

PLANNING COMMISSION MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL
1401 Marina Way South, Richmond, CA
December 10, 2007
7:00 p.m.

COMMISSION MEMBERS

Virginia Finlay, Chair
Zachary Harris
Jeff Lee, Secretary
Vacant

Vice Chair Nagarajo Rao
Stephen A. Williams
Vacant

The meeting was called to order by **Chair Finlay** at 7:08 p.m.

Commissioner Williams led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Finlay, Secretary Lee and Commissioners Harris and Williams

Absent: Vice Chair Rao

INTRODUCTIONS

Staff Present: Janet Harbin, Jonelyn Whales, Lina Velasco, Carlos Privat and 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 said certain items approved by the Commission may be appealed in writing to the City Clerk by Thursday, December 20, 2007, by 5:00 p.m. and announced the appeal process after each affected item.

CONSENT CALENDAR

Chair Finlay noted the Consent Calendar consisted of Items 3, 4 and 5.

Ms. Harbin noted that at the end of the agenda report for Item 4, the wrong wording was inserted under “conclusions”, which addresses another project. She said the final development plan is consistent and staff will revise the staff report accordingly.

Commissioner Harris requested Item 5 be removed from the Consent Calendar.

<p>ACTION: It was M/S (Williams/Harris) to adopt the Consent Calendar consisting of Item 3 and Item 4 (with modifications to staff report); unanimously approved.</p>
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Items Approved:

- 3. CU 1104385 – Conditional Use Permit to Operate a Café at 4820 Bissell Avenue –** PUBLIC HEARING to consider a Conditional Use Permit to operate a café located at 4820 Bissell Avenue (APN: 517-272-015). Zoning District: C-2. General Commercial District. Gilberto Mulo, owner; Olavo Dourado, applicant. Planner: Kieron Slaughter. Tentative Recommendation: Conditional Approval.
- 4. PA 1103384 – Pinole Point Final Development Plan, Building 6 of Phase II –** PUBLIC HEARING to consider adoption of a Final development Plan for Building 6 (43,000 square foot building) in Phase II of the planned mixed use development project at Pinole Point Business Park (APN: 405-030-036). Development plan approvals are required for previously approved planned area rezoning districts within the Point Pinole Business Park, approved in 1996 as a Planned area District (PA) rezoning. Zoning District: Planned Area and a General Plan designation of Light Industry/922. Hermann Welm, ICL Consulting, owner/applicant. Planner: Jonelyn Whales. Tentative Recommendation: Conditional Approval.

Brown Act – Public Forum – No speakers

Items Discussed:

- 1. CU/MS 1104393 (MS 758-07) – Minor Subdivision and Planned Residential Group/Conditional Use Permit at 1336 & 1338 Mallard Drive -** PUBLIC HEARING to consider a proposal for a two lot planned residential group and conditional use permit subdivision of a 6,950+ Square Feet parcel at 1336 & 1338 Mallard Drive (APN: 560-410-075). MFR-2, Multifamily Residential District. Carol Meier, owner/applicant. Tentative Recommendation: Conditional Approval.

Secretary Lee introduced and gave a brief description of the project.

Ms. Harbin said the request is for approval of a Parcel Map and Conditional Use Permit. The original subdivision would allow the map creating the two lots. The applicant intends on constructing two single-family units as zero lot line homes and staff's recommendation is to approve the request subject to conditions. A Conditional Use Permit is needed due to the request for a planned residential group.

Carol Meier, owner/applicant, Walnut Creek, said she was available for questions.

Secretary Lee said in looking at the analysis, it looks like activity occurred in 1979 and he questioned why the homes are being built only now and not at this time. Ms. Meier said the parcel was held by the developer for his private inventory and had decided to release it.

There were no public comments.

Ms. Harbin referred to findings and statement of report to approve the minor subdivision and the conditional use permit for the Planned Residential Group. At the Commissioner's seats are copies of a revised resolution due to minor typographical errors corrected by staff. Attorney Privat also noted an indemnity provision was also added to the resolution.

Commissioner Harris said deleted from the resolution and staff report was also the third paragraph which indicated the Development Review Committee had reviewed it and

recommended it, but this was not done. He said the request is straight-forward but there are some typically provisions of utilities mentioned for tentative maps, and he asked that it be included on page 2, Item 4B of the resolution.

Ms. Harbin said utilities existed on the site as opposed to running utilities from an original subdivision. **Commissioner Harris** asked that the provision be recorded as part of the final map.

The public hearing was closed.

ACTION: It was M/S (Harris/Williams) to adopt Planned Residential Group findings A-E, Conditional Use Permit findings 1-4, adopt the revised Resolution 07-19, approve Tentative Parcel Map with conditions noted in the Resolution, and approve CU/MS 11034393 subject to conditions A-D; unanimously approved.

2. DR/CU/VAR 1104032 – Design Review Permit, Conditional Use Permit and Density Bonus Request for a Mixed Use Development at 3601-3627 Cutting Boulevard – PUBLIC HEARING to consider a request for Design Review Permit, Condition Use Permit and Density Bonus Request for a mixed use development that will include 24 low-income and senior restricted dwelling units and 5,768 SF of new and existing commercial space at the properties located at 3601-3627 Cutting Boulevard (APNs: 513-152-001 & 513-152-002). The project proposal includes a request for a Density Bonus with City concessions and Exceptions to development standards. Zoning District: C-1, Neighborhood Commercial (KCSP) Zoning District. East Bay Community Development Corp., owner/applicant. Planner: Lina Velasco. Tentative Recommendation: Conditional Approval.

Secretary Lee introduced and gave a brief description of the project.

Senior Planner Lina Velasco said the request is for design review approval, conditional use permit for a density bonus and exceptions to some of the Knox Cutting Specific Plan development standards to construct a mixed use development of 24 low income and senior restricted units. The item was before the Design Review Board on October 4, 2007 and the applicant was sent back to the Board to address concerns and conditions. Following that meeting, a subcommittee meeting was held and the project was revised and subsequently re-reviewed by the Design Review Board at their November 24th meeting, where the Board recommended approval of the project to the Planning Commission.

Ms. Velasco said staff has prepared findings and statements of fact supporting recommendations of the project under the modification that the project units be reduced from 24 to 23 units because of the density bonus limit.

Commissioner Harris said what has been written up in the report are conditions of approval for 23 units and the report notes that if the Planning Commission wanted to approve 24 unit plan, a rezoning application and general plan amendment would be required. He confirmed with Ms. Velasco that no alternate language had been prepared for this situation.

Attorney Privat said the City Attorney's office has been asked to review the matter and the applicant presented a case, Friends of Lagoon Valley versus City of Vacaville, which has been significantly analyzed by staff. The case is vague, ambiguous and requires the City to give at least a 35% density bonus, which is something the Vacaville ordinance did not do. Since

Richmond's ordinance does not provide any further discretion greater than the 35% and is compliant with state law, it is not pre-empted. Since the Vacaville ordinance was not compliant with state law, it was pre-empted.

Chair Finlay confirmed with Commissioner Harris that he had recused himself at the last Commission hearing and has chosen not to do so at this hearing. Attorney Privat confirmed that no conflict of interested exists; however, there may be an appearance of bias.

The Commission discussed speaker time limits and confirmed Ms. Ali would speak for 10 minutes and any other representatives would be able to speak for 3 minutes.

Durrell Ali, Project Manager, Berkeley, said she has discussed in the past the importance of the project to provide housing for extremely low income special needs senior residents along with an array of services designed to meet individual needs. They have 23 units for the 35% density bonus, they have a building which can accommodate 24 units with one additional unit across the hall and the difference is whether that unit shall be made available to extremely low income special need seniors. She discussed the partnerships with several entities, said the land is currently owned by the non-profit and additional funding is not being requested of the City. However, the funding agency has notified them they will not be able to fund the project with 23 units. She said the matter is one of survival of the project and she noted that approximately \$12,600 per year in income and approximately \$255,000 in funding for the project would be lost if the 24th unit is not approved. She said their legal counsel is a leader in density bonus in the State of California, acknowledged that the City Attorney's position is that the City does not have the authority to exceed the density bonus; however, language written specifically states that State law does not only allow municipalities to exceed the 35% bonus but encourages municipalities to exceed it.

In addition, the City's own zoning ordinance specifically states in the last paragraph of the density bonus ordinance that "where there is a conflict between the City's ordinance and state law, state law shall prevail." They feel this clearly appears to be an issue of policy rather than an interpretation of how the State courts have acted. She said the State courts have specifically allowed cities to make judgments based upon the needs of the community and the value and contribution made by a project. In addition, the City's density bonus law and State law uses a graduated step between income, number of units provided to seniors and other amenities for the project, and the financial needs of the project specifically to address the ability to achieve the special needs project. Generally, the ordinance allows up to 50% for very low income, 50% for seniors, and they are using 100% for low income, 100% for seniors and 100% for special needs. The request is for a 6% increase and she hoped for the City to stand behind the project and approve it with 24 units. She said the project has community support by surrounding neighbors, allowing the extra unit would not change the configuration or shape of the project and Ms. Ali presented their counsel's memorandum from Goldfarb and Lipman to the Commission.

Secretary Lee confirmed that according to the City's legal staff, the City does not have the ability to grant 24 units because it would require a variance which is not in place. Ms. Ali said it was recommended to them to apply for a rezoning because the current zoning would not allow it. She said the C2 zone also refers back to the MFR2 residential development standards for the C2 zone. Clearly they would not apply for the area to be rezoned to regional commercial at the C3 zone. Therefore, rezoning is not an option for them. It would require a modification of the zoning regulations for the C2 district of a higher residential zone, which is something they

cannot take on. It was not suggested to them that a variance was needed; otherwise, they would have applied for one.

Chair Finlay felt the situation was similar to allowing tandem parking in a commercial area which clearly the City's regulations do not allow. She said the matter was one of policy and the Commission is acting on interpreting what the documents state.

Christine Vargas, Kodama Diseno, presented a PowerPoint presentation of the project, a description of the proposal, discussed parking, changes made which included a corner entry, decorative paving, raised planters, relocation of the garbage, a senior refuge area, relocated laundry facilities, colors changed to a sage and cream theme, banding added to solidify the commercial space on the ground floor, an updated and enhanced residential entry and change to the guardrails to an IPE product.

Commissioner Harris said if it is the case that 23 units was the approved figure, he questioned how this could be accomplished versus the plan before the Commission. Ms. Vargas presented the 24th unit on the third floor and said it had previously been a lounge area.

Secretary Lee questioned and confirmed with Ms. Vargas that the Thrift Store would remain.

There were no other public speakers.

Ms. Velasco gave staff's summary, stating staff is recommending the Planning Commission approve design review findings 1-4, exception findings 1-5 and conditional use permit findings 1-7 to approve the design and conditional use permit of File 1104032 with exceptions for the development of 23 senior restricted residential units and 5,768 square feet of commercial space, subject to the conditions provided in the staff report.

Secretary Lee felt the Commission's hands were tied and could not grant 24 units. Attorney Privat said it was the City's opinion that the City's ordinance complies with state law and that the City does not have the discretion to grant more than the 35% density bonus. Admittedly, it is a close question and the Commission has the option of analyzing it differently. Ms. Harbin said in the City's zoning ordinance no additional provisions exist which would allow the Commission to increase the density bonus amount unless the applicant were to apply for a rezoning and general plan amendment.

Attorney Privat said the ordinance could be amended to provide for a greater density bonus than 35%, which is the maximum to be given under state law, which the City provides. **Chair Finlay** felt the Commission did not have the ability to make this granting; only the ability to make a recommendation to the City Council as to whether or not to create a policy. Attorney Privat said if the Commission was to accept the applicant's interpretation that the City does have discretion, the Commission could have that authority, subject to appeal by the City Council. She confirmed the Commission did not have the authority to change the general plan and would only accept the applicant's interpretation of the case law and rejecting the City Attorney's interpretation of case law.

Commissioner Harris said as referenced in the letter provided by the applicant from Goldfarb and Lipman and in reviewing subsection 15.04.810.058 of the zoning ordinance regarding consistency with State law, "The provisions of this section are intended to comply with California Government Code Section 65915 or any related state laws. In the event that any provision of this section conflicts with Government Code Section 65915 or any related state laws, the State

law shall apply.” He said the applicant is making a claim that has not yet been proven which would allow for the 24th unit if they can show what the State law is. Attorney Privat said the applicant is making that point, but the Attorney’s office opinion is that the City’s ordinance complies and is therefore not pre-empted.

Secretary Lee said if the Commission were to approve 24 units, he asked what the downside might be, and Attorney Privat said the Commission may be appealed to the City Council by someone who disagrees with the project.

Planning and Building Services Director Richard Mitchell said also it would set a precedent for subsequent projects. In this case it is one unit so it becomes a policy question and he asked what criteria would be used in the next case. **Chair Finlay** said setting precedence concerned her as well as whether the Commission’s role should be pre-empting policy from the City Council. She said the applicant had a way to solve the problem and could have applied for a general plan amendment, which they chose not to do.

Commissioner Harris said if the project were approved with 23 units and then a challenge were brought forth by the applicant which was upheld, and permission for the 24th unit was granted he questioned if this could be done under the same conditional use application or would a subsequent general plan amendment or rezoning application be required. Attorney Privat said it would require new analysis since the entire report before the Commission analyzes 23 units and not 24 units.

Chair Finlay asked and confirmed with the City Attorney that if the matter were appealed and the City Council granted the 24th unit, then a rezoning or change in the general plan would not be required because it was run on appeal.

Commissioner Harris referred to the third floor plan before the Commission and the upper left unit adjoining the existing building. He said the unit is labeled as 310, but there is another 310 fronting Cutting Boulevard and Ms. Vargas said this was an error and she confirmed that the unit would be unit 311 and not 310.

Ms. Harbin said regarding the matter of setting a precedent, it would only be adding one unit which would not be much impact. However, in the future if another project were before the Commission and because of the precedent set, more units could be granted and it could also have some type of an effect on the environment, particularly traffic, infrastructure capacity and other items.

Secretary Lee asked if the project would terminate if the 24th unit were not granted, and Ms. Ali said based upon conversations with the funders the project will go away because they would be required to locate additional funding. She did not believe they would be able to build the project within 2-3 years of competitive funding requests under its current pro forma. They have looked at ways of cutting cost, increasing income and reducing operating expenses to be able to afford more debt service and it would be difficult for the organization to sustain the project for 2-3 years while searching for additional funding.

RECESS

Commissioner Harris requested a 3-minute recess, and thereafter, the regular meeting was reconvened.

The public hearing was closed.

Commissioner Harris said he spoke with the Planning Director, City Attorney and applicant during recess and referred to Condition 2 on page 9 of the staff report, which reads “the final plans shall omit the 24th housing unit in the residential portion of the project and reduce the total number of residential units to 23.” He did not believe the Commission was currently in a position to approve 24 units, but if 24 units were somehow approved, there is a design before the Commission that he believes is acceptable. Therefore, he proposed accepting the proposal for 23 units but suggested condition 2 be modified to read as follows: “For the plans dated October 17, 2007, the final plan shall omit unit number 311 in the residential portion of the project and reduce the total number of residential units to 23. If subsequent appeal shall grant a 24th unit, the design shall reflect the plans dated October 17, 2007.” He said if the Commission is limited to approving 23 units and an appeal is filed and the 24th unit is granted by the City Council, the design is in place for 24 units which has already gone through design review and would not need to return to the Planning Commission.

Chair Finlay confirmed with the City Attorney that the additional language was clear, but the staff report and the recommendations and findings the Commission will make are based on an analysis of 23 units and not 24 units. He was not sure how this would impact the Council's decision to approve or deny the project.

Chair Finlay voiced concern over the fact that the Commission might limit what the Council could do on appeal by demanding they accept plans. **Commissioner Harris** said his feeling is that if an appeal came before the Council and there were no other conditions that were brought before the Council, the Council could accept an appeal but they could grant many other conditions that the Commission would or would not like, which is their purview. As he understands this, he did not know what other issues there were other than approval of the 24th unit.

Chair Finlay said one problem she had was tandem parking in a commercial area and referred to page 4 of the staff report for spaces 19 and 20; the zoning ordinance restricts tandem parking arrangements to residential uses only to prevent parking conflicts and the Council may feel the same way. She also said she has never seen a situation where the Commission has made a ruling and then couch what the Council is going to do when the issue is brought before them on appeal. **Commissioner Harris** said there is a very narrow parking lane and agreed with Chair Finlay's concern with tandem parking.

Chair Finlay said she understands and accepts the language in condition 2, but she voiced concern about the restrictive language requested by Commissioner Harris. **Commissioner Harris** said he was concerned that other issues may come up during the appeal hearing, said he could agree with eliminating the second part of the revised condition because the Commission has discussed a specific unit being taken away from a specific plan.

ACTION: It was M/S (Harris/Lee) that the Planning Commission approve design review findings 1-4, exception findings 1-5 and conditional use permit findings 1-7 to approve the design review and conditional use permit of Variance 1104032 with exceptions for the development of 23 senior restricted residential units and 5,768 square feet of commercial space, subject to the conditions 1-26 as stated in the staff report, with a modification to condition 2 to be revised to read, “From the plans dated October 17, 2007, the final plan shall omit unit number 311 in the residential portion of the project and reduce the total number of residential units to 23.” The motion carried unanimously.

Chair Finlay said the item may be appealed in writing to the City Clerk by Thursday, December 20, 2007, by 5:00 p.m.

5. CU 1102823 – Conditional Use Permit for Sunset Court at Valley View Road and Sunset Lane – PUBLIC HEARING to consider a Conditional Use Permit demonstrating that the project conforms to the City of Richmond’s Hillside Ordinance. The project received previous approval for a Tentative Track Map for a Subdivision of eight single-family dwellings. 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. Planner: Jonelyn Whales. Tentative Recommendation: Conditional Approval.

Secretary Lee introduced and gave a brief description of the project.

Ms. Whales said the project was heard by the Commission on June 7, 2007 where the tentative map was approved for 8 lots and the mitigated negative declaration. The Commission directed the applicant to return to show that the lot sizes conform to the SFR3 zoning district. The applicant and engineer are present, as well as the designer of the homes.

Commissioner Harris questioned the maximum building height, stating the definition for the height of a building is on page 17 of the ordinance; “Vertical distance above grade measured to the highest point of the copia, the flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hip roof.” He said what is shown as complying with the 35 foot height is the grade from the garage taken to the top of the upper floor. The roof was not incorporated in those building heights, and all lots except for lots 6 and lot 8 would not be in compliance with height. Ms. Whales said it was staff’s understanding that it was measured from the finished grade to the height and asked the applicant to respond.

Commissioner Harris referred to page 4 of the resolution, item 9, and confirmed the condition for the Fire Marshal’s review was relevant to the project due to the wall that will be located at the front of the development, designating it as a subdivision. **Chair Finlay** asked that staff also include the Building Official to be added to the resolution in addition to the Fire Marshal.

Commissioner Harris referred to condition 13 on page 5 and condition 59 on page 12, and confirmed with Ms. Whales that condition 59 was similar to 13, but would be deleted. **Chair Finlay** requested additional language therefore be added to condition 13 and **Commissioner Harris** said the location of the street lights would be shown on the lighting plan. He suggested adding to condition 13: “...to the satisfaction of the Director of Planning and Building Services and the City Engineer.”

Commissioner Harris referred to the sentence of condition 58 regarding drainage and he asked to eliminate the words, “...to demonstrate what a catch basin is needed near lots 1 and 32” as the wording did not apply to this project.

Commissioner Harris referred to page 8, condition 38, sub-section c and d, and he felt these were sub-items of paragraph b. He asked that paragraph c to be re-written as b.1. and paragraph d would be re-written as b.2. The lettering would thereafter follow correctly.

Troy Reese, owner/applicant, said he brought his architect and engineer who could answer questions of the Commission.

John Newton, designer of the project, Kensington, said in response to the building height, if one took a slice through the building at any point, the highest point down to the finished grade is how to calculate the height, and all heights are less than 35 feet. What is not clear is what the grade would be like on the sides of the house. On upslope homes, the intent is to leave the grade intact and minimize grading, so the dashed line is what the grade will be on the sides.

Commissioner Harris felt this was a valid interpretation and fit within the ordinance. Regarding the selection of a 5:12 pitch roof, he asked if this was to provide more attic space, and Mr. Newton said because they are up-sloped houses, if using less than 5:12, one could actually see more roof from the lower portions. He also said blockage of views of the roofs would not be an issue and architecturally he felt it looked better.

Commissioner Harris questioned the grades of the upper lots and asked if a condition could be inserted that the roof slope be reduced. Mr. Newton said he would agree to a 4:12 which would drop the highest peak by 3 feet.

Jim Toby, Civil Engineer for the project, San Francisco, said when the original survey was done, it went 20 feet beyond the property line and they were still 6-8 feet vertical elevation rise beyond where the property line is before they even get to the top of the hill.

Public Comments:

Lisa Moffett, El Sobrante, said she lives above the development and would look down at the rooftops. She said the plan calls for palm and redwood trees at the property line and in 10 years they would grow and completely block her view of Mt. Tamalpais and the sunsets. She voiced concern with congestion, said she has a disabled child who rides the bus every day and said her driver indicated she will not drive if the street is further congested. She has had two accidents coming out of her driveway and said a fire truck recently had to be backed out of the street in response to medical calls.

Teri Edlinger, said she was under the impression there was a subdivision tentative approval, but the project is approved and going through. She questioned what could be done at this point to change the size of the homes in the neighborhood and trees.

Secretary Lee said there were several trees labeled 20 inch palm trees which already exist on the outside of the perimeter of the project past lot 1 and 2, as well as eucalyptus trees. **Commissioner Harris** said there were no new palm trees to be planted, except to the entrance to the new street.

Paul Moffett, El Sobrante, said he is a carpenter and builder, said the heights of the roof were actually 39 feet with a 5:12 roof pitch, asked that the applicant lower the pitch to a 4:12 or 3.5:12, agreed traffic was congested, questioned drainage basins coming down the hill, said EBMUD often fixes the water main, voiced concern over water pressure and voiced concerns with the 6 foot tall wall along the bottom perimeter and its effect on sight visibility from the street.

Secretary Lee asked and confirmed that Mr. Moffett would simply prefer not having a sound wall.

Rebuttal – Applicant

John Newton said the houses will have a rear yard fence, felt the wall along Valley View would be more attractive than a redwood fence, but was agreeable to removing it. He said the sight visibility was not an issue and the wall would be subject to traffic and design engineering analysis. He said drainage plans have not yet been submitted. Regarding trees, his sense was to remove the massive wall of eucalyptus and planting behind the houses was a nice thing to screen the homes from the top, but he understands that if views are blocked there could be conditions for species that only grow to a certain height or trimming required to appease the neighbors.

Rebuttal – Opponents

Teri Edlinger, said she was also concerned about fireplaces built in the homes and how much smoke would affect homes above. She said the street is extremely difficult for turning and anything on the side of the hill of Valley View and Sunset would be a problem as far as getting off the hill and worrying about traffic.

Commissioner Williams said there is a reference made to the BAAQMD and he confirmed with Ms. Harbin that the agency reviews subdivisions and received their input. The City also no longer allows wood burning fireplaces in new construction.

Commissioner Williams asked how dramatic would it be to modify the location of certain trees, and Ms. Harbin said the landscape plan would be reviewed by the Design Review Board and the actual design of the homes, which are not being considered tonight.

Ms. Whales gave staff summation, stating staff recommends the Commission adopt the resolution with modifications and approve the conditional use permit for the project based on the findings and statement of fact.

Commissioner Harris said this was not the final approval in the full entitlement process, noted design review would follow as well as conditional uses that may apply to the structures. He confirmed that the design review hearing for the project may occur in January 2008 and confirmed with staff that neighbors would be noticed as to when the meeting takes place.

Commissioner Williams asked that appropriate sound attenuation study be done for the wall which may provide screening to residents but send the sound up toward the neighbors. **Commissioner Harris** said the design presented at the tentative map approval stage was going to place some improvements on Sunset Lane to widen it to 35 feet, at least on the bottom portion where there was excavation would be done. **Chair Finlay** said a wooden sound wall would not be acceptable to her and preferred the sound wall.

The public hearing was closed.

ACTION: It was M/S (Harris/Lee) that the Planning Commission finds that the proposal is consistent with the policies of the City's hillside ordinance and that the Planning Commission adopt Resolution 07-20 with conditional use permit findings 1-7 and conditions 1-73 with the amendment stated earlier to conditions 9, 13, 38, 58, the elimination of condition 59; and amendment to condition 21 for all lots to include the roof slopes be designed from a 5:12 pitch to a 4:12 pitch; and that consideration be given to the placement and removal of trees along the upper boundary of the subdivision; unanimously approved.

Chair Finlay said the item may be appealed in writing to the City Clerk by Thursday, December 20, 2007, by 5:00 p.m.

COMMISSION BUSINESS

6. Reports of Officers, Commissioners and Staff

Ms. Harbin suggested the Planning Commission hold their January meeting on January 10, 2008 and agreed to contact Commissioners as to their schedule.

Planning and Building Services Director Mitchell reported on the general plan update, stating the Council met and reviewed the three land use options developed by the General Plan Advisory Committee, which would then be evaluated by the environmental consultant. He said the new Health Element is being presented by representatives of the consultant in China. Given the speed with which industrialization and growth is occurring there they are looking at the element's structure.

He reported there is also a plan by the Port of Oakland to remain competitive by spending a billion dollars to make improvements along the rail rights-of-way from the Port through Nevada. Staff is working with the County Supervisors to put together a list of needs and impacts in Richmond. The analysis includes better connection between D&SF and Union Pacific Line and increase to a number of rail lines through the city and increase in frequency of trains and he said all is manageable through some strategic grade separations and mitigations.

Regarding the merger of the Design Review Board and the Planning Commission, Mr. Mitchell said staff has completed draft modifications to the ordinance which has been reviewed by the City Attorney's office. Fine-tuning continues, the ordinance must match procedural recommendations in place and staff will most likely bring forth the matter as an information item in January/February with some recommendations for procedures about the proposed joint body.

Commissioner Harris said after 6.5 years this is his final meeting as a member of the Planning Commission. He said in June he volunteered to stay on through the end of the year and he felt his service has been educational, fun and stressful at times. He said he plans on being in Richmond, available and active in community service and thanked fellow Commissioners.

Commissioner Williams felt Commissioner Harris' attention to detail and the ability to craft language has been unparalleled. He will miss him and wished him well. **Secretary Lee** echoed statements, felt it was too bad Commissioner Harris was leaving before he could learn more from him and hoped he would be available for advice.

Chair Finlay said she first wanted to voice her on-going concern about the merge from the Water Transit Authority into the Water Emergency Transit Authority and the reduction of representatives from 11 to 5 for the entire region. She felt it was extremely important that the City become proactive in trying to find representation on that board, whether it act on its own or in collaboration with Richmond and Hercules. She also noted the City was awaiting response to the EIR from Chevron and Mr. Mitchell said the schedule is unclear to date, but the Design Review Board process needs to occur in January and it would then come to the Commission with a recommendation from the Board.

Chair Finlay thanked Commissioner Harris, said it has been a great honor to work with him and thanked him for his expertise to the Commission. She spoke of his commitment, kind and gentle nature, concerns and thoughtfulness into decisions and said she will miss him terribly.

Brown Act – Public Forum - None

Chair Finlay wished everyone a happy holiday season and adjourned the meeting.

Adjournment

The meeting was adjourned at 9:15 p.m.
