**MINUTES**

**REGULAR MEETING OF THE PLANNING COMMISSION, CITY OF HAYWARD**
**Council Chambers**
**Thursday, March 13, 2003, 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

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| Present: | COMMISSIONERS | Zermeño, McKillop, Caveglia, Sacks, Halliday, Thnay |
| | CHAIRPERSON | Bogue |
| Absent: | COMMISSIONER | None |
| Staff Members Present: | | Anderly, Conneely, Looney, Patenaude |
| General Public Present: | | Approximately 3 |

PUBLIC COMMENT
There were no public comments.

AGENDA

1. Appeal of the Planning Director's Conditional Approval of Administrative Use Permit Application No PL-2002-0258 - Sanjav Bhanfari (Applicant), Dharm Salwan (Owner) - Request to Construct and Operate a Three-Story Veterinary Clinic with an Upper Level Residence. The Property is located at 21888 Foothill Blvd, South of Grove Way

PUBLIC HEARINGS

1. Appeal of the Planning Director's Conditional Approval of Administrative Use Permit Application No PL-2002-0258 - Sanjav Bhanfari (Applicant), Dharm Salwan (Owner) - Request to Construct and Operate a Three-Story Veterinary Clinic with an Upper Level Residence. The Property is located at 21888 Foothill Blvd, South of Grove Way.

Principal Planner Patenaude made a brief report. He described the plan for the 3-story building and the appeal by the neighboring Super "8" Motel which sited issues with the setback of the building, height of the building, and the nuisance factor of barking dogs. Principal Planner Patenaude explained the changes in the plans for the Clinic from those originally seen by the Commission in November of 2002. The primary difference is that parking will be totally under the building in the new plan. Staff recommended denial of the appeal.

In response to questions and comments from commissioners, Principal Planner Patenaude stated that the design was much more compact and efficient. He also noted a retail space at the front of the building, which will provide more activity in that area.

Commissioner Thnay asked about the zoning in the area, and whether the building could be used as residential housing use automatically, if this use does not work out.

Principal Planner Patenaude responded they would have to come back to the City relative to the parking and number of units.

Commissioner McKillop asked about the mature trees on the property and whether they could be saved.

Principal Planner Patenaude responded that the trees at the front of the property would be sacrificed for the building. He said he was not sure whether the landscape architect had determined that the other trees were significant. Replacement trees would be required/

Commissioner Sacks asked about the continuation of Rockford Road, and the application's condition that the road would have to be extended.

Principal Planner Patenaude responded that the continuation would make access to the property at the end of the road possible for future residential development.

Commissioner Sacks than asked about the exposure of most of the utilities in front of the Super "8" motel, including gas lines.

Planning Manager Anderly said the landscaping seems to be lacking some maintenance, and the Fire Department hydrants which are they do not want to be hidden.

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

Applicant Sanjiv Bhandari explained the design. He then responded to the comments of commissioners. He noted that there is a very large terrace on the Second floor. He commented on what was previously approved adding that the architect's design was physically impossible. He said they wanted to create a street scene along Foothill Boulevard. Even though the second story will be very useful, they put the animal wards in the middle of the floor. He noted that the double-insulated walls are to answer the concern for the family living there above the animal hospital. He explained the design of the insulation in the walls. He said they are almost doubling the standards demanded for insulation and energy savings. He commented that the trees on site in front would be replaced. In the back will be five new trees. The utility meters at the Super-8 are control meters, which do need further landscaping. He asked that the Rockford Road extension, condition 66 was in the conditions by error since the first concept for development in this area included building a development. He noted that he had discussed dropping that plan with the Planner who said condition 66 would be removed.

Commissioner Zermeño said the applicant had already answered two of his questions. He then asked about planned security measures for the elevator, which will be facing the street.

Mr. Bhandari said the whole facility would have security cameras as well as an electronic gate for access.
Commissioner Caveglia asked about condition #66 and whether Dr. Salwan owns the property on

Foothill.

Mr. Bhandari said he owns two other pieces of property on that street. They have the concept to buy all of the homes on the block and combine it into a larger parcel. At this point there are issues with the residences on Rockford. Once that is resolved, they might be able to develop plans for the area.

Commissioner Caveglia added that he was impressed with the building and what they have done.

Commissioner Halliday asked whether the area to the rear would remain open space and have replacement trees. She noted that the design for the housing on the third floor was interesting.

Mr. Bhandari said the owner of the clinic would live in the apartment. He added various plans for using the terrace by the family. He said the yard on the first floor would be for the animals.

The public hearing was closed at 8:01 p.m.

Chairperson Bogue talk about the site, whether it goes all the way up the hill.

Principal Planner Patenaude discussed the application to divide the property.

Commissioner Caveglia moved, seconded by Commissioner Zermeño, to deny the appeal. He noted that he was distressed that the appeal was made and the appellant did not show up. He said he was concerned about the frivolousness of the appeal. He commented that it is a beautiful building and will be an asset to Foothill Boulevard.

Chairperson Bogue referred to a letter from the appellant, explaining their concerns regarding the 10-foot setback, the height of building, as well as it being a veterinary clinic.

Commissioner Halliday asked for a clarification that Condition 66 be taken out.

Planning Manager Anderly said she is reluctant to just have the Condition taken out although the map is not recorded at this point, the condition should remain with the project.

Chairperson Bogue reopened the public hearing at 8:05 p.m. for a response from the applicant.

Mr. Bhandari said they had filed an application but have taken it back. He added that there is no desire to subdivide the parcel at this time. He pointed out the original plans for a subdivision on Rockford, indicating that negotiations are ongoing with the homeowners in that area. He indicated that this condition would delay building this building.

Commissioner Halliday asked if there would be a problem leaving the condition in the application at this point.

Principal Planner Patenaude stated that it is warranted to dedicate the right of way to provide for future development to the north.

Planning Manager Anderly said what staff is concerned about is crafting a condition so this area is set-aside for future, dedication or covenant. She said perhaps it is the actual wording of the condition. However, the City of Hayward needs come assurance that Rockford Street will pass through this area.

Principal Planner Patenaude said it would be appropriate to remove c. and d. of condition 66, the turn-around for a fire truck should still remain a condition. He indicated that the City would like to retain access of Rockford Road for the future.

Mr. Bhandari asked that the condition read, "Prior to subdivision of the lot or development on Rockford Road." He noted that this project does not even touch on the Rockford Road property.

Assistant City Attorney Conneely suggested the possibility of a delay or the City of Hayward could enter into an agreement for the dedication.

Mr. Bhandari said the owner cannot financially afford to build the cul-de-sac. He has to acquire more lots; a lot of things have to happen to justify it. He would back off completely from building this project, if the requirement is made to build the cul-de-sac. This building has no relationship to that project nor to the cul-de-sac.

Commissioner Halliday asked about dedicating the property to the City of Hayward. However, she noted, the buildings to the north should be the ones to dedicate the land.

Principal Planner Patenaude clarified that the City is not asking for construction of any improvements of the street by this condition. Staff is only asking for dedication of right-of-way in order to reserve that right-of-way for future use as a street.

Planning Manager Anderly explained that the hearing could be continued if the Commission was reluctant to act without further information. She added that the Super 8 was designed so the road could continue.

Chairperson Bogue asked how timely does the dedication of property have to be.

Principal Planner Patenaude explained that dedication is not a lengthy process.

Mr. Bhandari clarified that if there is not development there is no issue. He agreed that whatever terms Super 8 has made with the City, this owner would also make. He asked why this condition was made part of this application when no part of this project touches on Rockford Road.

Commissioner Halliday suggested that the applicant agree to dedicate that strip of road.

Mr. Bhandari asked not tie that to this project. He noted that it has been five years since the process was started. He said they have done quite a bit of work on the development in the back

and the results were not agreeable with anyone. He said the owner would agree and sign the agreement to dedicate the land.

Chairperson Bogue re-closed the public hearing at 8:22 p.m.

Commissioner Sacks commented that this was a done deal, which had been accepted by the City of Hayward and then appealed so it seems that this is inappropriate. She said she would support the motion.

Commissioner McKillop noted that if the motion retains condition 66, the applicant would not build the project.

Mr. Bhandari explained again that at the time anybody wants to extend the road, this owner would agree to dedicate the land.

Commissioner McKillop stated that unless condition 66 is out or revised, she could not support the motion.

Commissioner Zermeño said his impression is that the owner does not understand what dedication the right of way means. He said he would trust staff to work with the owner to compromise Condition 66.

Commissioner Caveglia said that made sense to him, he said he would modify his motion to remove Condition 66, with the understanding that staff and developer work out an arrangement. Staff is clear and the architect is clear. He said he would trust them to do that.

Chairperson Bogue said he would like to provide more direction to staff.

Commissioner Thnay said it would be a shame if the project were not built. He noted that condition 66 is a lapover from a previous project. He commented that staff knows better than anyone how to make this happen. Prior to the extension of Rockford Road, the owner shall provide the access of easement. He commented that it would be a shame if this project were not built since it will enhance the streetscape.

Commissioner Halliday expressed concern with approving a motion and just removing condition 66 in its entirety. She then read what her wording would be. She noted that this is part of the parcel and the Commission was just trying to get agreement that the piece of property to the north be available to the City of Hayward. If it remains part of the parcel the owners could block development on the property to the north unless it is specified that this parcel will be dedicated to the city. She added that it is a good building but she would not want to put undue burden on the property owner.

Planning Manager Anderly stated that if staff could not work out an agreement to affect the

agreement, it could be appealed again during the next ten-day appeal period. She felt staff could work out an agreement with the property owner.

Commissioner Zermeño stated that everybody agrees the building is an asset to the City of Hayward. He noted that the Commission should leave it to staff and the owners come to an agreement.

Commissioner Caveglia indicated that staff had heard us. Let staff do their job. We do not need to write every word tonight. They know what you have said, let them do it.

Commissioner McKillop said she has no reason not to vote for the motion at this point.

Commissioner Sacks stated that it is needs to be perfectly clear the effort will be made to ensure a possible extension of Rockford Road will not be blocked on this property.

Chairperson Bogue said removing 66 indicates that it is not clear that there will be access. He said he would like to see that it remains and instruct staff to create a new 66. It might seem like a small thing but when we say we are going to remove it, that is what is done when a condition is removed and we have no requirement for anything in the condition and that is not the case. We may need to tighten it up a little more and clearly say what we expect even though we will not be writing the actual wording.

Commissioner Caveglia stated that as part of his motion he stated that staff and the architect would work together to come to a final agreement to prevent blockage of future access to Rockford Road.

Commissioner Halliday said she was simply trying to protect the future development of the area. It should be clearly part of the motion.

Planning Manager Anderly said the applicant could appeal whatever decision might be made.

The motion passed unanimously.

ADDITIONAL MATTERS

2. Oral Report on Planning and Zoning Matters.

Planning Manager Anderly noted the final meeting in March on the 27th, and the two meetings scheduled for April. She commented that Commissioner Thnay would be making a reservation for the pre-meeting dinner.

3. Commissioners' Announcements, Referrals

**APPROVAL OF MINUTES**

- January 9, 2003 – Approved with a minor change from Commissioner Thnay.
- February 13, 2003 - Approved

ADJOURNMENT

The meeting was adjourned by Chairperson Bogue at 8:43 p.m.

APPROVED:

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Barbara Sacks, Secretary
Planning Commission

ATTEST:

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Edith Looney
Commission Secretary