

**PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL**
450 Civic Center Drive, Richmond, CA
July 16, 2015
6:30 p.m.

COMMISSION MEMBERS

Sheryl Lane, Chair	Ben Choi, Vice Chair
Nancy Baer	Andrew Butt
Jeffrey Kilbreth	Marilyn Langlois
Jen Loy	

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

Chair Lane led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Sheryl Lane; Vice Chair Ben Choi; Commissioners Nancy Baer, Andrew Butt and Jen Loy

Absent: Commissioner Jeffrey Kilbreth and Secretary Marilyn Langlois

INTRODUCTIONS

Staff Present: Planning Staff: Lina Velasco, Jonelyn Whales, David Brosky and Assistant City Attorney Carlos Privat

MINUTES - None

AGENDA

Chair Lane provided an overview of meeting procedures for speaker registration, public comment and public hearing functions. She said items approved by the Commission may be appealed in writing to the City Clerk by Monday, July 27, 2015, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

CONSENT CALENDAR

Chair Lane stated currently the Consent Calendar consists of Items 1, 2, and 3. Ms. Velasco indicated there were speakers signed up for Items 1 and 2 and she also suggested holding Item 3 over to August 20, 2015 because of potential quorum issues.

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

Items Approved on the Consent Calendar:

CC3. PLN15-388: Violation of Deemed Approved Status and CUP for Type 41 ABC License - PUBLIC HEARING to determine if an existing (Type 41, off-sale beer and wine) deemed approved alcoholic beverage retail establishment at 2500 Macdonald Ave. has been operated or maintained in such a manner that has resulted in repeated nuisance activities on or near the premises of the establishment, and if so, grant a CUP subject to conditions to continue to operate as an alcoholic beverage retail establishment (APN: 515-292-021). C-2, General Commercial District; Miller Peter Tre, owner; City of Richmond Police Department Regulatory Unit, applicant; Planner: Jonelyn Whales; Tentative Recommendation: Hold Over to 8/20/2015.

Brown Act – Public Forum

CORDELL HINDLER, Richmond, said Richmond needs more art centers to show Richmond is a vibrant and cultural city.

Items Removed from the Consent Calendar:

CC1. PLN15-314: Lot Size and Width Variance for New Single-Family Dwelling - PUBLIC HEARING to consider a Variance request for minimum lot width and lot size for the purpose of constructing a 2,900 SF single-family residence on a vacant lot located at 707 Golden Gate Ave. (APN: 558-242-012), within the Point Richmond Historic District. MFR-1, Multi-family Residential District. Stephen Parker, owner/ applicant; Planner: David Brosky; Tentative Recommendation: Conditional Approval.

Mr. Brosky gave the staff report, stating the applicant is requesting Planning Commission approval of a variance to build a new single family residence on a non-conforming 3,000 square foot parcel in the Point Richmond Historical District. If the Commission grants approval of the variance, the applicant is prepared to submit plans for the new single family residence. The subject site is located within the MFR-1 Multi-family residential zoning district, with a minimum lot size of 5,000 square feet. However, within Point Richmond and the historic district, there exists many non-conforming lots whose lots total square footage is fewer than 5,000 square feet. No less than 5 lots on Golden Gate Avenue have the same measurements as the subject lot.

He said the statutory justification for a variance is that the owner would otherwise suffer unique hardship under the zoning regulations because the parcel is different than the others to which the regulation applies due to size, shape, topography or location. The special circumstances ruling was supported by Santa Cruz County and the subject site is designated as low density residential in the General Plan. This designation includes attached and detached single family residential development. The project is categorically exempt per CEQA guidelines and staff recommends that the Planning Commission adopt statements of fact regarding variance findings 1 through 5 and approve the subject variance approving PLN15-314 subject to the conditions of approval attached in Resolution 15-19.

Chair Lane invited the applicant to present the application.

STEPHEN PARKER, owner/ applicant, said he and his wife purchased the property knowing it had an additional lot which is 707 Golden Gate. Their desire is to build a home for themselves. They have two college-aged children that will be graduating and he and his wife plan to relocate to Richmond. They have friends in Point Richmond and have been coming to the area for the last 5-7 years to visit and they like the fact that the parcel has a view and will be typical to some

of the other homes in the neighborhood. They are building a house that is matching in historic style with a Craftsman look as well as stone on the outside which will be a perfect home for him and his wife as they get closer to retirement age. They are not asking for anything unusual, and the size of the lot matches many homes on their street and in their neighborhood.

Public Comments:

ELIZABETH GRASSETTI said she is a neighbor at 743 Golden Gate and said this project is far too large. She has never seen a lot where a 3,000 square foot house goes on a 3,000 square foot lot which seems wrong. In particular, she has not seen the current drawings as they exist but in the previous ones, they had a garage in the front. Golden Gate Avenue is a historic district with no garages on the western sides. They are all along the alley and she thinks any garage built should be on the alley to maintain the historic nature of the district.

She also thinks that while it might be legal to build such a large house and that there are some in the neighborhood, it was never a good idea and the City should not allow the practice to continue. She has a 1,000 square foot house which is more appropriate for the lot size. She attended the Point Richmond Neighborhood Council meeting and was appalled by their process, as it was not professional in any way and given the fact that no one knows what the house will look like is an issue for her. The home will block views of her neighbors on the other side of the street and knows they are furious about it. It will also block views from right next door to this house. She thinks it does not preserve the historic features of the neighborhood and recommended it be changed and altered and the variance not granted unless the house fits the lot and neighborhood.

Commissioner Baer asked Ms. Grassetti what her observations were of the neighborhood council. Ms. Grassetti said they did not have a quorum at some of the design review meetings. There was no decision made so they could not take a vote, but one member asked for a straw poll to vote on it even though there was no quorum or recommendation, which is not legitimate. She works for a public agency where she must follow the Brown Act and she did not think they followed it.

KEVIN MCMULLEN said he owns the property at 636 Golden Gate Avenue which is directly across the intersection from the subject property. He voiced opposition to the project stating they own the only single family home at that intersection. Two of the four other structures are 4-plexes and one is a 3-plex. Parking is a constant irritant for all neighbors because many people do not use their garages for parking. The lot is where the majority of residents of 400 Marine Street park their cars, and this will place 4-5 more cars on the street in addition to the additional cars associated with a 3,000 square foot, 4-bedroom home with 2 garage spaces. This eliminates any off-street parking for 400 Marine Street and this is their major objection, as well as the size of the home on the small lot.

Regarding the precedent issue with small lots and homes built on the street in the past, Mr. McMullen said the majority of those homes are 1,000 square feet or less and some neighbors have tried to expand their homes in the past and have been rejected on the basis of setbacks and square footage and some left the area given the inability to expand.

CORDELL HINDLER, Richmond, said he agrees with the previous speakers regarding parking, the size of the house on such a small lot, the combination of a laundry and office area, and suggested the applicant reduce the square footage.

MORRIS SIMPSON said the area is low density and he asked if the request can be approved with qualifications to meet certain other standards than just approving the variance as is.

Ms. Velasco said the variance is specific to the lot size and the applicants are not requesting additional variances to the development standards so they will have to meet front and side yard setbacks, parking requirements, and the project will be reviewed by the Historic Preservation Commission (HPC) which will also take into account its compatibility with other structures in the Historic District. Tonight the Commission is not approving the house and people will have an opportunity to comment on the design.

Mr. Simpson said he does not question the design but questions the fact that so much of the property is covered by structure. He also believes that the parking in front is dangerous because there is a hill which would require all parking in the rear and he suggested that the setback in the front of the building be 20 feet.

Chair Lane noted the staff report indicates that the project will be heard by the HPC. She asked staff to discuss their role.

Ms. Velasco said about two years ago staff worked with that commission to modify the process for in-fill development within historic districts so it was no longer a two-step process and streamlined it so they would not have to go before the HPC and then to the DRB. The HPC will be charged with looking at the design review permit along with making findings of its compatibility with the historic district. There will be a public hearing and notification will be sent to property owners within 300 feet of the site and they will have an opportunity to participate in the process.

Rebuttal – Applicant

STEPHEN PARKER said he has been listening to all neighbors over the last 5 months. It has been a process for them and they have made numerous alterations to the design of the house to accommodate neighbors. The house conforms as far as setbacks are concerned. They do use their garages in their current home and plan to use the garage in the new home, and they would like to see all neighbors in the area who do not use them to use them, but he cannot enforce this. This would be the right thing to do in any case. Secondly, the drawings have been available. He personally hand-delivered all drawings to all neighbors and exceeded the perimeter of those being notified. He attended 2 neighborhood council meetings and 2 land use meetings and has made himself more than available to both of those bodies by answering questions and providing drawings cooperatively. They have also posted their contact information to neighbors and he assumes that by not reaching out, have accepted the project and those speakers tonight have not reached out personally but have made this their forum to comment.

Commissioner Butt asked Mr. Parker about his thoughts on the idea of the garage in the alley as opposed to the street.

Mr. Parker said they have a covered parking from the alley for one vehicle and also have left themselves room so they can have private outdoor space to enjoy the backyard. They have a family pet and would like some area where he could play. Additionally, they would not like to barbecue and entertain guests in the front yard and want the privacy of using their backyard.

Therefore, they compromised by putting a full garage in the front and a car space in the back. They also have observed all setbacks.

Commissioner Butt asked how tall the structure is.

Mr. Parker said he was not sure, but it is within the standard requirements and it is shorter than the house north of them which he believes is 715 Golden Gate Avenue. He said they own the property at 400 Marine Street so that property is at a lower elevation and so they are not blocking neighbors. Because their house is on a down slope, they have minimized the impact of the height of the house from Golden Gate Avenue.

Rebuttal – Opponent

ELIZABETH GRASSETTI commented on the parking issue and said truthfully, the street is full of cars. She has a house without a garage which was built in 1904 which is roughly 1,000 square feet. She thinks the parking on the street is bad and she would encourage the Commission to walk up the hill because it is a blind corner and Mr. Simpson is probably correct in saying that if someone parks at the edge of the curb cut, people will be backing into each other because people cannot see one another when coming up the hill. She said parking, traffic and safety on the street is important as well as historic review.

Chair Lane asked staff to summarize the recommendation.

Mr. Brosky stated staff is asking that the Commission adopt the statement of facts regarding variance findings 1 through 5 and approve PLN 15-314 subject to conditions attached in Resolution 15-19.

The public hearing was closed.

Commissioner Butt asked why this matter has to come before the Planning Commission. When he reads the code, it states for MFR-1: "A minimum lot size is 5,000 square feet. Exceptions are where lots have a width of less than 50 feet or an area of less than 5,000 square feet and was recorded under one ownership at the time this chapter became effective and has not subsequently been merged or consolidated through recordation with an abutting lot under one ownership nor provides required interior yard space, parking or other required amenities to an existing dwelling. Such lot may be occupied by any use permit in this section." He asked if this would therefore not necessitate a variance.

Ms. Velasco said this property owner owns the property. Commissioner Butt asked and confirmed that the lots are not combined and as he reads it, no variance is required. He said it seems like it completely allowed by the Municipal Code and zoning under Section 15.04.140.050 development standards. Mr. Brosky said there is a condition where it must have an average across of less than 5% and this does have a greater slope than 5%.

Commissioner Baer said if the Commission votes on this tonight, she asked and confirmed that the Commission is voting only on the variance and the ability for a house on this lot and not any of the design features.

Chair Lane clarified with the applicant that the lots are two separate lots with two separate title insurance policies. Mr. Brosky explained that in the section on non-conforming uses structures

and lots, non-conforming lots are lots which are less than 50 feet in width or a lot has less than 5,000 square feet and said property has been recorded under separate ownership from all adjacent lots continuously since January 31, 1949 and the lot is level having an average longitudinal and cross slip of less than 5%, such lot may be developed in any use permitted in the base zoning district. He said this would allow the lot to be developed, but since the lot has a greater slope than 5%, it requires a variance.

Commissioner Butt said his inclination is to move approval. He thinks some of these things will be worked out as it moves onto the HPC and further design review which may include the garage, but there are many small lots in this district and by and large, they have all been allowed to develop. He thinks the only issue is the lot size. His interpretation of the code which is complicated is that there is a mechanism in there for these situations and there are existing conditions plentiful in Point Richmond. He said he did not think it would be fair to not allow one person with a smaller lot to develop it when that has been the case throughout history.

ACTION: It was M/S/C (Choi/Loy) to adopt a statement of facts regarding variance findings 1 through 5 and approve PLN 15-314 subject to conditions attached in Resolution 15-19; which carried unanimously by the following vote: 5-0-2 (Ayes: Baer, Butt, Choi, Loy and Lane; Noes: None; Absent: Kilbreth and Langlois).

CC2. PLN15-324: Canyon Oaks II – Time Extension for Tentative Tract Map 8451 (File No. 1102306) - PUBLIC HEARING to consider a request to extend the time for processing the final map for Canyon Oaks II Subdivision Tract Map 8451 at Intersection of San Pablo Dam Road and Castro Ranch Road (APN: 573-020-009, 573-020-010 and 573-020-011). PA, Planned Area District. East Bay Regional Park District, owner/applicant; Planner: Jonelyn Whales; Tentative Recommendation: Conditional Approval.

Jonelyn Whales gave the staff report, stating the item is for a Tentative Parcel Map which was adopted by the City Council in 2007. There is a two-year period in which a map is valid for and thereafter, the applicant or developer would have to request an extension. When the map received its entitlements during that period of time, the real estate market crashed and the legislature decided that all holders of Tentative Parcel Maps should have a break and they passed AB 333 and SB 1185 which extended all tentative maps that had been entitled for an additional 4 years. The map is due to expire July 21, 2015 and EBRPD currently owns 373 acres of the land which is in El Sobrante. It borders San Pablo Dam Road as well as Castro Ranch Road and it is adjacent to the Canyon Oaks I development that was developed 20+ years ago.

Ms. Whales said Larry Tong, the Planning Director for EBRPD is present and he is requesting a 6-year extension of the map to keep it valid so the part entitled for 34 single family homes would still be valid.

Chair Lane asked for questions of staff and there were none. She invited the applicant to present the request and thereafter opened the public comment period.

LARRY TONG, Chief of Planning/GIS, EBRPD, applicant, introduced Kristina Kelchner, Assistant District Counsel, who can answer specific legal questions if they arise. He thanked staff for conducting substantial research in the processing of this request, given the original approval in 2007. He said this evening they are asking for an extension to the Tentative Parcel

Map for the Canyon Oaks II which would allow for adequate time to carefully plan for this publicly owned piece of property. At this time, he was available for questions as well as Ms. Kelchner.

Commissioner Butt asked if the plan is that this will be a park in perpetuity or that EBRPD would possibly sell it to a developer. Mr. Tong said at this point they have the property in land bank which is to hold it until they can carefully decide what to do with the property. At this time there are no plans of exactly what to do with the property.

Commissioner Baer said in the report it states that part of the parcel is suitable for 36 homes and the other acreage is not developable. She asked if potentially EBRPD might end up selling part of it and having the rest be park land or open space. Mr. Tong said this is correct. No decision has been made, but that is certainly one possibility.

Public Comments:

EDMUND ANDRE HOFER, President of the Canyon Oaks HOA, said he is not present in an official capacity as it has not been discussed in detail at this point by the HOA. He said he was not involved in the 2007 negotiations with the adjoining property owner and others, but the property was supposed to have been developed with these homes indicated and he would like to address several issues. He stated the original owners never finalized this project and he said this is not open space which is part of the issue. They received the extension, but he asked how EBRPD acquire an extension from another developer as they were not party to this at all in the beginning. Secondly, considering when they have to deal with EBRPD, they cannot even get them to mow weeds. Therefore, they are coming into this on a non-trusting basis.

He said part of the problem is that they do not know with this map if they will be provided with an open-ended extension on a development map where they really do not know if they want to develop or not. He said there is a road coming in which is not supposed to be used by anyone but fire and equipment and many items up in the air and he thinks the whole thing should be thrown out. He said the item is coming in unfinished with more questions raised than can be dealt with at this meeting. Therefore, he questions the legality of EBRPD requesting the extension. EBRPD indicates they are the owners of the property but possibly they are not and he is not sure of what is going on which sounds fishy and he thinks the City should not provide them with carte blanche at this time.

DARNELL KELLEY said he would hope the Commission would not grant the 6-year extension. He lives on Canyon Creek and EBRPD was not even a part of this when this all started many years ago and they are now coming to the table. When they purchased the land, he believes it was for park land and open space. With no plan, they do not need an extension and should come back when they know what they want to do with the land and not on a whim decide they need an extension for someone else's previous ideas. As he said, on the map he saw there was a road that came into Canyon Creek which was supposed to be an emergency vehicle road. There would be an increase in traffic which is another safety issue in itself when talking about building more homes which is a concern. But if EBRPD has no idea of what they are going to do, he would hope the Commission would not approve it and just have them return when they know or have an idea of what they want to do.

MICHAEL CAINE, Richmond, said he lives on Knobcone Drive which is north of the proposed development. He is here as a neighbor trying to find out what is going on. He is also on the

Board of Directors of the West County Wastewater District which serves that area in the El Sobrante Valley; however, he is not speaking in that capacity. He simply is trying to find out what is being proposed. He has been a resident there for 29 years. He watched Canyon Oaks I go in and was very pleased with the way the development went in. He liked the density there and he is hoping that Canyon Oaks II follows that same density and they do not get many homes where people can reach out and touch both houses. He is present to observe and find out what EBRPD will be doing in their neighborhood.

Rebuttal – Applicant

Mr. Tong stated in terms of the entitlement, the courts actually has answered that question and they have provided that information to the District Attorney's office. He said they do have entitlement to the property and the question regarding the Park District mowing or not mowing weeds is not germane to this particular topic or this item before the Commission and he would be happy to discuss that item with Mr. Hoffer off-line.

In terms of reasons for the extension, it is because the Park District needs the additional time to do careful planning of this very important, 370+ acre property that is right next to one of their existing regional parks and they are very aware that it is also adjacent to existing single family residences.

Commissioner Butt said he was trying to understand this and it strikes him as a bit odd as well, but he knows the EBRPD has done great things and Whitney Dotson is a friend and colleague of his and he trusts the District knows what it is doing. He said Mr. Tong mentioned that they want the extension because they need the time to plan, but he asked if the extension is not for a specific residential development project. Mr. Tong said the extension is for the approved Tentative Parcel Map which is a residential subdivision with all 200+ conditions of approval that was approved by the City.

Commissioner Butt asked if the Park District engages in development projects and he asked if this is something new or have they done this in the past, as it seems odd to him that the land would be acquired presumably to expand the park. He can see that the District would like to obviously keep all options on the table, but it seems somewhat disingenuous to say they need the time to plan to plan what to do with the site, but the time is specific to a subdivision project.

Mr. Tong said the Park District basically wants to keep its options open. The bulk of the property of approximately 150 acres is by condition going to be designed for open space. That is the vast majority of the property. The development portion of it is a relatively minor amount and again, if that was going to be developed, and he is not saying it will at this time, but if it were it would have to meet the various conditions of approval and again, over 200 were applied to this particular project. He said the Park District acquired the property with this map intact and it behooves the Park District as a public entity to weigh all of the various options available to it.

Commissioner Butt said Mr. Tong is stating that the vast majority of this property is intended to be open space. He asked if the Tentative Map only applies to a portion of the property that was acquired. Mr. Tong said it applies to the entire property.

Commissioner Butt said if Mr. Tong is saying the District may only develop part of it, he asked if they would not have to redo the Tentative Map or revise it if they were doing something different than what was approved. Mr. Tong said if the project were to be developed, it would have to be

developed in accordance with the approval. Commissioner Butt said this is a full build-out of the property and not 75% open space. Mr. Tong said by condition 350 acres of it would have to be open space so that would be the minimum.

Chair Lane said therefore the developable part is just the part included in the Tract Map and the rest is already designated as open space of 300+ acres. Mr. Tong clarified it is all part of the overall project.

Commissioner Butt asked what would be the ramifications if the Commission denied this. He said it would mean it would make it a lot more difficult for the District to sell it to a developer or to develop it if the District wanted to do that on its own. It is probably more likely to become a park if the Commission did not approve the extension. Otherwise, he said it would lose value to be sold to a developer.

Mr. Tong said yes; it would certainly have less development value and the market value if the Park District were to consider, which they rarely do, but if they were to consider a sale, it would be substantially diminished.

Assistant City Attorney Privat pointed out that once a Tentative Map is approved with conditions, additional new conditions cannot be added. This should have been brought to the Commission's attention earlier, but the Commission's discretion is limited and it is basically limited as to how long the Commission agrees to an extension. Commissioner Butt asked if the Commission would basically have to grant an extension, and Mr. Privat said yes and he thinks the extension should be within reason, but the Commission does not have to approve the full request but something less. These are the legislative parameters for the Commission to consider.

Commissioner Baer said she was somewhat confused as well, but she said what was said about the Park District wanting to keep its options open, this is basically why the item is being presented this way. Following on with that, she asked what will be the Park District's process for determining what will happen with this property both with developable and undevelopable parts of it and she asked what kind of public input would that process involve.

Mr. Tong said the Park District, similar to the City, goes through a formal public hearing process if they are going to look at particular uses of Park District lands. For example, they worked with the State Parks on the plan for East Shore State Park which was a full public hearing process that included over 24 public hearings and a full EIR. The Park District currently is in the process of beginning a land use planning process for 2,500 acres at the closed Concord Naval Weapons Station in Concord. They are beginning the public hearing portion of it next week. They also do amendments to existing land use plans. For example, they are working on a land use plan amendment for Miller Knox within the City of Richmond. They have held public scoping sessions and they are in the middle of that process. This process also involves various public hearings.

He said if the Park District were to decide that this area were going to be part of an actual development that decision would have to be made at their Board of Directors meeting which is a fully noticed public hearing.

Commissioner Baer asked why is it that the District is requesting a 6-year extension specifically. Mr. Tong said they actually have quite a few land use plan amendments in the works and they, as many public agencies, have a limited amount of staffing capacity. Not only are they working on the Concord Naval Weapons Station land use plan, but also working on the Miller Knox land

use plan, a Clayton Ranch land use plan which involves over 4,000 acres. They are also working on Mission Peak Stanford Staging Area project which involves a full EIR. They simply would not have the staffing capacity to address this adequately within a short timeframe.

Commissioner Butt said for him the overwhelming concern is that extending this allows the Park District the opportunity to not do any of that planning but simply sell it to a developer as an investment. It strikes him as odd because from his experience, the District typically buys land to keep it from development and to hold it for people to be used as parks and open space. It seems like this clearly provides the District with an option to just sell it to the highest bidder which would be unfortunate, and he thinks the people of West County would be at the losing end of that. Therefore, he is curious as to what the District is thinking and he asked Mr. Tong to elaborate on whether this is something the District is considering or is a viable alternative that would not involve any of the planning processes mentioned.

Mr. Tong said that decision would be a very difficult decision for the Park District Board to make. They have not fully weighed that concept. At this point, they are merely asking for an extension so the Park District can adequately look at and carefully plan for what the future use of the property should be. He understands that it is something that the Planning Commission is not used to. This is somewhat unique for the Park District as well. However, he believes the Commission understands the legacy of the District's 80 years and various regional parks in the City of Richmond. Therefore, he respectfully asked that the Commission trusts the Park District will do the right thing.

Kristina Kelchner, Assistant District Counsel, EBRPD, said if in fact the District were to ever decide to sell the portion as the developable property, there would be ample opportunity for public input and a public hearing process. She said the District would need to go through a surplus property process to be able to sell that property which is extremely rare. It is their mission to acquire land and to hold it for Park District purposes. She said the only reason the Park District would consider working with a developer and the only reason they ever work with developers is because developers sometimes have the means to provide public access to parks and trails, and that can be a very expensive proposition that the District cannot always do on its own. Sometimes it is advantageous to partner with a private partner who can bring those benefits, but the only reason the District would consider it is if there was adequate public benefit to do so and this is a decision that would be made by their Board of Directors through a formal land use planning process. So it is not the case that the District will turn around at the drop of a hat and sell this property. There would be an extensive process involved in that.

Commissioner Butt asked Ms. Kelchner to elaborate on how partnering with a residential developer on this site would enhance the usefulness of the site.

Ms. Kelchner said currently there is no public access to this site. There is no staging area, no trails built on this property which is 350 acres of park land, but no way for the public to access it and enjoy the parks. As a District, they are not just a conservation district but also a public access, parks and trails organization which is part of their mission. They do have partnerships with developers who often as mitigation for their developments will provide that public access amenities to access the park lands. She said this is a very unusual position for the District to be in. It is very uncomfortable and they agonized a lot over whether they wanted to even ask for the extension because they do not want to send the message that they are suddenly going to become a developer as this is not what they are about. But, because time was getting short and they have not had a chance to go through a full land use planning process and there is value in

the map that they would not have to start over from scratch if it became a benefit to the public through the public hearing process. Therefore, they wanted to preserve the status quo to allow time for that public decision-making process.

Commissioner Butt thanked Ms. Kelchner but said it strikes him as very odd. He asked if this was something of a Board consensus or a staff-level decision. Ms. Kelchner said it was a staff level decision to extend the map. They did have some discussion with their Board about that and they wanted to do what they could to preserve the status quo so they had time to make some decisions about that and to get more information on it.

Commissioner Butt asked and confirmed that the Park District acquired the property in 2012.

Commissioner Baer asked what happens if the map expires and the deadline is not met. Ms. Kelchner said if the Tentative Parcel Map expires, it disappears and the entitlement process would need to be started over completely from the beginning. Commissioner Baer asked if this means that the whole plan that is put forth in with 200+ conditions would cease to exist, and Ms. Kelchner said yes, this is correct.

Commissioner Baer asked if this would close the options the Park District has to develop the property. Ms. Kelchner said it would mean that any project to build a staging area to allow some development would need to start over from the very beginning, not taking advantage of any of the work that had been done. She said there was some planning done out there that the ± 300 acres would be a mitigation bank that could be used as mitigation for other projects. It could be a conservation area, parks and open space. There were a lot of geotechnical work and engineering studies done about the slopes and obviously some of this will need to be updated and redone, but to the extent they could use some of the previous work done to inform future planning decisions, they would like to be able to preserve that.

Chair Lane called for rebuttal by a speaker.

Rebuttal – Opponent

Edmond Andre Hofler said he takes issue with the argument that any new development plans would have to start over. He said this was a project that was ready to go. There were existing slopes, drawings and everything is available. Therefore, the District would have to start from scratch no matter what because they cannot alter the map. The map does not indicate any kind of public access, rest areas, any kind of park land facilities, so they would have to start all over again. He said they obviously are not going to do that. They are going to use this existing map and modify it. He thinks this is where the Planning Commission needs to step up and make them do that.

He said he is not anti-development or a NIMBY. He has been on the other side of the fence and has gone through the process, so he can say honestly this is not a knee-jerk reaction on his part. He just wants to see a good project being built, and he disagreed with EBRPD coming in the eleventh hour and asking for an extension because if the Commission does not the property is worthless. He said Mr. Tong should be honest about the fact that they are in development talks with most likely the previous developer and this is not going to remain open space no matter what if the Commission approves the extension. He said the Tentative Map again does not allow public access and he hopes the Commission will consider this.

Chair Lane asked staff to summarize its recommendations to the Commission.

Ms. Whales said staff recommends the Commission adopt the resolution approving a 6-year time extension for the tentative map.

Chair Lane asked if Commissioners had any further questions of the applicant or opponent on the matter.

Commissioner Butt asked if Mr. Tong could respond to Mr. Hofler as to whether the District is currently in talks with the developer for the project. Mr. Tong stated the Park District is in discussions with many people including the previous developer, including various stakeholders that might be involved or interested in the project. To answer the specific question, yes, they have had discussions with the previous developer.

The public hearing was closed.

Commissioner Butt said Mr. Privat mentioned that the Commission basically has to approve this and he questioned what would happen if the Commission took no action. Mr. Privat said the Commission is being asked to approve the extension and the Commission's discretion is limited to the length of time of the extension, but if the Commission does not act as a body, he believes the matter is appealable.

Chair Lane said earlier Mr. Privat stated the discretion of the Planning Commission is not whether this can be extended but only the time period, and Mr. Privat said this is his understanding. Commissioner Butt said if the Commission did not act, the Tentative Map would expire. Mr. Privat said the Commission is not forced to take an action.

Commissioner Butt said he really has a problem with the fact that if the Tentative Map expires, the likelihood of the land actually staying as open space for people of Richmond is highly more likely than if the Commission allows the District to continue to develop it which they are in current discussions with. He said the Commission would sort of "green light" the development project which he does not have information about because it was before he was appointed to the Commission. He knows residents in El Sobrante Valley appreciate their open space and he would much prefer it to be more likely to be used as park land than as a residential subdivision.

Commissioner Baer stated this makes her nervous and thinks somehow the puzzle is not fitting together for her in terms of what might happen here and whether the land is protected for future park use or not. It is a funny arrangement and the Commission does not know what will happen with the development, if anything. That said she tends to trust the Park District and its integrity in terms of the planning processes it would need to go through and it's public trust in terms of commitment to parks and open space for Richmond and East Bay residents, so she has mixed feelings about it.

Vice Chair Choi said he thinks the Tentative Map was established before any of the current Commissioners were on the Commission. He is a bit ignorant of the process and the valence of a tentative map, as they have not dealt with many tentative maps. He asked what the process was in 2007 and he asked what the import is of what this tentative map means, such as hurdles did it pass to get to its current form.

Ms. Velasco said Ms. Whales has a significant amount of history with this project which she said was very controversial, was a long process for the applicant at the time, and the District's desire to vest or extend those rights she can understand because it was very difficult to even get this project approved. They looked at a large amount of acreage and a portion of it after different studies was identified as developable for various reasons.

She explained that there was an EIR that identified mitigation measures, public infrastructure improvements identified, and all of those are reflected in the conditions. What the tentative map does is that it allows them to subdivide the land and the configuration that is shown in the tentative map. There was a condition to "land bank" or keep a portion of the site as open space. There was no requirement to make it accessible for public trails or access so as the Park District is the new owner, there is that potential because there are many subdivisions in the El Sobrante area where there is vacant land which is hillside area but it is not accessible to the public for trails and hiking. Therefore, she thinks there is an opportunity there. The District would need to return and make any amendments if there are additional parcels that are going to be identified, but just given the long history and amount of controversy on the tentative map approval and its appeal, this was approved by the City Council after the Planning Commission reviewed it several times on appeal.

Vice Chair Choi said this is interesting and likened the matter to trust, given the public process.

Ms. Whales commented that staff went through an almost 2 ½ year period trying to get entitlements for this project. There was also a conditional use permit that was set aside and a General Plan Amendment, a rezoning for the site and a conservation bank of 323 acres that is above the 300 foot line to where it is undevelopable so they must set aside that land. There is only truly 23 acres available for development and this is where those parcels are for 32 single family homes and they are set aside for 4 additional homes on the side which would provide a staging area into the Wild Canyon Regional Park which she commented is beautiful land. The matter was very contentious and the City went through a long process to get through the tentative map and after the market crashed it added 4 more years to the map.

She added that there was always a Canyon Oaks I and staff were advocating there was going to be a Canyon Oaks II at the time that the first subdivision went in. When the developer came on board, this is why staff assisted in the entitlement process to further that development along those same lines. In finalizing the map, the Council would simply have to act on the map as it is presented.

Vice Chair Choi asked if this would start another controversial process.

Ms. Whales said she did not think it would, stating the only thing that would need to be done would be to have the Engineering Department review it, have a civil engineer ensure the actual parcels were sized correctly and have the City Council review it.

Vice Chair Choi asked if the map would be transferable if the Park District decided to sell it to a developer, and Ms. Whales said yes, with entitlements; however, the state grants 60 more days so the map will not expire until September 31, 2015. If no action was taken tonight, the Park District or their representative would still have additional time to come to the City and finalize the map.

Chair Lane referred to the public accessibility components and EBRPD representatives discussed the benefits of having a development. She asked if this was part of the conditions. Ms. Whales said she provided all conditions for the map as well as to the residential property. The City was negotiating an EVA between Canyon Oaks I which is Condition No. 57 which talks about the developer would still have to provide an EVA between the two properties so there would be a trail there. Therefore, all of these conditions would roll over into any development of the property which are numerous and favorable by Canyon Oaks I residents.

Commissioner Butt said in educating himself about this project, he asked staff to speak about why it was so controversial and why it was appealed multiple times.

Ms. Whales said most of the controversy stemmed from the undevelopable land which was the 200+ acres which was to be banked. The City does not currently have a conservation bank and there are some developments in and around the City of Richmond where it would be nice to land bank. This is what they were hoping to do with this project and the developer at the time agreed to that. Because of the actual elevations, anything above 300 feet EBMUD requires a developer to supply their own water and this is the portion which will be part of a conservation bank or park land, depending on what EBRPD does. At Council conclusion, there were various meetings held with the HOA at that time as well as with neighbors from Canyon Oaks I who were very pleased with conditions for this project and this is why it was ultimately approved. They wanted to be sure it mirrored what they currently had and that the new development would not impose any impacts. She also said there were traffic mitigations which are conditioned in the project. She said some time ago there was a project for 1,900 townhomes so residents were very happy that 36 were being entitled.

Vice Chair Choi likened the project to a time capsule.

Chair Lane thanked Ms. Whales for the background. She noted concerns of the public speakers and also said if the map is extended the site may become developed subject to what has been approved. Also, being conscious of the process, it was an arduous process and what is before the Commission is what was decided at the time. She noted approval of this may mean that development may come to fruition for this site. While she is also an advocate of open space and protected, this clearly went through an extensive process wherein the Council ultimately came to a decision for approval. She is supportive of approval and said Commission members can also narrow the timeframe for extension.

Commissioner Baer said if the Commission does approve this and the Park District ultimately decides to sell the developable part and it is developed, she asked what further review process would it require, given this is only the map and not the building design. Ms. Whales said the Tentative Map would need to be finalized and they would have to go through the design review process for single family homes for lots designated on the tentative map.

Commissioner Butt asked what kind of outreach was done to the area for this item. Ms. Whales said all residents from Canyon Oaks I were noticed by mail as well as staff reached out to those in the previous files for the project and staff typically notices those 300 feet, but in this case mailed notices to 1,000 feet, given the majority of the property is owned by EBRPD.

Vice Chair Choi said he would like to determine where the needle has moved on development given the Park District's reputation. Commissioner Butt said he has great respect for the Park District and he trusts them. His problem is that the Park District is not in the development game

and if hypothetically they sell the property for any reason, the City is then trusting a developer and he knows that since 2007 the Commission and Council are far more rigorous on holding developers to a high standard and his concern is that this completely opens the possibility of getting an assaultive developer and then the District is not involved at all. If the Park District was, in fact, the developer and they were working to do some innovative things that could be great, but this is not what he thinks will happen.

Chair Lane said if the property sold to a developer, the developer would be subject to the various conditions, and any specific project in terms of the look and feel would go before the DRB which would be another body that would have discretion to determine the design components of it. The conditions still hold here to whomever if the property is sold to. Ms. Whales confirmed and said it would need to go through an extensive review process. If someone wanted to modify the lot sizes for whatever reason, that would be a new subdivision and they would have to go before the Planning Commission to do that. If not modified, the existing map would remain for those properties that go before the DRB.

Mr. Privat stated that for any discretionary approvals, such as if they have to go to the DRB, the DRB could impose conditions. In fact, nothing stops the applicant from agreeing to a condition proposed. The Commission cannot just impose conditions on a map that has approved conditions on it already.

Commissioner Butt said someone said this was fully entitled. Presumably, there was a design approved at one time of the actual residences and if so, he asked if they would at least try not to go before the DRB or get an extension. Ms. Whales said no. At the time, the developer had designs that mirrored the home designs in Canyon Oaks I, so there were some; however, they never went through the formal process before the DRB and that would be the last component for this development. Some studies would have to be updated given conditions have changed over the past 8 years, but as far as configuration of the lots based on this map, they have the entitlements in place which is what the Park District is asking for; a 6-year extension.

Vice Chair Choi said as was suggested, the idea a “partnership” with a developer might allow improvements for access, he asked if this would need to return and he asked if any of the conditions might need to be changed. Ms. Whales said there is land up on the top of the 32 lots that are part of the tract map which could be used for a staging area access into the Park District that they are reserving which is separate.

Vice Chair Choi said the Park District could sell off the developable part to a developer, maintain the other part of the map and come to the City to create a staging area, and Ms. Whales confirmed they could do this. She said lots and roads are already configured and believes there is also identification of trees to be removed and replacement trees.

Commissioner Baer asked for the distinction between the Tentative Map and the Final Map and what might change in between now and that time. She also asked whether the Final Map returns to the Planning Commission. Ms. Whales said according to the Subdivision Map Act, the civil engineer would need to make sure all grading and plans were submitted. There would be a Civil Engineer of record, as well as their City Clerk, Planning Director and it would have to be notarized, go before the City Council who would stamp it as a final map. They would have all reports completed at that point to finalize it and there are soils analyses associated with that as well, prior to taking it to the City Council for final approval. It then gets recorded with the County Assessor’s Office.

Vice Chair Choi asked if there is latitude at that point, and Ms. Whales said no. They are simply finalizing what the Planning Commission had done previously. Had it not been appealed, the City Council would not have been involved.

Chair Lane summarized the discussion, stating the Commission can approve the 6-year time extension which provides the EBRPD to determine what they want to do with the property which could include selling it to a developer. That development would be subject to the Tentative Parcel Map as well as conditions of approval and it would go before the DRB. Alternatively, the Commission could take no action.

Vice Chair Choi asked and confirmed that if the Commission does not act, Mr. Privat said the map would expire. Failure to act is appealable to the City Council for a determination. Chair Lane said if action is not taken, the EBRPD still owns the site. They could choose not to develop it or choose to develop it by starting over the process for a new Tentative Parcel Map.

Ms. Velasco emphasized that EBRPD has requested up to 6 years. If the Planning Commission feels that a shorter time is more appropriate to help move the process along, this could also be done and this would not stop them from requesting an additional extension if they could for some reason not meet that deadline. It means they would have to return to the Planning Commission. She said if this helps the Planning Commission to accommodate for a shorter period of time which might help resolve some of the unanswered questions, there is an option the Commission can approve a shorter extension.

Chair Lane said she does note the concern of speakers as well as Commissioners about what ultimately could happen to this site. She noted that a large amount of this area is land banked. In terms of the tract map, none of the current Commission was part of that process. It sounds like it was an arduous process at that time. In terms of the density of these sites, it sounds like it is in line with what is out there and any changes to that would require it return to the Planning Commission, noting there is discretion over what is ultimately the design which will go before the DRB. She trusts them to determine what the development would look like, and with that, she is supportive of reducing the time if the Commission feels it should be a priority for the District to determine what it will do with the site. Currently, they have up to 6 years and she suggested cutting this in half to 3 or even 2 years.

Chair Lane made a motion to adopt resolution approving a 3-year time extension for Tentative Tract Map 8451, Canyon Oaks II subdivision, subject to the previous conditions of approval in Exhibit A.

Vice Chair Choi seconded the motion and asked for an amendment to the motion to approve the map for 2 years instead of 3 years. Chair Lane agreed with the amendment.

ACTION: It was M/S/C (Lane/Choi) to adopt resolution approving a 2-year time extension for Tentative Tract Map 8451, Canyon Oaks II subdivision, subject to the previous conditions of approval in Exhibit A; which carried by the following voice vote: 4-0-1-2 (Ayes: Baer, Choi, Loy and Lane; Noes: None; Abstain: Butt; Absent: Kilbreth and Langlois).

COMMISSION BUSINESS

4. Election of New Officers

Chair Lane said she reviewed the role of the Secretary which she read into the record. She said a nominating committee was comprised of Commissioner Loy, Baer and Butt and she asked them to share nominations for each position.

Commissioner Butt stated the committee recommended Commissioner Choi as Secretary, Chair Lane to continue as Chair, Commissioner Langlois as Vice Chair.

ACTION: It was M/S/C (Lane/Butt) to nominate and appoint Commissioner Choi as Secretary; which carried by the following voice vote: 4-0-1-2 (Ayes: Baer, Butt, Loy and Lane; Noes: None; Abstain: Choi; Absent: Kilbreth and Langlois).

ACTION: It was M/S/C (Lane/Choi) to nominate and appoint Commissioner Langlois as Vice Chair; which carried by the following voice vote: 5-0-2 (Ayes: Baer, Butt, Choi, Loy and Lane; Noes: None; Absent: Kilbreth and Langlois).

ACTION: It was M/S/C (Choi/Butt) to nominate and appoint Commissioner Lane as Chair; which carried by the following voice vote: 4-0-1-2 (Ayes: Baer, Butt, Choi and Loy; Noes: None; Abstain: Lane; Absent: Kilbreth and Langlois).

5. Reports of Officers, Commissioners and Staff

Commissioner Baer said at the last meeting she stated she was able to attend the workshop for Livable Corridors discussion. She reported there was a new map that was presented to the group and she asked staff if the Commission will need to vote on this. Ms. Velasco said staff is planning to agendize the revised map for the August meeting.

Vice Chair Choi reported that his oldest brother is Choi Choi turned 50 yesterday and he is both an M.D. and Ph.D. He wished him a happy birthday.

6. Adjournment - The meeting was adjourned at 8:30 p.m. to the next regular meeting on August 6, 2015.