

APPROVED MINUTES
REGULAR MEETING OF THE
CITY OF ALAMEDA PLANNING BOARD
MONDAY, MAY 8, 2017

1. CONVENE

President Köster convened the meeting at 7:03pm

2. FLAG SALUTE

Board Member Burton led the flag salute.

3. ROLL CALL

Present: President Köster, Board Members Burton, Curtis, Knox White, Mitchell, Sullivan. Board Member Zuppan arrived at 7:12pm, during item 7-A.

4. AGENDA CHANGES AND DISCUSSION

Staff requested that item 6-B be pulled from the agenda.

5. ORAL COMMUNICATIONS

None

6. CONSENT CALENDAR

6-A 2017-4291

Del Monte Development Project Annual Report. The Planning Board will consider an annual report documenting compliance with the 2014 Del Monte Warehouse Development Agreement. The consideration of an Annual Report is not a project under the California Environmental Quality Act (CEQA). No further environmental review is required.

Board Member Knox White made a motion to approve the consent calendar. Board Member Curtis seconded the motion. The motion passed 6-0.

6-B 2017-4292

Harbor Bay Business Park Association, Harbor Bay Isle Associates and Harbor Bay Entities -- Bay Farm Island (Primarily Harbor Bay Isle) DA89-01. A request for a Periodic Review of Development Agreement DA89-01, for the period through April 4, 2017, as required under Zoning Ordinance Section 30-95.1. The properties are zoned R-1-PD (One Family Residence/Planned Development Zoning District); C-M-PD (Commercial Manufacturing Planned Development Zoning District); O (Open Space Zoning District), and R-1-A-H (One Family Residence with Special Agricultural and Height Limit Combining Zoning District). The consideration of an Annual Report is not a project under the California Environmental Quality Act (CEQA). No further environmental review is required.

Postponed per staff's request

7. REGULAR AGENDA ITEMS

7-A 2017-4293

PLN17-0094 - 900 Mound St. (Krusi Park) - Applicant: Amy Wooldridge for Alameda Recreation and Parks Department. A public hearing to consider a Use Permit and Design Review to permit the demolition of an existing recreation building located at the center of Krusi Park, and the construction of a new 2,376 square foot multipurpose recreation building in the same location. A Use Permit is required because the new building is located within the O (Open Space) Zoning District. This project is a Class 3 Categorical Exemption and no additional environmental review is necessary pursuant to State CEQA Guidelines, Section 15303, New Construction of Small Structures.

Staff Member Sablan gave a presentation. The staff report and attachments can be found at:

<https://alameda.legistar.com/LegislationDetail.aspx?ID=3035359&GUID=63B2C652-91C9-48C0-A5AA-3C29EDD94F9C&FullText=1>

Board Member Curtis asked if the regional park's funding has a limit.

Staff Member Wooldridge said that they have a specific amount of funding available and that the redesigned building will come in within the budget constraints.

Board Member Curtis said he would support a condition of approval that requires the building be built within the original budget.

President Köster opened and closed the public hearing. There were no speakers.

Board Member Knox White said the bike racks should be placed near the door in a highly visible location consistent with the city's guidelines.

Board Member Zuppan asked if the kitchen would be universally designed.

Staff Member Thomas said it would meet ADA requirements.

Board Member Zuppan asked if there would be landscaping around the building.

Staff Member Wooldridge said they removed landscaping from the plan because of the costs.

Board Member Curtis asked if it would be appropriate to add a condition of approval that requires the building be completed with allocated grant funds and not permit any additional city funds to be used in case of cost overruns.

Staff Member Thomas said that is the intent and that any overruns would be a matter for the City Council to address and that Board Member Curtis' concerns about the high cost would be reflected in the record.

Board Member Mitchell asked about the inclusion of drinking fountains in the plans.

Staff Member Wooldridge said they are replacing a drinking fountain near the building.

Board Member Mitchell said he looks forward to seeing the new building.

Board Member Burton said he is supportive of the idea of the project. He said he hopes the design of the final building be vastly improved and that the design comes back to the board.

Board Member Sullivan said the building looks ultra-utilitarian. She suggested that the cement not come all the way up to the building and that at least a small amount of plantings be included.

President Köster said he would like to see the horizontal siding continue across the front of the building. He suggested not using bifold doors for the closets.

Board Member Burton made a motion to approve the resolution with the conditions that the bicycle parking be moved to a prominent location near the front door of the building and that the design be brought back to the board. Board Member Knox White seconded the motion. The motion passed 6-0-1 (Curtis abstained).

7-B 2017-4296

Public Hearing to Consider Modification of UP-88-36 to Operate an Automobile Tire Service at 1200 Park Street to Revoke UP-88-36 to Terminate the Use Permit within 60 Days of Final Action by the City of Alameda

Staff Member Thomas gave the staff presentation. The staff report and attachments can be found at:

<https://alameda.legistar.com/LegislationDetail.aspx?ID=3035362&GUID=3B1B8D60-B79D-441A-BA58-959046BEB92C&FullText=1>

Board Member Sullivan asked who the permit belongs to, the operator, or the property owner.

Staff Member Thomas said the permit goes with the land.

Board Member Mitchell asked for clarification about the term "business vehicles" vs. customer vehicles in the use permit.

Staff Member Thomas explained that the intent about the satellite parking lot makes it clear that they intended for customer cars not to be parked on the street.

Board Member Mitchell said he was concerned that the specific call out of “business vehicles” would create a legal issue surrounding enforcement against customer vehicles.

Staff Attorney Roush said that looking at the totality of the record is important and you can not just isolate a specific term in the language. He said the language might not be precise, but a court would likely support staff’s recommendation.

Board Member Curtis said the issue has been discussed at great length and nobody can plead ignorance. He said there has been ample time to cure the parking problem.

Board Member Knox White asked if staff did any parking counts in the area to evaluate the issue.

Staff Member Thomas said they did not do any counts and focused only on the violations. He said the street was always pretty full but they were always able to find space on Park Ave.

Jay Garfinkle, representing the family of the building’s owners, said automotive repair has been done on that site for over 90 years. He said there are other gas stations and auto repair facilities on Park St. He said Mr. Thomas has told him that there is ample parking in the neighborhood. He said there was little or no concern expressed to them until 2013 when there was a feud with a neighboring businessman. He said all the concern is about customer cars in the neighborhood, but the conditional use permit is related to business vehicles. He said they believed their tenant would remain in compliance with the use permit after the 2015 hearing. He said Mr. Thomas told him that obtaining the additional property would be “de-facto” compliance, even if the tenant did not use it for customer cars. He said they told their tenants that if they were in violation with their conditional use permit, they would be in violation of their lease and subject to eviction. He said they sought clarification from the City on the definitions of “business vehicles” and “store” (vs. park) in the use permit. He outlined the history of correspondence relating to business owned vehicles. He said it would be inappropriate for the board to remove the permit based on reported historic issues, but only on current issues. He said they do not believe the conditional use permit has been violated as written.

Board Member Sullivan said she met with the owners previously. She asked about underground monitoring of the site.

Mr. Garfinkle said they conducted a study in preparation for sale of the property. He said there is minimal contamination where the underground tanks were located before 1979.

Board Member Sullivan asked where the negotiations stood with Big O for the sale of the property.

Mr. Garfinkle said that if the permit is upheld, there will likely be a deal. He said if the permit is rescinded, there would not be a deal.

Board Member Curtis disclosed that he also met with the property owners.

Board Member Mitchell said he also met with the owners, and with Big O corporate. He asked when they got a response from the city about the definition of business vehicles they were seeking.

Mr. Garfinkle said it was in the last month.

Board Member Burton asked if the 1989 use permit amended, or if it replaced the 1979 use permit.

Staff Member Thomas said that it was amended.

Staff Attorney Roush said that a condition from 1979 that is not addressed or superseded by a later revision would still be applicable.

Board Member Zuppan read a portion of the minutes from a 2015 hearing that addressed the customer vehicle parking conditions in the use permit.

President Köster disclosed that he met with the owners of the property before the meeting.

Board Member Zuppan said she also met with the owners as well as representatives from Big O.

President Köster opened the public hearing.

Ben Garfinkle, property owner, said that most of the complaints in the public record are either from before 1989, or are from Mr. Thoms and his attorney. He said the neighborhood is mixed use and most residents moved into the neighborhood after the business was in operation. He said the neighborhood around Jackson Park enjoys much more parking supply than other neighborhoods. He said the problem will be greatly reduced when there are two stores in town splitting the existing customers. He said there is no evidence provided by the city that there is a parking problem in the neighborhood.

Robert Lane, attorney for the property owners, said that the owners cannot cure the violations of the use permit without removing the tenants, which will happen soon and not be a problem with a new owner/operator in Big O. He said condition three clearly speaks

only to business vehicles. He said the use has been consistent since 1979 and the board has voted unanimously to continue the use every time.

Rick O'Neil, Big O Tires, said an average Big O store does about two million dollars a year, and the Park St. store did over five million dollars per year. He said they anticipate having fewer cars because the current operator will take much of their business to the new location. He said they are committed to being in full compliance of the conditional use permit.

Art Thoms, owner of Washboard laundromat, said he has been trying for 12 years to get the conditions enforced. He said they have dominated the area parking for 35 years. He said he has been threatened by Big O employees. He said employees park in the meters all day long. <microphone turned off, unintelligible>

Jim Lott, resident, said there is a parking problem on street cleaning days and on weekends.

Betsy Mathieson, resident, said there is a parking problem, especially on the weekends. She explained how the business uses the street for customer parking before and after it is serviced.

David Blackwell, representative for Big O Tires, said they proposed multiple conditions to address noise concerns and enforcement for the use permit. He said there is a very high standard for revocation of a use permit. He said there is a new user coming in and they should not be punished for violations of prior tenants.

Bobbie Centurion, resident, urged the board to expire the use permit. She said allowing Big O to take over would continue to have the negative impacts on the neighborhood.

Guido Bertoli, tenant, said they have been trying to use their off site parking and have been working on the problem for years. He said Mr. Thomas had always been saying that they should look for a location off of Park St.

Frank Martin said that bad behavior should not be rewarded. He said stopping a competitor from opening would be rewarded the operator's bad behavior.

Mana-Jean Wagnon said that the complaints are all against the tenant, who would benefit from the ending of the use permit. She said the property could benefit from Big O being an owner occupied business.

President Köster closed the public hearing.

Board Member Zuppan said the business as it currently exists is not working for the neighbors. She said the issue is about compliance with the use permit, not about whether

there is a parking problem or not. She said she is very clear what the problems are with the business at the current location. She said they are clearly in violation and is inclined to revoke the use permit. She said she could also support giving staff more time to consider if notices were properly provided if the board feels that is necessary.

Board Member Curtis said he agrees with Board Member Zuppan. He said the city is not the villain and the property owner is not a victim here. He said the expectations were very clear after the November meeting. He said he would be inclined to revoke the use permit as well.

Board Member Sullivan raised concern about what would happen if the business went away. She said the family trust and condition of the property would lead it to sit for a long time, as the Party Warehouse has. She said the lost tax revenue would be significant as well and that it was a difficult choice.

Board Member Mitchell said he does not want to make any knee jerk decisions. He said an owner-operated business might lead to better results. He said he is fine with the current use and likes to see a mix.

Board Member Burton said the intent and compliance of the conditions are what matters. He said it is clear that they are not being met, even if the wording was imprecise. He said there have been enough chances and would support revoking the use permit.

Board Member Knox White asked if there was a reason why they could not move forward if the city cited the wrong section of the use permit in the notices of violation.

Staff Attorney Roush said that the board could still revoke given the totality of the evidence and complaints made, even if the notices did not perfectly identify which section of the use permit was being violated.

Board Member Knox White asked if they could add a requirement to the permit to have the business be owner-occupied.

Staff Attorney Roush said that would be a significant limitation and said he would generally caution against such a condition.

Board Member Knox White said he met with the Garfinkles and with Big O. He said the board may have revoked the use permit in 2015, but took the easy way out hoping that the tenant's plan to move to Oak St. would solve the problem. He said it is a difficult decision. He said he would not support continuing the use permit with the current language. He said he does not see a significant difference between customers that park in the neighborhood for this business versus other businesses on Park St. He said we could revoke the use permit, or loosen the conditions after getting more information about the parking conditions in the neighborhood.

President Köster said this is not an easy issue. He said there is a history of violations and impacts from the previous operator.

Board Member Sullivan asked how quickly they could revoke if they changed the conditions of the use permit.

Staff Attorney Roush said they would need to go through a similar due process and not be a “one and done” scenario. They would need to provide the owner an opportunity to cure the violation or potentially face some liability.

Board Member Sullivan asked about properties for sale and vacancies on Park St.

Staff Member Thomas said Park St. is doing very well compared to twelve years ago and has a low vacancy rate.

Board Member Curtis said that we will just be pushing the problem down the road and we have an opportunity to deal with the issue once and for all.

Board Member Burton said we do not provide street parking for the private benefit of a single business. He said that if we modify the use permit he would support making the parking prohibition explicit, but that he still supports revocation.

Board Member Zuppan said that she considered what would happen to the property if the use went away, but that there is a reason that the property is not zoned for this use. She said she would only support a modification of the use permit if there were funding in place to monitor and enforce the conditions.

Staff Attorney Roush said that it would be a challenge to draft a condition that met those requirements.

Board Member Knox White made a motion to revoke the conditional use permit. Board Member Curtis seconded the motion. The motion passed 4 (Knox White, Curtis, Burton, Zuppan) - 3 (Mitchell, Köster, Sullivan).

Staff Member Thomas said that the decision can be appealed in the permit center within ten days.

Board Member Zuppan asked for and received confirmation that the motion was in alignment with the staff recommendation. She asked if the city attorney felt they should revoke on the item.

Staff Attorney Roush said it would be helpful to revote to confirm the motion was to implement staff's recommendation that the conditional use permit be terminated in 60 days after final city action.

President Köster asked for a revote on the motion. The motion passed 4 (Knox White, Curtis, Burton, Zuppan) - 3 (Mitchell, Köster, Sullivan).

8. MINUTES

8-A 2017-4288

Draft Meeting Minutes - March 13, 2017

Board Member Knox White made a motion to approve the minutes. Board Member Sullivan seconded the motion. The motion passed 5-0-2 (Curtis and Zuppan abstained).

9. STAFF COMMUNICATIONS

9-A 2017-4289

Zoning Administrator and Design Review Recent Actions and Decisions

Staff Member Thomas said they have had five minor design reviews approved since their last hearings.

9-B 2017-4297

Future Public Meetings and Upcoming Community Development
Department Projects

Staff Member Thomas gave a report on what items are coming up in future meetings.

President Köster asked about the item that was postponed from the consent calendar.

Staff Member Thomas gave a summary of discussions around taking possession of a strip of land on Harbor Bay from HBIA.

10. WRITTEN COMMUNICATIONS

The board received a letter from the BIA on the Universal Design Ordinance.

11. BOARD COMMUNICATIONS

11-A 2017-4294

Subcommittee for Alameda Marina

None

11-B 2017-4295

Subcommittee with Commission on Disability Issues regarding Universal
Design Ordinance

Board Member Sullivan said they met and considered the BIA letter that said the added elements to the ordinance would cost \$80,000 per unit.

Board Member Zuppan said there is a lot of concern about a fourteen story building being proposed at Encinal Terminals. She said there is confusion about whether the issue is about the amount of housing being built rather than the shape and form of the building.

Board Member Burton said Community Action for a Sustainable Alameda is working with the city and AMP on an event for May 23 at the library about the local climate action plan.

Board Member Mitchell suggested using the Alameda Green program as a method for having new developments be required to provide green energy to their projects.

12. ORAL COMMUNICATIONS

Staff Member Potter announced the grand opening of Stargell Commons on May 17th as part of affordable housing week.

13. ADJOURNMENT

President Köster adjourned the meeting at 9:58pm.