

**APPROVED MINUTES OF REGULAR PLANNING COMMISSION MEETING**  
**MAY 8, 2002**

1 **ROLL CALL**

2  
3 Time: The meeting was called to order at 7:05.

4  
5 Location: North Berkeley Senior Center.

6  
7 Commissioners Present: Bronstein, Curl, Howerton, Poschman, Tabb, Wozniak, Wrenn.

8  
9 Commissioners Absent: Hicks, Wengraf.

10  
11 Staff Present: Barrett, Cederborg, Cowan, Ratcliffe, Solomon.

12  
13 **ORDER OF AGENDA**

14  
15 Commissioner Poschman asked that item 12 be placed before item 9 and that item 10 be  
16 discussed upon Zach Cowan's arrival.

17  
18 **PUBLIC COMMENT PERIOD**

19  
20 No Comments.

21  
22 **CHAIRPERSON'S REPORT**

23  
24 Commissioner Bronstein reported that the Council approved the subcommittee's  
25 recommendation for the MULI district, with one alteration being a six-month moratorium  
26 instead of one year. The City Council asked that the MULI subcommittee return in six  
27 months with an updated report.

28  
29 **COMMITTEE REPORTS**

30  
31 No reports.

32  
33 **PLANNING DIRECTOR'S REPORT**

34  
35 Planning Director Barrett gave report the following items:

36     Staff workload

37     The MULI approval on the first reading

38     Density issue as a possible major work item for staff as directed by Council

39     Request on reconvening the subcommittee on domestic violence

40     Circulating e-mails and the not violating the Brown Act

41  
42 Commissioner Wozniak asked about the budget.

43  
44 Planning Director Barrett reported that the budget for each department has been cut and it  
45 will be more difficult to fill current vacancies.

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47 Commissioner Wozniak asked why the revenues in the permit center are down.

48

49 Planning Director Barrett stated that they are lower than what was projected, but that the  
50 revenues themselves have not decreased.

51

52 **APPROVAL OF MINUTES**

53

54 M/S/C to approve the April 24, 2002 minutes with changes (Poschman/Wrenn). Ayes:  
55 Bronstein, Curl, Howerton Poschman, Tabb, Wozniak, Wrenn. Noes: None.  
56 Abstentions: None. Absent: Hicks, Wengraf.

57

58 **FUTURE PLANNING COMMISSION AGENDA ITEMS**

59

60 Commissioner Wrenn asked to have copies of proposed Zoning Ordinance changes in  
61 advance.

62

63 Commissioner Poschman asked if the proposed changes could be sent via email.

64

65 **ZONING ORDINANCE AMENDMENT TO PROHIBIT THE USE OF**  
66 **DANGEROUS AND/OR SHARP MATERIAL IN OR ON TOP OF FENCES IN**  
67 **RESIDENTIAL DISTRICTS**

68

69 Staff Ratcliffe presented the background and the staff report.

70

71 Commissioner Poschman asked that this item be held over until the 22<sup>nd</sup>. He stated that  
72 the ordinance could be more tightly worded.

73

74 M/S/C to continue the item at the May 22<sup>nd</sup> meeting (Poschman/Wrenn). Ayes:  
75 Bronstein, Curl, Howerton, Poschman, Tabb, Wozniak, Wrenn. Noes: None.  
76 Abstentions: None. Absent: Hicks, Wengraf.

77

78 **DISCUSSION WITH REPRESENTATIVE OF THE CITY ATTORNEY'S**  
79 **OFFICE CONCERNING AMENDMENTS TO ZONING ORDINANCE SECTION**  
80 **23 A.20, REGARDING ZONING ORDINANCE AMENDMENTS TO CLARIFY**  
81 **AND CONFORM TO STATE LAW**

82

83 Commissioner Bronstein introduced the item by stating that the Commission invited Zach  
84 Cowan to discuss the proposed amendments. She asked Mr. Cowan if he would prefer to  
85 have the Commission's questions first.

86

87 Zach Cowan asked the Commission for their questions regarding this item.

88

89 Commissioner Bronstein presented information from a handout she provided. She asked  
90 Mr. Cowan why the amendments that deal with the scheduling and noticing of Public  
91 Hearings are also asking the Planning Commission to divest itself of its legislative  
92 authority. She suggested that Berkeley is not out of compliance with state law as Mr.

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93 Cowan's report states since it is a charter city, and is exempt from this law as outlined in  
94 the California Government Code. Therefore, the Planning Commission's authority to  
95 enact the force of law for six months is valid.

96  
97 Zach Cowan stated that the zoning ordinance was amended in the 1980s to include this  
98 change and that current legislation as well as state law does not support the authority that  
99 the Planning Commission currently has.

100  
101 Commissioner Bronstein stated that there is no law to support this change.

102  
103 Commissioner Poschman asked if the Commission could obtain another interpretation  
104 from the Legislative Counsel.

105  
106 Zach Cowan stated that the Attorney General could be asked to offer his interpretation,  
107 but then the item would be public.

108  
109 Commissioner Bronstein suggested that the portion of the ordinance regarding Public  
110 Hearings be amended.

111  
112 Zach Cowan stated that many changes are involved here that are more for administrative  
113 purposes.

114  
115 Commissioner Poschman asked if all the issues involved in this proposed ordinance could  
116 be outlined separately for the Commission.

117  
118 Commissioner Bronstein asked about the proposed changes concerning City Council's  
119 determination date and asked what happens if they do not act on an item in the current 60  
120 day time frame.

121  
122 Commissioner Wrenn asked if this is why the nasty fence ordinance came back to the  
123 Commission and if this amendment would change this.

124  
125 Zach Cowan asked if he could recommend this ordinance to Council with any proposed  
126 changes that the Commission has.

127  
128 Commissioner Bronstein stated that she would like to hold the item until Commissioner  
129 Wengraf returns.

130  
131 Commissioner Curl questioned the rationale of changing the determination date from 60  
132 days to "the extent practicable". He stated that this language is very vague and that under  
133 the proposed language, issues could potentially sit indefinitely.

134  
135 Zach Cowan stated that the determinate date needs to be flexible in case an item cannot  
136 be dealt with under the specified deadline.

137

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138 Commissioner Tabb asked if there is a precedent for any other Commission in Berkeley  
139 regarding legislative power.

140  
141 Zach Cowan stated that there is not.

142  
143 **SOUTHSIDE PLAN LAND USE, HOUSING AND SAFETY ISSUES**

144  
145 Staff Solomon presented the staff report regarding a preliminary analysis of existing and  
146 proposed zoning in the Southside Plan area.

147  
148 Commissioner Tabb asked why the report is based on assumptions and not on more hard  
149 data.

150  
151 Staff Solomon stated that at this time, this is the best way.

152  
153 Commissioner Poschman stated that some considerations cannot be factored in. He  
154 stated that this reinforces the previous data that the housing potential under the proposed  
155 zoning will not be reduced. He offered a handout to the Planning Commissioners and  
156 Staff. He asked about the validity of data regarding the conversion of R-2A to R-3 in the  
157 staff report.

158  
159 Staff Soloman stated that this is the information in the mapping database.

160  
161 Commissioner Wrenn stated that this data is incorrect.

162  
163 Commissioner Wozniak stated that the staff report does not tell how much development  
164 is already there. He stated that in order for this analysis to be effective, a reference is  
165 needed. He suggested that the analysis factor out the obvious constraints. He stated he  
166 cannot make a judgement from the data given, but that it needs to go a step further.

167  
168 Commissioner Wrenn began discussing his proposed changes to the Southside Plan.  
169 Items 1-10 were discussed.

170  
171 Commissioner Bronstein stated that like the General Plan, the Commission will assume  
172 these changes are valid and will be made unless there are objections.

173  
174 Commissioner Wrenn stated that this will help to avoid post EIR changes.

175  
176 Commissioner Wozniak asked that a population density map be added to the Plan.

177  
178 Commissioner Wrenn discussed items 11-17 from his document of proposed changes.

179  
180 Commissioner Bronstein stated that on page 36, action H, it should read “to publicize”  
181 rather than “to promote” and that this change be incorporated into the next draft.

182  
183 Commissioner Wrenn discussed the proposed changes to the Economic Development  
184 portion.

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185

186 Commissioner Bronstein asked that in the footnote on page 70 the language “record book  
187 store” be changed to “record store”. She also asked if on page 73, the quotas mentioned  
188 are maintained.

189

190 Commissioner Poschman stated that for the most part, they are maintained.

191

192 Commissioner Wrenn discussed the proposed zoning amendments.

193

194 Commissioner Poschman stated that he would like the plan to state that no “double  
195 dealing” be allowed regarding the density bonus.

196

197 The Commission decided to revisit the shade issue at a later date.

198

199 Commissioner Poschman suggested that the amendment regarding the development  
200 standards be eliminated.

201

202 Commissioner Wrenn stated that the staff needs to generate more information on group  
203 living quarters. He stated that the staff also needs to develop language for soft story  
204 buildings that should go beyond the issue of height.

205

206 Commissioner Tabb asked that the item dealing with the retrofitting of soft story  
207 buildings be pulled until he understands the issue more thoroughly.

208

209 Commissioner Wrenn stated that this item is valuable to have for the EIR.

210

211 Commissioner Poschman recommended leaving it in the proposed changes.

212

213 Commissioner Wrenn stated that the soft story item be revisited after staff has come back  
214 with revised language.

215

216 Commissioner Wozniak asked if the city provides seismic inspectors. He asked if a  
217 seismic inspection is a requirement and if so, what are the consequences if not carried  
218 out.

219

220 Planning Director Barrett stated that requirements are given, however, the city does not  
221 administer the inspections. She stated that the inspections can be part of a program, or an  
222 incentive.

223

224 Commissioner Wrenn asked that the staff develop a draft regarding the development  
225 standards.

226

227 Commissioner Wrenn stated that zoning of the block of Dwight between Fulton and  
228 Shattuck needs to be changed, that it become another variation of CSA zoning.

229

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230 Staff Soloman stated that staff will bring language regarding group living quarters, and  
231 green building in the Southside.

232

233 Planning Director Barrett stated that Staff Stroshane's current primary responsibility is  
234 the height density issue as directed by City Council.

235

236 Commissioner Bronstein stated that perhaps the Commission should take up the issue of  
237 staffing with the City Council.

238

239 **INFORMATION ITEMS**

240

241 Commissioner Wrenn, in response to the letter from Thomas E. Lollini of the University  
242 of California, stated that he would like to hear more regarding this issue from city staff.

243

244 Commissioner Bronstein stated that this item be placed on the agenda for the next  
245 meeting.

246

247 Commissioner Wozniak asked if the Plan addresses any incentives or rewards for  
248 carpooling.

249

250 Commissioner Bronstein stated that this should be discussed at the next Southside Plan  
251 discussion on transportation.

252

253 Planning Director Barrett stated that the Transportation Director will not be prepared by  
254 the May 22<sup>nd</sup> meeting.

255

256 Commissioner Bronstein stated that she would like to propose amendments.

257

258 Planning Director Barrett stated that there will be a forthcoming detailed report from the  
259 Transportation Department.

260

261 Commissioner Bronstein asked when this will be made available.

262

263 Planning Director Barrett stated that she is not sure when it will be complete.

264

265 Commissioner Wrenn asked for a timeline on forthcoming information.

266

267 **ADJOURNMENT**

268

269 The meeting was adjourned at 9:35.

270

271

272

273