

BNC Meeting Minutes
Saturday – March 13, 2021
10:00 am – 12:00 Noon

Welcome and Neighborhood Update

Panoramic Hill Association - Janice Thomas (see [PowerPoint](#) slides)

The work to the softball improvement project includes:

- Upgrading lights for TV broadcasting
- Taller light poles 85'
- 1500 seats
- press box
- team locker rooms
- concourse

The Neighborhood Assn is Filing lawsuit (Sept 2020). Filed brief last month. University will file reply brief on 3/23. Expecting an April trial.

Allowing the University to proceed with the buildout will cause:

- intensified use
- Night games (up to 25)
- Allow tournaments and invitationals
- Special events not defined

The project is located in Strawberry Canyon, adjacent to historic Panoramic Hill district. Homes are located within 90 feet of the proposed facility. Next to critical fire hazard zone. The project will result in noise and light pollution, next to ecological study area, impacts to wildlife habitats. The neighborhood association wants a separate EIR to be completed. University claims it is within the LRDP EIR.

Suggestion to involve City Transportation Commission due to the increased traffic the project will bring.

Lehigh Hanson Asphalt Plant – Air Quality Issues

Deputy City Manager Paul Buddenhagen and Interim Planning Director, Jordan Klein gave an update of how the City is addressing the air quality issues followed by questions and answers.

Dec. 22, 2020 representative from City's Toxics division and Environmental Health visited plant and did an inspection. At first they did not find any problem but they subsequently found infractions including insufficient enclosure and insufficient daily sweeping. City issued notice of violation, with Feb 1 deadline. The notice was resubmitted and the parties met, Feb 16th. March 1 permit approved for construction of enclosure with 45 days to complete work. Work should be progressing on the enclosure. Subsequent inspection will happen this coming week, and they will need to check on whether the conditions for the insufficient sweeping violation has been met. Jordan Klein stated that he personally met with the Plant manager.

Question about why the city did not follow standard procedures as written in the city's ordinance. According to Jordan Klein before a Notice of Violation, city issues Citation warning and provides a deadline. If the deadline is not met, the city will issue a Notice of Violation. This procedure was followed. Agreement says that the plant will cover their own trucks and encourage their clients to cover their trucks City of Irvine took action in a similar case. Question as to why the city has not been in contact with City of Irvine. Question as to whether Pathways residents been involved as residents are living in close proximity to the plant? Paul will check-in with them. Question as to why action has not been started on revoking the plants operating permit until the infraction is corrected. Paul Buddenhagen is willing to be placed on the agenda for the April BNC meeting to give an update on progress.

ADU Standards and Ministerial Approval

Harper St. neighbors have submitted an update and a report on recommendations. The building is nearing completion. The ADU was approved ministerially as required by the State. Because there is no local Berkeley ADU ordinance, the default is the State law. As a result, there are a number of problems relating to ADU's which this project exemplifies.

Problems include:

- Difficulty in finding details of rules and regulations
- Lack of logic in how the city is interpreting state law regarding the approval of ADU's
- Lack of equity, no affordability requirement
- Design issues, no design review
- lack of Tenant protections, lack of notice

City Manager issued a memo in January outlining options for ADU's and a referral for a separate ADU ordinance in Berkeley. Debby Sanderson is co-chair of ADU Task Force and is the most knowledgeable resource. The Harper St. ADU is indicative of problems with ministerial approval based on State law without local controls.

The ban on ADU's in Fire Zones ended in Dec 2020. State law allows cities to regulate ADU's for public safety and traffic problems. In this project size is an issue, and it is located in the front yard. Because there is no local ADU ordinance non-resident owners can develop ADU's. Also since the original State ADU law, modifications now allow JADU and ADU's to be built within existing structure + 150 ft outside the structure. ADU's are unregulated as to size because Berkeley has no local ordinance. State regulations are vague and allow a lot. Berkeley ordinance cannot allow less than State ordinance. If City determines public safety hazard, they can override State law.

SB9 and SB10 may take away all local control. Suggest contacting Livable California and adding a future agenda item.

Quadplex Zoning and Ending Exclusionary Zoning

Quadplex Zoning has been pulled from City Council Agenda (coming back on March 25th at Special meeting, not work-session)

Shirley Dean has filed a complaint to the Open Government Commission regarding the process used to handle the zoning reform issues. (See the text of the complaint posted on the BNC website.) The complaint is about the process not the content.

The series of meetings beginning with the Feb 18th, Land Use committee meeting at which 65 public speakers spoke about the Resolution of Intent to End Exclusionary Housing, the Feb 23rd Council meeting at which the ROI to End Exclusionary Housing was passed, the March 1st Land Use Committee which discussed the Quadplex Zoning issue, and the March 4 Land Use Committee which again discussed Quadplex Zoning constitute a serial meeting in which five members of the City Council have been involved. Councilmember Droste has been contacted for a response but so far has not replied. The complaint asks the Council to stop and rescind all actions regarding Zoning reform taken since the Feb. 23rd meeting and to start over in compliance with the Brown Act.

It was suggested that BNC request that the March 25 Special meeting of the City Council be a Work Session and not a Special meeting.

The Berkeley Tenants Union (BTU) has five demands around Quadplexes:

- affordable units on site
- not allow demolition of units currently under rent contract
- not allow demolition of buildings old enough to be rent controlled eg. Golden Duplexes
- anti-speculation clause eg. Require owner occupation for min of 7 yrs,
- require that tenants have to be noticed regardless of ministerial approval

Announcements

- March 18 , Land Use Committee, Affordable Housing Overlay
- [Equity Summit](#), March 28th 7pm
- League of Women Voters [“Conversation on Housing”](#) March 29 7-9pm

NEXT MEETING:

April 10, 2021

Tentative Meeting dates for 2021 (Confirmation of meeting dates will be sent via email):

May 8, 2021

June 12, 2021

July 10, 2021

August 14, 2021

September 11, 2021

October 9, 2021

November 13, 2021

December 11, 2021