



CITY OF  
**HAYWARD**  
HEART OF THE BAY

## **PLANNING COMMISSION**

**APRIL 25, 2013**

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CITY OF HAYWARD  
777 B STREET, HAYWARD, CA 94541-5007  
(510) 583-4205 / [www.hayward-ca.gov](http://www.hayward-ca.gov)  
LIVE BROADCAST – LOCAL CABLE CHANNEL 15

**AGENDA**  
**HAYWARD PLANNING COMMISSION**  
**THURSDAY, APRIL 25, 2013 , AT 7:00 PM**  
**COUNCIL CHAMBERS**

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**MEMBERS OF THE AUDIENCE WISHING TO ADDRESS THE PLANNING COMMISSION:**

Obtain a speaker's identification card, fill in the requested information, and give the card to the Commission Secretary. The Secretary will give the card to the Commission Chair who will call on you when the item in which you are interested is being considered. When your name is called, walk to the rostrum, state your name and address for the record and proceed with your comments. The Chair may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens for organization. Speakers are expected to honor the allotted time.

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**ROLL CALL**

**SALUTE TO FLAG**

**PUBLIC COMMENT:** (The PUBLIC COMMENTS section provides an opportunity to address the Planning Commission on items not listed on the agenda. The Commission welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Commission is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff for further action).

**ACTION ITEMS:** (The Commission will permit comment as each item is called for Public Hearing. Please submit a speaker card to the Secretary if you wish to speak on a public hearing item).

**PUBLIC HEARINGS:** For agenda item No. 1 and agenda item No. 2, the Planning Commission may make a recommendation to the City Council.

1. Text Amendment No. PL-2013-0093 - Amendment of Hayward Municipal Code (Zoning Ordinance) Section 10-1.700 Mobile Home Park District Prohibiting the Conversion of Senior-Only Parks to Non-Age-Restricted Status

**[Staff Report](#)**

**[Attachment I - Proposed Text Amendment](#)**

**[Attachment II - Findings for Approval](#)**

**[Attachment III - Map of Senior Mobile Home Parks](#)**

**[Attachment IV - Neg Dec and Initial Study](#)**



Assistance will be provided to persons requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Persons needing accommodation should contact Sonja Dal Bianco 48 hours in advance of the meeting at (510) 583-4204, or by using the TDD line for those with speech and hearing disabilities at (510) 247-3340.

2. Site Plan Review Application No. PL-2013-0123, Associated with a Proposed 9-11 Memorial Along the East Side of Mission Boulevard, North of D Street  
Applicant: Michael L. Emerson (Hayward 911 Memorial); Property Owner: City of Hayward

[Staff Report](#)

[Attachment I - Location Map](#)

[Attachment II - Renderings](#)

[Attachment III - Findings](#)

[Attachment IV - Conditions](#)

[Attachment V - Letter from Diane Feinstein](#)

#### **COMMISSION REPORTS:**

3. Oral Report on Planning and Zoning Matters
4. Commissioners' Announcements, Referrals

#### **APPROVAL OF MINUTES**

5. [April 11, 2013](#)

#### **ADJOURNMENT**

**PLEASE TAKE NOTICE** that if you file a lawsuit challenging any final decision on any public hearing item listed in this agenda, the issues in the lawsuit may be limited to the issues which were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing. **PLEASE TAKE FURTHER NOTICE** that the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

**NOTE:** Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Permit Center, first floor at the above address. Copies of staff reports for agenda items are available from the Commission Secretary and on the City's website the Friday before the meeting.

DATE: April 25, 2013

TO: Planning Commission

FROM: Arlynn J. Camire, AICP, Associate Planner

SUBJECT: Text Amendment No. PL-2013-0093 - Amendment of Hayward Municipal Code (Zoning Ordinance) Section 10-1.700, Mobile Home Park District, Prohibiting the Conversion of Senior-Only Parks to Non-Age-Restricted Status

### **RECOMMENDATION**

Staff recommends that the Planning Commission recommends to the City Council to approve the negative declaration in accordance with the California Environmental Quality Act (CEQA) guidelines, and approve the text amendment to Hayward Municipal Code Section 10-1.700 (Attachment I), subject to the attached findings (Attachment II).

### **SUMMARY**

In 2010, the City Council directed staff to implement the adopted priority of the protection of Senior-Only Mobile Home Parks. However, litigation involving the federal Fair Housing Act and the senior-only mobile home park ordinance of the city of American Canyon raised significant impediments to the approach being taken in 2010. In 2012, the U.S. Ninth Circuit Court of Appeals upheld an ordinance enacted by the city of Yucaipa that prohibits the conversion of existing senior-only parks to all-age parks. Given this recent legal development, staff recommends the adoption of the proposed text amendment prohibiting the City's five senior-only mobile home parks from converting to non-age-restricted parks.

### **BACKGROUND**

The City has nine mobile home parks, comprising approximately 2,500 spaces and over 5,000 residents. The regulation of these parks, at the state and local level, is important due to high demand for lower cost housing and the limited supply available in these parks. Vacancies in parks are rare and are quickly filled. Additionally, a substantial portion of mobile home park residents are senior citizens (55 years of age or older), many of whom live on fixed or limited incomes. The five existing mobile home parks that are currently classified for senior-only residents are New England Village, Georgian Manor, Hayward Mobile Country Club, Eden Gardens, and Spanish Ranch II (see map, Attachment III). Four additional parks were senior-only parks that converted to all-age parks. These parks are Pueblo Spring, Continental, Spanish Ranch I and Eden Rock.

At a work session on April 20, 2010, the City Council reviewed alternatives for modifying the Zoning Ordinance to regulate the conversion of senior-only mobile home parks to non-age-restricted parks and directed staff to develop an ordinance regulating the conversion of senior-only mobile home parks to non-age restricted mobile home parks for review by the Planning Commission.

However, at about that same time, an ordinance enacted by the city of American Canyon, California regulating the conversion of senior-only mobile home parks via a conditional use permit was challenged and found to be invalid. The U.S. District Court for the Northern District of California held that the American Canyon ordinance violated the federal Fair Housing Act (the “FHA”) because the ordinance forced the park owners to discriminate on the basis of familial status. As a result of the American Canyon decision, staff advised the City Council not to move forward with the adoption of a similar ordinance.

In 2009, the city of Yucaipa, California adopted an ordinance similar to the American Canyon ordinance. The Yucaipa ordinance created a Senior Mobile Home Park Overlay District, which prohibited outright the conversion of senior-only mobile home parks to non-age restricted parks. Similar to the American Canyon ordinance, the Yucaipa ordinance was challenged on FHA grounds. In 2012, the Ninth Circuit Court of Appeals held that Yucaipa’s ordinance did not violate the FHA, effectively overruling the American Canyon decision. In short, the Court held that the FHA’s “senior exemption” applied to city-zoned senior housing like the Yucaipa overlay district.

To comply with the FHA’s senior exemption, the following requirements must be satisfied: (1) at least 80 percent of the units in the mobile home park must be occupied by at least one person 55 years of age or older; (2) the mobile home park must publish and adhere to policies and procedures showing intent to restrict housing to seniors; and (3) the mobile home park must comply with federal rules regarding verification of occupancy by seniors.

Since Yucaipa’s ordinance has withstood legal scrutiny, staff is moving forward with a text amendment similar to the Yucaipa ordinance, in response to the adopted City Council priority.

## **DISCUSSION**

In initiating this effort, staff is responding to concerns expressed by some residents of several mobile home parks in the City. Staff recommends this regulation to further the City Council’s adopted priority of preserving affordable senior housing by prohibiting the conversion of senior-only parks to non-age-restricted parks. Mobile home parks remain one of the City’s key sources of affordable housing. The intent of the proposed text amendment to the Zoning Ordinance is to preserve affordable housing for senior citizens, by protecting mobile home parks that are primarily occupied by seniors from converting to non-age-restricted parks and implementing regulations that satisfy federal requirements.

Under the federal FHA, a mobile home park owner may restrict residency to occupants who are 55 or older, provided that the park owner complies with certain regulations promulgated by the federal Department of Housing and Urban Development (“HUD”), including age verification surveys and the adoption of park rules and regulations reasonably intended to implement the senior-only park

status. The proposed text amendment requires that each Senior-Only mobile home park have procedures for verifying that the mobile home park qualifies as a senior facility under applicable federal and /or state law, including documentation establishing that at least 80 percent of the mobile homes are occupied by at least one resident who is 55 years of age or older. In addition, the proposed text amendment requires that a survey, or other reasonable means, shall be undertaken by the owner of the mobile home park every two years to ensure compliance with occupancy restrictions.

*Text Amendment Findings* – In order for the text amendment to be approved, the following findings must be made. Staff provides reasons below to support the findings.

**A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.**

The proposed text amendment will promote the public health, safety, convenience, and general welfare of the residents of Hayward by allowing for the preservation of affordable housing for seniors in the existing senior mobile home parks by adopting an ordinance that prohibits the conversion of those parks from senior-only housing to all age housing.

**B. The proposed change is in conformance with all applicable, officially adopted policies and plans.**

Per the City's adopted General Plan Housing Element, "*Mobile homes also constituted a larger portion of the City's housing stock than in the County...Nearly five percent of housing units were mobile homes, a considerable proportion given the urbanized nature of the City.*" Also, the Housing Element states that, "*Manufactured housing and mobile homes can be an affordable housing option for low and moderate income households.*"

Housing Element Policy 5.2 states, "*Promote housing along with supportive services for households with special needs, including seniors, persons with disabilities, single-parents, and the homeless.*"

The stated purpose of the Mobile Home Park zoning district is to, "*...promote and encourage a suitable living environment for the occupants of mobile homes.*"

The proposed text amendment is in conformance with the General Plan Housing Element text and policies, as well as the stated purpose of the Mobile Home Park zoning district, as indicated above, in that it will ensure that affordable housing in mobile home parks available for seniors is preserved.

**C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified.**

All mobile home parks within the City of Hayward are required to comply with conditions of approval. Any new mobile home park for seniors or non-age restrictive would be required to meet the development standards of Section 10-1.700, Mobile Home Park District, of the

Zoning Ordinance. In addition, all State mobile home park development and safety regulations are required to be met and maintained.

**D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.**

The text amendment would not reclassify the zoning designation of Mobile Home Park (MH) or General Plan land use designation of Mobile Home Park (MHP).

*Environmental Review* - The proposed text amendment would not alter existing General Plan land use and zoning designations or development standards of mobile home parks. A Negative Declaration and Initial Study have been prepared, pursuant to the California Environmental Quality Act (CEQA) (Attachment IV). No significant environmental impacts are expected to result from the project.

## **PUBLIC CONTACT**

On April 5, Planning Division staff, in conjunction with staff from the City Manager's and City Attorney's offices, met with representatives of the Hayward Mobilehome Owners Association (HMOA), an organization which generally represents the interests of Hayward mobile home park residents, and various representatives of resident groups and residents themselves from the City's mobile home parks. Staff also met with representatives of the owner of New England Village Mobile Home Park later that same day. The HMOA, residents and resident representatives are unanimous in their support of the proposed ordinance because it will preserve low-cost housing for seniors and prohibit the conversion of the seniors-only mobile home parks into all-ages mobile home parks. The residents and their representatives observed that residents choose to reside in senior-only parks with the expectation that the park will remain age-restricted. Staff has received numerous phone calls, emails, and letters in support of the ordinance from residents of senior mobile home parks.

The New England Village Mobile Home Park owner's representatives are of the opinion that the ordinance limits a park owner's ability to make wise business decisions, including the latitude to sell or rent a unit or space to all-age residents should the need arise. In addition, they are of the opinion that it is unreasonable that the mobile home parks would not be available to all ages, given the lingering impacts of the economic downturn in the East Bay.

## **SCHEDULE**

At the regularly scheduled City Council meeting to be held on May 7, 2013, the City Council will review the recommendation of the Planning Commission and consider the proposed Text Amendment to the Zoning Ordinance. If the Text Amendment is adopted, it would be effective upon adoption.

Prepared by: Arlyne J. Camire, AICP, Associate Planner

Approved by:



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David Rizk, AICP  
Development Services Director

Attachments:

- |                |  |
|----------------|--|
| Attachment I   | Proposed Text Amendment                |
| Attachment II  | Findings for Approval                  |
| Attachment III | Map of Hayward Mobile Home Parks       |
| Attachment IV  | Negative Declaration and Initial Study |

**SEC. 10-1.700 MOBILE HOME PARK DISTRICT (MH)**

Sections:

Section 10-1.705 Purpose.

Section 10-1.710 Senior-Only Mobile Home Parks

Section 10-1.715 Uses Permitted.

Section 10-1.720 Conditionally Permitted Uses.

Section 10-1.725 Lot Requirements.

Section 10-1.730 Yard Requirements.

Section 10-1.735 Height Limit.

Section 10-1.740 Site Plan Review Required.

Section 10-1.745 Minimum Design and Performance Standards.

**SEC. 10-1.705 PURPOSE.**

The MH District shall be subject to the following specific regulations in addition to the general regulations hereinafter contained in order to promote and encourage a suitable living environment for the occupants of mobile homes. It is a district where mobile home parks are established as a primary use in order to limit the conversion of existing affordable housing to other uses.

The Senior-Only mobile home park regulations in the MH district are intended to preserve a variety and balance of housing types within the City and provide assurance that existing Senior-Only mobile home parks within the MH District will remain exclusively available to seniors, as more specifically set forth below.

**SEC. 10-1.710 SENIOR-ONLY MOBILE HOME PARKS.**

a. A Senior-Only mobile home park is a mobile home park in which at least eighty (80%) percent of the spaces are occupied by, or intended for occupancy by, at least one person who is fifty-five (55) years of age or older, or in which one hundred (100%) percent of the spaces are occupied, or intended for occupancy by, persons sixty-two (62) years of age or older. As of the effective date of the ordinance codified in this section, the Senior-Only mobile home parks in the MH Zoning District are: New England Village, Georgian Manor, Hayward Mobile Country Club, Eden Gardens, and Spanish Ranch II.

b. No Senior-Only mobile home park in existence as of the effective date of the ordinance codified in this section, or established thereafter, shall convert to a non-age-restricted mobile home park. For purposes of this section, “convert” means changing from a Senior-Only mobile home park to a park that does not qualify as a Senior-Only park under applicable law.

c. Spaces and mobile homes in a Senior-Only mobile home park shall be rented only to occupants who meet the age requirement set forth in Sec. 10-1.710a above; provided, however, that if the occupants of a space or mobile home who do not meet this requirement rented the

SEC. 10-1.700 MOBILE HOME PARK DISTRICT (MH)

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space or mobile home before the effective date of the ordinance codified in this section, they shall be allowed to remain, and provided further that when such occupants cease to occupy a space or mobile home, the mobile home and space cannot thereafter be rented except to occupants who meet the age requirements set forth in Sec. 10-1.710a.

**SEC. 10-1.715 USES PERMITTED.**

- a. Primary uses.  
Mobile home(s).
- b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the uses permitted in the MH District:
- (1) Accessory buildings and uses.
  - (2) Garage sale. (4 per year per dwelling. See General Regulations Section 10-1.2735.e.)
  - (3) Home occupation. (See definitions)
  - (4) Household pets.
  - (5) Sales and display of mobile homes.

**SEC. 10-1.720 CONDITIONALLY PERMITTED USES.**

None.

**SEC. 10-1.725 LOT REQUIREMENTS.**

- |                                    |             |
|------------------------------------|-------------|
| a. Minimum Lot Size:               | 7 acres.    |
| b. Minimum Lot Frontage:           | 200 feet.   |
| c. Minimum Average Lot Width:      | 200 feet.   |
| d. Maximum Lot Coverage Permitted: | 40 percent. |

**SEC. 10-1.730 YARD REQUIREMENTS.**

- |                              |          |
|------------------------------|----------|
| a. Minimum Front Yard:       | 20 feet. |
| b. Minimum Side Yard:        | 10 feet. |
| c. Minimum Side Street Yard: | 20 feet. |
| d. Minimum Rear Yard:        | 10 feet. |

**SEC. 10-1.735 HEIGHT LIMIT.**

- |  |                        |
|--|------------------------|
| a. Maximum Building Height:                | 40 feet.               |
| b. Maximum Accessory Building Height:      | 14 feet and one story. |
| c. Maximum Height for Fences/hedges/walls: |                        |
| (1) Front and Side Street Yard             | 4 feet.                |

- (2) Side and Rear Yard 6 feet.  
d. Special Height Requirements and Exceptions: See General Regulations Section 10-1.2730.

**SEC. 10-1.740 SITE PLAN REVIEW REQUIRED.**

Site Plan Review approval is required before issuance of any building or construction permit or construction of a fence within this district only if the Planning Director determines that a project materially alters the appearance and character of the property or area or may be incompatible with City policies, standards and guidelines. This may include fences (i.e., such as anodized gray chain link fences,) in certain circumstances.

**SEC. 10-1.745 MINIMUM DESIGN AND PERFORMANCE STANDARDS.**

The signage, advertising, leases, and park rules and regulations for spaces in Senior-Only mobile home parks shall state that the park is a Senior-Only mobile home park. Each Senior-Only mobile home park shall have procedures for verifying that the mobile home park qualifies as a senior facility under applicable federal and/or state law, including documentation establishing that at least eighty (80) percent of the mobile homes or spaces in the mobile home park are occupied by at least one resident who is fifty-five (55) years of age or older. These procedures shall provide for regular updates, through surveys or other means, of the information supplied by the occupants of the mobile home park. Such updates must take place at least once every two years. A summary of this occupancy verification documentation shall be available for inspection upon reasonable notice and request by City officials.

**FINDINGS FOR APPROVAL**

**Text Amendment No. PL-2013-0093  
City of Hayward**

**Amendment to the Zoning Ordinance to Section 10-1.700 Mobile Home Park District  
Regarding the Conversion to Senior-Only and Non-Age Restrictive Status**

The proposed text amendment would not alter existing general plan land used designations or development standards of the Mobile Home Park District. A Negative Declaration was prepared pursuant to the California Environmental Quality Act (CEQA). No significant environmental impacts are expected to result from the project.

**A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.**

The proposed text amendment will promote the public health, safety, convenience, and general welfare of the residents of Hayward by allowing for the preservation of affordable housing for seniors in the existing senior mobile home parks by adopting an ordinance that prohibits the conversion of those parks from senior-only housing to all age housing.

**B. The proposed change is in conformance with all applicable, officially adopted policies and plans.**

Per the City's adopted General Plan Housing Element, "*Mobile homes also constituted a larger portion of the City's housing stock than in the County...Nearly five percent of housing units were mobile homes, a considerable proportion given the urbanized nature of the City.*" Also, the Housing Element states that, "*Manufactured housing and mobile homes can be an affordable housing option for low and moderate income households.*"

Housing Element Policy 5.2 states, "*Promote housing along with supportive services for households with special needs, including seniors, persons with disabilities, single-parents, and the homeless.*"

The stated purpose of the Mobile Home Park zoning district is to, "*...promote and encourage a suitable living environment for the occupants of mobile homes.*"

The proposed text amendment is in conformance with the General Plan Housing Element text and policies, as well as the stated purpose of the Mobile Home Park zoning district, as indicated above, in that it will ensure that affordable housing in mobile home parks available for seniors is preserved.

**C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified.**

All mobile home parks within the City of Hayward are required to comply with conditions of approval. Any new mobile home park for seniors or non-age restrictive would be required to

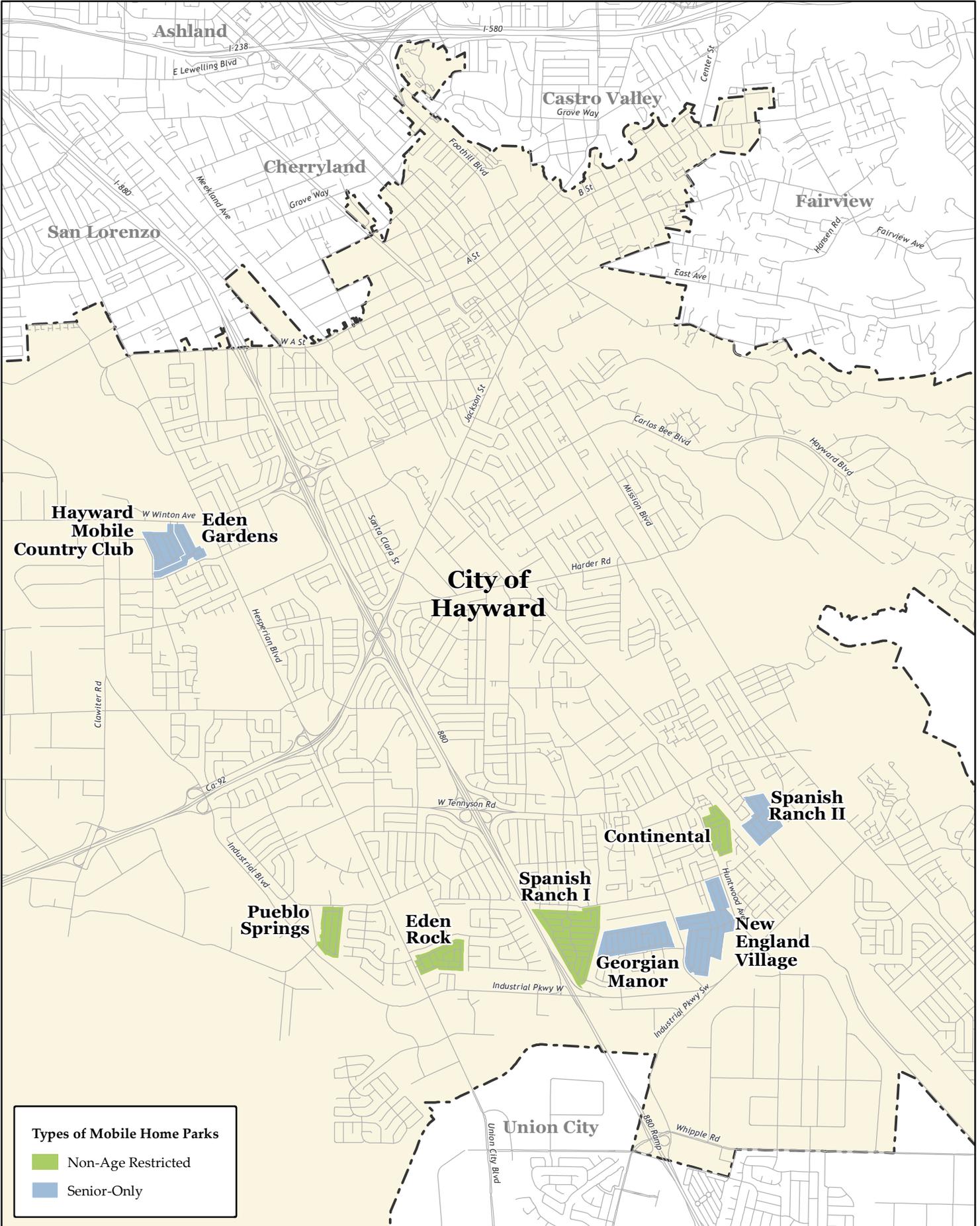
meet the development standards of Section 10-1.700, Mobile Home Park District, of the Zoning Ordinance. In addition, all State mobile home park development and safety regulations are required to be met and maintained.

- D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.**

The text amendment would not reclassify the zoning designation of Mobile Home Park (MH) or General Plan land use designation of Mobile Home Park (MHP).



# Hayward Mobile Home Parks





**DEPARTMENT OF  
DEVELOPMENT SERVICES  
Planning Division**

**NEGATIVE DECLARATION**

Notice is hereby given that the City of Hayward finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

- I. *PROJECT DESCRIPTION:*** Amendment of Hayward Municipal Code (Zoning Ordinance) Section 10-1.700 Mobile Home Park District Prohibiting the Conversion of Seniors-Only Mobile Home Parks to Non-Age Restricted Mobile Home Parks. The City has nine mobile home parks, comprising approximately 2,500 spaces and over 5,000 residents. The regulation of these parks, at the state and local level, is important due to high demand for lower cost housing and the limited supply available in these parks. A substantial portion of mobile home park residents are senior citizens (55 years of age or older), many of whom live on fixed or limited incomes. The five existing mobile home parks that are currently classified for seniors-only are New England Village, Georgian Manor, Hayward Mobile Country Club, Eden Gardens, and Spanish Ranch II. The proposed ordinance defines a “Senior-Only Mobile Home Park” as one in which at least 80% of the spaces are occupied by, or intended to be occupied by, at least one person who is age 55 or older, in compliance with state and federal law. In addition, the proposed ordinance prohibits changing Senior Only mobile home parks to Non-Age Restricted mobile home parks.

**II. *FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:***

The proposed project could not have a significant effect on the environment.

**III. *FINDINGS SUPPORTING DECLARATION:***

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project could not result in significant effects on the environment.
2. The project will not adversely affect any scenic resources.
3. The project will not have an adverse effect on agricultural land since the property is surrounded by urban uses and it is too small to be used for agriculture.
4. The project will not result in significant impacts related to changes into air quality. No new development is proposed.

5. The project will not result in significant impacts to biological resources such as wildlife and wetlands since the site contains no such habitat and it is surrounded by urban uses.
6. The project will not result in significant impacts to known cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains.
7. The project sites are not located within a "State of California Earthquake Fault Zone", however, may experience ground shaking due to the proximity to active faults in the region.
8. The project will not lead to the exposure of people to hazardous materials.
9. The project will meets all water quality standards. The mobile home parks are fully developed and maintained.
10. The project is consistent with the policies of the City General Policies Plan, Housing Element, and the Zoning Ordinance.
11. The project could not result in a significant impact to mineral resources since the mobile home park sites are fully developed.
12. The project will not have a significant noise impact.
13. The project will not result in a significant impact to public services.
14. The project will not result in significant impacts to traffic or result in changes to traffic patterns or emergency vehicle access.

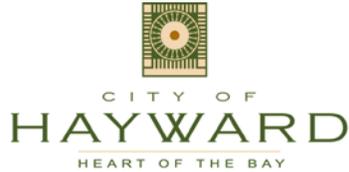
**IV. PERSON WHO PREPARED INITIAL STUDY: Arlyne J. Camire, Associate Planner, AICP**

Signature: 

Dated: March 13, 2013

**V. COPY OF INITIAL STUDY IS ATTACHED**

For additional information, please contact the City of Hayward Development Services Division, 777 B Street, Hayward, CA 94541-5007 or telephone (510) 583-4114



**DEPARTMENT OF DEVELOPMENT SERVICES  
Planning Division**

**INITIAL STUDY CHECKLIST**

**Project Title:** Text Amendment No. PL-2013-0093-Amendment of Hayward Municipal Code (Zoning Ordinance) Section 10-1.700 et seq., Mobile Home Park District, Prohibiting the Conversion of Seniors Only Mobile Home Parks to Non-Age Restricted Mobile Home Parks

**Lead agency name/address:** City of Hayward, 777 B Street, Hayward, CA 94541-5007

**Contact person:** David Rizk, Development Services Director

**Project location:** Mobile Home Park District (MH)

**Project sponsors**

**Name and Address:** City of Hayward, 777 B Street, Hayward, CA 94541-5007

**General Plan Designation:** Mobile Home Park

**Zoning:** Mobile Home Park District (MH)

**Project description:** Amendment of Hayward Municipal Code (Zoning Ordinance) Section 10-1.700 Mobile Home Park District Prohibiting the Conversion of Seniors-Only Mobile Home Parks to Non-Age Restricted Mobile Home Parks. The City has nine mobile home parks, comprising approximately 2,500 spaces and over 5,000 residents. The regulation of these parks, at the state and local level, is important due to high demand for lower cost housing and the limited supply available in these parks. A substantial portion of mobile home park residents are senior citizens (55 years of age or older), many of whom live on fixed or limited incomes. The five existing mobile home parks that are currently classified for seniors-only are New England Village, Georgian Manor, Hayward Mobile Country Club, Eden Gardens, and Spanish Ranch II ( See attached Map). The proposed ordinance defines a “Senior- Only Mobile Home Park” as one in which at least 80% of the spaces are occupied by, or intended to be occupied by, at least one person who is age 55 or older, in compliance with state and federal law. In addition, the proposed ordinance prohibits changing Senior Only mobile home parks to Non-Age Restricted mobile home parks.

**Surrounding land uses**

**and setting:** City wide. The mobile home parks are located throughout the City of Hayward. The mobile home parks are adjacent to residential, commercial and industrial properties.

**Other public agencies whose approval is required:** None

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

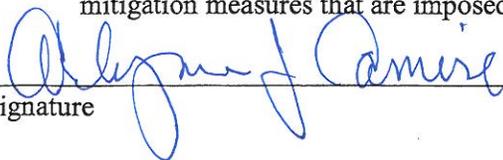
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Aesthetics               | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality                        |
| <input type="checkbox"/> Biological Resources     | <input type="checkbox"/> Cultural Resources                 | <input type="checkbox"/> Geology /Soils                     |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials      | <input type="checkbox"/> Hydrology / Water Quality          |
| <input type="checkbox"/> Land Use / Planning      | <input type="checkbox"/> Mineral Resources                  | <input type="checkbox"/> Noise                              |
| <input type="checkbox"/> Population / Housing     | <input type="checkbox"/> Public Services                    | <input type="checkbox"/> Recreation                         |
| <input type="checkbox"/> Transportation/Traffic   | <input type="checkbox"/> Utilities / Service Systems        | <input type="checkbox"/> Mandatory Findings of Significance |

**DETERMINATION: (To be completed by the Lead Agency)**

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

  
 \_\_\_\_\_  
 Signature

March 13, 2013  
 \_\_\_\_\_  
 Date

Arlyne J. Camire  
 \_\_\_\_\_  
 Printed Name

\_\_\_\_\_  
 For

**EVALUATION OF ENVIRONMENTAL IMPACTS:**

**ENVIRONMENTAL ISSUES:**

	<b>Potentially Significant Impact</b>	<b>Less Than Significant with Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
<b>I. AESTHETICS</b> -- Would the project:				
a) Have a substantial adverse effect on a scenic vista? <b><i>Comment:</i></b> <i>The text amendment will not result in development that would result in a substantial adverse effect on scenic vistas. The text amendment will prohibit conversion from a Senior Only mobile home parks to Non-Age restricted parks. The text amendment is to preserved Senior Only mobile home parks.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? <b><i>Comment:</i></b> <i>The text amendment will not result in development that will result in a negative effect on scenic resources. Refer to I a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings? <b><i>Comment:</i></b> <i>The text amendment will not result in development that will result in a negative effect on the visual character or quality of the site and its surroundings. Refer to I a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? <b><i>Comment:</i></b> <i>The text amendment will not result in development that will result in a new source of substantial light or glare. Refer to I a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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## II. AGRICULTURE AND FOREST

**RESOURCES:** In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. -- Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? ***Comment:*** *The text amendment is restricted to mobile home parks and will not affect farmland.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? ***Comment:*** *The text amendment will involve only mobile home parks.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? ***Comment:*** *Refer to II b.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Result in the loss of forest land or conversion of forest land to non-forest use? ***Comment:*** *Refer to II b.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use\_or conversion of forest land to non-forest use? ***Comment:*** *Refer to II b.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>III. AIR QUALITY</b> -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan? <b><i>Comment:</i></b> <i>The text amendment would not violate any air quality standard or contribute substantially to existing or projected air quality violation.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? <b><i>Comment:</i></b> <i>Refer to III a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? <b><i>Comment:</i></b> <i>Refer to III a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations? <b><i>Comment:</i></b> <i>Refer to III a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people? <b><i>Comment:</i></b> <i>Refer to III a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>IV. BIOLOGICAL RESOURCES</b> -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? <b><i>Comment:</i></b> <i>The text amendment would not affect any fish and wildlife species or California Department of Fish and Wildlife or U.S. Wildlife Service regional plans, policies, or regulations.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? <b><i>Comment:</i></b> <i>The text amendment would not affect any fish and wildlife species or California Department of Fish and Wildlife or U.S. Wildlife Service regional plans, policies, or regulations.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? <b><i>Comment:</i></b> <i>Refer to IV a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? <b><i>Comment:</i></b> <i>Refer to IV a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? <b><i>Comment:</i></b> <i>Refer to IV a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? <b><i>Comment:</i></b> <i>The text amendment would not conflict with any habitat conservation plans.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>V. CULTURAL RESOURCES --</b> Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5? <b><i>Comment:</i></b> <i>The text amendment would not affect historical resources as defined in § 15064.5.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5? <b><i>Comment:</i></b> <i>The text amendment would not affect archeological resource as all mobile home parks are fully developed.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? <b><i>Comment:</i></b> <i>The text amendment would not affect paleontological geologic features. All sites are fully developed with mobile home parks.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries? <b><i>Comment:</i></b> <i>The text amendment would not result in the disturbance of human remains. All sites are fully developed with mobile home parks.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>VI. GEOLOGY AND SOILS --</b> Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking? <b><i>Comment:</i></b> <i>The text amendment would not result in any development that would expose people to any geologic hazard.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction? <b><i>Comment:</i></b> <i>Refer to VI a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides? <b><i>Comment:</i></b> <i>Refer to VI a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil? <b><i>Comment:</i></b> <i>Refer to VI a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? <b><i>Comment:</i></b> <i>Refer to VI a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? <b><i>Comment:</i></b> <i>Refer to VI a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? <b><i>Comment:</i></b> Refer to VI a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### VII. GREENHOUSE GAS EMISSIONS --

Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? <b><i>Comment:</i></b> The text amendment would not cause the generation of greenhouse gas emissions, either directly or indirectly.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? <b><i>Comment:</i></b> The text amendment would not conflict with applicable plan, policies or regulations adopted for the purpose of reducing the emissions of greenhouse gases.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? <b><i>Comment:</i></b> The text amendment would have no effect on the transport, storage, use, or disposal of hazardous materials.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? <b><i>Comment:</i></b> Refer to VIII a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? <b><i>Comment:</i></b> Refer to VIII a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? <b><i>Comment:</i></b> Refer to VIII a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? <b><i>Comment</i></b> : <i>The affected properties are not located within the airport.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? <b><i>Comment</i></b> : <i>Refer to VIII a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? <b><i>Comment</i></b> : <i>The text amendment would not impair implementation of adopted emergency response or emergency evacuation plan.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? <b><i>Comment</i></b> : <i>The text amendment would not expose people or structures to a significant risk of loss, injury or death involving wildland fires since the mobile home parks are not located in areas of wildlands.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### IX. HYDROLOGY AND WATER QUALITY

-- Would the project:

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Violate any water quality standards or waste discharge requirements? <b><i>Comment</i></b> : <i>The text amendment would not result in any development that would cause a violation of any water quality standards or waste discharge requirements.</i>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? <b><i>Comment</i></b> : <i>The text amendment would not result in any development that would affect ground water supplies or interfere substantially with ground water recharge.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? <b><i>Comment:</i></b> <i>The mobile home parks are developed and will not alter drainage patterns.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? <b><i>Comment:</i></b> <i>The mobile home parks are developed and will not alter the course of any waterways.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? <b><i>Comment:</i></b> <i>No areas will be paved in association with this text amendment.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality? <b><i>Comment:</i></b> <i>The mobile home parks are developed and will not contribute to degradation of water quality.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? <b><i>Comment:</i></b> <i>No new housing is associated with this text amendment.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? <b><i>Comment:</i></b> <i>No new housing is associated with this text amendment.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? <b><i>Comment:</i></b> <i>No new housing is associated with this text amendment.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow? <b><i>Comment:</i></b> <i>Refer to IX i.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>X. LAND USE AND PLANNING -- Would the project:</b>				
a) Physically divide an established community? <b><i>Comment:</i></b> <i>The text amendment would not result in any development that would physically divide an established community.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? <b><i>Comment:</i></b> <i>The text amendment would not be in conflict with the Zoning Ordinance or the General Plan. The General Plan; Section 5.5 Housing Element, A. Conserve and Improve the Existing Housing Stock Goal 1.0, Policy 1.2 states: "Preserve existing single-family housing stock occupied by lower income households by rehabilitating single-family owner-occupied and conventional and mobile homes." And the Housing Element states: "A program to conserve and improve the existing housing stock includes the Program 14: Density Bonus which is designed to provide a senior housing development or a mobile home park."</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan? <b><i>Comment:</i></b> <i>The text amendment would result in any development that would conflict with a habitat conservation plan or a natural community conservation plan.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XI. MINERAL RESOURCES -- Would the project:</b>				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? <b><i>Comment:</i></b> <i>The text amendment would not result in any development that would affect any mineral resource.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? <b><i>Comment:</i></b> Refer to XI a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XII. NOISE --</b> Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? <b><i>Comment:</i></b> The text amendment will not result in the generation of noise.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? <b><i>Comment:</i></b> Refer to XII.a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? <b><i>Comment:</i></b> Refer to XII.a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? <b><i>Comment:</i></b> Refer to XII.a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? <b><i>Comment:</i></b> The text amendment would not result in any development that would have an affect or be affected by a public or private airport.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? <b><i>Comment:</i></b> Refer to XII.e.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XIII. POPULATION AND HOUSING --</b> Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? <b><i>Comment:</i></b> The text amendment would not induce substantial population growth in any area of the City.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? <b>Comment:</b> <i>The text amendment would not result in any development that would displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? <b>Comment:</b> <i>The text amendment would not result in any development that would displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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#### XIV. PUBLIC SERVICES --

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Fire protection? <b>Comment:</b> <i>No new fire protection facilities will be required as a result of the text amendment.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Police protection? <b>Comment:</b> <i>The text amendment will not result in a need for additional police protection.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Schools? <b>Comment:</b> <i>No new school facilities will be required as a result of the text amendment.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Parks? <b>Comment:</b> <i>The text amendment will not generate additional use of the park systems in the area.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Other public facilities? <b>Comment:</b> <i>No other public facilities will be significantly impacted.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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#### XV. RECREATION --

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? <b>Comment:</b> <i>The text amendment would not affect recreational facilities.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? <b><i>Comment</i></b> : Refer to XV.a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XVI. TRANSPORTATION/TRAFFIC --**  
Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? <b><i>Comment</i></b> : The text amendment would not include any construction that would modify a traffic or roadway design.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? <b><i>Comment</i></b> : The text amendment would not include any construction that would result in inadequate emergency access.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? <b><i>Comment</i></b> : The text amendment would not result in an increase to traffic levels.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? <b><i>Comment</i></b> :The text amendment would not result in hazards due to design features.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? <b><i>Comment</i></b> : The text amendment would not conflict with adopted policies, plans, or programs supporting alternative transportation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XVII. UTILITIES AND SERVICE SYSTEMS</b>				
-- Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? <b><i>Comment</i></b> : Refer to VIII.a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? <b><i>Comment</i></b> : Refer to VIII.a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? <b><i>Comment</i></b> : Refer to VIII.a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? <b><i>Comment</i></b> : The text amendment would not result in any development that would affect on sufficient water supply.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? <b><i>Comment</i></b> : The text amendment would not result in any development that would affect on sufficient wastewater facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? <b><i>Comment</i></b> : The text amendment would not result in any development that would affect sufficient landfill capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste? <b><i>Comment</i></b> : The text amendment would not result in any development that would affect the ability to meet solid waste regulations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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**XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**Comment:** *The text amendment would not have any impacts on wildlife or fish habitat nor eliminate a plant or animal community.*

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**Comment:** *As evidenced in the checklist above, it has been determined that the text amendment would not have any significant impacts; thus no impact to cumulative impacts*

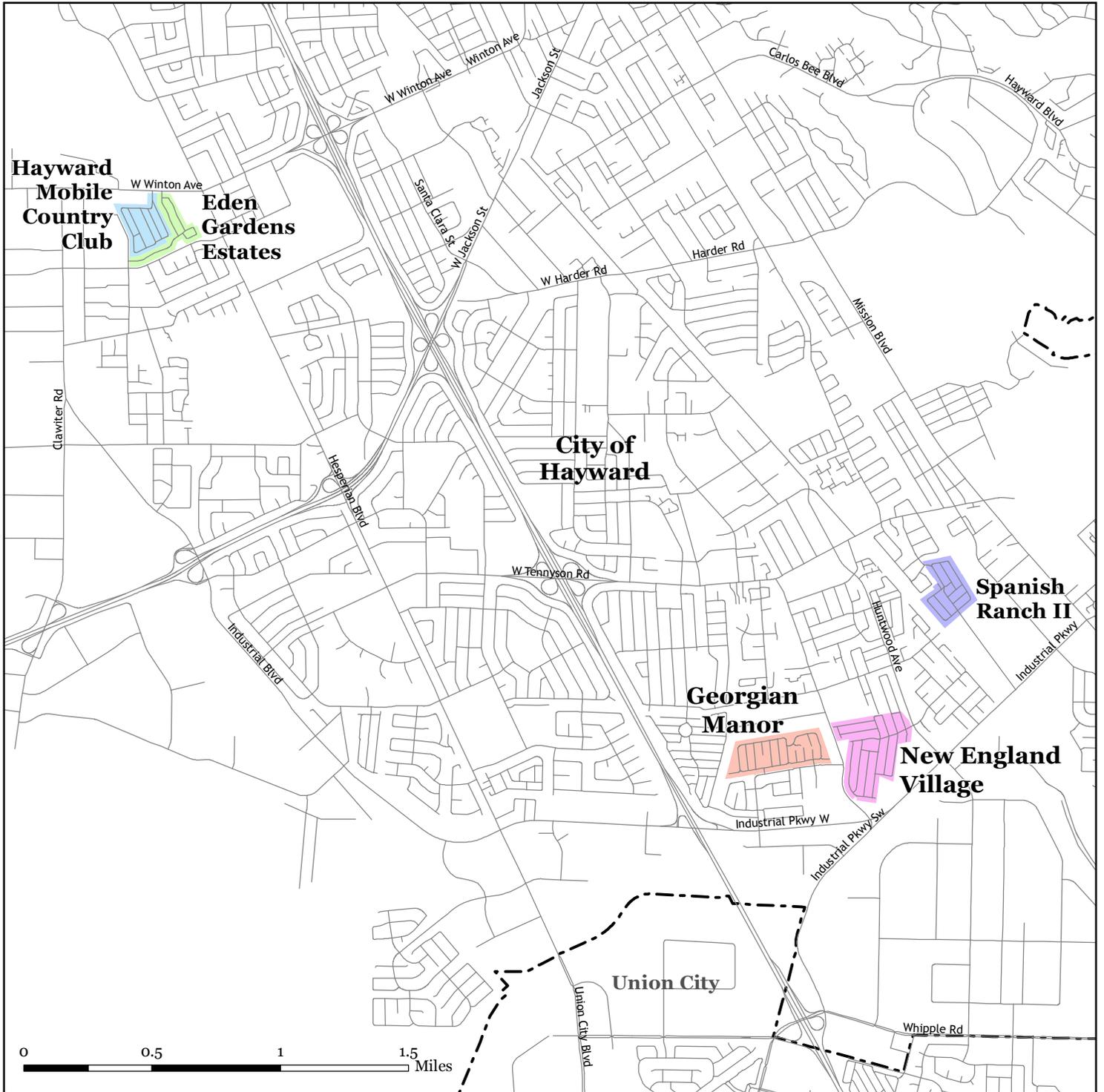
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**Comment:** *The text amendment would not have any environmental impacts thus will not cause substantial adverse effects on human beings.*



# Senior-Only Mobile Home Parks in Hayward





**DATE:** April 25, 2013

**TO:** Planning Commission

**FROM:** David Rizk, AICP, Development Services Director

**SUBJECT:** **Site Plan Review Application No. PL-2013-0123, Associated with a Proposed 9-11 Memorial Along the East Side of Mission Boulevard, North of D Street**  
**Applicant: Michael L. Emerson (Hayward 911 Memorial); Property Owner: City of Hayward**

## **RECOMMENDATION**

That the Planning Commission finds that the proposed project is Categorical Exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15303, New Construction or Conversion of Small Structures, and recommends approval to the City Council of the Site Plan Review application for the proposed memorial, subject to the attached findings (Attachment III) and conditions of approval (Attachment IV).

## **BACKGROUND**

Michael L. Emerson, a U.S. Marine Corps veteran and resident in the unincorporated Fairview Area, has proposed to design, manage, raise funds and secure volunteers to build a 9/11 memorial in Hayward. Mr. Emerson is offering hundreds of hours of his time to manage this project and construction of the memorial.

Mr. Emerson previously organized support and built a Flight 93 Memorial related to the tragic events of 9/11 at Sugar Mill Landing Park in Union City off Dyer Street, which was dedicated in December of 2007 (<http://www.flight93memorialsfb.com/>).

Mr. Emerson was also the designer and project manager for the Castro Valley Veterans Memorial (CVVM) in Castro Valley at the Castro Valley Community Park, built to honor all of our Military Veterans. The memorial was completed at the end of October 2012 and dedicated on Veterans Day, November 11, 2012 ([www.CVVM.info](http://www.CVVM.info)).

## **DISCUSSION**

*Project Description* – The proposed 40 ft. by 40 ft. memorial, in honor of 9/11 heroes and Hayward first responders and military veterans and their families, is proposed in the center of the grassy area along the east side of Mission Boulevard, north of D Street on the City-owned property that contains the former City Hall and Giuliani Children’s Park (see map, Attachment I). The Hayward fault

trace traverses the property, which precludes it from being developed with habitable buildings. Attachment II provides renderings of the proposed memorial, comprised of a center flag pole and red granite monument piece, and four black granite monuments with laser-etched images dedicated to those who lost their lives on September 11, 2001 at the Twin Towers in New York City, at the Pentagon in Washington, DC, and in Pennsylvania who were aboard Flight 93. There would be additional laser-etched images in a collage on each of the four black monument pieces, related to the events at each of those sites, with final design of those images conditioned (Attachment IV) to be approved by the City. The center piece would contain the following language:

**THIS FLAG WAVES PROUDLY IN HONOR OF THE HEROES OF 9/11 AND LOCAL FIRST RESPONDERS, MILITARY VETERANS AND THEIR FAMILIES WHO HAVE MADE THE ULTIMATE SACRIFICE IN PURSUIT OF SAFETY FOR OUR COUNTRY AND THIS COMMUNITY.**

Also, the names of Hayward police officers who died in the line of duty would be laser etched into the right side of the center monument piece, and the names of Hayward fire fighters would be etched on the left side of the center piece. Several low solid red granite benches would surround the five pieces, and there would be brick pavers with donor names or comments upon which the memorial monuments would be placed.

Site Plan Review Findings - In order for the application to be approved, the following findings must be made. Staff provides responses below and in Attachment IV in support of the findings.

***A. The proposed use is compatible with on-site and surrounding uses and is an attractive addition to the City.***

The memorial would entail the use of high quality materials and design along a major arterial street in downtown Hayward, to honor those who lost their lives during the tragic events of September 11, 2001 and local first responders and military heroes, including Hayward police officers and fire fighters, who lost their lives in the line of duty. The memorial is in scale with the overall memorial design and surrounding buildings, including the former Hayward City Hall at Giuliani Plaza, and would provide a location for those to honor and reflect on the memory of such national and local heroes.

***B. The development takes into consideration physical and environmental constraints.***

The memorial takes into consideration physical and environmental constraints, and is located across Mission Boulevard from the Hayward main library, adjacent to a municipal parking lot and near the City parking garage.

***C. The development complies with the intent of City development policies and regulations.***

The proposed memorial would be an attractive and unique addition to Downtown Hayward, and would attract local residents and business customers, as well as visitors, to Hayward. The memorial is consistent with the following General Plan policies and strategies:

Land Use Chapter

Policy 3: *Maintain the Downtown as a focal point for the City so that it continues to express the City's history, provides a venue for cultural vitality, and retains its role as a center for social, political, and other civic functions.*

Strategy 2: *Emphasize making the downtown a focal point for the City within a pedestrian-friendly environment.*

Community Facilities and Amenities Chapter

Policy 6, Strategy 4: Seek to establish vista points or view parks along public walkways or scenic routes.

Also, the proposed memorial is consistent with the stated purpose of the Central City – Commercial (CC-C) zoning subdistrict, which is to, "...establish a mix of business and other activities which will enhance the economic vitality of the downtown area. Permitted activities include, but are not limited to, retail, office, service, lodging, entertainment, education, and multi-family residential uses."

***D. The development will be operated in a manner determined to be acceptable and compatible with surrounding development.***

As conditioned, and ensured through a legal agreement or memorandum of understanding to be approved by the Hayward City Council, the memorial will be maintained so as to remain an attractive addition to the community of Hayward.

Environmental Review - The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) Guideline pursuant to Section 15303; New Construction or Conversion of Small Structures.

**PUBLIC CONTACT**

The memorial designer, Hayward resident Michael Emerson, presented the memorial concept to the Council Economic Development Committee on February 4, 2013, and to the City Council during public comments at the Council's February 5 meeting. Both the Committee and Council expressed interest in proceeding with development of the memorial.

No formal outreach regarding the memorial has occurred, but staff has received a letter of support from US Senator Diane Feinstein (Attachment VI).

On April 16, 2013, a notice of this public hearing was sent to every property owner and occupant within 300 feet of the subject site, as noted on the latest County Assessor's records. Also, notice of this public hearing was published in *The Daily Review* newspaper on April 19, 2013. As of the date the Planning Commission staff report was prepared, staff had not received any comments.

## NEXT STEPS

The Planning Commissions' recommendation on the site plan review application and proposed memorial will be forwarded to the City Council, who will also review an agreement/MOU that will specify maintenance obligations, establish right of entry to construct on the City-owned property, etc. If the Council approves the project, Mr. Emerson will proceed with fund-raising and development of detailed design for the memorial.

Prepared and approved by:



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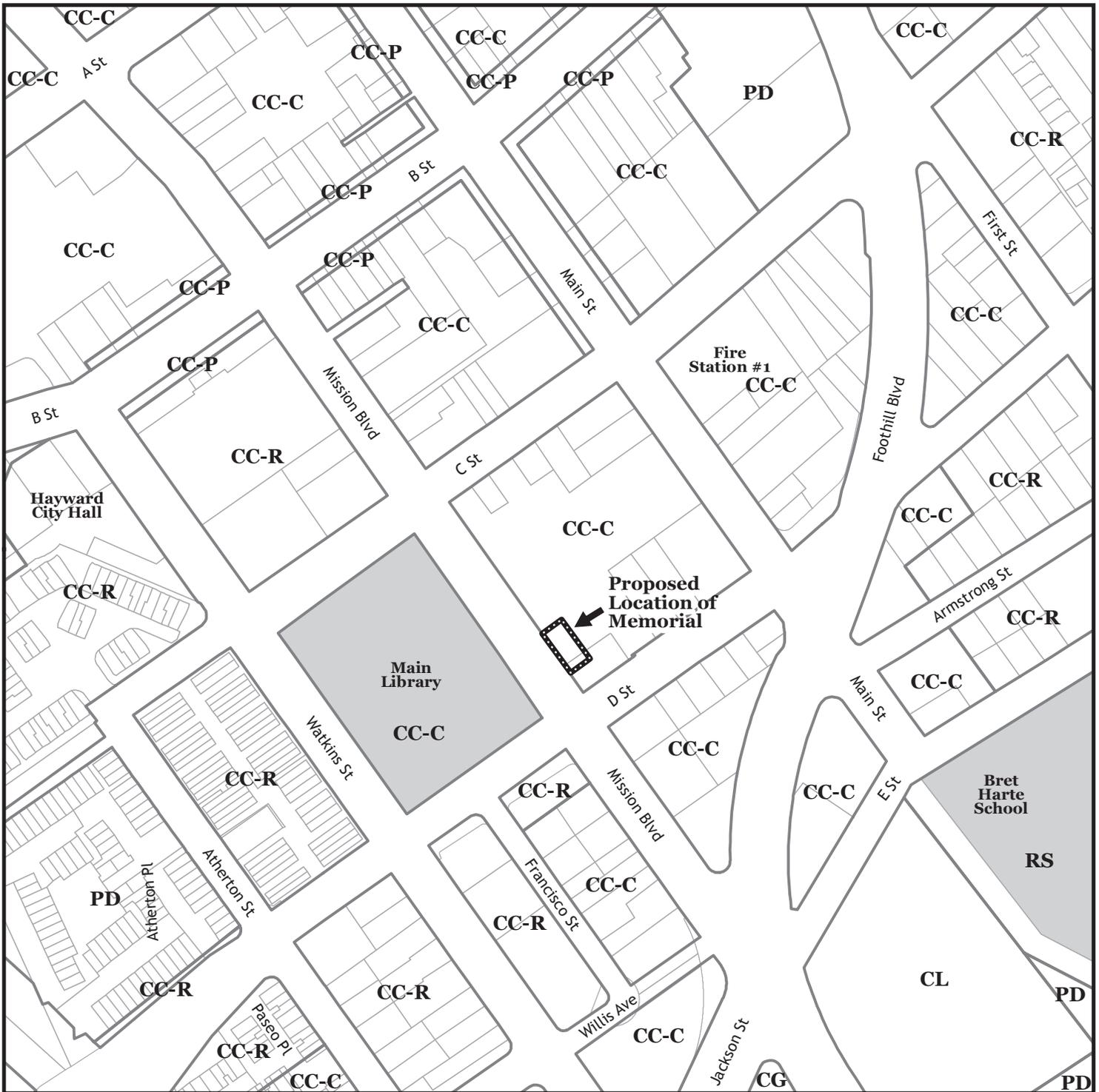
David Rizk, AICP  
Development Services Director

### Attachments:

Attachment I	Area – Location Map
Attachment II	Renderings for Proposed Memorial
Attachment III	Findings in Support of the Site Plan Review Application
Attachment IV	Conditions of Approval
Attachment V	Letter of Support from US Senator Diane Feinstein



# Area & Zoning Map



## PL-2013-0123 SPR

Address:  
22734 Mission Blvd

Applicant:  
Michael Emerson

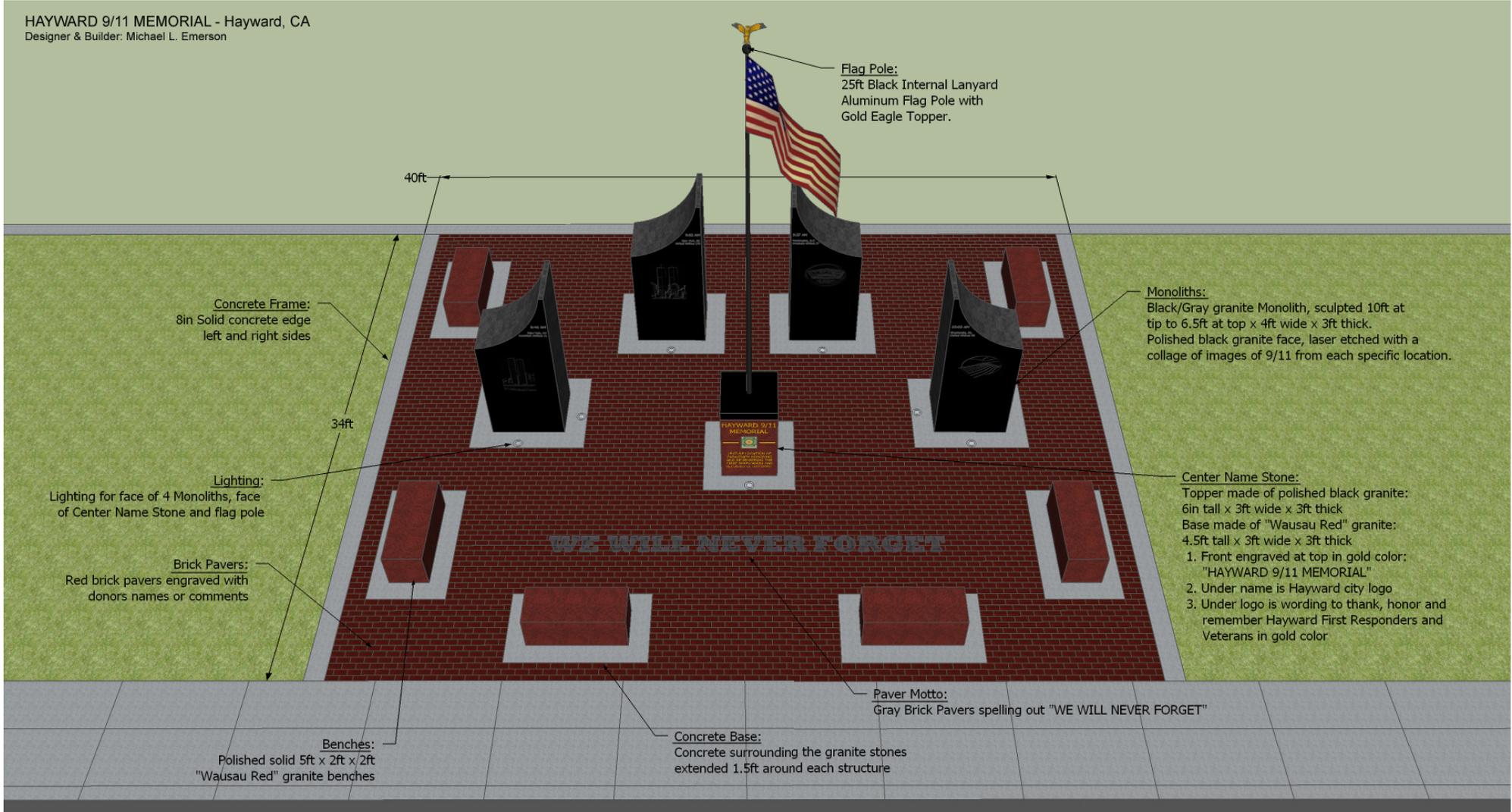
Owner:  
City of Hayward

### Zoning Classifications

- RESIDENTIAL**
- RS Single Family Residential, min lot size 5000 sqft
- COMMERCIAL**
- CG General Commercial
- CENTRAL CITY**
- CC-C Central City - Commercial
- CC-P Central City - Plaza
- CC-R Central City - Residential
- OTHER**
- PD Planned Development



HAYWARD 9/11 MEMORIAL - Hayward, CA  
 Designer & Builder: Michael L. Emerson



**Flag Pole:**  
 25ft Black Internal Lanyard  
 Aluminum Flag Pole with  
 Gold Eagle Topper.

**Monoliths:**  
 Black/Gray granite Monolith, sculpted 10ft at  
 tip to 6.5ft at top x 4ft wide x 3ft thick.  
 Polished black granite face, laser etched with a  
 collage of images of 9/11 from each specific location.

**Center Name Stone:**  
 Topper made of polished black granite:  
 6in tall x 3ft wide x 3ft thick  
 Base made of "Wausau Red" granite:  
 4.5ft tall x 3ft wide x 3ft thick  
 1. Front engraved at top in gold color:  
 "HAYWARD 9/11 MEMORIAL"  
 2. Under name is Hayward city logo  
 3. Under logo is wording to thank, honor and  
 remember Hayward First Responders and  
 Veterans in gold color

**Paver Motto:**  
 Gray Brick Pavers spelling out "WE WILL NEVER FORGET"

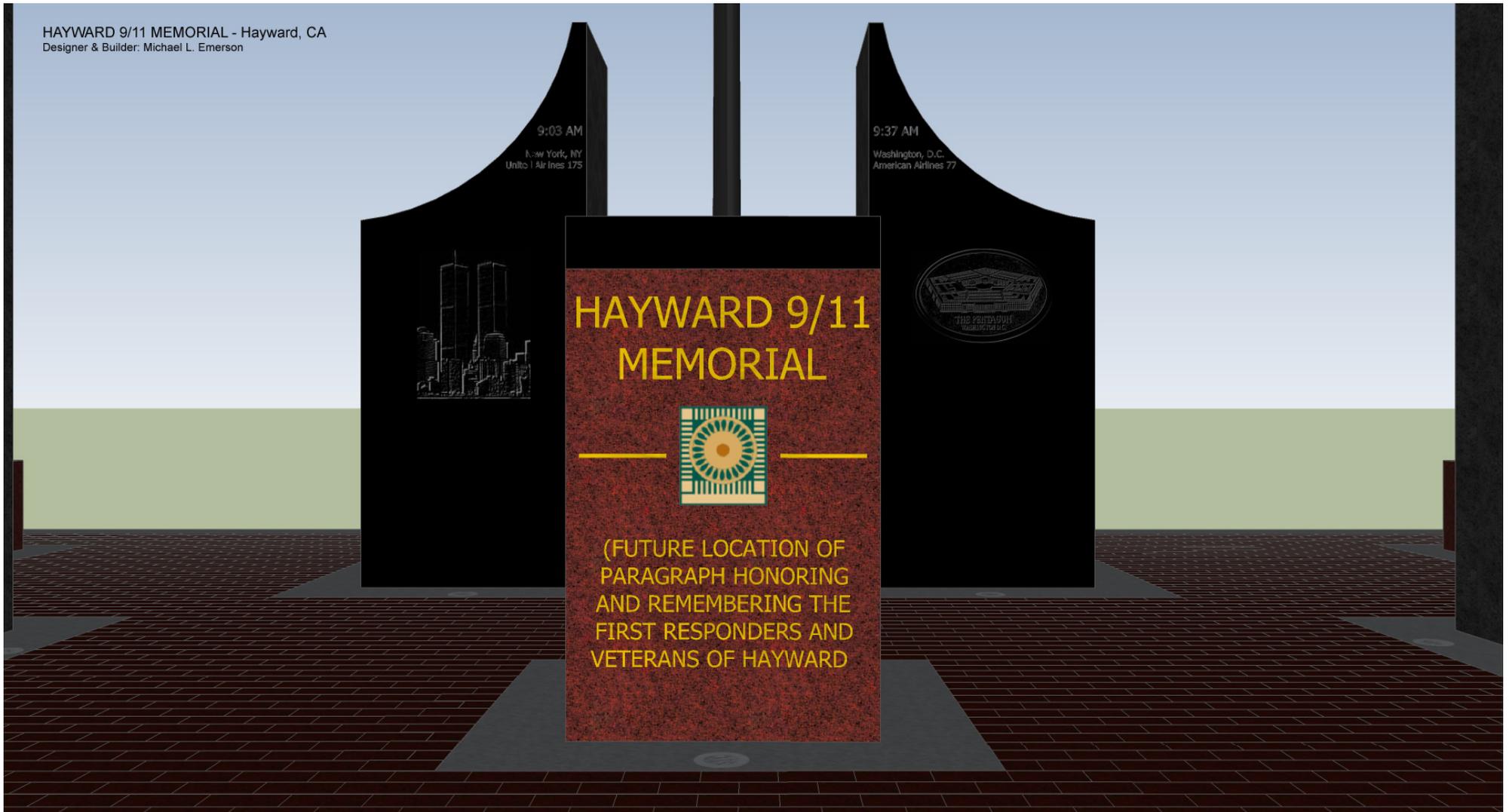
**Concrete Base:**  
 Concrete surrounding the granite stones  
 extended 1.5ft around each structure

**Benches:**  
 Polished solid 5ft x 2ft x 2ft  
 "Wausau Red" granite benches

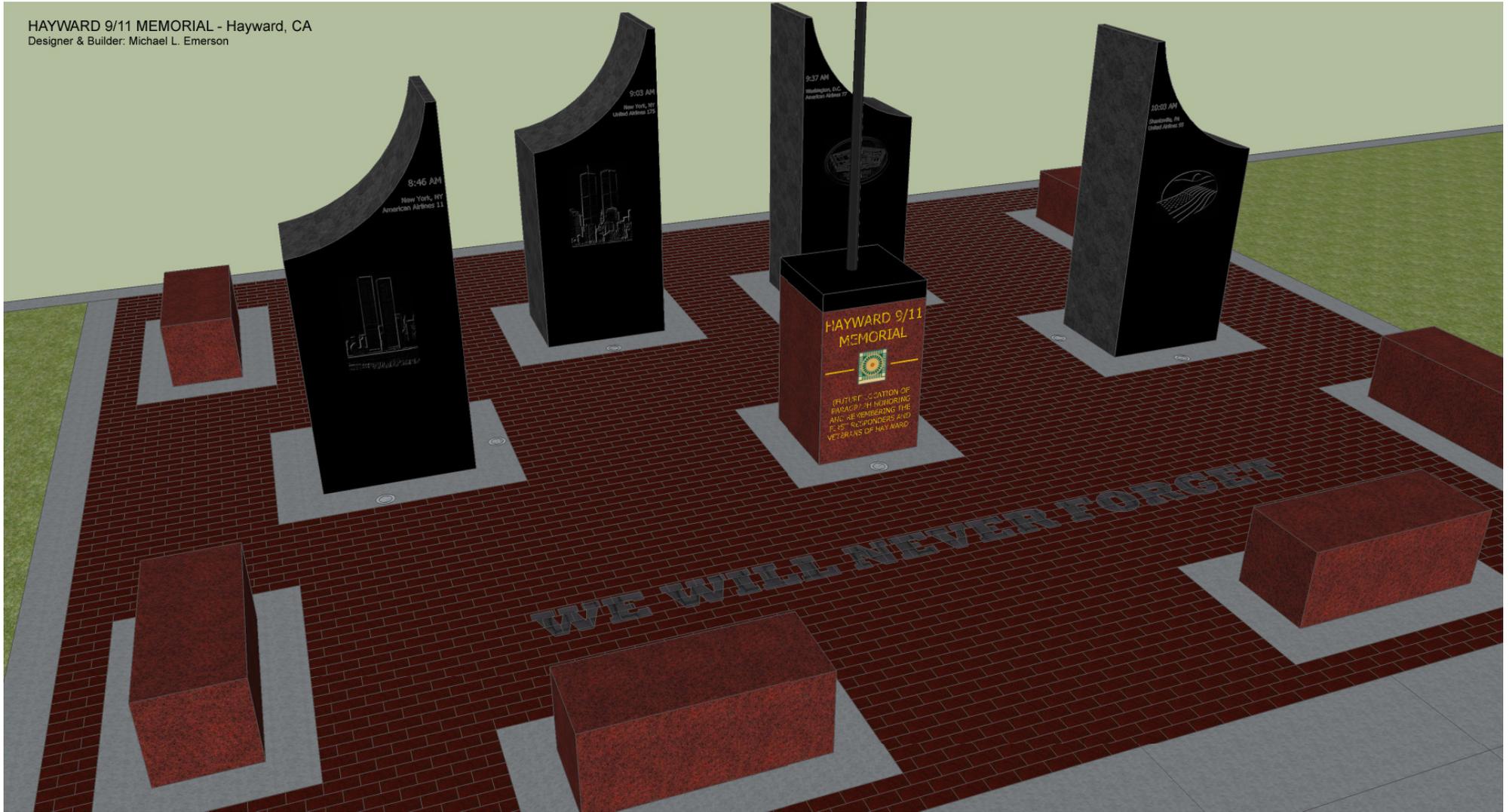
**Concrete Frame:**  
 8in Solid concrete edge  
 left and right sides

**Lighting:**  
 Lighting for face of 4 Monoliths, face  
 of Center Name Stone and flag pole

**Brick Pavers:**  
 Red brick pavers engraved with  
 donors names or comments







**FINDINGS FOR APPROVAL**

**Site Plan Review Application No. PL-2013-0123  
City of Hayward**

**Proposed 9-11 Memorial Along the East Side of Mission Boulevard, North of D Street**

The proposed project is comprised of a flag pole and five structures/monuments each less than ten feet tall and related benches and brick pavers, which are considered minor structures and categorically exempt from environmental analysis, per Section 15303 (New Construction or Conversion of Small Structures) of the California Environmental Quality Act (CEQA) Guidelines.

***A. The proposed use is compatible with on-site and surrounding uses and is an attractive addition to the City.***

The memorial would entail the use of high quality materials and design along a major arterial street in downtown Hayward, to honor those who lost their lives during the tragic events of September 11, 2001 and local first responders and military heroes, including Hayward police officers and fire fighters, who lost their lives in the line of duty. The memorial is in scale with the overall memorial design and surrounding buildings, including the former Hayward City Hall at Giuliani Plaza, and would provide a location for those to honor and reflect on the memory of such national and local heroes.

***B. The development takes into consideration physical and environmental constraints.***

The memorial takes into consideration physical and environmental constraints, and is located across Mission Boulevard from the Hayward main library, adjacent to a municipal parking lot and near the City parking garage.

***C. The development complies with the intent of City development policies and regulations.***

The proposed memorial would be an attractive and unique addition to Downtown Hayward, and would attract local residents and business customers, as well as visitors, to Hayward. The memorial is consistent with the following General Plan policies and strategies:

Land Use Chapter

Policy 3: *Maintain the Downtown as a focal point for the City so that it continues to express the City's history, provides a venue for cultural vitality, and retains its role as a center for social, political, and other civic functions.*

Strategy 2: *Emphasize making the downtown a focal point for the City within a pedestrian-friendly environment.*

Community Facilities and Amenities Chapter

Policy 6, Strategy 4: *Seek to establish vista points or view parks along public walkways or scenic routes.*

Also, the proposed memorial is consistent with the stated purpose of the Central City – Commercial (CC-C) zoning subdistrict, which is to, “...establish a mix of business and other activities which will enhance the economic vitality of the downtown area. Permitted activities include, but are not limited to, retail, office, service, lodging, entertainment, education, and multi-family residential uses.”

***D. The development will be operated in a manner determined to be acceptable and compatible with surrounding development.***

As conditioned, and ensured through a legal agreement or memorandum of understanding to be approved by the Hayward City Council, the memorial will be maintained so as to remain an attractive addition to the community of Hayward.

**CONDITIONS OF APPROVAL**

**Site Plan Review Application No. PL-2013-0123  
City of Hayward**

**Proposed 9-11 Memorial Along the East Side of Mission Boulevard, North of D Street  
(Assessor's Parcel Number 428-0066-045-00)**

1. The memorial shall be built in general conformance with renderings labeled Exhibit "A" in the project file, with final images for collages for each of the four black monument pieces to be approved by City staff in cooperation with the memorial designer.
2. A formal agreement or memorandum of understanding shall be executed as authorized by the City Council prior to commencement of construction.
3. The memorial shall be dedicated to the City of Hayward upon its completion.



**United States Senate**  
WASHINGTON, DC 20510-0504  
<http://feinstein.senate.gov>

April 4, 2013

Mr. Michael Emerson  
The Hayward 9/11 Memorial Project  
2715 Christopher Court  
Hayward, CA 94541

Dear Mr. Emerson,

Thank you for contacting my office. I appreciate hearing from you regarding your efforts to create a memorial to the victims of the September 11 terrorist attacks.

Your tireless work in establishing the Union City Flight 93 Memorial and the Castro Valley Veterans Memorial has been truly commendable. I'm sure that a similar memorial in Hayward would provide a welcome space for remembrance and reflection.

As a United States Senator, I thank you for your dedication to preserving the memory of both those lost on September 11, 2001 and in service to our Nation. I wish you all the best in future endeavors.

Sincerely yours,

A handwritten signature in blue ink that reads "Dianne Feinstein". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

Dianne Feinstein  
United States Senator



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, April 11, 2013, 7:00 p.m.  
777 B Street, Hayward, CA94541**

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**MEETING**

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair Faria.

**ROLL CALL**

Present: COMMISSIONERS: Loché, Trivedi, McDermott, Lamnin, Márquez, Lavelle  
CHAIRPERSON: Faria  
Absent: COMMISSIONER:  
CHAIRPERSON:

Commissioner Lamnin led in the Pledge of Allegiance

Staff Members Present: Conneely, Emura, Patenaude, Philis

General Public Present: 3

**PUBLIC COMMENTS**

None

**PUBLIC HEARING**

1. Conditional Use Permit Application PL-2010-0353 - Goodfellas Cash for Gold, Harb Jaser (Applicant)/ K&S Company, Inc. (Owner) - Request to Operate a Cash for Precious Metals Store. The Property is Located at 402 West Harder Road, in the Neighborhood Commercial (CN) Zoning District.

Associate Planner Carl Emura gave the report noting staff had received two anonymous comments opposing the business based on concerns of increased burglaries. Mr. Emura said he spoke with police who reported that in the last year there had been three commercial burglaries and six residential burglaries, three of which involved stolen jewelry. Mr. Emura said police could not make a determination that there was an increase in burglaries in the neighborhood due to the business noting burglaries tend to come in waves.

Commissioner Lamnin asked how many cash for gold businesses were located in Hayward beside the three mentioned in the report. Associate Planner Emura explained that some jewelry stores in Hayward also offered to pay cash for jewelry, but the number was not tracked and a conditional use permit (CUP) was not required. Acting Planning Manager Patenaude clarified that if a jewelry store was offering cash for gold as an accessory function, a CUP was not required. Because cash for gold was the primary function of the three businesses mentioned in the report they did have a conditional use permit, he said.

Mr. Patenaude explained that many cash for gold businesses shut down last year when they were notified by Hayward Police that they would need a conditional use permit to continue operation. This was in May of 2012 when the Commission reviewed the application for a cash for gold business

**DRAFT**

requesting to operate at Southland Mall.

Commissioner McDermott asked if the City had any regulations or restrictions that limited the number of these types of businesses and Acting Planning Manager Patenaude said no standards were currently in place. He said the City did have a policy of looking at the concentration of similar businesses in a particular area and would have concerns if an application was received for a new business wanting to operate within a quarter to a half mile of an existing business. Mr. Patenaude said staff would have to evaluate whether or not to recommend approval. Commissioner McDermott suggested putting a restriction on the number of cash for gold businesses in Hayward.

Commissioner McDermott asked when the City started requiring a conditional use permit when the primary business was cash for gold. Acting Planning Manager Patenaude explained that the City's Zoning Ordinance didn't specifically list Cash for Gold businesses, but it was determined that the use was similar to businesses that required a CUP. The first application reviewed under the new determination was for the Cash for Gold business located at Southland Mall, he said.

Commissioner McDermott said she noticed that Goodfellas' Secondhand Dealer License was set to expire in July and she wondered if the applicant got the license but did not apply for a CUP until now.

Mr. Ari Lauer, legal counsel for the applicant, explained that the Secondhand Dealer License had been renewed for two years. Commissioner McDermott asked if proof of that documentation had been provided to the City and Acting Planning Manager Patenaude suggested all questions for Mr. Lauer be held until the Public Hearing was opened.

Commissioner McDermott asked if a security plan, as required by the CUP, had been submitted to the Police Department. Acting Planning Manager Patenaude said a security plan would be submitted once the Commission approved the application. Commissioner McDermott asked how quickly the plan would have to be submitted, noting the business had been in operation without one, and Mr. Patenaude said within 30 days of approval of the CUP.

Commissioner Márquez asked if the applicant would have to go through a background check with the Department of Justice and Hayward Police Department to renew his Secondhand Dealer License when it expired in July. Acting Planning Manager said the license would have to be renewed and the applicant would have to meet any requirements to do so. Commissioner Márquez asked if the police department had staffing in place to review the weekly reports that would be required under the CUP and Mr. Patenaude noted PD wrote that condition of approval.

Commissioner Márquez asked if staff had any concerns about the proposed hours of operation on Friday and Saturday nights and Associate Planner Emura pointed out those were the hours allowed under City ordinance for pawn shops.

Commissioner Trivedi asked how many cash for gold businesses were operating without a use permit and whether it was unusual for a business to be in operation for over a year without one. Acting Planning Manager said the other two cash for gold businesses in Hayward had been operating as legal non-conforming uses because they opened before the City required a use permit and confirmed for Commissioner Trivedi that they were grandfathered in. Regarding the businesses that closed when told they would be required to have a use permit, Mr. Patenaude said that was due to staff doing research and becoming aware of the business' presence. He said the same would apply to any type of business as the City became aware of it and required the proper permits.



**MINUTES OF THE REGULAR MEETING OF THE  
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Council Chambers  
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777 B Street, Hayward, CA94541**

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Commissioner Trivedi asked if this business was operating before the requirement and Acting Planning Manager Patenaude said this was one of the businesses that was told a conditional use permit would be required if they wanted to continue operating. Commissioner Trivedi confirmed with staff that the two legal, non-conforming businesses had been in operation longer and Mr. Patenaude said quite a while longer.

Commissioner Lavelle asked if the hours of operation allowed by ordinance were equivalent to the hours the shop had been operating and she asked if the business stayed open until 10:00 p.m. on the weekends. Acting Planning Manager Patenaude noted the Planning Commission could limit hours via the conditions of approval. Commissioner Lavelle said the report stated hours under the ordinance were 9:00 a.m. to 6:00 p.m. Sunday-Thursday, and 9:00 a.m. to 10:00 p.m. Friday and Saturday. Commissioner Lavelle said she would be interested in hearing the opinions of the other Commissioners regarding hours and noted that other businesses in the complex stayed open until 10:00 p.m.

Regarding signage, Commissioner Lavelle noted that according to the report, a permit was required and commented the name "Goodfellas" above the front door was a little hard to read, but not the "Cash for Gold." She asked if the temporary sign visible from Bishop Avenue would need to be reviewed and Associate Planner Emura said all signage would be reviewed during the permit process. He added that all businesses were allowed two signs. Commissioner Lavelle said the canvas painted temporary sign at the back of the store looked decent, but Mr. Emura said the temporary sign would have to be replaced with a permanent sign.

Chair Faria noted the complex was very busy and that parking appeared to be a problem. She asked how this business would impact the already limited parking, whether parking would be evaluated as part of the CUP, and if the business would be allotted a specific number of spots. Acting Planning Manager Patenaude explained that the number of required parking stalls was determined by the gross square footage of the complex and no spots were designated for a particular business.

Chair Faria opened the Public Hearing at 7:22 p.m.

Harb Jaser, applicant, with business address on West Harder Road, introduced himself and said he tried to play by the book and when he heard he needed a CUP followed up as soon as he could. Mr. Jaser said he hired locally, contributed to the community, never had any issues with the business, worked seven days a week, and commented he was young and learning.

Commissioner Loché told Mr. Jaser that he lived in close proximity to the shopping complex and had noticed that parking was an issue, but it seemed unrelated to the applicant's business. Commissioner Loché asked about how long each transaction took and about staffing. Mr. Jaser said his brother covered for him if he needed to step out and each transaction took between five to ten minutes. Commissioner Loché asked what would happen if five customers showed up at once and Mr. Jaser explained that a spectrometer evaluated the quality of the gold within seconds. Commissioner Loché asked if there was enough room in the store for customers to wait and Mr. Jaser said yes, there was a seating area, and noted that most people already had a price in mind and knew whether the gold was real or not and that transactions went quickly. Mr. Jaser explained that when a customer came in, he would make them an offer, if they agree Mr. Jaser photocopies their ID, writes a description of the item including weight, and

pays the customer in cash. Commissioner Loché asked if he reported any of that information to Hayward PD and Mr. Jaser said yes, in the past he brought the information to police every month or two but now he provides information to the police every week. Commissioner Loché asked if there had been any issues with the business and Mr. Jaser said he did when he first opened, but now, per state law, he holds all metals for 30 days. If the jewelry turns out to be stolen, Mr. Jaser explained, by holding it 30 days it could be reclaimed by the owner. Mr. Jaser noted that if someone comes into business looking suspicious he “passes” on the deal because he doesn’t want to lose money if it turns out the jewelry was stolen and later he has to return to the owner. Commissioner Loché asked if that had ever happened and Mr. Jaser said no.

Commissioner Loché asked the applicant if he stayed open until 10:00 p.m. on Friday and Saturday nights and Mr. Jaser said no, the latest he stayed open was 7:00 p.m. no matter what day. Mr. Jaser commented that he already worked seven days a week, he didn’t want to be at the store for 12 or 13 hours each day.

Commissioner McDermott noted that Mr. Jaser had other stores, and asked if he was going to continue to do jewelry repair at the Hayward location and Mr. Jaser said yes. Commissioner McDermott asked if his other store were in close proximity to neighborhoods and Mr. Jaser said no, and noted the stores were located in Livermore and San Lorenzo. Commissioner McDermott asked him if he would be opposed to the Commission limiting the hours of operation and Mr. Jaser said no. Mr. Jaser said his customers know he is open from 10:00 a.m. to 7:00 p.m. and anything earlier would be a slight issue, but he would work with it.

Commissioner Márquez said she went into the business and saw some cameras, but asked how many he had in total and Mr. Jaser said eight. She asked about a side door near the entrance and Mr. Jaser explained that he had replaced a broken window with a door. Commissioner Márquez confirmed that was part of his property and he said yes. Commissioner Márquez noted the business was clean, confirmed the sign in the back was vinyl, and asked if he maintained the landscaping. Mr. Jaser said he paid an association fee and they maintained the property.

Commissioner Márquez asked Mr. Jaser if he was in agreement with the conditions of approval including having to report to the police on a weekly basis and Mr. Jaser said that shouldn’t be an issue. Commissioner Márquez asked if the driver’s license had to be current and Mr. Jaser said yes, all customers had to have to a current government-issued ID. If the customer doesn’t have an ID, Mr. Jaser said he passes on the deal.

Commissioner Márquez asked how a person would reclaim stolen jewelry and Mr. Jaser explained that the person would have to come with a police report.

Commissioner Lamnin thanked Mr. Jaser for being there and for doing business in Hayward. She asked if he took photos of the goods being sold and Mr. Jaser said no he just completed the required paperwork. Commissioner Lamnin pointed out that a photograph was required and Mr. Jaser said Hayward PD told him he just needed the paperwork, but said he would take photos. Commissioner Lamnin suggested looking into whether he could scan the documents to PD to save a trip. Commissioner Lamnin said she appreciated Mr. Jaser’s efforts to be in compliance with the regulations.

Commissioner Lamnin asked if he had any problem with the sign permit requirement and Mr. Jaser said no. Commissioner Lamnin commented that parking at the complex was bad and Mr. Jaser agreed and said he parked behind the complex to leave more spots for the customers. Commissioner Lamnin suggested the business owners work with the complex owner and restripe the lot.



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, April 11, 2013, 7:00 p.m.  
777 B Street, Hayward, CA94541**

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Commissioner Loché asked if there was a limit to how often one customer could sell something and Mr. Jaser said no, but if he got suspicious he would pass on the deal. Mr. Jaser said some customers sell one piece at a time and therefore could come in ten times.

Commissioner Lavelle pointed out that the website for the store did not mention hours of operation and she suggested that information be added. Commissioner Lavelle asked if jewelry repair was a regular part of his business and Mr. Jaser said yes; people came in to sell broken jewelry and were happy to hear he could fix it instead. He said the service had a turnaround time of a few days. Based on his response about the required photographs, Commissioner Lavelle encouraged Mr. Jaser to carefully review the CUP so he fully understood the requirements including that the photos had to be held for five years. She also asked Mr. Jaser to conform to the sign permit requirements if the CUP was approved.

Commissioner Trivedi agreed that Mr. Jaser should carefully read the conditions. Commissioner Trivedi also agreed that parking was bad, that he frequently ate at the Oasis Grill and noted the owner needed to do something about it. Commissioner Trivedi said the storefront was clean and asked about customer traffic through the business. Mr. Jaser said tax time was tough and he could go days without any customers. Commissioner Trivedi asked who ran the other businesses if he was at Hayward, and Mr. Jaser said his mother ran the San Lorenzo store and his business partner was in Livermore.

Regarding business hours, Commissioner Trivedi said he understood why Mr. Jaser would not want to operate after dark and Mr. Jaser said it was pretty dangerous to do so, especially with gold prices so high.

Commissioner Márquez asked who determined the value of the gold and was it measured by weight. Mr. Jaser said using the price by ounce he used the spectrometer to gauge purity and paid 80% of market value. He said the market set the rate, but he determined how much he would pay.

Regarding the store by Southland Mall, Commissioner McDermott asked staff if the hours of operation were consistent with what was being proposed that night. Acting Planning Manager Patenaude said he didn't recall, but noted the location of this business by a residential neighborhood was the main determinate.

Chair Faria closed the Public Hearing at 7:41 p.m.

Commissioner Loché said he was in support of the business, noting it had been operating without issue at that location for some time, but said he would like to see business hours limited to 10:00 a.m. to 7:00 p.m. Associate Planner Emura pointed out that City ordinance limits hours Sunday through Thursday to 9:00 a.m. to 6:00 p.m. so only on weekends could hours be limited to 7:00 p.m. Commissioner Loché said he was mainly concerned about limiting the hours on weekends.

Commissioner Trivedi said he had no specific issues with the CUP noting there was a place for the business and there was demand. He noted that based on the location, if the business was new he might have some reservations, but he was not inclined to shut down a business that was currently operating. Commissioner Trivedi said more thought should be put into what kinds of businesses were coming in

and where they were located. He said he noticed a new dollar store opened in downtown on Foothill Boulevard right after the City put an incredible amount of energy and cost into renovating the area. Commissioner Trivedi said he wanted to see a better standard of what opens and would attract people to the downtown. He said he had nothing against the applicant and the permit looked fine; he was not going to vote against it.

Commissioner Lavelle made a motion per staff recommendation with an amendment to Condition of Approval number three regarding hours of operation. She reminded the applicant that per City ordinance, hours were limited to Sunday-Thursday 9:00 a.m. to 6:00 p.m., and per her amendment, Friday-Saturday 9:00 a.m. to 7:00 p.m. during winter, until 8:00 p.m. during daylight savings hours, if he so chooses. Commissioner Lavelle pointed out that for a business of this type, if a new owner came along there would be no benefit in allowing late hours on the weekends. Commissioner Lavelle told Mr. Jaser that she was supportive of his business, she was glad he was doing business in Hayward and she wished him success. She said she hoped more customers would come in now that he'd gone through the permit process and she told Mr. Jaser that it was admirable that rather than close up shop like so many others, he went through the process of applying for a conditional use permit. While parking was a problem, Commissioner Lavelle noted out that it was a great point that a plaza in Hayward was so busy with business and customers that it was hard to find a parking spot, but mentioned there was plenty of parking in the northwest corner if someone was willing to walk a little.

Commissioner Loché seconded the motion.

Commissioner Márquez enthusiastically agreed with Commissioner Lavelle's comments and told Mr. Jaser he had a good business, maintained it well, was being very responsible, and she commented that she appreciated him coming to the meeting and going through the process. Commissioner Márquez said she would be supporting the motion.

Commissioner McDermott asked for a friendly amendment that the motion include a request for evidence that Mr. Jaser had renewed his Secondhand Dealer License. Both Commissioner Lavelle and Loché were accepting of the amendment to the motion.

The motion to find that 1) the proposed project was categorically exempt from the Californian Environmental Quality Act (CEQA) Guidelines, Section 15301: Existing Facilities, and 2) approve the conditional use permit subject to the findings and conditions of approval with an amendment to condition of approval number three to limit hours of operation Friday-Saturday 9:00 a.m. to 7:00 p.m. during winter, until 8:00 p.m. during daylight savings hours, and request evidence that the applicant had renewed his Secondhand Dealer License, was approved 7:0:0.

AYES: Commissioners Trivedi, Loché, McDermott, Lamnin, Márquez, Lavelle  
Chair Faria

NOES:

ABSENT:

ABSTAINED:



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**COMMISSION REPORTS**

2. Oral Report on Planning and Zoning Matters

Acting Planning Manager Patenaude reminded the Commission of an upcoming joint work session with Council to discuss the General Plan Update. He also provided several Planning staff updates and noted regular Planning Commission meetings were scheduled for April 25 and May 9 and both would be busy.

Mr. Patenaude announced that a new Planning Manager had been selected from Henderson, Nevada, and his first day was Monday, April 15<sup>th</sup>. Mr. Patenaude also noted that this was his last Planning Commission meeting and his last day with the City of Hayward was a week from Friday.

Chair Faria thanked Mr. Patenaude for his support and on behalf of the Commission said she appreciated everything he had done by directing and providing information to make the Commission successful in making good decisions for the City.

3. Commissioners' Announcements, Referrals

Commissioner Lamnin agreed with Chair Faria's comments and also thanked Mr. Patenaude.

Commissioner Lamnin commented that in her research of cash for gold businesses she learned that the weights and measures of the gold could be manipulated and she asked if the police department knew about this and asked if any training was required related to how the items were weighed. She suggested that a work session be held to discuss these types of business and the concerns of the community. Acting Planning Manager Patenaude said perhaps the City could hold a work session that addressed a class of businesses and that he would address that with the new Planning Manager.

On a similar note, Chair Faria commented that the front of a massage business recently approved by the Commission looked a little dark and forbidding and didn't portray the image the City was looking for in the downtown area. She asked how the City could address these types of concerns after a use permit was approved. Mr. Patenaude explained that massage parlors did not require a conditional use permit because under state law, certified massage establishments could operate like any other personal service business, which, in Hayward, was considered a primary use. He noted the law was set to sunset, he thought, in 2015, and in the meantime, the City was waiting to see what the legislation was going to do before amending the Zoning Ordinance. Mr. Patenaude said he received emailed reports from the agency tasked with certifying the massage technicians at the business almost on daily basis and he noted the agency was very active about making sure all technicians were properly certified. He said he hadn't heard any complaints from police.

Commissioner Márquez commented that there were five massage businesses in downtown Hayward and she said she appreciated the information provided and asked that staff check in with police and report back. She also noted that she had planned to be out of town on the 25<sup>th</sup> but might have to change her plans so she could attend the meeting.

Commissioner Márquez thanked Mr. Patenaude for everything he'd done, noted he was a Hayward native, and commented that it was amazing he'd come back and done so much for the City. Mr. Patenaude said he'd still be in town and would keep an eye on the Commission.

Commissioner McDermott thanked Mr. Patenaude and commented that Richard was a committed Hayward resident, a fellow Tennyson High alum, and truly a success story. She said he was a tremendous person who would be sorely missed and noted that the Commission would like to take him out to dinner. She thanked him for his service to the City and to the Commission.

Commissioner Trivedi acknowledged he hadn't been on the Commission for very long but noted Mr. Patenaude was a high quality public servant and he appreciated that service and held it in high regard. Commissioner Trivedi thanked Mr. Patenaude for the quality of his work and the good natured spirit he did it in and wished him well. Commissioner Trivedi said he was excited that there were actually projects to talk about in the next few weeks and was looking forward to having meetings and having items on the agenda.

Acting Planning Manager Patenaude commented that in the last few weeks the level of applications had started to noticeably increase with more significant projects.

**APPROVAL OF MINUTES**

- 3. Minutes from February 28, 2013, were unanimously approved.

**ADJOURNMENT**

Chair Faria adjourned the meeting at 8:00 p.m.

**APPROVED:**

\_\_\_\_\_  
Commissioner McDermott, Secretary  
Planning Commissioner

**ATTEST:**

\_\_\_\_\_  
Suzanne Philis, Senior Secretary  
Office of the City Clerk