

FINAL MINUTES OF REGULAR PLANNING COMMISSION MEETING

February 28, 2007

1 Time: The meeting was called to order by Chair Stoloff at 7:05 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, Gatzke, Harrison.

8 **ORDER OF THE AGENDA**

9 **PUBLIC COMMENT PERIOD**

10 Speaker 1: Pamela Sihvola stated that the Berkeley Lab LRDP presentation was cursory
11 and superficial. She passed out a "Fact Sheet" on the Strawberry Creek watershed and
12 potential impacts from the Berkeley Lab due to demolitions and new development.
13 She stated the earthquake fault and landslide information in the EIR is not current.

14 **PLANNING STAFF REPORT**

15 Secretary Harrison reported that at their February 27 meeting the City Council decided to
16 hold a workshop to address the 4 plus 4 Inclusionary Live/Work Units issue and the
17 economics of small projects; the Council adopted a first reading of the ordinance
18 amendments addressing Nuisance and Abatement and Revocation of Permits; and the
19 Council is likely to refer discussion of the in-lieu fee payment for fractional units to the
20 Commission. Land Use Planning Manager Rhoades added that the Council approved
21 funding for a six-month senior planner position to focus on limited flexibility in West
22 Berkeley.

23 **CHAIRPERSON'S REPORT**

24 None.

25 **COMMITTEE REPORTS**

26 **Density Bonus Subcommittee**

27 Commissioner Wengraf stated the next meeting is March 6 and there are 2 meetings after
28 that, March 19 and 26.

29 **Downtown Area Plan Citizen Advisory Committee**

30 Commissioner Samuels reported that at the previous meeting the DAPAC considered
31 growth in Berkeley and ABAG's draft Regional Housing Needs Allocation and

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32 Projections 2007. The UC Property Subcommittee developed a series of
33 recommendations that the DAPAC will consider at their next meeting.

34 **Southside Plan Subcommittee**

35 None.

36 **APPROVAL OF MINUTES**

37 M/S/C to approve the draft minutes of February 14, 2007 with one correction
38 (Poschman/Gurley). Ayes: Burke, Ferrazares, Gurley, Pollack, Poschman, Samuels,
39 Sheen, Stoloff, Wengraf. Noes: None. Abstain: None. Absent: None.

40 **UPCOMING AGENDA ITEMS**

41 The Chair noted at the next meeting the Commission will take public comments on the
42 Berkeley Lab LRDP and EIR.

43 **ACTION ITEMS**

44 **Item 9 Public Hearing: Telegraph Avenue Hours of Operation and Transportation** 45 **Services Fee**

46 M/S/C to open the public hearing (Pollack/Wengraf). Ayes: Burke, Ferrazares, Gurley,
47 Pollack, Poschman, Samuels, Sheen, Stoloff, Wengraf. Noes: None. Abstain: None.
48 Absent: None.

49 Secretary Harrison presented background on the Telegraph Amendments, summarized
50 previous public comment, and indicated the amendments were before the Commission on
51 September 27, 2006, October 11, 2006, and January 24, 2007.

52 Speaker 1: Sharon Hudson, stated on behalf of the Willard and LeConte Neighborhood
53 Associations that they would like the Commission to wait 30 days to make their
54 recommendation so the organizations can prepare consolidated responses from their
55 community.

56 Speaker 2: Jason Leung, representing Ruell Enterprises, stated potential tenants are
57 turned off by the arduous Use Permit process and that vacancy rates are increasing. In
58 response to Commissioner questions, Leong stated that new food service business are
59 interested but the cost, time and uncertainty of the Use Permit process is a deterrent
60 and that the vacant retail spaces are too large for carry out restaurants so tenants
61 prefer quick serve restaurants with on-site seating.

62 Speaker 3: Jesse Arreguin encouraged support of Commissioner Sheen's
63 recommendations and stated that extending the hours is important for Telegraph
64 Avenue's economic vitality and safety. He stated he is concerned with not requiring
65 housing on the second floor and that the quota language should remain as it is
66 currently and that all city quotas should be considered at the same time.

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67 Speaker 4: Sean Berry stated he supports the changes in hours because there is a demand
68 from students for late night services and it would improve safety on the Avenue. He
69 urged the Commission to vote tonight.

70 Speaker 5: Geoff Danker stated he encourages the extended hours because the current
71 hours mean lost profits and lost business to other nearby cities and Telegraph is more
72 dangerous when the stores are closed too early at night.

73 Speaker 6: Priya Chandrasekaran stated it is dangerous when streets are dark and
74 deserted, extended hours on Telegraph would improve business activity and revenues
75 for the city.

76 Speaker 7: Robia Change, representing the owners of the Grenada Building at Telegraph
77 and Bancroft, stated they are in favor of the amendments that would streamline permit
78 processing for new businesses but not the changes in hours which they feel would
79 compound existing noise and safety problems.

80 Speaker 8: Alex Lemberg stated there is a need for late night food and other services for
81 students in the area and later hours would improve business activities.

82 Speaker 9: Roland Peterson, director of the Telegraph Avenue BID, stated the most
83 important amendments proposed are those that would improve the permitting process
84 to address vacancies. He stated the TSF should be eliminated from the Zoning
85 Ordinance to attract new business and because it is at odds with City policy. In
86 response to Commissioner questions, Peterson stated he does not consider the second
87 story commercial use a pressing issue; he stated the issue of allowing the quota to be
88 exceeded with a use permit instead of a variance in order to ease the process is very
89 important because having more quick serve restaurants is better than vacancies.

90 Speaker 10: Igor Tregub of the student group ACCESS urged the Commission not to
91 delay their vote and encouraged the extended hours.

92 Speaker 11: Councilmember Worthington encouraged the Commissioner to make their
93 recommendation this fiscal year and stated it would be okay to delay decisions on the
94 more controversial topics in order to get more public input. He stated the change of
95 use provisions and hours extensions do not seem controversial but the second story
96 commercial uses and the quota change do. He stated the TSF change is not necessary
97 for the economic improvements and could remain in the text because Council will
98 implement a TSF one day.

99 Speaker 12: Sharon Hudson, speaking as an individual, stated the hours of operation are
100 controversial due to the noise issue; the TSF should remain in the ordinance; no one
101 is in favor of commercial uses on the second floor, housing is more important;
102 parking is a concern with changes of use; and she is in favor of relaxed quotas but
103 would like to compare Telegraph to other areas first.

104 The Commission discussed how to proceed.

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105 Speaker 13: Vincent Casalaina, president of the Willard Neighborhood Association,
106 stated he had not received notices of the previous public hearings however he had
107 only recently become the group's president.

108 Staff explained the notification for the prior meetings. The October 11, 2006 meeting
109 included notification in the Daily Californian; hard copy notification sent to all properties
110 in the C-T District (675 addresses) and the list of 126 neighborhood groups throughout
111 the City; email notification sent to an email list serve of 275 neighborhood groups
112 developed through the City Manager's Office; and email notification sent to a list serve of
113 about 30 individuals that had previously been interested in activities along Telegraph
114 Avenue. The January 24, 2007 hearing was noticed in the Daily Californian and the
115 Berkeley Voice and was emailed to the two lists. Tonight's notice was mailed to the C-T
116 District residents, the neighborhood groups, emailed to the two lists, and noticed in the
117 Daily Californian and the Berkeley Voice.

118 The Commission discussed the amendments and conducted straw votes on the proposed
119 changes based on the 8-point summary list on pages 2 and 3 of the staff report. The straw
120 votes were unanimous to support the changes to hours of operation (Items #1 and #2 in
121 the list), the lower permit levels for certain businesses and changes of use (Items #3 and
122 #4), and the provisions to allow easier conversion of existing space (Item #6). The
123 Commission voted unanimously not to recommend the amendments allowing commercial
124 uses on the second floor (Item #7) and by a vote of 5 they recommended not eliminating
125 the TSF (Item #8). By a vote of 5 they recommended allowing a Use Permit to exceed the
126 C-T quotas, however, after subsequent discussion the Commission decided to continue
127 their discussion of the quota.

128 M/S to close the public hearing (Pollack/Samuels).

129 Substitute M/S/C to close the public hearing for all of the items except Item #5 (the
130 quota) (Ferrazares/Poschman). Ayes: Burke, Ferrazares, Gurley, Pollack, Poschman,
131 Sheen, Stoloff, Wengraf. Noes: None. Abstain: Samuels. Absent: None.

132 Friendly amendment to add a statement that the Commission does not have enough
133 information to act on the quota amendments at this time was not accepted (Sheen).

134 M/S/C to recommend Items 1-4 and 6 in the Staff report summary and continue
135 discussion of Item #5 to March 28 (Pollack/Sheen). Ayes: Burke, Ferrazares, Gurley,
136 Pollack, Poschman, Samuels, Sheen, Stoloff, Wengraf. Noes: None. Abstain: None.
137 Absent: None.

138 **Item 10 Association of Bay Area Government (ABAG) Projections 2007, final** 139 **Regional Housing Needs Assessment (RHNA) methodology and Berkeley housing** 140 **production and regional allocation overview**

141 Rhoades presented background information on past housing production in Berkeley and
142 the outcome of the Draft RHNA methodology. Staff estimates the City will receive twice
143 the allocation for 2007-2014 as compared to the previous 1999-2006 allocation, roughly

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144 2,700 units. Projections 2007 estimates the City will grow by 5,450 units by 2035, which
145 will bring the City back to the population level it had around 1970. The State Office of
146 Housing and Community Development requires a Housing Element and Zoning
147 Ordinance that provide enough zoned capacity to accommodate the RHNA allocation,
148 otherwise there could be consequences for the City such as withheld transportation
149 funding. The City will need to consider what changes, if any, are needed to accommodate
150 this growth.

151 **ADJOURNMENT**

152 **The meeting was adjourned at 10:15.**

153 Note on Commission Meeting Reporting:

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

158

159 For the February 22, 2007 Planning Commission meeting, the following will be reported:

160 Commissioners in attendance: 9

161 Members of the public in attendance: 19

162 Public Speakers: 14

163 Length of the meeting: 3 hour 10 minutes