



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, July 25, 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 Vice-Chair Willis.

**CALL TO ORDER Pledge of Allegiance**

Commissioner Patton led in the Pledge of Allegiance.

**ROLL CALL**

Present: COMMISSIONERS: Andrews, Patton, McDermott, Goldstein  
VICE-CHAIR: Willis  
Absent: Bonilla, Faria

Staff Members Present: Brick, Buizer, Chan, Emura, Ott, Stefanski

General Public Present: 16

**PUBLIC COMMENT:**

There were none.

**PUBLIC HEARINGS:** For agenda Items No. 1 and No. 2, the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of the decision. If appealed, a public hearing will be scheduled before the City Council for final decision.

Commissioner McDermott made a motion to hear Item #2 first as there were many members of the public in attendance for Item #1. Commissioner Andrews seconded the motion.

1. Appeal of the Planning Director's approval of a three story 40-unit townhouse style development on a 1.66-acre site located at 21229 Oak Street requiring Site Plan Review Application No. 201800932. The project site is zoned Commercial Office (CO) and contains a Commercial/High Density residential (CHDR) land use designation in the Hayward 2040 General Plan. Ann E. Maris PhD, Organizer, Grove Way Neighborhood Association (Appellant); Steven Kodama, Kodama Diseno Architects (Applicant)/Robert Chen (Owner)



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Associate Planner Emura provided a synopsis of the staff report and a PowerPoint presentation. Mr. Emura said staff was contacted by the Walgreen's store owner who supported the project as it will generate more business for the existing businesses in the area.

Mr. Steve Kodama, the project architect, said they have been working on this project for over a year and are very sensitive to the neighborhood concerns. Mr. Kodama said National Mattress contacted them about a concern with their retaining wall and the project engineers will work with National Mattress about any issues. Mr. Kodama said they are present to answer any questions.

Dr. Ann Maris, resident of Grove Way, appellant and organizer of Grove Way Neighborhood Association, said this is not a sustainable development and planning needs to be done for the Route 238 properties. Dr. Maris suggested more affordable housing and to benefit the community there should be a pedestrian walkway to Hill's Coffee Shop. Dr. Maris said it is important to maintain the natural wildlife habitat and disagrees that this project will add to the City's gateway. Dr. Maris said the neighborhood was not given the opportunity to provide input.

Mr. Kodama responded to Commissioner Patton that the building will include wood siding with stucco with a variation of color. Associate Planner Emura responded to Mr. Patton that for the portion of Oak Street in Hayward, the developer will be required to install lighting, sidewalks and trees, and the developer has been informed to contact the County about the County portion of Oak Street. Principal Planner Lochirco said there is a park-in-lieu fee requirement for multi-family developments regardless if the project is for rental or for homeownership. Mr. Emura said in reviewing the appellant's requests, staff will include a COA to require deciduous trees on the south facing buildings. Mr. Emura said the added COA will be included when the developer comes in for the Tentative Tract Map.

Commissioner Andrews disclosed that her company reviewed the project and decided not to move forward with it. Mr. Kodama said they were not aware of the Grove Way Neighborhood Association but upon receiving the appeal they had a conversation with Dr. Maris. Mr. Kodama said that the applicant wanted to include affordable housing and that if they knew about the neighborhood groups, they would have worked with them. Mr. Kodama and the applicant wanted to bring this mixed housing project to Hayward.

Associate Planner Emura said staff did not know about the Grove Way Neighborhood Association until after the Notice of Decision went out and that it is unfortunate that the group did not contact staff when the Notice of Intent was mailed out.



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Commissioner Andrews said developers should endeavor to conduct community outreach. Mr. Kodama said the applicant has reduced the project from 60 to 40 units and that in working with City staff, as far as the developer knew, they had done everything that was necessary. Mr. Kodama said they had projects in cities such as San Francisco and Berkeley and that they always meet with staff to find out what they are required to do. Mr. Kodama relayed that City staff took care of the mailing of the official notices.

Associate Planner Emura said one of difficulties is that the Grove Way Neighborhood Association is located in Alameda County. Mr. Emura said this is a lesson learned for all that if there are developments near County jurisdiction, staff will need to contact the County to improve the City's mailing lists to include County households in the official notice mailings.

Commissioner Goldstein asked about the affordable housing requirement, Associate Planner Emura said with the Site Plan Review, the developer must have rental units and provide a maximum of six percent affordable housing units, with 50% for low income and 50% very low income. Mr. Goldstein stated that the City recently adopted these new Inclusionary Affordable Housing requirements to have affordable housing units integrated with market rate units and that this is positive social benefit for Hayward residents.

Commissioner McDermott said the Commission has read the appellant's letter and acknowledges that community outreach can be difficult. Ms. McDermott said staff has explained why the County households were left out and the official notice mailing lists issue will be addressed for future developments. Ms. McDermott said this is a positive improvement for this area of the City and that the surrounding businesses will benefit from the new development.

Vice-Chair Willis opened and closed the public hearing at 8:41 p.m.

Dr. Ann Maris, Castro Valley resident and representing the Grove Way Neighborhood Association, said the fences in the design will detract from the neighborhood. Associate Planner Emura said the fences are limited to four feet in height.

Mr. Bruce King, Castro Valley resident, said this has been frustrating for the neighbors that the three agencies, the City, the County and Hayward Area Recreation and Park Department (HARD) need to work together to create a plan that will benefit the community.

Mr. Jared Perkins, Castro Valley resident, said this is a dense neighborhood and the project would be a liability. He provided a history of the area. Mr. Perkins said that HARD needs to



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address the lack of parks for this neighborhood and then the children can stop using their schools in place of parks.

Mr. Jason Moreno, Castro Valley resident, spoke against the project and suggested staff research building tiny houses that can help more people.

Dr. Marlina Selva, Hayward resident, said this area needs to be looked at as a whole and that there needs to be a coherent plan for the Route 238 properties.

Vice-Chair Willis closed the public hearing at 8:54 p.m.

Commissioner Goldstein was moved by the appellant's concerns, expressed concern about the lack of coordination for this area, and disappointed that the County households were not included in the official notice mailing list. Mr. Lochirco said the applicant and the neighborhood group can work with staff to initiate conversations, then it can be determined if any proposed changes can be made at the staff level or if the proposed changes would need to come before the Commission. Mr. Goldstein asked about denying the appeal but including a COA regarding having these discussions to resolve differences with all parties present. Mr. Lochirco said the COA would need to be very specific as the appellant has a list of requests that can border on legal issues such as access easements that would encumber other peoples' properties. He added that the Commission would need to be careful because of the legalities involved. Assistant City Attorney Brick cautioned the Commission about the new Housing Accountability Act regarding projects that contain inclusionary affordable housing as there must be specific findings that need to be made regarding inconsistencies if the Planning Director's decision is not upheld. Mr. Goldstein stated that the applicant needs to keep moving this project forward to keep his investors happy. Mr. Goldstein said the appellant can contact HARD regarding park issues.

Commissioner McDermott suggested staff work on improving outreach so that this does not happen again and asked staff for suggestions. Principal Planner Lochirco said that it can be difficult when there are multiple agencies involved and shared that staff did contact the County's planning department with no response which usually indicates that the County had no objections to the project. Mr. Lochirco shared that the County was involved during the adoption of the General Plan in which this area was identified as high density residential. Mr. Lochirco said staff will work with the County to obtain the list of households in the area to make sure those households will be included in the noticing of future projects where developments cross municipalities' jurisdictions. Mr. Lochirco said the Planning Director's approval was based on the fact that the development met underlying land use designation that the City had already envisioned for this site.

Commissioner Patton expressed disappointment about the lack of coordination and public



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noticing issues, and that the County households had been included then issues could have been resolved prior to this meeting. Mr. Patton suggested that, as a general rule, developers should conduct neighborhood outreach. Mr. Patton said the project is a positive addition, this is a good location for the project, there will be beneficial public street improvements, and this will provide additional rental properties in the City. Mr. Patton supports the project with the added landscape condition of deciduous trees along the south facing buildings.

Commissioner Andrews empathized with the developer as projects are very expensive and time delays will add to an already expensive endeavor. Ms. Andrews reiterated the suggestion that developers need to conduct community outreach, which is especially true as there are many neighborhood associations throughout the City. Ms. Andrews agrees with Commissioner Patton that this is a rental development and the Commission has a responsibility, per the Housing Accountability Act, to approve projects that include an affordable housing element. Ms. Andrews encouraged the appellant to contact HARD and let them know about the neighborhood's park issues.

Commissioner Patton made a motion to approve the staff recommendation with the added Condition of Approval under the Landscape section to plant deciduous trees along the south facing buildings. Commissioner Goldstein seconded the motion.

Commissioner Goldstein encouraged the appellant and the applicant to continue their conversation.

The motion passed with the following vote:

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

2. Proposed Establishment of a restaurant at 27915 Mission Boulevard (APN: 452-0068-024-05) Nicandro Barrita, (Applicant/Owner) Requiring approval of Site Plan Review and Exceptions to the South Hayward BART/Mission Boulevard Form Based Code related to Building Height and Common Outdoor Space; Application No. 201900610

Associate Planner Emura provided a synopsis of the staff report and a PowerPoint Presentation.

Mr. Bob Hencken, representative for applicant, requested the Commission's support.



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Mr. Hencken responded to Commissioner McDermott that the applicant would like to expand their business into Hayward and the project would be a positive addition to the City.

In response to Commissioner Patton's questions about the height exception request, Associate Planner Emura said this has to do with complying with the South Hayward BART/Mission Boulevard Form Base Code related to building height and common outdoor space requirements. Mr. Emura said staff is supportive of the building design which is different from what is existing along Mission Boulevard. Mr. Patton is in favor of relocating the outdoor seating to the north side of the building. Mr. Hencken said the design plan is to create a pedestrian friendly environment with the outdoor seating and to move this to the north side would cause a problem with the parking spaces and conflict with a planned employee seating area.

Commissioner Goldstein asked about bulb-outs that were required of other developments along Mission Boulevard. Principal Planner Lochirco responded that the bulb-out idea is currently being reevaluated, the City does not have a definitive design for bulb-outs, and it is not always necessary for every project. Mr. Lochirco said this location was not identified by the Public Works Engineering and Transportation Department as needing bulb-outs.

Commissioner Andrews asked about including a Condition of Approval (COA) to address trash issues, Associate Planner Emura said he will make sure this is included in the COAs. Principal Planner Lochirco said that to include items such as hedges can pose a sight distance issue and can have safety implications. Mr. Lochirco added that COA number 90 addresses the trash issues and this came from Stop-Waste. Mr. Emura said that staff will look at the Starbuck's COA and will ensure the specific language to address trash will be included in COA 90 for this project.

Commissioner McDermott commented that this business is a much needed improvement for Mission Boulevard and she likes the architecture of the building. Ms. McDermott said this project will be a positive addition for the residents in the area.

Vice-Chair Willis opened the public hearing at 7:25 p.m.

Mr. Jason Moreno, Hayward resident, has concerns about graffiti and vandalism and suggested reducing both the building height and the amount of glass. He spoke about another parking lot that has not been properly maintained and requested the City address parking lot maintenance and mitigate flooding in parking lots.

Vice-Chair Willis closed the public hearing at 7:28 p.m.



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Commissioner McDermott made a motion to approve the staff recommendation. Commissioner Goldstein seconded the motion.

Commissioner Goldstein commented that this project elevates the quality of businesses along the Mission corridor and this project makes it more attractive for the residents in that area and is a visual magnet for other businesses.

The motion passed with the following vote:

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

**WORK SESSION**

3. Route 238 Corridor Lands Development-Parcel Group 6 Carlos Bee Quarry: discussion on Master Development Plan Vision and Concept

Management Analyst Stefanski provided a synopsis of the staff report and a PowerPoint Presentation.

Deputy City Manager Ott explained to Commissioner Goldstein that staff will bring forward a City recommended Master Development Plan (MDP) in which staff has incorporated elements from Mr. Sherman Lewis's Bay View Concept Plan. Ms. Ott said to test the market, staff may solicit responses from developers regarding the parking element included in Mr. Lewis' Bay View Concept Plan.

In response to Commissioner Patton, Deputy City Manager Ott said staff is preparing an addendum to the 2014 General Plan Environmental Impact Report (EIR) and a detailed study has been prepared as part of the addendum. This will be presented as part of the project when staff comes back in October 2019. Ms. Ott said the document will include the traffic study that looks at the impacts, Carlos Bee Boulevard, the new signalized intersection and cumulative impacts through 2040. Mr. Patton commented that he is supportive of the student village concept mixed with other types of housing, but that developers must be mindful between planning student housing and family homes and cautioned staff of reducing the parking too much.

Commissioner Andrews asked about outreach with California State University East Bay (CSUEB), Deputy City Manager Ott said there have been discussions with student



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associations that advocated for more student housing, student government, rental tenant collective, and a student housing developer that specializes in student housing on CSU campuses. Ms. Ott said they have not had the opportunity to speak with University staff. Ms. Ott said staff is proposing a plan for a multi-purpose flexible space.

Vice-Chair Willis said he has reviewed the MDP and supports the plan.

Vice-Chair Willis opened the public hearing at 9:48 p.m.

Mr. Bruce King, with Friends of San Lorenzo Creek, said he has met with and provided comments to City staff and Hayward Area Recreation and Park Department (HARD). Mr. King spoke about Ward Creek in this area and that the Friends of San Lorenzo Creek want to define the creek setbacks and maintain the natural habitat.

Dr. Marlina Selva, Hayward resident, lives near the 4<sup>th</sup> and Main Street development and understands when the community is not listened to. She asked that staff, Planning Commissioners and Council have conversations with the residents and students. Ms. Selva said it is important to take care of the creeks and invest in the environment.

Mr. Jason Moreno, Hayward resident, said he will share with Sherman Lewis that staff did not agree with the one car to five-unit concept. He spoke about the crimes along Carlos Bee Boulevard and suggested a requirement to have onsite security. Mr. Moreno said there needs to be a noise ordinance to address when students have loud parties in the student housing areas.

Vice-Chair Willis closed the public hearing at 9:57 p.m.

Commissioner Goldstein suggested having a mandatory neighborhood watch program. Deputy City Manager Ott said staff can include in the development agreement certain covenants to require specifics such as a homeowner's association (HOA), private security, and maintenance standards. Mr. Goldstein asked to include in the development agreement that the HOA have the ability to enforce parking requirements.

Deputy City Manager Ott responded to Commissioner Andrews that the City is supportive of the creek setbacks and preserving the riparian creeks. Ms. Ott shared that engineering still needs to be conducted and staff will place a reference to the creek setbacks in the MDP and once the specifics are outlined, they will be included in the MDP. Ms. Andrews suggested staff work with the Friends of the San Lorenzo creek, as they have already conducted some engineering, and wants to make sure this is included in the Request for Proposals (RFP) process.



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Vice-Chair Willis asked staff to address Commissioner Goldstein's concerns regarding parking enforcement. He also requested that staff include the creek setback requirements as it is important to protect the creek's environment.

**APPROVAL OF MINUTES**

4. Approval of the Planning Commission Meeting Minutes of June 27, 2019

Commissioner Patton made a motion, seconded by Commissioner Andrews, to approve the Planning Commission Meeting Minutes of June 27, 2019. The motion passed with the following votes:

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

**COMMISSION REPORTS**

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

Principal Planner Lochirco reminded the Commission that there is an August recess and that currently both meetings are scheduled for September with the first meeting to be held on September 12, 2019.

***Commissioners' Announcements, Referrals:***

Commissioner McDermott asked about procedure, as this is her last term as a Planning Commissioner. Principal Planner Lochirco said the Commissioner terms end at the end of September and requested that Commissioner McDermott attend the September meetings.

Commissioner Andrews announced the Keep Hayward Clean and Green Clean-up event at the Matt Jimenez Community Center and the Palma Ceia Festival on Saturday.

**ADJOURNMENT**

Vice-Chair Willis adjourned the meeting at 10:07 p.m.



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**APPROVED:**

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

Ray Bonilla Jr., Secretary  
Planning Commission

**ATTEST:**

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

Denise Chan, Senior Secretary  
Office of the City Clerk