



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 02/20/07
AGENDA ITEM 5
WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Text Amendment No. PL-2006-0544 – Initiated by the Planning Director - Proposal to Amend the City of Hayward Subdivision Ordinance, Section 10-3.350 through Section 10-3.395: "Condominium, Community Apartment, and Stock Cooperative Subdivisions," Governing Conversion of Residential Rental Complexes to Ownership Housing (continuance from January 23, 2007)

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution approving the Negative Declaration and introduce the attached ordinance amending the Municipal Code.

DISCUSSION:

At its January 23, 2007, public hearing, City Council considered a proposed amended ordinance relating to the conversion of rental complexes to ownership housing. During that hearing, based on direction from the Planning Commission, staff had also recommended, and Council concurred, that:

- (1) an inflation factor be added to the \$1,000 base amount for moving assistance to tenants (Section 10-3.370(c)4(aa)),
- (2) the sales price discount offered to tenants also provide an option of having the reduction amount offered as down payment assistance (Section 10-3.370(c)3(bb)), and
- (3) language be added related to building conditions to clarify that inspection report(s) should be submitted prior to recordation of final map (Section 10-3.375(c)).

Such recommendations are incorporated in the attached ordinance. At the January hearing, the City Council members supported staff's recommendation that the ordinance apply to conversions of three- or four-unit complexes.

Although generally supportive of the recommended ordinance, Council continued the matter for 30 days in order for staff to provide clarification and additional language relating to (1) exceptions to parking requirements associated with conversions of three- and four-unit rental complexes, (2) requirements relating to energy conservation, (3) a requirement that converted units be owner-occupied, and (4) providing for relocation assistance for seniors and the disabled upon vacating their rental units. These issues are discussed below and new sections have been incorporated in the attached recommended ordinance.

1. Elimination of the recommended parking requirement for rental complexes of three and four dwelling units.

During the City Council hearing, it was indicated that the demand for parking associated with existing rental dwelling units would not likely increase due to conversion to ownership housing. It was also pointed out that by not imposing standard parking requirements on these smaller developments, the likelihood of converting the units to ownership housing would be greater. (Parking standards require 1.5 to 2.1 spaces per unit, depending on the number of bedrooms.) The Council expressed interest in providing some flexibility in addressing the parking issue for these smaller projects.

Language is suggested below that would allow for exceptions to the parking requirements to be granted by the Planning Director if it is determined to be physically infeasible to meet the requirements without eliminating a dwelling unit. However, staff is also recommending that a parking standard of at least one parking space per dwelling be required to minimize potential conflicts between owners who would otherwise be competing for very limited available on-site parking and to minimize parking impacts on existing neighborhoods.

The following language has been incorporated into the attached recommended ordinance:

SEC. 10-3.375 (b). Parking shall be provided in accordance with the City of Hayward Off-Street Parking Regulations in effect at the time the application to convert to ownership housing is deemed complete. For conversions involving three- and four-unit developments, exceptions to the Off-Street Parking Regulations may be granted by the Planning Director if it is determined that it would not be physically feasible to meet the Off-Street Parking Regulations without eliminating a dwelling unit, due to site constraints such as lot size or shape, steep topography, significant trees or structures. However, at least one designated parking stall per dwelling unit shall be required.

2. Clarification of the standard for energy conservation measures within converted dwelling units.

ENERGY STAR is a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy. The products that have earned the ENERGY STAR have met strict energy efficiency guidelines set by the EPA and the U. S. Department of Energy. The ENERGY STAR program is intended to help the consumer save money, use less energy, and help protect the environment through the use of energy efficient products and practices. Americans, with the help of ENERGY STAR, saved enough energy in 2005 alone to avoid greenhouse gas emissions equivalent to those from 23 million cars — all the while saving \$12 billion on their utility bills. Furnace efficiency is rated by annual fuel utilization efficiency (AFUE). The AFUE measures the amount of fuel converted to space heat in proportion to the amount of fuel entering the furnace. The State's minimum efficiency standard for furnaces specifies an AFUE rating of at least 80%. ENERGY STAR qualified furnaces must have a minimum AFUE rating of 90%. The most modern and efficient heating systems can achieve an AFUE of as high as 97%.

For this reason, the recommended language in the amended conversion ordinance would require furnaces have an ENERGY STAR rating. The use of energy-efficient appliances may also make the subdivider eligible for various rebate programs from the Federal government.

The recommended language regarding the use of ENERGY STAR furnaces has been incorporated into the draft amended ordinance and is as follows:

SEC. 10-3.375(d)5(aa). All furnaces/heating units, shall have an ENERGY STAR rating from the Federal Management Program.

3. Requirement for owner-occupied converted dwelling units.

Regarding owner-occupancy restrictions, the Davis-Stirling Act provides that any rule or regulation of a homeowner's association that arbitrarily or unreasonably restricts an owner's ability to market his or her interest in a common interest development is void. In the redevelopment arena, owner-occupancy restrictions have been recognized as an appropriate means of advancing the California public policy of providing housing for low and moderate income persons. Outside the redevelopment context, the law is continuing to evolve on the issue of owner-occupancy restrictions. In the private sector, at least one court has upheld the imposition of a provision in the CCR's that requires owner-occupancy, but allows for consent of the homeowner's association for transfers in order to avoid hardship. The court specifically recognized that real estate speculation in the condominium market may have deleterious effects on the complex as a whole, given the cooperative characteristics of condominium ownership. Given this background, a recommended approach would be to place the responsibility for ensuring that the units are owner-occupied with the homeowners' association, but include a provision in the CC&R's for special situations that would allow for a dwelling unit to be leased in order to avoid undue hardship or practical difficulties. Accordingly, new recommended language has been incorporated into the draft amended ordinance and is as follows:

SEC. 10-3.370(f)6. Proof that CC&Rs have been recorded in accordance with the requirements of the Tentative Map and with the following provision: In order to achieve a stabilized community of owner-occupied dwelling units, to avoid artificial inflation of prices caused by resales by speculators and to prevent scarcity and other problems caused by vacant homes awaiting resale by speculators, the CC&Rs shall state that all units shall be owner-occupied. The CC&Rs shall further provide that the leasing of units as a regular practice for business, speculative investment or other similar purpose is not permitted. However, to address special situations and avoid undue hardship or practical difficulties, the CC&Rs may authorize the governing body to grant its consent, which consent shall not be unreasonably withheld, to a unit owner who wishes to lease or otherwise assign occupancy rights to a specified lessee for a specified period.

4. Provision for assistance to elderly and disabled tenants upon vacancy of their units.

The previously recommended ordinance had provided the elderly and disabled with the opportunity for extended leases, equal to five years or one year for every year that the elderly or

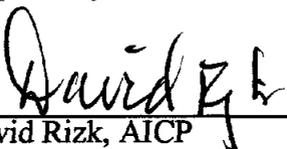
disabled tenant resided within the unit, whichever period would be longer. However, the ordinance did not provide for remuneration to seniors and the disabled once they vacated their units, unless they chose to vacate within the time frame specified for all other tenants. Therefore, as directed by Council, language has been incorporated in the attached recommended ordinance that requires that seniors and the disabled be compensated for their actual moving costs, up to a maximum of \$2500, adjusted for inflation, plus the equivalency of three times the monthly rent, even if they choose to negotiate an extended lease. Accordingly, the recommended language is as follows:

SEC. 10-3.370 (c)4(aa). Relocation assistance shall be provided to displaced households who leased or rented the property at the time of the initial notice of intent to convert. Relocation assistance shall also be provided to households with senior or disabled tenants who choose to lease their units in accordance with this ordinance. Remuneration shall be in the form of:

(aa) Reimbursement of \$1000 per household [base year \$1000 as of January 1, 2007, with annual incremental changes to reflect changes in the San Francisco Bay Area consumer price index] 30 days in advance of moving from the subject property, except that the actual amount of moving expenses shall be paid to the elderly and disabled households, up to a maximum of \$2500 per household [base year \$2500 as of January 1, 2007, with annual incremental changes to reflect changes in San Francisco Bay Area consumer price index].

As reflected in the attached Planning Commission report, it is staff's opinion that adoption of the recommended attached ordinance will not result in any significant environmental impacts and therefore, approval of the attached Negative Declaration is recommended.

Prepared by:



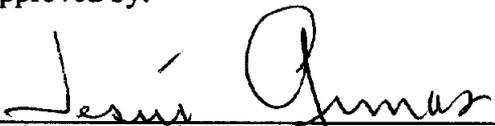
David Rizk, AICP
Planning Manager

Recommended by:



Susan J. Daluddung, Ph.D.
Director of Community and Economic Development

Approved by:



Jesús Armas, City Manager

Attachments:

- Exhibit A: City Council Meeting Minutes, dated January 23, 2007
- Exhibit B: January 11, 2007 Planning Commission Agenda Report, with attached Negative Declaration and Environmental Checklist
- Exhibit C: Planning Commission Meeting Minutes, dated January 11, 2007
Draft Resolution and Ordinance

2/13/07



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, January 23, 2007, 8:00 p.m.**

MEETING

The Meeting of the City Council was called to order by Mayor Sweeney at 8:00 p.m., followed by the Pledge of Allegiance led by Mayor Sweeney.

ROLL CALL

Present: COUNCIL MEMBERS Rodriquez, Quirk, Halliday, Ward, Dowling,
Henson
MAYOR Sweeney
Absent: COUNCIL MEMBERS None

PUBLIC COMMENTS

There were no public comments.

CONSENT

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting of January 16, 2007

It was moved by Council/RA/HA Member Dowling, seconded by Council/RA/HA Member Halliday, and unanimously carried, to approve the minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting of January 16, 2007

2. Appointment of PARS Plan Administrator

Staff report submitted by Human Resources Director Brock-Cohn, dated January 23, 2007, was filed.

It was moved by Council Member Dowling, seconded by Council Member Halliday, and carried unanimously, to adopt the following:

Resolution 07-008, "Resolution Appointing a PARS Plan Administrator"

HEARING

3. Text Amendment No. PL-2006-0544 – Initiated by the Planning Director – Proposal to Amend the City of Hayward Subdivision Ordinance, Sections 10-3.350 through 10-3.395, Condominium Community Apartment, and Stock Cooperative Subdivisions – Governing Conversion of Residential Rental Complexes to Ownership Housing

Staff report submitted by Planning Manager Rizk, dated January 23, 2007, was filed.

Planning Manager Rizk made the report highlighting the improvements recommended in this revision including requiring a property management company. He responded to Council questions regarding parking regulations, the \$200 contingency fee, and the formula to be used in determining eligibility for relocation assistance for the elderly, purchasing ability for tenants, and the revised definitions in the ordinance. He reported that there will be no variances or exceptions to this ordinance. Building Official Elliot respond to Council questions related to soft-story conditions, standards for structural improvements, and confirmed that the language related to energy-saving standards for appliances needs to be updated.

Mayor Sweeney opened the public hearing at 8:32 p.m.

Kirk Knight, developer at 25716 Spring Drive, stated that he is also a realtor and develops small property. He commented favorably on the conversion of apartments, but spoke on his concerns with the ordinance. He discussed conversion of small properties with four units, which he stated total about 480 properties of this category in the Hayward area. He addressed issues related to building code standards for seismic upgrades and the undetermined costs for the upgrade, tenant incentives to purchase, protective units for seniors, and parking designations. He responded to Council comments regarding housing for seniors and the disabled.

David Stark, spoke on behalf of realtors, in support of the Planning Commission recommendation that incorporates the concerns of the various stake holders. He stated that property owners want the ordinance to include more flexibility to better serve the special-needs tenants by having the option to offer long-term leases or relocation assistance packages. He noted that the realtors are not opposed to improvements that concern health and safety.

Council Member Dowling commented that addressing the soft-story conditions at conversion is necessary as it may otherwise not be addressed.

At the request of Mayor Sweeney, Mr. Stark commented that the California Housing Finance Agency has a number of mortgage products and uses guidelines for condominium purchases that require a certain percentage to be owner-occupied. He indicated that the City could be compromised in future financing if it sets such requirements.

At the request of Council Member Quirk, Chris Zaballos, Foothill Boulevard, described the process of a conversion, noting that the project upgrades begin in the vacant units and units are sold to tenants who already reside there at a discount as the developer excludes those upgrades. He reported that the revised ordinance is a compromise, is fair, and addresses the need to protect renters, seniors, and those with special needs. Council appreciated his participation in the revisions of this ordinance.

Augusto Cano, a developer on Rex Road, asked that the parking requirement be relaxed for the older and smaller conversions. He is required to have two parking spaces per unit, the driveway does not count.



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, January 23, 2007, 8:00 p.m.**

Council Members Dowling and Ward commented on his specific development that is landlocked and spoke on "grandfathering" exceptions or reducing the parking requirements.

City Manager Armas discussed options that the Council could consider to address such issues in the less than five-unit conversions. He indicated that once this revised ordinance is adopted, no variances will be permitted.

Rob Simpson, a real estate broker, discussed recommendations he previously submitted to the Planning Commission, including down payment assistance and the recommendation to apply the ordinance to five and above unit projects.

Larry Smith, Trimble Court, commented on his experience with a past conversion. He indicated that parking regulations were strict and maintained by the property management.

Mayor Sweeney closed the public hearing at 9:21 p.m.

In response to Council Member Dowling's question related to seismic improvements, Building Official Elliott reported that the State may impose seismic modifications in the future and it may be more costly to comply. Staff noted that some developers are already addressing the soft story concerns by installing poles in garages that hold up structures with beams or walls.

Council Member Dowling moved, seconded by Council Member Quirk, to move the staff recommendation with a change in the parking requirement. He was concerned for the three and four story units where parking is an issue. He suggested that in particular conversions, where the property was annexed to the City from the County, upgrades or trade-offs could be done in other areas and included in the site plan review. Council Member Quirk seconded his amendment and indicated that he had other suggestions for the ordinance.

Mayor Sweeney also indicated his intention and contemplated holding the ordinance for additional work.

Council Member Rodriguez spoke about the difficulties of seniors and those with disabilities and was in support of the ordinance. She expressed that maintenance issues impact first-time buyers and seniors who, as renters, are not accustomed and may not always be capable of maintaining their homes after purchase.

Council Member Halliday suggested the ordinance be revised to include some exceptions related to parking. She expressed concerns on the relocation assistance for the elderly. She discussed the length of leases and asked for clarification on the Planning Commission recommendation. Staff noted that the Planning Commission staff report did indicate that leases involving the elderly and the disabled contain information for relocation assistance upon vacating the unit. She asked that both the maker of the motion and the second allow a provision in the introduction that would provide relocation assistance when the elderly and disabled determine to move.

Council Member Ward would be supporting the staff recommendation, agreed with the recommendation by Council Member Halliday and asked that some consideration be made for the parking issues, and cautioned on making the ordinance to onerous.

Mayor Sweeney stated that he agreed with applying the ordinance to three and four unit conversions. He agreed with Council Member Henson on the practical impacts on senior citizens. He also agreed with Council Member Halliday's amendment. He agreed that the energy language needs to be upgraded to provide high efficiency uses. He noted that the public purpose is to increase home ownership and owner occupied homes. He urged strong home ownership rates for Hayward and asked for legal recommendations.

City Attorney O'Toole commented that staff could amend this ordinance to require the owner occupancy requirement. He cautioned on imposing unreasonable restraints. He noted a strategy to utilize home owner associations that could require such.

With this in mind, Mayor Sweeney suggested his colleagues agree to hold the ordinance introduction so that staff can include the proposed recommendations.

Council Member Dowling withdrew his motion so that the issues on parking, the improvement on the energy language, the relocation assistance language and the assurance of homeownership can be revised by staff. He noted that the bulk of the ordinance has already been discussed. He moved a new motion, seconded by Council Member Rodriguez, to continue this discussion for 30 days or when staff has completed what is being directed.

Council Member Quirk expressed his concern and asked that staff continue discussions with those who will be using the ordinance.

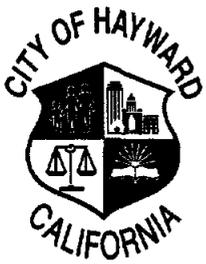
City Manager Armas referred to the public comments already presented by developer, Mr. Zaballos, who finds the revisions to the ordinance an acceptable compromise. He noted that although there have not been any changes in the past 20 years in conversions, there were a number of provisions made to comply with current building codes for health and safety, but do not require older buildings to comply with current codes.

It was moved by Council Member Dowling, seconded by Council Member Rodriguez, and unanimously carried to continue the discussion of this condominium conversion ordinance for 30 days.

LEGISLATIVE BUSINESS

- ~~4. Use Permit Application PL-2006-0649, Modification of Use Permit Application PL-2004-0010 - Kumbala Nightclub and Restaurant - Alex Aguilar (Applicant/Owner) - Request to Modify the Use Permit to Change the Hours of Operation and Increase Occupancy Levels - The Property is Located at 22380 and 22386 Foothill Boulevard~~

Staff report submitted by Associate Planner Pearson, dated January 23, 2007, was filed.



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 1/11/07

AGENDA ITEM 2

WORK SESSION ITEM _____

TO: Planning Commission

FROM: Planning Manager

SUBJECT: **Text Amendment No. PL-2006-0544 – Initiated by the Planning Director -**
 Proposal to Amend the City of Hayward Subdivision Ordinance, Section 10-3.350
 through Section 10-3.395: "Condominium, Community Apartment, and Stock
 Cooperative Subdivisions," Governing Conversion of Residential Rental Complexes
 to Ownership Housing.

RECOMMENDATION:

Staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the attached Negative Declaration and adopt the proposed amendments to the Subdivision Ordinance.

DISCUSSION:

On October 11, 2005, the City Council held a work session to discuss City ordinances and policies relating to the conversion of rental housing to condominiums. The City Council then directed staff to develop potential amendments to the "condominium conversion" sections of the City's Subdivision Ordinance in order to address some of the issues raised during the work session. Council's direction was based, in part, on concerns about the impacts on Hayward renters. Additionally, an objective of an amended ordinance would be to reconcile the loss of rental housing with City policies which, as indicated in the City's Housing Element, seek to achieve 70 percent ownership housing in Hayward.

On December 20, 2005, the City Council adopted an interim moratorium on land use approvals of condominium conversions in the City of Hayward; and on January 24, 2006, City Council adopted an ordinance that continued the interim moratorium until December 18, 2006.

To facilitate input from the housing development community, staff held three meetings with interested parties related to condominium conversions. One meeting was held in March 2006 to obtain preliminary feedback and two additional meetings were held on November 29 and December 5 of last year regarding a preliminary draft ordinance. On December 19, a joint work session was held with the Planning Commission and City Council to discuss proposed amendments to the conversion ordinance.

The proposed draft ordinance (Attachment A) reflects some of the comments provided at the interested parties meetings and joint work session. Attachment B is a red-lined version of the

proposed ordinance, showing changes to the existing regulations regarding conversions. Attachment C is a matrix comparing the proposed ordinance to conversion ordinances in other East Bay cities. The major features in the draft ordinance are summarized below.

1. Units Subject to Amended Ordinance.

Presently, the conversion of four or fewer rental units to ownership housing does not fall under the City's Subdivision Ordinance. However, much of Hayward's rental stock may be found within smaller complexes. For this reason, staff is recommending that the ordinance be amended to include tri-plexes and four-plexes as well as larger developments. [Sec. 10-3.350]

2. Notice to Tenants

The noticing requirements are consistent with those required by State law; however, staff is recommending requiring that all notices be provided in both English and Spanish, as well as in the language of the written rental or lease agreement in recognition of Hayward's diversity. [Sec. 10-3.370 (a) 1.]

3. Tenant Assistance

For assistance to tenants who must seek other housing due to displacement associated with conversion of their unit to ownership housing, the current ordinance requires a "tenant assistance plan." This plan describes "those incentives and inducements that would increase the potential for, and ability of, tenants to become owners in the conversion, and shall also include actions and procedures to enable hard-to-relocate tenants to remain as tenants." The tenant assistance plan required certain actions on the part of the subdivider, including payment to tenants equal to the difference in rents between another comparable rental unit if located within a 50-mile radius for a one year period.

The proposed ordinance would eliminate the requirement for a "tenant assistance plan" and state specifically how assistance would be provided. For example, like the existing ordinance, moving expenses in the amount of \$1,000 would be required; however, the amended ordinance would also require the payment of the equivalent of three months' rent to cover typical expenses associated with relocation, i.e., first months' rent, a security deposit, or increased rental rate. The equivalent of one month's rent would be required to be paid to the tenant 30 days prior to the tenant moving out, and the remaining equivalent of two months' rent would be paid upon the tenant vacating the premises. [Sec. 10-3.370 (c) 4.]

Leases associated with households with children would be reduced from the existing 2 years to 6 months or the end of the school year, whichever occurs later. [Sec. 10-3.370 (c) 2.]

4. Assistance to the Elderly and Disabled

The current regulations require that tenants age 62 and older or that are disabled be provided life-time leases. While there is general consensus that seniors and the disabled should not be displaced without some assistance so that their transition would not be unduly distressing, opinions vary whether life-time leases should be required.

The proposed draft ordinance has not been changed from that presented at the December 19, 2006 joint work session, which would require a minimum five-year lease option for the disabled and those 65 years or older, with the term of the lease to be equal to the number of years the tenant has resided in his/her unit. [Sec. 10-3.370 (c) 1.]

Staff is also recommending that consideration be given to requiring that leases involving the elderly and disabled contain a provision for relocation assistance upon vacating the unit, similar to that offered initially to other tenants in conversion situations.

5. Assistance to Tenant Purchasers

The current ordinance adopted in 1995 requires subdividers to provide financial assistance to tenant purchasers in the amount of \$1,000 per household toward down payment or closing costs. The proposed ordinance would require subdividers to provide reimbursement for costs incurred as a result of temporary displacement during remodeling. Also, the ordinance would require the subdivider to offer a reduction in the initial offer price of a market-rate unit by 10 percent for tenants wishing to purchase their own unit and a 5 percent reduction for tenants wishing to purchase a different unit in the same complex. The rights for such reduction would be valid for not less than 90 days from receipt of notice a final map has been recorded. [Sec. 10-3.370 (c) 3.]

In addition to these provisions, qualifying tenants could be eligible to purchase a unit under the City's Inclusionary Housing Ordinance, which requires that 15% of the units in ownership projects be affordable to moderate-income households.

6. City Oversight of Applications to Convert Residential Rental Complexes to Ownership Housing

The proposed ordinance would require Site Plan Review for all conversion applications to insure compliance with the City policies, design standards, and ordinances. Site Plan Review would provide an opportunity to insure that aesthetic issues and common area maintenance would be addressed. These issues may include landscaping, paving, painting the exterior of the buildings, group usable open space, and architectural enhancements such as window trim, canopies, Juliette balconies, pot sills, new entry doors, etc.

The site plan review process could run consecutively with the application to convert the rental properties to ownership housing. The current ordinance does not contain this provision. [Sec. 10-3.375 (a)]

7. Condition of Buildings

The current ordinance is non-specific about what standards should be met in order to offer buildings for sale. For example, the current ordinance requires a random sample of the units to determine if they would be eligible for issuance of Certificates of Occupancy based on the building code in effect at the time of inspection. It could be very onerous for many older

rental complexes to meet a standard requiring that the current building code be met. For example, meeting the current building code could result in lowering most of the windows in buildings and modifying floors, ceilings and walls for noise attenuation purposes.

Although an inspection is required, in part, to determine the presence of dry rot or damage due to pests, the proposed ordinance contains proscriptive upgrades for structural, electrical, plumbing noise, and fire safety systems. Two important items specifically mentioned relate to structural upgrade of any soft-story conditions in buildings to be converted, as well as structural integrity of exterior balconies. An important fire/life-safety requirement is to have all smoke detectors hard-wired, but installation of sprinklers is not required. These provisions are intended to provide for the health and safety of the residents without requiring significant and costly modifications to buildings simply in order to meet the most current building code.

Regarding energy efficiency, and in response to a comment made at the joint work session, the proposed ordinance was revised from the work session version to indicate that furnaces/heating sources be required to have an energy efficiency rating of at least five percent above minimum requirements.

Regarding water meters, there was a suggestion at the joint work session to require that each dwelling unit have its own separate water meter. It was pointed out that if not separately metered, some who practice water conservation would be subsidizing those who do not conserve or subsidizing larger households. The proposed ordinance does require that all plumbing fixtures, including toilets, be of a water-conserving design and that irrigation systems be on separate meters. The current recommendation is to require individual water meters for units unless this is not feasible as determined by the Public Works Director. [Sections 10-3.375 (d) 1. – 10-3.375 (d) 7.]

8. Density and Development Standards

The current ordinance requires that a conversion project meet the standards of the Municipal Code and General Plan, which should be interpreted to mean that parking standards, usable open space standards, density, and setback requirements would have to be met. The proposed ordinance also indicates that the requirements of the Municipal Code, which includes the Zoning Ordinance and the Off-Street Parking Regulations, must be met. In effect, no non-conforming development, i.e., having more dwelling units than currently allowed, could be converted to ownership housing. Essentially, in order to convert nonconforming rental projects to for-sale housing, the number of dwelling units in some nonconforming projects would have to be reduced. The reduction in the number of dwelling units could be achieved by combining units to create a unit with more bedrooms (3 to 4) and living space.

Some of the benefits of allowing conversions only of rental properties that are consistent with the Zoning Ordinance and the General Plan is that the resulting ownership project would meet the City's long-term goals, and the reduction of dwelling units could result in combining units to create larger units. It should be pointed out that requiring conformity

with the General Plan and Zoning Ordinance could dissuade some subdividers from converting rental housing to ownership housing.

By providing for adequate open space as currently defined in the Zoning Ordinance, new home buyers would enjoy the ability to recreate in or otherwise enjoy open space associated with their developments. If additional outdoor space is required to meet usable open space requirements and there is no other area in which to provide it, then a dwelling unit(s) may have to be eliminated, either by physically removing it or by merging it with another dwelling unit to create a single, larger unit or recreation space.

When the available parking within rental complexes does not meet the current minimum number of required parking stalls, in order to convert to ownership housing, it may be necessary to either (a) increase the number of parking stalls by encroaching into landscaped areas or (b) reduce the number of dwelling units. The benefit would be that the parking demand would be better met. An indirect benefit might be that the number of dwelling units would have to be combined, which would result in an increase in the number of larger units. [Sec. 10-3.375 and Sec. 10-3.375 (f)]

9. Ability of a Homeowners' Association (HOA) to Effectively Maintain Property

Professional property managers (Certified Community Association Managers)

The current ordinance does not require that a professional management company oversee the budgeting associated with HOAs, so that effort could be left to property owners who serve on HOA boards. The proposed ordinance would require a professional property management company to oversee the budgeting associated with HOAs when a project consists of 15 or more dwelling units. [Section 10-3.385]

Some of those in attendance at the joint work session supported a requirement that there be professional property managers for all converted complexes to at least oversee the homeowners' associations' administrative functions, such as budgeting and dealing with repairs and emergencies. Once the CC&Rs and budget of a homeowners' association are approved by the State Department of Real Estate for a residential development of five or more units (the State does not review CC&Rs for projects less than five units), it is up to the homeowners, not the State, to prepare subsequent yearly budgets and to maintain the development in accordance with the CC&Rs. There is no State oversight beyond the initial creation of the CC&Rs and initial budget. If the HOA becomes inactive and the maintenance system fails, the remedy involves a civil action between homeowners or between the HOA and the homeowner(s). While requiring all conversion complexes to have professional property managers would decrease the likelihood of such occurrences, there are issues associated with such a requirement.

Small ownership developments may not have the economies of scale to fund property management services. Such costs would be in addition to fees associated with actual property maintenance. Also, some management companies contacted by staff indicated a reluctance to serve smaller developments. Finally, such requirement would be unique for conversion projects, since such provision is not required for new developments. The current and

proposed ordinance would allow the City to abate public nuisance conditions in the common areas of ownership housing complexes when HOAs fail to do so. This ability remains in the proposed ordinance. For these reasons, staff is not recommending a change to the proposed provision that only requires property management companies for projects involving 15 or more units.

Renovation of Improvements in Common

When filing a report to the State Department of Real Estate (DRE), an applicant is required to submit inspection reports, including a pest control inspection report, by a qualified engineer or contractor or other qualified person on the condition, estimated remaining useful life and estimated cost for recommended repairs of various items of the development. Such items include foundation, roof, structural, plumbing, electrical and mechanical components, paving and swimming pools. If such requirements are not met, the DRE will insert a special note in the Subdivision Public Report dealing with the seriousness of such lack of material information, which will negatively impact the selling of the units. Additionally, all identified renovation work is required to be completed prior to recording of the condominium plan and issuance of the Final Public Report, or the subdivider must provide financial guarantees to the homeowners association to ensure renovations will be funded and specify a date for completion of such renovations. Such guarantees shall include one of the following:

- a) establishment of liens and completion bond or bonds in an amount to assure completion of the improvements lien free;
- b) all funds from the sale of lots or parcels or such portions thereof to assure construction of the improvement or improvements, to be impounded in a neutral escrow depository until the improvements have been completed and all applicable lien periods have expired;
- c) an amount sufficient to cover the costs of construction to be deposited in a neutral escrow depository under a written agreement providing for disbursements from that escrow as work is completed;
- d) if the project is a condominium situated on a single parcel as shown on an approved final subdivision map, arrange for (i) lien and completion bond or bonds in an amount sufficient to assure lien-free completion of all common area improvements not located in a residential structure, and (ii) placement of all funds, or such portions thereof, from the sales of condominium interests in a neutral escrow depository; or
- (e) Such other alternative plan as may be approved by the commissioner.

In summary, as part of State law, the subdivider is required to fund identified renovations and not pass such obligations on to HOAs.

The proposed ordinance also establishes a mechanism to help fund unexpected emergency repairs through "contingency fees." The City of Manhattan Beach requires the payment of such fees in conjunction with condominium conversions. The intent of that city in requiring the creation of a contingency or reserve fund for conversions is to provide a surety for unexpected or emergency repairs to common areas in the interest of the economic, aesthetic, and environmental maintenance of the community, as well as to protect the general welfare, public health, and safety of the community. Upon the close of escrow for each unit, the applicant is required to convey to the HOA contingency fund a minimum fee of \$200 per

dwelling unit. When 50 percent or more of the total units in the project have been sold, the applicant, within 30 days, must convey such fee for each of the unsold units. Such funds are to be used solely and exclusively as a contingency fund for emergencies which may arise relating to open space areas, exterior portions of dwelling units, and such other restoration or repairs as may be assumed by the HOA. This provision is also included in the proposed ordinance for the same reasons. [Section 10-3.377]

10. Owner-occupied units

Recognizing that converting rental units to ownership housing is a means of increasing the homeownership percentage in Hayward, the question was raised during the joint work session as to whether it is possible to require that all units be owner-occupied. Under the Inclusionary Housing Ordinance, 15 percent of the units for ownership projects must be made available to moderate income households, and these units must be owner-occupied. For those units that are not subject to the Inclusionary Housing Ordinance, California State law prohibits the imposition of any rule or regulation of an association that arbitrarily restricts an owner's ability to market his or her interest in a common interest development. Owner-occupancy restrictions could also be a disincentive to converting a rental complex to ownership housing, in which case the purpose of promoting ownership housing would be defeated. It would also be treating the conversion of rental property to ownership property differently than new ownership development, which would not have such a stipulation.

Staff contacted a local developer regarding this issue and was told that requiring owners to occupy units would be impossible to police and it would preclude purchasing condominiums for second homes or for an investment; therefore, staff is not recommending such a provision.

ENVIRONMENTAL REVIEW:

Included as Attachment D is a draft Mitigated Negative Declaration and Initial Study Checklist. No significant impacts are identified that would occur as a result of adoption of the proposed ordinance. Section XII(c) of the Initial Study Checklist related to Population and Housing has been revised slightly from that circulated for public review in mid December to recognize the potential for some displacement of renters from their units. However, given required tenant relocation assistance, the environmental impacts associated with the ordinance would be considered less than significant since the need for new housing to accommodate such displaced renters is anticipated to be minimal.

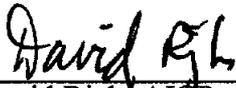
PUBLIC NOTICING:

It was suggested that the notices of the hearings on the amended conversion ordinance be sent to owners of property containing triplexes and four-plexes. In response, in addition to the notice of hearings in the local newspaper, individual notices were sent to owners of tri-plexes and four-plexes, which totaled to approximately 475 addresses. Also, during the public notice period, a response was received from Rob Simpson, a local real estate broker. Mr. Simpson writes about remodeling and its effects on tenants, issues relating to discounting the sale price for tenants, and accommodating the elderly. A copy of his e-mail is included as Attachment E.

CONCLUSION:

Crafting the attached proposed ordinance during the last several months involved consideration of various competing interests and striking a balance between them. Primary objectives include minimizing negative impacts to renters in converted complexes, ensuring converted complexes do not result in unsafe blighted developments for the community and encouraging conversions and additional ownership housing stock by not making obligations of potential subdividers overly burdensome. It is staff's opinion that the proposed ordinance strikes a fair balance in achieving the primary objectives of the conversion ordinance.

Prepared by:



David Rizk, AICP
Planning Manager

Attachments:

- Attachment A: Proposed Ordinance
- Attachment B: Proposed Ordinance, Strike-Out Version (showing text changes to existing regulations)
- Attachment C: Matrix Comparing Hayward's Proposed Ordinance with Ordinances of Other East Bay Communities
- Attachment D: Negative Declaration and Environmental Checklist
- Attachment E: E-mail from Hayward Broker Rob Simpson, dated 12/21/06

1/5/07



CITY OF HAYWARD NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that this project could not have a significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. PROJECT DESCRIPTION:

Text Amendment No. PL-2006-0544 - Initiated by the Planning Director –

An amendment to the City of Hayward Subdivision Ordinance, Sections 10-3.350 through Section 10-3.395 "Condominium, Community Apartment, and Stock Cooperative Subdivisions" in order to further alleviate negative impacts of the conversion of rental housing to ownership housing by requiring minimum standards for housing units to be sold individually, to ensure transition assistance for displaced renters, and to ensure the long-term upkeep of ownership residential developments.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

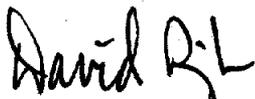
The proposed project could not have a significant effect on the environment.

FINDINGS SUPPORTING DECLARATION:

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental/Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project could not result in significant effects on the environment.
2. The project would not adversely affect any scenic resources or critical habitat as the text amendment would not directly lead to any development in that the proposed project would affect existing residential development only.
3. The project would not result in significant impacts related to changes in air quality in that the proposed project would affect existing residential development only.
4. The project would not result in significant impacts to biological resources such as wildlife and wetlands in that the proposed project would affect existing residential development only.

5. The project will not result in significant impacts to cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains in that the proposed project would affect existing residential development only.
6. The project would not result in a significant impact in regard to seismic hazards as the project would not directly lead to any development and affects only existing residential development.
7. The project would not result in a significant impact to recreational facilities and parks as the project would not lead to any additional residential development.
8. The text amendment will not detrimentally affect the visual character or quality of any project site in the City of Hayward. The implementation of the proposed amendments to the Subdivision Ordinance may improve the appearance of some residential developments.
9. The text amendment is consistent with the General Plan, specifically the Housing Element, which encourages ownership housing and the preservation of housing stock; which seeks to "ensure the safety and habitability of the City's housing units and the quality of its residential areas" and which encourages "the development of ownership housing and assist tenants to become homeowners in order to reach a 70% owner-occupancy rate, within the parameters of Federal and State housing law," and which seeks to "Ensure that the City's housing stock contains an adequate number of decent and affordable units for households of all income levels." The proposed text amendment contains provisions in support of these policies.

III. PERSON WHO PREPARED INITIAL STUDY:



David Rizk, Planning Manager

Dated: January 5, 2007

IV. COPY OF INITIAL STUDY (ENVIRONMENTAL CHECKLIST) IS ATTACHED

For additional information, please contact the City of Hayward, Planning Division, 777 B Street, Hayward, CA 94541-5007, telephone (510) 583-4004 or e-mail david.rizk@hayward-ca.gov.

DISTRIBUTION/POSTING

- Provide copies to all organizations and individuals requesting it in writing.
 - Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.
 - Project file.
 - Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.
- Provide copy to the Alameda County Clerk's Office.



Environmental Checklist Form

1. Project title: **Text Amendment No. PL-2006-0544**
2. Lead agency name and address:
City of Hayward, 777 B Street, Hayward, CA 94541
3. Contact person:
David Rizk, Planning Manager
(510) 583-4004
david.rizk@hayward-ca.gov
5. Project sponsor: Planning Director, City of Hayward
6. General Plan Designation: N/A 7. Zoning: N/A
8. Description of project: An amendment to the City of Hayward Subdivision Ordinance, Section 10-3.350 through Section 10-3.395 "Condominium, Community Apartment, and Stock Cooperative Subdivisions" revising certain sections in order to further alleviate negative impacts of the conversion of rental housing to ownership housing by requiring minimum standards for housing units to be sold individually, to provide for a transition for displaced renters, and to ensure the long-term upkeep of ownership residential developments.
9. Surrounding land uses and setting: City-wide.
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.) None

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

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

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

DETERMINATION: On the basis of this initial evaluation:

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

David Rizk

Signature

Date: 1/5/07

David Rizk
Printed Name

City of Hayward
Agency

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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I. AESTHETICS -- Would the project:

- a) Have a substantial adverse effect on a scenic vista?

Comment: *The text amendment would not affect any scenic vista. The implementation of the proposed amendments to the Subdivision Ordinance may improve the appearance of some residential developments.*

- b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

Comment: *The text amendment would not affect any scenic vista in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.*

- c) Substantially degrade the existing visual character or quality of the site and its surroundings?

Comment: *The text amendment will not detrimentally affect the visual character or quality of any project site in the City of Hayward. The implementation of the proposed amendments to the Subdivision Ordinance may improve the appearance of some residential developments.*

<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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- d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *The text amendment would not create a substantial source of light or glare in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.*

II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the text amendment:

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *The text amendment would not affect farmland in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.*

- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *See II.a) above.*

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See II.a) above.

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

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: The text amendment would not obstruct the implementation of any air quality plan in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Violate any air quality standard or contribute substantially to an existing or text amendment air quality violation? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: The text amendment would not negatively affect air quality in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the text amendment region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See III.b) above.

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| d) Expose sensitive receptors to substantial pollutant concentrations? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment: See III.b) above.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) Create objectionable odors affecting a substantial number of people? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: The See III.b) above.

IV. BIOLOGICAL RESOURCES -- Would the text amendment:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: The text amendment would not adversely affect biological resources in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See IV.a) above.

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See IV.a) above.

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| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment: See IV.a) above.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See IV.a) above.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See IV.a) above.

V. CULTURAL RESOURCES -- Would the text amendment:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: The text amendment will not adversely affect historical resources in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See V.a) above.

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| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment: See V.a) above.

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Disturb any human remains, including those interred outside of formal cemeteries? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See V.a) above.

VI. GEOLOGY AND SOILS -- Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: The text amendment would not in itself expose people or structures to potential adverse effects of fault rupture in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.

- | | | | | |
|------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| ii) Strong seismic ground shaking? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: The text amendment would not in itself expose people or structures to potential adverse effects of seismic ground shaking in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.

- | | Potentially Significant Impact | Potentially Significant Unless Mitigation Incorporation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---|------------------------------|-------------------------------------|
| iii) Seismic-related ground failure, including liquefaction? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment: *The text amendment would not in itself expose people or structures to potential adverse effects of liquefaction in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.*

- | | | | | |
|-----------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| iv) Landslides? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|-----------------|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The text amendment would not in itself expose people or structures to potential adverse effects of landslides in that the proposed amendments to the Subdivision Ordinance affect existing residential developments.*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Result in substantial soil erosion or the loss of topsoil? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The text amendment would not in itself result in substantial erosion or the loss of topsoil in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The text amendment would not in itself affect sites on unstable soils or geologic unit in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.*

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| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment: *The text amendment would not in itself affect sites on unstable soils or geologic unit in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *There is a sewer and stormwater system in place in the City of Hayward. Septic tanks or alternative wastewater disposal systems are not necessary.*

VII. HAZARDS AND HAZARDOUS MATERIALS -
Would the text amendment:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The text amendment would not create a need for the transport, use or disposal of hazardous materials in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.*

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comment: See VII. a).

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See VII. a).

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The text amendment would not in itself involve any site included on a list of hazardous materials site in that the proposed amendments to the Subdivision Ordinance affect existing residential developments.

e) For a text amendment located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: This text amendment would not in itself result in a net increase in individuals living or working within two miles of a public airport or public use airport, in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See VII. e).

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The text amendment would not interfere with any adopted emergency response or evacuation plan.

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The text amendment in itself would not affect any wildland site in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.

VIII. HYDROLOGY AND WATER QUALITY -- Would the text amendment:

a) Violate any water quality standards or waste discharge requirements?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The text amendment would not lead to violation of any water quality standards or waste discharge requirements.

<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *The text amendment would not result in the depletion of ground water supplies in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.*

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *The text amendment would not result in substantial erosion or siltation on-or off-site in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.*

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *The text amendment would not affect drainage patterns and would not cause flooding in that the proposed amendments to the Subdivision Ordinance affect existing residential development only.*

- | | <i>Potentially
Significant
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Significant
Unless
Mitigation
Incorporation</i> | <i>Less Than
Significant
Impact</i> | <i>No
Impact</i> |
|---|---|--|---|-------------------------------------|
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment: *The text amendment would not have any affect on stormwater drainage in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| f) Otherwise substantially degrade water quality? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *See VIII. a).*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The text amendment would not create housing or any structures in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *See VIII. g).*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *See VIII. g).*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| j) Inundation by seiche, tsunami, or mudflow? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The text amendment does not involve a specific location.*

<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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IX. LAND USE AND PLANNING - Would the project;

a) Physically divide an established community?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *The text amendment would not result in any barriers that would divide a community in that the proposed amendments to the Subdivision Ordinance affect existing residential developments only.*

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

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *The text amendment is consistent with the General Plan, specifically the Housing Element, which encourages ownership housing and the preservation of housing stock; which seeks to “ensure the safety and habitability of the City's housing units and the quality of its residential areas” and which encourages “the development of ownership housing and assist tenants to become homeowners in order to reach a 70% owner-occupancy rate, within the parameters of Federal and State housing law,” and which seeks to “Ensure that the City's housing stock contains an adequate number of decent and affordable units for households of all income levels.” The proposed text amendment contains provisions in support of these policies.*

<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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b) Conflict with any applicable habitat conservation plan or natural community conservation plan?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *The text amendment would not result in a physical development that would conflict with any applicable habitat conservation plan or natural community conservation plan in that the proposed amendments affects existing housing units only.*

X. MINERAL RESOURCES – Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *The text amendment would not affect mineral resources in that it is applicable to existing housing units only.*

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *See X. a).*

XI. NOISE - Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *The text amendment would not in itself result in exposing persons to excessive noise levels in that the amendments affects only existing dwelling units.*

- | | Potentially Significant Impact | Potentially Significant Unless Mitigation Incorporation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---|------------------------------|-------------------------------------|
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment: *The text amendment would not, in itself, cause the exposure of persons to noise or vibration in that in that the amendment affects only existing dwelling units.*

A substantial permanent increase in ambient noise levels in the text amendment vicinity above levels existing without the project?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *See XI. a).*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *See XI. a).*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *See XI.a). The project does not involve a specific site.*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *See XI.a). The project does not involve a specific site.*

<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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XII. POPULATION AND HOUSING -- Would the project:

- a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Comment: *The text amendment would not result in specific development; rather, it affects existing residential dwelling units only.*

- b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

Comment: *See XII. a).*

- c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

Comment: *See XII. a). With tenant assistance requirements, available rental units are anticipated to be sufficient to house displaced tenants. There would be no significant decrease in the number of available housing units in that the proposed ordinance affects existing dwelling units only. The proposed ordinance requires financial assistance to renters who would be vacating their units and they would be given opportunities to purchase dwelling units.*

XIII. PUBLIC SERVICES

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

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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a) Fire protection?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *The proposed text amendment will have no effect upon, government services, including fire and police protection, maintenance of public facilities, including roads, and in other government services in that it affects existing dwelling units only.*

b) Police protection?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *See XIII. a. above.*

c) Schools?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *See XIII. a).*

d) Parks?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *See XIII. a).*

e) Other public facilities?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *No other public facilities would be significantly impacted.*

XIV. RECREATION --

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *The text amendment would have no negative effect on parks or recreational facilities in that it affects existing dwelling units only.*

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See XIV. a).

XV. TRANSPORTATION/TRAFFIC -- Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: The text amendment would have no significant affect on traffic in that it affects existing dwelling units only.

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See XV. a).

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See XV. a).

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: See XV. a).

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comment: The text amendment would not affect emergency access.

f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The text amendment would not result in a significant decrease of available parking stalls within residential developments.

g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The text amendment would not conflict with adopted policies supporting alternative transportation.

XVI. UTILITIES AND SERVICE SYSTEMS - Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The text amendment would not result in an increase in wastewater in that it affects existing dwelling units only.

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: See XVI. a).

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Incorporation</i> | <i>Less Than
Significant
Impact</i> | <i>No
Impact</i> |
|---|---|--|---|-------------------------------------|
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment: *The text amendment would not affect storm water drainage.*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The text amendment would have no effect on water supplies.*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) Result in a determination by the wastewater treatment provider, which serves or may serve the text amendment that it has adequate capacity to serve the project's demand in addition to the provider's existing commitments? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *See XVI. a).*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The text amendment would not result in an increase of solid waste in that the proposed ordinance would affect existing dwelling units only.*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *See XVI.f).*

<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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XVII. MANDATORY FINDINGS OF SIGNIFICANCE --

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a text amendment are considerable when viewed in connection with the effects of past text amendments, the effects of other current text amendments, and the effects of probable future text amendments)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, January 11, 2007, 7:30 p.m.
777 B Street, Hayward, CA 94541**

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m., by Chair McKillop followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS: Lavelle, Sacks, Peixoto, Thnay, Mendall, Zermefio
CHAIRPERSON: McKillop
Absent: COMMISSIONER: None

Staff Members Present: Connolly, Koonze, Rizk, Lens.

General Public Present: Approximately 25

PUBLIC COMMENTS

There were no comments.

PUBLIC HEARINGS

Planning Manager Rizk introduced Assistant City Attorney Connolly and indicated that he would be acting in place of Assistant City Attorney Conneely.

- ~~I. Tentative Parcel Map No. 7990 – Mai Nguyen (Applicant/Owner) - Request for a One-Year Extension of the Tentative Parcel Map to Subdivide Two Parcels into Three Lots for Single-Family Homes~~

~~Staff report submitted by Acting Development Review Engineer Koonze, dated January 11, 2007, was filed.~~

~~Acting Development Review Engineer Koonze presented the report.~~

~~In response to Commissioner Mendall's inquiry regarding a policy or history about the number of times the City can grant an extension, Acting Development Review Engineer Koonze indicated that there have been extensions in the past and referred to the Zoning Ordinance which allows for a two-year approval of a map and up to three-years of subsequent approvals. He added that the proposed project would be on its subsequent third year. Planning Manager Rizk added that the State Map Act would allow up to five years and every time it would require discretionary review.~~

~~Chair McKillop opened the public hearing at 7:40 p.m.~~

~~Applicant Mai Nguyen was available for questioning.~~

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

~~Commissioner Sacks made a motion to move the item as per staff recommendation. She indicated that since the first extension, the property has been well maintained.~~

~~Commissioner Mendall and Commissioner Lavelle seconded the motion.~~

~~Commissioner Sacks moved, seconded by Commissioner Mendall and Commissioner Lavelle, and unanimously approved to rely on the previously approved environmental findings and approve a one-year extension of the tentative parcel map.~~

2. **Text Amendment No. PL-2006-0544 – Initiated by the Planning Director – Proposal to Amend the City of Hayward Subdivision Ordinance, Section 10-3.350 through Section 10-3.395: "Condominium, Community Apartment, and Stock Cooperative Subdivisions," Governing Conversion of Residential Rental Complexes to Ownership Housing**

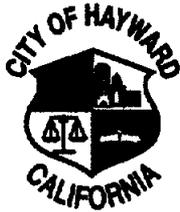
Staff report submitted by Planning Manager Rizk, dated January 11, 2007, was filed.

Planning Manager Rizk presented the report. Building Official Elliott presented the conversion requirements related to meeting building standards as outlined in the report.

In response to Commissioner Sack's inquiry regarding smoke detectors that are hard-wired, Ms. Elliott responded that they have back up batteries. Additionally she proposed that the \$1,000 moving expense presented in the report be tied to the rate of inflation.

In response to Commissioner Peixoto's question regarding professional property managers that expressed interest in serving projects of 15 or less dwellings and the cost associated with administrative functions, Planning Manager Rizk indicated that there were two companies contacted that expressed interest in serving smaller complexes, with one indicating they would be willing to serve complexes as small as eight units. He added that there would be a higher per unit fee for smaller complexes and referred to the concern of the requirement to have a Homeowners' Association (HOAs) in smaller complexes and the difficulty of having management companies. Additionally, Mr. Peixoto inquired about the reasoning for a fixed \$200 contingency fee, to which Mr. Rizk explained that, although the ordinance indicates a fixed amount, it does not necessarily have to be a fixed amount and that the subdivider, as opposed to the homeowners association, would be required to convey the fee. In response to Mr. Peixoto, Mr. Rizk stated that a homeowner could rent out the condominium after having purchased it.

Commissioner Zermefio inquired if the public nuisance provision included private streets within the complex, besides landscaping and graffiti. Planning Manager Rizk responded that the CC&Rs typically include language for areas to be maintained in acceptable condition, including private streets. Mr. Zermefio recommended that it would be more realistic to have the \$200 per unit contingency fee as a percentage source.



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Commissioner Mendall inquired if the proposed amended ordinance could be considered for a mobilehome park. Planning Manager Rizk indicated that it could apply to mobilehome rental units that could be created as individual lots for ownership. In reference to affordable units, Mr. Rizk indicated that the Inclusionary Housing Ordinance requires that affordable units be compatible in terms of size and amenities to the market rate units. Mr. Mendall echoed comments by Commissioner Sacks regarding adjusting for inflation.

Commissioner Lavelle asked for clarification regarding owner occupied units and any discretion to require that converted condominiums be occupied by the owners beyond the Inclusionary Housing Ordinance. Planning Manager Rizk indicated that because of State regulations and because it is not required that new market rate units have owner occupied provisions, it was not recommended that the provision be included.

Commissioner Thnay referring to Attachment B, item 6 of page 9, that "no remodeling of the interior of tenant occupied units shall begin without consent of the tenant", and the comments submitted by Mr. Simpson, asked for an alternative. Planning Manager Rizk indicated that the reports addressing deficiencies have to be submitted prior to the final map being recorded, but remodeling/upgrades can occur after the map is recorded, but prior to certificate of occupancy. He added that what is required prior to the final map being recorded is a report identifying items that need to be addressed, such as those listed in the building conditions provisions of the ordinance.

Chair McKillop asked for clarification about the Inclusionary Housing Ordinance and indicated disagreement that one out of three or four units has to be inclusionary housing.

Chair McKillop opened the public hearing at 8:17 p.m.

Mr. David Stark, Government Affairs Director for the Bay East Association of Realtors, thanked staff for consideration to input provided about the ordinance. As a former City employee operating the First Time Homebuyers Program, he clarified that the Inclusionary Housing Ordinance would apply to 20 or more units. He spoke favorably about the condominium conversion. He pointed out items within the ordinance that he would like reviewed, such as: that the ordinance be applicable to developments of five or more units, no need for additional tenant noticing since is already provided by State law, keeping tenants in their units while going through conversion in order to turn them into owners, and no need for regulation of tenant incentives since they are already provided. In regards to open space and parking, he would like consideration to conforming uses and as far as building codes requirements, he would support consideration to preserving health and safety. He supported attainability of the 70 percent homeownership goal through conversion of renters into homeowners.

Chair McKillop asked for an estimated percentage of tenants that would become homeowners in a typical conversion project. Mr. Stark indicated that following realtor speakers would better address the question.

Ms. Laura Rivera, realtor with Caldwell Bank in Castro Valley, indicated that condominium conversions are affordable for first-time homebuyers.

Ms. Anne Biddell, landlord and realtor in Hayward, indicated that condominium conversions add to the stability of the neighborhoods and schools. She added that the concern that condominiums might turn into rental units would be addressed during financing, since lenders prefer to finance units that are owner-occupied. She expressed concern for the \$200 per unit emergency fee for the reserve and indicated that the State already mandates a budget overseeing the financing and that the owner has to feed the reserves in case of emergencies. She urged the commissioners to move forward with the item. In response to Commissioner Mendall's question, Ms. Biddell indicated that the original developer has to pay for a portion of major improvements, such as the replacing of a roof after 10 years.

Mr. Dan Dineen, Oakland realtor and Hayward resident, indicated that the cost of doing the conversion is paid for by the original homeowner. He mentioned that making provisions for units of four or less is impractical when trying to enforce it, and thus favored five or more units because they apply to the State Department of Real State (DRE) standards. Commissioner Peixoto inquired if the DRE has any oversight after the apartment is converted. Mr. Dineen responded that the responsibility reverts to the property owner.

Per Commissioner Zermefio's request, it was clarified that the proposed \$200 per unit contingency fee would be in addition to the State mandated fees.

Ms. Chiasson, realtor and resident of Hayward, indicated that as a first-time homebuyer and low-income buyers expert, she believes that conversions are the only opportunity for those populations. She spoke favorably about the conversions.

In response to Commissioner Sacks, Ms. Chiasson indicated that condominium conversion is not a threat to supply of rental units in Hayward because in her experience, a high percentage of occupants have become homeowners.

Mr. Knight, realtor and developer, indicated that converting rental properties that are in disrepair into homeownership increase the property value. He spoke in support of conversion of four units and less and added that currently there is motivation to do conversion at different levels and urged the Commissioners to support the proposal. In response to Commissioner Zermefio, Mr. Knight indicated that four-unit buildings create a small community and thus are easier to convert. In response to Commissioner Thnay, Mr. Knight clarified that he is in agreement with having the ordinance only address conversions of five units or more and mentioned that he is concerned that the rest of the ordinance take into account other laws such as those of the State Department of Real Estate. In response to Commissioner Peixoto's inquiry about problems encountered with homeowners associations, and property management for small property units, Mr. Knight indicated that he had to create a corporation and put in place a professional team to advise the property owners.



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Mr. Simpson, Grandview Realty Broker, reiterated comments submitted to staff prior to the meeting. In response to Commissioner Thnay's request for clarification about tenant assistance, Mr. Simpson suggested that the five-to-ten percent assistance in the form of a down payment could be a more favorable financing option.

Mr. Cano, property owner, indicated that he bought a four unit building with the intention of converting it into a condominium, but the project encountered obstacles because the parking space did not meet current standards.

In response to Commissioner Thnay's inquiry regarding prospective solutions for condominiums that do not conform to parking requirements, Planning Manager Rizk offered alternatives such as combining units to reduce parking standard requirements, , or a consideration that the ordinance contain a provision for a variance. He added that the payment of an in-lieu parking fee was not considered as an alternative. Mr. Thnay further expressed concern for those small units that might not be able to meet parking requirements and not be financially feasible.

Ms. Le, loan officer for Bank of America, indicated that from experience dealing with first-time homebuyers and low-income families, condominium conversions were more affordable along with financial assistance in the form of down payment assistance.

Chair McKillop closed the public hearing at 9:04 p.m.

Commissioner Mendall required clarification about the section of the report required to be submitted to the Department of Real Estate (DRE) about the homeowners association and its ability to maintain the property.

Commissioner Thnay thanked the realtors for their experienced input and recommended that the ordinance uphold the DRE regulation of five units or more. He concurred with Mr. Simpson that the five-to-ten percent price discount also be in the form of down payment assistance as an option. He further recommended that language be added regarding a parking variance or in-lieu fee as means of dealing with potential parking problems.

Commissioner Zermefio concurred with the State's standard that addresses conversions of five or more units. He entertained the consideration of bicycle racks as the project advances. He made a motion to move to recommend to the City Council adoption of the draft ordinance and related negative declaration, as per the staff recommendation, with the exception of including tri-plexes and four-plexes, to be consistent with the State's standard of five or more units. He expressed that the ordinance will increase homeownership, will refurbish old buildings, will protect the elderly, and will take into account homeowners associations.

Commissioner Sacks seconded the motion.

Commissioner Thnay offered a friendly amendment that staff include comments regarding parking and the advantages and disadvantages of parking variance and in-lieu fees. Commissioner Zermefio accepted the friendly amendment, but Commissioner Sacks did not accept it.

Chair McKillop offered a friendly amendment to add a ten percent discount or five to ten percent assistance in the form of down payment assistance. The amendment was accepted by Commissioner Zermefio.

In reference to the recommendation that staff comment on the parking issue, Commissioner Sacks indicated that if a unit cannot conform to the requirements, then it cannot convert. She did not accept the friendly amendment.

Commissioner Mendall expressed disagreement to the motion because it excluded three and four units from the proposed amended ordinance and argued that as presented in the report, Hayward's rental stock may be found within smaller complexes. As a solution to making less burdensome the requirement for smaller developments, he recommended scaling back some of those requirements for smaller conversion projects involving three or four units.

Commissioner Peixoto indicated support for the ordinance for the homeownership attainment goal, for protection of seniors, and for the relocation assistance; however, he expressed concern for projects consisting of less than 15 units that will not be required to have a property management to work in association with homeowner associations. He expressed that the rationale of needs for larger units is true of smaller units as well. Additionally, he mentioned that three property management associations he contacted have reasonable prices for the administrative oversight function.

Commissioner Zermefio indicated that from experience, the notion of not requiring a property management for less than 15 will take care of itself when the developer meets with the homeowners at the initial stage to discuss administrative functions, as was the case in a development in which he used to reside.

Commissioner Sacks indicated that smaller groups get a higher number of participants and therefore, she was not concerned for lack of property management for smaller complexes. She added a friendly amendment that the \$1,000 assistance for moving expense be tied to the consumer price index with a base year of adoption.

After corroborating with Assistant City Attorney Connolly, Commissioner Mendall offered a substitute motion identical to the one presented on the floor with the exception that tri-plexes and larger developments be included as part of the amended ordinance. As there was not a second, the motion died.

Commissioner Lavelle expressed support for the motion and indicated disagreement for the remarks about parking requirements and suggestions for variance requests because she believes that parking regulations are already in place in the City and do not need further review. She favored five-year leases for the disabled and those 65 years or older.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, January 11, 2007, 7:30 p.m.
777 B Street, Hayward, CA 94541**

Commissioner Thnay commended staff for the amended ordinance; however, because the parking concerns were not been considered for further analysis in the conversion, he would vote against the motion.

For the record and per Commission Secretary Lens' request, Chair McKillop re-stated the motion and outlined the friendly amendments as presented on the floor.

Commissioner Zermefio moved, seconded by Commissioner Sacks and approved with Commissioner Thnay voting against, to forward a recommendation of approval to the City Council for Negative Declaration and to adopt the proposed amendments to the Subdivision Ordinance with amendment to exclude conversion of four or fewer rental units to ownership housing, that the five-to-ten percent discount in unit price offered to tenant-purchasers also include an option to allow it to be five-to-ten percent down payment assistance, and that the \$1,000 moving expense be tied to the consumer price index with a base year of adoption.

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Planning Manager Rizk announced that at the next meeting in two weeks, the Commissioners would be reviewing a Radio Transmission Tower Facility at the end of West Winton Avenue and proposal to extend another map.

4. Commissioners' Announcements, Referrals

Commissioner Zermefio asked about the opening of Rigatoni's Restaurant and mentioned three upcoming new restaurants in Southland. Planning Manager Rizk indicated the expected opening of Rigatoni's Restaurant to be in a couple of months, and that the Elephant Bar Restaurant is opened and Mimi's Café is expected to follow soon.

Commissioner Mendall requested that a work session be scheduled related to homeowners association size and property management. Planning Manager Rizk indicated that it will be scheduled for a future work session. He also indicated that Mission Paradise, in the South Hayward BART/Mission Boulevard Corridor Concept Design Plan area, is another project plan for review at the next meeting.

Commissioner Thnay announced a crab feed at St. Clement Church scheduled for Saturday. He reported graffiti on the overhead of train tracks near the Industrial Parkway close to Mission Boulevard.

Commissioner Lavelle reminded everyone to attend the celebration of Martin Luther King Jr., scheduled for Monday, January 15 at Centennial Hall at 6:30 p.m.

APPROVAL OF MINUTES

The minutes of October 5, 2006, were not acted upon.

ADJOURNMENT

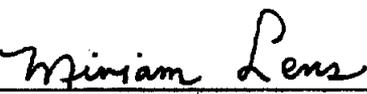
Chair McKillop adjourned the meeting at 9:50 p.m.

APPROVED:



Mary Lavette, Secretary
Planning Commission

ATTEST:



Miriam Lens
Commission Secretary

DRAFT

HAYWARD CITY COUNCIL

me

RESOLUTION NO. _____

1/18/07

Introduced by Council Member _____

**RESOLUTION APPROVING THE NEGATIVE
DECLARATION AND TEXT CHANGE APPLICATION NO.
PL-2006-0544, AMENDING SECTIONS 10-3.350 THROUGH
10-3.395 OF THE SUBDIVISION ORDINANCE GOVERNING
CONVERSION OF RESIDENTIAL RENTAL COMPLEXES
TO OWNERSHIP HOUSING**

WHEREAS, on December 20, 2005, the City Council adopted an interim moratorium on land use approvals of condominium conversion in the City of Hayward and on January 24, 2006, adopted an Ordinance that continued the interim moratorium to December 18, 2006 in order to provide time to re-examine the City's existing condominium conversion ordinance and the potential impacts of condominium conversions on Hayward renters and to reconcile this concern with the City's policy to encourage homeownership opportunities; and

WHEREAS, on January 11, 2007, the Planning Commission held a public hearing to consider text amendments to the existing ordinance and voted 6:1 recommending that the City Council approve the Negative Declaration and adopt the recommended ordinance, with suggested changes; and

WHEREAS, a negative declaration has been prepared and processed in accordance with City and CEQA guidelines.

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

1. Approval of Text Change Application No. PL-2006-0544 would not cause a significant impact on the environment as documented in the Initial Study and the Negative Declaration prepared pursuant to the California Environmental Quality Act Guidelines.
2. The proposed amendments to the Subdivision Ordinance governing conversion of residential rental complexes to ownership housing will promote the public health, safety and welfare of the residents of Hayward in that it will increase opportunities for home ownership while assisting renters to either purchase a dwelling unit or be compensated for moving and relocation costs; further,

minimum building and development standards will ensure that converted units provide a safe and pleasant housing environment.

3. The proposed amendment is in conformance with the purposes of the City of Hayward Subdivision Ordinance, in that building and site standards for conversions as stated in the amended ordinance will result in developments that will provide dwelling units of appropriate design for the purposes for which they are to be used and that will provide adequate access to each building site.
4. The proposed amendment is in conformance with all applicable, officially adopted policies and plans, including the Housing Element of the General Plan, which strives to achieve 70 percent home ownership in Hayward, in that the amendments will promote home ownership in Hayward.
5. Rental complexes converted to ownership housing will be compatible with present and potential future uses and, further, a beneficial effect will be achieved which is not obtainable under existing regulations. These benefits will be achieved because the standards for development enumerated in the amended ordinance are more sound, practical and feasible to obtain than in the ordinance being amended, and a requirement for professional management companies to oversee ownership complexes of 15 units or more will better serve to ensure adequate maintenance, and therefore compatibility, with potential future uses.

BE IT FURTHER RESOLVED, based on the findings noted above, that the negative declaration and Text Change Application No. PL - 2006-0544 are hereby approved, subject to the adoption of the companion ordinance relating to Condominium Conversions.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2007

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

DRAFT

ORDINANCE NO. _____

ORDINANCE AMENDING SECTIONS 10-3.350 THROUGH
10-3.395 OF THE HAYWARD MUNICIPAL CODE
"CONDOMINIUM COMMUNITY APARTMENT, AND
STOCK COOPERATIVE SUBDIVISIONS" GOVERNING
CONVERSION OF RESIDENTIAL RENTAL COMPLEXES
TO OWNERSHIP HOUSING

Mme
2/10/07

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

Section 1. Upon the adoption of this ordinance, Sections 10-3.350 through 10-3.395 of the Hayward Municipal Code are hereby repealed and, in substitution thereof, new Sections 10-3.350 through 10-3.395 of the Hayward Municipal Code are hereby enacted to read as follows:

**"CONVERSION OF RESIDENTIAL RENTAL DEVELOPMENTS
TO COMMON INTEREST DEVELOPMENTS**

Section	Subject Matter
10-3.350	INTENT AND PURPOSE
10-3.555	DEFINITIONS
10-3.360	PARCEL MAP REQUIRED
10-3.365	TENTATIVE MAP FOR CONDOMINIUM OR COMMUNITY APARTMENTS
10-3.370	REQUIREMENTS FOR CONVERSION TO COMMON INTEREST DEVELOPMENTS
10-3.375	STANDARDS OF DEVELOPMENT
10-3.376	CONDITIONS OF EQUIPMENT AND APPLIANCES
10-3.377	CONTINGENCY FEES
10-3.380	UTILITIES
10-3.385	ORGANIZATIONAL DOCUMENTS

10-3.392

INFORMATION TO PRECEDE FINAL MAP
SUBMISSION

10-3.395

PREPARATION AND FORM OF FINAL MAP

**CONVERSION OF RESIDENTIAL RENTAL PROJECTS TO
COMMON INTEREST DEVELOPMENTS**

SEC. 10-3.350 INTENT AND PURPOSE. The conversion of rental units to Common Interest Developments creates conditions that may result in a negative impact on the public health, safety, welfare, and economic prosperity for the City. It is the intent of the City to establish rules and standards that regulate the conversion of rental units to residential Common Interest Developments in the City in order to provide opportunities for home ownership while protecting the interests of the tenants.

Said rules and standards shall apply to the conversion of an existing multi-family rental complex consisting of three or more units to a Common Interest Development, and the conversion of an existing single-family rental complex to ownership housing. This ordinance does not apply to "second units," sometimes referred to as "granny" or "in-law" units. The conversion of industrial and commercial units shall be in accordance with the State Subdivision Map Act.

SEC. 10-3.355 DEFINITIONS. Whenever any of the following names or terms are used herein, each such name or term shall be deemed and construed to have the meaning ascribed to it as follows:

- (a) Association. The persons who own a condominium or right of exclusive occupancy in a community apartment unit.
- (b) Common Area. The entire project excepting all units therein.
- (c) Common Interest Development. A Common Interest Development means any of the following:
 - 1. A community apartment project.
 - 2. A condominium project.
 - 3. A planned development.
 - 4. A stock cooperative.
 - 5. Townhouse.
- (d) Community Apartment. An estate in real property existing of individual interest in common in a parcel of real property in the improvement,

therein coupled with the right of exclusive occupancy for residential purposes of an apartment located thereon.

- (e) **Community Housing.** Includes the following: a condominium development, a community apartment project, and a stock cooperative or membership association. Excludes a limited equity housing cooperative as defined in section 11003.4 of the Business and Professions Code for purposes of conversion.
- (f) **Condominium Project.** A "condominium project" means a development consisting of two or more condominiums. A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof.
- (g) **Conversion.** A change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, to that defined as community housing, regardless of the present or prior use of such land or structures and whether improvements have been made or are to be made to such structures.
- (h) **Disabled Tenant.** A disabled tenant is any tenant who is on the lease or rental agreement, if any, and who has a physical impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such an impairment.
- (i) **Elderly Tenant.** An elderly tenant is any tenant who is 65 years of age or older and who is on the lease or rental agreement, if any.
- (j) **Organizational Documents.** The declaration of covenants, conditions, restrictions, articles of incorporation, bylaws, and any contracts for maintenance, management or operation of all or any part of a project.
- (k) **Planned Development.** Planned Development means a development (other than a community apartment project, a condominium project, or a stock cooperative) having either or both of the following features:
 - (1) The common area is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.
 - (2) A power exists in the association to enforce an obligation of an owner of a separate interest with respect to the beneficial use and

enjoyment of the common area by means of an assessment which may become a lien upon the separate interests.

- (l) **Project.** The entire parcel of real property divided, or to be divided, into condominiums or community apartments, including all structures thereon.
- (m) **Recreational Open Space.** The open space on the project that complies with applicable provisions of the Zoning Ordinance.
- (n) **Single-Family Rental Complex.** Three or more single-family dwellings on a single parcel of land owned by a single entity.
- (o) **Stock Cooperative.** A corporation which is formed or availed primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy.
- (p) **Townhouse.** For purposes of this ordinance, a townhouse is one unit in a row of houses connected by common side walls. The ownership of a townhouse unit extends throughout the unit, including walls and roof and the ground upon which the unit sits. Additional land, in the form of private, attached space, may be included in ownership space of the townhouse.
- (q) **Unit.** The elements of a condominium that are not owned in common with the owners of other condominiums in the project, or is an apartment in a community apartment project to which the owner has a right of exclusive occupancy.

SEC. 10-3.360 PARCEL MAP REQUIRED. A parcel map is required for the conversion of three or four rental units to a Common Interest Development.

SEC. 10-3.365 TENTATIVE MAP FOR COMMON INTEREST DEVELOPMENTS. The tentative map shall contain all the information required on a tentative map for any subdivision, plus the following in order to adequately review the proposal:

- (a) The location indicated to the nearest one-half foot of the perimeter of the building or buildings in relationship to the parcel boundaries;
- (b) Estimated square footage of each unit and number of rooms in each unit;

- (c) General layout of all common areas;
- (d) General layout and location of all facilities and amenities provided within the common area for the use and enjoyment of the unit owners;
- (e) General layout of all parking spaces and driveways;
- (f) Public areas proposed for dedication, scenic easements proposed;
- (g) Tree and landscaping removal or planting proposed.

SEC. 10-3.370 REQUIREMENTS FOR CONVERSION OF MULTI-FAMILY AND SINGLE-FAMILY RENTAL PROPERTY TO COMMON INTEREST DEVELOPMENTS

(a) **Notification of Tenants and Prospective Tenants.**

1. Each notice shall be provided in both English and Spanish and in the language used in the original lease or rental agreement. At least 60 days prior to the time of the filing of an application for a tentative map for the conversion of rental units to a Common Interest Development, the subdivider shall send to each tenant of the rental units to be converted the following notice:

To the occupant(s) of

(address)

The owner(s) of this rental development at (address), plans to file an application with the City of Hayward to convert this rental development to a Common Interest Development. You shall be given notice of each hearing for which notice is required pursuant to sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

(signature of owner or owner's agent)

(date)

2. Commencing at a date not less than 60 days prior to the submittal of an application for a tentative map for the conversion of rental units to a Common Interest Development, the subdivider shall give notice of such application to each person applying after such date for rental of a unit of the subject property immediately prior to the acceptance of any rent or deposit from the prospective tenant by the subdivider. The notice shall be as follows:

To the prospective occupant(s) of

(address)

The owner(s) of these units at (address), has submitted an application or plans to submit an application for a tentative map with the City of Hayward to convert these units to a Common Interest Development. No units may be sold unless the conversion is approved by the City of Hayward, and until after a public report is issued by the Department of Real Estate when the conversion involves five or more dwelling units. For a three- or four-unit development, no units may be sold until the parcel map has been filed. If you become a tenant of this development, you shall be given notice of each hearing for which notice is required pursuant to sections 66451.3 and 66452.5 of the Government Code and you have the right to appear and the right to be heard at any such hearing.

(signature of owner or owner's agent)

(date)

I have received this notice on _____

(date)

(prospective tenant's signature)

Pursuant to subsection (a)(2) above, if the subdivider or his or her agent fails to give notice, he or she shall pay to each prospective tenant who becomes a tenant and who was entitled to such notice, and who does not purchase his or her unit pursuant

to paragraph 4 of subsection (b), an amount equal to the sum of the following:

- (aa) Moving expenses in the amount of \$1,000 to be paid prior to moving.
- (bb) The equivalent of three months' rent, based on the highest rent paid by the tenant, with one-third to be paid one month prior to the move date and the other two thirds paid upon vacating the premises.

3. Within 10 days after the submittal of an application for a tentative map for the conversion of rental units to a Common Interest Development, the subdivider shall send to each tenant, and provide to each person who becomes a tenant at any time subsequent to such date, a written notice containing the following information:

- (aa) That the owner of the development in which the tenant resides has submitted an application with the City to convert the units to a Common Interest Development, the date such application was made, and if approved, that tenants will eventually be required to move unless they purchase a unit or qualify for and accept an offer of a lease as provided herein;
- (bb) That each tenant will be given at least 10 days' prior written notice by the City (at subdivider's expense) of the date, time, and place of any hearing held on the tentative map application by the Planning Commission or City Council and the availability of any staff report related to the hearing.
- (cc) That each tenant will be notified in writing of the approval of the final map approving the conversion, if it is approved, within 10 days of such action; and
- (dd) Each tenant will receive 10 days' written notification from the subdivider that a final or parcel map has been recorded and the implications of that filing.

4. Accompanying the notices required by paragraphs 1 and 2 of subsection (a) above shall be written information describing, in general terms, what steps and actions the subdivider and others, including governmental agencies, must take in order for the units to be converted to a Common Interest Development. It shall also

include information on what rights the tenants have as set forth in subsection (b) below. All documents referred to in this subsection shall be in a format approved by the Planning Director.

5. With the exception of 3 (bb) above, all notices referred to in this section shall be sent by certified mail by the subdivider.

(b) Tenant Rights on Conversion. With regard to any conversion as defined above, each tenant shall have the following rights.

1. After receipt of the notice of intent to convert, each tenant will be permitted to terminate any lease or rental agreement without penalty upon written notification to the subdivider at least 30 days in advance of such termination, provided, however, that this requirement shall cease upon notice to the tenant of the abandonment of subdivider's efforts to convert the units as evidenced by formal withdrawal of the application for subdivision approval.
2. If a dwelling unit is rented to tenant(s) subsequent to the submittal of an application for a tentative map, the tenant shall be advised of the owner's intent to convert the unit to a Common Interest Development. This information shall be included in each lease or rental agreement, if there is one, and the tenant's signature acknowledging receipt of this information shall be included on the lease or rental agreement. The tenant(s) shall receive all subsequent notices herein required. Tenants advised of the intent to convert and who receive all notices distributed once the tenant signs the lease shall not be eligible to receive relocation assistance.
3. Notwithstanding the date of construction of the rental complex proposed for conversion, or the number of rental units or whether the units are decontrolled at the date the application for a tentative map is made, each unit shall be subject to any rent stabilization ordinances adopted by the City of Hayward from the date of notification of intent to convert until the date the unit is sold; provided, however, that this requirement shall cease upon the happening of any of the following events:
 - (i) Abandonment of the subdivider's efforts to convert the development as evidenced by formal withdrawal of the application for subdivision approval;
 - (ii) Execution of leases in accordance with paragraphs 1 and 2 of subsection (c).

- (ii) Execution of leases in accordance with paragraphs 1 and 2 of subsection (c).
 - (iii) The tenant voluntarily terminates the lease or rental agreement upon 30-days written notice to the subdivider.
4. With the exception of conversion a rental complex involving three or four dwelling units, each tenant will have a right of occupancy of 180 days from the date of the receipt of a notice from the subdivider that a final map has been recorded; provided, however, that this subsection shall not alter or abridge the rights or obligations of the parties in the performance of their covenants, including but not limited to, the provision of services, payment of rent, or the obligations imposed by sections 1941, 1941.1, and 1941.2 of the Civil Code of the State. For projects involving the conversion of three or four dwelling units, each tenant will have a right of occupancy of 180 days from the date of the filing of the parcel map with the Alameda County Recorder.
 5. Each tenant will have an exclusive right or option to contract for the purchase of the dwelling unit or the share controlling the dwelling unit then occupied by the tenant, or any other available unit in the development. For tenants purchasing the unit that they occupy, the subdivider shall sell the unit at the price initially offered to the general public minus 10 percent; for tenants purchasing a unit in the development other than the unit they occupy, the subdivider shall sell the unit at the price initially offered to the general public minus 5 percent. For conversion projects involving five or more dwelling units, such rights shall run for a period of not less than 90 days from receipt of a notice from the subdivider that the final map has been recorded, unless the tenant gives prior written notice of intention not to exercise that right; for projects involving three or four units, such rights shall run for a period of not less than 90 days from the date of the recordation of the parcel map. The discount is not applicable to those units that are subject to the City of Hayward Inclusionary Housing Ordinance.
 6. No remodeling of the interior of tenant occupied units shall begin without consent of the tenant;
 7. No tenant may be evicted without just cause.

the initial notice of intent to convert and for the unit they occupy. The leases shall be for five years or one year for every year that the elderly or disabled tenant resided within the unit, whichever is longer. For conversion of projects involving five or more units, such lease rights shall expire no earlier than 180 days from the date of receipt of notice from the subdivider that a the final map has been recorded. For conversion of projects of three or four dwelling units, such lease rights shall expire no earlier than 180 days from the date of the recording of the parcel map with the County Recorder. Leases shall include the following provisions:

- (aa) Tenants shall have the option of canceling the lease at any time upon thirty (30) days' written notice to the owner;
- (bb) Tenants cannot be evicted except for just cause;
- (cc) Right of occupancy shall be nontransferable;
- (dd) The first year's base monthly rent for the unit shall be set at no more than the rent existing on the unit at the time of the submittal of an application for a tentative map;
- (ee) Subsequent rent adjustments, if any, may be made no sooner than one year from the effective date of the lease, and shall be limited to no more than one per year, and to the annual percentage change in the U.S. Bureau of Labor Statistic's Consumer Price Index (CPI) for the San Francisco Bay Area; and
- (ff) Except as provided hereinabove, terms and conditions of the lease shall be the same as those contained in tenant's current lease or rental agreement.

2. Leases of at least six months, or completion of the school year, whichever is later, shall be offered to tenants with a child or children less than 18 years of age residing with them in their unit at the time of the initial notice to convert. Eligible tenants must provide evidence of enrollment and provide the date of the end of the school year in which the student is in attendance. For conversion of projects of five or more dwelling units, such lease rights shall expire no earlier than 180 days from the date of receipt of a notice from the subdivider that a final map has been recorded and any such lease shall be subject to the same conditions as set forth above in paragraph 1 of subsection (c). For conversion of projects of three or four dwelling units, such

lease rights shall expire no earlier than 180 days from the date the parcel map is recorded.

3. Assistance to Tenant-Purchasers.

- (aa) Reimbursement shall be made to tenant-purchasers for costs incurred as a result of temporary displacement during remodeling, including but not limited to, moving expenses and differentials in rents or temporary housing charges.
- (bb) A dwelling unit shall be offered for sale to tenant-purchasers at the price initially offered to the general public, minus 5 or 10 percent, or down payment assistance equal to the 5 or 10 percent reduction shall be offered to the tenant. Additionally, the subdivider must inform perspective tenant-purchasers of the ramifications of both the price reduction and down payment assistance options. For tenants purchasing the unit that they occupy, the subdivider shall sell the unit at the price initially offered to the general public minus 10 percent, or offer down payment assistance equal to the amount of the reduction; for tenants purchasing a unit in the development other than the unit they occupy, the subdivider shall sell the unit at the price initially offered to the general public minus 5 percent, or offer down payment assistance equal to the amount of the reduction.

4. Relocation assistance shall be provided to displaced households, who leased or rented the property at the time of the initial notice of intent to convert. Relocation assistance shall also be provided to displaced households with senior or disabled tenants who choose to lease their units in accordance with this ordinance. Remuneration shall be in the form of:

- (aa) Reimbursement of \$1000 per household [base year \$1000 as of January 1, 2007, with annual incremental changes to reflect changes in the San Francisco Bay Area consumer price index] 30 days in advance of moving from the subject property, except that the actual amount of moving expenses shall be paid to the elderly and disabled households, up to a maximum of \$2500 per household [base year \$2500 as of January 1, 2007, with annual incremental changes to reflect changes in San Francisco Bay Area consumer price index]; and
- (bb) Payment in the amount equal to three months' rent, based on the highest rent rate having been paid by the tenant,

with one-third to be paid one month prior to the move date and the other two thirds paid upon vacating the premises.

- (d) **Tentative Map Application Requirements.** In addition to the other requirements of the Subdivision Ordinance, the subdivider shall include with the tentative map application the following information:
1. One copy each of the notices and other documents to be provided to all tenants pursuant to subsection (a).
 2. Evidence that the tenant assistance requirements are being met.
 3. A renter profile listing the names and addresses of current tenants listed on a lease or rental agreement, if any; length of tenancy; and the number of tenants in the project in the following categories:
 - (i) Elderly, being any person who is 65 years of age or older;
 - (ii) Disabled, being any person who has a physical impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such an impairment;
 - (iii) Family households, having as members of the household children who are under 18 years of age.
 4. A report describing the condition of and estimating the remaining useful life of the following elements: roof, exterior painting, paved surfaces, central or community heating and air conditioning systems, hot water heaters, and where they are reasonably accessible for inspection, other electrical, plumbing, and mechanical equipment; said report to be prepared by a contractor or engineer who is licensed in the element being reviewed.
 5. All information necessary to complete an application to meet the requirements of the City's Inclusionary Housing Ordinance.
- (e) **Requirements for Approval of Tentative Maps.** No tentative map for the conversion of rental housing units to a Common Interest Development shall be approved unless the following findings are made:
1. The project is consistent with the housing goals and policies of the City of Hayward General Plan;

2. The project is suitable for conversion to a Common Interest Development as determined by a review of its physical characteristics, including those reports as required by Section 10-3.375; and
3. Tenant Assistance is provided in accordance with subsection (c) of Section 10-3.370.

(f) Information to be Filed with Final Map or prior to filing of the Parcel Map. In addition to the other requirements of the Subdivision Ordinance, the subdivider shall include with the Final Map or prior to the filing of the Parcel Map the following information:

1. For projects involving five or more dwelling units, one copy of the application for a Public Report filed by the subdivider with the State Department of Real Estate.
2. The proposed organizational documents, including the declaration of covenants, conditions, and restrictions, the proposed sales price of each unit, and the estimated homeowner association dues.
3. One copy of notices to tenants required by section 66427.1 of the Subdivision Map Act together with evidence of each tenant's receipt of same.
4. Evidence that tenant assistance is being carried out in accordance with subsection (c).
5. One copy of each document described in paragraphs (d) of Section 10-3.370 as approved with the tentative map.
6. Proof that CC&Rs have been recorded in accordance with the requirements of the Tentative Map and with the following provision: In order to achieve a stabilized community of owner-occupied dwelling units, to avoid artificial inflation of prices caused by resales by speculators and to prevent scarcity and other problems caused by vacant homes awaiting resale by speculators, the CC&Rs shall state that all units shall be owner-occupied. The CC&Rs shall further provide that the leasing of units as a regular practice for business, speculative investment or other similar purpose is not permitted. However, to address special situations and avoid undue hardship or practical difficulties, the CC&Rs may authorize the governing body to grant its consent, which consent shall not be unreasonably withheld, to a unit owner who wishes to

lease or otherwise assign occupancy rights to a specified lessee for a specified period.

(g) Requirements for Approval of Final Maps and Filing of Parcel Maps. No final map for the conversion of rental housing units to a Common Interest Development shall be approved and no parcel map shall be filed unless the following findings are made:

1. For final maps, the final map is in substantial conformance with the tentative map;
2. Each tenant has been or will be given notification as described in subsections (a) and (b) of Section 10-3.370;
3. Each dwelling unit in the project has been or will be issued a Certificate of Occupancy by the Building Official prior to initial sale of the unit; and
4. Each prospective buyer has been or will be given a copy of each report described in paragraphs 4 of subsection (d) as approved with the tentative map.

(h) Notice of Subdivision Public Report. Upon receipt of the subdivision public report, the subdivider shall notify, in writing, the Planning Director and each tenant in the rental complex to be converted of the date of issuance of said report, such notification to be accompanied by a copy of a report detailing how tenant assistance is being provided in accordance with subsection (c) and approved with the final map, and copies of notices required by paragraphs 3, 4, and 5 of subsection (b). Where no subdivision public report is required, notification shall occur 60 days prior to offering the first dwelling unit for sale.

SEC. 10-3.375 STANDARDS OF DEVELOPMENT. Except as herein provided, standards in the Municipal Code and the General Plan shall apply, and the standards for improvements within the common area shall be those expressed as conditions to approval of the tentative map and the Site Plan Review approval documents.

- (a) Site Plan Review shall be required and an application submitted therefore with every application for a tentative map for conversion of a rental complex to ownership housing.
- (b) Parking shall be provided in accordance with the City of Hayward Off-Street Parking Regulations in effect at the time the application to convert to ownership housing is deemed complete. For conversions involving three-and four-unit developments, exceptions to the Off-Street Parking Regulations may be granted by the Planning Director if it is determined that it would not be physically feasible to meet the Off-Street Parking

Regulations without eliminating a dwelling unit, due to site constraints such as lot size or shape, steep topography, significant trees or structures. However, at least one designated parking stall per dwelling unit shall be required.

- (c) Prior to sale of units, the applicant shall be responsible for the physical conditions within individual units and common areas. Verification of the integrity of the building(s) shall be included in reports which indicate that minimum standards that are outlined below will be adequately addressed and remedied prior to sale of units. The reports required in this section must be provided to the City Planning Director prior to approval of the final map.

- (d) **Building Condition:**
 - 1. The applicant shall submit a report by a licensed civil or structural engineer addressing structural issues with the building(s). This report shall include recommendation for correction of any structural deficiencies, which shall be remedied prior to close of escrow of each unit. Such issues shall include, but not be limited to:
 - (aa) Soft story conditions, as defined in Chapter A4 of the latest edition of the International Existing Building Code.
 - (bb) Lateral movement at walls with garage door openings.
 - (cc) Structural integrity of exterior balconies and their supporting members.
 - (dd) Seismic sufficiency of conditions at sub-floor areas including:
 - i. condition of foundation.
 - ii. attachment of mudsill to foundation.
 - iii. attachment of floor joists to sub-floor area cripple walls.
 - iv. plywood shear walls at corners of sub-floor area.
 - v. Sub-floor ventilation.
 - 2. The applicant shall provide a report by a licensed pest control company. Any work listed on the report shall be completed and cleared by the pest control company prior to occupancy.
 - 3. **Fire/Life Safety:**
 - (aa) fire alarm system shall be required per the current California Fire Code and NFPA 72. The Fire Alarm system shall be zoned and have an on-site annunciator panel that will identify the specific fire alarm device that is activated and its specific location. The fire alarm system

will be required to have a local alarm and also be supervised by an approved and listed central station monitoring company. All dwelling units shall be required to have hard-wired single station [hard wired with battery (back-up) smoke detectors]. These single station smoke detectors shall not be interconnected with the fire alarm system.

- (bb) Doors from individual dwelling units opening into an interior corridor shall be part of a listed assembly with a minimum 20-minute fire rating.

4. Electrical:

- (aa) Each unit greater than 900 square feet shall have an electrical service rated at 100 amps minimum. Each unit less than 900 square feet shall have an electrical service rated at 60 amps minimum.
- (bb) Electrical circuits and outlets at kitchen and bathroom shall meet current electrical code minimums.
- (cc) All bathroom outlets and all kitchen countertop outlets within 6 feet of a sink shall be GFCI protected.
- (dd) Any new bedroom circuits shall be ARC fault protected.
- (ee) Each kitchen shall have two separate circuits for small appliances.
- (ff) All circuits, panels and metallic water lines shall be effectively grounded: gas lines shall be bonded to the grounding electrode system.

5. Energy:

- (aa) All furnaces/heating units shall have an ENERGY STAR rating from the Federal Management Program.
- (bb) All windows within each unit shall be double-paned.
- (cc) All electrical outlets on exterior walls shall have foam gaskets.
- (dd) Install programmable thermostats for all heaters and furnaces.

- (ee) All exterior doors shall be tight fitting and have weather stripping.
 - (ff) All plumbing fixtures, including toilets, shall be of water conserving design per the latest California Plumbing Code requirements.
6. Separation of Units and Sound Control:
- (aa) Draft stops shall be installed in attics in line with walls separating units from each other and from corridors, laundry rooms and other jointly used spaces.
 - (bb) Sound transmission control shall be in place: provide results of on-site testing showing how State standards will be met or provide gypsum board sheathing mounted on channel on one side of tenant separation walls.
 - (cc) Area separation walls that were part of the original construction shall be checked for integrity.
7. Accessibility. Accessibility for persons with disabilities shall be provided in all public areas to the maximum extent feasible. Some of the items to be addressed are:
- (aa) Main entry to each building shall be accessible.
 - (bb) An accessible route of travel connecting all accessible elements and common use spaces of a building shall be provided.
 - (cc) If visitor parking is provided accessible parking per California Title 24 shall be provided.
 - (dd) Where structural or site conditions preclude installation of an accessibility measure, the applicant may apply to the Building Official for a hardship exemption for the specific element under consideration.
- (e) Laundry facilities shall be provided within each converted rental complex, either communally or within individual dwelling units.
 - (f) Rental projects that do not conform to the density specified by the Zoning Ordinance shall not be converted to a Common Interest Development unless the conversion would result in eliminating the non-conforming status of the project related to density.

SEC. 10-3.376 CONDITION OF EQUIPMENT AND APPLIANCES. For projects involving five or more dwelling units, at such time as the homeowners' association takes over the management of the project, the applicant shall provide a one-year warranty to the association that any pool and/or spa and pool and/or spa equipment (filter, pumps, and chlorinator) and any appliances and mechanical equipment to be owned in common by the association is in operable working condition. The plumbing and electrical systems in both the dwellings and the common ownership areas shall also be covered by a one-year warranty for proper and safe operation and installation in a safe and workmanlike manner. Such warranty shall be offered by an independent homeowner's warranty service licensed by the California Insurance Commission. For projects involving three or four dwelling units, the warranty shall be provided upon close of escrow of the first dwelling unit.

SEC. 10- 3.377 CONTINGENCY FEES. The intent of the City in requiring the creation of a contingency or reserve fund for conversions is to provide a surety for unexpected or emergency repairs to common areas in the interest of the economic, aesthetic, and environmental maintenance of the community, as well as to protect the general welfare, public health, and safety of the community. Upon the close of escrow for each unit, the applicant shall convey to the homeowners' association contingency fund a minimum fee of \$200 per dwelling unit. When 50 percent or more of the total units in the project have been sold, the applicant, within 30 days, shall convey such fee for each of the unsold units. Such funds shall be used solely and exclusively as a contingency fund for emergencies which may arise relating to open space areas, exterior portions of dwelling units, and such other restoration or repairs as may be assumed by the homeowners' association.

SEC. 10-3.380 UTILITIES. Each unit shall be individually metered for electricity. Where natural gas is provided to a unit, the unit shall be individually metered for natural gas. Individual water meters shall be installed where feasible, as determined by the Public Works Director. If individual units are not metered, then individual buildings shall be metered. Separate water meters shall be provided for irrigation.

SEC. 10-3.385 ORGANIZATIONAL DOCUMENTS. For all projects, there shall be required covenants, conditions and restrictions (CC&Rs), and the formation of an association or corporation for the purpose of managing and maintaining the project. For Common Interest Developments of 15 or more units, a professional property management company, licensed within the State of California, shall oversee the homeowners' association, including budgeting, accounting, and providing for property maintenance.

The CC&Rs shall state that the City of Hayward has the right to abate public nuisance conditions in the common area if the association or corporation fails to do so, and to assess the cost to the association, corporation or individual unit owners. If there is no "Board" that serves an HOA, the provisions herein shall apply to the home owners collectively. In order to accomplish this, the CC&Rs shall contain the following typical statements:

In the event the Board fails to maintain the exterior portions of the common area so that owners, lessees, and their guest suffer, or will suffer, substantial diminution in the enjoyment, use or property value of the project, thereby impairing the health, safety, and welfare of the residents in the project, the

City of Hayward, by and through its duly authorized officers and employees, shall have the right to enter upon the real property described in Exhibit "A" and to commence and complete such work as is necessary to maintain said exterior portions of the common area. The City shall enter and repair only if, after giving the Board written notice of the Board's failure to maintain the premises, the Board does not commence correction of such conditions in no more than 30 days from delivery of the notice and proceed diligently to completion. The Board agrees to pay all expenses incurred by the City of Hayward within 30 days of written demand. Upon failure by the Board to pay within said 30 days, the City of Hayward shall have the right to impose a lien for the proportionate share of such costs against each condominium or community apartment in the project.

It is understood that by the provisions hereof, the City of Hayward is not required to take any affirmative action, and any action undertaken by the City of Hayward shall be that which, in its sole discretion, it deems reasonable to protect the public health, safety, and general welfare, and to enforce it and the regulations and ordinances and other laws.

It is understood that action or inaction by the City of Hayward, under the provisions hereof, shall not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations, and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.

It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law shall be cumulative and not exclusive, and the maintenance of any particular remedy shall not be a bar to the maintenance of any other remedy. In this connection it is understood and agreed that the failure by the Board to maintain the exterior portion of the common area shall be deemed to be a public nuisance, and the City of Hayward shall have the right to abate said condition, assess the costs thereof and cause the collection of said assessments to be made on the tax roll in the manner provided by Chapter 4, Article 1, of the Hayward Municipal Code or any other applicable law.

The City Council of the City of Hayward may, at any time, relinquish its rights and interest in the project as herein set forth by appropriate resolution. Any such relinquishment by the City Council shall be effective on the date that the resolution is adopted and a copy thereof is placed in the United States mail, postage prepaid, addressed to the Board. The Board shall execute and record a declaration reflecting such relinquishment within 10 days of receipt of a copy of the resolution.

The above five paragraphs cannot be amended or terminated without the consent of the Hayward City Council.

SEC. 10-3.392 INFORMATION TO PRECEDE FINAL MAP SUBMISSION.

The following information shall be submitted for review prior to submittal of the final map.

- (a) Copy of applicant's proposed application for subdivision permit, in the event a permit is required, from the California State Department of Real Estate;
- (b) Proposed sale price of each unit;
- (c) A report describing the manner in which the terms of the declaration of restrictions will guarantee responsible maintenance and repair of the common areas, notwithstanding the escalation of costs, emergency maintenance repairs, and the replacement of major mechanical and electrical equipment; and
- (d) A copy of notices to tenants required by section 66427.1 of the Subdivision Map Act together with evidence of each tenant's receipt of same.

SEC. 10-3.395 PREPARATION AND FORM OF FINAL MAP. Where five or more dwelling units within a rental complex are being converted to a Common Interest Development, a final map will be required. In addition to the other requirements for a certificate sheet, the title shall contain in bold letters an indication that this is a Common Interest Development, and specify the number of units.”

Section 2. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond 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. It is the intent of the City Council that if this ordinance in its entirety is declared to be unconstitutional, invalid or beyond the authority of the City, then the Condominium Conversion Ordinance, as it existed prior to its repeal, shall remain in full force and effect.

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

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the _____ day of _____, 2007, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the _____ day of _____, 2007, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward