BNC Meeting Minutes

Saturday – April 10, 2021

10:00 am – 12:00 Noon

**Agenda**

**10:10-10:40** Follow up on Lehigh Hanson Asphalt Plant – Air Quality Issues

Deputy City Manager Paul Buddenhagen and Acting Planning Director Jordan Klein.

On March 3, the city gave Lehigh Hanson until April 15th (45 days) to come into compliance. Since the last BNC meeting in March, the city has conducted two additional inspections and is prepared to impose fines if the conditions are not met. The city inspector observed that progress is being made towards constructing the required enclosure for smoke capture. The concrete base for the enclosure has been poured. It’s not clear whether construction will be completed by April 15th. If the date is not met, daily fines will be imposed by the city. Fines start at $100/day. Could be escalated if need be to $250/day. Comment that the severity of the fine should be higher for larger companies and the degree of infraction. City code doesn’t regulate the fine or set limits on escalation. Policy question for Council.

Jordan reported that he has been in touch with and coordinating with Bay Area Quality Management District (BAQMD). BAQMD has also been regularly inspecting the site. BAQMD is responsible for making sure that odors are mitigated and the smoke is properly captured. The city has also asked BAQMD to conduct a health risk assessment. The city is waiting to hear back.

Jordan has also spoken with Fire Chief Brannigan. The Fire Chief is confident in the department’s ability to respond to a fire at the facility. The fire routes have been updated. A request has been made to Lehigh Hanson as to what improvements have been made to mitigate potential fires since the last fire. Waiting to hear back. Jordan will ask Chief Brannigan about what it would take to ensure that Berkeley Fire has the proper equipment and training to respond to a fire at the plant. Plan for mutual aid from adjacent cities is also in place. There was concern about whether a 10 minute response from city of Richmond would be sufficient in case of an emergency.

Jordan did communicate with the city of Irvine about their handling of a similar problem.

Question about toxic materials at the site. Concerns about above ground storage tank holding heated asphalt. Jordan stated that the asphalt in the tank is solid at 60 degrees F. Asphalt liquifies at 100 to 150 degrees F. The plant is exempt from the California Above ground Storage Act.

Concern for making public the potential hazards that exist for property owners and potential home buyers in the area. Jordan will discuss with staff about disclosures that are required in the sale of real estate.

**10:40-11:45** Up-zoning and our Regional Housing Needs Allocation (RHNA) - Planning Director Jordan Klein.

Jordan stated that the city is dealing with a shifting regulatory environment at the State level that will reduce discretionary authority of local governments around the permitting of housing. The RHNA allocation for Berkeley is 8934 units. The city has to report annual progress in issuing permits towards this number.

The RHNA number is allocated by MTC ABAG. Jordan stated that the Mayor would be willing to ask ABAG staff to attend a future BNC meeting to explain more about the methodology. The timeframe to appeal the RHNA numbers to the State HCD is Summer (June/July). The numbers will be finalized in the Fall.

Planning staff is working on a communication to Council including the work plan which is scheduled to launch in May. A consultant is being brought on to assist the Planning staff with the revisions to the Housing Element which must be completed by Jan. 31, 2023. The April 27th Council meeting includes an item requesting the city manager to execute a contract with Rainey and Associates. Staff is planning to complete the Housing Element revisions by the end of 2022.

City is planning to analyze RHNA numbers under existing zoning capacity before analyzing the effects a potential re-zoning would have on increasing housing capacity. The recently passed Adeline Corridor plan and both the Ashby and North Berkeley BART plans will add significant capacity, as will the recently approved south side zoning (south of campus). ADU capacity will be included. The city is using 100 ADU’s per year as an estimate which over an 8 year period amounts to 800 ADU’s. This would cover nearly 10% of the RHNA allocation. Comments that the city would likely exclude the hills districts from upzoning due to safety concerns, however this would force additional capacity into the non-hills zones which would directly contradict the rationale behind ending exclusionary zoning.

Request to take into consideration vacancy rates in Berkeley in counting units. Currently there are over 3K vacancies in Berkeley constituting an 8% vacancy rate (vs 4% pre-Covid). Jordan will discuss with staff how existing vacancies could affect the RHNA allocation. Currently Council is taking action to add vacancy as a nuisance condition. Enforcement action in the form a possible vacancy tax is being considered.

Question about whether the infrastructure (water and sewage systems) could support the increased housing. Who would pay for improvements if an upgrade is required?

Recommendation for Group Living Accomodations (GLA’s) to be counted towards the RHNA numbers.

For example, 2435 San Pablo contains modified efficiency units with kitchenettes and a sink in the bathroom. Jordan would like GLA units like these to be counted towards RHNA numbers. However clarification in State law is needed as GLA’s are currently considered the same as single-family homes.

Comments on the need for a database of all rental units and residences in Berkeley. Useful for RHNA and emergencies. Rental board’s database is small set and does not contain all possible units. Comment that the number of SFH being rented by students would be helpful. Demolition of older SFH’s would be harmful to renters who are already renting in a home that is not reported as a rental unit.

Special Council meeting on Tues. April 13 to discuss UC’s Long Range Development Plan ( LRDP). Comments should be sent directly to UC.

NEXT MEETING:

May 8, 2021

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

June 12, 2021

July 10, 2021

August 14, 2021

September 11, 2021

October 9, 2021

November 13, 2021

December 11, 2021