

APPROVED MINUTES  
REGULAR MEETING OF THE  
CITY OF ALAMEDA PLANNING BOARD  
MONDAY, MARCH 11, 2019

1. CONVENE

President Sullivan convened the meeting at 7:00 p.m.

2. FLAG SALUTE

Board Member Rothenberg led the flag salute.

3. ROLL CALL

Present: President Sullivan, Board Members Cavanaugh, Curtis, Rothenberg, Saheba, Teague.

Absent: Board Member Mitchell.

4. AGENDA CHANGES AND DISCUSSION

5. ORAL COMMUNICATIONS

**\*None\***

6. CONSENT CALENDAR

**6-A 2019-6624**

General Plan Amendment Study Session. Applicant: City of Alameda. The Planning Board will hold a study session to consider amendments to the Setting and Organization Chapter of the Alameda General Plan. The proposed amendments are categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA only applies to actions that have the potential to cause a significant impact on the environment. Staff requests continuing this item to the meeting of March 25, 2019.

**Board Member Teague made a motion to continue the item. Board Member Curtis seconded the motion. The motion passed 6-0.**

7. REGULAR AGENDA ITEMS

**7-A 2019-6629**

Public Hearing on the Scope of the Environmental Impact Report for the Veterans Administration Multi-Specialty Outpatient Clinic and National Cemetery Project

Staff Member Tai introduced the item. The staff report and presentation can be found at:

<https://alameda.legistar.com/LegislationDetail.aspx?ID=3874113&GUID=C9C4CBE7-FA2E-4D78-9663-97B109C11C64&FullText=1>

Board Member Teague asked if the Veterans project actually required an EIR for their project.

Staff Member Tai confirmed that the project does require an EIR.

President Sullivan opened the public hearing.

Irene Dieter suggested the scope be broadened. She said the VA should replace all the wetlands that would be destroyed by the project. She wants to consider redirecting storm water runoff back onto the wetlands at the base instead of dumping into the bay.

Richard Bangert said the CEQA document was required for the wetland mitigation plan. He said the EIR should consider an alternative that would place the clinic in the Alameda Point Enterprise District. He said that would cut down on truckloads of soil needed as well as be better served by transit options.

Allen Michaan urged that the Antique's Fair be considered throughout the project. He suggested allowing the Fair to rotate its site configuration 90 degrees when construction on the VA project begins. He said that they do not disturb the birds and can be a compatible use. He said the event brings a lot of benefits and prestige to Alameda.

There were no more speakers. President Sullivan closed the public hearing.

Board Member Teague asked if the suggestions offered by the public speakers be covered normally in the EIR.

Staff Member Tai said that all of the comments would be recorded and addressed in the EIR.

Board Member Teague said the area is encapsulated and he hopes that the EIR will consider potential impacts to that encapsulation.

Board Member Curtis said it is an honor for Alameda to have this project.

President Sullivan asked if there are plans for the Antiques Fair to make sure they do not become homeless.

Staff Member Tai said he does not have that answer tonight and that staff would have to figure out that part of the conversation as the project moves forward.

Board Member Saheba asked if future adjacent uses to the easements would be impacted by this project and need to be studied.

Staff Member Tai said that he is not aware of any impacts, but those questions are part of the reason for doing the EIR. He said the public would have until March 22nd to submit comments. He said the responsibility for implementing, monitoring, and applying for wetland mitigation would be solely on the VA.

## **7-B 2019-6632**

**Conditional Use Permit - 1528 Webster Street - Applicant: Dustin Moore on behalf of Main Street Supply, LLC.** Public hearing to consider a Use Permit to allow the operation of a Cannabis Retail dispensary within the existing commercial building at 1528 Webster Street for the sale of Cannabis and Cannabis Products. The dispensary will also have a delivery service and will have an indoor area for on-site consumption of products by customers. The project is located within the C-C (Community Commercial) Zoning District. The project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 - Minor Alteration of Existing Facilities. Staff Member Sablan gave a presentation. The staff report and attachments can be found at: <https://alameda.legistar.com/LegislationDetail.aspx?ID=3874116&GUID=58F7BE65-2144-42A3-8654-C8D6A5513050&FullText=1>

Jared Vicker, applicant, gave a presentation.

Board Member Curtis asked how the lounge would differ from a bar.

Mr. Vicker said that a major difference is the inability to sell food and beverage. He said the lounge would be used for a variety of uses.

Board Member Curtis asked if there would be a time limit for customers in the lounge.

Mr. Vicker said it is in their interest for customers to not loiter for extended periods and that they could consider adjusting their operational plan to have time limits.

Board Member Rothenberg asked how the application met the condition to fit in the neighborhood and not have any adverse impacts on the neighborhood.

Mr. Vicker said they worked carefully with the city to address all the questions and issues that were set for them.

Staff Member Tai said that the strict land use questions the application raises are similar to many other types of business that could operate in the area. The dispensary is a retail use similar to other businesses but only the product is different.

Board Member Saheba asked if there would be a lighting plan coming back for review.

Staff Member Tai said that the lighting would be part of the operator's permit if the conditional use permit is approved.

Board Member Cavanaugh asked how many other facilities the applicant operates.

Mr. Vicker said that the team for this site is unique, but their entitlement team has worked on 15-20 throughout the state.

Board Member Cavanaugh asked what percentage of their customers the applicant felt would use the lounge space.

Mr. Vicker said they think it will be a small percentage. He said they are still working on the business plan for how to use that space.

Board Member Cavanaugh asked how they would regulate overconsumption in the lounge.

Mr. Vicker said they would need to do impairment training for employees and emulate best practices with information from various authorities.

Board Member Teague emphasized that there are two parts to the cannabis ordinance, a planning portion and a building portion. He asked why the certain conditions were not included in the draft resolution.

Staff Attorney Le said they have a condition that covers all applicable laws. He said it was more efficient to have that, rather than to specifically identify each requirement which could result in confusion if there were omissions.

Board Member Teague said operational radius is not in the Planning Board's radius. He asked how delivery would operate, given that the facility has no dedicated parking.

Mr. Vicker said they would have employees bring cases out to waiting drivers. He said they would have to secure a parking space. He said the delivery vehicles can often only come and go from the dispensary once per day because they can carry product and be dispatched remotely, unlike a pizza delivery model which requires drivers to come and go frequently.

Board Member Teague asked why there were discrepancies in different documents regarding the hours deliveries may take place.

Staff Member Tai said that the state allows delivery until 10pm and that Alameda's ordinance will only allow them until 9pm.

Board Member Teague asked if the City has established its own operating guidelines which the state allows.

Staff Attorney Le said there is a provision in the ordinance that allows staff to craft those rules in the future.

Board Member Teague said he is concerned about sensitive users having to pass through a lounge full of smoke in order to access the dispensary. He said he hoped the operating guidelines would address that issue.

President Sullivan asked if we have smoking ordinances that prohibit smoking in buildings in Alameda.

Staff Attorney Le said that we do have ordinances that govern rules around smoking in Alameda. He said they were recently amended with cannabis use in mind.

President Sullivan asked what liability Alameda has by permitting this use which is allowable under state law, but prohibited under federal law.

Staff Attorney Le said that issue may be outside this board's purview. He said the City Council has decided to regulate cannabis and move forward.

President Sullivan asked what was being done to prevent access to cannabis by minors.

Mr. Vicker said they take that issue very seriously. He said they take copies of photo ID and are vulnerable to being shut down by the state. He said they have much more rigorous requirements than in a typical bar. He said data shows a decrease in black market activity near dispensaries.

President Sullivan asked if this is going to be an all cash business.

Mr. Vicker said that they would not be an all cash business. He said they anticipate being a banked business. He said they will take strong security and deterrence measures against theft.

Board Member Curtis asked if the applicant would be subject to operating guidelines developed in the future, or if they would be exempt.

Staff Attorney Le said there are two types of permits. He said the regulatory permit would be able to take effect according to the date of the regulation and is up for review on an annual basis.

Staff Member Tai detailed the Planning Board's role in the CUP process.

President Sullivan opened the public hearing.

Anita Ng said the business would not be compatible with the neighborhood. She said it is not the correct location.

Don Sherratt said he is opposed to the permit. He said cannabis should not be located next to places that children use. He said it would adversely impact neighbors.

Serena Chen said she has worked on many smoke-free ordinances, including Alameda's. She said the buffer zone has been reduced to 600 feet. She said she was surprised that

the location was suggested to the applicant by city staff. She said the martial arts center next door to the proposed location meets the definition of a youth center.

Linda Asbury, representing WABA, said the good neighbor policy being implemented by the applicant will make them a good addition to Webster St. She asked that the board support the permit.

Ryan Agabao said he fully supports the use permit. He said businesses were enthusiastic that a new business will be bringing people to Webster St. He brought a petition of business owners, managers, and residents that support the business.

Rosalinda Fortuna submitted signatures from merchants that are opposed to the dispensary. She said the business is not good because of the children in the area, lack of parking, and would lead to impaired people crashing their cars, and increased crime. She said there has not been adequate notice about the proposal.

Joanna Lau, manager of the Chi Institute, said they oppose the location of the business because it does not respect the needed buffer for a youth center. She submitted petitions of people opposed to the dispensary. She asked if there would be more police on Webster in response to this business. She said they do not want to see lines outside, and worried that this business would send the wrong message to children.

Anthony Germono said his children attend the martial arts school next door to the proposed facility. He said this is the wrong location for this business. He asked the members to stand up for his and other children.

Rasheed Shabazz said the zoning decisions did not meet the equity guidelines in the ordinance. He worried that the location was chosen because the mosque and martial arts school might be the path of least resistance because they do not have the same political power as other groups. He said the area has been historically subjected to the war on drugs and now other people who were not subjected are poised to profit from cannabis legalization.

Cass, a neighbor, said she is concerned about double parking and would like to see the business address this problem. She said the location is highly trafficked by children and there are more appropriate spots along Webster that should be zoned for this use.

Regina Hall said that cannabis is safer than alcohol. She said a dispensary is safer than a liquor store. She said that the parents are responsible for protecting their children and regulating will help control access to cannabis.

There were no more speakers. President Sullivan closed the public hearing.

Board Member Teague said the board is constrained in what they can do. They cannot make a moral judgement, but could discuss items like the parking issue. He said the new use in the CC zone requires the board to make a judgement on the parking issue. He said that parking is his biggest concern. He said he would support a one year permit in order to test the effectiveness of the TDM measures and evaluate the parking impacts.

Board Member Curtis said the board can decide if the neighborhood is better off with the dispensary or without. He said the lounge would be tantamount to an opium den. He said including the lounge prevents him from supporting the project. He said the lounge presents a hazard to the neighborhood.

Board Member Saheba said the window screening on the lounge creates a blank façade and is detrimental to creating a vibrant business district.

Board Member Rothenberg concurred with the other board members. She said the operation may be beneficial to the community, but that it does not fit in the neighborhood.

Board Member Cavanaugh said finding parking during the farmers' market is extremely difficult. He said we may need to look at a different site.

President Sullivan said Webster Street has changed a lot in the time she has been in Alameda. She said there are many children in the neighborhood. She said the large building and the lounge with blocked out windows are a problem for her. She said she does not think this is the right location and would vote no.

Board Member Teague said that City staff did not advise the applicant to choose this location, but rather this half-block is the only area along Webster that meets the City Council's location requirements to permit the use. He asked whether the board is able to issue a use permit that prohibits on site consumption.

Staff Member Tai said that they can do that, but would want to ask the applicant whether they are willing to remove that component from their application.

Board Member Teague said that if the applicant would like to consider that question he would move to continue the item to the next meeting.

Board Member Curtis said he would second that motion.

Mr. Vicker said that Board Member Teague's suggestion of a one year permit might be a workable solution. He said the owners spent a lot of money designing the project to include a consumption lounge and they would have to evaluate the question of removing it. He said the space would serve multiple purposes besides consumption and suggested that they could tailor the operation plan to address potential concerns. He said the City

identified on site consumption as a desired component from the beginning. He said they have put in a lot of time and would like to move forward as soon as possible.

Staff Member Tai said the board could approve the application as is, deny the permit, or try and approve the permit with changes.

**Board Member Curtis made a motion to approve a use permit for distribution, sale, and delivery with a condition that there be no on-site consumption and that the applicant provide a plan to prevent delivery drivers from double parking. Board Member Cavanaugh seconded the motion.**

Board Member Saheba asked if the window screening was for just the lounge, or the lounge and the retail portion.

Staff Member Sablan said that they are not recommending the windows just be blacked out, but have some sort of approved design.

Staff Member Tai said that he misspoke and that only the lounge portion would be screened. He said the lounge could be moved somewhere else on the site to allow the windows to be unblocked, but that it would require reworking the floor plan.

Mr. Vicker said that only the Haight St. portion would have the windows glazed.

Board Member Curtis said his motion to not allow the lounge was not due to aesthetics, but because of the impact on the neighborhood.

Board Member Teague said he wants find a way to move the project forward. He said he understands the concern about onsite consumption. He said he would support the motion.

President Sullivan said she still feels it is the wrong location due to the many children's activities in the area.

Staff Attorney Le said that he would want the board to make the motion on staff's revised resolution, which includes minor administrative edits, rather than the one in the packet.

**The motion passed 4-2 (Sullivan and Rothenberg voted no.)**

## 8. MINUTES

### **8-A 2019-6630**

Draft Meeting Minutes-December 10, 2018

President Sullivan pointed out that Board Member Saheba's name was listed in the roll call twice. She offered three typographical corrections.

**Board Member Teague made a motion to approve the minutes as amended. Board Member Saheba seconded the motion. The motion passed 6-0.**

**8-B 2019-6631**

Draft Meeting Minutes-January 28, 2019

Board Member Saheba said his name was listed twice in the roll call.

**Board Member Curtis made a motion to approve the minutes as amended. Board Member Rothenberg seconded the motion. The motion passed 5-0-1 (Teague abstained.)**

9. STAFF COMMUNICATIONS

**9-A 2019-6620**

Planning, Building and Transportation Department Recent Actions and Decisions

The staff report can be found at:

<https://alameda.legistar.com/LegislationDetail.aspx?ID=3874110&GUID=043800D0-E71C-44C2-801E-AD0DBA1CB037&FullText=1>

President Sullivan asked if the City was tracking the change of rental units into owner occupied, like the duplex to single family contained in the report.

Staff Member Tai said they track the loss of units.

President Sullivan said that with the change in rent laws she is hearing that many units are being removed from the market.

**9-B 2019-6619**

Status Report on Design Review and Development Plan for an approximately 113,000-square-foot hotel with 172 guest rooms, and an approximately 7,000-square-foot restaurant with coffee shop at 2900 Harbor Bay Parkway The staff report can be found at:

<https://alameda.legistar.com/LegislationDetail.aspx?ID=3874109&GUID=6058C692-2240-406A-AE4D-3915E0321954&FullText=1>

President Sullivan said she and Board Member Saheba met with the applicant and neighbors to discuss the hotel.

Staff Member Tai said the applicant is working on new plans for the project which will be submitted when ready.

**9-C 2019-6621**

Oral Report - Future Public Meetings and Upcoming Planning, Building and Transportation Department Projects  
Staff Member Tai previewed future agenda items.

10. WRITTEN COMMUNICATIONS

**\*None\***

11. BOARD COMMUNICATIONS

**\*None\***

12. ORAL COMMUNICATIONS

**\*None\***

13. ADJOURNMENT

President Sullivan adjourned the meeting at 9:16pm.