



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, June 14, 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 Vice Chair Peixoto followed by the Pledge of Allegiance led by Commissioner Zermeño.

ROLL CALL

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

Staff Members Present: Camire, Conneely, Patenaude, Rizk, Lens

General Public Present: Approximately 10

Vice Chair Peixoto announced that item #3 was postponed to a future meeting not yet determined.

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARINGS

1. **Use Permit Application No. PL-2007-0019 – Xiao Yuan Lu (Applicant) / General Growth Properties (Owner) – Request to Operate Massage Establishment in a Retail Space in Southland Mall – The Property is Located at Southland Mall, Space LL43, Near the Food Court**

Staff report submitted by Associate Planner Camire, dated June 14, 2007, was filed.

Associate Planner Camire presented the staff report.

In response to Commissioner Zermeño's inquiry regarding the satellite location, Associate Planner Camire indicated that the proposed satellite location could be in the concourse adjacent to the proposed establishment and that it would have to be approved by the Planning Director.

Commissioner Sacks clarified that the approval of the application would include a condition of approval pertaining to a satellite location.

At the request of Commissioner Lavelle, Associate Planner Camire clarified Condition of Approval No. 10 pertaining to problems and actions as a result of the massage services, stating that the condition is a standard operating condition.

Vice Chair Peixoto opened the public hearing at 7:41 p.m.

Mr. Edward Bogue, spoke on behalf of the South Gate Area Homeowners Association and the South Gate Neighborhood Task Force expressing opposition for the satellite location because of its inappropriate use and its disadvantage to the tenant mix. In response to Commissioner Sack's inquiry regarding the objection, Mr. Bogue indicated that the satellite would not be appropriate because of the location. Staff clarified that the satellite location would be one massage chair subject to approval by the Hayward Police Department and the Planning Director.

Mr. John W. Houser, applicant, gave background of the type of business including that it would be beneficial for the economy of the City and would provide a service for the residents. He showed pictures of the equipment to be used at a satellite location in the proposed establishment. He indicated that his extensive experience as a consultant and in a massage related business would give him the advantage to properly oversee the operation of the establishment. He reinforced that the proposed business would follow regulations. In response to Commissioner Lavelle, Mr. Houser indicated that he was aware and in agreement with Condition of Approval No. 9.

Vice Chair Peixoto closed the public hearing at 7:56 p.m.

Commissioner Sacks made a motion to approve the application indicating optimism for the type of establishment including that the proper safeguards are in place with the conditions of approval.

Commissioner Lavelle seconded the motion commending staff for the conditions of approval. She suggested that the establishment be advertised to get more customers and recommended that members of the homeowners association take advantage of this type of service.

In response to Commissioner Zermeño's concern, there was clarification that the applicant is applying for one satellite massage chair location.

Vice Chair Peixoto spoke in favor of the motion indicating that it is a legitimate service and that it is needed to enhance the mall. He also indicated that the conditions of approval are detailed and not controversial.

Commissioner Sacks moved, seconded by Commissioner Lavelle, and approved with Chair McKillop and Commissioners Mendall and Thnay absent, to find the project Categorical Exempt from CEQA pursuant to Section 15301, Class (b), Class 1, Existing Facilities; and approve the Use Permit application subject to the findings and conditions of approval.

- 2. General Plan Amendment Application No. PL-2007-0113, Zone Change Application No. PL-2007-0114, Tentative Tract Map Application No. PL-2007-0112 TTM 7893, and Abandonment of Portions of the Traynor Street and Orchard Avenue Rights-of-Way – Citation Homes Central (Applicant) / Raymond Nelson (Owners) - Request to Amend the General Plan Land Use Designation from Mixed Industrial to Medium-Density Residential, to Change the Zone District from Industrial (I) District to Planned Development (PD) District, and to Abandon Public Streets and Subdivide Land Within the Subject 5.68-Acre Site in Order to**



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Develop 80 Homes – The Project Site is Located Generally at the Intersection of Orchard Avenue and Traynor Street, Westerly of Soto Road

Staff report submitted by Principal Planner Patenaude, dated June 14, 2007, was filed.

Principal Planner Patenaude presented the staff report indicating that prior to the meeting he provided amendments to five conditions to the Zone Change Application and amendments to two conditions in the Tentative Tract Map. The following were proposed.

Zone Change Application No. PL-2007-0114 PD

Add to Condition of Approval No. 8(l) (ii), “.. for a minimum distance of 30 inches unless, unless otherwise approved by the Planning Director.”

Change Condition of Approval No. 8(l)(iii) to, “Additional architectural relief shall be provided to the rear elevations to minimize the presence of the garage doors by insetting the doors at least one foot from the face of the exterior wall.”

Change Condition of Approval No. 8(q) to, “One 24” box street tree is required for every 20-40 lineal feet of frontage within the front yards along the paseos. Each unit must have a minimum of one tree within the front yard. Spacing of the trees is dependant on the species of trees. Smaller trees will require closer spacing. Combination of large and small trees that are mixture of evergreen, deciduous and flowering types will create visual interest. Avoid planting trees in a row. Make sure the location of trees will soften edges of the row of homes and linear pathways.”

Change Condition of Approval No. 8 (r) to, “A minimum of one 15-gallon buffer tree shall be planted for every 20 lineal feet along all property perimeters to provide green edges to the future residents internally and to provide a green break against neighboring developments externally. Evergreen tree planting must be added in conjunction with the proposed evergreen vine planting on the welded wire panel along the northern perimeter. The proposed bio-swale on the eastern perimeter must be wide enough to accommodate the swale design as well as the required screening tree and shrub planting.”

Add to Condition of Approval No. 18, “The applicant may secure private improvement credits, to which it may be entitled, against this fee per Section 10-16.32 of the City’s Municipal Code.”

Tentative Tract Map No. 7893 PL-2007-0112

Add to Condition of Approval No. 13, “Any design modification to this system shall be approved by the City Engineer.”

Add to Condition of Approval No. 36, “Any modification to this requirement shall be approved by the City Engineer.”

Principal Planner Patenaude indicated that the applicant was in concurrence with the revisions.

In response to Commissioner Zermeño’s inquiry for more landscaping on the south side of the parking complex, Principal Planner Patenaude clarified that the City’s Parking Standards require that those trees occur between every six parking spaces, so the need of more tree wells would be

required and also along the entry drive where there is a row of parallel parking.

Commissioner Sacks indicated optimism about the possible closure of the school at the intersection of Soto Road and Orchard Avenue, which would mean residential traffic mitigation for the area. Principal Planner indicated prospects by the Hayward Unified School District and Hayward Area Recreation District to agree to operate recreational facilities at the school site.

In response to Commissioner Zermeño's concern for access to Jackson Street from the project, Principal Planner Patenaude indicated that staff worked with the applicant to provide a pedestrian gate along Traynor Street so that residents would not have to walk around Orchard Avenue to get to Jackson Street.

Vice Chair Peixoto inquired about how the project qualifies for density bonus. Principal Planner Patenaude indicated that the developer is providing units under the Inclusionary Housing Ordinance. Regarding the Initial Study Checklist on Environmental Issues, XI Noise and the impacts, Mr. Patenaude indicated that the decibel (dBA) noise levels represent those produced by the train and vehicular traffic along both sides of the project. He further indicated that the City's Ordinance has noise levels for outdoor spaces that cannot exceed 65 dBA and 45 dBA for interior spaces, which the project is expected to meet by accomplished construction methods and also during the building stage. In reference to the soil contamination, Mr. Patenaude indicated that there are proposed mitigation measures, which include removal of the soil.

Vice Chair Peixoto opened the public hearing at 8:39 p.m.

Mr. Charles McKeag, applicant and Vice President for Land Acquisition and Development for Citation Homes, expressed appreciation for the opportunity to work on the project. In reference to the list of proposed amendments, he spoke about Condition of Approval No. 8(l) (iii) indicating concern for the restriction, "at least one foot from the face of the exterior wall," and asked that it be struck out and that some flexibility be allowed to achieve the aesthetic goal. In reference to the second sentence of Condition of Approval No. 8(r), "evergreen tree planting must be added in conjunction with the proposed evergreen vine planting on the welded wire panel along the northern perimeter," he proposed that it be modified such as, "as appropriate or as feasible given available space and other potential conflicts with underground utilities, the 15-gallon trees would be planted all over."

Principal Planner Patenaude indicated that the same condition was in place in the KB Homes project. In reference to the evergreen vine and screening, he mentioned that they were the appropriate solution. He indicated that staff would be willing to amend Condition of Approval No. 8 (r) to further reflect the wording offered by the applicant. In reference to the amendment to Condition of Approval No. 8 (l) (iii), Mr. McKeag clarified that the intent would be to comply with the one foot request, but asked for more flexibility where the applicant would be able to work with staff to achieve the 12 inches in a feasible manner.

In response to Commissioner Zermeño's suggestion to have a double frame in front of the door to satisfy the requirement, Mr. McKeag indicated that the offer might be a solution, but it would need to be studied prior to reaching a compromise. Mr. McKeag presented a virtual tour.



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Vice Chair Peixoto indicated that he met with the applicant and commended his attention placed to the fenced off toddler area and the area for older children.

Mr. Anthony Marques, storage owner on Traynor Street, indicated support for the proposed project and expressed appreciation for the attention given to his property.

Vice Chair Peixoto closed the public hearing at 9:02 p.m.

Commissioner Zermeño moved the item indicating support for the proposal and commending the proposed mitigation measures.

Commissioner Lavelle seconded the motion indicating support for a proposal that represents an improvement to the area, and the inclusionary housing. Initially she had traffic concerns, but with the expected John Muir School closure and the accessibility to Highway 92 through Soto Road and then Harder Road, her concerns were mitigated. Also, she spoke favorably about the improvement to the entry segment on Orchard Avenue abutting the railroad tracks. In regards to the issue of noise, she mentioned that mitigation is in place.

Commissioner Sacks mentioned support for the project. She expressed concern regarding the amendment to Condition of Approval No. 8 (l) (iii). Principal Planner Patenaude indicated that during the Precise Plan process, solutions can be revised to address the intent of the conditions.

Vice Chair Peixoto concurred with the solution for the amended conditions of approval and supported the motion indicating agreement for the tot lot and the larger area for older children. He indicated that the project fills a niche that the community needs and provides a good improvement.

Commissioner Lavelle suggested that the notices pertaining to construction noise regarding Condition of Approval No. 46 (f) be available in both English and Spanish.

Commissioner Zermeno moved, seconded by Commissioner Lavelle, and approved with Chair McKillop and Commissioners Mendall and Thnay absent, to recommend that the City Council adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program and approve the General Plan Amendment, Zone Change, Preliminary Development Plan and Tentative Map, and find that the rights-of-way abandonment is consistent with the General Plan, subject to the findings and conditions of approval.

3. South of Route 92 Specific Plan Amendment Study

This item was postponed to a future meeting at request of Legacy Partners, Inc.

4. Oral Report on Planning and Zoning Matters

Planning Manager Rizk reported on a Council meeting of 06/19/07 regarding applications for Priority Development Area designations with regional areas to improve funding opportunities. He added that the June 28, 2007, meeting might be Commissioner Zermeño's last meeting and announced that a reception is scheduled for that day at one of the local venues.

5. Commissioners' Announcements, Referrals

Commissioner Sacks announced her attendance to the opening of the Aquatic Center at Chabot College and indicated that the inaugural ceremony was a first lap by Scott Shoemaker in memory of his father Ross Shoemaker. She encouraged the audience to take advantage of the pool. Ms. Sacks also announced that the Garden Walk project at Harder Street and Huntwood Avenue will have an open house to display the models. She also inquired about a gas station at Pacheco Street and Stratford Avenue. Principal Planner Patenaude indicated that it was done administratively and that residents were properly notified.

Commissioner Zermeño reported on the Hola Restaurant in Carmel and indicated that they are looking for a fourth location. With the possibility that this might have been his last meeting, he expressed gratitude for the eight years he has served as a volunteer and commissioner. He commended the work done by the Planning staff and thanked everyone for the opportunity to have worked for the City.

Commissioner Lavelle expressed that she will miss Commissioner Zermeño's recommendation for restaurants, his humor, and his announcements from Chabot College.

Vice Chair Peixoto thanked Commissioner Zermeño for his advice and expressed that he is a true public servant and that the City has been privileged to have had him as a Commissioner.

APPROVAL OF MINUTES

The minutes of May 17, 2007 and May 24, 2007 were approved.

ADJOURNMENT

Vice Chair Peixoto adjourned the meeting at 9:23 p.m.

APPROVED:

Mary Lavelle, Secretary
Planning Commissioner

ATTEST:

Miriam Lens
Commission Secretary