

APPROVED MINUTES
REGULAR MEETING OF THE
CITY OF ALAMEDA PLANNING BOARD
MONDAY, SEPTEMBER 9, 2019

1. CONVENE

President Curtis convened the meeting at 7:01 p.m.

2. FLAG SALUTE

Board Member Teague led the flag salute.

3. ROLL CALL

Present: Board Members Curtis, Cavanaugh, Hom, Rothenberg, Ruiz, Saheba, Teague.

Absent: None.

4. AGENDA CHANGES AND DISCUSSION

None.

5. ORAL COMMUNICATIONS

None.

6. CONSENT CALENDAR

None.

7. REGULAR AGENDA ITEMS

7-A 2019-7228

PLN19-0330 - 1205 Park Street - Use Permit for Use of an Outdoor Patio - Applicant: Mike Yakura. Consideration of a Use Permit to allow outdoor restaurant seating in an existing 480 square foot patio with a maximum capacity of 15 seats. The proposed hours of outdoor seating will be 11:00 A.M. to 9:00 P.M., seven days a week. The project is located within the C-C-T (Community Commercial, Theater Combining) Zoning District. The project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 - Existing Facilities

David Sablan, Planner II, gave a presentation. The staff report and attachments can be found

at:

<https://alameda.legistar.com/LegislationDetail.aspx?ID=4120374&GUID=834EA79A-714D-4D57-9D18-A6724ADABEBC&FullText=1>

Board Member Teague asked what the normal process and duration is for a use permit.

Staff Member Sablan said that use permits are typically vested but conditions can be placed that would force them to be brought back for review.

Mike Yakura, applicant, shared his background and experience with the Board. He said he wants to live and work in Alameda. He explained that the construction noise over the last year will not be indicative of what will come with regular operations. He said the patio will be limited in scope and added that the challenges of the nearby bar have nothing to do with their project.

Board Member Hom asked how the garbage collection would be handled.

Mr. Yakura said they would have cans serviced five days per week. He said they have lots of experience and know how to maintain a clean area that co-exists with nearby residents.

President Curtis asked what the lease arrangement is for the patio space.

Danny Sterling said they leased half of the patio for an extra charge which provides exclusive use.

Board Member Saheba asked what the hours of operation would be for the restaurant.

Mr. Sterling said the restaurant would operate from 11 a.m. to 10 p.m. and that the patio would be cleared at 9 p.m.

Board Member Teague asked when the refuse would be picked up.

Mr. Sterling said that ACI wants the bins at the curb by 3 a.m. and that they would therefore take the bins out at the end of each night.

Board Member Ruiz asked for clarification about what hours the noise ordinance applies to the restaurant operations.

Allen Tai, Planning Services Manager, explained that the restaurant use is permitted by right in the zoning, and that the trash operations would apply whether or not the use permit for the patio is approved.

Board Member Cavanaugh asked if there were plans to use space heaters on the patio.

Mr. Sterling said the patio use has always been seen as a bonus for the operation. He added that they anticipate it mostly being used during the daytime, but that heat lamps are a possibility in the future.

President Curtis opened the public hearing.

Mark Goodeill said the patio would be 11 feet from his building. He said the noise would be a problem for his tenants. He said landscaping and maintenance activities at his property would become a problem for the patrons using the restaurant patio.

Heather Quinones said she lives over the proposed restaurant and the use will have significant impacts on her household. She said the construction activities have been extremely disruptive. She urged the board to vote no on the patio.

Cynthia Bonta said the patio is a shared space between the restaurant and the residents. She said the permit takes away rights of the residents to use the patio. She said the use permit should not be approved.

Nelson Layag said we have to consider what the benefits are and at who's expense they come. He said we have to consider the health and welfare of our renters. He asked the board to vote against the use permit.

Brett Bye handed out some images of the property. He said he did not want to be the ambience for the restaurant patrons. He said the exhaust fans would create noise along with the people using the patio. He raised concerns for the wellbeing of a nearby resident with severe disabilities.

Cari Lee Donovan said her home is 11 feet from the proposed patio space on the second floor of a Victorian. She said the proposal would turn a private space into a public space where her privacy would be invaded. She had several friends start speaking over each other to simulate the noise that the patio would produce and demonstrate how unlivable the situation would be for residents who could not get away from the noise.

Leslie Chaires expressed concerns for the patio use permit. She said the tenant has failed to follow the rules about when construction activities are permitted. She said the activities have negatively impacted her.

Sammy Gutierrez said this situation reminds him of the experience of the Bayview Apartment building where construction violations and noise pollution served as de-facto constructive evictions. He asked the board to vote no on the use permit.

Holly Lim said she lives above the restaurant location and her windows face the patio. She said the noise would have a major impact on her right to quiet enjoyment of her home. She said the result may be partial constructive eviction. She said no effort was made to protect tenants from the construction activities. She said her complaints to City departments have been received dismissively with no remedy. She urged a no vote on the use permit.

Laura Ho said she lives above the restaurant, directly above the new exhaust. She said she is concerned about pollutants. She said the exhaust will definitely impact her right to have fresh air.

Laura Woodard said that the Alameda Renters Coalition stands with the renters in opposition to the use permit. She said the permit may result in constructive eviction.

Maria Dominguez said the use permit application has not been investigated thoroughly. She said there is a pending landlord-tenant issue that may be litigated. She said granting a use permit would send the message that it is permissible to take away a tenant's rights without proper investigation. She said the board should do additional environmental review.

President Curtis closed the public hearing.

Board Member Teague asked if the space in question is in legal dispute.

Staff Member Tai said that the issues that some speakers described were civil matters between landlord and tenants, and not within the scope of the use permit consideration.

Board Member Teague asked how we can process a use permit for an area where multiple people have claims.

Celena Chen, Assistant City Attorney, said that it was a civil dispute and does not impact whether the Planning Board can grant a use permit to the tenant to use the space.

Staff Member Tai said the use permit decision would be based upon the findings in the draft resolution.

Board Member Teague asked for clarification on what the requirements for the exhaust system would be, even though it is not part of the board's decision tonight.

Staff Member Tai said the mechanical permit for the exhaust vent is a separate issue from the patio use permit.

President Curtis said he visited the site and that the exhaust system is quite complex. He said there were two scrubbers and that the fan was at the top of the stack in order to mitigate noise problems.

Board Member Rothenberg suggested that staff ensure the strictest standards be enforced on the mechanical system.

Board Member Hom asked what the City's usual view on these type of permits has been on Park Street, and whether the hours of operation restrictions are in line with other similar properties.

Staff Member Tai said this is a classic land use issue and that the conditions are fairly consistent with other use permits that have been issued. He said they have given probationary use permits in the past to see how the applicant performs.

Board Member Saheba asked if there have been any other discussions with the landlord regarding possible mitigations to help satisfy the residents.

Staff Member Sablan said that even though the owner submitted the official application, staff primarily worked with the applicant to draft the conditions to the use permit.

Board Member Ruiz asked if it would be within the board's purview to require a fountain or some other white noise mechanism to mask the noise from the patrons.

Staff Member Tai said that the board could require that, though it would create additional noise.

President Curtis said that when his neighbor has a dinner party on his patio the noise carries right up to his window and vice versa. He said he can't imagine that happening every night. He said it is an unfortunate and untenable situation.

President Curtis asked if the noise from normal business operation and privacy loss from being 11 feet away from residents would constitute any kind of violation that would entitle the tenant to a remedy.

Staff Attorney Chen said she does not believe it does. She said this location is in a mixed use district. She said the board should stick to the four findings before them to make a decision tonight on the use permit.

Board Member Teague said he lived next to a night club for years and had to call the police many times and that it took three murders for the use permit to be revoked. He said he may be in favor of a restricted use, but it would need to have conditions and a "three strikes and you're out" policy. He said the residents have a potential claim for reduction in housing services and should speak to the head of the rent program at the Housing Authority. He said he would be in favor of a one year probationary period and limit the hours to the lunch period. **He said he would make a motion to approve with those conditions.**

Board Member Ruiz said she agreed with Board Member Teague and wanted to add a condition that the privacy fence be raised. She was told that the planned fence was six feet, which she agreed was adequate.

Staff Member Tai summarized the motion: the hours be further limited to 11 a.m. to 3 p.m.

Board Member Hom suggested raising the privacy fence an additional two feet with a screen wall or vines, subject to the neighbors' approval.

Staff Member Tai said that the current code allows six feet of solid fence with an additional two feet of lattice.

Staff Member Tai continued to describe the proposed motion: raising the fence up to eight feet with consent of the neighbors; and a requirement that the use permit be renewed after one year.

Board Member Hom seconded the motion. The motion passed 4-3, with Board Members Curtis, Rothenberg and Cavanaugh opposed.

Staff Member Tai explained that the use permit was approved and that the neighbors could appeal within ten days if they desired.

7-B 2019-7229

Hold a Public Workshop to Consider Design Review Amendments for Block 11, Phase I Waterfront Park and Preliminary Designs for Block 15c and Phase II Infrastructure at Alameda Point Site A

Board Member Ruiz recused herself from the item due to a potential professional conflict.

Debbie Potter, Community Development and Base Reuse Director, gave a presentation. The staff report and attachments can be found at:

<https://alameda.legistar.com/LegislationDetail.aspx?ID=4120454&GUID=DEF7511C-7B20-4D99-B2FC-07F469795048&FullText=1>

Board Member Rothenberg asked if the infrastructure in the Adaptive Reuse area would be funded by lease revenue.

Staff Member Potter said that the backbone infrastructure in the Adaptive Reuse area would be paid for through building sales and lease revenue, consistent with City Council policy that the base reuse be fiscally neutral. She said that developers have to pay for the remaining infrastructure related to their parcels, or pay an impact fee of \$1.3 Million per acre.

Board Member Hom asked if there was a benefits district to handle long term infrastructure maintenance costs.

Staff Member Potter said they have created a community facilities district to assess property owners enough to close the ongoing maintenance funding gap.

Bruce Dorfman, Alameda Point Partners, gave a presentation on the status of Site A.

David Israel, BAR Architects, gave a presentation on the design changes to Block 11.

Board Member Rothenberg asked if the developer would be operating and maintaining the parcels, or just designing and building.

Mr. Dorfman said that all the parcels have been sold to developers responsible for their blocks.

Board Member Saheba noted that the reduction in Block 11 increases the size of Block 14. He asked what the implication of that would be.

Mr. Dorfman said that Block 14 is a parking lot that would now have room for an additional row of cars.

Board Member Saheba asked if the size of the retail portion changed.

Mr. Israel said that the square footage of the retail has been reduced, but that the double height has been maintained in the front portions of the space, similar to the original design.

Board Member Teague said the plans show a significant difference in trees and asked if that was intentional.

Mr. Israel said the landscape designer could speak to that as part of the Waterfront Park presentation.

Board Member Cavanaugh asked for an explanation of the changes to the new east elevation.

Mr. Israel showed the changes on the plans, explaining that they are creating a service alley between blocks 10 and 11.

Board Member Cavanaugh said the new north elevation has a wider band at the top, which reduces the streamlined feeling of the previous design.

Mr. Israel said that part of that change is due to a reduction in the amount of glass in the new design, but that they may be able to reduce the parapet height to minimize that impact.

Board Member Cavanaugh asked if the new design would include the "Alameda Point" signage at the top.

Mr. Dorfman said that they like the signage and that it would be part of the signage program that would be submitted at a later date.

Board Member Hom asked why the recessed element on level three of the original plans was removed.

Mr. Israel said the plaza would not be very usable if the recess was maintained in the consolidated design.

President Curtis declared a ten minute recess.

President Curtis said that item 7-D would be tabled.

Board Member Teague said that he would like to see more detail in the landscape changes when it comes back. He said he did not like some of the changes to the west elevation, including the removal of the multi-pane windows. He said the north elevation is fine. He added that the south side of the east elevation should be made to be more attractive for visitors in the green space of Block 10.

Board Member Hom said he had a hard time understanding the pedestrian scale of the first floor elevations. He said the ground floor elevation on the west side needed some work. He said the wall on the east elevation is very different from what was entitled and should be improved. He said he is disappointed with the closed off view of the east elevation.

Board Member Cavanaugh said he would like to see a night rendering of the project. He said the smaller paned windows on the west elevation would be preferable, in reference to the hangars on the base. He said he would like top of the building to be thinner to seem more streamlined, as previously discussed.

Board Member Saheba said the east elevation needs to be looked at closely. He said he hopes there are perspective views when the design comes back. He asked if there would be material palette changes.

Mr. Israel said the accent band of tile will be changed to cementitious board.

April Phillips, landscape architect, gave a presentation on the changes to the Waterfront Park.

Board Member Hom said he likes that there is more soft-scape being planned. He said he likes shade trees, but they may not perform well in this windy location. He appreciated that there would be more seating added to the plans.

Board Member Rothenberg said the storm water management plan is excellent. She suggested proceeding with caution when purchasing expensive, fully grown palm trees that may not survive.

Board Member Teague asked that the historic timeline be very clear when it comes back. He said he definitely supports more seating. He said having shade is critical.

Ms. Phillips said they have not made changes to the historic timeline.

Board Member Cavanaugh said he prefers shade trees to palm trees.

Board Member Saheba suggested a mixed canopy would be preferable. He expressed concern about the stamped concrete for the overlook.

Mr. Dorfman gave a presentation on the proposed teacher housing at Block 15c.

Board Member Hom said the key entrances could be enhanced. He said the interior elevations look a little flat.

Board Member Rothenberg said the overall massing is very good. She said the units were all very small and asked if it presumes only young teachers.

Mr. Dorfman said there is a combination of one, two, and three bedroom units.

Board Member Saheba said the scale feels large and repetitious, especially next to the townhomes. He said he was unclear where a visitor to the site would go to find the front door to the building. He said the interior courtyard has a “back of house” feel, possibly due to the large number of garage doors.

Board Member Cavanaugh said he was not happy with the design. He said it is not attractive and would like to see something that feels more like home and perhaps more modern.

Board Member Teague said it looks like Coast Guard housing. He said there needs to be more variation. He said it is not obvious where the entrances are. He said he is not quite impressed and that the teachers should get to come somewhere that feels like home.

President Curtis said he appreciates the simplicity of the design. He said the cost concerns are important and the need to have reasonably priced housing for the teachers matters a great deal.

7-C 2019-7230

Public Hearing to Consider Proposed Zoning Text Amendments to the Zoning Regulations (AMC Chapter 30) to: 1) streamline Design Review for small residential additions, windows replacements, and green roofs, 2) update Work/Live Ordinance requirements, 3) update Lot Line Adjustment procedures, and other miscellaneous administrative, technical, and clarifying amendments. The proposed amendments are exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that the proposed zoning text amendments will not have a significant effect on the environment, and 15183, projects consistent with a community plan, general plan or zoning

President Curtis opened the public hearing.

Marilyn Schumacher read a letter from the Bay East Association of Realtors supporting the proposed changes to ADU regulations.

Board Member Teague said the definition of yard street side did not meet the intent of the board.

Staff Member Tai said they will clarify that in the design review exemption section.

Board Member Ruiz pointed out a typographical error.

Board Member Rothenberg asked for confirmation that lot line adjustments would be removed from Planning Board review.

Staff Member Tai confirmed that lot line adjustments would be handled at the staff level.

Board Member Teague raised concern about the work-live language potentially creating a loophole if there are changes to Measure A. He provided staff with language that could clarify the issue.

Board Member Teague made a motion to approve the staff recommendation with changes to ensure that all additions facing the street are subject to design review even if they are in the back yard and that conversion of a work live unit to an exclusively residential use or exclusively non-residential use would need to meet all requirements of the applicable zoning district. Board Member Rothenberg seconded the motion. The motion passed 7-0.

7-D 2019-7231

Adoption of Objective Design Review Standards for Multi-family Residential Development as an addendum to the Citywide Design Review Manual. These Standards are applicable to all future multi-family residential development in the City seeking permit streamlining pursuant to state law. The adoption of Objective Design Review Standards is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that adoption of design standards will not have a significant effect on the environment, and Section 15183, projects consistent with a community plan, general plan or zoning

Board Member Teague made a motion to adjourn the meeting and table the remaining items. Board Member Saheba seconded the motion. The motion passed 7-0.

8. MINUTES

8-A 2019-7217

Draft Meeting Minutes – June 10, 2019

8-B 2019-7218

Draft Meeting Minutes – July 8, 2019

8-C 2019-7219

Draft Meeting Minutes – July 22, 2019

9. STAFF COMMUNICATIONS

9-A 2019-7220

Planning, Building and Transportation Department Recent Actions and Decisions

9-B 2019-7221

Oral Report - Future Public Meetings and Upcoming Planning, Building and Transportation Department Projects

10. WRITTEN COMMUNICATIONS

11. BOARD COMMUNICATIONS

12. ORAL COMMUNICATIONS

13. ADJOURNMENT

President Curtis adjourned the meeting at 10:35 p.m.