



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, June 26, 2008, 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 Chair Peixoto followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS: Sacks, Lavelle, Mendall, Loché
CHAIRPERSON: Peixoto
Absent: COMMISSIONER: Thnay, McKillop

Commissioner McKillop joined the meeting at 7:43 p.m.

Staff Members Present: Conneely, Emura, Rizk, Lens

General Public Present: Approximately 16

PUBLIC COMMENTS

There were none.

Assistant City Attorney Conneely indicated that since there was no full Commission in attendance, the applicants had the opportunity to ask for continuance. Chair Peixoto offered the opportunity to the applicants.

PUBLIC HEARING

1. **Conditional Use Permit Application No. PL-2006-0286 – Jamie Tibbits, SCAFCO (Applicant) / LB Stone Properties #18, LLC (Owner) - Request to use the Property for the Outdoor Storage of Construction Materials – The Property is Located at 2851 McCone Avenue**

Associate Planner Emura gave a synopsis of the report.

Commissioner Mendall pointed out that Condition of Approval No. 1 should be revised to read June 26, 2009. In reference to Condition of Approval No. 9, regarding the stucco wall facing a street, Mr. Mendall inquired about measures such as vines with thorns to mitigate potential graffiti on the walls. Associate Planner Emura indicated that City Landscape Architect Koo typically requires to plant vines along the walls. Mr. Mendall offered that consideration be made so that the walls be fully covered to mitigate graffiti abatement. Planning Manager Rizk was receptive to the consideration and in reference to graffiti tagging, indicated that staff selects appropriate materials such as fast growing shrubs and vines to cover the walls.

Commissioner Lavelle observed graffiti in the neighborhood and inquired for other types of fencings other than stucco. Associate Planner Emura indicated that stucco has generally been used, but in the past, chain fencing has been recommended and approved by the Commission at the request of the applicant.

Commissioner Sacks inquired about the materials used for the project on Industrial Boulevard and Depot Road. Associate Planner Emura responded that even though he was not familiar with the project, he noted it to be a masonry wall.

Chair Peixoto opened the public hearing at 7:44 p.m.

Mr. Gilberto Ochoa, project applicant, approached the podium and was available for questioning.

Commissioner Lavelle asked Mr. Ochoa if he was satisfied with the proposed stucco wall. Mr. Ochoa was amenable to the recommendation.

Chair Peixoto closed the public hearing at 7:45 p.m.

Commissioner Mendall noted that the project adds attractiveness to the area and that the neighbors were enthusiastic about the project. He was supportive of the conditions of approval recommended by staff; however, he expressed concern for potential graffiti on the walls. He encouraged the applicant to exercise due diligence in covering the walls, especially during the early stages. Mr. Mendall made a motion per the staff recommendation.

Commissioner Sacks seconded the motion.

Commissioner Mendall moved, seconded by Commissioner Sacks, and approved with Commissioner Thnay absent, to find the proposed project Categorical Exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15301, Existing Facilities; and approve the Use Permit Application, subject to the findings and conditions of approval.

After discussion ensued regarding possible continuance of the following hearing due to lack of quorum, it was determined that it would be heard by the Commission.

Chair Peixoto, abiding by the Fair Political Practice Commission requirements, indicated that he was required to disqualify himself from deliberation on the following hearing because he was in receipt of campaign contributions from the party involved with the project.

Chair Peixoto left the chambers and Vice Chair Lavelle preceded the meeting.

- 2. Zone Change Application No. PL-2003-0656 & Vesting Tentative Tract Map 7478, Application No. PL-2003-0659 - Christian Zaballos for Oak Hills Enterprises and Clearbrook Partnership (Applicants/Owners) - Request to Change Zoning from Medium Density Residential (RMB3.5/SD-5) to a Planned Development District (PD), and Subdivide 6.3 Acres to Build 30 Townhomes. The Project will also Entail Abandonment of a Portion of the Garin Avenue and Woodland Avenue Rights-of-Way - The Project Location is Northwesterly of the Intersection of Garin Avenue and Clearbrook Circle**



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Planning Manager Rizk gave a synopsis of the report and he noted that Zone Change Approval, Condition of Approval No. 39, will be corrected to read, "Park Dedication In-Lieu Fees are required for 30 new dwelling units."

Commissioner Mendall referenced the Vesting Tentative Map - Oak Hills 2, Site Sections page, and inquired about the elevations related to sea level. Planning Manager Rizk indicated that site elevations are typically from sea level. Mr. Rizk also clarified Findings for Approval A and D, regarding functional facilities or amenities.

Commissioner Sacks inquired about observations she made during a site visit the day before the hearing including the trenching done to the left of Clearbrook Circle and about a hose pipe across the road going into the Oak Hills properties. Planning Manager Rizk indicated that the minor trenching was associated with repairing of a water line break on Clearbrook Circle and the water hose was associated with the dust control on the Garin Vista site. In reference to the storm drain pipe that runs into Larrabee Street, Mr. Rizk indicated that the subsurface drainage system would be directed to the storm drain system that connects to the Larrabee Street system. He added that the pipe system on Larrabee Street would be maintained by the City.

Commissioner Loché asked for the reasoning for the provision that prevents the encroachment into a natural slope of 25 percent or greater. Planning Manager Rizk responded that it was to minimize development on steep slopes due to potential erosion and drainage problems.

Commissioner Mendall inquired about the change to staff recommendation on the project since the hearing in 2005. Planning Manager Rizk indicated that it was due to direction by the Commission and the results of an environmental geotechnical analysis, which indicated that the proposed drainage improvements could bring about a more stable hillside.

Commissioner McKillop recollected the direction from the Commission to staff to conduct a CEQA review at the hearing in 2005 and indicated she did not have further questions.

Vice Chair Lavelle inquired about the reason for the project's exemption from the Inclusionary Housing Ordinance of 2004. Planning Manager Rizk indicated that the basic components of the application, e.g., Vesting Map and Preliminary Development Plan, were deemed complete before the ordinance came into effect. Mr. Rizk added that the recommended requirement of formation of the Geological Hazard Abatement District, a funding mechanism for maintenance and repair of slope areas, is a further reassurance that regular monitoring of the hills will occur.

Vice Chair Lavelle opened the public hearing at 8:21 p.m.

Mr. Chris Zaballos, project applicant, expressed that he has spent the past two and a half years working on meeting geotechnical requirements. As a clarification, he noted that he does not own the Clearbrook Highlands development on Clearbrook Circle, and he has complained about the

landscaping and the plastic pipes. He mentioned that the proposed project is going to improve the area and he asked for the Commission's approval.

Commissioner Sacks asked for assurance for the people on the downhill side of the development. Mr. Zaballos deferred the question to Geotechnical Engineer Zehrbach.

Commissioner Loché inquired if the project was going to be Green Point Rated. Planning Manager Rizk indicated that Council adopted a resolution requiring that a Multi-Family checklist from Build-In-Green be submitted for a development of at least 20 multi-family units. He also indicated that the mandatory Green Point rating system has not yet been adopted but indicated that staff will encourage the applicant to incorporate green building measures into the project.

In response to Commissioner Mendall's inquiry, Mr. Zaballos indicated that the project would not be feasible if less than 16 units were situated at the site that exceeds 25 percent natural slope.

Mr. David Sakata, Larrabee Street resident, submitted a petition with 67 signatures in opposition to the 30 townhouses proposed to be built between Larrabee Street and Clearbrook Circle. As reasons for his objection, he expressed: erosion on Larrabee Street, threat to habitat, closeness to the Hayward fault line, invasion of privacy, potential for further pollution, congestion, and rezoning. He showed photographs of the ground being shifted on Larrabee Street and he submitted the petition for the record.

Mr. Thomas Pham-Gia, Larrabee Street resident, opposed the project because of potential for increase of traffic and land erosion. He was also concerned with the drainage, privacy concern, wild life habitat, and landslides. He asked for assurance for properties on Larrabee Street should something happen due to the building of the proposed project. He asked for a cement wall to protect the properties.

Commissioner Loché asked staff if traffic impact was anticipated due to the project. Planning Manager Rizk indicated that, according to Public Works staff, minimal traffic impact was anticipated and expected volumes would be well under roadway capacity.

Commissioner Sacks asked Mr. Pham-Gia if he was aware of the drainage improvement that the proposal would have on the neighboring properties. Mr. Pham-Gia was aware; however, he was in opposition to building more houses in the area and was concerned with fire hazards and evacuation plans. Vice Chair Lavelle indicated that, according to the report, the Fire Department reviewed the application and it was determined to have adequate space for fire trucks to get into the potential development. Planning Manager Rizk concurred and added that as part of the Garin Vista Development to the north, there is a requirement to provide additional emergency access points, which would connect to the extension of Alquire Parkway.

Mr. Norm Ihle, Gislén Way resident, indicated that the U.S. Geological Survey shows concern for earthquake faults for the proposed site and that it does not need to be developed. Mr. Ihle felt that there was pure economical interest on developing the site. He wanted to know if prospective buyers were going to be informed about the fault zone. He was concerned about asbestos materials, compacting soil that could create vibrations, and sewage crossing over the fault. He asked that the Commission be mindful in considering the proposed project.



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Ms. Karen Dickinson, Larrabee Street resident, indicated same sentiments as previous neighbors: traffic concerns, fire danger, privacy issue, and drainage on one side of her property. Lastly, she was concerned that, due to the trend in real estate, the development might have empty housing and attract more crime to the area.

Mr. Lee Newfield, Larrabee Street resident, felt that the proposed project would increase the traffic to the area, was concerned for wildlife habitat and for the proposed development having direct views into the surrounding backyards. On behalf of the Larrabee Street residents, he suggested mitigations for the project should it be approved: that the Geological Hazard Abatement District include the houses on Larrabee Street and include requirements for repairs should problems arise, that Larrabee Street be closed off at Garin Avenue and become a local access street, that sewer pop-off valves be installed at Larrabee Street and all downhill houses at the developer's expense, and that parking for construction trucks be forbidden on City streets. He submitted a statement for the record.

Mr. Bill Zehrbach, engineer for the project with ES Geotechnologies, summarized planned improvements to the uphill site, which would positively impact the proposed site as well as the downhill properties. He indicated that as part of the engineering analysis, borings and laboratory tests were conducted and it was determined that in addition to the compacted fill, there were erosion materials that caused pressure on the hill. He also added that according to a fieldtrip sponsored by Cal State Hayward, it was found that the movement on the hill above Larrabee Street might have been exacerbated by water pressure along the Hayward fault. Lastly he added that by removing uncompacted fill and replacing it with drainage benches, the water could be directed away to Garin Avenue.

Vice Chair Lavelle closed the public hearing at 8:56 p.m.

Commissioner Sacks noted that in 2005 she voted against the project because there was not enough geotechnical or drainage information. She later learned from the U.S. Geological Survey that the San Francisco Bay Area is the ideal habitat for slides because of steep slopes, weak rocks and intense rain storms. However, Ms. Sacks felt that the project would benefit the entire area. In reference to traffic, she indicated that the number of proposed units would not have a great impact on traffic. She was concerned about compacting soils and the resulting vibrations on Larrabee Street, but she was confident that the conditions of approval would mitigate such concerns. She did not think that exceeding the 25 percent natural slope was enough reason to oppose the project. She added that the privacy factor is not always guaranteed regardless of the type of project. She thought that asbestos and serpentine were important considerations that were included in the report. She further indicated that when determining the pros and cons of the project, she felt more inclined to approve the proposal as long as due diligence is exercised when approving it. She made a motion recommending approval of the project per staff recommendation.

Commissioner McKillop seconded the motion. Ms. McKillop asked staff for clarification about the comment made by Mr. Newfield in reference to “sewer pop-off valves.” Planning Manager Rizk was not familiar with the concept, but he indicated that the sewage was going to cross the fault trace, except not at the proposed site, but along Garin Avenue. Commissioner McKillop indicated that she met with the applicant in 2005 and at that time she thought the project was attractive and now it was improved after the CEQA review was conducted.

Commissioner Mendall indicated he was pleased with the drainage improvements that would be done as a result of the project. From his personal experience having seen landslides, he noted that a hillside with a 25 percent natural slope or greater, was not stable and therefore not a safe place to build homes. He concurred with the sentiment voiced by Mr. Ihle, but he also considered the improvements proposed. He added that other projects have not proven to be safe regardless of assurance measures taken. Lastly, he expressed mixed feelings about the project.

Commissioner Loché noted that he was not present when the project was first heard. He indicated that it was an attractive and well done project and he was impressed with the way it was put together; however, he did not agree with the proposed location because of the closeness of the fault trace. Therefore, he did not support the motion.

Vice Chair Lavelle thanked the audience for the input and the professionalism shown by the Zaballos organization. Ms. Lavelle noted that she did not support the project the first time it was heard because she did not agree that homes should be built on slopes steeper than allowed by law. She added that it was not appropriate to build uphill units too close to the Hayward fault trace. She also indicated that she might feel differently if the houses were built on flat land, had less units, and there was 100 percent assurance that there would not be slippage. She did not support the motion.

Commissioner Sacks moved, seconded by Commissioner McKillop, and failed with the following vote, to recommend that City Council adopt the Initial Study, Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program, pursuant to the California Environmental Quality Act (CEQA) and; approve the Zone Change, Preliminary Development Plan, Vesting Tentative Map, and abandonment of right-of-way, subject to the findings and conditions of approval.

AYES:	Commissioners McKillop, Sacks
NOES:	Commissioners Mendall, Loché Vice Chair Lavelle
ABSENT:	Commissioners Thnay Chair Peixoto
ABSTAINED:	None

As a result of the motion, Assistant City Attorney Conneely stated that the application would go before City Council without a recommendation from the Planning Commission.

Chair Peixoto returned to precede the meeting.



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ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Planning Manager Rizk noted that there would not be a meeting on July 10, 2008.

4. Commissioners' Announcements, Referrals

Chair Peixoto indicated that this was Commissioner Sacks last meeting and presented her with a Resolution highlighting her significant contributions to the City of Hayward. Ms. Sacks was a Planning Commissioner from July 2000 through June 26, 2008, and she served as Planning Commission Chair from 2004 to 2005.

Commissioner Mendall commented on her experience and level of effort towards the Commission. He assured her that she would be missed.

Commissioner McKillop noted that Commissioner Sacks was a diligent, thorough, and thoughtful Commissioner. She indicated that her input and stories would be greatly missed and that it was a pleasure having worked with her.

Commissioner Sacks indicated that it was a fun ride and a good experience, aside from the differences of opinion. She added that she had the pleasure of working with adults that could disagree and be civil at the same time. It was noted that she would be greatly missed.

APPROVAL OF MINUTES

The Minutes of June 12, 2008, were approved.

ADJOURNMENT

Chair Peixoto adjourned the meeting at 9:25 p.m.

APPROVED:

Al Mendall, Secretary
Planning Commissioner

ATTEST:

Miriam Lens
Commission Secretary