



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, July 20, 2006, 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 Thnay followed by the Pledge of Allegiance.

**ROLL CALL**

Present: COMMISSIONERS: Lavelle, Sacks, McKillop, Mendall, Peixoto, Zermeño  
CHAIRPERSON: Thnay  
Absent: COMMISSIONER: None

Staff Members Present: Camire, Koonze, Hart, Patenaude, Lens

General Public Present: Approximately 32

Chair Thnay welcomed Al Mendall to serve as a Planning Commissioner. Chair Thnay presented Ed Bogue with a resolution commending his dedication and work as a Planning Commissioner from July 23, 1998 to June 22, 2006. He spoke highly of his perfect attendance in his eight years of service. Ed Bogue thanked everyone for the kind words.

**ELECTION OF OFFICERS**

Chair Thnay called for elections of officers. Commissioner Zermeño made a motion, seconded by Commissioner Sacks, and was unanimously approved to elect Commissioner McKillop as Chairperson, Commissioner Peixoto as Vice Chair, and Commissioner Lavelle as Secretary.

**PUBLIC COMMENTS**

Commissioner Mendall thanked the City Council for appointing him to the Planning Commission and expressed his enthusiasm for having the opportunity to serve in the Commission.

**PUBLIC HEARINGS**

1. **Administrative Use Permit No. PL-2006-0120 – Noor Wais (Applicant) / Islamic Association of Immigrants (Owner) – To Utilize a Single-Family Home as an Educational Facility for 28 Children Attending Kindergarten through Third Grades – The Project is Located at 131 Folsom Avenue**

Staff report submitted by Associate Planner Camire, dated July 20, 2006, was filed.

Associate Planner Camire made the staff report.

In response to Commissioner Zermeño, Associate Planner Camire indicated that Condition of Approval #54 was added in response to the neighborhood's concerns, "The school hours shall be limited to Monday through Friday 7:00 am to 5:00 pm. Parent/teacher conferences may occur once a month no later than 8:00 pm."

In response to Commissioner Mendall's inquiry for clarification of "bioswale" in Condition of Approval #32, Assistant Planner Koonze indicated that it is a type filtration system (grass or type of vegetation) used for storm water drainage.

In reference to Commissioner Mendall's concern that play area is open to the parking lot, Associate Planner Camire indicated that the play area is not completed and that a condition requiring a self closing gate can be added. In reference to Condition of Approval #50, Assistant Planner Koonze clarified that it should be changed to read, "... on the mosque or adjacent property shall be repaired or replaced to the satisfaction of the City Engineer."

In response to Commissioner Mendall's inquiry for improvements to the mosque property based on the conditions of approval, Associate Planner Camire indicated that if there are damages to the parking lot, they will need to be repaired and landscaping will be installed as required by current standards, and the fence would be removed between the two properties to give access to the parking lot behind the school.

Chair Thnay inquired if past concern regarding the Pentecostal Church on Ruus Road has been resolved.

Acting Planning Manager Patenaude indicated that addition of parking to school property should alleviate cars parked on the street. He added that the school requires four parking spaces and that congregants come at different times.

Commissioner Sacks mentioned that immediate right to the cross street from the driveway, there is a fire hydrant. Acting Planning Manager Patenaude indicated that does not sound unusual and improvements can be made over time.

Commissioner Zermeño mentioned that the formalization of the parking structure should help the concern with the mosque.

Chair McKillop opened the public hearing at 8:10 p.m.

Applicant Noor Wais gave the opportunity to other members to address the Planning Commission.

Mr. Yama Omar indicated that there will not be a parking issue as far as the school competing with the mosque because of different times. He added that a fence around the play area will be incorporated as the design phase progresses.

In response to Commissioner Peixoto's inquiry for total number of mosque service times during the week, Mr. Omar responded that there are five prayers during the day ranging from 5:15 a.m. to 10:15 p.m., and that in reference to parking, the only time frame impacted would be the afternoon prayers at 2:00, 6:45, and 8:45. He added that the children will be dropped off at the back of the



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school. In reference to place for recess time, he added that it would be at the back of the school area in the play ground area at least twice a day approximately.

Mr. Omar Arsala, referring to the daily prayers, mentioned that it is expected that there would be seven to ten people that regularly attend and that the only day where more parishioners attend is on Friday around 2:00 p.m., and that school would be out before the prayer session.

Commissioner Mendall indicated that if the parking lot is approved, worshippers should be encouraged to use the parking lot in the back and on Fridays to be mindful of the neighbors.

Mr. Arsala, in further addressing the parking issue, spoke about giving out an e-mail address to communicate with the community as a viable solution in order to improve the relationship. In reference to special events, he expressed willingness to offer assistance such as hiring security at the mosque to monitor parking as well as overflow parking.

Ms. Homaira Wassel, a founder of Northstar Islamic School, mentioned that the proposed school is the only Islamic school in Hayward that would adhere to the communities' principles. She talked about the core of principles and respectfully asked for the Commissioners approval.

Mr. Hedayat Hamid moved to Hayward in order to have his children enrolled at the proposed school. He favored a private school that could provide quality education.

Ms. Elizabeth Ackerly, Northstar Islamic School teacher, spoke in favor of the school because of its philosophy and leaders.

Mr. Zakaria Twist, Director of Operations at the Zaytuna Islamic Institute in Hayward, showed support for the proposed school. In response to Commissioner McKillop's inquiry if 28 students is a reasonable projection, Mr. Twist indicated that even though the size might be small, the teaching methodology is excellent. Applicant Wais added that they intend to have a home school type of school with no more than ten students per classroom.

Mr. Wais responded to Commissioner Lavelle indicating that he concurs with the conditions of approval. Acting Planning Manager Patenaude mentioned that the application is for 28 students and more would require another application or modification of the application.

Mr. Mike Emerson, masonry business owner and neighbor next door, expressed concern that the extra cars would impact the traffic and that the mosque parking will serve as their playground. He added concern that the two front parking spaces in front of his home business might be impacted. In response to Commissioner Thnay, Mr. Emerson did not have an alternative solution.

Commissioner Sacks, commenting on the issue of illegal parking, suggested that police should intervene in violations of parking and also more education. Commissioner Sacks indicated that the parking situation needs to be addressed.

Commissioner Zermeño suggested Mr. Emerson obtain a special permit that would block the two spaces in front of his home business to restrict people from parking there.

In response to Commissioner Thnay, Mr. Emerson could not say if other neighbors are affected by the parking situation but expressed that the location of his home business is a target.

Mr. Raymond Gallegos, neighbor to the proposed area, spoke against the proposed school because of lack of parking, traffic impact, and debris generated by the mosque congregants.

Chair McKillop closed the public hearing at 8:29 p.m.

Acting Planning Manager Patenaude indicated that the application is for the school and not the operation of the mosque. He added that the school might alleviate the parking issues by providing additional space. He further indicated that if the operation of the mosque continues to be a detriment, the situation can be brought back for further analysis and documentation as there is no record of complaints.

Commissioner Sacks, referring to the parking and traffic concerns, mentioned that lack of respect for each other to be the element missing regarding the raised issues. She added that the application for the school in the area is legitimate.

Commissioner Lavelle asked staff for prospective remedies for the concerns and also inquired about traffic code regulations. Acting Planning Manager Patenaude indicated that Community Preservation would respond to violations to conditions of use permits and conflicts with the neighbors and that the Police Department deals with parking issues. He further stated that a remedy would involve educating the worshipers to abide by the regulations set.

Commissioner Thnay agreed that the proposed school is going to bring quality education; however, he indicated that traffic issues should be resolved by means of the creation of a traffic control plan before proceeding forward. He spoke in favor of additional parking space. Acting Planning Manager Patenaude mentioned that when the application was initiated, the plans indicated a circular driveway in front of the proposed school. He added that in order to strengthen the plan, a condition can be added that there shall be no student drop-off on Folsom Avenue.

Commissioner Zermeño, referring to the application, mentioned that there is lack of communication with the neighbors and parishioners, and lack of traffic plan. In response to Commissioner Zermeño's inquiry about a parking plan, Acting Planning Manager Patenaude indicated that a review after six-month period can be required. Commissioner Zermeño moved per the staff recommendation, with two added conditions, that there be no student drop-off on Folsom Avenue and that there be a six-month period review for the parking situation.

Commissioner Mendall seconded the motion. He supported adding the parking spaces in the back of the school and to encourage congregants to use this parking lot to drop children off. He strongly encouraged a six-month review after the parking lot is built to ensure compliance. He added a friendly amendment that staff corrects a typo on Condition of Approval #50 as indicated above and to include a condition stating that the play area be enclosed with a fence with a gate.



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Commissioner Lavelle supported the motion. She favored the design on the front wall and encouraged the applicant and his supporters to conduct an open house when the school opens. She favored the Muslim school application and indicated support for the proposed number of parking spaces for the projected number of students. She was not favorable of the six-month review mentioning that those issues can be dealt with separately.

Commissioner Sacks did not favor bringing the issue back in six-months for review because the issue is not related to the school. Commissioner Zermeño indicated that his motion included that the six-month review will be done only if needed. Commissioner Sacks supported the motion and asked for consideration to the safety of the children when reviewing the plan.

Commissioner Thnay favored the six-month review and mentioned that even though the traffic might not be generated by the school it is an issue that should be resolved. He added that a traffic control plan should be implemented. He supported the motion.

Commissioner Peixoto supported the motion indicating that the school and the mosque are two separate issues and they can be resolved through open dialogue. He suggested there be a newsletter about conditions and the student drop-off condition as well as reciprocity with the neighbors when issues arise.

Commissioner Mendall suggested there be a six-month review after the completion of the parking lot. Acting Planning Manager Patenaude indicated it be after the opening of the school.

Chair McKillop thanked for the presentation and for the participation. She supported the motion and its amendments.

Commissioner Zermeño moved, seconded by Commissioner Mendall, and unanimously approved, to find the proposed project Categorical Exempt from the California Environment Quality Act (CEQA) guidelines, Section 15332, In-Fill Development Project, Class 32 (a); and approve the Administrative Use Permit subject to the findings and conditions of approval including the addition of the following: a new Condition of Approval No. 54, that the school hours shall be limited to Monday through Friday 7:00 a.m., to 5:00 p.m., parent/teacher conferences may occur once a month no later than 8:00 p.m.; a condition that there be no drop-off on Folsom Avenue; a condition that there be a six-month period review if needed; and a condition that the play area be enclosed with a fence or gate.

Acting Planning Manager Patenaude indicated the telephone number for Community Preservation.

Chair McKillop called for a five minute recess and the meeting reconvened at 9:09 p.m.

**2. Tentative Parcel Map 9129 / Variance Application No. PL-2006-0218 – Nora Gauthier (Applicant/Owner) – Request to Subdivide a Lot into Two Single-Family Residential Parcels and for a Variance for Lot Depth – The Project is Located at 2133 Boca Raton Street**

Staff report submitted by Assistant Planner Koonze, dated July 20, 2006, was filed.

Assistant Planner Koonze made the staff report.

Commissioner Zermefio inquired about the three-story houses near the project, any proposals on similar triangular shaped parcels in the area, and any inquiries about buying the triangle and adding it to the adjacent open space property. Assistant Planner Koonze indicated that the zoning height regulations restrict houses to two stories and also added that staff has not received any proposals on other triangular shaped parcels in the area.

In response to Commissioner Mendall's inquiry if the proposed property is not subdivided, Assistant Planner Koonze indicated that the second structure allows to be constructed on the parcel but without the restriction of a property line and resulting setbacks, an adequate usable area could be created.

Chair McKillop opened the public hearing at 9:17 p.m.

Ms. Elizabeth Feliciano Gonzalez, neighbor in front of the property, supported the proposed denial because the property does not have enough space to park vehicles off the street. She mentioned that the subdivision would increase the traffic where people speed and she was highly concerned about the safety of the children in the neighborhood.

Ms. Vicky Thompson, at 1981 Southgate Street, showed a photograph of a traffic accident where a car went through her house. She was emotionally affected and highly concerned with the traffic and thus supported building less houses in the area.

Ms. Wandra Williams, at 2158 Boca Raton Street, urged the Commission deny the application. She concurred with previous speakers that the subdivision would create more traffic and would impact the infrastructure of the neighborhood, the sewer system, and the existing single family homes.

Mr. Randy Gauthier, the applicant's son, spoke on the applicant's behalf. In response to Commissioner Sack, Assistant Planner Koonze clarified that the proposal is to subdivide the parcel not if a second dwelling can be created. He added that staff's concern is how usable space can be provided for the second dwelling and how subdividing the property creates setbacks limit the usable area. Planning Manager Patenaude indicated that a second dwelling would not require an application but it would be a ministerial application. He added that the proposed lot would be substantially different than the lots in the neighborhood.

Chair McKillop closed the public hearing at 9:29 p.m., and reopened it at the request of Mr. Randy Gauthier who inquired if he could get a refund for the permit application if it is denied. Acting



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Planning Manager Patenaude indicated that it could be investigated. The public hearing was closed again at 9:30 p.m.

Chair McKillop, referring to the concerns for the sewer system, requested that staff look into this issue. Acting Planning Manager Patenaude indicated that Public Works staff reviews parcel maps and did not indicate any problems but staff would follow through.

Commissioner Peixoto made a motion per staff recommendation.

Commissioner Lavelle seconded the motion.

Commissioner Thnay, referring to the size of the side yard, stated that if the City were to allow adding a second dwelling, then it should allow it as a separate structure. He mentioned support for a refund of the application.

Acting Planning Manager Patenaude mentioned concern that it is not only the narrow side yard, but the ability to provide an adequate rear yard and the flexibility to create a usable open space.

Commissioner Sacks supported the motion and indicated that Commissioner Thnay's position would need findings for approval.

Commissioner McKillop supported the motion indicating that there are reasons for setbacks and she did not think that the lot could support another home.

Commissioner Peixoto moved, seconded by Commissioner Lavelle, and approved, with Commissioner Thnay abstaining, to deny the tentative parcel map and the variance.

Chair McKillop reminded the applicant of the ten-day appeal period.

### **ADDITIONAL MATTERS**

#### **3. Oral Report on Planning and Zoning Matters**

Acting Planning Manager Patenaude indicated that the next meeting is scheduled for September 14.

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

Commissioner Mendall reported on graffiti on the path of Eden Parkway property behind the homes and asked that it be referred to Community Preservation.

Commissioner Sacks reported on a June 29, 2006 Daily Review article Raising Seeds Imperial Bay Area regarding flood damage, red zone, and general plan.

Commissioner Thnay reported on the poor landscaping at a building near Cecilia Burgers and asked that the property be inspected.

Chair McKillop reported that large trees on the Plan Development on Folsom Avenue off Huntwood Avenue are disappearing.

### **APPROVAL OF MINUTES**

The minutes of June 15, 2006 and June 22, 2006 were approved.

### **ADJOURNMENT**

Chair McKillop adjourned the meeting at 9:45 p.m., in memory of Matt "Mateo" Jimenez.

### **APPROVED:**

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Mary Lavelle, Secretary  
Planning Commission

### **ATTEST:**

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Miriam Lens  
Commission Secretary/Administrative Secretary