



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, March 27, 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: McKillop, Lavelle, Mendall, Loché
CHAIRPERSON: Peixoto
Absent: COMMISSIONER: Sacks, Thnay

Staff Members Present: Conneely, Rizk, Lens

General Public Present: Approximately 15

Planning Manager Rizk announced that Public Hearing No. 1 would be continued tentatively to April 24, 2008. He indicated that the City granted the applicant a request for continuance because it is the City's policy to do so when less than six Commissioners are in attendance. He apologized to the attendees and indicated that the continuance of the public hearing would be properly noticed.

PUBLIC COMMENTS

Mr. Bud Elkert, Oakes Drive resident, expressed frustration and disappointment about the continuance of item No. 1. Mr. Elkert indicated that interested parties had already made plans to attend the meeting and he did not know that they could attend the meeting on April 24, 2008. He noted conflict of interest and lack of quorum as reasons given for the continuance.

Mr. Doug Grandt, Oakes Drive resident, noted that he was ready to give a presentation and he was disappointed that he could not do so. He was concerned that the public was not informed in a timely manner about the continuance. He requested that all interested parties be informed should the meeting on April 24th be postponed.

Commissioner Mendall requested that the public be informed whenever an item needs to be re-scheduled. Planning Manager Rizk ensured that staff will post a revised agenda on the City's website in the future should items be continued.

In response to Commissioner McKillop's request for legal input, Assistant Attorney Conneely noted that there is a prohibition for Commissioners to act on items that are within 500-feet of land owned by them. Ms. Conneely added that there are three Commissioners who have residences in the Woodland Estates Subdivision. She also stated that it is City policy to grant a continuance to applicants when less than six Commissioners are in attendance. Lastly, she added that staff did not have knowledge of the continuance until the Wednesday prior to the meeting.

Commissioner McKillop indicated that the public deserved the full Commission to hear the concerns and apologized for the inconvenience.

Ms. Sara Quinteros, Oakes Drive resident, indicated that the postponement might be to the advantage of interested parties because this would provide additional time to further research the proposal. Ms. Quinteros did not think that the City had the legal right to allow an exclusive use of public street for 17 homeowners. She stated that the general public is not able to park on Durham Way because the City vacated it. She was in opposition to the proposed security gate, especially when 12 out of 17 homeowners are in opposition.

Chair Peixoto apologized to the attendees for the continuance of the public hearing. He indicated that he was not aware of the continuance until the afternoon prior to the meeting.

PUBLIC HEARING

1. **Site Plan Review No. PL-2007-0463 –Woodland Knolls Homeowner’s Association (Applicant/Owner) – Request to Install an Automatic Security Access Gate across Durham Way - The Project is Located Approximately 240 Feet Northerly of the Intersection of Durham Way and Oakes Drive**

This public hearing was continued to April 24, 2008.

2. **General Plan Amendment No. PL-2008-0013 and Zone Change Application No. PL-2007-0634 – City of Hayward (Applicant) – Consideration of Amending General Plan Land Use Designation from Limited Open Space to Limited Medium Density and Rezoning of Six Properties from Agricultural (AB10A) to Single Family Residential (RSB4) District – The Properties are Located at 29200, 29338, 29370 29402 and 29606 Bodega Street**

Staff report submitted by Associate Planner Koonze, dated March 27, 2008, was filed.

Planning Manager Rizk summarized the staff report.

In response to Commissioner Loché’s inquiry related to the State of California Earthquake Fault Zone and the depth of the geological report, Planning Manager Rizk noted that there are two geologic assessments that would be conducted in order to locate and confirm that fault traces are not closer to the 50-foot habitat structure, and also to assess for characteristics of landslide slope and soil. Mr. Rizk added that if the geologic fault investigation reveals a fault trace within 50-feet of a habitable building, the City would not allow that building.

Commissioner Mendall inquired if the same requirements for trenching and an investigation that was performed for the Garin Vista site would also be required for any future development associated with the proposal. Planning Manager Rizk indicated in the affirmative and that given the knowledge about the landslide and characteristics of the adjacent land, there is potential to have a more accurate geotechnical analysis. In reference to the potential maximum 60 single-family dwellings and the 50-foot setback requirements, Mr. Rizk indicated that more specific fault investigation and details regarding a development proposal need to be conducted prior to confirming setback requirements.



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Commissioner Lavelle confirmed that the proposal was related to a land use and zoning designation and not to a proposal for development. In response to Commissioner Lavelle, Planning Manager Rizk indicated that there are five landowners and six parcels on Bodega Street. In response to Ms. Lavelle's indication to the City's policies and the reference that RSB4 zoning would provide opportunity for affordable housing, Planning Manager Rizk clarified that affordable housing, as indicated in the staff report, refers to smaller than standard size lots and homes in an area with amenities, and not to below market housing.

Chair Peixoto opened the public hearing 8:10 at p.m.

Ms. Adelaida B. Moita, Bodega Street resident, spoke about the Mission-Garin Annexation and disagreed that the zoning initially contemplated had a 10-acre minimum lot size. Ms. Moita expressed that Bodega Street residents were not satisfied with the end result of the annexation.

Ms. Donna Vingo, Overhill Drive resident, noted that the use of the term "urban infill" in the report did not accurately reflect the regions that were annexed. Ms. Vingo disagreed that the proposal would create affordable housing. Planning Manager Rizk concurred that the proposal is not an *urban* infill environment, but an infill site because of the surrounding development and density. Ms. Vingo also expressed concern for farm animals and the future development. Mr. Rizk clarified that, from a regulatory stand point, there would not be a prohibition to keep animals related to this proposal. He added that separation between agricultural livestock and future development should not be impacted by this proposal.

Ms. Andrea Dareing, Bodega Street resident, expressed concern whether the property the City gave her in exchange for her land to make a road would not be affected, should she wish to develop it. She added that bore holes were found on her property and on the property of Jack Smith.

Chair Peixoto closed the public hearing at 8:20 p.m.

Commissioner Lavelle was pleased to learn more about the Mission-Garin neighborhood. Ms. Lavelle expressed support for the staff recommendation with the knowledge that it is a recommendation for General Plan Land Use and Zoning change and not development proposal at this time. She trusted homeowners at Bodega Street, because of their knowledge of the area and their authority to determine the future of the area. She indicated satisfaction to learn that the term "affordable housing" does not imply below market rate housing. She made a motion per staff recommendation.

Commissioner McKillop seconded the motion.

Commissioner Mendall asked clarification regarding Ms. Moita's comments. Planning Manager Rizk indicated that what was recommended for approval by the Commission and later approved by Council in 2003 was a designation for properties as a Limited Open Space General Plan designation

and a Pre-zoning of Agricultural, 10-acre minimum.

Commissioner Mendall indicated that he was not in favor of the Mission-Garin Annexation and was not compelled to keep approving additional development in an inappropriate location. He indicated that he would be voting against the motion.

Commissioner Lavelle moved, seconded by Commissioner McKillop, and failed with the following vote, to recommend to City Council to adopt the Initial Study and Negative Declaration, pursuant to the California Environmental Quality Act (CEQA) and; approve the General Plan Amendment and Zone Change applications, subject to the findings.

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

With no additional motions on the floor, Assistant City Attorney Conneely noted that since the motion failed for lack of quorum, the application would be forwarded to City Council.

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Planning Manager Rizk reported that Community Preservation is looking into the alleged illegal activity at a property on Oakview Avenue and staff will keep the concerned residents informed. Mr. Rizk also stated that Public Works staff conducted an analysis for speed bumps on Oakview Avenue and determined that the site did not meet the criteria. Furthermore, he reported on the Portsmouth Avenue property, indicating that the Police Department is investigating the matter. Lastly, he reported on a Sustainability Committee Tour of the Stopwaste.org's LEED Platinum Certified Building. A booklet was made available related to such building.

4. Commissioners' Announcements, Referrals

Commissioner Mendall reported on tagging on the back of a property facing Industrial Boulevard, just west of the railroad tracks near the BART track. He urged the property owner to plant vegetation on the property which continues to be tagged regardless of Community Preservation intervention.

Commissioner McKillop commended the Fire Department and especially Fire House No. 1 for the professional work performed at her business. She stated that they went above and beyond the call of duty.

APPROVAL OF MINUTES

The Minutes of January 24, 2008 and March 13, 2008 were approved.



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ADJOURNMENT

Chair Peixoto adjourned the meeting at 8:33p.m.

APPROVED:

Al Mendall, Secretary
Planning Commissioner

ATTEST:

Miriam Lens
Commission Secretary