

**EMERYVILLE CITY PLANNING COMMISSION
ACTION RECAP
January 28, 2016**

I. CONVENE AND ROLL CALL

The meeting was called to order at 6:30 p.m. by Vice Chair Steven Keller. Commissioners present: John Bauters, Lawrence Cardoza, Gail Donaldson, and Steven Keller. Sam Kang arrived at 6:31 p.m. Chair Brad Gunkel had an excused absence, but arrived later at 7:45 p.m.

II. PUBLIC COMMENT – None

III. ACTION RECAP – December 10, 2015

Commissioner Donaldson noted a correction to the December 10, 2015 action recap. The description of the Nady study session was incorrect and instead was a description of the EIR; item VII.A was a repeat of VI.B but needed its own description. Commissioner Bauters noted that he had been concerned that Emeryville's density bonus system incentivized the use of the State Density Bonus Law. Therefore, the word "concerned" needed to be inserted into the December 10, 2015 action recap.

Commissioner Bauters moved approval of the December 10, 2015 action recap with the two corrections. Commissioner Donaldson seconded. The motion was approved without exception.

IV. DIRECTOR'S REPORT

Director Bryant reported on recent City Council actions. He noted that a City Council study session on medical marijuana was being scheduled for March, and said that if any changes to land use regulations are involved in the future, they will come to the Planning Commission for a recommendation. Additionally, he reported that the City Council is holding Planning Commission interviews on February 16, 2016 to replace Commissioner Moss, and a new Commissioner will likely be in place in time for the next Planning Commission meeting on February 25, 2016.

V. DISCLOSURE OF CONFLICTS OF INTEREST AND EX PARTE COMMUNICATIONS

Commissioner Kang indicated he had met with Jamie Arbona of In-Language Radio regarding the Nady project. Commissioner Bauters said he had met with the Nady site developer. Commissioners Cardoza and Keller indicated they had had telephone conversations with the Nady site developer. Commissioner Bauters indicated he had a series of meetings with Stacy Wells about the Sutter Health sign at 2000 Powell Street. Commissioner Bauters also reported that he had had a conversation with the Emeryville Police Department about the proposed signage at 2100 Powell Street.

VI. ADMINISTRATIVE ITEMS

A. General Plan Annual Progress Report – Review of the annual progress report on implementation of the General Plan, including the Housing Element, in

Calendar Year 2015, for submittal to the Governor's Office of Planning and Research and the California Department of Housing and Community Development.

Diana Keena, Associate Planner, and Catherine Firpo, Community and Economic Development Coordinator, made the presentation and responded to questions from the Commission

The floor was opened for public comment. There was no one wanting to comment. The floor was closed to public comment. A motion was made to recommend Council approval with the addition of percentages of housing units at each affordable level that were permitted in 2015 on page 11 of the Report, and clarification of new and renewed business licenses in Appendix A.

Moved: Cardoza

Seconded: Bauters

Vote: Ayes: Bauters, Donaldson, Cardoza, Kang, Keller

Absent: Gunkel

- B. Sutter Health Sign Appeal (SIGN 15-029)** –Consideration of an appeal of the Community Development Director's approval of two high rise identification signs at 2000 Powell, under The Towers Master Sign Program (SIGN 11-008) , which was approved by the Planning Commission on July 28, 2011. Pursuant to Planning Regulations Section 9-7.1404(b), the Planning Commission may either (1) affirm the decision of the Director and dismiss the appeal based on a determination that the facts ascertainable from the record do not warrant further hearing; (2) set a date for a public hearing on the appeal; or (3) remand the matter to the Director to cure a deficiency in the record or the proceedings. CEQA Status: This project is exempt from environmental review under State CEQA Guidelines Section 15311(a) which applies to placement of on-premises signs, and the "general rule" at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment. General Plan Land Use Classification: Mixed-Use with Non-Residential; Zoning District: Planned Unit Development (PUD-1) (Applicant: Toni Russin, Sutter Health; Appellant: Paul Gerhardt) (Owner: KBS III Tower at Emeryville, LLC) (APN: 49-1521-7).

Assistant Planner Sara Billings made the staff presentation.

The floor was opened for public comment.

Stacy Wells with Sutter Health asked the Commission to deny the appeal. She said she was open to changing the proposal to the north and south sides of the building and securing the variances, if the building owner approved them as well. She wanted to get a sense from the Commission as to whether they would support such a proposal.

Assistant Attorney Visveshwara stated that such a proposal was not on the agenda and it needs to be set for another meeting.

Ms. Wells said that they want to be good corporate stewards and that the north and south sides have sufficient visibility.

Director Bryant noted Section 9-7.216 of the Planning Regulations (regarding denied applications, which states that no application for essentially the same proposal on the same property shall be filed within one year of denial, unless changed circumstances can be shown. He said that any new proposal from Sutter would need to be reviewed to determine whether or not it was essentially the same as the one the Commission had previously denied.

Public comment was closed.

A motion was made to approve the resolution affirming the decision of the Director and dismissing the appeal based on a determination that the facts ascertainable from the record do not warrant further hearing.

Moved: Cardoza
Seconded: Donaldson
Vote: Ayes: Bauters, Cardoza, Donaldson, Kang, Keller
Absent: Gunkel

VII. PUBLIC HEARINGS

- A. 3706 San Pablo Avenue Affordable Housing Extension Request (UPDR14-001)** – Request for a one-year extension of a Conditional Use Permit and Design Review for an 87-unit affordable housing project with 6,900 square feet of commercial space and 115 parking spaces in a six story structure on a site of approximately 1.12 acres on the east side of San Pablo Avenue between 37th Street and West MacArthur Boulevard. The site is partially in Oakland, and the City of Oakland has agreed that Emeryville may take the lead on all planning and building permits. The project was approved by the Emeryville Planning Commission on January 22, 2015. CEQA Status: This project is exempt from environmental review under State CEQA Guidelines Section 15332, which applies to infill development projects. General Plan Land Use Designation: Mixed Use with Residential, Neighborhood Retail Overlay, and Major Transit Hub. Zoning Districts: Mixed Use with Residential South (MURS), Neighborhood Retail Overlay (NR), Pedestrian Priority Overlay (PP), and Transit Hub Overlay (TH). (Applicant: EAH Housing)(Owner: City of Emeryville) (APNs: 12-951-11; 49-951-4-2, -5-1, -6-1, and -7)

Miroo Desai, Senior Planner, made the staff presentation and responded to questions from the Commission.

The public hearing was opened. There was no one wishing to speak. The public hearing was closed.

A motion to approve the extension request was made.

Moved: Bauters
Seconded: Donaldson
Vote: Ayes: Bauters, Cardoza, Donaldson, Kang, Keller
Absent: Gunkel

- B. 2100 Powell Street Master Sign Program (SIGN15-022)** – Consideration of a Master Sign Program to include new monument signs and other tenant and project signage at 2100 Powell Street. CEQA Status: This project is exempt from environmental review under State CEQA Guidelines Section 15311(a) which applies to placement of on-premises signs, and the “general rule” at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment. General Plan Land Use Classification: Mixed-Use with Non-Residential; Zoning District: Planned Unit Development (PUD-1) (Applicant/Owner: REIT Watergate Hines) (APN: 49-1495-9)

Assistant Planner Sara Billings made the staff presentation.

The public hearing was opened. There was no one wishing to speak. The public hearing was closed.

A motion was made to approve the application with the additional condition that Sign F be either relocated to the median on Access Road to be agreed upon by the Planning Director and the applicant, in consultation with the Police Department, or removed from the plan.

Motion: Bauters
Seconded: Keller
Vote: Ayes: Bauters, Donaldson, Kang, Keller
Noes: Cardoza
Absent: Gunkel

VIII. STUDY SESSION

- A. 6701 Shellmound Street Residential Development (“Nady” Site) (UPDR14-003)** – A second study session to review a proposed 186-unit residential development on a 2.27 acre site at 6701 Shellmound Street. CEQA Status: Final Environmental Impact Report being prepared; public comment period on Draft Environmental Impact Report ended on December 21, 2015. General Plan Land Use Classification: Mixed Use with Residential; Zoning District: Mixed Use with Residential (MUR). Applicant: Anton Development Company LLC(Owner: Nady Trust U/D/T)(APN:49-1490-2)

Chair Gunkel arrived at 7:45 p.m. and presided over the remainder of the meeting.

Miroo Desai, Senior Planner, made the staff presentation and responded to questions from the Commission. She noted that an email from Wendel Rosen law firm representing the radio station was received, which was a duplicate of their December letter.

The applicant, Andrew Baker from Anton Development, and his team made a presentation and responded to questions from the Commission. They noted that they had worked with the City's family friendly design consultant Arnold Mammarella and made numerous changes. He stated that they had met the spirit of the family friendly criteria.

Arnold Mammarella commented that the focus is on the C2 units, which were two thirds of the three-bedroom units, and it is important that they function well for families. He stated that the developers wish to keep their unit plans as-is. There may be other layouts that would work, and he presented one option that he said could work. Finally, he noted that there were two-bedroom units below the three-bedroom units, because they are along the corridor. They would probably have to change as well.

Regarding the nearby radio station, one Commissioner expressed concern both with potential health impacts of electromagnetic radiation and with possible interference for electronic devices. The applicant said he believed the reports to be inaccurate and wanted to address the concerns outside of the meeting. He said he had used repeaters and other techniques in other buildings, and he believed these could be used to make sure wireless and other devices would work throughout the building.

Director Bryant said that comment letters received are duplicates of letters received before and they will be addressed in the final EIR.

The floor was opened for public comment.

Jamie Arbona, the broadcasting consultant at KBGO, expressed concern for safety and health issues. He said this was the third attempt to build at this site, including one evaluated by Trammel Crow in 2005, Avalon Bay two years ago, and now Anton. He said he believed that the technical advice used by Anton was based on the Trammel Crow report, which was refuted. Building interference can be mitigated, he said, but he was not satisfied that his commercial concerns were being addressed. The safety and health issues had been addressed, but they were using a report about a different building in 2005. He stated that the modern home has Ethernet cable and CAT-5 cable, and all the cables in the modern building will resonate energy inductively. He said that two radio stations were 500 feet from the site, one emanating 5000 watts, one emanating 1000 watts, throwing electro-magnetic field into that building. He said that the maximum permissible exposure level set by the IEEE was approached by the 2005 development, whereas the current proposed building will have even more conductible cables and material. He urged the Commission to require scientific projections based on this building, including the addition of the exterior metal, and the health and safety issues. He was concerned about liability for things like medical monitoring equipment.

The public comment period was closed.

Commissioners commented that the applicant should make the smokestacks functional; provide bike lockers, bike share, and transportation demand management; rearrange bathroom space in the TH-3B units; add light in the A-4 units; improve access from the B-8, C-2 and C-3 units to the courtyards; restore gathering nodes; and double fence the dog space. A majority of the Commissioners agreed that a fitness area and bike shop area that are visible and open to the public would meet the intent of mixed use, and that the existing C2 three-bedroom unit design complies with the Family Friendly Design Guidelines.

IX. COMMISSIONERS COMMENTS

Commissioner Keller said that members of the public felt that there was not enough time for public participation in the City Council's Goal Setting meeting last weekend, on Saturday, January 23. Director Bryant noted that people were raising their hands and were being acknowledged by the facilitator. A suggestion was made to let the public know that they can raise their hands if they wish to speak at such meetings in the future.

X. ADJOURNMENT – 9:10 p.m.

THE NEXT SCHEDULED MEETING WILL BE HELD ON THURSDAY, FEBRUARY 25, 2016 AT 6:30 P.M. IN THE CITY COUNCIL CHAMBERS, CITY HALL 1333 PARK AVENUE, EMERYVILLE, CA 94608.