

**APPROVED MINUTES OF REGULAR PLANNING COMMISSION MEETING  
May 10, 2006**

1 Time: The meeting was called to order by Chair Burke at 7:04 p.m.

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3 Location: North Berkeley Senior Center.

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5 **ROLL CALL**

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

9  
10 Commissioners Absent: None.

11  
12 Staff Present: Paine, Gatzke, Rhoades, Cosin, Sage, Dando

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14 **ORDER OF THE AGENDA**

15 No changes to the agenda.

16  
17 **PUBLIC COMMENT PERIOD**

18 Speaker 1: Barbara Allen spoke in favor of a case by case approach to creeks regulations  
19 and in favor of requiring a Use Permit for development on a vacant lot with a creek. She  
20 also supported sending the Minority Report and recommendations from the Public Works  
21 Commission, along with all letters and the Planning Commission's recommendation and  
22 comments to the City Council.

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24 Speaker 2: Juliet Lamont spoke in favor of adopting the Creeks Task Force  
25 recommendations in full although she believed that they were not strong enough. She said  
26 that she saw the recommendations as a compromise.

27  
28 Speaker 3: Phil Price spoke in support of adopting the Creeks Task Force  
29 recommendations. He said that it was difficult to define creeks definitively. He also noted  
30 that a case-by-case approach would work to require larger setbacks, which would not be  
31 achievable in Berkeley.

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33 Speaker 4: Richard Harris encouraged the support of the Creeks Task Force  
34 recommendations. He said that the Task Force has a wide range of expertise represented.

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36 Speaker 5: Mischa Lorraine spoke in support of a watershed approach and proposed the  
37 removal of the Creeks Ordinance until this time.

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39 Speaker 6: Shirley Dean spoke in favor of the Neighbors on Urban Creeks eight-point  
40 proposal submitted for the meeting.

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42 Speaker 7: Jana Olson spoke in favor of rebuilding by-right after a disaster and supported  
43 the inclusion of property owners and creek advocates in the process of defining "staff  
44 review" for the ordinance.

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46 **PLANNING STAFF REPORT**

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47 Planning Manager Rhoades delivered the Planning Staff report. He noted that the  
48 University's Draft EIR for the Southeast Campus Integrated Projects (SCIP) was released  
49 and that the Planning Commission was to deliver its comments to the City for Council  
50 discussion by June 5. The item would be added to the agenda of the May 24 meeting.

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52 He noted that he would bring the Planning Commission's recommendation regarding the  
53 work plan to the Council at its May 16 meeting. Also at the May 16 Council meeting  
54 would be the continuation of the parking in yards item.

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56 **CHAIRPERSON'S REPORT**

57 Chair Burke proposed that the Commission spend an extra hour on the SCIP DEIR at the  
58 next meeting. The Commission agreed to hold a special meeting from 6:00-7:00 on May  
59 24, immediately prior to its regular meeting, to discuss the SCIP.

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61 **COMMITTEE REPORTS**

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63 **Creeks Task Force**—None.

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65 **Density Bonus Subcommittee**—Commissioner Wengraf reported that the Subcommittee  
66 has passed a motion to ask the Planning Commission to consider a proposal for in lieu  
67 fees for inclusionary units in condominium projects.

68  
69 **Downtown Area Plan Citizen Advisory Committee**—Commissioner Samuels reported  
70 that the DAPAC had held a team design meeting and that the Committee would be  
71 having a similar exercise for the public in June.

72  
73 **Downtown BART Plaza and Transit Area Design Plan Citizens Advisory**  
74 **Committee**—Commissioner Samuels reported on the Open House that was held to  
75 present four alternatives.

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77 **Major Residential Additions Subcommittee**—Commissioner Poschman reported that  
78 the Subcommittee was discussing the AUP process associated with major residential  
79 additions.

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81 **Southside Plan Subcommittee**—None.

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83 **APPROVAL OF MINUTES**

84 M/S/C to approve the minutes from the April 26, 2006 meeting, with corrections  
85 noted. (Poschman/Gurley). Ayes: Samuels, Sheen, Gurley, Wengraf, Burke, Stoloff,  
86 Pollack, DeStaebler, Poschman. Noes: None. Abstain: None. Absent: None.

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88 **UPCOMING AGENDA ITEMS**

89 None.  
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91 **ACTION ITEMS**

92 **9. Public Hearing: General Plan Amendment, Zoning Reclassification, Zoning Text**  
93 **Amendment and Final Environmental Impact Report (EIR) to Allow for West**  
94 **Berkeley Bowl Project at 920 Heinz Avenue.**

95

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

99

100 Speaker 1: Deborah Oropallo spoke in favor of the West Berkeley Bowl. She said it  
101 created a walkable option for low-income residents and laborers in West Berkeley to  
102 access food.

103

104 Speaker 2: Bernard Marszalek of Inkworks Press requested that the Planning  
105 Commission not change the zoning. He supported a variance for the project described in  
106 Alternative C in the EIR. He was concerned about traffic and thought that the size of the  
107 store mattered.

108

109 Speaker 3: Susan Chacin spoke in favor of keeping West Berkeley industrial but said her  
110 concern was the union contract at the new store. She suggested that the approval be  
111 conditional on the store providing union jobs.

112

113 Speaker 4: David Levinson, a neighbor of the project, opposed the size of the project but  
114 supported the use.

115

116 Speaker 5: Claudia Kawczynska, a neighbor of the project, said that she was willing to  
117 accommodate the increase in traffic to have the local store. She said that the benefits far  
118 outweighed the negative effects.

119

120 Speaker 6: Father Jayson Landeza of St. Columbia Church spoke on behalf of his church  
121 and its members in favor of the project. He supported the convenience of local  
122 purchasing. He said that his church was associated with two senior housing projects at  
123 San Pablo Avenue and Alcatraz and that the project would provide an important source of  
124 food.

125

126 Speaker 7: Russell Lopes spoke as a representative of the Parish Council, representing  
127 Emeryville, South Berkeley, and North Oakland members. He urged the Commission to  
128 support the project to provide access to quality food. He said that he was a Berkeley  
129 police officer and reported that the project area was blighted and that the use would help  
130 the area.

131

132 Speaker 8: Michael Larrick, a neighbor of the project, said that Berkeley as a progressive  
133 city should support the project that provides good inexpensive food to an area that lacks  
134 this. He said that what traffic there is in the neighborhood currently was created by the  
135 Ecole Bilingue.

136

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137 Speaker 9: Adam Fuchs, a West Berkeley resident, spoke in support of the project and the  
138 related extension of the bike route on 9<sup>th</sup> Street.

139

140 Speaker 10: Sarah Klise said most neighbors are in support of the project. She passed out  
141 a handout that outlined a proposed traffic mitigation plan, which was supported by 98%  
142 of the neighbors, the Berkeley Bowl, and the Ecole Bilingue.

143

144 Speaker 11: David Snipper said that the project met the needs of the neighbors and  
145 requested that the Commission approve the legislation and certify the EIR. He noted that  
146 he was concerned about the traffic.

147

148 Speaker 12: Margaret Elliott, of the Potter's Creek neighborhood, said that there was a lot  
149 of change in the area and that West Berkeley Bowl would bring more people. She  
150 supported the mitigations submitted by the Potter's Creek neighborhood and Berkeley  
151 Bowl. She noted that the City had required mitigations for new uses elsewhere in the city.

152

153 Speaker 13: John Curl said that the EIR demonstrated a prejudice for the project. He said  
154 that industrial businesses were concerned that the economic impacts were not considered  
155 in the EIR scope. He supported a variance for a smaller store or special zoning  
156 classification for a grocery store use only.

157

158 Speaker 14: Christine Staples spoke about how the area might develop if the Berkeley  
159 Bowl was not approved. She proposed that more housing and traffic and parking needs  
160 would be present. She suggested that alternative development scenarios would not be  
161 preferable to the West Berkeley Bowl.

162

163 Speaker 15: Bob White, a neighbor of the project, spoke in favor of the project.

164

165 Speaker 16: Maurice Levitch said that developing the store through a block was  
166 problematic.

167

168 Speaker 17: William Eadland spoke in support of the project and in support of restrictions  
169 on traffic on 9<sup>th</sup> Street.

170

171 Speaker 18: Zelda Bronstein opposed the rezoning and the statement of overriding  
172 considerations. She said the store would be a regional superstore and proposed finding a  
173 better site for a neighborhood grocery store. She said that if 920 Heinz was the only  
174 suitable location the store should be scaled down and given a variance.

175

176 Speaker 19: Stephen Donaldson, a West Berkeley resident and business-owner, spoke in  
177 favor of the jobs and access to food. He acknowledged that there would be more traffic  
178 but said it was ok. He noted that the Food Marketing Institute reported that the average  
179 size of a grocery store is about 48,000 square feet and the proposed project was about  
180 50,000 square feet, so it was not a super store.

181

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182 Speaker 20: Barbara Bowman, a resident on 10<sup>th</sup> Street, spoke in favor of the project but  
183 asked for protective measures to defend the neighborhood from the traffic impacts.

184  
185 Speaker 21: Stephen Wollmer reported that the law indicated that the owner had no  
186 vested interest in a property at this point and that the Planning Commission and the ZAB  
187 could determine the size. He supported the idea of a unionized grocery and the proposed  
188 traffic mitigations.

189  
190 Speaker 22: Antoine Portales, of Ecole Bilingue, supported the project and asked for  
191 protection from traffic impacts. He noted that West Berkeley is not only industry.

192  
193 Speaker 23: Amy Merrick, a neighbor of the project site, spoke in support of the project  
194 and local traffic mitigations. She suggested the Commission consider the increase in  
195 traffic in the context of the large increase in residents in the area and proposed that a local  
196 grocery would reduce the trips these new residents took to a grocery farther away.

197  
198 Speaker 24: Steve Geller said changing the zoning would be a mistake.

199  
200 Speaker 25: Claire Risley spoke in favor of the use and opposed the size and change of  
201 zoning. She supported option C with a variance.

202  
203 Speaker 26: Mary Lou VanDeventer, of Urban Ore, submitted a map and said that the  
204 traffic estimates were incorrect.

205  
206 Speaker 27: Rick Auerbach supported the neighbors' traffic plan. He opposed the zoning  
207 change but supported the issuance of a variance so that the site would remain a grocery in  
208 perpetuity.

209  
210 Speaker 28: Darrell de Tienne spoke about the Aquatic Park process and said that traffic  
211 was a collective problem for Berkeley, that Berkeley Bowl was not the problem. He said  
212 that denying the project would be wrong.

213  
214 M/S/C to open the public hearing. (Wengraf/Gurley) Ayes: Samuels, Sheen, Gurley,  
215 Wengraf, Burke, Stoloff, Pollack, DeStaebler, Poschman. Noes: None. Abstain: None.  
216 Absent: None.

217 Commissioners discussed the project and their options for action.

218  
219 Planning Manager Rhodes noted that the Use Permit was written to limit the use on site  
220 to a grocery store like Berkeley Bowl.

221  
222 M/S to recommend that the City Council adopt the EIR and the Statement of Overriding  
223 Considerations. (Stoloff/DeStaebler)

224  
225 The Commission discussed the motion.

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227 M/S/C to recommend that the City Council adopt the EIR and the Statement of  
228 Overriding Considerations. (Stoloff/DeStaebler) Ayes: Samuels, Gurley, Wengraf,  
229 Stoloff, Pollack, DeStaebler. Noes: Poschman, Burke. Abstains: Sheen. Absent: None.

230

231 M/S/C to recommend that the City Council approve the legislative amendments as  
232 outlined in the staff report. (Stoloff/Samuels) Ayes: Samuels, Gurley, Wengraf, Stoloff,  
233 Pollack, DeStaebler. Noes: Poschman, Burke. Abstains: Sheen. Absent: None.

234

235 M/S/C to ask that ZAB address issues of potential detriment relevant to traffic in the  
236 Potter's Creek Neighborhood. (Wengraf/Pollack) Ayes: Samuels, Sheen, Gurley,  
237 Wengraf, Burke, Stoloff, Pollack, DeStaebler, Poschman. Noes: None. Abstain: None.  
238 Absent: None.

239

240 M/S/ to recommend to the City Council that they create a new designation under the  
241 Berkeley Zoning Ordinance, Chapter 23E.64 C-W West Berkeley Commercial District  
242 Provisions, Section 23E.64.030 "Uses Permitted." The designation would specify a  
243 "Food Products Store, General" category in the table and require a permit to change uses  
244 from a food products store. (Sheen/ Wengraf)

245

246 The Commission discussed the motion and a substitute motion was made.

247

248 M/S/C to continue the discussion until a June meeting of the motion regarding creating a  
249 new designation under the Berkeley Zoning Ordinance, Chapter 23E.64 C-W West  
250 Berkeley Commercial District Provisions, Section 23E.64.030 "Uses Permitted."to  
251 specify a "Food Products Store, General" category in the table and require a permit to  
252 change uses from a food products store. (Gurley/Stoloff) Ayes: Samuels, Gurley,  
253 Wengraf, Stoloff, Pollack, DeStaebler. Noes: Burke, Sheen, Poschman. Abstain: None.  
254 Absent: None.

255

256 M/S/C to express the Commission's concern to the City Council about the alleged refusal  
257 to extend the existing collective bargaining agreement to the West Berkeley Bowl.  
258 (Gurley/Poschman) Ayes: Sheen, Gurley, Wengraf, Burke, Stoloff, Poschman. Noes:  
259 None. Abstain: Pollack, DeStaebler, Samuels. Absent: None.

260

261 **10. Creeks Task Force Recommendations for Creeks Ordinance**

262 Vice Chair Stoloff chaired the meeting during the discussion of this item.

263 Deputy Planning Director Cosin presented a handout outlining the key issues that the  
264 Commissioners had raised in their comments.

265 The Commissioners discussed the issues.

266

267 M/ In general the Planning Commission supports the recommendations of the Creeks  
268 Task Force although all Commissioners do not agree with all recommendations.  
269 Commissioner comments are attached. (Burke/)

270

271 A substitute motion was made:

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272

273 M/S/ (Burke/Poschman) The Planning Commission commends the work and supports the  
274 recommendations of the Creeks Task Force.

275 If the City Council accepts the Task Force recommendations and requests the Manager to  
276 prepare specific revisions to the Creeks Ordinance, the PC requests that the Manager be  
277 directed to articulate and clarify several issues not fully covered by the Task Force  
278 recommendations, as follows:

- 279
- 280 1. The term “creek” be more carefully defined.
  - 281 2. Findings required to obtain use permits for changes and additions to existing  
282 structures be clearly defined and be achievable in typical situations.
  - 283 3. Procedures for environmental evaluation and mitigations ensure that required  
284 findings are achievable in typical situations.
  - 285 4. Situations where a use permit may appropriately be substituted for a variance or  
286 absolute prohibition be identified, including the rebuilding of bridges.
  - 287 5. Final language describing required environmental assessments avoid triggering  
288 required CEQA compliance.
  - 289 6. Include language that recognizes that the Department of Public Works requires  
290 flexibility when reviewing proposed walls, drains, bulkheads, etc. in order to  
291 protect private property as well as stream quality.
  - 292 7. Levels of environmental assessment that would place unreasonable burden on  
293 applicants requesting permits for minor additions to buildings and decks be  
294 identified and avoided.

294

295 The Commission discussed the substitute motion and made amendments to clarify its  
296 meaning. Friendly amendments were accepted by the maker of the motion.

297

298 M/S/C to call the substitute motion. (Gurley/Wengraf). Ayes: Samuels, Sheen,  
299 Gurley, Wengraf, Burke, Stoloff, Pollack, DeStaebler, Poschman. Noes: None.  
300 Abstain: None. Absent: None.

301

302 M/S/C The Planning Commission commends the work and supports the  
303 recommendations of the Creeks Task Force although not all commissioners agree with all  
304 Creeks Task Force recommendations. The Planning Commission requests that if the City  
305 Council accepts the Task Force recommendations and the City Manager is requested to  
306 prepare specific revisions to the Creeks Ordinance, that the revised ordinance reflect the  
307 following:

- 308
- 309 1. The term “creek” be more carefully defined.
  - 310 2. Findings required to obtain use permits for changes and additions to existing  
311 structures be clearly defined and less onerous.
  - 312 3. Consider reducing the circumstances where environmental evaluations are  
313 required and their scope. The Planning Commission has concern about the  
314 scope of the mitigations.
  - 315 4. In one or more places where a variance would be required by the Creeks Task  
Force, a Use Permit may be more appropriate.

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- 5. Final language describing required environmental assessments should avoid triggering required CEQA compliance.
  - 6. Include language that recognizes that the Department of Public Works requires flexibility when reviewing proposed walls, drains, bulkheads, riprap, etc. in order to protect private property as well as stream quality.
  - 7. Levels of environmental assessment that would place unreasonable burden on applicants requesting permits for minor additions to buildings and decks should be identified and avoided.
  - 8. Rebuilding as a matter of right should be permitted, as long as the original footprint, elevation, location, and envelope are honored.
- (Pollack/Wengraf) Ayes: Samuels, Gurley, Wengraf, Stoloff, Pollack, DeStaebler.  
Noes: Sheen, Poschman. Abstain: Burke. Absent: None.

M/S/C to attach to the Planning Commission’s recommendation the Neighbors on Urban Creeks position and the comments from individual Planning Commissioners as documents of interest. (Poschman/Samuels). Ayes: Samuels, Gurley, Wengraf, Stoloff, Pollack, DeStaebler, Sheen, Poschman, Burke. Noes: None. Abstain: None. Absent: None.

**11. Request to Set Public Hearing: Proposed Transportation Services Fee**  
Associate Planner Paine delivered a status update on the proposed Transportation Services Fee.

M/S/C to set a Public Hearing for May 24, 2006. (Pollack/Samuels) Ayes: Samuels, Sheen, Gurley, Wengraf, Burke, Stoloff, Pollack, DeStaebler, Poschman. Noes: None. Abstain: None. Absent: None.

**12. FY 2007 Land Use Policy Work Plan**  
Planning Manager Rhoades reviewed the staff report.

M/S/C in support of the staff recommendations, with the addition of Telegraph Avenue economic development. The Planning Commission will revisit the work plan in December. The Planning Commission requests an additional FTE for policy work. (Pollack/Poschman) Ayes: Samuels, Sheen, Gurley, Wengraf, Burke, Stoloff, Pollack, DeStaebler, Poschman. Noes: None. Abstain: None. Absent: None.

**ADJOURNMENT**  
**The meeting was adjourned at 11:45 PM**

Note on Commission Meeting Reporting:  
In June 2005, the City Council adopted a plan that requires commission secretaries to submit an annual report that summarizes for each meeting a) the number of commissioners in attendance, b) the number of members of the public in attendance, c) the number of speakers at Public Comment and d) the length of the meetings.  
For the May 10, 2006 Planning Commission meeting, the following will be reported:



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362 Commissioners in attendance: 9  
363 Members of the public in attendance: 45  
364 Speakers at Public Comment: 7  
365 Length of the meeting: 4 hours 41 minutes