



MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Halliday, followed by the Pledge of Allegiance.

ROLL CALL

Present:	COMMISSIONERS	Bogue, Halliday, Sacks, Thnay, Williams, Zermeño
Absent:	COMMISSIONER	None
	CHAIRPERSON	Caveglia

Staff Members Present: Anderly, Conneely, Garcia, Looney, Payne, Weisbrod

General Public Present: Approximately 20

PUBLIC COMMENT

Frank Goulart, representing the Friends of Hayward, passed out the City of Oakland Historic Element of their city's General Plan. He gave each Commissioner a copy and described things that might be helpful for the City of Hayward to pursue.

Planning Manager Anderly suggested that the Commission elect officers. Chairperson Halliday asked for a motion. Commissioner Sacks **moved**, seconded by Commissioner Williams, to appoint Commissioner Halliday as Chairperson, Commissioner Bogue as Vice-Chairperson, and Commissioner Zermeño as Secretary. The **motion passed unanimously**, with Chairperson Caveglia absent.

AGENDA

1. **Findings and Conditions of Approval** for Variance Application No. 01-180-09. The Single-Family Residential Property is Located at 601 Garin Avenue.
2. **Findings and Conditions of Approval** for Variance Application No. 01-180-07. The Single-Family Residential Property is Located at 346 Jerilynn Lane.
3. **Findings and Conditions of Approval** for Use Permit Application No. 01-150-15 – Relating to a Telecommunications Tower. The property is Located at 24790 Hesperian Boulevard.
4. **Referral by the Planning Director of Administrative Use Permit Application No. 2001-0106 – Kathleen Schneppe (Applicant) Estate of Edward J. Sharon (Owner) – Request to Allow The Keeping of Livestock (Three Female Chickens) at a Single-Family Residence.**

The Property is Located at 27426 Mitchell Place, on the East Side of Mitchell Place Between Carson Drive and Chambosse Drive

5. **Proposal to Convey Surplus Property Parcel 108 to The Adjoining Property Owner – The Site is Located on Fairview Avenue: Former Water Tank Site**
6. **PL 2001-0141 – Referral by The Planning Director of Request for Second Extension of Time for Administrative Use Permit 98-150-26 and Variance 98-180-09 – Antonio Solorio/Tacos Uruapan (Applicant/Owner) – Request to Construct a Restaurant with a Variance to Eliminate Tractor/Trailer Parking. The Property is Located at 29950 Huntwood Avenue, at the Northeast Corner of Industrial Parkway West, In an Industrial (I) Zoning District**

PUBLIC HEARINGS

1. **Findings and Conditions of Approval** for Variance Application No. 01-180-09. The Single-Family Residential Property is Located at 601 Garin Avenue.

Acting Principal Planner Patenaude reported that, at the July 26th meeting, Commissioners directed staff to prepare Findings and Conditions of Approval for the variance at 601 Garin Avenue.

With no comment from the public, Commissioner Williams **moved**, seconded by Commissioner Zermeño, to approve the findings and conditions of approval.

Commissioner Sacks noted her previous opposition to the application. She commented that she still remains against it. She said she does not agree with Finding B, which states that there are special circumstances applicable to the property. She noted that she does not find this to be the case, and that this would constitute a grant of special circumstances for this applicant.

The motion passed 5:1:1, with Commissioner Sacks voting “No,” and Chairperson Caveglia absent.

2. **Findings and Conditions of Approval** for Variance Application No. 01-180-07. The Single-Family Residential Property is Located at 346 Jerilynn Lane.

Acting Principal Planner Patenaude again made a brief staff presentation. He noted that the Commissioners directed staff to prepare Findings and Conditions of Approval for this variance at its meeting of June 21, 2001.

With no input from the public, Commissioner Zermeño **moved**, seconded by Commissioner Williams, to approve the findings and conditions of approval for variance application No. 01-180-07.

Commissioner Sacks, again stated her disagreement with the findings. She said her thoughts on this item were similar to the previous item. She added an additional comment that while she



might appreciate what the owners are doing to improve their properties and what the Commissioner's are reasoning, Commissioners need to do a better job of finding out what the neighborhood wants before approving these types of variances.

Chairperson Halliday said that she would agree that we need to look at the issue of allowing the modification of homes in the older neighborhoods. Owners need to be able to bring their homes in line with what is on the market today. Today's homes have smaller side and front yards. She indicated that these few variances might become examples of how changes can be made and what will work and what will not.

The motion **carried** by the following vote:

AYES:	COMMISSIONERS Thnay, Williams, Zermeño Chairperson Halliday
NOES:	COMMISSIONERS Sacks, Bogue
ABSENT:	CHAIRPERSON Caveglia
ABSTAIN:	None

3. Findings and Conditions of Approval for Use Permit Application No. 01-150-15 – Relating to a Telecommunications Tower. The property is Located at 24790 Hesperian Boulevard.

Acting Principal Planner Patenaude described the stealth palm tree tower, which will be created to match the existing palm trees as closely as possible. He commented that this issue was heard before the Commission on July 26, 2001, at which time, the majority directed staff to complete the environmental review, and prepare findings and conditions of approval.

As there were no requests to speak, Commissioner Sacks **moved**, seconded by Commissioner Bogue to approve the findings and conditions of approval.

Commissioner Sacks then commented on her recent visit to the midwest saying there were many obvious antennae throughout the area. As a result, she noted, the City should welcome a stealth palm.

Chairperson Halliday added for Chairperson Caveglia that, in this instance, stealth has nothing to do with weapons.

Commissioner Williams suggested that the members of the Elks Lodge invite Chairperson Caveglia to come and see the antenna when it has been installed.

The motion **passed unanimously, with Chairperson Caveglia absent.**

4. Referral by the Planning Director of Administrative Use Permit Application No. 2001-0106 – Kathleen Schnepple (Applicant) Estate of Edward J. Sharon (Owner) – Request to Allow The Keeping of Livestock (Three Female Chickens) at a Single-Family Residence. The Property is Located at 27426 Mitchell Place, on the East Side of Mitchell Place Between Carson Drive and Chambosse Drive

Project Planner Weisbrod described the application and the yard area. He referenced the Municipal Code regarding livestock and noted that the yard is fenced and large enough to accommodate the three chickens. He said he made an August 17 site visit. He recommended approving the exemption from CEQA and approving the Use Permit.

Commissioner Williams commented regarding the report and the conclusion. He noticed that noise is a concern.

Project Planner Weisbrod said any noise issue would also apply to dogs which do not need a permit.

Commissioner Thnay then asked whether a resident who keeps a dog has to consider it livestock. He was told that no, the law separates pets from livestock.

The public hearing was opened at 8:10 p.m.

Kathy Schnepple, applicant, indicated that her son came home from school with the chicken. Soon her daughters came home with two more. She commented that they are spoiled like pets. She said all three chickens stay contained within the yard by a fence. She said they also have two kittens and a dog as pets. In her opinion, a variety of pets will teach her children to learn about cohabitation, and other learning skills.

Greg Schnepple, son of the applicant, described the chickens and how he obtained them.

Commissioner Williams asked him to tell the Commission one thing that has been of benefit to him from having the chickens.

Greg responded that it has given him a greater sense of responsibility for keeping his room clean as well as the garage.

Theresa Alvarez, granddaughter of the next door neighbor, commented that, since the chicken has grown, she has almost hit it with her car. She said all they are asking is to keep the chickens from doing their business on the neighbor's property. She said her uncle had a stroke and is in a wheel chair so his entering and exiting the house takes time. Meanwhile, bugs from chickens go into their house.

Chairperson Halliday asked whether, now that they have had their wings clipped, it has made a difference.

Ms. Alvarez responded that she has not seen them out of the yard recently. She did note, however, that the chickens irritate her dog.



Commissioner Thnay asked whether the fence and clipping the wings from the chickens had helped.

Ms. Alvarez noted that there were still a lot of bugs and flies.

Commissioner Thnay asked staff how animal control answers this complaint.

Project Planner Weisbrod answered that their concern was that the chickens be kept in a clean manner.

Anita Soto, a neighbor, said she is from a chicken family. She commented that there is no way to keep them clean. Chickens take a lot of care. They do make noise and wake you up. She mentioned that they have gotten in her yard. There is a lot of clean-up. She said this is the City and residents should not have chickens. This would set a precedent, next people will keep goats and ponies. She added that they cackle all the time.

Commissioner Williams asked about the noise and the smell and how she would equate the noise to a barking dog.

Ms. Soto responded that they can be loud. Raising chickens requires a lot of upkeep.

Betty Owens, another neighbor said she is against the chickens. A farm is where that type of animal should be.

Theresa Alvarez, next door neighbor, described her son who is in a wheelchair. When he goes outside, the door is left open while he wheels his chair outside. She said they have a hard time with bugs and the smell in the house. She commented that she does not have time to shoo flies out nor the money for bug spray. She said she does not think chickens should be in the City.

Commissioner Sacks said she was curious about the situation at present and whether it used to be worse.

Mrs. Alvarez commented that the smell is still there. She added that she has a small dog which is bothered by this neighbor's cats which come into their yard.

Commissioner Williams commented on the insects and smell, and noted that during the staff visit it was not detectable.

Mrs. Alvarez said she can smell it all day long.

Commissioner Williams asked whether she maintained that the insects and smell is still there.

Mrs. Alvarez said that it is.

Tereza de Mendonca-Wichman, Hayward resident, commented on the other areas in Hayward which are a nature preserve. She said she would rather live next to a chicken or rooster than some other animals.

Janine Garcia, another Hayward resident, stated that she has lived in other areas with farms and chickens. She said she prefers setting standards, and that livestock is not appropriate in Hayward. She noted that this is a deterioration of the standard of living and a degradation to their lifestyle.

The public hearing closed at 8:40 p.m.

Commissioner Bogue pointed out the number of signatures from the neighborhood. He noted that the neighbors are saying livestock in the neighborhood is not appropriate. He **moved**, seconded by Commissioner Zermeño, to deny the application.

Commissioner Sacks stated that it was unusual to see that many signatures on a petition. She commented on the "Livestock raised," on the petition. She said an argument could be made for either side.

Commissioner Zermeño commented that there are pets and there are pets. Chickens are considered livestock. He said that although he loves chickens, he would vote with the neighborhood which does not seem to want it. He added that it may open the door to other animals.

Commissioner Thnay said he held sentiments similar to Commissioner Sacks. He noted that there are special standards and conditions set by the City and this looks as though it is within the standards. He said this wouldn't apply to anyone wanting to raise chickens but like rabbits, these are pets. He noted that the conditions state that the droppings shall be cleaned on a daily basis. He added that if there are problems, Condition 6 provides good tools to keep this in check since the Planning Director can revoke the approval.

Commissioner Williams said it is a tough decision, although staff did an excellent job. He noted that the odor and flies could come into your house. The neighbors have persuaded him these will exist as long as you have chickens. Staff admits that they are limited in enforcement. He commented that if we live in an urban area, and can prevent something before it gets going, perhaps we should. He said he would support the motion.

Commissioner Bogue said he would note the findings for denial

Commissioner Sacks said she would assume that there have been other permits approved around the City.

Project Planner Weisbrod said there have been none.

Planning Director Anderly noted that the changes to the Zoning Ordinance regarding livestock considered the more rural properties in the hills.

**REGULAR MEETING OF THE PLANNING
COMMISSION, CITY OF HAYWARD, Council
Chambers****Thursday, September 6, 2001, 7:30 P.M.
777 "B" Street, Hayward, CA 94541**

Commissioner Halliday commented that they amended the livestock regulations a few years ago because there was concern from residents in the hills about horses. She noted that the Zoning Ordinance does distinguish between small and large livestock.

Further discussion among staff and the Commission ensued regarding the status of rabbits and the definition of small livestock.

Commissioner Halliday said she would hate to deprive anyone of their pets. And since we do allow livestock in our neighborhoods with regulations governing them, this has created a conflict, pitting neighbor against neighbor. There are some dogs that can be more of a problem than these chickens. She noted that, although they were acquired innocently, she would come down on the side of the neighbors. This is a neighborhood where the houses are pretty close together. She said she was leaning toward concerns of problems created for the neighbors and would support the motion.

Commissioner Sacks added that, following Commissioner Thnay's line of reasoning, the City does have special standards covering this. She noted that three female chickens do not constitute animals being raised. She agreed that Condition 6 was strong enough to revoke the permit immediately. She stated that she would vote against the motion.

Commissioner Thnay said that if this is approved the owner must do a "Class A" job of keeping the chickens in check. Being a good neighbor is something to be desired.

Commissioner Bogue said to look at the statement on the petition. He noted that the neighbors object to a permit for chickens, which are livestock. He commented that the impact is too much for the neighborhood.

Commissioner Williams said he agreed with Commissioner Bogue, particularly looking at Condition 5. If it is already as neat as possible but there are still complaints from neighbors, you have a problem. He commented that this would be a nuisance to neighbors and should be eliminated.

Assistant City Attorney Conneely suggested that the applicant might prefer to continue this application to a future date since Chairperson Caveglia was not in attendance and the Commission might vote a tie on either side.

The applicant agreed to continue. Planning Manager Anderly said the application could be heard on September 20. She added that it would not be re-noticed since it is being rescheduled to a date certain, although the agenda would be posted.

Commissioner Williams asked whether this was appropriate, with a motion already being on the

floor.

Assistant City Attorney Conneely said the Commissioner did not have to take action on the motion. A substitute motion could be made.

Commissioner Williams **moved**, seconded by Commissioner Sacks to continue the item until Sept. 20, 2001. The **motion passed, 5:1:1**, with Commissioner Bogue voting "No," and Chairperson Caveglia absent.

5. Proposal to Convey Surplus Property Parcel 108 to The Adjoining Property Owner – The Site is Located on Fairview Avenue: Former Water Tank Site

Survey Engineer Payne described the property. He said the City acquired the parcel in 1953 as a portion of a larger parcel for one of two water tank sites. The tank was removed in 1993. It may be annexed into the City at some point in the future. The parcel is a rectangle. He noted that it is too small to be independantly developed. The adjoining owner proffered an "Offer to Purchase" which was deemed to be "fair and reasonable." Staff recommended approval to the City Council as well as finding the sale not in conflict with the General Plan and exempt from CEQA.

Chairperson Halliday commented that merging this parcel into the larger parcel will still help it to conform with the General Plan designation for the area.

There were no public comments.

Commissioner Sacks **moved**, seconded by Commissioner Bogue, to approve recommending the sale to the City Council as well as finding the sale not in conflict with the General Plan and exempt from CEQA.

Chairperson Halliday commented that there were good reasons for doing this.

The motion passed unanimously, with Chairperson Caveglia absent.

6. PL 2001-0141 – Referral by The Planning Director of Request for Second Extension of Time for Administrative Use Permit 98-150-26 and Variance 98-180-09 – Antonio Solorio/Tacos Uruapan (Applicant/Owner) – Request to Construct a Restaurant with a Variance to Eliminate Tractor/Trailer Parking. The Property is Located at 29950 Huntwood Avenue, at the Northeast Corner of Industrial Parkway West, In an Industrial (I) Zoning District

Acting Principal Planner Patenaude reminded Commissioners that this use permit was originally approved 2 years ago. He described the location and noted the applicant's problems finding an architect.

Chairperson Halliday commented that she remembered dealing with an extension a year ago. At that time, the applicant discussed contacting a new architect. She asked whether this is the same "new architect."



Acting Principal Planner Patenaude commented that it took time for the new architect to become familiar with the project. As a result, they needed this further extension.

The public hearing opened at 9:30 p.m.

Alejandro Solorio, one of the owners, stated that they were asking for an extension due to minor setbacks. He noted that although they were applying for the extension, they would be submitting their plans in a few days.

Peter Jacobsen, the architect, said he had been working hard on the project.

Commissioner Bogue asked about the completed drawings and details.

Mr. Jacobsen commented that there had been no changes from the previous plans approved by the Commission.

Commissioner Williams asked whether there was a target date for starting the project.

Mr. Jacobsen said the only time delay would be through the Health Department. They may take two or three months. He said meanwhile they would take construction bids, and could be ready to start within a few months.

The public hearing closed at 9:34 p.m.

Commissioner Zermeño **moved**, seconded by Commissioner Williams, to approve the second one-year time extension.

Commissioner Bogue said he spoke to the applicant about this application and was told they have completed almost all the drawings.

Commissioner Thnay commented that this will be a positive addition to this area which is underserved. He noted that it is the right thing to do to extend this application period.

Commissioner Zermeño said he agreed.

The motion passed unanimously, with Chairperson Caveglia absent.

ADDITIONAL MATTERS

7. Oral Report on Planning and Zoning Matters

Planning Manager Anderly updated members on upcoming meetings. She reported that there

would be a worksession next Thursday, September 13, with a presentation by San Leandro City Council Member Surlene Grant on "Sustainable Development." The next Planning Commission meeting is scheduled for September 20. She added that there would be no meeting on September 27, although a joint City Council/Planning Commission meeting is scheduled for September 25, on the General Plan.

8. Commissioners' Announcements, Referrals

Commissioner Sacks commented on the Smart Growth Workshop she would be attending this Saturday. Chairperson Halliday suggested that Commissioner Sacks report back to the members with her impression of the workshop.

Commissioner Zermeño said he also was interested in going to the Workshop.

Chairperson Halliday asked about several things at Southland. The Sears' Homelife store went out of business and she wondered whether the building would be reoccupied.

Planning Manager Anderly responded that this was a chain store not associated with Sears, which has gone out of business. There is no information regarding a replacement.

Chairperson Halliday then asked about the monument sign that flashes information about the shopping center.

Acting Principal Planner Patenaude responded that the company that owns and operates the sign has also gone out of business. Southland is trying to seek permission to use the sign.

MINUTES

- July 12, 2001 - Approved
- July 26, 2001 - Approved with the addition of "The motion died for lack of a second.", on page 4, following Commissioner Sacks motion.

ADJOURNMENT

The meeting was adjourned by Chairperson Halliday at 9:45 p.m.

APPROVED:

Francisco Zermeño, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary