



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, September 23, 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 Chair Sacks followed by the Pledge of Allegiance.

**ROLL CALL**

Present: COMMISSIONERS: McKillop, Bogue, Thnay, Peixoto, Zermefio  
CHAIRPERSON: Sacks

Absent: COMMISSIONER: One Vacancy

Staff Members Present: Anderly, Camire, Conneely, Gaber, Koonze, Patenaude, Macias

General Public Present: Approximately 11

**PUBLIC COMMENTS**

There were no public comments.

**PUBLIC HEARINGS**

1. Administrative Use Permit No. PL-2004-0473 / Variance PL-2004-0471 / Tentative Tract Map 7542 – Khalid Mayar (Applicant/Owner) – Request to Construct Six Residential Condominium Units Adjacent to and Above a Portion of a 7,200-Square-Foot Restaurant Located on the Front Property Line Where a 10-Foot Setback Is Required and to Allow a Parking Space Adjacent to a Building Where a 5-Foot Landscaped Area Is Required – The Project Is Located at 24331 Mission Boulevard between Pinedale Court and Sycamore Avenue

Staff report submitted by Assistant Planner Koonze, dated September 23, 2004, was filed.

Assistant Planner Koonze presented the staff report. The property contains various trees to be removed and replaced as required, with the exception of a 50-inch diameter pepper tree which will be incorporated into the design of the restaurant. There is a small section of Ward Creek that runs along a section of the property, but this project will have no impact on the creek. Noticing of the project produced responses from 4 neighbors concerning privacy and security for the homes to the west, preservation of existing homes, and increased traffic flow. The concerns for privacy and security were mitigated by an 8-foot wall along the western property line, a 20-foot setback of the property line including plantings of evergreens along that setback. None of the homes being removed have any special characteristics that warrant preservation. The Traffic Division determined that the project would not have any significant impact on the flow of traffic on Mission Boulevard, assisted by the fact that existing multiple driveways are proposed to be replaced by just

one. He noted that Condition 5 indicates a six-foot wall in the western property line, which should be amended to 8 feet. He responded to questions from Commissioners.

Commissioner Bogue was concerned regarding the venting for the kitchen and where it will be placed. He noted that Condition 9 should be changed to homeowners/commercial association, and asked that Condition 9L be clarified to restrict recreational vehicle parking throughout the entire property.

Commissioner Thnay asked for clarification regarding standard parking requirements, and wanted to know if there would be patio furnishings in the garden area.

Commissioner Zermeño was concerned regarding future expansion of Mission Boulevard and if there would be sufficient sidewalk space. He also asked about open space amenities for the residents, and wanted to know about any liquor license application.

Commissioner Peixoto asked for clarification regarding the location of the creek and its condition, the condition to remove grease from storm water runoff, and if the 2 motorcycle and 4 bicycle stalls are considered in the required parking.

Associate Planner Koonze, Development Services Engineer Gaber, and Planning Manager Anderly responded to the concerns and provided the additional clarification. The parking meets the City's requirements. Associate Planner Koonze noted that a request for a liquor license would come later.

Chair Sacks opened the public hearing at 8:01 p.m.

David Ruffin, Project Architect/Designer, provided an overview of the project. He noted the Spanish style architecture and usage of the standard features already existing in the area, and explained how he worked around the creek as well as the pepper tree. He added that there are existing one-story and one and one-half-story buildings around, and in order to fit into the area, this project is designed so that it builds up from the landscaping in front, to the restaurant and up in the residential section in the back. The creek is maintained as an overflow, as 90% of the creek goes underground on Mission Boulevard. The county is responsible for maintaining the creek area which right now is pretty much covered in weeds. Rainwater will not be draining into the creek at all as all the water will drain back onto the property itself.

It is required that all site water has to be filtered before going into the storm drainage system. The parking lot is composed of interlocking pavers that are set on compacted sand as part of the filtration system. The pavers are also aesthetically pleasing compared to the use of asphalt.

He explained that the kitchen design will change significantly before the final drawings are complete, but at present the venting of the restaurant kitchen area goes up through closets and other spaces. He stated that the venting installation will go through Planning for approval, but none of the vents will be on the Mission Boulevard side of the building.

The garden area will have metal tables and chairs, all-weather type furniture, and will be set up like a waiting area, but it will be part of the restaurant. Regarding the open space for condominiums, there will be picnic tables, a small play structure, and barbecue pits in the southwest portion of the



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property. The landscaping on Mission Boulevard will pretty much stay the same until the State has determined what changes will be made and the applicant will be happy to add street trees at that time.

In response to Commissioner Zermeño's question regarding the occupant of the restaurant, Mr. Ruffin stated that there has been discussion with Applebee's but, generally, until a project has approval, little interest is shown. No bar is intended to be included, however, there is a possibility that beer and wine will be served at the table.

Commissioner Bogue stated that the units do not seem to have many closets and he asked Mr. Ruffin to project where the kitchen vents would be installed. Mr. Ruffin pointed out the units presently have a large pantry, and the vent could possibly go through there or perhaps the washer and dryer area. The plans for the kitchen will be modified several times so that can change.

Commissioner Bogue further questioned the placement of the flues for the fireplaces through the master bedroom areas. Mr. Ruffin explained that they are included now, but most likely the fireplaces will be fixed gas and the chimneys will not be needed.

Commissioner McKillop commented favorably on the mixed-use project and thanked the architect for doing a nice job on the design.

Chair Sacks closed the public hearing at 8:16 p.m.

There was additional discussion and staff responded to questions from the Commissioners.

Commissioner Bogue stated that he liked the project, the elevation detail, and the plans showed a lot of interest and care. He moved the project, per staff recommendation, and the motion was seconded by Commissioner McKillop.

Commissioner Thnay thanked Associate Planner Koonze for the good report and stated that he passes the property every day. He asked that when the trees are selected that the developer work with staff to select a variety of colorful trees.

Commissioner Zermeño stated that he like the project, especially the design; however, he would like to see some thing other than an Applebee's at this location, as there is one already in Hayward.

Commissioner Peixoto stated that he also liked the architecture, appreciated the thought and consideration that went into the design, and was in favor of the motion.

Commissioner Bogue amended his motion to include changing the height of the wall to 8 feet, and to add Commissioner Thnay's suggestion for a variety of colorful trees. Commissioner McKillop agreed to the amendment.

Chair Sacks said the project was a marvelous improvement to the site and would support the motion.

Commissioner Bogue moved, seconded by Commissioner McKillop, and unanimously carried, that the Planning Commission approve the negative declaration; approve the Administrative Use Permit to allow a restaurant to abut a residential district subject to the attached findings and conditions of approval; approve the Variance Application subject to the attached findings and conditions of approval to: locate the building on the front property line where a 10-foot setback is required, and allow a parking space adjacent to a building where a 5-foot landscape is required; and approve the Tentative Map as a condominium subdivision consisting of six residential units and one commercial building subject to the attached findings and conditions of approval. Condition 6C, regarding the height of the wall shall be amended to 8 feet instead of 6, and to add that the selection of trees to be a variety and colorful.

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

AYES:	COMMISSIONERS	McKillop, Bogue, Thnay, Peixoto, and Zermeño
	CHAIRPERSON	Sacks
NOES:	None	
ABSENT:	None (One Vacancy)	
ABSTAIN:	None	

2. Appeal of Planning Director Denial of Variance No. PL-2004-0356 – Rajeshkumar Khatri (Applicant/Owner) – Request to Retain a 13-Foot Tall Monument Sign With a 29 Inch Setback and to Retain a 57-Square Foot Wall Sign – The Project is Located at 21800 Foothill Boulevard

Staff report submitted by Associate Planner Camire, dated September 23, 2004, was filed.

Associate Planner Camire presented the staff report. She noted that the original sign permits were issued in 1994, which included the 57 square foot wall sign on the north side of the building which is visible to southbound traffic on Foothill Boulevard, as well as the monument sign located in front of the newest portion of the motel. In 1995 the Sign Ordinance was changed and the signs became legal non-conforming. At that time, the sign was allowed to be retained but was to be setback 12 feet from the property line and the wall sign reduced to 50 square feet in area.

In the application process for the 23 additional units, Mr. Khatri requested a variance to keep the two signs. The Planning Commission allowed for the remodel and the addition but requested that the two signs be removed since they did not conform to the Sign Ordinance. At that time the applicant had the opportunity to appeal the decision to Council, but did not do so and accepted the conditions of approval. The remodel and construction of units were completed, but the signs were not removed. In addition, the landscaping has not been maintained.

Mr. Khatri has asked for the signs to be administratively approved, and the Planning Director subsequently denied the request. Mr. Khatri feel that his business will suffer if the monument sign is reduced in size and setback as a proposed building next door would block the sign. The proposed



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building next door will be setback 10 feet and staff feels a new smaller monument sign, would still be adequately visible. Associate Planner Camire responded to questions from the Commissioners. In response to Commissioner's Peixoto's question regarding the lengthy extension of time, she noted he was allowed more time for a building permit to do an addition and remodel the existing units, and there were also construction delays.

Chair Sacks opened the public hearing at 8:37 p.m.

Damon Richmond, on behalf of the applicant, stated he disagreed with staff regarding the visibility of the signage, and the proposed animal hospital next door will obstruct the view. For the sign to be lowered and setback to the recommended height and distance, a parked truck or large car might also block the view. He emphasized that it is important for a driver to see the sign before they pass the driveway of the motel. He added that this will cause a hardship to the owner.

Mr. Khatri stated that he invested a lot of money in the additional 23 units, and the sign was approved and installed 1994. The Sign Ordinance was changed and he is now required to put in a new sign. He said he was in India when the letter from Planning was sent in 2003 and that it had been misplaced. When Community Preservation staff came by and then sent a letter, he contacted the City and requested that he be allowed to retain the sign. He was given the new requirement of a maximum sign of 50 square feet. He commented that the present monument sign is detrimental to his business and that he would not have proceeded with the addition if it had to be removed. He felt that the present sign is slightly different in size from the one that staff has recommended. He said he has seen several monuments signs similar to his on Foothill Boulevard and believed that his sign should be allowed to remain.

Commissioner McKillop commented on the continued poor condition of the landscaping and Mr. Khatri responded that he felt the landscaping was adequate.

Commissioner Peixoto asked Mr. Khatri if he understood the original conditions of approval for the addition. He responded that he was aware of it but that the original approved plans showed the monument sign on the property, as well as the condition for it to be removed. Commissioner Peixoto also commented on the appearance of the landscaping and Mr. Khatri agreed to make some improvements. Mr. Khatri complained about the appearance of the adjacent property to the south of his.

Commissioner Bogue referred to the minutes of 1997 included in the packet, where the matter was considered for a variance to retain the legal non-conforming monument sign and wall sign, and in the public hearing there were various comments and opinions about the signs, but were not included in the motion.

Planning Manager Anderly noted, prior to sending the letter in 2003 to Mr. Khatri, that she had called several individuals in charge of the hotel regarding the sign issue, as well as the weeds, without any success.

Chair Sacks closed the public hearing at 8:56 p.m.

Chair Sacks stated that she had recently traveled extensively and that landscaping is critical to the business as people driving by searching for a hotel are looking for appearance. She suggested that Mr. Khatri make the necessary improvements to the landscaping of the property.

Planning Manager Anderly reminded everyone that Mr. Khatri is entitled to 2 wall signs.

Commissioner Peixoto moved, seconded by Commissioner Thnay, and unanimously carried, that the Planning Commission find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305 Minor Alterations in Land Use Limitations; and uphold the Planning Director's decision to deny the variance application subject to the attached findings.

Commissioner Zermeño stated he was not so much bothered by the sign issue as he is regarding the landscaping situation. The motel is nice, has a nice paint job and is well-kept. There are areas where the sign can be moved. He added that he would support the motion.

Commissioner Thnay commented that improvements to the landscaping would attract customers to the motel more than the sign would. He stated that he understood Mr. Khatri's fear, but with 10 foot setback the sign would still be visible.

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

AYES:	COMMISSIONERS	McKillop, Bogue, Thnay, Peixoto, and Zermeño
	CHAIRPERSON	Sacks
NOES:		None
ABSENT:		None (One Vacancy)
ABSTAIN:		None

Chair Sacks thanked the applicant for coming and reminded him that if he does not agree with the decision, he has the right to appeal.

#### **ADDITIONAL MATTERS**

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

Planning Manager Anderly announced that there would be two meetings on October 7th and 21st. She reported that there were no appeals received on the Salwan Property or El Tapatio. She added that Council upheld the Planning decision on the Kumbala nightclub.

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

Commissioner Thnay and Zermeño made announcements.



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Chair Sacks inquired about the status of the building at the corner of Main and Hotel. Planning Manager Anderly replied that they have applied for a building permit and they are working at acquiring an additional piece of property, and construction will begin once that has occurred.

**APPROVAL OF MINUTES**

Minutes of July 29, 2004 - approved

Minutes of September 9, 2004 - approved

**ADJOURNMENT**

The meeting was adjourned by Chair Sacks at 9:05 p.m.

**APPROVED:**

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Julie McKillop, Secretary  
Planning Commission

**ATTEST:**

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Connie G. Macias  
Deputy City Clerk