



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, September 14, 2006, 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 McKillop followed by the Pledge of Allegiance led by Commissioner Mendall.

ROLL CALL

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

Staff Members Present: Camire, Conneely, Emura, Koonze, Patenaude, Lens

General Public Present: Approximately 9

PUBLIC COMMENTS

Commissioner Mendall announced a free community academy, held by the Hayward Police Department, scheduled to start on September 18, 2006 at City Hall in Room 2A and provided with contact information.

PUBLIC HEARINGS

1. **Site Plan Review No. PL-2006-0179 / Tract Map 7768/PL-2006-0178 – David Ruffin (Applicant/Owner)** – Request to Subdivide One Parcel into Ten Parcels and Construct Nine Detached Single-Family Residences with a Private Street - The Project is Located on the Southeast Corner of Arf and Baumberg Avenues in a Single-Family Residential (RS) Zoning District

Staff report submitted by Associate Planner Emura, dated September 14, 2006, was filed.

Associate Planner Emura presented the staff report.

Commissioner Lavelle inquired about the location for mailboxes and mitigation measures for noise impact for the proposal. Associate Planner Emura indicated that location for mailboxes has not been discussed yet and that there has not been a noise study requirement for the project. Commissioner Lavelle further indicated that the grading and construction hours in Condition of Approval No. 41 is not consistent with the Conditions of Approval Tentative Tract Map 7768 No. 42 a). Therefore, she recommended that the hours for grading and construction for Saturday be removed.

Commissioner Sacks, referring to the opposition that two story homes were inconsistent with the neighborhood, inquired if there are conversions to two-story homes. Associate Planner Emura indicated that there are two story homes across the street, Glen Eden Garden Apartments. Commissioner Sacks inquired why the development was turned in on itself with walls around it instead of being part of the neighborhood. Principal Planner Patenaude indicated that the only two homes that would be part of the neighborhood would be the two homes along Baumberg Avenue. He added that the concern was not to create additional traffic directly onto Arf Avenue and allow the homes to be a community and make the private drive more efficiently if all the units are accessing the private street.

Commissioner Zermeño supported having the graffiti language as a separate condition of approval.

Commissioner Thnay asked for clarification about allowing two cars to be parked on the driveways fronting the garage. Acting Development Review Engineer Koonze indicated that the recommendation is typical of a single home approval.

In response to Commissioner Mendall's inquiry for a requirement to park cars in the garage due to limited parking space, Acting Development Review Engineer Koonze indicated that staff considered utilizing additional parking on Baumberg Avenue and the Arf Avenue frontages. Commissioner Mendall further suggested using the floor plan on Lot 8 for Lots 6 and 7 and switching the driveway to the other side in order to avoid two neighbors sharing the same driveway. Acting Development Review Engineer Koonze agreed with the suggestion.

Commissioner Peixoto inquired if there was a requirement for a property manager. Acting Development Review Engineer Koonze indicated that the requirement could be part of the homeowners' association. Mr. Peixoto spoke strongly about the effect of the lack of property management and the direct effect to significant administrative responsibilities. He added that there is need for a policy and a practicality for a homeowners' association.

Commissioner Thnay spoke unfavorably about private streets because of the cost associated with repairing the street. He asked for consideration on this issue.

Chair McKillop opened the public hearing at 7:58 p.m.

Mr. Dave Ruffin, applicant with Ruffin Architecture, mentioned that there is a number of large two-story houses and spoke about the architecture and design of the front and back of the homes and throughout the neighborhood. Mr. Ruffin appreciated the opportunity to develop the project.

Commissioner Thnay appreciated the design and inquired if the treatment on the concrete wall could be less opaque. Mr. Ruffin indicated that staff has asked to match the existing concrete wall that wraps around the trailer park and that there would be redwood fences. Principal Planner Patenaude mentioned that the wall on the frontage of the mobile home is a combination of wood and masonry.

Commissioner Peixoto showed appreciation for the design and inquired if the color schemes are going to be incorporated in the CC&R's. Mr. Ruffin indicated that the color schemes could be



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incorporated upon staff's review. Mr. Peixoto added if the homeowners would be able to change the colors. Principal Planner Patenaude indicated that the CC&R's could contain a clause that a change of colors would be subject to review.

Commissioner Sacks, making reference to blight landscaping on the back of Stratford Village on Stratford, suggested that the landscaping on the backyards and along the streets be carefully considered and well maintained. Mr. Ruffin was optimistic about having appropriate trees and buildings to enhance the appearance of the development in accordance to current regulations. Additionally, Commissioner Sacks pointed out two homes that share the same driveway. Principal Planner Patenaude and Mr. Ruffin were amenable to modifying the entryway and maintaining the shared driveway.

Commissioner Lavelle inquired about the name for the development and complimented the design on the fireplaces.

Commissioner Mendall was amenable to the idea of a shared driveway for Lots 6 and 7 and inquired if the applicant had considered putting solar panels on the homes.

Mr. Ruffin was amenable to reach a comfortable balance between staff and the developer's considerations about solar panels. Principal Planner Patenaude agreed to work with the applicant.

Commissioner Zermeño suggested that in the future he would like to see photographs that include trees for the final proposal.

Chair McKillop closed the public hearing at 8:17 p.m.

Commissioner Mendall asked the commissioners about their thoughts to include solar panels to the proposal.

Commissioner Thnay spoke in favor of solar panels indicating that they could be offered as options to prospective homeowners. Furthermore, Commissioner Thnay made a motion per staff recommendation with an added condition after Condition of Approval No. 35 under the Utilities Section, indicating that the homes should provide an option for solar panels.

Commissioner Zermeño seconded the motion.

Commissioner Lavelle supported the motion; however, she expressed concern for the cost of solar panels that it would add to the homes. She asked that mailboxes be placed in an appropriate location and for safety measures have lock boxes. In regards to the conditions of approval regarding construction and grading hours mentioned earlier, she requested that Saturday be removed from the conditions of approval.

Commissioner Peixoto indicated that he was not too optimistic about requiring solar panels on the roofs due to the appearance, but concurred with the motion about offering it as an upgrade.

Commissioner Zermeño mentioned support for the proposal and asked staff for guidelines to add solar energy to the homes or future project and indicated support to have solar energy as an option.

Principal Planner Patenaude indicated that discussion related to green building practices will be forthcoming.

Chair McKillop showed concern for the condition requiring solar options because of the late stage of the project, and recommended an option to look into the possibility of solar energy.

Principal Planner Patenaude mentioned that due to lack of missing data, it would be difficult to speak about solar energy. Chair McKillop added that she did not support the motion.

Commissioner Mendall appreciated the concerns and supported the motion that solar energy be required as an option to prospective homeowners.

Commissioner Sacks mentioned support for solar energy but indicated reluctance to include it as part of the proposed project. In regards to the construction and grading hours, she indicated that since the location site is next to the school, it would be favorable to include Saturdays as part of the hours and therefore was not amenable to the amendment of the motion.

Assistant City Attorney Conneely mentioned that due to lack of policy set in place regarding solar options it would be appropriate to direct staff to work with the applicant to consider the idea of solar energy for the homes.

Commissioner Peixoto concurred with Assistant City Attorney Conneely that staff work with the developer to explore the idea of solar energy.

Discussion ensued regarding the topic of solar energy and the appropriate days and hours for grading and construction. After reaching consensus, Commissioner Thnay made a motion seconded by Commissioner Zermeño.

Commissioner Thnay moved, seconded by Commissioner Zermeño, and unanimously approved, to find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, Section 15332, Class 32 In-fill Development; and approve the Site Plan Review and Tentative Tract Map applications, subject to the findings and conditions of approval including consideration of solar panel as a potential option for buyers after further consideration and approval by staff and with an amendment that grading and construction hours in Condition of Approval No. 41 and Condition of Approval Tentative Tract Map 7768 No. 42 a) be in accordance with the Municipal Code.



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2. Text Amendment No. PL-2006-0361 – Text Change Removing Tattoo Parlor as a Conditional Use in the Central City-Commercial and Central City-Plaza Subdistricts

Staff report submitted by Associate Planner Camire, dated September 14, 2006, was filed.

Associate Planner Camire made the staff report.

Having no comments, Chair McKillop opened the public hearing at 8:45 p.m.

Mr. Tony Merritt, representing Russell City Tattoo inquired about the effect that the new regulations will have on his business. Mr. Merritt referred to adult entertainment and alcohol establishments and reasons for re-zoning tattoo places.

Principal Planner Patenaude indicated that the zoning ordinance provides for legal nonconforming uses, which include Mr. Merritt's business as long as the business does not stay closed for more than six months. He added that the City would continue to have the two tattoo parlors in the downtown and the ordinance would limit the concentration of the same kind of establishments. In regards to adult entertainment and alcohol establishments, Principal Planner Patenaude mentioned that they have stricter regulations.

In response to Commissioner Zermefio, Mr. Merritt stated that the tattoo business is expanding.

In response to Commissioner Sacks' inquiry for the six-month lapse, Principal Planner Patenaude indicated that change of hands would not affect the legal non-conforming uses.

In response to Mr. Merritt's concern for fire damage to the building, Principal Planner Patenaude indicated that after doing further research Ms. Camire would meet with Mr. Merritt.

Chair McKillop closed the public hearing at 8:54 p.m.

Commissioner Mendall made a motion as per the staff recommendation. Commissioner Zermefio seconded the motion.

Commissioner Thnay commended the Council for protecting the vitality of downtown by setting forth a policy.

Commissioner Lavelle supported the motion noting satisfaction for the staff report and indicating potential for businesses that meet the goal to provide commercial nexus in the downtown.

Commissioner Sacks did not support the motion. She concurred with comments made by Mr. Merritt and expressed preference for an alternative solution to the concentration of this type of business and mentioned Berkeley's policy as an alternative where they allow tattoo parlors with

restrictions on where bodies can be tattooed as part of their ordinance. She mentioned that cosmetic tattooing is not included in the report and thus she proposed a substitute motion that the report be sent back to staff to consider options that would include the type of tattooing that occurs and the concentration. The motion died for lack of a second.

Chair McKillop expressed concern with the diversity and economic interest in downtown. She mentioned that it is proper to remove this use from the list of businesses allowed and not give false hopes for the potential of approval for future applicants. She supported the motion.

Commissioner Zermeño indicated that even though tattoos are becoming more mainstream, he expressed support for limiting the concentration of the type of business in downtown and thus supported the motion.

Commissioner Peixoto expressed that the City already has tattoo parlors and expressed support for Council's support for a diverse retail establishments in downtown. He indicated that he has voted for tattoo establishments before and that he is concerned with the concentration. He enthusiastically supported the motion.

Commissioner Mendall moved, seconded by Commissioner Zermeño, and approved, with Commissioner Sacks voting no that the City Council adopt the Negative Declaration and the ordinance amending the Central City- Commercial and Central City-Plaza Subdistricts removing Tattoo Parlor as a conditional use, subject to the findings.

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Principal Planner Patenaude indicated a 500-foot radius map for matters of conflict of interest for the Commissioners. He referred to forthcoming projects and announced that the next meeting is scheduled for October 5, 2006.

4. Commissioners' Announcements, Referrals

Commissioner Zermeño announced that Phil Angelides will be leading a Democrats meeting on Sunday at Fire Station 1 at 3:00 p.m., and announced the last Street Party on Thursday where the Latino Democratic Organization will be doing a voter registration.

In response to Commissioner Lavelle, Principal Planner Patenaude indicated that an application for a crematorium at the Hayward Mortuary at Mission Boulevard and Grace Street is scheduled for October 5, 2006.

Commissioner Sacks read a quote from ARPP From the Ground Up regarding Pass Christian, Mississippi and the rebuilding. She reiterated the community academy announcement scheduled to start on Monday, September 18th at City Hall.

Commissioner Thnay announced that the location at Industrial Parkway that was initially considered for H&R Tax Services is fully occupied with restaurants.



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APPROVAL OF MINUTES

The minutes of July 20, 2006 were approved.

ADJOURNMENT

Chair McKillop adjourned the meeting at 9:13 p.m.

APPROVED:

Mary Lavelle, Secretary
Planning Commission

ATTEST:

Miriam Lens
Commission Secretary/Administrative Secretary