

FINAL MINUTES OF REGULAR PLANNING COMMISSION MEETING

January 10, 2007

1 Time: The meeting was called to order by Chair Burke at 7:01 p.m.

2 Location: North Berkeley Senior Center.

3 **ROLL CALL**

4 Commissioners Present: Burke, Ferrazares, Gurley, Pollack, Poschman, Samuels, Sheen,
5 Stoloff, Wengraf.

6 Commissioners Absent: none.

7 Staff Present: Rhoades, MacQuarrie, Lambert, Albuquerque, Cowan, Gatzke, Dando,
8 Harrison.

9 **ORDER OF THE AGENDA**

10 Chair Burke moved Item 17, discussion of the Joint Density Bonus Subcommittee
11 membership, from information for discussion after the action items.

12 **PUBLIC COMMENT PERIOD**

13 Speaker 1: Doug McManamon, attorney for Stephanie Vollmer, provided background
14 information on the Milo Foundation issue, stating that the use permit was transferred
15 from a pet store to the Foundation in error and the ZAB seems unwilling to exercise
16 their prosecutorial roll.

17 Speaker 2: Stephanie Vollmer, of the Solano Avenue Neighbors Association (SANA),
18 said the neighbors have experienced problems with Milo dogs being walked in the
19 neighborhood, including dogs relieving themselves on neighborhood lawns.

20 Speaker 3: Vincent James, stated that dog walking by Milo has caused problems such as
21 messes in lawns and said that this is not an appropriate use for a residential area and
22 other areas of the city are zoned for this use.

23 Speaker 4: Michael Sandrof stated that the zoning on Solano Avenue does not currently
24 allow the a pet adoption use and that it should not be changed.

25 Speaker 5: Jill Posner, of the Milo foundation, stated that they plan to end their
26 operations on Solano Avenue and sell their building by June 1, 2007 and that they
27 have withdrawn their Use Permit application. She responded to some of the previous
28 comments, stating that they do not have 70 dog walks per day, they board only four
29 adult dogs overnight, no longer use teen volunteers, and all their volunteers now wear
30 vests.

31 Speaker 6: Robert Yoder stated that some dogs walked by Milo volunteers have trampled
32 plants in his yard and neighborhood yards.

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33 Speaker 7: Jane Tierney stated that her many complaints to environmental health and
34 animal services went unanswered and were not recorded and her nuisance complaint
35 was not recorded. She stated that Milo staff dogs are also brought to the building,
36 exacerbating the situation.

37 Speaker 8: Merri Mitchell passed around a map of Berkeley and stated that the
38 'impoverished community' designation given to some areas is considered blight and
39 can be used to justify higher density development by ABAG.

40 **PLANNING STAFF REPORT**

41 Planning Manager Rhoades indicated that both the revised Landmarks Preservation
42 Ordinance and Creeks Ordinance have been adopted by the City Council, but that the
43 LPO is the subject of a citizen referendum for which the signatures are due tomorrow.

44 **CHAIRPERSON'S REPORT**

45 None.

46 **COMMITTEE REPORTS**

47 **Creeks Task Force:** Chair Burke indicated that because the Task Force work is done the
48 item no longer need be on the agenda.

49 **Density Bonus Subcommittee:** Chair Burke indicated we will discuss this under Item
50 17.

51 **Downtown Area Plan Citizen Advisory Committee:** Commissioner Samuels explained
52 that Jim Novacel has replaced Raudel Wilson on the DAPAC; the next meeting will
53 include a report on the downtown historic survey efforts; the center street subcommittee
54 has addressed the hotel design and center street issues; and at the UC Subcommittee
55 meeting they learned that it is possible to fit all the UC's projected development on the
56 public health, museum and Tang Center sites.

57 **Southside Plan Subcommittee:** none.

58 **APPROVAL OF MINUTES**

59 M/S/C to approve the draft minutes of November 29 with three changes (Note:
60 motion/second not recorded). Ayes: Ferrazares, Gurley, Poschman, Pollack, Samuels,
61 Sheen, Stoloff. Noes: None. Abstain: Burke, Wengraf. Absent: None.

62 **UPCOMING AGENDA ITEMS**

63 Chair Burke noted we would discuss the arts/crafts amendments in the context of our
64 workplan at the next meeting.

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65 **ACTION ITEMS**

66 **Item 9 ZA 9-06 Zoning Ordinance amendments for procedural changes to**
67 **streamline the enforcement of permit violations and the abatement of nuisances –**
68 City Attorney Albuquerque explained why the roles of the different city attorneys need to
69 be separated in nuisance cases. She explained there is no substantive power changed with
70 the amendments, both the ZAB and Council still hold a hearing and both can still initiate
71 a nuisance case.

72 Commissioners asked questions about the procedures, including whether there would still
73 be a need for two attorneys at the Council hearing. Albuquerque explained that is true,
74 but no longer would three attorneys be needed. Commissioners expressed concern that
75 the role of the ZAB is changing since they no longer make a decision but rather a
76 recommendation to Council. However, if the subject of the complaint agrees to
77 conditions recommended by the ZAB, then the Council does not have the opportunity to
78 modify or expand those conditions. Albuquerque explained that currently the Council
79 does have this option because appeal of ZAB decisions to the Council are automatic and
80 this option could be added to the amendments.

81 M/S/C to approve the proposed amendments with language added to allow the Council to
82 hold a hearing and add conditions even when the applicant agrees to the ZAB's
83 conditions (Pollack/Stoloff). Ayes: Burke, Ferrazares, Gurley, Pollack, Samuels, Stoloff,
84 Wengraf. Noes: Poschman. Abstain: Sheen. Absent: None.

85 **Item 10 Discussion: Potential Zoning Ordinance amendment for dog and cat**
86 **adoption facilities THE MILO FOUNDATION IS CONSIDERING OPTIONS FOR**
87 **USE OF THE SITE, STAFF RECOMMENDS CONTINUATION OF THIS**
88 **DISCUSSION OFF AGENDA -** The item was not discussed because the Milo
89 Foundation withdrew their application for a Use Permit and staff no longer requests
90 Commission input on the proposed use.

91 **Item 11 Public Hearing: Tract Map 7796: 2628 Telegraph Avenue, proposed 16 unit**
92 **condominium project**

93 M/S/C to open the public hearing and continue it to January 24, 2007
94 (Pollack/Poschman). Ayes: Burke, Ferrazares, Gurley, Pollack, Poschman, Samuels,
95 Sheen, Stoloff, Wengraf. Noes: None. Abstain: None. Absent: None.

96 **Item 12 Staff letter commenting on Association of Bay Area Governments (ABAG)**
97 **draft Regional Housing Needs Assessment (RHNA) Methodology for 2007-2014**
98 **Allocation –** Gatzke responded to the public comment about impoverished communities
99 indicating he believed this would not be used by ABAG to determine the very low, low
100 and moderate income distributions. Commissioners discussed the impact of the proposed
101 RHNA numbers on the city's existing development pattern and what changes to our land
102 use regulations might be needed to address the allocation. Commissioners asked that the
103 subject be on their agenda again, with information on our development levels including
104 how many affordable units are inclusionary versus dedicated units; the breakdown of

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105 where development is located (neighborhoods, downtown, and transit corridors); and how
106 other cites have performed.

107 **Item 13 Set Public Hearing: Public Safety Exceptions for Structural Alterations**

108 M/S/C to set the public hearing for February 14, 2007 (Pollack/Poschman). Ayes: Burke,
109 Ferrazares, Gurley, Pollack, Poschman, Samuels, Sheen, Stoloff, Wengraf. Noes: None.
110 Abstain: None. Absent: None.

111 **Item 14 Set Public Hearing: Technical Amendment to Clarify Application of the**
112 **Finding for Denial of Residential Additions and Exemption of Dormers from the**
113 **Average Height Calculation**

114 M/S/C to set the public hearing for February 14, 2007 (Pollack/Poschman). Ayes: Burke,
115 Ferrazares, Gurley, Pollack, Poschman, Samuels, Sheen, Stoloff, Wengraf. Noes: None.
116 Abstain: None. Absent: None.

117 **Item 17 Council Resolution No. 63,032 and 63,061 establishing the Joint**
118 **Subcommittee on Density Bonus** – Rhoades explained that he understands the Mayor
119 will put an Item on the January 30 Council agenda to address the outstanding Joint
120 Subcommittee on Density Bonus items. The Commissioners discussed appointing a
121 replacement to the Subcommittee for Burke, and decided not to.

122 **ADJOURNMENT**

123 **The meeting was adjourned at 9:15 p.m.**

124 Note on Commission Meeting Reporting:

125 In June 2005, the City Council adopted a plan that requires commission secretaries to
126 submit an annual report that summarizes for each meeting a) the number of
127 commissioners in attendance, b) the number of members of the public in attendance, c)
128 the number of public speakers and d) the length of the meetings.

129 For the January 10, 2007 Planning Commission meeting, the following will be reported:

130 Commissioners in attendance: 9

131 Members of the public in attendance: 13

132 Public Speakers: 8

133 Length of the meeting: 2 hour 15 minutes