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MINUTES

PINOLE PLANNING COMMISSION

Regular Meeting - October 10, 2006

A. CALL TO ORDER: 7:30 P.M.

B. PLEDGE OF ALLEGIANCE AND ROLL CALL:

Commissioners Present: Commissioners Brooks, Long, McFarland, Sekins,
Chair Chapin

Commissioners Excused: Commissioners Banuelos, Toms

Staff Present: City Planner, Elizabeth Dunn
Senior Contract Planner, Christina Ratcliffe

C. CITIZENS TO BE HEARD:

There were no citizens to be heard.

D. CONSENT CALENDAR:

1. September 25, 2006 Planning Commission Meeting Minutes

MOTION to adopt the Consent Calendar consisting of the minutes of the September 25, 2006 meeting, as submitted.

MOTION: Sekins

SECONDED: Brooks

APPROVED: 4-0-3

ABSENT: Banuelos, Toms

ABSTAIN: Long

E. OLD BUSINESS:

1. List of Projects Staff is Working On:

a. Design Review Guidelines

City Planner Elizabeth Dunn reported that that she would be speaking with the consultant firm PMC who would be working on the General Plan Update to determine whether or not assistance could also be provided on the design review guidelines.

1 Zoning Text Amendments

2
3 b. Medical Marijuana

4
5 Ms. Dunn advised that the City was still awaiting the outcome of a Supreme Court
6 decision on the matter.

7
8 Commissioner Long noted that she had previously volunteered to serve on a
9 committee on the issue of medical marijuana. Should such a committee move
10 forward, she reiterated her desire to volunteer in that regard.

11
12 **F. PUBLIC HEARINGS:**

- 13
14 1. **Conditional Use Permit 06-06/Design Review 06-10:** Consideration of
15 building façade and site improvements at the Del Monte Shopping Center at
16 600-630 San Pablo Avenue, APN 402-200-012, 403-040-005 and 006. The
17 applicant is Sanjiv Bhandari of BKBC Architects, Inc., 1371 Oakland
18 Boulevard, Suite 101, Walnut Creek, CA 94596. The property owner is
19 Dinesh Sawhney of Sawhney Properties, LP, 418 Jefferson Street, Oakland,
20 CA 94607. *Request by staff to continue the project and re-notice the project.*

21
22
23 City Planner Dunn presented the staff memorandum dated October 10, 2006.
24 Because staff continued to encounter difficulty with an applicant that did not appear
25 to be able or willing to submit the required application materials in a timely manner,
26 she requested a continuance of the item to a date uncertain. Once staff received
27 and reviewed the revised plans and the additional application materials that have
28 been requested, the application would be re-noticed for the next available Planning
29 Commission meeting.

30
31 **PUBLIC HEARING OPENED**

32
33 **PROPONENT:**

34
35 DINESH SAWHNEY, Sawhney Properties, LP, 418 Jefferson Street, Oakland, had
36 no objection to a continuance of the project to the next meeting of the Planning
37 Commission. He commented that he had revised the project design at the request
38 of staff, which revised design he was willing to present to the Planning Commission
39 at this time.

40
41 Commissioner Long inquired of the color scheme that had been presented and
42 approved by the Design Review Board (DRB). She referenced a statement that the
43 applicant had made during the September DRB meeting that he would withdraw
44 that application if he didn't get what he wanted to move forward.

1 Commissioner Long expressed concern whenever an applicant refused to work with
2 the City. She suggested that the same situation could apply with the sign
3 application she understood would be considered by the DRB this week.
4

5 Commissioner Long understood that the applicant had a business in Walnut Creek.
6 She commented that while the applicant may be under the impression that things
7 were different in Pinole, she emphasized that the same standards held dear in
8 Walnut Creek would be expected in the City of Pinole.
9

10 Commissioner Long commented that the debris box for Embers at the site was
11 always in the parking lot. She understood that it was to be located behind the gate.
12 She questioned why that was not being done. She emphasized that if she were to
13 even consider a variance for the project, if that was part of the proposal when the
14 project returned to the Commission, she would want assurance that the applicant
15 held the standards in Pinole as near and dear as did the Planning Commission.
16

17 Commissioner Long added that the parking lot was atrocious. She expressed her
18 hope that the parking lot would be addressed in the future. Having patronized some
19 of the businesses in the shopping center, she stated that some of the parking
20 spaces were substandard and not compact in size. If the applicant planned any
21 variance or additional request, she emphasized that she would review those details
22 thoroughly. She noted that the property was in poor condition, and while it might
23 have been inherited by the current property owner in that condition, now was the
24 opportunity to clean it up.
25

26 Mr. Sawhney acknowledged that he had inherited the problems with the center. He
27 had plans to renovate the property and had been trying to go through that process
28 with the City. He was also working with the tenants to address the issues with
29 garbage. He noted that the issues raised were already being addressed and that
30 staff had already approved those issues which he understood must be reviewed by
31 the DRB. He commented that the parking lot would be repaved and there would be
32 new landscaping, painting and architectural improvements.
33

34 Commissioner Long pointed out that the property was the gateway to the City of
35 Pinole from San Pablo Avenue.
36

37 Mr. Sawhney commented that he was proud to be a part of the City and wanted
38 everyone to be proud of the center when driving by. He reiterated that he had been
39 working with staff and was making progress. He had already started painting the
40 shopping center and would make the rest of the changes when approved.
41

42 Commissioner Sekins questioned whether or not the property owner was clear on
43 what was being required by staff to proceed.
44

45 Mr. Sawhney noted his affirmation of what was being required of him.

1 430-290-013, and the on-site sign is proposed for 759 San Pablo Avenue,
2 Assessor Parcel Number 402-166-034. The applicant is Bruce Fowler of
3 Sign Technology, 4775 Hannover Place, Fremont, CA 94538. The property
4 owner for 2669 Appian Way is QLC Management, LLC, 2220 Boynton
5 Avenue, Suite A, Fairfield, CA 94533, and the property owner for 759 San
6 Pablo Avenue is DeNova Homes, 333 Civic Drive, Pleasant Hill, CA 94523.
7

8 Ms. Dunn presented the staff report dated October 10, 2006. She recommended
9 that the Planning Commission approve a Conditional Use Permit for two separate
10 subdivision signs; one at 759 San Pablo Avenue one at 2669 Appian Way, with the
11 recommended conditions of approval. The project would then be submitted to the
12 DRB to finalize the design color and the aesthetic details of the two signs.
13

14 In response to Commissioner Sekins, Ms. Dunn clarified that neither of the signs
15 would be illuminated.
16

17 Commissioner Long understood that originally a sign had been placed on an
18 incorrect parcel.
19

20 Ms. Dunn acknowledged that the off-site sign on Appian Way had been installed
21 prior to the application having been considered and approved by the Planning
22 Commission.
23

24 Commissioner Long inquired whether or not the applicant and property owner for
25 the Appian Way property were one and the same and if there was any financial
26 connection.
27

28 Ms. Dunn advised that the property owner of 2669 Appian Way was owned by QLC
29 Management, and not DeNova Homes. She understood that there was a copy of a
30 lease on file for that property.
31

32 PUBLIC HEARING OPENED
33

34 PROPONENT:
35

36 BRUCE FOWLER, Sign Technology, 4775 Hannover Place, Fremont, represented
37 the sign company for DeNova Homes hired to build the developer's signs.
38

39 Commissioner Long understood that the applicant had been in the business for
40 some time. Given that fact, she questioned whether or not the sign had initially
41 been installed without approved permits.
42

43
44 Mr. Fowler explained that the referenced sign had been installed in error. Once the
45 error had been identified the sign had been removed.

1
2 Commissioner Long inquired whether or not the sign company would be hired for
3 human directional signs and Mr. Fowler responded that DeNova Homes had not
4 contracted with his sign company for human directional signs.
5

6 In response to Commissioner Brooks as to whether or not Sign Technology would
7 comply with the requirement to mark before drilling, Mr. Fowler affirmed that such a
8 process would be done before the signs were installed with USA markings and
9 drilling, particularly to protect Sign Technology employees and any utilities. If USA
10 markings were not done, his production crew would not install the sign.
11

12 INTERESTED SPEAKER:
13

14 DICKSON SUM, Pinole, stated that he was neither for nor against the signs.
15 However, as the property owner/manager of the apartment complex at 745-747 San
16 Pablo Avenue, which bordered the DeNova Homes development, he reported that
17 the DeNova Homes subdivision had negatively impacted his property. He clarified,
18 when asked, that he had wanted to speak during public comment but was uncertain
19 that was the appropriate forum to raise his concerns.
20

21 Chair Chapin clarified that the only issue before the Commission at this time was
22 the sign application. He expressed the willingness to re-open the public comment
23 portion of the meeting after the completion of the public hearing.
24

25 OPPONENTS: None
26

27 PUBLIC HEARING CLOSED
28

29 Commissioner Long questioned the applicant's statement that the firm did USA
30 markings and drilling in that the initial sign had been placed on the wrong property
31 leading her to believe that the markings and drilling were not done as routinely as
32 the sign contractor had suggested. She recommended that if one post hole was
33 done without the appropriate markings, the applicant should be fined accordingly
34 and required to return to the Planning Commission with an explanation. In her
35 opinion, the applicant was an extension of the developer, DeNova Homes.
36

37 Commissioner Long spoke to Attachment 1, Special Conditions of Approval, and
38 requested that Conditions 1a and 1c be amended to read:
39

- 40 a. Both Subdivision signs shall be removed within 18 months of the
41 date erected or when the last home is sold whichever comes first.
42
43
44 c. The applicant or property owner shall reimburse the City of Pinole
45 the cost of removing such signs, if the City is forced to remove the

1 signs, alone.
2

3 Commissioner Long also requested a condition prohibiting the use of human
4 directional signs within the City of Pinole since they were found to be distracting and
5 dangerous and had not been allowed in other approved subdivisions in the City.
6

7 Commissioner Sekins requested an additional special condition that the subdivision
8 signs be reviewed by the Planning Commission after 12 months. He agreed with
9 the other modifications recommended by Commissioner Long.
10

11 Commissioner Brooks suggested that due to the temporary nature of the signs, the
12 concrete be removed from the requirement for anchoring the signs. He asked that
13 also be added as a special condition of approval. He otherwise questioned who
14 would monitor the removal of any graffiti on the signs.
15

16 Ms. Dunn explained that graffiti would be handled through graffiti complaints
17 received by the City and would be handled by the firm the City had hired to respond
18 to graffiti abatement. She noted that if graffiti were to occur on private property, the
19 City must have approval from the property owner for that abatement.
20

21 Commissioner Long suggested an additional special condition that graffiti on the
22 signs be removed within 48 hours.
23

24 Commissioner Sekins requested another special condition that proof of USA
25 notification be provided to City staff.
26

27 **MOTION** to approve Conditional Use Permit 06-07/Design Review 06-11, subject to
28 Attachment 1 Special Conditions of Approval, with the following modifications:
29

30 Condition 1a to be amended to read:
31

- 32 a. *Both Subdivision signs shall be removed within 18 months of the*
33 *date erected or when the last home is sold whichever comes first.*
34 *After 12 months the signs shall be reviewed to ensure they were still*
35 *appropriate.*
36

37 Condition 1c to be amended to read:
38

- 39 c. *The applicant or property owner shall reimburse the City of Pinole the*
40 *cost of removing such signs, if the City is forced to remove the signs,*
41 *alone.*
42

43 Add the following Special Conditions:
44

- 45 3. *No human directional signage to be a part of this approval.*

- 1 4. *No concrete is to be poured.*
- 2 5. *USA to be notified.*
- 3 6. *Any graffiti to be removed within 48 hours.*
- 4

5 And subject to:

- 6
- 7 • Attachment 2, Findings of Fact, Conditional Use Permit 06-7;
- 8 • Attachment 3, Resolution 06-22, Conditional Use Permit, 06-07, A Resolution
- 9 of the Planning Commission of the City of Pinole Approving Conditional Use
- 10 Permit 06-06 For Two Subdivision Signs, One to be Located at 759 San
- 11 Pablo Avenue, APN 402-166-034 and One to be Located at 2669 Appian
- 12 Way, APN 430-290-013. The Property Owner is DeNova Homes, 333 Civic
- 13 Drive, Pleasant Hill, CA 94523, and QLC Management, 2220 Boynton
- 14 Avenue, #A, Fairfield, CA 94553, Respectively. Bruce Fowler of Sign
- 15 Technology, 4775 Hannover Place, Fremont, CA 94538 is the Applicant.
- 16

17 **MOTION: Long**

18 **SECONDED: Brooks**

19 **APPROVED: 5-0-2**

20 **ABSENT: Banuelos, Toms**

21 Chair Chapin re-opened the Citizen's to be Heard section of the agenda at this time.

22

23 DICKSON SUM, Pinole, Property Owner/Manager of the apartments located at 745-

24 747 San Pablo Avenue, Pinole, commented that when DeNova Homes had first

25 come to design review for the development of the site, he had expressed concern

26 with the common utility easement running along the west side of the property line.

27 He had asked at that time that his fence line not be affected in any way. However,

28 over the past couple of months, part of the fence had been demolished by the

29 developer since the developer had indicated that a portion of the fence was on the

30 DeNova Homes property. He stated that he had not been provided with any

31 evidence to that effect. In addition, a portion of the fence in the middle of the

32 apartment complex had since collapsed since the developer had dug too far into the

33 property line.

34

35 Mr. Sum noted that he had provided a letter and photographs to the City illustrating

36 how the developer had dug into an abandoned utility, affecting water, sewer and

37 telephone cables, all of which had affected his tenants. While he had contacted the

38 Building and Police Departments and while the developer had promised to make

39 repairs, nothing had been done. He suggested that the developer intended to

40 remove the utilities and relocate them without his permission.

41

42 While he had questioned how DeNova Homes would mitigate the damages caused

43 to the property, Mr. Sum stated that he had received no response from the

44 developer.

1 Mr. Sum added that he had spoken with the Director of Public Works and had
2 learned that the work had been done without permits. Within the last week, his
3 dedicated fire line and hydrants had been turned off by workmen who had informed
4 him that they were making repairs, although he had not been informed or had
5 permits been pulled for those repairs. He had asked the workers to stop and leave
6 his property although that had not happened leading him to contact the Fire
7 Department.

8
9 Mr. Sum reiterated that the utilities were to be replaced in kind but that had not been
10 done. He again reiterated that the developer had not received permission to
11 remove, replace or damage anything on his property and that basic services to his
12 property were not to be impacted. He noted that he had lost two tenants as a result
13 of the disturbances that had occurred. He pleaded with the City to do whatever it
14 could to assist him.

15
16 In response to Commissioner Long, Mr. Sum explained that he had contacted the
17 Building Official, a receptionist, and other City staff at the counter to raise his
18 concerns. He reiterated that he had also contacted the Police Department which
19 had written a report, but which had referred him to the Public Works Director. He
20 affirmed, when asked, that within the last month DeNova Homes had been working
21 during the weekends.

22
23 **G. NEW BUSINESS/WORKSHOPS:**

24
25 1. Discussion on Establishing a Citizen's Oversight Committee

26
27 Ms. Dunn presented the staff memorandum dated October 10, 2006. She
28 recommended that the Planning Commission discuss the establishment of a
29 Citizen's Oversight Committee with the appointment of such a Committee to be at
30 the direction of the City Council.

31
32 Chair Chapin supported the establishment of such a committee.

33
34 Commissioner Long explained that the recommendation for the establishment of a
35 Citizen's Oversight Committee had been a recommendation she had recently made
36 to the City Council. She expressed concern with the lack of accountability or staff
37 enforcement of City codes for many City projects once approved. She cited
38 DeNova Homes as an example of a developer that had worked on many weekends
39 in violation of the conditions of approval disrupting the surrounding neighbors. She
40 noted that there was no one specific person on City staff responsible for the
41 enforcement of City codes.

42 Commissioner Long commented that she had previously been informed in the
43 instance of a developer working beyond the permitted hours of construction that
44 complaints were to be made to the Police Department. However, during the recent
45 City Council meeting when she had raised her concerns, the Police Chief was

1 unaware of his responsibility to the City with respect to complaints related to City
2 code, which she recognized given his responsibility for the safety of all citizens in
3 the community. As a result, she suggested that citizens needed to step in and form
4 a committee that would address complaints related to the lack of compliance with
5 City codes.
6

7 Commissioner Long commented that the concerns raised by Mr. Sum were a good
8 example of the need for a Citizen's Oversight Committee, even if nothing more than
9 a set of guidelines could be crafted to address the problem. She questioned the
10 lack of a check off list with the current process for approved projects. She
11 emphasized the need for the City to send the message that projects were to be
12 done right.
13

14 Commissioner Sekins expressed concern that City Departments did not
15 communicate with each other. He recommended a future agenda item with the City
16 Manager, Public Works Director and other Department heads to discuss a list of
17 procedures for City staff, given that staff had police powers to enforce City codes.
18 He agreed with the need for the City to work as a team. He expressed a willingness
19 to help out in that regard.
20

21 Commissioner Brooks reported that he had attended the Ad Hoc Safety Committee,
22 which had recommended the establishment of a Special Collaborative Task Force
23 to deal with a number of issues. He agreed that a Citizen's Oversight Committee
24 should be implemented. As to the DeNova Homes development, he recommended
25 that the project cease construction to allow a review of the project to ensure
26 compliance with City codes and safe building practices.
27

28 Commissioner McFarland clarified with Ms. Dunn that the concerns raised with
29 respect to the DeNova Homes development could not be discussed by the Planning
30 Commission at this time since it had not been agendized for action. He asked that
31 the DeNova Homes concerns be agendized for the next meeting.
32

33 Ms. Dunn explained that DeNova Homes would like to open three lots as model
34 homes. One of the lots would not be able to be entered although there could be
35 access to the other two. In recent discussions with the Building Official, she noted
36 the likelihood that the City would issue an approval letter to use the buildings for that
37 purpose, but would not issue a Certificate of Occupancy. She reported that DeNova
38 Homes would like to get their model homes operable sooner rather than later.
39

40
41 Commissioner Long suggested that the model homes be opened later to ensure a
42 more expeditious compliance from the developer.
43

44 Commissioner McFarland recommended that the City not issue anything to DeNova
45 Homes until the issues raised by Mr. Sum had been resolved and inspected by the

1 proper entitles prior to the showing of any model homes in the development.
2

3 Ms. Dunn explained that in a recent meeting with the Mayor, she and a
4 representative of DeNova Homes had discussed a timeline for the opening of the
5 model homes, which was to be within the next week or so. She acknowledged,
6 when asked by Commissioner Long, that she had seen a letter submitted to the City
7 from Mr. Sum in late September, although she had been unaware of all of the
8 issues.
9

10 Ms. Dunn suggested that there was some misunderstanding with the easement
11 because the adjacent property owner could use that area of land.
12

13 Commissioner Long pointed out that there were several issues related to the
14 DeNova Homes development. Regardless of the outcome of a meeting between
15 City staff and the developer, she recommended that the complaint raised by Mr.
16 Sum be agendized for discussion and that the City defer any occupancy certificates
17 for model homes or otherwise. She asked that the concern also be forwarded to the
18 City Council. She did want to see the development signed off before new
19 information could be reviewed since the project could be detrimental to an adjacent
20 property owner and must be addressed while the Planning Commission still had
21 some control in terms of the planning issues.
22

23 Commissioner Long added that as part of the occupancy of the units, everything
24 must be fenced in. If the DeNova Homes development was not completely fenced,
25 she stated that everything could be deferred.
26

27 Chair Chapin understood that the Planning Commission could send a message of
28 concern although the City Council and staff had the authority to enforce the City's
29 regulations.
30

31 Commissioner Long asked that the enforcement be done in a format where
32 decisions could be made and where staff could hold off on occupancy certificates if
33 there were issues with DeNova Homes that needed to be resolved. She suggested
34 that the project could be returned to the Planning Commission for a review of the
35 situation.
36

37 Commissioner Sekins recognized the concerns although he acknowledged that the
38 concerns raised by Mr. Sum had not been agendized and the Commission could
39 not take any action at this time nor could it direct that the project be stopped.

40 Ms. Dunn explained that she would forward the concerns to the City Manager and
41 DeNova Homes and it would likely reach the City Council. She added that she
42 would have to discuss with the City Attorney how far the Planning Commission
43 could go in terms of its authority.
44

45 Commissioner Sekins suggested that Mr. Sum should have received a timely

1 response in writing from City staff regarding his September correspondence.
2 Uncertain whether or not the allegations made against DeNova Homes were true, if
3 true, he stated that the impacts to Mr. Sum's tenants were a real concern. He
4 sought an explanation from the developer for that situation.
5

6 From what she had been told by DeNova Homes, Ms. Dunn stated that there had
7 been numerous letters to the attorneys for the Sums, with no response.
8

9 Commissioner Long stated that there appeared to be a breakdown in terms of
10 communication. She suggested that a Citizen Oversight Committee could help in
11 that regard.
12

13 Commissioner Sekins added that the Police Subcommittee had experienced
14 changes in how the police handled things in the community.
15

16 **MOTION** for the Planning Commission to send a message to the City Council
17 expressing its support for the establishment of a Citizen's Oversight Committee.
18

19 **MOTION: Long**

SECONDED: Sekins

APPROVED: 5-0-2

Absent: Banuelos, Toms

20
21
22 **H. CITY PLANNER'S/COMMISSIONER'S REPORT:**
23

24 Commissioner Long inquired of the status of the landscaping for Wendy's
25 Restaurant, to which Ms. Dunn acknowledged that she had yet to send a letter to
26 the operator indicating the need for a landscaping plan before the signage was
27 approved
28

29 Commissioner Long also understood that the Planning Commission would be
30 serving as the Steering Committee for the General Plan Update.
31

32 Ms. Dunn affirmed that decision had been made at the September 25 Planning
33 Commission meeting. She noted that Ms. Ratcliffe would be an advisor to the
34 General Plan Update Team with a kick-off on October 19, at which time a series of
35 public meetings and outreach would be identified. She reported that the General
36 Plan page on the City's website would be linked to the home page and would likely
37 be up and running prior to Thanksgiving.
38

39
40 Commissioner Long liked the team that had been chosen for the General Plan
41 Update. She expressed her confidence that the process would energize the
42 community and she looked forward to that process.
43

44 Commissioner Brooks reported that property at San Pablo Avenue and Second
45 involved an apartment project which had been approved although landscaping had

1 not been installed.
2

3 Ms. Dunn asked for a specific address to allow her to research the City files to
4 determine the conditions that might have been imposed on the project.
5

6 Chair Chapin urged all to vote NO on Proposition 90 on Election Day. He identified
7 who was funding the proposition which he suggested was an onerous proposition
8 making it more difficult to condemn property and conduct redevelopment and which
9 could change land use in the State. He stated that additional information was
10 available on the NoProp90.org website.
11

12 Ms. Dunn agreed that if Proposition 90 passed it could affect policy decisions and
13 the General Plan Update.
14

15 **I. COMMUNICATIONS:** None
16

17 **J. NEXT MEETING:** Monday, November 13, 2006.
18

19 **K. ADJOURNMENT:** 8:43 P.M.
20

21 Transcribed by:
22
23
24

25 Anita L. Tucci-Smith
26 Transcriber