

CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Thursday, November 18, 2021

7:00 PM

Remote Participation

Planning Commission

SPECIAL PLANNING COMMISSION MEETING

COVID-19 Notice: Consistent with Assembly Bill 361/Government Code 54953(e), the Planning Commission meeting includes teleconference participation by all Planning Commission members and the public.

How to watch the meeting from home:

1. Comcast TV Channel 15
2. Live stream <https://hayward.legistar.com/Calendar.aspx>
3. YouTube Live stream: <https://www.youtube.com/user/cityofhayward>

How to submit written Public Comment:

Send an email to cityclerk@hayward-ca.gov by 3:00 p.m. the day of the meeting. Please identify the Agenda Item Number in the subject line of your email. Emails will be compiled into one file, distributed to the Planning Commission and staff, and published on the City's Meeting & Agenda Center under Documents Received After Published Agenda. Written comments received after 3:00 p.m. that address an item on the agenda will still be included as part of the record.

How to provide live Public Comment during the meeting:

Please click the link below to join the webinar:

<https://hayward.zoom.us/j/89855501151?pwd=TzUzU0o4RCtNOWxja0o1VE1KaFISZz09>

Webinar ID: 898 5550 1151

Passcode: PC11/18@7p

Or Telephone:

US: +1 669 900 6833 or +1 346 248 7799

Webinar ID: 898 5550 1151

Passcode: 3795104344

A Guide to attend virtual meetings is provided at this link: <https://hayward.zoom.us/u/kevPw66dhp>

CALL TO ORDER**ROLL CALL****ELECTION OF OFFICERS****PUBLIC COMMENTS**

The PUBLIC COMMENTS section provides an opportunity to address the Planning Commission on items not listed on the agenda. The Commission welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Commission is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff for further action.

ACTION ITEMS

The Commission will permit live public comment as each item is called at the time indicated by the Meeting Chair.

1. [RPT 21-134](#) Formation of a Community Advisory Committee on Environmental Justice

Attachments: [Attachment I Memo re: Environmental Justice Committee](#)

PUBLIC HEARING

2. [PH 21-095](#) Proposed Development of a New Industrial Campus with Two Industrial Buildings Measuring Approximately 233,000 Square Feet and 155,000 Square Feet and Related Site Improvements Requiring Major Site Plan Review and Conditional Use Permit Approval and Review and Approval of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Former Berkeley Farms Site Located at 25450-25550 Clawiter Road (Assessor Parcel Numbers 439-0080-001-00 and 439-0080-003-14). George Condon on behalf of Dermody Properties (Applicant); DPIF2 CA 25 Clawiter Road LLC (Property Owner) [Item Continued to December 9, 2021 (Originally Scheduled for October 28, 2021)]

APPROVAL OF MINUTES

3. [MIN 21-148](#) Minutes of the Planning Commission Meeting of October 28, 2021

Attachments: [Attachment I Draft Minutes of October 28, 2021](#)

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters

Commissioners' Announcements, Referrals

ADJOURNMENT

NOVEMBER 25, 2021 - MEETING CANCELED -

NEXT MEETING, DECEMBER 9, 2021, 7:00PM

PLEASE TAKE NOTICE

That if you file a lawsuit challenging any final decision on any public hearing item listed in this agenda, the issues in the lawsuit may be limited to the issues which were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.

PLEASE TAKE FURTHER NOTICE

That the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

****Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Permit Center, first floor at the above address. Copies of staff reports for agenda items are available from the Commission Secretary and on the City's website the Friday before the meeting.****

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.

**CITY OF HAYWARD*****Memorandum***

DATE: November 18, 2021

TO: Planning Commission

FROM: Leigha Schmidt, Acting Principal Planner

SUBJECT: **Formation of a Community Advisory Committee on Environmental Justice**

The City has kicked off an update to the Housing Element, which is being combined with updates to the Climate Action Plan and General Plan Updates related to Safety and Environmental Justice. The City anticipates creating a new standalone Environmental Justice Element of the General Plan which aligns with other work that the City is doing around race, equity, health and housing.

Per State Law, preparation of the Environmental Justice Element must include creation of a Community Advisory Committee (CAC) with stakeholders who are active and engaged with disadvantaged communities. The project team is reaching out to various existing Commissions and Committees seeking volunteers who have experience, interest and capacity to participate in a limited term Community Advisory Committee (CAC) around the issue of Environmental Justice. We are hoping to have 6-8 Committee volunteers taken from the Community Services Commission, Planning Commission, Keep Hayward Clean and Green Task Force, and Youth Commission, all of whom have demonstrated reliability and a commitment to working with the City.

The Committee would run for about four months beginning in January 2022. There would be three approximately 2-hour long meetings with homework in between.

The Committee's first task will be to ground-truth an Existing Conditions Assessment, which would assess the following environmental justice topics:

- Pollution exposure
- Access to clean air and water
- Access to healthy food
- Access to safe and sanitary housing
- Access to physical activity and recreation



CITY OF HAYWARD

Memorandum

The Committee's second task will be to consider and prioritize objectives and policies for the Environmental Justice Element.

The Committee's third task will be to review and discuss the Environmental Justice Element and the best way to begin the process of achieving its vision.

For additional information on this topic, please see:

1. Staff report related to the Housing Element prepared for the October 19, 2021 Joint Planning Commission/City Council Work Session available at this link:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=5186196&GUID=E8EFC53D-6501-4BA3-A6CD-399E559F823E&Options=&Search=>
2. Staff report related to the Housing Element Update prepared for the September 2, 2021 Homelessness-Housing Task Force:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=5121228&GUID=11A69278-2D8E-460E-A5B2-03158385527F&Options=&Search=>
3. Project website at <https://haywardhousingandclimateupdate.com/>

Please contact Leigha Schmidt at leigha.schmidt@hayward-ca.gov if you are interested in participating.



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: MIN 21-148

DATE: November 18, 2021

TO: Planning Commission

FROM: Assistant City Manager / Development Services Director

SUBJECT

Minutes of the Planning Commission Meeting of October 28, 2021

RECOMMENDATION

That the Planning Commission approve the minutes of the Planning Commission meeting of October 28, 2021

SUMMARY

The Planning Commission held a meeting on October 28, 2021

ATTACHMENTS

Attachment I Draft Minutes of October 28, 2021



**PLANNING COMMISSION MEETING
REMOTE PARTICIPATION
Thursday, October 28, 2021, 7:00 p.m.**

Consistent with Assembly Bill 361, the Planning Commission meeting includes teleconference participation by Planning Commission members, staff members and the public. This meeting was conducted utilizing the Zoom platform.

MEETING

The Planning Commission meeting was called to order at 7:00 p.m. by Chair Roche.

ROLL CALL

Present: COMMISSIONERS: Ali-Sullivan, Bonilla, Goldstein, Lowe, Oquenda, Stevens
CHAIRPERSON: Roche
Absent: COMMISSIONER: None

Staff Members Present: Brick, Chan, Chang, Kowalski, Lochirco, Parras, Wikstrom

PUBLIC COMMENT:

There were none.

PUBLIC HEARING:

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

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 final decision.

Chair Roche announced that item no. 2 has been continued until the Special Planning Commission meeting of November 18, 2021.

1. Proposed Demolition of an Existing 74,750-Square-Foot Commercial Building and Construction of a New 47-Lot Single Family Residential Subdivision on a 5/4-Acre Site Located at 1000 La Playa Drive (APN: 442-0038-001), Requiring Approval of General Plan Amendment, Rezone and Vesting Tentative Tract Map Application No. 202004457, and Approval of a Mitigated Negative Declaration with Mitigation Monitoring and Reporting Plan Prepared for the Project in Accordance with the Requirements of the California Environmental Quality Act (CEQA); Applicant: D.R. Horton Bay, Inc.; Owner: Quach's Hayward, LLC.



**PLANNING COMMISSION MEETING
REMOTE PARTICIPATION
Thursday, October 28, 2021, 7:00 p.m.**

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

Mr. Chris Zaballos and Ms. Avery Jones, with applicant D.R. Horton, provided a synopsis of the project and a PowerPoint presentation.

Discussion ensued between the Planning Commission, staff, and applicant regarding the following: the Planning Commission's overall consensus is for the applicant to provide a fifth affordable unit; is it common to have the fractional in-lieu fee, is it comparable to what other developers have done and what is the amount for this fee; concern about possible traffic congestion caused by having only one road in and one road out; Alameda County Airport Land Use Commission (ALUC) safety concerns about density; how soon would construction begin; where did the Mediterranean design come from; the front doors seem to get lost in the mass of the house; will applicant consider front door and garage door modifications; will applicant consider increasing the \$5,000 art donation as the current amount is low in relation to the requested concessions; glad that condition of approval (COA) no. 9 requires that construction will begin as soon as approvals are completed and includes the project signage; are all the driveways the same length and concern for driveways fronting Calaroga because of traffic; and what is the public facility element of this project.

Commissioner Oquenda disclosed speaking to Mr. Chris Zaballos and Ms. Avery Jones and that this does not pose a conflict.

Acting Planning Manager Lochirco said that General Plan amendments are limited to four per calendar year for each city and the magnitude of the community benefit in exchange for the reduction of the development standards varies for different projects. He said the community benefit suitability is at the discretion of the Planning Commission and City Council. Mr. Lochirco said from an administrative standpoint, for smaller projects where the affordable housing requirement would require only one or two units this would be a disproportionate burden on the developer and the City to be able to market and administer the program, thus typically, the City would prefer the developer to pay the in-lieu fee that will provide funding for future affordable housing projects. Mr. Lochirco said that larger projects have the opportunity to provide a larger number of affordable units.

Mr. Zaballos responded that they would like to stay with the plan as presented, they are committed to providing the four affordable units and if adding a fifth affordable unit is important to the Planning Commission, then they will reconsider this. He spoke about previous plans submitted to the ALUC that were not acceptable which includes the original higher density plan. Mr. Zaballos said they strived to develop a walkable neighborhood and offered options for garage doors to minimize the mass impact that could include the color



**PLANNING COMMISSION MEETING
REMOTE PARTICIPATION
Thursday, October 28, 2021, 7:00 p.m.**

scheme, recessing and glass windows. He spoke about the art contribution and that they are willing to look at this. Mr. Zaballos provided a timeline for construction which will begin as soon as plans are approved. He confirmed that the driveways are all 20 feet long and spoke about the open spaces of the project.

Associate Transportation Planner Chang responded that the traffic analysis found that the traffic at the worst hour of the day is less than one vehicle per minute which is appropriate for this project.

Ms. Nancy Nelson, with OAG architects; spoke about the project's classic California style design and architecture; the need to maintain the compact footprint to be able to provide more houses within the allowed density; this is a motor court format and noted this plan is well received in communities. Ms. Nelson said the design relies heavily on the color palette and offered the option of painting the garage doors more subtle colors to make them less dominant.

Mr. Eddie Sieu, with RJA-GPS, confirmed that all driveways are at a minimum of 20 feet long.

Chair Roche opened the public hearing at 7:56 p.m.

Ms. Ro Aguilar, Hayward resident, mentioned that she provided written comments and spoke against the project. Ms. Aguilar said this site can accommodate a variety of affordable housing products which could include lower income homeowner occupied homes. She said this project requires a General Plan Amendment change and could be a model of inclusionary housing for other developers to follow. Ms. Aguilar encouraged the Planning Commission to support more affordable housing.

Mr. Ed Bogue, President of Southgate Area Homeowners Association, said that the Association considered the original project too dense for the Airport area and not acceptable under the ALUC rules. The Association is very happy with current plan that meets the ALUC rules and Hayward Airport Plan. He said the overall density works well with the neighborhood plan and this is truly what the Association was looking for. This is a very good location for this type of development, and he likes that each household has four parking spaces. Mr. Bogue said the Association does not care for glass garage doors which is inappropriate especially for the garages that front Calaroga.

Chair Roche closed the public hearing at 8:07 p.m.

Commissioner Oquenda said it is important to have as many affordable housing units as possible and it is important for the Planning Commission to be strong in its advocacy of



**PLANNING COMMISSION MEETING
REMOTE PARTICIPATION
Thursday, October 28, 2021, 7:00 p.m.**

community benefit compensation that warrants this level of change to the General Plan. Mr. Oquenda likes the project; it balances the complexities of the ALUC limitations and shared the ALUC process for this project. He appreciated the applicant's response to the questions and comments. Mr. Oquenda is willing to support the project if there is an amendment to COA no. 11 that adds a fifth affordable moderate-income unit and removes the fractional in-lieu fee. He said if the amendment is acceptable then the art donation can remain at \$5,000.

Commissioner Bonilla agrees with Commissioner Oquenda's comments. He likes the project's design and architecture but does not favor the fractional in-lieu fees and since the applicant is requesting a significant number of concessions, he recommended the removal of the fractional in-lieu fees and the addition of a fifth affordable unit for a total of five units with the income level designation as follows: two low-income and three moderate-income units. He said if this recommendation is approved, then he is fine with the art contribution amount but if the amendment is not approved then the art donation needs to be increased.

Commissioner Lowe stated that depending on which recommendation is approved, noting that both include the removal of the fractional in-lieu fees; Commissioner Oquenda's proposal of the additional moderate-income unit is not enough, and the art donation needs to be increased. She said if Commissioner Bonilla's recommendation of the additional affordable unit with the breakdown of two low-income units and the three moderate-income units then the art donation of \$5,000 is sufficient.

Commissioner Ali-Sullivan appreciates the applicant's comments and that this is a good project overall. He said there is a balance of trade-offs of the site which includes the density; requirements of the ALUC; and the development fits in well with the neighborhood. Mr. Ali-Sullivan said that the art contribution of \$5,000 is low and does not approve of the fractional in-lieu fee as the developer stands to make a lot of money on this project. He is in favor of amending COA no. 11 to add the fifth affordable unit and wants to see the art contribution increase especially since the developer acknowledged that the \$5,000 amount was low.

Commissioner Stevens stated that this new development will be here for more than 100 years and will be establishing the form for this neighborhood; noting that this architectural form is incongruent with the existing homes. He said that this infill development can be well designed; could take a better architectural form than conventional. If this is done, then this development can take a leadership position and bring an architectural form to Hayward consistent with other communities in the bay area. Mr. Stevens does not favor the design and would rather the applicant take the funds from the art contribution and the additional fifth affordable unit for enhanced architecture. Mr. Stevens would like to see a design review process for single family homes that is community driven so that the best and brightest in Hayward can voice their opinions on these design/architectural forms.



**PLANNING COMMISSION MEETING
REMOTE PARTICIPATION
Thursday, October 28, 2021, 7:00 p.m.**

Commissioner Goldstein agrees with Commissioner Bonilla's recommendation for the fifth affordable unit and the breakdown provided. Mr. Goldstein said that Hayward is a very special place and since this is a major change to the General Plan, changing this site to a Planned Development (PD), the applicant needs to step up and increase their art contribution. Mr. Goldstein likes the design; the concept is good, and this is a good location and the experience of Mr. Zaballos and D.R. Horton have a long-standing reputation of building developments and following through on projects will move forward in a timely manner.

Chair Roche spoke about the joint work session with the City Council where there was agreement that the City needs to be more aggressive on affordable housing and was pleased that the developer included the four affordable units. Ms. Roche agrees with Commissioner Bonilla's recommendations of the additional fifth affordable unit with the breakdown designation of two low-income and three moderate income units. She said that this is a good opportunity to recommend the addition of the fifth affordable unit in relation to the magnitude of the applicant's request for concessions to the General Plan and is looking forward to the motions and amendments. Ms. Roche said this can satisfy where the City is headed in terms of affordable housing units and appreciates the caller's comments that the public is looking to the Planning Commission on what will be moved forward, just as the Planning Commission looks to the City Council. She appreciates Commissioner Stevens' comments and notes there has been discussion with staff about developing a design review board that will be beneficial for future projects; but at this time the applicant has suggested some modifications that could address Mr. Stevens' concerns. She said she likes the architecture and the green space that brings in the surrounding neighborhood.

In response to Commissioner Ali-Sullivan's question on where the greatest need for affordable housing is, Acting Planning Manager Lochirco said that Housing Manager Morales would be the one to answer this question definitively but that he understands that the greatest need is for moderate-income units in Hayward.

Associate Planner Kowalski provided the Regional Housing Needs Allocation (RHNA) numbers for the City which are: 33% for moderate-income units, 75% for low-income units; and 42% for very low income.

Commissioner Oquenda said low and very low-income residents are more vulnerable and more at risk of displacement and supports Commissioner Bonilla's recommendations. Mr. Oquenda said until the RHNA numbers are at 100%, there is the need for these income level of units.

Acting Planning Manager Lochirco responded to Chair Roche's question if the RHNA numbers are for homeownership or also includes rentals; Mr. Lochirco said the RHNA data includes both types of households. Mr. Lochirco said the previous projects that have come before the



**PLANNING COMMISSION MEETING
REMOTE PARTICIPATION
Thursday, October 28, 2021, 7:00 p.m.**

Planning Commission have been a lot of multi-family/townhomes rental projects. Ms. Roche stated that there is value in having low and very low-income single family homeownership units.

Commissioner Ali-Sullivan asked Mr. Zaballos to respond to the recommendations and for the art donation (what?) would be an appropriate amount.

Mr. Zaballos responded that they clearly hear what the Planning Commission is recommending, and they realize this is a General Plan amendment and they need to step up to the plate. He asked that all five units be designated moderate-income as this will help. He said they are willing to increase the art donation and asked that the Planning Commission forgo the low and very low-income units as that would make it financially difficult for them.

Commissioner Bonilla made a motion to approve the staff recommendation with modifications to COA no. 11 as follows: instead of paying an in-lieu fee for the fractional unit, provide a fifth affordable unit for a total of five affordable units, with three units designated for moderate-income households and two units designated for low-income households in exchange for supporting the General Plan Amendment and Rezoning request.

Commissioner Goldstein seconded the motion.

A motion was made by Commissioner Bonilla, seconded by Commissioner Goldstein to approve the staff recommendation with the modifications to COA no. 11 as follows: instead of paying an in-lieu fee for the fractional unit, provide a fifth affordable unit for a total of five affordable units, with three units designated for moderate-income households and two units designated for low-income households in exchange for supporting the General Plan Amendment and Rezoning request.

The motion passed with the following roll call votes:

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

2. Proposed Development of a new Industrial Campus with Two Industrial Buildings Measuring Approximately 233,000 Square Feet and 155,000 Square Feet and Related Site Improvements Requiring Major Site Plan Review and Conditional Use Permit Approval and Review and Approval of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Former Berkeley Farms Site Located at



**PLANNING COMMISSION MEETING
REMOTE PARTICIPATION
Thursday, October 28, 2021, 7:00 p.m.**

25450-25550 Clawiter Road (APNs: 439-0080-001-00 and 439-0080-003-14). George Condon on behalf of Dermody Properties (Applicant); DPIF2 CA 25 Clawiter Road LLC (Property Owner)

This item has been continued until November 18, 2021.

APPROVAL OF MINUTES

3. Approval of the Planning Commission Meeting Minutes of October 14, 2021.

Ms. Velda Goe, thanked staff on the amendments to the minutes. Ms. Goe asked the Planning Commission to consider that the University Court Neighborhood Association requests that they be heard regarding Parcel 6, since they have been ignored since 2017. Ms. Goe wanted to also highlight the Park Heights development which has been adversely affecting their neighborhood in an unsafe and dangerous way. Ms. Goe said that their neighborhood is not on the mailing list noting that her contact information is on her submitted written comments.

Acting Planning Manager Lochirco said that since this is not an agenda item this cannot be discussed this evening. He confirmed that staff has received Ms. Goe's comments and that stakeholders can request to be placed on the mailing list and will be notified when the project is next scheduled to be heard.

Chair Roche had a minor correction she will email to staff.

A motion was made by Commissioner Oquenda seconded by Commissioner Bonilla to approve the amended Planning Commission Meeting Minutes of October 14, 2021.

The motion passed with the following roll call votes:

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

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters:

Acting Planning Manager Lochirco announced that since November 11 is a holiday, the next special Planning Commission meeting will be on November 18.



**PLANNING COMMISSION MEETING
REMOTE PARTICIPATION
Thursday, October 28, 2021, 7:00 p.m.**

Commissioners' Announcements, Referrals:

There was none.

ADJOURNMENT

Chair Roche adjourned the meeting at 8:41 p.m.

APPROVED:

Robert Stevens, Secretary
Planning Commission

ATTEST:

Denise Chan, Senior Secretary
Office of the City Clerk