



CITY OF
HAYWARD
HEART OF THE BAY

CITY COUNCIL AGENDA

OCTOBER 11, 2011

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

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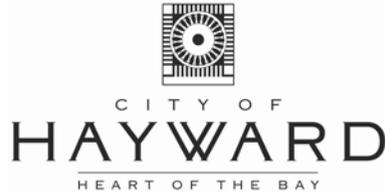
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CITY COUNCIL MEETING FOR OCTOBER 11, 2011
777 B STREET, HAYWARD CA 94541
WWW.HAYWARD-CA.GOV

CLOSED SESSION
Closed Session Room 2B – 5:00 PM

1. PUBLIC COMMENTS

2. Conference with Legal Counsel

Pursuant to Government Code 54956.9

➤ Pending Litigation

Rental Housing Owners, et al. v. City of Hayward, Court of Appeal No. A128168

3. Conference with Legal Counsel

Pursuant to Government Code 54956.9

➤ Pending Litigation

Mitchell Engineering v. City of Hayward, Alameda County Superior Court No. HG 09483573

4. 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, Finance Director Vesely, and Actuary Graham Schmidt
Under Negotiation: All Bargaining Units

5. Adjourn to Special Joint City Council/Redevelopment Agency/Housing Authority 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 Energy Efficiency Contest Drawing

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. Historic Preservation Program – Implementation Update
 - [Staff Report](#)
 - [Attachment I Historic Preservation Ordinance](#)
 - [Attachment II Officially Designated Properties](#)
 - [Attachment III Properties Recommended for Official Designation](#)
 - [Attachment IV Photo of 22640 Sixth Street](#)

 2. General Fund Ten-Year Financial Plan Update
 - [Staff Report](#)
 - [Attachment I Ten Year Plan Detail](#)
 - [Attachment II Budget Calendar 2013-14](#)
-

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 CALENDAR

3. Approval of the Minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting on September 20, 2011
 - [Draft Minutes](#)

4. Approval of the Minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting on September 27, 2011
 - [Draft Minutes](#)



5. First Responder Advanced Life Support (FRALS) Agreement
[Staff Report](#)
[Attachment I Resolution Approving FRALS Agreement](#)

 6. Authorization for the City Manager to Negotiate and Execute a Professional Services Agreement for Design Services Associated with Median Landscape Improvements on Industrial Parkway from Interstate 880 to Mission Boulevard
[Staff Report](#)
[Attachment I Resolution](#)
[Attachment II Location Map](#)

 7. Network Infrastructure Maintenance Agreement Renewal
[Staff Report](#)
[Attachment I](#)

 8. Community Services Commission Members
[Staff Report](#)
[Attachment I Resolution](#)
[Attachment II](#)
[Attachment III](#)
-

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*
-

LEGISLATIVE BUSINESS

9. Adoption of Ordinance Reclassifying the Zoning Designation for Properties in the South Hayward BART/Mission Boulevard Form-Based Code Area; and Adoption of Ordinance Amending the Zoning Ordinance Chapter 10, Article 1 of the Hayward Municipal Code, and Off-Street Parking Regulations, Chapter 10, Article 2 of the Hayward Municipal Code and Adding a New Article 24 “South Hayward Bart/Mission Code,” All Relating to the Adoption of the South Hayward Bart/Mission Boulevard Form-Based Code (*Ordinances Introduced September 27, 2011*)
[Staff Report](#)
[Attachment I](#)
[Attachment II](#)

10. Red Light Camera Update
[Staff Report](#)
[Attachment I Powerpoint Presentation](#)



11. Amended and Restated Joint Powers Authority Agreement for the Alameda County Associated Community Action Program (ACAP)

[Staff Report](#)

[Attachment I Resolution](#)

[Attachment II Agreement](#)

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

NEXT REGULAR MEETING – 7:00 PM, TUESDAY, OCTOBER 18, 2011

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. Written comments submitted to the Council in connection with agenda items will be posted on the City's website. All Council Meetings are broadcast simultaneously on the website and on Cable Channel 15, KHRT. ****

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.

Please visit us on:



OCTOBER 11, 2011



DATE: October 11, 2011
TO: Mayor and City Council
FROM: Development Services Director
SUBJECT: Historic Preservation Program – Implementation Update

RECOMMENDATION

That the City Council reads and comments on this report.

SUMMARY

On June 1, 2010, the City Council adopted the City's Historic Preservation Program. This program includes documents that provide the City of Hayward with a current and comprehensive inventory of potential and existing historical resources; an understanding as to why and how some of these resources can and do meet local, state, and national criteria (the Historic Context Statement); and a well-defined historic preservation ordinance to direct and guide decision-making policies.

The City Council's Fiscal Year 2012 Land Use Priorities includes continued implementation of the Historic Preservation Program elements. This report is a follow-up to the Council's work session of February 22, 2011¹ regarding continued program implementation in developing the City's first historic district, developing local planning and zoning incentives, adding properties to the City's historic register, and discussing concerns related to impacts of the Ordinance on multi-family complexes.

BACKGROUND

The City of Hayward's Historic Preservation Ordinance addresses current standards and practices of historic preservation to provide stronger protections for historical resources. The ordinance, among other issues, addresses the process for determining when historical alteration, demolition, or relocation permits are required. Sections 10-11.050 to 10-11.070 of the ordinance (Attachment I) contain provisions that make it unlawful to alter character-defining features of an historical resource without an historical alteration permit, sets the procedure and standards for making such alterations,

¹ See agenda report at page 5 of the packet at <http://www.hayward-ca.gov/citygov/meetings/cca/2011/CCA11PDF/cca022211full.pdf> and page 2 of the meeting minutes at <http://www.hayward-ca.gov/citygov/meetings/cca/2011/CCA11PDF/cca031511full.pdf>.

contains provisions and procedures regarding the demolition of an historical resource, and includes provisions and procedures for the relocation of an historical resource.

In addition, the City Council stated that its policy in regard to the official designation of historical resources is that it is to generally be a voluntary process on the part of the property owner unless the structure is of significant community value. The Ordinance itself permits an application for designation from only the property owner, the Planning Director, the Planning Commission or the City Council. Should an application be submitted, the Planning Director would be required to determine the merit of the application prior to sending it to the Planning Commission for hearing based on appropriate documentation. In order to be designated, a property must be an “Historical Resource” as defined by Section 10-11.030k. An “Historical Resource” would be any building, structure, site, object, historic district and archaeological resource that has been determined to have a) age; b) integrity; and c) historical significance.

DISCUSSION

When the City Council adopted the documents and ordinance of the Historic Preservation Program, staff indicated that the Program would be rounded out by other elements that would go beyond merely identifying the City’s potential historic properties. Following is a discussion of the work program items that are in process.

Prospect Hill Historic District – A local historic district is a defined geographic area that has historic, architectural, social or geographical significance to the community. Designation of a district by the City of Hayward is a formal recognition of its contribution as an historic resource in the community. Historic districts reflect pride in the character of neighborhoods and a desire on the part of neighborhoods and the City to protect their assets. Historic districts are an important planning tool for the City, a way to improve the quality of life, and a way to ensure that new development enhances the character and scale of a neighborhood.

As part of the Historic Resources Survey & Inventory Report, the City’s consultant, *Circa: Historic Property Development*, recommended that the Upper B Street area be the focus of efforts toward designation of the City’s first historic district. *Circa* believed that, while other historic districts within the City may display a higher level of overall integrity, Upper B Street faces the greatest immediate threat to its contributing resources. However, because of resident interest and existing community organization within the Prospect Hill neighborhood, staff felt it more prudent to investigate its designation first as an historic district. Should this effort be successful, it could serve as a model for later review of the Upper B Street and the B Street Streetcar Districts.

Work is underway toward investigating historic district status for Prospect Hill. On June 16, 2011, a neighborhood meeting was held at City Hall to introduce the concept; approximately 20 persons attended this meeting. The consensus from this meeting was to proceed. In August, staff attended the “Understanding Design Guidelines for Historic Districts” workshop, sponsored by the California Preservation Foundation. On September 1, 2011, staff met with the initial neighborhood leadership team to determine the next steps. Once more-detailed information can be developed, including benefits and obligations, to present to the property owners, another neighborhood meeting will be scheduled in early November. Should interest continue, neighborhood committees will be formed

in January 2012 to survey the district properties in more detail, finalize district boundaries, and develop design guidelines. Staff expects that this work would take a year or more to complete before a proposal is brought before the Planning Commission and the City Council, given the work will be performed by City staff and the residents.

Potential Benefits to the District:

- Owning property in an historic district ensures that the neighborhood will be protected from unmanaged change. Because the review process requires public comment, private citizens are given more control over development and alterations in their neighborhood than in areas where no historic district is in place.
- Incentive programs for the District would include eligibility for the Mills Act (see discussion below), stronger eligibility for state and federal tax credits for qualified rehabilitation projects, and zoning and parking requirement waivers.
- Pride and interest in the neighborhood by the rest of the community.
- The effect of designation on property values in any given historic district is unknown. There's no guarantee that every home in a historic district will increase in value, but several studies indicate an overall rise in value for historic neighborhoods and areas surrounding a historic district.²

Obligations of Residents in the District:

- Proper maintenance of residences to prevent deterioration.
- Obtaining City approval for exterior alterations to properties to ensure the historic character of the structure is maintained. Most minor projects involving windows, doors, railings, etc. are handled administratively and usually do not require a hearing. Maintenance, including a change in paint color, is not subject to review by the City. Interior alterations are not reviewed.
- The standard for proposed changes to historic properties is the *U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties*.³ These standards are based on a common sense approach to protecting and enhancing historic structures.

Local Planning and Zoning Incentives – One of the best ways to create buy-in for historic preservation is to provide incentives for those who might participate. One of the incentives, adopted by the City Council with the Program, is the Mills Act Property Tax Abatement Program, which is described in more detail below. Others may include zoning incentives (such as flexibility in zoning development standards for additions, etc.), fee waivers, funding programs, use of the State Historic Building Code, zoning overlays, etc. Staff envisions developing materials for Mills Act participation and other programs beginning Winter 2011/2012; it is expected that a package of other incentives could be enacted, after property owner input, following Planning Commission and City Council review and approval during Spring 2012.

² A selection of study reports, some supported by major real estate concerns, can be found at www.houselogic.com/articles/neighborhood-historic-designation-can-raise-property-values; www.uncg.edu/iss/RECENT/propertyvalues.html; and www.c21keyrealty.com/2011/08/neighborhood-historic-designation-can-raise-property-values .)

³ Such standards can be found at <http://www.nps.gov/history/hps/tps/standguide/> .

Mills Act Property Tax Abatement Program – As a preservation incentive, historic property agreements, or “Mills Act contracts,” offer advantages to both the local government and the property owner. These agreements provide property tax relief for owners of qualified historic properties who contract with the city or county to abide by “reasonable” preservation requirements. Commonly referred to as the Mills Act, the law provides an income-based tax formula for eligible properties subject to historic property agreements. This legislation was modeled after the Williamson Act, which had been widely used to preserve open space and agricultural land.

The use of Mills Act contracts gives communities the flexibility to deal with historic structures on a case by case basis. The local government has the option to choose which properties are suitable for the incentive by evaluating various factors, such as the significance of the building to the community, development pressure on the site and/or the need for rehabilitation. These contracts can be used both as a tool to rehabilitate and preserve an individual building, and as part of a broader community-wide program. At a minimum, the Act requires the owner to prevent deterioration of the property. To monitor compliance, the contract must include a provision providing for periodic examinations of the premises “as may be necessary.”

For owners of historic properties, Mills Act contracts offer several distinct advantages. Unlike some preservation tools, participation on the part of the property owner is completely voluntary. Also, historic property agreements are one of the few incentives available to homeowners. In areas where land value represents a large portion of the market value, such as high density commercial and residential districts, the Mills Act method of valuation adjusts the property tax to reflect the actual use of the site. This results in a *property tax reduction often exceeding 50%*. Another important benefit of this incentive is that, because historic properties continue to be protected by the contract when sold, the reduced property tax valuation is passed on to the new owner. Because sale of the property does not trigger a Proposition 13 reassessment, the existence of a Mills Act contract can be a real selling point when the property is on the market.

The minimum term of a Mills Act contract is 10 years. If the property is sold, the contract shall be binding on all successors in interest, who shall have “the same rights and obligations under the contract as the original owner who entered into the contract.” Mills Act contracts are automatically extended on a yearly basis, unless the property owner or local government provides notice of their intent not to renew. Conversely, if the agreement is violated, the city or county may cancel the contract and require payment of a substantial fee.

To specifically limit the impact on City revenues, staff had recommended that single-family dwellings valued in excess of \$1,500,000, and that multi-family residences, commercial, and industrial properties valued in excess of \$3,000,000 not be eligible for the program. Council members expressed a concern that determining eligibility by setting values on individual properties may restrict participation for otherwise-deserving properties. However, the Council limited the total reduction of property taxes under this program at any one time to not exceed \$200,000 annually for all properties in the program. This number could be changed at a later date by Council resolution should it be determined that 1) the use of this program is such that the cap is reached, and 2) there is a marked improvement in City revenues. Currently, there are no Mills Act contracts in the City of Hayward. To encourage participation, staff intends to hold a workshop during the spring of 2012 following publication of the application materials to the City’s website.

Addition of Properties to Historic Register - While the City Council stated that its policy in regard to the official designation of historical resources is that it is to generally be a voluntary process on the part of the property owner, the Council expressed the desire to pursue the designation of structures of significant community value. Such designations could be celebratory, highlighting the community benefit of preserving Hayward's history.

The following table is a list of the existing officially-designated Architecturally- & Historically-Significant Buildings. These properties were designated prior to adoption of the current Ordinance. Photos of the properties are found in Attachment II.

<i>Address</i>	<i>Description</i>
24072 Myrtle Street	Victorian House
21800 Hesperian Blvd.	Site & Victorian Bldg.
944-952 B Street	IOOF Lodge
1105 C Street	IDES Lodge
22701 Main Street	Hayward Museum
22738 Mission Blvd.	Historic City Hall
24077 Second St.	The Castle (Standon Hall)
27355 Hesperian Blvd.	Oliver Estate
714 B Street	Victorian House
1325 B Street	Queen Anne Victorian House
22248 Main Street	Victorian House
199 C Street	Hunts Water Tower

The following table on the next page contains a list of the Downtown properties that retain a high level of architectural integrity according to the Historical Resources Survey & Inventory Report. Staff recommends that this list be used in determining the next group of properties to be added to the City's official register of historic sites, and staff is seeking Council comments regarding priorities for this list. These properties span a range of time from 1890 to 1956, and the list represents varied architectural styles that are befitting the time during which they were built. Photos of the properties are found in Attachment III.

Staff recommends either of two ways of prioritizing the first group of potential designations from this list: 1) those constructed in 1949 or earlier (16 of 22 listed properties); or 2) those within the Downtown Core (marked with an asterisk, 11 properties). At the Council's direction, property research could begin in Winter/Spring 2012 to determine each property's historical significance according to the Historic Preservation Ordinance, with designation hearings beginning the summer of 2012. Staff expects that the next round of designations would include the remainder of the properties on the list; further rounds would include properties outside of the Downtown, such as the Mohr-Fry Estate on Hesperian Boulevard.

<i>Address</i>	<i>Date Built</i>	<i>Notes</i>
1077 A Street	1956	
722 B Street	c 1890	
742 B Street	?	Neumanali's; moved from adjacent parcel
808 B Street @ Watkins Street*	1900	Ace Hardware
954 B Street*	1924	Pizza House
1004 B Street @ Main Street*	1927	Former Bank
1019 B Street*	1950	
1037 B Street*	1920	
1058 B Street*	1944	Bank of the West
822 C Street @ Watkins Street	1936	U.S. Post Office
951 C Street	1948	Casper's Hot Dogs
1044 C Street	1927/1931	Herndon Professional Building
22519 Main Street*	1925	Turf Club
22561 Main Street*	1918	Chamber of Commerce
22632 Main Street @ B Street*	1918/1926	Green Shutter Hotel
22641 Main Street*	1952	
22701 Main Street*	1927	Historical Society
22737 Main Street	1932	Veterans Memorial Bldg.
22777 Main Street @ D Street	1954	Bay Cities Credit Union
22564 Mission Blvd.	1914	
22642 Mission Blvd.	1902	Most-recently Ace Loan
22877 Mission Blvd. @ Willis Ave.	1956	The Ranch Restaurant

*** Structures within Downtown Core
Highlighted properties were built after 1949**

Historic Alteration Permits for Multi-Family Residential Structures - When the owner of a potentially historical building inquires about the possibility of an alteration, relocation, or demolition, staff would be required to determine whether the building qualifies as an "Historical Resource" due to a) age, b) integrity, and c) historical significance. In the Downtown environs, staff would have the Historical Resources Survey and Inventory Report to rely upon for this determination. Elsewhere in the City, staff would be required to determine whether: a) the building is fifty years of age or older; b) the building retains the physical features to convey its historical significance; and/or c) the building has an association with events or persons significant to local history, or contains distinctive architectural characteristics. Resources to make this determination are available through the Historical Society. In situations where a property owner disputes a determination by staff, staff's determination could be appealed to the Planning Commission, or the owner could pay for a historic resource assessment by a qualified professional the City would hire.

The Ordinance provisions are flexible enough to allow the Planning Director to waive the requirement for an alteration permit for those structures that have been substantially changed such that they retain no integrity (Sec. 10-11.050b.), those that have no historic significance (Sec. 10-11.050c.), or for those undergoing only minor work that doesn't affect important architectural features (Sec. 10-11.050e.).

The Rental Housing Owners Association (Association) has requested that all post-1946 multi-family residential structures be exempt from obtaining historic alteration permits per the provisions of the Historic Preservation Ordinance. The Association feels that the provisions of the Ordinance may prove overly-burdensome for the owners of these properties in that needed property improvements may need excessive review due to the Ordinance provisions related to requirements for alteration, demolition, or relocation permits.

As reported to the Council on February 22, 2011, staff met with the Association on September 22 and November 9, 2010, and January 25, 2011, to discuss its concerns regarding the Ordinance processes. The Association understands that planning and zoning incentives may make it desirable for a property owner to seek official designation as an Historical Resource, but feels that the Ordinance should be applied only to property owners who wish to take advantage of such incentives. In response to the Association's concerns, staff also performed a random evaluation, using GIS information, of approximately 60 of the 250 or so post-1946 multi-family residential buildings of four units or more and found that none of those complexes would, on face-value, qualify as an "Historical Resource." However, it should be noted that this evaluation was not comprehensive in that no field visits were made and no historical research was performed.

Staff met again with the Association on August 23, 2011, to follow up on the concerns raised at the February 2011 Work Session. One property that the Association particularly questioned in regard to its review under the Historic Preservation Ordinance is located at 22640 Sixth Street (see photo, Attachment IV). The structure is listed as retaining a high level of architectural integrity by the Historic Resources Survey & Inventory Report. This small, multi-family residential development was built in 1952 and has seen no significant alterations. This property is evocative of a style of architecture that was being built during its time period and reflects one of the many styles that exist in the Upper B Street neighborhood. It is understood that this modernistic style does not bring out the nostalgic feelings evoked by other styles, such as the many Victorian era residences of the surrounding area. Nonetheless, this style also reflects the changes that have occurred over time in this neighborhood. While this property alone will likely never be placed on the City's historic register, it may be determined to be a contributing property to the character of a future Upper B Street historic district.

This Sixth Street property has also been the subject of recent minor changes that have successfully been processed administratively by Planning and Building staff. A contractor, representing the owner, submitted an application for a permit for a window change from the original metal frame to vinyl. Many of the vinyl windows that are on the market are not consistent with windows of historic architectural periods. Knowing this, staff requested the contractor to submit details of the proposed window. The proposed window mimicked the original metal-frame windows so closely that the building permit application was approved without requiring an Alteration Permit under the Historic Preservation Ordinance. Staff recently has successfully worked with owners of various

types of historic properties in making similar changes. In other cases, staff talked an owner out of making changes to an historic property, such as changing wood siding to stucco, once the owner became appreciative of the historical character of the structure.

Staff is reluctant to recommend the removal of another entire class of structures from potential review under the new Ordinance. As multi-family structures throughout the City age, the criterion of the Ordinance would allow staff to make evaluations of proposed alterations to structures with the intent of protecting newer ranks of historical resources prior to the City conducting an updated survey. The multi-family residences should be evaluated on their own merit rather than as part of a neighborhood, as would be more appropriate with single-family tract homes. Again, the Ordinance provisions are flexible enough to allow the Planning Director to waive the requirement for an alteration permit for those structures that have been substantially changed such that they retain no integrity, those that have no historic significance, or for those undergoing only minor work that doesn't affect important architectural features.

The Ordinance also does not preclude additions to an historic structure where the historic integrity is not compromised. Consideration of historic alteration permits for multi-family residential structures under the City's Historic Preservation Ordinance requires that they have retained a significant level of integrity according to National Register standards. In addition, staff feels that very few of these structures will be affected, given the random evaluation mentioned above. For properties that have already been evaluated by staff, a notation of insignificant integrity will be added to the Historic Resources field in the City's geographic information system (GIS), information which will also be available to the public. This will assist in expediting future reviews.

The Association had previously indicated that it is agreeable with the current Council policy of a voluntary-based designation process and the flexibility provided to the Planning Director in the management of alteration, demolition, and relocation permits. However, at the later August 2011 meeting, the Association raised concerns that the Historic Preservation Ordinance is not, in effect, totally voluntary due to the fact that the City itself could initiate the designation of private properties to the official local register of historic sites. The Association also expressed concerns with the structure of the Ordinance that allows the Planning Director discretion regarding alteration, demolition, and relocation permits.

When adopting the Ordinance, the City Council made it clear that the designation of sites could not be proposed by third-party interests, but only by the property owner or by the City when there is a need to protect the historic integrity of resources that are valuable to the community. All designations require a public hearing with a decision based upon the evidence presented. The historic preservation ordinances in many other cities allow private third-party petitioners to bring historic register designations to the Council, Hayward's does not. However, in order to make the designation process and the maintenance provisions totally voluntary on the part of the property owner, the Ordinance would have to be amended to remove the ability of the City to initiate designations or to require alteration or demolition permits when changes are proposed. If amended, the provisions of the Ordinance would be applicable only to property owners who voluntarily accept designation of their properties, including those that take advantage of the benefits of planning and zoning incentives, such as the Mills Act.

A “voluntary” ordinance could also be misleading to the public, as the California Environmental Quality Act (CEQA) provides special rules for determining whether historical resources are potentially significant, and requirements for consideration of impacts to such resources. The CEQA Guidelines specify that a substantial adverse change to a significant historical resource is a significant effect requiring preparation of an environmental impact report. The demolition, destruction, relocation, or alteration of an historical resource would be considered a substantial adverse change and therefore, a significant effect. Alterations to a historical resource consistent with the U.S. Secretary of the Interior’s standards would not be considered an adverse change. Whether or not the City has an ordinance regarding historical resources, CEQA applies. The City’s Ordinance provides guidance to staff and the public on the treatment of resources and provides additional certainty in the development process. Without an enforceable ordinance and given the requirements of CEQA, the review process regarding historic resources would be less predictable.

In summary, staff recommends that no modification be made to the adopted Historic Preservation Program. The Ordinance allows the City to control the policy regarding “voluntary” designations as an application for designation may come from only the property owner, the Planning Director, the Planning Commission or the City Council.

NEXT STEPS

No further action is necessary. If Council agrees with staff direction, staff will continue to work to implement the Historic Preservation Program and work with the public in educating it on the Ordinance provisions, including development of the web page in Winter 2011/2012.

The following schedule is anticipated for the major program components:

Prospect Hill Historic District

- Neighborhood Meeting – early-November 2011
- Neighborhood Committees Formed – January 2012
- Public Hearings – early-2013

Local Planning and Zoning Incentives

- Mills Act Information/Application Development – Winter 2011/2012
- Mills Act Workshop – Spring 2012
- Development of Other Incentives – Spring 2012

Addition of Properties to Historic Register (first round)

- Research Begins – Winter/Spring 2012
- Public Hearings – Summer 2012

Prepared by: Richard E. Patenaude, AICP, Planning Manager

Recommended by: David Rizk, AICP Development Services Director

Approved by:



Fran David, City Manager

Attachments:

- Attachment I Historic Preservation Ordinance
- Attachment II Photos of Officially-Designated Properties
- Attachment III Photos of Properties Recommended for Official Designation
- Attachment IV Photo of 22640 Sixth Street

ARTICLE 11

HISTORIC PRESERVATION ORDINANCE

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ARTICLE 11

HISTORIC PRESERVATION ORDINANCE

SEC. 10-11.010 PURPOSE. The purpose of this Article is to promote the public health, safety and general welfare of the inhabitants of the City by providing for the identification, protection, enhancement, perpetuation and use of historical resources, including buildings, structures, signs, objects, features, sites, historic and prehistoric archaeological sites, places, districts, designed landscapes, cultural landscapes and areas within the City that reflect special elements of the City's architectural, artistic, cultural, engineering, aesthetic, historical, political, social and other heritage. The protection of historical resources will achieve the following objectives:

- a. To safeguard the heritage of the City as embodied and reflected in such resources;
- b. To encourage public knowledge, understanding and appreciation of the City's past;
- c. To foster civic and neighborhood pride and a sense of identity based on community character and the recognition and use of historical resources;
- d. To promote the enjoyment and use of historical resources appropriate for the education and recreation of the inhabitants of the City;
- e. To preserve historic architectural styles and design preferences reflecting phases of the City's history and to encourage complementary contemporary design and construction;
- f. To enhance property values and to increase economic and financial benefits to the City and its inhabitants;
- g. To protect and enhance the City's attraction to tourists and visitors (thereby stimulating business and industry);
- h. To identify as early as possible and resolve conflicts between the preservation of the historical resources and alternative land uses;
- i. To integrate the preservation of historical resources and the extraction of relevant data from such resources into public and private land management and development processes; and
- j. To conserve and recycle valuable community resources by continuing use and maintenance of the historic built environment.

SEC. 10-11.020 APPLICABILITY. This Article shall apply to all historical resources and potentially significant historical resources within the City.

SEC. 10-11.030 DEFINITIONS. Terms used in this Article are defined as follows:

- a. "Adopted Survey List" means a list of resources (e.g., object, building, structure, site, area, place, record, or manuscript), adopted by the City of Hayward, which the City has determined to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of Hayward but which have not been officially designated on the local register of historical resources. Resources listed on the adopted survey list shall be considered historical resources, as that term is hereinafter defined.
- b. "Age" means the characteristic of being at least fifty years old.
- c. "Alteration" means exterior change or modification of character-defining features, through public or private action, of any historical resource or any potentially significant historical resource, or of any contributing resource located within an historic district, which may include, but not be limited to, exterior changes to or modification of structure, architectural details or visual characteristics, such as surface texture, grading, surface paving, new structures, cutting or removal of trees and other natural features, disturbance of archeological sites or areas and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, significant plantings and landscape accessories, to the extent that such would affect the exterior character-defining features of the property containing the resource.
- d. "Association" means the direct link between an important historic event or persons and a historic property for design, engineering or construction value and/or the ability to yield important information about prehistory or history.
- e. "Buildings" means structures created to shelter human activity. Historic buildings are considered in their entirety. A building that has lost its basic structural elements is usually considered a "ruin" and is a site, as that term is hereinafter defined.
- f. "Character-Defining Features" means those physical characteristics of an historical resource or potentially significant historical resource that convey its historical significance and justify its inclusion in, or eligibility for inclusion in, the national, state or local register. Character-defining features of a resource are documented by a qualified professional on a Primary Record survey form and/or a full historic evaluation and also may consist of features mutually agreed upon by a property owner and the Planning Director or designated City staff.
- g. "Design" means the combination of elements that create the form, plan, space, structure and style of a property.
- h. "Designated Historical Resource" means any historical resource that has been designated and placed on a local register of historical resources pursuant to this Article.
- i. "Evaluation" means an intensive survey to determine the historical significance of a resource. An evaluation consists of completed Department of Parks and Recreation (DPR) 523 series survey forms, including: 1) Primary Record (523A); 2) Building,

Structure, Object Record (523B); and 3) any additional survey form appropriate for documentation of the subject resource.

- j. "Feeling" means a property's expression of the aesthetic or historic sense of a particular period of time and results from the presence of physical features that, taken together, convey the property's historic character.
- k. "Historical Resources" means any buildings, structures, sites, objects, historic district and archaeological resources that have been determined to have a) age; b) integrity; and c) historical significance. For the purposes of this Article and of the California Environmental Quality Act (CEQA), the term "historical resources" shall include the following:
 - (1) A resource listed in, or determined to be eligible by the State Historical Resources Commission for listing in, the National Register or the California Register of Historical Resources.
 - (2) A resource designated in a local register of historical resources or identified as historically significant in an adopted survey list.
 - (3) Any object, building, structure, site, area, place, record, or manuscript that the City of Hayward determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California or of Hayward.
- l. "Historic Context Statement" means a document adopted by the City Council that describes historic periods and themes in Hayward's history, which is used as a tool to assist with the assessment of a property's historic significance by providing a framework against which to objectively qualify the property's relationship to larger themes and events.
- m. "Historic District" means a geographically-definable area – urban or rural, small or large – possessing a significant concentration, linkage, or continuity of sites, buildings, structures and/or objects united by past events or aesthetically by plan or physical development. An historic district may also comprise individual elements separated geographically but linked by association or history. A contributing resource within an historic district is an historical resource which contributes to the character of a historic district as described in National Register Bulletin 15.
- n. "Historical Significance" means, in national, state or local history, architecture, archaeology, engineering and culture that is present in districts, sites, buildings, structures and objects, which possess age, integrity and association with an important historical context with reference to the following:
 - (1) An association with events that have made a significant contribution to the broad patterns of national, state and/or local history and cultural heritage; or
 - (2) An association with the lives of persons significant in national, state and/or local past; or
 - (3) The embodiment of the distinctive characteristics of a type, period, region, or method of construction, or that represent the work of a master or important creative individual, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

- (4) Details that have yielded, or may be likely to yield, information important in prehistory or history.
- o. "Historic Preservation Officer" means the Planning Director, or his or her designee, when such a designation is relevant for consultation with federal agencies for the purpose of Section 106 procedures. This designation may be used for other consultations affecting community historical resources.
- p. "Integrity" means the ability of a property to convey its historical significance. Evaluation of integrity is grounded in an understanding of a property's physical features and how they relate to its historical significance. There are seven aspects or qualities that, in various combinations, define integrity: location, design, setting, materials, workmanship, feeling and association. To retain historic integrity, a property will possess several, and usually most, of the aspects. Determining which of the seven aspects are most important to a property requires knowing why, where and when the property is significant.
- q. "Interior Architectural Feature" means any portion of the interior of a public space in a publicly-owned building, or of a space in a privately-owned building, designated as an historical resource, where the interior space is generally accessible for use and viewing by the general public. The feature must meet the criteria for historical significance, as that term is defined hereinabove. Proposed changes to designated interior architectural features must follow the same procedures outlined in this Article for alteration to exterior features.
- r. "Local Register" means a list of properties officially designated as historically significant by the City of Hayward pursuant to a local ordinance or resolution adopted by the City Council.
- s. "Location" means the place where the historic property was constructed or the place where the historic event occurred.
- t. "Object" means a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by design or nature, moveable yet related to a specific setting or environment.
- u. "Potentially Significant Historical Resource" means a resource that is identified through a reconnaissance survey and/or by the City to have (a) age and (b) integrity, but historical significance has not yet been evaluated or determined. The fact that a resource is not listed in or determined to be eligible for listing in the California Register, or is not listed in a local register, does not preclude the City from determining that the resource is a potentially significant historical resource, such that further evaluation can be required to evaluate the resource for historic significance.
- v. "Preservation" means the act or process of applying measures necessary to sustain the existing form, integrity and materials of an historical resource. Work including preliminary measures to protect and stabilize the resource generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction.

- w. "Qualified Historic Consultant" means a consultant that meets the Secretary of the Interior's Professional Qualification Standards.
- x. "Reconnaissance Survey" means a preliminary historic survey of a defined geographic area, which identifies resources warranting further evaluation to determine historical significance, and which may also identify geographic areas and/or properties that do not have potential historical resources and will not be subject to historic review, provided the timeframe of the reconnaissance survey remains valid for such determination. A reconnaissance survey will generally include DPR 523 Primary Record survey forms (DPR 523A) or equivalent information for those resources determined to warrant future further evaluation.
- y. "Reconstruction" means the act or process of depicting, by means of new construction, the form, features and detailing of a non-surviving site, landscape, building, structure, or object, for the purpose of replicating its appearance at a specific period of time and in its historic location.
- z. "Rehabilitation" means the act or process of making possible a compatible use for a resource through repair, alterations and additions while preserving those portions or features which convey its historical, cultural, or architectural value.
- aa. "Restoration" means the act or process of accurately depicting the form, features and character of a resource as it appeared at a particular period in time by means of the removal of features from other periods in its history and reconstructing missing features from the restoration period.
- bb. "Setting" means the physical environment of an historical resource. Whereas location refers to the specific place where a property was built or an event occurred, setting refers to the character of the place in which the property played its historical role.
- cc. "Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building, structure or landscape, whether standing, existing, ruined or vanished, where the location itself possesses historic, cultural, or archaeological value, regardless of the value of any existing structure. A site can possess associative significance or information potential or both, and can be significant under any or all of the four criteria for historical significance identified above.
- dd. "Standards" means the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties, which is the body of information that provides acceptable approaches for preserving, rehabilitating, restoring and reconstructing historical resources or potentially significant historical resources. A project that follows the Secretary's Standards is considered not to result in a significant impact to the resource under CEQA.
- ee. "Structure" means a man-made feature made of interdependent and interrelated parts in a definite pattern of organization. The term "structure" is distinguished from "buildings," which are constructed primarily for human shelter. If a structure has lost its historic configuration or pattern of organization through deterioration or demolition, it is usually considered a "ruin" and is a site, as that term is defined hereinabove.

- ff. "Substantial Adverse Change" means the demolition, destruction, relocation, or alteration of the character-defining features of an historical resource or its immediate surroundings, such that the significance of an historical resource would be materially impaired. A project that may cause a substantial adverse change to an historical resource is a project that may have a significant effect on the environment under CEQA.
- gg. "Unique Archaeological Resource" means an archaeological artifact, object or site, about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:
 - (1) The resource contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.
 - (2) The resource has a special and particular quality, such as being the oldest of its type or the best available example of its type.
 - (3) The resource is directly associated with a scientifically recognized important prehistoric or historic event or person.
- hh. "Workmanship" means the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.

SEC. 10-11.040 IDENTIFICATION OF HISTORICAL RESOURCES.

- a. The City's 2009 Reconnaissance Survey excludes certain properties from further historic evaluation and identifies those properties requiring a full evaluation, as part of future development proposals, to determine whether a property is an historical resource.
- b. The City of Hayward may periodically update its 2009 Reconnaissance Survey and/or survey additional properties located within the City limits, for the purposes of identifying those properties or geographic areas that are determined not to be or contain potentially significant historical resources, as well as identifying those properties or areas that may contain potentially significant historical resources and will require additional evaluation in order to make determinations of age, integrity and/or significance.
- c. The City of Hayward may require that applicants for development projects and building permits retain qualified historic consultants to prepare evaluations to be used by the City to determine whether a property or site is an historical resource or a potentially significant historical resource, as part of development review and/or environmental review processes. The City may require a peer review of any evaluation report submitted directly by an applicant.
- d. Reconnaissance surveys and evaluations shall use the adopted Hayward Historic Context Statement as a tool for understanding whether and why the property has historical significance.

- e. The City of Hayward shall maintain a comprehensive record of reconnaissance surveys, evaluations and historic reports completed for properties located within the City limits, including those records completed as part of the 2009 Reconnaissance Survey and those records submitted by individual applicants.
- f. The City of Hayward shall maintain a local register of designated historical resources. The local register shall include only those resources formally designated as historical resources in accordance with the processes set forth in this Article. The City of Hayward shall also maintain an adopted survey list identifying resources considered to be historically significant to Hayward but not officially designated on the local register.
- g. The City of Hayward may publish or adopt archaeological sensitivity maps and/or may request the assistance of the Northwest Information Center, the area's historical resources information system located at Sonoma State University, for information about known archaeological sites, or about potential historic or prehistoric resources that may be determined to be significant or unique.

SEC. 10-11.050 REQUIREMENT TO OBTAIN HISTORICAL ALTERATION PERMIT AND/OR HISTORICAL RESOURCE DEMOLITION OR RELOCATION PERMIT.

Development projects and building permit applications involving structures or buildings at least 50 years in age or which are located within an historic district shall include the following steps in the development review process to determine if an historical alteration permit and/or historical resource demolition or relocation permit is required. Residential properties developed pursuant to a tentative tract map after 1946 are exempted from obtaining historical permits as defined herein. Building permit applications involving only interior improvements are not subject to the provisions of this Article, unless the building interior is specifically listed, or has the potential to be listed, on the local register as a designated historical resource. Nothing in this Article relieves a property owner or developer from any independent obligation under CEQA to conduct environmental review.

- a. City staff shall consult the comprehensive record of reconnaissance surveys and evaluations on file with the Planning Division to determine whether the subject resource has been previously reviewed, and if so, the status of the resource (i.e., historical resource, potentially significant historical resource, not a significant resource, or requires evaluation).
- b. If the subject resource has not been previously reviewed, or if the Planning Director determines the existing reconnaissance survey and/or evaluation is no longer valid due to the age of the survey or analysis (more than five years old), or as a result of substantial change to the physical condition of the resource or its setting, the applicant, at his or her own expense, may be required to provide an evaluation. Evaluations shall be prepared by a qualified historic consultant and shall use the California Register Criteria for Evaluation and the adopted Hayward Historic Context Statement to determine historical significance.
- c. Resources that are surveyed, and/or evaluated and determined not to have historical significance shall require no further historic review.

- d. Resources that are surveyed, evaluated and determined to be an historical resource or a potentially significant historical resource shall be subject to CEQA review and the discretionary permit requirements established by this Article for any proposed alteration, demolition or relocation of the resource.
- e. The Planning Director may waive the requirement for a discretionary alteration permit if either of the following apply: (1) the resource is located in a geographic area that has been determined by a current, valid reconnaissance survey, or other survey or evaluation conducted by the City or applicant, not to be or contain potentially significant historical resources; or (2) the nature of work is minor and incidental; will not adversely affect the external appearance of the character-defining features of existing significant improvements, buildings and structures on the site; and the proposed project or building permit application is consistent with the Secretary of the Interior's Standards.

SEC. 10-11.060 HISTORICAL ALTERATION PERMIT PROCESS.

- a. Unless waived by the Planning Director pursuant to subsection 10-11.050(e), it shall be unlawful for any person to alter or modify character-defining features of a potentially significant historical resource or an historical resource, a designated historical resource, a resource listed on the City's adopted survey list, or a resource that lies within an historic district, without first obtaining an historical alteration permit as outlined below. Neither the Planning Director nor the Building Official shall grant any permit to carry out such work without the approval of an historical alteration permit.
- b. If an historical alteration permit is required pursuant to Section 10-11.050, the following procedures will be followed in processing the permit application:
 - (1) Historical alteration permit applications shall be submitted to the Planning Division for review and approval. Applications shall be accompanied by materials as required by the Planning Director and reasonably necessary for the proper review of the project, including but not limited to, information regarding the age and construction of a building or structure and building permit records.
 - (2) The Planning Director or designated staff shall determine whether the application will be processed as a "minor" or "major" historical alteration permit.
 - (i) "Minor" historical alteration permits shall apply to alterations with a valuation of less than \$10,000, or as determined to be minor by the Planning Director.
 - (ii) "Major" historical alteration permits shall apply to alterations with a valuation of \$10,000 or greater, unless the proposed alteration is determined to be minor by the Planning Director.
- c. City staff will review applications for compliance with the Secretary of the Interior's Standards and may require that the applicant deposit funds for the City to retain the services of a qualified historic consultant, if necessary.

- d. Environmental review of an historical alteration permit application will be required as follows:
 - (1) If the proposed alteration or modification is in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, the potential impact on historical resources shall be considered less than significant and the project exempt from CEQA, unless other factors are identified which could cause other potentially significant environmental impacts.
 - (2) If the proposed alteration or modification is not in compliance with the Secretary of the Interior's Standards, then CEQA review will be required.
- e. Historical alteration permit applications (both minor and major) require the review and approval of the Planning Director, or designated staff, except as provided below:
 - (1) Any application involving preparation of an initial study, negative declaration or environmental impact report shall be referred to the Planning Commission for approval at a duly noticed public hearing.
 - (2) The Planning Director may also require that an historical alteration permit application be reviewed and approved by the Planning Commission, at his/her discretion.
- f. As part of the review process, the Planning Director or Planning Commission may impose conditions on a project to bring the proposed work into compliance with the Secretary of the Interior's standards.
- g. The Planning Director's or Planning Commission's decision to approve, conditionally approve or deny an historical alteration permit may be appealed in accordance with the provisions of this Article.
- h. Reconstruction of potentially significant historical resources and historical resources shall comply with the Secretary of the Interior's Standards and require an historical alteration permit as described above. If all of the conditions of reconstruction as defined in this Article and by the Standards for Reconstruction cannot be met, then reconstruction should not be undertaken until CEQA analysis is completed. Reconstruction, though not encouraged, may be a viable option.

SEC. 10-11.070 HISTORICAL RESOURCES DEMOLITION OR RELOCATION PERMIT PROCESS.

- a. It shall be unlawful for any person to tear down, demolish, remove or relocate an historical resource, a potentially significant historical resource, a designated historical resource, a resource that has been listed on the City's adopted survey list, or a resource that lies within an historic district, without first obtaining an historical resource demolition or relocation permit as outlined below. Neither the Planning Director nor the Building Official shall grant any permit to carry out such work without the prior approval of an historical resources demolition or relocation permit by the Planning Commission.

- b. If an historical resource demolition or relocation permit is required pursuant to Section 10-11.050, the following procedures will be followed in processing the permit application:
- (1) Applications for an historical resource demolition or relocation permit shall be submitted to the Planning Division for review and consideration by the Planning Commission. Applications shall be accompanied by materials as required by the Planning Director and reasonably necessary for the proper review of the project, including but not limited to information regarding the age and construction of a building or structure and building permit records.
 - (2) City staff will review applications for compliance with the Secretary of the Interior's Standards and may require that the applicant deposit funds for the City to retain the services of a qualified historic consultant, if necessary.
 - (3) Environmental review of an historical resource demolition or relocation permit application will be conducted as follows:
 - (i) If the proposed demolition or relocation is in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, the potential impact on historical resources shall be considered less than significant and the project exempt from CEQA, unless other factors are identified associated with the proposed project that could cause potentially significant environmental impacts.
 - (ii) If the proposed demolition or relocation is not in compliance with the Secretary of the Interior's Standards, then the project is not exempt and CEQA review will be required.
 - (4) Notice of public hearing for the Planning Commission's consideration of an historical resource demolition or relocation permit application shall be provided in the manner prescribed in Government Code Sections 65090 and 65091, or any successor statute thereto.
 - (5) The Planning Commission shall complete its review and shall render its decision after the conclusion of a public hearing on the application. In reviewing permits sought to wholly or partially relocate or demolish an historical resource, a potentially significant historical resource, or resources within an historical resource site or historic district, the Planning Commission may approve, conditionally approve or disapprove the issuance of the permit or permits. The Planning Commission may condition approval of the permit to bring the proposed work into compliance with the Secretary of the Interior's Standards.
 - (6) The Planning Commission's decision to approve or deny an historical resource demolition or relocation permit may be appealed to the City Council in accordance with the provisions of this Article.
 - (7) In the case of a proposal to relocate a designated historical structure listed on the National Register of Historic Places, the applicant must first obtain written approval from the Keeper of the National Register prior to relocation to ensure that the resource will retain its National Register status.
 - (8) In the case of a proposal to relocate a designated historical structure that is not listed on the National Register of Historic Places but is a locally designated historical resource, the Planning Director shall obtain sufficient information to ensure the new location substantially recreates the original

location in terms of siting, setback, ordinal orientation and all other features that marked the original location, in order to retain its local register status.

SEC. 10-11.080 HISTORICAL RESOURCES DESIGNATION CRITERIA. For the purposes of this Article, an object, building, structure, site, area, district, unique archaeological resource, place, record, or manuscript may be classified a designated historical resource and placed on the local register by the Planning Commission pursuant to Section 10-11.090, if the resource is determined through survey and documentation to be an "Historical Resource" as defined in this Article.

SEC. 10-11.090 HISTORICAL RESOURCES DESIGNATION PROCESS. Historical resources and historic districts shall be designated and placed on the local register by the Planning Commission in the following manner:

- a. The City of Hayward or any property owner may request the designation of an historical resource or a potentially significant historical resource or the designation of an historic district by submitting an application for such designation to the Planning Division. The Planning Director, Planning Commission or City Council may also initiate such proceedings on their own motion.
- b. The Planning Director will conduct a study of the proposed designation and make a preliminary determination based on such documentation as may be required, as to the appropriateness for designation. If the Planning Director determines the application merits consideration, the Planning Commission shall conduct a public hearing to consider designation of the historical resource or historic district.
- c. No building alteration, demolition or relocation permit for any improvement, building or structure proposed for designation or located within a historic district that is proposed for designation shall be issued while the application for designation, or any appeal related thereto, is pending.
- d. Notice of the date, place, time and purpose of public hearings to consider designation of historical resources and historic districts shall be given in the manner prescribed in Government Code Sections 65090 and 65091, or any successor statute thereto.
- e. At the conclusion of the public hearing for the designation of a proposed historical resource or historic district, the Planning Commission shall approve in whole or in part, or disapprove in whole or in part, the application for designation of the resource as an historical resource on the local register.
- f. The Planning Commission's decision to approve, conditionally approve or deny the formal designation of an historical resource or historic district may be appealed in accordance with the provisions of this Article.

SEC. 10-11.100 INCENTIVES FOR THE PRESERVATION OF DESIGNATED HISTORICAL RESOURCES.

- a. Nothing in this Article shall prevent the City Council from waiving or reducing any processing fees for permits or other procedures for an owner of a designated historical resource undertaking work on the resource. The Planning Director is

authorized to accelerate the processing of any required applications involving a designated historical resource.

- b. Nothing in this Article shall prevent the City of Hayward from establishing a funding program and guidelines for use by owners of a designated historical resource, as defined in this Article. Funding subsidies may be available for an owner undertaking work on an historical resource who is prevented by economic constraints from completing work in compliance with the Secretary of the Interior's Standards. The Planning Director may develop an application for requested subsidies. Evaluation criteria could include the significance of the historical resource, owner need and necessity for the work to be undertaken. All work undertaken shall meet the Secretary of the Interior's Standards for the Treatment of Historic Properties. Emergency measures to ensure the stability of a damaged designated historical resource shall be an allowable cost.
- c. Nothing in this Article shall prevent the City of Hayward from adopting the provisions of the Mills Act, adopted in 1972 by the State of California and amended in 1984, to allow an owner of a designated historical resource to have the property tax amount abated based on the provisions of the Act. The owner and the City shall enter into an agreement which defines the actions to be taken by the owner to ensure the restoration, protection and continued compatible use of the property.
- d. Nothing in this Article shall prevent the City of Hayward from adopting the provisions of the Marks Historical Rehabilitation Act. Under the provisions of this Act, the City of Hayward may issue tax-exempt revenue bonds for the purpose of financing the historical rehabilitation of buildings with significance to the City of Hayward, the State of California, or the United States.
- e. Nothing in this Article shall prevent the City of Hayward from participating in the development of an historic easement for a designated historical resource, including cultural/historic landscapes and all other historical resource types. The purpose of the easement is to protect the City's historical resources for the benefit of the community by allowing the owner to obtain a tax credit for the restoration, protection, or continued compatible use of the historical resource. The value of the revised deed restrictions may be held by the City or appropriate historical society or preservation organization with the expertise to oversee the enforcement of the easement for the current owner and any subsequent property owner.
- f. Historical resources and designated historical resources shall be eligible to use the California Historical Building Code, which can allow for alternate methods of meeting building code requirements.

SEC. 10-11.110 ADOPTED SURVEY LIST. Historical resources may be placed on the adopted survey list by the City Council in the following manner:

- a. The City of Hayward or any property owner may request the inclusion of an historical resource or potentially significant historical resource on the adopted survey list by submitting an application to the Planning Director. The Planning Commission or City Council may also initiate such proceedings on their own motion.

- b. The Planning Director will conduct a study of the proposed application and make a preliminary determination, based on such documentation as may be required, as to the appropriateness of the resource for inclusion on the adopted survey list and shall forward such analysis and recommendation to the Planning Commission and City Council for consideration at a public hearing.
- c. No alteration, demolition or relocation permits shall be issued for the subject resource while an application to include the resource on the adopted survey list, or any appeal related thereto, is pending.
- d. Notice of the date, place, time and purpose of public hearings to consider inclusion of resources onto the adopted survey list shall be given in the manner prescribed in Government Code Sections 65090 and 65091, or any successor statute thereto.

SEC. 10-11.120 APPEALS.

- a. The following actions by the Planning Commission may be appealed by an interested party to the City Council:
 - (1) A determination that an object, site or structure be placed on the local register as a designated historical resource or historic district or not be placed on the local register as a designated historical resource or historic district;
 - (2) A determination that an object site or structure be placed on the adopted survey list or not placed on the adopted survey list;
 - (3) The Planning Commission's decision to approve, conditionally approve or deny an historic alteration permit, an historical resource demolition permit or an historical resource relocation permit; and
 - (4) Any item acted on by the Planning Commission on appeal or referral from the Planning Director.
- b. The following actions by the Planning Director may be appealed by an interested party to the Planning Commission:
 - (1) The Director's decision to approve, conditionally approve or deny an historic alteration permit for a potentially historical resource or an historical resource or site.
- c. In the event that the applicant, any interested person or any member of the City Council is aggrieved by a decision of the Planning Commission or Planning Director, the aggrieved party may, within ten days of an action by the Planning Commission or fifteen days of an action by the Planning Director, appeal in writing to the appropriate body as outlined above. Notice of appeal shall be in the manner prescribed in Section 10-1.2820 of the City's Zoning Ordinance. The appellate body may affirm, modify or reverse the original decision. Action by the appellate body shall be final, unless there is a further appeal to the City Council, in which case, the City Council action shall be final.

SEC. 10-11.130 ORDINARY MAINTENANCE AND REPAIR. Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature, or interior feature identified as a resource, in or on any property covered by this Article that does not involve a change in design, material or external appearance thereof; nor does this Article

prevent the construction, reconstruction, alteration, restoration, demolition or relocation of any such feature when the Building Official certifies to the Planning Director that such action is required for the public safety due to an unsafe or dangerous condition which cannot be rectified through the use of the California Historical Building Code.

SEC. 10-11.140 DUTY TO KEEP IN GOOD REPAIR. The owner, occupant or other person in actual charge of a historical resource, or an improvement, building or structure in an historic district shall keep in good repair all of the exterior portions of such improvement, building or structure as necessary to prevent deterioration and decay of any exterior architectural feature.

SEC. 10-11.150 CONDITIONS OF APPROVAL FOR DEVELOPMENT PROJECTS LOCATED WITHIN ARCHAEOLOGICALLY SENSITIVE AREAS, AND/OR WITHIN OR ADJACENT TO KNOWN ARCHAEOLOGICAL SITES. Proposals for the development or redevelopment of a site identified as archaeologically sensitive by any archaeological sensitivity map adopted by the City shall be subject to the following review process and conditions of project approval:

- a. City staff will consult with the Northwest Information Center for information about whether the project is located within or adjacent to a known archaeological site, and if it is determined that it is so located, then a historical alteration permit shall be required for the project. CEQA review of the project shall consider potentially significant impacts on archaeological resources and identify appropriate mitigation measures to be imposed as conditions of approval, in addition to the conditions identified below.
- b. If the project is not located within or adjacent to a known archaeological site, then the project applicant has the option to either have an archaeological survey be completed for the site to determine what, if any, conditions of approval will be required as mitigation measures or agree to comply with the following conditions of approval, which shall be conclusively deemed to reduce potentially significant impacts on archaeological resources to a less-than-significant level. No archaeological resources report is required as part of any CEQA review of the project, provided the applicant accepts the following conditions and incorporates them into the project:
 - (1) An archaeologist shall be present on-site to monitor all ground-disturbing activities. Where historical or archaeological artifacts are found, work in areas where remains or artifacts are found will be restricted or stopped until proper protocols are met, as described below:
 - (i) Work at the location of the find will halt immediately within thirty feet of the find. If an archaeologist is not present at the time of the discovery, the applicant shall contact an archaeologist for evaluation of the find to determine whether it qualifies as a unique archaeological resource as defined hereinabove.
 - (ii) If the find is determined not to be a unique archaeological resource, construction can continue. The archaeologist will prepare a brief informal memorandum/letter that describes and assesses the significance of the resource, including a discussion of the methods used to determine significance for the find.

- (iii) If the find appears to be significant and to qualify as a unique archaeological resource, the archaeologist will determine if the resource can be avoided and will detail avoidance procedures in a formal memorandum/letter.
 - (iv) If the resource cannot be avoided, the archaeologist shall develop an action plan to avoid or minimize impacts. The field crew shall not proceed until the action plan is approved by the Planning Director. The action plan shall be in conformance with California Public Resources Code 21083.2.
- (2) In addition to the conditions listed above, all development projects located within an archaeological sensitivity area and/or containing known archaeological resources on-site shall also be subject to the following measures as conditions of project approval:
- (i) This project may adversely impact undocumented human remains or result in the discovery of significant historic or archaeological materials. The following policies and procedures for treatment and disposition of inadvertently discovered human remains or archaeological materials shall apply.
 - a. If human remains are encountered, they shall be treated with dignity and respect as due to them. Information about such a discovery shall be held in confidence by all project personnel and shared only on a need-to-know basis. The rights of Native Americans to practice ceremonial observances on sites, in labs and around artifacts shall be upheld.
 - b. Remains shall not be held by human hands. Surgical gloves shall be worn if remains need to be handled.
 - c. Surgical masks shall also be worn to minimize exposure to pathogens that may be associated with the remains.
 - (ii) In the event that known or suspected Native American remains are encountered or significant historic or archaeological materials are discovered, ground-disturbing activities shall be immediately stopped. Examples of significant historic or archaeological materials include, but are not limited to, concentrations of historic artifacts (e.g., bottles, ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, groundstone mortars and pestles), culturally altered ash-stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials and historic structure remains, such as stone-lined building foundations, wells or privy pits. Ground-disturbing project activities may continue in other areas that are outside the exclusion zone as defined below.
 - (iii) An "exclusion zone" where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area, plus a reasonable buffer zone, by the contractor foreman or authorized representative, or party who made the discovery and initiated these protocols, or if on site at the time of discovery, by the monitoring archaeologist (typically 25 to 50 feet for single burial or archaeological find).

- (iv) The exclusion zone shall be secured (e.g., 24-hour surveillance) as directed by City or Alameda County representatives, if considered prudent to avoid further disturbances.
- (v) The contractor foreman or authorized representative, or party who made the discovery and initiated these protocols shall be responsible for immediately contacting by telephone the parties listed below to report the find and initiate the consultation process for treatment and disposition:
 - a. The City of Hayward Planning Director;
 - b. The contractor's point(s) of contact;
 - c. The Coroner of the County of Alameda (if human remains found);
 - d. The Native American Heritage Commission (NAHC) in Sacramento; and
 - e. The Yrgin band of Ohlones.
- (vi) The Coroner shall examine the remains after being notified of the discovery. If the remains are Native American, the Coroner shall notify the NAHC within 24 hours.
- (vii) The NAHC shall be responsible for identifying and immediately notifying the Most Likely Descendant (MLD) from the Yrgin band of Ohlones. (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.)
- (viii) Within 24 hours of notification by the NAHC, the MLD will be granted permission to inspect the discovery site.
- (ix) Within 24 hours of notification by the NAHC, the MLD may recommend to the City's Planning Director the recommended means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items associated with Native American burials. Only those osteological analyses or DNA analyses recommended by the Amah Mutsun Tribal Band may be considered and carried out.
- (x) If the MLD recommendation is rejected by the City, the parties shall attempt to mediate the disagreement with the NAHC. If mediation fails then the remains and all associated grave offerings shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.

SEC. 10-11.160 ENFORCEMENT; ADMINISTRATIVE CITATIONS.

- a. The City Manager, or his or her designee, shall have the authority to enforce the provisions of this Article.
- b. Any person who violates a provision of this Article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. In addition to all other remedies or penalties provided by law, a violation of any of the sections contained in this Article is punishable by administrative penalties as set forth in Chapter 1, Article 7 of the Hayward Municipal Code. Any

person subject to administrative penalties pursuant to this Article shall have the right to request an administrative hearing in accordance with Hayward Municipal Code 1-7.07 through 1-7.10, inclusive. The administrative penalties imposed by this Article do not preclude other potential civil actions or criminal prosecution under any other provision of law

- c. In addition to any of the foregoing remedies, the City Attorney may maintain an action for injunctive relief to restrain or enjoin or to cause correction or removal of any violation of this Article.
- d. Any person who demolishes, alters, relocates or constructs a building or structure in violation of this Article shall be required to restore the building or structure and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the City Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.



1105 C St



1325 B st.jpg



199 C St.jpg



210800 Hesperian



22248 Main



22701 Main



22738 Mission



24072 Myrtle



24077 Second



27355 Hesperian



714 B St



944 B St



1004 B St



1019 B St



1037 B Street



1044 C St



1058 B St



1077 A St



22519 Main St



22561 Main St



22564 Mission



22632 Main St



22641 Main St



22642 Mission



22701 Main Street



22737 Main St



22777 Main St



22877 Mission



722 B St



742 B St



808B St



822 C St



951 C St



954 B St



22640 SIXTH STREET

DATE: October 11, 2011
TO: Mayor and City Council
FROM: Director of Finance
SUBJECT: General Fund Ten-Year Financial Plan Update

RECOMMENATION

That the City Council reviews and comments on the General Fund Ten-Year Plan Update.

SUMMARY

The General Fund Ten-Year Plan provides the framework for the City's budget planning and decision-making. Following a September 28, 2011 meeting with the Council Budget & Finance Committee, staff is providing City Council with an overview of the City's General Fund Ten-Year Plan. As reflected in this update, even with the last round of budget reductions and labor concessions (both one-time and recurring), the City continues to face a significant structural deficit in the General Fund. The deficit is largely due to revenue losses from the ongoing economic downturn, increased employee services costs, and deferred capital and maintenance needs (fleet, facilities, public safety, and technology).

DISCUSSION

The 2007-2009 recession was the most severe downturn since the Great Depression, mainly precipitated by the implosion of the housing markets in California and throughout the nation. The resultant deterioration of the economy has had far-reaching effects on local governments, and recovery is very slow.

The National League of Cities recently released its *City Fiscal Conditions Report*, which details how, across the nation, city revenues continue to decline – driven by depressed property values, unemployment and low consumer confidence. The report focused on the reductions taken by cities, which include staffing/compensation and program reductions, as well as deferral of critical infrastructure projects. Current consensus is that the state and national economies will realize a very slow recovery – and there continues the threat of a second recession. Hayward's revenue projections demonstrate this slow level of recovery.

The City of Hayward utilizes long-term financial planning to navigate through its fiscal challenges. Critical tools such as the General Fund Ten-Year Plan provide the framework for sound fiscal planning and decision-making, as well as the foundation for discussions with bargaining units to ensure maintenance of core services and the prudent use of reserves.

This report provides City Council with:

1. An update to the General Fund Ten-Year Plan, reflecting revised revenue and expenditure projections; and
2. An overview of the major contributing factors to the on-going General Fund deficit, which establishes the framework for the General Fund projections.

General Fund Ten-Year Plan Update:

Staff continues to refine projections to reflect current data. With early, preliminary FY 2011 year-end numbers available for review, as well as additional information from the County Assessor-Auditor Controller and the City's sales tax consultant (MuniServices), staff has modified some revenue projections. The plan also updates several expense categories, based on revised program needs and benefit costs. The Finance Department partners with the Human Resources Department and other City departments to form a General Fund Ten-Year Plan Team that formulates the plan assumptions.

The General Fund Deficit

The City has been grappling with its structural deficit for several years. When Council adopted the FY 2012 Budget in June 2011, it closed a \$20.6 million projected gap through \$16.4 million in expenditures reductions (some recurring, some one-time) and the adopted use of the General Fund Reserve of \$4.2 million. Unfortunately, since some reductions were one-time in nature (i.e., not structural), and the City continues to face slow growth in revenues and increasing costs, the structural deficit remains and is growing.

General Fund Ten-Year Plan

Table 1 represents the first five years (FY 2011 through FY 2016) and the last year (FY 2021) of the Ten-Year Plan. This summary chart also provides a preliminary, initial first glimpse of the FY 2011 unaudited actuals, which will be further refined as the City completes its annual audit and Comprehensive Annual Financial Report (CAFR). The CAFR is scheduled to be presented to City Council on December 20, 2011. Staff anticipates that these preliminary numbers will change as the audit is finalized. Attachment 1 provides a more detailed summary of the Ten-Year Plan – and also provides a line-item summary of the balancing measures employed to balance the FY 2012 projected \$20.6 million deficit.

The plan still reflects a significant structural General Fund gap of \$14.2 million in FY 2013 that grows to \$18.4 million in FY 2014 if no balancing measures are implemented. The revised FY 2013 projection is \$1.5 million lower than the \$15.7 million deficit represented in the Ten-Year Plan that was last presented to the Council Budget & Finance Committee on July 27, 2011, due to \$801,000 in reduced expenditures and \$780,000 in increased resource projections.

Table 1

General Fund Summary <i>(in 1,000's)</i>	A	B	C	D	E	F	G
	FY 2011 Preliminary	FY 2012 Adopted	FY 2013 Forecast	FY 2014 Forecast	FY 2015 Forecast	FY 2016 Forecast	FY 2021 Forecast
Beginning Fund Balance	36,802	35,024	28,511	14,328	(4,082)	(24,406)	(202,943)
Total Resources	132,035	117,740	118,716	121,791	123,456	125,700	115,922
Total Outlays	132,229	121,952	132,899	140,201	143,780	149,195	177,668
Annual Surplus/(Shortfall)	(194)	(4,212)	(14,183)	(18,410)	(20,324)	(23,495)	(61,746)
Use of the Reserve	(194)	(4,212)					
Net Annual Surplus/(Shortfall)	-	-	(14,183)	(18,410)	(20,324)	(23,495)	(61,746)
Fund Balance Adjustments*	(8,096)						
Ending Fund Balance	28,512	30,812	14,328	(4,082)	(24,406)	(47,901)	(264,689)

* FY 2011 backs out \$8.096M in illiquid reserves to represent the available cash balance.

However, beyond FY 2013, the on-going structural gap widens as a result of: (1) slow growing revenues due to a very sluggish economic recovery, (2) increasing employee costs (not all employee concessions were recurring), (3) the loss of funding from a federal Citizens Oriented Policing (COPS) grant, (4) commencement of funding of retiree healthcare, and (5) the funding of critical deferred capital and maintenance needs.

FY 2011 Unaudited “Preliminary” Actuals & Use of Reserves:

A key element of the Ten-Year Plan is the continued review of expenditure and revenue trends based on prior-year actuals. Although the City’s external auditor has not yet finalized the FY 2011 actuals, we do have preliminary numbers to help guide projections^A. When City Council adopted the FY 2011 budget, the final budget projected a \$2.16 million deficit and assumed a like use of General Fund Reserves to close the gap, even after implementing considerable expenditure reductions. The FY 2011 Mid-Year Update refined these projections and reduced the deficit projection to \$1.7 million. With the continued tightening of expenditure controls, and a slightly higher-than-expected overall revenue performance, preliminary estimates indicate a \$200,000 year-end deficit. As audited FY 2011 actuals are confirmed, this year-end projection will change.

While this is a positive step to closing the budget gap, it does not yet represent a structurally-balanced budget. It is staff’s goal during this budget process to develop and recommend a strategy designed to correct the structural budget deficit for the long-term fiscal health of the City.

General Fund Reserve

The General Fund Reserve is an essential component of the City’s overall fiscal health, providing flexibility to smooth the impacts of economic swings, buffer the loss of state and federal revenues, and sustain the City in the event of a catastrophic natural disaster. Accounting for the preliminary estimated FY 2011 use of the reserve, the revised liquid (cash) reserve projection is about \$28.5 million. Staff’s ultimate goal in the future is to recommend a balanced budget without the need to use any one-time funds from the City’s Reserve.

Table 2

^A FY2011 actuals are preliminary and will change as the audit is finalized and all appropriate journal entries are completed.

General Fund Reserve (as of 6/30/2011)	FY 2011 Unaudited Ending Balance
Illiquid Fund Balance <i>in \$1,000's</i>	
RDA loan	7,725
encumbrances	256
inventory	15
prepaid expense	19
Other Fund Balance Adjustment	81
Sub-Total Illiquid Fund Balance	8,096
Liquid Fund Balance <i>in \$1,000's</i>	
Economic Uncertainty	11,498
Liquidity	5,749
Retirement Reserve	-
Police Staff (ARRA COPS grant)	1,000
Contingencies	5,572
Emergencies	3,000
Hotel Conference Center	190
Change to Reserves*	1,503
Sub-Total Liquid Fund Balance	28,512

*reflects reduction in the adopted use of the reserve for FY 2011

The Reserve is comprised of both liquid and illiquid funds (illiquid funds are largely comprised of a \$7.7 million loan to the Redevelopment Agency). Table 2 summarizes the current composition of the Reserve. Staff will be working with the Council Budget & Finance Committee to conform to the new fund balance requirements of Government Accounting Standards Board Statement 54 (GASB 54) related to how the City reports and defines its reserves.

The Ten-Year Plan has been including illiquid reserves in its ending fund balance calculation. Although this is technically correct, a truer representation of the tangible assets available to Council would be *cash* ending fund balance. To accomplish this, the plan backs out \$8.1 million in illiquid reserves in the FY 2011 Preliminary column (Table 1) in order to present a cash fund balance of \$28.5 million.

Updated FY 2013 Revenue Forecast:

FY 2013 total resource projections are increased by about \$781,000 from the FY 2013 projections included in the July Ten-Year Plan Update.

FY 2013 Projections (in 1,000's)	FY 2013 (7/27/11)	FY 2013 (9/28/11)	Difference
Program Revenue	112,374	113,734	1,360
Transfers In	5,659	5,080	(579)
Total Resources	\$ 118,033	\$ 118,814	\$ 781

While program revenues increased by \$1.36 million due to adjusted sales tax projections, transfers were decreased by \$579,000. This reduction was due to the transfer of General Fund maintenance costs to the Gas Tax in the FY2012 budget – and an offset reduction in the transfer from the Gas Tax to the General Fund.

Revenue projections for FY 2013 and beyond for all revenue categories represent conservative growth (1% - 2.5%). Below is a summary of some of the key revenue assumptions.

- **Property Tax** – The City received the Assessed Valuation Certificate from the County Auditor Controller in August 2011, which indicated a reduction of overall assessed valuation

to secured property of .25% for FY 2012. FY 2013 growth assumptions reflect this reduction in valuation, with a resultant decrease to overall Property Tax revenues. The FY 2013 projection includes assumed reductions to secured and unsecured property tax revenues, offset by an assumed increase in Airport-related property tax revenues due to an increase of activity at the airport. Staff is hopeful that this represents the “bottom” of the market decline, and out-year projections show modest growth. However, there is no agreement among financial industry “experts,” the housing industry, or economists as to how long the bottom may continue before the “modest” growth begins. FY 2014 assumes increased tax revenue from the completion of the CalPine facility.

- Sales Tax – For FY 2013, staff estimates sales tax revenue to increase 2.2% over the preliminary FY 2011 actuals. This modest growth reflects the most recent Sales Tax analysis completed by the City’s sales tax consultant, MuniServices, and indicates relatively slow growth for Hayward compared to the Alameda countywide average. The most recent four quarters for Hayward of net cash receipts (October 2010-September 2011) actually indicate a .2% decline (compared to a countywide average growth of 7%).

A number of factors contribute to this statistic, but a significant contributor is the reduction in Hayward’s miscellaneous vehicle sales and the impact Gillig Corporation has on the City’s revenues due to its fluctuating manufacturing levels. The FY 2011 Mid-Year projections assumed \$25.3 million in sales tax revenues – with preliminary actuals at about \$25.5 million. Out-year projections assume a very mild economic recovery, with annual growth of 1% - 2%.

Although the Hayward sales tax base is diverse, a variety of factors will likely have a significant long-term impact on future retail sales:

- closure of several auto dealers (and drop in car sales)
 - closures of the Mervyns’ headquarters on Foothill Boulevard and the 100,000 square foot store at Southland Mall as well as the closure of Circuit City
 - paralysis in the construction industry, which negatively affects the business-to-business sales tax – one of the City’s largest sales tax generating categories.
 - low consumer confidence combined with increasing unemployment
 - closure and threat of closure of many other retailers, many of which relied on business-to-business sales from Nummi and other manufacturers
- Utility Users Tax (UUT) – FY 2010 was the first year the City received UUT because Hayward voters approved Measure A in May 2009 and the Ordinance provided for revenue collection to begin in October 2009. FY 2011 is the first full twelve-month period for this revenue source. The infusion of this new revenue is a critical element in closing the City’s structural budget gap. The Ten-Year Plan reflects the assumed sunset of this revenue in FY 2020.

The FY 2013 projections are modified to reflect the level of revenues received in FY 2011 of \$14.7 million (about \$200,000 over revised projections), with a modest 2.5% growth over the FY 2012 adopted projection of \$14.8 million.

- Intergovernmental – There are two primary changes in this revenue category. The first is the loss of the State Vehicle License Fee (VLF) revenue effective FY 2012. As the 2012 Fiscal Year approached, the Governor signed SB89, which shifted hundreds of millions of Vehicle License Fee revenues to fund state law enforcement grants beginning in FY 2012. While the City will see some funding restored in law enforcement grant funding – this is a direct loss to

the City's General Fund. The City received \$695,000 in VLF funding in FY 2011. Anticipating the possible loss of some VLF revenue, the City budgeted \$278,000 in FY 2012 – which limits the actual budgeted loss for FY 2012. This revenue is zeroed out effective FY 2012.

The second change is the conclusion of the federal ARRA COPS grants effective FY 2013 totaling about \$1 million. This grant funds nine police officer positions. The grant requires that the City continue to fund these positions one year following the conclusion of the grant (FY 2014) – and \$1 million in funding toward this requirement is designated in the liquid reserve (see Table 2).

- Fines & Forfeitures – FY 2011 preliminary actuals show a slight increase in revenues attributed to the Red Light Camera Program (up by \$200,000 from FY 2011 Adjusted). However, the Ten-Year Plan conservatively assumes that this level of revenue will not continue and will level off. Therefore, FY 2013 projections are very similar to the original FY 2011 Adjusted projections.

Revised FY 2013 Expenditure Projections:

The revised Ten-Year Plan projects total outlays for FY 2013 of about \$132.9 million. This represents an \$801,000 reduction from what was previously provided as part of the Budget & Finance Committee presentation in July. The FY 2013 projections assume all contractually obligated adjustments and reflect recurring and/or structural labor concessions agreed to as part of the FY 2012 budget.

FY 2013 Projections (in 1,000's)	FY 2013	FY 2013	Difference
	(7/27/11)	(9/28/11)	
Program Expenditures	124,504	124,118	(386)
Transfers Out	6,896	6,971	75
Unfunded Expenses	2,300	1,810	(490)
Total Outlays	\$ 133,700	\$ 132,899	\$ (801)

Some notable expenditure adjustments include:

- CalPERS Rates – We see a slight reduction in projected retirement costs effective FY 2013 due to revised CalPERS rates received from both the City's CalPERS actuary and the City's third party actuary, John Bartel. This resulted in a savings across all plans of about \$300,000 over original projections. However, the reduction in rates, a direct result of the CalPERS smoothing methodology, actually results in an increase over the longer term of the City's unfunded retirement cost liability. Ultimately, the City will need to address this growing liability.
- Medical Benefits: Based on revised costing information, the City has reduced the medical premium costs for FY 2013 only – assuming a growth of 9% instead of 10% (savings of about \$90,000 in FY 2013). Staff is recommending this reduction after completing a ten-year trend analysis of medical rates. However, given current health trends and indicators, staff projects health care costs to grow in double digit figures from FY 2013 and on.
- Unfunded Capital Improvement Needs – We have refined projections with regard to the City's vehicle replacement and maintenance needs and have lowered projections for FY 2013. Funding projections for FY 2013 originally included debt service for a lease-purchase

of fleet vehicles (approximately \$490,000). Since the plan now includes funding to move to cash purchases through an internal service fund, this allocation is no longer required.

Major Contributing Factors to the On-going Deficit:

Operating Expense Assumption Changes

1. Employee Contracts – For modeling purposes, a two-percent growth factor is applied to wages beginning in FY 2014, except for those groups where data is available from existing contract agreements. The reason for this modest compensation escalator, tied to an average Consumer Price Index growth, is based on the fact that labor market conditions continue to remain relatively flat. In addition, the market is also shifting in regards to certain professional and technical areas, forcing the City to adjust salaries and compensation during recruitment in order to remain competitive. Finally, the labor concessions (and lack of concessions) over the last few years have created pressing salary compaction issues between position classes that will need to be addressed in the near future.

All known information as it relates to labor agreements was included in FY 2013 and FY 2014 projections, specifically contractually obligated salary increases and the most current CalPERS rate estimates. All employee groups, with the exception of the Fire Department, are contractually due either a Cost of Living Adjustment or market rate increase in FY 2013. Most non-public safety bargaining unit contracts expire during calendar year 2013. The contract expiration of the Police, Police Management and Fire bargaining unit contracts occurs in 2015. Staff continues to conduct a thorough Citywide total compensation market comparison to assess competitiveness in the marketplace, anticipated inflation, and the impacts it will have on wages, as well as the impact of continued possible concessions, opening labor contracts, and the City's ability to fund future wage and benefit increases.

2. Retirement Expense – Future pension costs have generally escalated due to: 1) the substantial investment market losses experienced by CalPERS in FY 2008; 2) new actuarial studies that change demographic assumptions such as longer length of life; and 3) reductions in the City's payroll. Rates significantly increased in FY 2012, and even with improved CalPERS investment returns in the last two fiscal years, the best case scenario will be a minimal, annual growth in rates over the next ten years.

Additional Unfunded Needs Contributing to the On-Going Deficit

1. OPEB Liability - The Other Post-Employment Benefits (OPEB) thirty-year unfunded actuarial liability for retiree healthcare is estimated at \$68.4 million as of June 30, 2011. This is an increase of \$4 million from 2010. Best practices and projections from the City's last actuarial study for retiree medical costs indicate that the City should contribute an annual amount of about nine percent of payroll to fund this liability. It is important to note that current assumptions do not implement the recommended actuarial funding until FY 2015. This delay in funding effectively grows the City's unfunded liability and delays our ability to reach the full actuarial Annual Required Contribution (ARC), until FY 2021 (Table 3).

Even with these funding assumptions, the City will remain significantly underfunded in ten years without structural change to retiree health benefits, and the unfunded liability will continue to grow if new employees enter the plan under the current structure.

Table 3 – Ten-Year Plan OPEB Funding Assumptions

All \$ in Thousands	OPEB Forecast Contributions
FY 2015	\$ 743
FY 2016	\$ 1,515
FY 2017	\$ 2,318
FY 2018	\$ 3,153
FY 2019	\$ 4,824
FY 2020	\$ 6,560
FY 2021	\$ 6,691
Total Forecasted Contribution	\$ 25,804

2. **Worker’s Compensation Liability** –The City has a comprehensive self-funded Worker’s Compensation program. As a self-funded program, the City is responsible for direct costs of wage replacement and medical benefits for employees who are injured in the course of employment. This is different than a fully insured program in that being fully insured, the City would pay monthly premiums based on utilization and the risk associated with large claims is somewhat mitigated.

As a result of being self-funded, there is a continued unfunded liability for the City’s Worker’s Compensation Fund. Actuarial recommendations indicate the reserve balance should be 70% of the estimated future liability. The concepts of this fund are similar to the other future benefit obligations. Currently, the City operates in a “pay as you go” framework as it relates to funding injuries of current employees and on-going claims of past employees and retirees. In order to build the current reserve balance to the 70% standard, an annual contribution of \$310,000 is recommended, allowing the City to achieve the 70% goal in about ten years. The assumptions have not changed from the last update and funding of this program began in FY 2012. Staff is in the process of conducting an overall programmatic assessment of this large cost center and continuous improvement efforts are underway, including refinement of recommendations as it relates to on-going funding and risk management.

Critical Unfunded Needs

1. **Fire Station 7 Replacement** – Replacement of the temporary facility continues to be a top priority as a critical infrastructure liability for the City. Currently, the estimated expense for this facility is \$6.7 million, which would be financed over twenty – thirty years. There are still options that may lower the overall expense and more comprehensive financing options need to be explored. Staff is also reviewing the estimated cost for the project. Until these are examined in October, the original assumption has remained unchanged.
2. **ERP System** – The FY 2012 Adopted Budget includes \$1 million in funding for the new ERP system. While the City is still in the evaluation phase of the Request for Proposals process, our initial project estimates indicate total funding required in between \$4 million - \$6 million, with hopes the final cost will fall on the lower end of the spectrum. Currently, the model does not reflect additional appropriations for the implementation phases of the ERP.

Unfunded Capital Needs

In addition to the operational expenditures, additional liabilities, and critical unfunded needs, there is a laundry list of unfunded capital needs throughout the City, in which the General Fund portion is estimated at \$10.5 million over a ten-year period. This does not include the \$100-\$150 million necessary for major facility replacements, which costs are not reflected in the Ten-Year Plan.

Unfunded capital needs include:

1. Fleet – The City vehicle fleet program has been underfunded and therefore regular replacements of vehicles have been delayed. Due to the lack of funding, only the most critical vehicles have been replaced via financing through long-term capital leases, which add significant financing costs and increase the City’s short-term debt. The Ten-Year Plan assumes the City will move toward establishing an internal service fund for vehicle replacement and return to paying cash for future replacements – a far less expensive method of procurement for regular fleet purchases.
2. Public Safety – The public safety unfunded needs total \$3.2 million over the Ten-Year period. Included in this list of unfunded needs are the replacement of fire breathing apparatus, all police and fire interoperability emergency radio equipment, and related infrastructure. It is noted that full participation in the East Bay Regional Communications System Authority (EBRCSA) for regional communications interoperability is not reflected in this total. As reported to Council, this could be in the neighborhood of about \$3 million in one-time costs and a recurring annual cost of about \$300,000.
3. Technology Services – The Ten-Year Plan includes funding for minimum upgrades to desktop computers and software. Included in this list of unfunded needs are replacement of public safety mobile data units, system-wide network servers, specialized printers, Council Chambers and other audio visual equipment, and the VOIP phone system.
4. Major Facility Replacements – In addition to the above stated needs, there are several City facilities that require replacement including the main library, police facility, and animal control facility. The cost for replacement of these major facilities is estimated to be between \$100 and \$150 million. In addition, almost all fire stations are in need of rehabilitation and upgrade. These costs are not included in the Ten-Year Plan. The City would most likely need to seek voter approval of a facilities bond to fund some or all of these major projects, and the direct cost to the General Fund would be minimal if the bond is passed.

NEXT STEPS

The budget process has begun earlier than normal for the FY 2013 and FY 2014 budget cycle – with the informal kickoff being the September 28, 2011 Council Budget & Finance Committee meeting. Specific to the Ten-Year Plan, there will be one additional scheduled update (after this update) during the course of FY 2012, as part of the Mid-Year Budget review on February 7, 2012. At that time, staff will have final CalPERS rates and the CAFR/audit will be complete, thus allowing the plan to be updated with final audited numbers for FY 2011 and reasonable mid-year projections for FY 2012. These mid-year numbers will be used as the basis for preparing the biennial budget for FY 2013 and FY 2014.

The internal Budget Team, as well as the City’s Executive Team, will continue to work with the Ten-Year Plan Team to identify balancing options to close the projected two-year budget deficit. As displayed in the FY 2013 & FY 2014 Budget Calendar (Attachment 2), staff will be engaging

City Council and the City Budget & Finance Committee in continued budget discussions over the next nine months. In addition, we will participate in a collaborative and transparent process with City labor unions, City employees, and Hayward residents throughout the budget process.

Prepared and recommended by: Tracy Vesely, Director of Finance

Approved by:



Fran David, City Manager

Attachments:

Attachment I – General Fund Ten-Year Plan Detail Summary

Attachment II – Draft FY 2013 & FY 2014 Budget Calendar

Attachment I

General Fund 10-Year Plan Summary

	A	B	C	D	E	F	G	H	I	J
\$'s in 1000's	Mid Year Adjusted FY 2011	Year End Preliminary FY 2011	Adopted FY 2012	F - Yr 2 Forecast FY 2013	F - Yr 3 Forecast FY 2014	F - Yr 4 Forecast FY 2015	F - Yr 5 Forecast FY 2016	F - Yr 10 Forecast FY 2021	FY 2012 March Forecast	FY 2012 Balancing Measures
Beginning Fund Balance ¹	36,802	36,802	35,024	25,627	11,444	(7,006)	(27,330)	(205,867)		
Resources										
Property Tax	36,261	35,708	36,654	35,977	37,168	37,574	38,323	40,598	36,654	(0)
Sales Tax	25,258	25,492	23,647	26,059	26,581	27,112	27,654	30,234	23,647	0
UUT	14,510	14,700	14,800	15,170	15,625	16,094	16,577	0	14,800	0
Franchise Fees	8,750	9,091	9,126	9,429	9,664	9,112	8,532	7,463	8,960	165
Other Taxes	5,370	5,342	5,370	5,477	5,813	5,902	6,213	6,716	5,370	0
Real Property Transfer Tax	3,423	3,821	3,491	3,672	3,745	3,858	3,974	3,806	3,491	0
Charge for Services	7,578	8,850	7,927	8,072	8,219	8,433	8,711	9,405	7,718	209
Other Revenue	3,826	3,483	3,693	3,816	3,944	4,079	4,221	5,044	3,692	1
Intergovernmental	4,082	4,973	4,490	3,149	3,163	3,178	3,194	3,278	4,150	340
Fines and Forfeitures	2,331	2,793	2,410	2,421	2,431	2,442	2,453	2,509	2,455	(45)
Interest and Rents	570	518	526	395	161	0	0	0	526	(0)
Total Revenue	111,958	114,771	112,134	113,637	116,515	117,785	119,852	109,052	111,463	670
Transfers in	7,746	17,264	5,606	5,080	5,237	5,671	5,848	6,870	6,233	(627)
Total Resources	119,704	132,035	117,740	118,716	121,751	123,456	125,700	115,922	117,696	44
Outlays										
Salary	101,575	63,431	62,972	65,700	68,243	69,607	70,999	78,385	68,279	(5,307)
<i>Overtime</i>	6,632	4,378	3,811	5,424	5,532	5,643	5,756	6,355	5,370	(1,559)
<i>Overtime - Police</i>	3,817	-	1,572	2,564	2,615	2,667	2,721	3,004	2,538	(966)
<i>Overtime - Fire</i>	2,637	-	2,105	2,524	2,575	2,626	2,679	2,958	2,499	(395)
<i>Overtime - Misc</i>	179	-	135	335	342	349	356	393	332	(198)
<i>Future Headcount Expense/(Savings)</i>		0	0	0	0	0	0	0	(5,167)	5,167
<i>Vacancy Savings</i>	(3,387)	-	(1,303)	0	0	0	0	0	-	(1,303)
<i>Medical Benefits</i>		8,211	8,911	9,713	10,684	11,753	12,928	20,820	9,494	(583)
<i>Retiree Medical</i>		2,141	2,560	2,659	2,763	2,871	2,985	3,632	2,832	(272)
<i>Other Benefits</i>		7,511	7,473	7,814	8,078	8,283	8,443	9,271	8,216	(743)
<i>PERS</i>		16,081	18,447	20,230	22,261	23,007	23,729	26,553	21,917	(3,470)
<i>Charges to Other Funds</i>	(4,924)	(5,047)	(5,021)	(5,146)	(5,249)	(5,354)	(5,461)	(6,030)	(5,167)	146
<i>Furlough Savings</i>	(4,004)	-	(1,617)	0	0	0	0	0	-	(1,617)
Net Staffing Expense	95,892	96,706	96,232	106,393	112,311	115,810	119,377	138,988	110,941	(14,708)
Maintenance & Utilities	2,239	1,932	1,017	1,038	1,058	1,080	1,101	1,216	2,231	(1,214)
Supplies & Services	7,085	6,511	7,080	7,222	7,367	7,514	7,664	8,462	6,770	310
Internal Service Fees	9,720	9,721	9,280	9,465	9,655	9,848	10,045	11,090	9,431	(151)
Capital	45	53	14	-	-	-	-	-	14	(0)
Net Operating Expense	19,089	18,216	17,391	17,725	18,080	18,441	18,810	20,768	18,446	(1,055)
Total Expenditure	114,981	114,922	113,624	124,118	130,391	134,251	138,187	159,756	129,387	(15,763)
Transfers out	6,420	6,420	8,329	6,971	7,627	7,301	7,814	9,681	6,175	2,154
Additional Personnel Liabilities		-	-	310	310	310	310	310	310	(310)
Future OPEB Obligation		-	-	-	-	743	1,515	6,691		
RDA Non-liquid Assets		10,438	-	-	-	-	-	-		
Year End Accruals		450	-	-	-	-	-	-		
Critical Unfunded Needs		-	-	590	590	590	590	590	1,000	(1,000)
Unfunded Capital Improvement Needs		-	-	910	1,283	585	778	640	1,426	(1,426)
Total Unfunded				1,810	2,183	2,228	3,193	8,231	2,736	(2,736)
Total Outlays	121,401	132,229	121,952	132,899	140,201	143,780	149,195	177,668	138,298	(16,345)
Annual Surplus/(Shortfall)	(1,697)	(194)	(4,212)	(14,183)	(18,450)	(20,325)	(23,495)	(61,746)	(20,601)	16,389
Use of Reserves	(1,697)	(194)	(4,212)							4,212
<i>Change to Deposits</i>	(81)									20,601
<i>Less Illiquid Fund Balance</i>		(8,096)								
Ending Fund Balance	35,024	28,512	30,812	11,444	(7,006)	(27,330)	(50,825)	(267,613)		

Notes:

*Columns I and J provide an itemized summary of the budget balancing measures employed to balance the projected \$20.6M deficit in FY 2012.

*Column B (FY 2011 Preliminary) ending fund balance reflects the reduction of the illiquid reserve balance - which is carried forward in FY 2013 Forecast (Column D) and beyond. The FY 2012 Adopted (Column C) does not include the illiquid reserve adjustment since this is a reflection of what Council originally adopted in June 2011.

DRAFT FY 2013 and FY 2014 Budget Development Calendar

Key Dates	Acting Body	Actions
7/27/11	Budget & Finance	General Fund 10-year Plan update
September 2011		
12	City Staff	Begin internal budget process
13	City Council	Closed Session: Labor negotiations update
27	City Council	Closed Session: Labor negotiations update
28	Budget & Finance	Draft Budget Calendar, GF 10-year Plan update, Annual Investment Policy Update, RDA Update
29	Labor/Management	Kick-off: Budget calendar, 10-year Plan revenue & expense review, timeline & process
October 2011		
5	Labor/Management	PERS Update
11	City Council	Closed Session: Labor negotiations update
11	City Council	GF 10-Year Plan presentation
13	Labor/Management	GF 10-Year Plan presentation
18	City Staff	Executive Team budget strategy discussion
18	City Council	Closed Session: Labor negotiations update
19	Labor/Management	Benefit trends
26	Budget & Finance	Preliminary FY 2011 year-end analysis, Adopt Budget Calendar
November 2011		
1	City Council	Closed Session: Labor negotiations update
15	City Council	Closed Session: Labor negotiations update
16	Budget & Finance	FY 2013 & FY 2014 budget strategy (special meeting)
18	Labor/Management	Conclusion of Initial labor bargaining - results dictate budget assumptions
30	City Staff	Finalize baseline budget & budget instructions
December 2011		
5	City Staff	Budget Kickoff: Issue Budget Instructions to departments
6	City Council	Closed Session: Labor negotiations update
8	Labor/Management	Town Hall meeting(s)
15	Budget & Finance	Preview of 6/30/11 CAFR w/ external auditor presentation; reserve policy discussion
20	City Counsel	FY 2011 CAFR presentation/FY 2011 year-end
January 2012		
13	City Staff	DEADLINE: Preliminary department position reductions due to Finance/City Manager
15	City Staff	Begin Master Fee Schedule review with departments
25	Budget & Finance	Review Preliminary FY 2012 Mid-Year; 10-year plan assumptions review
27	City Council	Council biennial budget & priority planning (special meeting - TBD)
31	City Staff	Department operating budget proposals due to Finance/CM
February 2012		
1	Labor/Management	Preliminary staffing impact based on baseline budget
7	City Council	Closed Session: Labor negotiations update
7	City Council	FY 2012 Mid-Year Staff Report & Presentation - 10-Year Plan Update
10	City Staff	Complete review of department budget submittals
13	City Staff	Begin department budget meetings (2/13-3/15)
15	City Staff	Departments submit Master Fee Schedule changes for FY 2013 - begin legal review
21	City Council	Closed Session: Labor negotiations update
22	Budget & Finance	Budget update

DRAFT FY 2013 and FY 2014 Budget Development Calendar

Key Dates	Acting Body	Actions
March 2012		
6	City Council	Closed session: labor update
10	City Staff	Labor relations bargaining - input concession assumptions into budget
15	City Staff	Department budget meetings conclude
19	City Staff	Begin building FY 2013 & FY 2014 Biennial Budget document
27	City Council	Closed Session: Labor negotiations update
28	Budget & Finance	Budget update
31	City Staff	DEADLINE: All labor & operating expenditure/revenue data received by Finance
April 2012		
3	City Council	Work Session: CDBG & Social Services funding
6	City Staff	Finalize budget data entry
13	City Staff	Draft of FY 2013 & FY 2014 Operating Budget for CM review
20	City Staff	FY 2013 & FY 2014 Recommended Operating Budget to printers
24	City Council	Public Hearing: Master Fee Schedule
24	City Council	Public Hearing: CDBG & Social Services funding; CDBG budget adoption
25	Budget & Finance	Preview of FY 2013 & 2014 Operating & CIP Budgets
26	Labor/Management	Town Hall meeting(s)
May 2012		
1	City Council	Proposed FY 2013 & FY 2014 Operating Budget - PRESENTED TO CITY COUNCIL
15	City Council	Budget Work Session #1
22	City Council	Budget Work Session #2
23	Budget & Finance	Budget update
29	City Council	Budget Work Session #3 (special - TBD?)
June 2012		
12	City Council	Budget -Public Hearing - final Council guidance to City Manager
19	City Council	Adopt FY 2013 & FY 2014 Biennial Budget
27	Budget & Finance	Budget update
July 2012		
0	Budget & Finance	Discussion & Analysis of FY 2013 & 2014 Operating Budget Process



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 20, 2011, 7:00 p.m.**

The Special Joint City Council/Redevelopment Agency/Housing Authority Meeting was called to order by Mayor/Chair Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council/RA/HA Member Halliday.

ROLL CALL

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

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson noted that Council met with Real Property Negotiators pursuant to Government Code 54956.8 regarding shoreline properties, and with Legal Counsel, pursuant to Government Code 54956.9 regarding two anticipated litigations. As it relates to the three items, there was no reportable action.

PRESENTATION

Business Recognition Award

The September 2011 Business Recognition Award was presented to Virtuoso Performance. Virtuoso Performance supplies the needs of the vintage car racing enthusiast and is the largest vintage car shop on the West Coast. It began its operations in 1994 and moved to Hayward in 2005. The award was given to Virtuoso Performance in recognition of the contributions made to the community by: locating and investing in Hayward, adding to the unique diversity of the Hayward business community; providing job opportunities to local residents; and contributing to the vitality and overall economic well-being of the community. Business owners, Scott Drnek and Stacey Toland accepted the award and thanked the City for such a special recognition.

PUBLIC COMMENTS

Ms. Wynn Greich, Industrial Parkway SW resident, spoke about the harms of chloramine and indicated there is a need for implementing alternate technologies in order to disinfect the water.

Mr. Jim Drake, Franklin Avenue resident, reiterated his concerns regarding whether Caltrans criteria was followed for road work on Mission Boulevard and the liability on the City for potential claims.

Mr. Ronald Joseph, Hayward High School student, noted that budget reductions at his school have resulted in overcrowding in some classrooms. Mr. Joseph commended the City for hosting successful block parties throughout Hayward over the summer. Mayor Sweeney suggested that Mr. Joseph address his concerns to the Hayward Unified School District Board and invited him to join clean up events hosted by the Keep Hayward Clean and Green Task Force.

Mr. Kim Huggett, President of the Hayward Chamber of Commerce, extended an invitation to participate in the Hayward/ Union City Chamber Business Expo on October 5, 2011, at the St. Rose Hospital's Grand White Tent. Mr. Huggett also announced the upcoming Leadership Hayward 2011-2012 program and encouraged City staff and the public to participate.

Council Member Halliday announced the Hayward Volunteer Recognition and Awards Dinner on October 4, 2011, at the St. Rose Hospital's Grand White Tent.

Council Member Salinas welcomed the students who came to the meeting as part of a school assignment.

BOARDS, COMMISSIONS, COMMITTEES AND TASK FORCE

1. Appointments and Reappointments to Council's Appointed Bodies, and Administration of Oath of Affirmation

Staff report submitted by City Clerk Lens, dated September 20, 2011, was filed.

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

Resolution 11-150, "Resolution Confirming the Appointment and Reappointment of Members of Various Board, Commissions, Committees and Task Forces"

City Clerk Lens administered the Oath of Affirmation to the new members.

Consent Item No. 3 was removed for further discussion.

CONSENT

2. Adoption of Ordinance of the City of Hayward Repealing Section 6.33 of the Hayward Traffic Code and Adopting a New Section 6.33 Prohibiting Certain Commercial Vehicles From Parking in Residence Districts

Staff report submitted by City Clerk Lens, dated September 20, 2011, was filed.



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Tuesday, September 20, 2011, 7:00 p.m.**

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

Ordinance 11-09, “An Ordinance of the City of Hayward Repealing Section 6.33 of the Hayward Traffic Code and Adopting a New Section 6.33 Prohibiting Certain Commercial Vehicles from Parking in Residence Districts”

Due to potential conflict of interest, Mayor Sweeney recused himself from discussion on the following item and turned the gavel over to Mayor Pro Tempore Halliday, who presided over the meeting.

3. Adoption of an Ordinance of the City Council of the City of Hayward Repealing Sections 2-3.70 through 2-3.88 of the Hayward Municipal Code Relating to the Human Services Commission and Citizens Advisory Commission and Adding Sections 2-3.90 through 2-3.93 Establishing the Community Services Commission

Staff report submitted by City Clerk Lens, dated September 20, 2011, was filed.

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

Ordinance 11-10, “An Ordinance of the City Council of the City of Hayward Repealing Sections 2-3.70 Through 2-3.88 of the Hayward Municipal Code Relating to the Human Services Commission and Citizens Advisory Commission and Adding Sections 2-3.90 Through 2-3.93 Establishing the Community Services Commission”

Mayor Sweeney returned to the dais to preside over the remainder of the meeting.

LEGISLATIVE BUSINESS

4. Approval of a Transfer Payment Agreement Between the City and the Redevelopment Agency to Facilitate Remittance Payments to the State of California Under the Provisions of ABx1 27 (the “Voluntary Redevelopment Program Act”) and Approval of Conditional Amendment to the Cooperation and Funding Agreement Between the City and Redevelopment Agency

Staff report submitted by Assistant City Manager/Interim Redevelopment Agency Director Morariu, dated September 20, 2011, was filed.

Assistant City Manager/Interim Redevelopment Agency Director Morariu and Heather Gould with Goldfarb and Lipman Attorneys provided a synopsis of the report. Ms. Morariu noted a modification to the Transfer Payment Agreement between the City and the Redevelopment Agency, which would be reflected in an amended resolution. The pertinent language in the resolutions (Attachments I and II) would be modified as follows, “the Amendment will be immediately binding upon the parties, but the operation of its terms will be conditioned upon the lifting of the Supreme Court’s current stay of ABx1 26 and ABx1 27 and the Court’s determination that the Voluntary Program is constitutional.”

In response to Council Member Peixoto, Assistant City Manager/Interim Redevelopment Agency Director Morariu clarified that the intent of the proposed action was to capture more obligations on the Statement of Indebtedness so that the \$960,000 would not increase in the future and noted that there would be no impact on the one-time \$4 million payment, unless the appeal was successful.

Assistant City Manager/Interim Redevelopment Agency Director Morariu clarified for Council Member Salinas that if the court case was successful, then the Agency could resume business as usual.

In response to Council Member Halliday’s inquiry regarding the “Advance of Funds: Project Costs” term in the Cooperation and Funding Agreement, Assistant City Manager/Interim Redevelopment Agency Director Morariu responded that the language could be modified to state that there will be a cap of \$30 million, which can be allocated to projects other than the priority projects listed in Exhibit A of the Cooperation and Funding Agreement.

Council Member Halliday referred to the “Liability and Indemnification” clause in the Cooperation and Funding Agreement and asked staff if the City was going to “indemnify and hold harmless” the Redevelopment Agency, and would this in any way jeopardize City funds which could not otherwise be obtained by the State. Assistant City Manager/Interim Redevelopment Agency Director Morariu indicated that staff needed to analyze the language and amend the contract if Council approved the changes. Ms. Halliday emphasized that the City needs to protect the City’s General Fund.

Council Member Henson stressed that it was important for the League of California Cities to remain strong throughout the lawsuit process. Mr. Henson requested that staff provide the Council with the State’s response to the lawsuit. Assistant City Manager/Interim Redevelopment Agency Director Morariu stated that staff would provide the State’s response along with the League of California Cities and the California Redevelopment Association’s (CRA) responses to the lawsuit.

Assistant City Manager/Interim Redevelopment Agency Director Morariu clarified for Council Member Henson that the basis for the remittance payments was the Controller’s 2008-09 Report and that the estimated 2010-11 shows a ten percentage tax increment.

Council Member Henson asked if the proposed resolutions would be legal and operational upon approval by Council. Assistant City Manager/Interim Redevelopment Agency Director Morariu responded that the resolutions are in effect but the amendments to the agreement would not go into effect until the stay was lifted or unless the legislation was invalidated. Mr. Henson added that it seemed punitive that the City cannot continue operations until the court renders a decision.



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In response to Council Member Zermeño's inquiry about the appeal of remittance payment, Assistant City Manager/Interim Redevelopment Agency Director Morariu commented the appeal meets the intent of the language in the legislation and the City has to wait for the State's response. Mr. Zermeño asked what the balance would be after the \$4 million payment. Ms. Morariu noted there would be almost no funding for new projects; however, the Agency would gradually build up some cash again. Ms. Morariu clarified that if the Redevelopment Agency is unable to make a payment, then under the current legislation, the Agency would cease to exist.

Mayor Sweeney emphasized that Redevelopment Agencies throughout the State are being imposed upon by the State to participate in the Voluntary Program and urged staff to avoid using the word voluntary in any documents pertaining to the Redevelopment Agency. He further added that if the City was legally required to use such language, then staff should include additional language to indicate that the program was not voluntary. Mayor Sweeney suggested that the word "voluntary" could be preceded by "so-called" in any documents in order to accomplish this.

Mayor Sweeney concurred with Council Member Halliday about protecting the City's General Fund from being utilized in any way to assist the Redevelopment Agency. He stated that the language in Section 3: "Advance of Funds: Project Costs" and Section 8: "Liability and Indemnification" of the Cooperation and Funding Agreement exposed the City's General Fund, and therefore did not support the proposed language in the two sections. Mayor Sweeney added that the language should be modified to include that the "General Fund be held harmless."

Assistant City Manager/Interim Redevelopment Agency Director Morariu stated that staff could modify the language in the agreement and remove any references to the City advancing the funds.

Mayor/Chair Sweeney opened the public hearing at 8:05 p.m.

Mr. Jim Drake, Franklin Avenue resident, stated that the issue at hand had a "trickle-down effect," with higher levels of government imposing their actions on the City, and then the City imposing its actions on the public.

Mayor/Chair Sweeney closed the public hearing at 8:06 p.m.

In response to Council Member Halliday's concern about the language in the "Advance of Funds: Project Costs" clause, Assistant City Manager/Interim Redevelopment Agency Director Morariu said the agreement stated that the City can advance the Agency funds, but the Agency had to pay the City back and added that the language can be modified so that the agreement was not obligating or in any way threatening the General Fund.

Mayor Sweeney emphasized the point that if monies were allocated from the General Fund to support the Redevelopment Agency, then there was no assurance that the Agency would be able

to repay the General Fund. Mayor Sweeney also forewarned the Council that in the future, the State could take other actions, making it difficult for the Agency to repay the General Fund.

Assistant City Manager/Interim Redevelopment Agency Director Morariu stated that the proposed agreement could be modified so that the City is unable to advance funds and make it so that only Agency funds were used to execute projects. Ms. Morariu further added that staff could look into some additional protections where the City could only enter into contracts or execute projects when the projects are fully funded with Agency funds, which would provide greater protection the General Fund.

Council Member Halliday made a motion to direct staff to review sections “Advance of Funds: Project Costs” and “Payment of Obligations,” in the Cooperation and Funding Agreement and amend the language to ensure that the General Fund was protected, and to bring back the amended language to Council on September 27, 2011.

Council Member Zermeño seconded the motion and suggested that the word “voluntary” be eliminated or modified to reflect that Council did not consider the action to be voluntary.

It was moved by Council Member Halliday, seconded by Council Member Zermeño, and carried with Council Member Quirk absent, to direct staff to review Section 3: “Advance of Funds: Project Costs” and Section 5: “Payment of Obligations,” in the Cooperation and Funding Agreement and amend their language to ensure that the General Fund was protected, and to bring back the amended language to Council on September 27, 2011. Council Member Zermeño suggested that the word “voluntary” be eliminated or modified to reflect that Council did not consider the action to be voluntary.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño announced the St. Rose Hospital annual event, “Spectacular XXIII - It’s Magic” on Saturday, October 1, 2011, at the St. Rose Hospital’s Grand White Tent and invited all to participate.

Council Member Salinas encouraged folks to contribute to and participate in events that help local non-profit groups. Mr. Salinas reported he attended the swearing-in ceremony for two Hayward police officers and welcomed them to the City.

Council Member Henson announced an invitation from Caltrans for all to attend a ribbon cutting ceremony for the State Route 92/Interstate 880 Interchange Project on October 7, 2011 at 10:00 a.m.

ADJOURNMENT

Mayor/Chair Sweeney adjourned the meeting at 8:20 p.m.



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City Council Chambers
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Tuesday, September 20, 2011, 7:00 p.m.**

APPROVED:

Michael Sweeney, Mayor, City of Hayward
Chair, Redevelopment Agency/Housing Authority

ATTEST:

Miriam Lens, City Clerk, City of Hayward
Secretary, Redevelopment Agency/Housing Authority



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THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 27, 2011, 7:00 p.m.**

The Special Joint City Council/Redevelopment Agency/Housing Authority Meeting was called to order by Mayor/Chair Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Mayor/Chair Sweeney.

ROLL CALL

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

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson noted that Council met with Labor Negotiators pursuant to Government Code 54957.6 regarding all bargaining units. There was no reportable action.

PROCLAMATION

October Breast Cancer Awareness Month

Mayor Sweeney read the proclamation declaring the month of October 2011 as National Breast Cancer Awareness Month. Hayward Firefighters Local 1909 will be participating in the national "Firefighter in Pink" campaign to raise awareness and to raise funds for local Hayward treatment centers. On behalf of Hayward Firefighters Local 1909, President Jason Livermore accepted the proclamation and thanked the City Council for such recognition.

PUBLIC COMMENTS

Mr. Richard Valle, St. Rose Hospital Trustee, thanked the Hayward Firefighters Local 1909 for their contribution to St. Rose Hospital. Mr. Valle announced the Science in the Park event on Saturday, October 1, 2011, at the Alden E. Oliver Sports Park. He extended an invitation to all to attend and presented Mayor Sweeney with a T-shirt for the event.

CONSENT

1. Approval of the Minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting on September 13, 2011

It was moved by Council/RA/HA Member Henson, seconded by Council/RA/HA Members Peixoto and Zermeño, and carried with Council/RA/HA Member Quirk absent, to approve the minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting of September 13, 2011.

DRAFT

2. Execution of FY 12-14 Cooperation Agreement Between the City of Hayward and the County of Alameda to Participate in the Alameda County HOME Consortium

Staff report submitted by Housing Development Specialist Cortez, dated September 27, 2011, was filed.

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

Resolution 11-151, “Resolution Approving Continued Participation in the Alameda County HOME Consortium and Authorizing the City Manager to Execute the HOME Consortium Cooperation Agreement with Alameda County”

3. First Amendment to the Hayward Hangars, LLC Commercial Site Lease at Hayward Executive Airport

Staff report submitted by Airport Manager McNeeley, dated September 27, 2011, was filed.

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

Resolution 11-152, “Resolution Authorizing the City Manager to Execute the First Amendment to the Hayward Hangars, LLC Commercial Aviation Site Lease”

4. Approval of a Transfer Payment Agreement Between the City and the Redevelopment Agency to Facilitate Remittance Payments to the State of California Under the Provisions of ABx1 27 (the “so-called” Voluntary Redevelopment Program Act)

Staff report submitted by Assistant City Manager/Interim Redevelopment Agency Director Morariu, dated September 27, 2011, was filed.

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

Resolution 11-153, “Resolution of the City Council of the City of Hayward Approving and Authorizing the Execution of the Agency Transfer Payment Agreement with the Redevelopment Agency of the City of Hayward Pursuant to Part 1.9 of the Redevelopment Law ”

RA Resolution 11-16, “Resolution of the Redevelopment Agency of the City of Hayward Approving and Authorizing the Execution of the Agency Transfer Payment Agreement with the City of Hayward



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AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 27, 2011, 7:00 p.m.**

Pursuant to Part 1.9 of the Redevelopment Law”

PUBLIC HEARING

5. Certification of a Supplemental Environmental Impact Report, Adoption of Amendments to the General Plan, and Introduction of Ordinances involving Zoning Reclassifications and Text Changes to the Zoning Ordinance and Related Municipal Code Sections, to Enact and Implement the South Hayward BART/Mission Boulevard Form-Based Code

Staff report submitted by Development Services Director Rizk, dated September 27, 2011, was filed.

Development Services Director Rizk noted that this item was continued from September 13, 2011, and stated that staff has amended Table 9 in the Form-Based Code and noted that uses which will be prohibited are check cashing/loan stores, dance/nightclubs, tattoo parlors, and liquor stores. Massage parlors would be allowed with a conditional use permit in the T4 and T5 Zones. Alcohol sales would be allowed with a conditional use permit and it would have to be in compliance with Alcohol Beverage Regulations. Director Rizk noted that staff recommended that the Council reconsider its position on the dance/nightclubs and suggested that Council permit such uses through a conditional use permit. Dance/nightclubs would have to comply with the Alcohol Beverage Regulations. Director Rizk indicated that if managed properly, these facilities could potentially serve as an economic stimulator in areas where economic vitality was desired.

Development Services Director Rizk acknowledged receiving a letter from Mr. Richard C. Ersted in which he expressed overall support for staff’s recommendation but favored prohibiting dance/nightclubs and massage parlors in the T4 Zone. Director Rizk indicated staff was amenable to that prohibition because those uses would be permitted in the T5 Zone, which would be closer to the BART Station and the center of the Code area. Director Rizk stated that if Council was amenable, staff could modify the report.

Mayor Sweeney opened the public hearing at 7:21p.m.

B. Kay Harbal, with Portfolio Realty Management, the property manager for the Mission Plaza property, spoke strongly in opposition of the proposed Form-Based Code because certain respectable Mission Plaza tenants would be negatively affected by the proposed prohibitions. Ms. Harbal urged the Council to reconsider the proposed Code and some of the uses that were being excluded.

Mr. Alamin, business owner of a combined cell phone store and a tobacco store in Mission Plaza, requested that the Council reconsider the proposed Code as it would negatively impact his business.

Mayor Sweeney closed the public hearing at 7:26 p.m.

DRAFT

In response to Council Member Henson's question about whether some of the businesses located in the Mission Plaza area would be prohibited under the regulations of the proposed Form-Based Code, Development Services Director Rizk stated that new tobacco stores or check cashing stores would not be permitted in the T4 and/or T5 zones and existing uses which are non-conforming would not be permitted to expand.

Council Member Peixoto supported the points mentioned in Mr. Ersted's letter and stated that permitting certain uses in the Mission Boulevard/South Hayward BART area would create competition for the downtown area. Mr. Peixoto noted that nightclubs can be problematic in terms of noise and violence and stated that he was uncomfortable with spreading the nightlife environment throughout the City because this would cause the police department to be dispersed throughout the City. Mr. Peixoto stated that karaoke bars were of a concern. He also expressed that he was not supportive of granting massage parlors conditional use permits.

Council Member Salinas stated that the zoning of the new area should be considered carefully and the City should not allow elements that would lead to the decline, or promote the unhealthiness, of the community. Council Member Salinas opposed check cashing stores as an acceptable use because of their high rates. Mr. Salinas voiced his support for allowing nightclubs and liquor stores that would be decent in nature.

Council Member Halliday supported the staff recommendation of permitting certain uses in the T5 zone through a conditional use permit and added that those uses would need to be monitored and the concerns of individuals living in the area would have to be taken into consideration, especially with regard to noise levels. Ms. Halliday said smaller venues that allow music should be considered. She noted that dancing was good practice, but when paired with alcohol, created problems. She indicated that Transit Oriented Development and the Form-Based Code were meant to provide entertainment locally.

Council Member Zermeño expressed support for staff recommendations and noted that massage parlors are stress killers. Mr. Zermeño suggested the City should attract beverage outlets such as BevMo.

Council Member Henson supported regulated massage parlors as part of the uses for the new area, and suggested that the term "massage parlor" be modified because it bears a negative connotation. Mr. Henson did not object to well-regulated nightclub venue and did not support liquor stores in the new zoning area, other than the ones indicated in the staff recommendation. Mr. Henson stated that per State law, check cashing and payday loans were not the same and asked staff if check cashing stores would be treated differently than payday loan centers under the Form-Based Code. Development Services Director Rizk responded that since the Form-Based Code definitions rely on the Zoning Ordinance, he would confirm with the Zoning Ordinance.

Council Member Salinas reiterated he was interested in building a new area that would have robust activity for daylife and nightlife and added that the vision was to use this area as a catalyst for stimulating economic growth in other parts of the City. Council Member Salinas indicated that he inadvertently misspoke earlier when he stated that there were undesirable areas in Hayward. He said



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he believed all parts of Hayward were desirable; however, some areas were depressed due to certain types of businesses.

Mayor Sweeney agreed with Council Member Salinas' point that this project was an opportunity for the City to ensure that things were done correctly. Mayor Sweeney stated that there were not any examples of successful nightclubs located in Hayward and therefore the City should prohibit the building of nightclubs in the new zoning areas. Mayor Sweeney was supportive of a major restaurant providing entertainment with a bar area. He stated that check cashing shops do not contribute to the economic future of the City. Mayor Sweeney pointed out that the Alcohol Sales chart made distinctions between liquor stores, nightclubs, and bars which were not an approved use and full-service restaurants with bars, which would require a conditional use permit, and asked staff to reconcile that chart with the allowed uses in Table 9. Mayor Sweeney expressed that Council should be mindful of uses that are not critical to the future viability of the proposed area and/or uses that could be detrimental to the healthy development of this area.

Council Member Zermeño agreed with the comments of his fellow Council Members, but said that nightclubs should be allowed in the T5 Zone.

Council Member Zermeño offered a motion to approve staff recommendation: that tobacco stores, tattoo parlors, liquor stores, and check cashing stores be prohibited in T4 and T5 Zones, and that conditional use permits be allowed for nightclubs in the T5 Zone, massage parlors in the T4 and T5 Zones, and alcohol sales in the T4 and T5 Zones.

Council Member Salinas seconded the motion and clarified that, if allowed, dance/nightclubs would require conditional use permits.

Council Member Halliday supported the motion and suggested that the term "massage parlor" be changed to "massage establishment," consistent with the regulations of the conditional use permit.

Council Member Henson expressed support for the motion and reiterated that existing non-conforming uses would be allowed, but potential expansion would be prohibited under the Form-Based Code.

In response to Council Member Henson's inquiry regarding "alcohol sales," Development Services Director Rizk indicated that per the staff recommendation, "liquor stores" would be prohibited in the Code area and retail stores that do not dedicate more than 5% of their floor area to alcohol sales, regardless of the store's size, would not be required to obtain a conditional use permit.

Council Member Halliday supported the motion; however, she stated that the City needs to be careful with establishments such as full-service restaurants that provide entertainment, food, and alcohol.

Discussion ensued about restaurants that provide entertainment and also serve alcohol and how they would fit with allowed or prohibited uses.

Council Member Zermeño added a friendly amendment to his motion in order to change “massage parlor” to “massage establishment.” The amendment was seconded by Council Member Salinas.

City Manager David recommended that the alcohol sales and the dance/nightclub categories be removed from the motion in order to allow staff to reexamine them for the proposed Code.

Assistant City Attorney Conneely agreed with City Manager David’s recommendation, stating that there appeared to be some confusion about the Alcohol Beverage Regulations concerning the cross-reference between the Form-Based Code and the Zoning Ordinance regulations on alcohol beverages. She stated that the definitions of dance/nightclub and restaurant need to be made clear and succinct.

Mayor Sweeney called a five minute break at 8:28 p.m., to allow staff to convene and decide how to proceed with the item on the floor, and the meeting reconvened at 8:34 p.m.

Assistant City Attorney Conneely recommended that the Council consider moving the staff recommendation as offered in the motion with the exception that dance/nightclub use in the T4 and T5 Zones would be prohibited and alcohol sales would be allowed with a conditional use permit, in a manner which was consistent with how Alcohol Beverage Regulations as defined in the City’s Zoning Ordinance. Assistant City Attorney Conneely indicated that staff would review and propose an amendment to the Hayward Municipal Code related to Alcohol Beverage Regulations and bring a report back to Council.

Council Members Zemeño and Salinas concurred with the proposed amendment to the motion on the floor.

It was moved by Council Member Zermeño, seconded by Council Member Salinas, and carried with Council Member Quirk absent and Council Member Peixoto voting against, to adopt the following and a motion per staff recommendation that tobacco stores, tattoo parlors, liquor stores, check cashing stores, and dance/nightclub be prohibited in T4 and T5 Zones, and that conditional use permits be allowed for massage parlors in the T4 and T5 Zones and alcohol sales in the T4 and T5 Zones; that “massage parlor” be changed to “massage establishment;” and that that staff review and propose an amendment to the Hayward Municipal Code related to Alcohol Beverage Regulations and bring a report back to Council.

Resolution 11-154, “Resolution Certifying the Final Supplemental Program Environmental Impact Report, Readopting a Statement of Overriding Considerations and Approving the Mitigation Monitoring and Reporting Program, Repealing the South Hayward BART/Mission Boulevard Concept Design Plan, Adopting the South Hayward BART/Mission Boulevard Form-Based Code, Approving the Related General Plan Amendments, Zoning Reclassifications and Text Changes for the South Hayward BART/Mission Boulevard



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Form-Based Code Area”

Introduction of Ordinance 11-_, “An Ordinance Reclassifying the Zoning Designation for Properties in the South Hayward BART/Mission Boulevard Form-Based Code Area”

Introduction of Ordinance 11-_, “An Ordinance Amending the Zoning Ordinance, Chapter 10, Article 1 of the Hayward Municipal Code, and Off-Street Parking Regulations, Chapter 10, Article 2 of the Hayward Municipal Code, and Adding a New Article 24 “South Hayward BART/Mission Boulevard Form-Based Code” to Chapter 10 of the Hayward Municipal Code, All Relating to the Adoption of the South Hayward BART/Mission Boulevard Form-Based Code”

LEGISLATIVE BUSINESS

6. Appointment of City Council Members to the Board of the Joint Powers Authority with the Bay Area Rapid Transit District (BART) for South Hayward BART Station Access

Staff report submitted by Assistant City Manager/Interim Redevelopment Agency Director Morariu, dated September 27, 2011, was filed.

Assistant City Manager Morariu provided a synopsis of the report.

There being no public comments, Mayor Sweeney opened and closed the public hearing at 8:40 p.m.

Assistant City Manager Morariu confirmed for Council Member Henson that the Joint Powers Authority (JPA) could begin collecting revenues in order to fund the JPA’s operations and noted the revenues would serve as a reimbursement of the preliminary costs for the action plans and it would also pay for ongoing costs for the administration of the JPA. In response to Council Member Henson’s inquiry about a timeline for the parking plan, Assistant City Manager Morariu indicated that the Nelson/Nygaard plan developed a scope of work and a timeline and anticipated the action plan would go to the JPA Board sometime in late November or early December.

Assistant City Manager Morariu confirmed for Council Member Zermeño that the language of the previous JPA was reviewed by outside counsel to ensure that it was consistent with current JPA law and measures were also taken to incorporate the current best practices to prevent liability and maintain a separation of the JPA from the parent agencies.

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

Resolution 11-155, “A Resolution of the City Council of the City of Hayward Appointing Two Members to the Board of the South Hayward BART Station Access Authority with San Francisco Bay Area Rapid Transit District (“BART”)”

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Salinas reminded folks about the “Science in the Park” event at the Alden E. Oliver Sports Park on October 1, 2011. Mr. Salinas also noted that Friday marked the culmination of the free concert and movie series at City Hall Plaza. He also welcomed a young/professional family to Hayward.

Council Member Zermeño reiterated information about the St. Rose Hospital annual event, “Spectacular XXIII - It’s Magic” on Saturday, October 1, 2011, at the St. Rose Hospital’s Grand White Tent and invited all to participate.

Council Member Henson mentioned that the Alameda County Transportation Commission was considering free student bus pass pilot programs and he mentioned that he would like the City to participate.

Council Member Peixoto reported he attended the League of California Cities 2011 Conference and mentioned that the presentation delivered by the League Director, Chris McKenzie, in reference to the lawsuit filed to save redevelopment agencies, was uplifting.

Council Member Halliday announced the Hayward Volunteer and Recognition Dinner on Tuesday, October 4, 2011 at the St. Rose Hospital’s Grand White Tent and noted that Council would attend the event.

ADJOURNMENT

Mayor/Chair Sweeney adjourned the meeting at 8:56 pm

APPROVED:

Michael Sweeney, Mayor, City of Hayward
Chair, Redevelopment Agency/Housing Authority

ATTEST:

Miriam Lens, City Clerk, City of Hayward
Secretary, Redevelopment Agency/Housing Authority

DATE: October 11, 2011
TO: Mayor and City Council
FROM: Fire Chief
SUBJECT: First Responder Advanced Life Support (FRALS) Agreement

RECOMMENDATION

That Council adopts the attached resolution authorizing the City Manager to negotiate and execute a First Responder Advanced Life Support (FRALS) agreement with the County of Alameda consistent with the parameters of the within staff report, for five years through October 31, 2016, with an option to renew for five additional years, ending October 31, 2021.

BACKGROUND

Pursuant to Health & Safety Code 1797.200 et. seq., Alameda County is designated as the local Emergency Medical Service Agency (LEMSA) responsible for local EMS system planning and coordination within its jurisdiction. Among the County's functions as the LEMSAs are the establishment of policies and procedures for the approval and designation of paramedic service providers within its jurisdiction.

The County relies on municipal Fire Departments to provide the first paramedic on-scene in most cases. In order to assure the availability of emergency paramedic service within its jurisdiction, the County has previously entered into FRALS agreements with each municipal Fire Department within its jurisdiction, such as the Hayward Fire Department. The goal of these agreements is to utilize Fire Department Paramedics as first responders in cooperation with private ambulance company paramedics in order to enhance the effectiveness and timeliness of emergency medical services for the community.

DISCUSSION

The effective date of the current FRALS agreement is July 1, 2004. In June 2009, a two-year extension of the FRALS agreement was authorized by Council with an effective date of July 1, 2009. On July 12, 2011, Council approved a further extension of the current FRALS agreement through October 31, 2011, to allow continued negotiations between the County and the municipal Fire Departments, including the Hayward Fire Department.

As a result of the negotiations, staff recommends that the City enter into a five year FRALS agreement with the County, effective October 31, 2011, and ending October 31, 2016, with an option to renew for an additional five years, ending October 31, 2021.

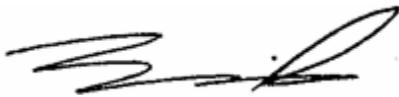
The FRALS agreement requires the Fire Department to, among other things: 1) maintain paramedic units capable of first response to emergency calls within specified response times; 2) provide 24-hour, 7-day per week staffing for the paramedic units; and 3) maintain on staff an EMS Coordinator who holds a license as a certified paramedic, or maintain on staff, a Quality Improvement Coordinator, who is licensed as a Registered Nurse or Medical Doctor. The Fire Department is compensated by the County for the costs related to these services.

FISCAL IMPACT

Under the contract recommended by staff, the City is projected to receive approximately \$471,824.76 (\$42,893.16/unit x eleven units) annually, with this figure adjusted upward by 2% per year. The proposed contract would maintain this funding amount throughout its term.

Prepared and Recommended by: Craig Bueno, Fire Chief

Approved by:



Fran David, City Manager

Attachments: Attachment I – Resolution Approving the FRALS Agreement

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A FIRST RESPONDER ADVANCED LIFE SUPPORT PROVIDER AGREEMENT WITH THE COUNTY OF ALAMEDA

WHEREAS, the City of Hayward initially entered into an agreement with Alameda County for First Responder Advanced Life Support Provider services on July 1, 2004 with a subsequent two-year extension on July 1, 2009; and

WHEREAS, the County and the City extended the current agreement through October 31, 2011 in order to continue to deliver the best level of advanced life support service county-wide; and

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is authorized and directed to negotiate and execute a First Responder Advanced Life Support Provider Agreement with the County of Alameda consistent with the parameters of the accompanying staff report, including the option to renew the agreement for five additional years ending in October 31, 2021, and any other documents necessary to complete the agreement, in a form 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: October 11, 2011

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Authorization for the City Manager to Negotiate and Execute a Professional Services Agreement for Design Services Associated with Median Landscape Improvements on Industrial Parkway from Interstate 880 to Mission Boulevard

RECOMMENDATION

That Council adopts the attached resolution authorizing the City Manager to negotiate and execute a Professional Services Agreement with David Babcock & Associates for design services associated with median landscape improvements on Industrial Parkway in an amount not to exceed \$160,000.

BACKGROUND

On April 20, 2010, Council authorized the City Manager to execute a Professional Services Agreement with Gates + Associates for conceptual design services for median landscaping improvement projects throughout the City. The contract was to develop a conceptual master plan, including schematic-level plans and preliminary cost estimates for various major arterial street corridors. The Master Plan was used to prioritize and divide the designated street corridors into separate annual construction projects that could be implemented in stages based on available annual funding. The following implementation schedule of the street segments was approved in the FY2012 CIP budget:

Fairway Park Roundabouts	Brae Burn/Gresel & Brae Burn/Rousseau	FY 11
Industrial Parkway	Interstate 880 to Ruus Road, Ruus Road to Mission Blvd	FY 12
Winton Avenue	Hesperian Blvd to Southland Dr Southland Dr to Santa Clara St	FY 13
Industrial Parkway	Hesperian Blvd to Interstate 880	FY 14
Hesperian Blvd	Winton Ave to La Playa Drive La Playa Drive to Chabot Court	FY 15
Hesperian Blvd	West A Street to Winton Ave	FY 16 – FY 17
Industrial Blvd	SR 92 to Tennyson Road Tennyson Road to Arf Ave	FY 18 – FY 20

Construction of the two roundabouts in the Fairway Park neighborhood, at the intersections of Brae Burn Avenue/Gresel Street and Brae Burn Avenue/Rousseau Street, is complete.

Staff has selected implementation of Industrial Parkway, from Interstate 880 to Mission Boulevard, as the next annual median construction project. Staff identified this segment as an ideal candidate because it is a main thoroughfare providing access to an industrial corridor that also includes pockets of residential and retail, as well as a golf course. It has entries from Interstate 880 and Mission Boulevard; the latter of which is currently under construction for street and landscape improvements as part of the Route 238 Corridor Improvement project. Due to funding limitations, the remaining segments on Industrial Parkway, from SR 92 to Interstate 880, will be designed and constructed as separate projects in future years.

The consultant's scope of work for the Industrial Parkway Median Landscape project will also determine the possibility of including entry features and an assessment of the sidewalk and planter areas for inclusion in the project. The consultant's recommendations and cost estimates will be evaluated by staff at the 35% design level. Because construction of this additional work is not included in the project budget, additional funding may be necessary if the City determines that the additional work should be incorporated into the project.

DISCUSSION

On June 10, 2011, staff sent a request for proposal (RFP) to five landscape design firms. Staff received two proposals. The estimated fees identified in the proposals were \$179,000 and \$389,000. These fees, which equaled 23% and 50% of the construction cost respectively, were not considered appropriate for a project of this size. Additionally, it was apparent that the project scope and the objectives of the project were not well understood. After discussions with representatives from all of the firms, staff decided to re-issue a modified RFP. The modified RFP included additional clarification and details to assist the firms in determining the level of effort necessary to complete the landscape design. On August 5, 2011, staff sent the modified RFP to the same original five landscape design firms. Staff held a pre-submittal meeting on August 23, 2011 to answer questions and to ensure that the firms understood the scope of work.

Staff received five proposals in response to the modified RFP. Staff evaluated the proposals and selected David Babcock & Associates (DBA) as the most qualified firm to perform this work. DBA has extensive experience in similar projects and is highly qualified. The proposal was very thorough and provided a detailed scope of work that identified the expected level of effort needed for each task. DBA developed project strategies and, unlike the responses received for the first RFP issued, clearly demonstrated that it has a good understanding of the project. The firm is familiar with Bay Friendly practices and has Bay Friendly-qualified staff.

Staff believes DBA is well-qualified to perform the required work and considers the proposed fee to be reasonable for these services. Therefore, staff recommends negotiating and executing a Professional Services Agreement with David Babcock & Associates for an amount not-to-exceed \$160,000 for providing project landscape design services. This not-to-exceed amount includes approximately \$30,000 for potential additional services.

FISCAL IMPACT

The adopted FY2012 Capital Improvement Program (CIP) includes \$1,000,000 for this project in the Street System Improvements Fund. The estimated project costs are as follows:

Design – Consultant	\$ 160,000
Design Administration – City Staff	40,000
Construction Contract	730,000
Inspection and Testing	<u>70,000</u>
Total:	\$1,000,000

PUBLIC CONTACT

At the 35% level of design completion, staff proposes to meet with representatives from the neighborhood associations along Industrial Parkway to receive input on the proposed landscape design. Prior to construction, staff will send notification letters to all residents with information regarding the project and the construction schedule.

SCHEDULE

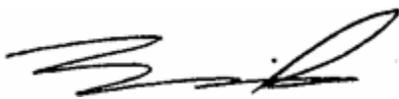
The estimated schedule for this project is summarized as follows:

Begin Design	October 24, 2011
City Council Approval of Plans and Call for Bids	April 2012
Award Construction Contract	June 2012
Begin Construction	July 2012
End Construction	December 2012

Prepared by: Morad Fakhrai, Deputy Director of Public Works

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

Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Resolution
- Attachment II: Project Location Map

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH DAVID BABCOCK & ASSOCIATES FOR DESIGN SERVICES ASSOCIATED WITH MEDIAN LANDSCAPING IMPROVEMENTS ON INDUSTRIAL PARKWAY FROM INTERSTATE 880 TO MISSION BOULEVARD, PROJECT NO. 5184

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 an agreement with David Babcock & Associates for design services associated with median landscaping improvements on Industrial Parkway from Interstate 880 to Mission Boulevard, Project No. 5184, in an amount not to exceed \$160,000 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:

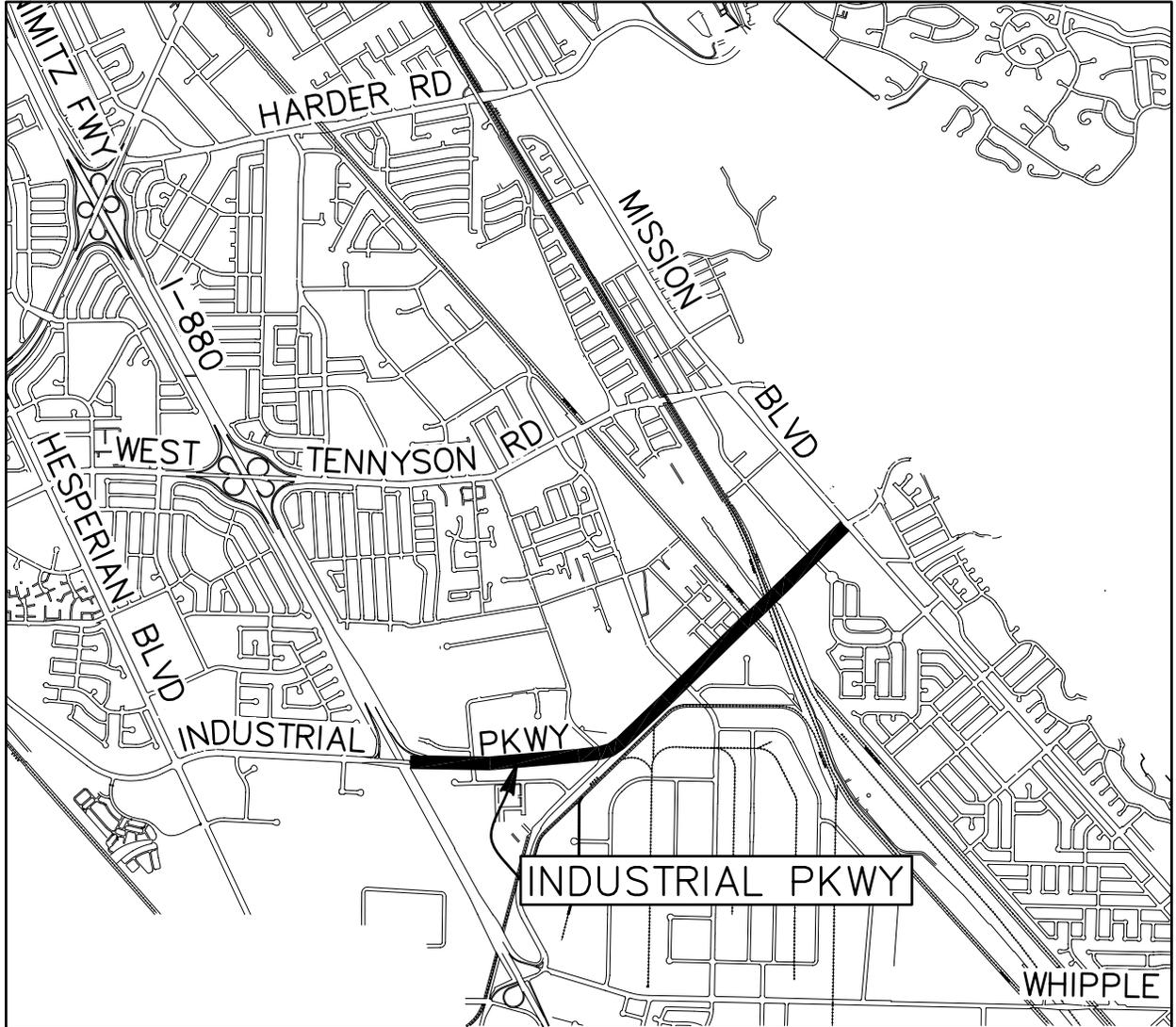
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



PROJECT LOCATION MAP

DATE: October 11, 2011
TO: Mayor and City Council
FROM: Technology Services Director
SUBJECT: Network Infrastructure Maintenance Agreement Renewal

RECOMMENDATION

That Council adopts the attached resolution authorizing the City Manager to execute a three-year lease agreement for Cisco SmartNet with Cisco Capitol for network infrastructure maintenance.

BACKGROUND

The City's network infrastructure utilizes Cisco equipment. The Cisco SmartNet maintenance agreement for this equipment is typically renewed annually. Cisco offers a discount if this maintenance is purchased in a three year contract. Cisco is offering a 0% lease option for a three-year maintenance agreement, which would result in substantial cost savings.

DISCUSSION

The Cisco SmartNet maintenance agreement covers replacement of any failed component of the City's network infrastructure, technical assistance in troubleshooting and identifying such failures, and any software or firmware upgrades that become available from Cisco. The current discounted total cost quotation for a three-year agreement is \$161,207. The cost of renewing on annual basis is \$60,888, which would be \$182,664 for three years.

Cisco is offering a 0% lease option for this three-year agreement. The annual lease payment would be \$53,736. This three-year lease option will result in cost savings of approximately \$21,457 over the term of the agreement, or approximately \$7,152 per year. In addition, the City also avoids the annual price increases typically seen when renewing annual agreements.

FISCAL IMPACT

The fiscal impact to the 2012 budget is a reduction in maintenance fees for network infrastructure. Because these maintenance fees are included in current year budget, it will not be necessary to amend the 2012 budget to fund the annual lease payment. FY2013 and FY2014 budgets will need to continue to include funding for the annual lease payment.

PUBLIC CONTACT

None.

NEXT STEPS

If Council authorizes the City Manager to execute this lease agreement, then staff will renew the Cisco SmartNet agreement for three years and execute the necessary leasing documents.

Prepared and Recommended by: Clancy Priest, Technology Services Director

Approved by:



Fran David, City Manager

Attachments: Attachment I: Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Council Member _____

RESOLUTION AUTHORIZING EXECUTION OF A THREE-YEAR EQUIPMENT MAINTENANCE LEASE AGREEMENT FOR NETWORK INFRASTRUCTURE MAINTENANCE WITH CISCO CAPITOL

WHEREAS, the City of Hayward’s network infrastructure utilizes Cisco equipment that is covered by a Cisco SmartNet maintenance agreement; and

WHEREAS, the City has typically renewed the maintenance agreement on an annual basis; and

WHEREAS, Cisco is offering a discount for purchasing a three-year maintenance agreement; and

WHEREAS, the quoted cost for a three-year network maintenance agreement is \$161,207; and

WHEREAS, the cost of purchasing an annual network maintenance agreement over the same three year period is \$182,664; and

WHEREAS, execution of a three-year maintenance agreement would result in savings of \$21,457 over three years;

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorizes and directs the City Manager to execute a three-year Equipment Maintenance Lease Agreement with Cisco Capitol for network infrastructure maintenance, and any other associated documents that may be necessary to complete the transaction on terms satisfactory to the City Manager and in a form approved by the City Attorney. Such lease agreement shall be subject to the City Council’s annual appropriation of funds.

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: October 11, 2011

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Community Services Commission Members

RECOMMENDATION

That the City Council adopts the attached resolutions confirming the Community Services Commission members, reappointing Commissioner Julius Willis Jr. to a four-year term, and accepting the resignation of Human Services Commissioner James E. Millet III.

BACKGROUND

At the meeting on September 13, 2011¹, the Council introduced an Ordinance repealing sections of the Hayward Municipal Code relating to the Human Services Commission (HSC) and Citizen Advisory Commission (CAC) and adding a new section establishing the Community Services Commission (CSC). Library and Community Services Department staff recommended that all twenty-two members of the former HSC or CAC currently holding office continue to serve as the initial members of the CSC. At the meeting on September 20, 2011², the Council moved to adopt the Ordinance, which becomes effective October 20, 2011.

Library and Community Services Department staff is recommending granting the reappointment sought by Commissioner Julius Willis Jr. If Council concurs, Mr. Willis would serve a four-year term until September 30, 2015. Mr. James E. Millet III was appointed to the Human Services Commission on June 27, 2006, and on September 29, 2011, he submitted his letter of resignation, effective September 21, 2011.

¹ The report for that meeting may be found at:
<http://www.hayward-ca.gov/citygov/meetings/cca/rp/2011/cca091311item10.pdf>.

² The report for that meeting may be found at:
<http://www.hayward-ca.gov/citygov/meetings/cca/2011/CCA11PDF/cca092011item3.pdf>

COMMUNITY SERVICES COMMISSION

Effective October 20, 2011, and in accordance with Ordinance 11-10, the Citizens Advisory Commission and Human Services Commission will merge into a single Commission to be known as the Community Services Commission, the initial membership of which will be composed of the following members:

FORMER CITIZENS ADVISORY COMMISSION

<u>NAME</u>	<u>DATE APPOINTED</u>	<u>TERM EXPIRES</u>
Donna Allen-Thomas	06/30/09	09/30/13
Ray Bonilla Jr.	09/14/10	09/30/14
Cynthia Chiasson	06/30/09	09/30/14
Peggy Guernsey	02/13/07	09/30/13
Tom Kersten	07/22/08	09/30/12
Robert Leppert	09/14/10	09/30/14
Lynnette Foy Linnen	06/27/06	09/30/14
Allison McManus	09/14/10	09/30/14
Linda Moore	06/30/09	09/30/13
Liz Morales-Contreras	07/22/08	09/30/14
Beverly Reliford	07/08/03	09/30/12
Flo Samuels	09/14/10	09/30/14
Julius Willis Jr.	09/14/10	09/30/11

FORMER HUMAN SERVICES COMMISSION

<u>NAME</u>	<u>DATE APPOINTED</u>	<u>TERM EXPIRES</u>
Elisa Alarcón	07/22/08	09/30/12
Todd Davis	06/30/09	09/30/13
Diane Fagalde	09/14/10	09/30/13
Ben Henderson	02/13/07	09/30/13
Robert Lara	06/30/09	09/30/13
I. Elizabeth Samayoa	06/27/06	09/30/13
Sarabjit Singh Toor	06/19/07	09/30/14
Jossda Yip	07/22/08	09/30/12

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

- | | |
|----------------|--|
| Attachment I | Resolution Confirming Community Services
Commission Members |
| Attachment II | Resignation Letter |
| Attachment III | Resolution Accepting the Resignation |

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Council Member _____

RESOLUTION CONFIRMING MEMBERS OF THE
COMMUNITY SERVICES COMMISSION

BE IT RESOLVED that the City Council of the City of Hayward confirms the following persons as members of the newly-formed Community Services Commission, in transition from their original appointment to the Citizens Advisory Commission or the Human Services Commission, effective October 20, 2011:

<u>NAME</u>	<u>DATE APPOINTED</u>	<u>TERM EXPIRES</u>
Former Citizens Advisory Commission		
Donna Allen-Thomas	06/30/09	09/30/13
Ray Bonilla Jr.	09/14/10	09/30/14
Cynthia Chiasson	06/30/09	09/30/14
Peggy Guernsey	02/13/07	09/30/13
Tom Kersten	07/22/08	09/30/12
Robert Leppert	09/14/10	09/30/14
Lynnette Foy Linnen	06/27/06	09/30/14
Allison McManus	09/14/10	09/30/14
Linda Moore	06/30/09	09/30/13
Liz Morales-Contreras	07/22/08	09/30/14
Beverly Reliford	07/08/03	09/30/12
Flo Samuels	09/14/10	09/30/14
Julius Willis Jr.	09/14/10	09/30/11

<u>NAME</u>	<u>DATE APPOINTED</u>	<u>TERM EXPIRES</u>
Former Human Services Commission		
Elisa Alarcón	07/22/08	09/30/12
Todd Davis	06/30/09	09/30/13
Diane Fagalde	09/14/10	09/30/13
Ben Henderson	02/13/07	09/30/13
Robert Lara	06/30/09	09/30/13
I. Elizabeth Samayoa	06/27/06	09/30/13
Sarabjit Singh Toor	06/19/07	09/30/14
Jossda Yip	07/22/08	09/30/12

BE IT FURTHER RESOLVED, that the City Council of the City of Hayward hereby confirms the re-appointment of Julius Willis Jr., as member of the Community Services Commission, for a second term, effective October 20, 2011 and terminating September 30, 2015.

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

ATTACHMENT II

From: Jim Millet [mailto:jem820@polite.com]
Sent: Thursday, September 29, 2011 1:16 PM
To: CityClerk
Subject: HSC

Ms. Lens;

Please take this email as my notification that effective September 21, 2011, I will be resigning from the HSC in order to help with the CERT program for the City.

James E. Millet

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Council Member _____

RESOLUTION ACCEPTING THE WRITTEN RESIGNATION
OF JAMES E. MILLET III FROM HUMAN SERVICES
COMMISSION

WHEREAS, Mr. James E. Millet III was appointed to the Human Services Commission on June 27, 2006; and

WHEREAS, Mr. James E. Millet III has submitted his written resignation effective September 21, 2011;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Council hereby accepts the resignation of James E. Millet III from the Human Services Commission and commends him for his civic service to the City.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: Quirk

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DATE: October 11, 2011

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Adoption of Ordinance Reclassifying the Zoning Designation for Properties in the South Hayward BART/Mission Boulevard Form-Based Code Area; and Adoption of Ordinance Amending the Zoning Ordinance Chapter 10, Article 1 of the Hayward Municipal Code, and Off-Street Parking Regulations, Chapter 10, Article 2 of the Hayward Municipal Code and Adding a New Article 24 “South Hayward Bart/Mission Code,” All Relating to the Adoption of the South Hayward Bart/Mission Boulevard Form-Based Code

RECOMMENDATION

That the City Council adopts the Ordinances introduced on September 27, 2011. The Ordinances were introduced with direction to staff to review and amend the Hayward Municipal Code related to Alcohol Beverage Outlet Regulations and bring back a report to the City Council.

BACKGROUND

The Ordinance was introduced by Council Member Zermeño at the September 27, 2011, meeting of the City Council with the following vote:

AYES:	Council Members:	Zermeño, Halliday, Salinas, Henson Mayor Sweeney
NOES:	Council Members:	Peixoto
ABSENT:	Council Members:	Quirk
ABSTAIN:	Council Members:	None

The Ordinances were published in the Hayward Daily Review on Saturday, October 8, 2011. Adoption at this time is therefore appropriate.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Ordinances Published on October 8, 2011
Attachment II	Final version of the South Hayward BART/Mission Boulevard Form-Based Code

**PUBLIC NOTICE OF AN INTRODUCTION OF ORDINANCES
BY THE CITY COUNCIL OF THE CITY OF HAYWARD**

AN ORDINANCE RECLASSIFYING THE ZONING DESIGNATION FOR PROPERTIES IN THE SOUTH HAYWARD BART/MISSION BOULEVARD FORM-BASED CODE AREA

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

Section 1. Reclassification - Description

Section 2. Reclassification - Findings of Approval

Section 3. Zoning District Index Map

Section 4. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective upon adoption.

Section 5. 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 the 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 that the remainder of the ordinance absent the unexcised portion can be reasonably interpreted to give effect to the intentions of the City Council.

Introduced at the meeting of the Hayward City Council held September 27, 2011, the above-entitled Ordinance was introduced by Council Member Zermeño.

AN ORDINANCE AMENDING THE ZONING ORDINANCE, CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE, AND OFF-STREET PARKING REGULATIONS, CHAPTER 10, ARTICLE 2 OF THE HAYWARD MUNICIPAL CODE, AND ADDING A NEW ARTICLE 24 "SOUTH HAYWARD BART/MISSION BOULEVARD FORM-BASED CODE" TO CHAPTER 10 OF THE HAYWARD MUNICIPAL CODE, ALL RELATING TO THE ADOPTION OF THE SOUTH HAYWARD BART/MISSION BOULEVARD FORM-BASED CODE

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

Section 1. Planning, Zoning and Subdivision Regulations Amendments - Description

Section 2. Planning, Zoning and Subdivision Regulations Amendments - Findings of Approval

Section 3. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

Section 4. Severance. Should any portion of this ordinance be declared by court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of the City, such decision shall not affect the validity of the remainder of the ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance absent the excised portion, can be reasonably interpreted to give effect to the intentions of the City Council

Introduced at the meeting of the Hayward City Council held September 27, 2011, the above-entitled Ordinance was introduced by Council Member Zermeño.

These ordinances will be considered for adoption at the special meeting of the Hayward City Council, to be held on October 11, 2011, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of these ordinances is available for examination by the public in the Office of the City Clerk.

Dated: October 8, 2011
Miriam Lens, City Clerk
City of Hayward

SOUTH HAYWARD BART/
MISSION BOULEVARD
HAYWARD, CALIFORNIA
FORM-BASED CODE

OCTOBER 11, 2011

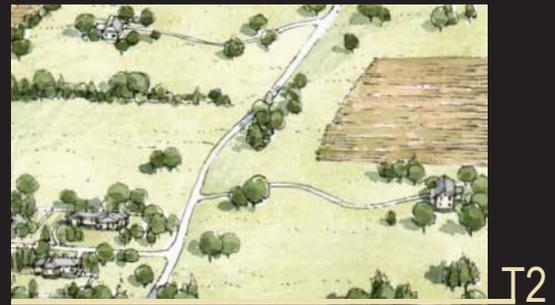


FIGURE 1-1 REGULATING PLAN

SEC.10-24.100	PURPOSE AND APPLICABILITY
10-24.105	TITLE
10-24.110	EFFECTIVE DATE
10-24.115	PURPOSE
10-24.120	AUTHORITY
10-24.125	ADMINISTRATION RESPONSIBILITY
10-24.130	APPLICABILITY
10-24.135	MINIMUM REQUIREMENTS
10-24.140	INTERFACE WITH OTHER REGULATORY REQUIREMENTS
SEC.10-24.200	REGULATING PLAN AND TRANSECT ZONES
10-24.205	PURPOSE
10-24.210	REGULATING PLAN
10-24.215	TRANSECT ZONES
10-24.220	CIVIC SPACE ZONE
10-24.225	BUILDING DISPOSITION
10-24.230	BUILDING CONFIGURATION
10-24.235	BUILDING FUNCTIONS
10-24.240	DENSITY STANDARDS
10-24.245	PARKING STANDARDS
TABLE A1	BICYCLE PARKING REQUIREMENT
TABLE A2	BICYCLE PARKING TYPES
10-24.250	ARCHITECTURAL STANDARDS
10-24.255	FENCE AND WALL STANDARDS
10-24.260	LANDSCAPE STANDARDS
10-24.265	VISITABILITY STANDARDS
10-24.270	SUSTAINABILITY STANDARDS
10-24.275	THOROUGHFARE STANDARDS & PLAN
10-24.280	SUBDIVISION STANDARDS
10-24.285	SIGN STANDARDS
10-24.290	TELECOMMUNICATION FACILITY STANDARDS
10-24.295	GROUP HOME STANDARDS
10-24.296	AIR QUALITY MITIGATION MEASURES
SEC.10-24.300	STANDARDS AND TABLES
TABLE 1	TRANSECT ZONE DESCRIPTIONS
TABLE 2	THOROUGHFARE ASSEMBLIES
TABLE 3	PUBLIC LIGHTING
TABLE 4	PUBLIC PLANTING
TABLE 5	PRIVATE FRONTAGES
TABLE 6	FENCES AND WALLS
TABLE 7	BUILDING CONFIGURATION (BUILDING HEIGHT)
TABLE 8	BUILDING DISPOSITION (PLACEMENT ON LOT)

TABLE 9	SPECIFIC FUNCTION & USE
TABLE 10	CIVIC SPACE
TABLE 11	FORM-BASED CODE SUMMARY
TABLE 12A	FORM-BASED CODE GRAPHICS:T4
TABLE 12B	FORM-BASED CODE GRAPHICS: T5
TABLE 13A	SUSTAINABILITY: WIND POWER
TABLE 13B	SUSTAINABILITY: SOLAR ENERGY
TABLE 13C	SUSTAINABILITY: FOOD PRODUCTION
TABLE 13D	LIGHT IMPRINT STORM DRAINAGE MATRIX

SEC.10-24.400

PROCEDURES

10-24.405	APPROVAL REQUIREMENTS
10-24.410	VARIANCES: WARRANTS & EXCEPTIONS
TABLE 14	APPROVAL REQUIREMENTS MATRIX
10-24.415	CODE MAINTENANCE

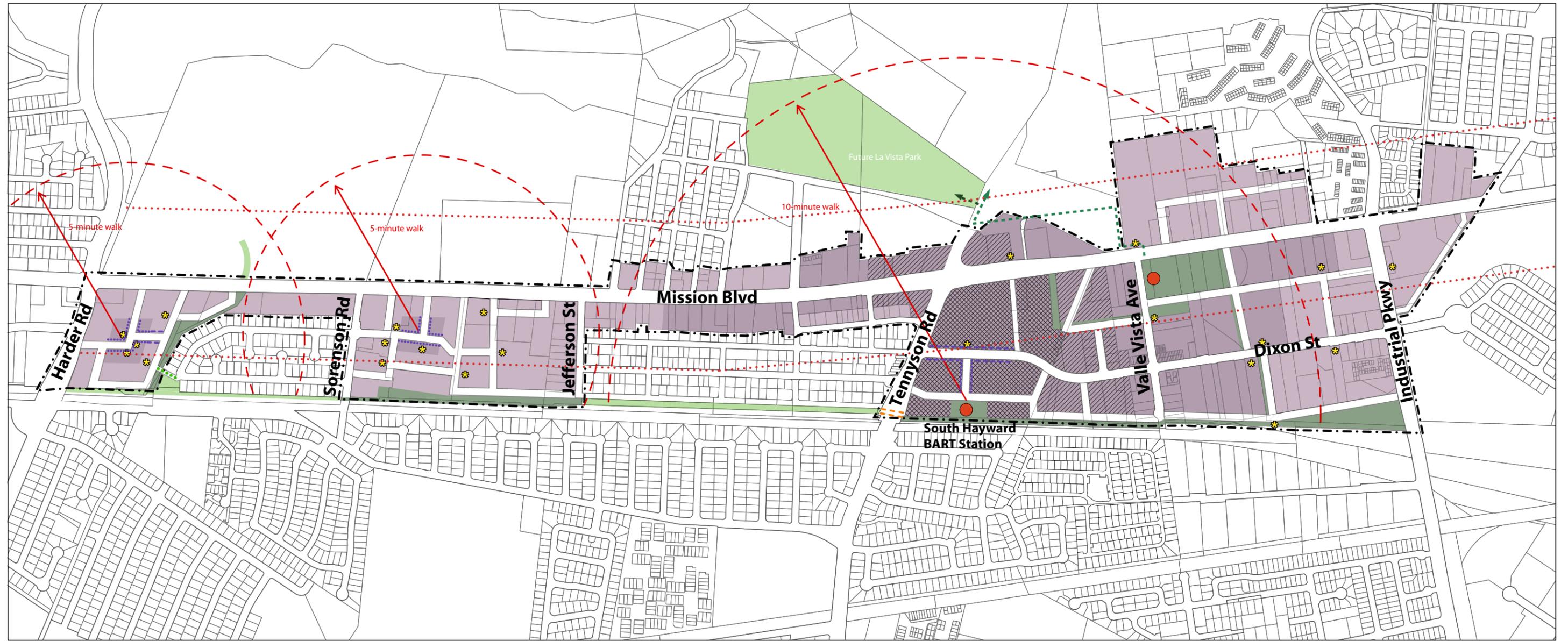
SEC.10-24.500

DEFINITIONS AND RULES OF INTERPRETATION

TABLE 15	DEFINITIONS ILLUSTRATED
10-24.505	DEFINITION OF TERMS
10-24.510	RULES OF INTERPRETATION

FIGURE 1-2	THOROUGHFARE PLAN
FIGURE 1-3	EXISTING AND NEW THOROUGHFARE PLAN

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Legend

- | | | |
|-------------------------------------|---|--|
| --- Project Area | T4 Urban General Zone: 17.5 DU/Acre min; 35 DU/acre max | For illustrative purpose only: |
| ▭ Parcels | T5 Urban Center Zone: 35 DU/Acre min; 55 DU/acre | ▭ Civic Spaces outside of the project area |
| ✱ Terminated Vistas | TOD Density Overlay 1: 75 DU/acre min; 100 DU/acre max | --- 238 Bypass Trail Location |
| Mandatory Shopfront Overlay | TOD Density Overlay 2: 40 DU/acre min; 65 DU/acre max | - - - 5 Min/10 Min Walk (Pedestrian Shed) |
| - - - Recommended Shopfront Overlay | ▭ Civic Space Zone | --- Future pedestrian/bicycle bridge |
| Green Pathway | ● Civic Buildings | Air Quality Mitigation Overlay Zone - Refer to Section 10-24.296 |



SEC.10-24.100 PURPOSE AND APPLICABILITY

10-24.105 TITLE

This Chapter 10, Article 24 of the City of Hayward Municipal Code shall be known, and may be cited, as the “South Hayward BART/Mission Boulevard Form-Based Code.” References to “Code” within the text of this South Hayward BART/Mission Boulevard Form-Based Code are references to this South Hayward BART/Mission Boulevard Form-Based Code unless the context clearly indicates otherwise, e.g., references to the “Municipal Code” refer to the Hayward Municipal Code; references to the “Government Code” refer to the California State Government Code, and so on.

10-24.110 EFFECTIVE DATE

The South Hayward BART/Mission Boulevard Form-Based Code has an effective date of [to be inserted by City Clerk after adoption].

10-24.115 PURPOSE

Chapter 2 of the Hayward General Plan (“Land Use Element”) describes how the City’s Planning Area is comprised of certain neighborhood planning areas (see General Plan Figure 2-2), including the Mission/Garin neighborhood, and further designates, among other things, certain significant Focus Areas (see General Plan Figure 2-3) for the implementation of smart growth principles. This Code implements such principles for portions of the South Hayward BART Area and Mission Boulevard Corridor.

This Code carries out the policies of the Hayward General Plan by classifying and regulating the types and intensities of development and land uses within the Code area consistent with, and in furtherance of, the policies and objectives of the General Plan. This Code is adopted to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare of the community. More specifically, the purposes of this Code are to ensure:

FOR THE COMMUNITY

- a. That neighborhoods and Transit-Oriented Development is compact, pedestrian-oriented and mixed-use.
- b. That neighborhoods should be the preferred pattern of development and that districts specializing in a single use should be the exception.

- c. That ordinary activities of daily living occur within walking distance of most dwellings, allowing independence to those who do not drive.
- d. That interconnected networks of Thoroughfares be designed to disperse traffic and reduce the length of automobile trips.
- e. That within neighborhoods, a range of housing types and price levels be provided to accommodate diverse ages and incomes.
- f. That affordable housing should be distributed throughout the region to match job opportunities and to avoid concentrations of poverty.
- f. That appropriate building Densities and land uses be provided within walking distance of transit stops.
- g. That Civic, institutional, and Commercial activity should be embedded in neighborhoods, not isolated in remote single-use complexes.
- h. That schools be sized and located to enable children to safely walk or bicycle to them.
- i. That a range of Open Space including Parks, Squares, Plazas and playgrounds be distributed within neighborhoods.
- j. That the region should include a framework of transit, pedestrian, and bicycle systems that provide alternatives to the automobile.

FOR THE TRANSECT

- a. That communities should provide meaningful choices in living arrangements as manifested by distinct physical environments.
- b. That the Transect Zone descriptions on Table 1 including, in particular the T-4 General Urban Zone, T-5 Urban Center Zone, and CS Civic Spaces, shall constitute the Intent of this Code with regard to the general character of each of these environments within the Code area.

FOR THE BLOCK AND THE BUILDING

- a. That buildings and landscaping contribute to the physical definition of Thoroughfares as Civic places.
- b. That development adequately accommodate automobiles while respecting the pedestrian and the spatial form of public areas.

- c. That the design of streets and buildings reinforce safe environments, but not at the expense of accessibility.
- d. That architecture and landscape design grow from local climate, topography, history, and building practice.
- e. That buildings provide their inhabitants with a clear sense of geography and climate through energy efficient methods.
- f. That Civic Buildings and public gathering places be provided as locations that reinforce community identity and support self-government.
- g. That Civic Buildings be distinctive and appropriate to a role more important than the other buildings that constitute the fabric of the city.
- h. That the preservation and renewal of historic buildings be facilitated to affirm the continuity and evolution of society.
- i. That the harmonious and orderly evolution of urban areas be secured through form-based codes.

10-24.120 AUTHORITY

This Code is a tool for implementing the goals, objectives, and policies of the Hayward General Plan, pursuant to the mandated provisions of the State Planning and Zoning Law, the California Environmental Quality Act, and other applicable State and local requirements.

10-24.125 ADMINISTRATION RESPONSIBILITY

This Code shall be administered by: the Hayward City Council, hereafter referred to as the "Council;" the Planning Commission, hereafter referred to as the "Commission;" the Development Services Director or his/her designee, hereafter referred to as the "Director;" the Development Services Department, hereafter referred to as the "Department," and other City bodies and officials as identified in this Code.

10-24.130 APPLICABILITY

This Code applies to all land uses, subdivisions, and development within the South Hayward BART/Mission Boulevard Form-Based Code area (Figure 1-1), as provided herein.

- a. It shall be unlawful and a violation of this Code for any person to establish, construct, reconstruct, enlarge, alter, or replace any use of

land or structure, except in compliance with the requirements listed below, including those relating to nonconforming uses, structures, and parcels. No building permit or grading permit shall be issued by the City unless the proposed construction complies with all applicable provisions of this Code.

- b. Any subdivision, Lot line adjustment and Lot line merger proposed within the Code area after the effective date of this Code shall enable development consistent with the Code.

10-24.135 MINIMUM REQUIREMENTS

- a. The provisions of this Code are minimum requirements for the protection and promotion of the public health, safety, comfort, convenience, prosperity, and general welfare. When this Code provides for discretion on the part of a City official or body, that discretion may be exercised to impose conditions on the approval of any project proposed in the Code area, as may be determined by the Review Authority to be necessary to establish or promote development and land use, environmental resource protection, and the other purposes of this Code.

10-24.140 INTERFACE WITH OTHER REGULATORY REQUIREMENTS

- a. Municipal Code Provisions. This Code is a subpart (i.e., Article 24) of Municipal Code Chapter 10 (Planning, Zoning and Subdivisions). As is the case with other provisions of Municipal Code Chapter 10 (Planning, Zoning and Subdivisions), all other provisions of the Hayward Municipal Code continue to apply within the Code area except as expressly provided to the contrary in the South Hayward BART/Mission Boulevard Form-Based Code.

In any instance where there is no conflict between a requirement of this Code and a requirement or other provision of the Municipal Code because a regulatory subject is addressed elsewhere in the Municipal Code but not in the South Hayward BART/Mission Boulevard Form-Based Code, such as, by way of example but without limitation, the massage establishment permit requirements set forth in Chapter 6, Article 10 of the Municipal Code, the Municipal Code provision is intended to, and shall, apply.

- b. Conflicting Requirements.
 - i. South Hayward/Mission Boulevard Form-Based Code. If a conflict occurs between requirements within this Code, the most restrictive shall apply.

- ii. Planning, Zoning and Subdivision Regulations. The provisions of this Code, when in conflict with Municipal Code Chapter 10 (Planning, Zoning and Subdivisions), shall take precedence.
 - iii. Development Agreement. If conflicts occur between the requirements of this Code and standards adopted as part of any Development Agreement, the requirements of the Development Agreement shall apply.
 - iv. Private Agreements. This Code applies to all land uses and development regardless of whether it imposes a greater or lesser restriction on the development or use of structures or land than a private agreement or restriction (for example, Conditions, Covenants & Restrictions), without affecting the applicability of any agreement or restriction.
- c. Inapplicable Planning, Zoning and Subdivision Regulations. The following Municipal Code Chapter 10 (Planning, Zoning and Subdivisions) provisions shall not apply within the Code area:
- i. Article 1 (Zoning Ordinance)
 - (1) Sections 10-1.200 through 10-1.2600 (Zoning Districts)
 - (2) Section 10-1.2735(i) (Private Street Criteria)
 - (3) Section 10-1.3300 (Variances)
 - ii. Article 2 (Off-Street Parking Regulations) except for Sections 10-2.200 through 10-2.205, Sections 10-2.400 through 10-2.402, and Sections 10-2.600 through 10-2.770.
 - iii. Article 3 (Subdivision Ordinance)
 - (1) Section 10-3.505 (Street Standards)
 - (2) Section 10-3.845 (Block Lengths)
 - iv. Article 7 (Sign Regulations)
- All remaining provisions of Municipal Code Chapter 10 not listed above in this section are applicable to the Code area.
- d. Public Notice. In Addition to the notice requirements of Municipal Code Section 10-1.2820 (Notice), a Notice of Application Receipt shall be provided within the Code area as follows:

- i. Notice Recipients. Within 15 days of receiving a complete application for those permit requests identified in Table 14, items b and c, but prior to public hearing on the application, the Director shall provide a Notice-of-Application Receipt by first class mail to the applicant and owner, or the owner's authorized representative, and to the owners and occupants of all parcels within 300 feet of the perimeter of the subject property as shown on the latest equalized assessment roll.
- ii. Notice Contents. The Notice-of-Application Receipt shall provide a description of the property subject to the application that includes, at a minimum:
 - (1) The street address or, if the street address is unavailable, a description utilizing a readily recognizable geographic feature, as determined by the Director;
 - (2) The current zoning classification;
 - (3) The category of development approval requested and a brief description of the proposed development, revised zoning classification (if any), and uses requested;
 - (4) The real property tax assessment roll parcel number; and
 - (5) The name, mailing address, email address and phone number of the city staff person to which questions and/or comments should be directed.
- iii. Notice Broadcast. The Director may expand the list of owners and occupants receiving the Notice-of-Application Receipt beyond the 300 foot radius, including the provision of notice by means other than mail including, without limitation, via on-site posting or electronically.

SEC.10-24.200 REGULATING PLAN AND TRANSECT ZONES

10-24.205 PURPOSE

This Section establishes the zones applied to property within the Code area, adopts the Regulating Plan for the Code area as its Zoning Map, and establishes standards applicable to zones.

10-24.210 REGULATING PLAN

The City Council hereby adopts the South Hayward BART/Mission Boulevard Form-Based Code Regulating Plan (hereafter referred to as the "Regulating Plan"), as shown in Figure 1-1, as an amendment to the zoning district map authorized by Municipal Code Section 10-1.3400 (Amendments).

- a. Special Requirements. The Regulating Plan designates the following Special Requirements whose standards shall be applied as follows:
 - i. Designations for mandatory Shopfront Frontage require that a building shall provide a Shopfront at Sidewalk level along the entire length of its Private Frontage. The Shopfront shall be no less than 70% glazed in clear glass and shaded by an awning overlapping the Sidewalk as generally illustrated in Table 5. The first floor shall be confined to Retail Sales use through the depth of the second Layer.
 - ii. Designations for recommended Shopfront Frontage indicate that a building should provide a Shopfront at Sidewalk level along the entire length of its Private Frontage. Where provided, the Shopfront shall be no less than 70% glazed in clear glass and shaded by an awning overlapping the Sidewalk as generally illustrated in Table 5. Where the recommended Shopfront is provided, the first floor shall be confined to Retail Sales use through the depth of the second Layer.
 - iii. Designations for Terminated Vista locations indicate that the building should be provided with architectural articulation of a type and character that responds visually to the location, as approved by the Review Authority. A building located at a Terminated Vista designated on the Regulating Plan should be designed in response to the axis through the use of color, material, massing and height such that visual orientation along the axis is improved and a prominently visible destination (i.e., building at the Terminated Vista) is established.

10-24.215 TRANSECT ZONES

- a. The area within the Regulating Plan boundaries is subject to this Code, and shall be divided into Transect Zones that implement the Hayward General Plan. The Transect Zones, whose general intent is described in Table 1 (Transect Zone Descriptions), are hereby established, and shall be shown on the Regulating Plan for the South Hayward BART/Mission Boulevard Form-Based Code area.

10-24.220 CIVIC SPACES ZONE

- a. The Civic Space Zone (CS) accompanies Transect Zones on the Regulating Plan. The purpose of the CS Zone is for the provision of public Open Space, Civic Buildings and Civic uses. At the South Hayward BART Station, the CS designation is to facilitate use of the South Hayward BART station.

- b. General to CS Zone
 - i. The physical composition of Civic Buildings should result in distinction from common, backstory buildings used for dwelling and commerce through, by way of example, the use of color, material, ornament, massing, Disposition and height.

 - ii. New Civic Buildings and/or exterior alterations to existing Civic Buildings require Site Plan approval by the Commission.

 - iii. Civic Buildings and Lots shall conform to the Functions on Table 9.

 - iv. Civic Buildings should be designed in compliance with the standards applicable to the abutting Transect Zone. However, deviation is permissible and encouraged with Warrant approval where necessary to achieve the intent of Section 10-24.220(a) and 10-24.220(b)(i).

 - v. Open Space shall be generally designed as described in Table 10.

 - vi. Sections 10-24.245, 10-24.255, 10-24.280, and 10-24.285 of this Code are inapplicable to the CS Zone.

 - vii. Buildings and Lots within the CS Zone are encouraged to incorporate the provisions of Section 10-24.270.

10-24.225 BUILDING DISPOSITION

- a. General to T4 and T5 Zones
 - i. One Principal Building at the Frontage, and one Outbuilding of up to 440 square feet located to the rear of the Principal Building, may be built on each Lot as shown in Table 15.

 - ii. The Principal Entrance shall be on a Frontage Line.

- b. Specific to T4 Zone
 - i. Newly subdivided Lots shall be dimensioned according to Tables 11 and 12A.
 - ii. Building Disposition types shall be as shown in Tables 8, 11, and 12A.
 - iii. Buildings shall be disposed in relation to the boundaries of their Lots according to Table 11.
 - iv. Lot coverage by building shall not exceed that recorded in Table 11 and Table 12A.
 - v. Facades shall be built parallel to a rectilinear Principal Frontage Line or to the tangent of a curved Principal Frontage Line, and along a minimum percentage of the Frontage width at the Setback, as specified as Frontage Buildout on Table 11 and Table 12A.
 - vi. Setbacks for Principal Buildings shall be as shown in Table 11 and Table 12A. In the case of an Infill Lot, Setbacks shall match one of the existing adjacent Setbacks. Setbacks may otherwise be adjusted by Warrant.
 - vii. Rear Setbacks for Outbuildings shall be a minimum of 15 feet measured from the centerline of the Rear Alley easement. In the absence of Rear Alley, the rear Setback shall be as shown in Table 11 and Table 12A.
- c. Specific to T5 Zone
 - i. Newly subdivided Lots shall be dimensioned according to Tables 11 and 12B.
 - ii. Building Disposition types shall be as shown in Tables 8, 11, and 12B.
 - iii. Buildings shall be disposed in relation to the boundaries of their Lots according to Tables 11 and 12B.
 - iv. Lot coverage by building shall not exceed that recorded in Tables 11 and 12B.
 - v. Facades shall be built parallel to a rectilinear Principal Frontage

Line or to the tangent of a curved Principal Frontage Line, and along a minimum percentage of the Frontage width at the Setback, as specified as Frontage Buildout on Table 11 and Table 12B.

- vi. Setbacks for Principal Buildings shall be as shown in Table 11 and Table 12B. In the case of an Infill Lot, Setbacks shall match one of the existing adjacent Setbacks. Setbacks may otherwise be adjusted by Warrant.
- vii. Rear Setbacks for Outbuildings shall be a minimum of 15 feet measured from the centerline of the Rear Alley easement. In the absence of Rear Alley, the rear Setback shall be as shown in Table 11.g and Table 12B.

10-24.230 BUILDING CONFIGURATION

- a. General to T4 and T5 Zones
 - i. Buildings on corner Lots shall have two Private Frontages as shown in Table 15. Prescriptions for the second and third Layers pertain only to the Principal Frontage. Prescriptions for the first Layer pertain to both Frontages.
 - ii. All Facades shall be glazed with clear glass no less than 30% of the first Story.
 - iii. Stories may not exceed 14 feet in height from finished floor to finished floor, except for a first floor Commercial Function, which shall be a minimum of 14 feet with a maximum of 25 feet. A single floor level exceeding 14 feet, or 25 feet at ground level, shall be counted as two (2) stories. Mezzanines extending beyond 33% of the floor area shall be counted as an additional Story.
 - iv. In a Parking Structure or garage, each above-ground level counts as a single Story regardless of its relationship to habitable Stories.
 - v. Height limits do not apply to masts or belfries, clock towers, chimney flues, elevator bulkheads, church spires, cupolas, domes, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning.

- vi. Attics shall not exceed 14 feet in height. Raised basements shall not exceed 3 feet in height up to the finished floor of the first story.
 - vii. The habitable area of a Second Dwelling Unit within a Principal Building or an Outbuilding shall not exceed 640 square feet, excluding the parking area.
 - viii. Rooftop improvements shall be required to reduce visual impacts on future buildings that could impact views from existing buildings at higher elevations on the east side of Mission Boulevard, as determined by the Planning Director. Architectural features integral to the building design and solar energy systems should not be screened from view.
- b. Specific to T4 Zone
- i. The Private Frontage of buildings shall conform to and be allocated in accordance with Tables 5, 11 and 12A.
 - ii. Building heights, Stepbacks, and Extension Lines shall conform to Tables 7, 11, and 12A.
 - iii. Balconies, open porches and bay windows may Encroach the first Layer 50% of its depth.
 - iv. All developments shall provide at least 15% of their Lot area as Common Open Space.
 - v. Common Open Space shall be located within the Second Layer or Third Layer whether at-grade or upon roof decks (including roof decks above structured or podium parking).
 - vi. Common Open Space provided with a Sideyard or Courtyard building type shall be contiguous to the corresponding Principal Building and, to the maximum extent practicable, Enfronted by one or more of the permitted Private Frontages of Table 5.
 - vii. Common Open Space provided with an Edgeyard or Rearyard building type shall be contiguous to the corresponding Principal Building.
- c. Specific to T5 Zone
- i. The Private Frontage of buildings shall conform to and be allocated in accordance with Tables 5, 11, and 12B.

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- ii. Building heights, Stepbacks, and Extension Lines shall conform to Tables 7, 11, and 12B.
- iii. Awnings, Arcades, and Galleries may Encroach the Sidewalk to within 2 feet of the Curb but must clear the Sidewalk vertically by at least 8 feet.
- iv. Stoops, balconies, bay windows, and terraces may Encroach the first Layer 100% of its depth.
- v. All developments shall provide at least 10% of their Lot area as Common Open Space.
- vi. Common Open Space shall be located within the Second Layer or Third Layer whether at-grade or upon roof decks (including roof decks above structured or podium parking).
- vii. Common Open Space provided with a Sideyard or Courtyard building type shall be contiguous to the corresponding Principal Building and, to the maximum extent practicable, Enfronted by one or more of the permitted Private Frontages of Table 5.
- viii. Common Open Space provided with an Edgeyard or Rearyard building type shall be contiguous to the corresponding Principal Building.
- ix. Loading docks and service areas shall be permitted on Frontages only by Warrant (See Section 10-24.410).
- x. In the absence of a building Facade along any part of a Frontage Line, a Streetscreen shall be built co-planar with the Facade.
- xi. Streetscreens should be between 3.5 and 6 feet in height. The Streetscreen may be replaced by a hedge or fence by Warrant. Streetscreens shall have openings no larger than necessary to allow automobile and pedestrian access.
- xii. A first level Residential or Lodging Function shall be raised a minimum of 2 feet from average Sidewalk grade.

10-24.235 BUILDING FUNCTIONS

- a. General to all Zones
 - i. Buildings and Lots in each Transect Zone shall conform to the Functions on Table 9.

- ii. Any one or more allowed Functions may be established on any Lot, subject to the permit required for the use by Table 9, and compliance with all other applicable requirements of this Code.
- iii. Where a single parcel is proposed for development with two or more Functions listed in Table 9, the overall project shall be subject to the highest permit level required by Table 14 for any individual use.
- iv. The Director may authorize a Temporary Use in any zone with approval of an Administrative Use Permit.
- v. Assembly and Religious Facility Functions that front on Mission Boulevard shall be separated by a distance of at least one-half mile. Proposals to reduce this distance may be considered under Section 10-24.410(a)(ii).

10-24.240 DENSITY STANDARDS

- a. General to Zones T4 and T5
 - i. Second Dwelling Units do not count toward Density calculations.
 - ii. The permissible Residential Density on a Lot is set by Table 11 except that Lots designated TOD Density Overlay 1 on the Regulating Plan (Figure 1-1) shall have a minimum density of 75 dwelling units per acre (du/ac) and maximum density of 100 du/acre, and Lots Designated TOD Density Overlay 2 on the Regulating Plan (Figure 1-1) shall have a minimum density of 40 du/ac and maximum density of 65 du/ac
 - iii. The permissible Residential Density may be increased through a Street Dedication Bonus conforming to Section 10-24.275(h).

10-24.245 PARKING STANDARDS

- a. General to T4 and T5 Zones
 - i. Non-Residential Functions shall have no requirement for a minimum number of off-street automobile parking spaces.
 - ii. Where provided, open parking areas shall be masked from the Frontage by a Building or Streetscreen conforming to Section 10-24.230(c)(xi).

- iii. Tandem parking may be provided for multi-family residences when spaces are assigned to the same dwelling unit.
- iv. Tandem Parking may be provided for Commercial Functions when a valet/attendant is on duty during the hours when the business is open.
- v. Truck loading spaces and the access and maneuvering areas serving loading spaces shall be located on the same parcel as the activity served and must be exclusive of the area used for required parking spaces and maneuvering areas. Truck loading spaces shall not interfere with on-street traffic, parking, or Sidewalks; as determined by the Director.
- vi. Where provided, off-street parking and loading dimensions shall be as set forth in Municipal Code Sections 10-2.600 through 10-2.770.
- vii. Bicycle parking shall be provided and located in accordance with the most recent version of Section 5.106.4 of the California Green Building Standards Code (CalGreen):
 - Short-Term bicycle parking.** If the project is anticipated to generate visitor traffic, provide permanently anchored bicycle racks within 100 feet of the visitors' entrance, readily visible to passers-by, for 5 percent of visitor motorized vehicle parking capacity, with a minimum of one two-bike capacity rack.
 - Long-Term bicycle parking.** For buildings with over 10 tenant-occupants, provide secure bicycle parking for 5 percent of motorized vehicle parking capacity, with a minimum of one space. Acceptable parking facilities shall be convenient from the street and may include:
 - 1. Covered, lockable enclosures with permanently anchored racks for bicycles;
 - 2. Lockable bicycle rooms with permanently anchored racks; and
 - 3. Lockable, permanently anchored bicycle lockers.
- viii. In addition, bicycle parking shall conform to Table A1 Bicycle Parking Requirements and Table A2 Bicycle Parking Types. The minimum number of bicycle parking spaces shall be the greater of either the CalGreen requirement or Table A1 Bicycle Parking Requirements.

Table A1: Bicycle Parking Requirements - This table prescribes minimum parking ratios within each Transect Zone and assumes a bicycle mode share of 5% or less. Requirements may be met within the building, Private Frontage, Public Frontage, or a combination thereof.

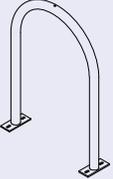
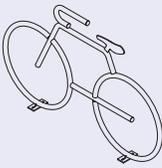
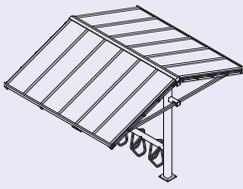
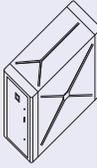
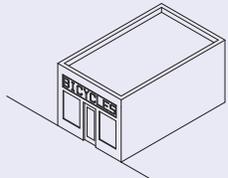
SHORT TERM PARKING		
	T4	T5
RESIDENTIAL Single-Family	no spaces required	n/a
Multi-Family	Min. 2.0 spaces .05 spaces / bedroom	Min. 2.0 spaces .10 spaces / bedroom
OFFICE	Min. 2.0 spaces 1.0 / add. 20,000 sq. ft.	Min. 2.0 spaces 1.0 / add.15,000 sq. ft.
RETAIL	Min. 2.0 spaces 1.0 / add. 5,000 sq. ft.	Min. 2.0 spaces 1.0 / add. 5,000 sq. ft.
CIVIC Non-Assembly	Min. 2.0 spaces 1.0 / add. 10,000 sq. ft.	Min. 2.0 spaces 1.0 / add. 10,000 sq. ft.
Assembly	Min. 2.0 spaces 1.0 / add. 15,000 sq. ft.	Min. 2.0 spaces 1.0 / add. 10,000 sq. ft.
SCHOOL Elementary/ High School	Min. 2.0 spaces 1.0 / add. 20 students	Min. 2.0 spaces 1.0 / add. 20 students
University	Min. 2.0 spaces 1.5 / add. 20 students	Min. 2.0 spaces 1.0 / add. 10 students

LONG TERM PARKING		
	T4	T5
RESIDENTIAL Single-Family	no spaces required	n/a
Multi-Family	Min. 2.0 spaces .15 spaces / bedroom	Min. 2.0 spaces .20 spaces / bedroom
OFFICE	Min. 2.0 spaces 1.0 / add. 10,000 sq. ft.	Min. 2.0 spaces 1.5 / add. 10,000 sq. ft.
RETAIL	Min. 2.0 spaces 1.0 / add. 10,000 sq. ft.	Min. 2.0 spaces 1.0 / add. 10,000 sq. ft.
CIVIC Non-Assembly	Min. 2.0 spaces 1.0 / add.15 employees	Min. 2.0 spaces 1.0 / add.10 employees
Assembly	Min. 2.0 spaces 1.0 / add.20 employees	Min. 2.0 spaces 1.5 / add.10 employees
SCHOOL Elementary/ High School	Min. 2.0 spaces 1.0 / add. 20 students	Min. 2.0 spaces 1.0 / add. 20 students
University	Min. 2.0 spaces 1.5 / add. 10 students	Min. 2.0 spaces 1.5 / add. 10 students

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TABLE A2: Bicycle Parking Types. This table shows five common types of Bicycle Parking facilities.

	T4	T5	Standards
Bicycle Rack (Inverted "U," post and ring, etc.) 	■	■	Racks shall be capable of securing bicycles with at least two points of contact. Simple, easily identifiable forms should be used. Racks may be placed in the Private Frontage, Public Frontage, or within buildings.
Bicycle Rack (decorative, public art) 	□	■	Decorative racks shall be recognizable as bicycle parking facilities and shall be held to the same performance standards as other bicycle racks. Such racks may be provided for Civic Buildings, Civic Spaces, and other locations of historic, social, or cultural importance.
Bicycle Shelter 	□	■	Shelters shall be highly recognizable and integrated with transit and/or related land uses requiring medium or long term bicycle parking needs. Each shelter shall include bicycle parking racks capable of securing bicycles with at least two points of contact.
Bicycle Locker 	□	■	Bicycle Lockers shall be placed in a highly visible and well-lit location, but shall not disrupt the function and order of the public realm. They should be monitored and maintained to discourage vandalism.
Bicycle Station 			Bicycle Stations should be located in highly visible locations, ideally near transit. They should offer a variety of services that may include repair, rental, cafe, lockers, showers, and storage facilities. □

- By Right
- By Warrant

- b. Specific to T4 zone
 - i. For each rental dwelling unit, a maximum of 1.75 off-street parking spaces may be provided.
 - ii. For each Residential condominium, a maximum of 2.0 off-street parking spaces may be provided.
 - iii. Driveways at Frontages shall be no wider than 10 feet in the first Layer.
 - iv. Notwithstanding the provisions of Section 10-24.245(a), all parking areas and garages shall be located according to Table 12A.

- c. Specific to T5 zone
 - i. For each rental dwelling unit, a maximum of 1.5 off-street parking spaces may be provided.
 - ii. For each Residential condominium, a maximum of 1.8 off-street parking spaces may be provided.
 - iii. Notwithstanding the provisions of Section 10-24.245(a), all parking areas, garages, and Parking Structures shall be located according to Table 12B.
 - iv. Vehicular entrances to parking lots, garages, and Parking Structures shall be no wider than 24 feet at the Frontage.
 - v. Pedestrian exits from all parking lots, garages, and Parking Structures shall be directly to a Frontage Line (i.e., not directly into a building) except underground levels which may be exited by pedestrians directly into a building.
 - vi. Designated Parking for Clean Air Vehicles shall be provided according to and comply with Section 5.106.5.2 of the California Green Building Standards Code (CalGreen).

10-24.250 ARCHITECTURAL STANDARDS

- a. General to T4 and T5 Zones
 - i. Building wall materials may be combined on each Facade only horizontally, with the heavier below the lighter.

- ii. Streetscreens should be constructed of a material matching the adjacent building Facade.
- iii. All openings, including porches, Galleries, Arcades and windows, with the exception of Shopfronts, shall be square or vertical in proportion.
- iv. Openings above the first Story shall not exceed 50% of the total building wall area, with each Facade being calculated independently.
- v. Doors and windows that operate as sliders are prohibited along Frontages.
- vi. Pitched roofs, if provided, shall be symmetrically sloped no less than 5:12, except that roofs for porches and attached sheds may be no less than 2:12.
- vii. The exterior finish material on all Facades shall be limited to brick, wood siding, cementitious siding and/or stucco.
- viii. Flat roofs shall be enclosed by parapets a minimum of 42 inches high, or as required to conceal mechanical equipment to the satisfaction of the Review Authority.
- ix. Balconies and porches shall be of a material compatible with the architectural materials of the Principal Building.

10-24.255 FENCE AND WALL STANDARDS

- a. General to T4 and T5 zones
 - i. Fences, hedges, and walls may be constructed to a height of six (6) feet in any side or rear setback, and to a height of four (4) feet in any portion of a Principal or Secondary Frontage area (See Table 15, item d.), except that where the rear or side setback is contiguous to the BART tracks, a flood control channel, or parking lot, a maximum 8-foot-high fence, hedge or wall is permitted.
 - ii. Fences at the first Lot Layer shall be painted, mural-covered, vine-covered or of a decorative material compatible with the architectural materials of the Principal Building. Anti-graffiti coating shall be required for all solid walls, decorative or otherwise, unless covered with a mural or vines. Fences at

other Layers may be of wood board or decorative metal.

- iii. Fences and wall shall also conform to the requirements of Table 6.
- iv. Public Works Director approval is required prior to construction of any fence or wall within the Visibility Triangle area (See Table 15, item g. VISIBILITY TRIANGLE).

10-24.260 LANDSCAPE STANDARDS

a. General to T4 and T5 Zones

- i. Impermeable surface shall be confined to the ratio of Lot coverage specified in Table 11.
- ii. Building service elements, such as trash dumpsters, utility meters, loading docks, backflow preventers, and electrical, plumbing, mechanical and communications shall be located either within the third Layer or within the second Layer if screened from view to the street and adjacent properties.
- iii. Exterior lighting and parking lot lighting shall be provided in accordance with the Security Standards Ordinance (No. 90-26 C.S.) and be designed by a qualified lighting designer and erected and maintained so that light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights-of-way. Such lighting shall also be designed such that it is decorative and in keeping with the design of the development.
- iv. Trees should be of a species that complements the architecture or design intent of the corresponding new or existing building. Selected species should also be consistent with the Street Trees on the Public Frontage, or as shown on Table 4.

b. Specific to T4 zone

- i. The first Layer may not be paved, with the exception of Driveways as specified in Section 10-24.245(b) and 10-24.245(c).
- ii. A minimum of one tree should be planted within the first Layer for each 30 feet of Frontage Line or portion thereof.
- iii. Trees should be a single species to match the species of Street Trees on the Public Frontage, or as shown on Table 4.

- c. Specific to T5 zone
 - i. Trees shall not be required in the first Layer.
 - ii. The first Layer may be paved to match the pavement of the Public Frontage.

10-24.265 VISITABILITY STANDARDS

- a. General to T4 and T5 zones
 - i. There shall be provided at least one zero-step entrance to each building from an accessible path at the front, side, or rear of each building.
 - ii. All first floor interior doors (including bathrooms) shall provide at minimum 32 inches of clear passage.

10-24.270 SUSTAINABILITY STANDARDS

- a. General to all zones.
 - i. Sustainability: Wind Power (Table 13A).
 - (1) Locations. Vertical Axis Wind Turbines shall be located:
 - A. Within the Second or Third Layer when building-mounted; and
 - B. Within the Third Layer when pole-mounted.
 - (2) Number per Lot. A maximum of two pole-mounted Vertical Axis Wind Turbines per parcel is permitted on Lots less than one-half acre in size; a maximum of four building-mounted Vertical Axis Wind Turbines per acre are permitted on Lots greater than one-half acre in size.
 - (3) Height. Vertical Axis Wind Turbines shall not exceed:
 - A. Fifteen (15) feet above the maximum building height when building-mounted; and
 - B. Seventy (70) feet above existing grade when pole-mounted.

- (4) Lighting. Vertical Axis Wind Turbines shall not be artificially lighted unless required, in writing, by the Federal Aviation Administration (FAA) or other applicable authority that regulates air safety. Where the FAA requires lighting, the lighting shall be the lowest intensity allowable under FAA regulations; the fixtures shall be shielded and directed to the greatest extent possible to minimize glare and visibility from the ground; and no strobe lighting shall be permitted, unless expressly required by the FAA.
- (5) Access. All wind turbine towers must comply with the following provisions:
 - A. The Vertical Axis Wind Turbine shall be designed and installed so that there shall be no exterior step bolts or a ladder on the tower readily accessible to the public for a minimum height of 12 feet above the ground.
 - B. All building-mounted Vertical Axis Wind Turbines shall be secured to prevent unauthorized access.
 - C. All ground-mounted electrical and control equipment related to Vertical Axis Wind Turbines shall be labeled and secured to prevent unauthorized access.
- (6) Noise. All Vertical Axis Wind Turbines, either individually or in combination, shall create noise that exceeds no more than 35 decibels (dBA) at any property line where the property on which the wind machine is located.
 - A. Noise levels may not be exceeded at any time, including short-term events such as utility outages and severe wind storms.
 - B. Measurement of sound levels shall not be adjusted for, or averaged with, non-operating periods.
 - C. Any Vertical Axis Wind Turbine(s) exceeding these levels shall immediately cease operation upon notification by the Director and may not resume operation until the noise levels have been reduced and verified by an independent third party inspector, approved by the Director, at the property owner's expense.

- (7) Aesthetics and Maintenance.
 - A. Appearance. Vertical Axis Wind Turbines, unless subject to any applicable standards of the FAA, shall be a non-obtrusive color such as tan, sand, gray, black or similar colors. Galvanized steel or metal is acceptable for the support structures.
 - B. Electrical Wires. All electrical wires leading from the tower to electrical control facilities shall be located underground.
 - C. Maintenance. Wind turbines shall be maintained in good repair, as recommended by the manufacturer's scheduled maintenance or industry standards.
 - D. Signs/Labels. The only advertising sign allowed on the wind turbine shall be a manufacturer's label, not exceeding one square foot in size.
- (8) Compliance with FAA Regulations. All wind turbines shall comply with applicable FAA regulations, including any necessary approvals for installations.
- (9) Repair and Removal of Vertical Axis Wind Turbines. Any wind turbine found to be unsafe by the City Building Official or his/her designee shall immediately cease operation upon notification by the Building Official and shall be repaired by the owner to meet federal, state, and local safety standards or be removed within six months. Vertical Axis Wind Turbines that are not operated for a continuous period of 12 months shall be removed by the owner.
 - A. When a Vertical Axis Wind Turbine is removed from a site, all associated and ancillary equipment, batteries, devices, structures or support(s) for that system shall also be removed. For the purposes of this section, non-operation shall be deemed to include, but shall not be limited to, the blades of the Vertical Axis Wind Turbine remaining stationary so that wind resources are not being converted into electric or mechanical energy, or the Vertical Axis Wind Turbine is no longer connected to the public utility electricity distribution system.

- (10) Prohibitions. Horizontal Axis Wind Turbines are prohibited in the Code area.
- ii. Sustainability: Solar Energy (Table 13B).
- (1) Mechanical equipment and appurtenances illustrated in Table 13B and necessary for the collection of solar energy shall be exempt from height requirements of this Code.
- (2) No planning permit shall be required to install mechanical equipment and appurtenances for solar energy collection.
- iii. Sustainability: Food Production (Table 13C).
- (1) Development projects are encouraged to incorporate the food production locations and arrangements illustrated in Table 13C, as assigned per T-zone and CS Zone.
- (2) Prohibited Food Production-related Functions or activities within the Code area include: Animal husbandry (excluding the keeping of up to four (4) chickens, as provided for below), beekeeping, processing of food produced on site, spreading of manure, application of agricultural chemicals (including fertilizers and pesticides), and use of heavy equipment such as tractors.
- (3) The keeping of chickens shall be allowed only in Vegetable Gardens and in accordance with Hayward Municipal Code Section 10-1.2735(f).
- (4) Food Production shall conform to the Functions on Table 9.
- iv. Sustainability: Light Imprint Storm Drainage Matrix (Table 13D).
- (1) Development projects are encouraged to incorporate the stormwater management techniques identified in Table 13D, as assigned per T-zone.

10-24.275 THOROUGHFARE STANDARDS & PLAN

- a. The Council hereby adopts the South Hayward BART/Mission Boulevard Form-Based Code Thoroughfare Plan (hereafter referred to as the "Thoroughfare Plan"), as shown in Figure 1-2, and the

corresponding Existing & New Thoroughfares Plan, as shown in Figure 1-3, as amendments to the zoning district map authorized by Municipal Code Section 10-1.3400 (Amendments).

b. Intent

- i. To enable the General Plan's recognized opportunities (see General Plan Pages 3-17 and 3-18) for infill development and redevelopment to accommodate alternate street patterns, including: (a) shorter Block lengths; (b) interconnected streets; (c) alleys; and (d) cul-de-sac avoidance.
- ii. To enable New Thoroughfares which are dedicated and constructed in locations generally consistent with those depicted in Figure 1-2 and Figure 1-3.
- iii. To utilize the provisions of this Section and Municipal Code Chapter 10, Article 4 (Precise Plan Lines for Streets) for the administrative aspects of implementing New Thoroughfares.
- iv. To enable both incremental modifications to Existing Thoroughfares through individual development projects or coordinated and holistic modifications to Existing Thoroughfares through City-sponsored capital improvement projects.

c. Applicability

- i. The Thoroughfare Plan (Figure 1-2) geographically assigns the standards of Table 2 to the Code area.
- ii. The Existing & New Thoroughfares Plan (Figure 1-3) distinguishes between Existing Thoroughfares present at the time of Code adoption and New Thoroughfares intended for dedication and improvement after Code adoption.

d. General to all Thoroughfares

- i. Thoroughfares are intended for use by vehicular and pedestrian traffic and to provide access to Lots and Open Spaces.
- ii. Thoroughfares shall consist of vehicular lanes and Public Frontages.
- iii. Within the Code area, pedestrian comfort shall be a primary consideration of the Thoroughfare.

- iv. Where presented, design conflicts between vehicular and pedestrian movement generally shall be decided in favor of the pedestrian.
 - v. The City of Hayward shall accept by dedication or acquire those New Thoroughfares depicted on the Thoroughfare Plan (Figure 1-2 and Figure 1-3) when related to a development project consistent with the provisions of this Code.
 - vi. The City of Hayward may accept by dedication or acquire those New Thoroughfares depicted on the Thoroughfare Plan (Figure 1-2) and Existing & New Thoroughfares (Figure 1-3) exclusive of a development project.
 - vii. Underground utilities shall be located under the Sidewalks, at a minimum of 5 feet away from the edge of planting, whenever possible, to allow tree planting.
- e. Vehicular Lanes
- i. Thoroughfares may include vehicular lanes in a variety of widths for parked and for moving vehicles, including bicycles. The standards for vehicular lanes shall be as shown in Table 2.
 - ii. The Thoroughfare Plan (Figure 1-2) and Existing & New Thoroughfares Plan (Figure 1-3) accommodate Bicycle Lanes, Bicycle Routes and Bicycle Trails which are consistent with the City of Hayward Bicycle Master Plan (October 2007). The City of Hayward shall utilize the Thoroughfare Plan and Existing & New Thoroughfares Plan as it designs, funds and constructs Thoroughfare modifications to facilitate implementation of the City of Hayward Bicycle Master Plan (October 2007).
 - iii. Where off-street parking spaces are provided outside of a building, the use of permeable/porous paving is required, as determined by the Director.
- f. Public Frontages
- i. General to all Zones
 - (1) The Public Frontage contributes to the character of Transect Zones and the Civic Space Zone, and includes the types of Sidewalk, Curb, Planter, bicycle facility, and street trees.

- (2) Public Frontages shall be designed as shown in Table 2 and allocated within Transect Zones and the Civic Space Zone as specified in Table 11.
 - (3) Within the Public Frontages, the prescribed types of Public Lighting and Public Planting shall be as shown in Table 3 and Table 4. The spacing may be adjusted by the Director to accommodate specific site conditions.
 - (4) The introduced landscape shall consist primarily of durable species tolerant of soil compaction.
- ii. Specific to T4 zone
 - (1) The Public Frontage shall include trees planted in a regularly-spaced Allee pattern of single or alternated species with shade canopies of a height that, at maturity, clears at least one Story.
 - iii. Specific to T5 zone
 - (1) The Public Frontage shall include trees planted in a regularly spaced Allee pattern of single species with shade canopies of a height that, at maturity, clears at least one Story. At Retail Frontages, the spacing of the trees may be irregular, to avoid visually obscuring the Shopfronts.
- g. Specific to Existing Thoroughfares
 - i. The standards of Table 2 shall apply as the City of Hayward designs and constructs modifications to Existing Thoroughfares.
 - ii. Development projects along Existing Thoroughfares shall comply with the provisions of Table 2 when they:
 - (1) Occur on a vacant Lot;
 - (2) Include the construction of a new Principal Building; or
 - (3) Include the construction of 50% or more of the gross floor area of any existing Principal Building.
 - iii. Development projects fronting Mission Boulevard may modify AV-100-64/76-TR through the inclusion of SL-40-20-BR or SL-48-28-BR (slip lanes).

- h. Specific to New Thoroughfares
- i. The Thoroughfare Plan allocates New Thoroughfares to Lots in a manner which results in Block perimeter distances equal to or lesser than the maximum distance of Table 11. The perimeter is measured as the sum of Lot Frontage Lines.
 - ii. Development projects which propose and accomplish the construction and dedication of a New Thoroughfare and Public Frontage shall be eligible for the following incentives:
 - (1) Upon receipt of a planning permit application, the Director shall expedite its processing through means including, without limitation, the prioritization of the application over others already filed; and
 - (2) A Street Dedication Bonus which increases: (a) the maximum Residential Density allocated to the corresponding T-Zone by up to four (4) units per increment of one hundred (100) feet of constructed and dedicated Street or Slip Lane, and one (1) unit per increment of fifty (50) feet of constructed and dedicated Alley length; and (b) the maximum Principal Building height by one (1) Story.
 - iii. The Review Authority may authorize New Thoroughfares in locations different from those depicted in Figure 1-2 and Figure 1-3 when it finds, in addition to other findings required by Section 10-24.400, that:
 - (1) Immovable physical obstructions including, without limitation, large boulders, public infrastructure facilities, or environmentally sensitive habitat, are present; or
 - (2) The resulting maximum Block perimeter distance of Table 11 would not be exceeded by either the current development or foreseeable future development proposals.
 - iv. Planning permit applications including New Thoroughfares shall include a petition to establish a Precise Plan Line for the New Thoroughfare(s). The petition shall be processed in accordance with Municipal Code Chapter 10, Article 4 and:
 - (1) Require no application fee payment;
 - (2) Be processed concurrently with the planning permit application; and

(3) Include any information requested by the Public Works Director to establish a Precise Plan Line that would enable construction of the New Thoroughfare without preventable financial hardship.

v. Proposals for the City of Hayward to acquire or purchase New Thoroughfares exclusive of a development project shall still require the establishment of a Precise Plan Line for the New Thoroughfare(s).

10-24.280 SUBDIVISION STANDARDS

a. Intent

i. The standards of this section intend to work in concert with others provided in the Code and, in doing so, generate buildings which provide primary entrances and windows facing public spaces, enable building Configurations which reflect the intended scale of the Code area, and to prevent large monolithic and repetitive buildings.

b. Applicability.

i. This section regulates subdivisions, Lot mergers, and Lot line adjustments within the Code area.

c. General to all Zones

i. All subdivisions shall include Nominal Parcels or Fee Simple Parcels conforming to the Lot Width standards of Table 11.

ii. Each Lot shall Enfront a vehicular Thoroughfare.

iii. Condominium subdivisions containing more than one building shall include Nominal Parcels conforming to Lot Width standards of Table 11.

iv. New development on a pre-existing parcel exceeding the applicable maximum Lot Width of Table 11 shall not occur unless the parcel is first subdivided to provide for Nominal Parcels or Fee Simple Parcels conforming to Table 11.

v. Lot line adjustments or Lot mergers pertaining to parcels not conforming to the applicable Lot Width requirements of Table

11 may occur so long as they bring the parcels closer into conformance.

- vi. No flag Lot shall be created in the Code area through either a subdivision or Lot line adjustment.
- vii. All New Thoroughfares shall be publicly owned or include an irrevocable easement providing for public access, and Existing Thoroughfares shall not be abandoned to private ownership.

10-24.285 SIGN STANDARDS

- a. Permitted Signs are authorized in all zones subject to the provisions of this Section.
- b. Permitted Signs. Wall, window, awning, projecting, hanging, marquee signs, monument signs, Sidewalk display signs, scrolling signs, and signs of historical or aesthetic significance are permitted.
- c. Prohibited Signs. Roof, pole, animated, revolving, Aerial Sign (except when permitted for promotions), off-premise, flashing, permanent banner and portable (except sidewalk display). In addition, awnings that are translucent or which contain interior lighting for illumination are prohibited.
- d. Colors. Sign colors should relate to the color scheme of the building. No more than three colors should be used on any one sign, unless approved by the Director. In addition, use of "neon" or "dayglow" colors must be approved by the Director.
- e. Lighting. Signs may be illuminated with directional spotlights or indirect lighting if the effect at night is not glaringly bright. External lighting is encouraged.
- f. Graphic Design. Sign construction and sign copy shall be of professional quality. Primary signage shall be designed to identify a business rather than advertise a brand-name product. High contrast between sign, text, and background should be provided but glaring white sign backgrounds and intense colors should be avoided. A letter style that is legible and in scale with the size of the sign frame or background should be used. If more than one sign is used, the signs should be compatible in style.
- g. Sign Installation. All signs, except window signs, require a sign permit

and building and electrical permits where required. All signs should be installed in a professional manner, avoiding, unsightly guy wires or other stabling devices. Attachments should be hidden from general view and in the least destructive manner possible. For masonry, attachments should be embedded into the mortar, not the brick or stone. All signs and murals painted on walls shall be covered with anti-graffiti coating.

h. Sign Area and Number

- i. Maximum Number. For all establishments, the maximum number of signs permitted per Frontage is two (2). The maximum number of signs permitted per establishment is four (4). Temporary window signs and Sidewalk display signs do not count toward the total.
- ii. Sign Area. The maximum sign area is one square foot per linear foot of primary Frontage, and one-half square foot per linear foot of Secondary Frontage. Only one Frontage, which contains a public entrance, may be counted as Principal Frontage. All other building Frontages, which have exposure to pedestrian or vehicular traffic, are considered Secondary Frontages. Only one Secondary Frontage may be counted for determining maximum sign area for all Secondary Frontages. Signs displayed on a single Frontage shall be limited to the area and number that are permitted on that Frontage alone. No establishment shall be permitted more than a total of 100 square feet of sign area per Frontage unless Warrant approval is obtained. Each establishment shall be entitled to a minimum of 30 square feet for the Principal Frontage. The total area encompassed by a contrasting color scheme shall be counted when calculating allowable sign area.

i. Sign Types

- i. Wall signs may be painted on the wall, or be made of metal, wood (except plywood), plastic, neon or vinyl. Fluorescent material is prohibited. Signs shall be located no higher than the cornice or parapet line, whichever is lower.
Wall signs legally erected before [insert Code effective date] shall be considered in conformance if they do not exceed the maximum allowable area by more than 25 percent, and do not extend above the cornice or parapet line, whichever is lower, by more than 25 percent of the height of the sign.

- ii. Permanent window signs may include graphics painted on glass, vinyl letters applied to glass, a clear acrylic panel behind the window, or small neon window signs and should be white or light in color. Permanent window signs shall not occupy more than 25 percent of the total area of the window.
- iii. Projecting signs shall be located no higher than the cornice or parapet line, whichever is lower, and must be located so as to not obscure any architectural detail of the Facade. A double face projecting sign shall be considered one sign. The maximum size of a projecting sign shall be 40 square feet (20 square feet per side). Projecting signs shall not project more than 3 feet horizontally. In no case may the sign come within 2 1/2 feet of the Curb. Projecting signs shall be clear of street trees, traffic signals, street lighting and regulatory signs.
- iv. Horizontal hanging signs, suspended from a canopy, awning, or marquee, may be placed above an entry. A hanging sign shall not exceed 8 square feet in size (4 square feet per side).

Hanging signs erected before [insert Code effective date], shall be considered in conformance if they do not exceed the maximum allowable area by more than 25 percent.

- v. Overhang signs are mounted atop the overhang, parallel to the storefront and shall not be used in conjunction with wall signs. Overhang signs shall not exceed 3 feet in height.
- vi. The awning sign is limited to the front skirt of the awning. Colors and lettering of awning signs should be compatible with the building colors, businesses they serve, as well as harmonize with neighboring buildings and storefronts.

Awning signs legally erected before [insert Code effective date] shall be considered in conformance if they do not exceed the maximum allowable area by more than 25 percent.

- vii. Promotional Temporary Signs.
 - (1) Paper or Paint Window Signs. Special sale window signs of either paper or paint, are permitted. Such signs when combined with permanent window signs, shall not occupy

more than 25 percent of the total area of the window. These signs should be of a professional quality.

- (2) Sidewalk Display Signs (such as A-frame signs and sandwich boards) may be placed on private property, or within the first 18 inches of public property that is directly in front of the individual business. Such sign shall not exceed 6 square feet per side and is limited to one per business. Sidewalk display sign area shall not count toward allowable sign area. A minimum passage way width of 48 inches shall be maintained along the Sidewalk in front of such Sidewalk display sign. The sign shall not project within 2 feet of the Curb interface with vehicles. Such signs shall not be displayed during non-business hours.

10-24.290 TELECOMMUNICATION FACILITY STANDARDS

In addition to the requirements of Municipal Code Chapter 10, Article 13 (Antennae and Telecommunications Facilities Ordinance), the following requirements shall also apply to all Telecommunication Facilities in the Code area.

- a. The following Telecommunication Facilities are classified as Class 1 facilities within the Code area:
 - i. Any Telecommunication Facility directly affixed to a building or structure, provided that all components of the facility are designed in a manner to be architecturally consistent with the building or structure. Examples include, without limitation, Telecommunications Facilities concealed within existing structures such as Attics, cupolas, steeples, stanchions, bell towers, or similar structures, mounted to the penthouse of a building to appear as part of the architecture.
 - ii. A ground-mounted or building-mounted receive-only radio or television satellite dish antenna which exceeds 36 inches in diameter but is not larger than 8 feet in diameter, provided the height of said dish does not exceed the height of the roof ridge line of a structure on which it is to be installed or is screened from view from the public right-of-way.
 - iii. Any freestanding Telecommunications Facility designed to blend into the surrounding natural or man-made environment in order

to minimize the overall visual impact. Examples include, without limitation, flag, telephone or light poles, palm trees, windmills, or rock formations and other similar items.

- iv. Any Telecommunications Facility proposed to co-locate on another freestanding existing Telecommunications Facility.
 - v. Government-owned and government-operated antenna(s).
- b. Class 1 Telecommunication Facilities may be located in any zone within the Code area.
- c. Prior to installation and operation of any Class 1 Telecommunication Facility, a Telecommunication Site Review shall be approved by the Director in accordance with Municipal Code Chapter 10, Article 13 (Antenna and Telecommunications Facilities Ordinance).
- d. In addition to the findings required by Municipal Code Section 10-13.070 and in order to approve a Telecommunications Site Review application, the Director must find the proposed Telecommunication Facility is:
- i. Sited and designed so as to be architecturally integrated such that it is virtually invisible to the naked eye from public streets and Civic spaces;
 - ii. The design, finish, colors and texture are non-reflective and blend with the surrounding natural and/or man-made environment; and
 - iii. If freestanding or pole-mounted, the height is the minimum necessary without compromising reasonable reception or transmission.
- e. The descriptions of Class 1 Telecommunication Facilities found in Municipal Code Section 10-13.070(1) through (8) are inapplicable to the Code area.
- f. Class 2 and Class 3 Telecommunication Facilities are prohibited in the Code area.

10-24.295 AFFORDABLE AND SPECIAL NEEDS HOUSING STANDARDS

General to all Affordable and Special Needs Housing Facilities (including Emergency Homeless Shelters, Large Group Transitional Housing, Large Group Supportive Housing, Small Group Transitional Housing, and Small Group Supportive Housing):

1. A Good Neighbor Agreement acceptable to the Hayward Police Department shall be established between the operator of the facility and its neighbors.

2. The Hayward Police Department will conduct periodic audits of all Police calls for service involving the housing facility. If after reviewing the audit, the Police Chief determines that there has been an excessive number of calls for service involving the facility's operation, the Police Chief or his designee will meet with the owner and/or manager to discuss the calls for service and allow the owner/manager to make changes in operations to reduce the number of calls for service.
 - a. Emergency Homeless Shelters:
 - i. Homeless Shelters shall only be located at parcels abutting Mission Boulevard.

 - ii. Homeless shelters shall maintain a maximum occupancy not to exceed sixty (60) individuals.

 - iii. Homeless shelters shall provide on-site waiting and intake areas screened from public view at the abutting thoroughfare, Civic Space or Civic Space Zone.

 - iv. Parking areas shall be paved with any permitted material identified in Table 13D.

 - v. Yards shall be lit during nighttime hours, in accordance with the Security Standards Ordinance (No. 90-26 C.S.).

 - vi. Homeless shelters shall be allowed to have intake between the hours of five p.m. to eight p.m. or at dusk, whichever is sooner, and may discharge patrons from eight a.m. to ten a.m.

 - vii. Homeless Shelters shall be separated by at least 300 feet, as measured from their parcel boundaries.

viii. Homeless shelters shall abide by all applicable development standards as set forth in this code.

ix. Each resident shall be provided a minimum of 50 gross square feet of personal living space per person, not including space for common areas. Bathing facilities shall be provided in quantity and location as required in the California Plumbing Code (Title 24 Part 5), and shall comply with the accessibility requirements of the California Building Code (Title 24 Part 2).

x. Individual occupancy in an emergency shelter is limited to six months in any 12 month period.

xi. Each emergency shelter shall have an on-site management office, with at least one employee present at all times the emergency shelter is in operation or is occupied by at least one resident.

xii. Each emergency shelter shall have on-site state-licensed security employees, with at least one security employee present at all times the emergency shelter is in operation or is occupied by at least one resident.

xiii. Homeless Shelters shall not be eligible for a Warrant or Exception.

b. Large Group Transitional Housing:

Such facilities may be permitted as community care facilities with approval of a Conditional Use Permit. Group Transitional Housing facilities must be separated by at least 300 feet as measured from their parcel boundaries. Potential conditions for approval of transitional housing in a group quarters setting may include hours of operation, security, loading requirements, noise regulations, and restrictions on loitering. Conditions would be similar to those for other similar uses and would not serve to constrain the development of such facilities.

c. Large Group Supportive Housing:

For supportive housing facilities that operate as group quarters, such facilities may be permitted as community care facilities with approval of a Conditional Use Permit. Group Supportive Housing facilities must be separated by at least 300 feet as measured from their

parcel boundaries. Potential conditions for approval of supportive housing for a group quarters setting may include hours of operation, security, loading requirements, noise regulations, and restrictions on loitering. Conditions would be similar to those for other similar uses and would not serve to constrain the development of such facilities.

d. Small Group Transitional Housing:

Small Group Transitional Housing facilities must be separated by at least 300 feet as measured from their parcel boundaries.

e. Small Group Supportive Housing:

Small Group Supportive Housing facilities must be separated by at least 300 feet as measured from their parcel boundaries.

10-24.296 AIR QUALITY MITIGATION MEASURES

At properties located within 500 feet of the curb line of Mission Boulevard, the following air quality mitigation measures shall apply to address health risks associated with traffic-related emissions:

a. Indoor Air Quality.

All new development, or existing development involving a use change to one that would be occupied by sensitive receptors, shall implement all of the features below, except as may be modified by Section 10-24.296 (c).

i. Existing or new buildings to be occupied by sensitive receptors, shall include and maintain in good working order a central heating and ventilation (HVAC) system or other air intake system in the building, or in each individual unit, that meets or exceeds an efficiency standard of MERV 13 or equivalent. The HVAC system shall include installation of a high efficiency filter and/or carbon filter to filter particulates and other chemical matter from entering the building.

ii. Project applicants shall maintain, repair and/or replace HV system on an ongoing and as needed basis according to manufacturer specifications. For developments which are leased, sold or otherwise not maintained by the initial project developer, an operation and maintenance manual for the HVAC system shall be prepared. The manual shall include the operating instructions and the maintenance and replacement schedule. The Planning Director shall identify an

appropriate filing location for the manual, which may include, but is not limited to, the project conditions, covenants and restrictions (CC&Rs), County recorder, or City development permit file.

iii. The HVAC system or other air intake system required above, shall be submitted to the Planning Director for review and action prior to the issuance of a demolition, grading, or building permit.

b. Outdoor Air Quality:

To the maximum extent practicable, individual and common exterior open space (e.g., playgrounds, patios, and decks) proposed as a part of developments within 500 feet of the curb line of Mission Boulevard and associated with sensitive receptors, shall either be shielded from air pollution originating at Mission Boulevard by buildings or otherwise buffered to further reduce air pollution for project occupants.

c. Compliance with Sections 10-24.296(a) and (b) above shall not be required or may be modified when all the following occur:

i. A development project applicant submits to the Planning Director a Health Risk Assessment (HRA) prepared by a qualified air quality consultant in accordance with California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment requirements.

ii. The HRA demonstrates that indoor and outdoor air quality can be maintained within currently applicable health risk standards of the Bay Area Air Quality Management District.

d. An HRA submitted in accordance with Section 10-24.296(c), must be approved by the Planning Director prior to issuance of a demolition, grading, or building permit.

e. The Planning Director may require review and approval of the HRA prior to scheduling discretionary permits (e.g., Site Plan Review, Conditional Use Permit) for public hearing.

f. The Development Services Department may require, at the applicant's sole expense, an independent review of the HRA by a qualified consultant.

g. An HRA submitted in accordance with Section 10-24.296(c), shall be subject to Planning Director review and action.

FORM-BASED CODE

South Hayward BART / Mission Boulevard

- h. Sensitive receptors include, but are not limited to, residences, schools and school yards, parks and play grounds, daycare centers, nursing homes, and medical facilities. Residences may include, but are not limited to, houses, apartments, and senior living complexes. Medical facilities may include, but are not limited to, hospitals, convalescent homes, and health clinics. Playgrounds may be, but are not limited to, play areas associated with parks or community centers.”

TABLE 1 TRANSECT ZONE DESCRIPTIONS
TABLE 2 THOROUGHFARE ASSEMBLIES
TABLE 3 PUBLIC LIGHTING
TABLE 4 PUBLIC PLANTING
TABLE 5 PRIVATE FRONTAGES
TABLE 6 FENCES AND WALLS
TABLE 7 BUILDING CONFIGURATION (HEIGHT)
TABLE 8 BUILDING DISPOSITION (PLACEMENT ON LOT)
TABLE 9 SPECIFIC FUNCTION & USE
TABLE 10 CIVIC SPACE
TABLE 11 FORM-BASED CODE SUMMARY
TABLE 12A FORM-BASED CODE GRAPHICS: T4
TABLE 12B FORM-BASED CODE GRAPHICS: T5
TABLE 13A SUSTAINABILITY: WIND POWER
TABLE 13B SUSTAINABILITY: SOLAR ENERGY
TABLE 13C SUSTAINABILITY: FOOD PRODUCTION .
TABLE 13D LIGHT IMPRINT STORM DRAINAGE MATRIX
TABLE 14 APPROVAL REQUIREMENTS MATRIX
TABLE 15 DEFINITIONS ILLUSTRATED

TABLE 1: Transect Zone Descriptions. This table provides descriptions of the character of each T-zone. T1, T2, T3, and T6 do not occur in the Code area and are provided for reference only.

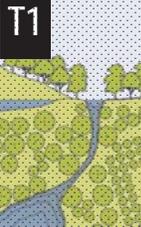
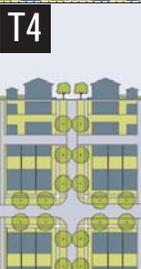
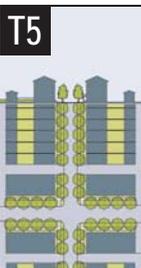
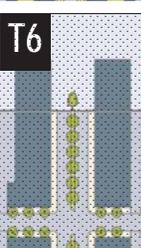
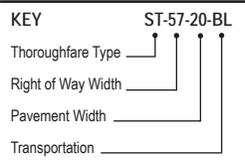
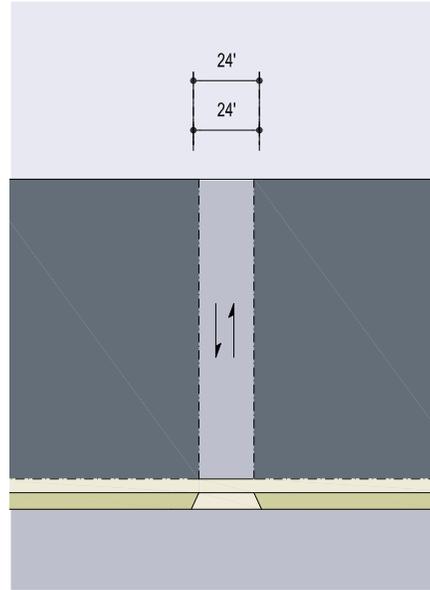
 <p>T1</p>	<p>T-1 NATURAL T-1 Natural Zone consists of lands approximating or reverting to a wilderness condition, including lands unsuitable for settlement due to topography, hydrology or vegetation.</p>	<p>General Character: Building Placement: Frontage Types: Typical Building Height: Type of Civic Space:</p>	<p>Natural landscape with some agricultural use Not applicable Not applicable Not applicable Parks, Greenways</p>
 <p>T2</p>	<p>T-2 RURAL T-2 Rural Zone consists of sparsely settled lands in open or cultivated states. These include woodland, agricultural land, grassland, and irrigable desert. Typical buildings are farmhouses, agricultural buildings, cabins, and villas.</p>	<p>General Character: Building Placement: Frontage Types: Typical Building Height: Type of Civic Space:</p>	<p>Primarily agricultural with woodland & wetland and scattered buildings Variable Setbacks Not applicable 1- to 2-Story Parks, Greenways</p>
 <p>T3</p>	<p>T-3 SUB-URBAN T-3 Sub-Urban Zone consists of low density residential areas, adjacent to higher zones that some mixed use. Home occupations and outbuildings are allowed. Planting is naturalistic and setbacks are relatively deep. Blocks may be large and the roads irregular to accommodate natural conditions.</p>	<p>General Character: Building Placement: Frontage Types: Typical Building Height: Type of Civic Space:</p>	<p>Lawns, and landscaped yards surrounding detached single-family houses; pedestrians occasionally Large and variable front and side yard Setbacks Porches, fences, naturalistic tree planting 1- to 2-Story with some 3-Story Parks, Greenways</p>
 <p>T4</p>	<p>T-4 GENERAL URBAN T4 General Urban Zone consists of mixed use but primarily residential urban fabric. It includes a mix of building types: townhouses, apartment buildings, mixed-use buildings and commercial buildings. Setbacks and landscaping are variable. Streets with curbs and sidewalks define medium-sized blocks.</p>	<p>General Character: Building Placement: Frontage Types: Typical Building Height: Type of Civic Space:</p>	<p>Mix of townhouses, and apartment buildings with scattered commercial activity; balance between landscape and buildings; presence of pedestrians. Shallow to medium front and side setbacks Mostly Porches, fences, Dooryards, Shopfronts 2- to 4-Story with a few taller apartment or mixed-use buildings Parks, Greens, Squares, Playgrounds</p>
 <p>T5</p>	<p>T-5 URBAN CENTER T5 Urban Center Zone consists of higher density mixed-use buildings that accommodate retail, office, and residential uses, along with townhouses and apartment buildings. It has a tight network of streets, with wide sidewalks, steady street tree planting and buildings set close to the sidewalks.</p>	<p>General Character: Building Placement: Frontage Types: Typical Building Height: Type of Civic Space:</p>	<p>Shops mixed with townhouses, apartment buildings, offices, workplaces, and Civic buildings; attached and detached buildings close together; trees within the public right-of-way; substantial pedestrian activity. Shallow Setbacks or none; many buildings oriented to the street defining a street wall Mostly Stoops, Shopfronts, Galleries, Dooryards 3- to 6-Story with some variation and a few taller mixed-use buildings Parks, Plazas and Squares, Playgrounds</p>
 <p>T6</p>	<p>T-6 URBAN CORE T-6 Urban Core Zone consists of the highest density and height, with the greatest variety of uses, and civic buildings of regional importance. It may have larger blocks; streets have steady street tree planting and buildings are set close to wide sidewalks. Typically only large towns and cities have an Urban Core Zone.</p>	<p>General Character: Building Placement: Frontage Types: Typical Building Height: Type of Civic Space:</p>	<p>Medium to high-Density Mixed Use buildings, entertainment, Civic and cultural uses. Attached buildings forming a continuous street wall; trees within the public right-of-way; highest pedestrian and transit activity Shallow Setbacks or none; buildings oriented to street, defining a street wall Stoops, Dooryards, Forecourts, Shopfronts, Galleries, and Arcades 4-plus Story with a few shorter buildings Parks, Plazas and Squares, median landscaping</p>
<p>CS</p>	<p>CS: CIVIC SPACE Includes public Open Space. Civic Buildings and Civic uses.</p>		

TABLE 2. THOROUGHFARE ASSEMBLIES

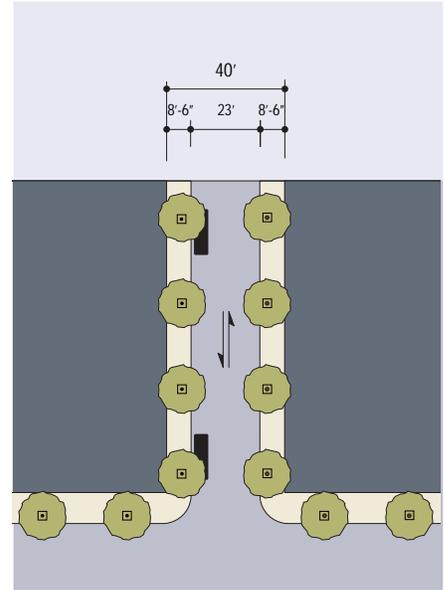
FORM-BASED CODE South Hayward BART / Mission Boulevard



- THOROUGHFARE TYPES**
- Boulevard: BV
 - Avenue: AV
 - Commercial Street: CS
 - Drive: DR
 - Street: ST
 - Road: RD
 - Slip Lane: SL
 - Rear Alley: RA
 - Bicycle Trail: BT
 - Bicycle Lane: BL
 - Bicycle Route: BR
 - Path: PT
 - Passage: PS
 - Transit Route: TR



RA-24-24

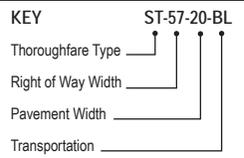


ST-40-23-BR

Thoroughfare Type
Transect Zone Assignment
Right-of-Way Width
Pavement Width
Movement
Intended Speed
Pedestrian Crossing Time
Traffic Lanes
Parking Lanes
Curb Radius
Walkway Type
Planter Type
Curb Type
Landscape Type
Transportation Provision

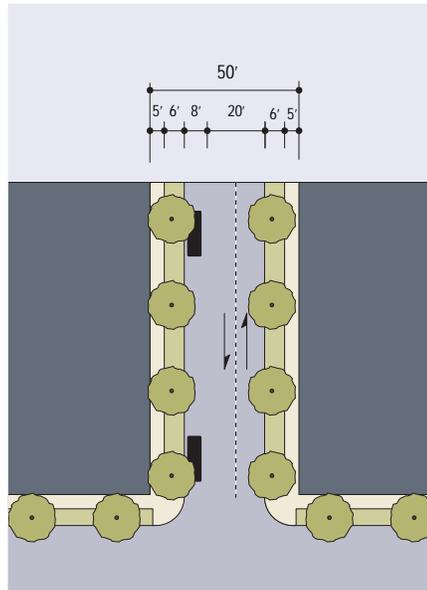
Rear Alley
T4, T5
24 feet
24 feet
Slow Movement
10 MPH
6 seconds
n/a
None
Taper
None
None
Inverted Crown
None
N/A

Street
T4, T5
40 feet
23 feet
Slow Movement
20 MPH
6 seconds
2 lanes
One side, unmarked
15 feet
4 foot Sidewalk
4 foot wide permeable continuous paving strip with 4x4 tree wells
6" Curb
Small to Medium-size trees at 30' o.c. Avg.
BR



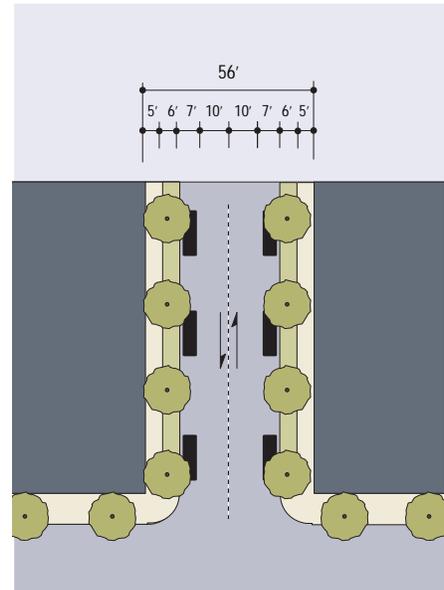
THOROUGHFARE TYPES

Boulevard:	BV
Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Road:	RD
Slip Lane:	SL
Rear Alley:	RA
Bicycle Trail:	BT
Bicycle Lane:	BL
Bicycle Route:	BR
Path:	PT
Passage:	PS
Transit Route:	TR



ST-50-28-BR

Thoroughfare Type	Street
Transect Zone Assignment	T4, T5
Right-of-Way Width	50 feet
Pavement Width	28 feet
Movement	Free Movement
Intended Speed	20 MPH
Pedestrian Crossing Time	7 seconds
Traffic Lanes	2 lanes
Parking Lanes	One side @ 8 feet marked
Curb Radius	10 feet
Walkway Type	5 foot Sidewalk
Planter Type	5.5 foot wide continuous Planter
Curb Type	6" Curb
Landscape Type	Small to Medium-size trees at 30' o.c. Avg.
Transportation Provision	BR

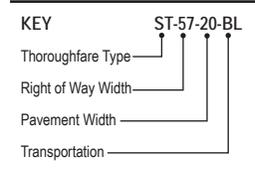


ST-56-34-BR

Thoroughfare Type	Street
Transect Zone Assignment	T4, T5
Right-of-Way Width	56 feet
Pavement Width	34 feet
Movement	Slow Movement
Intended Speed	20 MPH
Pedestrian Crossing Time	8.5 seconds
Traffic Lanes	2 lanes
Parking Lanes	Both Sides @ 7 feet marked
Curb Radius	15 feet
Walkway Type	5 foot Sidewalk
Planter Type	5.5' wide continuous planting strip
Curb Type	6" Curb
Landscape Type	Small to Medium-size trees at 30' o.c. Avg.
Transportation Provision	BR

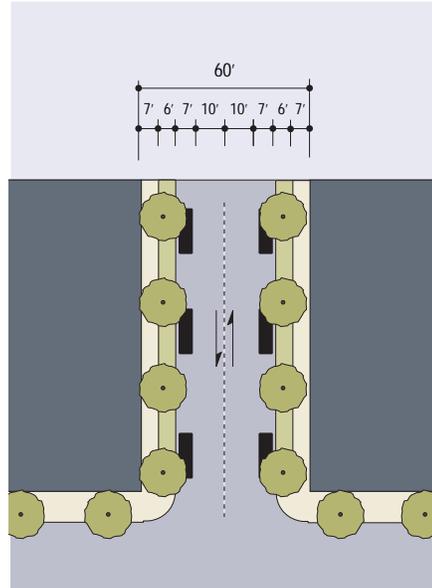
TABLE 2. THOROUGHFARE ASSEMBLIES

FORM-BASED CODE South Hayward BART / Mission Boulevard



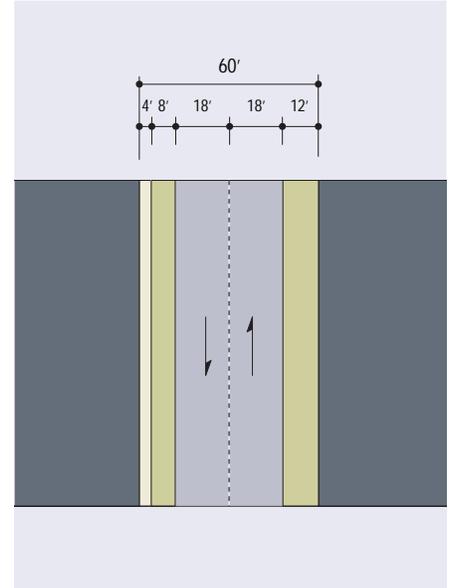
THOROUGHFARE TYPES

Boulevard:	BV
Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Road:	RD
Slip Lane:	SL
Rear Alley:	RA
Bicycle Trail:	BT
Bicycle Lane:	BL
Bicycle Route:	BR
Path:	PT
Passage:	PS
Transit Route:	TR



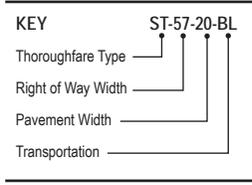
ST-60-34-BR

Thoroughfare Type	Street
Transect Zone Assignment	T4, T5
Right-of-Way Width	60 feet
Pavement Width	34 feet
Movement	Slow Movement
Intended Speed	20 MPH
Pedestrian Crossing Time	8.5 seconds
Traffic Lanes	2 lanes
Parking Lanes	Both Sides @ 7 feet marked
Curb Radius	15 feet
Walkway Type	7 foot Sidewalk
Planter Type	5.5 foot wide continuous planting strip
Curb Type	6" Curb
Landscape Type	Medium-size trees at 30' o.c. Avg.
Transportation Provision	BR



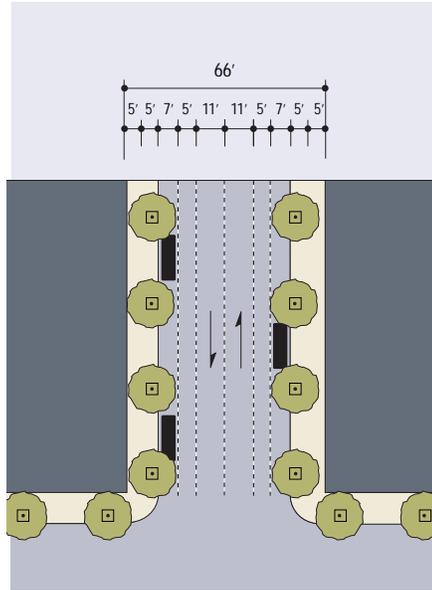
ST-60-36-BR

Thoroughfare Type	Street
Transect Zone Assignment	T5
Right-of-Way Width	60 feet
Pavement Width	36 feet
Movement	Slow Movement
Intended Speed	35 MPH
Pedestrian Crossing Time	9 seconds
Traffic Lanes	2 lanes
Parking Lanes	None
Curb Radius	15 Feet
Walkway Type	4 foot Sidewalk (one side)
Planter Type	8 foot wide continuous planting strip (one side); 12 foot wide compacted earth (other side)
Curb Type	6" Curb
Landscape Type	None
Transportation Provision	BR

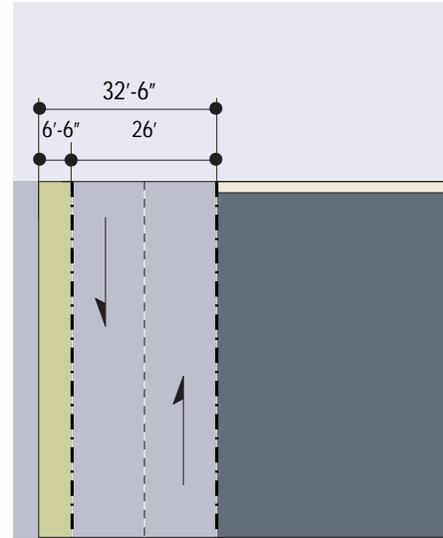


THOROUGHFARE TYPES

Boulevard:	BV
Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Road:	RD
Slip Lane:	SL
Rear Alley:	RA
Bicycle Trail:	BT
Bicycle Lane:	BL
Bicycle Route:	BR
Path:	PT
Passage:	PS
Transit Route:	TR



ST-66-46-BL	
Thoroughfare Type	Street
Transect Zone Assignment	T5
Right-of-Way Width	66 feet
Pavement Width	46 feet
Movement	Slow Movement
Intended Speed	20 MPH
Pedestrian Crossing Time	11.5 seconds
Traffic Lanes	2 lanes
Parking Lanes	Both sides @ 7 feet marked
Curb Radius	10 feet
Walkway Type	5 foot Sidewalk
Planter Type	4.5 foot wide continuous permeable paving strip with 4'-6"x4'-6" tree wells
Curb Type	6" Curb
Landscape Type	Medium to Large-size trees at 30' o.c. Avg.
Transportation Provision	Two 5' Bicycle Lanes

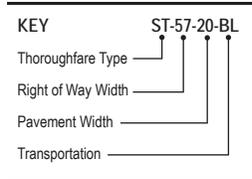


PS-32.5-26	
Thoroughfare Type	Passage
Transect Zone Assignment	T5
Right-of-Way Width	32.5 feet
Pavement Width	26 feet
Movement	Slow Movement
Intended Speed	25 MPH
Pedestrian Crossing Time	7 seconds
Traffic Lanes	2 lanes
Parking Lanes	None
Curb Radius	10 feet
Walkway Type	6' Sidewalk
Planter Type	None
Curb Type	6" Curb
Landscape Type	None
Transportation Provision	None

TABLE 2. THOROUGHFARE ASSEMBLIES

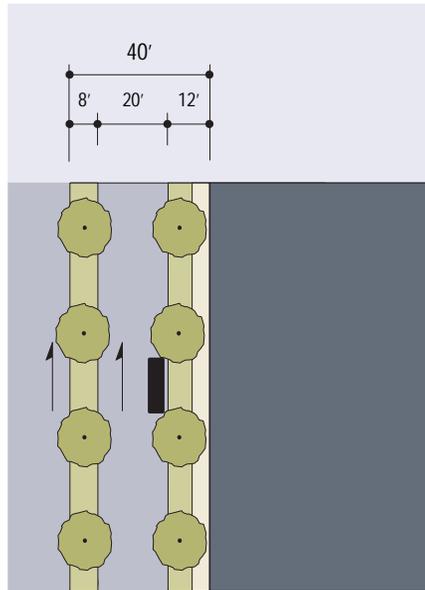
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South Hayward BART / Mission Boulevard



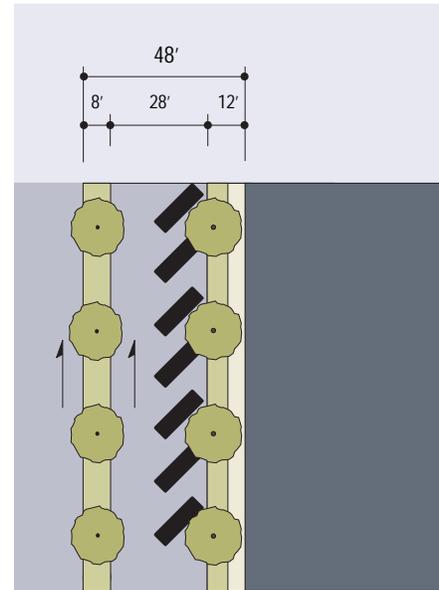
THOROUGHFARE TYPES

Boulevard:	BV
Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Road:	RD
Slip Lane:	SL
Rear Alley:	RA
Bicycle Trail:	BT
Bicycle Lane:	BL
Bicycle Route:	BR
Path:	PT
Passage:	PS
Transit Route:	TR



SL-40-20-BR

Thoroughfare Type	Slip Lane
Transect Zone Assignment	T4, T5
Right-of-Way Width	40 feet
Pavement Width	20 feet
Movement	Slow Movement
Intended Speed	25 MPH
Pedestrian Crossing Time	5 seconds
Traffic Lanes	one 12 foot one-way lane
Parking Lanes	one parallel 8 foot lane
Curb Radius	10 feet
Walkway Type	6 foot Sidewalk
Planter Type	5'-6" continuous Planter
Curb Type	6" Curb
Landscape Type	Large-size trees at 30' o.c. Avg.; planted 8' medians (Large-size trees at 30' o.c. Avg.)
Transportation Provision	BR

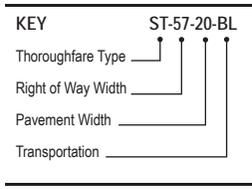


SL-48-28-BR

Thoroughfare Type	Slip Lane
Transect Zone Assignment	T4, T5
Right-of-Way Width	48 feet
Pavement Width	28 feet
Movement	Slow Movement
Intended Speed	25 MPH
Pedestrian Crossing Time	7 seconds
Traffic Lanes	one 12 foot one-way lane
Parking Lanes	one side angled @ 30° max. @ 16 feet marked
Curb Radius	10 feet
Walkway Type	6 foot Sidewalk
Planter Type	5'-6" continuous Planter
Curb Type	6" Curb
Landscape Type	Large-size trees at 30' o.c. Avg.; planted 8' medians (Large-size trees at 30' o.c. Avg.)
Transportation Provision	BR

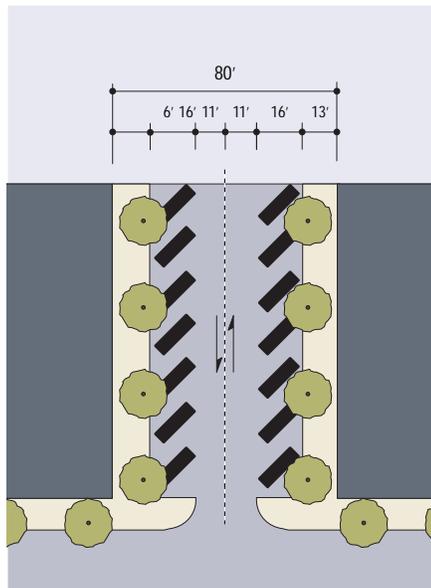
A Slip Lane may be added on either side of Mission Boulevard, in accordance with Sec. 10-24.275 (g)(iii)

A Slip Lane may be added on either side of Mission Boulevard, in accordance with Sec. 10-24.275 (g)(iii)

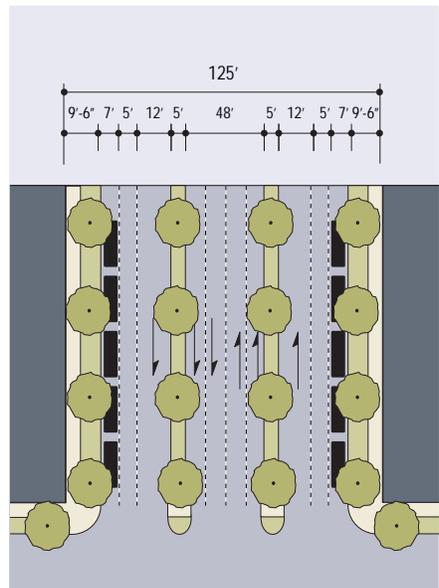


THOROUGHFARE TYPES

Boulevard:	BV
Avenue:	AV
Commercial Street:	CS
Drive:	DR
Street:	ST
Road:	RD
Slip Lane:	SL
Rear Alley:	RA
Bicycle Trail:	BT
Bicycle Lane:	BL
Bicycle Route:	BR
Path:	PT
Passage:	PS
Transit Route:	TR



CS-80-54-BR	
Thoroughfare Type	Commercial Street
Transect Zone Assignment	T5
Right-of-Way Width	80 feet
Pavement Width	54 feet
Movement	Slow Movement
Intended Speed	25 MPH
Pedestrian Crossing Time	5 seconds at corners
Traffic Lanes	2 lanes
Parking Lanes	Both sides angled @ 30° max. @ 16 feet marked
Curb Radius	10 feet
Walkway Type	7 foot Sidewalk
Planter Type	5.5 foot wide continuous permeable paving strip with 4'x4' min. tree wells
Curb Type	6" Curb
Landscape Type	Medium to Large-size trees at 30' o.c. Avg.
Transportation Provision	BR



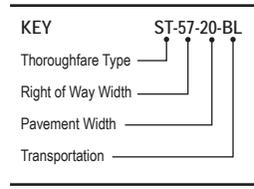
BV-125-48-BL	
Thoroughfare Type	Boulevard
Transect Zone Assignment	T4, T5
Right-of-Way Width	125 feet
Pavement Width	24 feet - 48 feet - 24 feet
Movement	Free Movement (inner lanes)
Intended Speed	35 MPH
Pedestrian Crossing Time	6 seconds - 12 seconds - 6 seconds
Traffic Lanes	4 lanes & two one-way slip roads
Parking Lanes	7 feet
Curb Radius	10 feet
Walkway Type	4 foot Sidewalk
Planter Type	5 foot continuous Planter
Curb Type	6" Curb
Landscape Type	Large-size trees at 30' o.c. Avg.; planted 5' medians (Small-size trees)
Transportation Provision	Two 5' Bicycle lanes

Note: The city will need to study the conditions in which this assembly will work for Industrial Parkway, transitioning from the existing design, on either side for the Code area.

TABLE 2. THOROUGHFARE ASSEMBLIES

FORM-BASED CODE

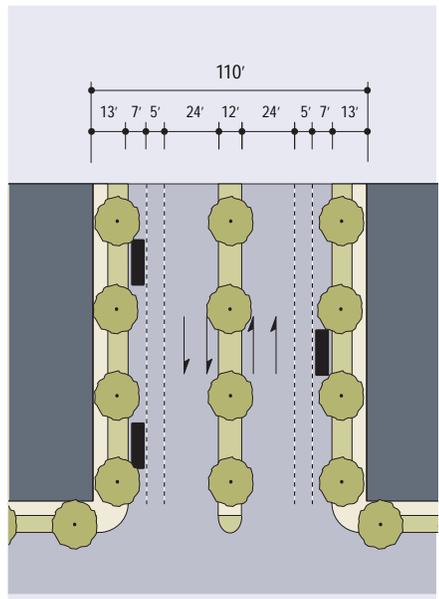
South Hayward BART / Mission Boulevard



THOROUGHFARE TYPES

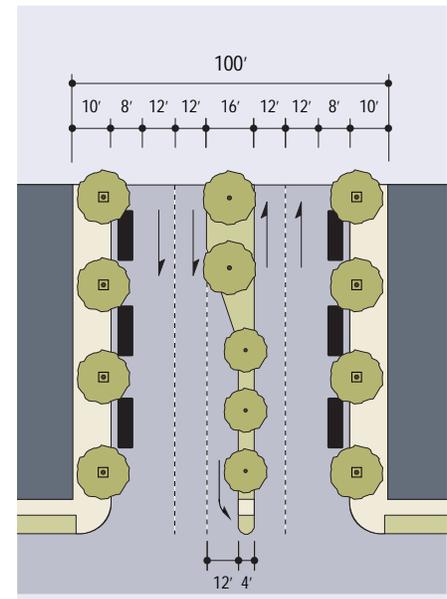
- Boulevard: BV
- Avenue: AV
- Commercial Street: CS
- Drive: DR
- Street: ST
- Road: RD
- Slip Lane: SL
- Rear Alley: RA
- Bicycle Trail: BT
- Bicycle Lane: BL
- Bicycle Route: BR
- Path: PT
- Passage: PS
- Transit Route: TR

Thoroughfare Type	
Transect Zone Assignment	
Right-of-Way Width	
Pavement Width	
Movement	
Intended Speed	
Pedestrian Crossing Time	
Traffic Lanes	
Parking Lanes	
Curb Radius	
Walkway Type	
Planter Type	
Curb Type	
Landscape Type	
Transportation Provision	



AV-110-72-BL

Thoroughfare Type	Avenue
Transect Zone Assignment	T4, T5
Right-of-Way Width	110 feet
Pavement Width	36 feet - 36 feet
Movement	Slow Movement
Intended Speed	25 MPH
Pedestrian Crossing Time	9 seconds - 9 seconds at corners
Traffic Lanes	4 lanes
Parking Lanes	Both sides @ 7 feet marked
Curb Radius	10 feet
Walkway Type	6 foot Sidewalk where possible; 4 foot minimum
Planter Type	6.5 foot continuous Planter where possible
Curb Type	6" Curb or Swale
Landscape Type	Large-size trees at 30' o.c. Avg.; Planted 12 foot median (Large-size trees)
Transportation Provision	Two 5' Bicycle Lanes



AV-100-64/76-TR

Thoroughfare Type	Avenue
Transect Zone Assignment	T4, T5
Right-of-Way Width	100 feet
Pavement Width	32 feet - 32/44 feet
Movement	Free Movement
Intended Speed	35 MPH
Pedestrian Crossing Time	8 seconds - 8/11 seconds
Traffic Lanes	4-5 lanes
Parking Lanes	Both sides @ 8 feet unmarked
Curb Radius	30 feet (typical)
Walkway Type	10 foot Sidewalk
Planter Type	4.5 foot wide continuous permeable paving strip with 4'-6"x4'-6" tree wells
Curb Type	6" Curb
Landscape Type	Large-size trees at 30' o.c. Avg.; Planted 16 foot median (Large-size trees)
Transportation Provision	TR

Mission Boulevard Typical Section

Varies at majors intersections -
Harder, Tennyson and Industrial to provide
3 through lanes and needed turn lanes.

A Slip Lane (SL-40-20-BR or SL-48-28-BR) may
be added on either side of Mission Boulevard , in
accordance with Sec. 10-24.275 (g)(iii)

TABLE 3: Public Lighting. Lighting varies in brightness and also in the character of the fixture according to the Transect. The table shows six common types. Lighting shall comply with the standards found in Chapter 41 of the Building Code of the City of Hayward. T1, T2, T3, and T6 do not occur in the Code area and are provided for reference only.

	T1	T2	T3	T4	T5	T6	Specifications
<p>Cobra Head</p> 				▪	▪		<p>Cobra head fixtures are allowed in T4 and T5 only when combined with pedestrian-scaled lighting, such as ELECTROLIER Type A</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>Pipe</p> 							<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>Post</p> 				▪			<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>Column</p> 				▪	▪		<p>Pole height: 12 ft Wattage: Equivalent 150-175 w metal halide Type: Decorative Uniformity Ratio: 4:1 Average foot candle: 0.7 - 0.9 Location: average 100 ft apart, staggered</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>Double Column</p> 					▪		<p>Pole height: 12 ft Wattage: Equivalent 150-175 w metal halide Type: Decorative Uniformity Ratio: 3:1 Average foot candle: 0.9 - 1.1 Location: average 100-120 ft apart, staggered</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>Ornamental Bollard</p> 				▪	▪		<p>Specification: ornamental bollards should be located between other light fixtures in areas where there is retail</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>

TABLE 4. PUBLIC PLANTING

FORM-BASED CODE

South Hayward BART / Mission Boulevard

TABLE 4: Public Planting. This table shows six common types of street tree shapes and their appropriateness within the Transect Zones. Development Services and Public Works Departments select species appropriate for the bioregion. T1, T2, T3, and T6 do not occur in the Code area and are provided for reference only.

	T1	T2	T3	T4	T5	T6	Specifications: the tree species listed are examples provided for reference only.
Palm 				■	■		The following species shall NOT be specified: Syagrus romanzoffianum, Queen Palm Washingtonia robusta, Mexican Fan Palm <hr/> <hr/> <hr/> <hr/> <hr/>
Coniferous 				■	■		Calocedrus decurrens, Incense Cedar Cedrus deodora, Deodar Cedar Cupressus sempervirens, Italian Cypress Sequoia sempervirens, Coastal Redwood <hr/> <hr/> <hr/> <hr/> <hr/>
Narrow Canopy 				■	■		Carpinus betulus 'Fastigiata', European Hornbeam Lophostemon confertus, Brisbane Box Tree Ginkgo biloba 'Sentry', Sentry Maiden Hair Tree Pyrus calleryana 'Chanticleer', Ornamental Pear Quercus robur 'Fastigiata', Columnar English Oak Zelkova Musashino, Zelkova <hr/> <hr/> <hr/> <hr/> <hr/>
Small Size 				■			Cercis Canadensis 'Forest Pansy', Eastern Redbud Cercis occidentalis, Western Redbud Eryobotrya deflexa, Bronze Loquat Lagerstroemia indica 'Muskogee' and 'Tuscarora', Crape Myrtle Malus spp, Flowering Crabapple <hr/> <hr/> <hr/> <hr/> <hr/>
Medium size* 				■			Acer buergerianun, Trident Maple Aesculus californica, California Buckeye Aesculus x. carnea, Red Horsechestnut Arbutus 'Marina', Arbutus Celtis spp, Hackberry Species Fraxinus oxycarpa 'Raywood', Raywood Ash Ginkgo biloba 'Autumn Gold', Maiden Hair Tree Koelreuteria bipinnata, Chinese Flame Tree Melaleuca quinquenervia, Cajeput Tree <hr/> <hr/> <hr/> <hr/> <hr/>
Large size* 				■			Cinnamomum camphora, Camphor Tree Liriodendron tulipifera, Tulip Tree Platanus agrifolia 'columbia', London Plane Tree Quercus agrifolia, California Coastal Live Oak Quercus ilex, Holly Oak Quercus virginiana, Southern Live Oak Zelkova serrata, Japanese Zelkova <hr/> <hr/> <hr/> <hr/> <hr/>

* see "Definitions of Terms" section

TABLE 5: Private Frontages. This table shows seven common types of Private Frontages and their appropriateness with the Transect Zones.

	SECTION	PLAN
	LOT PRIVATE FRONTAGE R.O.W. PUBLIC FRONTAGE	LOT PRIVATE FRONTAGE R.O.W. PUBLIC FRONTAGE
<p>b. Porch & Fence: a planted Frontage wherein the Facade is set back from the Frontage Line with an attached porch permitted to Encroach. A fence at the Frontage Line maintains street spatial definition. Porches shall be no less than 8 feet deep.</p>		
<p>c. Terrace or Lightwell: a Frontage wherein the Facade is set back from the Frontage line by an elevated terrace or a sunken Lightwell. This type buffers Residential use from urban Sidewalks and removes the private yard from public Encroachment. Terraces are suitable for conversion to outdoor cafes. Syn: Dooryard.</p>		
<p>d. Forecourt: a Frontage wherein a portion of the Facade is close to the Frontage Line and the central portion is set back. The Forecourt created is suitable for vehicular drop-offs. This type should be allocated in conjunction with other Frontage types. Large trees within the Forecourts may overhang the Sidewalks.</p>		
<p>e. Stoop: a Frontage wherein the Facade is aligned close to the Frontage Line with the first Story elevated from the Sidewalk sufficiently to secure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground-floor Residential use. The stoop elevation shall be 24"-36" from the sidewalk.</p>		
<p>f. Shopfront: a Frontage wherein the Facade is aligned close to the Frontage Line with the building entrance at Sidewalk grade. This type is conventional for Retail use. It has a substantial glazing on the Sidewalk level and an awning that may overlap the Sidewalk to within 2 feet of the Curb. Syn: Retail Frontage.</p>		
<p>g. Gallery: a Frontage wherein the Facade is aligned close to the Frontage line with an attached cantilevered shed or a lightweight colonnade overlapping the Sidewalk. This type is conventional for Retail use. The Gallery shall be no less than 10 feet wide and should overlap the Sidewalk to within 2 feet of the Curb.</p>		
<p>h. Arcade: a colonnade supporting habitable space that overlaps the Sidewalk, while the Facade at Sidewalk level remains at or behind the Frontage Line. This type is conventional for Retail use. The Arcade shall be no less than 12 feet wide and should overlap the Sidewalk to within 2 feet of the Curb.</p>		

TABLE 6: Fences and Walls. This table shows five common types of fences and walls and their appropriateness within the Transect Zones. Only these fences and wall types shall be used in any portion of a front or side yard. T1, T2, T3, and T6 do not occur in the Code area and are provided for reference only.

	T1	T2	T3	T4	T5	T6
Wood Picket Fence 				■		
Iron Picket Fence 				■		
Metal Fence on Concrete Base (1) 				■	■	
Brick and Iron Fence (2) 				■	■	
Brick Wall (2) 				■	■	

(1) The concrete base should be 18"-36" in height.

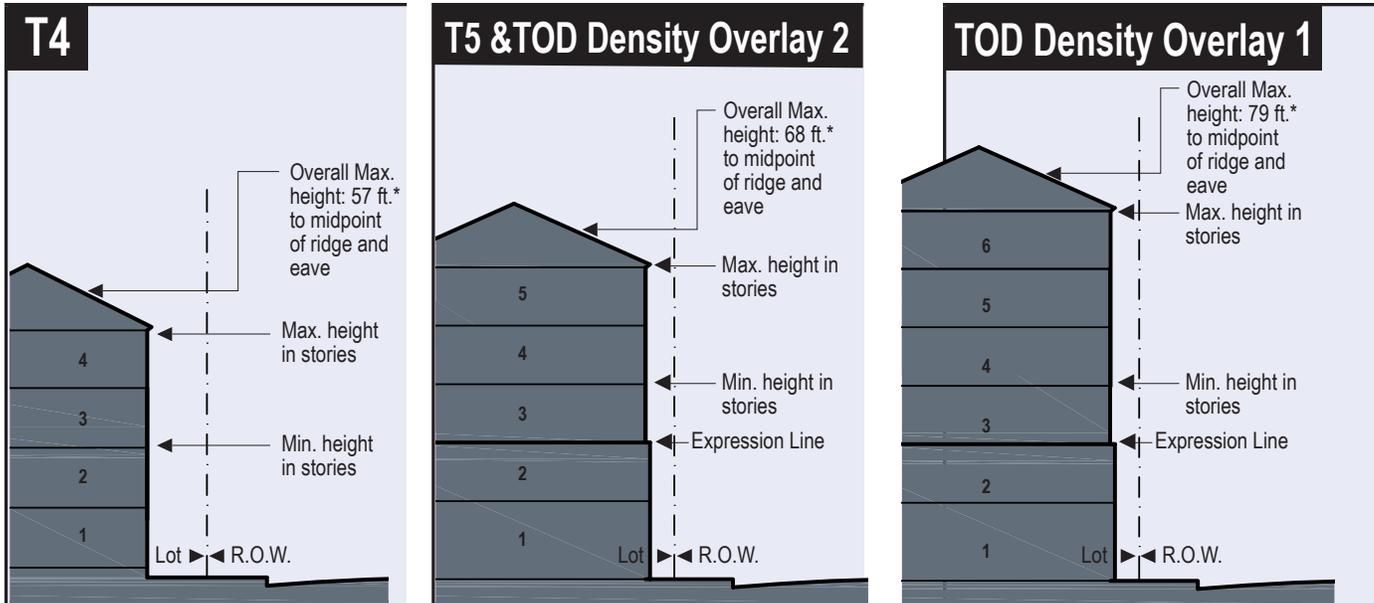
(2) Although brick only is illustrated, other materials such as stone, slate, etc. are also acceptable, with a tie-in to the building material.

FORM-BASED CODE

TABLE 7. BUILDING CONFIGURATION (BUILDING HEIGHT)

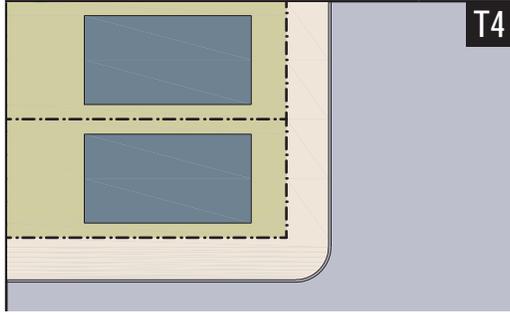
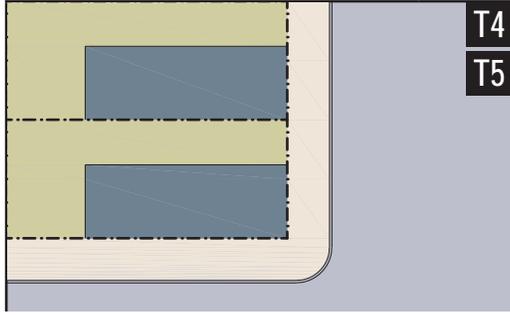
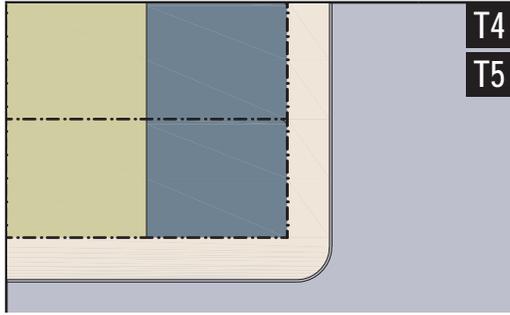
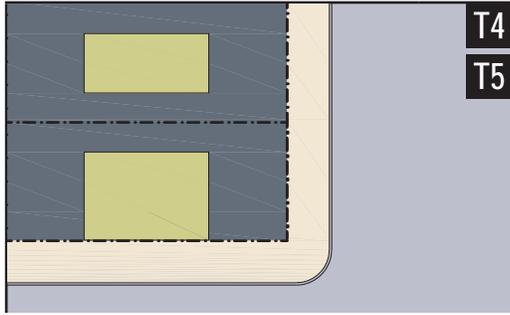
South Hayward BART / Mission Boulevard

TABLE 7: Building Configuration. This table shows the Configurations for different building heights for each Transect Zone. Expression Lines shall occur on buildings higher than 4 stories as shown. The maximum height in number of stories is as specified in Table 11, item j.



* Height shall be measured from the midpoint of the Frontage line. First floor may be 3 ft. max. above Frontage line measured from the midpoint of the Frontage line.

TABLE 8: Building Disposition. This table approximates the location of the structure relative to the boundaries of each individual Lot, establishing suitable basic building types for each Transect Zone.

<p>a. Edgeyard: A building that occupies the center of its Lot with Setbacks on all sides. This is the least urban of types as the front yard sets it back from the Frontage, while the side yards weaken the spatial definition of the public Thoroughfare space. The front yard is intended to be visually continuous with the yards of adjacent buildings. The rear yard can be secured for privacy by fences and a well-placed Backbuilding and/or Outbuilding. The main entrance to the building shall be located within the façade and accessed directly from the street through an allowed frontage type.</p>	
<p>b. Sideyard: A building that occupies one side of the Lot with the Setback to the other side. A shallow Frontage Setback defines a more urban condition. If the adjacent building is similar with a blank side wall, the yard can be quite private. This type permits systematic climatic orientation in response to the sun or the breeze. If a Sideyard House abuts a neighboring Sideyard House, the type is known as a twin or double House. Energy costs, and sometimes noise, are reduced by sharing a party wall in this Disposition. The main entrance to the building shall be accessed directly from the street through an allowed frontage type or side yard area equal in width to the street built-to line.</p>	
<p>c. Rearyard: A building that occupies the full Frontage, leaving the rear of the Lot as the sole yard. This is a very urban type as the continuous Façade steadily defines the public Thoroughfare. The rear Elevations may be articulated for functional purposes. In its Residential form, this type is the Rowhouse. For its Commercial form, the rear yard can accommodate substantial parking. The main entrance to the building shall be located within the façade and accessed directly from the street through an allowed frontage type.</p>	
<p>d. Courtyard: A building that occupies the boundaries of its Lot while internally defining one or more private patios. This is the most urban of types, as it is able to shield the private realm from all sides while strongly defining the public Thoroughfare. Because of its ability to accommodate incompatible activities, masking them from all sides, it is recommended for workshops, Lodging and schools. The high security provided by the continuous enclosure is useful for crime-prone areas. The main entrance to the building shall be directly off a common courtyard or directly from the street.</p>	

FORM-BASED CODE

TABLE 9. SPECIFIC FUNCTION & USE

South Hayward BART / Mission Boulevard

TABLE 9: Allowed Functions. This table allocates Functions and permit requirements to Zones within the Code area. See Definitions for descriptions of functions/uses and for special requirements.

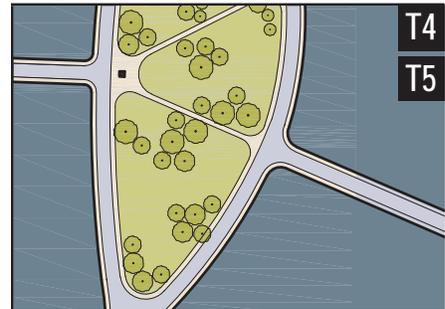
	T4	T5	CS
a. RESIDENTIAL			
Multiple Family	P	P	-
Second Dwelling Unit	P	P	-
Live-Work	P	P	-
Small Group Transitional Housing	P	P	-
Large Group Transitional Housing	CU	CU	-
Small Group Supportive Housing	P	P	-
Large Group Supportive Housing	CU	CU	-
Emergency Homeless Shelter	P	-	-
b. LODGING			
Bed & Breakfast	AU	AU	-
Hotel	CU	CU	-
c. OFFICE			
Office	P	P	-
d. RETAIL			
Alcohol Sales**	CU	CU	-
Artisan/Craft Production	P	P	-
Appliance Repair Shop	P	P	-
Check Cashing & Loans	-	-	-
Dance/Nightclub	-	-	-
Equipment Rentals	AU	AU	-
Home Occupation	P	P	-
Indoor Recreation	AU	AU	CU
Kennel	AU	AU	-
Liquor Store	-	-	-
Massage Parlor	CU	CU	-
Media Production	AU	P	-
Pawn Shop	-	-	-
Personal Services	P	P	-
Printing and Publishing	AU	P	-
Recycling Collection Area	AU	AU	-
Restaurant	P	P	-
Retail Sales	P	P	CU
Tattoo Parlor	-	-	-
Tobacco Specialty Store	-	-	-
Small Motion Picture Theater	P	P	CU
Large Motion Picture Theater ⁽¹⁾	CU	CU	CU
Live Performance Theater	P	P	CU

	T4	T5	CS
e. CIVIC			
Assembly*	AU	AU	CU
Conference Center	-	CU	CU
Cultural Facility	P	P	CU
Park & Recreation	P	P	P
Parking Facility	AU	AU	CU
Public Agency Facility	P	P	P
Religious Facility*	AU	AU	CU
Wind Energy	P	P	P
f. OTHER: AGRICULTURE			
Vegetable Garden	P	-	P
Urban Farm	P	P	P
Community Garden	P	P	P
Green Roof			
Extensive	P	P	P
Semi Intensive	P	P	P
Intensive	P	P	P
Vertical Farm	-	P	P
g. OTHER: AUTOMOTIVE			
Automobile Repair (Minor)	AU	AU	-
Automobile Repair (Major)	CU	CU	-
Drive -Through Facility	CU	CU	-
Gas Station	CU	CU	-
Taxi Company	AU	AU	-
h. OTHER: CIVIL SUPPORT			
Fire Station	P	P	P
Hospital	CU	CU	CU
Medical/Dental Clinic	AU	AU	CU
Mortuary	AU	AU	CU
Police Station	P	P	P
i. OTHER: EDUCATION			
Day Care Center	P	P	CU
Day Care Home	AU	AU	-
Educational Facility	AU	AU	CU
Vocational School	AU	AU	CU

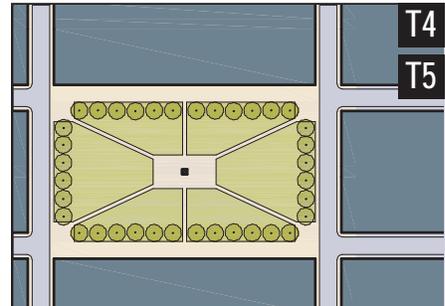
(-) = NOT PERMITTED
(P) = BY RIGHT
(AU) = ADMINISTRATIVE USE PERMIT
(CU) = CONDITIONAL USE PERMIT

* Places of Assembly and Religious Facility: for properties fronting Mission Blvd., such uses are not allowed within one half mile of existing similar uses that front Mission Blvd.
** Unless exempted by the Alcohol Beverage Outlet Regulations contained in Section 10-1.2735(b) of the Hayward Municipal Code or specifically exempted by this Code
⁽¹⁾ An application for conditional use Permit for a Large Motion Picture Theater shall be accompanied by a study acceptable to the Planning Director documenting the absence of negative impact upon the downtown of the opening of another Large Motion Picture Theater.

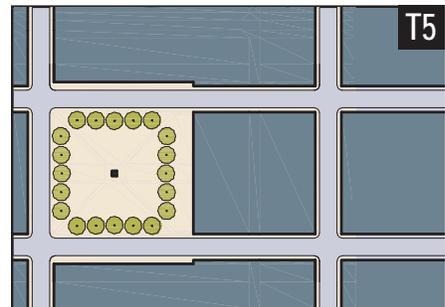
a. **Park:** An Open Space, available for unstructured recreation. A Park may be spatially defined by landscaping rather than building Frontages. Its landscape shall consist of lawn and trees, naturalistically disposed. The minimum size shall be 1/2 acre.



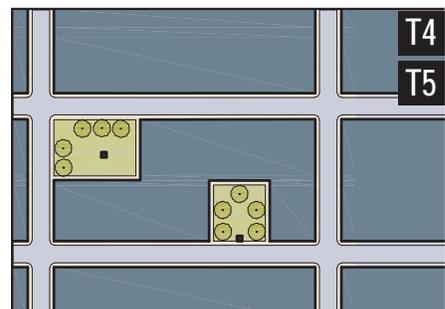
b. **Square:** An Open Space available for unstructured recreation and Civic purposes. A Square is spatially defined by building Frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important Thoroughfares. They may contain shelters, gazebos, or benches. The minimum size shall be 1/2 acre and the maximum shall be 5 acres.



c. **Plaza:** An Open Space available for Civic purposes and Commercial activities. A Plaza shall be spatially defined by building Frontages. Its landscape shall consist primarily of pavement. Plazas should be located at the intersection of important streets. The minimum size shall be 5,000 s.f. and the maximum shall be 1/2 acre. A plaza may be governed by an HOA.



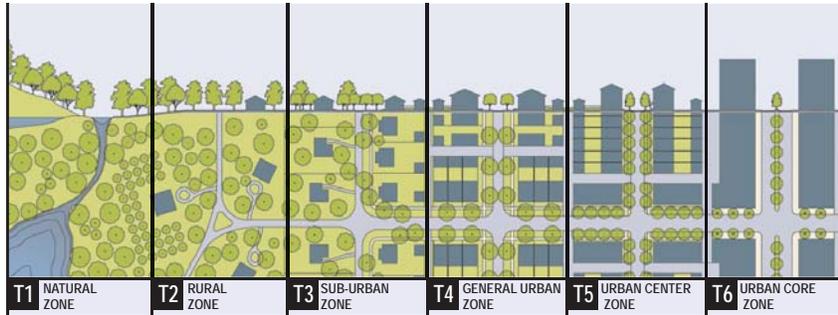
d. **Playground:** An Open Space designed and equipped for the recreation of children. A playground should be fenced and may include an open shelter. Playgrounds shall be interspersed within Residential areas and may be placed within a Block. Playgrounds may be included within parks and squares. There shall be no minimum or maximum size.



FORM-BASED CODE

TABLE 11. FORM-BASED CODE SUMMARY

South Hayward BART / Mission Boulevard



	T1 NATURAL ZONE	T2 RURAL ZONE	T3 SUB-URBAN ZONE	T4 GENERAL URBAN ZONE	T5 URBAN CENTER ZONE	T6 URBAN CORE ZONE
a. BASE RESIDENTIAL DENSITY						
By Right maximum				35 units / acre net	55 units / acre net*	
Minimum Density				17.5 units/ acre net	35 units/ acre net *	
b. BLOCK SIZE						
Block Perimeter				2400 ft. max	2000 ft. max	
c. THOROUGHFARES (see Table 2)						
BV				permitted	permitted	
AV				permitted	permitted	
CS				not permitted	permitted	
DR				permitted	permitted	
ST				permitted	permitted	
RD				not permitted	not permitted	
Rear Alley				permitted	permitted	
Path				permitted	not permitted	
Passage				permitted	permitted	
Bicycle Trail				not permitted	not permitted	
Bicycle Lane				permitted	not permitted	
Bicycle Route				permitted	permitted	
d. CIVIC SPACES (see Table 10)						
Park				permitted	permitted	
Square				permitted	permitted	
Plaza				not permitted	permitted	
Playground				permitted	permitted	
e. LOT OCCUPATION						
Lot Width				18 ft. min 120 ft. max	18 ft. min 250 ft. max	
Lot Coverage				80% max	90% max	
f. SETBACKS - PRINCIPAL BUILDING (see Table 15)						
(f.1) Front Setback (Principal)				6 ft. min 24 ft. max	2 ft. min 12 ft. max	
(f.2) Front Setback (Secondary)				6 ft. min 24 ft. max	2 ft. min 12 ft. max	
(f.3) Side Setback				0 ft. min	0 ft. min 24 ft. max	
(f.4) Rear Setback				3 ft. min **	3 ft. min **	
Frontage Buildout				60% min at setback	80% min at setback	
g. SETBACKS - OUTBUILDING (see Table 15)						
(g.1) Front Setback				20 ft. min +bldg setback	40 ft. max from rear prop	
(g.2) Side Setback				0 ft. min or 3 ft.	0 ft min	
(g.3) Rear Setback				3 ft.	3 ft. max	
h. BUILDING disposition (see Table 8)						
Edgeward				permitted	not permitted	
Sideward				permitted	permitted	
Reward				permitted	permitted	
Courtyard				permitted	permitted	
i. private FRONTAGES (see Table 5)						
Porch & Fence				permitted	not permitted	
Terrace or Lightwell				permitted	permitted	
Forecourt				permitted	permitted	
Stoop				permitted	permitted	
Shopfront				permitted	permitted	
Gallery				permitted	permitted	
Arcade				not permitted	permitted	
j. BUILDING CONFIGURATION (see Table 7)						
Principal Building				4 Stories max, 2 min	5*** Stories max, 3 min	
Outbuilding				2 Stories max	2 Stories max	

DISPOSITION

CONFIGURATION

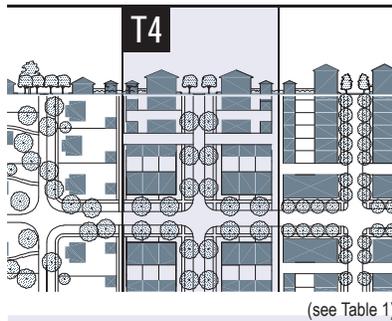
* 75 du/ac min. and 100 du/ac max. in the TOD Density Overlay 1; 40 du/ac min. and 65 du/ac max. in the TOD Density Overlay 2.

** or 15 ft. from center line of rear alley.

*** 6 Stories max. in the TOD Density Overlay 1; 5 Stories max. in the TOD Density Overlay 2.

Note: Refer to Section 10-24.275 (h) regarding a street dedication bonus for density and height.

T1, T2, T3, and T6 do not occur in the Code area and are provided for reference only.



(see Table 1)

e. LOT OCCUPATION (see Table 11, item e)

Lot Width	18 ft min 120 ft max.
Lot Coverage	80% max

f. SETBACKS - PRINCIPAL BUILDING (see Table 11, item f)

(f.1) Front Setback Principal	6 ft. min. 24 ft. max.
(f.2) Front Setback Secondary	6 ft. min. 24 ft. max
(f.3) Side Setback	0 ft. min.
(f.4) Rear Setback	3 ft. min.*
Frontage Buildout	60% min at setback

g. SETBACKS - OUTBUILDING (see Table 11, item g)

(g.1) Front Setback	20 ft. min. + bldg. setback
(g.2) Side Setback	0 ft. min. or 2 ft at corner
(g.3) Rear Setback	3 ft. min.

h. BUILDING DISPOSITION (see Table 8)

Edgeyard	permitted
Sidyard	permitted
Rearyard	permitted
Courtyard	permitted

i. PRIVATE FRONTAGES (see Table 5)

Porch & Fence	permitted
Terrace or Lightwell	permitted
Forecourt	permitted
Stoop	permitted
Shopfront	permitted
Gallery	permitted
Arcade	not permitted

Refer to Summary Table 11

j. BUILDING CONFIGURATION (see Table 7)

Principal Building	4 stories max, 2 min
Outbuilding	2 stories max.

PARKING PROVISIONS (see Section 10-24.245)

Rental DU:	1.75 max per unit
For Sale DU/Residential Condominium:	2.0 max per unit
Non-residential Function:	no min - no max

*or 15 ft. from center line of alley

***N" stands for any Stories above those shown, up to the maximum. Refer to metrics for exact minimums and maximums

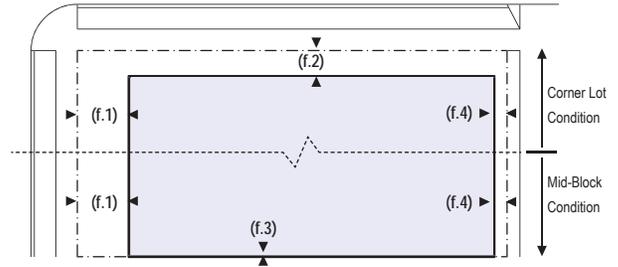
Note 1: Letters on the Table (e. Lot Occupation, f. Setbacks, etc.) refer to the corresponding section in Summary Table 11.

Note 2: Refer to Section 10-24.275 (h) regarding a street dedication bonus for density and height.

Note 3: For bicycle parking provisions, see Table A1 Bicycle Parking Requirements.

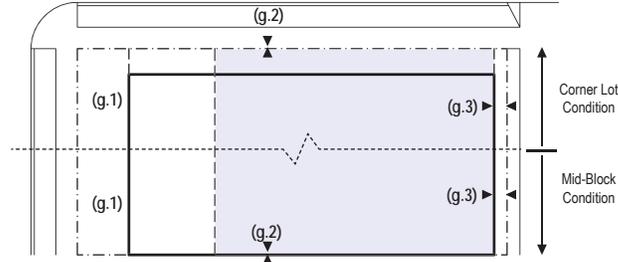
SETBACKS - PRINCIPAL BLDG

- The Facades and Elevations of Principal Buildings shall be distanced from the Lot lines as shown.
- Facades shall be built along the Principal Frontage to the minimum specified width in the table.



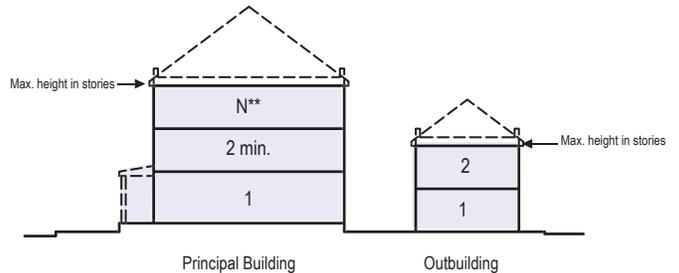
SETBACKS - OUTBUILDING

- The Elevations of the Outbuilding shall be distanced from the Lot lines as shown.



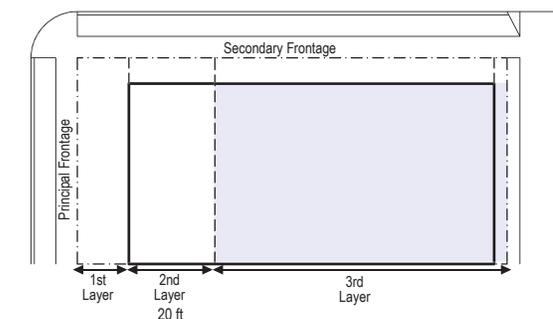
BUILDING CONFIGURATION

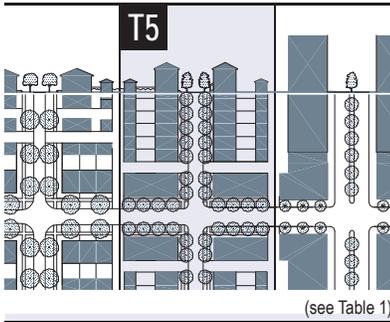
- Building height shall be measured in number of Stories, excluding Attics and raised basements.
- Stories may not exceed 14 feet in height from finished floor to finished floor, except for a first floor Commercial function which must be a minimum of 14 ft with a maximum of 25 ft.
- Height in number of stories shall be measured to the eave or roof deck as specified on Table 7.
- See Table 7 for overall building height.



PARKING PLACEMENT

- Covered and uncovered parking spaces may be provided within the third Layer as shown in the diagram (see Table 15, item d).
- Trash containers shall be stored within the third Layer.





e. LOT OCCUPATION (see Table 11, item e)

Lot Width	18 ft min 250 ft max.
Lot Coverage	90% max

f. SETBACKS - PRINCIPAL BUILDING (see Table 11, item f)

(f.1) Front Setback Principal	2 ft. min. 12 ft. max.
(f.2) Front Setback Secondary	2 ft. min. 12 ft. max.
(f.3) Side Setback	0 ft. min. 24 ft. max.
(f.4) Rear Setback	3 ft. min.*
Frontage Buildout	80% min at setback

g. SETBACKS - OUTBUILDING (see Table 11, item g)

(g.1) Front Setback	40 ft. max. from rear prop.
(g.2) Side Setback	0 ft. min. or 2 ft at corner
(g.3) Rear Setback	3 ft. max.

h. BUILDING DISPOSITION (see Table 8)

Edgeward	not permitted
Sideward	permitted
Rearward	permitted
Courtyard	permitted

i. PRIVATE FRONTAGES (see Table 5)

Porch & Fence	not permitted
Terrace or Lightwell	permitted
Forecourt	permitted
Stoop	permitted
Shopfront	permitted
Gallery	permitted
Arcade	permitted

Refer to Summary Table 11

j. BUILDING CONFIGURATION (see Table 7)

Principal Building	5 stories max. 3 min.
Outbuilding	2 stories max.

PARKING PROVISIONS (see Section 10-24.245)

Rental DU:	1.5 max per unit
For Sale DU/Residential Condominium:	1.8 max. per unit
Non-residential Function:	no min. - no max.

*or 15 ft. from center line of alley

***N" stands for any Stories above those shown, up to the maximum. Refer to metrics for exact minimums and maximums.

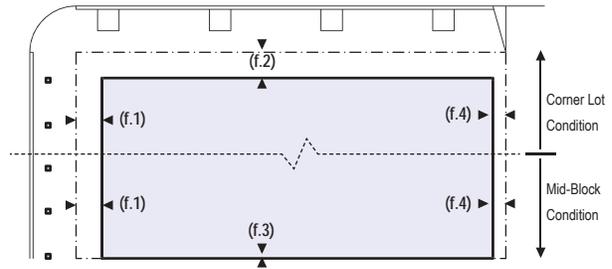
Note 1: Letters on the Table (e. Lot Occupation, f. Setbacks, etc.) refer to the corresponding section in Summary Table 11.

Note 2: Refer to Section 10-24.275 (h) regarding a street dedication bonus for density and height.

Note 3: For bicycle parking provisions, see Table A1 Bicycle Parking Requirements.

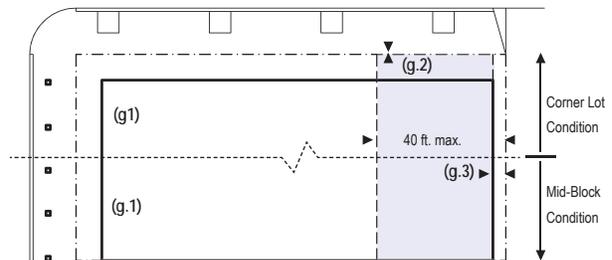
SETBACKS - PRINCIPAL BLDG

- The Facades and Elevations of Principal Buildings shall be distanced from the Lot lines as shown.
- Facades shall be built along the Principal Frontage to the minimum specified width in the table.



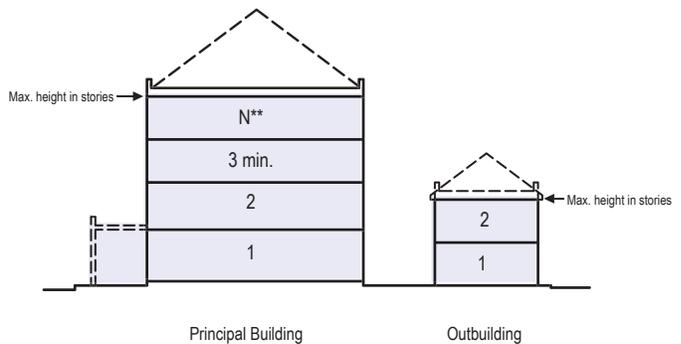
SETBACKS - OUTBUILDING

- The Elevations of the Outbuilding shall be distanced from the Lot lines as shown.



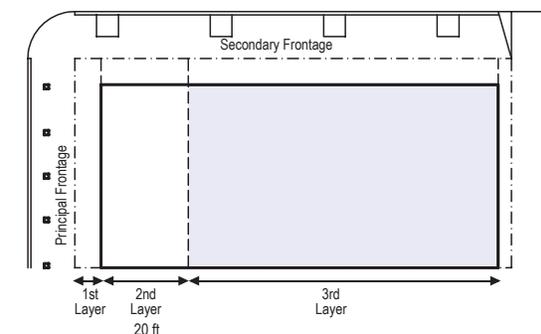
BUILDING CONFIGURATION

- Building height shall be measured in number of Stories, excluding Attics and raised basements.
- Stories may not exceed 14 feet in height from finished floor to finished floor, except for a first floor Commercial function which must be a minimum of 14 ft with a maximum of 25 ft.
- Height in number of stories shall be measured to the eave or roof deck as specified on Table 7.
- See Table 7 for overall building height.
- Expression Lines shall be as shown on Table 7.

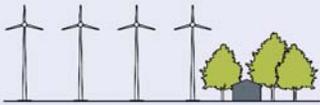
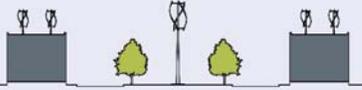


PARKING PLACEMENT

- Covered and uncovered parking spaces may be provided within the third Layer as shown in the diagram (see Table 15, item d).
- Trash containers shall be stored within the third Layer.



Sustainability - Wind Power. This table prescribes opportunities for the placement of types of wind energy conversion systems within the Transect. T1, T2, T3, and T6 do not occur in the Code area and are provided for reference only.

	T1	T2	T3	T4	T5	T6	CS
Wind Farm 							
Horizontal Axis 							
Vertical Axis 				■	■		■
Public Furniture/Public Art in Civic Space 				■	■		■

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Sustainability - Solar Energy. This table shows opportunities for the placement of types of solar energy collection devices within the Transect. T1, T2, T3, and T6 do not occur in the Code area and are provided for reference only.

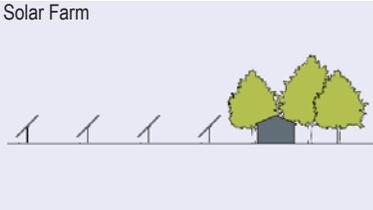
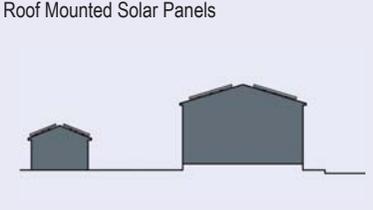
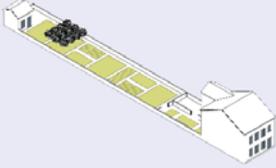
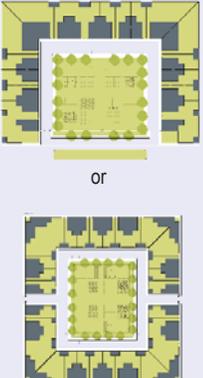
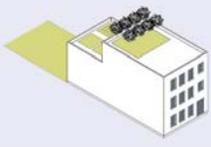
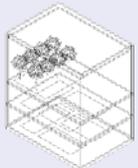
	T1	T2	T3	T4	T5	T6	CS
<p>Solar Farm</p> 							
<p>Roof Mounted Solar Panels</p> 				■	■		■
<p>Public Furniture</p> 				■	■		■

TABLE 13C. SUSTAINABILITY - FOOD PRODUCTION

FORM-BASED CODE

South Hayward BART / Mission Boulevard

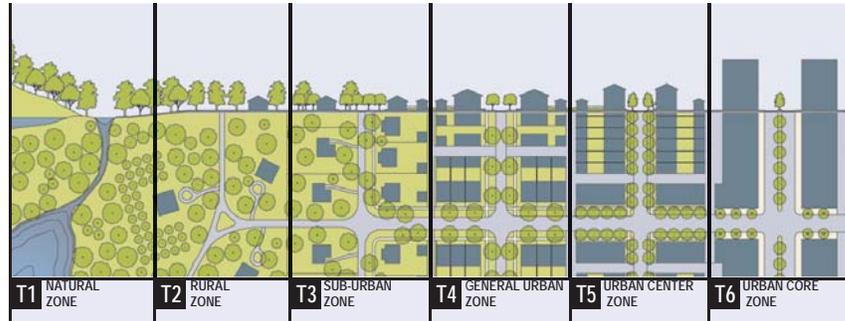
Sustainability - Food Production. This table identifies the general locations and arrangements for allowable food production in the code area. T1, T2, T3, and T6 do not occur in the Code area and are provided for reference only.

	T1	T2	T3	T4	T5	T6	CS
<p>Farm</p> 							
<p>Agricultural Plots</p> 							
<p>Vegetable Garden</p> 				■			■
<p>Community Garden/Urban Farm</p>  <p>or</p>				■	■		■
<p>Green Roof</p> <ul style="list-style-type: none"> - Extensive - Semi Intensive - Intensive 				■	■		■
<p>Vertical Farm</p> 					■		■

FORM-BASED CODE TABLE 13D. LIGHT IMPRINT STORM DRAINAGE MATRIX (RECOMMENDATIONS)

South Hayward BART / Mission Boulevard

T1, T2, T3, and T6 do not occur in the Code area and are provided for reference only.



	T1	T2	T3	T4	T5	T6	Maint.	Cost
a. PAVING								
Compacted Earth				not permitted	not permitted		L	\$
Wood Planks				not permitted	not permitted		H	\$\$\$
Plastic Mesh/Geomat				not permitted	not permitted		L	\$
Crushed Stone/Shell				not permitted	not permitted		M	\$
Cast/Pressed Concrete Paver Block				permitted	permitted		L	\$\$
Grassed Cellular Plastic				permitted	permitted		M	\$\$\$
Grassed Cellular Concrete				permitted	permitted		M	\$\$\$
Pervious Asphalt				permitted	permitted		L	\$\$
Asphalt				permitted	permitted		L	\$
Concrete				permitted	permitted		L	\$\$
Pervious Concrete				permitted	permitted		L	\$\$
Stamped Asphalt				permitted	permitted		L	\$\$\$
Stamped Concrete				permitted	permitted		L	\$\$\$
Pea Gravel				permitted	permitted		M	\$
Stone/Masonry Paving Blocks				permitted	permitted		L	\$\$\$
Wood Paving Blocks on Concrete				not permitted	not permitted		L	\$\$\$
Asphalt Paving Blocks				not permitted	not permitted		M	\$\$
b. CHANNELING								
Natural Creek				permitted	permitted		L	\$
Terracing				permitted	permitted		M	\$\$
Vegetative Swale				permitted	permitted		L	\$
Drainage Ditch				not permitted	not permitted		L	\$
Stone/Rip Rap Channels				not permitted	not permitted		L	\$\$
Vegetative/Stone Swale				permitted	permitted		L	\$
Grassed Cellular Plastic				permitted	permitted		M	\$\$\$
Grassed Cellular Concrete				permitted	permitted		M	\$\$\$
Soakaway Trench				permitted	permitted		M	\$\$\$
Slope Avenue				permitted	permitted		M	\$\$\$
French Drain				permitted	permitted		M	\$
Shallow Channel Footpath/Rainwater Conveyor				permitted	permitted		L	\$
Concrete Pipe				permitted	permitted		L	\$\$
Gutter				permitted	permitted		L	\$\$
Planting Strip Trench				permitted	permitted		L	\$
Masonry Trough				permitted	permitted		L	\$\$
Canal				permitted	permitted		H	\$\$\$
Sculpted Watercourse, i.e. cascades				not permitted	not permitted		M	\$\$\$
Concrete Trough				not permitted	not permitted		L	\$\$\$
Archimedean Screw				not permitted	not permitted		L	\$\$\$
c. STORAGE								
Irrigation Pond				not permitted	not permitted		L	\$
Retention Basin with Sloping Bank				not permitted	not permitted		L	\$\$
Retention Basin with Fence				not permitted	not permitted		L	\$\$
Retention Hollow				not permitted	not permitted		M	\$
Detention Pond				permitted	not permitted		L	\$
Vegetative Purification Bed				permitted	permitted		M	\$\$
Flowing Park				permitted	permitted		M	\$\$
Retention Pond				permitted	permitted		M	\$\$\$
Landscaped Tree Well				permitted	permitted		L	\$\$
Pool/Fountain				permitted	permitted		H	\$\$\$
Underground Vault/Pipe/Cistern-Corrugated Metal				permitted	permitted		L	\$\$
Underground Vault/Pipe/Cistern-Precast Concrete				permitted	permitted		L	\$\$
Underground Vault/Pipe/Cistern-Cast in place Concrete				permitted	permitted		L	\$\$
Grated Tree Well				permitted	permitted		L	\$\$
Underground Vault/Pipe/Cistern-Concrete or approved equal				permitted	permitted		L	\$\$\$
Paved Basin				not permitted	not permitted		M	\$\$\$
d. FILTRATION								
Wetland/Swamp				not permitted	not permitted		L	\$
Filtration Ponds				not permitted	not permitted		L	\$\$
Shallow Marsh				not permitted	not permitted		M	\$
Surface Landscape				not permitted	not permitted		L	\$
Natural Vegetation				permitted	permitted		L	\$
Constructed Wetland				not permitted	not permitted		M	\$
Bio-Retention Swale				permitted	permitted		M	\$\$
Purification Biotope				permitted	permitted		H	\$\$
Green Finger				permitted	permitted		L	\$\$\$
Roof Garden				permitted	permitted		M	\$\$\$
Rain Garden				permitted	permitted		M	\$\$
Detention Pond				permitted	permitted		L	\$
Grassed Cellular Concrete				permitted	permitted		M	\$\$\$
Waterscapes				permitted	permitted		H	\$\$\$

*NOTE - Maintenance is denoted as L=Low, M=Medium and H=High.

SEC.10-24.400 PROCEDURES

10-24.405 APPROVAL REQUIREMENTS

Each building and land use shall be established, constructed, reconstructed, enlarged, altered, moved or replaced in compliance with the following requirements, as summarized in Table 14.

a. General.

- i. Allowable use or Function. The land use or Function must be allowed by the Table 9 in the zone where the Lot is located. The following uses and Functions are prohibited within the Code area:
 - (1) Adult-oriented uses;
 - (2) Automobile sales;
 - (3) Single-family dwellings;
 - (4) Dormitories; and
 - (5) Warehouses including public storage facilities.
- ii. Permit and approval requirements. Any and all planning permits or other approvals required by this Code shall be obtained before the issuance of any required grading, building, or other construction permit, and before the proposed use is constructed, otherwise established or put into operation, unless the proposed use is listed as exempted below.
- iii. Legal parcel. The site of a proposed development or new land use must be a parcel that was legally created or certified in compliance with the Subdivision Map Act and the City's Subdivision Ordinance.
- iv. New nonresidential land use(s) in an existing building or on developed site. A land use permitted by right, that is proposed on a site where no construction requiring a Building Permit will occur, shall require a verification of zoning compliance to ensure that the site complies with all applicable standards of this Code, including parking, landscaping, signs, trash enclosures, etc. A verification of zoning compliance shall not be granted and the proposed land use shall not be established unless the site and

existing improvements comply with all applicable requirements of this Code, except as provided by the Nonconformity Regulations of Municipal Code Section 10-1.2900 et al (Nonconforming Uses). No verification of zoning compliance may be issued if the request in question is located on the same site where there are existing violations of this Code, including, without limitation, violations of the terms of a discretionary permit or approval relating to the site. A verification of zoning compliance shall expire 180 days after issuance, unless otherwise indicated on the clearance or unless the use of land or structures or building construction has commenced and is being diligently pursued.

- v. Access and Open Space review. Prior to issuance of building permits, site plans and floor plans may be reviewed by the Director to determine that building access and Open Space requirements will be met. This review shall preclude or lessen the possibility that dwellings without compliant access and sufficient Open Space, might be installed during or after construction. During the building access and Open Space review process, the Director may require additional changes in the placement of exterior doors, windows, stairways, hallways, utility connections, or other fixtures or architectural features when determined by the Director to be necessary or desirable to preclude or lessen the likelihood of unlawful dwelling unit creations in the future.
- b. Required Permits.
- i. Site Plan Review.
 - (1) All new development shall require Site Plan Review approval by the Director, unless waived in accordance with Municipal Code Section 10-1.3010(d).
 - ii. Administrative Use Permit.
 - (1) All uses or Functions identified by "AU" in Table 9.
 - (2) Administrative Use Permit applications shall be processed in accordance with Municipal Code Section 10-1.3100.
 - iii. Conditional Use Permit.
 - (1) All uses or Functions identified by "CU" in Table 9.
 - (2) Conditional Use Permit applications shall be processed in accordance with Municipal Code Section 10-1.3200.

- iv. Telecommunications Site Review.
 - (1) Telecommunications Site Review applications shall be processed in accordance with Section 10.24-290 and Municipal Code Chapter 10, Article 13.
 - v. Density Bonus Application.
 - (1) Density Bonus Applications shall be processed in accordance with Municipal Code Chapter 10, Article 19.
 - vi. Warrants and Exceptions. See Section 10-24.410.
- c. Exemptions from Required Permits. The planning permit requirements of this Code do not apply to the structures, land uses, and activities identified by this Section. These are allowed in all Zones subject to compliance with this Section.
- i. General requirements for exemption. The Functions, land uses, structures, and activities identified by Subsection (ii) through (vi) below are exempt from the planning permit requirements of this Code only when:
 - (1) The new use, activity or structure are established and operated in compliance with the requirements of this Code and all other applicable standards of the Municipal Code, and, where applicable, those relating to Nonconformity Regulations; and
 - (2) Any permit or approval required by City regulations other than this Code is obtained (for example, a Building Permit).
 - ii. Exempt activities and structures. The following are exempt from the land use permit requirements of this Code when in compliance with Subsection (i) above.
 - (1) Decks, paths and Driveways. Decks, platforms, on-site paths, and Driveways that are not required to have a Building Permit or Grading Permit.
 - (2) Fences and walls in compliance with height and location requirements of Section 10-24.255.
 - (3) Interior remodeling. Interior alterations that do not increase

the gross floor area of the structure, or change the permitted use of the structure.

- iii. Repairs and maintenance.
 - (1) Single-family dwellings. Ordinary nonstructural repairs to, and maintenance of, existing single-family dwellings.
 - (2) Multi-family, and non-residential structures. Ordinary non-structural repairs to, and maintenance of multifamily Residential and non-residential structures, if:
 - (A) The work does not change the approved land use of the site or structure, or add to, enlarge or expand the land use and/or structure; and
 - (B) Any exterior repairs employing the same materials and design as the original construction.
- iv. Small, portable residential accessory structures. A single portable structure of 120 square feet or less per Lot, including pre-manufactured storage sheds and other small structures in all Zones that are exempt from Building Permit requirements in compliance with the Municipal Code and the Uniform Building Code. Additional structures may be approved by the Director upon issuance of an Administrative Use Permit.
- v. Spas, hot tubs, and fish ponds. Portable spas, hot tubs, and constructed fish ponds, and similar equipment and structures that do not: exceed 120 square feet in total area including related equipment; contain more than 2,000 gallons of water; or exceed two feet in depth.
- vi. Utilities. The erection, construction, alteration, or maintenance by a public utility or public agency of utilities intended to service existing or nearby approved developments shall be permitted in any zone. These include: water; gas; electric; supply or disposal systems; including wires, mains, drains, sewers, pipes, conduits, cables, fire-alarm boxes, traffic signals, hydrants, etc., but not including new transmission lines and structures. Satellite and wireless communications antennas are not exempt, and are instead subject to Section 10-24.290.
- vii. Emergency Homeless Shelters.

10-24.410 VARIANCES: WARRANTS AND EXCEPTIONS

- a. Type. Variances are classified into two categories – Warrant and Exception - based on their assignment to standards and, consequently, the ability of those standards to further the goals, policies and actions of this Code. Mere economic or financial hardship alone is not sufficient justification for granting either a Warrant or Exception.

- i. Warrant.

- (1) A Warrant is a deviation that would permit a practice that is not consistent with a specific provision of this Code, but is justified by its ability to fulfill this plan's intent while not compromising its goals, policies and actions. All of the following are mandatory requirements unless approval of a Warrant is obtained:

- (A) Table 2 standards applicable to Existing Thoroughfares;
- (B) Section 10-24.220(b)(iv) (Civic Space Zone);
- (C) Section 10-24.225(b)(iii) (Building Disposition);
- (D) Section 10-24.225(b)(v) (Building Disposition);
- (E) Section 10-24.225(b)(vii) (Building Disposition);
- (F) Section 10-24.225(b)(viii) (Building Disposition);
- (G) Section 10-24.225(b)(ix) (Building Disposition);
- (H) Section 10-24.225(c)(i) (Building Disposition);
- (I) Section 10-24.225(c)(iii) (Building Disposition);
- (J) Section 10-24.225(c)(iv) (Building Disposition);
- (K) Section 10-24.225(c)(vi) (Building Disposition);
- (L) Section 10-24.225(c)(vii) (Building Disposition);
- (M) Section 10-24.230(a)(ii) (Building Configuration);
- (N) Section 10-24.230(b)(iii) (Building Configuration);
- (O) Section 10-24.230(c)(iii) (Building Configuration);

- (P) Section 10-24.230(c)(xii) (Building Configuration);
- (Q) Section 10-24.245(a)(v) (Parking Standards);
- (R) Section 10-24.245(a)(vi) (Parking Standards);
- (S) Section 10-24.245(a)(vii) (Parking Standards);
- (T) Section 10-24.245(a)(viii) (Parking Standards);
- (U) Section 10-24.245(b) (Parking Standards);
- (V) Section 10-24.245(c) (Parking Standards);
- (W) Section 10-24.250 (Architectural Standards);
- (X) Section 10-24.255 (Fence and Wall Standards);
- (Y) Section 10-24.260 (Landscape Standards);
- (Z) Section 10-24.270(a)(i) (Wind Power) except for prohibitions under Section 10-24.270(a)(i)(10);
- (AA) Section 10-24.275(d)(vii) (Thoroughfare Standards);
- (AB) Section 10-24.275(e)(i) (Thoroughfare Standards);
- (AC) Section 10-24.275(f)(i)(2) (Thoroughfare Standards);
- (AD) Section 10-24.275(f)(i)(3) (Thoroughfare Standards);
- (AE) Section 10-24.275(f)(ii)(1) (Thoroughfare Standards);
- (AF) Section 10-24.275(f)(iii)(1) (Thoroughfare Standards);
- (AG) Section 10-24.275(g)(i) (Thoroughfare Standards);
- (AH) Section 10-24.280(c)(i) (Subdivision Standards);
- (AI) Section 10-24.280(c)(iii) (Subdivision Standards);
- (AJ) Section 10-24.280(c)(iv) (Subdivision Standards);
- (AK) Section 10-24.285 (Sign Standards) except for Prohibited Signs under Section 10-24.285(c); and
- (AL) Section 10-24.290 (Telecommunication Facility Standards).

- (2) Warrants are discouraged but may be permissible when they fulfill the intent of this Code.
 - (3) Warrants are required for all remodels, additions and alterations to designated historic resources not consistent with this Code.
 - (4) Warrants are subject to Director review and action.
- ii. Exception.
- (1) An Exception is a deviation that would permit a practice that is not consistent with a specific provision of this Code that is critical to the furtherance of its goals, policies and actions. All of the following are mandatory requirements unless approval of an Exception is obtained:
 - (A) Maximum Block perimeter distance of Table 11.b;
 - (B) Section 10-24.225(a) (Building Disposition);
 - (C) Section 10-24.225(b)(ii) (Building Disposition);
 - (D) Section 10-24.225(b)(iv) (Building Disposition);
 - (E) Section 10-24.225(c)(ii) (Building Disposition);
 - (F) Section 10-24.230(a)(i) (Building Configuration);
 - (G) Section 10-24.230(a)(iii) (Building Configuration);
 - (H) Section 10-24.230(a)(vi) (Building Configuration);
 - (I) Section 10-24.230(a)(vii) (Building Configuration);
 - (J) Section 10-24.230(b)(i) (Building Configuration);
 - (K) Section 10-24.230(b)(ii) (Building Configuration);
 - (L) Section 10-24.230(b)(iv) (Building Configuration);
 - (M) Section 10-24.230(b)(v) (Building Configuration);
 - (N) Section 10-24.230(b)(vi) (Building Configuration);
 - (O) Section 10-24.230(b)(vii) (Building Configuration);
 - (P) Section 10-24.230(c)(i) (Building Configuration);

- (Q) Section 10-24.230(c)(ii) (Building Configuration);
- (R) Section 10-24.230(c)(v) (Building Configuration);
- (S) Section 10-24.230(c)(vi) (Building Configuration);
- (T) Section 10-24.230(c)(vii) (Building Configuration);
- (U) Section 10-24.230(c)(viii) (Building Configuration);
- (V) Section 10-24.230(c)(x) (Building Configuration);
- (W) Section 10-24.235(a)(v) (Assembly and Religious Facility Functions);
- (X) Section 10-24.245(a)(ii) (Parking Standards);
- (Y) Section 10-24.265 (Visitability Standards);
- (Z) Section 10-24.275(g)(i) (Thoroughfare Standards);
and
- (AA) Section 10-24.280(c)(ii) (Subdivision Standards);

(2) Exceptions are strongly discouraged since they severely compromise the ability to fulfill the intent of this Code.

(3) Exceptions are subject to Commission review and action.

b. Limitations. The following evaluation standards shall not be eligible for Warrants or Exceptions:

- i. Section 10-24.235(a)(i) (Building Functions);
- ii. Section 10-24.240(a)(ii) (Density Standards);
- iii. Section 10-24.280(c)(ii) (Subdivision Standards);
- iv. Section 10-24.280(c)(vi) (Subdivision Standards);
- v. Section 10-24.280(c)(vii) (Subdivision Standards);
- vi. All Code standards relating to Second Dwelling Units; and
- vii. Building Function, land use or activity on a particular site which is not otherwise allowed.

- c. Findings. In order to approve a Warrant or Exception, the Director must make all findings as follows:
 - i. All Warrants:
 - (1) Policy Consistency. The Warrant is consistent with the General Plan and overall objectives of this Code.
 - (2) Compatibility. The Warrant is justified by environmental features or site conditions; historic development patterns of the property or neighborhood; or the interest in promoting creativity and personal expression in site planning and development.
 - (3) NoAdverse Impact. The Warrant would result in development that is not detrimental to the public health, safety, or welfare, or injurious to the property or improvements in the vicinity and in the same zoning district.
 - (4) Special Privilege. The Warrant would not affect substantial compliance with this Code or grant a special privilege inconsistent with the limitations upon other properties in the vicinity and in the same zoning district.
 - ii. Warrants for remodels, additions and alterations to Historic Resources. In addition to the findings required by Section 10.24-410(c)(i) above, the following finding shall also be required to grant approval for a Warrant involving a Historic Resource:
 - (1) Historic Integrity. For remodels, additions and alterations to Historic Resources not consistent with the Code, said proposal results in development that, first and foremost, preserves those portions or features which convey the building's historical, cultural or architectural values, and secondarily, adherence to the Code's intent as reflected by the Purpose and Applicability Statements of Section 10-24.115.
 - iii. Warrants within Civic Space Zone. The following finding shall also be required to grant approval for a Warrant involving a Civic Building:
 - (1) Community Identity. The building and land use provides a public service dedicated to arts, culture, education, recreation, government, transit and/or public parking and is

uniquely designed to feature as a prominent, architecturally significant contribution to the built environment such that deviation from the provisions of this Code is warranted.

- d. Exception Findings. In order to approve an Exception, the following findings are required:
 - i. Uniqueness. That there are unique physical conditions, including irregularity, narrowness or shallowness of Lot size or shape, or exceptional topographical or other physical conditions peculiar to and inherent in the particular Lot; and that, as a result of such unique physical conditions, practical difficulties or unusual hardship arise in complying strictly with the standards of this Code.
 - ii. Self-Created Hardship. That the practical difficulties or unnecessary hardship claimed as a ground for an Exception have not been created by the owner or by a predecessor in title. However, where all other required findings are made, the purchase of a Lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.
 - iii. Minimal Deviation. That within the intent and purposes of this Code the Exception, if granted, is the minimum deviation necessary to afford relief; and to this end, the Commission may permit a lesser variance than that applied for.
 - iv. Neighborhood Character. That the Exception, if granted, will not alter the essential character of the neighborhood or Zone in which the Lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.
- f. Submittal Requirements. Each Warrant or Exception application shall include, at a minimum, the following;
 - i. A statement of the evaluation standard or standards that are the subject of the proposed Warrant or Exception;
 - ii. A textual description of the manner in which the applicant proposes to deviate from such evaluation standard or standards;
 - iii. Plans, drawn to scale, showing the nature, location, dimensions, and Elevation of the structure, area, or part thereof that is the

subject of the proposed Warrant or Exception; including the development projects relationship to the surrounding context;

- iv. A justification for the proposed variance in light of the requirements set forth above; and
- v. Such other information as may be required by the Review Authority.
- g. Processing. Both Warrants and Exceptions shall be reviewed and acted upon in accordance with the procedural requirements of this Code and Municipal Code Section 10-1.2800 (Administration and Enforcement).
- h. Conditions of approval. In approving a Warrant or Exception, the Review Authority may impose any reasonable conditions to ensure that the approval complies with the findings required above, except as limited by Section 10-24.135(b).

10-24.415 CODE MAINTENANCE

- a. Within five (5) years of the Council adopting this Code and every five (5) years thereafter, the Commission shall review the outcomes of this Code and, upon concluding such review, forward its findings to Council.
- b. Any provision of this Code that is determined by the Review Authority to need refinement or revision will be corrected by amending this Code as soon as is practical. Until an amendment can occur, the Director will maintain a complete record of all official interpretations to this Code, indexed by the number of the Section that is the subject of the interpretation, and as required by Section 10-24.510(h).

TABLE 14: Approval Requirements Matrix. This table illustrates approval requirements within the Code area.

	Municipal Code Citation	Review Authority Role		
		Director	Commission	Council
a. ADMINISTRATIVE				
Verification of Zoning Compliance	10-23.405(a)(4)	D	A	A
Interpretation	10-23.510	D	A	A
b. PLANNING PERMIT				
Site Plan Review	10-1.3000	D	A	A
Administrative Use Permit	10-1.3100	D	A	A
Conditional Use Permit	10-1.3200	R	D	A
Telecommunications Site Review	Article 13	D	A	A
Density Bonus Application	Article 19	R	D	A
Petition for Precise Plan Line	Article 4	R	R	D
Warrant	10-23.410	D	A	A
Exception	10-23.410	R	D	A
Tentative Parcel Map	10-3.150(b)	D	A	A
Tentative Tract Map	10-3.150(a)	R	D	A
c. LEGISLATIVE				
Development Agreements	Article 9	R	R	D
Zoning Reclassification	10-1.3400	R	R	D
Zoning Text Amendment	10-1.3425	R	R	D

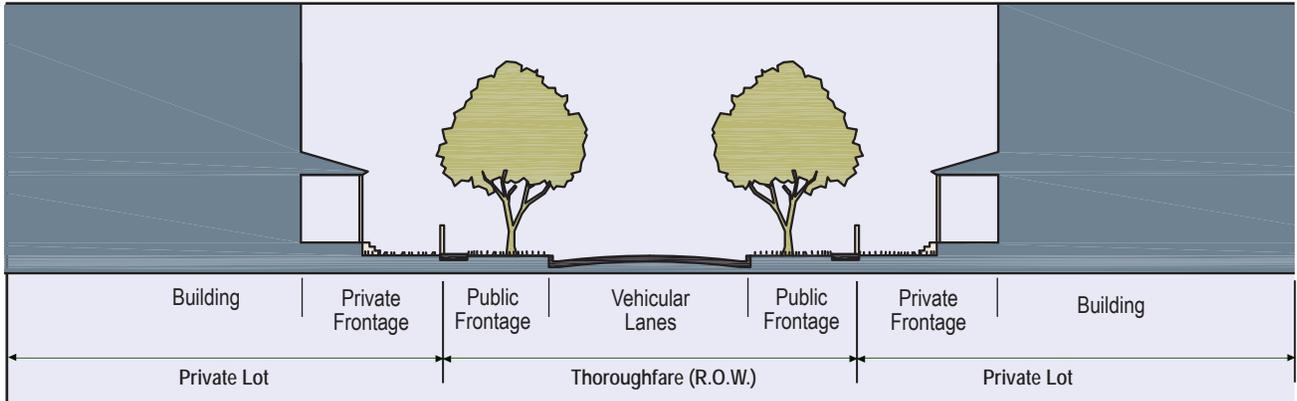
- (D) = Review Authority decides whether to approve or disapprove the application.
- (R) = Review Authority provides a recommendation to a higher level Review Authority.
- (A) = Review Authority considers the appeal of a lower-level Review Authority.

SEC.10-24.500 DEFINITIONS AND RULES OF INTERPRETATION FORM-BASED CODE

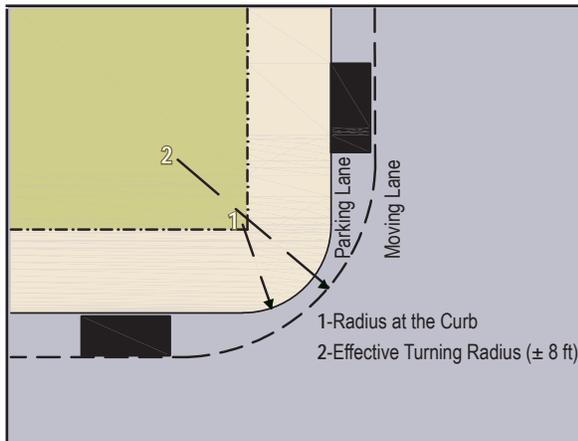
TABLE 15: Definitions Illustrated

South Hayward BART / Mission Boulevard

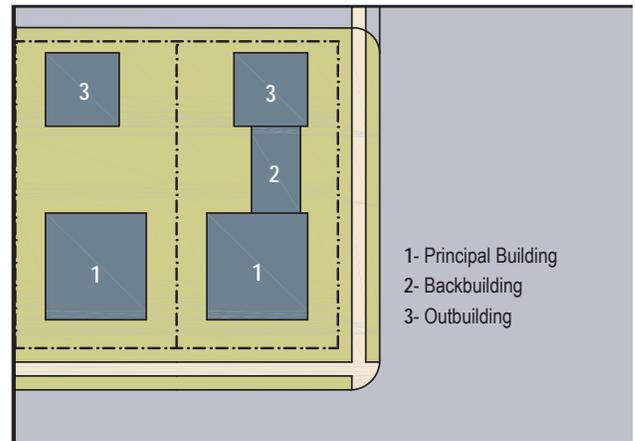
a. THOROUGHFARE & FRONTAGES



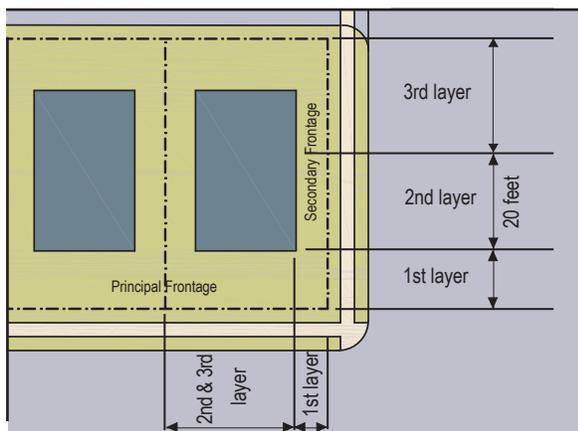
b. TURNING RADIUS



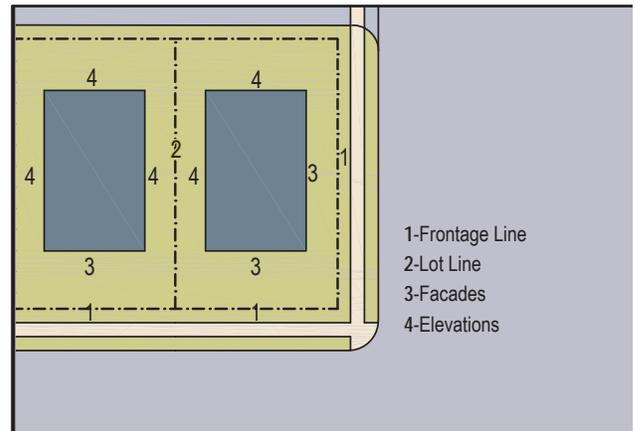
c. BUILDING DISPOSITION



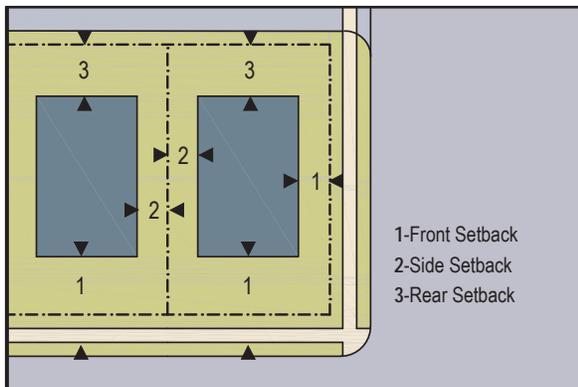
d. LOT LAYERS



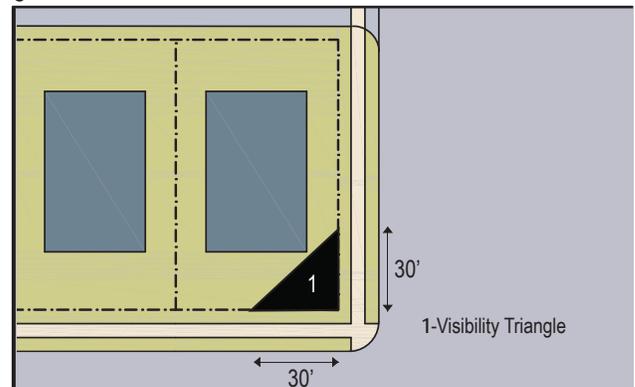
e. FRONTAGE & LOT LINES



f. SETBACK DESIGNATIONS



g. VISIBILITY TRIANGLE



SEC.10-24.500 DEFINITIONS AND RULES OF INTERPRETATION

10-24.505 DEFINITION OF TERMS

This Section provides definitions for terms in this Code that are technical in nature or that otherwise may not reflect a common usage of the term. If a term is not defined in this Section, then the Director shall determine the correct definition through the interpretation provisions of Section 10-24-510. Items in italics refer to Sections or Tables in this Code.

Aerial Sign: a balloon, or other airborne flotation device, which is tethered to the ground or to a building or other structure that directs attention to a business, commodity, service or entertainment conducted, sold or offered.

Alcohol Sales: all Functions subject to Municipal Code Section 10-1.2735 (Alcohol Beverage Outlet Regulations), including Bar, Cocktail Lounge.

Allee: a regularly spaced and aligned row of trees usually planted along a Thoroughfare.

Appliance Repair Shop: see Municipal Code Section 10-1.3500 (Definitions).

Arcade: a Private Frontage conventional for Retail Sales use wherein the Facade is a colonnade supporting habitable space that overlaps the Sidewalk, while the Facade at Sidewalk level remains at the Frontage Line.

Artisan/Craft Production: an establishment manufacturing and/or assembling small products primarily by hand, including but not limited to clothing, furniture, jewelry, pottery and other ceramics, as well as small glass and metal art and craft products. Includes taxidermists.

Assembly: a Function synonymous with Outdoor Gatherings (Municipal Code Section 10-1.2735(h) but also including gathering within a building or structure. See Sec. 10-24.235 for special requirements.

Attic: the interior part of a building contained within a pitched roof structure.

Automobile Repair (Minor): see Municipal Code Section 10-1.3500 (Definitions).

Automobile Repair (Major): see Municipal Code Section 10-1.3500 (Definitions).

Avenue (AV): a Thoroughfare of high vehicular capacity and low to moderate speed, acting as a short distance connector between urban centers, and usually equipped with a landscaped median.

Backbuilding: a single-Story structure connecting a Principal Building to an Outbuilding. *See Table 15.*

Bed and Breakfast: an owner-occupied Lodging type offering 1 to 5 bedrooms, permitted to serve breakfast in the mornings to guests.

Bicycle Lane (BL): a dedicated lane for cycling within a moderate-speed vehicular Thoroughfare, demarcated by striping.

Bicycle Route (BR): a Thoroughfare suitable for the shared use of bicycles and automobiles moving at low speeds.

Bicycle Trail (BT): a bicycle way running independently of a vehicular Thoroughfare.

Block: the aggregate of private Lots, Passages, Rear Alleys, circumscribed by Thoroughfares.

Boulevard (BV): a Thoroughfare designed for high vehicular capacity and moderate speed, traversing an Urbanized area. Boulevards are usually equipped with Slip Roads buffering Sidewalks and buildings.

Check Cashing & Loans: a Function synonymous with Check Cashing Store, as defined within Municipal Code Section 10-1.3500 (Definitions).

Civic: the term defining not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking.

Civic Building: a building operated by not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking.

Civic Space: an outdoor area dedicated for public use. Civic Space types are defined by the combination of certain physical constants including the relationships among their intended use, their size, their landscaping and their Enfronting buildings. *See Table 10.*

Civic Space Zone: designation for public sites dedicated for Civic Buildings and Civic Space.

Commercial: the term collectively defining workplace, Office, Retail Sales, and Lodging Functions.

Common Destination: an area of focused community activity, usually defining the approximate center of a Pedestrian Shed. It may include without limitation one or more of the following: a Civic Space, a Civic Building, a Commercial center, or a transit station, and may act as the social center of a neighborhood.

Common Open Space: a portion of the Lot landscaped and utilized for group passive or active recreation but excluding permanent buildings, off-street parking areas, drive aisles, above-ground utility cabinet, boxes or structures and required side and rear setback areas for Principal Buildings.

Community Garden: a publicly accessible area of land managed and maintained by a group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members. (Syn: Urban Farm)

Conference Center: a specialized Function designed and built almost exclusively to host conferences, exhibitions, large meetings,

seminars, training sessions, etc. May accompany the Hotel Function and provide office facilities and a range of leisure activities.

Configuration: the form of a building, based on its massing, Private Frontage, and height.

Courtyard Building: a building that occupies the boundaries of its Lot while internally defining one or more private patios. *See Table 8.*

Cultural Facilities: see Municipal Code Section 10-1.3500 (Definitions). See Sec. 10-24.235 for special requirements.

Curb: the edge of the vehicular pavement that may be raised or flush to a Swale. It usually incorporates the drainage system. *See Table 2.*

Dance/Nightclub: a Function consisting of establishments engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises. Typical uses include taverns, bars, brew-pubs, cocktail lounges, and similar uses other than those classified under the Restaurant.

Day Care Center: see Municipal Code Section 10-1.3500 (Definitions).

Day Care Home: see Municipal Code Section 10-1.3500 (Definitions).

Density: the number of dwelling units within a standard measure of land area.

Disposition: the placement of a building on its Lot. *See Table 8 and Table 15.*

Drive: a Thoroughfare along the boundary between an Urbanized and a natural condition, usually along a waterfront, Park, or promontory. One side has the urban character of a Thoroughfare, with Sidewalk and building, while the other has the qualities of a Road or parkway, with naturalistic planting and rural details.

Driveway: a vehicular lane within a Lot, often leading to a garage.

Drive-Through: a Function synonymous with Drive-In Establishment found within Municipal Code Section 10-1.3500 (Definitions).

Edgeyard Building: a building that occupies the center of its Lot with Setbacks on all sides. *See Table 8.*

Educational Facilities: See Municipal Code Section 10-1.3500 (Definitions).

Elevation: an exterior wall of a building not along a Frontage Line. See Table 15. See: **Facade.**

Emergency Homeless Shelter: (per Health and Safety Code 50801): housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. See Sec. 10-24.295 for special requirements.

Encroach: to break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a Setback, into the Public Frontage, or above a height limit.

Encroachment: any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into a Setback, into the

Public Frontage, or above a height limit.

Enfront: to place an element along a Frontage, as in “porches Enfront the street.”

Equipment Rentals: a Function synonymous with Equipment Rental Service, as defined within Municipal Code Section 10-1.3500 (Definitions).

Existing Thoroughfare: a publicly-owned Thoroughfare present at the time of Code adoption. See Figure 1-2 and 1-3.

Expression Line: a line prescribed at a certain level of a building for the major part of the width of a Facade, expressed by a variation in material or by a limited projection such as a molding or balcony. See *Table 7*. (Syn: transition line.)

Extension Line: a line prescribed at a certain level of a building for the major part of the width of a Facade, regulating the maximum height for an Encroachment by an Arcade Frontage. See *Table 7*.

Extensive Green Roof: a building roof with a planting medium six inches in depth or less, designed to be virtually self-sustaining and requiring a minimum of maintenance. Such roofs are intended to function as an ecological protection layer. They are planted with low-lying species designed to provide maximum cover achieving water retention, erosion resistance, and transpiration of moisture.

Facade: the exterior wall of a building that is set along a Frontage Line. See **Elevation**.

Fee Simple Parcel: a term synonymous with Subdivision Map Act’s treatment of parcels exclusive of those for condominium purposes.

Fire Station: a Function synonymous with Public Agency Facilities, as defined within Municipal Code Section 10-1.3500 (Definitions).

Focus Area: areas within the City of Hayward which the General Plan provides that implementation of smart growth principles is particularly appropriate. See General Plan Page 2-9.

Forecourt: a Private Frontage wherein a portion of the Facade is close to the Frontage Line and the central portion is set back. See *Table 5*.

Frontage: the area between a building Facade and the vehicular lanes, inclusive of its built and planted components. Frontage is divided into **Private Frontage** and **Public Frontage**. See *Table 5*.

Frontage Buildout: the minimum length of the Principal Frontage that must contain a Private Frontage. See *Table 11*.

Frontage Line: a Lot line bordering a Public Frontage. Facades facing Frontage Lines define the public realm and are therefore more regulated than the Elevations facing other Lot Lines. See *Table 15*.

Function: the use or uses accommodated by a building and its Lot, categorized as Restricted, Limited, or Open, according to the intensity of the use. See *Table 9*.

Gallery: a Private Frontage conventional for Retail Sales use wherein

the Facade is aligned close to the Frontage Line with an attached cantilevered shed or lightweight colonnade overlapping the Sidewalk. See Table 5.

Gas Station: a Function synonymous with Automobile Service Station found within Municipal Code Section 10-1.3500 (Definitions).

Green Roof: a building roof partially or completely covered with vegetation and soil, or a growing medium, over a waterproofing membrane. Green roofs may be categorized as Extensive, Semi-Intensive, or Intensive, depending on the depth of the planting medium and the amount of maintenance required. (Syn: eco-roof, living roof, greenroof)

Group Home: see Municipal Code Section 10-1.3500 (Definitions).

Group Supportive Housing: means housing, configured as group care facilities or similar residential care facilities, with no limit on length of stay, that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

Group Transitional Housing: means housing configured as group care facilities or similar residential care facilities and operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

Historic Resources: "Historical Resources" means any buildings, structures, sites, objects, historic district and archaeological resources that have been determined to have a) age; b) integrity; and c) historical significance. For the purposes of this Article and of the California Environmental Quality Act (CEQA), the term "historical resources" shall include the following:

(1) A resource listed in, or determined to be eligible by the State Historical Resources Commission for listing in, the National Register or the California Register of Historical Resources.

(2) A resource designated in a local register of historical resources or identified as historically significant in an adopted survey list.

(3) Any object, building, structure, site, area, place, record, or manuscript that the City of Hayward determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California or of Hayward.

Home Occupation: see Municipal Code Section 10-1.3500 (Definitions).

Horizontal Axis Wind Turbine: a Wind Turbine with its rotor on the horizontal axis. Blades are visually similar to those utilized by aircraft, typically much more expansive than the Vertical Axis Wind Turbine, and typically have to rotate to face the prevailing wind.

Hospital: see Municipal Code Section 10-1.3500 (Definitions).

Hotel: see Municipal Code Section 10-1.3500 (Definitions).

Indoor Recreation: a Function offering predominantly participant sports conducted within an enclosed building. Typical uses include bowling alleys, billiard parlors, pool halls, indoor ice or roller skating rinks, indoor racquetball courts, indoor batting cages, and health or fitness clubs.

Intended Speed: is the velocity at which a Thoroughfare tends to be driven without the constraints of signage or enforcement. There are four ranges of speed: Very Low: (below 20 MPH); Low: (20-25 MPH); Moderate: (25-35 MPH); High: (above 35 MPH). Lane width is determined by desired Intended Speed. *See Table 2.*

Intensive Green Roof: a building roof with a planting medium between 8 inches and 4 feet. It can sustain elaborate plantings that include shrubs and trees. Intensive Green Roofs are heavy and usually installed over concrete roof decks. They require considerable maintenance. In addition to their role in carbon mitigation, they are used for recreation or aesthetics, being park or garden-like.

Kennel: see Municipal Code Section 10-1.3500 (Definitions).

Large Group Supportive Housing: "Group Supportive Housing" means housing, configured as group care facilities or similar residential care facilities, with no limit on length of stay, that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. *See Sec. 10-25.295 for special requirements.*

Large Group Transitional Housing: "Group Transitional Housing" means housing configured as group care facilities or similar residential care facilities and operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months. *See Sec. 10-25.295 for special requirements.*

Large-size tree: single or multi trunk plant with a minimum 12 feet of natural vertical clearance at maturity to accommodate industrial trailer truck under with a minimum of 35 feet diameter canopy.

Layer: a range of depth of a Lot within which certain elements are permitted. *See Table 15.*

Liquor Store: Any business of less than 10,000 square feet (gross) where more than 5 percent of such floor area is for the sale, display, and storage of distilled spirits. *See Table 9.*

Live-Work: a Mixed Use unit consisting of an Office Function (Table 9), Artisan/Craft Production (Table 9) or Retail Sales (Table 9) Function and Residential (Table 9) Function. The Retail Sales Function may be anywhere in the unit and is intended to be occupied by a business operator who lives in the same structure that contains the Retail Sales activity.

Lot: a parcel of land accommodating a building or buildings of unified design. The size of a Lot is controlled by its width in order to determine the grain (i.e., fine grain or coarse grain) of the urban fabric.

Lot Width: the length of the Principal Frontage Line of a Lot.

Massage Parlor: see Municipal Code Section 10-1.3500 (Definitions).

Media Production: Facilities for motion picture, television, video, sound, computer, and other communications media production. These facilities include the following types: (1) Back lots/outdoor facilities. Outdoor sets, back lots, and other outdoor facilities, including supporting indoor workshops and craft shops; (2) Indoor support facilities. Administrative and technical production support facilities, including administrative and production offices, post-production facilities (editing and sound recording studios, foley stages, etc.), optical and special effects units, film processing laboratories, etc.; and (3) Soundstages. Warehouse-type facilities providing space for the construction and use of indoor sets, including supporting workshops and craft shops.

Medical/Dental Clinic: a Function in which 10 or more physicians and/or dentists or their allied professional assistants carry on their profession; a building that contains one or more physicians, dentists, and their assistants, and a laboratory and/or an apothecary limited to the sale of pharmaceutical and medical supplies. Shall not include inpatient care or operating rooms for major surgery.

Medium-size tree: single or multi trunk plant with a minimum 9 feet of natural vertical clearance at maturity to accommodate people to walk under with a minimum of 25 feet diameter canopy.

Mixed Use: multiple Functions within the same building through superimposition or adjacency, or in multiple buildings by adjacency.

Mortuary: see Municipal Code Section 10-1.3500 (Definitions).

Multiple Family: a residential Function synonymous with the following Dwelling Unit categories found within Municipal Code Section 10-1.3500 (Definitions): Apartment/multiple family dwelling(s), Condominium dwelling(s), and Townhouse dwelling(s).

New Thoroughfare: a Thoroughfare intended for dedication and improvement after Code adoption. See Figure 1-2 and 1-3.

Nominal Parcel: building sites in a condominium subdivision which are regulated by the Lot Width requirements of Table 10 and Table 11.

Notice of Application Receipt: a type of public notice intended to facilitate public participation early in the decision-making process for permit applications.

Office: see Municipal Code Section 10-1.3500 (Definitions).

Open Space: land intended to remain undeveloped; it may be for Civic Space.

Outbuilding: an Accessory Building, usually located toward the rear of the same Lot as a Principal Building, and sometimes connected to the Principal Building by a Backbuilding which may or may not contain a Second Dwelling Unit. *See Table 15.*

Park: a Civic Space type that is a natural preserve available for unstructured recreation. *See Table 10.*

Park & Recreation: a Function consisting of land and facilities, such as playgrounds, fountains, or swimming pools, regardless of location, including the acquisition of such land, the construction of improvements, provision of pedestrian and vehicular access, and purchase of equipment for the facility.

Parking Facility: a Function characterized by the temporary provision of off-street parking spaces for motor vehicles within or outside of a structure by either a private or public entity. When situated within a Parking Structure, the inclusion of additional non-parking related Functions of this Code do and shall apply.

Parking Structure: a building containing one or more Stories of parking above grade.

Passage (PS): a pedestrian connector, open or roofed, that passes between buildings to provide shortcuts through long Blocks and connect rear parking areas to Frontages.

Path (PT): a pedestrian way traversing a Park or rural area, with landscape matching the contiguous Open Space, ideally connecting directly with the urban Sidewalk network.

Pawn Shop: see Municipal Code Section 10-1.3500 (Definitions).

Pedestrian Shed: an area that is centered on a Common Destination.

Personal Services: establishments primarily engaged in the provision of services for the enhancement of personal appearance, cleaning, alteration or reconditioning of garments and accessories, and similar non-business related or nonprofessional services. Typical uses include reducing salons, tanning salons, barber shops, tailors, shoe repair shops, self-service laundries, and dry cleaning shops, but exclude uses classified under the Office and Trade School.

Planter: the element of the Public Frontage which accommodates street trees, whether continuous or individual.

Plaza: a Civic Space type designed for Civic purposes and Commercial activities in the more urban Transect Zones, generally paved and spatially defined by building Frontages.

Police Station: a Function synonymous with Public Agency Facilities, as defined within Municipal Code Section 10-1.3500 (Definitions).

Precise Plan Line: see Municipal Code Section 10-4.12.

Principal Building: the main building on a Lot, usually located toward the Frontage. *See Table 12.*

Principal Entrance: the main point of access for pedestrians into a building.

Principal Frontage: on corner Lots, the Private Frontage designated to bear the address and Principal Entrance to the building, and the measure of minimum Lot Width. Prescriptions for the parking Layers pertain only to the Principal Frontage. Prescriptions for the first Layer pertain to both Frontages of a corner Lot. *See Frontage.*

Printing and Publishing: a small-scale establishment engaged in printing by letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying; and other establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving, and electrotyping. This use also includes establishments that publish newspapers, books and periodicals; establishments manufacturing business forms and binding devices.

Public Agency Facilities: see Municipal Code Section 10-1.3500 (Definitions).

Private Frontage: the privately held Layer between the Frontage Line and the Principal Building Facade. *See Table 5 and Table 12.*

Public Frontage: the area between the Curb of the vehicular lanes and the Frontage Line. *See Table 15.*

Rear Alley (RA): a vehicular way located to the rear of Lots providing access to service areas, parking, and Outbuildings and containing utility easements. Rear Alleys should be paved from building face to building face, with drainage by inverted crown at the center or with roll Curbs at the edges.

Rearyard Building: a building that occupies the full Frontage Line, leaving the rear of the Lot as the sole yard. *See Table 8.* (Var: Rowhouse, Townhouse, Apartment House)

Recycling Collection Area: see Municipal Code Section 10-1.3500 (Definitions).

Regulating Plan: a Zoning Map or set of maps that shows the Transect Zones, Civic Zones, Special Districts if any, and Special Requirements if any, of areas subject to, or potentially subject to, regulation by South Hayward/Mission Boulevard Form-Based Code and pertinent Municipal Code provisions.

Religious Facility: see Municipal Code Section 10-1.3500 (Definitions). See Sec. 10-24.235 for special requirements.

Residential: characterizing premises available for long-term human dwelling.

Restaurant: see Municipal Code Section 10-1.3500 (Definitions). Includes Micro-Breweries as accessory to the Restaurant and stand-alone Catering Facilities.

Retail Frontage: Frontage designated on a Regulating Plan that requires or recommends the provision of a Shopfront, encouraging the ground level to be available for Retail Sales use. *See Special Requirements.*

Retail Sales: a Function characterizing establishments primarily engaged in the sale of goods and merchandise, and specifically including retail sales establishments that have less than 10,000 square feet of floor area and engage in the sale of alcohol for off-sale consumption, provided the sale, storage, or display related to alcohol sales does not exceed 5 percent of the gross floor area of the establishment. *See Table 9.*

Review Authority: the City Council, Planning Commission or Development Services Director. A Review Authority is charged with reviewing a particular permit application. *See Table 14.*

Road (RD): a local, rural and suburban Thoroughfare of low-to-moderate vehicular speed and capacity. This type is allocated to the more rural Transect Zones (T1-T3). *See Table 2.*

Rowhouse: a single-family dwelling that shares a party wall with another of the same type and occupies the full Frontage Line. *See Rearyard Building.* (Syn: **Townhouse**)

Second Dwelling Unit: a dwelling unit that is accessory, supplementary, and secondary to the principal dwelling, which may be constructed as an addition to the principal structure or as an accessory to the principal structure.

Secondary Frontage: on corner Lots, the Private Frontage that is not the Principal Frontage. As it affects the public realm, its First Layer is regulated. *See Table 15.*

Semi-Intensive Green Roof: a building roof with specifications between the Extensive and Intensive Green Roof systems. This type requires more maintenance, has higher costs, and weighs more than the Extensive Green Roof.

Setback: the area of a Lot measured from the Lot line to a building Facade or Elevation that is maintained clear of permanent structures, with the exception of Encroachments authorized by this Code. (Var: build-to-line.)

Shopfront: a Private Frontage conventional for Retail Sales use, with substantial glazing and an awning, wherein the Facade is aligned close to the Frontage Line with the building entrance at Sidewalk grade. *See Table 5.*

Sidewalk: the paved section of the Public Frontage dedicated exclusively to pedestrian activity.

Sideyard Building: a building that occupies one side of the Lot with a Setback on the other side. This type can be a Single or Twin depending on whether it abuts the neighboring house. *See Table 8.*

Small Group Homes/Residential Care Facilities: group homes/residential care facilities for six or fewer persons that operate as a regular residential use.

Small Group Supportive Housing: “Small Group Supportive Housing” means housing for six or fewer persons, configured as regular housing developments, with no limit on length of stay, that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. *See Sec. 10-25.295 for special requirements.*

Small Group Transitional Housing: “Small Group Transitional Housing” (per California Health and Safety Code 50675.2 (h)) means housing for six or fewer persons configured as regular housing

developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months. See Sec. 10-25.295 for special requirements.

Small-size tree: single or multi trunk plant with a minimum 7 feet of natural vertical clearance at maturity to accommodate people to walk under with a minimum of 15 feet diameter canopy.

Special Requirements: provisions of Section 10-24.210(a) of this Code and/or the associated designations on a Regulating Plan or other map for those provisions.

Square: a Civic Space type designed for unstructured recreation and Civic purposes, spatially defined by building Frontages and consisting of Paths, lawns and trees, formally disposed. *See Table 10.*

Stepback: a building Setback of a specified distance that occurs at a prescribed number of Stories above the ground. *See Table 7.*

Stoop: a Private Frontage wherein the Facade is aligned close to the Frontage Line with the first Story elevated from the Sidewalk for privacy, with an exterior stair and landing at the entrance. *See Table 5.*

Story: a habitable level within a building, excluding an Attic or raised basement. *See Table 7.*

Street (ST): a local urban Thoroughfare of low speed and capacity. *See Table 2.*

Streetscreen: a freestanding wall built along the Frontage Line, or coplanar with the Facade. It may mask a parking lot from the Thoroughfare, provide privacy to a side yard, be accompanied by landscaping, and/or strengthen the spatial definition of the public realm. (Syn: streetwall.)

Swale: a low or slightly depressed natural area for drainage.

Tattoo Parlor: see Municipal Code Section 10-1.3500 (Definitions).

Taxi Company: see Municipal Code Section 10-1.3500 (Definitions).

T-zone: Transect Zone.

Temporary Use: see Municipal Code Section 10-1.3500 (Definitions).

Terminated Vista: a location on the Regulating Plan at the axial conclusion of a Thoroughfare.

Theater: see Municipal Code Section 10-1.3500 (Definitions) and Municipal Code Section 10-1.1045 for special requirements.

Third Lot Layer: that portion of a Lot bounded by (a) the side Lot Lines, (b) the Rear Lot Line and (c) a line which is 20 feet from and parallel to the Façade of the Primary Building situated on or to be situated on the Lot. See Table 15, item d, Definitions Illustrated, Lot Layers and Table 15, item e, Definitions Illustrated, Frontage and Lot Lines.

Thoroughfare: a way for use by vehicular and pedestrian traffic and to provide access to Lots and Open Spaces, consisting of Vehicular Lanes and the Public Frontage. *See Table 2, Figure 1-2 and Figure 1-3.*

Thoroughfare Plan: a component of the South Hayward BART/ Mission Boulevard Form-Based Code Zoning Map that shows planned

changes to existing Thoroughfares and the general location of planned new Thoroughfares. *See Figure 1-2.*

Tobacco Specialty Store: a tobacco retailer whose business exclusively or primarily involves the sale of tobacco products and related goods. *See Table 9.*

Townhouse: see **Rearyard Building**. (Syn: **Rowhouse**)

Transect: a cross-section of the environment showing a range of different habitats. The rural-urban Transect of the human environment used in the SmartCode template is divided into six Transect Zones. These zones describe the physical form and character of a place, according to the Density and intensity of its land use and Urbanism.

Transect Zone (T-zone): one of several areas on a Zoning Map regulated by the South Hayward BART/Mission Boulevard Form-Based Code. Transect Zones are administratively similar to the land use zones in conventional codes, except that in addition to the usual building use, Density, height, and Setback requirements, other elements of the intended habitat are integrated, including those of the private Lot and building and Public Frontage. *See Table 1.*

Transit-Oriented Development: a mixed-use Residential or Commercial area designed to maximize access to public transport; often incorporating features to encourage transit ridership.

Urban Farm: agricultural land dedicated to food production to be locally consumed. (Syn: Community Garden)

Urbanism: collective term for the condition of a compact, Mixed Use settlement, including the physical form of its development and its environmental, functional, economic, and sociocultural aspects.

Vegetable Garden: a privatized area of land managed and maintained to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption or donation. A Vegetable Garden may be incorporated into and count towards the minimum Common Open Space area.

Vertical Axis Wind Turbine: a Wind Turbine with its rotor on the vertical axis. Blades are usually helical, more compact than the Horizontal Axis Wind Turbine and do not have to rotate to face the prevailing wind.

Vocational School: see Municipal Code Section 10-1.3500 (Definitions).

Wind Energy: a Function synonymous with Wind Energy Conversion System (Municipal Code Section 10-1.3500).

Wind Turbine: a rotary device for converting wind energy into mechanical or electrical energy.

Zoning Map: the official map or maps that are part of the zoning ordinance and delineate the boundaries of individual zones and districts. See **Regulating Plan**.

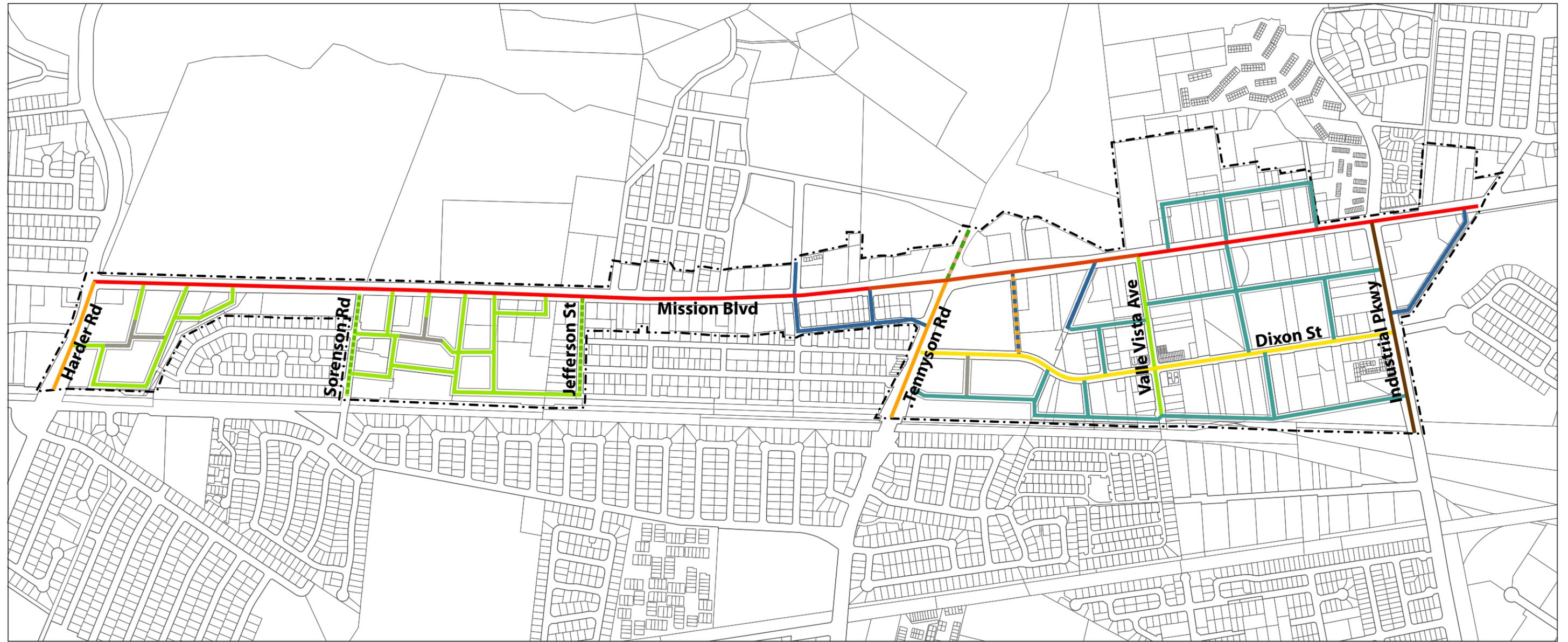
10-24.510 RULES OF INTERPRETATION

- a. Provisions of this Code are activated by “shall” when required; “should” when recommended; and “may” when optional.
- b. Capitalized terms used throughout this Code are defined in Section 10-24.505 (Definitions of Terms). Section 10-24.505 contains regulatory language that is integral to this Code. Terms not defined in Section 10-24.505 shall be accorded their commonly accepted meanings. In the event of conflicts between these definitions and those found within the remainder of the Municipal Code Chapter 10 (Planning, Zoning and Subdivisions), those of this Code shall take precedence.
- c. The metrics of Section 10-24.300 (Standards and Tables) are an integral part of this Code. However, the diagrams and illustrations that accompany them should be considered guidelines, with the exception of those on Table 12A and 12B (Form-Based Code Graphics), which are legally binding.
- d. Where in conflict, numerical metrics shall take precedence over graphic metrics.
- e. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the natural construction of the word indicates otherwise. The words “includes” and “including” shall mean “including but not limited to . . .”
- f. Within the Code, sections are occasionally prefaced with “purpose” or “intent” statements. Each such statement is intended as an official statement of legislative finding or purpose. The “purpose” or “intent” statements are legislatively adopted, together with their accompanying Code text. They are intended as a guide to the administrator and interpretation of the Code and shall be treated in the same manner as other aspects of legislative history. However, they are not binding standards.
- g. Whenever a number of days is specified in this Code, or in any permit, condition of approval, or notice provided in compliance with this Code, the number of days shall be construed as calendar days. A time limit shall extend to 5:00 p.m. on the following working day when the last of the specified number of days falls on a weekend or holiday.
- h. Whenever the Director determines that the meaning or applicability of any requirement of this Code is subject to interpretation generally, or as applied to a specific case, the Director may issue an official

interpretation. The Director may also forward any interpretation of the meaning or applicability of any provision of this Code directly to the Commission for a determination at a public meeting.

- i. The issuance of an interpretation shall include findings stating the basis for the interpretation. The basis for an interpretation may include technological changes or new industry standards. The issuance of an interpretation shall also include a finding documenting the consistency of the interpretation with the General Plan.
- ii. Official interpretations shall be:
 - (1) Written, and shall quote the provisions of this Code being interpreted, and the applicability in the particular or general circumstances that caused the need for interpretations, and the determination;
 - (2) Distributed to the Council, Commission, Director, City Manager, City Attorney, City Clerk, and Development Services Department staff; and
 - (3) Compiled into a single volume made readily available to the public.
- iii. Any interpretation of this Code by the Director may be appealed to the Commission in compliance with Municipal Code Section 10-1.2845 (Appeal and Review Process).
- iv. If there is uncertainty about the location of any zone boundary shown on the Regulating Plan, the location of the boundary shall be determined by the Director as follows.
 - (1) Where a zone boundary approximately follows a Lot line, alley, or street line, the Lot line, street or alley centerline shall be construed as the zone boundary, as applicable;
 - (2) If a zone boundary divides a parcel and the boundary line location is not specified by distances printed on the Regulating Plan, the location of the boundary will be determined by using the scale appearing on the Regulating Plan; and
 - (3) Where a public street or alley is officially vacated or abandoned, the property that was formerly in the street or alley will be included within the zone of the adjoining property on either side of the vacated or abandoned street or alley.

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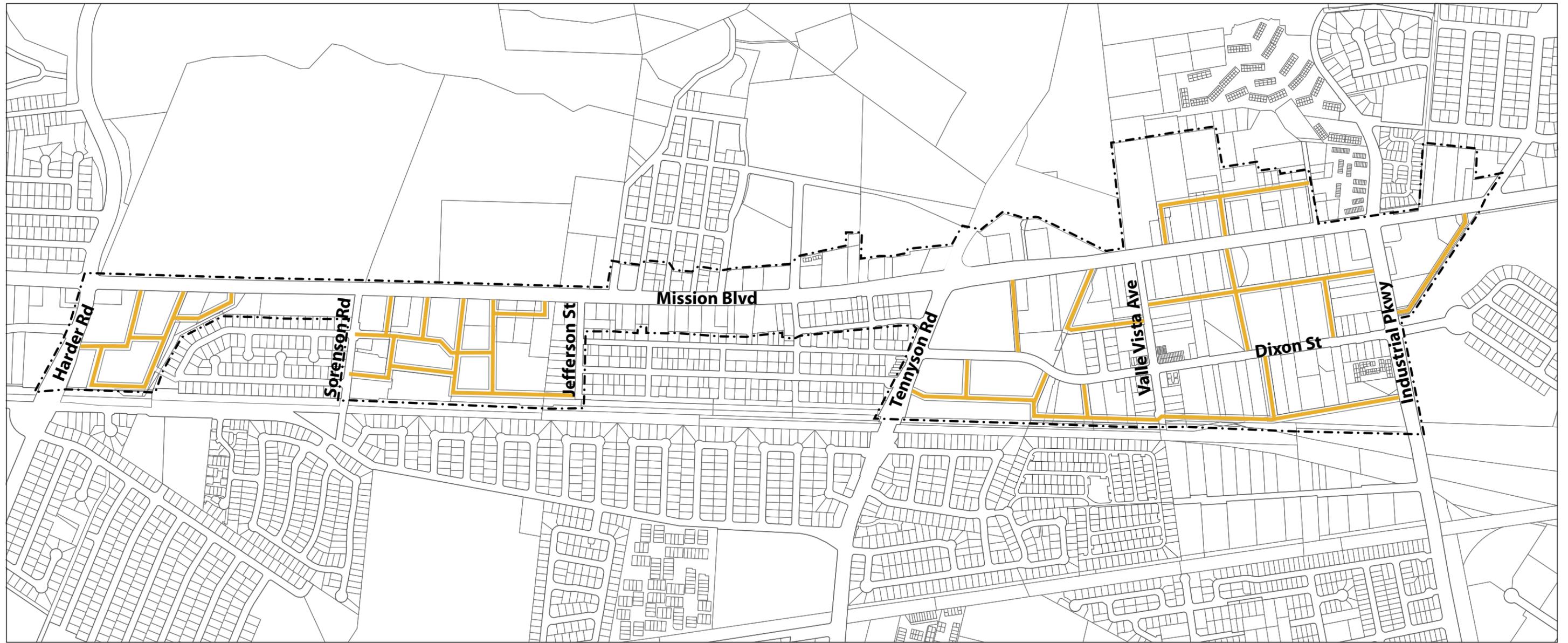


Legend

- Project Area
- Parcels
- ST-40-23-BR
- ST-50-28-BR
- ST-60-34-BR
- ST-60-36-BR
- ST-56-34-BR
- ST-66-46-BL
- CS-80-54-BR
- AV-110-72-BL
- AV-100-64/76-TR *
- BV-125-48-BL
- PS-32.5-26

* A Slip Lane (SL-40-20-BR or SL-48-28-BR) may be added on either side of Mission Boulevard, in accordance with Sec. 10-24.275.g.iii





Legend

- - - Project Area
- Existing Thoroughfares
- Parcels
- New Thoroughfares



DATE: October 11, 2011
TO: Mayor & City Council
FROM: Chief of Police
SUBJECT: Red Light Camera Update

RECOMMENDATION

That the City Council receives and comments on this update on the implementation of the RedFlex red light camera project.

BACKGROUND

In November of 2007, the City of Hayward entered into a contract with RedFlex to implement ten red light cameras at a total of eight intersections. Installation began in September 2008 and finished in 2010. All ten cameras have been fully operational since April 2010. The contract obligates the City to each camera for a five year period once the camera becomes operational.

Currently, there are two full-time personnel assigned to RedFlex, consisting of one sworn Traffic Enforcement Officer and one Community Service Officer. These two positions are averaging approximately 1,500 violations processed monthly. Each month, approximately 500 are Notice to Appear, 730 are Notice of Violations (requiring additional identification of the driver by the Registered Owner), and over 300 are “rejected” because of discretion from staff (cannot see face of driver, spirit of the law versus letter of the law on a right turn violation, etc.). Of the 730 Notice of Violations that need follow up, staff gets a return of about 480 notices from Registered Owners, leaving 250 violations per month unresolved.

DISCUSSION

There are studies that show that red light cameras do in fact reduce the number of collisions; however, the Hayward Police Department has not been able to gather sufficient data to support this conclusion. The police department is implementing a new Records Management System and Computer Aided Dispatch system in November of this year. This new system contains an analysis tool component that will allow more comprehensive collection of data. This will enable staff to compare statistical information and better evaluate collision data.

The Department will be hiring an additional Community Service Officer (CSO) on a six-month trial basis to follow up on the 250 unresolved violations identified above. This position will not increase

the total level of staffing in the Department; instead it will reallocate positions. In addition, a “per diem” officer trained in RedFlex will be utilized to assist with this follow up and lend professional and sworn police officer expertise to the two CSOs. A cost analysis to ensure revenue from violations covers the additional staff costs will be completed to determine if utilizing the CSO and per diem officer is the most cost effective mechanism for staffing the red light camera program.

This staffing shift will enable the Police Department to redeploy a full time Traffic Enforcement Officer back to the streets. Therefore, three actions currently underway in the Department will have a positive impact on collision reduction:

1. Additional personnel to follow up on the remaining red light camera citations making that program more effective.
2. Redeployment of the sworn personnel from red light camera duty to active Traffic Enforcement, increasing the number of active enforcement personnel out on the streets.
3. The Traffic Unit is moving to a new deployment model, which will focus their efforts on the “Top Ten” crash sites in the City.

One of the most significant advantages of live enforcement personnel over a passive camera program is that the officers can utilize their judgment to determine what specific action (e.g., warning, citation, or arrest) will warrant the most positive and direct result in any situation. This targeted enforcement, improved administration of the red light camera program, and more efficient use of resources should result in an overall reduction of collisions citywide.

The ten red light cameras have only been operating since April of 2010, and the Department is monitoring the number of violations and subsequent revenue as there is often an expected falling off of the number of violations once the public becomes aware of the cameras and less inclined to violate the intersections. Staff will reevaluate the revised red light camera staffing model at the end of the six month trial period to ensure that the program is still covering related costs.

FISCAL IMPACT

Analysis of Current NET Monthly Revenue

GROSS REVENUE	<u>\$95,000</u>
EXPENSES	\$84,820
Contract payment to Redflex	59,000
Staffing (1 sworn and 1 CSO)	25,710
PG&E	<u>120</u>
NET MONTHLY REVENUE	\$10,170

This results in an average of \$10,180 in revenue for the City monthly. The police department has proposed the addition of one CSO and a “per diem” officer, which will result in the additional billing of approximately 250 citations. If that is accomplished and the money from those 250 citations is collected effectively, it will result in an additional \$14,700 of revenue per month.

Analysis of Proposed NET Monthly Revenue and Expenses

GROSS REVENUE (including add'l 250 citations totaling \$14,700)	\$109,700
EXPENSES	\$98,502
Contract payment to Redflex	\$59,000
Staffing (inc Traffic Officer)	\$25,710
PG&E	120
Subtotal	\$84,830
Additional CSO	\$9,144
Per diem sworn to assist w/red light	<u>\$4,528</u>
Traffic Enforcement off returned to streets	<\$16,566>
NET PROPOSED MONTHLY REVENUE	\$27,764

NEXT STEPS

The Police Department will continue to monitor the costs associated with the hiring of an additional CSO, and compare revenue collected from additional citations/violations being investigated. This strategy, coupled with the redeployment of the Traffic Unit to the intersections and arterial areas most impacted by collisions, should reduce crashes citywide. Data from the Crime Analysis component will be utilized to ensure red light cameras are in fact reducing the number of accidents.

Prepared and Recommended by: Diane Urban, Chief of Police

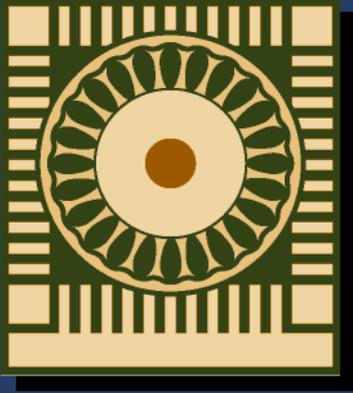
Approved by:



Fran David, City Manager

Attachments:

Attachment I: Power Point presentation on RedFlex camera implementation



CITY OF
HAYWARD
HEART OF THE BAY

PHOTO RED LIGHT PROGRAM UPDATE

Diane Urban, Chief of Police
Hayward Police Department



Overview of Program

- Contract signed with Redflex in November 2007
- Contract obligation: 5 years from the date each camera became operational
- First red-light camera operational - August 2008
- 10 cameras installed at 8 intersections - September 2008 to April 2010



Processing Violations

Stage 1

- 1,560 average number violations processed per month since inception of program in August 2008
 - 499 Notice to Appear
 - 730 Notice of Violations
 - 331 Rejected (human interface, obstructions, mechanical)
- 114 staff hours per month to accomplish Stage 1



Processing Violations

Stage 2

- Average number processed per month
 - *480 (avg. number of NOV's that are returned)
 - 452 Notice to Appear
 - 24 Notice of Violations
 - 4 Rejected
- 64 staff hours to accomplish stage 2
- 178 staff hours to complete stage 1 & 2



Processing Violations

Stage 3

- Follow up to Non-Responses

- * Estimated 62 hours of staff time needed to follow up and process remaining 250 non-responses.

- * Due to limited staffing, non-responses not being processed.

- * Potential additional monthly revenue of \$14,700

- (250 cites x 42% paid=105 x \$140 per cite =\$14,700)



Accidents At Monitored Intersections

- One year prior to installation of Photo Red light cameras
 - 12 of 56 collisions related to red light violations
- One year period after installation of Photo Red light cameras
 - 12 of 38 collisions related to red light violations
 - ❖ New RMS system tentative “go live” 11/15/11 to gather data
 - ❖ Traffic Enforcement deployment model change



Monthly Cost Analysis

Current Structure

- +\$95,000 Revenue
- -\$ 59,000 Redflex contract payment
- -\$ 120 PG&E
- -\$25,710 Staffing (1 sworn and 1 CSO)

Estimated Net Revenue
\$10,170

Proposed Structure

- +95,000 Revenue
- +14,700 Est. Enhanced Revenue
- -\$59,000 Redflex Payment
- -\$ 120 PG&E
- -\$25,710 Staffing (incl. Officer)
- -\$ 9,144 Additional CSO
- -\$ 4,528 Per Diem Officer
- +16,566 Traffic Officer redeployed to street duties

Estimated Net Revenue (proposed)
\$27,764



Questions/Comments?



DATE: October 11, 2011

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Amended and Restated Joint Powers Authority Agreement for the Alameda County Associated Community Action Program (ACAP)

RECOMMENDATION

That the City Council approves the attached amended and restated Joint Powers Authority Agreement (JPA Agreement) for the Associated Community Action Agency (ACAP).

BACKGROUND

The Associated Community Action Program (ACAP) is a joint powers authority (JPA) with a governing board comprised of elected officials from its member agencies, which include Alameda County and twelve cities within its jurisdiction, including the City of Hayward. The other members are the cities of: Alameda, Albany, Dublin, Emeryville, Fremont, Livermore, Newark, Piedmont, Pleasanton, San Leandro, and Union City. ACAP's purpose has been to administer programs and services for the low-income population through a variety of public and private funding sources. These programs included housing assistance, jobs training and education, and youth development services.

In February 2011, staff of ACAP presented a number of concerns about management of the agency to the ACAP Governing Board. Significant financial and performance issues have given rise to a close out process for the entire ACAP agency. This process was initiated by the Alameda County City Manager's Association (ACCMA) and confirmed by action of the ACAP Board of Directors. The close out plan resulted in the hiring of Management Partners, Inc, a management consulting firm specializing in assisting public entities, and the termination and layoff of most of the ACAP staff, as well as the cessation of all ACAP client services and the termination of property leases and other on-going obligations.

An Ad Hoc Committee comprised of two city managers and three city attorneys have been guiding this work and the close-out process. The City of Dublin has been providing financial assistance and reporting, and the City of Hayward has been providing equipment disposal services through our Finance-Purchasing Division and the Maintenance Services Department.

Management Partners was engaged to close out ACAP with a minimum of expense while minimizing liabilities to ACAP member agencies. These liabilities stem from various sources such as disallowed grant costs, existing leases and contracts, and employee-related obligations.

The JPA was last amended in 1995 and states that the members are liable for repayment of any misspent funds in the event that ACAP is unable to meet those obligations. The representatives of the members and the ACAP board of directors have determined that the existing joint powers agreement that created ACAP must be amended to reflect the current status of ACAP, in order to limit liability to the members of the JPA and to reflect the close out mission of the ACAP agency.

DISCUSSION

Mr. Rich Ambrose, retired City Manager from Dublin, acting through the Management Partners' contract and as appointed by the existing Board of Directors, has been the Interim Executive Director. All known grant obligations have been or will be closed out by September 30, 2011 or very soon thereafter. All leases have been terminated or renegotiated on a short-term basis. All prudent and possible steps have been taken to conclude associated audits for FY 2009, FY 2010, and FY 2011.

Current invoices are being processed and older invoices are being cleared in the system or paid. Management Partners is in the process of identifying a third-party administrator to manage ongoing obligations, and this will result in a recommendation forthcoming for approval by the new ACAP Governing Board.

There is little doubt that all member agencies of the ACAP JPA would prefer to end the ACAP relationship and close out the entire matter. However, there remains custodial obligations for the records as well as employer responsibilities for current and future workers' compensation claims. Further, grantors have certain and varying requirements for records retention. Finally, there remain existing lawsuits and claims that must be addressed, managed, and responded to over time. Therefore, it is necessary to continue the ACAP JPA for some as yet undefined time period.

With that understanding, it is not advisable to continue any version of ACAP under the current JPA agreement which:

1. Requires the continued participation of elected members from each agency;
2. Does not allow the ACAP Board to modify its own by-laws;
3. Requires the continued existence of the Community Action Board (CAB), an advisory body to the Board of Directors; and, most importantly,
4. Does not limit the liability and financial exposure of the current members.

With concurrence from the ACCMA Ad Hoc Committee, and at direction from Mr. Ambrose, Mr. John Bakker of Meyers/Nave prepared a JPA amendment that will limit future exposure for member agencies and delegate oversight to the Chief Executive Officers (CEO) of the member agencies, rather than the elected officials. It will also delete requirements associated with grant

programs and ACAP original purposes, such as the CAB, and it will allow the by-laws to be changed consistent with close-out goals. Specifically, the amendment will:

1. Restructure ACAP's powers to be consistent with its current "wind up" task (see Section I.C). This deletes all program activities and describes ACAP as a caretaker/close out organization.
2. Specifies that, by entering into the agreement, none of the members are admitting that they were parties to the original JPA or that they are liable for any go-forward debts of ACAP (See Section VI.G). This limits member liabilities to programs prior to adoption of the amended JPA and limits subsequent liabilities to the close out process.
3. Eliminates the CAB and related actions. Without this change, the Governing Board would be required to continue appointing members to the CAB and for the CAB to hold quarterly meetings.
4. Reconstitutes the governing board to be made up of the CEO of each member agency (i.e., the County Manager and the respective City Managers); and authorizes the CEO to send an alternate to meetings (See Section II. A.1). This is recommended since the remaining close out activities will be administrative in nature.

After Management Partners concludes its task and the third party administrator is retained, most of the ongoing obligations of the agency will be administrative. The ACAP Governing Board met September 15, 2011 and voted to recommend to their respective governing bodies that they approve the amendment to the ACAP JPA Agreement. The amendment has been reviewed and revised by the legal counsels of all the member agencies. The recommended JPA amendment is attached (Attachment II). The JPA requires that all members approve the amendment to the JPA for it to take effect.

FISCAL IMPACT

It is currently unknown what the final total financial liability of each member agency will be for past liabilities, although all available steps have been and are being taken by the ACCMA Ad Hoc Task Force and the Interim Director to limit exposure. However, until all grants are closed out and associated audits completed, all employee-related claims and costs are closed out, and all associated and possible law suits concluded, we cannot know the specific exposure to the member agencies. To date, since the close out process was begun, at the request of the Ad Hoc Committee of ACCMA, the City Council approved a total of \$150,000 to assist in paying down the outstanding obligations of ACAP. Hayward has been invoiced and paid \$100,385 to date. All other members have approved and paid similar amounts.

NEXT STEPS

Upon approval and signature by all member agencies, the revised ACAP Governing Board will meet in October or early November to revise the by-laws and take additional actions to move the ACAP agency to close out and record maintenance mode. A Third Party Administrator will be retained to provide records retention for required periods, records retrieval as needed, reporting and other administrative tasks as may be required by grantors, as well as state and federal governments. The Governing Board will then convene only on an as-needed basis to resolve any outstanding legal issues, assure administrative actions are finalized, or as required by applicable laws for such a body.

Prepared and Approved by:



Fran David, City Manager

Attachments: Attachment I - Resolution
Attachment II - Amendment to JPA Agreement

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDED AND RESTATED JOINT POWERS AGREEMENT FOR THE ALAMEDA COUNTY ASSOCIATED COMMUNITY ACTION PROGRAM (ACAP)

WHEREAS, the Alameda County Associated Community Action Program (ACAP) is a joint powers authority created by a joint powers agreement dated July 12, 1994; and

WHEREAS, the City of Hayward is a signatory to the July 12, 1994 JPA agreement along with the County of Alameda and the cities of Alameda, Albany, Dublin, Emeryville, Fremont, Livermore, Newark, Piedmont, Pleasanton, San Leandro, and Union City; and

WHEREAS, ACAP’s purpose has been to administer programs and services for the low-income population through a variety of public and private funding sources, which services include housing assistance, jobs training and education, and youth development services; and

WHEREAS, significant financial and performance issues of ACAP came to light in February 2011 that prompted the ACAP Governing Board to initiate a close out process for the entire ACAP agency with the goal of shutting down ACAP completely; and

WHEREAS, the governance structure embodied in the July 12, 1994 joint powers agreement has proven to be cumbersome for the purposes of closing out ACAP’s operations; and

WHEREAS, the purpose of the organization as embodied in the July 12, 1994 joint powers agreement does not reflect ACAP’s current purpose; and

WHEREAS, the ACAP Governing Board held a public meeting on September 15, 2011 and voted to recommend to the respective governing bodies of each member agency to approve an amendment to the ACAP JPA Agreement that would facilitate the close out process of the agency.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby authorize and direct the City Manager to execute the Amended and Restated Joint Powers Agreement for the Alameda County Associated Community Action Program (ACAP) in a form 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

AMENDED AND RESTATED JOINT POWERS AGREEMENT
of the
ASSOCIATED COMMUNITY ACTION PROGRAM

THIS AMENDED AND RESTATED JOINT POWERS AGREEMENT is made and entered into this ___ day of _____ 2011 by and among the County of Alameda, a political subdivision of the State of California (“County”), and the cities of Alameda, Albany, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Piedmont, Pleasanton, San Leandro, and Union City, all of which are municipal corporations (collectively “Cities”). County and Cities are collectively referred to herein as the “Members.”

RECITALS

1. County and Cities are apparent parties to that certain Joint Powers Agreement, dated July 12, 1994 (the “Original JPA”), which created the reformed joint powers agency designated as Associated Community Action Program, or ACAP.
2. The purpose of the reformed ACAP was to plan, develop, and administer programs under the federal Community Services Block Grant program (42 U.S.C. 9901 et seq.) and implementing state law.
3. For such purposes, ACAP had been designated as a Community Action Agency.
4. Due to significant financial issues, the Board of Directors of ACAP in the Spring of 2011 chose to terminate its participation in various state and federal program and to effectively “go out of business.”
5. Since that time, ACAP’s management, County, and Cities have been engaged in winding up its affairs, and the parties have found the current ACAP governance structure cumbersome for such purposes.
6. ACAP’s management proposed that the Original JPA be amended to streamline the governance of ACAP so as to reflect the current need of ACAP’s member agencies (i.e. County and Cities) to wind up ACAP’s affairs as soon as possible.
7. In accordance with ACAP management’s proposal, the parties now wish to amend and restate the Original JPA without affecting the continuing existence of ACAP.

AGREEMENT

I. ORGANIZATION

- A. Name of Agency. The Agency continued for the purpose of administering this agreement shall be designated as the Associated Community Action Program.
- B. Purpose of Agreement. The purpose of this agreement is to continue the existence of ACAP for the sole purpose of winding up its affairs.

C. Powers of ACAP. In furtherance of its purpose, ACAP is authorized to do all acts necessary for the exercise of its authority, including but not limited to any or all of the following:

1. To the extent necessary or appropriate for achieving the stated purposes of this agreement, consistent with Government Code Division 6, Chapter 5, Article 1, section 6500 et seq. and the provisions of this agreement, to exercise any power which is common to both Cities and County. All powers shall be exercised subject to such restrictions upon the manner of exercising such powers as are set forth in this agreement and as are imposed upon County in its exercise of similar powers, as provided in, and for the purposes of, Section 6509 of the Government Code of the State of California.
2. To wind up the affairs of ACAP;
3. To perform any contractual obligations of ACAP existing on September 30, 2011;
4. To make and enter contracts in its own name for the purposes of winding up ACAP's affairs;
5. To employ agents, including legal counsel, and employees for the purposes of winding up its affairs; provided, however, that effective October 1, 2011, ACAP shall have no employees;
6. To manage, maintain, hold or dispose of equipment, material, supplies and property;
7. To receive gifts, contributions, and donations of property, funds, services, and other forms of assistance from persons, firms, corporations, and any governmental entity.
8. To sue or be sued in its own name.

II. GOVERNANCE

A. Governing Board.

1. Membership. The governing body of ACAP shall consist of a representative from each of the jurisdictions that are parties to this agreement ("the Governing Board"). The representative shall be the Member's chief executive officer. The Member's representative may, from time to time, appoint in writing an alternate to attend, participate and vote at any meeting of the Governing Board. The alternate shall serve at the pleasure of and in the manner determined by the Member's representative.

2. Voting. Each Member shall have one (1) vote. An action must receive a majority of votes from Members present in order to be passed. Actions of the Governing Board shall be by motion or resolution.

3. Quorum. The presence of representatives, or their alternates, representing a majority of the Members shall constitute a quorum for the transaction of business by the Governing Board, except that less than a quorum may adjourn from time to time. Votes shall be cast only in person and may not be cast by proxy.

4. Officers. The Governing Board shall elect a Chairperson, Vice Chairperson, and Secretary from among its members. The terms of office shall each be one (1) year, beginning in April of each year. The Chairperson shall preside at meetings of the Governing Board and perform such other duties as the Governing Board shall instruct. The duties of the Vice Chair and the Secretary shall be the usual and customary duties of such officers.

5. Meetings. All meetings of the Governing Board shall be held subject to the provisions of the California Public Meetings Law (the "Brown Act"), California Government Code Section 54950 et seq.

B. Powers of Board. The Governing Board shall be the administering agency of this Joint Powers Agreement, and, as such, shall be vested with the powers set forth, and shall execute and administer this Agreement in accordance with the purposes and functions provided, herein. Without in any way limiting the generality of the foregoing, the Governing Board may appoint an executive director to administer ACAP.

C. Community Action Board. As ACAP is not longer designated as a Community Action Agency under the Community Services Block Grant program, the Community Action Board is hereby dissolved.

III. INSURANCE

A. Insurance Requirements. ACAP shall maintain the insurance required by this Article in full force and effect at all times during the prosecution of the work and until the final completion and acceptance thereof.

B. Workers' Compensation and Employer's Liability Insurance. ACAP shall take out and maintain during the life of the Agreement Workers' Compensation and Employer's Liability Insurance for all of its employees engaged in work under the agreement. Should any work be sublet, the ACAP shall require the subcontractor similarly to provide Workers' Compensation and Employer's Liability Insurance, all in strict compliance with federal and state laws and to fully protect the Members from any and all claims arising out of occurrences on the work.

C. Public Liability Insurance. ACAP shall take out and maintain in the name of ACAP and Members during the life of the agreement, such Public Liability Insurance as shall protect itself, Members, officials, officers, directors, employees, and agents, from claims which may arise from operations under this Agreement, whether such operations be by itself, by Members, its officials, officers, directors, employees, and agents, and contractors, or by anyone directly or indirectly employed by any of them. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to

property, resulting from Members' or subcontractor's operations, use of owned or non-owned automobiles, products, and completed operations. The amount of insurance shall not be less than the following:

Single Limit Coverage applying to Bodily and Personal Injury Liability and Property Damage: \$1,400,000.00.

The following endorsements must be attached to the policy:

1. If the insurance policy covers on an "accident" basis, it must be changed to "occurrence."
2. The policy must cover personal injury as well as bodily injury.
3. The policy must cover complete contractual liability. Exclusions of contractual liability as to bodily injuries, personal injuries and property MUST BE ELIMINATED from the basic policy endorsements.
4. The policy must include a gross liability or severability of interests clause.
5. The Members must be named as additional insured under the coverage afforded. with respect to the work being performed under the amended agreement
6. An endorsement shall be provided which states that the coverage is PRIMARY INSURANCE and that no other insurance effected by the ACAP members will be called upon to contribute to a loss under this coverage.
7. Cancellation, non-renewal, or reduction in limits shall be sent to the ACAP members with at least thirty (30) days' notice.

D. Depositors' Forgery Coverage. ACAP shall also purchase depositors Forgery coverage in the amount of \$100,000.00.

E. Official Bond. The Executive Director is hereby required to file an Official bond in the amount of \$100,000.00.

IV. LIABILITY

A. In the event that judgment is rendered against ACAP by a court of competent jurisdiction or an administrative tribunal which orders repayment from nonfederal sources of federal funds determined to have been misspent, all means of further legal recourse have been exhausted or the time limits thereon have expired, and ACAP is unable to pay the judgment, then the parties to this amended agreement shall pay such judgment equally in proportion to their ACAP vote. However, if a party is found to be individually liable on any contract which it held with ACAP, by a court of competent jurisdiction or administrative tribunal and all means of further legal recourse have been exhausted or the time limits thereon

have expired, then that member is individually liable and responsible for payment of that debt unless it has been declared bankrupt or is otherwise prohibited by law from paying such debt in which case the remaining parties shall pay the debt, in accordance with the formula in the first sentence of this paragraph.

The signatories to this agreement are not liable for any funds misspent under CSBG.

B. Pursuant to Government Code section 6508.1, the debts, liabilities and obligations of ACAP shall be the debts, liabilities and obligations of the signatories to this agreement, to be shared equally.

C. ACAP agrees to hold harmless, indemnify, and to defend the ACAP members and their officers, employees and agents from any and all claims for injury or damage of whatever type brought by or on behalf of any third party, including, but not limited to, ACAP's officers, employees, and agents, arising from or connected with any acts or omissions in the performance of this agreement by ACAP except from any such claims arising solely out of acts or omissions attributable to the ACAP member or its officers, employees, or agents.

V. FISCAL CONTROL

A. Depository; Controller. Pursuant to Section 6505.6 of the California Government Code, the Board shall appoint one of its officers or employees to serve as either or both the treasurer and the auditor. The offices of auditor and treasurer may be held by separate officers or employees or combined and held by one officer or employee. Such person or persons shall comply with the duties and responsibilities of the treasurer and auditor as set forth in subdivisions (a) to (d), inclusive, of California Government Code Section 6505.5 and shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Section 6505.

B. Records and Reports. ACAP shall establish and maintain such funds and accounts as may be required by good accounting practice or by law. The books and records of ACAP shall be open to inspection at all reasonable times by representatives of any signatory to this agreement.

C. Inspection and Audit. Representatives of any of the signatories to this agreement shall at all times have access for the purpose of audit or inspection to any and all books, documents, papers, records, property, and premises of ACAP.

D. Disposition of Assets; Surplus Money. Upon termination of this agreement all costs, expenses and charges legally incurred by ACAP shall be paid and discharged; and ACAP shall sell such property as may be necessary therefor and shall be distributed to the United States Government and/or the State of California such property and funds as are lawfully required, the balance of such property and any surplus money on hand shall be distributed or returned in proportion to contributions made by the effected parties except to the extent otherwise agreed upon by the affected parties.

E. Fiscal Year. Unless otherwise required by federal or state law, the fiscal year for ACAP shall be from January 1, to and including December 31.

VI. MISCELLANEOUS PROVISIONS

A. Indefinite Term. This agreement shall become effective upon execution by the signatories hereto and shall continue in full force and effect until terminated pursuant to this section.

B. Withdrawal Not Permitted. As ACAP's current purpose is to expeditiously wind up its affairs, the Members are not permitted to withdraw.

C. Termination. This Agreement shall terminate on the happening of either of the following events:

1. The governing boards of each of the Members approve the termination.

2. The entire Governing Board of ACAP unanimously adopts a resolution of termination stating: (a) that ACAP has been completely wound up; (b) that its known debts and liabilities have been actually paid or adequately provided for; (c) that the known assets of ACAP have been distributed to the persons entitled thereto after payment of known debts and liabilities; and (d) that ACAP is dissolved.

D. Amendments. This agreement may be amended at any time by the written agreement of the Members, as long as the amendment is not in conflict with applicable law.

E. Limitation of Power. Nothing contained in this agreement shall be construed to authorize any action which any signatory is not authorized by law to undertake.

F. Severability. Should any part, term, or provision of this agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby.

G. Reservation of Rights. By entering into this agreement, the purpose of which is to facilitate the orderly winding up of ACAP's affairs, none of the Members shall be deemed to be parties to the Original JPA nor shall any of the Members be deemed to have admitted responsibility for the debts, liabilities, and obligations of ACAP.

H. Submission of Notice to Secretary of State. Upon receipt of a fully executed copy of this agreement, ACAP shall prepare and file the notices with the Secretary of State and the State Controller required by Government Code sections 6503.5 and 6503.6.

[Execution Page Follows]

IN WITNESS WHEREOF, the parties have duly executed this Agreement by their duly authorized signatories effective on or as of the date written at the commencement of this Agreement.

COUNTY OF ALAMEDA

CITY OF ALAMEDA

By: _____
Its:

By: _____
Its:

CITY OF ALBANY

CITY OF DUBLIN

By: _____
Its:

By: _____
Its:

CITY OF EMERYVILLE

CITY OF FREMONT

By: _____
Its:

By: _____
Its:

CITY OF HAYWARD

CITY OF LIVERMORE

By: _____
Its:

By: _____
Its:

CITY OF NEWARK

CITY OF PIEDMONT

By: _____
Its:

By: _____
Its:

CITY OF PLEASANTON

CITY OF SAN LEANDRO

By: _____
Its:

By: _____
Its:

CITY OF UNION CITY

By: _____
Its: