

**MINUTES APPROVED AT THE PC MEETING ON DECEMBER 2, 2021**

**PLANNING COMMISSION REGULAR MEETING  
COUNCIL CHAMBERS, RICHMOND CITY HALL**

Teleconference  
November 4, 2021  
6:30 p.m.

**COMMISSION MEMBERS**

David Tucker, Chair	Michael Huang	Jonathan Harrison
Jen Loy, Vice Chair	Masoomah Sharifi Soofiani	
Bruce Brubaker, Secretary	Alpa Agarwal	

The regular meeting was called to order by Chair Tucker at 6:30 p.m.

**ROLL CALL**

**Present:** Chair David Tucker; Vice Chair Jen Loy; Commissioner Bruce Brubaker, Jonathan Harrison, and Masoomah Sharifi Soofiani

**Absent:** Commissioner Alpa Agarwal and Yu-Hsiang (Michael) Huang

**INTRODUCTIONS**

**Staff Present:** Planning Staff: Roberta Feliciano, Hector Lopez, Community Development Director Lina Velasco, and Attorney James Atencio

**MINUTES –**

October 7, 2021

**ACTION: It was M/S/C (Brubaker, Harrison) to approve the October 7, 2021 draft meeting minutes; which carried by the following vote: 3-0-2-2 (Ayes: Brubaker, Harrison, Soofiani; Noes: None; Abstain: Tucker, Loy; Absent: Agarwal, Huang).**

**AGENDA**

Chair Tucker provided an overview of meeting procedures for speaker registration, public comment, and public hearing functions. He said items approved by the Commission may be appealed in writing to the City Clerk by Monday, November 15, 2021, by 5:00 p.m.

**CONSENT CALENDAR** – None.

**BROWN ACT – Public Forum** – None.

**NEW BUSINESS -**

- 1. PLN21-153: Ocean Avenue Lot Line Adjustment Appeal PUBLIC HEARING** to consider an appeal of the Zoning Administrator's decision to conditionally approve a lot line adjustment including four vacant parcels on Ocean Avenue, South of Western Avenue

(APN: 558-232-002, -003, -004 and -013). RL1, Single Family Very Low Density Residential District. Four Star Oil & Gas Company, owner; Thomas P. Dougherty, Jr, applicant  
Planner: Roberta Feliciano Tentative Recommendation: Deny Appeal and Uphold Conditional Approval

Ms. Feliciano reported that on October 1, 2021, the appellant filed an appeal stating that allowing a sequential Lot Line Adjustment (LLA) was interpreted in error and that there are concerns about gamesmanship. On September 16, 2021, the Zoning Administrator (ZA) conditionally approval an LLA involving four vacant parcels on Ocean Avenue in the Point Richmond neighborhood. Currently, only one lot meets the 6,000-square foot minimum lot size and so the applicant applied for a LLA.

Based on the Municipal Code Section 15.04.714, an LLA is an administrative approval to adjust the location of the lot line between two or more adjacent lots where land taken from one lot is added to an adjacent lot. The articles intend is to allow an LLA that conforms to the General Plan. Per the code section, the ZA conditionally approved the LLA. Utility access and development standards will be reviewed once a development application is made for any of the lots. Of the four lots, Lots 2, 3, and 4 are below 3,000-square feet. With the LLA, the adjustment will yield four approximately 6,400-square foot parcels.

The LLA was previously appealed to the Planning Commission on December 19, 2019. The Commission requested that staff research Objective Standards from other jurisdictions for LLAs. Staff discovered that the Cities of Concord, Oakland, Fremont, and several other cities in California have ordinances similar to Richmond's in that they do not prohibit sequential LLAs. At the hearing, Staff provided a letter dated January 29, 2020, that stated that a sequential LLA does not violate the Subdivision Map Act or the City's code.

Staff recommended that the Commission deny the appeal and affirm the ZA's conditional approval of the LLA.

Tom Dougherty, applicant, agreed with Staff's recollection of the application and the process it has gone through for approval. He agreed that he can develop on the three existing substandard lots because they are protected as pre-existing lawful nonconforming lots. Instead, he chose to apply for an LLA to allow for the square footage to be evenly distributed among the four lots and bring them into compliance with the RL1 District. He acknowledged that the City Attorney has already made a statement that addresses the appellant's concerns and that the ZA was following the law in their decision-making process.

Don Mill, appellant, stated that the consequence of the decision to allow the LLA in December of 2020, was to allow the applicant to have an 18,000-square foot lot. Now the applicant is wanting to adjust the lots again. He argued that this is the definition of gamesmanship as outlined in the Supreme Court Justice ruling of Sierra Club versus Napa County. He recommended that the Commission recommend that the City Attorney reconsider the application or that the Commission deny the application. He emphasized that the 8-unit LLA could not happen under the Subdivision Map Act without using the 4-unit exemption. He noted that with Senate Bill (SB) 9, approving the LLA will allow for 32 buildings to be built on the four lots. He stated that his preference is to leave the lots as is and provide building diversity in the neighborhood. He strongly emphasized that the neighborhood wants the City to uphold the Subdivision Map Act and that the Act be considered when developing the parcels.

Chair Tucker invited Mr. Atencio to clarify the City Attorney's position on the case. Mr. Atencio explained that the decision cited by the Supreme Court is absent to any existing ordinances to the contrary, sequential LLA are deemed ministerial. He argued that there are other cities in the State of California that follow the same process as the City. Staff has evaluated the case and have come to the same conclusions as outlined in City Attorney Moore's letter.

Chair Tucker asked that if the Commission recommends that the City Attorney's Office re-evaluate the application. That re-evaluation will come to the same conclusion as outlined in the staff report and Mr. Atencio answered yes.

Commissioner Harrison recalled that the staff report discussed four parcels but Mr. Mills mentioned eight parcels. Ms. Feliciano confirmed that the Commission is only deciding on the four parcels listed in the staff report. She noted that in 2019, Mr. Dougherty's application included the other four lots which went through a similar process as the current application, and they were also appealed.

Chair Tucker mentioned that the 2019 application had concerns about what type of housing would be placed on the parcels. The Commission understood that any housing that was to be developed on the parcels would be subject to Design Review, other permitting processes, and Planning Commission review. The Commission, at the time, had no idea what development was planned for the parcels and so the Commission made their decision based on the administration rules.

Vice Chair Loy recalled that there were concerns from the public regarding the process and the loss of open space.

Public Comment:

ANDREW KEYNEE remarked that his family owns one of the lots to the south of the lots being discussed. He supported Mr. Dougherty in his efforts.

Ms. Velasco stated that the Commission may allow the appellant and the applicant a rebuttal period after public comment.

Mr. Mill asked what does the Supreme Court mean when they say, "they surmise that a variety of attacks on purported gamesmanship might be available"?

Mr. Dougherty stated that Mr. Mills is reading the Supreme Court case incorrectly. He announced what the court said, "is we reject the notion that this is gamesmanship and we reject the made-up example offered by the Sierra Club of 16 lots". He said that the court specifically said that there are rules that apply, the rules are clearly stated in the Subdivision Map Act, this is a ministerial proceeding, the responsible officer correctly applied the law, and for that reason, the appeal must be rejected.

**ACTION: It was M/S/C (Harrison, Loy) to deny the appellant's appeal and affirm the Zoning Administrator's conditional approval of the Lot Line Adjustment PLN21-153 since the Richmond Municipal Code and Subdivision Map Act allow sequential Lot Line Adjustments; which carried by the following vote: 5-0-2 (Ayes: Tucker, Loy, Brubaker, Harrison, Soofiani; Noes: None; Absent: Agarwal, Huang).**

Chair Tucker noted that the Planning Commission's decision on the appeal is final and cannot be appealed to City Council.

**2. PLN21-129: Dollar Tree Retail Store PUBLIC HEARING** to consider a Conditional Use Permit and Design Review to operate and establish a retail store greater than 3,000 sf in size (10,000 sf proposed), including building renovations and site improvements at 12300 San Pablo Avenue (APN: 519-200-018). CM-4, Commercial Mixed-Use, Gateway/Node District. Kim Kevin and Jennifer Yu, owners/applicants Planner: Hector Lopez Tentative Recommendation: Conditional Approval

Mr. Lopez reported that the parcel is 37,500-square feet and is located at the northeast corner of Barrett Avenue and San Pablo Avenue. The parcel contains an existing 15,000-square foot commercial building with surface parking. The on-ramp to Interstate 80 is located 400-feet north of the site. The former use of the site had been an automobile-related business, but the site has been vacant since 2017.

The Design Review Board held a public hearing on the project on August 25, 2021. The Design Review Board continued the item to allow for the application to address concerns regarding the storefront glazing, roof equipment, traffic backup, the curb cut at Barrett Avenue, landscaping, relocating the equipment, and replacing the sidewalk. On September 22, 2021, the Design Review Board unanimously voted to recommend approval of the design to the Commission.

The proposed hours of operation were 8:00 a.m. to 10:00 p.m. with seasonal hours around the holidays. Dollar Tree will use a third party for sweeping and cleaning the parking lot and sidewalk. Deliveries will occur one to three times a week between 10:00 p.m. and 8:00 a.m. The facility will have 15 to 20 employees with an average of three to seven employees working at any given time.

Staff has received public comments supporting and opposing the project. Oppositional comments related to proximity to other related stores in the area, unfair labor practices, crime, impact on other local businesses, and traffic congestion. Based on the Findings and Statements of Facts, staff recommended that the Planning Commission adopt Resolution No. 21-21, subject to conditions.

Jennifer Yu, applicant, acknowledged that the applicant team has been supplying responses to the comments made by the public and the Design Review Board.

Kevin Kim, applicant, mentioned that Ms. Yu and himself have owned the property since 2010 and have only been able to find a tenant for 3-years out of the last 11-years. He acknowledged that managing the property vacant has caused crime and blight to the neighborhood.

Ms. Yu announced that a contract was signed in 2019 with Dollar Tree. Dollar Tree is an established and trusted commercial business in the Bay Area, they cater merchandise geared towards middle-class families, they create local jobs, and they care about their impact on the environment. If approved, the existing building will be completely renovated with exterior and interior upgrades.

H. Weston, the applicant's architect, reviewed the proposed architectural plans of the project. The project would utilize two of the three existing lots with 6,314-square feet of landscaping and 33 parking spaces. The storefront of the building will contain a glazed front, the sidewalk and accessible ramp will be rebuilt, a new exit will be established in the back along with a new trash

enclosure, and many other upgrades. The proposed design retains the existing mid-century modern storefront.

JIM HANSON, President of the Richmond Height Neighborhood Council, opposing party, confirmed that the neighborhood has held two meetings with the applicant. The neighborhood strongly supports the building being occupied, but by a use that benefits the area. He emphasized that the facility is located in a Richmond residential neighborhood which raises several concerns that have not been addressed. Those concerns included safety concerns for the adjacent neighbors and the redevelopment of the San Pablo corridor. The Neighborhood Council requested that the Commission recommend a condition that lighting will not intrude into adjacent neighbor's properties, there be no noise or disturbances to the adjacent neighbors from the loading area, additional hedging be planted along the back fence, quality fencing materials be used, change the hours of operations to 9:00 a.m. to 6:00 p.m., re-analyze the lane structure at the intersection to mitigate possible collisions from vehicles exiting the site, require that merchandise and posters not block the view from the windows to prevent crime, and adjust the proposed signs to conform to existing business signs in the area.

Commissioner Brubaker acknowledged that the Richmond Neighborhood Council listed nine issues in their letter that they wish to have addressed. He asked if the applicant has any comments regarding the letter and the proposed conditions. Arielle Harris, the applicant's attorney, stated that many of the concerns that the Richmond Neighborhood Council have were raised at the Design Review Board meeting in which the Design Review Board addressed those concerns through their specific conditions. She mentioned that the current design addresses the concern regarding light and any conditions regarding lighting will be comply too. Concerning noise, the applicant is not amendable to having a condition that disallowed any additional noise. Such a condition would not be consistent with the Zoning Code and the project will comply with the City's Noise Ordinance. Concerning privacy protection and additional fence height, the applicant is amendable to increasing the height of the fence along the parking lot where it abuts existing residents. Concerning traffic, she mentioned that there was a long discussion about traffic at the Design Review Board meeting. The amount of traffic generated by the project does not trigger a traffic report under normal circumstances, but a traffic consultant did analyze the project. The report evaluated trip generation, the driveway position, the orientation to the intersection at Barret Avenue as well as the orientation to the on-ramp to the interstate, lane switching, and exiting the site. Concerning crime and prevention, the Design Review Board requested additional glazing on the front façade facing San Pablo Avenue to hide the merchandise. The applicant preferred to follow the Design Review Board's recommendations regarding the windows. The applicant does not have issues with having another mural on the side of the building facing Barrett Avenue, but felt that it would conflict with the Design Review Boards' recommendations. Concerning signage, she mentioned that the letters are smaller than 36-inches. Commissioner Brubaker wanted to understand if the applicant is amendable to receiving recommendations from the Richmond Police Department regarding the layout of the store to prevent crime. He also wanted to know more about the contamination clean-up monitoring well at the north end of the parking lot. Ms. Harris requested that staff share if there is a history of projects consulting with the Richmond Police Department. Concerning the monitoring well, she mentioned that the well and plumb are not on the project site. The project does not disturb any soils or otherwise interfere with the plumb that is offsite and across the street.

Commissioner Soofiani wanted to know how the Zoning Ordinance applied to rehabilitation projects versus new developments. She explained that there are inconsistencies between the Zoning Ordinances and the project. She mentioned that the site is located within a community

node and a gateway location. She asked if there is a demand for the proposed use in the area. Mr. Lopez explained that the Zoning Ordinance would require new development to devote the ground floor to commercial and then have residential units on the upper floor. The proposed construction does not intend to demolish the existing building. He agreed that the facility is located in a community node and that is why the Design Review Board required transparency on Barrett Avenue. Commissioner Soofiani inquired if the City can require the applicant to provide more density and will the Conditional Use Permit (CUP) be held in perpetuity. Mr. Lopez clarified that if the building were demolished by at least 75 percent, then the City could require more density. The current proposal does not meet that construction threshold. Concerning the CUP, he remarked that it runs with the land unless the use is changed. Commissioner Soofiani mentioned that the Zoning Ordinance places a 25-foot limit on blank walls along main streets. She noticed that the wall along Barrett Avenue appears to be longer than 25-feet. She agreed that occupying the vacant building will be an improvement to the area, but she believed that a mixed-use building would be a better fit.

Vice Chair Loy asked if the Richmond Police Department can be engaged in the process to discuss best practices for crime prevention. Ms. Velasco confirmed that Staff can facilitate a discussion regarding crime prevention between the police department and the applicant. Vice Chair Loy appreciated that the applicant hired a traffic consultant to address the traffic concerns. She asked if the applicant is amendable to having a condition that mitigates traffic on McLaughlin Street. Also, she wanted to understand Commissioner Soofiani's concern regarding the blank wall limitations in the Zoning Code. Commissioner Soofiani understood from Mr. Lopez that the Zoning Ordinance does not apply to existing buildings.

Chair Tucker noted that the traffic study was conducted in August 2021 when the City was in a pandemic traffic cycle. He mentioned it would have been more beneficial to see a traffic study that used pre-COVID data. Mr. Lopez remarked that retail operations generally generate traffic throughout the day and not necessarily at peak times. Chair Tucker clarified that the traffic concerns are not necessarily about folks accessing the store, but vehicle congestion caused by folks maneuvering through traffic as they enter and exit the store and the ripple effect of that. Kenny Jeong, W-Trans, traffic consultant, addressed the concern about weaving, or cars exiting the site and merging into existing traffic, and stated that the driveway is at a sufficient distance to allow for successful weaving. The traffic study shows that 2 percent of the total traffic trips are attributed to the store and that 2 percent will be spread out over the operational hours of the store. He agreed that there may be cut-through traffic into the neighborhood because of the no-left turn on San Pablo Avenue, but it will be an insignificant amount.

Commissioner Harrison inquired if there is on-street parking along with the parcel and would reducing on-street parking make ingress and egress safer. Mr. Lopez understood that there is no on-street parking along that stretch of San Pablo Avenue. Commissioner Harrison suggested that the applicant add additional side shielding to the exterior lights to reduce light pollution to the adjacent neighbors. He recommended that the sweeping schedule be conditioned to take place every 2-weeks. He inquired what type of material will be used for the fences. Mr. Lopez answered that the fences are proposed to be wooden. Commissioner Harrison disclosed that a wooden fence will not help mitigate noise and neither will the plants suggested. He suggested that the application explore a block wall to help noise pollution. He wanted to understand the reason behind having a sign on Barrett Avenue and recommended that the signs be reduced in size. He acknowledged Ms. Harris's comment that no mechanical equipment will be involved when loading and unloading trucks. He inquired if that included the hydraulic lift gate on the back of the delivery truck. Ms. Harris clarified that the lights will include side shields. Tony Baker, the lighting consultant, confirmed that is correct and if additional shielding is required,

that can be accomplished. Concerning signage, Ms. Harris clarified that the façade facing Barrett Avenue does not face residential homes and the sign along Barrett Avenue is not internally light. Based on the supplemental study done by W-Trans, more drivers will see the signage along Barrett Avenue versus the signage along San Pablo Avenue. Concerning the delivery truck, Scott Kipnis, a consultant, agreed that the signage along Barrett Avenue will increase awareness of the store and safety while entering the store. Concerning the delivery trucks, he clarified that the truck is offloaded with mechanical rollers that are placed into the truck and the merchandise is rolled off the truck. The lift-gate on the truck is not utilized. Concerning sweeping, he mentioned that sweeping occurs two times a month unless more often is warranted. Commissioner Harrison recommended that a Condition of Approval be that sweeping happens twice a month to alleviate concerns. Concerning a concrete block wall, Mr. Kipnis predicted that would outprice the project. He mentioned that in his 20-years of working with Dollar Tree, he has not received any noise complaints.

Vice Chair Loy commented that the safety required backup beeping from the trucks may be a noise impact on the adjacent neighbors. Mr. Kipnis mentioned that the trucks are not owned by Dollar Tree, but a third-party vendor, and so the trucks must comply with both federal and California law. He predicted that there will be beeping and Dollar Tree has no control over when the trucks will be delivering other than in the evening hours.

Chair Tucker inquired what the projected traffic to the store will be and will it be enough to keep the store in business. Ms. Harris explained that many of the folks visiting the site will be folks who traverse San Pablo Avenue daily. Tim Seller, commercial real estate broker, consultant for Dollar Tree, mentioned that it is a tremendous commitment for a business to embark on a 3-year entitlement process. No business would commit to that process if they did not believe that the business would not be sustainable.

Commissioner Brubaker wanted to know how the right turn only will be regulated. Ms. Harris answered that there would be a right turn only sign. An extended traffic median would be a bad idea because it would not allow a truck with a trailer to enter the site. Commissioner Brubaker mentioned that there are other methods that can be used to limit turning motions. He asked if vehicles would be allowed to make a left into the Dollar Tree who are traveling south on San Pablo Avenue. Mr. Jeong agreed that without physical impediment, there is a possibility of having both lefts turns into and out of the site. He mentioned that there would be minimal impacts to traffic if those movements happened due to the proximity of the traffic signals. Commissioner Brubaker suggested that there be a way to regulate turns from vehicles traveling south on San Pablo Avenue turning into the site. Mr. Jeong mentioned that the driveway is an existing driveway and has been functional for the life of the driveway. Commissioner Brubaker acknowledged that there is a bus stop located in front of the site, but the traffic study indicated that a bus would impede cars from entering the site. He asked if the bus stop should be moved north of the driveway. Mr. Jeong shared that the stop sees a bus every 30-minutes and a bus may skip the stop if there are no passengers. He believed that having the bus stop in its current location allows for easier right turn egress. Commissioner Brubaker noted that having the bus stop closer to the front door of the proposal is an added benefit.

Commissioner Soofiani asked if the project triggers a California Environmental Quality Act (CEQA) report to mitigate the impacts of delivery trucks on the neighboring properties. Mr. Lopez restated that it is an existing facility, the applicant has hired a traffic consultant to address traffic concerns, and the toxic plumb is not located on the site. For those reasons, Staff does not feel that a CEQA analysis is needed. Commissioner Soofiani believed that a CEQA analysis would provide mitigations for the delivery trucks. Mr. Lopez restated that the project does not

trigger a CEQA analysis. Ms. Velasco noted that there are Performance Standards in the Zoning Ordinance to ensure compatibility and the operations would be required to comply. Mr. Lopez added that the Performance Standards will address noise concerns.

Public Comment:

MARGIE PAGE, a resident of the Richmond Heights Neighborhood, remarked that the neighborhood strongly supports local businesses and is concerned about adding Dollar Tree due to their nature of driving out small local grocery stores. She noticed that the CUP does not incorporate all of the promises that Dollar Tree has made to the residents.

SUSAN WEHRLE, a resident of the Richmond Heights Neighborhood, expressed strong concerns about the safety issues that have been raised regarding traffic. She suggested that an island be placed in the middle of the street to discourage folks from making the wrong turn. She did not understand the rationale to have the store open later than 6:00 p.m. if the report shows that most visits will be during the day. She noticed that the bus bench was removed from the architect's renderings and asked if that bench will be retained. She stated that the neighbors do not support having the Dollar Tree as the occupants of the space.

ROCK BROWN, a resident of the Richmond Heights Neighborhood, was concerned about the toxic plumb that is located on one of the parcels. He mentioned that San Pablo Avenue is being redeveloped and that there are better opportunities for the site besides a Dollar Tree. He suggested the Commission table the item so that the questions raised by the Commission and the public can be answered.

MARK STEVENS shared that his family is a lifelong resident of Key Boulevard. He recalled the deadly shooting that took place at the mini-mall that is 400-feet from the proposed project. Also, the deadly robbery that took place approximately half a mile from the proposed project. He mentioned that the Dollar Tree in Berkley was robbed in July 2021 and the thieves fled into the surrounding neighborhood. Also, the Dollar Tree located at 1155 San Pablo Avenue appeared in the news frequently for crime related activities. He shared that the Dollar Tree representative who spoke at the Design Review Board meeting clearly stated that there will be no security at the proposed location. He concluded that the store itself is a high risk for violence and the neighbors oppose the project.

PAM P. commented that her concern has to do with the noise level that delivery trucks will bring to the site. She restated that deliveries are made outside of store hours and from her experience, trailer unloading is not a quick or silent activity. She mentioned that morning deliveries could start at 6:00 a.m. or earlier and evening deliveries would end at midnight or later. She wanted to know what Dollar Trees' plan is to mitigate the noise so as not to disturb adjacent residents.

DENNIS HICKS, a resident of Richmond, opposed the Dollar Tree coming to the neighborhood. He wanted to understand what is going to happen to the north lot. He remarked that the City of Richmond and the neighborhood council should work with the owner to bring a more long-term, viable business to the neighborhood. He inquired if the revenue generated from Dollar Tree will provide the maximum tax revenue to the City or are there other uses that could provide more.

BARBARA TANAKA disclosed that she submitted a letter regarding the project and requested that the Commission review her comments in the letter. She recommended that the project discuss safety concerns with the Richmond Police Department and that the Commission review

the crime statistics of the Dollar Tree located at 1155 San Pablo Avenue. She appreciated Chair Tucker's comments regarding the traffic patterns of the neighborhood. She objected to the extended hours of operations and mentioned that the Grocery Outlet in the neighborhood operates from 8:00 a.m. to 9:00 p.m. with no seasonal hours. She addressed the potential noise impact at the loading dock to the adjacent neighbor.

HARRIET WELSH mentioned that she is the neighbor directly to the north of the site and her home is located in the I-shape of the proposed driveway and parking lot. She strongly encouraged the Commission to have the applicant install a taller fence along the property line. She remarked that there is a difference between traffic coming in and out from a car dealership and traffic from a retail store. She inquired if the trash enclosure opens onto McLaughlin Street or will it be dragged to the street through the driveway area.

DAVID SWANSON, a resident of East Richmond for over 20-years, expressed strong concerns regarding the heavily congested traffic at the intersection. He predicted that traffic maneuvering to and from the freeway as well as traffic entering and exiting the site will cause major safety hazards in the area. He requested a more in-depth traffic analysis be completed and/or consider placing the Dollar Tree store in a more central location in Richmond.

MICHELE RAPPAPORT agreed with Mr. Swanson's in-depth explanation about what will happen with traffic once the Dollar Tree is installed. She mentioned that once cars exit the site, any traffic issues will be the City's problem. She confirmed that the intersection from Barrett Avenue going to San Pablo Avenue is very congested and has high speeds.

HEATHER BRISTOW confirmed that residents who have been labeled as future customers have strongly opposed Dollar Tree for months. She encouraged the Commission to review the site plan again. She noticed that a truck and trailer will have to back up into a handicap spot and a bike rack area to conduct deliveries. This action will result in the safety backup beeping that will be loud in late evening hours. Concerning lighting, she noticed that there is no documentation regarding what lumens the lights will be. She strongly encouraged the Commission to understand the damage and crime that dollar stores cause to communities.

NEAL HARKINS remarked that it has been documented that dollar stores and their affiliates have an instituted policy of no more than 5 percent of gross margins spent on wages. This equated to a small number of employees watching over a large store which is attractive to criminals. He concluded that while he supports more jobs in Richmond. The ratio of jobs to square footage in the proposal is not progress.

DANIELLE SCIOCCETTI agreed with Mr. Harkins' comment regarding the small number of employees who will be watching over the store. She saw an inconsistency with the argument that the majority of folks shopping at the site will be in mid-day but the store is proposing to be open until 10:00 p.m. She confirmed that unloading delivery trucks is a noisy process.

ROGER MILLS, a commercial real estate broker who was involved with the project, emphasized that the building has been vacant for 4 ½-years and the landowners have lost over one million in potential income. He confirmed that a car rental company was interested in the property in October of 2019 but they decided to abandon the site and looked elsewhere. He mentioned that the site is located along a retail corridor and Dollar Tree is a retail use. He agreed that having an up-scale retailer on the site would be ideal, but those businesses are not interested in the location.

MELISSA YOUNG-HOOKS remarked that her property is directly behind the proposed project. She just became aware that the hour of operations will be from 8:00 a.m. to 10:00 p.m. She mentioned that after-hour deliveries will be very noisy. She wanted a clear understanding of what material the fence will be made of and how tall it will be. Also, what crime prevention plan does Dollar Tree have to make sure that the neighborhood remains safe.

JONATHAN LIVINGSTON announced that he is the Chair of the Design Review Board but was speaking on behalf of himself. He acknowledged that Dollar Tree's design team worked tirelessly to have a design that addresses many of the concerns of the neighbors. He mentioned that the Design Review Board did discuss lighting and did discuss back up beeping. He felt that the design adequately addresses those concerns.

NICK DESPOTA, a resident of the Richmond Heights Neighborhood, agreed that a store with a large floor area but small number of staff invites crime. Also, the film on the windows facing San Pablo Avenue will promote theft because the film blocks observation from the street. He recommended that the applicant hire a local artist to paint a mural along the façade of the building facing Barrett Avenue. He opposed the size of the signage that was proposed on Barrett Avenue.

SUMAN, a resident of the Richmond Heights Neighborhood, commented that his home is located behind the proposed project. He stated that his concerns are about privacy, noise, views, traffic, safety, and air pollution. He remarked that a fence will not mitigate these concerns and his livelihood will change once the Dollar Tree is established. He encouraged the Commission to deny the application and requested that the applicant find a different tenant.

Chair Tucker thanked the folks who provided comments either in person or through email. He requested that the applicant and their team provide comments regarding the concern of crime. Mr. Kipnis explained that there has been inaccurate information regarding the Dollar Tree store that closed at 1155 San Pablo Avenue. He clarified that the lease to that store ended naturally and it was not closed due to crime. He mentioned that Dollar Tree has a risk management loss prevention team that are experts and knows how to run a store. He felt that it is not appropriate to disclose what crime prevention measures are in place in a public setting. Concerning staff, if the store is less busy, then employee numbers will be reduced, and the numbers provided in the proposal are estimates. He announced that the team is amendable to having the hours of operations be from 9:00 a.m. to 9:00 p.m. Chair Tucker inquired about the north side lot near the Chinese restaurant. He asked if the parking lot will cover that entire lot or will there be an area that is not paved. Mr. Yu answered that area is not part of the Dollar Tree project and he visits the site once a week to maintain the area. Chair Tucker asked where the trash enclosure will be located and where will the garbage truck enter the site. Ms. Harris remarked that the trash enclosure is accessed from San Pablo Avenue. She could not comment on the time the trucks would be coming, nor if they would be front or rear dumping trucks. Chair Tucker recommended that a condition be drafted that states that trash pick-up will be in the morning. Ms. Kipnis agreed that a request can be made with the waste management company to service the trash enclosure in the morning.

Commissioner Brubaker asked if the applicant team ever considered enclosing the dock area with a lightweight structure. Mr. Weston confirmed that the design solution was not discussed. Mr. Kipnis predicted that a 40-foot truck would be delivering to the location and not fit in a structure. Commissioner Brubaker noted that the entire truck does not have to be in the structure to help mitigate noise.

Chair Tucker requested that staff explain the revised Conditions of Approval. Mr. Lopez confirmed that several changes were editorial changes, language clean-up edits, removal of unnecessary items such as a designated cart corral outside, and other minor changes.

Chair Tucker thanked the applicant team for being amendable to changing the hours of operation to 9:00 a.m. to 9:00 p.m. and to contract with the waste management company to have the trash picked up in the morning. He suggested that the Commission recommend a time when deliveries are not allowed to happen.

Vice Chair Loy supported the idea of having a mural painted by a local artist on the side of the building. She encouraged the Commission to consider having the store close at 8:00 p.m. to have an earlier delivery time.

Commissioner Harrison supported Commissioner Brubaker's idea of enclosing the loading dock as a way to reduce noise. If that is something the Commission as a whole supported, he requested that the item be tabled to allow time for the applicant to explore the idea further.

Commissioner Brubaker stated that the Design Review Board has done an excellent job of allowing upgrades to happen to the building while retaining the architectural character of the building. He understood that the window treatment is a mural and he encouraged the applicant to seek a local artist who can provide input on the window treatments. He believed that would satisfy Vice Chair Loy's request as well.

Vice Chair Loy commented that she does not support having the fence made out of wood and found the idea of enclosing the loading dock fascinating. She concluded that she is less concerned about public art and more concerned about safety and noise.

Commissioner Brubaker put forward the following motion: To approve the project with conditions as developed by City staff along with additional conditions that include that sweeping of the parking lot would happen at least two times a month; to ensure that lighting does not trespass onto neighboring properties and if required, add additional shielding to the light fixtures that are proposed; to provide privacy protection for boarding houses that would include wooden fences of a height that would be amendable to the neighbors, 6- or 8-feet; that the hours of operation would be 9:00 a.m. to 9:00 p.m.; that Richmond Police Crime Prevention expertise would be consulted during the design and layout of the store; that there be a time certain for pickup of trash from Republic Services; and construct a shed at the loading area to shield the east and north wall; and time of delivery.

Commissioner Harrison noted that the proposed motion is too loose and suggested that the item be continued to allow staff time to formally draft conditions. Chair Tucker agreed.

Chair Tucker announced that Commissioner Brubaker's motion failed due to lack of a second.

Chair Tucker recommended that the applicant hold a meeting with the neighborhood to ensure that the neighborhood's voice is heard.

Chair Tucker put forward a motion.

Commissioner Brubaker inquired if the public hearing would be reopened or would it remain closed if the item is continued. Mr. Atencio answered that the public hearing would remain closed unless the Commission votes to reopen the hearing.

Commissioner Harrison asked if the item will be continued to a date certain. Chair Tucker answered yes, continued to the Planning Commission meeting of December 2, 2021.

**ACTION: It was M/S/C (Tucker, Harrison) to hold the item over to December 2, 2021, and return to staff the conditions as outlined by Commissioner Brubaker and with the request that the staff along with Richmond Heights Neighborhood Council and the applicant team meet to discuss the CUP conditions and return to the Planning Commission for a final decision based on the outcome of those conversations at a later date; which carried by the following vote: 5-0-2 (Ayes: Tucker, Loy, Brubaker, Harrison, Soofiani; Noes: None; Absent: Agarwal, Huang).**

[The Commission took a short break]

**3. PLN21-402: Chevron Modernization Project Annual Compliance Report** PRESENTATION regarding the Chevron Refinery Modernization Project annual compliance report. This annual report is required pursuant to condition of approval H5 of Conditional Use Permit PLN11-089 at 841 Chevron Way/100 Chevron Way (APNs: 561-030-001; 561-030-002; 561-030-003; 561-030-005; 561-040-013; 561-040-014; 561-040-015; 561-040-016; 561-040-017; 561-080-001; 561-080-002; 561-080-003; 561-080-005; 561-080-006; 561-080-007; 561-090-003; 561-090-004; 561-100-003; 561-100-009; 561-100-010; 561-100-017; 561-110-020; 561-100-025; 561-100-037; 561-100-038; 561-100-042; 561-100-043; 561-100-044; 561-100-047; 561-100-048; 561-100-049; 561-110-022; 561-100-029; 561-110-034; 561-110-035; 561-110-036; 561-110-041; 561-110-044; 561-390-001; 561-390-003; 561-390-004; 561-390-016; 561-400-008; 561-410-002; 561-410-003). IG, Industrial, General District. Chevron USA Inc, owner; Chevron Products Company, A Division Of Chevron USA Inc., applicant Planner: Lina Velasco Tentative Recommendation: Receive and Provide Comments

**ACTION: It was M/S/C (Tucker, Brubaker) to extend the meeting past 10:30 p.m. to 11:00 p.m. which carried by the following vote: 5-0-2 (Ayes: Tucker, Loy, Brubaker, Harrison, Soofiani; Noes: None; Absent: Agarwal, Huang).**

Commissioner Soofiani announced that she is leaving the meeting.

Shari Libicki, City consultant, announced that staff's recommendation is that the Planning Commission receive the presentation on the compliance report and provide comments. The modernization project consisted of the construction of the new hydrogen plant, infrastructure improvements, and project design features and mitigation measures to achieve no net increases in emissions.

The Annual Compliance Report is a requirement of the City Certified Environmental Impact Report (EIR) and the approved 2014 CUP of the project. The report is the fourth Annual Compliance Report for the modernization project and it covered the year 2020. The compliance report is drafted by Chevron and reviewed by several agencies including the City of Richmond Fire Department, Contra Costa Health Services, the City of Richmond Building and Planning Services Department, and several others. Of the four phases of the project, pre-construction, construction, and pre-operations are mostly complete. The remaining phase was operations and the year 2020 was the first full year of operation after construction.

In 2018, construction exceeded the specified limit of greenhouse gas emissions (GHG) as outlined in the EIR. Required mitigation measures (MM) were implemented to reduce GHG emissions to a less than significant level. In December 2019, the City approved the permanent replacement of three, tier two diesel pumps with electric pumps. The replacements were deemed to reduce GHG emissions to the amount necessary to offset construction emissions. Preliminary work began on the mitigation project in 2020 and is estimated to achieve completion in the fourth quarter of 2021. To expedite the project, the diesel generators were replaced with rented electric pumps until the permanent electric pumps are placed in service. Concerning construction, all obligations have been met and verified by the compliance team. Chevron will continue to submit quarterly reports until construction is complete.

Concerning operations, all obligations for the year 2020 of operations were met and verified by the compliance team. There were no net increases in criteria pollutants in the first year of operation, no physical increase in GHG emissions in the first year of operation, the facility utilization was 66 percent below the 93 percent utilization scenario in the EIR that would trigger additional mitigation.

As a result of August 6, 2020 incident, a Reliability Program was implemented and Chevron continues to track ongoing Reliability Program obligations. Chevron has conducted six community and five employee Town Halls to address concerns.

Compliance for ongoing limited construction activities is tracked and submitted quarterly to the City. Operation compliance is reported via the Annual Compliance Report. Chevron will continue to prepare an Annual Compliance Report and submit it to the City by September 1 of each year. Certain obligations that have been fulfilled will be removed.

Vice Chair Loy encouraged members of the public to watch the City Council meeting where Chevron presented their Annual Compliance Report. She mentioned that a member of the public submitted a letter to the Commission that raised concerns regarding the lighting on the pier. Ms. Velasco confirmed that staff investigated the concern and found the lighting to be unrelated to the modernization project. The concern was forwarded to Chevron.

Mauricio Molina, Planning Manager at the Richmond Refinery, acknowledged that flaring is a significant community concern as well as it is a concern of the Richmond Refinery. Flaring was increased during 2018 and 2019 as the new hydrogen plant was being constructed. Though there have been some reductions, Richmond Refinery continues to implement measures to reduce flaring.

Though the hydrogen plant construction was completed in 2019, secondary construction continues under the project's CUP. He predicted that the GHG construction mitigation project to be completed soon and the tank dome will be in service by 2022. The refinery has stayed well within the emission commitments of no net increase of criteria air pollutants, no net increase in health toxic risk from toxic contaminants, and no physical increase in GHG emissions over the baseline that was determined for the project. He emphasized that the modernization project has helped reduce the refinery-wide particulate matter by over 30 percent.

Chevron continues to be a valuable community partner in helping fund local programs and scholarship as well as facilitate a reduction in GHG emissions contributed to the City of more than 400,000 metric tons of CO<sub>2</sub> for small and medium businesses. Chevron continues to explore additional energy transition programs for Richmond. He requested a partnership with the City, labor unions, and stakeholders to support the global net-zero emissions of the Paris

Agreement as well as the California Air Resources Board (CARB) Climate Change Scoping Plan. He emphasized that Chevron is excited to add energy transition leadership to safely produce affordable, reliable, and ever clean energy in Richmond.

Vice Chair Loy was excited to hear Chevron's plans for the future and that the City of Richmond is a part of those plans.

Commissioner Brubaker found the idea of a hydrogen hub in Richmond very interesting and supported that idea.

Commissioner Harrison echoed the comments that Chevron is moving in the right direction.

Chair Tucker commented that he wanted to do a site tour of the plant and that he is excited that the projects are complete.

Commissioner Brubaker asked when the Environmental and Community Investment Agreement (ECIA) program will sunset. Hakim Johnson, Public Affairs representative for Chevron, answered that the program is a \$90 million commitment over 10 years and it is up to the City to distribute the funds.

Vice Chair Loy looked forward to discussions with Chevron when their existing commitments are complete.

#### **COMMISSION BUSINESS**

4. **Reports of Officers, Commissioners, and Staff** – Vice Chair Loy announced that the Board of Urban Tilth is hosting a harvest festival at the North Richmond Farm.
5. **Adjournment** - The meeting was adjourned at 10:57 p.m. to the next regular meeting on November 18, 2021.