



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, April 27, 2017, 7:00 p.m.  
777 B Street, Hayward, CA 94541**

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**CALL TO ORDER**

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

**PLEDGE OF ALLEGIANCE**

Commissioner Schott led in the Pledge of Allegiance.

**ROLL CALL**

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

Staff Members Present: Brick, Buizer, Chan, Chang, Hinkle, Kelley, Rizk

General Public Present: 26

**PUBLIC COMMENT:**

There were none.

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

1. Proposed subdivision and construction of 140 three-story condominiums of a townhome design, a 93-room hotel, and 7,225 square feet of community-serving retail use on a 9.72-acre site located at 25501 & 25551 Mission Boulevard and 671 Berry Avenue, requiring 1) a Zone Change on a 1.9-acre portion of the project site from T4-2 Urban General Zone (17.5 min to 35 units max/net acre) with a Commercial Overlay Zone 1 to T4-2 with a Commercial Overlay Zone 2; 2) Site Plan Review; 3) Conditional Use Permit to allow ground floor residential; 4) Administrative use Permit to allow hotel/lodging; 5) Warrant for excess parking; 6) Vesting Tentative Tract map 8345 associated with the subdivision; and 7) an Addendum to the Mission Boulevard Corridor Specific Plan Area Environmental Impact Report (EIR). MLC Holdings, Inc. (Applicant) Auto Mission, Ltd. And Charles L. Pifer (Property Owners)

Commissioner Schott stated he has a financial obligation within 500 feet of the project site and must recuse himself. Commissioner Schott left the Chambers at 7:02 p.m.



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Planning Manager Buizer introduced Planner Mike Porto.

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

Economic Development Manager Hinkle provided a synopsis about the fiscal impact and economic benefits of the project.

Mike Porto continued his presentation. Mr. Porto pointed out that staff noted an inconsistency in the Conditions of Approval and staff recommends to remove COAs 136, 137 and 138 as they were duplicative and superseded by Conditions 145 through 150.

Mr. Chris Zaballos for MLC Holdings, presented a presentation for MLC Holdings – Meritage Homes and spoke about the developer’s vision for Mission Boulevard.

Commissioner Willis Jr. said he was impressed by the presentation and that the developer chose Hayward. Mr. Willis spoke about the changes to the City and that the auto dealerships have moved out. He said traffic is a regional issue that should be addressed in another way. Mr. Willis does not understand the opposition as the owner has the right to develop his property. In response to Mr. Willis’ question of whether the project will have sufficient parking, Mr. Zaballos said the developer had to obtain a parking warrant to have sufficient parking and there will be a slip lane that will allow easier access for parking and pedestrians.

In response to Commissioner Faria’s question about what is happening with the Pentecostal Church site, Economic Development Manager Hinkle said that the Sonic Automotive Group which owns an existing franchise auto dealership is looking to acquire the Pentecostal Church site which was also a former auto dealership site.

In response to Commissioner Goldstein’s question about who requested the market report on auto dealerships Economic Development Manager Hinkle said that the fiscal analysis was done by the developer’s consultant EPS at the request of the City and that this analysis was evaluated by Mr. Hinkle and staff. Mr. Hinkle said there are strong auto dealerships along auto row and that there is potential to add additional dealerships to Hayward and that it is important to retain what is there. However, Mr. Hinkle said that AutoNation the largest auto dealership in the nation said they could not make it work at this site and noted a single owner franchise could not likely afford AutoNation’s price for the project site.

In response to Commissioner Goldstein’s question of the developer’s stating there will be 64 jobs created, Mr. Zaballos responded that the 64 jobs are post construction and will be in the hotel and retail areas.



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Planner Porto responded to Commissioner McDermott that standard construction practices would remediate the contaminants.

Mr. Charles McKeag, President of MLC Holdings, responded to Commissioner McDermott, said this site was impacted with background levels of arsenic and lead from previous agricultural uses which means below the levels of human health risks. Mr. McKeag said the real issue is the previous use of an auto dealership and required site cleanup especially of the old hydraulic lifts.

Mr. Rene Sanchez, project architect with Mexsal Design Group, said the projected employees for the hotel and commercial is 64 employees, 30 to 40 staff working different shifts in the hotel working a 40-hour work week.

Ms. Lara Hermanson, Farmscape Gardens, said Farmscape will be on site for the first year and the urban garden will be for community use. Ms. Hermanson said once the Homeowner's Association (HOA) gets established they can take over or the HOA may choose to keep Farmscape on to manage the farm.

Mr. McKeag responded to Commissioner Faria that in talks with Cal State University East Bay (CSUEB) there was a dire need for an upscale hotel and the Marriot's analysis shows this site offers a great location and will fill the existing void and people visiting the schools for sports, events, etc., can then stay in Hayward. Economic Development Manager Hinkle said it makes sense for a hotel at this site, it is a catalyst site and noted there is a cluster of hospitality occurring on Mission Boulevard. Mr. Hinkle said this allows for another vision for Mission Boulevard and with hotels there comes restaurants and entertainment which Hayward has also been seeking for some time. Mr. Hinkle said this will fill another void which is for a business stay hotel.

Planning Manager Buizer responded to Chair Enders that the illuminated addresses will be located on both the front stoops and the garages for safety issues as first responders will be able to locate the correct unit no matter which direction they are coming from.

Chair Enders opened the public hearing at 8:03 p.m.

Mr. Patrick Hendrix, Dollar St. business owner, said this is a very exciting project but has major concerns about traffic and safety.

Mr. Stephen Wyszomirski, Dollar St. business owner, said this is a beautiful project and that Hayward can use development along Mission Boulevard. Mr. Wyszomirski's number one concern is traffic and safety issues and spoke about the current traffic issues.



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Ms. Robin Wilma, Dollar St. business owner, spoke about the thriving dealerships, auto support businesses, and small dealerships in that area. Ms. Wilma said the hotel project should be located elsewhere as it would divide auto row and that concentrating on auto businesses will be an asset to the community. Ms. Wilma said the proposed project will intensify the already difficult traffic congestion in this area.

Mr. Anthony Varni, Hayward lawyer and representing others, said the Hayward Chamber of Commerce assists the City in making decisions regarding commercial and residential uses. Mr. Varni requested that the Chamber's Government Relations Committee(GRC) have an opportunity to hear from those in opposition to the project and that it was important for both the Planning Commission and City Council to be able to hear from the GRC on this project and felt this project is being rushed through the Planning Commission. Mr. Varni distributed pictures of the blighted Ford site which is owned by the Toyota dealership which Mr. Varni states is in pristine condition.

Ms. Dianna Briones, Dollar St. worker, spoke about the traffic issues when she is driving to work.

Mr. Michael Mahoney, Chairman of the GRC of the Hayward Chamber of Commerce, would like to see a convention center and first class hotel in the downtown area. Mr. Mahoney asked the Planning Commission to postpone the item until after the GRC has an opportunity to review this project at their next meeting on May 5<sup>th</sup>, then they would be able to bring forward a recommendation of either support or non-support.

Chair Enders closed the public hearing at 8:22 p.m.

At the request of Chair Enders, Development Services Director Rizk said the project has been in process for approximately two years and a version of the project was presented to the Council Economic Development Committee (CEDC) in September 2016, and feedback from that meeting has been incorporated into the final project being presented tonight which includes retail and hotel along the Mission Boulevard frontage. Mr. Rizk said as mentioned by Planner Porto there is an addendum to the Environmental Impact Report (EIR) noting there was not a EIR or mitigated negative declaration for this project.

Development Services Director Rizk responded to Commissioner Willis Jr., that there was a public meeting with the CEDC about this project. Mr. Mahoney responded to Mr. Willis that the GRC and Hayward Chamber of Commerce were aware of the different project versions and with one presentation to the GRC, prior to the distribution of the staff report and thus the GRC has not had time to review staff comments and to schedule a meeting to discuss this. Mr. Mahoney said the GRC was able to review the Lincoln Landing and other projects.



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---

Mr. Mahoney reiterated his request for a postponement to allow the GRC to meet on May 5 and provide a recommendation to the Planning Commission and City Council on this project. Mr. Mahoney said the GRC has never met only once with a developer on a project of this magnitude and scope and reminded Mr. Willis that the GRC's review and feedback was for the benefit of the Hayward community.

Chair Enders responded to Mr. Willis that once the Planning Commission has made their decision any member of the public including the Chamber of Commerce can appeal to the City Council and request the Council to review the project, which at that point the item will be rescheduled for a final decision.

Commissioner Willis Jr. stated the item was continued once already and should not be continued again.

Mr. McKeag, President MLC holdings, reminded the Planning Commission, that he presented the original project to the GRC eighteen months ago and that Mr. Zaballos who is a member of the GRC, has made two presentations to the GRC and received comments from the GRC.

Chair Enders said Mr. Mahoney's point is that the GRC has not had sufficient time to review all the material including the staff report that was distributed on April 14, 2017 and all the additional documents received.

Commissioner Goldstein stated there needs to be better plan for traffic issues and noted that several Planning Commissioners had served on the General Plan Update Task Force and during that time input from CSUEB addressed the need for an upscale hotel. Mr. Goldstein favors the project, serves the community, it is a good site and agreed with Economic Development Manager Hinkle that the project can serve as a catalyst for other development in that area and the current condition of the site is deplorable and scares people away. Mr. Goldstein said the community and CSUEB needs this hotel and likes that it includes a retail component and is a mixed-use development which can cut down on traffic. Mr. Goldstein said besides the auto businesses there are restaurants located in this area and the hotel will benefit the community but was concerned about the noise and traffic element and commercial vehicle activity. Mr. Goldstein asked the developer why the Planning Commission can't give the GRC a chance to review and provide feedback on the project and was amenable to postponing the item. Mr. McKeag was happy to meet with the GRC a fourth time on May 5<sup>th</sup>, since the City Council will be hearing this item on May 9<sup>th</sup>. Mr. Goldstein said the Planning Commission would like to hear from the GRC which is made up of great community members who provide significant input and would like the opportunity to hear from the GRC and requested direction from staff. Development Services Director Rizk said if the Planning Commission would postpone the item, it most



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probably will be continued for a month as the City Council has full agendas because of the budget and other scheduled items. Mr. McKeag stated to postpone the item would have a significant economic detriment for them and that he felt the GRC has had adequate time to provide input and he was here to implement the City's vision that was developed for Mission Boulevard in 2014. Mr. Goldstein responded that he is sensitive to the needs of business, respects Meritage's quality participation in Hayward's development, but as a community member, homeowner, and volunteer on the Planning Commission, his vision is that he believes very strongly in community involvement and is in favor of giving the GRC the opportunity to review and provide input on this project. Mr. Goldstein said he wants to hear from the GRC and is in favor of the postponement. Planning Manager Buizer responded to Mr. Goldstein's concerns of noise impact to the new residential units which is in a primarily commercial/retail area. Ms. Buizer said the addendum to the EIR includes the mitigation measures for the construction of the residential units to address noise impacts and that the area is zoned for the allowed uses of the proposed projects and land uses that were envisioned as part of the Form Based Code.

Commissioner Faria stated that this is a good project, improves access to upscale hotel rooms, it is difficult to find good residence inns, but has mixed feelings as traffic is a major issue. She said it is a good project in relationship to the development site, it is in line with the City's vision and in fulfilling the General Plan but said it took her 40 minutes to get from Harder to D and Main Streets and that drivers are looking for any outlet to navigate the traffic which impacts Dollar and Torrano Avenues.

Commissioner McDermott would like the project to get started on the right foot. Ms. McDermott said the issue would be problematic for the developer if the Commission were to postpone the project because there is not a lot of time between the Planning Commission meeting on May 11<sup>th</sup> where they can hear from the GRC since their meeting is on May 5. Ms. McDermott noted that she was the former president of the Fremont Chamber of Commerce and has served on the Planning Commission for a while and she is a dedicated and cares about the Hayward community. Ms. McDermott acknowledges the large amount of material that needed to be reviewed and digested and understands the commitment of the business community and their involvement and thanked Mr. Mahoney for speaking this evening and for presenting his case for the postponement and his strong support for his community. Ms. McDermott is leaning towards postponing the item for goodwill, that the Commission will have the opportunity to review the GRCs input, and there cannot be any criticism that the Commission did not listen to the business community.

Planning Manager Buizer clarified for the public that last week's Planning Commission meeting of April 20, 2017, was the Special Meeting, and tonight's Planning Commission meeting is the regular scheduled meeting. Ms. Buizer said the GRC had heard previous projects well before the issuance of staff reports distributed to the Planning Commission



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---

and City Council. Ms. Buizer clarified that there is not a tie-in between the availability of the staff reports to the Planning Commission and the timing of the GRC consideration of City projects. Ms. Buizer also clarified the contract work for the California Environmental Quality Act (CEQA) analysis was between Impact Sciences and the City of Hayward and was an independent analysis.

In response to Chair Enders' request to explain why there was a Planning Commission Special Meeting called on April 20 where the the item was continued to this week's regular meeting, Planning Manager Buizer said there was an interest on the part of the developer to keep the item moving along and staff was also taking into consideration an overcrowded Council agenda and wanted to make sure there was adequate time between the Planning Commission's Public Hearing and the City Council meeting. Ms. Buizer said considering the abundance of additional communication received prior to last week's meeting it seemed very important for both the Planning Commission and the public to have additional time to be able to review and absorb the information.

Mr. Zaballos said he was a GRC member for 15 years and it is unprecedented to postpone a Planning Commission decision because the GRC had not provided their input. Mr. Zaballos said he was disappointed when he was notified on April 6 that the Chair of GRC would not be present for the GRC's April 7 meeting when the project was presented and that a decision would not be made.

Chair Enders acknowledged the large amount of material for this project was just provided when the staff report was distributed on April 14 as opposed to the material for the Lincoln Landing and the Maple and Main projects where the Planning Commission was provided with material early on during the two-year phase of those projects and could weigh in on those projects and provide input on a public level. Ms. Enders said there are seven items that the Commission must agree upon and vote upon this evening which is very unusual for the Commission.

Commissioner Willis Jr. apologized to Mr. Mahoney but said his response was because the last postponement request was received way in advance of the meeting of April 20, 2017. Mr. Willis said that Mr. Mahoney should have requested the postponement in advance of tonight's meeting as it is not fair to the Planning Commission, the developer and members of the public.

Chair Enders said per the Brown Act, this is the only opportunity that the Commission has to speak on how the project can be improved. Ms. Enders said the Commission has not been provided the platform to provide feedback on this project and felt this project was fast-tracked. Ms. Enders said the way bigger projects are handled needs to be addressed with staff and asked for clarification regarding project elements and whether they are in



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line with the Mission Boulevard Corridor Specific Plan such as the orienting of homes where a lot of the garages are becoming the front of homes, traffic is a major problem, the parking warrant that allows for more cars, and the project is at minimum density. Ms. Enders said that if the Commission and the public had been provided the opportunity on multiple occasions to provide input and work with the developer during the early stages of the project, then being told by the developer that it was too late to make changes could be avoided and being told that it was nearly impossible to reconfigure the project at this point. Ms. Enders noted that this was not an unusual response from developers as once it gets to the Planning Commission the project proponent has spent millions of dollars and the Commission is told that it is too late to change/add anything and this can be very frustrating for the Commission. Ms. Enders noted the sustainable features of the proposed project and would like to see more density, less parking, and the affordable housing element. She said when developers pay the affordable housing in-lieu fees the end result is segregation of the community and she does not agree with this. Ms. Enders said she had suggested to the developer to eliminate 10 -20 parking spaces for ground floor units and sell affordability by design - ten studios with no parking which a lot of students and young professionals need. Ms. Enders said affordable housing can be done and wants staff to work harder for these additional amenities during the preliminary stages as opposed to being told by developers that it is too late, it is the 11<sup>th</sup> hour and they cannot change anything. Ms. Enders stated the Commissioners are fighting tooth and nail for amenities.

Commissioner Goldstein made a motion to continue the item until May 11, to provide sufficient time for the GRC to meet on May 5 and to provide their recommendation to the Planning Commission.

Commissioner McDermott seconded the motion.

Planning Manager Buizer responded to Chair Enders regarding Commissioner Goldstein's motion, that the continuation is possible and usually the GRCs input is verbal at the meetings, but if the Commission would like a report that summarizes the GRC's position then staff would need a longer continuance in order to provide this. Ms. Buizer noted staff reports would need to go out by Friday, May 5, and the GRC's meeting is on May 5 and there would not be enough time to provide a written analysis for the Commission's May 11 meeting.

Commissioner Willis Jr. opposed the postponement, it is not fair, the developer does not agree to the postponement as they have spent two years putting this project together and the City wants Hayward to be welcoming to developers. Mr. Willis said there is no reason the GRC could not have met and could have presented their recommendation at this meeting.





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---

Chair Enders noted that for every Planning Commission meeting, the Commissioners receives their material the Friday before the Thursday meeting which gives them only six days to review all the material no matter if it is 10 pages or ten thousand pages. The Commissioners are all professionals, they work, but they somehow find a way to review the material as they are committed to contributing to the businesses in the City. Ms. Enders understands why the GRC is requesting additional time but pointed out there is an appeal process and if the GRC does not agree with the Commission's decision tonight, they can take it up with the City Council. Ms. Enders said there was a great deal of material but she found a way to review the material to be able to be prepared for last week's and tonight's meeting. Ms. Enders thanked the project proponent for reaching out to her and giving her the opportunity ahead of time to meet and talk about the project.

Commissioner Faria disclosed that she met with Ms. Wilma and does not agree with the postponement. Ms. Faria said the GRC had the opportunity to meet more than once about this project. Ms. Faria said her reasoning for moving this item forward is she recalls previous discussions before the Planning Commission that envisioned developing this area that included residential units with retail in the front.

Commissioner Goldstein withdrew his motion.

Development Services Director Rizk reminded the Commissioners that they would be making a recommendation to Council.

Chair Enders referred to the EIR addendum page 51 and made a recommendation to remove the mitigation measure regarding the Santa Cruz Tar Plant that might be on the site as research shows that 50% of the time when the plant has been moved it has died. Planning Manager Buizer said the mitigation measure is a carryover from the already certified EIR that was prepared for the Mission Boulevard Corridor Specific Plan and an analysis must be done to determine if the plant exists on the project site. Ms. Enders withdrew her recommendation.

A motion was made by Commissioner Willis Jr., seconded by Commissioner McDermott, to approve the item per the staff recommendation to recommend the item to Council for approval.

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



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Commissioner Schott returned to the Council Chambers at 9:19 p.m.

**COMMISSION REPORTS**

Oral Reports on Planning and Zoning Matters

Planning Manager Buizer said the Planning Commission has full agendas for the next two meetings on May 11 and May 25.

Commissioners' Announcements, Referrals

There were none.

**ADJOURNMENT**

Chair Enders adjourned the meeting at 9:19 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