

**APPROVED MINUTES OF REGULAR PLANNING COMMISSION MEETING
January 26, 2005**

1 **ROLL CALL**

2
3 Time: The meeting was called to order at 7:00 by Chair Pollack.

4
5 Location: North Berkeley Senior Center.

6
7 Commissioners Present: Burke, Fireman, Holland, Pollack, Shumer, Stoloff, Tabb,
8 Wengraf, Wrenn.

9
10 Commissioners Absent: None.

11
12 Staff Present: Cosin, Cowan, Gatzke, Hillier, Homrighausen, Marks, Rhoades.

13
14 **ORDER OF THE AGENDA**

15
16 Item 9 was not discussed. It will be rescheduled on a future agenda. Item 10 was not
17 discussed. It is tentatively scheduled to come back to the Commission March 23. Items
18 14 and 15 were moved to follow item 8. Item 12 will start at 8:30 p.m.

19
20 **PUBLIC COMMENT PERIOD**

21
22 There were two speakers. Zelda Bronstein asked the Planning Commission to ask the
23 City Council to add consideration of density issues to the planning work program. Sally
24 Sachs spoke concerning changes to the Landmarks Preservation ordinance, and asked the
25 Planning Commission to name a subcommittee to work with members of the LPC and
26 City staff to review the ordinance.

27
28 **PLANNING STAFF REPORT**

29
30 Land Use Planning Manager Mark Rhoades commented that density issues had been
31 identified as a Mayor's Task Force Tier 2 priority, and are to be taken up in 2006.

32
33 **CHAIRPERSON'S REPORT**

34
35 None.

36
37 **COMMITTEE REPORTS**

38
39 Commissioner Burke commented on steps that have been taken to set up the Creeks Task
40 Force in advance of the first meeting, February 7, 2005.

41
42 **APPROVAL OF MINUTES**

APPROVED MINUTES OF REGULAR PLANNING COMMISSION MEETING
January 26, 2005

44 M/S/C to approve the minutes of January 12, 2005 as corrected. (Tabb/Stoloff) Ayes:
45 Burke, Fireman, Holland, Pollack, Shumer, Stoloff, Tabb, Wengraf. Noes: None.
46 Abstentions: Wrenn. Absent: None.

47
48 **UPCOMING AGENDA ITEMS**
49

50 M/S/C to place on the Feb. 9 agenda an item for addition of an additional member
51 (Wrenn) to the Southside Plan Subcommittee. (Wrenn/Holland) Ayes: Burke, Fireman,
52 Holland, Shumer, Wrenn. Noes: None. Abstentions: Pollack, Stoloff, Tabb, Wengraf.
53 Absent: None.

54
55 The chair noted that this would be taken up as part of Item 6b on the Feb. 9 agenda.

56
57 **Hearing on Appeal of the determination of the Director of Planning and**
58 **Development merging property identified as Assessor's Parcel Nos. 055-1862-032**
59 **and 055-1862-052 (Between Arden and Mosswood Roads) pursuant to the City's**
60 **merger ordinance, Chapter 21.52 of the Berkeley Municipal Code, and Section**
61 **66451.11 of the California Government Code**

62
63 Deputy Planning Director Wendy Cosin summarized the staff report and gave
64 background on the case.

65
66 M/S/C to open the hearing on the appeal of the determination of the Director of Planning
67 and Development merging property identified as Assessor's Parcel Nos. 055-1862-032
68 and 055-1862-052 (Between Arden and Mosswood Roads) (Stoloff/Wengraf) Ayes:
69 Burke, Fireman, Holland, Pollack, Shumer, Stoloff, Tabb, Wengraf, Wrenn. Noes:
70 None. Abstentions: None. Absent: None.

71
72 There were three speakers. Michael Kramer, attorney for Martin Kalway, owner of the
73 larger property, provided information that the parcels were under separate ownership as
74 of the date of recordation of the notice of intent for merger. Mr. Kramer also discussed
75 the following four points: 1) that the law requires notice to be mailed and recorded on the
76 same day, while the City mailed notice on Sept. 30 and recorded Oct. 4; 2) 20 Mosswood,
77 the lot just south of the smaller lot, was approved for development in 2000; 3) 5,000 sq.
78 ft. seems to be a cutoff for eligibility for involuntary merger, but the parcel in question is
79 5,100 sq. ft.; 4) fire and safety concerns could be overcome with mitigations such as
80 sprinkler systems.

81 ___ Slater commented on the history of planning to address environmental safety
82 concerns of the Panoramic Hill neighborhood, beginning with planning in response to a
83 fire in Claremont Canyon in 1970. She said the mergers should have been done in 1979,
84 not delayed until 2005.

85 Janice Thomas stated the mergers are the best thing the City has done for the Panoramic
86 Hill neighborhood in many years. She said the development approved in 2000 was very
87 controversial and continues to be controversial. She also said she would correct Ms.

**APPROVED MINUTES OF REGULAR PLANNING COMMISSION MEETING
January 26, 2005**

88 Cosin in one regard: all the streets in the Panoramic Hill neighborhood are dead-end
89 streets.

90

91 The Commission discussed the application, and directed questions to both staff and to the
92 appellant's representative, Mr. Kramer.

93

94 M/S/C to close the hearing. (Wengraf/Fireman) Ayes: Burke, Fireman, Holland, Pollack,
95 Shumer, Stoloff, Tabb, Wengraf, Wrenn. Noes: None. Abstentions: None. Absent: None.

96

97 The commission asked that the matter be placed on the February 23, 2005 agenda for
98 additional consideration.

99

100 **Hearing on Appeal of the determination of the Director of Planning and**
101 **Development merging property identified as Assessor's Parcel Nos. 055-1855-017**
102 **and 055-1855-026-01, located between Dwight Place and an undeveloped portion of**
103 **Dwight Way**

104

105 Deputy Director Cosin summarized the staff report and clarified which parcels were the
106 subject of the merger.

107

108 M/S/C to open the hearing on the appeal of the determination of the Director of Planning
109 and Development merging property identified as Assessor's Parcel Nos. 055-1855-017
110 and 055-1855-026-01, located between Dwight Place and an undeveloped portion of
111 Dwight Way (Wengraf/Shumer) Ayes: Burke, Fireman, Holland, Pollack, Shumer,
112 Stoloff, Tabb, Wengraf, Wrenn. Noes: None. Abstentions: None. Absent: None.

113

114 There were no speakers.

115

116 M/S/C to close the hearing. (Shumer/Burke) Ayes: Burke, Fireman, Holland, Pollack,
117 Shumer, Stoloff, Tabb, Wengraf, Wrenn. Noes: None. Abstentions: None. Absent: None.

118

119 The commission discussed the circumstances of the property and received clarification
120 from staff regarding status of street access.

121

122 M/S/C to adopt the staff recommendation to uphold the determination of the Director of
123 Planning and Development merging the property identified as Assessor's Parcel Nos.
124 055-1855-017 and 055-1855-026-01, located between Dwight Place and an undeveloped
125 portion of Dwight Way. (Wengraf/Fireman) Ayes: Burke, Fireman, Holland, Pollack,
126 Shumer, Stoloff, Tabb, Wengraf, Wrenn. Noes: None. Abstentions: None. Absent: None.

127

128 **Landmarks Preservation Ordinance and Zoning Ordinance Amendments**

129

130 The Planning Commission discussed topics listed in the memorandum from Chair
131 Pollack dated January 6, 2005. Concerning item A.7 in the memo, most of

APPROVED MINUTES OF REGULAR PLANNING COMMISSION MEETING
January 26, 2005

132 commissioners indicated they supported including in the proposed ordinance a new
133 section allowing a landowner to seek LPC determination of landmark status in the
134 absence of a development-related application. The commission also wanted to make sure
135 that any request for determination outside the development project context include
136 adequate notice to neighbors.

137
138 The commission did not discuss item B.1 due to the short time available. The
139 commission discussed B.2, but did not provide direction to staff re. what should be
140 included in the draft ordinance language. Staff was asked to provide examples. Also,
141 staff clarified that the Structures of Merit are historic resources per CEQA, because
142 CEQA says if a resource is on a local list, it is to be treated as a historic resource.

143
144 **Public Hearing/Workshop: Proposed General Plan Amendment and Rezoning to**
145 **allow for the West Berkeley Bowl Project, a full-service grocery marketplace**
146 **including construction of two buildings totaling 91,060sq. ft., at 920 Heinz Avenue**

147 Land Use Manager Rhoades introduced the application and identified written materials
148 handed out to the commission.

149

150 M/S/C to re-open the comment period on the Initial Study and Proposed Mitigated 151 Negative Declaration, and to extend the comment period to Feb.9, 2005. (Burke/Shumer) 152 Ayes: Burke, Fireman, Holland, Pollack, Shumer, Stoloff, Tabb, Wengraf, Wrenn. Noes: 153 None. Abstentions: None. Absent: None.

154

155 Glenn Yasuda of Berkeley Bowl and the project architect, Kava Massih, discussed the
156 proposal.

157 Rob Rees, traffic engineer with Fehr and Peers, Inc., gave background on the traffic study
158 and explained the findings of the study.

159 Peter Hillier, Assistant City Manager in charge of the City Transportation Office,
160 commented on city efforts to make bicycle circulation improvements, the existing
161 queuing situation on Seventh St., future signal installation, and that it is expected that the
162 project can operate within reasonable traffic parameters at the size of project currently
163 proposed.

164 Director of Planning and Development Dan Marks clarified the Planning Commission's
165 role.

166 The Chair invited comment from the public present at the meeting.

167 John Phillips said he was concerned the proposal is spot zoning, creating a bad precedent.
168 He was concerned about what would happen to the site if Berkeley Bowl doesn't go
169 forward, or if the Bowl does go ahead, but ceases operation in the future.

170 Alan Tobey of Livable Berkeley said that while a grocery store is needed in the
171 neighborhood, Livable Berkeley would support a larger effort to make the Bowl a
172 catalyst for a larger new retail center as part of a more cohesive, intense urban
173 neighborhood.

**APPROVED MINUTES OF REGULAR PLANNING COMMISSION MEETING
January 26, 2005**

174 Claire Cox said Heinz is a very small road and can't accommodate the traffic generated
175 by a grocery store. She said she would like to have a store, but not with the problems that
176 go with the current proposal.

177 Marie Jones said the size of the proposal is appropriate. She also commented that if you
178 look at the actual nearby uses, they are commercial, and the proposal is not spot zoning.

179 Daryl D'Etienne said he supports zoning that gives flexibility, and that Berkeley needs to
180 be able to change and respond to changing conditions.

181 John Curl said that along the boundaries of MU-LI, people want to make inroads into
182 MU-LI. There is an agenda for gentrification to transform industrial use into higher
183 financial return activities. The City has to deal with the unintended consequences of the
184 project. He said that scaling down the size of the store has to do with improving traffic
185 circulation. Also, he noted that although the staff report says there will be no loss of
186 warehouse/manufacturing space, there will be loss of warehouse space.

187 Susanne Hering noted the MUR district is quiet on weekends. If commercial uses come
188 in, the Saturday traffic will be increased significantly. While the traffic study has been
189 discussed in terms of weekday peak hour, she noted that the study indicates a 78%
190 increase on the weekend. There are other residential neighborhoods bordering
191 commercial zones, but they are not usually across the street as in this case. She urged the
192 Planning Commission to ameliorate traffic impacts.

193 Susan Libby said there is a "chip-away" effect of incursion of non-industrial uses at the
194 edges of the industrial area that is reducing industrial space in Berkeley.

195 Claire Risley said she urged the Commission not to change the MU-LI. The impact on
196 the bicycle boulevard would not be compatible with good bike boulevard function. Sixth
197 and Seventh have severe traffic congestion already.

198 Mary Lou Van Deventer, of Urban Ore, said Urban Ore was included as a permitted use
199 in MU-LI by virtue of its materials recovery activities. She supported keeping the
200 potential for blue collar jobs in Berkeley, and said traffic was too congested.

201 Joanna Jansen said the store would serve customers who are already in the area.
202 Regarding spot zoning, she said zoning doesn't happen in a vacuum. There are many
203 policies in the West Berkeley Plan that support both industrial use and job creation.

204 David Snipper said he supports the West Berkeley Bowl. He said that zoning changes
205 over time, which is good and healthy. The issues of West Berkeley bowl are about
206 traffic, not about the store. The worst case would be if the Bowl expanded and then
207 closed.

208 Craig Woolington Smith said West Berkeley needs the market. The operator is great and
209 the timing is right.

210 Cameron Woo spoke in support of the project. There are many empty buildings in West
211 Berkeley. It appears there is a shortfall of industrial businesses, including "green"
212 businesses, that want to come to Berkeley.

213 Victor Herbert noted some space has been vacant for twenty years, and issues need to be
214 evaluated carefully in light of the experience of the area.

**APPROVED MINUTES OF REGULAR PLANNING COMMISSION MEETING
January 26, 2005**

215

216 M/S/C to continue the matter with the hearing open to February 9, 2005. (Tabb/Fireman)
217 Ayes: Burke, Fireman, Holland, Pollack, Shumer, Stoloff, Tabb, Wengraf, Wrenn. Noes:
218 None. Abstentions: None. Absent: None.

219

220 **Public Hearing: Zoning Ordinance Amendments for Home Occupation Permitting**
221 **Thresholds**

222 Principal Planner Gatzke provided a summary of the information and recommendations
223 in the staff report.

224

225 M/S/C to open the public hearing. (Wrenn/Holland) Ayes: Burke, Fireman, Holland,
226 Pollack, Shumer, Stoloff, Tabb, Wengraf, Wrenn. Noes: None. Abstentions: None.
227 Absent: None.

228

229 There were no speakers.

230

231 M/S/C to close the public hearing. (Wrenn/Holland) Ayes: Burke, Fireman, Holland,
232 Pollack, Shumer, Stoloff, Tabb, Wengraf, Wrenn. Noes: None. Abstentions: None.
233 Absent: None.

234

235 The commission discussed the proposed changes. Staff provided clarification on several
236 questions.

237

238 M/S/C to recommend the ordinance be amended to provide for approval by AUP for
239 home occupations involving instruction to up to four students (ordinance should say
240 students, not customers), with no limitation on the ages of students served.
241 (Burke/Shumer) Ayes: Burke, Fireman, Holland, Pollack, Shumer, Stoloff, Tabb,
242 Wengraf, Wrenn. Noes: None. Abstentions: None. Absent: None.

243

244 The meeting was adjourned at 10:50 p.m.

245

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