

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

450 Civic Center Drive, Richmond, CA  
February 19, 2015  
6:30 p.m.

**COMMISSION MEMBERS**

Sheryl Lane, Chair  
Nancy Baer  
Jeffrey Kilbreth  
Roberto Reyes

Ben Choi, Vice Chair  
Andrew Butt  
Marilyn Langlois

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

Chair Lane led in the Pledge of Allegiance.

**ROLL CALL**

**Present:** Chair Sheryl Lane; Vice Chair Ben Choi; Secretary Marilyn Langlois, Commissioners Nancy Baer, Andrew Butt, Jeffrey Kilbreth, and Roberto Reyes

**Absent:** None

**INTRODUCTIONS**

**Staff Present:** Planning staff: Lina Velasco, Jonelyn Whales, Richard Mitchell, and City Attorney Carlos Privat

**MINUTES** - None

**AGENDA**

Chair Lane provided an overview of meeting procedures for speaker registration, public comment and public hearing functions.

**CONSENT CALENDAR** – No items.

**Public Forum – Brown Act**

Cordell Hindler, Richmond, suggested an ice skating rink be developed in Richmond to bring tourism and recreation.

Tom Panis, 7345 Fairmont Avenue, El Cerrito, said he suggested in the past the City of Richmond adopt a creeks ordinance similar to El Cerrito's adopted in 2008 and distributed a template for the ordinance.

Howdy Gowdy, El Cerrito, spoke regarding the process of the Central Avenue project, thanked the Commission for its deliberations last month but said he has been disappointed with how the public documentation is made available. He asked for improvements to the City's website to include all documents in the Planning Commission packet at the same time as the Commission

receives them. He noted that Exhibit B is a packet of project plans of December 3, 2014 which was referred to in the staff report for this meeting, but he could not find it anywhere on the website. According to the Government Code, he asked that the public be able to respond to all documents of the Planning Commission.

**HOLD OVER ITEM:**

- 1. PLN13-073: Central Avenue Project - PUBLIC HEARING** to consider adoption of a Mitigated Negative Declaration and approval of a Conditional Use Permit for a Density Bonus with incentives for reduced parking, increased height, and reduced common open space for construction of a 155- unit affordable housing development at 5620 Central Avenue (APN: 510-053-032, -025, -033). C-3, Regional Commercial District. REA Partners LP, owner; AMG & Associates, LLC, applicant; Planner: Jonelyn Whales; Tentative Recommendation: Conditional Approval.

Chair Lane announced that at the last meeting, Commissioners asked staff to provide them with information regarding topics of creek setbacks, realignment of Central Avenue, flooding issues and off-street parking. At the conclusion of the meeting, it was recommended and the Commission agreed to create a subcommittee of two Commissioners to work with staff and consultants to address issues brought up by the public and by the Commission. Those two Commissioners are Commissioner Butt and Kilbreth and they will report out on their discussions and recommendations included in the staff report. The public hearing is closed and there will be no speakers commenting tonight unless the Commission asks that the hearing be re-opened.

Jonelyn Whales introduced the City's traffic consultants, Matthew Ridgway and Sarah Nadiranto who will give a PowerPoint presentation regarding traffic analysis conducted for the project.

Matthew Ridgway, Principal, Fehr and Peers, introduced Sarah Nadiranto also with Fehr and Peers and stated they will give a presentation that clarifies some of the information in the prior report. They heard clearly that they needed to be more persuasive in their argument and identified further background on elements, said they will explain the reasons for not doing a cumulative analysis, and they will present clarifications about what is in the report and why they have reached their conclusions.

Sarah Nadiranto, Fehr and Peers, presented a site map showing the project location, the numbered intersections they studied as part of their analysis, the bike connectivity to the project site with dash lines showing what is proposed and solid lines representing what is currently present. They also looked at transit connectivity from the project site and in green shows the AC Transit routes and the El Cerrito BART Plaza. Included in the map are destinations walkable by 5-20 minutes from the project site.

Ms. Nadiranto pointed to Route L along the Central Avenue corridor, which is an AC Transit route that has TransBay service and would provide service from the project site to the San Francisco TransBay Terminal in about 30 minutes. Route L has a pickup station at the Pacific East Mall which is fairly close to the project site. The El Cerrito BART Plaza is a 10-15 minute walk away and would also provide regional access to San Francisco which would be about 45 minutes including a walk to the station. In addition, casual carpools have a pickup location at the Pacific East Mall which provides another way of getting into downtown San Francisco which would take 45 minutes. To compare someone driving from the project site as a single occupant, it would take well over an hour from the project site to downtown San Francisco.

Ms. Nadiranto pointed to destinations in the area which include the El Cerrito Plaza and Pacific East Mall which provide retail options and several parks in the area shown in pink. As part of their assessment, they reviewed analysis scenarios including the weekday a.m. and p.m. peak periods and the weekend peak in the afternoon. They evaluated existing conditions and existing conditions plus project conditions and existing with approved projects plus the project. They simulated the network to calibrate the results to compare it with existing results and made sure delays they were calculating in the analysis matched with what they observed out in the field.

They developed significance criteria for vehicles, pedestrians, bicyclists, and different modes. The City of Richmond does not have a standard set of significance criteria they could follow; however, they based it on other traffic studies completed within the City. At a signalized intersection, if it were to operate from LOS D or better or operate at unacceptable LOS E or F, this would result in a significant impact. Or, if an intersection is projected to operate at LOS E or F under current conditions and with the project add 5 or more seconds of delay. At an unsignalized intersection, if the project is to decline with the addition of project traffic and meet the peak hour signal warrant analysis. They wanted to be sure that side street traffic would actually call for a signal and they did not just want to add a signal if the current operations of the intersection did not require it. Based on their simulation analysis, they were able to observe cars going to and from and it seemed as if there was adequate time for cars to turn to the side streets to the main Central Avenue street. She explained that some Richmond studies include the Chevron Refinery FEIR, the Terminal One study as well as the Pointe Richmond Transportation Impact Study which all used the same significance criteria.

They analyzed the existing conditions and modeled using simulation software such that it would match the observations in the field. As shown, all intersections operate at LOS D or better with exception to Jacuzzi Street and I-80 intersection which currently operates at LOS E or F. Using the calibrated model, they then looked at the project characteristics and added it to the existing conditions. They assumed 178 units which at the time were included in the site plan; however, it is currently at 155 units. Therefore, their assessment over-estimates the amount of traffic added to the corridor. She then displayed the number of trips generated for 155 units. As part of their project, they knew the project was close to several transit routes as well as retail sites and they thought a trip reduction could be considered. In order to establish this, they considered the Bay Area Travel Survey as well as U.S. Census data. They looked at this particular area and found home-based work trips were anywhere from a 15% to 35% walk or bike or transit trip. With that, they assumed a 20% trip reduction which is what is shown in the walk-bike-trip to adjacent development trips. Using the number of trips generated, they then assigned that to the network and she displayed the number of project trips assigned to the network for each specific movement.

As shown in the PowerPoint, Ms. Nadiranto said they are generally adding less than 5% of trips to the network and where shown in yellow is where they are adding more than 5% which is only along the Central Avenue corridor between San Luis Street and San Mateo Street in one particular direction for one peak hour. They added this to the existing network to come up with the existing plus project volumes which she displayed on the screen. They then included this in their simulation to come up with the following results: 1) generally the intersections operate at the same LOS's and do not add any more than 5 seconds of delay at signalized intersections. At unsignalized intersections, these do not meet the peak hour traffic signal warrant.

Moving on from the existing plus project scenario, they also looked at the existing plus approved projects and included the Phase I I-80 Interchange project which looked at 16 alternatives of which 2 were further studied. Phase I is an operational improvement project which would only

be applied during the weekend peak period. It moves westbound traffic along Central Avenue to the I-80 on-ramp to the I-580 on-ramp. It releases some of the congestion at the Jacuzzi Street intersection and brings it to the I-580 intersection. Overall, improved levels of service are shown and less delay along the corridor.

The Phase 2 project would reconfigure Pearce Street to align with San Mateo Street. It would remove the signal from Pearce Street and only allow right in's and right outs and allow for full access on San Mateo Street. It would also add some turn pockets along Central Avenue, a turn pocket from San Mateo Street to Central Avenue.

The Phase I project has completed its environmental studies and is now under construction. However, Phase 2 has yet to be environmentally cleared and is speculative. Therefore, they did not include it as part of their analysis.

Commissioner Kilbreth asked if San Mateo Street going to become one-way. Ms. Nadiranto said no; the Phase 2 assumes it would be adding a signal and there would be full access. Commissioner Kilbreth asked how many lanes San Mateo Street would be as the primary access to the project. Mr. Ridgway clarified it is two lanes; one in each direction with an extra turn pocket at the intersection at Central Avenue. Commissioner Kilbreth said given this, they will need 36 feet plus whatever there is for sidewalks or plantings, and Mr. Ridgway said yes, if using a 12 foot lane. He noted the lanes currently are not 12 feet.

Ms. Nadiranto continued and said with that, they included this in the approved project plus project and Phase I operational improvement on the weekend peak. With the Phase I project, the intersection delay decreases significantly from LOS F to LOS D, meeting the regional route of significance criteria.

As part of their assessment, they also looked at site plan review. Currently, there is a sight distance issue at the San Mateo intersection due to the blind crest curve along Central Avenue. They assumed that vehicles coming from this project site would likely use the Belmont Avenue exit due to the blind crest curve if they are exiting and going westbound towards I-80 or I-580. They also recommend including some way finding signs within the parking lot directing users to the Belmont Avenue exit rather than the San Mateo Avenue exit.

They also looked at pedestrian and bicycle access, understanding there were several transit routes along Central Avenue across the project site as well as a park. Providing enhanced pedestrian facilities would be recommended including a pedestrian hybrid beacon, and they would enhance the crosswalk along Belmont Avenue crossing Central Avenue to provide a pedestrian beacon.

They also looked at parking and she presented a table documenting the number of spaces provided on the site, what is required per the Municipal Code and what would be required if a 25% bonus was approved as part of a conditional use permit. The project site provides 155 units and a total of 239 parking spaces. As part of the Municipal Code, the project site would need to require 293 parking spaces; however, if a 25% bonus were approved, the project site would only be required to provide 220 spaces, so they would provide a surplus of 19 spaces.

Mr. Ridgway said the reason they did not include a cumulative analysis is because this project did not generate 100 or more p.m. peak hour trips. This is the threshold defined by the Congestion Management Program. What they failed to do was explain why that threshold exists and the rationale behind it. Therefore, cumulative analysis is a 20 year forecast and the reason

for not requiring a cumulative analysis on a project that generates fewer than 100 peak hour trips is that the assumption is that the amount of traffic it contributes would be relatively modest in light of the larger cumulative traffic growth. There is also recognition that there is some imprecision to their 20 year forecasts, and this is the reason they fail to cite why the CMP does not require a cumulative analysis.

Regarding traffic and parking, Mr. Ridgway said the subject area is part of the Priority Development Area (PDA) identified by ABAG and MTC. This is a location where high density and infill development is appropriate and where the region would put such development. He noted it also qualifies for CEQA exemptions because it is consistent with the General Plan. They did not take the exemption and did the analysis, but it is important to note that it is not only regional policy, but also the City's General Plan that calls for this to be a high intensity area and the state's practice. There is a recognition that the focus on congestion is one that limits the ability to do infill development, convert mixed flow travel lanes to transit, bike or pedestrian lanes. SB 473 passed last year which says congestion metrics LOS will no longer be an impact according to CEQA which is expected to take effect by the end of this year. Therefore, this is the type of project that legislation specifically targets; not using congestion or parking considerations as a basis to either disapprove a project or reduce it. In addition, the actual impact of parking spillover into neighborhood streets is not a CEQA issue per state guidelines.

Commissioner Kilbreth referred to the map displayed of the project proposal and said he could not find 220 spaces and he could not find 25 freestanding guest parking slots and 155 dedicated unit slots. He said perhaps the schematic was incorrect, but right now the reason there is a lot of angst in the system about the parking issue is not because of the traffic study, but whether the ground floor of the building area is big enough to place 220 parking spaces as is asserted in the table but does not show up on the schematic. Mr. Ridgway said the premise of this point is that no two units should ever share a tandem parking space. Their analysis is based solely on the City's zoning code which does not include this. Commissioner Kilbreth said while he can appreciate how a person could get to that, but he does not approve of it personally. Mr. Ridgway said their analysis focuses on whether the project complies with the zoning code and it does.

Commissioner Kilbreth asked if the schematic is correct or the CAD drawing of the parking layout provided in the packet. Ms. Nadiranto said she counted the number of spaces and there are 239 parking spaces which include both ADA and tandem spaces. Regarding the "unit count", if they were to exclude the 31 guest spaces, then the number of unit spaces provided would be 116. Commissioner Kilbreth said this is the number he arrived at. Mr. Ridgway said this does not change the conclusion about complying with zoning, but does beg the question if the Commission wanted to give guidance.

Chair Lane asked Commissioners for other questions relating to the presentation.

Secretary Langlois thanked Mr. Ridgway and Ms. Nadiranto, Commissioners Butt and Kilbreth for taking the time to meet with the consultants and staff. She referred to the staff report and she confirmed with Ms. Whales that the Commission is offered the option of approving the resolution with the addition of three new conditions 5, 6 and 7. She noted Condition 5 is a minimum of 25 foot setback from the center line of an engineered channel. Also mentioned is that the overlay map designates it as an engineered channel and not a creek. As heard from the El Cerrito speaker and also from a written letter, the map was from 2004 but the El Cerrito Creeks Ordinance in 2008 designated it as a creek.

Chair Lane asked that the subcommittee talk about how they arrived at the recommendations and then Commissioners could focus on these types of specific questions.

Commissioner Butt said he and Commissioner Kilbreth met with planning staff, the City Attorney, Richard Mitchell and a couple of environmental planners. They made their best effort to hash out issues they felt they did not have enough information on. Essentially, these boil down to traffic, parking, creek/flooding concerns, and the issue related to traffic about the accommodation for Phase 2 of the Central Avenue/I-80/I-880 Corridor Realignment. They spent a lot of time talking about the creek and there were several issues discussed. A creek ordinance will be before them relatively soon and while he personally thought and suggested they should wait for in order to properly address the creek, they decided it would be best to treat it as a creek and receive guidance, and the El Cerrito and the County's relationship to creeks. Staff recommended they look at a 25 foot setback from the middle of the culverted creek to the area of which they could build. Much of the discussion related to a concern about whether this truly allowed enough room to naturalize the creek in the future, and they requested but were not provided with input from an expert engineer involved with creek restoration so a determination could be made as to its adequacy.

Commissioner Butt said the other thing they talked about was traffic issues on Central Avenue, and they reviewed the same information provided in the presentation. There was a recommendation that in order to accommodate the Phase 2 work for the Central Avenue traffic congestion mitigation measures, it was suggested to provide a 12 foot setback in addition to what was currently there and this is also in the staff report.

They also talked about parking, but it was brought up that technically, this is not something under CEQA's purview, but it was a concern. That conversation mostly involved whether or not there is adequate parking for guests that is non-tandem and is there adequate parking under the City's ordinance for users of the building, albeit some of this would be tandem. Then, out of that conversation, keeping in mind about the doubling of setbacks, he and Commissioner Kilbreth had questions about how that would potentially impact the density of the project, thinking it would likely lessen the density given they are setting the specification. Another thing brought to their attention which is not a condition is that El Cerrito is pushing for a commercial component here which is intended to be part of the project, although not a conditioned part. Basically, when you take away the setback along Central Avenue and along the eastern edge and add commercial, this significantly potentially reduces the parking and, therefore, would likely have an impact on either the height of the building or density, and they wanted to see this discussed.

Commissioner Kilbreth added that regarding the flooding issue there have been a number of things said in various documents and asserted by different people playing different roles that make any reasonable person nervous about flooding possibilities and many cars on the lower level parking all being under water. The open question is whether the land needs to be built up or what is the engineering solution of being in a 100 year flood plain with floods occurring on Belmont in the past. He said this was a request for which there may not have been time to address, but it is an outstanding item without resolution to date.

Regarding parking, Commissioner Kilbreth said they do not know exactly what these setbacks being discussed will do to the footprint of the building. To put 17 feet from the edge of the creek on two sides, to put 12 extra feet in addition to a better sidewalk and a little bit of landscaping on the Central Avenue side, maybe San Mateo Drive needs another 6-10 feet depending on what the final decision is, they are talking about a 15% impact on the square footage of the total building. While he is not an architect, this seemed to be what the impact was. While they were

worried about that and the analysis was done about how the parking issues work, they could not see 155 units from that and therefore, they do not know what to do with a proposal for 155 units which does not work. He questioned whether they would turn a proposal down or continue it and they left this open. Personally he was surprised it came back asking for 155 units when a 15% reduction in footprint plus the parking problem would not support 155 units. He said he would like to be clear that in the meeting they expressed their reservations about whether 155 units were viable and it is not addressed in this packet.

Planning and Building Services Director Richard Mitchell referred to the flooding issue and the number of units, and explained that the Design Review Board (DRB) is made up primarily of architects. Many of these issues will have to be addressed at that level. After their review, it must go through the plan review engineers and the City's engineering department so issues involving flooding will be addressed. The DRB will look at the envelope, the design, parking count, and let the applicant know whether or not the design works, with modifications being made at that level. He said the Planning Commission has a certain concept and maximum envelope that the applicant cannot exceed. The applicant will go to the DRB and if they cannot comply with conditions imposed, they will have to make unit reductions and modifications.

Chair Lane clarified with Mr. Mitchell that given the various conditions and provisions which were newly added relating to setbacks, parking and others, it is likely that the unit count will change and this will occur at the DRB process.

Commissioner Reyes asked if this process will occur once the density bonus is awarded. Mr. Mitchell said the density bonus is applicable but the applicants will still need to meet the setbacks and other conditions established by the Planning Commission and the applicant is prepared to work within that.

Commissioner Baer asked the presenters to return to the slide on trip generation. She asked if the minus numbers could be put into context by the presenters. She asked if it means there will be fewer walk trips. Ms. Nadiranto said the minus represents the less served vehicle trips due to the number of possible transit, walk/bike trips. Mr. Ridgway said the category 220 is from the Institute of Transportation Engineers Trip Generation Manual. The trips rates are based on studies conducted in primarily suburban locations. They are saying this is not a truly suburban area, so they are taking a reduction in trips associated with this being a more urban transit-oriented location.

Secretary Langlois said in following up on Mr. Mitchell's comments, if the Commission went with the increased setbacks on Central Avenue and where the creek bed is, it would change the footprint of the building. She asked how the height is affected and she asked if there were maximums on height. She said there were concerns about height proposed now and she asked if it could go even higher than that.

Mr. Mitchell said it could go higher at a certain point and these are things that the DRB and applicant will try to work through. He said there are certain exceptions made to height in order to support the affordability, so there will be some flexibility in the height, but any changes will have to be negotiated at that design level. Secretary Langlois asked if the Commission could include a condition in terms of preserving the character of the neighborhood about a maximum height. Mr. Mitchell said with an affordable project, no condition could be inserted that may impact the ability of the project to achieve its mission of affordability. Therefore, it is difficult to determine whether or not this is going to be an issue or not. While people do not like hearing it, the impact of height is quite subjective and it really depends on what the design is. Arbitrary standards do

not always get them to where they will end up and it might be preferable to have something low in the front and high in the back versus something that hits the limit and is a big box. Therefore, he suggested letting the DRB work on this.

Commissioner Butt referred to the proposed setback wording along the Central Avenue site. The wording is that "The Commission requires that the proposed structure be set back a minimum of 12 feet from the Central Avenue property line to allow future modifications to the right-of-way." He asked if this includes the sidewalk in addition to the 12 feet. Mr. Ridgway said yes, it is an additional 12 feet. Commissioner Butt suggested it be reworded, as he believes it does not imply this. Ms. Whales said staff can modify the language to identify that the sidewalk, curb and gutter is in addition to this. Commissioner Butt said he was looking forward to the General Plan being a guiding tool for development in these major hub areas, but unfortunately, because the zoning was never adopted with the General Plan, the City is left in this limbo. The base zoning is C-3 and it has not been brought up to be in compliance with General Plan zoning, so there is a variance of allowable density and other things. The General Plan also talks about how they are to address creeks and the City does not have a creek ordinance, so it leaves them in an awkward place in using their best judgement. Therefore, relative to the creek, he has some real issues there and relative to zoning, he said he does not know what the sidewalk width is in this area. He knows the General Plan encourages walkable and pedestrian-friendly areas. Best practices for sidewalks in these areas tend to be wide, have trees, and have a buffer to traffic on Central Avenue. He is afraid that in sliding this through before zoning is adopted and before the creek ordinance occurs, there are things that should be addressed in zoning that are not.

Another unrelated item is Condition 6, which is that "The permittee shall set back the proposed structure a minimum from 25 feet to the centerline of the engineered channel." He would want to include that not only the structure but site improvements as well. Generally, the idea is that when naturalizing the creeks, they allow enough room for flooding to back up in the creek bank and have a walkway prior to any structure or other obstructions. Therefore, he suggested rewording this and it is also something that could be included in the creek ordinance.

Commissioner Reyes referred to the crosswalk and asked if the consultants took into consideration the added time it would take for people to be crossing the streets and more time delays. Ms. Nadiranto said they did look at the pedestrian hybrid beacon and how it could affect operations along Central Avenue. They found that if they assumed a crossing every minute, the amount of time required to cross the street would result in essentially no delay along Central Avenue. Mr. Ridgway said the beacon is similar to a traffic signal but not precisely, so they would have an interval where pedestrians would be able to walk and vehicles held. There is another interval during which the signals at the top flash left to right. During that phase, if there is a pedestrian present, vehicles are supposed to stop and when pedestrians are not present, vehicles can proceed. Therefore, this gives pedestrians a controlled cross, but it minimizes the delay to vehicles when there is no pedestrians present.

Commissioner Reyes asked if the consultants have discussed the beacon with the police department, and Mr. Ridgway said this is a treatment approved in the California Manual of Uniformed Traffic Control Devices, so they usually do not run these by police when it is a state-wide device.

Commissioner Reyes referred to the setback and asked if it is common to measure from the center of the creek. Chair Lane said this comment was also brought up in letters. Commissioner Kilbreth said he believes it is done both ways.

Commissioner Reyes asked about bike lanes, and Mr. Ridgway said they displayed a map showing existing and proposed bike facilities, and these will not be reduced.

Commissioner Reyes said he appreciates the infill comments, stating that Richmond has strived for this for a long time. He said he could see infill at other locations and said he is still does not have a lot of confidence with this. He presented a photo from Mary Selva showing the project in relationship to the neighborhood and his comment is that it looks out of place and does not fit with the character of the neighborhood.

Lastly, Commissioner Reyes asked the consultant to repeat the argument given regarding the Chevron project, Terminal One project and the Pointe Richmond Transportation Impact Assessments (TIAs). Ms. Nadiranto said the reason they referenced those three projects were that these were TIA's where EIR's were analyzed in the City of Richmond and used the same significance criteria. Commissioner Reyes said he just does not see how this is consistent with this neighborhood project, and Mr. Ridgway said they were not saying they were comparable projects, but that the City does not have an adopted set of significance criteria so they rely on precedent, and these are three studies that establish precedent. Commissioner Reyes asked that this is a good time to fix this problem.

Chair Lane said Commissioner Butt was providing some recommendations to changes in the conditions, and she asked that they be restated during the motion.

Secretary Langlois said she thinks they are moving generally in a good direction, and while they are not quite there yet, she commented on the numbers. She knows it is not the Planning Commission's position to say the maximum number of units that can be built, to put things in perspective they talked about how the General Plan specifies a maximum of 50 units per acre for this site whereas the Housing Elements states 35 units per acre. The Commission was informed that when there is a discrepancy, the General Plan takes precedence. However, the General Plan also states that the maximum density allowed in the range is not guaranteed and is contingent on site conditions, zoning requirements, General Plan policies and project design. So, given site conditions she believes it is clear that the maximum will not fit there. The other interesting thing in looking at the Housing Element numbers, it looks at the Richmond portion of this site which is 2.46 acres. The total with the El Cerrito portion is 2.58 acres, so for 2.46 acres, using 35 units per acre, the maximum housing would be 86 units. However, the chart also says "realistic unit capacity" so apparently the Housing Element went through and identified the realistic based on site conditions, which for 2.46 acres at 35 units per acre would be 52 units. When taking these same numbers and extrapolate them to 2.58 acres which is the full parcel and they go to the 50 units per acre, the maximum number of units is 129, but the realistic unit count would be 79 units. She said 129 maximum units with a density bonus would take them up to 174 and they know the developer realizes that 174 units are not possible and therefore they are at 155. If they take the realistic unit capacity for that site of 79 with a density bonus, it would bring the development to 107 units. So, in a way, the way the Housing Element determines realistic capacity, they would be at 107 units with the density bonus at this site.

She said if the Commission goes in the direction of adopting this with conditions and increased setbacks, she will be interested in seeing what final unit counts they come to. She supports the condition regarding 31 off-street guest parking spaces, supports the condition about the minimum of 12 feet being measured from the edge of the sidewalk and that 12 feet not include the sidewalk. In terms of the creek, she was inclined to go along with the recommendations from the Friends of Five Creeks and add a few feet to the 25 feet so that it is possible to have space

for landscaping and a pedestrian path. She is inclined to include a condition that the project include naturalizing the creek channel, removing the concrete and planting with something like rushes, creating attractive green space and a swale or rain garden, treating non-point pollution and runoff. Since this development is asking for reduced open space, it should make the most of what is available and these are her thoughts.

Commissioner Butt said he supports the recommendations of Secretary Langlois, as well as Commissioner Kilbreth.

Chair Lane asked for more specificity of the setback. Commissioner Butt asked if staff received any input on this, and Ms. Whales said they did; however, she could not obtain a letter in writing because the engineer she asked would have to put his signature on this project and he has no affiliation with this project at all. Hypothetically, he said 25 feet is more than enough and will work.

Commissioner Butt reiterated that El Cerrito requires 35 feet and he thinks his concern is whether it is technically feasible using 25 feet, knowing they only have one side to work with. He asked if this is enough to have a trail beside it or some space for landscaping. Ms. Whales said this would also be engineered by the applicant at the DRB phase, and at this time, staff suggests stated "up to 25 feet." Commissioner Butt suggested asking for more than 25 feet, and Ms. Whales said this depends on the constraints on the site and she cannot speak for the applicant or engineer as the site already has many physical constraints as is. Once they go through the design phase, the subcommittee looked at the County's creek ordinance as well as El Cerrito's and they met in the middle, considering Richmond does not currently have a creek ordinance. Commissioner Butt said while he agrees, this is why it was critical for him to get input from a professional who does creek restoration and with the lack of this information, he would be inclined to not steer towards the conservative side and go with 35 feet. Ms. Whales said this would really put a burden on staff because they would have to indicate 35 feet within the City's ordinance. During the course of this analysis, they would find 35 feet is a considerable distance and they would be locked in for this project. She would want to check with the City Attorney as to impacts on future projects. Commissioner Butt said therein lies the issue of Richmond not having its ordinance in place. He asked if it would be possible to say "This shall comply with the creek ordinance the City hopes to have completed within a month." Mr. Privat stated the Commission cannot apply development standards.

Commissioner Butt said therefore, he would go with El Cerrito's creek ordinance. Mr. Privat noted that under density bonus law, the Commission cannot impose a development standard that would make it impossible to build affordable housing. Commissioner Butt asked if the onus was on the developer to prove this would make development infeasible. Otherwise, he suggested postponing this until the City has a creek ordinance and base zoning to use as something to judge this. For lack of this, he wants to ensure they get a good project which will be consistent with the General Plan's interpretation. While he realizes it does not give the developer everything he wants, he thinks these conditions would allay his concerns about this project. Without them, he was unsure. Mr. Privat suggested conditioning the project as the Commission sees fit and if there is an appeal, so be it.

MOTION: Secretary Langlois said she would attempt to make a motion and asked everybody to remember they want infill housing, affordable housing, housing that is near retail and transit. She moved that the Planning Commission adopt the resolution including new conditions 6 and 7. Condition No. 5 is to be changed to 30 feet and add an additional condition that the plans for

the project must include naturalizing the creek channel, removing the concrete and inserting the planting wording from the Friends of Five Creek.

Commissioner Butt asked for a friendly amendment to amend Condition No. 5; “the proposed structure and site improvements be a minimum of 30 feet from the center of the engineered channel.” And condition No. 6: “The permittee shall set back the proposed structure a minimum of 12 feet in addition to the required sidewalk width per Richmond Municipal Code to the property line.”

Commissioner Kilbreth asked to get all conditions discussed and edited and then to formulate a motion. Regarding a requirement for naturalization of the channel, he does not know what the cost is to the developer and is unsure if it is reasonable. He also does not know what the City’s normal practice is about whether or not anyone would use a pedestrian path along the creek and he questioned where it goes to. He is uncertain about this one segment being naturalized and was not sure he was willing to require this based on his knowledge of the rest of the channel being concrete or not.

Commissioner Kilbreth asked to edit Condition No. 7 to read, “The permittee shall provide a minimum of one off-street guest parking space for every 5 units in the proposed development. All units must have at least one dedicated parking space they have free access to use.” He said this will become an open question of how many units have one parking space and how many have tandem parking.

Commissioner Kilbreth suggested adding that “The setback on San Mateo Drive be established based on consultation with the CCTA.” He said he is nervous as to its narrowness, and would like it called out that the setbacks on San Mateo is an open issue and needs to be signed off on by a transportation agency. Mr. Privat suggested stating “by the appropriate governmental agency”. Ms. Velasco said she believes the Phase 2 project is spearheaded by WCCTAC so they may be the appropriate agency to consult. The condition would read, “The setback on San Mateo Drive be confirmed through consultation with WCCTAC.”

Commissioner Kilbreth said regarding the point about whether the DRB are architects, this is great. In this case he is concerned whether there are any engineers on the DRB and he would like as a condition of approval that “The elevation of the structure and the height above sea level for the parking level be determined from an engineering study and that this becomes available to the Planning Commission as part of the final sign-off.” He also noted that when Shea Homes developed the Bottoms project, it returned to the Planning Commission for final review and asked how this should be structured.

Chair Lane stated typically in this process it would not return to the Planning Commission. It will go to the DRB and then it will pull permits. She asked for an additional condition to read, “Once finalized by the DRB that the project return to the Planning Commission in a study session in order to understand how conditions apply to the project prior to pulling permits.” She clarified with Commissioners that this would confirm that conditions extended and remained for the project as voiced by the Commission.

Mr. Mitchell clarified that once the Commission made its conditions, the design would need to meet those conditions. If the design cannot meet those conditions, the developer would have to return with a request for modification of the conditions and that is the only reason it would return to the Commission. Ms. Whales said she is hearing that the Planning Commission would like to be part of the final design, as currently they are approving the project in concept.

Chair Lane clarified that she is not trying to impede on the DRB, but rather that she would like to understand the conditions and how they were applied in a study session. Commissioner Kilbreth portrayed a likely scenario where the project has many conditions and the building is 12 stories high, and he asked if it would return to the Planning Commission for review.

Mr. Mitchell stated DRB decisions are appealable directly to the City Council so what would occur is if the design meets the conditions set by the Planning Commission, but the community raises concern and appeals, it would go to the City Council who could also refer it back to the Planning Commission or DRB or make a decision.

Commissioner Kilbreth asked to add on more condition to state that, "The height of the building must be 66 feet or less as currently proposed." Vice Chair Choi questioned feasibility issues resulting from this condition and he questioned whether it is wise to state a number in the condition.

Commissioner Reyes said in going back to the 100 year flood question, he sees everything will go up. The average heights of buildings are 22 to 24 feet in height in the area, and with these conditions, he sees more height for the project. Once again, he said they are asking the developer to respond and return with something and he does not see many changes. He sees the Commission doing all of the asking which makes it difficult for him to support the project in the first place. In moving to height, he would like to know what will happen at the base of the building and how will it impact the height. He suggested finding out what it will take to limit the proposed height and then they will have a good idea from the developer.

Chair Lane summarized there are a number of conditions captured and she asked for a motion to include the proposed conditions. She noted they have been working to bring forth proposals to make the project work and she thanked the subcommittee and Commissioners for their comments. She believes the Commission is supportive of an infill development that works on the site and while not addressing everyone's concerns, they are trying to meet most of them and also where feasible. There is a need for workforce housing for Richmond residents. In terms of the naturalization, she does not know what the impact will be for the development and it would be great to have something that guides the naturalization of the entire channel and to put this on the developer and no one else may not be appropriate. In terms of heights, she asked for guidance from the Commission, and she asked for a motion.

Commissioner Kilbreth returned to Condition No. 1 and said it still states 30 years for the affordability, which should be 55 years from the last time. Ms. Whales said the law recently changed on January 1<sup>st</sup> and the developer agreed to go to 55 years and this will be corrected in the conditions.

Commissioner Butt said he still has concerns about this project but is prepared to support it tonight with Commissioner Kilbreth as best suited to make the motion and amended conditions. To him, the creek naturalization is very important to him. They are about to make a precedent-setting move here and while it is true this is only one segment of the creek and there are areas which may not be able to be naturalized in the immediate future, this must happen one segment at a time and supported the full run of the creek be addressed on this site. He thinks the Commission should set the precedent moving forward that creek naturalization is important and the General Plan supports this. He would support approval with all of Commissioner Kilbreth's recommended conditions and the creek condition proposed by Secretary Langlois.

Commissioner Baer suggested taking the amendments one at a time. She likes most of them and would prefer not to have one dedicated parking space and would rather have tandem spaces. Other than that, she thinks this is a very important project and she really likes the naturalization of the creek. She would prefer to know what the impact of the naturalization will be on downstream flooding and they do not have this information before them. She would certainly support this as a new condition and most of the other changes.

Chair Lane said conditions can be stated and the Commission can then vote on them. Commissioner Kilbreth asked and confirmed that Commissioner Baer's understanding is there will be fewer parking spaces with tandem parking than dedicated parking. Commissioner Kilbreth clarified that in looking at the schematic of the building footprint most of the parking is tandem parking so the only way to give every 155 unit a parking place is for some units to share a two-car, tandem space. It is to be determined how many parking spaces there will be and how many units would get two parking spaces as opposed to one, but the point is everybody has one and has clear access to one.

Chair Lane restated the various conditions, as follows:

- Condition No. 1: The amendment is that affordability be changed from 30 years to a minimum of 55 years.
- Condition No. 5: The setback of 25 feet was changed to 30 feet.
- Condition No. 6: The proposed structure is a minimum of 12 feet from the Central Avenue property line inclusive of the sidewalk, curb and gutter.
- Condition No. 7: This relates to the 31 off-street parking spaces and amended to read, "One off-street parking space for every 5 units and all units must have at least one dedicated space with free access." Vice Chair Choi said he was not supportive of this amendment and thinks it is more of a deal breaker and he does not find tandem parking objectionable. Commissioner Kilbreth said his feeling is the developer can make a new proposal. He is open to the possibility that some units do not have any parking. It is more a question of this whole scheme is based on everybody sharing tandem parking which is not realistic to him. The point is that the developer can come back and discuss concessions. Vice Chair Choi said he finds this to be persuasive.
- Add a new condition concerning naturalizing the channel, removing the concrete and creating an attractive green space with a bio swale or rain garden, or generally supporting the wording of the Friends of the Five Creeks letter. Secretary Langlois stated the paragraph starting with "The plans for the project should include naturalizing the channel" she is not sure how best to word this as a condition. Therefore, she suggested following the Friends of the Five Creeks letter and to require a condition to naturalize the channel where it runs on both sides of the property and either use the language in the Friends' letter or other language. Commissioner Butt suggested adding "per best practices." Commissioner Butt suggested adding language to state, "...in consultation with the Friends of Five Creeks" or "best practices. Commissioners agreed with using "per best practices."
- Add a condition to state, "The setback on San Mateo Drive be confirmed through consultation with WCCTAC."

- Add a condition that, “The height above sea level for parking be based on an engineering analysis and best practices for 100 year flood zones.” He noted this is the DRB’s role and wants to make sure they receive a clear message from the Commission. Mr. Mitchell said it is staff working with the engineering department on the flood related issues, so it is a technical issue handled by staff.
- Add a condition, “That the project be returned to the Planning Commission to advise how Planning Commission’s conditions were applied.”
- Consider a condition to state that “The overall height of the project not exceed 66 feet.” Secretary Langlois said there are many neighbors not supportive of this height and if it went substantially beyond, she is not comfortable with leaving the height open ended and supported the restriction. Commissioner Kilbreth concurred and said while there are legal issues and affordable housing concessions, height is clearly one. If this project is medium density residential and there is a standard for 35 feet, going to 66 feet is quite a lot more. He said he did not know if there would be a need to go higher, but he wants to be clear that the idea of 66 feet is already a significant increase. Mr. Mitchell said height is driven a great deal by construction cost and building type and other things like fire exits that will generally control the height much more than needs to be focused on. If the building cannot go over a specific height, the building type must change. He asked to let the DRB work on these types of issues which will determine it more than the added condition. Commissioner Kilbreth withdrew his request for this condition.

**ACTION: It was M/S/C (Langlois/Choi) that the Planning Commission adopts the resolution and mitigated negative declaration and Mitigation Monitoring and Reporting Program, including existing conditions and those revisions and added conditions, articulated as follows: Condition No. 1: The amendment is that affordability be changed from 30 years to a minimum of 55 years; Condition No. 5: The setback of 25 feet was changed to 30 feet; Condition No. 6: The proposed structure is a minimum of 12 feet from the Central Avenue property line inclusive of the sidewalk, curb and gutter; Condition No. 7: This relates to the 31 off-street parking spaces and amended to read, “One off-street parking space for every 5 units and all units must have at least one dedicated space with free access.” Add a new condition that “The plans for the project should include naturalization of both sides of the channel per best practices.” Add a condition to state, “The setback on San Mateo Drive be confirmed through consultation with WCCTAC.” Add a condition that, “The height above sea level for parking be based on an engineering analysis of staff and best practices for 100 year flood zones.” Add a condition, “That the project be returned to the Planning Commission for a study session to advise how Planning Commission’s conditions were applied.” The motion carried by the following voice vote: (6-0-1) Ayes: Baer, Butt, Choi, Kilbreth, Langlois, Reyes and Lane. Noes: None. Abstain: Reyes.**

Chair Lane stated for the record that she believes Commissioners were very diligent, they want to see the project move forward as there is a need for affordable housing in the City as well as neighboring cities and she hopes the project works out. Regarding letters received which discussed zoning of low income or workforce housing, this is called “redlining” which is against the law and the City of Richmond embraces mixed income communities in the City.

Chair Lane announced the appeal period, stating the action of the Commission may be appealed by notifying the City Clerk in writing and paying the appeal fee by 5:00 p.m., Monday, March 2, 2015 stating wherein the Planning Commission's decision is in error.

## **COMMISSION BUSINESS**

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

Ms. Velasco reminded the Commission and the public that the Commission's March 5<sup>th</sup> meeting is canceled and they will be holding a meeting on March 19<sup>th</sup>. There will be various items as provided in the forecasting calendar provided by staff via email. Commissioners Baer and Kilbreth stated they did not receive it.

Mr. Mitchell stated at the March 19<sup>th</sup> meeting, staff will provide a briefing on projects in the queue, an update on the ferry, zoning and the formed based code.

Commissioner Reyes asked if a retreat will be planned. Mr. Mitchell said staff will poll the Commission. Commissioner Reyes said he is seeing a proliferation of waving flags on poles in parking lots and he asked that they be addressed.

Commissioner Butt welcomed Commissioner Baer and said it is nice to have a full Commission again. He wished everyone a Happy Chinese New Year and he reported he was part of an on-going monthly group involved in the future of Point Molate with Councilmember McLaughlin and other community folks. He believes litigation is coming to an end with positive momentum going forward.

Chair Lane reminded the Commission about their completion of Form 700 Statement of Economic Interests.

**3. Adjournment** - The meeting was adjourned at 8:30 p.m. to the next regular meeting on March 19, 2015.