



Oakland City Planning Commission

Minutes

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

August 6, 2014
Regular Meeting

ROLL CALL

Present: Pattillo, Moore, Bonilla, Coleman, Nagraj, Weinstein.

Excused: Myres.

Staff: Rachel Flynn, Scott Miller, Betty Marvin, Neil Gray, Aubrey Rose, Maurice Brenyah-Addow, Celena Chen, Cheryl Dunaway.

WELCOME BY THE CHAIR

Agenda Discussion

Item #2 has been removed from this agenda.

Director's Report

Staff Member Betty Marvin gave a presentation on the Mills Act selection 2014: 851 Trestle Glen Road, 80-90 Ninth Street, 619 15th Street, and 918 18th Street recommended by the Landmarks Preservation Advisory Board.

Committee Reports

Vice Chair Moore gave a report on the July 23, 2014 Design Review Committee Meeting regarding the Bus Rapid Transit (BRT) project.

CONSENT CALENDAR

Item #1 moved on consent of the Planning Commission. Vice Chair Moore made a motion to approve, seconded by Commissioner Nagraj.

Action on the matter: Approved 6 ayes, 0 noes.

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.

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1. **Location:** 1614 Campbell Street (APN: 007-0560-001-002)
Proposal: To co-locate two (2) new telecommunication antennas with new associated equipment at a site with four (4) existing telecommunication antennas for a total of six (6) telecommunication antennas on-site.
Applicant: Sprint c/o Phil Gamick
Contact Person/Phone Number: Phil Gamick (530) 386-5253
Owner: Jack London Equity 3 LLC & El Pinal Equity 2 Etal
Case File Number: PLN14-107
Planning Permits Required: Regular Design Review to co-locate two (2) new telecommunication antennas with new associated equipment at a site with existing telecommunication antennas.
Major Conditional Use Permit for the expansion of a Mini telecommunication facility within 100 feet of a residential zone.
General Plan: Housing and Business
Zoning: HBX-2 Housing and Business Mix - 2
Environmental Determination: Exempt, Section 15301 of the State CEQA Guidelines, minor alterations to an existing facility
Section 15183 of the State CEQA Guidelines; projects consistent with a community plan, general plan or zoning.
Historic Status: Designated Historic Property; Survey Rating: B+a3
Service Delivery District: 1
City Council District: 3
Status: Pending
Action to be Taken: Decision of Application
Finality of Decision: Appealable to City Council within 10 days
For Further Information: Contact case planner Michael Bradley at (510) 238-6935 or by email: mbradley@oaklandnet.com

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

Action on the matter: Approved 6 ayes, 0 noes.

**PLEASE NOTE: ITEM NO. 2, BELOW, HAS BEEN REMOVED
FROM THIS AGENDA**



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| 2. | Location: | 0 Claremont Avenue (south of a fire trail), between Gelston Street and Grizzly Peak Boulevard (APN: 048H-7900-004-01) |
| | Proposal: | To install a new 37 foot tall wood monopole that will contain two (2) flush-mounted wireless antenna panels and small equipment cabinets in the City right-of-way, located about 2,000 feet (+/-) northwest from the intersection of Claremont Avenue and Grizzly Peak Boulevard. |
| | Applicant/Contact Person: | Matthew Yergovich for AT&T Wireless |
| | Phone Number: | (415)-596-3474 |
| | Owner/Contact: | City of Oakland/Public Right-of-Way |
| | Case File Number: | PLN14051 |
| | Planning Permits Required: | Major Conditional Use Permit to operate a Monopole Telecommunications facility in a residential zone; Regular Design Review to install a Telecommunications Facility |
| | General Plan: | Resource Conservation |
| | Zoning: | RH-1 Hillside Residential Zone |
| | Environmental Determination: | Exempt, Section 15303 of the State CEQA Guidelines: New Structures; Section 15183 of the State CEQA Guidelines: Projects consistent with a Community plan, General Plan or Zoning |
| | Historic Status: | None |
| | Service Delivery District: | 2 |
| | City Council District: | 1 |
| | Date Filed: | March 11, 2014 (revisions submitted on 06/02/14) |
| | 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 Mike Rivera at (510) 238-6417, or by email at mriviera@oaklandnet.com |



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| 3. | Location: | 1230 37 th 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 CEQA 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 |
| | Status: | This item was heard at the July 16 Commission meeting. A vote was taken, which was 4-3 vote to deny the project as presented. Since the Commissioners did not have Findings for Denial available to them, the denial vote was “straw vote”, and Findings for Denial (as well as the original Findings for Approval) will be presented to the Commission. |
| | 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 and recommended a vote be made to accept the amended conditions of approval into record.

Vice Chair Moore made a motion to approve acceptance of the amended conditions of approval into record, seconded by Commissioner Bonilla.

Action on the matter: Approved by consensus of the Planning Commission, 6 ayes 0 noes.

Applicant: Doug Davis gave a presentation and explained what the mutually agreed upon conditions are between the neighbors and the applicant.

Speakers: Elaine Connolly, Patrick Connolly.

Commissioner Weinstein asked the following questions:

- Please explain the parking spaces proposed in the building on 38th Avenue and International Boulevard, and what is the arrangement made with the other building.
- Is the proposed 29 parking spaces exclusively for this development?



- The staff report states the parking spaces may be reduced to 25 spaces with a conditional use permit, not 21. May those 4 spaces be used for parking?

Mr. Gray and Mr. Davis provided the following answers to Commissioner Weinstein's Questions:

Mr. Gray explained there isn't a City requirement for those parking spaces to be exclusively for the businesses on International Boulevard, they are required to serve the proposed Skilled Nursing Facility. He is unaware of an arrangement made with the other building.

Mr. Gray responded yes. The requirement with a conditional use permit may be reduced to 21 parking spaces. If those spaces were designated for the surrounding businesses it would still be over the limit of what is required for parking.

Mr. Davis further explained that they've actually increased the parking count to 33 spaces. This parcel and the business on International Boulevard have the same owner and this parking arrangement was decided for both buildings which don't require them to utilize off-street parking.

Mr. Gray stated that there is a typo in the staff report. The requirement with a conditional use permit may be reduced to 21 parking spaces, not 25.

Vice Chair Moore the following questions:

- Will off-site parking be provided for employees, how many spaces will be made available?
- State if the employee off-site parking could be included in the Transportation Demand Management plan (TDM) so it could be monitored.
- asked if the Transportation Demand Management (TDM) covers most of the issues discussed in the previous meeting including: loading, size of trucks, providing incentives for employees to utilize mass transit and other related issues which is included in the plan that is submitted routinely.

Mr. Gray and Mr. Davis provided the following answers to Vice Chair Moore's Questions:

Mr. Davis responded stating that it hasn't been determined how many off-site parking spaces will be made available to employees, but it was determined that they will not be allowed to park in the residential areas including 37th, 38th, 39th and 40th Avenues. Employees are encouraged to park in the Bay Area Rapid Transit (BART) parking lot or other paid parking lots until off-site parking is made available.

Mr. Gray responded yes. It's also a condition of approval added after the previous meeting when this issue was discussed and specified which zones the employees were prohibited from parking.

Mr. Gray responded yes, that is correct.



Commissioner Nagraj asked Mr. Davis to explain the issues with loading and unloading supplies and deliveries.

Mr. Davis explained there is a 40 feet loading dock located in the interior of the building where only small trucks will be allowed on-site due to physical constraints of the lot, loading is screened off from residents and there will be no off-street loading and unloading during the daily operation of the facility. There may be a little off-street loading and unloading when first moving into the facility, but generally there will be none during the daily operation.

Commissioner Coleman asked will there be a shuttle provided or something to safely transport the employees to and from Bay Area Rapid Transit (BART) stations during the late hours.

Mr. Davis responded stating that they hadn't contemplated on the safety of the employees since it's a very short walk to and from the Bay Area Rapid Transit (BART) station from the facility, and this area is located in a nice neighborhood in which he himself has walked through at night with no problems.

Planning Commission Comments, Questions and Concerns:

The Planning Commission is pleased to see all of their recommendations for improvements are met, another community meeting was held and compromises were reached with residents. Modifications such as: transit incentives, easy access to and from Bay Area Rapid Transit (BART) station and restricting employee parking access in residential areas helps drive the use of public transit, unlike the previous proposal. The Planning Commission is in support of this project.

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

Action on the matter: Approved 6 ayes, 0 noes.



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| 4. | Location: Existing: 5248 Telegraph Avenue (APN: 014 -1225-015-01) Proposed: 5239 Telegraph Avenue (APN: 014 -1219-002-00) |
| | Proposal: To demolish a closed restaurant building at 5239 Telegraph Ave; relocate a bar building (Kingfish) and one home from 5248 Telegraph Ave to the newly vacant site; and resume operation of the bar using the house as its rear office. The existing property is a through-block-lot with the bar facing Claremont Avenue and is scheduled to be cleared to accommodate new construction. |
| | Applicant (Owner) / Baitshop Dives LLC |
| | Phone Number: (774) 239-1464 |
| | Case File Numbers: PLN14192 |
| | Planning Permits Required: Major Conditional Use Permit with additional findings for Alcoholic Beverage Sales Commercial Activity; Variances for Alcohol Sales within 1,000 feet of existing Alcohol Sales & in an over-concentrated area within 1,000 feet of civic uses; Regular Design Review with additional findings for demolition, removal, and relocation of buildings; Public Convenience or Necessity for Alcohol Sales in an over-concentrated area |
| | General Plan: Existing: Mixed Housing Type Residential (bar) / Community Commercial (house) |
| | Proposed: Community Commercial |
| | Zoning: Existing: CN-2 Neighborhood Commercial Zone (bar) / CC-2 Zone (house) |
| | Proposed: CN-3 Neighborhood Commercial Zone |
| | Environmental Determination: Exempt, Section 15301(I) of the State CEQA Guidelines: Existing Facilities (Demolition); Exempt, Section 15303(c): New Construction of Small Structures (store, office); Exempt, Section 15331 of the State CEQA Guidelines: Historical Resource Restoration/Rehabilitation; Section 15183 of the State CEQA Guidelines: Projects Consistent with a Community Plan, General Plan or Zoning |
| | Historic Status: 5248 Telegraph Avenue: Potential Designated Historic Property; survey rating: C3 |
| | 5239 Telegraph Avenue: Non historic property |
| | Service Delivery District: 2 |
| | City Council District: 1 |
| | Date Filed: June 14, 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, Planner II at (510) 238-2071 or arose@oaklandnet.com |

Staff Member Aubrey Rose gave a PowerPoint presentation.

Chair Pattillo asked why is there mostly paving in front.

Applicant: Emil Peinart responded stating that they want to keep the current design where there is mostly paving in front as it has been historically and traditionally hasn't been surrounded by trees.

Chair Pattillo asked if he would consider an outdoor café since there is additional space.

Mr. Peinart responded stating that they plan on providing seating in the rear of the property and the front will be used for bicycle parking.



Chair Pattillo asked if there is a reason for the various fence heights on the elevation and is it included in the original aesthetic.

Mr. Peinart responded stating the idea is to build the fence and structure fairly high on the North side due to housing next door, this will protect those occupants from exposure to noise and privacy issues. On the South side where the Library and park is located, a fence will be built to eliminate foot traffic through the property, but not as high as the one on the North side. With the building in the rear having a fence at a different height, that causes the property to have three different fence heights.

Commissioner Weinstein asked if smoking will be allowed on the rear patio and how would it affect the Library nearby.

Mr. Peinart responded yes, smoking will be allowed. The Library most likely won't be impacted by the smoking because it a few feet away from this building and their hours of business doesn't overlap with the restaurant hours.

Mr. Rose further explained that the restaurant will close at 2:00 A.M. in which staff's recommended condition of approval phases in smoking in the rear patio starting at 11:00 P.M. An additional hour will be added every 6 months.

Commissioner Weinstein stated that her concern is smoking in the earlier hours when the Library is open and would like to know what the distance is from the rear patio to the Library.

Mr. Peinart responded stating that the distance between the rear patio and the Library is at least 25 feet which is the standard requirement.

Vice Chair Moore asked if a condition of approval could be added to allow smoking after the Library closes since there is very little overlap in their business hours.

Mr. Peinart stated that they currently allow smoking in the front and the not typically on the rear patio.

Mr. Chris Andrews, Architect responded to Commissioner Weinstein's question about the distance between the rear patio of the restaurant to the Library. He stated that it is in excess of 60 feet apart. The distance from the entrance of the restaurant to the entrance to the Library is approximately 60 feet.

Speakers: Cynthia Armour, Ed Armour.

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

Action on the matter: Approved 6 ayes, 0 noes.



5. **Location:** 1401 Wood Street (Wood Street Development Area 4 – 6.16-Acre block bounded by Wood Street, 14th Street, 16th Street, and Frontage Road) (APN: 018-0310-012-01)
- Proposal:** To construct a new 171-unit townhouse-style residential and 5 commercial condominium development involving text amendment to the Wood Street Zoning District (WSZD) to apply the Development Area 3 required minimum density, maximum height, and minimum useable opens space to Development Area 4.
- Owner:** Andy Getz – HFH Central Station Village LLC
- Applicant:** City Ventures – Molly Mayburn (510)846-6540
- Case File Number:** PLN14076/PUDF01
- Planning Permits Required:** Zoning Text Amendments; Design Review for Preliminary and Final Development Plan for construction of 174 new townhouse-style residential and 4 commercial condominiums; Vesting Tentative Parcel Map for a one-lot subdivision to create 174 new townhouse-style residential and 4 commercial condominium units
- General Plan:** Urban Residential
- Zoning:** Wood Street Zoning District
- Environmental Determination:** State CEQA Guidelines: Pursuant to Section 15162, the project relies on previous EIR (ER03-0023) for Wood Street certified on May 17, 2005; and Special Situation, Section 15183, projects consistent with a community plan, general plan or zoning.
- Historic Status:** Potential Designated Historic Property (PDHP); Survey Rating:
- Service Delivery District:** 1
- City Council District:** 3
- Status:** Pending
- Action to be Taken:** Decision on application based on staff report
- Staff Recommendation:** Approval subject to conditions
- Finality of Decision:** Appealable to City Council within 10 days
- For Further Information:** Contact case planner Maurice Brenyah-Addow at (510) 238-6342 or by email at mbrenyah@oaklandnet.com

Commissioners Weinstein and Nagraj recused themselves from hearing this item due to conflict of interest.

Staff Member Maurice Brenyah-Addow gave a presentation.

Commissioner Bonilla stated that the public notice posted at the project site states there is 174 units and 4 condominiums, but the staff report states there is 171 units and 5 condominiums, which one is correct.

Mr. Brenyah-Addow responded stating that in his absence, there were some adjustments made to the project that involved increasing in the commercial space which affected the number of residential units. One additional commercial space was provided at the expense of 3 residential units.

Commissioner Coleman stated that he only found 4 out of 5 commercial areas and wonders if he missed something.



Mr. Brenyah-Addow explained that at the time the plans were created there were 4 commercial areas, but between then and now the revisions are now in place.

Applicant: Molly Mayburn further explained that the 5th space is located at the corner of 14th and Wood Streets. The other 4 spaces are located on 16th Street facing the future train station plaza.

Ms. Mayburn gave a presentation PowerPoint presentation.

Commissioner Coleman asked if there are any units that are truly accessible.

Ms. Mayburn responded yes, they are required by California state law to provide 10% Americans with Disabilities Act (ADA) accessible units which will be located on the ground floor at the front doors with a powder room and den. None of the living spaces or bedrooms or fixtures is accessible to those with disabilities.

Commissioner Coleman asked if it's possible to install canopies or awnings, because the front doors look exposed.

Ms. Mayburn responded stating that some of the doors are currently shown as recessed which gives the built in canopy effect. They still have some work to do on developing the front doors.

Commissioner Coleman raised the concern about a major disease of London Blane trees. Will planting Blane trees be a problem?

Chair Pattillo informed Commissioner Coleman that they've specified the correct hybrid so, there is no need for concern.

Chair Pattillo asked if the plan is to occupy after completion of each phase.

Ms. Mayburn responded yes. Typically, with a townhome project such as this, each building obtains its own building permit and coordinates with the California State Bureau of Real Estate to establish portions of infrastructure and open space on buildings that are similar. The California State Bureau of Real Estate ensure homeowners won't end up being stuck with a project where they purchased a unit that doesn't have open space associated with it or the needed infrastructure. In general, it's theoretically phased where you will see continuous construction from start to finish, which is the least expensive method barring any catastrophic event.

Chair Pattillo asked if the garage at the Bea's Hotel will remain.

Ms. Mayburn stated that there isn't a garage as a part of the Bea's Hotel, but there is a service parking lot directly to the West and there is, what appears to be an added on portion of the Bea's Hotel structure, also on the West side that is shorter than the rest of the building and may appear to look like a garage. That structure will remain a part of the Bea's Hotel.

Chari Pattillo asked if the recycled water proposed in the plan already in place.

Ms. Mayburn responded, yes. East Bay Municipal Utilities District (EBMUD) has an existing recycled manne which currently comes to 16th and Wood Streets and will be extended to the project site.



Chair Pattillo stated on A1.01 the words: Move, Frame, Nest, Link, Stitch and Buildings were used. Please explain what those words mean as it relates to this project.

Ms. Mayburn responded stating that those words were used in the draft phase of the project plan where ideas and planning occurred before finalization.

Chair Pattillo asked about landscape sheet 2.03 where there are a couple of forms shaped like an ameba and a double cube that appears in at least 2 of the landscape spaces.

Speakers: Kathy Kuhner, Tom Casey, Marcus Johnson.

Planning Commission Questions, Comments and Concerns:

The Planning Commission is pleased with this project and that comments were addressed. The comments concerning retail space should be taken into consideration. Hopefully, infrastructure contributions will be developed within the next few months on how projects will contribute to the infrastructure and affordable housing. A predetermined contribution for the overall project and the collection of projects is interesting and hopefully it will inform our process for transportation impact fees. Would like for great effort be put into engaging local construction businesses who respect area standards to keep jobs in Oakland and not use outside businesses. This is an excellent development although, the design isn't complete, and there are other things that will be developed. Hopefully, awnings or canopies will be installed over the doors and it would be wonderful to see the commercial space activated. The Planning Commission loves the immediate gratification with the recent approval of the West Oakland Specific Plan (WOSP), and is pleased the Bea's Hotel will remain. This is great architecture and landscape architecture, but there is concern about how the architecture addresses the Bea's Hotel and would like for this to be further reviewed. The design professionals are local businesses and have done a great job of designing something that is compatible with what has gone before it. Really likes how you paid tribute to the train station and how the site plan focuses on that. This is a well-designed project and is very excited to see it move forward. The Planning Commission is in support of this project.

Mr. Miller explained to the Planning Commission that they should make a 2 prong motion. Motion 1, not to address the text amendments, to approve the preliminary and final development plan. Motion 2, to include a recommendation of approval forwarded to the City Council for the text amendments and the preliminary and final development plans.

Commissioner Bonilla made a motion to approve with a 2 prong motion, seconded by Commissioner Coleman.

Action on the matter: Approved 4 ayes, 0 noes. (Both motions)

**APPEALS**

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| 6. | Location: | 530 – 32nd Street (APN: 009-0716-009-00) |
| | Proposal: | Appeal of Zoning Administrator's approval of application for Regular Design Review to construct a new 5-unit townhouse residential development on a vacant lot. |
| | Appellant: | Tanya Boyce (510) 932-5416 |
| | Contact Person/Phone Number: | Robert Brecht (510) 928-1611 |
| | Owner: | 530 – 32 nd Street LLC |
| | Case File Number: | PLN14-003 - A01 |
| | Planning Permits Required: | Regular Design Review for a new 5-unit residential development. |
| | General Plan: | Urban Residential |
| | Zoning: | RU-1 Urban Residential Zone 1 |
| | Environmental Determination: | Exempt, Section 15332 of the State CEQA Guidelines, infill developments; Section 15183, projects consistent with a community plan, general plan or zoning |
| | Historic Status: | Not a Potential Designated Historic Property (PDHP); Survey Rating: N/A |
| | Service Delivery District: | 2 |
| | City Council District: | 3 |
| | Date Filed: | April 14, 2014 |
| | Status: | Pending |
| | Action to be Taken: | Public Hearing |
| | Staff Recommendation: | Deny the appeal and uphold the Zoning Administrator's approval |
| | Finality of Decision: | Final Not Administratively Appealable |
| | For further information: | Contact case planner Maurice Brenyah-Addow at 510-238-6342 or by email: mbrenyah@oaklandnet.com |

Staff Member Maurice Brenyah-Addow gave a presentation.

Chair Pattillo asked if that is a planting strip located on the cover sheet and drawings. If so, could a street be planted there?

Mr. Brenyah-Addow responded yes, the conditions of approval require within 15 feet of the property frontage, at least one street tree shall be planted.

Commissioner Weinstein asked if this was a private yard in the rear of the property. What type of open spaces is provided for the other units?

Mr. Brenyah-Addow responded yes, this is a private yard that extends up to the property line. The other units have 4x8 feet backyard spaces and the front units have the ground and upper floor porch. The Planning code doesn't require private yards for each unit, but it does require open space for the entire site. There is a minimum requirement for group useable open space which is a minimum of 15 x 15 feet.

Commissioner Weinstein asked if the group open space is the driveway. Will residents need to walk outside and around the building to access the backyard?

Mr. Brenyah-Addow responded no, that space is used for the backyard. The group open space is located in the very back of the property. Residents may access their backyard through their garage.



Mr. Miller clarified that Commissioner Weinstein would like to know how would the residents access the group open space in the rear of the property.

Mr. Brenyah-Addow confirmed that residents would access the group open space in the rear of the property by walking out of their front door and down the driveway and continue to the rear.

Commissioner Nagraj asked if there is emergency vehicle access to the rear units. What is the minimum width of the driveway?

Mr. Brenyah-Addow explained that emergency vehicle access isn't required for projects such as this one. For regular sized vehicles, this 21 feet wide driveway provides a 3point turn which. If there is an emergency such as a fire and the rear wall is within 150 feet, the emergency vehicle wouldn't drive down that driveway, but instead park on the street and bring their emergency equipment onto the property. The minimum width for the driveway is 9 feet.

Appellant: Tanya Boyce gave a PowerPoint presentation.

Commissioner Weinstein stated that she would like 3 concerns to be addressed. What happened with the original building structure, what are the results of the survey conducted for the encroachment and if it's represented in the current site plan and what is the current CPTED review process and who is involved in the review?

Mr. Brenyah-Addow responded stating that the process changed a little whereas staff previously forwarded plans to the Police Department for review and provide feedback. Due to budget constraints, this no longer occurs and staff currently review the CPTED checklist to assure compliance. Some issues are addressed directly by the plan itself and overall, all relevant CPTED issues are adequately addressed either by the plan as proposed or the standard conditions of approval.

The encroachment issue is beyond the scope of this review. When the appellant raised the issue of a fence encroaching onto her property, it is believed that the applicant hired a surveyor to investigate the matter and he isn't aware of the results. Staff typically doesn't get involved encroachment disputes due to it being a civil matter. The location of the fence doesn't affect this project in any way nor does it affect setbacks and the location of property lines.

The original building structure was demolished and staff doesn't have any information on why that occurred, the understanding is that the foundation was shored up and a windstorm damaged the building.

Commissioner Weinstein asked if the building was damaged after the permits were pulled to demolish it or before when the interior walls were being removed.

Mr. Brenyah-Addow responded stating that he wasn't aware of what occurred with this property until this application and there was no structure at the site. What was previously explained about what may've occurred prior to the building being demolished is based on hearsay, not documented facts.

Commissioner Weinstein asked if the previous permits are reviewed if a new application is pulled for that same site.

Mr. Brenyah-Addow responded no, not if the lot is vacant, only if a structure is currently there.



Mr. Miller further explained that staff would review previous permits if there were any relevance to the application at hand. In this case, since it is a vacant lot that was all there was to review. The fact if there was an appropriate demolition permit is irrelevant to the current application and wouldn't have added to the process or brought this to the Planning Commission. There is no relevance to the fact that the building is no longer there.

Applicants: Robert Brecht and Tim Allatore gave an argument.

Chair Pattillo asked if the 14 inch wide space on the East property line on the Landscape drawings are towards the neighbor's fence or the actual property line. If the appellant allowed the fence to remain at its present location, the planting area would be twice as wide as shown on the landscape drawings.

Mr. Allatore responded stating that the 14 inch wide space is towards the actual property line. The planting area would be twice as wide if the fence remained at its present location.

Commissioner Nagraj asked Mr. Brecht to explain why there was an incomplete permit process.

Mr. Brecht stated when he purchased the property it was in poor condition. It was boarded up, rotting and dilapidated and the foundation was gone. The demolition permit was pulled and he secured the building enough to place girders under it to lift the property so he could rebuild the rotting foundation. Before they could complete rebuilding the foundation, a windstorm damaged the property which made it collapse so, he was unable to get the demolition permit finalized.

Commissioner Nagraj asked if there were damage to the properties on either side caused by the windstorm.

Mr. Brecht responded yes. The chimney fell onto the neighbor's vehicle in which he paid for the damages.

Commissioner Nagraj asked if the reason why none of the permits pulled were finalized is because there is no longer a building there.

Mr. Brecht responded, yes.

Chair Pattillo asked for a description of the extent of the in and out on the East and west of elevations.

Mr. Allatore explained that the in and out is primarily on the east elevation at the ground and third levels. The ground level garage doors are recessed with wing walls between them. At the upper level where the shed roof is, the walls are setback. On the West side, the recess is at the ground level glass doors and the proposed change in materials will give an illusion of a more fragmented façade which is a typical strategy throughout the City on close lot line conditions.

Chair Pattillo asked if there's a way to have more in and out, reveals and shadow lines on the west elevations, even if it only 4 to 6 inches.

Mr. Allatore responded yes. They are currently working with staff and went through numerous revisions and at one point they had dramatic ins and outs. After Councilmember McElhaney contacted staff in February, they revamped the entire project and raised the front level of the building. This restricted a



reliable square footage for habitable space, in order to get the numbers desired for a market value, they're squeezing in every square inch. The upper, having ins and outs impacted the functionality of the living rooms.

Vice Chair Moore asked if any studies were conducted to address the window privacy issues.

Mr. Allatore responded yes. When Councilmember McElhaney expressed her concerns and they've had numerous conversations with the neighbors on the opposite side of the property. Due to the functions on that side of the property, the property owner didn't feel that the way this project was designed will affect them at all.

Commissioner Coleman stated that he remembers in the presentation that there are no bedroom windows overlooking the eastern property, but it was previously stated that there were.

Mr. Allatore and Mr. Brecht stated that Commissioner Coleman is correct, there are no bedroom windows overlooking the eastern property. He made a mistake in thinking that it was the second level, but the third level doesn't have bedroom windows. There were balconies on the original design, but they were eliminated for the sake of privacy.

Commissioner Weinstein asked if the 4 unit scenario have the same concept of the side entrances.

Mr. Brecht responded yes. It's exactly the same building where one wall is removed and there will be 2 two car garages and 1 one car garage.

Speakers: Ralph Devers, Clarence McElhaney, Larry Manning, Art Arnett, Andrea Nobles, Brandi Weintraub, Lynette McElhaney, Robert Gindt, Ann Killebrew.

Ms. Boyce gave a rebuttal to Mr. Allatore's and Mr. Brecht's answers and comments. She stated that they are not against density and has provided 5 units that are acceptable. The CPTED form wasn't available when she reviewed the file and never saw any evidences of its existence. There was a 4 month time period from when the permits were pulled and the building being blown over by a windstorm, in which she believes that was ample enough time to shore up and secure the building before the storm came. Demolition permits must be finalized, if not; there is usually a fine for not finalizing that permit. A complete proposal of a plan should be presented upfront, not present one thing and then change it as the project progresses. She feels there is a way to have 4 units without podium parking.

Planning Commission Questions, Comments and Concerns:

Initially, this project seemed ready for approval, and staff is correct about this fitting into all of the criteria within the general plan and zoning code. Drove by the site and in the neighborhood, in terms of height and bulk, there are a lot of buildings that have a similar envelope. After further discussion tonight as more information is revealed and the details of the design were reviewed, an approval may not be supported. The history of the site is important particularly in a neighborhood like 32nd Street where there are significant amounts of existing Victorian homes where there should be a responsibility to maintain the architectural integrity of the neighborhood. There are concerns about the applicant's dismissal of the safety concerns. The residents have valid concerns about prostitution and drug dealing and their safety concerns are very important and should be taken into consideration. Side orientations of buildings aren't desirable and doesn't really make sense from a neighborhood standpoint. Buildings facing the street are very important



not only from a safety perspective, but for continuity perspective and how it feels to walk down the street as a part of the neighborhood. The livability of the units is of concern, because 1,100 square feet for a 3 bedroom unit is very small and not enough for a family with small children. For residents that have to walk outside, walk through the driveway just to access their rear yard isn't a practical way to use the open space. There are creative architectural solutions for at least the façade to appear to look like a single family home or several units stacked above each other. The current façade doesn't have either, it starts on the ground floor with a door that looks like it's to a single family home, but the upper units doesn't have that look. The Planning Commission approved the General Plan Amendment a few years ago which allowed this zoning, and this project fits within this zoning. Since this zoning was approved, this project shouldn't be delayed due to changes to the design. The concerns about the windows may overlook the property next door were heard, but after reviewing pictures of the previous home, there were windows overlooking the neighboring properties on both sides already. There is very little of the previous house facing the street and the door wasn't facing the street on the picture of the previous house either. This lot was approved by zoning law for 5 units, which is impossible to have that many units and not have it overlooking both neighboring properties. Mrs. McElhaney stated that "there is an obligation to be good stewards", in which is correct. A part of being a good steward is to abide by the rules that were previously approved. Whether or not 4 units will be better than 5, children will have a hard time accessing the rear open space and if the units will attract those with children with it being so close to Pill Hill is possible, but this is a situation that can be accepted.

The Planning Commission doesn't agree that 5 units were approved to do as you please. There are concerns about this proposal that should be addressed, but without seeing the previous structure, it's not clear what those concerns are. The neighbors acknowledged the need for density on this lot which means some compromises should be made. Anytime the scope of work increases you don't abandon the demolition permit and not apply for another permit to remove the damaged structure. The process of a design review and the evolution of the project seem to have been lost in the shuffle. The initial design was preferred over the one proposed and it seems this project is too aggressive and the process should start all over again. There is room for compromise on concerns about privacy, massing, etc. and a heart to heart discussion between the applicant and appellants should occur to reach a compromise. The modern look is welcome and could bring the property value in the area up, but safety remains a concern. Very concerned that the previous CPTED form seems to be missing and there's no new form to review in its place. It seems that the entire community is against this project, which should be taken into consideration. The concerns about the incomplete permit process are valid. The fact that this property survived major earthquakes, yet a windstorm ultimately destroyed it means the shoring wasn't properly done. Suggest that they work with the structure that's proposed. The architect did a reasonably good job to design this building to fit into the character of the neighborhood. The architecture needs some improvements due to some flaws which was eluded to when questioning the treatment of the East and West facades. The architect did as well as he could on the South façade facing the street attempting to mimic the character of the housing along the street. Planting the photinia shown in the proposal is not recommended, because it will get fire blight and possibly die. The applicant previously agreed to plant columner tree at that location, which will provide more privacy. Recommends gating the driveway to create a safe environment for children, but don't pave the rear open space. Instead, create a garden or other types of usable outdoor space. Although there is disagreement between the applicants and appellants, they have similar design ideas in which a compromise can be met if the project is reverted back to the beginning and a serious discussion occurs. The architect stated that he will address the neighbor's concerns and is sure they will reach a compromise.

Mr. Miller explained there are several options on how this motion can be made. If they wanted to approve the appeal, it would be as a straw vote, because the findings for a denial weren't presented to them. They may also continue this item and start the process over to give the applicants and appellants a chance to work



together to address their concerns. Approve the appeal thereby, overturning the Zoning Administrator's decision or deny the appeal and affirm staff's decision or redesign the project in hopes that they choose to resolve their issues during the continuation time period.

Commissioner Bonilla made a motion to continue to no later than December 17, 2014 to allow the applicant and appellants to meet and try to come to a compromise, seconded by Commissioner Coleman.

Action on the matter: Continued 6 ayes, 0 noes.

Approval of Minutes

Commissioner Coleman made a motion to approve the June 18, 2014 minutes, seconded by Commissioner Bonilla.

Action on the matter: Approved 6 ayes, 0 noes.

Vice Chair Moore made a motion to approve the July 2, 2014 minutes, seconded by Commissioner Weinstein.

Action on the matter: Approved 3 ayes, 3 abstentions (Bonilla, Coleman, Pattillo).

ADJOURNMENT

Meeting adjourned at approximately 9:45 P.M.

SCOTT MILLER
Zoning Manager
Planning and Zoning Division

NEXT MEETING: September 3, 2014