



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, June 13, 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 Willis led in the Pledge of Allegiance.

**ROLL CALL**

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

Staff Members Present: Buizer, Chan, Vigilia

General Public Present: 5

**PUBLIC COMMENT:**

Mary Ann Higgs, Hayward resident, spoke about the Parcel 5 item which was presented to the Council Economic Development Committee on June 3, 2019, sharing concerns about the single point of access into the Bunker Hill neighborhood, traffic impacts, safety for residents due to no sidewalks for the hillside development resulting in residents walking in the street; and access for first responder vehicles.

Thomas Birt, Hayward resident, spoke about his Parcel 5 concerns and the possible rezoning and increase in density. Mr. Birt said there would be impacts to vehicle access into the neighborhood and asked for the Commission's support to retain the current minimum density and zoning.

Debbie Frederick, Bunker Hill resident, encouraged the Commission to retain the density and zoning in this area as it will be dangerous to increase density due to having only one way in and one way out via Carlos Bee Boulevard. Ms. Frederick said that she will email the Commissioners a proposed solution for better traffic access into the area.

Ms. Bernadette Chan, Bunker Hill resident, encouraged the Commission to visit the site and shared that it is important to retain the density and zoning in this area and that increasing the density will compromise the site and be dangerous for residents in the area.



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Commissioner Goldstein arrived in the Council Chambers at 7:16 p.m.

**WORK SESSION:**

1. Housing Legislation Update

Mr. Eric Phillips with Goldfarb & Lipman LLP provided a report on Housing Legislation updates and provided a PowerPoint Presentation. Mr. Phillips said the changes were passed in response to the State's housing crisis and spoke on changes to State law, the Housing Accountability Act (HAA), Senate Bill 35 (SB 35), State Density Bonus Law, and how these new legislations pertain to how cities will be reviewing and approving housing and planning developments. Mr. Phillips also spoke about revised AB 1771 and SB 828 that were adopted in 2018 and became effective at the beginning of 2019. Mr. Phillips said that the City's Housing Element's update will occur in 2023 and that City staff will need to examine where to locate high-density housing in areas where it has not previously considered. Mr. Phillips said under the State Density Bonus Law there are density bonuses, parking reductions, transit stop parking ratios, incentives and concessions, waivers of development standards, and a shot clock which requires the agency to determine if density bonus applications are complete within 30 days of submission.

Commissioner Goldstein asked about the qualifications for developers to qualify for SB 35, and Mr. Phillip replied that there is a long criteria list for new developments such as the proposed project must be consistent with a city's objective planning standards, must meet existing zoning and General Plan densities, height limitations, setbacks, provide 10% of units for lower income households, projects with more than ten units must pay prevailing wages, and must use a "skilled and trained workforce" for projects with 75 units or more. Mr. Phillips said for the affordable units to meet the Hayward's inclusionary requirements the units must also meet the City's Affordable Housing Ordinance which requires the units to be of similar size and proportion to market rate units.

Chair Faria asked that this information be shared with the evening's public speakers. Mr. Phillips shared that the new State regulations, HAA and SB 35, went into effect at the beginning of 2018.

Commissioner Patton expressed concerns about the new regulations having a conflict with the California Environmental Quality Act (CEQA), to which Mr. Phillips responded that there is nothing in the HAA that prevents the City from complying with its responsibilities under CEQA and that the City is obligated to decide whether or not there are significant and unavoidable impacts. Mr. Phillips said that from his legal interpretation, the HAA requires the City to adopt a Statement of Overriding Considerations and that Goldfarb & Lipman are closely monitoring the issue to see if there are any challenges to the HAA. Mr. Phillips said



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it is unclear whether a court would require a city to adopt a statement of overriding considerations if it did not want to do so.

Commissioner Goldstein asked if the review process would reveal to the developer how close they are to meeting density bonus requirements, to which Mr. Phillips replied that cities must provide the developer with a list of what else is needed in order to be eligible for the density bonus.

Commissioner Patton commented that it is reasonable for the City to require the developer's submittal package to also include a cost analysis that correlates to the incentives/reductions being requested for staff and for the Commission to review. Mr. Phillips added that the law provides that if the project changes during the entitlement process then the developer can submit a revised cost analysis to reflect the changes that were made.

Commissioner Willis commented that the new State Laws are an improvement and will help to spur affordable housing development.

Commissioner Andrews asked how the Commission is able to rule on developments if design guidelines are unclear, to which Mr. Phillips responded that as the City updates codes and standards it should include as many clear and specific objective standards in the design guidelines as possible which includes items such as building materials, roof pitch, and color schemes. Mr. Phillips said that if the standards are listed in advance then they will be considered to be objective. He said if the Commission is attempting to apply design guidelines that are unclear or leaves room for personal judgment, these design guidelines can be included in the conditions of approval (COA) as long as the Commission does not deny the project and the COAs do not reduce the project density. Mr. Phillips said under the Density Bonus Law parking needs to be onsite but there might be other City codes that will allow for offsite parking.

Chair Faria spoke about an existing issue where some cities will not build their Regional Housing Need Obligation (RHNA) of affordable housing. Mr. Phillips said the Governor's approved budget has reserved several hundred million dollars for affordable housing construction, and Governor Newsom is working on a financial penalty system that could possibly impact Gas Tax Funds or other transportation funds to strongly encourage jurisdictions to comply with their RHNA. Mr. Phillips added that the State Housing and Community Development (HCD) Department has now been authorized to refer violations to the Attorney General's office and currently the State is suing Huntington Beach for failure to adopt their housing element.



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Commissioner Goldstein asked what happens if housing goals are not able to be met because of a natural disaster such as a wildfire, to which Mr. Phillips responded that there is not a clear answer on how those housing obligations will be met, but because of the numerous wildfires, these questions will need to be addressed in the near future.

Commission Patton commented on how these new laws will make development review more complicated for staff and asked if there are any laws being discussed requiring that homes be built where jobs are located and by suburban cities that have transit to accept and build their fair share of building affordable housing. Mr. Phillips shared that Assembly member Weiner (SB 50) and Assembly member Bloom both have bills to address these issues. Assembly member Bloom's bill is focused more on suburban areas and creating requirements to have more building in those areas.

Commissioner Andrews asked for an update on SB 50 (Weiner), to which Mr. Phillips said that though SB 50 will be discussed at the next legislative session, Assemblyman Weiner continues to work on amendments. Ms. Andrews noted that she has had discussions with several affordable housing developers and that a large amount of the budget is designated to address homelessness. Mr. Phillips said homelessness is a priority issue with Governor Newsom, a large chunk of the budget is devoted to address homelessness, and a key method is to fund more affordable housing to find permanent solutions for the currently unhoused. Mr. Phillips said there are several bills to reform planning for emergency shelters, streamlining supportive housing; and exceptions from CEQA and other efforts to address this form of housing.

Commissioner Patton said there are several projects in the works and asked if the new legislation will impact those projects; Planning Manager Buizer said that staff is well versed in the new legislation and that staff has been incorporating these changes into the new developments that are in process. Ms. Buizer said that she does not anticipate any issues but there will be challenges as staff moves forward with the update to the Housing Element.

## **APPROVAL OF MINUTES**

### 2. Approval of Planning Commission Meeting Minutes of May 9, 2019

Commissioner Willis made a motion, seconded by Commissioner Andrews, to approve the Planning Commission Minutes of May 9, 2019.

AYES: Commissioners Willis, Andrews, Patton,  
Chair Faria  
NOES: None



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ABSENT: Bonilla, McDermott  
ABSTAIN: Goldstein

3. Approval of the Planning Commission Meeting Minutes of May 23, 2019.

Commissioner Willis made a motion, seconded by Commissioner Andrews, to approve the Planning Commission Meeting Minutes of May 23, 2019. The motion passed with the following votes:

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

**COMMISSION REPORTS**

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

Planning Manager Buizer said staff will forward the PowerPoint presentation to the Planning Commission and will ensure that it is also posted on the City's website.

**Commissioners' Announcements, Referrals:**

Commissioner Andrews thanked staff for bringing forward this presentation as it was very informative.

**ADJOURNMENT**

Chair Faria adjourned the meeting at 8:15 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