



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, Sacks, Caveglia, Bogue,
CHAIRPERSON Halliday

Absent: COMMISSIONER Williams, Thnay

Staff Members Present: Anderly, Camire, Conneely, Emura, Looney

General Public Present: Approximately 17

PUBLIC COMMENT

There were no public comments. Chairperson Halliday informed applicants that there were two members not in attendance. However, it would still take four members supporting their item for passage. She suggested each might consider continuing to a future date. Neither asked to.

AGENDA

1. **Text Change Application PL-2002-0042 – Initiated by the Planning Director** - Request for an Amendment to Chapter 10, Article 15, of the Hayward Municipal Code, "Preservation of Trees" Sections 10-15.10 through 10-15.30 **(To be continued to 4-11-02)**
2. **Use Permit No. PL-2001-0447 – Eddy Reyes (Applicant) Jesus Magallanes (Owner)** – Request to Operate a Tattoo Parlor. The Property is Located at 353 West Tennyson Road in the Neighborhood Commercial (CN) Zoning District
3. **Use Permit/Variance PL-2002-0025 – Hani Haddad (Applicant/Owner):** - Request for New Off-Sale Alcoholic Beverage Outlet Located Less Than 500 Feet from Another Outlet. The Property is Located at 230 Jackson Street (State Route 92) in the Neighborhood Commercial (CN) District

PUBLIC HEARINGS

1. **Text Change Application PL-2002-0042 – Initiated by the Planning Director** - Request for an Amendment to Chapter 10, Article 15, of the Hayward Municipal Code, "Preservation of Trees" Sections 10-15.10 through 10-15.30 **(To be continued to 4-11-02)**
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in the Neighborhood Commercial (CN) Zoning District

Associate Planner Camire described the property and the proposal. She noted that only two neighbors from the area had phoned staff to respond to the notice sent out by the City. One caller supported the Parlor, and one caller was against it. She noted that the five-parking spaces would serve the four tenants. She noted the amended Conditions of Approval, including, 5. To assure that vehicles do not hit the fence while parking, the parking lot wheel stops shall be relocated to the satisfaction of the Planning Director, Amend 7 to include "*The 4-foot high portion of the fence on the east side of the parking lot shall be removed and the remainder*" of the fence shall be repaired and painted by the property owner. 9. The property owner shall install landscaping in all planters and the parkway. The planters shall be repaired. *The front planter adjacent to West Tennyson Road shall be extended to include the area in front of the utility meters. The landscaping shall screen the utility meters...*" and Condition 13, "*A decorative trash receptacle shall be installed adjacent to the comic book store and the tattoo parlor to be used by commercial center patrons.*"

Commissioner Zermeño asked whether the red curb in front of the drive-way could be eliminated for one further parking space.

Associate Planner Camire said she could speak with Transportation/Development Manager Collins about this possibility.

Planning Manager Anderly explained that it is not unusual in a commercial area to put red curbing around driveways so that drivers exiting have a better view of on-coming traffic.

Chairperson Halliday asked whether there have been any changes in the regulations of Tattoo Parlors. She was told they are required to be registered with the County of Alameda. However, the Health Department does not regulate the operation. They only have to register with the County. She agreed that there are no inspections to ensure proper health procedures are followed.

The public hearing opened at 7:55 p.m.

Eddie Reyes, applicant, Newark, said he is trying to fulfill his dream. He is planning to have more of an art gallery. He explained that he has been working as a tattoo artist for six years in San Jose. He explained about sterilizing the equipment. He commented that he checks customer's identification to assure that the customer is 18 years of age, and keeps copies of the identification of each customer. He noted that anything negative to his family, his shop and his business, he would discourage. In response to Commissioner Zermeno's question regarding samples of his work, two of his friends showed their tattoos to the Members.

Brian Howke, a customer showed his tattoo and added that his father was so impressed with his tattoo, he was also tattooed, as was his wife, Jody, who showed her custom tattoo of a fairy.

Sally Reyes, wife of the applicant, added comments to the sanitary conditions. She noted that her husband paints, screens t-shirts, and tattoos. She noted that she plans to do staff work in



REGULAR MEETING OF THE PLANNING
COMMISSION, CITY OF HAYWARD, Council
Chambers

Thursday, March 28, 2002, 7:30 P.M.
777 "B" Street, Hayward, CA 94541

the business as well.

Mariano Preciado, owner of American Comics, said he plans to provide a customer access between the two shops in order to allow his customers to view the Mexican art available in the Tattoo Parlor. He added that much of Mr. Reyes' work is on canvas. He commented that the flower shop will be leaving from the center and the hair stylist will be expanding into that space so there will be enough customer parking.

The public hearing closed at 8:10 p.m.

Commissioner Zermeño **moved**, seconded by Commissioner Sacks to approve the application with the added conditions. He commented that Hayward thrives on small businesses.

Commissioner Sacks added that she recently read an article about tattoos. She noted that tattoos are all about body modifications and how they make people feel and look. She was convinced to approve the project.

Commissioner Bogue added a condition, that the landscape be maintained in a healthy and weed-free condition, and that the property owner regularly check the landscaping and replace any unhealthy or dying plants. The maker of the motion, and second, accepted the amendment.

Commissioner Bogue then indicated that he could not agree with the Findings for Approval including Finding 2. "The tattoo parlor is desirable for the public convenience or welfare..." and Finding 4. "The tattoo parlor will not be detrimental to the public health and safety." He commented that he is uncomfortable with reusing needles. He said he believes they are detrimental to the public health.

Chairperson Halliday said she, too, was having problems supporting the motion as well. She commented on the recently approved tattoo parlor and the number of them in the area. Her main concern is lack of regulations and health. She expressed concern about the health issues. She said she was concerned about gang members. She said she would not be able to support the motion.

Commissioner Sacks asked about health problems with other tattoo parlors in the area. She was told to the best of staff's understanding there have been no reported problems. Whether the Planning Staff would be notified was questioned.

Commissioner Zermeño also pointed out that there are no problems that he had heard of. He also commented that many gang members who do their own tattoos. This is art.

Commissioner Caveglia indicated that he was going to support the motion since the business of the Planning Commission is to look at zoning and City Ordinances. He saw no legal reason to deny this petition.

Chairperson Halliday indicated her respect for the rest of the Commission and said, her concern is not a Planning issue, rather a health issue. She added that since the Planning Commission does not regulate health issues. She then indicated that she would change her mind and vote with the majority.

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

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

3. **Use Permit/Variance PL-2002-0025 – Hani Haddad (Applicant/Owner):** - Request for New Off-Sale Alcoholic Beverage Outlet Located Less Than 500 Feet from Another Outlet. The Property is Located at 230 Jackson Street (State Route 92) in the Neighborhood Commercial (CN) District

Associate Planner Emura described the property and the setting as well as the history of Crossroads World Market which is a specialty ethnic food store that recently moved to the Jackson Street location from a smaller space on Foothill near Mission. It carries food from about 30 different countries and cultures. Cal State Hayward did a marketing study for Mr. Haddad and determined that his customers would like his store to carry imported beers and wine. COMMPRE opposed the application because there are already nine off-sale liquor licenses in a census tract that supports four. The Police Department does not object to this application since it would provide a service which is substantially different from the other alcoholic beverage outlets. Staff is supportive of this application because it does not gear itself to sell to the mass market, the storage and display would not encourage immediate consumption since the product would not be refrigerated, the size of the area designated is limited as are the hours of operation. Associate Planner Emura commented that the 6-lane divided highway, Jackson Street, is wide enough along with its median, to create a boundary between the neighborhoods on either side of the highway. He added that the effective distance, to get from this market to the other liquor establishments across the street is greater than 500 feet.

Commissioner Caveglia suggested that although there is the suggestion of only a small amount of Greek wine and a few unrefrigerated beverages, once a liquor license is assigned, the City has no way to regulate that.

Assistant City Attorney Conneely responded that, although this statement is correct, however, if the applicant violates the condition of approval, the City could seek revocation of the use permit. She then added that were the business sold, the new owner would be subject to the conditions of approval.

Commissioner Caveglia noted that once an owner gets a license, it is difficult to revoke it.

Commissioner Sacks questioned the figures cited in the staff report regarding the area allowed in



the store.

Commissioner Zermeño commented on the wines and beers listed on the report.

Associate Planner Emura responded that the store itself would dictate the quality and kind of product.

Chairperson Haliday noted that in none of the Conditions of Approval does it say that the product will be of an international origin.

Assistant City Attorney Conneely informed her that the Alcoholic Beverage Control Board would license for wine and beer.

Commissioner Caveglia suggested reading that a new restaurant coming into the area would also ask for permission to sell beer and wine.

Planning Manager Anderley indicated that technically the permit would be an off-sale. However, most restaurants sell alcoholic beverage with their meals rather than for carryout.

Commissioner Caveglia noted that recently the Planning Commission turned down the permit for an off-sale wine and beer license in another area that was over-saturated.

Commissioner Bogue asked for further clarification of the wording of one of the conditions regarding the size of the pre-mixed distilled spirit cocktails.

Planning Manager Anderley explained that "if allowed by the license" would mean whether these spirits would be allowed by the ABC under their licensing procedure.

The public hearing opened at 8:50 p.m.

Hani Haddad, Hayward, applicant, said he has lived in Hayward for almost 30 years. He asked himself why does he want to do business in Hayward. He noted that Crossroad Markets fits into the demographics of the City of Hayward, one of the most diverse cities of its size in the Country. He commented that their customer base has been drawn from throughout the Bay Area. Since moving into the new store on Jackson, they have expanded the store and are only missing international beers and wines to offer their customers. He noted that the built in mechanisms mentioned by staff would help to keep alcohol abuse to a minimum.

Diane Ferchel, Hayward, spoke very supportively of the Crossroad Markets. She noted that this store is a reflection of the diversity of the community. She described it as a cornucopia of good foods. She said Mr. Haddad has been a very responsible owner. The community has been enhanced by this market. She asked for approval of the application.

Larry Bendoski, Castro Valley, commented on his patronage of the Crossroad Markets throughout the years. He clarified that the amount of liquor that would be available would be very minor compared to the size of the store. He noted the number and variety of other items available in the store.

Lore Warren, Hayward, spoke in support of Crossroad World Markets and the availability of German products. She commented on the German-American Festival held in Hayward each year which brings in thousands of people. She commented that Mr. Haddad is an asset to the City of Hayward. She asked for approval of the application.

Thea Perrino, COMMPRE, said they were asking for denial of the permit since it violates Hayward's ordinance for the number of liquor sales businesses in an area. She said that the staff report was trying to circumvent the ordinance. She reminded members that they had denied a permit to El Tapatio in the same census tract so to grant this permit would be discriminatory. There is no way of enforcing the condition of the type of product sold. She then asked for denial of the permit.

John Mallory, Hayward, speaking for a group called Hayward Citizens for Responsible Liquor Outlets, said his group had no objection to Mr. Haddid's application. They met with him and he was agreeable to their conditions. He commented that this is the most unique place that he has seen. He noted that his group keeps an eye on the places they have approved.

John Ostarello, Hayward, an Instructor at CSUH, used various examples of causal thinking and argued that this business should not be punished for the problems others have created. It should be treated like any other business.

The public hearing was closed at 9:15 p.m.

Commissioner Zermeño **moved**, seconded by Commissioner Sacks, to find the project categorically exempt from environmental review and approve the Conditional Use Permit and the Variance based on the findings and conditions of approval.

Commissioner Zermeño then discussed the value of the Market to the City of Hayward. He noted the variety of ethnic foods to serve such a diverse population.

Commissioner Bogue said he was not sure whether the conditions of approval could lock in regulations.

Assistant City Manager Conneely said the type of license applied for by the applicant is the leading document for the type of liquor he can sell. She doubted if a condition limiting sales to only imported items would be enforceable. She also expressed concern that defining "specialty beer or wine" might be rather vague.

Commissioner Bogue then asked whether the floor area restriction, Condition 5, could be lowered from the 2.5 percent to further control the amount of liquor available.

Associate Planner Emura suggested that, instead of percentage, the Commission might be more



comfortable with square footage. He commented that a condition might include the number of shelves.

Commissioner Caveglia suggested that consistency was important. The Commission has previously denied permission to a Korean Market on Foothill Boulevard to include wine and beer sales. He commented that clearly, this store will do fine without liquor sales. They have in the past and will continue to do so in the future. He said the issue is clear. We have an ordinance. We need to follow it. The hypocrisy of alcohol and its sales and uses is laughable to young people. It makes a mockery of this. He would not vote for it.

Commissioner Sacks said she had conflicting feelings about this issue. She noted that she respects and appreciates COMMPRE a great deal. On the other hand, not every shop owner who sells wine or beer is a problem to the community. The safe guards are important, including the hours of operation.

Commissioner Zermeño commented that the 2.5 percent is not a large area.

Commissioner Bogue added a height limit to Condition 5., to read, "No higher than 7-feet." He commented that this is taller than the average door-way, and would probably be unsafe to have any more. This was accepted by the motion maker and seconder.

In response to Chairperson Halliday's question, Mr. Haddad said the 7-foot height would be plenty of space.

Chairperson Halliday added her comments with respect to COMMPRE. She noted that their comments are always worth hearing. She said she would agree with Jackson as the very wide divided road. She commented that there is only one real liquor store in the area. She noted that this is promoting the City of Hayward's multi-culturalism. She commented on the seriousness of the issue.

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

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

ADDITIONAL MATTERS

4. Oral Report on Planning and Zoning Matters

Planning Manager Anderly noted that the two meetings scheduled for April will be on April 11th

and April 25th.

5. Commissioners' Announcements, Referrals

Commissioner Sacks reported on her recent trip to the Planner's Institute by the League of California Cities. She commented on several of the sessions she attended. She said she would make further brief reports at upcoming meetings.

MINUTES

- February 28, 2002 - Approved

ADJOURNMENT

The meeting was adjourned by Chairperson Halliday at 9:55 p.m.

APPROVED:

Francisco Zermeño, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary