

Chris Pattillo, Chair Jim Moore, Vice Chair Jahaziel Bonilla Michael Coleman Jahmese Myres Adhi Nagraj Emily Weinstein

July 16, 2014 Regular Meeting

ROLL CALL

Present: Pattillo, Moore, Bonilla, Coleman, Myres, Nagraj,

Weinstein.

Staff:

Rachel Flynn, Scott Miller, Aubrey Rose, Neil

Gray, Celena Chen, Cheryl Dunaway.

WELCOME BY THE CHAIR

Agenda Discussion

Director's Report

Item #4 was removed from this agenda.

Director Flynn announced that the West Oakland Specific Plan (WOSP) was approved by the City Council last night. The Lake Merritt Specific Plan 45 day comment period on the EIR will be advertised within the next two weeks and should be brought before the Planning Commission by this Fall. Mr. Miller wrote a code bulletin for Urban Agriculture which will should finalized soon and will forward the email staff previously sent to the Food Policy Council to the Planning Commission. Chair Pattillo stated that she received an email inquiry concerning this matter and will forward it to staff for review. The Planning Commission Retreat is scheduled for September 17, 2014, time to be determined soon. The Planning Commission is encouraged to forward any specific agenda items to staff before the retreat date.

For further information on any case listed on this agenda, please contact the case planner indicated for that item. For further information on Historic Status, please contact the Oakland Cultural Heritage Survey at 510-238-6879. For other questions or general information on the Oakland City Planning Commission, please contact the Community and Economic Development Agency, Planning and Zoning Division, at 510-238-3941.

This meeting is wheelchair accessible. To request materials in alternative formats, or to request an ASL interpreter, or assistive listening devise, please call the *Planning Department at 510-238-3941* or TDD 510-238-3254 at least three working days before the meeting. Please refrain from wearing scented products to this meeting so attendees who may experience chemical sensitivities may attend. Thank you.

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Commission Matters

Mr. Miller reminded everyone that the Design Review Committee Meeting will be held on July 23, 2014 at 5:00 P.M. The item on the agenda is AC Transit's, Bus Rapid Transit (BRT) project status report and to receive input on station designs. The Planning Commission Summer schedule is in effect, there may be a potential meeting added on August 27, 2014 for the larger project such as the Lake Merritt Specific Plan. Mr. Miller will send an email to the Planning Commission to confirm that date.

CONSENT CALENDAR

Item #1 color of the telecom pole was changed as a condition of approval at staff's request and the applicant agreed.

Chair Pattillo stated that this is a perfect example of how a telecom pole should not be designed in the future.

Vice Chair Moore made a motion to approve, seconded by Commissioner Coleman.

Action on the matter: Approved 7 ayes, 0 noes.

1. Location: 2220 Mountain Boulevard (APN 048D-7244-021-05)(3-24-14)

> Proposal: Revision of Major Conditional Use Permit CMD09-272, to remove and replace

> > 6 antennas and add 2 new RRH units (and other equipment) on an existing

monopole

Applicant: Gary Gochberg/ Crown Castle for Verizon Wireless

Contact Person/Phone Number: (707)364-5164

Owner: Montclair Village LLC

Case File Number: CMD09272-R01

Planning Permits Required: Major Conditional Use Permit and Regular Design Review for macro-

telecommunication facilities within 100 feet of a residential zone.

General Plan: **Community Commercial**

> Zoning: CN-4

Exempt, Section 15301 of the State of CEQA Guidelines; existing facilities. **Environmental Determination:**

> · Historic Status: Not a PDHP; Rating X

Service Delivery District: City Council District:

> Status: pending

Action to be Taken: Based on staff recommendation

Finality of Decision: Appealable to City Council within 10 days

For Further Information: Contact case planner Moe Hackett at (510) 238-3973 or by email:

mhackett@oaklandnet.com

Vice Chair Moore made a motion to approve, seconded by Commissioner Coleman.

Action on the matter: Approved 7 ayes, 0 noes.

2.

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PUBLIC HEARINGS

Location: 4425 Piedmont Avenue (APN: 013 -1128-008-00)

Proposal: To demolish a commercial structure on a 15,000 square foot lot; subdivide

into 7 lots and construct 4 townhome-style single family homes and 3-3 story structures each with 2 units of residential over ground floor live-work space,

for a total of 10 residential units and 3 live-work units.

This is a re-notification

Applicant / Reid Bitzer **Phone Number:** (310) 749-0775

Owner: Same

Case File Numbers: PLN14120 / T1400053

Planning Permits Required: Regular Design Review to construct 10 new dwelling units and 3 new live-

work units;

Minor Conditional Use Permit for a Mini-Lot Development;

Tentative Tract Map to subdivide into 5+ lots;

Tree Protection and Removal Permit to construct within 10' of Protected

Trees and to remove Protected Trees; Minor Variance for group open space

General Plan: Neighborhood Center Mixed Use

Zoning: CN-3 Neighborhood Commercial Zone

Environmental Determination: Exempt, Section 15332 of the State CEQA Guidelines:

Infill Development Projects;

Section 15183:

Projects Consistent with a Community Plan, General Plan or Zoning

Historic Status: Potential Designated Historic Property; Survey rating: D2+ (contributor of

minor importance to Mountain View Support Area of Secondary Importance)

Service Delivery District: 2
City Council District: 1

Date Filed: May 5, 2014

Action To Be Taken: Decision based on staff report

Finality of Decision: Appealable to City Council within 10 days

For Further information: Contact case planner Aubrey Rose, AICP at (510) 238-2071 or arose@oaklandnet.com

Staff Member Aubrey Rose gave a presentation.

Commissioner Weinstein stated, in the staff report on the first page summary states that the buildings facing Piedmont Avenue will consist of two residential units over two live work units seems to be an error. If there are currently three residential units, should there be three live work units.

Mr. Miller confirmed that is an error. It should state, two residential units over one live work unit in each of 3 structures.

Applicant: Reid Bitzer gave a PowerPoint presentation.

Vice Chair Moore asked about their intentions on addressing concerns raised at a previous community meeting about the condos.

Mr. Bitzer replied stating that they informed the attendees at the community meeting that they intend to sell the back components in order to own the three front units. The condo map is more of an emergency exit

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situation in case they have to sell due to over exposure in the project. He's not sure if the community is aware that they proposed having condos in those units, but they made them aware that their intentions were to keep the three front buildings for apartments at the top and live work and commercial on the bottom.

Commissioner Myres asked if staff could explain the neighboring development that was approved. Is their lot size smaller than this project site?

Mr. Miller responded stating that there was a 10 unit development approved by staff that didn't include a tract map so, it didn't need to come before the Planning Commission for approval. This project proposal was brought before the Planning Commission because it's proposing more than 5 land lots in which 5 or more has to be brought before the Planning Commission. That lot is smaller and more condensed than this project site.

Chair Pattillo asked if there is a planting plan available.

Commissioner Coleman asked what size are the condos.

Mr. Matt Baran stated that the square footage is the same, it's just the projections are expressed differently.

Commissioner Coleman asked what is the 2 lines showing in the work zone on page A-2.11 regarding the center condos.

Mr. Baran stated that those lines represented the rails, but were eliminated in a revised set of drawings.

Commissioner Coleman asked how the 6 inch gaps will be closed between each unit.

Mr. Baran responded, the gaps are meant to be there because each unit is intended to be separate structures and will develop a detail to close those gaps in the future.

Planning Commission Questions, Comments and Concerns:

The Planning Commission stated that this is a fine looking project and will be an attractive addition to the street. The use and development is appropriate for the neighborhood and wherever the social club is placed will be just fine. One of the Planning Commissioners recently visited one of Mr. Baran's project sites and trust that the same landscaper will be used for this project, which will be gorgeous. They are pleased with the project proposal and would like to see it move forward.

Commissioner Coleman made a motion to approve, seconded by Commissioner Bonilla.

Action on the matter: Approved 7 ayes, 0 noes.

3. Location: 1230 37th Avenue (APN: 033-2158-022-01 and 033-2158-008)

Proposal: To construct a new seven story, 47,700 square foot building containing a

skilled nursing facility, medical offices, and ground floor commercial space.

Applicant: Rick Dumas/Doug Davis, AE3 Partners

Contact Person/Phone Number: Rick Dumas/Doug Davis (415)233-9991

Owner: Jane Yoon

Case File Number: PLN14013

Planning Permits Required: Design Review for new construction, Conditional Use Permit for a Health

Care Civic Activity in the CN-1, S-15, or RM-1 zone, Conditional Use Permit for a parking reduction in the CN-1 zone, and Variance for height and setback in the RM-1 zone. The Conditional Use Permits are Major because they

involve more than 25,000 square feet of floor area.

General Plan: Neighborhood Center Mixed Use

Zoning: S-15 Transit Oriented Development Zone, CN-3 Neighborhood Commercial

Zone -2, and RM-1 Mixed Housing Type Residential Zone -1.

Environmental Determination: Exempt, Section 15332 of the State CEOA Guidelines:

In-Fill Development Projects and Section 15183 of the State CEQA Guidelines:

Projects consistent with a Community Plan, General Plan or Zoning.

Historic Status: Vacant lots; no historic properties

Service Delivery District: 4 City Council District: 5

Action to be Taken: Decision based on staff report

Finality of Decision: Appealable to City Council within 10 days

For Further Information: Contact case planner Neil Gray at 510-238-3878 or by email:

ngray@oaklandnet.com

Staff Member Neil Gray gave a presentation.

Applicant Doug Davis gave a PowerPoint presentation.

Commissioner Myres asked what the difference is between sub-acute care and skilled nursing facility.

Mr. Davis explained that sub-acute care is for patients transitioning from a hospital environment, but aren't ready to go into a skilled nursing facility. Medical gases and respirators are still needed for patients who are unable to breathe on their own. Doctors have done all that is necessary to stabilize the patient so they can recover. A skilled nursing facility is where patients require 24 hour assistance with everyday living activities such as; eating, bathing, dressing, etc.

Commissioner Myres asked if a skilled nursing facility requires long term stay.

Mr. Davis responded stating that patients normally stay no longer than 3 months.

Commissioner Myres asked if the residents at $1236 - 37^{th}$ Avenue in which the project surrounds this property, were present at the previous community meeting.

Mr. Davis stated that they were invited, but to his knowledge didn't attend the community meeting.

Vice Chair Moore stated in the retail configuration, directions from the Design Review Committee were followed and was reconfigured into a meaningful and leasable space, but there is less square footage showing in the staff report and in the presentation it's listed as 33x16.

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Mr. Davis responded stating that they may've shrunk it down and didn't update the presentation. The retail is included due to the zoning ordinance mandates it. Realistically, there may be a need for a small coffee or flower shop. In the original plan, there were two retail spaces proposed.

Commissioner Weinstein asked what the average length of a patient's stay is.

Mr. Davis stated about 3 weeks to 2 to 3 months depending on the illness, unlike an assisted living facility where the stay could be for a few years.

Commissioner Weinstein asked if this project is being developed for a specific identified operator.

Mr. Davis responded stating, as a turnkey they are in discussions with potential operators currently working on site, but he is unable to divulge the names of those operators at this time. The operators may either lease the facility long term or purchase the facility outright from them.

Commissioner Weinstein asked if it's traditional to provide a combination of various types of care.

Mr. Davis stated that this is a fairly new formulation of care that began 18 months ago. They've spoken with several operators while developing this concept and asked questions such as: what are their needs and what do they project their future requirements will be. This model is based around this which shaped the sub-acute skilled nursing facility.

Commissioner Weinstein asked if there were similar projects like this in Oakland.

Mr. Davis stated no, this is the first of its type in over 30 years in the entire Bay Area.

Commissioner Nagraj stated, on the building envelope page it shows a proposal of 75 feet in zone RM-1, but the height limit is 25 feet. Why propose beyond the height limit in zone RM-1when there are no proposals to build beyond the height limits in other zones?

Mr. Gray explained that the general plan is neighborhood general mixed use which isn't consistent with zone RM-3, but is consistent with zone CC-3. It's a variance because it's in that zone and staff took that into account in their evaluation of the variance.

Speakers: Elaine Connolly, Andrea Urena, Ruby Urena, Patrick Connolly.

Commissioner Weinstein asked Mr. Davis to explain the outreach done in other languages and who attended the public meeting.

Mr. Davis stated that the outreach was done in English and Spanish languages and they did their best to reach all neighbors connected with the project using the list provided by the Planning staff.

Chair Pattillo asked how many residents attended the community meeting.

Mr. Davis responded stating that there were about 40 attendees.

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Commissioner Myres stated that in the staff report on page 5 it states there were 30 attendees mostly from the senior facility. What was the timespan in when flyers were sent out from the date of the community meeting?

Mr. Davis stated that he is certain that they met the deadline by at least a few days to notify the surrounding neighbors. They also reached out to the Unity Council and Council Member Gallo's office so they could assist with notification.

Commissioner Myres asked the residents in the audience if they brought the flyer sent out with them. Some stated they never received the flyers and the others didn't bring theirs with them.

Commissioner Bonilla asked if there were any concerns raised at the community meeting about the height of this development in conjunction with the neighbors.

Mr. Davis responded stating that as far as he remembers, there were no concerns from the neighbors about the height of this development.

He addressed one of the speaker's suggestion that they follow the plan. Mr. Davis stated that the plan was followed and this project was designed based on what the City Planning staff allowed and followed all rules in order to be able to develop this project. The intent based on the (TOD) is to create a transit oriented development in that area. They worked very hard with Mr. Gray and staff to make sure they followed all necessary guidelines.

Commissioner Nagraj stated, in reading the applicable zoning designation, what were your thoughts on the current zoning and this proposed use whether it was consistent or not.

Mr. Gray responded stating that the intent of the zoning was to have the ground floor commercial presence. In general, there are mixed uses on the site with retail on the bottom and the hospital care on top. The main thrust of the general plan and why the zoning is what it is particularly, the height limits because we want construction near Bay Area Rapid Transit (BART) stations. Employees from the facility may utilize BART and soon, the Bus Rapid Transit (BRT) which is a major emphasis of the general plan as reflected in the zoning.

Commissioner Nagraj asked if the decision not to pursue zoning variances fits into the zoning designation.

Mr. Gray responded stating that the retail activity is permitted in the zone and medical services are conditionally permitted. Generally, medical offices, hospitals and healthcare facilities are conditionally permitted due to potential impacts to the neighborhood. Not necessarily because the use is inconsistent in it of itself with the neighborhood.

Mr. Miller further explained, the intent of the S-15 district does specifically mention the word "civic," and this is a healthcare civic activity identified as a potential use. As Mr. Gray stated, it's a conditional use so, it's presumed to be appropriate with certain conditions placed on it and believed to be in line with what is envisioned in the S-15 district along with other uses such as: commercial, residential and restaurants.

Commissioner Myres asked if there will be any emergency vehicles such as paramedics dropping off or picking up clients.

Mr. Davis replied, if necessary, there will be emergency vehicles traveling to and from the facility, but it's not a part of routine traffic.

Commissioner Myres asked if emergency vehicles traveled to the facility, will they enter at the 38th Avenue entrance.

Mr. Davis responded yes. The loading and unloading activities are buried within the site. On the West side of the property, the retail side and a portion of the garage were not exposed. The East side of the property has a turn around that goes underneath some parts of the garage. The center is where the service and elevator core are located.

Commissioner Myres asked if one of the structures showing in the staff report is $1236 - 37^{th}$ Avenue which belongs to one of the public speakers.

Mr. Davis responded, yes, that is correct.

Vice Chair Moore asked will the 90 feet height restriction for this project allow the same height restrictions for the surrounding properties.

Mr. Gray responded yes, the residential neighborhood on 38th Avenue, the low density zoning drops to RM-3 which allows property in that zone to have the same height restrictions as this project does.

Commissioner Weinstein asked for an explanation of the staffing plan and the number of employees on staff per day and shift.

Mr. Davis stated that once an operator is secured, he will have a better idea of how many employees there are on staff per day per shift, but there will be three shifts per day. This will be a 24 hour facility, but all 240 employees will not be on site at all times. There will be shift employees working around the clock and the core employees will be working during normal business hours, but not all 240 employees will be coming and going at any given time. Since this is a transit oriented development, some employees and visitors will ride the Bus Rapid Transit (BRT), Bay Area Rapid Transit (BART) and other means of public transportation or drive in and utilize the Bay Area Rapid Transit (BART) parking lot which will minimize the parking impacts to residents.

Planning Commission Questions, Comments and Concerns:

The Planning Commission at first thought this project wouldn't be a good fit for this neighborhood. After visiting the area and seeing what other types of businesses are in the area, it was realized that this project is in fact a good fit for this area and an excellent addition to the neighborhood. The changes to the retail will assist with activating 37^{th} Avenue and will be a high quality project, which is important for how it fits into this neighborhood. There are some concerns about the level of resident engagement as far as communication and negotiation with the residents, and there are some reservations about supporting this project if the resident's input wasn't taken into consideration especially, the residents at $1236 - 37^{th}$ Avenue who's property will be surrounded by this project on 2 sides. They recommend there be another community meeting scheduled to engage the residents to allow their input to be taken into consideration. There should be some time permitted for the mutually agreed upon date and time for the community meeting to occur and

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provide language translation in both Vietnamese and Spanish. The transit oriented development and the commercial mixed use area should be about a use that will activate the street on a regular basis in some way with residents. Although, employees will be coming and going to and from the facility, this isn't the same type of activation that was generally intended around transit oriented development. This parcel is situation between the way the neighborhood currently is and the density that is projected to move forward onto the major corridors especially, with the Bus Rapid Transit (BRT).

Where there is density, there should be a way to make the pedestrian experience comfortable. There are many facades with a lot of solid wall, the struggle is, the desire for a level of density, where future zoning is headed, imagining it coming to fruition and what it would feel like as a pedestrian walking on the streets.

Unfortunately, some homes will be impacted by this development in terms of shade. The developer should work with the residents to find some common ground to minimize the impacts on residents. It was suggested that the applicant install skylights on the property of $1236 - 37^{th}$ Avenue to minimize some of the shading impacts. The struggle with the use after rereading the zoning designation and thinking of an active use whether it's nursing or healthcare for example, the outside of a Kaiser Permanente Medical facility is inactive where people visit for long periods of time and it's not an actively used pedestrian rich space. They aren't sure if 3,300 square feet of ground floor retail will be enough to generate the type of activity that's expected. If this were a residential development there would be more of an active use of Bay Area Rapid Transit (BART). The perimeter of the building isn't pedestrian active and doesn't create a dynamic urban space needed near the Bay Area Rapid Transit (BART) station. With the various Bay Area Rapid Transit (BART) stations in Oakland there aren't many vacant lots adjacent to them and there should be a different type of use that is activity needed at this project site. This project was fine when it was reviewed by the Design Review Committee and believes there were no oppositions at that time and the requirements for outreach were met given the 30 residents who attended the neighborhood community meeting. Being across the street from a senior housing facility is a nice complimentary use and it's by the Fruitvale Transit Village which provides a way for visitors and employees to access the facility and meet the necessary criteria for an active use. The plant list has three choices for street trees, suggest the Carpinus be the chosen. Some of the Planning Commission has reservations supporting this project proposal and some are in support.

Mr. Davis stated that he is open to the idea of providing a skylight on the property at $1236 - 37^{th}$ Avenue if the residents are in agreement and will discuss the details with them.

Commissioner Myres made a motion to continue this project until such time a community meeting is scheduled at a mutually agreed upon date and time to discuss installation of skylights for the residents at 1236 - 37th Avenue and hear other concerns from the neighbors. Language translation be provided in both Vietnamese and Spanish, and allow ample time for notification to residents for such meeting to allow them the opportunity to attend, seconded by Commissioner Bonilla.

Action on the matter: Motion Failed 4 noes, 3 ayes.

Commissioner Coleman made a motion to approve with the consideration of adding skylights for residents at $1236 - 37^{th}$ Avenue, seconded by Vice Chair Moore.

Action on the matter: Motion Failed 4 ayes, 3 noes.

No decision was made due to a lack of 4 ayes in the affirmative for any motion. The item will return to the Planning Commission.

PLEASE NOTE: ITEM NO. 4, BELOW, IS REMOVED FROM THIS **AGENDA**

4. Location: 3431 Foothill Boulevard

Mercy Retirement & Care Center (APN: 033 -2127-015-01)

To construct a 58,000 s.f. senior facility (memory-impaired wing) with 50 Proposal:

rooms and 6-one-bedroom independent living units behind the primary 6-

story building at the center of the 5 acre property including; minor

demolition; renovation of existing buildings; new access from 35th Avenue; create additional parking; fencing; and landscaping including tree removal.

Applicant / Peter Lin-/ Greenbrier Development

Phone Number: (214) 979-2710

> Mercy Retirement & Care Center Owner:

Case File-Numbers: PLN14080/T1400028

Planning Permits Required: Major Conditional Use Permit to expand-a-Health Care Civic Activity by

more than 20-percent/25,000 sf in the RM-3 Zone on a site that site exceeds 1

acre in area;

Regular Design-Review-to-allow construction of a new facility, renovations to

existing facilities, and site modifications Tree Removal Permit to remove Protected Trees

General Plan: Institutional/

Mixed Housing Type Residential at rear along E. 18th Street

Zoning: CN-3-Neighborhood Commercial Zone (along Foothill Blvd. frontage)/

RM-3 Mixed Housing Type Residential Zone (set back from Foothill

Boulevard)

Environmental Determination: Exempt, Section 15332 of the State CEQA Guidelines:

In-Fill Development Projects;

Section 15183 of the State CEQA-Guidelines:

Projects Consistent with a Community Plan, General Plan or Zoning

Historic Status:

Non historic property

Service-Delivery District: **City Council District:**

Date Filed:

May 7, 2014

Action To-Be Taken:

Decision based on staff report

Finality of Decision: For Further information: Appealable to City Council within 10 days Contact case planner Aubrey Rose, AICP

at (510) 238-2071 or arose@oaklandnet.com

Approval of Minutes

Chair Pattillo recommended edits be made to the June 11th Planning Commission minutes on page 3, third item which reads, "Chair Pattillo asked for an explanation about the 9 significant unavoidable impacts". Recommended change to "Chair Pattillo stated that it was notable that there were only 9 significant unavoidable impacts mentioned in the plan."

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Vice Chair Moore also recommended edits be made to the June 11th Planning Commission minutes on page, 3rd paragraph, 9th line which reads, "hundreds of thousands," should state "hundreds and thousands".

Commissioner Coleman made a motion to approve the June 11, 2014 Planning Commission minutes as amended, seconded by Commissioner Nagraj.

Action on the matter: Approved 7 ayes, 0 noes.

ADJOURNMENT

Meeting adjourned at approximately 7:27 P.M.

Zoning Manager

Planning and Zoning Division

NEXT MEETING: August 6, 2014