

**EMERYVILLE CITY PLANNING COMMISSION  
ACTION RECAP  
REGULAR MEETING  
DECEMBER 13, 2012**

**I. CONVENE, ROLL CALL, AND PLEDGE OF ALLEGIANCE**

The meeting was called to order at 6:30 p.m. by Chairperson Vanessa Kuemmerle. Commissioners present: Lawrence Cardoza, Sean Moss, Vanessa Kuemmerle and John Scheuerman. Commissioners Gail Donaldson, Steven Steinberg and Kairee Tann had excused absences.

**II. PUBLIC COMMENT – None**

**III. ACTION RECAP – October 25, 2012**

The following corrections were made to the Action Recap:

Commissioner Moss: it was he who said Buzz Cardoza's name was spelled wrong.

A motion was made by Commissioner Cardoza and seconded by Commissioner Scheuerman to approve the Action Recap with this correction

Moved: Cardoza  
Seconded: Scheuerman  
Vote: Ayes: Moss Cardoza, Keummerle, Scheuerman  
Absent: Donaldson, Steinberg, Tann

**ACTION RECAP – October 30, 2012**

A motion was made by Commissioner Scheuerman and seconded by Chair Kuemmerle to accept the Action Recap.

Moved: Scheuerman  
Second: Kuemmerle  
Vote: Ayes: Moss Cardoza, Keummerle, Scheuerman  
Absent: Donaldson, Steinberg, Tann

**ACTION RECAP – November 19, 2012**

The following corrections were made to the Action Recap:

Commissioner Scheuerman: The addendum is correct.

Chair Kuemmerle: on page three, paragraph four, she asked, "were there any comparisons in the area with which the school could be made?" (There were not.) She liked the multi-purpose play structures. She felt that the northeast corner of San Pablo Avenue needs extensive work in order to be perceived as a community center that is friendly and welcoming.

Commissioner Cardoza: He felt they were crowding too much onto the property and should not put all the schools in once place; instead, more play space should be provided.

A motion was made by Chair Kuemmerle and seconded by Commissioner Scheuerman to accept the Action Recap.

Moved: Kuemmerle  
Second: Scheuerman  
Vote: Ayes: Moss Cardoza, Keummerle, Scheuerman  
Absent: Donaldson, Steinberg, Tann

#### IV. DIRECTOR'S REPORT

#### V. ADMINISTRATIVE ITEMS

- A. **Complete Streets Policy** – Consideration of recommendation to the City Council to adopt a Complete Streets Policy for the City of Emeryville.

Assistant Planner Arly Cassidy gave a brief presentation on Complete Streets and why the City needed to pass a policy resolution reiterating its support of them.

Public Comment was opened. There was no one wishing to speak. Public Comment was closed.

A motion was made by Chair Kuemmerle and seconded by Commissioner Scheuerman to accept the Action Recap.

Moved: Kuemmerle  
Second: Scheuerman  
Vote: Ayes: Moss Cardoza, Keummerle, Scheuerman  
Absent: Donaldson, Steinberg, Tann

#### VI. PUBLIC HEARINGS

- A. **City Storage Extension, 4000 Adeline Street (UPDR11-002)** – Request for a one-year extension of a Conditional Use Permit and Design Review to remodel and reuse an existing 28,800 square foot building for self storage, a corner retail space, and a manager's residential unit, originally approved on October 27, 2011. CEQA Status: This project is exempt from environmental review under State CEQA Guidelines Section 15332 which applies to in-fill development projects. General Plan and Zoning Designation: Mixed Use with Residential (MUR). (Applicant: Kava Massih Architects) (Owner: City Storage Three)(APN: 49-1022-4)

There was not a quorum of four Planning Commissioners present (Commissioner Moss lives within 300 feet of the project, and so would have to recuse). Therefore, the item was continued to the January 24, 2013 regular Planning Commission meeting.

- B. **Pixar Warehouse (UPDR12-003)** – Consideration of a Conditional Use Permit and Design Review to occupy a portion of an existing building with a 28,637 square foot off-site warehouse at 5000 Hollis Street (Level(3) building) by Pixar Animation Studios. CEQA Status: This project is exempt from environmental review under State CEQA Guidelines Section 15301 which pertains to modifications to existing structures. General Plan Designation: Office/Technology

(OT); Zoning: Office/Technology (OT ) (Applicant: Pixar Animation Studios)(Owner: BTE Equipment, LLC) (APN: 49-1041-11-4)

Senior Planner Miroo Desai gave a presentation on the project and clarified that the door and gate onto Spur Alley shown in the paper plans was no longer proposed, as the City's easement onto Spur Alley, which is private property, does not allow it to grant access onto the property.

Sasha Wagner, of Huntsman Architectural Group and representing Pixar, asked that the option of providing the exit door and gate be allowed in the approval, should Pixar be able to secure the necessary access from the owner of Spur Alley.

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

The Commissioners discussed the options, and decided that there were three acceptable options, should Pixar get the proper owner approvals:

- no doors onto Spur Alley (as presented)
- just the exit door
- the exit door and the gate, if Pixar will remove the razor wire along the top of the chain link fence and install a wrought iron gate

A motion was made by Commissioner Cardoza and seconded by Chair Kuemmerle to approve the application with the above three options.

Moved: Cardoza  
Second: Kuemmerle  
Vote: Ayes: Moss Cardoza, Keummerle, Scheuerman  
Absent: Donaldson, Steinberg, Tann

- C. New Planning Regulations** – Consideration of recommendation to the City Council to adopt new Planning Regulations to implement the General Plan by repealing Emeryville Municipal Code Title 9, "Planning and Zoning", replacing it in its entirety with a new Title 9, "Planning Regulations", and making other related modifications to the Emeryville Municipal Code. CEQA Status: Environmental Impact Report for General Plan certified by City Council on October 13, 2009.

Director of Planning and Building Charlie Bryant made a presentation outlining the changes to the Planning Regulations since the Commission last saw them at the October 30, 2012 joint study session.

The public hearing was opened.

Carol Handleman, the longest standing Zoning Update Steering Committee member, urged the Commission to approve the Planning Regulations and commended staff for their work.

Nathan Landau, a Planner for AC Transit, also commended staff and the committee. He had two comments and one suggestion. He felt that the Regulations had lots of good Transit Oriented Development (TOD) policy vis-à-vis parking and transit hubs and he was concerned about the low height limit over the AC Transit bus yard. He suggested that Design Review include a review of access to transit, under Section 9-7.406.

Geoff Sears of Wareham Development wrote a letter to Charlie Bryant and went over some of its main points.

- He was concerned that the new regulations would cause some current uses to become non-conforming, and was most worried about ground floor uses.
- Car rental should be treated more like car sharing.
- Restaurants should be allowed by right to encourage them. The Regulations should give more flexibility – in small doses.
- Regarding roof projections, he is on board with hiding ugliness, but limits to size and height for roof equipment won't work. The way the code is written makes it challenging. Wareham couldn't build current buildings under the proposed requirements.
- Some bonuses are easy and some are hard. Awarding a bonus for the percentage of on-site energy use penalizes heavy energy users. Distributed off-site energy generation would be a good option to include.
- The preservation ordinance should encourage developers to preserve old buildings by allowing them to keep development rights. A transfer of development rights within larger site would allow for this.

Larry Farb, a property owner, commended staff and citizen participants. His property in the INL zone does not allow housing, even though it was permitted, by ordinance, in 2004. He suggested that multifamily housing be permitted on qualified sites in the INL zone.

Brian Donahue felt that residents should be given as much access to government as business owners. Extra time granted to Geoff Sears should also be granted to residents wishing to speak for longer than three minutes.

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

Charlie Bryant requested the chance to respond to all of the public comments made, which the Commission granted him.

In response to Nathan Landau's comments:

- The bus yard height limit is 30' by right, 55' with a CUP.
- Factoring in transit access for Design Review is a good idea, and is already part of the process. The citywide Design Guidelines contain guidelines regarding transit access.

In response to Larry Farb's comments:

- This is not a new request. The change would require an amendment to the General Plan. This change is not recommended.

In response to Geoff Sears' comments, both from public comment and as written in the letter received:

- Car rental is not listed as a use of special concern. It could be approved with a minor CUP in an existing building. It could also be included in a list of future uses in any building's CUP. Now it is easier than in the past.
- The Bureau restaurant was approved as part of the CUP.
- Research & Development 9-2.421 add: "associated offices and fabrication and scale-up facilities" to the definition – agree.
- Ground floor uses: retail is listed as "only ancillary use" in General Plan; we would need change that to allow retail by right. It could be a minor use permit in an existing building.
- Prohibiting formula-based retail is tricky to do. The steering committee avoided this.

- Office is allowed on the ground floor, but the Regulations only allow walk-in office uses in Neighborhood Retail.
- All rooftop equipment can be approved with minor design review or minor conditional use permits, or as part of the building's approval process. We could expand area where equipment is allowed on rooftops.
- Medical offices do not need a CUP in the OT zone; any use going into an existing building is a minor CUP unless it's a use of special concern.
- Significant structures: it is already permitted to spread FAR over property as desired, but you have to keep the height limit unless you can move the zone boundary.
- Tower separation. Rail road tracks are 100 feet, but you can't tell what they are from a distance, so they shouldn't count differently.
- Development bonuses: how do you decide what's a normal requirement? Legally, you can't require things that aren't reasonable. Proportionality is key. Beyond what's required gets you the bonus.
  - In lieu fee—square foot basis instead of construction valuation basis: It could work, but we don't have a dollar amount to use. Valuation is easier. Bonuses are optional. Leave it as is.
  - Alternative energy – depends on the project. We could allow energy to come from off-site.
  - Gray water comes from on-site. Rainwater re-capture: we used language from Berkeley. Leave it as is.
  - Undergrounding of utilities: normally only applies to frontage of the project.
  - TDMS. In-lieu fee to child development center - good idea.
  - Small businesses – contribution to a small business fund -. changed at Economic Development's recommendation. There is no way to ensure that a property owner program will continue over time. Leave it as is.
  - Unbundled commercial parking—allow leasing of unused spaces (as with residential).
- Allowing owners to rent out unused off-street parking: the Steering Committee added this applying to residential uses; we could extend it to non-residential uses. The Steering Committee did not have consensus.
- Estimated parking demand for restaurants: The demand is 8 spaces per 1,000 square feet, the minimum is 33% less so that's 5.34/1000, your example is in a transit hub so that cuts it in half to 2.67/1000, and you can deduct the first 1500 square feet so that subtracts 4 spaces.
- Parking on a different site: A developer can have an alternative parking program including parking on an adjacent or nearby site.
- Interior garage – should be allowed to have lights on during day if needed for security. Agree, change.
- Long term bike parking is employee parking; it's in the definition. This ordinance is in the existing code; we just doubled the requirements. Leave as is. 24-hour parking – you should be able to leave a bike overnight.
- Requiring developers to keep existing trees in new projects: We were directed by Council to add this to the Regulations. It says the Planning Commission may require the developer to keep healthy trees; this makes existing power explicit. No change is recommended.
- Larger landscapes – this is from the Water Efficient Landscape Ordinance. It is nothing new; it's a State requirement.
- Significant structures: this will come back to the Council later.
- Sidewalk cafes: this applies to the public right of way only. Permits are not needed for cafes on private land.

- Monument signs: signs for individual tenants are limited to 6 feet in height, but site identification signs can be more than 6 feet in height.
- High-rise ID signs: the sign table clarifies that it means at top of building.
- Minor Design Review, Section 9-7.402 applies to changes in landscaping, not upkeep.

In Summary, revisions recommended by Charles Bryant:

- Expanding the definition of Research and Development
- Roof equipment - exhaust stacks 8 feet (revision later withdrawn)
- Square footage for in lieu fee if we can figure out how
- Bonus for renewable energy credits
- TDM benefit – in lieu fee to Child Development Center (CDC)
- Garage lights can stay on during day if for security.

Clarifying questions by Commissioner Moss and responses:

- Significant structures ordinance: did the Council have ways to reduce the list?
  - Charlie Bryant: Increase criteria from 5 to 6 to be on the list.
  - The Council agreed with Commissioner Cardoza about which buildings should not be on the list.
  - Commissioner Cardoza: There were just too many buildings. It was a good job for difficult assignment.
- Concerns of steering committee about commercial hauling?
  - Charlie Bryant: There are two bad examples in town of trucks parked on the street with loads falling out or all over the yard. staff recommended just screening it, keeping it clean. Committee felt there was too much potential for falling apart.

#### Commissioner Comments

Commissioner Moss commended staff on their work on the new Regulations. His comments were as follows.

- Commercial hauling – we should not preclude a person with a pickup truck helping people move as a home occupation; perhaps add a provision prohibiting commercial vehicles.
- Bay windows in setbacks should not add square feet; I see people using it to get around setbacks; the intent of the exception is to allow architectural features – normal bay windows.
- The findings to allow parking in the front setback should be less arduous; strike finding b, no other feasible way. In the example we dealt with, the driveway could have been used for parking.
- The bonus for energy efficiency should allow energy to come from off site, but should require a long term contract and a maximum percent; perhaps 50-60% of the renewable energy could be from off-site.
- In-lieu fees to the Child Development Center should be a bonus option.

Chair Keummerle made the following comments:

- Off-site energy production should be limited to 50% and should be tied to the life of the building. Some of the bonuses for energy are unbalanced.
- Stacks don't need a special provision; they can be approved as part of a use permit or with a minor CUP.
- There is no good recommendation for changing the in lieu fee from construction valuation to square footage.
- In-lieu fee to the Child Development Center is a good idea.
- Lights should be allowed on in garages during the day.

Commissioner Cardoza agrees with Director Bryant's recommendations as regards Wareham's comments.

Commissioner Scheuerman thanked staff and commended their work. He had no changes to the body of the document, and felt uncomfortable making changes at this late date, after all of the earlier deliberation by other bodies. He did have the following responses to the comments brought at the meeting:

- Roofs should be usable. Penthouses are encouraged via the bonus system, but not required, which isn't realistic. He had concerns about how small 10% of the roof space sounds, and encouraged Mr. Sears to come up with models showing how much roof space is needed. He didn't want to see roof lines ruined. He liked Novartis's combined stacks in an artistic enclosure.
- The definition change for Research and Development is good.
- Exhaust stacks are covered in allowed projections, which lists chimneys and ventilators; there's no need to allow them specially.
- Agrees with off-site renewable energy as a bonus item, with limits to 50% and tied to the life of the building.
- Supports in-lieu fee to CDC and lights allowed on in garages during day.
- Okay with 2.5 bedroom average for family friendly housing.

Charlie Bryant said rooftop projections can go to 25 feet; if they are more than 5 feet they are limited to 10% of the roof area. So he took back his recommendation of changing 5 feet to 8 feet.

With commissioner comments concluded, Charles Bryant suggested a few items that everyone seemed to agree on as starting point for a motion:

- Definition of Research and Development
- Renewable energy credits, no more than 50% of total bonus-able energy can be from off-site sources, and source must be available for the life of the project in a long-term contract.
- In-lieu fee for Transportation Demand Management for CDC
- Lights in garages during day, for security reasons
- Parking for commercial uses – okay to lease unused spaces

A motion was made by Chair Kuemmerle and seconded by Commissioner Scheuerman to approve the Planning Regulations and recommend them to City Council with the above modifications.

Moved: Kuemmerle  
Second: Scheuerman  
Vote: Ayes: Moss Cardoza, Keummerle, Scheuerman  
Absent: Donaldson, Steinberg, Tann

## **VII. COMMISSIONER COMMENTS**

Chair Kuemmerle commended all involved in the Planning Regulations for their dedicated work and the outstanding document.

## **VIII. ADJOURNEMENT – 9:30 p.m.**

**THE NEXT SCHEDULED MEETING WILL BE HELD ON THURSDAY, JANUARY 24, 2013 AT 6:30 P.M. IN THE CITY COUNCIL CHAMBERS, CITY HALL, 1333 PARK AVENUE, EMERYVILLE, CA 94608.**