

PLANNING COMMISSION MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL
1401 Marina Way South, Richmond, CA
June 7, 2007
7:00 p.m.

COMMISSION MEMBERS

Virginia Finlay, Chair
Vicki L. Winston, Secretary
Nagaraja Rao
Vacant

Vice Chair Stephen A. Williams
Zachary Harris
Jeff Lee
Vacant

The meeting was called to order by **Chair Finlay** at 7:06 p.m.

Vice Chair Williams led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Finlay, Vice Chair Williams and Commissioners, Harris, Lee, Rao and Winston

Absent: None

INTRODUCTIONS

Staff Present: Jonelyn Whales; Janet Harbin; Carlos Pravat, Assistant City Attorney; Lamont Thompson; Hector Rojas; Thomas Mills, Redevelopment Agency; Richard Mitchell

MINUTES - None

Chair Finlay provided an overview of the Consent Calendar, meeting procedures for speaker registration and public hearing functions and procedures. She noted that items approved may be appealed in writing to the City Clerk by Monday, June 18, 2007 by 5:00 p.m. and announced the appeal process after each item.

CONSENT CALENDAR

Chair Finlay noted the Consent Calendar currently consisted of Items 3 and 5.

Commissioner Harris said the Development Review Committee met and reviewed Items 2 and 3. The Committee did not have enough information on Item 2 in order to make a recommendation on the project. Regarding Item 3, the Committee made a unanimous recommendation in support of the project, including revisions which staff has provided in the packet. He said the developer is to review some undefined portions of the project and submit those for review by the Design Review Board or a future body which would be convened at that time.

Hector Rojas said since the Development Review Committee meeting, he and Chair Finlay spoke to address several questions the Committee had. A memorandum was before the

Commissioners which addressed all questions forwarded to him by Jonelyn Whales and also some directions from Chair Finlay to incorporate additional conditions of approval into the project. Some of the questions requiring clarification were on the landscaping, the lighting plan, and additional plans that were deficient.

He said staff has since revised conditions of approval which were attached to the memorandum. He said in cases where it referenced that the Planning Director to review those deficit plans, this was changed to a 3-member subcommittee of the Design Review Board.

There were also several questions regarding security and landscaping, which are recommended to be reviewed by the subcommittee, as well. And, there was a question regarding a potential CC&R having to do with 80% of the condominium units being mandated to be owner-occupied, which has been included. Regarding elevators, they are not included in the project and are not triggered by ADA accessibility requirements. There was a clarification on parking, and he said the project fully meets and complies with the parking standards of the City Center Specific Plan.

Commissioner Harris recommended the item remain on the Consent Calendar. However, regarding revised condition 9C, 80% of the units are to be owner-occupied which would work out to be 6.4 units, and he confirmed that this number should be reflected as 7 units in order to be 80% owner-occupied.

Chair Finlay asked that the word, "irrigation" be added into the landscaping condition. She also confirmed that Mr. Rojas spoke with the owner who had no objections to the recommended revised conditions.

Janet Harbin said in the case where the 3-member subcommittee of the Design Review Board is mentioned, staff has been using the term "Planning Commission" which encompasses the design review process when the new Planning Commission is put into place. She confirmed that all Commissioners agreed to use the term, "Planning Commission" versus "3-Member Subcommittee."

ACTION: It was M/S (Harris/Williams) to approve the Consent Calendar, incorporating the revisions to Item 3. Vote: 6-0.

Items Approved:

- 3. TM 1102705 & 1102706 – Tentative Map for a Mixed Use Project at 1508 Macdonald Avenue** - PUBLIC HEARING to consider a request for tentative map approval of a mixed use project containing eight residential condominium units and one retail tenant space near the corner of Macdonald Avenue and 15th Street (APNs: 540-150-002, 540-150-025, 540-150-026). Office/Retail and/or Urban High Density Residential – City Center Specific Plan Area. Chi Nguyen, owner/applicant. Tentative Recommendation: Conditional Approval.
- 5. CU 1103922 – Massage Establishment at 4500 Barrett Avenue** - PUBLIC HEARING to consider a Conditional Use Permit for a massage establishment within an existing commercial building located at 4500 Barrett Avenue, Suite D (APN: 517-122-001). C-2, General Commercial Zoning District. John Lee, owner; Teresa Acuna, applicant. Tentative Recommendation: Conditional Approval.

Brown Act – There were no public speakers.

Items Discussed:

- 1. Scoping Session for Draft Environmental Impact Report – City of Richmond Enterprise Zone** - SCOPING SESSION to solicit views as to the appropriate scope and content of the Environmental Impact Report (EIR) pertaining to statutory responsibilities in connection with the re-designation of certain areas of the City of Richmond as a California Enterprise Zone.

Janet Harbin said the scoping session was to receive comments on a Notice of Preparation for an EIR being prepared for the Enterprise Zone. The Redevelopment Agency is handling the project and Thomas Mills, Project Manager, was present to discuss the matter. John Wagstaff of Wagstaff and Associates was also present to answer questions. She said after the item is presented, public and written comments are received, the EIR should be prepared and in circulation in July or sooner.

Thomas Mills said he was the Enterprise Zone Project Manager, said they have been an Enterprise Zone since the early 1990's, it is a state legislature program that spurs investment for businesses and creates jobs for residents in the City of Richmond. The zone focuses in on areas where there is high unemployment, where there is low-income, a depressed local economy and a need for a significant redevelopment and/or infrastructure improvements. He said they were in the process of applying for a new designation and they have been given a conditional re-designation. The previous zone expired March 1, 2007 and presuming they get another 15 year designation, it will run through the year 2022.

He said there were only 42 Enterprise Zones in the state, they prepared an extensive Economic Development Plan which included a marketing strategy, inventory properties and businesses, develop a financing program and extensive vouchering program which qualifies low income residents to get certain tax credits. They put forth various planning and local incentives, look at and identify unemployment rates, income levels, develop a project management plan and an infrastructure and capital improvement plan. The major incentives are hiring tax credits where people of low income, disabled or dislocated workers or veterans are considered. The sales and use tax is another incentive where businesses can write off the sales tax for major purchases up to \$20 million for corporations. Another two incentives are a business expense deduction and a net operating loss and carry forward.

Maps were provided of the zone, which cover a large segment of the City and areas included in the plan are the Core Eligible Area, the Adjacent Industrial Areas and Contiguous Commercial Area.

Commissioner Winston referred to the map boundaries and she questioned if the actual sections were designated by zip codes or some other design. Mr. Mills said they were based on the census tracts. He said there is a core eligible area and those areas must meet stringent low income and poverty level requirements, but also adjacent industrial areas can be added, provided that individuals within the City could actually get jobs within those areas, and therefore, they would be an inducement for a new business set-up. So, the larger area out to the west was actually an industrial area that does not meet the core qualifications for the eligible area, but they are allowed under a broader definition to include the adjacent industrial area as well as some contiguous commercial areas.

Chair Finlay said there was a previous question regarding the Chevron property in the Enterprise Zone and it was determined that it should not have been included, but it was still presently included. Mr. Mills said staff did not look at any individual business but simply applied the standards the State set forth, and they have actually received approval for it. There can be some changes made as they go through the EIR, but those changes will not occur until they get the final designation.

Chair Finlay said she also saw the Point Pinole property area, all of Hilltop, and the only part of Richmond not included was the El Sobrante Valley. Mr. Mills agreed and said there were other areas that in fact were heavy residential with no commercial, but these could qualify for adjacent industrial and contiguous commercial areas, and he confirmed with Chair Finlay that these could be incorporated into the Enterprise Zone without making them part of the actual Redevelopment area.

Chair Finlay referred to benefits of the zone and sales tax credits and discussed how the credits worked. Mr. Mills said the City's part remains intact, it has no impact on the City's general fund and the State assumes the impact from the tax credits.

Commissioner Winston felt the State has a history of reaching inside the pocket of local government through various actions such as the ERAF shift and she confirmed with Mr. Mills that this was a way to retain some of the funds locally and at the same time, generate some incentives to have businesses come in.

Commissioner Lee questioned what the downside was for the City to create the Enterprise Zone, and Mr. Mills said the possible downside might be the perception that this is not a place to locate business, but he felt the benefits clearly outweighed that downside.

Commissioner Lee questioned what percentage of applicants get granted Enterprise Zones, and Mr. Mills said there were about 27 applicants, approximately 5 jurisdictions opted out, and 23 got accepted. He said the last hurdle will be the EIR, but everything else required has been done. He said he must also keep updated on reporting requirements for auditing purposes.

Commissioner Harris asked for more information about the hiring tax credit, and Mr. Mills said it is a tax incentive spread out over a 5-year period. You start off 50% of whatever you are paying the employee to write off, then it goes down to 40%, 30%, 20% and 10% over that period. For an employee who is qualified from a targeted employment area or a certain population group, the business will realize a savings of about \$32,000 per applicant over the 5-year period.

Commissioner Winston said the Commission did not receive an outline of what was included in this type of EIR and she felt one of the most important analyses would be economics and she confirmed this was part of the EIR.

John Wagstaff, Wagstaff and Associates, said the fiscal implications of the project are not a physical environmental issue that would be addressed in the EIR. Presumably, economic development professionals have evaluated the cost benefits of the program and have determined it would be viable. He apologized to staff that the program was subject to CEQA and the City is required to prepare an EIR, and they would be using the report prepared for the Redevelopment program a few years ago would be used as a template because the two programs have the same objective to stimulate economic growth and will have the same types of cumulative impacts.

Chair Finlay suggested when the EIR is brought back for review that they include some of the underlying financial information.

Commissioner Rao said he worked on an Enterprise Zone 15 years ago because he was a volunteer legislative assistant to Senator Dan Boatwright. He asked how many businesses have utilized this benefit. Mr. Mills said it was fairly a small percentage, hence the need to significantly market the program. He felt there were approximately 150 local businesses that have participated in some aspect of the program and they wanted to increase this number. They have been able to invite new corporations into the Ford Building. He said the state was giving more leeway with respect to industrial areas that are adjacent to the eligible core as a means to spread the impact and revamp it to be more effective.

Public Comments:

Tanya Boyce said the Enterprise Zone was based on standards that have to do with neighborhoods and she felt it was about designating commercial and industrial areas. When she sees the majority of the City covered in it, there are lots of areas with no commercial activities occurring and she wondered how this would impact the neighborhoods. She also said there was one case where a city was being disqualified because they did not have enough industrial and commercial areas and they then rezoned them, which concerned her, and questioned how much commercial or industrial was the City supposed to have in order to stay qualified. Regarding the environmental impacts, she and the neighborhood council were concerned about truck traffic, which is unregulated along Cutting Boulevard. Police officers do not enforce it, she questioned weight limits and voiced concern over expanding those businesses and uses and the impacts to neighborhoods. She said none of the reports were available on-line, the black and white areas did not provide clarity, and felt the item was a slam-dunk and said many people do care. She also requested the City provide statistical information on the benefits of those participating in the programs over the last 15 years.

Commissioner Winston thanked Ms. Boyce for her questions and agreed that more information could be provided and noted the color version was no better on the black and white reports.

Chair Finlay said to make a verbal comment was very valid, it will be incorporated but what she has seen after reading so many EIR's and response to comments to EIR's, the most effective way to get answers to questions is to put it in writing in letter form, and this would make it part of the official record. She also asked that if the public must leave due to the late hour, to put their comments in writing.

Commissioner Rao questioned how the City handle public comments made at meetings, and Ms. Harbin said staff will document information from all public comments and those comments will be responded to.

Commissioner Harris confirmed with Mr. Wagstaff that they expect to have a draft EIR circulated before the end of July, there would be a 45-day public review period, and hearings would occur in September. He confirmed with Commissioner Rao there was no state required timeline for the EIR except for the public review period of 45 days. Mr. Mills said staff has a window through the end of October, felt this could be met and they could obtain an extension if needed, but they were anxious to get the zone work started. He said written comments should

be directed to Janet Harbin, Principal Planner, City of Richmond's Planning and Building Services Department.

Vice Chair Williams said he was a legislative staffer when Maxine Waters created this legislation. He said she still represents the program as a Congresswoman and felt the program made all the difference in the world. He said Ms. Boyce raised some good questions and felt they could be addressed, but knowing the entire history of the legislation back to the early-mid 80's, he fully supported it. He felt there would be many expansions and contractions prior to everything being done, but the best thing to do would be to keep it on track.

2. EID/TM/CU 1102823 – Sunset Court Subdivision at the intersection of Valley View Road and Sunset Lane - PUBLIC HEARING to consider a recommendation to adopt an MND and approval of a Tentative Subdivision Map and Conditional Use Permit to allow construction of 9 detached single-family dwellings; associated utilities infrastructure, roadways, and improvements to the existing Sunset Drive road is planned as part of the project. The project site is located approximately 500 feet north of the intersection of Valley View Road and Sunset Lane. (APN: 430-140-034); Zoning District SFR-3; and General Plan designation of Low Density Residential/917. Troy Reese, owner/applicant. Tentative Recommendation: Conditional Approval.

Chair Finlay provided an overview of meeting procedures for speaker registration and public hearing functions and procedures.

Associate Planner Jonelyn Whales noted there were 8 speakers; 5 against and 3 for the project. She gave a brief description of the project location, its zoning, said the applicant was requesting approval of a draft mitigated negative declaration that was circulated for 30 days and a related tentative subdivision map for future construction of 8 detached single family dwellings, including improvements to the Sunset Drive road.

She said the applicant also requests approval of a CUP to build within the hillside physical constraint area and this would be reviewed by the Commission at a subsequent public hearing. She said there was an error on the published agenda which states staff was asking for approval of a CUP, which was incorrect.

She said the original lot configuration was for 9 lots, but staff is supportive of the revised plan which requests the lot be divided into 8 parcels. The zoning designation is SFR3 and the general plan designation is very low density residential, which was similar to surrounding properties. On January 11, 2007, the applicant attended an El Sobrante Valley Planning and Zoning Advisory Committee to discuss the merits of the project. He subsequently met with the neighbors who abut the property as well as the Chair of the committee and reduced the lot sizes down to 8 lots, which is included in the packet at Attachment 4. Most comments focused on the size of the lots, street parking, aesthetics, and soil stability. She said the environmental consultant, Jerry Hague was present as well as the owner/applicant, Troy Reese.

Chair Finlay confirmed the house configuration cross section related to the item. Ms. Whales said at the DRC meeting, there were questions concerning the actual configurations of the houses and the Engineer provided a cross section of how the actual homes would fit into the hillside rather than having a cut into the hill.

Chair Finlay questioned if inconsistencies found in the tentative map were revised, and Ms. Whales said staff was unable to print out the maps; however, the project can be conditioned to make those corrections on the tentative map.

Chair Finlay said the Commissioners received two sets of details; one with 9 lots and the second with 8 lots, and she confirmed the information in the resolution was corrected and reflected on pages 5, 7 and 10 of the resolution.

Commissioner Winston said Ms. Whales indicated the Commission could condition a tentative map and she was previously told this could not be done. Ms. Whales said this was in error. There are conditions that are placed on the project itself as a whole and the tentative map did not have conditions. She said the resolution includes a host of conditions.

Commissioner Winston said they had previously spoke about the calculation of net square feet per lot and Ms. Whales said these could be addressed by the applicant or engineer.

Commissioner Lee said because the Commission was not considering the CUP to build within the hillside physical constraint area tonight, in effect, the Commission is allowing the applicant to create lots, but not whether any houses could be built on them. Ms. Whales said the Commission is considering whether or not the applicant will be able to subdivide the lot; however, if it is later determined that the configuration does not conform to the hillside ordinance the applicant will have to revise the tentative map. She said it was not a final map and those were the risks the applicant was willing to take.

Troy Reese, owner/applicant, said he was excited to present the project to the Commission, said his engineer could answer any questions of the tentative map.

Commissioner Winston said the Commission needs to act on one or the other, they were given two tentative maps which are somewhat unusual, she believed the 8 lot map was preferred by staff, and she confirmed with Mr. Reese he would be amenable to the 8 lot map, but would prefer the 9 lot map.

Commissioner Lee asked what the driving factor was to go from 9 to 8 lots, and Mr. Reese said they proposed 9, they listened to the neighborhood community group who was concerned with the upper part of Sunset regarding traffic congestion and widening the streets and they preferred development on the lower side of Sunset, which led to the option of 8 lots.

Public Comments:

Jim Toby, Civil Engineer, said they met several times with staff and the neighborhood community and hoped the plan worked best for everyone. He noted it was an infill project, said it was a fairly steep lot, was presently vacant, except for a bench near a private roadway which works with the hillside to minimize grading and impact of construction. He said one main concern of neighbors related to the original 9-lot proposal where Lots 1 and 2 driveways would come onto Sunset Way rather than the private street. Problems cited were that people would not be able to turn around, they would be coming into private driveways to turn around, and they have proposed installing a turn-out area within Lot 1 to address this problem.

He said the cross section of the future homes showed the least amount of impact to grading and hillside constraints, but they were not proposing putting 30 feet retaining walls, and the homes eventually built would be custom homes for each individual lot with the least disturbance to the

hillside and area. They have completed geologic and environmental studies, they would use various construction methods to address geologic issues, the ground underneath the surface appears to be stable and there were very few environmental impacts. He said the difference between the net and gross areas on the plans, because they were proposing a private street, all new homeowners of the community would own the private street, so the gross area includes a portion of the street. The net area is that area left outside of the street.

Commissioner Winston referred to the 8 lot map and said there were many trees with “x’s” on them. The trunks of the trees do not appear to be on the property and one was proposed to be removed with the written permission of a neighbor. She asked what the process was for the other trees that do not appear to be on the property. Mr. Toby said it would need to go through the same process.

Commissioner Winston referred to the new parking area on Sunset Lane, stating the plans reflected 8 feet of parking with curb and gutter. She said this was huge and bigger than the sidewalk itself. Mr. Toby said Public Works requested them to expand the width of Sunset. The existing street was an edge of pavement with no curb or gutter. To bring this up to more current standards, the City requested them to widen the street out to a pre-determined width that is based off of City standards, allow parking on that side of the street and put in standard curb and gutter. The edge of pavement would be used for parking and there would also be the curb and gutter.

Commissioner Winston felt the applicant could have cut into one of the lots to widen the street, as there was a rather large 26 inch Oak tree on the corner which would need to be removed as a result. Mr. Toby said they would be happy to work around this, and felt they might be able to have a curb cut in the area where they extended it out further into the existing right-of-way and save the tree, but the Public Works Department wanted the sidewalk a certain width and it would be up to the City as to whether this could be approved or not. He felt the most ideal way to do this would be to push the curb out so as not to disturb the area and felt it was a good idea to preserve the tree.

Commissioner Winston referred to the mitigated negative declaration and she said she could not find information about the amount of grading, the hillside ordinance and the height of the retaining wall. Mr. Toby said they do not have a house designed yet, but provided was a typical section of something that might possibly be built just to demonstrate that a huge padded lot does not need to be done with an enormous retaining wall. There will be retaining walls due to the nature of the hillside, but they can scale and multi-level homes into the hillside, they have talked to staff and any exterior walls seen by the general public would need to be limited to 4 feet high, which might end up being a couple of stepped walls. However, the back of a garage was a typical retaining wall would normally be an 8 foot wall in order to be built into the hillside.

Commissioner Winston confirmed that the net square footage of a lot was the way staff determined whether or not a lot is buildable. She referred to Lot 4 as having 4,950 net square feet, and she confirmed this would not be considered a buildable lot. Ms. Whales said, however, the applicant could revise the lot configuration to accommodate the Code, which would need to be made a condition of the tentative map. Ms. Harbin said all of the lots’ net square footage must meet the required 5,000 square feet.

Commissioner Harris referred to the 8 lot layout and confirmed with Mr. Toby that lots 6 and 7 had stepped retaining walls that support the roadway, which for fire truck and safety reasons,

must be a certain width and turn-around. Mr. Toby said different types of plants could be installed that could also screen or grow over the walls.

Commissioner Harris said he would be interested in seeing how the appearance of Lots 6, 7 and 8 face the side of the road, as well as what would be present in terms of usable outdoor spaces, given the fact that the homes would be built on a 2:1 slope.

Commissioner Lee referred to the 9 lot map, and confirmed they were required to improve the Sunset Lane all the way up to Lot 1, but they would not be able to use it to enter onto the street. Mr. Toby said the 8 lot configuration addressed neighbor's concerns about having cars back up on Sunset and the frontage improvement along their entire property line was a staff requirement.

Commissioner Rao confirmed the street was able to handle emergency vehicles.

Eleanor Loynd, Chair of the El Sobrante Valley Planning and Zoning Advisory Committee, said they were more in favor of the revised 8-lot plan, they were in favor of wider streets, provision for sidewalks, they still have concerns regarding geotechnical issues, the mitigated negative declaration lists details which have yet to be studied, there is nothing in the conditions that talk about streetlights on Valley View, there is a pole where the PG&E took the light off and extended the pole to get three or four additional power lines that cross over to Murphy School and the entire section is dark. She felt there should be a light at the intersection of Valley View and Sunset Drive. They were also concerned about drainage on site.

Frank Butera, voiced opposition to the project, said he has a business building on Valley View and Sobrante Alley and the project will block his view from his home. He also has two business tenants; Four Corners Pizza and Pasta and Debra Johnson Hair Salon, he has a tenant next door to him who has threatened to leave if he loses his view, as well as other tenants. He said there was a deed in 1980 between his father, El Sequidi and Herbert Long. There were land conditions in the deed; 1) purchaser shall not erect buildings so high so as to obstruct seller's view. In no case shall the buildings be over 30 feet high from ground level; 2) purchaser shall erect a minimum 6 foot wall or fence separating purchaser and seller's property; 3) seller shall have the right if necessary to enter purchaser's land to top or cut trees so as not to obstruct the view from seller's property. These conditions are to run with the land and four elevation plans are subject to seller's approval. He said he was representing his late uncle and his daughter, Sandra Roos of Los Altos Hills and Rosalie Towers of Santa Rosa. He was very much concerned about blockage of views of Mt. Tamalpais which was the last open view from El Sobrante. He said he did not want the project to proceed without adherence to the conditions. He was on the Butera Family Living Trust and it gives him the right to manage control, sell, convey, exchange, partition, subdivide, improve or repair the property. He said they were also concerned about the air pollution in the area, as he and his wife were both asthmatics and they were opposed to noise due to his wife's bad heart and diabetes. They wanted to ensure the conditions mitigate the noise and air pollution and the deed conditions would be followed.

Chair Finlay asked that copies of the deed be forwarded to the City Council and City staff. Ms. Harbin said staff had received copies of the documents, said Mary Renfro was consulted and has issued an opinion on the matter.

Commissioner Winston said, as an outgoing Commissioner, the Commission has spent a lot of time having homes designed specifically to not impede existing views of neighbors who

currently reside in the area, and she felt this should be addressed during the conditional use permit process.

Alice Clutts, voiced opposition to the project, felt the plan was a violation of their neighborhood as they have 1/3-1/2 acre lots and felt 8-9 houses within one acre was too congested. She also said traffic would all be diverted into a dead end, where she lives. She said the street is a County road, it is degraded, asked the street come off Valley View, and asked the Commission to visit the area and drive up the street and park on the 90 degree curve before making a decision.

Doyle Clutts, echoed some of his wife's comments, said there is no turn-around at the end of their drive, said it would be impossible to turn around due to the location of the County right-of-way, felt the turn-around proposed was unacceptable, said the area was on a steep hill, said the area was shale rock, he enjoys his privacy and felt if 8 homes were developed a turnaround should be re-designed with an entrance from Valley View Road.

Commissioner Lee confirmed Mr. Clutts' home was in the County and zoned R1 residential.

Orville Rowe, said Sunset Drive was a 2-lane fairly improved road with no center line, there was no room for parking along Sunset Drive, felt 6 homes at the most should be developed and was opposed to the 8 and 9 lot plan.

Lisa Moffett, said she was opposed to the project, they recently added onto their home, which was 650 square feet, and she did not understand how such large homes could be built on such a small lot. Her main concern was traffic, said her child was severely disabled who rides a school bus and every year the school calls and indicates they cannot make it up the hill, it is impossible for a fire truck to turn around anywhere on Sunset Drive, there were no lights on their street, felt there was only room for one car to pass on the 90 degree corner, and she has backed out of her own driveway and has had two accidents. The bus driver has had an accident and asked the Commissioners to visit the area.

Commissioner Rao questioned if Ms. Moffett felt problems would be solved if only 6 homes were built there, and Ms. Moffett felt she would consider 2 houses. Her husband is a carpenter and he feels the size of the homes proposed is huge, with no yards and she questioned where cars would park.

Teri Edlinger, said the area has been quiet, echoed concerns of her neighbors, said driving was treacherous along Sunset Drive going onto Valley View, felt that many homes would obstruct the already hazardous traffic conditions, felt the street was more of an alleyway, was concerned that those in the County would suffer as a result of a city project, felt it would reduce their property values, and felt 8 to 9 lots would be too much for the area to bear.

Rebuttal - Applicant:

Troy Reese, owner/applicant, said he has listened to concerns of the neighborhood and they believe the issues have been addressed with the 8-lot option and revised changes. He noted they met standards of the departments of engineering, fire, planning, public works, and his objective as a developer/builder/owner was to maintain and increase the value of his property as well as the neighbor's property and he wants to be a good neighbor.

Commissioner Rao referred to problems with the narrow street, emergency vehicle turn-around issues, accidents with neighbors, and asked how these problems would be addressed. Mr. Reese said they believe the problems have been addressed in detail with what their engineer has done with the plans.

Chair Finlay questioned whether Mr. Reese looked at having the street go through on Valley View, and Mr. Reese said Valley View was a high traffic volume street and to make an intersection there would conflict with the City's guidelines. Ms. Whales agreed and said the City Engineer had advised against this.

Rebuttal - Opponents:

Lisa Moffett, said the owner indicated he lives in Richmond, but he actually lives in San Francisco and was not part of their neighborhood.

Mr. Reese said he lives at 5821 Malcolm Drive in Richmond, has been there for over 5 years and built his home there.

Ms. Whales gave staff summation, stating staff recommends the Planning Commission adopt the resolution as Attachment 1, approving the mitigated negative declaration with responses to comments as adequate to support the approval of the tentative subdivision map for the project, supporting 8 lots, with the mitigation and monitoring program as attached in the packet, and also to adopt the resolution in Attachment 2 approving the Tentative Subdivision Map, subject to conditions for the Sunset Drive residential project.

Commissioner Winston confirmed that City Attorney Pravat showed Commissioner Harris ordinance language that if the tentative map was to be conditioned, it must be done during the approval process of the tentative map and cannot be done afterwards. And she confirmed if there were any conditions of the tentative map, it must be tonight when the Commission takes action. Regarding conditions, she asked if there were limitations regarding conditions, such as grading, screening of the rear of the homes, and re-vegetation and asked if they could add a view corridor to the conditions. City Attorney Pravat said conditions would be governed by nexus and proportionality. Regarding the specific question whether the Commission can condition a view, he felt this could be issued and conditioned on legal review.

Commissioner Winston said if they condition that no oak tree in excess of 25 inches can be removed, the tentative map does not reflect this because it changes the map. She questioned how one could add conditions to a tentative map that invalidates it. Mr. Pravat said there would be no final map until all conditions were approved. The conditions the Commission applies must be applied now before the tentative map is approved and conditions cannot be added thereafter.

Chair Finlay said there are two maps before the Commission, she gets the sense that the Commission will prefer the 8 lot subdivision map, but there was also a map that needs a lot line adjustment because of substandard lots, there is a driveway on Lot 1 in the wrong place, and there may be other inaccuracies and she was hesitant to approve a tentative map, whether it is conditioned further or not, without the map being accurate.

Commissioner Winston said the usual dilemma is that if we were going to deny this and have the applicant bring back a different map and that is appealed, then the Commission does not have its conditions. Mr. Pravat suggested asking the applicant if they were willing to hold the matter over until a complete tentative map can be submitted.

Chair Finlay suggested directing staff to explore additional conditions regarding view conditions with the applicant and continue the item. **Commissioner Winston** said if there is a situation where you condition certain items, if the Commission approves the tentative map with 8 lots and condition such that only 3 lots could be built on, she wondered what would be done in the long run in the delivery of the project.

Commissioner Harris said approving the map with 8 lots was no problem, but the problem the developer will have is fitting 8 suitable homes on those lots. He did not know if it could be done or not, but there will be definite issues that he will have to anticipate. **Commissioner Lee** felt that got back to his initial question that without the CUP, the Commission is not saying the applicant can build any houses, just divide up the property into 8 lots.

Chair Finlay felt one of the reasons to continue the item is to get a sense from the Commission on whether or not they would support 9 homes on the map or whether 8 will be the maximum. When the project comes back, unless it meets the constraints of the hillside ordinance and unless she is sure there are enough protective mechanisms in place for the homes above this subdivision, she will not vote for a CUP.

Commissioner Harris asked about street lighting and asked if it was appropriate at this time to address, or could it be held off for design review. Mr. Pravat said this was part of the conditional use permit process. He said street parking was specific to the subdivision and granting of the tentative tract map. The other issues fall under the CUP and whether the Commission can find there enough factors to grant the CUP. He said the action was to subdivide the lot, and once the Commission does this, it is giving the developer the right to develop the subdivision in compliance with all City ordinances, policies and standards in effect. So, he did not feel the Commission could approve the tentative map and indicate the applicant can only build 3 homes when in fact the ordinance allows for 8 to be built. **Commissioner Winston** felt there were ordinances out there that may present the building of 8 homes or 9 homes that have been brought up on other projects.

Commissioner Harris said of the two options presented, he would favor the 8 lot subdivision, the primary difference being the frontage of the upper portion of Sunset Lane. His problem with the 9-lot subdivision was, with street improvements being proposed, there is a question if Sunset Lane would be widened to 34-35 feet, but there is another portion around that 90 degree bend where it has been reduced to 26 feet, and this was where Lot 1 would sit. So, someone backing out of Lot 1 onto a 26 foot street would be a problem.

Commissioner Lee confirmed with Mr. Toby that he had shown the 8 lot map to the City Engineer and confirmed that he specifically wanted all of the improvement along Lot 1. He felt it was mainly meant to provide additional parking at the time and bring it up to City standards. **Commissioner Lee** felt it would not be able to be used by other homes, but he felt part of this solves the tree problem, as well.

Commissioner Winston said the 8 lot map was a quick overlay to the other map, and Mr. Toby said they did take into many of the concerns regarding the driveway, lot size, engineering, and other concerns. **Commissioner Winston** said her concern was having each of the 8 lots coming off of a private, unnamed street with the exception of Lot 1, which would come off of Sunset. She confirmed Lot 1's driveway location was shown on the revised 8 lot map.

Commissioner Harris said his preference was the 8 lot subdivision, **Commissioner Winston** preferred the 8 lot subdivision, wanted to ensure all issues were addressed and suggested the matter be continued to receive answers and a firm map.

Chair Finlay felt the consensus was that the applicant should strongly consider 8 lots and she questioned whether the Commission wanted to continue the hearing.

Commissioner Winston questioned what the benefit would be if the Commission continued the hearing. She felt the Commission needed to provide conditions to the tentative map and either deny it or approve it.

Commissioner Harris said based on the DRC meeting Monday night, most all conditions have been written or revised to reflect the 8 lot subdivision. He felt there were also some additional issues that could be resolved tonight.

Chair Finlay felt her reason for continuance was to get a revised map in front of the Commission before approving it. Ms. Whales reiterated that because the staff report was written in favor of the 8 lots, those conditions will not change. There are some corrections that need to be made on the tentative map, the Engineer will have time to bring back a revised map to staff based on all conditions that may be placed on the map, but she did not feel that if the item was continued, a different map would be generated. **Chair Finlay** said if the Commission was going to move forward tonight, we would make a condition that the tentative map would have to be revised according to requirements of tonight.

Commissioner Winston said she realized this was a conditional use permit issue, but recommended that prior to issuance of a building permit, a proposed view corridor must be provided which would protect the view corridors of the existing homes. She felt many standard conditions were those included in the standard CUP's. Mr. Pravat said he felt view corridors would fall under the CUP, and Mr. Mitchell said he tries to be conservative on trying to condition views because it is an extremely difficult thing to quantify. He felt the City would have to wait until the designs of homes were before the Commission and then make a determination based on this.

The public hearing was unanimously closed.

Commissioner Harris referred to the resolution, page 11, regarding the final submission of the subdivision map, he suggested language to state possibly under item 35, "All lots must have a minimum net square footage of 5,000 square feet." Ms. Harbin suggested adding the verbiage to Condition 1 because it talks about "lot and road boundaries as shown in the tentative tract map."

Commissioner Harris referred to Lot 1, said some measure to preserve the oak tree can be added, and he felt there was a way to identify and condition it. He felt while proceeding north along the widened road, the right turn that goes around the tree could be extended still within the City boundary and it would extend the pavement to what would now be the north side of the road, as opposed to having it extended on the south side of the road. He felt the corner could be reverted around the tree and preserve it.

Commissioner Lee suggested conditioning it that "the applicant must work with Engineering staff to re-design the street improvements along Lot 1 such that it accommodates the retaining of the oak tree." He felt it could be either in condition 1 or 66, or a new condition.

Commissioner Winston said public works department conditions start with item 42, and she suggested it be added under Item 45; “The applicant work with Engineering staff to re-design the street improvements along Lot 1 such that it accommodates the retaining of the 26 inch oak tree.”

Commissioner Harris said currently street lighting is shown along the private road, but nothing was incorporated along Sunset Lane. He suggested a condition under public works conditions to include the previous street improvement and tree condition to add to Item 43, that: “The tentative map shall incorporate improvements including street lighting along Sunset Lane and Valley View, street improvements, and improvements to Lot 1 to accommodate saving the 26 inch oak tree, in accordance with City Engineering guidelines.”

Commissioner Winston said the hillside ordinance states that any development should take into consideration the natural slope, existing trees, but she felt it was important to include these types of conditions into the tentative map.

Commissioner Harris confirmed no other Commissioners had further modifications. He confirmed with Chair Finlay he would not be incorporating the verbiage regarding the minimum net 5,000 square feet into his motion.

ACTION: It was M/S (Harris/Lee) that the Planning Commission adopt the resolution in Attachment 1 approving the Mitigated Negative Declaration as Exhibit A with responses to comments as adequate to support the approval of the Tentative Subdivision Map Number 8771 for the project with the Mitigation Monitoring Plan as attached, and that the Planning Commission also adopt the Resolution in Attachment 2 approving Tentative Subdivision Map 8771 subject to conditions attached as Exhibit A for the Sunset Drive Residential Project, with conditions presented by staff regarding Finding 5 of the findings for approval of the Tentative Tract Map, as well as modification of conditions regarding identification of the correct phone number for the Fire Department and the modification to Condition 31 regarding the issuance of a building permit for dwellings on proposed lots 7 and 8, as opposed to 7, 8 and 9 as presented in the original staff report, as well as modification of condition 43 reflecting, “The tentative map shall incorporate improvements including street lighting along Sunset Lane and Valley View, street improvements, and improvements to Lot 1 to accommodate preservation of the 26 inch oak tree, in accordance with City Engineering guidelines.” Vote: 4-2-0 (Winston and Rao voted no.

Commissioner Winston said when the project comes forward for the CUP there would be significantly more flexibility in conditioning the project to meet the needs of the existing neighborhood in what should be a suitable development.

- 4. GPA/RZ/V 1103430 – General Plan Amendment, Rezone and Variance at 327 South 4th Street** - PUBLIC HEARING to consider the adequacy of the Resolution prepared by staff, as directed by the Planning Commission at their April 5, 2007 hearing, that recommends to the City Council denial of the applicant’s request for a variance to the minimum required lot area, and approval of a Tentative Parcel Map creating two parcels. The Resolution recommends study of the matter as part of the General Plan Update. The property is located at 327 South 4th Street (APN: 550-161-023). SFR-3 Low Density Residential District.

Humberto Quintero, owner; Ekundayo Sowunmi, applicant. Tentative Recommendation: Recommend Denial to City Council.

Lamont Thompson gave a brief description of the proposal, stating matter was heard by the Planning Commission on April 5, 2007 where the Commission directed staff to return with a resolution that reflects the Planning Commissions decision. At the April 5 meeting the resolution recommends to the City Council that the Commission denies the proposed general plan amendment, rezoning and variance to the minimum lot area. The Commission also made a recommendation to the Council that the applicant's request be considered as part of the General Plan Update. He noted the applicant was not present.

The public hearing was re-opened.

Public Comments:

Tanya Boyce, said the report talks about additional density and said these were units that already exist, and there was truly no increase in density. She said this was a difference in ownership and the way they can be owned. Also, the staff report talks about options for the applicant, staff suggests the most expedient route for project approval would be spot zoning, which is illegal and she was surprised this was included. She said there was a provision in the Code that allows for small lot creation with existing dwellings, and she read the section of the code, and questioned if it would have been possible for the applicant to turn his triplex into a duplex and exercise the small lot creation option. Also, she felt a condominium map might be created with common spaces where they would share space and parking and felt the project had not yet been thought through all the way, which bothered her. She acknowledged the Commission denied the project, but she was suggesting this perhaps should not have happened but the Commission was at the point of resolution but wanted to voice her concerns and was opposed to its denial.

Commissioner Lee felt the owner suffered from not having advice like Ms. Boyce's from the beginning.

The public hearing was closed.

Ms. Harbin noted there was also a provision in the small lot ordinance that refers to a 3,750 square foot lot, that structures must meet all setbacks and requirements of the ordinance. In this case they do not and also they share access with a shared driveway, so they do not have proper access either.

ACTION: It was M/S (Winston/Rao) that the Planning Commission adopt the resolution and make a recommendation of denial of the applicant's request to the City Council, and make a recommendation to the City Council that staff be directed to study the applicant's request for a General Plan Amendment and Rezoning MFR2 as part of the General Plan update. Vote: 6-0.

NOTED ABSENT/EXCUSED

Commissioner Winston announced that she needed to leave the meeting and noted this was her last meeting and said it was a privilege to serve the City of Richmond.

BREAK

Chair Finlay called for a 3-minute break, and thereafter, she reconvened the regular meeting.

- 6. EID 1101974 – Chevron Energy and Hydrogen Renewal Project at 841 Chevron Way - PUBLIC HEARING:** The Planning Commission will hold a Public Hearing to receive comments and to discuss the DEIR for Chevron Products Company's proposed Chevron Energy and Hydrogen Renewal Project, located at 841 Chevron Way in Richmond, California. (APNs: 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, M-3 and CRR Zoning District. The applicant proposes to replace the existing Hydrogen Plant, Power Plant, and Reformer, and install new equipment in order to increase the Refinery's ability to produce gasoline that meets California specifications, and use a wider range of crude oil sources than are currently processed. The new equipment would improve Refinery reliability, energy efficiency, and add environmental controls. The Draft EIR also includes and analyzes a number of other smaller projects. Chevron Products Company, owner/applicant. Tentative Recommendation: Receive Public Comments.

Chair Finlay asked that Commissioner Harris serve as Secretary of the Planning Commission and he read the item.

Lamont Thompson said the purpose of the public hearing is to receive comments on the adequacy of the Draft EIR, prepared for the proposed Chevron Energy and Hydrogen Renewal Project. He discussed the proposal to increase the refinery's ability to produce gasoline that meets California specifications and use a wider range of crude oil sources that are currently processed. He said the new equipment would improve refinery reliability, energy efficiency and add environmental controls. The Draft EIR also analyzes a number of other smaller related projects deemed for completion in the future. Chevron proposes to replace and upgrade some of the existing manufacturing facilities at the refinery, the project would not increase the refinery consumption of crude oil although upgrades would expand the refinery's option for using a wider range of crude oil. Specifically, Chevron's objectives for the project are: replace existing facilities with modern facilities providing improved reliability, energy efficiency and additional environmental controls, decrease the amount of energy imported by the refinery, ensure the refinery's ability to process future crude and gas oil supplies, increase the portion or percentage of the total gasoline production that can meet California specifications and be distributed to local markets by 300,000 gallons per day or approximately 6% more than the current refinery production levels, and invest in refinery upgrades that produce a competitive return on capital.

Staff recommends the Planning Commission receive public comments regarding the adequacy of the Draft EIR, and that the Commission provide comments to staff regarding the document. Staff has determined that it is appropriate to extend the comment period, in response to a request from interested parties. It will be extended from June 25 to July 9, 2007.

The EIR preparers, ESA & Associates, were present to respond to any questions and the consulting attorney from Shute, Mihaly and Weinberger were also present, as well as Chevron products company representatives. He said there were 2 speakers for the project and 27 speakers against the project.

Commissioner Harris referred to paragraph 1.6 regarding project permits and approvals, and confirmed with Mr. Thompson that the various component projects described in the EIR were all

still going to come before the Planning Commission for conditional use permits where warranted.

Bob Chamberlain, Manager for Permitting, Chevron, said they were available to answer questions and introduced Dean O'Hare, Manager of Public Affairs and Rick Miller, Renewal Project Manager.

Public Comments:

Ormond Otvos, said he supported the project, noted everyone came to the meeting which requires gasoline, asked what the VOC increase would be on a permanent operating basis, said the monitor station to check the particulate matter of 2.5 and 10 microns was located in Concord and he asked how this would be done and wanted it to be located on the property. He still would like to see Chevron with the long wharf for the bicycle path and felt that as a large corporation, they could solve the security problems.

Gil de la Roza, Vice Commodore of the San Pablo Bay Sportsman Club, said the DEIR states the project could result in significant impacts associated with air quality which is not good, said they have the ability to ask for a complete environmental report and they are still disputing the consequences of war and toxins and illness. If it is agreed these have a negative environmental impact and they were located in the impact zone, he asked this be addressed prior to him getting cancer as a result of it. He asked for a complete environmental report with all existing hazards defined and a zero tolerance for increased hazards or compensation to move somewhere in order not to get poisoned.

Dr. Henry Clark, Executive Director of the West County Toxins Coalition, said he was previously involved in the refinery's efforts to produce cleaner burning gasoline which would have resulted in significant increases to the community. He said there were problems with the MBTE and we are here again to reproduce a cleaner burning gasoline and the project is proposed to increase the disproportionate impact that the communities are already facing. He felt it was not consistent with the principles and spirit of the environmental justice that Chevron says it stands for and the City of Richmond stands for. Neighborhoods down wind from the refinery are already disproportionately impacted and have already born undue impacts already for their lifetime. Many children suffer from asthma and other health problems as a result. The project increases pollution, toxics, green house gases, disease and health problems, and felt any more would not be fair. Regarding hydrogen, it is an odorless gas that has risks of explosion and felt this has not yet been addressed in the EIR and felt Chevron should contribute funds to the community.

Commissioner Rao questioned if Dr. Clark felt that the net effect of the improvements would increase greenhouse gas emissions, and Dr. Clark said the EIR was not available at the Library, but he felt it would. **Chair Finlay** said Chevron will have to comply with the new greenhouse emissions requirements, so Dr. Clark's work was paying off and she noted copies of the EIR were available in the Chambers.

Carla Perez, Program Director of Northern California for Communities for a Better Environment, said the best part of the CEQA process is that it creates a public platform for the public to create and generate multiple ways to achieve the same goal, known as the Alternatives Section. She felt the broad goals were to bring profit to Chevron, to meet the region's energy needs, to provide jobs and to stimulate Richmond's economy. She felt all of these goals could be met without the danger, illness and injustice that the project would bring if it were brought forward the way it is planned right now. If the expansion were to move forward as described in the EIR,

it would lock Richmond into “a wide range” or truly dirtier crude refining for 30 years, exacerbate hot spot pollution and health impacts, exacerbate climate change conditions, and create high risk, toxic jobs that pose health and safety risks to workers. Instead, she felt the public can build a better Richmond with health communities, prosperous green jobs and be a model city for improving world conditions by rebuilding the largest refinery on the west coast of North American to produce truly renewable energy. To do this, we need to make sure Chevron rebuilds in a different way—specifically, 1) rebuild to make hydrogen from water instead of fossil fuels and transition over time to using hydrogen as clean fuel instead of using it for dirty crude refining; 2) to power the refinery and hydrogen plant using green energy instead of fossil fuels, and solar and wind can be phased in over time; 3) rebuild the NASA reforming and hydrogen purity improvements to make reformulated gasoline without switching to a dirtier crude slate; and 4) support the energy transition and mitigate existing impacts by establishing publicly controlled funds for green energy infrastructure and green jobs. All of this was technically achievable. For us to work together to make this happen might be the most important thing this Commission and the public could ever do together. Chevron will push for the current plan because it will prove more lucrative for them in the short term and felt we should not allow that to justify the catastrophic risks and illnesses that expanding the crude refining will result in, and she felt a green Richmond was necessary.

Michael Flynn, Legal Intern with Communities for a Better Environment, said the project would produce inaccessible, adverse health and environmental impacts on the residents of Richmond, and despite Chevron’s attempt to characterize the project as renewable and replacement, it would expand the refinery’s fuel production capabilities, it would expand the use of cheaper and dirtier fossil fuels and would expand the energy use and generation at the expense of the health and environment of low income and people of color communities in Richmond. The project would significantly increase air pollution without mitigation. The EIR recognizes that the volatile organic compound emissions would increase and this would be a significant impact, yet it does not require any mitigation. Toxic air contaminants would increase to levels that would trigger remote air monitoring requirements, but it states these are not significant and do not require any mitigation. There will be increases in particulate matter, increases in odorous gases, and increases in greenhouse gases, but requires no mitigation. The project would increase the amount of natural gas imported to the plant by one-third above current levels and this includes a new pipeline that is not analyzed in the EIR. 50 mega watts of a new 67 mega watt power plant would be powered by methane natural gas and still the EIR considers the impact of this greenhouse gas of global warming potential of 23 times stronger than carbon dioxide to be minimal. The proposed expansion would only further localize the adverse health and environmental impact of Chevron’s operations. The proposal would lock Richmond and the Bay Area into dirty fossil fuels for the next 30 years instead of developing clean, green energy.

Greg Karras, Senior Scientist for Communities for a Better Environment, felt we can build healthy communities with prosperous jobs and a clean environment and change our world by rebuilding the refinery for truly renewable energy starting today. He summarized why this was technically feasible—hydrogen is being made from water by hydrolysis using electricity. Hydrogen fuel-cell cars are on the road now. With the state’s commitment to hydrogen highway fueling stations and with the catalyst technologies reaching the market there will be many more fuel-cell cars. Electricity for making this hydrogen and it can be generated from renewable sources, felt there was significant PV solar potential on the acreage at this site. Off-site power can reliably compliment on-site solar after the sun goes down here because of the way the grid works. Like the use of produced hydrogen for clean fuels, these renewable resources can also be saved over time and making gasoline with less sulfur is easier when the crude oil you make it from has less sulfur in the first place.

Angeline Martinez, said she recently moved to Hercules but lived in Richmond for over 6 years and also worked in the Iron Triangle area and still has family in Richmond. She developed breathing problems, headaches, eye irritations after moving to Richmond and she is concerned that knowing Chevron's bad track record dealing with flares and accidents, their proposal to use crude oil and lock into it for the next 30 years was bad for the environment, residents, and for the city when we should be looking ahead in green technology. She felt all of CBE's recommendations were feasible, she asked that Chevron incorporate all of the suggestions CBE is recommending for everyone's health.

Adrienne Block, Communities for a Better Environment, said people in Richmond are already talking about their future through the general plan process, revitalizing the downtown, appropriation of \$2 million to create a Health Element and a Planet Element for the general plan, and she felt it clearly made sense for the Chevron plan to reflect these new ideas and policies. She felt another public process was implementation of AB32 which addresses global warming, said she participates on a committee and are developing early action measures to reduce greenhouse gas emissions by 25%-30% by the year 2020. At the same, this project will increase greenhouse gas emissions by 50% or almost 3 million tons, which is highly significant.

Delphine Smith, said both of her children have asthma, she has been doing asthma advocacy in the area and works for CBE and organizing around community health and environmental justice. She was concerned with Chevron being allowed to lock into dirty crude refining for the next 30 years and felt it would exacerbate health impacts.

Diana Hume, said she has noticed more flaring in the evenings, sometimes sees a large cloud of white smoke into the sky and she wondered how responsible a company is that will go forward with such a potentially disastrous project before it cleans up its present act. She felt tons of particulate matter would be spread to the community's lungs, cars, gardens, and homes.

Erica Swinney, Green Action, said she was speaking as an alternate boardmember with Dr. Henry Clark on AB32, said she completely agrees with his comments and those from CBE, felt public health must stop taking a back seat to economic interests of a particular corporation, she felt expansion was a step backwards back to Richmond's dirty and dangerous past and should not be a part of the future. She felt there would be more threats of accidents and environmental injustice, more pollution, and businesses were an anchor to economic devastation in places like Nigeria and the Amazon.

Marti Temple, suggested Chevron be the first item on the agenda at least every other meeting, said their excess profits were in billions over the last year, she felt they were balancing their profits against diseases, air pollution, and she suggested that Chevron and all other oil and gas companies to find alternatives. She asked why people in Richmond can't have a nice library, medical help, more green projects, or bike paths.

Barbara Strauss, said she moved to Atchinson Village 16 years ago not realizing there would be a problem, said she cannot leave her bedroom window open at night due to fumes coming in and her not being able to breath, and she cannot work in her garden. She said there is a law that says no one has the right to prevent you from living on your property in a decent manner and she felt Chevron was preventing her and her neighbors from doing so.

Zeva Longley, said she has lived in Richmond for 7 years, said she has seen many changes in air quality and water quality, she agrees with most people regarding health issues facing

children and felt the summary by City staff was a lie because she did not feel air emissions would be reduced, which was misleading. Pt. San Pablo Yacht Harbor was part of the general plan which states it will ensure that additional development on the west shoreline occurs in a way that compliments, preserves and recognizes the special village-like character and historical presence of Pt. San Pablo Yacht Harbor Marina and its neighborhood community. She said the environmental report did not include this community and she wanted this addressed.

Frank Campbell, said he received a report from the Contra Costa Health Services in Antioch and Pittsburg and their flare emissions was only 40% and 45%. Rodeo's refinery was at 60% and Chevron was at 70%. On page 22 of the EIR the air quality would be improved, but he has lost two pets himself and they have children up to adults and many are getting sicker because they are living close to the refinery. The taxpayers pay \$6 billion per year to the refineries to mix corn/ ethanol mixture to gasoline to replace the ground pollutant and he questioned what Chevron was doing with the 51 cents per gallon they get from the U.S. government.

Ruth Gilmore, said as representatives of the City, she knows the Commission wants to protect the citizens of Contra Costa, she cannot imagine anything but voting strongly against the proposed extension of oil in the county. She felt it was a moral and ethical issue regarding the safety of constituents. She said Chevron has not been able to take care of what they already have. They will have 80% increased emissions, forget the 3 hour shelter in place for thousands and tons of emissions, there will be no back up compressor, there are faulty pipes that needed replacement 20 years ago, she asked Chevron to focus its money on alternative energy, felt global warming was urgent, and there was an opportunity to be pioneers.

Nicholas Jones, boardmember in Atchinson Village, said there are problems living so close to a refinery, after the most recent fire and 32 straight days of flare-ups which threw out tons and tons of poison into the air, he felt Chevron was the worst among all refineries. The cannot even pretend to be a good neighbor when the elderly and children are most affected, said he knows there are compressors and scrubbers that could be put into place to prevent the kinds of flare-ups that Chevron runs down our lungs and he met a person who runs the International boycott of grapes and table wine many years ago, who suggested getting together with other groups and take Chevron to task in a national boycott of its products.

Jovanka Beckles, said she felt everything said has been well articulated, believed that redundancy was a good way to underscore the fact that the general citizens of Richmond were really opposed to the expansion. She was tired of deceptive tactics by Chevron, said people voted no in November, prices shot up immediately, and she questioned how in the world anyone would believe Chevron who has lied to citizens. She implored the commission to look at what CBE proposes, vote no on the expansion, believed it was time to call Chevron to higher standards and be accountable and tell the truth for once.

Joan Leopold, lives in San Pablo Harbor, said they have had many people who have been diagnosed with cancer, they lost a 40 year old woman in February, and felt the percentage was unusually high in their harbor community. They have no living things in the water, it seems Chevron is making billions and they have an opportunity to lead the world and show they can do a clean alternative and she did not see how more and more profits with such devastation to the environment and to people's health.

Dr. Jeff Ritterman, cardiologist in Richmond since 1981, said the EIR states there will be a significant and unavoidable impact from emissions and volatile organic compounds, and what this means is ozone, which causes lung injury, ozone causes asthma attacks, and it causes new

cases of asthma. So, if this goes through, the community will have more cases of asthma without any way to mitigate this, which seems very uncaring since it is not their children who will be choking in the middle of the night. If the expansion were to be approved, there would need to be a mitigation measure of about \$30 million to offset which would certainly be worsened health in the community. He felt it was amazing under the public health section in the report this is not mentioned at all.

Juan Reardon, thinks the report was totally inadequate, said Chevron was proposing significant changes that will have long lasting effects on the community, said the changes will allow the refinery to expand oil refining significantly and the changes will open the door to refining high dirty sulfur oil. Chevron indicates that the operation of the plant will not have a significant impact on the environment, which he felt was a lie. There will be 10.4 additional tons more of the particulate matter, 9 additional tons of volatile organic compounds, 69 additional tons of nitrogen oxide, 22 additional tons of sulfur dioxide and 95 tons a year of additional carbon monoxide. Chevron says CEQA guidelines allows them to look at each of these individually and if they do not exceed a certain background baseline of currently floating poison, then it was not significant to people's lives and air. He felt using CEQA loopholes allows Chevron to dismiss the cumulative effects of all of these toxins which are being added to the environment, felt it was totally irresponsible, and asked the Commission to throw the project out.

Sylvia Hopkins, said she has lived in Atchinson Village for 4 years, works for the City of Berkeley, has developed a respiratory condition in that 4 years but otherwise was a healthy person, felt it was an opportunity for Chevron to step up in the world and do the right thing, and this plan was not the right thing. She felt the public comment time was too short, said it needs to be lengthened much longer and felt people in the community to have adequate time to make comments. She said Chevron was the second richest oil company in the world, she felt they have unbridled capitalist greed to consider they can make more money in doing this process rather than a clean process. There were 30 people from Atchinson Village, many of which have gone home and they care very much what Chevron will do in this community.

Bill Pinkham, Boardmember for the East Bay Bikes Coalition, said their coalition along with TRAC have been involved for a long time in promoting the development of the Bay Trail. They now have more miles of it than any other city and more along the way. The main route of the trail runs along Girard across from Chevron to the east and a spur will run along the Pt. Molate Road across from Chevron to the west. He said anyone using the trail will be affected by existing and future pollution that results from this project, said they have witnessed stalling and disingenuousness by Chevron, said there was a serious accident that killed a young man across Chevron's land wharf, Chevron agreed back to a trail in 1998, they stalled and now they say it will not happen. He felt it was very hard to believe they care about anyone and asked the Commission to reject the proposal.

Kane Baccigalupi, said she lives in the harbor, are literally on the other side of Chevron's fence which is a big impact, said she started engineering school at Berkeley and wanted to study green transportation, but since then felt that global warming had become sort of a passive statement. She said she did not believe this was a good solution for renewable energy, referred to the energy generation plant and said she sees the waters coming in and out and there have been massive innovations for creating renewable energy through tides, and this would be the place to do it without damaging anything.

Torm Nompraseurt, (submitted letter into the record) said he has lived in the City for 32 years, noted he could not stay for the hearing, and said he agreed with the statements of the Communities for Better Environment.

Rebuttal – Applicant

Rick Miller, Renewal Project Manager, thanked people in the audience for sharing their concerns and interests in the project, said the comments will be taken under consideration, said they will address them in the comments section and can answer any questions after the meeting.

Rebuttal – Opponent

Dr. Henry Clark, Executive Director, West County Toxics Coalition, said the project as it stands is inconsistent with the principles of environmental justice, it is inconsistent with general plan discussions relating to green economies and environmental justice, said the project should require Chevron to reveal the sources of its crude oil which would increase impacts to the community's public health and safety, there is speculation that Chevron has already been processing stolen Iraqi crude oil, asked to review the current infrastructure at the refinery due to its age, and said you can only add so much onto a hundred year old structure, and felt Richmond should go forward with a clean green economy that protects its residents and moves forward with the world's outlook on cleaner, greener and safer environments.

Chair Finlay asked for a motion to extend the public hearing.

ACTION: It was M/S (Harris/Rao) to extend the meeting until 11:30 p.m. Vote: 6-0.

Commissioner Harris asked for clarity in what appears to be a conflict in the language in Chapter 2, Section 2.2.3, regarding Air Quality and in Section 2.2.12 regarding Public Health. In Section 2.2.3, there appears that there are going to be increased levels in DLC emissions, but in Section 2.2.12 it states that public health effects related to a construction and operation of the proposed project would be less than significant, including the additional toxic air contaminants, which he felt would include the additional DLC emissions. He asked that an additional explanation be provided to the language.

Commissioner Harris referred to Section 2.2.13, regarding Public Safety, said the language talks about maintaining safety so long as the proposed project is designed to adequately support the industry guidelines as long as the facility operators maintain strict safety practices. He felt this was a great idea, but as evidenced, accidents have happened. There are mitigation measures the plant has in place for accidents and he felt these needed to be stated as part of the EIR. He felt existing measures could be discussed, how existing accidents are handled, but if additional problems are being created by this, those should be included as part of the mitigation and monitoring program.

Commissioner Harris referred to Chapter 3, an existing block diagram was presented as well as another block diagram outlining the new processes, but he wanted to see an identification of the levels of waste products that are being produced at the plant presently and what is being forecast as part of the plan expansion project.

Commissioner Harris said regarding the increase in local monitoring stations for particulate matters and DLC toxic emissions, and he felt two things that were brought up during the hearing that need to be considered were: 1) Power Production. An electrical cogeneration system is going to be fueled by what is imported natural gas. To him, especially since the City has now taken on Power Light, a leading manufacturer of photovoltaic systems, the City should somehow incorporate a photovoltaic construction project on the vast amounts of acreage that Chevron has on the property to accommodate some or even all of the projected loads, acknowledging solar power will not be available at night. He felt this should really be considered as an acknowledgement in the alternative in Section 6.6.1.2. 2) Regarding identifying the sources of crude that come into the plant, he felt it comes from all parts of the world and he asked to somehow place leverage onto the refinery to look at the sources being brought into the plant. The Richmond Refinery puts out about 12% of the fuel produced in California. It would be nice since it puts out the most in terms of waste products, if we could somehow at least get better quality fuel that will pass through the plant. He does not know if the city could administer this or the state or federal agencies, but he wanted this to be addressed.

Vice Chair Williams said he has not had the opportunity to review the document as thoroughly as he could due to an accident, said he has heard all comments and said he intends to read the entire document.

Commissioner Lee referred to the staff report, said he was trying to quantify what will be produced at the plant in addition to what is being produced now. One statement says it will be 300,000 gallons per day of gasoline, or 6% over the current production. Another place in the staff report on page 5 states the project would increase consumption of natural gas by one-third, so he asked what would be produced in the future over and above what is being produced now, and what is the projected increase in emissions that will accompany that increase in production.

Commissioner Rao asked if the project manager and public relations manager to come forward and address the Commission's questions. He said surprising to him is that usually in the EIR, applicants want more time so they can talk about their projects and it was shocking to see that Chevron, as applicants, are avoiding to speak about anything about the project and he asked why.

Rick Miller, Renewal Project Manager, said his understanding of the process for this evening was to take comments on the adequacy of the EIR and the presentation about the process would occur at the next meeting when they will talk about permitting it. The EIR is a document that has been produced by the consultant the City hired, so their goal was to support the staff report and to listen to public comments where they will have to work with the EIR consultant and staff to address. But, their plan would be to present the project when it comes up for consideration of the EIR after public comments have been received and addressed and permitting the project. He said they were happy to answer any questions the Commission has.

Commissioner Rao questioned the effects of the project on air quality and water quality in the City of Richmond. Mr. Miller said this will be addressed more specifically in comments to the EIR, said the EIR will show clearly there is an overall reduction in emissions, said there is an increase in DLC's, the EIR will talk about how those emissions are offset by emissions reductions they have already made and banked with the Air District. There is a complete air emissions analysis and inventory done by the Air District and they have been working with them since October of 2004, and information and analysis has been done mostly having to do with the air quality analysis. After they go through the process with Richmond, including the certification of the EIR and conditional use permitting, they still will get permits to operate and

authority to construct from the Bay Area Air Quality Management District, and this is a big part of this project.

Commissioner Rao said not identified in the EIR are what effects the proposal will have on the air and water quality on our bay waters, information on the installation of particulate monitoring instruments, how Chevron will decrease greenhouse gases, whether Chevron is willing to use alternate energy processes in order to accomplish the project, address the concerns of many people who spoke of current medical problems and increased medical problems, how the new process will economically impact consumers given the new equipment installation and processing methods, questioned how much noise would be created by the project which is not clear in the EIR, asked to use hydrolysis technology, concerned about auto emissions increases, the Chevron property is under an Enterprise Zone and he hoped Chevron makes use of Richmond citizens for employment.

Chair Finlay said the two documents work in tandem; the first is the EIR report which is being commented on. The second document is the Volume II of appendices and gives the responses to comments when a notice of preparation was created, so all questions asked at that time are noted in this document. In the back of the document are the technical appendices that were included to justify or quantify the results in the EIR.

Commissioner Harris said as we proceed with the process, he confirmed written comments and public comments would also be incorporated.

Chair Finlay referred to Chapter 1, page 2, regarding project components, said in each instance, it states “construct, shutdown, upgrade, replace, install,” except under hydrogen plant replacement where it states, “steam turbine generator” and nothing was described about what is being done with it.

She noticed there is a timeframe documented, but Chevron was out of that timeframe and she wanted them to establish and provide a new timeframe other than 2007-2015 for the completion of the final tanks and facilities.

Regarding Page 1.4, various ways are discussed of reviewing an EIR; the project stage and program stage and she asked what the differentiation was of conducting or creating information for the EIR and requested clarification.

She referred to project permits and approvals on Page 1.7 and said recently in the City there has been discussion about oversight and on-going oversight of the facility. She asked how were the City and County now proposing to work together to continue to review what is happening with operations and if it will be in addition to the permitting bodies for new construction.

She said the issue of the hydrogen plant is discussed in various chapters within the EIR and appendices. She questioned what was owned by whom, who was constructing what, and felt this was very convoluted. She wanted, in one place, a reflection to show who owns what, who was operating the hydrogen plant, the pipeline Chevron owns, and the pipeline constructed by Praxair.

Regarding Page 2.15, there is information where it says Chevron will report this information as part of the mitigation monitoring and compliance program and she asked who exactly would do this—Planning, Building, or someone new, and she asked for the person’s name and title.

Chair Finlay said she did not understand information reflected under product information; one thing was stated in the staff report, another set of numbers was reflected on page 3.26 and requested all figures on one page and asked that they make sense. She asked that it identify how much was going to be refined, the total product, emissions, and said it looked like the facility was already producing 25% and she wanted this clarified.

Regarding Page 3.33, **Chair Finlay** asked when the most dangerous time for a piece of equipment would be at the refinery; at shutdown, during turn-around time, or normal operating time. She saw on Page 3.33 something was called turn-around's to about every 5 years, further up on the page she saw regeneration of the catalyst took 10-14 days, and on Page 3.34 she saw a reference made to 3 years.

She confirmed no other Commissioners had comments.

EXTEND MEETING

ACTION: It was M/S (Harris/Rao) to extend the meeting to 11:45 p.m. Vote: 5-0-1 (Winston absent).
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Lamont Thompson said the Planning Commission meeting scheduled for July 26 had been changed to August 9 and he requested the Commission discuss and confirm their availability. He hoped to cancel the regularly scheduled meeting of August 2 and create the August 9 meeting or hold two meetings.

Chair Finlay said the comment period for the EIR was extended to July 9, 2007, said the meeting normally for July 5 would be held on July 19, 2007. She confirmed a quorum would exist for the meeting of July 19, 2007.

Ms. Harbin confirmed there were two to three items for the August 2 agenda and the Commission may want to hold a separate meeting or hold the Chevron item first. **Chair Finlay** confirmed with Commissioners there would be an established quorum for the August 2 meeting. She verified there would be a quorum also for an August 9 meeting.

Lamont Thompson said next steps included staff working with the EIR consultant and legal team to put together the Responses to Comments document, they are receptive to additional written comments, and then once the comment period closed on July 9th, staff would work diligently to put the Final EIR out.

At that time, another notice would be sent for the ten-day review Notice of Availability of the EIR. For those parties who commented, staff will send them the final EIR and after the ten-day period, a public hearing would be held at which time action would hopefully be taken.

COMMISSION BUSINESS

7. Reports of Officers, Commissioners and Staff

Chair Finlay said the Council took action regarding changing the Planning Commission which was currently under a 30-day review period and asked for a comment from the City Attorney.

City Attorney Carlos Pravat reported to the Commission that the City Council amended Chapter 3.20 of the Municipal Code to allow Planning Commission members to remain in office until successors were appointed, and to establish a quorum of the Planning Commission of the currently serving members, those members would participate, but there could be no fewer than 3 members. He said once a Commissioner's term has expired, they are held over until there is a new appointment.

Planning and Building Services Director Richard Mitchell reported there would be a joint City Council / Planning Commission meeting scheduled June 12, and this was for the general plan consultant to provide a thorough update of community meetings and to identify significant change areas.

He said staff has also been working to schedule a dinner to recognize outgoing commissioners and the proposed date was June 27th in the evening. He said staff would survey commissioner's availability.

Chair Finlay confirmed that the meeting on June 12th would be a Study Session and that no final decisions would be made. Mr. Mitchell said if the Commission felt there was an additional alternative to be studied, this could be done, no final decisions would be made, and input would simply be received by the Council and Commission.

Commissioner Harris announced his decision to continue his term as a hold-over Planning Commissioner, but indicated he did not plan on serving past December 31, 2007.

Commissioner Rao presented the nominating committee recommendations, which he said would be voted on at the July meeting: Chair Finlay; Vice Chair Rao, and Secretary Lee.

Chair Finlay said she saw a change in the appeal language in the staff reports, and asked that it be consistent in future reports. She also noted at the end of staff reports now indicated who prepared the report and who reviewed the report, the addition of which she supported.

Chair Finlay reminded those Commissioners who will be leaving office at the end of the month to file the Statement of Economic Interests within 30 days. She recognized Commissioner Winston would be leaving office, and possibly Commissioner Williams, at the end of the month, and said it had been an honor and privilege to serve with them over the last 8 years.

Adjournment

The meeting was adjourned at 11:45 p.m.
