

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

450 Civic Center Drive, Richmond, CA  
October 9, 2014  
6:30 p.m.

**COMMISSION MEMBERS**

Sheryl Lane, Chair  
Roberto Reyes  
Ben Choi  
Melvin Willis

Eduardo Martinez  
Andrew Butt  
Marilyn Langlois

The special meeting was called to order by Chair Lane at 6:35 p.m.

Chair Lane led in the Pledge of Allegiance.

**ROLL CALL**

**Present:** Chair Lane; Secretary Langlois, Commissioners Butt, Martinez and Reyes

**Absent:** Vice Chair Choi and Commissioner Willis

**INTRODUCTIONS**

**Staff Present:** Planning staff: Senior Planner Lina Velasco, Associate Planner Kieron Slaughter, Senior Planner Jonelyn Whales, Director of Building and Planning Services Richard Mitchell and Assistant City Attorney James Atencio

**MINUTES**

Commissioners requested holding off on the approval of the minutes of April 17, 2014, July 9, 2014, and July 10, 2014 until the next meeting in order for Commissioners to be able to read them.

**AGENDA**

Chair Lane provided an overview of meeting procedures for speaker registration, public comment and public hearing functions. She said items approved by the Commission may be appealed in writing to the City Clerk by Monday, October 20, 2014, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

**CONSENT CALENDAR**

Chair Lane reported that the Consent Calendar consists of Items 2 and 3. She asked if there were any members of the Commission, staff or public who wished to remove any of the items on the Consent Calendar.

**ACTION: It was M/S/C (Langlois/Butt) to approve Consent Calendar Items 2 and 3; which carried unanimously by the following vote: 5-0-2 (Ayes: Butt, Langlois, Martinez, Reyes and Lane; Noes: None; Absent: Choi and Willis).**

**Items Approved on the Consent Calendar:**

2. **PLN10-209: Briseno Produce Truck#1** - PUBLIC HEARING to consider the renewal of an existing Conditional Use Permit to continue operation of a produce truck at 3700 Macdonald Avenue (APN: 517-330-002). C-2, General Commercial District. Gianoli Bonnie, owner; Mariana Briseno, applicant. Planner: Hector Rojas. Tentative Recommendation: Conditional Approval
3. **PLN11-607: Bulk Materials Processing Center Conditional Use Permit Compliance Review** - PUBLIC HEARING to complete a compliance review and consider modification of the Conditional Use Permit for the Bulk Materials Processing Facility (CU1101132) at 1 Parr Blvd. (APN: 408-140-009, 408-140-008, 408-140-010, 408-140-013). CRR, Community and Regional Recreation District. West County Landfill Inc., owner; Richmond Sanitary Services, Operator. Planner: Lina Velasco; Tentative Recommendation: Hold Over to 11/13/2014

**HOLD OVER ITEM:**

1. **PLN14-023: Sign Ordinance Amendments** - PUBLIC HEARING to consider a recommendation to the City Council regarding Zoning Text Amendments to Chapter 15.06 Signs of the Richmond Municipal Code (RMC) relating to definition and regulation of digital signs and digital advertising signs, and procedures for facilitating the removal of existing legal non-conforming billboard signs. Planner: Kieron Slaughter; Tentative Recommendation: Recommend Zoning Text Amendments to City Council

Associate Planner Kieron Slaughter gave the staff report and provided a brief overview of the item and direction provided to staff, noting that the item was continued from the prior Commissioner meeting. The Attorney's Office formed an ad-hoc committee to finalize language and the current version of the ordinance reflects input from that committee. Staff continues to recommend that the Planning Commission refer the item with an approval recommendation to the City Council amending the sign ordinance Section 15.06 and Chapter 404.

Chair Lane asked for questions of Commissioners.

Commissioner Reyes referred to an error in the report and he clarified with Mr. Slaughter that it was staff's intent to keep I-580 prohibited from digital advertising signs.

Commissioner Butt questioned and confirmed that the I-80 corridor is proposed to remain where C-3 corridors are located. He referred to the removal of existing signs and asked how a situation would be addressed where the applicant did not own any signs. Mr. Slaughter replied that staff included a provision that if the applicant did not own or operate any signage, they could provide some type of off-site community benefits, such as a scoreboard sign for a park in lieu of removing signage.

Commissioner Butt asked if there are any sunset clauses for current signage on I-580, and Mr. Slaughter said no; they would be eligible for relocation and removal. Commissioner Butt asked if the resolution could be revised so as to place a priority on removal of the high impact signs,

such as two or three along I-580. Mr. Slaughter said this is within the Commission's discretion to prioritize the removal of those along the scenic corridor. Staff proposes to maintain an active list of these on file and this could be included in the resolution.

Secretary Langlois referred to the relocation agreement and said the Commission was clear at its last meeting to have the agreement reworded so that instead of 10 static signs being removed for every 1 digital billboard there would be 10 times the square footage of static signs removed. Mr. Slaughter said staff had internal discussions on this direction; however, it would render the situation to a status quo and more onerous than reasonable. Staff thought it would be more reasonable to have a 2 to 1 sign area and a 10 to 1 sign removal; however, the Commission can entertain amendments to this.

Secretary Langlois said the reason this was included is because of the tradeoff by allowing one of these is to get rid of as many static signs as they can. Mr. Slaughter said they received some feedback that some companies do not own 10 times the area of what a typical sign would be, but again, this is up to the Commission's discretion.

Secretary Langlois said if they did not have the area, they could provide other mitigations to make up for this because there might be companies that have no static signs. Mr. Slaughter noted the way the ordinance is written now, if they do not own signs, they would enter into the other option and again, staff felt the priority was removal of the number of signs.

Secretary Langlois said she believes the direction given was limiting the number of digital billboards to 3 in the City. She asked to clarify double billboards, as there are 2 de facto billboards at the Pacific East Mall which may not be approved if the new ordinance is approved. Mr. Slaughter pointed out that the City treats a dual facing sign as one sign and not two signs. Secretary Langlois asked if the Commission could make a recommendation to further define this, and Mr. Slaughter noted it is defined in the ordinance.

Commissioner Reyes pointed out that there was a lot of discussion on the Hilltop sign item, and the Commission was supportive of finding solutions. Mr. Slaughter commented that this ordinance would allow 3 digital advertising signs to move forward and staff has an incomplete application for the Hilltop Mall sign and if complete, staff would process it after the ordinance was approved.

Commissioner Martinez stated the signs at Pacific East Mall are not back to back but separated. Therefore, he believes they are separate as they are at different angles but flash the same message. He also voiced concern that he found no definitions for LED signs, changeable copy signs, electronic message boards or dynamic signs. Mr. Slaughter referred to the staff report which indicates they are collectively referring to LED and changeable copy signs as digital signs. Commissioner Martinez said signage seems to be more about content than definitions, and Mr. Slaughter said technology could change and this is why staff did not want to narrowly focus just on LED signs.

Commissioner Butt said given they have an existing digital advertising sign at the Pacific East Mall, assuming the ordinance were adopted, he asked how it would affect that sign. He asked if it would be considered one of three signs. Mr. Slaughter said in his opinion, they would have to apply to come into conformance with this ordinance, meet all development standards and requirements of the ordinance to remain. Commissioner Butt asked how this would affect existing non-changeable signage, such as large billboards on the freeway. Mr. Slaughter said there are questions about the legality of the existing digital sign and direction has been given to

staff to bring a revocation hearing forward to the Commission, and it would depend upon the outcome of this. Commissioner Butt said assuming it went through the process and was eventually approved he confirmed it would be one of the three approved signs.

Commissioner Reyes referred to the email received today and Mr. Slaughter said there are a variety of opinions on which traffic study to refer to and who funded what, and staff has referred to the National Highway Transportation Study. He was making reference as to how luminance is measured and other technical terms.

Commissioner Reyes questioned the 20 year permitting, and Mr. Slaughter stated this is the reason why staff believes it should be restricted down to 10 years. He confirmed that staff would have to make an amendment to reflect this in the ordinance and he pointed to its location in the ordinance.

Commissioner Martinez asked if everything will fall under flashing and illuminated signs, digital signs, and digital advertising billboard signs. He asked where all of the others fit, like LED or changeable copy signs. Mr. Slaughter suggested looking at the definitions which are on page 11 and he read them out loud and said he added a new definition for electronic reader board signs which was discussed at the previous meeting. They would all be either one of the two.

Commissioner Martinez asked what kind of sign would be a changeable copy sign. Mr. Slaughter said it would be an electronic reader board, and an electronic message center would be the same. Dynamic signs with colors and photo abilities or LED signs would be more of a digital sign.

Chair Lane opened the public comment period.

Public Comments:

Andre Smith, Richmond, said he is in favor of the lighting and LED signage, as he works at the mall and knows it is suffering. Signage would help in directing more business to the area. In speaking with the community, there is a lack of knowledge that the mall even exists and signage would go far in providing support.

Cesar Zepeda, President of the Hilltop District Stakeholders Association, representing homeowners and businesses in the district, shared a few attachments not included in the packet showing over 100 signatures gathered and he asked the Commissioner to forward a recommendation to the City Council expeditiously. He presented pictures of the current Hilltop Mall sign, the current Pacific East Mall sign which includes local merchants and community. He noted there are businesses being advertised through LED signage at that mall and he asked that the Commission not to wait and forward the matter to the Council.

Mark Gastinau, California Sign Association, said he has been working on the Hilltop Mall sign for over 7 years and the City had put out a RFP at that time that was answered but the sign was not allowed to go forward and this is why the application is stagnant. He referred to his letter explaining support and also noting concerns with the language. Regarding the 2 to 1 ratio, Caltrans controls the ratio and the sign can only have advertising of 25 feet so if there is a 14 foot electronic billboard, this gives 11 feet to advertise tenants and with this regulation, they will never be able to get a Caltrans permit. Regarding green energy, he said these signs are controlled by Title 24 and Caltrans and he believes the City is trying to re-write some of the state

laws. He said he was available for questions and encouraged the Commission to move forward to the Council and direct staff to work on language problems with him so they can be corrected.

Cordell Hindler, Richmond, asked that the sign ordinance be moved forward to the City Council which will help bring in revenue and businesses to the City.

Becky Ross, Richmond, said she worked at Hilltop Mall for 7 years and businesses there are desperately needed. She said even the small improvement to the sign made a difference to people and felt the matter was not complicated. All questions have been answered and she asked the Commission to move it forward to the Council. She noted she is indifferent about the Pacific East Mall and it may need some new technology, but she noted that there is also a sign in the front of City Hall which was not part of the digital ordinance and it will have to be re-permitted and reviewed. She asked that the City allow the sign company to assist, figure out revenue sharing, support youths and seniors from the money and asked to be progressive.

Jerry Yoshida, RANC, stressed the need to keep the sign ordinance changes simple and asked to remove all indications of digital sign and billboard proposals throughout the City and concentrate on the two or three areas. He asked to clarify signage along I-80 between Central Avenue and Bayview Avenue, I-580 and I-880. He was not sure a digital billboard would completely help the Hilltop Mall but instead, he sees it as a holistic issue about identification. He felt a static sign could still work, along directional signage, and comprehensive landscaping.

Commissioner Reyes asked and confirmed with Mr. Slaughter that the redlined section prohibits digital signage along the entire stretch of I-580 and the Richmond Parkway and restricts them to the C-3 districts at a maximum of 3 signs.

Mr. Mitchell stated that in defense of the process, he said in the work staff does, the outcomes of these decisions can be very long and difficult to modify once made. It makes sense to spend more time in the beginning so things do not have to be modified. Signage is a very controversial issue and they have tried to add a sunset clause of a certain amount of time so the community can revisit signs, given technology. Staff has indicated there is no grandfathering and any new signs would not be grandfathered in. He said he has found photos of signs from the 1940's and it is very difficult to move them without language in the ordinance, which has been added. Regarding this particular proposal, it would go to the DRB once an actual application has been received. There is complexity involved with the specific Hilltop Mall sign given an easement, and he thinks staff has done what it has been directed to provide the Commission with a menu of findings to review and consider. He suggested the Commission get a full understanding of what they get when making a determination. Everybody agrees that Hilltop Mall needs a new sign and how they get there is where they are stumbling, and the City has tried to modify the ordinance so it provides a number of options.

Chair Lane recognized Garland Ellis who had just arrived.

Garland Ellis, President of the RANC, said he believes there is ambiguity in the report and said in one place it states one cannot be within 200 feet of a freeway and in another place it states 1500 feet. He realizes that I-580 is a scenic highway but the primary concern would fall upon I-80 and this is a concern. Also, signs can be placed on poles and go up as high as a building's height, which, in the Hilltop area is fairly high at 60 feet in some areas. Although buildings are not next to the freeway, if a sign is 48 x 14 feet up on a pole at 60 feet high, it will be very bright and will affect the entire mall area. He thinks there will be a problem in the Annex where there will be digital signs on all buildings. Even if on the side of the building, there is the possibility of

significant light spread throughout the entire community and affecting residents. He said they would like to see the scenic highway positions extended along I-80 and also San Pablo Avenue. The City of El Cerrito has no billboards at all on San Pablo Avenue and he would like this to be the same on the Richmond side. He recognized the controversy about advertising signs and he asked to get them moved back a ways from the freeway and not hanging right over which will be more accepted and not as intrusive. He said as the Council gets involved and there is money on the table during election season, signage may increase.

Mr. Slaughter summarized the request, stating staff recommends that the Planning Commission recommend approval of the zoning text amendment to Chapter 15.06 and Chapter 404 and to seek the Commission's input on the length of time for permits.

The public hearing was closed.

Secretary Langlois asked and confirmed no communication was received from the Fairmede-Hilltop Neighborhood Council.

Secretary Langlois asked if Mr. Mitchell has been in conversation with any of the other major anchor businesses at the Hilltop Mall. Mr. Mitchell said since the last meeting he contacted each of the four anchors and was able to reach two; at Macy's he was able to speak with the Vice President of Marketing in New York. He posed the entire issue to her and asked how they participate in the sign process. Her response was that that signage relating to stores located in a mall is the responsibility of the mall operator. Given the fact that the sign is off the site, he asked if Macy's would be willing to participate in the cost of creating a sign. She indicated they would need to see a proposal, hear from other anchors and this decision would be made at the group manager level. He also spoke with the Walmart organization and their local manager was not aware that the debate was going on and said normally when inside a mall, the responsibility for signage and advertising is the Mall Management. He agreed he would love to see a nicer sign there but said he would like to see a sign that emphasizes Walmart and the other anchors and did not see a benefit of having a sign showing national advertising. He said research will continue because one of the options that may be considered is one where they bring the large corporations together that stand to benefit from this to determine if they can help in some way.

Secretary Langlois said she gathers the main concern of those who favor the ordinance is they want to have a beautifully designed sign that is more visible showing mall businesses. If the major anchors have not even discussed this, there is a possibility they could come up with a solution to not include the digital portion with national product advertising. In terms of this ordinance, general direction was given to staff and some is reflected but not all in terms of the findings. Mr. Slaughter confirmed that the findings were identified as "Whereas" clauses which were very specific and went under legal review. He reminded the Commission that the ordinance is to allow an application for a sign.

Secretary Langlois said there is nothing in the findings that provides justification for how this would benefit the local business community and evidence to support that. The only two where a digital billboard could result in some static signs being removed and improve aesthetics, there is no guarantee that they would be removed. The other potential benefit is that the digital billboard could notice City events but there is nothing that would guarantee that would happen. Therefore, she does not believe the findings are strong enough.

She said in the middle of page 13 under the relocation agreement, she asked to make sure it states that the billboards will be permanently removed, and Mr. Slaughter confirmed. She said

also the Commission indicated at the last meeting it would be 10 times the square footage rather than the number, and this should be included. If a company does not have that much square footage or static signs, more specific mitigation is needed to be described, and she referred to page 34. For every digital billboard, the City wants significant mitigations and it would be important to outline options other than just removing static signs.

Secretary Langlois referred to page 25 and said there are businesses and residents in the Hilltop area who have been pushing for allowing a digital billboard. She said billboards have national products on it. Digital signs have to do with the business, but those at Hilltops have asked to allow the digital billboard because there is the likelihood that a national sign company would erect one for free and it would include the digital national product advertisements, and the Commission is trying to come up with some way to accommodate that. However, she is not aware of any business that has come to the Commission and said they want to be allowed to put digital signs on their businesses. She thought they wanted to leave this out of the ordinance revision altogether. She referred to the chart at the end of the ordinance and her understanding is they wanted to leave out digital signs for businesses entirely. Mr. Slaughter said no; this would not have allowed what Mr. Zepeda alluded to. There is a business on-site advertising itself. If removed, it would only allow off-site advertising. Secretary Langlois asked if a business at Hilltop could purchase space on the digital advertising sign and Mr. Slaughter said Hilltop is a different situation as the sign is not at the same location as the mall. Secretary Langlois said if at Pacific East Mall, she asked and confirmed that a business could not purchase space on that. Therefore, in this case, it should be left to a maximum of three signs. Mr. Slaughter said this is up to the Commission, but staff allowed this because if the Auto Plaza wanted their own advertising sign at their location, this would be a reasonable allowance. Secretary Langlois noted they have not asked for this, so until a business comes and applies for a digital sign, the City should hold off on it and deal with it when it comes. The Commission is talking about a total of 3 signs and she supported it being allowed for a business at the site and this should fall within the 3 total signs.

In terms of the 3 total signs, she feels strongly that Pacific East Mall has 2 signs now and asked that it be reflected in the definitions. If they were able to come up with all of the requirements and get official permits, there would be 2 and 1 more area for a sign at Hilltop. In her view the back to back sign is 2 signs.

Secretary Langlois referred to the maximum dimensions and said it seems they should have some maximum dimensions in there and supported the 12x25 but would consider the 14x48 as the maximum size, and Mr. Slaughter said this is included in G-3-I. Secretary Langlois returned to her definition of a 2 sided sign, and Mr. Slaughter said the ordinance assumes that a sign is either on a structure, wall or a monument sign and it is commonly permitted to have signage on both sides. Since the Pacific East Mall sign is on one structure, it is considered one sign. Secretary Langlois asked staff to refine the definition for the purposes of digital signs and digital advertising billboards because most static signs use one surface.

Secretary Langlois stated that in terms of the sunset, this is a big step and once in place, it is difficult to change. She asked to provide a 5 year time limit to determine how it is working. Afterwards, the sign would need a renewal permit.

Lastly, regarding Caltrans, one speaker mentioned the proposal to have the square footage to static be 2 to 1. One speaker mentioned there would be problems with Caltrans. Mr. Slaughter said staff suggests removing it so it would not conflict with Caltrans Outdoor Advertising Act, and the DRB could determine what is appropriate.

Commissioner Martinez said he is still confused about the matter. One speaker compared an electronic message board to a digital advertising sign. He asked if Secretary Langlois was talking about 3 digital signs or 3 national advertising signs. Because there is not specificity in the language, he has no idea of what people are talking about. Mr. Slaughter asked to depend on staff to clarify it. Regarding the sign constructed outside at City Hall, prior to this proposed ordinance change, no flashing or illuminated signs were permitted at all, and this is why Secretary Langlois questioned why this got approved. Staff is now trying to modify the ordinance to allow those types of signs to legally exist and go through a DRB process and stick to three definitions to make it simple.

Commissioner Martinez asked if the three signs being discussed are digital advertising signs, and Mr. Slaughter said yes; staff is proposing a maximum of 3 signs in the C-3 district citywide.

Commissioner Butt asked staff where the third sign might go. Mr. Slaughter said he does not, but there are only a handful of C-3 locations. Possibly Hilltop Plaza with the Century Theater or the Hilltop Auto Mall joins with Hilltop Plaza and does a joint sign. The Macdonald/80 Shopping Center is fairly new and he did not anticipate them proposing one soon, so he is basically assuming it would be the Pacific East Mall area, Hilltop Mall area and if there is a City sign to go up, this could happen as well on City property.

Commissioner Butt said a lot of specific concerns are good ones. He is torn on this and personally he spoke to the public and not a single one is in favor of allowing these in the City with the exception of those at Hilltop. In some way, they believe this will save the mall and make their property values go up, but other than that, most of those pushing it are industry people who are going to make money putting up signs. He sees that nicer communities do not have them, Oakland has many which are bright and distracting, and he is reserved about allowing one at each entry point to Richmond. Having said this, he is sympathetic to those at Hilltop. The idea is that they will get a free nice sign because the company selling ads will purchase it. But there is the risk of what is happening with the marijuana dispensaries where now there is a political push for more. He guarantees there will be a lot of pressure to put more signs all over the City and he is torn.

He said he really likes the idea of moving many older signs, particularly those along I-580. He is leaning towards putting this in the City Council's hands and was inclined to bring it down to a total of 2 signs if they are talking about the Pacific East Mall being a single sign. He felt that needs to be addressed here and there are technicalities with this. He thinks it just needs to be more clearly defined so there are open issues that one can take advantage of.

Chair Lane stated she has been clear since April that in terms of the Hilltop issue, an electronic sign is not going to be the catalyst for economic change for the mall or the area. She thinks there are other things that need to happen. She is not in opposition to a well-crafted digital sign, but she would question whether it would be effective. She is also clear that the sign companies will benefit the most from those signs, but she is not necessarily opposed to this at all. In terms of a cap, allowing one or two would open to more in the future and hopefully a strong City Council could halt that. She is fine with 3 in terms of technicalities with the Pacific East Mall. She would be fine with 2 if the Commission wished to go this way. There has been conversation relating to other sites, but it is clear this is only in the C-3 district, and if the Commission could resolve the matter today and forward it to the City Council, she would like to see this.

Commissioner Reyes said he is also thankful for the process. A lot of information has been received and the Planning Commission works hard to resolve matters and ready them for the City Council. He is glad the I-580 corridor will be free of signs. He did not think too much about the Pacific Mall sign until last week and if this is one of the three, per Commissioner Martinez's comments, it would actually be 6 signs. He looks at it though as one sign because of traffic directions. He thinks 5 years is a good option to sunset it, and beyond that, he needs to be convinced more to find a resolution to this so everybody can be clear in what they forward to the City Council, and he suggested more discussion on the matter.

Commissioner Martinez elaborated on the logic of the Pacific East Mall sign being one sign. He said he could see 4 signs counted as one sign because they are all connected to the same pole. The Pacific East Mall sign is actually on three poles and not just two poles. Therefore, he thought they could put 4 signs up and face them in different directions and say it is one sign. He also has been hearing from the community about not wanting advertising signs in Richmond, and he has not found them to do anything except manufacture consent. He thinks there are too many companies advertising national products to ensure consumers spend money and he thinks they need to be promoting businesses differently. He feels the anxiety of the Hilltop Mall because he thinks the design is detrimental to the businesses there and also the anchors are not contributing to the success of the mall. The variety of stores is poor at Hilltop which is the fault of the anchor stores which makes the mall what it is and what it is not and a sign will not change that. What will change it is access and Hilltop Mall needs to become more inviting. The parking lot surrounding it is not inviting.

Commissioner Martinez said he is against allowing signage, especially when the Commission is not certain about the language. One letter indicated that with conditions, the City could be liable for a lawsuit. Assistant City Attorney Atencio said regarding exposure in how the ordinance is written, the City has reviewed it in-house and he has had outside counsel that specializes in First Amendment issues and other Constitutional issues with respect to digital billboards review, and they have approved it, indicating it is currently written in a way that limits the City's exposure to liability, absent any proposed amendments discussed tonight.

Secretary Langlois said she appreciates all comments and she said she would lean towards allowing 2 signs. In terms of being cautious, she suggested leaving it at 2 and if there is a compelling reason to change it, it can be addressed. She also spoke with someone who suggested a clause that states that the number of signs can be increased only with a 2/3 vote of the City Council. Mr. Atencio said this is possible, but they have spoken about the limit of 3 signs with outside counsel. The practical effect of limiting it to 2 is that the City would basically recommending approval of an ordinance that would simply allow a sign at Hilltop. Therefore, this implicates Constitutional issues and arguably opens the City to some exposure to liability. Therefore, he would recommend keeping it at 3 at a minimum.

Secretary Langlois asked if there could be a requirement that any increase in the number of signs would require a 2/3 City Council vote. Mr. Atencio said again, the same situation applies and with this solution, the liability is somewhat minimized but still be present.

Secretary Langlois supported a total of 3 signs to include digital signs and digital advertising signs. She believes that more specific language is needed about the alternative comparable measures, noting that a national sign company may not like removing their static billboards and may partner with another company to get around this.

MOTION: Secretary Langlois made a motion to direct staff to return the ordinance at a future meeting including a 2/3 vote of the Council to increase the number of signs, have a maximum of 3 signs including both digital and digital advertising in C-3 areas only, have each permit sunset after 5 years, the relocation agreement would require permanent removal of 10 times the square footage of the digital billboard or digital sign or if this is not possible, direct staff to return with specific alternative mitigations that would be comparable, and request that staff continue conversations with the major anchor businesses to determine if they can arrive at alternative solutions that could be done without having digital signs;

Chair Lane asked and confirmed that Secretary Langlois wanted the changes to return to the Planning Commission, as there were some discrepancies in what the Commission asked staff to return with from the last meeting. Prior to sending anything to the Council, the Commission should see it in clear form, especially relating to the alternative comparable measures to mitigate a proposed digital advertising sign if there are no static signs to remove and also learn results of what staff's conversations are from the anchor businesses at Hilltop Mall.

Commissioner Butt seconded the motion and asked for friendly amendments: to include language that prioritizes removal of signage along the I-580 scenic corridor, and also that the language is clarified regarding the quantity of signs particularly where there are multiple signs on a single pole.

Commissioner Martinez said the subject seems to be focused on the advertising digital signs. He asked if there will be limits on other types of signs. Mr. Slaughter said this is up to the Commission. Secretary Langlois noted the motion was for 3 signs total in the City, whether they are the digital billboards with national ads or whether they are digital signs about local businesses. Commissioner Butt asked if this would include the one already at the Civic Center. Secretary Langlois said the Pacific East Mall could be one if they succeed in applying, but staff is treating the sign at the Civic Center as a reader board. Mr. Slaughter noted this went through the DRB review and said given that the Planning Commission is a recommending body, he asked if there were thoughts about moving forward tonight.

Chair Lane said it sounds like there is some consensus on items to recommend to the City Council and suggested moving it onto the Council given the Commission's vote. She noted in terms of not having to bring back items, she believes the Commission needs more information in the case where an applicant does not have signs and what that means. Mr. Slaughter said the item has been through two legal reviews and Mr. Atencio suggested having a finding in the resolution indicating that staff will work with applicants to prioritize removal of existing signs on I-580 as part of the relocation agreement as opposed to putting this in the actual ordinance. Secretary Langlois said she could anticipate having an application from a company where the official applicant does not have any static signs, which leaves the City vulnerable. Staff or the City Council could negotiate something minimal, and Mr. Slaughter noted that the Council could change the ordinance and do this anyway, as they are the approving body. Mr. Atencio noted staff could work with outside counsel to determine what other cities have done with respect to utilizing alternative mitigation measures that have not been challenged.

Secretary Langlois said she would also like staff to bring back the result of the conversations with the other anchor stores at the mall. Mr. Mitchell said it may not be conclusive, but input will be received from them and at a minimum staff wants to make them aware of the discussion and debate. He noted the mall operator is an interim operator and staff must go directly to the anchors there and question whether they can assist. While it might be inconclusive, he thinks

there is sufficient time to complete communications and determine what, if anything, they are willing to offer.

Commissioner Butt questioned if outreach has been made to the Hilltop Fairview Neighborhood Council, and Mr. Slaughter stated he presented the item to the Hilltop Lighting and Landscaping District, but he reminded the Commission that this is not an application for the Hilltop Mall sign.

Secretary Langlois questioned if outreach was done to all neighborhood councils adjacent to C-3 districts. Mr. Slaughter noted there were 5 or 6 meetings to date and these meetings are publicized and they appear to be passive on the issue. He has reached out by phone to several of them, as well, and some responded stating they had no issues.

Chair Lane asked and confirmed that the RNCC has been made aware of the matter and she feels that if community members are made aware of it, they would provide either written comments or appear in person. She wants to be sure that the recommendation should be clear as sent to the Council and did not want to impede the process by providing more outreach to neighborhood councils. Mr. Mitchell said since they are technically separate issues, he agreed to pursue the conversation with the anchors as a separate conversation.

Chair Lane said she did not want to continue the matter month after month, thinks there has been significant progress since April, and she is hearing that stronger language in terms of what options are there for applicants that do not have existing billboards.

Secretary Langlois said she stands by her original motion and would like staff to find more concrete language to make the ordinance more meaningful and she would like to see it one more time in order to move it forward to the City Council.

Commissioner Martinez made a friendly amendment. He noted that changing the number of signs from 3 to 2 would open up legal challenges. Mr. Atencio suggested providing the Commission information off-line with the implications of changing this. Commissioner Martinez asked for a friendly amendment to change the maximum number of signs from 3 to 2 based upon the fact that there is one applicant and the second applicant could be anyone. Chair Lane reiterated that the Commission is not here to approve or deny the Hilltop application, but to create an ordinance that would guide future applications.

Secretary Langlois supported recommending 2 signs, noting that ultimately, the City Council will make the decision.

Chair Lane indicated that she would abstain, stating that she was hoping to move forward the recommendation tonight.

**ACTION: It was M/S/C (Langlois/Butt) to direct staff to return the matter to a future meeting and to have a maximum of 2 signs including both digital and digital advertising in C-3 areas only; have each permit sunset after 5 years; that the relocation agreement require permanent removal of 10 times the square footage of the digital billboard or digital sign or if this is not possible direct staff to return with specific alternative mitigations that would be comparable; request that staff continue conversations with the major anchor businesses to determine if they can arrive at alternative solutions that could be done without having digital signs; and, as added by Commissioner Butt, to include language that prioritizes removal of signage along the I-580 scenic corridor and clarify the language regarding the quantity of signs particularly where there are multiple**

signs on a single pole; which carried unanimously by the following vote: 4-0-1-2 (Ayes: Butt, Langlois, Martinez and Reyes; Noes: None; Abstain: Lane; Absent: Choi and Willis).

#### NEW ITEMS

4. **PLN14-115: Nevin Homes Residential Project** - PRESENTATION and COMMENT HEARING on the Nevin Homes Residential Project proposed on Nevin Avenue between 21st and 23rd Streets. The project site (two parcels) is approximately 1.71 acres in size. The existing parking lot and vacant office building will be demolished to construct a 289-unit apartment complex, consisting of two, six-story buildings with podium parking. The project would include 112 studios, 84 one-bedroom, 53 two-bedroom, 30 three-bedroom, and 10 four-bedroom units. The project (both buildings) would have a total floor area of approximately 350,000 square feet, including residential space, common spaces, and parking. Staff released a Draft Initial Study/Mitigated Negative Declaration, for a 30-day public review and comment period beginning on September 23rd and ending on October 23rd, 2014. Staff is requesting comments from the Planning Commission and the public on the Draft MND. Carl Adams, owner; AMG & Associates, LLC, applicant. Planner: Jonelyn Whales. Tentative Recommendation: Receive and Provide Comments on the Draft MND

Senior Planner Jonelyn Whales gave the staff report and said staff is seeking comments on the Mitigated Negative Declaration for the project and not review of the project itself. She introduced the environmental consultant, Michael Kent, who worked extensively on the document for the past 8 months and the applicant Alexis Gevorgian, AMG & Associates. The applicant submitted a request for a 289 unit apartment complex on Nevin Avenue for two different sites and she presented an aerial view of Site A which is between 22<sup>nd</sup> and 23<sup>rd</sup> Streets and Site B which is between 21<sup>st</sup> and 22<sup>nd</sup> Streets. The project will be two 6-story buildings consisting of 289 unit apartments, on a total of 1.71 acres. The applicant has applied for environmental review, design review and a conditional use permit for a density bonus for the affordable housing project as well as the site is on two different zones; C2 and MFR-1.

Ms. Whales presented early renderings for the project and noted that since that time, the applicant has worked with staff and the DRB members on refining the design. She turned over the presentation to Michael Kent to discuss CEQA.

Michael Kent, Grassetti Environmental Consulting, stated CEQA applies to this project and requires a preparation of environmental assessment, along with a public participation component soliciting input from any interested parties on the environmental impacts of the project. The Mitigated Negative Declaration (MND) briefly describes the project, identifies potential environmental impacts and identifies 15 or 16 different categories. In cases where impacts are potentially significant, it proposes mitigation measures that would reduce those impacts. The MND is an informational document and does not approve or disapprove the project, but it is required by CEQA law. A circulation draft of the MND has been released and they are within a 30-day comment period which ends on October 23, 2014 and this public hearing is part of the participation process.

Mr. Kent restated the project description as described by Ms. Whales. To briefly summarize the findings of the MND, it found that for certain topics, air quality, biological resources, cultural resources, geology, hazardous materials, hydrology, noise and utilities and services would potentially have significant environmental impacts, but in all cases, they were able to identify mitigation measures which would reduce these impacts to less than significant level.

Commissioner Butt said he thinks generally, he is excited to see development interest in this part of Richmond and while density at that level is higher than what is around it, he thinks it is in conformance with the General Plan and close to BART which would make it transit-ready.

Regarding questions, Commissioner Butt pointed out discrepancies in information and stated the MND on page 6 talks about at least 20% of the units being below market rate and the agenda report states 30%. Secondly, the below market rate provides affordable housing for families earning up to 60% of the area median income for Contra Costa County, which is a lot higher for Richmond and specifically that area. Then relative to the design, in addition to the General Plan, there is the 23<sup>rd</sup> Street form-based code and he asked and confirmed it is part of the Livable Corridor Study and said he would encourage the applicant to ensure it conforms to this study. He asked staff if the project is considered to be in the Downtown MacDonald Avenue focus area or at the 23<sup>rd</sup> Street Livable Corridor because each is somewhat different.

Senior Planner Velasco stated she believes it is part of the 23<sup>rd</sup> Street Corridor which is covered under the form-based code, and staff has been reviewing it for consistency purposes with feedback already provided to the applicant.

Commissioner Butt said the 23<sup>rd</sup> Street Livable Corridor talks about including ground floor retail and commercial uses facing the street, the roadway should have wide tree-lined sidewalks, planters that will support economic development, environments for pedestrians, bicyclists, transit riders and others, and he would hope the project conforms to those.

Commissioner Butt said he has no real issue with the density bonus being requested, but the applicant is asking for quite a lot and while the Commission does not have a lot of purview at this level, he knows that traditionally building trades want local hires, an LDA agreement and he hoped the applicant would be open to this, as well as incentives and concessions, given the depth of concessions the applicant is seeking. Beyond this, he is excited about the project which has the potential to be one of the major projects in the downtown and hopefully a catalyst for more development.

Alexis Gevorgian, AMG & Associates, said in terms of the affordability level, they will have units at 60% of AMI and 50% of AMI and the exact percentage of total units is unknown at this time; however, in order to qualify for the density bonus, they must do a minimum of 30% or so. He does not believe they will get up to the maximum of 35% density bonus because volume-wise they cannot get there. Rents will be between 50% of AMI and 60% of AMI, it will be financed with tax exempt bonds and 4% tax credits. Currently, they do not know what the capital markets will be like when they get the project approved. If interest rates hold where they are, there is a strong possibility they will be able to finance it, but part of the reason the Commission is not seeing any development in the area or other cities in terms of an affordable product is because the gap financing is not there.

Mr. Gevorgian said AMG & Associates and other partners are taking the risk of entitling these projects and hoping that the money markets cooperate so they can break ground, but they need to be ready in order to be able to seek any type of financing. Therefore, the project is arguably feasible. The critical mass of 289 units helps the economy of scale and they will attempt to get gap financing from various sources, and these projects trigger either state prevailing wages or Davis Bacon and they are not sure which source they will apply to, but they are just trying to do their best. The transit concept near the BART line is intriguing to them, as well as the approach they are taking from a CEQA review standpoint.

Chair Lane asked Mr. Gevorgian to address AMI for the County versus the City. Mr. Gevorgian said when looking at the product available in the region, there is no new product. They are doing another project in Richmond right now and there are no new comps on new product. Comps may be used from those projects further south and rents will probably be at least 20% below market. They will make adjustments according to where the market comes out at, but they also have a large band of units, with studio units, 1, 2, 3 and 4 bedroom units.

Chair Lane commented that in the City's Housing Element and in terms of goals of affordable housing, one of the goals is to have larger units to accommodate families. She said when building in studio or 1-bedroom units, this does not meet the needs of families. When she added up units for Site A and 2-4 bedroom units, there were a total of 55 and for Site B a total of 38 units. She asked how this aligns with the General Plan and Housing Element and the need in Richmond.

Mr. Gevorgian said what dictated this unit mix was the number of parking stalls they have, the likelihood of a family versus a couple or single person using transit and the sheer volume of the number of children that will be on a relatively small site, and the depth of the market. When looking at the absolute number of markets in terms of studios, 1's, 2's, 3's and 4's, they have tried to come to a balance that works from an operational standpoint from parking, the number of children, how many people are going to be using transit, etc. At the end they may shift some 2 bedrooms to 3 bedrooms and vice versa, but currently this is what their market study indicates the demand would be to lease.

Chair Lane said she understands the need to look at the mix given parking and transit and children, she thinks families would see the project as a site of interest, especially given its location.

Commissioner Reyes concurred with Chair Lane's comments and is happy to see interest in the Latino community where every year many people will gather to celebrate Cinco de Mayo. He believes 23<sup>rd</sup> Street has kept that corridor alive and he thinks people will want to live there. He works in the housing field and knows the market and is hopeful that the project can be developed. He reviewed the open space areas and hopes there is something incorporated into the plan to serve the residents who live there, as well as a shopping corridor. Mr. Gevorgian noted there is plenty of community space of almost 6,000 to 7,000 square feet, tot lot areas, and decks and balconies.

Commissioner Reyes noted the area across the street is a place for the homeless and police activity and Mr. Gevorgian said the City is also doing the revitalization of Nevin Avenue and he has been working with a grant for their project to tie it architecturally. In terms of lighting, the area will be well lit and they are also fronting all community spaces and common units on the ground floor will face Nevin Avenue. The project is also connected to a master plan for Nevin Avenue connecting BART to City Hall, making it walkable.

Mr. Gevorgian said it is a big risk and they are hoping the money markets cooperative and while there are no promises it will be built, they are spending a lot of money taking the risk.

Chair Lane said as a City, their vision is that more people will use mass transit, BART, especially when the City builds TOD projects. So looking at this site in terms of the number of spaces available for parking and BART, she would like to have an understanding of how this project looks at the impacts of those who may have an additional car or vehicle and, given it is already crowded with cars, how will it impact the surrounding community adjacent to that site.

Ms. Whales stated there are some TDM measures inside the document to mitigate some of the traffic; however, it was so close to transit that was not a consideration. Plus, when looking at the ratio of one-bedroom apartments and the studios, staff assumes those individuals would really rely on transit. However, working with the City there will always be some TDM measures we can actually incorporate within the project when it comes forward for review by this body as well as the DRB.

Chair Lane cited what they hope to envision versus reality, and she thinks there is a need for some type of measures for people who use BART because they have jobs elsewhere but she said there are still many people who still use vehicles. She thinks this will impact the surrounding community and this is just a reality.

Commissioner Martinez said he welcomes the project and it is what Richmond absolutely needs, and he was very happy to see this being projected for downtown Richmond. From assumptions, he confirmed that the area will be built according to the Livable Corridor guidelines. He also asked what the plans were for the space between the existing buildings and the new project. He asked if it will butt up against it or will there be a corridor. Mr. Gevorgian said on the ground level they have a podium about 10 feet high so there will be parking adjacent to the ground floor areas and the building will rise from there. The setback is 5 feet or less, but the setback is according to what is permitted, given the commercial building.

Chair Lane opened the public comment period.

Public Comments:

Cordell Hindler, Richmond, said he has received feedback from 23<sup>rd</sup> Street businesses that are supportive of the project. He questioned the timeline for the project. He asked when they will be demolishing the existing building on site.

Ms. Whales said the project is currently under the 30-day review period which closes on October 23<sup>rd</sup>. After that time, the environmental consultant will respond to comments and questions, and at that time, the project can be scheduled for public hearings by the DRB and Planning Commission. She was not sure when the existing building will be demolished, but the applicant must have entitlement first.

Mr. Gevorgian responded that they have 18 months after construction, assuming approval, which would include demolition.

Scott Littlehale, Richmond, said he is a representative of Carpenter's 1052, he said density is at the heart of this project and potentially a great thing given the project's location. What he sees the applicant doing is proposing a project that is a maximal program which perhaps even exceeds the density bonus ordinance provisions in the Richmond Municipal Code. By his reading, if they have 20% affordable to lower income households in the project, they get 2 concessions or incentives. If they get 30% affordable, they get 3 concessions. By his count in the Initial Study and the MND, the applicant may be seeking 4 concessions which go to height limit, parking requirements, setbacks, and open space. To him, this opens up a big question—whether Richmond will get maximum community benefit from a project that he is supportive of. However, he does want to see local construction workers, as there are 5,000 workers within a one mile radius according to census data. He would also like to see prevailing wages required. The applicant's other project on Harbour Way and bids specified it would not be a prevailing

wage project. He hopes these issues will return to the Planning Commission when it considers the programmatic aspects of the project and not just the environmental aspects of the project. He will be filing written comments, as well as comments having to do more with the program with the Commissioners.

Secretary Langlois said she too is excited by this project. She thinks it is a good location to have some dense housing. She sees it as more people living there and more customers for local shops, restaurants, and thinks it could revitalize the area. She would like to make sure they get the right mix of bonuses and incentives. In terms of the density bonus, she was provided with a copy of the City's density bonus clause in the zoning ordinance and she wondered if staff has in their possession the justification for the applicant's request for a density bonus. Ms. Whales stated she believes this is at the back of the staff report which is part of Attachment 2. Secretary Langlois stated whenever there is a request for concessions based on a density bonus, the development pro form details or an appraisal report, shows some of the capital costs and gives specific projections about why this is needed. Ms. Whales reminded Secretary Langlois that the Commission is only here discussing the environmental review. When the project comes up for entitlements, the Commission will have that as part of its packet.

Secretary Langlois also asked for clarity on the number of concessions. One speaker mentioned 4 being requested and she would like clarification when it returns on the number, affordability percentage, and ensuring this is in compliance with the zoning ordinance. She also said she is interested in finding what can be done to maximize local hiring and the prevailing wage. Lastly, she asked something be done to deepen the affordability as well as increased bike and vehicle parking, and potential discounted or free transit passes.

Chair Lane stated this project is specifically needed on this site and she is glad that the corridor will see some improvement. The vision of the General Plan is for infill development as well as TOD adjacent to BART. She cited affordable housing as being needed, as well as parking mitigation, and public transit assistance. Also important is the need for adherence for local hiring and prevailing wage. She asked that if not already clarified, to clarify the concessions for affordable housing and the density bonus.

Commissioner Reyes referred to Mr. Littlehale's comments and said what happens is that other County workers come to work in Richmond, and the City wants its residents to be able to work here and not outside unions from other parts of the County.

Ms. Whales summarized stating that the deadline to comment is October 23<sup>rd</sup> and at that time, the comments will be provided to the consultant, and afterwards, there will be a FEIR which will be brought before the City's advisory bodies. Also, the neighborhood council is Richmore Village and they have been notified throughout the process.

## **COMMISSION BUSINESS**

### **5. Reports of Officers, Commissioners and Staff**

Ms. Velasco reported that the City of Richmond and San Pablo held a community workshop on the Rumrill Boulevard and 13<sup>th</sup> Streets Complete Streets project and today it was community input and hopefully in February they will hold another workshop to share the concept designs of different alternatives for making Rumrill and 13<sup>th</sup> Street a complete street. She also announced that next Friday they will have a 3-D model mockup of Yellow Brick Road project in the Iron Triangle on 7<sup>th</sup> Street between Pennsylvania and Ripley which will be doing a bit of lane

configuration and be looking for community input. The mockup will be on Friday from 1-4 p.m. and on Saturday from 10 a.m. to 2 p.m.

Mr. Mitchell announced that next Wednesday will be another community workshop inviting members of the neighborhood council in regarding planting issues and projects. Also, the notice has been issued for the environmental impact for the South Shoreline Specific Plan, letting people know they will be writing the environmental impact report for that project.

Commissioner Reyes suggested people drive down 23<sup>rd</sup> Street and look at all of the vinyl signs which need to be addressed.

Commissioner Butt thanked Commissioner Reyes for bringing up the vinyl signs. He reported attending an event in Oakland put on by the Registry dealing primarily in commercial real estate called "Growth along the Eastern Shore" focusing on the eastern shore of the Bay from Richmond, Emeryville, Berkeley, Oakland, and Alameda. They talked about Richmond as the next big place for growth. He was not aware that the Berkeley/Richmond Campus is a global research innovation campus with the idea of collaborating with the public and private sector and bringing in businesses and private institutions all throughout the globe, which is exciting. Lastly, this weekend is the Home Front Festival at Marina Bay and he encouraged people to attend

6. **Adjournment** - The meeting was adjourned at 9:22 p.m. to the next regular meeting on October 23, 2014.