

**PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL**
450 Civic Center Drive, Richmond, CA
September 17, 2015
6:30 p.m.

COMMISSION MEMBERS

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

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

Vice Chair Langlois led in the Pledge of Allegiance.

ROLL CALL

Present: Vice Chair Marilyn Langlois; Secretary Ben Choi; Commissioners Nancy Baer, Andrew Butt and Jen Loy and Jeffrey Kilbreth

Absent: Chair Sheryl Lane

INTRODUCTIONS

Staff Present: Planning Staff: Lina Velasco, Jonelyn Whales, Hector Lopez, David Brosky, Richard Mitchell and Carlos Privat

MINUTES - None

AGENDA

Vice Chair Langlois 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, September 28, 2015, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

CONSENT CALENDAR

Vice Chair Langlois stated currently the Consent Calendar consists of Items 1, 2, 3 and 4. She asked if Commissioners, public or staff wished to remove the item. Ms. Velasco stated that there are speakers signed up to speak on Item 3. Commissioner Butt requested removal of Item 1.

ACTION: It was M/S/C (Baer/Butt) to approve Consent Calendar Items 2 and 4; which carried unanimously by the following vote: 6-0-1 (Ayes: Baer, Butt, Choi, Kilbreth, Langlois and Loy; Noes: None; Absent: Lane).

Items Approved on the Consent Calendar:

- CC2. PLN15-389: Briseno Produce** - PUBLIC HEARING to consider a Conditional Use Permit for a produce mobile vending unit at 3627 Cutting Blvd. (APN: 513-152-001). C-1, Neighborhood Commercial District. David Haddad, owner; Mariana Briseno, applicant; Planner: David Brosky; Tentative Recommendation: Conditional Approval.
- CC4. PLN15-419: IMTT CUP Modification** - PUBLIC HEARING to consider a request for a modification of Conditional Use Permit (CUP) 1104464 and a Design Review Permit to change the type, size and location of one of the three previously approved fuel tanks to be for storage of caustic soda at 100 Cutting Blvd. (APN: 560-290-005). The Design Review Board recommended approval of the design review permit to the Planning Commission at their August 26, 2015 meeting. M-4, Marine Industrial District. IMTT-America, owner; IMTT-Richmond-CA, applicant; Planner: Lina Velasco; Tentative Recommendation: Conditional Approval.

Brown Act – Public Forum

CORDELL HINDLER, Richmond, spoke about 7-Eleven's CUP and resultant problems with crime and he asked that the Commission agendaize the CUP for a future meeting.

Items Removed from the Consent Calendar:

HOLD OVER ITEM

- CC1. PLN15-368: Upgrade Alcohol License For A Restaurant and Night Club** - PUBLIC HEARING to consider a Conditional Use Permit to upgrade an existing on-sale beer and wine license (type 41) to an on-sale general license (type 47) at an existing restaurant, and to establish a night club use at 3288 Pierce Street, 105 (APN: 510-060-006). C-3; Regional Commercial District; 3254 Pierce Street Associates, owner; Jose Lara, applicant; Planner: Hector Lopez; Tentative Recommendation: Conditional Approval.

Hector Lopez gave the staff report and brief introduction of the request for a CUP to upgrade an existing on-sale beer and wine license (type 41) to an on-sale general license (type 47) at an existing restaurant and to establish a night club use between the hours of 10PM to 2AM. He stated the location is at the Pacific East Mall and he described the 2-level tenant space at the northwest wing of the 10-acre site. He stated the restaurant hours are from 11AM to 10PM and night club hours are proposed to be from 10PM to 2AM.

Mr. Lopez said the restaurant is currently being remodeled for significant sound proofing and other improvements to comply with the Building and Fire Codes, the neighborhood counsel and the West County Alcohol Policy Working Group. Staff believes that the proposed use is compatible with the regional character of the shopping mall, will attract people from Richmond and surrounding cities and staff is recommending approval.

JOSE LARA, applicant, stated they are seeking approval of the CUP to operate a restaurant and night club. The existing facility was used as a restaurant previously with a beer license and they are requesting a Type 47 license. They have done significant remodeling with the property to comply with all regulations and have addressed safety, discussed the operation with the police department and their security company. They will have significant security to ensure the safety of all patrons and have contacted Uber and local taxi companies to ensure patrons can be driven as needed. They expect to offer 40 new jobs in the City of Richmond which will also

create new tax revenues and most importantly, he said the venue will help to put Richmond on the map and provide more exposure in the area. They are bringing chefs and bartenders from Peru, the designers working on the establishment have worked on businesses in Las Vegas.

Vice Chair Langlois opened the public comment period and there were no speakers.

Commissioner Butt stated this could be an exciting addition to Richmond. He stated the Pacific East Mall is in close proximity to a residential neighborhood in El Cerrito and Richmond, as well as a proposed large multi-family development nearby on the creek. He said there is mention that the applicant will limit traffic through the residential area and bring vehicles out to the western entrance. He asked specifically what is intended for traffic.

Mr. Lara said they will have security staff that will be directing traffic and assisting patrons with parking. Also, in order to prevent any disturbances to neighbors, they have added higher grade shielding and insulation in the building and have taken precautions to ensure they will not be a nuisance.

Commissioner Butt asked how the applicant will specifically prevent people from coming in and out of the residential area. Mr. Lara stated the main traffic is coming from the freeway. After a certain time parking on the back side of the mall is currently locked with a gate and only the front area will be available for parking. This limits any ingress on that side.

Secretary Choi asked what business was located in the space previously, and Mr. Lara stated it was formerly the Korean Hot Pot business. Mr. Lara added that their menu will consist of the best Peruvian food in the area.

Commissioner Baer said it looks to her that the plan has covered many things the community and the Commission might be concerned with. She asked about Mr. Lara's own experience in operating the business.

Mr. Lara explained that he and his partner have been in business for many years. His partner has owned the mall over the last 19 years and is a very successful operator. He has been in business since college and on the restaurant side for a few years. He had managed multiple units in the past. He is Peruvian and is familiar with the custom and food, and he would like to be able to offer good food in the area and not have to drive to San Francisco.

Commissioner Baer asked if problems arise, she asked how these would be addressed or changed for the CUP. Mr. Privat replied that a CUP runs with the land. It will go until it has been revoked or no longer used at which time there are provisions in the ordinance to expire for lack of use. If there are concerns or problems, the CUP will be revoked or can expire.

Commissioner Baer said while she is not anticipating the CUP will be revoked, but she asked to understand what would happen and how concerns get registered with the City. Mr. Privat said the mechanism to address a permittee who is not in compliance with their CUP would be a revocation action. Mr. Lopez added that the CUP will be subject to the 20+ conditions of approval which are strict.

Commissioner Loy congratulated Mr. Lara on the opening of his business and said she is happy to see the applicant provided outreach in the community and have letters of support from the neighborhood counsel. She asked if condition number 4 has been addressed which relates to

the request not to use the rear doors for anything other than loading in and out and as an emergency access. She asked and confirmed that Mr. Lara has agreed with this condition.

The public hearing was closed.

Vice Chair Langlois thanked Mr. Lara for opening a business in Richmond and she hoped for success of the restaurant and night club.

ACTION: It was M/S/C (Kilbreth/Choi) to approve PLN15-368 per staff's findings and conditions of approval; which carried unanimously by the following vote: 6-0-1 (Ayes: Baer, Butt, Choi, Kilbreth, Langlois and Loy; Noes: None; Absent: Lane).

NEW ITEM

CC3. PLN14-021: Baywalk Mixed-Use Project - PUBLIC HEARING to consider a recommendation to the City Council to: (1) adopt an Initial Study/Mitigated Negative Declaration; (2) Rezone from M-1, Office Flex District to PA, Planned Area District; and (3) approve a Tentative Subdivision Map, Street Vacation and Design Review Permit to construct 193 multi-family dwellings, consisting of 95 multi-family residences and 93 live-work units on an existing 10 acre site located at 830 Marina Way South (APN: 560-190-007). M-1; Industrial Office Flex District. Stephens & Stephens XII LLC, owner; Matt Hamilton, applicant; Planner: Jonelyn Whales; Tentative Recommendation: Recommend Approval to City Council.

Jonelyn Whales introduced the environmental consultants, Richard Grisetti and Mike Horn who she said will be able to respond to questions regarding the Mitigated Negative Declaration (MND), as well as the applicant team who will give a presentation on the design aspects of the project.

Ms. Whales gave the staff report and brief introduction of the request to construct 193 multi-family dwellings on an existing 10 acre site located at 930 Marine Way South which has been vacant and used to be the Harvester Building. The units are proposed to consist of live/work and townhomes. As with most subdivisions there are many planning entitlements that accompany this application, specifically, the MND to mitigate all environmental issues identified. The application also seeks approval of a design review permit and rezoning from M-1 to a Planned Area District.

Ms. Whales stated there is analysis regarding a CUP; however, the applicant is requesting that the site be rezoned to PA and therefore, this nullifies the need for a CUP. In addition, she said development guidelines are needed for a revised PA along with a development agreement. The agreement attached to the staff report has been revised which she previously distributed to the Planning Commission which involve minimum lot sizes.

A section of the site is also shared with the adjacent Kaiser building which involves an easement as part of the project, and the applicant is requesting a street vacation. The site complies with the new General Plan designation and has been modified from the original 255 units. The applicant worked with the DRB to streamline some of the units which were proposed to allow for more green space and open space. Ms. Whales stated she can respond to any questions of the Commission after hearing from the applicant's presentation.

Vice Chair Langlois called upon the applicant to make a presentation.

BRIAN COGGINS, BayWalk, thanked planning staff for their work and good planning principles over the last 18 months. He said in 2012 the City implemented a new General Plan. Their firm is an urban infill firm with the motto of helping cities to implement their General Plan. The City's plan had many key tenants that they followed as part of this project.

Chapter 1, the Economic Development Element talks about collaborating with employers, unions and local workforce development programs to strengthen the community, as well as local-serving commercial establishments, attractive streetscapes and high density housing. On page 3 of the staff report, this site fits in nicely with what the General Plan calls for which is a medium density development of up to 55 feet high consisting of mixed use. He said there is a significant commercial component to the project in addition to residential.

Mr. Coggins stated Chapter 5 in the Housing Element talks about having walkable and complete neighborhoods going after opportunity sites, in-lieu fees towards creating very low and low income housing, improving blight and paying prevailing wages and involving local contractors which are key components of their project.

He then displayed the existing property via a PowerPoint presentation and gave a background of what led to it being vacant for 12 years. He said the loading docks are too low, given today's modern trucks. The ceilings are also very low in the majority of the building and many businesses did not want to locate to the building because they could not move pallets around. The site was marketed for over a decade and it remained vacant.

Regarding community outreach, Mr. Coggins said shortly after purchasing the property they met with everybody in the Marina and adjacent businesses and much of their input has been included in the project. He displayed renderings of the modern architecture for the project, as well as open space and greenery.

Regarding the commercial component the project has improved given the DRB's involvement. The DRB pushed them to locate live/work units and push commercial signage on the street. He displayed the neighborhood serving retail on Marina and Wright and they seek to open a coffee shop and central meeting area for the community, as well as a business center, yoga and Pilates studio and a fitness center. Solar panels are incorporated for every single home if a buyer wants them, as well as EV charging stations, community gardens, native landscaping, shade trees and pervious pavers. They have worked with WETA for a ferry terminal, tankless water heaters, low flow fixtures, energy efficient appliances, bike racks, and other efficiency components. He discussed the many local companies involved in the project from solar to landscaping as well as Richmond Build.

In terms of fiscal and community impacts, Mr. Coggins said the project will provide 300 jobs, increase in property tax revenues, new sales tax generation, \$6.5 million in fees to the City of which \$2.8 million will go directly to affordable housing. The rest will go to park, fire, libraries and schools. He said many new houses will support restaurants, ferry ridership and Marina residents want a grocery store there. Live/work units bring businesses into town and they continue to grow in Richmond and getting small businesses is great for the community in the long term. They will also add bike lanes on Wright Avenue and Marina Way South. He said 30% of all of the work done on the project with unions will be done by Richmond residents through the Richmond Build program.

Vice Chair Langlois opened the public comment period.

Public Comments:

KEVIN VAN BUSKIRK, Sheet Metal Workers Local 104, spoke on behalf of the other two unions, the UA and IBEW unions. They review projects in Richmond and all of Contra Costa County and ask what community benefits projects will bring to offset their impacts. They question whether projects are good for the community and the developer has agreed to coordinate with the City's employment training department to maximize participation of residents working on the project. They have agreed to employ 30% through Richmond Build and ensure the project's construction contributes to the training of apprenticeships and careers in the construction industry which will maintain area standard wages. There will be opportunities for several more years for residents to work, purchase homes and raise their families in the City of Richmond which he said is great. He cited other developer contributions as well for the community and asked that the project be approved.

CORDELL HINDLER commended the development team for their vision and participation which will benefit the City of Richmond and asked the Commission to approve the project.

PATRICK SOLARI, Sims Metal Management, said Sims encourages infill development; however, like many industrial operators they are concerned when residential development is encroaching upon long-standing industrial operators that provide livable wages, revenue to a local economy and services that are necessary for the broader economy. It is an unfortunate reality that industrial operators and residential uses are in many ways incompatible uses. Due to current technologies, often times having a significant buffer is the only way to make sure industrial and residential uses can be successful. Sims is concerned that while it appears to be a great project, there are some locational challenges.

Mr. Solari explained that the project is surrounded by commercial and industrial uses and there appears to be a broader trend in the area which might in turn push out industrial operators. Under the existing Specific Plan, the land use designation for this land is Research and Development and Business. Under the proposed South Shore Specific Plan, the uses is a combination of and continues to Research and Development, Business, Mixed Use Employment and only one-quarter is residential. When the Planning Commission is asked to opine on the South Shore Specific Plan later this year, there will already be a significant change from that plan in favor of residential right across the street from the recognized boundary of the industrial areas on the west and mixed use and residential areas on the east. Sims is hopeful they can resolve issues and specifically have not provided any written legal concerns regarding the MND as an indication of good faith as they think and hope they can resolve issues. He opened dialogue with the developer and hoped to resolve issues by the time the project is approved by the City Council.

Vice Chair Langlois offered the applicant a 2-minute rebuttal to address Mr. Solari's concerns.

Rebuttal – Applicant

MATT HAMILTON, applicant team, said he met with Mr. Solari yesterday and his concerns were reviewed. He believes it comes down to a disclosure that buyers in the community will sign, advising them of the nearby industrial uses. They are working with their attorneys and Mr. Solari

and other attorneys within the Council of Industries businesses to develop a disclosure everybody is happy with. They are confident this can be done by the time the matter is presented to the City Council in a couple of weeks.

Commissioner Kilbreth asked if there is anything else besides the disclosure and he asked if the disclosure in the packet a good working draft of what the applicant thinks is the kind of disclosure needed.

Mr. Hamilton said they believe the document is close to finalization. They worked on a disclosure document with their immediate neighbors on the other side of 17th Street and they are in agreement. This then went to additional parties such as Sims and the Council of Industry businesses that requested it include more detail. They have red-lined the document, but they believe they are 90% there. Regarding any other issues other than the disclosure language, the MND has many mitigation measures dealing with sound and they will comply with all of them.

Mr. Solari said the disclosure document circulated hits the gist of substantive issues. What Sims is looking for is more certainty and perhaps an actual agreement between the owner of the property and any successors and assigns. One of the things Sims would be concerned with would be any opposition to continued operations. That said, Sims is looking at something along the lines of what was agreed to in the Artisan Cove development with more meat. He said there is only so far Sims can go with this particular project and Sims would like to open up a dialogue with the City regarding how this represents one facet of what appears to be a broader action in the area. However, that is outside of this particular project.

Commissioner Baer requested the scope of the decision being asked of the Commission, stating it looks to her like the Commission is not reviewing the details of the project but being asked to consider the rezoning and the map, but not other aspects of the project. Ms. Whales clarified that staff went through the process with the DRB to refine the details of the design itself and they submitted a recommendation. The Planning Commission is the land use advisory body and staff is requesting the Planning Commission forward a positive recommendation to the City Council. The City Council will consider and assess the entire project in its totality with all planning entitlements of the design review permit, street vacation, vesting tentative map and the rezoning.

Commissioner Baer referred to the agenda and asked for clarification that the development is either 193 units versus the project description which states 255 units. She also asked for the total number of parking spaces for the 193 unit development, as what is in the project description is based on the 255 unit number.

Ms. Whales said the DRB conducted extensive review and the site plan and circulation was revised. The project was analyzed at the 255 unit count at that time. However, under CEQA, as long as the numbers did not increase, the MND or environmental document is still valid, and parking has not changed. Parking that is documented in the previous staff report which is still valid and each unit will have a 2-car garage. She referred to the chart in the previous staff report which discusses parking, open space, heights, and the development guidelines. She pointed to the chart on page 5 of the previous staff report.

Commissioner Baer said the parking count according to the chart is 386 parking spaces versus the 590 spaces. Ms. Whales restated the each unit will have 2-car garages.

Commissioner Baer voiced concern about too much parking given the ferry service going in at the same time the project would be constructed and did not believe the City should be building for the automobile any longer. She appreciates the project has gotten smaller and therefore the amount of parking has been reduced but was thinking that the type of tenant occupying the development would be those who will use the ferry service and public transit. She noted that in the South Richmond Connectivity Plan passed by the City Council there is a plan for increased bus service along Marina Way South and, therefore, she suggested reducing parking for this development.

Ms. Whales noted that some units will be live/work units and commercial.

Commissioner Baer asked the applicant to discuss the actual need at the development.

Mr. Hamilton clarified there are 386 garage stalls and 91 guest stalls for a total of 477 stalls per unit, which is a good number for this type of project, considering the ferry is coming but not quite there yet. He noted there is retail which will have its own parking demands as well as the live/work spaces. Therefore, it is a delicate balance getting the right amount of parking but they think what they have is close to what will be a good fit for this project and number of units.

Commissioner Butt asked the CEQA consultant about the proximity of pollutant sources to the freeway and whether there had been specific input from BAAQMD.

RICHARD GRISETTI, CEQA consultant, introduced their subconsultant, Jeffrey Gornack who can talk about coordination with BAAQMD and mitigation measures included.

Mr. Gornack stated he was primarily responsible for the air quality analysis along with Mike Ratay who did the actual modeling. He said their concerns were to meet BAAQMD requirements which are reflected in their latest CEQA air quality guidelines. He and Mr. Ratay are very familiar with the methodology requirements, significance standards and said the analysis is completely in sync with those requirements. The Air District was also closely involved in design issues and they had two cycles of air analysis which they reviewed, identified those areas that needed adjustment and revised it to meet concerns given the pollutants from the freeway, railyard and added in the Port of Richmond which had been left out of the original analysis. Without mitigation they would not have met significance requirements and all mitigations were done to assure that after their implementation, they would be well below their level of concern.

He then discussed those areas stemming from pollutants and primarily they were concerned with diesel emissions from automobiles, trains and ships in the Port and this was the focus. They accomplished mitigations primarily through filtration on air intakes for the building.

Commissioner Butt asked if elderly or children would be protected when playing out on decks or in landscaped amenities, and said this is a major issue in certain areas, stating he was not sure MER filters would be enough for those outdoors.

Mr. Gornack explained that the risk comes from total exposure over time. They consider a 70-year outdoor exposure of residential receptors which is very worst case, and when people are at home they spend most of their time indoors. Therefore, even though there will be a higher exposure when outside some of the time, there is a considerable margin of safety with this health risk based on their modeling assumptions.

Commissioner Butt said he did not know this was a building part of the Kaiser Shipyard built in 1944 and he was somewhat surprised there was no input from the National Parks Service and that the findings said the environmental review was not significant, given it is the largest and only remaining building from Shipyard II operations. He asked for comment on this.

Mr. Grisetti stated that the applicant retained a historic architecture firm, Page and Turnbull to prepare the analysis. While he did not know the degree of interaction between Page and Turnbull, City staff reviewed the report and they summarized this into the Initial Study and he did not have any information beyond what was contained in their report.

Commissioner Butt said he was supportive of the project, but he found it ironic that Page and Turnbull that conducted the Prism study made the finding that the building was not a significant building but more of a supportive and not active role. Given the building is the last remaining building he questioned whether the Park Service commented on this.

Ms. Whales said the Park Service did comment and she referred to the letter submitted by Adams Broadwell, stating there is a measure to address impacts on historical resources including a delivery of a hard copy and digital copy. Even though it was part of that era, it was found not to be significant, given the way Donna Graves had mapped out the Prism study which was on the border. Ms. Whales added that the City also contacted its own Historical Preservation Commission to review their findings and the report has had significant review by several different bodies.

Mr. Mitchell stated this is the second development proposed for the site and at that time, the National Parks Service indicated it looked like a contributing structure but there was not a great deal of excitement in doing anything with it. Subsequently, Donna Graves reviewed it and there was an additional report on it which talks about the modifications made to the face of it. There were other modifications on the north side which were not part of the original structure. The people who purchased it made several efforts to come up with a use that would retain the building, but because of ceiling height problems and other reasons, the development could not get any traction. Therefore, its significance is subjective.

Commissioner Butt said under methodology in the third paragraph, page 2 of the Page and Turnbull report, it states "Research was conducted within the parameters of a consultant confidentiality agreement and therefore direct consultation with the City of Richmond and the authors of the existing documentation was not conducted." Because it strikes him that this is a National Park and only remaining building of Shipyard II, that would have been part of the review, and there would be some mitigation relating to telling its story within this development, which he suggested as being appropriate.

Commissioner Kilbreth referred again to health impacts. He asked how this compares to being next to the Chevron Refinery in terms of PM2.

Mr. Gornack said Chevron is a very substantial source of health risk from all air emissions, but they did not compare the project to Chevron but the closer sources which were the freeway and railroad.

Commissioner Kilbreth said for those living in Pt. Richmond and Atchison Village next to the Chevron Refinery, he was curious as to how that compares to those living next to the railyard and freeway.

Mr. Gornack said 10 years ago when the BAAQMD advised communities about the most risky sources of air pollution, freeways, major roadways, railyards, sea ports, and oil refineries were called out and are of comparable concern. Truthfully, exposure from freeways is much more common, given more people live near them whereas there are a few refineries concentrated in a few place. All sources he mentioned were of equal concern in the document and if one were as close to the refinery as someone was to the freeway or to the Port that would be mitigated.

Commissioner Kilbreth said while a study was not done for the refinery, it could be done because there is a year old report on Chevron and the consultant has the project calculations, so they could be compared. Secondly, he referred to Appendix B, page 13 and the table of Health Impacts based on I-580. It states that "cancer risk 65.4".

Mr. Gornack stated there is a comparison table in the Air Quality section on page 31 of the Initial Study, in Table III-5 that shows the comparisons of the sources they considered, so the railroad shows it has twice the impact.

Commissioner Kilbreth asked what the total cumulative impact of all sources, and Mr. Gornack referred to the next page and the total risk from all sources is 112. Commissioner Kilbreth noted the significance threshold is 100 probable cancer deaths per million based on the modeling. He asked how come the I-580 cumulative cancer risk is 6 times the impact of the railyard on Page 34.

Mr. Gornack explained that the existing receptors are on the north side of I-580 and are already there. Table III-5 and III-6 refer to receptors that will be there from the project.

Commissioner Kilbreth noted that total cumulative impacts come in at 112 for cancer, and Mr. Gornack said that is pre-mitigation. III-6 on page 33 is after mitigation or filtration.

Commissioner Kilbreth thanked Mr. Gornack for the explanation and asked lastly whether there is anything the City can do to discuss with BAAQMD to reduce pollution specifically for the railroad industry.

Mr. Mitchell said the two railroads that operate switching facilities both have been actively updating their locomotives to the latest technology to reduce emissions. They already meet the latest emission reduction standards. The much larger through locomotives do not yet, but the frequency of these trains running along that line will drop off dramatically now that the new crossover has been completed by the Richmond Parkway. He clarified that this means that the character of emission rates in this document will actually continue to be lowered as technology moves forward.

Mr. Gornack added that this is true of the freeway. When the Air District did their screening tables, they assumed a gradual reduction of emissions from vehicles. They used the worst case scenario with the rail modeling assuming that would not happen with the trains, but if it did, it would be less than the projected number.

Commissioner Kilbreth said OEHHA (Office of Environmental Health Hazard Assessment) is about to issue and BAAQMD is about to switch over to new health risk factors which will have a major impact on the petro chemical industry and refineries because they are basically going to say the PM and other emissions and criteria pollutants are actually more dangerous than the previous health models had used. In that sense, the good news is people do not live outside all the time and there is progress on the trails, but a year from now, the City will incur health impacts that are significantly greater for the same amount of emissions.

Vice Chair Langlois stated the Commission received a very thick Negative Declaration document and she asked that in the future to request the consultants pay attention to the table of contents and pagination because she found it difficult to follow.

In terms of the actual project, Vice Chair Langlois thinks it has great components to it. There are many opportunities for solar panels, open space, bike lanes and construction jobs, but asked about the timing of it and its location. She recalled that this area was shown to be designed to eventually have very high density housing and concerns were raised about nearby industry and railyards. She recalled Mr. Mitchell explaining that this is a plan for the next 30 years and that it is not anticipated that heavy rail use will not continue without the need for a rail yard in the future. As it is, this project is proposed now with the very close railyard and as the speaker from Sims Metal pointed out, it is completely surrounded by different industrial uses. She also voiced concern that problems will occur when residents move in and complain about noise.

Mr. Mitchell stated the map the City began with for the South Shore Specific Plan included the railyard and a placeholder open space. They indicated there was a long-term possibility that one day the rail use would go away. The placeholder on the map was identified that should this happen, it was understood that the site would not become another industrial site. Two railyards have gone away in the immediate vicinity where Artisan Cove is under construction now, and in the long term it was not presumed to be heavy industrial in the future.

He said also Anchor Cove is completing construction now and on one side is residential and on the other is the railyard separated by a large sound wall. On that side of the project they have tripled glazed windows in order to eliminate sound impacts from the railyard. That community is already there and co-exists with the railyard. Therefore, a similar technology would be applied to this community in order for it to co-exist. He said this is seen a lot in West Oakland and other areas and competition will continue in areas that have become desirable. Therefore, staff is looking at technology as a way to soften the transition because there is simply not enough real estate left to allow for large buffers. Therefore, he said the location of where the yard is may possibly become something else in the future. In response to Vice Chair Langlois, Mr. Mitchell confirmed there are residents living in Anchor Cove now.

Vice Chair Langlois stated the Council of Industries discusses a disclosure for those purchasing residential property so they are well aware of odors, noise, and impacts if they are near the rail, port and industrial activities. She is concerned about these issues and she was not sure the City would not experience complaints, given the property is extremely close to the railyard. She said a letter was received from Sherry Patchett who is active in the South Shoreline Community Advisory Group and one question she put forward was whether this property will be subject to Proposition 65 on-site and in unit signage.

Mr. Mitchell said he was sure the developer will meet whatever legal requirements there are and noted that this is a case where units are located near sources of emissions, such as autos,

ships and trains, but it is not a refinery or chemical plant. The disclosures are standard and are signed by those buying and choosing to live there.

Vice Chair Langlois stated the Commission also received a document from Ms. Patchett from the California Air Resources Board from 2012 regarding minimum setbacks, and she asked if this has been reviewed. She said the Commission also has the responsibility of protecting its residents' health and as Commissioner Kilbreth pointed out, there is a health component to the proximity of the freeway and railyards which recommends a minimum of 500 feet from a major freeway and a minimum of 1,000 feet from a railyard to protect health.

Richard Grisetti, CEQA consultant, stated buffer zones or minimum setbacks are used to separate people from emissions, but if space or technology is not available to solve the problem the filtration devices serve as the primary technology here.

Vice Chair Langlois asked and confirmed that the residences will be for-sale units and that homeowners in conjunction with the HOA will be responsible for replacing filters as needed. Mr. Horn said typically the HOA can make a schedule for replacement filters to ensure it is done.

Vice Chair Langlois noted people are not outside all the time, but there could be long periods of time when residents will not circulate their air and using the ambient temperature. She referred to an indoor air study done by the Silent Spring Institute about 8 years ago which reviewed Atchison Village and Bolinas and the area near Chevron Refinery. They actually had worse indoor air quality than outdoor.

Mr. Gornack explained that when there are indoor air quality problems they stem from indoor air quality sources. The more important pollutant is the diesel particulate pollutant from these sources and even without air filters there is a natural drop-off of particulate concentration when indoors because there is little air movement within the home.

Vice Chair Langlois noted the study she referred to did not result from toxins inside the home. Bolinas does not have the environmental toxins that Atchison Village does from the refinery and those toxins were elevated indoors. Therefore, she is concerned there are not issues down the road when it is too late to mitigate them.

Vice Chair Langlois asked why there was not a full EIR done on this project.

Mr. Gornack said typically staff has the determination they want to go and they prepared an Initial Study to determine whether or not there were significant un-mitigatable impacts. In this case, they found all impacts were mitigatable to less than significant levels and therefore an EIR was not required. If staff had determined an EIR was needed, it could have been done.

Vice Chair Langlois said she is familiar with the proposed development location as she rides her bike in the area. She asked to what extent the sound wall can mitigate the noise and vibration effects of the railyard when trains move through.

Mr. Gornack said the mitigation focused on interior levels of the buildings, given it is an industrial area. Studies of vibration levels were done and there is enough of a buffer zone that would mitigate back the vibrations within the units, thereby resulting in not a significant impact.

Mr. Mitchell commented that there are two rail facilities in the general area. The one on the south edge of the property is the BNSF line that was the primary line for the very long trains. That level of use for that line will drop off substantially. The railyard is actually further east and south and is on the other side of the public storage facility south of Meeker. The actual proximity of back and forth rail movement is not very close. It is closer to the Pulte project than it is to this project. Therefore, he did not think the rail impact is a significant issue here, given the distance away and buffering from Public Storage and Kaiser Optical buildings.

Commissioner Baer asked to hear more about the role of trees in mitigating both potential air quality and sound issues. Given this is a limited space she did not find much detail on the landscape plan and asked what the carbon offsets might be. She asked if there were places nearby where large trees could be planted such as the north side of Wright Avenue between Wright Avenue and the freeway, street trees along Marina Way and potentially within the development more trees be planted along the southern boundary adjacent to the rail line.

Mr. Gornack said he favors trees generally, but in studies where air quality and noise effects are considered, trees provide an enhanced buffer zone and distance plays a part, as well. But, he said there would have to be a fairly thick belt of trees to provide any effect.

Commissioner Baer asked if this could be a condition and Ms. Whales stated yes. Ms. Velasco stated the applicant can agree to provide that amenity.

The public hearing was closed.

Commissioner Kilbreth commented that he feels comfortable with any impacts relating to trains. He thanked staff and the applicant for a thorough staff report and approach in the process, the documentation and what the DRB did before it came to the Planning Commission. He thinks every six months or so another building tower gets built in San Francisco next to the Bay Bridge and those people seem to like it just fine. He thinks the City is creating a great neighborhood and that the entire Marina Way Boulevard will be a great part of Richmond's future.

Commissioner Butt echoed Commissioner Kilbreth's support for the project. He was not excited at first, but the DRB made several recommendations and he appreciated the applicant following through with them. He thinks this is what is needed in Richmond which will provide a housing need. The process has resulted in a positive project and he would like to see more of a focus to the shipyard history, but he will leave it up to the design team and supported the project.

Secretary Choi echoed comments of Commissioners and said as a resident of the Marina Bay area, this is the type of development which is good for Richmond. It thinks often times people are apprehensive at first about projects like this, but they realize impacts are addressed and once built, they realize how great it is. He thanked the applicant and said he is looking forward to seeing more of this type of development in Richmond.

Commissioner Loy said she bikes every day by the property and is looking forward to stopping for coffee. She said Catahoula Coffee is a local Richmond shop and they might be ready for a spot there. She thanked the applicant for the outreach to the community, said she would love to see bike parking, green space and is excited about the project.

Commissioner Baer said she supports the project, appreciates the thoughtfulness of all parties, and asked for some small adjustments on the parking and trees issues, and she asked if the applicant could comment on those conditions at some point.

Commissioner Butt stated a letter was received from TRAC and he asked if this language was amended already or should it be included as a condition.

Ms. Whales stated if there is a resolution going to the City Council, it will be attached and part of the actual resolution without any need to condition it on the Commission's part, noting the applicant is in agreement as well as staff.

Vice Chair Langlois stated in isolation it looks like a great project with lots of nice amenities and features. She does not feel confident in voting tonight in favor of a zoning change at that location. She feels like she would need to visit the property and spending some time at the location and hear what it sounds like when trains go by. It is somewhat mitigated with triple paned windows, but she would still like to hear the vibration impact throughout the night, given the fact that residents have expressed significant concerns which she read into the record involving vibrations, noise, smells, etc. She said she is not convinced with the mitigation, and if a motion is made for approval she will abstain.

Ms. Whales stated that this project is very similar to Anchorage at Marina Bay. She and the Planning Director have been on site when trains pass by and no rumbling or noise can be heard. Pulte Home's project is much closer to the railyards than this project is, and if she would like, she can ask if a visit can be arranged for Vice Chair Langlois to go inside one of the newly constructed units.

Commissioner Kilbreth asked if staff could comment on timing considerations.

Mr. Mitchell noted that timing was important. As mentioned the main line closest is the BNSF line. He said it would be difficult to pick an exact time when a train will be running. The other rail yard which is in regular use is considerably south of the project location to where there is not much to determine. Therefore, it will not provide an additional fact the Commission does not have tonight and he suggested the Commission consider recommending the project to the City Council, noting that people have been living in the area for some time and units closest to the tracks have been there for several years without complaints or concerns. The other project further west is a different situation, as there is no sound wall separating those two uses and both projects pre-date the application of technology. Therefore, he suggested Vice Chair Langlois has the information needed to make a decision tonight but could choose to abstain as indicated.

Commissioner Butt made a motion and Secretary Choi seconded the motion.

Commissioner Baer asked for a friendly amendment to "Add trees along the northern border of Wright Avenue." She asked if the applicant was amenable to reducing parking to take away the 91 guest parking spaces, so the ratio is 2 spaces per unit.

The applicant stated they would be open to a reduction, but because there is the neighborhood serving retail, they would need these spaces. He said they are open to reducing guest parking as long as some guests can park and that parking can support the retail component. He said at

the Council hearing they can come up with an amended parking plan to address Commissioner Baer's request. The majority of Commissioners supported this amendment.

Commissioner Butt requested adding another amendment to state: "The final landscape design be approved by the City and incorporate elements reflecting the contribution of the site to the Kaiser Shipyards during WWII."

Commissioner Loy also asked that a condition be included that the HOA be responsible for scheduling reminders for homeowners of annual filter replacements."

Commissioner Kilbreth said he thinks the amendments should be discussed individually, particularly the parking. He believes that when the Commission is looking at projects and is concerned about helping society move away from the car culture, he is supportive of that.

He said if a given project wants to have 10% to 30% of the units have no parking or only one space he was supportive of this as to what a unit needs and if it adds more density, biking or walking or amenities. He does not see this operational in this project and thinks it is a principle they are trying to a project where it is not actually relevant or applicable in this situation. He also would trust the developer's sense about what makes marketable units at good prices than to tell the developer what to do and suggested the amendment be removed.

MATT HAMILTON, applicant, stated that the fact that the Marina is so close to this project, many buyers may have small boats, bikes, and toys they can use to enjoy the marina and get to the ferry.

He explained that just because the units have 2 car garages, a lot of buyers will not put cars in there but will use them for storage of their bikes and other things. However, the HOA will address parking regulation within the community so people do use their garages for their cars.

Commissioner Baer withdrew her condition for decreased parking.

ACTION: It was M/S/C (Butt/Choi) to recommend to the City Council: (1) adoption of an Initial Study/Mitigated Negative Declaration; (2) to rezone from M-1, Office Flex District to PA, Planned Area District; and (3) to approve a Tentative Subdivision Map, Street Vacation and Design Review Permit to construct 193 multi-family dwellings, consisting of 95 multi-family residences and 93 live-work units on an existing 10 acre site located at 830 Marina Way South; PLN14-021 with the findings, with the 41 DRB recommendations, the disclosure statement and revised language from TRAC which asks that Condition 38 read: "The applicant shall install street improvements in the public right-of-way to the satisfaction of the Richmond Public Works Department and cross out that are proposed on Wright Avenue between Harbour Way South (not 17th Street) and Marina Way South, including repaving with bike lanes, sidewalks and landscaping." To amend Condition 39 to read: "The applicant shall install street improvements in the public right-of-way on Marina Way South from I-580 to the railway grade crossing bordering the west side of the project site including...." Add a condition to state: "Add trees along the northern border of Wright Avenue." Add a condition to state: "The final landscape design be approved by the City and incorporate elements reflecting the contribution of the site to the Kaiser Shipyards during WWII." Add a condition to state: "The HOA shall schedule a reminder for homeowners of the need for annual filter replacements." The motion carried

unanimously by the following vote: 5-0-1-1 (Ayes: Baer, Butt, Choi, Kilbreth and Loy; Noes: None; Absent: Lane; Abstain: Langlois).

COMMISSION BUSINESS

5. Reports of Officers, Commissioners and Staff

Commissioner Kilbreth reported that for those interested in air quality, he said the almost final drafts of the rules on reporting and pollution emission thresholds and mitigation measures when thresholds are violated will be significantly improved in its comprehensiveness and requirements. The rules are close to being final given refinement and additional comments the BAAQMD Board expects to approve them in early December. BAAQMD has also provided a first draft of rules relating to actual emission reduction rules and this will be a more contentious process and there are two phases to it. The first set of Phase I is in its first draft form, which he said is very important for the Commission's work involving industrial projects.

Secretary Choi announced that Grid Alternatives is hosting an event for the Solar-thon next Saturday, September 26th in north Richmond, where they will be installing solar panels for low income homeowners. Also to be held on September 26th are the North and East Neighborhood Association picnics.

Commissioner Butt announced that this Saturday is a large Festival on Main Street in Richmond to be held on Macdonald Avenue between 12th and 14th Streets. On September 25th, the Point Richmond Summer Concert series will hold its last event. He commended Vice Chair Langlois for chairing the meeting.

Vice Chair Langlois announced that earlier today she attended her annual Ethics training in the Council Chambers and Mr. Privat served as an instructor.

Commissioner Loy announced that she is on the board of Urban Tilt and their 10 year anniversary will be celebrated on October 3rd at the Craneway Pavilion, with tours, refreshments, food and music.

Mr. Privat stated for those who participated in 2-hours of required AB 1234 Ethics training, Commissioners have until the end of the year to complete it.

Ms. Velasco reminded Commissioners that the Planning Commission meeting for October 1st has been canceled and the next meeting will be October 15, 2015.

6. Adjournment - The meeting was adjourned at 8:52 p.m. to the next regular meeting on October 15, 2015.