

May 5, 2015

Department of Conservation and Development
30 Muir Road
Martinez, CA
Attn: Maureen Toms

Subject: Appeal of DP15-3001 Contra Costa Centre Transit Village-Block C
(Changing 100 for sale condos to 200 apartments and adding two stories to the height of the building)

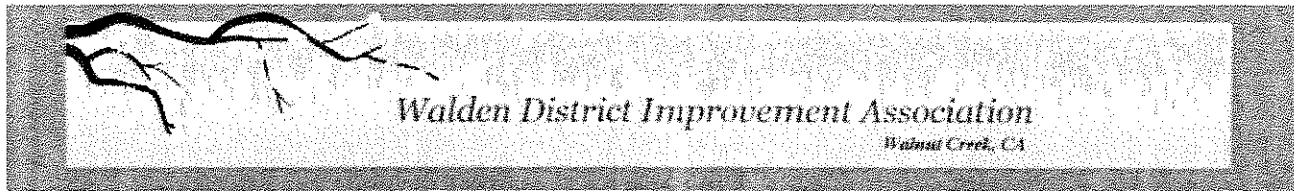
Dear Ms. Toms:

The Walden Homeowners Improvement Association hereby files an appeal to the above referenced matter following the action(s) of the Contra Costa County Planning Commission.

Respectfully, we believe the Commission's approval of the application to modify the Disposition and Development Agreement affecting Block C of the Transit Village at Pleasant Hill BART will negatively affect the community and the consensus regarding the agreed-upon plan of the "Charrette" that involved over 500 community residents. The modifications to Block C proposed by BART and their Developer are detrimental to the community in that they ignore the previous commitments made, reiterated in print and verbally for the past 13 years. They fail to recognize and treat seriously the sincere and continued involvement of the community in and around the BART station. If the Transit Village loses the for-sale condos previously agreed to, residents who rent at the village will lose the ability to move on to home ownership while enjoying the benefits of living at a transit station and other residents will not have the option of transit living with home ownership. These impacts have not been adequately considered nor addressed.

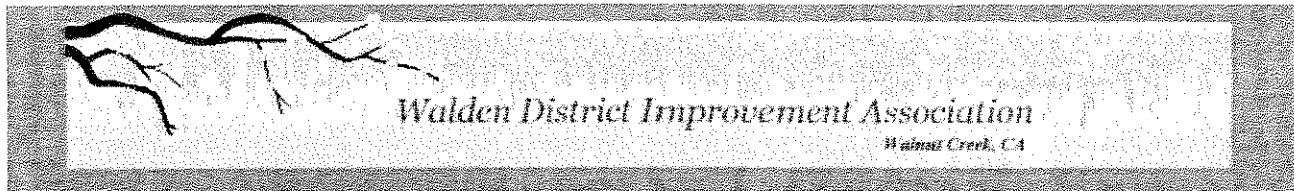
We make the following points in our appeal:

1. In 2001, over 500 community members participated in a "Charrette" planning process to facilitate a development plan for the 18 acre BART parking lot after previous development plans proposed by BART and their Developer caused widespread opposition among residents and surrounding, local jurisdictions creating political gridlock.
2. The "Charrette" planning process resulted in a Transit Village Plan that met the major goals of the County, BART, Developers and the Community. The Plan and the issues it considered and resolved are discussed in a 125 page Summary Report October 2001, which was submitted to the Board of Supervisors.
3. The Plan included "a minimum of 50 for sale townhomes" on Block C to provide the mixed use "village" with multifamily housing, as well as mixed tenure so that residents would have home ownership options as their families evolved. The consensus intent was to have the transit village integrate into the larger community by having a portion of the residents have "skin in the game". BART was initially resistant to selling some - 9% - of the land. This was and remains 1.6 acres of the 18 acres of public land involved in



the project. As a result of the give-and-take of the planning Charrette, and in exchange for the many advantages of the transit village plan to the County, BART and Developers; BART agreed.

4. Following the Charrette, a multi-page, 11X14 full color brochure was produced to educate and advertise what the Charrette process had produced and to encourage support from the public for the development proposal. Block C was defined as including "50 for sale" townhomes and the reasons for including home ownership in the "village" were listed and discussed.
5. In 2002, a Preliminary Development Plan was approved by the Board of Supervisors and included the 50 for sale townhomes facing the Iron Horse Trail and the Apartment Blocks (A & B), commercial space across from the BART tracks and a "Civic" building on the corner near the station.
6. In 2005, a Disposition and Development Agreement (DDA) between the Developer and the County was approved by the Board of Supervisors, providing "entitlements" to the Developer. At the request of BART and the Developer, Block C was revised to 100 for sale condos, no Civic building and no commercial use. Civic space was moved to Block A.
7. In 2006, a Purchase Agreement between BART and the Joint Powers Authority (JPA) was entered into in order to implement the sale of the BART land to the Developer to enable the for sale condos on Block C.
8. By 2010 other blocks and the garage in the transit village were completed except for Block C and Block D (12 story office building). During a public celebration, an 11X8 advertising brochure was distributed that went into great detail describing the elements of the transit village, including 100 for sale condos as well as a discussion of the public financing that was involved in making this public project possible using tax dollars (\$59.9 public funds and \$135 million county issued bonds to facilitate financing).
9. In 2012, without public knowledge, nor notice, the BART purchase agreement was allowed to expire.
10. In 2013 the Developer and JPA entered into an Exclusive Negotiating Agreement (ENA) for 180 days with two 90 day automatic extensions.
11. On September 3, 2014 the Developer and JPA entered into another ENA for 180 days with one 90 day extension. These ENA's prevent consideration of other developers who might be able to deliver the Charrette plan.
12. The stated basis to justify the changes on Block C is that for-sale condos are not financially feasible because the local real estate market favors rental housing and disfavors for sale condos. Even if one accepts those reasons as valid, BART and the Developer could build the condos as agreed and then rent them until the market becomes even more positive for condos. Instead, they are using the current hot rental market as an excuse to renege on their agreements with the community and to garner higher profits and revenues at the expense of keeping their word to the community. We further assert that pure profit should not define the decision whether to build condos, although it is our opinion they will be feasible in the future at a profit to the County and Bart.
13. This is a public, not private, project and therefore the public's interests should be valued by the two public agencies; yet the public input has been limited to the 3 minute statement in a public hearing model. When community members asked for another Charrette on Block C that would allow their perspective to receive full consideration or for options to be fully considered; they were told there was no funding. The developer was never asked to fund a Charrette, even though that was how the first one was financed.
14. Options for resolving the matter have been ignored. The Planning Commission was asked to continue the matter to allow consideration of the following options: a. build the 100 condos and rent them for a



specified period; b. build 50 condos and an appropriate number of apartments in the building that BART is proposing; c. build the apartments to condo specs so they can be converted in the future. d. build the apartments at lower density and larger footprint to make them more attractive as originally planned to become condos.

15. Statements by one commissioner showed that he did not have a good understanding of the Charrette held for this transit village. He stated it was just an architecture and design discussion.
16. During the hearing the Developer misrepresented the nature of agreements made by BART and the Developer regarding Block C, and therefore misled the Commission. Those misrepresentations were not corrected.
17. The proposal by BART and the Developer to renege on the major issue of the public has been justified on "educated guess" economic grounds; but no discussion of the full economics of the project have been made public. We understand that the rents for the apartments have been higher than ever projected when the village was modeled resulting in high profit to the developer and revenues to the County and BART; but the full picture is not disclosed. How can the Planning Commission fully assess the stated reason for changing the DDA without being told the whole financial picture. Where is the actual Avalon Bay pro forma for the proposed building on Block C (as opposed to the estimated pro forma by Keyser Marston). What are the revenues to the County and BART and the profits to Avalon Bay from Blocks A and B?
18. The argument the SB 375 justifies changing Block C as proposed is specious. The Transit Village (including Block C) was far ahead of SB 375 and, in any case, "as is" is a great example of SB 375 goals. No other Contra Costa community has development around the BART station that achieves the high standard set at Pleasant Hill, which has been acclaimed at the national level.

Walden is proud of its advocacy on behalf of residents surrounding the Pleasant Hill BART station. We led the local, public response to the Charrette process, and our members have had the most consistent participation in the Contra Costa Centre Municipal Advisory Council (MAC) until recently when, sadly, some members of the MAC have ended their service due to perceived disrespect. When members of the public who only wanted more parking at the BART station opposed the newly designed transit village, it was our organization and leaders who organized support and stood up in public hearings and supported the Charrette's consensus-based transit village vision. We also attended and gave support during the public hearing before the BART Board when the transit village was discussed. But our voice and our responsible advocacy have been minimized during the consideration of this application. We believe we have earned the right to be at the table, and have due consideration to our proposals. Therefore, we are appealing the decision of the Planning Commission.

Sincerely,
Jeffrey Peckham, President
BoardPresident@waldenwalnutcreek.org

Cc: Walden Board

Cell: 415.846.6697

Jeffrey Peckham
5.5.15