

**EMERYVILLE PLANNING COMMISSION
ACTION RECAP
December 14, 2017**

I. CONVENE AND ROLL CALL

The meeting was called to order at 6:30 p.m. by Chair Gail Donaldson. Commissioners present: Philip Banta, Miguel Guerrero, Sam Kang, Steven Keller, Linda Barrera and Gail Donaldson. Christine Scott Thomson arrived at 6:33 p.m.

II. PUBLIC COMMENT – NONE

III. ACTION RECAP – October 26, 2017

A motion was made to approve the Action Recap.

Moved:	Keller	
Seconded:	Guerrero	
Vote:	Ayes:	Guerrero, Kang, Keller, Barrera and Donaldson
	Abstain:	Banta
	Absent:	Thomson (arrived after Action Recap was approved)

IV. DIRECTOR'S REPORT

Director Bryant report on recent City Council actions. He also reminded the Commission of the special meeting scheduled for Wednesday, December 20 and noted that the packets for that meeting had been placed on the dais before each Commissioner.

V. DISCLOSURE OF CONFLICTS OF INTEREST AND EX PARTE COMMUNICATIONS

Commissioner Barrera said that she had had communications with the Sherwin Williams applicant. Commissioner Donaldson announced that her firm does work for Lennar, and therefore she would be recused from the Sherwin Williams item.

VI. PUBLIC HEARING

A. Sherwin Williams – Public Park and Open Space Final Development Plan (FDP17-002) – Consideration of a Final Development Plan (FDP) for the public park and other public open spaces within the Sherwin Williams Planned Unit Development site. The Preliminary Development Plan (PDP) for the project was approved by the City Council on November 1, 2016. The project involves removal of two street trees (Hackberry trees) on Sherwin Avenue. CEQA Status: An Environmental Impact Report was prepared for the project and certified by the Emeryville City Council on September 6, 2016. General Plan Land Use Classification: Mixed Use with Residential and Park/Open Space; Zoning District: Planned Unit Development (PUD-7) with Park Avenue District Overlay (P-A). (Applicant: LMC Emeryville I Investor LLC)(Owners: SWACE, LLC, c/o The Sherwin-Williams Company and City of Emeryville as Successor Agency to the Emeryville Redevelopment Agency) (APNs: 49-1041-26-15 and -16).

Chair Donaldson was recused and left the room; Vice Chair Barrera presided in her absence.

Miroo Desai, Senior Planner, presented and responded to questions from the Commission.

Kevin Ma, Lennar, Applicant, and Jim Bensman with ima design, presented and responded to questions.

The public hearing was opened.

Jack Ghizzoni, representing the Park Avenue Residents Committee (PARC), expressed support for the project.

The public hearing was closed.

A motion was made to approve the application. The Commission made one change to the conditions of approval by requiring that the half basketball court be rotated 90 degrees so as to minimize sunlight glare on the players.

Moved: Keller
Seconded: Thomson
Vote: **Ayes:** Banta, Guerrero, Kang, Keller, Thomson and Barrera
Recused: Donaldson

The Commission took a break from 7.44 p.m. to 7:52 p.m.

VII. STUDY SESSIONS

- A. Ocean View Townhomes (UPDR16-004)** – A study session to review a Conditional Use Permit and Design Review proposal to demolish an existing single-family home and replace it with a three-unit residential building at 1270 Ocean Avenue. CEQA Status: To be determined. General Plan Land Use Classification: Medium Density Residential; Zoning District: Medium Density Residential (RM) and North Hollis District Overlay (NH) (Applicant: Indigo Design Group) (Owner: Farshid Vahedian) (APN: 49-1469-10)

Commissioner Donaldson presided over the remainder of the meeting.

Navarre Oaks, Assistant Planner, presented and responded to Commissioner questions.

Kristin Personett, Principal, iNDiGO Design Group, Applicant, presented and answered the Commissioner's questions

Public comment was opened; there was no one wishing to speak; public comment was closed.

The Commission provided feedback on project materials and landscaping, and expressed appreciation to the applicant for their responsiveness to addressing concerns previously raised by the Commission and neighbors.

- B. Update of City Noise Ordinance (ORD17-001)** – A study session to solicit comments on the proposed update and amendment of the Noise Ordinance in Chapter 13 of Title 5 of the Emeryville Municipal Code and other related provisions of the Planning Regulations and General Plan. This ordinance applies citywide. CEQA Status: To be determined.

Miroo Desai, Senior Planner, presented and responded to Commissioner's questions.

Stan Armstrong and Chris Sanchez, from Environmental Science Associates (ESA) presented and answered the Commissioner's questions

Public comment was opened.

Joe Lutz, Watergate resident, said that the deck at Trader Vic's has resulted in noise problems for the residents. He said he was surprised that sound intensity was not mentioned in the ESA report, and that the noise measured at Ms. Chiappetta's residence was 43 to 45 dB. He asked why the suggested daytime hours ended at 10 pm when the current ordinance is 9 pm, and he requested that the noise standard be 50 dBA daytime and 45 dBA nighttime, rather than 60 dBA and 55 dBA, respectively, as suggested in the ESA report.

Fran Chiappetta, Watergate resident, said she lives adjacent to Trader Vic's in the residence where ESA took measurements on her deck. She said she had calibrated her noise meter with ESA's and got the same readings. She said the ambient sound at noon was 44 to 47 dB, and the sound of people on Trader Vic's deck brought it up to 53 to 57 dB. At the property line, she measured 60 to 65 dB, just from people talking and laughing on the deck. She said that, due to their unique situation, the sound bounces around and is amplified. They would like to have their noise meters certified by the Emeryville Police Department so that action could be taken based on their readings. She said a \$100 meter is adequate.

Mary Eileen Farrell, Watergate resident, said she lives near Trader Vic's between Mr. Lutz and Ms. Chiappetta's residences. She said that Trader Vic's has multiple parties a day and the sound would "wake the dead". The Police have never cited them. Trader Vic's will not cooperate. There need to be standards where the Police can go straight to a citation with a penalty. Trader Vic's has improved the situation with the garbage and parking. The main issue is the deck; it should be enclosed. She said she would like to have a meter so she could provide the readings if Mr. Lutz and Ms. Chiappetta were not available. She said leaf blowers are also a problem.

Ron Freund, Watergate resident, asked how the 15 comparison cities were chosen, are there criteria, and are there models outside of California or even outside the U.S. that should be considered? He asked if Railroad Quiet Zones were being considered. He said motorcycles, sports cars, and "boom boxes" are a problem. He said that truck idling time should be limited to below the State level of five minutes. He asked if landscaping equipment would be limited to 80 dB. He said we should look at other cities and restrict noise from leaf blowers.

Public comment was closed.

The majority of the Commissioners agreed with the proposed exterior noise standards based on zoning areas; that interior noise standards should be included; that existing time-based construction hours were appropriate; and that the proposed list of exceptions was appropriate. However, Commissioners expressed concern regarding enforcement of the standards and potential issues with noise meter equipment, including calibration and the ability to obtain accurate measurements. This concern was reinforced when ESA representatives informed the Commission that there were not many cities whose police departments enforce noise standards with meters. There was also an issue raised regarding the proposed zone-based standards; given the fine-grained nature of Emeryville's zoning map, a situation would be created where neighboring properties would have different noise standards. Other issues included a suggestion to consider having fixed noise meters for hot spots such as the Watergate community, and the need to find a way to address truck idling.

IX. COMMISSIONERS COMMENTS - NONE

X. ADJOURNMENT – The meeting was adjourned at 10:01 p.m.

A SPECIAL MEETING WILL BE HELD ON WEDNESDAY, DECEMBER 20, 2017 AT 6:30 P.M. IN THE CITY COUNCIL CHAMBERS, CITY HALL, 1333 PARK AVENUE, EMERYVILLE, CA 94608

THE NEXT REGULAR MEETING WILL BE HELD ON THURSDAY, JANUARY 25, 2018 AT 6:30 P.M. IN THE CITY COUNCIL CHAMBERS, CITY HALL, 1333 PARK AVENUE, EMERYVILLE, CA 94608