

**EMERYVILLE CITY PLANNING COMMISSION
ACTION RECAP**

THURSDAY, MAY 22, 2008

I. CONVENE, ROLL CALL, AND PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:30 p.m. by Vice Chair Donaldson. Commissioners present: Angela Baranco, Lawrence Cardoza, Frank Flores, Arthur Hoff, Patricia Jeffery and Vice Chair Gail Donaldson. Chair Jim Martin had an excused absence.

II. CITIZENS TO BE HEARD

None.

III. ACTION RECAP – April 24, 2008

It was noted that Chair Martin had submitted written comments on the agenda items, including the action recap. He requested that the following sentence be added on the Marketplace project at the end of page 2 of the action recap: "...He strongly objected to the alternative massing and tower in Phase II in the alternative concept presented by the applicant during their presentation. He submitted a number of suggested edits to staff on the draft Conditions of Approval and Findings of Fact."

Commissioner Jeffery noted a correction in her remarks on the Marketplace project on page 3 of the action recap. She said the correct wording should be: "Commissioner Jeffery said she believes the 64th and Christie site is appropriate for housing and does not support a change of use to commercial. She wanted to know whether such a change in land use would require changing the table in the staff report."

A motion was made by Commissioner Flores and seconded by Commissioner Jeffery to approve the action recap with these corrections. The motion was approved without exception.

IV. DIRECTORS REPORT

Director Bryant reported on City Council actions at their May meetings. On May 6, the Redevelopment Agency approved issuance of a Request for Proposals for rehabilitation of the four-plex at 40th and Adeline Streets that was relocated from 41st Street as part of the Oak Walk project. Citizen Steven Keller made a presentation to the City Council about a paper he has written on future growth and development in Emeryville called "Let Knowledge Serve the City".

On May 20, the City Council held a study session on the parking study for the North Hollis Area and directed that a parking implementation plan be prepared. The Redevelopment Agency selected HQE as the firm to prepare a study of the proposed pedestrian/bicycle bridge over the freeway at 65th Street, and directed that the study area be expanded to the south to encompass a potential crossing closer to the peninsula. The Agency also discussed rehabilitation efforts of five houses along 41st Street at the Oak Walk project, and was assured that every effort is being made to comply with the conditions of approval. The City Council approved a noise waiver for Head Over Heels to do seismic retrofit work on seven Saturdays between June 20 and August 3. The Council approved the Draft Housing Element with minor revisions for forwarding to the State Housing and Community Development Department. The Council also approved the proposed amendments to the Affordable Housing Set-Aside ordinance that were reviewed by the Commission at the last meeting.

Director Bryant announced that the Environmental Impact Report for the 39th and Adeline project had been published; copies for the Commission have been placed on the dais and Chair Martin's copy has been mailed to him. The public review period ends July 7. The Oakland Planning Commission will hold a meeting to solicit comments on June 18 at 6:00 pm in Hearing Room 1 of

Oakland City Hall. The Emeryville Planning Commission will hold a public hearing to solicit comments at the June 26 meeting.

Director Bryant reported that he, Senior Planner Miroo Desai, and Commissioner Donaldson had attended the national American Planning Association conference in Las Vegas from April 27 through May 1. For details, please see the Planning and Building Department's April Progress Report. He noted that he had purchased four educational CDs at the conference on Complete Streets, LEED for Neighborhoods, Design Standards that Shape Urban Form, and Balancing the Land-Use/Transportation Equation. Each is 1.5 hours long and includes a PowerPoint presentation, audio panel discussion, and reading materials. He asked the Commissioners to think about how they would like to view them and get back to him. Possibilities might include viewing them as part of regular Commission meetings with light agendas, having special afternoon or evening meetings, three or fewer Commissioners attending a staff meeting where they are presented, or individual Commissioners borrowing the CDs to view privately.

V. PUBLIC HEARINGS

- A. **Marketplace Redevelopment Project (PUD04-02)** – Consideration of a “Planned Unit Development – Mixed Use” zoning designation for the Marketplace site and a Preliminary Development Plan for the Marketplace Redevelopment Project that will involve a phased development consisting of 674 multi-family residential units, 180,000 square feet of retail, and 120,000 square feet of office, including parking garages, infrastructure and landscaping improvements. The proposal also includes a General Plan Amendment to increase the Floor Area Ratio from 1.5 to 2.0 on a portion of the site, and rescinding the existing Master Use Permit for the property. CEQA Status: An Environmental Impact Report was prepared for the project and certified by the Emeryville City Council on January 15, 2008. General Plan Designation: Mixed Use (M-U); Zoning Classification: current: Mixed Use (M-U), proposed: Planned Unit Development-Mixed Use (PUD – Mixed Use); (Applicant: TMG Partners; Owners: Marketplace Mortgage, LLC and Rockwood Christie, LLC) (APN: 49-1492-6-1; 49-1492-8; 1492-10-2; 49-1492-11; 49-1493-1; 49-1493-9-2; 49-1493-9-3; 49-1493-10-2; 49-1493-10-3; 49-1493-13; 49-1493-14; 49-1493-15) This item was continued from the April 24, 2008 meeting.

Vice Chair Donaldson recused himself, due to a possible conflict of interest. Because of the absence of both the Chair and Vice Chair, Director Bryant chaired the meeting momentarily, and called for nominations of a Chair Pro Tem. Commissioner Hoff nominated Commissioner Jeffery; Commissioner Cardoza seconded. Commissioner Jeffery was elected Chair Pro Tem without objection and presided over the meeting for this agenda item.

Senior Planner Miroo Desai, presented the staff report and described options for modified conditions of approval in response to the Commission's discussions at the April meeting. She noted that there were several items of correspondence on the dais including Commissioner Martin's comments, two letters from the applicant with proposed modified conditions of approval, and letters of support from Colliers International real estate brokers and Greenbelt Alliance.

Denise Pinkston with TMG Partners, applicant, announced that the U.S. Green Building Council had awarded the project Platinum status under the LEED Neighborhood Development pilot program. She referred to her letter from this afternoon with suggested conditions of approval that included Chair Martin's ideas as well as those of citizen Steven Keller concerning east-west pedestrian and bicycle connections. She said the intent is that, upon completion of Phase II, at least 50% of the entire project, including both Phases I and II, would be residential, and that there will be townhouses in the Shellmound Building in Phase I. She likes Chair Martin's suggestions on the park; she does not want the certificate of occupancy for the Shellmound Building held up if there is no funding available to build the park. As requested by Steven Keller, there would be a study of a future bicycle connection across the railroad.

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

Commission discussion ensued. The following issues and points were addressed:

- The real estate market is variable. There may not be a market for condominiums now, but there might be in the future.
- Developers need to be able to build what the market can bear now.
- Even if there is no residential in Phase I, there will be in Phase II within 15 years.
- Commissioner Martin's suggestion that at least 50% of residential units should be ownership was supported in concept, but should not be made a condition of approval due to legal concerns.
- There needs to be more 3-bedroom units to attract more families. Some building types, such as mid-rise and townhouses, are more conducive to families than high-rise.
- There was discussion about the total number of residential units in the project and where they would be located.
- The uses of the various buildings may change, but the building envelopes cannot change.
- Due to constraints on the rest of the site, the 64th and Christie site will probably be built first. The developer will look into ways to increase the number of residential units in the Shellmound Building.
- The park design should be completed by the end of the first part of Phase I, so it can be built as soon as funding is available.
- A study of a new pedestrian/bicycle crossing of the railroad, including a path between the Woodfin and Shellmound sites, should be included in Phase I, but bike lanes should not be added if they will detract from the pedestrian experience.
- Conditions should stipulate that the entire project should be at least 50% residential by the end of Phase II, regardless of whether there is any residential in Phase I.

The following amendments to the conditions of approval were agreed upon by the Commission (exact language to be developed by staff):

- Add language that "the intent of the PDP is to achieve a vibrant, mixed use neighborhood".
- If the Shellmound Building tower is not residential, it shall include at least 10 townhouse units above the retail. Applicant shall maximize the unit count.
- Non-residential buildings should be primarily build-to-suit to ensure high quality and shall be designed for LEED certification.
- By the end of Phase II, at least 50% of the square footage of Phases I and II, not including parking, shall be residential.
- The design for the park shall be included in Phase I with the FDP for the Shellmound Building. The FDP for the park shall include design plans for the new park, including reconsolidation of existing and expanded park land, hardscape and planting areas, landscape plans, and planting palette. The applicant should construct the park in conjunction with the construction of the Shellmound Building. The timing of construction of the park shall be in accordance with the terms of the Owner Participation Agreement (OPA) to be negotiated with the Redevelopment Agency. The construction of the park shall be complete prior to the issuance of any temporary certificate of occupancy of any building in Phase II.
- In the Phase I FDP that includes the Shellmound Building, the applicant shall include a study of a future bicycle path across the railroad tracks.

The Commission was reminded that they had previously agreed to the following changes to the conditions of approval at the April 24 meeting:

- The first FDP shall be submitted within 3 years (instead of 2) of approval of the PUD/PDP.

- The north Christie Avenue leg of the Powell/Christie intersection shall be widened by 20 feet (instead of 12) and shall include a central median.

Where applicable, the above revisions will also be reflected in the resolutions.

A motion was made to approve the resolution applying the previously certified Environmental Impact Report to the project.

Motion: To approve the Resolution of the Planning Commission of the City of Emeryville Reviewing and Applying the Marketplace Redevelopment Environmental Impact Report to the Marketplace Redevelopment Project; Making Findings As Required by the California Environmental Quality Act (CEQA); and Recommending that the City Council Adopt Mitigation Measures

Moved: Flores
Seconded: Baranco
Vote: Ayes: Baranco, Cardoza, Flores, Hoff, Jeffery
Absent: Martin
Recused: Donaldson

A motion was made to approve the resolution recommending City Council approval of the project, with the modifications to the conditions of approval as summarized above.

Motion: To approve the Resolution of the Planning Commission of the City of Emeryville Recommending to the City Council that the Existing Master Use Permit for the Marketplace Project be Rescinded; a General Plan Amendment for Floor Area Ratio be Approved; and a Planned Unit Development – Mixed Use Designation Be Established for the Marketplace Redevelopment Area, and that a Preliminary Development Plan be Approved on a 15-Acre Site Bounded by 64th Street to the North, Shellmound Way to the South, the Amtrak/Union Pacific Railroad Tracks to the East and Christie Avenue to the West, with modifications to the conditions of approval as summarized above.

Moved: Cardoza
Seconded: Flores
Vote: Ayes: Baranco, Cardoza, Flores, Jeffery
Noes: Hoff
Absent: Martin
Recused: Donaldson

- B. Pixar Animation Studios: Amendments to Development Agreement** – Consideration of amendments to the Development Agreement covering the Planned Unit Development for Pixar Animation Studios located at 1200 Park Avenue. CEQA Status: A Mitigated Negative Declaration (MND), and Mitigation Monitoring and Reporting Program were adopted by the City Council on May 18, 2004. The subject amendments do not require further CEQA review. General Plan Designation: Commercial (C); Zoning Classification: Planned Unit Development – Commercial (PUD Commercial) (Applicant: Pixar Animation Studios) (Owners: Pixar Animation Studios/ERPM, Inc.) (APN: 49-1539-1, 2, 4-2, and 5)

Helen Bean, Director of Economic Development and Housing, made the staff presentation.

Tom Carlisle, Pixar Animation Studios, explained the reasons for their request to amend the Development Agreement, and responded to questions from the Commission. He said that Pixar would go forward with their plans to build the Phase II building if the amendments are approved; if not, they will probably remain in leased space. They plan to be back with a Final Development Plan in September or October, and break ground in March or April. The park and bike path adjacent to the Promenade project would be built

at the same time as the Phase II building. He clarified that the land for this has been dedicated to the City, but not yet accepted.

Staff clarified that the \$1.5 million for the Capital Improvement Program under the existing Development Agreement has not been assigned to any specific projects, but was intended to be used for unfunded projects. The first \$500,000 installment has already been paid. The second \$500,000 installment would be paid at Phase III, and the third would be paid at Phase IV. Under the proposed amendments these payments, and the \$1 million delay fee for Phase III, would be eliminated and would be replaced with a single \$2 million payment toward the Cultural Arts Center and a benefit movie screening for the center, both of which would occur at Phase II. Mr. Carlisle said the benefit movie screening for the Cultural Arts Center would not conflict with the benefits that they already do for the Emery Education Fund because it would targeted to a different, broader audience.

Mr. Carlisle responded to questions about ridesharing and other alternative transportation modes used by Pixar employees, and said he would get further information. He said there are now about 240 Pixar employees off campus, and the new building would accommodate about 300-350, or about 100 new employees. There are about 630 employees in the existing Pixar building, so the total campus population would be about 1,000 and all leased space would be given up after the Phase II building is built.

The public hearing was opened.

Ron Silberman, Fordham Properties, asked about the phasing of the parking, and what the parking ratio would be after the garage is built.

Mr. Carlisle responded that there will be 839 spaces in the expanded surface parking lot in Phase II. The garage is required in Phase III, and will have up to 1,800 spaces.

The public hearing was closed.

Commission discussion ensued. The following issues and points were addressed:

- Pixar is a positive force in Emeryville and has demonstrated a commitment to the community.
- Elimination of the delay fee and repurchase right will remove all incentives for Pixar to ever build Phase III, and the "sea of parking" at the east end of the campus could remain indefinitely.
- The parking lot will be fenced and enclosed and not visible to the public.
- It was suggested that the repurchase right be tied to Phase II instead of Phase III.

In response to Commission questions, staff clarified that, under the proposed amendments, Phase II would be required to be built by 2010. If not, the Development Agreement will expire.

Anna Shimko, of Cassidy, Shimko, Dawson & Kawakami, attorneys for Pixar, said that Disney and Pixar need to amend the Development Agreement and spend a lot of money before going forward with Phase II. She clarified that, if the Development Agreement expires, Pixar will not take title to the Emery Street right-of-way or the spur parcel behind the 45th and Hollis building, which would leave "holes" in their campus. The City could then change the PUD zoning, and the Redevelopment Agency could force other plans to happen.

A motion was made by Commissioner Hoff and seconded by Commissioner Cardoza to recommend City Council approval of the amendments to the Development Agreement. Commissioner Baranco made a substitute motion to approve the staff recommendation except that the delay fee for Phase III would not be eliminated. In response to

Commission questions, staff clarified that, under the existing Development Agreement, the delay fee of \$1 million would only be paid if Phase III were delayed, a \$500,000 Capital Improvement Program payment would be made with Phase III, and the \$500,000 Capital Improvement Program payment for Phase IV would not be paid if Phase IV were never built. Therefore, only \$500,000 of this \$2 million total is guaranteed to be paid; the other \$1.5 million might never be paid. By contrast, the amended Development Agreement would include a \$2 million guaranteed payment plus a movie screening fundraiser for the Cultural Arts Center, both at Phase II. After further discussion of these points, the substitute motion was withdrawn. The vote on the original motion was then taken.

Motion: To recommend to the City Council that the proposed amendments to the Development Agreement be approved.

Moved: Hoff
Seconded: Cardoza
Vote: Ayes: Baranco, Cardoza, Flores, Hoff, Jeffery, Donaldson
Absent: Martin

VI. STUDY SESSION

- A. **65th Street Lofts (Baker Metal) and Ocean Avenue Townhomes (UP07-09/DR07-15)** – A Study Session to review conversion of the existing Baker Metal building located at 1265 65th Street to 13 residential units, 6 live-work and a small café. The proposal also includes construction of 5 townhomes on a 0.2 acre vacant parcel on Ocean Avenue, backing onto Peabody Lane (a private street). CEQA Status: This project is exempt from environmental review under State CEQA Guidelines Section 15303 that applies to construction of small, new structures, and Section 15332 that applies to urban infill development. General Plan Designation: Industrial (I) and Medium Density Residential (M); Zoning Classification: Light-Industrial (I-L) and Medium Density Residential (R-M) (Applicant: MRE Commercial; Owner: California Syrup and Extract Company) (APN: 49-1469-1; -2; -12; -13; 49-1504-2).

This project has been continued to a future meeting pending resolution of fire, public works, and building issues identified by the Development Coordinating Committee.

VII. COMMISSIONERS COMMENTS

Commissioner Hoff asked if there were any studies for the Amtrak station that show the ultimate origins and destinations of people getting on or off the train in Emeryville. His sense is that it just serves as a parking lot for people from outside Emeryville taking the transcontinental trains, or a transfer point for people going to San Francisco. Director Bryant said that staff would look into what studies might be available and bring them back to the Commission next time the Transit Center project is on the agenda.

Commissioner Flores said that he has heard that a lot of projects in Oakland are being converted from condominiums to rental, and asked whether that type of change in an Emeryville project would require any kind of approval from the City. Director Bryant responded that the City cannot require that units be either ownership or rental, but that such a change in tenure would require modification of the project's Affordable Housing Agreement with the City because the rules are different for rental units and condominiums. He said he was aware of one project, 1401 Park Avenue, where a modified agreement had to be approved by the City Council when the project converted from condominiums to rental units. However, this type of modification to a project does not come back to the Commission.

VIII. ADJOURNMENT – The meeting was adjourned at 8:48 p.m.