

FINAL MINUTES OF REGULAR PLANNING COMMISSION MEETING

March 28, 2007

1 Time: The meeting was called to order by Chair Samuels 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, Caplan, Fogarty.

8 **ORDER OF THE AGENDA** No change.

9 **PUBLIC COMMENT PERIOD**

10 Speaker 1: Nashua Kalil, a member of the Zero Waste Commission, discussed the
11 programs the Commission is working on and asked the Planning Commission to
12 appoint a liaison to be a policy advisory to a Zero Waste Commission subcommittee,
13 along with members of the Energy Commission, ZAB, and Transportation
14 Commission, on polices that go into the redesign of the city waste and recycling
15 facility.

16 Speaker 2: Merilee Mitchell stated her concern with the City Council referral proposing
17 to allow medical marijuana sales in the Manufacturing District because she feels it
18 could get to young people and the business has a very incognito presence and will
19 scare people away. She feels the drug should be sold in drug stores.

20 **PLANNING STAFF REPORT**

21 Secretary Harrison reported that at their March 27 meeting the Council rescinded their
22 previous action to require 8 year term limits for Board and Commission appointments
23 and identified the late materials provided at this meeting: a supplemental report on the
24 Telegraph quotas issues, the work plan report, a spread sheet to accompany the work plan
25 report, and a council referral from March 27 regarding inclusionary requirements in the
26 MUR District.

27 **CHAIRPERSON'S REPORT**

28 Commissioner Stoloff raised a point of order and read from Roberts Rules, stating that in
29 the absence of a president the first vice president becomes president unless the rules
30 specify how a vacancy can be filled. He stated that his resignation of March 14 did not
31 require notice and for that reason he believes the election of chair at the previous meeting
32 did not violate the Brown Act and should stand.

33 M/S/C to move the recommendation of the City Attorney to vacate the prior elections of
34 March 14 and hold another election (Wengraf/Gurley – Note: Commissioner Gurley

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35 asked that his agreement with Commission Stoloff be noted for the record.) Ayes: Burke,
36 Ferrazares, Gurley, Pollack, Poschman, Samuels, Sheen, Wengraf. Noes: Stoloff.
37 Abstain: None. Absent: None.

38 M/C to elect Jim Samuels as Chair (Wengraf). Ayes: Ferrazares, Gurley, Pollack,
39 Samuels, Stoloff, Wengraf. Abstain: Burke, Poschman, Sheen.

40 M/C to elect Larry Gurley as Vice-Chair (Wengraf). Ayes: Gurley, Pollack, Samuels,
41 Stoloff, Wengraf.

42 M/F to elect Mike Sheen as Vice-Chair (Ferrazares). Ayes: Burke, Ferrazares, Poschman,
43 Sheen.

44 **COMMITTEE REPORTS**

45 **Density Bonus Subcommittee**

46 Commissioner Wengraf stated the Subcommittee's work has ended although it is not
47 complete. She stated explaining the recommendations to the Commission and the
48 community will be a challenge due to the complexity of state and city regulations.

49 **Downtown Area Plan Citizen Advisory Committee**

50 Commissioner Samuels reported that the DAPAC discussed street parking pricing in the
51 downtown and considered a program to increase the parking pricing to create more
52 turnover so roughly 15% of the spaces are always available.

53 **Southside Plan Subcommittee**

54 None.

55 **APPROVAL OF MINUTES**

56 M/S/C to approve the draft minutes of February 14, 2007 with four corrections
57 (Stoloff/Ferrazares). Ayes: Burke, Ferrazares, Gurley, Pollack, Poschman, Samuels,
58 Sheen, Stoloff, Wengraf. Noes: None. Abstain: None. Absent: None.

59 **UPCOMING AGENDA ITEMS**

60 No discussion.

61 **ACTION ITEMS**

62 **Item 9 Continued Public Hearing: Zoning Amendments lowering the level of**
63 **discretionary permit required to exceed quotas in the C-T Telegraph Avenue**
64 **Commercial District; BMC Sections 23E.56.040 and 23E.56.090**

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65 Speaker 1: Roland Peterson encouraged the Commission to proceed with the proposed
66 change to allow the Telegraph quota limits to be exceeded with a Use Permit.

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

70 Secretary Harrison presented background on the Telegraph Amendments and introduced
71 Dave Fogarty, Economic Development Project Coordinator from the Office of Economic
72 Development.

73 Fogarty presented historical background on the quota system in the C-T District,
74 explaining it came on the heels of the state legislation banning commercial rent control in
75 the late 1980s. He stated the quota system does not seem to prevent chain stores. He
76 stated the two times the quotas have been exceeded by Variance in the C-T, the debate
77 was not about the merits of the proposed use but rather unrelated issues to try and make
78 the Variance finding that the physical nature of the property is in some way unique.

79 The Commission discussed the potential effects of allowing consideration of exceeding
80 the quota limits with a Use Permit, including the potential loss of existing retail
81 establishments and the proposed findings for the Use Permit. Some Commissioners
82 expressed concern the purposes of the district are too easy to meet; others indicated that
83 the findings in other quota districts could be too difficult, in particular the requirement of
84 support from existing merchants. The Commission discussed taking the quota issue up
85 within the context of a review of all the city's quotas. They requested staff input on more
86 refined findings. Land Use Planning Manager Rhoades indicated that the findings cannot
87 judge the character of the proposed user, that the approved use rides with the land, and it
88 is necessary to emphasize physical standards like floor plan restrictions. Rhoades stated
89 staff will report back to the Planning Commission on quota activity every 6-12 months
90 and indicate if a spike in applications is received.

91 M/S/C to approve the amendments as recommended by staff (Stoloff/Gurley). Ayes:
92 Gurley, Pollack, Samuels, Stoloff, Wengraf. Noes: Burke, Ferrazares, Poschman, Sheen.
93 Abstain: None. Absent: None.

94 M/S/C to continue discussion on further refinement of the Telegraph quotas findings to
95 April 25. Ayes: Burke, Ferrazares, Gurley, Pollack, Poschman, Samuels, Sheen, Stoloff,
96 Wengraf. Noes: None. Abstain: None. Absent: None.

97 **Item 10 Fiscal Year 2008-2009 Work Plan**

98 Rhoades presented work completed by the Commission in the current work plan, work
99 that is in progress, and upcoming projects and staffing changes. He indicated there are
100 three brand new items from Council not reflected in the work plan: medical marijuana
101 sales in the M District, MUR in-lieu fee changes, and Commission participation with
102 Measure G implementation. The Commission discussed allocation of staff time to
103 current, past and future projects. Rhoades discussed upcoming projects, indicating with

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104 current staffing it would be difficult to complete some projects by the April 11 meeting
105 and more could be accomplished on April 25.

106 M/S/C to cancel the April 11 meeting. Ayes: Burke, Ferrazares, Gurley, Pollack,
107 Poschman, Samuels, Sheen, Wengraf. Noes: None. Abstain: None. Absent: Stoloff.

108 **ADJOURNMENT**

109 **The meeting was adjourned at 10:25 p.m.**

110 Note on Commission Meeting Reporting:

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

115

116 For the March 28, 2007 Planning Commission meeting, the following will be reported:

117 Commissioners in attendance: 9

118 Members of the public in attendance: 5

119 Public Speakers: 3

120 Length of the meeting: 3 hours 20 minutes