



# City of Emeryville

CALIFORNIA

## MEMORANDUM

**DATE:** October 5, 2021

**TO:** Christine Daniel, City Manager

**FROM:** Charles S. Bryant, Community Development Director

**SUBJECT:** **Appeal By City Council Of Planning Commission's June 24, 2021 Denial Of An Amendment To Conditional Use Permit And Design Review For The Redevelopment Of The Existing 30,000 Square Foot Vacant Building Located At 4060 Hollis Street As An Arts And Cultural Center, And Two Signs (APN: 49-618-4)**

**Resolution Of The City Council Of The City Of Emeryville Approving The Planning Commission's Denial Of An Amendment To A Conditional Use Permit And Design Review Permit For The Redevelopment Of The Existing 30,000 Square Foot Vacant Building Located At 4060 Hollis Street As An Arts And Cultural Center, And Two Signs, And Denying The Project Amendment (APN: 49-618-4) (CEQA Determination: Exempt Pursuant To Public Resources Code Section 21080(b)(5) And CEQA Guidelines Section 15270(a))**

**OR**

**Resolution Of The City Council Of The City Of Emeryville Disapproving The Planning Commission's Denial Of An Amendment To A Conditional Use Permit And Design Review Permit For The Redevelopment Of The Existing 30,000 Square Foot Vacant Building Located At 4060 Hollis Street As An Arts And Cultural Center, And Two Signs, And Approving The Project Amendment (APN: 49-618-4) (CEQA Determination: Exempt Pursuant To CEQA Guidelines Sections 15301 And 15332)**

### **ACTION REQUESTED**

Staff recommends that the City Council either approve or disapprove the Planning Commission's denial of an amendment to the Conditional Use Permit and Design Review for the redevelopment of the existing 30,000 square foot vacant building located at 4060 Hollis Street as an Arts and Cultural Center, including two signs.

### **BACKGROUND**

On August 27, 2020, the Planning Commission approved a Conditional Use Permit and Design Review permit for an adaptive reuse proposal that will involve renovation of an existing, 30,000 square foot vacant building at 4060 Hollis Street to accommodate an arts and cultural center. The applicant, Orton Development, Inc. (ODI), was selected by the

City Council via a Request for Qualifications/Proposals (RFQ/P) process in September 2018.

Subsequently, construction costs escalated and, in addition, the design team reevaluated the functionality of interior architecture post-COVID, security, and the ability to operate the Project components independently. Based on this reevaluation, the Project was redesigned, and, on June 1, 2021, an application for an amendment to the August 27, 2020 entitlements was filed.

On June 24, 2021 the Planning Commission held a public hearing on the proposed amendment. Following extensive deliberations, the Planning Commissioners concluded that they could not support the proposed modifications to the Project, citing findings related to sidewalk design, signage, coworking space, and the public entrance. Specifically, the Commission cited the inability to make the findings required by Planning Regulations Sections 9-7.407(a), 9-7.407(b), 9-7.505(a), 9-7.505(e), and 9-5.1612(c)(2).

At the July 6, 2021 City Council meeting, when the Planning Director's report was given, it was reported that the Commission had unanimously denied the proposed modifications to the Emeryville Center for the Arts Project. The Council voted to appeal this decision to themselves. At the September 13, 2021 meeting, the Council set the date of October 5, 2021 to hold a public hearing on the appeal.

Section 9-7.1405(d) of the Planning Regulations stipulates that, when acting on an appeal of a Planning Commission decision, the City Council shall either:

- (1) Continue the hearing and request a supplemental report from the Planning Commission, in which event the Council may extend the time for rendering the decision an additional 30 days;
- (2) Approve the Commission's action upon finding that all applicable findings have been correctly made and all provisions of this Title have been complied with;
- (3) Approve the Commission's action but impose additional conditions and/or guarantees as it deems necessary to fulfill the purposes of this Title; or
- (4) Disapprove the Commission's action upon finding that all applicable findings have not been made or all provisions of this Title have not been complied with.

Section 9-7.1405(e) stipulates that an action to grant an appeal shall require a majority vote of City Council members present and voting. A tie vote shall have the effect of rejecting the appeal.

## **DISCUSSION**

### **Proposed Modifications to Project**

The Request for Qualifications/Proposals (RFQ/P) for the Project included the following objectives:

- Minimize City subsidy while ensuring fiscal sustainability of operations
- Maximize civic and community arts-based uses of the facility
- Expedite completion of the project
- Utilize robust community engagement in developing programming for the facility

Following reevaluation of the Project as described above, the Forum and Multi-purpose Gallery and associated main entrance have been moved to the north section of the building. (See Sheet A101: *Overall Floor Plan* and Sheet 101.1: *Revision Overlay*)

Moving them from the center of the building allows for a better path of travel, better security for each building component, lower overhead to operate, better exiting, better synergy with City Hall, and lower cost. Having the Forum and the Gallery exit immediately out of the building makes the building exiting simple, safe, and direct.

The cafe space has been eliminated due to cost considerations, and the focus is now on the outdoor exhibition space. The pandemic has emphasized the importance of exterior open-air experiences that have now been incorporated into the new design with the addition of the Outdoor Gallery. There are no changes proposed from existing conditions along the Hollis Street frontage sidewalk, other than removal of curb cuts and installation of an underground transformer vault, and the existing trees are no longer proposed to be removed.

The new design also maximizes efficiencies in the following ways:

- (a) The relocation of the entrance and exits removes the significant ADA ramp along the eastern edge of the project;
- (b) Relocation of the Forum and Multi-purpose room have increased the studio spaces to from 18 to 23;
- (c) Fluid hallway-corridors;
- (d) An improved segregation and functionality of the Co-Working area including a separate south entrance; and
- (e) Removal of raised theater seating allows for any audience-performer configuration.

The table below provided by the applicant outlines the changes in further detail.

	APPROVED DESIGN	PROPOSED MODIFICATION
<b>FORUM</b>		
Size	2,081 sq. ft.	2,138 sq. ft.
General Location	Center East Wall (Columns 4-5 and A-E)	Northeast Corner (Columns 1-2 and A-C)
Green Room	448 sq. ft. Rear	283 sq. ft. lateral/side
Seating	Retractable Seating	Foldable/Storable Seating
Stage	Fixed	Stage can be set in any configuration
Entry	Mid Area of the building	New North Entry from the Plaza
Lobby	Not Applicable	Addition off of Plaza
ADA	Longer travel distances	Shorter Distances/Immediate access from Plaza
<b>MULTI-PURPOSE GALLERY</b>		
Size	6,181 sq. ft.	4,483 sq. ft.
General Location	South Center (columns 5-7 and B-F)	North Wall Center (columns 1-3 and C-G)
Lobby	Not Applicable	Addition
Functional Display Walls	Not Applicable	Addition – 4 feature walls to provide a “gallery” feel
Gallery Support Room	Not Applicable	Addition (food heating area for caterers for example)
Barn Doors	Not Applicable	Wide Barn Style openings - Open during the event
Future Wet Bar	Not applicable	Addition - provide stubbed plumbing for growth
Entry	Mid Area of the building	New North Entry From Plaza
Lobby	Not Applicable	Addition off of Plaza
ADA	Longer travel distances	Shorter Distances/immediate access from Plaza
Restrooms	None	Immediately adjacent
<b>OUTDOOR GALLERY</b>		
Size	Not Applicable	1,025 sq. ft.
General Location		Hollis Street West Section parking area (current) Columns 1-3 and G-H
<b>CO-WORKING AREA</b>		
Size	1,555 sq. ft.	5,475 sq. ft.
General Location	Center East Wall (columns 2-3 and C-G)	Mid South/ Central South (columns 5-7 and B-G)
Meeting/Conference Rooms	4 Rooms	3 Rooms South wall
Break/Support Room	Not Specified - Bar or Café	Added/Included

	APPROVED DESIGN	PROPOSED MODIFICATION
<b>RESTROOMS</b>		
General Location	Center of Column Lines 3-4	Shifted in the "L" shape along Column Line E and 3-5
Functionality	Accessibility distances	Provides better access to all areas
Number	Not Applicable	6 "Family" and 6 Uni-sex
Barn Doors	Not Applicable	Wide Barn Style openings - Open during forum events
ADA	2 water closet and 2 stalls	All Will Be ADA - 12 Facilities
Common Sinks	2 - one at each end	All restrooms now have sinks
<b>EXTERIOR</b>		
Landscaped Juniper Trees - Hollis	Removal	Trees Remain
Solid Urban Art Wall	Not Applicable	Added on Exterior East Wall at Columns 1-3
Concrete Sidewalk work	Entire Length of Building	Outdoor Gallery Work Remains at Column Line H and 1-3
East Building ADA Ramp	Accessed East Parking Lot (from column line 6-2)	Shortened at new East Entrance (from column lines 3.5 – 4)
<b>REMOVED FROM DESIGN</b>		
Cafe Cafe Annex Reception Area Bar Kitchen Office and conference complex at the north end Art Walkway ADA ramp South end of the building Hollis Street Entrance North-west corner upper floor mezzanine storage		

Tree Removal. The proposal no longer proposes removal of four street trees along Hollis Street and the only improvement to the sidewalk will be removal of existing curb cuts and replace with new curb and gutter as shown on Sheets G010: *Site Demolition Plan* and G100: *Site Plan*. The proposal will continue to include removal and replacement of one street tree on 40<sup>th</sup> Street as before. (See Sheets G010, G100 and L101).

## Project Description

Use: The Emeryville Center for the Arts will be a center for contemporary visual and performing arts. A large visual arts gallery and a variable form theater will anchor the Project. The Project will reuse 30,000 square feet of space to include approximately 5,500 square feet of co-working space; 4,500 square feet of multi-purpose gallery space, a theater ("Forum") with nearly 2,200 square feet of flexible gallery and performance space, and approximately 9,100 square feet of leasable studio space. The table below outlines different uses and corresponding square footage allocated for them.

Use	Existing Building (sq. ft.)
Multi-purpose Gallery Space	4483
Forum	2138
Studio space (23 studios that range in size from 238 sq. ft. to 735 sq. ft.)	8,019
Co-working space	5,475
Offices/Conference/Meeting Rooms	672
Exhibit space ("jewel box")	732
Art Gallery Corridors	1,671
Main Level storage	470

The building will feature new windows, doors, and exterior finishes and building systems will be modernized and/or replaced, including roof, electrical, mechanical, plumbing, and fire safety.

Design: The proposed modifications to the building are best understood by viewing the four elevation Sheets A201, A202, A203 and A204. Each of these sheets provide a photograph of the existing elevation, demolition plan, and the proposed elevation. Sheets G010 and A011 provide demolition details that show removal of driveways and curb cuts on Hollis Street and other demolition within and around the building.

The main entrance to the facility would be on the north end facing City Hall where a small lobby connects with the "Forum" space east of the lobby and Multi-purpose Gallery space to the west. The remaining portion of the building fronting Hollis Street would be occupied by 23 studio spaces of varying sizes ranging from 238 square feet to 735 square feet. (See Sheets G100 and A101).

Along 40<sup>th</sup> Street there is an existing corrugated sheet metal structure on a concrete base (Sheet G010). The corrugated sheet metal element will be demolished and replaced with glass walls to create a 732 square-foot exhibition space ("jewel box") that would be visible to traffic and pedestrians along the 40<sup>th</sup> Street corridor. The large "Co-working" space will front 40<sup>th</sup> Street where the loading space is proposed and a new roll up door is proposed in an existing opening. This loading space would be able to accommodate loading of large pieces of art. This will involve constructing a new ramp along the south side of the building, accessing the parking lot north of the existing trash enclosure in the southwest corner of the parking lot.

Signage: Two new signs are proposed: one along Hollis Street that wraps around the north wall and one on the top of the entry door facing the parking lot. See Sheet FN1 for sign locations. The signs along Hollis Street each consist of 2-foot tall metal letters that spell "Arts Center" and extend along north facing wall with word "Emeryville" and will be internally illuminated with turquoise double-tube neon at night. Please see Sheets FN2 and FN3 for both day and night-time elevations. The second sign for the Art Center over the entry door facing the parking lot would be similar but smaller, at 1'2" tall and about 15' wide (Sheet FN4).

## Conformity With the General Plan

The Land Use Diagram (Figure 2-2) classifies the Project site for “Public” use, which is described as (Section 2.4): “A variety of public and quasi-public uses, including government offices; fire and police facilities; schools; community services; transit stations and ancillary facilities”. The Project is consistent with this description as the building was purchased by the City for adaptive reuse to provide space for the annual Emeryville Celebration of the Arts Exhibition as well as year-round exhibit and performing arts uses.

General Plan goals (G) and policies (P) that are particularly germane, and with which the Project is consistent, include:

*PP-G-10 Vibrancy and diversity – Expanded arts, cultural and recreation programs that celebrate a vibrant diverse community.*

*PP-P-21 A community cultural arts center will be developed.*

One of the key City Council objectives for this space articulated during the RFQ/P process was to select a candidate whose proposal maximized civic and community arts-based uses of the facility. The programming of the space has been designed to achieve this goal, which is also a General Plan goal, by adding vibrancy and diversity through arts and cultural programs and is consistent with the General Plan policy of developing a community arts center.

## Conformity With the Planning Regulations

Use: The proposed Emeryville Center for the Arts is classified as Community Assembly - Large (Section 9-2.315(b)), which is defined as “Facilities for public or private meetings including community centers, banquet centers, religious assembly facilities, multi-purpose rooms, civic and private auditoriums, union halls and meeting halls for clubs and other membership organizations. Community Assembly facilities may be used for a variety of accessory functions including classes, rites of passage, dancing, eating, and events. Related facilities including kitchens, multi-purpose rooms, and storage are included.”

Note that there is also a use classification of “Arts and Entertainment – Gallery”, but this is limited to “Display and selling of art.” The intent for the Art Center is broader than that.

Both use types require a conditional use permit in the Public Zone, in which the Project site is located.

Building Intensity (Floor Area Ratio (FAR)): The site falls in the 1.0 (base)/1.6 (bonus) FAR district. The site is approximately 33,858 square feet, and the existing building is approximately 30,100 square feet, which equals an existing FAR of 0.89 (30,100/33,858), which rounds to 0.9. The Project does not propose any new additions. Thus, the proposal complies with the allowable base FAR of 1.0 and would not require a bonus.

Building Height: The site falls in the 30(base)/55(bonus) foot height district. The roofline of the existing building remains unchanged at approximately 21 feet. The Project would conform to the base height limit.

Building Setbacks: The building footprint is not changing as part of the proposal. In any case, no setbacks are required in the Public zone not abutting a residential zone.

Residential Density: Residential uses are not allowed in the Public Zone, so there is no residential density designation. The Project does not propose any residential uses.

Open Space: Community Assembly uses are exempt from open space requirements (Section 9-4.303(a)(5)a.).

Parking: The estimated parking demand for Community Assembly – Large is 0.2 spaces per fixed seat and 10 spaces per 1,000 gross square feet of indoor assembly area. The proposal includes about 12,096 square feet of indoor assembly area, including Multipurpose Gallery, Forum and co-working space.

In addition, there are “miscellaneous” spaces for rest rooms, reception areas and hallways that support the Community Assembly use and are considered accessory.

Subtracting the first 1,500 square feet (Section 9-4.404(c)) leaves 10,596 square feet for which parking demand is calculated, and based on 10 spaces per 1,000 square feet, the estimated demand for this would be 106 spaces.

The City Council passed an ordinance eliminating parking minimums on April 21, 2020, which went into effect on May 21, 2020, so the minimum parking requirement is zero. The maximum parking allowed is 10% more than the estimated parking demand, or 106 spaces. Therefore, the proposal needs to provide between 0 and 117 spaces.

No additional parking is proposed beyond what currently exists in the adjacent City parking lot. The existing City parking lot accommodates 86 parking spaces, of which 20 are reserved for the Besler Building, leaving 66 spaces for City Hall and the proposed Art Center.

The existing Civic Center buildings (Old Town Hall and new City Administration Building) total about 26,000 square feet. The estimated parking demand for Offices – Governmental is 2.4 spaces per 1,000 gross square feet, so the estimated demand for the Civic Center is about 59 spaces after subtracting the first 1,500 square feet. With no parking minimums the parking for City Hall offices would range from 0 to 65 spaces.

As the Planning Regulations no longer require parking, the proposal will not need a use permit to allow less parking than the estimated demand. In practice, there are 64 spaces available for City Hall employees and the patrons of the Art Center.



Section 9-4.404(g) of the Planning Regulations stipulates that “Projects that require discretionary planning permits and that provide fewer off-street parking spaces than the estimated parking demand, as calculated in accordance with this Section, may be conditioned, as appropriate, to require that adequate measures be put in place to reduce parking demand such as promoting use of public transit, bicycling, and walking, and allowing modified working hours and telecommuting.”

A transportation assessment was done by Fehr and Peers to evaluate the proposal including parking impacts. The report recommended the following measures:

- Develop and implement a parking management plan and transportation demand management plan to manage potential weekday parking shortages.
- Identify a shared mobility hub such that dockless bike share or scooter share vehicles can be staged outside the pedestrian right-of-way.

These were included in the original Conditions of Approval approved by the Planning Commission on August 27, 2020 as Numbers VI.A.2, VI.B.3, and VI.C.3, and are not proposed to be modified.

Accessible Parking: The Planning Regulations now require that accessible parking be provided based on the estimated parking demand, even if no other parking is actually provided. Thus, the number of accessible spaces required for the Art Center would be based on an estimated demand of 75 spaces, which equals three accessible spaces. The attached plans indicate three accessible spaces in the westernmost row of parking in the City parking lot, adjacent to the Art Center building, thus complying with this requirement. Condition of Approval Number VI.A.1(c) reiterates this requirement.

Electric Vehicle Charging: Section 9-4.406(l) stipulates that “Electric vehicle (EV) charging stations and EV capable parking spaces shall be provided for all new construction as required by this Section. ... If no parking is provided, other than accessible parking as required by Section 9-4.403(c), then EV charging stations and EV capable parking spaces are not required ...” Given that the Art Center is not “new construction”, but renovation of an existing building, and that no new parking is intended to be provided (see “Parking” above), the requirements for EV charging stations and EV capable parking spaces do not apply to this project. However, the applicant has indicated that, if grant funding can be obtained, they would be willing to install EV charging stations and EV capable parking spaces in conformance with the code requirements.

Under the new code requirements (Section 9-4.406(l)), the number of EV charging stations required is the number of EV capable spaces as specified in the Tier 2 Nonresidential Voluntary Measures in Appendix A5 of the California Green Building Standards Code (CALGreen), except that such spaces are to actually be equipped with Electric Vehicle Supply Equipment (EVSE), which shall be Level 2 or better. All other parking spaces shall be EV capable spaces designed in accordance with the Tier 2 Nonresidential Voluntary Measures in Appendix A5 of the CALGREEN Code for new

nonresidential buildings. Raceways and service panels installed to support future EVSE are to be 50% larger than those required by the current CALGreen Code.

For purposes of the applicant's voluntary compliance with these standards (contingent upon grant funding), it seems reasonable to apply the EV standards to the 20 spaces to be restriped on the western edge of the parking lot, immediately adjacent to the Art Center building. The current CALGreen requirement for 10 to 25 parking spaces for a nonresidential building is two EV charging stations. Therefore, the attached conditions stipulate that the applicant shall make good faith effort at procuring grant funding for 2 EV charging stations and 18 EV capable spaces along the western edge of the parking lot, where there is an existing conduit in the strip between building wall and the parking lot. (Condition of Approval VI.A.1(d).)

Bicycle Parking: The ordinance that eliminated parking minimums also uncoupled bicycle requirements parking from automobile parking requirements. For nonresidential uses, the long-term bicycle parking requirement (i.e. secure interior parking) and the short-term requirement (i.e. exterior bike racks) is one space for every ten automobile parking spaces of estimated demand, regardless of whether or how much automobile parking is actually proposed to be provided. (Sections 9-4.408(e) and (f)). For the proposed Project, the estimated demand is 75 automobile parking spaces, and the bicycle parking requirement is therefore 8 long term and 8 short term parking spaces. The proposal provides 8 bike lockers and 8 bicycle racks thereby complying with the City's bicycle parking requirements.

Loading: Commercial and Institutional uses of between 20,000 and 40,000 gross square feet require two medium loading spaces. Medium is defined as 12 feet wide by 35 feet long by 14 feet tall. One loading space is proposed to be accessed from the adjacent City parking lot to the roll-up doors on the 40<sup>th</sup> Street elevation.

It should be noted that Section 9-4.409(c) states: "In approving a project, the Director, Planning Commission, or City Council, as the case may be, may modify the number and size of loading spaces required ... because of the nature of the use or the design of the project." In this case, staff feels that the one proposed loading space is adequate to serve the Project. Fehr and Peers' Transportation Assessment Memo does not identify proposed loading to be a problem.

Significant Structure: The existing building is designated as a significant structure (number 66 in the map, table, and photographs in Section 9-5.1210). Its "significant features" include "contrasting concrete lentil over door and two windows, industrial windows with concrete caps, relief in brickwork". Preservation and reuse of a significant structure requires a minor conditional use permit (Section 9-5.1203(a)), with a finding that "the proposed project will retain and enhance all or most of the features of the structure that make it significant". The Project retains and enhances the contrasting concrete lentils as well as the existing divided-light industrial type windows. A significant portion of the relief in the brick work is retained on the Hollis and 40<sup>th</sup> Street sides.

Signs: The “Emeryville Arts Center” sign at the south-west corner of the building is a roof sign which is defined as “a sign located above any portion of any roof of a building, including a canopy or other overhang” (Section 9-5.1615(b)(22)). Roof signs require Major Design Review approval with the size and location up to the discretion of the decision-making body (i.e. Commission or Council). Staff believes that the proposed roof sign meet the findings needed to be made as they are necessary to announce the Art Center’s existence from Hollis Street, as well at the entrance facing the parking lot; they are of appropriate size given the building length and height; and the size, materials, and style are in keeping with the surrounding visual character as well as the building aesthetic.

Design Review: Alterations and additions to existing buildings require design review. The review is based on the Project’s conformance to the Urban Design goals and policies of the General Plan, the Emeryville Design Guidelines (including its Pedestrian Priority Zone provisions), and, in this case, the Park Avenue District Plan. These are discussed below, and appropriate design review findings are included in the attached resolution.

*Pedestrian Priority Zone:* Both the Project site’s Hollis and 40th street frontages are in the Pedestrian Priority Overlay Zone that calls for a 12 feet sidewalk corridor with 8 feet of pedestrian pathway and 4-feet of landscaping zone. On the Hollis Street frontage, the Project will make no changes to the existing non-conforming sidewalk, which is acceptable because it will also not result in increasing the existing non-conforming situation.

On the 40<sup>th</sup> Street frontage, the existing 6-foot sidewalk will remain unchanged. A 5-foot ramp is now proposed instead of a 5-foot decomposed granite pathway adjacent to the Jewel Box. The landscaped area approximately 8-10 feet wide adjacent to the ramp and the sidewalk will remain. Given that this is an adaptive reuse of an existing building with negligible change in building footprint, the need to have a loading ramp, and that there are pending City improvement plans for the 40<sup>th</sup> Street corridor, it is not possible or necessary to meet the sidewalk dimensions recommended for Pedestrian Priority Zones along the 40<sup>th</sup> Street frontage.

*Park Avenue District:* The Project complies with the Park Avenue District Plan by preserving and readapting an existing Tier 2 building (Urban Design Policy A.2); providing a proposal that will encourage night-time uses (Land Use Policy B.3); and providing a cultural arts center and providing a permanent home for the annual Emeryville Celebration of the Art exhibition (Cultural Arts Policies C.1 and C.4).

Public Art: Emeryville Municipal Code Section 3-2.403(b) requires the City to expend an amount of 1.5% of the building costs for publicly accessible art on the site of a City-sponsored project. Art in a public place is defined as being in a place which “is accessible or visible to the general public a minimum of 8 hours a business day.” The Project satisfies this requirement by creating the “Jewel Box” at the corner of 40<sup>th</sup> and Hollis Streets, which will display art at all times. In addition, the Art Center creates internal space for the display of art that will be available for public viewing. In sum, the nature of the Project satisfies the public art requirement. The Commission’s prior approval of the Project included a condition of approval that will ensure that there is display of art work in

the “Jewel Box” area 24-hours a day, seven days a week (Condition of Approval Number VII.C.8).

## Findings

The Planning Commission’s basis for denial of the amendment to the Project was the Commission’s inability to make the required findings. If the City Council wishes to uphold the Commission’s decision and deny the amendment, the Council will need to make the same or similar findings. On the other hand, if the Council wishes to reverse the Planning Commission and approve the amendment, the Council will need to make all of the required findings for approval. These are discussed below.

### Findings For Denial (i.e. Upholding the Planning Commission’s Decision)

In their deliberations on the proposed amendment, the Planning Commission articulated findings for denial with reference to specific code sections. These have been formatted as formal findings below, and are incorporated into the first attached resolution, for denial of the application and upholding of the Planning Commission’s decision.

General Conditional Use Permit Findings (Section 9-7.505):

- (a) The proposed use is consistent with the General Plan.

**The Project, as modified, is not consistent with General Plan Goal PP-G-10 that states “Vibrancy and diversity – Expanded arts, cultural and recreation programs that celebrate a vibrant diverse community” because the programming of the space has changed such that there is an increase in co-working space at the expense of gallery and performance space.**

- (e) The proposed use complies with all applicable standards and requirements of these Planning Regulations.

**The Project, as modified, does not comply with Planning Regulations Section 9-3.407(a)(1), which states that “All development proposals in the PP Pedestrian Priority Zone shall be subject to the applicable provisions of the Emeryville Design Guidelines, including but not limited to those pertaining to Pedestrian Priority Zones”. Emeryville Design Guidelines Figure 3-4: “Pedestrian Priority Zone Sidewalk Dimensions” specifies a 12-foot wide sidewalk corridor with an 8-foot pedestrian pathway and a 4-foot landscaping/street furniture zone located between the pedestrian pathway and the curb. The Project proposes to retain the existing sidewalk cross section along Hollis Street, which does not comply with these dimensions.**

Design Review Findings (Section 9-7.407):

- (a) The design of the Project is consistent with the General Plan, including but not limited to its Urban Design goals and policies;

**General Plan Parks, Open Space, Public Facilities, and Services Policy PP-P-21 states “A community cultural arts center will be developed.” General Plan Urban Design Policy UD-P-13 states “The Park Avenue District Plan will continue to guide development in the Park Avenue district, honoring its unique civic, arts, and cultural amenities.” Park Avenue District Plan Cultural Arts Policy C.1 states “Create a cultural arts center” and Policy C.4 states “Provide a permanent home for the Emeryville Art Exhibition”. The Project, as modified, does not comply with these policies because it does not provide a true cultural arts center, since the use has been modified by increasing the amount of co-working space at the expense of gallery and performance space.**

- (b) The design of the Project conforms to the Emeryville Design Guidelines and any other applicable design guidelines or criteria. If strict compliance with the provisions of such design guidelines or criteria is not achieved, the applicant must convincingly demonstrate that the intent of the guidelines is met;

**The Project as modified, does not comply with Emeryville Design Guidelines E-12, which states that “All public entrances should be visible and accessible.”**

Findings for Major Design Review for Signs (Section 9-5.1612(c)(2)):

- e. The sign will be readable, taking into account the proportion between different parts of the sign, its visibility from important vantage points, and other relevant design features.

**The two proposed roof signs will not be readable from important vantage points, as they will not be visible to pedestrians or vehicular traffic on Hollis and 40<sup>th</sup> Streets.**

Findings for Approval (i.e. Reversing the Planning Commission’s Decision)

Approval of the proposed modifications to the Project, and reversing the Planning Commission’s decision, will require that the City Council make all of the required Conditional Use Permit and Design Review findings, as outlined below.

General Conditional Use Permit Findings (Section 9-7.505):

- (a) The proposed use is consistent with the General Plan.

**The Land Use Diagram (Figure 2-2) classifies the Property for “Public” use, which is described as (Section 2.4): “A variety of public and quasi-public uses, including government offices; fire and police facilities; schools; community services; transit stations and ancillary facilities” The Project is consistent with this description as the building was purchased by the City for adaptive reuse to provide space for the annual Emeryville Celebration of the Arts Exhibition as well as year-round exhibit and performing arts uses.**

**General Plan goals (G) and policies (P) that are particularly germane, and with which the Project is consistent, include:**

**PP-G-10      Vibrancy and diversity – Expanded arts, cultural and recreation programs that celebrate a vibrant diverse community.**

**PP-P-21      A community cultural arts center will be developed.**

**One of the key City Council objectives for this space articulated during the RFQP process was to select a candidate whose proposal maximized civic and community arts-based uses of the facility. The programming of the space has been designed to achieve this goal which is also a General Plan goal of adding vibrancy and diversity through arts and cultural programs and is consistent with the General Plan policy of developing a community arts center.**

- (b)      The location, size, coverage, density, design and operating characteristics of the proposed use will be compatible with, and will not adversely affect, the surrounding area, including neighborhood character, street design and capacity, safety, noise, and lighting.**

**This Project, as modified, to renovate and reuse an existing building for an Art Center is a City sponsored one where the building was purchased specifically because it is situated in the heart of the Park Avenue District Plan which calls for establishment of a cultural and arts center. The transportation assessment memo prepared for the Project does not highlight any impacts on the street design and capacity and safety, and the modifications to the Project do not impact that assessment. The Project design, as modified, still takes the newly adopted 40<sup>th</sup> Street improvement plan into consideration such that it does not pose any conflicts. The Project conditions of approval include standard conditions for noise and lighting that ensures that the Project does not result in any impacts. For these reasons the Project, as modified, is compatible with, and will not adversely affect, the surrounding area, including neighborhood character, street design and capacity, safety, noise, and lighting.**

- c) The proposed use is consistent with the capability of the water supply, wastewater disposal, fire, and police systems to operate adequately and cost effectively.

**The Project, as modified, is consistent with the capability of the water supply, wastewater disposal, fire, and police systems to operate adequately as the scale of the Project is comparable with previous use on site.**

- d) The proposed use at its proposed location will provide a service or facility that will contribute to the general well-being of the surrounding neighborhood or community.

**The Project, as modified, will create an arts and cultural center that has long been envisioned by the Park Avenue District Plan and the Emeryville General Plan and will provide a permanent venue for the annual Emeryville Celebration of the Arts Exhibition. As such, the Project, as modified, will contribute greatly to the general well-being of the community.**

- (e) The proposed use complies with all applicable standards and requirements of these Planning Regulations.

**The proposed use complies with the Planning Regulations.**

Findings for Preservation or Reuse of a Significant Structure (Section 9-5.1206(a)(1)):

- (1) That the proposed project will retain and enhance all or most of the features of the structure that make it significant, as described and indicated in Table 9-5.1210.

**The Project Structure is identified as Number 66 in Table 9-5.1210 and its “significant features” include “contrasting concrete lentil over door and two windows, industrial windows with concrete caps, relief in brickwork”. The Project, as modified, retains and enhances the contrasting concrete lentils as well as the existing divided-light industrial type windows. A significant portion of the relief in the brick work is retained on the Hollis and 40th Street sides. The proposed modifications will retain additional brick work along the Hollis Street frontage.**

Design Review Findings (Section 9-7.407):

- (a) The design of the Project is consistent with the General Plan, including but not limited to its Urban Design goals and policies;

**The Project, as modified, meets Urban Design Policy UD-P-13, which states that the Park Avenue District Plan will continue to guide development in the Park Avenue District. The Project, as modified, complies with the following Park Avenue District guidelines by preserving and readapting an existing Tier 2 building (Urban Design Policy A.2); providing a proposal that will encourage night-time uses (Land Use Policy B.3); and providing a cultural arts center and providing a permanent home for the annual Emeryville Celebration of the Art exhibition (Cultural Arts Policies C.1 and C.4).**

- (b) The design of the Project conforms to the Emeryville Design Guidelines and any other applicable design guidelines or criteria. If strict compliance with the provisions of such design guidelines or criteria is not achieved, the applicant must convincingly demonstrate that the intent of the guidelines is met;

**The Project, as modified, complies with the City's Design Guidelines by providing the following: the addition Bay-Friendly street landscaping (Guidelines A-11 to A-15); preserving and enhancing the historic industrial warehouse character of Emeryville through the retention of architecturally significant structures (Guideline E-3); providing public entrances that are visible and accessible (E-12); retaining window design and proportions to add architectural interest (Guideline F-3); and devising a color palette that reinforces building identity (Guideline F-13).**

- (c) The Project is of a high design quality that is compatible with, and will not adversely affect, the surrounding area;

**This Project, as modified, will result in the visually attractive adaptive reuse of a Tier 2 Significant building which is further elaborated above under findings for reuse of a significant building.**

Findings for Major Design Review for Signs (Section 9-5.1612(c)(2)):

- a. The proposed sign is necessary because of the nature of the establishment and its location.

**The two proposed roof signs are necessary to announce the Art Center's existence from Hollis Street, as well at the entrance facing the parking lot.**

- b. The proposed sign is no larger than is necessary to adequately identify the establishment, or the sign is of extraordinary design significance justifying its size.



**The two proposed roof signs are of appropriate size given the building length and height.**

- c. The proposed sign will comply with all the applicable provisions of this Article, including but not limited to design principles.

**The two proposed roof signs comply with the applicable provisions of Sections 9.5.1607, 9-5.1609, and 9-5.1611 the Planning Regulations, including the design principals concerning architectural compatibility, readability, compliance with design guidelines, and lack of animation or movement.**

- d. The size, materials, colors, graphic style, illumination and other features of the proposed sign are in keeping with the visual character of the area.

**The two proposed signs are in keeping with the visual character of the surrounding area.**

- e. The sign will be readable, taking into account the proportion between different parts of the sign, its visibility from important vantage points, and other relevant design features.

**The two proposed roof signs, consisting of simple individual block letters illuminated with single tube blue neon, will be easily readable from all important vantage points.**

- f. The sign will relate well to the design of the building and be compatible with its architectural features, colors and textures.

**The two proposed roof signs relate well to the design of the building and are compatible with its architectural features, colors and textures.**

## **Environmental Review**

Approving Planning Commission Action and Denying Amendment. If the City Council decides to approve the Planning Commission's action and therefore deny the amendment to the Project, this would be exempt from environmental review under Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a), which state that CEQA does not apply to projects which a public agency rejects or disapproves.

Disapproving Planning Commission Action and Approving Amendment. If the City Council decides to disapprove the Planning Commission's action and therefore approve the amendment to the Project, this would be exempt from environmental review under State CEQA Guidelines Section 15301, which applies to alterations to existing facilities, and Section 15332, which applies to infill development projects. The exemption at Section 15332 requires that:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

The Project complies with these requirements as no General Plan amendments and modifications to the Planning Regulations are proposed; the site is within an urban area and is less than 5 acre; the site is developed with an existing building that covers the entire parcel thereby ensuring that that it cannot serve as a habitat for endangered, rare or threatened species; the transportation assessment memo prepared for the Project identifies no significant impacts to traffic and thereby there are no associated adverse impacts to air quality; the Project includes standard condition of approval regarding noise that ensures that there are no noise impacts; and the Project site is in an urban area that is already served by adequate utilities and public services

## **FISCAL IMPACT**

As noted above, the proposed design revisions are the result of escalating construction costs and enhancements to the operating efficiencies of the proposed Center. The property at 4060 Hollis is owned by the City, and the City would participate in the financing of the project construction pursuant to a Lease Disposition and Development Agreement ("LDDA") approved by the City Council on September 15, 2020. Pursuant to the LDDA, a precondition to execution of the Ground Lease with ODI requires ODI to demonstrate that Project construction costs are not estimated to exceed \$12,900,000, \$9,800,000 of which is provided by the City, and up to \$3,100,000 provided in the form of ODI's equity. The previous design was determined to exceed this limitation due to escalating costs.

The precondition regarding costs is intended to place a limit on the amount of ODI equity provided to the Project, in order to enhance long-term operational sustainability since ODI equity must be repaid from Project lease revenues. The proposed revisions are, in part, intended to reduce Project construction costs, which allows ODI to meet the equity limitation of the LDDA and the Project to proceed provided all other preconditions of the LDDA are met by ODI. Because the LDDA incorporates the prior approved design into the scope of development, an amendment of the LDDA would be required to reflect the revised design should the Council elect to approve this application.

## **STAFF COMMUNICATION WITH PUBLIC**

Written notifications of each Planning Commission study session and public hearing for the Art Center Project, as well as the October 5, 2021 City Council public hearing, were sent to both owners and tenants of buildings within 300 feet of the Project site, and notices were also published in the Oakland Tribune. In addition, the Public Art Committee

discussed the Project at a special meeting on September 9, 2021. Staff has also communicated with the Project developer.

## **CONCLUSION**

Staff recommends that the City Council either approve or disapprove the Planning Commission's decision to deny the amendment to the Conditional Use Permit and Design Review for the redevelopment of the existing 30,000 square foot vacant building located at 4060 Hollis Street as an Arts and Cultural Center including two signs. Resolutions approving and disapproving the Planning Commission's decision are attached to this staff report.

**PREPARED BY:** Miroo Desai, Senior Planner

**APPROVED AND FORWARDED TO THE  
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



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Christine Daniel, City Manager

## **ATTACHMENTS**

- Project Plans
- Draft Resolution Approving Planning Commission Decision and Denying Project Amendment
- Draft Resolution Disapproving Planning Commission Decision and Approving Project Amendment, with Exhibit A: Conditions of Approval