



**PLANNING COMMISSION MEETING
COUNCIL CHAMBERS AND VIRTUAL (ZOOM)
PARTICIPATION
Thursday, September 28, 2023, 7:00 p.m.**

The Planning Commission meeting was called to order at 7:04 p.m. by Chair Ali-Sullivan. The Planning Commission held a hybrid meeting in the Council Chambers and virtually via Zoom.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: COMMISSIONERS: Franco-Clausen, Goodbody, Lowe, Patterson, Stevens
CHAIRPERSON: Ali-Sullivan
Absent: COMMISSIONER: Garg

Staff Members Present: Kowalski, Lochirco, Ochinero, Parras, Sharma, Tabari, Thompson, Vigilia

PUBLIC COMMENTS

There were none.

PUBLIC HEARING

For agenda item No. 1, 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.

1. Proposed Subdivision of a 0.35-Acre Site into Eight Lots and the Development of Five Townhomes and Two Common Areas Located at 1434 Grove Way (APN: 415-0170-027-00) Requiring Approval of a Vesting Tentative Tract Map 8426 and Site Plan Review (Application No. 201902285), and a Class 32 Exemption, In-Fill Development Project, Pursuant to the California Environmental Quality Act (CEQA). Applicant: Vrinder Makol, East Bay Developers; Owner: Vrinder Makol and Mohinder Dhillon. **(PH 23-036)**

Senior Planner Thompson provided a synopsis of the staff report and shared a PowerPoint presentation.

Mr. Alok Fiaz, the project applicant's representative, commented that two of the architects and two co-owners were present to answer any questions and looked forward to any comments.

Commissioner Lowe commented that what the Planning Commission approves aesthetically is what gets built, noting that any revisions to approved colors and materials should be reviewed and approved by the Planning Division before issuance of the building permit. She asked staff what the criteria was for allowing changes to building colors and materials and



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what this process entailed. Planning Manager Lochirco responded that the Hayward Municipal Code allows for minor changes and per the conditions of approval, staff often see minor changes between the conceptual phase which was currently presented to the Planning Commission. Mr. Lochirco said during the building phase, the applicant goes through detailed construction drawings and attempts to do their due diligence. He continued that often, what is seen presented on the PowerPoint Presentation slide doesn't always match the color palette that is seen in person and staff would verify if this came close to what was originally approved. He mentioned that sometimes there are slight modifications due to supply chain issues, noting if there are substantial changes in the building design beyond what the Planning Commission approved, then staff would require that the project return before the Planning Commission for a full Public Hearing and for consideration of that revision. Mr. Lochirco said that usually minor amendments to colors and materials don't require the project to come back before the Planning Commission, adding that until the City adopts identifiable objective criteria, the City was precluded from requiring certain colors and materials unless this is specifically codified in the Hayward Municipal Code. He said staff relied on the applicant's presentation and their initial project submittal, and as long as this is mostly consistent, then staff typically can approve any minor changes. Any significant change to building material, size, scope, or color, would require that the project be brought back to the Planning Commission for consideration. Commissioner Lowe asked staff if the process now was trying to develop an objective criterion so that it is known what is considered a minor change versus substantial changes. Mr. Lochirco responded that would be the case however this project is not subject to this at the current stage as it had been deemed complete and is being entitled prior to the adoption of any regulations and is not subjected to those regulations. He continued that any future change to the project, for instance if the applicant doesn't exercise or vest their approvals in the appropriate allowed time frame, then the applicant would have to request an extension. Staff would require any significant change to be reviewed, and if it's warranted, then the project would be coming back before the Planning Commission, and he mentioned there's a placeholder condition that's in the draft findings and conditions.

Commissioner Stevens referenced an e-mail received earlier that evening about the City's Landscape Architect having authority to approve tree removal and would like to know more about how that works. Planning Manager Lochirco questioned if he was referring to the tree removal process. Mr. Lochirco stated that the tree removal process was separately codified in the Hayward Municipal Code and there was a separate process and procedure to evaluate tree removals. He said tree removals were common with most projects in Hayward, they happen quite frequently throughout the community, sometimes the trees are considered protected and sometimes they're not considered protected in the Tree Preservation Ordinance which the Hayward Municipal Code provided very clear guidance and direction. He said the Hayward Municipal Code also assigned responsibility for evaluating and in this particular case, tree removals are not under the purview of the Planning Commission, noting that it is specifically a duty that is assigned to the City's Landscape Architect. Mr. Lochirco said if the



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permit is approved or denied and the applicant or any affected party doesn't agree with the decision, they have the ability to appeal that decision to the Planning Director, and if that decision is not agreed upon then it would come before the Planning Commission. He mentioned that there is a multi-step process that exists in the Hayward Municipal Code and that project applicants are subjected to the Tree Preservation Ordinance. Commissioner Stevens commented that the trees being removed are fairly substantial in size. Planning Manager Lochirco responded that as part of the project requirement, the applicant was required to submit an Arborist Report that provided an assessment of each tree, analyzed the health of those trees, and whether tree removal was warranted. Mr. Lochirco underscored that those requirements are specifically codified in the Hayward Municipal Code, noting that staff is in the process of updating the Tree Preservation Ordinance to provide more flexibility where needed. He said that community meetings will continue to be held in the next year so there may be changes as staff continues with the process to update the ordinance. Commissioner Stevens commented that he recalled at least some of the trees in the Arborist Report were reasonably healthy. Commissioner Stevens referenced a letter received from Ms. Sandra Frost which stated that some of the trees could be preserved if the driveway was slightly adjusted, Mr. Stevens questioned if that was an accurate statement. Planning Manager Lochirco responded that staff hasn't reviewed the plans to make the determination and mentioned that it would be up to the applicant to propose any changes as staff didn't have a requirement as the project currently met the Zoning in the General Plan. Mr. Lochirco said the issue of the tree removals was largely outside of the purview of the Planning Commission.

Commissioner Goodbody commented that her recommendation on condition of approval number sixteen, regarding the mailboxes, as heard at a recent Hayward City Council meeting by Council Andrews who voiced concerns over mail theft that has been happening in the City. She mentioned that other jurisdictions throughout the nation have attempted to make changes to their plan developments and wanted to be more specific on condition of approval number sixteen, that no cluster mailboxes be installed in this project. Planning Manager Lochirco responded that he was unsure about adding that specification in condition of approval number sixteen but could ask the applicant. He said the mailboxes typically used in that condition of approval has been a part of every development project and residential project that staff had evaluated and is consistent. Mr. Lochirco stated staff did reach out to the U.S. Postmaster General to try to get some additional guidance as mail theft isn't just unique to Hayward and is a problem that happens in many of the Bay Area communities that are dealing with this challenge. He continued that every project is going to be slightly different, some multi-family projects will have a designated locking secure door that would allow residents to enter in and retrieve their mail, while others are a standard mailbox and so that's why staff would want to ensure that there's a locking mechanism to help serve as a deterrent. Mr. Lochirco commented that whether or not this particular project is proposing a cluster mailbox, he would have to defer to the project planner and the applicant but emphasized that he would want to make sure that whatever is done is consistent with the Post Office



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requirements. Commissioner Goodbody commented that she wanted to encourage the applicant to work towards maximizing safety of the future residents as some developments included a separate secure facility for residents to retrieve their mail and others had individual mailboxes with locking mechanisms. Ms. Goodbody said she thought this would be a very positive project for the City of Hayward.

Commissioner Franco-Clausen commented that in Sunnyvale all developments have an under locking key. Ms. Franco-Clausen continued that the mailboxes are inside of a separate room where residents have to use a key fob in order to gain access to the mailbox, which prevents a lot of mail theft that is evident throughout the Bay Area and California. She suggested that this be considered in the future.

Commissioner Patterson commended staff for the presentation and report, and for answering the questions that were submitted ahead of the Planning Commission meeting. Ms. Patterson followed up on a couple of questions around the installation of solar panels and EV charging outlets, as it sounded like something that is required for the permit. She wondered if it was best practice for it to be included at this point as something that is required or if it is something that is encouraged for residents to include. Senior Planner Thompson responded that currently, it is not one of the submittal requirements for a Planning Entitlement Application, but staff could reevaluate the submittal requirements to make sure that those two items are addressed.

Chair Ali-Sullivan wanted clarification if there was a requirement for solar on this project. Senior Planner Thompson responded that is correct under the California Building Code, State Law. Mr. Ali-Sullivan asked if EV charging capabilities are a requirement. Ms. Thompson responded that is a requirement under the Hayward Reach Code that was adopted in November 2020. Chair Ali-Sullivan questioned the applicant if there were any thoughts given to the letter that was received regarding the trees zone site and if there was opportunity to preserve some trees by a slight adjustment of the driveway. Alok Faiz, the project applicant's representative, responded they did look at the Tree Protection and Mitigation Plan which is part of the application and there is a considerable amount of land that's given away for road widening which impacts some of the trees that are there at the corner. Mr. Faiz continued that they are also preserving the Tree Protection and Mitigation Plan for three trees in the rear and are looking at every opportunity to save or add more trees to make a nice landscape feature. Chair Ali-Sullivan echoed Commissioner Lowe's comment and questioned where that decision is made because what is seen in the imagery and the plans that are projected looked like a wonderful project and was quite visually appealing. He commented that what often is built is not what is shown at the Planning Commission meetings, as this has been evident with a variety of projects. Mr. Ali-Sullivan mentioned that condition of approval number nineteen was unclear. Staff noted that changes to color or light architectural materials would go through the Planning Director, but significant color changes or architectural features would



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come back to the Planning Commission. Planning Manager Lochirco responded that there wasn't a set list of criteria because every project is going to be different, he referenced a situation during the pandemic, a project that was under construction and there was supply issues getting this beautifully decorated front door from Asia but because of the embargo they couldn't do that. He continued that this development was required to come to the City and any changes that deviated from the original plan was required to be reviewed and approved by the City. Mr. Lochirco said he reviewed the changes that they were proposing, and this was substantially compliant in terms of look and style, and necessitating a delay in the project to come back to the Planning Commission wasn't warranted. He said when staff evaluates these projects and the nature of the changes, if it's a wholesale change to the project that is not what the public or the community expects, then this would warrant coming back to the Planning Commission. He said staff will ask applicants to provide a total list of proposed changes as this is preferred over incremental revisions; however, they do happen and often times applicants have had to come back to the Planning Commission. He commented that in terms of having something specifically in writing there's nothing specifically holding that; however, the discretion is codified in the Hayward Municipal Code and is intended to help projects get through the process and deal with the reality of life where things don't necessarily work out in a conceptual way due to trying to acquire the materials or get the equipment. Mr. Lochirco added that sometimes there are other circumstances and having an applicant come back through the Public Hearing process and endanger their land use entitlement because they want to swap out a door color, staff would not determine that to be substantial. Chair Ali-Sullivan questioned what percentage of projects end up coming back for revisions to architectural or visual elements. Planning Manager Lochirco responded that there usually isn't a high percentage of projects with significant changes. He said what is required is for the applicants to go through and request to do a minor modification to an approved plan and that is still processed at the staff level. Mr. Lochirco continued that there is a Public Notice that has been sent out to residents on what those proposed changes are, and this has been done frequently over the last several years and it's something that will continue.

Chair Ali-Sullivan questioned how often is it that a housing project for example would have zero impacted individuals reaching out for comments or providing comments, as he noticed this in most projects the Planning Commission approves, public notices are sent out to adjacent residences, and no one commented. Planning Manager Lochirco responded that was a hard question to address as a lot of the projects that are seen being constructed today came in under different regulatory frameworks. He said over the last two to three years California had taken very proactive action to remove local discretion on a lot of the housing projects and if a project was coming in and it's meeting the underlining zoning, the General Plan designation, and it satisfied all adopted objective criteria, the City is required to approve that project per the Housing Accountability Act. He continued that a lot of the projects that are seen today were under the previous set of rules and a lot of newer projects that are coming forward are not subject to discretionary review, they can be approved with the building



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permit without any public notification and that's how the state envisioned it to try to expedite housing construction in a time of a crisis.

Chair Ali-Sullivan asked the applicant how the two on-site surface level parking spots would be allocated. Mr. Alok Fiaz, the project applicant's representative, responded that the two uncovered parking spaces are for visitors per the requirement and all units will have their own parking spaces underneath.

Commissioner Stevens questioned what the applicant mentioned that the City required them to widen the street presumably along the Oak Street Corridor where tree number seven, eight, and nine are being removed if that was an accurate statement. Mr. Stevens said to him it looked like the Arborist Report specifically recommended preserving tree number seven, eight, and nine because they were the preferred species on this parcel, and they provide a really nice buffer to the parcels across the Street. Mr. Kevin Torbett, representing the project engineer Dilip Kishnani, commented that tree number seven, eight, and nine are on the corners of Grove Way and Oak Street and trees seven and eight fall within the dedication limits because of the increase in radius and as of right now the existing curb is ten-foot radius. Mr. Torbett said that Alameda County has the right-of-way on Oak Street, and they wanted a twenty-eight-foot radius curvature so that required trees seven and eight to be removed. He added that there may be a potential to save tree number nine but doesn't think with the widening of the sidewalk and with tree number nine right up against the right-of-way line it might be impacted during the construction; he added this would be further evaluated to see if there is way to protect tree number nine. Commissioner Stevens responded that the twenty-eight-foot radius is more than the Hayward Fire Code Ordinance would require, noting this was eight feet more, was not pedestrian friendly. Mr. Torbett responded that they would have to go back to Alameda County as he recalled there being specific direction as Alameda County's requirement was a twenty-eight-foot radius.

Chair Ali-Sullivan opened the public comment period at 7:37 p.m.

Tyler Dragoni, Ashland resident, commented that he agreed with the preservation of trees and any strategies to preserve them.

Chair Ali-Sullivan closed the public comment period at 7:38 p.m.

Commissioner Patterson mentioned that although tree removals are not under the Planning Commission's purview, she expressed concern about the Arborist Report and encouraged the community to follow the process to make an appeal should this project pass. Ms. Patterson commented there was another redwood tree identified as a candidate for preservation in the Arborist Report; she stated that tree numbers seven, eight, nine, and ten are the ones that are in question.



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Commissioner Stevens said that while this might not be in the Planning Commission's purview, he could not support the application, as trees are what make neighborhoods, they create beautiful spaces and to design a project and not respect that wasn't agreeable with him. Mr. Stevens said that the project should have addressed what the Arborist Report included and should have pushed back on Alameda County's requirement to make a twenty-eight-foot radius. Commissioner Goodbody asked Commissioner Stevens if he would be open to supporting the project if there were additional conditions of approval on the trees. Mr. Stevens responded he will support the project if tree numbers seven and eight on Oak Street are preserved and the radius is reduced.

Chair Ali-Sullivan asked staff if they could provide any comments from a design standpoint on the feasibility of the site accommodating the residential use and the preservation of those trees. Planning Manager Lochirco responded that he was not sure as it's not the staff's position to be redesigning in the middle of a Planning Commission meeting. Mr. Ali-Sullivan asked from a setback point of view if it was possible to build the footprint of housing with the setback requirements and then preserve the trees. Mr. Lochirco responded that he could not answer that as the City's Landscape Architect looked at the project plans and was responsible for reviewing the Arborist Report and adding any related conditions as part of the project in order to approve it. He is unsure if moving the driveway or reconfiguring the site would result in the preservation of those trees as some trees that are seen are too big for the small site that they're on and it will not allow for future growth for those trees to remain healthy. Mr. Lochirco continued that often times what is seen today are healthy trees and what ends up happening is through the process of construction or site grading, those trees are negatively impacted, and they will not have the space to be able to thrive long-term and the Landscape Architect will recommend removal. He said the challenge is that the site is zoned and is designated to allow for those kinds of densities so barring any finding that is specific to life health safety is preponderance of evidence on the City to be able to recommend denial or deny a project in lieu of trees. He continued that developers were required to satisfy the Tree Preservation Ordinance in terms of replacement trees, they can be provided on site, or the site might be too small to be able to accommodate some healthy trees that are going to be removed. Mr. Lochirco said there are options to look for off-site mitigation that could be worked out with the City's Landscape Architect.

Chair Ali-Sullivan asked if the Landscape Architect was present to address the question whether it was possible to not impact the trees. Mr. Michael Suchocki, with Molina Home Design, responded that they paid close attention to all the rules and regulations for the design. Mr. Suchocki shared that they had seen there was a right-of-way dedication and the twenty-eight-foot radius, so they pushed the buildings and the designs inward to fit in the envelopes that were given. He said that there is a mitigation plan on sheet L0.2 from Gates and Associates Landscape Architects that looked to mitigate any tree removal and add more trees



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around the site, and as a result they are adding more trees to the project.

Commissioner Goodbody responded that given the comments regarding the setbacks, the Tree Preservation Ordinance, the mailboxes, and the Arborist Report, she felt as if there was more information that is needed to make a decision. Ms. Goodbody asked from an approval standpoint if they were able to table the item and bring it back at a future Planning Commission meeting so that there was more information, feedback, and guidance. Planning Manager Lochirco asked what the basis for the continuance would be and if it's to resolve the tree issue, that would not be under the purview of the Planning Commission. Ms. Goodbody responded that as mentioned by Commissioner Stevens, it would have been helpful if the Landscape Architect had been there to provide some additional guidance.

Chair Ali-Sullivan responded that the reasoning for requesting additional information is that Commissioner Stevens raised solid questions regarding the requirement of the street radius that are left unanswered. Planning Manager Lochirco asked Public Works staff to answer as it sounded that the requirement came from Alameda County. Mr. Mo Sharma, Public Works Senior Engineer, responded that the twenty-eight-foot radius meets the Alameda County requirements because Oak Street is Alameda County's Street, and the trees will not be affected with that 28-foot radius. Mr. Sharma said the reason for the removal of those trees is the street will be higher than the homes and there will be a slope cut and then a new slope will be created below the road from Oak Street downwards. He added that the slope cut will expose and damage the tree's roots, so it is the design of the homes and where the homes are located lower than the road.

Commissioner Patterson asked if there was a process if this project were to be approved that it could come back to the Planning Commission. Planning Manager Lochirco responded that the tree removal process does require notification once the tree removal permit has been issued which is codified in the Hayward Municipal Code. He stated that any affected party has the right to appeal against the decision to the Planning Director and then the Planning Director can bring the appeal to the Planning Commission.

Commissioner Lowe commented that she was very concerned about saving those trees and appreciated Commissioner Patterson asking the question and hoped that trees seven through ten could be saved. Ms. Lowe said that based upon everything she read the project met all criteria, it complied with zoning laws, the General Plan, and absence some public safety issues, she expressed there was no choice but to recommend approval of the project at this time thereby moving the item.

Commissioner Franco-Clausen commended all of the Planning Commissioners for their input, thought the project should move forward but should be brought back at another time addressing the comments that were provided, and that this be considered and further



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discussed when the permit becomes available. Ms. Franco-Clausen emphasized that keeping native trees is very important to the ecosystem and to the community, supported moving the project forward with hopes of it returning to the Planning Commission again for further discussion.

Chair Ali-Sullivan commented that regarding the plants, he has similar concerns with the impact that the development will have. Mr. Ali-Sullivan said that there is a housing crisis, and the City of Hayward needs housing, and these are market rate houses so there's a bit of information missing from the applicant. He continued that having a simple answer as to why trees seven, eight, nine, and ten couldn't be saved would have been very helpful. If the reasoning was because of the constraints of the size of the lot and there's no way to build this without impacting those trees, and as he felt this was not heard as the reasoning, he was led to believe that perhaps there was an opportunity to adjust the development. Mr. Ali-Sullivan said that the opportunity had passed at this point. He said he had concerns around what the Planning Commission approves versus what gets built, underscoring that what is built is not what the community expected or what was discussed. He said that it's easy to use the excuse of rising costs or that material isn't available, resulting in something done at a lesser standard because the project is already moving forward and to avoid delaying the process or burdening the Planning Commission with returning projects. He added that Mr. Lochirco said that it's not majority of projects that have these types of revisions to them and asked going forward, if language could be provided in the conditions of approval with an adjustment for example condition of approval nineteen which stated, "that the Planning Division has the authority to approve any type of color, material, or renderings the changes to that have been approved". He mentioned how color and architectural elements make significant changes to the built environment, changes to what it's like when you're walking by them as a pedestrian, as a resident next door, and doesn't want to diminish what a couple pieces of architectural elements can do to a property. Mr. Ali-Sullivan added that it might be minor to staff but could make a significant impact in the community and it shouldn't be raised to the lowest common denominator of building standards and should be raised to the highest common denominator. He added that he hoped the applicant of this project is approved and what is seen is what is built and doesn't let any financial constraints lead to selecting a cheaper option or a less visually impactful option. He said what has been heard from community members is that they would like to see rich, beautiful, well-built, visually alluring properties and developments being built in Hayward. Planning Manager Lochirco said that when the adoption of the Objective Design Standards and use a point system, the point system was required in order to be able to satisfy the local Hayward Municipal Code which will make it easier for staff and provide some additional reassurances to the Planning Commission, the City Council, and the community about what they see is what they get. Mr. Lochirco added that the Residential Design Standards project would be coming back before the Planning Commission in fall which will hopefully give more certainty not only for the Planning Commission but also for the applicants that wish to make changes in their projects and have deviated from what was



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approved.

Chair Ali-Sullivan commented that the project is overall positive and would have preferred the project to have lower or medium income units within the property versus the applicant paying in-lieu fees. He said having the mix of communities would be more beneficial than paying a fee and to be used at some point in the future for projects that may or may not get built.

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

The motion passed with the following roll call votes:

AYES:	Commissioners Franco-Clausen, Goodbody, Lowe, Patterson Chair Ali-Sullivan
NOES:	Commissioner Stevens
ABSENT:	Commissioner 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. Vesting Tentative Tract Map (Tract 8104) and Site Plan Review Application No. TM-23-0003 for a 12-lot, 10-unit, 100 percent affordable Townhouse-Style Residential Subdivision on a Vacant 0.74-acre Site Located at 123 A Street for which a Corresponding Planned Development District Rezoning Application (PL-2013-0290) and Now-Expired Vesting Tentative Tract Map Application (PL-2013-0291) were Previously Approved in 2015 (APN 431-0016-088-03). Applicant: Ben Grubb, Habitat for Humanity East Bay/Silicon Valley; Property Owner: City of Hayward. **(PH 23-037)**

Associate Planner Kowalski provided a synopsis of the staff report and shared a PowerPoint presentation. Mr. Rob Simonds, applicant and Director of Housing Development for Habitat for Humanity East Bay/Silicon Valley, commended City staff for their help on restarting the project as it was delayed due to an environmental issue outside of Habitat for Humanity's control that needed to be cleared on the site. Mr. Simonds mentioned that he worked with the Department of Toxic Substance Control (DTSC) on a remedial action work plan for the cleanup of the property and ran into some funding challenges with gaining awards from Alameda County and the State for development of the project while preparing the work plan. He added that, since 2015, they have tapped additional funding sources necessary for development of the project and have drafted a remedial action work plan with



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DTSC for the cleanup of the property. Mr. Simonds thanked staff for helping to restart the project and move the process forward.

Chair Ali-Sullivan questioned staff if City had previously worked with the applicant, if prior projects had been successful, indicating that he is pleased that the proposed project was with Habitat for Humanity. Associate Planner Kowalski responded that he has been with the City of Hayward for a little over two years and it was the first time he has worked with Habitat for Humanity in his current role, however he had previously worked with the organization while working for other jurisdictions and underscored they are excellent affordable housing developers. Planning Manager Lochirco responded that he knew about the Sequoia Grove project years ago and was glad to see them back as the project was going to be a great asset for the community.

Chair Ali-Sullivan questioned staff if there were any images of the project as he did not see any images in the staff report and asked if all the parking were surface parking for cost reasons. Associate Planner Kowalski responded that there were no architectural renderings of the plans despite the fact that the plans were very thorough and well prepared, that the project would only include surface parking and that all of the parking spaces would have chargers for electric vehicles. He stated the provision of surface parking may have been a cost-saving measure but reiterated that the parking plan was identical to the one from eight years ago.

Commissioner Lowe praised the project, and asked how the City could attract more projects similar to this type, how soon the project could start, and whether the developer would continue to work on more projects in the City.

Chair Ali-Sullivan questioned the applicant if they had identified residents or if it was too early in the process, wondered how this process would take place, and asked if there would be a preference for Hayward residents. Mr. Simonds, applicant, responded that it was too early to start choosing future homeowners for the project, noting this process typically begins once construction has started, and that homeowners like to witness the construction process. Mr. Simonds reiterated that there is a sweat equity component to all Habitat projects where homeowners participate in the physical construction of the homes. He said that the process begins two to three months after the project starts, which is when those who have expressed an interest in the property are selected as homeowners. Mr. Simonds mentioned that there is a program available that allows for additional bonus points for people that live or work in the City of Hayward, if required by the City's Housing Department. He said they are in the process of finalizing the Affordable Housing Plan for the property and wasn't sure whether there will be a preference for people that live and/or work in Hayward.

Commissioner Franco-Clausen echoed Commissioner Lowe's comments that Hayward needed more projects like this. Ms. Franco-Clausen questioned if there was a requirement in any of



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the projects that the Planning Commission had allocated to choose Hayward residents first in consideration for anything that is built in Hayward, helping Hayward residents to stay in the City and not be priced out. She asked if it was something that was included in a lot of the projects that Hayward has approved. She asked if there was anything else that could be done to make sure that Hayward residents are considered first as they want Hayward residents to be homeowners, raise their families in the City, and go to Hayward schools. Planning Manager Lochirco responded that he was trying to get a hold of the Housing Manager, but he knew there were some fair housing requirements, but he was unsure of how much flexibility there was in exercising local preferences. Commissioner Franco-Clausen responded that the reason she brought it up was because she has a family of seven with five kids and had the privilege of going and helping build with Habitat for Humanity in Los Angeles and Sacramento as volunteers and, she noticed that during that process some of the future homeowners were there that were moving into those properties were from local areas. She added that she knew it was possible but wondered if the City of Hayward also required that because it would be a benefit to the community, the City and to developers that want to build in Hayward.

Commissioner Goodbody followed up on Commissioner Franco-Clausen's question, related to the funding mechanism as the applicant had received somewhere between four or five million dollars in matching funds. Ms. Goodbody wondered if the funds from the City of Hayward would have that condition or have a requirement of preference for local residents. She questioned the applicant about the application process in selecting and interviewing potential homeowners as she had noticed that the townhomes are three-stories, and this could be prohibitive to people with mobility disabilities. She asked the applicant if in the process of building homes, could some of the homes be modified to be Americans with Disabilities Act (ADA) accessible or if that would be an additional cost to that homeowner. Mr. Simonds responded that there was a mistake in the staff report and the homes would only be two stories, not three, and two of the ten homes would have a ground floor bedroom, which allows them to service a family that may have a mobility challenge. He said that they have met all codes for ADA compatibility and mentioned that there wasn't the ability to modify the other eight homes to add a bedroom on the ground floor.

Commissioner Goodbody followed up on the question of sweat equity, which is the Habitat for Humanity's nationwide example of being able to pass on and build wealth and equity in one's family. She asked if there were other ways in which applicants could complete or fulfill the sweat equity component if they were physically unable to participate in the building of their home. Mr. Simonds responded that there were a number of other ways in which the applicants could satisfy the sweat equity component exemplifying residents could work in the office and perform tasks associated with paperwork around the office. He added that there were ways in which someone that was physically unable to go out and work on a construction site could be a cashier at one of their re-stores where they sell building materials to the general public, underscoring this would satisfy the sweat equity component. Commissioner



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Goodbody asked if other members of the family, friends, or volunteers could help meet the sweat equity component on behalf of the future homeowner. Mr. Simonds responded this was permitted for family members and certain portions of friends to volunteer and have a portion of their hours directed to a certain family member.

Chair Ali-Sullivan asked if the Housing Manager could address the questions regarding the allocation of housing and if there is an ability to give preference to Hayward residents when these units do become available. Ms. Christina Morales, Housing Manager, responded that the City of Hayward's Affordable Housing Ordinance established a requirement for a live/work preference which meant that anybody who either lives or works in the City of Hayward would have priority preference, and any applicant who does not meet these criteria would be further down on the application list. She emphasized that the ordinance that is currently in place already had this requirement.

Commissioner Patterson commended staff for the report and presentation as she is fully in support of this project and is excited about it seeing it get completed. Ms. Patterson questioned Attachment No. VI containing the Mitigated Negative Declaration, indicating there were three areas where the project's impacts on the environment rated less than significant with mitigation incorporated and asked if that meant that those suggested mitigations are already a part of the plan's proposal or if it is something that the City is looking to see in the future. Associate Planner Kowalski responded that they were included in the conditions of approval.

Chair Ali-Sullivan opened public comment at 8:21 p.m.

Mr. Rafael Lopez, Hayward Resident, commented that he lives right behind this project, and he is excited about the project. Mr. Lopez mentioned that for the past several years there has been issues with homeless people occupying the empty lot and residents would call the City to get the homeless people to leave, however they would always come back. He said that his only concern with the project is the back fence and suggested if they would add an eight-foot-high fence, that would give more privacy to the project and the adjacent residents. He questioned how affordable the homes would be as he has a son and daughter who had moved out of the City because they could not qualify to buy a home, and reiterated that he was excited to see this project.

Mr. Matt Turner, Grove Way resident, spoke in reference to Item 1 on the agenda commenting that he was concerned about the trees in the proposed project. Mr. Turner indicated that the Ruby Meadows project located nearby would be chopping down eight-seven trees in the neighborhood and shared that this neighborhood is a Senate Bill 1000 (SB 1000) Environmental Justice Community. He said that Alameda County had done a study of the unincorporated area in North Hayward and surrounding environment and had determined



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that this area had the lowest canopy cover in all the county. He continued that it had significant health consequences for those who live in that area, asked if the trees in the proposed project could be preserved, and stated that there were some areas where the driveways could be pushed back a small amount in order to preserve some of the redwood trees that were planted some time ago. Related to Item 2, Mr. Turner stated that he was a big fan of Habitat for Humanity and looked forward to seeing the project get built.

Ms. Ro Aguilar, Hayward resident, expressed support for the project and support for home ownership. Ms. Aguilar said that the project had one of the values that she had been advocating for many years, as this would help move people into the middle class. She stated that in reading through the staff report, she didn't see any mention of where the nearest schools were, if there were shopping areas, or any transit options in that area, adding that she is not familiar with the project site location. She agreed with Commissioner Lowe's statement that Habitat for Humanity should do more in the Hayward community and she encouraged Habitat for Humanity to move toward a more inclusionary income level housing by building in areas where the income level is higher. Ms. Aguilar gave an example of Bidwell School by Fairway Park, where there is public land available. She said she would love for Habitat for Humanity to build on that available land as there was currently some acreage where she doesn't believe anything was currently planned.

Chair Ali-Sullivan closed the public comment period at 8:27 p.m.

Chair Ali-Sullivan referenced the fence that was questioned by one of the neighboring property owners and asked the applicant how the rear fence would be handled. Associate Planner Kowalski commented that the six-foot fence is the standard height that the City allowed between private properties for privacy. Mr. Kowalski said that fences could go up to seven feet without requiring a building permit and plans prepared by an engineer. He commented that if the fence was taller than seven feet there would need to be a building permit issued and it would have to be engineered to withstand wind load and would require. Mr. Simonds responded that he would be willing to raise the fence to seven feet to stay underneath the structural design requirements. Mr. Simonds added that for a fence taller than seven feet it adds a huge amount of cost to build and to acquire the separate building permit as Mr. Kowalski had mentioned. He continued that in numerous other developments around the Bay Area, cities had allowed putting trellis work on top of a typical six-foot fence to make it seven feet as it provided additional and attractive screening for the neighbors. Mr. Simonds said he would propose that if the neighbors were willing to work with him, he would be willing to raise that solid six-foot fence to seven-foot with a one-foot trellis on top of his current design.

Chair Ali-Sullivan commented that there are some projects the Planning Commission is required to approve if they meet the standards and there are other projects that Planning Commissioners are excited to approve. He continued that this is a project that he was very



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excited about as he is a huge fan of Habitat for Humanity. He mentioned that President Carter, was going to be turning 100 years old that weekend and is a strong supporter of Habitat for Humanity. Mr. Ali-Sullivan commended the applicant as he was amazed that Habitat for Humanity had stuck with this project throughout a 10-year-long process and was not giving up on this project and collecting the money necessary to make it happen. He said he thinks this project is going to enrich the neighborhood and the City. He loved the preference that will be given to Hayward residents and the sweat equity piece and made a motion to approve the project with one additional condition of approval that the site plan include a seven-foot-high rear fence as an adjustment from the standard six-foot fence. Associate Planner Kowalski commented that there might be a possibility that the original planned development that was approved back in 2015 had a condition limiting any new fence to six feet and staff would have to look into it this. Mr. Ali-Sullivan said he would modify his motion that the Planning Commission approve the project as stated with the understanding that the City was going to look into fencing height limitations with the notation that the applicant had agreed to increase the height of the fence to 7 feet if allowed.

Commissioner Stevens commented that he was ecstatic about the project, and he thought it was great to have an affordable housing project that worked with an existing site and preserved the trees. Mr. Stevens also wanted to commend the designer for recognizing the importance and respect of the neighborhood's character. He said that the Objective Design Standards are critical, and that tree preservation and preservation of our neighborhoods is critical.

Commissioner Patterson commented that she would like to thank the applicant for choosing Hayward and sticking with this process as she is excited to be a part of the approval process.

A motion to approve the staff recommendation was made by Chair Ali-Sullivan, seconded by Commissioner Goodbody.

The motion passed with the following roll call votes:

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

APPROVAL OF MINUTES

3. Minutes of the Planning Commission Meeting August 24, 2023 **(MIN 23-099)**



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A motion was made by Commissioner Stevens, seconded by Commissioner Patterson, to approve the meeting minutes of August 24, 2023.

The motion passed with the following roll call votes:

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

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters

Planning Manager Lochirco formally welcomed the newest Planning Commissioner Franco-Clausen to the City's Planning Commission. Mr. Lochirco stated he was very excited to have Commissioner Franco-Clausen join the amazing Planning Commission and the team in Hayward. He commended Commissioner Franco-Clausen for being patient through the onboarding and he could tell based on her background, she would be an amazing addition to the team.

Commissioner Franco-Clausen commended city staff for the amazing onboarding and being patient with her as she is very proud to serve Hayward. Ms. Franco-Clausen stated that she looked forward to getting to know the Planning Commissioners and colleagues better and to move Hayward forward in the direction that serves all.

Planning Manager Lochirco made an announcement that there was one item scheduled for the next Planning Commission meeting on October 12, 2023, which is a project requesting a Planned Development Rezoning where the Planning Commission will be asked to make recommendations to the City Council. He added that the second meeting in October would be the formal adoption recommendation for the Objective Design Standards for recommendation to the City Council. Mr. Lochirco said that in November, staff hoped to present the Climate Action Plan to the Planning Commission, the updated safety element, and the environmental justice element that staff is proposing to adopt. He shared that there were no anticipated meeting cancellations in the future.

Commissioners' Announcements, Referrals

Chair Ali-Sullivan welcomed Commissioner Franco-Clausen to the Planning Commission as there now is a full meeting body. Mr. Ali-Sullivan added that he was excited about all the



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Planning Commissioners being able to work together as he looked forward to future Planning Commission meetings throughout the rest of the year. He mentioned he would like to wish President Jimmy Carter a happy birthday, who was turning 100 years old that weekend as he inspired him in his public service and public policy career.

ADJOURNMENT

Chair Ali-Sullivan adjourned the meeting at 8:38 p.m.



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APPROVED:

A handwritten signature in cursive script, appearing to read "Anika Patterson", is written over a horizontal line.

Anika Patterson, Secretary
Planning Commission

ATTEST:

A handwritten signature in cursive script, appearing to read "Amber Parras", is written over a horizontal line.

Amber Parras
Planning Commission Secretary
Office of the City Clerk