



**PLANNING COMMISSION MEETING
COUNCIL CHAMBERS AND VIRTUAL (ZOOM)
PARTICIPATION
Thursday, February 22, 2024, 7:00 p.m.**

The Planning Commission meeting was called to order at 7:09 p.m. by Chair Lowe. The Planning Commission held a hybrid meeting in the Council Chambers and virtually via Zoom.

Planning Commissioner Patterson participated in the meeting via Zoom pursuant to Government Code section 54953, from Monterey Marriott, 350 Calle Principal, Monterey, CA 93940. The agenda was e posted at the teleconference location and the public had an opportunity to address the Planning Commission.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: COMMISSIONERS: Goodbody, Meyers, Patterson, Stevens
CHAIRPERSON: Lowe
Absent: COMMISSIONER: Franco-Clausen

Staff Members Present: Blanton, Lochirco, Morales, Ochinerro, Parras, Sharma, Tabari, Thompson, Vigilia

PUBLIC COMMENTS

There were none.

PUBLIC HEARING

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

1. Proposed Vesting Tentative Tract Map (Tract 8600) and Modification of an Affordable Housing and Density Bonus Plan from the Previously Approved Zone Change, Site Plan Review, Density Bonus and Environmental Review Application No. 202101491 for a 22 Unit Townhome Development located at 27865 Manon Avenue (APN 453-0090-014-00). Application: TM-23-0009; Applicant: Abraham Halaw, Briscoe Construction; Owner: Sunflower Manon LLC. **(PH 24-005)**

Senior Planner Blanton provided a synopsis of the staff report and presented a PowerPoint presentation.

Commissioner Goodbody questioned if there was a loading zone for delivery vehicles included in the map and mentioned that she noticed that 25-ft of curb on each side of the gate would be painted red. Senior Planner Blanton noted that cars could pull in near the red curbing and that the project is not required to unbundle parking.



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In addressing Commissioner Meyers' inquiries about gate functionality, Senior Planner Blanton indicated that both gates slide open from side to side.

In response to Commissioner Meyers inquiry about the process for selecting tenants for the two low-income units, Housing Manager Morales explained that the City typically mandates a lottery system for the allocation of such units and highlighted that preference is given to individuals who either reside or work within the city of Hayward or who were displaced due to any City-related activities.

Commissioner Patterson questioned the decision to change the project from rental apartments to ownership condos. Mr. Kishore Pal, the applicant, explained that the decision was influenced by market conditions and the lending processes of banks, and noted selling the units instead of renting them would facilitate a smoother loan approval process. Related to Commissioner Patterson's inquiry on the security gate and its potential impact on visibility for traffic, bicycles, or pedestrians, Mr. Pal clarified the security gate is not solid, but rather can easily be seen through, similar to gates in other properties which had previously received approval from the city.

Commissioner Patterson inquired about unbundled parking and concerns around on street parking. Senior Planner Blanton explained that the developer had not engaged in further discussions with city staff on this matter, clarifying that the previously approved site plan review approval is still valid, and no changes to the site layout are being proposed. Mr. Pal added that discussions about parking had not taken place because he believed there is ample parking available, including extra guest parking. In response to Commissioner Patterson's question about the project's previous conditions of approval, specifically related to the Reach Code requirements, Senior Planner Blanton confirmed that they still apply.

Commissioner Stevens raised concerns about the security gate's proximity to the face of the curb, noting it is approximately 19 feet, close to the length of a standard car. In response to Commissioner Stevens' question on whether a car waiting at the gate might block the existing sidewalk, Senior Planner Blanton confirmed that if a car were pulling into the gate, the back portion of the car would likely obstruct the sidewalk. Commissioner Stevens then inquired about potential alternatives, prompting Senior Civil Engineer Sharma to explain that, given the low traffic volume on Manon Street, cars can pull in parallel to the curb and enter the property when the gate is fully open. Mr. Sharma emphasized that the entry gate is the only location where the sidewalk might be blocked, ensuring that the exit-only gate would not have any impact on the public street. Commissioner Stevens raised a question about the access arrangements for visitors in light of the security gate. Mr. Pal responded that tenants would be provided with two remotes for the gate and one key, and visitors would be given a code. Additionally, he mentioned that visitors have the option to dial the tenant's unit number on a call box, which would automatically connect to the tenant's mobile



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phone number. In reference to the Vesting Tentative Tract Map, Commissioner Stevens pointed out the absence of significant public improvements.

Chair Lowe opened and closed the public comment period at 7:37 p.m.

Commissioner Stevens expressed satisfaction with the project's design and layout but raised concerns about the applicant's request for two waivers, suggesting that the City should receive a benefit in exchange for granting the waivers. He questioned whether housing alone constitutes an adequate benefit, particularly when considering substandard conditions, such as an entry facility with a single driveway that may cause obstructions. Commissioner Stevens stated his desire to see a condition of approval to bulb out the driveway or provide an equivalent benefit to enhance pedestrian conditions on Manon Avenue. Senior Assistant City Attorney Vigilia clarified that the project is entitled to the waivers under State Density Bonus laws, noted that public safety issues created by the gates have been mitigated and the condition for site design improvements does not necessarily need to be directly tied to the waiver but can be a general condition. Despite the clarification, Commissioner Stevens stated the design is poor and expressed concerns and reservations about the security fence location.

In response to Chair Lowe's inquiry about any leeway or discussions related to the design, Senior Planner Blanton explained that there had been multiple meetings with the Transportation Division to arrive at the current design; noted that due to State Density Bonus Law, staff cannot deny the requested waivers unless they create a clear life safety issue; and added that there are other single-family homes along the street with similar conditions and it would not be fair for staff to deem it a life safety issue in this case while not doing so for other homes with comparable conditions.

Commissioner Stevens inquired about the status of the existing gates, seeking clarification on whether they are in pre-existing conditions, which Senior Planner Blanton confirmed. Senior Assistant City Attorney Vigilia asserted that the City has immunity from liability for plan approvals. Commissioner Stevens expressed concern, citing past designs with similar fence setbacks that were considered less desirous, and remarked that the City no longer allows this. In response, Senior Planner Blanton highlighted the 25-foot setback requirement as a preferable design but confirmed that reducing the setback did not constitute a life safety risk. She provided examples of life-safety risks and drew a distinction between the nuisance of having a car temporarily block a sidewalk.

Commissioner Goodbody echoed Commissioner Stevens' concerns, highlighting that the waiver amounts to over 50% of the proposed setback, which is now at nine and a half feet—over a 50% reduction from the project requirement of 25 feet. She observed another nearby large apartment complex with cars parked along Manon Avenue and questioned the relationship between the State Density Bonus Law and the Americans with Disabilities Act (ADA). In response, Senior Planner Blanton clarified that ADA requirements still apply; and noted that



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without pursuing the density bonus, the project would have only 17 units. She explained that removing the first four townhomes would allow the gate to be set back 25 feet from the front property line, meeting development standards without the need for waivers. Senior Planner Blanton highlighted that State Density Bonus Law is a powerful development tool that the State has implemented to address the critical need for affordable housing. The State has deemed that allowing waivers from development standards is an acceptable tradeoff in order to incentivize affordable housing production.

Commissioner Patterson raised concerns about safety, indicated a desire to see evidence of a study regarding the significant change in the security gates, and suggested exploring options such as adding mirrors while still meeting state requirements. Commissioner Patterson referenced a previous discussion on unbundled parking, expressing that Planning Commissioners' requests were seemingly considered but not clearly addressed.

Commissioner Steven thought that stacking and packing units at the expense of good design is not worth it, opined that the sidewalk is going to be permanently obstructed by the entry way, and stated that the fence design does not follow any rule of good urban design. He shared his opinion that this is another example of why voters should vote out politicians who create these laws that ultimately destroy neighborhoods.

Commissioner Patterson sought clarification on the significance of the previous version of the project, questioning if its approval had any bearing on the State Density Bonus Law and what was allowed in the current proposal. Senior Planner Blanton clarified that the focus of the current vote is on the new items within the new application: the Vesting Tentative Tract Map and the revised Affordable Housing/Density Bonus Plan. Commissioner Patterson sought further clarification, specifically on whether State Density Bonus Law has provisions related to the previously approved project and if the same restrictions apply to modifications. Planning Manager Lochirco affirmed that the project is required to go through the approval process again because it involves modifications to the originally approved application and highlighted that the modified Affordable Housing/Density Bonus Plan and the Vesting Tentative Tract Map would need to be considered by the City Council, as these were not part of the original application.

In response to Commissioner Meyers' inquiry if there had been any discussions with staff or the developer regarding the security gates, Mr. Pal, responded that installing gates would incur an additional cost of several hundred thousand dollars but insisted on having the gates due to recent crime incidents in the area. He mentioned that they had requested City approval for gates on another property on the same street for similar safety reasons. Senior Planner Blanton added that, from a state law perspective, a security fence is not required by city regulations, but State Density Bonus Law views it as an amenity provided for residents and clarified that the City cannot require the removal of an amenity of a Density Bonus application.



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Commissioner Stevens expressed concern for safety and disagreed that the gates are an amenity.

A motion to approve the staff recommendation was made by Commissioner Meyers, seconded by Commissioner Goodbody.

The motion carried with the following roll call votes:

AYES:	Commissioners Goodbody, Meyers, Stevens Chair Lowe
NOES:	Commissioner Patterson
ABSENT:	Commissioner Franco-Clausen
ABSTAIN:	None

For agenda item No. 2, 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 a final decision.

2. General Plan Annual Progress Report - 2024 (RPT 24-012)

Senior Planner Thompson provided a synopsis of the staff report and presented an informational PowerPoint presentation.

In response to Commissioner Goodbody's inquiry if one-time programs were intended as launching points, pilots for ongoing programs or standalone initiatives, Senior Planner Thompson clarified that the one-time programs are standalone and intended to be completed in a relatively short time frame. Commissioner Goodbody suggested exploring the possibility of combining some programs to accelerate implementation. Senior Planner Thompson noted that collaborative efforts have been made in some instances where resources and staff are available and mentioned the potential for follow-up with other departments to assess their strategies for program implementation. Planning Manager Lochirco added that the General Plan contains some programs of which may no longer be relevant and highlighted that staff evaluates all of these programs and look for projects that align with City's current priorities, emphasizing that implementation of some programs may occur sooner than the timeframe indicated in the adopted Implementation Plan based on changing priorities and new opportunities, such as grants pursued by the City.

Commissioner Meyers referenced attachment I, page 8, under the category for NR-14 Renewable Energy Generation Potential, which mentions that all facilities will achieve zero net energy by 2025 and asked about the tangibility of the goal. Senior Planner Thompson responded that staff would need to follow up with Public Works as they updated the section



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and set the target year as 2025.

Commissioner Stevens expressed excitement about the progress of the Urban Forest Management Plan, noting that it will not only enhance the city's beauty but also provide climate benefits; emphasized that initiatives such as the Urban Forest Management Plan have tangible benefits compared to aspirational and less tangible plans like the Climate Action Plan. Commissioner Stevens encouraged the Council to prioritize initiatives that directly benefit the common person in Hayward.

Commissioner Patterson commended staff on the completed or in-progress items; inquired how priorities are determined and established, expressing that the programs from 2014, 2019, and 2020 have not yet started; and inquired about the Tree Preservation Ordinance. Senior Planner Thompson explained that various factors, including staffing and funding, contribute to whether a program is completed; highlighted the role of the Strategic Roadmap in prioritizing short-term initiatives that can be achieved more quickly; and stated that planning staff has started working on the Tree Preservation Ordinance and anticipates presenting a draft Ordinance to the Planning Commission in late April or May, 2024. Planning Manager Lochirco added that an outside consultant is currently reviewing the existing Tree Preservation Ordinance, has begun engaging in focused group discussions with community stakeholders, and is conducting a community survey, which is available on the City's Tree Preservation Ordinance webpage.

Chair Lowe opened and closed the public comment period at 8:33 p.m.

Chair Lowe thanked staff for the presentation and acknowledged the successful implementation of programs; expressed disappointment regarding returned grants and concern for the Childcare Services and Facilities programs, emphasizing the importance of tangible and beneficial programming for residents; and suggested making the Tree Preservation Ordinance survey easier to find on the City website to encourage community participation.

Commissioner Goodbody expressed gratitude towards staff for their work and emphasized the importance of mechanisms like this for public communication; and encouraged the pursuit of "low hanging fruit" initiatives that directly benefit residents on a daily basis.

APPROVAL OF MINUTES

3. Minutes of the Planning Commission Meeting on October 12, 2023 (MIN 24-020)

A motion was made by Commissioner Stevens, seconded by Commissioner Goodbody, to approve the meeting minutes of October 12, 2023.



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The motion failed with the following roll call votes:

AYES: Commissioners Goodbody, Stevens
Chair Lowe
NOES: None
ABSENT: Commissioner Franco-Clausen
ABSTAIN: Commissioners Meyers, Patterson

4. Minutes of the Planning Commission Meeting on January 11, 2024 **(MIN 24-021)**

A motion was made by Commissioner Patterson, seconded by Commissioner Stevens, to approve the meeting minutes of January 11, 2024.

The motion carried with the following roll call votes:

AYES: Commissioners Goodbody, Meyers, Patterson, Stevens
Chair Lowe
NOES: None
ABSENT: Commissioner Franco-Clausen
ABSTAIN: None

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters

Planning Manager Lochirco announced there were three items scheduled for the March 14, 2024, Planning Commission meeting, with no items currently scheduled for March 28, 2024.

Commissioners' Announcements, Referrals

Commissioner Stevens congratulated and recognized Economic Development Director Nguyen for his achievements and contributions to the community, particularly for being featured in the news.

ADJOURNMENT

Chair Lowe adjourned the meeting at 8:41p.m.



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APPROVED:

Karla Goodbody, Secretary
Planning Commission

ATTEST:

Amber Parras
Planning Commission Secretary
Office of the City Clerk