



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, November 4, 2004, 7:30 p.m.
777 B Street, Hayward, CA 94541**

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: Lavelle, Bogue, Thnay, Peixoto, Zermefio
CHAIRPERSON: Sacks
Absent: COMMISSIONER: McKillop

Staff Members Present: Anderly, Conneely, Koonze, Patenaude, Payne, Macias

General Public Present: Approximately 9

PUBLIC COMMENTS

Chair Sacks welcomed newly appointed Commissioner Mary Lavelle.

John Gilbertson stated that the Planning notices were not in conformance with the law, Government Code 54954.2(a), and he informed the Commission that he gave the City Council the same information at their meeting of October 19, 2004.

PUBLIC HEARINGS

1. **Tentative Parcel Map No. 7990 – Mai Nguyen (Applicant/Owner) – Request for a 24-Month Extension of the Tentative Parcel Map to Subdivide Two Parcels into 3 Lots for Single-Family Homes - The Property is Located at 25209-25211 Soto Road on the Southwest Corner of Soto Road and Berry Avenue**

Staff report submitted by Development Review Engineer Gaber, dated November 4, 2004, was filed.

Assistant Planner Koonze presented the staff report. He responded to questions from Commissioners. He noted that after this 2-year extension, the applicant could ask for another for a period of one year.

Chair Sacks opened the public hearing at 7:42 p.m.

Mai Ngyuen, the applicant, stated that they needed a little more time to complete the project. There have been many delays due to the plans that were submitted and returned with additional requirements, and that the cost of the project had turned out to be substantially greater than they

originally had anticipated. However, there has been progress, and funds are available and they feel sure that they can complete the garages within the extended time frame.

Chair Sacks closed the public hearing at 7:44 p.m.

Commissioner Thnay moved, seconded by Commissioner Zermefio and carried, 6 ayes, 0 noes, with Commissioner McKillop absent, that the Planning Commission approve a 24-month extension of the tentative parcel map. This proposal is Categorical Exempt from CEQA pursuant to Section 15350, *Minor Alteration in Land Use Limitations*.

2. Requested Vacation of a Portion of Burbank Street between "B" Street and "C" Street - and a Portion of "C" Street between Burbank Street and Filbert Street to Accommodate the Future Burbank School Site

Staff report submitted by Survey Engineer Payne, dated November 4, 2004, was filed.

Survey Engineer Payne presented the staff report. He responded to questions from Commissioners.

Commissioner Bogue asked for clarification of the effective date of the closure of the street relative to the six homes that are accessed by these streets. Survey Engineer Payne stated that three or four of the houses are currently owned by the Redevelopment Agency and the city is in the process of acquiring the others.

Chair Sacks opened the public hearing at 7:51 p.m.

Chris Aupperle, here on behalf of ConAgra, stated that he is aware of the plan for the cannery area that the city has adopted, but definitive plans have not been established. He was concerned that there was no specific date for when closure of the streets would occur as they have a tenant who accesses his business via one of the streets. He responded to questions from Commissioners. He acknowledged that there is access from other streets, but it is more difficult to do so.

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

Commissioner Zermefio moved, seconded by Commissioner Thnay, and carried, 6 ayes, 0 noes, with Commissioner McKillop absent, that the Planning Commission find that the proposed vacation of a portion of Burbank Street and a portion of "C" Street is categorically exempt from CEQA; find that the proposed vacation of right-of-way is in compliance with the General Policies Plan; and recommend to the City Council that it adopt a resolution to vacate a portion of Burbank Street and a portion of "C" Street.

3. Use Permit No. 2004-0371 – Parag Gandhi (Applicant/Owner) – Request to Sell Alcoholic Beverages at an Automobile Service Station – The Property is Located at 391 West A Street at the Northeast Corner of Arbor Avenue

Staff report submitted by Assistant Planner Koonze, dated November 4, 2004, was filed.



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Assistant Planner Koonze presented the staff report. He responded to questions from Commissioners.

Commissioner Zermefio stated that he was impressed with the service station itself; however, he asked if it were possible to make calls to clean up the off-ramp and areas surrounding the site.

Commissioner Peixoto inquired about the zoning and proposed project for the open area adjacent the property. Planning Manager Anderly noted that the area is in the County, it is zoned multi-family, and a senior housing project is currently under consideration.

Chair Sacks opened the public hearing at 8:12 p.m.

Parag Gandhi, the applicant/owner, expressed great concern that the Commissioners had already made up their minds to deny the permit based on the staff recommendation. He stated that the City has established guidelines for sale of alcoholic beverages and should be required to follow the guidelines. He added that he had paid \$2,000 for this application and the City took the money unfairly because they had already decided not to allow him to sell beer. He stated he intended to appeal the decision if his application is denied. He indicated that there were not as many outlets as stated in the report, and that another had recently closed down. It was his intention only to add two coolers to sell beer and that he would be serving people who walk in to the store from around the area. He also said that they had proposed to place signs in the store that say, "Don't drink and drive." He submitted a list of names and addresses of individuals who support his proposal to sell beer.

Chair Sacks assured Mr. Gandhi that the applications go to Planning and the Commission is given a report with a recommendation, but the Commission does not make a decision based solely on the report and staff recommendation. She informed Mr. Gandhi that if he did not like their decision, he had the right to appeal.

John Gilbertson has lived in the neighborhood for 51 years. He spoke in opposition to the proposal. He stated that the area has enough trouble with gangs and crime and another alcohol beverage outlet is not needed. He urged the Commission to deny the request for the good of the community and surrounding neighborhoods. He also asked for greater accuracy in the hearing notices that are sent to interested parties.

Liz Morales, representing CommPre, indicated that they support denial of the application due to the over concentration of alcohol establishments in the area, the adjacent McDonald's restaurant that caters to children, the likeliness of drinking and driving, and higher risks of sales to minors.

Chair Sacks closed the public hearing at 8:24 p.m.

Commissioner Zermeño stated that he usually does not agree with CommPre but in this case he does. He added that he generally favors the sale of alcohol in restaurants and specialty shops, but does not approve of it in gas stations. It creates a public safety issue.

Commissioner Zermeño moved, seconded by Commissioner Bogue, that the Planning Commission find that the proposed project is Statutory Exempt from the California Environmental Quality Act (CEQA); and deny the use permit application subject to the attached findings.

Commissioner Thnay stated that he understood Mr. Gandhi wanted to serve the community, but the reason does not support the approval of another alcoholic beverage outlet. There is an over concentration of alcohol sales in the area. He would support the motion.

Commissioner Lavelle stated that the applicant indicated that he wanted to meet the needs of walk in customers, but that need is already met by others. Due to the proximity of the freeway and that the business is a gas station, it is not necessarily a walk in establishment. She would, therefore, support the motion.

Commissioner Bogue indicated that he also supported the motion as he felt the findings for denial were accurate and another alcohol outlet was not needed. He told the applicant that he reads the staff report and listens to comments from all sides before making up his mind. The Commission is not always in agreement with staff.

Commissioner Peixoto indicated that he supported the motion as well. Due to the McDonald's nearby, he did not approve of having alcohol near children. He further disapproved of the saturating of a minority, low-income area, with a history of crime, with additional alcohol beverage outlets.

Chair Sacks noted her agreement with fellow Commissioners and stated that the applicant did not overcome the findings for denial of this application.

The motion carried 6 ayes, 0 noes, with McKillop absent.

Chair Sacks reminded the applicant of his appeal rights.

ADDITIONAL MATTERS

4. Oral Reports on Planning and Zoning Matters

Planning Manager Anderly announced that there will be a joint City Council/Planning Commission field trip to Blue Rock on Saturday, December 4, 2004. She also asked for Commissioners to consider the location and date for their holiday dinner this year.

5. Commissioners' Announcements, Referrals

Commissioner Thnay asked staff to consider alternatives to speed bumps for traffic calming in areas such as on Mission Boulevard, and to survey other cities. He also encouraged parents to visit



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the web site parentship.com for tips on parenting.

Commissioner Bogue reported a house at 25894 Belhaven that has a paved over side yard and has 2 autos parked on the side of the house.

Commissioner Zermeño inquired about the status of his request regarding semi-trucks parked on Industrial. Planning Manager Anderly said she would look into the matter with the appropriate staff member.

Chair Sacks reported that the light pole at the corner of Tennyson Street and Huntwood Avenue has illegal cigarette advertisement signs.

APPROVAL OF MINUTES

Minutes of September 30, 2004 – Approved.

Minutes of October 21, 2004 – Approved with a minor correction to page 6 noted by Commissioner Peixoto.

ADJOURNMENT

The meeting was adjourned by Chair Sacks at 8:39 p.m.

APPROVED:

Julie McKillop, Secretary
Planning Commission

ATTEST:

Connie G. Macias
Deputy City Clerk