



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, May 10, 2018, 7:00 p.m.  
777 B Street, Hayward, CA 94541**

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## **MEETING**

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

### **CALL TO ORDER Pledge of Allegiance**

Commissioner Faria led in the Pledge of Allegiance.

## **ROLL CALL**

Present: COMMISSIONERS: Willis Jr., Bonilla Jr., Schott, McDermott, Faria  
CHAIRPERSON: Goldstein  
Absent: COMMISSIONER: None  
Vacancy: ONE

Staff Members Present: Ameri, Brick, Chan, Lee, Lochirco, Neklason

General Public Present: 14

## **PUBLIC COMMENT:**

There were none.

**PUBLIC HEARINGS:** For agenda item No. 1 and No. 2, the Planning Commission may make a recommendation to the City Council.

1. Proposed Vesting Tentative Tract Map, Planned Development (PD) Rezone, Site Plan Review, and Mitigated Negative Declaration with Mitigation and Monitoring Reporting Plan to subdivide two parcels into 21 parcels and construct 18 detached single-family residences with common open space areas and related site improvements at 25941 Gading Road (APNs 454-0020-062-02 & 454-0020-069-00). Application No. 201706285; Tony Dutra (Applicant) on behalf of Dutra Enterprises (Owner)

Associate Planner Lee provided a synopsis of the staff report and presented a PowerPoint.

Mr. Tony Dutra, applicant Dutra Enterprises, spoke about the proposed project and the Gading 1 project. Mr. Dutra thanked staff for their hard work on this project and noted that members of his group were in attendance and available to answer questions.



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Mr. Zaheer Siddiqui, with Dutra Enterprises, spoke about the proposed project and how it is an extension of the Gading 1 project.

In response to Commissioner Bonilla's questions regarding the developer reconsidering the inclusion of affordable housing instead of paying the in-lieu fees, Mr. Siddiqui said that the project has been sold to a builder and the builder prefers to pay the current in-lieu fees.

Mr. Siddiqui responded to Commissioner Willis that the private road will be managed by the Homeowner's Association (HOA). In response to Mr. Willis' question about the solar panels providing residents with net zero energy, Ms. Jill Williams, project architect, said the developer will look at the solar system to see what level of energy savings can be attained and added that it is necessary to have circulation around the solar panels for the system to perform well. Mr. Willis said it is a good project and favors the project.

Commissioner Faria asked about the driveway length and expressed concern about the pedestrian safety, Mr. Steve Lichliter, project civil engineer, responded the driveways are the standard 18 feet in length.

In response to Commissioner McDermott, Mr. Lichliter said there will be a standard six-foot wooden fence for units that back up to the nursing home. Siddiqui responded to Ms. McDermott that the builder for both Gading I, which was approved in 2016, and Gading II is Blue Mountain Communities and that Gading I is in its final stages and building should start soon. In response to Ms. McDermott regarding the external lights, Mr. Lichliter said a photovoltaic study was conducted and the lighting will meet the City's standards for the amount of light and will be shielded adequately. Ms. McDermott said she had visited the site and noted the beautiful shade trees. Mr. Siddiqui responded to Ms. McDermott that Blue Mountain Communities will be setting the price point on the units and noted that Hayward is an attractive city for professional as numerous market rate developments have done very well. Staff confirmed for Ms. McDermott that Gading II falls under the new Affordable Housing Ordinance. In response to Ms. McDermott, Mr. Dutra relayed the numerous developments that he has been involved in which totaled approximately 400 units.

In response to Commissioner Bonilla's question of how many units have been affordable housing, Mr. Dutra said that his company always pays the in-lieu fees.

In response to Commissioner Schott regarding the backup space for space #7, Associate Planner Lee said the vehicle can only backup straight and cannot turn and the new Condition of Approval addresses this by requiring the developer to provide adequate backup space for street parking space number 7. Mr. Lee said staff and the developer have been working on several options such as reducing the bio-retention area, making it a compact



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vehicle space or remove parking space #7. Mr. Lee responded to Mr. Schott that there are mitigation measures in place if there is any Native American activity found. Mr. Dutra said there has been no indication of Native American activity found at Gading I and does not anticipate any activity for Gading II. Principal Planner Lochirco responded to Mr. Schott that the design should be able accommodate any kind of emergency vehicle. Mr. Lochirco explained to Mr. Schott that 75% homeownership is part of the conditions for most for sale properties and is included in the development's Conditions, Covenants and Restrictions (CCNRs). Mr. Lochirco said CCNRs are reviewed and approved by the State Department of Real Estate and the City does not have the jurisdiction to enforce CCNRs.

In response to Chair Goldstein, Associate Planner Lee said the plans are reviewed by the Development Review Services Department engineer with the Public Works Engineering and Transportation Department regarding the Complete Streets component and in relation to the Bike Master Plan. Mr. Lee said per the Bike Master Plan, if bike lanes are to be planned for the area then there would be a condition for bike lanes, as for this area there are no planned bike lanes or a requirement to include a bike lane. In response to Mr. Goldstein's question if this project could be considered a transit oriented development, Principal Planner Lochirco said for this specific project, if it is on a transit line, for example if AC transit has regular bus service along the corridor, then a project can be considered transit-oriented. Mr. Lochirco noted that the developer is making all the necessary frontage improvements as well as incorporating design components that will allow for safe bicycle travel and thus meets the City's Complete Streets objective. Mr. Lochirco clarified for Mr. Goldstein that the density bonus provision is for developments that have an affordable housing element, this project as a market rate development does not qualify. Mr. Goldstein noted for Mr. Dutra that developments near transit hubs qualify for the density bonus provision that have the affordable housing element. Mr. Lee responded to Mr. Goldstein that Gading II is covered under the new Affordable Housing Ordinance and will be paying the higher in-lieu fees.

Commissioner Faria has concerns about access to the development as she visited the site as there was a semi-truck blocking the development site as it was making a delivery to the nursing home. Mr. Dutra said once homes are built this issue should be resolved.

Chair Goldstein opened and closed the public hearing at 7:51 p.m.

Mr. Bob Schmitz, Hayward resident, is concerned about the removal of eighty trees and planting of only twenty trees, the impact to migratory birds that rely on the trees for food and shelter, redwood tree construction impacts, and the impact to himself and neighbors and their existing quality of life. Mr. Schmitz has concerns about the new development impacting his solar generation and has requested that the last three lots abutting his property be single story and be in line with the rest of the neighborhood.



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Mr. Zachariah Oquenda, Hayward resident, felt that developer should build more units and construct a buffer space between the development and existing single-family homes. Mr. Oquenda feels the Commission should do more to encourage developers to build more density and include the affordable housing element.

Chair Goldstein closed the public hearing at 8:00 p.m.

In response to Commissioner Willis' questions about existing property owner's easement rights, Assistant City Attorney Brick said the City cannot advise property owners of their easement rights and the property owners would need to consult with their private attorneys. Mr. Brick noted that this is not the City's role. Mr. Brick noted for Commissioner Willis, that as a Planning Commissioner, Mr. Willis can consider the impacts to the surrounding properties, but as an Assistant City Attorney, Mr. Brick cannot comment on easement rights of private parties.

Commissioner Schott has concerns about setbacks and would like to set a condition of single story homes on lots 7, 8 and 9, to lessen the impact on the existing homes on the backside of Underwood. Assistant City Attorney Brick responded to Commissioner Schott that the Commission can recommend approval or denial with the additional condition.

Commissioner Willis commented that property owners must respect the rights of other property owners and cannot impede upon those rights. Mr. Schmitz said the project is west of his property and noted his neighbors are also concerned about the height of the development. Mr. Schmitz spoke about his solar panels and how he has been able to attain net zero for eight years. Mr. Willis suggested Mr. Schmitz work with the developer regarding the solar panels suggesting that Mr. Schmitz elevate his solar panels.

Commissioner Bonilla spoke about the housing affordability crisis going across the State that as members of this Commission we need to find solutions. Mr. Bonilla is very concerned that this developer has paid in-lieu fees for the majority of his projects and the lack of affordable housing greatly impacts the City and her residents. Mr. Bonilla said the lack of affordable housing does not just results in increased rent it impacts the City's firefighters, police officers and civil servants not being able to live and work in the Hayward. Mr. Bonilla said there are hotel workers commuting two hours to be able to work in the same place they have worked for twenty years. Mr. Bonilla said the impact is significant and the Commission needs to stop this gentrification and needs to stand for change if not then these impacts will continue to happen. Mr. Bonilla stated the Commission has a responsibility to serve the residents of Hayward where the average resident's income is \$68,000 per year and they would not be able to afford a three-bedroom two bath home costing \$700,000, or a four-bedroom, three back home costing \$850,000. Mr. Bonilla said developments needs to be inclusive and include affordable housing units. Mr. Bonilla said his vote will indicate how he supports this project.



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Commissioner Schott commented that it is not the Planning Commission's position to force affordable housing on developers when the City's code allows developers to pay in-lieu fees. Mr. Schott asked the Commission to consider placing a condition to restrict single story housing on lots 7, 8 and 9, and noted these units could be used as senior housing and pointed out that there is a senior housing bonus which could lessen the in-lieu fees.

In response to Chair Goldstein's question regarding Commissioner Bonilla's right to vote no because the developer is paying the in-lieu fees rather than include an affordable housing element, Assistant City Attorney Brick said this is a healthy debate and is what Commissioners do best. Mr. Brick said if the Commission acted based solely on paying the in-lieu as opposed to including the affordable housing element that would be inappropriate. Mr. Brick said the Commission is making a recommendation today and if affordable housing is one of the many considerations it is appropriate to voice those concerns. Mr. Brick said it is appropriate to discuss but it is inappropriate to discuss what an individual's basis for voting is.

Commissioner Bonilla said this project is not being built for the residents who live in Hayward. Mr. Bonilla stated he was appointed to the Planning Commission because he stands to find a solution to make Hayward affordable for the City's residents who have lived here for years and will not be able to afford to purchase homes in this new development.

Commissioner Willis said he is on the Alameda County Housing and Community Development Advisory Committee and spoke about a meeting regarding affordable housing and that Alameda County is spending \$5 million to build affordable housing in the County of which Hayward is included. Mr. Willis said housing costs are based on supply and demand and the only way to bring prices down is to build more houses and noted City code allows the developer to opt out of affordable housing.

Commissioner McDermott said she is also an advocate of affordable housing and understands and supports Commissioner Bonilla comments. Ms. McDermott said she has often stated the Commission should include their strong support of affordable housing to the Council. Ms. McDermott said there are other cities in Alameda County that have made affordable housing a COA but Hayward has not gotten to that point and the Commission needs to pressure to those who can make that decision. Ms. McDermott said this is an infill project and will blend in with the community. Ms. McDermott stated the Commission can strongly recommend that the City Council made affordable housing a COA and does not believe this will make a big impact to the real estate market and that developers will still build here.

Commissioner Bonilla agreed with Commissioner McDermott but asked when does the Commission do this. Mr. Bonilla agrees that there needs to be a balance and that perhaps City Council is looking to the Planning Commission to take a stand and solve this affordable housing crisis.



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Commissioner McDermott responded that the Planning Commission has applied pressure that has resulted in the new Affordable Housing Ordinance and increased fees.

In response to Chair Goldstein regarding the trees, Associate Planner Lee said 47 trees are protected and there are 20 large trees that will be mitigated and the mitigation measures are in the CEQA document. Mr. Lee noted the City's Landscape Architect has reviewed the plans. Mr. Lee said there are mitigation measure in place to put a buffer in place to protect birds if abnormal behavior is observed. Principal Planner Lochirco responded to Mr. Goldstein that tree mitigation measures would incorporate all necessary protections of trees on adjacent properties. Mr. Goldstein suggested Mr. Schmitz hire a professional to review the impact to his solar system and then work with the developer. Mr. Goldstein commented on being a member of the General Plan Task Force when discussions of density for different areas of the City were being weighed. Mr. Goldstein said it is a balancing act between what the community needs and wants and what the developers are willing to build. Mr. Goldstein said having affordable housing alongside market rate homes is the right thing to do and there needs to be a solution to the housing crisis. Mr. Goldstein appreciates the developer has stayed with this project and paying the new in-lieu fees and hope the next development will include affordable housing.

Commissioner Willis made a motion to approve the staff recommendation.

Commissioner Schott made a friendly amendment of adding the condition that lots 7, 8, and 9 be single-story.

Commissioner Willis does not accept the friendly amendment. Mr. Willis said the recommendation by staff is fully acceptable, supported by the law and follows all the conditions for development in the area and there are mitigation measures in place for any issues that arise.

Commissioner McDermott seconded the motion. The motion passed with the following vote:

AYES:	Willis Jr., Schott, McDermott, Faria Chair Goldstein
NOES:	Bonilla Jr.
ABSENT:	None
ABSTAIN:	None
VACANCY:	One



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2. Recommended FY 2019-FY 2028 Capital Improvement Program

Interim Public Works Director Ameri provided a synopsis of the staff report along with a PowerPoint presentation.

In response to the Commissioner Schott's question if the gas tax gets repealed, Interim Public Works Director Ameri said the impact would be great as currently the City receives \$4.25 million from gas tax funds and the City has \$10.3 million budgeted for roads and streets. Mr. Ameri noted there is an effort to place an item on the November ballot to repeal SB 1. Mr. Ameri responded to Mr. Schott about the fire training center with financial contribution coming from Chabot College.

Interim Public Works Director Ameri confirmed for Commissioner Bonilla that projects are funded according to their priority.

In response to Chair Goldstein regarding groundwater, Interim Public Works Director Ameri provided a history of when the City used primarily groundwater from the mid-1800s to 1940, in the 1940s the City started getting water from Hetch-Hetchy. Mr. Ameri said in 1962 the City entered into a water supply agreement with the City of San Francisco to receive water for all its needs from San Francisco's Hetch-Hetchy system, and no longer used groundwater. However, in the mid-1980's the City realized there needs to be a contingency plan in place in case of an emergency that the City is cut-off from Hetch-Hetchy. The City has developed five emergency wells that are on standby. Mr. Ameri spoke about how the City is developing a groundwater sustainability plan in order to meet the State's 2014 law. Mr. Ameri responded to Mr. Goldstein that in case of an emergency the five wells can provide 50% of the water use and if something happens to San Francisco, Hayward has a regional intertie and can get water from EBMUD. Mr. Ameri explained to Mr. Goldstein that the two-megawatt solar capability will be to satisfy municipal needs and the plan is to be Zero Net Energy by 2025. Related to the requested expenditure to remodel the Police Department's Records Room, Mr. Goldstein hopes in the future the City can prevent emergency remodels and have the vision to provide the police department with what they need.

Assistant City Attorney Brick confirmed for Commissioner Schott that he does not have to recuse himself because he rents a space at the Hayward Executive Airport.

Chair Goldstein opened and closed the public hearing at 9:13 p.m.

Commissioner Willis made a motion to approve the staff recommendation. Commissioner Faria seconded the motion.



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The motion passed with the following vote:

AYES: Willis Jr., Bonilla Jr., Schott, McDermott, Faria  
Chair Goldstein  
NOES: None  
ABSENT: None  
ABSTAIN: None

**APPROVAL OF MINUTES**

3. Approval of the minutes of the Planning Commission Meeting of April 12, 2018.

Commissioner Willis made a motion, seconded by Commissioner Bonilla, to approve the Planning Commission Meeting Minutes of April 12, 2018. The motion passed with the following votes:

**5:0:1 (AYES: Willis Jr., Goldstein, Bonilla Jr., Schott, Faria; ABSTAIN: McDermott)**

4. Approval of minutes of the Planning Commission Meeting Minutes of April 26, 2018.

Commissioner Willis made a motion, seconded by Commissioner McDermott, to approve the Planning Commission Meeting Minutes of April 26, 2018. The motion passed with the following votes:

**6:0:0 (AYES: Willis Jr., Goldstein, Bonilla Jr., Schott, McDermott, Faria)**

**COMMISSION REPORTS**

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

Principal Planner Lochirco announced it was Bike to Work Day. Mr. Lochirco said that Housing Division Manager Morales will be here for a Work Session in June, to present a report about housing issues including the New Affordable Housing Ordinance.

**Commissioners' Announcements, Referrals:**

There were none.

**ADJOURNMENT**

Chair Goldstein adjourned the meeting at 9:22 p.m.





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**APPROVED:**

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Ray Bonilla Jr., Secretary  
Planning Commission

**ATTEST:**

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Denise Chan, Senior Secretary  
Office of the City Clerk