



CITY OF  
**HAYWARD**  
HEART OF THE BAY

## **PLANNING COMMISSION**

**DECEMBER 5, 2013**

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CITY OF HAYWARD  
777 B STREET, HAYWARD, CA 94541-5007  
(510) 583-4205 / www.hayward-ca.gov  
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**AGENDA**  
**HAYWARD PLANNING COMMISSION**  
**THURSDAY, DECEMBER 05, 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, the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of the decision. If appealed, a public hearing will be scheduled before the City Council for final decision.

1. Conditional Use Permit - Request for approval of a Conditional Use Permit (PL-2012-0414 CUP) to operate a distillery with an ancillary tasting room, and a Conditional Use Permit (PL-2013-0489 CUP) for a separately licensed and operated retail establishment that will sell products produced by the distillery at 22549 Foothill Boulevard in the Central City Commercial (CC-C) Zoning Sub-district. The Proposed Project is Categorically Exempt from Environmental Review in Accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15303(c), New Construction or Conversion of Small Structures – Geoff Harries, Buffalo Bill's Property Group (Applicant/Owner)



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.

- [Staff Report](#)
- [Attachment I - Area and Zoning Map](#)
- [Attachment II - Recommended Findings for Approval](#)
- [Attachment III - Recommended Conditions of Approval](#)
- [Attachment IV - Project Plans](#)
- [Attachment V - Comments](#)

**COMMISSION REPORTS:**

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

**APPROVAL OF MINUTES**

4. [October 24, 2013](#)  
[November 7, 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:** December 5, 2013

**TO:** Planning Commission

**FROM:** Linda Ajello, AICP, Associate Planner

**SUBJECT:** **Conditional Use Permit - Request for approval of a Conditional Use Permit (PL-2012-0414 CUP) to operate a distillery with an ancillary tasting room, and a Conditional Use Permit (PL-2013-0489 CUP) for a separately licensed and operated retail establishment that will sell products produced by the distillery at 22549 Foothill Boulevard in the Central City Commercial (CC-C) Zoning Sub-district. The Proposed Project is Categorically Exempt from Environmental Review in Accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15303(c), New Construction or Conversion of Small Structures – Geoff Harries, Buffalo Bill’s Property Group (Applicant/Owner)**

**RECOMMENDATION**

Staff recommends that the Planning Commission finds that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15303(c), New Construction or Conversion of Small Structures, and approves the proposed two conditional use permit applications to allow a distillery with a tasting room and the retail sales of alcohol in the Downtown, subject to the attached findings (Attachment II) and conditions of approval (Attachment III).

**SUMMARY**

The project entails operation of a distillery and, physically and operationally separate from the distillery, retail sales of product produced by the distillery, in an existing 2,986 square foot commercial building. The interior of the building will be completely remodeled to create a distillery and tasting room, as well as a separate retail area where visitors can purchase the products produced on-site. The distillery will be located on the northeast side of the building, which fronts on Foothill Boulevard and the tasting room and retail area will be located at the rear of the building, which is accessed from Municipal Parking Lot 2.

Staff supports the proposed project because it will create a unique destination in the Downtown that will attract both residents and visitors from outside of the City to visit and explore not only the Distillery, but also introduce them to the other businesses in the area. Further, the proposed use will be consistent with existing restaurant and entertainment uses in the Downtown and will further enhance the area by creating an attractive, active storefront in an existing vacant building.

## ENVIRONMENTAL DETERMINATION

The proposed project involves the conversion of an existing small structure from a solely commercial/retail use to a commercial/retail and industrial use that will not involve the use of significant amounts of hazardous materials and is, therefore, Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15303(c), New Construction or Conversion of Small Structures.

## BACKGROUND

*Local Setting & Context* - The proposed project is located along the west side of Foothill Boulevard between A and B Streets in the Central City-Commercial (CC-C) Zoning Sub-district. The purpose of this subdistrict 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.” In accordance with recently adopted revisions to the City’s Alcohol Regulations and Section 10-1.1523(b) of the Zoning Ordinance, a distillery with a tasting room is a conditionally permitted use in the CC-C Subdistrict. A second Conditional Use Permit (CUP) is required in order to allow the retail sales of alcohol.

Surrounding properties, which are also zoned CC-C, consist of a wide range of commercial, retail, entertainment, restaurant and personal service uses. Parking for the site is served by the Central Parking District, which is comprised of on-street, surface and structured parking in the Downtown area.

*Existing Project Site Setting* - The 3,000 square foot site contains a commercial/retail building constructed in 1954. The existing two-unit building has frontage and pedestrian access on Foothill Boulevard and at the rear of the building, which fronts on Municipal Parking Lot 2 and is diagonally across a walkway from Buffalo Bill’s restaurant. The proposed building was most recently occupied by an office use and a nail salon.

## DISCUSSION AND STAFF ANALYSIS

*Project Description* – Geoff Harries, the owner of Buffalo Bill’s Brewery, proposes to open Russell City Distillery (RCD), which will be a craft distillery. As defined by the American Distilling Institute, a “Craft Distillery<sup>1</sup>” is an independently owned distillery with maximum sales of 52,500 cases, where the principal distiller defines the house style and oversees all aspects of production. Craft Distilled Spirits are the product of an independently owned distillery with maximum annual sales of 52,500 cases where the product is distilled and bottled on site.

The distillery will be comprised of a 2,109 square foot production and bottling room, with a 260 square foot tasting room, and a separate 136 square foot retail space that will be leased and operated independently from the distillery. The distillery will be capable of producing up to 7,000 cases per year, all of which will be sold to wholesalers throughout the United States. Products will include vodka, tequila, gin and rum.

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<sup>1</sup> [www.distilling.com/certdef.html](http://www.distilling.com/certdef.html)

The distillery will use a 750 liter German Holstein still, which is a beautifully crafted 17 foot high still. The still will be located at the front of the distillery and will be showcased through the new storefront windows on Foothill Boulevard.

The distilling process begins with fermenting sugars into alcohol. The alcohol, usually below seven (7) percent, is then pumped into the still where the alcohol is separated from the water in the process of distillation. The alcohol is then blended, infused with botanicals and diluted water and bottled. The finished product will then be shipped to a national wholesaler to be distributed, much like the beer produced by Buffalo Bill's Brewery. No alcohol will be stored on site for the purpose of aging. The proposed distillery will have three employees and will operate Monday through Friday from 7:00 am to 7:00 pm.

The tasting room, which will be located at the rear of the building, will allow patrons to come in and learn about the distilling process and sample up to three (3) quarter ounce tastes per person. State law prohibits the sale of the products at the distillery, so no alcohol will be available for purchase in the tasting room. However, products will be available in the adjacent retail space. Russell City Spirits, which is proposed at the rear of the building, adjacent to the tasting room, will be leased to an independent operator with a license for off-premise alcohol sales and a separate conditional use permit. The City's alcohol regulations allow a tasting room as an ancillary use to a distillery, but do not include retail sales as an ancillary use to a distillery; thus, a separate CUP is required. Since the retail store will be limited to selling only the products produced by Russell City Distillery, its hours of operation will be the same as the Distillery tasting room, and the retail sales component is only allowed to exist as long as the Distillery is in operation (see Attachment III - conditions of approval), staff does not consider the proposed retail use as a typical "liquor store". The operator of Russell City Spirits will purchase the Russell Craft Distillery (RCD) products from the wholesaler to sell to customers in the retail store. The tasting room will have three employees and the retail store will have two employees. Both are proposed to operate daily from noon to 8:00 pm.

Façade Improvements – The existing 1950's retail commercial building is constructed of concrete block with painted stucco and brick facades. Per the historic resources survey completed three years ago, the building is designated as having local historic significance of Low Integrity. Proposed improvements include the reconstruction of the front entry on Foothill Boulevard to eliminate the two angled store fronts and creation of a single storefront and entry to the building. The proposed storefront will include a large storefront window and new storefront doors, to afford views of the still described above. The exterior of the entire building will receive new paint and a new painted metal cap on the existing parapet, and the existing brick detail on the front façade will be stripped of paint and restored to expose the brick. The rear elevation will be completely remodeled to open up the wall to create a new storefront with sliding doors, which will open into the tasting room and a separate storefront door to provide access into the retail store. In addition, new exterior lighting, metal canopies, building signage and a new painted metal rooftop mechanical enclosure are proposed.

Parking – The project is located in the Central (Downtown) Parking District, which requires 1.0 parking space for each 315 square feet of non-residential floor area. The proposed project site is served by street parking on Foothill Boulevard, as well as Municipal Parking Lot 2, which is

immediately adjacent to the site. Since there is no change in use type (non-residential), no additional parking is required. Based on the City's Off-Street Parking Regulations, the Project would comply with the City's minimum parking standards.

Findings for the Conditional Use Permits - In order for the Conditional Use Permits to be approved, the following findings must be made. Staff's responses to the findings are below and in Attachment II.

**(1) The proposed use is desirable for the public convenience or welfare.**

The proposed craft distillery, tasting room and retail store will create a unique addition to the Downtown that will attract more visitors and residents to the area. The tasting room will provide a new destination for visitors of the Downtown and will complement the existing restaurants and entertainment venues in the surrounding area.

**(2) The proposed use will not impair the character and integrity of the zoning district and surrounding area.**

The proposed craft distillery will generate a positive economic impact for the community and will be a positive addition to the Downtown. Visitors to this business are likely to stay in downtown Hayward and discover local restaurants and businesses. The presence of an artisan craft distillery in the Downtown will enhance, rather than impair, the character and integrity of the zoning district by providing a destination in Hayward that will be a regional attraction and has the potential to draw visitors to the Downtown from all over the Bay Area.

**(3) The proposed use will not be detrimental to the public health, safety, or general welfare.**

The operations of the tasting room, highly regulated by state and federal laws, are very unlikely to generate any alcohol related issues and are instead likely to be seen as a draw for tourists and visitors from a wide area. Furthermore, visitors to the tasting room will be limited to sample up to three (3) quarter ounce tastes per person and alcohol will not be for sale for consumption on site, which will further reduce any potential public health, safety or general welfare issues. Finally, the retail store will be leased to a third party with an ABC license for Off-Premise Alcohol Sales. The Hayward Police Department will continue to coordinate with the applicant, ABC and Planning staff on licensing for the sale and production of alcohol.

**(4) The proposed use is in harmony with the applicable City policies and the intent and purpose of the zoning district involved.**

The proposed project is consistent with the General Plan Policy to "Emphasize making the downtown a focal point for the City within a pedestrian friendly environment." Furthermore, the proposed use of a distillery will generate a positive economic impact for the community. While the direct retail sales tax impact is difficult to estimate since it will likely be niche producer for the foreseeable future, the new distillery will create other positive economic impacts. In addition to activating a currently vacant storefront, the use will create employment opportunities in manufacturing as well as the service industry.

The proposed use is also consistent with the purpose of the Central City-Commercial Zoning Sub-district 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.” The proposed craft distillery will include a retail component as well as create a unique destination to attract new visitors to the Downtown who want to learn about the distilling process and taste the various products.

**(5) The proposed use will not result in an undue concentration in the area of establishments dispensing alcoholic beverages.**

Although the California Department of Alcohol Beverage Control (ABC) considers the Census tract in which the proposed use is located to be over-concentrated with off-sale alcohol establishments, the intent of this ABC designation is to prevent the proliferation of bars or similar establishments that sell alcohol as their primary function. The proposed retail store will be limited to only selling the products produced by Russell City Distillery, its hours of operation will coincide with the tasting room, and it is approved to operate only as long as the distillery is in operation, thus differentiating it from a typical off-site alcohol sales establishment (i.e., liquor store). The proposed distillery, tasting room and retail store will be a unique business that does not currently exist in Downtown Hayward.

**(6) The proposed use will not detrimentally affect the surrounding neighborhood after giving consideration to the distance of the proposed use from the following: Residential structures, churches, schools, public playgrounds, and parks, recreation centers, and other similar uses.**

Consistent with applicable Zoning Ordinance regulations, the proposed use, as conditioned, will not detrimentally affect the surrounding commercial businesses. Operation of the proposed distillery, tasting room and retail store shall be required to comply with the City’s Noise regulations and the hours of operation will be consistent with those of the surrounding businesses. Additionally, in accordance with Section 10-1.2759 of the Alcohol Regulations, since the project site is located in the Downtown Entertainment Area, no separation requirements from any other on-sale or off-sale alcohol-related establishment apply.

The proposed use is also consistent with the purpose of the Central City-Commercial Zoning Sub-district 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.” The proposed craft distillery will include a retail component as well as create a unique destination to attract new visitors to the Downtown who want to learn about the distilling process and taste the various products.

## **ECONOMIC AND FISCAL IMPACTS ANALYSIS**

The proposed distillery will generate a positive economic impact for the community. While the direct retail sales tax revenue is difficult to estimate, since this use will likely be a niche producer for the foreseeable future, the new distillery will create other positive economic impacts. In addition to activating a currently vacant storefront, the use will create employment opportunities in manufacturing as well as the service industry sector. The operations of the distillery and tasting room, which are highly regulated by state and federal laws, are very unlikely to generate any alcohol related issues, but rather are likely to be seen as a draw for tourists and visitors from a wide area. Visitors to RCD are likely to stay in downtown Hayward and explore the local restaurants and businesses. The distillery will be operated by the owner of one of the most successful downtown restaurants/microbrewery.

Other communities throughout the country have seen increased tourism and marketing due to similar businesses as artisan food and beverage businesses attract local, regional and national visits and attention. For example, in the local City of Alameda, St. George Spirits has become a destination for visitors interested in craft distilling. These visitors generate other benefits as they dine after tasting or discover other local businesses. In addition, as their production has grown, the branding of some of their products (Hangar One) has gained attention as they market the product nationally with a travelling blimp. Uses such as the proposed Russell City Distillery provide an opportunity to showcase Hayward as a site for artisan, craft manufacturing and gourmet products, as well as generate visitors to the downtown area.

## **PUBLIC NOTICE & OUTREACH**

On January 8, 2013, an Official Notice of Receipt of Application was sent to every property owner and occupant within 500 feet of the subject site, as noted on the latest assessor's records. Staff received one response in support of the proposed distillery as a result of the Notice (Attachment V).

On November 22, 2013, a Notice of Public Hearing was sent to every property owner and occupant within 500 feet of the subject site, as noted on the latest assessor's records. No responses to such notices were received at the time this staff report was completed.

## **NEXT STEPS**

The Planning Commission decision begins a 10-day appeal period that would expire at 5:00 p.m. on December 16, 2013, during which the Commission's action maybe appealed to the City Council (or called up to Council by a Council member). If approved and there is no appeal filed within that time period, the applicant may proceed with efforts to open the business, including complying with conditions of approval and obtaining required building permits. If denied and no appeal is filed, the decision of the Planning Commission would be final.

*Prepared by: Linda Ajello, Associate Planner*

*Reviewed by: Pat Siefers, Planning Manager*

Approved by:



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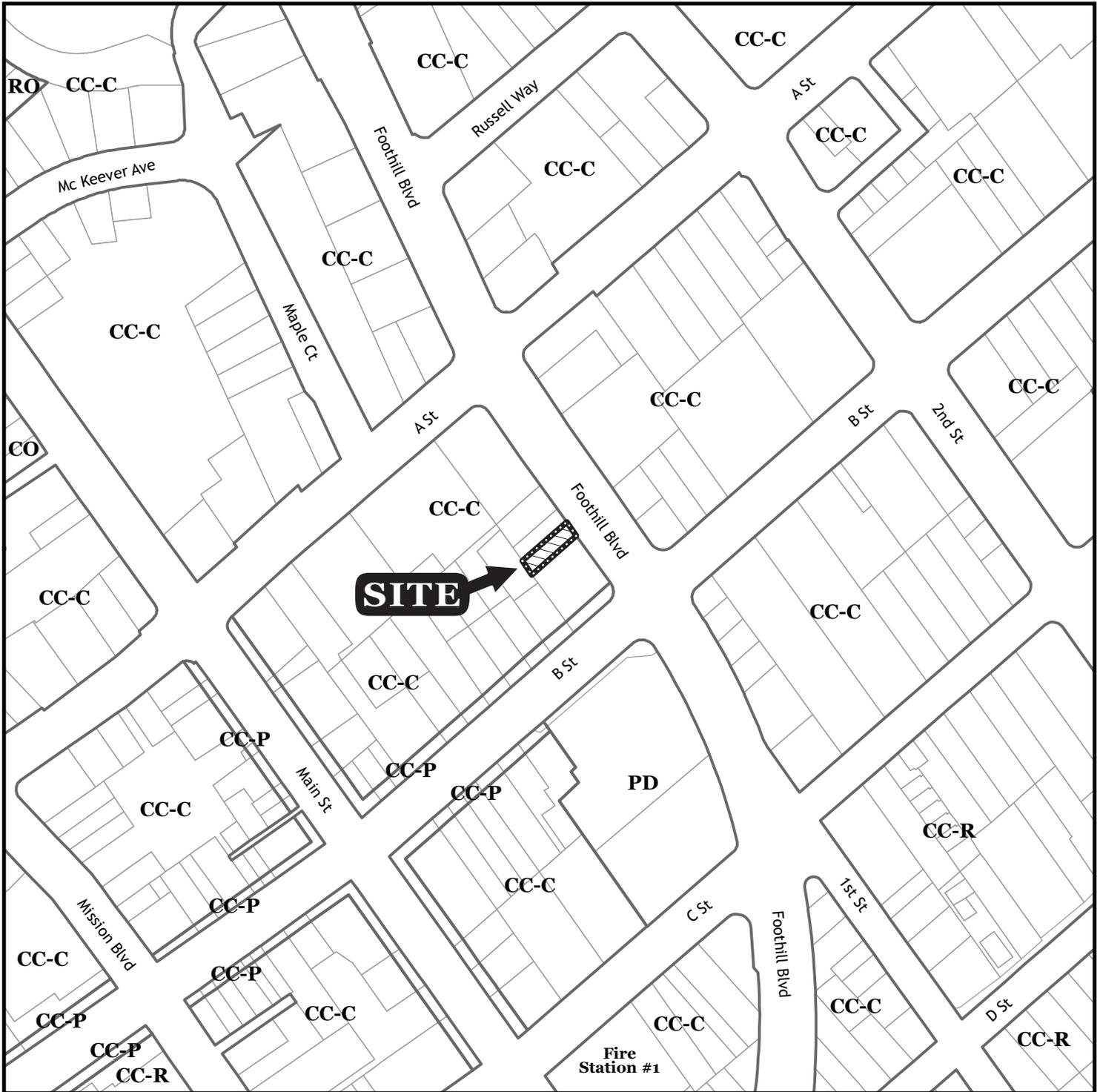
David Rizk, AICP  
Development Services Director

Attachments:

- Attachment I Area and Zoning Map
- Attachment II Recommended Findings for Approval
- Attachment III Recommended Conditions of Approval
- Attachment IV Project Plans
- Attachment V Comments Received as of November 22, 2013



# Area & Zoning Map



## PL-2012-0414 CUP

Address:  
22549 Foothill Boulevard

Applicant:  
Geoff Harries

Owner:  
Buffalo Property Group LLC

### Zoning Classifications

#### COMMERCIAL

- CO Commercial Office
- RO Residential Office

#### CENTRAL CITY

- CC-C Central City - Commercial
- CC-P Central City - Plaza
- CC-R Central City - Residential



**CITY OF HAYWARD  
PLANNING DIVISION**

**Conditional Use Permits  
Geoff Harries, Buffalo Bill's Property Group (Applicant/Owner)  
22549 Foothill Boulevard**

**Request to operate a distillery with tasting room (Conditional Use Permit No. PL-2012-0414 CUP), and retail liquor sales (Conditional Use Permit PL-2013-0489 CUP) at 22549 Foothill Boulevard in the Central City Commercial (CC-C) Zoning Sub-district.**

**FINDINGS FOR APPROVAL**

A. The approval of Conditional Use Permit No. 2012-0414, as conditioned will have no significant impact on the environment, cumulative or otherwise, and the project reflects the City's independent judgment and is exempt from CEQA under Section 15303(c), New Construction or Conversion of Small Structures.

B. *The proposed use is desirable for the public convenience or welfare.*

The proposed craft distillery, tasting room and retail store will create a unique addition to the Downtown that will attract more visitors and residents to the area. The tasting room will provide a new destination for visitors of the Downtown and will complement the existing restaurants and entertainment venues in the surrounding area.

C. *The proposed use will not impair the character and integrity of the zoning district and surrounding area.*

The proposed craft distillery will generate a positive economic impact for the community and will be a positive addition to the Downtown. Visitors to this business are likely to stay in downtown Hayward and discover local restaurants and businesses. The presence of an artisan craft distillery in the Downtown will enhance, rather than impair, the character and integrity of the zoning district by providing a destination in Hayward that will be a regional attraction and has the potential to draw visitors to the Downtown from all over the Bay Area.

D. *The proposed use will not be detrimental to the public health, safety, or general welfare.*

The operations of the tasting room, highly regulated by state and federal laws, are very unlikely to generate any alcohol related issues and are instead likely to be seen as a draw for tourists and visitors from a wide area. Furthermore, visitors to the tasting room will be limited to sample up to three (3) quarter ounce tastes per person and alcohol will not be for sale for consumption on site, which will further reduce any potential public health, safety or general welfare issues. Finally, the retail store will be leased to a third party with an ABC license for Off-Premise Alcohol Sales. The Hayward Police Department will continue to

coordinate with the applicant, ABC and Planning staff on licensing for the sale and production of alcohol.

- E. *The proposed use is in harmony with the applicable City policies and the intent and purpose of the zoning district involved.*

The proposed project is consistent with the General Plan Policy to “Emphasize making the downtown a focal point for the City within a pedestrian friendly environment.” Furthermore, the proposed use of a distillery will generate a positive economic impact for the community. While the direct retail sales tax impact is difficult to estimate since it will likely be niche producer for the foreseeable future, the new distillery will create other positive economic impacts. In addition to activating a currently vacant storefront, the use will create employment opportunities in manufacturing as well as the service industry.

The proposed use is also consistent with the purpose of the Central City-Commercial Zoning Sub-district 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”. The proposed craft distillery will include a retail component as well as create a unique destination to attract new visitors to the Downtown who want to learn about the distilling process and taste the various products.

- F. *The proposed use will not result in an undue concentration in the area of establishments dispensing alcoholic beverages.*

Although the California Department of Alcohol Beverage Control (ABC) considers the Census tract in which the proposed use is located to be over-concentrated with off-sale alcohol establishments, the intent of this ABC designation is to prevent the proliferation of bars or similar establishments that sell alcohol as their primary function. The proposed retail store will be limited to only selling the products produced by Russell City Distillery, its hours of operation will coincide with the tasting room, and it is approved to operate only as long as the distillery is in operation, thus differentiating it from a typical off-site alcohol sales establishment (i.e., liquor store). The proposed distillery, tasting room and retail store will be a unique business that does not currently exist in Downtown Hayward.

- G. *The proposed use will not detrimentally affect the surrounding neighborhood after giving consideration to the distance of the proposed use from the following: Residential structures, churches, schools, public playgrounds, and parks, recreation centers, and other similar uses.*

Consistent with applicable Zoning Ordinance regulations, the proposed use, as conditioned, will not detrimentally affect the surrounding commercial businesses. Operation of the proposed distillery, tasting room and retail store shall be required to comply with the City’s Noise regulations and the hours of operation will be consistent with those of the surrounding businesses. Additionally, in accordance with Section 10-1.2759 of the Alcohol Regulations, since the project site is located in the Downtown Entertainment Area, no separation requirements from any other on-sale or off-sale alcohol-related establishment apply.

**CONDITIONS OF APPROVAL**

**Conditional Use Permits  
Geoff Harries, Buffalo Bill's Property Group (Applicant/Owner)  
22549 Foothill Boulevard**

**Request to operate a distillery with tasting room (Conditional Use Permit No. PL-2012-0414 CUP), and retail liquor sales (Conditional Use Permit PL-2013-0489 CUP) at 22549 Foothill Boulevard in the Central City Commercial (CC-C) Zoning Sub-district.**

Conditional Use Permit Applications Nos. PL-2012-0414 and PL-2013-0489 are approved subject to the conditions listed below. These permits becomes void three years after the effective date of approval, unless the business has been established in accordance with these conditions of approval, or a time extension of this application is approved. All conditions shall be met prior occupancy of the building and prior to the issuance of a business license. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division 15 days prior to December 5, 2014.

If a building permit is issued for construction of improvements authorized by the use permit approval, said approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance upon the use permit approval.

**General**

1. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
2. A copy of the conditions of approval for the Conditional Use Permit must be kept on the premises of the establishment and posted in a place where it may readily be viewed by the general public.
3. During and following hours of operation, the exterior of the premises, including the adjacent sidewalk and Municipal Parking Lot No. 2, shall be illuminated during all hours of darkness during which the premises are open for business in a manner so persons standing in those areas are identifiable by law enforcement personnel. The lighting shall meet Title 24 of the California Building Code.
4. During and following hours of operation, the exterior of the premises shall be kept clean and litter free including Foothill Boulevard and Municipal Parking Lot No. 2 and landscape areas within the parking lot. The management shall ensure that no trash or litter originating from the establishment is deposited on neighboring properties or in the parking lot. Paint and windows shall be kept clean and cracked or broken glass must be replaced immediately.

5. The property owner shall be responsible for graffiti-free maintenance on all exterior elevations of the building. Graffiti shall be removed within 48 hours after the applicant or owner has become aware of the occurrence.
6. No pay phones shall be permitted on the exterior of the building or premises. Pay telephone(s) maintained on the interior of the premises shall be limited to outgoing calls only.
7. Per the California Building Code and Fire Code, occupant load signage shall be installed within the establishment.
8. If it comes to the attention of the Planning Director that there are problems occurring because of the operation of the distillery, tasting room, or the retail sales room, the Planning Director may call the use permit application(s) up to the Planning Commission for consideration of imposing additional conditions or revocation. Violation of any of the conditions of approval of the conditional use permits may constitute grounds for revocation pursuant to Section 10-1.3260 of the Zoning Ordinance.
9. The proposed expansion of the outdoor seating area for Buffalo Bill's (1082 B Street), as shown on the plans, is not approved as part of this application. Since the proposal is located on a different property, a separate application for the expansion shall be required. Additionally, any sale of alcohol on the patio shall be subject to review and approval by the Hayward Police Department and an Encroachment Permit shall be required for any improvements in the public right-of-way.
10. Alcoholic beverage sales establishments with off-sale privileges shall prominently post a sign on the exterior of the premises stating that consumption of alcoholic beverages in public is prohibited by law pursuant Chapter 4 of the Hayward Municipal Code.
11. Distilled spirits shall not be sold in bottles or containers smaller than seven hundred (750) ml for off-site consumption.

### **Distillery**

12. The lease agreement between the applicant and the lessee of the retail store shall prohibit the sale of any product other than that which is produced by Russell City Distillery. The lease agreement shall also provide that the City has the right to enforce this limitation on the type of product that can be sold at the retail store in the event that the lessor does not enforce this restriction. The proposed lease agreement shall be submitted to the City for review prior to execution. Any violation shall be grounds for revocation of the Use Permit.
13. The applicant shall obtain all necessary licenses for the distillery as required by the State of California Department of Alcohol and Beverage Control (ABC).
14. The hours of the Distillery shall be Monday through Friday from 7:00 am to 7:00 pm. Any modification to the hours of operation shall require approval by the Director of Development Services, who may refer such request to the Planning Commission, depending on number of concerns expressed after notice for such change is provided to surrounding residents and property and business owners.

15. The distillery shall be limited to the production of up to 7,000 cases per year. Any increase in production shall require approval by the Director of Development Services, in coordination with the Hayward Fire Marshal and Building Official, who may refer such request to the Planning Commission, depending on number of concerns expressed after notice for such change is provided to surrounding residents and property and business owners.
16. The hours of the ancillary tasting room shall be 7 days per week, from noon to 8:00 pm. Any modification to the hours of operation shall require approval by the Director of Development Services, who may refer such request to the Planning Commission, depending on number of concerns expressed after notice for such change is provided to surrounding residents and property and business owners.

### **Retail Store**

17. The retail store shall only sell products produced by Russell City Distillery. The use permit for the retail store shall be valid only for so long as the Russell City Distillery is in operation. Should the Russell City Distillery cease operation, then the use permit for the retail store shall automatically terminate, without further notice or hearing, on the date that the Russell City Distillery ceases operation. Any violation shall be grounds for revocation of the Use Permit.
18. The operator of the retail store shall obtain a separate ABC license through the State of California for Off-Sale Alcohol Sales.
19. The hours of the retail store shall be 7 days per week, from noon to 8:00 pm. Any modification to the hours of operation shall require approval by the Director of Development Services, who may refer such request to the Planning Commission, depending on number of concerns expressed after notice for such change is provided to surrounding residents and property and business owners.

### **Fire Prevention**

20. Technical Report – If the actual manufacturing and bottling of distilled spirits were to occur at this facility then the applicant may be required to provide a technical report prepared by a licensed fire protection engineer. The report should include an evaluation of fire hazard, identifying code requirements, proposing measures/solutions to eliminate fire hazards with rational analysis and published recognized references.
21. Chemical Inventory – At the time of Building Permit submittal of an updated final completed chemical inventory for each occupancy (M, B, F-1, and H-2) identifying volumes, container capacities, locations and hazardous categories of all chemical stored and used in the building. Please use the City of Hayward Fire Department Chemical Inventory worksheet document.

22. Hazardous Materials over the Maximum Allowable Quantities (MAQs) – If chemical quantities are stored or used in amounts greater than the maximum allowable quantities (MAQs) in the California Fire Code, then an H-occupancy would be required. Based on initial discussions with the applicant and his architect, an H-2 building occupancy is required and would necessitate engineering controls to mitigate the dangers of hazardous materials. Mitigations would include a fire sprinkler system, secondary containment, ventilation, explosion controls, emergency power and required fire separation between occupancies.
23. Fire Protection – Rooms or buildings classified in accordance with the California Building Code as an H-2 or H-3, occupancies shall be equipped with an approved automatic fire-extinguishing system.
24. Flammable and Combustible liquids – The storage and use of flammable and combustible liquids shall meet the requirements of the Chapter 34 of the 2010 California Fire Code as adopted by the City of Hayward. If the building application is submitted after January 1, 2014 the storage and use shall meet the requirements of Chapter 57 of the 2013 California Fire Code as adopted by the City of Hayward.
25. Ventilation – Continuous mechanical ventilation shall be provided at a rate of not less than 1 cubic foot per minute per square of floor area over the design area.
26. Spill Controls and Secondary Containment – Where maximum allowable quantity per control area is exceeded, rooms, buildings or areas use for storage, dispensing, mixing or handling of Class I, II, IIIA liquids shall be provided with spill control and secondary containment. Additional, secondary containment may be required per the Hazardous Materials Storage Ordinance at quantities below the maximum allowable quantities.
27. Doors – interior doors to rooms or portions of such buildings shall be self-closing fire doors.
28. Aboveground Tanks – Flammable and combustible liquids in aboveground tanks greater than 60 gallons require the approval of the Fire Marshal and the submittal of a written Alternate Means of Protection (AMP) request. The request should state clearly the practical difficulties that are anticipated should these provisions be imposed. The request should then explain how the proposed alternate means of protection would meet the spirit and intent of the California Fire Code and secure public safety.
29. Hazardous Materials – The storage and use of hazardous materials shall meet the requirements of the Chapter 27 of the 2010 California Fire Code as adopted by the City of Hayward. If the building application is submitted after January 1, 2014 the storage and use shall meet the requirements of Chapter 50 of the 2013 California Fire Code as adopted by the City of Hayward
30. Signage and Labeling Requirements – All tanks shall be properly identified with signage stating the contents within the vessel, the hazard identification (as per NFPA 704 Standards) and “No smoking” –No open flame within 25 feet. All associated piping leading to and from each of the aboveground tanks (vessels) shall be appropriately labeled with the type of contents and directional arrows showing the flow of the product. Additional containers and storage areas for hazardous materials shall also be appropriately identified.

31. Placarding – Due to the amount of hazardous materials being contained within the building, NFPA 704 placards shall be provided for the exterior of the building.
32. Hazardous Materials Business Plan (HMBP) / California Environmental Reporting System (CERS) – The storage and use of hazardous materials shall be electronically reported through the California Environmental Reporting System for the HMBP elements if hazardous materials exceed required reporting levels.
33. Hazardous Materials Permit – The applicant shall apply for and keep current an annual *Unified Hazardous Materials/Hazardous Waste Management Regulatory Program Permit*.
34. Piping compatibility and pressure tests – Piping, tubes, valves, fittings and related components shall be designed and fabricated from materials compatible with the materials to be contained. Piping being used to convey hazardous liquids should be adequate strength and durability and shall be pneumatically tested at 150% of the maximum anticipated pressure of the system for a 24 hour period or it shall be tested according to manufacture guidelines.
35. Compressed Gas – Compressed gas cylinders shall be chained /secured, and labeled with contents of compressed gas cylinders. Compressed gas tanks shall be seismically anchored per the California Building Code.
36. Seismic Protection – Machinery and equipment utilizing hazardous materials shall be braced and anchored in accordance with seismic design requirements of the California Building Code.
37. Construction Plans – Formal plans shall be submitted and approved for the construction/alterations of the building to the Hayward Building Division.

### **Public Works**

38. Foothill Boulevard is under moratorium, no trenching shall be permitted.
39. The required fire service line for this project shall be coming from B Street.
40. The trash enclosure expansion area shall be covered.
41. All surface runoff shall be directed onto landscape and/or vegetation areas.

### **Utilities**

42. Water & Sewer Service are available and subject to standard conditions and fees in effect at time of application and payment of fees:
  - a. Water Services – The building at 22549 Foothill Boulevard is currently served by two 5/8” domestic water meters (account # 05-05020.01 and account # 05-05030.01). If the existing water service line and meter cannot be reused, it must be abandoned by City Water Distribution Personnel at the owner’s/applicant’s expense.

Domestic: The proposed restaurant and bar will have 24 water fixture units, which will require a minimum ¾” domestic water meter. This calculation does not include the distillery portion of the operation. It is recommended that the distillery be served by its own domestic water meter. The gallon per minute demand for the distillery shall be calculated by a plumbing engineer in order to determine the proper size water meter needed.

Fire: If fire sprinklers are required, a separate water service line to supply the fire sprinkler system shall be installed. All fire services shall be installed by City Water Distribution Personnel at the applicant’s/developer’s expense, per City Standard SD-204. Minimum sizing shall be per Fire Department’s requirements. Fire service installations are billed on an actual cost basis with a time and materials deposit due prior to the start of installation. The final billing of the job will be the actual costs of the work performed and materials used. If actual costs are less than the deposit amount, the owner/applicant will receive a refund in the amount of the unused deposit. If actual costs exceed the deposit amount, the owner/applicant will receive an invoice in the amount of the overage. Once the size of the fire service has been determined by the Fire Department, please contact Angel Groves, Acting Senior Utility Service Representative, at (510) 583-4718 or by email at [angel.groves@hayward-ca.gov](mailto:angel.groves@hayward-ca.gov) for a time and materials deposit calculation.

If a fire service is needed, the fire service line must be installed prior to the final paving in Foothill Boulevard, after which time, Foothill Boulevard will be under a moratorium and trenching will not be permitted.

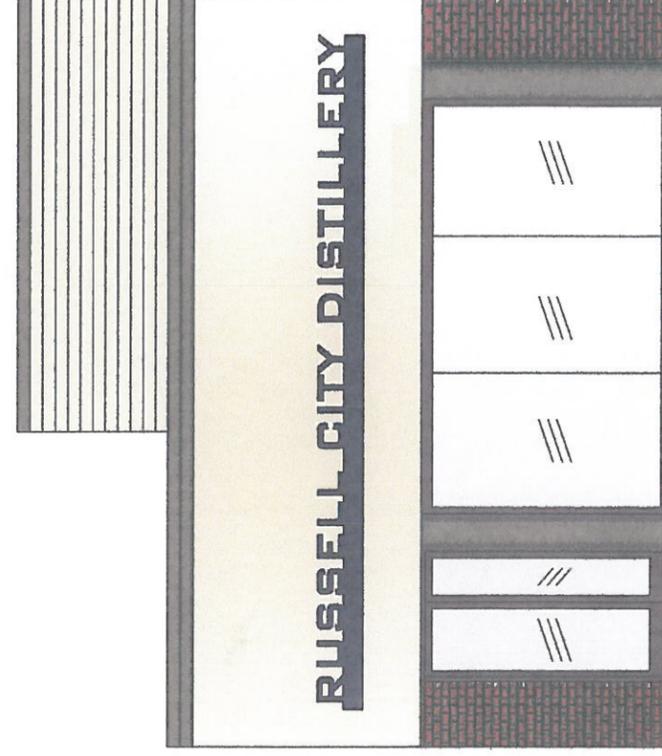
Any modifications needed to the water service and/or water meter (upsized, downsized, relocate, etc.) must be performed by City Water Distribution Personnel at the owner’s/applicant’s expense.

- b. Sewer Services – The parcel currently has an existing commercial sewer service with a permitted discharge capacity of 210 gallons per day of domestic strength discharge. Additional Sewer System Connection/Capacity to accommodate the volume and waste strength of wastewater to be discharged must be purchased, at the rates in effect at the time of purchase, prior to the final inspection. Additional information is needed from the owner/applicant to determine the amount of the fee. The current sewer connection fee for a general commercial/industrial establishment is \$36.68 per gallon of daily discharge. Please note that the amount of the sewer capacity fee for a restaurant typically ranges from a minimum of approximately \$10,000 to several hundreds of thousands of dollars, depending on the nature of the establishment.
43. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each domestic and irrigation water meter, per City Standard SD-202. Backflow Prevention Assemblies shall be at least the size of the water meter or the water line on the property side of the meter, whichever is bigger. City records indicate that the existing domestic water meters are unprotected. RP backflow devices must be installed on the existing domestic meters.
44. The applicant/developer shall install a grease control device to control fat, oil and grease discharge from any food service establishment, unless this requirement is expressly waived

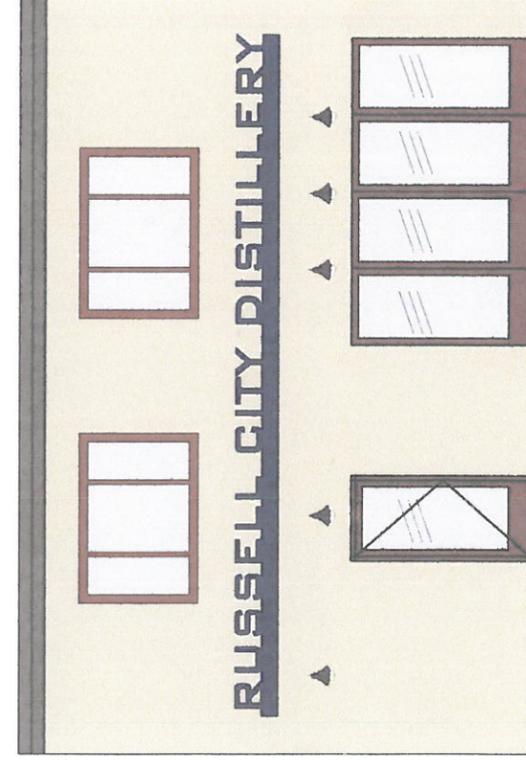
by the Director of Public Works or designee. The type, size, and location of the device shall be approved by the Director of Public Works.

### **Solid Waste**

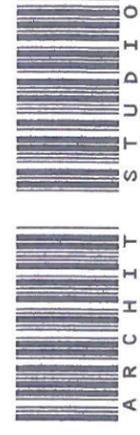
45. All businesses must subscribe to at least weekly trash service with the City's franchisee. As of July 1, 2012, all businesses with 4 cubic yards or more of weekly trash service are required to arrange for weekly collection of mixed recyclables, e.g., paper; glass, metal and plastic food and beverage containers.
46. Adequate indoor and outdoor storage space for recyclables is required by state law (California Public Resources Code 42910-42912) and Hayward Municipal Code 5-1.27. For more information, please contact Paul Rosenbloom, Recycling Specialist at (510) 583-4724 or at [paul.rosenbloom@hayward-ca.gov](mailto:paul.rosenbloom@hayward-ca.gov).
47. Federal law requires a roof on an outdoor trash enclosure where food or other organics is generated for disposal (Federal Clean Water Act). For questions about the requirement for a roof on enclosures, please contact Jim Lear, Public Works Engineering & Transportation at (510) 583-4785.



**FRONT ELEVATION**



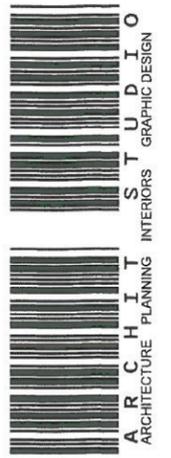
**REAR ELEVATION**



ELEVATION STUDY  
 22549 FOOTHILL BLVD., HAYWARD, CA

# RUSSELL HILL DISTILLERY PLANNING SUBMITTAL

22549 FOOTHILL BLVD.,  
HAYWARD, CA



239 Bayberry Circle, Suite A,  
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2012.09.28	CLIENT REVIEW
2012.12.14	CUP SUBMITTAL
2013.03.15	CUP RE-SUBMITTAL
2013.07.26	CUP RE-SUBMITTAL
2013.08.12	CUP RE-SUBMITTAL
2013.11.04	PLANNING RE-SUBMITTAL

Revision Record	
No.	Description

RUSSELL CITY  
DISTILLERY  
22549 FOOTHILL BLVD,  
HAYWARD, CA

ABBREVIATIONS	PROJECT DATA	PROJECT DIRECTORY
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AB ANCHOR BOLT AC ASPHALTIC CONCRETE ACG AIR CONDITIONING ACOUS ACOUSTICAL ACT ACOUSTICAL TILE ADJ ADJUSTABLE/ADJACENT AFF ABOVE FINISH FLOOR AL ALUMINUM ANOD ANODIZED BO BOARD BLDG BUILDING BLK BLOCK BM BEAM BO BOTTOM OF CAB CABINET CB CATCH BASIN CEM CEMENT CER CERAMIC CJ CONSTRUCTION JOINT CL CENTERLINE CLG CEILING CLR CLEAR COL COLUMN COMP COMPOSITION CONC CONCRETE CONN CONNECTION CONT CONTINUOUS CPT CARPET CT CERAMIC TILE DF DOUGLAS FIR / DRINKING FOUNTAIN DIAMETER DIA DIAMETER DIM DIMENSION DR DOOR DWG DRAWING (E) EXISTING EA EACH ELECT. ELECTRICAL EQ EQUAL FD FLOOR DRAIN FF FINISH FLOOR FTG FOOTING GA GAUGE GALV GALVANIZE (D) GC GENERAL CONTRACTOR GFI GROUND FAULT INTERRUPTER GFRC GLASS FIBER REINFORCED CONCRETE GI GALVANIZED IRON GV GATE VALVE GYP GYPSUM HB HOSE BIBB HDR HARDWARE HDWR HARDWARE HM HOLLOW METAL HORIZ HORIZONTAL HT HEIGHT HW HOT WATER HVAC HEATING VENTILATING INSUL INSULATION JAN JANITOR LAV LAVATORY MATL MATERIAL MAX MAXIMUM MB MACHINE BOLT MECH MECHANICAL MIN MINIMUM MTL METAL (N) NEW NIC NOT IN CONTRACT NTS NOT TO SCALE O/ OVER OC ON CENTER OD OUTSIDE DIAMETER OFD OVERFLOW ROOF DRAIN OFF OFFICE OPNG OPENING OPP OPPOSITE PL PLATE PLAM PLASTIC LAMINATE PLAS PLASTER PLYWD PLYWOOD R RISER (R) RELOCATE(D) RCP REINFORCED CONCRETE PIPE RD ROOF DRAIN REINF REINFORCED RHMS ROUND HEAD MACHINE SCREW RM ROOM RO ROUGH OPENING RWL RAINWATER LEADER SC SOLID CORE SD STORM DRAIN SECT SECTION SIM SIMILAR SND SANITARY NAPKIN DISPENSER SPECIFICATION SQ SQUARE SS SANITARY SEWER STD STANDARD STDR STORAGE STRUCT STRUCTURAL SUDP SUSPENDED TEL TELEPHONE T & G TONGUE AND GROOVE THK THICKNESS TO TOP OF TOS TOP OF SLAB TYP TYPICAL T-24 TITLE 24 UCN UNLESS OTHERWISE NOTED VERT VERTICAL VIF VERIFY IN FIELD W/ WITH WD WOOD WH WATER HEATER WS WEATHERSTRIPPING WWF WELDED WIRE FABRIC	<p><u>APN</u> -</p> <p><u>JURISDICTION</u> CITY OF HAYWARD</p> <p><u>CODE</u> 2010 CALIFORNIA RESIDENTIAL CODE 2010 CALIFORNIA MECHANICAL CODE 2010 CALIFORNIA PLUMBING CODE 2010 CALIFORNIA MECHANICAL CODE 2010 CALIFORNIA FIRE CODE 2010 CALIFORNIA GREEN BUILDING CODE 2010 CALIFORNIA ENERGY CODE ALL RELATED HAYWARD LOCAL ORDINANCE</p> <p><u>SCOPE OF WORK</u> NEW DISTILLERY AT 1ST FLOOR REAR COURTYARD IMPROVEMENT @ BUFFALO BILL'S BREWERY</p> <p><u>OCCUPANCY GROUP: B, M &amp; H2</u> (2 HR FIRE RATED OCCUPANCY SEPARATION BETWEEN B &amp; H2 WITH APPROVED AUTOMATIC FIRE SPRINKLER SYSTEM)</p> <p><u>CONSTRUCTION TYPE: III-A</u> NUMBER OF STORY: 2 (2ND FLOOR IS AN UNOCCUPIED ATTIC)</p> <p><u>ZONING: CENTRAL CITY COMMERCIAL (CC-C)</u></p> <p>LOT AREA: ±2986 SF (NO CHANGED)</p> <p>BLDG FOOTPRINT: ±2820 SF</p> <p>EXISTING BUILDING AREA: ±3547 SF</p> <p>PROPOSED BUILDING AREA: ±3635 SF (94 SF INCREASED) (1ST FLOOR: ±2795 SF; ATTIC: ±840 SF)</p> <p>FLOOR AREA RATIO: TO BE DETERMINED</p> <p>ALLOWABLE FLOOR AREA (PLANNING): TO BE DETERMINED</p> <p>ALLOWABLE AREA PER CONSTRUCTION TYPE: H2: 2108 SF / 8500 SF = 0.23 M: 136 SF / 10500 SF = 0.07 B: 1100 SF / 28500 SF = 0.03</p> <p>TOTAL RATIO OF H2, M &amp; B OCCUPANCIES IS LESS THAN 1</p> <p>PARKING: CITY PARKING - NO CHANGED</p>	<p><u>BUILDING OWNER</u> 1082 B STREET HAYWARD, CA 94541 T: 510.888.9823 CONTACT: GEOFF HARRIES</p> <p><u>ARCHITECT</u> ARCHIT STUDIO 239 BAYBERRY CIRCLE, SUITE A PACIFICA, CA 94044 T: 650.270.1754 F: 650.738.5676 CONTACT: MARCO FUNG</p> <p><u>GENERAL CONTRACTOR</u> TO BE DETERMINED</p>
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### SHEET INDEX

ARCHITECTURAL	
A0.01	TITLE SHEET
A0.02	OVERALL SITE PLAN
A1.00	SITE PLAN
A1.01	ENLARGED SITE PLAN
A1.02	PHOTO MAP
A2.01	FLOOR PLAN: 1ST FLOOR
A2.02	FLOOR PLAN: 2ND FLOOR & ROOF PLAN
A3.01	ELEVATION
A3.02	ELEVATION

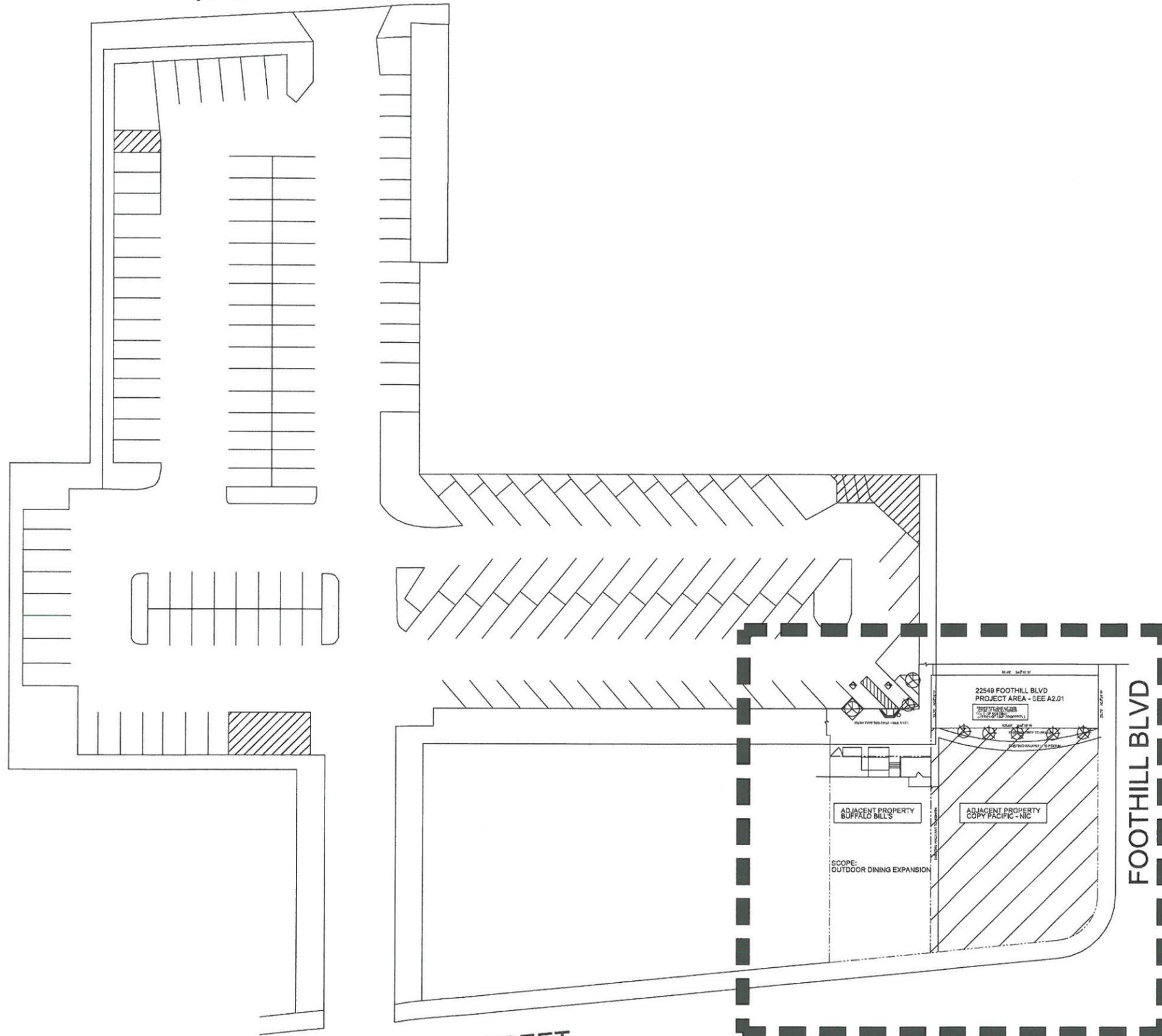
### VINCINTY MAP



Date: 2012.09.28 Project No.: 2012-068  
Sheet Title:

TITLE SHEET  
Sheet No.: A0.01  
 Released for Construction  
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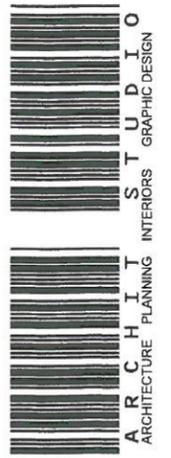
A STREET



1 SITE PLAN  
SCALE: 1" = 30'-0"



SEE A1.00  
FOR ENLARGED  
SITE PLAN



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2013.09.12	CUP RE-SUBMITTAL
2013.11.04	PLANNING RE-SUBMITTAL

Revision Record


**RUSSELL CITY DISTILLERY**  
22549 FOOTHILL BLVD,  
HAYWARD, CA

Date: 2012.09.28 Project No.: 2012-069

Sheet Title: OVERALL SITE PLAN

Sheet No.: A0.02

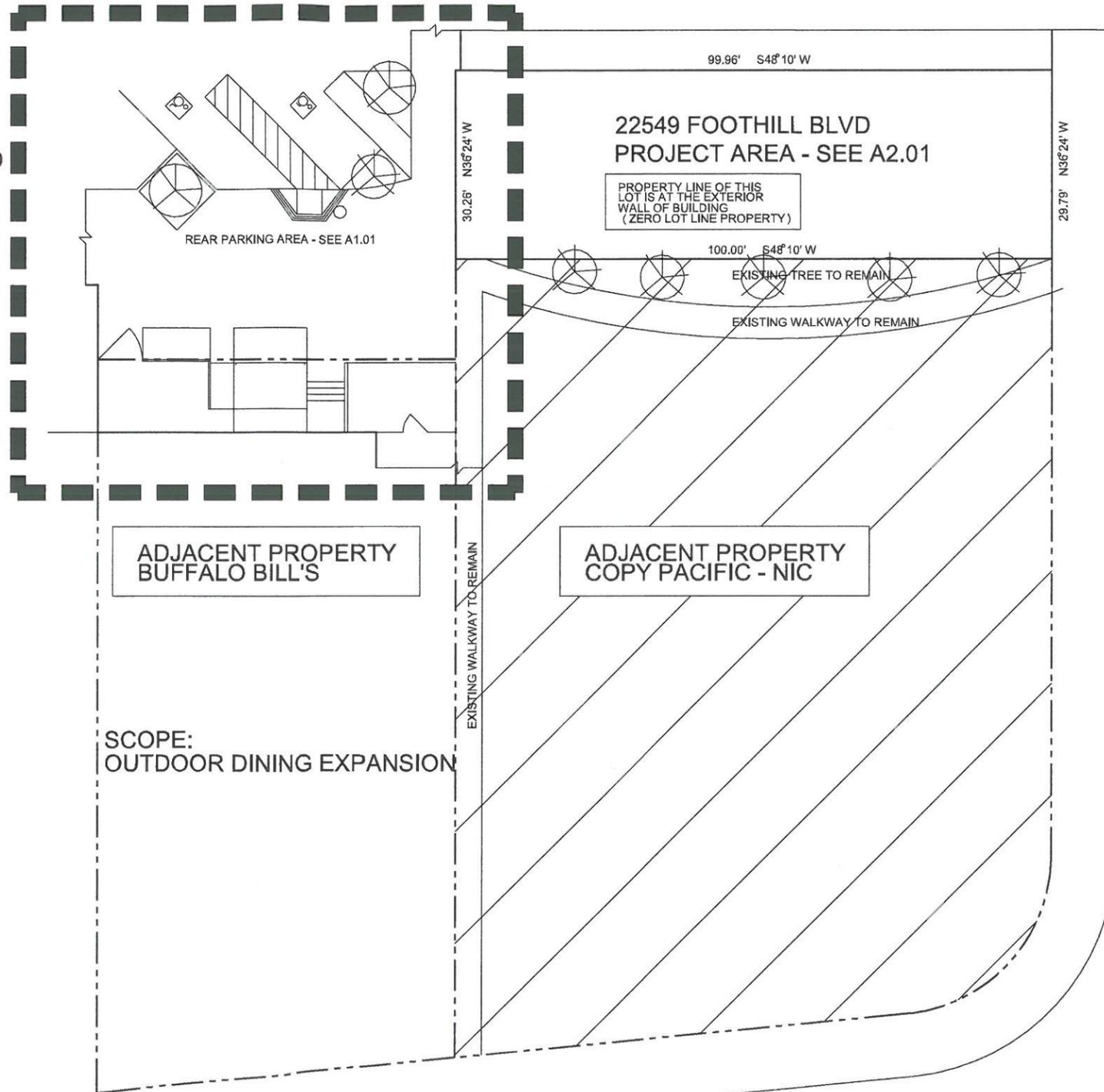
Released for Construction  
 Not Released for Construction

SCOPE DOES NOT INVOLVE THE FOLLOWING:

- CHANGE OF EXISTING PARKING STALL DIMENSION OR COUNT (INCLUDING HC PARKING)
- CHANGE OF EXISTING DRIVE AISLE @ EXISTING CITY PARKING LOT

SEE A1.01 FOR ENLARGED SITE PLAN

CITY PROPERTY



ADJACENT PROPERTY  
BUFFALO BILL'S

ADJACENT PROPERTY  
COPY PACIFIC - NIC

SCOPE:  
OUTDOOR DINING EXPANSION

B STREET

FOOTHILL BLVD

1 SITE PLAN  
SCALE: 1" = 10'-0"



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2013.08.12	CUP RE-SUBMITTAL
2013.11.04	PLANNING RE-SUBMITTAL

Revision Record

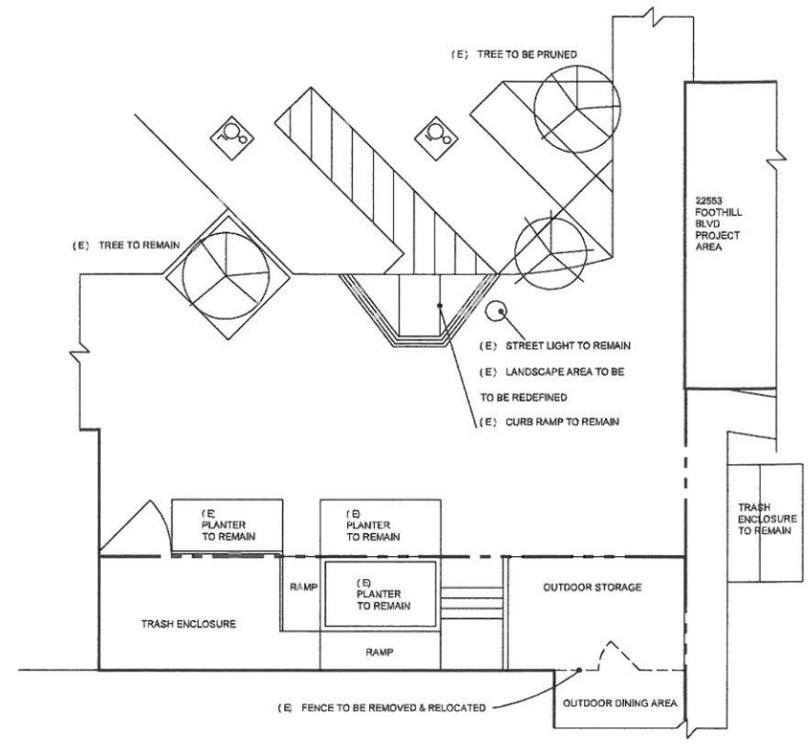

**RUSSELL CITY DISTILLERY**  
22549 FOOTHILL BLVD,  
HAYWARD, CA

Date: 2012.09.28 Project No.: 2012-063

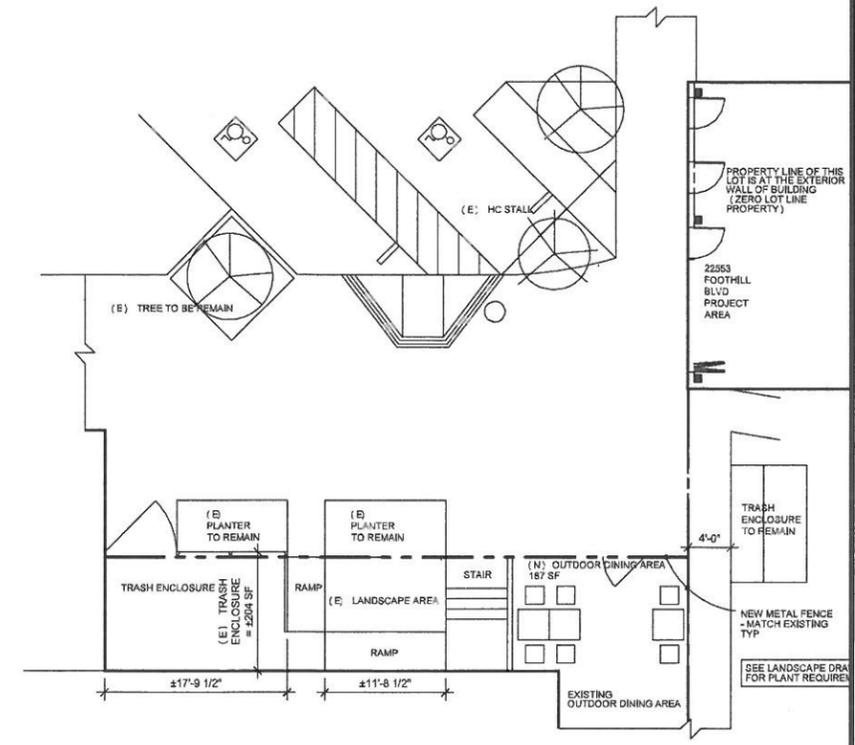
Sheet Title: SITE PLAN

Sheet No.: A1.00

Released for Construction  
 Not Released for Construction



**1 DEMOLITION SITE PLAN**  
 SCALE: 1/8" = 1'-0"  
 NORTH



**2 PROPOSED SITE PLAN**  
 SCALE: 1/8" = 1'-0"  
 NORTH

ARCHIT STUDIO  
 INTERIORS PLANNING  
 GRAPHIC DESIGN



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2013.09.12	CUP RE-SUBMITTAL
2013.11.04	PLANNING RE-SUBMITTAL

**Revision Record**


**RUSSELL CITY DISTILLERY**  
 22549 FOOTHILL BLVD,  
 HAYWARD, CA

Date: 2012.09.28 Project No.: 2012-068  
 Sheet Title: SITE PLAN REAR PARKING AREA  
 Sheet No.: A1.01  
 Released for Construction  
 Not Released for Construction



A



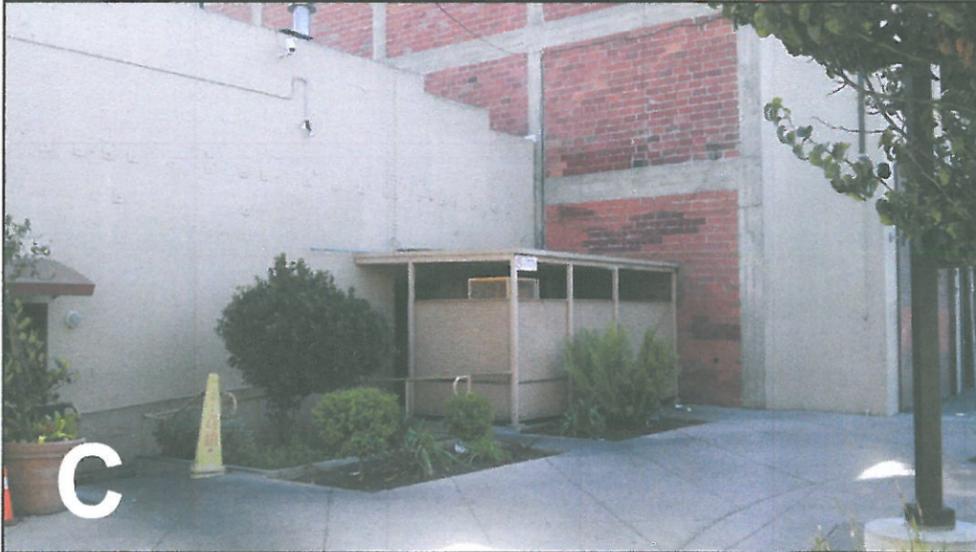
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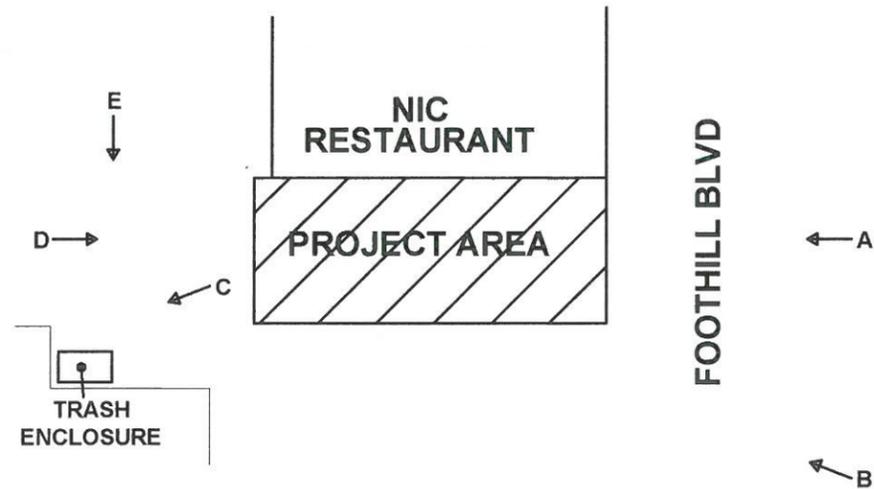
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E

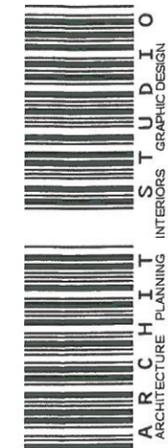


C



**1 SITE PLAN: PHOTO MAP**

SCALE: NOT TO SCALE



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e-mail: archtstudlofr@gmail.com

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Revision Record

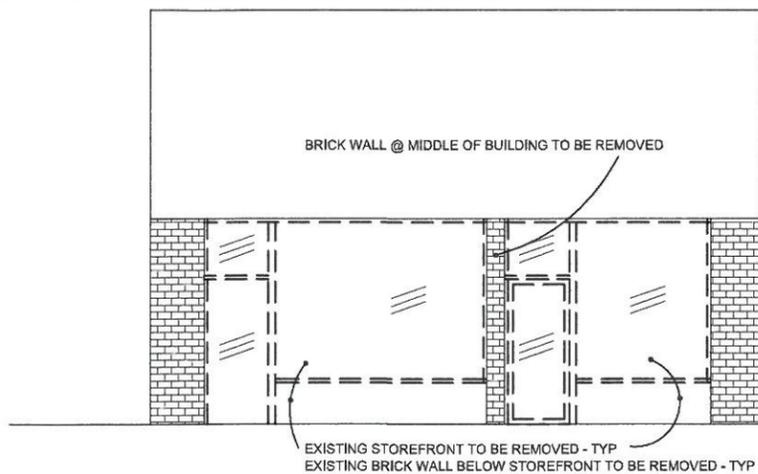

RUSSELL CITY DISTILLERY  
22549 FOOTHILL BLVD,  
HAYWARD, CA

Date: 2012.09.28 Project No.: 2012-068  
Sheet Title:

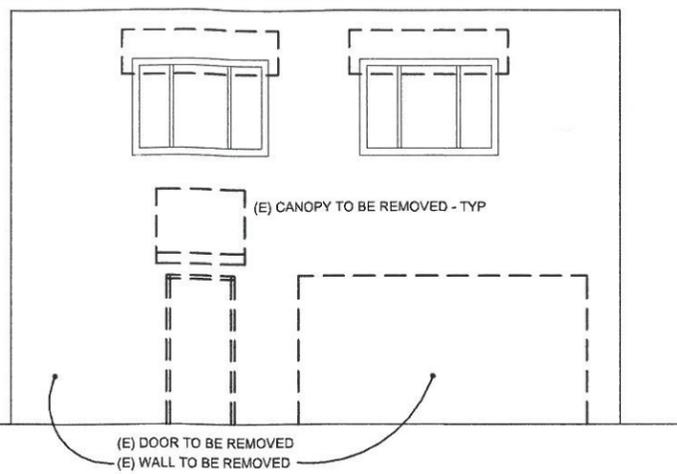
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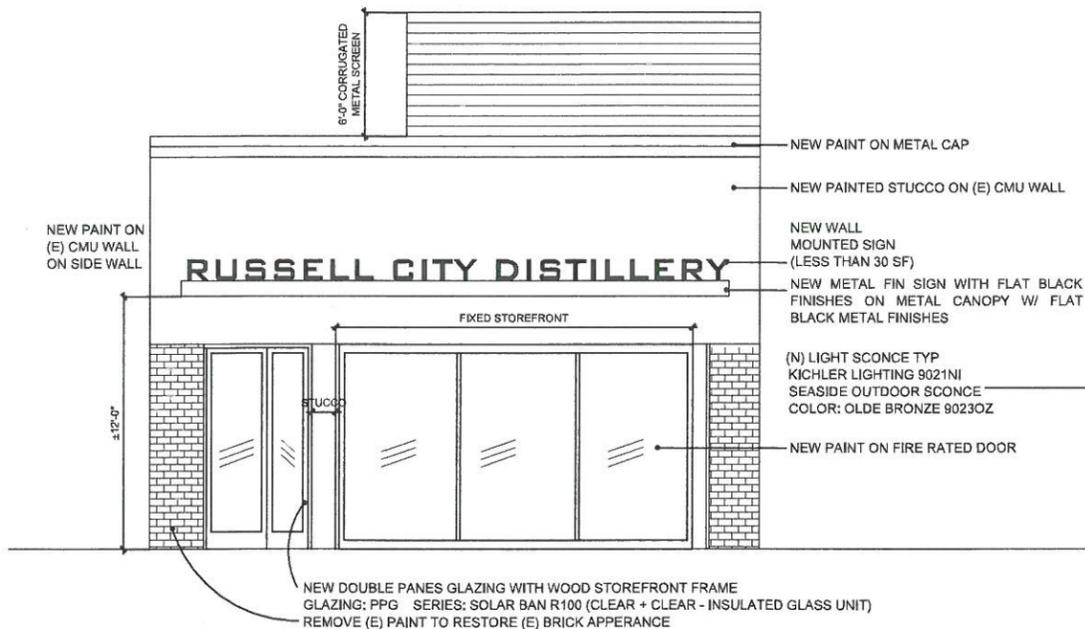




**A** DEMOLITION



**A** DEMOLITION

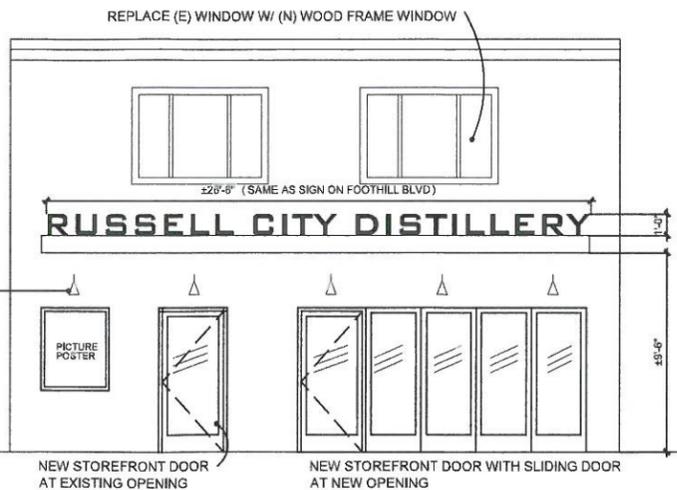


**B** PROPOSED

**1 FRONT ELEVATION (FOOTHILL BLVD)**

SCALE: 1/4" = 1'-0"

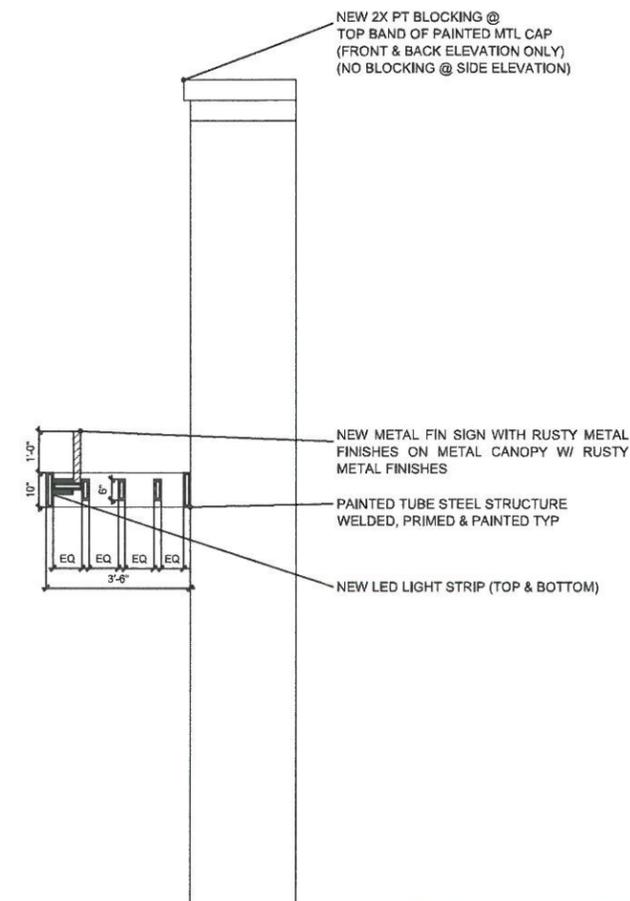
NOTE: SIDE ELEVATION - SIMILAR COLOR SCHEME



**B** PROPOSED

**2 REAR ELEVATION (CITY PARKING)**

SCALE: 1/4" = 1'-0"



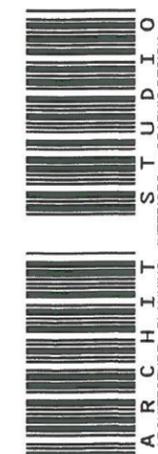
**3 SECTION - SIGN & AWNING**

SCALE: 1/4" = 1'-0"

**COLOR SCHEDULE:**  
PAINT SHALL MATCH THE BELOW SPEC  
COMPANY: SHERWIN WILLIAMS

STUCCO: NACRE - FN155  
METAL CAP: ROOKWOOD BROWN - EPP/4  
METAL SIGN: BLACK OF NIGHT - SW 6993

CONTRACTOR SHALL PROVIDE MOCK UP (20'XWALL HT @ ALLEY) FOR OWNER & PLANNER APPROVAL PRIOR CONTINUE PAINTING THE REMAINING WALL



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2013.09.12	CUP RE-SUBMITTAL
2013.11.04	PLANNING RE-SUBMITTAL

Revision Record


**RUSSELL CITY DISTILLERY**

22549 FOOTHILL BLVD,  
HAYWARD, CA

Date: 2012.09.28 Project No.: 2012-063

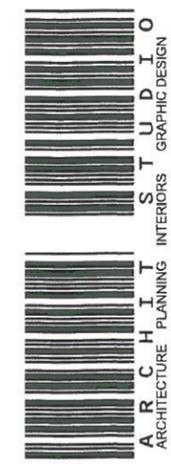
Sheet Title

ELEVATION

Sheet No.

A3.01

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 Not Released for Construction



239 Bayberry Circle, Suite A,  
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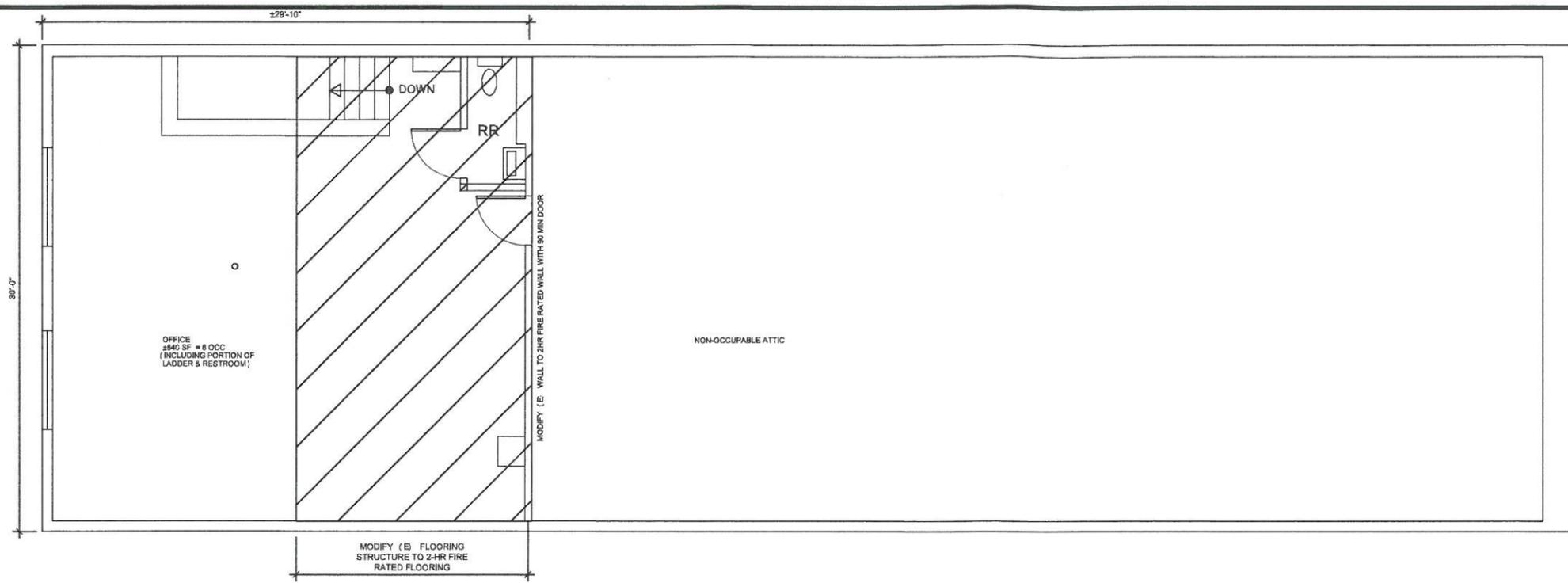
Print Record

2012.06.28	CLIENT REVIEW
2012.12.14	CUP SUBMITTAL
2013.03.15	CUP RE-SUBMITTAL
2013.07.26	CUP RE-SUBMITTAL
2013.08.12	CUP RE-SUBMITTAL
2013.11.04	PLANNING RE-SUBMITTAL

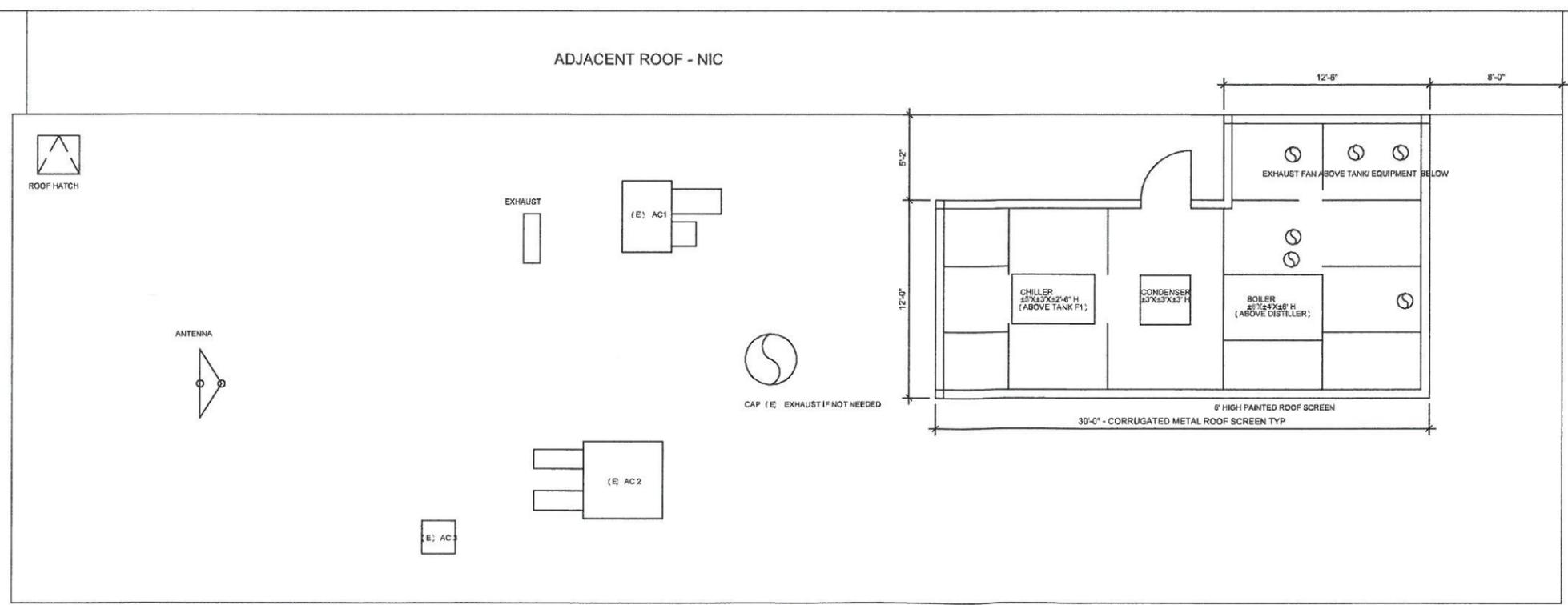
Revision Record


**RUSSELL CITY DISTILLERY**  
 22549 FOOTHILL BLVD,  
 HAYWARD, CA

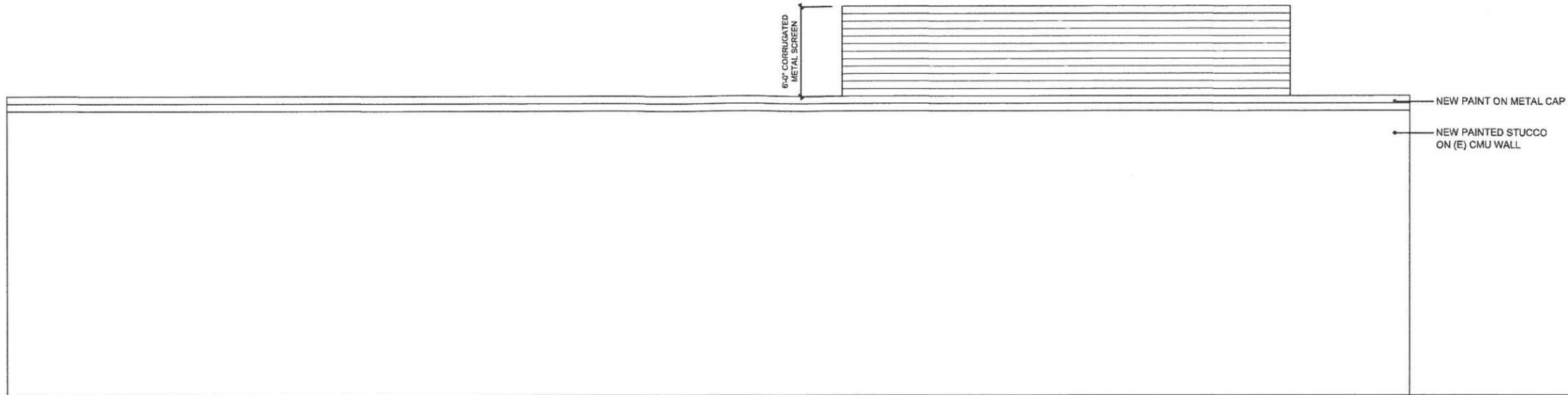
Date	Project No.
2012.08.28	2012-068
Sheet Title	FLOOR PLAN: 2ND FLOOR & ROOF PLAN
Sheet No.	A2.02
<input type="checkbox"/> Released for Construction	<input checked="" type="checkbox"/> Not Released for Construction



**1 FLOOR PLAN: ATTIC - NO WORK**  
 SCALE: 1/4" = 1'-0"



**2 ROOF PLAN - NO WORK**  
 SCALE: 1/4" = 1'-0"



**1 SIDE ELEVATION (FOOTHILL BLVD)**  
 SCALE: 1/4" = 1'-0"

NOTE: SIDE ELEVATION - SIMILAR COLOR SCHEME

ARCHIT STUDIO  
 ARCHITECTURE PLANNING INTERIORS GRAPHIC DESIGN



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Print Record

2012.09.28	CLIENT REVIEW
2012.12.14	CUP SUBMITTAL
2013.03.15	CUP RE-SUBMITTAL
2013.07.26	CUP RE-SUBMITTAL
2013.09.12	CUP RE-SUBMITTAL
2013.11.04	PLANNING RE-SUBMITTAL

Revision Record


**RUSSELL CITY DISTILLERY**  
 22549 FOOTHILL BLVD,  
 HAYWARD, CA

Date: 2012.09.28 Project No.: 2012-063

Sheet Title: ELEVATION  
 Sheet No.: A3.02

Released for Construction  
 Not Released for Construction

**Carol Hamilton**

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**From:**  
**Sent:** Tuesday, January 15, 2013 10:49 AM  
**To:** Carol Hamilton  
**Subject:** Restaurant with Bar, with an ancillary craft distillery

Dear Carol and Planning Commission,

A new distillery and restaurant is just what our downtown needs! If run responsibly and appealing to a clientele that appreciates handcrafted, quality products, I believe this may be the catalyst to attract people and perhaps other businesses to our downtown. I am in favor of this venture and hope the city will do its part to streamline the permitting process! Yeah!

All best,

Prospect Hill Resident



**MINUTES OF THE SPECIAL MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, October 24, 2013, 7:00 p.m.  
777 B Street, Hayward, CA94541**

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**MEETING**

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

**ROLL CALL**

Present: COMMISSIONERS: Trivedi, McDermott, Lamnin, Márquez  
CHAIRPERSON: Faria  
Absent: COMMISSIONER: Loché, Lavelle  
CHAIRPERSON: None

Commissioner McDermott led in the Pledge of Allegiance.

Staff Members Present: Buizer, Conneely, Madhukansh-Singh, Rizk, Siefers

General Public Present: 0

**PUBLIC COMMENTS**

None

**WORK SESSION**

1. General Plan Update - Presentation of Draft Policy Document

Senior Planner Buizer provided a synopsis of the Draft General Plan Update. She shared that the following recommendations were made at the City Council Meeting held on October 22, 2013: Industrial Technology and Innovation Corridor Plan should have a higher priority; increased open space and parks should be added; the City should partner to recognize youth, not just the schools; program language for energy disclosure and performance should exempt existing homes; and staff should prioritize what programs can realistically be completed.

Commissioner Lamnin thanked staff for their hard work and expressed that the General Plan Update contains many features with which she agreed. She expressed that it was a great idea to have an implementation program as this would help keep the General Plan Update document living, viable, and useful to the City.

Chair Faria commented that it would be helpful to include the names of the city department divisions in addition to the responsible department(s) in the General Plan.

Commissioner Márquez agreed with Chair Faria's suggestion to include listing the division names in the General Plan, along with the responsible departments. Commissioner Márquez suggested that

an organizational chart also be included in the General Plan and that there be a breakdown of what programs each department and/or division was responsible for. Commissioner Márquez noted that Land Use (LU) No. 7 program, which addressed the Downtown City Center Specific Plan did not mention lighting and she emphasized the importance of including lighting standards in order to preserve a walkable downtown community. She expressed that developers in the future consider building residences that include bedrooms, bathroom(s), and a kitchen all on the first floor for Americans with Disabilities Act (ADA) standards and Aging in Place purposes. Commissioner Márquez stated that it would be a good idea if the City hired a media relations officer to help improve Hayward's economic outlook.

With respect to broadening the City's housing types, Senior Planner Buizer indicated that staff was currently working on updating the Housing Element document, as an immediate priority. She said that the Department of Housing and Community Development (HCD) had provided opportunity for a streamlined review of the Housing Element based on the City meeting certain criteria for the next reporting period, and that in some cases funding is tied to having an updated and certified Housing Element.

Commissioner Trivedi complimented staff for putting together a well-structured and well thought-out General Plan.

In response to Commissioner Trivedi's question about the goal and implementation programs associated with the Complete Neighborhood Strategy, Ms. Buizer responded it was to promote a neighborhood where people do not have to travel great distances to obtain necessary services. She added that this may potentially lead to some flexibility in zoning designations and allowed uses.

Commissioner Trivedi recommended that the Cradle-to-Career Strategic Plan be implemented sooner than the proposed timeframe for implementation of 2020-2040, noting that the sooner implementation would result in a quicker turnaround in benefits. He was pleased to see that the General Plan consisted of many initiatives with separate schedules for implementation and monitoring.

Commissioner McDermott appreciated the efforts made by staff and the community in putting together the General Plan Update. She noted that the resources available to implement the General Plan are missing from the analysis.

In response to Commissioner McDermott's question about when an analysis of the implementation would be available, Senior Planner Buizer noted it would require working with the responsible departments, determining resources, and staff would need to determine which programs would align with the Council's priorities.

Commissioner Lamnin suggested that staff reevaluate which implementation programs need five-year reviews and which could be extended to be reviewed eight or ten years down the line. She also suggested that the implementation timeframe for Land Use Element program LU No. 15, Hesperian Boulevard College Corridor Plan, be changed to 2017-2019 and the Mobility Element program M No. 10, Improved Traffic Flow Program, be changed from 2017-2019 to an earlier implementation time; the implementation timeframe for program Land Use Element LU No. 22, Hillside Design Guidelines Review and Update, be moved back to a later time; and Mobility policy M No. 8,



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Underused Rights-of-Way, be moved to the later timeframe of 2020-2040. Commissioner Lamnin asked staff if the City of San Leandro needed to be included in the Natural Resources Element. Commissioner Lamnin also added that the General Plan should maintain the standards that were achieved through CALEA Certification by the Hayward Police Department. She hoped that the General Plan Update document would assist the City Council in priority and budget setting, especially since there was a lot of input obtained from members of the community in developing the General Plan. Commissioner Lamnin stated that the Green Hayward program appeared to be the same as Natural Resources Element NR No. 22, Green Portal.

Senior Planner Buizer responded that NR No. 22 Green Portal was an envisioned program and that parts of this program may already be in place; she indicated that the program would require ongoing maintenance in having current information available on the Green Portal.

Commissioner Lamnin recommended that a website link be available on Access Hayward that would direct individuals to the Hayward Unified School District's (HUSD) page, so that they can contact the HUSD from the City's website.

Chair Faria expressed that the energy requirements for homeowners was stringent and needed to be modified to make it more flexible. Ms. Faria highlighted the importance of being able to gather data on improvements that were being made to homes that were adapting energy efficiency measures, noting that Economic Development program ED No. 15, Permitting Processing Software, could assist in this effort. Senior Planner Buizer stated that the new Munis system will have a comprehensive permit processing software and added that this would be initiated after the adoption of the General Plan.

Chair Faria was pleased to see that Economic Development Element program ED No. 14, Customer Service Survey and Annual Report, were included in the General Plan Update.

**COMMISSION REPORTS:**

2. Oral Report on Planning and Zoning Matters

Director Rizk noted that the November 7, 2013, Planning Commission meeting had the following three items on the agenda: findings for denial of the Integral Communities project; text amendment to address simulated internet gambling; and text amendments to the Transitional and Supportive Housing Zoning Ordinance.

Director Rizk provided a follow-up for Commissioner Lamnin that the Code Enforcement Division had established a case for auto work that was being performed on Pompano Avenue. Commissioner Lamnin thanked staff for their efforts and noted that the auto work has become more manageable for the neighborhood.

Planning Manager Siefers shared that staff toured the Stonebrae development in order to identify

what potential open spaces existed that could accommodate a play structure or park in Village B; however, she stated that open space in the area was limited. Planning Manager Siefers said that the developer polled residents of Village B to see if they were interested in building a play structure in the development area and the majority response did not favor building a park. Planning Manager Siefers stated that the developer will be donating some land to create an adequate size park in the upcoming development site, Village C. She added that staff will be considering additional and better common area spaces and individual unit open spaces in future development projects.

Commissioner McDermott requested that staff find out from the developer how many residents responded to the poll that was conducted through email by the developer.

In response to Commissioner Trivedi's question, Planning Manager Siefers responded that the residents who submitted the petition to the City will be updated of the outcome regarding building a park in Village B.

Commissioner Lamnin shared that Stonebrae residents had expressed to her in the past that there was a need for a parking lot near the elementary school and Commissioner Lamnin requested that staff be mindful of this as the Stonebrae area was further developed.

### 3. Commissioners' Announcements, Referrals

Commissioner Lamnin announced the event *You Have a Place at the Table*, which will be held on November 16, 2013, at the Southgate Community Center. She noted that this will be an awareness and action event to address hunger and homelessness in Hayward.

Commissioner Trivedi shared that the Keep Hayward Clean and Green Task Force will be having its monthly clean-up event on October 26, 2013, in the Palma Ceia neighborhood.

## **APPROVAL OF MINUTES**

4. The minutes of October 3, 2013 were unanimously approved with Commissioners Loché and Lavelle absent.

## **ADJOURNMENT**

Chair Faria adjourned the meeting at 7:58 p.m.

## **APPROVED:**

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Dianne McDermott, Secretary  
Planning Commission

## **ATTEST:**

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Avinta Madhukansh-Singh, Senior Secretary  
Office of the City Clerk



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, November 7, 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: None  
CHAIRPERSON: None

Commissioner Trivedi led in the Pledge of Allegiance.

Staff Members Present: Agustin, Buizer, Chan, Conneely, Cruz, Golubics, Rizk, Siefers, Vigilia

General Public Present: 33

**PUBLIC COMMENTS**

None

**PUBLIC HEARING**

1. Adopt Findings for Denial for Conditional Use Permit (Application No. PL-2012-0069) and Vesting Tentative Tract Map (Application No. PL-2013-0070) associated with 194 townhomes and 16,800 square feet of commercial space on an 11.33 acre site located at 22301 Foothill Boulevard. Integral Communities (Applicant); MDS Realty II & 22301 Foothill Hayward, LLC (Owners)

Senior Planner Golubics provided a synopsis of the staff report.

In response to Commissioner Trivedi's question, Senior Planner Golubics indicated that the findings for denial were drafted based on public testimony and also the concerns expressed at the Planning Commission meeting on October 17, 2013.

Commissioner McDermott stated that she was a proponent of the project and asked staff for procedural guidance on what type of action the Planning Commission could take at the present meeting if the Planning Commission wanted to move the project forward.

In response to Commissioner McDermott's inquiry, Assistant City Attorney Conneely clarified that if the Planning Commission sought to reconsider its previous decision, one of the four Planning Commissioners who voted in favor of the motion at the October 17, 2013, meeting would need to

ask to reconsider the motion for findings for denial. Development Services Director Rizk added that the Planning Commission would also have to direct staff to bring back findings for approval.

Assistant City Attorney Conneely confirmed for Commissioner Lavelle that it was not required to have a vote on the findings for denial at the present meeting.

Chair Faria opened the public hearing at 7:17 p.m.

Mr. Kim Huggett, President of the Hayward Chamber of Commerce, expressed that an overwhelming number of the downtown businesses supported the project and recommended that the Planning Commission vote against the findings for denial of the project.

Mr. Michael Urioste, Prospect Street resident, stated that the City Walk, City Center and Grand Terrace residential developments have not contributed to increased commerce in the downtown area. He opposed the project and said that the addition of more homes to the downtown would not assist with job creation.

Mr. Darin Smith, an employee with Economic and Planning Systems, Inc., stated that his firm was hired by Integral Communities to conduct an economic impact assessment of the proposed project. He shared that based on the number and value of the units, the expected income of the occupants, and the on-site retail space, approximately \$9.1 million of new retail sales activity would be generated in Hayward each year. He noted that the development of residential units and retail space will also support an estimated 292 full-time equivalent jobs in the construction industry and 25 long-term jobs once the project site was occupied. Mr. Smith contrasted that the vacant Mervyns building currently generated no economic activity and that the City had not been successful so far in finding a commercial occupant for the site.

In response to Commissioner Lamnin's question, Mr. Smith commented that the proposed project differed from other currently existing residential developments in the downtown area as the intent of the proposed project was to bring upper income households to the area. He estimated that the average household income for residents of the proposed development would be approximately \$133,000. Mr. Smith noted that future residents of the proposed development project may contribute to the economic activity in Hayward, exemplifying that most people do their day-to-day spending and dining out closer to home.

Commissioner Loché asked Mr. Smith how confident he was in stating that the townhomes in the proposed development could be sold in the \$600,000 range, given the unpredictability of the market.

Mr. Smith responded that a market analysis conducted by The Concord Group helped determine this price point. He added that homes in the proposed development site were better marketable due to the proximity to urban amenities.

Mr. Dominic Dutra, CEO of Dutra-Cerra-Graden, stated that he was familiar with the site of the proposed project and he supported a motion reconsidering the project. He noted that the project would have significant implications for the downtown area and the economic development of



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Hayward. Mr. Dutra shared that he had assisted Integral Communities in conducting outreach with various stakeholders in the community.

Mr. Guy Warren, with 28 years of commercial real estate business experience, stated that the Mervyns site had been listed for sale in the market for over five years and he commented that this was a long time for a commercial building to sit vacant. He mentioned that he had made efforts to market the former Mervyns site to many retailers such as Hilton Hotel, Fry's electronics, Sprouts, 99 Ranch Market; however, these retailers were not interested in the downtown site. Mr. Warren stated that a retail study discussed at a Hayward Economic Development Committee (EDC) indicated that the Mervyns site should be utilized for residential housing, that the addition of more retail buildings in the downtown would create a bigger economic problem in Hayward, and that mixed-use residential retail that worked in other cities would not work in Hayward.

Mr. Larry Clark, mentioned that he lived near the Mervyns site and expressed how dangerous the vacant site was, noting that children in his neighborhood sometimes walk through the lot.

Mr. Noel Enriquez, an outreach coordinator for the proposed development project, shared that over 500 residents have endorsed the project and that many of the small business owners that he conversed with are receptive to the project and have expressed that the residential development would be a positive change for the area.

Mr. Evan Knapp, a Principal for Integral Communities, noted that Integral Communities has been working on the project for approximately 2 years and that they have sought feedback from staff, the City Council, and the Planning Commission. He pointed out that the project had evolved from what the initial proposed project was, indicating that the project went from having 500 residential units to less than 200 units. Mr. Knapp added that other improvements to the proposed project that the developer made were the inclusion of traffic measures to prevent drivers from cutting through the Prospect Hill neighborhood as a short cut and also the addition of a public trail system so that the public can walk through the development site in order to get to the retail uses in the area. Mr. Knapp emphasized that the project will revitalize the downtown; it will bring new, hardworking families to the City; and will create 300 construction jobs that will lead to the betterment of Hayward.

Mr. Chris Zaballos, with a business address on Foothill Boulevard, requested that the Planning Commission reconsider the findings for denial, indicating that the proposed project was an opportunity to reverse and remove the blight in this area of downtown. He stated that adding more residential development was an excellent idea as it will bring more density to the area, it will create more foot traffic in downtown and the future residents will bring in more disposable income.

Mr. Clelen Tanner, former Hayward business owner, commented that the vacant Mervyns and Centennial Hall sites were eyesores and emphasized that the City should do something about this unoccupied space.

Chair Faria closed the public hearing at 7:42 p.m.

Commissioner Márquez made a motion to reconsider the decision made at the October 17, 2013, Planning Commission meeting which was to deny the project without prejudice and direct staff to bring back findings for denial. The motion on the floor included direction to staff to bring back findings for approval.

Commissioner McDermott seconded the motion.

Commissioner Márquez stated that she supported the project because she felt that it was an appropriate use of the site. She added that the applicant had conducted a lot of community outreach and has held numerous community meetings. She appreciated that the developer modified the development project to reduce the number of units to be constructed at the proposed site and had also allowed for public space and a walkway to get from the development to the downtown area. Commissioner Márquez emphasized that the current vacant building had contributed to blight, crime, and negative activity in the nearby community and commented that these problems could be mitigated if the vacant site was replaced with homes. She stated that the proposed project will improve lighting and will make this neighborhood a walkable area again.

Commissioner Loché stated that he was opposed to the motion because he wanted the former Mervyns site to remain City Center / Retail and Commercial Office.

Commissioner Trivedi pointed out that the development project has evolved in the last two years because the developer has been listening to the concerns expressed by the community and the developer has made a good attempt at addressing these concerns. Commissioner Trivedi indicated that some features of the project that appealed to him were the access trail along San Lorenzo Creek and that the retail uses will be fronted along Foothill Boulevard. He mentioned that some negative aspects of the project are the design plans of the townhomes and the limited number of retail uses in the development area. Commissioner Trivedi indicated that he wanted to see more communal spaces and/or picnic areas at the development site, and other similar amenities. He stated that he was not concerned about traffic problems in the area because the entry and exit plans that were being included in the development would be aimed towards Foothill Boulevard. Commissioner Trivedi said that townhomes were an appropriate addition to the neighborhood because there was already a mix of residential types in the nearby community. He also noted that the economic impact generated by individuals living at the proposed development site would help support downtown businesses.

Commissioner Lamnin thanked staff for their efforts in bringing back the findings for denial and expressed her support of the motion.

Commissioner Márquez commented that it was not probable to get an anchor store such as Target or Michaels to operate at the former Mervyns site and stated that the proposed residential development project was economically viable for this site. She commended staff on all their hard work and thanked the applicant for standing by the development project.



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Commissioner Lavelle supported the reconsideration motion and commented that the proposed development will bring in new residents with higher levels of income to Hayward, which will have a positive impact on the downtown area. She urged the developer to take into account the comments expressed by the Planning Commission about the style and architecture of the proposed development, as this will help the buildings of the proposed project blend well with and further improve the downtown area. She agreed with the comments made by Mr. Clark about the former Mervyns site being a scary and unsafe place in the neighborhood. Commissioner Lavelle highlighted that it was not in the interest of the City to leave unoccupied buildings vacant for long periods of time, noting that this was also the case with the currently vacant Holiday Bowl site. She noted that building a new development and bringing in new community members would improve the safety of the neighborhood and encouraged that Integral Communities and the builder of the development continue to stay in communication with the community members of Prospect Hill.

Chair Faria indicated her support of the motion and stated that the proposed development would help boost the economic activity in the downtown area.

AYES: Commissioners Trivedi, McDermott, Lamnin, Márquez, Lavelle,  
Chair Faria  
NOES: Commissioner Loché  
ABSENT: None  
ABSTAINED: None

2. Text Amendment (PL-2013-0437 TA) to: (1) Add a definition for Transitional and Supportive Housing to Section 10-1.3500 of the Zoning Ordinance; (2) Amend Table 9 of Section 10-24.300 of the South Hayward BART/Mission Boulevard Form-Based Code by removing reference to both Transitional and Supportive Housing as Allowed Functions; and (3) Replace Section 10-1.145 of the Zoning Ordinance with new Section 10.1.145 related to Reasonable Accommodation for Persons with Physical Disabilities

Senior Planner Buizer provided a synopsis of the staff report.

Senior Planner Buizer confirmed for Commissioner Lamnin that the draft housing element will be presented to the Commission when it is available for public comments.

Commissioner Lamnin asked what the motivation was for removing the reference to Transitional and Supportive Housing as allowed functions in the Form-Based Code Section. Senior Planner Buizer responded that Table 9 of Section 10-24.300 of the South Hayward BART/Mission Boulevard Form-Based Code breaks down the Transitional and Supportive housing based on an occupancy number which would be in opposition to state law requirements. By removing reference to Transitional and Supportive Housing and adding the definition into the zoning ordinance, they would be considered allowed uses. In response to Commissioner Lamnin's concerns about how some of the housings are run, Senior Planner Buizer responded that state law requires that they not be treated differently than other residential dwellings of the same type in the same zone.

Senior Planner Buizer confirmed for Commissioner Lavelle that no comments were received from the public regarding the Text Amendment. In response to Commissioner Lavelle’s question as to when “Reasonable Accommodation for Persons with Physical Disabilities” applies, she stated that reasonable accommodation provide someone with disability with an administrative process that allow them to be given access to housing that maybe otherwise a violation of the zoning regulations for a particular zone. She added that the reasonable accommodation is granted only to the household that needs accommodation and does not apply to successors of interest to the site.

Commissioner Lavelle noted a correction to the typographical error on Attachment IV, Letter F - Appeals, the word “fee” should be added after the word “prescribed” in the last sentence.

Commissioner Márquez asked if the City had funding to assist homeowners who needed modifications to their homes. Senior Planner Buizer responded that there were some programs for minor home repairs but she was not sure of the current status. Development Services Rizk added that the funds have been eliminated or significantly reduced.

Chair Faria opened and closed the Public Hearing at 8:21 p.m.

Commissioner Trivedi made a motion to adopt the Negative Declaration and approve the proposed text amendment, subject to the findings for approval, with an amendment to Chapter 10, Section 10-1.145 (F) (3) by adding the word “fee” after the word “prescribed” in the last sentence.

Commissioner Lavelle seconded the motion.

AYES:	Commissioners Loché, Trivedi, McDermott, Lamnin, Márquez, Lavelle Chair Faria
NOES:	None
ABSENT:	None
ABSTAINED:	None

Commissioner Márquez left the Council Chambers at 8:24 p.m.

3. Related to internet gaming establishments, proposed revisions to the definitions section of the Hayward Zoning Ordinance (Section 10-1.3500) and proposed amendment to the Hayward Municipal Code adding Article 16 to Chapter 4 regarding simulated gambling devices; the project is exempt from environmental impact analysis, per the California Environmental Quality Act (CEQA Guidelines Sections 15321 (exemption for governmental regulatory activities) and 15061 (b) (3) (projects clearly not impacting the environment)); Text Amendment Application No. PL-2013-0388 TA; Applicant: City of Hayward

Development Services Director Rizk provided a synopsis of the staff report. Mr. Rizk referenced letters from representatives of two of the establishments and the letters have been distributed to the Planning Commission. He noted that Assistant City Attorney Vigilia, Assistant City Attorney Conneely and Hayward Police Department Detective Agustin were available for



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questions.

Commissioner Loché asked about any written complaints from neighboring businesses. Development Services Director Rizk noted staff had received complaints via email. Detective Agustin added that staff had received two online complaints through the ACCESS Hayward; one for Net Connection Hayward, LLC located at 778 B Street and another for I Biz, LLC located at 22466 Maple Court. Detective Agustin stated that the complaints were: customers smoking in the parking lot; being a public nuisance; using the access area behind Lucky's as a parking lot and persons loitering late at night. He added that if citizen complaints came in without addresses, it was difficult to identify the problem establishments. Mr. Rizk noted that based on his personal observations, the majority of customers were sitting at computers playing the games. Mr. Rizk also noted that because the three establishments did not fully disclose their business use on their business license application, staff has been diligent in asking business license applicants what the nature of their business is.

In response to Commissioner McDermott's inquiry as to the age restriction, Assistant City Attorney Vigilia noted there were not age restrictions for patrons and it was at the discretion of the business owner to restrict the age to persons 18 years and older. Mr. Vigilia further stated that he did not agree with the Net Connection's attorney's position that the proposed retroactive application of the ordinance was illegal, and that if the City Council adopted the proposed amendments, the Council would be exercising its police power to declare it a public nuisance and it would be appropriate for the ordinance to be applied to the existing businesses. Mr. Vigilia noted it was important to recognize that the establishments characterize the use of the games as a promotional tool and compared it to McDonald's, Coke and/or Pepsi's, sweepstakes games and added the games were supposed to be secondary to the internet time and copy and fax services.

Commissioner Lavelle asked if the new regulations affected card clubs and non-profits such as churches that offer bingo games. Development Services Director Rizk responded that card clubs have separate City regulations, and which were also State-regulated. Mr. Rizk stated that the prohibition was for establishments that offered the "simulated gambling devices" and there was separate language in the ordinance that addressed internet usage as an allowed use. Ms. Lavelle was glad there was language governing the other businesses that followed regulations and would not be impacted by the proposed language. Ms. Lavelle noted the Seminole County, Florida regulations could be a big help to other agencies that were having similar issues. Mr. Vigilia responded to Ms. Lavelle that the proposed language in sections 4-16.20 and 14-16.30 addressed the issue that private parties were not prohibited from engaging in computer activities in their own home. Ms. Lavelle offered amending Chapter 4, Article 16 Section 14-16.00 (E) by removing "Within the past years" and replacing it with "In Hayward" and amending Chapter 4, Article 16, Section 14-16.00 (G) by changing the word "would" with "might" as not all gambling was negative.

In response to Commissioner Lamnin's question about persons bringing in their own computers to the establishments and the applications for conditional use permits, Assistant City Attorney

Vigilia noted the language in the ordinance addressed the trends that currently existed and that staff was responding to the direction given by City Council that “simulated gambling devices” were undesirable uses. Development Services Director Rizk noted for Ms. Lamnin that staff conducted extensive noticing of tonight’s meeting and that the information provided on the business licenses by the establishments in question were not a true reflection of the business being conducted. Ms. Lamnin noted she had visited two establishments: Chances Are on Main Street and Satin Rose on B Street. Mr. Rizk said the conditional use permit for Satin Rose was still valid but the internet portion would not be allowed because of the current moratorium.

Commissioner Trivedi thanked staff for explaining what was being transacted at the establishments that were conducting the “simulated gambling devices” activity. Staff noted payouts could be as high as \$3,000. Detective Agustin spoke about the 50 calls for service with complaints ranging from smoking, parking, noise complaints, and fighting that started in the establishment and ended in the street. Mr. Trivedi appreciated the staff report and the well-written ordinance and agreed with Commissioner Lavelle’s text changes.

Commissioner Lamnin provided the following information: the establishments she visited charged \$5 to \$6 per hour of computer time and the customers were required to initial a waiver stating that they are not gambling, but are playing a promotional game. Ms. Lamnin asked if the waiver would impact the ordinance. Assistant City Attorney Vigilia responded the ordinance did not address gambling and the waiver would not affect the applicability of the proposed ordinance.

Chair Faria opened the Public Hearing at 9:04 p.m.

Ms. Beneba Thomas, owner of Golden Tea Garden on Main Street, noted the business Chances Are was next door to her establishment, that this was a gambling establishment, and she observed that all of the computer screens looked like slot machines. She added that Chances Are provides food and drinks for their patrons to keep them buying more computer time, similar to a casino. She added that this type of business attracted a negative element and requested the Planning Commission to shut them down.

Mr. Kim Huggett, President of the Hayward Chamber of Commerce, pointed out that the three establishments were not members of the Chamber of Commerce and that there have been multiple complaints by business members about smoking, loitering, parking, and noise. Mr. Huggett said he believed the Chamber would be supportive of the proposed amendments to the Municipal Code. Mr. Huggett also noted the Chamber insists on integrity regarding disclosure of information on business license applications and that the referenced three establishments had not made any contributions to the community.

Mr. Scott Moore, Hayward resident, noted that he nor his neighbors received any notification about this hearing and that he supported the proposed amendments to the Municipal Code. He said that Net Connection was a public nuisance and cautioned staff to address the sweepstakes as the sweepstakes payout was determined at the time of computer time purchase. Mr. Moore also shared that the American Gaming Association does not support these types of businesses and that they have literature that explains what can be done.



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

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Chair Faria closed the Public Hearing at 9:12 p.m.

Commissioner Lavelle made a motion per staff recommendation with two amendments: change Chapter 4 Article 16 Section 4-16.00 (E) by removing “Within the past years” and replacing it with “In Hayward”, and change Chapter 4 Article 16 Section 4-16.00 (G) by changing the word “would” with “might.”

Commissioner Trivedi seconded the motion.

Commissioner Lavelle noted that no one attended or spoke in support of the establishments and that the City Council was correct in responding to the multitude of complaints. Ms. Lavelle expressed her concern that Ms. Thomas was having such a bad experience and how it was negatively impacting Ms. Thomas. Ms. Lavelle hoped that the City Council will listen to the remarks of this meeting and enact the ordinance.

Assistant City Attorney Vigilia said staff would research language to address the sweepstakes payout aspect as noted by Mr. Moore. Commissioner Trivedi was in favor of legitimate internet cafes and it was a problem when a business was not truthful on their business license applications. Mr. Trivedi supported the motion and recommended that the City Council support the proposed amendments.

Commissioner Lamnin asked about the pending litigation with Chances Are in the hopes to provide Ms. Thomas relief from the negative activity she has been suffering. Ms. Lamnin noted that when it was brought to the attention of *I biz* about the “simulated gambling devices”, they made a concerted effort to improve. Ms. Lamnin reluctantly supported the motion.

Commissioner McDermott noted the owners of local businesses that she frequented have limited English and would not feel comfortable coming before the Commission to speak.

Commissioner Loché expressed concern that several speakers did not receive a notice of the hearing. Mr. Loché thanked the speakers who stayed through the entire meeting. He said it was important to support the businesses that abide by the regulations and they were suffering because of the businesses that misrepresented themselves. Mr. Loché supported the motion.

Chair Faria noted she had spoken to several businesses that had concerns about the establishments that misrepresented the type of business that were conducted. Ms. Faria supported the motion.

The motion to recommend to City Council to approve the ordinances adding Article 16 to Chapter 4 related to simulated gambling devices and amending Hayward Municipal Code Section 10-1.3500 related to internet cafes was approved with two amendments: change Chapter 4 Article 16 Section 4-16.00 (E) by removing “Within the past years” and replacing it with “In Hayward”, and change Chapter 4 Article 16 Section 4-16.00 (G) by changing the word “would” with “might.”

AYES: Commissioners Loché, Trivedi, McDermott, Lamnin, Lavelle  
Chair Faria  
NOES: None  
ABSENT: Márquez  
ABSTAINED: None

## COMMISSION REPORTS

### 4. Oral Report on Planning and Zoning Matters

Development Services Director Rizk announced that one upcoming agenda item would be a work session on tobacco regulations and noted that staff had held one community meeting on this item. Mr. Rizk said that at the November 12, 2013, Council meeting, there would be an item concerning alcohol regulations related to fees.

### 5. Commissioners' Announcements, Referrals

Commissioner Lamnin reported that a community member made a comment about negative activity by an auto business. The auto business now works on one car at a time and the negative impacts have been resolved. Ms. Lamnin shared that the City Council had started the process of reviewing Council Priorities.

Commissioner Lavelle reminded everyone that Monday is Veteran's Day and hoped that everyone will take a moment to thank and honor those who served the country.

## APPROVAL OF MINUTES

6. There were none.

## ADJOURNMENT

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

## APPROVED:

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Dianne McDermott, Secretary  
Planning Commission

## ATTEST:

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Yolanda Cruz, Deputy City Clerk  
Office of the City Clerk