



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, January 10, 2008 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: Sacks, Lavelle, Mendall, Thnay, Loché
CHAIRPERSON: Peixoto
Absent: COMMISSIONER: McKillop

Commissioner McKillop came in at approximately 7:35 p.m.

Staff Members Present: Camire, Conneely, Rizk, Lens

General Public Present: Approximately 12

PUBLIC COMMENTS

Commissioner Mendall commented on discounts given to groups that purchase solar panels through Solar System Co.

Commissioner Thnay stated that he reviewed the DVD tape of the December 13, 2007 meeting.

PUBLIC HEARING

- 1. Zone Change Application No. PL-2005-0536 and Use Permit Application No. PL-2007-0558 – Russ Pitto for Simeon Commercial Properties (Applicant) / SimVest Real Estate I, LLC (Owner) – A Request to Modify a Planned Development District to Allow a Neighborhood-Serving Retail Center Including a Drive-Thru Coffee Shop and a Convenience Store Selling Beer and Wine for Off-Sale Consumption on a 1.5-Acre Parcel at Mt. Eden Business Park - The Project is Located at 26251 Industrial Boulevard Adjacent to and North of Highway 92 Located at the Southeast Corner of Mt. Eden Business Park (continued from December 13, 2007)**

Staff report submitted by Associate Planner Camire, dated January 10, 2008, was filed.

Associate Planner Camire summarized the report indicating that the item was continued from December 13, 2007 and clarified questions from the Commission.

Chair Peixoto requested that Detective Hutchinson be available to answer questions. In response to Chair Peixoto regarding Police concerns expressed at the previous meeting, Detective Hutchinson indicated that increase in service calls, loitering and potential for further crime are still Police concerns. He added that

concerns. He added that the site is not a typical travel road that is patrolled as frequently as others, which would take a longer response to a call for service.

In response to Commissioner McKillop's inquiry regarding the concern for loitering, Detective Hutchinson indicated that loitering could be generated by people "hanging out" in front of the proposed 7-Eleven. It was clarified that loitering could also be generated in front of any type of food business where people hang out.

In response to Commissioner Thnay, Detective Hutchinson indicated that establishments that sell alcohol tend to attract transients, which is the current concern. He added that proper security service could diminish the concerns raised.

Commissioner Loché inquired if the reduction of hours of operation at the proposed 7-Eleven would alleviate the concerns. Detective Hutchison indicated that it would alleviate potential calls of service.

In response to Commissioner Mendall, Detective Hutchison indicated that, from his experience, off-sale establishments that sells alcohol would generate more transients.

Chair Peixoto opened the public hearing at 7:55 p.m.

Ms. Susan Cronk, project applicant, indicated that the proposed project has received support from the companies at the Mt. Eden Business Park, Heald Business College and the Life Chiropractor College. Ms. Cronk added that the conditions of approval would regulate the sale of alcohol. She also noted that the full time security guard would patrol the Mt. Eden Business Park, the hotel and the retail center from 6:00 p.m. to 6:00 a.m. Finally, she indicated that the project would add vitality to a vacant lot.

Mr. Jeff Hetherington, 7-Eleven Convenience Stores representative, noted that the conditions set forth would satisfy the concerns expressed. Mr. Hetherington indicated that lighting and the security guard are components to deterring the concerns. He added that the State has a Business and Profession Code regulating ABC licenses to ensure a safe environment. He indicated that he has never had a 7-Eleven Store that has failed to meet the standards of the Business and Profession Code.

In response to Commissioner Mendall's inquiry regarding 7-Eleven stores that do not sell alcohol, Mr. Hetherington indicated four viable stores in San Francisco due to a census tract concentration issue.

Commissioner Sacks noted that she has favorably changed her views about 7-Eleven stores.

Mr. Alfredo Coria, Community Prevention of Alcohol Related Problems (COMMPRE) representative, noted objection to the proposed 7-Eleven Convenience Store with beer and wine sales. Mr. Coria noted that drug dealing, homelessness, loitering, panhandling and theft are occurring in the area and indicated that a license to sell alcohol and tobacco would add to the already existing nuisance in the area and to police calls. He added that according to Fairfield Inn Hotel management, the security guard that patrols the Mt. Eden Business Park is not effective. In addition, he stated that the Fairfield Inn Hotel and proposed



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addition, he stated that the Fairfield Inn Hotel and proposed Starbucks would offer the same products offered by the 7-Eleven Store with the exception of alcohol and tobacco. He expressed opposition to the proposed 7-Eleven Store.

Commissioner McKillop disagreed with Mr. Coria's remarks and indicated that 7-Eleven Stores have a broader range of products besides snacks and foods.

In response to Chair Peixoto's inquiry about the ineffectiveness of the security guard, Mr. Coria indicated that according to the Fairfield Inn Hotel manager, the security guard was an ineffective deterrent to drug problems, loitering and panhandling.

Mr. Hassan Fallah, Manager of Fairfield Inn Hotel, opposed the 7-Eleven Store indicating that the hotel clientele does not look for convenience stores with the exception of weekend visitors. He reported circumstances with panhandlers and drug dealers and added that the Police Department does not have enough staff to patrol the area.

In response to Commissioner Mendall's suggestion about a 7-Eleven Store without a liquor license, Mr. Fallah indicated that a 7-Eleven Store that does not sell alcohol might alleviate the problem, but would still cause loitering concerns. Mr. Fallah added that the security guard in the business park is inefficient to deal with drug dealers.

In response to Commissioner Loché's indication for a 7-Eleven Store that would not be opened 24 hours, Mr. Fallah noted that having a 7-Eleven Store would still pose a problem.

In response to Chair Peixoto's question regarding the corporate clientele during the week, Mr. Fallah indicated that the hotel offers a social hour to the guests, which is limited to two beer/wine drinks and that weekend guests are directed to restaurants on Hesperian for additional consumption. Mr. Fallah added that he had to fire the hotel security guard because of inefficiencies. Lastly, Mr. Fallah stated that 7-Eleven stores do not provide a bathroom for their clientele and he expressed concern that the hotel would have to provide the service for the 7-Eleven patrons.

Mr. Dilip Dahya, Fairfield Inn Hotel co-owner, reiterated Mr. Fallah's comments. Mr. Dahya added that a 7-Eleven Store would create more traffic through the hotel's parking lot and there would be potential for non-guests using the bathrooms. He expressed support for Starbucks and Quiznos type restaurant, but not for a 7-Eleven Store. He spoke unfavorably about the proposed security for the area.

In response to Mr. Dahya concern for lack of bathrooms in the area, Commissioner McKillop indicated that the hotel would benefit by having other stores in the area that could provide a bathroom. Mr. Dahya added that the hotel has a license to serve beer and wine.

Chair Peixoto closed the public hearing at 8:24 p.m.

Commissioner Lavelle indicated that she expressed her comments at the previous meeting and expressed that the opposition voiced was to societal problems that exist in different parts of Hayward, which are community problems that need to be addressed. Ms. Lavelle indicated that some of the products found at a 7-Eleven Store would be helpful and useful such as magazines, snacks and children's items among others. She indicated that the over-concentration identified by COMMPRE is not concentrated in the industrial part of Hayward. She was in agreement with the conditions of approval and made a motion per staff recommendation.

Commissioner McKillop seconded the motion indicating her same position stated at the previous meeting.

Commissioner Mendall thanked everyone for attending and facilitating discussion. He indicated that he does not disagree having a 7-Eleven Store, but he was in opposition to having another liquor store. He did not support a liquor license on the proposed site.

Commissioner Sacks noted support for the motion, indicating that this was not a request for a liquor store. Ms. Sacks apologized to 7-Eleven stores for remarks she made in the past. She indicated her visit to stores that were well maintained, well lighted and with products carefully displayed and without presentation of advertisement for alcohol. She stated that she uses convenience stores when she is traveling. In reference to loitering, she appreciated the comments by the detective and indicated that she is in support of developing the open space with responsible retails rather than having it empty.

Commissioner Thnay apologized for not attending the previous meeting. Mr. Thnay expressed his preference for a sit-down restaurant, but understood that the current proposal makes sense for the area. He indicated that the alcohol concerns were taken into consideration by taking appropriate measures through the conditions of approval. He indicated that failure to meet the standards set forth could constitute removal of permits. He supported the motion.

Commissioner Loché understood that a full-service restaurant was not feasible for the area, but indicated that a convenience store that sells alcohol would not be a positive addition to the area. He was content to learn that the hotel provides wine and beer, which provides convenience for guests. He did not support the motion and recommended that, should the motion be approved, the hours of operation be curbed.

Chair Peixoto expressed the same public safety concerns at the previous meeting, such as generation of increase of service calls to the center and surrounding areas with high crime rates. He indicated that there were mitigations proposed, but indicated that they were not sufficient to deter the potential for crime problems. He supported the Starbucks. He did not indicate opposition to the 7-Eleven Store, but to the alcohol component. He did not support the motion.

Commissioner Lavelle moved, seconded by Commissioner McKillop, and approved, to recommend to City Council to approve the Revised Negative Declaration; approve the modification to the Planned Development District based on the findings and the conditions of approval; and approve the Conditional Use Permit based on the findings and conditions of approval.



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AYES: Commissioners McKillop, Sacks, Lavelle, Thnay
NOES: Commissioners Mendall, Loché
Chair Peixoto
ABSENT: None
ABSTAINED: None

ADDITIONAL MATTERS

2. Oral Report on Planning and Zoning Matters

Planning Manager Rizk indicated forthcoming community meetings regarding the 238 project. He also mentioned the Hayward City Hall 10-Year Anniversary scheduled for January 30, 2008.

3. Commissioners' Announcements, Referrals

Commissioner Loché announced that Schafer Park Residents and Keep Hayward Clean and Green Task Force members invite residents to clean up Hayward and have a potluck on Saturday, January 12, 2008.

APPROVAL OF MINUTES

The minutes of December 13, 2007, were approved.

ADJOURNMENT

Chair Peixoto adjourned the meeting at 8:49 p.m.

APPROVED:

Al Mendall, Secretary
Planning Commissioner

ATTEST:

Miriam Lens
Commission Secretary