

DESIGN REVIEW BOARD MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL
1401 Marina Way South, Richmond, CA
July 23, 2008
6:00 p.m.

BOARD MEMBERS

Robert Avellar, Chair	Vacant, Vice Chair
Ted J. Smith	Don Woodrow
Diane Bloom	Vacant

The meeting was called to order at 6:06 p.m.

ROLL CALL

Present: Chair Avellar and Boardmembers Woodrow, Bloom and Smith

Absent: None

INTRODUCTIONS

Staff Present: Lamont Thompson, Jonelyn Whales, Kiernon Slaughter, Mary Renfro and Richard Mitchell

Chair Avellar gave an overview of the procedures for speaker registration and public hearing functions and procedures. He noted any decision approved may be appealed in writing to the City Clerk within ten (10) days, or by Monday, August 4, 2008 by 5:00 p.m. and repeated the appeal period after each affected item.

APPROVAL OF MINUTES

June 11, 2008:

ACTION: It was M/S (Smith/Woodrow) to approve the minutes of June 11, 2008; unanimously approved.

APPROVAL OF AGENDA

ACTION: It was M/S (Avellar/Smith) to approve the agenda; unanimously approved.

CONSENT CALENDAR

Chair Avellar noted the Consent Calendar currently consisted of Items 4, 5, 6, 7 and 8. Items 4 and 5 were removed at the request of the public.

ACTION: It was M/S (Smith/Woodrow) to approve the Consent Calendar as Items 6, 7 and 8; unanimously approved.

Consent Items Approved:

6. **DR 1103912 – Construct Commercial Building in Historic District on Railroad Avenue** - PUBLIC HEARING to consider a request for Design Review permit approval to construct a ±2,001 square foot commercial building in the Pt. Richmond Historic District at 40 Railroad Avenue (APN: 558-122-006). C-1 (Neighborhood Commercial) Zoning District. Gerry Feagley, owner; Andrew Butt, applicant. Staff Contact: Jonelyn Whales. Tentative Recommendation: Conditional Approval.
7. **PLN 08-016 – Construct Single-Family Dwelling on Grandview Court** - PUBLIC HEARING to consider a request for Design Review permit approval to construct a ±2,001 square foot single-family dwelling located at 540 Grandview Court (APN: 558-202-003). SFR-2 (Single-Family, Very Low Density Residential) Zoning District. Doellstedt Vernon, owner. Pete Valentino, applicant. Staff Contact: Jonelyn Whales. Tentative Recommendation: Conditional Approval
8. **PLN 08-010 – Construct (2) Two-Story Single-Family Dwellings on Greenridge Drive** - PUBLIC HEARING to consider a request for Design Review permit approval to construct (2) two-story single-family dwellings on adjacent vacant parcels located at the upper end of Greenridge Drive south of Upland Drive and west of La Mirada Drive (APNs: 435-230-014 & -015). SFR-2 (Single-Family Very Low Density Residential) Zoning District. Denham, LLC, owner. Robert Van Dale, applicant. Staff Contact: Jonelyn Whales. Tentative Recommendation: Hold Over to 8/13/2008

Boardmember Smith announced that although there had been a death in his family, because several items on the agenda had been held over and he did not wish to delay them, he would remain as long as he could in order to fulfill the quorum.

Items Heard:

1. **DR 1103502 – Artisan Cove Live/Work Project on Marina Way South** - PUBLIC HEARING to consider a request for Design Review approval to construct seven light industrial buildings ranging in size from 5,400 square feet to 14,000 square feet and a ±2,300 square foot community building located on the west side of the 900 block of Marina Way South, between Wright Avenue and Regatta Boulevard (APN: 560-260-054). The project will include the development of 51 live/work units and 13 industrial/commercial units on a 253,346 square feet (5.82 acres) parcel. David M. Spatz of Marina Way Properties, LLC, owner/applicant. Staff Contact: Hector Lopez. Tentative Recommendation: Conditional Approval.

David Spatz, applicant, presented display boards and gave a brief description of the project, stating it had been approved in October 2007 as a 64-unit, live/work property. The CUP, mitigated negative declaration, and the mitigated negative monitoring and reporting program were all approved at that time. The Planning Commission requested the DRB to approve the final exterior building design and color palette. He introduced Marsha Vallier who approved the landscape plan, attorney Sylvia Magid to address TRAC issues, and sound consultant Robert Alvarado from Salter Associates to answer questions about the sound wall.

Mr. Spatz said the units were designed for community artist/artisan/light industrial entrepreneur. Each unit has a 24' x 50' footprint with an overall site coverage is 31%. To meet one of the negative declaration mitigations and an agreement with Levin-Richmond Terminals and Simms Metal, the applicant agreed to make Building E industrial/commercial only. The building style is industrial revival – a combination of painted concrete block, brick and classic windows – and evolved at the time of former Boardmember Jonathan Livingston. There was an additional DRB sub-committee meeting to fine-tune this submittal.

He referred to sheets A10 and A11 as typical buildings of nine units, and said the 2 units at each end have higher parapet walls, and the middle 5 units are lower. The end units are setback, and their window pattern is different. The buildings have 3 window patterns, 3 wall heights, and an articulation to avoid looking like a concrete box. The windows will be gray anodized aluminum with a green tint to fit with the color board. The 2 buildings along Marina Way South - A and F (grid entry views A10, A11, A9, and A2) – flank the entrance and are brick. He said this was reminiscent of old industrial buildings with a brick office portion and the rest poured concrete or block. The base color for the rest of the buildings was a warm green grain and the other buildings are painted a different color, as shown on the materials board. There are no exterior downspouts and parapet walls, no roof-mounted or ground-mounted equipment is expected and it will be internal. On Sheet A19 he showed the light fixtures, including several historic type pole light fixtures around the center (A2). A10 shows the entry elevation glass roll-up doors; that portion is setback 5 feet with covered enclosures for individual trash containers, meters and mail. There is a 2300 sq. ft. brick community center and conference building (Sheets A7, A16) with 2 rooms for business meetings. There is a handicapped bathroom and a small kitchen. A17 shows the massing of the buildings.

There are sound and screening walls; a 5-foot articulated wall to protect the view, which is landscaped. By the railroad is a 16-foot masonry wall to maintain quiet in the community area. The project will meet City standards for apartment dwellings. Building E has another sound wall which will be covered with vines.

Boardmember Woodrow questioned and confirmed that drawings A10 and A17 showed palms, and he asked what specific sounds were addressed by the sound wall. Mr. Spatz replied that it picks up typical sounds of trucks, traffic and especially train horns, and met the negative declaration and other measurements.

Boardmember Woodrow queried the meaning of “artisan,” and Mr. Spatz gave examples of a glassmaker, pottery maker, a woodworker or a landscape architect, and added that it’s a rental project for those who cannot afford both a light industrial space and an apartment.

Boardmember Woodrow further asked whether someone who might sculpt in steel, and create fumes and noise would be allowed. Mr. Spatz answered that would be allowed and it was up to him as the landlord to monitor who was placed where.

Boardmember Woodrow asked whether former Boardmember Livingston had commented about views as in Building G, which appeared box-like. Mr. Spatz replied that there were modifications that were not in the plans given to the board, but he pointed them out in the drawings, and said they had discussed options.

Mr. Spatz then responded to an inquiry about TRAC, and said the initial study of 2 years ago generated many comments from TRAC, and the initial study became the mitigated negative declaration. The City concluded that no trail was needed there and any point at which a trail could be located would be a dead end, and the connector trail property does not go through. He said although the survey was not in the pack, the tail of this property goes to a dead end about 12 feet wide about 150 feet from Harbor Way South. Any trail would become a dead end; and the City Redevelopment Agency in 2000, Resolution 22 said the connected trail between Harbor Way South and Marina Way South should be Hall Avenue. So the negative declaration was approved without a trail in October, subsequent to much discussion.

Marcia Vallier, Vallier Design Associates, discussed the landscape plan and said she submitted a letter in response to a comment about the landscape palette. She showed a drawing to the owner, and explained that they tried to complement building colors with the landscape and to create a focal entry point with palm trees at the front entry to create a gateway on either side of

the arch. The plant material has a wide range of trees that work well with the wind. The majority of the palette is dark green, with highlights of reddish and white flowers and foliage. At key spots are shade and screen trees at the outside edges, and 3 varieties of vines – tendril vines to climb the fences to the south, clinging vines on the sound wall and a variety of shrubs along the wall and between the units to create a screen. Everything is low water maintenance, there is a turf area near the community building to provide a lawn for picnics or events, and the rest of the planting is either eco-turf or a no or low-maintenance, as a mix of Mediterranean and native plants.

Chair Avellar questioned parking lighting, and Ms. Vallier presented the plan which showed lighting at the entry along with low level building lighting.

Sylvia Magid, attorney for David Spatz, said they sent a letter in response to TRAC that was forwarded to the DRB, and made comments from the letter: TRAC asked DRB to take actions not within their purview, that don't fall under DRB guidelines. TRAC raised concerns at last year's DRB meeting when DRB acted to leave the Artisan Cove project in the hands of the Planning Commission to address concerns relating to the trail and other land use issues. The Planning Commission approved this project without a trail or money for a trail. Comments in TRAC's letter to the DRB responded to the mitigated negative declaration, and those comments were fully addressed in the mitigated negative declaration approved by the Planning Commission. The mitigated negative declaration does not require a trail or funding for a trail.

Mr. Spatz mentioned that the Redevelopment Agency resolution showing a trail along Hall Avenue (not through the property) which is about 1500 feet from the property. Since the property does not go through to Harbor Way South, it did not make sense for a trail to go through Artisans Cove property. There was also a letter sent to Richard Mitchell from the DN&F Railway which Robert Alvarado, sound engineer will also address.

The mitigation measures set forth in the mitigated negative declaration allow a combination of mitigation measures, including making Building E industrial only, sound wall, bedroom orientation, using FTC ratings for windows, walls and doors. They felt that noise considerations were mitigated. They also believe DN&F's letter provides more details about future upgrades and traffic.

Paul Minault, counsel for Levin-Richmond Terminal and Richmond Pacific Railroad, said that they fully support the project and the proposed sound wall which they feel are an aesthetic concern for DRB and important for the success of the project and compatibility with neighboring industry. They were eager for them to remain as proposed.

Boardmember Woodrow asked Mr. Minault, as a representative of the only firm hauling freight through the area, what would happen on that line over the next 3-4 years as Port of Oakland expands and train service goes up. Mr. Minault could only speculate about the operations.

Boardmember Smith noted that on the General Plan Subcommittee they had a representative from Port of Oakland, a surprising number of trains would be on those tracks, and traffic would increase tremendously.

Public Comments:

Bruce Beyaert, Chair of TRAC, noted that in TRAC's June 21 letter the main issue was that the project did not include a two-way modal use trail as in the City of Richmond General Plan. It was not a CEQA issue. In 2000 the Planning Commission said the trail should not be in the Harbor Business Park, but that the trail was on the Railroad property next door which is the property purchased by Mr. Spatz. It was important because the Bay Trail is common with both

the recreational and transportation route: recreational on the shoreline, and transportation from Regatta to Cutting for commuters on bikes; there is no bike lane on Marina Bay Way. TRAC asked that the project be denied without a trail, or alternately that it contribute \$20,000 to build Bay Trail elsewhere.

Boardmember Smith asked why not put the trail on the Poland property which goes all the way through. He said he would not support TRAC's repeated requests for Bay Trail to grab land.

Mr. Beyaert responded that the trail was in the City's General Plan, and when they tried to put it in Bill Poland's Harbour Business Park, the Fire Department said no. He said the place for it is across the property line and referred to a letter of Tom Mitchell.

Richard Mitchell clarified that the Knox-Cutting Specific Plan was an older plan that anticipated rail usage in this area would disappear, that much of the track now in use would go away. Because of that, a trail was drawn on that route. Now the railroads use lines that they thought would be abandoned. There was much discussion on how the trail would pass through there. Before there was a change in direction and there were plans for improvement on Harbor and Marina, one way was discussed but not settled was to get the trail from Harbor to Marina to make substantial improvements to support the trail on Wright Ave. where the City has control of that right of way. The other place to put it was on Hall Ave. for the same reason. The reason the line showed up on various documents was because it was expected that the all those rail lines would disappear. Some of them have, and others have not.

Boardmember Smith asked whether at that time it was written, did it say "if the lines were abandoned."

Mr. Mitchell said he would have to check the document, but at the southern end of the waterfront the Bay Trail was an old BNSF or Southern Pacific right-of-way, which were anticipated to disappear. The General Plans stated there would be a Bay Trail and to do whatever could be done to accommodate it. But the tracks were not an abandoned right-of-way that came into public ownership but remained in private ownership, and that is what led to confusion or different points of view.

Mr. Beyaert said the railroad sold that land for \$2.5 million, and Mr. Spatz clarified that they sold it but did not abandon it; it did not become a public right-of-way. It was sold into private ownership.

Boardmember Smith asked for proof about what Mr. Mitchell had said, in writing, as he did not support Mr. Beyaert's repeated demands for the Bay Trail rights every time a new project came before the DRB.

Mr. Beyaert said it is on the record in the 2000 Planning Department's year 2000 response to the initial study.

Boardmember Woodrow referred to the document TRAC sent to them; on page 4 they said DRB might take one of 2 steps: 1) require the project be re-worked to allow space for the trail on the south side; however, he felt that Council was of the same mind as Boardmember Smith. 2) that Mr. Spatz provide \$200,000 to underwrite grading and building. He asked what would be the alternate route for the trail on which those funds would be spent.

Mr. Beyaert said Mr. Spatz would save the \$200,000 by not building the trail in the Artisans Cove project. He said it could go to improve Wright Avenue or the area from Canal Boulevard to Shipyard 3. He referred to Hall Avenue, the Redevelopment Agency Resolution and the ABAG matching grant to complete the Bay Trail.

Boardmember Woodrow questioned the assumption that this amount would fund, e.g., putting the Bay Trail somewhere else, and he asked if that would satisfy TRAC. Mr. Beyaert replied that this would be their second choice.

Attorney Magid pointed out that she did not consider the argument by TRAC to require dedication of Bay Trail or the payment of a fee, without which DRB would be unable to find the project consistent with the General Plan, to be a legally sustainable argument. A minor inconsistency with an aspect of the General Plan did not make a project inconsistent with the General Plan; a project did not need to be in conformity with each and every aspect of the General Plan. She suggested they consider other aspects of the General Plan, such as goals and policies stated in the circulation and economic development elements. She made clear that the project would be consistent with the General Plan.

Boardmember Woodrow sought a helpful option and a design that worked, and at the same time meet an ongoing civic need.

Boardmember Smith was in favor of improvement of Wright Avenue by the City, and said it was the responsibility of the City.

Boardmember Bloom asked whether the attorney wished to respond to any other point, and Mr. Spatz said the main issue was that it was not CEQA so CEQA arguments were irrelevant; it was consistent with the General Plan, Hall Avenue was irrelevant, and it concerned Wright Avenue.

Chair Avellar stated he was in favor of the Bay Trail, and he supported projects that offered elements possible for the Bay Trail, especially on the water. However, in this case he did not see the findings for it.

Jerry Rasmussen, former Chief of Current Planning for City of Richmond, addressed the General Plan issues, stating the DRB's purview requires a specific finding of General Plan conformance. He disagreed with Ms. Renfro and this was a major part of the project, not a minor deviation. He said it was a poor second choice for the "main line" of the Trail as it ran through Marina Bay to take a dogleg several hundred feet at right angles to a street that would have to be completely rebuilt. He then referred to paragraph 3 of Mr. Beyaert's letter and said the Planning staff in May 2000 made a specific and definitive finding that the route shown on the plan appended to the letter, was "on the railroad right of way immediately adjacent to and north of the proposed Bay West group site" – the industrial park. So the land had been in the General Plan since it was adopted many years ago, and the Redevelopment Agency resolution did not supersede it. It required a formal and elaborate procedure to change the General Plan.

Boardmember Smith asked him how many times the General Plan had been amended, and Mr. Rasmussen replied that in 30 years there was one complete General Plan redo.

Attorney Renfro asked Chair Avellar to address the point whether a line on a map constituted an enforceable requirement of the General Plan.

Mr. Rasmussen continued his answer that the General Plan could be amended only 3 times a year, and often was not done that frequently. Over 30 years, it probably had less than 30 formal amendments.

Attorney Renfro responded that a General Plan amendment was required when someone requested a change in the land use designation of the map; however, the circulation of the General Plan set forth the general location of *proposed* transportation routes; it did not mandate that facilities be constructed exactly as depicted on the plan. If someone wanted to put forward

a residential use in an area designated on the General Plan for industrial, then they would need a General Plan amendment; but to jog the line of where a street goes, that did not require an amendment of the General Plan and did not make a per se inconsistency with the General Plan.

Boardmember Woodrow asked Mr. Rasmussen whether if the route through this project that ended around 160 feet away from the street was extended, whose land it would go through.

Mr. Rasmussen replied it would be either on the railroad land or through the landscaping of the adjacent business park. Boardmember Woodrow asked whether either group had been approached, and Mr. Rasmussen said not specifically, but he assumed the City could condemn the land, and proceedings against the local business park would be simpler than against a national railroad.

Mr. Woodrow asked whether they had a plan as to which way the trail would go after leaving the land under discussion. He replied it was a practice to get little pieces to close gaps as the opportunity was offered.

Bruce Brubaker, Richmond resident and TRAC sub-committee member, stated that they looked at the dimensions of Harbor Bay Business park next door and saw there was ample space in their landscape bed that could be used for connecting the Bay Trail from the end of this project to Harbor Way. It would not adversely affect parking. The owner would need to be brought on board. He advocated that the right thing to do would be to provide a better link through this area than the Bay Trail currently had. It was the one place on the Bay Trail between Pt. Isabel and Pt. Richmond which was the most complicated for riders to use. Marina Way did have sufficient width for a separate bike lane, bikes sharing with automobile traffic, and it was quite dangerous, especially for kids. This would eliminate that problem. Their position was that this was a safer way to go and that either a trail should be provided here or there should be litigation to improve the Marina Way situation.

Boardmember Smith again asked why Bay Trail did not bring this up when Poland was building the business park. That would have been the best way. Boardmember Woodrow asked about hopes for getting the final 160 feet beside the tracks, and whether there was space for that whole part of the trail to be on the other side.

Mr. Brubaker replied that the general TRAC strategy was to create as much as they could, then link the gaps; they achieved 21 miles for Bay Trail in Richmond, and everyone – all developers - had to participate.

Boardmember Smith again asked why they did not do this at the time Poland was developing, instead of after the fact.

Chair Avellar asked whether they had approached the owners of the property where the trail would end, and asked whether there was a plan to approach those neighbors.

Mr. Brubaker replied that initial contact was made, but it was dropped.

Boardmember Bloom questioned how to respect the quality of the project and yet get what many wanted for the Bay Trail. She said it was not clear. Mr. Brubaker said Marina Way has no striped crossing to the 1165 Dicon Trail, which is dangerous, directly in front of this project, it could be easily linked to this project and mitigation for not providing Bay Trail could be asked to provide that crossing.

Boardmember Smith noted the City made improvements on Wright Avenue and he voiced the complaint that weekend bicyclists ride right down the middle of Wright Avenue and Harbour Way. They do not use any trail, but ride in the street.

Rebuttal – Applicant

Attorney Magid addressed the TRAC issue, stating they said it was not a CEQA issue, but rather a decision for the Planning Commission. She said the trail was a land use issue, not a DRB issue. The Planning Commission decision looked at all the land use issues. They looked at CEQA, mitigated negative declaration, there is a CUP, a variance; they found the project consistent with the zoning ordinance and the General Plan. She repeated that it was not for the DRB to decide on a trail. The Planning Commission findings indicated that DRB to look at the final exterior design and palette, and she felt the DRB should not address the trail issue.

Boardmember Woodrow questioned Mr. Spatz and noted that DRB was asked to look at paint, shingles, trash, etc., and at the same time, charged with concern about the General Plan – a slippery issue because it was currently under work. He said they had to work with the current General Plan which had not changed. He then asked whether Mr. Spatz could suggest anything that might meet the needs of both TRAC and the General Plan in a strong way. The options were a \$200,000 payout, or put a way over the street to connect the currently finished part of the Bay Trail to the other side of the street. He asked this as a civic question.

Chair Avellar asked staff when the Planning Commission approved this land use whether they mentioned the trail.

Mr. Mitchell said the issue of the trail was raised to the Commission, and they did not add any condition relative to the trail in their finding on the land use.

Chair Avellar confirmed that without a condition, DRB could not condition it and it was not their decision. Mr. Mitchell said ideally, each Board or Commission needed to focus on their area of responsibility and deal with what it was charged to do. The DRB needed to make a decision on the *design* proposal before them. The DRB needed to focus on the design of the buildings and the layout of the project. The trail issue was a request by an organization, but not a piece of the project before the DRB. Staff had tried to present the history, the intent and the issues. DRB needed to make a determination and a decision about the set of drawings. The City cannot guarantee the last 160 feet; it's private property. The easiest way to proceed at an impasse such as this was to focus and make a decision on what was before them.

Chair Avellar asked whether DRB could recommend a trail, but could not make it a definite requirement. Attorney Renfro stated that the argument by the trail proponents was that if you did not condition the project, you could not make the findings needed to approve the project because you needed to find it consistent with the General Plan. She repeated that this was not a legally supportable argument; that the DRB could, but would not have to make that finding if in light of the whole record. Not dedicating the Bay Trail would not make it inconsistent with the General Plan—the DRB still has the discretion to make the finding that it is consistent. The Planning Commission adopted a mitigated negative declaration that analyzed TRAC's comments making the argument for the trail, and the Planning Commission disagreed.

Boardmember Woodrow requested Mr. Spatz to comment. Mr. Spatz said that trying to put a trail there was a bad idea: the trail would come out at an unregulated rail crossing. This was not appropriate for a bike trail. One year ago he offered a financial settlement to TRAC, and also offered it through one of the council members. It was about 10% of what Mr. Beyaert now was asking. At that time there was either a “no” or worse answer, so he dropped the subject, after making what he thought was a fair offer.

Boardmember Bloom spoke to Mr. Spatz about the popularity of the trail, and regardless of past history, she asked what gesture he might be willing to make to contribute to the well being of the citizens. Mr. Spatz said he was willing to do something, but was concerned that whatever number he provided that was not \$200,000 TRAC would find insufficient and would appeal to City Council. In that case he would wait and talk to City Council if it was approved and then appealed.

Deliberations amongst boardmembers took place. Boardmember Bloom thought the design part had been through enough iteration, and that there was not much discussion on that.

Chair Avellar then asked the applicant whether there was a final sign program for this project. Mr. Spatz replied the final signed program was to be applied for later. Chair Avellar summarized a previous ad hoc meeting with Jonathan Livingston and the applicant at which they discussed: lighting and the interior, some free-standing lights, the wall be more articulated, some colored paving in the interior walkways, stamped concrete, and a 5 foot not 6 foot wall. Chair Avellar also repeated his comments on the trail: it was a dead end and might never be opened, and not reasonable for the applicant to pay for changes.

Boardmember Woodrow noted that they had been at this project for 17-18 months, that it had improved, and that he could support the current plan. Although he had struggled to find a way to meet all demands, he did not get the feeling of compromise, and furthermore had been told it was outside their purview. The boardmembers agreed that the trail issue was outside their purview.

ACTION: It was M/S (Avellar/Woodrow) to approve DR 1103502 conditional on staff findings and recommendations; unanimously approved.

RECESS

The DRB took a 5-minute recess and thereafter reconvened the regular meeting.

- 3. PLN 08-011 – Legalize an Addition to the Rear Unit on Cutting Blvd - PUBLIC HEARING** to consider a request for Design Review permit approval to legalize an addition to the rear unit located at 2716 Cutting Blvd. (APN: 549-150-006). Medium Density Residential (Knox Freeway/Cutting Boulevard Corridor Specific Plan) Zoning District. Jake Sloan, owner/applicant. Staff Contact: Lina Velasco. Tentative Recommendation: Recommend Denial to the Planning Commission

Lina Velasco summarized the project, stating that a previously iteration of this project was approved by the DRB early this year. During inspection the applicant requested a change to the building plan, and the addition done to the rear unit did not conform to the development standards. Therefore, the applicant must come back to the DRB as well as requesting a variance from the Planning Commission.

Boardmember Smith queried where the documents said the applicant followed the advice of a City employee. Ms. Velasco said that was communicated to staff—when the building inspector suggested a bigger addition and they did get sign-off from the building department, but they did not go to Planning. Therefore, it was outside the scope of the original approval, which they are requesting now.

Ms. Velasco also confirmed that the problem was with setbacks and this would go to the Planning Commission. Originally it was a garage, but now there was living space closer than it

should be. She also confirmed that they already had Building approval, but not Planning approval.

Boardmember Woodrow then referred to page 3 of 4 of the staff report and said the final sentence of conclusions states that the applicant might be directed to build the original structure approved. He asked what that meant for the applicant to do. Ms. Velasco said that the structure has been framed; they would have to remove portions of the additions done which is costly, but if that is the direction this would be what is required. She showed the photograph of the addition in Exhibit C. Although she did not know the extent of the work inside. Staff had requested them to stop work on the rear unit until proper approval was obtained.

Chair Avellar asked whether they had approval for the changes from the Building Department, and then Planning stopped them. Ms. Velasco said there was a signoff from Building, but it was outside the scope of the DRB permit, and this is what they wanted to rectify. It could have been avoided if Building had identified that they had to go back.

Chair Avellar asked if the applicant had gone to the City with the proposed changes and built what they thought was legal. He asked at what point they were stopped. Ms. Velasco said they obtained partial approval, and as the planners checked the site, they noticed the differences from what had been approved, and realized changes were significant enough to bring before the Board.

Boardmember Woodrow thanked staff for going out and checking what had been built. He then asked if they were to approve as Planning asked, would it go back to the design approved at first. He noted that more had been done: it was framed, fitted, windows were installed and it had a roof. She said it would be a big job for DRB to approve what originally was proposed, that it was similar to something 3 years ago built on 43rd Street where someone had begin putting up a roof. They could be stopped because it was early. Ms. Velasco thought Planning's position was that if it did not meet the development standards then they not recommend approval, but that DRB might have a greater purview to make a different recommendation to Planning Commission. The original staff report stated various options should DRB recommend approval, but they had been directed to provide one recommendation.

Chair Avellar asked how much larger was the change, and Ms. Velasco said it was about 300 – 400 square feet larger on the second story. They were able to add an additional bedroom and bathroom. He then asked about the setback, and she said the required setback should be 10% of the width which is equivalent to about 4'2". The setback as built was a little over 3'. The difference was about 1'2". After the staff report was distributed the applicant submitted letters of support. Staff included one from the Neighborhood Council, but he also obtained one from an adjoining property owner and three others.

Chair Avellar confirmed that the applicant had an actual building permit, as opposed to those who build without permits. Ms. Velasco said, however, staff was now citing more things.

Mr. Woodrow asked if they moved to certify what was there now, how it would be worded. Ms. Velasco said DRB was a recommendation to Planning Commission, and Planning would need to approve the variance requested. There were optional findings attached to the report. Chair Avellar noted that they were reviewing the design.

Jake Sloan, Applicant, commented on how they arrived at this point. When they purchased the original property it was a major eyesore. It was never their intent to circumvent the DRB. As they proceeded with the work they were told it would make sense to enlarge the living space over the garage. Then they were told that if they got a building permit they would be allowed to do that. He hired an architect to revise the plans, he submitted them, and they were approved

by the Building Department. Then they were told by DRB staff to stop work, and they did so even though the Building Department told them they could continue. That was May 1st; the project had been delayed for 3 months, and in addition it had taken a year to get the 1945 agreement permit, all of which involved major cost. They followed staff suggestions and applied for the variance before DRB with a setback. He said these were not major variances, about 1 foot: in the rear it's an irregular lot, at one side about 29' deep, the other side 3' and the middle 16'. The overall footprint leaves a sufficient amount of open space on the site. Also they used only Richmond residents for the work, and now they are out of work. This project was built to provide affordable housing, and if approved, it would improve the community.

Boardmember Woodrow questioned which of the drawing were the ones they were to approve. Ms. Velasco said Exhibit A, after page 4 of the staff report and confirmed that those drawings were faithful to what was being built now. He then asked about some blank walls: the 2nd unit left side showed a blank wall with no doors or windows. Mr. Sloan said there were windows. When asked about windows for the 2nd unit rear which showed mostly blank wall, Mr. Sloan said it was all according to the building code, and noted that staff was paying careful attention to every detail.

Ms. Velasco noted that Building Code required within 3' from a property line it has to be a 1 hour firewall, and said the applicant had to do significant surveying on the site. Boardmember Woodrow asked what the blank wall faced, and was told it was Carl Adam's property, and Mr. Sloan said he had seen it.

Chair Avellar asked whether the wall in question was stucco, whether stucco had been applied and whether they could add 1½' - 2" score Lines to the blank wall. Mr. Sloan said work was at that point; he agreed and noted that would match the front of the building.

Public Comments:

Tanya Boyce, resident and member of her neighborhood council. She supported moving forward for the benefit of the community. She felt that the 600 square foot limit on a second dwelling size was arbitrary, and compared it to Oakland's 900 sq. feet. She felt it did not consider true market factors in Richmond: Their neighborhood was mostly elderly and single parents with children. The elderly would not likely climb the stairs, so this project would target parents and children. As she expressed in her letter, she felt it was indicative of problems in the department that needed to be fixed: the applicant, his workers and the neighborhood were held hostage because of a mistake. She also criticized the report for its scarcity of its findings, i.e., "It does not satisfy because it's not compatible" without stating details, and requested support of the project.

Boardmember Woodrow pointed out that issues of second unit sizes belonged at Council level.

ACTION: It was M/S (Avellar/Woodrow) to recommend PLN 08-011 to the Planning Commission with staff's four findings and to add score lines to the left side of the building; unanimously approved.

- 4. PLN 08-012 – Two-Story Addition to Single-Family Residence on Keith Drive - PUBLIC HEARING** to consider a request for Design Review permit approval to construct a ±900 square foot two-story addition to an existing single-family dwelling located at 3045 Keith Drive (APN: 431-155-027). SFR-3 (Single Family Low Density Residential) Zoning District. Michael Chan, owner; Sorin Comnescu, applicant. Staff Contact: Kieron Slaughter. Tentative Recommendation: Conditional Approval.

Michael Chan, property owner, said he lives with his family of 5 in the currently 1200 square foot 3 bedroom home. Originally, they wanted to raise the whole footprint of the house to 2 stories, but a neighbor expressed concern so they moved it to the south side of the property where the neighbor has a 2 story unit. They plan to add 2 bedrooms and 2 baths upstairs.

Public Comments:

Gisela Harting, said she lives adjacent to Mr. Chan and the majority of the homes in the neighborhood are single story. Because the house immediately to the north of her house is at a higher elevation; if the proposed design was approved it would be more than twice the height of her home. She felt the proportions of the addition were not in proportion to the immediate neighborhood, she was told it would devalue the price of her home, said the proposed balcony would deprive her of privacy, and the home currently casts a shadow on her patio and the south side of her house in the afternoon, especially in winter. She provided photographs to illustrate this, and stated that the proposed increase in height of the addition would cast a longer shadow earlier in the day, depriving her of natural light on that side.

Chair Avellar asked her to clarify that her house was 3051 Keith on the right in the photographs, and that the house on the left at 3038 Keith was a two-story home. She said this was an exception; the homes beginning with the Chan home to the other side were all single story.

Stanley Scher, Contra Costa County, spoke as an environmental consultant on behalf of Ms. Harting. He addressed the issue of solar access and described how the sun casts a shadow on a building to the north. He said this information was sent to staff, and on June 24 Attorney Mary Renfro wrote to staff based on her erroneous assumption that parcel on the proposed site was located south of 345 Keith. Ms. Harting's property was on the south. He said if this assumption was corrected there would be no need for this discussion. He cited Civil Code section 81.

Boardmember Woodrow asked whether Ms. Harting planned to install solar panels on her roof. Mr. Scher replied no; he was talking about passive solar, which is using the building property itself as a source of warmth in winter.

Chair Avellar questioned staff whether there was an ordinance about shadows on a property, as far as height limits and setbacks. Mr. Slaughter said the proposed project met all zoning residence ordinances.

Rebuttal – Applicant

Mr. Chan was asked and confirmed that he consulted with the neighborhood council and attended the meeting, and as far as he knew, they approved his design.

Boardmember Woodrow confirmed that when Mr. Chan spoke with his neighbors he shifted his plans to move the 2nd floor from the south side to the north side, in response to comments he heard from them. He also said he agreed to remove a 2nd window in the downstairs bedroom to address Ms. Harting's concern about her privacy.

Boardmember Smith referred to comments in the letter about parties held. Mr. Chan said his younger step-daughter held a traditional Phillipino 18th birthday celebration, and she practiced a ballroom dance demonstration on the back deck; the last practice was on July 5.

ACTION: It was M/S (Avellar/Woodrow) to approve PLN 08-012 with the staff four findings and twelve recommendations; unanimously approved.

5. DR 1104603 – Construct Two-Story Residence on Golden Gate Avenue - PUBLIC HEARING to consider a request for Design Review permit approval to construct a ±2,462 square foot two-story residence located at 442 Golden Gate Avenue (APN: 558-273-006). The project would remove an existing dwelling and create a new, two-story dwelling with an attached garage. MFR-1 (Multi Family Residential) Zoning District. Emily McCabe, owner/applicant. Staff Contact: Kieron Slaughter. Tentative Recommendation: Conditional Approval.

Boardmember Woodrow commented that the final page of the staff report was a petition that was handed around at the PRNC meeting and which he signed, and it was signed before they had comments from the City or State Historic Commission. He said if he had known what those two groups said, his name would not be there.

Martin McCabe, applicant and owner, deferred the explanation of the request to the architect.

Michelle Kaufmann, Architect, described the project as a 6358 sq. ft. lot with a proposed 2462 sq. ft. house, with a footprint of 1696. She showed images of the site plan showing the lot perimeter with the house stepped back on an angle, the rear portion of the house sticking into the setback - an allowed projection – 14' wide, less than the 50% of the lot width allowed, and the interior yard space at about 32% of the lot exceeding the required minimum of 16%. The maximum building height was 35', and the project was at 29' at the highest point, well below for the 2 story portion. The one-story portion was also well below the maximum building height. The design was a smart design incorporating eco-principles, to conserve daytime lighting, maximize air flow and to make the house feel big without being big. She pointed to several features on the drawings where they tried not to impact neighbors. She listed several more eco-friendly elements, and detailed materials, earthy colors and landscaping. It exceeded standards for a green home. She also showed 3-D images, including an arcade, said the homes surrounding the site were eclectic, without a dominant style, she displayed multiple views, including the separate car area, and felt the design would enhance the values of the surrounding properties.

Ms. Kaufmann responded to several questions from Boardmember Woodrow: cars coming from Golden Gate Ave would need to turn to go in the garage; the garage required excavation; the 2nd floor at the rear was sitting on the lower level; the purpose of the arcade was to address the aspect of neighbors' houses and to define an outdoor room; the SW trellis reduced heat, and it was engineered to seismic standards, including the arcade. He asked how the arcade and the V-shaped roof all fit into a piece. Ms. Kaufmann explained the theory of design; it was a vertical piece connecting to the upstairs, with an entry tower; the idea was to limit the indoor space and make the outdoor space feel like a room.

Boardmember Woodrow asked how much of the design was driven by the fact that it was a factory built house. Ms. Kaufmann said they wished to minimize the amount of work done on site to minimize impact to neighbors. In answer to the factor of the hills there, she said they had experience of building on challenging sites. Their delivery people tested the site in advance. In response to design questions, she explained the rail as dark grey steel posts and rail with cable in-between for safety. The arcade was an integral color of cement board. It was designed for solar panels. The trash was hidden with screening.

Boardmember Bloom questioned the color and materials of the tower and upper story; the tower was cedar wood, and she asked if the arcade and the retaining wall for the planting a different color. Ms. Kaufmann said the retaining wall was concrete and the arcade was cement, but they could consider making them of the same material. Boardmember Bloom said she disliked light, not-tinted concrete and wondered about the plantings, and whether the house wanted some green uprights. Ms. Kaufmann said the plans were limited by the variety of plants in their software library, and Boardmember Bloom asked for improvement.

Boardmember Smith confirmed that the project was within the Historical District.

Boardmember Woodrow spoke of the arcade facing SW, and suggested using new solar filming, but Ms. Kaufmann wanted to be cautious about reflection to neighbors across the street. Boardmember Bloom suggested selecting tall plants that would not block the sun.

Boardmember Woodrow confirmed that the occupants would be Mr. and Mrs. McCabe. He expressed a personal issue and described his neighborhood of small homes where people talk about light broken up by overhangs, etc. His concern was that this was one of the few sites in town where the City was trying to tip its hat to history. This site did none of that. He asked about the survey issue, and Mr. McCabe replied that it was a few inches off on the line, and there would be a 2nd survey to set the points.

Boardmember Woodrow said he wished to enforce the City's code about a historical zone, and felt that support for that was slowly being stripped away. The State appeal said it did not meet State Historic Code, and what was compelling was that people in the Point wished to preserve the historic character that was eroding. He felt it was an interesting plan, but was concerned that it would set precedent. He would support it, but with a heavy heart.

Mr. McCabe replied that anyone wanting to build a "modern" house would have to hit a rating of 150 or more. Ms. Kaufmann noted that pitched roofs are an area of waste that requires heating and cooling, to which Mr. Woodrow replied attics are easily solved.

Chair Avellar said he loved the design and thanked the architect.

Public Comments:

Robert Richardson, lives across the street, said design is a fickle thing, and cited the Frank Lloyd Wright house in Oak Park. He felt the building now existing across the street was an eyesore and felt the architect solved many challenging problems. As far as fitting the historical character of the Point, his side of the street falls outside it, whereas theirs is in it, but none of the houses on Golden Gate are historical, except for the one next to them which has no historical significance. He felt it fit into the neighborhood and supported it.

EXTEND MEETING

ACTION: It was M/S (Woodrow/Bloom) to extend the meeting to 9:15 p.m.; unanimously approved.

John Rohan said the house was in a historic district and if it was across the street and he would have no problem with it, but it's on the wrong side of the street. Land use design review for Point Richmond had problems with it because it did not fit with the historical context. Their solution was to reduce the size of the elevation by 5'. Pt. Richmond neighborhood council also had problems with the project from an historical perspective. The DRB sub-committee found it had "different architectural character than the structures in the district," and said that building height be considered in DRB deliberations. He was concerned with the on-going property dispute and said the applicant would mow down what now exists, and he hoped for other than physical destruction of the existing property. He asked why the architect did not choose from the wide palette of styles in Pt. Richmond in that neighborhood.

Chair Avellar noted that DRB considers, but does not necessarily follow their sub-committees.

Tania Mantua, lives on W. Richmond Ave. directly behind 442 Golden Gate Avenue, stated she and her husband live in an historical home built in 1908 and picked the area because they liked the historical district. Although they liked the project design, they felt it did not go with historical district, but was very modern, urban, a bit industrial and not integral to the district. Also she felt the scale was too big, filled most of the lot which was 1 ½ times the normal Pt. Richmond lot size. She also expressed concern about lifting the pre-fabricated house over the power lines on a steep hill.

In response to Chair Avellar and Boardmember Bloom, Mr. Slaughter confirmed that lot size met zoning requirements, and the 36% green area exceeded the minimum requirement of 16%.

Bram Druckman read into the record a letter regarding the project, stating he is one of the owners of 454 Golden Gate Avenue, they feel the project is too large for the neighborhood and does not fit in any way with this historical area. The size of the proposed structure would block all the light from the 3 rooms on the side of their house, and asked for adjustments to be made.

Boardmember Woodrow asked whether they had talked with the couple to see whether the design could be changed to meet their needs, and the response was no, they had not.

Boardmember Bloom asked the architect to refer to consideration of right for neighbors to respond directly.

Margaret Morkowski, Treasurer of PRNC, came to redirect the information presented before by their local land use committee and the PRNC, recommendations to address the scale and context of the structure that is not in tune with the neighborhood. She used a display to explain that “this building” was built before the historic district was established, “this particular building” was built within the last 2 or 3 years, and she considered it in tune with the historic district – it’s directly across the street from the proposed site. She agreed that it was a very strong the design for the historic district, and reiterated that the site was within the historic district. At the previous day’s City Council meeting, Mr. Mitchell presented guidelines for current housing and current neighborhoods and she questioned whether there were any for Point Richmond.

Boardmember Smith referred to a paragraph written by Kimberly Butts in which she disputed everything said. She said it was compatible and met historical guidelines.

Ms. Morkowski said they met with the sub-committee for the Historical Preservation Committee, and they commented that there were no municipal codes nor ordinances that substantiated the denial of this house in the historic district. However, she would like to keep it an historic district.

Ms. Renfro noted that the historical district was based on structures built between 1900-1920, and this did not look like a building built in that timeframe.

Rebuttal – Applicant

Ms. Kaufmann noted that the Historical Preservation Advisory Committee approved the project and were excited about it and replied to Boardmember Bloom’s question about not lifting anything over the power lines; that nothing would be and safety was not an issue. Going back to the note about the neighbor’s light, Ms. Kaufmann pointed to the display and showed where they had taken it into consideration.

Boardmember Bloom noted that she did not see actual plants called out. Mr. McCabe said the plant designs were taken from the EBMUD book recommendations for this area.

Boardmember Bloom expressed concern about working with the heights and the foliage color. She felt it was an exciting design, and a design challenge to work with the historic district, but she felt that had not yet arrived at something in-between. She encouraged them to think about it.

ACTION: It was M/S (Avellar/Smith) to approve DR 1104603 with the staff four findings and twelve recommendations; unanimously approved.

EXTEND MEETING

ACTION: It was M/S (Avellar/Woodrow) to extend the meeting to 9:30 p.m.; unanimously approved.

2. DR 1104549 – Additions to Single-Family Residence on Panama Avenue - The Design Review Board will continue the public hearing for Design Review permit approval of construction of a 640 square foot accessory building on the rear property line at 6101 Panama Avenue (APN: 510-121-024). SFR-3 (Low Density Residential) Zoning District. Xiu Cai Zhang, owner/applicant. Staff Contact: Jonelyn Whales. Tentative Recommendation: Denial

Boardmember Woodrow asked what they were being asked to vote on. Boardmember Bloom understood they were being asked to deny the project as built. Boardmember Woodrow understood they were not being asked to consider having whatever was built reduced to the 215 sq. ft. structure that was there before.

Ms. Whales explained that the question to the applicant at the last meeting was which of the 2 options, and she learned from the applicant that they preferred to have the 215 sq. ft. greenhouse.

Boardmember Woodrow confirmed from the 1st page of the report that the recommendation would be for the applicant to reduce the size to 215 sq. ft.

Xiu Cai Zhang, owner/applicant, 6101 Panama Avenue, stated that the City wanted them to change the structure back to a greenhouse, and after consideration her husband decided to change the outside building per the plan given to the city.

Boardmembers and Ms. Whales discussed that the applicant needed to tear down and reduce the building size of the second building which was built without a permit and was under a stop order from the Building Department.

There was a motion with a friendly amendment by Boardmember Smith and then a substitute motion before voting on the first motion.

Chair Avellar clarified with the applicant whether she wished to make the structure a usable accessory structure or to make it a storage. If an accessory structure, it would have to be shrunken to 215 sq. ft. The applicant wished to keep it the same size, and Boardmembers emphasized that it would need to be gutted, leaving the open shell. There was no limitation to the size of an accessory structure; however, it would have to be open – no partitions, no doors, no bathroom. This would give them a 646 sq. ft. in an open shell. This was on the radar for Building, Planning and Legal.

ACTION: It was M/S (Woodrow/Smith) for DR 1104549 to have an accessory structure for storage; that the applicant be required to reduce the size of the temporary structure on their land to 215 sq. ft.--the size it was when they began this work; unanimously approved.

8. Reports of Officers, Board Members, and Staff

There were no reports.

Boardmember Woodrow stated the quorum would go in effect 30 days following Tuesday.

Public Forum - Brown Act –

Robert Van Dale spoke on Item 8 for the 2 houses off Greenridge Drive, stating there was insufficient information to have the public hearing tonight, and they accepted that fact but wanted to go on record questioning the legal basis for not having it tonight. The project was deemed complete a month ago and they understood that proper notification went out without errors. Therefore, they do not understand why there was no Public Hearing. His concern was with El Sobrante Advisory Committee which had not identified any legitimate concern with the design, and they had been delayed twice, with the next El Sobrante Advisory Committee hearing the day after the Public Hearing. He questioned the process and whether the ESAC was an important part of the process, then could they make those conditions of approval or would they be delayed again. He said the core problem was a lack of understanding on the part of the ESAC as to what the appropriate information was at this stage of the design process. He was concerned about the continued delay of the project and whether they would have a quorum.

Chair Avellar stated that in four days they would be allowed to have a quorum of three members. Mr. Van Dale expressed concern that they could achieve it by August 13, and not be delayed a 3rd time. Ms. Whales said the applicant was tentatively scheduled for August 13 – the next DRB meeting. The reason it was moved was that he had not gone to the neighborhood council until last Friday and that did not allow time for Ms. Whales to write a staff report. Fridays are the days the packets go out.

The Board adjourned the meeting at 9:35 p.m.