



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, March 28, 2019, 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 Faria.

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

Commissioner Andrews led in the Pledge of Allegiance.

## **ROLL CALL**

Present: COMMISSIONERS: Willis, Andrews, Patton, McDermott, Goldstein  
CHAIRPERSON: Faria  
Absent: COMMISSIONER: Bonilla

Staff Members Present: Brick, Buizer, Chan, Golubics, Kelley, Lee

General Public Present: 3

Item No. 3, Approval of Minutes of March 14, 2019, was moved to after the Roll Call in order to accommodate Commissioner Patton who will be recusing himself from Item No. 2.

## **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. Proposal to Subdivide a 1.21-Acre Site into 19 Parcels to Allow the Construction of 14 Townhomes with Common Open Space Areas and Related Site Improvements at 28538 Huntwood Avenue (APN 465-0025-005-03) by Applicant: James Chao on behalf of Owner: Zhong Yin Liu, requiring Approval of a Vesting Tentative Tract Map and Site Plan Review. Application No. 201705535

Associate Planner Lee provided a synopsis of the staff report and a PowerPoint presentation. Mr. Lee noted that one of the proposed Conditions of Approval (COA) states "Parking on private driveways shall be prohibited." Mr. Lee explained the necessity of the



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proposed condition is to ensure that vehicles do not park in the short driveways that can interfere with vehicle circulation and emergency vehicle access on the private street.

In response to Commissioner Patton, Associate Planner Lee said per the Affordable Housing Ordinance, the obligation for projects is 10% which calculates to 1.4 units for the proposed project. Mr. Lee said one unit can be designated affordable then the .4 would be paid according to the in-lieu fee structure. Planning Manager Buizer said when the Notice of Funding Availability (NOFA) was released, the bulk of the in-lieu funds have been allocated for affordable housing projects that have met the City's criteria.

In response to Commissioner Andrews' question about including an affordable housing element in the proposed project, Mr. James Chao, architect for the project, said from the applicant's perspective, it would be more beneficial for the community to pay the in-lieu fees which would assist in providing multiple affordable housing units rather than just one unit. Ms. Andrews disagreed and would like to see the affordable housing element included in all new developments. Ms. Andrews noted the busy street and felt that the development would contribute to traffic impacts.

Commissioner Willis asked about the proposed COA, Associate Planner Lee said the purpose of the proposed condition is to prevent parking in short driveways for cars and emergency vehicles to have access to the private street and he added that short driveways are typical in townhome developments.

Chair Faria asked about moving the homes further back to allow for deeper driveways, Associate Planner Lee replied that in order for the applicant to comply with the City's required setbacks, the homes could not be situated further back.

Commissioner Goldstein asked about the No Parking signs for emergency vehicle access, Associate Planner Lee replied that the Fire Department always includes the installation of the No Parking signs in the COAs and enforcement is the responsibility of the Homeowner's Association (HOA) and the Fire Department. Assistant City Attorney Brick said the HOA can consult their attorneys for the best course of action in the event issues arise.

Chair Faria opened and closed the public hearing at 7:28 p.m.

Commissioner Patton stated this should be viewed as a new project since the application has expired and spoke about the importance of looking at the relation of a project to the surrounding neighborhood. Mr. Patton expressed concern about the site, the lack of parking, and that this site should be used for affordable housing. Mr. Patton does not support the project.



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Commissioner Andrews expressed concern that the project is in a high-density area, does not have enough parking, and would like to see the affordable housing element included in all new developments.

Commissioner McDermott pointed out that the change to the Affordable Housing Ordinance was to charge higher in-lieu fees as a mechanism to encourage developers to include affordable housing in new developments. Ms. McDermott reminded everyone the goal is to include affordable housing units within new developments and not to have separate affordable housing developments.

Commissioner Goldstein concurred with his colleagues as the proximity to major traffic arteries, public transportation and other factors calls for higher density housing on this site. Mr. Goldstein would like to see the inclusion of the affordable housing element in the proposed project but would really prefer a high-density project. Mr. Goldstein does not support the proposed project.

Commissioner Willis agreed with the idea of having more affordable housing but noted that the applicant has complied with all the City's requirements, has complied with the law and is paying the in-lieu fees. Mr. Willis said because of the housing shortage there needs to be housing development built as quickly as possible. Mr. Willis stated that if the Commission would like to see an affordable housing element in all new developments, then there should not be the option of paying an in-lieu fee.

Chair Faria has concerns that residents and visitors will experience traffic and parking impacts that will carry over into the surrounding neighborhood.

Commissioner Patton inquired that after hearing the Commission's concerns, if the applicant would be amenable to making changes to the proposed project. Mr. Chao replied that he would need to consult with the owner.

Commissioner Willis commented that the Commission needs to abide by the City's rules and regulations and the applicant has met all the parking requirements. Mr. Willis said the HOA will enforce parking regulations for the private street and it is important to start building homes as quickly as possible.

Commissioner Willis made a motion to approve the staff recommendation. The motion failed for lack of a second.

Assistant City Attorney Brick provided direction to the Commission that there has been new State legislation that impacts decisions on new development. Mr. Brick said that when a housing project complies with a city's general plan and zoning ordinance, to deny the



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application there needs to be specific findings made related to quantifiable health and safety impacts. Mr. Brick provided direction that the Commission might consider continuing the item and provide direction to staff to bring back findings for denial related to health and safety impacts.

Commissioner Patton said an option is to continue this item with direction to staff to bring back the item with findings for denial. Assistant City Attorney Brick said if the applicant wishes to revise the project, they can work with staff on the issues of density, inclusion of an affordable housing element and emergency vehicle access, then staff can bring back findings for approval or denial.

Commissioner McDermott asked what would occur if the applicant does not wish to revise the project. Assistant City Attorney Brick explained the next steps regarding the findings for denial and the procedure if the project is denied and the applicant chooses to file an appeal.

Commissioner Willis pointed out that staff has recommended the development and that to deny the proposed project the Commission can be perceived as making their own rules which can then make it difficult for developers.

Commissioner Patton made a motion, seconded by Commissioner Goldstein, to continue the item with direction to staff to bring back findings for denial. The motion passed with the following vote:

AYES:	Commissioners Andrews, Patton, McDermott, Goldstein Chair Faria
NOES:	Willis
ABSENT:	Bonilla
ABSTAIN:	None

2. Adoption of the Downtown Specific Plan and Development Code and Certification of the Final Environmental Impact Report with Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program

Commissioner Patton recused himself as he lives within the area of the Downtown Specific Plan project.

Senior Planner Golubics said this is the final public hearing before the Planning Commission regarding the Downtown Specific Plan and spoke about the many community meetings and staff's and Planning Commission's involvement in this project. Mr. Golubics



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said this plan will help to transform downtown Hayward into an amazing place to visit. Mr. Golubics introduced Project Manager Kathryn Slama with Lisa Wise Consulting.

Project Manager Slama introduced other members of the consulting team, Associate Principal Terri McCracken with PlaceWorks, and Principal Planner Damian Stefanakis with Kittelson & Associates. Ms. Slama provided a synopsis of the staff report and a PowerPoint presentation.

Commissioner McDermott said the Commission was in receipt of correspondence from Dr. Sherman Lewis and asked the consultant team if they are familiar with Dr. Lewis' correspondence. Project Manager Slama confirmed that all through the project process, via staff the Consultant Team has been receiving correspondence from Dr. Lewis and the letter received by the Commission is the same one received by the Consulting Team regarding the Environmental Impact Report (EIR). Ms. Slama said per the California Environmental Quality Act (CEQA) each point presented by Dr. Lewis was addressed. Ms. Slama said that much of the red-lined version included suggestions by Dr. Lewis regarding the 238 Bypass, parking, shuttles and traffic. Senior Planner Golubics pointed out that many of Dr. Lewis' suggestions have been incorporated into the DT Specific Plan and that Dr. Lewis has been an active participant.

Commissioner Andrews disclosed that her organization has hired PlaceWorks and Kittelson and Associates, for a different type of project and does not constitute a conflict of interest. Ms. Andrews acknowledged staff's community outreach and inquired about an implementation process for existing businesses. Program Manager Slama said staff can look at thresholds for established businesses to be able to bring those businesses on board with smaller retrofits and upgrades. Assistant City Attorney Brick added that the business license is a ministerial permit and the City can only address changes if the business owner brings forth a request for changes.

Ms. Andrews requested updates to catalyst projects that are identified in the DT Specific Plan.

Chair Faria suggested the commuter traffic be addressed in order to resolve the traffic coming up Foothill Boulevard. Ms. Faria also suggested affordable housing be provided for the skilled labor force. Ms. Faria is glad that the zoning codes will be accessible online, and that staff is conducting research of the vacant buildings and hopes this issue can be addressed. Ms. Faria commented that large retail space owners want to have parking to support their retail businesses.

Ms. Terri McCracken, Associate Principal with PlaceWorks, presented the Environmental Impact Report portion of the staff report.



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Chair Faria opened and closed the public hearing at 8:36 p.m.

Commissioner Willis made a motion, seconded by Commissioner McDermott, to approve the staff recommendation.

The motion passed with the following vote:

AYES:	Commissioners Willis, Andrews, McDermott, Goldstein Chair Faria
NOES:	None
ABSENT:	Bonilla, Patton
ABSTAIN:	None

### **APPROVAL OF MINUTES**

3. Approval of the Planning Commission Meeting Minutes of March 14, 2019.

Commissioner McDermott made a motion, seconded by Commissioner Patton, to approve the Planning Commission Meeting Minutes of March 14, 2019. The motion passed with the following votes:

AYES:	Commissioners Andrews, Patton, McDermott, Goldstein Chair Faria
NOES:	None
ABSENT:	Bonilla
ABSTAIN:	Willis

### **COMMISSION REPORTS**

#### **Oral Report on Planning and Zoning Matters:**

Planning Manager Buizer said staff can provide a written update on the status of current projects in response to Commissioner Andrews request. Ms. Buizer said she will be sending out the most recent update as early as Friday.

Assistant City Attorney Brick advised the Commissioners of the Fair Political Practices Commission's changes to the law effective March 22, 2019, related to the Conflict of Interest relating to real property.

#### **Commissioners' Announcements, Referrals:**

There were none.



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**ADJOURNMENT**

Chair Faria adjourned the meeting at 8:42 p.m.

**APPROVED:**

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Ray Bonilla Jr., Secretary  
Planning Commission

**ATTEST:**

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Denise Chan, Senior Secretary  
Office of the City Clerk