



**MINUTES OF THE MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
REMOTE PARTICIPATION
Thursday, September 10, 2020, 7:00 p.m.**

This meeting was being conducted utilizing teleconference and electronic means consistent with State of California Executive Order No. 29-20 dated March 17, 2020, and Alameda County Health Officer Order No. 20-10 dated April 29, 2020, regarding the COVID-19 pandemic.

MEETING

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

ROLL CALL

Present:	COMMISSIONERS:	Andrews, Faria, Goldstein, Patton, Roche, Stevens
	CHAIRPERSON:	Bonilla
Absent:	COMMISSIONER:	None

Staff Members Present: Billoups, Brick, Buizer, Chan, Martinez, Morales, Simpson

PUBLIC COMMENT:

There were no speakers.

PUBLIC HEARING:

For agenda items Nos. 1 and 2, the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of decision. If appealed, a public hearing will be scheduled before the City Council for final decision.

1. Appeal of the Planning Director's Decision to Approve a Two-Year Extension of the Approved Mixed Use Development consisting of 72 Residential Townhomes and 8,000 square feet of commercial space on a 5.88-acre parcel located at the Southwest corner of Mission Boulevard and Industrial Parkway (APNS: 078G-2651-012-08, 078G-2651-011-02, 078G-2651-010-03, 078G-2651-009-02, and 078G-2651-008-00) requiring Approval of a Vesting Tentative Tract Map and Site Plan Review; Application No. 201504677; (Appellant: Rosemarie Aquilar and Glenn Kirby); (Applicant: Doug Rich, Valley Oak Partners)

Planning Manager Buizer provided a synopsis of the staff report including a PowerPoint presentation. Ms. Buizer noted two changes to the Modified Conditions of Approval; the first is related to offsite improvements #42 to clarify the bike lane improvements that are required along the Industrial Park frontage; and #164 related to the timing of the construction for the residential and commercial components.



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Discussion ensued between the Planning Commission and staff regarding the following:

Commissioner Roche asked about the environmental delay and policy changes by the Regional Water Quality Control Board (RWQCB), and the impact from the fire in relation to the cleanup of materials.

Commissioner Patton requested the appellant to address how the Planning Director erred in her decision to grant the time extension. He requested the applicant to speak about the cleanup of the project site and when the site will be fully cleared of fire related debris and other structures. Mr. Patton has concerns that the City reserve the right for developers to ask about future uses for the commercial site.

Commissioner Andrews asked about the duration of the environmental cleanup prior to the issues with dry cleaners; affordable housing element; and commercial tenants.

Commissioner Stevens asked if the site remediation costs are a significant component of the project and affects the economics of the site.

Planning Manager Buizer said the developer is doing a lot of interior abatement work with the demolition to follow which will show more noticeable progress.

Ms. Rosemarie Aquilar, appellant and resident of Fairway Park, presented her and Glen Kirby's appeal to include the affordable housing element and overturn the Planning Director's decision to approve the extension.

Mr. Doug Rich, applicant, spoke about the project and the project chronology; the RWQCB changed their policies which required the site to be remediated twice and the delays were costly; and the three commercial tenants would be a coffee shop, a restaurant, and the third yet to be identified. Mr. Rich said they understand the nature and goal of the appeal and the housing crisis. He noted the 40 letters in support of the project.

Chair Bonilla asked about the applicant's outreach and their input and how their input was shaped the project.

Mr. Rich spoke about the meetings and outreach with the staff, civic leaders, formal neighborhood meetings that was very well attended; how the feedback was incorporated into the project which includes the orientation of the homes to take advantage of the golf course; and how they took into consideration both the City's needs and the neighborhood's needs in the planning of the project.

Chair Bonilla opened the public hearing at 7:46 p.m.



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Ms. Mimi Bauer, President of Fairway Park Neighborhood Association, spoke in support of the project and provided the history of the neighborhood outreach that lasted over two years. Ms. Bauer spoke about the developer's overwhelming cooperation for multiple requests and that this was the best experience with a developer and that Fairway Park is a progressive neighborhood.

Ms. Minane Jameson echoed Ms. Bauer's comments and spoke in support of the project. Ms. Jameson is looking forward to the completion of the project. She appreciates the appellant's need for more housing and that there are many areas along Mission Boulevard for opportunities.

Glen Kirby, appellant, and Fairway Park resident hopes that the Commission will take into consideration their appeal and that developers need to stop paying in-lieu fees.

Chair Bonilla closed the public hearing at 7:58 p.m.

Commissioner Faria said she has been involved in this project since the beginning, echoed the comments made by the community and Fairway Park Association. She said that the applicant was very accommodating took all the outreach comments from staff, City Council, Commissioner and the community into consideration and incorporated these concerns into the project such as building orientation be focused on the golf course; traffic barriers for the restaurant and much more. Ms. Faria appreciates the appellants' feedback said that as a member of the Planning Commission affordable housing has always been a priority. She said that the Commission has influenced policy as previously a lot of developers would choose the option to pay the in-lieu fees. Ms. Faria said that at the time the applicant brought forward the proposed project there was the option to pay the in-lieu fees. Ms. Faria made the motion to deny the appeal and uphold the Planning Director's decision to approve the two-year extension.

Commissioner Patton said that if the Commission were reviewing a new project, this site would be an incredible opportunity for dense housing which would include an affordable housing element, but that is not what is before the Commission this evening. Mr. Patton said this is a classic reason why the legislature amended the subdivision map act and provided the process of establishing the vesting map provisions. He said the appellant did not address the statutory findings and indicate why the appellant felt that the Planning Director erred in her decision. Mr. Patton said that the Planning Director was correct in her decision. He has concerns about trying to do land use by deed restriction and made a friendly amendment to delete Part B of the deed restriction condition.

Commissioner Faria accepted the friendly amendment.



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Commissioner Stevens seconded the motion. Mr. Stevens spoke about the costs of construction in the bay area and that the City's General Plan offers a range so that there can be proper balance among the economic realities and the type of housing that the City is seeking. Mr. Stevens said if the appeal were granted, this would set a bad precedent and would hurt Hayward's development community and could encourage developers to move onto to other communities that are more embracing.

Commissioner Roche appreciated Commissioner Stevens' comments; the in-lieu fees and building costs need to be more in line to encourage developers to include the affordable housing element in their projects. Ms. Roche appreciates the appellants' impassioned plea but that this is not the right project to bring this up now as so much good faith work has been done between the City, the community, and the developer and there were unknown environmental issues that caused the lengthy delay. Ms. Roche said this is an exciting gateway project for South Hayward and that the Fairway Park Neighborhood Association is correct that the local community has been instrumental in supporting other affordable housing projects. Ms. Roche supports the project and the community is looking forward to this project moving forward.

Commissioner Andrews pointed out that the affordable housing crisis was present in 2016 and even earlier in the bay area and asked the appellant if affordable housing was brought up during the community meetings.

Ms. Aguilar said that she had brought this up to several Council Members during that time and that she was told no and that she did not receive a notice about the community meetings. Ms. Aguilar said the Fairway Park Neighborhood Association did not bring that topic up.

Commissioner Andrews disclosed that she met with the developer, Ms. Bauer, and Ms. Jameson about the project. Ms. Andrews said that she struggled with this as she wants to see more inclusionary housing and after hearing Commissioner Faria's comments, there has been a transition in what the City is demanding from developers. She said it is unfair to call the Fairway Park Neighborhood Association NIMBY which stands for not in my backyard as they have considered projects that include low income affordable housing and acknowledged the Association for their work. Ms. Andrews said she has never seen a project have 40 letters of support. Ms. Andrews agrees with her fellow Commissioners that it would set a dangerous precedent if the Commission were to change the rules and reject projects that meet the City's existing codes.

Assistant City Attorney Brick responded to Ms. Andrews that if a housing development project meets the City's density requirements the City could not deny the project. Ms. Andrews suggested that the appellants continue advocating for changing the laws and for future projects to include the affordability element. She said that the Commission has approved a lot



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of projects that have inclusionary housing and that unfortunately inclusionary housing was not included at the beginning for this project. Ms. Andrews will be supporting the motion based on what she has heard this evening.

Commissioner Goldstein shared that in 2017, this identical discussion on the exact same topic occurred involving the appellants and during those discussions the Commission agreed that in theory there should have been more density but because of the very vocal and popular support for the proposed project the Commission agreed with the majority of the community. Mr. Goldstein appreciates the appellants time to bring this item forward and that the Commission is equally passionate about future projects having the right housing mix that includes affordable, inclusionary, and multi-generational housing and shared that he has spoken to several Council Members about changes that still need to be made. Mr. Goldstein said the Commission does not have any legal grounds to deny the applicant moving forward with the project and for those reasons he supports the motion.

Chair Bonilla said he struggled with this item and appreciated the appellants' passion and stated that he is also passionate about low-income, affordable, inclusionary housing and the need for a broader mix of housing in the City. He said the Commission will continue to make affordable, inclusionary housing a priority. Mr. Bonilla said he understands the relevant delays, the project meets the current requirements, regulations and rules and it was unanimously approved by the Commissioner in January 2017. He said there is not a basis to disagree with the Planning Director's decision for the extension.

A motion was made by Commissioner Faria, seconded by Commissioner Stevens, and carried by the following roll call vote. to approve the staff recommendation with a friendly amendment to delete Part B of the deed restriction condition:

AYES:	Commissioners Andrews, Faria, Goldstein, Patton, Roche, Stevens Chair Bonilla
NOES:	None
ABSENT:	None
ABSTAIN:	None

2. Proposed Multi-Family Residential Development with 27 Townhome-Style Condominiums and 18 Apartment Units on a Vacant 1.12-Acre Infill Site Located at 21659 Mission Boulevard, APN 428-0006-058-01, requiring Approval of Vesting Tentative Tract Map #8520 and a Site Plan Review and Density Bonus Application No. 201902713. Erik Waterman, Studio KDA (Applicant) on behalf of Pargat Singh (Property Owner)

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



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Mr. Erik Waterman, applicant with Studio KDA, spoke about the project.

Discussion ensued between the Planning Commission, staff, and applicant regarding the following:

Commissioner Roche asked about an updated traffic study, marketing plan for carless residents; encouraged applicant to conduct outreach for car share and alternate transportation modest; would like to have the frontage design fit in more with the existing neighborhood; and is glad to see the affordable housing element and asked about the density bonus calculation.

Commissioner Andrews appreciates the affordable, inclusionary housing element and asked about the Regional Housing Needs Allocation (RHNA) goals in relation to the proposed project and which categories the City is low. Ms. Andrews agreed with Commissioner Roche and would like to see a different color palette for the frontage; and asked the developer to consider public art on the wall fronting Mission Boulevard which can also help deter graffiti. Ms. Andrews would like to see traffic studies even if not warranted and that traffic needs to be mitigated utilizing creative solutions.

Housing Division Manager Morales said the City is low in all of the RHNA categories and that ongoing estimates are based on number of units that are in the pipeline and provided the following; very low income category 47% deficiency; low income 21% deficiency; and moderate income 86% deficiency. She said how the units are designated has to do with specific income levels in the Affordable Housing Ordinance (AHO).

Associate Planner Martinez praised the developer as there are not a lot of incentives for developers to include moderate-income units. Mr. Martinez said development plans were forwarded to AC Transit, but staff has not received any comments from them. Mr. Martinez confirmed that the Alameda County Transportation Commission (ACTC) have capital improvement plans as they have the right-of-way along Mission Boulevard. These plans include more bike lanes and a complete streets plan. Mr. Martinez explained the bonus density law.

Mr. Waterman said they increased the number of parking spaces; included bike amenities; and spoke about the trend to encourage other modes of transportation.

Commissioner Faria has concerns about parking impacts; decrease in open space for the family type units; the stark look of colors and that a four story building on Mission Boulevard is not welcoming and would have like to have been provided a rendition that included the landscaping.



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Chair Bonilla likes the size of the affordable units; would like to have been provided projections on the number of residents utilizing public transit; has concerns about traffic impacts and the developer needs to establish a management plan to further incentivize residents to go carless.

Chair Bonilla opened the public hearing at 9:01 p.m.

Mr. Steven Dunbar, Bike East Bay Board Member, spoke about the Mission Boulevard improvements which includes high quality bike lanes; ADA ramps; sidewalk improvements; improved bus boarding areas. Mr. Dunbar encouraged the City to continue being involved in transportation options and incentives for carless residents.

Dr. Ann Maris, Grove Way Neighborhood Association organizer, said rental unit residents will not have access to the open space because of a gate; there is a lack of parks and ADA amenities; and spoke in favor of the parking area and rooftop amenity. Ms. Maris said the color and design do not fit in with the existing neighborhood.

Associate Planner Martinez said there are ADA amenities which include an elevator and the rental unit residents have access to the open space amenities.

Mr. Erik Waterman said they are open to looking at the color scheme and that their goal was to develop visual interest.

Mr. Tyler Dragoni, resident of Ashland & Cherryland, said there is the need for amenities of parks and green space; asked why the open space requirement is being reduced.

Associate Planner Martinez said the City must create a balance of where State law precludes cities from limiting the density that is allowed on a property to maintaining parking spaces. Mr. Martinez said there are private open space such as balconies and private backyards that are present in the proposed project.

Mr. Waterman said they had to weigh the different elements for density, open space, parking and the mixed types of housing; to encourage residents to ride their bikes they reduced the parking slightly; there is 3,000 square feet of backyards that is not counted towards the common open space calculations but each townhome has a backyard which is not a requirement; and there is also a roof deck for residents' use.

Mr. Brian Dorward, project civil engineer with Greenwood and Moore, addressed the parking concerns and noted there are ten or eleven parking spaces along the frontage on Montgomery and three parking spaces along Mission Boulevard.



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Chair Bonilla closed the public hearing at 9:17 p.m.

Commissioner Patton said this is a great project and noted that affordability takes funding and that the State law has been amended to require cities to give incentives to developers. He said this project does a lot in a small site and that we must be open to the discussion when affordable housing is the goal and there will not be a perfect project every time. Mr. Patton said the proposed project is within the realm of reason in relation to the requested incentives. He agrees it has a strong color palette and the design has an industrial context and encouraged the applicant work with staff for warmer colors and the overall design.

Commissioner Stevens said this is a great fit for a tough site and he likes the colors; this section of Mission Boulevard could be updated and doing something bold makes sense, agrees with the height that matches the scale of Mission Boulevard. He said the townhomes fit Montgomery Street and there is proper setback to the adjoining older homes. He said a larger tree would fit the neighborhood and fit in well with the architecture. Mr. Stevens supports the item.

Commissioner Goldstein agrees with Commissioner Stevens on the color and design and likes the materials and when designs are similar there is the risk that the buildings start to look the same. He said the applicant is bringing a much-needed project to the City and this represents what the Commission has been asking for in terms of density and affordability and thanked staff and applicant. He appreciates the use of the roof top for more outdoor space and use of private backyards and said the applicant has found a good balance with those open space elements. Mr. Goldstein thoroughly appreciates the sizeable indoor and walkable bicycle storage as this promotes residents using their bikes. He said with bike lanes; proper lighting and safety; traffic calming measures; these elements all contribute to alternative modes of transportation and people getting out of their cars. Mr. Goldstein is in favor of the project.

Commissioner Roche encouraged the applicant to consider a marketing plan to incentivize carless residents and asked the applicant to revisit the color scheme on Montgomery and the industrial slanted roof to be more compatible with the existing homes. Ms. Roche encouraged the City to work with developers to create marketing plans with proactive options to get residents out of their cars and she does not want to see parking impacts to the existing neighborhood.

Chair Bonilla favored the project and thoroughly appreciates the size of the affordable units; he likes the good use of open space; this is a nicely designed development with a lot of attractive amenities that is meeting a lot of the elements that the Commission has been requesting and is a good example of how affordable housing can be incorporated into communities and encouraged other developers to take notice. He thanked staff and the applicant for their work on this project. Mr. Bonilla said that he is excited to support the



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project.

Commissioner Goldstein has reservations about parking incentives such as unbundled parking which is offering residents a discount if you don't have a car with the unintended consequence of people cheating the system by taking the discount and then parking their cars on the street. Mr. Goldstein made a motion to approve the staff recommendation and said the applicant can work with staff on the design aesthetics.

Commissioner Andrews made a friendly amendment to add a public art element to the wall fronting Mission Boulevard.

Commissioner Goldstein accepted the friendly amendment.

Commissioner Patton made a friendly amendment that the applicant be directed to continue working with staff on modified colors and design changes and to bring this back before the Commissioner as a consent item. His concern is that the Commission has not provided clear direction to staff.

Discussion ensued between staff and the Commission about the friendly amendment which resulted in Commissioner Goldstein not accepting the friendly amendment.

Associate Planner Martinez shared there is a condition that covers the exterior building colors and other architectural details which shall be reviewed and approved by the Planning Department prior to issuance of the building permit.

A motion was made by Commissioner Goldstein, seconded by Commissioner Roche, and carried by the following roll call vote. to approve the staff recommendation with the friendly amendment to add a public art element on the wall fronting Mission Boulevard:

AYES:	Commissioners Andrews, Faria, Goldstein, Roche, Stevens Chair Bonilla
NOES:	Patton
ABSENT:	None
ABSTAIN:	None

APPROVAL OF MINUTES

3. Approval of the Commissioner Meeting Minutes of July 9, 2020.



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A motion was made by Commissioner Andrews, seconded by Commissioner Stevens to approve the Planning Commission Meeting Minutes of July 9, 2020. The motion carried with the following roll call vote:

AYES:	Commissioners Andrews, Faria, Goldstein, Roche, Stevens Chair Bonilla
NOES:	None
ABSENT:	None
ABSTAIN:	Patton

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters:

Planning Manager Buizer thanked the Commissioners for participating in this evening's new Zoom Webinar platform and remarked that the meeting went smoothly. Ms. Buizer wanted to take the opportunity to thank Commissioner Faria for her service and hard work, hopes she is doing well and will continue to be around volunteering and doing wonderful things for the Hayward community.

Commissioner Faria shared that she volunteers at the COVID call center a couple of days and that the hotline is open Monday through Friday from 9 am to 4 pm.

Commissioners' Announcements and Referrals:

There were none.

ADJOURNMENT

Chair Bonilla adjourned the meeting at 9:43 p.m.

APPROVED:

Julie Roche, Secretary
Planning Commissioner



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ATTEST:

Denise Chan, Senior Secretary
Office of the City Clerk