



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, October 20, 2005, 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 Thnay followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS: Lavelle, Sacks, McKillop, Bogue, Peixoto, Zermefio
CHAIRPERSON: Thnay
Absent: COMMISSIONER: None

Staff Members Present: Anderly, Conneely, Gaber, Rizk, Torrey, Lens

General Public Present: Approximately 35

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARINGS

1. Zone Change Application No. PL-2003-0656 & Vesting Tentative Tract Map Application No. PL-2003-0659 (TTM 7478) – Oak Hills Enterprises/Clearbrook Partnership, Gil and Chris Zaballos (Applicants/Owners) – Request to Change Zoning From the Medium Density Residential (RMB3.5) District to Planned Development (PD) District and to Subdivide 6.3 Acres to Construct 30 Town homes - The Undeveloped Site is Located North of Garin Avenue between Clearbrook Circle and Larrabee Street

Staff report submitted by Senior Planner Rizk, dated October 20, 2005, was filed.

Senior Planner Rizk made the staff report indicating that a Larrabee Street resident submitted an e-mail raising concerns about the project regarding movement and the creek. Mr. Rizk mentioned that the concerns would be addressed in an environmental analysis should recommendation come from the Commission. He answered questions from the Commissioners.

Chair Thnay opened the public hearing at 7:48 p.m.

Mr. John "Jack" Smith, attorney and partner for the Zaballos and co-owner of Oak Hills Apartment Complex, thanked staff for finding the project attractive. In reference to the areas along Garin Avenue on the steeper southwestern portions of the site, he did not concur with the staff recommendation to include them in the homeowner's association responsibilities because the area

is maintained by the Oak Hills Apartments and would not be used by the homeowners of the proposed project. He asked kindly for the project's approval.

Mr. Gil Zaballos, co-applicant, expressed that he invested a large amount of time and money with the preliminary design to comply with the Mission-Garin Area Special Design District (SD-5) regulations. He mentioned that in trying to conform to the 25% slope requirement, he would lose 14 units which would not be economically feasible. In regards to the slope, he mentioned that what they are doing is cutting off the bottom of the slope and putting a garage underneath so that part of the building is on 25% slope. The back foundation would be on the slope. He mentioned that the project would be a good fit for the area.

In response to Commissioner Peixoto's enquiry regarding the 25% slope and slippage, Mr. Zaballos commented that soil engineers indicated that the project is feasible with a condition that the project be managed and inspected by soil engineers during construction. He also mentioned that the project would mitigate water problems that already exist in the area.

Mr. Chris Zaballos, co-applicant, mentioned that after the two-and-a-half years of working on the project and with the input received from the City, the project has improved enormously. He mentioned that they gave up two units in order to save a sizable oak tree. He expressed satisfaction with the project because it fills housing needs in the area.

Mr. Joseph Connell, Chief Administrator for Moreau High School and former chair for the Mission-Garin Neighborhood Planning Task Force, mentioned that the Task Force never held or debated a position of preventing good projects to be developed over matters of slope. He urged the Commissioners for support of the project.

Mr. William Burnside, Gisler Way resident, spoke against the proposed project because it may cause traffic problems and inconvenience for the neighbors in the area.

Chair Thnay closed the public hearing at 8:08 p.m.

In response to Commissioner Sacks' enquiry regarding reasoning for the 25% guideline, Senior Planner Rizk responded that 25% slope is used in other municipalities and in association with the hillside guidelines. In reference to the composition in the areas of the project that are 25% and greater, Senior Planner Rizk mentioned that the samples taken show that the area contains colluvium deposits over bed rock, and artificial or non-engineered fill in the middle section. He added that there would need to be more geotechnical investigation to determine the precise composition of the area.

In reference to Chair Thnay's request, Senior Planner Rizk clarified the difference between engineered versus non-engineered fill. He added that most of the Parcel A slope is natural fill where most of the artificial or un-engineered fill has been imported to the middle portion of the site.

Chair Thnay reopened the public hearing at 8:18 p.m.



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Applicant Gil Zaballos clarified the fill materials indicating that there is some fill that is not engineered that will be pulled and analyzed. He mentioned that there will be a system in place that is in accordance with the engineering design of today.

Chair Thnay closed the public hearing at 8:20 p.m.

Commissioner Zermefio made a motion to approve the project.

Assistant Attorney Conneely clarified that if the Commission's action is inclined to approve the project, it would need to direct staff to perform the necessary environmental analysis and bring back findings and conditions of approval.

Commissioner Zermefio indicated his support for planned development and approved the fact that it will prevent water run-off to the residences on Larrabee Street. He showed support for the project.

Commissioner Bogue seconded the motion. He also concurred with Commissioner Zermefio in that the water will be drawn off in a different fashion and thus will help the area. He also expressed interest in the analysis of the landscaping and appearance of the buildings of Oak Hill that will have to be considered. Additionally, he asked staff to re-examine group open space with 5% slope and for consideration to keeping existing trees.

Commissioner McKillop supported the motion indicating that enough time and effort has been put into a project that grants approval.

Commissioner Peixoto supported the motion, indicating satisfaction with the number of units per parcel. Also, he added that slope concerns were answered to his satisfaction and approved the fact that the drainage in the area will be improved by this project.

Commissioner Sacks mentioned that slope concerns were not answered to her satisfaction and therefore, she did not show support for the motion.

Commissioner Lavelle expressed support for the staff recommendation to deny the project. She spoke about the effort that went on the Mission-Garin Area Special Design and expressed concern for slopes that are too steep. She added that the slope concern could be mitigated by having fewer units developed.

Chair Thnay mentioned approval for the proposed project with reservations about the slope requirement and safety concerns. He added that after further review is conducted, the proposed development will be a success.

Commissioner Zermefio moved, seconded by Commissioner Bogue, and approved to accept the project and direct staff to conduct CEQA review, prepare findings and conditions of approval, and bring them back for Commission review.

AYES: COMMISSIONERS McKillop, Bogue
 Peixoto, Zermeno
 CHAIR Thnay
 NOES: COMMISSIONERS Lavelle and Sacks
 COMMISSIONER None
 ABSTAIN: COMMISSIONER None

2. **I. General Plan Amendment (PL-2004-0184) - Request to Amend the General Plan Land Use Map Designation from "Industrial Corridor" to "Residential - Medium Density;"**
- II. Specific Plan Amendment – Request to Amend the "South of Route 92/Oliver & Weber Properties Specific Plan" from "Light Manufacturing/Business Park" to "Planned Development;"**
- III. Amendment to the Mount Eden Business and Sports Park Community Development Agreement;**
- IV. Zone Change Application No. PL-2004-0189 – Request to Amend the Zoning District from "Light Manufacturing and Business Park " to Planned Development in Order to Construct 139 Small-Lot Single-Family Homes and a Multi-Family Development of 122 Dwelling Units;**
- V. Approval of the Preliminary Development Plan for the Planned Development;**
- VI. Vesting Tentative Map Tract No. PL-2004-0190 (TTM 7489) - Request for a Small-Lot Single-Family Development of 139 Homes and for a Multi-Family Development of 122 Dwelling Units;**
- VII. Revisions to South of 92 Development Guidelines – Request to address the change from Light Manufacturing and Business Park to Residential on a Portion of the Oliver East Property under the Specific Plan**
 Duc Housing Partners, Inc. – Applicant/Owner - The Project Site is Located West of Marina Drive and on Either Side of Eden Shores Boulevard on Property Known as "Oliver East"

Staff report submitted by AICP Torrey, dated October 20, 2005, was filed.

Consultant Anderly made the report referencing a November 8, 1998 ballot measure that was placed at the Council request, which changed the general plan designation in some areas of the South of 92 Area from open space-baylands to low density residential, open space-parks and recreation, and industrial corridor. She added that the west side was primarily housing and light manufacturing and wetlands. The plan for the east side was proposed as a business park, along with a small commercial area, light manufacturing area, and sports park. Voters favored a 25-acre sports park as well as high technology industrial type of development. The Council measure included a



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provision for changing uses on the land as long as the legislative process was followed, which provides for public input. She added that she received two e-mails objecting to changes to the east side to any residential development, as it was the opinion that when voters voted on the initiative it was with the idea that jobs would be created in Hayward. She mentioned that the Commissioners would have to consider taking the light industrial area and transforming it to housing and a small portion to the business park. She added that a job surplus is projected for the Bay Area.

Consultant Anderly clarified the initiative at the request of Commissioner Sacks.

In response to Commissioner Lavelle's enquiry for the notification of the public hearing, Mr. Torrey indicated that the public hearing was properly published three times due to re-scheduling of the meeting, residents were properly notified, and enumerated the different appropriate public agencies that were consulted as well as notified of the public hearing.

In response to Commissioner Zermeño's enquiry about the progress on the retail center and future plans, Consultant Anderly responded that there has been interest expressed by retailers to develop on the east side. If this industrial development is successful, the small area that is devoted to commercial retail will be re-examined to determine specific services might benefit the City as well as the residents.

In response to Commissioner Sacks' enquiry about conditions regarding domestic animals for this project, Consultant Anderly mentioned that she would look into her concern.

In response to Commissioner Peixoto, Consultant Anderly clarified that the developer has provided \$7,000,000 for the enhancement of the sports park and \$5,000,000 as voluntary contribution to the City for enhancement and relocation of Burbank School. As far as the letter received from the California Public Utilities Commission (CPUC) included in the report, page 13, she indicated that the issue was addressed to the staff's satisfaction.

In response to Commissioner Lavelle's enquiry regarding parking and no driveways and provisions for a future parking lot, Consultant Anderly responded that this type of housing does not have the standard long driveway and is a different product type.

In response to Chair Thnay's enquiries, Mr. Torrey mentioned that there are 52.5 acres of business park left. Consultant Anderly indicated that it would be difficult to estimate the number of employees per acre that would be associated with the light manufacturing, but offered a rough estimate of 20 employees per acre. As far as type of services, she mentioned that the eastern side and the business park area will be re-examined to see what uses might best benefit the residents and the City as a whole.

Assistant Attorney Conneely elaborated on Consultant Anderly's response regarding the 1998 initiative indicating that this only dealt with the Oliver West and Weber portions of the South of 92

property and did not deal with the Oliver East portion of the property. She further added that there were no Council restraints on the authority to change the zoning.

Chair Thnay opened the public hearing at 8:56 p.m.

John "Jack" Smith, attorney for Duc Housing, commended City staff for thoroughly studying the project along with the Duc organization. He mentioned that the initial zoning on the property was light industrial and was being prepared for use, but due to the down turn in the industrial uses in Hayward and throughout the county and the state, it was not feasible. He mentioned that Duc plans to develop the business park section at some point but the demand is still negative. He reassured the audience that they would do an outstanding job for the people buying the units and for the City as well.

Mr. Joseph Fanelli, Duc Chief Operating Officer, introduced his development team and thanked staff for their efforts in working on this project for the past two years. He commended Standard Pacific for all the improvements at Oliver West and for developing a good neighborhood. He mentioned that they have had an input on the product presented. In regards to the Eden Shores Area, he mentioned that he was proud to be associated with the sports complex. In regards to services for the small retail portion, in meeting with the residents on the west side, he found that retailers need more people and families to serve. He showed a visual presentation of the project to conclude his presentation.

In response to Commissioner Lavelle's enquiry about a plan for marketing the houses, Mr. Steve Delva, Division President for Standard Pacific, mentioned that the proposed project is an economically viable project and that he expects to have similar prospective buyers as in Eden Shores Oliver West. He added that the proposed project will be more price driven.

In response to Commissioner Bogue, Mr. Delva responded that the same division that built Eden Shores Oliver West would build the proposed project.

In response to Chair Thnay regarding bike and trail connectivity between this project and potential future of the business park, Mr. Fanelli mentioned that this project takes into consideration a Bay Trail System with sidewalks for bicycling and bike lanes throughout the neighborhood. As far as crosswalks, they have not been considered yet. In reference to traffic circle and future plans that address speed, Mr. Fanelli mentioned that the concerns can be addressed during the precise plan process.

In response to Commission Peixoto's enquiry regarding affordable housing, Mr. Fanelli responded that approximately 40 units for houses will be affordable housing.

In reference to Commissioner Zermefio enquiry about the connectivity between the single family site and the sports park, Mr. Fanelli mentioned that there is a connection via a walk-way beneath the Eden Shores Boulevard bridge.

Mr. Donald Wiggan, Bal Harbor Lane resident, mentioned that the project looks good but disagrees with having residential housing on this site because of the airplane noise generated by the Port of Oakland. He mentioned that there was a noise study conducted by the Port of Oakland. He



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mentioned that Hayward is affected by air traffic more than any other cities. He would support a more industrial use on the site.

Chair Thnay closed the public hearing at 9:21 p.m.

Consultant Anderly elaborated on Commissioner Sacks' prior enquiry regarding domestic animals and the possibility of pets entering the wild-life habitat. She mentioned that a recommendation could be included regarding this issue associated with the mitigated negative declaration, should the Commission be inclined to support the project. She mentioned a letter by Michael Sproul, Principal for LSA, an environmental firm, indicating that the high sound wall installed along the railroad tracks would reduce the intrusion of domestic animals into the wild life corridor. Ms. Anderly further added that the same conditions that apply to the west side could apply to the east side, which is to keep domestic animals on the property.

Commissioner Bogue commented that he met with the applicant regarding the project and spoke about an e-mail that he received from a resident that indicated that the proposed homes are placed on the wrong site and suggested Hesperian Boulevard as a better place in order to improve the access to the sports park.

In response to Commissioner Sacks' request to elaborate on airplane noise, Consultant Anderly commented that there were two noise studies and noise monitors were placed on the site to measure the impacts of the noise. She mentioned that the decibel level sited by the speaker was within the acceptable range for residential housing. She further added that the project follows within the range that is acceptable for residential development in Hayward.

In reference to Commissioner Sacks' concern for domestic animals, Commissioner Zermeño stated the project is not opposed to wild life corridors when compared to the Oliver West development. He also mentioned the need of retail space and housing. He commended the developer for the proposed development.

Commissioner Zermeño moved to approve the item as recommended.

Commissioner Peixoto seconded the motion.

Commissioner Peixoto expressed support for the motion indicating that any loss that the City incurs as a result of this rezoning will be overcome by the benefits that the City will receive; \$7,000,000 for the sports park, \$5,000,000 for Burbank School, and 40 affordable housing units.

Commissioner Sacks asked for a friendly amendment to include a consideration whether the domestic animals should be treated the same in relation to the Oliver West development.

Commissioners Zermeño and Peixoto concurred with the friendly amendment.

Commissioner Bogue mentioned support for the project with reservations about the number of units and the size of recreation opportunities. He asked Standard Pacific to include consideration of recreation opportunities in the development. He also mentioned concern with changing the entire zoning and losing business park land. He further expressed that the property layout was done very well and the light manufacturing zone blends well with the housing development.

Commissioner Lavelle spoke favorable for the project indicating appreciation for the work done by staff and complimenting the developer for the persistence considering the project. She added that it is reasonable to change a portion of the land to residential and to develop a product that is more affordable and attractive.

Commissioner Sacks supported the motion. She also mentioned concern for developments that do not provide single story products. She asked developers to consider single story developments on the east side of the city because of the need thru fulfill.

Development Review Engineer Gaber clarified conditions of approval on the tract map; Condition No. 17, regarding the interior private alleys should be changed to "The interior private alleys shall have a 25 foot right-of-way; 24 feet face of curb to face the curb...", and Condition No. 26, regarding funding of the maintenance of common areas, should be modified to fund the portion that they are going to provide to HARD for maintenance of the sports park.

Chair Thnay supported the motion indicating the project should put considerable effort to support business retail for the people in the area in order to contribute and enhance the quality of life in the area.

Commissioner Zermefio moved, seconded by Commissioner Peixoto, and unanimously approved to recommend to City Council to approve the Mitigated Negative Declaration and Mitigation Monitoring Plan and the development applications, subject to the findings and conditions, with a friendly amendment to consider the treatment of domestic animals in relation to the Oliver West Development, and with revisions to Conditions 17 and 26 as indicated above.

ADDITIONAL MATTERS

4. Oral Reports on Planning and Zoning Matters

There were none.

5. Commissioners' Announcements, Referrals

Commissioner Bogue referencing the Strafford Village and commercial spaces mentioned by Chair Thnay indicated that people settle in those places because of the commercial/industrial area around them.

Commissioner Sacks announced that she will be out of town from October 28 to November 6.

APPROVAL OF MINUTES

Minutes of September 22, 2005 were approved.



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ADJOURNMENT

Chair Thnay adjourned the meeting at 9:47 p.m., in honor of retiring Planning Manager Anderly commending her outstanding job. He read a Chinese proverb in her honor.

APPROVED:

Marvin Peixoto, Secretary
Planning Commission

ATTEST:

Miriam Lens
Commission Secretary