



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, November 5, 2015, 7:00 p.m.
777 B Street, Hayward, CA94541**

MEETING

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair Parso-York.

ROLL CALL

Present: COMMISSIONERS: Willis Jr., Enders, Schott, McDermott, Faria
CHAIRPERSON: Parso-York
Absent: COMMISSIONER: Goldstein

SALUTE TO FLAG

Commissioner Willis Jr. led in the Pledge of Allegiance.

Staff Members Present: Alvarado Jr., Buizer, Madhukansh-Singh, Schmidt

General Public Present: 7

PUBLIC COMMENT:

There were none.

PUBLIC HEARINGS: For agenda item No. 1, the Planning Commission may make a recommendation to the City Council.

1. Establish New Regulations for Vacant Property Fencing Resulting in Amendments to Chapter 10, Article 1, Zoning Ordinance, of the Hayward Municipal Code (Text Amendment Application No. 201501059); City of Hayward (applicant)

Senior Planner Schmidt provided a synopsis of the staff report. She noted the following staff observations of the existing conditions of fencing throughout the city: temporary fences in the downtown were not placed in a straight line; other chain link fences were tilted, damaged or were falling down; fences placed around vacant buildings such as the former Holiday Bowl site, were uneven, did not look professional and have potentially been up for a number of years. She commented that often times, temporary fencing was installed around vacant parcels and/or buildings and these may not be able to withstand environmental pressures. Ms. Schmidt stated that the higher quality fencing included vinyl coated chain link fencing which cost approximately \$10 more than standard chain link fencing, noting that vinyl coated chain link fencing would be allowed in all zoning districts on property frontages along commercial corridors except for the downtown district. She



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indicated that it was staff's recommendation that vacant property with dilapidated fencing such as the one located on the corner of Sycamore Avenue and Mission Boulevard, require that the corner side property frontage on an arterial/collector street be subject to the higher quality fence standard. She noted that although the aforementioned property was not situated on a collector or arterial street, it was highly visible from Mission Boulevard. She confirmed that the requirements for the interior and rear lot lines, as well property frontages on local streets, would continue to allow chain link fencing. She noted that per the proposed Maintenance Standards, property owners will be required to ensure that fences are well-maintained, not torn, or are falling down. Ms. Schmidt stated that staff received correspondence from Mr. Ersted regarding the proposed fencing regulations after publication of the staff report. In regards to Mr. Ersted's comments about the organization and numerical ordering of the proposed regulations, she indicated that staff would like the Planning Commission to recommend that the proposed regulations be amended to include numerical ordering rather than alphabetical, as was displayed in Attachment II. Ms. Schmidt pointed out that in the Background section of the staff report, the reference to the unimproved land within the City of Hayward limits should indicate that there were 1,073 vacant parcels instead of acres.

Chair Parso-York opened and closed the public hearing at 7:14 p.m.

Commissioner Willis Jr. supported the staff recommendation on the main thoroughfares in the city, indicating that the current condition of some chain link fences were not visibly pleasing.

In regards to the implementation of the Fence Regulations for Vacant Properties noted in Attachment II, Commissioner Enders asked staff how noncompliance would be enforced and whether fines would be imposed. Senior Planner Schmidt responded that if the City Council adopts the proposed regulations, then Code Enforcement and Planning staff will send notifications to owners of vacant properties notifying them of the new standards and will compile a list of nonconforming fences. She underscored that the regulations do not require fences, noting that if property owners could not afford to install a fence, they could remove the noncomplying fence. She added that if a noncompliant fence remained, it would be subject to code enforcement action.

Assistant City Attorney Alvarado Jr. stated that after the 60 day period which property owners will be given to remove or replace a severely damaged or dilapidated fence, noncompliance will be handled according to existing procedures for dealing with public nuisances in the city by the Code Enforcement division. He stated that the Community Preservation and Improvement Ordinance provided an additional 14 day period to comply; if noncompliance continued, the first fee was approximately \$700, with an escalation of these fees for continued noncompliance.



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Commissioner Enders asked staff if there was a list of local vendors providing fencing services that could be shared with property owners who live out of state or outside the country. Senior Planner Schmidt stated that notifications were sent to all vacant property owners according to information gathered from the County Assessor's database, noting that staff looked at improvement value versus land value. She commented that a number of the property owners who received the notifications were located out of state. Ms. Schmidt indicated that in code enforcement cases where there were absentee land owners or owners who were hard to reach, the city followed standard procedures. She noted for Commissioner Enders that there were some local vendors that Code Enforcement worked with for fencing issues in the city and she emphasized that the property owners could simply opt to remove the fence in order to comply with the regulations.

Commissioner Enders highlighted for the record that the proposed regulations do not require that fences be installed around vacant property, emphasizing the choices available to property owners.

Commissioner Schott asked if agencies such as BART, Caltrans, Alameda County and the City of Hayward who owned property in the city would be subject to the proposed regulations. Assistant City Attorney Alvarado Jr. responded that city staff will work cooperatively with these agencies in order to come into compliance with local code enforcement laws, noting that staff had success in gaining compliance with the fencing regulations. He stated that the regulations would apply to all property owners in the city. Staff confirmed for Commissioner Schott that the goal was to remove all temporary fences with removable bases. Commissioner Schott shared that one of the images staff shared of a noncompliant fence was a Caltrans property that the City of Hayward was leasing for the 238 extension project.

Senior Planner Schmidt noted for Commissioner McDermott that if a property had a frontage along an arterial or a collector street, then the portion of the fence on the frontage or corner side of the property would be required to replace or remove the fence within one year, even if the fence was in good condition. In regards to Commission McDermott's question about why galvanized chain link fences was not included as an option in the proposed regulations, Ms. Schmidt stated that the regulations required a Site Plan Review for any fencing type that changed the physical appearance of the property, including the installation of galvanized chain link or gray metal fences. Ms. Schmidt indicated that per the code, it was determined that a proliferation of a certain type of fence may have a negative aesthetic impact to the community, adding that this could further impact economic development or perception of the city.

In response to Commissioner Schott's question about a reference to barbed wire fencing in correspondence received by the public, Senior Planner Schmidt stated that the code already addressed barbed wire in the industrial section, pointing out that barbed wire was permitted



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in the industrial districts for fencing heights above six feet, noting that staff did not recommend any changes to the existing code as it would not be an appropriate use outside of industrial districts.

Commissioner Faria asked staff if the members of the public understood that the frontages of property would primarily be impacted and that the side fencing was not going to be significantly impacted. Senior Planner Schmidt shared that at the time the public meeting was held, the regulations had not been completely crafted. She additionally pointed out that at that time staff was considering requiring a permit to allow the proposed fencing. Ms. Schmidt indicated that as a result of the public discussion, it was determined to eliminate the need for a permit and instead to create design standards focusing on the highly visible areas. Commissioner Faria asked staff if additional attention would be paid to problems arising from dumping, homeless encampments and trespassing, which were issues that had been raised at the public meeting. Senior Planner Schmidt stated that enforcement and design regulations would work hand in hand to address some of these issues.

In regards to the proposed text amendment, Commissioner Enders asked if consideration was given to the build-up of trash along a fence. Assistant City Attorney Alvarado Jr. responded that the issue of trash along fences was outside the scope of the proposed regulations; however, he noted that there were other provisions in the Hayward Municipal Code (HMC) which addressed trash, homeless encampments, and other types of public nuisances. Mr. Alvarado Jr. stated that if dumping occurred in the public right of way, the Maintenance Services department would remove the debris as this would be a public safety concern. He added that the city also attempted to partner with Waste Management, multi-family properties, and other properties that were frequent locations for dumping. He indicated that there were provisions in the HMC enabling the city to place responsibility on property owners when public nuisances occurred on their property.

Commissioner Enders asked staff whether language should be added to the proposed regulations about potential public nuisances emerging due to fences and the responsibility of this falling on property owners. Assistant City Attorney Alvarado Jr. stated that such language was already incorporated in the Community Preservation Ordinance, noting that these provisions were referenced when noticing and fining property owners about dumping that had occurred on their property. Commissioner Enders commented that property owners may want to take into consideration the potential impacts of debris collecting on their property if they were to invest in installing a fence on their vacant property.

Commissioner McDermott suggested that staff incorporate into their assessment of vacant properties whether some of the properties were listed on the market for sale.



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Senior Planner Schmidt confirmed for Chair Parso-York that active construction sites would be permitted to have temporary chain link fences. She shared that active construction sites were not included in the proposed regulations as this would be evaluated by staff during the entitlement process, adding that for highly visible construction sites, staff may require art to be displayed on such temporary fencing. Chair Parso-York expressed concern about construction projects that were delayed and the probability of leaving temporary fencing up for extended periods of time under such circumstances. Assistant City Attorney Alvarado Jr. stated that staff would take into consideration the reasoning for prolonged construction projects and the temporary fencing that was in place on a case by case basis, noting that Code Enforcement staff would respond to noncompliance according to existing code provisions.

Chair Parso-York asked staff if a property owner made a significant investment in installing a fence on vacant property, would they be permitted to leave the fence in place after building on the property. Senior Planner Schmidt responded that staff would have to evaluate the entire site plan to ensure that the type of fence in place was appropriate with the proposed building.

In response to Commissioner Schott's comments about a building permit expiring after a certain period of time for an inactive construction site, Assistant City Attorney Alvarado Jr. stated that Code Enforcement staff would take this factor into consideration and would not necessarily require that the temporary fencing be removed immediately.

Commissioner McDermott followed up with staff about including in their assessment a list of properties for sale. Senior Planner Schmidt responded that staff could cross-reference Multiple Listing Service (MLS) for real estate information when compiling a list of vacant properties; however, she emphasized that the property owner had the option to remove the fence while the property was up for sale.

Commissioner Enders made a motion to recommend that the City Council approve the proposed regulations per staff recommendation, including the following changes: modifying the alphabetical ordering in Attachment II to numerical; and requiring that the corner side property frontage on an arterial/collector street be subject to the higher quality fence standard. The motion was seconded by Commissioner McDermott. The motion passed with the following vote:

AYES:	Commissioners Willis Jr., Enders, Schott, McDermott, Faria Chair Parso-York
NOES:	None
ABSENT:	Goldstein
ABSTAIN:	None



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COMMISSION REPORTS

2. Oral Report on Planning and Zoning Matters

Planning Manager Buizer shared that Planning Commission meetings were scheduled for the following dates: November 19 and December 17, 2015. She noted that the meeting on December 3, 2015 was to be canceled as it coincided with the annual Light Up The Season event.

3. Commissioners' Announcements, Referrals

Chair Parso-York shared that the SantaCon Hayward event was scheduled to be held on December 5, 2015, noting that the proceeds from the fundraiser would benefit the Hayward Animal Shelter and invited members of the public to participate in this event.

APPROVAL OF MINUTES

4. Approval of Minutes of the Planning Commission Meeting on September 17, 2015
It was moved by Commissioner Willis, seconded by Commissioner McDermott, with Commissioner Faria abstaining, and approved with the following vote:

AYES:	Commissioners Willis Jr., Enders, Schott, McDermott Chair Parso-York
NOES:	None
ABSENT:	Goldstein
ABSTAIN:	Faria

5. Approval of Minutes of the Planning Commission Meeting on October 1, 2015
It was moved by Commissioner Schott, seconded by Commissioner McDermott, and approved with the following vote:

AYES:	Commissioners Willis Jr., Enders, Schott, McDermott, Faria Chair Parso-York
NOES:	None
ABSENT:	Goldstein
ABSTAIN:	None

ADJOURNMENT

Chair Parso-York adjourned the meeting at 7:44 p.m.



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APPROVED:

Brian Schott, Secretary
Planning Commission

ATTEST:

Avinta Madhukansh-Singh, Management Analyst I
Office of the City Clerk