MINUTES

REGULAR MEETING OF THE PLANNING COMMISSION, CITY OF HAYWARD
Council Chambers
Thursday, December 19, 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 Bogue, followed by the Pledge of Allegiance.

ROLL CALL

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

Staff Members Present: Anderly, Camire, Conneely, Gaber, Koonze, Looney, Patenaude

General Public Present: Approximately 12

PUBLIC COMMENT

There were no public comments.

AGENDA

1. Continuation of Administrative Use Permit No. Pl-2002-0400 – Jose L. and Olivia Rayas (Applicants/Owners) – Request to Keep and Fly Pigeons – The Property is Located at 25191 Kay Avenue in an RS (Single-Family Residential) Zoning District

2. Tentative Parcel Map 7796 – Larry Elpert (Applicant/Owner) – Request to Subdivide a 1± Acre Parcel into Two Single-Family Parcels – The Property is Located at 25273 Campus Drive in a RS (Single-Family Residential) Zoning District

3. Modification of Planned Development No. PL-2002-0003/0002 – Bruce Creager of Barghausen Consulting Engineers for Costco Wholesale (Applicant), The Price Club Company DBA Costco Wholesale (Owner) – Request to Construct a Self-serve Gas Station for Costco Members – The Project is Located at 22330 Hathaway Avenue at West "A" Street, on the southern portion of the Costco Business Center Site

PUBLIC HEARINGS

1. Continuation of Administrative Use Permit No. Pl-2002-0400 – Jose L. and Olivia Rayas (Applicants/Owners) – Request to Keep and Fly Pigeons – The Property is Located at 25191 Kay Avenue in an RS (Single-Family Residential) Zoning District

Principal Planner Patenaude made the presentation. He explained what the Commission had decided at a previous meeting when they asked for conditions and findings of approval. He

made note of a letter from Priscilla Banks and her objection to the approval.

Commissioner Caveglia commented that he believed there was no need for a public hearing.

Chair Bogue asked about condition 7. regarding the no clapping, whistles or noise and then opened the public hearing to ask Ms. Rayas about her response to it.

The public hearing was opened at 7:37 p.m.

Julie Rayas said she had called Consulting Project Planner Weisbrod about the condition herself, and whether that meant she would not be able to do anything. He said making noise referred to recalling the birds only and that other reasonable noises are not prohibited.

Commissioner Zermeño asked whether they had been advised there are quiet hours in the City.

Ms. Rayas responded that she would find out about quiet hours. She said she asked the planner about general noise in the home and he agreed those things were okay.

Commissioner McKillop commented that she thought the condition was rather onerous.

Ms. Rayas stated that she was willing to abide by it, and do whatever the Commission and Department demanded.

Commissioner Sacks pointed out that condition 7 added, "to attract the pigeons back to their loft." She thought that clarification was important as to any noise.

Principal Planner Patenaude said the condition was meant to apply only to noise making in order to attract the birds back. He then pointed out that in both conditions 6 and 8 quiet hours were noted as between the hours of 8 a.m. and 8 p.m.

Roy Gordon, said he wanted to clarify his position regarding the Homeowners Association meeting as noted in the minutes of the previous Planning Commission meeting. He commented that the letter was authorized by the board but not written by the president. He added that there are seven board members, one was absent. Board Member Bogue did not vote. The first vote taken by the Board did not pass. As President, he allowed further discussion. He said he was impressed by one comment that, "people are suffering in silence." It was a 5:0 vote to oppose the pigeons. He said he wished the Rayas' had been there to tell their side of the story. They did call, and later they presented their application at another Board meeting. At that point, he moved to rescind the previous motion, but it died for lack of second. He said he was very impressed with the house, and would support their right to keep the pigeons. He commented that there were numerous other birds in the neighborhood, so it would be difficult to know which caused any problems. He added that he thought the Rayas were doing a wonderful job and commended them to the Commission.

The public hearing was closed at 7:48 p.m.

Commissioner Caveglia moved, seconded by both Commissioners Sacks and Halliday, to

approve the Administrative Use permit application subject to the findings and conditions of approval.

Commissioner Halliday then commented on the letter from Ms. Banks who expressed her concerns and suggested a compromise. Commissioner Halliday then noted that one of the conditions, #4, states that if there are problems the permit can be re-called before the Commission.

Chairperson Bogue asked about condition 6. He said it was his understanding that there were 50 pigeons which flew and 50 which didn't.

Commissioner Sacks said that 50 were flyers and 50 kept back for breeding, so there would not be an occasion when all 100 would be flying.

Principal Planner Patenaude explained that the condition was to limit the number of flyers to only 50 at one time.

Chairperson Bogue insisted that the intent would be different from his understanding of the previous discussion.

Commissioner Halliday said she did see his point. However, she noted, the Commission's concern is how many birds are in the air at one time.

The motion passed 6:0, with Chairperson Bogue voting "No."

2. Tentative Parcel Map 7796 – Larry Elpert (Applicant/Owner) – Request to Subdivide a 1± Acre Parcel into Two Single-Family Parcels – The Property is Located at 25273 Campus Drive in a RS (Single-Family Residential) Zoning District

Assistant Planner Koonze presented the application and showed slides of the map and the area. He explained that notices went out from which three letters were received. Two described environmental issues and traffic concerns resulting from the proposed subdivision. He noted one other letter in support of the project. He described the request to divide the lot into 2-single family lots with a common driveway. Staff said a conservation easement will be established on the parcel map. There is a significant oak on Lot 2, a covenant would be recorded to save the tree. The lot is large enough to accommodate two homes. Subdividing the property would allow each home to be sold individually. In response to concerns of traffic impacts onto Campus Drive, Transportation Services feel impacts from this subdivision would be minimal since there has never been an accident at this driveway. It is staff's opinion that the proposed subdivision is a good project in keeping with home ownership goals of the City and recommends approval with findings and conditions.

Commissioner Halliday noted that with the darkness and rain, she did not get a chance to go to

visit the site. She asked whether people would back out of the driveway.

Assistant Planner Koonze responded that a turn-around will be required as per the Fire Department. As a result people will be able to turn around and head into the street rather than backing out onto it.

Commissioner Halliday asked about the two trips a day cited in the report.

Assistant Planner Koonze said this was the projected number during peak hour trips.

Commissioner Sacks asked about the conservation easement.

Assistant Planner Koonze said it would be established on the parcel map and shall extend from the creek 20-feet into the property from top of the bank.

Commissioner Sacks asked about vegetation on the premises.

Assistant Planner Koonze said it stops near the top of the bank. He maintained that there is minimal vegetation within the 20-feet beyond the bank.

Commissioner Thnay commented on the traffic report of no collisions in the area. He then asked about the average speed in that area.

Assistant Planner Koonze said he had no information on that subject.

Commissioner McKillop asked about the pine tree on the site.

Assistant Planner Kooze said it was only an eight inch tree and not significant enough to save and it was not protected under the City's Tree Preservation Ordinance. A tree that size is replaceable.

Commissioner Sacks then asked about another, larger pine tree.

Assistant Planner Koonze explained that the tree in question was on the adjacent property.

The public hearing was opened at 8:08 p.m.

Larry Elpert, applicant/owner, said he would like to sell the lot with the option of building two homes on the parcel. He noted that the lot size can accommodate two homes and he is not trying to change the density of the area. As to the traffic pattern in the area, he commented that a lot of students tend to speed. He agreed that there is quite a bit of traffic in the area coming and going from work and college. He stated that it is a beautiful lot. He would like to sell the property, since he is no longer living or working in the community. He said he thought two houses would only add value to the neighborhood as well as the City of Hayward, itself. People are counting on the value of their homes for retirement. He said he is proud of what he was going to do there. He did not see a negative side to his proposal. It will also help the value of the property. He said someone could build million-dollar homes up there.

The public hearing was closed at 8:14 p.m.

Commissioner Halliday moved, seconded by Commissioner Zermeño, to approve the subdivision with findings and conditions. She then commented that she appreciates the involvement of neighborhood residents. She then suggested that the City look at what can be done to slow the traffic down in that area. This project doesn't make it worse or better. She commented that the Fire Department is maintaining a proactive stance as protection for fires in the hills. Turning this down would not solve the problems since the owner could do this anyway.

Commissioner Sacks said information is missing as to the discussion of a joint study by City, County and HARD.

Principal Planner Patenaude commented that a project located in the County off Second Street prompted the discussion of a study regarding the creek preservation and setbacks as well as buildings. The County has concluded that there are not a lot of development opportunities along this portion of the creek and has opted not to pursue the development study.

Commissioner Sacks asked whether the proposed structures would come back to the Commission. She asked for further information on the distance back from the Creek and vegetation and clearing based on State recommendations for fire prevention.

Assistant Planner Koonze said that, normally, a plan like this would not come back to the Commission. He said staff would consult with Fire regarding materials, etc. and look at protection of trees. He emphasized again that no vegetation exists within 15-feet of the proposed buildings.

Commissioner Sacks indicated that she had tremendous respect for staff, but the Fire Department recommends clearance of 30-feet to protect homes from fire. She asked whether there was sufficient clearance on the lot for two homes with this recommendation.

Planning Manager Anderly responded that most of the vegetation is from the creek. It is an odd shaped parcel, which would probably need a detached garage in the back. Since it will be a custom home, staff will be dealing with the regulations at the time the plans are submitted.

Commissioner Thnay again reiterated his concern for speeding in the area. He noted that attachment "E" cited the high volume of traffic on Campus Drive. He wondered whether the crosswalk could be improved as part of the project for a safer area and slowing down the speeders. He stated that with this project, the City has an opportunity to do something about traffic on that road. This is a chance to make the area and the street safer.

Assistant Planner Koonze agreed that it could be a good start with this project as an awareness

of the problem. He said he would bring it to Transportation Services' attention.

The motion passed 6:1, with Commissioner Sacks voting "No."

3. Modification of Planned Development No. PL-2002-0003/0002 – Bruce Creager of Barghausen Consulting Engineers for Costco Wholesale (Applicant), The Price Club Company DBA Costco Wholesale (Owner) – Request to Construct a Self-serve Gas Station for Costco Members – The Project is Located at 22330 Hathaway Avenue at West "A" Street, on the southern portion of the Costco Business Center Site

Associate Planner Camire presented the proposal and described the site and the location of the facility. She then showed the design of the project. She commented that, if approved, Staff would like to see a more embellished on the gasoline pump canopy. She noted that the use is not consistent with several plans. Cannery Plan has this site designated to accommodate "Big Box" retail. The site proposed is approximately 26,000 square feet. With the gas station, it could not accommodate another business. She noted that this is also not consistent with the Downtown Redevelopment Plan. This is a prominent corner, which should be developed with neighborhood serving uses. She added that one important goal of the Redevelopment Plan is to better utilize this property. At present, it is not a full service membership warehouse. She added that the Santa Clara Neighborhood Plan wants employment generation in the area. She emphasized that there are already seven service stations along "A" Street, with the County hearing a request for another soon. As a result, staff feels the use in not a needed use in the area. She cited two letters of support from former Santa Clara task force members who no longer live in the area. Staff asked for the Commission to adopt the Negative Declaration and deny the application since the use would not serve a community need.

Commissioner McKillop asked about the Redevelopment Plan's wanting two big box retailers at this site.

Planning Manager Anderly said the Plan is more visionary at this point.

Commissioner McKillop asked whether the City of Hayward was able to gauge the revenues for this property, and wondered what the difference was now versus when it was a full-scale Costco/Price Club.

Associate Planner Camire said staff had not completed a fiscal analysis of the property.

Commissioner Halliday asked whether, in the vision of the Cannery Development, removal of the present Costco building was called for.

Associate Planner Camire explained that it is more conceptual at this point and did not go to that extent.

Commissioner Halliday said Costco might stay and other buildings could be added. She said she spoke with the developer. He said they were willing to move the gas station to a different location on the property. He added that Costco owns the building, but knows that the City could take the property through Eminent Domain proceedings. He said they would concede

that if they discontinue use of the service station at the location, Costco would be willing to remove the gas station at that time. Would there be any way to accommodate the request at this time.

Planning Manager Anderly responded that the City objection would still be there. Having a service station anchoring that corner is not an attractive use. Relocating the structure to another part of the property might make it less prominent but it would have to go through the Planning process again to determine any problems.

Commissioner Thnay said we usually hear about the displacement of mom and pop stores when a big box retailer comes into an area. He asked whether there was any information on the effect these Cosco stations had on local gas stations in other cities.

Associate Planner Camire said staff did not do a survey of other areas where the stations have been built.

Commissioner Thnay commented that it might decimate other service stations in the area.

Commissioner McKillop asked how staff came to the determination that the site is underutilized.

Associate Planner Camire explained that it is not a full-service Costco.

Commissioner McKillop said perhaps this plan is to try to make it more utilized.

The public hearing opened at 8:46 p.m.

Bruce Creager, representing Costco, described the project as well as the canopy saying the design was consistent with the store at that location. He noted that this was one of the most elaborate of the designs they had done and would make it compatible to the business center. He noted that the project would use driveways on Hathaway. The orientation would be to use the existing drives and have one or two employees. The facility is ancillary to the Business Center and would be owned and operated through Costco Wholesale. This way they maintain quality control. He commented on the uses of the surrounding property, across the street is a tire center, and on another corner are more auto oriented use. The Business Center is geared toward the business owners. He noted, however, that the food products are twice the number at the wholesale store in San Leandro. There is a difference in the product line. Although it is geared toward the business owner, the center still serves other members. He then added that the Cannery Plan wants to promote neighborhood uses. This store promotes that type of use. He commented on staff's taking issue with the inadequate landscaping. He noted that the area shows landscaping of 5,300 square feet, which will be approximately 20 percent landscaping. He added that even with the gas station they would have a surplus of 150 parking stalls. He emphasized that the station would serve both resident members and businesses. He maintained

that Costco is a big box, and that it is a misconception that it is only for business owners. He said they would be more than willing to relocate the station from the south/west site to north and east by the railroad tracks. He said Costco would like to recapture the 30 percent of Hayward residents who are members as consumers. He then referred to the Draft General Plan, which lists a figure for the number of underutilized parcels in the area. He maintained that the Costco parcel is not identified as being underutilized. He said he believes they are consistent. He advised members that he would answer questions.

Chairperson Bogue said he had some questions regarding the landscape on the plan.

Commissioner Halliday asked about queueing lines and would they interfere with traffic throughout the parking lot and onto the street.

Mr. Creager said if the lines were that long, they could alter traffic not to block entrance. He said cars would queue around the new landscape island.

Ken Price said he was at the meeting to support the gas station and to respond to questions in the staff report because they recommended denial. He said he lives in the south of the Santa Clara neighborhood and has also been a Planning Commissioner. He said he had never purchased gasoline at a Costco center but might buy it there. He said he had read the staff report, but did not agree with the findings. He commented that plans are guides established in the past. However, if a proposal comes forward that provides a local and City-wide service, reconsideration should be granted. He maintained that Costco is a good business neighbor, which this proposal will only enhance. He noted that many cities would be pleased to have a Costco. He then urged approval of the application.

Oscar Quiambao said there are already too many gas stations and too many auto shops along Mission and "A" Street. He said this feels like the City is reneging on the redevelopment plan for Hayward. He emphasized the impact this would have on other gas station owners. He commented that already gas pricing is higher outside of Hayward. Although they say they would be adding new employment, they would probably be taking away employment from present service stations which would end up closing as a result of the new station having lower priced gasoline.

Sayed Emran said he owns his own gas station business on Winton and wanted to protest another gas station. He maintained that there is no need for another gas station since there are already so many in Hayward. He said he lives in Hayward where the price of gas is already low. He said he was concerned that Costco could undersell them. He maintained that this Costco has a need to keep its business going so the City of Hayward will not grab the land for redevelopment. He maintained that Costco runs other businesses out of town.

Soheil said he knows the owner of gas station near another Costco service station. They are in a gas war. He maintained that the City of Hayward does not need this gasoline station here. Resident business owners would suffer.

Mr. Creager responded that the corner gas stations near other Costco stations have had an increase in business. He said they are not a 24-hour operation as many of these others are, and

do not sell convenience store items. He explained that there is no union issue since Costco pays its employees extremely well.

The public hearing closed at 9:21 p.m.

Commissioner Caveglia moved to deny the permit, seconded by Commissioner Sacks. He then maintained that it was basically the same proposal Costco brought to the Commission last time. He said he was particularly pleased to see local business owners at this meeting. He commented that it is not necessary to have big corporations drive out local smaller business owners. He commented that, "extremely well-paid," was a spurious argument since it is basically union-busting. He maintained that there is no need for this gas station and to approve it would cause serious repercussions.

Commissioner Sacks said she also would agree with the motion. It is hard to look at the past and what the future might hold. She commented that in the past the Price-Club site was more utilized. Saying that majority of residents are not members, she would be supporting the motion. She noted also that there are an abundance of service stations on A Street.

Commissioner Thnay said he was concerned with the impact on the local gas station owners. He also maintained that he might support moving this to different location. However, this is the entrance to the Cannery Area. He said in general the Commission makes suppositions based on historical data, and should be asking does it impact local businesses. He added that staff clearly has a vision for this area, so it would be hard to support this proposal. He said he might support the strengthening of the retail center, and wished he had more solid data on the effect of this business on others in the area, and how other cities have dealt with this.

Commissioner Zermeño said he met with the Costco representative and admitted there were various pluses, one of which was keeping a big corporation in the City of Hayward. He said he would have to vote for the motion to help protect the small businesses in Hayward, as well as support future development of the Cannery Area.

Commissioner McKillop said this site is underutilized. However, this gas station is not going to bring it up to an acceptable level of adequate utilization. She added that she did appreciate the resident/owners coming to the meeting.

Commissioner Halliday said she, too, would support the motion. She was interested in the location. She thought the map citing the location of and number of gas stations in that area was helpful. She said the area is well-served and that something better can be done on the Cosco site.

Chairperson Bogue said he would not support the motion although he was not happy with the location of the gas station. He suggested relocating it to the rear of the property or even to the Tire Center. He said there could be expanded uses on the site and this could work. The gas

station is not totally inappropriate to the location.

Assisstant City Attorney Conneely suggested the motion be adapted to adopt the negative declaration and deny the request.

The motion to deny the request passed 6:1, with Commissioner Bogue voting, "No."

ADDITIONAL MATTERS

4. Oral Report on Planning and Zoning Matters

Planning Manager Anderly announced that January meetings would be held on the 2nd and 4th Thursdays.

5. Commissioners' Announcements, Referrals

Commissioner Caveglia asked again for an update on Hutch's car wash.

APPROVAL OF MINUTES

- November 21, 2002 - Approved

ADJOURNMENT

The meeting was adjourned by Chairperson Bogue at 9:35 p.m.

APPROVED:

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Barbara Sacks, Secretary
Planning Commission

ATTEST:

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Edith Looney
Commission Secretary