

**PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL**
450 Civic Center Drive, Richmond, CA
January 15, 2015
6:30 p.m.

COMMISSION MEMBERS

Sheryl Lane, Chair
Andrew Butt
Marilyn Langlois
Ben Choi, Vice Chair
Jeffrey Kilbreth
Roberto Reyes

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

Chair Lane led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Sheryl Lane; Vice Chair Ben Choi; Secretary Marilyn Langlois, Commissioners 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

April 17, 2014:

ACTION: It was M/S/C (Butt/Choi) to approve the minutes of April 17, 2014, which carried by the following voice vote: (6-0) Ayes: Butt, Choi, Kilbreth, Langlois, Reyes and Lane. Noes: None; Absent: None.

July 9, 2014:

ACTION: It was M/S/C (Butt/Choi) to approve the minutes of July 9, 2014, which carried by the following voice vote: (6-0) Ayes: Butt, Choi, Kilbreth, Langlois, Reyes and Lane. Noes: None; Absent: None.

July 10, 2014:

ACTION: It was M/S/C (Butt/Choi) to approve the minutes of July 10, 2014, which carried by the following voice vote: (6-0) Ayes: Butt, Choi, Kilbreth, Langlois, Reyes and Lane. Noes: None; Absent: 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, January 26, 2015, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

CONSENT CALENDAR

Chair Lane reported that the Consent Calendar consists of Items 1 through 4. The Commission and the public requested removal of all items and therefore, there are no Consent Calendar items for approval.

Public Forum – Brown Act

Cordell Hindler, Richmond, suggested a new hotel in Richmond which will bring tourists and revenue to the City. He also suggested new recreational facilities like playgrounds for kids.

Ms. Whales asked and confirmed with Chair Lane that Item 3 be moved up ahead of Item 2.

NEW ITEMS

- 3. PLN14-314: Expanded Hours for Off-Sale Beer and Wine at Arco Station - PUBLIC HEARING** to consider modifications to an existing conditional use permit (CU-260) to extend the hours of alcoholic beverage sales from 9am to 11pm to 6am to 2 am at 12890 San Pablo Avenue (APN: 523-021-017). C-2; General Commercial District; BP West Coast Products, owner; Nasreen Saleem, applicant; Planner: Jonelyn Whales; Tentative Recommendation: Conditional Approval.

Ms. Whales gave a brief overview of the request by the applicant to modify the existing CUP for expanded hours for off-sale beer and wine at an existing Arco Station. Currently, hours are 9:00 a.m. to 11:00 p.m. and he would like the hours extended to 6:00 a.m. to 2:00 a.m. Monday through Sunday, which is similar to other operating businesses in the area. The existing Type 20 beer and wine license will not change as a result of the request, but simply extension of hours. The applicant has had the CUP since early 1990's and the service station has been operating since 1957 in Richmond. The application was also reviewed by the City's Public Safety Commission and requested extension of hours prior to coming to the Planning Department. The Public Safety Commission meeting minutes are included in the packet and requests 5 additional hours. Public Safety staff is present and prefers the applicant extend the hours by one hour versus extending operations from 6:00 a.m. to 2:00 a.m.

Chair Lane confirmed there were two speakers for the item. She asked for the applicant's presentation.

Nasreen Saleem, applicant, stated she is here to request modifications to their CUP to extend alcoholic beverage sales from 9:00 a.m. to 11:00 p.m. to 6:00 a.m. to 2:00 a.m. The reason for the request is to simply match what is already approved for surrounding businesses in the area. Currently she pays an average of \$16,300 in business license taxes per month and with modifications, it will increase by 10% which will also help the City. Customers who stop for gas cannot currently purchase alcohol and must go elsewhere, and therefore, she is losing gas business as well. The request is for convenience purposes which will help her and her family as

well as the City. She has over 200 customers' signatures in support as well as business letters, along with 600 signatures that came in after staff's deadline.

Commissioner Butt asked for other businesses in the area that stay open until 2:00 a.m. Ms. Saleem said Smart and Final and the Valero Gas Station are both open late.

Commissioner Reyes asked if the applicant was requesting the Commission to be able to sell alcohol earlier in the morning and later into the evening to early morning hours. Ms. Saleem said yes, similar to all other businesses with the same hours. She added that they pay all the same fees and she did not believe she should have such restrictions. Commissioner Reyes asked why alcohol sales were needed early in the morning and very late in the evening. Ms. Saleem said it is not just alcohol but for gas purchases, to match other business operations in the area, as well as to be fair.

Commissioner Reyes said the Commission hears requests for extended hours from other business owners and he thinks in Richmond it is difficult to add more hours when making alcohol available.

Chair Lane said there was a Public Safety Commission meeting in November and she asked that when Ms. Saleem came before the committee, the request was to extend it for an hour. Ms. Saleem said this was a mistake and the request was what she is asking for tonight of the Commission. She said since she has taken over, there had been many problems, but since she has owned the station, they have made a lot of changes and no problems exist.

Secretary Langlois asked and confirmed they sell only wine and beer and no single cans or hard liquor. She said she is familiar with the area and asked if Valero Station has a permit to sell wine and beer from 6:00 a.m. to 2:00 a.m. Ms. Whales said yes; under their current CUP, and Public Safety staff can identify the additional businesses in the area that are open. She added there is a bar across the street and they have one as well. Secretary Langlois asked if there have been any problems with the Valero Station, and Ms. Whales suggested the Public Safety staff person step forward and respond. Ms. Whales also noted that their recommendation is to allow an additional hour; from 9:00 a.m. until 12:00 midnight.

Chair Lane opened the public comment period.

Public Comments:

Scott Littlehale said he lives very close to the gas station and said the bar across the street has been limited in hours and he believes their permit has been modified. He is not aware of the Valero Gas Station hours, so his comments are only to confirm hours of surrounding businesses. The Smart and Final store is across the City's boundary line and in San Pablo and he said he will leave it to the expertise of the Police Department to answer questions.

Cordell Hindler, Richmond, said he is against the added hours, stating he goes by the station regularly, does not believe it should be allowed, and he supported one additional hour be allowed.

Naomi Williams, West County Alcohol Policy Working Group, said there should be no changes in the operating hours. She spoke with adjacent neighbors who do not want the hours

increased. The police department also supports no changes, and she suggested leaving the CUP as is.

Chair Lane called on police staff to comment on the application.

Sergeant Mike Rude, Regulatory Unit Sergeant, Richmond Police Department, said they oversee all ABC regulatory stores that sell alcohol within the City as well as marijuana collectives and other regulatory items.

Detective Oliver, Regulatory Unit, also introduced himself.

Sgt. Rude said the department opposes the modification of hours between 6:00 a.m. and 2:00 a.m. As was previously stated, the applicant requested a one hour extension to 12 midnight which they are not opposed to. The other businesses in the area such as Rose and Mike's Liquors prohibit sales of alcohol during the week past 11:00 p.m. and Friday and Saturday is up to 12 midnight. They have several other conditions under their ABC license such as single sales of alcohol. Mira Vista has the same conditions, which is located a couple of blocks down from the Valero Station. The bar across the street from the Arco Station is no longer operating and is now a bakery without alcohol. These are the only 4 businesses between McBride and Barrett Avenue corridor that sell alcohol, and Valero Gas Station is the only business open until 2:00 a.m. Police has had some issues with Valero with regard to sales of alcohol to a minor. They had two incidents in the last year where they sent in decoys to the location and the clerk sold alcohol to them.

Commissioner Reyes said he will often get gas at the station and then get on the freeway. He asked if there is any interaction with CHP in ticketing and drunk driving in that area. Sgt. Rude said he cannot speak for the CHP because he does not have their statistics; however, police is very busy on weekends with hit and run collisions and DUI arrests which is a continual problem on Friday and Saturday nights. Additionally, with the extension of alcohol sales there is also the potential for other illegal activities such as prostitution, public intoxication, mischief, burglaries and vandalism and this is what they want to avoid.

Commissioner Kilbreth asked what Sgt. Rude thinks about fairness and what Ms. Saleem said. For instance, if someone gets off their shift at 11:00 p.m. or midnight and they want to pick up alcohol when getting gas which is normal, and if they can do it at Valero and cannot do it at the Arco Station, he did not believe this was right or fair. Sgt. Rude said the conditions are set forth by the City and ABC. He does not know what the process was to set the current conditions at Valero but there was clearly a reason to set forth conditions at the Arco Station at the time, which is from 9:00 a.m. until 11:00 p.m.

Commissioner Kilbreth asked if the hours at the Valero Station be changed. Sgt. Rude said he would suspect if they have issues which they have in the past, they could petition ABC to change their hours. Commissioner Kilbreth said he believes this is a question of fairness and cannot see telling one station they cannot have extended hours when the gas station a block or so away can have extended hours.

Detective Oliver noted that many conditions in that corridor were changed because of problems with prostitution, loitering and other violent crimes in the area. Honestly, it would be best if none of them could sell until 2:00 a.m. because these problems no longer occur as it is based directly on conditions from alcohol establishments.

Commissioner Kilbreth said he was impressed that all businesses around the Arco Station, some of which he has been to, supported the applicant. They trust the business as being stable; they are building good roots in that neighborhood, so he would not have thought that as many local neighborhood businesses would have supported their application if they were a problem. Secondly, he does not think it is fair for the two gas stations to have different hours. He asked whether the Commission should table the item and have police return with whether the Valero Station hours could be changed so all businesses operate until midnight.

Sgt. Rude said businesses that have had ABC permits much longer prior to their deemed and approved ordinance had virtually no restrictions placed on their licenses. Some of the liquor stores that have been in business since the 1980's are problems for police now have no restrictions. They are attempting to work with planning and place restrictions on one liquor store not in this area via a CUP, but to his point, the older businesses did not have any conditions. Newer businesses or when there is an ownership change must have conditions on their CUP which is the reason there are different conditions on different businesses. As far as what is fair, he can submit police has had problems with Valero and he would not be opposed to changing them to midnight; however, he thinks extending the hours or adding 6 additional hours to sell alcohol will create some issues police will not be in favor of.

Secretary Langlois thanked police officers for their input. Regarding decoys sent to Valero Station and incidents of them selling to minors, she asked if decoys have been sent to the Arco Station. Sgt. Rude said they have sent decoys two or three times to the Arco Station and they have not sold to a minor. They have a good record of checking I.D.'s and in March of last year, they did a statewide shoulder tap operation where a minor will approach a customer outside a business and ask whether or not they will purchase alcohol for them, and they did arrest a person outside of the Arco Station for this operation; however, this is no reflection on the business owners of Arco.

Secretary Langlois said she is also concerned about the issue of fairness. At the Valero Station, she asked what has been the police's experience between the hours of 11:00 a.m. and 2:00 a.m. and whether there have been problems related to the fact that people can buy wine and beer there. Sgt. Rude said he did not have these statistics. Secretary Langlois asked if it is ABC or the Planning Commission that determines hours of alcohol sales. If there have been problems, could the hours be reduced such that both gas stations operate 9:00 a.m. to midnight. Ms. Whales said this is possible and in fact, this is the process under the current ordinance all alcohol related businesses must go through. Staff will make a recommendation to the Planning Commission for certain hours based on information received from the regulatory agency. Hours are set by a combination of both; the City recommends the hours and ABC sometimes will go along with these hours given a business's record.

Secretary Langlois asked what would be the way to accomplish both gas stations having identical hours. While they could increase the hours for the Arco Station, she asked if it was possible to decrease Valero Station hours.

Assistant City Attorney Privat said under the City's ordinance, Article 15, there are revocation and modification provisions. There is modification for cause and a public hearing process like a mini-trial where one would go through to force a modification on any existing CUP.

Chair Lane asked if there would have to be some violation of Valero's permit, and Mr. Privat said yes along with a noticed hearing, facts, findings, etc.

Commissioner Reyes asked if a motion be made to approve the recommendation to midnight and then study the Valero Station area. Mr. Privat said the Planning Commission can initiate a hearing on revocation or modification of a CUP. The ordinance speaks to the Commission's ability to request a hearing so the way it has been set up is there is an agenda item that asks the Commission whether it wants to have a hearing on the issue and then they would decide at that meeting whether the Commission wants to have a revocation or modification hearing in the future.

Chair Lane said for this process to occur and be initiated, she asked if there would need to be violations or not, and Mr. Privat said yes; the Commission would have to have findings to support having the second hearing. Otherwise, there would be no basis for the modification.

Chair Lane asked for the applicant to rebut any comments.

Rebuttal – Applicant

Nasreen Saleem, applicant, said Valero Station also sells single cans of beer and she only sells the large cans or six-packs and larger. Secondly, she does not believe there are any records of any problems at their station at all. There used to be many problems in the past, but they always have two people at the store and they address any problems immediately.

Sgt. Rude said in reviewing some of their notes, and said in 2012, they did sell alcohol to a minor, and Ms. Saleem said she believes this occurred once and then they trained all employees and they are up to date on this and are training every six months as well.

Naomi Williams, West County Alcohol Policy Working Group, said she still stands by the fact there should be no changes at this time. This is what neighbors want and police want because this is what was requested when they first opened. If they are requesting an expansion of one hour, it must be considered in the future.

Commissioner Reyes asked Ms. Williams to comment on the Valero Gas Station and asked if there are problems there. Ms. Williams said she has not heard anything about that station, but she will look into it to verify this is the case.

Ms. Whales summarized and said it is recommended that the Planning Commission adopt the draft resolution in Attachment 1 approving the extension of the hours to 6:00 a.m. to 1:00 a.m. for the sale of alcoholic beverages, which requires a modification to the CUP, subject to conditions of approval contained in Resolution 15-02.

Commissioner Butt asked and confirmed that staff's recommendation is to approve the 6:00 a.m. to 1:00 a.m. because of the minor infraction that occurred at the Arco Station in 2012.

The public hearing was closed.

Commissioner Butt said he thinks the issue of fairness should not be ignored. It is a valid concern, but for him he would be inclined to holding the item over and addressing the broader issue of other businesses which are issues for the police department. He would recommend

holding the item over or declining it. He sees no compelling reason to grant an extra hour and he thinks 11:00 p.m. is plenty late to buy beer and wine.

Secretary Langlois said she is not a big fan of alcohol being sold or abused. The reality is that alcohol is a presence in the community and she is concerned with the issue of fairness. The Arco Station is opened for business from 6:00 a.m. until 2:00 a.m., they are selling gas, snacks and soft drinks and if a couple of blocks down the road there is another business able to sell wine and beer later than that, she does not have a problem with it, since they appear to be responsible. There was one infraction and have taken steps to address this in terms of selling to minors. She understands that police generally want to reduce the amount of hours of alcohol sales, but she did not get a sense there was a problem. In fact, neighboring businesses favor the extension of hours which says a lot. She is inclined to make a motion for staff's recommendation for 6:00 a.m. to 1:00 a.m. and thinks staff and police should monitor all of these businesses. If they do cause problems during those late hours, she would welcome a revocation hearing and cut hours back down. If business owners are responsible during open business hours, she would not object.

Chair Lane commented that on the face of the request to extend from 6:00 a.m. to 2:00 a.m. she thought it was too much, as sales are available all day with the exception of 4 hours. She also noted what other Commissioners have said, as well as the applicant on the issue of fairness and equity. If a competing business is able to operate longer hours, this is the equity and fairness issue. In terms of problems that arise due to sales of alcohol late, she thinks there are many things that happen as a result of alcohol which can be directly attributed to alcohol sold during those times but it was not brought to the Commission's attention. She would prefer hours not be extended, but for her it is the equity issues. It is her understanding there would have to be findings to state a business is not complying with their permit or for the Commission to either change their operational hours or revoke their permit.

Commissioner Kilbreth said he believes the Commission should be clear that if the police feel the Commission should bring back the time to midnight or 1:00 a.m., the police should be encouraged to make the case, but it is about consistency and fairness to him. If the Commission wants to change the rules of the game for all businesses, this would be a separate issue.

Vice Chair Choi said he grew up in a liquor store but did not stay open so late. In his experience, he would not think it makes a huge amount of difference, but he tends to agree with fairness. He thinks it is not an issue of funds created by liquor sales as much it is a one-stop shopping issue. Once again, this gives him less pause about possible ills of alcohol because in situations where someone is coming getting gas and purchasing alcohol, it strikes him to be more conducive to that person going home. He thinks some of the ills associated with alcohol during late hours are mitigated by the type of business here, so he is generally in agreement with the equity issue being the greatest problem. He also said this is an incredibly competitive gasoline market along the corridor and it is much more of an issue of gas rather than alcohol, so he was inclined to adopt staff's recommendation.

ACTION: It was M/S/C (Langlois/Kilbreth) to adopt staff's recommendation to adopt Resolution 15-02 approving extension of alcoholic beverage sales for CUP216 to allow alcohol sales to go from 6:00 a.m. to 1:00 a.m., which carried by the following voice vote: (4-2-0) Ayes: Choi, Kilbreth, Langlois and Lane. Noes: Reyes and Butt; Absent: None.

Chair Lane announced the appeal period.

NEW ITEMS

2. **PLN14-236: ABC License Change to Type 47, General Alcohol Sales At An Eating Establishment** - PUBLIC HEARING to consider modifications to an existing Conditional Use Permit (PLN10-115) changing from a Type 41 (On-sale Beer and Wine-Eating Place) to a Type 47 (On-sale General-Eating Place) alcoholic beverage license sales and extension of operating hours at an existing Eating Establishment at 232 23rd Street (APN: 515-282-11, -012). C-2, General Commercial District. Bermudez Ignacio & Rosa, owners/applicants; Planner: Jonelyn Whales; Tentative Recommendation: Conditional Approval.

Ms. Whales gave an overview of the request for a modification to an existing CUP for the operation of a full-service restaurant that has an existing Type 41 ABC license which is on-sale beer and wine for an existing eating establishment. The applicant wants to change it to a Type 47 on-sale general eating place license and would also like to extend restaurant operations from 12:00 p.m. to 9:00 p.m. Monday through Sunday to 9:00 a.m. to 1:00 a.m. Monday through Sunday. This request was brought up because of the fact that they used to have a market. The owner has closed down the market from 2010. This is when he came forward to the Commission to receive the CUP for alcohol sales. As of yesterday afternoon, staff has received correspondence from Public Safety staff in opposition to this based on their crime statistics. In addition, staff has placed on the dais letters from neighboring property owners, specifically other businesses like Rubicon, a letter from the Richmond Annex Neighborhood Council (RANC) President, the Richmore Village Neighborhood Council, and the applicant had attempted to change their hours in 2012 for live entertainment which was initially part of this application. However, staff suggested this would not be feasible to have the CUP amended to have live entertainment at this time.

Regarding infractions on their current ABC license, there was one incident in 2010 when alcohol was sold to a minor as well; however, members from public safety are present and can speak more on the actual license they currently hold.

Chair Lane called on the applicant to make a presentation.

Ignacio Bermudez said he has been a Richmond resident all of his life and owner of El Campesino and is requesting a CUP to allow a full service restaurant that will permit on-sale consumption, business hours from 9:00 a.m. to 1:00 a.m. Monday through Sunday. He currently holds a CUP at this location, along with a Type 41 beer and wine license. He was forced to shut down his market due to economic hardship and he decided to open a full, authentic Mexican restaurant.

Secretary Langlois said she was sad to see the market close as she used to visit it. She asked if full meals are served in the restaurant now along with wine and beer. Mr. Bermudez said currently the market is closed since November due to slow business. There is a lot of competition on 23rd Street and his passion is food. He had to close so he can make it a full, authentic restaurant. He had to remove shelving and refrigeration units, so since November he has been out of business. He invested thousands of dollars into his location and has pictures of how it looks now.

Secretary Langlois said according to the staff report, it states Mr. Bermudez has a permit to operate a restaurant with wine and beer sales and she asked if he has been operating yet. Mr.

Bermudez said the reason it was issued a beer and wine license was because he had the market and a small restaurant. His hours were limited from 8:00 a.m. to 8:00 p.m. and now the market is gone and the restaurant has been expanded. In his CUP, he applied for 9:00 a.m. to 1:00 a.m. for the restaurant because he does not believe restaurants stop selling beer and wine at 8:00 p.m. He said most of his family members also work at the restaurant.

Secretary Langlois said the staff report indicates Mr. Bermudez has a permit to have a restaurant from 12:00 noon to 9:00 p.m. right now and if the Commission did nothing tonight, she confirmed he could open a restaurant with wine and beer and meals and it could stay open until 9:00 p.m. but that his request is for the restaurant to stay open until 1:00 a.m. and that could serve hard liquor in addition to wine and beer.

Public Comments:

Richard Goodwin said he found the restaurant by accident, liked the food a lot and began to frequent the restaurant. He got to know the family members who have all impressed him. He said he is there almost daily, never saw any problems, and Mr. Bermudez took precautions one time when there was an incident across the street to avoid problems with his own market. His family works there and they want to be an asset to the community. He would not ordinarily be an advocate for liquor, but he knows the family's character and people are able to buy liquor at Chevy's or the Richmond Marina. They are making substantial improvements inside and he thinks this would be a good local business as opposed to a franchise which would also be selling hard liquor.

Kate Sibley, Richmore Village Metro Square resident, said her concern is that Richmore Village is partly residential and part commercial, but the commercial side is full of service organizations such as Rubicon, the Native American Health Center, the future West Contra Costa County Justice Center and those can all be deeply affected by a business like this that may not have the best interests of the neighborhood in mind. She said she has not had any problems with this business when buying groceries, but there is a history with the building. There was a murder a number of years ago at the business renting the back of the building and there has been concern about their lack of concern for the neighborhood. If this moves forward, she would love to have a great restaurant in the neighborhood, but the hours should be kept reasonable and it should be kept to beer and wine at most which would be more logical.

Chair Lane asked Ms. Sibley to expand on the "lack of concern" comments. Ms. Sibley said there were issues when the shooting occurred at the Car Stereo installation business in the back of the building and there were lots of problems and the police department could speak to this, but at that time, she noted the neighbors felt that the owners of the building were not particularly responsive to concerns in a way they would have liked.

Leslie Zephyr, Richmore Village resident, said many of her questions have been answered. Her concerns include the live music that was addressed and asked if this would be allowed under this CUP or she asked if they would have to apply separately. She asked if they would be allowed to rent out the facilities for private parties, and her concern is that Richmore Village had a large issue with loud noise and partying coming from St. Cornelius and it took them a very long time and involvement of many people to rectify that situation, so she would hate for this to happen again. She does not live on the Metropolitan Square side of Richmore Village, so these people will be affected by any kind of loud music, but she knows many of them and she puts herself in their position. She said she does not want a restaurant serving hard liquor and open

until 1:00 a.m. down the street from her. While they could use a nice Mexican restaurant in their neighborhood, she has a problem with the late hours and a problem with serving hard liquor, although she can sympathize with the owners because this is where the money will come from.

Judith Weatherly said she is a licensed marriage and family therapist with an office she shares with a holistic health educator on 25th Street which is a few yard east of the establishment. She said 25th Street is a mixed use area with more residents than businesses and they have been there since 1999. They have worked to try to keep Metro Square moving up. They have been very concerned that some of the problems Richmond faces do not seep in closer to their area. Currently they have many issues involving blight along the Macdonald, 24th and 23rd Street area, as well as prostitution going on all the time, and she works with many clients who are at risk in terms of alcohol and drugs as well as clients who have issues with domestic violence. She is concerned that having a bar in the area concerns her. Neighbors next door get up every day at 5:00 a.m. to go to work and already complain about noise that comes from Alex and Louise's Stereo which is renting space from El Campesino, and 1:00 a.m. 7 days a week is just outrageous and feeds into the existing crime and homelessness in the area. The neighbors on her block are young families and are particularly concerned about being able to stay in the neighborhood. They have had an active Neighborhood Watch for years and are now forming a business and residential neighborhood watch and Rubicon has been very involved. The Family Justice Center is moving just on the other side of their back fence, GRIP is nearby, the Native American Health Center, and there are many people caring about raising Metro Square. She would love to have a restaurant there with hours from noon to 9:00 p.m. or even 10:00 a.m. to 9:00 p.m., but 1:00 a.m. is way too much. She hoped the Commission can, in all fairness to residents, think about Richmond residents because there are more of them than businesses. She noted there have been two shootings and police can speak to the issue at that building.

Ellen Gailing, Richmore Village resident, said the property in question was originally the Richmond Hardware Store and she was glad when Campesino moved in because it was within walking distance to purchase groceries. Over the years they expanded their business but were not cooking food outside in the beginning and things seemed under control. Her concerns have been mentioned, mostly the homeless and mental health care facilities in the area that would be greatly affected. GRIP has their super center as well as housing facilities within a two block radius, and it seems that the request would create an undue challenge for those facilities that have been providing help to many people. Her greatest concern is that this restaurant wants to stay open until 1:00 a.m. and she said the area is desolate and nothing is open in the area. Nelson's Liquor Store two blocks away closes at 7:00 p.m. and is not open on Sunday. There are probably reasons for this which police can address, but there are many public intoxication problems on Macdonald, 22nd and 23rd Streets, and she asked the Commission to think about the neighborhood.

Lalos Cervantes, Facilities Director, Rubicon Programs, said Rubicon joins with neighbors in having concerns regarding the pending application. He said this area of Central Richmond is characterized by mixed residential, professional services, light industry and commercial uses and they have had difficulties with public intoxication and other crimes including those involving firearms. Rubicon is part of a mixed resident business safety group which has seen some improvement in the neighborhood. They are concerned that a restaurant/bar that serves hard liquor until 1:00 a.m. will reverse the good progress they have made.

Commissioner Reyes asked if Rubicon conducts DUI classes at their facility. Mr. Cervantes said they provide mental health and wellness services but he does not believe they provide DUI counseling but give referrals.

Cordell Hindler, Richmond, said all the things he wanted to discuss were already voiced. He has concerns about the market and serving hard alcohol until 1:00 a.m. He can visit good Mexican restaurants in the afternoon or early evening, and knows the Richmore Valley neighborhood. There has been a string of prostitution, loud music and loitering in the area and while he supports the restaurant, he suggested it not be open so late which will affect the neighborhood.

Nancy Burke, business owner on 25th Street and in the same building as Judith Weatherly for about 15 years. She works with children, babies and families and for a good part of the time she has been in business there, there has been a lot of crime on the 24th and 25th Street corridor. Some of the things seen include prostitution, regular drug dealing and noise right outside the El Campesino building by the car stereo business, loitering, and they have many issues with vacant buildings such as the Bank of the West Building and this creates many problems in the area. Also mentioned were the two shootings which concerning to her, her clients, and residents and businesses. She is excited they want to open up a restaurant and thinks that more businesses with good food in the neighborhood are always welcome because they have nothing, but she is very concerned about the bar being opened until 1:00 a.m., more noise, drunk individuals and crime in the area. They are working very hard in their business watch group to lower the crime and said she submitted a petition, as well.

Susan Kim, Executive Director, Family Justice Center, said they are in construction on 24th Street right behind the Bank of the West Building. They intend to move to their building in March and the City will be receiving an invitation. The Family Justice Center is a public/private partnership. They provide a one-stop center services for victims of domestic violence, sexual assault, child abuse, elder abuse and human trafficking. Their clients are families, women and children who have experienced violence and trauma. They try to create a safe and healing environment for their clients and they want to make sure their center and neighborhood will be a safe and welcoming environment. This includes a good restaurant, but she was opposed to hard liquor with the restaurant. She is excited about moving into their neighborhood and becoming good neighbors and they would like to help revitalize the area. She asked for the Commission's support and guidance in making the City and this area a very safe and warm place for their clients.

Naomi Williams, Chair of the West County Alcohol Policy Working Group, asked that the restaurant be limited to only serving beer and wine. She said they could still operate under a Type 41 license with the restaurant. She said the Commission has heard the majority of neighbors speak against it and heard that kids will be in the area as well. Therefore, she is concerned with under aged drinking and small children and the varied programs at the Family Justice Center. She asked that the Commission listen to the neighborhood comments, as they will have to live with it.

Rebuttal – Applicant

Ignacio Bermudez, applicant, clarified he is not against the community but for it. In his business he has installed 16 video cameras on the interior and exterior of the building. He will hire security guards to monitor and prevent loitering and drunkenness in and around the parking lot. He will also send all of his employees to the ABC programs to be educated on all ABC rules.

Commissioner Kilbreth asked Mr. Bermudez if he was planning on having music. Mr. Bermudez said the CUP includes no loud music and no music whatsoever and he is amenable to this.

Commissioner Kilbreth said if the Commission were to grant the change of hours but keep it to wine and beer for now, he asked if the restaurant would be able to open and then he could return for a second discussion about whether to add hard alcohol. Mr. Bermudez said his whole purpose of taking down the market was because people were asking for distilled spirits for margaritas. He said the business is family run and they will not allow drunkenness. Commissioner Kilbreth clarified that having tequila is critical to the economics of his business, and Mr. Bermudez said yes and if he does not have tequila for margaritas, customers will not come to the restaurant and go elsewhere.

Commissioner Reyes said he is a neighbor, works at GRIP for 12 hours a day and he sees everything, except for prostitution across the street. He referred to the business in the back of the restaurant and said he believes it causes problems. He learned that Mr. Bermudez leases the building to him which is problematic, and he asked if there were conditions regarding this. Mr. Bermudez said they are on the front of the building on 23rd Street but he leases the building to them which is a month to month lease.

Vice Chair Choi said he completely understands why economically the applicant would want to have a liquor license, but he questioned how flexible the applicant is about the hours of operation. From what he can see, the 1:00 a.m. closing time is problematic to many people along with the combination of serving hard alcohol. He asked if Mr. Bermudez would rather move on the time instead of the ABC type license. Mr. Bermudez said he could consider an earlier closing time.

Rebuttal – Opponent

Nancy Burke said she thinks many concerns have been addressed but the other issues she would want more information on is how many seats, capacity for the restaurant and bar, as well as parking arrangement because there is not a lot of parking at the establishment now. Concerns about crime may not emanate from that establishment in terms of prostitutes, but she is concerned there are many issues already in the neighborhood and there is a lot of concern about exploitation of those in the neighborhood already, homeless, and other people that loiter on the street and are at risk, given the area occupies chronically mentally ill primarily because of Rubicon. The exploitation is her concern in terms of the establishment and having people get drunk, leave the bar at 1:00 a.m. and then opportunities for them to exploit people in the neighborhood, and this really concerns her.

Chair Lane asked police representatives to address any issues they have dealt with regarding the area.

Sergeant Mike Rude, Regulatory Unit Sergeant, Richmond Police Department, said the police department's position is that they oppose the entire application to change from a Type 41 to a Type 47 license. The Police Chief authored a letter in November of last year to ABC opposing the change in license. There have been multiple incidents at this establishment including a gang related homicide that occurred in July 2011 that resulted in two different gang fractions; one from El Campesino and the other across at Plaza Giabraldi, and they got into a fight which resulted in homicide. He worked the night this occurred and one of the issues from an

investigative standpoint was the cooperation of the employees at El Campesino. They locked their doors and refused to allow police to talk to employees for potential witnesses in the investigation. Another issue was service of alcohol to minors that has occurred on more than one occasion. The one instance there was 3 under aged minors drinking alcohol in the establishment. They left in a vehicle intoxicated which resulted in a collision where one 17 year old was killed in November 2011. In December 2011, the Richmond Police Department Regulatory Unit as well as the Department of ABC conducted a joint investigation where minor decoys were sent to the establishment. They were served alcohol, drank in the establishment, and then officers and agents made arrests and conducted the investigation which resulted in a 15-day suspension from ABC where they were not allowed to serve alcohol. There was reference from speakers about a shooting that occurred at the stereo shop behind the business and at the time he was a homicide detective in 2006. It was a drive-by shooting where there were individuals hanging out mid-afternoon outside of the stereo shop on 24th Street, where one person died on the scene. There was also a street gang related homicide where one of the witnesses was later killed in a separate homicide. This has been a huge drain on police resources for calls for service for fights, disorderly conduct. Their Captain reached out to ABC in the past in 2012 regarding enforcement efforts because of the large volume of calls for service at that business. Currently, their ABC conditions state they can serve alcohol between the hours of 8:00 a.m. and 8:00 p.m., no live entertainment and their service of alcohol is restricted to a very small area which is referred to as the patio area which is in the beginning of the restaurant which is 40' by 25'. They also have a roll up door that has a bar set in the back as well.

During the joint ABC and police investigation, they were found to have bottles of tequila during this investigation which is prohibited. Additionally, in August 2013 he spoke to the applicant who called him. He told him that he was no longer interested in the restaurant or store business and was tired of it. He wanted to obtain a Type 47 license in order to hold special events at the business by renting out the facility. In addition to his ABC conditions, he cannot have live entertainment at all.

Commissioner Reyes said he read the Chief's letter and he supports him. He referred to a portion of the letter indicating that some of the problems being generated by the El Campesino Market. In working at GRIP and in the area of Rubicon, as well as behind Bank of the West as a mental day center for out-patients, people flock there. These people are in a tough place, and collectively this is Richmond's problem and they must fix them, and he thanked Sgt. Rude for his comments.

Chair Lane asked and confirmed that the market has had the same ownership since 2006. She noted issues with the extension of hours and alcohol, and she asked if the police department is flexible with assigning certain hours, and Sgt. Rude said they would prefer the hours stay as is.

Secretary Langlois referred to the letters from the Police Chief from November and a couple of years ago, and she asked if the owner had the same hours from two years ago which were 8:00 a.m. to 8:00 p.m., and Sgt. Rude said yes, he believed so. She noted a letter indicates there was an incident at 10:45 p.m. where there was loud amplified music and two minor females drinking beer. Sgt. Rude said these were violations of their conditions serving alcohol past the time allotted to do so as well as amplified sound. She said many restaurants are open until 9:00 p.m. and she asked if Sgt. Rude sees any problem with the business staying open until 9:00 p.m. Sgt. Rude said Mr. Bermudez indicated to him that his intent is to obtain the CUP and Type 47 license to hold special events, but police are amenable to simply operating as a restaurant until then. Secretary Langlois said, however, Mr. Bermudez indicated he was amenable to the

condition for no live or amplified music. Sgt. Rude said his past practice has been to not obey conditions as set forth.

Commissioner Kilbreth said the most important thing which just came out of the police report and letters from the Police Chief are that the applicant has not complied with previous conditions. He asked Mr. Bermudez how he believes the Commission should process this information. Mr. Bermudez stated on January 14, 2011 he was approved for on-sale beer and wine license by ABC. One year later he received only one accusation by ABC which was on February 27, 2012. It was consumption by a minor. Over a year ago when ABC granted the Type 41 license, it was a total of 5 years of good behavior and he also stated that the beer was purchased from an adult. The adult purchased the beer and gave it to the minor and he was not aware of this at the time. As a result, he served a 15-day suspension and can only control what occurs in the parking lot and perimeter, but what occurs outside he cannot control, as well as the shooting which was the result of a police chase.

Commissioner Kilbreth said to Secretary Langlois' point, if Mr. Bermudez' primary objective is to open a restaurant and build a business based on the quality of the food and having liquor with food, most people are done eating by 9:00 or 10:00 p.m. Most people are only drinking after 10:00 p.m., so the question becomes how much Mr. Bermudez wants this to be a restaurant and how much a bar. One compromise would be to set the hours to be 9:00 or 10:00 p.m. so there is not the late night issue and he asked if Mr. Bermudez would be amenable to this.

Mr. Bermudez said he would like to operate until 1:00 a.m. seven days a week and will be on probation to prove his good behavior. Commissioner Kilbreth asked if he could only stay open late on the weekends, and Mr. Bermudez said he could agree to compromise limiting alcohol until 10:00 p.m. on week nights Monday through Thursday, and on Friday, Saturday and Sunday until 1:00 a.m.

The public hearing was closed.

Vice Chair Choi said this request is not an easy matter, but at the same time he feels a lot has been put on the shoulders of this family. He thinks what occurred is not the reason to limit the ABC permit but he does feel the Commission could keep in mind that this is the family's livelihood. He suggested finding a compromise on hours and he pointed out that whenever he hears the neighborhood is scary and they do not want businesses open late, he thinks it is because nothing is open late. He is very much irked by the fact that during the weekdays people cannot find open establishments in the late evening and he supported the restaurant being opened until 10:00 p.m.

Secretary Langlois concurred the matter is not easy. Other businesses are open at later hours, but alcohol is not being consumed. There are vocal concerns from neighboring residents and businesses and she thinks the restaurant would operate mainly as a bar during late evening hours. She is sympathetic about the need for a good restaurant and she supported allowing the restaurant to stay open until 9:00 p.m. or 10:00 p.m. She noted a good restaurant in her neighborhood and they are not open very late and are successful and she thinks this is what neighbors want. Music would be a problem for the neighborhood and she would support extending the hours to 9:00 or 10:00 p.m., leaving it as a beer and wine only type and focusing on the restaurant operation.

Commissioner Butt said he also struggled with the request. On one hand, Central Richmond needs more restaurants that are open later and it needs vibrancy at night. However, he is troubled by testimony by neighbors and businesses and he thinks there is some fence repair to be done on the part of the applicant. The tenant is causing problems for the neighbors and police have responded in the past. While he would like more restaurants open serving good food and alcohol, he is inclined to allow Mr. Bermudez the opportunity to prove he can run a good restaurant in a way he can show neighbors he can live up to their expectations. He suggested moving the closing time to 10:00 p.m. He is also inclined to allow liquor but keep the closing time earlier to show he can responsibly operate.

Commissioner Reyes said he has known this family for about 5 years and has watched them invest in Richmond and try to turn the business around all the while that crime has occurred in that general vicinity which he does not like. He suggested the restaurant have food, beer and wine and limited hours until the City can deal with the crime. He has discussed the area with staff and suggested looking for funds to enhance the service hub. He supported an artist's district and the City has worked towards its Livable Corridors plan, Main Street, the North Shore and infill. He suggested giving it a little more time and in the long run, that part of Richmond will be able to stand alone.

Commissioner Kilbreth said he thinks his position is that when running a restaurant, the liquor business is needed which is a big part of the economics. For him the issue is the hours and he hears many community members being nervous about 1:00 a.m. 7 days a week which he thinks is unnecessary. He therefore thinks a license to operate until 10:00 p.m. is fine and he is inclined to support the idea that allowing the restaurant to operate with a full liquor license to sell real margaritas, and with police's advice and counsel, consider after a while whether or not the City could loosen up the hours on Fridays and Saturdays one step at a time. While there were problems with police, everybody deserves a second chance, and he thinks this is a good compromise. He encouraged the applicant to look at this as an opportunity to prove himself and make sure what he does is good for the neighborhood, and suggested obtaining signatures over a period of time to stay open later during Friday and Saturday nights.

Chair Lane said she thinks there is consensus that the Commission wants to see vibrant businesses and with that, there does need to be opportunities for businesses to stay open at night where people can find places to eat and drink. In terms of hours, she feels at this time, 1:00 a.m. is too late. There may be opportunities in the future to expand hours, but given police and neighborhood comments, this time is too late. In terms of the type of ABC license, she compares the operation to a Chevy's where they sell liquor and she suggested a Commissioner frame the motion to either keep the ABC license as is or allow liquor, as she feels there should be opportunities for businesses to prove themselves.

Vice Chair Choi moved to approve PLN14-236, as amended to reduce hours to 10:00 p.m. and allow the full Type 41 and Type 47 license. Commissioner Kilbreth seconded the motion.

DISCUSSION: Secretary Langlois commented that she will support the motion. She had expressed concerns with the Type 47 liquor license. She hears the need to operate a restaurant and have a drink with meals and appreciates the owner's intention to have security guards, training of employees, hopes the applicant hears concerns of neighbors, and asked that the applicant reach out to neighbors to have good relations. She supported the closing time of 10:00 p.m. and if at some point the applicant would like to return to extend hours, neighbors should support this.

Ms. Whales asked that the Commission consider the additional condition for security officers, which is not contained in the current resolution.

Commissioner Butt clarified that the Commission seeks to amend Condition No. 2 to allow the restaurant to stay open until 10:00 p.m. He does not think the Commission is requiring security officers, but there was mention by the applicant that he intends to hire security, but did not think he was inclined to make this a condition.

Chair Lane asked if the Commission wants to include a condition or not. Ms. Whales proposed the condition require security from 7:00 p.m. to 10:00 p.m. Chair Lane confirmed that the applicant will be held to a condition to have one security guard on premises between 6:00 p.m. to 10:00 p.m. every day.

Mr. Privat suggested re-stating the motion.

Mr. Bermudez asked if he could have a certain grace period to extend the hours, and Chair Lane noted this would require a new application and she confirmed that the Commission is motioning to limit hours for all days until 10:00 p.m.

Mr. Mitchell recommended the Commission adopt the proposed resolution as indicated and allow the applicant to return as needed.

Chair Lane suggested a new motion and second.

ACTION: It was M/S/C (Choi/Kilbreth) to approve PLN14-236 and adopt staff's recommendation to adopt Resolution 15-02, as amended, approving extension of alcoholic beverage sales for CUP216 to allow a Type 47 license of alcohol sales to go from 9:00 a.m. to 10:00 p.m. and add a condition to require one security guard on premises from 6:00 p.m. to 10:00 p.m. every day; which carried by the following voice vote: (6-0) Ayes: Butt, Choi, Kilbreth, Langlois, Reyes and Lane. Noes: None; Absent: None.

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.

Ms. Whales stated before the Commission is a request for adoption of a Mitigated Negative Declaration (MND) and approval of a CUP 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. She said tonight the Commission is not focusing on the merits or design of the project, although the packet includes elevations which will go through a DRB process. She noted the mix of apartments is for 97 two-bedroom

units, 39 three-bedroom units and 19 four-bedroom apartments which will range in size from 863 square feet to 1,211 square feet.

Staff is requesting the Commission review the environmental document released in April 2014 that looked at all environmental impacts associated with the development. She noted the site was constructed and occupied by Dolan Lumber Company in 1956. She said the owners had added onto the building over time and in 2012, the owner demolished it because it was in a blighted condition, and staff has had many complaints regarding the site.

The owner is proposing the project which is 2/3 in the City of Richmond and 1/3 in the City of El Cerrito. Staff has asked the senior planner from El Cerrito to join in on the matter and their Economic Development Director has written a letter in support of the project. The project site is over 2 acres and currently there is a culvert on the side of the site which has been the topic of discussions.

She said the applicant is amenable to daylighting the creek; however, the Commission's focus should be on the actual CEQA analysis and the density bonus requested by the applicant with three concessions. According to the state, these concessions are given for any affordable housing project and a pro forma is attached to the staff report which outlines how the project is considered affordable to the very low income and low income categories based on the County's median income of \$78,000. She noted teachers' and other entry level incomes are roughly \$40,000 to \$50,000 and would qualify as potential tenants.

Commissioner Reyes asked and confirmed that units under affordable levels are lower in rent than market rate developments. Ms. Whales noted the affordability is not HUD, but private funds used to assist in lower rents and this is why the developer is requesting a density bonus. She introduced Lynette Dias from Urban Planning Partners and Sarah Nadiranto, the City's traffic consultants.

Lynette Dias, Urban Planning Partners, restated the purpose of the meeting and said the Commission will consider the project's merits at a subsequent meeting. The primary purpose of the environmental review is to provide the Commission with information to make an informed decision relative to the potential environmental effects of the project. She said she will provide a PowerPoint presentation and overview of the environmental process, findings and the transportation analysis conducted.

Ms. Dias stated an Initial Study was prepared and determined that a MND was the appropriate CEQA document. This document was prepared based on the findings of the Initial Study and put out for public review for 30 days. They submitted a subsequent memo which was distributed to the Commission regarding the potential of the project not being noticed properly, which was incorrect. After the close of the public comment period, they prepared responses to each comment received on the Draft MND and supporting Initial Study. Before the Commission tonight is a request for certification or adoption of the MND finding that it does provide an adequate environmental analysis based on requirements of CEQA and the Commission can then move forward and consider the proposed project at a subsequent meeting.

Ms. Dias pointed out that since the Initial Study MND was published last year, there have been some minor changes to the project. None of those affect the findings of the analysis. The number of units decreased by 17 units, or from 172 units to 155 units. The breakdown of units changed slightly as well. She said there is guidance that helps them determine for purposes of

CEQA what a substantial or significant impact is and she described how this was done for each topic and each mitigation measure. She noted that they also look at cumulative analysis that looks at the addition of the project and others being considered for development.

Ms. Sarah Nadiranto described assumptions and results found as part of the transportation assessment, stating as part of the assessment, they applied a 20% trip reduction to trip generation. This was based on the close proximity to transit with the El Cerrito BART station close by, several AC transit stations and the Pacific East Mall. They also reviewed census data and Bay Area Travel Survey data for this area and found that between 15% and 35% trips to and from this area are non-auto trips. They included the I-80 Central Avenue Phase 1 Improvement Project, applied the project to the existing network and she described findings relating to levels of service and said the project does not meet the significance criteria of contributing 5 or more seconds of delay. Ms. _____ then described the recommendation for a hawk beacon which helps pedestrian cross intersections safely.

Ms. Dias said during the comment period, the City received a total of 5 comment letters; from EBMUD, Caltrans, City of El Cerrito, the Contra Costa Flood Control and Water Conservation District, and Friends of Five Creeks. They also received one letter from the Richmond Annex Neighborhood Council (RANC) after the close of the comment period in May and they also submitted two additional letters in December which did not bring up any topics that were not addressed in the Initial Study, and response was provided. Further study was done on the hawk beacon signal and this is recommended as a condition of approval because it does not exceed the CEQA significance criteria. The majority of comments related to traffic, hydrology, water quality, land use and design and there are a series of standard mitigation measures recommended and most are handled through conditions of approval. Ultimately, they found the project would not result in any significant impacts and that could not be mitigated to a less than significant level. On this basis, they recommended the MND and as part of that, the Planning Commission is requested to adopt the MND and then subsequent to that, the Commission would consider a Mitigation Monitoring and Reporting Program and the CUP for the density bonus with the three concessions.

Secretary Langlois referred to the notification to neighbors and said when talking to the RANC, she asked and confirmed with Ms. Whales that Richmond and El Cerrito neighbors were informed throughout the process and mailed notices, per the County Assessor records.

Secretary Langlois referred to the creek and she asked if the Commission could discuss some potential conditions about additional setbacks or rehabilitation or naturalization of the creek channel. Ms. Dias said the Commission could discuss conditions of approval, but the drainage channel does not meet the definition of a creek, as it feeds into the Cerrito Creek but not part of it. When conditions are considered, the Commission should determine whether there will be any potential environmental impacts associated with this if it was not considered part of the project.

Secretary Langlois referred to page 92 of the MND regarding traffic and said there are a series of questions that could trigger significant impacts. She said it does not acknowledge that the fact that the Central Avenue/I-80 intersection is unacceptable and very congested already. Regarding improvements, it sounds as if the prohibition of the left turn from Central Avenue onto I-80 requiring cars to go straight under I-80 and then get on I-580 will only be allowed from 11:00 a.m. to 3:00 p.m. on Saturdays which is a minimal improvement. She asked that this be significantly improved before the project is approved. Ms. Nadiranto said this was analyzed and recognized that the ramp performs at a LOS E which is a deficiency not because of the project.

Part of the Phase I interchange project will be completed by the end of this year and if it were to be included during the weekday they could see improvements; however, that was not part of the study. Phase II has not yet been environmentally cleared; however, that project will re-align Pearce Street to meet San Mateo and it would signalize San Mateo and restrict access at Pearce Street so there no longer can be left turns from Central to Pearce and vice versa.

Secretary Langlois said what the Commission is being asked to do tonight is to approve the MND and the Mitigation Monitoring and Reporting program. In terms of the CUP she voiced concern about the density bonus, given a letter received from a resident regarding the pro forma and how amounts are calculated. Ms. Whales said as long as the project can show it has affordability, the State automatically grants the density bonus. Secretary Langlois noted that Contra Costa's median income is \$78,756 and most of the units will be low income and a few would be very low. Low income is 80% of median which is \pm \$63,000 and for Richmond, this is a good salary, so she would see a higher number of very low income units included in the project if at all possible. Ms. Whales said without the density bonus there would be less units. Also, the letter received from the resident did not compare apples to apples, but instead compared Alameda County to Contra Costa County.

Vice Chair Choi recognized the problems with traffic and asked if any studies were done regarding traffic impacting side streets. Ms. Nadiranto said their analysis did include that intersection and where vehicles are going. They did not study the origin destination patterns of vehicles coming from the side streets but they are accounted for in the analysis.

Commissioner Butt asked staff to briefly go over specific traffic mitigations proposed for the project. Ms. Nadiranto said they did not find significant impacts and therefore did not require mitigation. However, as part of their site plan review, they made certain recommendations.

Commissioner Butt said he avoids Central Avenue and thinks the best way to mitigate that is to reduce the number of cars as part of the project. There has been innovation in this area and noted Ann Chang heads the TransForm's Green Trip Initiative and she has worked with developers on things like giving bus passes to residents as an incentive not to own a car. They do things like separate parking from units so people who do have a car pay an additional amount to rent parking separate from their unit, and he would highly recommend a condition to do a green trip certification.

Commissioner Butt also voiced concern with the creek. He knows the City of El Cerrito have a creek overlay, have identified all of their creeks, and he asked if this culvert has been identified as a creek. Ms. Nadiranto said this drainage channel has not been identified as a creek, but the Cerrito Creek has been identified. Commissioner Butt said he would want the channel daylighted and set back from the street sidewalk to create a more pedestrian-friendly environment. Ms. Whales stated this is more related to the design of the actual project itself. The developer will have to hold several meetings with the DRB with Richmond and El Cerrito and this will include site planning and circulation and she would not advise placing conditions on the CUP for the density bonus regarding the creek. Commissioner Butt confirmed that the Commission would be approving a height variance, parking density variance and an open space variance under the density bonus because the project is affordable which will help both jurisdictions meet requirements under ABAG.

Commissioner Kilbreth said he was trying to understand the construction loan which he believes would change by \$1,300,000 in the two scenarios presented when one is for 155 units and the

other is for 118 units. Ms. Dias said they were not involved in the financial portions and she would defer to staff City staff.

Commissioner Kilbreth noted there are numerous assertions in the findings that the project is infeasible without the density bonus, and he did not believe the numbers make sense or document why this is the case. Mr. Privat said the City cannot control how the applicant assesses their feasibility, and this is not the Commission's consideration when asked to approve a use permit. The law states the Commission must approve a density bonus when there is affordability. Commissioner Kilbreth said the density bonus is an "economic present" or incentive in exchange for the public benefit of affordability. He said the 35% bonus depends on what the starting point is and if they began at 80 or 90 units and gave the developer a 35% bonus on this amount, they would be at a different number than 155 units. Right now the Commission is being presented with 155 units as the firm number. He asked how they would get to 120 units as being more reasonable for the neighborhood. Mr. Privat said there are "x" number of units that can be built on a site pursuant to the ordinance. If the development is affordable, the developer is allowed to add more units.

Commissioner Kilbreth said in Richmond's medium density residential zoning, they have up to 40 units per acre. If they took 35 or 40 units and multiplied it by 2.58 acres, they would get a number. They would then add 35% to that and get a number, but this is not what was done here. Therefore, he was uncertain as to how the City got to the numbers it got to and how they would change them. When he reads the amount of public concern about the mass, he is concerned. They are catching it early enough in the process to talk this through reasonably and he asked why El Cerrito uses 35 units per acre. He suggested taking 37.5 units, multiplied by 2.58 and then add 35% and see what that looks like.

Mr. Mitchell said one variable left out is the price of the real estate, the price of podium parking, and project construction and no one is expert in these types of costs. Most developers indicate that these types of projects that can produce this level of density are simply too expensive to build, and as the City tries to determine what is appropriate for the site, it is difficult to make a case for a project other than what is being presented. He was not sure if 120 units would work, as they do not have the financial information on this.

Chair Lane called upon the applicant for a presentation.

Alexis Gevorgian, A&P and Associates, said what is before the Commission is a project they believe is appropriate, is a project permitted by the General Plan and zoning, is workforce housing, and is not a HUD or government-funded project. They do not sell the properties for a minimum of 15 years and he was before the Commission about 6 months ago representing an affordable senior citizen project. With respect to traffic concerns, they hired a very reputable traffic consulting firm, the City has reviewed the data and there should be no significant impacts with the project. Regarding affordability, part of their strategy is not to have a concentrated group of income levels. The 2, 3, and 4 bedroom units range from 50% to 60% of area median income which allows the City to adhere to RHNA numbers. Regarding project entitlements, he recognized Commissioner Kilbreth's concerns and said they have applied for a density bonus hundreds of times in California and in terms of the housing density they have met Section 65195 of State law and Housing Accountability Act requirements. The burden of whether or not the request is reasonable lies with the City; however, they have gone beyond requirements and provided the City with pro forma information that demonstrates the feasibility. The one scenario with the density bonus has a \$3 million gap and one has a zero gap which is the one without the

density bonus. In most cases, they are not required to provide a pro forma, and all costs are below the federal and state requirements in terms of costs.

Mr. Gevorgian said they are amenable to mitigation measures. With respect to Commissioner Langlois, the channel is not a creek. They will give any agency the right to come in on the property and if they want to daylight it, they can, but they have held extensive discussions with the State Water Resources Board and other regulatory agencies that tell them if they do not touch it, they can develop around it. Their original plan was to underground it and build over it, and they reduced the number of units to address this. In terms of density, they worked closely with RANC and implemented over 20 design changes that range from parking, height, tiering of the buildings, and feel they have worked in good faith. They are still below the permitted buy-right density and hope the Commission recognizes that this will be one of the nicest projects in Richmond and El Cerrito and asked the Commission to adopt staff recommendations, and are open to additional suggestions.

Commissioner Butt asked about Mr. Gevorgian's thoughts regarding more parking reductions and utilizing TransForm's model, giving bus passes and reduce the number of spaces. Mr. Gevorgian said they will be returning for other approvals, and he asked Commissioner Butt to provide more information about the concept and firm. He recognized that if a developer builds less parking, people living there will have fewer cars and will use mass transit, as there will not be parking in the development.

Commissioner Butt said he did not see any information about working with state and federal agencies regarding the creek, and asked if Mr. Gevorgian could provide this. Mr. Gevorgian said they submitted all information to staff and said they have worked extensively with Fish and Game and the State Water Resources Board on the channel issue. Commissioner Butt said there is a lot of support to day light the creek and bring it back to more natural conditions which help with flooding and habitat. This has been done in El Cerrito and other areas, and Mr. Gevorgian said they are adhering to written guidance and still must obtain entitlements, and without the State Board's permits, they cannot proceed.

Commissioner Reyes thanked Mr. Gevorgian for entertaining Commissioner Butt's ideas relating to parking and transportation, noting that many companies are assisting employees in getting to and from work and decrease use of vehicles. He asked how many total people are estimated to live in the development. Mr. Gevorgian said it will range anywhere from 2 to 5 people per unit. He said have taken time to determine the ingress and egress to ensure impacts is at a minimum and they want a successful project.

Chair Lane referred to the parking section in the staff report which mentions that all residents will be given the chance to purchase an AC Transit Easy Pass, and Ms. Whales clarified residents will be given a pass as paid for by the management company.

Commissioner Kilbreth asked how the applicant got to the original unit count and asked if the units were reduced due to not being able to build over the creek. Mr. Gevorgian referred to density bonus law and said whatever the General Plan permits which is 50 units/acre, they multiply this by 2.58 and then by 1.35. In the event that there is impairment such as the channel, they have the right to go even higher. They could have gone this way and had a narrower footprint but they had several meetings with the RANC and felt there would be more mitigation in terms of view. When they tiered the design they removed many units, going from a 178 maximum permitted unit level down to 155 units. Also, if the City's design requirements are so

restrictive that they cannot get to the maximum permitted, the City must grant three concessions to get to that density. If they still cannot get to that density, the City will grant waivers. In this case, they have not requested waivers or concessions over and above the three provided by right and are still below the maximum permitted density. Commissioner Kilbreth asked and confirmed that the concessions are to support achieving the extra 35%.

Secretary Langlois referred to the labor for construction of the project and asked if it will be union or prevailing wage. She also asked what efforts A&P and Associates will take to hire local Richmond residents. Mr. Gevorgian said they are working closely with someone recommended by the City Manager to ensure hiring locally is a priority and at this time, they do not know if they will have any federal or state funding. If they receive federal funding, it triggers Davis Bacon Act, and if they receive state funding, this requires prevailing wages. They do not discriminate for race, religion, sex, and will hire competitive workers. They have a good reputation with a good contractor base throughout California and he recognized it does not make sense for contractors to commute so local residents should be competitive.

Vice Chair Choi said there are countywide unions and trade associations in Contra Costa County and often Richmond residents get left out, largely because they do not have the skills to reach a certain level. He therefore hopes Richmond residents will be able to be hired. Mr. Gevorgian said they try to hire and buy locally, the project will be for workforce housing and rents will be kept for 55 years and not 30 years. Ms. Whales clarified the law has changed to require projects be 55 years affordable. Mr. Gevorgian said they are also not asking for any financial assistance from the City, but entitlements in order to procure financing once they receive approvals.

Chair Lane opened the public comment period.

Public Comments:

Garland Ellis, Vice President, RANC, said they are against the project for several reasons, were not notified until late in the MND process, even though they had been constantly asking the City of Richmond and El Cerrito about the project. He repeatedly asked for the traffic study and never received it initially so the association could respond directly to it. He referred to traffic and said while there is a count of current traffic, there are no future traffic counts. There are current LOS delays, but there cannot be a future estimate of LOS delays without an estimate of traffic counts. They measured traffic based on a daily trip count but not hourly, which is how most studies are conducted when comparing against LOS. LOS was avoided quite a bit throughout the report, stating the City of Richmond does not follow this or it is so high it is inconsequential. He said Central Avenue is a route of regional significance and governed by the County. Their newest report came out 2 years ago and it is still listed as LOS D. If going above that, all kinds of mitigations are necessary. When talking about delay in traffic, they are within 5 seconds of delay at a traffic light, but the consultant still indicates they are under the limits. There are bits and pieces addressed in the study, and a good example of this is under the Cultural Resources section. They indicate there are no historical resources in the area, yet within one year, the I-80/Central Avenue Interchange Improvement Project found 28 properties within ¼ mile that needed to be investigated. This project found none, yet they are within several hundred yards of each other. There are numerous similar inconsistencies in the report. The biggest problem with the problem is zoning. The zoning is C-3 regional commercial district and it has been affirmed in the MND and staff report. C-3 is primarily for commercial and there is only 5% land mass in Richmond that is commercial per the General Plan and the City should be protecting it for

commercial development. It is more valuable as commercial than residential and it should not be used for residential, which can be allowed but as mixed use. The project has no commercial use at all within it and it totally violates the City's zoning law. The project's height is also significant because it is not conducive to the neighborhood and there are issues regarding compatibility per the General Plan. Also, low income housing should be spread throughout the City per the General Plan, and it states it cannot be put all in one neighborhood or in one building. Here, the City has a building that will go to the maximum height of 66 feet which is based on a commercial building and not heights based upon residential and height is not an incentive under the density bonus program. He said every zoning district has a height limit and this project exceeds what is allowed, as well as the parking standards. The state's incentive for parking is very specific and cannot be further reduced.

Vice Chair Choi asked and confirmed with Mr. Ellis that RANC recommends the project be 45 feet in height and that RANC pointed out errors in the parking and plans, as well as the identification of historic resources.

Robert White, Richmond, said he is a journeyman carpenter and spoke of the importance of being able to work on the project.

Jorge Camilli said he has been a union carpenter for over 30 years and said it would be a great honor to work on the site. He supported prevailing wage and local hires and asked the developer to consider local residents.

Damian Cooksey, owner and on-site manager of Bridges Rock Gym which is behind the proposed development. He said he is not for or against the project right now but did not receive notification of the project possibly because he is a long-term tenant, but also lives in the yellow zone of those noticed. He said he thinks the project could be good for his business because it brings more people. He asked that it include some mixed use, given it is in a C-3 zoning district, voiced concern about flooding and said they flooded 4 times in the 6 years they have been in business there. He said the so-called culvert is actually the north branch of the Cerrito Creek and he hoped for improvements in flooding.

Eric Pressler said last September he and his wife commented on the project and distributed a postcard petition to owners and residents within one block. They received 75 signatures back and he is speaking for all of them. The project is too big, too tall, will inversely impact parking and should have the full number of spaces available, it should have an EIR because of traffic, pollution, creek daylighting, flooding and public transit issues, and open space and setback requirements should be met. They were first notified of the project on August 13th at the DRB meeting. He asked at that meeting about the lack of notification and they added a survey question to the petition as to whether or not people were notified. 100% of respondents or all 75 people said they were not notified. He suggested that the Commission authorize an independent audit of the notification and mailing process to find out how many notifications are lost in the mail, change the City requirements for notifications so that visible, on-site notification be provided on all projects valued at \$1 million or more, which is what Berkeley does. He also noted that 77% of the parcels are in El Cerrito also, which is many more than a few.

Suzanne Pressler said she and her husband own two properties, one of which is directly across the street from the project on Belmont. She said she is a retired teacher and the area she worked at is a similar site and a very attractive three-story housing development now occupies the space. It has a children's play area, generous parking, beautiful landscaping and units with

direct access to open space. She believes that this project could be financially possible in the period of higher financing costs and lower rents and a similar project would be more than viable now. Instead, the City and developer are focusing exclusively on low income housing on a piece of land with one of the shortest San Francisco commutes. Richmond should be promoting a high quality project with adequate parking, generous open space and deluxe amenities. People with good jobs in San Francisco will pay a premium in rents to buy condos and enjoy the quality of life supplied by a short commute and a new quality residence. She asked that the project raise property values and generate taxes through a quality development. She asked why the developer's other projects are financially feasible, but not in Richmond. She encouraged the Commission to turn down the density bonus requested based on adverse traffic, noise, parking and other impacts and asked to send back the project to the Planning Department.

Tom Panas, 7345 Fairmount, El Cerrito, thanked staff for their response to EIR comments, but he is concerned that when the design is final, an MND will have proven to be a mistake. He said the City is supposed to be daylighting its creeks, restoring creek corridors and natural transportation routes for pedestrians and bicyclists. The project violates this as well as the General Plan. The project is in the San Pablo Avenue Specific Plan Area which provides provisions for daylighting and enhancing creeks, providing setbacks so edges become walkable which have been ignored. The project is in a FEMA flood zone plain and given climate change and sea level rise, the City should be creating more buffer zones, not building in flood plains, and the plan suggests flooding of cars and parking lots, as long as no dwelling units are flooded, which is not right. He is skeptical about the traffic impacts and said it should include GHG emissions mitigated to a less than significant level, and he suggested that if the traffic is measurably worse, the developer be required to fund any improvements necessary to get traffic to today's conditions. He disagreed that an MND is the proper document for the project and processes completely ignored, and recommended the Commission deny approval of the MND tonight.

Chair Lane announced that it was 10:30 p.m. and suggested the Commission either vote to continuance or vote to extend the meeting. She clarified that there were 10 more speakers.

Commissioners voiced their desire to hear the 10 speakers and suggested brief discussion and thereafter continue the meeting to a date certain.

ACTION: It was M/S/C (Butt/Kilbreth) to hear the remaining speakers, which carried by the following voice vote: (6-0) Ayes: Butt, Choi, Kilbreth, Langlois, Reyes and Lane. Noes: None; Absent: None.

Fernando Mariscal, said he has owned his home 3242 Belmont in El Cerrito for 50 years and is opposed to the project, noting there will be a 65 foot wall behind his property. All light and privacy will be gone, traffic and parking will be worse because people park and catch the bus on Central Avenue, and he asked where guests will park visiting the project. He is very disappointed there is no one from El Cerrito and said all of the homes will be impacted by darkness in the afternoon and asked the Planning Commission to oppose the project.

Howdy Goudey, El Cerrito, thanked the Commission for thoughtful questions thus far, reiterated his concerns for flooding, the creek corridor, and quoted from Stege's 100th anniversary booklet, stating "While floods could occur at several places in town, by far the deepest problems arose in the Lois Lang portions of the District including the Richmond Annex. The epicenter for floods was the corner of Central and Beaumont Avenues." He thinks this is indicative of the problem

that exists there and probably why there is a concrete culvert there which was the solution in the 1950's. Now in 2015, the City should address the problem as an obligation to make its environment better and the living situation better. The flood mitigation for this property admits there is a minimal height above sea level, tidal influence, creek flooding, and the developer must build at a certain height above that, and this is not acceptable standards to be built to.

Scott Littlehale said his point is simple and he communicated it via letter, stating there are provisions in the Richmond Municipal Code that spell out procedures and tests for how to do density bonus awards and the concession awards relating to density bonuses and he presumes the City Attorney reviewed those provisions and found them to be consistent with state law. He would say that given he found significant issues relating to the credibility of the pro forma documents provided by the developer, he asked the City to permit a third party who has expertise in these matters to weigh in. When talking about changing a development concept, it is all about what it will cost and what value trade-offs will they get into and such an analysis would be essential to try to deal with the value trade-offs that have been discussed in great detail by residents and the developer. He is a Bridges Rock Gym member and he faces the nightmare of getting to Belmont, the park area and Costco, and said the City does not build good will by bringing in framing contractors from Sacramento which has occurred on the applicant's other projects on Harbour Way. A deficit of good will makes this a more challenging project on a challenging site and he hopes the developer works on building this good will.

Chair Lane asked Mr. Littlehale to outline his main points in his letter. Mr. Littlehale said Mr. Gevorgian mentioned that in one scenario there appears to be a \$3 million shortfall and in the other scenario there is a zero shortfall. His contention is that this \$3 million shortfall is artificial and is a result of inflated construction costs. His simple calculation of per square foot construction costs, as he is a long-time employee representative of the carpenters union, is \$383/square foot of building area which is incredible given the product being discussed even when compared to a project that was entitled on Harbour Way where costs came in at \$207/square foot. Therefore, an error was made which bears review and correction. It plays out directly in impacting that determination on whether there is or is not a shortfall when moving unit counts up and down. He also said income levels for Contra Costa and Alameda counties differ from what has been discussed tonight and are a bit north of what was mentioned. Qualifying income levels are more like \$60,000 to \$67,000 depending on whether one has a household of three or four as of FY 2014.

Commissioner Butt said there was some discussion and concerns about local hiring for projects like this. The developer mentioned he has a project in Richmond and he asked if Mr. Littlehale knows the percentage of local workers. Mr. Littlehale said as he understands it, Mr. Gevorgian and he discussed this and while he was involved in the land sale and entitlement process, Mr. Gevorgian no longer has an ownership stake in the project, but his business partner on many projects throughout California does have a direct stake in the project. He went by the project in December and discovered that the framing contractor that is building the 4-story structure is based in Loomis, California and has a workforce that comes from Sacramento. They come and stay in hotels. He agrees it does not make sense for people coming from the Central Valley, but this is precisely what is occurring on a project with similar financing and that receives similar federal subsidies for tax credits and tax-exempt bonds helping to make these projects feasible. So Richmond has a stake in this.

Secretary Langlois thanked Mr. Littlehale for raising these points and at the next meeting, she will want to ask staff what more can be done to enhance the local hire and prevailing wage. She

referred to the per square foot cost and said without the density bonus it was more. She understood Mr. Gevorgian to say that land also must be factored in. If there is the same footprint of land where 100 units are put versus 150 units, they will not have the same overall square footage costs. Mr. Littlehale emphasized “overall square footage costs” and said this is correct. He said he wanted to limit the length of his comments. He was talking exclusively about construction costs and when the City does make adjustments for parking, they wind up with apples to apples. The project referenced in Berkeley was not provided for comparison purposes in construction costs, but as a different way of doing pro formas that compare financial viability across different scenarios. Therefore, he was hoping it was useful in this respect. The comparison projects he looks at are from 64 projects all around the Bay Area that are multi-family and include podium parking and also the project down the road on Harbour Way. He just finds the number to be incredibly high and he suggested having a professional review of it.

Katherine Griffin, Richmond, echoed similar comments of other speakers and noted the previous speaker used the phrase, “bears review” and her biggest concern is the transit and traffic impacts of the project and some of the assumptions used and the traffic study done truly bears review. She thinks the entire area is becoming more crowded and people are walking and bicycling more, but does not believe that the project should be built thinking people will make the transition quickly to not use cars at all. People who use BART generally drive to BART and her other concern is aesthetics of the project. The project is just too big and too far out of scale for adjacent development.

Alejandro Navarro, President of the Southwest Annex Neighborhood Council, said the project’s neighborhood impacts are a combination of environmental and quality of life not addressed in the MND. The noise levels, air quality, traffic congestion, sewer capacity is of concern and the Southwest Annex neighborhood is a low spot compared to the Richmond Annex. He voiced concern with kids walking to school in such a high traffic Central Avenue and crossing San Pablo Avenue. Even if they take a bus, it only goes to the BART station and from there, they must still walk, and he believes that the developer should be a good neighbor.

Vice Chair Choi asked and confirmed with Mr. Navarro that the area of the Southwest Annex is Bayview, Central and San Joaquin. He added that two years ago a bicyclist was run over and died in the area and this is also a concern of neighbors.

Cordell Hindler, Park Plaza Neighborhood Council, said he agrees with other speakers in that the project at 65 feet is much too big. He lives on the cusp of the project, agreed that traffic is also dangerous and significant and he opposed the project.

Jerry Yoshida, RANC, referred to parking and said it is woefully insufficient to approve a density bonus. He suggested the project be further re-designed to increase the bare minimum of 1 space for 2-3-4 bedroom units proposed. He said part of the qualifiers for a density bonus is that on-site parking spaces may be provided on site, but not on the street which is in the state code. He also said increased density incentives and concessions should not cause significant adverse effects on the character of the surrounding neighborhood for public health and safety. He said in Richmond, the number of parking spaces is determined by the number of bedrooms per unit. Based on the number of bedrooms, the project provides 52 fewer spaces, and it is argued that the density bonus can allow 20%; however, almost half of the project spaces are tandem and it is unreasonable to expect tenants and visitors to share tandem parking. Therefore, he asked that the Planning Commission gage the parking by unit spaces and not by parking units. There

are 15t units and 88 tandem spaces, which is insufficient and he asked that the project at least provide one space per unit and not rely on street parking.

Dave Harris, RANC, said the local realignment project under Phase II of the I-80 Central Avenue interchange improvement project is now officially in progress. The statement on page 15 of the consultant's traffic analysis that "cumulative analysis is not required" is no longer valid because the road realignment creates a cumulative effect. The traffic study for the interchange project was done before the housing project was proposed and therefore needs to be updated. Moreover, Phase II has not been environmentally cleared. The consultant's analysis within the MND is inefficient, incomplete, and seriously flawed. Therefore, the Planning Commission needs to require a full EIR and a new comprehensive traffic study of the area including Phase II to properly evaluate the cumulative effects of traffic from both the housing project and the road realignment on Central, San Mateo, Belmont and adjacent neighborhoods of Richmond and El Cerrito. Since San Mateo needs to be widened to accommodate a left turn lane, the developer needs to concede sufficient setback on the west side of the project for this to occur. The same applies to the need for a right turn pocket at the southeast corner of San Mateo and Central to improve turning movement safety. He said 500 new residents and at least 293 new vehicles from the project interacting with changes on Central Avenue due to Phase II may require a traffic signal instead of a hawk beacon at Belmont and Central Avenues. For these and other reasons, the RANC urges a full EIR and a new comprehensive traffic study.

Vice Chair Choi clarified that Mr. Harris' comments relate to the fact that the traffic study does not take into consideration Phase II and this is a major problem. Vice Chair Choi asked who Mr. Harris thinks should conduct the assessment. Mr. Harris said Caltrans needs to re-evaluate the I-80/Central Avenue plan because they are way off. They did not address the real problem on Central Avenue which is the left turn onto Pearce Street from Central Avenue and also bad timing of the lights. RANC spent 8-9 months at Caltrans with their engineers and they came up with several plans, submitted a large packet and the RANC came up with better plans. Secondly, Phase II will have excessive additional traffic that now stops at Pearce Street stop at San Mateo Street and traffic will come in and out and be very busy. It is the left turn at Pearce Street and not the freeway.

Mary Selva, President, RANC, referred to the density bonus and all findings must be made in order to approve a density bonus, which is in the zoning ordinance. In their analysis 3 of the 7 findings are not met; Finding C that the increased density will not cause adverse effects on the character of the surrounding neighborhood or public health and safety. She said the project is massive for this particular neighborhood. The maximum height they would accept for the site would be 45 feet and RANC submitted a letter in May 2013 to the Planning Department making a recommendation that it not exceed 40 feet. Finding D that there will be no adverse traffic, noise, parking or other impacts resulting in the density bonus cannot be met. The third finding that cannot be met is Finding G; that the overall housing development will be of a quality that will preserve the integrity of, upgrade the existing neighborhood, and RANC does not believe this is so. She asked if the Commission believes that the project has been designed in a way that preserves the stability and quality of life for the nearby residents.

Chair Lane asked the applicant and Mr. Ellis to provide rebuttal comments.

Rebuttal – Applicant

Alexis Gevorgian, A&P and Associates, said with respect to the comment that the more appropriate use is commercial, this runs counter to their primary argument that there is too much traffic. A commercial use generates far more traffic than the residential use proposed, and although they do not do much mixed use developments, this is part of the reason they did not propose it. Regarding density bonus law, they will provide additional documentation and discuss their compliance extensively with staff.

Rebuttal – Opponent

Garland Ellis, RANC, said typically larger housing projects are on wider streets with wider sidewalks and they have areas where circulation of traffic is a lot easier than what is on Central Avenue. Furthermore, if a commercial project was brought into Central Avenue, it would have to go through an EIR where most problems would be flushed out. It may limit the type of commercial property that could go in and to think something massive with significant traffic should automatically be allowed is contrary to common sense. Regarding a traffic light, in the Central Avenue study done prior to the Phase I and Phase II projects, the County and all traffic engineers stated specifically that a traffic light would definitely be needed at the corner of San Mateo and Central Avenue by 2035 without exception. This was prior to this project even having been considered. Regarding the sewer issue, in the consultant's report, they only considered sewer capacity of the main plant in Oakland but not the pumping station in Point Isabel which is already overwhelmed and needs to be replaced. He feels there are many deficiencies in the report and an EIR is needed. The applicant did not conduct a complete study but an analysis of bits and pieces from other reports which were put together to arrive at some conclusions.

Chair Lane concluded the public comment period and she asked for a motion to continue the meeting to February 5, 2015.

ACTION: It was M/S/C (Butt/Kilbreth) to continue the matter to February 5, 2015; which carried by unanimous voice vote: (6-0) Ayes: Butt, Choi, Kilbreth, Langlois, Reyes and Lane. Noes: None; Absent: None.

- 4. PLN14-317: New Café With On-Sale Alcoholic Beverage License- PUBLIC HEARING** to consider a Conditional Use Permit request for a Type 41(On-sale Beer and Wine-Eating Place) Alcoholic Beverage License at 1402 Marina Way South (APN: 560-181-060). PA, Planned Area District. Marina Westshore Partner, LLC, owner; Trang Nguyen, applicant; Planner: Jonelyn Whales; Tentative Recommendation: Conditional Approval.

ACTION: It was M/S/C (Butt/Choi) to hold over PLN 14-317 to the meeting of February 5, 2015; which carried by the following voice vote: (6-0) Ayes: Butt, Choi, Kilbreth, Langlois, Reyes and Lane. Noes: None; Absent: None.

COMMISSION BUSINESS

- 5. Reports of Officers, Commissioners and Staff - None**
- 6. Adjournment -** The meeting was adjourned at 11:10 p.m. to the next regular meeting on February 5, 2015.