



**PLANNING COMMISSION MEETING
REMOTE PARTICIPATION
Thursday, March 24, 2022, 7:00 p.m.**

The Planning Commission meeting was called to order at 7:00 p.m. by Chair Oquenda.

The Planning Commission held a virtual meeting with teleconference participation by members of the Planning Commission, staff and public.

ROLL CALL

Present: COMMISSIONERS: Ali-Sullivan, Bonilla, Goldstein, Lowe, Roche, Stevens
CHAIRPERSON: Oquenda
Absent: COMMISSIONER: None

Staff Members Present: Brick, Chan, Chang, Lochirco, Ott, Parras, Schmidt, Wikstrom

PUBLIC COMMENT:

There were none.

PUBLIC HEARING:

1. Proposed Development of a New Residential Subdivision with 74 New Single-Family Homes and Eighteen Accessory Dwelling Units and Related Site Improvements, Including Construction of a Segment of the Foothill Trail, and a New Roadway Connector from Bunker Hill Boulevard to Carlos Bee Boulevard, Requiring a Zone Change and Tentative Tract Map Application No. 202003054 for Caltrans Parcel Group 5. Trumark Properties LLC (applicant), City of Hayward (Owner).

Acting Principal Planner Schmidt provided a synopsis of the staff report.

Transportation Planner Chang spoke about transportation study and traffic calming measures and traffic management plan.

Ms. Pamela Nieting and Mr. Garrett Hinds, applicant Trumark Homes, spoke about the Bunker Hill project.

Commissioner Stevens disclosed that he works with the proposed project's architects, environmental analyst, and landscape architect and this does not pose a conflict of interest and will participate in the item.

Commissioner Stevens asked if the development rendering from Mission Boulevard was provided to Planning Commissioners; Acting Principal Planner Schmidt said this was not part of the applicant's submittal to staff and believes it was shared with the community at



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the last community meeting. In response to Mr. Stevens' questions about design and architecture, Mr. Hinds said that Trumark's design is to have the homes step down the hill and chose the contemporary style which will work well with roof solar panels; and the maximized terracing and minimized massing. Mr. Stevens said in viewing the elevations the appearance looks cold, Mr. Hinds said they are working with the stucco facades, stones, and warm earth tone materials to have a richer texture and smooth out the sides and have smaller trees. Mr. Stevens asked about the pony wall on the downhill lots, Mr. Hinds responded the pony walls will have vegetation and other elements to eliminate that impact.

Commissioner Goldstein asked about access to the accessory dwelling units (ADU), Mr. Hinds responded that the ADUs will have their own access doors, the developer cannot guarantee that all 18 units will meet the universal design criteria as this is a sloped lot, and each home has open parking in front of the units. In response to Mr. Goldstein's question about the affordable ADUs; Acting Principal Planner Schmidt said if rented, the ADUs will be deed restricted; the Housing Division will monitor the deed restricted ADUs for compliance. Assistant City Manager Ott added there will be a recorded agreement on the property regarding the deed restriction with annual reporting and monitoring to ensure compliance. In response to Mr. Goldstein's question if the just cause eviction restrictions also apply to ADUs attached to single family homes as with ADUs that are separate units; Ms. Ott said that Housing Manager Morales confirmed that "just cause eviction restrictions" also apply to attached ADUs. Mr. Goldstein stated that low and very low-income populations depend on public transportation and if the traffic study took this into consideration; Mr. Sahimi, the City's traffic consultant with Kittelson responded about the availability of bus stops along Mission Boulevard between Carlos Bee and Harder. Transportation Planner Chang responded that the traffic generation took into consideration both the single-family homes and ADUs and looks at a worst-case scenario. Mr. Goldstein strongly encouraged the applicant to build the rooftop entertainment areas and ensure that units are re-enforced appropriately. Ms. Pamela Nieting responded to Mr. Goldstein that the London Tree had low suitability for preservation and the new trees being planted will be protected trees.

Commissioner Roche asked why an extension from Bunker Hill to Harder Road was not considered; Assistant City Manager Ott responded that both City staff, City consultants and Trumark engineers looked at this option, but the slopes were too steep. Ms. Roche said the sentiment from the community meetings for the Parcel Group 5 Master Plan and the neighborhood letter that was received, was to maintain a rural characteristic and she finds the design severe and more suited for a downtown housing corridor. Mr. Hinds responded that one neighbor liked the design, and one did not; he spoke about the research Trumark conducted and that the contemporary design is well received at this time. Ms. Roche said the design is not a good fit as there are unnatural straight lines as one looks across the hill.



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Acting Principal Planner Schmidt responded to Ms. Roche that all the hillsides have been rezoned Planned Development (PD) and spoke about the intent to preserve the large lots. Ms. Roche noted that parking could be a concern in this area and asked about a condition To restrict garages so that this space cannot be used for extra living space or storage; Ms. Schmidt said there is not a condition for this. Assistant City Attorney Brick responded that according to state law an ADU can be added in the garage and the City would need to research further regarding placing this restriction on the units. Ms. Ott said that staff's recommendation is not to have traditional onsite inclusionary housing; there is no guarantee that the ADUs will be rented; this site is near California State University East Bay (CSUEB) with a potential student rental market and noted the ADUs that are not deed restricted are still considered moderate income units which can address the housing crisis. Ms. Ott added that this is a new pilot program and City will evaluate the program to see how successful it is. Ms. Roche suggested the following options: compact townhouses/condominium complexes and SB 9; Ms. Ott responded that staff did look at the townhome option, but this would require a General Plan amendment; staff wanted to rely on the existing General Plan; noting that the community was vested in the General Plan designation. Ms. Ott responded that staff is researching the SB 9 option; Assistant City Attorney Brick confirmed that staff is looking into the SB 9 option and that the SB 9 split might not be allowed for Parcel 5 lots. Transportation Planner Chang responded to Ms. Roche's question about the impact to the traffic analysis if all the ADUs were occupied; Mr. Chang said CEQA only looks at land uses for the residential impacts and noted that for the local transportation analysis, staff used the industry standard which is the Institute of Transportation Manual which were inclusive of the ADUs.

Commissioner Ali-Sullivan commented that it will be interesting to see the outcome of the new ADUs pilot program. Mr. Hinds responded to Mr. Ali-Sullivan's question regarding building options for the ADUs and that not every lot can have an ADU because of lot limitations and access; Ms. Neiting said because of accessibility, the placement of the deed restricted ADUs was intentional. Mr. Ali-Sullivan stated that compliance on the deed restricted ADUs is important. Mr. Hinds responded that they are prepared to break ground as soon as Trumark receives approvals. Assistant City Manager Ott added that the City will have a contract with Trumark that will have a performance schedule and Parcel Group 5 will only be transferred out of the City when certain benchmarks are completed. Ms. Ott shared that Trumark is very professional and has been great to work with. Mr. Ali-Sullivan appreciated the variety of scale and that the design reflects the architectural style in the area. He also appreciated the developer's work on integrating the design with the topography of the area.

Commissioner Lowe disclosed visiting the site. Assistant City Manager Ott provided a background for the size of the lots to give the developer flexibility and assure the community that the new development would be compatible with the existing



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neighborhood. Ms. Lowe was very concerned about the ADUs being rented as affordable units as opposed to having a certain number of moderately priced houses; Ms. Ott said that the City was balancing several objectives such as keeping the development low density as that was preferred by the community; paying Caltrans; generating excess land value that can go back to the City for the cost of demolition of the existing buildings; helping pay for CSUEB easement and funds to go towards other City projects; and noting this site was very expensive because of all of the geotechnical work. Ms. Lowe asked if there were any plans for play structures along the trail; Mr. Hinds said the planning for the trail was for viewing and less kid friendly. Ms. Lowe asked if there were any traffic plans for Carlos Bee to prevent drivers from veering to the right and then making a left turn; Transportation Planner Chang responded that staff looked at this thoroughly and the existing issue is that there are two left turn lanes in the median and several driveways close to where the connector will be located, he added that existing residents needed to access their neighborhoods. Ms. Lowe asked if Hayward residents can have priority to the deed restricted ADUs; Ms. Ott said staff is finalizing the inclusionary agreement and that usually residents and employees will be given preference. Ms. Lowe asked how is it that the existing four homeowners are included in the zone change; Ms. Schmidt responded that one of the homeowners approached the City and wanted to build an addition/or another home and it became apparent that even though the existing neighborhood would be surrounded by a PD district they would not benefit from this change; staff then approached Trumark and asked if the existing four parcels could be included; Trumark was not opposed to this and staff prepared the addendum for the existing parcels.

Commissioner Bonilla was very concerned about the uncertainty that the deed restricted ADUs would be rented as affordable housing; he asked about having the developer pay the entire in-lieu fee to provide more affordable housing opportunities for the community. Assistant City Manager Ott responded that staff provided options to the City Council and Council felt that since this was public land that there should be an onsite affordable housing component.

Commissioner Roche asked about trail access that can include bikes and wheelchairs and noted the concerns about the parking location and requested that the applicant work with the neighbors; Acting Principal Planner Schmidt responded there is a sloped area for alternate trail access that will work for bicycles and wheelchairs.

Chair Oquenda asked what the constraints for affordable housing developers are; Assistant City Manager Ott responded that Parcel Group 5 is a very expensive site to develop; parcels must be looked at individually; other sites were better for affordable housing and noted that Eden Housing shared this consensus; the need to work with community partners and staff did not feel this site was viable for 100 percent affordable housing.



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Chair Oquenda opened the public hearing at 8:41 p.m.

Ms. Mary Ann Higgs, Hayward resident, supported the proposed project; likes the single-family homes and inclusion of the ADUs and feels this is a creative solution to the housing crisis; and shared that in the existing neighborhood many existing ADUs are rented to students. Ms. Higgs said that Trumark has been incredibly collaborative with the community and open to new ideas.

Ms. Debbie Fredericks, Hayward resident, spoke about a bus stop that is not used that can be pursued; thanked Commissioners and applicant for reading her comments and her email that asked that the area be left open space; asked that existing gas lines be maintained; said the traffic report had left hand turns coming into Bunker Hill Boulevard from the campus; the housing architecture is not compatible with the neighborhood as they look like warehouses and would like the applicant to soften the design as Trumark indicated.

Mr. William Craven, Hayward resident, expressed disappointment with the traffic plan and asked why residents are not able to make left hand turns and what is the timetable of the building of Parcel Group 5.

Mr. Thomas Birt, Hayward resident, had concerns about public parking; the parking density around the loop; asked how this will work for trash pickup trucks and fire trucks and requested more discussion about this.

Chair Oquenda closed the public hearing at 8:56 p.m.

Transportation Planner Chang responded to the left turn question; Mr. Chang said due to the proximity of Tanglewood which is less than 100 feet away from the proposed intersection, there would be a conflict for cars coming out or going into Tanglewood.

Acting Principal Planner Schmidt said the connector from Bunker Hill to Carlos Bee will be the first phase of development and the rest will come after.

Commissioner Goldstein commented that he is excited about this project; he favors the onsite inclusionary housing element as a pilot program; this is an excellent site to appeal to students; the ADUs will be built into very nice homes of high quality; hopes that this will work out and hopes for positive feedback. Mr. Goldstein likes the style and variation of the architectural design, the visual aspect; and the housing and ADU variations. He favored the collection of in-lieu fees that will benefit other affordable housing projects. Mr. Goldstein commended staff and applicant on this project. Mr. Goldstein asked staff to put Ms. Fredericks in touch with HARD about the land she wants to donate.



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Commissioner Roche appreciated the collaboration effort to get to this point; would have preferred a duet model for affordable housing; it is helpful to know that existing ADUs are rented to students; recommended to applicant to market the ADUs to the affordable housing population and students. Ms. Roche said this is a good project for the City; encouraged the softening of the design; liked the community benefit of the trail and connecting with other properties; and encouraged the applicant to continue discussions with neighbors especially about the traffic impacts.

Commissioner Lowe commented that she liked the modern architecture; there are a lot of great qualities; liked the dog parks; it is positive that the trail is a loop; is very concerned that the 18 ADUs would not be rented out but is encouraged that the original plan was for eight ADUs; the project does a good job of having a variety of low income housing types and creating student housing especially in this area that is so close to CSUEB; the \$2 million dollars in-lieu fees is significant; and recommended that there needs to be oversight that the ADUs be rented to low and very-low income individuals.

Commissioner Stevens does not favor the architectural plans; the product is generic and a poor choice for this location; and noted this is a prominent site with amazing views. Mr. Stevens said in reviewing the architecture in the Master Plan for this area, it was very different and questioned developing a Master Plan if it is not followed; another misuse is cramming ADU units in these houses that will cost about \$1 million dollars and the practicality of staff having to monitor the renting of the affordable units. Mr. Stevens recommended asking the applicant to develop an amazing product that will generate a tremendous amount of revenue for the City which can then be invested in other City projects.

Commissioner Ali-Sullivan commented that the Commission has seen two Route 238 projects; the projects are unique, intricate and complex; the ADU and affordable housing is a massive problem and this proposed project addresses this issue in two ways, the developer is paying in-lieu fees and also building potential affordable housing ADUs; which is a unique and novel approach; the Commission has raised concerns about enforcement; and is confident that through the City and developer agreements and the Conditions, Covenants and Restrictions, this will be monitored. The design has taken in the topography very well; and suggested that the rooftop decks be included this in the project. Mr. Ali-Sullivan supports the project and made a motion to approve the staff recommendation.

Commissioner Lowe seconded the motion.

Commissioner Bonilla stated that he likes the project; the community benefit of the trails; likes the design; it will be a beautiful community but has serious concerns regarding the City's commitment to affordable housing. Mr. Bonilla said that the \$2 million of in-lieu fees is significant but what about the other \$2 million that can be used for other projects; he is



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hoping that this affordable housing pilot program will work but has concerns that this is too much of a risk and then there is the staff time for the enforcement to make sure the deed restricted ADUs are in compliance. Mr. Bonilla said this is not feasible given the purchase price for these homes and preferred that the developer pay 100% in-lieu fees because of the ambiguity of renting the deed restricted ADUs.

Chair Oquenda shared Commissioner Bonilla's comments and asked how firm is requiring the deed restricted ADUs versus paying full in-lieu fees; Assistant City Manager Ott shared that this was a City Council directive that the onsite affordable housing be included in the request for proposals and to change this would have a significant economic impact on the bottom line; staff will pass along the Commission's recommendation and concerns to Council, especially the uncertainty of whether the deed restricted units be rented and noted that the item is going to Council on April 19, 2022. Mr. Oquenda stated that the affordable housing element for this project is a mistake; it is impractical and has concerns and he stated that he has been tracking this site for a long time. Mr. Oquenda said the additional funding that can be obtained from the developer can be used for future affordable housing projects and does not agree with building single family homes on this site. Ms. Ott said with the purchase price of the land, there will be excess land value and there could be a suggestion to Council about how to obtain these funds and utilize the funds for affordable housing. Mr. Oquenda trusts that staff will convey the Commissions concerns to Council.

Commissioner Roche said that the majority of Commissioners have the same concerns about the affordable housing element and if the ADUs will be rented and asked what the rent would be; Assistant City Manager Ott responded that the rent would be from \$1250 to \$1500. Ms. Roche agreed with Commissioner Bonilla about the price of these homes.

Commissioner Goldstein stated for his fellow Commissioners that for \$2 million dollars a developer would not be able to build 18 ADUs; he finds this pilot program brilliant and whole heartedly supports the project.

Commissioner Ali-Sullivan echoed Commissioner Goldstein's comments and that there is an opportunity here for the affordable housing option and this is a win-win for residents and the City.

Commissioner Lowe commented that this was not an easy decision; supports including in the staff report that the Commission wanted the in-lieu fees to go towards affordable housing and that the Commissioners would like to see all 18-deed restricted ADUs rented out and hopes that the new homeowners agree with the Commission. Ms. Lowe said this affordable housing pilot program is worth the gamble.



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A motion was made by Commissioner Ali-Sullivan, seconded by Commissioner Lowe, to approve the staff recommendation. The motion passed with the following roll call votes:

AYES: Commissioners Ali-Sullivan, Goldstein, Lowe, Roche
NOES: Commissioners Bonilla and Stevens and Chair Oquenda
ABSENT: None
ABSTAIN: None

APPROVAL OF MINUTES

2. Approval of the Planning Commission Meeting Minutes of February 24, 2022.

A motion was made by Commissioner Roche, seconded by Commissioner Goldstein, to approve the Planning Commission Meeting Minutes of February 24, 2022.

The motion passed with the following roll call votes:

AYES: Commissioners Bonilla, Goldstein, Lowe, Oquenda, Stevens
Chair Roche
NOES: None
ABSENT: None
ABSTAIN: Commissioner Ali-Sullivan

STAFF AND COMMISSION ANNOUNCEMENTS

Staff announcements on Planning and Zoning Matters:

Planning Manager Lochirco made three announcements; reminded Commissioners that on Friday, March 25, 2022, there is the Decision Makers Training; the joint City Council and Planning Commission meeting scheduled for April 12, 2022, has been cancelled and that staff is working on several other efforts to get prepared for the joint meeting. Mr. Lochirco announced that staff will be releasing the Balancing Act that allows the public and Commissioners to go into the site and provide direct comments on topics. He announced that in May, staff will be releasing the Housing Draft Element and hold a community meeting. Mr. Lochirco said the target date for the first hybrid Planning Commission meeting will be on May 12, 2022.



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Commissioners' Announcements, Referrals:

Commissioner Stevens announced that the CSUEB Theater Department is now offering plays and he attended a wonderful event and that CSUEB has a great venue.

ADJOURNMENT

Chair Oquenda adjourned the meeting at 9:42 p.m.

APPROVED:

Brigitte Lowe, Secretary
Planning Commission

ATTEST:

Denise Chan, Senior Secretary
Office of the City Clerk