

APPROVED MINUTES OF REGULAR PLANNING COMMISSION MEETING
APRIL 25, 2001

Time: The meeting was called to order at 7:00 p.m.

Location: North Berkeley Senior Center.

Commissioners present: Wrenn, Wengraf, Poschman, Howerton, Morris (arrived 7:15 p.m.), Bronstein, Perry, McCamant (arrived 7:10 p.m.).

Commissioners Absent: Hicks.

Staff present: Haney-Owens, Cosin, Thomas, Barton, Stroshane, Phillips.

PUBLIC COMMENT PERIOD

Jason Meggs urged the Commission to pursue parking alternatives before building more parking.

Steve Gellar supported the proposed moratorium on parking, and stated that Berkeley should encourage public transit.

Dave Campbell supported a five-year moratorium on new parking.

Roland Peterson questioned whether Berkeley has the funds to make real-time parking information available to drivers. He supported improved accessibility to the Southside through light rail or other transit alternatives, but he also urged the Commission to reject T-36 as it is currently written and adopt the proposed amendment.

R. Baldwin, representing the First Congregational Church of Berkeley, suggested more research before specific parking needs are determined. He stated that congregation members, particularly seniors, need to drive to church and therefore require parking.

Michael Katz suggested that density bonuses be granted on boulevards that are able to accommodate increased traffic pressure, and stated his concerns regarding traffic-calming measures on residential collector streets.

Marc Janowitz, a member of the Rent Stabilization Board, supported the repeal of the Costa-Hawkins Act as a means to decrease fraudulent tenant evictions. He stated that fraudulent evictions have increased since the enactment of Costa-Hawkins. He urged the Commission to strengthen rent control, and to protect the stock of affordable housing in Berkeley.

Commissioner Perry noted that more data is needed to directly relate increased fraudulent evictions with the Costa-Hawkins Act.

Lisa Motoyama of the East Bay Housing Organization urged the Commission to create opportunities for more affordable housing and increased densities.

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Maria Benjamin, also of the East Bay Housing Organization, commended the Housing Element and supported the proposed amendments. She stated that Berkeley needs more affordable housing in order to meet current and future demand.

Andy Katz of the ASUC stated that LU-21 is not written in a way that will add more housing along transit routes.

Kirk Abbott of the Sierra Club favored T-36 as currently written, not the proposed amendment.

Aaron Priven of the Sierra Club supported a five-year moratorium on parking.

John DeClercq stated that there should be further study of the parking situation before a moratorium is pursued.

Jonathan Kass of Students for a Livable City stated his concerns regarding shortening the length of the proposed parking moratorium. He stated that mode shift is a viable alternative.

Steve Bloom of the Sierra Club stated his opposition to shortening the length of the parking moratorium, and asked the Commission to explain the rationale behind the proposed change.

ORDER OF AGENDA

M/S/C to move Committee Reports to the next discussion item on the agenda (Wengraf/Poschman). Ayes: Bronstein, Wengraf, Morris, Perry, Poschman, Howerton, McCamant. Noes: Wrenn. Abstentions: None. Absent: Hicks.

COMMITTEE REPORTS

Commissioner Wengraf requested full Commission notification of all subcommittee meetings, and notification of all community activities at which a Commissioner is present to represent the Planning Commission.

Staff Thomas stated the time and location of General Plan subcommittee meetings.

Commissioner Poschman asked if Commissioner Perry would agree to another Commissioner attending subcommittee meetings in his place when he is unable to attend.

Commissioner Perry requested that the subcommittee adjust its meeting time to accommodate his schedule.

Staff will report back to the Commission regarding subcommittee attendance rules and regulations.

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Commissioner McCamant asked that Staff also clarify Brown Act regulations regarding Commissioner communication.

Commissioner Wrenn reported that the Oxford Lot subcommittee met on the previous day but will not have anything to present to the Commission until after its next meeting.

CHAIRPERSON'S REPORT

No report.

CITY COUNCIL ACTIONS

No discussion.

APPROVAL OF MINUTES

M/S/C to approve minutes from the April 4, 2001 meeting (Poschman/Wengraf). Ayes: Bronstein, Wrenn, Wengraf, Morris, Poschman, Howerton, Perry. Noes: None. Abstentions: McCamant. Absent: Hicks.

It was decided to defer action on the April 11, 2001 Commission minutes until the May 9th Commission meeting, due to the fact that not all Commissioners had received copies of these minutes in their packets.

FUTURE AGENDAS

It was noted that the comment period on the Draft EIR for the General Plan has been extended to May 9, 2001.

DRAFT GENERAL PLAN

Note to Reviewers: Staff has inserted the revisions made to the General Plan as the result of the Commission discussion or motion. The revised policy is shown in italics.

Housing Element

Commissioner Wrenn continued discussion of Housing Element Amendments from the previous meeting.

Commissioner McCamant asked Staff Barton to explain his motivation when writing the Housing Element. She stated that a number of issues are controversial regarding housing in Berkeley, and this is not conveyed in the Element.

Staff Barton stated that non-profit housing is the best vehicle for delivering affordability, and that the Housing Element does not regard rent control as the primary means to implement affordable housing policy. He also stated that this Element is a departure

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from the 1990 version, and that much of this language emerged from discussions with the Rent Board and Housing Commissions. He explained that enough housing could never be built in Berkeley to drive down or stabilize rents, and that this Element attempts to separate the affordability issue from density and development issues.

Commissioner McCamant stated that the policy of buying on the open market could possibly gain support, but it is buried in the rent control argument.

Commissioner Wengraf stated the General Plan should acknowledge that there is not consensus on how to achieve the goal of more housing and affordable housing.

Commissioner Bronstein pointed out that Measure Y was supported by 64% of the general electorate and that this demonstrates some consensus on the issue.

Commissioner Morris stated that the Element emphasizes affordable rental housing policies too heavily, and there are needs and issues that face other residents that need to be addressed as well.

Staff Barton discussed some programs formerly in place that supported first-time homebuyers, but pointed out that changes in the market made these programs ineffective.

Commissioner Perry asked Staff if terms such as 'low' and 'very low' and their definitions could be used throughout the Plan for consistency.

Staff Barton replied that they could be used throughout, but that relevant Housing and Urban Development (HUD) tables should be included for reference.

Commissioner Perry asked Staff Barton to discuss Area Median Income(AMI).

Staff Barton stated the AMI for a 4 person family in Alameda and Contra Costa Counties is \$71,600. The Oakland Metropolitan Area and Berkeley median incomes are much closer to 80% of the AMI, but also have smaller households.

Commissioner Perry asked if Berkeley can effectively address the regional issues that are driving the housing issues, and if these issues can be addressed effectively at the regional level.

Staff Barton suggested two ways in which the issue could be addressed. First, land use could be adjusted to permit more housing, but this would take roughly 20 years to register an impact. Secondly, Berkeley could take a portion of the housing stock out of the open market by purchasing it with the intention of converting it to affordable housing.

Commissioner McCamant asked what this would cost.

Staff Barton replied that 100 units would cost the City \$20M/yr over the next 20 years to acquire the units and subsidize them.

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Commissioner Perry asked how to target units acquired through such a process to Berkeley residents and how to avoid drawing non-residents seeking affordable housing. He also asked how such an approach would address the housing needs of public servants with moderate incomes like teachers, nurses and firemen.

Staff Barton stated that current City housing policies reflect scarcity, discuss available funding, and express a desire to help the neediest people. He offered to draft language that explicitly addresses the housing needs of individuals with moderate income levels as well.

Commissioner Wengraf pointed out that rent control does not guarantee that the neediest will get the most affordable units, given that a tenant is protected under rent control regardless of how her/his income changes over time. She asked how non-profit housing deals with this issue.

Staff Barton explained that non-profit leases usually require the lessee to agree to rent increases as income changes.

Commissioner Wengraf suggested that the Element include programs that help people to increase their income levels and thereby move out of very low-income housing.

Staff Barton stated that Berkeley has many residents who work for non-profit organizations that don't pay very much, and that job training and social services need to be provided for low-income residents without an educational background. He commended the Commission for considering a range of housing policy alternatives.

Commissioner Wrenn noted that only one Policy out of 50 in the Housing Element discusses rent control, and that voters have shown support for this issue.

Commissioner McCamant disagreed that Policy H-4B is what voters would support.

Commissioner Perry stated that rent control is useful in the short run, but fails as a long run economic policy. He proposed adoption of Policy H-4 Action A in the text box.

M/S/F to adopt proposed Action A in the text box (Staff would rewrite language for consistency) (Perry/Wengraf). Ayes: Perry, Wengraf, McCamant. Noes: Morris, Wrenn, Bronstein, Poschman, Howerton. Abstentions: None. Absent: Hicks.
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Commissioner Wengraf proposed edited language from text box to replace Actions A and B under Policy H-4.

Commissioner McCamant suggested leaving the Policy as is but deleting the actions, and adding an action under H-5 that proposes establishing an affordable housing fund for low income tenants.

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M/S/F to delete actions under H-4 and add an action to H-5 proposing the establishment of an affordable housing fund for low income tenants (Wengraf/Perry). Ayes: Perry, Wengraf, McCamant. Noes: Morris, Wrenn, Bronstein, Poschman, Howerton. Abstentions: None. Absent: Hicks.

M/S/F to strike Action B under H-4 (Perry Wengraf). Ayes: Perry, Wengraf, McCamant. Noes: Morris, Wrenn, Bronstein, Poschman, Howerton. Abstentions: None. Absent: Hicks.

M/S/C to delete the text box in H-4 and retain current language (Bronstein/Morris). Ayes: Morris, Wrenn, Bronstein, Poschman, Howerton. Noes: Perry, Wengraf, McCamant. Abstentions: None. Absent: Hicks.

Policy H-4 Rent Control

Take actions to protect tenants from large rent increases, arbitrary evictions, hardship from relocation, and the loss of their homes.

Actions

- A. *Support the Rent Stabilization Program and enforcement of the Rent Stabilization and Eviction for Good Cause Ordinance in order to protect tenants from large rent increases and loss of their homes.*
- B. *Support repeal of the vacancy decontrols of the 1995 Costa-Hawkins Bill or pursue other means to provide city autonomy to stabilize rents through vacancy controls.*

Note:

~~*One or more Planning Commissioners would delete Action B.*~~

~~*One or more Planning Commissioners would replace Action A and Action B with the following language:*~~

~~*Establish an affordable housing fund with identified and guaranteed revenue source(s) to underwrite 6000-8000 rental units for low income tenants (average 40% AMI) and repeal the rent control ordinance (leaving current eviction controls in place).*~~

M/S/F to acknowledge controversial nature of rent control in Policy H-4 (Wengraf/McCamant). Ayes: Wengraf, McCamant, Morris, Howerton. Noes: Wrenn, Perry, Bronstein. Abstentions: Poschman. Absent: Hicks.

Commissioner Morris suggested including language stating that the City would work with owners of historically low rent units.

Commissioner Perry suggested deferring this issue until Staff could propose language.

Commissioner McCamant noted that it is expensive to convert from tenancy-in-common to condominiums, and those still existing should not be penalized.

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M/S/F to delete item A under Amendment item 11 (McCamant/Perry). Ayes: Perry, Wengraf, McCamant. Noes: Morris, Wrenn, Bronstein, Poschman, Howerton. Abstentions: None. Absent: Hicks.

Policy H-7 Rental Housing Conservation

Preserve existing rental housing by limiting through regulation the subdivision of land for the purpose converting rental properties to condominiums.

A. *Consider setting a final date for conversion of tenant-in-common units to condominiums.*

Commissioner Poschman stated that use of the term 'consider' will not necessarily penalize them. He suggested adding the word 'rented' in from of the phrase 'tenant-in-common'.

Commissioner McCamant noted that item 11 B on the amendment list states the same information that already exists in the Policy, if the phrase 'tenant-in-common' is added to the Policy.

Commissioner Wengraf asked Staff what the law says regarding conversion of tenant-in-common units to condominiums.

Staff Barton stated that is only allowed in very exceptional cases because it eliminates a rental unit, and that there would be no mitigation fee.

Commissioners agreed to drop item 11B and adopt item 11A on the amendment list.

Commissioner Perry stated that the development of an outreach program to tenants is unnecessary, and that H10-B should be brought into alignment with the proposed voluntary inspection program.

Commissioner McCamant supported an inspection program.

Commissioner Wengraf also supported an inspection program that involved the cooperation of landlords and tenants.

Commissioner Perry suggested amending language to allow City to develop a vacant unit inspection program.

M/S/C to add 'tenant' to existing Policy H-10 Action A as discussed by Commissioners (Morris/Perry). Ayes: Perry, Wengraf, McCamant, Morris, Wrenn, Bronstein, Poschman, Howerton. Noes: None. Abstentions: None. Absent: Hicks.

M/S/C to amend language in H-10B on the amendment list to reflect existing Housing Advisory Commission efforts to create an inspection program (Perry/McCamant). Ayes: Perry, Wengraf, McCamant, Morris, Wrenn, Bronstein, Poschman, Howerton. Noes: None. Abstentions: None. Absent: Hicks.

Policy H-10 Code Requirements

Enforce code requirements to insure that existing housing meets health and safety standards.

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Action

- A. *Develop an outreach program to property owners and tenants to keep them apprised of changes in regulations and laws such as lead based paint disclosure requirements, security bar rules, etc.*
- B. *Support efforts to develop a program for periodic inspection of rental units for health and safety code compliance*

Commissioner Morris stated her concern that owners who continue to provide affordable units will be disproportionately affected by higher standards. She suggested that Staff return with language that assists owners of historically low-rent units.

Staff will return with revised language for Policy H-11 that includes mention of blight per Commissioners' suggestions.

Policy H-11 Deterioration, Blight and Deferred Maintenance

Prevent blight and the deterioration of housing units resulting from deferred maintenance.

Actions

- A. *Pursue all legal remedies to require owners of vacant, blighted residential structures to repair and return their properties to the housing market.*
- B. *Work with lending institutions to increase financing options for housing rehabilitation*

Commissioner Wengraf suggested including a Policy and/or Actions to ensure that the Housing Authority is retained.

Staff Barton stated that Staff will develop language to address this issue.

Commissioner McCamant stated the Policy H-16 should be consistent with the Safety Element, and should reference it.

Staff will revise language to reference Safety Element Policy S-16 and ensure consistency between the two policies.

Policy H-16 Second Units

Encourage and facilitate addition of Secondary Residential Units in single-family residential zoning districts in conformance with existing zoning regulations, but not in areas that are particularly vulnerable to natural disaster. (See Policy S-16 Residential Density in the Hills.)

Commissioner Wengraf stated that Policy H-17 and its Actions are very similar, and requested definition of the term 'mixed use' in this Policy.

Commissioner Perry suggested that the language be clarified so that the Ed Roberts campus would not be affected.

Commissioner Morris stated her support for the amendment as it was originally drafted.

Commissioner Wrenn suggested inserting the phrase 'west of Adeline' in order to clarify the intent of the language.

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M/S/C to add 'west of Adeline' to the proposed action under H-17 (Poschman/Perry).
Ayes: Perry, Wengraf, Wrenn, Bronstein, Poschman, Howerton. Noes: Morris,
McCamant. Abstentions: None. Absent: Hicks.

Policy H-18 City Owned Sites

When appropriate and feasible, use City owned or controlled sites for affordable housing and/or mixed use residential projects with a substantial portion of affordable units.

A. *Require development on the city-owned Oxford Street parking lot downtown and the Ashby BART air rights (west of Adeline Street) to do residential mixed use developments. If feasible, 50 percent or more of the housing units on these sites should be affordable for households with low or very low incomes.*

Commissioner Perry recommended a new policy that considered development of the North Berkeley BART site for transit oriented housing.

M/S/F to add a policy that considers development of the North Berkeley BART site for transit oriented housing (Perry/Morris). Ayes: Perry, Morris, McCamant. Noes: Bronstein, Poschman, Howerton. Abstentions: Wrenn, Wengraf. Absent: Hicks.

Commissioner Wengraf suggested edited language for item 19 on the amendment list.

Commissioner Wrenn stated his concerns about supporting UC parking policies.

Commissioner Perry stated that the Commission should support strong action to encourage the University to find more student housing.

Staff will work this language into Policy H-31 Action F and G.

Policy H-33 University of California

Urge the University of California to provide housing for at least 25% of its students at affordable prices and expand housing opportunities for students and staff.

- A. *Encourage and promote construction of additional housing for students and faculty within walking distance of campus*
- B. *Encourage development of satellite housing near transit more distant from the campus (including other municipalities).*
- C. *Encourage multi-generational housing projects.*
- D. *Work with the University and private developers and operators of student housing, including non-profits, to increase the supply of affordable housing for faculty and staff.*
- E. *Encourage the University to continue to involve residents, community organizations, students, staff, city government and University administrators in long and short-range plans for University housing.*
- F. *Work with other jurisdictions to advocate for changes in State legislation that would: 1) require the University of California to provide adequate housing for students and minimize housing impacts in the area from the University; and 2) allow State higher education funds to be used to cover some of the costs of constructing new student housing.*
- G. *Encourage the University to change its current requirement that new housing projects built on University surface parking lots pay a fee of \$20,000 per lost parking space.*

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Commissioner Wrenn suggested using the phrase 'maintain and expand' in the title of Policy H-34, and adding to the policy to include students, faculty and staff.

Staff will ensure that students, faculty and staff are referred to consistently in policies regarding the University.

Commissioner McCamant suggested deleting the term 'single heads of' from H-22, and also deleting 'especially' that appears before 'large families'. She also questioned whether H-28 should mention specific diseases, such as AIDS.

Staff Stroshane stated that AIDS is among the most serious public health issues, and that AIDS patients need to be housed due to behavioral issues that can increase communicability.

Commissioner Perry suggested adding 'homeless and low-income' to policy H-28.

Commissioners agreed to add this phrase.

Policy H-22 Family Housing

Support housing program activities that enhance the ability of households with children and large families to find affordable and suitable housing.

Policy H-28 HIV/AIDS

Help provide for the housing needs of homeless and low-income individuals and heads of households disabled with HIV/AIDS.

Commissioner Wengraf asked why victims of domestic violence are not mentioned under special needs housing, and asked Staff to draft a new policy to include these victims.

Commissioner Bronstein pointed out that H-29 refers to emergency, transitional and permanently affordable housing.

Commissioner Wrenn suggested the title, 'Emergency Shelters and Transitional Housing.'

Commissioners agreed to adopt this title.

Commissioner Morris asked Staff how the issue of foster care relates to the Housing Element.

Staff Stroshane stated that it is dealt with marginally in the Continuum of Care.

Staff Haney-Owens pointed out that foster care is regulated by the State.

Staff Thomas stated that this issue is addressed in the Land Use Element.

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Commissioner Morris suggested a new Policy that would encourage union and other employee pension funds to invest in housing for their employees.

Commissioners agreed to add a policy that included this language.

Policy H-2 Funding Sources

Aggressively develop additional sources of funds for low-income housing, assistance to low-income residents, and implementation of the Berkeley Homelessness Continuum of Care Plan.

Actions

- A. *Consider local bond financing and local, state and federal tax sources, such as business license tax and/or real property transfer tax to generate additional resources for the Housing Trust Fund and other housing programs. Allow for "pass through" of additional cost to property owners to tenants.*
- B. *Consider a program that "links" City of Berkeley financial assets to lending institutions with lending practices that support low-income housing development.*
- C. *Consider a program that "links" City of Berkeley financial assets to lending institutions with lending practices that support low-income housing development.*
- D. *Encourage union and other employee pension funds to invest in housing for their employees.*
- E. *Increase housing mitigation fees on new development to maximum allowed under existing nexus study; if necessary, prepare a new nexus study to adjust fee to changing housing market conditions. Apply impact fees to new hotel or conference center uses as well as to office, retail, and industrial uses.*
- F. *Consider adopting a redevelopment project area for blighted commercial areas of the City, including blighted areas of South Shattuck Avenue, and directing tax increment revenues from those areas to fund infill affordable housing as part of mixed use development.*

Commissioner Perry proposed amending H-28 in the same way that H-27 was amended.

Policy H-28 Alcohol and Drugs

Include provision of housing for homeless and low-income individuals and heads of households disabled by or recovering from alcohol and other drug-related substance abuse.

Transportation Element

Commissioner Wrenn opened discussion of proposed amendments to the Transportation Element.

Commissioners agreed to reference the Berkeley Downtown Plan and other plans in the Background section of the Transportation Element.

Commissioner Wrenn explained that since it seems that the Transportation Demand Management Study will be implemented in a more timely manner than was originally anticipated, the proposed parking moratorium has been shortened.

Commissioner Wengraf stated that T-39 and T-36 are not consistent in terms of the difficulty of measuring parking demands.

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Commissioner Perry supported a two-year instead of a five-year moratorium and agreed that a parking study is necessary. He suggested that the study address current parking issues as well as assessing the parking situation after the two-year moratorium. He also suggested that the Commission prioritize the Transportation Demand Management Study programs.

Commissioner Bronstein suggested a separated policy that discusses the needs of the Arts District, including a City-supported shuttle for evenings and weekends.

Commissioner Morris stated that this should be a cooperative effort between the City and Downtown stakeholders.

Commissioner Perry supported this suggestion.

Commissioner Wrenn supported a baseline parking study.

Staff will draft language to address the issues of stakeholder/City cooperation, a baseline study, and Arts District patron accommodation.

Commissioners resolved to continue discussion of T-36 at the May 9th meeting when Staff returns with language.

ADJOURNMENT

Meeting adjourned at 11:00 pm.