



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, February 19, 2009, 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 Lavelle.

ROLL CALL

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

Commissioner McKillop led in the Pledge of Allegiance.

Staff Members Present: Rizk, Patenaude, Conneely, Koo, Philis

General Public Present: 19

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARING

1. **Zone Change Application No. PL-2008-0547 - Wittek Development, LLC (Applicant / Owner) - Request to:**
 - A) **Change the Zone District from Station Area Residential (SAR) District to Planned Development (PD) District;**
 - B) **Amend the South Hayward BART/Mission Boulevard Concept Design Plan to Address a Revised Circulation System, a Relocated Grocery Store Site and the BART Parking Structure; and**
 - C) **Authorize the Planning Director to Accept an Application for a Development Agreement in Order to Develop a Mixed-Use Development Consisting of 788 Multi-Family Residential Units and a Grocery Store, Including 206 Units of Affordable Housing and a 910-Space BART Parking Garage;**

The Project Site is Located Generally at the South Hayward BART Station at 28601 & 28850 Dixon Street and 28901 – 28953 Mission Boulevard

Planning Manager Richard Patenaude said he was excited to bring this project to the Planning Commission; at an earlier community meeting the attendees were pleased that this project was being proposed for the South Hayward area, which they felt hadn't received a lot of attention from the City. He then gave the report on the project.

When he finished, Chair Lavelle thanked Mr. Patenaude and asked commissioners for any questions.

Commissioner Mendall complimented Mr. Patenaude on the report. He said he noticed that the retail units in the Perry site appear to only have seven parking spots and asked if there will be more parking available curbside on Mission. Staff confirmed his observation and replied that street parking is available further south on Mission Boulevard. When he asked if the fire lane north of Perry property was also a road, staff said it will be paved but access will be limited so it will not accommodate through traffic. Commissioner Mendall expressed a desire for this lane to be open for pedestrians.

Commissioner Mendall asked if BART is contributing or receiving any dollars for the project and was told BART representatives could address that later.

Commissioner Mendall then asked what the amenities are for Parcel 3N. Mr. Patenaude said residents would have access to a business center and also a health club or exercise room. A courtyard area would have outdoor spaces for play for young residents. He explained that the project is conditioned so that the health club could be accessed by all residents in the project area, not just those in 3N. Commissioner Mendall said he would like it if the fire lane between 4 and 3S could provide an open play area but asked staff if there was enough room to have a play area and extend the road that runs by Parcel 2 and 4 to the south. Staff replied that there was enough room and that any replacement open space could be worked out.

As his final question, Commissioner Mendall asked how much money is being contributed from the Redevelopment Agency. Department of Development Services Director David Rizk said there hasn't been any decision to contribute anything to the project yet, but the projected gap in funding is about \$20 million even after grant monies from State and other sources are received.

Commissioner McKillop asked what impact a formed-base code would have on this project. Mr. Patenaude said this project would not be impacted. She then asked if the design review would have any form-based code elements included. Mr. Rizk said the consultants for a form-based code looked at this project and said there are already elements included, but concurred with Mr. Patenaude that this project precedes any form-base code zoning changes.

Commissioner Loché said the report was in-depth and thanked staff. He asked what would happen if the project didn't receive the \$47 million in Proposition 1C grant funding and how that would affect its outcome. Mr. Rizk said it is "doubtful" that the project could happen without it.

Commissioner Loché then asked about the impact of Parcels 2 and 4 on the privacy of nearby single family homes. Mr. Patenaude said privacy would not be compromised because of the distance created by the railroad tracks and the open space between the two areas. Commissioner Loché then asked about the BART parking structure, but staff pointed out regardless of height, that structure won't house any residents.

Chair Lavelle asked if nearby condominium and apartment residents have made any comment regarding the proposed project and staff said no. Regarding the fire lane on the Perry & Key site, (the same lane Commissioner Mendall inquired about earlier), she said that according to the report,



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the applicant isn't interest in acquiring the CalTrans land. In anticipation of this she asked if it will be safe for residents to walk down the fire lane to get to the store and BART station. Mr. Patenaude said there won't be any through traffic but there will be cars coming in and out at each end of the lane. Staff indicated that there would be pedestrian and bike access to BART.

Chair Lavelle then asked about the condition of approval regarding public art and asked whether residents would be able to participate in choosing art. Mr. Patenaude said the recommendation is to use public art as mitigation for the extra height on the two buildings. The developer would be providing art, he said, but it could come in many different forms. Mr. Rizk added that the Precise Plan should be submitted with art shown but the Commission could change the timeframe to allow for resident input.

Chair Lavelle opened the public hearing at 8:27 p.m.

Paula Krugmeier with BAR Architects, introduced the other members of the applicant team and thanked the commission for allowing them to present the project. She said her team has been working with the client for about a year and has found that transit-oriented development is "truly the wave of the future" and a nationwide trend. She said this project has many positive aspects that lower impact on both the land and the environment.

Ms. Krugmeier pointed out that existing conditions are very blighted at the Perry Site and that the developer will be combining that property with the BART satellite parking lot. Other key elements of the project, she said, are the redevelopment of the intermodal, and the redevelopment of the parking. One of the main points of the project, she said, is that it provides a phasable and integrated plan that will hopefully set the precedent for future development and provide a heart for the South Hayward community. It supports Dixon Street as a neighborhood street and eliminates some of the unsurveilled areas such as the BART parking lot.

On the Perry Site she noted that Mission Boulevard is 18 feet higher than Dixon Street so the development is stepping. That parcel includes an on-site pedestrian path, she said, so the fire lane that's been mentioned by Commissioners would be an additional pedestrian thoroughfare.

She reviewed the key design elements and amenities of each parcel describing the promenade space between parcels 1 and 3 as the "heart of the project". She said this area will be the most active with a south-facing sidewalk with retail entrances along it. This will also be the pedestrian access point for buses and BART.

Commissioner Loché asked her to comment on Parcel 1 residents using parking in Parcel 2. Would they have to cross truck traffic coming into Safeway, he asked, or would the pedestrian bridge eliminate this conflict? Ms. Krugmeier said there are several opinions about the bridge. Some are concerned that the bridge would actually compromise safety by allowing access to housing by the general public. BART representatives think the bridge will dilute pedestrian traffic on the street below. As a planner she agrees with the theory of keeping pedestrians on the ground level, and

points out that truck volume will be low; only 16 vehicles a day, four of which are semi trucks. To mitigate any safety concerns they could install flashing buttons and/or other safety measures.

Commissioner Thnay agreed that it's better to keep pedestrian traffic on the street level. He said a crosswalk would be a good solution, a good compromise. But he was concerned about the truck entrance; the design conflicts with traffic on Tennyson which is fairly busy and that could create a safety issue. Is there any way to push the truck entrance further down? Ms. Krugmeier said there are three places for people to park going to Safeway minimizing conflicts with truck movement. She said there is also plenty of "view" to see trucks from Tennyson Road and the proposed street modifications will allow the truck to get out of the flow of traffic.

Project Manager Jacob Nguyen with BKF Engineers said Ms. Krugmeier answered most of the questions but clarified that there would be dedicated lanes for Safeway shoppers to get into the parking garage. The trucks would be using another lane. Mr. Patenaude added that northbound traffic approaching Tennyson Road will have a stop sign at the garage. The left hand turn doesn't stop so queuing on Tennyson getting into project will be minimized.

Chair Lavelle asked Ms. Krugmeier if Safeway is planning on operating 24 hours a day. Ms. Krugmeier said that may be the intent. Chair Lavelle suggested consulting with Eden Housing to see if this would be an issue regarding the noise and traffic. Ms. Krugmeier pointed out that Safeway trucks don't have the backing beepers and can come in any time during the day so she doesn't expect there will be any late night deliveries. She also pointed out that incoming trucks are under a podium that would contain the noise.

Director of Real Estate Development for Eden Housing, Andrea Papanastassiou, said noise and traffic haven't been an issue at a similar project in Dublin. She said most deliveries will take place early in the day. The seniors on Parcel 2 are on top of two levels of parking, she said, so they should be high enough to not be disturbed either. Ms. Krugmeier added that CEQA has limits on decibel levels of noise within a housing development and those have been considered and elements have been incorporated into the project design. CEQA's fresh air requirements are also going to be met, she said, so residents won't have to open their windows.

Chair Lavelle asked Ms. Papanastassiou of Eden what she thought about the residents walking across the street rather than using a pedestrian bridge. Ms. Papanastassiou said Eden Housing is very concerned about safety and they think there are ways to provide sufficient pedestrian safety to keep traffic on ground level. She said a bridge could provide unwanted public access to the housing portion of the development and would remove "eyes" on the street, but Eden will further explore all possibilities with the City's Planning Department.

Kurt Wittek of Wittek Development, LLC, asked to speak to some of the financial considerations. Mr. Wittek said they are not against acquiring the CalTrans property, but they don't agree on the City's estimated value of the land because, separate from this project, there's not much that could be done with it. He said the cost would be a lot lower if the City participated in the purchasing of the land, and that it's "certainly" not worth \$800,000. He agrees, however, that having the land to add to the overall open space would be amenity to the project.

Regarding the viability of the project without the 1C grant funds, Mr. Wittek said there was "no



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way” the development could support the estimated \$60 million in infrastructure costs. Without the IC grants this project won’t happen in its current iteration. Also, regarding the pedestrian bridge, besides violating the philosophy of urban developments by removing people from the street, it is an added cost in the high six figures.

They are amendable to the art work requirement because the vision of the project is to create an attractive and comfortable environment, Mr. Wittek said. However, the aggregate cost of the development is going to be around \$300 million, so to add a \$3 million art requirement is “pretty onerous”.

Mr. Wittek understands the social obligation of contributing towards a community center and that they are bound by ordinance, but he thinks the contribution should be limited to the \$6.2 million for park in lieu fees. He argued that this project could potentially serve as a catalyst for the area leading to many new projects, and new taxes for the City. Also, the cost of dropping the seventh level of BART parking to subterranean rather than slightly exceeding the current height limitations would be easily twice the \$1.3 million cost the City estimates. “It seems to us an excessive cost for little to no benefit aesthetically and certainly not operationally,” Mr. Wittek said.

Commissioner Loché thanked Mr. Wittek for his comments. He said the plan is to complete the project in phases based on current market conditions. Commissioner Loché asked how the current market would affect the project. “If the current market remains the market, we may not see this at all,” Mr. Wittek replied. Even in good times a project of this size would have to be completed in phases, Mr. Wittek explained. Even with a lease with Safeway; Eden Housing is taking responsibility for the financing of its developments; and with the availability of extensions to use the IC grant funding, he still can’t promise that current market conditions will allow this project to happen. “All we can say beyond the first phase is that we’d be subject to market conditions just like anyone else,” Mr. Wittek said.

In response to Mr. Wittek’s comment about the CalTrans property, Mr. Patenaude pointed out that costs are estimates only. Also, he said, conditions of approval would allow acquisition by the developer or by the developer working with HARD. It’s possible that HARD could purchase the land for less money, he said. Regarding the community center contribution, it is not required but recommended as a condition of approval that the developer contribute more than the \$6.2 million. And although the City would like the height of the BART parking structure lowered, there are no conditions of approval requiring it. In lieu of that, however, the City would like to see enhanced design and landscape elements especially as it affects residents to the west side of the project.

Bruno Peguese, Principal Property Development Officer for BART, said BART supports the project but do have concerns regarding the amount of replacement parking. BART will address these concerns in an exclusive negotiating agreement. Commissioner Mendall asked whether BART is receiving or contributing any money toward the project. Mr. Peguese said there will be a trade in land to recapture costs.

Chair Lavelle said she read that South Hayward is the least used BART station, and asked if this project would increase ridership. Mr. Peguese said it was BART's objective to increase pedestrian use of BART while still reducing the parking footprint. He spoke candidly saying that providing parking for the planned extension to San Jose is going to be a problem. Bayfair is also "in the mix" in terms of sufficient parking levels, he said, but BART is looking at different configurations to "soften the harsh realities of parking".

Mimi Bauer, Fairway Park resident, said the report was very thorough and the project wonderful. She expressed a number of concerns. She confirmed that residents at the Perry Site would most likely walk to BART. She said the public open space really needs to be addressed and hopes that CalTrans property purchase works out to provide a wider pedestrian access and more open space. When reviewing the plans for the Perry Site, she said she wanted to see more front doors facing the promenade as suggested under a form-based code. Right now, she said, this project looks like "very nice college dorms"; she doesn't see the home/village-type front door with everyone coming out onto the same street. Regarding the pedestrian bridge, she agreed that safety would be an issue. She can imagine an elderly person getting accosted on the bridge with no one around to help. Also, she pointed out, who would maintain it? She asked if buildings will have any green elements, if the South Hayward BART would receive a facelift, and who will manage the other apartment buildings. She asked if public art could be used to distract the eyes away from the parking structure. And finally she was concerned that by constructing this project in phases it is possible that one building could be constructed but the entire project would never get completely finished.

Chair Lavelle closed the public hearing at 9:14 p.m. and asked for Commissioner comments.

Commissioner Thnay said it's an exciting project with a lot of potential. He's noticed, however, that the overflow BART parking lot on Dixon has been fuller lately. With replacement parking planned at only 75%, will there be adequate parking in the future? Mr. Patenaude said that is a common replacement rate, but the final number of spots will be determined in the exclusive negotiating agreement. The intent of the transit-oriented project is to reduce the need for parking, he said, however, parking management such as time limits for the garage could help. Commissioner Thnay pointed out that if the lots are filling up now then future residents would be additional patrons. Also, the project plan only provides 1.1 parking space per housing unit. Although it's a good project, he said, there could be a lot of parking inconveniences for the surrounding neighborhoods. This is potentially a big issue, he said. At the development near the Dublin BART station the City is already experiencing similar problems regarding rider/residential parking. He also agreed with Ms. Bauer that the BART garage should be better looking than Dublin's. And finally, he said the project promenade area should be "dressed up" to make it really appealing.

Commissioner Mendall said overall he is quite pleased with the project. He did have several concerns, however. He agreed with Ms. Bauer that at the pedestrian level the building frontage needs improvement. He would like to see more stoops and ground level windows to make it more pedestrian friendly and welcoming. He said that's the only element of the project that's lacking. He doesn't mind losing the pedestrian bridge, but he would really like to see the CalTrans property developed as a park. He wants to see more public open space in this development. He also thinks the community center money is a reasonable request; other developers in the area have contributed toward it. He said the \$3 million for public art would improve the overall aesthetics of the project and could be a compromise for the additional height of the parking garage.



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Commissioner Loché appreciates high density in transit areas, but asked staff to comment on how “green” the buildings will be. Mr. Patenaude responded that they will be required to meet the basic provisions of the City’s green building ordinance. Commissioner Loché also wants the developer to work with HARD to acquire the CalTrans property and agrees with the in lieu fees to support the community center which, he feels, will be a huge benefit to the community. In general, he was very happy about the project.

Commissioner McKillop confirmed that there are several options regarding the purchase of the CalTrans property. She was really excited about the various aspects of the project including Eden Housing’s participation and the potential Safeway store. She thought this would be an outstanding project for Hayward.

Commissioner McKillip then made a motion for the Planning Commission to recommend to Council to adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program, approve the Zone Change, and the Amendments to the Concept Design Plan, subject to the attached staff findings and conditions of approval. Commissioner Mendall seconded the motion.

Commissioner Thnay confirmed that the CalTrans property and the contributions to the community center were included in conditions of approval.

Commissioner Mendall asked whether the motion included the condition to lower the parking garage. Mr. Patenaude said that was a recommendation, not a condition. He also confirmed with staff that providing public art is a condition of approval.

Mr. Rizk asked for clarification regarding whether the pedestrian bridge was a condition of approval and included in the motion.

Commissioner McKillop thanked him and changed her motion to strike out the requirement for a pedestrian bridge. Commissioner Mendall seconded.

Commissioner Thnay confirmed that lowering the garage was not part of the motion. Staff confirmed.

Commissioner Mendall said it didn’t have to be part of the motion but suggested the BART parking structure should be lowered as part of the aesthetic improvement and the public art requirement.

Chair Lavelle said personally she is very excited to see this major project come to Hayward. She said the City worked very hard to develop the South Hayward Concept Design Plan and took significant effort to improve this part of town. She sees a “great opportunity” to increase use of public transit and to incorporate green building elements. She likes that the developer worked well with local government including the City’s Redevelopment Agency, BART, and AC Transit. She’s

especially pleased with the quality of low income and senior housing from Eden and also the residential units overall. She is also extremely excited about Safeway coming in because it would be utilized by many, many people, not just those living at the site. She's OK with the height of the parking garage, but a lot can be done to soften the look and anyone concerned should give their input prior to the final plan submission. Open space is always a concern with a high density development like this, so whatever happens with the CalTrans property is important. She pointed out that the nearby Garin Park is huge and highly underutilized. Maybe AC Transit, working with the developer and BART, could create a shuttle van to make the park more accessible. Lastly, parking is an issue, but it's the developer's responsibility to market to people who understand that parking is not available. The developer needs to stress that it's a transit-oriented project.

Chair Lavelle then called for a vote and the motion was passed unanimously 5:0.

2. Hayward Environmentally Friendly Landscape Guidelines and Checklists for Private Development Projects

Planning Manager Richard Patenaude gave some background on the City's landscape design policy. New announcements included the expected completion of StopWaste.org's Bay Friendly Landscape System in late spring 2009, and the release of the state's Final Model Water Efficiency Standards in March. He expects it may take up to one year from this point for the City to develop an ordinance in response to these new Bay Friendly Landscape programs. The City will also have to look at how a new ordinance could impact existing ordinances including the Zoning Ordinance. In the meantime the Council Sustainability Committee wanted some guidelines.

Exhibit C of the report, Hayward Environmentally Friendly Landscape Guidelines and Checklist for Single-Family Development, is a response, he said, to direction by the Sustainability Committee to provide something for the homeowner, or the non-professional, in the landscape realm. The guidelines and checklist are designed for developments of 1-3 homes or for major remodels or additions that increase the buildings footprint by no more than 50 percent. Submittal of the checklist would be required with building permit application submittals and include provisions for planting and irrigation. Guidelines would include gardening tips, and a plant list to help homeowners be in compliance, and desired landscape practices. Staff would not be conducting final inspections, but would require submittal of verification stating compliance with the improved plans. The compliance form would be attached to the guidelines.

Exhibit B, Hayward Environmentally Friendly Landscape Guidelines and Checklist for the Landscape Professional, was developed, per the request of the Sustainability Committee, for larger developments and therefore provides more comprehensive guidelines, Mr. Patenaude said. These guidelines are for development of 4 or more single family homes, multi-family developments, commercial developments, and commercial tenant improvements or additions with more than 5,000 square feet of landscape area renovation. These projects would require landscape plans prepared by a landscape professional. As is currently practiced, the City's landscape architect would review plans and conduct inspections.

At a community meeting, at which only three landscape professionals and one member of the public attended, one concern expressed was the development of one single standard to avoid any loopholes. This concern will be addressed during the development of the ordinance. The City



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currently has a single standard but the Sustainability Committee wanted to make it easier for the homeowner to comply. For this reason, staff decided to divide the guidelines by project size and propose two different standards. When a protected tree is on a property the City requires an arborist report.

Commissioner Mendall asked if the current proposal is the same as what was discussed at the previous work session and asked what input was received from landscape architects. Mr. Patenaude confirmed and noted that one would be addressing the commission.

Commissioner Loché asked if there was any consideration of cost for smaller projects and suggested the requirements be based on what percentage of the property was being renovated rather than a hard number. City of Hayward Landscape Architect Michelle Koo explained that the 5000 square foot guideline was developed because that's when a separate meter is needed. Commissioner Loché was satisfied with this explanation.

Chair Lavelle opened the public hearing at 9:55 p.m.

Todd Young, a landscape architect with Gates & Associates, said he was at the community meeting. He said Hayward's proposed guidelines and checklist is an incremental step that's eventually going to be mandated by the state so it's a great step forward. The guidelines support the Bay Friendly Landscape Program and he commended the Commissioners and staff for their forward thinking.

Chair Lavelle closed the public hearing at 9:57 p.m.

Commissioner Mendall agreed with the speaker and was in favor of the City moving in that direction. This will also give staff time to develop the formal ordinance, he said.

Commissioner Mendall made a motion to accept the staff recommendation and Commissioner Loché seconded his motion.

The motion passed unanimously 4:0.

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Mr. Patenaude reported that March will be busy with three meetings: On March 5th the Planning Commission will review the draft housing development update; on March 12th they will review a multi-family residential project at South Garden and Marin; and on March 26th the Commission will be reviewing the draft EIR for Route 238 land use study. On April 23rd the Commission will have a double work session to consider both the Route 238 land use study and the City Center

Campus update. On May 14th the Commission will hold a hearing regarding the Route 238 land use study.

4. Commissioners' Announcements, Referrals

Commissioner Loché announced that the Seattle Mariners's new head coach, Don Wakamatsu, is the first Japanese-American in Major League Baseball history, but more importantly, he is an alumni of Hayward High School. Chair Lavelle corrected Commissioner Loché explaining that Mr. Wakamatsu is a manager, not a coach.

Director of Development Services Rizk announced that the Stonebrae County Club will be hosting a PGA golf tournament the first week of April.

APPROVAL OF MINUTES

5. November 20, 2008

6. January 15, 2009

Commissioner Mendall said he enjoyed reading the January 15 minutes and complimented staff on a great job. Both sets of minutes were approved.

ADJOURNMENT

Chair Lavelle adjourned the meeting at 10:05 p.m.

APPROVED:

Rodney Loché, Secretary
Planning Commissioner

ATTEST:

Suzanne Philis, Senior Secretary
Office of the City Clerk