MINUTES

REGULAR MEETING OF THE PLANNING COMMISSION, CITY OF HAYWARD, Council Chambers
Thursday, July 11, 2002, 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 Chairperson Halliday, followed by the Pledge of Allegiance.

ROLL CALL

Present:	COMMISSIONERS	Zermeño, McKillop, Sacks, Halliday, Thnay
	CHAIRPERSON	Bogue
Absent:	COMMISSIONER	Caveglia

Staff Members Present: Anderly, Carranza, Conneely, Gaber, Looney, Patenaude

General Public Present: Approximately 17

Chairperson Halliday welcomed Julie McKillop as the newest member of the Commission, who, in turn, said she was pleased to be on the Commission, and plans to work hard for the City of Hayward.

Election of Officers

Chairperson Halliday called for the election of officers for the new Fiscal year. Commissioner Thnay nominated Commissioner Bogue as Chairperson and Commissioner Zermeño as Vice Chairperson. The nominations were seconded by Commissioner Sacks, and agreed to unanimously, with Commissioner Caveglia absent. Chairperson Halliday then turned the meeting over to Chairperson Bogue.

PUBLIC COMMENT

Charlie Peters, New Jersey, said he was representing motorists. He informed people of a current global warming bill is in the Legislature, as well as another smog check bill.

AGENDA

1. **Text Change No. 2002-0042 – Initiated by the Planning Director –** Repeal and replace Chapter 10, Article 15 of the Hayward Municipal Code, "Preservation of Trees" Sections 10-15.10 through 10-15.30

2. **Site Plan Review Application No. 2002-0159 – Standard Pacific Homes (Applicant); Acacia Credit Fund 7, LLC (Owner):** Request for Approval of the Design of 109 Single-Family Dwellings to Be Located at 28905 Hesperian Boulevard on Property Commonly Known as Oliver West in the RS (Single-Family Residential) Zoning District

PUBLIC HEARINGS

1. **Text Change No. 2002-0042 – Initiated by the Planning Director –** Repeal and replace Chapter 10, Article 15 of the Hayward Municipal Code, "Preservation of Trees" Sections 10-15.10 through 10-15.30

Landscape Architect Carranza brought back the tree Ordinance. She discussed the changes based on several hearings. She indicated that permits would be required to remove trees from vacant lots but routine maintenance would not require a permit, although heavy pruning would still need a permit. She noted that a list of certified arborists would be developed who would receive streamlining of the permit process.

Commissioner Sacks asked why the list of certified arborists and streamlining was not in the text of the Ordinance.

Landscape Architect Carranza commented that the proposal is to agree to put a process in place. A person who is on the list would not need to get inspections as long as they agree to trim trees to ISA standards, and there are no complaints about their work.

Commissioner Zermeño discussed encouraging the literature being made available in Spanish.

Landscape Architect Carranza responded that the information would be made available in Spanish and several other languages.

Commissioner McKillop stated that she would feel much better if the Ordinance did address how and where an application could be made for a yearlong permit. She said she would feel better with the language in the Ordinance.

Landscape Architect Carranza said the language for yearlong permit is already in there but for a particular site. It would be available for one project.

Chairperson Halliday asked about the International Society of Arboriculture, the stability and the validity, since they are included in the Ordinance.

Landscape Architect Carranza described the organization as older and larger than the American Society. They have been around since about 1972. They are well known and a worldwide resource on proper procedures. More information is available on their web site.

The public hearing was opened at 7:45 p.m.

Bill Gardner, a certified Arborist from the International Society of Arboriculture. He said the ISA was formed in 1921. They have certified since 1971. He described the book, which lists all the pruning standards. He said he works for HARD. He applauded the City for doing something. He commented that he was called to look at the tree damage on Oakes Drive. He agreed that there should be some enforcement procedures. HARD tries to protect the historical trees. He indicated that they support this proposal and think it is a good idea.

Scott Raty, representing the Chamber of Commerce, he thanked everyone the opportunity to go over the Ordinance, and for the previous continuance of the item. He indicated that there is

still a long way to go. He agreed that in a drastic case, there should be punishment but the vast majority are not who this applies to. He asked for a clarification of a qualified person obtaining a blanket permit. However, the Ordinance is still asking for permits. He thought routine maintenance should be excluded from the permits, and thought homeowners might put off calling in the certified arborist if there was the additional cost of the permit. He asked to broaden the law to include that routine maintenance done by a qualified individual doesn't require a permit. He commented on the number of permits necessary for someone who does this as a living. If an individual could register with the City and let them do the right thing. He asked for further discussion including those people in the business.

Landscape Architect Carranza responded that each individual business would need a separate permit, only for large pruning. She commented that the limit of one-inch pruning could be changed. She noted that what they were hoping to do was when a person who quoted $700 and was not certified, they would be given the information on how to prune, and inspected before and after. She noted that the City of Hayward could set up a system for the funding and permit, as well as figure out ways to deal with people who are certified.

The public hearing was closed at 7:56 p.m.

Commissioner Zermeño asked about Mr. Raty's presentation of doing a thousand jobs in Hayward, and needing a thousand permits.

Landscape Architect Carranza said it would depend on whether the trees are on separate sites. That is not usually the case. On commercial and industrial sites, there would be several sites maintained by one person under one permit. For the individual homeowner, permits would be needed only for those protected trees and required by the development A certified arborist will catch on quickly as to which need a permit and which do not.

Commissioner Zermeño then mentioned the letter from the University Court Neighborhood Association. He asked whether the list were incorporated into the Ordinance.

Landscape Architect Carranza explained that some of the issues were for HARD or street tree issues. This is for commercial and industrial and for required trees on subdivisions. Some issues were already covered under the ordinance. Large trees on single-family homes are still not protected, so that is still a concern.

Commissioner Sacks noted that there had been a comment saying the permitting process was onerous. Since the permits pay for the program, logically the City would not want to eliminate the permitting process completely. She suggested that certain jobs would not require a permit. Those requiring a permit could be dealt with expeditiously. The applicant could be on the list, as a certified arborist.

Landscape Architect Carranza commented that somebody who was not a certified arborist she

would want to check their work. Many single-family homes would not have protected trees and require a permit.

Commissioner Halliday commented that at the original meeting the idea of having certified arborists, do pruning work without a permit. She confirmed that there would not even need to be a site visit. She then said it was great work on the Ordinance and confirmed that it is needed to protect trees. She said she hated to propose an onerous permit process on pruning. She said she supported the process for tree removal but was having a little conflict. She said she did not want to over do it. She could envision the complaints and hearings process. Do need to require permit from a certified arborist for pruning. She added that she would hope this would not too much of a burden. She then asked how residents are going to know if they have protected trees.

Landscape Architect Carranza responded that under this ordinance there would be disclosure at sale of a property.

Commissioner Halliday referred to the letter from the University homeowners. She commented that they might have been misled that this does not protect trees on private property. She noted that it does, perhaps not those trees on private property, but those large enough for subdivisions.

Landscape Architect Carranza responded that it does and it does not. The way it is written now, are trees that the City of Hayward specifically requires. Those trees noted in the conditions of approval and subdivision agreements. Those trees are protected. Also if during the development there were specimen trees found on a site, these would be protected. However, in the case of someone who lived in a home with a huge tree in the backyard, that tree would not be protected.

Planning Manager Anderly added a further clarification for the University Court people that this Ordinance presently would address mature protected trees on vacant single-family lots She noted that there is a requirement now for tree removal permits for those types of lots. The problem is, it has no teeth. There was a requirement for a permit for the removal of the trees on University Court. They did not do it. There was no recourse for this. This creates an incentive for them not to do it.

Commissioner Thnay quoted from the Proposed Ordinance that, Routine maintenance of protected trees does not require a permit. He asked whether this was allowed.

Landscape Architect Carranza spoke to the ordinance as to what routine maintenance means. Normal pruning does not require a permit. Only severe pruning or cutting requires a permit.

Commissioner Thnay commented that he was concerned about enforcement and concerned about the balance of enforcement and education. He said it was necessary to eradicate ignorance. Perhaps Saturday classes for homeowners and tree companies might be held, as well as, giving out free trees. He stressed again that education is very, very important.

Commissioner McKillop discussed the substantial number of permits. She said she would

prefer to see a facilitated process for certain individuals. She commented that she would hate to see the landscaping industry hamstrung by the permitting process.

Chairperson Bogue discussed two sites, which were used as examples of severely cropped trees. He wondered what would happen to those trees, under this Ordinance.
Landscape Architect Carranza commented that sooner or later the trees would have to be removed. As to this particular site, a new business is coming in and they will be planting six new trees. Those trees will be replaced, slowly and surely, over time. New trees would come in slowly. She added that staff does not want this Ordinance to become onerous. However, it is important to have a beautiful Hayward. She commented that there would be an effort to remove and replace badly damaged tree first. She agreed that education is very important. She said there already is a program in the schools, with the City Arborist for free trees. Education is very important. If we let the businesses and homeowner's in Hayward know what is expected and what the City is looking for, it will not take long before people know what we want to see in Hayward,

Chairperson Bogue questioned if, over time they would need to be replaced, or could this require never having them pruned so they would come back.

Landscape Architect Carranza said she would have to go to that site and work with the arborist to discover which need to be removed and replaced. Many times, you can trim or train a tree, however, too often they are damaged beyond repair. She explained that she would end up doing more work on those sites but the City will get what they want.

Commissioner Halliday discussed the proposed Ordinance, which says the inspection fees would be in the Master Fee Schedule. She asked for further information on the fees.

Landscape Architect Carranza said the existing permit fee is $66 and is for all trees on the site. She said they had not looked at separate permit for pruning because the cost was so low and would be included with any needed removals.

Commissioner Sacks moved the item, seconded by Commissioner Zermeño.

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

AYES:	COMMISSIONERS Halliday, Thnay, Sacks, Zermeño CHAIRPERSON Bogue
NOES:	COMMISSIONER McKillip
ABSENT:	Caveglia
ABSTAIN:	None

2. **Site Plan Review Application No. 2002-0159 – Standard Pacific Homes (Applicant); Acacia Credit Fund 7, LLC (Owner):** Request for Approval of the Design of 109 Single-Family Dwellings to Be Located at 28905 Hesperian Boulevard on Property Commonly Known as Oliver West in the RS (Single-Family Residential) Zoning District

Principal Planner Patenaude described the project as Phase One of the "South of 92" projects. Off-site improvements include a sports park, opening in October 2002. This Phase includes 109 single-family residential lots, with a minimum of 5,000 square feet. He discussed floor plans and sizes. He commented that single-story homes must be included in this plan. Although the Specific Plan did not specify the number for a good mix, staff has determined that at least 10 percent throughout the development should consist of single story to meet the intent of the specific plan. Staff determined that this phase should have at least 12 lots containing single-story homes. Although it would be better to spread them throughout the project, the railroad abuts a short portion of the project. Even with an 18-foot sound wall, it is not possible to meet the minimum sound requirements in the bedrooms in the 2-story models. The applicant has proposed to use these lots for the single-story models. This would allow redesigning some floor plans to move bedrooms toward the front, which will help mitigate the noise impact. It may also lower the sound barrier wall to, possibly, 15 feet. He stated that staff would need to review a revised noise plan when the models are presented. Another issue in the Development guidelines was, that porches need to meet the same footprint as the setbacks. For these homes staff is recommending an exception, providing a greater street feel and better neighborhood interaction, so that the porches become a part of the community use when they are not set so far back from the street. There were also some recommended revisions to conditions of approval. He then listed the various revisions.

Chairperson Bogue asked about condition 5, whether the common areas would be included as a responsibility of the homeowners.

Principal Planner Patenaude explained that those items, which were struck, would come under the purview of the Lighting and Landscaping District.

Commissioner Zermeño asked whether the Home Owner's Association would be only for this or the whole complex. He then asked whether the single-story homes would be affordable housing.

Principal Planner Patenaude explained that it will be for the whole area, but since this phase is developed first, they will develop the HOA first at this stage. He also explained that the single-story homes would simply create an esthetic mix in the neighborhood. This is a requirement from specific plan.

Commissioner Zermeño then asked about street ball, and whether a basketball court could be created in the common area.

Principal Planner Patenaude said staff would take this under consideration.

Commissioner Halliday asked to talk about the noise barriers and walls. She did not understand why they were needed when not adjacent to railroad tracks. She asked for further

information on the location of the sound wall.

Principal Planner Patenaude explained that because there is open space along the north edge of the property and along the water buffer. The open space is between the railroad and the development with the noise directly in line with the homes. The noise effects are taken care of by a combination of noise barrier, construction methods of the types of walls, and the types of windows. In combination, these should help to mitigate the noise levels. He noted that the Conditions of Approval with the tract map held this property to a higher standard of noise abatement than elsewhere in the City of Hayward. The developer is finding it harder to meet that requirement. With the 2-story home, it becomes important to have the higher wall, which in this case, could be up to 18'. There is a line-of-sight issue, with the train itself. The engine is 17-feet tall. He added that the problem noise is not the horn, but the low-rumble of the train going by. Staff has encouraged the applicant to look at alternatives for those lots most affected. This is why they are looking at the single-family homes for this area, as well as moving bedrooms toward the front.

Commissioner Halliday asked whether reducing the homes to single-story would reduce the rear yard area setback.

Principal Planner Patenaude responded that this phase has smaller lot requirements. Many of the lots in other phases will have larger lot requirements. The applicant feels as though he can make it work. Although there may be variances required.

Commissioner Sacks asked whether the environmental impact report was approved. She then asked how a water buffer is going to serve as a barrier for domestic animals.

Principal Planner Patenaude indicated that this is in combination with fencing and an overhang of 1-foot into the property. That should discourage pets from entering the water.

Planning Manager Anderly added that the slope and design of the buffer would make it difficult for animals.

The public hearing was opened at 8:55 p.m.

Peter Dunn, Standard Pacific, explained that they were in full agreement with Conditions from staff. He commented that they had worked hard with staff. This is the first of applications for Eden Shores. There will be two more product lines at the site. He said he was available for questions.

Chairperson Bogue asked about the single-story buildings.

Commissioner Thnay asked about the total number of homes for the area, as well as the average cost of the homes.

Mr. Dunn responded that there would be a total of 526 homes, and the cost of homes will probably be in the mid-$500,000 to high $500,000.

Commissioner Zermeño said he was speaking on behalf of the future homeowners of lots 61 and 74, he suggested that the space in front of the house should be moved into the back of the yard. He suggested they pull the houses forward and give the folks more room in the back.

Mr. Dunn said it is not possible, because of the City setback requirements. The same is true for lot 74. This is the best they can do. As to the basketball courts, they could discuss it with staff. He mentioned that the park could be considered as a site in future plans.

Planning Manager Anderly commented that the developer will be coming back for a review on the single story homes. She noted that once they see what the market is, it might benefit those who need a one-story element. She noted that at that point, it might have the option to distribute more.

Commissioner Halliday commented about the lots along the railroad tracks. They have the smallest rear yard setbacks. Although she said she favors single stories there. She suggested that they redesign it and lose a lot, although this is very hard to do. If lots 44-46 were combined, the houses would not be right up against the railroad tracks. She said the houses need more protection.

Mr. Dunn said they would consider this. However, these lots are 5-feet deeper than the others. They have a 25-foot setback. He added that they would maintain the setback. He also emphasized that the railroad track is 130' away from the lots. He said they are confident that the wall will be shorter. He said they would try to get the wall as short as they can and still meet the sound requirements, possibly 10 feet. He suggested that they would use the most state-of–the-art technology for the windows and walls. The plan would make them double windows, not just double pane. He also suggested they would design the bedrooms toward the front of the house.

Commissioner Thnay said lots 61 and 73 intrigued him. He suggested this might be a strong case for a variance. Since the front yard is almost double the size from the back. He noted the odd shapes of the lots. The plan is not utilizing the full potential of the lots.

Planning Manager Anderly responded that a variance would have to be noticed and advertised for a change. She said other considerations include, could the house be designed differently that would fit on this lot. The developer could choose to bring back the changes when he brings back the site plan review application for the single-story homes.

Commissioner Zermeño suggested that these two lots could have single-story homes.

Commissioner Halliday asked Mr. Dunn if he could comment on the potential impact of the litigation of the entire project.

Mr. Dunn responded that it is very early to say at this point. He noted that the City has done

an excellent job in the EIR.

Mike Brown, Carpenter's Union Alameda County, said he has seen no effort for hiring local people on this project. He said he believes it should call for prevailing wage. He said it is necessary to look out for its residents. There is no language saying they would hire locally, or for the apprenticeship or training program. There is also no attempt to assure housing is affordable. No effort for Hayward residents to buy this project. He discussed the needs of the people who live and move into the project.

Aaron Walch discussed the wall created to divide the proposal between the development and the wetlands. He suggested the barrier for domestic animals should be all concrete for the protection of the wetlands and sensitive areas.

Principal Planner Patenaude commented that the tubular steel section would have to be covered by a wire mesh fabric consistent with the other parts of the project. There would be a one-foot overhang from the top of the fence into the property. This provides views for the homeowners as well as providing protection for the sensitive areas.

Evelyn Cormier, HAPA, said they feel the approval of this part of the project should be denied until functional and workable plans are developed to protect the Salt Marsh Harvest mouse are completed, and until permission has been granted by the Army Corps of Engineers. The moat and fence should be extended around the entire site. She commented that the project should not go forward until there are adequate plans to protect the mouse.

The public hearing was closed at 9:17 p.m.

Commissioner Halliday asked whether a requirement was not made that cats and domestic animals be in house or on a leash.

Planning Manager Anderly responded that it is a condition of the tract that domestic animals, if they go out in the common areas, they must be on a leash.

Commissioner Zermeño **moved,** seconded by Commissioner Halliday, to postpone a decision until more information is available on the single-story homes. He said he would like to see the whole project, particularly the designated lots, 61 and 75, as well as the single story homes. He added that he was disappointed there are no plans for affordable housing.

Commissioner Thnay said at some point single-story homes would come back. He said he had some issues since the eventual project would be 500 homes for the site. Something this huge for Hayward is of comparable quality to the Chappell homes. In these homes, there is always a community hall, for residents, and for meetings. He also commented on the landscape plan because of the wind in this area, he cannot understand some of the proposals. There should be huge trees to act as windbreakers. He also saw no BART connections and bike paths.

Chairperson Bogue commented on the sidewalk on the over-crossing, which might be the best place for a bike path on the pavement. He then mentioned the 2-½ acre park and asked about amenities.

Planning Manager Anderly explained that the final design for the smaller park would be in a different phase, she then mentioned the 5-acre park as well as the 25-acre sports park. With respect to the tree buffer ad taller trees, in this case the sensitive habitat on the other side is equally important. Tall trees provide perching and roosting points for raptors to prey on the wildlife habitat beyond the buffer.

Chairperson Bogue asked about the motion. He said it was more reasonable that the one-story homes should be built on the railroad tracks. He asked if the Commission were to proceed as staff recommends, and the developer were to come back later with different lots designated as single-story homes, could the Commission replace one with another.

Principal Planner Patenaude explained that twelve is the minimum number required. He added that it is possible that they will be different lots and more lots.

Chairperson Bogue indicated that he would not support the motion. He noted that the developer would be coming back to the Commission at a future date.

He then called for a vote. The **motion to continue the hearing failed by the following vote:**

AYES:	COMMISSIONERS	Halliday, Zermeño
NOES:	COMMISSIONER	Thnay, Sacks, McKillip,
	Sacks	
	CHAIRPERSON	Bogue
ABSENT:	Caveglia	
ABSTAIN:	None	

Commissioner Sacks commented on the one-story homes and how the Commissioner can insure that the homes will be maintained as one-story homes without conversion possibilities.

Principal Planner Patenaude noted that the specific plan requires the Department to initially require the one-story homes. Any change would be a change in the site-plan review application and would be referred back to the Planning Commission for approval.

Commissioner Thnay again asked whether the community hall improvement would be provided in the 25-acre park.

Planning Manager Anderly responded that typically these parks are developed in concert with HARD. They make a determination as to what they can maintain and what the people will enjoy, so it would be difficult to attach a condition without the Parks Department.

Mr. Dunn added that the 5-acre park gone through extensive design with both the City and HARD, so changing it would be problematic. He noted that there is the 2-½ acre park, coming

up in a future application. At this point, conceptually, it has a Pool with it, as well as a building/structure on the site. It might contain meeting rooms and/or a gathering place. There will also be opportunities to install a large gazebo/type structure that might be able to hold 20 or 30 people. He emphasized that they would look at the opportunities to do this.

Commissioner Thnay said it is critical that the future residents have meeting hall. It would enhance the value and reputation of the builder. Hayward deserves more than a simple park.

Commissioner Halliday agreed that Commissioner Thnay had a really good point. She commented that as we approve smaller subdivisions with Home Owners Associations, where are they going to meet and function. This is quite large. She noted that the Southgate Home Owners Association meets at the Public Works building for the County. This is an important consideration.

Chairperson Bogue commented that the 2½-acre park should have support building, perhaps meeting rooms. He would be comfortable waiting for the plans to come in. He then asked about the view fence, and that the tubular fence would be too easily crossed by predators.

Principal Planner Patenaude responded by discussing the approved mesh details with the tract, with the wire mesh and tubular fence to deter crossing back and forth. The top one-foot horizontal extension comes out into the developed part of the property.

Planning Manager Anderly suggested proposing a condition for this fence as acrylic to serve the same function as a masonry wall. There are opportunities left in time to be able to continue to work on that.

Commissioner Thnay thanked Standard Pacific for some high quality features. He asked about the accent paving for the crosswalk. He noted that it is standard that a roundabout should be at least one or two car lengths beyond pedestrian crossing. Principal Planner Patenaude said that would be taken into consideration.

Chairperson Bogue **moved**, seconded by Commissioner Sacks, the staff recommendation.

Commissioner Sacks said she was not around when this was originally planned. She noted that her current opinion of Standard Pacific is based on the ugly scar on the hills above Hayward that she sees when she comes home at night. It does make her suspicious of those things shown about this project. Regarding this specific project, she said she is very unhappy, as a member of this community that there is no provision for affordable housing, and that there are no smart growth elements in the plans. Nothing encourages the use of public transportation. She saw a repetition of problems in other parts of the City of Hayward with only one access road. It does not look pedestrian friendly. As to the design, all she sees are huge garage doors. She expressed her exasperation about the project. She said she has not decided how to vote on the project. In terms of protecting the Bay lands, if the rules can be enforced, but unless

everyone is more serious domestic animals will be let loose and will get out. She hoped that somehow, there would be done, a lot better job of using valuable land. She asked whether housing really has to be this way.

Commissioner Halliday thanked commissioner Sacks for her comments. She said she was also conflicted about this project. She voted for approval so it would go on the ballot. The community wanted and needed the Sports Park. She noted that the Church and the Historical Society benefited. However, she admitted that she knows that it is not good land use and not smart growth. It is putting houses out in an area that is not good for human habitation. This will not be a great place to live. Although the voters approved it, there are still some questions remaining. When, as a City, we give permission, developers count on that. The developers spend money we have an obligation to support them. She commented that the Growth Management Task Force recommended the Urban Limit Line be set at the railroad tracks. She added that she would rather see the whole project, and does think it needs more review. She said she would probably oppose the motion.

Commissioner Zermeño commented that people would live there and enjoy the views although it will be windy. He did like the project and thinks they are nice homes. He did not like that it was not transit or pedestrian friendly, and has no community or meeting rooms.

Commissioner Thnay commented that the concept of smart growth needs to be rethought for this project. He asked how could we make full use of this situation, for non-auto travel. He mentioned the City's Master Bike Plan. Perhaps it should be integrated to get some people to use bikes. The remaining treatment should be oriented toward the 20 percent to use a bike. If not provided for, won't use it. Bike racks at the parks. Agree this is not ideal situation for homes. He was trying to make do with it. He discussed the landscaping, cherry trees for landscaping. Many large trees with a canopy invite people to walk and not drive.

Chairperson Bogue encouraged commissioners to support the motion. He then described that process that this project has already gone through, commenting that there are three different components, this plan, the Sports Park, and the business park.

Commissioner McKillop stated that she had listened to the comments. Since she had only been a commissioner for five days and had only that amount of time to review the documents, she said she was interested in abstaining.

The **motion to support the staff recommendation failed by the following vote:**

AYES:	COMMISSIONERS	Thnay, Sacks
	CHAIRPERSON	Bogue
NOES:	COMMISSIONER	Halliday, Zermeño
ABSENT:	Caveglia	
ABSTAIN:	McKillip	

Commissioner Sacks explained her support for the motion. She said she had to set aside her personal feelings to support the motion. Since the people of the City of Hayward voted this on, she encouraged her fellow commissioners to reconsider, based on the facts stated.

Commissioner Zermeño said he understood, but he voted no to encourage the company to go back and incorporate the ideas presented this evening. This is an incomplete phase to the project. People will buy these homes. These are going to be future residents and we should be willing to provide the best possible scenario for our future Hayward residents. There will not be a bus going in there but some things that should be incorporated.
Planning Manager Anderly clarified that there is a bike lane to Hesperian Boulevard.

Commissioner Halliday stated that she voted "no" because she would like to see it come back with the single-story homes. She said she disagreed with the pool and the community center at it. Pools require a great deal of infrastructure of their own. She added that she would like to see thought given to a community meeting place. Because there will probably be a number of issues. She stated that she was not saying she would not support it. She just did not feel it was quite there yet.

Commissioner Sacks commented that she did not think approval of this recommendation, precludes later consideration of exactly what they were asking for. What is going to come back is unknown. But it is coming back.

Assistant City Attorney Conneely commented that if the Commission was unable to pass a motion, the application would be considered denied and it could be appealed to the City Council. As an alternative, she noted, reconsideration of one of the failed motions would be possible.

Commissioner Zermeño **moved,** seconded by Commissioner Halliday, to postpone the site plan review application.

Commissioner Thnay indicated that either of the motions would be okay with him. If there are still concerns, those issues can be resolved. This will aid in the integrity of the project. This will also help in the clarification of the issues.

Commissioner Sacks asked staff, how much this would delay the process.

Planning Manager Anderly said the design of single stories is not ready yet, and will not be ready until September. The effect would mean a delay in all respects as far as building permits.

Commissioner Sacks suggested it might be faster for the applicant to deny, and appeal to Council.

Commissioner Zermeño asked whether, even with approval, it would still not go to Council until September.

Planning Manager Anderly responded that this plan, a site plan review, does not go to Council, unless someone appeals it or unless it is referred by the Commission. She commented that approval of all except the single story homes, which will come back in fall means the developer can now they can get started on the project.

Chairperson Bogue said he could not support the motion. He commented that the Commission should allow them to continue with the process. All these things are locked in. It would be a disservice to anyone not to approve this.

Planning Manager Anderly added that there is no guarantee that it will not be appealed to Council.

He then called for a vote. The **motion to continue the hearing failed by the following vote:**

AYES:	COMMISSIONERS	Halliday, Zermeño, Thnay
NOES:	COMMISSIONER	Sacks, Sacks
	CHAIRPERSON	Bogue
ABSENT:	Caveglia	
ABSTAIN:	McKillip	

Chairperson Bogue then repeated his motion, seconded by Commissioner Sacks, to support the staff recommendation to move ahead with the project.

Commissioner Zermeño said he would vote for the motion because he believes in collective wisdom. He said he is hoping that the next group of housing might include some affordable housing. He said the Commission sent a message to the developer.

Commissioner Thnay said he would support this motion since at some point the problems that have been raised will be solved.

Chairperson Bogue then called for a vote. The **motion to approve the project passed by the following vote:**

AYES:	COMMISSIONERS	Zermeño, Sacks, Thnay
	CHAIRPERSON	Bogue
NOES:	COMMISSIONER	Halliday
ABSENT:	Caveglia	
ABSTAIN:	McKillip	

Chairperson Bogue then called for a nomination of Secretary to the Commission. It was moved by Chairperson Bogue, seconded by Commissioner Zermeño to nominate Commissioner Sacks as Secretary to the Commission. The motion passed 5:0:1:1, with Commissioner Sacks abstaining, and Commissioner Caveglia absent.

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Planning Manager Anderly discussed the number of meetings scheduled for July, including the Blue Rock Country Club development scheduled for July 25. She then discussed the project at East Tennyson between 11th and 12th had been heard by Council who asked for a redesign.

4. Commissioners' Announcements, Referrals

In discussing the same project, Commissioner Sacks said she drove into that neighborhood, and that 11th actually dead-ends, however, the signage is bad. Since the project is being held up, she suggested the need to stop the drive-through, in the interim; perhaps the lot could be fenced off.

Commissioner Zermeño asked whether it is possible for staff to discuss many of the issues brought up during the meeting. He then asked how is it possible to get affordable housing into these large projects.

Planning Manager Anderly commented that this is addressed in the Housing Element. She added that at this point, neither Blue Ridge nor the South of 92 project is required to include it. She said it is a policy decision for the decision makers as to if, and how much, and where they want affordable housing to occur in Hayward. The specific plan outlined for this project determined that number and the design for the units as well. She noted that it is difficult for staff to move outside the specific plans. The decision-making was already done. Staff is merely reacting and implementing their policies. This is one of the first housing developments asking for an exception to the 20-feet front yard setback. There is still no policy in the City to require one-story houses instead of two-story. To encourage it, the developers were told exceptions might be made in setbacks. They are not encouraged to build one-story houses since they fell the market is for more square footage. She suggested that the Commission look at the intent of the policy. She noted that Blue Ridge would have no affordable housing since the proposal was for upscale and there was no requirement for inclusionary housing. It really was never discussed.

Council Member Halliday asked for staff to look at Home Depot and come back to report whether what is happening is part of the conditioning.

Principal Planner Patenaude admitted they were not complying with conditions of approval. He said they have been notified, and staff is monitoring the situation. He discussed his experience at the store while taking photographs. He said he walked the site with the manager and pointed out the violations of the conditions of approval.

Commissioner Halliday mentioned the work session by the City Council on the 880-92 on July 23, a public meeting will be held on July 24, at Centennial Hall. She then complemented Chairperson Bogue for managing the difficult meeting.

Chairperson Bogue discussed his recent visit to the new Levitz store at Southland. He equated it with the Home Life store. He said he was impressed.

ADJOURNMENT

The meeting was adjourned by Chairperson Bogue at 10:23 p.m.

APPROVED:

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Barbara Sacks, Secretary
Planning Commission

ATTEST:

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Edith Looney
Commission Secretary