

**Planning Commission Minutes
Community Chambers
Wednesday, December 16, 2009, 7:00 p.m.**

Commissioners Present: Mark Braly (Chairperson), Ananya Choudhuri (Alternate),
Greg Clumpner, Lucas Frerichs, Rob Hofmann,
Mike Levy (Vice-Chairperson), Terry Whittier

Commissioners Absent: Kris Kordana

Staff Present: Mike Webb, Principal Planner; Cathy Camacho, Planner;
Eric Lee, Assistant Planner; Lynanne Mehlhaff, Planning
Technician

1. Call to Order

-Chairperson Braly called the meeting to order at 7:00 p.m.

2. Approval of Agenda

The agenda was approved by consensus.

3. Staff and Commissioner Comments (No action).

Chairperson Braly mentioned that there may be a workshop on February 10, 2010 regarding strengthening the City's resale ordinance in the direction of energy efficiency and low carbon technologies. He appointed a committee to work with him on it, including Mike Levy and Lucas Frerichs. He requested Commissioners email him comments on expert resources that could be invited to the workshop and other important issues that should be included.

4. Public Communications

There were no public communications.

5. Consent Items

A. Planning Commission Minutes of July 22, 2009

B. 2035 Lyndell Terrace; Waiver of Tentative Map for office condos

Action: The minutes were moved for approval by Commissioner Choudhuri and seconded by Commissioner Frerichs.

AYES: Choudhuri, Whittier, Levy, Frerichs, Clumpner

Abstain: Hofmann, Braly

Action: Item #5B, 2035 Lyndell Terrace, Waiver of Tentative Map for office condos was not called up and therefore approved by consensus.

6. Public Hearings

A. PA #25-09, 2171 Cowell Boulevard, Suite F, Mermaids Seafood and Grill, Conditional Use Permit #06-09; (Eric Lee, Assistant Planner)

Public Hearing to consider approval of a Conditional Use Permit to allow a new restaurant (Mermaids Seafood & Grill) with a full bar serving beer, wine, and alcohol to located in the Oakshade Town Center in South Davis. The site is zoned PD #5-95D which allows the restaurant use. Previous occupants of this space⁴ included Fins Fish Market, Dukes Sports Bar, and Fusions Asian Bistro, all of which served beer and wine. However, the applicant is proposing a full bar that would serve liquor and therefore requires a CUP under the commercial neighborhood zoning.

Eric Lee, Assistant Planner, presented the staff report.

Chairperson Braly opened the public hearing.

Sam Chimera, applicant, described the restaurant hours of operation and noticing requirements by ABC. He described the use of the outdoor patio. He requested to be allowed to stay open late at night similar to other bars in town and not have their hours limited.

Kevin Chin, resident across the street, was concerned about the full bar because they have two small children and the previous bar, Duke's was extremely noisy. The sound from Duke's was unbearable and they had called the police over it. They sometimes had loud outdoor music as well as DJ's on the inside. He was concerned about the full bar attracting more people late at night and the potential increase in traffic.

Sam Chimera, applicant, addressed the noise issue explaining they weren't a nightclub like Duke's, the previous restaurant/bar.

Chairperson Braly closed the public hearing.

Action: Vice-Chairperson Levy moved approval of the Conditional Use Permit with a clarification to Condition #15 by adding the word amplified before the word music. Commissioner Whittier seconded the motion. The motion was clarified that it included the hours to be extended to stay open until 2 am as requested by the applicant. Commissioner Whittier agreed.

Commissioner Choudhuri substituted the motion to limit the hours to 10 pm on weeknights and 12 am on weekends with no full bar. Commissioner Hofmann seconded the motion. After discussion, Commissioner Hofmann withdrew his second to the motion due to no full bar. The motion died due to lack of a second.

The main motion was restated with approval of the CUP with a correction to Condition #15 by adding the word amplify and allow the flexibility to stay open to 2 am. Commissioner Whittier seconded the motion.

Commissioner Hofmann substituted the motion with approval of staff recommendation, amend the hours of operation to Monday through Wednesday to 12 am (midnight), the other nights until 2 am and the correction to Condition #15 as stated earlier. Commissioner Frerichs seconded the motion.

AYES: Whittier, Levy, Frerichs, Hofmann, Clumpner, Braly

NOES: Choudhuri

The motion passed 6 to 1.

B. PA #19-09, 1260 lake Boulevard, Clearwire Wireless, Conditional Use Permit #04-09; (Lynanne Mehlhaff, Planning Technician)

Public Hearing to consider approval of a Conditional Use Permit to allow the collocation and installation of a wireless broadband internet facility in the clock tower at 1260 Lake Boulevard, the Westlake Shopping Center. The proposed project would consist of three 48" panel antennas, three BTS units and three 26 inch microwave dishes hidden inside the clock tower. A site support equipment cabinet would be installed on the roof behind a four foot parapet wall next to the clock tower and screened from public view. From the proposed location, Clearwire Wireless would be able to provide broadband internet service to a two to three mile radius for their residential and small business customers.

Lynanne Mehlhaff, Planning Technician, presented the staff report.

Chairperson Braly opened the public hearing.

Larry McDonough, applicant for Clearwire Wireless, stated this was a stealth site with all the equipment hidden in and around the clock tower.

Chairperson Braly closed the public hearing.

Action: Commissioner Clumpner moved approval of the Conditional Use Permit with Vice-Chairperson Levy seconding the motion.

AYES: Choudhuri, Whittier, Levy, Hofmann, Frerichs, Clumpner, Braly
The motion passed unanimously 7 to 0.

C. PA #61-08, 2726 Fifth Street, Carlton Plaza Senior Assisted Living Care Facility, Mitigated Negative Declaration #06-08, General Plan Land Use Map and text Amendment #02-08, Rezone/Preliminary Planned Development #04-08, Conditional use Permit #08-08, Design Review #26-08; (Xzandrea Fowler, Principal Planner)

Public Hearing to consider approval of a senior assisted living care facility (“Carlton Plaza”) on the 2.53 acre vacant parcel located at 2726 Fifth Street. The project proposal includes the construction of a three-story 101,000 square foot building. The proposed facility would provide long-term and short-term assisted care serving the needs of a diverse elderly population, including a memory care unit. The requested entitlements include a General Plan Amendment to change the land use designation of the parcel from “Industrial” to “Public/Semi-Public”; a general Plan Text Amendment to add “Residential Care Facility” to the permitted Public/Semi-Public uses; Rezone from PD #4-88, Industrial Subarea, to “Public-Semipublic” (P-SP); Conditional Use Permit to permit the secondary residential component of the proposed facility in the P-SP zoning district; and Design Review for the site plan and architectural review.

Cathy Camacho, Planner, presented the staff report.

Chairperson Braly opened the public hearing.

Don Engle, owner of Carlton Senior Living, said they have tried for six years to locate a senior care facility in Davis. He described their business. He pointed out how the site would fit their needs and it was a terrific location.

Jay Ziegler, consultant for Carlton Senior Living, explained how they did not take this site lightly; they had multiple meetings with the City Police Department, Davis Waste Removal,

Integrated Waste Management Board permitting staff, the Yolo Air Quality Control District and Yolo County.

Jim Gray, Commercial Investment Real Estate Broker, explained how he personally and professionally supported the project.

Paul Hart, of Davis Waste Removal, explained that their concern was that they wouldn't be permitted to expand their uses due to the residential uses next door. He stated that half of the vacant two acres would be used for a building. He said the noise level wouldn't increase but the new building would be built very close to Carlton Senior Living. The new facility would have the recycling sorting in it and they are confident that they would stay within the noise ordinance but the noise will be closer to the neighbor.

Elaine Roberts Musser spoke on behalf of the Davis Senior Citizens Commission and the Yolo County Commission on Aging and Adult Service. She said the Davis Senior Citizens Commission passed a Resolution stating they respectfully disagreed with City staff on land use. They supported the project as a compatible use since there are already residential uses nearby. She stated she walked the site and noted the sounds from the train and the passing trucks on 5th Street were far louder than any noise coming from the Davis Police Department or Davis Waste Removal. She urged approval of the project.

Susan McCauley, neighbor, supported senior housing but had concerns with this project as a neighbor. The building was too large, not appropriate for the site and an EIR was needed. She said the noise of sirens and the large parking lot was not environmentally healthy. She said that DWR was an excellent neighbor but noisy. She was concerned with overflow parking ending up on her street.

Ellen Berman, Social Services Coordinator for the Eleanor Roosevelt Circle, supported the project. She said the Carlton Plaza would be an asset by increasing the choices for senior care in Davis and provide additional social resources for the residents at Eleanor Roosevelt Circle and the senior community in Davis.

Janice Bridge, resident near B Street, urged the Planning Commission to approve the project. She said Davis desperately needs the project for senior citizens living in Davis.

Matt Earhart, Executive Director of Yolo Solano Air Quality Management District, explained how the nuisance and permitting process works with odor issues or air contaminants.

Chairperson Braly closed the public hearing.

Commissioner comments:

- This was such an important project, we should take 2 weeks to consider all the pros and cons.
- Concerned with the conversion of Industrial land when there are few parcels left.
- Would like the Negative Declaration in the staff report fixed since there are mistakes.
- Supported the project, not in support of staff recommendation.

Action: Commissioner Frerichs recommended that the City Council approve the General Plan Amendment and therefore the project based on the findings and documents in attachment #2C. Commissioner Choudhuri seconded the motion.

Vice-Chairperson Levy moved a substitute motion to reject staff's recommendation and indicate support for the project to the City Council. After some discussion, he withdrew the motion.

Commissioner Hofmann said if we are going to go forward with the project then there needs to be a discussion of the Design Review and other entitlements and we may need to do that on another night.

Vice-Chairperson Levy moved a substitute motion to reject the staff recommendation. Commissioner Clumpner seconded the motion.

AYES: Choudhuri, Whittier, Levy, Clumpner, Braly
NOES: Frerichs, Hofmann
The motion passed.

Chairperson Braly asked staff to continue the remaining discussion of the application at a future meeting. Staff discussed having that meeting on January 13, 2010.

Jim Gray, Broker, said it was fine with the applicant to continue this to a regular meeting for the full review.

Vice-Chairperson Levy left the meeting.

Commissioner Clumpner moved to continue this item to the next available date which would likely be January 13, 2010. Commissioner Frerichs seconded the motion.

AYES: Choudhuri, Whittier, Clumpner, Braly, Frerichs, Hofmann
The motion passed unanimously 6 to 0.

Commissioner Whittier moved that staff bring this item back to the Planning Commission with the findings and conditions to support the approval of the project. Chairperson Braly seconded the motion.

AYES: Choudhuri, Whittier, Clumpner, Braly, Frerichs, Hofmann

The motion passed unanimously 6 to 0.

Commissioner Choudhuri asked that the Initial Study be fixed. Staff asked that a consultation occur so that all the changes are made.

Commissioner Whittier said the building needs to be moved back further away from the street or the 2nd and 3rd story needs to be moved back a minimum of 12 feet. There needs to be some level of setback changes from the street so it doesn't appear to have such a large wall so close to the street.

7. Business Items

There were no business items.

8. Informational Items

A. Planning Commission Schedule

9. Staff and Commissioner Comments (continued).

Commissioner Frerichs asked about an update on current projects and would like the web address or a paper copy of current projects in Davis. Staff said a web link would be sent to all the Commissioners.

10. Public Communications (continued).

There were no public communications.

11. Adjournment to the next regular Planning Commission meeting to be held on Wednesday, January 6, 2010 in the Community Chambers (23 Russell Boulevard).

The meeting was adjourned at approximately 10:48 p.m.