



**MINUTES OF THE SPECIAL MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
REMOTE PARTICIPATION
Thursday, May 14, 2020, 7:00 p.m.**

This meeting was called to order by Chair Bonilla at 7:00 p.m. and 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.

ROLL CALL

Present: COMMISSIONERS: Stevens, Andrews, Faria, Patton, Roche, Goldstein
CHAIRPERSON: Bonilla
Absent: COMMISSIONER: None

Staff Members Present: Ameri, Billoups, Blanton, Brick, Buizer, Byrne, Chan, Davis, Garcia, Kelley, Lo, Maravilla, Ott, Simpson, Vigilia

PUBLIC COMMENT:

Public Comment was limited to items on the Agenda.

PUBLIC HEARINGS: For agenda items No. 1 and No. 2, the Planning Commission may make a recommendation to the City Council. For agenda items No. 3 and No. 4, 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. Recommend FY 2021 – FY 2030 Capital Improvement Program

Public Works Director Ameri provided a synopsis of the staff report and PowerPoint presentation.

Commissioner Andrews asked about the following: if the City has looked at additional State and federal funding to offset City's loans; when the Tennyson corridor project will be completed and if it will extend to Hesperian or Industrial; and the La Vista Park timeline. Public Works Director Ameri said what is available are the State's revolving fund low interest financing and any stimulus monies; and the Tennyson Corridor project is to be completed in 2021. Deputy Public Works Director Garcia said staff is looking at implementing several projects for Hesperian Boulevard. Mr. Ameri said the La Vista Park design completion is in December 2020 with construction commencing in April 2021 and will take about a year to complete. Mr. Ameri said the City will be seeking funding sources for the Eden Youth and Family Center and that even though the project has been deferred the project will move forward at a later date.



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Commissioner Faria thanked staff for their hard work on these difficult decisions; for seeking other funding sources and asked about the location of the solar project. Public Works Director Ameri said the solar project is located at the end of Enterprise Avenue adjacent to the WasteWater Treatment plant where old ponds are being converted for solar use.

Discussion ensued between Commissioner Patton and staff regarding: does the CIP address the issue of undergrounding of utilities along Jackson Street; the Downtown Specific Plan projects redesign of the downtown one-way street and the Mission/Foothill/Jackson couplet, if this is included in the Mission or Jackson corridor plans; and if the CIP addresses the public improvements in the City's new Industrial Districts. Public Works Director Ameri said that Jackson Street from Mission through Santa Clara is the responsibility of the City and if a development that causes a visual impact, the City has the responsibility to perform the utility undergrounding. Mr. Ameri said depending on the size of a project; the impact and how the street design and sidewalks are affected there are requirements for developers to underground the utilities. Mr. Ameri said if there is a City project, then the City will work with PG&E for the undergrounding of the utilities. Mr. Ameri said for the Mission/Foothill/Jackson one-way streets and turning it into a two way in the downtown area, the City will be researching the feasibility, cost and other impacts for this project and will be making a recommendation to Council. Mr. Ameri said the City will be looking for public improvements in the Industrial District. Mr. Patton would like to see included in the CIP a public improvement study that will include recommendations of how these improvements can be completed and also what conditions can be applied to private development so that the City does not have to fund all of the public improvements. Mr. Ameri said this study is not a part of the 2021 CIP, but he will look into this and seek the City Council's direction.

Discussion ensued between Commissioner Roche and staff regarding: COVID-19 impacts to City CIP projects because of lack of revenue; deferred projects; allocated projects moving forward; Mission Boulevard Fairway Park linear park improvement project; and to maintain the weeds that are growing between the old and new fences. Public Works Director Ameri said the impact to the CIP projects will depend on how quickly the economy and the City revenues recover from the COVID-19 pandemic; for the linear park the City is requesting a two level design to defer some of the cost and staff will take a look at the weed situation. Mr. Ameri said the Fire Station 6 and Training Center project will move forward as this is partially funded by Measure C and will also depend on the amount when the bids come in.

Discussion ensued between Commissioner Goldstein and staff about the following: since



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the East Bay Energy Collective has found a cheaper energy source, it is still cost effective for the City to continue building the solar infrastructure; and how long can the City safely defer the fleet program for Fire and Police. Public Works Director Ameri responded that it is advantageous for the City to have their own solar, the City has land that is part of the WasteWater Treatment plant and that the previous solar project that was built seven years ago has paid for itself already and has twenty-two more years of life left. Mr. Ameri assured the Commissioners that any deferment of the Fleet program has been in consultation with the Fire, Police and Maintenance Services Department and some of the vehicles can still be utilized for one to two years without compromising the safe operation of these vehicles.

Chair Bonilla asked how the City prioritized which projects will move forward and which ones can be deferred and if the projects are prioritized once the economic losses of the pandemic are realized. Public Works Director Ameri responded that staff will review the requirements of the General Plan, the Master Plan, ten-year Water Master Plan, other specific plans developed for other improvements and staff will discuss what the needs are. This is then discussed with City Council and projects will be prioritized based on need and funding availability. Mr. Ameri confirmed that once the City has the true financial picture for FY 2021 then staff can determine which CIP projects can move forward.

Chair Bonilla opened and closed the public hearing at 7:41 p.m.

Chair Bonilla commented from a financing perspective that the City is not bearing all the costs on the projects and sets up strategic partnerships to fund these major projects. Mr. Bonilla appreciated Public Works Director Ameri clearly outlining how the projects align to the City of Hayward's Strategic Plan and priorities.

Commissioner Roche made a motion, seconded by Commissioner Patton to approve the staff recommendation. The motion passed with the following vote:

AYES:	Commissioners Stevens, Andrews, Faria, Patton, Roche, Goldstein Chair Bonilla
NOES:	None
ABSENT:	None
ABSTAIN:	None

2. Proposal to rezone a 2.67-acre site located at the intersection of Apple Avenue and Oak Street (Assessor Parcel Nos. 415-0160—052-00 & 415-0170-037-00), requiring a zoning map amendment and approval of an addendum to the Hayward 2040 General Plan EIR. Application No. 202000605, City of Hayward (Applicant and Owner)



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Associate Planner Maravilla provided a synopsis of the staff report and PowerPoint presentation. Mr. Maravilla announced that the Notice of Public Hearing had an error and he clarified that none of the parcels are to be rezoned public facility (PF).

In response to Commissioner Goldstein's comments about plans to address traffic issues along Foothill Boulevard; Associate Planner Maravilla said that the addendum analyzed traffic as part of the rezone and took into consideration the traffic for a hotel project of up to 150 rooms.

Commissioner Roche asked why a hotel was considered as opposed to housing. Deputy City Manager Ott said staff looked at the different parcels to be able to balance different uses and this site had the potential for commercial use because of the close proximity to the freeway and could potentially generate transient occupancy tax (TOT) which is revenue for the City. Ms. Ott said that generally Hayward's hotel market is strong but because of the COVID-19 crisis, this may take several years to recover and that Council could still be open to exploring other possibilities but at this point it is too early to decide and Council would want to see how quickly the economy recovers. Ms. Ott said during the outreach presentations the concerns from the community were about the existing hotel uses and operations at the hotels including crime. Ms. Ott mentioned that when the City transfers a property to a private owner, the City has the ability to place land covenants and restrictions that require the new owners to operate a first-class hotel. Ms. Roche commented that the community feedback was more about wanting a community at that site where residents would be invested in their neighborhood and have cohesiveness and were concerned about a hotel.

Commissioner Patton said these parcels have access issues particularly where Apple Avenue connects to Foothill Boulevard as you cannot make left turns onto Foothill. He does not see these as viable commercial properties and that they should be designated as residential and is not opposed to the rezoning as that allows for range. Mr. Patton recommended that the City issue a Request for Proposals (RFP) that does not predispose that a hotel is the highest and best use and allow the market to come back with the permitted range of use. Deputy City Manager Ott said because of the COVID-19 crisis, Council's direction is to put a hold on RFPs and to return to Council in three to six months. Ms. Ott said she will pass the recommendation on to Council that the RFP provide flexibility. Ms. Ott shared that feedback from the community besides the access issues was the traffic impacts along Grove and accessing the school and with residential there will still be traffic impacts as opposed to a hotel which could have off peak traffic trips. Ms. Ott acknowledges that there will need to be a traffic study for existing traffic accessibility issues. Mr. Patton asked how are entitlements between jurisdictions handled and how is the lead agency determined; Ms. Ott said that under the California Environmental Quality Act (CEQA) the City would be the lead agency since the City



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owns the land even if the land falls under the jurisdiction of the County. It is important to make sure that the City and County are on the same page so as to not cause any confusion for developers. Planning Manager Buizer shared that the City has a good working relationship with County staff since 2008 when the City conducted the land use study and staff is actively engaged in conversations with the County.

Commissioner Faria asked staff about the following: zone change does not preclude affordable housing as long as there was ground floor commercial; the status of three current hotel projects as the one on Mission Boulevard is almost done and two look like they have not started. Deputy City Manager Ott commented that the City does not want to prevent pivoting to residential and she understand that for the hotel projects if they have been financed and are under construction then they will be moving forward but if the projects are in the entitlement stages it might be difficult to obtain financing. Ms. Ott said Hayward gets the spill over from Silicon Valley, but it might take one to three years for Hayward's hotel market to recover. Ms. Ott said staff will check on the status the two hotels that have not yet started construction.

Commissioner Andrews asked about the amenities for a hotel to be in this area as it seems to be disconnected from the downtown and industrial areas and expressed concern about the traveler's experience and asked about the auxiliary uses for the hotel. Ms. Andrews agreed with Commissioner Patton if this is the best location for a hotel and expressed concern for the residents and cautioned the City about building so much for the traveler. Ms. Andrews asked about the possibility of mixed use.

Deputy City Manager Ott said this would be a business class hotel and the site benefits are easy access off the freeway, the close proximity to a number of business markets; the hotel can attract business from Silicon Valley and TriValley, and the hotel would be visible from the freeway. Ms. Ott said the pros would be that it does not have the best amenities nearby but noted there are other hotels around like the ones near the airport that are in the same situation. Ms. Ott said the hotel might need to have onsite amenities for their guests that could also serve the neighborhood. Ms. Ott commented that she will share Commissioner Andrews' comments with the City Council.

Commissioner Stevens asked prior to COVID-19 crisis, was there a formal economic/demand analysis conducted; Deputy City Manager Ott said staff did not conduct a full analysis; staff retained a broker who conducted a mini market assessment and did an opinion of value as there is a Caltrans base price that the City needs to meet; staff spoke to some hotel developers about the site; and noted that some of this is aspirational as the City Council wanted to attract commercial and staff marketed the site for commercial prior to the COVID crisis.

Chair Bonilla said if the Planning Commission approves the zone change, will the hotel item



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come before the Planning Commission; Planning Manager Buizer said the zone change does not require any special use permits that would require coming back before the Commission for a decision. The hotel would be subject to a site plan review which is an administrative process and the property because it is owned by the City, would go through a disposition process that would go before the City Council. Ms. Buizer said the site plan review though decided administratively if there is an appeal or concerns, the item could be brought before the Planning Commission. The Chair said it seems that the City is focusing on a hotel for this site and noted there are a lot of hotels being built in the City. Mr. Bonilla said he agrees with Commissioner Patton as he is in favor of the zone change and asked if there was community feedback in support of the project. Deputy City Manager Ott said there was a project specific Parcel Group 8 and 9 neighborhood meetings and most of the comments were focused on Parcel Group 8 with concerns about affordable and multi-housing and traffic along Grove Way and the school. Ms. Ott said there were comments about the hotel being similar to what exists in the area as the current hotels are not great contributors to the neighborhood. Ms. Ott said there was not a lot of pros or cons in regard to Parcel Group 9. Chair Bonilla requested that staff let the City Council know that several Commissioners would like the RFP process to have a broader scope rather than just the hotel especially in light of the COVID crisis impacts.

Deputy City Manager Ott said that she is happy to come back to the Commissioner to provide updates and to provide the City Council with the Commissions comments and recommendations.

Having no public speakers, Chair Bonilla opened and closed the public hearing at 8:24 p.m.

Commissioner Stevens commented that in a pre-COVID world this site could have been tough to develop and in the post-COVID world a lot of things are going to change especially related to commercial office space and a lot of the employment centers in the south bay are likely going to change. Mr. Stevens said rezoning the site and issuing an RFP that offers the highest and best use for the land makes a lot of sense. Mr. Stevens supports the item and cautions staff going into the post COVID world.

Commissioner Faria made a motion to approve the staff recommendation.

Commissioner Stevens seconded the motion



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The motion passed with the following vote:

3. Proposed Cannabis Microbusiness with delivery, Distribution, and Manufacturing Activities Located at 23287 Foley Street, Unit B (Assessor Parcel No. 439-0036-104-00) Requiring Approval of Conditional Use Permit Application No. 201901361. Farhad Doctor (Applicant); Liang Xianghua (Property Owner)

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

Mr. Farhad Doctor, applicant, thanked the Commission for being able to become a part of the Hayward business community and to be able to have a positive impact.

Commissioner Stevens asked about the neighbors' comments about issues with federal laws, if there is an issue can this impact neighboring businesses. Assistant City Attorney Brick said if the businesses are independent and separate, there should not be any impact, if the businesses were codependent in the same space/parcel there may be impacts based on seizure of the assets.

Commissioner Andrews thanked staff for the informative report that answered her questions. Ms. Andrews asked about the following: 24-hour security if it becomes necessary; cost sharing of the 24-hour security among businesses in the area; and consider social equity programs especially for prospective employees who have been convicted of cannabis activity. Mr. Doctor responded that if crime increased and affected his business, they would consider 24-hour security. He said at this point while the business is closed and with the safety measures required by the City 24-hour security is not deemed necessary. Mr. Doctor said in his experience because of the high amount of security measures in place at legal cannabis businesses that any crime against cannabis business is usually against the black market. Associate Planner Blanton said that the commercial cannabis permit is reviewed annually and one of the items looked at is the number of service calls and that the Conditions of Approval (COA) can be revised or the permit revoked at that time. Ms. Blanton said the cost sharing of the 24-hour security has been informally discussed especially if there are more cannabis businesses in the area. Mr. Doctor said that he is open to developing a social equity program for prospective employees who have been convicted of cannabis related activity and said he is a huge advocate for the cannabis industry.

Commissioner Faria asked if there have been any issues with manufacturing cannabis businesses, neither Planning Manager Buizer nor Associate Planner Blanton know of any incidents with existing permitted cannabis businesses.



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Commissioner Roche asked about odor mitigation measures and if there have been any issues; agriculture business versus light industrial; and as long as the product is not shipped out of state this does not trigger any federal laws.

Associate Planner Blanton said the Fire Department organized a tour of Oakland Cannabis businesses for Fire and Development Services Department staff to become acquainted with these types of businesses. Ms. Blanton said that charcoal filters are commonly used to mitigate odors and if there is a noticeable odor, then the businesses can adjust their filtration systems. Ms. Blanton shared that staff feels this is a very important issue and that is why included in the Hayward Municipal Code (HMC) regarding cannabis, there are very specific language that the odor mitigation plan has to designed by an industrial hygienist or industrial engineer. Ms. Blanton said this is an agricultural business and is in between agriculture and light industrial and similar to food processing. Senior Assistant City Attorney Vigilia said the past two federal administrations have not pursued any policies that would curb the ability of local jurisdictions to allow cannabis business and the City Attorney's Office is not in the position to provide legal advice to applicants as to whether they are complying with federal law.

Commissioner Goldstein said he admires the applicant's support for social justice programs but has concerns and asked what measures are in place during the hiring process to vet the prospective employees who might have a substance abuse issue and any programs in place to address this abuse issue. Mr. Doctor said that he would offer support to any employees who have substance abuse issues. Mr. Doctor said they have a very thorough hiring process which includes drug tests, review of driving records and requiring references from people he personally knows, and he takes his time during the hiring process. He said employees have a probationary period and go through a training program.

Chair Bonilla requested that the applicant speak about his experience in running a cannabis business and to address community members concerns about having the proper safeguards in place. Mr. Doctor provided a brief history and what brought him to the cannabis industry; about attending a trade school for cannabis in Oakland called Oaksterdam that introduced him to the cannabis business which included point of sales, delivery, and learning about policies and procedures.

Having no public speakers, Chair Bonilla opened and closed the public hearing at 9:04 p.m.

Commissioner Roche stated that the applicant went through the intensive City permitting process and met all of the requirements. Ms. Roche supports the item.



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Commissioner Andrews asked if there is the possibility of renaming products so as to not be so attractive to youth. Mr. Doctor said that cannabis legalization steers away from being attractive to youth through the names and advertising and he will not be advertising to children. He said this is dependent on the State Bureau of Cannabis Control put in place regulations and develop strict guidelines. Unfortunately, he is not able to change the names of products for legal reasons.

Commissioner Stevens commented that this application is in a multi-tenant building and if the other spaces are occupied, if there is a federal action this could place the other tenants in jeopardy. Mr. Stevens noted that he did not see any comments from businesses within the building. Mr. Stevens supports the item.

Chair Bonilla asked about the applicant's Community Benefits Plan and how will they determine their financial contribution. Mr. Doctor said that he has been in touch with the City and there has been talks about donating to City projects. Mr. Doctor said that initially what they have been doing at their other licensed facilities is donating \$5,000 to schools and other programs as well as donating their time and being a positive part of the community. Chair Bonilla commented that he appreciates the eco-friendly aspect of the business with the electric cars, sustainability, security plan that is consistent with other business plans that the Commission has reviewed. Chair Bonilla appreciates the applicant's preference for local hiring and the robust the security plan.

Commissioner Roche made a motion per the staff recommendation.

Commissioner Stevens seconded the motion.

The motion passed with the following vote:

AYES:	Commissioners Stevens, Andrews, Faria, Patton, Roche, Goldstein Chair Bonilla
NOES:	None
ABSENT:	None
ABSTAIN:	None

4. Proposed Cannabis Microbusiness with Cultivation, Manufacturing, Distribution, and Delivery Activities Located at 2730 Cavanagh Court (APN No. 439-0036-103-00) Requiring Approval of Conditional Use Permit Application No. 201805798. American Holdings (Applicant); Moose and Squirrel Holdings, LLC (Property Owner)

Associate Planner Blanton provided a synopsis of the staff report and PowerPoint presentation



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Ms. Olga Ousherovitch, applicant, said she is happy to answer any questions.

Commissioner Andrews asked if there is any concern about the street located in the back; and if there has been any discussion of shared 24-hour security; and consideration of a social equity hiring program. Associate Planner Blanton said staff and the applicant sat down with the police department regarding the site and per the Police Department (HPD) the proposed security fence is adequate and liked the composition of the metal fence. Ms. Blanton said that the applicant indicated that at this time the 24-hour security would be an expensive endeavor and the HPD did not indicate that the 24-hour security was necessary and if deemed necessary in the future it can be added on. Ms. Blanton said the prior business Sticky Thumb and the applicant American Holdings could potentially share this cost. Ms. Ousherovitch said that they have advanced security measures in place that includes besides the physical fence, there is an electronic fence and full surveillance of the street and other businesses. She said there will be 24-hour security when high value items are onsite and that all security measures were discussed with HPD and they were comfortable that these security measures were sufficient at this time. Ms. Ousherovitch is open to a social equity hiring program.

Commissioner Faria observed that this business will bring stability and improve the area which is currently vacant and needs maintenance.

Commissioner Roche inquired about the extra thresholds for cannabis applicants; Associate Planner Blanton said cannabis applicants need to address the issues of safety and security, have a unique cannabis odor mitigation plan, and have a sustainability plan. These additional measures are required because the City wants to make sure they attract quality operators. Ms. Roche commented that the cannabis applicants have these elevated requirements because of the nature of the cannabis industry and that the applicants are meeting these additional requirements.

Commissioner Goldstein asked about the following: applicant's Community Benefit Plan and what mitigation measures are in place to curb substance abuse. Ms. Ousherovitch explained her Community Benefit Plan that included donations to the Police and Fire Departments, have their growers be involved in helping with the South Hayward Parish community garden. The applicant will ensure that staff will be aware to assist anyone with a substance abuse issue and other issues.

Chair Bonilla requested the applicant explain her background in the cannabis business, Ms. Ousherovitch described her background and her educational and business experience. The applicant spoke on how she taught herself about the cannabis industry and how her



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company is structured to be successful. Chair Bonilla thanked Ms. Ousherovitch for her response and her responsiveness to the community.

Associate Planner Blanton confirmed for Commissioner Roche that both cannabis applicants will be delivering to both dispensaries and customers.

Chair Bonilla opened the public hearing at 9:49 p.m.

Mr. Michael Wolny, of the City Clerk staff, thanked the Planning Commission on the great job on their first virtual meeting and noted that he was testing the phone equipment.

Chair Bonilla closed the public hearing at 9:50 p.m.

Commissioner Stevens commented that this is a very solid application and supports the item.

Commissioner Roche agreed with Commissioner Stevens and noted that cannabis is legal in California; this will be a business that is operating legally and have met all of the City's permitting requirements. Ms. Roche is comfortable in supporting the item.

Commissioner Andrews commented that she hopes the applicant is a good neighbor, the annual renewal will be a reminder to be a good neighbor; the applicant continue to communicate with businesses that had concerns and wishes the applicant the best of luck.

Commissioner Faria commented that the business will bring stability to the area; they are engaged in helping the community; and they will be a benefit to the City of Hayward.

Commissioner Goldstein commented that the applicant has done an excellent job bringing her application forward. Mr. Goldstein thanked the applicant for bringing her business to Hayward and wishes her success.

Commissioner Roche made a motion to move the staff recommendation.

Commissioner Stevens seconded the motion

The motion passed with the following votes:

AYES:	Commissioners Stevens, Andrews, Faria, Patton, Roche, Goldstein Chair Bonilla
NOES:	None
ABSENT:	None
ABSTAIN:	None



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APPROVAL OF MINUTES

5. Approval the Planning Commission Meeting Minutes of March 12, 2020.

Commissioner Andrews made a motion, seconded by Commissioner Faria, to approve the Planning Commission Meeting Minutes of March 12, 2020. The motion passed with the following votes:

AYES:	Commissioners Stevens, Andrews, Faria, Patton, Roche, Goldstein Chair Bonilla
NOES:	None
ABSENT:	None
ABSTAIN:	None

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters:

Planning Manager Buizer congratulated the Planning Commission on their first virtual meeting.

Commissioners' Announcements, Referrals:

Chair Bonilla thanked everyone for a successful meeting and thanked Planning Manager Buizer for preparing everyone for the meeting.

ADJOURNMENT

Chair Bonilla adjourned the meeting at 9:57 p.m.



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APPROVED:

Julie Roche, Secretary
Planning Commission

ATTEST:

Denise Chan, Senior Secretary
Office of the City Clerk