulting services offered by his company and ways that Martinez will benefit economically from the proposed project. Specifically he reviewed the household spending potential of the residents as compared to alternative developments, steps used to calculate the household spending, economic benefits to the City during construction, and the potential revitalization for the neighborhood.

Jill Williams, Project Architect, KTGy, reviewed the design process and evolution, density, scale, massing, square footage, parking, building height, elevations, and story pole projected view impacts.

Councilmember Lara DeLaney asked if a copy of RCD's economic report was supposed to be in the Council packet. Ms. Adaniya indicated she could get a copy to Councilmember DeLaney.

Councilmember Ross confirmed with the applicant that the topography of the site limited how the project needs to be oriented. He asked whether any other orientations had been considered to diminish the view impacts. Ms. Williams acknowledged it was a challenge, but the height would have had to be very limited in order to preserve the views completely.

In response to a further question from Councilmember Ross, Ms. Williams explained why the central part of the project could not be bifurcated to soften the view impacts, particularly because of the necessity for interior corridors for security reasons.

Councilmember Ross asked if view impacts had been an issue in other cities. Ms. Williams said yes, especially for infill projects. She noted that is why there was so much outreach to the neighbors to achieve the best outcome.

Councilmember DeLaney asked about the LEEDS certification, and Ms. Adaniya confirmed that RCD was committed to achieving the highest level of certification possible, including building systems, types of materials, amount of demolition and types of appliances. Councilmember DeLaney asked what would be different from this project as compared to the project in Alameda. Ms. Adaniya commented on site constraints, but deferred to Lisa Motayama, Director of Development, who discussed cost issues associated with LEEDS certification.

Councilmember Ross asked whether local contracts would be used for the construction of the project. Ms. Adaniya reviewed the process for bidding and selection of the general contractor, confirming that there will be outreach to the local community to solicit bids.

Rebuttal

Ms. Henderson commented on the responsibilities faced by private homeowners to maintain their properties. She noted that there will be no property taxes generated from this project, and the City will bear much of the costs for the project. She expressed concern that this project was "pre-approved" months ago, as evidenced by presentations at Main Street meetings, and that the individual residents will not have much personal income to invest in downtown businesses. She was equally concerned that only one of a unit's residents must be over age 55 and that there are already too many empty buildings in the downtown. She challenged RCD to produce its own economic report proving that residents in its projects in other cities have the disposable income RCD claims will be spent in downtown business by the occupants of this facility. She was concerned that the tree language had been changed in this staff report when compared to the Planning Commission staff report, on which her appeal was based. She also commented on the amount of money expended on the project thus far. She encouraged RCD to choose another location for the facility, but she thought there has been malfeasance on their part in not contacting residents in the neighborhood. Ms. Lawson reiterated two major concerns - one that this is not the right project for this site, and the other is that the CEQA requirements have not been met.

Mr. Platt reviewed his concerns with the view impacts, the number and size of the units, proximity to the railroad, the accuracy of the economic projections, noncompliance with the Downtown Specific Plan and the requirements for granting exceptions, impacts on the neighbors. He thought another location would be more appropriate and better for the senior residents overall.

Harlan Strickland said he was unconvinced of the economic argument, and he expressing concern about the lack of property tax or sales tax income. He also noted that building is not the same as revitalization, and the lack of disposable income will not bring the benefits that the downtown needs.

Jody Smith, Counsel for RCD, disagreed that the environmental requirements had not been met. She also discussed legal issues with the State density bonus and affordable housing, and she reviewed the standards/criteria that address CEQA exemptions.

At the request of Mayor Schroder, City Attorney Veronica Nebb discussed legal issues, agreeing with staff and RCD that the necessary requirements for CEQA exemption had been met. Ms. Nebb said that if the appellant's view of General Plan consistency were accurate, then no density bonus project could ever be approved, because every project that is approved has to be consistent with the General Plan and Specific Plan as a matter of law. The mere granting of a density bonus rendered the project inconsistent as a matter of law, you could never approve it.

The Council recessed for 5 minutes and reconvened with all members present as indicated.

Mayor Schroder opened the public hearing, noting that the speaker time limit would be only two minutes, due to the number of speakers and time constraints.

Frank Kluber, landscape architect, noted that everyone agrees the City needs senior housing, and RCD is a well-qualified provider. He expressed support for the project, and he noted the RCD has done as much as possible to reduce the massing to fit the project to the neighborhood. He also briefly commented on the proposed landscaping.

Ray Raineri said he was even more strongly in favor of the project now than earlier. He commented on the benefits that Martinez offers to people in need, from the Veterans Hospital to the County seat. He encouraged the Council to approve the project.

Yvonne Mills also expressed support for the project.

Heidi Perryman noted there are a lot of beaver supporters in the audience, some in favor of the project and others against. She thought the issues with the development were primarily with the density and height, which she thought could be resolved if the developer was more willing. She asked the Council to ensure that the applicant works with the community to make a good project into a great project, but with reasonable limits.

Pat Gutierrez expressed concern about the impacts on the people in the neighborhood, noting that the downtown businesses will not have increased customers. He also commented on risks to residents of the facilities if there is a hazardous situation from the railroad.

Carol Hatch expressed support for the project as an opportunity to jumpstart revitalization in the downtown. She also submitted written remarks in support.

As a member of the downtown business community, Bob Trebino was also supportive of the project, and he urged the Council to approve it.

Debra Farr said she was strongly supportive of the project, especially as her mother may eventually need a residence such as this.

Ann Mobley, downtown property owner and downtown business owner, said the project should be denied because it is not consistent with the General Plan or at least postponed for CEQA review. She was opposed to the project at the proposed location.

Richard Cabral stated opposition to the project, because of view impacts and, proximity to the trains. He pointed out some untruths in the staff report in terms of neighborhood outreach, view impacts and height impacts. He urged the Council to deny the project.

Rick Parker said he was confident that the project will generate income to restaurants in the downtown. He thought that approval should be a no-brainer.

Nathan Rogers of Green Belt Alliance encouraged the Council to support the project, in order to bring economic benefit to the downtown. He thought the City should welcome any development during such difficult financial times.

Elizabeth Herndon noted that if something seems too good to be true, it probably is. She questioned whether the claims have really been confirmed, how accessible shopping will be, whether parking will be adequate, and whether it will truly be a "green" development.

Peggy Jem commented on the increasing need for senior housing. She was confident that RCD will create a quality development, and she urged the Council to uphold the Planning Commission's decision.

Dick Duncan said he has no problem with the architecture or the density of the project, but he questioned whether it was the type of project that had been envisioned by the Downtown Specific Plan and whether the financial benefit would be as great as expected. He suggested asking the developer to work with the City towards establishing a railroad quiet zone, thus providing a public benefit to the project and increasing the desirability of the units.

Kattye Giles, resident of RCD Housing elsewhere, commented on the quality of their projects. She noted that fire safety is not an issue, because the fire department comes out yearly to review safety issues with the residents. She asked the Council to approve the project on behalf of the people.

George Guilfoyle, resident of RCD housing in Walnut Creek, expressed appreciation for the high quality complex they created. He was confident that any project built here will also be well done.

Russ Holt expressed concern about parking, and he did not think this was the right location.

Nancy Schaefer commented that the City needs to consider compact infill development such as this one. She noted that the proposed project will provide affordable senior housing in an attractive compact development that will help revitalize the downtown.

Rachael Ford, Planning Commission Alternate, discussed the challenges that come with change. She mentioned that she lives near the Haven Street development that was controversial and yet has improved the neighborhood. She was confident that this development will do the same in its neighborhood. She urged the Council to show leadership and do what's best for all of Martinez.

Joseph Poka expressed his support for the project, especially in view of the difficult financial circumstances often faced by senior citizens. He asked the Council to support the project.

Sally Switsa said she was generally supportive of the project, architecturally pleasing and better than the eyesore that the site currently is. She was confident that it will benefit the City economically as well.

Jason Pearce agreed the City needs an affordable senior housing project like this one.

Alex Salazar, East Bay Housing Organization (EBHO), spoke in favor of the project. He discussed the makeup and history of EBHO, as well as the economic challenges facing senior residents in the county.

Robert Rust commented on the process used to develop the Downtown Specific Plan, noting that the density of the project is not what was envisioned for this site. He thought the proposal was incongruent with the neighborhood.

Karen Keegan expressed support for the project, noting that the fastest growing segment of the population below the poverty level is senior women. She thought it could set a standard for future green development in the City.

Seth Adams expressed support for density in the downtown and especially for this project, stating this is the perfect location that has been vacant and blighted for too long. He thought that the CEQA process followed for the DSP was adequate for this project. Having seen other projects done by RCD, he was confident this would be a great addition to the City.

Mark Menesini said he supported the project because of the great need for senior housing.

Albert Turnbaugh said he was opposed to the project; he expressed concern about the inevitable legal challenges it will face, the loss of property tax revenue, benefits to special interest groups, parking and whether the requirements for the density bonus have been met.

Mike Alford commented on the human element, the senior citizens, and the increasing need for affordable housing for them.

Donna Allen, Planning Commissioner, explained her dissenting vote against the project. She questioned whether the necessary findings could be made, much less whether this is a "superior" project. She thought that RCD is a great developer and this would be a great project, but she encouraged the Council to ask that they use the whole parcel to reduce the density overall.

Paul Wilson expressed concern about the project's height, parking, density and the fact that it will be HUD-subsidized rental housing. He questioned whether HUD could enforce the deed restriction requiring it to be senior housing since HUD is not supposed to discriminate on the basis of age or income. He was also concerned about the loss of property taxes, its proximity to the railroad switching yard and a fuel oil tank farm, as well as the inadequate CEQA review.

Carolyn Duncan asked for some requirement that local contractors and businesses be used in the construction phase, as well as preference given to Martinez seniors for living there.

Bill Clemente expressed concern about density, proximity to the railroad, and parking. He was appreciative of the green building element however.

Seeing no further speakers, Mayor Schroder closed the public hearing.

The Council recessed for 5 minutes and reconvened with all members present as indicated.

Mayor Schroder expressed appreciation for the respectful manner that everyone has shown for each other, even while disagreeing.

Vice Mayor Menesini agreed, noting that rational minds obviously can disagree on important issues. He also agreed with the speakers who believed that the project can contribute to revitalization of the downtown, and it will encourage quality projects in the downtown and hopefully contribute to bringing back the "village" feel that the downtown used to have. He was convinced that the project will be good for Martinez, consistent with the General Plan, the Downtown Specific Plan and the Zoning Ordinance.

Councilmember Ross said this is one of the most difficult issues he has faced in his time on the Council. He acknowledged it was not the project he envisioned for the downtown, but he recognized that all planning allows for exceptions and variances. He was supportive of the project, and he encouraged the use of local workers and local businesses. He was also aware of the need for society to take care of the seniors, which this project will help with.

Councilmember DeLaney agreed that the City has a need for senior housing, affordable housing, transit-oriented, pedestrian-oriented, and high density housing; however, she did not think this was the best location for the project. She said she could not support the project, as it does not meet the criteria for a superior project as carefully set forth in the Downtown Specific Plan nor does it meet the goals of the Plan. She was also concerned about the loss of property taxes, and that it is not an ownership development. She wanted to be sure the property is used for the best possible purpose.

Councilmember Kennedy commented on the long process, including the community meeting and the Planning Commission meeting. She agreed it will contribute to revitalization, but she did not think it could replace redevelopment. She noted that the county project cited by Ms. Allen is being done with redevelopment funds. She was supportive of the project, as it will fulfill a huge need in the City. She also expressed appreciation that this project meets the criteria for smart growth and it will be a green project. She discussed affordable senior housing projects in other

nearby cities, and she noted that RCD was a commendable organization, even providing for adaptation if a resident needs physical assistance. She commented on impacts from the downturn in the housing market, the density bonus provided for affordable housing developments like this, and she noted that the HUD funding used will be carefully monitored to ensure it remains senior housing.

Councilmember Kennedy also stated that if there were going to be 17 single-family units, as allowed by the Downtown Specific Plan without the use permit approval, there would be more bedrooms on the site than what is proposed here. She believed that this was the right project for the right place at the right time.

Mayor Schroder acknowledged he was originally skeptical about whether this project was the right one for the location. He was primarily concerned about the quality of the onsite management. He expressed appreciation for the design, and he thought this was a good start to the revitalization, contributing to the variety of housing types envisioned by the Specific Plan.

Councilmember DeLaney commented on the need to finally establish a railroad quiet zone, especially if this property will be built so close to the railroad. She suggested that the developer should be required to contribute financially. Mayor Schroder reminded the Council that RCD is a non-profit developer.

Vice Mayor Menesini agreed RCD could be a good neighbor in pushing for a quiet zone, but he did not think it should be an added condition of approval. Councilmember Ross agreed with Vice Mayor Menesini that it shouldn't be added at this time, but the City or neighbors can approach RCD for cooperation.

On motion by Janet Kennedy, Councilmember, seconded by Michael Menesini, Vice Mayor, to approve Resolution No. 097-09 denying the appeal and upholding the Planning Commission's decision by approving requested Use Permit, Granting of Density Bonus, Concessions and Waiver of Development Standards pursuant to State Law, and Design Review Approval for Construction of a 49 Multiple Dwelling Unit Project for Seniors (55 years of age or older), with Rents Restricted to Affordable Levels, with Density and Height above that Normally Permitted and Reduced Front Yard Setback at 310 Berrellesa Street. Motion passed 4 - 1. Yes: Rob Schroder, Mayor Mark Ross Councilmember Michael Menesini, Vice Mayor, Janet Kennedy, Councilmember, No: Lara DeLaney, Councilmember.

CITY MANAGER

2. City Manager Comment(s)/Update(s)/Report(s).

No comments made.

3. Chief of Police Comment(s)/Update(s)/Report(s).

No comments made.

APPOINTMENTS TO COMMISSIONS AND/OR AGENCIES

CITY COUNCIL

4. City Council Comments.

Councilmember Mark Ross asked for an update on the 9-11 Ceremony. City Manager Vince indicated that there will be a Memorial Ceremony on Friday morning, September 11th at the Intermodal Station.

ADJOURNMENT

Adjourned at 11:17 p.m. to an Adjourned Regular Meeting on September 23, 2009, at 7:00 p.m. in the Council Chambers, 525 Henrietta Street, Martinez, California.

Approved by the City Council,

Rob Schroder, Mayor

Mercy G. Cabral, Deputy City Clerk—10/7/09