



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, November 15, 2007, 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 Peixoto followed by the Pledge of Allegiance.

**ROLL CALL**

Present: COMMISSIONERS: Sacks, Lavelle, Mendall, Thnay, Loché  
CHAIRPERSON: Peixoto  
Absent: COMMISSIONER: McKillop

Staff Members Present: Conneely, Connolly, Emura, Koonze, Rizk, Lens

General Public Present: Approximately 6

**PUBLIC COMMENTS**

There were none.

**PUBLIC HEARING**

1. Use Permit Application No. PL-2007-0067 – Wah Yiu Lee, Art of Reflexology/Quick Fix (Applicant) / General Growth Properties, Inc. (Owner) – Request to Allow a Massage Establishment at Southland Mall

Staff report submitted by Associate Planner Emura, dated November 15, 2007, was filed.

Associate Planner Emura summarized the staff report and responded to questions from the Commission.

Commissioner Lavelle asked for clarification of Condition of Approval No. 8 (o) regarding surveillance cameras. Associate Planner Emura indicated that the intent of surveillance cameras was to detect illicit behavior.

Interim City Attorney Conneely suggested that a provision could be added at the end of Condition of Approval No. 8 (o) that the tenant is permitted to install surveillance cameras pursuant to the master lease with the Southland Mall owner.

Chair Peixoto opened the public hearing at 7:44 p.m.

Ms. Lisa Lee, applicant residing in San Francisco, addressed Chair Peixoto's inquiry regarding licensing requirements for the technicians, indicating that the technicians would obtain a license

from the massage school after earning 600 hours.

Planning Manager Rizk added that Massage Therapy Technician Permits are issued from the Police Department and the department has oversight of the technicians and the establishment.

In response to Commissioner Sacks' inquiry regarding the duration of the massages, Mr. Lee indicated that the length of time for massages would depend on the clientele starting with 15-minute massages. Ms. Sacks commented favorably on her visit to the massage establishment at NewPark Mall.

Chair Peixoto closed the public hearing at 7:49 p.m.

Commissioner Thnay commented on the effectiveness of acupuncture and mentioned that reflexivity is a legitimate and useful practice of the Asian culture. He also indicated that his initial concern of having establishments congregated in one location was resolved and he was pleased with the favorable report from Commissioner Sacks. Mr. Thnay made a motion per staff recommendation.

Commissioner Lavelle seconded the motion. She asked for a friendly amendment that a provision be added at the end of Condition of Approval No. 8 (o) that the tenant is permitted to install surveillance cameras pursuant to the master lease with the Southland Mall owner. Commissioner Thnay accepted the amendment.

Chair Peixoto supported the motion indicating that the proposed application is a legitimate and needed service.

Commissioner Thnay moved, seconded by Commissioner Lavelle, and unanimously approved with Commissioner McKillop absent, to find the project Categorical Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 1 (c), Conversions of Small Structures; and approve the Use Permit application subject to the findings and conditions of approval with a provision added at the end of Condition of Approval No. 8 (o) that the tenant is permitted to install surveillance cameras pursuant to the master lease with the Southland Mall owner.

2. Site Plan Review No. PL-2007-0176 / Tentative Tract Map No. 7873 – BKBC Architects (Applicant) / Manohar S. Dhanju (Owner) – Request for a Subdivision to Construct 7 Residential Townhomes - The property is located at 475 Berry Avenue

Staff report submitted by Assistant Planner Koonze, dated November 15, 2007, was filed.

Associate Planner Koonze summarized the staff report and responded to questions from the Commission.

Commissioner Sacks commended staff for the inclusion of crime prevention through environmental design in the report. In response to Ms. Sacks' concern for lack of private yards for units one and four, Associate Planner Koonze indicated that the two units have balconies on the second floor.



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Commissioner Lavelle, following-up with the concept of crime prevention through environmental design, inquired if Hayward Area Recreation and Park District (HARD) is favorable to the concept. Associate Planner Koonze noted that HARD staff is supportive. In reference to conditions to the landscaping plan and concerns for water conservation, Mr. Koonze indicated that the purpose of the plan is to regulate the type of irrigation system that would be used in different landscape areas. He added that the landscaping would be reviewed by the City's Landscape Architect and, in agreement with HARD, would incorporate consistency for the project and park landscape. Ms. Lavelle further stated that after visiting the proposed site, she noticed that the tot lot and a section of the Eden Greenway are not properly kept, but rather overwatered. She recommended that all the conditions be followed properly and that the new owners maintain their properties and be mindful of the park.

In response to Commissioner Mendall's inquiry regarding gates along the fence around the two structures and the park, Associate Planner Koonze indicated that HARD was not amenable to having the gates and added that the landscape plans would be reviewed at the Subdivision Improvement Plan phase. Planning Manager Rizk indicated that the City's Landscape Architect will consider Bay Friendly Landscaping concepts. In reference to parking on the street, Mr. Koonze indicated that parking would be allowed along the frontage.

In reference to Commissioner Sacks' inquiry if the Fire Department required road access from Eden Greenway onto the private road, Associate Planner Koonze indicated that they did not require it.

Chair Peixoto noted his visit to the project site and expressed his concern for power lines and the magnetic radiation danger that they represent. Associate Planner Koonze indicated that the 2004 California Department of Health Services Study concluded that additional studies would be required before determining the degree of harm to human health that power lines represent.

Commissioner Loché inquired about the timeframe for construction and the potential impact to the tot lot. Associate Planner Koonze indicated that the tot lot will continue to operate during construction and the construction would be fenced off so it would not represent any impact to the park area.

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

Mr. Sanjiv Bhandari with BKBC Architects, indicated that he has been working with the City on several projects. Mr. Bhandari noted his desire to take full advantage of the park site and create an upscale residential unit for the proposed project. He added that the property owners plan to occupy two units, which benefits the property as far as proper maintenance.

Commissioner Loché requested that the construction company be certain that garbage, residues, and construction materials be removed on a daily basis in order to ensure proper maintenance of the park. Mr. Bhandari mentioned the project on C Street, indicating that the same sensitivity would be given as far as the handling and disposing of construction materials in order to diminish any impact

to the park site.

Commissioner Sacks complimented the applicant for bringing the proposed project to the area.

Commissioner Peixoto commended Mr. Bhandari for the project on C Street and inquired how he plans to put together a Homeowners Association (HOA). Mr. Bhandari indicated that he has not experienced difficulties in putting together a HOA for in-fill developments. Mr. Bhandari further commented about urban projects in Fremont as well as in Asia, which he is currently working on.

In response to Commissioner Mendall's inquiry regarding consideration for solar panels, Mr. Bhandari indicated that this would be addressed during the design development stage. Mr. Mendall recommended that solar panels be considered.

Chair Peixoto closed the public hearing at 8:22 p.m.

Commissioner Loché noted support for the project. Mr. Loché noted that his property is south-west of the proposed site and indicated disappointment for the lack of gates at the rear fences; however, he expressed optimism about the overall project.

Commissioner Sacks made a motion per staff recommendation.

Commissioner Loché seconded the motion.

Commissioner Mendall noted support for the development and complimented staff for the side-by-side garages and for the rear yard setback exception.

Commissioner Lavelle expressed support for the project and offered an amendment to the motion. Ms. Lavelle was concerned by the poor condition of the tot lot and mentioned that HARD could use funds to maintain the Eden Greenway and fix the play ground equipment. She added that since no group open space was proposed because the project abuts the Eden Greenway, she suggested that the developer pay for a completely new set of play ground equipment or give a financial contribution to HARD for the maintenance and cleaning of the tot lot play area.

Associate Planner Koonze indicated that the developer is responsible for paying park in-lieu-fees for the units. Planning Manager Rizk added that the developer is responsible for paying about \$11,500 per unit for five units. Mr. Rizk indicated that the money is allocated based on different zones. He added that the tot lot concerns could be relayed to HARD staff so that they can be addressed.

Commissioner Sacks sympathized with the concerns raised; however, she indicated that the developer would already be paying fees to HARD. She concurred with the Commission that HARD should pay attention to the need in the area, but disagreed that the developer pay more. She was not agreeable to supporting the amendment.

Commissioner Mendall indicated that since the developer is getting the benefit of having the group open space waived, then he concurred with Commissioner Lavelle that the developer contribute in addition to the park in-lieu-fee.



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Interim City Attorney Conneely clarified that park-in-lieu-fees are governed by state law and the City has its own Park In-Lieu-Fee Ordinance, which is the exclusive way of imposing a park fee on a subdivision and under the circumstances the City is preempted.

The Commission concurred to vote on the motion on the floor.

Commissioner Sacks moved, seconded by Commissioner Loché, and unanimously approved with Commissioner McKillop absent, to find the proposed project Categorical Exempt from the California Environmental Quality Act (CEQA), Section 15332 of the CEQA Guidelines Class 32: In-Fill Development; and approve the Site Plan Review and Tentative Tract Map applications, subject to the findings and conditions of approval.

### **ADDITIONAL MATTERS**

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

Planning Manager Rizk announced the Holiday Dinner on December 19<sup>th</sup> starting at 6:00 p.m.

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

Commissioner Lavelle thanked staff for comments regarding communication with HARD for the proper maintenance of the park. She indicated that she would not be in attendance at the December 6 meeting. She reported that larger cities voted against the distribution of bottled water for public bodies due to concern of environmental measures and recognizing quality of municipal water. She thanked the City for offering water from a pitcher.

Commissioner Thnay acknowledged Veteran's Day. He reported on an eye-sore at the intersection of Tennyson Avenue and Mission Boulevard, future extension of La Vista Quarry.

### **APPROVAL OF MINUTES**

The minutes of October 18, 2007, were approved.

### **ADJOURNMENT**

Chair Peixoto gave the opportunity to Commissioner Mendall to adjourn the meeting at 8:38 p.m., in honor of the American Veterans.

#### **APPROVED:**

Al Mendall, Secretary  
Planning Commissioner

#### **ATTEST:**

Miriam Lens  
Commission Secretary