



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION**

**Council Chambers**

**Thursday, July 1, 2004, 7:30 p.m.**

**777 B Street, Hayward, CA 94541**

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**MEETING**

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Zermefio, followed by the Pledge of Allegiance.

**ROLL CALL**

Present:           COMMISSIONERS   Bogue, McKillop, Sacks, Fraas, Thnay  
                          CHAIRPERSON       Zermefio  
Absent:           COMMISSIONER   One Vacancy

Staff Members Present:       Anderly, Bauman, Conneely, Gaber, Lens, Rivas

General Public Present:       Approximately 30

**ELECTION OF OFFICERS**

Chairperson Zermefio called for election of officers. Commissioner Bogue made a motion seconded by Commissioner Fraas and unanimously approved to elect Commissioner Sacks as Chairperson, Commissioner Thnay as Vice Chair, and Commissioner McKillop as Secretary.

**PUBLIC COMMENTS**

Paige Bennett reported that on June 14 she filed a text amendment change to allow an 8-foot fence. Ms. Bennett thanked staff for attending the community meeting and spoke in support of the theater project.

**PUBLIC HEARINGS**

1.   **Zone Change Application PL-2004-0322 – Field Paoli Architects (Applicant), Hayward Redevelopment Agency (Owner)**

Staff report and video were presented by Planning Manager Anderly.

Commissioner Zermefio recommended a mural on one wall. He expressed concern on limiting the project to no more than two restaurants with full bars as stated on the report (page 7).

Planning Manager Anderly responded that the number of restaurants was decided in consultation with the developer and many of the lease spaces will probably not be large enough to accommodate restaurants with separate bars.

In response to Commissioner Fraas' question of integrating more public art into the project, Planning Manager Anderly responded that at this point there is no public art proposed.

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Commissioner McKillop expressed strong support for additional public art. She agrees with staff that entrances to garages are going to need additional ornamentation. The report states that there is only one retail business that will be allowed off-sale privileges. She believed that the limitation might be too restrictive. There is potential for other retailers that might be interested in this property.

The public hearing opened at 7:51 p.m.

Applicant Brad Blake addressed the commissioners and introduced associates Rob Anderson and Jim Wright.

Jim Wright, Vice President of Development Blake Conventions, commented on the conditions of approval. Regarding Condition # 3, he requested some time to resolve ambiguities on what the liability is in relation to CEQA approvals or developers' actions.

In regards to the 36-inch box requirement stated in Condition #7 (iii), Mr. Wright expressed willingness to conform to the City standards and street plans. Mr. Wright also noted that the landscape plan shows varying sizes of trees and species. The applicant hopes that the precise plan will reflect what is best for the project.

In regard to the lighting fixtures referenced in Condition #7(c), he expressed ambiguity and assumed the lighting fixtures are at street level and not internal to the garage.

As far as Condition #64 (b), the applicant is willing to comply with the concept language as long as there is a drawn distinction between climate controlled cellars and refrigerated beverages. Willing to increase the full service restaurants that might have a bar, he expressed that in working with staff at the time they prepared the report, they thought of the minimum they needed in order to make the project successful. They expressed flexibility to change such limitation.

Assistant City Attorney Conneely advised that the City's standard hold harmless and indemnification language be included on every discretionary permit that the Planning Commission considers.

Planning Manager Anderly did not object to the landscape design coming in later with the precise plan; however, her major concern was to continue with the street tree pattern along B Street. In reference to the amount of alcohol sales, she had not discussed specifics with COMMPRE's objection. Planning Manager Anderly, in response to Chair Sacks, stated that the Precise Plan provides the opportunity to review the more refined landscaping plan. The Zoning Ordinance allows the Planning Director to approve the size plan if found to be consistent with the Preliminary Plan.

Commissioner Thnay had a question regarding any market study conducted; specifically, information in relation to the theater at Union Landing in Union City. Mr. Wright indicated that internal studies were done by Century Theaters, but could not speak about those, but indicated the site is a viable location.



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In response to a question from Commissioner Fraas on the sample of a project conducted by Blake Hunt Ventures, Mr. Wright gave the web address [www.blakehunt.com/ventures](http://www.blakehunt.com/ventures) where Olympia project in Walnut Creek can be reviewed.

David Cota from COMMPRE spoke in favor of the project with a request to change the alcohol policy within the complex. Mr. Cota indicated that the Condition #5 is ambiguous since it does not limit the type of alcoholic beverage to be served or hours of service. Also, it does not set criteria for the type of restaurants that can operate on this location. Mr. Cota requested the Planning Commission deny this blanket approval and keep the existing system that allows for public input to be required for all businesses that serve alcohol.

Sheila Junge stated that sales of malt liquor should be prohibited regardless of the size. Ms. Junge submitted a copy of her statement which is on file.

Robert Kraeckl spoke against the project because of potential for more traffic problems.

Marlene Teel spoke in favor of the project. She recommends that one theater should be dedicated to art films (independent films)

Hugh O'Donnel spoke in favor of the project; however, he expressed concern for traffic. He spoke about the need for places to charge batteries for electric cars and places to keep bicycles safe. Mr. O'Donnel added that there is a need for public performance places. A theater could be controlled by community groups.

In response to a question by Commissioner Bogue regarding requirements for safe places to park bicycles, Mr. O'Donnel suggested a chain link fence around a gated area for security purposes.

Mr. Ray Baker spoke about traffic and how it affects pedestrians' safety at intersections. Mr. Baker believes there is no adequate time for pedestrians to cross the street; something that should be enforced. Additionally, he expressed that the public needs to be informed about the investment transaction with the developer.

In response to Commissioner Thnay in how to facilitate pedestrian crossing, Mr. Baker responded that lights at intersections are not uniform which does not give control to pedestrians

David Marquete spoke in favor of the project but expressed concern for the safety of the residents. He spoke favorably of the law enforcement; however, he foresees problems with the homeless population which is going to require additional need for law enforcement.

Marlene Herndon spoke in favor of the project. She commended work done by the Mayor, City Council, and staff. Speaking as a neighbor to this project, she expressed she would like to have a

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liaison with the City and the developers through the construction phase.

Commissioner Bogue asked Mr. Blake about plans to handle ventilation out of a restaurant on the first floor through a restaurant or theater on the second floor. Blake responded by saying that although it is not stated in the report they plan to model the design in Redwood City. They ran vertical shafts that go up to certain strategic points.

In response to Commissioner Bogue's comment on the need for more escalators, Mr. Blake responded that they have added back elevators and wide stair-ways as other means of ingress and egress.

Mr. Blake thanked the community and Commissioners for their input. In regards to art and independent films, he added that there will be a condition in Century's lease stating that subject to market demand, they will provide a theater for that.

In regard to the financial transaction, Mr. Blake commented that he believes that both the draft LDA and Ground Lease are published and are available for public review. As far as bike security, they plan to provide for bike storage security in the Specific Plan.

In regard to lighting, Mr. Blake mentioned that this is a balance between decoration, artistic design, and safety. He hopes that this project enlightens the downtown area. As far as security, he stated that their theaters provide their own adequate security on-site. They are receptive to community input. The project is designed to be pedestrian oriented.

In response to Commissioner Zermeño's clarification on outdoor seating, Mr. Blake responded that this is planned for at ground level and at the second level. Mr. Blake indicated that the floor plan is extremely conceptual.

Mr. Blake responded to Commissioner Zermeño's question about the huge graphic signs along Foothill by indicating that the project modeled the design from a Southern California project. They have detailed architectural framed spaces on the side of the building and they do a combination of movie theater posters and advertisements. Mr. Blake would like to do both but also understand the City's sensitivity.

In response to Commissioner Bogue's recommendations regarding signage and changing the design of the wall, Mr. Blake mentioned that they did not have a project sign but at a previous study session, Council suggested that a large project sign be placed on the side of the project. Mr. Blake would like to do something with the name and perhaps provide architectural interest.

The public hearing closed at 8:58 p.m.

Commissioner Thnay asked staff about the intent of the one-way street alley on B Street. Deputy Director of Public Works Bauman responded that the intent is to allow access from B Street to the parking garage but not exit onto B Street; C Street allows for entrance and exit.

Commissioner Thnay wondered how to differentiate this project from Union Landing. He



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expressed the need to anticipate residents using BART and thus provide safety for them as well as for pedestrians crossing the street. This should be included in the Precise Plan. The theater alley should provide arts.

In response to Commissioner McKillop's question about chargeable plug-ins in the parking area in previous projects, Mr. Blake answered that he has not yet done this.

Commissioner McKillop moved, seconded by Commissioner Bogue, that the Planning Commission recommend that the City Council approve the Mitigated Negative Declaration and Mitigation Monitoring Program, the Zone Change to Planned Development, the Preliminary Development Plan, find the public convenience or necessity would be served by allowing the sale of alcoholic beverages, and that approval action is in accordance with the attached findings subject to the conditions of approval with these following changes:

- 7 (a) (iii) 36- inch box landscaping trees be discussed with staff to determine the actual requirement for any particular landscaping needs.
- 7 (c) exterior lighting fixtures shall be of a decorative design that compliments the architectural style of the building and leave the interior lighting as best suitable for parking.

For the concern raised previously, Condition #64 states that there shall be no off-sale of refrigerated beverages.

The motion was seconded by Commissioner Bogue with a friendly amendment that:

- bonafide restaurants without bars may serve alcoholic beverages to diners.

As far as Condition #64 b, Commissioner Bogue would like to revise it to "there shall be no off-sale of alcoholic refrigerated beverages."

Planning Manager Anderly added that Conditions #67 was included to address adequate safety in case controversial movies were shown and when security could be an issue.

Commissioner Fraas supported the motion and thanked the developers for the project and added the idea to entertain public art.

Commissioner Zermeño agreed with Fraas and had a question about the capacity of the 12 screens to which Deputy Public Works Director Bauman estimated 1800 seats.

Commissioner Zermeño asked to add a friendly amendment to modify Condition #5 to read; "Bonafide restaurants without bars may serve alcoholic beverages to diners. No more than three restaurants with full bars."

The motion **carried** by the following vote:

AYES:	COMMISSIONERS	Fraas, McKillop, Bogue, Thnay, Zermeno
	CHAIRPERSON	Sacks
NOES:	None	
ABSENT:	One Vacancy	
ABSTAIN:	None	

### **ADDIONAL MATTERS**

#### **2. Oral Reports on Planning and Zoning Matters**

Planning Manager indicated that by the next meeting there should be a new Planning Commissioner in attendance.

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

Commissioner Bogue spoke positively about the Community Meeting held at Hillview Crest Elementary School. He also attended a meeting at Highland School to discuss the grading of Blue Rock. Chairperson Sacks stated she attended he Community Meeting and commended the work done by Deputy Director Bauman. Additionally, she attended the Stratford Village Rededication Park. She also reported on an article in the San Jose Mercury News of Monday, June 28<sup>th</sup> about a new walkable Wiggling Ville.

### **ADJOURNMENT**

The meeting was adjourned by Chairperson Sacks at 9:30 p.m.

### **APPROVED:**

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Christopher Thnay, Secretary  
Planning Commission

### **ATTEST:**

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Miriam Lens  
Acting Planning Commission Secretary