

**APPROVED MINUTES OF REGULAR PLANNING COMMISSION MEETING
March 22, 2006**

ROLL CALL

Time: The meeting was called to order at 7:00 PM by Chair Burke.

Location: North Berkeley Senior Center.

Commissioners Present: Samuels, Wengraf, Burke, Pollack, Poschman, Sheen, Gurley, DeStaebler.

Commissioners Absent: Stoloff

Staff Present: Dando, Gatzke, Marks, Paine, Powell.

PUBLIC COMMENT

None.

ORDER OF THE AGENDA

Item 9 would be taken before item 3; item 14 would be moved to the action portion of the agenda.

9. Joint Public Hearing with Creeks Task Force

Creeks Task Force members made comments.

Jana Olson read the minority report she and others drafted and signed. Diane Crowley finished reading the minority report signed by Nancy Holland, Carlene St. John, Diane Crowley, Jana Olson and Mischa Lorraine. Josh Bradt.

Creeks Task Force Secretary Erin Dando presented the Creeks Task Force Statements of Agreement and recommendations.

M/S/C to open the joint public hearing. (Poschman/ CTF member Streeter) Ayes: Samuels, Wengraf, Burke, Pollack, Poschman, Sheen, Gurley, DeStaebler. Noes: None. Abstain: None. Absent: Stoloff.
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Speaker #1. Barbara Schick noted her concerns with how the Creeks Ordinance may or may not affect her property. She talked about the unnecessary fees and expenses to determine if she was affected.

Speaker #2. Terry Mandel lives on Cerritos Creek is a member of Neighbors on Urban Creeks and a creek advocate. Mandel supports removing culverts from the Creeks Ordinance and that the City should be responsible for them.

Speaker #3. Laura Butler has lived in Berkeley for 30 years and lives on a creek. She said the Ordinance is a liability for rebuilding after loss.

Speaker #4. Scott Rosenberg has lived on Indian Rock for ten years and was not told of creek or culvert somewhere by his property. He said this is not an opportunity site for daylighting.

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- 48 Speaker #5. Kristen Van Dam lives in Oakland and works in Berkeley. She said the
49 Ordinance needs to protect creeks for salmonids. She provided recommendations for
50 creeks and development to preserve creeks, riparian and green space.
- 51 Speaker #6. James Butler has lived in Berkeley since 1967 and is affected by
52 Ordinance. He said adding restrictions affects property owners property value.
- 53 Speaker #7. Martha Jones is a 48 year resident of Berkeley and member of the
54 Claremont Elmwood Neighborhood Association and Neighbors on Urban Creeks. She
55 discussed the NUC survey and NUC recommendations to the Task Force on how to
56 fix the Creeks Ordinance.
- 57 Speaker #8. Vonnie Gurgin is on the Neighbors on Urban Creeks Steering Committee.
58 She said property owners are stewards of the creeks. She said the noticing of the
59 hearing was not adequate and that property owners have been ignored.
- 60 Speaker #9. Shirley Dean lives in Berkeley on a culvert and is a member of Neighbors
61 of Urban Creeks. She said there should not be a requirement for a Use Permit to
62 rebuild a home after a loss.
- 63 Speaker #10. Jill Korte, Neighbors on Urban Creek, said Strawberry Creek runs through
64 her property. She said culverts should not be included in Creeks Ordinance and
65 should be handled by Public Works and that daylighting plans should be initiated by
66 property owners
- 67 Speaker #11. Barbara Allen with Neighbors on Urban Creeks noted issues with
68 homeowners insurance related to creek culverts. She said the City map is still not
69 accurate.
- 70 Speaker #12. Katherine Bowman is affected by the Creeks Ordinance and is on the
71 steering committee of Neighbors on Urban Creeks. She said the Ordinance needs to
72 protect creeks and the people living on the creeks.
- 73 Speaker #13. Igor Skaredoff, lives in Martinez and on the Board of the Urban Creeks
74 Council. He congratulated the CTF on the process noting that creeks are a complete
75 system.
- 76 Speaker #14. Bob Allen, asked the Commission to not adopt any of the CTF
77 recommendations and that the existing Ordinance be repealed. He said the process
78 should start over.
- 79 Speaker #15. Juliet Lamont thanked the CTF for their work and urged support of a
80 strong creek ordinance for everyone's benefit.
- 81 Speaker #16. Miriam Wilson affected by Creeks Ordinance and a realtor. She said a
82 Use Permit should not be required to a rebuild a house after loss.
- 83 Speaker #17. Chris Kroll said you need to listen to science in order to regulate creeks.
- 84 Speaker #18. David Wilson said his family has two houses affected by Ordinance and
85 that the original intent of Ordinance is not what it says today.
- 86 Speaker #19. Mark Sippola lives in Berkeley and supports recommendations of the
87 Creeks Task Force.
- 88 Speaker #20. Jerry Landis, member of NUC, but speaking as individual, lives on creek.
89 He said the solution is simple and the Ordinance should address issues that apply to
90 an urban environment.
- 91 Speaker #21. Lisa Lacket lives in Berkeley, but not on creek. She thinks the 30-foot
92 setback is a compromise and tht you may see flooding without any protections.
- 93 Speaker #22. Tom Schatzki lives on Fairlawn Drive and said the real costs of this need
94 to be addressed.

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- 95 Speaker #23. Jody Hinshaw supports Neighbors on Urban Creeks and that creek
96 culverts should be removed from the Creeks Ordinance.
- 97 Speaker #24. Rosemary Green on Boynton Avenue has culvert in backyard and
98 wouldn't mind if the creek was daylighted, but it might cause problems for neighbors.
99 She said there is a city sewer line right next to the culvert and that this is a community
100 problem.
- 101 Speaker #25. Eric Wasserman is a resident of Berkeley and supports the minority report
102 of the Creeks Task Force.
- 103 Speaker #26. Evey Roe, representing 25 properties in lower Thousand Oaks, supports
104 Neighbors on Urban Creeks.
- 105 Speaker #27. Joseph Klems on Capistrano Creek does not agree with requirement for a
106 Use Permit for the rebuild of a home under the Zoning Ordinance. He supports
107 Neighbors on Urban Creek proposal.
- 108 Speaker #28. Michael Tripp lives on an open creek and supports removing the
109 Ordinance.
- 110 Speaker #29. Bob Kelley-Thomas lives on Contra Costa Avenue and supports
111 rebuilding by right after loss.
- 112 Speaker #30. Philip Schnayerson lives on Regal Road, is not directly affected, but his
113 neighbors are affected. He said you must be able to rebuild without a Use Permit.
- 114 Speaker #31. Henrik Bull lives on Arlington Avenue and expressed his concerns with
115 the recommendations.
- 116 Speaker #32. Joan Sprinson lives on Peralta Avenue, supports Neighbors on Urban
117 Creeks and is concerned with the composition of the membership of the Creeks Task
118 Force.
- 119 Speaker #33. Brenden Heafey representing a property owner, said the maps need to be
120 re-evaluated before making a recommendation to the City Council.
- 121 Speaker #34. Elyce Judith lives on a creek and is a creeks advocate. She supports the
122 30' setback and inclusion of creek culverts in the Ordinance. She said people need to
123 work together beyond the CTF to get funding for creeks work.
- 124 Speaker #35. Gus Yates lives in Berkeley, not on creek, but is a hydrologist by training.
125 He said culverts should be left in the Ordinance, but they could have different rules.
- 126 Speaker #36. Jennifer Pearson lives on house on top of old watercourse that is not
127 regulated, but is still affected by water and flooding. She said the regulations need to
128 be comprehensive.
- 129 Speaker #37. Gary Fong lives in Alamo and has owned a vacant lot in Berkeley on a
130 creek for 30 years. He is opposed to the setback on vacant lots and the requirement
131 for Variance to develop in the setback.
- 132 Speaker #38. Tom Mikkelsen lives in Berkeley. He said culverts should be removed
133 from the Creeks Ordinance and regulated by Public Works.
- 134 Speaker #39. Daniel Dole lives on property with a creek and a culvert. He supports the
135 Creeks Task Force recommendations.
- 136 Speaker #40. Pamela Caton lives in Berkeley on a creek. She said she is a strong creek
137 advocate but concerned with loss of property value. She supports Neighbors on
138 Urban Creek.
- 139 Speaker #41. Michael Gutzler lives in Strawberry Creek watershed. He supports
140 existing 30-foot setback and support for watershed planning.

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141 Speaker #42. Lou Larson is affected by the Creeks Ordinance and supports Neighbors
142 on Urban Creeks. He read a letter from his neighbor also affected by the Ordinance.
143 Speaker #43. Rebecca Robinel lives in Berkeley on a culvert. She said culverts should
144 be removed since the data is bad and that the lack of disclosure is alarming.
145 Speaker #44. Dennis Fry owns a vacant lot affected by Ordinance. He said the notice of
146 the hearings was not appropriate and shares the concerns of Mr. Fong.
147 Speaker #45. R. Krauss said the Creeks Task Force should be abolished. The City
148 should not stick the costs to the property owners.
149 Speaker #46. Trudy Washburn lives in Berkeley and is not affected by the Ordinance,
150 but she is a member of Neighbors of Urban Creeks.
151 Speaker #47. Linda Franklin has a culvert in her back yard and her son has a creek in his
152 yard. She said the Creeks Task Force recommendations are flawed.
153 Speaker #48. Marilee Mitchell lives in Berkeley and says the original ordinance was
154 illegal and illegally modified.
155 Speaker #49. Susan Schwartz lives in Berkeley and is President of Friends of Five
156 Creeks. She said the Creeks Task Force is doing a good job balancing the needs of
157 property owners and needs of creeks.

158 159 M/S/C to close Public Hearing (CTF members Harris/Crowley). Ayes: Samuels, 160 Wengraf, Burke, Pollack, Poschman, Sheen, Gurley, DeStaebler. Noes: None. Abstain: 161 None. Absent: Stoloff.

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163 **PUBLIC COMMENT PERIOD**

164 Speaker 1: Roland Peterson of the Telegraph Avenue Business Improvement District
165 spoke about his opposition to the proposed TSF and its impact on businesses. He
166 questioned its legality.

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168 Speaker 2: Andy Katz spoke in support of the proposed TSF as a way to promote transit.
169 He said he particularly supported the TSF for new development and was concerned about
170 raising enough money to cover the expenditure program.

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172 **PLANNING STAFF REPORT**

173 Principal Planner Gatzke delivered the Planning Staff Report. He reported that there
174 would be a quarterly report on the DAPAC process from staff at the April 26 meeting. He
175 also said that there would be two special meetings of the Planning Commission on March
176 29 from 4-7PM and on April 4 from 4-6PM; both would be held in conference rooms of
177 the Permit Center.

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179 The Commission agreed to take up item 11 at this point.

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181 **11. Public Hearing: Proposed eight (8) unit condominium project with four (4) live-**
182 **work and four (4) residential dwelling units; Tract Map 7696: 1406 San Pablo Avenue,**
183 **Berkeley.**

184 185 M/S/C to open the public hearing. (Poschman/Sheen) Ayes: Samuels, Wengraf, Burke, 186 Pollack, Poschman, Sheen, Gurley, DeStaebler. Noes: None. Abstain: None. Absent: 187 Stoloff.
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Speaker 1: Gary Feiner, the developer of the project, noted that he was present to answer any questions.

M/S/C to close the public hearing. (Samuels/Gurley) Ayes: Samuels, Wengraf, Burke, Pollack, Poschman, Sheen, Gurley, DeStaebler. Noes: None. Abstain: None. Absent: Stoloff.

The Commissioners discussed the issues.

M/S/C to approve the map. (Poschman/Wengraf) Ayes: Samuels, Wengraf, Burke, Pollack, Poschman, Gurley, DeStaebler. Noes: None. Abstain: Sheen. Absent: Stoloff.

CHAIR’S REPORT: Chair Burke reported that there would be a retreat in the form of two special meetings of the Planning Commission. She discussed her interest in a tour of the SCIP area.

COMMITTEE REPORTS

- a. Creeks Task Force; No report. Commissioner Pollack requested that either the Task Force or staff prepare an explanation of the rationales behind the different positions.
- b. Density Bonus Procedure/Inclusionary Housing Provisions Subcommittee: Commissioner Wengraf reported that there would be a meeting of the Subcommittee on March 28 and on April 4, from 3:30 to 6 in the Sitka Spruce conference room in the Permit Service Center.
- c. Downtown Area Plan Advisory Committee (DAPAC): Commissioner Samuels reported that the DAPAC was discussing goals and that UC would be presenting at their April 29 meeting.
- d. Downtown BART Plaza and Transit Area Design Plan Citizens Advisory Committee: Commissioner Sheen reported that the next meeting would be on March 23 from 4-6PM in the Topelo Room.
- e. Major Residential Additions Subcommittee: Commissioner Poschman reported that the Subcommittee met on March 21 and would be meeting again on April 11 for a tour to look at sites of residential additions.
- f. Southside Plan Subcommittee: None.

APPROVAL OF MINUTES

M/S/C to approve the minutes from the Special Joint Meeting of February 22, 2006. (Poschman/Wengraf) Ayes: Samuels, Wengraf, Burke, Pollack, Poschman, Sheen, Gurley, DeStaebler. Noes: None. Abstain: None. Absent: Stoloff.

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229 M/S/C to approve the minutes from the March 8, 2006 meeting. (Wengraf/Poschman)
230 Ayes: Samuels, Wengraf, Burke, Pollack, Poschman, Sheen, Gurley, DeStaebler. Noes:
231 None. Abstain: None. Absent: Stoloff.

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233 **FUTURE PLANNING COMMISSION AGENDA ITEMS.** None

234 **ACTION ITEMS**

235 10. *CF 69-01: Status Report on Proposed Transportation Services Fee:* Associate
236 Transportation Planner Vuicich presented the staff report. She noted that there would be
237 no public hearing before the Council on April 25. Instead there would be an
238 informational update. The new date for the first reading of the ordinance would be July
239 11, 2006. She also reported on the Transportation Commission's March 16 meeting on
240 the proposed TSF.

241 Commissioners discussed the issues.

242 12. *City Staff Participation on University Design Review Committee.* The Commission
243 discussed the staff report.

244 13. *Discussion on UC Presentation of Southeast Campus Integrated Projects.* The
245 Commission discussed the next steps with regard to the SCIP.

246 14. *Council Action on Landmarks Preservation Ordinance, March 7, 2006.* The
247 Commission held this item over until the Special Meeting on March 29.

248 **ADJOURNMENT**

249 **The meeting was adjourned at 10:55 PM**

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251 Note on Commission Meeting Reporting:

252 In June 2005, the City Council adopted a plan that requires commission secretaries to
253 submit an annual report that summarizes for each meeting a) the number of
254 commissioners in attendance, b) the number of members of the public in attendance, c)
255 the number of speakers at Public Comment and d) the length of the meetings.

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257 For the March 22, 2006 Planning Commission meeting, the following will be reported:

258 Commissioners in attendance: 8

259 Members of the public in attendance: 200

260 Speakers at Public Comment: 3

261 Length of the meeting: 3 hour 55 minutes