



CITY OF
HAYWARD
HEART OF THE BAY

CITY COUNCIL AGENDA

MAY 3, 2011

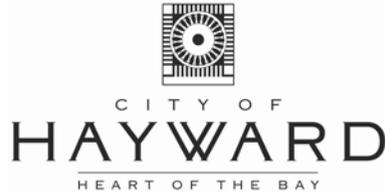
**MAYOR MICHAEL SWEENEY
MAYOR PRO TEMPORE FRANCISCO ZERMEÑO
COUNCIL MEMBER BARBARA HALLIDAY
COUNCIL MEMBER OLDEN HENSON
COUNCIL MEMBER BILL QUIRK
COUNCIL MEMBER MARVIN PEIXOTO
COUNCIL MEMBER MARK SALINAS**

Table of Contents

Agenda	3
Discussion of Proposed FYs 2012 and 2013 Water and Sewer Rates and Connection Fees	
Staff Report	7
Attachment I - Proposed Water Rate Adjustments	20
Attachment II - Proposed FY 2012 Water Rate Comps	21
Attachments III - Water Fund Working Capital	24
Attachment IV - Working Capital Balance Charts (Sewer)	25
Attachment V - Sewer Rate Comparisons	26
Attachment VI - Water Connection Fee Comparison	27
Attachment VII - Sewer Connection Fee Comps	28
Approval of Minutes of the Special City Council/Housing Authority Meeting on April 9, 2011	
Draft Minutes	29
Authorization for the City Manager to Execute a Professional Services Agreement for Programmable Logic Controller (PLC) and Supervisory Control and Data Acquisition (SCADA) Programming for the Installation of Emergency Sudden Loss Valves at Various Locations Project	
Staff Report	39
Attachment I - Resolution	42
Authorization for Professional Auditing Services Contract with Maze & Associates	
Staff Report	43
Attachment I Resolution.	46
Assignment of Cinema Place First Amended Ground Lease and Approval of Second Amendment of Lease Between Hayward Cinema Place, LLC and Century Theatres, Inc.	
Staff Report	47
Attachment I Resolution Assigning Ground Lease	52
Attachment II Resolution Accepting Assignment of Ground Lease.	53
Attachment III Resolution Approving Lease Amendment	54
Attachment IV Proposed Second Lease Amendment.	55
Attachment V Keyser Marston Analysis.	58
Route 238 Corridor Improvement Project: Approval of a Contract for Adaptive Traffic Management System Software	
Staff Report	60
Attachment I - Resolution	63
Master Fee Schedule/Fine and Bail Update	
Staff Report	64
Attachment I Resolution.	73
Attachment II Fine and Bail Schedule.	76

Request to Change the General Plan designation from Medium Density Residential to High Density Residential and to Change the Zoning from Medium Density Residential to Planned Development to Accommodate Twenty-two Affordable Senior Housing Rental Units Proposed at the corner of B and Grand Streets - General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369 - Eden Housing (Applicant); Hayward Redevelopment Agency/City of Hayward (Owner)

Staff Report	78
Attachment I Resolution.	83
Attachment II Ordinance	97
Attachment III Project Plans.	99
Attachment IV March 22 Report.	105
Disposition and Development Agreement between the City of Hayward and Eden Housing, Inc. ("Eden") for the "B" and Grand Senior Housing Project	
Staff Report	200
Attachment I - Map	204
Attachment II - Resolution.	205
Attachment III - Site Elevation.	208
Adoption of Interim Moratorium Ordinance Regarding Supermarkets	
Staff Report on Moratorium	209
Attachment I - Interim Urgency Ordinance	212
Attachment II - Agenda Report 4-26-11.	215



CITY COUNCIL MEETING FOR TUESDAY, MAY 03, 2011

CLOSED SESSION
Closed Session Room 2B – 4:00 PM

1. **PUBLIC COMMENTS** (*Limited to items agendaized for Closed Session*)
2. Conference with Labor Negotiators
Pursuant to Government Code 54957.6
 - Lead Negotiators: City Manager David, City Attorney Lawson, Assistant City Manager Morariu, Human Resources Director Robustelli, and Interim Finance Director Stark
 - Under Negotiation: All Bargaining Units
3. Conference with Real Property Negotiators
Pursuant to Government Code 54956.8
 - Lead Negotiators: City Manager David, City Attorney Lawson, Assistant City Manager Morariu; and Project Manager DeClerq
 - Under Negotiation: South Hayward BART Transit Oriented Development Project
APN 078C-0441-001-29 and 078C-0441-001-28
APN 078C-0441-001-16 and 078C-0441-001-17
APN 078C-0441-001-23
4. Conference with Legal Counsel
Pursuant to Government Code 54956.9
 - Anticipated Litigation (One Case)
5. Adjournment to Special Meeting

**SPECIAL JOINT CITY COUNCIL/REDEVELOPMENT AGENCY/HOUSING AUTHORITY
MEETING**

Council Chambers - 7:00 PM

CALL TO ORDER Pledge of Allegiance Council Member Peixoto

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PRESENTATION Business Recognition Award

PROCLAMATION Bike to Work Day

HAYWARD CITY COUNCIL, 777 B STREET, HAYWARD, CA 94541
[HTTP://WWW.HAYWARD-CA.GOV](http://www.hayward-ca.gov)

MAY 3, 2011

PUBLIC COMMENTS: *(The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Work Session, or Informational Staff Presentation items. The Council 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 Council 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.)*

NON-ACTION ITEMS: *(Work Session and Informational Staff Presentation items are non-action items. Although the Council may discuss or direct staff to follow up on these items, no formal action will be taken. Any formal action will be placed on the agenda at a subsequent meeting in the action sections of the agenda.)*

WORK SESSION (60-Minute Limit)

1. Discussion of Proposed FY 2012 and FY 2013 Water and Sewer Rates and Connection Fees
 - [Staff Report](#)
 - [Attachment I - Proposed Water Rate Adjustments](#)
 - [Attachment II - Proposed FY 2012 Water Rate Comps](#)
 - [Attachments III - Water Fund Working Capital](#)
 - [Attachment IV - Working Capital Balance Charts \(Sewer\)](#)
 - [Attachment V - Sewer Rate Comparisons](#)
 - [Attachment VI - Water Connection Fee Comparison](#)
 - [Attachment VII - Sewer Connection Fee Comps](#)
-

ACTION ITEMS: *(The Council will permit comment as each item is called for the Consent Calendar, Public Hearings, and Legislative Business. In the case of the Consent Calendar, a specific item will need to be pulled by a Council member in order for the Council to discuss the item or to permit public comment on the item. Please notify the City Clerk anytime before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.)*

CONSENT

2. Approval of Minutes of the Special City Council/Housing Authority Meeting on April 9, 2011
 - [Draft Minutes](#)
3. Authorization for the City Manager to Execute a Professional Services Agreement for Programmable Logic Controller (PLC) and Supervisory Control and Data Acquisition (SCADA) Programming for the Installation of Emergency Sudden Loss Valves at Various Locations Project
 - [Staff Report](#)
 - [Attachment I - Resolution](#)



4. Authorization for Professional Auditing Services Contract with Maze & Associates
[Staff Report](#)
[Attachment I Resolution](#)

 5. Assignment of Cinema Place First Amended Ground Lease and Approval of Second Amendment of Lease Between Hayward Cinema Place, LLC and Century Theatres, Inc.
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[Attachment I Resolution Assigning Ground Lease](#)
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[Attachment IV Proposed Second Lease Amendment](#)
[Attachment V Keyser Marston Analysis](#)

 6. Route 238 Corridor Improvement Project: Approval of a Contract for Adaptive Traffic Management System Software
[Staff Report](#)
[Attachment I - Resolution](#)
-

The following order of business applies to items considered as part of Public Hearings and Legislative Business:

- *Disclosures*
 - *Staff Presentation*
 - *City Council Questions*
 - *Public Input*
 - *Council Discussion and Action*
-

PUBLIC HEARING

7. Master Fee Schedule/Fine and Bail Update – *Continued from April 26, 2011*
[Staff Report](#)
[Attachment I Resolution](#)
[Attachment II Fine and Bail Schedule](#)

8. Request to Change the General Plan designation from Medium Density Residential to High Density Residential and to Change the Zoning from Medium Density Residential to Planned Development to Accommodate Twenty-two Affordable Senior Housing Rental Units Proposed at the corner of B and Grand Streets - General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369 - Eden Housing (Applicant); Hayward Redevelopment Agency/City of Hayward (Owner) – *Continued from April 19, 2011*
[Staff Report](#)
[Attachment I Resolution](#)
[Attachment II Ordinance](#)
[Attachment III Project Plans](#)
[Attachment IV March 22 Report](#)



LEGISLATIVE BUSINESS

9. Disposition and Development Agreement between the City of Hayward and Eden Housing, Inc. ("Eden") for the "B" and Grand Senior Housing Project – *Continued from April 19, 2011*
[Staff Report](#)
[Attachment I - Map](#)
[Attachment II - Resolution](#)
[Attachment III - Site Elevation](#)
10. Adoption of Interim Moratorium Ordinance Regarding Supermarkets of 20,000 Square Feet or More or Any Retail Store Containing at Least 20,000 Square Feet of Area Devoted to Sale of Grocery or Non-Taxable Items – *Continued from April 26, 2011*
[Staff Report on Moratorium](#)
[Attachment I - Interim Urgency Ordinance](#)
[Attachment II - Agenda Report 4-26-11](#)

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Oral reports from Council Members on their activities, referrals to staff, and suggestions for future agenda items

ADJOURNMENT

PUBLIC COMMENT RULES: The Mayor 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 or organization. Speakers will be asked for their name and their address before speaking and are expected to honor the allotted time. A Speaker's Card must be completed by each speaker and is available from the City Clerk at the meeting.

PLEASE TAKE NOTICE that if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that 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.

****Materials related to an item on the agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, City Hall, 777 B Street, 4th Floor, Hayward, during normal business hours. An online version of this agenda and staff reports are available on the City's website. All Council Meetings are broadcast simultaneously on the website and on Cable Channel 15, KHRT. ****

NEXT REGULAR MEETING – 7:00 PM, TUESDAY, MAY 17, 2011

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.

MAY 3, 2011



DATE: May 3, 2011

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Discussion of Proposed FY2012 and FY2013 Water and Sewer Rates and Connection Fees

RECOMMENDATION

That Council reads and comments on this report.

SUMMARY

Staff has prepared cost of service analyses for providing water and sewer service to Hayward residents and businesses in order to calculate appropriate water rates and sewer service charges for FY 2012 and FY2013. This report provides an overview of cost of service issues, revenue requirements, and recommended FY 2012 and FY2013 water and sewer service rates. Staff is bringing the proposed rates to Council for discussion at this time in order to obtain direction and to implement appropriate public noticing procedures prior to a public hearing, currently scheduled for July 12.

The recommended adjustments would take effect on October 1 of each year. The recommended water rate increase for single-family residential customers, based on average water consumption, would be 20% in each year. Those who use less than the average water consumption would see a slightly smaller percentage increase. Comparable increases are proposed for multi-family and non-residential customers. Adjustments are recommended in FY 2012 to both the water usage rates (variable cost) and the service fee (fixed cost). The recommended residential sewer service charge adjustment is 3% in each of the two years, with average non-residential increases in the 2% to 4.5% range, depending of the nature of the discharge.

In addition to adjustments in utility service rates, staff is recommending increases in water and sewer connection fees to incorporate new projects and updated project costs. Water connection fees are proposed to increase by 6.4% in both FY 2012 and FY2013, and sewer connection fees by about 6% in FY2012. In addition to the fee adjustment, staff is proposing the establishment of a standard single-family residential water connection fee, and the extension of an interim methodology for calculating non-residential sewer connection fees, which, in some cases lowers the fee and makes Hayward a more attractive location for new businesses during the economic downturn.

BACKGROUND

Water rates are established to pay for the costs of delivering water to customers. Bimonthly water billings consist of two parts: the fixed service fee, which pays for costs that do not vary with the volume of water purchased, and the water usage fee, which pays for costs associated with consumption. The City Council approved water usage rate adjustments in July 2009 for FY2010 and FY2011, which resulted in average increases of 14% in each year. The second of these adjustments went into effect on October 1, 2010. The fixed service fee has not changed since October 2007, when the bimonthly fee for a 5/8” meter (standard for most single-family residential homes) increased from \$7 to \$9. Similar percent increases were implemented for other meter sizes.

Costs of service analyses are prepared by staff using standard industry methodologies in order to determine annual rate adjustments. Water usage rates are determined through an assessment of revenue requirements and anticipated water purchase volumes. Water service fees are calculated by dividing the number of customer meters by the costs of providing services that do not vary with volume, such as meter reading and billing.. Sewer service rate calculations follow guidelines developed by the State Water Resources Control Board, by which costs of providing service are equitably distributed among customer classes based on their use of the sewer system. Connection fees are generally determined by identifying the costs of growth-related facilities, allocating those costs between new and existing users, estimating the level of new residential and non-residential development expected to occur, and dividing the costs allocated to new customers by the expected number of new customers.

Sewer service charges are billed as standard fixed amounts for residential customers and as a cost per hundred cubic feet (ccf) of water consumed for non-residential customers, based on the nature and strength of the discharged wastewater.¹ The City Council last adopted sewer service adjustments in July 2009 for FY2010 and FY2011. The second of these was effective October 1, 2010. Customers experienced an average 5% increase in each of the two years. The recommended water and sewer service rate adjustments are developed such that costs are allocated equitably among affected customers.

Water and sewer connection fees are fees paid by those wishing to connect a new facility to the public utilities systems and, in the case of sewer connection fees, for increased discharge to the sanitary sewer system. Connection fees defray the expenses paid by customers over the years for development and improvement of the systems, which make it possible for new development to connect. The fees also cover an incremental cost of future expansion and improvements necessary to accommodate new development. The connection fees are developed using accepted procedures to ensure that costs are allocated fairly to new development.

¹ The sewer fee is based on metered water consumption. For most businesses, the majority of water purchased is ultimately discharged to the sanitary sewer, so this is a valid measure of wastewater discharge. For those businesses who purchase a significant volume of water that is not sewered (i.e., it goes into product or evaporation), we have mechanisms to account for the non-sewered water in their billing.

DISCUSSION

Water and Sewer Service Rates

Water Service Rates - Staff is recommending water rate adjustments in FY2012 and FY2013 that will result in average increases of 20% in each year for most City water customers. Increases in the water usage rates (variable component) are recommended in both years, while an adjustment to the fixed cost is suggested in the first year only. The first charge, for water usage, is based on the amount of water delivered to the customer, as measured by a water meter, and includes the City's costs that vary with the quantity delivered, such as the wholesale cost of purchasing water, utilities, and distribution system maintenance. The service fee covers costs that do not vary with quantity, such as meter reading, billing, customer service, and debt service obligations.

The proposed water usage fee increases are primarily necessitated by San Francisco Public Utilities Commission (SFPUC) proposed wholesale water rate increases, water consumption trends, and, to a much smaller extent, by normal operating, maintenance and replacement costs. SFPUC, which provides 100% of Hayward's water supply, has proposed a 47.4% wholesale rate increase, from the current \$1.90 per ccf (approximately 750 gallons) to \$2.80 per ccf, effective July 1, 2011, with the potential for a further increase to \$2.90 on January 1, 2012 if water consumption through December 2011 falls below a certain threshold. SFPUC will review this proposed rate and act on it in June. The actual approved rate could be different from what is proposed; however, this is the best available information at this time. The rate adjustment for FY 2013 is as yet unknown but could be in the 6% to 10% range.

The magnitude of the SFPUC rate adjustment for FY 2012 is unprecedented. As a point of reference, when the City Council last considered water usage rates in July 2009, SFPUC was projecting an increase of about 17% in FY 2012, followed by a 21% adjustment in FY 2013. The change can be attributed to implementation of the \$4.3 billion Water System Improvement Program, which is well underway, with the attendant costs associated with project construction, coupled with much lower-than-anticipated water consumption.

Regional water systems, including Hayward, have supported SFPUC's efforts to improve the reliability and structural integrity of the regional water system, with the understanding that the costs would be reflected in the wholesale rate. Looking to the future, the most current information from SFPUC is that the percentage increases will vary from year to year, with an expected wholesale rate of \$4.44 by FY 2021. Wholesale water consumption, which has declined recently, also plays a role. Each year, SFPUC identifies a certain amount of revenue that it must collect from wholesale customers. When the actual purchases fall short of the projections, SFPUC has the contractual right to recover the revenue in future rates. It is important to note that as the cost of wholesale water increases, agencies with diversified water supplies have some flexibility in reducing water purchases from SFPUC and substituting with water from other sources, such as State water or groundwater. As they do that, the overall purchases (i.e., "consumption") from SFPUC would decrease, which, in turn, would result in higher cost for all SFPUC wholesale customers, including Hayward.

As with the wholesale rate, water consumption is a key component of the City's water usage fee calculation. Consumption is difficult to forecast with certainty because it is impacted by unknowable factors, such as weather conditions and business activities, as well as by cost. For example, Hayward, like other area water purveyors, experienced an 8% reduction in water consumption in FY 2010, and, to date in FY 2011, there has been a further reduction of 1.5%. Therefore, staff has been conservative in its estimates for the next two years, assuming that consumption will remain flat for the next two years.

Service fees are the fixed component of the water bill and are primarily affected by the increased costs of providing water services that are unrelated to the quantity of water delivered. In order to keep pace with rising costs, staff is proposing to increase the service fee for the first time since 2007. It should be noted that, even with the proposed increase, the City's service fee would remain at the low end of the industry recommended range, and among the lowest in the area.

The following tables summarize the proposed water rates for FY 2012 and FY 2013 for residential and non-residential customers. (Note that water usage is charged on a per ccf basis. One ccf is about 750 gallons, or the equivalent of average consumption for three and a half days in a Hayward home.)

**Residential Water Usage Rates (Single Family and 2-4 Unit Properties)
Per Two-Month Billing Period**

Tier	Current	Proposed FY 2012	Proposed FY 2013
1 – 8 ccf	\$2.90	\$3.30	\$4.05
9 – 25 ccf	\$3.40	\$4.10	\$5.05
26 – 60 ccf	\$4.25	\$5.15	\$6.25
Over 60 ccf	\$4.65	\$5.65	\$6.80

**Non-Residential Water Usage Rates (Includes Multi-Family and Mobile Home Parks)
Per Two-Month Billing Period**

Tier	Current	Proposed FY 2012	Proposed FY 2013
1 – 200 ccf	\$3.65	\$4.30	\$5.15
Over 200 ccf	\$4.20	\$5.05	\$6.10

Bimonthly Service Fees (All Customers)

Meter Size	Current	Proposed FY 2012	Proposed FY 2013
Low Income Residential	\$1.45	\$2.00	Unchanged from FY 2012
5/8 inch	\$9.00	\$12.00	
3/4 inch	\$12.20	\$16.30	
1 inch	\$18.50	\$24.70	
1 1/2 inch	\$40.60	\$54.10	
2 inch	\$71.40	\$95.20	
3 inch	\$180.20	\$240.30	

Meter Size	Current	Proposed FY 2012	Proposed FY 2013
4 inch	\$357.00	\$476.00	
6 inch	\$629.80	\$839.70	
8 inch	\$871.80	\$1,162.40	
10 inch	\$1,050.40	\$1,400.00	

Attachment I provides examples of typical rate increases for both residential and non-residential customers. The proposed residential rates were calculated such that customers would see an annual average increase in the range of 19% to 21% in the first year, and 16% to 21% in the second year. (Actual billings will vary over the course of a year, depending on outdoor use, seasonal usage by business, and other factors.) The lower percentage increases would apply to customers who use lower amounts of water, while higher water use customers would see higher percent increases. The City-wide average water use for a number of years was 18 ccf (220 gallons per day).

Residential customers who use this amount on an annual average basis would see a 20% increase from the current average billing of \$66.20 to \$79.40 in FY 2012, with a further 20% increase to \$94.90 in FY 2013. It is relevant to note, however, that the average usage over the past couple of years has declined to about 17 ccf (210 gallons per day). Factoring in this reduction in average consumption, customers should see the benefit of lower use in their gross costs.

Non-residential customers, including multi-family apartment units and mobile home parks, would likewise see 18% to 21% average rate increases. Because the non-residential rate structure breaks at the 200 ccf level, water use for a number of small businesses, restaurants, and retail shops would be billed entirely at the first tier, which is set just above the second residential tier. Most billing increases to customers in this lower tier will be about 18%.

Attachment II shows how Hayward's current and proposed water rates compare to other nearby agencies. While this comparison is provided in keeping with the historic practice and the Council's desire to see how the City's rates compare with neighboring agencies, there are factors to consider in using this tool. First and foremost, none of the other agencies in this immediate vicinity are completely reliant on SFPUC water and, therefore, are not subject to the significant wholesale water rate increases that have been and will continue to be implemented by SFPUC. For example, EBMUD does not have to pay a commodity charge, per se, for raw water, and ACWD receives only 30% of its supply from the more expensive SFPUC system.

This factor will cause the gap between Hayward's water rates and those of these two neighboring water agencies to widen even further over the next few years. System size also plays a role in rate setting. EBMUD is eight times larger than Hayward Utilities, and ACWD is two and a half times Hayward's size. Therefore, both agencies should and do enjoy economies of scale resulting in lower per capita expenses.

Last but not least, an agency's rate should be considered in light of the system's performance, its operational robustness, and its flexibility to operate in both normal and emergency situations. The significant investment that Hayward has made in upgrading, maintaining, and making the system

ready for emergencies is, to some extent, reflected in the rates. Hayward's rates, which are in the mid to upper range of rates in the area, should be viewed in this perspective.

Using current water use projections, staff expects the recommended rates to generate about \$32.6 million in total revenue (water use and service fees) in FY 2012 and result in a year-end fund balance of \$8.7 million, a significant reduction of \$6.9 million or 44% in the fund. In FY 2013, the revenue is expected to total \$37.2 million, and the fund balance at the end of year is projected at \$5.6 million. Even with the proposed rate adjustments, the Water Fund will be in a deficit position for the next three years, with an anticipated \$11.1 million needed from the working capital balance to meet expenditures. After FY 2013, the ten-year plan includes 10% rate increases for two years, after which it may be possible to reduce the percentage increase. Attachment III illustrates year-end working capital balances in the recent past and projected through FY 2015.

Staff has implemented operating efficiencies to keep expenses low, and additional measures will be taken to reduce costs whenever possible. For example, requests for overtime work are scrutinized and typically require prior management approval. In addition, future vacant positions will be reviewed carefully to determine their criticality before making a decision as to whether to fill them. Staff will also continue to implement, to the degree possible, strategies to reduce energy usage and other cost reduction methods.

Staff recommends that the City's historical practice of implementing water rate adjustments on October 1 be continued so that the initial impacts occur when water consumption tends to be past the summertime peak.

Sewer Service Rates - The FY 2012 Sewer Revenue Program indicates that sewer service charge increases of 6.1% for residential customers would be appropriate in FY 2012. The monthly cost for a single-family residential customer would increase from \$25.70 to \$27.27. However, staff is proposing that this increase be implemented incrementally over the next two years, with annual residential increases of 3% per year in FY2012 and FY2013. To the extent that additional costs are incurred in FY 2013 over and above those included in the FY 2012 revenue requirements, fund reserves may be utilized. On the non-residential side, increases ranging from 4% to 9.5% would be appropriate to recover costs from this customer sector; again, staff recommends implementing the increases over two years.

As noted, the FY 2012 sewer revenue analysis indicates that a 6.1% increase in the residential rates is appropriate. Similar percentage increases are indicated for multi-family and mobile home park customers, as well as for the two lower rates, known as the lifeline and economy rates. The two reduced rates, which make the single-family sewer rates commensurate with water use, are intended to encourage water conservation and reward customers who use a low amount of water. The lower rates are automatically applied to bills for any customer whose water usage during a billing period is 0 – 5 ccf (lifeline) or 6 to 10 ccf (economy). Staff recommends that the 6.1% residential increases be phased in over two years, 3% per year.

Commercial and industrial increases would range from 4% to 9.5%, depending on the characteristics of the wastewater discharge. As with residential rates, the commercial and industrial adjustments would be implemented over two years. Staff uses actual sampling data to measure the

impact of significant industrial users on the sanitary sewer system and calculates appropriate rates based on their contributions to the system. Larger industrial customers would see average increases of about 9.5%. Other businesses, such as restaurants, would experience increases in the 4 to 6% range. As with residential rates, the commercial and industrial rate adjustments are proposed to be implemented over two years.

The following table summarizes the current and proposed monthly residential and non-residential sewer service rates.

	Current	Proposed FY 2012	% Change ⁽¹⁾	Proposed FY 2013	% Change ⁽¹⁾
Residential Rates					
Single-Family	\$25.70	\$26.47	3%	\$27.27	3%
Multiple-Family (per dwelling unit)	\$22.87	\$23.56	3%	\$24.27	3%
Mobile Home (per dwelling unit)	\$17.98	\$18.52	3%	\$19.09	3%
Economy Rate (6-10 units water)	\$15.05	\$15.50	3%	\$15.97	3%
Lifeline Rate (0 – 5 units water)	\$7.52	\$7.75	3%	\$7.98	3%
Non-Residential Rates					
Volume (per 100 cubic feet of water)	\$2.02728	\$2.13878	5.5%	\$2.25662	5.5%
Carbonaceous Biochemical Oxygen Demand (per pound)	\$0.59500	\$0.60036	0.9%	\$0.60565	0.9%
Suspended Solids (per pound)	\$0.79502	\$0.81847	3%	\$0.84229	3%
Examples of Non-Residential Fees (per 100 cubic feet of water)					
Restaurant (without grease interceptor)	\$7.86	\$8.07	2.7%	\$8.28	2.6%
Restaurant (larger restaurant w/grease interceptor)	\$5.96	\$6.13	2.9%	\$6.31	2.9%
Commercial laundry	\$4.39	\$4.54	3.5	\$4.70	3.5%

(1) Some percentages may not be exact due to rounding.

The sewer service rate increases result primarily from two factors: the rising costs of providing wastewater collection and treatment services and resumption of full funding of the Sewer System Capital Replacement Fund. Regarding the first item, anticipated expenses for operations and maintenance in FY 2012 have increased by about 4% compared to budgeted expenditures for FY 2010, when sewer service fees were last adjusted.

Regarding the capital projects funding, the amount of the transfer from the Operating Fund to the Capital Replacement Funds was temporarily decreased from the normal \$3 million to \$2 million for two years, following a two-year period (FY 2007 and FY 2008) of higher transfers of \$4 million per year. However, the full funding levels are proposed to be reinstated in FY 2012 to implement needed pipeline and facility replacement and rehabilitation projects in order to maintain the City's commitment to the State Water Quality Control Board to ensure that the wastewater collection and treatment facilities continue to perform at their optimum level and that all actions are taken to avoid

overflows and illegal discharges. Overall, the increase in expected costs that must be recovered in the sewer service fee is about \$1.5 million, or 8.6% above FY 2010.

Another critical factor that affects rates is increased residential waste strength. Waste strength is measured by two constituents: carbonaceous biochemical oxygen demand (CBOD) and suspended solids (SS). Both constituents play an important role in the cost of treating wastewater. For the City's major industries, staff samples wastewater on a regular basis so that charges for service are commensurate with actual discharge. For residential properties, staff conducts periodic sampling at several points within the service area to determine reasonable average concentrations from residential customers. Recent sampling has indicated that the residential concentrations used in previous sewer rate studies are lower than the current actual discharge. Contributing factors in this change may include the effects of water conservation and types of products used in homes.

The FY 2010 rate study used the best available data at that time, which indicated that domestic waste strength averaged 270 milligrams per liter (mg/L) for CBOD and 250 mg/L for SS. The more recent data indicates that concentration levels for CBOD and SS are 307 and 258 mg/L respectively. While it can be argued that residential water use has also decreased, this decrease has primarily been in outdoor usage, so the impact on the sewer system flow has not been significant enough to justify an adjustment below current assumptions. The waste strength changes, which have been incorporated into the FY 2012 rate analysis, have a direct impact on the residential rates by shifting a larger portion of treatment costs to residential users. This is, in part, why some of the non-residential rate increases are slightly lower percent-wise than the residential increases.

At the same time, the rates continue to be impacted by ongoing changes in the industrial wastewater characteristics and volume. Specifically, improvements that several major industries have made or are in the process of making, to their pretreatment processes, have resulted in a decline in sewer revenue from this sector. Staff first noted this trend several years ago, with the implementation of effective pretreatment at Pepsi and Berkeley Farms. Now, other businesses, such as Azuma Foods and Discovery Foods, are also discharging less to the system due to water conservation and pretreatment efforts. Another important factor is the closing or relocation of some businesses, including one significant industrial customer, Kobe Precision, which also results in a decrease in general commercial water use.

The proposed rates are expected to generate about \$17.5 million in revenue in FY 2012 and about \$18 million in FY 2013, assuming an effective date of October 1. However, the revenue forecast is subject to change due to variations in industrial activities, business closures, and water conservation/pretreatment measures that some businesses may implement to reduce their costs. Even with these rate increases, staff anticipates a \$2.7 million revenue shortfall over the next two years. The shortfall is proposed to be covered by the use of some of the Sewer Fund working capital, in order to keep the needed rate increases to a minimum. Looking beyond FY 2013, staff anticipates at this point that further increases of 3% each year in FY 2014 and FY 2015 will be needed in order to maintain a reasonable fund balance. Attachment IV graphs the year-end working capital balances in recent years and projected through FY2015.

Attachment V provides comparisons of Hayward’s current and proposed residential sewer rates to other nearby agencies. Many of the caveats discussed in the water rate comparisons would apply to the sewer rates as well, without of course, the discussion of commodity costs.

Water and Sewer Connection Fees

Water Connection Fees - The connection fee analysis indicates that it is appropriate to adjust water facilities fees by 13.2%, entirely resulting from additional new projects and updated project costs for water system improvements. The projects that have been included in the fee calculation will add system capacity to meet future demand, maximize storage capacity, and improve system reliability. In order to lessen the impact of the water connection fee on new development, staff recommends implementing the increase over two years, with 6.6% increases in each year.

A complicating factor this year is related to water service in new single-family homes. Until recently, the vast majority of new homes required a 5/8-inch meter, the smallest and least costly meter size. However, effective January 1, new fire code regulations mandate that newly constructed residential units have fire sprinklers, which typically require a 1-inch meter at a considerably higher cost. Staff considered how to address this issue fairly, such that homes needing a larger meter solely to meet fire sprinkler requirements would not be burdened with the cost of a 1-inch meter but would still pay a fair share of the water system improvements. To that end, staff is proposing that a uniform water facilities fee be adopted for all new single-family residential construction up to 1-inch.

Staff has calculated a fee of \$8,106 for single-family residential properties, based on the weighted average of the 5/8-inch, 3/4-inch and 1-inch meter fees recently installed. For example, in recent years, approximately 70% of the meters installed in single family homes are 5/8-inch, so the fee for this size was assigned a greater weight in the calculation. Thus, all new single-family residential homes would be charged the \$8,106 fee for any meter size up to 1-inch. Again, this fee would be implemented over two years. Note that if a 5/8-inch or 3/4-inch meter is sufficient, such as in the case of a remodel where no fire sprinkler is needed, or installation of a separate 5/8-inch irrigation meter, the lower fees would be applicable and assessed accordingly

The following table summarizes the current and proposed water connection fees, by meter size:

Meter Size	Current Connection Fee	Proposed Connection Fee FY 2012	% Change	Proposed Connection Fee FY 2013	% Change
New –single-family residential (up to 1 inch)	N/A	\$7,618		\$8,106	
5/8- inch	\$5,726	\$6,094	6.4%	\$6,484	6.4%
3/4- inch	\$8,590	\$9,142	6.4%	\$9,730	6.4%
1- inch	\$14,320	\$15,236	6.4%	\$16,210	6.4%
1 1/2- inch	\$28,630	\$30,468	6.4%	\$32,420	6.4%

Meter Size	Current Connection Fee	Proposed Connection Fee FY 2012	% Change	Proposed Connection Fee FY 2013	% Change
2- inch	\$45,810	\$48,746	6.4%	\$51,870	6.4%
3- inch	\$91,620	\$97,493	6.4%	\$103,740	6.4%
4- inch	\$143,150	\$152,340	6.4%	\$162,100	6.4%
6- inch	\$286,300	\$324,200	6.4%	\$324,200	6.4%
8- inch	\$458,080	\$487,443	6.4%	\$518,720	6.4%
10- inch	\$658,490	\$700,700	6.4%	\$745,660	6.4%

Note that, while the larger meter sizes have been included so that the table is complete, the use of the largest meters for domestic and production purposes is extremely rare and would be limited to only very large water users. The City currently has no 10-inch meters in use for domestic water service.

Staff surveyed neighboring water agencies to determine how Hayward's proposed rates would compare to neighboring jurisdictions, and the results are summarized on Attachment VI. Basically, the proposed water facilities fees remain at the low end of the range of fees collected by other agencies. Only two agencies surveyed, Alameda County Water District and Contra Costa Water District, specify a so-called standard single-family residential fee, both of which are also reflected on Attachment VI. Hayward's proposed residential fee would be in between those of the two agencies, but much closer to the lower end.

Sewer Connection Fees - The connection fee analysis indicates that it is appropriate to adjust residential sewer connection fees by about 6%. The fee for a standard residential connection would increase from \$7,255 to \$7,700. As with the water connection fee, this increase results from additional new projects and updated costs for projects that will, in part, benefit new development. We have also adjusted the assumed domestic wastewater strength, measured as carbonaceous biochemical oxygen demand (CBOD) and suspended solids (SS), based on recent sampling results, as was discussed in the sewer service rate section of this report.

Residential connection fees are basically flat fees, in that the same fee is applied to each single-family dwelling unit, regardless of size. A lower fee is charged for multi-family residential dwelling units and mobile home units, as discharge from these types of housing units is typically lower in volume. Connection fees for commercial and industrial development are calculated individually because of variation in wastewater components among different types of users.

Fees are determined based on information submitted by the business, if available, or on discharge from a comparable business. The information regarding CBOD, SS and volume is verified to best of staff's ability before the fee is calculated but in many cases is a best estimate. The cost of handling and treating these various parameters differ; thus connection fees associated with different types of businesses also vary. For example, a business with a high flow and low CBOD would be charged a higher connection fee than a business with low flow and high CBOD because future facilities needed for treating hydraulic flow will cost more than facilities needed to treat CBOD. This formula is consistent with the premise that users pay for capacity in direct relationship to the demand they will place on the collection and treatment system.

The following table summarizes the proposed sewer connection fees.

	Current	Proposed	% Change
Residential			
Single-Family Residential	\$7,255	\$7,700	6.1%
Multi-Family Residential (per dwelling unit)	\$6,457	\$6,853	6.1%
Non-Residential			
Volume (per gallon/day)	\$20.295	\$21.508	6%
CBOD (per pound/year)	\$9.039	\$8.527	-5.7%
Suspended Solids	\$8.977	\$9.173	2.2%

Staff recognizes that businesses are presently faced with a challenging economic environment, and that sewer connection fees can represent a significant expense for some businesses wishing to locate in Hayward. While there are existing Municipal Code provisions that allow businesses with large connection fees to pay the fees over several years, it might still be difficult for a business to afford the fee in this currently climate. In order to ease the financial impacts, the City Council approved a temporary provision in 2009 to reduce the CBOD and SS concentration by 50% for the purposes of calculating sewer connection fees for non-residential connections. This provided some relief, particularly for food processing facilities, which typically have high waste strength by the nature of their operations. This provision was approved for a two-year period and is effective through September 30, 2011.

The CBOD and SS reduction was helpful in that it lowered the cost of the sewer connection, significantly in some cases, and showed Hayward's proactive response to the economic challenges of developing a business. Given the prolonged nature of the economic downturn and the City Council's desire to attract stable and diverse businesses, staff is recommending that the CBOD and SS reduction strategy be continued for two more years, until September 30, 2013, and that the waste strength concentrations be reduced by 70%. This would further benefit high waste strength operations, particularly food-related businesses including restaurants. The volume component would continue to be charged at 100% because water usage can generally be better controlled and may encourage businesses to invest in water conservation.

The following table illustrates how the recommended change would affect sewer connection fees for several real-life businesses in Hayward.

Business Type	Current Fee with 50% Adjusted CBOD and SS	Proposed Fee with Unadjusted CBOD and SS	Proposed Fee with 50% Adjusted CBOD and SS	Recommended Proposed Fee with 70% Adjusted CBOD and SS
Sit-down restaurant (1000 gal per day)	\$42,000	\$64,000	\$43,000	\$36,000
High Flow Food Processor (20,000 gal per day)	\$1,600,000	\$2,700,000	\$1,600,000	\$1,200,000
Moderate Flow Food Processor (5,400 gal per day)	\$350,000	\$600,000	\$340,000	\$250,000
Metal Finisher (12,000 gal per day)	\$310,000	\$320,000	\$320,000	\$320,000

Although impacted by the economic downturn, the Wastewater System Improvement Fund, which is the recipient of sewer connection fees, can withstand the decreased revenue for a period of time. Staff recommends reassessing the reduced connection fee strategy no later than October 1, 2013 to retain, amend or repeal this waste strength reduction. Further, staff also recommends limiting this adjustment to businesses that discharge less than 50,000 gallons per day. Discharge quantities that exceed more than 50,000 gallons per day will typically be generated by large businesses, such as Berkeley Farms and Pepsi, and usually require the City to invest in very capital intensive collection and treatment facilities.

Staff surveyed neighboring wastewater agencies to determine how Hayward’s proposed sewer connection fees would compare to neighboring jurisdictions. Staff has also prepared comparisons of its recommended non-residential sample calculations with nearby agencies. The results of the survey are summarized on Attachment VII. The proposed residential sewer connection fee of \$7,700 remains in the mid-range of fees collected by other agencies.

ECONOMIC IMPACT

The economic impact to customers has been discussed in the previous sections. While staff recognizes that the rate adjustments will affect customers, it is critical that the City maintain reliable and robust utilities systems in the interest of economic viability and quality of life for its residents and businesses.

FISCAL IMPACT

The fiscal impacts of the recommended rate adjustments have been discussed earlier in this report. To summarize, the proposed water and sewer service increases will result in a reduction in the working capital balances of both the Water and Sewer Fund. However, based on estimated future costs and assumptions about future rate increases, staff believes that the funds can sustain the reduction and remain viable with the proposed adjustments, and recover the lost ground in the

future. The proposed connection fee adjustments will allow the City to maintain sufficient funds in the water and sewer capital improvement funds to implement needed projects.

PUBLIC CONTACT

Staff will implement the noticing requirements of Proposition 218, which mandates a written notice of the proposed service rates to all affected property owners no later than 45 days before the public hearing. In instances where a party other than the property owner of record receives the bill for the water/sewer services, notice will also be sent to that party. The notice will describe the proposed increases and list current and proposed rates. The notice also discusses the property owners' right to protest the rates increases. Council may not take action on the rate if a majority of affected parcels file written protests.

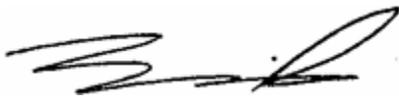
NEXT STEPS

Council is scheduled to consider rate adjustments during a public hearing on July 21. If adopted, the rates would be effective on October 1, 2011 and 2012.

Prepared by: Alex Ameri, Deputy Director of Public Works

Recommended by: Robert Bauman, Director of Public Works

Approved by:



Fran David, City Manager

Attachments:

- Attachment I -- Proposed Water Rates and Sample Billings
- Attachment II -- Proposed FY 2012 Water Rate Comparisons with Nearby Agencies
- Attachment III -- Water Fund Working Capital Balances
- Attachment IV -- Wastewater Fund Working Capital Balances
- Attachment V -- Sewer Rate Comparisons with Nearby Agencies
- Attachment VI -- FY 2012 Proposed Water Connection (Facilities) Fees – Comparison with Nearby Agencies
- Attachment VII -- Sewer Connection Fees – Comparisons with Nearby Agencies

Proposed Water Rates and Sample Billings

Current (FY 2011) Water Rates

Single Family Residential		Multi-Family and Non-Residential		Service Fees (All Users)	
1-8 ccf	\$2.90 /ccf	1-200 ccf	\$3.65 /ccf	5/8 inch	\$9
9-25 ccf	\$3.40 /ccf	>200 ccf	\$4.20 /ccf	3/4 inch	\$12.20
26-60 ccf	\$4.25 /ccf			1 inch	\$18.50
>60 ccf	\$4.65 /ccf			1.5 inch	\$40.60
				2 inch	\$71.40
				3 inch	\$180.20
				4 inch	\$357.00
				6 inch	\$629.80
				8 inch	\$871.80
				10 inch	\$1,050.40

Proposed FY 2012 Water Rates

Single Family Residential		Multi-Family and Non-Residential		Service Fees (All Users)	
1-8 ccf	\$3.30 /ccf	1-200 ccf	\$4.30 /ccf	5/8 inch	\$12.00
9-25 ccf	\$4.10 /ccf	>200 ccf	\$5.05 /ccf	3/4 inch	\$16.30
26-60 ccf	\$5.15 /ccf			1 inch	\$24.70
>60 ccf	\$5.65 /ccf			1.5 inch	\$54.10
				2 inch	\$95.20
				3 inch	\$240.30
				4 inch	\$476.00
				6 inch	\$839.70
				8 inch	\$1,162.40
				10 inch	\$1,400.00

Proposed FY 2013 Water Rates

Single Family Residential		Multi-Family and Non-Residential		Service Fees (All Users)	
1-8 ccf	\$4.05 /ccf	1-200 ccf	\$5.15 /ccf	No changes proposed	
9-25 ccf	\$5.05 /ccf	>200 ccf	\$6.10 /ccf		
26-60 ccf	\$6.25 /ccf				
>60 ccf	\$6.80 /ccf				

Sample Bimonthly Water Billing Increases (including fixed service charge)

Single Family Residential Bimonthly Billings

	Consumption	Current Cost	FY 2012			FY 2013		
			Proposed Cost	\$ Change	% Change	Proposed Cost	\$ Change	% Change
Low Use Customer	8 ccf	\$32.20	\$38.40	\$6.20	19%	\$44.40	\$6.00	16%
Average Use Customer	18 ccf	\$66.20	\$79.40	\$13.20	20%	\$94.90	\$15.50	20%
High Use Customer	60 ccf	\$238.75	\$288.35	\$49.60	21%	\$349.00	\$60.65	21%

Non-Residential Bimonthly Billings

	Consumption	Current Cost	FY 2012			FY 2013		
			Proposed Cost	\$ Change	% Change	Proposed Cost	\$ Change	% Change
Restaurant	80 ccf	\$301	\$356	\$55	18%	\$424	\$68	19%
Supermarket	600 ccf	\$2,481	\$2,975	\$494	20%	\$3,565	\$590	20%
Food Processor	1400 ccf	\$5,841	\$7,015	\$1,174	20%	\$8,445	\$1,430	20%
Large Apt Complex	4500 ccf	\$19,420	\$23,415	\$3,995	21%	\$28,100	\$4,685	20%

Proposed FY 2012 Water Rate Comparisons with Nearby Agencies

Single-Family Residential Customer (18 ccf through 5/8 inch meter)

Agency and Service Area	Bimonthly Cost	
	Current	Proposed
Dublin San Ramon Services District (Dublin/San Ramon)	\$88.18	
Contra Costa Water District (Concord, Walnut Creek)	\$86.50	
City of Redwood City	\$84.44	\$92.40
City of Hayward	\$66.20	\$79.40
Alameda County Water District (Fremont/Union City/Newark) (For customers exclusively served SFPUC water)	\$70.91	
EBMUD (Oakland/Castro Valley/ Unincorp Alameda Co/Berkeley)	\$64.70	\$68.76

Note: The rates for some other agencies are current. Many of the rates will increase in FY 2012, but the actual increases are not yet known.

4-Apr-11

Proposed FY 2012 Water Rate Comparisons with Nearby Agencies

Small Non-Residential Customer (200 ccf through 1 inch meter)

<u>Agency and Service Area</u>	<u>Bimonthly Cost</u>	
	<u>Current</u>	<u>Proposed</u>
City of Redwood City	\$1,057	\$1,153
City of Hayward	\$749	\$885
Dublin San Ramon Services District (Dublin/San Ramon)	\$791 ⁽¹⁾	
Contra Costa Water District (Concord/Walnut Creek)	\$659	
Alameda County Water District (Fremont/Union City/Newark) (For customers exclusively served SFPUC water)	\$666	
EBMUD (Oakland/Castro Valley Unincorp Alameda Co/Berkeley)	\$626	\$641

(1) Wintertime (Nov to April) charge would be \$713

Note: The rates for some other agencies are current. Many of the rates will increase in FY 2012, but the actual increases are not yet known.

4-Apr-11

Proposed FY 2012 Water Rate Comparisons with Nearby Agencies

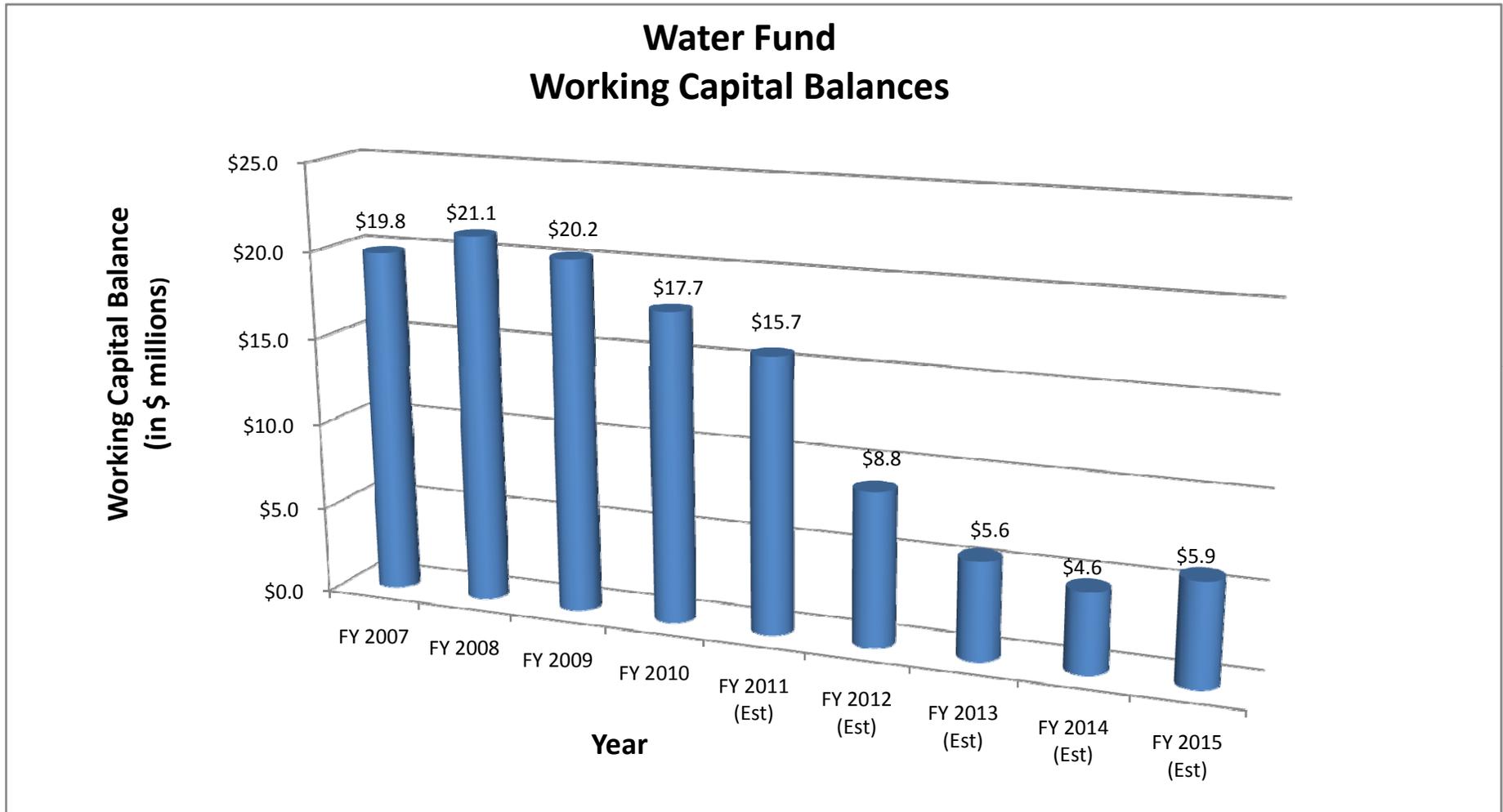
Large Non-Residential Property (4500 ccf through 6 inch meter)

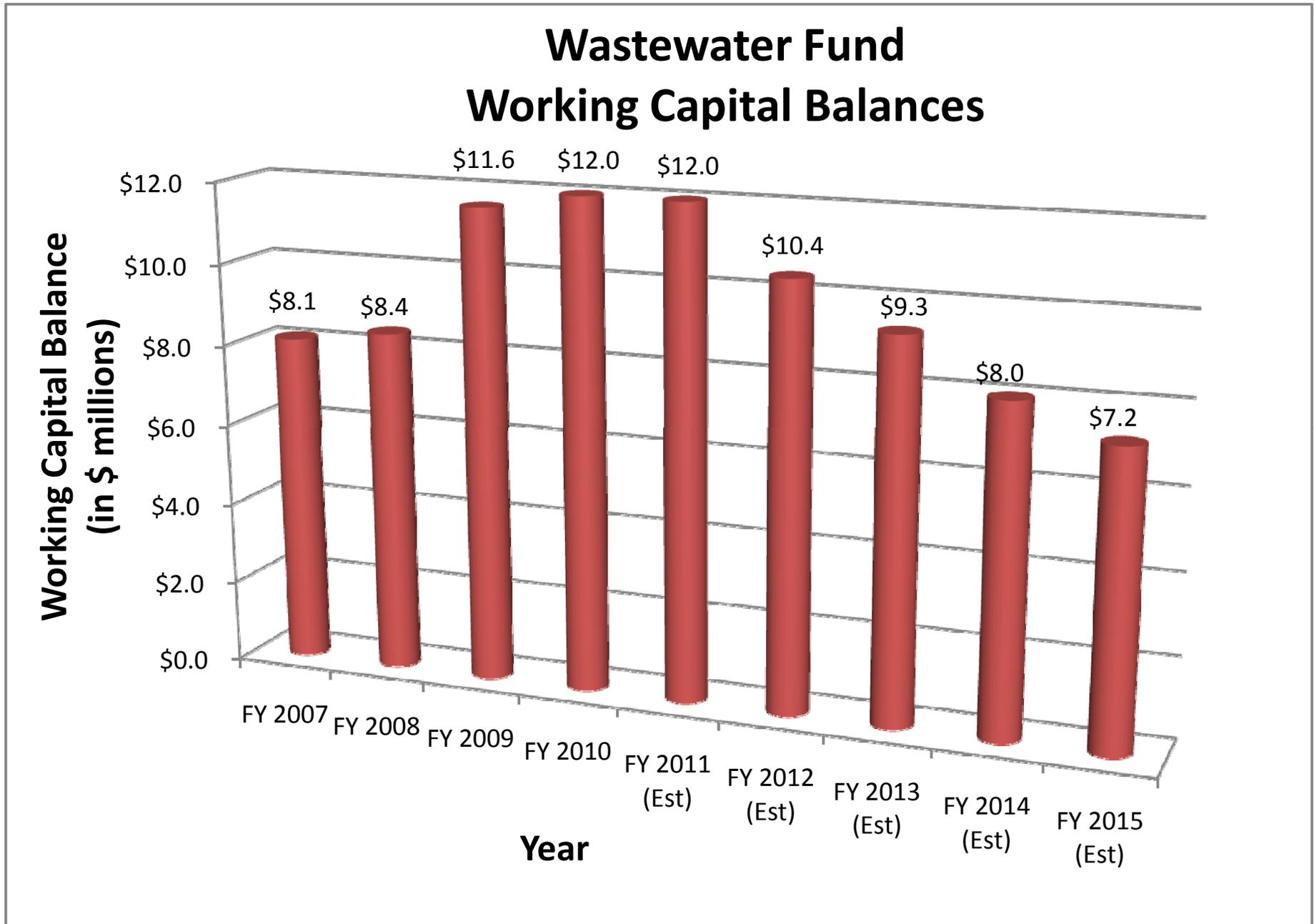
<u>Agency and Service Area</u>	<u>Bimonthly Cost</u>	
	<u>Current</u>	<u>Proposed</u>
City of Redwood City	\$24,183	\$26,367
City of Hayward	\$19,420	\$23,415
Dublin San Ramon Services District (Dublin/San Ramon)	\$19,381	⁽¹⁾
Alameda County Water District (Fremont/Union City/Newark) (For customers exclusively served SFPUC water)	\$15,193	
Contra Costa Water District (Concord/Walnut Creek)	\$14,616	
EBMUD (Oakland/Castro Valley (Unincorp Alameda Co/Berkeley)	\$13,733	\$14,036

(1) Wintertime (Nov to April) charge would be \$17,600

Note: The rates for some other agencies are current. Many of the rates will increase in FY 2012, but the actual increases are not yet known.

4-Apr-11





**SEWER RATE COMPARISONS WITH NEARBY AGENCIES
(Standard Residential Rate)**

Agency	Monthly Rate	
	Current	Proposed
City of Livermore	\$40.75	
City of Oakland (City fee plus EBMUD)	\$39.29	\$40.30
City of San Leandro	\$27.60	\$28.98 ⁽¹⁾
Dublin San Ramon Services District (Dublin and San Ramon)	\$27.40	\$28.75
Central Contra Costa Sanitary District (Concord, Walnut Creek, Martinez)	\$25.91	\$28.41
City of Hayward	\$25.70	\$26.47
Union Sanitary District (Fremont, Union City, Newark)	\$24.15	\$25.36 ⁽²⁾
Castro Valley Sanitary District (Proposed FY 2012)	\$20.42	\$21.00
Oro Loma Sanitary District (Unincorporated Alameda Co.)	\$14.83	\$15.27 ⁽³⁾

Note: Unless otherwise noted, the rates for other agencies are current. Many of
The fees will increase in FY 2012, but the actual increases are not yet known.

⁽¹⁾ City of San Leandro has approved 5% for 5 years effective FY 2012

⁽²⁾ Union Sanitary District is in the 2nd year of a 3-year 5% per year rate increase

⁽³⁾ Oro Loma Sanitary District has approved 3% for 5 years effective FY 2012

FY 2012 Proposed Water Connection (Facilities) Fees
Comparisons with Nearby Agencies

Fee for Single-Family Residential Unit (5/8 Inch Meter)

Agency	Water Connection Fee			
	5/8-inch	3/4-inch	1-inch	Standard SFR
Zone 7 (Wholesale agency serving Pleasanton, Livermore and Dublin)	\$22,230	\$33,345	\$55,575	N/A
Contra Costa Water District (Concord, Walnut Creek)	\$17,704	\$26,556	\$44,260	\$17,704
East Bay Municipal Utility District – Region 1 (Castro Valley, Uninc Alameda Co)	N/A	\$11,910	\$19,850	N/A
Dublin San Ramon Services District	\$6,993	\$10,489	\$17,481	N/A
City of Hayward (Proposed)	\$6,094	\$9,142	\$15,236	\$7,618
Alameda County Water District (Fremont, Union City, Newark)	N/A	\$8,955	\$13,538	\$6,347
City of Hayward (Current)	\$5,726	\$8,590	\$14,320	N/A

Sewer Connection Fees
Comparisons with Nearby Agencies

RESIDENTIAL

Agency	Single-Family Residential Sewer Connection Fee
Dublin San Ramon Services District	\$15,477
Castro Valley Sanitary District	\$11,310
City of Hayward (Proposed)	\$7,700
City of Hayward (Current)	\$7,255
Oro Loma Sanitary District	\$6,555
Union Sanitary District (Fremont, Union City, Newark)	\$4,004
City of San Leandro	\$3,660
East Bay Municipal Utility District (Treatment only; excludes individual city connection fees where applicable)	\$1,235

NON-RESIDENTIAL

	Restaurant (1000 gpd)	Large Food Processor (20,000 gpd)	Medium Food Processor (5,400 gpd)	Metal Finisher (12,000 gpd)
Hayward Current	\$42,000	\$1,600,000	\$350,000	\$310,000
Oro Loma	\$45,000	\$1,500,000	\$340,000	\$360,000
Hayward Proposed	\$36,000	\$1,200,000	\$250,000	\$320,000
San Leandro	\$25,000	\$860,000	\$195,000	\$200,000
USD ^{(1) (2)}	\$11,000 ⁽³⁾	\$1,200,000	\$250,000	\$150,000
EBMUD ^{(1) (4)}	\$16,000	\$800,000	\$170,000	\$70,000

- (1) Fee calculated on COD – estimate based on .55 conversion factor from COD to CBOD
- (2) USD fees paid in four annual, equal payments
- (3) USD calculates restaurant fees based on square footage; has temporarily reduced calculated fee by 50% for restaurants only
- (4) Treatment only; excludes individual city connection fees where applicable



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/HOUSING AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 19, 2011, 7:00 p.m.**

MEETING

The Meeting of the City Council was called to order by Mayor Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Halliday.

ROLL CALL

Present: COUNCIL/HA MEMBERS Zermeño, Halliday, Peixoto, Salinas, Henson
MAYOR/CHAIR Sweeney
Absent: COUNCIL/HA MEMBER Quirk

CLOSED SESSION ANNOUNCEMENT

Mayor Sweeney reported that Council met pursuant to Government Code 54957 regarding Performance Evaluation for City Attorney, and took no reportable action.

PRESENTATIONS

Environmental Achievements Awards

Mayor Sweeney presented the Environmental Achievement Awards and acknowledged residents, property owners and managers of multi-family dwellings, schools, and local businesses for their participation in the City's recycling program and continued efforts to conserve resources. Mayor Sweeney turned the proceedings over to Council Member Henson who also acknowledged the achievements of different groups and thanked those who evaluated the applications. Mayor Sweeney and Council Member Henson recognized the following schools: Anthony W. Ochoa Middle School, Bowman Elementary School, Lea's Christian School, Lorin Eden School, St. Bede Catholic School, St. Clement School, and Tyrrell School. Mr. Henson commended residents and managers from multi-family complexes for their participation in the City's curbside recycling program: Val Vical, Amanpred Vilku, Monmohan Chopra, William Harpham, Dolores Ferreira, David Pina, Nichole and Manuel Garcia, Ronald Ring, Frank Gonzales, and Esperanza Sanchez, Amador Village Apartments, Canyon Oaks Apartments, University Hill Condominiums, Vista Del Plaza Apartments, Maintenance staff Neil Nohr and Walnut Hills Apartments. Kim Huggett from the Chamber of Commerce presented awards to the following businesses: Co-mingled Recyclables Collection, Organic Collection, Applebee's, Columbus Manufacturing, Gourmet Foods, Kitayama Brothers, Morgan Technical Ceramics, Tacos Uruapan, and Vicolo Wholesale.

PUBLIC COMMENTS

Mr. Alex Harmon, Hayward Youth Commissioner, announced and provided information about the Hayward Youth Commission (HYC) 2011 recruitment and presented a video of the HYC's field

trip to the State Capitol on March 24, 2011. City Clerk Lens reiterated applications were available on the City's website and in the Office of the City Clerk with a deadline to apply by May 13, 2011.

Mr. Jim Drake, Franklin Street resident, spoke about the safety of the mini loop and urged Council to make sure the work performed on the Route 238/Mission Corridor Boulevard Project followed Caltrans criteria. Mayor Sweeney directed staff to make sure this project is performed safely and according to best practices.

Ms. Diane Fagalde, Tyrrell Avenue resident, announced the 4th Annual South Hayward Community Festival on Sunday, May 1, 2011, at Mt. Eden Park, and invited everyone to attend.

Ms. Karen Norell, Hayward resident, talked about the entertainment and the participants who will be part of Sunday's Festival.

SPECIAL JOINT CITY COUNCIL/PLANNING COMMISSION WORK SESSION

1. Presentation of the Initial Vision Scenario – The Initial Step Towards Development of the First Regional Sustainable Communities Strategy

Staff report submitted by Senior Planner Pearson, dated April 19, 2011, was filed.

Development Services Director Rizk provided a synopsis of the report and clarified questions.

Council Member Peixoto noted the imbalance in the projected growth figures for housing and jobs and thought the high job projections were unrealistic and expressed concern that the anticipated growth in housing without a sufficient growth in jobs was counterproductive to the transit-oriented district concept. Mr. Peixoto was concerned about traffic impacts and reduction to service levels, should the plan be accepted.

Planning Commission Chair Loché commented that he was glad to see the improved security for BART and AC Transit and noted how important it is for residents to feel safe when utilizing public transit. He expressed the importance of placing housing in the right areas and agreed with staff recommendations regarding capitalizing on housing opportunities near transit corridors.

Council Member Zermeño favored the transportation improvements. In response to gas emissions from the power plant, Development Services Director Rizk indicated that they were not more significant when compared to vehicle emissions. Mr. Zermeño requested that staff look into improvement measures at the Hayward Amtrak Station including a covered station and better lighting in the area. Mr. Zermeño expressed the importance of having Priority Development Areas (PDAs) and Growth Opportunity Areas (GOAs) near transit stations. He also suggested that staff work with the necessary agencies to begin a dialogue to improve school performance.

Planning Commissioner Lamnin supported staff recommendations regarding transportation improvement and questioned if the Association of Bay Area Government's (ABAG) growth projections were realistic. Ms. Lamnin advocated for funding tied to crime prevention and CO₂



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COUNCIL/HOUSING AUTHORITY MEETING OF
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emissions prevention through environmental design. She shared the 2008-2018 Employment Development Department's Industrial Employment Projections for Hayward, noting one of the largest growth areas is skilled nursing and long-term care facilities. Ms. Lamnin suggested intergenerational facilities, neighborhood libraries, farming and food production and to group these facilities together to encourage transit-oriented design and decreases emissions. She suggested the inclusion of community facility districts as these areas are being built.

Council Member Henson was concerned about the imbalance between the housing and job growth projections and expressed the need to determine what is best for the City as far as growth opportunities with PDAs and GOAs. Mr. Henson noted Union City operates its own transit system that connects to BART and suggested that the City could take a look at setting up a partnership. Mr. Henson mentioned the importance of identifying resources, partnering with ABAG and Metropolitan Transportation Commission (MTC) and determining if the Initial Vision Scenario (IVS) fits in with the City's plans.

Planning Commissioner McDermott noted the need for a collaborative effort with the Hayward Unified School District to improve the quality of schools to attract families to live in Hayward. Ms. McDermott expressed the importance of creating a safe transit environment as Hayward BART stations are underutilized because people do not feel safe. She pointed out that looking at revenue and expenditures projections there is a deficit of over \$13 million which does not make fiscal sense. Ms. McDermott commented on the need to create transit options near high employment areas.

Council Member Halliday acknowledged the letter from the Alameda County Planning and Community Development Directors and pointed out that ABAG's growth projections were too high and that there are challenges in the areas of infrastructure, financial resources, current state of the schools, and the need for public safety. Ms. Halliday agreed with the proposed land use concept, but questioned where the financial resources would come from to accommodate the projected population growth. She suggested shuttles as an option to transport people from BART to the industrial area and noted that BART was a safe transit option. Ms. Halliday said because of the State's planned elimination of redevelopment districts, the IVS would require more costly community facilities districts and that would place more requirements on developers.

Planning Commissioner Faria mentioned the City needs to consider what the community wants in terms of fiscal responsibility and questioned where the revenue would come from to support the projected growth. Ms. Faria concurred with Council Member Henson's suggestion about partnerships with other jurisdictions, such as Union City, as seamless transit connections to BART are essential to getting people out of their cars and onto public transit. She pointed out that ideas of collaboration are very important, but stated the projections were overly optimistic.

Council Member Salinas mentioned that Hayward is home to a bus company and suggested that staff research transit options modeled around the bus company. He commented that Hayward is an education city and would like to see staff reports include strategies to encourage college graduates

to make Hayward their home. Mr. Salinas also suggested that the City work with college campuses to start the awareness of a transit-oriented community.

Planning Commissioner Márquez noted that the growth projections are unrealistic, and noted that BART was a safe transit option, but was concerned about the numerous services cuts to AC Transit. Ms. Márquez mentioned the timing of this plan was unrealistic due to the status of the redevelopment districts, but was glad that it prompted discussion and the opportunity to research and collaborate with different agencies in the area about transit options. Ms. Márquez supported housing near BART, but felt strongly that the City does not have the infrastructure to meet the demands of additional housing.

Mayor Sweeney noted there was consensus among Council and Planning Commissioners that the growth projections were unrealistic. Mayor Sweeney expressed concern about the “unconstrained” scenario of the Initial Vision Scenario (IVS.) Mr. Sweeney commented that the State mandates housing and then takes away resources and tools to meet those mandates, citing the examples of the County Education Revenue Augmentation Fund (ERAF) payment and the planned elimination of redevelopment districts. He acknowledged the letter from the Alameda County Planning and Community Development Directors and requested staff draft updated letters from elected officials to legislators expressing concerns with the IVS scenario. Mayor Sweeney added that the fiscalization of land use is a major impact that the State needs to address.

2. Annual Progress Report on Implementation of Hayward’s Climate Action Plan

Staff report submitted by Senior Planner Pearson, dated April 19, 2011, was filed.

Development Services Director Rizk announced the report and introduced Senior Planner Pearson who provided a synopsis of the report.

Planning Commissioner Márquez commented that for any new municipal building staff needs to consider if costs outweigh the benefits. Ms. Márquez inquired about the additional resources that will need to be identified to continue Climate Action Plan implementation beyond 2013. Senior Planner Pearson mentioned actions taken by other jurisdictions have been to divert funds from energy efficiency improvements to sustainability efforts. Development Services Director Rizk added that possible options would be scaling back and adjusting the timing of the implementation of the Climate Action Plan. In response to Ms. Márquez’s inquiry about targets set by the Hayward Area Recreational and Park District and the Hayward Unified School District, Mr. Pearson was not aware, but noted that staff is working with them on energy efficiency programs. Mayor Sweeney said it would be a good idea to ask them to set emission reduction targets.

Council Member Halliday commented that the emission figures were flat and expressed concern about increased emission levels from the new natural gas power plant. Senior Planner Pearson said the natural gas power plant is cleaner burning and will decrease emissions. Mr. Pearson responded to Ms. Halliday’s question about electric car charging stations in the parking garage noting they were no longer operable. In response to Ms. Halliday’s question about the tree inventory program, Mr. Pearson noted the program will enable the City to take credit for the CO₂ that is removed from



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/HOUSING AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 19, 2011, 7:00 p.m.**

the air and City Manager David added the program also helps staff with tree management ensuring that trees are replaced at an accurate rate.

In response to Planning Commissioner McDermott's inquiry about the term and interest rate of the California Energy Commission loan, Director of Public Works Bauman stated it is a 15-year loan with a 3% interest rate.

Council Member Henson commented that as the City moves toward alternative energy vehicles, staff needs to research grants to establish electric car charging stations. Mr. Henson noted that when the Interstate 880/92 Route flyover is complete, there will be a reduction of approximately 27% of greenhouse gas emissions in conjunction with other traffic improvement projects. Mr. Henson commented that he would like to see more progress on the Property Assessed Clean Energy (PACE) Program, which would allow residents to utilize solar in their homes. Development Services Director Rizk mentioned that staff was researching other financing options and mentioned he attended a workshop the City of San Jose developed, in collaboration with the Bay Area Climate Collaborative, for low interest loans for City employees.

Council Member Peixoto commended the City and Public Works Department for taking the initiative to install solar panels at the City's Wastewater Treatment Plant and addressing one of City's most costly energy consuming uses.

In response to Council Member Zermeño's question about electric vehicles, Senior Planner Pearson mentioned that the City is leasing some electric and hybrid vehicles. City Manager David noted that staff has been reviewing studies and making assessments. She added that hybrid vehicles provide better fuel and mechanical efficiency than electric cars and that there will be further assessment as new vehicles are brought to market.

Mayor Sweeney thanked members of the Sustainability Committee for their contributions. Mayor Sweeney also thanked Planning Commissioners for their participation.

CONSENT

3. Approval of Minutes of the City Council Meeting on April 5, 2011

It was moved by Council Member Henson, seconded by Council Member Halliday, and unanimously carried to approve the minutes of the City Council Meeting of April 5, 2011.

4. Authorization for City Manager to Approve an Amendment and Assignment of the Commercial Aviation Site Lease between the City and Atlantic Aviation FBO Holdings LLC (Atlantic), to Hayward FBO LLC, dba Airport Property Partners LLC (APP); and an Amendment to the Existing APP Commercial Aviation Site Lease

Staff report submitted by Airport Manager McNeeley, dated April 19, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Halliday, and carried with Council Member Quirk absent, to adopt the following:

Resolution 11-031, “Resolution Authorizing the City Manager to Execute an Assignment and Assumption with Respect to the Commercial Aviation Site Lease with Atlantic Aviation FBO Holdings LLC (Successor in Interest to Acquire FBO Holdings LLC) and Second Amendment to the Lease”

Resolution 11-032, “Resolution Authorizing the City Manager to Execute Amendment Number Two to the Existing Commercial Aviation Site Lease with Hayward FBO Holdings dba Airport Property Partners LLC”

5. Transportation Development Act Article 3 Funds FY 2012: Wheelchair Ramps – Authorization to File Application

Staff report submitted by Deputy Director of Public Works Fakhrai, dated April 19, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Halliday, and carried with Council Member Quirk absent, to adopt the following:

Resolution 11- 033, “Resolution to the Metropolitan Transportation Commission for the Allocation of Fiscal Year 2012 Transportation Development Act (TDA) Article 3 Pedestrian/Bicycle Project Funding for Installation of Wheelchair Ramps”

6. Resignation of Stephanie Ayala from the Library Commission

Staff report submitted by City Clerk Lens dated April 19, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Halliday, and carried with Council Member Quirk absent, to adopt the following:

Resolution 11-034, “Resolution Accepting the Written Resignation of Stephanie Ayala from the Library Commission”

7. Pavement Reconstruction FY12 – Chiplay Avenue: Approval of Plans and Specifications and Call for Bids



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/HOUSING AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 19, 2011, 7:00 p.m.**

Staff report submitted by Deputy Director of Public Works Fakhrai, dated April 19, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Halliday, and carried with Council Member Quirk absent, to adopt the following:

Resolution 11-035, “Resolution Approving Plans and Specifications for the Pavement Reconstruction FY12-Chiplay Avenue Project, Project No. 5137, and Call for Bids”

8. Authorization for the City Manager to Negotiate and Execute Consulting Agreements with HDR Inc. and BSK Associates for Developing a Fats, Oil, and Grease Receiving and Processing Station at the Water Pollution Control Facility

Staff report submitted by Deputy Director of Public Works Ameri dated April 19, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Halliday, and carried with Council Member Quirk absent, to adopt the following:

Resolution 11-036, “Resolution Authorizing the City Manager to Negotiate and Execute Agreements with HDR Incorporated and BSK Associates to Assist in Developing a Fats-Oil-Grease (FOG) Receiving and Processing Station at the Water Pollution Control Facility (WPCF), Project No. 7511”

Mayor Sweeney announced the public hearing item and excused himself from participating due to a conflict of interest because he works for a non-profit agency that has received Community Development Block Grant (CDBG) funding in the past. Mayor Sweeney turned the gavel over to Mayor Pro Tempore Zermeño to preside the rest of the meeting.

PUBLIC HEARING

9. FY 2012 Community Development Block Grant (CDBG) Funding Recommendations

Staff report submitted by Social Services Planning Manager Culver, dated April 19, 2011, was filed.

Library and Community Services Director Reinhart provided an overview of the report and acknowledged the presence of Citizens Advisory Commission Chair Linnen.

Social Services Planning Manager Culver provided a synopsis of the recommendations.

Council Member Peixoto inquired if any of the groups not recommended for funding expressed further concerns. Social Services Planning Manager Culver responded staff had not received any inquiries and that prior to the funding recommendations release, staff met with applicants individually to discuss the circumstances. Ms. Culver mentioned that staff will continue to work with several applicants and help them find better funding sources. She noted that Applicant AIRSS & BAIRS has been funded through the Social Services Program. Mr. Peixoto appreciated the fact that Ms. Culver and staff thoroughly explained to all applicants the need to meet the housing related service criteria. Ms. Culver explained 100% of the 15% cap for Public Services goes to the non-profit agencies.

Council Member Halliday commented that she was pleased that staff and Citizens Advisory Commission recommendations were in agreement. Ms. Halliday mentioned that the Minor Home Repair Program's grant limit might be raised to \$10,000 or more and thus serve less people. Ms. Halliday was glad to see that a seismic retrofit was being conducted at a homeless shelter. Ms. Culver added that staff has discussed having a basic seismic safety review as an available service.

Council Member Henson remarked that CDBG funds will most probably be reduced next year and that agencies will need to collaborate and share resources. Mr. Henson asked if any groups will not be returning next year. Social Services Planning Manager Culver responded by going through the categories and outlining each applicant. She noted that the Animal Shelter was a one-time applicant and that Eden Youth and Family Center is a three-year rehabilitation project with electrical upgrades and new windows scheduled for next year. Mr. Henson commented that energy efficiency needs to be a priority and noted the importance of not having to repeat funding services.

Mayor Pro Tempore Zermeño suggested continued communication with applicants regarding the possibility of reduced grant funding for the next fiscal year. Social Services Planning Manager Culver mentioned that staff will schedule meetings throughout the year and added she has been communicating with non-profit agencies about the possible changes for next year's funding cycle.

Council Member Salinas inquired about the Small Business Revolving Loan Program and the cost of installing a commercial kitchen in the downtown area. City Manager David said the cost of installing a commercial kitchen in the downtown area can be in the price range of \$300,000 to \$350,000.

Mayor Pro Tempore Zermeño opened the public hearing at 9:24 p.m.

Mr. Gabriel Hernández, Executive Director of the Day Labor Center, introduced Gregorio Blas and said last year's federal CDBG funds were invested in developing posters to promote the Day Labor Center Program in collaboration with the Bay Area Rapid Transit (BART.) Mr. Hernández noted the advertising program produced 60% more jobs this year and 60% more employers throughout the Bay Area. He said the effectiveness of the program was worth the investment and the Center will strive to duplicate the advertising program this summer. Mr. Hernández presented the City with a Community Award - Hire Skilled Workers for the Work you Need poster, in appreciation for investing in the Day Labor Center. Mr. Hernandez thanked the City and the Citizens Advisory Commission.



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/HOUSING AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 19, 2011, 7:00 p.m.**

Mayor Pro Tempore Zermeño closed the public hearing 9:29 p.m.

Council Member Halliday commended the work done by Social Services Planning Manager Culver and Citizens Advisory Commission Chair Linnen and said she enjoyed working with the Commission during this challenging budget year. Ms. Halliday moved the item per staff recommendation. Council Member Henson seconded the motion.

It was moved by Council Member Halliday, seconded by Council Member Henson, and carried with Mayor Sweeney and Council Member Quirk absent, to adopt the following:

Resolution 11-037, "Resolution Approving the Annual Plan and Authorizing an Application for Federal Assistance Under the Community Development Block Grant Program for Fiscal Year 2012"

10. Request to Change the General Plan Designation from Medium Density Residential to High Density Residential and to Introduce an Ordinance to Change the Zoning from Medium Density Residential to Planned Development to Accommodate Twenty-two Affordable Senior Housing Rental Units Proposed at the Corner of B and Grand Streets - General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369 - Eden Housing (Applicant); City of Hayward (Owner) - Continued from 3/22 *** **To be continued to May 3, 2011 *****

Assistant City Manager Morariu asked that the item be continued to May 3, 2011, as noted in the report.

It was moved by Council Member Henson, seconded by Council Member Halliday, and carried with Mayor Sweeney and Council Member Quirk absent, to continue the item to May 3, 2011.

LEGISLATIVE BUSINESS

11. Disposition and Development Agreement Between the City of Hayward and Eden Housing, Inc. ("Eden") for the "B" and Grand Senior Housing Project – Continued from 3/22 *** **To be continued to May 3, 2011 *****

Loan Agreement for Tax Increment Funds Between the Housing Authority of the City of Hayward and Eden in the Amount of \$250,000 to Help Finance Construction of the "B" and Grand Senior Housing Project; and Loan Agreement for HOME Funds Between the City of Hayward and Eden in the Amount of \$900,000 to Help Finance Construction of the "B" and Grand Senior Housing Project *** **To be continued to a date uncertain *****

Assistant City Manager/Interim Redevelopment Agency Director Morariu asked for continuance as noted in the report.

It was moved by Council/HA Member Henson, seconded by Council/HA Member Halliday, and carried with Mayor/Chair Sweeney and Council/HA Member Quirk absent, to continue the items as per staff recommendation.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Halliday thanked Library staff for organizing the Big Read 2011 at the Farmer's Market on April 2, 9, 16 and 23, 2011. The featured book is entitled "In the Time of the Butterflies" by Julia Alvarez.

Mayor Pro Tempore Zermeño announced that he will be presenting "In the Time of the Butterflies," in Spanish on October 20, 2011, at the Weekes Branch Library. He then made the announcement in Spanish.

Council Member Salinas announced that the Hayward Unified School District with other community leaders will provide Hayward kids under 18 years old with breakfast and lunch throughout the summer. He invited organizations to sponsor a site and participate in the free lunch program. Mr. Salinas also mentioned that on March 23, 2011, he will bring the book "In the Time of the Butterflies," to a conclusion. He wished a happy holiday to all.

Mayor Pro Tempore Zermeño acknowledged that Indy Nelson, a Chabot College student, was in attendance at the meeting taking notes and also wished a happy Easter to all.

ADJOURNMENT

Mayor Pro Tempore Zermeño adjourned the meeting at 9:36 p.m.

APPROVED:

Michael Sweeney, Mayor, City of Hayward
Chair,

ATTEST:

Miriam Lens, City Clerk, City of Hayward
Secretary

DATE: May 3, 2011

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Authorization for the City Manager to Execute a Professional Services Agreement for Programmable Logic Controller (PLC) and Supervisory Control and Data Acquisition (SCADA) Programming for the Installation of Emergency Sudden Loss Valves at Various Locations Project

RECOMMENDATION

That Council adopts the attached resolution authorizing the City Manager to execute a Professional Services Agreement with SCADA Support Group (SSG) for Programmable Logic Controller (PLC) and Supervisory Control and Data Acquisition (SCADA) for the Installation of Emergency Sudden Loss Valves at Various Locations Project in an amount not to exceed \$40,000.

BACKGROUND

On January 18, 2011, Council awarded a contract to Auburn Constructors, Inc., in the amount of \$483,300, to install Sudden Loss Valves (SLV) at the following eight reservoirs: D Street; Garin Hill; Highland 250 (2 tanks); Highland 500; Maitland; South Walpert; and Treeview Reservoirs. The valves will serve to protect life and property by preserving water in the reservoir for domestic use and fire suppression in the event of an earthquake.

The City has already installed SLVs in five of its fourteen reservoirs: the Highland 750, 1000, 1285, 1530, and North Walpert Reservoirs. The High School Reservoir will be the last reservoir scheduled for an SLV because it currently has no PG&E service. The installation will be considered for that facility after power is brought up to the site; City staff is currently working on the power extension project.

DISCUSSION

As indicated in the January 18, 2011 agenda report for award of the SLV project, once the SLVs are in place, a separate contractor is needed to program the Programmable Logic Controller (PLC) at each site to activate closing of the valve and to communicate with the City's SCADA system. All SLVs will be programmed to be controlled by three modes: Local-Manual; Remote-Manual; and Remote-Automatic. In Local-Manual mode, an operator can manually open and close the valve. In Remote-Manual mode, the operator will open and close the valve remotely either at the reservoir's PLC or at workstations in the Utilities Center. In Remote-Automatic mode, the PLC will

automatically close the valve when the water level of the reservoir has dropped a pre-set distance within a pre-set time period. The distance and time period will be unique to each SLV.

The PLC and SCADA programmer will need to work closely with the SLV installation contractor to assure the wirings are terminated correctly at the PLCs, and the SLV status is communicated properly to the SCADA system.

Consultant Selection - The firm SCADA Support Group (SSG) completed system programming of the original SCADA system in 1994, as well as upgrades to the system in 2010; therefore, they are experienced with the City's SCADA system. As such, staff is recommending contracting directly with SSG rather than seeking competitive bids for this work.

Staff estimated that costs could be doubled and would extend the project completion date if a consultant other than SSG were to perform programming for this project. A new consultant would require extra time and effort to learn the City SCADA system. Furthermore, the City would still need to reimburse SSG for time spent to resolve any programming issues that the new consultant could not understand on their own. While staff desires to eventually diversify and broaden the base of SCADA consultants, it is not advisable at this point and for this project to change to another consultant, who would not be as familiar with the City's SCADA system.

A detailed scope of work and fee of \$34,240 have been negotiated with SSG. The not-to-exceed amount of \$40,000 for the professional services agreement would include \$5,760 for additional services, should SSG need to spend extra time to resolve unanticipated issues during the project.

FISCAL AND ECONOMIC IMPACT

The estimated project costs are as follows:

Design and Construction Administration Services – Consultant	\$ 75,000
SCADA/PLC Programming for Sudden Loss Valves	40,000
Design Administration – City Staff	40,000
Construction Contract	483,300
Inspection and Testing	60,000
Total:	<u>\$ 698,300</u>

The FY2011 Capital Improvement Program (CIP) includes \$702,000 for the Installation of Sudden Loss Valves at Various Locations Project in the Water System Capital Improvement Fund.

PUBLIC CONTACT

No additional public contact is planned for the project. All work will be done inside Utilities facilities, located in industrial or commercial areas. There will be no impact on the neighbors or the public.

SCHEDULE

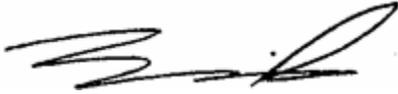
The estimated schedule for this project is summarized as follows:

Execute Professional Service Agreement	May 2011
Begin PLC/SCADA Programming	June 2011
End PLC/SCADA Programming	September 2011

Prepared by: Alex Ameri, Deputy Director of Public Works

Recommended by: Robert A. Bauman, Director of Public Works

Approved by:



Fran David, City Manager

Attachment:

Attachment I - Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE PROFESSIONAL SERVICES AGREEMENT FOR PROGRAMMABLE LOGIC CONTROLLER (PLC) AND SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) PROGRAMMING FOR THE INSTALLATION OF EMERGENCY SUDDEN LOSS VALVES AT VARIOUS LOCATIONS PROJECT, PROJECT NO. 7023

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed negotiate and execute a Professional Services Agreement for Programmable Logic Controller (PLC) and Supervisory Control and Data Acquisition (SCADA) Programming for the Installation of Emergency Sudden Loss Valves at Various Locations Project, Project No. 7023 in an amount not to exceed \$40,000 in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DATE: May 3, 2011

TO: Mayor and City Council

FROM: Interim Director of Finance

SUBJECT: Approval of Professional Auditing Services Contract with Maze & Associates

RECOMMENDATION

That Council approves the attached resolution authorizing the City Manager to execute a professional services contract for auditing services for a three-year term, with an option to extend for two additional years.

BACKGROUND

In May 2008, initiating a prudent business practice of seeking new auditors every five to ten years, staff solicited new professional services contract proposals for auditing services. Although requests for proposal (RFP) were sent to twelve firms, only two proposals were received, from which Mayer Hoffman McCann was selected.

While Mayer Hoffman McCann provided good service for the third year of their contract, meeting all deliverables timely, the audit service was not as satisfactory during the first two years. Typical startup difficulties arise when a new audit firm is hired late in the year. This includes understanding the City accounting system and internal controls combined with deadlines to produce an audit report. The City took that into account but still believed the service should have improved by the second year.

In December 2010, the California State Controller's Office (SCO) announced findings of a quality control review of Mayer Hoffman McCann's audit work papers for the City of Bell. Mayer Hoffman McCann has defended its audit and practices and engaged a third party CPA firm to perform an independent peer review of its work papers, which concluded Mayer Hoffman McCann did conform to professional auditing standards. None of the Mayer Hoffman McCann auditors who worked on the City of Bell audit were involved with prior City of Hayward audits.

Because of the SCO report, contract expiration, and to be consistent with recommended practices, staff initiated the process of soliciting proposals to obtain audit services for a three-year term beginning with FY 2011 along with a two-year option to extend.

DISCUSSION

On March 11, 2011, a request for proposal (RFP) was mailed to twenty-six firms. The RFP requested detailed information about the firm, their staff, experience, location, and a proposed fee schedule. Six audit firms responded to the RFP and their proposals were reviewed. Of the six firms who responded, four firms were selected to continue forward in the process and were invited to participate in an oral interview with staff. The audit firms interviewed were as follows:

1. Lance Soll & Lunghard
2. Maze & Associates
3. Brown Armstrong
4. Mayer Hoffman McCann

Each firm was evaluated for technical expertise, audit experience, staff size, innovation, and leadership within the local government community, and experience with both the Governmental Finance Officers Association and California Municipal Finance Officers reporting award certificates. In addition, each firm was evaluated for its knowledge of applying requirements related to Government Accounting Standards Board Statements, including *GASB 54 Fund Balance Reporting and Governmental Fund Type Definitions*.

A final selection was made with consideration given to the criteria above, to the audit firm's ability to provide additional financial services, quality audit services and a professional audit report. Based on interviews held April 18 and the stated selection criteria, staff recommends Maze & Associates to Council.

Maze & Associates has been in the governmental audit and accounting business for approximately twenty-five years. Their offices are located in Pleasant Hill, CA. They currently provide annual audit services for over 200 governmental entities including thirty-nine cities, thirty redevelopment agencies and special districts, joint powers authorities, housing authorities, and financing authorities.

Maze & Associates is not unfamiliar to the City as they provided exceptional service as the City's auditors from FY1996 through FY2007. During the May 2008 request for proposal process, Maze & Associates was asked not to participate so that the City might achieve a turnover in audit firms thereby allowing a fresh look at the City's financial activities, as is considered good business practice. Due to their historical quality of service, Maze & Associates was assured they would be invited to submit a proposal on future audit contracts.

FISCAL IMPACT

The previous annual City-wide contract for audit services was approximately \$144,000. With competitive bidding, the fees for the new recommended audit contract will be approximately \$131,000 for the first year with 1.5% cost of living adjustment in year two and year three. The first year amount is included in the FY 2012 Recommended Operating Budget.

Prepared by: Henry Gudino, Accounting Manager

Recommended by: Susan Stark, Interim Finance Director

Approved by:

A handwritten signature in black ink, appearing to read 'Fran David', written over a horizontal line.

Fran David, City Manager

Attachment:

Attachment I Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF HAYWARD AND MAZE & ASSOCIATES FOR AUDIT AND FINANCIAL SERVICES FOR THE CITY OF HAYWARD

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute on behalf of the City of Hayward an agreement with Maze & Associated for audit and financial services in an amount not to exceed \$131,220 for the first year with 1.5% cost of living adjustment in year 2 and year 3, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF
HAYWARD
HEART OF THE BAY

DATE: May 3, 2011

TO: Mayor and City Council
Chair and Agency Board Members

FROM: Assistant City Manager/Interim Redevelopment Agency Director

SUBJECT: Assignment of Cinema Place First Amended Ground Lease and Approval of Second Amendment of Lease between Hayward Cinema Place, LLC and Century Theatres, Inc.

RECOMMENDATION

That the Agency Board and City Council adopt the attached resolutions assigning the First Amended Ground Lease for the Cinema Place property to the City; and that the Council then adopts the attached resolution approving the Second Amendment to the Lease between Hayward Cinema Place, LLC (HCP) and Century Theatres, Inc.

BACKGROUND

The Hayward Redevelopment Agency first entered into a Disposition and Development Agreement (DDA) and Ground Lease with HCP in August 2004 in order to provide for the redevelopment of the Agency-owned property, located on Foothill Boulevard between B and C Streets in downtown Hayward, with an entertainment-oriented retail center, including a multi-screen movie theater, restaurant/retail space, and a parking garage. The DDA and Ground Lease were amended twice, and subsequent to the approval of the second DDA amendment, the Agency executed two Implementation Agreements.

The financing of the retail center included the following contributions from the Agency: acquisition of the site in 2002 for approximately \$3.5 million; construction of the adjacent 244-space public parking garage in 2007 at a cost of approximately \$7 million; environmental remediation of the site under the direction of the State Regional Water Quality Control Board (approximately \$820,000); and a \$1.5 million site preparation and improvement loan to the developer. The developer has contributed approximately \$4 million in project “equity” funding and obtained a construction loan of approximately \$11 million, of which approximately \$8.5 million has been funded to date.

The retail center began construction in August 2007 and was substantially completed by August 2008. The twelve-screen Century Theatre opened in October 2008. In addition to the theatre, three retail/restaurant spaces have been leased and are now open: Zuckersuss Yogurt; Wing Stop; and Kokyo Sushi Buffet. The addition of Kokyo Sushi Buffet has been a great asset to Cinema Place, resulting in an increase in customers to the theatre and downtown. The theatre operators recently

noted that the parking garage is filled to capacity on weekends. The success of the Kokyo Sushi Buffet has had a positive impact on leasing efforts as well. The real estate broker for the property has been working with several potential restaurant tenants interested in the ground floor spaces at the site. In addition, the Hayward Arts Council has opened a gallery in one of the vacant retail spaces to provide for additional activity and vitality on that section of B Street. Staff continues to work closely with HCP and the Cinema Place real estate broker, Colliers International, to fill the remaining available retail spaces.

In June 2009, the Agency Board authorized the Executive Director to negotiate and execute several documents that allowed HCP to restructure its construction loan agreement with Redwood Capital Finance in order to allow remaining amounts of the original \$11 million construction loan to be funded, and to allow continued operation of the shopping center. This direction resulted in the execution of the Second Implementation Agreement in June 2009. In addition to the restructuring of the construction loan, this agreement also addressed prevailing wage complaints filed in late 2008. HCP included language in the Second Implementation Agreement that addressed the prevailing wage issues and released the Agency from liability in these matters.

In March of this year, the Agency Board and City Council took actions to transfer Agency-held properties to the City of Hayward. On March 11, 2011, staff recorded the deeds transferring the two Cinema Place parcels to the City of Hayward with the Alameda County Recorder's Office. However, at the time, the Agency Board did not assign any of the associated agreements for the Cinema Place project to the City.

DISCUSSION

Staff is recommending that the Agency Board and the Council take two actions this evening: 1) approve the assignment of the Cinema Place First Amended Ground Lease to the City and 2) approve an amendment to the lease between Hayward Cinema Place, LLC and Century Theatres pursuant to the provisions of the Ground Lease between the City and HCP.

Assignment of First Amended Ground Lease. As was mentioned above, in March of this year, the Agency transferred the two Cinema Place parcels to the City. There are numerous agreements associated with these two parcels related to the theatre/retail building and the public parking garage. Since the City now holds the title to the properties, it is appropriate to assign all of the agreements associated with the land to the City. At this point, staff is recommending that the Agency Board only authorize the Executive Director to prepare all necessary documents to execute the assignment of the First Amended Ground Lease. This action would allow the City Council, as the property owner, to approve the lease amendment between HCP and Century Theatres. None of the provisions of the underlying agreement would be modified as a result of the assignment.

Once there is final action at the State level regarding redevelopment agencies, staff will return to the Agency Board with recommendations regarding assignment of the other agreements related to the Cinema Place project. These other agreements deal with the payment of utilities, maintenance and security costs and environmental remediation work on site. As such, these agreements would also require budget action by the Council to appropriate or transfer the funds necessary to pay for costs associated with the agreements.

Approval of Amended Lease Between HCP and Century Theatres: In late March of this year, HCP approached Agency staff with a proposal to amend the lease between HCP and Century Theatres, LLC (Attachment IV). The key provisions of the amended lease would include: 1) elimination of Century Theatres' right to pay alternate or percentage rent for their tenant space; 2) reduction of base rent paid by Century Theatres from \$15 per sq.ft. to \$13 per sq.ft.; and 3) elimination of the "Adjacent Space Opening Requirement" clause in the agreement allowing Century Theatres to terminate their lease or pay a much reduced alternate rent if any of the ground floor adjacent retail spaces are not opened for business within specified time guidelines identified in the agreement. HCP has indicated that approval of this amended lease is necessary for them to recapitalize the property, putting it on more solid financial footing.

Pursuant to Section 13.3 of the First Amended Ground Lease between the Agency and HCP, the Agency must provide written consent for any subleases of the property. HCP must provide the Agency with a thirty-day written notice prior to the effective date of any sublease or amendment or assignment of existing subleases. Additionally, HCP must certify that: "(1) the sublease or amendment does not grant to the proposed subtenant any option or other right to purchase the Tenant's leasehold interest in the portion of the Property which is the subject of such sublease; and (2) the amount of rental payable under such sublease or amendment is not less than the prevailing rent received by Tenant under subleases of comparable space on the Property, less ten percent (10%)." Staff has determined that these conditions of the First Amended Ground Lease have been met, allowing the Council to approve the amendment to the sublease without further modifications to the First Amended Ground Lease between HCP and the City.

Notwithstanding the technical barriers to approval of the amendment to the lease agreement between HCP and Century Theatres, there is also a question as to the financial implications of the reduction in base rent proposed as part of this amendment. As mentioned previously, the Agency originally contributed \$1.5 million to the project, which was structured as a loan (Site Preparation Note) to be repaid from future sales proceeds of the development, in the event that certain investment return thresholds are met. Given the provisions of the original agreement and the implications of a reduced base rent for Century Theatres, staff asked Keyser Marston and Associates to perform a high level fiscal analysis of the proposed amendment to the lease agreement between HCP and Century Theatres. Under contract with the Agency, Keyser Marston provided assistance with pro forma analysis and negotiations for the original Cinema Place Disposition and Development Agreement. Given the firm's background with this project, they were able to provide an analysis of the proposed amendment to the lease agreement between HCP and Century Theatres. Keyser Marston's analysis is included as Attachment V. More details regarding the financial analysis are outlined in the Fiscal and Economic Impact section below.

The basic conclusion of Keyser Marston's analysis is that the proposed reduction in the base rent for Century Theatres does not further impair the ability of the Agency (or the City) to receive loan payments under the agreement beyond what staff anticipated when the loan was restructured in June 2009. Keyser Marston estimates that the proposed rent reduction from \$15/sq.ft. to \$13/sq.ft. potentially reduces the value of the project by \$1 million. Even if the Century Theatre rent remained at \$15/sq.ft., the value of the project would be unlikely to reach the threshold value of \$24 million by April 2014, making repayment of the Agency's Site Preparation Note unlikely even

before approval of this lease amendment. However, the removal of Century's ability to terminate the lease if certain adjacent retail leasing thresholds are not met is a significant benefit to both the City and to HCP. It allows HCP to recapitalize the Project, putting it on more solid financial footing, and stabilizes the tenancy of this important entertainment anchor in the City's downtown.

Staff agrees with Keyser Marston's analysis and believes that elimination of the "Adjacent Space Opening Requirement" puts the Project on more solid footing. As such, staff recommends approval of the proposed amendment to the lease between HCP and Century Theatres.

FISCAL AND ECONOMIC IMPACT

As highlighted in more detail in Attachment V, the proposed amendment to the lease agreement between HCP and Century Theatres helps to stabilize the Project and does not negatively impact the ability of the Agency (or the City) to receive participation payments as outlined in the 2007 DDA above and beyond repayment concerns highlighted in prior reports to the Agency Board and Council. The repayment of the Agency's \$1.5 million contribution/loan (Site Preparation Note) was predicated on a sale of the development for a price of \$24 million by August 2012. The repayment of this original investment was considered "uncertain" in 2007 at the time of the original project approval. In 2009, the Agency amended the original terms of the \$1.5 million Site Preparation Note to extend the sale threshold date to April 2014. The \$24 million sales price threshold was left unchanged by that amendment. In the June 2, 2009, Agency Board report, staff highlighted repayment concerns regarding the \$1.5 million Site Preparation Note, given the change in economic conditions from the time of the original 2007 DDA approval.

As mentioned above, Keyser Marston estimates that the proposed rent reduction from \$15/sq.ft. to \$13/sq.ft. potentially reduces the value of the project by \$1 million. Even if the Century Theatre rent remained at \$15/sq.ft., the value of the project would be unlikely to reach the threshold value of \$24 million by April 2014, making repayment of the Agency's Site Preparation Note unlikely even before approval of this lease amendment. However, the removal of Century's ability to terminate the lease if certain adjacent retail leasing thresholds are not met is a significant benefit to both the City and to HCP. It allows HCP to recapitalize the Project, putting it on more solid financial footing, and stabilizes the tenancy of this important entertainment anchor in the City's downtown.

PUBLIC CONTACT

Not applicable.

Prepared by: Kelly McAdoo Morariu, Assistant City Manager/Interim Redevelopment Agency Director

Approved by:



Fran David, City Manager

Attachment:

- Attachment I – Resolution of the Redevelopment Agency Assigning First Amended Ground Lease
- Attachment II – Resolution of the City of Hayward Accepting Assignment of First Amended Ground Lease
- Attachment III – Resolution of the City of Hayward Approving Terms of Century Theatre Lease Amendment
- Attachment IV – Proposed Second Amendment of Lease Between Hayward Cinema Place, LLC and Century Theatres, LLC
- Attachment V – Keyser Marston Financial Analysis

REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

RESOLUTION NO.

Introduced by Agency Member

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN ASSIGNMENT OF THE FIRST AMENDED GROUND LEASE BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD AND CINEMA PLACE HAYWARD, LLC, TO THE CITY OF HAYWARD

BE IT RESOLVED by the Agency Board of the Redevelopment Agency of the City of Hayward that the Executive Director is hereby authorized and directed to execute on behalf of the Redevelopment Agency an assignment of the First Amended Ground between the Redevelopment Agency and Cinema Place Hayward, LLC, dated July 11, 20007, to the City of Hayward, in a form to be approved by the Agency Counsel.

HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: AGENCY MEMBERS: CHAIR:

NOES: AGENCY MEMBERS:

ABSTAIN: AGENCY MEMBERS:

ABSENT: AGENCY MEMBERS:

ATTEST: Secretary of the Redevelopment Agency of the City of Hayward

APPROVED AS TO FORM:

General Counsel

ATTACHMENT II

HAYWARD CITY COUNCIL

RESOLUTION NO.

Introduced by Council Member

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN ASSIGMENT OF THE FIRST AMENDED GROUND LEASE BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD AND CINEMA PLACE HAYWARD, LLC, TO THE CITY OF HAYWARD

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to execute on behalf of the City an assignment of the First Amended Ground Lease between the Redevelopment Agency of the City of Hayward and Cinema Place Hayward, LLC, dated July 11, 2007, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

SECOND AMENDMENT OF LEASE

This Second Amendment of Lease (this "Amendment") is made and entered into by and between **HAYWARD CINEMA PLACE, LLC**, a Delaware limited liability company ("Landlord"), and **CENTURY THEATRES, INC.**, a California corporation ("Tenant"), as of the 18th day of March, 2011, and is effective for all purposes as of March 18, 2011 (the "Effective Date").

WHEREAS, Landlord and Tenant entered into that certain Lease dated March 13, 2007 and First Amendment to Lease date July 11, 2007 (collectively, the "Lease"), for that certain demised premises in Cinema Place in the City of Hayward, Alameda County, California, as set forth in the Lease; and

WHEREAS, Landlord and Tenant desire to modify the rent structure and to amend the Lease in certain other particulars, as more particularly set forth herein.

1) Recitals; Certain Defined Terms. The recitals set forth above are incorporated into this Amendment and shall be deemed terms and provisions hereof, the same as if fully set forth in this Paragraph 1. Capitalized terms that are not otherwise defined herein shall have the respective meanings set forth in the Lease.

2) Alternate Rent. Notwithstanding anything in the Lease to the contrary, for the period beginning on the Effective Date of this Amendment and continuing until November 1, 2011, all Base Rent, Percentage Rent and Additional Rent due under the Lease shall abate and in lieu thereof Tenant shall pay Alternate Rent in accordance with Section 4.8 of the Lease.

3) Base Rent. From and after November 1, 2011, the Base Rent payable by Tenant under the Lease shall be as follows:

- a. the annual Base Rent specified in Section 1.1 of the Lease is hereby amended to be equal to: (A) for the first ten (10) Lease Years, \$13.00 per square foot of Net Leasable Floor Area, which is \$456,040.00 (35,080 square feet multiplied by \$13.00 per square foot) per year and \$38,033.33 per month; and (B) for the eleventh (11th) through fifteenth (15th) Lease Years, the annual Base Rent over the first ten (10) Lease Years, as adjusted by the CPI Adjustment (with respect to the Variable Component of Base Rent only) in accordance with Section 4.2 of the Lease as hereby amended, and (C) for each Extension Term, the annual Base Rent over the immediately preceding five (5) Lease Years, as adjusted by the CPI Adjustment (with respect to the Variable Component of Base Rent only) in accordance with Section 4.2 of the Lease as hereby amended; and
- b. for purposes of calculating the CPI Adjustment, (A) the "Fixed Component of Base Rent" (which shall not be subject to adjustment) is hereby amended to be equal to \$8.00 per square foot of Net Leasable Floor Area, and (B) the "Variable Component of Base Rent" (which shall be subject to adjustment after the 10th

Lease Year) shall remain unchanged at \$5.00 per square foot of Net Leasable Floor Area.

4) Adjacent Spaces Completion Condition. As of the Effective Date, Tenant hereby waives its right to terminate the Lease or to pay Alternative Rent (for periods after November 1, 2011) in lieu of all Base Rent, Percentage Rent and Additional Rent otherwise due as a consequence of Landlord's failure to satisfy the Adjacent Spaces Completion Condition. Accordingly, for purposes of Section 3.1 and Section 4.8 of the Lease, and although Landlord shall continue to use its reasonable commercial efforts to satisfy the Adjacent Space Completion Condition, the Commencement Date Conditions shall be deemed to exclude the satisfaction of the Adjacent Spaces Completion Condition and Landlord is deemed to have satisfied this condition.

5) Adjacent Space Opening Requirement. As of the Effective Date, Tenant hereby waives its right to pay Alternative Rent (for periods after November 1, 2011) in lieu of Base Rent, Percentage Rent and Additional Rent otherwise due as a consequence of Landlord's failure to satisfy the Adjacent Space Opening Requirement. Accordingly, the third grammatical sentence of Section 11.4 of the Lease starting with the words "*Any ground floor Adjacent Spaces...*" shall be deleted in its entirety.

6) Lender and Agency Approval. This Amendment is subject to (i) the consent of Redwood Capital Finance Company, LLC ("Lender") pursuant to that certain Subordination, Non-Disturbance and Attornment Agreement effective as of November 6, 2007 by and among Landlord, Tenant and Lender, and (ii) the consent of the Redevelopment Agency of the City of Hayward (the "Agency") pursuant to that certain Recognition, Non-Disturbance and Attornment Agreement dated as of July 11, 2007 by and between Tenant and the Agency. Landlord shall submit this Amendment for review and approval by Lender and the Agency within two (2) business days after the execution hereof and shall use all commercially reasonable efforts to obtain the consent of Lender and the Agency as soon as possible after the date hereof. Until such consents are obtained, this Amendment (other than this Paragraph 6) shall not be considered in full force and effect. If Landlord does not deliver to Tenant the written consent of Lender by March 31, 2011 and the Agency by May 6, 2011, then unless Landlord and Tenant mutually agree to extend such date this Amendment shall be considered null and void. Notwithstanding the above, if Landlord is using reasonable commercial efforts to obtain Agency approval by the date specified above and Agency is not able to convene in order to meet this deadline, then the date for Agency approval shall be extended until June 30, 2011.

7) Effect of Amendment. This Amendment modifies and amends the Lease, and the terms and provisions hereof shall supersede and govern over any contrary or inconsistent terms and provisions set forth in the Lease. The Lease, as hereby amended and modified, remains in full force and effect and is ratified and confirmed. All future references to the "Lease" shall mean and refer to the Lease (as defined in the recitals to this Amendment), as amended and modified by this Amendment.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first above written.

LANDLORD:

HAYWARD CINEMA PLACE, LLC
a Delaware limited liability company,

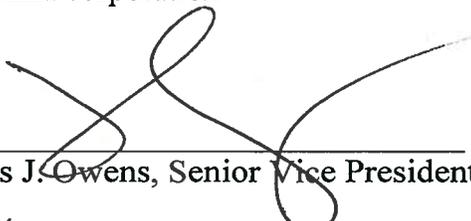
By: BHV Hayward, LLC, a California limited liability company
Its: Manager

By: 

Bradley Blake, Manager

Date: March 18, 2011

TENANT:
CENTURY THEATRES, INC.,
a California corporation

By: 

Thomas J. Owens, Senior Vice President-Real Estate

Date: March 21, 2011



KEYSER MARSTON ASSOCIATES™
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

MEMORANDUM

ADVISORS IN:
REAL ESTATE
REDEVELOPMENT
AFFORDABLE HOUSING
ECONOMIC DEVELOPMENT

To: Kelly Morariu, Assistant City Manager
City of Hayward

From: Tim Kelly

Date: April 18, 2011

Subject: Cinema Place - Century Theater Sublease Agreement

SAN FRANCISCO
A. JERRY KEYSER
TIMOTHY C. KELLY
KATE EARLE FUNK
DEBBIE M. KERN
ROBERT J. WETMORE
REED T. KAWAHARA
DAVID DOEZEMA

Pursuant to your request, we have reviewed the financial implications of revisions to the Century Theatre sublease and the impact on the Site Participation Note. Pursuant to the ground lease with Cinema Place Partners, the City/Agency must approve any amendments to subleases.

LOS ANGELES
KATHLEEN H. HEAD
JAMES A. RABE
PAUL C. ANDERSON
GREGORY D. SOO-HOO
KEVIN E. ENGSTROM
JULIE L. ROMNEY
DENISE BICKERSTAFF

Background

SAN DIEGO
GERALD M. TRIMBLE
PAUL C. MARRA

The Agency's \$1.5 million cash contribution was structured as a loan (Site Preparation Note) to be repaid from future sales proceeds of the development, in the event that certain investment return thresholds are met.

When the Agency originally approved the terms of the \$1.5 million Site Preparation Note in 2007 as part of the Second Amended Disposition and Development Agreement and Amended Ground Lease, it was estimated that the development would need to sell for a price of \$24 million by August 2012 in order for the Agency to start receiving repayment on its loan. The 2007 staff report stated that the given an initial estimated value of the project at approximately \$16 million, the prospects for repayment of the Agency's loan were "uncertain." The return threshold triggering the repayment of the Agency's Note (the 15% IRR) was set deliberately high due to the risky nature of Cinema Place project and the need to attract private financing to build the project. In 2009, the Agency's Site Preparation Note was amended and restated with a repayment formula date defined as occurring on or before April 27, 2014 and the \$24 million threshold was left unchanged. After April 27, 2014, the Note is assumed to have been satisfied and the borrower has no further obligation to repay the Note. The definition of Internal Rate of Return is provided in the Note.

To: Kelly Morariu, Assistant City Manager
Subject: Cinema Place - Century Theater Sublease Agreement

April 18, 2011

Page 2

Cinema Theater Lease Amendment

Century Theater occupies 35,000 sq.ft and represents approximately 66% of the leasable area in Cinema Place. The proposal is to reduce Century's annual rent from \$15 per sq.ft. per year to \$13 per sq.ft per year. The reduction represents a loss of rental income of approximately \$70,000 per year. The rent reduction reduces the value of the project by approximately \$1 million. However, in exchange for the rent reduction, Century is amending its lease to no longer allow Century to terminate based on the level of vacancies in the retail space. This concession enhances the ability to attract private capital, such as additional investment, refinancing and future buyers.

Agency Participation Interest

As stated above, the value of the project must exceed a threshold value before the Agency realizes monies through its participation interest. Today, the value of the project is not greater than the cost, even with the Century rent at \$15 per sq.ft. rent (that is before the lease amendment) and the balance of the space fully leased. Blake Hunt Ventures reports the costs to date are approximately \$13 million. For the value to increase so that it is in excess of the threshold value by April 2014 is unlikely. Shop rents would need to increase from approximately \$2 per month on average to over \$3 per month in three years.

The reduction of the Century rent clearly makes it more difficult to have the overall value exceed the threshold value by 2014. However, even before the proposed reduction in the Century rent, the ability of the value to increase to a level above the threshold value was unlikely. Therefore, it can be concluded that the reduction in Century rent does not effectively impair the ability of the Agency to receive participation payment. Furthermore, the removal of the ability of Century to terminate its lease based on the occupancy of the shop space enhances the ability to attract private investment.



CITY OF
HAYWARD
HEART OF THE BAY

DATE: May 3, 2011

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Route 238 Corridor Improvement Project: Approval of a Contract for Adaptive Traffic Management System Software

RECOMMENDATION

That Council adopts the attached resolution approving a sole source purchase of the Sydney Coordinated Adaptive Traffic System software (SCATS) and support services from Transcore in an amount not-to-exceed \$660,000 for the Route 238 Corridor Improvement Project.

BACKGROUND

On November 27, 2007, Council approved the Route 238 Corridor Improvement Project and certified the Final Environmental Impact Report (FEIR). The project is located along Foothill Boulevard and Mission Boulevard between the I-580 ramps and Industrial Parkway, including the one-way loop in the Downtown area.

On April 20, 2010, Council approved the project's plans and specifications and called for bids. Three months later, on July 20, 2010, Council awarded the construction contract to Top Grade Construction, Inc. Construction started during September 2010 and is scheduled to be completed by Spring 2013.

DISCUSSION

One of the major project features is the inclusion of an adaptive traffic management system (ATMS) to interconnect and control traffic signal timing within the project limits. SCATS has been selected as the ATMS for use on this project based on a report of the Route 238 Traffic Control System functional requirements, system evaluation and concept of operations. TJKM, the project's transportation consultants prepared the report. Of the eight ATMS products evaluated in the report, two (ATMS.now and SCATS) were found to meet the basic functional requirements of the project. A more detailed comparison of these two products and the consultant's experiences using both products resulted in a recommendation to purchase SCATS.

SCATS is an area-wide traffic control system that is ideally suited to address changeable traffic conditions. It adjusts individual traffic signal timing based on real-time variations within designated areas and sub-areas based on average prevailing traffic conditions. SCATS is especially effective

when traffic fluctuates more than twenty percent from average conditions, as frequently occurs along Mission and Foothill Boulevards during peak hours. SCATS software is currently deployed within the Bay Area at other signalized intersections in Sunnyvale, Menlo Park, and Santa Rosa and has had recognized success internationally.

The construction contractor has begun the process of surveying traffic signal pole locations and purchasing traffic signal equipment. Software for the traffic signal controllers is a City-furnished item. Staff has deferred acquisition of this software as long as possible to take advantage of any recent release of upgrades to the software. Transcore, the sole source distributor of SCATS software and provider of SCATS support in the United States, requires eight months for the purchase and software set-up, documentation, testing, deployment, optimization, operator training, and construction oversight. In order to support the contractor's construction schedule, the City should acquire the SCATS software as soon as possible, given the current construction schedule.

The proposed purchase includes a SCATS software license for fifty intersections and Transcore support services for deployment of the software to thirty-seven intersections. Phase 1 of the Route 238 project affects thirty intersections within the downtown area and along Mission and Foothill boulevards. The other seven intersections are along Jackson St. They are included with this license but will be deployed at a later date after Jackson St is relinquished by Caltrans in accordance with the City's prior agreements. The SCATS software is expandable to other intersections throughout the City and the software for the thirteen remaining intersections will be deployed along the northern and southern portions of Mission Boulevard during subsequent phases of the Route 238 project.

As part of the project, a traffic management center (TMC) is being developed. This TMC will allow staff to monitor, observe, and respond to changing traffic conditions throughout the project corridor. The SCATS system will be part of a Citywide effort to control traffic on its major corridors, to better manage traffic, and to respond to community traffic concerns in a more efficient fashion without the need for dispatching City staff into the field.

As part of a separate project being funded with Transportation for Clean Air (TFCA) funds, one of the less robust and less expensive ATMS products previously evaluated will be selected and installed on other corridors throughout the City, including Hesperian Boulevard, Winton Avenue, and Tennyson Road. These other systems will also communicate with the TMC. SCATS is not advisable on these streets because it is exceedingly more expensive and is not justified except on major corridors such as our previously designated state highways. Further, TFCA funds would be insufficient to purchase SCATS for all these streets.

FISCAL AND ECONOMIC IMPACT

The cost for the SCATS software and Transcore support services is \$660,000. The "not-to-exceed" amount includes \$594,471 for basic services and \$65,529 for additional services that might be needed. As Transcore is the only distributor for the SCATS software and provider of SCATS support services in the United States, staff recommends that Council approve Transcore as being the sole source provider. The costs for the SCATS system are already included as part of the Route 238 CIP project; therefore, there will be no additional impact on the General Fund.

PUBLIC CONTACT

Staff addressed the proposed software acquisition during the City Council meeting on April 20, 2010 and in more detail during the Council Downtown Committee meeting on January 25, 2010.

SCHEDULE

Execute Contract	May2011
Complete SCATS Set Up	November2011
Complete Testing and Training	January 2012
Complete Construction Support	December2012

Prepared by: Morad Fakhrai, Deputy Director of Public Works

Recommended by: Robert A. Bauman, Director of Public Works

Approved by:



Fran David, City Manager

Attachment:

Attachment I - Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-___

Introduced by Council Member _____

RESOLUTION APPROVING A CONTRACT FOR ADAPTIVE TRAFFIC MANAGEMENT SOFTWARE FOR THE ROUTE 238 CORRIDOR IMPROVEMENT PROJECT, PROJECT NO. 5117

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to proceed with a sole source purchase of Sydney Coordinated Adaptive Traffic System software (SCATS) and support services from Transcore in an amount not-to-exceed \$660,000 for the Route 238 Corridor Improvement Project.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

of Hayward

DATE: May 3, 2011
TO: Mayor and City Council
FROM: Interim Director of Finance
SUBJECT: Master Fee Schedule/Fine and Bail Update

RECOMMENDATION

That Council approves the attached resolution authorizing changes to the City's Master Fee Schedule and the Fine and Bail Schedule.

SUMMARY

City staff completed the annual review of the Master Fee Schedule to determine what adjustments, if any, are necessary for the fees charged for services provided. User fees are charged for special services provided by the City that are not fully funded by general tax revenue. Some of these services include but are not limited to: copies of documents; development services including building and fire inspection services; animal control services; false alarm fees; and rental of City property. The City also charges for the use of the City water and sewer systems, which are reviewed bi-annually, and are only partially discussed in this report. The Fine and Bail Schedule has also been updated due to SB857. Alameda County will be collecting an extra \$3 surcharge from cities for every parking ticket collected.

A complete and detailed listing of fees are reflected in the Fiscal Year 2012 Master Fee Schedule¹, along with the Fine and Bail Schedule², which both can be reviewed at the Office of the City Clerk; on the City of Hayward's website at www.hayward-ca.gov; or, by request to the Office of the City Clerk, it can be provided in cd-rom format.

BACKGROUND

As part of the FY 09 and FY 10 budget process, staff identified the need to perform a comprehensive user-fee study. The fee study, prepared by Maximus, was completed and presented to Council in July 2008. In general, the result of that study showed that in order to recover the total

¹ <http://www.hayward-ca.gov/departments/finance/documents/RecommendedMasterFee2012.pdf>

² http://www.hayward-ca.gov/departments/finance/documents/FY_2012_Fine_and_Bail_Schedule.pdf

cost of providing services, fee increases were necessary. Many of the fees in the City's fee schedule had not been reviewed for a number of years and it became clear that implementing the study's recommended full-cost recovery would create significant increases in fees. Therefore, based on concerns regarding the community's response to the fee increases, the recommended full-cost recovery fees were scheduled as a phase-in process over two fiscal years; 80% in FY09 and 100% in FY10. Other fees were and still are highly subsidized either because of the public benefit that is received by charging a reduced fee, or by government regulations.

A component of the City's fee setting policy requires that fees be reviewed and adjusted annually as part of the budget process in order to avoid large increases in a single year. Fee increases based on "CPI," are based on the percentage increase taken from the San Francisco-Oakland-San Jose Consumer Price Index- All Urban Consumers.

For FY11, staff analyzed the Master Fee Schedule and the CPI as of December 2009, which reflected a 2.6% increase over the prior year. Certain fees were adjusted accordingly by a 2.6% increase unless staff requested to keep fees the same as the previous year (FY10) for public benefit or if mandated by a government regulation.

For the proposed FY12 Master Fee Schedule, the CPI as of December 2010 reflects a 1.5% increase. However, due to the economic climate affecting our community and surrounding areas, staff has attempted to postpone any increases based solely on a CPI increase. Staff has adjusted fees only where the cost of service delivery to the public has increased, for example labor or materials or for corrections and rounding differences to the existing Master Fee Schedule itself.

Proposition 26 Review and Compliance

In November 2010, California voters approved Proposition 26, which amended Article XIII C of the State constitution regarding the adoption of fees and taxes. Proposition 26 seeks to assure that taxes are not disguised as fees: taxes must be approved by the voters whereas fees can be approved by legislative bodies, such as a city council. The proposed Master Fee Schedule has been reviewed for compliance with Proposition 26 and, in the City Attorney's opinion, is compliant.

DISCUSSION

Summary of Changes in Fees for FY 2012 Master Fee Schedule:

All City Departments:

- Staff proposes reducing the Administrative Hearing Fee from the existing \$51 to \$50 in order for ease in quoting to citizens over the phone. The CD-ROM/ DVD fee is being rounded from \$5.15 to \$5.00 for administrative ease in charging the public.

City Attorney:

- Staff proposes increasing the rent stabilization administration fee to equal 50% of full cost recovery. Currently, it is set at a level to recover approximately 40% of the actual costs of this program.

City Clerk:

- Staff proposes to increase passport fees from \$75.00 to \$110.00 (age 16 and over) and from \$60.00 to \$80.00 (under age 16) as mandated by the U.S. Dept of State. Staff is also rounding other fees for various reproduction, certificates, and publications to the nearest dollar for ease in providing service to the general public.

City Manager:

- Staff proposes no fee changes; but needs to add clarification to Community Preservation lien and hearing fees to include special assessments.

Development Services Department:

Staff recommendations for Building fees are categorized into three general areas:

1. Reformatted to be more user-friendly: The fee schedule has been reformatted to be much more user-friendly and understandable. Such changes do not entail substantive changes to fees, but involve the following:
 - a. Condensed the schedule down from thirty-five pages into a more useable eighteen-page format by reducing the sixty sub-occupancy classification groups into fifteen primary occupancy groups with both new construction plan check and new construction inspection fees shown on the same pages. The existing schedule has fees within sub-occupancy classification groups that are either the same or vary only slightly, and has plan check and inspection fees in different sections of the schedule.
 - b. Added a page at the rear of the schedule to clearly show all of the additional State mandated and non-permit service fees.
 - c. Cleaned up the Mechanical, Electrical, and Plumbing fee schedule sections by removing fees listed for inspection requests (e.g., underground inspection, rough inspection and final inspection), versus fees for specific scopes of work (wall heaters, electrical service upgrades, water heater replacements, etc.). The fees associated with these inspection requests should never have appeared in the fee schedule as listed, since inspection charges are captured by the administrative and miscellaneous charge for each type of permit. Also, staff is recommending adding a sign permit fee to the electrical schedule to cover review and inspection of such projects.

2. Changed the Fee Schedule Structure for Commercial Tenant Improvements and Residential Remodel Projects to a Valuation-Based Structure:

- a. Consistent with discussion at the January 25, 2011 City Council Work Session, in response to customer feedback, and to address shortcomings of the current Building Division fee schedule, staff is recommending that the fees only for commercial tenant improvements (TIs) and residential remodels be based on project valuation. Hayward's schedule prior to FY09 relied on a valuation-based fee schedule, as did those of most jurisdictions throughout the State. The current fee schedule for such projects is based on square footage that makes calculating fees for TIs and residential remodels cumbersome and time-consuming, and which results in inconsistent assessment of fees, because the scope of such projects within the same square footage and costs to process such projects can vary widely.

The City moved away from the valuation-based approach in 2009, based on recommendations from its consultant and desire to achieve greater cost recovery. However, for TIs and remodels, the current schedule often results in fees that are inconsistent with the costs of reviewing and inspecting projects. Generally, larger, more complicated TIs and remodels that require more plan review and inspections will appropriately result in higher fees with the proposed changes, compared with the existing fees; however, the reverse is often true for smaller, simpler projects. Staff is recommending the changes to better align costs with fees for processing TIs and remodels.

- b. The schedule retains the equipment installation fee in the miscellaneous schedule to avoid the possibility of overcharging on tenant improvement projects with high valuation pieces of equipment.
- c. Re-established inclusive residential remodel type permits where the valuation based permit will be issued as a single permit and will include all of the sub permits. Such action will eliminate the need for multiple permits for more complex residential remodels.

3. Other Miscellaneous Changes:

- a. The miscellaneous items fee schedule for large commercial solar photovoltaic systems has been adjusted to more closely reflect the cost of plan check review and inspection of such systems. Such adjustment results in fees more in line with those of other cities and in line with the Sierra Club's Bay Area impact fee study findings.

- b. The miscellaneous items fee schedule was amended to clarify that the fee for roof top units, such as HVAC units, includes all the trades permits.

In summary, the proposed revisions will allow staff to more quickly and consistently provide project fee estimates to developers and contractors and will better align fees with the true costs of processing permits based on project-specific scopes of work.

Staff recommendations for Planning fee changes:

- Pre-Application Meetings: This is an existing fee and no increase is recommended, though the Fire Department fee of \$843 that is normally paid to the Fire Department is now shown in the Pre-Application fee total. There has been concern that this fee may dissuade potential applicants from applying for a Pre-Application meeting, which greatly benefits potential applicants proposing complex projects with multiple issues. Consistent with the discussion at the January 25, 2011 City Council work session, staff recommends allowing the pre-application fee to be credited towards the Development Review Application initial deposit for the corresponding project. While this credit will lessen the initial financial outlay for an application submittal, there will be no loss of revenue as the billing will remain on a time & materials basis.
- Building Permit Application Review: The Building Permit Review process requires City planners to review building permit applications for compliance with the Zoning Ordinance and conditions of approval imposed by discretionary permits. Currently, Planners review building permit applications with no direct cost recovery coming from fees associated with permit applications being reviewed. Building Permit Review fees for Planning were included in the Master Fee Schedule prior to the 2008 Master Fee Study by Maximus. However, the Maximus study, rather than resetting these fees, aggregated time spent by the Planning Division into support to the Building Division for such reviews. Unfortunately, this approach does not provide an accurate recapture of costs associated with time actually spent by Planning Division staff on review of building permit applications, nor is Building Division cost recovery sufficient if an amount were deducted from the Building revenues to support Planning reviews. Reinstatement of these fees would allow for direct cost recovery and therefore, staff is recommending reinstatement of these fees equal to those in the 2008 Master Fee Schedule, with an average annual increase based on CPI beginning FY 2013 (i.e., there will be no overall increase for FY12.)
- Planning and Landscape Inspections: City planners are often required to inspect properties to review compliance of new development projects with the Zoning Ordinance and conditions of approval imposed by discretionary permits. Currently, Planners inspect properties/projects with no cost recovery coming directly from the project being reviewed. Inspection fees were included in the Master Fee Schedule prior to the 2008 Master Fee Study by Maximus. However, the Maximus Study, rather than resetting these fees, aggregated time spent by the Planning Division into support to the Building Division. For the same reasons noted above for Building Permit Application review, reinstatement of these fees would allow for direct cost recovery. Staff is recommending reinstatement of

these fees equal to those in the 2008 Master Fee Schedule, with an average annual increase based on CPI beginning FY 2013 (i.e., there will be no overall increase for FY12.)

- Research: Written verifications of zoning designations currently require a fee of \$216. Often a customer request requires research beyond that related to a simple Zoning Verification request. The fee would be imposed if the request required more than fifteen minutes of staff research, consistent with other research fees charged in the Fee Schedule. The recommended fee would be the same fee imposed by the City Clerk's office for this same service, and would allow for fuller cost recovery.
- Encroachment Permits – Street Events: This is an existing fee and no increase is recommended. However, the City Manager receives a number of requests for permit fee waivers for such events and there are no guidelines contained in the fee schedule. Therefore, staff recommends amending the Planning fee schedule by inserting language that indicates the City Manager may waive permit fees for such events that are sponsored by the City or by City of Hayward educational institutions. Given the number of past requests, which are typically fewer than five per year, it is not anticipated that such amendment would result in the loss of substantial revenue. Also, such waivers would promote partnership between the City and local educational institutions. Staff will monitor the number of waivers granted annually and may reconsider these waivers in the future, depending on the costs involved.

Police Department:

Staff proposes new fees, a revised bail and fine schedule, and clarification of fee descriptions.

- Due to the overwhelming costs to maintain the use and effectiveness of the Hayward Police Department's range, a Firearms Range Maintenance Fee is proposed for other law enforcement agencies. The fee will be based on the number of times a department or agency utilizes the HPD range during a calendar year. The proposed fee is: one or two days per calendar year-\$250; three or four days per calendar year-\$500; five or more days per calendar year-\$750. This maintenance fee does not alleviate the need for those utilizing the HPD range from performing a clean-up detail at the end of each range day. This includes the removal of all casings discarded during training and the removal of all trash from the range.
- Staff proposes to add a new fee and increase another fee in the Animal Services licensing and adoption program. The new fee is an administrative processing fee for the return of animals adopted from the shelter. The new fee is a nominal \$10, not intended for full cost recovery, but will offset the staff time involved in taking in the returned animal along with updating microchip information. Another fee proposed for increase is the Sterilized License Renewal from \$11 to \$17 to make it equal with initial licensing fees because the amount of staff time involved is equivalent.
- Due to SB857, Alameda County will be collecting an extra \$3 surcharge from cities for every parking ticket collected. Laws enacted prior to SB857 currently require the County to

collect \$9.50 from issuing agencies for each parking penalty or fine paid. Most of these surcharges are a pass-through from the County to the State for court facilities construction funds. The City passes the surcharges to the parking violators with the revised ticket fines. The attached FY12 Fine and Bail schedule reflects the increased fines.

Public Works:

Airport:

- Staff added a Hanger Office Space rental fee for renting office space on a month to month basis which was inadvertently removed from the last master fee schedule and proposes increasing the existing Hanger Space and Hanger Storage fees by the CPI of 1.5% across the board.

Engineering Services:

- Staff proposes adding new Engineering fees and correcting existing fees to reflect a full cost recovery rate. Due to an oversight, the phase-in from 80% to 100% recovery rate per the fee study in FY10 did not occur for Engineering & Transportation fees. The proposed fee increases in the FY12 fee schedule include the remaining 20% correction to get to full cost recovery rate.
- Staff proposes a new fee for Development Plan Review; which would be \$730 for industrial/commercial projects and \$360 for residential projects. This new fee is to recover the costs of Engineering & Transportation (E&T) review of development plans that are not covered under a time and materials fee. Typically, E&T reviews plans for various types of facilities to ensure that adequate clean water monitoring programs are included, and reviews grading and drainage plans associated with building permit projects. The proposed fees reflect the typical level of effort required for most industrial, commercial and residential projects.

Utility Services:

- Sanitary sewer service and water rates are adjusted biannually effective in October and will be covered in a separate report to Council later this spring. However, staff proposes certain utility services fees to be increased due to increased labor and materials costs. Those fees include: Wastewater Discharge Permit Fees; Water Service Charges and Installation fees; and various Account Establishment, Meter Lock, Removal, and Testing fees. Staff also proposes a new Solid Waste Development Plan Review fee for industrial/commercial or residential projects to cover the review for solid waste and recycling requirements. These reviews have been done in the past without a fee, similar to plan review requirements mentioned above in Engineering Services.

Technology Services:

- Staff proposes increases to various GIS mapping, copying, and paper fees to include a CPI increase of 1.5% as well as rounding to whole dollar increments.

Departments Not Recommending Fee Increases

- Finance Department.
- Fire Department.
- Library and Community Services: Staff proposes no change to library fees and that said fees remain highly subsidized due to the public benefit.
- Maintenance Services.

ECONOMIC IMPACT

Approval of the attached resolution will have a minor economic impact on our community in that certain fees will be increased. The increases have been imposed gradually thereby negating possible hardship to the community.

FISCAL IMPACT

Approval of the attached resolution will increase the City's General Fund resources in FY12 by approximately \$220,000.

PUBLIC CONTACT

A public notice was published in The Daily Review on April 16 and April 21, 2011 announcing the date, time, location and subject matter of this public hearing.

NEXT STEPS

Upon approval of the attached resolution, the Schedules will be updated and the fees will be effective as of July 1, 2011, to allow for the required sixty-day notice period.

Prepared by: Henry Gudino, Accounting Manager

Recommended by: Susan M. Stark, Interim Director of Finance

Approved by:



Fran David, City Manager

Attachments: Attachment I: Resolution
Attachment II: Fine and Bail Schedule

HAYWARD CITY COUNCIL

RESOLUTION NO _____

Introduced by Council Member _____

RESOLUTION ADOPTING A REVISED MASTER FEE SCHEDULE, INCLUDING A REVISED FINE AND BAIL SCHEDULE, RELATING TO FEES AND CHARGES FOR DEPARTMENTS IN THE CITY OF HAYWARD AND RESCINDING RESOLUTIONS NO. 10-061 and NO. 09-085 AND ALL AMENDMENTS THERETO

WHEREAS, Section 15273 of the California Environmental Quality Act (CEQA) Guidelines states that CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purposes of:

1. Meeting operating expenses, including employee wage rates and fringe benefits;
2. Purchasing or leasing supplies, equipment, or materials;
3. Meeting financial reserve needs and requirements;
4. Obtaining funds necessary for capital projects necessary to maintain service within existing service areas; or
5. Obtaining funds necessary to maintain intra-city transfers as are authorized by city Charter; and

WHEREAS, the City Council finds and determines that this action is exempt from CEQA based on the foregoing provisions.

WHEREAS, in November 2010, California voters approved Proposition 26, which amended Article XIII C of the State constitution regarding the adoption of fees and taxes. Proposition 26 seeks to assure that taxes, which must be approved by the voters, are not disguised as fees, which can be approved by legislative bodies, such as a city council. The proposed Master Fee Schedule (MFS), including the proposed Fine and Bail Schedule, is compliant.

NOT, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby adopts certain changes in both the Master Fee Schedule and the Fine and Bail Schedule relating to fees and charges for all departments of the City of Hayward, either on its face or as applied, the invalidity of such provision shall not affect the other provisions of this Master Fee Schedule and the Fine and Bail Schedule, and the applications thereof; and to that end the provisions of this Master Fee Schedule and the Fine and Bail Schedule shall be deemed severable.

BE IT FURTHER RESOLVED that Resolutions No. 10-061 and No. 09-085, and all amendments thereto are hereby rescinded.

BE IT FURTHER RESOLVED that this resolution shall become effective as of July 1, 2011.

IN COUNCIL, HAYWARD, CALIFORNIA APRIL 26, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

City of Hayward Traffic Code

Fine and Bail Schedule

<u>Section</u>	<u>Offense</u>	<u>Current Bail</u>	<u>Recmd Bail</u>
<u>Uniform Fire Code</u>			
9.01.4	Parked in Fire Lane	215.50	218.50
<u>Hayward Traffic Code</u>			
5.02	Obediance to Traffic Control Devices	294.50	297.50
6.01.1	No Parking - Red Curb Zone	64.50	67.50
6.01.2	Yellow Curb, Loading Zone	64.50	67.50
6.01.3	White Curb, Passenger Loading Zone	64.50	67.50
6.01.4	Green Curb Zone - Over Time Limit	74.50	77.50
6.01.5	Blue Curb, Disabled Persons Zone	334.50	337.50
6.05	Parking in Alley	64.50	67.50
6.06	Bus Zone	284.50	287.50
6.23	Municipal Lot/City Property Special Restrictions	64.50	67.50
6.23h	Disabled Persons Stall	334.50	337.50
6.24	Selling on Street/City Property	239.50	242.50
6.30	Over Time Limit	74.50	77.50
6.32	Commercial Vehicle, Over Posted Time Limit	126.50	129.50
6.33	Commercial Vehicle in Residential Area	126.50	129.50
6.35	Not Parked within Designated Space	64.50	67.50
6.36(a)	Residential Permit Parking only	64.50	67.50
6.37	Driving Off Interstate Truck Route	60.50	63.50
6.38	Commercial Vehicle in Posted No Parking	126.50	129.50
6.39a	Parked off Pavement or Not Leading to Garage	104.50	107.50
8.10	Double Parked	64.50	67.50
8.11	No Parking in Parkways	64.50	67.50
8.12	Parked on Street over 72 Hours	74.50	77.50
8.13	Parking on Street for Sale or Repairs	104.50	107.50
8.14	Private Property Parking	104.50	107.50
8.15	Disabled Persons Stall, Private Property	334.50	337.50
8.17	Narrow Street Posted No Parking	64.50	67.50
8.18	Parked on Hill, Wheels not Curbed	64.50	67.50
8.20.3	Posted No Parking	64.50	67.50
8.20.4	No parking - Street Sweeping Zone	64.50	67.50
8.21	Not 18", not Parallel to Left Side One Way	64.50	67.50
8.22	Parked at Angle	64.50	67.50
8.30	Temporary No Parking Area	64.50	67.50
8.39	Leaving Attended Parking Lot without Paying	74.50	77.50
8.50	Blocking Crosswalk	64.50	67.50
<u>California Vehicle Code</u>		4.50	7.50
21113a	Violate Restriction on School Grounds, etc.	64.50	67.50
22500a	No Parking in an Intersection	64.50	67.50
22500b	Parked Across Crosswalk	64.50	67.50
22500d	Parking W/I 15' of Fire Station Driveway	74.50	77.50
22500e	Parked Blocking Driveway	64.50	67.50
22500f	Parked on Sidewalk	64.50	67.50
22500g	Parked Adjacent To or Opposite Street Excavation	64.50	67.50
22500h	Double Parked	64.50	67.50
22500i	Bus Passenger Loading Zone w/Red Curb	284.50	287.50

<u>Section</u>	<u>Offense</u>	<u>Current Bail</u>	<u>Recmd Bail</u>
22500j	No Parking in Tunnel or Tube	64.50	67.50
22500k	No Parking on a Bridge	64.50	67.50
22502a	Parked Wrong Side of Road/over 18" from Curb	64.50	67.50
22507.8a	Disabled Parking Space	334.50	337.50
22507.8c	Disabled Access Area	334.50	337.50
22507b	Disabled Parking - Obstruct or Block Access	334.50	337.50
22513	Tow Truck on Freeway	37.50	40.50
22514	Park w/in 15' of Fire Hydrant	74.50	77.50
22515	Unattended Vehicle with Motor Running	74.50	77.50
22516	Locked Vehicle Person Inside Can't Escape	107.50	110.50
22521	Parking on or w/in 7.5' of Railroad Track	64.50	67.50
22522	Block Sidewalk Ramp for Disabled Painted Red	334.50	337.50
22523a	Vehicle Abandoned on Highway or Street	454.50	457.50
22523b	Vehicle Abandoned on Private Property	454.50	457.50
25300e	Warning Device Parked Vehicle	80.50	83.50
26708	Tinted windshield	29.50	32.50
26710	Defective windshield	29.50	32.50
27155	No gas cap	29.50	32.50
27465b	Bald tire	29.50	32.50
4000a	No evidence of current registration	54.50	57.50
40226	Dismissal of Handicap Citation	29.50	32.50
4462b	Display false tab	29.50	32.50
5200	No plate	29.50	32.50
5204a	Expired tags	29.50	32.50

DATE: May 3, 2011

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Request to Change the General Plan designation from Medium Density Residential to High Density Residential and to Change the Zoning from Medium Density Residential to Planned Development to Accommodate Twenty-two Affordable Senior Housing Rental Units Proposed at the corner of B and Grand Streets - General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369 - Eden Housing (Applicant); Hayward Redevelopment Agency/City of Hayward (Owner)

RECOMMENDATION

That the City Council adopts the attached resolution (Attachment I) adopting the attached Negative Declaration (ND), approving the General Plan Amendment, and approving the proposed twenty-two unit Senior Housing facility, and introduces the attached ordinance (Attachment II) related to the zone change to a Planned Development district.

BACKGROUND

This item was originally heard before the City Council on March 22, 2011¹. Numerous members of the neighborhood attended that meeting and expressed their concerns over the proposed project. The owner of the immediately adjacent property expressed concerns over safety in regard to the redwood tree and potential privacy issues due to the height of the proposed structure. Other neighbors submitted a petition, signed by approximately fifty households, identifying six reasons the project should be denied.

These reasons include: (1) the proposed very-low income housing project has the potential to cause undue economic impacts to surrounding properties by depressing property values; (2) the project is incompatible with the surrounding neighborhood in terms of scale, bulk, density, and aesthetics, and will not be in harmony with existing buildings and the character of the existing community; (3) the project does not comply with the 'B Street Special Design Streetcar Overlay District' requirements for landscaping, setback, depth of front yard, space between houses, orientation of primary entrances, porch design, driveways, and window requirements; (4) the project does not comply with

¹ <http://www.hayward-ca.gov/citygov/meetings/cca/2011/CCA11PDF/cca032211full.pdf>

the requirement for the placement of utilities underground for all new development on the B Street corridor; (5) the project exceeds the City of Hayward General Plan density which allows for eight units on the 0.5-acre parcel; and (6) the project is not consistent with previous communication shared with the community that the site would be developed with eight market-rate townhomes.

Based on the concerns expressed at the March 22 meeting, the City Council moved to continue the public hearing to April 19, and subsequently continued the matter to a May 3 public hearing. The Council requested that Eden Housing meet with the neighbors and make appropriate revisions to the B Street façade.

DISCUSSION

Activity Since March 22 City Council Hearing- At the direction of the City Council, Eden Housing and their architects have been diligently working on revised designs for the proposed senior housing facility at the corner of B and Grand Streets and meeting with the B Street neighborhood to share such revisions and receive further input from the community. The first neighborhood meeting was held on March 30. At this meeting, Eden Housing revealed the changes made to the project design since the March 22 Council hearing, which included: lowering the building height along B Street by relocating the required third-story stairwell to the Grand Street side of the building, incorporating more Craftsman style architectural features, and providing an entrance on the B Street elevation in accordance with the B Street Special Design Streetcar District regulations. No changes were made to the location of the building on the site and its distance from B Street.

The neighbors expressed appreciation for the additional efforts to modify the building design; however, they still had some concerns. Neighborhood comments at this meeting included requests to: (1) relocate the building on the site to gain a greater setback along B Street to be more consistent with the setback of the original houses in the neighborhood; (2) include more porches and entries to units along B Street to provide more interaction between the future Eden Housing residents and the existing B Street neighborhood; and (3) consider removing the redwood tree. At the March 30 community meeting, Eden Housing indicated they would request a continuance from the April 19 City Council meeting to allow time to prepare another set of revised plans and present those plans to the neighbors at another community meeting.

On April 13, Eden Housing held the second community meeting, during which Eden shared changes to the plans since the March 30 meeting. These plan changes included: moving the location of the building on the site to provide an additional 7-foot setback along B Street, (although this did result in a 10-foot setback, instead of the original 20 feet, along Grand Street); a redesign of the B Street elevation to provide entries via covered porches for the four ground floor units; and a change to the parking space layout resulting in only two compact parking spaces in lieu of the three in the original proposal. Eden shared two site plan options with the community: one which showed the redwood tree remaining and the other showing its removal. Each option showed the same amount of outdoor group open space, but the version showing the tree removed results in a more functional outdoor courtyard.

Overall, the reaction from the community was quite positive. Many were supportive of the revised site plan showing the removal of the tree, since although there are concerns over the maintenance

and health of the tree, the removal of the tree would provide a more functional space for the future residents of the facility. There were still concerns expressed regarding the process that resulted in amendments to the Inclusionary Housing Agreement with Citation Homes for the Cannery Place development that indicated an increase in density for this property, but the community was very thankful that Eden Housing took the time to listen and incorporate changes into the project design.

Staff Analysis- Staff is supportive of the new design that Eden Housing has presented. The building now provides a 17-foot setback along B Street, while still maintaining the necessary width for the access road at the rear of the building. The B Street elevation has been revised to incorporate more Craftsman elements and provide front entries for the four ground floor units fronting B Street. Materials have been incorporated which reflect the architectural style. All of these changes bring the project into greater consistency with the B Street Special Design Streetcar Overlay District standards. Also, the Grand Street elevation has been modified to provide a more defined front entry and brick has been added to the exterior, helping to integrate this new building with the existing facility at C and Grand.

Regarding the redwood tree, staff is not supportive of its removal since the tree has been rated as being in fair condition and its removal does not result in the site providing additional group open space, although the group open space does become more functional. The City's Tree Preservation Ordinance requires mitigation for the removal of protected trees. If the tree is removed, Eden Housing will need to mitigate for this loss. Condition of approval # 15 has been added to the conditions with the attached resolution, which addresses this issue should the project be approved with removal of the tree.

Response to Neighborhood Petition – Staff has also provided a response to the items included in the neighborhood petition submitted to the City Council at the March 22 public hearing:

- (1) *The proposed very-low income housing project has the potential to cause undue economic impacts to surrounding properties by depressing property values.*

Research has shown that affordable housing projects do not necessarily have a negative impact on surrounding property values. In fact, projects that replace depressed conditions, such as vacant lots or lots with blighted conditions, and those projects that are well-managed and maintained will often have more positive impacts on the surrounding community. The project will replace a vacant lot and be located adjacent to an existing senior facility also managed by Eden Housing. In addition, condition of approval #7 requires Eden Housing to maintain the project site in good repair inclusive of all fencing, parking, driveway surfaces, common landscaping, lighting, exterior elevations, trash enclosures, drainage facilities, and signs. Based on how Eden Housing manages its other facilities in Hayward, including the adjacent one at C and Grand Streets, it is unlikely that this facility would negatively impact surrounding properties.

- (2) *The Project is incompatible with the surrounding neighborhood in terms of scale, bulk, density, and aesthetic and will not be in harmony with current buildings and character of the existing community.*

The project has been redesigned to reduce the scale of the building along the B Street elevation and design features have been modified to be more consistent with the character of the existing community.

- (3) *The project does not comply with the 'B Street Special Design Streetcar District' requirements for landscaping, setback, depth of front yard, space between houses, orientation of primary entrances, porch design, driveways, and window requirements.*

The project has been redesigned to be more consistent with the B Street Special Design Streetcar District requirements, including providing front porch entries for the ground floor units on B Street, increasing the front yard setback to seventeen feet, providing substantial window areas overlooking the street, and providing architectural details and materials reflective of the Craftsman style. Also, the parking continues to be located at the rear of the building.

- (4) *The Project does not comply with the requirement for the placement of utilities underground for all new development on the B Street corridor.*

The project will be required to underground the existing utilities along B Street. Initially, the applicant was requesting a waiver of this requirement; however, the City could only support a deferral of the requirement. Based on Eden Housing's financing for the project, they cannot defer the requirement and will be undergrounding the utilities as part of their construction. Condition of approval #22 requires the applicant to submit a design for the undergrounding of the utilities as part of their Improvement Plan submittal and requires the undergrounding to be completed prior to a final Building Permit.

- (5) *The Project exceeds the City of Hayward General Plan density which allows for eight units on the 0.5-acre parcel.*

The project does exceed the existing General Plan designation. As part of this application, Eden Housing is requesting a General Plan Amendment to change the General Plan designation from Medium Density Residential to High Density Residential. Because the project is one-hundred percent affordable, they also qualify for a density bonus under State Density Bonus law.

- (6) *The Project is not consistent with previous communication shared with the community that the site would be developed with eight market rate townhomes.*

When this property was privately owned by Citation Homes, the intent of that developer was to construct market rate townhomes consistent with the existing General Plan designation on the property. Due to unforeseen circumstances, the developer had to modify

their previously approved Inclusionary Housing Agreement (IHA) with the City. As part of the IHA modification approved by the City Council in December 2009, this property was sold at a substantially reduced price to the City Redevelopment Agency in-lieu of twenty-two affordable housing units they would otherwise have provided within the Cannery development.

PUBLIC CONTACT

Since the original City Council hearing held on March 22, Eden Housing has held two community meetings to present new design plans and get input from the community. The first community meeting was held on March 30 and the second community meeting was held on April 13. Notice of this hearing was sent to all property owners within 300 feet of the subject property. In addition, staff expanded the notice for this hearing to also include everyone who signed the petition presented to Council on March 22, as well as property owners along B Street from Grand Street to Burbank Elementary School and property owners along Grand Street.

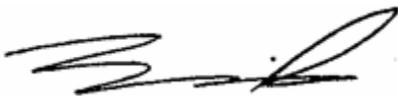
NEXT STEPS

Assuming the City Council approves the project, the ordinance would then be adopted at the next Council meeting, and the applicant would need to submit a Precise Development Plan and Improvement Plans for review and approval by various City departments. Once the City approves the Precise Development Plan and Improvement Plans, the applicant may submit for building permits which, once approved, would allow for construction of the project.

Prepared by: Sara Buizer, AICP, Senior Planner

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

- Attachment I Resolution
- Attachment II Ordinance
- Attachment III Revised Plans
- Attachment IV March 30, 2011 City Council Agenda Report with attachments

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Councilmember _____

RESOLUTION ADOPTING THE NEGATIVE
DECLARATION AND APPROVING A GENERAL PLAN
AMENDMENT AND ZONE CHANGE APPLICATION
PERTAINING TO A PROPOSED TWENTY-TWO-UNIT
SENIOR HOUSING FACILITY AT B AND GRAND
STREETS

WHEREAS, in December 2009, the City Council authorized an amendment to the Cannery Place Development Inclusionary Housing Agreement allowing for the off-site construction of twenty-two low income units to satisfy the developer's inclusionary housing obligation; and

WHEREAS, on October 4, 2010, Eden Housing (Applicant) submitted General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369, which concerns a request to a) amend the General Plan Land Use Designation from Medium-Density Residential to High Density Residential; and b) change the Zoning from Medium Density Residential to Planned Development to facilitate construction of twenty-two very low income senior housing units at the corner of B and Grand Streets (the "Project"); and

WHEREAS, a Negative Declaration has been prepared to assess the potential environmental impacts of the proposed development; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on February 10, 2011, and has recommended that the City Council adopt the Negative Declaration, approve PL-2010-0368GPA and PL-2010-0369ZC and approve the twenty-two-unit senior housing facility; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on both March 22, 2011 and May 3, 2011.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. The project will have no significant impact on the environment, cumulative or otherwise, the project reflects the independent judgment of the City Council, and, therefore, a negative declaration has been prepared.

GENERAL PLAN AMENDMENT

2. The proposed General Plan Amendment will promote the public health, safety, convenience, and general welfare of the residents of Hayward, in that the High Density Residential land use designation will allow Eden Housing to construct the second phase of its project and will provide an additional twenty-two very-low-income rental units for seniors, which constitutes a growing segment of the City's population. The location of the project site, across from the Hayward BART station and just west of downtown, is an ideal location for housing, because it allows the future residents to be near alternative transportation as well as services.
3. The proposed General Plan Amendment to High Density Residential land use designation is in conformance with the City's General Plan policies and goals, including those which assist in the development of affordable housing and providing suitable sites for housing developments that take advantage of convenient access to the BART station. The proposed project is across the street from the Downtown BART station and near services provided in downtown, and it is adjacent to the existing senior housing facility and will be able to take advantage of shared facilities.
4. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified to the High Density Residential land use designation in that surrounding streets are fully developed with all utilities present.
5. All uses permitted when the property is reclassified to High Density Residential will be compatible with present and potential future uses, and further, the project incorporates appropriate design elements of the Craftsman style in accordance with the "B" Street Special Design Streetcar District. In addition, without the modification to the General Plan land use designation, the density would not permit the construction of twenty-two very-low-income senior housing units.

ZONE CHANGE

6. The proposed development of a senior housing facility is in harmony with the surrounding area which is primarily residential. The project, as it is an affordable senior housing facility, is consistent with General Plan policies that encourage providing housing that can accommodate a range of sizes, location and tenure as well as policies related to encouraging housing near transit and services which this development will achieve.
7. The project site is surrounded by existing streets and there are utilities available to the site with adequate capacity to serve the proposed development.
8. The development of twenty-two very-low-income senior rental units by a local reputable affordable housing entity is a residential development that will be sustainable over time. As the population ages, there will be a need to provide housing opportunities for seniors.

Having a facility located in close proximity to public transit and services, as well as Cannery Park and the main branch of the Hayward Library, will also be beneficial to the sustainability and long-term viability of the development and help serve the needs of the project occupants.

9. The zone change to Planned Development allows for a modified building setback along B Street and Grand Street, and a reduction in the required number of parking spaces. The reduced setback will allow increased space behind the proposed building for group gathering space for the future tenants and still allow sufficient landscaping along B Street to enhance the streetscape. The reduction in parking spaces to 0.5 parking spaces per unit is consistent with that allowed for the first phase of the development and typical of what has been required for senior housing facilities in the past. In addition, the reduced building setback along B Street and the parking space reductions allow for an enhanced outdoor courtyard. Without the Planned Development zoning, the project would not likely be developed, and with the zone change, the City is benefitting from an additional twenty-two additional very low income senior housing units, under unified management and operation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward, based on the foregoing findings, that the Negative Declaration is hereby adopted and General Plan Amendment No. PL-2010-0368, and Zone Change Application No. PL-2010-0369 are approved, subject to the adoption of the companion ordinance rezoning the properties located at the corner of B and Grand Streets (APNs 431-0040-012-02, 431-0040-011, and 431-0040-010) from Medium Density Residential to Planned Development District, and subject to the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

CONDITIONS OF APPROVAL

General Plan Amendment Application No. PL-2010-0368 and
Zone Change Application No. PL-2010-0369

Eden Housing (Applicant)

Planning Division

1. General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369 is approved subject to the plans labeled Exhibit "A" and the conditions listed below. The Preliminary Development Plan Approval becomes void two years after the effective date of approval, unless prior to that time a Precise Development Plan has been submitted for review and processing in accordance with all conditions of the Preliminary Development Plan approval. A request for up to two, one-year extensions, approval of which is not guaranteed, must be submitted to the Planning Division at least 15 days prior to the expiration date.
2. If a building permit is issued for construction of improvements authorized by the General Plan Amendment and Zone Change approvals, said approvals shall be void two years after issuance of the building permit, or three years after approval of the Precise Development Plan Approval, 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 Precise Plan approval.
3. 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.
4. Prior to application for a Building Permit or a Grading Permit, a Precise Development Plan shall be submitted for review and approval and include the following:
 - a) A copy of these conditions of approval shall be included on a full-sized sheet(s) in the set of plans.
 - b) In addition to the architectural and landscape drawings, a lighting plan, prepared by a qualified illumination engineer meeting the requirements of the City's Building Security Ordinance. Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas. Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of units within the project.

The fixtures shall be decorative and designed to keep the light from spilling onto adjacent properties. Wall-mounted light fixtures shall not be mounted greater than 12 feet in height unless otherwise permitted by the Planning Director. Luminaires shall be of a design that complements the architectural style of the building and shall be approved by

the Planning Director prior to issuance of the building permit. The maximum height of the luminaires shall be 12 feet unless otherwise permitted by the Planning Director. The lighting and its related photometric plan shall be reviewed and approved by the Planning Director. Lighting standards shall be placed so as to not conflict with the location of trees or where they would shine directly into windows.

- c) A color and materials board shall be submitted for review and approval by the Planning Director.
 - d) The developer shall work with Planning staff to design secure bicycle parking to the extent feasible.
 - e) Revised landscape plans shall be submitted to address the revised outdoor spaces along B Street in front of the units and the outdoor courtyard space.
5. In conjunction with the Precise Plan submittal and prior to issuance of a building permit:
- a) The developer shall cause to be recorded a covenant agreement to ensure that the 22 rental units remain affordable to low and very low income seniors for a minimum of 55 years. The agreement shall be approved by the Planning Director prior to recordation.
 - b) The developer shall cause the three parcels to be merged into one.
 - c) The developer shall submit a soils investigation report for review and approval by the City Engineer.
 - d) The developer shall submit improvement plans for review and approval by the City Engineer.
6. Prior to the installation of any signs, the applicant shall submit a Sign Permit Application to the Planning Director for review and approval.
7. The owner shall maintain in good repair all fencing, parking and driveway surfaces, common landscaping, lighting, exterior elevations, trash enclosures, drainage facilities, project signs, etc. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within 72 hours of occurrence.
8. No mechanical equipment may be placed on the roof unless it is incorporated into the design of the roof. Prior to construction, documentation shall be provided that the roof-mounted mechanical equipment is adequately screened.
9. In the event that archaeological resources, prehistoric or historic artifacts are discovered during construction of excavation, the following procedures shall be followed: Construction and/or excavation activities shall cease immediately and the Planning Division shall be notified. A qualified archaeologist shall be consulted to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedure for evaluation accidental finds and discovery of human remains shall be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.

10. Construction noise from the development of this site shall adhere to standard restrictions on hours and days of operation as specified in the City of Hayward Municipal Code, Article 1, Section 4-1.03(2). Construction equipment is required to have sound reduction devices to reduce noise impacts on surrounding properties. The name and telephone number of an individual responsible for responding to complaints regarding noise, and who is hired by the developer, shall be posted at the site during construction.
11. Prior to final inspection, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.
12. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
13. Any future modification to the approved site plan shall require review and approval by the Planning Director.
14. The applicant shall work with the neighboring property owner regarding the design of the fence along the common property line.
15. If the redwood tree is removed, the loss shall be mitigated and incorporated within the revised landscape design. Mitigation must be equivalent to the value of the redwood tree.

Development Services

16. A Parcel Merger Application with an initial deposit in the amount of \$3,000 shall be submitted prior to or concurrent with the Building Permit Application. All parcels must be under common ownership and title must be held in the exact manner for each parcel.
17. Parcel Merger Notice shall be executed and recorded prior to the issuance of any building permits.
18. A strip of land at the corner of B and Grand Streets shall be dedicated to the City for the installation of a new pedestrian ramp. The dedication of right-of-way shall be completed prior to the issuance of any building permits.
19. Prior to the issuance of any permits for any construction activity on-site, the Developer's Engineer shall submit a completed Development Building Application Form Information consisting of: 1) Impervious Material Form and 2) Operation and Maintenance Information Form.

20. Prior to the issuance of any permits the owner/developer shall execute a Storm Treatment Measures Maintenance Agreement (as prepared by the City of Hayward and is available in the Engineering and Transportation Division); the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.

Improvement Plans

21. Concurrent with the Precise Plan submittal, submit five sets of Improvement plans, hydrology and hydraulic calculations and drainage area map, detailed C.3 plan and calculations, and a \$3,000 initial deposit to cover staff's review time charges.
22. The Improvement Plans shall include a design for the undergrounding of utilities along B Street for review and approval by Public Works staff. An encroachment permit will be required for any work in the public right of way. All undergrounding must be completed prior to a Building Permit final.
23. Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed at no cost to the City of Hayward.
24. All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, and Standard Specifications and Details – unless otherwise indicated hereinafter.
25. The applicant/developer's Registered Civil Engineer shall perform all design work unless otherwise indicated.
26. Prior to the issuance of any permits for any construction activity on-site, detailed Improvement plans including grading, erosion and sediment control measures and drainage plans with supporting calculations, and a completed Drainage Review Checklist shall be submitted for review and approval of the City Engineer. Subject plans shall include standard improvements and all items depicted on the improvement plans labeled C-1, C-2 and C-3 received on December 3, 2010, and shall incorporate the following conditions and design requirements:
 - a) New driveway approach on Grand Street shall be installed per City Standard SD-109.
 - b) Parking and circulation areas shall be designed to conform to the City off-street parking regulations.
 - c) All paved slopes shall have a minimum 0.5% grade.
 - d) The on-site storm drain system shall be a private system owned and maintained by the owners.

- e) The development shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the hydrology design shall clearly indicate all areas tributary to the project site.
 - f) The stormwater runoff generated from the site shall be collected and discharged to existing underground storm pipe system in the complex and shall not disperse as surface flow to the adjacent parking lot.
 - g) All storm drain inlets must be labeled "No Dumping - Drains to Bay," using City-approved methods.
 - h) The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to design the storm drain system. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be submitted, which shall meet the approval of the City Engineer.
 - i) The storm drain design shall comply with the C.3 established thresholds and shall incorporate measures to minimize pollutants to the maximum extent practicable (MEP).
27. The Project plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site in order to limit the entry of pollutants into storm water runoff to the maximum extent practicable. It is highly recommended that grassy swale be installed to intercept the surface runoff and using an engineered soil fill with a minimum infiltration rate of 5 inches per hour.
28. The project shall be designed to direct runoff to the landscaped yards and common space, prior to entering into the underground pipe system. Unit pavers should also be considered for impervious areas such as the driveways, parking areas.
29. The applicant/developer shall be responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.
30. Required water system improvements shall be completed and operational prior to the start of combustible construction.
31. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
- a) Grading and construction activities shall be limited to the hours 7:30 AM to 6:00 PM on weekdays; there shall be no grading or construction activities on the weekend or national holidays.
 - b) Grading and construction equipment shall be properly muffled.
 - c) Unnecessary idling of grading and construction equipment is prohibited.

- d) Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential units.
- e) Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise.
- f) The developer shall participate in the City's recycling program during construction.
- g) Daily clean up of trash and debris shall occur along all peripheral streets and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
- h) The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions.
- i) All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site.
- j) All unpaved access roads, parking areas and staging areas at construction sites shall be paved, have water applied three times daily, or non-toxic soil stabilizers applied.
- k) All paved access roads, parking areas and staging areas at construction sites shall be swept daily (with water sweepers).
- l) Inactive construction areas (previously graded areas inactive for 10-days or more) shall have non-toxic soil stabilizers applied, or shall be hydroseeded.
- m) Exposed stockpiles (dirt, sand, etc.) shall be enclosed, covered, watered twice daily or applied with non-toxic soil binders.
- n) Construction debris shall be gathered on a regular basis and placed in a dumpster or other container that is emptied or removed on a weekly basis. When appropriate, tarps on the ground are to be used to collect fallen debris or splatters that could contribute to storm water pollution.
- o) All dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site shall be removed. During wet weather, driving vehicles off paved areas and other outdoor work areas shall be avoided.
- p) The sidewalks and public street pavement adjoining the project site shall be broom-swept on a daily basis. Caked-on mud or dirt shall be scraped from these areas before sweeping.
- q) No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
- r) Filter materials (such as sandbags, filter fabric, etc.) shall be installed at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; 3) street washing activities; or 4) saw cutting asphalt or concrete activities, or in order to retain any debris or dirt flowing into the storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles shall be properly disposed in the trash.
- s) A contained and covered area shall be created on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the

project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill.

- t) Cleaning machinery, tools, brushes, etc., or rinsing containers, into a street, gutter, storm drain or stream is prohibited (see City's "Building Maintenance/Remodeling" flyer for more information).
 - u) Concrete/gunite supply trucks or concrete/plasters finishing operations shall not discharge washwater into street gutters or drains.
 - v) The applicant/developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the Alameda County Department of Health and the Regional Water Quality Control Board.
32. A representative of the project soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe all grading operations and provide any recommended corrective measures to the contractor and the City Engineer.

Landscape Division

33. Provide a revised arborist report to include all existing trees within the project impact area, street trees on B and Grand Street, including health, species, caliper, approximate height, canopy diameter, and value using the latest edition of "Guide for Plant Appraisal" by the International Society of Arboriculture for the City's review and approval. Provide ISA worksheet per each trees are subjected for valuation.
34. The width of the ADA ramp landing is 4 feet including the width of grooves. See the City Standard Detail SD-108. Modify the entry planting area and the arbor configuration to the courtyard.
35. *Platanus acerifolia* 'Yarwood' was specified for as street trees for the Eden Housing on Grand and C Street according to the approved landscape improvement plan dated 2/5/2007. Add this to the plant list.
36. Proposed tree location at the corner of Grand and B Street on Sheet L1.1 and A1.1 should be the same. Revise one of the plans.
37. All existing trees that are proposed to be saved shall be preserved in accordance with the arborist's recommendations. The report shall include detailed tree protection measures prior, during and post construction. A tree preservation bond shall be posted for all existing trees to remain.
38. A separate tree removal permit shall be required prior to issuance of a grading permit.

39. Pruning existing tree branches larger than 1 inch shall require a tree pruning permit per Tree Preservation Ordinance.
40. Provide hose bib(s) shall be provided in the vegetable garden area.
41. Prior to the approval of the improvement plans, a detailed landscaping and irrigation plan for the site shall be prepared by a licensed landscape architect and submitted for review and approval by the City's Landscape Architect. Planting and irrigation shall comply with the City's Hayward Environmentally Friendly Landscape Guidelines and Checklist for professional, Bay-Friendly Water Efficient Landscape Ordinance, and Municipal Codes.
42. Mylar of the approved landscape and irrigation improvement plans shall be submitted to the Engineering Department. The size of Mylar shall be 22" x 34" without an exception. A 4" wide x 4" high blank signing block shall be provided in the low right side on each sheet of Mylar. The signing block shall contain two signature lines and dates for City of Hayward, Landscape Architect/Planner and City Engineer. Upon completion of installation, As-built/Record Mylar shall be submitted to the Engineering Department by the developer.
43. A copy of the approved and signed landscape and irrigation improvement plans shall be included in the building permit submittal set. Building permit shall not be issued without the approved landscape and irrigation improvement plans.
44. Landscaping shall be maintained in a healthy, weed-free condition at all times and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Municipal Code.

Public Works – Utilities

Water-

45. City records indicate that there are two existing ¾" water service lines with 5/8" water meters on the parcels (account # 04-00750.01 & 04-00800.02). If the existing water services and meters cannot be reused, they must be abandoned by the City Water Distribution Personnel at the owner's/applicant's expense.
46. Based on the water fixture shown on the plans, it is estimated that the finished structure will have a total of 245.5 fixture units. If a single water meter and service line are installed for

domestic use, a minimum 2" water service line and 2" domestic water meter shall be installed. The current cost for a 2" meter and 2" water service line is \$45,810 (\$4,300 installation cost + \$45,810 facilities fee).

47. If a single water meter and service line are installed for domestic use, the service will be considered commercial and will require a Reduced Pressure Backflow Prevention Assembly to be installed by the applicant/developer.
48. If there will be 5,000 square feet or more of landscaping, a separate irrigation water meter shall be installed for landscaping purposes.
49. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each irrigation water meter, per City Standard SD-202.
50. 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.
51. Water meters and services to be located a minimum of two feet from top of driveway flare as per City Standard Details SD-213 thru SD-218.
52. Water mains and services, including the meters, must be located at least 10 feet horizontally from and one-foot vertically above any parallel pipeline conveying untreated sewage (including sanitary sewer laterals), and at least four feet from and on foot vertically above any parallel pipeline conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade piping materials.

Sewer-

53. The developments sanitary sewer laterals shall have cleanouts and be constructed per City Standard Detail SD-312.
54. The current Sanitary Sewer Connection fee for a multi-family residential unit is \$6,457 per unit. Sewer Connection fees are due and payable prior to final inspection.

Fire Department

Project Site Requirements-

55. The minimum fire flow is 2500gpm based on construction type of VA and building area of 20,813 square feet. A fire flow reduction of up to 50 percents is allowed when the building is provided with automatic sprinkler system in accordance with NFPA 13. The resulting fire flow shall not be less than 1,500gpm.
56. An unobstructed vertical clearance of not less than 13 feet 6 inches shall be provided for all apparatus access road.
57. Fire apparatus access roads shall be designed and maintained to support the imposed load of fire apparatus 75,000 lbs and shall be surfaced so as to provide all-weather driving capability.
58. Fire apparatus access roads 20 to 26 feet wide shall be posted on both sides as a fire lane, 26 feet to 32 feet shall be posted on one side of the road as a fire lane. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.
59. The fire department connection should face to the new 26' fire apparatus road.

Building Requirements-

60. Submit for proper building permits for the construction/ alterations of the building to the Building Department.
61. Fire sprinkler system shall be installed in accordance with NFPA 13 and California Fire Code. Separate submittals and additional permits are required for the installation of fire sprinkler systems.
62. Fire alarm system shall be installed in accordance with NFPA 72 and California Fire Code, and additional permits are required for the installation of fire alarm system.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY REZONING CERTAIN PROPERTY AT THE SOUTHWEST CORNER OF B AND GRAND STREETS IN CONNECTION WITH ZONE CHANGE APPLICATION NO. PL-2010-0369 RELATING TO A 22-UNIT SENIOR HOUSING FACILITY

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Rezoning.

Article 1 of Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the property at the corner of B and Grand Streets (APNs 431-0040-012-02, 431-0040-011, and 431-0040-010) from Medium Density Residential to Planned Development District.

Section 2. Severance.

Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided the remainder of the ordinance, absent the excised portion, can be reasonable interpreted to give effect to intentions of the City Council.

Section 3. Effective Date.

This ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held on the _____ day of May, 2011, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of May, 2011, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

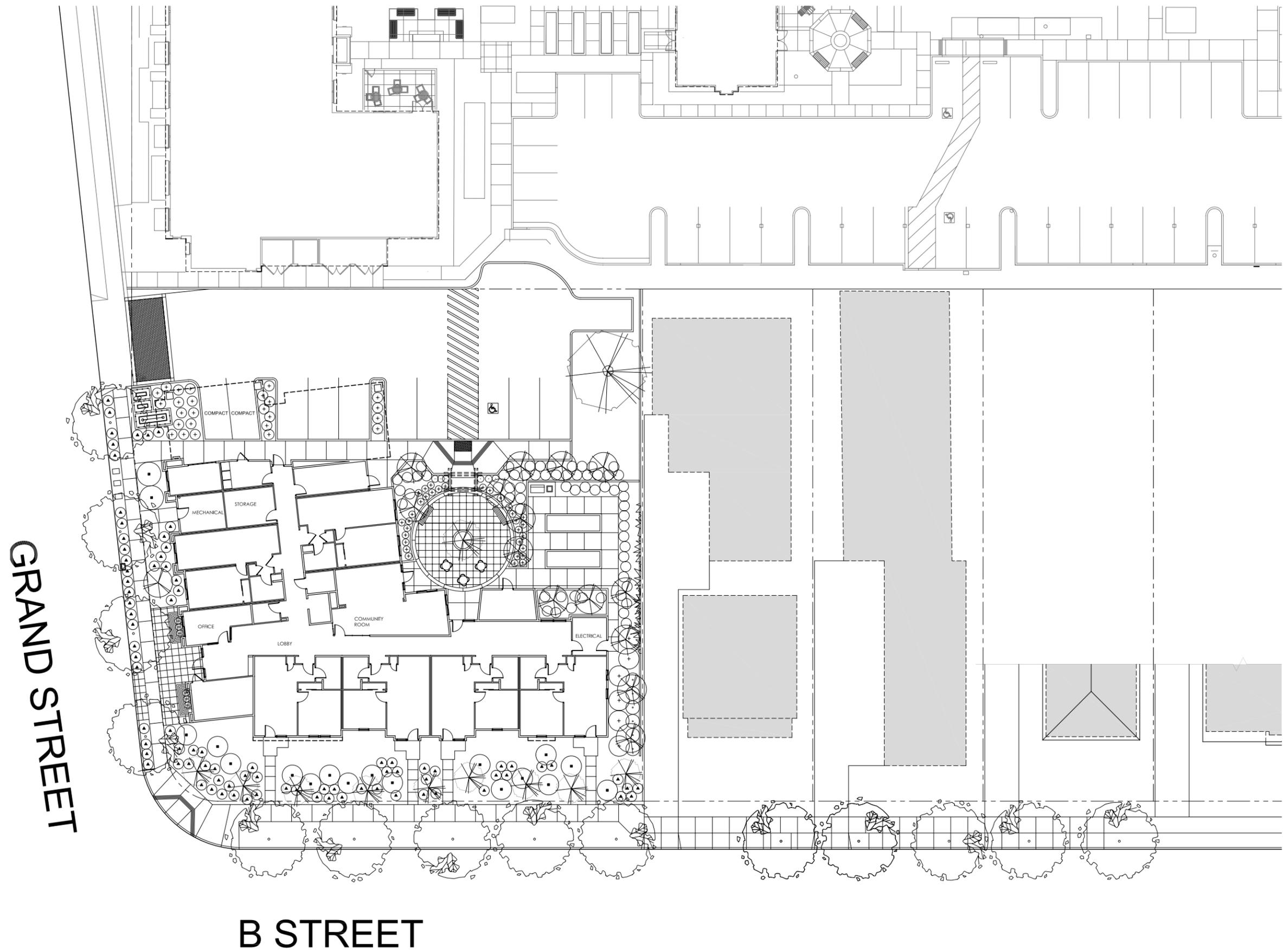
APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



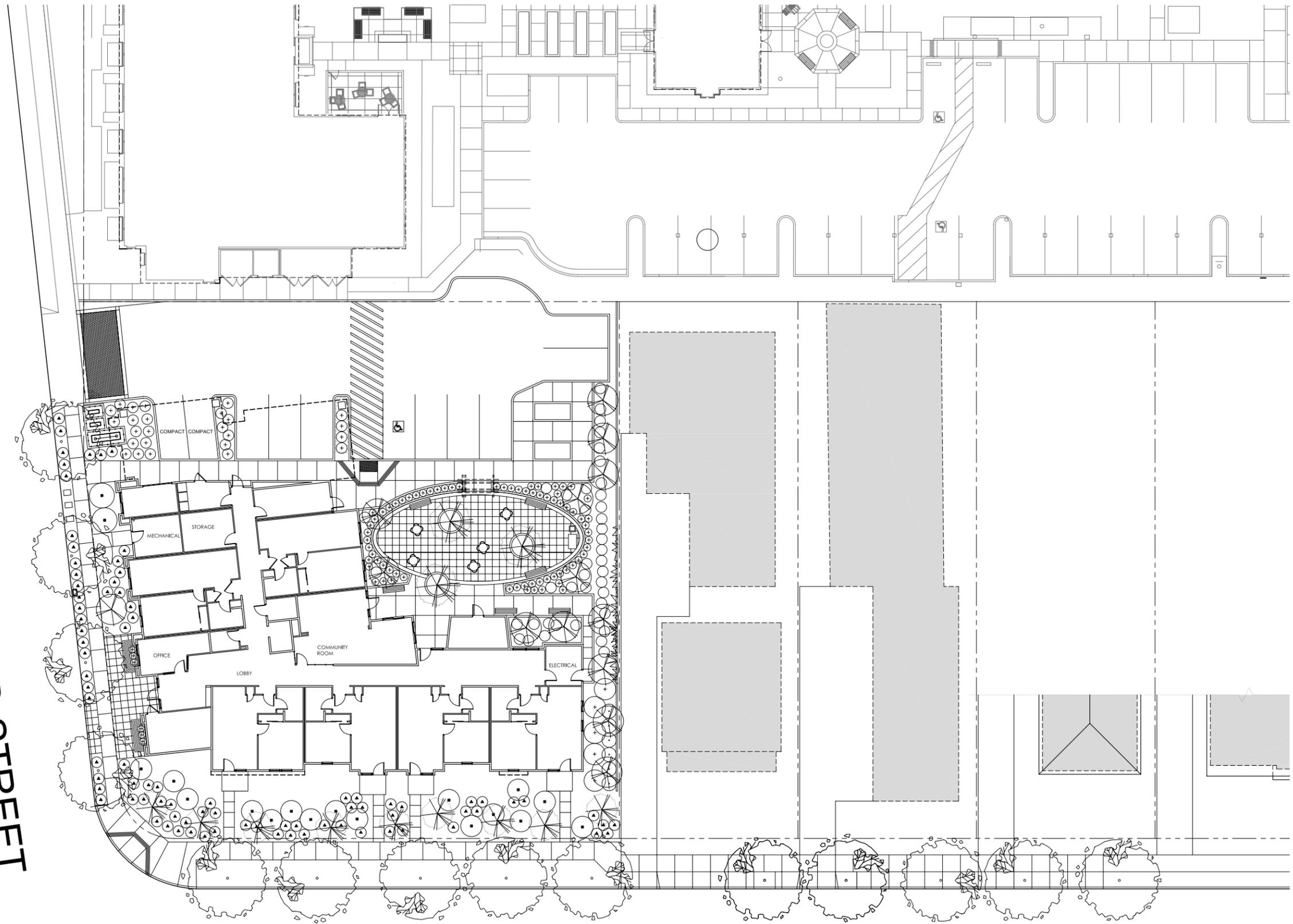
GRAND STREET

B STREET

struthers
d i a s
architects



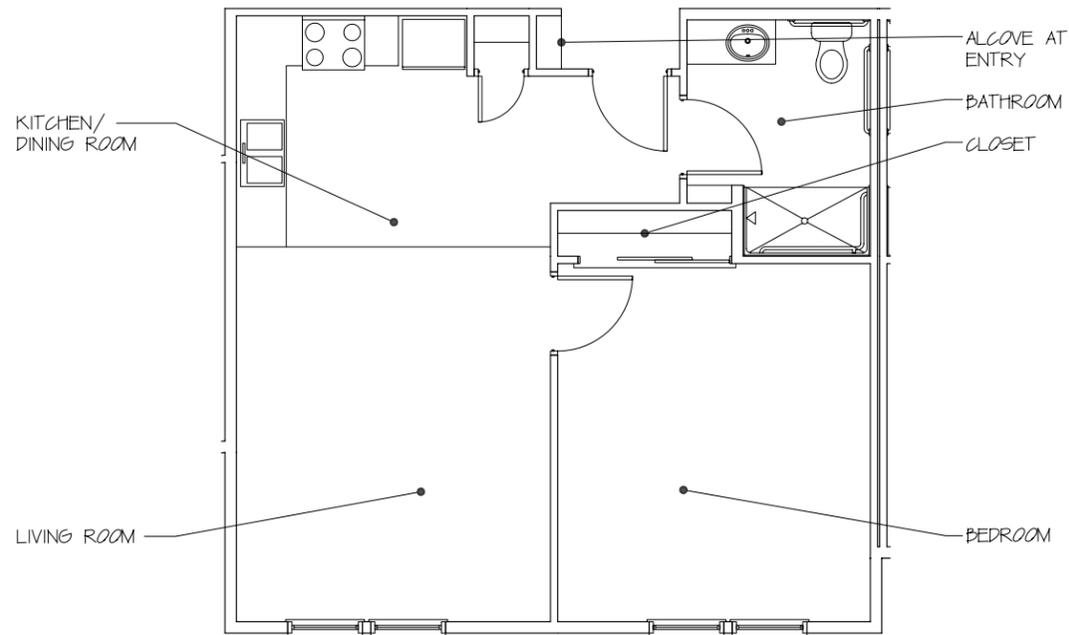
GRAND STREET



B STREET

struthers
d i a s
architects

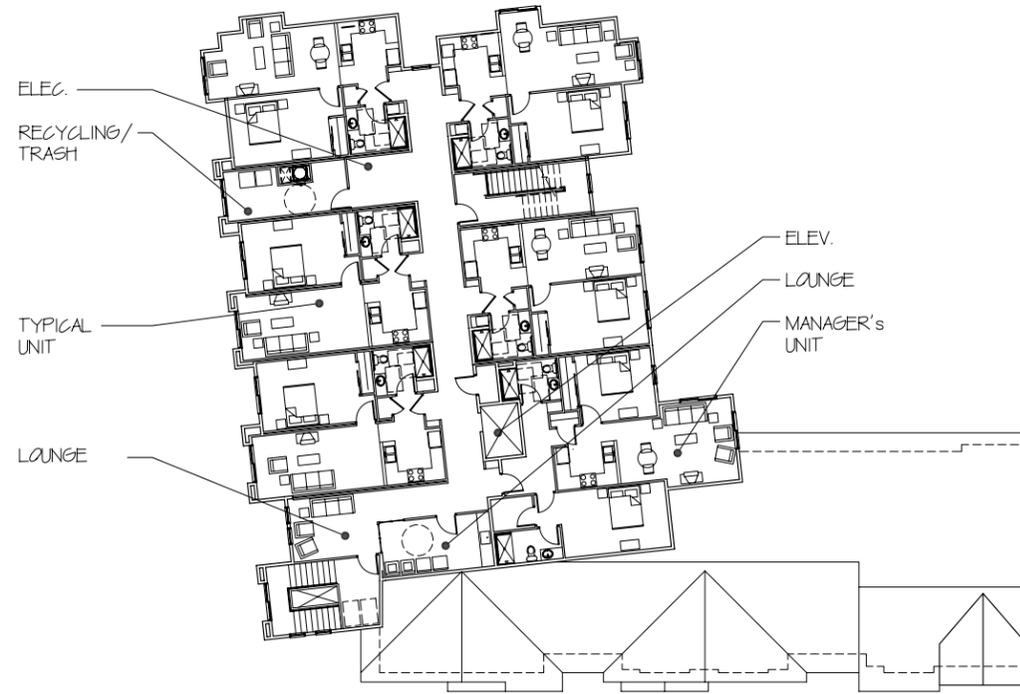




TYPICAL UNIT AREAS:
APPROX. 600-650 SF GROSS
APPROX. 540-600 SF NET

TYPICAL UNIT PLAN

SCALE: 3/8" = 1' - 0"



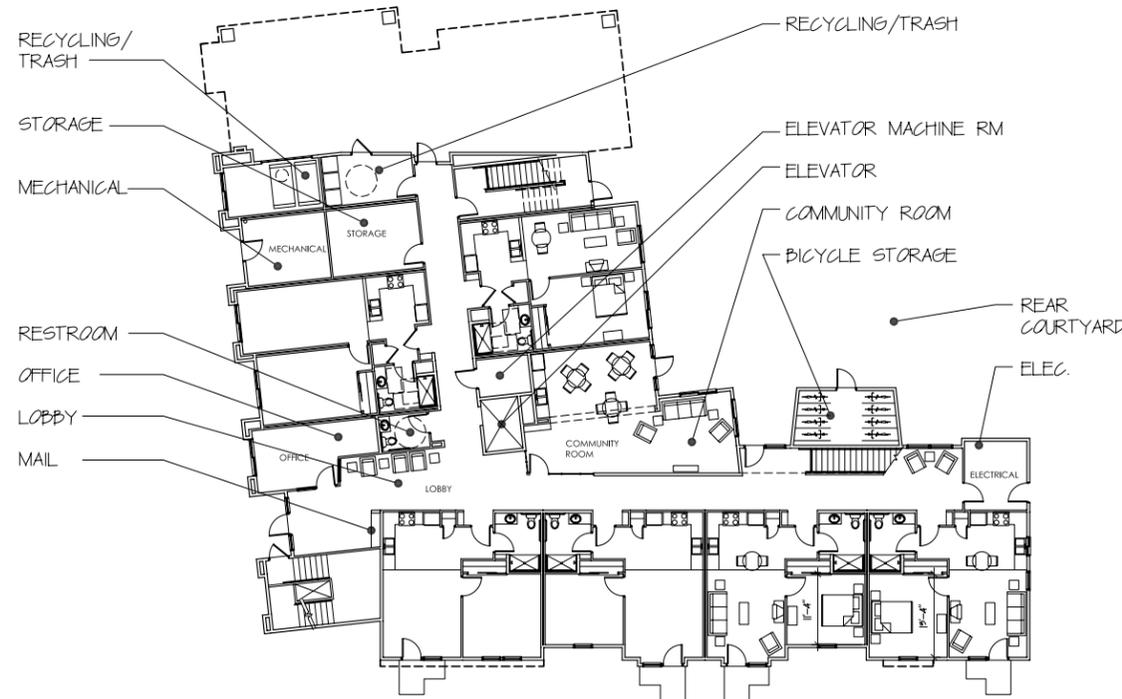
THIRD FLOOR PLAN

SCALE: 3/32" = 1' - 0"



SECOND FLOOR PLAN

SCALE: 3/32" = 1' - 0"



FIRST FLOOR PLAN

SCALE: 3/32" = 1' - 0"

HAYWARD SENIOR HOUSING PHASE II



GRAND STREET ELEVATION



'B' STREET ELEVATION

HAYWARD SENIOR HOUSING PHASE II



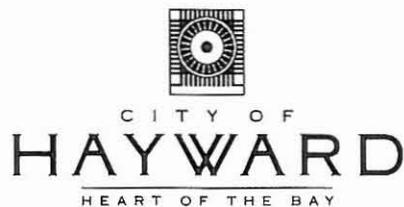
struthers
d i a s
architects



HAYWARD SENIOR HOUSING PHASE II



Rendering of proposed view from Grand and B Streets looking west down B Street.



DATE: March 22, 2011

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Request to Change the General Plan Designation from Medium Density Residential to High Density Residential and to Introduce an Ordinance to Change the Zoning from Medium Density Residential to Planned Development to Accommodate Twenty-two Affordable Senior Housing Rental Units Proposed at the Corner of B and Grand Streets - General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369 - Eden Housing (Applicant); City of Hayward (Owner)

RECOMMENDATION

Staff recommends that the City Council adopts the attached resolution (Attachment I) adopting the attached Negative Declaration (ND), approving the General Plan Amendment, and approving the proposed twenty-two unit Senior Housing facility, and introduces the attached ordinance (Attachment II) related to the zone change to a Planned Development district.

SUMMARY

This proposal from Eden Housing for development of the site at the corner of B and Grand Streets is supported by staff because the proposed density (45 units per acre with density bonus) is consistent with the density of the adjacent property developed by Eden Housing (56 units per acre). The proposed density is also consistent with densities typically found around transit stations in urban settings. The project is well designed with high quality architectural features that will contribute to the character of the neighborhood, and the project will provide additional affordable housing for seniors to meet the needs of a growing population sector. Also, the requested reduction of some development standards is supported by staff for the reasons identified in this report.

BACKGROUND

In 2005, when the City approved the Cannery Place residential development, the City and the developer entered into an Inclusionary Housing Agreement, specifying that the developer would provide very-low income units off-site and moderate-income units on-site. The majority of the obligation for off-site units was fulfilled by the development of the Eden Housing Senior Housing facility (Phase I) located adjacent and to the south of the project site at the northwest corner of C

and Grand Streets. In December 2009, the Cannery Place developer approached the City and requested modification of its Inclusionary Housing Agreement. That request involved, in part, the donation of land at the corner of B and Grand Streets for ultimate development of an additional twenty-two very-low-income units to satisfy its remaining off-site inclusionary housing obligation. In accordance with the Inclusionary Housing Agreement amendments, the developer transferred the site to the City's Redevelopment Agency. Subsequent to that transfer, Eden Housing submitted a request to develop the subject property. On Friday, March 11, the Agency transferred this property to the City and the City now owns the property.

DISCUSSION

Project Description - The proposed development is a combination two and three-story building that has a gross square footage of 20,813 on a 0.5-acre parcel. The proposed building is L-shaped with the main entrance oriented toward the corner of B and Grand Streets similar to the Phase I project, which is oriented toward the corner of C and Grand Streets. Access to the proposed parking will be via Grand Street behind the building. The parking will be situated between the existing Phase I and the proposed Phase II buildings. Also situated behind the proposed building is an outdoor courtyard, including raised vegetable beds that will be a part of the group open space. The two-story portion of the structure faces B Street, while the three-story portion of the structure faces Grand Street and the existing Phase I building. The project proposes to use a combination of horizontal lap siding and board siding for exterior materials. The architectural design is contemporary, but incorporates elements of the Craftsman style as required by the "B" Street Special Design Streetcar District.

In order to accommodate the twenty-two units on the 0.5-acre site, both the General Plan and Zoning designations must be modified. The development must also take advantage of a density bonus under State and City Density Bonus Law.

Density Bonus - Given that the proposed project is comprised entirely of affordable senior housing units, under State Density Bonus Law, the project is entitled to a mandatory 35% density bonus. The proposed development, with the change to the High Density land use designation, could construct a total of seventeen units. However, with the mandatory 35% density bonus, the applicant is entitled to an additional five units for a total of twenty-two units.

A project that applies for a density bonus also is entitled to a maximum of three incentives and an unlimited number of waivers of development standards, if it can be determined that without the waivers, the project would not be feasible. An incentive is a reduction in a site development standard that results in actual cost reductions for the project, whereas a waiver is a modification of development standards that is needed to make the project economically feasible. The incentives the applicant requests include: (1) a reduction in the required amount of group open space and (2) a request not to sub-meter the water system. The waivers requested include: (1) a slight reduction to the required parking spaces sizes and (2) a relaxation of the covered parking requirements.

Incentives- Eden Housing has requested an incentive to provide less than the required group open space. Based on the number of units, the development must provide 7,700 square feet of group open space. The project will be providing 6,305 square feet of group open space. Some of

the proposed group open space will be provided within the building, while the outdoor courtyard will provide an additional portion. Staff is supportive of this incentive as the project is for seniors who staff anticipates will enjoy the indoor gathering spaces as much as the exterior space. The project site is also relatively small as compared with the Phase I development, and, in order to achieve the desired density, some reduction in development standards is necessary. Given the proximity to Phase I, the occupants of this project will be able to take advantage of facilities provided at the adjacent facility to the south, such as the group gathering spaces included in Phase I, which constitute almost 6,000 square feet. In addition, the project is within walking distance of other amenities, including the City's public library and Cannery Park.

The applicant is also requesting an exception to the requirement that the water service be sub-metered for each unit. Typically, multi-family projects are required to provide a water meter to each unit to measure water use; however, water for the project is centrally heated and then distributed to each unit by Eden Housing. Public Works Utilities is supportive of this request not to sub-meter the water, because it is centrally located for distribution to units.

Waivers - The applicant requests a modification to the required parking space sizes. Under City standards, all required parking spaces must be nine feet by nineteen feet. The applicant is proposing that three of the eleven parking spaces be eight feet by nineteen feet, which exceeds the City's compact parking space size of eight feet by fifteen feet. Given the small site, the density bonus requirement, and the desire to save an existing tree located in the southeast corner of the site, staff is supportive of this waiver. In addition, by allowing three of the eleven spaces to have an eight-foot width, the project can provide parking at the ratio of 0.5 spaces per unit, which is consistent with the parking ratio established for Phase I.

The second waiver the applicant requests is to allow only five of the eleven parking spaces to be covered, where all would normally be covered. The covered parking spaces are located below the proposed building. The other six parking spaces will be uncovered. These six parking spaces are adjacent to the outdoor courtyard area, and the applicant would prefer to leave those spaces uncovered to maximize the open feel of the courtyard area and to maintain a clear and visible pedestrian connection between the proposed project and Phase I. Staff is supportive of the request.

Without the granting of the incentives and waivers, the project would not be economically feasible, given the size of the property, the need to maintain consistency with the "B" Street Special Design Streetcar District, and the mandated site density. Staff is supportive of the incentives and waivers, since the tradeoff is a well-designed project that provides an additional twenty-two units of affordable senior housing under unified ownership and management.

General Plan Amendment - As stated previously, the proposed development, with the change to a High Density General Plan land use designation (17-34 units per net acre), would be allowed a total of seventeen units. However, with the 35% density bonus, the applicant is entitled to an additional five units for a total of twenty-two units. The High Density Residential land use designation is consistent with the Downtown City Center Retail and Office Commercial land use density on the adjacent Phase I property, which has a range of thirty to sixty-five units per net acre. Staff is supportive of the request to modify the General Plan land use designation, as it will not only satisfy the inclusionary housing requirements for the Cannery Place development and allow Eden Housing

to construct the second phase of its development, but the City will gain twenty-two affordable senior housing units to serve a growing segment of the population on a site that is in close proximity to transportation and services.

Findings for General Plan Amendment Application - In order to support the changes proposed to the General Plan, the City Council must make the following findings for the project, as recommended by the Planning Commission and staff:

- (1) Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The increase in land use density for the site will allow Eden Housing to construct the second phase of its project and will provide an additional twenty-two very-low-income rental units for seniors, a growing portion of the Hayward population. The location of the project site, across from the Downtown Hayward BART station and just west of downtown, is an ideal location as it allows for the future residents to be near alternative transportation as well as services.

- (2) The proposed change is in conformance with the purposes of the General Plan and all applicable, officially adopted policies and plans.

The General Plan modification will allow for the construction of twenty-two additional affordable housing units for seniors. The General Plan has a goal to assist in the development of affordable housing, including programs which specifically aim to provide incentives to developers allowing them to construct affordable housing in the City. Another goal is to provide suitable sites for housing developments including encouraging development that takes advantage of convenient access to the BART station. The proposed project is not only convenient, as it is across the street from the Hayward BART station and near services provided downtown, but it is also adjacent to the existing senior housing facility and will be able to take advantage of shared facilities.

- (3) Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified.

The project site is located at the corner of B Street and Grand Street and has adequate public facilities to serve the proposed use.

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

The proposed use is residential and is compatible with the surrounding uses which are also primarily residential uses. The project incorporates appropriate design elements of the Craftsman style in accordance with the "B" Street Special Design Streetcar District. In addition, without the modification to the General Plan land use designation, the density would not permit the construction of twenty-two very-low-income senior housing units.

Rezoning to Planned Development District - The proposal involves a modification of the current zoning designation from Medium Density Residential to Planned Development. Under the current zoning designation, the project would not be feasible without modifications to some of the development standards. The purpose of the Planned Development designation is to encourage development through efficient and attractive space utilization that might not otherwise be achieved through strict application of the development standards.

The development is proposed to have a ten-foot setback along B Street where a twenty-foot setback would be required. This reduction allows the development to take advantage of a larger group gathering space behind the building for future tenants and protection of an existing redwood tree, while still allowing for a landscape frontage along B Street. In addition, other buildings along B Street west of the project site have varying setbacks. In some cases, the front setback is ten feet, so the proposed building would not be out of character with the neighborhood.

The project also is showing a reduction in the total number of required parking spaces. The project provides eleven parking spaces at a ratio of 0.5 spaces per unit. The amount of parking required for the development is 1.7 parking spaces per unit, for a total of thirty-seven parking spaces. However, the adjacent Phase I project is located within the City's Central Parking District, and as such, was only required to provide 0.5 parking spaces per unit. Given the proximity of the proposed development to public transportation and services as well as the integration of shared facilities with Phase I, staff is supportive of the request to provide parking at the 0.5 parking space per unit ratio.

Findings for the Zone Change/Preliminary Development Plan - In order for a Planned Development District to be approved, the Council must make the following findings, as recommended by the Planning Commission and staff:

- (1) The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies.

The proposed development of a senior housing facility is in harmony with the surrounding area, which is primarily residential. The proposed affordable senior housing facility is consistent with General Plan policies that encourage providing housing that can accommodate a range of sizes, location and tenure as well as policies related to encouraging housing near transit and services which this development will achieve.

- (2) Streets and utilities, existing or proposed, are adequate to serve the development.

The project site is surrounded by existing streets and there are utilities available to the site with adequate capacity to serve the proposed development.

- (3) The development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development.

The development of twenty-two very-low-income senior rental units by a local reputable affordable housing entity is a residential development that will be sustainable over time. As the population ages, there will be a need to provide housing opportunities for this population. Having a facility closely located to public transit and services, as well as Cannery Park and the main branch of the Hayward Library, will also be beneficial to the sustainability of the development and help serve the needs of the project occupants.

- (4) Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.

The development is seeking a zone change to Planned Development to allow for a modified building setback along B Street and to allow for a reduction in the required number of parking spaces. Staff is supportive of the B Street setback. The setback will allow for increased space behind the proposed building for future tenant group gathering space and still allow for sufficient landscaping along B Street to enhance the streetscape. Staff is also supportive of the reduction in parking spaces as the development will provide 0.5 parking spaces per unit, which is consistent with what was allowed for the first phase of the development and typical of what has been required for senior housing facilities. In addition, the reduced building setback along B Street and the parking space reductions allow an existing redwood tree to be saved and help enhance the proposed outdoor courtyard. Without the Planned Development zoning, the project would not likely be developed, and with the allowance, the City is adding twenty-two additional very low income senior housing units to its housing stock.

February 10, 2011 Planning Commission Hearing – The Planning Commission heard this proposal at its February 10, 2011 meeting. As reflected in the attached meeting minutes (Attachment VII), the Commission was supportive of the proposal and indicated the project would be a good addition to the Hayward community and that the developer, Eden Housing, always does outstanding projects. Some concerns were expressed over the request for reduced parking and group open space, but overall, the Commission was supportive given the proximity to public transit and other nearby recreational amenities, including the group open space areas in Phase I.

The owner of the adjacent property attended the Planning Commission meeting and indicated concerns with the common property fence design and the redwood tree at the rear of the project site. The applicant indicated they would work with the neighbor regarding her concerns. Staff has included a recommended condition of approval requiring the applicant to work with the neighbor regarding the design of the common property fence and the maintenance of the redwood tree.

The Planning Commission recommended that the City Council approve the proposed project, including adoption of the Negative Declaration, approval of the General Plan Amendment and Zone Change to build twenty-two affordable senior housing rental units using density provisions and related incentives and waivers with modifications to some of the Conditions of Approval. The Commission requested the following changes with respect to Conditions of Approval:

1. That language related to limitations on solar collectors be removed from Planning Condition Number 8, which will allow the applicant to be able to install solar panels;
2. That Development Services Condition Number 10 be removed (duplicative condition); and
3. That Public Works Utilities Water Condition Number 2 regarding submetering be removed as this was one of the incentives requested by the applicant.

Following the Planning Commission Hearing, discussions with the applicant have revealed that due to their reliance on funding to construct the project, the actual construction may take some time. They are requesting that their initial approval be valid for longer than one year. Staff is amenable to this and consistent with language used on other permits, staff has modified recommended Planning Division Condition of Approval number one accordingly to allow for an initial approval of two years with the ability to apply for up to two one-year extensions.

This project was also presented to the Hayward Redevelopment Area Committee on January 12, 2011. Eden Housing submitted their proposal to the Committee for conceptual approval. The project was favorably received and approved by the Committee members. The Committee made some suggestions related to architectural design, which Eden took note of and indicated they would respond to during the City Council hearing.

ECONOMIC/FISCAL IMPACT

The construction of the new rental housing units will add temporary construction jobs. Based on calculations completed by the applicant in conjunction with their contractor, it has been estimated that a typical job of this size, would require approximately 22,000 man hours, which is equivalent to approximately 210 jobs.

However, additional housing units will also add demands on the City's public safety services such as Police and Fire. Based on previous economic analyses completed for other projects in the City, the impact of new residential on public services is typically \$560 per unit per year. The total impact to public services per year by the proposed development is approximately \$12,350. Because this is a low income or affordable housing project, there will be no property tax generated.

PUBLIC CONTACT

An initial notice of the application was sent to property owners and residents within 300 feet of the project site as well as to the Burbank Neighborhood Task Force. Staff received a comment from a neighbor in response to that notice who was not supportive of affordable housing at this location. The neighbor indicated that he always understood that market rate housing was going to be constructed on this site and was disappointed that additional low income senior housing units were being proposed. Notice of both the Planning Commission hearing held on February 10 and this hearing was provided to owners and residents within 300 feet of the project site as well as to the Burbank Neighborhood Task Force. As of the writing of this report, staff has not received any additional community comments.

NEXT STEPS

Assuming the City Council approves the project, the applicant will need to submit a Precise Development Plan and Improvement Plans for review and approval by various City departments. Once the City approves the Precise Development Plan and Improvement Plans, the applicant may submit for building permits which, once approved, could proceed with construction of the project.

Prepared by: Sara Buizer, AICP, Senior Planner

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

- Attachment I Resolution
- Attachment II Ordinance
- Attachment III Area and Zoning Map
- Attachment IV Recommended Conditions of Approval
- Attachment V Negative Declaration
- Attachment VI February 10, 2011 Planning Commission Staff Report with Previously Recommended Conditions of Approval
- Attachment VII February 10, 2011 Planning Commission meeting minutes
- Attachment VIII Project Plans

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Councilmember _____

RESOLUTION ADOPTING THE NEGATIVE
DECLARATION AND APPROVING A GENERAL PLAN
AMENDMENT AND ZONE CHANGE APPLICATION
PERTAINING TO A PROPOSED TWENTY-TWO-UNIT
SENIOR HOUSING FACILITY AT B AND GRAND
STREETS

WHEREAS, in December 2009, the City Council authorized an amendment to the Cannery Place Development Inclusionary Housing Agreement allowing for the off-site construction of twenty-two low income units to satisfy the developer's inclusionary housing obligation; and

WHEREAS, on October 4, 2010, Eden Housing (Applicant) submitted General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369, which concerns a request to a) amend the General Plan Land Use Designation from Medium-Density Residential to High Density Residential; and b) change the Zoning from Medium Density Residential to Planned Development to facilitate construction of twenty-two very low income senior housing units at the corner of B and Grand Streets (the "Project"); and

WHEREAS, a Negative Declaration has been prepared to assess the potential environmental impacts of the proposed development; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on February 10, 2011, and has recommended that the City Council adopt the Negative Declaration, approve PL-2010-0368GPA and PL-2010-0369ZC and approve the twenty-two-unit senior housing facility; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on March 22, 2011.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. The project will have no significant impact on the environment, cumulative or otherwise, the project reflects the independent judgment of the City Council, and, therefore, a negative declaration has been prepared.

GENERAL PLAN AMENDMENT

2. The proposed General Plan Amendment will promote the public health, safety, convenience, and general welfare of the residents of Hayward, in that the High Density Residential land use designation will allow Eden Housing to construct the second phase of its project and will provide an additional twenty-two very-low-income rental units for seniors, which constitutes a growing segment of the City's population. The location of the project site, across from the Hayward BART station and just west of downtown, is an ideal location for housing, because it allows -the future residents to be near alternative transportation as well as services.
3. The proposed General Plan Amendment to High Density Residential land use designation is in conformance with the City's General Plan policies and goals, including those which assist in the development of affordable housing and providing suitable sites for housing developments that take advantage of convenient access to the BART station. The proposed project is -across the street from the Downtown BART station and near services provided in downtown, and it is adjacent to the existing senior housing facility and will be able to take advantage of shared facilities.
4. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified to the High Density Residential land use designation in that surrounding streets are fully developed with all utilities present.
5. All uses permitted when the property is reclassified to High Density Residential will be compatible with present and potential future uses, and further, the project incorporates appropriate design elements of the Craftsman style in accordance with the "B" Street Special Design Streetcar District. In addition, without the modification to the General Plan land use designation, the density would not permit the construction of twenty-two very-low-income senior housing units.

ZONE CHANGE

6. The proposed development of a senior housing facility is in harmony with the surrounding area which is primarily residential. The project, as it is an affordable senior housing facility, is consistent with General Plan policies that encourage providing housing that can accommodate a range of sizes, location and tenure as well as policies related to encouraging housing near transit and services which this development will achieve.
7. The project site is surrounded by existing streets and there are utilities available to the site with adequate capacity to serve the proposed development.
8. The development of twenty-two very-low-income senior rental units by a local reputable affordable housing entity is a residential development that will be sustainable over time. As the population ages, there will be a need to provide housing opportunities for seniors. Having a facility located in close proximity to public transit and services, as well as Cannery

Park and the main branch of the Hayward Library, will also be beneficial to the sustainability and long-term viability of the development and help serve the needs of the project occupants.

9. The zone change to Planned Development allows for a modified building setback along B Street and a reduction in the required number of parking spaces. The reduced setback will allow increased space behind the proposed building for group gathering space for the future tenants and still allow sufficient landscaping along B Street to enhance the streetscape. The reduction in parking spaces to 0.5 parking spaces per unit is consistent with that allowed for the first phase of the development and typical of what has been required for senior housing facilities in the past. In addition, the reduced building setback along B Street and the parking space reductions allow the retention of an existing redwood tree and helps enhance the proposed outdoor courtyard. Without the Planned Development zoning, the project would not likely be developed, and with the zone change, the City is benefitting from an additional 22 additional very low income senior housing units, under unified management and operation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward, based on the foregoing findings, that the Negative Declaration is hereby adopted and General Plan Amendment No. PL-2010-0368, and Zone Change Application No. PL-2010-0369 are approved, subject to the adoption of the companion ordinance rezoning the properties located at the corner of B and Grand Streets (APNs 431-0040-012-02, 431-0040-011, and 431-0040-010) from Medium Density Residential to Planned Development District, and subject to the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

CONDITIONS OF APPROVAL

General Plan Amendment Application No. PL-2010-0368 and
Zone Change Application No. PL-2010-0369

Eden Housing (Applicant)

Planning Division

1. General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369 is approved subject to the plans labeled Exhibit "A" and the conditions listed below. The Preliminary Development Plan Approval becomes void two years after the effective date of approval, unless prior to that time a Precise Development Plan has been submitted for review and processing in accordance with all conditions of the Preliminary Development Plan approval. A request for up to two, one-year extensions, approval of which is not guaranteed, must be submitted to the Planning Division at least 15 days prior to the expiration date.
2. If a building permit is issued for construction of improvements authorized by the General Plan Amendment and Zone Change approvals, said approvals shall be void two years after issuance of the building permit, or three years after approval of the Precise Development Plan Approval, 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 Precise Plan approval.
3. 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.
4. Prior to application for a Building Permit or a Grading Permit, a Precise Development Plan shall be submitted for review and approval and include the following:
 - a) A copy of these conditions of approval shall be included on a full-sized sheet(s) in the set of plans.
 - b) In addition to the architectural and landscape drawings, a lighting plan, prepared by a qualified illumination engineer meeting the requirements of the City's Building Security Ordinance. Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas. Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of units within the project.

The fixtures shall be decorative and designed to keep the light from spilling onto adjacent properties. Wall-mounted light fixtures shall not be mounted greater than 12 feet in height unless otherwise permitted by the Planning Director. Luminaires shall be of a design that complements the architectural style of the building and shall be approved by

- the Planning Director prior to issuance of the building permit. The maximum height of the luminaires shall be 12 feet unless otherwise permitted by the Planning Director. The lighting and its related photometric plan shall be reviewed and approved by the Planning Director. Lighting standards shall be placed so as to not conflict with the location of trees or where they would shine directly into windows.
- c) A color board shall be submitted for review and approval by the Planning Director.
 - d) The developer shall work with Planning staff to design secure bicycle parking to the extent feasible.
5. In conjunction with the Precise Plan submittal and prior to issuance of a building permit:
 - a) The developer shall cause to be recorded a covenant agreement to ensure that the 22 rental units remain affordable to low and very low income seniors for a minimum of 55 years. The agreement shall be approved by the Planning Director prior to recordation.
 - b) The developer shall cause the three parcels to be merged into one.
 - c) The developer shall submit a soils investigation report for review and approval by the City Engineer.
 - d) The developer shall submit improvement plans for review and approval by the City Engineer.
 6. Prior to the installation of any signs, the applicant shall submit a Sign Permit Application to the Planning Director for review and approval.
 7. The owner shall maintain in good repair all fencing, parking and driveway surfaces, common landscaping, lighting, exterior elevations, trash enclosures, drainage facilities, project signs, etc. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within 72 hours of occurrence.
 8. No mechanical equipment may be placed on the roof unless it is incorporated into the design of the roof. Prior to construction, documentation shall be provided that the roof-mounted mechanical equipment is adequately screened.
 9. In the event that archaeological resources, prehistoric or historic artifacts are discovered during construction or excavation, the following procedures shall be followed: Construction and/or excavation activities shall cease immediately and the Planning Division shall be notified. A qualified archaeologist shall be consulted to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedure for evaluation of accidental finds and discovery of human remains shall be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.
 10. Construction noise from the development of this site shall adhere to standard restrictions on hours and days of operation as specified in the City of Hayward Municipal Code, Article 1,

Section 4-1.03(2). Construction equipment is required to have sound reduction devices to reduce noise impacts on surrounding properties. The name and telephone number of an individual responsible for responding to complaints regarding noise, and who is hired by the developer, shall be posted at the site during construction.

11. Prior to final inspection, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.
12. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
13. Any future modification to the approved site plan shall require review and approval by the Planning Director.
14. The applicant shall work with the neighboring property owner regarding the design of the fence along the common property line and the maintenance of the redwood tree.

Development Services

15. A Parcel Merger Application with an initial deposit in the amount of \$3,000 shall be submitted prior to or concurrent with the Building Permit Application. All parcels must be under common ownership and title must be held in the exact manner for each parcel.
16. Parcel Merger Notice shall be executed and recorded prior to the issuance of any building permits.
17. A strip of land at the corner of B and Grand Streets shall be dedicated to the City for the installation of a new pedestrian ramp. The dedication of right-of-way shall be completed prior to the issuance of any building permits.
18. Prior to the issuance of any permits for any construction activity on-site, the Developer's Engineer shall submit a completed Development Building Application Form Information consisting of: 1) Impervious Material Form and 2) Operation and Maintenance Information Form.
19. Prior to the issuance of any permits the owner/developer shall execute a Storm Treatment Measures Maintenance Agreement (as prepared by the City of Hayward and is available in the Engineering and Transportation Division); the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.

Improvement Plans

20. Concurrent with the Precise Plan submittal, submit five sets of Improvement plans, hydrology and hydraulic calculations and drainage area map, detailed C.3 plan and calculations, and a \$3,000 initial deposit to cover staff's review time charges.
21. The Improvement Plans shall include a design for the undergrounding of utilities along B Street for review and approval by Public Works staff. An encroachment permit will be required for any work in the public right of way. All undergrounding must be completed prior to a Building Permit final.
22. Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed at no cost to the City of Hayward.
23. All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, and Standard Specifications and Details – unless otherwise indicated hereinafter.
24. The applicant/developer's Registered Civil Engineer shall perform all design work unless otherwise indicated.
25. Prior to the issuance of any permits for any construction activity on-site, detailed Improvement plans including grading, erosion and sediment control measures and drainage plans with supporting calculations, and a completed Drainage Review Checklist shall be submitted for review and approval of the City Engineer. Subject plans shall include standard improvements and all items depicted on the improvement plans labeled C-1, C-2 and C-3 received on December 3, 2010, and shall incorporate the following conditions and design requirements:
 - a) New driveway approach on Grand Street shall be installed per City Standard SD-109.
 - b) Parking and circulation areas shall be designed to conform to the City off-street parking regulations.
 - c) All paved slopes shall have a minimum 0.5% grade.
 - d) The on-site storm drain system shall be a private system owned and maintained by the owners.
 - e) The development shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the hydrology design shall clearly indicate all areas tributary to the project site.
 - f) The stormwater runoff generated from the site shall be collected and discharged to existing underground storm pipe system in the complex and shall not disperse as surface flow to the adjacent parking lot.
 - g) All storm drain inlets must be labeled "No Dumping - Drains to Bay," using City-approved methods.

- h) The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to design the storm drain system. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be submitted, which shall meet the approval of the City Engineer.
 - i) The storm drain design shall comply with the C.3 established thresholds and shall incorporate measures to minimize pollutants to the maximum extent practicable (MEP).
26. The Project plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site in order to limit the entry of pollutants into storm water runoff to the maximum extent practicable. It is highly recommended that grassy swale be installed to intercept the surface runoff and using an engineered soil fill with a minimum infiltration rate of 5 inches per hour.
27. The project shall be designed to direct runoff to the landscaped yards and common space, prior to entering into the underground pipe system. Unit pavers should also be considered for impervious areas such as the driveways, parking areas.
28. The applicant/developer shall be responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.
29. Required water system improvements shall be completed and operational prior to the start of combustible construction.
30. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
- a) Grading and construction activities shall be limited to the hours 7:30 AM to 6:00 PM on weekdays; there shall be no grading or construction activities on the weekend or national holidays.
 - b) Grading and construction equipment shall be properly muffled.
 - c) Unnecessary idling of grading and construction equipment is prohibited.
 - d) Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential units.
 - e) Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise.
 - f) The developer shall participate in the City's recycling program during construction.
 - g) Daily clean up of trash and debris shall occur along all peripheral streets and other neighborhood streets utilized by construction equipment or vehicles making deliveries.

- h) The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions.
- i) All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site.
- j) All unpaved access roads, parking areas and staging areas at construction sites shall be paved, have water applied three times daily, or non-toxic soil stabilizers applied.
- k) All paved access roads, parking areas and staging areas at construction sites shall be swept daily (with water sweepers).
- l) Inactive construction areas (previously graded areas inactive for 10-days or more) shall have non-toxic soil stabilizers applied, or shall be hydroseeded.
- m) Exposed stockpiles (dirt, sand, etc.) shall be enclosed, covered, watered twice daily or applied with non-toxic soil binders.
- n) Construction debris shall be gathered on a regular basis and placed in a dumpster or other container that is emptied or removed on a weekly basis. When appropriate, tarps on the ground are to be used to collect fallen debris or splatters that could contribute to storm water pollution.
- o) All dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site shall be removed. During wet weather, driving vehicles off paved areas and other outdoor work areas shall be avoided.
- p) The sidewalks and public street pavement adjoining the project site shall be broom-swept on a daily basis. Caked-on mud or dirt shall be scraped from these areas before sweeping.
- q) No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
- r) Filter materials (such as sandbags, filter fabric, etc.) shall be installed at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; 3) street washing activities; or 4) saw cutting asphalt or concrete activities, or in order to retain any debris or dirt flowing into the storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles shall be properly disposed in the trash.
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- t) Cleaning machinery, tools, brushes, etc., or rinsing containers, into a street, gutter, storm drain or stream is prohibited (see City's "Building Maintenance/Remodeling" flyer for more information).
- u) Concrete/gunite supply trucks or concrete/plasters finishing operations shall not discharge washwater into street gutters or drains.

- v) The applicant/developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the Alameda County Department of Health and the Regional Water Quality Control Board.

31. A representative of the project soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe all grading operations and provide any recommended corrective measures to the contractor and the City Engineer.

Landscape Division

- 32. Provide a revised arborist report to include all existing trees within the project impact area, street trees on B and Grand Street, including health, species, caliper, approximate height, canopy diameter, and value using the latest edition of "Guide for Plant Appraisal" by the International Society of Arboriculture for the City's review and approval. Provide ISA worksheet per each trees are subjected for valuation.
- 33. The width of the ADA ramp landing is 4 feet including the width of grooves. See the City Standard Detail SD-108. Modify the entry planting area and the arbor configuration to the courtyard.
- 34. *Platanus acerifolia* 'Yarwood' was specified for as street trees for the Eden Housing on Grand and C Street according to the approved landscape improvement plan dated 2/5/2007. Add this to the plant list.
- 35. Proposed tree location at the corner of Grand and B Street on Sheet L1.1 and A1.1 should be the same. Revise one of the plans.
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approval by the City's Landscape Architect. Planting and irrigation shall comply with the City's Hayward Environmentally Friendly Landscape Guidelines and Checklist for professional, Bay-Friendly Water Efficient Landscape Ordinance, and Municipal Codes.

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Public Works – Utilities

Water-

44. City records indicate that there are two existing $\frac{3}{4}$ " water service lines with $\frac{5}{8}$ " water meters on the parcels (account # 04-00750.01 & 04-00800.02). If the existing water services and meters cannot be reused, they must be abandoned by the City Water Distribution Personnel at the owner's/applicant's expense.
45. Based on the water fixture shown on the plans, it is estimated that the finished structure will have a total of 245.5 fixture units. If a single water meter and service line are installed for domestic use, a minimum 2" water service line and 2" domestic water meter shall be installed. The current cost for a 2" meter and 2" water service line is \$45,810 (\$4,300 installation cost + \$45,810 facilities fee).
46. If a single water meter and service line are installed for domestic use, the service will be considered commercial and will require a Reduced Pressure Backflow Prevention Assembly to be installed by the applicant/developer.

47. If there will be 5,000 square feet or more of landscaping, a separate irrigation water meter shall be installed for landscaping purposes.
48. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each irrigation water meter, per City Standard SD-202.
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57. Fire apparatus access roads 20 to 26 feet wide shall be posted on both sides as a fire lane, 26 feet to 32 feet shall be posted on one side of the road as a fire lane. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.
58. The fire department connection should face to the new 26' fire apparatus road.

Building Requirements-

59. Submit for proper building permits for the construction/ alterations of the building to the Building Department.
60. Fire sprinkler system shall be installed in accordance with NFPA 13 and California Fire Code. Separate submittals and additional permits are required for the installation of fire sprinkler systems.
61. Fire alarm system shall be installed in accordance with NFPA 72 and California Fire Code, and additional permits are required for the installation of fire alarm system.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY REZONING CERTAIN PROPERTY AT THE SOUTHWEST CORNER OF B AND GRAND STREETS IN CONNECTION WITH ZONE CHANGE APPLICATION NO. PL-2010-0369 RELATING TO A 22-UNIT SENIOR HOUSING FACILITY

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Rezoning.

Article 1 of Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the property at the corner of B and Grand Streets (APNs 431-0040-012-02, 431-0040-011, and 431-0040-010) from Medium Density Residential to Planned Development District.

Section 2. Severance.

Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided the remainder of the ordinance, absent the excised portion, can be reasonable interpreted to give effect to intentions of the City Council.

Section 3. Effective Date.

This ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held on the _____ day of March, 2011, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of March, 2011, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

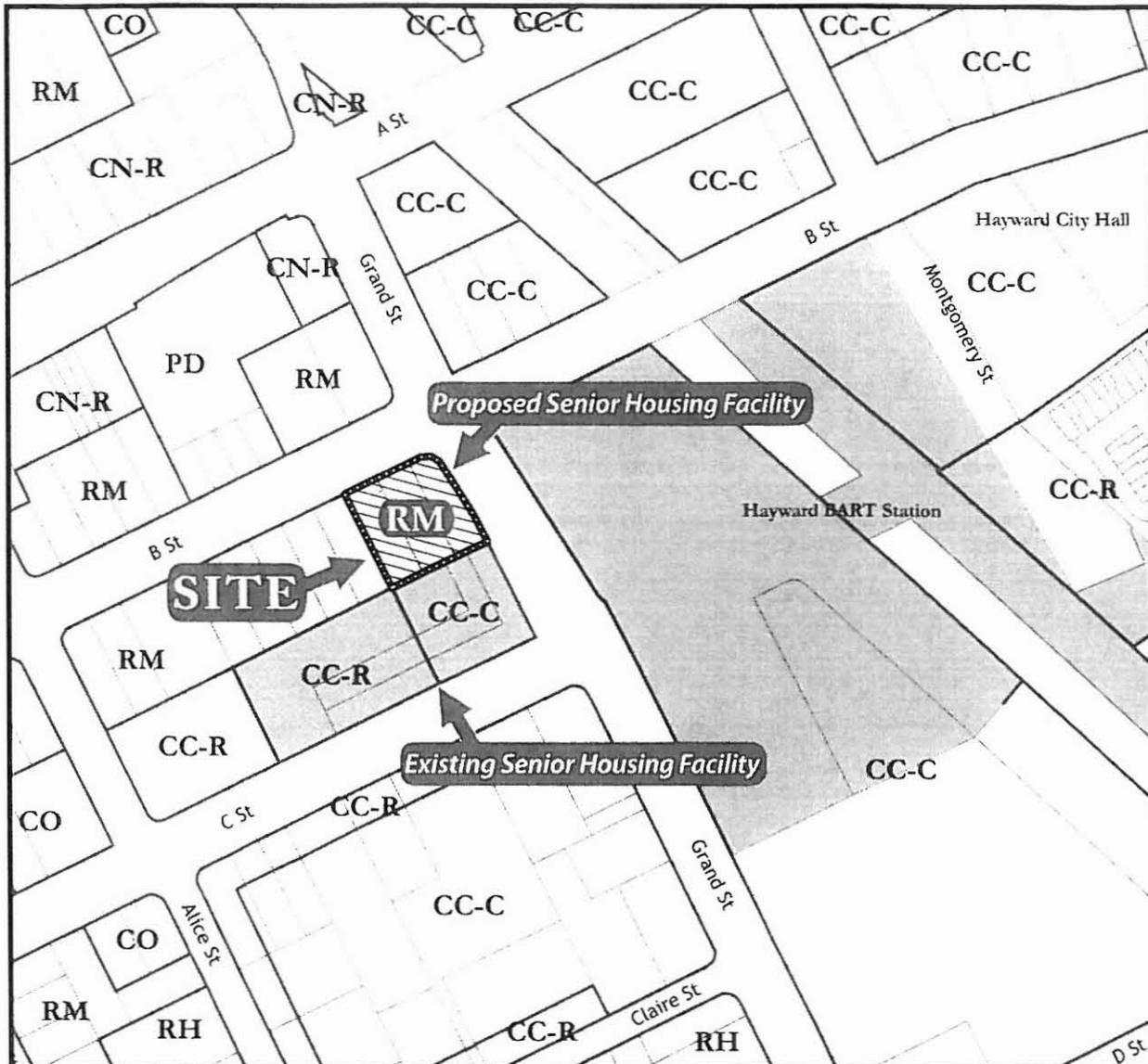
APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



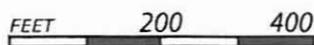
Area & Zoning Map

PL-2010-0368 GPA
 PL-2010-0369 ZC
 PL-2010-0370 SPR

Address: 581,585, 597 B Street
 Applicant: Woody Karp
 Owner: City of Hayward
 Redevelopment Agency

Zoning Classifications

- RESIDENTIAL**
 RH High Density Residential, min lot size 1250 sqft
 RM Medium Density Residential, min lot size 2500 sqft
- COMMERCIAL**
 CN-R Neighborhood Commercial/Residential
 CO Commercial Office
- CENTRAL CITY**
 CC-C Central City - Commercial
 CC-P Central City - Plaza
 CC-R Central City - Residential
- OTHER**
 PD Planned Development



CONDITIONS OF APPROVAL

General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369

Eden Housing (Applicant)

Planning Division

1. General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369 is approved subject to the plans labeled Exhibit "A" and the conditions listed below. The Preliminary Development Plan Approval becomes void two years after the effective date of approval, unless prior to that time a Precise Development Plan has been submitted for review and processing in accordance with all conditions of the Preliminary Development Plan approval. A request for up to two, one-year extensions, approval of which is not guaranteed, must be submitted to the Planning Division at least 15 days prior to the expiration date.
2. If a building permit is issued for construction of improvements authorized by the General Plan Amendment and Zone Change approvals, said approvals shall be void two years after issuance of the building permit, or three years after approval of the Precise Development Plan Approval, 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 Precise Plan approval.
3. 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.
4. Prior to application for a Building Permit or a Grading Permit, a Precise Development Plan shall be submitted for review and approval and include the following:
 - a) A copy of these conditions of approval shall be included on a full-sized sheet(s) in the set of plans.
 - b) In addition to the architectural and landscape drawings, a lighting plan, prepared by a qualified illumination engineer meeting the requirements of the City's Building Security Ordinance. Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas. Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of units within the project.

The fixtures shall be decorative and designed to keep the light from spilling onto adjacent properties. Wall-mounted light fixtures shall not be mounted greater than 12 feet in height unless otherwise permitted by the Planning Director. Luminaires shall be of a design that complements the architectural style of the building and shall be approved by the Planning Director prior to issuance of the building permit. The maximum height of the luminaires

- shall be 12 feet unless otherwise permitted by the Planning Director. The lighting and its related photometric plan shall be reviewed and approved by the Planning Director. Lighting standards shall be placed so as to not conflict with the location of trees or where they would shine directly into windows.
- c) A color board shall be submitted for review and approval by the Planning Director.
 - d) The developer shall work with Planning staff to design secure bicycle parking to the extent feasible.
5. In conjunction with the Precise Plan submittal and prior to issuance of a building permit:
 - a) The developer shall cause to be recorded a covenant agreement to ensure that the 22 rental units remain affordable to low and very low income seniors for a minimum of 55 years. The agreement shall be approved by the Planning Director prior to recordation.
 - b) The developer shall cause the three parcels to be merged into one.
 - c) The developer shall submit a soils investigation report for review and approval by the City Engineer.
 - d) The developer shall submit improvement plans for review and approval by the City Engineer.
 6. Prior to the installation of any signs, the applicant shall submit a Sign Permit Application to the Planning Director for review and approval.
 7. The owner shall maintain in good repair all fencing, parking and driveway surfaces, common landscaping, lighting, exterior elevations, trash enclosures, drainage facilities, project signs, etc. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within 72 hours of occurrence.
 8. No mechanical equipment may be placed on the roof unless it is incorporated into the design of the roof. Prior to construction, documentation shall be provided that the roof-mounted mechanical equipment is adequately screened.
 9. In the event that archaeological resources, prehistoric or historic artifacts are discovered during construction or excavation, the following procedures shall be followed: Construction and/or excavation activities shall cease immediately and the Planning Division shall be notified. A qualified archaeologist shall be consulted to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedure for evaluation of accidental finds and discovery of human remains shall be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.
 10. Construction noise from the development of this site shall adhere to standard restrictions on hours and days of operation as specified in the City of Hayward Municipal Code, Article 1, Section 4-1.03(2). Construction equipment is required to have sound reduction devices to reduce noise impacts on surrounding properties. The name and telephone number of an individual responsible for responding to complaints regarding noise, and who is hired by the developer, shall be posted at the site during construction.

11. Prior to final inspection, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.
12. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
13. Any future modification to the approved site plan shall require review and approval by the Planning Director.
14. The applicant shall work with the neighboring property owner regarding the design of the fence along the common property line and the maintenance of the redwood tree.

Development Services

15. A Parcel Merger Application with an initial deposit in the amount of \$3,000 shall be submitted prior to or concurrent with the Building Permit Application. All parcels must be under common ownership and title must be held in the exact manner for each parcel.
16. Parcel Merger Notice shall be executed and recorded prior to the issuance of any building permits.
17. A strip of land at the corner of B and Grand Streets shall be dedicated to the City for the installation of a new pedestrian ramp. The dedication of right-of-way shall be completed prior to the issuance of any building permits.
18. Prior to the issuance of any permits for any construction activity on-site, the Developer's Engineer shall submit a completed Development Building Application Form Information consisting of: 1) Impervious Material Form and 2) Operation and Maintenance Information Form.
19. Prior to the issuance of any permits the owner/developer shall execute a Storm Treatment Measures Maintenance Agreement (as prepared by the City of Hayward and is available in the Engineering and Transportation Division); the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.

Improvement Plans

20. Concurrent with the Precise Plan submittal, submit five sets of Improvement plans, hydrology and hydraulic calculations and drainage area map, detailed C.3 plan and calculations, and a \$3,000 initial deposit to cover staff's review time charges.
21. The Improvement Plans shall include a design for the undergrounding of utilities along B Street for review and approval by Public Works staff. An encroachment permit will be required for

any work in the public right of way. All undergrounding must be completed prior to a Building Permit final.

22. Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed at no cost to the City of Hayward.
23. All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, and Standard Specifications and Details – unless otherwise indicated hereinafter.
24. The applicant/developer's Registered Civil Engineer shall perform all design work unless otherwise indicated.
25. Prior to the issuance of any permits for any construction activity on-site, detailed Improvement plans including grading, erosion and sediment control measures and drainage plans with supporting calculations, and a completed Drainage Review Checklist shall be submitted for review and approval of the City Engineer. Subject plans shall include standard improvements and all items depicted on the improvement plans labeled C-1, C-2 and C-3 received on December 3, 2010, and shall incorporate the following conditions and design requirements:
 - a) New driveway approach on Grand Street shall be installed per City Standard SD-109.
 - b) Parking and circulation areas shall be designed to conform to the City off-street parking regulations.
 - c) All paved slopes shall have a minimum 0.5% grade.
 - d) The on-site storm drain system shall be a private system owned and maintained by the owners.
 - e) The development shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the hydrology design shall clearly indicate all areas tributary to the project site.
 - f) The stormwater runoff generated from the site shall be collected and discharged to existing underground storm pipe system in the complex and shall not disperse as surface flow to the adjacent parking lot.
 - g) All storm drain inlets must be labeled "No Dumping - Drains to Bay," using City-approved methods.
 - h) The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to design the storm drain system. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be submitted, which shall meet the approval of the City Engineer.
 - i) The storm drain design shall comply with the C.3 established thresholds and shall incorporate measures to minimize pollutants to the maximum extent practicable (MEP).
26. The Project plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site in order to limit the entry of pollutants into storm water runoff to the

maximum extent practicable. It is highly recommended that grassy swale be installed to intercept the surface runoff and using an engineered soil fill with a minimum infiltration rate of 5 inches per hour.

27. The project shall be designed to direct runoff to the landscaped yards and common space, prior to entering into the underground pipe system. Unit pavers should also be considered for impervious areas such as the driveways, parking areas.
28. The applicant/developer shall be responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.
29. Required water system improvements shall be completed and operational prior to the start of combustible construction.
30. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
 - a) Grading and construction activities shall be limited to the hours 7:30 AM to 6:00 PM on weekdays; there shall be no grading or construction activities on the weekend or national holidays.
 - b) Grading and construction equipment shall be properly muffled.
 - c) Unnecessary idling of grading and construction equipment is prohibited.
 - d) Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential units.
 - e) Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise.
 - f) The developer shall participate in the City's recycling program during construction.
 - g) Daily clean up of trash and debris shall occur along all peripheral streets and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
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56. Fire apparatus access roads shall be designed and maintained to support the imposed load of fire apparatus 75,000 lbs and shall be surfaced so as to provide all-weather driving capability.
57. Fire apparatus access roads 20 to 26 feet wide shall be posted on both sides as a fire lane, 26 feet to 32 feet shall be posted on one side of the road as a fire lane. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.
58. The fire department connection should face to the new 26' fire apparatus road.

Building Requirements-

59. Submit for proper building permits for the construction/ alterations of the building to the Building Department.
60. Fire sprinkler system shall be installed in accordance with NFPA 13 and California Fire Code. Separate submittals and additional permits are required for the installation of fire sprinkler systems.
61. Fire alarm system shall be installed in accordance with NFPA 72 and California Fire Code, and additional permits are required for the installation of fire alarm system.



**DEPARTMENT OF
DEVELOPMENT SERVICES
Planning Division**

NEGATIVE DECLARATION

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

- I. ***PROJECT DESCRIPTION:*** Request to change the General Plan designation from Medium Density Residential to High Density Residential and to change the Zoning from Medium Density Residential to Planned Development and to build 22 affordable senior housing rental units with density bonus and incentives and waivers. The project site is located within the urbanized downtown area of Hayward and surrounded by existing residential uses. The existing Eden Housing affordable senior housing facility is located just south. The downtown BART station is located east of the site.

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

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

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

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project could not result in significant effects on the environment.
2. The project will not adversely affect any scenic resources.
3. The project will not have an adverse effect on agricultural land since the property is surrounded by urban uses and it is too small to be used for agriculture.
4. The project will not result in significant impacts related to changes into air quality. When the property is developed the City will require the developer to submit a construction Best Management Practice (BMP) program prior to the issuance of any grading or building permit.
5. The project will not result in significant impacts to biological resources such as wildlife and wetlands since the site contains no such habitat and it is surrounded by urban uses.
6. The project will not result in significant impacts to known cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains.

7. The project site is not located within a "State of California Earthquake Fault Zone", however, may experience ground shaking due to the proximity to active faults in the region. Construction will be required to comply with the Uniform Building Code standards to minimize seismic risk due to ground shaking.
8. The project will not lead to the exposure of people to hazardous materials.
9. The project will meet all water quality standards. Drainage improvements will be made to accommodate storm water runoff for any future developments.
10. The project is consistent with the policies of the City General Policies Plan, the Downtown Design Plan, the City of Hayward Design Guidelines and the Zoning Ordinance.
11. The project could not result in a significant impact to mineral resources since the site is too small to be developed to extract mineral resources.
12. The project will not have a significant noise impact.
13. The project will not result in a significant impact to public services.
14. The project will not result in significant impacts to traffic or result in changes to traffic patterns or emergency vehicle access.

IV. PERSON WHO PREPARED INITIAL STUDY: Sara Buizer, AICP, Senior Planner

Signature: 

Dated: 1/26/11

V. COPY OF INITIAL STUDY IS ATTACHED

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



CITY OF
HAYWARD
HEART OF THE BAY

DEPARTMENT OF DEVELOPMENT SERVICES
Planning Division

INITIAL STUDY CHECKLIST

Project Title: Eden Housing Phase II

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

Contact person: Sara Buizer, AICP, Senior Planner

Project location: Corner of B Street and Grand Street

Project sponsors

Name and Address: Eden Housing / 22645 Grand Street, Hayward, CA 94541

General Plan Designation: Medium Density Residential

Zoning: Medium Density Residential

Project description: Request to change the General Plan designation from Medium Density Residential to High Density Residential and to change the Zoning from Medium Density Residential to Planned Development and to build 22 affordable senior housing rental units with density bonus and incentives and waivers.

Surrounding land uses and setting: The project site is located within the urbanized downtown area of Hayward and surrounded by existing residential uses. The existing Eden Housing affordable senior housing facility is located just south. The downtown BART station is located east of the site.

Other public agencies whose approval is required: None.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

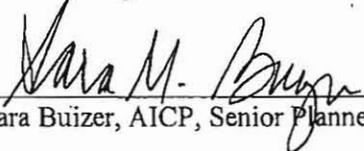
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

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

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

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


 Sara Buizer, AICP, Senior Planner

1/26/11
 Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista? Comment <i>There are no designated scenic vistas in the vicinity of the project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? Comment <i>The project is not located within a state scenic highway; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings? Comment <i>The existing site is a vacant lot and the proposed senior housing facility will add to the visual character of the site; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? Comment <i>The new residential units will add some additional light to this vacant corner, but the amount is considered less than significant given the surrounding developed area; no mitigation is required.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

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

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? Comment <i>The project does not involve any Prime Farmland, Unique Farmland or Farmland of Statewide Importance; thus, no impact.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? Comment <i>The project site is not zoned for agricultural uses no under a Williamson Act contract; thus, no impact.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? Comment <i>The project does not involve the rezoning of forest land or timberland; thus, no impact.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Result in the loss of forest land or conversion of forest land to non-forest use? Comment <i>The project does not involve the loss of forest land or involve conversion of forest land; thus, no impact.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? Comment <i>The project does not involve changes to the environment that could result in conversion of Farmland or forest land; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan? Comment <i>The project is a small in-fill project located across from the downtown Hayward BART station and will not conflict with the goals of the air quality plan; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? Comment <i>The Bay Area Air Quality Management District (BAAQMD) has established screening criteria as part of their CEQA guidance to assist in determining if a proposed project could result in potentially significant air quality impacts. Based on the District's criteria, the proposed project screens below what would require additional evaluation; thus the proposed project will not violate any air quality standard and there is no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? Comment <i>The proposed project meets the screening criteria in Table 3-1 of the Air District's CEQA Guidelines; thus, it can be determined that the project would result in a less-than-significant cumulative impact to air quality from criteria air pollutants and precursor emissions.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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d) Expose sensitive receptors to substantial pollutant concentrations? Comment <i>The project is a small in-fill development located across from the downtown Hayward BART station that will not involve exposing sensitive receptors to substantial pollutant concentrations; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Create objectionable odors affecting a substantial number of people? <u>Comment</u> <i>The project is a small in-fill residential development that will not create any objectionable odors; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IV. BIOLOGICAL RESOURCES -- Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? <u>Comment</u> <i>The project area is largely developed and does not contain plant or wildlife special-status species; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service? <u>Comment</u> <i>The project area is largely developed and does not contain any riparian habitat or sensitive natural communities; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? <u>Comment</u> <i>The project site, located in an urban setting, contains no wetlands; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? <u>Comment</u> <i>The project site, located in an urban setting, contains no wildlife corridors thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? Comment <i>The project site does not contain any significant stands of trees. There is one tree on site that will be protected during construction; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? Comment <i>The project site is no located in an area covered by an adopted habitat Conservation Plan or Natural Community Conservation Plan; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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V. CULTURAL RESOURCES -- Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5? Comment <i>The project site is located in an area of Hayward that has historic or architectural character. The project has been designed to comply with the design standards of the Streetcar District; thus the impact to a historical resource is considered to be less-than-significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5? Comment <i>There are no known archaeological resources in the vicinity; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? Comment <i>There are no known paleontological resources or unique geological features on or near the site; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Disturb any human remains, including those interred outside of formal cemeteries? <u>Comment</u> <i>There are no known human remains nor cemeteries nearby the project site; however, standard procedures for grading operations would be followed during development, which require that if any such remains or resources are discovered, grading operations are halted and the resources/remains are evaluated by a qualified professional and, if necessary, mitigation plans are formulated and implemented. These standard measures would be applied to the project should it be approved.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VI. GEOLOGY AND SOILS -- Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. <u>Comment</u> <i>The project site is located approximately 1600 feet west of the Hayward Fault zone; however, the building will be designed and constructed to withstand an earthquake; thus the impact is considered less-than-significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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ii) Strong seismic ground shaking? <u>Comment</u> <i>The project site is located within the downtown Hayward area which will most likely experience strong ground shaking in the event of an earthquake rupturing on the Hayward Fault; however, the building will be designed and constructed to withstand an earthquake; thus the impact is considered less-than-significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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iii) Seismic-related ground failure, including liquefaction? <u>Comment</u> <i>The project site is not located in an area prone to liquefaction due to seismic related ground failure; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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iv) Landslides? <u>Comment</u> <i>The project site is a flat lot located in the downtown Hayward area and not located in an area impacted by landslides; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Result in substantial soil erosion or the loss of topsoil? Comment <i>The project site is a flat, vacant lot whereby minimal grading will take place to prepare the site for construction. The project will implement soil erosion measures during construction; thus the impact is considered less-than-significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? Comment <i>The project is not proposed on soil that is unstable; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? Comment <i>The project site does not contain any expansive soils; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? Comment <i>The project will be connected to an existing sewer system with sufficient capacity and does not involve septic tanks or other alternative wastewater; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VII. GREENHOUSE GAS EMISSIONS --
Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? Comment <i>The project falls below the allowable screening criteria established by the Bay Area Air Quality Management District thus would not exceed the threshold of significance for Greenhouse gas emissions; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? Comment <i>The project is a small in-fill residential project for low income seniors that is located across the street from the downtown BSART station and nearby community services and is consistent with applicable plans and policies for reducing greenhouse gas emissions; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? Comment *The project is an in-fill residential project that does not involve the transport or use of hazardous materials; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? Comment *The project does not involve the use of any hazardous materials so there will be no accidental release of hazardous materials; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? Comment *The project is an in-fill residential project that does not involve the use of hazardous materials; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? Comment *The project site is not on a list of hazardous materials sites; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? Comment *The project is not located within an airport land use plan area; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? Comment *The project is not located within the vicinity of a private air strip; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? <u>Comment</u> <i>The project site is located at the corner of B street and Grand Street within an urbanized area and will not interfere with an adopted emergency response plans or evacuation plan; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? <u>Comment</u> <i>The project site is not located within the City's Wildland Interface Area; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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IX. HYDROLOGY AND WATER QUALITY -
 - Would the project:

a) Violate any water quality standards or waste discharge requirements? <u>Comment</u> <i>The project will comply with all water quality and wastewater discharge requirements of the city; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? <u>Comment</u> <i>The project will be connected to the existing water supply and will not involve the use of water wells and will not deplete groundwater supplies or interfere with groundwater recharge; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? <u>Comment</u> <i>The project site is an infill site that was previously developed with residential uses. All drainage from the site is required to be treated before it enters the storm drain system and there is sufficient capacity to handle any drainage from the property; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? <u>Comment</u> The project site is an infill site that was previously developed with residential uses. All drainage from the site is required to be treated before it enters the storm drain system and managed such that post-development run-off rates do not exceed pre-development run-off rates; thus, no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? <u>Comment</u> The project site is an infill site that was previously developed with residential uses. All drainage from the site is required to be treated before it enters the storm drain system and there is sufficient capacity to handle any drainage from the property; thus, no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality? <u>Comment</u> The project site is an infill site that was previously developed with residential uses. All drainage from the site is required to be treated before it enters the storm drain system; thus, no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? <u>Comment</u> The project site is not located within a 100-year flood hazard area; thus, no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? <u>Comment</u> The project site is not located within a 100-year flood hazard area; thus, no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? <u>Comment</u> The project site is not located within a 100-year flood hazard area; thus, no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow? <u>Comment</u> The project site is not located within a 100-year flood hazard area; thus, no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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X. LAND USE AND PLANNING -- Would the project:

a) Physically divide an established community?
Comment *The project site is a small in-fill site located within an existing community; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

Comment *The project involves a General Plan Amendment to increase the land use designation to support the proposed 22 units. The project site is adjacent to an existing low income senior housing facility and across the street from the downtown Hayward BART station. Although the project involves increasing the land use density, because the project is for low income seniors and is within walking distance of transit and services, the impact is considered less-than-significant.*

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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c) Conflict with any applicable habitat conservation plan or natural community conservation plan? Comment *The project site is not covered by any habitat conservation plan or natural community conservation plan; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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XI. MINERAL RESOURCES -- Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? Comment *There are no known mineral resources on the project site; thus no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? Comment *The project site is not identified as a site known to have mineral resources; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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XII. NOISE -- Would the project result in:

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? Comment <i>The project site is located within an already developed neighborhood and will not generate any noise levels in excess of standards established in the general Plan; thus, no impact.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? Comment <i>The project site is not located in an area where people will be exposed to groundborne vibrations nor will the project generate any groundborne vibrations; thus no impact.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? Comment <i>The project is a residential development for low income seniors and will not involve an increase in the ambient noise levels in the area; thus, no impact.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? Comment <i>Existing residential development will experience a slight increase in ambient noise levels during the construction of the proposed project; construction is limited to the allowable hours per the City's Noise Ordinance; thus the impact is considered less-than-significant and no mitigation is required.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? Comment <i>The project is not located within an airport land use plan area; thus, no impact.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? Comment *The project is not located within the vicinity of a private air strip; thus, no impact*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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XIII. POPULATION AND HOUSING --

Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? Comment *The project involves the construction of 22 new residential units for low income seniors, however, residential development has been envisioned at this location and was anticipated in the City's General Plan; thus, the impact is less than significant and no mitigation is required.*

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? Comment *The project involves the development of additional low income senior housing on a vacant lot and no housing will be displaced as a result of this project; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? Comment *The project involves the development of additional low income senior housing on a vacant lot and nobody will be displaced as a result of this project; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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XIV. PUBLIC SERVICES --

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Fire protection?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Police protection?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities? <i>Comment</i> The project is an in-fill 22-unit affordable senior housing development located within an urbanized area that is already served by police and fire. Since the residential development will be for seniors only, there will not be any impacts to schools. The proposed project will be providing some group open space areas for use by the future residents so there should not be any real impacts to parks. No mitigation is required.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XV. RECREATION --

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? *Comment* The project is an in-fill 22-unit affordable senior housing development located within an urbanized area. The proposed project will be providing some group open space areas for use by the future residents so there should not be any real impacts to the use of neighborhood or regional parks that would deteriorate the facilities; thus no impact.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? *Comment* The proposed senior housing facility will be including group gathering spaces as well as taking advantage of the adjacent facilities existing group open spaces and will not require the construction or expansion of additional recreational facilities; thus, no impact.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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XVI. TRANSPORTATION/TRAFFIC --

Would the project:

- a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? **Comment** *The project will not conflict with any plan regarding effective performance of the circulation system., The project is a residential project for low income seniors and will be located across from the downtown BART station; thus, no impact*

- b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? **Comment.** *No level of service will be impacted by the construction of a low income senior housing facility on an existing in-fill lot. The project is proposed on a small lot across from the downtown BART station; thus, no impact.*

- c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? **Comment** *The project involves no change to air traffic patterns; thus, no impact.*

- d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? **Comment** *The project has been designed to meet all City requirements, including site distance and will not increase any hazards; thus no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Result in inadequate emergency access? Comment <i>The project is on an in-fill site completely accessible and will not result in inadequate emergency access; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? Comment <i>The project does not involve any conflicts or changes to policies, plans or programs related to public transit, bicycle or pedestrian facilities. The project site is located across from the downtown BART station and future residents will likely take advantage of this proximity and utilize the transit service; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVII. UTILITIES AND SERVICE SYSTEMS

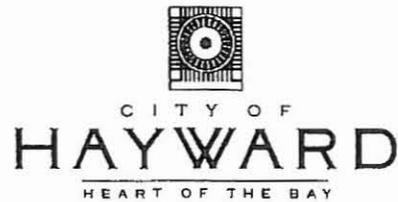
-- Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? Comment <i>The project will not exceed wastewater treatment requirements; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? <u>Comment</u> <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste? <u>Comment</u> <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? <u>Comment</u> <i>The project will not have any impacts on wildlife or fish habitat nor eliminate a plant or animal community; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? <u>Comment</u> <i>As evidenced in the checklist above, it has been determined that the project will not have any significant impacts; thus no impact to cumulative impacts.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? <u>Comment</u> <i>The project will not have any environmental impacts thus will not cause substantial adverse effects on human beings; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



2

DATE: February 10, 2011

TO: Planning Commission

FROM: Sara Buizer, AICP, Senior Planner

SUBJECT: **General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369 - Woody Karp of Eden Housing (Applicant); City of Hayward Redevelopment Agency (Owner) - Request to Change the General Plan Designation from Medium Density Residential to High Density Residential and to Change the Zoning from Medium Density Residential to Planned Development to Accommodate 22 Affordable Senior Housing Rental Units using Density Bonus Provisions**

The project is located on a 0.5-acre parcel at the southwest corner of B and Grand Streets, adjacent to the existing Eden Housing senior housing facility and across Grand Street from the Downtown Hayward BART station

RECOMMENDATION

Staff recommends that the Planning Commission recommends approval to the City Council of the proposed project, including the adoption of the attached Negative Declaration (ND), and approval of the General Plan Amendment and Zone Change to build 22 affordable senior housing rental units using density bonus provisions and related incentives and waivers, subject to the attached Findings and Conditions of Approval.

SUMMARY

The proposed development is a combination two and three-story, L-shaped building with a gross square footage of 20,813 on a 0.5-acre parcel located at the corner of B and Grand Streets across from the Downtown Hayward BART station. The architectural design is contemporary but incorporates elements of the Craftsman style as required by the "B" Street Special Design Streetcar District. The project requires a General Plan Amendment and a Zone Change to accommodate the proposed density of 22 units necessary to satisfy the remaining very-low-income inclusionary housing units for the Cannery Place Development. Staff is supportive of the proposed development, inclusive of the density bonus and requested incentives and waiver, since without the requested exceptions, the project would not be economically feasible and the benefit to the City is a well-designed project that provides an additional 22 units of affordable senior housing.

BACKGROUND

In 2005, when the Cannery Place residential development was approved, the City and developer entered into an Inclusionary Housing Agreement which specified the developer would provide very-low income units off-site and moderate-income units on-site. The majority of the obligation for off-site units was fulfilled by the development of the Eden Housing Senior Housing facility (Phase I) located at the corner of C and Grand Streets. In December 2009, the Cannery Place developer approached the City and requested another modification to their Inclusionary Housing Agreement. This request involved the donation of land at the corner of B and Grand Streets for ultimate development of an additional 22 very-low-income units to satisfy their off-site inclusionary housing obligation. With adoption of the Inclusionary Housing Agreement Amendment, the City Redevelopment Agency became the owner of the subject property. Eden Housing submitted a request to develop the site at B and Grand Streets on October 4, 2010.

DISCUSSION AND STAFF ANALYSIS

In order to accommodate the 22 units on the 0.5-acre site, both the General Plan and Zoning designations must be modified and the development must also take advantage of a density bonus under State and City Density Bonus Law.

Density Bonus-

The applicant, Eden Housing, has applied to construct an affordable senior housing facility. Given the proposed project is comprised entirely of affordable senior housing units, under State Density Bonus Law the project is entitled to a mandatory 35% density bonus. The proposed development, under a High Density land use designation, would be allowed a total of 17 units, but, with the mandatory 35% density bonus, an additional 5 units would be permitted for a total of 22 units.

A project that applies for a density bonus also has an opportunity to request up to three incentives and waivers of an unlimited number of development standards if it can be determined without those, the project would not be feasible. An incentive is a reduction in a site development standard that results in actual cost reductions for the project, whereas a waiver is a modification of development standards that is needed to make the project economically feasible. The applicant in this case has requested the maximum number of incentives and waivers. The incentives requested include: (1) a reduction in the required amount of group open space; (2) a deferral of the requirement to underground utilities; and (3) a request to not sub-meter the water system. The waivers requested include: (1) a modification to the required parking spaces sizes; and (2) a relaxation of the covered parking requirements.

Incentives-

The project has requested an incentive to provide less than the required group open space. Based on the number of units, the development is required to provide 7,700 square feet of group open space. The project will be providing 6,305 square feet of group open space. Some of the proposed group open space will be provided within the building, while a portion will be provided by the outdoor courtyard. Staff is supportive of this incentive as the project is for seniors who will enjoy the indoor

gathering spaces as much as the exterior one. The project site is also relatively small as compared with the Phase I development and in order to achieve the desired density, some sacrifices are necessary. The project given its proximity to Phase I, will be able to take advantage of sharing facilities such as the group gathering spaces included in Phase I which constitute almost 6000 square feet. In addition, the project site is within walking distance of other amenities future residents can take advantage of including the Public Library and Cannery Park.

The applicant is requesting a deferral to the utility undergrounding requirement along B Street. The costs associated with undergrounding the utilities at this time due to the need to place them within B Street instead of under the sidewalk, as is typically done because of the potential impacts to the established Sycamore trees, would make the project cost prohibitive. Public Works staff has indicated they are supportive of a deferral of this requirement at this time, but will require the applicant to participate when undergrounding of utilities occurs along B Street in the future.

The applicant is also requesting an exception to the requirement that the water service be sub-metered for each unit. The water is provided to the tenants by Eden Housing. The water is centrally heated and then distributed to each unit. Based on discussions with Public Works Utilities staff, they are supportive of such a request to not sub-meter the water because it is centrally distributed.

Waivers-

The applicant is requesting a modification to the required parking space sizes. All required parking spaces must be 9 feet by 19 feet. The applicant is proposing that three of the 11 parking spaces they are providing be 8 feet by 19 feet, which is consistent with the City's compact parking space size. Given the small site, the density and the desire to save an existing tree located in the southeast corner of the site, staff is supportive of this waiver. In addition, by allowing three of the eleven spaces to have an 8 foot width, the project can provide parking at the ratio of 0.5 spaces per unit which is consistent with the parking ratio established for Phase I.

The second waiver the applicant is requesting is to allow for a portion of the parking spaces to be uncovered where typically all required parking spaces are required to be covered. The project is providing cover for five of the eleven parking spaces. The covered parking spaces are located below the proposed building. The other six parking spaces will be uncovered. These six parking spaces are those that are adjacent to the outdoor courtyard area and the applicant would prefer to leave those spaces uncovered to maximize the open feel of the courtyard area and to maintain a clear and visible pedestrian connection between the proposed project and Phase I. Staff is supportive of the request given the concerns of the applicant and the desire to maintain the connection between the two phases of the senior housing facility.

Without the granting of the incentive and waivers, the project would not be economically feasible given the size of the property, the need to maintain consistency with the "B" Street Special Design Streetcar District, and the need to achieve the site density. Staff is supportive of the incentives and waivers since the tradeoff is a well-designed project that provides an additional 22 units of affordable senior housing.

General Plan Amendment-

The applicant has requested to modify the General Plan designation from Medium Density Residential to High Density Residential. In addition, given the proposed project is comprised entirely of affordable senior units, under State Density Bonus Law, the project is entitled to a mandatory 35% density bonus. The proposed development, under a High Density land use designation, would be allowed a total of 17 units, but, with the mandatory 35% density bonus, an additional 5 units would be permitted for a total of 22 units, satisfying the inclusionary housing obligation for the Cannery Place development. In addition, the High Density Residential land use designation, which allows for a range of 17-34 units per net acre is more consistent with the Downtown City Center Retail and Office Commercial land use density on the adjacent Phase I property, which has a range of 30 to 65 units per net acre. Staff is supportive of the request to modify the General Plan land use designation, as it will not only satisfy the inclusionary housing requirements for the Cannery Place development and allow for Eden Housing to construct the second phase of their development, but the City will gain 22 affordable senior housing units on a site that is in close proximity to transportation and services.

Findings for General Plan Amendment Application-

In order to support the changes proposed to the General Plan, the Planning Commission must make the following findings as follows:

- (1) Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The increase in land use density for the site will allow Eden Housing to construct the second phase of its project and will provide an additional 22 very-low-income rental units for seniors, a growing population. The location of the project site, across from the Downtown Hayward BART station and just west of downtown, is an ideal location as it allows for the future residents to be near alternative transportation as well as services.

- (2) The proposed change is in conformance with the purposes of the General Plan and all applicable, officially adopted policies and plans.

The General Plan modification will allow for the construction of 22 additional affordable housing units for seniors. The General Plan has a goal to assist in the development of affordable housing, including programs which specifically aim to provide incentives to developers to allow them to construct affordable housing in the City. Another goal is to provide suitable sites for housing developments including encouraging development that takes advantage of convenient access to the BART station. The proposed project is not only convenient, as it is across the street from the Downtown BART station and near services provided in downtown, but is adjacent to the existing senior housing facility and will be able to take advantage of shared facilities.

- (3) Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified.

The project site is located at the corner of B Street and Grand Street and has adequate public facilities to serve the proposed use.

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

The proposed use is residential and is compatible with the surrounding uses which are also primarily residential uses. The project incorporates appropriate design elements of the Craftsman style in accordance with the "B" Street Special Design Streetcar District. In addition, without the modification to the General Plan land use designation, the density would not permit the construction of 22 very-low-income senior housing units.

Rezoning to Planned Development District-

Project Description-

The proposed development is a combination two and three-story building that has a gross square footage of 20,813 on a 0.5 acre parcel. The proposed building is L-shaped with the main entrance oriented toward the corner of B and Grand Streets in a similar fashion that the Phase I project is oriented toward the corner of C and Grand Streets. Access to the proposed parking is off Grand Street behind the building and will be situated between the existing Phase I and the proposed Phase II. Also situated behind the proposed building is an outdoor courtyard including raised vegetable beds that will be part of the development's group open space. The two-story portion of the structure faces B Street, while the three-story portion of the structure faces Grand Street and the existing Phase I. The project proposes to use a combination of horizontal lap siding and board siding for exterior materials. The architectural design is contemporary but incorporates elements of the Craftsman style as required by the "B" Street Special Design Streetcar District.

Zone Change Analysis-

The proposal involves a modification of the current zoning designation from Medium Density Residential to Planned Development. Under the current designation, the project would not be feasible without modifications to some of the development standards. The purpose of the Planned Development designation is to encourage development through efficient and attractive space utilization that might not be achieved through strict application of the development standards.

The development is proposed to have a 10-foot setback along B Street where a 20-foot setback would be required. This reduction allows the development to take advantage of a larger group gathering space behind the building for future tenants and protection of an existing redwood tree, while still allowing for a landscape frontage along B Street. In addition, other buildings along B Street west of the project site have varying setbacks, and in some cases the front setback is 10 feet, so the proposed building would not be out of character with the neighborhood.

The project also is showing a reduction in the total number of required parking spaces. The project provides 11 parking spaces, a ratio of 0.5 spaces per unit. The amount of parking required for the development is 1.7 parking spaces per unit, for a total of 37 parking spaces. However, Phase I, which is adjacent to the project site, is located within the City's Central Parking District. Multiple-family dwellings providing housing exclusively for the elderly within the Central Parking District may provide parking at 0.5 parking spaces per unit. Given the proximity of the proposed development to public transportation and services as well as the integration of shared facilities with Phase I, staff is supportive of the request to provide parking at the 0.5 parking space per unit ratio.

Findings for the Zone Change/Preliminary Development Plan-

In order for a Planned Development District to be approved, certain findings must be made as follows:

- (1) The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies.

The proposed development of a senior housing facility is in harmony with the surrounding area which is primarily residential. The project as it is an affordable senior housing facility is consistent with General Plan policies that encourage providing housing that can accommodate a range of sizes, location and tenure as well as policies related to encouraging housing near transit and services which this development will achieve.

- (2) Streets and utilities, existing or proposed, are adequate to serve the development.

The project site is surrounded by existing streets and there are utilities available to the site with adequate capacity to serve the proposed development.

- (3) The development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development.

The development of 22 very-low-income senior rental units is a residential development that will be sustainable over time. As the population ages, there will be a need to provide housing opportunities for this population. Having a facility closely located to public transit and services will also be beneficial to the sustainability of the development.

- (4) Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.

The development is seeking a zone change to Planned Development to allow for a modified building setback along B Street and to allow for a reduction in the required number of parking spaces. Staff is supportive of the B Street setback as the setback will allow for increased space behind the proposed building for group gathering space for the future

tenants and still allow for sufficient landscaping along B Street to enhance the streetscape. Staff is also supportive of the reduction in parking spaces as the development will provide 0.5 parking spaces per unit, which is consistent with what was allowed for the first phase of the development and typical of what has been required for senior housing facilities. Without the Planned Development zoning, the project would not likely be developed, and with the allowance, the city is adding 22 additional very low income senior housing units to our housing stock.

ENVIRONMENTAL REVIEW

This proposal is defined as a "project" under the parameters set forth in the California Environmental Quality Act (CEQA) Guidelines. Staff has prepared a Negative Declaration and Initial Study (see attached), which indicates there will be no significant environmental impacts resulting from the project.

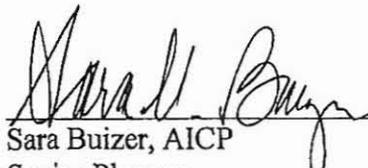
PUBLIC CONTACT

An initial notice of the application was sent to property owners and residents within 300 feet of the project site as well as the Burbank Neighborhood Task Force. Staff received a comment from a neighbor that was not supportive of affordable housing at this location. The applicant has also made attempts to reach out to the neighbors in an effort to hear any concerns they may have about the proposal. Notice of this Planning Commission meeting was sent to all owners and residents within a 300-foot radius of the site as well as the Burbank Neighborhood Task Force.

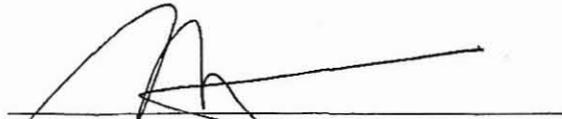
NEXT STEPS

Following the Planning Commission hearing and assuming the Commission recommends approval of the project, the City Council will hear the item along with the Planning Commission's recommendation and render a decision on the proposed General Plan Amendment and Zone Change Applications. Should the Council approve the project, the applicant will work toward complying with the conditions of approval to allow approval of a precise development plan, and ultimate construction of the project.

Prepared by:


Sara Buizer, AICP
Senior Planner

Recommended by:



Richard E. Patenaude, AICP
Planning Manager

Attachments:

- Attachment I Area and Zoning Map
- Attachment II Findings
- Attachment III Conditions
- Attachment IV Negative Declaration
Plans

CONDITIONS OF APPROVAL

**General Plan Amendment Application No. PL-2010-0368 and
Zone Change Application No. PL-2010-0369**

Eden Housing (Applicant)

Planning Division

1. General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369 is approved subject to the plans labeled Exhibit "A" and the conditions listed below. The Preliminary Development Plan Approval becomes void one year after the effective date of approval, unless prior to that time a Precise Development Plan has been submitted for review and processing in accordance with all conditions of the Preliminary Development Plan approval. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division at least 15 days prior to the expiration date.
2. If a building permit is issued for construction of improvements authorized by the General Plan Amendment and Zone Change approvals, said approvals shall be void two years after issuance of the building permit, or three years after approval of the Precise Development Plan Approval, 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 Precise Plan approval.
3. 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.
4. Prior to application for a Building Permit or a Grading Permit, a Precise Development Plan shall be submitted for review and approval and include the following:
 1. A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plans.
 2. A lighting plan, prepared by a qualified illumination engineer meeting the requirements of the City's Building Security Ordinance. Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas. Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of units within the project.

The fixtures shall be decorative and designed to keep the light from spilling onto adjacent properties. Wall-mounted light fixtures shall not be mounted greater than 12

- feet in height unless otherwise permitted by the Planning Director. Luminaires shall be of a design that complements the architectural style of the building and shall be approved by the Planning Director prior to issuance of the building permit. The maximum height of the luminaires shall be 12 feet unless otherwise permitted by the Planning Director. The lighting and its related photometric plan shall be reviewed and approved by the Planning Director. Lighting standards shall be placed so as to not conflict with the location of trees or where they would shine directly into windows.
3. A color board shall be submitted for review and approval by the Planning Director.
 4. The developer shall work with Planning staff to design secure bicycle parking to the extent feasible.
 5. In conjunction with the Precise Plan submittal and prior to issuance of a building permit:
 - a) The developer shall cause to be recorded a covenant agreement to ensure that the 22 rental units remain affordable to low and very low income seniors for a minimum of 55 years. The agreement shall be approved by the Planning Director prior to recordation.
 - b) The developer shall cause the three parcels to be merged into one.
 - c) The developer shall submit a soils investigation report for review and approval by the City Engineer.
 - d) The developer shall submit improvement plans for review and approval by the City Engineer.
 6. Prior to the installation of any signs, the applicant shall submit a Sign Permit Application to the Planning Director for review and approval.
 7. The owner shall maintain in good repair all fencing, parking and driveway surfaces, common landscaping, lighting, exterior elevations, trash enclosures, drainage facilities, project signs, etc. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within 72 hours of occurrence.
 8. No mechanical equipment, or solar collectors, may be placed on the roof unless it is incorporated into the design of the roof. Prior to construction, documentation shall be provided that the roof-mounted mechanical equipment is adequately screened.
 9. In the event that archaeological resources, prehistoric or historic artifacts are discovered during construction of excavation, the following procedures shall be followed: Construction and/or excavation activities shall cease immediately and the Planning Division shall be notified. A qualified archaeologist shall be consulted to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedure for evaluation accidental finds and discovery of human remains shall be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.

10. Construction noise from the development of this site shall adhere to standard restrictions on hours and days of operation as specified in the City of Hayward Municipal Code, Article 1, Section 4.103(2). Construction equipment is required to have sound reduction devices to reduce noise impacts on surrounding properties. The name and telephone number of an individual responsible for responding to complaints regarding noise, and who is hired by the developer, shall be posted at the site during construction.
11. Prior to final inspection, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.
12. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
13. Any future modification to the approved site plan shall require review and approval by the Planning Commission.

Development Services

1. A Parcel Merger Application with an initial deposit in the amount of \$3,000 shall be submitted prior to or concurrent with the Building Permit Application. All parcels must be under common ownership and title must be held in the exact manner for each parcel.
2. Parcel Merger Notice shall be executed and recorded prior to the issuance of any building permits.
3. A strip of land at the corner of B and Grand Streets shall be dedicated to the City for the installation of that new pedestrian ramp. The dedication of right-of-way shall be completed prior to the issuance of any building permits.
4. Prior to the issuance of any permits for any construction activity on-site, the Developer's Engineer shall submit a completed Development Building Application Form Information consisting of: 1) Impervious Material Form and 2) Operation and Maintenance Information Form.
5. Prior to the issuance of any permits the owner/developer shall execute a Storm Treatment Measures Maintenance Agreement (as prepared by the City of Hayward and is available in the Engineering and Transportation Division); the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.

Improvement Plans

6. Concurrent with the Precise Plan submittal, submit five sets of Improvement plans, hydrology and hydraulic calculations and drainage area map, detailed C.3 plan and calculations, and a \$3,000 initial deposit to cover staff's review time charges.
7. Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed at no cost to the City of Hayward.
8. All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, and Standard Specifications and Details – unless otherwise indicated hereinafter.
9. The applicant/developer's Registered Civil Engineer shall perform all design work unless otherwise indicated.
10. The improvement plan shall, in general, include all items depicted on the improvement plans received on December 3, 2010, and shall incorporate s follows
11. Prior to the issuance of any permits for any construction activity on-site, detailed Improvement plans including grading, erosion and sediment control measures and drainage plans with supporting calculations, and a completed Drainage Review Checklist shall be submitted for review and approval of the City Engineer. Subject plans shall include standard improvements and all items depicted on the improvement plans labeled C-1, C-2 and C-3 received on December 3, 2010, and shall incorporate the following conditions and design requirements:
 - a. New driveway approach on Grand Street shall be installed per City Standard SD-109.
 - b. Parking and circulation areas shall be designed to conform to the City off-street parking regulations.
 - c. All paved slopes shall have a minimum 0.5% grade.
 - d. The on-site storm drain system shall be a private system owned and maintained by the owners.
 - e. The development shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the hydrology design shall clearly indicate all areas tributary to the project site.
 - f. The stormwater runoff generated from the site shall be collected and discharged to existing underground storm pipe system in the complex and shall not disperse as surface flow to the adjacent parking lot.
 - g. All storm drain inlets must be labeled "No Dumping - Drains to Bay," using City-approved methods.
 - h. The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to design the storm drain system. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be submitted, which shall meet the approval of the City Engineer.

- i. The storm drain design shall comply with the C.3 established thresholds and shall incorporate measures to minimize pollutants to the maximum extent practicable (MEP).
12. The Project plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site in order to limit the entry of pollutants into storm water runoff to the maximum extent practicable. It is highly recommended that grassy swale be installed to intercept the surface runoff and using an engineered soil fill with a minimum infiltration rate of 5 inches per hour.
13. The project shall be designed to direct runoff to the landscaped yards and common space, prior to entering into the underground pipe system. Unit pavers should also be considered for impervious areas such as the driveways, parking areas.
14. The applicant/developer shall be responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.
15. Required water system improvements shall be completed and operational prior to the start of combustible construction.
16. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
 - a. Grading and construction activities shall be limited to the hours 7:30 AM to 6:00 PM on weekdays; there shall be no grading or construction activities on the weekend or national holidays.
 - b. Grading and construction equipment shall be properly muffled.
 - c. Unnecessary idling of grading and construction equipment is prohibited.
 - d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential units.
 - e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise.
 - f. The developer shall participate in the City's recycling program during construction.
 - g. Daily clean up of trash and debris shall occur along all peripheral streets and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
 - h. The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions.
 - i. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site.
 - j. All unpaved access roads, parking areas and staging areas at construction sites shall be paved, have water applied three times daily, or non-toxic soil stabilizers applied.
 - k. All paved access roads, parking areas and staging areas at construction sites shall be swept daily (with water sweepers).
 - l. Inactive construction areas (previously graded areas inactive for 10-days or more) shall have non-toxic soil stabilizers applied, or shall be hydroseeded.

- m. Exposed stockpiles (dirt, sand, etc.) shall be enclosed, covered, watered twice daily or applied with non-toxic soil binders.
 - n. Construction debris shall be gathered on a regular basis and placed in a dumpster or other container that is emptied or removed on a weekly basis. When appropriate, tarps on the ground are to be used to collect fallen debris or splatters that could contribute to storm water pollution.
 - o. All dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site shall be removed. During wet weather, driving vehicles off paved areas and other outdoor work areas shall be avoided.
 - p. The sidewalks and public street pavement adjoining the project site shall be broom-swept on a daily basis. Caked-on mud or dirt shall be scraped from these areas before sweeping.
 - q. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
 - r. Filter materials (such as sandbags, filter fabric, etc.) shall be installed at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; 3) street washing activities; or 4) saw cutting asphalt or concrete activities, or in order to retain any debris or dirt flowing into the storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles shall be properly disposed in the trash.
 - s. A contained and covered area shall be created on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill.
 - t. Cleaning machinery, tools, brushes, etc., or rinsing containers, into a street, gutter, storm drain or stream is prohibited (see City's *"Building Maintenance/Remodeling"* flyer for more information).
 - u. Concrete/gunite supply trucks or concrete/plasters finishing operations shall not discharge washwater into street gutters or drains.
 - v. The applicant/developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the Alameda County Department of Health and the Regional Water Quality Control Board.
17. A representative of the project soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe all grading operations and provide any recommended corrective measures to the contractor and the City Engineer.

Landscape Division

1. Provide a revised arborist report to include all existing trees within the project impact area, street trees on B and Grand Street, including health, species, caliper, approximate height, canopy diameter, and value using the latest edition of "Guide for Plant Appraisal" by the International

- Society of Arboriculture for the City's review and approval. Provide ISA worksheet per each tree is subjected for valuation.
2. The width of the ADA ramp landing is 4 feet including the width of grooves. See the City Standard Detail SD-108. Modify the entry planting area and the arbor configuration to the courtyard.
 3. *Platanus acerifolia* 'Yarwood' was specified for as street trees for the Eden Housing on Grand and C Street according to the approved landscape improvement plan dated 2/5/2007. Add this to the plant list.
 4. Proposed tree location at the corner of Grand and B Street on Sheet L1.1 and A1.1 should be the same. Revise one of the plans.
 5. All existing trees that are proposed to be saved shall be preserved in accordance with the arborist's recommendations. The report shall include detailed tree protection measures prior, during and post construction. A tree preservation bond shall be posted for all existing trees to remain.
 6. A separate tree removal permit shall be required prior to issuance of a grading permit.
 7. Pruning existing tree branches larger than 1 inch shall require a tree pruning permit per Tree Preservation Ordinance.
 8. Provide hose bib(s) shall be provided in the vegetable garden area.
 9. Prior to the approval of the improvement plans, a detailed landscaping and irrigation plan for the site shall be prepared by a licensed landscape architect and submitted for review and approval by the City's Landscape Architect. Planting and irrigation shall comply with the City's *Hayward Environmentally Friendly Landscape Guidelines and Checklist for professional, Bay-Friendly Water Efficient Landscape Ordinance, and Municipal Codes.*
 10. Mylar of the approved landscape and irrigation improvement plans shall be submitted to the Engineering Department. The size of Mylar shall be 22" x 34" without an exception. A 4" wide x 4" high blank signing block shall be provided in the low right side on each sheet of Mylar. The signing block shall contain two signature lines and dates for City of Hayward, Landscape Architect/Planner and City Engineer. Upon completion of installation, As-built/Record Mylar shall be submitted to the Engineering Department by the developer.
 11. A copy of the approved and signed landscape and irrigation improvement plans shall be included in the building permit submittal set. Building permit shall not be issued without the approved landscape and irrigation improvement plans.
 12. Landscaping shall be maintained in a healthy, weed-free condition at all times and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Municipal Code.

Public Works – Utilities*Water-*

1. City records indicate that there are two existing ¾" water service lines with 5/8" water meters on the parcels (account # 04-00750.01 & 04-00800.02). If the existing water services and meters cannot be reused, they must be abandoned by the City Water Distribution Personnel at the owner's/applicant's expense.
2. It is highly recommended that each unit have an individual domestic water meter. The current cost for one 5/8" meter and ¾" service line is **\$8,606** (\$2,880 installation cost + \$5,726 facilities fee).
3. Based on the water fixture shown on the plans, it is estimated that the finished structure will have a total of 245.5 fixture units. If a single water meter and service line are installed for domestic use, a minimum 2" water service line and 2" domestic water meter shall be installed. The current cost for a 2" meter and 2" water service line is **\$45,810** (\$4,300 installation cost + \$45,810 facilities fee).
4. If a single water meter and service line are installed for domestic use, the service will be considered commercial and will require a Reduced Pressure Backflow Prevention Assembly to be installed by the applicant/developer.
5. If there will be 5,000 square feet or more of landscaping, a separate irrigation water meter shall be installed for landscaping purposes.
6. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each irrigation water meter, per City Standard SD-202.
7. 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.
8. Water meters and services to be located a minimum of two feet from top of driveway flare as per City Standard Details SD-213 thru SD-218.
9. Water mains and services, including the meters, must be located at least 10 feet horizontally from and one-foot vertically above any parallel pipeline conveying untreated sewage (including sanitary sewer laterals), and at least four feet from and on foot vertically above any parallel pipeline conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade piping materials.

Sewer-

1. The developments sanitary sewer laterals shall have cleanouts and be constructed per City Standard Detail SD-312.
2. The current Sanitary Sewer Connection fee for a multi-family residential unit is \$6,457 per unit. Sewer Connection fees are due and payable prior to final inspection.

Fire Department

Project Site Requirements-

1. The minimum fire flow is 2500gpm based on construction type of VA and building area of 20,813 square feet. A fire flow reduction of up to 50 percents is allowed when the building is provided with automatic sprinkler system in accordance with NFPA 13. The resulting fire flow shall not be less than 1,500gpm.
2. An unobstructed vertical clearance of not less than 13 feet 6 inches shall be provided for all apparatus access road.
3. Fire apparatus access roads shall be designed and maintained to support the imposed load of fire apparatus 75,000 lbs and shall be surfaced so as to provide all-weather driving capability.
4. Fire apparatus access roads 20 to 26 feet wide shall be posted on both sides as a fire lane, 26 feet to 32 feet shall be posted on one side of the road as a fire lane. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.
5. The fire department connection should face to the new 26' fire apparatus road.

Building Requirements-

1. Submit for proper building permits for the construction/ alterations of the building to the Building Department.
2. Fire sprinkler system shall be installed in accordance with NFPA 13 and California Fire Code. Separate submittals and additional permits are required for the installation of fire sprinkler systems.
3. Fire alarm system shall be installed in accordance with NFPA 72 and California Fire Code, and additional permits are required for the installation of fire alarm system.



Attachment VII

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, February 10, 2011, 7:00 p.m.
777 B Street, Hayward, CA 94541**

MEETING

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

ROLL CALL

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

Commissioner Márquez led in the Pledge of Allegiance.

Staff Members Present: Buizer, Conneely, Patenaude, Pearson, Philis, Rizk

General Public Present: 14

PUBLIC COMMENTS

Jasmir Kaur, Union City resident, reading from a signed petition and speaking on behalf of businesses located on Mission Boulevard, said they would like to lodge a complaint against the ongoing construction. She said store owners have been negatively-impacted by the construction which is wrecking havoc on their businesses. Ms. Kaur said they have lost a tremendous amount of business due to parking restrictions, reduced lanes, and discontinued U-turns. She pointed out that for most of the store owners, the business is their only source of income and if conditions continue they could be ruined financially. They asked the Planning Commission to look into the situation and find a solution. She said the businesses are open to discussions with the City and hope to find an amicable solution. She added that delivery trucks have been receiving parking tickets.

Commissioner McDermott asked Ms. Kaur where her business is located on Mission Boulevard and Ms. Kaur replied between Harder and Jackson. Commissioner Mendall asked her if she's spoken to anyone in Public Works and Ms. Kaur said no, they have only spoken to the contractors doing the work. Commissioner Mendall asked staff to contact Public Works to see if there is anything they can do.

WORK SESSION

1. Draft Mission Boulevard Corridor Specific Plan

Senior Planner Erik Pearson introduced consultants Laura Hall and Robert Alminana of Hall-Alminana, but directed Commissioners' attention to an e-mail received from Greg Jones, the president of the Prospect Hill Neighborhood Association (PHNA). The PHNA made three points

they wanted the Commission to consider: extend the proposed landscape median at the north end of Mission Boulevard through the intersections of Sunset and Simon Streets, and possibly Rose Street, to limit the turning movements into the neighborhood; that building heights included in the form-based code be expressed in feet rather than stories and that building heights be limited to three stories for the area west of Prospect Hill; and three, that the PHNA supports the expansion of the civic space or green space between the intersection of A and Mission and the “Big Mike” statue. Senior Planner Pearson then introduced Mr. Alminana who gave a brief update.

Senior Planner Pearson concluded the presentation with information regarding the process of preparing the Environmental Impact Report (EIR). He said the draft EIR is scheduled to be completed by the end of June 2011 at which time it will be presented to the Planning Commission and City Council in work sessions in July, and using comments from those, present the final EIR in the fall. He listed some of the issues that will be addressed in the draft EIR.

Regarding Variable 1, Option 3, Commissioner Mendall confirmed with Mr. Alminana that the 10-foot sidewalks would remain even with the three-foot median. He said he was pleased to see the slip lanes added at Harder Road and asked if they could continue along the length of Mission Boulevard. Mr. Alminana said the northern portion of Mission has existing viable car dealerships that stop the slip lane from continuing any further. Mr. Alminana also reminded Commissioner Mendall that the area between Pinedale Court and Sycamore Avenue was identified as an “opportunity site.” Senior Planner Pearson said north of A Street Mission Boulevard is narrower and has a lower speed limit, while in the southern area of the project one benefit of the slip lanes would be to provide a buffer for pedestrians. Commissioner Mendall said he’s only talking about the area south of Jackson and in planning for the long term asked if it would be better to indicate the preference of having the slip lane running the entire length of Mission even if it’s not possible to create it now.

Commissioner Mendall said the Planning Commission’s suggestion to have two height limits did not seem to be reflected in Variable 7, regarding the height overlay between Mission Boulevard, Dollar Street and the BART tracks. Mr. Pearson said he was correct and that there must have been a misunderstanding. Commissioner Mendall said a four-story building on the other side of the BART tracks from residential homes was too tall.

Commissioner Mendall said he agreed with the e-mail from the PHNA regarding building heights being reflected in feet rather than stories, but said he thought that was already the case. Mr. Alminana said it wasn’t, and explained that developers will try to squeeze in as many stories as possible when limits are set in feet. Mr. Alminana also pointed out that buildings can change uses more easily when expressed in stories rather than feet. Commissioner Mendall expressed concern that a developer could build a 60-foot, three-story building, but Senior Planner Pearson said there are a maximum number of feet per story in the configuration table for the form-based code.

Commissioner Lavelle thanked staff and the consultants for their work and said she was satisfied that many of the Commissioner’s comments were included. She said her only question was regarding a comment that the draft form-based code would allow auto dealerships by-right rather than by conditions stated under a conditional use permit (CUP). She asked why that would be changed, in particular, for used car sales. Senior Planner Pearson said the design of the dealership property was more important than distinguishing between whether they sell used or new cars. Any

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION****Council Chambers****Thursday, February 10, 2011, 7:00 p.m.****777 B Street, Hayward, CA 94541**

new dealership would be required to have the building and/or showroom at the front of the property, he explained, and the outdoor display area at the rear or side of the building; the primary presence at the street frontage would be a building. Commissioner Lavelle asked if that would allow for property improvements especially for existing used car dealerships. Mr. Pearson said the existing used car dealership could stay as is until they ask to make a change and then they would be subject to the new code. Commissioner Lavelle said the appendix that lists proposed retail uses needs to be closely adhered to as the plan is implemented. She said that retail uses that have not been pursued have a great opportunity to bring to great shopping to Hayward including stores like Trader Joe's or stores like that.

Commissioner Lamnin pointed out that this is the first time she was looking at the form-based code as a Planning Commissioner and asked why car dealerships are being asked to keep outdoor displays away from the street. Senior Planner Pearson said the main reason was to maintain an attractive, walkable streetscape. Mr. Alminana said car sales should be treated like any other retail business in terms of the impact the display has on the public realm. Commissioner Lamnin said if that is the plan, there appears to be room for the slip lane to continue. She then asked if bicycle lanes are part of the transportation plan and Mr. Alminana said the City has a bicycle plan, which goes around the Specific Plan area, and most streets, except Mission Boulevard, are bike-friendly.

Commissioner Lamnin said she appreciated the comments regarding green roofs and urban farms, but asked if the farms needed refrigeration/storage and if that had been considered under allowed uses. Mr. Pearson said staff can look whether or not that need can be accommodated. Commissioner Lamnin said she understood the reasoning behind spreading assembly places a half mile apart but felt that was too far and asked staff to reconsider the restriction. She also expressed interest in seeing uses that would support Cal State East Bay students' needs especially at the main Mission intersections of Carlos Bee and Harder including research/development spaces and services that students might need including 24-hour copy shop, internet access, and a bagel shop, for example.

Regarding auto dealerships, Planning Manager Richard Patenaude said there is one dealership property in the north portion of Mission that is historic, and although somewhat dated and not the best maintained, could serve as an example of how the form-based code would address car dealership building layout. A newer example, he said is the Honda dealership, which is a new building, and does not have a lot of parking out front.

Commissioner Mendall asked how the suggestion from Commissioners regarding green roofs for the Prospect Hill area is captured in the Specific Plan. Mr. Alminana said there is no language in the Plan and that means nothing would stop them from being built. Commissioner Mendall said that's true, but green roofs are expensive and if developers aren't held to it, they will choose not to use a green roof. He emphasized that he will not be voting for a building at the maximum height if it has an ugly roof. He said he would like to see language in the Plan stating that preference because it wouldn't be fair to not give developers fair warning. He said he liked the auto dealership set-back requirements and he felt the distance limit on assemblies was perfect.

Commissioner McDermott asked Planning Manager Patenaude if the building at Mission and Tennyson Road was an example of the type of building layout the City envisions for car dealerships even though it now has a different retail use. Mr. Patenaude said that building doesn't have the same relationship with the street that the form-based code would require. Commissioner McDermott asked about the stakeholders noted in the report and asked why the Fire Department wasn't included. Mr. Alminana indicated that they were stakeholders, they just weren't included on the list.

Commissioner Márquez asked how slip lanes would impact the transportation system including AC Transit. Mr. Alminana said the system would not be impacted at all; the buses would still stop on the main street which would have a buffer, including a sidewalk, to provide room for stopping. She asked about pedestrian safety and Mr. Alminana said the slip lanes would have pedestrian crosswalks related to the bus stops. Commissioner Márquez asked to see some examples and Mr. Alminana said he will provide plans and images.

Regarding the e-mail from the PHNA president, Commissioner Lamnin asked if Point 1, regarding medians at Sunset and Simon Streets, was viable, and Mr. Pearson said input is needed from Public Works before that can be determined.

Chair Loché said it was a pleasure to see the input of the Commission reflected in the Specific Plan including requests for 10-foot sidewalks and extending the slip lane. Regarding Variable 4 and the rezoning to T5, he read some concerns from residents and asked Mr. Alminana to explain what those specific concerns were. Mr. Alminana said that the existing homes would be rezoned T3 for single family detached homes, and the area nearby to T5. The residents didn't want that much density that close to them, he said, but when it was pointed out that a T4 zone was in between as a buffer, a few indicated they could live with that. Residents also expressed doubt that people would walk from their neighborhood to BART because Jackson Street seemed like a barrier. Chair Loché confirmed that the T4 buffer alleviated some of the residents concerns and Mr. Alminana said yes.

PUBLIC HEARING

2. General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369 - Woody Karp of Eden Housing (Applicant); City of Hayward Redevelopment Agency (Owner) - Request to Change the General Plan Designation from Medium Density Residential to High Density Residential and to Change the Zoning from Medium Density Residential to Planned Development to Accommodate 22 Affordable Senior Housing Rental Units using Density Bonus Provisions.

The project is located on a 0.5-acre parcel at the southwest corner of B and Grand Streets, adjacent to the existing Eden Housing senior housing facility and across Grand Street from the Downtown Hayward BART station.

Senior Planner Sara Buizer gave a brief synopsis of the report.

Commissioner Márquez asked if the Inclusionary Housing Agreement is being fully met if the project is approved and Senior Planner Buizer said yes, these are very low income units that will



Attachment VII

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, February 10, 2011, 7:00 p.m.
777 B Street, Hayward, CA 94541**

satisfy that part of the agreement. Commissioner Márquez asked if any of the units are going to be two-bedroom and to describe the amenities including laundry facilities and Ms. Buizer asked her to defer those questions to the applicant. In response to Commissioner Márquez' question about the number of handicap parking spaces, Ms. Buizer said there would be one. Regarding visitor parking, Ms. Buizer said the parking spots are not designated for residents and noted there is sufficient street parking to accommodate guests. Commissioner Márquez asked what a reasonable timeline would be for the deferral of the undergrounding of utilities and Senior Planner Buizer explained there wasn't one in place yet because the City is trying to maintain the trees that run along B Street and there are issues relating to the tree roots. Ms. Buizer said that Public Works is looking at alternatives and said that although she wasn't sure of the timeline, Eden Housing would be required to pay their fair share regardless of when the undergrounding occurred.

Commissioner Faria asked if the setback will be the same for Phase II as is established by Phase I at C and Grand Streets. Senior Planner Buizer said the setback along Grand Street would be the same, but there was a portion of the building along B Street that would be a little closer. Commissioner Faria expressed concern about the number of parking spots, their reduced size, and the availability of storage area for scooters. Ms. Buizer deferred the question to the applicant because of his knowledge of the existing parking and storage facilities, but indicated that only some of the spots would be compact width and the handicap parking spot would be the required width. Commissioner Faria asked about the citizen concern noted in the report and Senior Planner Buizer explained that when the property had been owned by the Cannery Place developer market-rate townhomes were proposed for that location. The resident did not want more low-income housing coming into the City.

Commissioner Lavelle asked what kind of sign was envisioned that required condition of approval number six. Senior Planner Buizer explained that staff just wanted the opportunity to review any proposed sign and this condition allowed them to do so. Commissioner Lavelle asked if the sign would have to follow the street car style and Planning Manager Richard Patenaude said no, the sign would be subject to the multi-family housing sign regulations. Commissioner Lavelle asked if the list for condition of approval number 10, which was missing, was the same as the list for condition 11 and Ms. Buizer said yes. Commissioner Lavelle asked if condition of approval two, regarding individual water meters, could be removed since a single water meter was proposed for the project and that was addressed under condition number four and Senior Planner Buizer said yes, condition two could be removed.

Commissioner Mendall asked why the proposed units had to remain affordable for specifically 55 years under condition of approval 5A and the applicant indicated he would answer that question. Regarding condition of approval number eight, Commissioner Mendall asked why there were restrictions on the installment of solar collectors on the roof. He said he understood there is a communal benefit of having attractive buildings, but in terms of green elements there are societal benefits and the two cancel each other out. He said he would like to see the language regarding solar collectors removed from the condition. Commissioner Mendall asked staff to explain the benefits of deferring costs associated with the undergrounding of utilities if Eden Housing is still

responsible for those costs. The applicant again indicated that he would address that question, but Planning Manager Patenaude interjected that the City is still determining the location of the undergrounding whether it would be under the sidewalk area via an easement or under the street to avoid tree roots. Commissioner Mendall said it made sense to underground the utilities all at once, but said he still didn't understand why the timing of the undergrounding could create a financial hardship for the applicant. He also asked the applicant to explain the financial benefits of a single hot water heater for the facility.

Regarding the undergrounding of utilities, Commissioner McDermott said that if the cost was deferred, she would like some kind of time frame in place because leaving it open-ended concerned her. She also said 11 parking spots for 22 units didn't appear to be sufficient and she asked if this was consistent with Phase I and if parking was a problem there. Planning Manager Patenaude explained that it is not unusual to not have a time frame for the undergrounding especially when the whole street will be impacted. Regarding parking he said the half parking space per unit is the standard for downtown senior facilities because of the availability of nearby transit options, but he asked the applicant to address the question during the public hearing.

Commissioner Lamnin asked if this project was consistent with the City's green building standards. Senior Planner Buizer said staff will make that assessment when precise plans are submitted, but suggested that the architect for the applicant address the question. Commissioner Lamnin asked if the City's emergency services had been impacted by Phase I or if the City has received any complaints about parking and staff said no. Commissioner Lamnin asked if the City's paratransit roundabout shuttle stopped near the facility. Ms. Buizer said she wasn't sure about paratransit, but mentioned that 13 or 14 different AC Transit routes had stops at the BART station across the street from the facility. Finally, Commissioner Lamnin asked if the 7 a.m. construction start time was standard and Senior Planner Buizer said yes.

Chair Loché asked if there would be any cost savings to underground the utilities later rather than now and Senior Planner Buizer said potentially, explaining that projects generally have a lot of up-front costs and by deferring the undergrounding Eden Housing could budget the cost into a later phase of development. Director of Development Services Rizk pointed out that there could be some economies of scale savings when the undergrounding of utilities is done by one contractor along the whole street. Chair Loché mentioned the construction noise next to the existing senior housing and asked if hours of construction should be modified. Ms. Buizer said staff could consider it, but noted that modifying construction hours could make the project take longer. Chair Loché then asked if the open space requirement was met for Phase I or if any concessions were given. Senior Planner Buizer said Phase I was 120 square feet short of the required amount.

Chair Loché opened the Public Hearing at 8:40 p.m.

Woody Karp, applicant, thanked staff, and in particular Senior Planner Buizer for her report, explaining that the project is a partnership between Eden Housing and the City of Hayward, and having the Phases located together will allow them to provide residents with better services. He pointed out that certain amenities will be offered at both locations such as laundry facilities and a community room with a fully operational kitchen if family and friends want to visit. There would be no charge for the use of the community room, he said, only a cleaning deposit. Mr. Karp said also included in the required community space would be a sitting area with a large screen TV, and a

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION****Council Chambers****Thursday, February 10, 2011, 7:00 p.m.****777 B Street, Hayward, CA 94541**

combination library/computer learning center. There would be a Manager's Office at both facilities but only one Service Coordinator Office in Phase I.

Because the property is limited in size, Mr. Karp said reducing the setback along B Street allowed them to increase the private community space to include a BBQ, planting beds and a seating area. Regarding a storage area for scooters and bikes, Mr. Karp said most residents store their scooters in their apartment, but there will be a small shed-like structure available in this same outdoor area.

In response to earlier questions, Mr. Karp said most likely the sign envisioned for Phase II will be the name of the building recessed into a low cement wall at the corner of B and Grand. Regarding water, he said the exception from the individual water meter requirement in condition two was important because residents are not charged for water and the facility will use a central boiler at significant savings due to reduced piping. Regarding green building standards, Mr. Karp said Eden Housing recently completed a project in San Leandro that received a score of 184 on the green point rating program, which is the highest score received by any project to date, and Eden has an ongoing project in Fremont that could beat that score. He said that Eden Housing always tries to incorporate green building practices into their projects but cost is a huge factor. He said he appreciated Commissioner Mendall's earlier comments about solar panels. Mr. Karp stated that Eden Housing has received a grant and will be installing solar panels on Phase I buildings within the coming year. For Phase II, solar panels to heat water are already in the budget because of the significant operational cost savings, however, he said they will have to see if they can afford to also include solar panels to generate electricity.

Regarding deferral of undergrounding, Mr. Karp said Eden requested an exemption from that requirement and confirmed Commissioner's comments that deferral of costs to be included in operations would be a tremendous burden, even more so than in development. Mr. Karp explained that Eden Housing has no cash flow and said that the project is funded through HUD (Housing and Urban Development) which will cover the difference between what residents can pay and the cost to operate. He said if undergrounding is a cost Eden has to bear, they would have to budget it out of the development budget rather than operations. He said discussions will have to continue to come up with a dollar amount. Mr. Karp recognized the City as a significant partner by donating land and dollars to cover the gap funding, but he said Eden will be asking the City for more dollars to pay the City for a deferred expense.

Regarding an adequate number of parking spaces, Mr. Karp said Eden Housing has built many senior housing projects and have conducted studies on the impact and need of parking spaces. Using a recently completed project in San Leandro as an example, Mr. Karp said that project had 51 units and 26 parking spaces. At the city's request, he said, Eden was required to create a \$92,000 fund in reserve just in case more parking was needed. After a six month parking study that ended in December of 2010, he said he submitted a report that showed an average of 8-10 parking spaces available on the property and there has never been a complaint. Mr. Karp said he is confident parking in Hayward will be sufficient and if the number of parking spaces were increased, the size of the private courtyard would have to be sacrificed.

Chair Loché asked Mr. Karp if the project in San Leandro had a similar proximity to public transportation and Mr. Karp said access was great, but still not as good as Hayward.

Commissioner Mendall asked if 55-year limit was a HUD requirement and Mr. Karp said the number is based on a tax credit. He said the project is funded through both a HUD subsidy and through 4% tax credits and the tax credits require a 55 year regulatory period.

In response to Commissioner Márquez' question about unit size, Mr. Karp said there are 21 one-bedroom units and one two-bedroom manager or maintenance employee unit. Regarding age requirement, Mr. Karp said the HUD-mandated age restriction is 62 and above. Commissioner Márquez asked if any allowances are made for those younger than 62 that are wheelchair-dependent and Mr. Karp said no. Commissioner Márquez asked if residents in Phase I use East Bay and Hayward Paratransit services. Mr. Karp said he frequently sees the paratransit buses in front of the facility, and knows the services department works closely with residents to coordinate rides.

Commissioner Lavelle asked Mr. Karp who will be living in Phase II, to define what is meant by "very low" income, and if potential residents are Hayward residents. Mr. Karp explained that under the HUD 202 Program, "very low" income includes seniors at or below 50% of the area median income (ami). Since that is a pretty high threshold to meet, he said HUD will pay an operating subsidy which is the difference between what a resident can pay and the actual operating cost. Even seniors on SSI receiving less than 20% of median income levels will be covered, he said. The net result of that subsidy is Eden Housing has no surplus cash and it would be impossible to anticipate and pay any deferred fees through operations. Commissioner Lavelle pointed out that that's why the agency is called "non-profit." Regarding whether residents will come from Hayward, Mr. Karp said Phase I was different; residents were the parents of Hayward residents and the children agreed to underwrite the difference if their parents could not meet the 50% ami. For Phase II, HUD does not allow Eden Housing to give special treatment to Hayward residents, but Mr. Karp said outreach is primarily in this area. Mr. Karp confirmed that units will be assigned on a lottery basis as they anticipate receiving 10 applications per unit.

Mr. Karp introduced the project's architect, Gary Struthers, and said he was available to answer any questions.

In response to Commissioner McDermott's question regarding the length of the HUD contract, Mr. Karp said 40 years, after which they typically do a financial restructuring, but the regulatory restrictions extend to 55 years. Commissioner McDermott asked for the square footage of the units and Mr. Karp, after consulting with Mr. Struthers, said gross 600-650 square feet, net about 40 square feet less. Commissioner McDermott asked if the project was feasible if Eden had to pay the undergrounding fees and Mr. Karp said there needs to be a determination of what that cost is, but after speaking to PG&E representatives, Eden has budgeted \$70-80,000, but has increased their request to the Redevelopment Agency to cover any gaps. He pointed out that budgets based on schematic designs fluctuate and by the time they reach construction it will have changed. He said they are comfortable that they will be able to "figure it out."

Commissioner Lamnin asked if the units were one story within themselves and had wide doorways and Mr. Karp said yes. She asked if there was a feedback mechanism for residents and Mr. Karp

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION****Council Chambers****Thursday, February 10, 2011, 7:00 p.m.****777 B Street, Hayward, CA 94541**

said not formalized. Commissioner Lamnin suggested that parking spaces are prioritized for Phase II residents and Mr. Karp said he preferred to let the property managers handle that.

Chair Loché said the deferral of undergrounding fees seemed more like a problem than a solution and Mr. Karp agreed saying because they didn't know what the timeframe would be, they wouldn't know what round they would receive funding. He said that would still be preferable to having the project complete and operational and then being asked to come up with \$80,000.

Maria Alegria, South San Francisco resident, said she owns the property next to the new development. She said she bought property in 2006 and has concerns about the tree they want to preserve. She said the tree is old and located at the property line, next to a garage at the back of her property, and that it drops leaves and debris on the garage and into gutters. She said she's concerned that the tree will fall down onto the garage or house during a storm. She also wanted to know what kind of fence, and how high a fence, will run between the properties because it will run along the driveway of her property. She said she knows she doesn't have much say in the matter but she wanted the Commissioners to think about these concerns.

Project architect Struthers said the fence will be a standard good neighbor wood fence not taller than 6 feet. Mr. Karp added that they built a new redwood fence along the back of the property and it would be their proposal to extend that same kind of fencing.

Chair Loché closed the Public Hearing at 9:15 p.m.

Commissioner Lavelle said this will be a wonderful addition to downtown and many of them are aware of the quality projects Eden Housing has brought to the Bay Area, starting right here in Hayward. She said this is a great opportunity for a much-needed type of residential community located close to BART and AC transit lines. She said the exemptions requested made sense and thinks there are enough public transportation options that the number of parking spaces will be acceptable. This is a great way to encourage families to stay close to their adult children who will probably also participate in their transportation needs, she said.

Commissioner Lavelle made a motion per staff recommendation to recommend approval to the City Council. Regarding the Conditions of Approval she said it will be very important for Eden Housing to work with City staff to prepare a lighting plan that keeps light deflected away from neighboring properties but still protects the safety of the senior residents entering and exiting the facility. She said she looks forward to the Grand Opening.

Commissioner Mendall seconded the motion.

Commissioner Mendall said the number of parking spaces will be fine because it is senior housing located across the street from a BART station. He said he agreed with the incentives and waivers, but he wants clarity on the cost of undergrounding so the applicant can budget for it. He said he wants to make sure the undergrounding occurs and would support a price cap. Planning Manager

Patenaude said staff could explore options when they are working through the precise plan.

Chair Loché asked if deferral details should be part of the motion and staff said no.

Commissioner Mendall said Eden Housing is one developer he is always glad to see; their projects are always outstanding, and they have been building “green” before it was required. Commissioner Mendall concluded it is a good spot, a good development, a wonderful addition, and looks forward to it being completed.

Planning Manager Patenaude confirmed with Commissioner Mendall that the removal of language restricting solar panels was part of the motion.

Commissioner Lamnin said she supported the motion, but asked how vital redevelopment money was to the project due to the governor’s proposal to cut California’s redevelopment agencies. Mr. Patenaude explained that’s why he suggested exploring that issue with all parties when the precise plan comes back to staff. Assistant City Attorney Maureen Conneely noted that the details of this proposal are still being negotiated and would be coming back to Council for both the land use entitlements and the disposition and development agreements. Commissioner Lamnin asked staff if the project could still happen if redevelopment funds were cut and staff said they didn’t know. Commissioner Lamnin concluded by asking staff to consider Ms. Alegria’s concerns about the tree.

Commissioner Márquez said she would be supporting the motion but encouraged future developments to include more 2-bedroom units. She pointed out that many seniors require live-in caregivers.

Chair Loché said he would also be supporting the motion and based on the location of the facility and that it is for seniors he was didn’t see a problem with a greater number of units with a lower number of parking spaces. He said his concerns about open space were also addressed because of the proximity of other open space options. He concluded by asking Commissioner Lavelle to repeat the motion with any additions.

Commissioner Lavelle moved, seconded by Commissioner Mendall, and approved unanimously (7-0-0), that per staff recommendation the Planning Commission recommend approval to the City Council, including the adoption of the Negative Declaration, and approval of the General Plan Amendment and Zone Change to build 22 affordable senior housing rental units using density bonus provisions and related incentives and waivers, subject to the Findings and Conditions of Approval, with amendments to delete condition of approval number two, and remove language restricting installation of solar panels in condition of approval number eight.

COMMISSION REPORTS:

3. Oral Report on Planning and Zoning Matters

Planning Manager Patenaude announced a public meeting regarding the proposed 880/92 Reliever Route at Ochoa Elementary School next Thursday at 7 p.m.

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION****Council Chambers****Thursday, February 10, 2011, 7:00 p.m.****777 B Street, Hayward, CA 94541**

Mr. Patenaude then gave an update on upcoming Commission meetings: March 10th, a Public Hearing for the Chalk It Up billiard hall, which would like to add a liquor license, and a work session on telecommunications facilities; April 14th, a work session on the regional sustainability community strategy; April 28th, a Public Hearing regarding the supplemental EIR for the South Hayward BART station project; May 26th, a Public Hearing on the South Hayward form-based code; June 9th, a work session on the Residential Energy Conservation Ordinance (RECO); June 23rd, a update of implementation of the Historic Preservation Program; and July 28th, a work session on the draft EIR for the project heard tonight.

Commissioner Lamnin asked if there would be a second meeting in March and staff said nothing was scheduled yet, but something could come up.

4. Commissioners' Announcements, Referrals

Commissioner Mendall complemented Senior Planner Buizer on her presentation and mentioned that at the last Sustainability Committee meeting they worked on refining RECO to make it easier to understand and expect to have a draft ordinance ready in the next month or so.

Commissioner McDermott reminded the commissioners that the Hayward Educational Foundation fundraiser was coming up at Cal State East Bay featuring former CBS anchor John Kessler and the Survivor Marquesas million dollar winner who lives in Hayward. The Foundation supports teacher grants in the Hayward area and she said commissioners should call her if are interested in buying tickets.

Commissioner Lamnin suggested that as soon as the July date is confirmed that staff should start publicizing the work session that will discuss the draft EIR for the Mission Boulevard Corridor Specific Plan so the community can be educated on what the City is trying to do and make sure residents attend. Commissioner Lamnin also announced that the South Hayward Parish is working with the community to try to end panhandling in Hayward. The Parish is asking business owners to offer a small brochure that informs the public that panhandler activities are a scam, she said. Commissioner Lamnin explained that the brochure lists all the food, housing, and employment programs that are available so people who really need these services can access them and stops panhandling from being profitable.

APPROVAL OF MINUTES

5. Minutes from September 23, 2010 were approved with minor changes.

ADJOURNMENT

Chair Loché adjourned the meeting at 9:35 p.m.

APPROVED:

Mariellen Faria, Secretary
Planning Commissioner

ATTEST:

Suzanne Philis, Senior Secretary
Office of the City Clerk

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HAYWARD SENIOR HOUSING II

B STREET & GRAND HAYWARD, CA

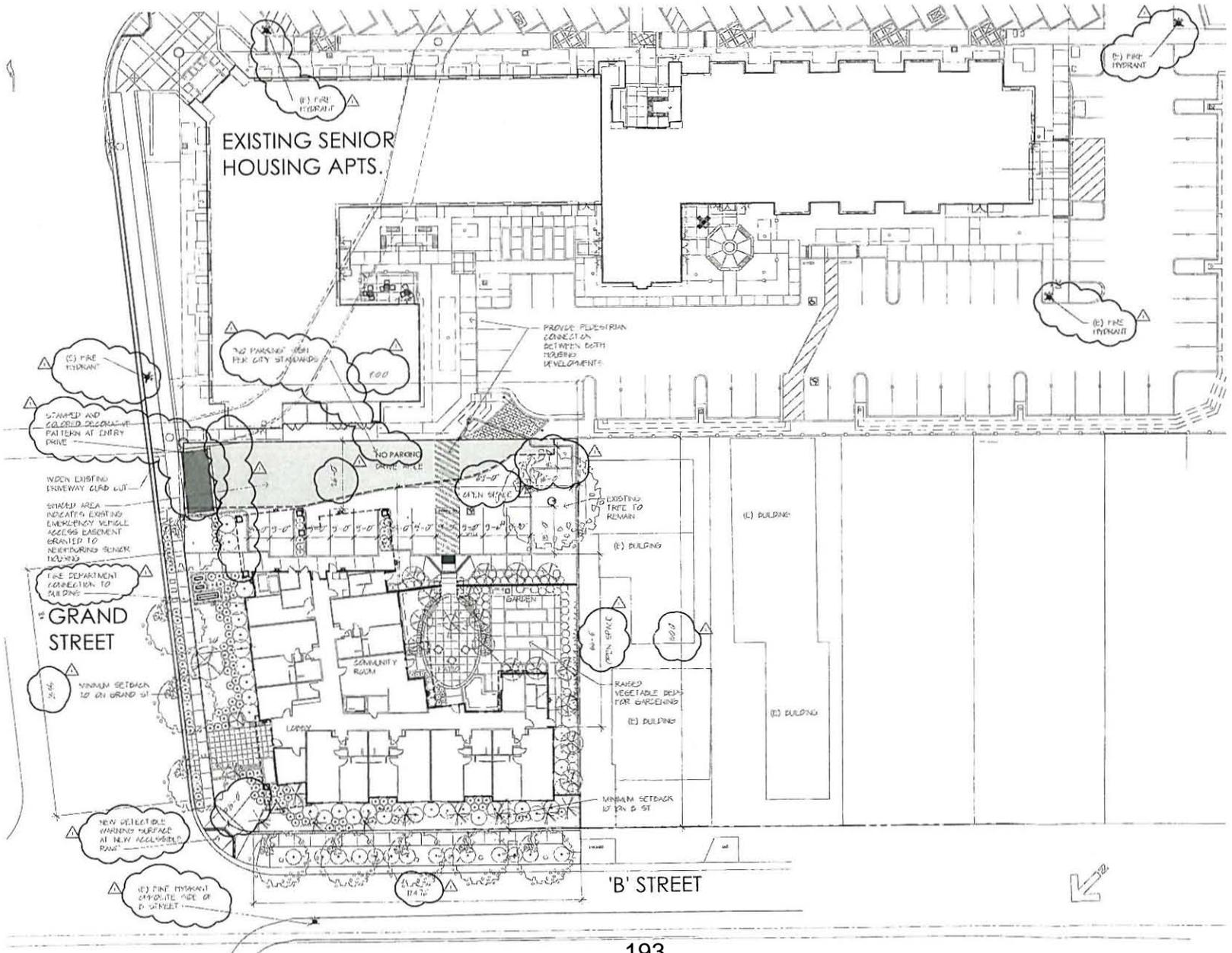
Revision Date
PLANNING SUBMITTAL 20 SEP 2007
PLANNING REVISIONS 3 DEC 2007



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Title: SITE PLAN

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HAYWARD SENIOR
HOUSING II

B STREET & GRAND
HAYWARD, CA

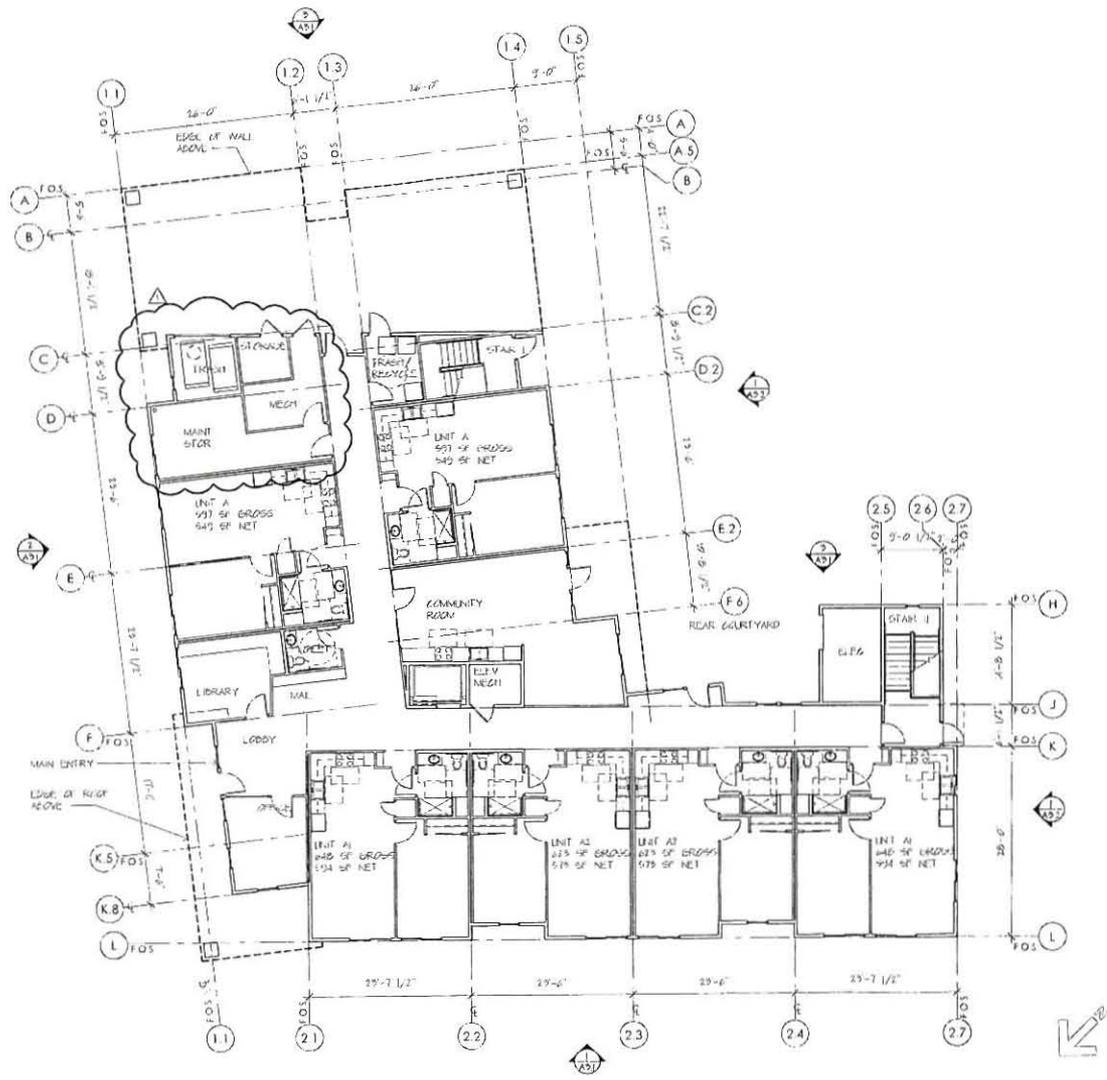
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PLANNING REVISIONS: 5 DEC 2009



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Title
BUILDING PLANS
FIRST FLOOR

Sheet
A2.1



1 BUILDING PLAN FIRST FLOOR
Scale 1/8"=1'-0"

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HAYWARD SENIOR
HOUSING II

B STREET & GRAND
HAYWARD, CA

DATE: 12/14/10
PLANNING SHEETS: 20 SEP 2007
REVISIONS: 11/22/10

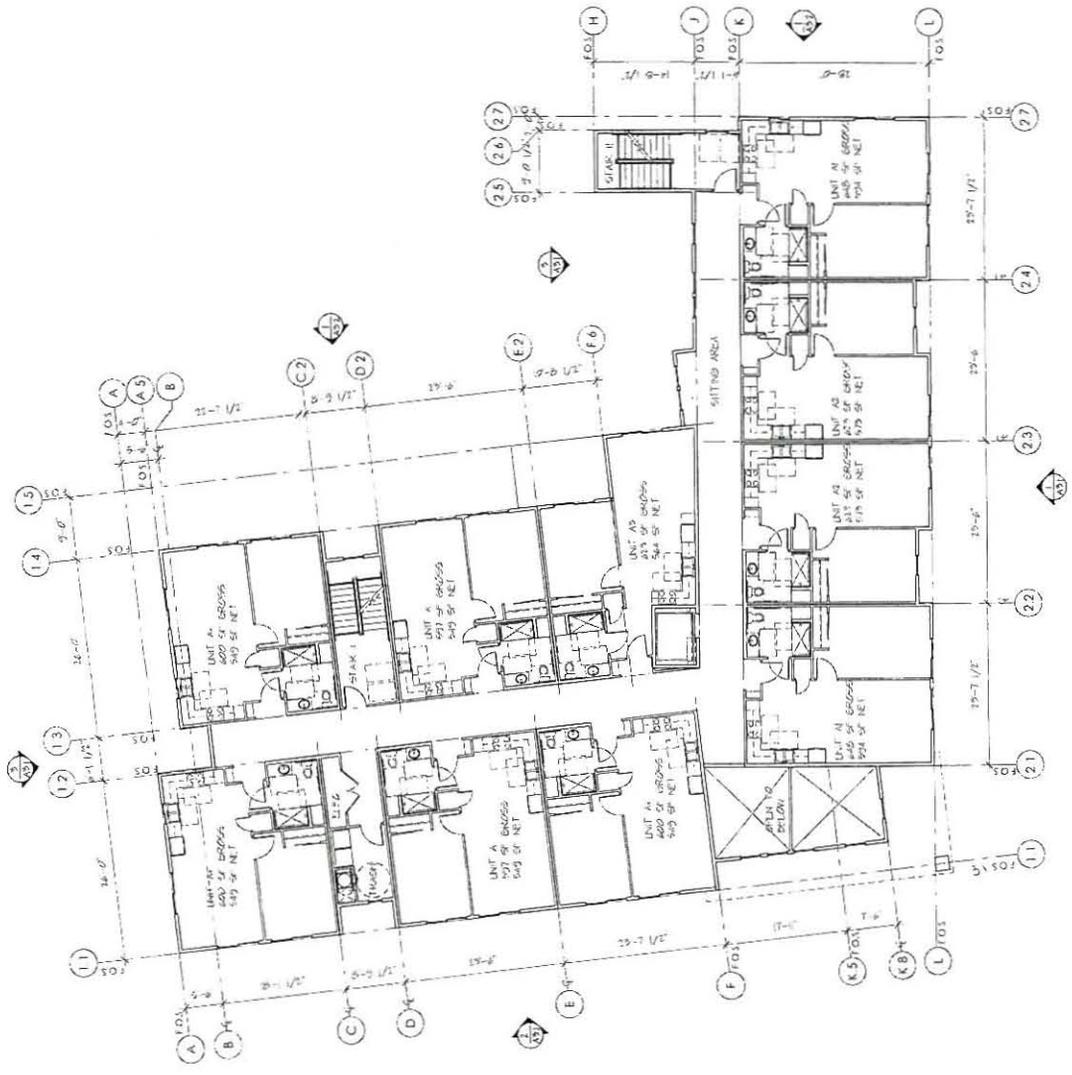


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TITLE
BUILDING PLANS
SECOND FLOOR

SHEET

A2.2



1 BUILDING PLAN SECOND FLOOR
SCALE: 1/8"=1'-0"

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**HAYWARD SENIOR
HOUSING II**

**B STREET & GRAND
HAYWARD, CA**

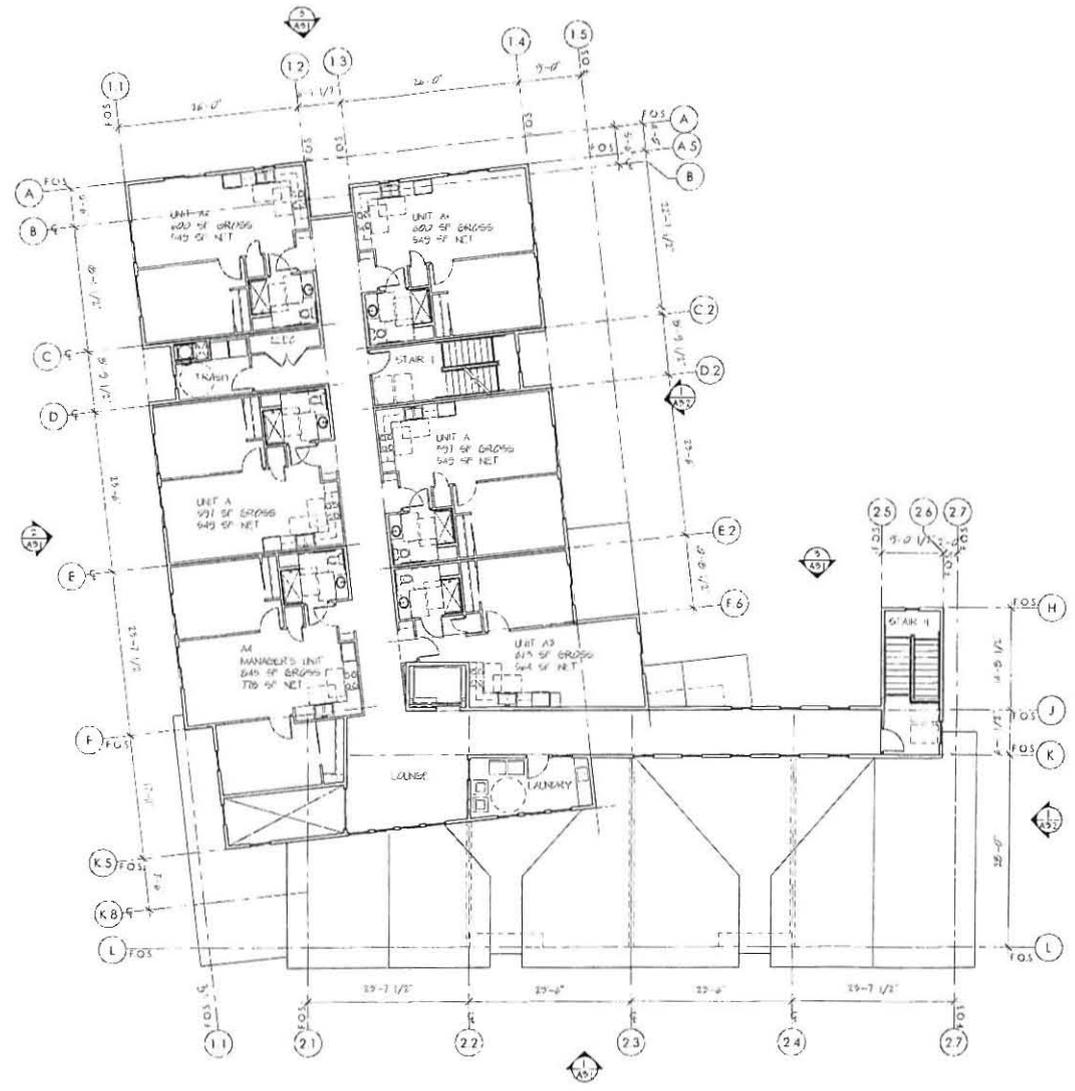
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**BUILDING PLANS
THIRD FLOOR**

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1 BUILDING PLAN THIRD FLOOR
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Revision Date
PLANNING SUBMITTAL 20 SEP 2010
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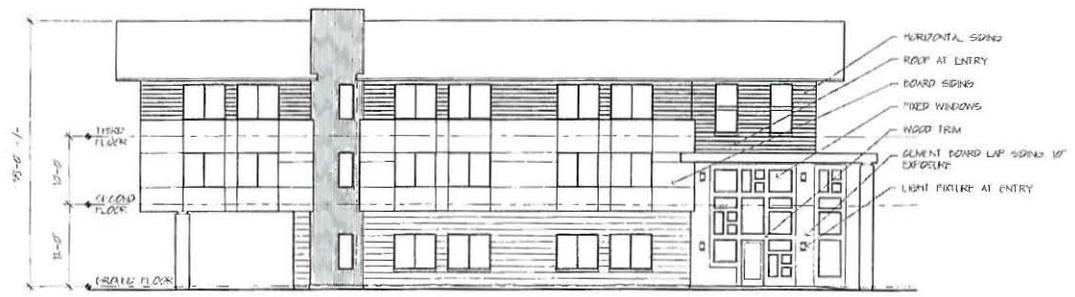
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3 BUILDING ELEVATIONS SOUTHEAST (FACING PARKING)
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2 BUILDING ELEVATIONS NORTHEAST (FACING GRAND STREET)
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1 BUILDING ELEVATIONS NORTHWEST (FACING B STREET)
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PLANNING REVISIONS 3 DEC 2010



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Title
BUILDING ELEVATIONS

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1 BUILDING ELEVATIONS SOUTHWEST
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**HAYWARD SENIOR
HOUSING II**

**B STREET & GRAND
HAYWARD, CA**

Revision Date
PLANNING PERMIT 06 APR 2009
PLANNING PERMIT 05 DEC 2009



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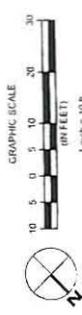
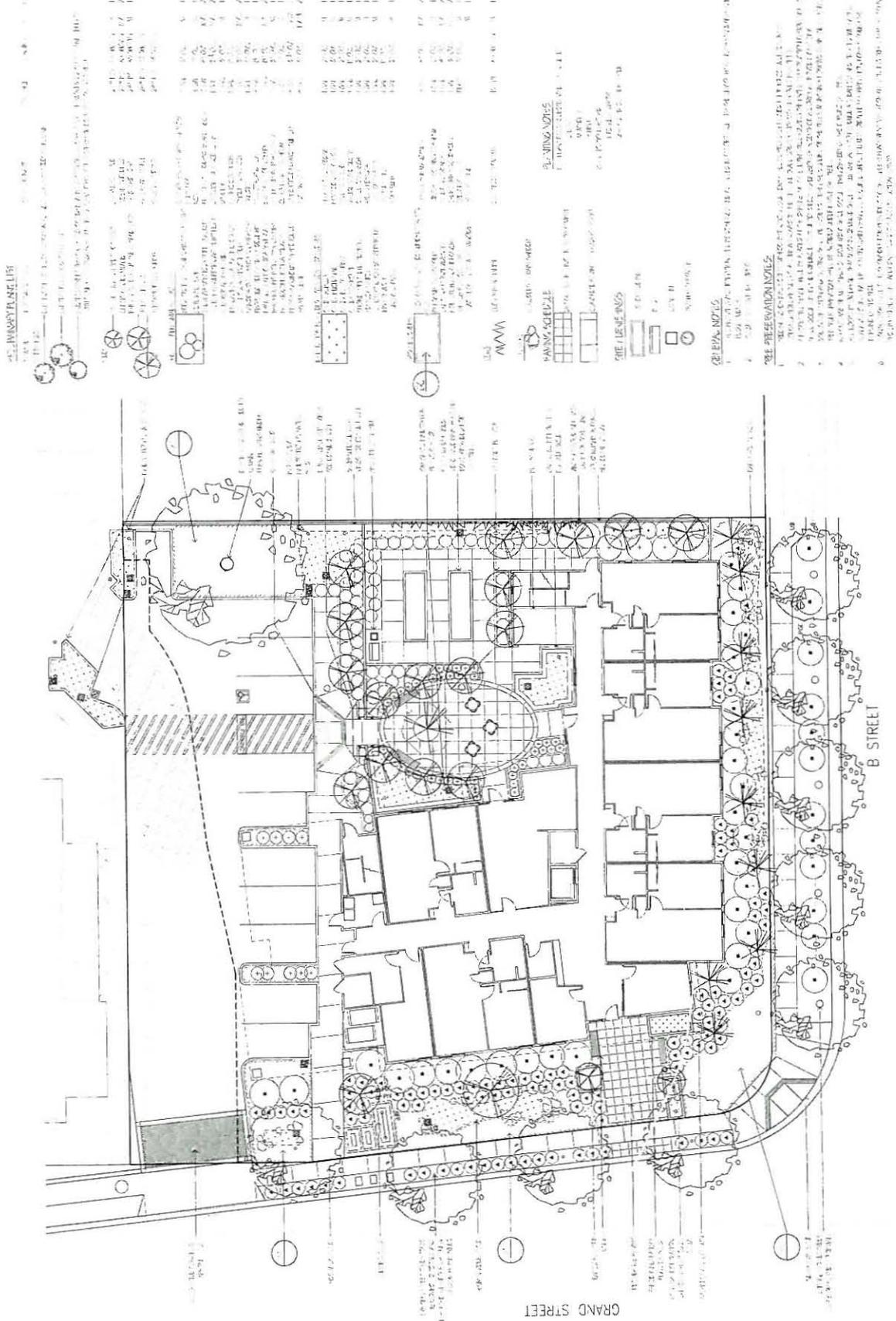
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**PRELIMINARY
LANDSCAPE
PLAN**

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CITY OF
HAYWARD
HEART OF THE BAY

DATE: May 3, 2011

TO: Mayor and City Council

FROM: Assistant City Manager/Interim Redevelopment Director

SUBJECT: Disposition and Development Agreement between the City of Hayward and Eden Housing, Inc. ("Eden") for the "B" and Grand Senior Housing Project

RECOMMENDATION

That the City Council approves the disposition of certain real property located at 581 "B" Street ("B" and Grand Streets) for the potential development of a twenty-two (22) unit very low income senior housing project (the "Project") to be constructed by Eden Housing, and adopt the attached resolution authorizing the City Manager to negotiate and execute a Disposition and Development Agreement evidencing such transaction.

BACKGROUND

According to the *California Statistical Abstract*¹, the 2008 population of Hayward was 149,205. If approximately 10% of the population in Hayward is aged 65 or older (2000 U.S. Census)², then there are approximately 15,000 City residents who may require senior housing. If only 30% of Hayward's estimated senior population require *affordable* housing units, then over 2,250 units would currently be needed to house this population, assuming that each senior household had two persons. There are approximately 460 affordable housing units currently reserved for seniors in Hayward (1,790 unit current gap). The need for affordable senior housing will continue to rise as demographic trends point to an aging population.

In July of 2010, Citation Homes deeded a small parcel located at 581 "B" Street ("Site") to the City in order to meet its inclusionary housing obligations. Owing to the small size of the parcel, the City has chosen to partner with Eden Housing, Inc., to develop the Site as a 22-unit addition to an existing affordable senior housing project located at "C" and Grand Streets. Partnering with the adjacent senior housing project will allow for cost savings through shared facilities and parking. Shared facilities will also allow for the twenty-two units of senior housing to be constructed on a constrained site. Development of the Project was a 2010 priority set for the Board of the Redevelopment Agency.

¹ http://www.dof.ca.gov/HTML/FS_DATA/STAT-ABS/documents/CaliforniaStatisticalAbstract2008.pdf

² <http://www.census.gov/acs/www/>

DISCUSSION

The proposed Project would be made available to seniors who are very-low income (about \$31,650 for a one-person household in 2010). The affordability of the units in the Project would be protected via legal covenants for a period of fifty-five years with the impact of producing long term affordable housing for seniors.

Project design would generally adhere to a modified Craftsman architecture (please see the attached exterior elevation). The height of the two-story building will be stepped back along "B" Street to be more complimentary to the residential units across the street. Elevations along "B" Street will replicate the vernacular feel of row houses that are prevalent in the area. The Project will offer recreation spaces and outdoor open space to tenants as well as access to the facilities at the adjacent "C" and Grand senior project. A large redwood tree located on-site has been incorporated into the Project design, but final disposition of the tree has yet to be determined. The site map and elevations (to be provided at the Council meeting) will give a general idea as to the form and layout of the final project.

While the land has a tax valuation of \$650,000, the Project will not generate sufficient income to pay for a higher land value. The City and Housing Authority would restrict all of the units to very low income households, which means rents will generally be set at 30% of 50% of area median income (or generally \$19,000 for an extremely low income household of one person to \$31,650 for very low income annually for a household of one person living in Alameda County in 2010). The Developer also anticipates obtaining HUD Section 202 and/or tax credit financing, both of which will also restrict the units to affordable levels. With land value at a dollar, the Developer is currently showing project costs at \$8.5 million, while project revenues will include a HUD operating subsidy with rules that will prohibit the project from ever earning a profit. As such, the Project cannot support a higher land cost.

City staff proposes conveying the property at "B" and Grand Streets to Eden Housing pursuant to a Disposition and Development Agreement where the land would be conveyed to Eden for \$1 in exchange for the twenty-two affordable housing units held under long-term legal covenant. Under the proposed Agreement, the City will not sell the land to Eden Housing unless they demonstrate entitlements, approved design, financing, and project readiness. However, the agreement and the City's commitment of the land towards the Project are necessary for Eden to pursue competitive Federal and State funding. The agreement obligates Eden to compete for financing, and to present a viable project to the City before a land transfer can proceed.

With this proposed Agreement, Eden Housing intends to apply for competitive funding rounds at the Federal and State level with the hopes of attracting permanent financing by 2013. Eden needs the City's commitment of the site to the project to qualify for competitive funding. If Eden Housing is successful in attracting outside financing that would cover a majority of project costs, staff would return to the City Council at that time with a request for municipal funding if needed. Current financial analysis for the proposed Project would have the City/Housing Authority participating with a land sale as outlined in this report and soft equity loan worth approximately \$1.8 million

(with the land write-down and loan). However these amounts could change with time or the amount of State/Federal funding available to construct the Project.

This project was first proposed to the City Council/Housing Authority Executive Board on March 22, 2011. In the interim, the City and Eden have decided to redirect the City's HOME funding commitment from this project to the South Hayward BART (SHB) project as SHB would yield a higher amount of affordable housing units in a shorter amount of time and would assist the City with timeliness issues in the expenditure of Federal housing funds. SHB is a priority project for the City as it is the first phase in a larger mixed use development that has received significant State funding. Therefore, the original loan documents for the "B" and Grand project that were submitted to the City Council in March are not being contemplated at this time. Staff anticipates returning to the City Council/Housing Authority Board if Eden successfully obtains State and/or Federal financing for "B" and Grand and can demonstrate that the project will move forward.

ECONOMIC IMPACT

This proposed project will position the City to better meet its affordable housing obligations from the Regional Housing Needs Assessment. The housing needs assessment in the Housing Element indicates a need in the City for 359 housing units affordable to extremely low income households, 409 housing units affordable to very low income households, 483 housing units affordable to lower income households, and 569 housing units affordable to moderate income households (1,820 total units). The project also has the capacity to create jobs and purchases of local supplies. If they can attract project funding, Eden Housing will both pay prevailing wages and agree to a best effort that 20% of local trade hiring and materials purchases will occur within the Hayward city limits.

FISCAL IMPACT

The "B" and Grand parcel has a 2010 tax valuation of \$650,000. The Redevelopment Agency has spent \$795 in care/maintenance for the site since taking ownership in July of 2010.

PUBLIC CONTACT

On January 12, 2011, staff presented the Project to the Hayward Redevelopment Advisory Committee (RAC). On February 17, 2011, the Project was also presented to the Community Advisory Committee. The RAC reviewed the recommendations and unanimously endorsed the proposed Project as presented and directed staff to forward the recommendations.

Area resident meetings were held on March 30th and April 13th 2011, where resident concerns were heard regarding the location of low income housing in the neighborhood, design issues with the "B" Street side of the building (e.g., that it match the style, height, and setback of the remainder of the street) and parking issues. Resident input resulted in an improved design for the Project including a redesigned "B" Street Façade and a repositioning of the building on the property to be more deferential to the residential homes along "B" Street. The City and Eden Housing agreed to explore options regarding the on-site tree. The City stated that it would also explore keeping a majority of on-street parking for the Project on the Grand Street side of the

building. Staff and the residents engaged in a discussion regarding the low/moderate income seniors who would be served by the project. Although acknowledging the improved project design, “B” Street residents remained concerned that the integration of low income housing would negatively impact property values and generally wished to be better informed regarding future development that would impact the neighborhood.

NEXT STEPS

Staff will continue to give updates on the Project to the City Council on an as-needed basis. Eden will move into competitive funding competitions at the State and Federal level in FY 2011-2012 and FY 2012-2013 (if needed). Staff anticipates returning to the City Council/Housing Authority Board in late 2011 or early 2012 for a municipal funding commitment if Eden successfully obtains State and/or Federal financing and can demonstrate that the project will move forward.

Prepared by: Jeff McLaughlin, Housing Manager

Recommended by: Kelly McAdoo Morariu, Assistant City Manager

Approved by:

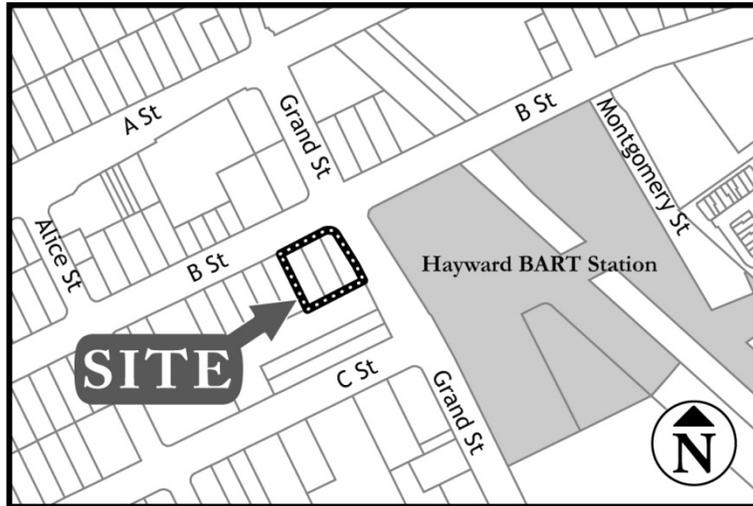


Fran David, City Manager

Attachment:

1. Map
2. Resolution
3. Site Elevation

Map



CITY COUNCIL OF THE CITY OF HAYWARD

RESOLUTION NO. _____

A RESOLUTION APPROVING EXECUTION AND NEGOTIATION BY THE CITY MANAGER OF (1) A DISPOSITION AND DEVELOPMENT AGREEMENT WITH EDEN HOUSING, INC. TO CAUSE THE DEVELOPMENT OF A VERY LOW INCOME SENIOR HOUSING PROJECT AT THE CORNER OF B AND GRAND STREETS

WHEREAS, as specified in California Government Code Section 65583(c)(2), the City has an obligation to assist in the development of adequate housing to meet the needs of low to moderate income households; and

WHEREAS, the City owns certain real property located at 581, 585, and 587 "B" Street (the "Property"); and

WHEREAS, the City desires to cause redevelopment of the Property through construction of a twenty-two unit senior housing project affordable to very low income and low income households (the "Project"); and

WHEREAS, the City has selected Eden Housing, Inc., a California nonprofit public benefit corporation (the "Developer") to serve as the developer of the Project on the Property; and

WHEREAS, the City desires to enter into a disposition and development agreement (the "DDA") with the Developer, substantially in the form on file with the City Clerk, under which the City would sell the Property to the Developer for One Dollar (\$1) and the Developer would develop the Project on the Property; and

WHEREAS, the City staff has determined, based upon the impact of affordable housing restrictions on the Property, and financial proforma modeling the Project, that the consideration to be given by the Developer under the DDA is reasonable and necessary given the use and with the covenants, conditions, and development costs authorized by the DDA; and

WHEREAS, pursuant to the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA"), the City, as the lead agency, approved a Mitigated Negative Declaration for the Project at its meeting on March 22, 2011; and

WHEREAS, the City Council has conducted a duly noticed public hearing on this Agreement pursuant to California Government Code Section 50572 and intends to convey the Property as permitted under Government Code Section 50570 and Government Code Sections. 35370 and 37364.

NOW, THEREFORE, BE IT RESOLVED by the City Council that:

1. The City Council finds that the above recitals are accurate.
2. The City Council hereby approves the conveyance of the Property by the City to the Developer for the consideration set forth in the DDA.
3. The City Council hereby finds that the consideration to be given by the Developer under the DDA is reasonable and necessary given the use and with the covenants, conditions, and development costs authorized by the DDA. This finding is based on the facts and analysis set forth in the above recitals.
4. The City Council hereby approves the DDA and all ancillary documents; approves execution and final negotiation by the City Manager of the DDA and all ancillary documents in substantially the form on file with the City Clerk, with such changes as are approved by the City Manager (such approval to be conclusively evidenced by the execution of the DDA); and approves the sale of the Property by the City to the Developer pursuant to the provisions of the DDA.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Site Elevation



DATE: May 3, 2011

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Adoption of Interim Moratorium Ordinance Regarding Supermarkets of 20,000 Square Feet or More or any Retail Store Containing at least 20,000 Square Feet of Area Devoted to Sale of Grocery or Non-Taxable Items

RECOMMENDATION

That the City Council considers introduction and adoption of the attached urgency ordinance establishing a 45-day moratorium on the approval of land use entitlements and building permits associated with supermarkets that are at least 20,000 square feet in area, as well as any retail establishment where at least 20,000 square feet of the total retail space is devoted to the sale of grocery or non-taxable items.

BACKGROUND

On April 26, 2011, the City Council reviewed a proposed urgency ordinance (Attachment II) that would have established a 45-day moratorium on the approval of land use entitlements and building permits associated with supermarkets that total at least 20,000 square feet in area, as well as large retail establishments, including those requiring membership, that exceed 75,000 square feet where at least 10,000 square feet or 10 percent of the total retail space, whichever area is less, is devoted to the sale of grocery or non-taxable items. Supermarkets are defined in the City's Zoning Ordinance as establishments that do retail sales of food, beverages, drugs, variety items, and similar goods.

During the hearing, Councilmembers raised questions regarding the impact of the proposed ordinance on grocery stores under discussion at certain locations, such as Southland Mall. The matter was continued to this date to allow staff to respond to Council questions.

DISCUSSION

In response to Council questions, staff believes that it would not be equitable in responding to the land use impacts of supermarkets to single out certain properties for relief from the proposed ordinance. Regardless of the specific constructs of an urgency ordinance, there would be negative impacts to some properties on which a proposal could be considered. Therefore, staff has amended the proposed urgency ordinance to allow the study of the impacts of grocery sales

occupying at least 20,000 square feet, whether within a stand-alone supermarket or within a larger retail establishment.

City staff has received inquiries about supermarkets in various locations in the City. Currently, supermarkets, regardless of size or whether they would be considered “full service” markets or not, are allowed as primary uses in applicable commercial zoning districts. Because they are allowed as primary uses, the City’s ability to require studies associated with traffic, environmental, and economic impacts in determining whether such uses are desirable and in line with the Zoning Ordinance purposes is limited. Additionally, the current recession has negatively impacted the commercial property market in Hayward, resulting in an increase in vacant stores throughout the community. Due to this trend, and related especially to the Zoning Ordinance’s stated goal to “retain and enhance established residential neighborhoods, commercial and industrial districts, regional-serving uses, and recreational amenities,” it is even more critical for the City to assess the desirability of approving new supermarkets, especially in areas that are currently sufficiently served by existing markets, given that they generate minimal sales tax revenue since grocery items are non-taxable.

In addition, supermarkets are not specifically permitted in the Industrial Zoning District. However, with the approval of a Conditional Use Permit, regional- and subregional-serving retail uses may be permitted. On April 20, 2004, the Council upheld on appeal the Planning Commission approval (March 25, 2004) of a regional retail building to house a Circuit City store on Whipple Road. This building has been vacant for a few years, and a building permit application is currently being processed to accommodate a supermarket. Staff has raised concerns whether a supermarket may be considered a subregional retail use and whether the location of a supermarket, in any case, is appropriate in the Industrial District.

Kristina Lawson, counsel for Hayward 880 LLC, owner of the Circuit City building property, submitted a letter to the Council on April 26, 2011. In it, she states that “the urgency moratorium prohibits a use expressly permitted under the existing use permit and interferes with vested rights to a supermarket use.” To support this, she further states that condition #13 associated with the property’s conditional use permit expressly permits uses listed in a subsection of the Central Business District (used for Southland Mall), including supermarkets. However, the condition of approval to which Ms. Lawson refers applies only to the shops within the secondary buildings on the property, not to the primary building in which the supermarket is proposed. Furthermore, the condition further emphasizes the need for the uses in the secondary buildings to have a regional or subregional marketing base. In short, Ms. Lawson’s assertion that the Hayward 880 LLC has a vested right to establish a supermarket at the former Circuit City site is inaccurate. In staff’s opinion, a small supermarket is not necessarily a regional or subregional use.

Additional time is needed to allow staff to analyze the potential impacts of such new uses in the City and to determine if modifications to the Zoning Ordinance regulations would be appropriate. California Government Code Section 65858 states the City Council, without prior notice or a public hearing, “in order to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time.” The

Government Code section further states that the Council shall not adopt an interim ordinance, “unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.” The attached ordinance contains such findings. Additionally, adoption of the ordinance is exempt from the California Environmental Quality Act (CEQA), per CEQA Sections 15061(b)(3) and 15306.

ECONOMIC AND FISCAL IMPACTS

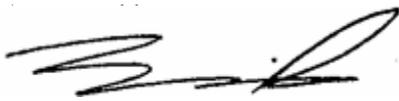
An interim moratorium of limited duration, although potentially negatively impacting some properties in the short term where such uses are proposed or contemplated, would have potential benefits to the community in the long term. This would ensure that adequate analysis is conducted by staff and presented to Council that would identify the potential negative impacts and positive benefits to the City regarding the establishment of supermarkets or larger grocery/non-taxable items sales areas within large retail stores. Such analysis will assist the Council members in determining whether amendments to the Zoning Ordinance are appropriate. It is estimated that staff will need to spend a total of approximately 135 hours over a period of three to six months, with an estimated cost to the General Fund of approximately \$20,000, to fully research and analyze the impacts and benefits associated with such uses.

NEXT STEPS

Should the Council adopt the interim urgency ordinance by the required 4/5 vote (minimum six votes needed), staff will present an additional ordinance with findings to the Council within forty-five days to either extend the moratorium for an additional ten months and fifteen days to allow sufficient time for a more thorough analysis; or will provide the Council with an analysis and recommendations regarding whether any changes to the City’s Zoning Ordinance are warranted.

Prepared by: Richard Patenaude, AICP, Planning Manager

Recommended by: David Rizk, AICP, Development Services Director



Fran David, City Manager

Attachments:

- Attachment I: Interim Urgency Ordinance
- Attachment II: Agenda Report, April 26, 2011

ORDINANCE NO. ____

AN URGENCY MEASURE ADOPTING AN INTERIM ORDINANCE
 PURSUANT TO GOVERNMENT CODE SECTION 65858 IMPOSING A
 MORATORIUM ON SUPERMARKETS TWENTY THOUSAND SQUARE
 FEET OR GREATER IN SIZE AND RETAIL ESTABLISHMENTS OF ANY
 SIZE WITH TWENTY THOUSAND SQUARE FEET OR MORE OF SALES
 FLOOR AREA DEVOTED TO THE SALE OF GROCERIES OR NON-
 TAXABLE MERCHANDISE

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. This interim ordinance is adopted pursuant to the provisions set forth in Government Code Section 65858 and imposes a 45-day moratorium on the issuance of use permits, variances and building permits for supermarkets that are twenty thousand (20,000) square feet or greater in size and retail establishments of any size that devote twenty thousand (20,000) square feet or more of sales floor area to the sale of non-taxable merchandise.

Section 2. Findings. The City Council hereby finds as follows:

- A. The stated purpose of the Hayward Zoning Ordinance is to promote the public health, safety, general welfare and preserve and enhance the aesthetic quality of the City by providing regulations to ensure an appropriate mix of land uses in an orderly manner. The Zoning Ordinance further states that the City desires to achieve a pattern and distribution of land uses that generally retain and enhance established residential neighborhoods, commercial and industrial districts, regional-serving uses, and recreational amenities; allow for the infill and reuse of areas at their prevailing scale and character; accommodate expansion of development into vacant and under-utilized lands within environmental and infrastructure constraints; maintain and enhance significant environmental resources; provide a diversity of areas characterized by differing land use activity, scale and intensity; and establish Hayward as a unique and distinctive place in the heart of the San Francisco Bay Area, with a high quality of life in an attractive, secure environment for the City's residents and businesses.
- B. Supermarkets that are 20,000 square feet or greater in size and retail establishments of any size that devote 20,000 square feet or more of sales floor area to the sale of groceries or nontaxable items present unique challenges for local government, in that they require a significant commitment of police, fire, and public safety resources; water use for supermarkets is typically greater than other retail establishments; strain local streets and highways; and increase traffic congestion.
- C. City staff has received several inquiries in recent months related to potential supermarkets and retailers that sell nontaxable items at various locations throughout the City. Supermarkets and related uses are allowed as primary uses in most commercial zoning districts. Traffic generation associated with supermarkets and retail stores that sell groceries is typically greater than other retail establishments.
- D. Because supermarkets are allowed as primary uses in the City's commercial zoning districts and the sale of non-taxable merchandise in conjunction with groceries is not otherwise regulated by the City, the City's authority to require traffic and economic impact analyses to study the effects of these establishments is limited. Additional time is needed to allow staff to analyze the potential impacts of such establishments in Hayward and determine if modifications to the Zoning Ordinance regulations would be appropriate.

- E. The current recession has negatively impacted the commercial property market in Hayward, resulting in an increase in vacant stores throughout the community. Because of this trend, and related especially to the Zoning Ordinance's goal as stated above, it is even more critical for the City to assess the desirability of approving new supermarkets and other establishments that sell groceries, especially in areas that are currently sufficiently served by existing grocery markets, given that supermarkets and establishments that devote significant sales floor area to nontaxable items generate insufficient sales tax revenue to offset the potential negative impacts they create.
- F. The City is considering modifications to the Zoning Ordinance to protect the public health, safety, and welfare from the negative effects of the establishment of supermarkets and retail stores that offer general merchandise combined with grocery sales.
- G. Until such time as the City institutes land use controls over supermarkets and retail stores with grocery components, the community is at risk that supermarkets and retail stores with grocery components could be instituted, modified or expanded, prior to the adoption of measures necessary for the protection of public health, safety and welfare.
- H. The issuance or approval of any building, planning or other permit for supermarkets or retail stores with significant grocery sales floor area (newly instituted, modified or expanded) prior to the City's completion of its review of the need for modifications to the Zoning Ordinance would result in a current and immediate threat to the public health, safety and welfare.
- I. Pursuant to Government Code Section 65858, the City has the authority to adopt an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan or zoning proposal.
- J. For the reasons set forth above, this Ordinance is necessary to preserve the public health, safety and welfare and to avoid a current and immediate threat to the health, safety and welfare of the community.
- K. The adoption of this Ordinance is exempt from CEQA, under Sections 15061(b)(3) and 15306 of the CEQA guidelines.

Section 3. The City of Hayward hereby declares a moratorium on the permitting or approval of any new, modified or expanded supermarket that is twenty-thousand (20,000) square feet or greater and any new, modified or expanded retail establishment that devotes twenty thousand (20,000) square feet or more of its sales floor area to the sale of groceries or non-taxable items. Supermarket shall mean any establishment engaged in the retail sale of food, beverages, drugs, variety items, and similar goods. Retail establishment shall mean a single business that sells goods or commodities for use by the ultimate consumer, including businesses that sell primarily bulk merchandise and charge membership dues or otherwise restrict sales to customers paying a periodic fee. Non-taxable items means products that are not subject to California state sales tax.

Section 4. In accordance with Government Code Section 65858, this Ordinance shall be in full force and effect for a period of 45 days immediately from the date of its adoption by the City Council by at least six affirmative votes. This 45-day period may be extended by the City Council in accordance with the provisions of Government Code Section 65858.

Section 5. The Planning Director is hereby authorized to administer and interpret the provisions of this urgency Ordinance, including but not limited to, review of specific use permits applications, variance requests, building permit applications, and other land use approvals, to determine whether the requested use permit, variance, building permit or other land use approval is subject to the terms of this Ordinance.

Section 6. The Planning Director shall review and consider options for the regulation of supermarkets and retail stores with grocery and non-taxable commodity components in the City and provide the City Council a written report describing the measures which the City has taken to address the conditions which led to the adoption of this

interim Ordinance.

Section 7. Constitutionality. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 8. Publication. This interim, urgency Ordinance or a comprehensive summary thereof shall be published in newspaper of general circulation of the City within fifteen (15) days after its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____ 2011, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the ____ day of ____ 2011, by the following votes of members of said City Council.

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



DATE: April 26, 2011

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Adoption of Interim Moratorium Ordinance Regarding Supermarkets of 20,000 Square Feet or More or Large Retail Stores Containing at least 10,000 Square Feet or Ten Percent of Area Devoted to Sale of Grocery or Non-Taxable Items

RECOMMENDATION

It is recommended that the City Council introduces and adopts the attached urgency ordinance establishing a 45-day moratorium on the approval of land use entitlements and building permits associated with supermarkets, defined in the Hayward Zoning Ordinance as establishments that do retail sales of food, beverages, drugs, variety items, and similar goods, totalling at least 20,000 square feet in area, as well as large retail establishments, including those requiring membership, exceeding 75,000 square feet where at least 10,000 square feet or 10 percent of the total retail space, whichever area is less, is devoted to the sale of grocery or non-taxable items.

BACKGROUND

During the February 1, 2011 Council meeting, the City Council directed the City Manager to review a draft ordinance that would require a conditional use permit and economic impact analysis for any new retail establishment totaling 20,000 square feet or more and having at least 10,000 square feet of area devoted to grocery sales, and report back to City Council. The City Manager is in the process of developing a response to City Council, based on initial preliminary research by City staff.

On March 23, 2011, the City received a building permit application for tenant improvements that would result in a new grocery store at the 35,000 square foot former Circuit City building along Whipple Road adjacent to Interstate 880 in the southern portion of Hayward. The application and plans, which show approximately 26,000 square feet of area for food/grocery sales, were routed for plan check review on April 4, after missing information was subsequently submitted to City staff by the project proponent. The plan check review is in process, and staff anticipates generating an initial punch list related to the first plan check review on April 27.

However, staff has received inquiries during the last several weeks/months related to potential larger grocers at various locations throughout the City. As shown in Attachment II,

supermarkets and related uses are allowed as primary uses in most commercial zoning districts. Traffic generation associated with larger supermarkets and discount superstores, especially when compared with other retail establishments, is typically large (see Attachment III).

DISCUSSION

The stated purpose of the Hayward Zoning Ordinance is to promote the public health, safety, and general welfare, and preserve and enhance the aesthetic quality of the City by providing regulations to ensure an appropriate mix of land uses in an orderly manner. The Zoning Ordinance further states that the City desires to achieve a pattern and distribution of land uses which generally:

- a. Retain and enhance established residential neighborhoods, commercial and industrial districts, regional-serving uses, and recreational amenities.
- b. Allow for the infill and reuse of areas at their prevailing scale and character.
- c. Accommodate expansion of development into vacant and under utilized lands within environmental and infrastructure constraints.
- d. Maintain and enhance significant environmental resources.
- e. Provide a diversity of areas characterized by differing land use activity, scale and intensity.
- f. Establish Hayward as a unique and distinctive place in the heart of the San Francisco Bay Area with a high quality of life in an attractive, secure environment for the City's residents and businesses.

As noted above, City staff has received inquiries for larger supermarkets in various locations in the City. Currently, supermarkets, regardless of size, are allowed as primary uses in applicable commercial zoning districts. Because they are allowed as primary uses, the City's ability to require studies associated with traffic and economic impacts in determining whether such uses are desirable and in line with the Zoning Ordinance purposes, is limited. Additionally, the current recession has negatively impacted the commercial property market in Hayward, resulting in an increase in vacant stores throughout the community (e.g., former Lucky's store at Southland Mall, reduced market size (new Fresh & Easy store) at the Fairway Park Shopping Center). Due to this trend, and related especially to the Zoning Ordinance's stated goal (a) above, it is even more critical for the City to assess the desirability of approving new supermarkets, especially in areas that are currently sufficiently served by existing markets, given they generate minimal sales tax revenue since grocery items are non-taxable.

Additional time is needed to allow staff to analyze the potential impacts of such new uses in Hayward and determine if modifications to the Zoning Ordinance regulations would be appropriate.

California Government Code Section 65858 states the City Council, without prior notice or a public hearing, "in order to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time." The Government Code section further states that the Council shall not adopt an interim ordinance,

“unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.” The attached ordinance contains such findings. Additionally, adoption of the ordinance is exempt from the California Environmental Quality Act (CEQA), per CEQA Sections 15061(b)(3) and 15306.

ECONOMIC AND FISCAL IMPACTS

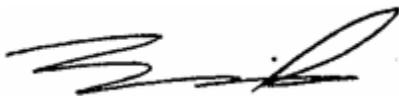
An interim moratorium of limited duration, although potentially negatively impacting some properties in the short run where such uses are proposed or contemplated, would have potential significant benefits to the community in the long run, ensuring that adequate analysis is conducted by staff and presented to Council that would identify the potential negative impacts and positive benefits to the City regarding the establishment of supermarkets/larger grocery stores. It is estimated that staff will need to spend a total of approximately 135 hours over a period of three to six months, with an estimated cost to the General Fund of approximately \$20,000, to fully research and analyze the impacts and benefits associated with such uses.

NEXT STEPS

Should the Council adopted the interim urgency ordinance by the required 4/5 vote (minimum six votes needed), staff will present an ordinance with findings to the Council within forty-five days to either extend the ordinance for an additional ten months and fifteen days to allow sufficient time for a more thorough analysis; or will provide the Council with an analysis and recommendations regarding whether any changes to the City’s Zoning Ordinance are warranted.

Prepared and Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Interim Urgency Ordinance
- Attachment II: Table Showing Types of Approvals Required for Supermarkets and Related Stores in Each Applicable Commercial Zoning District in Hayward
- Attachment III: Traffic Generation Information Associated with Various Retail Uses (Institute of Transportation Engineers Trip Generation Manual, 8th Edition)

ORDINANCE NO. ____

AN URGENCY MEASURE ADOPTING AN INTERIM ORDINANCE
PURSUANT TO GOVERNMENT CODE SECTION 65858 IMPOSING A
MORATORIUM ON SUPERMARKETS TWENTY-THOUSAND SQUARE
FEET OR GREATER IN SIZE AND LARGE SCALE RETAIL STORES OF
SEVENTY-FIVE THOUSAND SQUARE FEET OF GREATER WITH
TENTHUSAND SQUARE FEET OR TEN PERCENT OF SALES FLOOR
AREA DEVOTED TO NON-TAXABLE MERCHANDISE

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. This interim ordinance is adopted pursuant to the provisions set forth in Government Code Section 65858 and imposes a 45-day moratorium on the issuance of use permits, variances and building permits for supermarkets that are twenty thousand (20,000) square feet or greater in size and large scale retail stores that are seventy-five thousand square feet or greater with ten thousand (10,000) square feet or ten percent (10%) of sales floor area, whichever is less, devoted to non-taxable merchandise.

Section 2. Findings. The City Council hereby finds as follows:

- A. The stated purpose of the Hayward Zoning Ordinance is to promote the public health, safety, general welfare and preserve and enhance the aesthetic quality of the City by providing regulations to ensure an appropriate mix of land uses in an orderly manner. The Zoning Ordinance further states that the City desires to achieve a pattern and distribution of land uses that generally retain and enhance established residential neighborhoods, commercial and industrial districts, regional-serving uses, and recreational amenities; allow for the infill and reuse of areas at their prevailing scale and character; accommodate expansion of development into vacant and under-utilized lands within environmental and infrastructure constraints; maintain and enhance significant environmental resources; provide a diversity of areas characterized by differing land use activity, scale and intensity; and establish Hayward as a unique and distinctive place in the heart of the San Francisco Bay Area, with a high quality of life in an attractive, secure environment for the City's residents and businesses.
- B. Supermarkets that are 20,000 square feet or greater in size and large scale retail stores that are 75,000 square feet or greater in size present unique challenges for local government in that they require a significant commitment of police, fire, and public safety resources; strain local streets and highways; and increase traffic congestion.
- C. City staff has received several inquiries in recent months related to potential supermarkets at various locations throughout the City. Supermarkets and related uses are allowed as primary uses in most commercial zoning districts. Large scale retail stores are not currently regulated by the City. Traffic generation associated with supermarkets and large scale retail stores is typically greater than other retail establishments.
- D. Because supermarkets are allowed as primary uses and large scale retail stores are not currently regulated, the City's authority to require traffic and economic impact analyses to study the effects of these uses is limited. Additional time is needed to allow staff to analyze the potential impacts of such new uses in Hayward and determine if modifications to the Zoning Ordinance regulations would be appropriate.
- E. The current recession has negatively impacted the commercial property market in Hayward, resulting in an increase in vacant stores throughout the community, including the former Lucky's store at Southland Mall and the reduced market size (new Fresh & Easy store) at the Fairway Park Shopping

Center. Due to this trend, and related especially to the Zoning Ordinance's goal as stated above, it is even more critical for the City to assess the desirability of approving new supermarkets, especially in areas that are currently sufficiently served by existing markets, given that supermarkets generate minimal sales tax revenue to offset the potential negative impacts they create.

- F. The City is considering modifications to the Zoning Ordinance to protect the public health, safety, and welfare from the negative effects of the establishment of supermarkets and large scale retail stores that offer general merchandise combined with full-service grocery sales.
- G. Until such time as the City institutes land use controls over supermarkets and large-scale retail stores, the community is at risk that supermarkets and large scale retail stores could be instituted, modified or expanded, prior to the adoption of measures necessary for the protection of public health, safety and welfare.
- H. The issuance or approval of any building, planning or other permit for supermarkets or large scale retail stores with full services grocery sales (newly instituted, modified or expanded) prior to the City's completion of its review of the need for modifications to the Zoning Ordinance would result in a current and immediate threat to the public health, safety and welfare.
- I. Pursuant to Government Code Section 65858, the City has the authority to adopt an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan or zoning proposal.
- J. For the reasons set forth above, this Ordinance is necessary to preserve the public health, safety and welfare and to avoid a current and immediate threat to the health, safety and welfare of the community.
- K. The adoption of this Ordinance is exempt from CEQA, under Sections 15061(b)(3) and 15306 of the CEQA guidelines.

Section 3. The City of Hayward hereby declares a moratorium on the permitting or approval of any new, modified or expanded supermarket that is twenty-thousand (20,000) square feet or greater and any new, modified or expanded large-scale retail store that is seventy-five thousand (75,000) square feet or greater and that devotes ten thousand (10,000) square feet or ten percent (10%), whichever is less, of its total sales floor area to the sale of groceries or non-taxable items. Supermarket shall mean any establishment engaged in the retail sale of food, beverages, drugs, variety items, and similar goods. Large scale retail store shall mean a single establishment that sells goods or commodities for use by the ultimate consumer, including businesses that sell primarily bulk merchandise and charge membership dues or otherwise restrict sales to customers paying a periodic fee. Non-taxable items means products that are not subject to California state sales tax.

Section 4. In accordance with Government Code Section 65858, this Ordinance shall be in full force and effect for a period of 45 days immediately from the date of its adoption by the City Council by at least six affirmative votes. This 45-day period may be extended by the City Council in accordance with the provisions of Government Code Section 65858.

Section 5. The Planning Director is hereby authorized to administer and interpret the provisions of this urgency Ordinance, including but not limited to, review of specific use permits applications, variance requests, building permit applications, and other land use approvals, to determine whether the requested use permit, variance, building permit or other land use approval is subject to the terms of this Ordinance.

Section 6. The Planning Director shall review and consider options for the regulation of supermarkets and large scale retail stores in the City and provide the City Council a written report describing the measures which the City has taken to address the conditions which led to the adoption of this interim Ordinance.

Section 7. Constitutionality. If any section, subsection, sentence, clause or phrase of this Ordinance is for

any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 8. Publication. This interim, urgency Ordinance or a comprehensive summary thereof shall be published in newspaper of general circulation of the City within fifteen (15) days after its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____ 2011, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the ____ day of ____ 2011, by the following votes of members of said City Council.

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Food Market Uses

P: Primary Uses **S:** Secondary Uses (requires Primary Use) **A:** Administrative Use Permit required **C:** Conditional Use Permit required

	CN	CN-R	CG	CO	CL	CB	CR	CC-C	CC-P	CC-R	SMU	I	AT-C	T4 T4-1 T4-2	T5
Convenience Market	A		A			A		C	C	A				P	P
Convenience Market with Service Station	A		A			A						A		C	C
Liquor Store	C	C	C			C		C	C					C	C
Supermarket	P	P	P			P	S	P	P	A	P			P	P
Retail Sales of Goods with Regional or Sub-regional Marketing base													A	P	P
Major Retail Anchor (Minimum 100,000 sf)							P								

CN – Neighborhood Commercial
CN-R – Neighborhood Commercial-Residential
CG – General Commercial
CO – Commercial Office
CL – Limited Access Commercial
CB – Central Business
CR – Regional Commercial
CC-C – Central City – Commercial
CC-P – Central City – Plaza
CC-R – Central City – Residential
SMU – Sustainable Mixed Use

I – Industrial
BP – Business Park
LM – Light Manufacturing/R&D
AT-AC – Air Terminal – Aviation Commercial
AT-C – Air Terminal – Commercial
T4 – South Hayward BART /Mission Boulevard
T4-1 – Mission Corridor Specific Plan
T4-2 – Mission Corridor Specific Plan
T5 – South Hayward BART /Mission Boulevard & Mission Corridor Specific Plan

Trip Generation Comparison

Land Use	Description	Avg size (ksf)	Trip Generation per 1,000 SF				Weekday
			AM peak	AM peak hr of generation	PM peak	PM peak hr of generation	
850	Supermarket	30-59	3.59	10.05	10.50	11.85	102.24
854	Discount Supermarket	74-106	2.74	7.32	8.90	9.84	96.82
863	Electronics Superstore	37	-	3.46	4.50	4.50	45.04
813	Free Standing Discount Superstore (w/grocery)	195-201	1.67	3.45	4.61	4.68	53.13
815	Free Standing Discount Superstore(w/out grocery)	92-114	1.06	5.48	5.00	5.57	57.24
857	Discount Club	112-114	0.56	3.68	4.24	4.76	41.8
814	Specialty Retail	25-75	-	6.84	2.71	5.02	44.32
820	Shopping Centre	328-479	1.00	-	3.73	-	42.94
875	Department Store	101-104	0.53	2.14	1.78	2.81	22.88
876	<i>Apparel Store</i>	5	1.00	4.80	3.83	4.20	66.40
879	<i>Arts and Crafts Store</i>	20	-	4.65	6.21	6.85	56.55
920	Copy and Print Store	4	2.78	8.10	7.41	12.27	-
931	Quality Restaurant	9	0.81	5.57	7.49	9.02	88.95
932	High Turnover Restaurant	5-7	11.52	13.53	11.15	18.49	127.15

italics represent very small sample sizes

Source : Institute of Transportation Engineers Trip Generation Manual (8th Edition)