



MINUTES OF MEETING OF THE CITY
COUNCIL OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, January 27, 2004, 8:00 p.m.

MEETING

The Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Rodriquez.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez, Hilson,
Rodriquez, Ward, Dowling, Henson
MAYOR Cooper
Absent: None

PUBLIC COMMENTS

Jason Moreno commented on the rents for low-income housing units.

Barbara Heringer-Swarr discussed the 50-year airport lease, which was on the agenda last week.

Al Mendall announced a candidates' forum to be held at Treeview Elementary School on Monday, February 2nd at 7 p.m., and listed the sponsoring neighborhood organizations.

Frank Goulart discussed a one-way loop for the downtown area on Jackson-Mission-Foothill. He showed diagrams of the proposal presented by CATS, Citizens for Alternative Transportation.

John Kyle commented on the leasing at the airport. He suggested that the rents were too low at the airport, which is why the leasing is at 100 percent.

CONSENT

1. Approval of Minutes of the City Council Meeting of January 20, 2004

It was moved by Council Member Hilson, seconded by Council Member Ward, and unanimously carried to approve the minutes of the City Council Meeting of January 20, 2004 as corrected.

2. Authorization for Increase in Additional Professional Services with Brown and Caldwell for Design of the Water Pollution Control Facility Improvement Project, Phase I

Staff report submitted by Deputy Director of Public Works/Utilities Ameri, dated January 27, 2004, was filed.

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It was moved by Council Member Hilson, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 04-013, "Resolution Authorizing the City Manager to Execute an Amendment to Agreement with Brown and Caldwell to Increase the Amount of the Contract for Phase I of the Water Pollution Control Improvement Project"

3. Sanitary Sewer Replacements at Various Locations - Award of Construction Contract

Staff report submitted by Deputy Director of Public Works/Utilities Ameri, dated January 27, 2004, was filed.

It was moved by Council Member Hilson, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 04-014, "Resolution Awarding Contract to K. J. Woods Construction, Inc., for the Sanitary Sewer Replacement at Various Locations Project, Project Nos. 7511 and 7581"

HEARINGS

4. Appeal of Planning Commission's Approval of Site Plan Review No. PL-2002-0648 and Variance No. PL-2003-0669 - For a Mixed-Use (Residential/Commercial) Building at 22605 Second Street and a Variance to Allow Parking within 5-foot Rear Yard Setback - Dr. Dharam Salwan (Owner)

Staff report submitted by Associate Planner Pearson, dated January 27, 2004, was filed.

Principal Planner Patenaude made the staff report, depicting the location of the site, which is adjacent to the First United Methodist Church. He described the project as a combination of retail and residential units. He noted that the project applicant would need to pay parking in-lieu fees for the lack of 5 additional parking spaces. The project was recommended for approval by the Planning Commission. The Pastor of the church, which is the adjacent parcel, appealed the project. He based the appeal on loss of access through the property by the church; the project is too large for the property, and the approval at the Planning Commission was over objections. The project is consistent with the City's guidelines for the area. He noted that the staff recommendation is to uphold the approval of the project and deny the appeal.

Council Member Jimenez asked for further information about the requirements for the project.

Council Member Henson asked about this lot itself in comparison to the project across the street. He noted that the Central City District allows for maximizing the entire lot.



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Principal Planner Patenaude explained that the only allowance for parking in-lieu fees is in the downtown area. The Ordinance also says if there is parking within reasonable walking distance from the project, in-lieu fees may be paid. They determined that City Lot 4 has sufficient parking available.

Council Member Dowling discussed the parking requirements with regard to the size of the residential units.

Council Member Ward asked for further discussion as to how the in-lieu fee is used. He also asked about traffic studies regarding the turns into and out of the lot. He discussed the density of the use and the area.

City Manager Armas explained that 15 to 20 years ago, the City Council determined that in a downtown urban setting there might not be accommodation for the required parking. As a result, they determined that an in-lieu fee might be collected. The \$28,000 per space collected are intended for further parking purposes in the downtown area.

Council Member Hilson reiterated various requirements in the conditions of approval. He was of the opinion that there should be landscape plans included in the proposal. He also discussed parking for the project.

Council Member Rodriguez said she was not assured of the appropriateness of this building on the site. She commented that the church was right and that it is too big for the site. It is a very busy project.

Council Member Jimenez asked for an address clarification on the project. He asked about trees and the good neighbor fence. He noted that the property owner has been there for 40 or more years and should be given consideration.

Council Member Dowling asked about deliveries for the retail project.

Council Member Henson asked about the graffiti removal policy and whether it was still 10 days.

City Manager Armas clarified that this should have read 3 days, which is the current policy.

Mayor Cooper questioned residential access to the garages. She also asked for further detail on the residential plans as well. She said the open space for the project is neither adequate nor appealing. She expressed concern regarding the interaction of the church and the project.

Mayor Cooper opened the public hearing at 9:13 p.m.

Cecelia Van Houten, resident to the south of the project, explained that the church building is 150 years old. She described the lack of parking and spoke in opposition to this project.

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Frank Marymee said he did his own survey of occupancy along B and Main Streets. He then asked why, with all the vacancies, is there a need for more retail buildings.

Barbara Halliday explained that she had recused herself from the Planning Commission discussion of this project since she is a member of the church. She explained that although this project looks like it attains some of the goals of the City of Hayward, the church also helps to meet many of the goals as well. The church is 150 years old, and it plays a key role in the community. She asked members to think about the competing goals.

Barbara Heringer-Swarr asked how the number of parking spaces for retail is determined as well as the amount for the in-lieu fee. She asked about rooftop gardens as well as wrought iron as a divider.

Principal Planner Patenaude responded that each 315 square feet of floor area requires one parking space, and that the amount of the in-lieu is based on actual costs of producing that parking space at the time of the project.

Sanjiv Bhandari, BKBC Architects, responded to questions and concerns regarding the project. He noted that the first retail/office proposal was sent back for further review. Staff has been supportive but demanding. The downtown zoning allows up to 65 units per acre. He noted that downtown parking is always a concern. He commented that the vision of the leadership has been in the forefront of downtown density and design. He said this is a very small building of three units, and the trees against the house and those on the street are existing trees. Only one new tree is proposed for the street. He also explained that Dr. Salwan is open to discussing any issues with the church as well as the homeowner to the south, and they will provide direct access from the units to the garages. He noted that Dr. Salwan owns five or six properties in the area, many of which might have extra parking. He then responded to questions from Council Members.

Council Member Ward asked questions regarding the design for the project. He determined that there is no coordinated architectural theme among the various buildings owned by Dr. Salwan.

Council Member Henson asked about the tower on the building and whether there could not be more articulation to the building front. He suggested various changes to compliment both the front of the building and the church as well because of the prominence of the corner. He wondered whether scaling back a bit on the building might be in order and what that would do to the project.

Mr. Bhandari explained the various undulations of the building front. He said this is probably the smallest urban project he has done. He said scaling back could be considered. From a business point, the return must be in proportion to the costs in time, money, and effort.

Randall Smith, pastor at First United Methodist Church, commented that the parking study was not adequate. He noted that the church uses the area more often than the study showed.



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Parking is disappearing throughout the City of Hayward as a result of building in the area. He said the church needs a rear-access easement through the gate. He noted that they believe this would be an over-built project. Such a large building on a small lot makes no sense. Safety concerns are also a question. A variance placing it closer to Second Street adds concerns regarding the left-hand turn. He noted that much of the square-footage might not be usable. There is little open space and it is noisy on Second Street. As to the retail space, it could be one or four spaces. There is little foot traffic on that corner. He was concerned that the space would sit empty. He asked Council Members to consider the reality of the project.

Council Member Ward asked Pastor Smith about the emptiness of the parking lot as well as the perception of the building being overbuilt. He also asked about access that the church might need. He suggested that any other development on the site might limit their access. He then asked whether the church would be open to any other project on the site.

Pastor Smith said the reality might be different. FESCO uses the gate to access their storage. He noted that the previous use as a parking lot was acceptable, or perhaps a smaller scale building that allows access to the rear of the building might be acceptable. In response to a question from Council Member Henson, he commented that the church was offered the chance to buy the property more than 40 years ago but they declined to do so. They have talked about purchasing it from the current owner but the price is prohibitive.

John Marks, a member of the congregation, described the potential problems the church could face with tenants in the residential space being proposed. In response to a question from Council Member Ward, he noted that the original building was built in 1899 but had been altered since.

Mayor Cooper closed the public hearing at 10:17 p.m.

Council Member Dowling said he thought it was a great project but on the wrong lot. It is an attractive building with mixed use. He suggested the applicant take out the residential units, expand the retail, perhaps add more parking, and consider selling property to the church needed to access their property. He then moved to deny the project and uphold the appeal. Council Member Hilson seconded this motion.

Council Member Hilson asked staff about the parking downtown and whether they took into consideration the reality of numbers of people in both the residential and retail uses. He agreed the project is overbuilt for the lot. He suggested scaling back the project.

Council Member Ward said he understood the rationale for the motion. However, all departments of the City of Hayward have reviewed this project. He suggested the project is not too dense for the site but rather too dense for the abutting property owners. Council has set a plan for the downtown area, which this project is following. He iterated the value to the church of accepting this project.

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Council Member Henson said the applicant has agreed to look at the plan and might reassess it. He suggested referring it to staff for further reduction and review. Assistant City Attorney Conneely said the Council could deny the project without prejudice so that it could be considered at a later time.

Council Member Dowling then amended his motion to, “deny the project without prejudice.”

It was moved by Council Member Dowling, seconded by Council Member Hilson, and unanimously carried to adopt the following:

Resolution 04-015, “Resolution Upholding the Appeal Without Prejudice and Upholding the Planning Commission’s Adoption of the Mitigated Negative Declaration and Mitigation Monitoring Plan and Approval of Site Plan Review Application No. PL-2002-0648 and Variance Application No. PL-2003-0669, Concerning a Request for a Mixed-Use (Residential/Commercial) Building and a Variance to Allow Parking Within a 5-Foot Rear Yard Setback”

5. Administrative Use Permit/Site Plan Review No. PL-2002-0268 and an Exception to the Off-Street Parking Regulations - Crossway Church (Applicant) - Request to Allow a Church at 21353 and 21311 Foothill Boulevard in a General Commercial (CG) District, and to Allow Required Parking to be Shared Between Two Adjacent Parcels (*Continued from 11/25/03*) – *Continue to March 23, 2004*

Staff report submitted by City Manager Armas, dated January 27, 2004, was filed.

Mayor Cooper opened and closed the public hearing at 10:30 p.m.

It was moved by Council Member Hilson, seconded by Council Member Rodriguez, and unanimously carried to move to continue this item to March 23, 2004.

COUNCIL REPORTS

There were no Council reports.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 10:32 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

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Angelina Reyes, City Clerk, City of Hayward