

PLANNING COMMISSION MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL
1401 Marina Way South, Richmond, CA
March 17, 2011
7:00 p.m.

COMMISSION MEMBERS

Charles Duncan, Chair	Sheryl Lane, Vice Chair
Jeff Lee, Secretary	Carol Teltschick-Fall
Ben Choi	Andrés Soto
Roberto Reyes	

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

Chair Duncan led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Duncan, and Commissioners Choi, Reyes, Soto, and Teltschick-Fall

Absent: Vice Chair Lane and Secretary Lee

INTRODUCTIONS

Chair Duncan introduced new Commissioner Roberto Reyes who replaces former Commissioner and newly elected Councilmember, Jovanka Beckles.

Staff Present: Richard Mitchell, Lamont Thompson, Hector Rojas, Carlos Privat, and Mary Renfro

MINUTES - None

Brown Act – Public Forum

Reverend Kenneth Davis, Richmond, spoke of emissions from the Chevron Refinery and hoped Chevron will be a better neighbor to the community.

Chair Duncan 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, March 28, 2011, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

CONSENT CALENDAR

Chair Duncan stated there were no Consent Calendar items.

HOLD OVER ITEMS

1. **PLN10-179: Chevron Tank Replacements** - PUBLIC HEARING to consider adoption of staff's proposed Mitigated Negative Declaration (MND) and approval of a Conditional Use

Permit (CUP), and Design Review (DR) to replace five existing petroleum storage tanks with five newly constructed tanks, and to construct a new firewater tank in the quarry tank field at 841 Chevron Way (APNs: 561-040-016; 561-100-003, -001, -003, -008, -009, -010, -011, -012, -013, -017, -020, -025, -026, -029, -034, -035, -036, -036, -037, -038, -040; 561-400-008; 561-410-002; 561-410-003). M-2, Light Industry; M-3, Heavy Industry; and CRR, Community and Regional Recreation District. Chevron Products Company, owner/applicant. Planner: Lamont Thompson. Tentative Recommendation: Conditional Approval.

Lamont Thompson gave the staff report on Chevron's proposal to replace 5 existing storage tanks with 5 newly constructed tanks and to construct a new fire water tank in the quarry tank field. He described zoning designations, capacity of new tanks and additional details, noting that there will be no increase in gasoline or other products as a result of the project.

An Authority to Construct (ATC) is required for 3 of the storage tanks from the Bay Area Air Quality Management District (BAAQMD), and he said that all proposed tanks are subject to the City's Conditional Use Permit. The Planning Commission is required to make hazardous materials findings in the zoning ordinance as well as Conditional Use Permit findings.

Mr. Thompson stated that on February 9, 2011, the Design Review Board (DRB) held a public hearing to consider the overall design and appearance of the 5 replacement storage tanks and the new fire water storage tank. Written and oral comments were received regarding the Initial Study, Mitigated Negative Declaration, and the project. The DRB recommended conditions specifying how the project could be made to comply with the performance standards contained in the zoning ordinance relating to location and color tank screening. The DRB also recommended the Commission include a condition that the visual design of the project be returned to the DRB for final approval. Because the overall visual design of the project, including the color and shape of tank covers could change environmental impacts of the project, Mr. Thompson said staff recommends that only final landscaping details be returned and approved by the DRB if the Planning Commission adopts the Mitigated Negative Declaration. Staff has included conditions that specify the location and square footage to be landscaped as well as DRB approval of the final landscaping details.

Mr. Thompson said staff prepared a Mitigated Negative Declaration using an Initial Study checklist for the project in accordance with CEQA, as amended, and the City of Richmond's guidelines and procedures for implementation of CEQA. The review period began January 18, 2011 and ended February 18, 2011. The basis for proposing a Mitigated Negative Declaration was the finding that, although the proposed project could have a significant effect on the environment, implementation of the proposed mitigation measures will reduce all impacts to a less than significant level.

During the comment period, staff received a total of 6 comment letters which were included in the packet and posted on the City's website. Staff concludes that the proposed tanks will be relocated within the tank farm and quarry portions of the refinery and are appropriate for the site, and that the proposed project will comply with development standards of the CRR zone, M3 zones, and the General Plan, and will be compatible with existing industrial uses in the site and the area.

Chair Duncan opened the hearing and requested comment from the project proponent.

Mark Persante, consultant for Chevron, requested the Commission's approval of the project and reviewed details of the project, stating the 5 tanks would replace 5 storage tanks that would be

removed from storage and demolished. There would be one new storage tank constructed for water and used for fire-fighting purposes in the quarry tank field area. He presented a map and described the locations of the 6 tanks and provided a background, stating the refinery operates about 300 storage tanks which add up to a total capacity of 16 million barrels. Between 2001 and 2005, the refinery undertook an aggressive program to remove tanks that were out of service and requiring replacement with a combined capacity of about 1.6 million barrels. The storage tanks are subject to a number of regulatory programs and standards and periodically must be removed from service for inspection and maintenance. Over time will reach the end of their useful life. He said there were no new tanks built since 2005, and the refinery will build one tank per year in order to keep up with those reaching the end of their life.

Mr. Persante said the Initial Study prepared using the checklist is an analysis of the potential environmental impacts of the project and identifies the various permits required. Mitigation measures are imposed if there are impacts and there were no significant impacts identified in the Initial Study as a result of this project and no increase in VOC emissions as a result of the project. He said there were some short term impacts identified from construction, such as emissions from trucks, machines and earthwork activities. The cultural and biological resource areas were identified as having some potential impacts during construction, as well as transportation and traffic in moving materials in and out of the site.

The petroleum storage tanks all comply with the BAAQMD regulations and he presented a scale, stating that BAAQMD's threshold is an increase above the baseline of 10 tons per year, which states that a project can increase its VOC emissions by up to 10 tons per year which is still protective of public health. Two of the highest gasoline tanks will be equipped with domes over the internal floating roof to bring down the net emissions of the project to just below zero, and these are being put on voluntarily. If taken away, there will be an increase of over 4 tons per year which would still be less than 10 tons per year threshold of significance.

Mr. Persante added that Chevron is requesting a minor change in the Mitigation and Monitoring Reporting Program to reduce the weekly reporting frequency to monthly which is consistent with other projects approved. Mr. Persante concluded his presentation, stating the request is a routine maintenance project. There will be no increase in VOC emissions from the project and they have a need to start taking tanks that need to come out of service for inspections.

Commissioner Teltschick-Fall referred to the air quality analyses chart, and asked if the chart shows an increase over what exists or was it absolute emissions. Mr. Persante said the bar that shows below zero is the net effect of the project. The other bar was included to show what the emissions would be if there were no domes on two of the tanks.

Commissioner Teltschick-Fall questioned what the overall emissions are versus the increase for the project. Mr. Persante said the absolute emissions are in the neighborhood of 8.2 tons per year of VOC, which is offset by the existing tanks that will be removed for service, which are 8.3 tons of VOC per year. He said CEQA looks at the net impact and net emissions.

Chair Duncan questioned the cost of the overall project. Mr. Persante said he did not know the cost, but noted that each tank is on a separate project track and are all funded and designed separately.

Chair Duncan asked for a more descriptive detail of the contents of Tank 3229, which contains heated, recovered oil. Mr. Persante said recovered oil is a general term which is used for oil that

is collected from various operations of the refinery. The oil is put into a tank and recycled back into the refining process.

Chair Duncan said while he understands the decision not to put a dome over the floating cap is because it falls below the air quality threshold, he asked why Chevron did not choose to put a dome over that, but over the other two in a voluntary way. Mr. Persante said they looked at the two highest emitting tanks and their desire to end up with a project that had a net of zero increase. Once that level was hit, they decided this was something more than necessary under CEQA and BAAQMD regulations and there was no need to put a dome on the third tank.

Chair Duncan said what is not clear is the odorous component of that tank. He thinks it was not adequately studied or discussed. When he thinks of heated oil, he thinks of California Oils when driving down I-580, which he said smells. He has no problems with the project at all and thinks it is well-conceived except for Tank 3229. His tendency would be to condition the project to put a voluntary dome over that tank, as well, and he asked if Chevron would be amenable to this. Mr. Persante said no; there is absolutely no basis for the dome to be required. The objective is to be below 10 tons per year net increase which they are well below.

Commissioner Teltschick-Fall commented that she appreciates the fact that domed covers get to zero but pointed out that zero is simply relative to these particular 5 tanks and there are 300 tanks in operation, stating this was her point from her previous question on absolute emissions versus relative emissions. Mr. Persante said emissions have been significantly reduced over time from the refinery and it is the most controlled refinery in the world. He said the 10-ton increase was established by experts and he reiterated that the project will have a net zero increase, which they believe should be sufficient.

Commissioner Soto stated that despite Mr. Persante's contention that the refinery is the most heavily regulated refinery in the world, it seems like their primary interest is just meeting the basic requirements as opposed to what could begin to improve the quality of air in Richmond, which as many people know is notorious. Similarly, he voiced difficulty with Chevron's request that the recommended reporting requirements be minimized because of their contention that the project is merely a routine procedure. Mr. Persante responded by stating the project is routine in nature. The reduction in reporting requirements is monthly versus weekly which he feels is reasonable. He would also say that contrary to Commissioner Soto's comments, Richmond has some of the best air relative to other cities in the Bay Area which is what data shows. They believe this project is a good project. It results in a net increase of zero emissions and should be approved on that basis.

Commissioner Soto said he is not just concerned about the air in Richmond because he knows how prevailing wind blows. He remembers the General Chemical spill which traveled up the Carquinez and affected people in Pittsburg. He also knows that much of the pollution in the Bay Area gets swept into the Central Valley and impacts people there and was not just concerned about the quality of the air of the Bay Area but overall impacts of where it travels. He said that if putting in a permanent dome would help minimize this, particularly because of wind impacts, it would seem prudent. Mr. Persante disagreed and reiterated the fact that the Air District is the authority on the subject which would say that those downwind are also protected.

Commissioner Reyes questioned if any of this data was available to the Commission. Mr. Persante said it is public information they would be happy to share, and they have discussed this in the past with the Commission.

Chair Duncan referred to monitoring and he asked if a monthly and semi-annual report was commensurate with other activities at the refinery for such projects. Mr. Thompson said the City of Richmond staff is responsible for monitoring all mitigations and staff is amenable to Chevron submitting monthly, and not weekly, reports.

Commissioner Soto said comments have been received from those living in the community and one issue raised is that once new tanks have been built, existing tanks need to be completely removed because otherwise, there is the potential they could be re-used for other purposes not covered under the approval. He questioned how Mr. Persante felt about making this a requirement of the project. Mr. Persante replied that Chevron had agreed based on the earlier discussions with staff and legal counsel that the 5 existing tanks being removed would be removed from service and demolished.

Public Comments:

Dr. Henry Clark, Executive Director, West County Toxics Coalition, Richmond, said he was not necessarily opposed to the project in terms of replacing older tanks but voiced discrepancies in representations of Chevron which include the allowance of increased emissions and significant impacts. He spoke of environmental injustice issues and laws in place to protect the public and human rights.

Greg Karras, Communities for a Better Environment (CBE), Oakland, asked that the Planning Commission require a dome on Tank 3229, which he felt is clearly feasible and will reduce emissions. He said Chevron can afford it and will not likely be required by the Air District. Tank 3229 is the highest emitting tank as proposed and the dome will provide the necessary assurance that emissions from larger tanks will decrease instead of increasing. While the new technology is intrinsically cleaner, the tanks proposed are much bigger, using up most all of the emissions reductions. Therefore, even with the dome and the other technology improvements to lower emissions, he said this project will not capture all emission reductions that would otherwise be available from technological improvement, and this could be considered a compromise, but CBE thinks it is a reason to have stronger land use policies.

Commissioner Reyes questioned the amount of reduced emissions if the dome were placed on Tank 3229. Mr. Karras said staff, the Air District, or Chevron could calculate this in terms of using the Tank 4 model. He said CBE spoke with the Air District and Chevron's tank expert about it informally. They are not suggesting waiting to do this, felt the project should go forward to get jobs and emissions reductions, but with the added condition for the dome on Tank 3229.

Commissioner Soto said one condition requested was a jobs preference for Richmond residents; however, he did not see this addressed in the staff report. Ms. Renfro said the documents on the dais were before the Commission and Condition No. 18 addresses this. She added that Condition No. 20, 21 and 22 addresses the request by Mr. Karras; that Chevron shall inform the Richmond Works Program of all employment opportunities, shall use efforts to purchase project-related supplies and services from Richmond businesses, and shall comply with all applicable conditions of the Richmond Business Ordinance (RBO).

Commissioner Reyes stated that while a routine project, he suggested seeing 50% of the workers being hired from Richmond's base.

Chair Duncan questioned Mr. Karras' opinion about changing the amount of monitoring and thinks it seems reasonable to monitor on a monthly rather than weekly basis. Mr. Karras agreed,

and recommended that when monitoring is done, the most important item to monitor regularly are the tank seals on the floating roofs which can emit a lot when separated and until repaired.

Commissioner Soto said the General Plan and land use indicate that part of the impacted area is designated as recreational. He questioned how this came about. Mr. Thompson said the fire water tank is in a reserve area for recreation. There is no public access to the site, and it is left in its natural state and is secured Chevron land. The only use and enjoyment the City can get is visually seeing it when driving across the Richmond-San Rafael Bridge. With a conditional use permit, a tank is allowed to be placed or constructed in that area.

Rebuttal – Applicant

Mark Persante pointed out that the recovered oil tank is not the highest emitting tank. The highest is the gasoline tank and this is why a dome is being placed on that tank. The second highest emitter is the aviation gasoline tank, which also has a voluntary dome. The CRR zone also specifically allows tanks, and he reiterated that Chevron believes this is a very good project and by refinery standards, is routine. He also clarified that reduced frequency of monitoring relates to status reports during construction and not reducing required inspections for the function of the tank seals.

Commissioner Reyes asked if the gas and aviation gas tanks are higher emitting tanks when factoring in the domes placed on them. Mr. Persante said if all tanks had no roofs at all, this is the starting or uncontrolled level of emissions, and those two tanks are the highest emitting.

Greg Karras, CBE, stated he was available to answer questions and hoped that the Commission will require the dome on Tank 3229.

Chair Duncan asked for Board discussion and left the public hearing opened.

Commissioner Teltschick-Fall stated that in listening to comments and confirming information, she thinks putting a dome on Tank 3229 would be in the best interest of the community and she did not believe it was out of the scope to request this. While Chevron is getting to zero, it would be a good neighbor policy to go beyond and reduce emissions as much as possible.

Commissioner Reyes said the Air District's acronym BACT; or Best Available Control Technology stands out, and he believes Chevron has the technology to add the dome.

Commissioner Soto hoped the representative from Chevron might address the contention that because oil in this tank would be heated with increased emissions, their proposed mitigation would suffice, but he did not address it. Given commentary, he supported the requirement for the permanent dome for Tank 3229.

Commissioner Choi agreed, and said it strikes him this is not that different from the way the automobile industry behaved in past decades. They had café standards that forced them to increase in efficiency, and they created more efficient cars in power to fuel ratio but made 320 horsepower cars instead of keeping the horsepower the same. Given the opportunity to use the technological advances, he felt that every effort should be put forward to receive the best possible mitigation of emissions.

Commissioner Duncan agreed that Tank 3229 should be conditioned for a dome. He stated the project is in the schematic phase and has not been engineered yet. It will be fresh construction

that will not be hard to span which is also smaller than some of the other tanks. Given the fact it is the highest emitting tank in this project, to take it a bit further makes a lot of sense to him. In the scheme of things, the cost of the dome over the structure relative to the total cost of 5 tanks is not that much, and he thinks there is a greater benefit.

Commissioner Soto referred to the monthly reporting process. He asked whether participation with Richmond Works is a part of that requirement so that the City can monitor the degree to which Chevron is utilizing Richmond workers. Mr. Thompson said staff can monitor Chevron's hiring practices for compliance with the condition.

The public hearing was closed.

Chair Duncan said the Commission received two resolutions and he suggested handling PLN10-79 with two separate votes; one vote having to do with the mitigated negative declaration and the other vote having to do with the CUP.

Mr. Thompson suggested identifying the Resolution specifically by number; Resolution 11-07 for the mitigated negative declaration and Resolution 11-07-A for the CUP.

ACTION: It was M/S (Teltschick-Fall/Soto) to adopt Resolution 11-07 approving the mitigated negative declaration for the Chevron Storage Tank Replacement Project based on findings A through D and incorporating Exhibit 1, the revised Initial Study Mitigated Negative Declaration and Exhibit 2, the Mitigation Monitoring and Reporting Program for Chevron Tank Replacements, as amended in Section 1.4 to require monthly and semi-annual monitoring; carried unanimously.

ACTION: It was M/S (Teltschick-Fall/Soto) to adopt Resolution 11-07-A, approving PLN 10-79; the Conditional Use Permit and Design Review Permit for the Chevron Tanks Replacement Project based on findings 1-12 and incorporating the conditions of approval 1 through 24 with the addition condition of Condition No. 25; that Tank 3229 be fitted with a domed roof; carried unanimously.

NEW ITEM

- 2. PLN09-137: Richmond General Plan 2030** - Receive Public comments on the Draft Environmental Impact Report (DEIR) for the Richmond General Plan Update. No formal action will be taken by the Commission at this meeting. Planner: Hector Rojas.

Chair Duncan requested public comment be limited to 2 minutes and asked the speaker to preface their comments by first indicating which element of the General Plan they wish to address. He confirmed with Mr. Rojas there were approximately 30 speakers signed up to address the Commission.

Hector Rojas gave the staff report and introduced Patrick Hynemeyer, Senior Environmental Manager, Post, Buckley, Schuh & Jernigan, Inc (PBS&J). He said the purpose of the meeting is to accept public and Planning Commission comments on the Draft EIR for the proposed General Plan prior to the conclusion of the 45-day comment period on March 31, 2011. He then gave an overview of the timeline of the proposed General Plan and DEIR to date.

Mr. Patrick Hynemeyer presented the scope of the environmental analysis prepared for the DEIR which he said includes numerous areas. The General Plan EIR is a program EIR which provides a more general analysis of the General Plan Elements. It also focuses on the overall effects of the General Plan within the proposed change areas in the City and does not examine the effects of site specific projects that may occur during the lifespan of the proposed General Plan. Future development that would occur under the General Plan would be subject to project specific CEQA review.

Mr. Hynemeyer said for each impact in the EIR, the analysis is based on the General Plan horizon year and amount of projected regional growth that the City anticipates it could capture within the planning horizon. Conclusions about significance and mitigations identified in the EIR are based upon these projections.

He stated the EIR also includes a general discussion of implications of full build-out of the General Plan, and generally the DEIR acknowledges that the magnitude of the additional demand that could occur under full build-out is greater than the demand of anticipated development during the General Plan's planning horizon. Where applicable, the General Plan acknowledges that the capacity does not exist for additional demand of full build-out; however, the additional demand would occur at a time period beyond the horizon of the General Plan.

The EIR analyzed 3 alternatives; a No-Project Alternative that assumes that the proposed General Plan would not be adopted and future development would be guided by the existing General Plan. The first development alternative; Alternative 1, assumes lower intensity development in the City where the City would capture 8.39% of the population growth in the county which is consistent with past growth. The proposed General Plan assumes a capture of 13%. Under Alternative 1, the population increase would be approximately 19,400 and it would add over 17,000 jobs and 9400 new households by horizon year 2030. This alternative would be about 65% of the population assumed for the proposed General Plan and about 77% of the jobs. Population would be focused in the downtown Macdonald Avenue, Hilltop, Ford Peninsula, and Marina Bay areas, and Change Area 11. The northern Parkway Area would include residential development under this scenario, but Change Areas 12-16 would not.

Alternative 2 assumes the City would capture 10.19% of the population growth over the next 20 years. This alternative would result in a population increase of just over 25,000, over 20,000 new jobs and around 12,400 new households by 2030. Jobs would be approximately 90% of the proposed General Plan. Residential growth under this alternative would occur in the Northern Parkway, San Pablo peninsula, and Regatta Marina Bay areas. There would be no residential growth in the North Shore priority use or southern Gateway areas under this alternative.

The EIR found that Alternatives 1 and 2 would have lesser environmental impacts than the proposed project because they have reduced development intensity, but neither would reduce any of the significant impacts to less than significant that were found for the proposed General Plan. The DEIR also found that Alternative 1 would be the environmentally superior alternative because it includes the least amount of development.

The EIR identified a number of significant unavoidable impacts. Of topics covered in the EIR, they identified impacts in air quality, in that development under the General Plan would result in air emissions that could conflict with the Clean Air Plan and contribute to air quality violations in the Air District. For cultural resources, impacts could affect historical structures and resources through their removal or alteration. Climate change is fundamentally a cumulative impact and development would generate greenhouse gases (GHGs) that could affect climate change.

Several noise and vibration impacts were identified during construction, as well as operational noise impacts. Under public utilities, the General Plan would require expansion of the wastewater treatment plant. For transportation, the General Plan would increase congestion and exceed the current standard of LOS D, and it would also generate demand for transit that would exceed current capacity. Under visual resources, development could change the existing visual character that some people could conceive negatively, and there would be new light and glare associated with the new development.

Mr. Rojas then provided an overview of next steps leading to certification of the EIR and adoption of the proposed General Plan. Following the closing of the public comment period on the DEIR, a Final EIR will be prepared. The FEIR will include comments received on the DEIR, the City's response to comments on the adequacy on the DEIR, and any text edits made in response to comments. He said the public and Planning Commission will have two opportunities to comment on the General Plan itself.

On April 7, 2011, the Commission will hold a study session on a portion of the elements, and the remaining elements will be discussed at a study session scheduled on April 21, 2011. All comments received up to April 21, 2011 will be considered and incorporated if necessary into a fourth draft of the General Plan. The Final General Plan and FEIR could be brought to the Commission for formal recommendation to the City Council as soon as this coming June. The exact date will depend on the extent of comments received on both the DEIR and the current Draft General Plan. However, staff's objective is to present the Draft General Plan and Final EIR to the City Council by late June.

Lastly, Mr. Rojas discussed the format for providing comments on the General Plan tonight and prior to the close of the comment period, stating verbal comments are being accepted, recorded and transcribed at this meeting. He reviewed speaker protocols, said comments should be limited to the DEIR only and should specifically focus on whether the DEIR adequately identifies and analyzes the potential environmental impacts associated with the implementation of the General Plan. There will also be no response to comments provided tonight, but as part of the Final EIR. Following public comments, Planning Commissioners may also provide their comments as to the adequacy of the DEIR, and written comments can also be submitted to staff via mail or email by March 31, 2011.

Mr. Rojas concluded by stating that copies of the DEIR and proposed General Plan are available at the Richmond Planning Division public counter, Richmond public libraries, and the City's General Plan website.

Chair Duncan asked for questions of staff.

Commissioner Teltschick-Fall referred to comments relating to full build-out which is not expected within the scope of this General Plan, and she asked if it would be expected outside of this General Plan. Mr. Hynemeyer said full build-out as analyzed in the EIR was development of every area within the City that has a land use designation which is not the intent of the General Plan. The General Plan is intended to provide a variety of areas where development could occur, but not for every area to develop. In terms of the economy today, the absorption rate of 13% of the county's growth would be an optimistic projection on the amount of development that would occur.

Commissioner Teltschick-Fall referred to the typical Alternatives 1 & 2 which she said did not reach the 13% growth, which was the more optimistic figure. Mr. Hynemeyer said correct; those

have lesser development intensities in terms of land use and the assumption is also less in terms of the amount of development that would occur.

Commissioner Teltschick-Fall questioned if the 13% growth by 2030 was associated with 90% of the General Plan. Mr. Hynemeyer said Alternative 1 is the most reduced at 8.39% and Alternative 2 is in the middle which is at 90% of what is proposed in the General Plan.

Commissioner Teltschick-Fall questioned clarification that Alternatives 1 and 2 were both deemed to create significant environmental impacts. Mr. Hynemeyer said this is correct; it is generally due to the scope of the General Plan as to whether it is a reduced intensity plan or the one analyzed for the proposed General Plan, and this is due to the sheer nature of growth over the 20 years of development in the entire City.

Commissioner Teltschick-Fall questioned philosophically if continual growth was the City's only desirable option, as some cities are pushing for smart growth and some have started thinking about limiting growth to maintain a certain quality of life. Mr. Hynemeyer said for purely environmental under CEQA, there is the No-Project Alternative, which is to not adopt a new General Plan and allow growth as is currently allowed under the current General Plan. There is also a No-Project/No-Development Alternative which they did not analyze in this EIR because it is not practical for a jurisdiction to completely stop growth. Such an alternative was deemed unfeasible.

Commissioner Teltschick-Fall questioned whether the only options were to move forward with what is in the plan with growth recommended at the Alternative 1 or 2 levels, or revert back to the old General Plan. Mr. Hynemeyer said in terms of the environmental document, this is all they had analyzed. In terms of the General Plan itself, options would be determined by the City.

Commissioner Teltschick-Fall referred to noise impacts and temporary noise impacts due to construction and some operational noise impacts. She questioned whether these would be on-going and constant even after construction. Mr. Hynemeyer replied that noise impacts would be long-term from construction noise and at a particular site, they would be short term. There would also be additional impacts associate with increases in traffic and rail noise.

Commissioner Teltschick-Fall questioned if permanent ambient noise would persist, and Mr. Hynemeyer said yes; from operational noise.

Commissioner Soto said in looking at the different sections identified as having impacts, he thought curious were areas not identified, specifically parks and recreation and public services. He said when he was in the Healthy Eating/Active Living project they did an analysis of the conditions and uses of all parks in Richmond. They found that the City is under-parked as least as recommended by the American Parks and Recreation Association. In their analysis in usage of parks, many of the parks are drastically over-used and it is impossible for maintenance and upkeep to be maintained in part because of cuts in City staff and services. It would seem that ground has already been lost in those two areas as well as any additional growth or population that would impact not only the parks but other City services such as libraries. He was also puzzled as to the matrix of analyses used to come to these conclusions, as it seems any growth is deemed insignificant.

Mr. Rojas said when looking at what was presented these are the significant, unavoidable impacts and not covered in the presentation were ranges of all impacts. He referred to the mitigation monitoring table within the Executive Summary and said it provides a good summary

and analyses of all impacts associated with the implementation of the General Plan along with mitigations that bring them down to a less than significant level. For the purposes of this presentation, staff wanted to bring attention to those significant impacts unable to identify mitigations for.

Commissioner Soto said similarly, demographics were not identified as a key area. His concern is that the City has already seen an impact on the community as a result of the predatory lending practices of the financial industry in evacuating community members through foreclosures. This primarily impacts low and moderate income families, which primarily are African Americans and Latinos and Southeast Asians. He questioned if this was not part of the calculus, as well. Mr. Rojas said it is, and he discussed the purpose of the EIR, growth in the region, how the housing element plays a major role in it and where it will go, and said they are funneling all development along primary corridors which are commercial/retail.

Chair Duncan called for public comments and reminded everybody that no action was being considered tonight by the Commission. He asked speakers to limit their comments to 2 minutes and to cite the element to which their comments would be directed.

Public Comments:

Del Price, Program Coordinator for the Richmond Equitable Development Initiative (REDY), said their coalition promotes social equity and equitable development for the City's General Plan along with partners, representing hundreds of residents. She cited the 6 elements of equitable development which include: 1) commitment to the reduction of poverty and social inequities; 2) revitalization of core neighborhoods; 3) adequate provision of basic needs and services for all people regardless of their socio-economic status; 4) awareness of interdependence of land use, economic development, transportation, housing and health; 5) development that results in a healthy local environment and strong quality of life; and 6) meaningful community engagement and leadership development of those most directly impacted or displaced by development; low income families, communities of color and immigrants. She said they are prepared to follow-up with a written summary of comments prior to the March 31st deadline, and stated they feel the EIR should include sufficient analysis of environmental impacts likely to result from expansion and intensification of industrial and commercial land uses, include a complete transportation needs analysis and mitigation options, it should ensure that environmental clean up and improvement assistance funded by the City with City resources benefit low income communities, and ensure that contaminated lands and proximity to residential areas are fully remediated to residential use levels.

Ana Orozco, CBE, Richmond, distributed materials to the Commission and said the DEIR is flawed as written, as it fails to include sufficient information and analysis of the environmental impacts likely to result from expansion and intensification of industrial land uses. The Climate Element sets a goal of reducing GHGs by 20% over the next 10 years but it only targets traffic and residential emissions. She presented a graph to illustrate her point of GHGs from the entire City and those that come from commercial and industrial facilities, stating that the 2020 goal can never be reached even if only traffic and residential emissions are removed and she asked that the General Plan include commercial and industrial facilities.

Greg Karras, CBE, Oakland, asked the Commission to add measures to require industrial emissions reductions needing to meet City climate protection targets in Richmond and not offsets somewhere else. Industrial emissions drive citywide emissions and should be included to meet the goals which will protect climate, reduce severe on-going impacts causing

environmental injustice and blight and can redirect huge resources toward green energy and green jobs economy in Richmond. The project does not do this and the EIR fails to analyze it; it ignores a potentially significant increase in total pollution, ignores needed and job creating ways to avoid that pollution, and falsely claims that pollution impacts are unavoidable.

Tiana Druker, Richmond Progressive Alliance and CBE volunteer, challenged comments made that climate change is unavoidable and preserving culture is unavoidable. Industrial and commercial sources of pollution are not included in the General Plan to reduce GHGs. She asked that the City include refineries, ask them to make real upgrades to reduce emissions, and said facilities should be mandated to create local jobs and alternative energy training which will preserve the culture in the community. The DEIR fails to evaluate the health impacts on Richmond residents from local pollution sources, and the goal of the climate plan is to reduce GHG emissions but does not include a plan to reduce co-pollutants and she described related serious health hazards.

Maria Alegria, Faith Works, referred to the Housing Element which has been removed from the DEIR process due to the extensive revisions to correct deficiencies to make it compliant with State housing laws, she submitted that meeting affordable housing needs has tangible environmental benefit and failing to do so will have harmful environmental impacts. It is important to consider that residents of all incomes have housing opportunities near jobs, reliable transit, recreation and services. In doing so, people will drive less, walk more and enjoy healthier lives, and there will be less traffic, less air pollution, less GHGs and improved public health. If rezoning was included in the Housing Element process, housing projects could move forward and similarly, the element would be consistent with land use policies in the EIR. Lastly, she requested the Commission make an official statement reassuring the public that the environmental impacts of the Housing Element will be studied fully once revisions have been completed.

Tarnel Abbott, Richmond Progressive Alliance and CBE volunteer, referred to the Energy Employment Element of the General Plan, stating reductions in GHGs are imperative. The Chevron Refinery is the largest emitter of GHGs in the City and the first in the State, but according to the DEIR, nothing can be done about it which is a problem and is wrong. Climate change affects everybody and it will hit poor people first and hardest. Food is imported worldwide, gas prices are going up and food shortages will occur as climate is affected in all continents. She said it is time to wake up, take real leadership and contain GHGs.

Nita Sisamouth, Richmond, referred to Elements 1 and 8, acknowledged the policy of Contra Costa Environmental Justice adopted in 2003 to consider human health and environment, and voiced concerns regarding Element 1 that green jobs have explicit language around being accessible to multiple languages to specifically serve Richmond residents. Regarding Element 8, green jobs and green practices/policies need to be more specific and explicit in how Richmond will regulate and regulate 3.5 million metric tons of emissions Richmond has jurisdiction over, as 70.3% is emitted by commercial/industrial sources. In the DEIR, Section 3.3-3, the language of toxic air contaminants impacts classified as being less than significant should be re-evaluated to consider residents and sensitive receptors. In conclusion, she asked that the commercial and industrial GHG inventory be put into the DEIR.

Collin Miller, Climate Justice Coordinator, Urban Habitat, said the DEIR needs to consider the potential for significant environmental impacts of higher GHG emissions due to an increase of vehicle miles traveled resulting in the displacement of low income Richmond residents. The critical importance of preventing displacement by ensuring adequate renter protections to

reduce GHGs is justified by the 2010 report from the Dukakis Center for Urban and Regional Policy, called *Maintaining Diversity in Transit-Rich Neighborhoods*. The study found that transit-oriented development and transit investments leads to increased housing prices resulting in gentrification and displacement unless strategies, including strong rental protection policies are in place. Displaced residents are forced to drive long commutes which also increase in GHG emissions which contradict the purpose of transit-oriented development, and he asked that this be considered in the DEIR.

Marcy Rein, Richmond, REDY, said she is struck by the power and seriousness of a general plan and emphasized that the DEIR should include a study of local hires as a key strategy for reducing GHG emissions, include a careful transportation needs assessment, and review how the plan will meet GHG emission targets.

Antonio Medrano, San Pablo, Faith Works, said his comments relate to the need for the DEIR to study equitable economic development in Richmond to establish long-term priorities and criteria to guide future economic development and growth. He asked for collaboration with unions, non-profits, educational institutions, and major employers to strengthen job training, job opportunities for local residents. The DEIR should study local jobs and workforce programs as strategies to increase the number of people who both live and work in Richmond and help decrease harmful GHG emissions. The General Plan will increase vehicle mileage by 50% by 2030 which outstrips the contemplated 25% population increase. The DEIR identifies 4 impacts that result from the dramatic increases of vehicle miles traveled: 1) regional emissions in conflict with the Clean Air Plan; 2) increases GHG emissions; 3) traffic congestion that exceeds levels of service standards; and 4) increased congestion and lower travel speeds.

Ric Borjes, Chief of Cultural Resources, National Parks Service, said they are honored to be a component of Richmond's efforts to rediscover its history and significance and said their interest is primarily in the National Historical Park Element as well as the Zoning Element and Historic Resources Section of the General Plan. They believe that the DEIR adequately describes the impacts and mitigations related to those resources associated with Richmond's national parks, believe implementation of the National Historic Park Element will have a beneficial effect on resources of Rosie the Riveter as well as the significance of Richmond as a nationally recognized point within the National Parks system for all WWII home front associated activities, and look forward to continuing to work with the City.

Ralph Morgan, Richmond, addressed the fact that the DEIR does not include Discornia Estates Specific Plan or reference it in any way as becoming part of the General Plan. He said they have submitted a letter to the Planning Commission from their neighborhood council and felt this is an element of fundamental decency and fairness. There are 24 homeowners who have built their homes to far more restrictive standards than are available elsewhere in the City of Richmond, have paid specific fees to the City to build in the area, and the effective decision of the plan is going to eliminate everything they have worked for in the Discornia area in terms of creating view corridors, open space, and when additional development happens in the open space, they will no longer have views other than other walls, which is very unfair.

Nick Krause, El Cerrito, referred to the Noise Element, stating he is a professional acoustical engineer with over 30 years of community noise assessment. He analyzed the General Plan and DEIR and distributed a study he developed to Commissioners which he highlighted, stating it is a bad idea to lump the Noise Element with the Public Safety Element which is indicative of someone trying to dodge noise issues. It states specifically in the General Plan guidelines that noise should be a separate element and certain items should be contained within it. He also

stated noise data being presented is often in a format not appropriate, and he offered his services to improve the quality of the element.

Dan Murray, Jr., Mill Valley, said he is a land owner in Richmond, said the DEIR and General Plan falsely characterize their land along the Richmond Parkway, omit key analysis of proposed land use changes, and offer inadequate alternative analyses. Twice in 2010, an attempt to associate an open space land use designation to his property's change area was motioned by the City Council. Both times, they lacked the requisite support to pass the vote. In the Draft General Plan and DEIR, their land appears in Change Area 12 and suggested changes are similar to the language and spirit that lacked the support of the Council in 2010. The new documents do not contain adequate alternative land uses or adequate analyses of impacts of proposed changes which is mandated by CEQA. In light of the gross and negligent oversight, important questions arise. If an open space land use designation lacked support in 2010, he questioned who gave direction to staff to make these changes and when? He questioned why there is a lack of alternatives and analyses in the DEIR in connection with Change Area 12. The lack of alternatives in the document is particularly troublesome because they were recently given support for industrial development on their land by the City in the neighboring community. They responded to the RFQ by the Lawrence Berkeley National Laboratory who is looking for a second site for a campus and the letter of support was written to the City Manager to NBL on their behalf which states the City will give full support to the Lab and they could choose his site. The Parchester Neighborhood Council also offered its similar email support, and he questioned how is the no alternative examined if support has already been submitted which he asked to be rectified prior to finalization of the documents.

Daniel Bunton Murray, Sr., Belvedere, referred to Area Change No. 12 and fairness and justice and how the General Plan is being used in this case to try to downgrade his land from light industrial to open space to recreation. He said obviously, the land would be worth more as light industrial than recreation. He said the City is promoting two groups; the North Richmond Shoreline Open Space Alliance and Citizens for the Richmond Shoreline who want the commercial land to be reduced to its lowest possible use while still allowing for economic development. He said they can still provide a bike shop or museum, but the land will not be worth much. He said it also opens up the ability to bring the land into public ownership through eminent domain, and he said the General Plan process is being used as an attempted taking of his land.

Len Nibbi, JHS Properties, said together with Richmond Development Company they own 26 acres located at Goodrick Avenue at the north side of the Richmond Parkway and the 16 buildings have been zoned M1 for 30 years. In the Draft General Plan and DEIR, they are located in Change Area 12 and the maps designate this as open space. In the text of the Land Use Element, it indicates Open Space, Parks and Recreation designation and there is no definition in the General Plan glossary for either Open Space or Open Space/Recreation. On page 3.3-7 of the Draft General Plan Land Use Element, it states Change Area 12 lacks infrastructure and has long remained undeveloped, which is a serious error. The property was subdivided in 1982 with a Final Map on file. In addition, infrastructure was installed pursuant to that Final Map, and he distributed a series of handouts to the Commission regarding improvements and Final Map and dedications. The Final Map was deemed to meet the Final Subdivision Map approved by the Planning Commission. In addition, there was a Subdivision Improvement Plan also in the handouts showing all \$750,000 worth of improvements on the property, which he cited. In conclusion the industrial park is not undeveloped and lacking infrastructure, but rather fully entitled with streets, roads and utilities and they have active plans to build on the property.

Robert Herbst, San Rafael, said his family owns 10 of the building lots in the industrial park and purchased the lots specifically because they are already zoned for industrial use and each lot is already served by existing streets and utilities. They learned that on February 14, 2011 without any written notice from the City that the new General Plan proposes to change zoning from industrial to parks and open space. He asked how made the decision and based upon what City approvals or City support. He said Mr. Rojas indicated that the General Plan process included an extensive community-based outreach effort, and they have been involved in the process over 5 years, which has included a number of steps. He noted the General Plan Advisory Committee represented a broad sector of the community, and in April 2008, the GPAC voted on the preferred land use in the North Shoreline area and the vote was 22-9 for development over open space. The only time the Planning Commission has considered the matter was in October 2009 at a study session on the change areas. No decisions were made on land use, but a number of Commissioners noted that whatever land uses proposed needed to be picked, and the EIR for the General Plan would be sufficient and would not have been flawed by analyzing those uses. He said he spoke with the EIR document and he has confirmed that open space was not considered in the EIR as an alternative.

Joshua Genser, Richmond, said he is a partner in the Richmond Development Company and in 1998 they decided Richmond could use some homegrown developers to bring quality development to the City. Among their investments, they bought the rest of the Freely Industrial Park that Mr. Herbst did not purchase, which was a wonderful opportunity as a fully entitled industrial subdivision in a great location right on a freeway. This is a place where they could bring attractive businesses and a place where businesses would not ordinarily come to Richmond because of its location. He said they put a tremendous number of resources in it. However, a year later when the economy changed and industrial went through the floor, but this is the risk of development and they were willing to wait and they did. They did some planning and considered a residential subdivision but it was not a great use for the property. They were waiting for the General Plan update, and the third draft comes out and it is designated as open space, which is simply a taking of their land. It is unfair, immoral and illegal and the EIR actually is based upon false facts about this land.

Christine Griffith, San Francisco, attorney representing JHS Properties and Richmond Development Company, said legal consequences may follow from such a designation, stating the change from an economically viable use of industrial to open space results in inverse condemnation because it removes all economically viable use of the property. All uses indicated as permitted under the proposed designation are public in nature. The General Plan states these areas should be open to the public as much as possible, which is not possible on private land. The 0.5 FAR designated for the area was proposed specifically to avoid a takings claim and is a sham. There is no use designated in the plan that would actually be possible on 12 acres of the land. Also, it violates a protection clause, and there are several cases directly on point; it is unlawful to downgrade a piece of property in order to lower its economic value with the intent of later putting the land to public use through an eminent domain proceedings. There are several cases both in the Ninth Circuit and in the California Courts that are on point on this subject. They will be submitting written comments and she believes there are significant flaws in the EIR document, which will be detailed in their correspondence.

Owen Martin, Richmond, said the General Plan Update meetings talk about multi-use residential and business on San Pablo and in other commercial areas. He does not see any part of the plan that talks about tearing down buildings and having any sort of classification for the sales of trucks and trailers. He hoped that we encourage Richmond to grow and if there are businesses

and residents in the same area, you can reduce driving and have cleaner air. There are 35 miles of open shoreline and to mix any portion of that with businesses and residents would increase the City's tax base.

Katrinka Ruk, Council of Industries, Richmond, referred to actions noted in the DEIR about noise, demolition procedures of historic sites and diesel truck idling, and said there is progress being made on this in the City. They are working on ordinances, and she wondered if the DEIR could make note of this. She said it looks like the maps reflecting the transition buffer zone in the Ford Peninsula area have some live/work and some medium density mixed use residential in that area and by ordinance, it is supposed to be a buffer zone and not have any residential in it due to the adjacency to the Port uses. She also noted maps depicting the Ford Peninsula Harbour Way area where the industrial zone currently is looks as if this has been rezoned to show commercial and mixed use. She also said demographics information need to be updated which was pointed out by Commissioner Soto and she also suggested that the Climate Change chapter include the Bay Planning Coalition's reports also.

Mary Selva, President, Richmond Annex Neighborhood Council, said they are reviewing the current general plan and put a lot of effort into the previous General Plan and worked hard to ensure certain goals and policies were inserted. They want to be sure there is a distinction and separation between what the planning department is classifying as a south shoreline and the Pt. Isabel area and not lump them together. They want to ensure that the south shoreline plan include the entire south shoreline area in which case single family homes, multi-family units, condos, townhouses in the Pt. Isabel area would be totally in appropriate, to which they have always been opposed to. Under the Land Use Element, regarding the proposed community nodes and gateway land use category in the area along San Joaquin, they strongly feel this is inappropriate as well as the height of 55 feet which would significantly block views for much of the Richmond Annex homes. In addition, the sewer capacity infrastructure is not in place which has been an issue for every project they have reviewed in the area, including flooding problems.

Garland Ellis, Vice President, Richmond Annex Neighborhood Council and RANC Board, said he is addressing the Level of Service (LOS) found in Section 3 of the DEIR, stating I-80 and I-580 have traffic problems that will never be cured but to take those issues and relegate the same concerns to the entire City is unfair. In going through the DEIR, six streets have been taken and stated as the worst of all conditions. Although when looking through the EIR about 80% of the streets meet an LOS of A through C. The City is wanting to now accept the old standard of D and now shift it to E through the entire City which is unacceptable. Mitigation will not be equitable to all neighborhoods, too much depends upon public transit, there are unrealistic goals as AC Transit receives more than 50% of its funding from the State, and the City has no funds for para transit. By going to this system, the City cannot mitigate problems from neighboring cities, i.e., if Albany were to develop 500 apartments on Albany Hill, the City could do nothing if fall out traffic flowed toward Central Avenue. By having a higher EOS, the City could do something about that. It shifts too much of the responsibility to ferry boats and buses that have higher emission standards than cars, and he questioned whether anything was being fixed by shifting to those modes of transportation and not using cars.

Jerry Yoshida, Richmond Annex Neighborhood Council, said he would comment on the Land Use, Circulation, Economic Development and Public Utilities elements. Regarding land use, what is being proposed on the south side was not discussed in the General Plan or DEIR. Proposed is single and multi-family housing on the south side, which is totally inappropriate in an industrial area. He said it should be more specific because of buffering necessary. Also, single family is a lot of diminishing returns, and where money will count and be received for the

City is industrial and commercial uses. Regarding LOS, he thinks the chart is skewed, and noted they will be submitting comments by March 31, 2011.

Torm Nompraseurt, Richmond, said he would address the Climate and Energy Element and noted that staff points out that the General Plan is not specific to any project, but a specific guide for the City to implement in the future. If the plan is not focused enough in terms of the intention of the goals and policies, it is flawed. Commercial and industrial land use area needs to be specific in relation to environmental impacts, especially air quality and climate change, which is serious. He said AB32 must be addressed and the City's pollution is serious.

Teijae Taylor, Richmond, referred to the Transportation Element and said they need the EIR to provide feasible mitigation options to identify significant impacts. Richmond ACCE has begun a new project that would begin to organize clinic patients and neighbors around health care and health related issues. Concepts are expanding to not only include traditional health but also prevention and how the environment and built environment impacts individual's health. A transportation plan that responds to identifying community needs would be more effective than reducing driving and improving the health of people in the community. The DEIR omits a transportation needs assessment and it fails to include a discussion of feasible measures to mitigate and identify transportation impacts including the re-routing of the proposed City run shuttle and reprioritizing of transit investments to better meet and identify needs.

Patricia Jones, Citizens for East Shore Parks, said overall, they see improvements to this version of the General Plan and DEIR, are pleased with the open space designation of the North Shoreline west of the parkway; however, the plan and DEIR falls short of addressing the loss of natural habitat of endangered flora and fauna due to sea level rise, and she referenced Figure 8-1. They urge the plan and DEIR to require protection of sufficient replacement upland open space to mitigate the loss of the shoreline habitat and that the City commit to implementing such a plan. They also see positive changes to the LUDE in the southern gateway in the Pt. Isabel areas notwithstanding stated comments. They suggest wording regarding appropriate setbacks which say "should be observed in order to respect the natural habitats and adjacent marsh areas" should be replaced with the word, "shall". They do not support any housing along this southern shoreline. She added that in view of the stated policy in CN2.2 and CN1.1, they urge that at least three-quarters of Pt. Molate be preserved as open space and any development require restoration of native plants.

John Adams, Antioch, Alliance of Californians for Community Empowerment (ACCE), asked that the DEIR include a complete transportation needs analysis which is a necessary step in analyzing the impacts of the draft General Plan and potential alternatives on traffic, public transit and roadway safety. The draft should study the transportation needs of Richmond residents, including the location of transit and the need of dependent populations such as youth and seniors. Without this analysis, the DEIR leaves the public and decision makers in the dark about assessing transportation priorities, and the potential for understanding environmentally superior alternatives will not be performed.

Chair Duncan and Mr. Rojas thanked the public for their comments and noted that the General Plan and all information received and updated is posted on the City's website.

Commissioner Reyes thanked attendees and said he will wait until the comment period ends and focus his attention on all comments received.

Commissioner Soto thanked attendees, and said having been a lifelong resident he is impressed with the quality of analyses and commentary that the public has offered which speaks to the intentional interest the community has in planning for what is an uncertain future. He looks forward to receiving written comments.

Commissioner Teltschick-Fall also thanked attendees for their input. In terms of the document and its sufficiency, requirements of SB 375 were not addressed in the plan and these are no longer voluntary. Therefore, it would behoove the City to include climate change and promoting smart growth to make the community a better place. She also said she thinks it is a shortcoming that there is no analysis or provision for looking at the idea of limited or smart growth at all. Even though the City may not want this immediately, the document looks to the future and there are many initiatives planning for healthy places and limiting growth, and many comments stated involved regulating growth. Also, in terms of hazardous waste, she noticed there is no inventory or plan for reduction of risk in the document. Lastly, having each element is a good thing, but in listening to people it becomes apparent that everything has a synergistic effect on one another, and this should somehow be acknowledged. If more impacts are allowed that are not mitigated here, they will spread into the other elements as a natural matter of course.

Commissioner Choi echoed fellow Commissioners in appreciating public speakers, and he looks forward to seeing written comments as they arrive by March 31st.

COMMISSION BUSINESS

3. Reports of Officers, Commissioners and Staff

Commissioner Soto reported that he has not seen the document relative to the new census results, but from what he has read, Richmond continues to change. According to the newspaper, now the Latino community has surpassed the African American community as the single largest community in Richmond.

Staff indicated they had no reports.

Adjournment

The meeting was adjourned at 9:45 p.m.