



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, May 24, 2018, 7:00 p.m.
777 B Street, Hayward, CA 94541**

MEETING

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

CALL TO ORDER Pledge of Allegiance

Commissioner Bonilla Jr. led in the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS: Willis Jr., Bonilla Jr., Schott, McDermott
CHAIRPERSON: Goldstein
Absent: COMMISSIONER: Faria
Vacancy: ONE

Staff Members Present: Brick, Buizer, Chan, Schmidt, Sharma

General Public Present: 12

PUBLIC COMMENT:

There were none.

PUBLIC HEARINGS: For agenda items No. 1 and No. 2, the Planning Commission may make a recommendation to the City Council.

1. Transfer of Partial Ownership of the Palace Card Club per the Hayward Card Club Regulations and a Conditional Use Permit Amendment related to the Parking Mitigation Fee associated with the Palace Card Club shuttle located at 22821 Mission Boulevard (APN 428-0081-033-00) Catherine Aganon and Pamela Roberts (Owners and Applicants)

Planning Manager Buizer provided a synopsis of the staff report and a PowerPoint presentation. Ms. Buizer noted that staff received a last-minute request from Ms. Aganon to remove Mr. Henry Tang as one of the proposed owners and staff was fine with this change. Ms. Buizer said there was a modification to the Conditions of Approval that the ownership transfer is contingent upon State Gaming Approval.

Ms. Dyana Anderly, representative for the Palace Card Club, spoke about the item and said the applicant is fine with the proposed mitigation fee.



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In response to Commissioner Schott, Planning Manager Buizer said fees received from the Palace Card Club are based on the gaming tables, parking mitigation fee, business licenses and taxes. Ms. Buizer said Palace's primary use is the shuttle parking space in the B and Watkins streets garage. Ms. Anderly added that the gaming table fees were significant.

In response to Commissioner Willis question about what type of games are played, Ms. Anderly said the numerous card games are limited by the City and State of California Gaming Commission.

In response to Commissioner McDermott's question about the Consumer Price Index (CPI), Assistant City Attorney Brick said the intent of the CPI designation is to restrict the CPI to the greater bay area and noted when the condition was added staff researched the CPI, the areas were defined on the website and this was the standard used also for Public Works contracts. In response to Ms. McDermott's question about security, Ms. Anderly said the Palace Card Club is adequately staffed with security personnel and security staff has helped the police numerous times. In response to Ms. McDermott's questions about Mrs. Aganon's children and the purpose of the Asian Gaming Director, Ms. Anderly said the children are all employees of the Card Club and that a lot of the card games are played by the Asian community.

In response to Commissioner Bonilla question about the increase to the parking fee, Ms. Anderly said the increase was about 2.5% of the CPI.

Commissioner Schott spoke about the family's dedication and how well they have worked with the City and which speaks to the success of the Card Club. Ms. Anderly spoke about how the family has maintained a good working relationship with the City.

Chair Goldstein opened and closed the public hearing at 7:19 p.m.

Commissioner Willis made a motion to approve the staff recommendation to recommend City Council approval.

Commissioner Schott asked staff for clarification of the amendments to the motion. Planning Manager Buizer responded that there were two amendments: 1) staff was fine with the applicant's request to remove Henry Tang from the 1% transfer of ownership of the Palace Card Club and 2) add a Condition of Approval that the ownership transfer is contingent upon State Gaming Commission approval.

Commissioner's Willis and Commissioner Schott accepted staff's amendments. The motion is as follows:



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Commissioner Willis made a motion to approve the staff recommendation to recommend City Council approval, which included the following amendments: 1) remove Henry Tang from the 1% transfer of ownership of the Palace Card Club and 2) add a Condition of Approval that the ownership transfer is contingent upon State Gaming Commission approval.

The motion passed with the following vote:

AYES:	Commissioners Willis Jr., Bonilla Jr., Schott, McDermott Chair Goldstein
NOES:	None
ABSENT:	Faria
ABSTAIN:	None
VACANCY:	One

2. Proposed Development of a 13 Unit Single Family Subdivision Requiring Approval of Zone Change and Tentative Tract Map Application No. 201605551, and Approval of a Mitigated Negative Declaration with Mitigation and Monitoring Plan; Applicant/Owner: Three Cedars, LLC.

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

Mr. John Treble, applicant Three Cedars LLC, spoke about the proposed project and about conducting public outreach in May 2017 and after taking in consideration community feedback the applicant is willing to include a condition that construction work will not be done on Sundays.

Commissioner Willis commented that community feedback opposed the proposed project. In response to Commissioner Willis' questions about access to the development, Mr. Treble said the safest access point will be through the public streets of Yew Court and Sagamore onto a private street in the development. Mr. Treble said he worked with his arborist and the City to preserve two of the largest trees on the project site and they have developed a maintenance manual for preservation of the trees for the future owners of the plot where the trees are situated. Mr. Treble said there were a lot of sick trees that will be removed. In response to Mr. Willis's question about the historic nature of the existing house, Mr. Treble said the house was evaluated by an architectural historian and the results were that the house did not retain historical significance because of exterior work done to the house since it was constructed.



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In response to Commissioner Schott's question about the criteria for a house to be considered historical, Senior Planner Schmidt spoke of the State and local criteria for historical houses which includes: a famous person lived there, famous architect designed the house, and a great example of past architectural design. Ms. Schmidt said the integrity of the structure was compromised through changes performed without permits over the past twenty years. Assistant City Attorney Brick said the historic preservation regulatory scheme is not a criminal statute, thus, there is no punishment for any permit violations.

In response to Commissioner McDermott's questions about the applicant's experience with building in Hayward and building accessory dwelling units (ADUs), Mr. Treble said he participated in the building of the Burbank School site and four houses at the end of B Street and that he had built ADUs in Fairfield in the past. Mr. Treble said the proposed ADUs will be studios that can be rented out to college students, will have a kitchenette but not a full kitchen, and is intended to serve a maximum capacity of two people. He said the unit will be a part of the structure in front of the house and will have a separate entrance, however, there is no requirement for the owner to rent out the ADU. In response to Ms. McDermott's question, there will be four parking spaces, two in the garage and two in the driveway. Mr. Treble confirmed for Ms. McDermott that he is agreeable to add the condition of no construction work on Sundays.

Commissioner Bonilla asked about considering higher density such as a multi-family unit considering the close proximity to Chabot College, Mr. Treble responded that their starting point was to look the City's zoning laws, the General Plan vision for this property and taking into consideration the surrounding neighborhood. Mr. Treble said there would be street parking available on one side of the new street.

Chair Goldstein opened the public hearing at 7:44 p.m.

Mr. Zachariah Oquenda, Hayward resident, spoke about attending the City Council Meeting on Tuesday, May 22, 2018. Mr. Oquenda said it is our duty to look at each project especially with the existing housing crisis and bring in developers who will build more density.

Chair Goldstein requested staff to evaluate which partials are currently not under application to see about changing the zoning designation for increased density.

Ms. Cheryl Carlson, Hayward resident, had concerns about impacts to traffic, construction and congestion from surrounding developments and spoke about rentals that has caused increased traffic and parking issues. Ms. Carlson opposed using a neighborhood street to access the development and requested that another street access be found.



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In response to Chair Goldstein's request for the results of the traffic study, Associate Civil Engineer Sharma said to use Hesperian Boulevard as an access point would cause safety and traffic impacts that would affect the entire neighborhood. Mr. Sharma said there is no direct access from the La Playa signalized intersection as there is an existing home on the west side of Hesperian that would have to be removed to provide access and it is not for sale. Mr. Sharma said the traffic analysis indicated that the surrounding residential streets have a capacity of 1200 to 1500 cars per day. Mr. Sharma said the proposed development's traffic impacts have been found to be less than significant. Mr. Sharma said there will be impacts during construction and the construction inspectors will ensure that the standard conditions are followed. Mr. Sharma responded to Mr. Goldstein that there is no room to add a merge and/or exit lane on Hesperian Boulevard. Senior Planner Schmidt pointed out that there would be pedestrian pathway from the proposed development to Hesperian Boulevard. Mr. Sharma said Ms. Carlson can meet with Public Works staff regarding further concerns.

Mr. George Ubl, Hayward resident, does not support the proposed project and has concerns about parking and traffic impacts, the non-maintenance of the courts and the influx of multiple developments in the neighborhood. Mr. Ubl has concerns about the safety of the residents, children won't be able to play in the street and noted Mt. Eden High School was able to build a new stadium with construction access entirely from Hesperian Boulevard.

In response to Chair Goldstein regarding construction impacts, Senior Planner Schmidt said the construction trucks will be accessing the site from Hesperian Boulevard for the grading work and until the proposed roadway is constructed, and then will access the site through West Street and Yew Court to the new roadway. Ms. Schmidt said in the Conditions of Approval under Air Quality there are mitigation measures for construction dirt and dust. Mr. Sharma responded to Mr. Goldstein that trucks delivering materials to the construction site will be via Hesperian Boulevard until the roadway is constructed. Mr. Goldstein said if the public has any concerns they can speak to the construction supervisor.

Mr. Robert Hofford, Hayward resident, said to bring construction through Yew Court will be very disruptive to the neighborhood, posed safety concerns for the children, spoke about options for the construction impacts, and has concerns about congestion. Mr. Hofford suggested utilizing Chabot College property.

Mr. Sharma responded to Chair Goldstein that the engineers considered all the traffic impacts to the neighborhood and decided the development's new Acorn Street to line up with Yew Court would be the best method. Mr. Sharma said the COA of new stop signs and lighting will be installed for safety at Yew Court and Sagamore Street.

Mr. Treble said he reached out to Chabot College and the college was not willing to share the road, not even for emergency vehicle access.



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Chair Goldstein closed the public hearing at 8:19 p.m.

Commissioner Willis said it is important to trust studies conducted by staff and the Hayward community is growing, people want to come to live in Hayward and it is important to look to the future. Mr. Willis said that to achieve the goal of affordable housing, a community must build more homes.

In response to Commissioner McDermott's question regarding the ADU process, Planning Manager Buizer said the City has new regulations and an ADU Ordinance based on State regulations and that the State dictated what the City could and could not include in the regulations. Ms. Buizer said the ADU units are encouraged and are considered affordable by design and these units can either be part of the existing structure or a separate structure

Senior Planner Schmidt shared that the idea of including the ADUs in this development is that homeowners have expressed a tremendous amount of interest but that fees were a significant barrier to be able to put ADUs in their homes. Ms. Schmidt said the applicant is paying all the fees upfront and prospective owners are purchasing the homes with the ADUs already built in. Ms. Schmidt said the ADUs are considered tiny homes and staff worked with the developer to include the ADUs as an amenity to the Planned Development (PD) rezone as a way of increasing density through a legal mechanism and remove barriers to ADUs.

Commissioner McDermott shared that she visited the area and also has concerns about parking impacts. Ms. McDermott said she is happy with the size of the homes and that the ADUs are included.

Commissioner Schott opposed the project and said the proposed project will impact 67 homes to build 13 houses and 6 ADUs on 2 acres. Mr. Schott said he would only support this project if the development had ingress and egress from Hesperian which would eliminate the impact to the neighborhood. Mr. Schott said Yew is a court and will now be changed to a drive through street and this is not the best use of this site which fronts a major street and suggested developing the site with a commercial use. Mr. Schott suggested placing residential units at the Southland Mall property. Mr. Schott will not be supporting this project.

Commissioner Bonilla said he will not be supporting the project as there needs to be more density and a better use of the 2 acres in a prime location. Mr. Bonilla said it is important to make responsible land use decisions.

Commissioner Willis Jr. said it is a problem when a developer comes and presents a proposed project, has followed complied with all the rules and regulations and then the Commission says it is not good enough. Mr. Willis said the avenue to resolve the housing crisis and bring down the cost of homes is to build more homes. Mr. Willis will be supporting the project.



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Senior Planner Schmidt addressed the subject of density by letting the Commission know that the proposed project is within the Airport Overlay Zone and is subject to the Airport Land Use Compatibility Plan governed by Alameda County and is separate from City regulations. Ms. Schmidt said the initial study shows that the developer is maxing out the density in this area and if more density is requested it would be very difficult and uncertain entitlement process as the request would have to go before the Alameda County Land Use Commission (ACLUC) and potentially not be approved.

Commissioner Bonilla thanked staff for the clarification on density and asked if it can be increased from low to medium density, Senior Planner Schmidt said this would be very difficult because not only would it need to be approved by the City the request would also need to go before the ACLUC. Assistant City Attorney Brick said density around the airport is an issue and the Airport Overlay provides for safety standards and protects the neighborhoods from noise and other impacts. Mr. Brick said there are different density restrictions with the highest restriction around the runways and said the densities will most likely never be increased within those areas. Commissioner Bonilla said he understands the density limitations because of the Airport Overlay Zone and appreciates that the developer has maxed out the density with the houses and the ADUs. Mr. Bonilla said he will be looking for projects to bring more density to the City in the future, and believes that maxing out the density on sites will help resolve the housing affordability crisis within the limitations of the City's guidelines.

Chair Goldstein said the current General Plan lays out the expected land use for the future. Mr. Goldstein shared participating in the General Plan Update Task Force to craft a document that last through 2040. Mr. Goldstein said the City wants more density, wants families to stay in Hayward, to build housing and he said with growth comes traffic and parking impacts. The Commission wants to find resolutions to the housing crisis and there will be changes to existing neighborhoods and the City will develop mitigation measures to lessen the impacts to residents and the neighborhoods. Mr. Goldstein said within the limits of the law, homeowners have the right to sell their property and new owners can develop their properties according to the General Plan. Mr. Goldstein said developers can have a legal recourse to appeal a negative decision and this can cause legal and economic challenges to the City. Mr. Goldstein said staff is doing an excellent job in making sure developers are proposing developments that are good for the community. Mr. Goldstein said this developer is bringing positive amenities along with ADUs, gives homeowners the option to rent out the ADU, gives prospective homeowners the ability to afford a new home and is a good use of the ADU ordinance.

Commissioner Willis is concerned that developers will stop coming to Hayward if the proposed project is voted down. Mr. Willis said the developer has followed all the rules and staff has worked diligently to put together a good project.



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Commissioner Willis made a motion to approve the staff recommendation to recommend City Council for approval.

Commissioner McDermott seconded the motion and asked about the added condition of no construction work on Sunday.

Commissioner Willis accepted the amendment and the motion is restated as such:
Commissioner Willis made a motion to approve the staff recommendation to recommend City Council approval with the added condition that construction work will not be done on Sunday.

The motion passed with the following vote:

AYES:	Commissioners Willis Jr., Bonilla Jr., McDermott, Faria Chair Goldstein
NOES:	Schott
ABSENT:	None
ABSTAIN:	None
VACANCY:	One

APPROVAL OF MINUTES

3. Approval of the Planning Commission Meeting Minutes of May 10, 2018.

Commissioner McDermott made a motion, seconded by Commissioner Bonilla Jr., to approve the Planning Commission Meeting Minutes of May 10, 2018. The motion passed with the following votes:

5:0:1 (AYES: Willis Jr., Goldstein, Bonilla Jr., Schott, McDermott: ABSENT: Faria)

Vacancy: One

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters:

Planning Manager Buizer noted sending an email to the Commissioners regarding issues that were brought up during previous Commission meetings.



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Commissioners' Announcements, Referrals:

In response to Commissioner Schott's question about the vacant Planning Commission seat, Planning Manager Buizer said the City Clerk's Office is currently conducting the Boards & Commissions recruitment with a deadline to apply in June with City Council conducting interviews at the end of July. Ms. Buizer said there should be a new Planning Commission after the August recess.

ADJOURNMENT

Chair Goldstein adjourned the meeting at 8:55 p.m.

APPROVED:

Ray Bonilla Jr., Secretary
Planning Commission

ATTEST:

Denise Chan, Senior Secretary
Office of the City Clerk