

**PLANNING COMMISSION SPECIAL MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL**
1401 Marina Way South, Richmond, CA
June 19, 2008
6:30 p.m.

COMMISSION MEMBERS

Virginia Finlay, Chair
Stephen A. Williams
Charles Duncan

Vice Chair Nagarajo Rao
Jeff Lee, Secretary
Vacant

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

Vice Chair Rao led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Finlay, Vice Chair Rao, Secretary Lee and Commissioner Williams and Duncan

Absent: None

INTRODUCTIONS

Staff Present: Kiernon Slaughter, Lamont Thompson, Assistant City Attorney Carlos Privat, Ellen Garber (Legal Counsel), Director of Building and Planning Richard Mitchell

MINUTES – None

- 1. DR/CU/EID/EIR 1101974 – Chevron Energy and Hydrogen Renewal Project at 841 Chevron Way** - The Planning Commission will continue the Public Hearing to deliberate and make a decision on the proposed project's Design Review Permit, Conditional Use Permit, and adequacy and certification of the Environmental Impact Report (including a Draft and Final EIR, with associated Technical Appendices) for the Chevron Energy and Hydrogen Renewal Project, located at 841 Chevron Way in Richmond, California (APN: 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). The applicant proposes to replace the existing Hydrogen Plant, Power Plant, and Reformer, tanks 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, meet State and Federal Standards and add environmental controls. Chevron Products Company, owner/applicant. Planner: Lamont Thompson

Chair Finlay provided an overview of the Consent Calendar, meeting procedures for speaker registration and public hearing functions and procedures. She said certain items approved by the Commission may be appealed in writing to the City Clerk by Monday, June 30, 2008, by 5:00 p.m. and announced the appeal process after each affected item.

Secretary Lee gave a brief description of the continued item, Chevron Energy and Hydrogen Renewal Project at 841 Chevron Way.

Lamont Thompson gave the staff report on the proposed conditional use permit and design review permit, stating that per direction of the Commission, staff crafted language for a comprehensive crude cap, corrected the technical error in C-4, modified Condition H2 regarding language for approval of construction and maintenance of the Bay Trail, and add to the list of GHG Measures in Condition E-1, a Park N Ride Lot. The Technical Error in C-4 has been corrected and H-2 language has been included, however, TRAC has requested revisions. Since the packet was routed, correspondence from TRAC, CBE and Chevron which have been submitted to the Commission.

Chair Finlay noted that the regular Planning Commission meeting was scheduled to begin at 7:00 p.m. Secretary Lee questioned how Chevron items would be discussed and considered.

Vice Chair Rao said the City has received Dr. Sahu's report as the City's consultant. The report is short with significant scientific data, and he questioned if the public had a chance to read the report and comment, he questioned how it was circulated or commented upon, as it was a new document before the Commission.

Mr. Thompson said since the last meeting, staff met with Chevron and separately with CBE to discuss the crude slate cap. Dr. Sahu also had numerous phone conversations with Mr. Karras and staff posted Dr. Sahu's recommended attachment I to the website when the Planning Commission packet went out. Page 2 was missing in the report on the website, which was re-posted and resent to the Commission as well. Therefore, the public has had two days to review the recommendation, which was within the legal timeframe of a special meeting.

Vice Chair Rao said in the last Commission meeting, the Commission indicated it would make a motion and Dr. Sahu was to assist in the cap wording on the project and he questioned whether this was done. Mr. Thompson said staff crafted the cap wording along with assistance from Dr. Sahu. Chevron opposes it, but Dr. Sahu believes it will work and not provide an onerous restriction on Chevron.

Dr. Sahu said after the last meeting he went back at the direction of the Commission to come up with a comprehensive crude slate cap. He asked the Commission to judge the cap on the numerous previous conditions contained which work by looking at all conditions together. He believed the conditions did provide everyone with an appropriate balance without sacrificing environmental impacts. He said they bifurcated Condition C-16 and C-17. C-16 only deals with sulfur limits, the Commission approved the EIR and the condition C-16 is consistent with what the project is described as in the EIR. He discussed sulfur content levels of the refinery's operation. C-17 is where, after review, he attempted to go beyond in terms of what he already felt was a comprehensive crude cap and suggested two parts to areas where the cap could be bolstered. This would not necessarily give environmental benefit, but more comfort that there would be no environmental harm. C-17A gets to the heart of limiting throughput in the refinery; they are consistent with the exception of what Chevron is going to get as a limit in their Air Permit for the project. He said increasing the limit does not expand the refinery's limits. C-17b is where he looked at the quality related conditions provided in Mr. Kariss' version of the crude cap. Of the several suggestions, Dr. Sahu said the report has an explanation of why we do not need the other aspects of crude quality. He did feel that we would need more data than what is currently available for gas oils and he crafted the condition to provide the environmental protection currently being provided, while at the same time, having a mechanism for producing

the data which shows there will be no environmental harm. He has not found any harm occurring due to selenium and mercury which are monitored. To the extent Chevron would have flexibility, these limits would not limit Chevron and they would have the ability to ask for an adjustment or removal of the condition, given they have the data to support this.

He reiterated that the approach he provides does not protect the environment any less; it relies on scientific facts on how other metals behave in a refinery. It relies on how those metals in turn can or cannot manifest themselves on increased loading into catalysts which may or may not result in environmental harm. He has not been able to establish that having additional conditions would give this project any more environmental protections. He acknowledged the public hearing is closed, but to the extent that he was able to understand the positions, Chevron is objecting to the conditions because of some combination of principle on having caps, and to the extent he has provided his conditions, he disagrees with their objections.

He said it is fair to say that he understands the conditions CBE is proposing is the precautionary principle is, which is good, and it limits harm but is presupposes there is a connection between the actions proposed and a reduction of harm. He reviewed the precautionary principle and he concludes that we have a situation where he could not connect the dots between showing that if you adopted more conditions, it would protect the environment more. What you are getting of the conditions is a robust and proactive environmental protection approach.

His proposal gives the environmental protection the community deserves, believes it does so proactively and also through conditions, will generate data. It is his hope that any new data will be public which will show what the various contaminants are in the streams. Therefore, he has tried to craft conditions that have not been compromised and at the same time does not unduly limit Chevron.

Secretary Lee referred to and read page 3 of the staff report regarding Condition C1-15 and D1-8 and Page 4 and Dr. Sahu's discussion with the Attorney General's expert prior to the June 5th hearing, and Dr. Sahu said Dr. Dulver of the AG's Office reviewed C12 and it would reduce significantly or practically level Chevron's ability to run heavier crudes. Dr. Dulver and staff all believe the conditions in the prior hearing were sufficient and Dr. Sahu said that is why Condition C-16 and C-17 has been added to clarify this.

Chair Finlay reported receiving an Addendum from staff that there was one more sentence to be added to Condition C-17 (b); ".The limits apply separately to crude oils and gas oils. In each case, the limits apply after blending."

She referred to Condition E-1 which relates to greenhouse gas discussion, and said **Secretary Lee** requested that additional language be added; "create a Park N Ride Lot and community use area on the vacant and unused Chevron land directly across the street from Chevron's main entrance on Castro Street next to the I-580 ramp." She confirmed this would be added.

Chair Finlay referred to C-16 and C-17, and Commissioner Duncan requested amendment to C-16..." shall not exceed 1.7% on any day until such time that the anticipated new AQ standards are adopted. At that time, the % of sulfur content may be increased incrementally based on monitoring of the limits imposed by those standards." Chair Finlay said the crude oil always ends up being a blend and Chevron is now processing higher than 1.5% and would vote against changing the condition.

Commissioner Duncan said Condition 2 and 5 speak directly to public health and until BAAQMD standards come into play, we should include this statement because we are not the ones stating those limits, and it should be the BAAQMD. He said their current operating level is 1.7%.

Chair Finlay voiced disagreement and believed it was arbitrary to change what an expert has proposed. **Commissioner Duncan** said this is the only amendment, and Vice Chair Rao agreed with the proposed change.

Secretary Lee suggested acting first on the conditions and amendments can be made. He said he revisited the transcripts, and after discussion with Dr. Sahu, he is still comfortable with his recommendation, staff and Dr. Dulver's recommendation as originally presented.

Assistant City Attorney Privat suggested to the Commission as to how to make motions on the proposed conditions.

MOTION: It was M/S (Lee/Williams) to adopt the CUP with Conditions C1-C15.

Commission Duncan made a motion to adopt the CUP with Conditions C1-C15 as amended, by adding new Conditions C-16 and C-17. The motion failed due to lack of a second.

Commissioner Duncan made a motion to accept Conditions C-1-C15, C-16 as amended to read; "...shall not exceed 1.7% on any day until such time that the anticipated new AQ standards are adopted. At that time, the percentage of sulfur content may be increased incrementally based on monitoring of the limits imposed by those standards."; and amended language for C-17(b); "The limits apply separately to crude oils and gas oils. In each case, the limits apply after blending." The motion failed due to lack of a second.

ACTION: It was M/S (Lee/Williams) to adopt the CUP with Conditions C1-C15 as they were originally written (in the staff report). Vote: 4-1 (Ayes: Rao, Lee, Williams, Finlay. Noes: Duncan).

Chair Finlay asked for discussion on the additional language regarding the Park N Ride Lot. Secretary Lee said it is merely an additional recommendation on how to address impacts on GHG's and he did not believe it needed to be discussed right now.

ACTION: It was M/S (Lee/Duncan) to amend Condition E-1 which relates to greenhouse gas discussion; "create a Park N Ride Lot and community use area on the vacant and unused Chevron land directly across the street from Chevron's main entrance on Castro Street next to the I-580 ramp"; which carried unanimously.

Chair Finlay referred to the Bay Trail in Condition H2, stating she is a great fan of the Bay Trail, she did not believe the additional language asked to incorporate into the CUP was appropriate. In the prior meeting she asked that H-5, H-9, J-4, J-5, and J-6 be deleted. However, the Bay Trail information has been incorporated into the revised document.

Secretary Lee said he wanted to make sure it was included with other conditions **Commissioner Duncan** referred to a late letter from TRAC which suggests adding language, but he was not sure where to put it. **Chair Finlay** said it had to do with the findings they wanted

revised to bolster Condition H-2. **Commissioner Duncan** said he was satisfied with H-2 as it stands with the additional language at **Secretary Lee**'s request.

ACTION: It was M/S (Duncan/Rao) to leave in the additional language for Condition H2 as it stands now with the current CUP. Vote: 4-1 (Ayes: Duncan, Lee, Rao, Williams. Noes: Finlay).

Chair Finlay referred to Bay Trail findings and Ellen Garber said TRAC recommended changes in two of the findings in Resolution 08-03 which have to do with facts supporting the reasonableness of requiring a Bay Trail as a condition of approval. They are findings of fact and would require the Commission to agree that these facts are correct and that the findings should be made. She said it is complicated because they are recommending deleting some sentences and adding others. So, it requires some piecing together. **Chair Finlay** said she found the letter what TRAC wanted the Commission to add and delete was very confusing and she could not understand it. Ms. Garber said findings are before the Commission on the Bay Trail, but TRAC's are simply different; however, **Chair Finlay** said she was not ready to change findings.

Commissioner Rao suggested moving on, and he confirmed with Chair Finlay that it was a change in the CUP and findings which support the CUP and was important, and **Secretary Lee** said he was not prepared to change the findings at this time.

Chair Finlay said Condition H-5 was the urban forest, H-9 were semi-annual reports to the neighborhood council, J-4 was the \$400,000 annual payment to Richmond Build, J-5 was \$200,000 to Summer Youth Employment, and J-6 was the \$400,000 annual payment for industrial arts training, and J-4 through J-6 ran in perpetuity. She said she believed there was some agreement to delete these items from the CUP.

Commissioner Duncan referred to the word "exaction" and confirmed with **Chair Finlay** that the term was more a part of City Council's purview.

ACTION: It was M/S (Lee/Duncan) that Conditions H-5, H-9, J-4, J-5 and J-6 be extracted from Conditions of Approval. Vote: 4-1 (Rao voted no.)

Chair Finlay confirmed with the Commission that conditions as currently written have Condition C-16 and C-17 which will be deleted. Condition E-1 will be left within the Conditional Use Permit as it is currently written, the amendment to Condition H-2 will stand as currently written.

MOTION: **Secretary Lee** moved to adopt the Zoning Ordinance findings set forth in proposed Resolution 08-03, adopt the Supplemental Findings set forth in Exhibit A to the proposed Resolution, approve the combined Conditional Use Permit 1101974 and Design Review Permit 1104423, subject to conditions of approval including technical corrections to Condition 4, amendments to Condition E and amendments to Condition H-2 and deletion of H-5, H-9, J-4, J-5 and J-6.

Chair Finlay suggested legal staff conform the documents according to the changes.

ACTION: It was M/S Lee/Williams to adopt the Zoning Ordinance findings set forth in proposed Resolution 08-03, adopt the Supplemental Findings set forth in Exhibit A to the proposed Resolution, approve the combined Conditional Use Permit 1101974 and Design Review Permit 1104423, subject to conditions of approval including technical corrections to Condition 4, amendments to Condition E and amendments to Condition H2 and deletion of H5, H9, J4, J5

and J6; and that conditions as currently written have Condition C16 and C17 which will be deleted. Condition E1 will be left within the Conditional Use Permit as it is currently written, the amendment to Condition H2 will stand as currently written; and legal staff is directed to conform the documents according to the changes. Vote: 3-1-1 (Rao abstained; Duncan voted no). The motion carried.

Chair Finlay read the appeal procedure.

Chair Finlay said the Commission is also to consider Item 3 of the actions; "Instruct the Director of Building and Planning Services to send a letter to the State Lands Commission requesting that the Commission require that certain conditions of approval related to the Bay Trail", and she asked if this was still necessary since the commission has now incorporated additional language regarding the Bay Trail.

Mr. Mitchell said this is still an additional direction the Commission could choose to direct staff. Chair Finlay said it also goes on to say, "...identifying two ships for cold ironing and to the operating temperature of the marine vapor recovery system be incorporated into the lease renewal for the Long Wharf". She said this was Item 3 of the staff report for the motion.

ACTION: It was M/S (Finlay/Lee) to instruct the Director of Building and Planning Services to send a letter to the State Lands Commission requesting that the said Commission require that certain conditions of approval related to the Bay Trail to identifying two ships for cold ironing and to the operating temperature of the marine vapor recovery system be incorporated into the lease renewal for the Long Wharf; which carried unanimously.

Chair Finlay said the application actions were completed, and she read the appeal procedure.

RECESS

The Planning Commission took a 5-minute recess and thereafter reconvened the regular meeting.

**PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL
1401 Marina Way South, Richmond, CA
June 19, 2008
7:30 p.m.**

The regular meeting of the Commission was called to order by Chair Finlay at 7:30 p.m.

ROLL CALL

Present: Chair Finlay, Vice Chair Rao, Secretary Lee and Commissioner Williams and Duncan

Absent: None

MINUTES – None

ROLL CALL

Present: Chair Finlay, Vice Chair Rao, Secretary Lee and Commissioner Williams and Duncan

Absent: None

Chair Finlay provided an overview of the Consent Calendar, meeting procedures for speaker registration and public hearing functions and procedures. She said certain items approved by the Commission may be appealed in writing to the City Clerk by Monday, June 30, 2008, by 5:00 p.m. and announced the appeal process after each affected item. She also introduced staff.

CONSENT CALENDAR

Chair Finlay noted the Consent Calendar consisted of Items 2 and 3. Mr. Mitchell said staff has not been able to confirm that Item 1 has been reviewed by the City's legal department and recommended it be held over to the next meeting.

Chair Finlay noted the Consent Calendar now consisted of Items 1, 2 and 3. She confirmed no audience members requested items to be removed. Secretary Lee reported that the Consent Calendar now consisted of Items 1, 2 and 3, all of which would be held over to July 3, 2008.

ACTION: It was M/S (Duncan/Rao) to approve the Consent Calendar Items 1, 2 and 3; unanimously approved

Items Approved:

1. **ZTC 08-02 – Zoning Text Change to the City’s Zoning Ordinance for Eating Establishments (Various Sections)** - PUBLIC HEARING to consider amendments to Definitions, Commercial, Industrial, and Parking Sections of the Zoning Ordinance (Sections 15.04.020, 15.04.200, 15.04.300, and 15.04.850 of the Richmond Municipal Code) to amend the definition of “eating establishment (fast food)”; add a definition for “eating establishment (fast food with drive-in, drive-through, or curbside service)”; moving the “eating establishment” and “eating establishment (fast food)”, as newly defined, to the lists of permitted uses in commercial and industrial districts; adding “eating establishments (fast food with drive-in, drive-through, or curbside service)” to the lists of conditional uses in commercial and industrial districts; and, to amend the parking regulations relative to “eating establishments”. City of Richmond-Planning & Building Services, applicant. Planner: Judith Battle. Tentative Recommendation: Hold over to July 3, 2008.

2. **EA/CU/DR1104464 – IMTT Tank Installation Project, 100 Cutting Blvd** - PUBLIC HEARING to consider a Conditional Use Permit, Design Review Permit, and adoption of the Mitigated Negative Declaration to install three above ground storage tanks, two tanks with a nominal 105,000 barrel capacity and one with a nominal 95,000 barrel capacity, at the existing IMTT facility located at 100 Cutting Blvd. (APN: 560-290-005). Maritime/Industrial/Commercial Mixed Use (Knox Freeway/Cutting Boulevard Corridor Specific Plan) Zoning District. IMTT, owner; TRC Companies Inc., applicant. Planner: Lina Velasco. Tentative Recommendation: Hold Over to 7/3/08.

3. **CU/V 1104474 – Variance for a Landscape Setback for remodel at an existing Arco Station with an AM/PM Convenience Store, 2230 Barrett Avenue** - PUBLIC HEARING to consider a Variance for a reduction in a required landscape setback from the required 17.5 feet to 10 feet as proposed for the remodeled 2,400 square foot Arco facility with a 24-hour convenience store, located at 2230 Barrett Avenue (APNs: 514-100-022 and 514-100-023) in the MFR-3 High Density Residential and C-2 General Commercial Zoning Districts. BP West Coast Products, LLC, owner; WD Partners, applicant. Planner: Jonelyn Whales. Tentative Recommendation: Hold Over to 7/3/08.

Brown Act – Public Forum – No speakers

COMMISSION BUSINESS

4. Reports of Officers, Commissioners and Staff

Vice Chair Rao deferred to the Chair of the Nominating Committee.

Secretary Lee commended Chair Finlay on her exceptionally good job of chairing the Chevron Project. He then presented the nominated slate of new officers for the Planning Commission, as follows: Virginia Finlay, Chair; Nagarajo Rao, Vice Chair; Jeff Lee, Secretary.

Chair Finlay reported the election would be held at the July 3 meeting and expressed appreciation for the work done by the Committee. **Commissioner Williams** echoed **Secretary Lee’s** commendation of **Chair Finlay** and added appreciation for staff, especially Mr. Thompson.

Commissioner Duncan concurred with the other Commissioners’ recognitions.

Chair Finlay then expressed her appreciation for the work done by staff on the Chevron Project, and in particular, Mr. Thompson, Mr. Privat and Ms. Renfro, as well as KCRT. Next she asked Mr. Mitchell for a status report on design guidelines and referred to a booklet received in their packages titled, "Rediscovering Richmond's Architectural Heritage."

Mr. Mitchell clarified that the booklet was provided for their comments and input, but as yet no date had been set to present it to DRB, the Commission or Council. The work was completed by Opticos Design as a first step in providing architectural characterization for the homes in Richmond's heritage neighborhoods.

Chair Finlay suggested a Commission Study Session to provide the public a view of the scope of the work and its availability.

Chair Finlay questioned the status of the General Plan, and Mr. Mitchell replied that there was a tentatively meeting scheduled for July 19, 2008, added that the Council had authorized an additional amount of money to complete the General Plan. Staff is in the process of going through the scope of work and remaining tasks to determine how many meetings should be recommended to the Commission in order to review land use options.

Secretary Lee expressed concern about adequate funding for the Planning Commission's review, to which Mr. Mitchell responded that meetings to review the draft documents were still in the budget.

Chair Finlay then raised the final issue of 3 Planning Commissioner terms expiring June 30th; **Commissioners Rao, Lee and Finlay**, as well as **Commissioner Williams** who stayed a year beyond his term. She consulted with Mr. Privat who confirmed all Commissioners could continue to serve, she requested them to advise her and staff if this presented any problems, and reminded them to complete the necessary forms for re-appointment.

Secretary Lee advised that he would be absent at the July 17, 2008 meeting.

Public Forum - None

Adjournment

The meeting was adjourned at 8:26 p.m.