

DESIGN REVIEW BOARD MEETING
Multipurpose Room, Civic Center Building, Basement Level
450 Civic Center Plaza, Richmond CA 94804
February 12, 2014
6:00 p.m.

BOARD MEMBERS

Brant Fetter, Chair
Robin Welter
Eileen Whitty
Don Woodrow

Brenda Munoz, Vice Chair
Ray Welter
Mike Woldemar

Chair Fetter called the meeting to order at 6:00 p.m.

ROLL CALL

Present: Chair Brant Fetter; Vice Chair Munoz; Boardmembers Robin Welter; Eileen Whitty, Michael Woldemar, and Don Woodrow

Absent: Boardmember Ray Welter

Staff Present: Jonelyn Whales, Kieron Slaughter, Hector Lopez and Rachel Sommovilla and James Atencio

APPROVAL OF MINUTES - None

APPROVAL OF AGENDA

ACTION: It was M/S (Woldemar/Whitty) to approve the Agenda; unanimously approved by voice vote: 6-0-1 (Ayes: Fetter, Munoz, Robin Welter, Whitty, Woldemar and Woodrow; Noes: None; Absent: Ray Welter).

Public Forum - Brown Act - None

Council Liaison Report - None

CONSENT CALENDAR:

Chair Fetter noted there are three items on the Consent Calendar. He asked if Boardmembers wished to remove an item from Consent. Boardmember Woldemar asked to remove Items 1 and 3.

Chair Fetter announced that any decision approved may be appealed in writing to the City Clerk within ten (10) days, or by Monday, February 24, 2014 by 5:00 p.m.

Boardmember Woldemar referred to Item 2 and confirmed that there is no signage involved. Chair Fetter noted that the applicant indicated there will be landscaping; however, there is a landscape plan. Mr. Lopez stated there will be no additional landscaping.

Chair Fetter requested removal of Item 2.

Items Approved on the Consent Calendar - None

Items Removed from the Consent Calendar:

Public Hearing(s)

CC 1. PLN14-012 CHEANG RESIDENTIAL DEVELOPMENT ON A 8,700 SQUARE FOOT SITE

Description PUBLIC HEARING TO CONSIDER A DESIGN REVIEW PERMIT TO CONSTRUCT TWO DETACHED RESIDENTIAL UNITS AND A SECONDARY ±640 SQUARE FOOT IN-LAW UNIT.

Location 322 KEY BLVD

APN 501-220-012

Zoning (MFR-1) MULTIFAMILY RESIDENTIAL DISTRICT

Owner CHI CHIO CHEANG

Applicant WAI KIN CHOI

Staff Contact HECTOR LOPEZ

Recommendation: **CONDITIONAL APPROVAL**

Hector Lopez gave a brief description of the request for a design review permit to construct two detached residential units and a secondary 640 square foot in-law unit. He described the zoning, adjacent uses, parking, and layout of the units,

Boardmember Whitty questioned fencing plans, and Mr. Lopez described the fence as a good neighbor wood fence around the perimeter of the property and the wire fencing will be removed in the back. Boardmember Whitty stated on 6th and Gilman in Berkeley, there is great looking fence with aluminum panels with wood and she asked and confirmed why no other fencing was discussed or proposed.

Boardmember Woldemar stated a letter was received from the adjacent neighbor and he suggested hearing from him under public comment.

Wai Kin Choi, applicant, thanked the Board and staff for their work and help in understanding the process.

Public Comments:

Douglas Hund, 5126 Prather, said his home is directly north of the site and said he wrote a letter to the Board. He supports development of the property, as it has sat vacant for years, but the way it is planned, it severely impacts his backyard. He noted his backyard is private with lots of sun. He is concerned with the amount of light and impact to his yard and presented a shadow study. Second, he is concerned with privacy and the positioning of one of the bedroom windows facing directly into his yard. His energy costs would be impacted as well as light, and he hopes the Board can possibly think about putting the in-law unit in back which would be more consistent with the character of the neighborhood. The largest house in the surrounding area is about 1,400 square feet, and this proposal puts 3,300 square feet on the site.

Boardmember Whitty asked if Mr. Hund met with the applicant. Mr. Hund said this was the first he ever knew of the project, after he received the notice.

Oscar L. Martin, Richmond Heights Neighborhood Council, said he received an email from the applicant in December that they would be before the Board in January and they did not have a meeting in January. He made a flyer and distributed it to neighbors and commented that one of

their neighbors had put a second floor on their house and the Planning Department suggested smaller windows to prevent privacy issues.

Rebuttal – Applicant

Wai Kin Choi, applicant, said he visited Mr. Hund's house last Monday and there was a sign on the door that stated visitors must call beforehand, and Mr. Hund noted his father-in-law was sick. Therefore, he did not knock on the door, but that was the only time he tried to contact him. He said they want a good relationship and he is sure he can do something to protect the neighbor's privacy.

Chair Fetter questioned if the applicant contacted neighbors to the south of the nproperty. Mr. Choi said no, he did not. Chair Fetter questioned if he had been informed by planning that this needed to be done. Mr. Choi said he thought neighbors would receive something from the City and apologized, but said he would like to work things out.

Boardmember Woldemar asked Ms. Whales to provide a brief summary about how the City notices projects, which she described. He said the subcommittee met on this project and he individually reviewed the project, and changes made from the original plans to these plans were significant and in a much better form. There are some rather simple solutions to what he is thinking both a sunlight and privacy intrusion problem. He referred to Sheet #4 and the upper floor plan on the left side. He suggested flipping the floor plan so the upper rear corner would be on the northeast corner of the unit. Next, there are 3 windows which could be 3'x2' in height so that people cannot visually look out into the yard. Also, in the side yards between house #1 and #2, the 13 foot side yard could be reduced to 10 feet, adding the 3 feet to the north side, making it 8 feet instead of 5 feet.

Chair Fetter suggested making the corridor between the buildings smaller. He was not sure about flipping but he thinks the key is about the size of the windows. Boardmember Woldemar noted that his reasoning for flipping is that sun is blocked.

Boardmember Robin Welter said at some point the owners were thinking about splitting it into two lots in the future, and this was something the subcommittee could think about given utilities, landscaping and the walkway so there are no conflicts later on.

Boardmember Woldemar asked and confirmed with the applicant he was amenable to the suggested changes. He noted the stairs would have to stay where they are because of the garage on the lower floor.

Douglas Hund, 5126 Prather, stated noted there was a variance allowing 10 feet in the rear yard, and he voiced concern that in looking on page 5 of the staff report, if they were to subdivide the lot later on, the open space requirement is met with the second site on the south side. Mr. Lopez said they will be required to have the open space requirement.

The public hearing was closed.

Boardmember Whitty asked if the Board needed to amend condition number 1. It states all drawings shall be accepted. Chair Fetter noted that the drawings would be accepted and changes shown on the drawings.

Chair Fetter referred to the exterior siding of House #2. The color blue is very vibrant and it is a departure for the neighborhood. The applicant was amenable to change the color.

ACTION: It was M/S (Woldemar/Whitty) to approve PLN14-012 based on the staff's recommended four findings, based also on the staff's recommended fifteen conditions of approval, with the following additional conditions: 1) that the upper floor of House #1 be flipped north to south such that the upper floor carved corner is on the northeast corner of the building; 2) that those windows on the upper floor facing north be 3'x2' awning type windows consistent with other windows in the project; 3) that the northerly side yard be increased from 5 feet to 8 feet and that the southerly side yard be decreased from 13 feet to 10 feet; and 4) that the color of House #2 be a softer blue than what was proposed, subject to staff review and approval; unanimously approved by voice vote: 6-0-1 (Ayes: Fetter, Munoz, Robin Welter, Whitty, Woldemar and Woodrow; Noes: None; Absent: Ray Welter).

CC 2. PLN13-320 MARTIN METAL ROOF FOR EXISTING FUELING STATION

Description	PUBLIC HEARING TO CONSIDER A DESIGN REVIEW PERMIT TO CONSTRUCT A ±1,700 SQUARE FOOT METAL ROOF OVER AN EXISTING TRUCK FUELING STATION.	
Location	700 ERLANDSON STREET	
APN	549-222-004	
Zoning	M-2 (LIGHT INDUSTRIAL)	
Owner	ELIZABETH MARTIN	
Applicant	JOHN HICKS	
Staff Contact	HECTOR LOPEZ	Recommendation: CONDITIONAL APPROVAL

Chair Fetter asked if the applicant was amenable to submitting a revised landscape plan. Mr. Hicks said they are definitely amenable to restoring landscaping and irrigation, which has been noted on their plans. They are agreeable to abide by conditions as set forth in the staff report. The construction site plan will clearly describe restoration of the landscaping and irrigation.

Chair Fetter apprised the applicant of the fact that landscape plans should come in with the application packet. Mr. Hicks noted this is restoration of an existing site, and Chair Fetter noted the Board does want to see landscape plans.

Boardmember Whitty said she does not see drainage from the new canopy. Mr. Hicks said it will drain at the base of the columns and run directly over to the existing catch basin which is exactly how it functions now. He said there are downspouts that go down in the center of the canopy column.

The public hearing was closed.

ACTION: it was M/S (Woldemar/Munoz) to approve PLN13-320 based on the staff's recommended four findings, based on staff's recommended nine conditions with the following additional condition that a complete landscape plan indicating both existing and new landscape materials be submitted for staff review prior to construction; unanimously approved by voice vote: 6-0-1 (Ayes: Fetter, Munoz, Robin Welter, Whitty, Woldemar and Woodrow; Noes: None; Absent: Ray Welter).

CC 3. PLN10-157 GONZALES SECOND-STORY ADDITION

Description PUBLIC HEARING TO CONSIDER A DESIGN REVIEW PERMIT TO CONSTRUCT A ±977 SQUARE FOOT SECOND-STORY ADDITION TO AN EXISTING RESIDENCE.

Location 5120 COLUMBIA AVENUE

APN 510-081-005

Zoning MFR-3 (MULTI-FAMILY HIGH DENSITY RESIDENTIAL)

Owner PEDRO GONZALES

Applicant ROBERTO PENA

Staff Contact KIERON SLAUGHTER Recommendation: **CONDITIONAL APPROVAL**

Associate Planner Kieron Slaughter gave the staff report, a description of the request for a design review permit to construct a 977 square foot, second story addition. He noted an email was received from Boardmember Ray Welter who was unable to attend the meeting. He has requested amendments to the project which was distributed, and he said the applicant can speak as to whether they will accept these recommendations. Mr. Slaughter then described the existing residence, existing second dwelling unit in the rear of the property and garage structure used as an unpermitted third living unit. In 2010 the application came to the DRB and it was continued to a later date to make modifications, and subsequently, the applicant withdrew the application. He has brought it back to include some of the requests made previously.

Staff believes the proposed addition will enhance the architectural style of the original house and relates well to massing of other two-story dwellings in the neighborhood. He said Boardmember Woldemar provided comments during the previous iteration which are attached to the staff report. Regarding analysis, staff believes the project conforms to development standards. Staff received no information from the Southwest Annex Neighborhood Council; however, Mary Silva contacted staff who stated that typically projects in this neighborhood are reviewed by her neighborhood council.

Correspondence was received from the public on February 7th from Jeff Sochet, an adjacent neighbor concerned about the existing homes and their proximity to the property line. Staff explained to the neighbor that the proposed project meets the setback as stipulated and it will be 5 feet from the property line. Staff also held a brief meeting with the City's plan check engineer who also confirmed that the project would not require any additional fire rated walls which was another concern of Mr. Sochet's.

In conclusion, the project enhances the appearance of the property, is in compliance with setbacks and is comparable to similar sized lots in the Richmond Annex.

Boardmember Whitty referred to page 2 of 8 of the staff report under Discussion, first paragraph and said the applicant intends to convert the garage conversion to uninhabitable space by removing the kitchen and changing the bathroom to a half bathroom. She suggested that Condition No. 2 read, "Shall be demolished" and not legalized. Mr. Slaughter said having an accessory structure there is not illegal and it is simply whether or not they choose to keep it there. He explained there will be a second dwelling unit in the rear of the property. There was an illegal third unit in the garage which will be removed. The use is changing but the garage is staying as a garage. He apologized for the wording in the condition and said the addition to the garage shall be legalized and not the use, and said he is also adding a deed restriction prohibiting rentals in the future.

Boardmember Robin Welter clarified that the existing home is on the property line but the addition will be 5 feet off.

Boardmember Whitty asked and confirmed that Boardmember Ray Welter's comment about the hip roof is a reasonable request and will eliminate some of the bulk of the project. He also agreed that the belly band should not be cut and route the downspouts over and around them.

Boardmember Woldemar asked if there are any provisions that require that a condition not in compliance in today's building code be brought up to current code. He said the code used to say when more than 50% of the value of the home as well as other triggers it must be brought up to code. Mr. Slaughter said if the applicant opens up the wall, it must be fire rated.

Chair Fetter said also when someone puts a second story on a house applicants rarely understand that a lot of the existing house must be torn out to put in the second floor building. He said he is somewhat puzzled about how this affects the areas being left alone. He noted the bedroom and kitchen walls are opening up to get electrical done, as well as the bathroom. Mr. Slaughter said they do not know what will need to be opened, but this is not a design related issue. All of this will be handled at the time of building plan check.

Boardmember Woldemar said a way to solve this is that the new wall is layered over the existing sheetrock. Chair Fetter said it comes down to light and air between buildings, and he is addressing this long before it comes up publicly.

Chair Fetter called for public comment.

Roberto Pena, applicant, said he was amenable to doing the proposed changes to the gable roof.

Chair Fetter noted he disagrees with the request for changes to the gable. He believes it would be awkward to not have gabled ends on both sides as it would truncate it on one side and disrupt the language of the composition.

Jeff Sochet, 5122 Columbia Avenue, said he lives next door to the proposal for over 8 years and is surprised he was not aware of the notice until just recently. His comment is that the Board cannot address some of these issues once the permit has been given and the structure is built. Life/safety issues are one thing but moreover are the aesthetics. Both homes do not meet code. Mr. Pena bought the house like that and he bought his house like that. While the second story will meet the 5 foot setback, it will still be right on top of him and there are also shading issues, privacy issues, and not an ideal situation. There is actually very few if any two-story homes in the immediate area. His house is a modest home which is the appeal of the house, and the applicant's house will change the feel of the neighborhood. He has not seen the plans but he questioned if there were ways to come up with alternative designs.

Boardmember Whitty asked Mr. Sochet what he would do if he put on a second story. Mr. Sochet said he would go back into his large yard and built it. He noted that there is no way Mr. Pena is putting on the second story without touching the fire wall and the siding will have to be taken off. If he were to add on, he would go add square footage in his backyard. The neighbor to the east of him did this and stepped down the addition a bit so the second story is not so high. He is trying to look out for the interests of his house and his property.

Boardmember Robin Welter asked if Mr. Sochet had any drainage issues between the two homes. Mr. Sochet said he put downspouts on both houses and put in a drain that leads out to the back of the property so there is no problem. He would propose that whatever the final design ends up being, that there be attention put sound proofing in the sheetrock to limit noise.

Boardmember Woldemar asked if Mr. Sochet knows where the real property line is. Mr. Sochet said he has been told Mr. Pena's house is on the property line. Boardmember Woldemar said

the wall cannot currently be made into a one-hour wall until something else is applied to it. So, therefore, that wall will have to be tinkered with. Although the plans show is as siding on page A.4, to physically get in there and apply something to the wood siding, access to the 2 feet is going to be needed. Regarding privacy intrusion, on the upper floor wall, there are no windows on that wall, so that issue is moot. It seems to him that the bigger issue is how technically this gets accomplished and the appropriate thing to do would be to defer the item, ask the applicant specifically how they are going to handle it, do the necessary drawings for it and ask the Building Official to say yes or no, which would then lead the Board as to whether this addition is appropriate. The other thing this applicant could elect to do is tear off 5 feet of the existing house which would resolve the issue, but this is not before the Board.

Mr. Pena explained that they are doing a job right now in the City of Oakland with a similar situation. Rather than sheetrock and meet the fire code with the entire wall, the house is getting lifted and moved over. It is more cost effective to do that. He is not suggesting this be done, but it is an interpretation of the code from City to City and it can vary and how people see things differently.

Chair Fetter said he has had different interpretations and the Board is hearing a sequential issue so it is difficult and a grey area of interpretation. He thinks there has been a lot of iterative work between the applicant and the City in making overall improvements about how the house looks which has taken a while to get here. He said he was not sure how to deal with this because the Board has to deal with the setback issue separately as a code issue and interpretation issue, but legally it is a requirement.

Rachael Sommovilla said the Board has jurisdiction over the design. The building inspection process is going to happen on its own and building staff will look at code compliance.

Mr. Slaughter stated he did mention the section of the code that deals with non-conforming structures that allow you to enlarge, enhance and modify non-conforming structures and they want improvements to structures and not to have them locked in stone as to where they are now.

Mr. Pena noted that the variable here is that both properties are non-conforming.

Boardmember Robin Welter said personally, she thinks height is an issue and she questioned whether the roof can be pulled down at all. She thinks that to be 11 feet from the sidewalk at 31 feet high is looming and massive. She questioned why things could not be shifted in the backyard.

Mr. Slaughter stated that if you look at the project location and photos, there are some multi-family housing across, in the backyard there is a large, two-story industrial building, and on the next block there is a three-story building on the next block.

Chair Fetter said in the subcommittee meeting, he asked if Boardmember Woldemar discussed the structure on the lot, and Boardmember Woldemar said he did not know there was a subcommittee meeting. Mr. Slaughter noted he sent the plans to Boardmember Woldemar, but it did come before the Board, and the applicant returned with a list of things to do, but nothing was spoken about in terms of the location, which is a new issue.

Boardmember Robin Welter asked what the grade difference is between the front and the back of the property, and Mr. Pena said it is 4 feet to the existing deck, but it is 3 feet for the wall.

Boardmember Woldemar asked if the applicant would be willing to continue the item for 30 days so that he can create enough information for the Building Official to tell Mr. Slaughter and the

Board that there is a solution to that wall. Mr. Pena said when there are two different residences the two walls are one hour each and he asked if the one hour wall could be added to the existing wall. Boardmember Woldemar asked how this is done when the access to that wall is on the adjoining neighbor's property. He does not disagree with what the law says but he thinks there is a real practical and technical problem here that needs to be solved before the Board knows what it is approving. They will have to handle the sheer being created from the upper floor along the entire wall that is 5 feet in out over the middle of 3 different rooms. One way to handle it is with a steel frame or somehow transferring all sheer loads out to that existing property line wall, which means that this wall will need to be addressed. Mr. Pena said they would like to talk with the engineer and he will propose deep piers in the foundation and put the poles onto the second floor.

Boardmember Woldemar asked how he would address the earthquake loads. He thinks it might behoove the applicant to have their engineer meet with the building official to make sure it works out. As he looks at the floor plan for that area, it appears they are reworking the kitchen entirely, as if the 5 foot wall could move and go away. The kitchen would still have room to fit. The bathroom could move up and still have room and the downstairs bedroom would be a little smaller or be made into a den. He thinks the new construction could carry the loads from up above and they might well be less expensive. He then asked again if the applicant would be amenable to continuing the item 30 days. Mr. Pena said has run into so many problems during the course of the construction and the easier thing to do is to cancel the project. He said he needs a few days to consider this.

Chair Fetter said he could choose then to continue it. Ms. Whales suggested holding a DRB subcommittee where additional building staff members can be invited.

Mr. Pena said he would have to think about what things he would do, and Chair Fetter said he is trying to propose a way to work this out and the situation is that the proposal can be built practically, but it needs to be revised.

Boardmember Woldemar suggested the Board consider approving it and if the building department believes that alternatives are needed, he asked what staff would do. Mr. Slaughter said if there were significant changes, the item returns to the Board. If there are minor changes, the Planning Director can approve them. He suggested the Board consider nexus and proportionality in terms of what the Board is requesting the applicant to do prior to approval. He noted that the Board is asking the applicant to draw structural plans on a plan that is not approved yet and then return, as well as moving a wall the applicant is not required to move.

Ms. Whales said the City has done this for many other projects. Tonight there are so many unanswered questions that the Board needs answers to before approving the project. She suggested holding a DRB subcommittee meeting to discuss what is needed for this project. The applicant's structural engineer could be present as well as the City's plan check engineer. They can look at the Building Code to see what would be required and the Board would look at the aesthetics and determine whether it will change the actual design of the project. She said it could be heard on March 12th.

Chair Fetter polled the Board and Boardmember Whitty said she was leaning towards approving it and letting the item fall to the Building Department and they will send it back if it needs to return.

Boardmember Robin Welter said she preferred the subcommittee meeting, as did Vice Chair Munoz because the structural engineer should be there. She said the wall will need to be retrofitted, and changes can be made instead of starting over again. Chair Fetter said he is trying to deal with issues intrinsic to trying to make it work and how it affects the design. He

would not care if it was purely a structural issues but the design is affected. Boardmember Woldemar suggested approving the project with a specific condition that if there are any changes it return to the DRB. Chair Fetter asked that the condition state that if there are any changes to the wall that it returns to the DRB. Boardmember Robin Welter said she still has an issue with the height and massing and would not support it as is. Vice Chair Munoz questioned how the project would be affected if they touch the roof and whether or not the wall will have to change on the neighbor's side. Chair Fetter said this would officially be a change and it would be required to return.

Boardmember Woldemar summarized the outcome stating there is a negative vote relating to the mass and bulk, but he did not think about this, and he is feeling torn.

Chair Fetter said he would move to approve the project with the preface that the applicant had gone through the process and it was previously reviewed by a current DRB member. He said they have a technical and fine-tuned argument about the nature of reality of building versus what the Board approved from a design standpoint, and the sequence of that, and it is difficult to unravel at a single meeting. He noted that the plans show the windows are inset, but it is the type of window that the Board needs to know about, which is an appearance issue.

Chair Fetter made a motion to approve PLN10-157 with the condition that if there are any changes made to the area within 5 feet of the property line, this would necessitate a return to the DRB; including an additional condition. Boardmember Woldemar seconded the motion.

ACTION: The original motion was counter-motoned by Boardmember Robin Welter; seconded by Boardmember Whitty, that a DRB subcommittee meeting be scheduled prior to the application returning to the Board to review massing and height, as well as structural requirements and the fire code, and to continue the application to March 12, 2014. Vote: (5-0-1-1): Ayes: Munoz, Woldemar, Robin Welter, Whitty; Noes: None; Abstain: Fetter; Absent: Ray Welter.

Boardmember Woldemar said he believes that the Shea Homes project is on the March 12th agenda, and this is likely to be a long meeting. Ms. Whales said it is staff's hope that the subcommittee work could be done for PLN10-157. The Board can either approve or deny it and Chair Fetter asked that this be made as the first item.

Board Business

- A. Staff reports, requests, or announcements – None
- B. Board member reports, requests, or announcements

The Board discussed potential DRB subcommittee dates. Boardmember Woldemar suggested the week of February 25, 26 or 27 and not Friday, the 28th at 4PM. Ms. Whales noted the applicant is flexible. DRB members Robin Welter, Boardmember Woldemar and Chair Fetter agreed to attend and tentatively set the date to meet for February 26th at 4PM.

Boardmember Woldemar reported that he met with Rob Wainwright from Shea Homes' Bottoms project. He missed the last meeting and apologized, but said the project is getting better and tentatively scheduled for March 12th.

He said the Board heard something about a bus stop and C3 issues. He knows the answer to the question, but staff is working on a resolution that things are supposed to come to the DRB, and this would be a prime example. Ms. Whales said staff does not know what kind of project that is. Lynn Scarpo is the City's stormwater manager , it could have been a project approved

by the Board some time ago and they might just now be putting in the bio swales. She agreed to check and send out a memo to the Board indicating what the project entails.

Boardmember Woldemar said there are significant projects coming in the future, such as Mr. Poe's project and he questioned how these would be scheduled and suggested possibly holding a special meeting instead of meeting late into the evening.

Adjournment:

The Board adjourned at 8:00 p.m. to the next meeting on February 26, 2014.