



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, February 8, 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 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, Patenaude, Rizk, Lens

General Public Present: Approximately 15

**PUBLIC COMMENTS**

Public Comments:

Mr. Augusto Cano, Rex Road resident, inquired about the status of the Condo Conversion Ordinance. Planning Manager Rizk indicated that by Council's directive, staff is working on reviewing the item and it is scheduled to go to Council on February 20, 2007.

**PUBLIC HEARINGS**

Chair McKillop indicated that the item was continued from 1/25/07.

- 1. PL-2005-0594 – Mission Paradise – Mohammad Shaiq (Applicant) / Mission Paradise LLC (Owner) – Mixed Use Project with 21,017 Square Feet of Retail Area and 92 Residential Units - The Project is Located at 28000 Mission between Webster and Hancock Streets**

Staff report submitted by Principal Planner Patenaude, dated February 8, 2007, was filed.

Chair McKillop indicated that the item was continued from January 25, 2007 per the applicant's request.

Principal Planner Patenaude presented the report indicating that the Felson family, owners of the Pinecrest Apartment on the east side of the proposed project, asked to meet with staff on January 18 to review plans for the project, and at a follow-up meeting the applicant requested a continuation of the Planning Commission meeting from January 25 to February 8. He added that on February 1, there was discussion of the project and on February 6, staff was in receipt of a letter from Anthony

Varni, the attorney representing the Felsons. The letter recommended that the northerly tower be eliminated and that the remaining towers be limited to five stories in order to increase the view in the corridors and reduce the massiveness of the buildings, and that the architecture of the rear elevations be enhanced. He indicated that by eliminating the tower, the density of the project would be reduced to 28.4 units per acre, which is at the low end of the allowable range for the mixed-use district and that the project would meet the provisions of the design plan and the zoning ordinance. Mr. Patenaude summarized staff's recommendation, indicating an amendment to Condition of Approval #37, which would read, "Mission Boulevard shall be constructed per approved street improvement plans, file number E-1663, as amended by the Route 238 Corridor Improvement Project."

Commissioner Peixoto referring to public hearings on the South Hayward BART/Mission Boulevard Concept Design Plan, which he attended, conveyed that the 60-foot height limitation was discussed within the context of five stories. He referred to a June 8, 2006, work session meeting report where there was discussion about the five-story limitation and inquired about the difference in height limitation presented in the project.

Planning Manager Rizk indicated that preceding discussions and during work sessions, it was determined that there would be allowance in the height limits designs. In response to Commissioner Peixoto's question regarding the Station Area Residential Zoning District (SAR) and whether the same flexibility could be applied to 80-foot limitations and seven stories in the SAR, Planning Director Rizk indicated that each project would be looked at individually in terms of the appearance and the intent of the plan.

In response to Commissioner Sacks' inquiry for the maximum height of five-story buildings and 60-foot limitation reference, Planning Manager Rizk indicated that the foot limitation is identified and stated in the Zoning Ordinance. Upon Ms. Sacks' request, Principal Planner Patenaude clarified the 25-foot height elevation at the north end and the 10-foot setback from the property line.

In response to Commissioner Zermeño's inquiry for earthquake preparedness and construction for the project, Principal Planner Patenaude indicated that the construction would have to meet current standards and added that both the Building Division and Fire Department were involved in the planning for the project, and that the earthquake fault traces would affect the project. In reference to a study about entry and exit points and safety on Mission Boulevard, Mr. Patenaude indicated that the plan was reviewed by the Transportation Division of Public Works and was determined to be adequate. In reference to residential guest parking and retail commercial uses, Mr. Patenaude indicated that such spaces would be properly marked.

In response to Commissioner Lavelle's inquiry for a condition of approval related to Park In-Lieu Fee, Principal Planner Patenaude indicated that it is required for residential projects regardless of the required amount of open space provided. He added that credit for in-lieu-park fees is provided when a project is providing a significant amenity above the required open space. There was clarification about Condition of Approval #23 and the above-ground utilities. Ms. Lavelle referenced Condition of Approval #7 c), regarding signage approval, and inquired if billboards would be allowed. Mr. Patenaude indicated that billboards would be prohibited. Additionally, Ms. Lavelle inquired if the residential units would be apartments for lease or condominiums for sale. Mr. Patenaude responded that they would be condominiums for sale. Ms. Lavelle recommended



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including bicycle racks and inquired about the location of mail boxes. Mr. Patenaude indicated that mail boxes would be in the residential lobby and that bicycle racks were considered.

Commissioner Mendall inquired about the street level vegetation. Principal Planner Patenaude indicated that there were a number of landscaping conditions that require more vegetation than was depicted by the pictures. Mr. Mendall added that conditions also require that the pavement in front of the retail shops as well as garage entries be decorative. Additionally, he inquired about the next phase of the project. Mr. Patenaude indicated that the action of the Planning Commission on this project would be a final decision unless appealed or called up by a Council Member.

Commissioner Thnay asked for clarification about the amendment to Condition of Approval #37. Principal Planner Patenaude indicated that the plan is to move the curb back three feet from its current location in order to provide for a parking and travel lane so that during rush hours, the lane would be wide enough for travel and that during non-peak times, it would provide for street side parking. In reference to landscaping between Webster and Hancock streets, Mr. Patenaude indicated that the plan allows for landscaping in the area. In reference to the median improvement, Mr. Patenaude indicated that it would be done when the entire Mission Boulevard project is done. Mr. Thnay further inquired about Condition of Approval # 40, regarding access and suggested that key-operated gates should be moved in order to allow for quick entrance to the garage and avoid back-up onto Webster Street or overflow into Mission Boulevard. Mr. Patenaude indicated that the first parking spaces on the first level are set back from the entry to the garage in order to improve safety. Mr. Thnay favored a more embedded light in the wall fronting Mission Boulevard. Mr. Patenaude indicated that the applicant would be required to provide a lighting plan that would provide for security, especially on the ground level and along the Mission Boulevard frontage.

Chair McKillop expressed concern with the impact on the buildings behind the proposed project and inquired about the rear elevations. Principal Planner Patenaude indicated that the appearance of the proposed building from the apartments would be that of three or four-story buildings.

Commissioner Zermeño inquired about community meeting rooms for condominium complexes. Principal Planner Patenaude indicated that they have not been discussed but alternatives, such as retail spaces or nearby public facilities, had been mentioned. In response to Mr. Zermeño's inquiry for inclusionary housing as a condition for the project, Mr. Patenaude indicated that a plan has been provided. Additionally, Mr. Zermeño encouraged solar energy panels for energy conservation.

Commissioner Mendall expressed interest for potential solar or green energy on roofs of the proposed project.

In response to Commissioner Sacks' inquiry regarding plan sheet A3.3 and different building heights greater than 60 feet, Principal Planner Patenaude indicated that some portions of the building had an elevation relative to the lowest point on the site higher than 60 feet due to the existing slope, but that building heights be compliant with the zoning regulations, because they would be 60 feet as measured to ground elevation.

Chair McKillop opened the public hearing at 8:35 p.m.

Mr. Anthony Varni, attorney for the Felson family, referred to La Vista Senior and Stratford Village projects, indicating that more thought should be put into the effects of the massiveness of the back of the buildings and the close proximity to the Pinecrest residents. Mr. Varni added that this project was too dense because it was too massive for 1.7 acres. He disagreed that a six-floor building can be considered five floors from different angles. He added that massive buildings block the views of the first row of units that the Felsons own. He asked for more view corridors and for continuance in order to obtain a more detailed description.

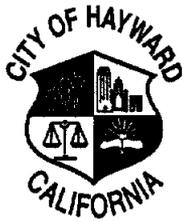
Commissioner Peixoto asked Mr. Varni what he would like to see done procedurally. Mr. Varni indicated to have the item come back to Planning Commission for an additional review at a more precise level, that the Commissioners require a 2 to 1 parking ratio, and greater space between the towers so that there would be view corridors for the residents in the Pinecrest units. Principal Planner Patenaude indicated that from a procedural perspective, the project only requires a site plan review application, because it meets the requirements of the Zoning Ordinance. He added that a site plan review application can be reviewed and approved at staff level, but because this was the first project in the South Hayward BART/Mission Boulevard Concept Design Plan area, the Planning Director opted for it to come before the Planning Commission.

Mr. Joseph Felson indicated that the proposal is not consistent with the neighborhood. He spoke against building a massive building and asked for a compromise where the towers or one floor be removed. He mentioned that the project was under-parked and expressed to be against borrowing commercial space to make up for the residential shortage. Additionally, he expressed concern for Condition of Approval #17 p) regarding landscape screening on the adjacent property, because it would require the HOA to enter the adjacent property to maintain the landscaping. He kindly requested for continuation in order to further discuss the project and achieve a compromise.

In response to Commissioner Peixoto's question regarding views, Mr. Felson mentioned that his tenants see an unobstructed panorama and that the proposed buildings would obstruct their views. He added that the parking ratio at Pinecrest was 1.7 to 1 and favored removing one of the towers and reconfiguring the remaining three to enhance the corridors.

Principal Planner Patenaude clarified that the intention of the Condition of Approval #17 p) regarding landscaping was to require the applicant to investigate enhancing the landscaping adjacent to the Felson's property, which would upgrade the landscaping of the adjacent property to provide a better buffer and soften impacts.

Mr. Michael Stanton, architect for the project, responded to the concerns raised by Mr. Varni regarding the Pinecrest neighbors indicating improvements that the applicant had agreed to, including enhancing the rear views with trees, modulating the massiveness of the building, improving the colors to be more sensitive, and improving the treatment of the east façade. In reference to the removal of one of the four blocks of residential units, he indicated that removing one floor was not going to affect the height limit. He added that they had modeled the shadow effects of the proposed property on the Pinecrest property throughout the year, and they had increased view access across the site. In reference to comments made by the Commissioners



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related to the retail signage and landscaping, he was agreeable to adding a condition for concept review of treatment of the Mission Boulevard ground level façade. In reference to energy conservation, he favored "ground loop heat exchangers", which would need the soil to be tested, as opposed to having solar collectors, because of lack of sufficient roof room.

Chair McKillop proposed a recess at 9:22 p.m., in order to observe the models. The Commission reconvened at 9:33 p.m.

Having no public further comments, Chair McKillop closed the public hearing at 9:34 p.m.

Commissioner Sacks pointed out for the audience that the models presented did not include the improvements mentioned by architect Stanton.

Commissioner Mendall added that there was discussion during the recess about landscaping along the front sidewalk and the need for separation, which could be achieved with trees or landscaping between the area on the sidewalk and Mission Boulevard.

Commissioner Lavelle echoed comments by Commissioner Mendall and expressed concern for the issue of traffic safety going in and out of Webster Street and the parking garage at the retail level. Ms. Lavelle added that after looking at the model, the enhanced views and the difference of height due to the slope became evident. Ms. Lavelle inquired for further explanation about the South Hayward BART/Mission Boulevard Concept Design Plan regarding maximum number of stories and maximum height, versus what is permitted in the Municipal Code.

Principal Planner Patenaude indicated that the Concept Design Plan calls for a height of five stories within the mixed-use district and the corresponding amended code for the Neighborhood Commercial Residential Zoning District (CN-R) for this area is limited to 60 feet, with no mention to the number of stories.

Commissioner Thnay expressed an overall satisfaction of the proposal, especially the 60 percent improvement to the corridor. However, he expressed that the rear, as well as Webster and Hancock Street elevations could be recessed back for additional improvement. In addition, Mr. Thnay asked staff to review the speed and safety concern on Mission Boulevard, because of the liability involved, and especially when Mission Boulevard becomes six-lane traffic. He was in agreement with the landscape treatment, and especially along Mission Boulevard. He added that the plan is a promising project that needs some revisions.

Commissioner Zermeño indicated that he would like the proposed improvements related to landscaping, set back from street level, study of parking, and egress and ingress on Mission Boulevard further analyzed. Mr. Zermeño asked City Attorney Conneely if the Commission could make a motion to deny the application without prejudice and have it come back with modifications.

Assistant City Attorney Conneely recommended that as an alternative, the Commission continue

the item and upon resolution of concerns raised, have staff bring the item back with findings.

Commissioner Zermefio suggested a Spanish Colonial theme for the architecture on this project.

Assistant City Attorney Conneely stated that if the Commission recommends denial without prejudice, findings for denial would need to be articulated.

Commissioner Zermefio made a motion to continue the item.

Commissioner Mendall seconded the motion.

Chair McKillop expressed agreement with the design of the plan; however, indicated the project to be too dense. Ms. McKillop was comfortable with the height compromises of 69-foot in some areas, but she expressed the back elevation to be too plain with need for more architecture detail. Ms. McKillop supported the motion.

Principal Planner Patenaude clarified that the landscaping treatment along the curb of Mission Boulevard might need to be considered and explored further after utility plans are developed and approved.

Commissioner Sacks supported the proposed project for being the first of the South Hayward BART/Mission Boulevard Concept Design Plan area, but was also concerned due to the responsibility involved. Ms. Sacks understood the density and parking of the project and sympathized with the residents. She asked that improvements be done to the rear of the building, and expressed mixed feelings about the ingress and egress on Mission Boulevard. She felt strongly about landscaping and asked that "hard-scape" be considered as an alternative to protect pedestrians from moving vehicles. Ms. Sacks supported the motion.

Commissioner Mendall concurred with some comments already made. He indicated that the plan was attractive, but did not approve a six-story building, indicating that during the discussion for the Concept Design Plan, there was no mention of six-story buildings. He supported widening the view corridor, improving the landscaping, and giving attention to "green-building" techniques. Mr. Mendall expressed concern with the driveway on Mission Boulevard and proposed to have the entrance for the lower level parking to be on Hancock Street, or explore other ways to improve the safety. He expressed agreement for consideration of selling some of the parking separately from the units and to auction the rest as a form of incentive to reduce automobile use. Lastly, he echoed comments about enhancing rear elevation.

Commissioner Lavelle supported the motion expressing that she would like to see the project come back with revisions to the satisfaction of the neighbors. Ms. Lavelle further commented regarding the attractive and appropriate design of the building; the 2-1 parking ratio, the encouragement to take BART as an alternative, and the proposal to have retail at the first level to accommodate the residents/patrons. She expressed mixed feelings about the five and six-story issue. She indicated if the height limit is in compliance with the Zoning Ordinance, if the view corridors are enhanced, if the number of units is within that allowed by the Municipal Code, then she would not be concerned that the underground level makes a six-story building. She favored artfully lighting the building not only for décor, but for safety. She encouraged bicycle racks, motorcycle parking, and



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motorized bicycles. She recommended more traffic study be done at various times of the day on Mission Boulevard in order to address the adequate entrance and exit concerns. She agreed with the landscape comments and asked that the applicant work cooperatively with the Felson family.

Commissioner Peixoto supported the project, indicating that this would set the tone for future developments in the corridor and the South Hayward BART/Mission Boulevard Concept Plan area.

Mr. Peixoto also indicated that it would be good practice to take precautions when considering a first project for the corridor. He commented that he attended all the meetings regarding the Design Plan and there was no discussion of six-story buildings and did not support approving a six-story building as a first project. He concurred that egress and ingress safety issues should be addressed. He mentioned that it would be inappropriate to proceed with the project without addressing concerns raised and thus supported the motion.

Commissioner Thnay expressed appreciation for the project, indicating that Mission Boulevard needed to be enhanced. He kindly asked for more consideration.

Discussion ensued regarding the height limitation.

Commissioner Mendall offered a friendly amendment to limit the stories to five stories.

Commissioner Sacks indicated that the six-story building meets the Zoning Ordinance height limit and therefore, did not support the amendment to the motion. She indicated she was not too concerned with the egress and ingress issue on Mission Boulevard.

Commissioner Zermeño expressed hesitation for the friendly amendment and indicated concurrence with having revisions made related to landscaping, entry and exit issues, stepping back on Mission Boulevard, and rear elevation enhancements.

Commissioner Mendall indicated that he would not support the project as a six-story building. He also indicated a strong feeling for the green component to this project.

Assistant City Attorney Conneely clarified the motion and the friendly amendment and the Commissioners proceeded to vote.

Commissioner Zermeno moved, seconded by Commissioner Mendall, and approved to continue the project for the applicant to work with staff to address various concerns, with a friendly amendment that the project be limited to a five-story building, with the following vote.

AYES: COMMISSIONERS Peixoto, Mendall, Zermeno  
CHAIR McKillop  
NOES: COMMISSIONERS Lavelle, Sacks, Thnay  
ABSENT: COMMISSIONER None  
ABSTAIN: COMMISSIONER None

Commissioner Thnay supported the integrity of the project; however, he wanted to give more flexibility regarding the height limitation and therefore, did not support the friendly amendment.

Commissioner Sacks concurred with Commissioner Thnay and indicated that she will maintain an open mind about the revisions to the project. She inquired about the time-line for the process of the project.

Planning Manager Rizk indicated that the architect could address the question, since it would be up to the applicant as to when the project design would be resubmitted.

In response to Commissioner Zermeño, Planning Manager Rizk indicated that staff would work with the applicant to improve the project as per discussion by the commissioners and the applicant would decide what revisions could be made.

## **ADDITIONAL MATTERS**

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

Planning Manager Rizk indicated a Joint City Council/Planning Commission Work Session scheduled for February 27, regarding the South of 92 Specific Plan Amendment Study.

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

Chair McKillop inquired about protocol of parliamentary procedures. Assistant City Attorney Conneely indicated staff could agendize a work session to address parliamentary procedures.

Commissioner Sacks announced the "Be Our Valentine" sponsored by the Literacy Program on February 9, at City Hall from 5:30-8:30 p.m.

Commissioner Mendall indicated that he signed a contract for solar panel installation at his home and learned that the contractor worked with the Cities of Pleasanton and Livermore, which had set up a package with solar installation companies for residents, so that they can get a reduced price for a quick approval. He suggested that staff contact Pleasanton and Livermore and inquire about possibilities of Hayward adopting a similar package for its residents.

## **APPROVAL OF MINUTES**

The minutes of October 5, 2006, and January 11, 2007, were approved.

## **ADJOURNMENT**

Chair McKillop adjourned the meeting at 10:35 p.m.

**APPROVED:**



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Mary Lavelle, Secretary  
Planning Commissioner

**ATTEST:**

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Miriam Lens  
Commission Secretary