



**MINUTES OF THE MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
REMOTE PARTICIPATION
Thursday, February 11, 2021, 7:00 p.m.**

This meeting was conducted utilizing teleconference and electronic means consistent with State of California Executive Order No. 29-20 dated March 17, 2020, and Alameda County Health Officer Order No. 20-10 dated April 29, 2020, regarding the COVID-19 pandemic. Members of the Planning Commission, City Staff, and members of the public participated via the Zoom Webinar platform.

MEETING

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

ROLL CALL

Present: COMMISSIONERS: Ali-Sullivan, Bonilla, Goldstein, Oquenda, Stevens
CHAIRPERSON: Roche
Absent: COMMISSIONER: Patton

Staff Members Present: Billoups, Blanton, Brick, Chan, Emura, Lochirco, Martinez, Nguyen, Vigilia, Wikstrom

PUBLIC COMMENT:

There were none.

PUBLIC HEARING:

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

For agenda items Nos. 2 and 3, 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.

1. Proposed Single-Family Residence on a Vacant 0.12-Acre Hillside Lot Located at 2382 Rainbow Court, by Ravi Jonnadula, H&M Ventures (applicant/Property Owners), Requiring Approval of a Site Plan Review and Grading Permit (Application No. 202002396)



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Associate Planner Emura provided a synopsis of the staff report and PowerPoint presentation. Mr. Emura noted a correction to the Development Standards Chart in which the rear yard setback is 20 feet.

Discussion ensued between staff and the Planning Commission regarding the following: Were there any public comments from the adjacent property owner; request staff to provide improved language for Condition of Approval (COA) 29d related to managing runoff to represent mitigation measures for future storms; and the accessibility of driveway and sidewalk.

Associate Planner Emura noted that the adjacent property owner, Holly Guier, had concerns about the elevations and staff provided Ms. Guier with a final copy of the plans.

Senior Civil Engineer Wikstrom noted that there will be standardized COAs and will provide language to address COA 29d that manages runoff and spoke about how standardizing the language will provide staff discretion and flexibility to work with the applicant. Mr. Wikstrom said the driveway and sidewalk accessibility will be reviewed during the grading permit process.

Chair Roche opened the public comment at 7:20 p.m.

Ms. Holly Guier, Hayward resident, spoke about issues with the project grading and has significant concerns about the impact to her property as to the stability of the hill as other development has already caused cracks on her property.

Chair Roche closed the public comments at 7:22 p.m.

Commissioner Oquenda said that it be worthwhile to have future conversations regarding initiating an in-lieu fee component for larger single-family homes that have a single dwelling unit.

Commissioner Bonilla asked staff to address Ms. Guier's concerns regarding the residual effects that could adversely impact her property because of the proposed development, and who is responsible if there are issues on Ms. Guier's property.

Senior Civil Engineer Wikstrom stated Ms. Guier's concerns are valid as there will be a significant amount of grading that will be performed behind her property and if something were to occur, then there would be a legal remedy for damages. Mr. Wikstrom said included in COA #21 is a requirement for a geotechnical report and the avenue for staff to pursue is to have the proper geotechnical report to enable staff to make the appropriate recommendations to prevent this from occurring through the COAs and grading permit



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process.

Commissioner Stevens stated that design matters as the type of architecture and site design that is used is what creates a sense of community and does not feel this is an appropriate use of the land nor the appropriate design for this setting. Mr. Stevens said the adjacent property had several large trees that were removed after April 2019 and asked if there was a previous grading permit that allowed for the tree removal. He encouraged the City's policy makers to formalize the design review for all homes that are built in Hayward so that the community can have a say in how projects are developed.

Commissioner Ali-Sullivan requested Commissioner Stevens to explain his comment of "not the appropriate use of land". Mr. Stevens said when properties are being developed, we need to be respectful of the environment, topography, and nature. He said it is not prudent to perform expensive excavation and build retaining walls and other systems when there are other options such as building a smaller home which would be a better fit for the topography. Mr. Stevens said if you view the entire area it is all going to be constructed, paved and all the vegetation will be removed from this area.

Chair Roche said she visited the site, and that the area is all built out. Ms. Roche said it is concerning there are already cracks in the Ms. Guier's foundation as there are some huge houses near her property. Ms. Roche said this will be the last site to be developed and the developer is following all the City's requirements and taking measures to make sure the grading is done properly. Ms. Roche is ready to move forward with this item.

A motion was made by Commissioner Goldstein seconded by Commissioner Ali-Sullivan, to recommend to the City Council to approve the staff recommendation, which includes a modification to COA 29d to replace the language with the following: The project shall not block runoff from, or augment runoff to, adjacent properties. The developer shall be required to mitigate augmented runoff to maintain post-development site discharge rates to less than or equal to pre-development discharge rates to the satisfaction of the City Engineer.

The motion passed with the following roll call votes:

AYES:	Commissioners Ali-Sullivan, Bonilla, Goldstein, Oquenda, Stevens Chair Roche
NOES:	None
ABSENT:	Commissioner Patton
ABSTAIN:	None



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2. Proposed Cannabis Microbusiness with Delivery, Distribution, and Manufacturing Activities Located at 2416 Radley Court, Unit 3 (APN: 439-0058-112-00) Requiring Approval of Conditional Use Permit Application No. 201901980. Jeffrey Teicheira of Green Grizzly (Applicant); Diane Wright Trust (Property Owner)

Associate Planner Martinez provided a synopsis of the staff report and PowerPoint presentation. Mr. Martinez announced that staff received two public comments after the agenda was published, one from the applicant and one from Balch Enterprises who owns property in proximity to the project site. Mr. Martinez said that both were shared with the Planning Commission members prior to tonight's hearing and is posted on the City's website.

Discussion ensued between staff, the Planning Commission, and the applicant regarding the following:

What are the projected revenues; confirm wages; will the applicant participate in equity hiring practices for those who have been charged with cannabis-related offenses; closed loophole process for cannabis wastewater treatment; disposal process of solid waste material to be compostable and the environmental impacts; requirements for cameras in the delivery/distribution trucks; staff response to applicant's request for proposed modification to conditions of approval; hours of operation; improvements to exterior of building including the addition of public art; how many cannabis commercial operators have been approved and how many are in process; parking spaces; has applicant considered all electric vehicles and having electric vehicle charging docks; has applicant considered participating in the City beautification programs; do applicants need to come before the Commission for each license; and data on odor mitigation and security issues.

Natalia Thurston, lawyer for applicant, Green Grizzly, the projected revenues are included in the development application and for year one it is \$3,168,757 gross and at the City's 7% tax rate the City would derive approximately \$220,000; confirmed that wages would be at \$20/per hour and that Green Grizzly will participate in equity hiring practices for persons previously criminalized. Ms. Thurston said for solid waste disposal there are state rules and laws governing microbusinesses and spoke about contracting with a third party and explained the process. She said this solid waste would be compostable and the manufacturing process does not contain any toxins. Ms. Thurston stated that Green Grizzly intends to incorporate sustainable practices to contribute to the clean environment.

Associate Planner Martinez explained the closed loop system for water treatment is a self-contained zero discharge system that recycles the water that goes through the manufacturing process. Mr. Martinez said that the City's Water Pollution



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Source Control staff would only require this system if an applicant were using a solvent based extraction method. He said that Green Grizzly is not using a solvent based method therefore the requirement does not apply.

Associate Planner Martinez said Ms. Thurston requested modification to COA #2 related to the loading and unloading of distribution vehicles and relayed that he had a conversation with Ms. Thurston and the Hayward Police Department. Mr. Martinez said the City wants this condition to remain, thus all operations and all potential visibility of the cannabis product is performed indoors. Mr. Martinez said Ms. Thurston's other request was to modify COA #5 about COA #38a with respect to security cameras in the distribution and delivery vehicles and this has been discussed and the condition will also remain. Mr. Martinez said the applicant's hours of operations is within the framework of the State's Bureau of Cannabis Control and noted the Commission can place more restrictive hours through a condition of approval.

Principal Planner Lochirco said that the City Council authorized 23 licenses, six applicants failed to meet the timing deadline for submittal of their land use application; one applicant's permit license was revoked, and currently there are three that are operational. Mr. Lochirco said that the rest are in various stages of approval. He noted that some applicants have applied for several licenses through the City.

Associate Planner Martinez clarified that there are certain land use applications that have minimal intensity such as deliveries and testing laboratories, that are eligible for an administrative use permit which can be decided at the staff level unless appealed.

Associate Planner Martinez responded that there are three cannabis businesses in operation and are as follows: a dispensary, a testing laboratory, and a manufacturing operation. He said the testing facility probably has a robust odor mitigation plan as cannabis is a small component of their business as they also test food and other products. The majority of the dispensary's products are prepackaged and preprocessed and odor would be at a minimum per the State guidelines. He said for the manufacturing operation, this is part of a commercial kitchen operation and the cannabis component is a small portion of a larger operation. Mr. Martinez said he is not aware of any data regarding odor nuisances at this time and that the operations are subject to an annual review and annual inspection prior to renewing their cannabis permit. Mr. Martinez said the City does not have data on security issues at this time.

Principal Planner Lochirco clarified that the manufacturing facility that is currently open and operational is using an odorless cannabis extraction method and that the cultivation operations could potentially be more noticeable when they come online and will be subject to higher scrutiny.



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Ms. Thurston conveyed that security can be an issue for cannabis businesses and that Green Grizzly can build a cage inside the warehouse for the vehicle to pull this way no one can access the warehouse and employees.

There being no speakers, Chair Roche opened and closed the public hearing at 8:15 p.m.

Commissioner Ali-Sullivan has concerns about the hours of operation going into the evening which can attract theft and vandalism and asked if the Commission would consider amending the hours of operation.

Commissioner Stevens appreciates the applicant's Community Benefit Program (CBP) offer of providing funding for youth programs but raised the concern that cannabis like alcohol is not an innocuous substance and would like to see a CBP aimed to help adults that could get themselves in trouble with cannabis.

Associate Planner Martinez confirmed for Commissioner Bonilla that the applicant's hours are consistent with similar microbusinesses that the Commission has previously discussed and approved. Mr. Bonilla appreciates the applicant's willingness to consider an all-electric fleet and encouraged them to do so; appreciates their sustainability measures; commitment to equity hiring and he noted the importance of this; appreciates the livable wages and hopes other businesses will take the lead from Green Grizzly and do the same.

Commissioner Oquenda appreciates the applicant paying living wages; having an equity hiring practice for persons that have been criminalized which tends to be black and brown community members. He said that he is happy with the applicant's responses to invest in substance abuse programs and noted the Hayward Coalition's work for Healthy Youth where they have held community events to cannabis education for the public. He said it is important for the Commission to address the public health impact and any new cannabis businesses should be contributing to mitigating those harms.

Mr. Oquenda asked the Commission to include more specific language to the COAs that the Community Benefit Programs include education awareness and prevention on cannabis use. He would like the Commission to be consistent with the City Council's guidance and the City's vision for being sustainable, clean, and green, that there would be an eco-sustainable process in place for eligible cannabis waste disposal so that the waste is put to sustainable use especially the waste products that do not contain toxins or solvents.

Associate Planner Martinez confirmed for Commissioner Ali-Sullivan that the Commission has allowed the delivery component hours to extend to 10 p.m.



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Chair Roche thanked the applicant for being willing to accept the recommendations for the community benefit and for being cooperative. Ms. Roche agrees with her fellow Commissioners on the equity hiring practice and living wage. Ms. Roche said it would be good to implement a community benefit program monitoring system to be able to gather data on how the different businesses are complying.

Principal Planner Lochirco provided a point of clarification for the Commission that the community benefit program was specifically discussed at the Council level and Council was very intentional in raising the tax an extra 1%, with the reasoning being the City Council wanted to have an opportunity to make sure that the community benefit program would be supported by a percentage of the overall revenue that was being generated by that business. He said the community benefit program is already considered as part of the additional sales tax.

Chair Roche reopened the public comment at 8:28 p.m.

Ms. T. Paige Bearce-Beery, Hayward business owner, supports having the operation until 10 p.m. as it gets very quiet and dark in that area and having business operations until that time are welcome.

Chair Roche closed the public comment at 8:29 p.m.

Principal Planner Lochirco responded to Commissioner Oquenda that part of the applicant's application was a community benefit component and since then Council has taken a different course of action to formalize how to best meet the community needs with the resources that would be coming in and to standardize the sales tax. Mr. Lochirco said that some of the businesses have voluntarily performed outreach to members of the community.

Commissioner Oquenda made a motion to approve the staff recommendation.

Commissioner Stevens seconded the motion.

Commissioner Ali-Sullivan made a friendly amendment to include a COA that the applicant participates in the City's Adopt a Block program.

Commissioners Oquenda and Stevens accepted the friendly amendment.

A motion was made by Commissioner Oquenda seconded by Commissioner Stevens to approve the staff recommendation with the added COA that the applicant participate in the City's Adopt a Block Program.



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The motion passed with the following roll call votes:

AYES: Commissioners Ali-Sullivan, Bonilla, Goldstein, Oquenda, Stevens
Chair Roche
NOES: None
ABSENT: Commissioner Patton
ABSTAIN: None

3. Proposed Industrial Campus with Three Speculative Industrial Buildings and a Three-Story Data Center on Approximately 26-Acre Site Located at 25800 Clawiter Road (APNs 439-0080-003-07, 439-0080-003-12, 439-0080-010-00, 439-0080-005-02, and 439-0080-003-10) Requiring Approval of Major Site Plan Review and Conditional Use Permit Application No. 201906718 and Adoption of a Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program (MMRP): Teresa Goodwin for HPA Architecture (applicant) on behalf of Janet Galvez for Hines (Owner)

Associate Planner Blanton provided a synopsis of the staff report and PowerPoint presentation. Ms. Blanton spoke to the following revisions: the first being a minor modification to Mitigation Measure GHG-1 and revisions to conditions of approval related to Mitigation Measure GHG-1, transportation, and landscaping. Ms. Blanton said the applicant was present and has a presentation.

Ms. Janet Galvez, project manager, provided a PowerPoint presentation, and spoke about the project. Ms. Galvez spoke about receiving, at last-minute, Condition of Approval #81 for a new traffic signal light which requires a payment of \$500,000, and given the short notice of this condition, Ms. Galvez is requesting that the payment be due upon the issuance of the Certificate of Occupancy and would also like to be reimbursed by other projects that are in the pipeline that will benefit from the traffic light. Ms. Galvez said that she wants to be responsible for her fair share only and requests that the Planning Commission take this into consideration.

Ms. Teresa Goodwin, HPA Architecture, spoke about the project.

Commissioner Oquenda disclosed that he had a conversation with the representative of the Sheet Metal Workers Union, they did not discuss the project and he was informed about the tentative labor agreement between the union and the developer. Mr. Oquenda said there is not a conflict of interest and he will be participating in the item.

Discussion ensued between staff, Planning Commission, the applicant, and applicant's team regarding the following:



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What is the practice for modifying the \$500,000 fee for the traffic light and what options are available for deferring the payment; appreciation for the public outreach and that suggestions were included in the project; where can public art be placed; pedestrian movement between the two buildings; applicant's commitment to building the entire project and any mechanism for developer to complete the project; employee and public amenities; traffic operational deficiencies; number of electric vehicles parking spaces; project labor agreements; is there a need to coordinate with HASPA because of the close proximity to the bay; how long does the applicant need to analyze the traffic light signal fee; parking standards and for revised COA #36 is there be more specific language for level of service.

Associate Planner Blanton stated that the \$500,000 fee comes from the Alameda County Transportation Commission (CTC); this traffic light signal would be a part of the interchange with the interstate and is more complicated than a standard intersection signal. Ms. Blanton said the revised COA contains Condition #81 and there is language that speaks to the cost sharing aspect where other projects will be contributing to the cost of the traffic signal and Hines would be reimbursed. Ms. Blanton said regarding the other concern raised by the applicant about the timing of the payment, that per Public Works Director Ameri, there typically is not a phasing for payments and the deposits are due earlier on in the process than what the applicant is proposing. Ms. Blanton said employees will safely use Clawiter to traverse the area. Ms. Blanton said there is not a specific condition that requires the applicant to finish the project, however, there is condition language that requires the frontage and landscaping improvements must be completed, that way if the next buildings are delayed, there is still a finished project feel from the street while the phases are being developed. Ms. Blanton said the majority of parking spaces fall under the Industrial zoning specifications.

Ms. Galvez stated the financials to support the project are in place and they can proceed with the full development. She is requesting to defer the traffic light signal fee because it was a last minute added expense and she needs time to figure out this cost with her financial partners. Ms. Galvez said the goal is to pay the fee when they pull the permits for buildings 1, 2 and 3. She shared what is done in other cities for traffic impact fees. Ms. Galvez said they have several project labor agreements with positive relationships with the unions.

Associate Planner Blanton said that the first to be built is building 4 and the tenant for this building is not expected to generate a lot of traffic. The buildings expected to generate more traffic are buildings 1, 2 and 3 and when the permits are pulled for these buildings the applicant is proposing to pay the fee at that time. Ms. Blanton reiterated that she did receive this direction from the Public Works Department as they were very clear that the



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payment should be consistent as is done with other projects. Ms. Blanton explained the local transportation analysis process and how it relates to projects. Ms. Blanton said traffic studies take longer to develop and the final version was ready about a week ago and that this was in response to the applicant's desire to expedite the project and for the item to be brought before the Planning Commission. Ms. Blanton said that HASPA has viewed the project and are generally supportive of the design and HASPA was more interested in the pedestrian and bike infrastructure. Ms. Blanton said revised COA #36 is a menu of options for the GHG.

Principal Planner Lochirco said that the project location, though close to the Hayward area shoreline, analysis shows that the project should not have any impact from the sea level rise and does not believe it is in an area designated as a flood plain.

Assistant City Attorney Brick suggested that the timing of the payment can be at the discretion of the Public Works Director as this would allow the applicant and the Public Works Director to work together on a compromise. Mr. Brick said a partial payment could create problems because if there is a need for traffic control then the funds would not be available to build the traffic light.

Chair Roche opened the public hearing at 9:43 p.m.

Mr. Kim Huggett, President of the Hayward Chamber of Commerce, spoke in support of the project, stated that the Chamber reviewed the plan, and they believe that this development will be a great contribution to the City and will help to get Hayward back on its feet and get people working.

Mr. Vince Sugrue, representing Sheet Metal Workers Union Local 104, spoke in support of the project that will play an important role in the City and is committed to utilize a skilled and trained local labor force to help construct this development.

Mr. Jason Lindsey, Business Representative for Iron Workers Local 378, spoke in support of the project and that many of his members live in Hayward. He spoke about the importance of a having a trained skilled workforce.

Mr. Glenn Loveall, Political Coordinator of Iron Worker Local 378, spoke in support of the project and the project labor agreement and how it will prioritize having local members working on this project.

Ms. April Atkins, Field Representative for Carpenters Local 713, representing 4300 carpenters locally and 40,000 throughout No California, spoke in support of the project and



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how this project will provide the opportunity for many men and women to work on this project. Ms. Atkins said the Carpenters Union is in full support of this project.

Chair Roche closed the public hearing at 9:52 p.m.

Commissioner Oquenda supports the project and commends the Planning Commission for their work on this project, as this is the kind of project that represents the type of growth that the City needs. He appreciates the applicant's work with the different unions on the project labor agreements. Mr. Oquenda accepts revised COAs #36B and for #82, he encouraged the Commission to leave the payment for the traffic light signal to the discretion of the Public Works Director. He supports the parking reduction for building 4.

Ms. Alicia Guerra, of Buchalter, in response to comments about COA #82, she wanted to clarify that often when cities do not have development impact fee programs and the city wants to impose additional requirements to fund infrastructure, they will enter into an agreement that specifies the timing for deposit, phasing and funding, and include reimbursement provisions.

Commissioner Ali-Sullivan said this is an impactful development that represents what the City envisions moving forward. He appreciates the willingness of labor and applicant to work together on labor agreements. Mr. Ali-Sullivan hopes that moving forward this is a model for other developments to support fair wages. He favors the project and sees this project as a catalyst for the industrial area.

Commissioner Bonilla said he agrees that this is a great project; appreciated that the applicant listened to staff, the Planning Commission and the community and acted on the feedback and suggestions. Mr. Bonilla made a motion to approve the staff recommendation with an addition to revised COA #82 for the Public Works Director to have the discretion to work with the applicant regarding the deposit.

Commissioner Goldstein seconded the motion.

Commissioner Stevens fully supports the project and noted that a data center of this caliber exists in only a few places in the world. He feels very fortunate that the applicant chose Hayward for this project.

Chair Roche was glad there was the Work Session which allowed the Planning Commission to work out a lot of issues at that time and that the applicant did a great job listening and incorporating the suggestions. Ms. Roche is pleased about the labor agreements.



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A motion was made by Commissioner Bonilla seconded by Commissioner Goldstein to approve the staff recommendation with added language to the COA #82 to read as follows: at the discretion of the Director of Public Works, payment under this condition may be delayed up until issuance of the Certificate of Occupancy and may be prorated by the Building Division.

The motion passed with the following roll call votes:

AYES: Commissioners Ali-Sullivan, Bonilla, Goldstein, Oquenda, Stevens
Chair Roche
NOES: None
ABSENT: Commissioner Patton
ABSTAIN: None

APPROVAL OF MINUTES

4. Approval of the Planning Commission Meeting Minutes of January 28, 2021.

A motion was made by Commissioner Bonilla, seconded by Commissioner Stevens, to approve the Planning Commission Meeting Minutes of January 28, 2021.

The motion passed with the following roll call votes:

AYES: Commissioners Ali-Sullivan, Bonilla, Goldstein, Oquenda, Stevens
Chair Roche
NOES: None
ABSENT: Commissioner Patton
ABSTAIN: None

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters:

Principal Planner Lochirco announced that there are currently no items scheduled for the February 25, 2021 meeting and it could be cancelled.

Commissioners' Announcements, Referrals:

Commissioner Ali-Sullivan and the Planning Commissioners extended a warm welcome to Commissioner Oquenda.



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Commissioner Oquenda announced that the City Council will be reviewing the Strategic Road Map this Saturday, February 13, 2021. He appreciates the welcome.

Commissioner Stevens announced that Alameda County is working on the planning for a Youth Biking & Hiking Trail that will connects Niles and Sunol, and there is preliminary information on the County's website.

ADJOURNMENT

Chair Roche adjourned the meeting at 10:13 p.m.

APPROVED:

Robert Stevens, Secretary
Planning Commission

ATTEST:

Denise Chan, Senior Secretary
Office of the City Clerk