



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Councilmember Raul Peralez

SUBJECT: SEE BELOW

DATE: June 22, 2021

Approved

Date 06/22/21

SUBJECT: Actions Related to the Future of the Berryessa Flea Market

RECOMMENDATION

In the event that a deferral to June 29, 2021 does not occur:

1. Accept the June 18th Memorandum from Mayor Liccardo and Councilmembers Cohen and Jimenez with the following redline modifications:
 - a. “Accept the applicant’s amendment of its rezoning application to include various measures to assist ~~the approximately 430 all~~ vendors **operating on the subject property...**”
 - b. Recommendation #2h: “A Flea Market Advisory Group consisting of **a supermajority of Flea Market Vendors, half of whom are members of the Berryessa Flea Market Vendors Association (BFVA) as well as representatives of the property owner/developer, ~~the Flea Market vendors,~~ and the City will be created...**”
 - c. Recommendation #3a: “Include a provision that any future Planned Development Permit that may **potentially displace any portion of the existing flea market as well as** specifically authorizes the detailed architectural design of a future urban market and the actual vendor stalls shall ~~be considered return~~ for approval by the City Council.”
 - d. Recommendation #3b: “Prior to submittal of an application for the PD permit referenced in 3.a, Property owner shall make and complete a reasonable **public** evaluation of the financial feasibility of a denser/multi-level urban market and associated parking. **The evaluation should study all scenarios including comparable cities that have successfully implemented a similar market model.**”
 - e. Recommendation #5: “Direct City staff from the Office of Economic Development to work with the property owner to assess the flea market

*vendor community and the job retention and creation potential that will inform the design of a future market. The Office of Economic Development ~~should consider a~~ **will hire a third-party** consultant/community partner to assist in this effort and fund the study with the funds from the first contribution to the City by the property owner and only after that contribution is received by the City."*

2. Accept Recommendation #1 from Vice Mayor Jones June 21st Memorandum: *"Direct City Staff to work with the vendor community to: identify financial tools including gap financing options if needed, and explore vacant retail space opportunities for vendors."*
3. Include clarifying language in the ordinance and resolution that the conditions of approval remain in effect in the event the property is transferred.
4. Expand the term "interim" in the Berryessa/BART Urban Village Policy LU-2.6 to allow the Flea Market as an interim use anywhere on the Flea Market Property, including the areas planned for residential, in the event that temporary onsite relocation is needed. This should not impede overall efforts to explore on or off site permanent relocation of the Flea Market.
5. Include as a Condition of Approval that when and if a developer brings forward a market rate Planned Development (PD) application, that a PD Permit for the urban market be simultaneously included.
6. Request from the applicant the following:
 - a. Increase the endowment by an additional \$2 million
 - b. That the Flea Market Management/Ownership sign all interested flea market vendors to leases ranging between six months to a year.
 - c. Until the earliest possible vacating of the Flea Market in July 2024, the Flea Market operator will freeze rent rates and daily parking rates unless they can demonstrate to the City that prohibiting such changes is causing financial hardship in operating the Flea Market.

BACKGROUND

The Berryessa Flea Market (“La Pulga”) has long been an invaluable gem of our region, found nowhere else but here in San José. It has served as a hub of commerce and culture, an incubator for entrepreneurship, and at its heart, a means for making a living for our minority, small business community. As a native who grew up frequenting La Pulga with my parents, and now in turn sharing the same joyful experience with my own son, I have long seek to find a resolution that allows for the City to fulfill our General Plan goals while conserving a sustainable iteration of La Pulga for generations to come.

I first would like to share my gratitude to my colleague, Councilmember David Cohen, and his team. As a member of his Brown Act, I have had the privilege of participating firsthand in the several meetings and discussions that our offices held together. The recommendations in his, Mayor Liccardo and Councilmember Jimenez’s memo are a laudable first step in addressing the delicate balance of land use development and small business displacement. However, it is important that as a city, we look at all the tools in the toolbox to ensure that La Pulga does not face extinction..

DISCUSSION

I have for some time work to strengthen protections for our flea market vendors and I believe the recommendations outlined in this memo is a step forward towards providing stronger protections.

Planned Development Permits and City Council

This discretionary council action for a rezoning is a reminder why our City Council is the land use authority and the stopgap for land use decisions when needed. We have the authority to factor in our decision not only what is written in our General Plan or Municipal Code, but the vast socioeconomic elements that are sewn into the fabric of our community. It is critical that the City Council remains in this role for years to come as we set out to reimagine what La Pulga could be. There will be many unknowns during that time period, and having seen firsthand the volatile and unpredictable nature of development, we must allow for flexibility in the future for the City Council to react.

There is no certainty for the vendors on limiting the return of a Planned Development Permit to council that “specifically authorizes the detailed architectural design of a future urban market and the actual vendor stalls.” We do not know when that will be and in the event that a PD Permit is submitted for Market-Rate or Affordable Housing that does not meet that parameter but may displace vendors, it will be streamlined to Director’s Hearing, depriving the City Council an opportunity to review, assess and exercise its discretion. My understanding is this requirement can be placed as a condition of approval without the applicant’s voluntary consensus - though I hope that the applicant will agree.

Flea Market Vendors and Future Involvement

I would like to thank the tireless work and advocacy from the Berryessa Flea Market Vendors Association, comprising not only long-time vendors but second and even third generation vendors. Aside from their reasonable requests for certainty, security, and

transparency, I am heartened that they are looking into the horizon on what La Pulga would look like in the future. Regardless of what the next iteration of La Pulga may be, it is important that the most prominent voice in shaping the future of La Pulga be the vendors themselves. This is why it is important the makeup of the Flea Market Advisory Group must be made up of predominantly vendors and organized in a manner that fosters collaboration and stewardship.

Additional Contributions

I would like to also acknowledge the Bumb family for having come to the table in the last several weeks and showed willingness to work together. Their contributions that have been proposed thus far are a great starting point in exploring what other support and assistance they could provide for their vendor family. It is in that spirit that I ask to consider strengthening some of those voluntary contributions for a long time community that will be navigating the burden of displacement in the years to come.

For example, \$4 million may sound like a lucrative ask, but assuming the number of 430 vendors is verified, the current proposed \$2 million (not including the earmarked \$500,000 to the city to use for initial support) comes out to roughly \$388 per vendor per month over twelve months. While there is no amount that could stand up to the risk of losing one's livelihoods, having additional dollars would go a long way in their transition - either to a future urban market, their own brick and mortar, or even a career change. Furthermore, providing a safety net on the interim such as longer term leases as well as freezing current rent and parking rates so that they do not increase in the next few unknown years would be a great reprieve.

CONCLUSION

While many of the contributions to the proposed conditions of approval may only be legally voluntary, I would be remiss to remind my colleagues that we as the City Council hold the land use authority in our City - and as such, it is incumbent upon us to consider all the mechanisms and tools we still have at our disposal to ensure that our community, especially our minority, small business vendors, continue to have a seat at the table in shaping their own future.