



# CITY OF HAYWARD AGENDA REPORT

Planning Commission  
Meeting Date 04/01/99  
Agenda Item Work Session

TO: PLANNING COMMISSION

FROM: Charles P. Mullen, Associate Planner

SUBJECT: ZONING ORDINANCE UPDATE – TEXT AMENDMENT NO. 98-140-04 –  
CITY OF HAYWARD (APPLICANT)

## RECOMMENDATION:

That the Planning Commission make suggestions and comments on the issues being raised by staff as potential amendments to the Zoning Ordinance.

## DISCUSSION

### Background:

On September 10, 1998, a work session for the Planning Commission was held to review a summary of the substantive changes proposed for the Zoning Ordinance update. A work session was also held with the City Council on September 15, 1998. Two meetings with the Hayward Chamber of Commerce were held on September 17 and November 16, 1998, and one meeting was held with former Neighborhood Task Force members, homeowner associations and the livestock focus group on November 16, 1998. Copies of the reports of previous work sessions and a summary of substantive changes are attached for background information.

Staff is seeking Planning Commission comment on several issues listed below, such as site plan review of industrial buildings, religious facilities in the Central City District and group homes. The Planning Commission is referred to the previously distributed Administrative Draft Zoning Ordinance and the attachments to this report for discussion purposes.

### Issues Previously Discussed:

- Industrial Building Design Standards. It is recommended that the Planning Commission support design standards for industrial buildings (attached as Exhibit "A"). Implementation of the standards could be achieved by imposing the "site plan review" process only on proposed buildings that do not meet the standards. Exceptions would be made for buildings that are subject to design oversight in active and attractive Industrial or Business Parks.

Currently only those industrial buildings requiring an administrative or conditional use permit are subject to design review. These permits are generally only required for properties that are adjacent to residentially zoned property or which involve the use of certain types and quantities of hazardous materials. The recommendation to adopt design standards for industrial buildings is intended to provide a basic standard of development for all industrial properties so as to contribute to an attractive, healthy industrial district in Hayward. A slide presentation of will be made at the work session to demonstrate good and poor quality industrial building design features and elements.

Staff discussed design review of industrial buildings with the Chamber of Commerce Industrial Committee during two meetings. While Committee members supported quality design of industrial buildings in Hayward, some expressed concern about adding a layer of review and possibly slowing down the permitting process. They suggested that staff review the Covenants Conditions & Restrictions (CC&R's) of some of the more attractive industrial parks to establish design criteria. In reviewing a half dozen CC&R's provided by members of the Chamber of Commerce Industrial Committee, staff observed that most of the CC&R's are lacking in specific building design criteria. For buildings in those parks that do have specific design criteria, site plan review would not be applied. For buildings in other parks that do not have CC&R's with design criteria and which do not meet the City's design guidelines for industrial buildings, site plan review would be imposed. Staff will be meeting with the Chamber Industrial Committee on March 30, 1999, to review staff's proposed recommendations. Staff will report back to the Planning Commission on this meeting at the work session.

- Industrial District - Truck Parking for Restaurants. Staff recommends eliminating the requirement for truck parking at restaurants in the Industrial District that are not associated with motels. At the City Council work session several members raised concerns for a complete elimination of the current 15 percent truck parking requirement for restaurants in the Industrial District. Staff has observed that this requirement discourages restaurants from locating in the Industrial District. For example, a 4,000-square-foot restaurant with 100 seats requires approximately 43 parking spaces, of which 7 spaces would have to be truck parking spaces (12 feet wide by 65 feet in length each). Five truck stalls involves a minimum of 10,900 square feet of land, where seven standard parking spaces requires only about 2,300 square feet. Given the difference of 8,600 square feet and the cost of land, a restaurant developer would be faced with additional costs of approximately \$56,000 to provide truck parking. Additionally, cost would be incurred for paving, the truck parking area would constitute over twice the area of land devoted to the restaurant building, and land is not always readily available in a configuration that can accommodate truck parking.

While staff recognizes that truck drivers benefit by being able to park at restaurants in the Industrial District and that some restaurants could benefit by marketing to truck drivers, the majority of workers in the Industrial District are not truck drivers and find only a limited number of eating establishments in the vicinity of their places of employment. Other eating

alternatives in the Industrial District are employee cafeterias, catering trucks, and hot dog carts.

- Central City Uses. After receiving input from the Planning Commission, City Council and general public and conducting further research regarding thrift stores, religious facilities and consignment stores in the downtown area, staff recommends that the conditional use provision allowing religious facilities (above the first floor only) be deleted from the Central City-Plaza (CC-P) District. Religious facilities are currently prohibited on the ground floor of the CC-P, and this would not change. The reasons for prohibiting religious facilities in the CC-P are to protect and enhance the retail environment of the downtown core area on B and Main Streets and to encourage uses that contribute to the pedestrian nature and quality image of these streets. Religious facilities would not contribute to the tax base, do not provide direct retail economic activity and do not provide the weekday pedestrian traffic which is necessary for contributing to the overall vitality of the CC-P. In that there are no legally established religious facilities in the CC-P, observed or on record at this time, this proposed change would not directly impact any religious facilities. Religious facilities would continue to require conditional use permit approval in the Central City - Commercial and Central City - Residential (CC-C & CC-R) subdistricts.

With respect to thrift stores, this use is currently prohibited in the CC-P. Staff recommends that thrift stores also be prohibited in the CC-C and CC-R subdistricts. The reason for prohibiting thrift stores in all CC Districts is to protect and enhance the quality retail environment of the entire downtown area. Staff believes thrift stores in general do not promote a high-end retail environment and in fact the opposite may be true. Some members of the Chamber of Commerce commented that thrift stores can be perceived as a indication of downtown decline and therefore discourage other retailers from locating near them. Existing thrift stores in the Central City subdistricts would become "legal, nonconforming uses." These existing thrift stores would have the advantage of no further competition from new thrift stores in the downtown.

With respect to consignment stores in the CC-C, CC-P & CC-R subdistricts, staff recommends that this use be listed as a Primary Use in the CC-C & CC-P, and subject to an Administrative Use Permit in the CC-R, which is consistent with other retail uses in the Central City Districts.

- Airport Terminal - Commercial Uses. For the "Airport Terminal - Commercial" (AT-C) subdistrict, additional retail uses are proposed to be added to the AT-C. This zone is generally located along the west side of Hesperian Boulevard. A letter from Watt Commercial Properties (attached as Exhibit "D") requests that a proposed revision to the AT-C District to allow retail uses on greater than 5 acres be changed to allow retail uses on smaller parcels (their long-term leased property is 2.8 acres). In reviewing this request in more detail staff believes it is reasonable because it would allow for retail opportunities on a variety of AT-C properties along Hesperian Boulevard. Staff now recommends that retail uses be allowed on AT-C properties ranging in size between 2.5 to 8 acres maximum.

It is further recommended that the provision to allow regional retail serving uses on sites larger than 8 acres be deleted. Staff believes that sites larger than 8 acres in the AT-C district should be considered for processing under the Planned Development (PD) district requirements.

- Livestock and Animal Regulations. With respect to the Livestock and Animal Regulations the Planning Commission did not offer specific comments on the proposed amendments to the livestock regulations. Some members of the City Council, however, requested that the proposed minimum lot size for the keeping of medium livestock be increased from 10,000 square feet to 20,000 square feet (the same lot size requirement as large livestock).

Major New Issues Not Previously Discussed:

- Streamlining. A Planning Commissioner stressed the importance of streamlining the development review process. In an effort to further streamline the review process while assuring that projects are given adequate review, both technically and by the public, staff is proposing that certain uses be changed from conditional use permits, requiring Planning Commission review and approval, to administrative use permits, which may be approved by the Planning Director. The public hearing process adds time and costs to applicants. In order to streamline the process for applicants without compromising quality and citizen participation, staff recommends administrative action on applications when:

- ✓ the project meets all City policies and design guidelines;
- ✓ all stakeholders agree the project would be a benefit to the community;
- ✓ all interested individuals, including City Council members and Planning Commissioners, have received adequate notification;

The amount of time spent preparing reports and presentations for public hearings is approximately three and one-half working days, plus time for noticing the hearings (10 days), time for referring reports to supervisors and other departments (one week), revising reports (one to two days), copying and mailing the reports (one-half day) and time spent at the public hearings (two hours). Decisions on applications are limited to approximately twice monthly when the Planning Commission meets. The public hearing process adds significant time and costs to applicants. The changes to the process we are suggesting would streamline the process for applicants while still affording Planning Commissioners, City Council members, and stakeholders the opportunity for input.

A proposed list of uses in the Single-Family (RS) and General Commercial (CG) District that could be changed is attached as Exhibit "B." We believe these are examples of use permits which could be expeditiously handled via an administrative process when issues have been worked out with stakeholders at the administrative level.

- Live/Work Provision. With the advent of the personal computer, modems and fax machines, home-based businesses have become a fast growing section of the American economy. Live-work quarters can provide another lifestyle for those who are attracted to loft living, particularly artisans, engineers, architects, etc. Live-work quarters in Hayward may be a real estate product that meets this new market. At the City Council work session wherein zoning ordinance amendments were reviewed, staff was asked to explore possibilities for joint living and work quarters in Hayward.

The Planned Development District allows for mixed uses in Hayward. Other than that means, there are limited opportunities in Hayward for integrating living and commercial uses in the city's commercial districts. Even though since 1995 living quarters have been permitted primary uses in non-first floor areas within Hayward's commercial areas, there has been limited demand for this arrangement in Hayward. One such project has been approved, which is on the corner of Mission and Highland Boulevards. That project incorporates offices on the ground floor and residences above, although they are not directly connected. The foundation for that building is in place, but the construction of the building is on hold. A second development application (a veterinary on Foothill with living above) is currently being processed. Tampa Square, developed in the 1980s under Planned Development zoning, provides for opportunities for both commercial and residential activity, but the activities are not directly connected for true live-work situations.

In staff's opinion, there are areas in Hayward where joint live-work settings could be compatible with the area and contribute to the vitality of the community. Live-work quarters can contribute to the vitality of outdated industrial buildings, such as the old cannery buildings. Live-work quarters can also serve as a transitional use within the older, centrally located industrial areas. Given that they would not be appropriate in all locations, staff recommends that any live-work proposal be subject to an administrative use permit. Consideration should also be given to the types of work permitted in the joint live-work quarters. For example, architects, engineers, artists, and computer-based businesses do not create work atmospheres where there is an excessive amount of traffic, noise, smoke, etc. These types of business would be appropriate in a live-work situation. Staff recommends that the following areas be given consideration for joint live-work uses.

- ✓ Central City - Residential - In the area around C, Clare and Alice streets which is currently used as a warehouse district, the General Plan Map envisions that the area will eventually be developed with high-density housing which entails razing the warehouses. Decision makers may want to rethink how this area adjacent to the downtown core might be developed, taking into consideration that clean live-work spaces near the downtown may be an acceptable alternative to conventional multi-family housing. Live-work opportunities have been successful in other Bay Area cities, such as Oakland, San Francisco and Berkeley. New buildings designed to accommodate joint live-work uses would add a new dimension to downtown Hayward.

- ✓ Older Industrial Areas - As Hayward first developed, most of its industrial activities took place along the railroad that ran through the center of town. For example, the Glass Container Corporation on Hathaway Avenue, the cannery on Filbert Street, and Select Foods on Amador Street were all situated along the railroad. Because these areas are not located within the major industrial corridor that skirts the city (generally outboard of Industrial Boulevard), these older centrally located industrial areas could be considered ripe for conversion to joint living and work quarters. In fact, the General Policies Plan suggests that these areas "... *should be considered for conversion to commercial uses, residential uses, or a planned development with mixed uses, as appropriate.*" Other similar areas that might be appropriate live/work sites would be on O'Neil Avenue south of Orchard, which is zoned High Density Residential but which contains the vestiges of industrial and commercial activities; Huntwood Avenue between Harder Road and Jackson Street, zoned both Industrial and residential; Traynor and Orchard Avenues, where zoned Industrial; and Cypress Avenue where zoned Industrial. When converting *existing* buildings to joint live-work sites, the investment in loft-living is often relatively minimal given that the living area is relatively small and even drapes can be used in place of some walls. Standards would have to be developed for converting existing buildings to lofts and for determining when it would be more appropriate to construct new buildings. Decision in this regard would depend on the long-term goals for each area and the design and condition of existing structures. Therefore, consideration for joint live-work accommodations would have to be made on a case-by-case basis through the administrative use permit process.
- Industrial District - Within Hayward's Industrial District, living quarters are limited to security or switchboard personnel. Joint residential/industrial activity has been discouraged (1) in order to maintain the industrial integrity of industrial districts, (2) because of the inherent conflicts of industrial activities and families (which often involve hazardous materials, noise, smoke, and other dangers), and (3) due to lack of services normally associated with residential uses (shopping, schools, churches). Nonetheless, there may be opportunities that both meet the intent of the Industrial District while providing satisfactory living arrangements for those who would choose to live where they work in an industrial setting. This could be accomplished by severely limiting the area to the fringe along Industrial Boulevard (inboard) where adjacent to residential uses and where surrounding uses are not of a nature which would conflict with a limited joint live-work opportunity. While children cannot be excluded from a residential setting, in this area it would be appropriate to limit the square footage of the living quarters to as low as 300 square feet and the number of bedrooms to one.

Because joint live-work uses would be limited to distinct *areas* rather than specific zoning districts, "loft overlay zones" could be used to identify these areas. In addition, amendments to the building and fire codes may be required for joint live-work accommodations. For example, access to loft or mezzanine sleeping areas via ladders or

lack of escape routes from sleeping areas (windows), or reduced headroom may be necessary to promote live-work situations.

- Group Homes. Staff is in the process of preparing provisions for the regulation of Group Homes in keeping with federal and State laws. As is the case currently, group homes of six or fewer clients will continue to be considered primary uses allowed by right. Staff recommends that larger group homes require approval of an administrative use permit (currently requires a conditional use permit) and that they be spaced at least 500 feet from one another (no limitation currently) unless a conditional use permit is issued which permits them to be closer. Staff will make a more detailed presentation at the Planning Commission work session. The proposed regulations are intended to provide for reasonable accommodation of persons with disabilities

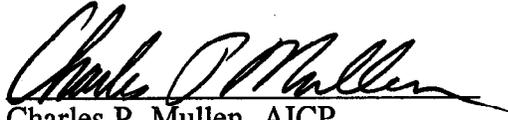
Minor New Issues Not Previously Discussed:

- Tattoo Parlors. Staff recommends that tattoo parlors be classified as an Administrative Use Permit only in the Neighborhood Commercial (CN) and General Commercial (CG) districts. Currently, tattoo parlors are interpreted to be a primarily retail use in all commercial districts. Staff believes tattoo parlors are a use that requires assurance of land use compatibility.
- Industrial District – Educational Facilities. Staff recommends that educational facilities in the Industrial district be replaced with vocational/trade schools, to more specifically only allow for specialized training of skilled labor above high school level which is supportive of the Industrial District. For example the vocational/trade schools definition would include schools for plumbers, carpenters, truck drivers, mechanics, machine operators, technical schools, etc. This definition would not include or allow for, beauty colleges, business schools, or degree programs, etc.
- Small Education Facilities. Staff has recently received a number of inquiries and requests for small private educational/tutoring facilities (usually less than 2,000 square feet) that serve students between grades K-12. These uses are usually seeking to locate in a retail or office type space. Because “educational facilities” require a conditional use permit in all districts in which they are listed, the applicants are often discouraged (for time and financial reasons) and do not pursue the process. Staff believes these educational/tutoring facilities are an important supplement to the Hayward Unified School District education system and would like to encourage them by making it easier for them to locate in Hayward. Staff would request that the Planning Commission support a recommendation to allow education/tutoring facilities less than 2,000 square feet in area for students between grades K-12, to be allowed as a primary use in the CN, CN-R, CG, CO, CB, and CC-C districts.

The Planning Commission is encouraged to offer any other additional comments on the Administrative Draft Zoning Ordinance and staff reports, which were previously distributed.

A work session is proposed to be held with the City Council next month to further discuss these amendments to the Zoning Ordinance.

Prepared by:



Charles P. Mullen, AICP  
Associate Planner

Recommended by:



Dyana Anderly, AICP  
Development Review Services Administrator

Attachments:

- A Industrial District Site Plan Review and Architectural Design Principles
- B List of Streamlined Uses
- C June 1998 Administrative Draft Zoning Ordinance Update - Highlights
- D Copies of Public Correspondence and Comments
  - Watt Commercial Properties, dated 3/24/99
  - John Kyle, dated 11/10/98
  - Tom Von Eckardt, dated 10/7/98
  - Christ Community Church, dated 10/8/98
  - Kenneth P. Harmeyer, received 9/24/98
- E September 10, 1998, Planning Commission Work Session Staff Report
- F September 15, 1998, City Council Work Session Staff Report
- G November 6, 1998, Neighborhood Plan Task Force Meeting on Zoning Ordinance

**INDUSTRIAL DISTRICT**

**SEC. 10-1.1640 SITE PLAN REVIEW REQUIRED**

Site Plan Review approval is required before issuance of any building, grading, or construction permit within the Industrial District only if the Planning Director determines that a project material alters the appearance and character of the property or area or may be incompatible with City policies, standards, guidelines, Neighborhood Plans and architectural design principles.

Site Plan Review shall not be required for buildings located in an Industrial or Business Park with Covenants Codes & Restrictions (CC&R's) that include building design criteria which are similar to the Architectural Design Principles below, as determined by the Planning Director.

**Design Standards.**

All buildings in the Industrial District, unless otherwise exempted, shall be subject to the City of Hayward Design Guidelines, Neighborhood Plans and the following criteria:

- (1) Incorporate design elements that are harmonious and in proportion to one another.
- (2) Incorporate an attractive mixture of color and materials (i.e. use of texture, patterns, shadow, offsets, decorative siding, and accent materials is encouraged). Select building materials and colors that are harmonious with the site and surrounding uses, buildings and area. Base colors shall be low reflective, subtle, neutral or earthtone. Building trim may be feature brighter accent colors.
- (3) Articulate entries, windows, and roof elements along all street frontages.
- (4) Create shadow relief with recesses, columns, score lines, trellises and other features on blank walls when they are visible from a street or residential district.
- (5) Building facades in excess of 100 feet long and/or greater than 20 feet in height shall be setback a minimum of 20 feet from the front property line and must incorporate recesses and projections, which may include windows, arcades, and trellises.
- (6) New buildings shall use roof parapet walls to screen rooftop mechanical equipment. Existing buildings shall use decorative screen walls to conceal new rooftop mechanical equipment.
- (7) Any metal clad building which is visible from a street or residential district shall adhere to the above design criteria. Unpainted (gray galvanized) metal surfaces shall not be used on primary structures.
- (8) Truck loading areas shall not face the street, unless no practical alternative exists.

**LIST OF STREAMLINED USES**

The following are examples of uses that could occur in the Single-Family (RS) and General Commercial (CG) Districts with an Administrative Use Permit rather than a Conditional Use Permit.

**Single-Family Residential District**

- (a) Cultural facility. (minor additions or alterations comprising less than 25 percent of the existing floor area)
- (b) Educational facility. “ “
- (c) Hospital, convalescent home. “ “
- (d) Recreational facility. “ “
- (e) Religious facility. “ “

**General Commercial District**

**Automobile Related Uses.**

- (a) Automobile sales and rental.
- (b) Automobile service station.
- (c) Automobile storage facility.
- (d) Car wash.

**Personal Services.**

- Massage parlor. (When ancillary to a primary use such as a beauty shop or tanning salon.)

**Retail Commercial Uses.**

- Convenience market. (Where no alcohol sales occur.)

**Service Commercial Uses.**

- (a) Equipment rental service.
- (b) Hotel or motel. (Where abutting a residential district or property.)
- (c) Sign shop.

**Other Uses.**

- (a) Commercial amusement facility.
- (b) Cultural facility.
- (c) Educational facility
- (d) Flea market.
- (e) Minor open storage. (When located behind and ancillary to primary uses.)
- (f) Passenger transportation terminal.
- (g) Recreational facility.
- (h) Religious facility.
- (i) Warehouse. (When located behind and ancillary to primary uses.)
- (j) Wholesale establishment.

## June 1998 *Administrative Draft Zoning Ordinance Update - Highlights*

The June 1998 *Administrative Draft Zoning Ordinance* update reflects as many of Planning Commission, City Council and staff comments and suggestions as possible. A summary of your major comments and other major revisions are provided below.

### New Zones

- A new "General Provisions" section has been created at the front of the document, which has incorporated the "Establishment of Zoning Districts" section.
- A "Public Facilities" zoning district has been created to be consistent with the General Policies Plan and Map. Eventually, all public facilities, such as post offices, schools, CSUH, and City Hall can be identifiably zoned "PF" on the Zoning Map.
- Four new zoning districts were created as part of the South of Route. 92 Specific Plan, and are included in this document (e.g., the CR, BP, LM and OS districts). The new districts have been slightly modified and reformatted to be consistent with other reformatted districts.

### Design and Performance Standards

- Design and Performance Standards have been updated and expanded to include frequently used general regulation requirements and other frequently applied standards.

### Central City District

- A limitation to the height of buildings in the CC-C district around City Hall will be addressed through revision to the "Building Heights" section of the Downtown Hayward Design Plan. Necessary amendments to the downtown plan specific plan will be processed concurrently with the Zoning Ordinance.
- The deletion of Thrift Stores from the entire CC District, and deletion of Religious Facilities from the CC-P District is proposed.

### Industrial District

- It is recommended that the Site Plan Review process and architectural design standards for industrial buildings be implemented.
- It is recommended that the truck parking requirement for restaurants in the Industrial District be eliminated.
- Retail sales of commodities produced or distributed on-site would be permitted with no permit, up to 10% of floor area (currently requires Administrative Use Permit).
- Weekend retail sales are proposed to be allowed year-round (currently only 4 times/year, unless Administrative Use Permit is obtained.)
- RV Storage and Public Storage facilities are proposed to require a Conditional Use Permit (currently, RV Storage requires an Administrative Use Permit as "outdoor storage", and Public Storage is principally permitted as "warehousing".)
- Retail at regional marketing base level would be permitted on a 4-acre parcel visible from 880 or 92 with a Conditional Use Permit (currently is 8 acres.)
- Nursery, (plants) would be permitted on a +2-acre parcel located on an arterial street with a Conditional Use Permit (currently not allowed)

- The use of metal shipping containers for outside storage is recommended to be prohibited (currently the Ordinance is silent on this issue).

#### Airport Terminal District

- Additional retail uses have been added to the AT-C.

#### "B" Combining District

- This section has been renamed "Special Lot Standards Combining" District
- The tables are reformatted and updated, but no changes in data.

#### Livestock and Household Pets

- "Livestock" definition now includes pot bellied pigs, and prohibits roosters and peacocks.
- "Household Pets" would include rabbits.

#### Nonconforming Uses

- The "Nonconforming Uses" section has been rewritten to address both *nonconforming uses* and *nonconforming structures*.

#### Miscellaneous

- Take-out restaurants has been eliminated as a separate definition, and is now part of overall "Restaurant" definition. Drive-through restaurants remain separate and continue to require a conditional use permit.
- Drive-in Establishment standards have been updated to include several minor changes and a new section for standards of "Drive-Through Coffee/Esspresso Shops."
- The deletion of the requirement that a transfer of ownership triggers a use permit in the "Alcoholic Beverage Outlet Regulations" will be in the final version.

#### Updated Format

- Every page includes a header reference by Section for easily your tracking location within the document.
- Every page includes a footer reference, labeled "City Of Hayward Zoning Ordinance," with a page number and ordinance date.
- Every section has been renumbered and reformatted to establish consistency and uniformity.
- Some sections have been relocated based on category similarities and frequency of use.
- Each section is self-contained (including design and performance standard for most frequently used section), with little need to refer to the "General Regulations" section.
- An expanded "Definitions" section is located at the end of the ordinance and defines every use and land use category in the Ordinance.
- All tables have been updated.
- Graphics diagrams will be scanned into the final version. Graphics will include the downtown height limit, density and setback maps, a drive-in restaurant illustration and graphics examples in the definition section.
- Zoning Maps have been moved to the end of the document and will be included in the final version.

**ATTACHMENT D**  
**WATT**  
**COMMERCIAL**  
**PROPERTIES**

Via Federal Express & FAX

February 24, 1999



Mr. Charles P. Mullen, AICP  
Associate Planner  
City of Hayward  
777 B Street  
Hayward, CA 94541-5007

**Re: Zoning - Air Terminal - Commercial (AT-C) Sub District**

Dear Charles:

Thank you for meeting with our local representative, Ms. Mary Hoopes, and myself to explain the proposed changes in the AT-C zoning ordinances. Your efforts and patience were sincerely appreciated. Based on your explanation of the facts and our review of the proposed zoning ordinance, we wish to go on record as follows:

Our company has two long-term ground leases (60 years) with the City of Hayward for approximately four acres of land located at **21615-22429 Hesperian Blvd.** Although we are currently in compliance with the terms of these leases, over the past few years it has been very difficult for our owner entity partnerships to achieve a breakeven cash flow. In fact, we have advanced one of these partnerships several hundred thousand dollars in order to meet its obligations to the City and the construction lender. To make matters worse, the FAA recently gave notice of their intent to vacate our property by July 1, 1999 which, in turn, could result in the need for another \$200,000 cash advance. If so, this would burden our partnerships even further and could possibly hinder our ability to meet our ground lease obligations.

Based on past experience, we are anticipating difficulties in locating a replacement tenant for the FAA. Due to the existing zoning ordinance, we are quite limited as to the types of tenants interested in this location. When we had our last vacancy, we lost potential tenants simply because of the existing "retail" zoning prohibitions. While the proposed zoning ordinance would be of some assistance in this matter, it still does not adequately address the needs of the property owner and the surrounding community.

To make matters worse, it has been brought to my attention that "Home Depot" is currently negotiating with the City for the site located immediately to the north of our property. Apparently the proposed zoning ordinance will accommodate a retail use on this site since it is in excess of five acres, but not on our adjacent site which is less than five acres - a fact that we find to be quite unfair and biased.

FEB 24 1999

Charles P. Mullen, AICP  
February 24, 1999  
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If a "Home Depot" type of operation is allowed to occupy this site, it is our opinion that the entire nature of our sleepy little office park will be adversely impacted. In fact, we anticipate severe problems concerning Home Depot's patrons, trash, traffic structure, hours of operation, and security issues. Moreover, without "retail" modifications to the proposed zoning ordinance pertaining to our office park, wherein we, too, are permitted to place retail tenants that complement a Home Depot type of operation, our available tenant base will be reduced even further. This would severely jeopardize the ongoing viability of our partnerships and our ground lease with the City of Hayward.

Consequently, we feel quite strongly that it is absolutely necessary that the City reconsider the proposed AT-C zoning modifications to include retail usage on sites less than five acres. Moreover, in accordance with Section 5.7 of our ground lease, it appears that the City is required, if necessary, to cooperate with us in obtaining conditional use permits and/or re-zoning. The City's approval of "retail" zoning would not only help to insure the ongoing viability of the ground leases, but it would also increase ground lease rental participation income and provide additional sales tax revenues to the City.

Therefore, please be advised that we are in disagreement with the pending AT-C zoning revisions, as they currently stand, and without modifications to same, we are opposed to the establishment of a Home Depot on the adjacent land parcel. We stand ready to meet with you, the Planning Commission and/or the City Council to discuss this matter further, and would appreciate notice as to when the next forum will be available to address our concerns.

Sincerely,

WATT COMMERCIAL PROPERTIES



David R. Eshelman  
Vice President

cc: James Maginn  
Richard Heller  
Mary Hoopes

pm

**John W. Kyle**  
22638 Teakwood St.  
Hayward, Ca. 94541  
Home Phone (510) 782-7612

November 10, 1998

Dyana Anderly, Dev. Review Services Admin.  
Charles P. Mullen, Associate Planner  
City of Hayward,  
777 'B' Street  
Hayward, Ca. 94541

Ms. Anderly, Mr. Mullen,

Today I had opportunity to review the proposed changes to the AT-C zoning changes as proposed.

I notice that where previously restaurants identified as 'fast food' types were prohibited the new regulations limit the restriction to those identified as 'drive-through'. I would object to this new description as being insufficient to preclude those whose services are heavily involved in 'take out' orders. Too many take out orders are eaten in the parking lots with the result that wind blown debris scatters to the detriment of neighbors' peaceful (aesthetic) use of their dwelling place.

Recognizing that many food service operations of the type which Haywardites describe as being 'sit down restaurants' provide doggie bags or engage in direct sale of take out orders some further means of dealing with my objection seems in order.

Try these 'on for size'.

*what (?)*  
"Prohibit sale of take out orders of a type which might be eaten in autos without cutlery."

Or,

"prohibit sale of take out orders of a type described and commonly accepted as finger food"

Further,

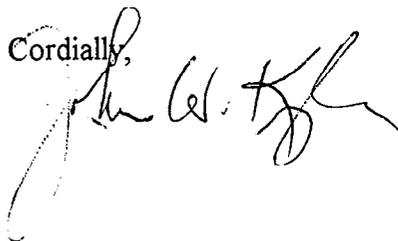
"prohibit sale of take out orders of menu items which are individually pre-cooked and paper wrapped"

Perhaps,

"excluding take out food orders which involve hamburgers, hot dogs and soft drinks"

Thanks for understanding the concern.

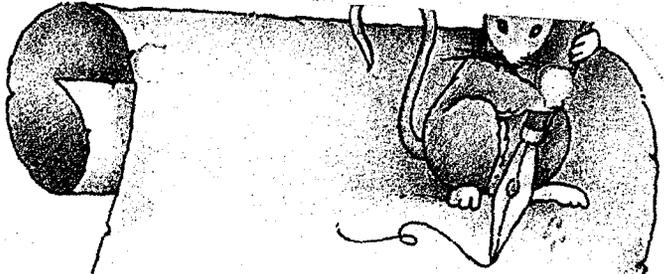
Cordially,



**RECEIVED**

NOV 13 1998

DEVELOPMENT REVIEW SERVICES



Tom Von Eckardt

10/7/98

(CHARLES MULLER),

I JUST READ THE LETTER TO  
THE EDITOR IN THE REVIEW.

PLEASE STAY THE COURSE.  
YOU FOLK ARE RIGHT ON.



RECEIVED

OCT 13 1998

DEVELOPMENT IN THE UNITED STATES



October 8, 1998

Mr. Charles Mullen, Associate Planner  
City of Hayward  
777 B Street  
Hayward, CA 94541-5007

Dear Mr. Mullen:

If Ken Harmeyer's letter in the *Daily Review* is correct you are in the process of drawing up plans to restrict the building of churches within a large segment of the City of Hayward. If that is the case I would encourage you to seriously question the wisdom of such a decision.

The churches of Hayward have offered much to the moral and civil climate of this city. In our churches we are encouraged to be followers of a God who teaches us that we are to be law-abiding citizens, moral, supporters of government by prayers and paying taxes. We are also places of hope and comfort at times of needs and distress. Many of our churches assist the homeless with shelter and food, provide treatment for those with special needs such as substance abuse, divorce, and loss of a loved one.

Zoning restrictions, in part, are meant to keep out undesirable businesses from an area in order to protect that area. Why would one wish to restrict the construction of churches from an area in our city? With all the good that we perform, what would make us so undesirable?

If such a zoning law is in the works, I would encourage you, your department and the City Council to turn your focus to better goals.

Thank you for your time.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Larry M. Fryling".

Larry M. Fryling,  
Pastor

**RECEIVED**

OCT 09 1998

DEVELOPMENT REVIEW SERVICES

25927 Kay Avenue • Hayward, California 94545  
Phone: 510-782-6010 • Fax: 510-782-2845



A CHRISTIAN REFORMED CHURCH

Kenneth P. Harmeyer  
23845 Ida Lane  
Hayward, CA. 94541  
(510) 805-6834

Mr. Mullen:

Thank you very much for taking the time to talk with me today. Seeing the map with the colors helped a lot. You seemed perplexed that I would be worried about an area that my church is not in. As a Christian I feel it is part of my responsibility to be involved, and I will fight for the rights of all Christians.

I am very concerned that the city would consider not letting churches open, but not tell other businesses not to open. An example would be this. A church would not be allowed to open, but a occult bookstore would. This is not fair nor is it equitable. I understand that the idea behind it was to get more retail business in the downtown area. However, I have seen many stores and buildings empty for years. At least if a church were to move in the building would be rented. If a church were to rent some space downtown, at least there would be people in the area. I see this as a way to start restricting churches all over Hayward. You start with the downtown area, then move out from there. I lived in a Totalitarian regime for four years, they would start some new restrictive law just as the City of Hayward is starting. That way by the time people noticed they had no rights it was too late.

I would very much like to be involved in the plans for the area. I also would very much like to be included on the mailing list for this problem.

Sincerely

  
Kenneth P. Harmeyer

**RECEIVED**

SEP 24 1998

DEVELOPMENT REVIEW

**AGENDA REPORT  
PLANNING COMMISSION ■ CITY OF HAYWARD**

MEETING OF  
September 10, 1998

TO: Planning Commission

FROM: Charles P. Mullen, Associate Planner

SUBJECT: ZONING ORDINANCE UPDATE - TEXT AMENDMENT NO. 98-140-04  
- CITY OF HAYWARD (APPLICANT)

**RECOMMENDATION:**

That the Planning Commission make suggestions and comments on the issues being raised by staff as potential amendments to the Zoning Ordinance.

**DISCUSSION:**

The attached *Administrative Draft Zoning Ordinance* update reflects many comments and suggestions from City staff, the Planning Commission and City Council made over the past two years. While it would be too difficult to itemize every change to the Zoning Ordinance, a general summary of the substantive changes and revisions proposed by staff is provided below. In addition staff is seeking Planning Commission comment on several issues listed below such as Site Plan Review of all industrial buildings, a prohibition on use of shipping containers for outside storage and on revised livestock regulations.

**Focus Issues**

- It is recommended that "Thrift Stores" and "Religious Facilities" be deleted from the Central City-Commercial and Plaza (CC-C & CC-P) Districts. Staff also recommends specifically disallowing "Consignment Stores" in the CC-C & CC-P Districts.
- A limit to the height of buildings in the CC-C district around the new City Hall building is recommended. Currently there is a provision to allow an additional story beyond the maximum height limit if the building lot coverage is reduced. It is recommended that this extra height allowance not be available to buildings immediately surrounding City Hall. This change would require a revision to the "Building Heights" section of the Downtown Hayward Design Plan. Necessary amendments to the downtown plan would be processed concurrently with the Zoning Ordinance.
- The use of Floor Area Ratio (FAR) standards to regulate height, bulk and density of residential buildings has come up in public hearing discussions. Staff believes the use of design criteria (already in place) and setback standard (proposed below) are easier to use and can achieve the purposes of a FAR.

- A proposed recommendation to the single-family residential district would require that at least one side of a second story single-family home be stepped in 5 feet.
- It is recommended that the Planning Commission provide feedback on eliminating the truck parking requirement for restaurants in the Industrial District. Staff has observed that this requirement discourages many restaurants from locating in the Industrial District.
- It is recommended that the Planning Commission provide feedback on requiring Site Plan Review of Industrial buildings to promote quality building designs, particularly at prominent and highly visible locations in the City. Currently only industrial buildings for those uses requiring an Administrative or Conditional Use Permit allow the City to review the building design.
- Staff is currently reviewing state law regarding regulation of group homes and residential family care facilities. Local regulation of some residential care facilities has been preempted by state law, however, there does appear to be room to regulate certain types of licensed residential care facilities. Recommendations in this area may be presented with the final Zoning Ordinance version or sometime soon thereafter.

New Sections and Zoning Districts:

- A "Public Facilities" zoning district has been created to be consistent with the General Policies Plan and Map. Eventually, all public facilities, such as post offices, schools, CSUH, and City Hall can be identifiably zoned "PF" on the Zoning Map.
- Per the South of Route 92 Specific Plan, four new zoning districts were created and are included in this document (e.g., the Commercial Retail, Business Park, Light Manufacturing, Planning/Research and Development and Open Space districts). The new districts have been slightly modified and reformatted to be consistent with other reformatted districts.

Design and Performance Standards:

- Design and Performance Standards have been updated and expanded to include frequently used general regulation requirements and other frequently applied standards.
- Several specific recommended additions to the commercial and industrial districts design and performance standards include the following:
  - ✓ Criteria and standards for detached accessory buildings, including but not limited to carports, garages, greenhouses, patio covers, sheds, etc.
  - ✓ Criteria and standards for accessory structures, including but not limited to arbors, rain and shade covers and tents, trellises, etc.
  - ✓ Criteria and standards for decks and ramps.
  - ✓ Criteria and standards for drive-through Coffee/Esspresso Shops.

Commercial Districts:

- A change requiring an Administrative Use for a "Check Cashing Store" rather than allowing it to remain as a Primary Use is proposed. This would allow staff to review for land use compatibility issues.
- The addition of day care centers to the Commercial Office (CO) District has been requested by a private party to be added to the list of primary uses. While staff supports the addition of day care centers in the CO District we believe it should be subject to an Administrative Use Permit, to allow review for land use compatibility issues.

Industrial District:

- Retail sales of commodities produced or distributed on-site would be allowed with no permit, up to 10% of floor area (currently requires Administrative Use Permit).
- Weekend retail sales of goods manufactured or warehoused on the premises are proposed to be allowed year-round (currently only 4 times/year).
- RV Storage and Public Storage facilities are proposed to require a Conditional Use Permit (currently, RV Storage requires an Administrative Use Permit as "outdoor storage", and Public Storage is principally permitted as "warehousing").
- Regional marketing retail uses are proposed to be permitted on a 4-acre parcel visible from 880 or 92 with a Conditional use Permit (currently is 8 acres).
- Plant nurseries, (plants) are proposed to be permitted on a +2-acre parcel located on an arterial street with a Conditional Use Permit (currently not allowed).
- It is recommended that the Planning Commission provide feedback on prohibiting the use of shipping storage containers for outside storage (currently the Ordinance is silent on this issue).

Airport Terminal District

- For the "Airport Terminal - Commercial" (AT-C) zone, a broader use list (including retailing, manufacturing and warehousing) has been requested by a private party. Expansion of retail uses is supported but not manufacturing and warehousing. Staff believes that the sites in this zone are too visible along Hesperian Boulevard and are best devoted to office, research/development, and retail uses. However, the "electronics assembly" use that is currently listed could remain. Additional retail uses are proposed to be added to the AT-C.

Livestock and Animal Regulations:

The Hayward Highlands Neighborhood Plan, adopted by the City Council on February 24, 1998, addresses the issue of livestock regulations and contains the following strategy concerning the keeping of livestock:

*Strategy 4.1 Recommend that the City Council adopt guidelines for the keeping of livestock in the residential zones of the City of Hayward and maintain current legal, non-conforming uses.*

The Hayward Highlands Task Force recommended standards and guidelines to provide for greater control of livestock uses in these areas. Given the existence of other areas in the City where application of such guidelines might be appropriate, the City Council directed staff to review the Task Force recommendations and prepare possible revisions to the existing livestock regulations for further consideration that would have city-wide application.

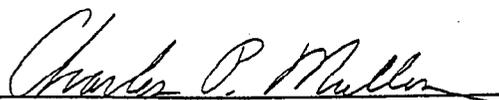
Staff concluded that greater clarification is needed in existing regulations contained in the Zoning Ordinance. In addition, staff found that some of the features contained in the animal regulations of other jurisdictions may be appropriate for inclusion in the Animal Control Regulations section of the Hayward Municipal Code. However, any revisions to regulations pertaining to household pets and other domestic animals will require further discussion and analysis and will be processed separately.

The proposed amendments to livestock regulations as contained in the Zoning Ordinance serve to clarify the definitions of livestock and other animals covered by existing ordinances, revise the types of permits required for the keeping of certain animals, allow consideration of additional residential zoning districts for the keeping of certain animals, and add specific guidelines for the maintenance of livestock and other animals. One of the more significant changes would allow for the keeping of medium livestock (e.g., sheep and goats) and large livestock (e.g., horses and cows) in the RS zoning district, on at least half-acre parcels, under certain conditions and with approval of an Administrative Use Permit. Another significant change would reduce the minimum parcel size for the keeping of medium livestock from 20,000 square feet to 10,000 square feet. Other changes primarily involve the addition or clarification of minimum requirements for the maintenance of livestock.

The primary area of disagreement centers on staff's continued commitment to requiring an Administrative Use Permit for the keeping of livestock in residential zones. Livestock owners believe that adherence to the proposed standards and guidelines for the keeping and maintenance of animals will be sufficient. There is also disagreement on the need for specific limits governing the maximum number of animals that can be kept on a parcel (e.g., one horse per 20,000 square feet of land). Livestock owners believe that a minimum parcel size, along with standards for minimum available open area, should be sufficient.

A work session is being held with City Council on September 15 to discuss amendments to the Zoning Ordinance. Staff will also be arranging meetings with the Chamber of Commerce and other persons/agencies/business who would be affected by Zoning Ordinance amendments.

Prepared by:

  
\_\_\_\_\_  
Charles P. Mullen, AICP  
Associate Planner

Recommended by:



Dyana Anderly, AICP  
Development Review Services Administrator

Attached Exhibits:

Zoning Ordinance - Administrative Draft Clean Copy Version June 1998

Zoning Ordinance - Administrative Strike-Out Version June 1998

Draft Livestock and Animal Regulations (located at the inside binder pocket)

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# CITY OF HAYWARD AGENDA REPORT

ATTACHMENT F

AGENDA DATE September 15, 1998

AGENDA ITEM \_\_\_\_\_

WORK SESSION ITEM WS#2

**TO:** Mayor and City Council

**FROM:** Director of Community and Economic Development

**SUBJECT:** ZONING ORDINANCE UPDATE - TEXT AMENDMENT NO. 98-140-04 -  
CITY OF HAYWARD, APPLICANT

## RECOMMENDATION:

That the City Council make suggestions and comments on the issues being raised by the Planning Commission and staff as potential amendments to the Zoning Ordinance.

## DISCUSSION:

At a work session held by the Planning Commission on September 10, 1998, Commissioners discussed the following policy issues.

- **The possibility of requiring site plan review for proposed industrial developments that do not meet minimum development standards.**

One of the suggested changes to the Zoning Ordinance is to require site plan review for new industrial developments that do not meet minimum development standards and to provide input on what these standards should be. During the public comment portion of the meeting, industrial developer Sherman Balch urged the Planning Commission not to apply another layer of review to industrial development. He said that although he supports good industrial design, other methods might be employed such as deed restrictions or covenants. The consensus of Planning Commissioners was that there should be a provision for good design in the Industrial District but that the process to improve design should not slow the review process. One Commissioner suggested looking at specific areas within Hayward where industrial development standards would be applied, and one Commissioner suggested looking at methods to expedite the process for approving industrial development.

- **Eliminating thrift stores, consignment stores and churches in the Central City area.**

The Planning Commission brought up several issues both in support and in opposition to the suggestion to eliminate thrift stores, consignment stores, and churches from the Central City area. Some commissioners recognized that elimination of these uses would be in keeping with the established goal for the downtown to create a vibrant retail center.

**Mayor and City Council  
Meeting of September 15, 1998**

One Commissioner said that the suggested amendment to eliminate thrift stores might be discriminatory in that these uses serve a need for a segment of the population who may be less fortunate than others. Another mentioned that it would be difficult to regulate consignment stores since some tend to carry high-end merchandise and others deal in goods more in keeping with thrift stores.

▪ **Providing for childcare opportunities in the Commercial Office District.**

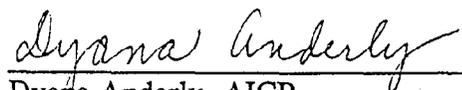
The proposed amendment to the Zoning Ordinance provides for child care as a use permitted upon approval of an administrative use permit. No objections were raised by Planning Commissioners to allow childcare in the Commercial Office District, and one Commissioner said she heartily supports childcare opportunities in Hayward. The consensus of the Planning Commission was that an administrative use permit should be required to ensure compatibility with adjacent uses and that the property under consideration can provide safe drop-off areas and adequate play areas. During the public comment portion of the work session, Michael Kaplan, a childcare provider, appeared in support of the amendment to allow child care in the Commercial Office District but objected to a discretionary review process by the City.

▪ **Allowing regionally serving commercial centers on parcels of at least four acres that are freeway-accessible in the Industrial District.**

Currently the Zoning Ordinance allows regionally serving commercial centers in the Industrial District on parcels that are at least eight acres. Staff has reviewed the potential for this type of development and has determined that reducing the minimum acreage to four would provide more opportunities for this type of development along Hayward's freeway frontages in the Industrial District.

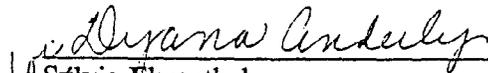
Planning Commissioners expressed a desire to devote more time to reviewing the Zoning Ordinance amendments and requested devoting an evening to the effort. Staff indicated that, following the City Council work session and meetings with the Chamber of Commerce and neighborhood groups, another work session would be held with the Planning Commission.

**Prepared by:**

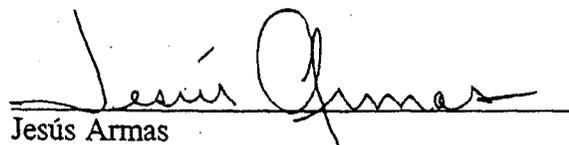
  
\_\_\_\_\_  
Dyaná Anderly, AICP  
Development Review Services Administrator

**Mayor and City Council  
Meeting of September 15, 1998**

**Recommended by:**

  
\_\_\_\_\_  
Sylvia Ehrenthal  
Director of Community and Economic Development

**Approved by:**

  
\_\_\_\_\_  
Jesús Armas  
City Manager

**Exhibit:**

Planning Commission Staff Report, dated September 10, 1998



ATTACHMENT G

CITY OF  
**HAYWARD**  
HEART OF THE BAY

**INVITATION TO COMMENT ON PROPOSED  
ZONING ORDINANCE UPDATE**

**Date:** November 6, 1998

**To:** Neighborhood Plan Task Force Members  
Homeowner Associations  
Livestock Focus Group

**From:** Dyana Anderly, Development Review Services Administrator *DA*  
Charles P. Mullen, Associate Planner *CPM*

**Subject:** Zoning Ordinance Update

The City of Hayward staff is in the process of preparing a comprehensive update of the Zoning Ordinance. We are inviting you to attend this meeting to review the proposed Zoning Ordinance amendments. The attachment summarizes the major proposed changes. The meeting will be held on:

**Monday, November 16, 1998**  
**7:30 - 9:00 PM**  
**Hayward City Hall**  
**Work Session Conference Room 2-A**  
**777 B Street**  
**Hayward, CA 94541**

Please call Kimberly Bridges at (510) 583-4200 to let us know if you are coming. If you would like more information about this topic, please contact Charles Mullen, Associate Planner, at (510) 583-4209 or Email comments to [charliem@ci.hayward.ca.us](mailto:charliem@ci.hayward.ca.us).

We anticipated that the Zoning Ordinance update will be reviewed at work sessions with the Planning Commission and City Council in early 1999.

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
DEVELOPMENT REVIEW SERVICES

777 B STREET, HAYWARD, CA 94541-5007  
TEL: 510/583-4200 • FAX: 510/583-3649 • TDD: 510/247-3340

## SUMMARY OF PROPOSED ZONING ORDINANCE CHANGES

The Zoning Ordinance update reflects many comments and suggestions from the Planning Commission and City Council made over the past two years. While it would be too difficult to itemize every change to the Zoning Ordinance, a general summary of the substantive changes and revisions proposed by staff are provided below. Copies of the draft Zoning Ordinance Update are available for review at the Main City Library and Development Review Services Division office at City Hall.

### New Sections and Zoning Districts:

- A "Public Facilities" zoning district has been created to be consistent with the General Policies Plan and Map. Eventually, all public facilities, such as post offices, schools, CSUH, and City Hall can be identifiably zoned "PF" on the Zoning Map.

### Design and Performance Standards:

- Design and Performance Standards have been updated and expanded to include frequently used general regulation requirements and other frequently applied standards.
- Several specific recommended additions to the commercial and industrial districts design and performance standards include the following:
  - ✓ Criteria and standards for detached accessory buildings, including but not limited to carports, garages, greenhouses, patio covers, sheds, etc.
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### Residential Districts:

- A proposed recommendation to the single-family residential district would require that at least one side of a second story single-family home be stepped in 5 feet.
- Staff is currently reviewing state law regarding regulation of group homes and residential family care facilities. State law has preempted local regulation of some residential care facilities, however, there does appear to be room to regulate certain types of licensed residential care facilities. Recommendations in this area may be presented with the final Zoning Ordinance version or sometime soon thereafter.

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