

**EMERYVILLE PLANNING COMMISSION**

**STAFF REPORT**

**Agenda Date: December 9, 2010**  
**Report Date: December 2, 2010**

**TO:** Emeryville Planning Commission

**FROM:** Staff

**SUBJECT:** Ambassador Housing Project  
(UP09-05/DR09-11)

**PROJECT**

**LOCATION:** 1168 36<sup>th</sup> Street (Ambassador Laundry Building) and adjoining properties generally bounded by Magnolia and Peralta Streets to the west, residential properties to the north, Adeline Street to the east and 36th Street to the south (APN: 5-481-1, and -2; 49-481-7, -8, -16, and -17)

**PROJECT**

**APPLICANT:** Resources for Community Development  
2730 Telegraph Avenue  
Berkeley, CA 94705

**OWNER:** Emeryville Redevelopment Agency

**PROJECT DESCRIPTION:** A request for a two year extension of the Use Permit and Design Review for construction of a new, five-story, 64,581 square foot residential building and two two-story townhouse buildings with a total of 69 affordable housing units and 110 off-street parking spaces

**GENERAL PLAN**

**DESIGNATION:** Commercial (C) [previous code]

**ZONING**

**DISTRICT:** General Commercial (C-G). [previous code]

**APPLICABLE**

**ZONING**

**ORDINANCE**

**PROVISIONS:** Section 9-4-82.10      Expiration

**ENVIRONMENTAL**

**STATUS:** This project is categorically exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15332, which

***V.D.***

applies to urban infill development.

- RECOMMENDED COMMISSION ACTION:**
1. Open the public hearing and take testimony regarding the requested time extension
  2. Close the public hearing and consider the staff report and amended conditions of approval.
  3. Adopt Resolution CPC No. UP09-05/DR09-11/First Extension approving the requested extension

**BACKGROUND:**

On October 22, 2009, the Planning Commission approved a Conditional Use Permit and Design Review to construct a new, five-story, 64,581 square foot residential building and two two-story townhouse buildings with a total of 69 affordable housing units and 110 off-street parking spaces on a 34,280 square foot site. The Commission then amended a condition of approval regarding design at the December 10, 2009 meeting.

The applicant now requests a two-year extension of the entitlements of the project from December 10, 2010 to December 10, 2012. The applicant has been working diligently to acquire financing for the project by pursuing numerous state and federal grants. A letter of their request is attached to the staff report.

**STAFF FINDINGS**

The project's Conditions of Approval provide that "this permit shall expire unless construction of the building improvements commences within one (1) year following final action on the approvals described above ... any extensions require approval of the Planning Commission in accordance with the provisions of the Emeryville Municipal Code [Zoning Ordinance]." In this case, "final action" was the effective date of the Planning Commission's approval of an amendment to the conditions of approval on December 10, 2009, and the expiration date was one year later, December 10, 2010.

Due to recent financial crisis, the applicant has not been able acquire appropriate financing to construct the project and is pursuing various grants. Please see attached letter for further details.

Section 9-4.82.10 of the Zoning Ordinance allows the Council to grant extensions to previously approved permits to a maximum of three years from the original approved date. On April 6, 2010, the City Council passed an interim Ordinance allowing for case-by-case extensions up to a maximum of five years from the final approval date. This is one of the projects covered by that ordinance. In order to grant such a request, the Council must make the following findings pursuant to Section 9-4-82.10(e):

- (1) That the permit holder has clearly documented that it has made a good faith effort

- to commence work upon the use; and
- (2) That it is in the best interest of the City of Emeryville to extend the permit; and
  - (3) That there are no substantial changes to the project, no substantial changes to the circumstances under which the project is undertaken, and no new information of substantial importance that would require any further environmental review pursuant to the California Environmental Quality Act.

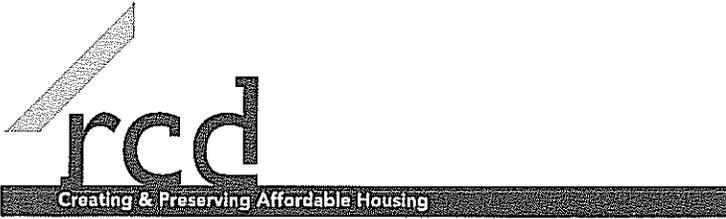
In staff's view, these findings can be made in this case. For reasons beyond their control and described above and in the attached letter, the applicant has not been able to begin construction within one year following the approval date. It is clearly in the best interest of the City to extend this permit, as this project will provide an important 69 affordable units. In addition, the project has also received assistance from the Emeryville Redevelopment Agency. Finally, there are no substantial changes to the project, no substantial changes to the circumstances under which the project is undertaken and no circumstances that would require any further environmental review of the project.

It may be noted that the Bay Area Air Quality Management District's (BAAQMD) adopted new thresholds for environmental review under the California Quality Control Act (CEQA) in June 2010. Although these thresholds do not go into effect until January 1, 2011, LSA Associates, our environmental consultant reanalyzed the Human Health Risk Report prepared for the project and concluded that the future residents of the site will not be exposed to health risks that exceed the thresholds contained in the new BAAQMD Guidelines.

**RECOMMENDATION:**

Staff recommends that the Commission approve this request for a two-year extension, with a new expiration date of December 10, 2012.

Attachment: Applicant's Letter of Request  
Letter from LSA documenting compliance with new BAAQMD CEQA thresholds  
Draft Resolution



November 18, 2010

Charles Bryant  
Director of Planning and Building  
City of Emeryville  
1333 Park Avenue  
Emeryville, CA 94608-3517

Re: The Ambassador  
UP09 - 05 / DR09 - 11

Dear Mr. Bryant:

I am writing to respectfully request that the Use Permit and Design Review approval received on December 10, 2009 for the above referenced project that expires on December 10, 2010 be extended by two (2) years to December 10, 2012.

Since receiving the land use approvals last December, RCD and its design team have completed approximately 55% of the construction plans. We are preparing to submit our first plans for permitting for the five semi-attached townhomes on 36<sup>th</sup> and Adeline Streets in December. While we have made great progress, we are still assembling the final components of the project's public financing (including Low Income Housing Tax Credits), all of which are allocated on a highly competitively basis. If we are successful in securing a tax credit allocation next spring, we will submit for a full building permit immediately thereafter in early summer 2011.

Should you have any questions, please do not hesitate to contact me at 510/ 841-4410, ext. 319. Thank you.

Sincerely,

Deni Adaniya  
Associate Director of Housing



LSA ASSOCIATES, INC.  
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BERKELEY, CALIFORNIA 94710

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## MEMORANDUM

**DATE:** November 23, 2010

**TO:** Miroo Desai, AICP, Senior Planner, City of Emeryville

**FROM:** Adam Weinstein, AICP

**SUBJECT:** Ambassador Housing Project Health Risk Assessment

In September 2009, LSA Associates, Inc. (LSA) completed a Health Risk Assessment (HRA) for the proposed Ambassador Housing Project (project) that would be located north of Interstate 580 (I-580) at Peralta Street and 36th Street in the City of Emeryville (City). The project would include one five-story residential building and two three-story residential buildings that would provide a total of 75 affordable rental housing units. The project would also include open space in a central courtyard and a community room.

The HRA evaluated the site-specific meteorological conditions and the proximity of the project site to the adjacent freeway to determine the potential risk to future residents at the site from emissions, including diesel particulate matter (DPM) generated by vehicles on the adjacent freeway. The HRA concluded that the cancer risk associated with exposure of future residents on the project site to freeway emissions would not exceed the significance criterion for toxic air contaminants, assuming outdoor exposure (a conservative assumption) as established by the Bay Area Air Quality Management District (BAAQMD).

In June 2010, the BAAQMD adopted new California Environmental Quality Act (CEQA) Guidelines which contain thresholds for use in evaluating air quality impacts, including impacts associated with DPM and other potentially toxic air contaminants. LSA did not prepare a second HRA for the project, but compared the results of the September 2009 HRA to the new BAAQMD thresholds for risks and hazards (which will be effective on January 1, 2011 for sensitive receptors). Our comparison indicates that future residents of the site would not be exposed to health risks that exceed the thresholds contained in the new BAAQMD Guidelines.

**RESOLUTION CPC NO. UP09-05/DR09-11  
FIRST EXTENSION**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EMERYVILLE GRANTING A TWO YEAR EXTENSION OF THE APPROVAL OF A CONDITIONAL USE PERMIT AND DESIGN REVIEW PERMIT FOR THE AMBASSADOR HOUSING PROJECT A FIVE-STORY, 64,581 SQUARE FOOT RESIDENTIAL BUILDING AND TWO TWO-STORY TOWNHOUSE BUILDINGS WITH A TOTAL OF 69 AFFORDABLE HOUSING UNITS AND 110 OFF-STREET PARKING SPACES ON A 34,280 SQUARE FOOT SITE AT 1168 36<sup>TH</sup> STREET (APN: 005-0481-001,-002; 49-0481-007-008,-016,-017)**

**WHEREAS**, on July 6, 2009 Resources for Community Development (RCD) submitted an application for a Use Permit, Design Review and a Variance in order to develop a 75-unit affordable housing project on a 34,280 square foot site on 36<sup>th</sup> Street between Adeline, Peralta and Magnolia Streets; and

**WHEREAS**, on October 6, 2009, the City received revised plans that included a proposal for a 69-unit project and eliminated the need for a variance; and

**WHEREAS**, the Emeryville Planning Commission held a duly and properly noticed public hearing and approved the project on October 22, 2009 and then amended a condition of approval on December 10, 2010; and

**WHEREAS**, the applicant is now requesting a two-year extension of their permits as a result of the additional time needed to acquire financing and to file a building permit application; and

**WHEREAS**, the Planning Commission held a duly and properly noticed public hearing on December 9, 2010 to review and consider the request for an extension and to solicit public comments; and

**WHEREAS**, as part of the review and approval of the project it was originally determined to be exempt under the provisions of the California Environmental Quality Act (“CEQA”) under State CEQA Guidelines Section 15332 which apply to small to urban infill development, and does not require further environmental review at this time; and

**WHEREAS**, the Planning Commission has reviewed and considered the request to extend **UP09-05/DR09-11** along with the staff report dated December 9, 2010 and attachments thereto, and all public comments for the Ambassador Housing project (“the Record”); now therefore, be it

**RESOLVED**, that in extending **UP09-05/DR09-11** the Emeryville Planning Commission makes the findings as required by Emeryville Municipal Code Section 9-4.82.10(e), as follows:

- (1) That the permit holder has clearly documented that it has made a good faith effort to commence work upon the use.

**The applicant has continued to work to obtain construction financing which has been difficult in the current economic crisis.**

- (2) That it is in the best interest of the City of Emeryville to extend the permit.

**It is clearly in the best interest of the City to extend this permit as it is a 69-unit housing project that will provide affordable housing that is critically needed in the city.**

- (3) That there are no substantial changes to the project, no substantial changes to the circumstances under which the project is undertaken, and no new information of substantial importance that would require any further environmental review pursuant to the California Environmental Quality Act.

**The project was determined exempt under the provisions of the California Environmental Quality Act (“CEQA”) under State CEQA Guidelines Section 15332, which applies to urban infill development. Since that time, there have been no substantial changes to the project, no substantial changes to the circumstances under which the project is to be under taken, and no new information of substantial importance that would require reevaluation of the exemption criteria under CEQA.**

**AND BE IT FURTHER RESOLVED**, that the Planning Commission hereby approves a a two year extension of Conditional Use Permit and Review Design Review approval (UP09-05/DR09-11) for the Ambassador Housing Project, until December 10, 2012.

**APPROVED** by the Planning Commission of the City of Emeryville at a regular meeting held on Thursday, December 9, 2010, by the following votes:

**AYES:** \_\_\_\_\_

**NOES:** \_\_\_\_\_ **ABSTAINED:** \_\_\_\_\_

**EXCUSED:** \_\_\_\_\_ **ABSENT:** \_\_\_\_\_

\_\_\_\_\_  
**CHAIRPERSON**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**RECORDING SECRETARY**

\_\_\_\_\_  
**ASSISTANT CITY ATTORNEY**