



**PLANNING COMMISSION MEETING
COUNCIL CHAMBERS AND VIRTUAL (ZOOM)
PARTICIPATION
Thursday, December 7, 2023, 7:00 p.m.**

The Planning Commission meeting was called to order at 7:05 p.m. by Vice Chair Lowe. The Planning Commission held a hybrid meeting in the Council Chambers and virtually via Zoom.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: COMMISSIONERS: Goodbody, Patterson, Stevens
VICE CHAIRPERSON: Lowe

Absent: COMMISSIONERS: Ali-Sullivan, Franco-Clausen, Garg

Staff Members Present: Kowalski, Lochirco, Ochinero, Parras, Richard, Tabari, Vigilia, Wright

PUBLIC COMMENTS

There were none.

PUBLIC HEARING

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

1. Proposed Demolition of Two Existing Detached Residences and Construction of a New 12 Unit Small Lot Detached Residential Subdivision (Eden Village III) on a 1.45-Acre Site Located at 24764 and 24656 Mohr Drive (Assessor's Parcel Numbers (APNs) 441-0074-009-00 and 441-0074-009-00), Requiring Approval of a Zone Change to Planned Development District, Vesting Tentative Tract Map and Approval of an Environmental Consistency Checklist Associated with Application No. MTA-23-0001. Applicant: Jeffrey Lawrence, Nuvera Homes. Owners: Robert A. Pratt, F TRS Roberta, Anne C. Wu, and Ngai M. Wang. **(PH 23-046)**

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

Commissioner Patterson commended staff and the developer for the changes made since the prior meeting. Ms. Patterson commented on the Junior Accessory Dwelling Units (JADU's) as the report said that they are not counted as separate independent dwelling units. She wondered how that worked with the parks and traffic impact fees which go by bedroom as it seemed like the bedrooms JADUs wouldn't be counted. Associate Planner Richard responded that JADUs do not count as bedrooms but given the size of the houses they're already at the highest tier of fees. Ms. Richard added that even if they were bedrooms instead of Junior



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Accessory Dwelling Units (JADU's) the parks and traffic impact fees would still be the same. Planning Manager Lochirco responded that there is a four bedroom plus unit in the Master Fee Schedule and that the JADUs could be applicable for the four bedrooms. Mr. Lochirco added that whether there are three or four bedrooms in the subdivision, the applicant would be required to pay impact fees consistent with the Master Fee Schedule and the Hayward Municipal Code.

Commissioner Patterson had questions related to the staff report attachment six, CEQA Environmental checklist as there's a section which listed the Arborist report on page five and seven that references 24765 Hesperian and wondered if that was left over from a previous project or if it relates to the current project. Associate Planner Richard responded that she didn't have the CEQA document in front of her but guessed that it was left over from a previous project.

Ms. Patterson questioned at what point would the Arborist report update tree thirty-eight with the 77-inch trunk that states the recommendation is to potentially preserve it which sounded unclear and would like it to state that it would be preserved. Associate Planner Richard responded the per the conditions of approval and the landscape plans, the 77-inch redwood tree will be preserved.

Commissioner Patterson appreciated increasing the rainwater collection barrels as it would be used to support landscaping and asked if the rainwater collection would be used to irrigate the trees that are being preserved or if there was a separate irrigation for watering those.

Mr. Lawrence, the project applicant, indicated to Commissioner Patterson that the rainwater collection would go to the trees and landscaping in the rear yards as that area would be maintained by the homeowners. Commissioner Patterson asked how preserved trees would be cared for including tree thirty-eight. Mr. Lawrence responded that the front yard and any open space will be maintained by the Homeowner's Association.

Commissioner Goodbody commended staff for the follow-up and listening to the Planning Commission's concerns from the first time the project was introduced and commended the applicant for returning and making improvements to the project. Ms. Goodbody mentioned that she had a chance to review the applicant's previous development, expressing it was a valued addition to the community. She was pleased with the donations to the La Vista Park project and the repurposing of the trees. In regard to JADUs, Ms. Goodbody asked if the Fire Department had any concerns about the solid door with the double lock. Associate Planner Richard indicated, in response to Planning Commissioners prior concerns about being uncomfortable with having a stranger being on the other side, the applicant added the double locking system between the JADU and primary residence in the event the JADU is rented out. Ms. Richard added that the Fire Department reviews projects at the building stage for life and



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safety but did not foresee this being an issue as the same mechanism has been used for other JADUs. Commissioner Goodbody asked if the rear door to the JADU would be a solid core door or if it would be a sliding glass door. Ms. Richard responded that while she was uncertain what kind of exterior door would be used, noting that normally a solid core door is used, the door would have to meet building code requirements, and the project would undergo a technical plan check.

Vice Chair Lowe emphasized the goal was to save as many trees as possible especially redwood trees, and asked if there were any consequences if the trees died. Associate Planner Richard responded that the Tree Preservation Ordinance stated that if the protected trees were to die, they had to be replaced by trees of like value and size. She added that the applicant wanted to protect the rear redwood trees along one of the side property lines, however the City's landscape architect recommended removal as it was likely the trees would not survive given the placement and that future residents would want them removed. Vice Chair Lowe asked how the homeowner could be made aware that they have an option to get another rainwater collection barrel. Mr. Lawrence responded that this information would be shared by the salesperson. Vice Chair Lowe commended staff and the applicant for bringing these proposals back to the Planning Commission and asked the applicant if he would be open to adding insulation between the floors or rooms of the homes as a condition of approval. Mr. Lawrence responded that he would look into this suggestion.

Vice Chair Lowe opened the public comment period at 7:38 p.m.

Mr. Bill Pratt indicated that his parents are the owners of 24764 Mohr Drive, the parcel being sold to Nuvera Homes, and noted that he had submitted written comments to the Planning Commission. He added that working with Mr. Lawrence has been very easy as he is a good communicator and has been helpful in resolving any issues. He said that once the development across the street was complete it transformed that side of the street from a row of old, haphazardly built, well-worn country houses to an organized, polished, clean, and comfortable family development. He strongly recommended the City of Hayward to work with Nuvera Homes or other small builders like them, as the area has been degrading quickly.

Vice Chair Lowe closed the public comment period at 7:41 p.m.

A motion to approve the staff recommendation was made by Commissioner Stevens, seconded by Commissioner Patterson.

The motion passed with the following roll call votes:

AYES:	Commissioners Goodbody, Patterson, Stevens Vice Chair Lowe
NOES:	None



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ABSENT: Commissioners Ali-Sullivan, Franco-Clausen, Garg
ABSTAIN: None

For agenda item No. 2, the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of the decision. If appealed, a public hearing will be scheduled before the City Council for a final decision.

2. Proposal to Allow Sales of Beer at an Existing Billiards Hall Located at 895 B Street (Assessor Parcel No. 428-0071-050-00) in the DT-MS (Downtown-Main Street) Zoning District, Requiring Approval of Conditional Use Permit Application No. UP-23-0021 and Finding that the Action is Exempt from CEQA.; Amy Wang of A&A Billiards (Applicant/Operator); City of Hayward (Property Owner) **(PH 23-047)**

Associate Planner Kowalski provided a synopsis of the staff report and introduced Detective Gabrielle Wright with the Hayward Police Department.

Mr. Armando Loera, applicant, commented that he and his wife, Amy Wang, are currently running the sports complex in Hayward for nonprofit soccer fields and running the A&A Billiards pool hall, but have noticed that most of the patrons come to play pool for only half an hour then leave to go over to one of the nearby bars to get a beer. Mr. Loera shared that the rent for the pool hall is really expensive, and they barely come out even. He added that if the proposal is approved, he would be able to hire additional staff from the revenues from the alcohol sales, including a security guard.

Commissioner Stevens asked whether a Conditional Use Permit (CUP) would be required for an establishment like this in a city like Berkeley, or if there was something unique about Hayward. Associate Planner Kowalski responded that for most cities in the Bay Area, it was typical to require a CUP for an establishment when alcohol is introduced because it gives the city the ability to revoke the permit in worst case scenarios if problems related to alcohol consumption start to arise.

Mr. Loera noted for Commissioner Patterson that the maximum capacity for the billiards hall is forty-eight persons.

Commissioner Goodbody asked the applicant how they are going to ensure that those over twenty-one years of age are not selling beer to minors. Mr. Loera responded that the plan is to check identification for those who look under 40 years of age and also that they are working with Hayward Area Recreation and Park District (HARD) on a program that allows high school students to come to the billiards hall from 1 p.m. to 6 p.m. for youth tournaments. He added that after 6 p.m., they will only allow people over the age of 21 to enter, they will be serving snacks and sandwiches to go with the beer, and there will be a variety of non-alcoholic beverages available as well. Commissioner Goodbody questioned why the security guards



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would only be required for Friday and Saturday nights and not during weekdays. Detective Wright responded the recommendation to have a security guard checking identification of patrons and verifying age was due to the business hours of the establishment as the billiards hall would be open later on Fridays and Saturdays and may be busier, noting the establishment would be allowed to let both minors and adults enter the establishment to play pool, since the Type 40 liquor license did not prohibit minors like a license for a regular bar or nightclub.

Vice Chair Lowe commented that one of the Conditions of Approval stated that no children would be allowed on the premises during school hours, and asked if that was from September until May. Associate Planner Kowalski responded that City staff was trying to prevent truancy of high school during the normal school year. Vice Chair Lowe wanted clarification on Condition of Approval No. 23, which stated that the occurrence of more than two critical incidents within a one-year period may constitute grounds for revocation of this permit. Ms. Lowe asked if it meant that there was an issue where five officers were involved or was it the fact that crimes of violence were happening. Detective Wright responded that “critical incidents” are defined in the City’s Alcoholic Beverage Outlets Ordinance which states if five or more officers respond to the location regarding a serious crime. Detective Wright added that if five or more officers show up regarding some sort of serious crime like an assault or a brawl, then it would not be considered a “critical incident.”

Vice Chair Lowe opened and closed the public comment period at 8:03 p.m.

Commissioner Patterson commented that the establishment seemed good for the City of Hayward as it is filling a void from the closure of the other billiards halls that previously operated, and she felt really happy about this establishment and wished it success if it was approved.

Commissioner Goodbody echoed Commissioner Patterson’s sentiments and was very happy to see the use and the partnership with the school district in giving students a dedicated time and recreational activity to do. Ms. Goodbody also suggested in the future there could be clinics for those who do not know how to play billiards and felt that would be a nice value to have.

Commissioner Stevens commented that he is in support of this but would like to adjust Condition of Approval No. 20 to say high school or younger patrons shall not be permitted on the premises when school is in session.

A motion to approve the staff recommendation was made by Commissioner Stevens, seconded by Commissioner Goodbody, pending an adjustment to the language in the Conditions of Approval No. 20 to state that the applicant will work with the Hayward Police



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Department to ensure truancy does not occur.

The motion passed with the following roll call votes:

AYES:	Commissioners Goodbody, Patterson, Stevens Vice Chair Lowe
NOES:	None
ABSENT:	Commissioners Ali-Sullivan, Franco-Clausen, Garg
ABSTAIN:	None

APPROVAL OF MINUTES

3. Minutes of the Planning Commission Meeting on October 26, 2023 (MIN 23-129)

A motion was made by Commissioner Patterson, seconded by Commissioner Goodbody, to approve the meeting minutes of October 26, 2023.

The motion failed due to three Commissioners being absent and with the following roll call votes:

AYES:	Commissioners Goodbody, Patterson Vice Chair Lowe
NOES:	None
ABSENT:	Commissioners Ali-Sullivan, Franco-Clausen, Garg
ABSTAIN:	Commissioner Stevens

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters

Planning Manager Lochirco shared that former Planning Commissioner Arti Garg had resigned due to personal obligations. Mr. Lochirco added that the City Council would be taking action to appoint an alternate to the Planning Commission next Tuesday, December 12, 2023, with hopes of the new Planning Commissioner joining sometime in January 2024. Mr. Lochirco also shared the next Planning Commission meeting was scheduled for Thursday, December 14, 2023, with two items on the agenda for consideration. Mr. Lochirco said one item being a recommendation from the Planning Commission to the City Council on the updated Climate Action Plan and the adoption of the New Environmental Justice Element of the General Plan as well as updates to the Safety Element. He continued that the second item is a multi-family project on Atherton Street that is going for final consideration by the Planning Commission. He mentioned that the first meeting in January will be an opportunity



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for the Planning Commission to nominate a Chair, Vice Chair, and Secretary to serve throughout the 2024 calendar year.

Commissioners' Announcements, Referrals

Vice Chair Lowe commended staff for their great presentations and thanked her fellow Commissioners and Senior Secretary Parras for being willing to come out and attend this special meeting.

4. 2024 Planning Commission Meeting Schedule **(RPT 23-123)**

ADJOURNMENT

Vice Chair Lowe adjourned the meeting at 8:27 p.m.



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APPROVED:

Anika Patterson, Secretary
Planning Commission

ATTEST:

Amber Parras
Planning Commission Secretary
Office of the City Clerk