

**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, October 1, 2015, 7:00 p.m.  
777 B Street, Hayward, CA94541**

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**MEETING**

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

**ROLL CALL**

Present: COMMISSIONERS: Willis Jr., Goldstein, Enders, Schott, McDermott, Faria  
CHAIRPERSON: Parso-York  
Absent: COMMISSIONER: None

**SALUTE TO FLAG**

Commissioner Schott led in the Pledge of Allegiance.

Staff Members Present: Ajello, Buizer, Cruz, Emura, Madhukansh-Singh, Rizk,

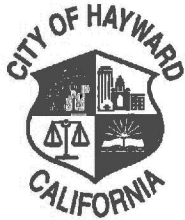
General Public Present: 29

**PUBLIC COMMENT:**

Commissioner Enders asked the staff if the 2006 version of the Specifications for Sewer Mains document was current as it included guidelines on how to install and repair sewer lines. Planning Manager Buizer confirmed that per the Utilities and Environmental Services Department, the documents posted on the City's website were current.

In regards to the Affordable Housing Ordinance, Commissioner Enders requested that staff elaborate on what the requirements were for in-lieu fees and what parameters were in place so that the City could use these funds. Planning Manager Buizer noted that the Affordable Housing Ordinance had been recently adopted and that per the ordinance, if a development met the threshold of 20 or more units, then the development would be subject to the ordinance. Ms. Buizer stated that the ordinance provided the developer the opportunity to pay an in-lieu fee based on the price per square foot of the unit and depending on the type of unit. These funds are placed in the City's Affordable Housing Trust Fund and could only be used to increase and preserve the supply of housing ranging from extremely low, very low, low, and moderate-income households. She underscored that the funds were earmarked for the preservation and additional construction of affordable housing.

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



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1. Proposed Demolition of a Portion of the Eastern Part of Southland Mall and Construction of a New Five-Theater Cinema with Ancillary Beer and Wine Sales at One Southland Mall Drive, requiring approval of a Conditional Use Permit in the Central Business with Special Lot Standards Combining District for minimum 20,000 square foot lot (CBB20) District, Ashton Simmons (Applicant)/ Southland Mall L.P. (Owner).

Planning Manager Buizer requested that this item be continued to the regularly scheduled Planning Commission meeting on October 15, 2015 as this would allow staff and the project applicant some time to solidify the Conditions of Approval. Development Services Director Rizk apologized for any inconvenience this postponement may have caused, adding that the request to postpone came from the applicant with short notice and noted that staff did not have the opportunity to re-notice this item.

Commissioner McDermott made a motion to continue the item per staff recommendation to the regularly scheduled Planning Commission meeting on October 15, 2015; the motion was seconded by Commissioner Willis Jr. The motion passed with the following vote:

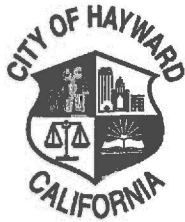
AYES:	Commissioners Willis Jr., Goldstein, Enders, Schott, McDermott, Faria Chair Parso-York
NOES:	None
ABSENT:	None
ABSTAIN:	None

2. Proposed subdivision and construction of 24 single-family homes on a 1.9-acre site at 23645 and 23653 Eden Avenue, requiring adoption of a Resolution and Introduction of an Ordinance for a Zone Change from Medium Density Residential to Planned Development, Vesting Tentative Tract Map 8242 and Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. Tony Dutra, Dutra Enterprises, Inc. (Applicant/Owner), Ruben and Ruby Dorris (Owners).

Senior Planner Ajello provided a synopsis of the staff report.

Chair Parso-York opened the public hearing at 7:17 p.m.

Mr. Tony Dutra, project applicant, commended staff for their hard work on the project. He shared that prior to the development of this area, he had witnessed illegal activity such as the sale of stolen vehicles occurring on his property in broad daylight. Mr. Dutra highlighted that with combined efforts between his firm, the city and the county, the development site had undergone a huge transformation in recent years.



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Ms. Malvina Okuda, property owner on Saklan Avenue, asked the applicant if the proposed development bordered her property. She shared that she had an issue with Standard Pacific on a previous development regarding border fences.

Mr. Tony Dutra pointed out on a map that Ms. Okuda's property did not border his property and he did not think that her property would be impacted by the proposed project.

Chair Parso-York closed the public hearing at 7:25 p.m.

Commissioner Enders expressed support for the project design. She asked staff about Attachment II: Draft Conditions of Approval, Mitigation Nos. 4 and 5, specifically in regards to what the threshold was for organochlorine pesticides found in the surface soil at the site and she requested that staff elaborate on the mitigation.

Senior Planner Ajello stated that as part of the environmental document, the applicant had soils engineers conduct a phase I and phase II site assessment. She noted that during the assessment, it was determined that there was organochlorine on the site. Phase II of the assessment recommended resampling of the site to determine the extent to which the chemical was present on the property. Based on the results, it was determined that the highest amount found on the property exceeded the Regional Water Control Board's threshold of 0.44 parts per million for residential development. She stated that the soil consultants recommended retesting, excavating and removing all the soil from the site. After this has been done, the soil consultants do retesting too determine if the presence of the chemical is still present in the soil. Ms. Ajello underscored that the applicant had already completed remediation, which was the removal of the contaminated soil and also noted that the applicant had already prepared the preliminary remediation closure report. She highlighted that prior to the issuance of building permits, the applicant will have to obtain a clearance letter from the Regional Water Control Board.

Commissioner Enders pointed out that the only public comment received on the item prior to the meeting was a letter from the Public Works Agency of Alameda County, where the agency expressed concern about the water runoff from this site being related to the chemicals found in the soil. Commissioner Enders stressed that she was highly concerned about this and would appreciate an update from staff on the remediation that is conducted.

Commissioner McDermott commented that she worked and traveled frequently through the Clawitter area, expressing that she was pleased to see how developments in the area, such as the KB Home development, had transformed the area. She stated that the presence of more residents in the area could be correlated with a decline in the negative activity that was evident in the same area previously. Ms. McDermott was concerned about the potential parking issues that may emerge in the development area, noting that only visitors of a



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particular residence and residents themselves could utilize the parking available on driveways. She commented that with the newer developments, larger homes were being built on smaller lots and therefore, the backyards of these homes were also smaller. She noted that it was not always convenient for families to go to a park nearby to allow their children to play outdoors. Ms. McDermott asked the applicant to explain the amenities that were being proposed for the project.

Mr. Dutra stated that the amenities of the project included the following: photovoltaic solar systems that will be installed in every unit; the development would exceed the common and open space requirements; there would be a provision of surplus parking spaces accomplished via the private driveways; the addition of attractive paving through the development in excess of what is required for tree mitigation in order to create an attractive and cohesive landscape and hardscape design throughout development.

Mr. Dutra confirmed for Commissioner McDermott that tankless water heaters would be available in the development.

Commissioner McDermott stated that according to a report presented by the Economic Development department, 47,500 people visit the light industrial corridor area. She commented that a majority of these individuals probably do not live nearby and stated that the proposed development would provide individuals currently commuting to the area an opportunity to buy a home in the area and thereby travel less of a distance for work. Ms. McDermott added that the proposed development provided more affordable homes than the housing prices for Santa Clara County. She indicated her support of the infill project, stating that it was conducive to what was built in the surrounding area.

Commissioner Faria appreciated the efforts in improving this neighborhood noting that there had been tremendous improvements already. She acknowledged that the project included bedrooms on the first floor as this was an important feature in the designs that promoted aging in place. She mentioned that the architectural design fit in well with the surrounding developments. Ms. Faria expressed concern about potential parking challenges, noting that some future residents would have multigenerational families living within a residence, and therefore having access to four parking spaces may not be enough for such family units. She shared that when she visited the development area, she observed that many residents were utilizing street parking and she commented that there may not be adequate parking on the streets for visitors.

Commissioner Enders commented that many of the projects that the Planning Commission reviews have parking concerns. After briefly polling the public present at the meeting, she highlighted that many individuals drove to attend the Planning Commission meeting.



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Planning Manager Buizer noted for Commissioner Schott that the park in-lieu fees are deposited into a specific park zone; these funds are then utilized to either make improvements to existing parks or build new parks within that same zone. She added that the funds are managed by the City and are utilized by the Hayward Area Recreation and Park District (HARD) as this agency was the City's park district.

Commissioner Goldstein indicated his support of the project. He shared that he lived in a development where street parking was limited. He commented that initially he was unsure how the parking would be adequate for large gatherings that he planned to host at his home; however, he pointed out that this had not been a huge problem and that residents have to find appropriate ways to make the parking situation work for them. He noted that one way this could be accomplished was by residents utilizing their garages for parking rather than for storage. He stressed the importance of residents in the development being considerate of individuals visiting the park when utilizing parking spaces around the park.

Chair Parso-York stated that obesity remained a concern among children, adding that residential developments in the past had large backyards where children could play and be active. He stated that the project was well designed and that it was fulfilling a housing need in the area. In regards to parking concerns, Mr. Parso-York stated that residents have a tendency to inappropriately use their garage as storage space; adding that he favored having car ports over garages as people cannot use car ports for storage.

Commissioner Schott emphasized that the developer had exceeded the City's parking requirements, commenting that if there still remained an issue with parking, then perhaps the City's requirements need to be reevaluated. He stated that it was unfair to express to the developer that the Planning Commission as a body was unsatisfied with the availability of parking if the developer had exceeded the requirements.

Commissioner McDermott made a motion to recommend that the City Council approve the project per staff recommendation, seconded by Commissioner Goldstein.

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

3. Proposed Subdivision and Construction of 18 Detached Single Family Homes on a 1.96 Acre Parcel located at 24178 and 24570 Saklan Road, requiring a change to the zoning from RM (Medium Density Residential) to PD (Planned Development), Vesting Tentative Tract Map No. VTTM 8226, and Adoption of a Mitigated Negative



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Declaration and Mitigation Monitoring and Reporting Program - Rick Rosenbaum, Lenox Homes, LLC (Applicant)/Ronald Depina Etal (Owner)

Associate Planner Emura provided a synopsis of the staff report.

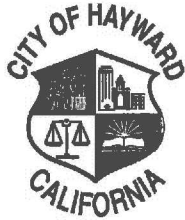
Chair Parso-York opened the public hearing at 7:58 p.m.

Mr. Tony Dutra shared that he personally knew Mr. Rosenbaum, who was the project applicant, and spoke very highly of him.

Mr. Daniel Freeman, President of Lenox Homes, commented that his company was an infill builder and their primary goal as a developer, was to construct a project that would enhance the surrounding area. He stated that his company entitled, developed the site, built and warranted the homes. Mr. Freeman shared that two of the current homeowners, the Depina brothers, would continue to live at the site in two of the new homes once they are built. He mentioned that this was his company's first opportunity to build in Hayward, noting that they had built developments in surrounding cities. He expressed that it was a pleasure for his team to work with city staff. He commented that he was proud of the project, which included environmental features such as the bio-retention ponds.

Mr. Rick Rosenbaum, project applicant, shared a PowerPoint presentation for the proposed BrookWood development. He commented that the proposed project could be considered a transitional site as there were larger lot single family residences on the south side of the development and smaller lots homes to the north. He mentioned that there were two concepts that his company presented to staff during a pre-application meeting in May 2014. The first concept was a 24-lot cluster home layout and the second concept was a 19-lot subdivision on a traditional cul-de-sac. Mr. Rosenbaum said that the second concept was a better fit for the neighborhood as the homes would be on larger lots and would have backyards. He underscored that his firm was dedicated to creating a project that was a different product for the community that would feature different style homes. He pointed out the there was a reduction in the number of homes in the development from 19 to 18 homes as there was a goal to create a bio-retention area at the front entry to the project for the purposes of collecting and treating storm water. He stated that there would be typical side yards with five feet space on each side that would allow the following: residents could move lawnmowers in and out of the backyard easily, there was space for residents to store their garbage receptacles, and also enough space to fit a small storage unit. Mr. Rosenbaum said that the there was an ample amount of community open space and private open space in the area.

Commissioner McDermott was impressed with the project and appreciated the detailed landscaping plans provided to the Commission. She furthermore commended the applicant on the green features of the project and was pleased to see that the homes will feature bigger



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backyards and would have multiple elevations.

Commissioner Willis Jr. was delighted that there would be a Homeowner's Association (HOA) even though the project featured 18 homes, adding that HOAs were beneficial in maintaining the development and in preserving the value of the homes.

Commissioner Enders stated that there were many positive features with the proposed project and commented that she could envision the proposed development site being utilized in the future as a location for a block party on National Night Out. Ms. Enders pointed out that the interior of the homes seemed spacious, appreciating the walk-in closets. She underscored that the proposed project provided an opportunity for individuals to move to Hayward and love the homes that they have purchased here.

Commissioner Faria spoke favorably of the project design and was pleased with the large walk-in closets incorporated into the design.

Mr. Rosenbaum noted for Commissioner Schott that the HOA was set up in perpetuity, pointing out that there was a Condition of Approval that the homeowners could not eliminate the HOA. Development Services Director Rizk added that requiring HOAs for associated Conditions, Covenants, and Restrictions (CC&R) were not limited to Planned Developments. Mr. Rizk noted that staff will usually require a HOA for residential developments regardless of the size of the development.

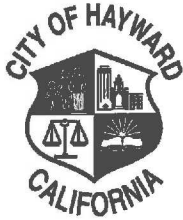
Commissioner Goldstein welcomed Lenox Homes to the City of Hayward and indicated his support for the project. He was especially pleased with the treatment of the bio-retention pond.

Chair Parso-York stated that the proposed project was well designed and added that the development was a nice transition between the other densely built developments and already existing traditional homes in the area.

Chair Parso-York closed the public hearing at 8:15 p.m.

Commissioner Willis Jr. made a motion to approve the project per staff recommendation, seconded by Commissioner Schott. The motion passed with the following vote:

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



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**COMMISSION REPORTS**

4. Oral Report on Planning and Zoning Matters

Planning Manager Buizer shared that Public Hearing 15-079 was being continued to the October 15, 2015 Planning Commission meeting. She noted that there would be a joint City Council and Planning Commission Work Session on October 27, 2015 regarding the Downtown Specific Plan.

5. Commissioners' Announcements, Referrals

Commissioner Schott invited the public to the ground breaking for the new library on October 3, 2015.

**APPROVAL OF MINUTES**

6. Approval of Minutes of the Planning Commission Meeting on July 23, 2015  
It was moved by Commissioner Schott, seconded by Commissioner McDermott, with Commissioners Willis Jr. and Goldstein abstaining, to approve the minutes of the Planning Commission Meeting on July 23, 2015.

**ADJOURNMENT**

Chair Parso-York adjourned the meeting at 8:21 p.m.

**APPROVED:**

A handwritten signature in blue ink, appearing to read "Brian Schott", is written over a horizontal line.

Brian Schott, Secretary  
Planning Commission

**ATTEST:**

A handwritten signature in blue ink, appearing to read "Avinta Madhukansh-Singh", is written over a horizontal line.

Avinta Madhukansh-Singh, Management Analyst I  
Office of the City Clerk