



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, September 17, 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 McDermott.

## **ROLL CALL**

Present: COMMISSIONERS: Willis Jr., Goldstein, Enders, Parso-York, Schott  
CHAIRPERSON: McDermott  
Absent: COMMISSIONER: Faria

Commissioner Enders led in the Pledge of Allegiance.

Staff Members Present: Ajello, Andres, Buizer, Camire, Christensen, Dostal, Emura, Lawson, Madhukansh-Singh, Quach, Rizk

General Public Present: 13

## **ELECTION OF OFFICERS**

Commissioner Willis Jr. made a motion, seconded by Commissioner Goldstein to elect Commissioner Parso-York as Chair, Commissioner Enders as Vice Chair, and Commissioner Schott as Secretary. The motion passed with the following vote:

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

## **PUBLIC COMMENTS**

Ms. Karen Emery, a Hayward resident, asked staff if the new park located on Eden Avenue would be locked during the night, expressing concern about a developing homeless problem that was beginning to occur in this area. Planning Manager Buizer responded that Greenwood Park was maintained by the Hayward Area Recreation and Park District (HARD) and noted for Ms. Emery that she would confirm if the park restrooms would be open at night with HARD and would get back to her.

Mr. James Emery, a Hayward resident, commented on the traffic concerns on Middle Lane as there was not a protected left turn at this location. He stated that with the new development in the area, the traffic concerns would increase thereby making this area more dangerous. Mr. Emery was



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concerned if there would be adequate parking in the area to support the new development. Chair Parso-York stated that Mr. Emery's comments could be addressed during the public hearing as this was an item on the agenda.

## **WORK SESSION**

### **1. Amendments to Hayward's Livestock Regulations**

Planning Manager Buizer introduced Assistant Planner Christensen who provided a synopsis of the staff report. He commented that through the public outreach that staff conducted, there were mixed reviews from residents on changing the ordinance, therefore staff was seeking the Planning Commission's input on updates to these regulations. Mr. Christensen stated that staff surveyed surrounding cities in the Bay Area to determine regulations other jurisdictions had in place. The findings were that most cities require a ministerial permit with stringent requirements or that they do not require any permit at all. He added that increasingly, more cities were not requiring permits, exemplifying that the City of San Leandro had adopted an ordinance no longer requiring permits for the keeping of small number of chickens. He pointed out that Hayward and Concord were the only two cities that currently required a discretionary permit which was the Administrative Use Permit. Assistant Planner Christensen discussed the two alternatives proposed by staff as revisions to the regulations. He shared that during the City Council Work Session on September 15, 2015, the Council generally favored alternative one as this would allow staff to keep track of which residences were keeping livestock and enabled staff to enforce/revoke the permit if violations occurred.

Assistant Planner Christensen confirmed for Commissioner Goldstein that the City's current Social Nuisance Ordinance would apply to nuisances generated from animals. He additionally noted for Commissioner Goldstein that the setback requirements for coops from a property line was 5 feet and it was 6 feet from another home; this was consistent with the building code setback requirements for accessory structures. Keeping the setback requirements in mind, Mr. Christensen stated that the coops would not be permitted on the side of homes and would be required to be placed on the rear of the property.

Commissioner Goldstein asked if any research had been conducted to determine what levels of chicken droppings could be considered as being hazardous waste. Assistant Planner Christensen responded that in terms of smell, chicken droppings could be considered hazardous if not cleaned regularly. He iterated that the City's ordinance required that such waste be cleaned at regular intervals to prevent odor. Commissioner Goldstein asked staff if there was a potential that some residents could be allergic to the fowl that the City's regulations would allow. Mr. Christensen commented that staff had not encountered this as an issue to date; however, what had come up as a health impact was salmonella. He noted that citizens who were not aware of this as a risk factor, there was the potential that one could be exposed to this when keeping chickens. He stated that it was staff's goal to continue to educate citizens about the risks of keeping chickens.



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Commissioner Enders commented that Hayward has historically been a farming community. She noted that the health and environmental concerns were vast, which included the humane treatment of livestock. She pointed out that it was noteworthy that larger cities in the Bay Area had decided to not require permits for the keeping of livestock and thereby supported alternative two to not require permits in Hayward. She stated that noise and rodent issues could be abated by creating strong standards and educating the public on how to raise chickens properly. Commissioner Enders noted that keeping chickens should be an easy process for residents as there were many benefits of this locally. In regards to pigeons, she expressed a potential issue that may arise as pigeons reproduce at a much faster rate than chickens. She supported allowing beekeeping in the city.

Commissioner Willis Jr. supported allowing the keeping of chickens without requiring residents to obtain a permit. He suggested that staff make an educational program available to residents on the proper way to handle chickens. He stated that although keeping livestock could be associated with the spreading of diseases, he noted that overall it was beneficial for residents to be engaged with keeping livestock. Commissioner Willis Jr. proposed that as most cities allow the keeping of four or fewer hens only, perhaps Hayward consider increasing this to permitting five or six hens.

Commissioner Schott preferred that the number of chickens permitted be increased for Hayward and urged staff to include beekeeping in the same ordinance. He did not oppose having an administrative fee in place.

Due to the high number of complaints received by staff from the public related to the keeping of chickens, Commissioner McDermott supported alternative one as it would allow staff to have a streamlined process in place and she expressed that a permit fee of \$52.50 was reasonable. She favored that beekeeping regulations be included in the same standards for the keeping of livestock, noting the importance of promoting beekeeping in the community in order to help increase the bee population. Commissioner McDermott pointed out that excrements from chickens was an excellent source of compost. She was pleased that education materials on the keeping of livestock would be available to residents on the City's website as well as provided to residents upon application of their permit. She noted that a big concern for her was that so many chickens were being kept in the community without obtaining permits.

Chair Parso-York commented that children in his neighborhood were a part of a program with the Animal Preserve where they are able to take home animals for a brief period, and he would not want such programs to be subject to the permit process. He supported residents having the ability to keep bees and chickens; however, he acknowledged that there was a need for strong standards so that residents keeping livestock are aware of their expectations.

Commissioner McDermott mentioned that for citizens who may be restricted from keeping livestock due to the size of their lot, she suggested that staff explore having a place similar to a community garden where such residents could collectively keep livestock. Chair Parso-York agreed with this suggestion.



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**PUBLIC HEARING:**

For agenda item No. 2 and agenda item No. 3, 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.

2. Proposed Subdivision and Construction of Two Single Family Detached Homes on a 0.24 acre site located at the northeast corner of Madsen Street and Martin Luther King Drive, Requiring Modification of the Precise Development Plan for the Cannery Area Development and Vesting Tentative Parcel Map 10373; Mark Tiernan for SCS Development (Applicant and Owner)

Planning Manager Buizer provided a synopsis of the staff report. She noted that the Cannery Area development currently featured 614 units, adding that the proposed project would increase the number of residential units to 616, which was still below the original number of entitled units.

Chair Parso-York opened the public hearing at 7:47 p.m.

Ms. Jacquelyn Young, a Hayward resident, stated that she had brought the following concerns before the City Council in the past for the Cannery Area: traffic, lack of parking, congestion and speeding vehicles. Although she was pleased that the site would not be used for retail, she noted that the proposed project would take away at least three parking spaces from the development area and did not support this as it would add to already existing parking challenges in the area. Ms. Young commented that the Madsen Street and Martin Luther King Drive corner was dangerous, noting that a child had been involved in traffic accident a week before while crossing on Myrtle Street and Martin Luther King Drive. She urged that the proposed project area be converted into a parking lot for the Cannery Area residents, as had similarly been done for the KB Homes. She shared that a request had already been placed to add flashing lights for a pedestrian crosswalk on Martin Luther King Drive.

Chair Parso-York closed the public hearing at 7:50 p.m.

Commissioner Goldstein asked staff if the parking and traffic issues that Ms. Young had expressed had been addressed. Planning Manager Buizer noted that the issues raised by Ms. Young have been addressed and are being examined on a continued basis by various city departments, adding that some of the concerns were addressed through the Neighborhood Partnership Program. She emphasized that the site was privately owned and that it was the request of the property owner to modify the project plans from commercial to residential. She added that to turn the site into parking spaces would be a decision for the property owner, and additionally, if the desire was to turn the site into a public parking lot then the city would have to explore this.

Development Services Director Rizk stated that if the city wanted to use the property for public



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parking, then the city or some other entity would have to come up with the funds to acquire this property from the owner. He added that there were potential takings issues with this property, especially given that the property had been entitled for retail development.

In response to Commissioner McDermott's question whether there had been any interest for the site by commercial or retail occupants, Planning Manager Buizer responded that there had been none. Commissioner McDermott commented that the lack of interest could be due to the restrictive size of the site and stated that the better alternative was to utilize the property for residential development. Commissioner McDermott asked staff to elaborate on why two one-car garages were included opposed to a single two-car garage. Ms. Buizer noted that this was the design that the applicant had proposed for the site, adding that this creative design feature allowed the inclusion of multiple units and also allowed the applicant to meet minimum parking requirements. Commissioner McDermott requested that staff look into the comments expressed by Ms. Young in regards to the safety concerns for pedestrians crossing the streets in the area.

Commissioner Enders stated that on her first review of the proposed project, she did not favor adding more housing in this area because of her experience in working on the General Plan Update. She noted that the feedback received from the community included a desire to have more corner stores. Commissioner Enders highlighted Ms. Young's comments that if the site were used as a commercial site such as a corner grocery store, then there would be parking concerns as to where residents could park. She indicated that located within close proximity to the site, there was the post office, the Hayward Hall of Justice, and other agencies/businesses located nearby where the employees could benefit from having a restaurant nearby. She expressed that the site could be used for a better use rather than building additional homes in this area. Commissioner Enders suggested building a fenced park at the site, noting that the presence of children at the park could help slow down traffic in the area. Although she was pleased with the design of the proposed units, she could not support the addition of more homes at this location.

Commissioner Schott asked staff what changes had occurred from the time when the project was initially approved to the present situation.

Director Rizk responded that when the Cannery Area project was initially approved, there was a desire from the City Council and the community to have a retail store at the site. He commented that the site was challenging for commercial use as it was not located on a visible arterial and that the success of business at the site would need consumer support beyond the immediate neighborhood.

Commissioner Willis Jr. acknowledged the limitations of the site as were discussed in the staff report.

Commissioner Enders highlighted that the role of the Planning Commission was to speak on behalf of the community. She noted that in the past, developers had presented development plans including an array of design features such as commercial uses or playgrounds within the development, and



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somehow the plans change after the construction of homes where the developer is unable to develop certain lots, leading to the loss of some elements of the project. She emphasized that developers should be held accountable for following through on their promises. She suggested that an opportunity be given to survey the community allowing them to decide what is desired at this site.

Commissioner Schott made a motion to reopen the public hearing, seconded by Commissioner Enders. The motion passed with all in favor and Commissioner Faria absent.

Chair Parso-York reopened the public hearing at 8:06 p.m.

Mr. Mark Tiernan, project applicant with SCS development, appreciated staff for their support and efforts on the proposed project. He commented that when his firm initially received approval for the project in 2005, they had made a tremendous effort to market the property as a retail use at that time. This process consisted of reaching out to the retail experts and commercial brokers; however, continually they received concerns about parking and there not being enough ingress and egress as it was a hidden location. When this project was reopened, his firm obtained a report from a commercial broker who surveyed the marketplace and determined that there was no interest in this site. Mr. Tiernan commented that his firm has done mixed-use developments in the past and they have lived up to commitments for projects in and outside of Hayward. He emphasized that unfortunately the retail use did not work out, noting that a lot of research and reaching out to the business community had been conducted. He added that the proposed solution would benefit some members of the community.

Commissioner Schott commented that there appeared to be a disconnect in what the developer was supposed to construct at the site when the project was initially approved and what was presently feasible to accomplish. He commented that the situation was an interesting dichotomy where the area had been zoned for residential or commercial, however a commercial use would generate too much traffic in the area and the city could not dictate that the developer construct a park at the site.

Mr. Tiernan noted that the two units being proposed for the current project would not cause the development to exceed the number of units for which it was initially approved. He commented that his firm worked hard to meet the requirements set forth in the Conditions of Approval; however, they were unsuccessful in meeting some conditions. He noted that since he was not a part of SCS development during the initial stages of the development, he could only surmise that after his firm collaborated with planning and building staff, modifications were made to reduce the number of units from 625 to 614 units. Mr. Tiernan stated that safety was a paramount concern for his firm and he expressed his sympathy to the community that a young child lost their life near the project site. He underscored that his firm would support traffic calming measures and other options for improving signage and traffic conditions in the area. He shared that access to the proposed homes would be from Madsen Street. Mr. Tiernan confirmed for Commissioner Goldstein that there were several parks located in the vicinity of the proposed project.



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Mr. Goldstein commented that the developer had done a great job in constructing a quality development and for building a project that was consistent with the City's vision for the future. He stated that the design features of the project contributed to the goals of the General Plan. Mr. Goldstein agreed that the addition of retail use would add more traffic to the area. He noted that retail establishments at the site would not be economically viable as the project site would be hidden from major roadways, and to add retail at this location may contribute to the blight problem currently being experienced in the community. Although he favored having parks in the community, there were already parks in close proximity. Mr. Goldstein expressed his support for the project and noted for the residents with traffic concerns that the City would continue to pursue traffic safety measures.

Mr. Tiernan stressed that the proposed development was in compliance with the City's parking requirements, noting that each unit would have two one-car garages and that the proposed project would not add significantly to parking issues in the area.

Commissioner Enders commented that each unit would have five bedrooms plus an additional loft, which created the potential that each household may have more than three vehicles per home. She asked the applicant if the developer had contemplated that HARD acquire the property from the developer.

Mr. Tiernan responded that his company had engaged in preliminary outreach to individuals that had shown interest in the project site; however, what made sense to SCS Development per their business model was to get the project entitled. They have not determined if they will build the development themselves. He mentioned that there was a continued need for additional quality housing in communities, which is why they were pursuing a residential development at the site.

Ms. Jacquelyn Young stated that the homes being proposed were large and could potentially include multigenerational households. He requested that each Planning Commissioner drive to the Cannery Area Development and observe the parking situation themselves. She commented that KB Homes HOA had hired two towing companies that constantly roam the area, even towing vehicles that are blocking their own driveway. Ms. Young said that her daughter gets off work at night and emphasized how difficult it was to find parking and there was also the problem of break-ins into vehicles parked on the roadway. She shared that another new development was going to be constructed nearby and once this was done, Meek Avenue would become one-way.

Mr. Demitri Sandalovksy, a resident on Madsen Avenue, expressed his support of the project. He highlighted that there were not too many choices for the site as a commercial use would not thrive in the area and would add to the traffic problems. The remaining options were to leave the property as a vacant site or to allow the residential development. He favored the developer completing the development site, noting that the addition of two more homes would not significantly impact the area.



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Ms. Liliya Strubinskaya, a Madsen Street resident, supported the project. She commented that she did not think the proposed homes would have six vehicles each, noting that the developer had provided three parking spaces per unit. She expressed that it would not reflect well on the City to continue to leave the space vacant. Ms. Strubinskaya added that the proposed homes would be an attractive feature that would complete the development area.

Chair Parso-York closed the public hearing at 8:28 p.m.

Commissioner McDermott acknowledged that the present situation presented a dilemma as it had also happened in the past where developers promise to deliver certain features in developments that they are eventually unable to execute, and the surrounding community had to cope with the unfinished features of the development. She stated that there were not many alternatives available for the proposed site. She noted that the proposal was an infill project and she stressed that the goal was to build a project that blended well with the existing community, which the proposed project would accomplish. Although she preferred having a commercial use, she understood the challenges that a business located at the site would have with being visible to consumers. She was disappointed that not much thought was initially given at the beginning of the development that the project site would have limitations for a viable retail use. She expressed her support of the project and urged the developer to look into the safety concerns that the community had.

Commissioner Schott stated that the developer had done a great job in designing two separate one-car garages. He requested that consideration be given to look at traffic calming measures for the proposed project site.

Commissioner Schott made a motion, seconded by Commissioner Goldstein to approve the project per staff recommendation with consideration being given to adding traffic calming measures. The motion passed with the following vote:

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

3. Proposal to subdivide a 2.152-acre parcel and Construct 35 Townhomes at 1635 Denton Avenue west east of the corner of Eden Avenue, requiring approval of a Precise Plan, Site Plan Review and Vesting Tentative Tract Map. Sunny Tong/Westlake Development Partners Urban, LLC (Applicant), Chang Income Property Partnership, LP, Barrett Community Hospital Series (R14), A Delaware Limited Partnership (Owner)

Associate Planner Camire provided a synopsis of the staff report.



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Chair Parso-York opened the public hearing at 8:42 p.m.

Mr. Sunny Tong, project applicant, described the project as being a collaborative and adaptive proposal. He shared that while working on developing the plans for the site, it was expressed by the community and HARD to expand Greenwood Park, therefore his firm donated one acre towards the expansion of the park. He noted that the site plan changed to accommodate an existing oak tree on the property. Mr. Tong stated that multiple community meetings had been held in order to obtain input from neighboring residents. He stated that the site plan changed shifting the driveway entering into the development in order to accommodate the concerns of a neighbor on Denton Avenue. He shared that after consulting with city staff and HARD on ways to increase neighborhood safety by putting more eyes on Greenwood Park, it was determined to: orient the balconies facing the park, have see-through fencing, interior active living spaces and outdoor living spaces facing the park. He shared that 20% of the development featured a generational design that had units with ground level bedrooms and added that there were electrical outlets near the stair landing if the homeowner ever desired installing an elevator.

Ms. Laura Riggs, project architect with KTG Y Group, shared that the styles of the homes featured in the development were popular in the Bay Area and that they also fit in with the surrounding area.

Mr. James Emery, a Hayward resident, stated that there was a traffic challenge with having only one entrance and exit out of the proposed development on Denton Avenue. He highlighted that there were already traffic issues resulting from recently built developments in the area, the community store near his home and also from a nearby church.

Ms. Karen Emery, a Hayward resident, requested that a stop sign be installed at the proposed development site. Associate Planner Camire noted that a Condition of Approval had been included for the project, and adding that the Public Works Engineer will work with the developer to include traffic safety measures that may include stop signs. This process may consist of doing a traffic analysis of the entire intersection. Ms. Emery asked if it would be possible to open up the current dead end on Denton Avenue to help relieve traffic. Planning Manager Buizer indicated that this request would be passed along to the Public Works Engineering and Transportation department and noted for Ms. Emery that the block may have historically been placed as a traffic calming measure for the area.

In response to Ms. Emery's question earlier whether the restrooms in Greenwood Park would be open during the night, Commissioner Schott shared that the park hours were from sunrise to sunset and added that the park premises would be closed after 10:00 p.m.

Planning Manager Buizer confirmed for Commissioner McDermott that the proposed development units would not be an impact on local schools.

Commissioner McDermott noted that given the drought conditions, were there design elements in



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the development that included water conservation devices within the homes. Ms. Riggs responded that the California Building Code had strict standards for fixtures and these included low flow devices. She indicated that since landscaping was the biggest water user, there were new regulations in place for the type of irrigation developments could have. She commented that the project was designed for Bay Friendly landscaping features. She noted that the oak tree being preserved at the site was a native tree and that no other water thirsty plants would be planted near the tree.

Commissioner McDermott thanked the community members in presence at the meeting for voicing their concerns.

Chair Parso-York closed the public hearing at 9:11 p.m.

Commissioner Enders acknowledged the concerns raised about traffic issues in the area; however, she noted that the City of Hayward and State of California were required to develop approximately 5,000 homes in the next five years, even if it included infill developments. She supported the project and thanked the developer for coming up with an excellent plan for housing while accommodating open space, including preserving the oak tree.

Commissioner Enders made a motion that the City Council adopt the project per staff recommendation, seconded by Commissioner Schott. The motion passed with the following vote:

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

## **COMMISSION REPORTS**

### **4. Oral Report on Planning and Zoning Matters**

Planning Manager Buizer welcomed Commissioners Willis Jr. and Goldstein on the Planning Commission.

City Attorney Lawson introduced Assistant City Attorneys Alvarado Jr. and Brick who will be providing legal counsel to the Planning Commission.

### **5. Commissioners' Announcements, Referrals**

Chair Parso-York shared that the SantaCon fundraiser will be held on December 5, 2015 and the proceeds raised will benefit the Hayward Animal Shelter.



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**APPROVAL OF MINUTES**

6. Approval of Minutes of the Planning Commission Meeting on May 14, 2015  
It was moved by Commissioner McDermott, seconded by Commissioner Enders, and approved with the following vote:

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

7. Approval of Minutes of the Planning Commission Meeting on July 23, 2015  
It was moved by Commissioner McDermott, seconded by Commissioner Enders, and the motion failed with the following vote:

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

**ADJOURNMENT**

Chair Parso-York adjourned the meeting at 9:21 p.m.

**APPROVED:**

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Heather Enders, Secretary  
Planning Commission

**ATTEST:**

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