

1 **APPROVED MINUTES OF REGULAR PLANNING COMMISSION MEETING**  
2 **APRIL 10, 2002**

3  
4 **ROLL CALL**

5  
6 Time: The meeting was called to order at 7:10.

7  
8 Location: North Berkeley Senior Center.

9  
10 Commissioners Present: Bronstein, Curl, Hicks, Howerton, Poschman, Tabb, Wengraf,  
11 Wozniak, Wrenn.

12  
13 Commissioners Absent: None.

14  
15 Staff Present: Barrett, Cederborg, Ratcliffe, Solomon, Stroshane.

16  
17 **ORDER OF THE AGENDA**

18  
19 Item eight was moved to follow item eleven.

20  
21 **PUBLIC COMMENT PERIOD**

22  
23 George Coates, representing the Berkeley Art Festival, supports the preservation of the  
24 UC Theater for cultural activities. He asked that the Planning Commission consider  
25 working to reclaim it as a community cultural resource.

26  
27 Commissioner Wengraf stated that this is a good idea, but that it is not a project for the  
28 Planning Commission.

29  
30 Mr. Coates asked for the Planning Commission's support and to take part in the effort to  
31 make this happen.

32  
33 Sylvia McLaughlin, representing Citizens for Eastshore State Park (CESP), stated her  
34 support for the measure Q initiative.

35  
36 Becky O'Malley stated her support for preservation of the UC Theater. She asked that  
37 the Planning Commission create a forum to discuss how to make this happen. She  
38 mentioned that an analysis on this project has already been made by the Office of  
39 Economic Development (OED), but OED recommends subdividing the 1000 seat theater.  
40 Ms. O'Malley stated her support for retaining the 1000 seat capacity.

41  
42 Commissioner Wengraf asked if parking is part of the analysis.

43  
44 Ms. O'Malley said that in an early draft that she had seen, only a preliminary analysis had  
45 been made. She stated that more data would be needed.

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47 Commissioner Wozniak asked what the cost would be to run the theater.

48

49 Ms. O'Malley stated that there needs to be more discussion and information and hopes  
50 that the Planning Commission will lead the effort.

51

52 Commissioner Poschman asked why the Civic Arts Commission would be inadequate to  
53 lead the effort.

54

55 Ms. O'Malley stated that the Civic Arts Commission does not have the overall  
56 perspective that the Planning Commission would have. She stated that the Civic Arts  
57 Commission is effective with user issues but not planning issues.

58

59 Commissioner Poschman stated that the Planning Commission needs some authority and  
60 direction from the other Commissions such as the Civic Arts Commission.

61

62 Ms. O'Malley stated that she has been authorized to bring this to the Planning  
63 Commission.

64

65 Commissioner Poschman stated that he would like to see some Council interest and for  
66 them to refer this project to the Planning Commission.

67

68 Ms. O'Malley stated that some City Council members have already expressed strong  
69 interest in this project.

70

71 Sally Sachs stated her support for the preservation of the UC Theater since it is centrally  
72 located and near transportation.

73

74 Martha Jones questioned if there really is a housing shortage in the Southside. She stated  
75 that many landlords have dropped rents because housing units are not quickly rented.

76

77 Kathy Berger stated her support for the Southside Plan's safety element. She stated that  
78 the Southside plan should include a policy supporting a residential detoxification facility  
79 in Berkeley that is accessible to the Southside neighborhood. She reported that AC  
80 Transit has decided to strike the development of a transit mall on Telegraph from their  
81 short-range plan.

82

83 Doris Willingham stated her support for two-way traffic with a possible exception of the  
84 last four blocks of Telegraph. She stated that the goal of the Southside Plan should be to  
85 provide housing for more than just the students in the Southside to encourage a diversity  
86 of ages.

87

88 Commissioner Tabb stated that the average age of students at San Francisco State  
89 University is 27 and that he presumes that the average age of UC Berkeley students is  
90 similar, especially since there is a large graduate population.

91

92

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**CHAIRPERSON'S REPORT**

Commission Chair Bronstein reported that she recently attended an institute for Planning Commissioners sponsored by the League of California Cities, in Monterey. She stated that many cities pay for their Planning Commissioners to attend and requested that the city put funds in the Planning Department's budget to send two Planning Commissioners to this conference next year. She asked if the other Commissioners support this suggestion. She stated that the Planning Commissioners should be issued business cards.

The Commissioners supported this recommendation.

Commissioner Wengraf stated that City Council members may be able to use discretionary funds to supplement the fees.

Commissioner Wengraf introduced staff Tim Stroshane as the new senior planner in the Advance Planning Division of the Planning Department.

Commissioner Bronstein stated that a new subcommittee will be formed regarding the density issue. She stated that Commissioner Poschman will work on this subcommittee and asked if any other Commissioners would be willing to work on this issue.

Commissioner Poschman explained that the density subcommittee would investigate state land use and planning law to understand how it affects Berkeley. Its goal will be to understand and clarify state bonus law.

Commissioner Hicks volunteered to help with the subcommittee.

Commissioner stated his desire to see data on how density bonus law has been applied to date.

Commissioner Poschman stated that the goal is to understand and clarify the density bonus process.

Commissioner Tabb stated that he will also join the subcommittee.

Commissioner Bronstein stated that City Council approved a new land use in the general plan. She asked that the downtown hotel and conference center and ecological mixed-use demonstration item be placed on the agenda for the next meeting.

**COMMITTEE REPORTS**

No reports.

**PLANNING DIRECTOR'S REPORT**

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137 Planning Director Barrett stated that a subcommittee to work with the Landmarks  
138 Preservation Commission needs to be created to define demolition guidelines. She stated  
139 that this will be a future agenda item.

140

141 Commissioner Bronstein stated that she would like to hear from the LPC first before  
142 making this a subcommittee.

143

144 Planning Director Barrett stated that the MULI item will not be placed on the April 23<sup>rd</sup>  
145 meeting agenda due to the need for additional revisions to the staff report.

146

147 Commissioner Bronstein requested that the Planning Commission receive the MULI  
148 report for its April 24<sup>th</sup> meeting.

149

150 Planning Director Barrett stated that the University Avenue median landscaping  
151 guidelines were not included in the packets so this item will be postponed. She stated that  
152 the information items will be available at the next meeting.

153

154 **APPROVAL OF MINUTES**

155

156 M/S/C to approve the March 13 <sup>th</sup> minutes with changes. (Poschman/Wengraf). Ayes: 157 Bronstein, Curl, Hicks, Howerton Poschman, Tabb, Wengraf, Wozniak, Wrenn. Noes: 158 None. Abstentions: None. Absent: None.
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159

160 Planning Director Barrett stated that the November 14<sup>th</sup> minutes have been brought back  
161 to the Commission for official revision. She stated that the action on the MULI item is  
162 incorrect and is to be corrected to read that the MU-LI subcommittee report was approved  
163 with amendments unanimously by those present.

164

165 The revision was approved by the Planning Commissioners.

166

167 **PUBLIC HEARING: ZONING ORDINANCE AMENDMENT TO PROHIBIT**  
168 **THE USE OF DANGEROUS AND/OR SHARP OBJECTS IN OR ON TOP OF**  
169 **FENCES IN RESIDENTIAL DISTRICTS**

170

171 M/S/C to open the public hearing (Poschman/Hicks). Ayes: Bronstein, Curl, Hicks, 172 Howerton Poschman, Tabb, Wengraf, Wozniak, Wrenn. Noes: None. Abstentions: 173 None. Absent: None.
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174

175 No testimony was heard.

176

177 M/S/C to close the public hearing (Poschman/Wrenn). Ayes: Bronstein, Curl, Hicks, 178 Howerton Poschman, Tabb, Wengraf, Wozniak, Wrenn. Noes: None. Abstentions: 179 None. Absent: None.
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180

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181 Staff Christina Ratcliffe presented the staff report. She stated that if adopted the  
182 unintended consequence would be to make many presently legal fences nonconforming.  
183 She also stated that Council asked staff to explore the idea of making this ordinance  
184 retroactive which would involve a more significant amendment. She asked the  
185 Commission for their thoughts on these two issues and the wording of the presented  
186 amendment.

187  
188 Commissioner Wengraf asked staff to explain why nonconforming fences are an issue.  
189

190 Staff Ratcliffe stated that nonconforming fences would need to be phased out. She  
191 explained that if there is a citizen complaint, determining when it became nonconforming  
192 may be challenging.

193  
194 Commissioner Poschman stated that the wording is too broad and needs to be rephrased.  
195 He stated that the retroactivity aspect is important.

196  
197 Commissioner Wengraf asked if this could be enforceable through the Fire and Safety  
198 departments.  
199

200 Staff Ratcliffe stated that she believes that the fence prompting the need for this proposed  
201 ordinance was not found to be a problem by the Fire and Safety departments.  
202

203 Commissioner Wengraf suggested that the ordinance approached from a slightly different  
204 angle and be crafted with the intent to protect.  
205

206 Commissioner Wrenn stated that this ordinance was already passed 15 months ago. He  
207 moved to approve the existing amendments and suggested that staff look into making it  
208 retroactive.  
209

210 Commissioner Hicks stated that she does support that the amendment be retroactive.  
211

212 Commissioner Wrenn restated his motion to approve the amendment without making it  
213 retroactive.  
214

215 Commissioner Hicks seconded the motion.  
216

217 Commissioner Poschman stated that the language must be altered and that retroactivity is  
218 important.  
219

220 Commissioner Poschman presented a subsequent motion to look at the language, consider  
221 crafting the amendment in the broader aspect of health and safety, and include  
222 retroactivity.  
223

224 Commissioner Wengraf seconded Commissioner Poschman's motion.  
225

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226 M/S/C to rework the language of the amendment, approach from a broader angle, and to  
227 include retroactivity (Poschman/Wengraf). Ayes: Bronstein, Curl, Hicks, Howerton  
228 Poschman, Tabb, Wengraf. Noes: Wozniak, Wrenn. Abstentions: None. Absent: None.

229

230 The item will be placed on the agenda for the April 24<sup>th</sup> meeting.

231

232 **PUBLIC HEARING: ZONING ORDINANCE TEXT AMENDMENT REVISING**  
233 **BERKELEY MUNICIPAL CHAPTER 23A.20, REGARDING ZONING**  
234 **ORDINANCE AMENDMENTS, TO CLARIFY AND CONFORM TO STATE**  
235 **LAW**

236

237 M/S/C to open the public hearing (Wengraf/Hicks). Ayes: Bronstein, Curl, Hicks,  
238 Howerton Poschman, Tabb, Wengraf, Wozniak, Wrenn. Noes: None. Abstentions:  
239 None. Absent: None.

240

241 No testimony was heard.

242

243 M/S/C to close the public hearing (Wengraf/Hicks). Ayes: Bronstein, Curl, Hicks,  
244 Howerton Poschman, Tabb, Wengraf, Wozniak, Wrenn. Noes: None. Abstentions:  
245 None. Absent: None.

246

247 Planning Director Barrett presented background information on this item from the City  
248 Attorney's office stating that BMC Section 23A.20 is inconsistent with state law.

249

250 Commissioner Bronstein handed out copies from state law regarding this item. She  
251 stated that this section does not apply to Berkeley since it is a charter city. She stated that  
252 the Planning Commission does not have to follow this rule, because it appears to apply  
253 only to general law cities in California.

254

255 Commissioner Poschman stated that he would like to hear from the City Attorney on this  
256 issue.

257

258 Commissioner Wengraf asked if the reason for this discussion is to be in compliance with  
259 state law.

260

261 Planning Director Barrett stated that the language in the zoning ordinance is in conflict  
262 with state law.

263

264 Commissioner Wengraf suggested that it would be most helpful for the City Attorney to  
265 be present. She asked that the Planning Commission discuss this item further when he  
266 can attend.

267

268 Commissioner Poschman agreed with Commissioner Wengraf and requested that he  
269 bring something in writing regarding this issue.

270

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271 Commissioner Curl stated that this involves substantive changes to the Zoning Ordinance  
272 and Planning Commission Administration. He stated that because of its importance,  
273 there is a need to scrutinize this document and to receive full documentation from the  
274 City Attorney's office.

275

276 **DISCUSSION: DOWNTOWN COMMERCIAL DISTRICT REGULATIONS**

277

278 M/S/C to set a public hearing for May 8, 2002 to discuss downtown commercial zoning  
279 revisions (Wrenn/Poschman). Ayes: Bronstein, Curl, Hicks, Howerton Poschman, Tabb,  
280 Wengraf, Wozniak, Wrenn. Noes: None. Abstentions: None. Absent: None.

281

282

283 **SOUTHSIDE PLAN**

284

285 Commission Chair Bronstein stated that the focus of this meeting will be on land use and  
286 housing issues and that the next meeting will focus on transportation in the Southside  
287 neighborhood. She asked the other Commissioners to state outstanding issues that need  
288 to be addressed.

289

290 Staff Solomon explained the handouts to the Commission.

291

292 Commissioner Wengraf asked if this plan increases the possibility to construct more  
293 housing than is currently allowed.

294

295 Commissioner Wrenn stated that the plan will allow for more housing as evidenced by a  
296 prior staff analysis that examined the effects of new zoning districts in the Southside  
297 Plan.

298

299 Staff Stroshane stated that doing an updated analysis comparing existing and proposed  
300 zoning capacity can also provide a useful basis for the Southside Plan EIR.

301

302 Commissioner Wozniak stated his concerns that the plan focuses on student housing. He  
303 stated that University staff should be included, especially since they are more likely to  
304 drive than students.

305

306 Commissioner Wrenn stated that the plan addresses housing for those other than students.

307

308 Chair Bronstein asked UC representative Tom Lollini if they have data indicating the  
309 location preferences of staff.

310

311 Mr. Lollini stated that a survey was conducted five years ago and that he could provide  
312 this data to the Commission.

313

314 Jim Novasel, a developer in the audience, stated that the Southside plan is going in the  
315 right direction. He explained a congregate living project proposed for 2414 Dana, in the  
316 Southside, and compared development scenarios under R-4 zoning with the Plan's

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317 proposed zoning designations. He stated that the project will add many new beds and  
318 consist of 140-150 square-foot rooms, a communal kitchen, shared bathrooms, a zero-  
319 parking requirement including a parking restriction.  
320

321 Commissioner Wengraf stated that she needs an analysis of each zoning change to  
322 understand the effects.  
323

324 Commissioner Wrenn stated that this was done over a year ago.  
325

326 Commissioner Wengraf stated that this type of housing appeals to a limited population.  
327

328 Commissioner Wozniak wondered if the proposed zoning for the Southside should be so  
329 micromanaged. He commented on a staff report indicating a decrease in potential housing  
330 under the proposed zoning.  
331

332 Commissioner Wrenn stated that the analysis is bogus.  
333

334 Tom Lollini, representing the University, suggested alterations to the Southside Plan.  
335

336 1. He stated that regarding land use policy, LU-A2, not for profit developers  
337 should be involved in housing projects and stated that this will provide more  
338 affordable housing. He stated that UC's acquisition of property will also make  
339 housing more affordable.  
340

341 2. He stated that housing is one of the University's highest priorities, but it has  
342 other priorities as well such as preserving the central character and creating other  
343 uses like child care, recreation, and open space. He noted that staff office jobs  
344 should also be located near transit lines as well. He stated that the University  
345 would like to alter the wording so that the Plan identify housing as one of the  
346 highest priorities of land use for the Southside, not the highest priority.  
347

348 3. He stated that the University would like to retain the Parking Policy and stated  
349 that it actually helps provide housing.  
350

351 4. He suggested that the zoning be altered so that the Anna Head offices and  
352 property and the dining facility site reside in the R-MU rather than R-S.  
353

354 Commissioner Poschman asked if item 1 calls for a necessary distinction since most not  
355 for profit companies are private. He stated that it is important that UC state that housing  
356 is their highest priority for land use in the Southside. He stated that he does not support  
357 the zoning revisions. He asked how the parking policy of charging twenty thousand  
358 dollars per space removed creates housing.  
359

360 Mr. Lollini stated that more housing has been created due to competing demands on land  
361 use.  
362



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363 Commissioner Wrenn stated that he has no objection to wording item 1 differently. He  
364 stated that the University should adhere to the Plan's language regarding item 2 stating  
365 that housing should be the highest priority for the UC. He stated that he does not support  
366 suggested changes to the zoning districts. He stated that parking should not be included  
367 and that item 4 zoning boundaries should remain.

368

369 Commissioner Wozniak stated that item 2 should state that housing for students and staff  
370 is the highest priority for the University's land use in the Southside. He stated that a  
371 portion of the parking replacement cost should go to transit instead of future parking  
372 replacement.

373

374 Mr. Lollini stated that the University already has many mechanisms in place to subsidize  
375 transit.

376

377 Commissioner Tabb stated it is not necessary to insist that the UC state that housing is  
378 their highest priority.

379

380 Mr. Lollini stated that it is the University's goal is to work with the City to create a  
381 mutually agreeable document.

382

383 Commissioner Wengraf asked what the next step is.

384

385 Commissioner Bronstein stated that the Commissioners need to bring specific  
386 amendments to the plan to vote on for the next meeting.

387

388 Staff Solomon suggested that the Commissioners' amendments also be included in the  
389 Planning Commission packets.

390

391 Commissioner Wengraf asked Mr. Lollini if there were any other outstanding items not  
392 yet addressed.

393

394 Mr. Lollini commented that the Plan does not speak to other institutional properties in the  
395 neighborhood but only to the University.

396

397 Commissioner Poschman asked Mr. Lollini if the University would provide data to staff  
398 showing how the parking policy improves the chances of housing.

399

400 Commissioner Wrenn suggested extending the Commercial South Area (C-SA) Zoning to  
401 include the south side of Dwight Way to Fulton street since there are many commercial  
402 uses on that block. He circulated pictures of soft story buildings in the Southside. He  
403 asked the Commissioners to consider the implications of retrofitting and/or rebuilding of  
404 nonconforming uses. He stated that it would be feasible to codify allowances for soft  
405 story buildings to rebuild to original height if a disaster occurs. He stated that this would  
406 encourage preservation without discouraging new housing. He stated that the standard of  
407 group living quarters still needs to be determined and suggested finding out how other  
408 districts deal with this issue.

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409

410 Chair Bronstein asked that Commissioners submit land use and housing amendments to  
411 staff.

412

413 **DISCUSSION: POSSIBLE INITIATIVE TO AMEND MEASURE Q**

414

415 Planning Director Barrett provided background on the issue.

416

417 Commissioner Wengraf asked if the waterfront has taken action on this item.

418

419 Planning Director Barrett stated that she knows that the Council did take action on this  
420 item in March, and indicated these actions in the staff report.

421

422 Commissioner Wrenn asked if Measure Q was passed after the adoption of the plan.

423

424 Norman LaForce, an author of Measure Q, explained its background. He asked that the  
425 Planning Commission support placing a measure on the ballot giving the City Council  
426 authority to revise the measure through a planning process, to be voted on again by the  
427 public before it is made official.

428

429 Wengraf asked what the Waterfront Commission's action on this item.

430

431 Mr. LaForce stated that the Waterfront Commissioner voted against the proposal. He  
432 stated that the Commission did not recommend what is recommended by the staff.

433

434 Commissioner Poschman expressed his concern with the wording. He stated that he is  
435 supportive of this initiative, but has issues with the wording.

436

437 Commissioner Wozniak asked what is the long term strategy.

438

439 Mr. LaForce stated that the intention is for the entire waterfront to become the Eastshore  
440 State Park.

441

442 Commissioner Wozniak asked if Albany could annex its portion of the waterfront.

443

444 Commissioner Wengraf asked if formal playing fields fall into the definition of  
445 development.

446

447 Mr. LaForce stated that it could.

448

449 Commissioner Wengraf asked about how the reduced development would effect the  
450 ferry's viability

451

452 Mr. LaForce stated that this would not affect the ferry's viability provided development  
453 does not raise beyond the designated limits.

454

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455 Commissioner Wrenn motioned to endorse preparation of the ballot measure. He asked  
456 that the Planning Commission be part of this planning process.

457  
458 Commissioner Hicks seconded the motion.

459  
460 Commissioner Tabb stated that he is reluctant to vote in favor of this measure without  
461 having a clear picture of why the majority of the Waterfront Commission voted against it.

462  
463 Commissioner Wengraf asked if Parks and Recreation has looked at this measure.

464  
465 Commissioner Wengraf stated that the issue is important but that she feels unprepared to  
466 vote on it tonight since she does not fully understand the implications.

467  
468 Commissioner Poschman stated his support for the measure to be placed on the ballot.

469  
470 Commissioner Bronstein stated that she supports Commissioner Wrenn's motion.

471  
472 Hicks suggested that the Planning Commission have a meeting with the Waterfront  
473 Commission.

474  
475 M/S/C to endorse the ballot measure and to request of Council that the Planning  
476 Commission be informed of and involved in planning for the Waterfront lands.  
477 (Wrenn/Hicks). Ayes: Bronstein, Curl, Hicks, Howerton Poschman, Tabb, Wengraf,  
478 Wozniak, Wrenn. Noes: None. Abstentions: None. Absent: None.

479  
480 **ACTION: REFERRAL TO COMMISSIONS REGARDING PUBLIC HEARINGS**  
481 **NOT STARTING LATER THAN 10 pm**

482  
483 Planning Director Barrett gave background on this item.

484  
485 Commissioner Wengraf stated that the Planning Commission's work could be  
486 accomplished if there were no Public Hearings after 10 pm. She stated that the  
487 Commission could always vote to amend the rules at the time. She stated that it is good  
488 public policy.

489  
490 Commissioner Wrenn stated that he can live with this policy although this gives the  
491 Planning Commission less flexibility.

492  
493 Commissioner Poschman stated that he does not support the policy. He asked if the  
494 council is making rules for all Commissions or just themselves.

495  
496 Planning Director Barrett stated that the Council would like to know what the impact  
497 would be on all Boards and Commissions if Public Hearings start no later than 10 pm.

498  
499 Commissioner Wozniak stated that flexibility decreases some but doesn't really affect the  
500 agenda. He agrees that this is good public policy.

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501

502 Commissioner Tabb stated that this policy should not apply to all Commissions.

503

504 Commissioner Curl requested that the Commission retain the option to have Public  
505 Hearings later than 10 pm.

506

507 Commissioner Wrenn stated that this policy may have implications on the Planning  
508 Commission's work schedule.

509

510 Commissioner Wrenn stated that this is good policy but that it not be set in stone.

511

512 Commissioner Wengraf suggested that each Commission decide its own rules and  
513 publicize their policy.

514

515 M/S/C to endorse the concept of starting no Public Hearings after 10 pm, but request that  
516 Council let each Commission to decide its own policy regarding Public Hearings and to  
517 publicly advertise them (Wengraf/Poschman). Ayes: Bronstein, Curl, Hicks, Howerton  
518 Poschman, Tabb, Wengraf, Wozniak, Wrenn. Noes: None. Abstentions: None. Absent:  
519 None.

520

521 **ADJOURNMENT**

522

523 Meeting was adjourned at 10:38.