



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, September 12, 2019, 7:00 p.m.  
777 B Street, Hayward, CA 94541**

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**MEETING**

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

**CALL TO ORDER Pledge of Allegiance**

Commissioner McDermott led in the Pledge of Allegiance.

**ROLL CALL**

Present: COMMISSIONERS: Andrews, Bonilla, Patton, McDermott, Goldstein  
CHAIRPERSON: Faria  
Absent: COMMISSIONER: Willis

Staff Members Present: Brick, Chan, Emura, Lochirco, Martinez

General Public Present: 7

**PUBLIC COMMENT:**

Ms. Alicia Lawrence, member of the Hayward Collective, shared having a discussion with Deputy City Manager Ott regarding incentivizing housing production. Ms. Lawrence said that she has heard Planning Commissioners comment about the Affordable Housing Ordinance (AHO) not meeting the needs of the community. Ms. Lawrence said if the Commission feels this way, she requested that the Commission should address the flaws of the AHO with City Council and staff. Ms. Lawrence said the Hayward Collective's perspective is that prior to enacting any incentivized housing policies, the flaws of the AHO need to be addressed.

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

1. PH-19-073 Proposed Establishment of an Off-Sale Retail Establishment (Wine Shop) with Ancillary On-Site tastings Located at 1013 B Street, assessor Parcel No. 428-0066-024-00. Paul Houston (Applicant); B Street Apartments Group LP (Property Owners), Requiring Approval of Conditional Use Permit Application No. 201903274

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



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Associate Planner Martinez confirmed for Commissioner Goldstein that similar retail uses in the area were taken into consideration.

Commissioner Patton had concerns about the operation's staging and frequency of delivery trucks because if this is all done on B Street it could cause a traffic congestion issue. Mr. Paul Houston, applicant, spoke about the project and his business plan in producing the wine and then having it trucked to the B Street location with the goal to sell bottles of wine and to have a wine tasting area. Mr. Houston said barrels of crushed grape juice will be delivered to the B Street location and the largest batch to be delivered will be 400 gallons.

Associate Planner Martinez confirmed for Commissioner McDermott that staff was contacted by Mr. Kim Huggett from the Chamber of Commerce for the contact information for Mr. Houston. Mr. Martinez said there was a phone call from a concerned resident about the possible abuse of alcohol consumption and Mr. Martinez shared with the resident that the applicant's price point would make the alcohol abuse prohibitive. Mr. Houston responded to Ms. McDermott that his target audience will be the general public and that there will be charge for wine tasting in compliance with the State Department, Bureau of Alcoholic Beverage Control (ABC). Mr. Houston said he plans to open the retail store during the second quarter of 2020. Mr. Wayne Alexander, project architect, explained that the store interior design will be Americans with Disabilities Act (ADA) compliant. Mr. Martinez confirmed that Mr. Houston can only sell his product.

In response to Commissioner Bonilla's question if the applicant can also open a wine bar, Assistant Planner Martinez said a wine bar is a different license per the ABC that would require the applicant to submit a different application.

Assistant Planner Martinez ensured Commissioner Andrews that staff will respond to Mr. Horner's concerns. Ms. Andrews encouraged the applicant to hire locally.

In response to Chair Faria, Mr. Houston said his business plan is to be open 6 days a week with morning hours for the winery with the wine tasting room open at 1 p.m. Mr. Houston said access is only through the front of the building on B Street at this time.

Having no public speakers, Chair Faria opened and closed the public hearing at 7:27 p.m.

Commissioner McDermott made a motion to approve the staff recommendation.

Commissioner Patton seconded the motion with the friendly amendment that the operation shall not conduct and/or accept deliveries between the hours of 11 a.m. and 2 p.m., Monday through Friday.



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Commissioner McDermott accepted the friendly amendment.

The motion passed with the following vote:

|          |                                                                  |
|----------|------------------------------------------------------------------|
| AYES:    | Commissioners Andrews, Bonilla, Patton, McDermott<br>Chair Faria |
| NOES:    | Goldstein                                                        |
| ABSENT:  | Willis                                                           |
| ABSTAIN: | None                                                             |

2. Proposal to subdivide two existing parcels into 17 parcels to allow the construction of 12 detached single-family residences and five Accessory Dwelling units (ADU) with common open space areas and related site improvements at 28571 & 29591 Harvey Avenue (APNs 464-0060-005-02 & 464-0060-006-00) requiring a Vesting Tentative Tract Map, Planned Development (PD) rezone, Site Plan Review, and Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program (MMRP). Application No. 201706649; Nuvera Homes (Applicant), Ngai Ming Want (Owner)

Associate Planner Emura provided a synopsis of the staff report and a PowerPoint presentation. Mr. Emura said the applicant has requested a modification to Condition of Approval (COA) No. 106B, on Page 16, under the Utilities section, to read as follows, "The slope of the sanitary sewer mains shall be approved by the Public Works & Utilities Department – Utilities Division". Mr. Emura stated that staff has agreed to the modification.

Commissioner Andrews said there was a letter submitted by Mr. John Manrique regarding wildlife habitat protections for the garter snake that is present on the project site. Associate Planner Emura said unfortunately the email was not shared with the California Environmental and Quality Act (CEQA) consultant who was not able to be present for the meeting. Mr. Emura said he will discuss Mr. Manrique's wildlife habitat concerns with the consultant.

Mr. Jeff Lawrence responded to Ms. Andrews that the addition of the Accessory Dwelling Units (ADUs) develops important housing stock and provides the potential for lower cost housing. Mr. Emura said the primary unit and ADU unit are considered one and there are also restrictions on the ADU unit such as the owner of the property must live on the property for a certain period of time. Mr. Emura added that the ADU ordinance states as follows, if the property owner does not live on the property, they can only rent out one of the units.



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Mr. Lawrence responded that from a marketing and buyers' perspective there is a preference for gas utility option.

In response to Commissioner Bonilla, Mr. Lawrence said there is a limited number of units on the project site and it made sense to pay the in-lieu fee. Mr. Lawrence shared that with the inclusion of the ADUs they will be able to provide more affordable extra units. Mr. Lawrence said for the larger homes with the secondary units the market price of the homes could be approximately \$800,000 to \$900,000. Mr. Lawrence said there is a need for the ADUs and that it provides buyers with options. Mr. Bonilla would like staff to work with developers to find solutions to incorporate affordable housing in new developments.

Commissioner McDermott agreed with her fellow Commissioners regarding the inclusion of affordable housing in all new developments and strongly encouraged staff to recommend to the City Council to make affordable housing a requirement for new developments. Ms. McDermott said that even though the City Council has increased the in-lieu fees, in an effort to encourage developers to include the affordable housing element, there have been several new development projects that came before the Planning Commission where the applicant chose to pay the in-lieu fees. Ms. McDermott said with ADUs the owner sets the price for rents and these units do not fall under the affordable housing guidelines. Mr. Lawrence responded to Ms. McDermott that per the requirements, the units will be wired for electric charging stations in the garages and will also have solar amenities. Mr. Lawrence said the Conditions, Covenants and Regulations will include parking enforcement language that will cover the six guest parking spaces. Mr. Lawrence pointed out on the site plan that there are two parking spaces in the driveway and one uncovered parking space for the ADU and that the end units have deeper driveways that can accommodate up to four cars. Mr. Emura responded to Ms. McDermott that there is a COA included to address the 55-gallon uncovered drum if any mitigation needs to occur. Mr. Lawrence said the environmental consultant inspected the drum and did not find any toxic substances that needed to be mitigated. Mr. Lawrence said there are a lot of older homes on the project site and he is looking forward to clearing out the site.

Mr. Lawrence commented that the staff report was detailed and complete and appreciated Associate Planner Emura suggesting the ADU idea and said this is a great housing option that will make good use of the space. Mr. Lawrence shared that this is their third project in Hayward.

Chair Faria opened the public hearing at 8:01 p.m.

Ms. Alicia Lawrence, with the Hayward Collection, said she does not feel ADUs are an answer to affordable housing and said the home sizes are excessive. Ms. Lawrence said the proposed



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project does not fit in with the existing neighborhood. Ms. Lawrence suggested revisiting garage requirements to enable the building of more homes.

Chair Faria closed the public hearing at 8:03 p.m.

Chair Faria asked about the original proposal of 16 units, to which Principal Planner Lochirco said the original plan was not in compliance with the General Plan. Mr. Lochirco pointed out that ADUs do not count against density but adds to living space and is a solution to add more dwelling units on a limited site without having to go through a General Plan amendment process. Mr. Lochirco said the Planned Development rezone is to deviate from the development standards and the project as proposed is in compliance with the General Plan Land Use Density.

Commissioner Patton shared that ADUs was the first approach put forth by the State Legislature in the 1980s and he prefers the ADU approach for this site as this is an infill project on a small lot. He said that ADUs add density and affordability and this was the correct approach suggested by staff. Mr. Patton said that it costs the same to build affordable and market rate housing and the in-lieu fees go towards these housing projects. Mr. Patton said that staff and the Commission needs to look at all housing options available for developments. Mr. Patton supports the item.

Commissioner Andrews has concerns about the price and exterior design of the proposed project as it does not fit in with the surrounding neighborhood.

Commissioner McDermott made a motion to approve the staff recommendation including the modification to COA No. 106B, on Page 16, under the Utilities section, to read as follows, "The slope of the sanitary sewer mains shall be approved by the Public Works & Utilities Department – Utilities Division". Commissioner Goldstein seconded the motion.

The motion passed with the following vote:

|          |                                                                             |
|----------|-----------------------------------------------------------------------------|
| AYES:    | Commissioners Andrews, Bonilla, Patton, McDermott, Goldstein<br>Chair Faria |
| NOES:    | None                                                                        |
| ABSENT:  | Willis                                                                      |
| ABSTAIN: | None                                                                        |



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**APPROVAL OF MINUTES**

3. Approval of the Planning Commission Meeting Minutes of July 25, 2019.

Commissioner Andrews made a motion, seconded by Commissioner Patton, to approve the Planning Commission Meeting Minutes of July 25, 2019. The motion passed with the following votes:

|          |                                                     |
|----------|-----------------------------------------------------|
| AYES:    | Commissioners Andrews, Patton, McDermott, Goldstein |
| NOES:    | None                                                |
| ABSENT:  | Willis                                              |
| ABSTAIN: | Faria, Bonilla                                      |

**COMMISSION REPORTS**

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

There were none.

**Commissioners' Announcements, Referrals:**

Commissioner McDermott said this is her last meeting and thanked staff and Commissioners past and present. Chair Faria thanked Commissioner McDermott for her insight and perspective and pointed out that Ms. McDermott was always prepared for the meetings. Ms. Faria also acknowledged Commissioner Willis for his service.

Principal Planner Lochirco said the new Commissioners will be attending the next Planning Commission meeting on September 26, 2019. Mr. Lochirco requested that Commissioner McDermott attend the next meeting to receive a formal commendation for her service.

**ADJOURNMENT**

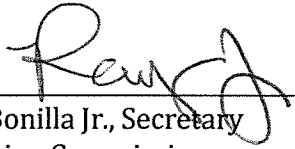
Chair Faria adjourned the meeting at 8:14 p.m.



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**APPROVED:**

  
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Ray Bonilla Jr., Secretary  
Planning Commission

**ATTEST:**

  
\_\_\_\_\_  
Denise Chan, Senior Secretary  
Office of the City Clerk