

**EMERYVILLE CITY PLANNING COMMISSION  
ACTION RECAP  
REGULAR MEETING  
AUGUST 27, 2009**

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

The meeting was called to order at 6:30 p.m. by Chair Arthur Hoff. Commissioners present: Gail Donaldson, Lawrence Cardoza, Patricia Jeffery, Frank Flores, Jim Martin, John Scheuerman and Art Hoff.

- II. PUBLIC COMMENT** - Chair Hoff granted the request of resident, Scott Donahue of 1420 – 45<sup>th</sup> Street, to speak at this time on an item that was on the agenda, due to the fact that he would not be able to stay for the meeting. His comments were regarding the Emery Station West @ Emeryville Transit Center on behalf of the Bicycle and Pedestrian Advisory Committee. He acknowledged the fact that the applicant, Wareham, had done a lot for the City of Emeryville, but he feels each project should be judged on the merits of the particular project at hand and not on prior projects. He expressed concerns with the affect this project would have on the bicycle/pedestrian paths in this area. He said the project needed to be scaled back and that the Heritage Square garage design was ugly. He cited the Novartis parking structure as a good design, and said that the upper level terrace would not be used by the public.

Chair Hoff stated there would be a change in the order of the Agenda Public Hearing items, and Item B – BevMo! Sign, would be heard first and Item C, 65<sup>th</sup> Street Lofts (Baker Metal) would be second, then Item A – the General Plan would be heard as the third item.

- III. ACTION RECAP - July 23, 2009** - Commissioner Donaldson said she wanted to add comments relating to the transition of the Ambassador Housing project to the lower building heights of the adjacent houses. After this addition, Commissioner Flores made the motion to approve the Action Recap and Commissioner Scheuerman seconded the motion. The Action Recap was approved without exception.

**IV. DIRECTORS REPORT**

Director Bryant reported on recent City Council actions. At the August 4 meeting, the Council heard the appeal of three Triangle residents of the Adeline Market project that was approved by the Commission on June 25. The Council voted unanimously to overturn the Commission's decision and to uphold the appeal and deny the project. A resolution to this effect was approved at the August 18 meeting. The Council also appointed Paul Travis to fill a vacant resident seat on the Park Avenue District Advisory Committee and set the grand opening ceremony for Doyle Hollis Park for Sunday, September 6 at 1:00 p.m.

On August 18, the Council held a study session on the Transit Center project. Later in the meeting, the Council approved an "environmental escrow agreement" for cleanup of the site. The Commission will be holding a study session on the project tonight. The Council also approved the first reading of an ordinance extending the term of the existing Development Agreement with Madison Marquette for the Bay Street project by five years, to October 22, 2014. This was recommended for approval by the Commission at the last meeting. Final passage of the ordinance is scheduled for September 1.

The General Plan, EIR, and Interim Zoning Regulations are before the Commission tonight for consideration to recommend adoption by the City Council. The Council is scheduled to consider adoption on September 15. Meanwhile, the General Plan and Zoning Update Steering Committee continues to work on the new Zoning Ordinance. On July 28 they discussed the bonus point system for density, height, and FAR. There was no meeting in August. At their September 22 meeting they will focus on parking and at the October 27 meeting they will focus on sign regulations.

V. PUBLIC HEARINGS

- B. **BevMo! Sign (SA09-15)** – A Major Sign Permit to allow one new wall sign at the eastern corner of the south face of the Powell Street Plaza building at 5717 Christie Avenue. CEQA Status: This project is exempt from environmental review under State CEQA Guidelines Section 15311(a) which applies to accessory structures including on-premise signs. General Plan Designation: Commercial (C); Zoning Classification: General Commercial (C-G). (Applicant: Adart Sign Company.)(Owner: Regency Center) (APN: 49-1515-12-5)

Assistant Planner, Arly Cassidy, presented the staff report and recommended denial of the application. Applicant Eric Marquart, Vice President of Construction at BevMo! spoke briefly to further explain the need for the sign. He said they are attempting, among other things, to improve the visibility of their business.

The Commissioners reminded the applicant that when this item was presented to them previously, they had recommended the owners be contacted regarding a master sign program. When questioned if they had spoken with the owners regarding this request, the applicant said they had not. The applicant said it would be extremely costly to back track at this time to try to develop a master sign program for this location. Not only would it be costly, it would be rather time consuming, at least a year or more. She stated that when the owner looked at their sign proposal, which does meet with the City code, the owner approved their sign request.

The public hearing was opened.

Kris Owens, resident at 6363 Christie, said due to the stressful economic times, people need to drink, and BevMo! should be allowed to have their sign at the location they are requesting.

The public hearing was closed.

After considerable discussion, with some of the Commissioners saying a master sign program was not needed for this applicant because there are about 20 signs at this location and one more would not be a problem. Also, the City did not want to lose this business. Other Commissioners said a master sign program was needed in an attempt to avoid hodge-podge signs on this side of the building like the side that faces the freeway.

A motion to deny the sign application was made by Commissioner Martin, seconded by Commissioner Jeffery. A substitute motion to approve the application was made by Chair Hoff and seconded by Commissioner Cardoza. On the substitute motion:

**Moved:** Hoff  
**Seconded:** Cardoza  
**Vote:** Ayes: Cardoza, Hoff  
Noes: Jeffery, Donaldson, Flores, Martin, Scheuerman

The motion failed.

On the original motion:

**Moved:** Martin  
**Seconded:** Jeffery  
**Vote:** Ayes: Donaldson, Jeffery, Scheuerman, Martin, Flores  
Noes: Cardoza, Hoff

The applicant's sign application was denied.

- C. **65<sup>th</sup> Street Lofts (Baker Metal) and Ocean Avenue Townhomes (UP07-09/DR07-15)** – A Conditional Use Permit and Design Review to convert the existing Baker Metal building

located at 1265 65<sup>th</sup> Street to 10 residential units, 7 live-work units 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). Three street trees will be removed as part of the project. 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), Medium Density Residential (R-M), and North Hollis Overlay District (N-H). (Applicant: Sasha Shamzad; Owner: Shamzad Construction and Development, Inc) (APN: 49-1469-1; -2; -12; -13; 49-1504-2)

Commissioner Martin was recused, due to a possible conflict of interest.

Senior Planner, Miroo Desai, presented the staff presentation. Staff recommended approval.

Architect for the project, Phil Banta, spoke briefly. He answered questions from the Commissioners relating to the garbage chutes, recycling and garage doors.

Commissioners commented on bicycle parking, ADA access, planters, and locations for truck loading.

Mr. Banta said trucks would probably park in the street along with the other trucks that service the other businesses in this area. He said there is adequate and safe pull out for trucks. He also said the 400 ft. planter is on the deck to provide privacy to the people utilizing the deck.

The public hearing was opened.

Marie Beichert, resident at 6450 Doyle said she was intrigued by the fact that there was no EIR required for this project and wanted to know why.

Keith Boadwee, resident at 1254 Ocean, said this building looks like a new building. He said reference to preserving this old building is a joke. This project does not preserve the old building.

Lee Steinmetz, resident at 1250 Ocean Avenue, had questions regarding the easement on Peabody Lane. He wanted to know if people would still be allowed to use the easement.

Jim Martin, resident at 1268 – 64<sup>th</sup> Street, commented on the statement the architect made regarding the reuse of this building. He said this is really a new building. He also wanted clarification on the Peabody easement issue. He said there should be some relief between the units and the bocce ball court. He wanted to see a landscape plan and said there was very little window space in the south corner. He suggested more glass and less stucco in this area.

The public hearing was closed.

Chair Hoff asked if there will be an access for the residents on Peabody Lane. Mr. Banta said this was a legal issue that was being addressed with the neighbors.

Commissioner Flores commented on the re-use of this building, and applauded the applicant on the project. He said in restoring this building, he would suggest using whatever can be salvaged. He also suggested waiving the Art Fee because he feels the building is the art.

Planning Director Bryant noted that only the City Council had the authority to waive this fee because this is a requirement by City Ordinance.

Motion: To approve the Conditional Use Permit and Design Review for the 65<sup>th</sup> Street Lofts (Baker Metal) and Ocean Avenue Townhomes (UP07-09/DR07-15).

**Moved:** Cardoza  
**Seconded:** Flores  
**Vote:** Ayes: Cardoza, Flores, Jeffery, Hoff, Donaldson, Scheurman  
Recused: Martin

There was a break at 7:45. The meeting reconvened at 7:57.

**A. Emeryville General Plan**

1. **Environmental Impact Report** – Consideration of recommendation to the City Council to certify the Final Environmental Impact Report for the new Emeryville General Plan.
2. **New General Plan** – Consideration of recommendation to the City Council to adopt a new General Plan for the development of the city to 2030, guiding land use; building density, intensity, and height; transportation; parks, open space, facilities, and services; urban design; conservation, safety, and noise; and sustainability.

Deborah Diamond, Project Manager for the General Plan, made the staff presentation.

Rajeev Bhatia of Dyett & Bhatia gave the overview focusing on changes since the public review draft was published in January.

Jean Eisberg of Dyett & Bhatia presented the EIR portion.

The public hearing was opened.

Mark Welther, Executive Director, Golden Gate Audubon Society, expressed concerns with the construction of the Bay Trail at Emeryville Crescent and the potential impacts on the bird populations. He pointed out that birds raft, roost, and forage here. He said the Emeryville General Plan is inconsistent with the East Shore State Park General Plan. He referred the Commission to the Bodega Bay Study. He requested that the City remove provisions for the spur for the Bay Trail from the General Plan and any related projects. He also said that the Sierra Club also opposes the Trail in this location.

Betty Burrie, a resident of the Terraces, spoke in opposition to a higher height limit for the Transit Center property.

Patricia Jones, Executive Director, Citizens for East Shore Parks, said they oppose the spur trail in the tidal marsh area of the Crescent. This proposed trail is dangerous to special status species and they concur with the East Bay Regional Park District that the City remove the proposed spur trail from the proposed project.

Douglas Flock, resident at 2 Anchor Drive, expressed concerns with the increased traffic at the intersection of Powell Street and Frontage Road, and requested that the Regional Retail Overlay designation be deleted from this location. He also said that if the East Bay Bridge Center is redeveloped, Home Depot should have better access for contractors.

Craig Winsor, resident of the Terraces, requested the City consider the residents in the area and expressed concerns with traffic and noise on the west side of the tracks.

Jean Robertson, a nearby Oakland resident, expressed concern about the overall increase in density. She opposes special height and density considerations for the Transit Center.

Vanessa Kuemmerle, resident at 1250 Ocean Avenue, and on the General Plan and Zoning Update Steering Committee, had concerns with the floor ratio (FAR) for the residential neighborhoods. She said they were probably too high.

Attorney Deborah Kartiganer, with the firm of Cassidy, Shimko Dawson, Kawakami, spoke on behalf of Wareham Corporation and Safeway, Inc. She expressed concerns regarding the effect the General Plan and Interim Zoning Regulations may have on future development in Emeryville. On behalf of Safeway, changes and clarifications were requested for the following:

- A continuance of tonight's hearing so that all interested parties may have enough time to read and understand the Draft General Plan and IZR;
- The addition of specific language to the Draft General Plan in order to ensure that proposed upgrades and alterations of existing buildings would not trigger the wholesale application of all of the Draft General Plan's goals and policies;
- The deletion (or at least deferral) of the proposal to construct a pedestrian pathway and "green street" directly through the middle of the Project site;
- The inclusion of the East Baybridge Planned Unit Development ("PUD") in the list of PUDs set forth in Section 9-6.203(1) of the IZR; and
- The deletion of the IZR requirement that conditional use permits for uses within Neighborhood Retail overlay zones require a finding that the use would include a main entrance facing the public sidewalk.

On behalf of Wareham she made the following clarifications and requests:

- Permitting "High Technology," "Medical Services," and "Research Services" as of right in areas designated "Mixed Use with Residential: and "Mixed Use with Non-Residential";
- Exclusion of parking from building density calculations;
- Revisions to the range of permitted uses and the conditional use permit process within the Mixed Use with Residential, Mixed Use with Non-Residential, and Neighborhood Retail overlay zoning designations;
- Averaging of multiple height and density districts applicable to a single development;
- Diversification of requirements pertaining to "active Frontage streets";
- Standardization of definitions of "development," "lot," and "project";
- Re-designation of certain properties from "areas of stability to "areas of potential change"; and
- Re-designation of a parcel at the northwest corner of Powell Street and Hollis Street from "Mixed Use with Residential" to "Mixed Use with Non-Residential" or "Office/Technology."

Frederic Schrag spoke on behalf of John Nady who owns a 2.2 acre parcel at 6707 Shellmound Street, and requested that the parcel be redesignated for residential use and a higher height limit. He said that freeway and railroad noise can be mitigated. While a hotel use may be a tax benefit, it has never been proposed for the site. He requested that the parcel be changed to Mixed Use with Residential at a height limit of 75'/100'.

Jim Golden, resident at 86 Emery Bay Drive, said he wanted to thank the Steering Committee and staff for a great job.

Julie Murphy, resident at 1281-64<sup>th</sup> Street, said she feels the FAR should be

lower than 0.65 in the eastern residential neighborhoods.

The public hearing was closed.

There was a 10 minute break at 9:30. The meeting reconvened at 9:40.

Director Bryant noted the various comment letters and emails that had been received and the public testimony tonight. He said he wanted to respond to the issue of the proposed trail along the Emeryville Crescent, and referenced his email responses to the various commenters on this issue, of which the Commissioners have copies. He said the City is well aware of the history and issues surrounding this trail. He noted that, at this point, it is simply a line on a map and we do not know exactly where it would go. Quoting from his email response, he said "We certainly have no intention of pursuing such a trail along the Emeryville Crescent if it would in any way harm the adjacent wildlife habitat. In this spirit, I would like to point out two policies in the draft General Plan, one in the Transportation chapter and the other in the Conservation chapter:

*"T-P-18: The City's Bay Trail alignment is as set forth in Figure 3-3. The spur trail along the Emeryville Crescent shall only be constructed following an environmental study to ensure that any impacts on the adjacent wildlife habitat of the mudflats are adequately mitigated.*

*"CSN-P-22: Provide visual, and where practical, physical, access to the Emeryville Crescent in a manner consistent with the protection of this fragile ecological system. Improvements to the Bay Trail in the Emeryville Crescent must be consistent with habitat protection."*

Consultant Rajeev Bhatia noted that two additional policies had been added to the draft General Plan to address this issue:

*"CSN-P-23: Where new trails or other improvements are proposed in the vicinity of the baylands and essential habitat for special-status species, require adequate avoidance and mitigation necessary to protect sensitive resources.*

*"CSN-P-24: The City shall explore opportunities for habitat restoration and enhancement, particularly in larger parks and open space areas."*

Mr. Bryant also responded to comments that the General Plan EIR was inadequate because it did not analyze the impacts that such a trail would have on the wildlife habitat of the Emeryville Crescent. He noted that the General Plan EIR is a "program EIR" that focuses on the overall effects of the proposed General Plan in the Planning Area; individual development projects, including City projects such as the Emeryville Crescent trail, will require individual environmental assessments focusing on project-scale impacts. In other words, the General Plan EIR is not the place to analyze in detail the impacts that a trail may have on the wildlife habitat of the Crescent. This would be covered in any future detailed planning for the trail.

Mr. Bryant said that he would be happy to respond to other comments as well if the Commission so desired. Chair Hoff said that the Commissioners all have copies of the comments and could bring them up during their comments on the EIR and draft General Plan if desired.

The Commission then deliberated on the draft General Plan and Final EIR and made a number of revisions. These were done by individual motions and votes as follows:

Motion: Change FAR in eastern residential neighborhoods to 0.6/0.9, including

parking.

**Moved:** Martin  
**Seconded:** Hoff  
**Vote:** Ayes: Cardoza, Donaldson, Flores, Hoff, Martin  
Noes: Jeffery, Scheuerman

Motion: Add a sentence to the end of Policy UD-P-15 to read: "To avoid a continuous row of garages along the street, the lot frontage should provide a minimum of 30% active non-parking related uses."

**Moved:** Donaldson  
**Seconded:** Flores  
Approved without objection.

Motion: Change Transit Center Height Limit to 75/100 feet and FAR to 4.0/5.5, both with a footnote that height and FAR are increased to next level (100+ height and 5.5/8.0 FAR) for a "transit center".

"Transit Center" is defined as having bus bays on the ground floor of the building, wide sidewalks, and improved pedestrian circulation and activation, plus some of the following:

- Car share pod
- Public parking for Amtrak
- Connection across the tracks
- Bicycle station/storage/parking
- Passenger pick-up and drop-off
- Taxi stands
- Recharging stations for electric cars.

**Moved:** Jeffery  
**Seconded:** Martin  
**Vote:** Ayes: Cardoza, Donaldson, Flores, Hoff, Jeffery, Martin, Scheuerman

Motion: Add Policy CSN-P-26A to read as follows: "The City shall continue to implement ordinances pertaining to architecturally significant structures, and as necessary refine and update these to ensure adequate recognition and incentives for reuse."

Proposed by Commission Martin and approved without objection.

Motion: Add Policy CSN-P-24A to read as follows: "Appropriate avoidance measures will be implemented to prevent the loss of nesting birds during new construction. This can be accomplished through timing of vegetation removal and building demolition during the non-nesting season or through preconstruction surveys where a potential for nesting remains on proposed development sites." Add this new policy to the list of policies that reduce the impact of Impact 3.4-2 of the Findings of Fact, page 15 of 51.

**Moved:** Martin  
**Seconded:** Donaldson  
Approved without objection.

Motion: Add Policy CSN-P-19 on page 16 of 51 in the findings of fact under Impact 3.4-4.

**Moved:** Martin

**Seconded:** Flores  
Approved without objection.

Motion: Modify "Industrial" land use classification description on pages 2-12 and 2-13 to clarify where the industrial areas are located and stipulate that general manufacturing is only permitted west of Hollis Street north of 65<sup>th</sup> Street. Lighter industrial uses are allowed east of Hollis Street north of 65<sup>th</sup>, and on Horton between Powell Street and Stanford Avenue. However, existing general manufacturing uses in these light industrial areas may continue, and may be expanded with a conditional use permit subject to performance standards. The revised language is as follows:

***"Industrial***

*"A range of industrial and high technology uses, including light manufacturing, repair, testing, printing, service commercial, and biotechnology uses. Three industrial areas are designated in the Land Use Diagram: (1) west of Hollis Street and north of 65<sup>th</sup> Street ("west of Hollis"), (2) east of Hollis Street and north of 65<sup>th</sup> Street ("east of Hollis"), and (3) along Horton Street between Powell Street and Stanford Avenue ("Horton Street"). "Light" live/work is appropriate in the east of Hollis and Horton Street industrial areas. "Heavy" live/work uses (e.g. work involving manufacturing, welding, and assembly) will only be allowed in the west of Hollis area. General manufacturing uses are only permitted in the west of Hollis area. In the east of Hollis area and the Horton Street area, new light industrial uses are permitted, but new general manufacturing uses are not. Existing general manufacturing uses can continue as conforming uses, and may be expanded with a conditional use permit subject to performance standards for noise, air quality, and truck traffic, to safeguard adjacent residential uses. Unrelated retail and commercial uses that could be more appropriately located elsewhere in the city are not permitted, except for offices, subject to appropriate standards, and in Neighborhood Retail Overlay areas (i.e., North Hollis)."*

Proposed by Commission Martin and approved without objection.

Motion: In City Structure diagram, Figure 5-1 on page 5-4, and any other corresponding diagrams, add "Gateways" in the following locations:

- 40<sup>th</sup> Street east of Adeline
- Shellmound Street at freeway off ramp near Ashby Avenue
- Hollis Street north of 67<sup>th</sup> Street
- Powell Street at Vallejo Street
- Adeline north of 47<sup>th</sup> Street
- Greenway north of 67<sup>th</sup> Street

Proposed by Commission Martin and approved without objection.

Motion: Show AC Transit site as "Possible City Park" on Neighborhood Centers diagram, Figure 5-10 on page 5-32.

It was noted that this was a clerical correction that would be made. All pertinent diagrams in the plan should be made consistent.

Motion: Take out the last clause in Policy UD-P-36 so that it reads as follows: "Where large floorplates are permitted, building shall be required to adhere to height, setback, and stepback standards, as required for view and sun access; ~~but less stringent bulk standards shall be permitted.~~"

Proposed by Commission Donaldson and approved without objection.

Motion: Modify language of Findings of Fact on page 4 of 51, under Impact 3.1-2,

fourth and fifth sentences of finding, to read as follows: "However, the overall proposed plan will significantly increase the number of housing units, with the net new housing development reaching 3,767 units, providing opportunities for ~~indicating that~~ any displaced residents ~~would be able~~ to find new accommodation in Emeryville. The City further finds that some businesses may be displaced during redevelopment, and that additional office (2,372,960 net new square feet) and retail space (641,263 net new square feet) added by the Plan could ~~will~~ accommodate relocation within Emeryville."

Proposed by Commission Donaldson and approved without objection.

Motion: Change the land use designation of the northwest corner (north of 65<sup>th</sup> Street and west of Shellmound Street) from Mixed Use with Nonresidential to Mixed Use with Residential.

**Moved:** Scheuerman  
**Seconded:** Hoff  
**Vote:** Ayes: Flores, Hoff, Scheuerman  
Noes: Cardoza, Donaldson, Jeffery, Martin

Motion failed.

Motion: Reduce height limit in southwest corner (south of 40<sup>th</sup> Street between Beach Street and Horton Street) from 100+ to 75/100.

**Moved:** Martin  
**Seconded:** Jeffery  
**Vote:** Ayes: Donaldson, Jeffery, Martin  
Noes: Cardoza, Flores, Hoff, Scheuerman

Motion failed.

Motion: Add yellow star to Maximum Building Heights Map, Figure 2-4 on page 2-16, to indicate entitled 200' hotel tower at Bay Street. [Similar yellow stars would be added to indicate the entitled towers in the Marketplace Redevelopment Project.]

Proposed by staff and approved without objection.

Motion: Make corrections to FEIR Appendix A, page A-3, and Planning Commission staff report Attachment 6:

- 2-16 Fig. 2-4: "Increase height between Peabody Lane, and Vallejo, Doyle, and 65<sup>th</sup> streets, to 30/55 ~~55/75~~ feet, base and base with bonus."
- 2-18 Fig. 2-6: "Increase density between Peabody Lane, and Vallejo, Doyle, and 65<sup>th</sup> streets, to 50/60 ~~85/100~~ units/acre, base and base with bonus."

These errors had previously been identified by Commissioner Martin; the corrections were proposed by staff and were approved without objection.

Following these deliberations, the Commission voted on certification of the Environmental Impact Report and adoption of the new General Plan.

Motion: To recommend to the City Council to certify the Final Environmental Impact Report for the new General Plan with corrections to Appendix A as noted above.

**Moved:** Martin  
**Seconded:** Donaldson  
**Vote:** Ayes: Cardoza, Donaldson, Flores, Hoff, Jeffery, Martin, Scheuerman

Motion: To recommend to the City Council to adopt the new General Plan, with revisions to the General Plan and Findings of Fact as noted above.

**Moved:** Cardoza  
**Seconded:** Scheuerman  
**Vote:** Ayes: Cardoza, Donaldson, Flores, Hoff, Jeffery, Martin, Scheuerman

3. **Interim Zoning Regulations** – Consideration of recommendation to the City Council to add a new Chapter 6 to Title 9 of the Emeryville Municipal Code, entitled Interim Zoning Regulations, and to make related modifications to the existing Zoning Ordinance at Chapter 4 of Title 9, to implement the new General Plan until a new Zoning Ordinance is adopted.

Director Bryant made the staff presentation and responded to questions from the Commission.

The public hearing was opened.

George Martin, Geo. M. Martin Company, 1250 67<sup>th</sup> Street, said he thought his concerns were zoning issues, but they had been addressed during the General Plan discussion and he did not speak then. He referred to the description of the Industrial land use district that had been revised during the General Plan discussion, and asked that the area where General Industrial is allowed be expanded to include north of 67<sup>th</sup> Street. He said he may address the City Council on this issue when they take up the General Plan.

Director Bryant noted that, under the existing zoning regulations, expansion of a General Industrial use would require a use permit. The new General Plan, as modified tonight, would require the same thing, so the rules are not really changing.

Deborah Kartiganer of Cassidy Shimko Dawson Kawakami, spoke on behalf of Safeway and Wareham Development.

On behalf of Safeway, she said that the East BayBridge Shopping Center should be listed as an existing PUD in the Interim Zoning Regulations. She also said that it is circular logic to require a public entrance facing the sidewalk for a permitted use in the Neighborhood Retail Overlay Zone, and then to also require it as a finding for a conditional use permit.

On behalf of Wareham, she requested that Medical Services, Research Services, and High Technology uses be permitted by right in the Mixed Use zones, and that small uses in existing buildings be exempt from the use permit requirement. She also stated that definitions are needed for "lot" and "site" to determine how the regulations apply to large developments.

Director Bryant responded to the points made by Ms. Kartiganer. He explained that the East BayBridge PUD was not like other PUDs in Emeryville; it was approved by the Emeryville/Oakland Joint Planning Authority, and therefore was not adopted by Ordinance by the Emeryville City Council like other PUDs. For that reason, it is not shown on the existing zoning map and does not have the same status as the other PUDs, although it is an entitlement that runs with the land, and the new General Plan and Interim Zoning Regulations will not take

away that entitlement. Concerning Wareham's issues, Mr. Bryant pointed out that the uses mentioned all currently require use permits under the existing Zoning Ordinance, and that all of Wareham's existing buildings had gotten use permits, so the proposed regulations are not different in this regard. Use permits for large multi-tenant buildings typically include a list of included uses so that when new tenants come into the building, they do not need to get another use permit.

The public hearing was closed.

The Commission then deliberated on the proposed Interim Zoning Regulations and agreed on the following revisions:

- Modify Section 9-6.305 to require a use permit for projects of between one and five acres in the Mixed Use Zones. A single use may be allowed if the applicant convincingly demonstrates that a mix of uses is infeasible; otherwise, a mix of uses is required. Staff noted that this will require additional findings in Article 5, which will be added.
- Modify Section 9-6.307 to reflect changes to the "Industrial" land use classification description in the General Plan (see above). This stipulates that new General Industrial uses are not permitted east of Hollis Street or along Horton Street, but that existing General Industrial uses may remain as conforming uses and may be expanded with a conditional use permit subject to performance standards.
- Modify Section 9-6.313 to add ground floor location as one of the criteria for uses that are permitted by right in the Neighborhood Retail Overlay Zone.
- Modify Section 9-6.405(a), "Building Intensity" to indicate that the lowest floor area ratio (FAR) category on the General Plan FAR map has been changed from 0.75/1.0 to 0.6/0.9 (see above).
- Modify one of the conditional use permit findings for the Neighborhood Retail Overlay Zone at Section 9-6.507(b) as follows: "That the use will provide a pedestrian orientation, including consideration of, ~~but not limited to~~, a main entrance facing the public sidewalk that will remain open to the general public during normal business hours." This modification was suggested by staff in response to Ms. Kartiganer's comment that requiring a sidewalk entrance as a criterion for permitted uses and also requiring it as a finding for conditionally permitted uses was circular logic. The Commission did not agree with striking the second half of the sentence as staff proposed, but agreed to change "but not limited to" to "consideration of", so that a sidewalk entrance would not be mandatory but would be included in the evaluation.

Following these deliberations, the Commission voted on the Interim Zoning Regulations.

Motion: To recommend to the City Council that the Interim Zoning Regulations be adopted, with revisions as noted above.

**Moved:** Cardoza

**Seconded:** Flores

**Vote:** Ayes: Cardoza, Donaldson, Flores, Hoff, Jeffery, Martin, Scheuerman

## VI. STUDY SESSION

- A. **Emery Station West @ Emeryville Transit Center, Horton Street and 59<sup>th</sup> Street; and Heritage Square Garage, Horton Street at 62<sup>nd</sup> Street (UP09-03/DR09-18)** – A Study Session on a proposal to construct two separate buildings on two surface parking lots in the 5900 and 6100 blocks of Horton Street: an office/laboratory building and a parking garage. The proposed Emery Station West building, adjacent to the Amtrak Station, is a 165 feet tall building accommodating approximately 358,500 gross square feet of office/lab space, 300 parking spaces, and ground level active space with retail and transit (Amtrak) oriented functions. The proposed Heritage Square Garage building, on the east side of Horton Street at 62<sup>nd</sup> Street, is a 64 foot tall building accommodating approximately 204,000 gross square feet of parking and providing 600 parking stalls and ground level active space fronting on Horton Street. The proposal also includes reconfiguration of the area between the Amtrak Station and the proposed Emery Station West building to create a public plaza which will include reconfiguration of the bus loading and unloading facilities, a protected pedestrian waiting area, and pedestrian access improvements between the rail line and the bus loading area. CEQA Status: An Initial Study is current under preparation. A Mitigated Negative Declaration is anticipated. General Plan Designation: Mixed-Use (M-U); Zoning Classification: Mixed-Use (M-U) (Owners: Westinghouse Electrical Corporation; Hollis R and D Associates; Wareham Development Corporation; City of Emeryville; Emery Station Office LLC II; Applicant: Wareham Development) (APN: 49-1489-15; -13-3; 49-1325-1-2; -2; -4)

Senior Planner Miroo Desai made the staff presentation. Geoff Sears of Wareham Development then addressed the Commission, followed by a presentation by project architect Roland Lazzarotto of Ellerbe Beckett.

The floor was opened for public comments.

Jo Sellers, 5855 Horton Street, a homeowner at the Terraces, expressed concern regarding potential congestion and infrastructure needed to support such a tall and a massive building.

Parissa Peymani, 5855 Horton Street, another Terraces homeowner, noted that the proposal was silent on relocation of the guest parking of the Terraces that exist at the Amtrak parking lot and said there was no information on where the parking would be relocated during and after construction.

Craig Winsor, 5855 Horton Street, another Terraces resident, stated that the building was too tall and bulky and that it would lead to traffic congestion.

Betty Burri, 5855 Horton Street, expressed concerns with the noise and heavy congestion already in this area, and objected to the requested height limit.

The floor was closed for public comments, and the item was brought back to the Commission for discussion.

The Commission agreed that the EmeryStation West building needed to be connected with the existing pedestrian bridge. It was also suggested that bus spaces inside the building would free up space in front of the Amtrak station that could then be used by the Emery Go-Round and AC Transit. There was a suggestion for a midblock crosswalk on Horton Street between the EmeryStation West building and the Heritage Square garage. At least two Commissioners commented that the upper level plaza would be used primarily by the users of the building unless the space was programmed to attract people. A need to improve and increase transit functions was also noted. At least three Commissioners commented that the building needed to be designed for “transit functions” now rather than retrofitted in the future. It was noted that the high cost of remediation for the site was no longer applicable and therefore a need for a taller building was questioned. It was suggested that the ground level active spaces should be wider and that the active space in the Heritage Square garage should wrap around to the 62<sup>nd</sup> Street frontage. At least two Commissioners commented that the design of the Heritage

Square garage was not attractive. A concern for potential conflict between pedestrians, bicyclists and cars in the round-about area at the end of 59<sup>th</sup> Street was also noted. Between this study session and the earlier deliberations on the new General Plan (see above), the Commission made it clear that they were not inclined to approve the Transit Center project unless the bus bays were moved inside the building and pedestrian circulation and activation was improved.

**VII. COMMISSIONERS COMMENTS** - None

**VIII. ADJOURNMENT** – The meeting was adjourned at 2:00 a.m.