

**PLANNING COMMISSION SPECIAL MEETING  
COUNCIL CHAMBERS, RICHMOND CITY HALL**  
450 Civic Center Drive, Richmond, CA  
May 8, 2014  
6:30 p.m.

**COMMISSION MEMBERS**

Sheryl Lane, Chair	Eduardo Martinez
Roberto Reyes	Andrew Butt
Ben Choi	Marilyn Langlois
Melvin Willis	

The regular meeting was called to order by Chair Lane at 6:32 p.m.

Chair Lane led in the Pledge of Allegiance.

**ROLL CALL**

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

**Absent:** Commissioner Willis

**INTRODUCTIONS**

**Staff Present:** Lina Velasco, Senior Planner; Kieron Slaughter, Associate Planner, Rachel Sommovilla, Assistant City Attorney; Richard Mitchell, Director of Planning and Building Services

**MINUTES** - None

**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, May 19, 2014, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

**CONSENT CALENDAR** – No Items

**STUDY SESSION**

- 1. PLN13-250: Bottoms Residential Project by Shea Homes** - PUBLIC HEARING to receive comments on the Bottoms Residential Project Draft Environmental Impact Report and related General Plan Amendment, Rezoning, Vesting Tentative Map, And Design Review Permit requests. The Bottoms Residential Project proposes construction of a 60 unit development consisting of townhomes and staked flats at Seacliff Drive (Between Sandpiper Spit and Canal Blvd.) (APNs: 560-340-042, 560-340-033, 560-660-073, 560-320-013). C-C-Coastline Commercial District, PA–Planned Area District, M-4-Marine Industrial District. Bottoms Family 1989 Trust, owner; Shea Homes, Applicant; Planner: Kieron Slaughter

Kieron Slaughter stated the Study Session is to receive public comment on the Draft EIR as well as the proposed entitlements for the Shea Homes Bottoms residential project. He introduced Mary Bean from First Carbon Solutions, the CEQA consultant who prepared the Draft EIR and Rob Wainwright from Shea Homes.

He stated he will give a PowerPoint presentation. Mary Bean will go over the CEQA process, and Mr. Wainwright from Shea Homes will provide an overview of the project. He gave an overview of the project scope to develop 60 units of market rate condominiums on  $\pm$  6.23 acres of a 25 acre site, resulting in a density of 9.72 units per acre which is rounded up to 10 units per acre. The project proposes the following entitlements:

- General Plan Amendment (GPA);
- Rezoning to Planned Area (PA)
- Vesting Tentative Map; and
- Design Review Permit

Mr. Slaughter stated based upon comments received to date, most discussion will focus on the GPA for the height exception. The proposed amendment will allow building heights over 35 feet for projects that are rezoned to Planned Area (PA). In order to qualify, a site must be medium density residential and it must be 2 acres or greater. Within this project, the southwest downslope section of 4 of the 9 buildings is proposed to be 46 feet, exceeding the 35 foot height limits.

In terms of the General Plan, the impact of the plan’s adoption is contained in the introduction, which he briefly described. The General Plan is a living document that is amended from time to time. Citywide design principles are called out in bold with context, walkability, connectivity, identity, excellence in design and sustainability. He presented the land use classification for the location located in Change Area 14. In terms of General Plan and height, other jurisdictions such as Mountain View’s General Plan is measured in stories and for them, height is a guideline and additional stories may be permitted by zoning or precise plan standards with the provision of significant public benefits or to advance larger General Plan goals and policies.

The designation of medium density requires 10-40 dwelling units per acre and the density can be a wide range of results and product types, dependent on the site constraints, which he presented examples of in various cities and states. One of the most recently built projects in the Marina is Anchor Cove, and he presented an example of a 23 d.u./acre development, with the majority being 4 stories.

Mr. Slaughter pointed to the proposed project on the vicinity map which is between Canal Boulevard and Sandpiper Spit. He noted there are a wide variety of unique housing types in Sandpiper Spit, the Cove, and a diversity of design as well as some commercial buildings in Brickyard Cove Marina. He concluded staff's presentation on the project and said those who wish to submit comments on the EIR can contact him via email or send a written letter to the City.

Mary Bean, Director, First Carbon Solutions, said their firm prepared the Draft EIR. She presented the aerial map showing that the property extends into the water, and they are looking at the net acreage. She provided an overview of the project units, enhancements to the new section of the Bay Trail along the shoreline, and private green space. The applicant seeks to rezone the entirety of the site to Planned Area. Currently there are four zoning districts on the site including land area, community recreation, marine industrial and coastline commercial. A General Plan Amendment is also being sought as part of the application. She displayed the site plan, showing the setback from the shoreline which allows room for the new trail, and nine buildings totaling the 60 condominium units, private green space.

Ms. Bean said the City is the lead agency for the project. CEQA requires lead agencies to identify, evaluate, disclose to the public and mitigate to the extent feasible the environmental impacts of proposed land use activities. Regarding milestones, they issued a Notice of Preparation in October and held a scoping meeting. The draft EIR was released in March and the draft comment period ends next Monday, May 12<sup>th</sup> at 5PM and thereafter, the City Council and Planning Commission will hear the project during the summer. The Draft EIR found that all project impacts can be mitigated to a level of less than significant and the project would not result in any significant and unavoidable impacts.

She said some key mitigation measures are the standard measures from the BAAQMD, preconstruction surveys for burrowing owls that may inhabit the site, design level geotechnical investigation which deals with subsurface conditions, granting of a design exception for a proposed break in the median on Seacliff Drive or if not granted, a redesign to eliminate the proposed left turn pocket, and pedestrian enhancements at both crosswalks and trail crossings. The EIR is available on the City's website and in hard copy form in the planning department and main library and Pt. Richmond Library. Comments and responses to comments will be included as part of the Final EIR.

Rob Wainwright, Shea Homes, stated they have been developing this project for over two years and going through the process with the community and with the City. Last week they received a recommendation from the DRB for conditional approval after about 7 study sessions and subcommittee meetings. He thinks they have designed a great project for the site, which is an infill site. It was used for industrial purposes in the past and there are constraints on the property. Much of it is underwater and he presented a slide that showed the constraints, including the buffer along the Bay Shore and a Bay mud condition shown in brown that they discovered when doing the geotechnical exploration. He stated that they had originally come up with a plan for 74 units but when they discovered the Bay mud, they had to reduce the number of units to 60. There are 9 buildings proposed. The buildings in front are two stories and set back from the Bay and the 4 buildings in the back are terraced, three and four story buildings. They will include recharge outlets in the garages plumbed for photovoltaic. There will be a community garden, and he displayed how the project steps up and away from the Bay shore. The two story buildings are more than 200 feet from the shoreline and the edge of the four story side is about 240 feet away from the shoreline. He presented an elevation of the two story

buildings and said they use similar Brickyard features and of other nearby buildings with lap siding, shingle siding, metal roofs, varied heights, garages, and 18 foot driveways. He presented a rendering showing the entry to the project, and other sides with two to four story buildings. Amenities include public parking near the entrance with public access to the Bay Trail, a shoreline access ramp, a gathering area with a community garden, trellis structure, BBQ's, dog washing station, and there are trails and connections throughout to the Bay Trail. There is a central corridor through the site which mimics the Bay Shore environment, and he displayed a view of the site design and said he was available for questions.

Chair Lane opened the public comment period.

Public Comments:

Marylou Clarke asked what the point is of spending money in developing a General Plan and then ignoring it, and she asked when do the words "up to 35 feet and not to exceed 35 feet" means a developer can negotiate. She said the first floor of all Shea developments is mostly parking which is an unnecessary 10 feet that could be removed to be in closer compliance with the General Plan. She voiced concern with sewers, waste production in the Canal Boulevard area, rainwater runoff pressure which raised Seacliff Drive 2 inches, exit and egress from the area to/from a two-lane road, emergency access and reduction of property values.

Jenny Balisle said she lives in the Seacliff properties behind the Bottoms development and has attended numerous meetings. Prior to purchasing her property she called what was going to be the maximum height of anything built in the Bottoms property because she and her husband just got out of a property in Berkeley and she wanted to be sure they were able to protect their next investment. They were told that the maximum height was going to be 35 feet and that the General Plan was not a breathable document. She thinks this behavior entices people to purchase properties and she asked the City to support the current property owners and stand with them to not amend the 35 foot limit because it will cause many issues including infrastructure, parking, traffic, blocking views, and other impacts which will reduce property values even further and in addition to all of the short sales and foreclosures.

Rand Blim thanked the Commission for their role in helping to guide order in the world where chaos and self-interest would otherwise prevail and he read off a list of potential impacts. He asked how the Commission would feel if a developer put an option on a lot next door and insisted on building at 50 feet. He asked if Commissioners would be outraged, worry about impacts of property values, views and quality of life, given they know the maximum height is 35 feet. He asked that the adopted General Plan guidelines be followed which homeowners relied upon when making their investment decision to purchase in Seacliff and after contacting the City's planning department.

Sue Spahr Hodges said she is a resident of the Seacliff homes and thinks the Commission should be protecting residents. The EIR states there are no real issues of views or that they are not significant. She asked that when all of the attendees at the many meetings have been discussing heights, there has never been any other alternative suggested in the EIR. Residents have been told over and over that their views are not protected, but she said there is a view ordinance, which is a 35 foot maximum height in the General Plan. She asked the Commission to therefore protect residents from that de facto ordinance. She also contacted the City before moving about the limits of building. She said she was also promised to receive validation of the method used to generate views and asked why it has not been provided, and she asked that Mr.

Wainwright provide this. She said none of the buildings would also be in character with the nearby single family homes, and asked the Commission to do its job and protect the Seacliff residents.

Joan Garrett indicated she was opposed but had left the meeting.

Christopher Holmes voiced concerns with the heights, elevation, trees planned, the Canal Street entrance and the parking issues. The biggest concern is that Shea Homes has not addressed homeowner issues and have not provided alternative options. There is a lack of willingness to work and engage with the community and residents have spent time and effort regarding average heights; however, the issue regarding the General Plan is still huge. When talking about 50 foot heights and blocking views, this is a big impact, and he also said his wife contacted the City prior to purchasing their home. He thinks Shea Homes should figure out how to develop less or smaller units. Regarding elevation and proximity, Building 9 is the closest building to his home and 80 feet from his home and he will look up in people's windows. He referred to page 40, L-1, page 44, L-5, page 45 and 46 in terms of total heights and heights on hills, and they are looking at potentially 45 feet heights.

Brian Mulry, attorney with Gagen McCoy, Danville, said their office represents Citizens for Responsible Development and said their office will be submitting a letter on May 12<sup>th</sup> which will outline all of their comments. It is rare that their office will state that an EIR is fatally flawed, and legally it is because there is absolutely no analysis whatsoever with regard to the General Plan Amendment. There are sections that gloss over the amendment such as 3.1-12 where it states, "The project will include three story and four story buildings, which are consistent with the PA District, the purpose of which is to promote development of large areas and substantial compliance with the principles and standards of the Richmond General Plan." He said it is not consistent with the PA District which now allows for 35 feet in height. He said the Commission is changing a Citywide document if this is approved and there is no analysis in the EIR as to what the GPA will do for the City city-wide. The document needs to be re-circulated and sent back to the public for review after it is done correctly.

Kathryn Dienst said Shea Homes is requesting special privilege at the expense of existing residents. A 50 foot high building allowance in a 35 foot high maximum height area is an extreme and risky request and one that extends heights well beyond the General Plan medium density guidelines or intent. Anchor Cove was used tonight as an example; however, the General Plan designation for Anchor Cove is high intensity mixed use in a major activity center and allows 125 feet. Anchor Cove is in no way comparable to the Bottoms property whose designation is medium density residential, but it does illustrate how the planning staff continues to bias the facts in favor of Shea's proposal. Brickyard Landing is another misleading example. A mix of manufacturing, very high density multi-family zoning and single family existed in the Brickyard area. Today's General Plan was low and medium density residential and since 1994 there is no high density multi-family designation in the Seacliff area. Planned Area designation requires three criteria to be fulfilled; one is consistency with the General Plan; superior design to base zoning and under 51.12 when the General Plan was adopted, base zoning should have been modified for the Shea property to be medium density residential MFR1 or MFR2. Without discussion of alternatives that could be developed under 35 foot base zoning, no superiority claim can be made; the third is public infrastructure needs a closer look combined with Terminal One which will also share the utilities and public infrastructure and will be built in an overlapping timeframe. She simply asked that the development comply with adopted ordinances.

Margaret Jordan, President, Pt. Richmond Neighborhood Council, thanked Shea Home representatives for their constant involvement of the community in their planning; however, unfortunately, she said they did not come to an agreement. When they first saw the first concepts of the project, it was attractive, but they were extremely concerned that because of restrictions on build ability of some areas, 4 of the 9 buildings would be over the 35 foot height limit. They oppose the attempt by the City to get around the General Plan by averaging the height and now the request is to rezone the area to Planned Area with building heights of up to 50 feet which requires a GPA. They are opposed to the precedent of a post-hoc amendment of the General Plan to accommodate specific projects that do not conform. They therefore request the project stay within the 35 foot allowable height.

Kitty Zahradka said she will be impacted negatively by the high buildings and it does not seem fair to allow developers and take advantage of existing residents and paying taxes. Their home has a narrow but peaceful view out across the bay in both directions and they hope to enjoy their view for many years and she asked to keep the height limit to 35 feet.

Jim Zahradka, 311 Seacliff Way, said they purchased their home in 2012 and they own a condo in Brickyard Landing which they purchased in 2004. They request that the Planning Commission consider not moving forward with approval of plans to develop the Bottoms property at this time. An important and basic question has not been addressed—does the Brickyard Cove have the carrying capacity to support a total of 386 new units currently being discussed. He urged the Commission to direct staff to return with information on how to consider the impact of both projects simultaneously to the residents of the Cove and to address the need for additional infrastructure. He asked that their quality of life continue as they like living in their community.

Marco Gonzales, 512 Seacliff Place, said this project would have a severe impact on the view and property value on their home. He opposes the proposal because of the immediate impact he and his family would suffer as well as implications for the local community and future development in Richmond. He asked the Commission to make a decision that favors homeowners and not developers whose primary motive is profit. Shea Homes has not been forthcoming regarding the areas of height, renderings, story poles, views, and he cited their refusal to subject their renderings to peer review. Building size is another issue and it appears that the largest buildings have a footprint of 11,600 square feet. His entire lot has a footprint of 3100 feet, and these buildings are unacceptable in height and size and will dwarf all nearby homes and are a mismatch for this location. He said the guidelines of the General Plan have been disregarded and the project is not right for the location.

Kim Cox, Brickyard Landing, said she was astonished when she first heard about the project. Many people were involved with the creation of the General Plan which was to last 20 or more years. The zoning ordinance and regulations back up and implement the General Plan, and it is clear that the height standards are 35 foot heights. She questioned how the City can spot zone to the highest bidder and she thinks that the issue of waste generation and the City's stressed sewer system is worry some as it will just travel into the Bay.

Victoria Goins, Seacliff, said at previous meetings she was dismayed at how the developer acted and she contacted developers and real estate experts to get information. She noted blockage of views would impact residents at a minimum of \$150,000 per household. This does not account for the negative environmental impact of fumes from vehicles, construction and noise, and to her the project is just a disaster and is too big. There are miles of beautiful shoreline yet to be developed and this project is not necessary.

Andres Soto said when he was on the Planning Commission, they adopted the General Plan with a vision to having a more just, healthy and inclusive City. They looked towards the future of changing the infrastructure to one that is more people-friendly and more sustainable. It appears there is a bait and switch on the issue of height by taking an absolute number and turning it into an average. This was not the intent of the General Plan. Having not read the EIR, he heard nothing about inclusionary housing, what the in lieu fees would be and he is deeply disturbed about the idea of a private park within the development. He asked about mitigation for sea level rise, particularly given Chevron's project which will spew more emissions into Richmond. It appears that the alternatives to excessive heights were not explored in the EIR, and he noted that Shea Homes is a significant contributor in City Council races, so he asked the Commissioner to simply follow the money.

Dennis Shusterman presented a series of slides to the Commission and referred to Seacliff Park which is between 510 and 512 Seacliff Place is enjoyed by neighbors and community groups and he displayed a slide of the view impact which to him is significant. He said about 2/3 of blue water views is gone and it is cited as non-significant impact, and the EIR needs to be addressed. He then presented a panoramic view and another view of the Ford Building. If a 6 foot person sits at a park bench, the view would be gone. Added by the DRB were trees on the south side and he displayed the trees as grown which would also block views.

Beverly Galloway, Sandpiper Spit, said she is for the project and she has plenty of other neighbors who support the project. After having seen what Toll Bros. proposed years ago, it would have resulted in 60-70 foot tall buildings. She thinks Shea Homes has done a good job in communicating with the community. The project has the least impact, is designed to fit well into the community, it looks good, and she is very much supportive of the project. It is not a boilerplate design and it has interest and thought going into it.

Commissioner Butt said Ms. Galloway mentioned there were others supportive of the project and alluded to the process working with the developer. He asked for her to comment briefly on this and asked how many people were involved in that process.

Ms. Galloway said the group she was involved with was active and against the Toll Bros. project for Terminal One and a project for this site. Shea Homes contacted this group and asked to meet with them. They met, showed them the design principles that came out of the charrette that created the ideas of design for Terminal One, but for all developments in the Brickyard Cove area. This had to do with circulation that left the foreground available for people rather than just the project, massing towards the back, stepping down towards the front, and the first meetings were open-ended. After two or three subsequent meetings, Shea came back with sketches and designs were better flushed out.

Secretary Langlois said she understands that this is the time when comments are being given for the Draft EIR. She has some questions and would like them adequately answered in the Final EIR. She said she likes the fact that the project is infill, multi-family, that it includes the Bay Trail, open space, green corridor and stream, and this is on the low end of the 10-40 units per acre density. She asked if the DRB made a determination on the project. Mr. Slaughter said the DRB made a recommendation for approval unanimously, with heights as is.

Secretary Langlois said in terms of the GPA, the fact there is an amendment does not bother her. She understands that adjustments may need to be made from time to time. She thinks

having some residential at the south shoreline will make it necessary to have the Zeneca site cleaned up. However, for this project, even if this were to go through, Planned Area would limit the height to 50 feet maximum and on the uphill side, buildings would remain at no more than 35 feet. She noted that the Bottoms property is the only undeveloped property in the City that is seeking to be rezoned to Planned Area; however, she thinks there are other areas where this might also be coming, such as the Terminal One and South Shoreline.

Regarding questions raised by speakers, Secretary Langlois said she did not read the EIR word for word, but she wants to be sure questions are addressed about sewer capacity, rainwater runoff, drainage, and traffic impacts. In terms of height, she said it is somewhat disturbing that people have been assured there would be no more than 35 foot heights when they purchased their property and she asked for clarification about that. She referred to the view point renderings and she thinks they should be subject to peer review.

She also noted that she was surprised to see that the one alternative described has a development that is much denser and something very different from this and not a serious alternative, whereas the developer was aware at the time that the primary concern of the community is the height. She asked if there could still be an alternative evaluated that has similar development that does not go above the 35 feet.

Lastly, Secretary Langlois said one speaker mentioned inclusionary zoning and the inclusionary housing. While this project does not include any affordable units, she asked how much in-lieu fees the developer would be paying to the City. Mr. Slaughter noted this occurs at the building permit stage.

Vice Chair Choi said it is clear the height is the main concern, but he was concerned with the way this discussion is taking place, as the actual effect of height is below 35 feet and where it exceeds this is because of the terrain of the area. By setting back the building further it would impinge more and not less on the view and he worries whether or not arguments are more opportunity than for substance.

Commissioner Reyes thanked everybody who came out to the meeting to speak on the matter. He noted that they worked heavily on the General Plan and part of the frustration was its language. He asked not to diminish the hard work people did for the community, but some of the language is nebulous which he briefly described. He recognized issues where people want to preserve the Point but he cannot see people changing it to what it is not. He thinks the alternative needs to be looked at seriously, and he wants to see something true in nature and in spirit.

Commissioner Martinez said he has a problem with amending the General Plan, which was done with the spirit of low density and he was told that the 35 foot was an oversight, which he does not believe. He questioned how a developer could come and design something that did not meet the City's height limits, except for making it work for them financially. While the plan has a lot of great things to it, and it is better than the Toll Bros. project, the residents bring up valid points. There are two projects planned for the area; Terminal One and the Bottoms project, and it seems that the EIR's have been planned separately without taking into consider the combined impact of both developments. When they develop a shoreline, it must be taken into totality and until looking at the impact of both developments the EIR is deficient and needs to be explored further. He said he thinks the plans are good plans but unfortunately he did not read the EIR entirely but simply comments from people and organizations. There seems to be

questions relating to capacity for sewage, issues regarding the water table rising, and before approving the project, he would need more information on mitigations to address these impacts.

He said when an amendment is made to the General Plan, it is for any planned area and the Commission would be disregarding the spirit of the General Plan by making an amendment for this, and he does not believe the Commission should be tinkering with its spirit.

Commissioner Butt said based on his review of the EIR and in listening to comments tonight, the issue of the sewage concerns him and he would like to see this thoroughly and adequately addressed. Similarly, stormwater issues are apparent and he would want to see these adequately addressed. Regarding the discussion about story poles, he thinks that ideally given that views are a core issue with people who spoke tonight, there could be additional exploration about either story poles or a peer review on the view simulation so the Commission can make an accurate decision. Finally, he would like to adequately address the increase in traffic flow both into the area and into and through the site. There is one ingress/egress on two points on the site and he suggested there be more both for emergency vehicles and general travel throughout the development. He said he thinks this project is a good project. While he completely understands concerns about losing views, as Commissioner Choi stated, the site initially was a free-flowing hill and if this were the case, there would be 35 feet allowed that would completely obstruct views of the homes there. The majority of homes in Seacliff has a lot of major flaws that he would like to have seen addressed during its approval, but the vast majority of their views are obstructed by homes across the street. Therefore, he can understand why certain people would want to protect their views, but this project goes a long way towards meeting concerns. He thinks this is one of the better projects that has come to Richmond and has many amenities that he thinks will increase the value of homes.

Additionally, Commissioner Butt said the issue that former Commissioner Soto brought up about the private park, he was not clear on this. His understanding is that the park would be available in addition to the shoreline for public use. He would also like to see the concern of sea level rise addressed as well when considering the final EIR.

Chair Lane thanked for everybody who came out to participate and provide their viewpoints. Regarding the idea of General Plan amendments, they can legally be amended up to 4 times per year in the City. The concern here is for spot development, but overall there was a lot of public input during its update process, and there are reasons and rationales for why they should be amended over time. The biggest concern heard are issues relating to views. She knows views will be impacted and in looking at simulations, they will not be the same as people have now. Overall, she feels this is a good project. She shares concerns about the various alternatives and whether these were taken into account and she asked to state what those were and the impact of this if brought down to the 35 foot height limit.

Regarding impacts to drainage, this should be firmly addressed for every project. Regarding the issue of affordability, people fear inclusionary housing, but it is clearly meant that it is for people of all income levels. The City needs to take the issue of affordability seriously and the question is never answered. Developers would rather contribute as an in lieu fee and she would continue to push for on-site affordability. She said there were questions in terms of the public's engagement with the developer and computer-simulated generations, but it seems like this would be something that the developer could work with on those interested. She noted there is still plenty of time for comment on the project.

Mr. Slaughter summarized, stating that the public comment period closes on May 12, 2014 at 5:00 p.m. and comments can be submitted to him via email, written mail or delivered. Staff and the applicant are working to get a consultant under contract to do a peer review of the visual simulations. He noted there is not an application submitted for Terminal One, so staff has no information on it to compare again. In terms of the 50 foot height, the maximum height of the buildings that would exceed the current height limit is actually 46.3 feet, and no buildings are proposed to reach 50 feet. Regarding those units closer to Seacliff reach those heights, he said whatever is approved in the project plans is what they will build. If they wanted to modify the plan, they would have to restart the process.

Commissioner Martinez said instead of a General Plan Amendment, he asked if it would be more expedient to do a variance. Mr. Slaughter said they did discuss this, and early on the application was for single family homes which needed no variances or General Plan amendment. Due to the density requirements of 10 units/acre, when the developer modified their proposal and performed analysis which determined they could not build on certain locations, a General Plan amendment was applied for. A variance cannot be done for a General Plan modification, which is something new the City is experiencing. He noted the General Plan amendment would cover any medium density site that is applied for a Planned Area designation which requires City Council approval. These sites are rare because 2 acres of developable land is needed to be considered for a Planned Area and it must be medium density. He said approval of this project would severely impact the abilities of the Terminal One development in terms of meeting sewage capacity and traffic impacts. Mr. Slaughter said he does not believe this is the case, but the application is not submitted yet but when it is submitted, it will go through the same environmental impact review as this project. He noted staff has received very thoughtful and positive comments on this project and the consultant will respond to each one.

Commissioner Butt said he is familiar with Planned Area and thinks it is an appropriate mechanism. He confirmed it must go to the City Council, environmental review process, and he asked if this was included in this EIR. Mr. Slaughter said yes. Commissioner Butt referred to the height issue he asked if the City could stipulate that with a Planned Area that heights be tiered. Mr. Slaughter said he believes this may be okay to be added which would add a higher level of control. Commissioner Butt asked what the last site with a Planned Area designation was, and Mr. Slaughter said almost all recently approved projects have received this designation, such as Summer Lane in Hilltop Mall, the Anchorage in Marina Bay, Anchor Cove, and Seacliff Estates. He noted that there were no height limits at the time in the General Plan so they wrote their own zoning.

Commissioner Butt said if the Planning Commission's decision is appealed, he asked if this would be heard by the City Council. Mr. Slaughter said staff would be seeking a recommendation by the Commission to the City Council.

## **COMMISSION BUSINESS**

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

#### **A. Timeline for Review of the Chevron Modernization Project**

Chair Lane asked Secretary Langlois to summarize the item.

Secretary Langlois said she asked for this to be agendaized because of her concerns with the timeline. The Commission was told at its last meeting that there had to be a minimum of 10 days between the issuance of the Final EIR and the hearing to issue the permit. This may be an adequate timeline for some projects this is an incredibly complex project. The EIR is three binders and she is aware that many comments and questions have been raised on the draft EIR so they are anticipating new pieces of information to be included in the final EIR. Therefore, they will need more time to give the public and the community a chance to fully evaluate whatever new information comes into the final EIR.

She stated that the application came in June of 2011 and the EIR has almost been three years in the making. With a project of this magnitude, she thinks giving an extra 20 days will not hurt the process and she requested this be done. She said the Commission would most likely receive it in early July instead of on June 19<sup>th</sup>. If there is an appeal, the City Council may not be able to complete it before their August break, but certainly soon after by the middle of September. She believes the impact would be negligible. She proposed to reschedule the Planning Commission's hearing to be at least 30 days after the FEIR is issued, with an additional caveat. She was informed by Councilmember Butt who is concerned they get the entire thing finished before the August break. He feels strongly about this and is planning to bring a City Council item on May 20<sup>th</sup> to the effect that if the Planning Commission cannot complete its decision on this project by June 19<sup>th</sup>, his motion would be that the City Council strip the Planning Commission of its authority on this case and take over review of the project. She voiced concerns with this and questioned whether or not this is legal. If the City Council were to take this action, she would suggest the Commission do the best it can to review the FEIR. She asked for a legal opinion as to whether or not this can be done.

Rachel Sommovilla, Assistant City Attorney, stated that if a Councilmember made such a motion, staff would certainly analyze it at that time. They generally have broad authority under its charter, but it would be difficult to provide a legal analysis without such a motion.

Chair Lane opened the public comment period, and afterwards, she asked Ms. Velasco to share information about the 20-day timeline and any impact.

Public Comments:

Stephanie Herby, Richmond, asked that due diligence be done on the project. She was new to Richmond when the explosion occurred. She was told that the City Council did not approve the modernization project for Chevron and Chevron said if they were allowed to finish the modernization project they would not have had the risk of the incident. Now they have a new Draft EIR, it has nothing about modernization of the plant, but only a portion of the plant. The mitigation is to have live people stand there and watch for safety. She now has learned that new recruits are college graduates that do not have the experience like those with 20-30 years with experience. She asked for whatever time is needed to allow for it and not rush.

Robin Loretta Jennings, Richmond Refinery worker, stated the modernization project means a great deal to her. She is involved in the community, weighing in against her company and the community and the two do come together. The project means work for people, money and funding projects, that Richmond will be cleaner, safer and better as a community. She asked that the Commission take the EIR into consideration and conduct due diligence to make certain they make a good decision. She asked to move the project forward and get the project completed for everyone.

Sylvia Gray-White, Richmond, said pre-meditated murder is when deliberately making preparations of instruments that will kill someone. The current chemicals emitted from Chevron are poisonous, kill people, and cause climate change. If fossil fuels are not stopped, no one will be here in the future because Earth will not exist. She said the City should not allow anyone to continue what Chevron is doing for the sake of money. When such a malicious act of humanity is approved, the Commission is an accomplice and is responsible for the fact that Richmond has the highest rate of cancer in the state of California and has hospitalized more asthma patients than any other city. She said this cannot be a part of Richmond's Pride and Purpose and it must stop. No net increase is not what Richmond needs and she asked to stop murder by poisoning. People are entitled to life, liberty and the pursuit of happiness and she has experienced health problems from this. She asked that Chevron must go.

Gregory Reed, 9-year Operator, Richmond Chevron Refinery, said his family is all from north Richmond and he is here to support and help promote the modernization project. People need a healthy environment to live in, they need the means to support themselves and their families which requires a healthy economy, and the project can help in these areas. They will be able to maintain and sustain a healthy environment, add good jobs to support the economy, He thinks the project is a win/win for everybody involved and he asked that the Commission move forward on the project as soon as possible.

Mark Plubell, Concord, said he represents the heat and frost insulators and iron workers, Local 16, Northern California and this project was going on years ago and was probably stopped for good reasons but at that time, he was forced to sell his house. The more time the Commission spends going through the EIR, the more time union members will lose their jobs and houses. He has 20% to 30% of his workers unemployed for the last 6 months and it is not getting any better. He said the modernization project will make the refinery safer and he asked that the Commission move forward.

Jeff Kilbreth, Richmond, said he lives about ½ mile from the refinery, supports the modernization project as it can be negotiated, and he questioned if this can be done on a fast timeline which would be great. He said the Commission is supposed to not only listen to the community but also make a wise decision, and the project as proposed produces unnecessary pollution. It is not a win/win because most people's focus is on the jobs. There are real environmental issues here and real pollution issues. He read the Attorney General's letter to the City of Pittsburg talking about the West-PAC DEIR was inadequate and he has also read the Richmond Refinery DEIR and if a good lawyer is involved, the project would probably be shut down. He asked to honor the process and make sure the consultants and Chevron produces good answers to all of the questions, and if so, a compromise should be found.

Andres Soto, Richmond, said he thinks everybody is in agreement that Chevron's management and indifference to this community by running the refinery into the ground and creating the explosion that occurred on August 6, 2012 is a fact. Therefore, everybody wants to see the refinery upgraded and cleaned up in moving away from fossil fuels. He said in much of his career he had to deal with land use and spoke about residential gun dealers. They held 4 Planning Commission meetings and 3 Board of Supervisor hearings which was far less complex, but he is frankly dismayed by comments of Councilmember Butt in light of his poor gangster behavior in 2008.

1:55:01.9

Dennis Dalton

Fred Glueck

Katrinka Ruk

Vivian Huang

Jerry Hunt

Bob Lilley

Timothy Jeffries

Harlon Jordan

**Adjournment** - The meeting was adjourned at 9:10 p.m. to the next regular meeting on May \_\_\_\_\_, 2014.