



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, November 9, 2017, 7:00 p.m.  
777 B Street, Hayward, CA 94541**

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## **MEETING**

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

## **ROLL CALL**

Present: COMMISSIONERS: Willis Jr., Goldstein, Bonilla Jr., Schott, McDermott, Faria  
CHAIRPERSON: Enders  
Absent: COMMISSIONER: None

## **CALL TO ORDER Pledge of Allegiance**

Commissioner Bonilla Jr. led in the Pledge of Allegiance.

Staff Members Present: Baquilar, Brick, Chan, Hinkle, Langbauer, Lochirco

General Public Present: 16

## **PUBLIC COMMENT:**

There were none.

**PUBLIC HEARINGS:** For agenda item No. 1, the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of the decision. If appealed, a public hearing will be scheduled before the City Council for final decision. For agenda item No. 2, the Planning Commission may make a recommendation to the City Council.

1. Proposed eight (8) lot Subdivision of Two Existing parcels totaling 1.27 acres located at 29265 Vagabond Lane, Hayward (APNs 465-0060-002-00 and 465-0060-003-00), requiring approval of a Vesting Tentative Tract Map 8280; Application No. 201600359 Habib Asef (Applicant)

Assistant Planner Langbauer provided a synopsis of the staff report and presented a PowerPoint presentation

Chair Enders opened the public hearing at 7:05 p.m.

Ms. Shirley Viner, Hayward resident, spoke about issues with mattresses placed on her fence which has broken the fence and is concerned about increased people moving into the area that can bring more problems to the area.



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Assistant City Attorney Brick confirmed for Chair Enders that staff can reach out to Ms. Viner regarding her concerns.

Enders closed the public hearing at 7:11 p.m.

In response to Commissioner McDermott's question of whether the future development's planned homeowner's association (HOA) will be responsible for any damage to neighboring residences, Principal Planner Lochirco responded said that if it is found that the proposed development caused property damage to a neighboring residence then this issue would fall under the purview of the future HOA. Mr. Lochirco added that the future HOA could develop provisions to take care of fence maintenance. Mr. Lochirco said currently there is not an active HOA in that area and the original CCNRs that were developed in the 1900s are no longer being enforced.

Commissioner Schott noted that in the Conditions of Approval 19(i) that the HOA is required provide fence maintenance.

In response to Commissioner Faria's questions about putting a fence between the proposed development and existing residences, Principal Planner Lochirco said it can be difficult to regulate a fence that is shared by two properties and if the applicant feels a fence is necessary to provide privacy for future residents then there could be justification for the fence to be a part of the development plan.

Chair Enders requested that staff keep the Commission informed as to outcome of the concerns.

Chair Enders reopened public hearing period at 7:16 pm

Mr. Juan Gallardo, Hayward resident, in response to the Mr. Gallardo's question about if the HOA would be for all residents on that street, staff confirmed that the HOA is only for the new development. Mr. Gallardo expressed concern about the additional traffic on the Vagabond Street as it is a narrow private street that is not maintained by the City and is in bad shape. Mr. Gallardo said it is not fair to existing residents to bring in eight new houses.

Assistant Planner Langbauer said that the private street, Vagabond Lane, had been evaluated according to the City standards and will would be upgraded to meet the requirements for a two-way road.

In response to Chair Enders' request for staff to elaborate on the minimum number of units when projects need to go under environmental review to address any traffic impacts, Principal Planner Lochirco said the threshold capacity for issues related to traffic impacts are minimal in this case. He said in order to be able to require significant mitigation or



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improvement of the existing roadway there would have to be a fairly significant number of PM Trips which will not be generated by the addition of eight single family lots. Mr. Lochirco said the legal threshold is not there and what is being incorporated in the Conditions of Approval is construction of a new roadway that will meet City standards. The new homeowners that will have access to Vagabond Lane would also be required to share in the maintenance repairs or upgrades to the property.

In response to Chair Ender's question regarding the resident's concerns of the condition of Vagabond Lane and who would the Vagabond resident contact regarding street improvement or request that the roadway be repaved with the developer's financial input, Principal Planner Lochirco said Vagabond Lane is a private street and the City would not be able to provide assistance with this. This would be up to the homeowners who are a party to the private easement, the private easement allows existing homeowners with access to their homes. Mr. Lochirco said the private easement information would be available through the Alameda County Recorder's office.

Ms. Veronica Reyes, Hayward resident, expressed concerned that their small private community will lose its feel and this development is only from the developer's viewpoint and is concerned that their privacy will be lost. Ms. Reyes is concerned about the number of homes and people that the new development will bring to a very small street.

Chair Enders closed the public hearing at 7:26 p.m.

Commissioner Willis hopes that the applicant, Mr. Habib, will make the street viable for all property owners. Mr. Habib said they accept all the Conditions of Approvals and read the COA that referred to the requirement to improve the street, to bring curb appeal and improve the cul de sac. In response to Mr. Willis, Mr. Habib said the intent is to subdivide the lots and build the single-family homes on the eight lots. Mr. Habib said he will meet the code standards for a two-lane road and addressed questions from speakers and said there will be a structural barrier between the proposed development and existing residences. Commissioner Willis said that when the applicant comes back with plans for the homes there should be allowances for access for ingress and egress, sufficient parking and mitigate the traffic that will be created.

In response to Commissioner Schott's question regarding the pony wall, Mr. Habib said the wall improvement will be part of the construction phase of the project and the wall's purpose will be to separate the properties.

Chair Ender's thanked the public in attendance and said this hearing is about the subdivision of the site and recognizes the speakers concerns, the sense of community and ruralness on this private street when the speakers purchased their home. Ms. Enders said that she is in favor of the City Council's vision regarding the complete streets strategy, which includes infill



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development and this project meets this vision and she views this vision in a positive light as a previous speaker had mentioned a mattress in the area which can indicate that there are homeless in the area. Ms. Enders said she is in favor of the proposed subdivision.

Commissioner Bonilla said in viewing the site plan he also had concerns about traffic and parking issues due to additional families coming and added that the issues can be dealt with when the building plans will be reviewed by staff. Mr. Bonilla said he is in favor of the proposed subdivision.

In response to Chair Enders' question if the home plans will come before the Planning Commission, Principal Planner Lochirco said as stated in the Conditions of Approval, the homes are subject to Site Plan Review which is a staff level discretionary review. Mr. Lochirco said that any time a new home is being proposed a notice will be mailed to all property owners in the neighborhood and the owners will have the opportunity to contact staff to review and comment on the plans.

Chair Enders addressed those who spoke this evening and said this is a single family residential zoned area and it is difficult for the Planning Commission to deny the proposed subdivision based on sentiment or concerns about a private road that property owners own.

Chair Enders made a motion to approve the staff recommendation, Commissioner McDermott seconded the motion.

Commissioner Willis expressed concerns that the applicant might change his mind about building the homes and would decide to sell the subdivided properties and asked if the COAs can include the requirement for the building of the homes and the formation of the HOA. Mr. Habib said it is their intent to build the homes. Principal Planner Lochirco said the requirement for the HOA is completely separate from the individual home designs and added that whether it is this developer or individual homeowners building the homes, all building plans will be subject to the Site Plan Review.

In response to Commissioner Bonilla's question that if the developer were to change his mind about building the homes after subdividing the property, Principal Planner Lochirco said the item before the Commission is to subdivide the property, the actual site plan review and the building of the homes will be coming in the future but this does not preclude an owner to legally subdivide their lot per the standards of the City's zoning ordinance and the subdivision act.

Commissioner Schott commented that when a property owner applies for a subdivision, they are required to put down a substantial deposit with the City to ensure that all the conditions are met and the entire project is completed. He said it is typical that a property owner will



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obtain the approval of a vesting tentative map, then work on the site plan review process to be able to build the homes as quickly as possible as after the homes are built the developer will get their deposit back.

Chair Enders made a motion to approve the staff recommendation, Commissioner McDermott second. The motion passed with the following vote:

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

Chair Enders said to the developer to be kind to the neighbors and to listen to them. Ms. Enders also encouraged the property owners to attend the next noticed meeting and meet with the developer and City staff. Ms. Enders said residents are always welcome to reach out to the Planning Commission.

2. Mission Seniors Residential Development. Proposed Vesting Tentative Map No. 894, Site Plan Review with Grading Permit, Warrants and an Exception of the South Hayward BART/Mission Boulevard Form Based Code, Environmental Review, and Zoning Text Map Amendment of the South Hayward BART/Mission Boulevard Form Based Code Application No. 201700782 to allow 200 market-rate, senior condominium units and three (3) single-family detached residences.

Principal Planner Lochirco provided a synopsis of the staff report and presented a PowerPoint Presentation.

Commissioner Willis spoke about positive aspects of the project and new security measures. Mr. Willis is in favor of the project.

Principal Planner Lochirco provided a hand out for the Commission which were the amendments to the Conditions of Approval that added Conditions numbers 46, 53 and 127. Mr. Lochirco spoke about the additional COAs; #46 regarding public access hours amended to 8 am to 5 pm for security reasons; #53 the applicant is to work with the City's Landscape Architect regarding the design and installation of landscaped sidewalk bulb-outs on Mission Boulevard which is a traffic calming measure; and #127 which addresses the applicant installing bus shelters for n/b and s/b AC transit bus stops located on Mission Boulevard near Valle Vista Avenue. Mr. Lochirco added that Clear Channel will donate two bus shelters. Mr. Lochirco indicated that these revisions are to be included to the COAs in attachment six.



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In response to Commissioner Willis' request on clarity on the new affordable housing ordinance that went before Council on November 7, 2017 and requested clarity on the proposed changes to the affordable housing in-lieu fees, Assistant City Attorney Brick said the new fees are set at a higher rate to be more in line with the cost of building the affordable housing units and that there is a provision for the grandfathering in of projects that are already in the pipeline and are approved by a certain date.

Commissioner Schott disclosed that he had met twice with applicant, once before the Work Session and again this past Tuesday. In response to Mr. Schott's question if the new COA #53 is same the condition placed on a previous project; Principal Planner Lochirco said COA #53 is the same concept with a slightly different approach. Mr. Lochirco said the City is seeking to identify a traffic calming measure solution on Mission Boulevard, the intent is to provide a safer experience for residents and would allow for negligible impacts to the existing services. Mr. Lochirco said the City still needs to take a closer look to come up with a design that make sense. Mr. Schott shared that as a commuter, significant funds were spent on the Route 238 bypass improvements and he is not in favor of the traffic calming measures on Mission Boulevard. Mr. Schott said he felt it would be more beneficial to place traffic patrol units to slow down the traffic.

Commissioner Faria had concerns regarding the first-floor units that does not have fencing around it and inquired as to who will maintain the bus shelters as the City currently has a problem with bus shelters not being regularly maintained and the homeless living in the bus shelters. Ms. Faria pointed out that some shelters have been removed because of the homeless problems. Principal Planner Lochirco said the maintenance of the bus shelters are the responsibility of AC Transit and Clear Channel. Mr. Lochirco confirmed for Ms. Faria that the Code Enforcement Division can be instrumental in making sure the shelters are maintained.

Commissioner McDermott commended Principal Planner Lochirco on his clear presentations. Mr. Lochirco confirmed for Ms. McDermott that this project would fall under the grandfathering in provision of the new affordable housing ordinance that went before Council on November 7, 2017, and thus the project would fall under the guidelines of the previous affordable housing ordinance and in-lieu fees. Mr. Glen Simmons of Dahlin Group Architects responded to Ms. McDermott's questions regarding the foundation, he said the foundation will be conventional for a project of this type and proceeded to describe the foundations for the different areas of the development.

Commissioner Goldstein is interested in the bulb-outs as traffic calming measures which is a part of the Complete Streets Strategy and requested confirmation that areas of Mission Boulevard are part of the Complete Streets program, Principal Planner Lochirco responded that the traffic moves very quickly on Mission Boulevard and pedestrians and bicyclists do



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not always feel safe and the proposal to add bike/pedestrian facility will help encourage a Complete Streets concept. Mr. Lochirco said Mission Boulevard is primarily for vehicle access and the proposed trail is another multi-modal transportation option for bikes and pedestrians. Mr. Lochirco added that as more residential developments are built near BART the City would like to encourage residents to walk to BART and there is the need to balance the safety of pedestrians and bicyclists along the Mission Boulevard corridor. Mr. Lochirco also noted that this is a senior development and the City wants to provide the best environment possible to provide some separation between the vehicle travel lane and the sidewalk and to provide a better walking environment to the BART Station. Mr. Lochirco confirmed for Mr. Goldstein that there will be no loss of vehicle capacity but there will be a slowing down in the areas marked 40 mph and creating more of a break between the pedestrian experience and the vehicles. Mr. Goldstein was clear that he will not vote for a project without this COA language and he spoke about how he has been working with the Fairway Park and other neighborhoods that feel very strongly about improvements to walkability and bicycles and the City is not going to get these changes unless we start now. Mr. Goldstein thanked the developer for accepting these additions to the COAs and he pointed out that the multi-use bike and pedestrian trails and other amenities are noteworthy and hopes other builders will be as thoughtful as this developer.

In response to Commissioner Willis request for pet free areas, Ms. Chu Rao, the applicant, confirmed for Mr. Willis that through the instrument of the condominiums documents there will be designated areas where pets will be allowed and not allowed and there will also be breed and size restrictions.

Commissioner Schott made a motion to approve the staff recommendation with removal of COAs #53 that pertains to the traffic calming measures and #127 pertaining to the bus shelters, Mr. Schott said it is the responsibility of Clear Channel and AC Transit to install and maintain the public transit bus shelters on a public street.

Commissioner Willis seconded the motion.

Chair Enders noted that the Commission still must go through the Public Hearing section.

Commissioner Bonilla favored the project stating that it was very comprehensive, he appreciated the considerations for walkability and the health, safety and security of the community. Mr. Bonilla said the project aligns with a lot of City Council strategic initiatives of Complete Streets and Complete Communities. Mr. Bonilla said that he would like to see affordable housing elements incorporated into future developments as this is very important for the City. Mr. Bonilla appreciated the applicant's flexibility and the accommodations they have made and that this is an exciting and vibrant community that will be coming to Hayward. Mr. Bonilla noted there is support from the community for this



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development, it is well done and well thought out and what is needed in that area of Hayward.

In response to Chair Enders about the bike path and asked what is the size for a minimum roadway for a vehicle, Principal Planner Lochirco said what is needed is 10 to 12-foot travel lanes in each direction and the proposed bike lane could only be a single lane. In response to Ms. Enders about the intent and purpose of the pathway, Mr. Lochirco said the pathway will be paved and currently leads to dirt as the site has not been developed yet. Mr. Lochirco said the City is working on the development of a Pedestrian Plan and updating the Bicycle Plan. Mr. Lochirco said staff saw a potential public benefit in replacing the vehicular roadway with a pathway that can encourage a bicycle and pedestrian pathway and in working with the applicant and their willingness to move this project forward the original pedestrian pathway was able to be widened to accommodate bicycles as well. Mr. Lochirco was confident that when the City is able to look at the Pedestrian and Bicycle Master Plans this pathway element will be an essential component. He said as more residential is being built the connections to transit stops will become more important.

Commissioner Willis commented that there is a motion on the floor and felt the motion needed to be voted on.

Assistant City Attorney Brick said the Chair can determine the direction of the meeting and the Chair can honor the motion at a later time after the Public Comments section and after members of the Commission has had an opportunity to speak and discuss the item.

In response to Chair Enders regarding the placement of the pathway lower down the hill as opposed to further up, Principal Planner Lochirco said one the main considerations is fire access as a fire trucks need to be able to access the back part of the site which includes Building C, located on the far side safe of the property and the fire trucks need a turnaround area. Mr. Lochirco said because of the topography and depth, it is required to have roadway that extended all the way back to provide those necessary fire access pathways. Mr. Lochirco also indicated that the specific location would be preferred as it could allow for an ADA accessible pathway, which would not be possible if the trail were located towards the rear of the project site.

Chair Enders opened and closed the public hearing at 8:24 pm

Commissioner Schott made a motion to approve the staff recommendation with the removal of COAs #53 and #127. Commissioner Willis seconded the motion.

Commissioner Goldstein said that if this motion fails, he will be making a motion per the staff recommendation that includes the additional COAs of #46, #54 and #127.





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The motion failed.

Commissioner Willis said that he misunderstood Commissioner Schott's motion that included removal of the added COAs. In response to Mr. Willis' question if the applicant accepts the amended COAs, Ms. Rao confirmed that she accepts the amended COAs.

The following Planning Commission members disclosed having met with the applicant; Chair Enders, Commissioners Faria, Willis, Goldstein, and McDermott.

Commissioner Goldstein made a motion per the staff recommendation including the amended COAs of #46, 53 and 127. Commissioner Bonilla seconded the motion.

The motion passed with the following vote:

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

### **APPROVAL OF MINUTES**

3. Approval of minutes of the Planning Commission Meeting of September 14, 2017  
Commissioner McDermott made a motion, seconded by Commissioner Faria, to approve the Planning Commission Meeting Minutes of September 14, 2017. The motion passed with the following votes:

**6:0:1 (AYES: Willis Jr., Goldstein, Enders, Schott, McDermott, Faria; ABSTAIN: Bonilla Jr.)**

### **COMMISSION REPORTS**

Oral Report on Planning and Zoning Matters:

Principal Planner Lochirco announced that the Election of Officers will be held at the next Planning Commission Meeting on December 14, 2017.

Commissioners' Announcements, Referrals:

There were none.



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**ADJOURNMENT**

Chair Enders adjourned the meeting at 8:31 p.m.

**APPROVED:**

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Julius Willis, Jr. Secretary  
Planning Commission

**ATTEST:**

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Denise Chan, Senior Secretary  
Office of the City Clerk