



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, March 8, 2007, 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.

ROLL CALL

Present: COMMISSIONERS: Lavelle, Sacks, Peixoto, Thnay, Mendall, Zermeño

CHAIRPERSON: McKillop

Absent: COMMISSIONER: None

Staff Members Present: Conneely, Koonze, Rizk, Lens

General Public Present: Approximately 8

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARINGS

1. Site Plan Review Application No. PL-2006-0008 / Tentative Tract Map 7698 – Samah Construction (Applicant) / Mohammed Shaiq (Owner) – Request to Construct 14 Residential Townhouse Units – The Project is Located at 24755 O'Neil Avenue

Staff report submitted by Assistant Planner Koonze, dated March 8, 2007, was filed.

Assistant Planner Koonze presented the staff report and referred to an e-mail from the Homeowners Association of Pulte Homes Development expressing concern for the three-story building in regards to privacy, proximity to BART, noise attenuation and during construction, increase in traffic, and fencing along the property line. He indicated that the concerns have been properly addressed. Mr. Koonze noted amendments to Condition of Approval # 14, related to the sound wall, that it be changed by removing the words "an eight foot high"; and, addition of Condition of Approval # 36, "Units within Building E shall be protected with automatic fire sprinklers. Each unit shall have an automatic fire sprinkler system designed and installed per NFPA 13-D (Modified) Standards which shall consist of fire sprinkler protection within all living areas, garage and attic space." In addition, Condition of Approval #37, "A Phase I and/or Phase II environmental assessment may be required for the site. The applicant will need to contact Hugh Murphy, Hazardous Materials Coordinator, at (510) 583-4924 for further information."

In response to Commissioner Mendall's inquiry about Condition of Approval #13, Mr. Koonze clarified the condition and indicated that the community open space would be in a private area. There was discussion about the six-plex and the building's façade relief in comparison to the design

of the outside of the building next door.

Upon request by Commissioner Sacks, there was clarification about Condition of Approval #13. Planning Manager Rizk suggested that Condition of Approval #13 be revised to the following, "Prior to the approval of a building permit, the site amenities for any group open space shall be approved by the Planning Director..."

Commissioner Zermefio expressed his appreciation for the sidewalks across the way behind the Toyota Dealership parking lot, and he asked about the house south of the proposed project, and requested clarification for Condition of Approval #15. Assistant Planner Koonze indicated that the neighbors would like that the proposed fence along the southern property line be installed adjacent to the existing fence. Planning Manager Rizk indicated that wood fences are consistent with the development requirements and that the concern with dual fences is the maintenance cost and suggested that if the homeowners association would be agreeable to share the cost of the maintenance, staff would not be opposed to such an arrangement.

In response to Commissioner Lavelle, Assistant Planner Koonze indicated that the project is exempt from the ordinance for modern income housing and that the old house is proposed to be demolished.

Chair McKillop opened the public hearing at 8:00 p.m.

Mr. Noor R. Wais, part-owner and developer of the project, asked that the proposed project be approved.

In response to Commissioner Mendall's inquiry regarding the architecture for the six-plex building and the attractiveness of the townhouse development to the north, Mr. Wais indicated that undulations on the townhouses are also present in the proposed project. Mr. Mendall requested that the developer consider obtaining bids from contractors to install solar panels. Mr. Wais accepted the request.

In response to Commissioner Peixoto's inquiry regarding the texture and pop-out features found in the Samah Construction at the corner of Tennyson Road and Dixon Road, Mr. Wais indicated that the Tennyson Road property is at an angle, which helped to achieve the existing texture. In response to Mr. Peixoto, Mr. Wais indicated that it was not difficult to find a property management company to manage smaller projects.

Mr. Wais was agreeable to the recommendations suggested by the Commissioners including marketing to Cal State faculty, consideration of a monument sign or locator, bicycle racks, and decorative lighting on private streets. Mr. Wais was amenable to the suggestions.

In response to Commissioner Thnay's inquiry in reference of fees for the homeowners' association, Mr. Wais indicated that the fees would not only pertain to road maintenance but also insurance and other related fees.

Commissioner Sacks indicated that the Commission is not in a position to require solar panels, and encouraged that attention be done to "green" building, and to consider native plants as landscaping.



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She commended Mr. Wais for the development on Tennyson Road.

In response to Commissioner Mendall's inquiry for combining the homeowners' association for the proposed project and the development to the north and the potential for economic benefit, Mr. Wais indicated that at this point the property to the north is almost sold and did not think that there would be any economic benefits.

Mr. Andy Yang, Orchard Walk Community board member, expressed concern about the length of time and the nuisance that the construction to the north of the proposed project is causing the neighbors; such as, foul odor, dust, and construction hours. He asked that more consideration be given to the construction of the proposed project. He added that the three-story building is not as earthquake safe as the two-story building, and expressed a privacy issue concern with the proposed project.

Mr. Hung Hua, O'Neil Avenue resident, spoke regarding security issues and poor lighting in the street. He also indicated that there was water contamination while the first project was constructed and asked that attention be given during the construction of the proposed project.

Commissioner Thnay, referring to Condition of Approval #39, pertaining to measures during construction, indicated that the concerns raised are addressed with the conditions outlined. He also inquired for the penalty for violating the measures sited on Condition of Approval #39. Associate Planner Koonze indicated that for non-compliance with the conditions of approval, one can contact the head construction inspector at the Engineering Division. Mr. Thnay asked for a time frame when a project should be completed. Mr. Koonze indicated that as long as there is progression on the work done, there is no set time for a subdivision to be completed. In response to seismic approval, Planning Manager Rizk indicated that inspectors inspect construction per the Uniform Building Code (UBC) recognizing the seismic area. He added that a building permit is active for six months and concerns raised were addressed in Condition of Approval #39 e).

Commissioner Sacks addressed Mr. Hua's concern raised about the drinking water being contaminated and suggested that he should contact City crews if the problem persists. Assistant Planner Koonze advised Mr. Hua to contact the Water Division.

Mr. Leon Faunfleroy, realtor in the area, concurred with the concerns about the water and added that the electricity goes out during construction. He indicated that the three-story building is going to take away the view of his property and also added that it is not going to complement the existing homes, and would not be affordable for prospective buyers. He expressed that the proposal of taking the fence down is going to affect the privacy of surrounding homes.

Mr. Nilo Bartolome, O'Neil Avenue resident, concurred with comments expressed previously. He opposed the construction of the three-story building and disagreed that the proposal is going to be attractive for the area.

Chair McKillop closed the public hearing at 8:34 p.m.

In response to Commissioner Peixoto's question about parking, Assistant Planner Koonze indicated that the proposal has two-car garages for duplexes, one-car garage for the six-plex, seven spaces across the driveway, and two open spaces between duplexes.

In response to Commissioner Peixoto's inquiry about Condition of Approval #11 and the potential for storage space displacing the parking, Assistant Planner Koonze indicated that the condition is designed to prevent it from occurring.

Commissioner Lavelle made a motion supporting the project and indicated sensitivity to the remarks expressed, but was pleased to see that the listed conditions of approval are designed to address the concerns that have been raised. She supported having one fence between the two projects and agreed that good-neighbor relations will be developed when compromising. She recognized the concern of having two-story duplexes next to a three-story building, but did not think it sufficient to change the entire project.

Commissioner Sacks seconded the motion.

Commissioner Zermeño mentioned that the initial complaints that a two-story structure between Tennyson Road and Whitman Road generated, have ceased and that the home values have increased as a result. He supported the motion and particularly the proposed sidewalks on both sides of the street.

Commissioner Mendall offered a friendly amendment that the developer get a bid for solar panels. Discussion ensued and there was concurrence that since there is no policy for solar energy in place, the friendly amendment was not appropriate. It was recommended that it could be suggested to the developer, which the developer amenably agreed to.

Commissioner Thnay appreciated the input received by residents and supported the location of the three-story building near the railroad tracks, supported consideration of benches and tables for the project, suggested that locked mailboxes be considered, and requested that Condition of Approval # 39 e) include a City inspector telephone number.

Commissioner Sacks supported the motion and thanked the neighbors' participation and encouraged them to contact City staff when faced with problems. She sympathized with the concerns expressed, but indicated optimism about the potential that the project can generate.

Chair McKillop expressed concern that the project was flat, lacked dimension and open space, had a lot of parking and did not have enough landscaping, but was re-assured that the developer would produce the same quality of project built on Tennyson Road.

In response to Commissioner Zermeño's inquiry for a work session regarding solar energy and "green" buildings, Planning Manager Rizk indicated that a work session is forthcoming. Commissioner Zermeño supported the motion.



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Commissioner Peixoto spoke in support of the motion and concurred with Commissioner Lavelle that the requirement for bids from solar contractors would not be appropriate for the motion. He indicated that there was need for policy, guidelines, and consistency about what is required from developers regarding solar energy. He also expressed interest for developers input and thanked the residents for their input. He suggested that staff give some consideration to a view corridor as the South Hayward BART/Mission Boulevard Plan is being developed. He supported the motion.

Commissioner Lavelle moved, seconded by Commissioner Sacks, and unanimously approved that the project is Categorical Exempt from the California Environmental Quality Act (CEQA) guidelines, Section 15332, Class 32 In-Fill Development; and approve the Site Plan and Tentative Tract Map applications, subject to the findings and conditions of approval and amendments to Conditions of Approval # 13, # 14, and #39 e), and additions of Conditions of Approval #37 and #38.

ADDITIONAL MATTERS

2. Oral Report on Planning and Zoning Matters

Planning Manager Rizk indicated upcoming works sessions regarding solar panels and sustainable “green” buildings and about homeowner’s association property management companies.

3. Commissioners’ Announcements, Referrals

Commissioner Mendall suggested that information about applicants that have developed other projects be presented in the report.

Commissioner Zermeño commended staff for the project on the Target complex and Panera Bread.

Commissioner Sacks announced the community meeting at the Matt Jimenez Community Center on Monday, March 12, 2007.

Commissioner Thnay reported that on Industrial Parkway near Home Depot there is a row of industrial buildings that have graffiti, and on Mission Boulevard between St. Clement School area and north of Tennyson Road there are potholes that need attention.

APPROVAL OF MINUTES

The minutes of February 8, 2007 and February 15, 2007, were approved.

ADJOURNMENT

Chair McKillop adjourned the meeting at 9:00 p.m., to Work Session 2 B

APPROVED:

Mary Lavelle, Secretary
Planning Commissioner

ATTEST:

Miriam Lens
Commission Secretary