MINUTES OF THE REGULAR MEETING OF THE CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, January 24, 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:	None

Staff Members Present: Conneely, Emura, Patenaude, Lens

General Public Present: Approximately 10

PUBLIC COMMENTS

Council Member Mendall announced a solar panel seminar sponsored by www.solarcity.org.

PUBLIC HEARING

1. **Conditional Use Permit Application No. PL-2006-0566 – Mr. Chris Kelly (Applicant) / Catholic Bishop of Oakland (Owner) -** Request to Modify Use Permit No. 81-94 to Allow a Second Crematory and to Permit it to Perform Up to 900 Cremations a Year - The Property is Located at 1051 Harder Road, at Mission Boulevard (continued from May 10, 2007).

   Staff report submitted by Associate Planner Emura, dated January 24, 2008, was filed.

Associate Planner Emura clarified that the terms "health risk assessment" and "toxic risk assessment," used in the report are interchangeable. Mr. Emura added that Condition of Approval No. 6 will be deleted as it was a repeat of Condition of Approval No. 2. He summarized the report and responded to questions from the Commission.

Chair Peixoto opened the public hearing at 8:02 p.m.

Mr. Chris Kelly, project applicant, noted that since the Bay Area Air Quality Management District (BAAQMD) was not available to address chemical concerns, his firm hired Mr. Robert Vranka from Environmental Science Associates. Mr. Kelly expressed that the proposed site is the ideal place to expand crematory services and to meet the existing demand. Lastly, he added that in order to keep in compliance with the BAAQMD, the business maintains a detailed log.

Mr. Raggett, with American Crematory Manufacturer, responded to Commissioner Mendall's inquiry noting that the second crematory, a newer model, is more efficient from a pollution stand because it burns less gas at higher temperature, has longer retention time and generates less particulates from the stack. From an operating cost perspective, Mr. Raggett stated that the newer unit is also more efficient. He added that the units have to be source tested by the BAAQMD and the Department of Consumer Affairs does unannounced visits to inspect the crematory log and cross reference it against the death registry. In response to Commissioner McKillop, Mr. Raggett noted that it is more effective to use natural gas as a source because it is less costly. Mr. Raggett clarified Chair Peixoto's inquiry noting that the chronic hazard and acute hazard indexes are lower for the newer unit.

Mr. Robert Vranka, Ph.D, Senior Technical Associate at Environmental Science Associates Consulting Firm noted that he was hired to review the health risk impacts from the proposed application. In response to Chair Peixoto, Mr. Vranka spoke about chronic and acute hazard indexes in reference to carcinogenic and non-carcinogenic health risk assessments. In reference to an equivalent of the smoke from the stacks, Mr. Vranka stated that particulates from fast food restaurants would be five to ten times higher than the proposal. In reference to Commissioner Sacks' inquiry for potential concerns should the proposed application begin operations, he stated that as long as the units are maintained under optimal operating conditions along with the best control technology, he did not foresee any problems.

Mr. Robert Seelig, Director of Funeral and Cemetery Services for the Diocese, indicated that the proposed application is ideal for the expansion and demand of cremations.

Commissioner Mendall expressed support for allowing more cremations to be done on the newer unit from cost and pollutant perspectives. Mr. Seelig was amenable to amending the number of allowable cremations performed on the older unit.

In response to Chair Peixoto, Mr. Seelig indicated that in addition to serving the entire Diocese, they are in the process of applying for a permit with Contra Costa County.

Ms. Janet Kassouf, Oakes Drive resident, referenced a press release from the Cemetery and Funeral Bureau Website, which stated that religious and fraternal cemeteries are not regulated by the state. She indicated that Mr. Varka was not a representative from BAAQMD and that Holy Angels Mortuary obtained a permit without approval by the District. She asked the Commission to consider whether the application would be beneficial for the City, its residents and the environment. She expressed concern for potential emissions of toxics. Lastly, she submitted an article, "Information for people handling deceased persons containing radiopharmaceuticals," from the Department of Human Services, Radiation Safety Program.

Chair Peixoto closed the public hearing at 8:40 p.m.

Commissioner Mendall favored crafting an agreement so that as many cremations as possible would be performed on the newer model and to perhaps relinquish the older unit.

Commissioner Loché indicated concern for the infrequent visits by the BAAQMD and the reliance for inspections based upon complaints from residents. From a planning perspective, Mr. Loché

supported the application. He also indicated that after conversing with a representative from the Department of Consumer Affairs, he learned that visits to the site were performed at least once a year and the site did not have any incident reports. Should the application be approved, he favored dropping the use of the first unit in proportion to the newer unit.

Assistant City Attorney Conneely indicated that due to lack of a condition of approval that would revoke or diminish the operation of the existing crematory, the Commission would have to rely on the applicant's expressed willingness to use all reasonable and practicable efforts to utilize the second crematory.

Commissioner McKillop concurred with Assistant City Attorney Conneely that the Commission could not alter the conditions of approval in order to modify the number of cremations to be performed on the crematory units.

Commissioner McKillop made a motion per staff recommendation.

Commissioner Sacks seconded the motion and reported that after talking to the inspector from the Department of Consumer Affairs, she was more favorable of the application. Ms. Sack indicated that the proposed application is beneficial to the citizens of Hayward because it represents a convenient one-stop service with newer technology. She stated that the newer unit would be more efficient and would diminish the use of automobiles to transport bodies.

Commissioner Thnay supported the motion and indicated that the proposed location was ideal for the type of business and served to meet the current need. Mr. Thnay added that the business could be trusted based on its past history. He offered a friendly amendment that a test be performed every two years to ensure that the instruments are operable.

Assistant City Attorney Conneely suggested that a condition of approval could be added so that the applicant would be required to perform bi-annual tests of the crematory performed by the manufacturer.

Commissioner McKillop and Commissioner Sacks were amenable to the friendly amendment.

Commissioner Lavelle concurred with the comments made and she added that the application constituted proper land use. She was satisfied by the BAAQMD's report and indicated that there was a need for cremations in Hayward. She confided on the applicant's ability to monitor the business and she was content with the amenability of the applicant to reduce the number of cremations. She did not agree with the friendly amendments.

Commissioner Loché supported the motion.

Commissioner Mendall offered a friendly amendment to modify the number of allowable cremations for the newer unit from 900 to up to 1,200 cremations per year.

After discussion ensued, Assistant City Attorney Conneely recommended to the Commission a motion without prejudice in order to allow the applicant to modify the number of cremations at the two crematories within a year.

Commissioner Mendall offered a friendly amendment per the attorney's direction.

Commissioners McKillop and Sacks were amenable to the amendment.

Chair Peixoto noted that the additional information provided was useful in contributing with an informed decision. Mr. Peixoto indicated that the proposed location was compatible with the land use and thus supported the motion.

Commissioner McKillop moved, seconded by Commissioner Sacks, and unanimously carried, to approve the Mitigated Negative Declaration, Initial Study and Mitigation Monitoring Plan; and approve the Conditional Use Permit Application without prejudice for the applicant to modify the number of cremations at the two crematories within a year, subject to the findings and conditions of approval with a friendly amendment that the applicant be required to perform bi-annual tests on the crematories performed by the manufacturer.

ADDITIONAL MATTERS

2. Oral Report on Planning and Zoning Matters

Principal Planner Patenaude announced three community meetings in February related to the Route 238 Bypass Land Use Study.

3. Commissioners' Announcements, Referrals

Commissioner Sacks reported that she was in receipt of a letter from concerned neighbors regarding a property on Portsmouth Avenue. She passed the letter onto staff. She also received an inquiry regarding the types of business at the new building on B and Pearl Streets. Principal Planner Patenaude stated that it is currently zoned for commercial offices and that the item is forthcoming before the Commission. Ms. Sacks also reported on graffiti on vacant properties on Hesperian Boulevard near Chabot College. Principal Planner Patenaude noted that the concerns would be referred to Community Preservation.

Commissioner Lavelle invited the attendees to attend the 10-Year Anniversary of City Hall on January 30, 2008. She also reminded them about Election Day on February 5, 2008.

Commissioner Mendall reported that the retaining wall of a gas station on Industrial Boulevard and Stratford Street is tagged.

Commissioner Thnay announced a Crab Feed Fundraising for CYO at St. Clements School on February 2, 2007.

Commissioner McKillop reiterated the complaint regarding the property on Portsmouth Avenue. Principal Planner Patenaude indicated that staff is already checking the property for licensing compliance. Ms. McKillop asked that staff present a follow-up on this item.

APPROVAL OF MINUTES

The minutes of January 10, 2008, were approved.

ADJOURNMENT

Chair Peixoto adjourned the meeting at 9:18 p.m.

APPROVED:

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Al Mendall, Secretary
Planning Commissioner

ATTEST:

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Miriam Lens
Commission Secretary