



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, June 12, 2008, 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 Peixoto followed by the Pledge of Allegiance.

ROLL CALL

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

Commissioner Thnay arrived to the Council Chambers at approximately 7:33 p.m.

Staff Members Present: Carmichael-Hart, Conneely, Koonze, Patenaude, Rizk, Lens

General Public Present: Approximately eight.

PUBLIC COMMENTS

There were none.

PUBLIC HEARING

- 1. Zone Change Application No. PL-2007-0594 – Ram Paharia and Amos Picker (Applicant/Owner) – Request to Rezone a Parcel from the Commercial Office (CO) District to the Neighborhood Commercial (CN) District – The Property is Located at 1944 B Street at the Northwest Corner of Pearl Avenue and B Street**

Associate Planner Koonze gave a synopsis of the report.

Commissioner Loché inquired if exceptions could be made to the current zoning as far as other business types. Associate Planner Koonze stated that there are no exceptions to the list of businesses allowed per the Zoning Ordinance.

Commissioner McKillop noted the staff report's comparison of 10 morning peak hour trips for the CO District compared to 110 trips for a CN District, and she inquired for a range of trips. Associate Planner Koonze indicated that the range would depend on the retail use in the area, e.g., coffee shop.

Commissioner Sacks referred to page three of a letter submitted by Amos Picker and Ram Paharia, which included deed restrictions against uses that are not allowed by the City as an alternative for rezoning. Assistant City Attorney Conneely indicated that the proposed agreement would need to be reviewed in order to deem consideration.

Chair Peixoto opened the public hearing at 7:50 p.m.

Mr. Amos Picker, co-applicant, referred to a packet of information, which he provided at the meeting. Mr. Picker noted that the permitted services for the site do not allow for sufficient parking space and that the current zoning is not compatible with the demographics of the area. He added that he has had prospective applicants for tenancy, but they have not come to fruition because they are not allowed in the CO District. He indicated that he cannot afford to pay for utility bills because his building is not generating revenue. He urged the Commissioners to read the package of information provided and to visit the site.

In response to Commissioner Mendall's inquiry about Mr. Picker's building, Mr. Picker indicated that he made a bad business decision and that other CO buildings in the area are not occupied.

Commissioner McKillop commended the applicant for his building and the work done in such a blighted area.

Commissioner Lavelle inquired about the efforts made by the applicant and his partner in attracting CO businesses, e.g., nail salon and photography studio. Mr. Picker indicated that two and a half years were invested in making attempts to secure tenants through the internet and agents.

Commissioner Thnay asked the applicant about prospective tenants interested on a CN District. Mr. Picket noted a cell phone business and a meat market. In reference to the parking spaces provided in the packet submitted by Mr. Picker, Mr. Thnay expressed that regardless of CN or CO districts, the parking situation remained a concern. Mr. Koonze indicated that the parking requirement for the current use was 22 parking spaces, and should the site be changed to retail use, the applicant's site would be five spaces short and an exception to the Off-Street Parking Regulations would be required.

Ms. Neeru Paharia, applicant's daughter and doctoral student in Business Administration, noted that the traffic analysis presented an unfair comparison of CO averages compared to extreme CN cases when referring to peak hour trips. Ms. Paharia added that the report failed to mention the benefits that the rezoning could bring to the community.

Mr. Ram K. Paharia, co-applicant and Fremont resident, noted that the building is one of the best in the neighborhood and added that he was unsuccessful in securing the right tenants. He indicated that his efforts to bring Starbucks, Jamba Juice and Peet's Coffee have been unsuccessful. He expressed his interest for keeping the building occupied.

In regards to Commissioner Mendall's inquiry concerning professional efforts to market the site, Mr. Paharia indicated that he hired a marketing agent that did not want to come to the area. Mr. Picker further added that between his efforts as a real estate broker and that of a real estate leasing agent, securing tenants has been difficult.

Mr. Don Sheppard, Wildwood Street resident, spoke in support of the staff's recommendation to deny the application. Mr. Sheppard spoke in favor of the possibility of adding street lighting to the area.



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Chair Peixoto closed the public hearing at 8:20 p.m.

In response to Commissioner Mendall's inquiry for other CO uses in the area, Associate Planner Koonze noted that between Fourth Street and the B, Center, and Kelly Streets intersection, there are no vacant offices. Mr. Mendall noted that the building in question is a beautiful addition to the neighborhood, but he felt that changing the zoning could be premature. He added that traffic was already of significant impact to the corridor. He favored more effort exercised in marketing the site and a more concrete agreement as far as zone restrictions. He indicated that up-zoning the area was premature and thus more discussion was necessary in order to make a decision. Commissioner Mendall made a motion per the staff recommendation.

Commissioner Lavelle seconded the motion corroborating with Commissioner Mendall's comments. She noted satisfaction for the list of types of businesses for the CO zoning.

Commissioner McKillop was intrigued by the deed restriction introduced by the applicants and therefore did not support the motion. She favored continuing the discussion and directing staff to review the deed restriction element before making a decision.

Commissioner Loché concurred with Commissioner McKillop about the deed restriction. Mr. Loché indicated that he was concerned about the extreme cases for trips during peak hours for the corridor when considering rezoning. Therefore, he offered a substitute motion to schedule the discussion until more information was gathered regarding a voluntary deed restriction.

Assistant City Attorney Conneely's indicated that since California Environmental Quality Act (CEQA) review had not been conducted, she recommended a motion to deny the application or otherwise to direct staff to perform a CEQA review with findings for approval and to explore the possibility for the voluntary deed restriction.

Commissioner Loché made a motion to direct staff to conduct CEQA review, prepare findings for approval, and explore the possibility for the voluntary deed restriction.

The motion was seconded by Commissioner Sacks.

Commissioner Mendall indicated that he would also like to see a more serious effort to market the site. He added that without such effort, he would not change his vote to deny the application. Assistant City Attorney Conneely indicated that the comment to more aggressively market the site was received by the applicants, but since no action was taken on the zone application, it could not be added to the motion.

Commissioner Lavelle asked her colleagues for the purpose of the deed restriction. Commissioner Loché referred to the traffic impact generated by some of the CN businesses, adding that there might be businesses with minimum impact and benefits to the area. Commissioner Sacks added that

she thought of no alcohol sales and traffic as items of consideration. She also considered adding serious input from the Hayward Police Department.

Commissioner Mendall suggested that it would be reasonable to restrict food uses and any businesses that have a fast turnaround, e.g., video stores, under the retail commercial use in order to agree on the rezoning.

Commissioner Loché moved, seconded by Commissioner Sacks, and approved with Commissioner Mendall voting against, to direct staff to conduct California Environmental Quality Act (CEQA) review with findings for approval and to explore the possibility for a voluntary deed restriction.

- 2. Site Plan Review Application No. PL-2008-0149 – Mission Paradise - Mohammad Shaiq (Applicant) / Mission Paradise LLC (Owner) – Mixed-Use Project with 13,804 Square Feet of Ground-Floor Retail Area and 82 Residential Units – The Property is Located at 28000 Mission Boulevard between Webster and Hancock Streets on a 1.9-Acre Site in a Neighborhood Commercial –Residential (CN-R/SD-6) District**

Principal Planner Patenaude presented a synopsis of the report.

In response to Commissioner Mendall’s inquiry for the materials for the ground cover for the podium level, surrounding the open space area, Principal Planner Patenaude indicated that prior to submission of the building permit package, the landscape plan would need to be submitted and indicated that the intent for the space is to have a combination of raised landscaped areas and activity areas. Mr. Patenaude added that the proposal is intended to be an ownership property and it would need to be in compliance with the City’s Inclusionary Housing Ordinance. In reference to Mr. Mendall’s question for a condition related to a homeowners association, Principal Planner Patenaude responded that Condition of Approval No. 10 referred to a homeowners/commercial association.

Chair Peixoto opened the public hearing at 8:56 p.m.

Mr. Michael Stanton, architect for the applicant, brought a model for the previous project that was approved on May 2007, to reiterate the improvements made to the project, including the vehicular access from both Webster and Hancock Streets. Mr. Stanton noted that the current design brings the residential elements completely down to the ground along Mission Boulevard and the podium is only expressed at the corner of Hancock and Webster Streets. He added that in response to staff’s preference for residential blocks expressed in different fashion, the project has symmetry in the center section around the entrance, the color scheme changed slightly, and balcony configuration was put to the side.

Commissioner Mendall inquired if the proposed project included passive geothermal cooling and heating. Mr. Stanton indicated that the energy proposal for the buildings was intended to be as green as possible. In reference to the ground loop heating exchanger, Mr. Stanton responded that it will be used if proven economically feasible. As an alternative, a variable flow system for minimizing the amount of energy was suggested. It was noted that the intent was to be as energy efficient as possible. In reference to the different appearance of the middle two buildings, Mr. Mendall indicated a preference for the appearance of the original design. Mr. Stanton noted that the



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design elements were kept at the corners of Hancock and Webster Streets, which improved by extending the façade. He added that the center section would be rich in appearance with contrasted colors and treatment to the windows. Mr. Stanton was amenable to working on specific solutions for improving the buildings.

Commissioner Loché inquired about the height from the street being alleviated by 5-15 feet setbacks. Principal Planner Patenaude indicated that the buildings are not going to be a flat plane, but will have variations throughout. Mr. Stanton added that the building would move back as it moved up.

Commissioner Sacks commended Mr. Stanton for the persistence with the project and for the positive changes to the project.

In response to Commissioner Lavelle's inquiry for the current housing market and its bearing on the project, should it be approved, applicant Mr. Mohammed Shaiq agreed that the current market was downward, but he was optimistic that by the target time to place the buildings on the market, the market would improve.

Chair Peixoto closed the public hearing at 9:16 p.m.

Commissioner Mendall commended the applicant for the improved design of the proposal: a continuous and community inviting retail frontage, the moving of the driveway to the sides was an improvement for traffic reasons, the landscape changes with wider sidewalks, more vegetation, and softer appearance; the possibility for sidewalk sitting on the corners for patrons; the one-story that is underground does not violate the spirit of the zoning; the support from the adjacent property owner; and an overall beautiful building. With these improvements, Mr. Mendall made a motion per the staff recommendation.

Commissioner Sacks gladly seconded the motion. She appreciated the variation on color scheme and supported the overall improvements.

Commissioner McKillop indicated support for the motion commending the applicant and owner for their persistence with the project.

Chair Peixoto supported having the overall height of the buildings reduced in more consistency with the public comments at the South Hayward BART/Mission Boulevard Concept Plan meetings. He was content that concerns expressed by Mr. Felson regarding the views were worked out. He supported the motion.

Commissioner Mendall moved, seconded by Commissioner Sacks, and unanimously approved, to find that the project is Categorical Exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15332, *In-Fill Development Projects*; and approve the site plan review application, subject to the findings and conditions.

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Planning Manager Rizk reminded the attendees about the Joint City Council/Planning Commission Work Session scheduled for June 17, 2008, regarding the 238 Bypass Land Use Study.

4. Commissioners' Announcements, Referrals

Chair Peixoto mentioned and commended the Cryer Estates project.

Commissioner Thnay reported graffiti on an industrial building between Industrial Parkway and Huntwood Avenue. Planning Manager Rizk noted that this has been an ongoing problem that is being addressed.

Commissioner Mendall complimented staff for the Mission Paradise project.

APPROVAL OF MINUTES

The Minutes of May 22, 2008, were approved.

ADJOURNMENT

Chair Peixoto adjourned the meeting at 9:25 p.m.

APPROVED:

Al Mendall, Secretary
Planning Commissioner

ATTEST:

Miriam Lens
Commission Secretary