



**PLANNING COMMISSION MEETING
REMOTE PARTICIPATION
Thursday, April 22, 2021, 7:00 p.m.**

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

Members of the Planning Commission, City Staff, and members of the public participated via the Zoom Webinar platform.

MEETING

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

ROLL CALL

Present: COMMISSIONERS: Ali-Sullivan, Bonilla, Goldstein, Mendall, Oquenda, Stevens
CHAIRPERSON: Roche
Absent: COMMISSIONER: None

Staff Members Present: Ameri, Billoups, Brick, Briggs, Byrne, Chan, Garcia, Hung, Lo, Lochirco, Pearson

PUBLIC COMMENT:

There were none.

PUBLIC HEARING:

For agenda items No. 1 & 2, the Planning Commission may make a recommendation to the City Council.

1. Recommended FY 2022-2031 Capital Improvement Program

Public Works Director Ameri introduced the item and spoke about this year's new online format of the CIP. Mr. Ameri acknowledged the work of Management Analysts Kaitlyn Byrne and Elli Lo and introduced Ms. Byrne.

Management Analyst Byrne provided a synopsis of the staff report and a PowerPoint presentation.

The Planning Commission thanked staff on their hard work and the interactive online format.



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Discussion ensued between the Planning Commission and City staff regarding the following: how are unfunded projects prioritized; street repair budget; funding for disaster preparedness; hybrid fleet; delay of La Vista Park improvement project and requested staff to consider phases and provide an update to Council; would like to have the narrative summary as find these are very helpful; and the large increases in the costs.

Public Works Director Ameri said staff is actively seeking funding for the unfunded projects as currently there are no funds available. He spoke about the funding for the street budget that comes from various sources. Mr. Ameri said that staff is working diligently on the La Vista Park project and that there are California Environmental Quality Act (CEQA) issues regarding wetlands and shared what mitigation measures are being done to resolve this. Mr. Ameri said the funding for La Vista Park is included in the CIP in the case the wetland issue can be resolved quickly, then the City can move on with the construction.

Management Analyst Byrne spoke to the projects that are part of the Livable Neighborhoods category which has several subcategories such as Street Trees/Median Landscaping which is the largest at approximately \$3 million dollars; and La Vista Park and South Hayward Youth Family Center.

Chair Roche opened and closed the public hearing at 7:37 p.m.

Commissioner Ali-Sullivan commented that a lot of funds are being utilized in underground and water infrastructure.

Commissioner Bonilla appreciated the website, this make the CIP much easier to understand and digest the vast amount of information; and that the interactive website is great. He thanked staff for their hard work and efforts.

Chair Roche thanked staff and appreciated the online portal and suggested adding a search bar in the table of contents page. Ms. Roche supports the item.

A motion was made by Commissioner Oquenda, seconded by Commissioner Bonilla, to approve the staff recommendation to recommend the item to the City Council.

The motion passed with the following roll call vote:

AYES:	Commissioners Ali-Sullivan, Bonilla, Goldstein, Mendall, Oquenda, Stevens Chair Roche
NOES:	None
ABSENT:	None



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ABSTAIN: None

2. Proposed Amendments to Chapter 4, Article 1 of the Hayward Municipal Code Related to the Noise Ordinance and Amendments to the Hayward 2040 General Plan Related to Landscaping Equipment

Environmental Services Manager Pearson provided a synopsis of the staff report and PowerPoint presentation.

Discussion ensued between the Planning Commission and City staff regarding the following: decibel levels for gas powered versus electric mowers used on golf courses; rules that apply to Waste Management Trucks; current exemption for City activities; process for enforcement; is enforcement against the homeowner or landscaper and what is covered; why is the City recommending moving the date four years earlier than the State Mandate; why are golf courses exempt from the time change; equipment cost difference; since the amendment is focused on residential properties and not commercial is it fair to say that the technology only works for residential use and not commercial use; were large residential properties also considered in the amendment which can be similar to commercial properties; professional landscapers cannot find appropriate equipment covered under the amendment; was this a scientific survey; when did gas powered landscape equipment become popular; and will the City consider gas powered equipment if noise levels are lower than 65 decibels.

Commissioner Mendall pointed out that informally the City has a policy to not read letters aloud; if a member of the public wants to make a public comment, they need to attend the meeting and speak. Mr. Mendall said all letters submitted are part of the public record; the Commissioners have received a copy, and these are posted on the City's website. He said this is sufficient for the written record.

Chair Roche asked if staff would like to respond.

Assistant City Attorney Brick responded that Commissioner Mendall is correct, reading a submitted letter aloud is not a City policy; the letters submitted are already a part of the public record; all correspondence received are posted on the City's website and there is no reason to read a letter aloud and will defer to Chair Roche.

Chair Roche said that sounds correct, all the Commissioners have had a chance to review what has been submitted. Ms. Roche thanked Commissioner Mendall and Assistant City Attorney Brick.



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Environmental Services Manager Pearson explained complaints are covered by Code Enforcement and Hayward Police Department (HPD); HPD have the noise decibel monitors and they can cite violations. Mr. Pearson said that enforcement can be against both the homeowner and the business. He said the ordinance allows for an exemption for Waste Management trucks and they are not to start earlier than 6 a.m. Mr. Pearson said the City did not impose a new requirement on golf courses since early morning landscaping is an established operation; has been ongoing for years and golfers expect to start early in the morning with the expectation that the courses ready. Mr. Pearson said it has been found that there some limitations with battery life; residential properties are smaller; there is the opportunity for the use of plug-in equipment. He said that some commercial landscaping companies offer all electric services for larger residential properties. Mr. Pearson said the gas-powered landscaping equipment became popular in the 1970s.

Chair Roche opened the public hearing at 8:21 p.m.

Mr. Marc DeLong, Stonebrae resident, supported the amendments to the noise ordinance; strongly recommended that golf courses not have a blanket exemption from the amendments; that a compromise can be reached with an annual permit process that can benefit both residents and golf course; and mentioned having been impacted from the early morning noise and hopes the golf course would want to be a good neighbor.

Mr. Gabriel Hernandez: landscaper, who has worked in Hayward for a long time; said the amendments need to take the workers into consideration as they start earlier because it is still cool, and a later start time will place the employees working during the hotter times of the day. If there is a ban on the gas leaf blowers the City needs to develop a process, such as a buy back program similar to the buyback guns program; requested landscapers be allowed to use their current equipment until they cannot. He recommended that an exemption program should be developed if the gas equipment is below the decibel levels listed in the amendment.

Stonebrae resident; seconded all the comments of Mr. DeLong; said Stonebrae residents are highly impacted and are not the only ones impacted by the noise from the golf course; spoke about the exemption and offered options such as performing the landscaping in the evening; the reasoning for the golf course exemption that they would not want to comply, is insufficient.

Mr. Mike Letchinger, with the Stonebrae development team along with Joanne Callenbach; spoke about Stonebrae's suggested amendment for the noise ordinance for Stonebrae's Planned Development; said there are impacts from living along a golf course; noted that each homeowner is notified of these impacts and agree to be a member of the HOA and agree to the Covenants, Conditions and Restrictions (CC&R) prior to purchasing their homes; said the City reviewed and approved these documents and incorporated these disclosures and agreements



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in 2005 prior to recordation of Stonebrae's first map. He spoke about mitigation measures that they have already taken to reduce the early morning noise impacts and that Stonebrae and the HOA are willing to meet with residents.

Ms. Sarah, Hayward resident, spoke in support of the ordinance and that the staff report was thoughtful. Ms. Sara said the amendment is phased and reasonable; leaf blowers are a modern convenience. She said that in her research she found the argument for leaf blowers by the California Landscape Contractor's Association inadequate and spoke about the negative impacts both environmental and physical for workers and the public from gas leaf blowers.

Mr. Chris, Stonebrae resident, said that he wants the golf course to operate effectively as a business. He said the residents want fairness and the amendments should also apply to Stonebrae. Mr. Chris said Stonebrae's CC&R are very general and does not state when the noise will occur. He said when they moved into their home last April, they were not notified that there will be consistent noise at 5:40 a.m. every day.

Senior Secretary Chan said that it was requested that staff read Mr. Tom Silva's letter into the record and wanted to confirm that per Commissioner Mendall's point of order that she was not to read the letter. Assistant City Attorney Brick confirmed as such.

Chair Roche closed the public hearing at 8:40 p.m.

Commissioner Oquenda acknowledges that Hayward is a leader in the transition to use green and sustainable resources; is in favor of more aggressive action to reduce various sources of fossil fuel emissions and this is clear from California Air Resources Board (CARB) and staff presentation that this is one way to further that work. Mr. Oquenda supports the item and made the following recommendations that could be implemented during the grace period prior to January 2024. The recommendations are as follows: (1) Council consider the process to allow a landscape contractor to bring in equipment for noise measurement and apply for a conditional permit. (2) Council direct staff to consider a process for grandfathering in and creating a subsidy program, he has concerns about placing additional strain on landscaping companies; and (3) conduct an analysis of the different equipment and cost impacts.

Commissioner Goldstein favors the effort to move up the elimination of greenhouse gas emission equipment but in his research, there is a significant problem with battery production, heavy reliance on lithium-ion technology; this favor third world countries to mine the resource; and when batteries are disposed of the chemicals will leach into the disposal area. He said it is like replacing one disaster for another one and wanted to raise awareness on this. Mr. Goldstein said this decision should not be done cavalierly and needs much greater study. He said that every resident should have the opportunity to say they want change in their community. Mr. Goldstein appreciates Mr. Letchinger's offer to continue having an open



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dialogue with Stonebrae residents and willing to make concessions. Mr. Goldstein said that he does not favor a blanket exemption for golf courses; he advocates that the City ask golf courses to have dialogues with the community and work towards solutions. He said the forced disposal of gas equipment is a legitimate economic concern for landscape businesses; and asked the City to consider a program where gas equipment meets the decibel level and that the City not allow any further sale of gas equipment.

Commissioner Mendall thanked the speakers for their comments and bringing the worker's perspectives. Mr. Mendall disclosed that he met with Ms. Callenbach of Stonebrae. He mentioned being woken up by a landscape company during the early morning hours and when in his backyard how discussion was interrupted by a gas leaf blower. He said that a gas leaf blower is a convenience, not a necessity, and can inconvenience multiple people. He favors banning gas leaf blowers as soon as possible as this will be an environmental benefit and there are other options that can be used. Mr. Mendall spoke about the governor's declaration that there is a climate emergency and the President's mandate of reducing GHG by 50% in ten years which requires changing how things are done. He spoke about the environmental impacts when using gas leaf blowers. Mr. Mendall said that Hayward is a national and international leader in fighting climate change, and we need to keep moving forward. Mr. Mendall said Piedmont and Berkeley banned gas leaf blowers 30 years ago and their landscapers have figured out what to do. Mr. Mendall would like to accelerate the timeline. Mr. Mendall approved of the quiet hour changes for residential areas and said a good compromise for the golf course operations is to do conduct their necessary landscaping work between 5 and 7 a.m., performed with the quietest equipment possible to lessen the impact to the residents. Mr. Mendall encouraged staff to work on this compromise before the item goes to Council.

Commissioner Ali-Sullivan mentioned that his first job was mowing lawns with all electric equipment and a broom and noted that this can be done at the residential level; applaud the City for the SORES levels and it is shocking on the GHG from the small gas equipment. He said climate change is real, GHG emissions affects everyone and needs to be addressed. He is happy to see that the City is taking an aggressive step and urged the City to look at commercial uses also as the gas leaf blowers are being used multiple times throughout the day. Mr. Ali-Sullivan spoke about the noise issue and is sympathetic to the concerns of the golf course residents and shared his weekly noise experience with garbage trucks. He said this is not the venue to litigate this issue regarding the golf course and noted this is an opportunity for Stonebrae's management to be good stewards to come up with a compromise such as adjusting their landscaping schedules or utilize newer technology to mitigate the noise impacts especially for the newer residents who are closer to the golf course. Mr. Ali-Sullivan supports the item and is glad the City is taking a leadership role in addressing GHG emissions.



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Commissioner Bonilla said he has mixed feelings and mentioned how this reminded him of the tobacco ban as it did not feel right to ban one substance and not ban all and that this feels similar. Mr. Bonilla understands the sense of urgency with the climate crisis and that it needs to be addressed. He said proposed amendments should be for both residential and commercial as the impacts are even greater on commercial properties as already stated. He said the residential landscapers are typically mom and pop businesses and are going to be most impacted by these changes; they can no longer use the equipment that they have and will be forced to purchase more expensive equipment. He said the bigger commercial landscapers have the resources to make these purchases and able to pivot and change out their equipment as opposed to the smaller residential landscapers who are working to make ends meet. Mr. Bonilla said it is important for the City to move forward with this in a very thoughtful manner; recommended phasing in this program for the smaller businesses who cannot afford this change; the City needs to come up with a solution and suggested staff research a subsidy program for small business owners. He said for small residential landscapers to survive they need to get to as many jobs as they can and to limit the equipment would decrease the number of jobs they could perform in a day. Mr. Bonilla said that at this time, he is unsure of his decision.

Commissioner Stevens does not support this item specifically for the ban on gas-powered equipment and that this ban should be in line with the State regulations as the State has experts that conduct research and evaluate whether the tools are available and appropriate to do the job. Mr. Stevens is frustrated that the City is looking at residential lots monolithically; some residents live on very large lots; removing leaves in the wintertime is not easy and performed for safety purposes such as to make sure drains flow so that flooding does not occur and in the summertime to make their area fire safe. Mr. Stevens noted that he and a lot of his neighbors do their own work. He said there is a difference when looking at a residential and commercial application and that the market will dictate how equipment is used in the future with better battery powered or non-fossil fueled equipment. Mr. Stevens said that it does not feel right as there are a lot of older equipment that is still in use, mentioning his 20-year-old leaf blower that he has maintained and repaired over the years and has kept out of the landfill. Mr. Stevens asked if this amendment is approved will all this equipment just going to get dumped and disposed of. He appreciates the City's outreach efforts, but it does not seem to be in the spirit of last year's conversation about alternative forms of outreach. Mr. Stevens said that he visits Hayward Rentals, a mower shop on A Street and Home Depot; has not seen anything about this noise ordinance amendment and asked how City staff has targeted outreach to the people that will be greatly impacted. Mr. Stevens said unless the section changes regarding gas powered equipment specifically on residential lots, he is not in support of the item.

Commissioner Oquenda asked if the City has regulations on battery disposal for businesses.



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Environmental Services Manager Pearson responded that batteries are considered hazardous waste and must be disposed of properly at an Alameda County Hazardous Waste Facility.

Mr. Oquenda mentioned the argument of the national failure of waste management systems is important. He agreed with Commissioner Bonilla about the City developing a subsidy program for qualified smaller businesses; agreed with Commissioner Mendall and would like to see expanding the ban into all areas; and said that there are methods for both residential and commercial landscapers in which they can utilize electric tools.

Chair Roche agrees with her fellow Commissioners that the City has not made a case for an equitable application of the amendments to the noise ordinance; as there are just too many exceptions, such as HARD, HUSD, commercial properties; the golf course said it does not fit within its business model. Ms. Roche is very concerned that this ban will greatly impact the small independent gardener; these businesses try to get to as many houses a day as they can; this ban will slow them down and reduce the hours they can work. Ms. Roche says that she completely agrees about the environmental impact. She said that all parties that want to be exempted can lobby sufficiently except the average solo gardener. Ms. Roche said she is in favor of the time limits, but it is also reducing the number of house that they can get to. Ms. Roche this is a double whammy, and it does not appear that the average small business gardener has a voice in this action; some gardeners store their equipment in a storage unit and are not able to charge their equipment. Ms. Roche said without an incentive program such as a buyback program, this is not a fair application of the amendment. Ms. Roche said that something needs to be done about the gas leaf blowers, but the amendment needs to be fairer and more equitable.

Commissioner Oquenda commented that three to four of the Commissioners has mentioned considering broadening the impact so the amendment can be fairer and more equitable.

Commissioner Mendall made a motion to move the item per the staff recommendation.

Commissioner Oquenda seconded the item.

Commissioner Mendall would like to accelerate the timeline by a year for the ban to take effect on January 1, 2023 and would like to hear feedback from his fellow Commissioners and noted this is not part of the motion at this time. Mr. Mendall said that there are methods of addressing the issues that were mentioned; noted he believes staff did an analysis for the Council Sustainability Committee and there are dozens of small landscape companies in Hayward; staff should be able to craft a subsidy program for these businesses to help with the upgrade to electric equipment. Mr. Mendall said regarding residential versus commercial, the City must start somewhere, and the landscape business can continue to use their gas equipment on commercial properties. Mr. Mendall said this is a small incremental step and a



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whole lot more will need to be done to address climate change and encouraged everyone to lean into the change to save the planet for our grandchildren.

Commissioner Ali-Sullivan said he is in favor of a blanket ban and initially thought this applied to all SORES in the City. He agreed with Commissioner Mendall that you need to start somewhere and per the State mandate there will be no SORES in California by 2028, and at that time the ban will be equitable. Mr. Ali-Sullivan said this amendment will address one component of the gas emissions within the City moving up the timeline a couple of years. He was receptive to his fellow Commissioners comments about the impacts and encouraged the City to come up with programs to lessen those financial impacts to the small landscape businesses. Mr. Ali-Sullivan said the financial impact to individual homeowners is minimal and will benefit Hayward residents.

Commissioner Stevens disagrees that the impact is negligible to homeowners, he is frustrated that there is a separation between businesses and residents; though the survey was unscientific those that did respond were not in favor of the amendment; he supports the City being a leader and hopes that the State has a lot of informed experts that can provide leadership for cities. Mr. Stevens said he does not understand why the City is not following the State's leadership.

Commissioner Bonilla stated that this is a tough decision and appreciated all the comments and that the City must start somewhere. He said it is the small business owner and individual workers that will be highly impacted, and that the City is underestimating the impact. Mr. Bonilla state that he will not be able to support the item as it is currently written.

Commissioner Ali-Sullivan commented on Commissioner Stevens' comment on the CARB deadline. He stated that it is important to recognize that when the State mandates through agencies like CARB, there are both policy considerations and political calculations that goes into how dates are determined. Mr. Ali-Sullivan said how he looks at this is the Commission's ability to consider the political reality in Hayward and then be able to decide on how our City is are going to move forward with these amendments.

Commissioner Stevens appreciated Commissioner Ali-Sullivan's comment and stated that his point is that he is not convinced that a real representative sample of the Hayward community is aware of this item tonight and understand the impacts of this change. Mr. Stevens said that there was a long conversation last year about outreach and it means more than just surveys, there really needs to be on the ground discussions with the people that will be impacted and if he thought that had been adequately conducted then he could be more in support of the item.

Commissioner Oquenda said he is considering adding a friendly amendment to bring the deadline up one year to 2023 as he felt that waiting until 2024 is too long.



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Commissioner Mendall is very amendable to the friendly amendment but is unsure if it should be part of the motion until he is confident that there are four votes.

Commissioner Goldstein agreed that we want to have a planet for our grandchildren in the future but is concerned about moving too quickly. He said the City can achieve the same results by informing business owners and the public of the change. Mr. Goldstein has concerns about the impact to small business owners and that the deadline should remain 2024 as this is very reasonable. There should be further outreach conducted as pointed out by Commissioner Stevens and staff needs to do more work with retailers.

Commissioner Ali-Sullivan agrees with Commissioner Goldstein, that everyone that will be impacted should be given due notice and he would not be supportive in moving the date earlier and the year should remain 2024.

Chair Roche said she is interested in moving the City forward environmentally and a blanket ban in the future is a great idea. Ms. Roche has concerns that the timing is difficult for everyone but especially for the small landscape businesses and that she would support the staff recommendation if the ban were fair and equitable for all businesses.

Commissioner Mendall commented that the City could wait for the State mandated dates and federal government, but the City has not done this and because Hayward has not waited, the City has been a leader on a lot of matters and because of the City's actions of the last ten years, citywide emissions have dropped 26% in GHG below 2005 levels. He said when local jurisdictions take the lead on issues such as this, it gives courage for our state legislators and other cities to do the same and follow Hayward. Mr. Mendall said that the City's leadership matters and there is real value to this.

Chair Roche said that she researched this item and looked at Piedmont and Berkeley. Ms. Roche noted that not all cities have the same socio-economic ability to purchase new electric equipment or hire contractors who only use electric tools and she has concerns regarding Hayward's different demographics. Ms. Roche said other cities have tried bans and reverted as enforcement was difficult. She supports Hayward being an environmental leader, but this needs to be a more equitable application.

Commissioner Ali-Sullivan requested the motion be clarified.

Commissioner Mendall stated that the motion was to approve the staff recommendation without any modifications.

These comments were made during the vote:



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Commissioner Oquenda asked that the Council consider moving the timeline from 2024 to 2023 and consider an equitable subsidy program for the most impacted landscape residents.

Chair Roche stated that she voted no because of the ban on gas leaf blowers and the impact to small landscape businesses.

A motion was made by Commissioner Mendall, seconded by Commissioner Oquenda, to approve the staff recommendation.

The motion passed with the following roll call votes:

AYES:	Commissioners Ali-Sullivan, Goldstein, Mendall, Oquenda
NOES:	Commissioners Bonilla, Stevens
	Chair Roche
ABSENT:	None
ABSTAIN:	None

APPROVAL OF MINUTES

3. Approval of the Planning Commission Meeting Minutes of April 8, 2021.

A motion was made by Commissioner Bonilla, seconded by Commissioner Goldstein to approve the Planning Commission Meeting Minutes of April 8, 2021.

The motion passed with the following roll call votes:

AYES:	Commissioners Ali-Sullivan, Bonilla, Goldstein, Mendall, Oquenda, Stevens
	Chair Roche
NOES:	None
ABSENT:	None
ABSTAIN:	None

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters:

Acting Planning Manager Lochirco shared that staff will be streamlining general guidelines on items received after the published agenda, to be more in line with what the City Clerk's Office does for the City Council. As items are received, staff will gather standard correspondence



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and will send one email to the Commission within 24 hours of the meeting. This will be a more thoughtful approach as opposed to sending the Commission multiple emails. If there is a non-standard correspondence for items that are of a more technical nature, staff will forward these items promptly to the Commission. Mr. Lochirco shared that staff post the items on the City's website along with the meeting presentations. Mr. Lochirco welcomes any feedback and questions from the Commission.

Assistant City Attorney Brick announced that staff will be circulating a memorandum regarding procedures which offers additional training for all Commissioners one on one.

Commissioners' Announcements, Referrals:

Commissioner Mendall suggested that the Commissioners be provided a City of Hayward email address like City Council as it is a convenient method of sending and receiving City correspondence. Acting Planning Manager Lochirco confirmed that the City Clerk's office is working with Technology Services to see if this possible.

Commissioner Ali-Sullivan thanked staff for the efforts on a streamline process for the correspondence.

Commissioner Bonilla thanked staff for the work on the streamline process for correspondence and that this will help all the Commissioners.

Commissioner Goldstein thanked staff also for the streamline process and asked for staff to review the larger reports.

Commissioner Oquenda said that he is looking forward to the memo and thinks having a City email address is a good idea. Mr. Oquenda said he is looking forward to the streamline process for correspondence. Mr. Oquenda announced that there was a Let's House Hayward presentation about priority proposals for homeless housing that included safe parking facilities, sanctioned encampments; and annexing of non-congregate shelters. Mr. Oquenda announced that on April 26, 2021, from 5-7 p.m. the Council Budget and Finance Committee will have a presentation on reforming areas of police response that include mental health response and calls for service on homeless.

ADJOURNMENT

Chair Roche adjourned the meeting at 9:46 p.m.



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APPROVED:

Robert Stevens, Secretary
Planning Commission

ATTEST:

Denise Chan, Senior Secretary
Office of the City Clerk