CITY OF
HAYWARD
HEART OF THE BAY

City Council Agenda

June 4, 2013

Mayor Michael Sweeney
Mayor Pro Tempore Marvin Peixoto
Council Member Barbara Halliday
Council Member Francisco Zermeño
Council Member Mark Salinas
Council Member Greg Jones
Council Member Al Mendall

Table of Contents

Agenda 3

FY 2014 Proposed Mid-Biennial Budget Update – Work Session #3 (Report from Director of Finance Vesely)

Staff Report 7

Review of City of Hayward Benefit Liabilities (Report from Director of Finance Vesely)

Staff Report 8

Approval of Minutes of the City Council Meeting on May 21, 2013

Draft Minutes 14

Sidewalk Rehabilitation and Wheelchair Ramps FY 2013 - Districts 4 and 5: Approval of Addendum and Award of Contract

Staff Report 22

Attachment I 25

Attachment II 27

Attachment III 30

Attachment IV 33

Annual Sewer Line Replacement FY13 Project: Award of Contract

Staff Report 36

Attachment I Resolution 38

Attachment II Resolution Appropriation 40

Attachment III - Bid Summary 41

Zone Change Application No. PL-2010-0380 and Vesting Tentative Tract Map Application No. PL-2010-0381 - Gordon Wong (Applicant); Yue T. Hing, Ltd (Owner) - Request for Zone Change from Single-Family Residential (with B6 Combining District) to Planned Development, and Vesting Tentative Tract Map to Create Eight (8) Residential Condominiums with a Single Remaining Parcel Owned in Common on a Vacant Site Located at 26736 Hayward Boulevard (Report from Development Services Director Rizk)

Staff Report 44

Attachment I Resolution 57

Attachment II Ordinance 63

Attachment III Conditions of Approval 65

Attachment IV Initial Study and Mitigated Negative Declaration 80

Attachment V Mitigation Monitoring and Reporting Program 151

Attachment VI Planning Commission Staff Report minus attachments 162

Attachment VII Planning Commission Meeting Minutes 173

Attachment VIII Plans 179

Attachment IX Policy Analysis 204

Attachment X Arborist Report 211

Amendment of City's Card Club Regulations (PL-2011-0213 TA) to allow transfer of ownership and potential relocation of the Palace Card Club and additional regulatory oversight, among other modifications; Conditional Use Permit Modification application (PL-2011-0303 CUP) to increase the number of gaming tables from 11 to 13 and allow for a two-story addition to the Palace Card Club at 22821 Mission Boulevard; and related amendments to the City's Master Fee Schedule (Report from Development Services Director Rizk)

Staff Report 226
Attachment I Draft Resolution 238
Attachment II Draft Resolution - Fee Schedule Amdmt 243
Attachment III Draft Ordinance 246
Attachment IV Draft Revisions - Red-Lined 265
Attachment V 7-10-79 Council Meeting Minutes 290
Attachment VI 10-10-06 Council Meeting Minutes 295
Attachment VII 10-17-06 Council Meeting Minutes 300
Attachment VIII 7-23-09 Planning Commission Meeting Minutes 304
Attachment IX 9-22-09 Council Meeting Minutes 314
Attachment X 5-9-13 Planning Commission Meeting Minutes 319
Attachment XI Project Plans 332
Attachment XII Applicant response to CUP Findings 344
Attachment XIII Recommended Conditions of Approval 348
Attachment IV Nathalie Nguyen Correspondence 352

CITY COUNCIL MEETING FOR JUNE 4, 2013

777 B Street, Hayward, CA 94541

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CLOSED SESSION
Closed Session Room 2B – 5:30 PM

1. **PUBLIC COMMENTS**

2. Conference with Labor Negotiators
   Pursuant to Government Code 54957.6
   - Lead Negotiators: City Manager David, City Attorney Lawson, Assistant City Manager McAdoo, Human Resources Director Robustelli, Finance Director Vesely, Deputy City Attorney Vashi, Director of Maintenance Services McGrath

   Under Negotiation: All Groups

3. Adjourn to City Council Meeting

CITY COUNCIL MEETING
Council Chambers – 7:00 PM

CALL TO ORDER **Pledge of Allegiance** Council Member Jones

ROLL CALL

PRESENTATIONS

Tennyson High School Choir: "Man in the Mirror" by Michael Jackson
Business Recognition Award: Aurora Algae, Inc.

PUBLIC COMMENTS

The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Work Session, or Informational Staff Presentation items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.

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

WORK SESSION

1. FY 2014 Proposed Mid-Biennial Budget Update – Work Session #3 (Report from Director of Finance Vesely)
   Staff Report

2. Review of City of Hayward Benefit Liabilities (Report from Director of Finance Vesely)
   Staff Report

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

CONSENT CALENDAR

3. Approval of Minutes of the City Council Meeting on May 21, 2013
   Draft Minutes

4. Sidewalk Rehabilitation and Wheelchair Ramps FY 2013 - Districts 4 and 5: Approval of Addendum and Award of Contract
   Staff Report
   Attachment I
   Attachment II
   Attachment III
   Attachment IV

5. Annual Sewer Line Replacement FY13 Project: Award of Contract
   Staff Report
   Attachment I Resolution
   Attachment II Resolution Appropriation
   Attachment III - Bid Summary

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

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

PUBLIC HEARING

6. Zone Change Application No. PL-2010-0380 and Vesting Tentative Tract Map Application No. PL-2010-0381 - Gordon Wong (Applicant); Yue T. Hing, Ltd (Owner) - Request for Zone Change from Single-Family Residential (with B6 Combining District) to Planned Development, and Vesting Tentative Tract Map to Create Eight (8) Residential Condominiums with a Single Remaining Parcel Owned in Common on a Vacant Site Located at 26736 Hayward Boulevard (Report from Development Services Director Rizk)

   Staff Report
   Attachment I Resolution
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   Attachment VI Planning Commission Staff Report minus attachments
   Attachment VII Planning Commission Meeting Minutes
   Attachment VIII Plans
   Attachment IX Policy Analysis
   Attachment X Arborist Report

7. Amendment of City's Card Club Regulations (PL-2011-0213 TA) to allow transfer of ownership and potential relocation of the Palace Card Club and additional regulatory oversight, among other modifications; Conditional Use Permit Modification application (PL-2011-0303 CUP) to increase the number of gaming tables from 11 to 13 and allow for a two-story addition to the Palace Card Club at 22821 Mission Boulevard; and related amendments to the City's Master Fee Schedule (Report from Development Services Director Rizk)

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COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

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

ADJOURNMENT

NEXT REGULAR MEETING – 7:00 PM, TUESDAY, JUNE 18, 2013

PUBLIC COMMENT RULES: *The Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens or organization. Speakers will be asked for their name and their address before speaking and are expected to honor the allotted time. A Speaker Card must be completed by each speaker and is available from the City Clerk at the meeting.*

PLEASE TAKE NOTICE *that if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.* ***PLEASE TAKE FURTHER NOTICE*** *that the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.*

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

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

Please visit us on:

CITY OF HAYWARD
HEART OF THE BAY

DATE: June 4, 2013

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT: FY 2014 Proposed Mid-Biennial Budget Update – Work Session #3

RECOMMENDATION

That Council reviews and comments on the 2014 Proposed Mid-Biennial Budget Update.

DISCUSSION

The City Manager presented to City Council the 2014 Proposed Mid-Biennial Operating Budget Update on May 7, 2013 for Council consideration over the next six weeks prior to adopting the budget on June 25, 2013.

Tonight marks the third of four planned work sessions on the proposed budget update. Staff will present to Council key budget and program elements for City department program areas.

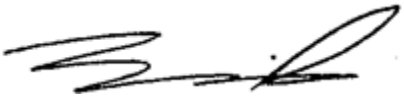
Presentations scheduled for tonight include:

- Library & Community Services
- Human Resources
- Information Technology
- Finance
- City Manager
- Mayor and Council

The budget document is available to the public electronically at Proposed FY 2014 Mid-Biennial Operating Budget Update .

Prepared and Recommended by: Tracy Vesely, Director of Finance

Approved by:



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Fran David, City Manager

CITY OF
HAYWARD
HEART OF THE BAY

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DATE: June 4, 2013

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT: Review of City of Hayward Benefit Liabilities

RECOMMENDATION

That the Council reviews and comments on this report.

BACKGROUND

The City of Hayward, like all cities and municipal agencies, manages unfunded benefit liabilities as part of its financial story. Unfunded liabilities are defined as identifiable obligations of an organization for which the organization does not have 100% of the funding (cash or other assets) set aside to cover the cost should all obligations become immediately and simultaneously due. Generally, an organization operates based on policies that attempt to find a responsible balance between funding some identified portion of each of those obligations and the associated risk that the unfunded portion of the obligations presents to the organization. Achieving this careful balance is considered the practical and responsible approach since payment demands of these obligations rarely, if ever, occur simultaneously. The alternative would be to fund the obligations at the 100% level causing an unreasonable portion of the City's cash to be reserved and making it unavailable for funding on-going City services and operations.

DISCUSSION

The City actively manages its benefit liabilities and completes actuarial valuations for all benefit liabilities with the exception of accrued leave payouts. These valuations consider the economic, demographic, and historical compositions of the benefit programs and establish amounts that the City should set aside each year to fund its benefit-related financial obligations. In today's economic climate, it is critical that the City continue to manage its liabilities to ensure long-term fiscal stability. Actuarial valuations identify the Annual Required Contribution (ARC) an agency should make toward the funding of the benefit. This is essentially the minimum funding amount.

The City's four benefit liabilities include:

1. California Public Employees' Retirement System (CalPERS)
2. Workers' Compensation
3. Other Post-Employment Benefits (OPEB) – Retiree Medical Benefits
4. Accrued Leave Payouts

Table 1 provides a summary of the City's benefit liabilities and levels of funding.

Table 1: Summary of Benefit Liabilities

(in millions)	Actuarial Valuation Date	Accrued Liability	Actuarial Value of Assets	Funded Ratio	Unfunded Liability (1)	Unfunded Ratio
CalPERS Police Safety Plan	6/30/2011	$ 254.1	$ 194.9	76.7%	$ 59.2	23.3%
CalPERS Fire Safety Plan	6/30/2011	$ 206.4	$ 161.5	78.2%	$ 44.9	21.8%
CalPERS Miscellaneous Plan	6/30/2011	$ 340.5	$ 262.9	77.2%	$ 77.6	22.8%
Retiree Medical (all groups)	6/30/2011	$ 69.0	$ 0.5	0.7%	$ 68.4	99.3%
Workers' Compensation	6/30/2012	$ 11.7	$ 4.0	34.1%	$ 7.7	65.9%
Accrued Leave Payouts (2)	6/30/2012	$ 6.1	$ -	0.0%	$ 6.1	100.0%
Total		**$ 887.7**	**$ 623.8**	**70.3%**	**$ 263.9**	**29.7%**

(1) The percent of unfunded liability in the chart above is based on the Actuarial Value of the Assets, which assumes smoothing over time. If the Market Value of Assets is used to perform the calculation, the CalPERS funded liability status would be 68% for Police and Misc. plans and 69.4% for the Fire plan.

(2) Accrued Leave Payouts - no actuarial valuation

Each of these benefit liabilities is unique in its structure and funding. As demonstrated in Table 1, the degree of funding varies depending on the benefit.

California Public Employee Retirement System (CalPERS)
Current Annual cost: $22 million
Unfunded Liability: $181.7 million

Benefit Summary
CalPERS retirement rates continue to represent one of the most significant citywide budgetary pressures and the City's retirement plans represent the largest of the City's benefit liabilities. This budgetary pressure is felt by the State of California as well as the over 2,000 public entities statewide that contract with CalPERS for pension benefits. The California Public Employees' Retirement System (CalPERS) is a defined benefit pension plan funded by a combination of employee contributions that are set by statute and employer contributions that fluctuate from year to year based on an annual actuarial valuation performed by CalPERS. When CalPERS performs its actuarial analysis, it uses data two years previous; for example, the employer rates for Fiscal Year 2014 are based on data as of June 30, 2011. The City contracts with an outside actuary to review the City's rates each year, advise on the funded status of the plans, and project employer rates for future years.

The City contributes to three plans: Police Safety Plan, Fire Safety Plan, and Miscellaneous Employee plan (all non-sworn employees). All full-time and part-time benefited employees are required to participate in CalPERS. The three plans are independent of one another with different contract plan amendments negotiated over the years through the collective bargaining process.

Assets and liabilities of each plan are segregated with no cross subsidization from one plan to another.

CalPERS Retirement Rates

The cost of the retirement plans is broken into Employee Contribution rates (fixed) and Employer Contribution rates (variable). Both rates are a percent of payroll. The Employee Contribution is fixed and is based on the pension plan formula (generally 9% for public safety plans and 7% or 8% for miscellaneous plans).

The Public Employees' Pension Reform Act of 2013 (PEPRA) introduces new benefit formulas effective January 1, 2013 that affect new employees to the City that have not previously been part of the CalPERS system Implementation of these will require careful consideration and planning , and there is little immediate financial benefit to the City.

CalPERS Employer Contribution rates have increased dramatically over the years for several reasons, including the extraordinary investment losses CalPERS suffered as a result of the 2008 market meltdown, smoothing and amortization policy changes, actuarial assumption changes, and the continued economic recovery. In March 2012, the CalPERS Board approved the lowering of the CalPERS discount rate assumption, or the rate of investment return the pension fund assumes, from 7.75 to 7.50 percent. This directly resulted in an increase to public agency employer rates for FY 2014 of about 1.5% for the non-sworn/miscellaneous plan and 2.5% for the two public safety plans (as a percent of payroll).

On April 17, 2013, the CalPERS Board adopted changes to the CalPERS amortization and smoothing policies, resulting in significant employer rate increases starting in FY 2016. The General Fund Ten-Year Plan includes these estimated rate increases (phased over FY 2016 – FY 2020). These increases reflect phased growth as a percentage of payroll up to 8 – 14% by FY 2020. The precise rate amounts will likely be refined over the next six months as CalPERS finalizes the actual employer rates for all agencies. In addition, it is likely that the CalPERS Board will consider two additional changes – modifications to demographic actuarial assumptions and a further lowering of the assumed rate of return. These changes would, again, dramatically impact Employer Contribution rates and further strain the City's budget.

Table 2 illustrates the dramatic rate of growth over the last fourteen years. It should be noted that each 1% increase in CalPERS rates cost the City an estimated $390,000 for Public Safety and $247,000 for Miscellaneous Employees per year at today's salary rates. Some industry experts are projecting that at the current rate of increases, in the near future, some CalPERS member agencies will be paying upwards of 30% - 50% of employee salaries to CalPERS for pension obligations, depending on the retirement plan.

Table 2 – City of Hayward CalPERS Employer Rates

Employer Rates (% of payroll)	FY 2000 Actual	FY 2005 Actual	FY2010 Actual	FY2013 Actual	FY 2014 Projected	% Increase from FY 13 to FY 14	% Increase from FY 00 to FY 14
Public Safety - Police	8.52%	26.52%	25.90%	34.93%	37.70%	**7.93%**	**398%**
Public Safety - Fire	8.32%	26.75%	28.69%	32.79%	35.35%	**7.82%**	**374%**
Non-Sworn	1.80%	7.80%	11.35%	18.23%	19.75%	**8.37%**	**1153%**

Funding Status
The City is fully meeting its annual required contribution (ARC) amounts based on the CalPERS premium rates. Given the CalPERS "smoothing" methodology, meeting this ARC does not necessarily pay down future unfunded liability. However, while the recent changes adopted by the CalPERS Board will increase Hayward's Employer rates, the changes will improve the plan funding status over the next thirty years. As part of the long-term policy discussion on unfunded liabilities, the City could consider the advantages and disadvantages of paying additional premium towards the unfunded portion.

Workers' Compensation
Current Annual Cost: $4.7 million
Unfunded Liability: $7.7 million

The City is self-funded for Workers' Compensation and began its program on July 1, 1975. While the City fully funds present day costs, it is not funding future liability. Payments are made to the Workers' Compensation Self-Insurance Fund by transfers from all City funds through established rates assessed against payroll based on classification type. The amount of payments made by City funds into the Workers' Compensation Self Insurance Fund are determined by an actuarial analysis conducted by an outside actuary. These accruals represent estimates of amounts to ultimately be paid for reported claims and upon past experience, recent claim settlement trends, and other information. Funds are available to pay claims and administrative costs of the program on a pay-as-you-go basis. It is important to understand that payments on indemnity claims may be made over a very long period of time. Indemnity claims are those in which future medical care is projected to be needed for the injured worker and the cost is largely dependent on the type and severity of the injury.

Funding Status
Pursuant to the current actuarial valuation conducted for the program, a funding status of 70% to 85% is recommended. Table 1 shows that the City is currently at about a 34% funding level. Staff will be proposing that Council consider building its Workers' Compensation Fund balance to address future liabilities and achieve at least a 70% level of program funding.

Retiree Medical (OPEB)
Current Annual Cost: $2.7 million ("pay as you go" for current retirees)
Unfunded Liability: $68.4 million

By City Council resolution – and as agreed to with bargaining groups – the City provides certain health care benefits for employees who retire directly from the City with at least five years of City service (most bargaining groups require ten years of service) and who are vested in the California Public Employees Retirement System (CalPERS). The City participates in the CalPERS health care plan, which is governed under the California Public Employees Health and Medical Care Act (PEMCHA).

The City contributes a fixed dollar amount for retiree medical benefits for most bargaining units, with amounts varying by employee bargaining group and coverage level as governed by PEMCHA. Benefits continue for surviving spouses in amounts as required by PEMCHA. As of June 30, 2012, approximately 626 retirees were eligible and were receiving retiree health care benefits from the City at an annual cost of about $2.7 million, which is the "pay as you go"

amount the City currently pays. There are approximately 687 active employees that may be eligible to receive health care benefits upon retirement.

Funding Status
The annual required contribution (ARC) was determined as part of a September 13, 2011 actuarial valuation that considered benefits that are expected to be earned in the future as well as those already accrued. The City's OPEB unfunded actuarial accrued liability is amortized as a level percentage of projected payroll using a thirty-year amortization period. Currently, the City is only funding the "pay as you go" portion of the plan cost at $2.5 million in FY 2012. The actuarial calculation of the City's ARC is $6.6 million. The City is not funding the ARC, falling short by about $4.1 million. The General Fund Ten-Year Plan addresses this situation, and effective FY 2014, phases in the cost of fully funding the ARC by FY 2018. However, this level of funding does not pay down future unfunded liability; it simply achieves payment of the minimum level of funding toward the plan. City Council could consider additional funding toward the unfunded liability in future years.

Accrued Leave Payouts (Compensated Absences)
Current Annual Cost: varies (FY 2012= $1.9 million)
Unfunded Liability: $6.1 million

It is the City's policy to permit employees to accumulate earned but unused vacation and sick leave benefits. The City records the cost of vacation and sick leave as "earned." Earned vacation and sick leave that is taken during the year is payable from the fund(s) to which the employee's salary or wage is charged. When an employee retires or otherwise leaves the City, vacation balances are paid out to the employee, and in some cases, some of the accumulated sick leave is also paid out (pursuant to bargaining unit agreements). Historically, these payouts have been paid through a department's budget through vacancy salary savings – and not specifically budgeted for. As staffing numbers have diminished, the capacity to absorb these costs has as well.

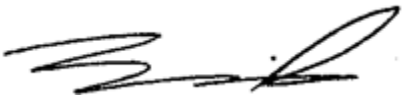
Funding Status
To proactively address this liability, staff is considering building a funding mechanism into payroll and a component of the fringe benefit rate (e.g., 1% of payroll for non-sworn and 2% of payroll for sworn positions). This will result in a budgeted increase to the City budget without offsetting budgetary decreases. However, it may prevent large spikes to department payroll budgets when employees with large leave balances leave City employment and cash out their balances. In addition, leave balances are much more proactively managed on an on-going basis throughout the organization in order to lower the leave liability.

NEXT STEPS

Staff will continue to actively manage benefit liabilities and report annually to City Council the funding status of these benefit liabilities. In addition, staff will be bringing suggested policy adoption actions to the Council Budget and Finance Committee over the next year; and will ultimately bring the Committee's recommendations to Council for adoption.

Prepared and Recommended by: Tracy Vesely, Director of Finance

Approved by:



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Fran David, City Manager

MINUTES OF THE CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 21, 2013, 7:00 p.m.

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

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Jones, Halliday, Peixoto, Salinas, Mendall
MAYOR Sweeney
Absent: None

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced that Council met with legal counsel pursuant to Government Code 54956.9 and reported that the Council had discussed and unanimously approved the settlement of the City's claim against Alameda County regarding the property tax administration fee dispute. Mr. Lawson also noted that the Council met with labor negotiators pursuant to Government Code 54957.6, regarding all groups, and met with property negotiators pursuant to Government Code 54956.8, regarding 22632 Main Street (APN 428-0066-024-00); 22654 Main Street (APN 428-0066-039-00); 22696 Main Street (APN 428-0066-038-02); 1026 C Street (APN 428-0066-037-00); and 1026 C Street (APN 428-0066-038-01). There was no action taken for either item.

PRESENTATION

Mayor Sweeney announced the 2013 City of Hayward's Recycling Poster and Essay Contest and noted 2013 marked the 30th Annual Clean-up Days Campaign and thanked the Keep Hayward Clean and Green Task Force for its help scheduling clean up events. Mayor Sweeney noted 571 entries had been received from 27 Hayward schools. Council Member Halliday announced the winners of the Recycling Poster and Essay Contest for grades kindergarten through 12th grade. Third place winners received a $100 gift certificate, second place winner received a $150 gift certificate, and first place winner received a $200 gift certificate. Ms. Halliday also gave recognition to teachers of essay and poster winners. Each teacher of first place winners received a $100 gift certificate, for second place a $75 gift certificate, and for third place a $50 gift certificate.
Mayor Sweeney drew names for two bonus prizes of $200 each. The essay winner was Diane Pham and the poster winner was Katherine Tong. All students, teachers, and families were congratulated for their participation.

PUBLIC COMMENTS

Mr. Jim Drake, Franklin Avenue resident, expressed concern about the construction work being done on Carlos Bee Boulevard, noting the asphalt overlay did not meet the minimum requirements and could degrade quickly.

Ms. Jennifer Ong, Whittington Lane resident, introduced the 20th Annual Asian American Heritage Festival Planning Committee and thanked City staff for allowing the Committee to hold the event in Hayward and for hosting the Committee's meetings in preparation of the event.

Mr. John Hsieh, Hayward resident and founder of the Asian American Heritage Festival, thanked the City for allowing organizers to hold the event in Hayward.

Ms. Anna May, Hayward resident, noted that according to the Chinese World Journal the event attracted about 5,000 people, 100 booth participants, and over 200 performers. She thanked City staff for supporting the event and urged Council to support the event next year.

Mr. Kim Huggett, Hayward Chamber of Commerce President, thanked the City for hosting the event and encouraged the City to continue having these types of events in the City.

Ms. Wynn Grcich, Industrial Parkway SW resident, shared that St. Rose Hospital had dismissed a bill due to misdiagnosis and she spoke about the need to have a Consumer Affair's Board. Ms. Grich requested Council Member Mendall, the City's representative on the Bay Area Water Supply and Conservation Agency, to advocate for water that did not contain toxic substances that could lower children's IQ.

Mr. Kris Cabanesas, public relations manager of the Mt. Eden High School Band, announced that the Band competed in the Armijo Band Review 2013 and took the high honor of High School Concert Sweepstakes. He announced future band performances at the San Francisco Heritage Festival.

Mr. Charlie Peters, with Clean Air Performance Professionals, spoke about an article by Tom Elias entitled, "New questions on hydrogen highway" regarding AB8 and SB11 bills to tax motorists, and encouraged Council to communicate to the legislature that the proposed tax revenue could be used for City uses.

WORK SESSION

1. FY 2014 Proposed Mid-Biennial Budget Update – Work Session #1

> Staff report submitted by Director of Finance Vesely, dated May 21, 2013, was filed.

Director of Finance Vesely noted the meeting was the first of possibly four work sessions on the Proposed FY 2014 Mid-Biennial Operating Budget Update, with a public hearing scheduled for June 18 and a budget adoption for June 25, 2013. Ms. Vesely noted the budget presentations for the evening included Fire Department, Police Department, and Maintenance Services.

Fire Chief Contreras delivered a PowerPoint presentation that included a FY 2014 update for the Fire Department budget, FY 2014 Fire Department staffing update, FY 2014 Fire Department key budget changes, FY 2013 Fire Department accomplishments, and FY 2014 Fire Department goals.

In response to Council Member Zermeño's inquiry about the status of Fire Station 7, Fire Chief Contreras noted that staff was moving forward according to the timeline and was considering how to finance Fire Station 7 and the design of the health center. Mr. Zermeño was glad the project was moving forward and thanked the Fire Department staff for all their hard work.

In response to Council Member Peixoto's inquiry related to the mutual aid reimbursement for FY 2011 of $74,530 and for FY 2014 of $390,000, Fire Chief Contreras explained that the Department was 100% reimbursed and it was noted that the reimbursement fluctuated from year to year based on the number of response calls.

Council Member Halliday was pleased to learn of the valuable training staff obtained by participating in the mutual aid program and would like to see it continue. Ms. Halliday liked the plan to merge a health station with Fire Station 7 and said she would like the project to move forward in the near future.

Council Member Salinas commended Assistant Fire Marshall Poulsen for the excellent fire safety programs he provides to the community. Mr. Salinas was glad that the Fire Department was utilizing social media sites to keep the community informed about Fire Department activities.

Council Member Mendall commended the Fire Department for trying new techniques, technology and tools to ensure the safety of Hayward residents.

Council Member Jones thanked the Fire Department for bringing a balanced budget to Council while still working to be innovative and improve services to the community.

Mayor Sweeney commended the men and women of the Fire Department for their hard work.

Police Chief Urban delivered a PowerPoint presentation that included a FY 2014 update for the Police Department budget, FY 2014 Police Department staffing update, FY 2014 Police Department key budget changes, FY 2013 Police Department accomplishments, and FY 2014 Police Department goals.

Council Member Salinas thanked the Police Department for the community outreach activities and was pleased to see recruitment efforts include a focus on diversity with more multilingual officers that reflected the City's population. Mr. Salinas suggested having a School Resource Officer Program (SRO) magnet label for the police cars that serves schools, and noted the SRO program was the most effective method to deter gang activity and that it needed to start at the middle school level. He also appreciated the quarterly update idea.

Council Member Zermeño noted that based on feedback the community was no longer scared of the Police Department and he thanked the Police Department for its community outreach and grant research. Mr. Zermeño thanked staff for their gang prevention efforts, especially for reaching out to the middle school grades as it was important to deter the negative gang influence at that a young age.

Council Member Peixoto noted there were effective gang preventive programs in place for elementary and middle school-aged children and asked about similar programs for young adults. Police Chief Urban noted there were other programs through Probation, the District Attorney's office, and public partnership programs.

Council Member Halliday thanked staff for their hard work, was looking forward to the crime reports and quarterly updates, and commended Chief Urban for her efforts to reduce workers' compensation. Ms. Halliday said she was glad the City was able to keep the Hayward Animal Shelter opened. Ms. Halliday commended the Police Department for solving the Michelle Le murder case and partnering with the Le family.

Council Member Jones noted the School Resource Officer program was powerful from a preventative standpoint and encouraged staff to continue to partner with the Hayward Unified School District and push resources in that direction. Mr. Jones was alarmed to hear that about 20% of police staff was not available at any given time due to worker's compensation and vacancies. Mr. Jones noted that filling the vacancies should be a priority.

Council Member Mendall appreciated and noted the importance of the data-driven approach of intelligence-led policing. Mr. Mendall wanted to see the Spanish-speaking community academy be an annual event, liked the top three high accident zones and redeploy traffic to the zones idea for neighborhoods, liked the idea of quarterly updates to Council, and expressed he wanted the crime free multi-housing training to continue. Mr. Mendall expressed interest in staff utilizing cameras to deter crime in the downtown area.

Mayor Sweeney noted the importance for Council and the public to communicate to legislators that the realignment that shifted responsibility for felons from the state to the cities was causing problems at the local level and affecting citizens. Mayor Sweeney thanked Chief Urban and the men and women of the Police Department for all their hard work.

Maintenance Services Director McGrath delivered a PowerPoint presentation that included a FY 2014 update for the Maintenance Services budget, FY 2014 Maintenance Services staffing update, FY 2014 Maintenance Services key budget changes, FY 2013 Maintenance Services accomplishments, and FY 2014 Maintenance Services goals.

Council Member Zermeño expressed he appreciated the City's tree program, graffiti abatement, eco-friendly and landscaping efforts, and thanked Director of Maintenance Services McGrath and his staff for all their efforts and hard work.

Council Member Mendall said he appreciated the Maintenance Services Department for the work done in his neighborhood, Twin Bridges, repairing the irrigation system and trimming and planting trees.

In response to Council Member Jones, Director of Maintenance Services McGrath explained that Maintenance Services provided the service of removing the necessary cement to plant a tree as long as the homeowner agreed to take care of the tree. City Manager David noted if a private party did

the work, they should check with Public Works first to avoid damaging any underground utilities.

Council Member Halliday thanked Maintenance Services for their dedication and hard work and especially their work with the Keep Hayward Clean and Green Task Force. In response to Council Member Halliday regarding the proposed FY 2014 Facilities Revenue of $64,114 and the adopted FY 2013 of $8,870, Director of Maintenance Services McGrath requested the opportunity to get back to her with an answer.

Mayor Sweeney thanked Maintenance Services for their hard work especially on the improvements of Huntwood Avenue.

CONSENT

Consent Item No. 8 was pulled for a separate vote.

2. Approval of Minutes of the City Council Meeting on April 23, 2013

It was moved by Council Member Zermeño, seconded by Council Member Mendall, and unanimously carried, to approve the minutes of the City Council Meeting of April 23, 2013.

3. Adoption of an Ordinance Amending Hayward Municipal Code Sections 10-1.700-10-1.745 to Prohibit the Conversion of Senior-Only Mobile Home Parks to All-Age Mobile Home Parks in the City's Mobile Home Park (MH) Zoning District

> Staff report submitted by City Clerk Lens, dated May 21, 2013, was filed.

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

> Ordinance 13-06, "Ordinance Amending Hayward Municipal Code Sections 10-1.700-10-1.745 to Prohibit the Conversion of Senior-Only Mobile Home Parks to All-Age Mobile Home Parks in the City's Mobile Home Park (MH) Zoning District"

4. Centex Sewer Lift Station Upgrade Project: Approval of Plans and Specifications, and Call for Bids

> Staff report submitted by Associate Civil Engineer Lam, dated May 21, 2013, was filed.

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

Resolution 13-064, "Resolution Approving Plans and Specifications for the Centex Sewer Lift Station Upgrade Project, Project No. 7549, and Call for Bids"

5. Water Pollution Control Facility Cogeneration System: Approval of Plans and Specifications, and Call for Bids

Staff report submitted by Senior Utilities Engineer Clark, dated May 21, 2013, was filed.

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

Resolution 13-065, "Resolution Approving Plans and Specifications for the Water Pollution Control Facility Upgrade Project, Project No. 7508, and Call for Bids"

6. Pavement Reconstruction FY14 – Alberta Court, Alonda Court, Cottonwood Avenue, Forselles Way, Mitchell Place, O'Neil Avenue, and Stafford Avenue Project, Project Nos. 5144 & 5183: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Assistant City Engineer Owusu, dated May 21, 2013, was filed.

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

Resolution 13-066, "Resolution Approving Plans and Specifications for the Pavement Reconstruction FY14 – Alberta Court, Alonda Court, Cottonwood Avenue, Forselles Way, O'Neil Avenue, Mitchell Pl, and Stafford Avenue Project, Project Nos. 5144 & 5183, and Call for Bids"

7. Approval of the Annual Hayward Paratransit Program Plan and Authorization for the City Manager to Execute Service Agreements with MV Transportation, Inc; Alzheimer's Services of the East Bay (ASEB); Service Opportunities for Seniors (SOS) Meals on Wheels; and Community Resources for Independent Living (CRIL)

Staff report submitted by Senior Property Rehabilitation Specialist Bailey, dated May 21, 2013, was filed.

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

Resolution 13-067, "Resolution Authorizing the City Manager to

Submit an Annual Paratransit Plan and Negotiate and Execute All Documents Related To and In Support of Paratransit Activities for CY 2013 and FY 2014"

8. Agreement Regarding Parking Covenant between the City, Oryom Ventures, LLC, and Big 5 Corp. for a Portion of Municipal Lot #6

Staff report submitted by Economic Development Manager Taylor, dated May 21, 2013, was filed.

Council Member Jones noted he would recuse from participation on the item due to a conflict of interest as his personal business benefitted from Municipal Lot #6 as it provides parking space to his business.

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

Resolution 13-068, "Resolution Authorizing the City Manager to Negotiate and Execute an Agreement Regarding Parking Covenants Relating to the City's Municipal Lot #6"

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Salinas noted there were an array of events over the weekend and commended all organizations that organized events that promote and benefit Hayward.

Council Member Zermeño announced the Hayward Chamber of Commerce Latino Business Roundtable was hosting a meeting on May 24, 2013, at St. Rose Hospital, and invited all.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 10:14 p.m., in memory of Mr. Lloyd Nichols Clifton. Mr. Clifton passed away on May 8, 2013, after a struggle with pancreatic cancer. He was born in Vallejo; graduated from Brigham Young University; had a 34-year career in law enforcement; was loved and admired for his kindness, humor, and open-hearted spirit; was a dedicated worker; a dog-lover; a rower; served as a community service volunteer; proved instrumental in creating the Keep Hayward Clean and Green Task Force; and was a mentor to a younger generation of community leaders. It was noted that a celebration of his life would be scheduled at a later time and in lieu of flowers people could make donations to the Masonic Cancer Center and/or the Enrique Camarena Foundation. Mayor Sweeney asked staff to work with Mr. Lloyd's family and find a suitable place to plant a tree in his memory.

APPROVED:
Michael Sweeney
Mayor, City of Hayward

ATTEST:
Miriam Lens
City Clerk, City of Hayward

CITY OF
HAYWARD
HEART OF THE BAY

____4____
–

DATE: June 4, 2013

TO: Mayor and City Council

FROM: Director of Public Works – Engineering & Transportation

SUBJECT: Sidewalk Rehabilitation and Wheelchair Ramps FY 2013 – Districts 4 and 5: Approval of Addendum and Award of Contract

RECOMMENDATION

That Council adopts the attached resolution:

1. Approving Addendum No. 1 providing minor revisions to the specifications;
2. Increasing the Administrative Change Order amount from $35,000 to $117,778; and
3. Awarding the contract to AJW Construction, in the amount of $669,000.

BACKGROUND

The Sidewalk Rehabilitation Program for the repair of damaged concrete sidewalks consists of two components. The first is the removal of tripping hazards from sidewalk displacements or offsets up to 1-3/4 inches. These hazards are removed by saw cutting the uplifted sidewalk panel across the width of the sidewalk to remove the tripping hazard and produce smooth and uniform surfaces that meet the ADA slope requirement of 8.33% maximum. The purchase order contract for this trip hazard removal work was awarded on September 7, 2012. The work was completed on December 4, 2012.

The second component of the Sidewalk Rehabilitation Program removes and replaces all sidewalk displacements exceeding 1-3/4 inches. Pursuant to Division 7, Part 3, Chapter 27 of the Streets and Highways Code, sidewalk repair is the responsibility of the property owners. Property owners may choose to complete the work themselves or have the repairs completed by the City's contractor, with the payment of a flat fee of $550 per single family property.

On April 16, 2013, Council approved the plans and specifications for the Sidewalk Rehabilitation and Wheelchair Ramps FY 2013 – Districts 4 and 5 project and called for bids to be received on May 14, 2013. On May 13, 2013, Addendum No. 1 was provided to make revisions to the bid quantities and bid sheet.

DISCUSSION

This year's Sidewalk Rehabilitation Program will repair damaged sidewalks in the Schafer Park area, District 4, and Fairway Park Rancho Verde area, District 5 (see Attachments II and III for

project location maps). The project also includes the installation of wheelchair access ramps, repair of raised concrete curb and gutter, as well as tree trimming and root pruning of existing trees. As part of the project, the contractor will retain an arborist to examine the conditions of existing trees and supervise the root pruning work. New trees will be planted where street trees are absent or where an existing tree must be removed because of disease or is in imminent danger of falling. Approximately 344 separate locations of damaged sidewalks comprising a total of 19,567 square feet of sidewalk area will be repaired, which is approximately 0.2% of the citywide total. In addition, 55 new wheelchair ramps will be installed to bring the wheelchair ramps into compliance with current ADA standards.

On May 14, 2013, five bids were received for the Sidewalk Rehabilitation Project. AJW Construction of Oakland submitted the low bid in the amount of $586,222.25, which is 12.4% below the Engineer's Estimate of $669,000. Rosas Brothers Construction of Oakland submitted the second lowest bid in the amount of $634,232.35, which is 5.2% lower than the Engineer's Estimate. The bids ranged from $586,222.25 to $874,399.

The low bid received provides an opportunity to repair additional damaged sidewalk locations in the same districts and install additional wheelchair ramps, that otherwise would not have been included, due to limited funds. Therefore, staff recommends increasing the Administrative Change Order amount of the bid by $82,778, to a total of $117,778 to cover this extra work.

All bid documents and licenses are in order. Staff recommends award of contract to the low bidder AJW Construction, in the amount of $669,000.

FISCAL AND ECONOMIC IMPACT

The estimated project costs are as follows:

Construction Contract	$669,000
Trip Hazard Removal (completed under separate contract)	200,000
Design and Administration	72,000
Construction Survey, Inspection, and Testing	72,000
TOTAL	$1,013,000

The Adopted FY 2013 Capital Improvement Program (CIP) includes $900,000 for the Sidewalk Rehabilitation Project in the Street System Improvements Fund and $113,000 in the Gas Tax Fund for the Wheelchair Ramps construction. The total appropriation for the two projects is $1,013,000. Reimbursements from property owners for the sidewalk rehabilitation are estimated to be approximately $100,000. Transportation Development Act funds will reimburse the full amount ($113,000) of the Wheelchair Ramps project.

SCHEDULE

Begin Work	July 9, 2013
Complete Work	October 17, 2013

PUBLIC CONTACT

Owners of the affected properties were sent certified letters regarding the program along with a response form to return to the City indicating if they want to make the repairs themselves or pay the $550 fee to have the City complete the work. On the response form, property owners are given two payment choices: a $550 lump sum payment or an installment plan of twelve monthly payments. The response form also includes a choice of replacement trees. Additional outreach methods, such as phone calls and site visits by staff, are being implemented to ensure that all property owners are clearly aware of the program and the payment options available to them.

Prepared by: Yaw Owusu, Assistant City Engineer

Recommended by: Morad Fakhrai, Director of Public Works - Engineering & Transportation

Approved by:

Fran David, City Manager

Attachments:

Attachment I:	Resolution
Attachment II:	Project Location Map – District 4
Attachment III:	Project Location Map – District 5
Attachment IV:	Bid Summary

HAYWARD CITY COUNCIL

RESOLUTION NO. 13-_____

Introduced by Council Member _____

RESOLUTION APPROVING ADDENDUM NO. 1, INCREASING THE ADMINISTRATIVE CHANGE ORDER AMOUNT FOR THE SIDEWALK REHABILITATION AND WHEELCHAIR RAMPS FY 2013 – DISTRICTS 4 AND 5 PROJECT, PROJECT NOS. 5108 AND 5104, AND AWARDING THE CONTRACT TO AJW CONSTRUCTION

WHEREAS, by resolution on April 16, 2013, the City Council approved the plans and specifications for the Sidewalk Rehabilitation and Wheelchair Ramps FY 2013 – Districts 4 and 5, Project Nos. 5108 and 5104, and called for bids to be received on May 14, 2013; and

WHEREAS, on May 13, 2013, Addendum No. 1 was provided to make revisions to the bid quantities and bid sheet; and

WHEREAS, on May 14, 2013, five bids were received ranging from $586,222.25 to $874,399; AJW Construction of Oakland submitted the low bid in the amount of $586,222.25, which is 12.4% below the Engineer's Estimate of $669,000; and

WHEREAS, the low bid provides an opportunity to repair additional damaged sidewalk locations and install additional wheelchair ramps in the same districts, and staff is recommending an increase in the Administrative Change Order amount by $82,778, to a total amount of $117,778 to cover the extra work.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward hereby authorizes an increase in the Administrative Change Order amount by $82,778 to a total of $117,778 to complete the additional repairs and installation of wheelchair ramps.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that AJW Construction is hereby awarded the contract for the Sidewalk Rehabilitation and Wheelchair Ramps FY 2013 – Districts 4 and 5 Project, Project Nos. 5108 and 5104, in an amount not to exceed $669,000.25, in accordance with the plans and specifications adopted therefor and on file in the office of the City Clerk of the City of Hayward at and for the price named and stated in the bid of the hereinabove specified bidder, and all other bids are hereby rejected.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute the contract with AJW Construction, in the name of and for and on behalf of the City of Hayward, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA June 4, 2013

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

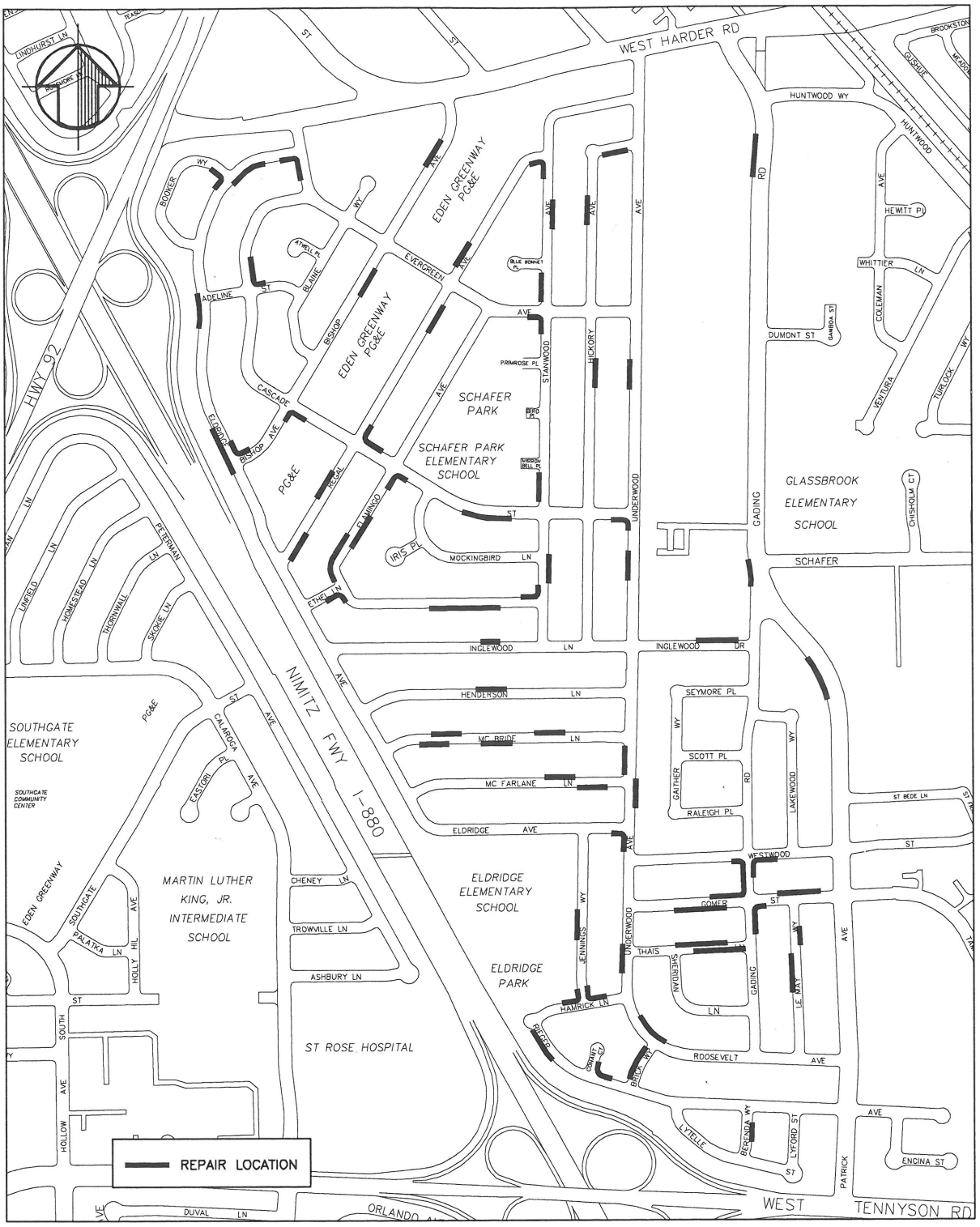
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

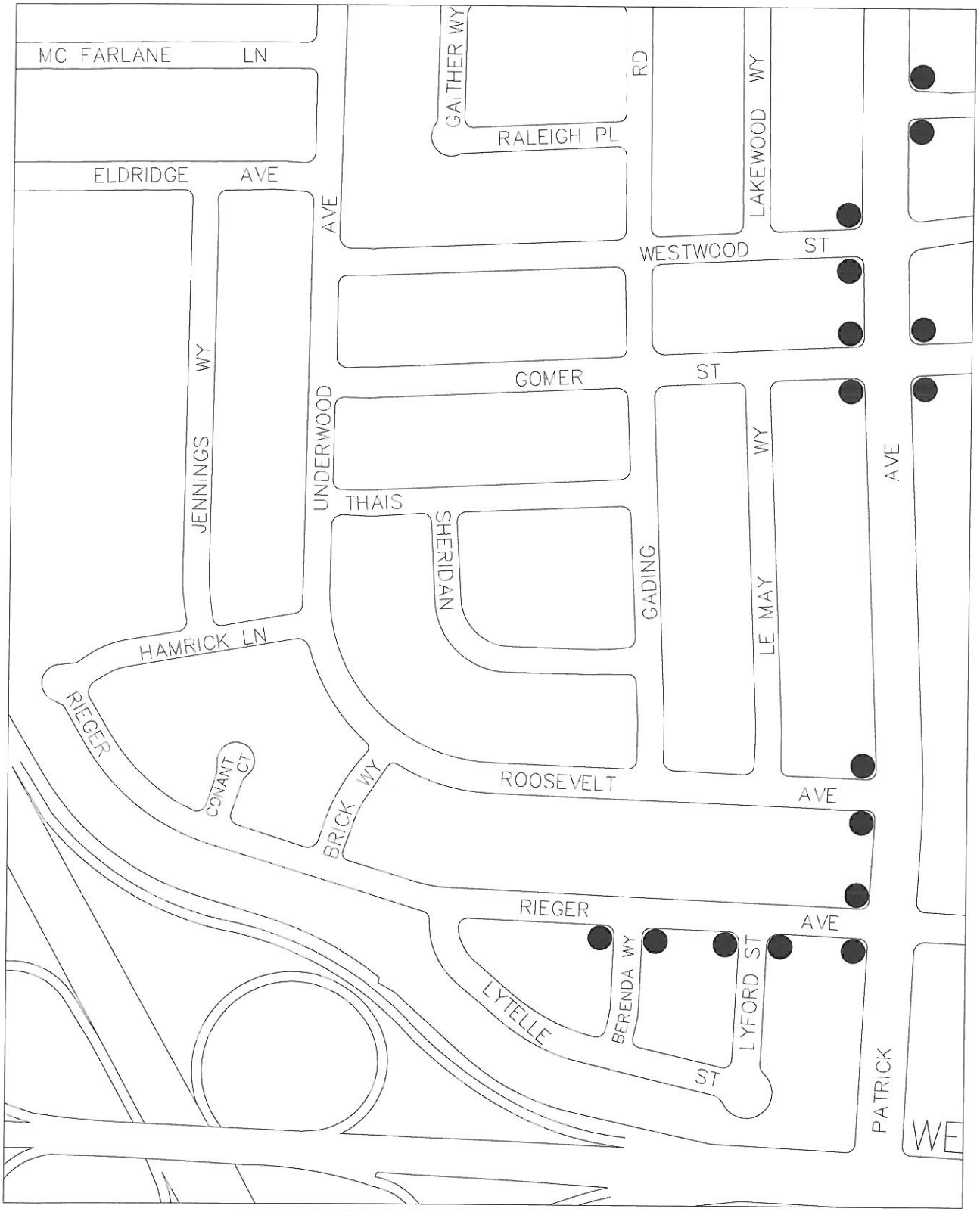
ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

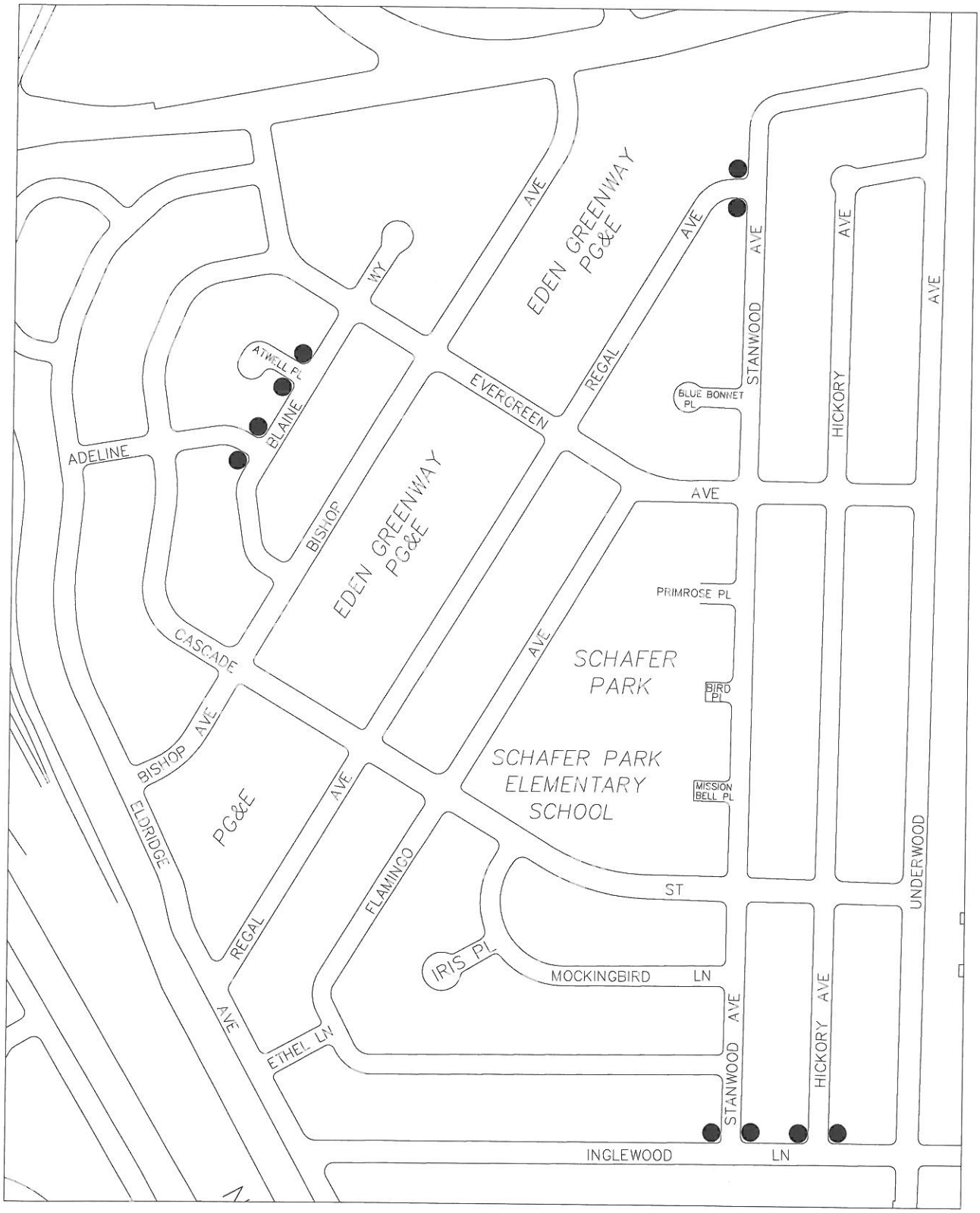
_____
City Attorney of the City of Hayward



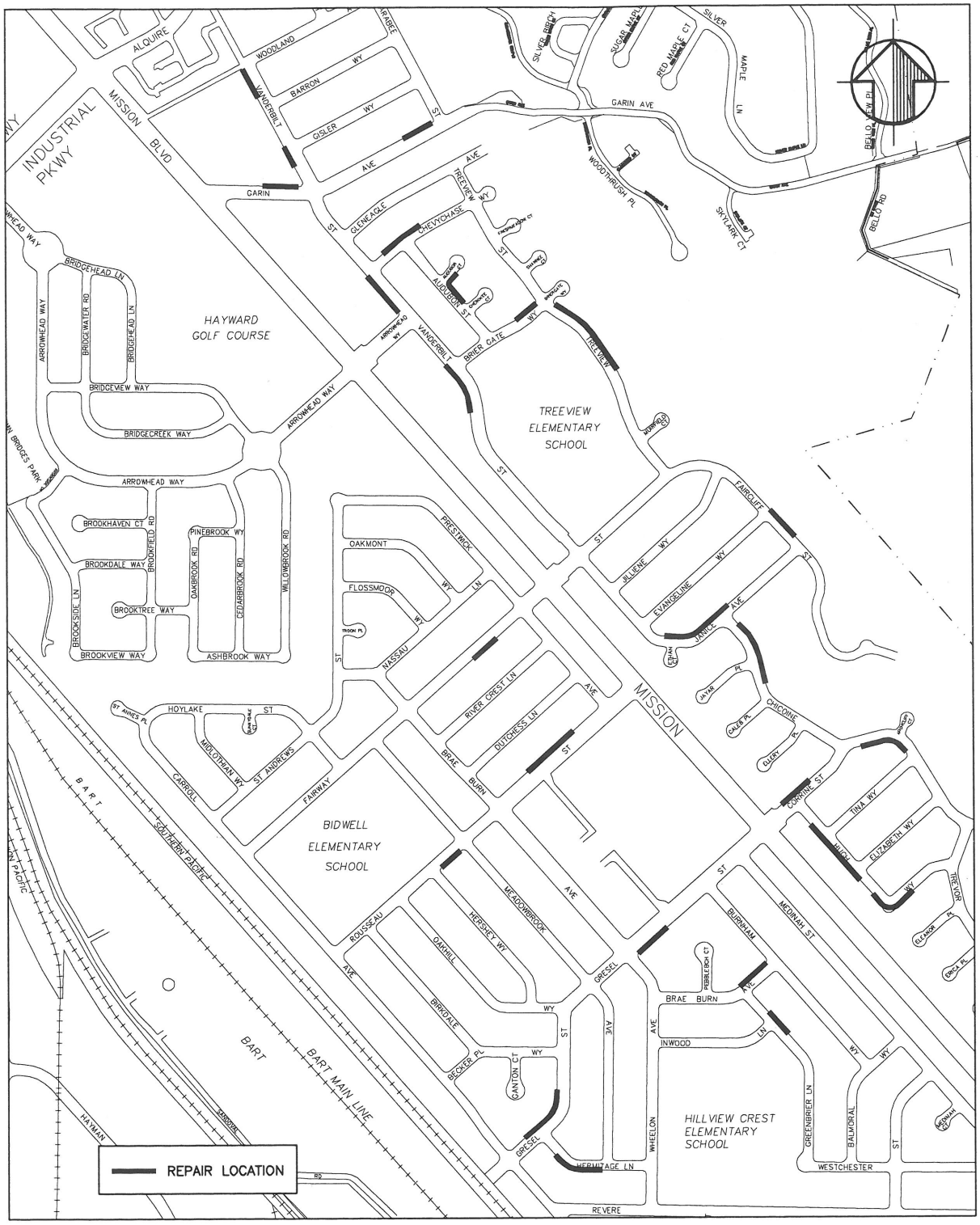
LOCATION MAP
SIDEWALK REHABILITATION FY13
DISTRICT NO. 4 - PROJECT NO. 5108



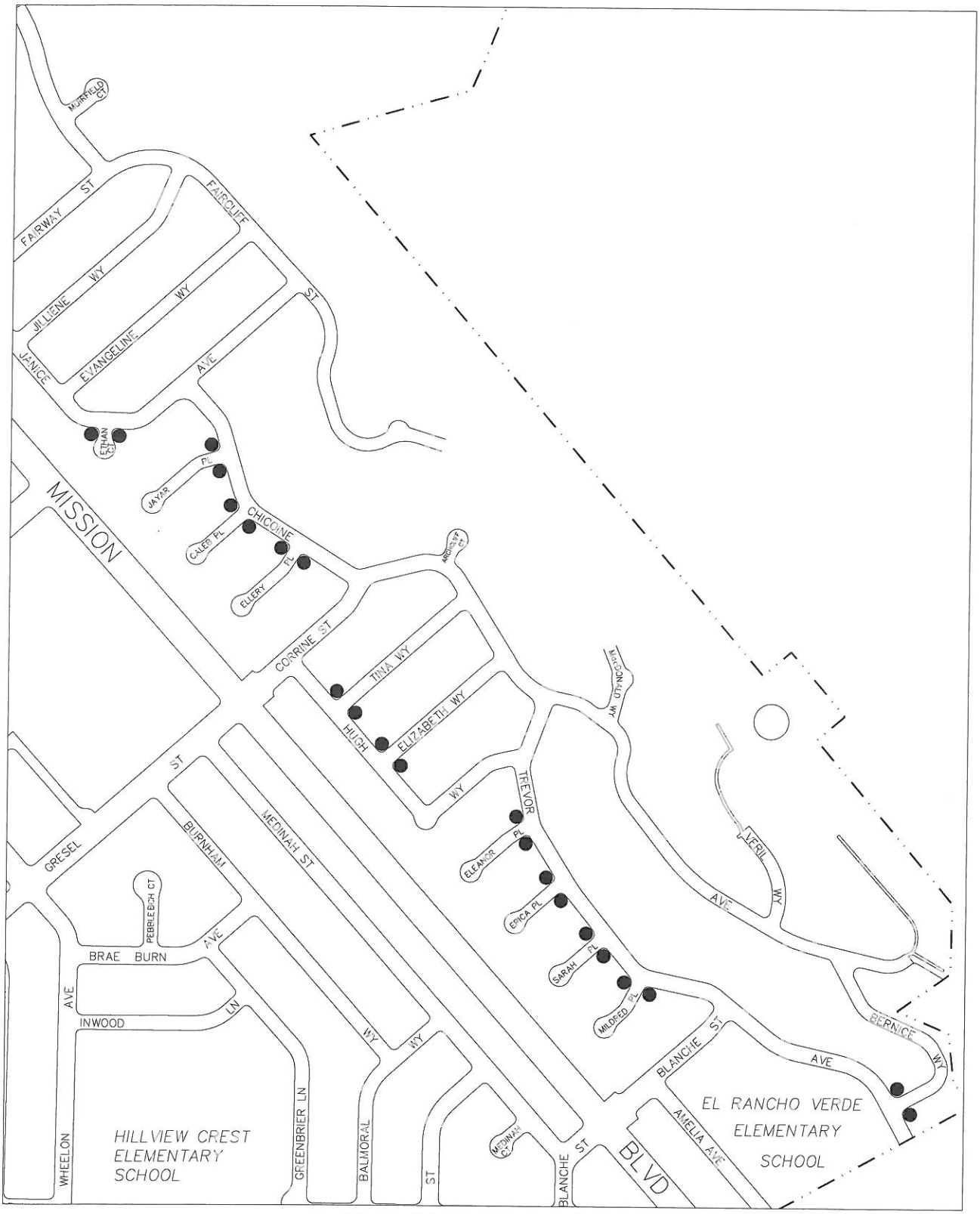
LOCATION MAP
WHEELCHAIR RAMPS FY13
DISTRICT NO.4 - PROJECT NO. 5104



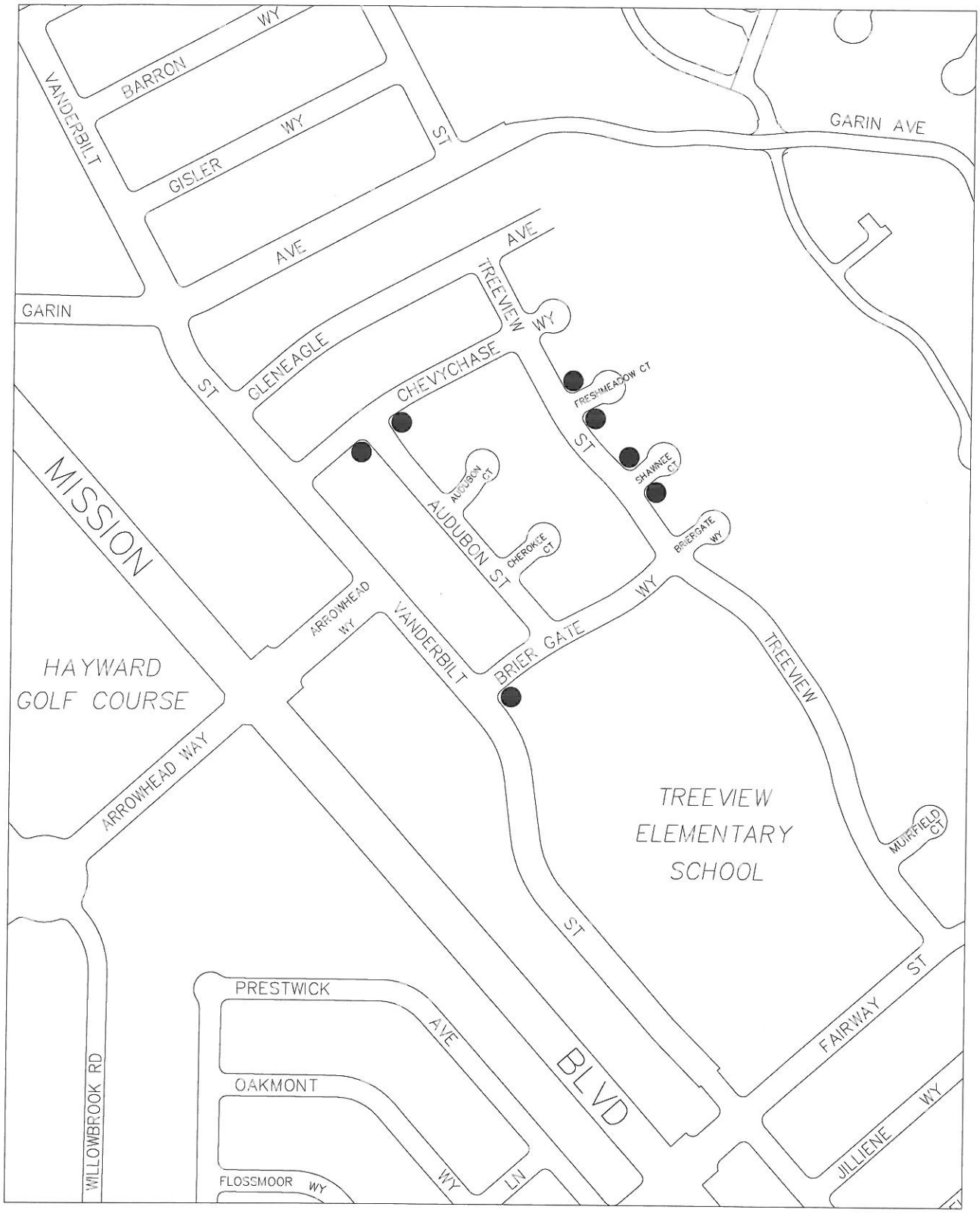
LOCATION MAP
WHEELCHAIR RAMPS FY13
DISTRICT NO.4 - PROJECT NO. 5104



LOCATION MAP
SIDEWALK REHABILITATION FY13
DISTRICT NO. 5 - PROJECT NO. 5108



LOCATION MAP
WHEELCHAIR RAMPS FY13
DISTRICT NO.5 - PROJECT NO. 5104



LOCATION MAP
WHEELCHAIR RAMPS FY13
DISTRICT NO.5 - PROJECT NO. 5104

CITY OF HAYWARD
CONSTRUCTION OF SIDEWALK REHABILITATION AND WHEELCHAIR RAMPS FY 2013
PROJECT NOS. 5108, 5104
BIDS OPENED: 5/14/13
(NUMBER OF BIDS RECEIVED - 5)

BID SUMMARY				ENGINEER'S ESTIMATE		AJW Construction 966 81st Ave Oakland, CA 94621 (510) 568-2300 (510) 639-1578 Fax		Rosas Brothers Construction 4731 Coliseum Way Oakland, CA 94601 (510) 534-1077 (510) 534-5077 Fax	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	19,567	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE SIDEWALK)	9.00	176,103.00	8.25	161,427.75	9.30	181,973.10
2	554	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE DRIVEWAY AND CONFORMS)	10.00	5,540.00	9.50	5,263.00	10.50	5,817.00
3	1,779	LF	MINOR CONCRETE (REMOVE AND REPLACE STANDARD CONCRETE CURB AND GUTTER)	36.00	64,044.00	40.00	71,160.00	36.00	64,044.00
4	5,352	SF	4-INCH DEEP AC CONFORM	6.00	32,112.00	6.00	32,112.00	7.00	37,464.00
5	1	EA	STUMP AND ROOT REMOVAL	350.00	350.00	350.00	350.00	350.00	350.00
6	2,602	SF	REMOVE PLAIN OR EXPOSED AGGREGATE CONCRETE & BRICK TILE	4.00	10,408.00	3.50	9,107.00	3.50	9,107.00
7	336	SF	SALVAGE AND SPREAD DECORATIVE STONES	4.00	1,344.00	3.50	1,176.00	4.00	1,344.00
8	93	EA	24-INCH BOX SIZE TREE	400.00	37,200.00	430.00	39,990.00	410.00	38,130.00
9	3,112	LF	ROOT BARRIER INSTALLATION	7.00	21,784.00	6.00	18,672.00	8.00	24,896.00
10	3,101	SF	TURF (SOD)	5.00	15,505.00	3.00	9,303.00	2.25	6,977.25
11	5	CY	IN-PLACE COMPACTED TOPSOIL	50.00	250.00	50.00	250.00	100.00	500.00
12	5	EA	TREE REMOVAL	1,000.00	5,000.00	850.00	4,250.00	850.00	4,250.00
13	1	EA	EXTRAORDINARY ROOT REMOVAL	300.00	300.00	250.00	250.00	350.00	350.00
14	224	EA	ROOT PRUNE EXISTING TREE	160.00	35,840.00	140.00	31,360.00	140.00	31,360.00
15	232	EA	TREE TRIMMING	350.00	81,200.00	285.00	66,120.00	275.00	63,800.00
16	411	LF	IRRIGATION PIPE AND SPRINKLER HEADS	5.00	2,055.00	4.00	1,644.00	4.00	1,644.00
17	8,590	SF	CONCRETE CURB RAMP WITH TRUNCATED DOME	13.00	111,670.00	10.25	88,047.50	13.00	111,670.00
18	168	SF	GRIND AC PAVEMENT	10.00	1,680.00	10.00	1,680.00	12.00	2,016.00
19	224	EA	ARBORIST (SUPERVISION EACH LOCATION)	140.00	31,360.00	40.00	8,960.00	60.00	13,440.00
20	1	LS	RECYCLING IMPLEMENTATION	255.00	255.00	100.00	100.00	100.00	100.00
21	1	LS	ADMINISTRATIVE CHANGE ORDERS	35,000.00	35,000.00	35,000.00	35,000.00	35,000.00	35,000.00
			TOTAL		**669,000.00**		**586,222.25**	*	**634,232.35**

* Total Bid Correction

CITY OF HAYWARD
CONSTRUCTION OF SIDEWALK REHABILITATION AND WHEELCHAIR RAMPS FY 2013
PROJECT NOS. 5108, 5104
BIDS OPENED: 5/14/13
(NUMBER OF BIDS RECEIVED - 5)

BID SUMMARY				ENGINEER'S ESTIMATE		JJR Construction, Inc. 1120 Ninth Avenue San Mateo, CA 94402 (650) 343-6109 (650) 343-6207 Fax		FBD Vanguard Construction, Inc. 651 Enterprise Court Livermore, CA 94550 (925) 245-1300 (925) 245-1007 Fax	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	19,567	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE SIDEWALK)	9.00	176,103.00	9.00	176,103.00	12.70	248,500.90
2	554	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE DRIVEWAY AND CONFORMS)	10.00	5,540.00	14.75	8,171.50	19.15	10,609.10
3	1,779	LF	MINOR CONCRETE (REMOVE AND REPLACE STANDARD CONCRETE CURB AND GUTTER)	36.00	64,044.00	34.30	61,019.70	63.90	113,678.10
4	5,352	SF	4-INCH DEEP AC CONFORM	6.00	32,112.00	9.00	48,168.00	10.15	54,322.80
5	1	EA	STUMP AND ROOT REMOVAL	350.00	350.00	385.00	385.00	345.00	345.00
6	2,602	SF	REMOVE PLAIN OR EXPOSED AGGREGATE CONCRETE & BRICK TILE	4.00	10,408.00	3.00	7,806.00	5.10	13,270.20
7	336	SF	SALVAGE AND SPREAD DECORATIVE STONES	4.00	1,344.00	3.00	1,008.00	2.15	722.40
8	93	EA	24-INCH BOX SIZE TREE	400.00	37,200.00	400.00	37,200.00	431.00	40,083.00
9	3,112	LF	ROOT BARRIER INSTALLATION	7.00	21,784.00	6.45	20,072.40	12.10	37,655.20
10	3,101	SF	TURF (SOD)	5.00	15,505.00	3.00	9,303.00	2.00	6,202.00
11	5	CY	IN-PLACE COMPACTED TOPSOIL	50.00	250.00	150.00	750.00	231.00	1,155.00
12	5	EA	TREE REMOVAL	1,000.00	5,000.00	1,200.00	6,000.00	806.00	4,030.00
13	1	EA	EXTRAORDINARY ROOT REMOVAL	300.00	300.00	440.00	440.00	690.00	690.00
14	224	EA	ROOT PRUNE EXISTING TREE	160.00	35,840.00	125.00	28,000.00	144.00	32,256.00
15	232	EA	TREE TRIMMING	350.00	81,200.00	270.00	62,640.00	288.00	66,816.00
16	411	LF	IRRIGATION PIPE AND SPRINKLER HEADS	5.00	2,055.00	12.00	4,932.00	5.80	2,383.80
17	8,590	SF	CONCRETE CURB RAMP WITH TRUNCATED DOME	13.00	111,670.00	14.50	124,555.00	19.15	164,498.50
18	168	SF	GRIND AC PAVEMENT	10.00	1,680.00	25.00	4,200.00	23.00	3,864.00
19	224	EA	ARBORIST (SUPERVISION EACH LOCATION)	140.00	31,360.00	135.00	30,240.00	87.00	19,488.00
20	1	LS	RECYCLING IMPLEMENTATION	255.00	255.00	500.40	500.40	1,165.00	1,165.00
21	1	LS	ADMINISTRATIVE CHANGE ORDERS	35,000.00	35,000.00	35,000.00	35,000.00	35,000.00	35,000.00
			TOTAL		**669,000.00**		**666,494.00**		**856,735.00**

CITY OF HAYWARD
CONSTRUCTION OF SIDEWALK REHABILITATION AND WHEELCHAIR RAMPS FY 2013
PROJECT NOS. 5108, 5104
BIDS OPENED: 5/14/13
(NUMBER OF BIDS RECEIVED - 5)

BID SUMMARY				ENGINEER'S ESTIMATE		**Nor-Cal Concrete** Pennsylvania & Cordelia Rd Suisun City, CA 94585 (707) 425-6144 (707) 425-5453 Fax	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	19,567	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE SIDEWALK)	9.00	176,103.00	7.40	144,795.80
2	554	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE DRIVEWAY AND CONFORMS)	10.00	5,540.00	8.80	4,875.20
3	1,779	LF	MINOR CONCRETE (REMOVE AND REPLACE STANDARD CONCRETE CURB AND GUTTER)	36.00	64,044.00	39.00	69,381.00
4	5,352	SF	4-INCH DEEP AC CONFORM	6.00	32,112.00	16.00	85,632.00
5	1	EA	STUMP AND ROOT REMOVAL	350.00	350.00	650.00	650.00
6	2,602	SF	REMOVE PLAIN OR EXPOSED AGGREGATE CONCRETE & BRICK TILE	4.00	10,408.00	3.00	7,806.00
7	336	SF	SALVAGE AND SPREAD DECORATIVE STONES	4.00	1,344.00	3.50	1,176.00
8	93	EA	24-INCH BOX SIZE TREE	400.00	37,200.00	900.00	83,700.00
9	3,112	LF	ROOT BARRIER INSTALLATION	7.00	21,784.00	37.00	115,144.00
10	3,101	SF	TURF (SOD)	5.00	15,505.00	7.00	21,707.00
11	5	CY	IN-PLACE COMPACTED TOPSOIL	50.00	250.00	100.00	500.00
12	5	EA	TREE REMOVAL	1,000.00	5,000.00	1,600.00	8,000.00
13	1	EA	EXTRAORDINARY ROOT REMOVAL	300.00	300.00	1,000.00	1,000.00
14	224	EA	ROOT PRUNE EXISTING TREE	160.00	35,840.00	250.00	56,000.00
15	232	EA	TREE TRIMMING	350.00	81,200.00	275.00	63,800.00
16	411	LF	IRRIGATION PIPE AND SPRINKLER HEADS	5.00	2,055.00	45.00	18,495.00
17	8,590	SF	CONCRETE CURB RAMP WITH TRUNCATED DOME	13.00	111,670.00	15.50	133,145.00
18	168	SF	GRIND AC PAVEMENT	10.00	1,680.00	4.00	672.00
19	224	EA	ARBORIST (SUPERVISION EACH LOCATION)	140.00	31,360.00	80.00	17,920.00
20	1	LS	RECYCLING IMPLEMENTATION	255.00	255.00	5,000.00	5,000.00
21	1	LS	ADMINISTRATIVE CHANGE ORDERS	35,000.00	35,000.00	35,000.00	35,000.00
			TOTAL		**669,000.00**		**874,399.00**

CITY OF
HAYWARD
HEART OF THE BAY

____5____

DATE: June 4, 2013

TO: Mayor and City Council

FROM: Director of Public Works - Utilities & Environmental Services

SUBJECT: Annual Sewer Line Replacement FY13 Project: Award of Contract

RECOMMENDATION

That Council adopts the attached resolution:

1. Approving Addendum No. 1, providing minor revisions to the Plans and Specifications;
2. Awarding the contract to Casey Construction, Inc. in the amount of $459,640; and
3. Appropriating an additional $60,000 to the project budget from the Sewer Collection System Replacement Capital Improvement Fund in order to complete this project.

BACKGROUND

On April 23, 2013, Council approved the plans and specifications for the Annual Sewer Line Replacement FY13 Project and called for bids to be received on May 21, 2013. This project consists of replacing approximately 3,000 feet of existing damaged or undersize sewer pipe with new PVC (Polyvinyl Chloride) pipe using an open-trench method. Open trench repair involves excavating a trench of approximately two to four feet in width and to the depth of the damaged pipe. Once the sewer main is exposed, the broken section is removed and replaced with new PVC pipe. When the repair is complete, the opened trench is backfilled, compacted, and paved matching the original pavement section. Also as part of this project, several manholes that are in poor condition will be rehabilitated. The completed repair will improve the hydraulic capacity and reliability of the sewer system.

DISCUSSION

On May 21, 2013, the City received six bids. Casey Construction, Inc., submitted the low bid in the amount of $459,640, which is approximately 16% below the Engineer's Estimate of $550,000. California Trenchless, Inc., submitted the second lowest bid in the amount of $472,130. The bids ranged from $459,640 to $634,065.

All bid documents and licenses are in order. Staff recommends award of contract to the low bidder, Casey Construction, Inc., in the amount of $459,640.

FISCAL AND ECONOMIC IMPACT

The estimated project costs are as follows:

Design and Construction Administration – By City Staff	30,000
Construction Contract	459,640
Inspection and Testing	50,000
Total	$539,640

The FY 2013 Capital Improvement Program includes $800,000 for the Annual Sewer Line Replacement FY13 Project in the Sewer Collection System Replacement Capital Improvement Fund. Approximately $320,000 has been used to date for work and equipment related to other sewer repair projects. Some of these projects included: root foaming to remove tree roots from sewer lines; constructing a gravel road to provide maintenance crew access to sewer manholes in easement area at Canyon View Park; emergency repair of broken sewer mains; and replacing sewer lift pumps at the Tennyson Road undercrossing. Staff requests an additional appropriation of $60,000 from the Sewer Collection System Replacement Capital Improvement Fund to complete this project as proposed. Sufficient funds are available in the Fund to cover this appropriation.

PUBLIC CONTACT

During construction, notices will be provided to affected residents, and property and business owners, to inform them of the nature and purpose of the work, potential impacts, work schedule, and City contact for additional information.

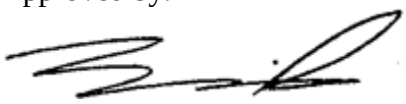
SCHEDULE

Award Contract	June 4, 2013
Begin Work	July, 2013
Complete Work	September, 2013

Prepared by: Thomas Lam, Associate Civil Engineer

Recommended by: Alex Ameri, Director of Public Works – Utilities & Environmental Services

Approved by:



Fran David, City Manager

Attachments:

Attachment I - Resolution - Award
Attachment II - Resolution - Appropriation
Attachment III - Bid Summary

HAYWARD CITY COUNCIL

RESOLUTION NO. 13-____

Introduced by Council Member _____

RESOLUTION AWARDING THE CONTRACT FOR ANNUAL SEWER LINE REPLACEMENT FY13 PROJECT, PROJECT NO. 7543 TO CASEY CONSTRUCTION, INC.

WHEREAS, by resolution on April 23, 2013, the City Council approved the plans and specifications for the Annual Sewer Line Replacement FY13 Project, Project No. 7543, and called for bids to be received on May 21, 2013; and

WHEREAS, Addendum No. 1 was issued to provide minor revisions to the plans and specifications; and

WHEREAS, on May 21, 2013, 6 bids were received ranging from $459,640 to $634,065; Casey Construction, Inc., of Emerald Hills submitted the low bid in the amount of $459,640, which is16 percent below the Engineer's Estimate of $550,000;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Addendum No. 1 is hereby approved and adopted as part of the plans and specifications for the project.

BE IT FURTHER RESOLVED that Casey Construction, Inc., is hereby awarded the contract for the Annual Sewer Line Replacement FY13 Project, Project No. 7543, in accordance with the plans and specifications adopted therefore and on file in the office of the City Clerk of the City of Hayward, at and for the price named and stated in the final proposal of the hereinabove specified bidder, and all other bids are hereby rejected.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute an agreement with Casey Construction, Inc., in the name of and for and on behalf of the City of Hayward, in an amount not to exceed $459,640, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2013

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

HAYWARD CITY COUNCIL

RESOLUTION NO. 13-____

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 12-121, BUDGET RESOLUTION FOR CAPITAL IMPROVEMENT PROJECTS FOR FISCAL YEAR 2013, FOR AN APPROPRIATION OF FUNDS FROM THE SEWER COLLECTION SYSTEM REPLACEMENT CAPITAL IMPROVEMENT FUND (FUND 614) TO ANNUAL SEWER LINE REPLACEMENT FY13 PROJECT, PROJECT NO. 7543

BE IT RESOLVED by the City Council of the City of Hayward that Resolution No. 12-121, Budget Resolution for Capital Projects for Fiscal Year 2013, is hereby amended by approving an additional appropriation of $60,000 from the Sewer Collection System Replacement Capital Improvement Fund (Fund 614) to the Annual Sewer Line Replacement FY13 Project, Project No. 7543.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2013

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward

CITY OF HAYWARD
CONSTRUCTION OF ANNUAL SEWER LINE REPLACEMENT FY13
PROJECT NO. 614-7543
BIDS OPENED: MAY 21, 2013
(NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY					ENGINEER'S ESTIMATE		Casey Construction, Inc. 620 Handley Trail Emerald Hills, CA 94062 (650) 369-1876 (650) 366-8578		California Trenchless, Inc 11875 Dublin Blvd Suite C240 Dublin, CA 94568 (925) 361-7046 (925) 266-1543	
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	10-1.07	1	LS	MOBILIZATION	20,000.00	20,000.00	32,020.00	32,020.00	7,500.00	7,500.00
2	10-1.38	380	FT	REPLACE EXISTING SEWER PIPE WITH 12" PVC ON GOLF COURSE EASEMENT	185.00	70,300.00	130.00	49,400.00	150.00	57,000.00
3	10-1.38	15	FT	REPLACE EXISTING SEWER PIPE WITH 10" PVC ON TORRANO AVE	185.00	2,775.00	700.00	10,500.00	250.00	3,750.00
4	10-1.38	152	FT	REPLACE EXISTING SEWER PIPE WITH 8" PVC ON MOHR DR	185.00	28,120.00	240.00	36,480.00	200.00	30,400.00
5	10-1.38	765	FT	REPLACE EXISTING SEWER PIPE WITH 8" PVC ON MISSION BLVD.	185.00	141,525.00	164.00	125,460.00	200.00	153,000.00
6	10-1.38	490	FT	REPLACE EXISTING SEWER PIPE WITH 8" PVC ON SUNSET BLVD.	185.00	90,650.00	128.00	62,720.00	140.00	68,600.00
7	10-1.38	192	FT	REPLACE EXISTING SEWER PIPE WITH 8" PVC ON SAN LUIS OBISPO AVE.	240.00	46,080.00	150.00	28,800.00	140.00	26,880.00
8	10-1.36	920	FT	INSTALL CIPP LINER	68.00	62,560.00	33.00	30,360.00	55.00	50,600.00
9	10-1.44	3	EA	REPAIR MANHOLE	2,000.00	6,000.00	3,400.00	10,200.00	1,800.00	5,400.00
10	10-1.43	1	EA	ADJUST MANHOLE FRAME AND COVER TO GRADE	1,000.00	1,000.00	500.00	500.00	1,200.00	1,200.00
11	10-1.45	1	EA	CONSTRUCT NEW MANHOLE	5,000.00	5,000.00	4,000.00	4,000.00	2,800.00	2,800.00
12	10-1.41	24	EA	RECONNECT EXISTING SEWER LATERALS	500.00	12,000.00	300.00	7,200.00	200.00	4,800.00
13	10-1.20	1	LS	RECYCLING IMPLEMENTATION	4,000.00	4,000.00	2,000.00	2,000.00	1,000.00	1,000.00
14	10-1.54	1	LS	ADMINISTRATIVE CHANGE ORDERS	60,000.00	60,000.00	60,000.00	60,000.00	60,000.00	60,000.00
				TOTAL		**550,010.00**		**459,640.00**		**472,930.00**

CITY OF HAYWARD
CONSTRUCTION OF ANNUAL SEWER LINE REPLACEMENT FY13
PROJECT NO. 614-7543
BIDS OPENED: MAY 21, 2013
(NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY					ENGINEER'S ESTIMATE		EPS Inc dba Express Plumbing 307 N Amphlett Blvd San Mateo, CA 94401 (650) 343-9477 (650) 343-8250		Ghilotti Construction Company 246 Ghilotti Avenue Santa Rosa, CA 95407 (707) 585-1211 (707) 585-1601	
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	10-1.07	1	LS	MOBILIZATION	20,000.00	20,000.00	10,000.00	10,000.00	50,000.00	50,000.00
2	10-1.38	380	FT	REPLACE EXISTING SEWER PIPE WITH 12" PVC ON GOLF COURSE EASEMENT	185.00	70,300.00	160.00	60,800.00	173.00	65,740.00
3	10-1.38	15	FT	REPLACE EXISTING SEWER PIPE WITH 10" PVC ON TORRANO AVE	185.00	2,775.00	360.00	5,400.00	1,300.00	19,500.00
4	10-1.38	152	FT	REPLACE EXISTING SEWER PIPE WITH 8" PVC ON MOHR DR	185.00	28,120.00	148.00	22,496.00	248.00	37,696.00
5	10-1.38	765	FT	REPLACE EXISTING SEWER PIPE WITH 8" PVC ON MISSION BLVD.	185.00	141,525.00	148.00	113,220.00	160.00	122,400.00
6	10-1.38	490	FT	REPLACE EXISTING SEWER PIPE WITH 8" PVC ON SUNSET BLVD.	185.00	90,650.00	138.00	67,620.00	143.00	70,070.00
7	10-1.38	192	FT	REPLACE EXISTING SEWER PIPE WITH 8" PVC ON SAN LUIS OBISPO AVE.	240.00	46,080.00	148.00	28,416.00	207.00	39,744.00
8	10-1.36	920	FT	INSTALL CIPP LINER	68.00	62,560.00	135.00	124,200.00	30.00	27,600.00
9	10-1.44	3	EA	REPAIR MANHOLE	2,000.00	6,000.00	810.00	2,430.00	3,725.00	11,175.00
10	10-1.43	1	EA	ADJUST MANHOLE FRAME AND COVER TO GRADE	1,000.00	1,000.00	675.00	675.00	600.00	600.00
11	10-1.45	1	EA	CONSTRUCT NEW MANHOLE	5,000.00	5,000.00	7,800.00	7,800.00	4,200.00	4,200.00
12	10-1.41	24	EA	RECONNECT EXISTING SEWER LATERALS	500.00	12,000.00	375.00	9,000.00	1,220.00	29,280.00
13	10-1.20	1	LS	RECYCLING IMPLEMENTATION	4,000.00	4,000.00	500.00	500.00	3,500.00	3,500.00
14	10-1.54	1	LS	ADMINISTRATIVE CHANGE ORDERS	60,000.00	60,000.00	60,000.00	60,000.00	60,000.00	60,000.00
				TOTAL		**550,010.00**		**512,557.00**		**541,505.00**

CITY OF HAYWARD
CONSTRUCTION OF ANNUAL SEWER LINE REPLACEMENT FY13
PROJECT NO. 614-7543
BIDS OPENED: MAY 21, 2013
(NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY					ENGINEER'S ESTIMATE		MDF PIPELINE 7172 REGIONAL ST. #307 DUBLIN, CA 94568 (925) 462-1440 (925) 462-1480		Stolski & Gonzalez 727 Main Street Half Moon Bay, CA 94019 (650) 726-7119 (650) 726-9055	
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	10-1.07	1	LS	MOBILIZATION	20,000.00	20,000.00	17,100.00	17,100.00	42,000.00	42,000.00
2	10-1.38	380	FT	REPLACE EXISTING SEWER PIPE WITH 12" PVC ON GOLF COURSE EASEMENT	185.00	70,300.00	248.00	94,240.00	205.00	77,900.00
3	10-1.38	15	FT	REPLACE EXISTING SEWER PIPE WITH 10" PVC ON TORRANO AVE	185.00	2,775.00	1,100.00	16,500.00	1,600.00	24,000.00
4	10-1.38	152	FT	REPLACE EXISTING SEWER PIPE WITH 8" PVC ON MOHR DR	185.00	28,120.00	290.00	44,080.00	230.00	34,960.00
5	10-1.38	765	FT	REPLACE EXISTING SEWER PIPE WITH 8" PVC ON MISSION BLVD.	185.00	141,525.00	220.00	168,300.00	225.00	172,125.00
6	10-1.38	490	FT	REPLACE EXISTING SEWER PIPE WITH 8" PVC ON SUNSET BLVD.	185.00	90,650.00	175.00	85,750.00	210.00	102,900.00
7	10-1.38	192	FT	REPLACE EXISTING SEWER PIPE WITH 8" PVC ON SAN LUIS OBISPO AVE.	240.00	46,080.00	228.00	43,776.00	210.00	40,320.00
8	10-1.36	920	FT	INSTALL CIPP LINER	68.00	62,560.00	48.00	44,160.00	43.00	39,560.00
9	10-1.44	3	EA	REPAIR MANHOLE	2,000.00	6,000.00	4,000.00	12,000.00	4,400.00	13,200.00
10	10-1.43	1	EA	ADJUST MANHOLE FRAME AND COVER TO GRADE	1,000.00	1,000.00	1,000.00	1,000.00	900.00	900.00
11	10-1.45	1	EA	CONSTRUCT NEW MANHOLE	5,000.00	5,000.00	2,900.00	2,900.00	8,500.00	8,500.00
12	10-1.41	24	EA	RECONNECT EXISTING SEWER LATERALS	500.00	12,000.00	165.00	3,960.00	550.00	13,200.00
13	10-1.20	1	LS	RECYCLING IMPLEMENTATION	4,000.00	4,000.00	100.00	100.00	4,500.00	4,500.00
14	10-1.54	1	LS	ADMINISTRATIVE CHANGE ORDERS	60,000.00	60,000.00	60,000.00	60,000.00	60,000.00	60,000.00
				TOTAL		**550,010.00**		**593,866.00**		**634,065.00**

CITY OF HAYWARD
HEART OF THE BAY

DATE: June 4, 2013

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: **Zone Change Application No. PL-2010-0380 and Vesting Tentative Tract Map Application No. PL-2010-0381 – Gordon Wong (Applicant); Yue T. Hing, Ltd. (Owner) –** Request for Zone Change from Single Family Residential (with B6 Combining District) to Planned Development, and Vesting Tentative Tract Map to create eight (8) residential condominiums with a single remaining parcel owned in common on a vacant site located at 26736 Hayward Boulevard

RECOMMENDATION

That the City Council

1. Approves the attached resolution (Attachment I):
    a. Adopting the Mitigated Negative Declaration (MND) (Attachment IV) and the Mitigation Monitoring and Reporting Program (Attachment V); and
    b. Approving the Vesting Tentative Tract Map Application for the proposed eight (8) residential condominiums, subject to the recommended conditions of approval (Attachment III); and
2. Introduces the attached ordinance (Attachment II) related to the zone change to a Planned Development District.

SUMMARY

This application concerns a request for a Zone Change and Vesting Tentative Tract Map to permit the construction of eight residential condominiums at 26736 Hayward Boulevard. In staff's view, the proposal creatively integrates a diversity of ownership housing choices (i.e., one, two and three bedroom units) on a steep and narrow hillside lot that is near shopping, parks, and public transit, at a density that is consistent with the General Plan Land Use designation for the site. The project also incorporates private and group open spaces that meet City standards and will serve future homeowners, as well as "green" building features, including rooftop solar photovoltaic panels.

BACKGROUND

Local Setting & Context - The Project is located within the Hayward Highlands neighborhood, in proximity to California State University, East Bay (see Figure 1 below). This suburban hillside location consists largely of residential subdivisions constructed after World War II. Incremental development has continued in subsequent years on a patchwork of vacant parcels (like the Project site). Hayward Boulevard is the primary arterial providing access to and from the neighborhood (via

Carlos Bee Boulevard from Mission Boulevard).

The Project site is surrounded on three sides by urbanized properties consisting of residential land uses. Most properties near the Project site include single-family and multi-family homes one to three stories in height with adjacent surface parking lots and landscaped planter areas. However, the University Plaza retail center, located immediately south of the Project site, provides retail shopping and personal services for the neighborhood. College Heights Park, a neighborhood park, is within walking distance (i.e., ¼-mile) of the Project site. AC Transit Route 94 occurs on Hayward Boulevard, with inbound and outbound access within 150 feet of the Project site.

Figure 1 - Local Setting

Existing Project Site Setting: The Project site consists of a single undeveloped, rectangular-shaped property 32,268 square feet in area. The Project site slopes upward from Hayward Boulevard; rising from 570 feet above mean sea level (AMSL) to 614 feet AMSL. Hayward Boulevard also slopes downward in a north to south direction. Thirteen trees of varying sizes and species are dispersed across the Project site. A single curb-cut and asphalt driveway abuts Hayward Boulevard.

May 9, 2013 Planning Commission Hearing: The Planning Commission considered this proposal at the May 9, 2013 meeting. As reflected in the attached meeting minutes (Attachment VII), the Commission voted 5:1:1 to recommend that the City Council approve the project.
Overall, the majority of the Commission was very supportive of the proposed project recognizing the efforts of the applicant to incorporate a thoughtful, well integrated design on the challenging

site, the provision of both private and group open space areas, incorporation of sustainable design features, and enhancing the neighborhood with the introduction of contemporary architecture. However, the Commissioners did express concern regarding safe egress from the site due to existing high speed northbound traffic on Hayward Boulevard and with the removal of all thirteen trees from the site.

A neighboring property owner who lives uphill from the project site spoke on the project, expressing concerns with the tree removal, slope stability and potential impact to the existing sewer system. The project architect, Gordon Wong, explained that the retaining walls have been sized and designed by the project engineer to maintain slope stability. He also explained that the project will tie in and gravity feed downhill to the City's existing sewer main in Hayward Boulevard and that the proposed landscape plan will comply with the landscape replacement provisions in the City's Tree Preservation Ordinance.

DISCUSSION

Project Description

Site Plan, Floor Plans & Open Space - The Project would result in the construction of eight residential condominiums arranged in three "clusters" on the site. The proposed site plan is depicted below as Figure 2 (Proposed Site Plan – Sheet 1) and Figure 3 (Proposed Site Plan – Sheet 2). See Attachment VIII for the Project plans.

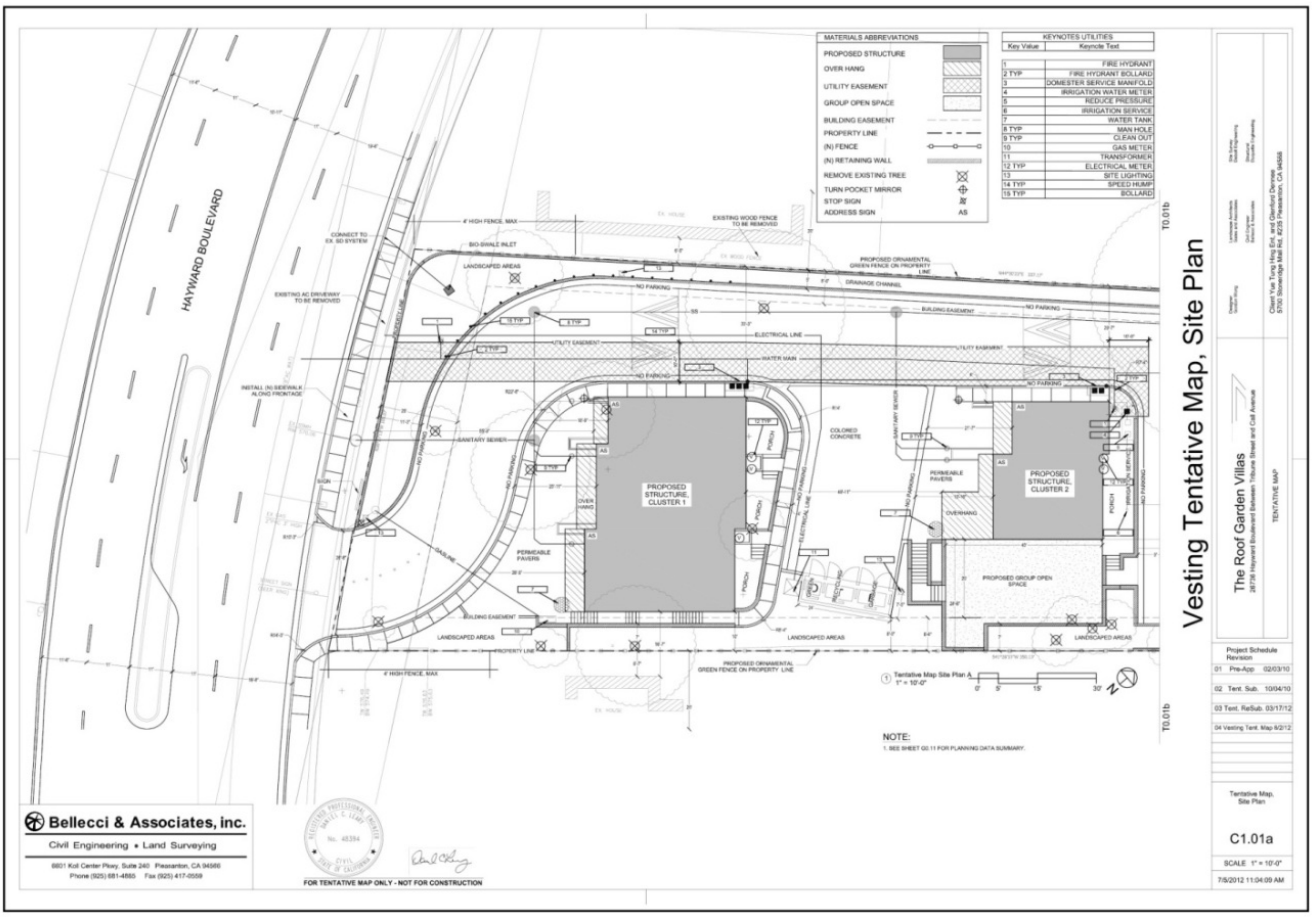


Figure 2 - Proposed Site Plan – Sheet 1

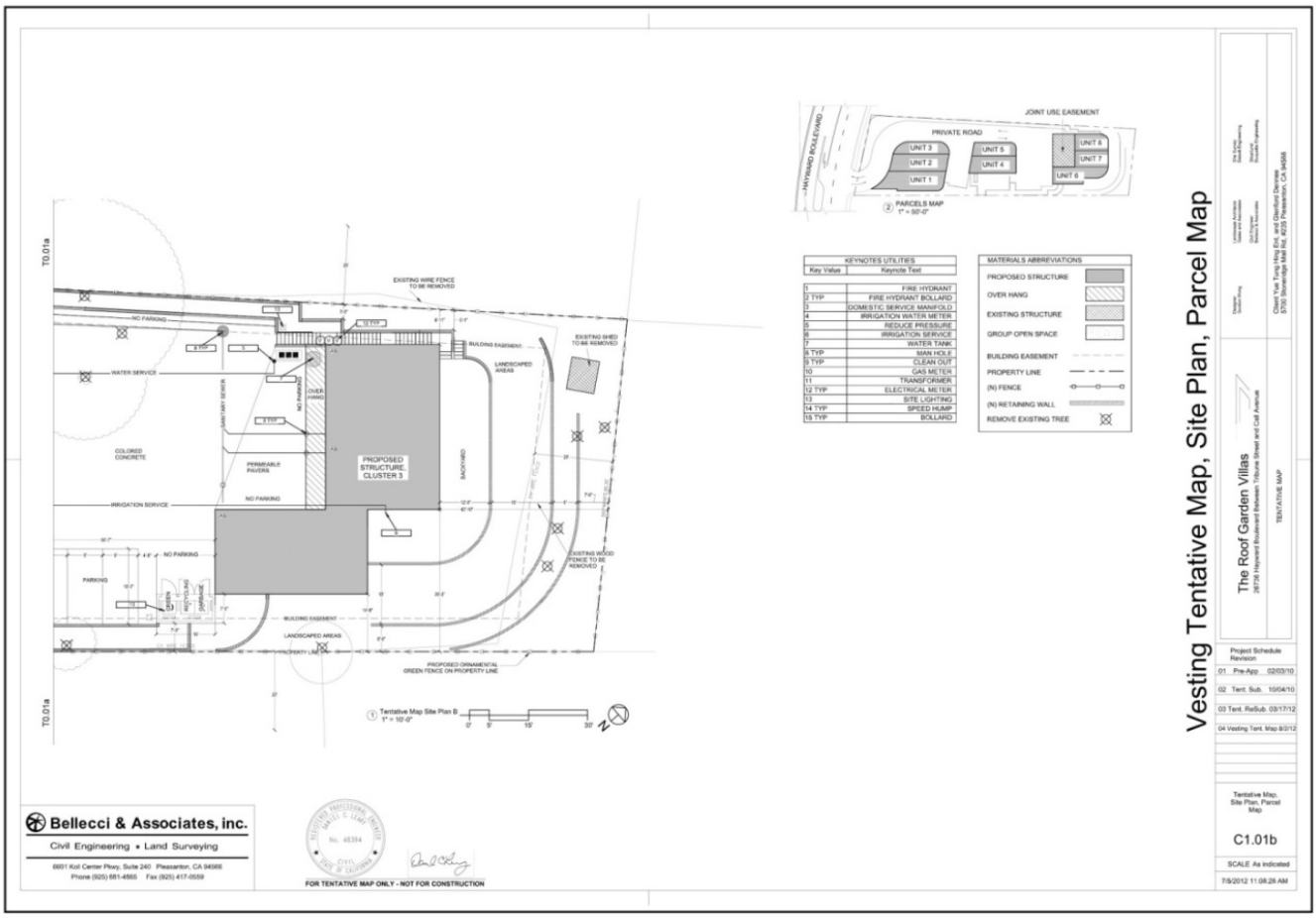


Figure 3 - Proposed Site Plan – Sheet 2

The City's Zoning Regulations require that each unit has a minimum of 350 square feet of open space per unit and 100 square feet of common open space per unit. Each condominium includes an accessible rooftop garden, ranging from 429 to 887 square feet in size, which exceeds the City's minimum open space standards. An eight-hundred square-foot common open space is provided at building "Cluster Two," which, based on a total of eight units, complies with the City's common open space requirements. The shared open space is located in a central location within the development which will allow convenient access for all residents. The basic attributes of each condominium are summarized in Table 1 (Summary of Each Residential Condominium) below.

TABLE 1 – SUMMARY OF EACH RESIDENTIAL CONDOMINIUM					
Unit #	Bedrooms	Bathrooms	Floor Area (sq.ft.)	Stories	Parking
Cluster One					
1	2	3	1,768	2	2
2	2	3	1,709	2	2
3	1	1	909	2	1
Cluster Two					
4	2	3	1,528	2	2
5	1	1	890	2	1
Cluster Three					
6	3	3	2,300	3	2
7	2	3	1,577	3	2
8	3	4	2,590	3	2

Landscaping - The existing site contains thirteen trees, eleven of which qualify as "protected trees" under the City's Tree Preservation Ordinance (Section 10, Article 15 of the Municipal Code). In order to develop the site, all thirteen trees are proposed to be removed. As part of the project submittal, the applicant was required to submit an arborist report to evaluate the condition of the existing trees on site. The Arborist Report (Attachment X), prepared by Hort Science and dated August 2010, surveyed all thirteen trees on site, in addition to two trees on adjacent properties where portions of their crowns extended onto the project site. All trees were surveyed to determine their suitability for preservation, based on the health of the tree, structural longevity, species response to construction impacts and changes in the environment, tree age, and species invasiveness. Of the thirteen trees surveyed, all were recommended for removal due to impacts from site grading. In addition, six of the trees were determined to be in poor condition, six in moderate condition and one in good condition. All of the trees were determined to be of poor suitability for preservation.

The City's Tree Preservation Ordinance allows the removal of protected trees, provided that all trees are replaced with a like size, like-kind tree of equal values, as determined by the City's Landscape Architect. The existing trees are valued at $26,550; therefore the applicant will be required to replace the trees with new trees of equal value. To mitigate the removal of the trees, the applicant will be required to comply with the City's Tree Ordinance (see mitigation measure MMRP Bio-3 in Attachment V). Condition of Approval #13 in Attachment III also requires the applicant to submit a detailed landscaping and irrigation plan, prepared by a licensed landscape architect, to be reviewed and approved by the City Landscape Architect prior to the approval of the tract improvement plans.

Proposed landscaping is primarily limited to the street frontage and southern property line, in large part, due to the narrowness of the site. A stormwater detention area would be located behind a two-foot tall monument sign at the street frontage which identifies the development (i.e., "Roof Garden Villas").

Grading[1] – The Project includes cut and fill grading to provide vehicular access and three building pads. An estimated 7,885 cubic yards of soil would be exported. Areas of proposed building pads include cut slopes to tier each building pad upslope. The back fill of cut slopes would be supported by a number of retaining walls of varying heights not exceeding six (6) feet. Retaining wall materials would consist of either steel soldier beam with wood lag or reinforced concrete. Finish slopes would have a maximum gradient of 2:1 (except for a very limited area of 3:1 near Unit 6).

Building Elevations[2] – The Project is designed in a contemporary style. Prominent architectural treatments include arced steel trellises projecting at each façade as well as light wells projecting through each rooftop. Primary materials include the use of rectangular planks of hardie board siding, concrete, stainless steel trim and cedar plank garage doors.

Access - On-site vehicular and pedestrian access would be provided by a drive aisle bordering the northern property line. Two (2) on-site guest parking spaces are provided. Curbside parking would be prohibited on-site in order to maintain adequate circulation. The Project includes a proposed two-way curb-cut at the southern corner of the site. Under existing conditions, a median in Hayward Boulevard (intended to prevent northbound egress from University Plaza) would prevent southbound ingress to and southbound egress from the site. In order to provide southbound ingress to the Project site, the Public Works Department supports the Project's modification of the existing median to create a left-hand turn pocket. Southbound egress from the Project site, however, would continue to be obstructed.

Zone Change to Planned Development District - In order to allow the development of the condominium project, a zone change is required to change the current zoning from Single-Family Residential (RSB6) to Planned Development (PD). The zone change to PD would allow for condominiums, which are not listed as allowed in the Single-Family Residential (RS) zone. The RS zone allows for detached single-family units. The proposed project would allow for a clustered development that would be more harmonious than single-family detached units with the topography of the site, preserving more of the natural landscape and providing opportunity for more open space. Lastly, the PD would also allow for reduction of the southwest side yard setback from ten feet to eight feet six inches, which is needed to work the development in with the topography of the site and to provide the required road widths. The Project site's General Plan designation is Medium Density – Residential. The General Plan describes the Medium Density – Residential designation, as follows:

> *Typical density is between 8.7-17.4 dwelling units per net acre. Minimum lot area per dwelling unit is 2,500 square feet. Typical development may be single-family detached, mixed with duplexes, triplexes, and fourplexes; or townhouses and 2-3 story garden apartments. Planned Developments may include a variety of housing types within the overall density range.*

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1 See Attachment C (Plan Sheets G0.06, G0.07 and C1.02).
2 See Attachment C (Plan Sheets G0.09, A2.01 through A3.13).

The General Plan's Zoning Consistency Matrix indicates that the PD Zone is "Potentially Consistent" with the General Plan Land Use Map designation of Medium Density – Residential. For "Potentially Consistent" zoning districts, the General Plan states that determinations of consistency, "must consider compatibility with other uses and overall densities in the area, as well as the particular need to be served."

The proposed zone change and Vesting Tentative Tract Map will allow the subdivision of the property to accommodate the eight proposed residential condominiums. The project site is approximately 0.74 acres and the resulting density is 10.8 dwelling units per acre, consistent with the Medium Density General Plan designation for the property, which allows up to 17.4 dwelling units per acre. The project site is located within an existing commercial and residential neighborhood that includes a mix single-family and multi-family development, as well as commercial development and a state university.

Based on the City's Off-Street Parking Regulations, a total of sixteen parking spaces are required, with a minimum of one covered space per unit and ten percent of the required spaces designated for guest parking. The project proposes sixteen parking spaces; thirteen of which are in enclosed garages and three uncovered spaces (two guest spaces and one assigned space), which complies with the Zoning Ordinance requirements.

Community Facilities District - As a standard condition of approval, the City requires developers to pay the cost of providing public safety services to the proposed project through the formation of, or annexation to, a Community Facilities District (CFD), should the project generate the need for additional public safety services. This will require the project developer to post an initial deposit of $20,000 with the City prior to or concurrently with the submittal of the final subdivision map and improvement plans, to offset the City's cost of analyzing the project's need for additional public safety services. If the analysis determines that the project creates a need for additional public safety services warranting the formation of, or annexation to, a Community Facilities District, the project developer shall be required to pay all costs of formation of, or annexation to, the district, which costs may be paid either from the developer's deposit to the extent that funds remain after payment of the City's costs of analysis as described above and/or through payment of additional funds.

Findings for the Zone Change/Preliminary Development Plan - In order for a Planned Development District to be approved, the City Council must make six findings, per Section 10-1.2535 of the Zoning Ordinance. The following text conveys staff's analysis of the Project under those findings, which are incorporated into Attachment I:

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

Policies applicable to the Project are located in the Hayward General Plan, Design Review Guidelines, Hillside Design Guidelines, and Hayward Highlands Neighborhood Plan. As demonstrated by the analysis in Attachment IX, the Project is in substantial harmony with the surrounding area and conforms to applicable policies.

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

The Project abuts an existing public street and adequate utility capacity (i.e., water, sewer, stormwater) is available to serve the proposed development.

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

The Project would add ownership housing in the Hayward Highlands Neighborhood, which is a desirable area due to its hillside location, convenient access to educational institutions, open space and parks, and shopping. A Mitigated Negative Declaration prepared for the Project demonstrates that no substantial adverse effects would, after implementation of mitigation measures included therein, occur to surrounding development.

(4) In the case of nonresidential uses, that such development will be in conformity with applicable performance standards, will be appropriate in size, location, and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding development.

The Project does not include nonresidential uses. This criterion is not applicable.

(5) In the case of a development in increments, each increment provides a sufficient proportion of total planned common open space, facilities, and services so that it may be self-contained in the event of default or failure to complete the total development according to schedule.

The Project would be developed in a single increment. This criterion is not applicable.

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

The Project is requesting a zone change from single family residential (RS) to planned development (PD) to allow for the construction of a clustered condominium development on the site. The clustering of the units will allow more open space than would otherwise be provided with the development of detached single family homes and will allow more landscaping and usable open space for residents on the site. The proposed zone change is consistent with the medium density residential General Plan Land Use designation for the site and the proposed project is consistent with the development standards for medium density residential. The project is providing more open space than is required as each unit has an average of 740 square feet of open space where 350 square feet is required. In addition, the project has minimized lot coverage as the development maintains a16 percent

lot coverage where up to forty percent lot coverage would be permitted under the existing zoning regulations.

Vesting Tentative Tract Map 8086

The Project includes a proposed vesting tentative tract map to create a residential condominium subdivision including eight units and one parcel held in common ownership for access, parking, open space and utilities. No land is proposed or necessary for public dedication. All public utilities necessary to serve the subdivision are located adjacent to the Project site (i.e., Hayward Boulevard) and would be extended to each building through a utility easement. All on-site utilities would be privately owned and maintained by a Homeowners' Association.

If the vesting tentative map is approved, a final map will be processed and recorded, allowing each unit to be sold separately. A vesting tentative map provides, for a period of three years after the date of approval or conditional approval of the vesting tentative map, the right to proceed with the proposed development in substantial compliance with the ordinances, policies, and standards in effect on the date on which the vesting tentative map application was deemed complete (i.e., October 2, 2012).

Findings for the Vesting Tentative Tract Map - In order for a vesting tentative map to be approved, the City Council must make seven findings. The following text conveys staff's analysis of the Project under those findings, which are incorporated into Attachment I:

(1) That the proposed map is consistent with applicable general and specific plans as specified in Section 65451. [Subdivision Map Act §66474(a)]

The proposed subdivision is, as demonstrated by the analysis above, consistent with the Hayward General Plan. No Specific Plan applies to the Project.

(2) That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans. [Subdivision Map Act §66474(b)]

The proposed subdivision, as demonstrated by the analysis above, is of a design consistent with the Hayward General Plan.

(3) That the site is physically suitable for the type of development. [Subdivision Map Act §66474(c)]

The "Geotechnical Investigation – Garden Condominiums (Report – Project No. 10109.001)" by Peters & Ross (dated April 2010) demonstrates that the proposed subdivision would occur on a site suitable for the proposed development.

(4) That the site is physically suitable for the proposed density of development. [Subdivision Map Act §66474(d)]

The "Geotechnical Investigation – Garden Condominiums (Report – Project No. 10109.001)" by Peters & Ross (dated April 2010) demonstrates that the proposed

subdivision would occur on a site suitable for the proposed development. Density is not a factor that makes the site suitable or less suitable for development.

The Mitigated Negative Declaration prepared for the Project determined that the project would not result in significant impacts to traffic since it would not generate sufficient traffic to cause nearby intersections to operate at an unacceptable level of service, nor would it create any issues with safe ingress and egress from the site.

(5) That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. [Subdivision Map Act §66474(e)]

The Mitigated Negative Declaration prepared for the Project demonstrates that substantial adverse environmental damage, including to fish or wildlife and their habitat, would not result from the proposed subdivision.

(6) That the design of the subdivision or type of improvements is not likely to cause serious public health problems. [Subdivision Map Act §66474(f)]

Adequate capacity exists to provide sanitary sewer service to the Project site. There are no other aspects of the Project with the potential to cause serious public health problems.

(7) That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. [Subdivision Map Act §66474(g)]

There are no existing public easements within the boundary of the proposed subdivision nor are any easements necessary.

ENVIRONMENTAL REVIEW

Staff prepared an Initial Study/Mitigated Negative Declaration (IS/MND) (Attachment IV) which identifies potentially significant impacts under the environmental topics of: Aesthetics, Air Quality, Biological Resources, Cultural Resources, and Noise. However, the IS/MND identifies mitigation measures, agreed to by the Project sponsor, that would reduce those impacts to a *less than significant level*. The IS/MND was made available for public review from April 10, 2013 through April 29, 2013. No comments were received on the IS/MND as of the writing of this report. The Mitigation Monitoring and Reporting Program that identifies responsibility for mitigation implementation and oversight is included as Attachment V.

Subsequent to the circulation of the Initial Study/Mitigated Negative Declaration for public comment, minor revisions were made to correct inconsistencies within the document. However, since “substantial revisions” were not made to the document, in accordance with Section15073.5 of the CEQA Guidelines, recirculation of the document is not required. The revisions are shown as red-line/strike-through edits in Attachment IV.

ECONOMIC IMPACT

The project would contribute to the neighborhood by allowing for development of eight two- and three story condominium units at a density and massing that would be similar to homes in the surrounding area. Such development would contribute to the character of the neighborhood by providing additional housing types, increasing property values, and creating construction jobs within the City. The proximity of the homes across Hayward Boulevard from the neighborhood retail center will undoubtedly contribute some additional sales, though limited, at that center.

FISCAL IMPACT

Construction of eight residential condominium units would increase the property values above and beyond that associated with the current use as a vacant site and, in turn, generate property taxes that the City would receive. Annual property taxes are paid at a rate of one percent of the annual assessed value of the property, of which the City receives approximately fifteen percent of the property taxes paid.

Roughly calculated, and assuming the homes would sell at a price between $115,700 and $336,700 per unit (as the project proponent preliminarily indicates), the proposed residential development is predicted to result in annual estimated revenues to the City's General Fund of $3,927, including $1,164 from real property transfer tax.

Not included in this figure are potential revenues associated with a Community Facilities District (CFD), related primarily to public services costs. The applicant is required by the project conditions of approval to provide $20,000 towards the costs associated with analysis and formation of a Community Facilities District (CFD). If formed, the CFD would generate revenue to pay for any additional public safety services needed as a result of the project.

In terms of costs associated with public services, particularly public safety services, the total estimated approximate annual General Fund expenditure for the new population created by the development would be $16,044. Therefore, the roughly estimated annual fiscal impact to the City's General Fund (without accounting for potential CFD revenues) would be a negative $12,117.

Additionally, the applicant is required to pay $77,224 in park in-lieu fees ($9,653 per unit) and School Impact fees of $2.97 per square foot prior to issuance of Certificates of Occupancy.

PUBLIC OUTREACH

After the application was first received, notice was sent to all property owners within a 300-foot radius of the Project site. A preliminary meeting occurred on November 4, 2010 at City Hall to discuss the Project. At that time, the Project consisted of a substantially different design and also included ten proposed residential condominiums. One email was submitted at that time by a neighbor indicating opposition to the Project. The neighbor expressed concerns about the density of the project and the potential traffic issues that may result due to the increase in density, stating that the existing traffic conditions along Hayward Boulevard were already hazardous due to excessive speed. In addition to the elimination of two units, in order to address vehicular ingress/egress into

the site, the current proposal includes a modification of the existing median on Hayward Boulevard to create a left-hand turn pocket to provide southbound ingress into the development. Southbound egress from the Project site, however, would continue to be obstructed.

A notice of the Planning Commission Public Hearing was sent to all property owners within a 300-foot radius of the Project site for the currently proposed Project. One comment letter was received from the same neighboring property owner that submitted comments in 2010, reiterating their opposition to the project due to increased density on the site and the potential traffic impacts.

On May 24, 2013, a Notice of this City Council Public Hearing was sent to every property owner and occupant within 300 feet of the subject site. Also, a Notice of this hearing was published in *The Daily Review* newspaper. At the time of completion of this report, the Planning Division had not received any correspondence related to such notice.

SCHEDULE

Assuming the City Council approves the project, the applicant will need to submit a Precise Development Plan and Improvement Plans for review and approval by various City departments. Once the City approves the Precise Development Plan and Improvement Plans, the applicant will work with City staff to obtain City Council approval of a final map to ultimately allow for construction of the project.

Prepared by: Linda Ajello, AICP, Associate Planner

Recommended by: David Rizk, AICP, Development Services Director

Approved by:

Fran David, City Manager

Attachments:

Attachment I	Resolution
Attachment II	Ordinance
Attachment III	Recommended Conditions of Approval
Attachment IV	Initial Study and Mitigated Negative Declaration
Attachment V	Mitigation Monitoring and Reporting Program
Attachment VI	May 9, 2013 Planning Commission Staff Report Minus Attachments
Attachment VII	May 9, 2013 Draft Planning Commission Meeting Minutes (to be distributed prior to City Council Meeting)
Attachment VIII	Plans
Attachment IX	Policy Analysis
Attachment X	August 2010 Arborist Report by Hort Science

HAYWARD CITY COUNCIL

RESOLUTION NO. 13-

Introduced by Councilmember _____

RESOLUTION ADOPTING THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING VESTING TENTATIVE TRACT MAP APPLICATION PL-2010-0381 AND ZONE CHANGE APPLICATION PL-2010-0380 PERTAINING TO A PROPOSED EIGHT (8) UNIT RESIDENTIAL CONDOMINIUM DEVELOPMENT WITH A SINGLE REMAINING PARCEL OWNED IN COMMON ON A VACANT SITE LOCATED AT 26736 HAYWARD BOULEVARD

WHEREAS, on October 13, 2010, Gordon Wong (Applicant) and Yue T. Hing, Ltd. ("Owner') submitted Zone Change Application No. PL-2010-0380 and Vesting Tentative Tract Map Application No. PL-2010-0381, which concerns a request to a) change the zoning from Single Family Residential to Planned Development and b) to subdivide the property located at 26736 Hayward Boulevard to facilitate construction of an eight (8) unit residential condominium development with a single remaining parcel owned in common (the "Project'); and

WHEREAS, a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program has been prepared to assess and mitigate the potential environmental impacts of the Project; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on May 9, 2013, and has recommended that the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; approve PL-2010-0380ZC, reclassifying the property from Single Family Residential to Planned Development; and approve PL-2010-0381TTM, the vesting tentative map application for the eight-unit residential condominium development with a single remaining parcel owned in common; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on June 4, 2013.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Pursuant to CEQA Guidelines Section 15220, an Initial Study ("IS") was prepared for

this Project with the finding that a Mitigated Negative Declaration ("MND") was appropriate because all potentially significant impacts could be reduced to a level of insignificance.

2. That the proposed MND was prepared by the City of Hayward as the Lead Agency and was circulated with a twenty (20) day public review period, beginning on April 10, 2013 and ending on April 29, 2013.

3. Subsequent to the circulation of the Initial Study/Mitigated Negative Declaration for public comment, minor revisions were made to correct inconsistencies within the document. However, since "substantial revisions" were not made to the document, in accordance with Section15073.5 of the CEQA Guidelines, recirculation of the document is not required.

4. That the proposed MND was independently reviewed, considered and analyzed by the City Council and reflects the independent judgment of the City Council; that such independent judgment is based on substantial evidence in the record (even though there may be differences between or among the different sources of information and opinions offered in the documents, testimony, public comments and such responses that make up the proposed MND and the administrative record as a whole); that the City Council adopts the proposed MND and its findings and conclusions as its source of environmental information; and that the proposed MND is legally adequate and was completed in compliance with CEQA.

5. That the proposed MND identified all potential significant adverse impacts and feasible mitigation measures that would reduce these impacts to less-than-significant levels, and that all of the applicable mitigation measures identified in the MND and Mitigation Monitoring and Reporting Program will be adopted and implemented. Based on the MND and the whole record before the City Council, there is no substantial evidence that the Project will have a significant effect on the environment.

6. That the Project complies with CEQA, and that the proposed MND was presented to the City Council, which reviewed and considered the information contained therein prior approving the Project. The custodian of the record of proceedings upon which this decision is based is the Development Services Department of the City of Hayward, located at 777 B Street, Hayward, CA 94544.

7. The monitoring and reporting of CEQA mitigation measures in connection with the project will be conducted in accordance with the attached Mitigation Monitoring Program, which is adopted as conditions of approval for the project. Adoption of this program will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of CEQA. All proposed mitigation measures are capable of being fully implemented by the efforts of the project sponsor, City of Hayward or other identified public agencies of responsibility.

ZONE CHANGE

8. **The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies.**

   Policies applicable to the Project are located in the: Hayward General Plan, Design Review Guidelines, Hillside Design Guidelines, and Hayward Highland Neighborhood Plan. As demonstrated by the policy analysis attached to the staff report, the Project is in substantial harmony with the surrounding area and conforms to applicable policies.

9. **Streets and utilities, existing or proposed, are adequate to serve the development.**

   The Project abuts an existing public street and adequate utility capacity (i.e., water, sewer, stormwater) is available to serve the proposed development.

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

    The Project would add ownership housing in the Hayward Highlands Neighborhood, which is a desirable area due to its hillside location, convenient access to educational institutions, open space and parks, and shopping. A Mitigated Negative Declaration prepared for the Project demonstrates that no substantial adverse effects would, after implementation of mitigation measures included therein, occur to surrounding development.

11. **In the case of nonresidential uses, that such development will be in conformity with applicable performance standards, will be appropriate in size, location, and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding development.**

    The Project does not include nonresidential uses. This criterion is not applicable.

12. **In the case of a development in increments, each increment provides a sufficient proportion of total planned common open space, facilities, and services so that it may be self-contained in the event of default or failure to complete the total development according to schedule.**

    The Project would be developed in a single increment. This criterion is not applicable.

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

The application includes a request for a zone change from single family residential (RS) to planned development (PD) to allow for the construction of a clustered condominium development on the site. The clustering of the units will allow more open space than would otherwise be provided with the development of detached single family homes and will allow more landscaping and usable open space for residents on the site. The proposed zone change is consistent with the medium density residential General Plan Land Use designation for the site and the proposed Project is consistent with the development standard for medium density residential. The Project is providing more open space than is required as each unit has an average of 740 square feet of open space where 350 square feet is required. In addition, the Project has minimized lot coverage as the development maintains a16-percent lot coverage where up to 40-percent lot coverage would be permitted under the existing zoning regulations.

VESTING TENTATIVE TRACT MAP

14. **That the proposed map is consistent with applicable general and specific plans as specified in Section 65451. [Subdivision Map Act §66474(a)]**

    The proposed subdivision is, as demonstrated by the analysis above, consistent with the Hayward General Plan. No Specific Plan applies to the Project.

15. **That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans. [Subdivision Map Act §66474(b)]**

    The proposed subdivision, as demonstrated by the analysis above, is of a design consistent with the Hayward General Plan.

16. **That the site is physically suitable for the type of development. [Subdivision Map Act §66474(c)]**

    The "Geotechnical Investigation – Garden Condominiums (Report – Project No. 10109.001)" by Peters & Ross (dated April 2010) demonstrates that the proposed subdivision would occur on a site suitable for the proposed development.

17. **That the site is physically suitable for the proposed density of development. [Subdivision Map Act §66474(d)]**

    The "Geotechnical Investigation – Garden Condominiums (Report – Project No. 10109.001)" by Peters & Ross (dated April 2010) demonstrates that the proposed subdivision would occur on a site suitable for the proposed development. Density is not a factor that makes the site suitable or less suitable for development.
    The Mitigated Negative Declaration prepared for the Project determined that the Project would not result in significant impacts to traffic since it would not generate sufficient traffic to cause nearby intersections to operate at an unacceptable level of service, nor would it create any issues with safe ingress and egress from the site.

18. **That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. [Subdivision Map Act §66474(e)]**

    The Mitigated Negative Declaration prepared for the Project demonstrates that substantial adverse environmental damage, including to fish or wildlife and their habitat, would not result from the proposed subdivision.

19. **That the design of the subdivision or type of improvements is not likely to cause serious public health problems. [Subdivision Map Act §66474(f)]**

    Adequate capacity exists to provide sanitary sewer service to the Project site. There are no other aspects of the Project with the potential to cause serious public health problems.

20. **That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. [Subdivision Map Act §66474(g)]**

    There are no existing public easements within the boundary of the proposed subdivision. Nor are any easements necessary.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approves Zone Change Application No. PL-2010-0380 and Vesting Tentative Tract Map Application PL-2010-0381, subject to the attached conditions of approval and the adoption of the companion ordinance.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2013

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____

City Attorney of the City of Hayward

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1
OF THE HAYWARD MUNICIPAL CODE BY REZONING
CERTAIN PROPERTY IN CONNECTION WITH ZONE
CHANGE APPLICATION NO. PL-2010-0380 RELATING TO
THE ROOFTOP GARDEN VILLAS RESIDENTIAL DEVELOPMENT

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

Section 1. Rezoning.

Article 1 of Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the property located at 26736 Hayward Boulevard (APN 081D-1640-016-00) from Single Family Residential to Planned Development District.

Section 2. Severance.

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

Section 3. Effective Date.

This ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held on the 4th day of June, 2013, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the 18th day of June, 2013, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEM BERS:

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

CONDITIONS OF APPROVAL

Zone Change Application No. PL-2010-0380 and Tentative Tract Map Application No. PL-2010-0381

Gordon Wong (Subdivider)

GENERAL

1. In accordance with Zoning Ordinance §10-1.2500 (Planned Development District), this approval is for the Preliminary Development Plan, subject to all conditions listed below, included herein as:

    a. Exhibit "A – Tentative Map Package," prepared by Gordon Wong, dated August 11, 2012, Sheets G0.00 to G0.09, C1.02, C3.01, C3.02, L1.00, S1.00, A2.01 to A2.04, A3.01 to A3.13, and labeled Zone Change Application No. PL-2010-0380 and Tentative Tract Map Application No. PL-2010-0381.

    b. Exhibit "B – Zone Change Package," prepared by Gordon Wong, dated August 11, 2012, Sheets G0.10, G0.11, C1.01a, C1.01b, C1.02, C3.01, S1.00, L1.00, G0.07 to G0.09, A1.01, A2.11 to A2.15, and A3.01 to A3.03, and labeled Zone Change Application No. PL-2010-0380 and Tentative Tract Map Application No. PL-2010-0381

2. This approval is subject to the Mitigation Monitoring and Reporting Program included herein as Exhibit C.

3. This approval is subject to the time limits of Zoning Ordinance §10-1.2560.

4. The subdivider shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.

5. Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed, at no cost to the City of Hayward.

6. All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, and Standard Specifications and Details – unless indicated otherwise herein.

7. All construction shall meet the California Building Code (CBC) and all applicable City of Hayward Building Department Ordinances (Ordinance #02-13) and amendments.

8. Design and construction of all pertinent life safety and fire protection systems shall meet the California Fire Code and all applicable City of Hayward Fire Department Ordinances Ordinance #02-13) and amendments in use by the Hayward Fire Department.

9. A Registered Civil Engineer shall prepare all improvement plans, unless otherwise

indicated herein.

PRECISE DEVELOPMENT PLAN

Planning Division

10. In accordance with Zoning Ordinance §10-1.2550 and prior to submitting a building permit application, a Precise Development Plan shall be submitted for review and approval.

11. The Precise Development Plan shall be in substantial conformance with the approved Preliminary Development Plan and shall be submitted in conjunction with the subdivision improvement plans and proposed Final Tract Map.

12. The Precise Development Plan shall include the following information and/or details:

    a) A copy of these conditions of approval shall be included on a full-sized sheet(s).

    b) Proposed location for construction staging, designated areas for construction employee parking (on- and off-site), construction office, sales office (if any), hours of construction.

    c) Proposed details for address numbers. Address number shall: (a) complement the building architecture; (b) be visible from Hayward Boulevard; (c) be a minimum 4-inch self-illuminated or 6-inch on contrasting background.

    d) Proposed locations, heights, materials and colors of all walls and fences.

    e) An exterior hose bib for each patio or porch area.

    f) Proposed pavement materials for all drive aisles, parking areas, and pedestrian paths. All surface should be enhanced by the use of decorative pavement materials such as colored, stamped concrete (bomanite or equal), brick, concrete interlocking pavers or other approved materials.

    g) Proposed mailbox design and locations, subject to Post Office approval.

    h) Prosed exterior lighting plan prepared by a qualified illumination engineer. All lighting fixtures should complement the building architecture and be shielded and deflected away from neighboring properties and windows of houses within the project.

    i) All air conditioners and utility connections for air conditioners shall be located such that all external equipment is located behind solid board fences or walls not to exceed the height of the air conditioner, unless otherwise approved. Infrastructure for air conditioning systems is required to be installed as a standard feature.

    j) All parking spaces and access thereto shall comply with the standards of the Zoning Ordinance.

k) Proposed color and materials board for all buildings, fences and walls. No changes to colors shall be made after construction unless approved by the Planning Director.

l) All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened with shrubs and/or an architectural screen.

m) No mechanical equipment, other than solar panels, shall be placed on the roof unless it is completely screened from view by the proposed roof structure. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by building code. Roof apparatus, such as vents, shall be painted to match the roof color.

n) If desired, a maximum of one identification sign per public road entrance shall be permitted. The signs shall conform to Section 10-7.403(b)(2) of the Sign Ordinance regulations. Sign design, colors, and materials shall reflect the architectural style of the project.

o) Window treatments shall be uniformly extended to all building elevations.

p) All rear and side entries shall be protected by roofs with rooflines to match the pitch of roof.

Landscape Division

13. Prior to the approval of the tract improvement plans, a detailed landscaping and irrigation plan for the site shall be prepared by a licensed landscape architect and wet-stamped and wet-signed plans shall be submitted for review and approval by the City's Landscape Architect. Planting and irrigation shall comply with the City's Hayward Environmentally Friendly Landscape Guidelines and Checklist for professional, Bay-Friendly Water Efficient Landscape Ordinance, and Municipal Codes.

14. After approval of the tract improvements plans, a Mylar of the approved landscape and irrigation improvement plans shall be submitted to the Engineering Department. The size of Mylar shall be 22" x 34" without an exception.

15. One twenty-four (24) inch box street tree shall be provided for each twenty (20) to forty (40) lineal feet in the front and side landscape setback areas or fraction thereof. All trees shall be planted a minimum of five (5) feet away from any underground utilities, a minimum of fifteen (15) feet from a light pole, and a minimum thirty (30) feet from the face of a traffic signal, or as otherwise specified by the city. Trees shall be planted according to the City Standard Detail SD-122 and the detail shall be included in the landscape plans.

16. Once installed, all landscaping shall be maintained in a healthy, weed-free condition at all times and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution. Landscaping should be inspected on a monthly basis. Any dead or

dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of written notice from the City of Hayward. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Municipal Code.

SUBDIVISION IMPROVEMENT PLANS

17. Prior to issuance of a building permit, the subdivider shall conduct a design level geotechnical evaluation and submit that for review and approval and any recommendations shall be incorporated into the final design of the project.

18. In conjunction with the Precise Development Plan, the subdivider shall also submit proposed subdivision improvement plans and a proposed Final Tract Map. Said plans and map shall meet all City standards and submittal requirements. The following information shall be submitted with or in conjunction with improvement plans and final map:

    a) A detailed drainage plan, to be approved by the ACFC&WCD and the City Engineer, designing all on-site drainage facilities to accommodate the runoff associated with a ten (10) year storm and incorporating onsite storm water detention measures sufficient to reduce the peak runoff to a level that will not cause capacity of downstream channels to be exceeded. Existing offsite drainage patterns, i.e., tributary areas, drainage amount and velocity shall not be altered by the development. The detailed drainage plan shall be approved by the ACFC&WCD prior to issuance of any construction or grading permit.

    b) A detailed Stormwater Treatment Plan, following City ordinances and conforming to Regional Water Quality Control Board's “Staff recommendation for new and redevelopment controls for storm water programs.”

Public Streets:

19. The design and location of street approaches including pedestrian ramps shall be approved by the City Engineer.

20. The subdivider shall remove and replace any damaged and/or broken sidewalk associated with the construction, as determined by the City Inspector.

21. The subdivider shall install an LED illuminated street light along Hayward Boulevard, of a design and location approved by the City Engineer.

22. A sidewalk with a minimum width of five (5) feet five (5) inches (with curb and gutter) shall be installed along the property frontage at Hayward Boulevard.

23. The existing raised median in Hayward Boulevard shall be reconstructed to accommodate a left-hand turn pocket providing access to the subdivision, as approved by the City Engineer.

Private Streets

24. Proposed private streets shall be owned-and-maintained by the homeowners association.

25. Proposed private street improvements shall be designed, generally reflective of the alignment and width shown on the Tentative Tract Map, and as approved by the City Engineer.

26. Proposed private street improvements shall be designed to public street standards. The private street shall be designed with a TI of six and minimum AC thickness of four inches. The private street approaches shall conform to the City Standard SD-110A and be enhanced with at least ten feet of raised decorative paving (e.g., interlocking pavers or stamped colored concrete, or bands of decorative paving, etc.). The Planning Director shall approve the material, color and design, and the City Engineer shall approve the pavement section for the decorative paving. Decorative pavements shall be capable of supporting a 75,000 lb. GVW load per Fire Department's requirement. Modifications to these requirements, however, may be made when documented by a geotechnical study providing alternative specifications which are necessary to construct and maintain the site in a safe and stable conditions.

27. Except for designated open parking spaces, no curbside parking shall be allowed. "No Parking Fire Lane" (T29) signs shall be installed and curbs shall be painted red in locations approved by the Fire Chief and City Engineer.

28. The interior intersections shall be designed to meet Fire Department access and turning movements. Pedestrian ramps shall be installed to facilitate access and circulation throughout the development.

Storm Drainage

29. The existing storm drain in Hayward Boulevard downstream of the subdivision shall be extended to provide connection to the project.

30. The on-site storm drain systems shall be privately owned-and-maintained by the homeowners association.

31. The storm drains in the street shall be located one (1) foot from the face of curb for pipes, twenty-four (24) inches in diameter and smaller, and two (2) feet from the face of curb for pipes twenty-seven (27) to forty-eight (48) inches in diameter. Alternative design may be approved by the City Engineer.

32. Storm drain pipes in the street shall be a minimum of twelve (12) inches in diameter with a minimum cover over the pipe of three (3) feet.

33. The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to determine storm drainage runoff. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be submitted, which shall meet the approval

of the Alameda County Flood Control and Water Conservation District staff and the City Engineer. Development of this site is not to augment runoff to the District's downstream flood control facilities. The hydrology calculations shall substantiate that there will be no net increases in the quantity of runoff from the site versus the flow rate derived from the original design of downstream facilities. If there is augmented project-generated runoff, off-site and/or on-site mitigation

34. The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the project hydrology design shall clearly indicate all areas tributary to the project area. The developer is required to mitigate unavoidable augmented runoffs with offsite and/or on-site improvements.

35. No surface runoff is allowed to flow over the sidewalks and/or driveways. Area drains shall be installed behind the sidewalks to collect all runoff from the project site.

36. All storm drain inlets must be labeled "No Dumping - Drains to Bay," using City-approved methods. Refer to City Standard SD-401A.

37. Proposed control flow storm drain manholes shall be designed with thirty-six (36) inch opening (i.e. ACPWA SD-401) for maintenance purposes. The proposed weir structures shall be carefully designed to ensure that stormwater runoff will be contained within the underground structures and will not spill out of the SDMH cover and/or nearby inlet structures.

Storm Water Quality Requirements

38. A Stormwater Treatment Measures Maintenance Agreement shall be submitted to Engineering and Transportation Division staff for review and approval. Once approved, the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.

39. A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted with a design to reduce discharge of pollutants and sediments into the downstream storm drain system. The plan shall meet the approval of the City Engineer.

40. Before commencing any grading or construction activities at the project site, the developer shall obtain a National Pollutant Discharge Elimination System (NPDES) permit and provide evidence of filing of a Notice of Intent (NOI) with the State Water Resources Control Board.

41. The project plans shall include the storm drain design in compliance with post-construction stormwater requirements to provide treatment of the stormwater according to the National Pollutant Discharge Elimination System (NPDES) permit's numeric criteria. The storm drain design shall comply with the C.3 established thresholds and shall incorporate measures to minimize pollutants to the maximum extent practicable (MEP).

42. The project plans shall identify Best Management Practices (BMPs) appropriate to the

uses conducted on-site to effectively prevent the entry of pollutants into storm water runoff. Roof leaders and direct runoff shall discharge into a landscaped area or a grassy swale prior to stormwater runoff entering an underground pipe system.

43. The proposed BMPs shall be designed to comply with the hydraulic sizing criteria listed in Provision C.3 of the Alameda County Clean Water Program (ACCWP) NPDES permit.

44. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution. Where feasible, as determined by the City Engineer and Landscape Architect, landscaping should be designed and operated to treat stormwater runoff. Landscaping shall also comply with the City's "water efficient landscape ordinance."

45. The subdivider is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.

Sanitary Sewer System

46. The subdivision shall connect to the city sanitary sewer system, subject to standard conditions and fees in effect at the time of application for service and payment. Sewer connection fees are due and payable prior to final inspection.

47. Sanitary sewer mains and appurtenances within the private streets shall be a public system owned-and-maintained by the City, and shall be designed and constructed in accordance with the City Standards and Specifications.

48. All public sewer mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Sewer Mains and Appurtenances (12-inch in diameter or less)," latest revision at the time of permit approval.

49. All on-site sanitary sewer mains shall be eight (8) inches in diameter and a manhole shall be installed at the change of flow direction, and at the beginning and the end of each sanitary sewer main.

50. The sanitary sewer mains shall be located a minimum of: (a) ten (10) feet horizontally from the water mains; and (b) four (4) feet horizontally and one (1) foot vertically from the main storm pipes.

51. Each residential unit shall have a separate sanitary sewer lateral connection to the public main. The sanitary sewer laterals shall have cleanouts and be constructed per City Standard Detail SD-312.

52. Any existing sanitary sewer laterals that are no longer in use shall be removed.

Water System

53. The subdivision shall connect to the city water service, subject to standard conditions and fees in effect at the time of application and payment.

54. The water mains in private streets shall be public, owned and maintained by the City. The water mains shall be a looped system and located five (5) feet from the face of curb.

55. All public water mains shall be constructed in accordance with the City's "Specifications for the Construction of Water Mains (12-inch in diameter or less) and Fire Hydrants," latest revision at the time of permit approval.

56. Each dwelling unit shall have its own domestic water meter.

57. Each structure shall have its own fire service, sized per the requirements of the Fire Department. Fire services shall have an above ground Double Check Valve Assembly, per City Standards SD-201 and SD-204.

58. Residential combined domestic and fire services are allowed, per City Standard SD-216. The minimum size for a residential fire service connection is one (1) inch in diameter.

59. Separate irrigation water meters shall be installed for landscaping purposes.

60. A Reduced Pressure Backflow Prevention Assembly shall be installed on each irrigation water meter, per City Standard SD-202.

61. All water meters shall be radio-read type.

62. Water meters shall be located a minimum of two (2) feet from top of driveway flare as per City Standard Details SD-213 thru SD-218.

63. Water mains and services, including the meters, must be located at least ten (10) feet horizontally from and (one) 1 foot vertically above any parallel pipeline conveying untreated sewage (including sanitary sewer laterals), and at least four (4) feet from and one (1) foot vertically above any parallel pipeline conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade piping materials, with the City's approval.

64. All water services from existing water mains shall be installed by City Water Distribution Personnel at the subdivider's expense. The developer may only construct new services in conjunction with the construction of new water mains.

65. Only Water Distribution Personnel shall perform operation of valves on the Hayward Water System.

66. All existing water services that are no longer in use shall be abandoned by City Water Distribution Personnel at the subdivider's expense.

Fire Protection

67. Design of the public streets and private streets and courts shall meet City of Hayward Fire Department Standards.

68. All streets shall be designed with an all-weather surface pavement.

69. All portion of the access drive aisle, exclusive of dedicated parking spaces, shall be dedicated fire lanes. Parking of vehicles shall only be allowed in designated parking stalls.

70. The minimum width of fire lane is twenty (20) feet. The minimum width of fire lane with fire hydrants is twenty-six (26) feet. An unobstructed vertical clearance of not less than thirteen (13) feet six (6) inches shall be maintained at all time.

71. Addressing of the buildings shall be in compliance with the Hayward Fire Department requirements.

72. Spacing and locations of fire hydrants shall be subject to review and approval by the Hayward Fire Department. The type of fire hydrant shall be a double steamer with one (1) 2-1/2" outlet and two (2) 4-1/2" outlets, capable of flowing 1,500 gallons per minute. The design and layout of the hydrants shall be reviewed and approved by the Fire Department.

73. Blue reflective pavement markers shall be installed at fire hydrant locations.

74. If fire hydrants are located so as to be subjected to vehicle impacts as determined by the Hayward Fire Department, crash posts shall be installed around the fire hydrant(s).

75. Fire hydrants for the development shall be operational and in service prior to the start of any combustible construction and /or storage of combustible construction materials.

76. All building construction shall meet the requirements of the 2010 California Residential Code.

77. All buildings shall be installed with automatic fire sprinkler system in according to the 2010 NFPA 13D. The minimum water meter size shall be 1 inch. Fire permits are required for sprinkler installation.

78. The building is located within the City of Hayward Wildland/Urban Interface Area, and shall meet the construction requirements (as reflected on the approved plans) as stated in the City of Hayward Design Guidelines, which includes Class A roofing materials and exterior non-combustible siding materials (stucco), double-pane windows. Do not use wood shake or treated wood shake roofs.

79. The slope of fire apparatus road shall not exceed 15%.

80. Due to the steep slope of fire apparatus road, the road surface shall use Portland cement concrete 6 inches of minimum thickness to address loading and facilitate on site fire operation.

Other Utilities

81. All service to dwellings shall be an "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T (phone) Company and local cable company regulations. All facilities necessary to provide service to the dwellings, including transformers and switchgear, shall also be undergrounded.

82. All electric system, including transformers, shall be installed underground within the development. Design and installation shall be in accordance with Pacific Gas and Electric Company regulations.

83. The joint trench design and location shall meet the approval of the City Engineer.

84. All utilities, including water mains, located underneath decorative paving or “turf block” shall be encased in steel sleeves.

85. Ductile iron pipe is required in all “off-street” easements, and control valves are required in streets before entering such easements.

86. All surface-mounted hardware (fire hydrants, electroliers, etc.) along the private streets and driveways shall be located outside of the sidewalk within the Public Utility Easement in accordance with the requirements of the City Engineer or, where applicable, the Hayward Fire Chief.

87. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.

88. The developer/subdivider shall provide and install appropriate facilities such as conduit, junction boxes, individual stub-outs, etc., to allow for future installation of a City-owned and maintained fiber optic network within the subdivision.

89. Submit the following documents for review, approval or for project records:

    a) Copy of the Notice of Intent filed with State Water Resources Control Board;

    b) Engineer’s estimate of costs, including landscape improvements;

    c) Signed Final Map;

    d) Signed Subdivision Agreement; and,

    e) Subdivision bonds.

Final Tract Map

90. Prior to recordation, a proposed Final Tract Map shall be submitted for review by the City Engineer. The Final Tract Map shall be forwarded to the City Council for review and action. The City Council meeting will be scheduled approximately sixty (60) days after the Final Map is deemed technically correct, and Subdivision Improvement Plans with supporting documents, reports and agreements are approved by the City Engineer. Executed Final Map shall be returned to the City Public Works Department if Final Map has not been filed in the County Recorder's Office within ninety (90) days from the date of City Council's approval.

91. Prior to the recordation of the Final Tract Map, all documents that need to be recorded with the final map shall be approved by the City Engineer and any unpaid invoices or other outstanding charges accrued to the City for the processing of the subdivision application shall be paid.

92. A property homeowners association shall be created and shall be responsible for maintaining all private streets, private courts, private street lights, private utilities, and other privately owned common areas and facilities on the site, including, but not limited to landscaping, preservation and replacement of trees, as well as decorative paving that extends into public streets. For any necessary repairs done by the City in locations under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the homeowners association established to maintain the common areas within the subdivision boundary.

93. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever occurs first, Conditions, Covenants and Restrictions (CC&R's) creating a property homeowners association shall be reviewed and approved by the Planning Director and City Attorney and recorded. The CC&R's shall describe how the stormwater BMPs associated with privately owned improvements and landscaping shall be maintained by the association. The CC&Rs shall include the following provisions:

    a) Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses.

    b) A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association.

    c) The association shall be managed and maintained by a professional property management company.

    d) The homeowners' association shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed–free condition at all times. The homeowner's association representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within fifteen days of notification to the homeowner. Plants in the common areas shall be replaced within two weeks of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner

shall be replaced with a tree species selected and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.

e) A covenant or deed restriction shall be recorded with each lot requiring the property owner to properly maintain the front yard landscaping, and street trees, and to replace any dead or dying plant material (over 30% of the plant dead) within 15 days of first notification.

f) A provision that if the homeowners' association fails to maintain the landscaping and irrigation in all common areas for which it is responsible so that owners, their families, tenants, or adjacent owners will be impacted in the enjoyment, use or property value of the project, the City shall have the right to enter upon the project and to commence and complete such work as is necessary to maintain the common areas and private streets, after reasonable notice, and lien the properties for their proportionate share of the costs, in accordance with Section 10-3.385 of the Hayward Subdivision Ordinance.

g) A requirement that the building exteriors and fences shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 72 hours of inspection or within 72 hours of notification by the City.

h) A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.

i) The garage of each unit shall be maintained for off-street parking of two vehicles and shall not be converted to living or storage areas. An automatic garage door opening mechanism shall be provided for all garage doors.

j) Individual homeowners shall maintain in good repair the exterior elevations of their dwelling. The CC&Rs shall include provisions as to a reasonable time period that a unit shall be repainted, the limitations of work (modifications) allowed on the exterior of the building, the formation of a design review committee and its power to review changes proposed on a building exterior and its color scheme, and the right of the homeowners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean and free of debris at all times. Color change selections shall be compatible with the existing setting.

k) Utility meters, when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen, allowing sufficient access for reading.

l) Any transformer shall be located underground and shall be located within the right-of-way or public utility easement.

m) Any future major modification to the approved site plan shall require review and approval by the Planning Commission.

n) The CC&Rs shall specify the outdoor collection locations of trash and recycle containers. In addition, trash and recycle containers shall not be moved to the collection location more than twenty-four (24) hours prior to collection and shall be removed within twenty-four (24) hours after collection.

o) Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association and shall have a decorative design approved by the Planning Director and the City Engineer.

p) Street sweeping of private streets and private courts shall be conducted at least once a month.

94. The final map shall reflect all easements needed to accommodate the public portions of the sanitary sewer and water systems. The private streets and private courts shall be designated as a Public Utility Easement (PUE), Public Assess Easement (PAE), Water Line Easement (WLS), Sanitary Sewer Easement (SSE), Emergency Vehicle Access Easement (EVAE) and Private Utility and Maintenance Easement (PUME).

95. In accordance with Municipal Code §10-3.332, the developer shall execute a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements. Insurance shall be provided per the terms of the subdivision agreement.

PRIOR TO CONSTRUCTION WITH COMUSTIBLE MATERIALS

96. Required water system improvements shall be completed and operational prior to the start of combustible construction.

97. The developer/subdivider shall be responsible to adhere to all aspects of the approved Storm Water Pollution Prevention Plan (SWPPP) per the aforementioned condition of approval.

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

99. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.

100. Tree protection measures information shall be provided for the off-site trees that are proposed to remain in place, where the site improvements or home construction would occur within the drip lines of such trees.

PRIOR TO CONNECTION OF UTILITIES AND CERTIFICATE OF OCCUPANCY

101. Park Dedication In-Lieu Fees are required for all new dwelling units. Fees shall be those in effect at the time of the Vesting Tentative Tract Map was accepted as complete. All

Park dedication in-lieu fees shall be paid prior to issuance of a Certificate of Occupancy for a residential unit.

102. Prior to issuance of a Certificate of Occupancy for any of the new dwelling units, the subdivider shall submit documentation demonstrating the building(s) has/have been GreenPoint Rated in accordance with the City's Green Building Ordinance. Each home is required to meet a minimum of seventy-five (75) points on the GreenPoint Rated checklist.

103. The Final Tract Map shall be filed in the County Recorder's Office prior to the issuance of a Certificate of Occupancy of any unit.

104. The developer/subdivider shall be obligated for the following fees. The amount of the fee shall be in accordance with the fee schedule in effect at the time Vesting Tentative Tract Map was accepted as complete, unless otherwise indicated hereinafter:

a) Supplemental Building Construction and Improvement Tax

b) School Impact Fee

c) Water facilities fees, water installation fees and sewer connection fees at the rate in effect at the time of application for water and sewer service and payment of said fees for each dwelling unit, and

d) Park dedication in-lieu fees for new dwelling units.

105. Prior to granting occupancy, water service meters shall be installed by City crews at the developer's expense. The application for water services shall be presented to the City Inspector.

106. Prior to the City setting the water meters, the subdivider shall provide the Water Department with certified costs covering the installation of the public water mains and appurtenances.

107. Final Hayward Fire Department inspection is required to verify that requirements for fire protection facilities have been met and actual construction of all fire protection equipment have been completed in accordance with the approved plan. Contact the Fire Marshal's Office at (510) 583-4910 at least 24 hours before the desired final inspection appointment.

108. All common area landscaping, irrigation and other required improvements shall be installed according to the approved plans.

109. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.

110. The improvements associated with the Pacific Gas and Electric Company, SBC (phone) company and local cable company shall be installed to the satisfaction of the respective companies.

111. Prior to the sale of any individual unit/lot, or prior to the acceptance of tract improvements, whichever first occurs, a homeowners' association shall be created to maintain the common area landscaping and open space amenities. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses. A reserve fund shall be maintained to cover the costs of replacement and repair of all improvements shown on the approved plans.

112. The Stormwater Treatment Measures Maintenance Agreement for the project, prepared by Public Works Engineering and Transportation Division staff, shall be signed and recorded in concurrence with the Final Map at the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.

113. The subdivider shall summit an Auto CAD file format (release 2010 or later) in a CD of approved final map and 'as-built' improvement plans showing lot and utility layouts that can be used to update the City's Base Maps.

114. The subdivider shall submit an "as built" plan indicating the following:

a) All underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric, AT&T (phone) facilities, local cable company, etc.

b) All the site improvements, except landscaping specie, buildings and appurtenant structures. And,

c) Final Geotechnical Report

ROOF GARDEN VILLAS RESIDENTIAL CONDOMINIUM PROJECT
REVISED INTIAL STUDY

May 2, 2013

Prepared for:

City of Hayward
Development Services Department
777 B Street
Hayward, CA 94541

Prepared by:

Lamphier-Gregory
1944 Embarcadero
Oakland, CA 94606

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Table of Contents

Page

Environmental Checklist Form 1

Environmental Factors Potentially Affected 17

Environmental Determination 18

Initial Study Checklist 19

Evaluation of Environmental Impacts 20

- Aesthetics 20
- Agriculture 24
- Air Quality 25
- Biological Resources 30
- Cultural Resources 34
- Geology and Soils 37
- Greenhouse Gas Emissions 42
- Hazards and Hazardous Materials 45
- Hydrology and Water Quality 48
- Land Use and Planning 51
- Mineral Resources 54
- Noise 55
- Population and Housing 60
- Public Services 61
- Recreation 63
- Transportation 64
- Utilities 66
- Mandatory Findings of Significance 68

List of Figures

Figure 1: Regional Location 5
Figure 2: City Setting 6
Figure 3: Local Setting 7
Figure 4: Existing Site Plan 8
Figure 5: Proposed Site Plan (Sheet 1) 9
Figure 6: Proposed Site Plan (Sheet 2) 10
Figure 7: Proposed "Cluster 1" Elevations 11
Figure 8: Proposed "Cluster 2" Elevations 12
Figure 9: Proposed "Cluster 3" Elevations 13
Figure 10: Utility Plan 14
Figure 11: Proposed Grading and Drainage Plans 15
Figure 12: Proposed Retaining Walls 16
Figure 13: View of Project Site from Southbound Travel Lane of Hayward Boulevard 20
Figure 14: View Across Street from Project Site 21
Figure 15: Hayward General Plan Map 52
Figure 16: Hayward Zoning Map 53

List of Tables

Table 1: Summary of Each Residential Condominium 3
Table 2: Construction Equipment Types and Typical Noise Levels 56

CEQA APPENDIX G: ENVIRONMENTAL CHECKLIST FORM

1. Project Title: Roof Garden Villas Residential Condominiums Project

2. Lead Agency Name and Address:
City of Hayward
Development Services Department
777 B Street
Hayward, CA 94541

3. Contact Person and Phone Number:
David Rizk, AICP
(510) 583-4004
david.rizk@hayward-ca.gov

4. Project Location:
(*see map, Figure 1 and 2)*
26736 Hayward Blvd, Hayward, CA
and APN 81D-1640-6

5. Project Sponsor's Name and Address:
Gordon Wong
2665 Glenbriar Drive
Saratoga, CA 95070

6. Existing General Plan Designation:
(*see map, Figure 15*)
Medium Density

7. Existing Zoning:
(*see map, Figure 16)*
Single Family (RSB6)

8. Surrounding Land Uses and Setting:

Regional Setting

The City of Hayward is known as the "Heart of the Bay" thanks to its central and convenient location in Alameda County along the east side of the San Francisco Bay, twenty-five (25) miles southeast of San Francisco, fourteen (14) miles south of Oakland, twenty-six (26) miles north of San Jose, and ten (10) miles west of the valley communities of San Ramon, Dublin and Pleasanton. **Figure 1** (**Regional Location**) depicts the Project's location relative to the broader San Francisco Bay region.

The City of Hayward lies at the southeastern shore of the San Francisco Bay, at the western toe of the Diablo Mountain Range. Topography in the eastern portion of Hayward generally consists of moderately steep foothills descending from the Diablo Range, leveling into a valley before reaching the San Francisco Bay.

The Nimitz Freeway (US 880) passes through the City of Hayward on its path between the City of San Jose and Bay Bridge (in Oakland). The San Mateo Bridge (State Route 92) spans the San Francisco Bay between the cities of Hayward and Foster City.

The City of Hayward borders on a large number of municipalities and communities. The cities

bordering on Hayward are San Leandro, Union City, Fremont and Pleasanton. The census designated places bordering on Hayward (within the County of Alameda) are Castro Valley, San Lorenzo, Cherryland, Sunol and Fairview.

City Setting

The modern City of Hayward had its origins in the 1850s during the Gold Rush. An approximate twenty-eight (28) block area in the vicinity of Hayward's Historic City Hall was provided the first parcels of land for settlers. Over the intervening years, Hayward urbanized by transforming agricultural lands to various forms of residential, commercial, and industrial development connected by a series of local streets and regional highways. Today, the City of Hayward is highly urbanized with the shoreline and hillsides being natural open space.

Presently, the western and southern portions of Hayward primarily consist of industrial land uses (e.g., warehouses, distribution facilities, manufacturing). To the east and north of this industrial corridor, in which the Project is located, lie numerous tracts of residential development often centered upon public school sites. Commercial development tends to be located along major arterial streets (e.g., Hesperian Boulevard, Tennyson Road, Mission Boulevard) passing by or through the residential tracts. The location of the Project relative to these city features is depicted in **Figure 2** (**City Setting**).

Local Setting

The Project is located within the Hayward Highlands neighborhood, in proximity to California State University, East Bay. This suburban hillside location consists largely of residential subdivisions constructed after World War II. Hayward Boulevard is the primary arterial providing access to the neighborhood (from Mission Boulevard).

The Project site is surrounded by urbanized properties consisting of residential land uses. Most properties nearby the Project site include single-family and multi-family homes one (1) to three (3) stories in height with adjacent surface parking lots and landscaped planter areas. However, the University Plaza is immediately south of the Project site and provides retail shopping and services for the neighborhood.

The location of the Project relative to its immediate surroundings is shown in **Figure 3** (**Local Setting**).

Existing Project Site Setting

The Project site consists of a single undeveloped, rectangular-shaped property 32,268 square feet (sq.ft.) in area. The Project site slopes upward from Hayward Boulevard; rising from 570 feet above mean sea level (AMSL) to 614 feet AMSL.[1] Hayward Boulevard also slopes downward in a North to South direction. Thirteen (13) trees of varying sizes and species are dispersed across the Project site. A single curb-cut and asphalt driveway abut Hayward Boulevard. Properties abutting the Project site include residential land uses.

[1] Measured from mid-point of West/East property lines.

9. Description of Project:

Site Plan

The Project would result in the construction of eight (8) residential condominiums arranged in three "clusters" on the site. The proposed site plan is depicted at **Figure 5** (Proposed Site Plan – Sheet 1) and **Figure 6** (Proposed Site Plan – Sheet 2). Vehicular and pedestrian access would be provided by a drive aisle bordering the northern property line. Each condominium includes an accessible rooftop garden. Two (2) guest parking spaces are provided. The basic attributes of each condominium is summarized in **Table 1** (Summary of Each Residential Condominium) below. Additionally, the proposed elevations of each condo are included at **Figures 7** through **Figure 9**.

TABLE 1 – SUMMARY OF EACH RESIDENTIAL CONDOMINIUM

Unit #	Bedrooms	Bathrooms	Floor Area (sq.ft.)	Stories	Parking
Cluster One					
1	1	1	1,768	2	2
2	2	3	1,709	2	2
3	2	3	909	2	1
Cluster Two					
4	2	3	1,528	2	2
5	1	1	890	2	1
Cluster Three					
6	3	3	2,300	3	2
7	2	3	1,577	3	2
8	3	4	2,590	3	2

As shown in **Figure 10** (Proposed Utilities), all utilities (i.e., water, sewer, gas, electricity) would be extended to the Project site from Hayward Boulevard.

Construction Characteristics

The Project would be constructed in a single phase estimated to begin sometime in Spring 2013 to Fall 2013, and lasting for between six (6) to twelve (12) months. All construction activity would be limited to the Project site except during the extension of the utilities.

10. Requested Local Approvals:

The following local actions by the Lead Agency are necessary to carry out the Project:

- Change of Zone from Single Family (RSB6) to Planned Development (PD).
- Tentative Tract Map to create eight (8) residential condominiums on a single lot.

- Building Permit (Hayward Ordinance 07-17) – The City of Hayward Development Services Department would review proposed construction activities.

- Encroachment Permit (Hayward Municipal Code, Article 2 (Streets)) – The City of Hayward Public Works Department would review proposed construction activities associated with the Project's utility, driveway and traffic control improvements in Hayward Boulevard.

11. Other Public Agency Approvals Required:

The following approvals by other public agencies are necessary to carry out the Project:

- None identified.

Figure 1: Regional Location

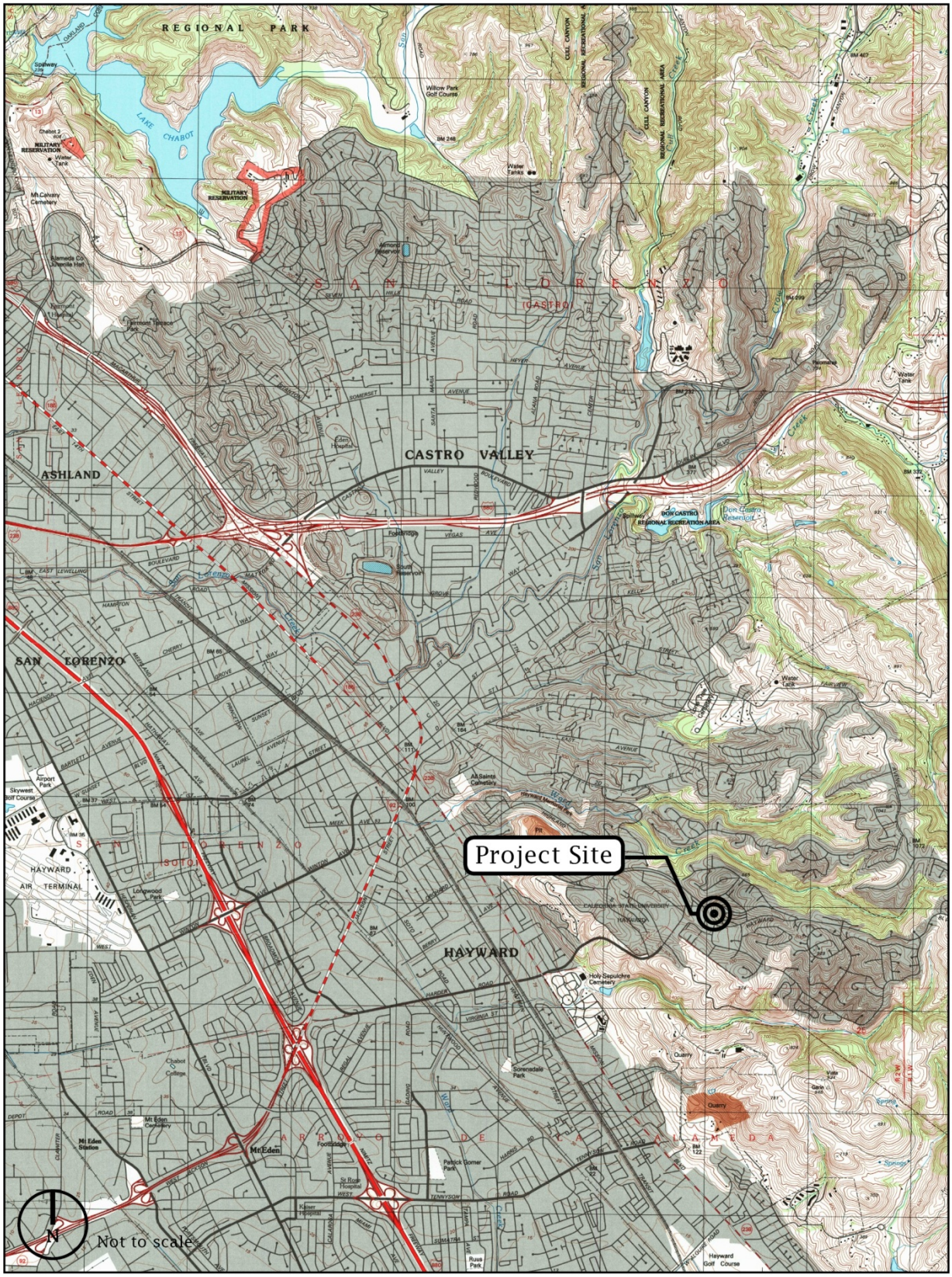

Figure 2: City Setting

Figure 3: Local Setting

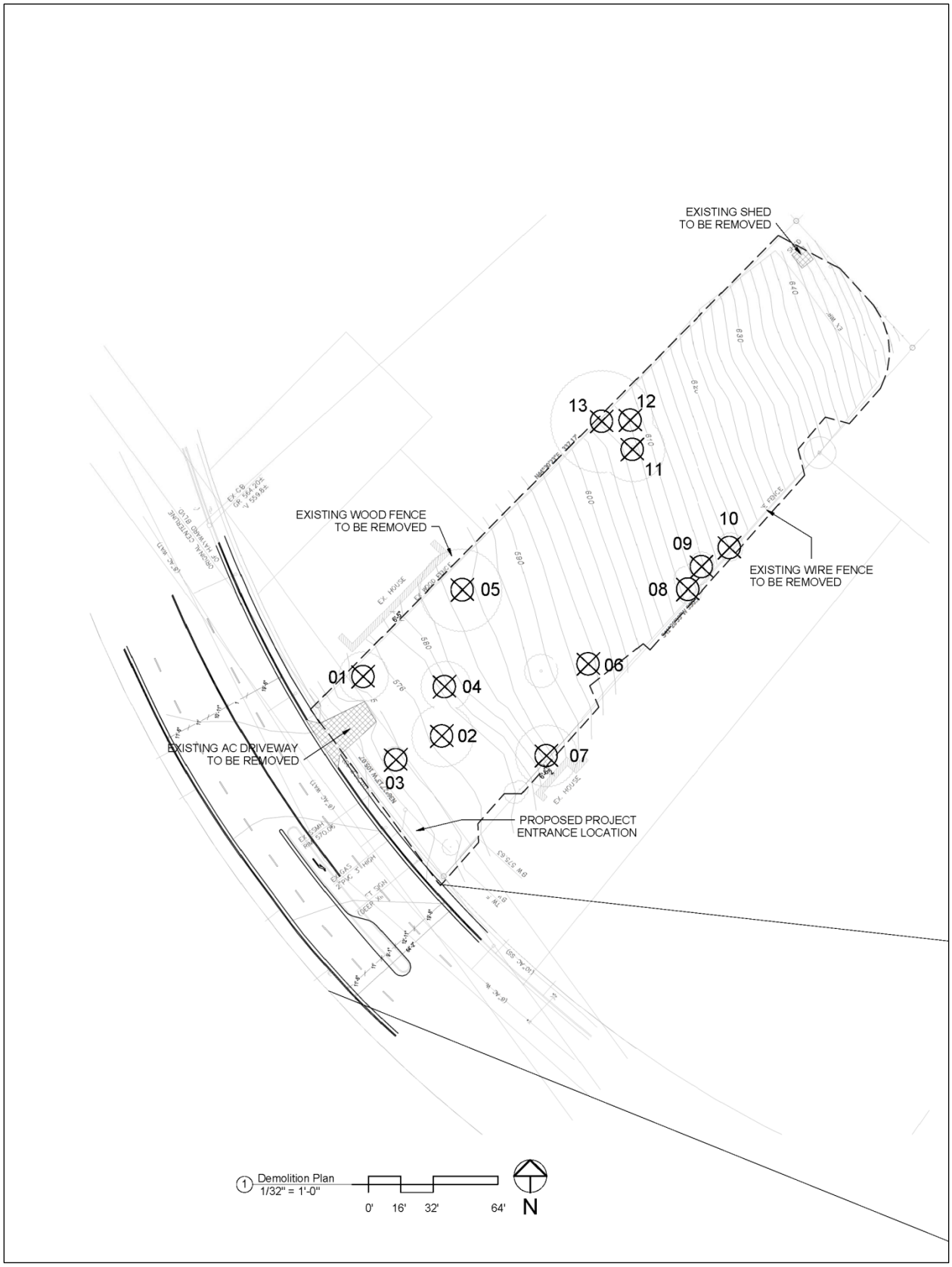

Figure 4: Existing Site Plan.

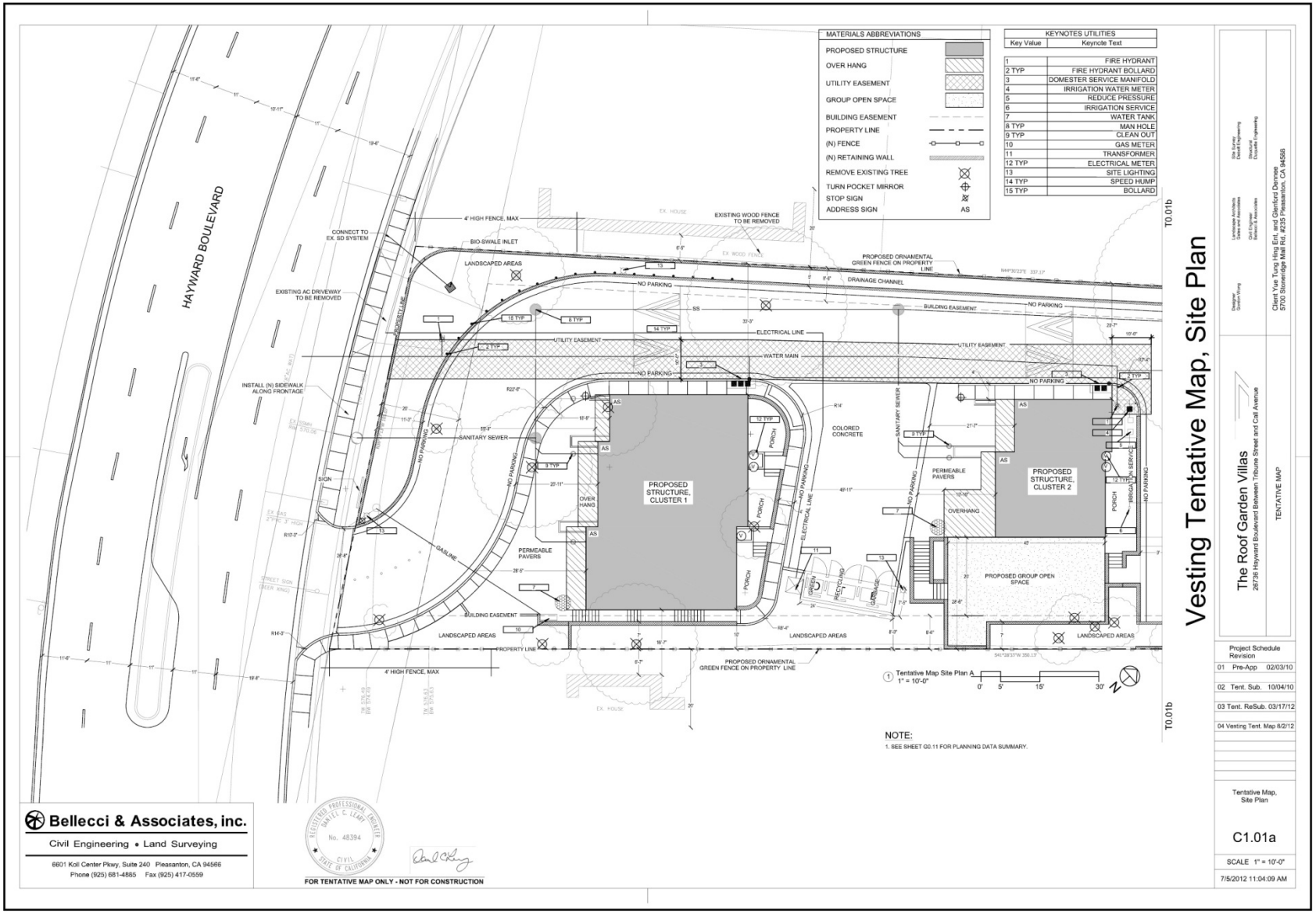

Figure 5: Proposed Site Plan (Sheet 1)

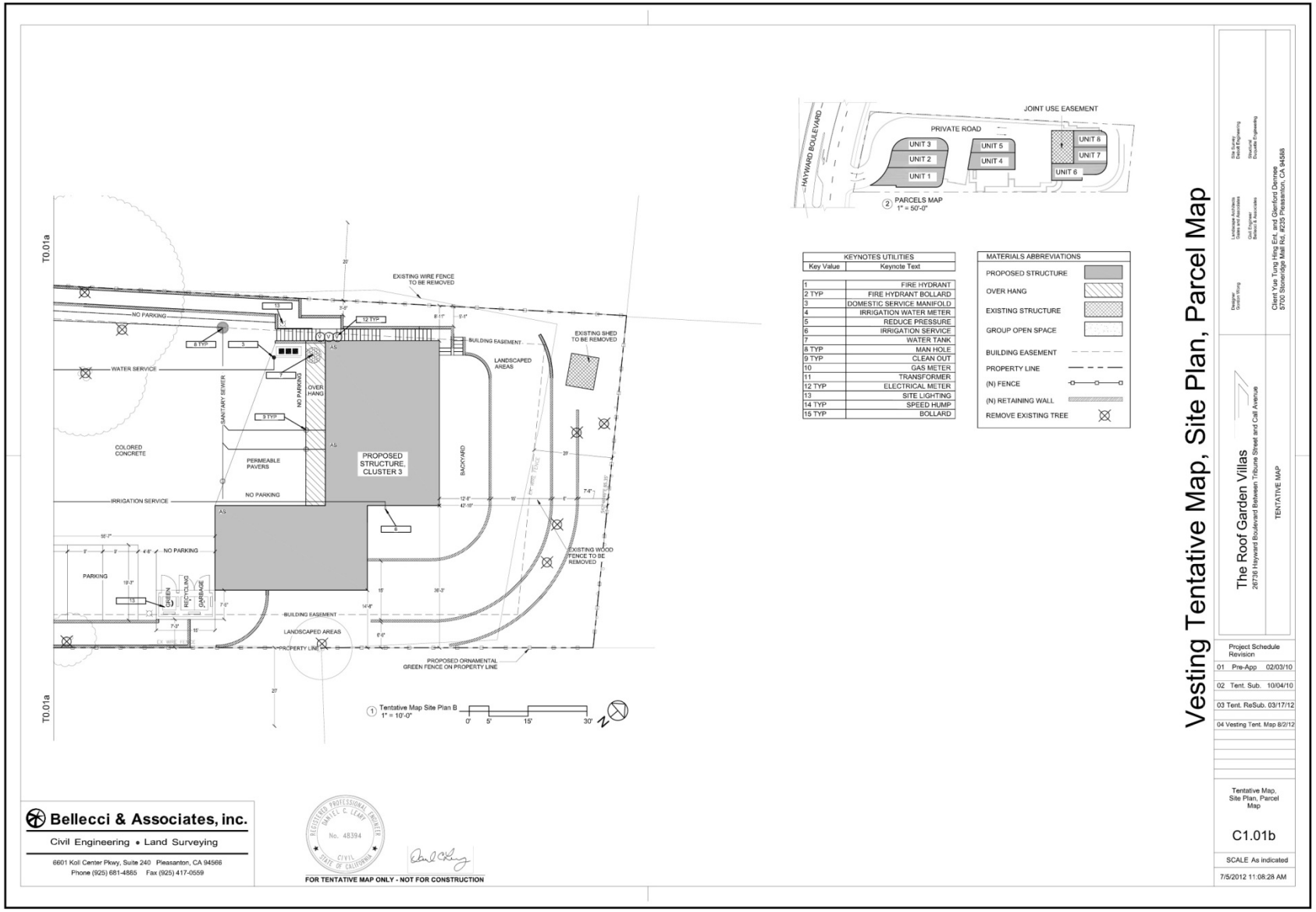

Figure 6: Proposed Site Plan (Sheet 2)

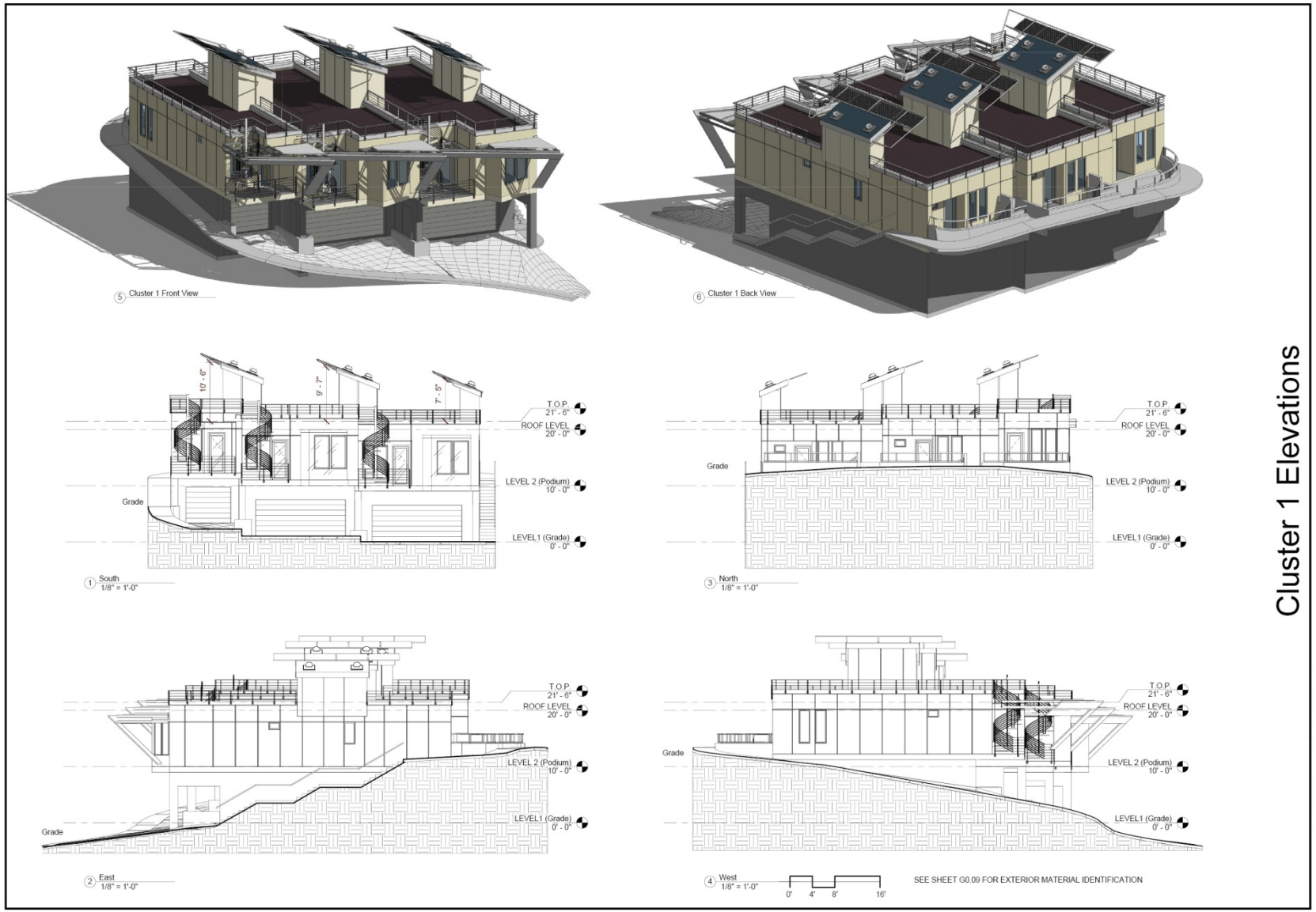

Figure 7: Proposed "Cluster 1" Elevations.

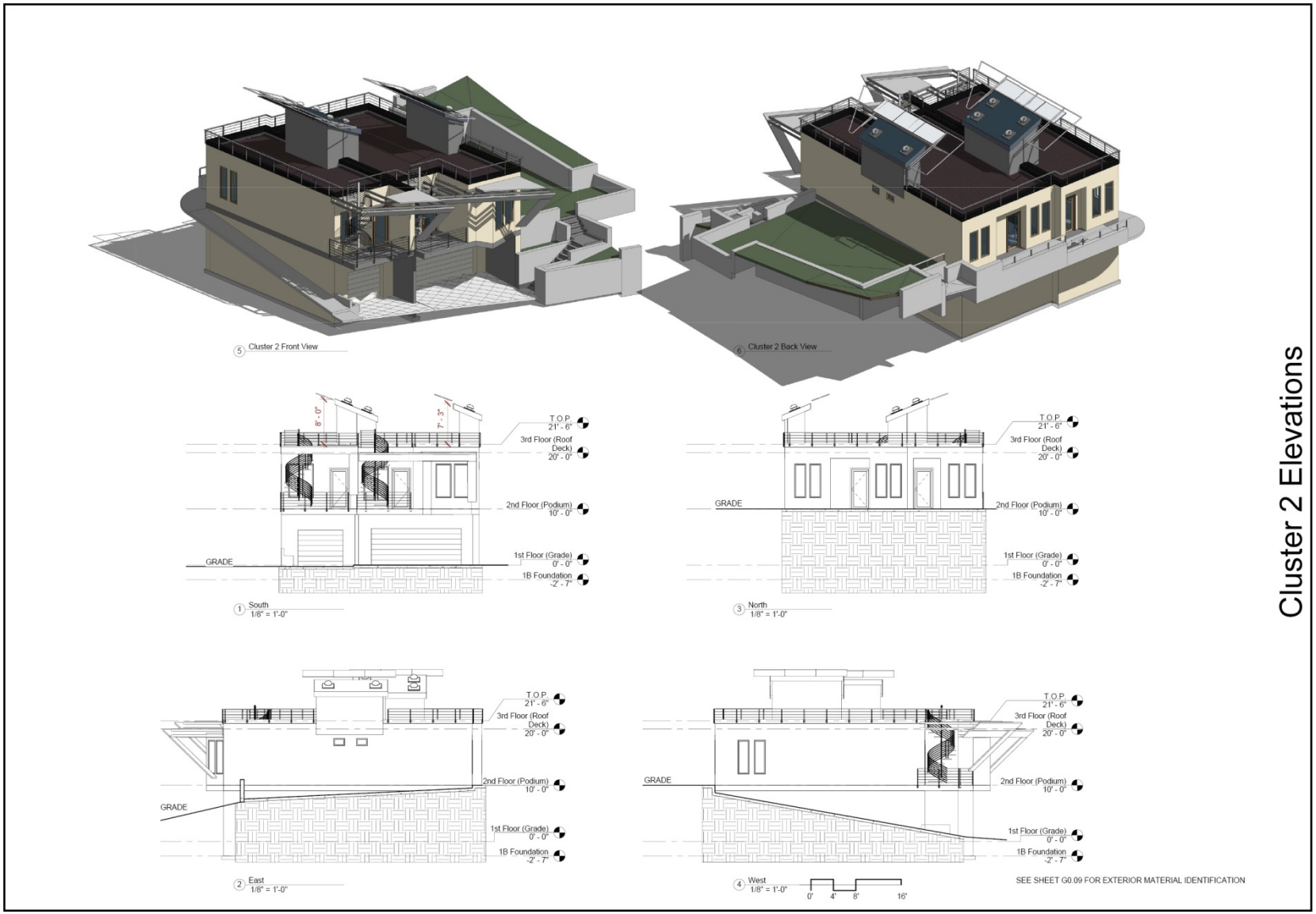

Figure 8: Proposed "Cluster 2" Elevations.

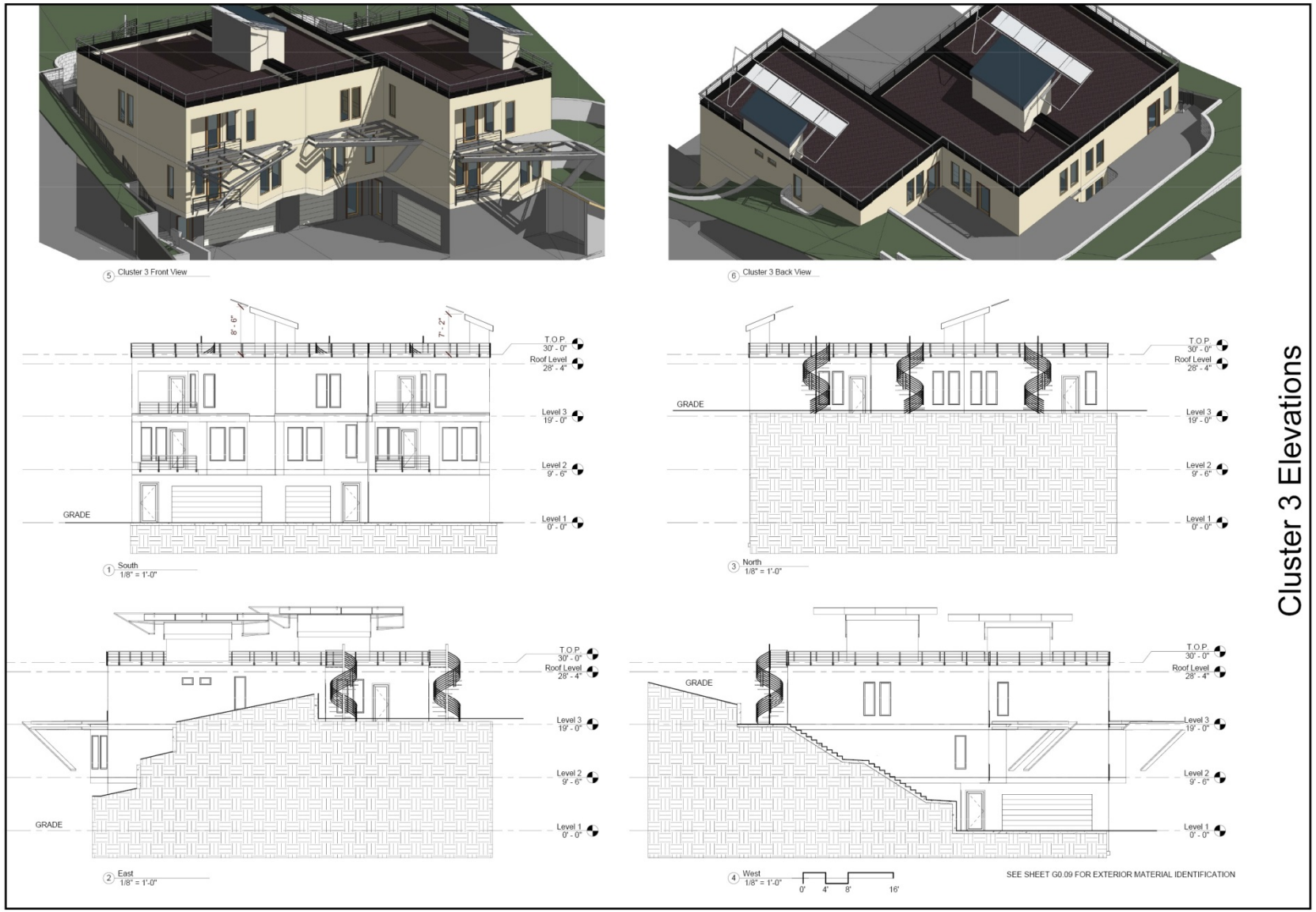

Figure 9: Proposed "Cluster 3" Elevations.

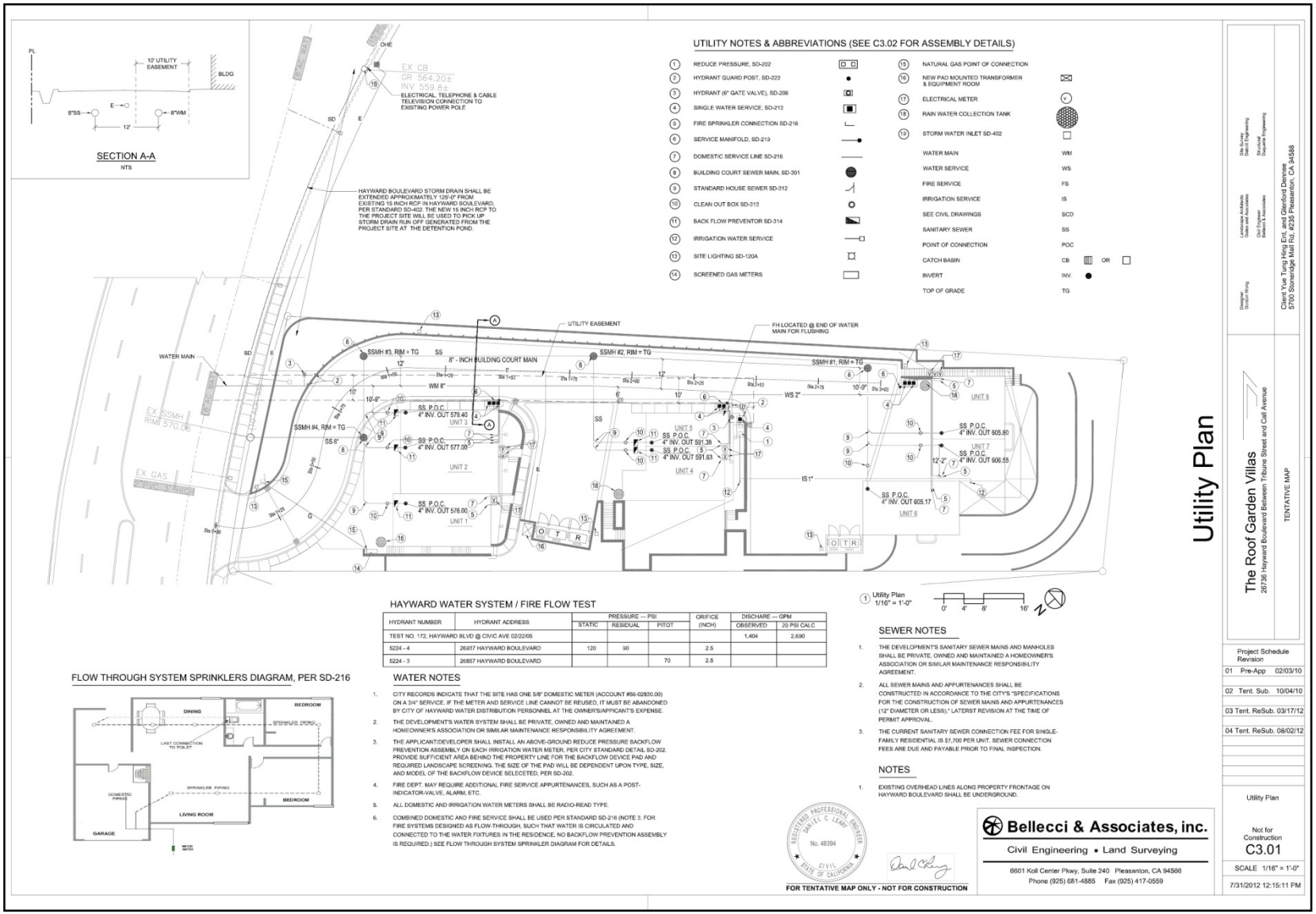

Figure 10: Utility Plan.

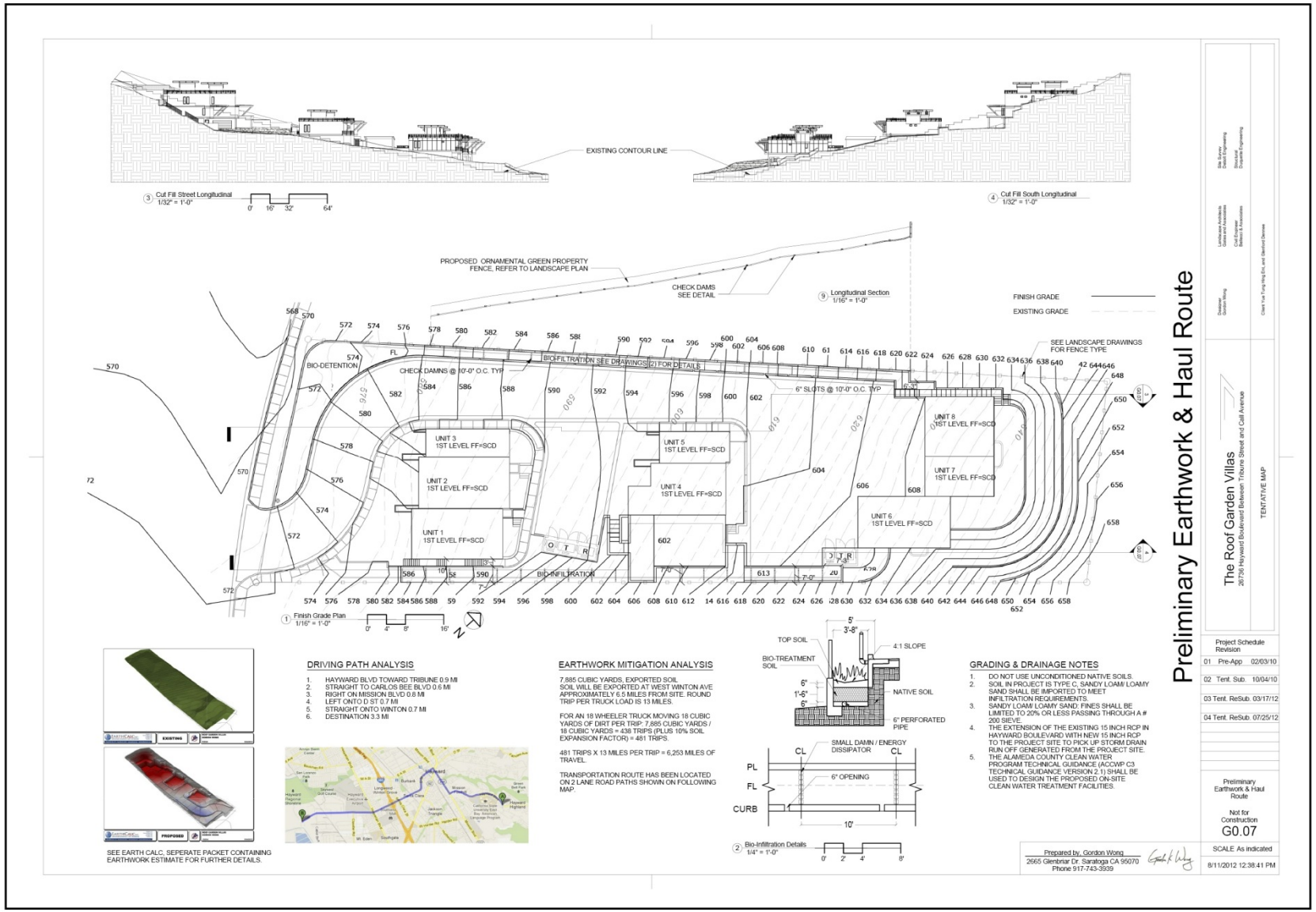

Figure 11: Proposed Grading and Drainage Plans.

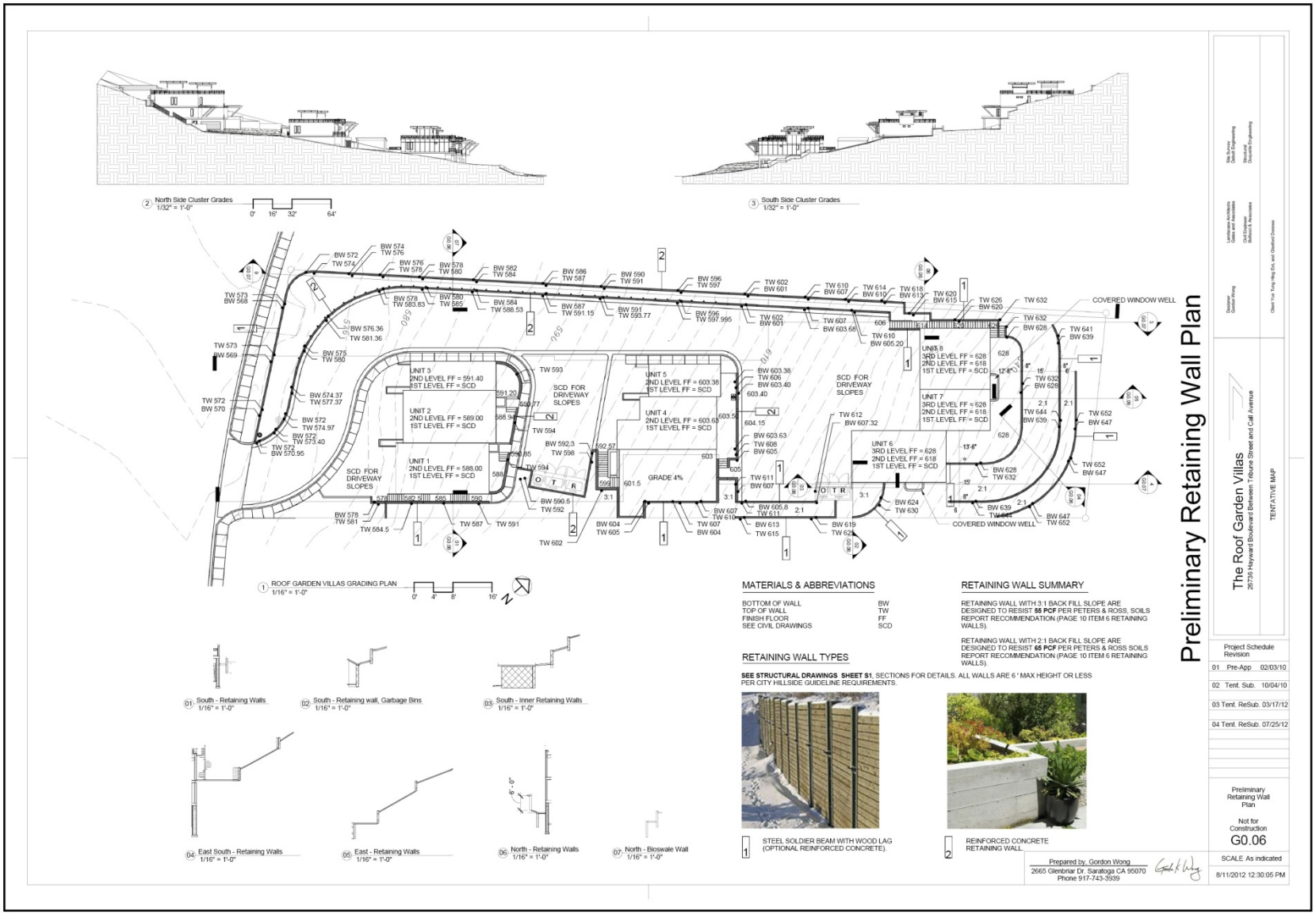

Figure 12: Proposed Retaining Walls.

Environmental Factors Potentially Affected

Environmental factors which may be affected by the Project are listed alphabetically below. Factors marked with a filled in block (√) have been determined to be potentially affected by the Project, involving at least one impact that has been identified as a "Potentially Significant Impact", as indicated in the attached CEQA Evaluation and related discussion that follows.

Unmarked factors (☐) were determined to be either not significantly affected by the Project, adequately examined under the Previous CEQA Documents, or fully mitigated through implementation of standard conditions of approval or mitigation measures adopted by the City of Hayward as lead agency and agreed to by the project sponsor.

√	Aesthetics	☐	Agricultural Resources	☐	Air Quality
√	Biological Resources	√	Cultural Resources	☐	Geology/Soils
☐	Greenhouse Gases	☐	Hazards	☐	Hydrology/Water Quality
☐	Land Use/Planning	☐	Mineral Resources	√	Noise
☐	Population/Housing	☐	Public Services	☐	Recreation
☐	Transportation/Traffic	☐	Utilities/Service Systems	☐	Mandatory Findings of Significance

Environmental 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 ("EIR") 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 EIR 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.

May 2, 2013

Signature

Date

David Rizk, Director
Development Services Department
City of Hayward

Initial Study Checklist

The Checklist portion of the Initial Study begins below, with explanations of each answer. A "***No Impact***" response indicates that the impact simply does not apply to the project or any action that would occur due to the Project. A "***Less Than Significant Impact***" response indicates that while there may be potential for an environmental impact, there are standard procedures or regulations in place, or other features of the Project as proposed, which would limit the extent of this impact to below significance thresholds. Responses that indicate that the impact of the Project would be "***Less Than Significant with Mitigation***" indicate that mitigation measures, identified in the subsequent discussion, will be required as a condition of Project approval in order to effectively reduce potential Project-related environmental effects to a level below significance thresholds. Finally, while this is not the case for any topics in this Initial Study, topics with a "***Potentially Significant Impact***" response would indicate the inability to identify mitigation measures to reduce the impact below significance thresholds and would need to be analyzed in an Environmental Impact Report. This Checklist does not indicate that any environmental topics would be considered to be "***Potentially Significant***" after application of mitigation measures identified in this document and as agreed to by the Project sponsor. Therefore, an Environmental Impact Report is not warranted.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☑
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state or locally designated scenic highway?	☐	☐	☐	☑
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☑
d) Create significant new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☑	☐	☐

Physical Setting

The Project is situated in a setting of urbanized properties consisting of residential land uses (see **Figure 3 – Local Setting** above). Properties adjacent to the Project site's north, east and southern boundary include two (2) story residences. To the west (across Hayward Boulevard), existing development includes the University Plaza shopping center (with accompanying surface parking lot) and three (3) story residential condominiums. Outside of the immediate Project vicinity, existing development consists of single-family homes, multi-family homes, and occasional grassy hillsides of vacant lots. **Figures 13** and **14** below depict the existing visual character of the Project site's immediate surroundings.

Figure 13: View of Project Site from Southbound Travel Lane of Hayward Boulevard.

Figure 14: View Across Street From Project Site.

Criteria a): Scenic Vista

The Project is not visible from any designated scenic vista and, consequently, would not have a substantial adverse effect on a scenic vista. (***No Impact***)

The Project is not located within or visible from a designated scenic vista. The City of Hayward General Plan does not identify specific scenic vistas, whether from private or public property, warranting protection. Also, there are no County or State-designated scenic highways within the City of Hayward. The nearest designated scenic highway consists of the US 680, located in the unincorporated lands of Alameda County, and which the Project site is not visible from. Therefore, the Project would have ***No Impact*** under this criterion.

Criteria b): Damage to Scenic Resources

The Project would not substantially damage scenic resources, including, but not limited to, rock outcroppings, and historic buildings within a state or locally designated scenic highway since no such features are present. Though the Project would result in the removal of existing trees, replacement trees would be planted on-site and funds for off-site landscaping would be provided. (***No Impact***)

The Project is located in an urbanized setting that includes no unique natural features such as rock outcroppings. Though situated on sloping topography, the Project site is not located on a natural ridgeline. The Project site does not include any structures. Consequently, the Project would not result in the removal of a historic building.

The Project would result in the removal of thirteen (13) trees; eleven (11) of which qualify as "protected" under the City of Hayward Tree Preservation Ordinance.[2] All existing on-site trees are shown in **Figure 4**

[2] Hort Sciences, *Arborist Report – Green Roof Villas, Hayward, CA*, dated August 2010.

(Existing Site Plan). Two (2) off-site trees include crowns which extend over into the Project site and which would require trimming to enable Project construction. The arborist report evaluates the potential for retaining each existing tree and concludes it is not feasible due to the steep terrain and narrowness of the Project site; this Initial Study drawn the same conclusion.

The Project includes a proposed landscape plan including trees, shrubs, grass and groundcover. Proposed new landscaping will be evaluated by the Planning Commission and City Council in accordance with the Zoning Ordinance's Planned Development District review requirements (Municipal Code §10-1.2500). Additionally, proposed replacement plantings for trees removed and/or payment for off-site landscaping will be evaluated in accordance with the Tree Preservation Ordinance (Municipal Code, Chapter 10, Article 15). Therefore, given the above listed reasons, the Project would have ***No Impact*** under this topic.

Criteria c): Visual Character and Quality

The Project would not substantially degrade the existing visual character or quality of the site and its surroundings. (***No Impact***)

The Project site is presently developed and situated in an area with primarily residential land uses. A neighborhood shopping center is across the street from the Project site. The existing visual character, as experienced by a pedestrian or vehicle passenger at Hayward Boulevard, consists predominately of landscaped planter areas, driveways/drive aisles, and two (2) to three (3) story structures. The Project would generally align with that existing visual character. For this reason, the Project would have ***No Impact*** under this criterion.

Criteria d): Light and Glare

The Project would not create a significant new source of substantial light or glare which would adversely affect day or nighttime view in the area. However, it would include the use of pole-mounted lighting that would be broadcast onto adjacent properties. (***Less Than Significant Impact with Mitigation***)

The Project includes three (3) pole-mounted lights to illuminate drive aisles. All remaining lighting is building-mounted and incidental to entryways and private/common outdoor areas. These light sources would be visible during nighttime hours. The Project does not include a design feature (e.g., expansive surface area of glass) that would result in glare during daylight hours.

Proposed pole-mounted lighting would be twelve (12) feet in height and include one-hundred seventy-five (175) watt metal halide lamps housed in cylindrical orbs mounted on top of the pole.[3] Two (2) of the proposed pole-mounted lights would within five (5) feet of the northern property line. Though not considered a substantial new source of light (e.g., pole-mounted stadium lighting), the Project would result in light being broadcast over onto adjacent properties.

Mitigation Measures

Aes-1: *Prior to the start of construction, the project proponent shall submit and obtain Community Services Director or designee approval of lighting for drive aisles which does not broadcast over adjacent off-site properties.*

[3] The proposed lighting is identical to City Standard SD-120A (Standard Ornamental Street Lighting).

Resulting Level of Significance

After implementation of Mitigation Measure Aes-1, the Project would result in a ***Less Than Significant Impact*** as light would no longer spill over to adjacent off-site properties. No further measures are necessary or required to address this unlikely though potential impact.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
II. AGRICULTURAL RESOURCES -- Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resource Agency, to non- agricultural use?	☐	☐	☐	☑
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☑
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?	☐	☐	☐	☑

Criteria a, b and c): Agricultural Resources

The Project would not convert any types of farmland to non-agricultural use, would not conflict with agricultural zoning or a Williamson Act contract, and would not involve any changes in the existing environment which could result in conversion of farmland to non-agricultural use. (***No Impact***)

The Project site is in an area substantially urbanized including of residential and commercial land uses consistent with the Hayward General Plan and Zoning Map. There are no agricultural resources in the area and there is no potential impact to agricultural resources from the proposed Project. Therefore, ***No Impact*** would result.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
III. AIR QUALITY -- Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☑	☐
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☑	☐	☐
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☑	☐	☐
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☑	☐
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☑

Physical Setting

The Project is located in southwestern Alameda County. This region encompasses the low-lying area on the southeast side of the San Francisco Bay, from south of US 580/Dublin Canyon to north of Milpitas. The region is bordered on the east by the 1,600-foot western boundary of the Diablo Mountain Range, and on the west by the San Francisco Bay.

Situated between the western and eastern portion of the Coast Range, this region is protected from the direct effects of marine air flow. Marine air entering through the Golden Gate is forced to diverge into northerly and southerly paths because of the blocking effect of the East Bay Hills. The southern flow is directed southeasterly down the bay, parallel to the hills, where it eventually passes over southwestern Alameda County (and the Project site). These sea breezes are strongest in the afternoon. Overall, winds are predominately out of the northwest quadrant in this region, particularly during summer months. In the winter, winds are equally likely out of the east.

The climate in southwestern Alameda County is also modified by its proximity to the San Francisco Bay. Evaporation from the bay will cool the air in contact with it during warm weather, while during cold weather the bay can act as a heat source. The normal northwest wind pattern will then carry this air onshore. During periods of flat pressure gradients, the bay can generate its own circulation system. This bay breeze, similar to the sea breeze, pushes cool air onshore during the daytime and draws air from the land offshore at night. Bay breezes are common in the morning, before the sea breeze begins.

Rainfall amounts in the region are lower than other East Bay sites located to the north. Areas near the bay (such as Newark) have lower rainfall amounts because of the rain shadow effect of the Santa Cruz Mountains. Newark annual rainfall is fourteen (14) inches. Areas closer to the hills experience higher amounts of rainfall because they are further from the Santa Cruz Mountains, and due to orographic effects (i.e., air that is forced to ascend the mountains will cool and condense, leading to increased rain).

Pollution is relatively high in this region during summer and fall months. When high pressure dominates the weather, low mixing depths and bay and ocean wind patterns can concentrate and carry pollutants

from other cities to the area, adding to the locally emitted pollutants. The polluted air is then pushed up against the East Bay Hills. Flow eastward through the gaps is weak because winds in the Livermore Valley are usually from the east. Wintertime pollution levels are, however, moderate.

Regulatory Setting

The Project is located within the City of Hayward in Alameda County and within the San Francisco Bay Area Air Basin. The Bay Area Air Quality Management District (BAAQMD) administers air quality regulations applicable to this Air Basin. Recent air quality monitoring data collected in Alameda County shows air quality in the County periodically exceeds State and national air quality standards for ozone and fine particulate matter (PM2.5) and State particulate matter standards for both fine and respirable (PM10) particulate matter. The San Francisco Bay Area Air Basin has been designated as being a nonattainment area for the State ozone, PM10 and PM2.5 standards, and nonattainment for the federal ozone and 24-hour PM2.5 standards.

In May 2011, the BAAQMD approved a new set of CEQA Guidelines for consideration by lead agencies. The *California Environmental Quality Act: Air Quality Guidelines* ("BAAQMD CEQA Guidelines") provide guidance for consideration by lead agencies, consultants, and other parties evaluating air quality impacts conducted pursuant to the California Environmental Quality Act (CEQA). The document provides guidance on evaluating air quality impacts of development projects and local plans, determining whether an impact is significant, and mitigating significant air quality impacts. These May 2011 BAAQMD CEQA Guidelines include new thresholds of significance for Greenhouse Gas (GHG) emissions, new mechanisms for evaluating risk and hazard thresholds for the siting of stationary sources and of sensitive receptors, lower the threshold of significance for annual emissions of Reactive Organic Gases (ROG), Nitrogen Oxides (NOX) and Particulate Matter Exhaust (PM10) and set a standard for smaller particulates (PM2.5) and fugitive dust.

In March 2012, the Alameda County Superior Court ordered BAAQMD to set aside use of the significance thresholds within the BAAQMD CEQA Guidelines until they complete an assessment of the environmental effects of the thresholds in accordance with CEQA. The Court found that the thresholds, themselves, constitute a "project" for which environmental review is required. Consequently, these thresholds are not currently in effect though the BAAQMD states that lead agencies may continue to rely on the BAAQMD CEQA Guidelines, "for assistance in calculating air pollution emissions, obtaining information regarding the health impacts of air pollutants, and identifying potential mitigation measures." However, the BAAQMD CEQA Guidelines include the most conservative thresholds available and comparison of the Project's emissions against these thresholds provides a conservative assessment as the basis for a determination of significance. In the absence of other applicable thresholds, the City of Hayward, as lead agency, has chosen to utilize the May 2011 BAAQMD thresholds as a means to conservatively assess the Project's potential environmental effects.

Criteria a): Criteria Pollutant Emissions

The Project would not conflict with or obstruct implementation of the applicable air quality plan. (***Less Than Significant Impact***)

The Project is subject to the Bay Area Clean Air Plan (CAP), first adopted by BAAQMD (in association with the Metropolitan Transportation Commission and the Association of Bay Area Governments) in 1991 to meet state requirements and those of the Federal Clean Air Act. As required by state law, updates are developed approximately every three (3) years. The CAP is meant to demonstrate progress toward meeting the ozone standards, but also includes other elements. The latest update to the plan, which was

adopted in September 2010, is called the Bay Area 2010 Clean Air Plan. The 2010 CAP serves the following purposes:

- Update the Bay Area 2005 Ozone Strategy in accordance with the requirements of the California Clean Air Act to implement "all feasible measures" to reduce ozone;
- Provide a control strategy to reduce ozone, particulate matter (PM), TACs, and greenhouse gases in a single, integrated plan;
- Review progress in improving air quality; and
- Establish emission control measures to be adopted or implemented in the 2010-2012 timeframe.

Consistency with the CAP is based on regional conformance with population growth assumptions or regional growth in vehicle miles traveled. The Clean Air Plan also includes control measures, but many of these are intended to be applied on a jurisdictional level and/or to select types of projects. None of these control measures would apply directly to the Project.

The Project includes a number of residential dwellings consistent with the density planned for the site by the Hayward General Plan. Consequently, the Project would be considered consistent with the population growth assumptions relied upon to draft the CAP. As a result, it can be concluded, relative to this criterion, the Project would not emit substantial levels of criteria pollutants and would not prevent implementation of applicable control measures. Therefore, the Project would have ***No Impact*** related to a conflict with the air quality plan.

Criteria b, c): Air Quality Standard Violation / Increase in Criteria Pollutants

The Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment and would not lead to a violation of any air quality standard or contribute substantially to an existing or projected air quality violation. (***Less Than Significant Impact with Mitigation***)

Construction Activities

Construction of the Project would disturb approximately 0.74 acres and involve construction of eight (8) residential condominiums. The BAAQMD CEQA Guidelines include screening criteria to provide lead agencies and project applicants with a conservative indication of whether a proposed project could result in significant air quality impacts. In accordance with the BAAQMD CEQA Guidelines, where all the screening criteria are met, a lead agency need not perform a detailed air quality assessment of a particular project's air pollutant emissions. The Project is below all air quality screening criteria and, therefore, the Project would be considered to have a less than significant impact relative to construction and operational criteria pollutant emissions.[4] However, implementation of the following measures for the Project is recommended to reduce fugitive dust and exhaust emissions.

[4] See Table 3-1 of the BAAQMD CEQA Guidelines.

Mitigation Measures

Air-1:[5] *The Project shall adhere to the following Bay Area Air Quality Management District (BAAQMD) "Basic Construction Mitigation Measures".*

i) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

ii) All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

iii) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

iv) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

v) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

vi) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

vii) Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Resulting Level of Significance

Implementation of Mitigation Measure Air-1 would further reduce an already ***Less Than Significant Impact***.

Criteria d): Sensitive Receptors

The Project will not expose sensitive receptors to substantial pollutant concentrations. (***Less than Significant Impact***)

Sensitive receptors are considered facilities where sensitive population groups, such as children, the elderly, the acutely ill and the chronically ill, are likely to be located. These land uses include residences,

[5] BAAQMD's recommendation to require, "All vehicle speeds on unpaved roads shall be limited to 15 mph" has not been included with Air-1 since the Project would not result in unpaved roads or surfaces where vehicles could exceed 15 mph.

schools, playgrounds, childcare centers, retirement homes, convalescent homes, hospitals and medical clinics. The Project itself is considered a sensitive receptor. Consequently, the Project would not be considered a source of hazardous air emissions or pollutants.

However, construction activity that uses traditional diesel-powered equipment results in the emission of diesel particulate matter including fine particulate matter, which is considered a toxic air contaminant and potential health risk. The generation of these emissions would be temporary, intermittent and confined to a limited construction-period. The BAAQMD CEQA Guidelines provide a screening table for air toxics evaluation during construction to estimate the potential for significant air quality health risk impacts associated with construction activity based on general project characteristics, such as type and size and includes worst-case and conservative assumptions. The Project is well below the conservative screening level of two-hundred forty (240) residential condominiums. Nonetheless, standard construction Best Management Practices would be implemented to reduce emissions as outlined in Mitigation Measure Air-1 above. This would further reduce diesel and particulate matter emissions.

Therefore, the Project would have ***Less Than Significant Impact*** related to exposing sensitive receptors to air pollutants.

Criteria e): Odors

> The Project will not create objectionable odors affecting a substantial number of people, nor would it substantially increase any odor-related impacts other than those impacts disclosed in the Previous CEQA Documents. (***No New Impact***)

The Project is not considered a use that would create objectionable odors nor is it located in proximity to an existing source of objectionable odors. There would be ***No Impact*** related to odors.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identifies 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?	☐	☑	☐	☐
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 U.S. Fish and Wildlife Service?	☐	☑	☐	☐
c) Have a substantial adverse effect on federally protected wetlands (as defined by Section 404 of the Clean Water Act) or state protected wetlands, through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☑
d) Interfere substantially with the movement of any native resident or migratory fish or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☑
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☑	☐	☐
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?	☐	☐	☐	☑

Criteria a, b): Sensitive Fish / Wildlife Species and Habitat

The Project would not have a substantial adverse effect on a sensitive fish or wildlife species or on their habitat, nor would it have a substantial adverse impact on riparian habitat or other sensitive natural community, nor would it interfere substantially with the movement of any native resident or migratory fish or migratory wildlife corridors or impede the use of native wildlife nursery sites. (***No Impact***)

The Project site is vacant though surrounded by urban development on all sides. Existing vegetation at the Project site includes ruderal grassland, trees and shrubs. This situation carries over to nearby properties with residual areas of ruderal grassland being interspersed in non-contiguous patches. Tree species present at the Project site include Bailey acacia (*Acacia bailyana*), Blackwood acacia (*Acacia melanoxylon*), Box elder (*Acer negundo*), Deoder cedar (*Cedrus deodara*), Monterey cyprus (*Cupressus macrocapa*), Blue gum (*Ecalyptus globulus*), and Coast live oak (*Quercus agrifolia*).

Ruderal grassland habitat in the Hayward Hills Area is likely to host a variety of common invertebrates, which in turn provide food for widespread reptiles, such as western fence lizards (*Sceloporus occidentalis*), and birds, including the western scrub-jay (*Aphelocoma californica*) and northern mockingbird. Although other grassland-associated birds, such as white-tailed kites (*Elanus leucurus*), American kestrels (Falco sparverius), and loggerhead shrikes (*Lanius ludovicianus*), may occur in the Project vicinity and forage in the Project Area on occasion, the patch of ruderal grassland habitat within the Project Area is too small to support more than a single nesting pair of each of these species. Small mammals and mesocarnivores, including house mice, striped skunks, and raccoons, may also forage in the ruderal grassland, including valley pocket gopher (*Thomomys bottae*).

Project-related construction noise associated with the removal of asphalt, removal of existing landscaping at the Project site and other activities could negatively impact breeding birds should they choose to do so at the Project site within the ruderal and ornamental landscaping prior to construction. This could include any of the above-mentioned birds including migratory birds or raptors not previously identified in the area.

Breeding birds are protected under Section 3503 of the California Fish and Game Code, and raptors are protected under Section 3503.5. In addition, both Section 3513 of the California Fish and Game Code and the Federal Migratory Bird Treaty Act (16 USC, Sec. 703 Supp. I, 1989) prohibit the killing, possession, or trading of migratory birds. Finally, Section 3800 of the California Fish and Game Code prohibits the taking of nongame birds, which are defined as birds occurring naturally in California that are neither game birds nor fully protected species.

Potential impacts to breeding or nesting birds occurring as a result of Project-related construction would be minimized through mitigation restricting construction to the non-breeding season, or completion of a pre-construction survey to ensure construction activities conform to the aforementioned requirements of the California Fish and Game Code and Federal Migratory Bird Treaty Act. Implementation of Mitigation Measures Bio-1 and Bio-2 below would reduce such impacts to a level of ***Less Than Significant with Mitigation***.

Mitigation Measures

Bio-1: *To the extent practicable, construction activities and vegetation removal shall be performed from September through February to avoid the general nesting period for birds.*

Bio-2: *If construction or vegetation removal cannot be performed between September through February, a preconstruction nesting survey shall be performed by a qualified biologist no more than fourteen (14) days prior to construction activities to locate and avoid bird nests. If birds are actively nesting on site, a one-hundred (100) foot construction buffer shall be established until birds have fledged.*

Resulting Level of Significance

After implementation of Mitigation Measure Bio-1 and Bio-2, the Project would result in a ***Less Than Significant Impact***. No further measures are necessary or required to address this unlikely though potential impact.

Criteria c, and d): Wetlands, Fish or Wildlife Corridors

> The Project would not have a substantial adverse effect on a sensitive fish or wildlife species or on their habitat, nor would it have a substantial adverse impact on riparian habitat or other sensitive natural community, nor would it interfere substantially with the movement of any native resident or migratory fish or migratory wildlife corridors or impede the use of native wildlife nursery sites. (***No Impact***)

The Project site is surrounded by urbanized land (i.e., buildings, paved parking lots, ornamental landscaping). A riparian corridor is nearby but located behind the adjacent shopping center (across Hayward Boulevard). The Project site includes sloping terrain and, consequently, no wetlands are present. Therefore, for criteria “c” and “d,” the Project would result in ***No Impact***.

Criteria e): Tree Preservation and Removal Ordinance Conflict

The Project includes the removal of trees that may qualify as "Protected Trees" under the City of City of Hayward Tree Preservation Ordinance (Hayward Municipal Code Chapter 10, Article 15). However, compliance with the provisions of that ordinance ensure that any trees removed as a result of the Project would result in a less than significant impact. (***Less Than Significant Impact with Mitigation***)

The City of Hayward Tree Preservation Ordinance was adopted to protect and preserve native or non-native trees of a significant size or quality that have a positive contribution to the cities' environment. The ordinance applies to all existing Industrial, Commercial, and Multi-family development, and to new development, under-developed properties, or undeveloped properties. Trees are considered protected if they have a minimum trunk diameter of eight (8) inches (measured 54 inches above the ground), are street trees, memorial or specimen trees, or native trees from the list below with a minimum trunk diameter of four (4) inches, or a tree planted as a replacement to a protected tree. Significant and protected trees require a permit for removal, relocation, cutting, or reshaping.

As mentioned in the Aesthetics discussion above, the Project site contains thirteen (13) trees that would be removed. The arborist report prepared for the Project evaluates the potential for retaining each existing tree and concludes it is not feasible due to the steep terrain and narrowness of the Project site; this Initial Study drawn the same conclusion.

The Project includes a proposed landscape plan including trees, shrubs, grass and groundcover. Proposed new landscaping will be evaluated by the Planning Commission and City Council in accordance with the Zoning Ordinance's Planned Development District review requirements (Municipal Code §10-1.2500). Additionally, proposed replacement plantings for trees removed and/or payment for off-site landscaping will be evaluated in accordance with the Tree Preservation Ordinance (Municipal Code, Chapter 10, Article 15).

Mitigation Measures

Bio-3: *Prior to removal of any tree, the requirements of the Hayward Tree Protection Ordinance shall be fulfilled.*

Resulting Level of Significance

After implementation of Mitigation Measure Bio-3, the Project would result in a ***Less Than Significant Impact***. No further measures are necessary or required to address this unlikely though potential impact.

Criteria f): Habitat Conservation Plan

The Project would not result in a significant impact on any applicable habitat conservation plan or natural community conservation plan. (***No Impact***)

No adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan is currently applicable to the Project site. Therefore, the Project would result in ***No Impact*** under this topic.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES — Would the Project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	☐	☑	☐	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☑	☐	☐
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☑	☐	☐
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☑

Physical Setting

The Project is located in a residential area of Hayward that was urbanized between the 1950s and 1970s; a time period after construction of the Nimitz Freeway (US 880).[6,7] Consequently, the likelihood for aboveground historic resources being present is low given the development timeframe. This likelihood is also applicable to the Project site.

An existing curb cut and driveway at the Project site provides a hint of its prior condition. A residential structure was constructed at the Project site sometime after 1939 but removed sometime prior to 1999. The Project site is now vacant and contains no aboveground historic resources. The Project site is not identified on any federal, state or local register of historic places.[8]

The majority of the City of Hayward is considered to have a "moderate" to "high" sensitivity for archaeological resources, with a few locations considered to have an "extreme" sensitivity. However, areas along the Bay Margin (i.e., the Project site), are considered to have "minimal" sensitivity for archaeological resources based on a previous comprehensive survey.[9]

Criteria a - b): Historic Resources, Archaeological Resources

The Project would not cause a substantial adverse change in the significance of any known historical or archaeological resource, as defined in §15064.5. However, though the likelihood for unknown belowground historic or archaeological resources is considered "minimal," a site-specific investigation has not been performed. Discovery of such resources during construction could lead to adverse impacts. (***Less Than Significant Impact with Mitigation***)

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6 Hayward General Plan, Page 2-3 and 2-4.

7 Hayward General Plan EIR, Page 14-14.

8 Hayward Historical Resources Survey & Inventory Report, March 17, 2010.

9 Hayward General Plan EIR, Page 14-3.

The Project site is not listed on any federal, state or local register of historic places and has been substantially disturbed by prior development activities. The current Project would involve grading activities that could encounter yet-discovered, belowground historic and/or archaeological resources. Though Hayward Historic Preservation Ordinance §10-11.150 contains mandatory conditions of approval addressing the accidental discovery of buried resources during construction, they are inapplicable to the Project site since it has not been designated as an archaeologically sensitive site through the procedures of Historic Preservation Ordinance §10-11.040.

Therefore, though the likelihood of the Project resulting in adverse changes to belowground historic and/or archaeological is very low, implementation of Mitigation Measure Cult-1 would ensure any accidental discovery does not result in substantial adverse changes. Implementation of that measure would cause the Project to result in a ***Less Than Significant Impact*** under this criterion.

Mitigation Measures

Cult-1: *If buried cultural resources, such as chipped stone, ground stone, historic debris, building foundations, or non-human bone are inadvertently discovered during ground-disturbing activities, work shall stop in that area until a qualified archaeologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the City of Hayward, the State Historic Preservation Office, and other appropriate agencies. Treatment measures may include detailed documentation, excavation, and interpretation.*

Resulting Level of Significance

Implementation of Mitigation Measure Cult-1 (if necessary), the Project would not result in a significant impact on an as-yet undiscovered resource. No further measures are necessary or required to address this unlikely though potential impact.

Criteria c): Unique Paleontological Resource or Geological Feature

The Project site would not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. (***Less Than Significant Impact with Mitigation***)

The Project site contains no visible, unique geological feature. However, grading activities would result in excavation of the Project site that is expected to expose bedrock.

On a regional scale, fossilized plants, animals and microorganisms are prevalent throughout the East Bay. Many of the hills in the East Bay are made up of sedimentary bedrock that is known to contain a wide range of fossils, including radiolaria, mollusks, diatoms, foraminifera, and non-marine vertebrates. In addition, even geologically young fluvial deposits have been known to contain freshwater mollusks and extinct late-Pleistocene vertebrate fossils. Several paleontological finds, including the remains of mammoths, bisons, bears, and others have been discovered in the East Bay. Fossils may be encountered wherever there are broad, deep cuts into bedrock.

Therefore, since an on-site investigation has not been conducted at the Project site for the presence of belowground paleontological resources, implementation of Mitigation Measure Cult-2 would ensure any accidental discovery does not result in substantial adverse changes. Implementation of Mitigation Measure Cult-2 would cause the Project to result in a ***Less Than Significant Impact*** for this criterion.

Cult-2 *In the event of unanticipated discoveries paleontologic resources, the project sponsor shall promptly notify the City and retain a qualified paleontologist who shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in CEQA Guidelines §15064.5. In the event of an unanticipated discovery of a brea (a seep of natural petroleum that preserved and fossilized remains of trapped animals) or of fossils during construction, excavations within fifty (50) feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards (SVP 2010). The paleontologist shall notify the City, including all other appropriate agencies, to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.*

Resulting Level of Significance

Implementation of Mitigation Measure Cult-2 (if necessary), the Project would not result in a significant impact on an as-yet undiscovered resource. No further measures are necessary or required to address this unlikely though potential impact.

Criteria d): Human Remains Disturbance

The Project site would not disturb any human remains, including those interred outside of formal cemeteries. (***No Impact***)

The Project site is not known to include any buried human remains formerly within or outside of a formal cemetery. If human remains, or possible human remains, are encountered during the Project's limited grading activities, mandatory compliance with California Health and Safety Code §7050.5(b) would apply, and which states,

> "In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27492 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of death, and the recommendations concerning treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code."

The County Coroner, upon recognizing the remains as being of Native American origin, is responsible to contact the Native American Heritage Commission (NAHC) within 24 hours. The Commission has various powers and duties, including the appointment of a Most Likely Descendant (MLD) to the project. The MLD, or in lieu of the MLD, the NAHC, has the responsibility to provide guidance as to the ultimate disposition of any Native American remains.Given the limited grading activities associated with the Project and mandatory provisions of California Health and Safety Code §7050.5(b), the Project would result in ***No Impact*** for this topic.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to substantial risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map or Seismic Hazards 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 Publications 42 and 117 and PRC δ2690 et. Seq.)?	☐	☐	☐	☑
ii) Strong seismic ground shaking?	☐	☐	☑	☐
iii) Seismic-related ground failure, including liquefaction, lateral spreading, subsidence, collapse?	☐	☐	☑	☐
iv) Landslides?	☐	☐	☐	☑
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☑	☐
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?	☐	☐	☑	☐
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?	☐	☐	☑	☐
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?	☐	☐	☐	☑

Physical Setting

Geology & Soils

Geologic materials beneath the City of Hayward include bedrock, semi-consolidated and unconsolidated alluvium along streams and beneath flat-lying areas, colluvium on hill slopes derived from bedrock, and artificial fill. The different types and orientations of bedrock units strongly influence the distribution of areas that are susceptible to landslides and other possible geologic hazards. Similarly, the ages and environment of deposition of unconsolidated surficial deposits have a strong correlation to the susceptibility of these deposits to liquefaction, subsidence, and other types of ground failure.

The Project site is situated in hillside portion of the City of Hayward and is underlain by upper age Panoche Formation which consists primarily of claystone.[10] On-site exploration reveals the Project site is

[10] Geotechnical Investigation – Garden Condominiums – 26736 Hayward Boulevard, Hayward, California, prepared by Peters & Ross (Report – Project No. 10109.001), dated April 2010.

underlain by one (1) to eight (8) feet of fat to lean sandy clays.[11] These soils are considered highly expansive. No free groundwater was encountered at in the exploratory borings at the time of drilling.[12] However, that may have been due to variations in rainfall, temperature and other factors.

Seismicity and Faulting

The regional seismicity of the Bay Area was recently evaluated by the Working Group on Northern California Earthquake Probabilities in the Uniform Earthquake Rupture Forecast for California (UCERF 2). According to UCERF 2, the 30-year probability for a Magnitude 6.7 or greater earthquake in the Bay Area is approximately 63%. UCERF 2 estimates the 30-year probability for a Magnitude 6.7 or greater earthquake on the Hayward-Rogers Creek fault system to be 31%.

The active Hayward Fault, located approximately two-thousand (2000) feet northeast of the Project site, poses a significant hazard to the City and, more generally, the Bay Area. It is one of the principal seismogenic sources in the eastern San Francisco Bay area, and poses both a surface rupture and strong ground-shaking hazard. Considerable geological and geotechnical work has been conducted along the Hayward fault throughout Hayward over the past several decades, leading to more accurate plotting of the location of the main fault trace and knowledge of its characteristics, as well as information associated with additional active traces of the Hayward fault.

Regulatory Setting

State Regulations

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act (formerly the Alquist-Priolo Special Studies Zone Act), signed into law December 1972, requires the delineation of zones along active faults in California. The Alquist-Priolo Act regulates development on or near active fault traces to reduce the hazard of fault rupture and to prohibit the location of most structures for human occupancy across these traces. As mentioned above, the Project site is situated approximately two-thousand (2000) feet from the Hayward Fault and, consequently, it not located within nor is it nearby an Alquist-Priolo Zone.[13]

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act was developed to protect the public from the effects of strong ground shaking, liquefaction, landslides, or other ground failure, and from other hazards caused by earthquakes. This act requires the State Geologist to delineate various seismic hazard zones and requires cities, counties, and other local permitting agencies to regulate certain development projects within these zones.

Before a development permit is granted for a site within a Seismic Hazard Zone, a geotechnical investigation of the site must be conducted and appropriate mitigation measures incorporated into the project design. The Project is not located within a mapped seismic hazard zone for liquefaction or

[11] Ibid.

[12] Ibid.

[13] Earthquake Zones of Required Investigation – Hayward Quadrangle – 2012, by State of California Geological Survey.

earthquake induced landslide.[14]

Local Regulations

Hayward Building Code

The Hayward Building Code, effective as of January 1, 2008 via Ordinance No. 02-12, consists of a local adoption of the 2007 California Building Code, which is based on the 2006 International Building Code, but including certain amendment, additions, and deletions as set forth in the ordinance. The purpose of building codes are to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings, structures and certain equipment within this jurisdiction.

Along with the application of separate plumbing, mechanical and electrical codes, the City of Hayward applies its building code to, "Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit."

Evaluation of building permit applications includes an assessment of whether required seismic design features are included and, subsequently after permit issuance, confirmation that such features are installed during the inspection process.

Grading and Clearing Ordinance

The Hayward Grading and Clearing Ordinance (Article 8, Chapter 10 of Municipal Code) contains provisions to safeguard life and property and to implement City plans and policies concerning the protection of both natural and man-made environmental features when grading or clearing activities are undertaken. Though certain grading activities may be authorized under a building permit when generally associated with below-grade foundations, basements, or walls, a grading and clearing permit generally is required for the removal or placement of earthen material. A component of the grading and clearing permit process includes, when determined necessary by the City Engineer, the preparation and implementation of an interim erosion and sediment control plan during grading activities.

Stormwater Management and Urban Runoff Control

The Hayward Stormwater Management and Urban Runoff Control Ordinance (Article 5, Chapter 11 of Municipal Code) contains provisions intended to: (a) eliminate non-stormwater discharges to the municipal separate storm sewer; (b) control the discharge to municipal separate storm sewers from spills, dumping, or disposal of materials other than storm water; and (c) reduce pollutants in storm water discharges to the maximum extent practicable. Additionally, this ordinance incorporates the local adoption of the National Pollutant Discharge Elimination System requirements.

Criteria a.i, a.iv): Fault Rupture, Landslides

The Project is not located in proximity to any known earthquake fault and, consequently, would not

[14] Ibid.

be subject to fault rupture. Also, the Project site is not located within a mapped landslide hazard zone. (***No Impact***)

The active Hayward Fault is located approximately two-thousand (2000) feet to the southwest of the Project site.[15] Also, the Project site is not situated within a mapped landslide hazard area.[16] Consequently, the Project would result in ***No Impact*** with regard to fault rupture or landslides.

Criteria a.ii, a.iii, c): Groundshaking, Seismic-Related Ground Failure, Unstable Geologic Unit

The Project is located in a region of high seismic activity and could be subject to severe groundshaking and seismic-related groundfailure. However, the Project requires a building permit which would involve the mandatory implementation of design features to minimize seismic-related hazards. (***Less Than Significant Impact***)

The severity of groundshaking at a particular site is controlled by several factors, including the distance from the earthquake source, the earthquake magnitude, and the type, thickness and condition of underlying geologic materials. Areas underlain by unconsolidated, recent alluvium and/or man-made fill have been shown to amplify the effects of strong seismic ground shaking. The presence of such deposits and the fact that the active Hayward Fault is located west of the Project site increases the chances that severe ground shaking will likely occur during a major seismic event.

Liquefaction is defined as the transformation of a granular material from a solid state into a liquefied state as a consequence of increased pore pressure and decreased effective stress. Liquefaction typically is caused by strong ground shaking during an earthquake. Observed types of ground failure resulting from liquefaction during earthquakes in the San Francisco Bay region include sand boils, lateral spreads, ground settlement, ground cracking and ground warping. However, as mentioned, the Project is not located within a mapped seismic hazard zone for liquefaction.

Despite the hazards associated with groundshaking, the Project's potential impacts related would be reduced to less than significant levels by Hayward's project development review and mandatory construction oversight which incorporates the recommendations of a registered geotechnical engineer in accordance with the California Building Code and Public Resources Code §2693(c) and standard geotechnical practices throughout the pre-construction and construction conditions. Therefore, with implementation of these mandatory measures, the Project is considered to result in a ***Less Than Significant Impact***.

Criteria b): Substantial Soil Erosion

The Project would not result in substantial soil erosion or the loss of topsoil. (***Less Than Significant Impact***)

The Project would involve the excavation and removal of top soils. Grading activities would involve excavation activities to create three (3) level pads for foundations and the corresponding drive aisle providing access. Such activities have the potential to result in erosion that may transport materials off-

[15] Ibid.

[16] Ibid.

site and result in the clogging of storm drains and reduced water quality. However, the Project's mandatory compliance with the Hayward Stormwater Management and Urban Runoff Control Ordinance (Article 5, Chapter 11 of Municipal Code) would ensure ***Less Than Significant Impact*** would result.

Criteria d): Expansive Soils

The Project area is located in a mapped area of expansive soils which, if not addressed, may lead to damage to structures and other improvements and utilities. However, compliance with mandatory requirements under the applicable building code ensures the Project would not result in a substantial risk to life or property. (***Less Than Significant Impact***)

Figure 9.3 of the Hayward General Plan EIR shows much of the Project site is mantled by clayey soils of the Clear Lake-Omni series, which are expansive soils that have a high shrink-swell potential. Such soils, when exposed to natural seasonal or man-made moisture content changes, can damage structures and other improvements and utilities. This hazard has verified on-site by the geotechnical report prepared for the Project. However, such impacts would be mitigated to less than significant levels in accordance with Hayward's development review and construction oversight which incorporates the recommendations of a registered geotechnical engineer in accordance with the California Building Code and standard geotechnical practices. Therefore, the Project would result in ***Less Than Significant Impact*** for this criterion.

Criteria e): Septic Systems

The Project would not result in a significant related to the use of septic systems since their use is not permitted within the City. (***No Impact***)

Properties within the Project area must connect to Hayward's municipal sewer system in accordance with Municipal Code §11-3.2001 (Duty to Connect to Municipal Sewer). For this topic, ***No Impact*** would result from the Project.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
VI. GREENHOUSE GAS EMISSIONS — Would the Project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☑	☐
b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☑

Physical Setting

In addition to the air pollutants discussed in the Air Quality section, other emissions may not be directly associated with adverse health effects, but are suspected of contributing to "global warming." Global warming has occurred in the past as a result of natural processes, but the term is often used now to refer to the warming predicted by computer models to occur as a result of increased emissions of greenhouse gases (GHG).

The Global Warming Potential (GWP) concept is used to compare the ability of each GHG to trap heat in the atmosphere relative to carbon dioxide (CO_2), which is the most abundant GHG. CO_2 has a GWP of 1, expressed as CO_2 equivalent (CO_2e). Other GHGs, such as methane and nitrous oxide are commonly found in the atmosphere at much lower concentrations, but with higher warming potentials, having CO_2e ratings of 21 and 310, respectively. In the United States in 2008, CO_2 emissions accounted for about 85 percent of the GHG emissions, followed by methane at about 8 percent and nitrous oxide at just under 5 percent.[17] Other trace gases have much greater warming potential.

Regulatory Setting

Senate Bill 97—Modification to the Public Resources Code

Pursuant to Senate Bill 97, the California Natural Resources Agency reviewed and adopted the amendments to the CEQA Guidelines on December 30, 2010 prepared and forwarded by the Governor's Office of Planning and Research (OPR). The Amendments became effective on March 18, 2010, including the addition of the above GHG emissions environmental topic and checklist items.

AB 32 and the Air Resource Board's Climate Change Scoping Plan

In 2006, the governor of California signed AB 32, the Global Warming Solutions Act, into legislation. The Act requires that California cap its GHG emissions at 1990 levels by 2020.

On December 11, 2008, the California Environmental Protection Agency Air Resources Board (ARB) adopted its *Climate Change Scoping Plan* (Scoping Plan), which functions as a roadmap of ARB's plans to achieve GHG reductions in California required by AB 32 through subsequently enacted regulations. The Scoping Plan contains the main strategies California will implement to reduce GHG emissions by 174 million metric tons (MMT), or approximately 30 percent, from the state's projected 2020 emissions

[17] *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990 – 2008*. U.S. EPA. April 15, 2010, Table 2-1: Recent Trends in U.S. Greenhouse Gas Emissions and Sinks.

level of 596 MMT of CO_2e under a business-as-usual scenario. The Scoping Plan also breaks down the amount of GHG emissions reductions ARB recommends for each emissions sector of the state's GHG inventory.[18]

Bay Area Air Quality Management District

As discussed in the Air Quality section, the Project site is located within the San Francisco Bay Area Air Basin, which is under the jurisdiction of BAAQMD. In May 2011, the BAAQMD approved a new set of CEQA Thresholds and Guidelines for consideration by lead agencies. The *California Environmental Quality Act: Air Quality Guidelines* ("BAAQMD CEQA Guidelines") provide guidance for consideration by lead agencies, consultants, and other parties evaluating air quality impacts conducted pursuant to the California Environmental Quality Act (CEQA) including thresholds of significance for Greenhouse Gas (GHG) emissions.

In March 2012, the Alameda County Superior Court ordered BAAQMD to set aside use of the significance thresholds within the BAAQMD CEQA Guidelines until they complete an assessment of the environmental effects of the thresholds in accordance with CEQA. The Court found that the thresholds, themselves, constitute a "project" for which environmental review is required. Consequently, these thresholds are not currently in effect though the BAAQMD states that lead agencies may continue to rely on the BAAQMD CEQA Guidelines, "for assistance in calculating air pollution emissions, obtaining information regarding the health impacts of air pollutants, and identifying potential mitigation measures."

However, the BAAQMD CEQA Guidelines include the most conservative thresholds available and comparison of the Project's emissions against these Thresholds provides a conservative assessment as the basis for a determination of significance. In the absence of other applicable thresholds, the City of Hayward, as lead agency, has chosen to utilize the May 2011 BAAQMD thresholds as a means to conservatively assess the Project's potential environmental effects.

Criteria a): Greenhouse Gas Emissions

The Project would not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment. (***Less Than Significant Impact***)

Construction Activities

Construction-period GHG emissions would be temporary only, and a project of this size would not be anticipated to contribute substantially to regional GHG levels. Construction-period GHG emissions would also be further reduced by Mitigation Measure Air-1, which includes measures to reduce exhaust emissions during construction. The impact during the construction period would be ***Less Than Significant***.

Operational and Maintenance Activities

The BAAQMD CEQA Guidelines include screening criteria to provide lead agencies and project applicants with a conservative indication of whether a proposed project could result in GHG emissions. In

[18] California Air Resource Board. April 22, 2010. *AB 32 Scoping Plan Implementation Update*. Accessed at http://www.arb.ca.gov/board/books/2010/042110/10-4-1pres.pdf .

accordance with the BAAQMD CEQA Guidelines, where all the screening criteria are met, a lead agency need not perform a detailed air quality assessment of a particular project's GHG emissions.

The BAAQMD CEQA Guidelines provide a GHG emission screening size (from operational emissions) of seventy-eight (78) dwelling units for residential condominiums similar to the Project. As such, the Project is far below the screening criteria. Therefore, the Project would result in a ***Less Than Significant Impact*** related to contribution to GHG emissions.

Criteria b): Greenhouse Gas Plan, Policy or Regulation Conflict

> The Project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases. (***No Impact***)

The City of Hayward and its citizens recognize that climate change poses a potential threat to the community and to the larger environment. Hayward made this intention clear in 2005, when the Mayor of Hayward signed the U.S. Conference of Mayors Climate Protection Agreement. In June 2006, the City joined ten (10) other local governments in Alameda County participating in the Alameda County Climate Protection Project (ACCPP). By joining ACCPP, Hayward embarked on an ongoing coordinated effort to reduce the emission of gasses that cause global warming.

In June 2009, Hayward adopted a Climate Action Plan (Hayward CAP) which provides a roadmap for achieving a measurable reduction in GHG emissions. The Hayward CAP includes GHG emissions reduction targets that align with those of the State of California and presents a number of strategies that will make it possible for the City to meet the recommended targets. The Hayward CAP also suggests best practices for implementing the Plan and makes recommendations for measuring progress.

The Hayward CAP includes "Actions" to implement strategies for GHG reduction. Many of these Actions involve developing and implementing future City-wide regulations and/or programs and, thus, would not be directly applicable to the Project. However, the Project is subject to mandatory compliance with the City's Green Building Ordinance (Chapter 10, Article 22) and which the Hayward CAP encourages the continued application of via Action 4.1.

Given the above, the Project would have ***No Impact*** related to conflict with a GHG reduction plan or regulation.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
VII. HAZARDS AND HAZARDOUS MATERIALS - Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☑	☐
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?	☐	☐	☑	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☑
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 create a significant hazard to the public or the environment?	☐	☐	☐	☑
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, and would result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑
f) Be located within the vicinity of a private airstrip, and would result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency 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?	☐	☐	☑	☐

Criteria a, b): Routine Use and Potential Accident Conditions, and Cortese List

The Project would not result in a significant impact related to the routine transport, use, or disposal of hazardous materials, or through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. (***Less Than Significant Impact***)

The significance of hazardous materials and public health/safety impacts depends on whether the Project would increase the likelihood of human exposure to contaminants, hazardous materials, or hazardous waste. The potential for mobilization of contaminants through Project-related excavation and handling of contaminated soil is considered low since the Project site is not identified on any list of known hazardous materials sites and, in particular, since the Project site is not identified as containing any belowground

tanks which may have stored hazardous materials.[19]

The use of hazardous materials during Project construction would be minimal. Hazardous materials associated with construction may include gasoline, diesel fuel, hydraulic oils, equipment coolants, and generated wastes that may include these materials. There materials are considered hazardous because they are flammable and/or contain toxic compounds such as volatile organic compounds and heavy metals. Fueling and routine maintenance of the Project's construction-related equipment and vehicles would be performed off-site to the greatest extent feasible.

Concerning operational activities, the Project consists of a residential land use type not typically including the use or transport of hazardous materials.

For the above reasons, the Project would result in a ***Less Than Significant Impact*** relative to construction and operational activities.

Criteria c): Hazards Near Schools

> The Project would not result in a significant impact related to the release of hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. (***No Impact***)

The Project is located within one-quarter mile of an existing school (California State University East Bay) but would not include the use or transport of hazardous materials. Therefore, for this topic, the Project would result in ***No Impact***.

Criteria d): Site of Listed Hazardous Materials Site

> The Project is not 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 not create a significant hazard to the public or the environment as a result of such listing and related potential for exposure. (***No Impact***)

The Project site is not located on a site included on a list of hazardous materials sites.[20] Therefore, for this criterion, the Project would result in ***No Impact***.

Criteria e-f): Airport Hazards

> The Project is not located within two (2) miles of an airport and would not result in a safety hazard for people residing or working in the project area. (***No Impact***)

The Project site is located approximately 3.44-miles from the nearest airport (i.e., Hayward Executive Airport). The Hayward Executive Airport Land Use Compatibility Plan identifies the Project as located outside the "Airport Influence Area" (see Figure 3-1).[21] Therefore, with regard to safety hazards related

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[19] EDR Radius Check Report with GeoCheck, 26736 Hayward Blvd, dated January 8, 2013.

[20] Ibid.

[21] Hayward Executive Airport – Airport Land Use Compatibility Plan, dated August 2012.

to persons residing or working nearby an airport, the Project would result in ***No Impact***.

Criteria g): Emergency Response/Evacuation Plans

The Project would not impair implementation or physically interfere with an adopted emergency response plan or emergency evacuation plan. (***No Impact***)

The Project is confined to a private property abutting an existing public road (i.e., Hayward Boulevard). Though Project-related construction activities could temporarily impair vehicular access, the Hayward Public Works Department would ensure adequate circulation is maintained through the evaluation of a mandatory encroachment permit.[22] Therefore, the Project would result in ***No Impact*** under this topic.

Criteria h): Wildland Fire Hazards

The Project would not result in a significant new impact related to wildland fire hazards. (***Less Than Significant Impact***)

The Hayward Fire Department is the primary fire protection agency in the Project area. Though the City of Hayward has no State designated wildland/urban interface area, it does have one locally designated area that is considered vulnerable to wildland fire and within which the Project site is located. Many properties within the both Project area and that wildland fire hazard area are urbanized and contiguous to urban development but situated in proximity to undulating topography, grasslands and riparian corridors what may present fire risks and challenges to fire protection.

California Building Code §701A.3.2 would apply to construction activities under the Project, including both the Hayward Fire Prevention Code and Hillside Design and Urban/Wildland Interface Guidelines. The mandatory requirements of these documents address how development proposals must address fire hazards associated with steep slopes, open grass/brush, woodland and riparian zones and which may be difficult for the Fire Department to control. Continued implementation of those requirements under the Project would ensure no significant risk of loss, injury or death involving wildland fires would result. Therefore, the Project would result in a ***Less Than Significant Impact*** under this criterion.

[22] Hayward Municipal Code Chapter 7, Article 2.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
VIII. HYDROLOGY AND WATER QUALITY – Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☑
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)?	☐	☐	☐	☑
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 result in substantial erosion or siltation on- or off-site?	☐	☐	☑	☐
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?	☐	☐	☑	☐
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??	☐	☐	☑	☐
f) Otherwise substantially degrade water quality?	☐	☐	☐	☑
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?	☐	☐	☐	☑
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☑
i) Expose people or structures to a substantial risk of loss, injury or death involving flooding as a result of the failure of a levee or dam?	☐	☐	☐	☑
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☑

Criteria a, f): Water Quality Standards

The Project would not result in a violation of water quality standards nor other substantially degrade water quality. (***No Impact***)

New construction in the City of Hayward is subject to mandatory water quality requirements imposed as a condition of construction. These regulations implement regional water quality regulations imposed by the San Francisco Bay Regional Water Quality Control Board and are consistent with the National Pollution Elimination Discharge System (NPDES) permit granted to all jurisdictions in Alameda County pursuant to the Alameda County Clean Water Program. New development projects are required to implement Best

Management Practices for both construction and post-construction periods that limit periods during which grading occurs, filtration of stormwater prior to entering public drainage systems and similar requirements. Implementation of those practices would ensure no violation of water quality standards results from the Project. Therefore, the Project would result in ***No Impact*** for this topic.

Criteria b): Groundwater Supplies

> The Project would not result in a significant impact on groundwater supplies, nor would it substantially increase any impacts on groundwater supplies. (***No Impact***)

The Project would not 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. Within the Project area, the underlying groundwater basin is not utilized as a water supply and no pumping activities currently occur within the City of Hayward. Therefore, for this topic, the Project would result in ***No Impact.***

Criteria c, d): Drainage Patterns

> The Project would not substantially alter a drainage pattern and would not substantially increase the rate or amount of surface runoff. (***Less Than Significant Impact***)

The Project is located in an urbanized setting and all potential drainage pattern-altering elements of the Project would be confined to its site. The Project site does not include any natural drainage channels. All post-construction drainage from the Project would be conveyed to Hayward Boulevard. As a result, the Project would not substantially alter the on-site drainage pattern. Additionally, the Project's mandatory compliance with the California Regional Water Quality Control Board San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (MS4 Permit), the City of Hayward Storm Water Management and Urban Runoff Control Ordinance, and Alameda County Clean Water Program (ACCWP) Guidelines would ensure the Project would result in a ***Less Than Significant Impact*** relative to this criterion.

Criteria e): Stormwater System Capacity

> The Project will not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems nor would it provide substantial additional sources of polluted runoff. (***Less Than Significant Impact***)

The Project will increase the amount of impervious surface. Since the Project site is presently vacant, the Project would increase the volume of flows to the stormwater system in Hayward Boulevard. However, the Project's mandatory compliance with the California Regional Water Quality Control Board San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (MS4 Permit), the City of Hayward Storm Water Management and Urban Runoff Control Ordinance, and Alameda County Clean Water Program (ACCWP) Guidelines would ensure the Project would result in a ***Less Than Significant Impact*** relative to this criterion.

Criteria g, h): Housing in Flood Hazard Area, Impede or Redirect Flood Flows

> The Project would not place housing within a delineated flood hazard area, and the Project is not located within a mapped 100-year flood hazard area. (***No Impact***)

The Project is not situated within a mapped flood hazard area[23]. Therefore, the Project would result in ***No Impact*** for this topic.

Criteria i): Dam or Levee Failure

The Project is not situated in a located potentially subject to flood waters from a dam or levee failure. (***No Impact***)

The Association of Bay Area Governments (ABAG) provides a dam failure inundation map for the San Francisco Bay Area.[24] That map depicts the Project site as located outside of a dam failure inundation area. Therefore, the Project would not expose people or structures to a substantial risk of loss, injury or death involving flooding as a result of the failure of a levee or dam. The Project would result in ***No Impact*** for this topic.

Criteria j): Seiche, Tsunamis or Mudflow

The Project area would not be subject to inundation by seiche or tsunami. (***No Impact***)

The Association of Bay Area Governments (ABAG) provides a tsunami inundation map for the San Francisco Bay Area. That map depicts the Project site as located outside a tsunami inundation area.[25] Also, there are no published maps or hazard information on seiche hazards in the Bay Area.[26] Therefore, for this topic, the Project would result in ***No Impact***.

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[23] FEMA FIRM Map No. 06001C0288G, Effective Date August 3, 2009.

[24] ABAG website: http://gis.abag.ca.gov/Website/DamInundation/

[25] ABAG website: gis.abag.ca.gov/website/Tsunami/

[26] ABAG Multi-Jurisdiction Local Hazard Mitigation Plan – 2010 Update, Page C-28.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
IX. LAND USE AND PLANNING -- Would the project:				
a) Physically divide an established community?	☐	☐	☐	☑
b) Conflict with 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?	☐	☐	☐	☑
c) Fundamentally conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☑

Criteria a, c): Divide Established Community, Conservation Plan Conflict

The Project would not physically divide an established community, and it is not subject to a Habitat Conservation Plan or Natural Community Conservation Plan (***No Impact***)

The Project would be located within an existing urban environment, would be primarily confined to a private property, and is not subject to any habitat conservation plan. The majority of Project features are confined to the Project site itself with the exception of the extension of a utility lines in Hayward Boulevard. Therefore, for these criteria, the Project would result in ***No Impact***.

Criteria b): Land Use Conflict

The Project would not result in a conflict with a land use plan, policy or regulation adopted for the purpose of avoiding or mitigating an environmental effect. (***No Impact***)

As shown on **Figure 12**, the Hayward General Plan provides an "Medium Density" designation to the Project site. **Figure 13** illustrates that the Hayward Zoning Map provides an "Single Family" (RSB6) designation. The Project would include a residential land use type and density consistent with the Hayward General Plan. The Project includes a request to rezone the site to Planned Development District. An application for this request was submitted in compliance with Zoning Ordinance §10-1.2525 and will be acted upon by both the Planning Commission and City Council. Lastly, there is no plan, policy, or regulation adopted for the purpose of mitigating and environmental effect applicable to the Project site. Therefore, for this topic, the Project would result in ***No Impact***.

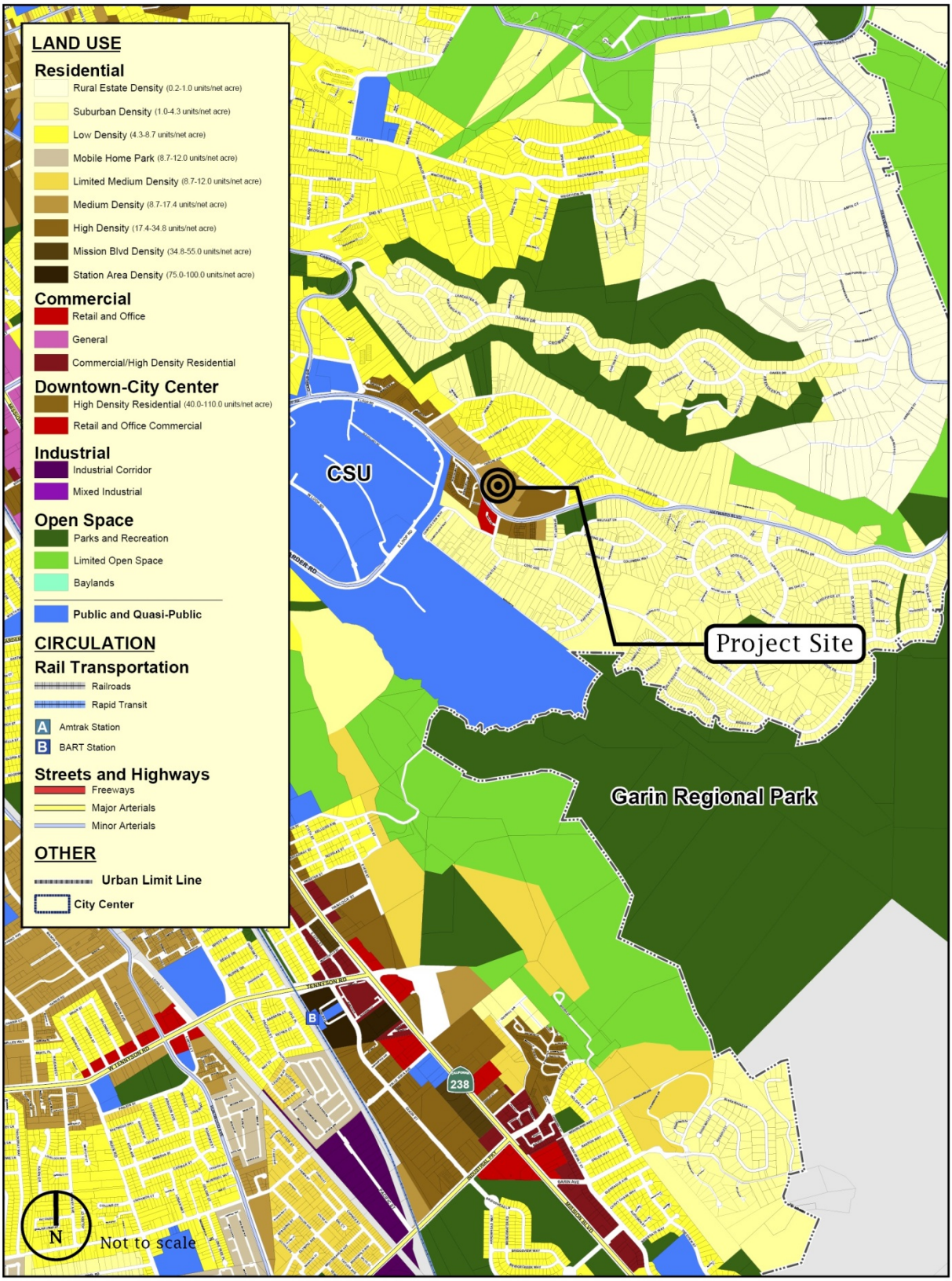

Figure 15: Hayward General Plan Map.

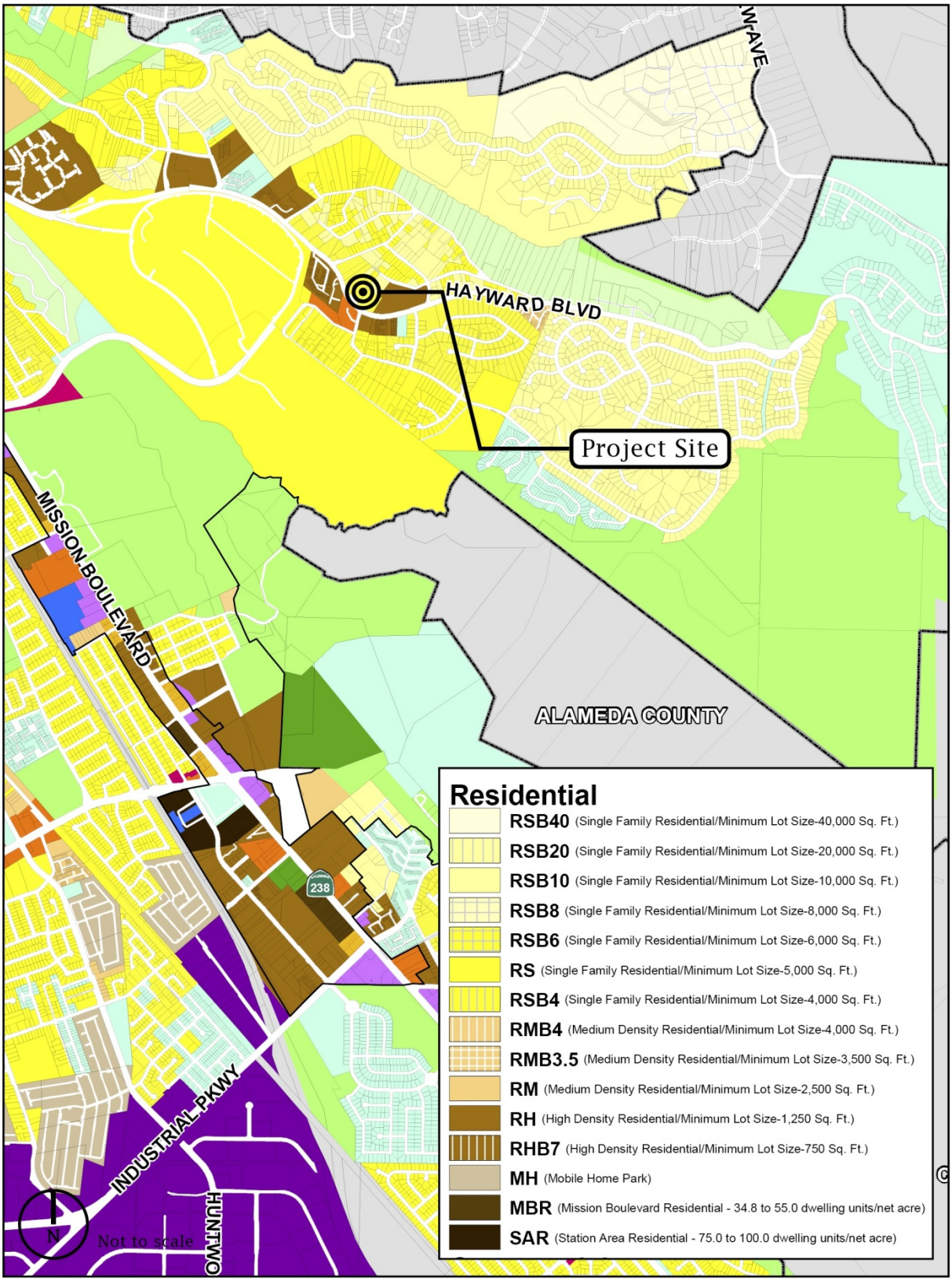

Figure 16: Hayward Zoning Map.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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?	☐	☐	☐	☑
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?	☐	☐	☐	☑

Criteria a and b): Mineral Resources

The Project would not result in the loss of availability of a known mineral resource. (***No Impact***)

There are no mineral resources at the Project site or surrounding area. In fact, the Hayward General Plan designates no lands for mineral resource extraction. Similarly, the Project site and surrounding area are not designated as an economically significant mineral deposit pursuant to the California Surface Mining Act (SMARA). Therefore, ***No Impact*** would result under this criterion.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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?	☐	☑	☐	☐
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☑	☐
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☑	☐
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☑	☐	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑

Criteria a, d): Noise Exposure, Substantial Temporary Noise Increase

The Project would involve construction activities that could temporarily result in noise levels exceeding those permitted by the City of Hayward Noise Ordinance. However, mandatory compliance with the City of Hayward Noise Ordinance, and implementation of Mitigation Measures Noise-1, Noise-2 and Noise-3, would cause the Project to result in a less than significant impact for temporary noise. (***Less Than Significant Impact with Mitigation***)

During construction, the Project will generate noise from the use of construction equipment on-site as well as from vehicles used to transport crews and materials to the Project site. Noise levels for construction equipment at a distance of fifty (50), one-hundred (100) and one-thousand feet are displayed in **Table 1** (Construction Equipment Types and Typical Noise Emission Levels) below. Construction activities would be temporary yet occur in a residential area including sensitive receptors (e.g., residences, a school). An existing permanent ambient noise source (i.e., Hayward Boulevard) abuts the Project site.

The Hayward Noise Ordinance (Municipal Code §4-1.02 et. al) requires that noise levels in residential areas be limited to no more than seventy (70) dBA (at property line) between 7:00 AM and 9:00 PM or sixty (60) dBA between 9:00 PM and 7:00 AM during any day of the week. However, the Hayward Noise Ordinance (Municipal Code §4-1.03.4) also allows for construction activities to emit up to eighty-six (86) dBA at property line.

As shown in **Table 1**, a maximum noise level of eighty-five (85) dBA at a distance of fifty (50) feet could be expected from Project-related construction activities. Since the Project would involve construction activities abutting existing residential structures at an approximate distance of twenty-five (25) feet, construction-related noise levels may exceed levels permitted by the Noise Ordinance.

TABLE 1: CONSTRUCTION EQUIPMENT TYPES AND TYPICAL NOISE EMISSION LEVELS[1]

Equipment	Typical Noise Level at Distance from Source (dBA)		
	50 feet	100 feet	1,000 feet
Backhoe	80	70	50
Compactor	80	67	47
Concrete Mixer Truck	85	75	55
Crane	85	71	51
Pick-up Truck	55	45	25
Dump Truck	84	74	54
Dozer	85	75	55
Water Truck	84	74	54
Grader	85	75	55
Rock Transport	84	74	54
Roller	85	72	52
Hole Auger	85	72	52
Line Truck and Trailer	55	45	25
Truck-Mounted Auger	84	71	51
Truck	84	74	54
Generator	82	73	53

[1] Federal Highway Administration, 2006.

Mitigation Measures

Noise-1: *(Noise Attenuation Plan for Construction Activities) A qualified noise consultant shall be retained by the project applicant to develop a site-specific noise reduction program to reduce noise impacts due to construction and submit such to the Development Services Department for review and approval. The applicant shall implement the approved plan. Noise reduction strategies to consider include, but are not limited to, the following measures:*

- *Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).*

- *Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically*

powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.

- *Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures as determined by the City to provide equivalent noise reduction.*

- *The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.*

Noise-2: *(Noise Complaint Procedure) Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the Development Services Department a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:*

- *A procedure and phone numbers for notifying the Development Services Department staff and Hayward Police Department; (during regular construction hours and off-hours);*

- *A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);*

- *The designation of an on-site construction complaint and enforcement manager for the project;*

- *Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and*

- *A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.*

Noise-3: *(Extreme Noise Generators) To further reduce potential extreme noise generating construction impacts greater than 86 dBA and which cross the Project site boundary, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the Development Services Department to ensure that maximum feasible noise attenuation will be achieved. This plan shall be based on the final design of the project. A third-party peer review, paid for by the project applicant, may be required to assist the City in evaluating the*

feasibility and effectiveness of the noise reduction plan submitted by the project applicant. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Development Services Department Director, and the deposit shall be submitted by the project applicant concurrent with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of implementing the following measures. These attenuation measures shall include as many of the following control strategies as applicable to the site and construction activity:

- *Erect temporary plywood noise barriers around the construction site, particularly along sides adjacent to residential buildings;*
- *Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;*
- *Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and*
- *Monitor the effectiveness of noise attenuation measures by taking noise measurements.*
- *Quiet pile driving technology (screw piles) shall be used.*

Resulting Level of Significance

With implementation of Mitigation Measures Noise-1, Noise-2 and Noise-3, the Project would result in less than significant effects relative to persons being exposed to noise levels in excess of applicable standards. No further measures are necessary or required to address this unlikely though potential impact.

Criteria b): Groundborne Vibration and Noise Exposure

Construction activities associated with implementation of the project could temporarily expose persons in the vicinity of the proposed project construction areas to excessive ground-borne vibration or ground-borne noise levels. (***Less Than Significant Impact***)

Vibrating objects in contact with the ground radiate vibration waves through various soil and rock strata to the foundations of nearby buildings. As the vibration propagates from the foundation throughout the remainder of the building, the vibration of floors and walls may cause perceptible vibration from the rattling of windows or a rumbling noise. The rumbling sound caused by the vibration of room surfaces is called ground-borne noise.

When assessing annoyance from ground-borne noise, vibration is typically expressed as root mean square (rms) velocity in units of decibels of one (1) micro-inch per second. To distinguish vibration levels from noise levels, the unit is written as “VdB.” Human perception to vibration starts at levels as low as sixty-seven (67) VdB and sometimes lower. Annoyance due to vibration in residential settings starts at approximately seventy (70) VdB. Ground-borne vibration is almost never annoying to people who are outdoors. Although the motion of the ground may be perceived, without the effects associated with the shaking of the building, the motion does not provoke the same adverse human reaction.

In extreme cases, excessive groundborne vibration has the potential to cause structural damage to buildings. Common sources of ground-borne vibration include trains and construction activities such as blasting, pile driving and operating heavy earthmoving equipment.

The Project includes the construction of structures with slab-on-grade foundations. However, the Project site includes bedrock at a shallow elevation (i.e., between two (2) to eight (8) feet). Consequently, this Initial Study conservatively assumes construction activities may involve the removal of bedrock. In fact, the geotechnical report prepared for the Project assesses the use of drilled piers and concludes it has benefits at the site to prevent potential "creep" type movements. If pile driving were to be used, it has the potential to be a source of groundborne vibration.

Typical groundborne vibration levels measured at a distance of fifty (50) feet from heavy construction equipment in full operation, such as bulldozers or other heavy tracked equipment, range up to approximately ninety-four (94) VdB. While this is below the damage threshold for historic or fragile buildings, groundborne vibration-producing construction-related activities could occur as close as within twenty-five (25) feet of residential structures abutting the Project site.

The Project would comply with the construction hours specified in the City's Noise Ordinance. Additionally, implementation of the Mitigation Measures Noise-1 through Noise-3, would ensure potentially significant effects resulting from vibration would be reduced to a ***Less Than Significant*** level.

Criteria c): Noise Exposure, Permanent Noise Increase

> In the post-construction condition, the Project would emit low-level noise and, thereby, not conflict with the general plan or noise ordinance or result in a permanent increase in noise levels. (***Less Than Significant Impact***)

The Project would result in the residential uses that typically emit a very low-level noise that is consistent with that presently emitted from nearby, similar land uses. Consequently, the Project would not result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project. The Project is, therefore, considered to result in a ***Less Than Significant Impact*** according to this criterion.

Criteria e and f): Airport Noise

> The proposed Project is not located within an airport land use plan, nor is it located within the vicinity of a private airstrip. (***No Impact***)

As mentioned above, the Project is located outside of the Airport Influence Area designated by the Hayward Executive Airport – Airport Land Use Compatibility Plan. As such, the Project site is not subject to airport-related noise. Therefore, for this criterion, the Project would result in ***No Impact***.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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)?	☐	☐	☐	☑
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑

Criteria a, b and c): Population Growth and Displacement

The Project would not, either directly or indirectly, induce substantial population growth nor would it displace substantial number of existing housing or people necessitating the construction of replacement housing elsewhere. (***No Impact***)

The Project site is presently vacant and, as such, it would not displace persons or housing. The Project would increase population at the site through the construction of eight (8) new residential condominiums. The construction of this number of residences within an urbanized area is not considered substantial population growth. Though the Project would extend a stormwater line within Hayward Boulevard to the Project site, the extension of that infrastructure has no potential to induce additional population growth. Therefore, the Project would result in ***No Impact*** under these population and housing criteria.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
XIII. PUBLIC SERVICES –				
a) Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i) Fire protection?	☐	☐	☐	☑
ii) Police protection?	☐	☐	☐	☑
iii) Schools?	☐	☐	☐	☑
iv) Parks?	☐	☐	☐	☑
v) Other public facilities?	☐	☐	☐	☑

Criteria a.i and a.ii): Fire and Police Protection:

The Project would not result in a substantial adverse physical impact related to the provision of fire or police protection services. (***No Impact***)

The Project includes new residential condominiums that would generate some level of demand for fire and police protection services. However, the Project's construction of eight (8) new residences is not result in significant additional demands for fire or police protection services, would not require additional fire or police services in the area, and would not significantly impact fire or police protection objectives. Additionally, the Project is located within a five-minute response radius of Fire Station No. 9 (24912 Second Street). For these reasons, the Project would result in ***No Impact*** for this topic.

Criteria a.iii): Schools:

The Project would not result in a significant impact to schools due to its mandatory payment of fees required by Government Code §65995. (***No Impact***)

The Project does not propose any new or physically altered school facilities. Therefore, the Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered school facilities. However, the Project does include new residential condominiums that could be expected to generate students attending local schools.

The Hayward Unified School District (HUSD) boundaries include most of the City of Hayward as well as parts of the unincorporated communities of Cherryland and Fairview. The HUSD operates twenty-one (21) elementary, five (5) middle, and three (3) high schools; and employs about 2,335 persons, including 1,600 teachers, 650 classified employees, and eighty-five (85) administrative positions.

Senate Bill 50 (SB 50), which is funded by Proposition 1A, limits the power of cities and counties to

require fiscal mitigation on home developers as a condition of approving new development and provides for a standardized developer fee. The State Allocation Board approves increases in development fees per Government Code §65995 (b) in response to inflation. Therefore, payment of development fees, in accordance with State Law, is deemed sufficient to provide and maintain an acceptable service ratio for Project-related students. Therefore, the Project would in ***No Impact*** under this topic.

Criteria a.iv, a.v): Parks, Other Public Facilities:

> The Project would not result in a significant impact to parks due to its mandatory payment of in-lieu park fees. (***No Impact***)

The Project does not propose any new or physically altered park facilities. Therefore, the Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered park facilities. Similarly, there are no "other public facilities" that the Project might adversely effect.

Hayward Municipal Code Article 16 (Property Developers - Obligations for Parks and Recreation), Chapter 10 (Planning, Zoning, Subdivisions) sets forth regulations for parkland dedication and/or in-lieu fee payment for park and recreation facilities associated with residential development. The Project is subject to these requirements. Collected in-lieu fees are levied at the time building permits are issued and collected prior to issuance of Certificate of Occupancy. Consequently, the Project would result in ***No Impact*** under this topic.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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?	☐	☐	☐	☑
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?	☐	☐	☐	☑

Criteria a: Increased Park Use

The Project would not result in a substantial physical deterioration to neighborhood or regional parks. (***No Impact***)

The Project includes eight (8) new residential condominiums that could be expected to increase the use of neighborhood or regional parks. College Heights Neighborhood Park is within 1,000 feet of the Project site. Similarly, the Gain Regional Park is nearby the Project site. However, the construction of eight (8) new residences would not result in a substantial physical deterioration of those and other similar facilities in Hayward. Therefore, the Project would result in ***No Impact*** on this topic.

Criteria b): New or Expanded Recreational Facilities

The Project does not include the construction of recreational facilities nor require the construction or expansion of recreational facilities. (***No Impact***)

The Project does not include a recreational facility nor would any recreational facility be expanded as a result of the Project. Therefore, the Project would result in ***No Impact*** on this topic.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
XV. TRANSPORTATION/TRAFFIC -- Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☑	☐
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☑	☐
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?	☐	☐	☐	☑
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)??	☐	☐	☐	☑
e) Result in inadequate emergency access?	☐	☐	☐	☑
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☑

Criteria a and b): Plan, Ordinance or Policy Conflict and Congestion Management Program Conflict

The Project would not conflict with an applicable plan, ordinance or policy establishing measures for the effectiveness for the performance of the circulation system nor would it conflict with the Alameda County Transportation Commission (ACTC) Countywide Transportation Plan. (***Less Than Significant Impact***)

The Project includes eight (8) residential condominiums that could be expected to generate traffic distributed to local and regional roadways. The City of Hayward requires traffic impact studies for projects generating greater than one-hundred (100) peak P.M. hour trips or when there are other warranting circumstances such as potential impacts on neighborhood streets, or to analyze the potential need for a traffic signal. The Project would generate an average of 4.16 peak P.M. hour trips. Also, the Hayward Public Works Department has determined there are no other warranting circumstances to assess the Project's potential adverse effects on the effectiveness of the transportation system. For these reasons, the Project would result in ***Less Than Significant Impact*** under this topic.

Criteria c): Air Traffic Patterns

The Project would not 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. (***No Impact***)

The Project site is located approximately 3.44-miles from the nearest airport (i.e., Hayward Executive Airport). The Hayward Executive Airport Land Use Compatibility Plan identifies the Project as located outside the "Airport Influence Area" (see Figure 3-1).[27] Therefore, with regard to safety hazards related to persons residing or working nearby an airport, the Project would result in ***No Impact***.

Criteria d): Design Feature Hazards

The Project would not introduce a potential design feature safety hazard. (***No Impact***)

The Project would introduce a new curb-cut at Hayward Boulevard. That curb-cut is directly across the street from an existing curb-cut at the adjacent shopping center. However, an existing raised median prevents conflicting turn movements from either curb-cut. The Project would modify the existing median by providing for left turn (southbound) turns into the Project site. However, conflicting turn movements would still be prevented. The Project also includes speed humps on-site to prevent excessive vehicle speeds; especially those coming downslope. Therefore, for this topic, the Project would result in ***No Impact***.

Criteria e): Emergency Access

The Project would not result in inadequate emergency access. (***No Impact***)

The Project site consists of a deep, narrow, steep lot that could pose challenges to the provision of adequate emergency access; namely fire trucks. However, the Project includes design features, coordinated by the Hayward Fire Department, to ensure adequate emergency access. These include, but are not limited to, automatic fire sprinkler systems in each building, fire access roads of sufficient width and material to support fire trucks, no parking signage along fire access roads, and new fire hydrant. Should the Project receive land use entitlement approval, it would be subject to the mandatory development review and construction oversight which incorporates compliance with the California Building Code and Fire Code. Therefore, the Project would result in ***No Impact*** under this topic.

Criteria f): Public Transit, Bicycle and Pedestrian Facilities

The Project would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities. (***No Impact***)

The Project involves no changes to existing bicycle, pedestrian or public transit facilities. The Project includes residences that could be expected to generate demand on public transportation, as well as increased pedestrian and bicycle traffic. The Project includes the construction of a sidewalk across the site frontage. This constitutes a beneficial impact improving pedestrian safety. There are three (3) bus stops within five-hundred (500) feet of the Project site. The Project's contribution of potential bus-users is not of a sufficient quantity to decrease its performance. Hayward Boulevard includes a Class III bikeway. The Project would, however, not interfere with that bikeway. Therefore, with regard to public transit, bicycle and pedestrian facilities, the Project will have ***No Impact***.

[27] Hayward Executive Airport – Airport Land Use Compatibility Plan, dated August 2012.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
XVI. UTILITIES AND SERVICE SYSTEMS -- Would the project:				
a) Exceed wastewater treatment requirements of the San Francisco Bay Regional Water Quality Control Board?	☐	☐	☐	☑
b) Require or result in construction of new water or wastewater drainage facilities or expansion of existing facilities, construction of which could cause significant environmental effects?	☐	☐	☐	☑
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?	☐	☐	☐	☑
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed??	☐	☐	☐	☑
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☑
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs??	☐	☐	☑	☐
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☑	☐

Criteria a, b and e): Wastewater Infrastructure:

The Project would generate wastewater but in quantities able to be served by existing infrastructure. (***No Impact***)

The Project includes new residential dwellings that will generate wastewater. The Project would connect to an existing sewer line abutting the Project site. Construction of that sewer line extension would be limited to paved areas of Hayward Boulevard and, thus, not result in any potential significant environmental effects.

The City's Wastewater Pollution Control Facility (WPCF) utilizes biological and technological processes to treat and dispose of domestic and industrial wastewater. The facility currently treats an estimated average of 13.5 million gallons of wastewater per day (mgd) and has a rated capacity of 16.5 mgd. Treated effluent from the plant is disposed of in the San Francisco Bay through East Bay Dischargers Authority deep outfall facilities, including one located west of the City of San Leandro. The WPCF's rated capacity is sufficient to meet the wastewater treatment needs of the City for the development anticipated under the proposed General Plan Update.

Therefore, since the Project is consistent with the residential density contemplated by the General Plan, the Project would result in ***No Impact*** for this topic.

Criteria d): Water Supply

The proposed Project would not require any new or expanded water supply facilities. (***No***

Impact)

The City purchases all water from the San Francisco Water Department. Most of the water is soft snow water from the high Sierras. The water is captured in the Hetch-Hetchy watershed and piped, entirely by gravity, one hundred and fifty miles from their reservoirs in northern Yosemite Park to the Bay Area. A local source, Calaveras Reservoir, is occasionally blended with this snow water to an average content of five percent of the total. The City delivers water through two aqueducts along Mission Boulevard and Hesperian Boulevard that have a total capacity of thirty-two (32) million gallons per day.

The water system is generally in good condition and does not pose significant concerns in terms of accommodating additional development. Local storage and distribution facilities are adequate, with needed improvements programmed in the Capital Improvement Program. Additional needed improvements may be identified in the Master Plan update currently underway. Local emergency wells have been developed as emergency water supply sources in the event of a disruption in water supply, such as might result from an earthquake. The City has also developed emergency interties with the Alameda County Water District and other systems. The present system can provide enough water to serve existing needs and still have reserve capacity for protection against fire, peak demands, and other emergencies.

Therefore, the Project would result in ***No Impact*** for this topic.

Criteria f and g): Solid Waste

The Project would temporarily increase the quantity of solid waste and the demand for solid waste services during construction activities only. However, mandatory compliance with Hayward Municipal Code Chapter 5, Article 10 requires the submission and approval of a Debris Recycling Statement prior to construction. (***Less Than Significant Impact***)

Solid waste collection services for the Project site is provided by Waste Management Inc. Solid waste is transferred first to the Davis Street Transfer Center in San Leandro and then to the Altamont Landfill in the eastern Alameda County. Both the transfer center and landfill are owned and operated by Waste Management Inc., which serves the City under a franchise agreement. The landfill is permitted to accept a maximum of 11,150 tons of waste per day. According to the Hayward General Plan, it is estimated that the City is achieving the state mandated 50% diversion rate. The City is not, however, achieving the 75% solid waste diversion goal set to begin being achieved in 2010.[28]

The Project would have to comply with Chapter 5, Article 10 of the Hayward Municipal Code, which requires the submission and approval of a Debris Recycling Statement prior to the commencement of construction. Increased solid waste resulting from the Project's construction and operational-related activities would be minimal and can be accommodated by the existing disposal services and facilities. While the current 75% solid waste diversion goal is not being met, compliance is not mandatory.

Given the above, the Project would result in a ***Less Than Significant Impact*** under this topic.

[28] Alameda County Integrated Waste Management Plan, Page V-5, adopted February 26, 2003.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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?	☐	☐	☑	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☐	☑	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☑	☐

Criteria a): Degrade the Quality of the Environment

As described under the Biological Resources and Cultural Resources sections above, the Project would not degrade the quality of the environment with respect to plant and animal habitats and cultural resources. Implementation of Mitigation Measures Bio-1, Bio-2, Bio-3, Cult-1 and Cult-2 would ensure biological and cultural resource impacts are reduced to *less than significant* levels. Therefore, given the above, the Project would have a ***Less Than Significant Impact*** relative to this topic.

Criteria b): Cumulative Impacts

The Project would not have environmental effects that are individually limited but cumulatively considerable. On the whole, as demonstrated by the analysis above, nearly all Project-related impacts fall under the "no impact" category. Where mitigation is required (i.e., Air Quality, Biological Resources, Cultural Resources, Noise) there are no associated cumulative impacts. Therefore, the Project would be expected to result in a ***Less Than Significant Impact***, relative to cumulative impacts.

Criteria c) Substantially Adverse Effects

As documented by this Initial Study, the Project does not have the potential to cause substantial adverse effects on human beings. Therefore, for this topic, the Project is considered to result in a ***Less Than Significant Impact***.

Exhibit "C"

Roof Garden Villas Residential Condominiums Project: Mitigation Monitoring and Reporting Program

Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
Aesthetics					
Aes-1: Prior to the start of construction, the project proponent shall submit and obtain Development Services Director or designee approval of lighting for drive aisles which does not broadcast over adjacent off-site properties.	Prior to start of construction.	Permittee	Approval of plans; inspection confirming compliant lighting is installed.	Development Services Director or designee	
Air Quality					
Air-1: The Project adhere to the following Bay Area Air Quality Management District (BAAQMD) "Basic Construction Mitigation Measures". i) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. ii) All haul trucks transporting soil, sand, or other loose material off-site shall be covered. iii) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum	During construction	Permittee	Inspection during construction activities.	Development Services Director or designee	

Exhibit "C"

Roof Garden Villas Residential Condominiums Project: Mitigation Monitoring and Reporting Program

Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
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street sweepers at least once per day. The use of dry power sweeping is prohibited. iv) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. v) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. vi) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. vii) Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.					

Exhibit "C"

Roof Garden Villas Residential Condominiums Project: Mitigation Monitoring and Reporting Program

Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
Biological Resources					
Bio-1: To the extent practicable, construction activities and vegetation removal shall be performed from September through February to avoid the general nesting period for birds.	As determined by mitigation measure.	Permittee	Observe start of construction date.	Development Services Department Director or designee.	
Bio-2: If construction or vegetation removal cannot be performed between September through February, a preconstruction nesting survey shall be performed by a qualified biologist no more than fourteen (14) days prior to construction activities to locate and avoid bird nests. If birds are actively nesting on site, a one-hundred (100) foot construction buffer shall be established until birds have fledged.	As determined by mitigation measure.	Permittee	Receipt of nesting survey is construction to occur within prescribed timeframe.	Development Services Department Director or designee.	

Exhibit "C"

Roof Garden Villas Residential Condominiums Project: Mitigation Monitoring and Reporting Program

Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
Bio-3: Prior to removal of any tree, the requirements of the Hayward Tree Protection Ordinance shall be fulfilled. However, given that this Initial Study documents the need to remove all existing streets on the Project site and that such removal would not result in a significant impact, the City Landscape Architect shall not require the retention of any tree when fulfilling the requirements of Municipal Code §10-15.23.	Prior to removal of any on-site tree.	Permittee	Compliance with Tree Protection Ordinance.	Development Services Department Director or designee.	
Cultural Resources					
Cult-1: If buried cultural resources, such as chipped stone, ground stone, historic debris, building foundations, or non-human bone are inadvertently discovered during ground-disturbing activities, work shall stop in that area until a qualified archaeologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the City of Hayward, the State Historic Preservation Office, and other appropriate agencies. Treatment measures may include detailed documentation, excavation, and interpretation.	During construction.	Permittee	Cease of construction if resources encountered; fulfillment of evaluation and treatment criteria.	Development Services Department Director or designee.	

Exhibit "C"

Roof Garden Villas Residential Condominiums Project: Mitigation Monitoring and Reporting Program

Mitigation Measure		Timing/ Schedule	Implementation Responsibility	Verification		
				Monitoring Action	Monitoring Responsibility	Date Completed
Cult-2	In the event of unanticipated discoveries paleontologic resources, the project sponsor shall promptly notify the City and retain a qualified paleontologist who shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in CEQA Guidelines §15064.5. In the event of an unanticipated discovery of a brea (a seep of natural petroleum that preserved and fossilized remains of trapped animals) or of fossils during construction, excavations within fifty (50) feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards (SVP 2010). The paleontologist shall notify the City, including all other appropriate agencies, to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.	During construction.	Permittee	Cease of construction if resources encountered; fulfillment of evaluation and treatment criteria.	Development Services Department Director or designee.	

Exhibit "C"

Roof Garden Villas Residential Condominiums Project: Mitigation Monitoring and Reporting Program

Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
Noise & Vibration					
Noise-1: A qualified noise consultant shall be retained by the project applicant to develop a site-specific noise reduction program to reduce noise impacts due to construction and submit such to the Development Services Department for review and approval. The applicant shall implement the approved plan. Noise reduction strategies to consider include, but are not limited to, the following measures: • Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible). • Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of	Prior to construction; implementation of approved noise reduction program during construction.	Permittee	Preparation and implementation of noise reduction program.	Development Services Department Director or designee.	

Exhibit "C"

Roof Garden Villas Residential Condominiums Project: Mitigation Monitoring and Reporting Program

Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about ten (10) dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available and this could achieve a reduction of five (5) dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures. • Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures as determined by the City to provide equivalent noise reduction. • The noisiest phases of construction shall be limited to less than ten (10) days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.					

Exhibit "C"

Roof Garden Villas Residential Condominiums Project: Mitigation Monitoring and Reporting Program

Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
Noise-2: Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the Development Services Department a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include: • A procedure and phone numbers for notifying the Development Services Department staff and Hayward Police Department; (during regular construction hours and off-hours); • A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours); • The designation of an on-site construction complaint and enforcement manager for the project; • Notification of neighbors and occupants	Prior to issuance of building permit.	Permittee	Review and approval of required measures; fulfillment of prescribed measures.	Development Services Department Director or designee.	

Exhibit "C"

Roof Garden Villas Residential Condominiums Project: Mitigation Monitoring and Reporting Program

Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
within three-hundred (300) feet of the project construction area at least thirty (30) days in advance of extreme noise generating activities about the estimated duration of the activity; and • A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.					
Noise-3: To further reduce potential extreme noise generating construction impacts greater than eighty (86) dBA and which cross the Project site boundary, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the Development Services Department to ensure that maximum feasible noise attenuation will be achieved. This plan shall be based on the final design of the project. A third-party peer review, paid for by the project	Prior to construction.	Permittee	Review and approval of required measures; fulfillment of prescribed measures.	Development Services Department Director or designee.	

Exhibit "C"

Roof Garden Villas Residential Condominiums Project: Mitigation Monitoring and Reporting Program

Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
applicant, may be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the project applicant. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Development Services Department Director, and the deposit shall be submitted by the project applicant concurrent with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of implementing the following measures. These attenuation measures shall include as many of the following control strategies as applicable to the site and construction activity: • Erect temporary plywood noise barriers around the construction site, particularly along sides adjacent to residential buildings; • Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site; • Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent					

Exhibit "C"

Roof Garden Villas Residential Condominiums Project: Mitigation Monitoring and Reporting Program

Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
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buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and • Monitor the effectiveness of noise attenuation measures by taking noise measurements. • Quiet pile driving technology (screw piles) shall be used.					

CITY OF HAYWARD
HEART OF THE BAY

DATE: May 9, 2013

TO: Planning Commission

FROM: Linda Ajello, AICP, Associate Planner

SUBJECT: **Zone Change Application No. PL-2010-0380 and Vesting Tentative Tract Map Application No. PL-2010-0381 – Gordon Wong (Applicant); Yue T. Hing, Ltd. (Owner) –** Request for Zone Change from Single Family Residential (with B6 Combining District) to Planned Development, and Vesting Tentative Tract Map to create eight (8) residential condominiums with a single remaining parcel owned in common on a vacant site located at 26736 Hayward Boulevard.

RECOMMENDATION

Staff recommends the Planning Commission recommend that the City Council adopt the Negative Declaration (Attachment E) and Mitigation Monitoring and Reporting Program (Attachment F) and approve the requested zone change and vesting tentative map, subject to the findings (Attachment A) and conditions of approval (Attachment B).

SUMMARY

This application concerns a request for a Zone Change and Vesting Tentative Tract Map to permit the construction of eight (8) residential condominiums at 26736 Hayward Boulevard. In staff's view, the proposal creatively integrates a diversity of ownership housing choices (i.e., one, two and three bedroom units) on a steep and narrow hillside lot which is near shopping, parks and public transit. The Project also incorporates private and group open spaces to serve the future homeowners.

BACKGROUND

Local Setting & Context - The Project is located within the Hayward Highlands neighborhood, in proximity to California State University, East Bay (see Figure 1 below). This suburban hillside location consists largely of residential subdivisions constructed after World War II. Incremental development has continued in subsequent years at a patchwork of vacant parcels (like the Project site). Hayward Boulevard is the primary arterial providing access to and from the neighborhood (via Carlos Bee Boulevard from Mission Boulevard).

The Project site is surrounded on three sides by urbanized properties consisting of residential land uses. Most properties nearby the Project site include single-family and multi-family homes one (1) to three (3) stories in height with adjacent surface parking lots and landscaped planter areas.

However, the University Plaza retail center, located immediately south of the Project site, provides retail shopping and personal services for the neighborhood. College Heights Park, a neighborhood park, is within walking distance (i.e., ¼-mile) of the Project site. AC Transit Route 94 occurs at Hayward Boulevard, with inbound and outbound access within 150 feet of the Project site.

Figure 1 - (Local Setting)

Existing Project Site Setting - The Project site consists of a single undeveloped, rectangular-shaped property 32,268 square feet in area. The Project site slopes upward from Hayward Boulevard; rising from 570 feet above mean sea level (AMSL) to 614 feet AMSL. Hayward Boulevard also slopes downward in a north to south direction. Thirteen (13) trees of varying sizes and species are dispersed across the Project site. A single curb-cut and asphalt driveway abut Hayward Boulevard.

DISCUSSION AND STAFF ANALYSIS

Project Description -

Site Plan, Floor Plans & Open Space - The Project would result in the construction of eight (8) residential condominiums arranged in three "clusters" on the site. The proposed site plan is depicted below as Figure 2 (Proposed Site Plan – Sheet 1) and Figure 3 (Proposed Site Plan – Sheet 2). See Attachment C for the Project plans.

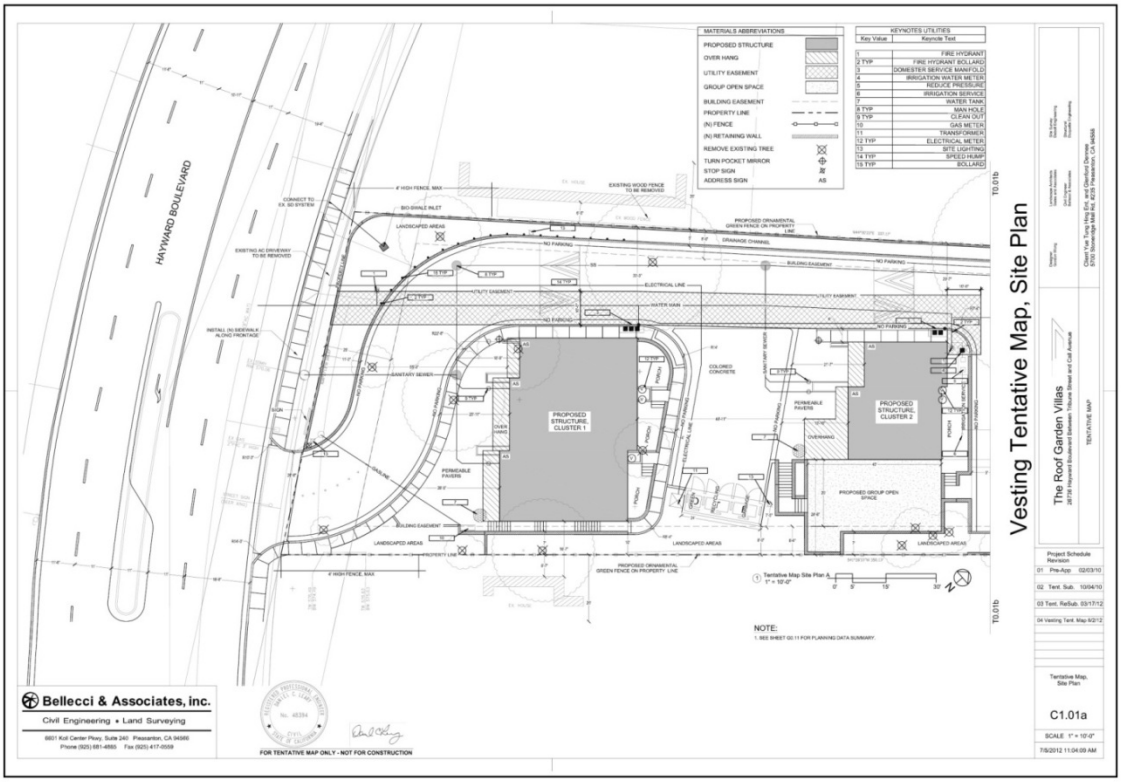

Figure 2 - (Proposed Site Plan – Sheet 1)

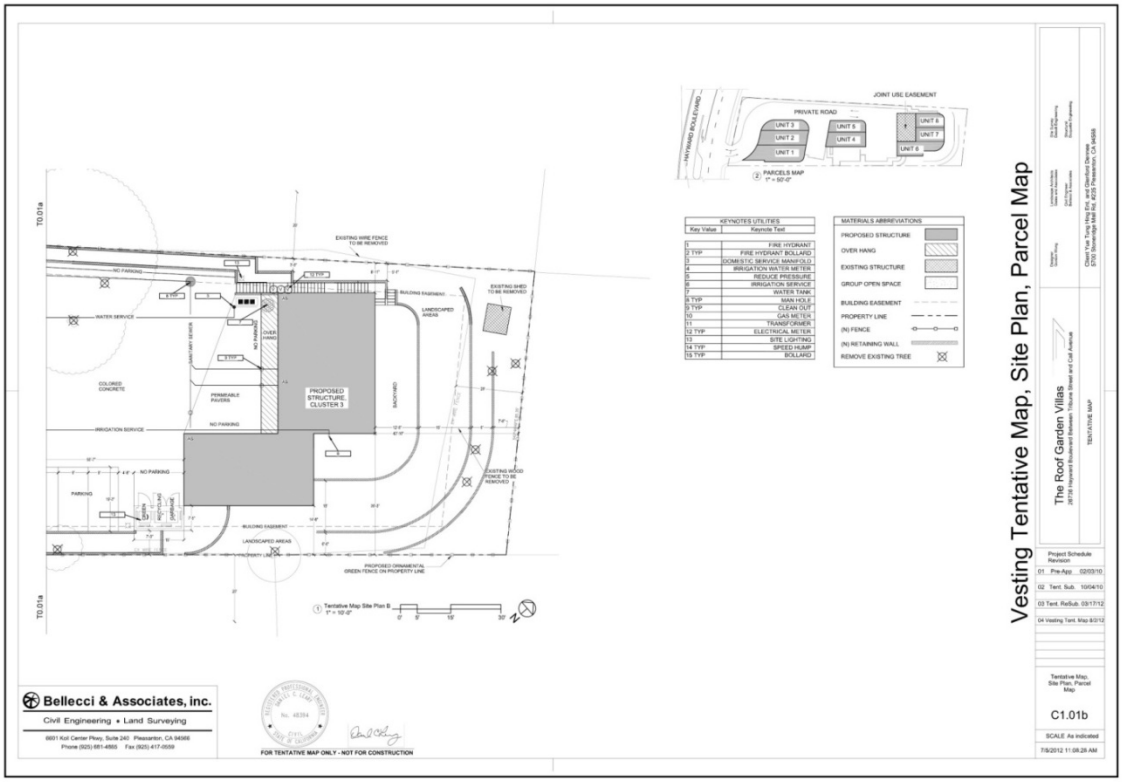

Figure 3 - (Proposed Site Plan – Sheet 2)

Proposed landscaping is primarily limited to the street frontage and southern property line, in large part, due to the narrowness of the site. A stormwater detention area would be located behind a two-foot tall monument sign at the street frontage which identifies the development (i.e., "Roof Garden Villas").

The City's Zoning Regulations require that each unit has a minimum of 350 square feet of open space per unit and 100 square feet of common open space per unit. Each condominium includes an accessible rooftop garden, ranging from 429 to 887 square feet in size, which exceeds the City's minimum open space standards. An eight-hundred (800) square foot common open space is provided at building "Cluster Two," which, based on a total of 8 units, complies with the City's common open space requirements. The shared open space is located in a central location within the development which will allow convenient access for all residents. The basic attributes of each condominium is summarized in Table 1 (Summary of Each Residential Condominium) below.

TABLE 1 – SUMMARY OF EACH RESIDENTIAL CONDOMINIUM

Unit #	Bedrooms	Bathrooms	Floor Area (sq.ft.)	Stories	Parking
Cluster One					
1	1	1	1,768	2	2
2	2	3	1,709	2	2
3	2	3	909	2	1
Cluster Two					
4	2	3	1,528	2	2
5	1	1	890	2	1
Cluster Three					
6	3	3	2,300	3	2
7	2	3	1,577	3	2
8	3	4	2,590	3	2

Grading[1] – The Project includes cut and fill grading to provide vehicular access and three buildings pads. An estimated 7,885 cubic yards of soil would be exported. Areas of proposed building pads include cut slopes to tier each building pad upslope, as shown in Figure 4 (Proposed Cut and Fill). The back fill of cut slopes would be supported by a number of retaining walls of varying heights not exceeding six (6) feet. Retaining wall materials would consist of either steel soldier beam with wood lag or reinforced concrete. Finish slopes would have a maximum gradient of 2:1 (except for a very limited area of 3:1 near Unit 6).

[1] See Attachment C (Plan Sheets G0.06, G0.07 and C1.02).

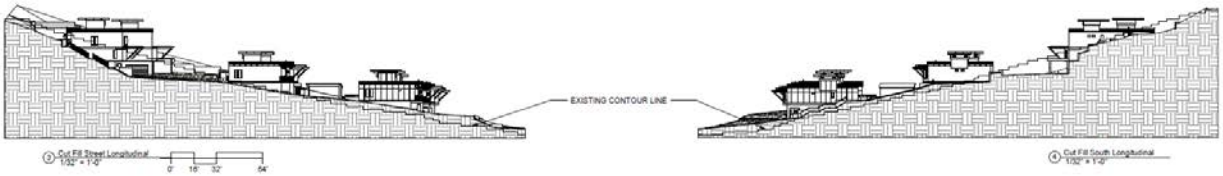

Figure 4 - (Proposed Cut and Fill Section)

Building Elevations[2] – The Project is designed in a contemporary style. Prominent architectural treatments include arced steel trellises projecting at each façade as well as light wells projecting through each rooftop. Primary materials include the use of rectangular planks of hardie board siding, concrete, stainless steel trim and cedar plank garage doors.

Access - On-site vehicular and pedestrian access would be provided by a drive aisle bordering the northern property line. Two (2) on-site guest parking spaces are provided. Curbside parking would be prohibited on-site in order to maintain adequate circulation. The Project includes a proposed two-way curb-cut at the southern corner of the site. Under existing conditions, a median in Hayward Boulevard (intended to prevent northbound egress from University Plaza) would prevent southbound ingress to the Project site and southbound egress from the site. In order to provide southbound ingress to the Project site, the Public Works Department supports the Project's modification of the existing median to create a left-hand turn pocket. Southbound egress from the Project site, however, would continue to be obstructed.

Zone Change to Planned Development District - In order to allow the development of the condominium project, a zone change would be required to change the current zoning from Single-Family Residential (RSB6) to Planned Development (PD). The zone change to PD would allow for condominiums, which are not listed as allowed in the Single-Family Residential (RS) zone. However, the RS zone allows for detached single-family units. The proposed project would allow for a clustered development that would be more harmonious than single-family detached units with the topography of the site, preserving more of the natural landscape and providing opportunity for more open space. Lastly, the PD would also allow for reduction of the southwest side yard setback from 10 feet to 8 feet, 6 inches, which is needed to work the development in with the topography of the site and provide the required road widths. The Project site's General Plan designation is Medium Density – Residential (see Figure 5 (General Plan Land Use Map) below. The General Plan describes the Medium Density –Residential designation, as follows:

> *Typical density is between 8.7-17.4 dwelling units per net acre. Minimum lot area per dwelling unit is 2,500 square feet. Typical development may be single-family detached, mixed with duplexes, triplexes, and fourplexes; or townhouses and 2-3 story garden apartments. Planned Developments may include a variety of housing types within the overall density range.*

The General Plan's Zoning Consistency Matrix indicates that the PD Zone is "Potentially Consistent" with the General Plan Land Use Map designation of Medium Density – Residential. For "Potentially Consistent" zoning districts, the General Plan states that determinations of consistency, "must consider compatibility with other uses and overall densities in the area, as well as the

[2] See Attachment C (Plan Sheets G0.09, A2.01 through A3.13).

particular need to be served."

The proposed zone change and Vesting Tentative Tract Map will allow the subdivision of the property to accommodate the eight (8) proposed residential condominiums. The project site is approximately 0.74 acres and the resulting density is 10.8 dwelling units per acre, consistent with the Medium Density General Plan designation for the property, which allows up to 17.4 dwelling units per acre. The project site is located within an existing commercial and residential neighborhood that includes a mix single-family and multi-family development, as well as commercial development and a state university.

Based on the City's Off-Street Parking Regulations, a total of 16 parking spaces are required, with a minimum of one covered space per unit and 10 percent of the required spaces designated for guest parking. The project proposes 16 parking spaces; 13 of which are in enclosed garages and three uncovered spaces (two guest spaces and one assigned space), which complies with the Zoning Ordinance requirements.

Community Facilities District - As a standard condition of approval, the City requires developers to pay the cost of providing public safety services to the proposed project through the formation of, or annexation to, a Community Facilities District (CFD), should the project generate the need for additional public safety services. This will require the project developer to post an initial deposit of $20,000 with the City prior to or concurrently with the submittal of the final subdivision map and improvement plans, to offset the City's cost of analyzing the project's need for additional public safety services. If the analysis determines that the project creates a need for additional public safety services warranting the formation of, or annexation to, a Community Facilities District, the project developer shall be required to pay all costs of formation of, or annexation to, the district, which costs may be paid from the developer's deposit to the extent that funds remain after payment of the City's costs of analysis as described above.

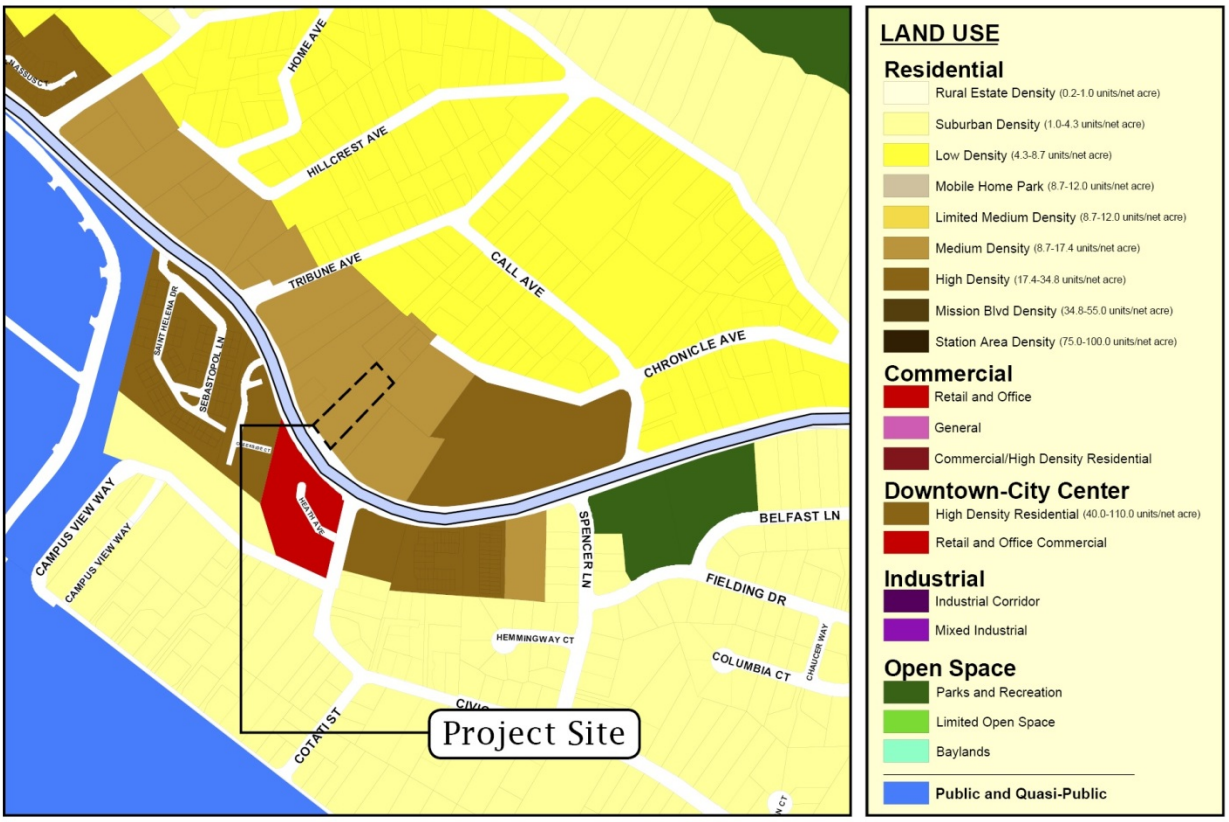

Figure 5 - (General Plan – Land Use Designations)

Findings for the Zone Change/Preliminary Development Plan - In order for a Planned Development District to be approved, the City Council must make four (4) findings, per Section 10-1.2535 of the Zoning Ordinance. The following text conveys staff's analysis of the Project under those findings:

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

Policies applicable to the Project are located in the: Hayward General Plan, Design Review Guidelines, Hillside Design Guidelines, and Hayward Highland Neighborhood Plan. As demonstrated by the analysis in **Attachment D**, the Project is in substantial harmony with the surrounding area and conforms to applicable policies.

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

The Project abuts an existing public street and adequate utility capacity (i.e., water, sewer, stormwater) is available to serve the proposed development.

(3) In the case of a residential development, the development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated

population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development.

The Project would add ownership housing in the Hayward Highlands Neighborhood, which is a desirable area due to its hillside location, convenient access to educational institutions, open space and parks, and shopping. A Mitigated Negative Declaration prepared for the Project demonstrates that no substantial adverse effects would, after implementation of mitigation measures included therein, occur to surrounding development. `

(4) In the case of nonresidential uses, that such development will be in conformity with applicable performance standards, will be appropriate in size, location, and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding development.

The Project does not include nonresidential uses. This criterion is not applicable.

(5) In the case of a development in increments, each increment provides a sufficient proportion of total planned common open space, facilities, and services so that it may be self-contained in the event of default or failure to complete the total development according to schedule.

The Project would be developed in a single increment. This criterion is not applicable.

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

The Project is requesting a zone change from single family residential (RS) to planned development (PD) to allow for the construction of a clustered condominium development on the site. The clustering of the units will allow more open space than would otherwise be provided with the development of detached single family homes and will allow more landscaping and usable open space for residents on the site. The proposed zone change is consistent with the medium density residential General Plan Land Use designation for the site and the proposed project is consistent with the development standard for medium density residential. The project is providing more open space than is required as each unit has an average of 740 square feet of open space where 350 square feet is required. In addition, the project has minimized lot coverage as the development maintains a16 percent lot coverage where up to 40 percent lot coverage would be permitted under the existing zoning regulations.

Vesting Tentative Tract Map 8086

The Project includes a proposed vesting tentative tract map to create a residential condominium subdivision including eight (8) units and one (1) parcel held in common ownership for access, parking, open space and utilities. No land is proposed or necessary for public dedication. All public

utilities necessary to serve the subdivision are located adjacent to the Project site (i.e., Hayward Boulevard) and would be extended to each building through a utility easement. All on-site utilities would be privately owned and maintained by a Homeowners' Association.

If the vesting tentative map is approved, a final map will be processed and recorded, allowing each unit to be sold separately. A vesting tentative map provides, for a period of three (3) years after the date of approval or conditional approval of the vesting tentative map, the right to proceed with the proposed development in substantial compliance with the ordinances, policies, and standards in effect on the date on which the vesting tentative map application was deemed complete (i.e., October 2, 2012).

Findings for the Vesting Tentative Tract Map - - In order for a vesting tentative map to be approved, the City Council must make seven (7) findings. The following text conveys staff's analysis of the Project under those findings:

(1) That the proposed map is consistent with applicable general and specific plans as specified in Section 65451. [Subdivision Map Act §66474(a)]

The proposed subdivision is, as demonstrated by the analysis above, consistent with the Hayward General Plan. No Specific Plan applies to the Project.

(2) That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans. [Subdivision Map Act §66474(b)]

The proposed subdivision, as demonstrated by the analysis above, is of a design consistent with the Hayward General Plan.

(3) That the site is physically suitable for the type of development. [Subdivision Map Act §66474(c)]

The "Geotechnical Investigation – Garden Condominiums (Report – Project No. 10109.001)" by Peters & Ross (dated April 2010) demonstrates that the proposed subdivision would occur on a site suitable for the proposed development.

(4) That the site is physically suitable for the proposed density of development. [Subdivision Map Act §66474(d)]

The "Geotechnical Investigation – Garden Condominiums (Report – Project No. 10109.001)" by Peters & Ross (dated April 2010) demonstrates that the proposed subdivision would occur on a site suitable for the proposed development. Density is not a factor that makes the site suitable or less suitable for development.

The Mitigated Negative Declaration prepared for the Project determined that the project would not result in significant impacts to traffic since it would not generate sufficient traffic to cause nearby intersections to operate at an unacceptable level of service, nor would it create any issues with safe ingress and egress from the site.

(5) That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. [Subdivision Map Act §66474(e)]

The Mitigated Negative Declaration prepared for the Project demonstrates that substantial adverse environmental damage, including to fish or wildlife and their habitat, would not result from the proposed subdivision.

(6) That the design of the subdivision or type of improvements is not likely to cause serious public health problems. [Subdivision Map Act §66474(f)]
Adequate capacity exists to provide sanitary sewer service to the Project site. There are no other aspects of the Project with the potential to cause serious public health problems.

(7) That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. [Subdivision Map Act §66474(g)]

There are no existing public easements within the boundary of the proposed subdivision. Nor are any easements necessary.

ENVIRONMENTAL REVIEW

Staff prepared an Initial Study/Mitigated Negative Declaration (IS/MND) (Attachment E) which identified potentially significant impacts under the environmental topics of: Aesthetics, Air Quality, Biological Resources, Cultural Resources and Noise. However, the IS/MND identifies mitigation measures, agreed to by the Project sponsor, that would reduce those impacts to a *less than significant level*. The IS/MND was made available for public review from April 10, 2013 through April 29, 2013. No comments were received on the IS/MND as of the writing of this report. The Mitigation Monitoring and Reporting Program that identifies responsibility for mitigation implementation and oversight is included at Attachment F. Subsequent to the circulation of the Initial Study/Mitigated Negative Declaration for public comment, minor revisions were made to correct inconsistencies within the document. However, since "substantial revisions" were not made to the document, in accordance with Section15073.5 of the CEQA Guidelines, recirculation of the document is not required. The revisions are shown as red-line/strike-through edits in Attachment E.

PUBLIC OUTREACH

After the application was first received, notice was sent to all property owners within a 300-foot radius of the Project site. A preliminary meeting occurred on November 4, 2010 at City Hall to discuss the Project. At that time, the Project consisted of a substantially different design and also included ten (10) proposed residential condominiums. One (1) email was submitted at that time by a neighbor indicating opposition to the Project. The neighbor expressed concerns about the density of the project and the potential traffic issues that may result due to the increase in density, stating that the existing traffic conditions along Hayward Boulevard were already hazardous due to excessive speed. In addition to the elimination of two units, in order to address vehicular ingress/egress into the site, the current proposal includes a modification of the existing median on Hayward Boulevard

to create a left-hand turn pocket to provide southbound ingress into the development. Southbound egress from the Project site, however, would continue to be obstructed.

A notice of this public hearing was sent to all property owners within a 300-foot radius of the Project site for the currently proposed Project. One comment letter was received from the same neighboring property owner that submitted comments in 2010, reiterating their opposition to the project due to increased density on the site and the potential traffic impacts.

SCHEDULE

Following the Planning Commission hearing and assuming the Commission recommends approval of the project, the City Council will hear the item along with the Planning Commission's recommendation and render a decision on the proposed Mitigated Negative Declaration, Zone Change and Vesting Tentative Tract Map Applications. Should the Council approve the Project, the applicant will work toward complying with the conditions of approval to allow approval of a precise development plan and approval of a final map, ultimately allowing for construction of the project.

Prepared by: Linda Ajello, AICP, Associate Planner

Approved by:

_____

David Rizk, AICP
Development Services Director

Attachment A:	Findings for Approval
Attachment B:	Conditions of Approval
Attachment C:	Project Plans
Attachment D:	Policy Analysis
Attachment E:	Initial Study and Mitigated Negative Declaration
Attachment F:	Mitigation Monitoring and Reporting Program

MINUTES OF THE REGULAR MEETING OF THE CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, May 9, 2013, 7:00 p.m.
777 B Street, Hayward, CA94541

2. Zone Change Application No. PL-2010-0380 and Vesting Tentative Tract Map Application No. PL-2010-0381 - Gordon Wong (Applicant); Yue T. Hing, Ltd (Owner) - Request for Zone Change from Single-Family Residential (with B6 Combining District) to Planned Development, and Vesting Tentative Tract Map to Create Eight (8) Residential Condominiums with a Single Remaining Parcel Owned in Common on a Vacant Site Located at 26736 Hayward Boulevard

Chair Faria read the title of the report and Commissioner Lamnin explained that she had a conflict of interest because she lived close to this address and would have to recuse herself from discussing the item.

Chair Faria asked if Commissioners would be agreeable to moving Item 2 to the end of the meeting so Commissioner Lamnin could participate in discussions for the remaining items. Commissioners agreed to move Item 2 to the end of the meeting.

At 10:09 p.m. Commissioner Lamnin left the Council Chambers.

Development Services Director David Rizk introduced Associate Planner Linda Ajello who gave a synopsis of the report and noted the project architect was present to answer any questions.

Commissioner Lavelle welcomed Associate Planner Ajello and indicated she had some questions about the contemporary style and design of the units but said she would ask the architect.

Regarding the light and glare criteria in the initial study, Commissioner Lavelle said the image provided for the project appeared to show the units at dusk and the lighting was incredibly bright. Reading from the staff report, Commissioner Lavelle noted an addition to criteria language that said pole-mounted lighting would be broadcast onto adjacent properties. She said that was disturbing and if she was a neighbor to this property she would not want to have lights broadcast toward her home. She read that the project applicant would have to submit a plan to deal with the lighting and she asked staff what ideas the applicant had for controlling light.

Associate Planner Ajello said as part of the City's security and lighting standards each project was required to provide a certain amount of light for the safety of residents. In addition to that, she said, the City considered the type of proposed light standards to ensure the lights didn't glare into the street or onto neighboring properties. Another concern that had come up and was now evaluated, she said, was the light pollution emitted into sky. Associate Planner Ajello said the staff review would evaluate each of the fixtures to ensure that they were designed not to cause unnecessary glare. Commissioner Lavelle asked if nearby residents would have the opportunity to comment on the lighting and Development Director Rizk said the City always welcomed input from neighbors. From the report Mr. Rizk read the recommended condition noting the proposed exterior lighting plan would be submitted by a qualified illumination engineer and all lighting fixtures should complement the building architecture and be shielded and deflected away from neighboring properties and windows. Mr. Rizk said that when the precise plan was submitted, staff would make sure the lighting was compliant.

Commissioner Lavelle asked if her understanding was correct that the thirteen trees on the parcel would all be removed if the project was built. Associate Planner Ajello said that was correct, but noted that condition of approval for the project required that the landscaping on site would have to be installed in accordance with City's landscaping requirements. Ms. Ajello commented that the City's landscape architect had already reviewed the preliminary development plan included in the report and would also review the precise plan which would require a certain number of trees based on the development site.

Rooftop gardens were also included in the project proposal and Commissioner Lavelle commented that was relatively new for Hayward and asked if the greenery on the roof would be used as a replacement for the trees and the rural look of the parcel. Associate Planner Ajello said the rooftop garden was in addition to the required overall site landscaping.

Following up on Commissioner Lavelle's comments, Commissioner Loché referred to a sentence in the report that read "replacement plantings and/or payment for offset landscaping," and he asked was that something to be considered or would it just happen. Associate Planner Ajello said it would absolutely be in accordance to landscape requirements, was not optional, and would be reviewed by staff. Commissioner Loché asked for confirmation that what the actual mitigation was going to be would be determined later and Ms. Ajello said it would be determined in the precise plan.

Commissioner Loché noted that only two guest parking spots were required and he asked staff if they had any concerns that residents would use the parking lot across the street in the plaza for additional parking. Associate Planner Ajello said no, and she explained that minimum parking standards had been met and each unit had designated spaces within their garage and there was one assigned uncovered spot. Parking was not allowed on the drive aisles, she said, but guests could park in the garages or on the turnouts leading to the garages if the Covenants, Codes and Restrictions allowed it.

Commissioner Loché asked for confirmation that there was only one phase of construction and Associate Planner Ajello said that was correct. Commissioner Loché asked if that was a suggestion or a required and Associate Planner Ajello said typically it was not required, but staff would want to know at this stage in the process so a construction time could be calculated. Commissioner asked if construction would take over a year and Ms. Ajello deferred the question to the architect.

Commissioner Trivedi said the turning lane going uphill and left into the complex made sense, but he had a real concern about vehicles exiting the complex onto Hayward Boulevard and the high rate of speed of oncoming cars going downhill on a curve. To make it less of a blind curve, Commissioner Trivedi suggested installing a sensor to let residents exiting the complex know a car was coming.

Commissioner Márquez asked staff if the rooflines of the units were at different heights and if the railings would stop someone from walking across and Associate Planner Ajello said that was correct. She added that each rooftop was private and although the railings wouldn't stop neighbors from seeing each other there would be some screening with the landscaping and the enclosures for the venting with the solar panels on top. Associate Planner Ajello said that unless someone was climbing over railings to get to their neighbor, there was no connection.

Commissioner Márquez asked if the City had any policy about preserving the existing trees. Development Director Risk explained that the City did have a tree preservation ordinance and the most desirable scenario was preserving the existing trees, but if they were removed the ordinance stated that they be replaced with landscaping and trees that were equal in value. He said to expect even the largest new tree to match the value of some of the older trees was not realistic, but it would cost prohibitive to

transplant trees and he noted that Coast Live Oak trees were particularly sensitive to being transplanted and even if done well, a lot of money could be lost trying to move them.

Commissioner Márquez noted parking in the unit garages was at street level and she asked if it was tandem. Associate Planner Ajello said garages were either single car or side by side.

Chair Faria opened the Public Hearing at 10:34 p.m.

Mr. Gordon Wong, resident of Saratoga and recently AIA licensed architect with LEED green building certification, said he had been working with Planning Department for two and half years on the project and was available to answer any questions.

Commissioner Loché asked why the project started with ten units and then dropped to eight. Mr. Wong explained that after going through all the vehicular studies and the proper usage of the land, eight units was more sustainable and feasible for the land. He said he did his best to cluster the units, mitigate impacts to neighbors, and keep it as green as possible.

Commissioner Loché noted that per the staff report, 8,000 cubic yards of soil would need to be removed from the site and he asked if the impact to neighboring structures had been considered. Mr. Wong said a study was conducted of the trucking and grading of the land, which was very steep, and it was determined with the help of a civil engineer that 1,000 cubic yards per unit was feasible. He said he figured out truck routes and worked with the City's Associated Planner Tim Koonze to determine where the dirt would go and the mitigation measures to lessen the impact on neighbors as the dirt was removed. Mr. Wong confirmed that construction would be kept to one phase to reduce the impact on neighbors and the land.

Commissioner Loché asked once construction started, what was the longest amount of time the project would take to complete. Mr. Wong said roads would be completed first, then the homes. Mr. Wong said he would try to complete construction as fast as possible, but he didn't know exactly how long it would take.

Commissioner Lavelle noted that the staff report called the design of the units "a contemporary style" and she asked Mr. Wong to explain some of the design elements. Mr. Wong said the front feature to the units was a triangular awning that was oriented to maximize the winter sun to heat the building and providing natural lighting and deflect the summer sun. He noted that the trellises were angled at 40 degrees to provide the maximum amount of shading while still getting the maximum amount of sun exposure for the solar panels on the roof.

Commissioner Lavelle asked about a slanted element on the roof and Mr. Wong explained that it was another shading device so residents could add seating to the rooftop, avoid direct sunlight while seated, and still maximum the exposure to solar panels.

Commissioner Lavelle said one part of the report mentioned siding would be used on the buildings and another part said grey stucco, she asked Mr. Wong to explain the exterior features of the buildings. Mr. Wong said the preferred siding would be a Hardie board panel or something of comparable performance

and he explained for Commissioner Lavelle that it would look like a cementitious board and would come in urban colors and the grey cement-looking material would be below the siding. He said they wanted to tie the color of the buildings in with the landscape.

Commissioner Lavelle asked about the design of the community open space on the north side of the second building. Mr. Wong explained that the community open space was at the center of the project and was 800 square feet of flat, green space, protected from street, and covered by a trellis. He said he was working with the landscape architect to make it as green as possible so residents could enjoy a picnic in the space. Commissioner Lavelle asked how many people could gather there and Mr. Wong said he had calculated for the population of the entire complex.

Commissioner Lavelle asked if two guest parking spots was the maximum number possible for the facility and Mr. Wong said there might have been an error because there was actually room for three guest parking spots.

Commissioner Lavelle confirmed that the drive leading to the top of the complex was adequate for fire and safety vehicles and Mr. Wong said that was one of the most challenging problems he'd ever faced, but he confirmed that both fire and garbage trucks could get up there without any problems. Commissioner Lavelle asked where the facilities for garbage were located and Mr. Wong directed her attention to two areas at the end of the private roads. Commissioner Lavelle noted that residents would have to bring their trash to the two containers and Mr. Wong pointed out that residents could also exit out the back of their units so they had direct access to the bin area. He also noted that the amount of recycling, garbage and greens bins had been calculated.

Commissioner Trivedi asked if the complex was gated and Mr. Wong said no. Regarding the dirt that was being removed, Commissioner Trivedi said his only concern was the integrity of the hillside for any neighbor living above the complex and he asked for confirmation that there was sufficient geo-engineering conducted. Mr. Wong said he did a lot of research about how to retain the hillside without it collapsing and construction included the use of two types of retaining walls including a steel soldier and a wood lag-type and a concrete retaining wall that would run along the driveway. Mr. Wong said he worked with retaining wall engineers and had calculated the retaining wall layouts many times to abide by the City's Hillside Guidelines. He noted that walls were staggered to avoid creating an eyesore, and to respond to the surrounded neighborhood.

Commissioner Trivedi confirmed that due to the location of the complex to the Hayward fault line there were seismic projections built into the design and Mr. Wong said yes.

Commissioner Trivedi complimented Mr. Wong on the thought and care that seemed to have gone into the design and said they were very appealing and that he appreciated the sustainable features. He commented that although they were condos located near the university, they looked way too nice for students and he wasn't sure who was being targeted, but he looked forward to seeing them.

Regarding the proposed traffic lane, Chair Faria asked Mr. Wong if he felt that would reduce any potential problems. Mr. Wong said he worked with traffic engineers and speed humps would be installed within the complex to slow people coming down the hill as well as an island with a thin wall in the middle so people don't make inappropriate turns and to control traffic flow at the hub of the project.

Chair Faria asked for confirmation that the first level of each unit was the garage and the second level the living entrance, and Mr. Wong said yes. Chair Faria asked if all the bedrooms would be on the second floor and Mr. Wong said either the second or third floor. He noted that the bottom level was

strictly for cars, laundry, and a half bath. Chair Faria asked if the bedroom would be on the same level as the kitchen and living space and Mr. Wong said yes.

Chair Faria asked Mr. Wong if he had any other comments and he said he hoped to make a change to the green community in the City of Hayward.

Regarding the target market, Commissioner McDermott asked what the price range would be for the complex. Mr. Wong said the complex had a wide range of unit types ranging between one and three bedrooms. He noted they were much larger than the looked because they were tucked into the ground. He said his client had urged him to keep the two-bedroom units in the $400,000 range and target them to folks like him, and the upper units with three-bedrooms geared more toward new or working families. Mr. Wong said the pricing would be flexible.

Commissioner McDermott said she liked the design and the utilization of the topography and the way the units were tiered. She said from some of the units there would be a nice view especially from the rooftop garden. Commissioner McDermott also appreciated that green features had been incorporated. She said the design was green friendly, energy efficient, contemporary and different, but nice.

Chair Faria closed the Public Hearing at 10:52 p.m.

Assistant City Attorney Conneely asked Chair Faria to confirm that there wasn't anyone else who would like to speak.

Shirley Davis, Chronicle Lane resident above the proposed site, said she was concerned about the removal of the trees because they were within her view. She also commented that sewer systems were jeopardized because of the hillside and she was concerned that more dwellings patching into the system would impact the hillside. She said most people on the hill where she lived had sump pumps that went up to the City sewer, but one neighbor had neither a sump pump nor a septic tank; his waste went into a leech pond in the hillside. Ms. Davis said being at the top of the hill these reasons, along with the construction of the units, made her concerned about the preservation of the hillside. Ms. Davis also expressed concern about more traffic and she pointed out that local roads had a lot of potholes and were in distress.

Chair Faria asked Mr. Wong if he would like to address the sewer situation and he said they were going to connect to the City's sewage line. Chair Faria asked staff if they had any concerns with sewage in that area and Development Review Engineer John Nguyen said the complex would connect to existing water and sewer lines along Hayward Boulevard. Development Services Director Rizk said he wasn't sure about sump pumps in the area and he assumed sewage would be gravity-feed down the hill and Mr. Wong said that was correct.

Commissioner Márquez had a question about making the motion and Assistant City Attorney Conneely suggested she make a motion per the staff recommendation. Commissioner Márquez made a motion per the staff recommendation and Commissioner Trivedi seconded the motion.

Pointing out this was unusual for her; Commissioner Lavelle said she did not want to support the

motion. As much as she appreciated the tremendous amount work by Mr. Wong, Commissioner Lavelle said there may be a better place in the Bay area where this design could fit. She said she believed the residential single family zoning already in place for the parcel was correct and would be more in line with the surrounding neighborhood, which was characterized by big, single family homes. Commissioner Lavelle said the stark, contemporary design of the units were out of character for the rest of the neighborhood and seemed more appropriate for downtown Los Angeles or New York City or even on the CSU East Bay campus.

Commissioner Lavelle said the landscape plan, although adequate for what may be built there, didn't seem helpful to the neighborhood to remove the thirteen trees and put in an urban city structure. She said she would be voting no.

Commissioner Trivedi said he liked the design, noted it set a new standard, and said he would like to see more buildings in Hayward look like this. He said he would be happily supporting the motion and commented that he wasn't so concerned about the trees because of the tree ordinance.

Commissioner Loché commended the architect saying the design of the project was very, very attractive and creative and he welcomed the green features. He said he was concerned about removing thirteen trees and wanted to see replacement plantings per the tree ordinance. Commissioner Loché said he supported the motion, would welcome the project and concluded that the project was a well put together, well thought out plan.

Commissioner Márquez said the project was extremely innovative and she commended Mr. Wong. She acknowledged it was a risk because it was different, but she said she did welcome it. Commissioner Márquez said she was happy there was a voice from the community and she asked Mr. Wong to continue to work with the City on any problems, and she reminded the applicant that there were limits on noise during construction. Commissioner Márquez said she really liked the solar panels and the layout and said the design was unique and would be something positive for the City of Hayward. She said she would be supporting the motion.

Chair Faria said she also liked the design, it was different and well thought out, and she liked the way the pieces were put together to address energy efficiency while still protecting residents. She said she would be supporting the motion.

The motion to recommend that the City Council adopt the Negative Declaration and Mitigation Monitoring and Reporting Program, approve the requested zone change and vesting tentative map subject to the findings and conditions of approval, was approved 5:1:1.

AYES:	Commissioners Loché, Trivedi, McDermott, Márquez Chair Faria
NOES:	Commissioner Lavelle
ABSENT:	Commissioner Lamnin
ABSTAINED:	

ZONE CHANGE PACKAGE

- Subdivision # 0810 - 1640 - 016 - 00
- Fire Access Analysis
- Preliminary Retaining Wall / Earthwork Plan
- Utility, Grading and Drainage Plan
- Landscape, Structural
- Building Plan

THE ROOF GARDEN VILLAS

HAYWARD CALIFORNIA

HAYWARD BOULEVARD STREET VIEW

Cover Sheet

Designer
Gordon Wong

Landscape Architects
Gallos and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Diboll Engineering

Structural
Duquette Engineering

Client Yue Tung Hing Ent. and Glenford Demse

The Roof Garden Villas
26736 Hayward Boulevard Between Tribune Street and Call Avenue

TENTATIVE MAP

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04	Tent. ReSub.	07/25/12

Cover Sheet

Not for Construction

G0.00

Prepared by, Gordon Wong
2665 Glenbriar Dr. Saratoga CA 95070
Phone 917-743-3939

SCALE

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PROJECT DIRECTORY

OWNER APPLICANT

YUE TUNG HING CO. LTD
AND DENNEE,M GLEN 5700
STONERIDGE MALL RD.,
#235 PLEASANTON CA 94588

DESIGNER

GORDON WONG
2665 GLENBRIAR DR.
SARATOGA CA 95070
917-743-3939

CIVIL

BELLECCI & ASSOCIATES, INC
6601 KOLL CENTERPARKWAY
PLEASANTON CA SUITE 240 94566
923-681-4855

STRUCTURAL

DUQUETTE ENGINEERING
4340 STEVENS CREEK BLVD.
SUITE 200 SAN JOSE CA 95129
408-615-9200

LANDSCAPE

GATES AND ASSOCIATES
2671 CROW CANYON ROAD
SAN RAMON CA 94538
925-736-8176

SURVEYOR

DEBOLT ENGINEERING
811 SAN RAMON VALLEY BLVD
DANVILLE CA 94526-4025
925-837-3780

ABBREVIATIONS

A

ABV	ABOVE
AC	ASPHAULT CONCRETE
AD	AREA DRAIN
ADDL	ADDITIONAL
AFF	ABOVE FINISH FLOOR
ASPH	ASPHAULT

B

BITUM	BITUMINOUS
BKG	BACKING
BLDG	BUILDING
BM	BEAM
BR	BACKER ROD
BUR	BUILT-UP-ROOF
BDR	BEDROOM
BW	BOTTOM OF WALL

C

CAB	CABINET
CB	CATCH BASIN
CEM	CEMENT
CF	CUBIC FEET
CJ	CONTROL JOINT
CL	CLOSET
CTL	CENTERLINE
CLG	CEILING
CONC	CONCRETE
CPT	CARPET

D

DR	DRAIN

E

(E)	EXISINGTING
E	EAST
ELEC	ELECTRICAL
EP	ELECTRICAL PANEL
EXT	EXTERIOR

F

FDN	FOUNDATION
FH	FIRE HYDRANT
FIN	FINISH
FF	FINISH FLOOR
FL	FLOW LINE
FLUOR	FLUORESCENT
FOC	FACE OF CONCRETE
FOF	FACE OF FINISH
FOS	FACE OF STUD
FR	FIRE RATED
FSL	FIRE SPRINKLER
FTG	FOOTING
FURR	FURRING

G

GALV	GALVANIZED
GC	GENERAL CONTRACTOR
GL	GLASS
GND	GROUND
GWB	GYPSUM WALL BOARD
GYP	GYSUM

H

HDBD	HARDBOARD
HDR	HEADER
HDWR	HARDWARE
HDWD	HARDWOOD
HTR	HEATER
HVAC	HEATING, VENT. & A.C.

I

IN	INCH
INCAND	INCANDESCENT
INSUL	INSULATION
INT	INTERIOR
INV	INVERT

J

JST	JOIST
JT	JOINT

K

K	KIPS
KIT	KITCHEN
KP	KICK PLATE

L

LOC	LOCATION
LT	LIGHT

M

MB	MACHINE BOLT
MDF	MEDIUM DENSITY FIBERBOARD
MECH	MECHANICAL
MEMB	MEMBRANE
MET	METAL
MH	MANHOLE
MSC	MISCELLANEOUS
MTD	MOUNTED
MTL	METAL

N

(N)	NEW
N	NORTH
NIC	NOT IN CONTRACT
NOM	NOMINAL
NP	NO PARKING
NR	NON-RATED
NTS	NOT TO SCALE

O

OA	OVERALL
OC	ON CENTER
OD	OUTSIDE DIAMETER/ DIMENSION
OFCI	OWNER FURNISHED CONTRACTOR INSTALLED
OFOI	OWNER FURNISHED OWNER INSTALL

P

PENN	PENETRATION
PERF	PERFORATED
PERP	PERPENDICULAR
PL	PLATE
PL	PROPERTY LINE
PLAS	PLASTER
PLBG	PLUMBING
PLWD	PLYWOOD
PNL	PANEL
POC	POINT OF CONNECTION
PP	PERMEABLE PAVERS
PREFAB	PREFABRICATED
PSF	POUNDS PER SQUARE FOOT
PSI	POUNDS PER SQURE INCH
PTD	PAINTED
PTR	PRESSURE TREATED
PTRWD	PRESSURE TREATED WOOD

Q

QTY	QUANTITY

R

R	REVEAL OR RISER
RAD	RADIUS
RCP	REINFORCED CONCRETE PIPE
RD	ROOF DRAIN
REF	REFERENCE
REFL	REFLECTED
REFR	REFRIGERATOR
RET	RETAINING OR RETARDANT
REG	REGISTER
RO	ROUGH OPENING

S

SCD	SEE CIVIL DRAWINGS
SCHD	SCHEDULE
SD	STORM DRAIN
SECT	SECTION
SED	SEE ELECTRICAL DRAWINGS
SF	SQUARE FOOT OR FEET
SHR	SHOWER
SHT	SHEET
SHTG	SHEATHING
SIM	SIMILAR
SJ	SEISMIC JOINT
SL	SEALANT
SLD	SEE LANDSCAPE DRAWINGS
SM	SHEET METAL
SMD	SEE MECHANICAL DRAWINGS
SOF	SOFFIT
SOG	SLAB ON GRADE
SPD	SEE PLUMBING DRAWINGS
SPEC/S	SPECIFICATION
SQ	SQAURE
SS	SANITARY SEWER
SSD	SEE STRUCTURAL DRAWINGS
STC	SOUND TRANSMISSION COEFFICIENT
STD	STANDARD
STL	STEEL
STOR	STORAGE
STRL	STRUCTURAL
SY	SQUARE YARD

T

T&B	TOP AND BOTTOM
T&G	TONGUE AND GROOVE
TC	TOP OF CURB
TOC	TOP OF CONCRETE
TOP	TOP OF PAVING
TOS	TOP OF STEEL
TRD	TREAD
TW	TOP OF WALL

U

UL	UNDERWRITERS LABORATORIES
UTIL	UTILITIES

V

VCP	VITREOUS CLAY PIPE
VERT	VERTICAL
VTR	VENT THROUGH ROOF

W

W	WEST OR WIDTH
WC	WATER CLOSET
WD	WOOD
WDW	WINDOW
W/O	WITHOUT
WP	WATER PROOF
WPT	WORKING POINT
WR	WATER RESISTANT

APPLICABLE CODES & SUMMARIES

1. THE PROJECT WILL BE GREEN POINT RATED PRIOR TO CERTIFICATE OF OCCUPANCY OR COMPARABLE RATING SYSTEM MAYBE USED IF APPROVED BY THE BUILDING OFFICIAL.
2. ALL ON-SITE UTILITIES SHALL BE PRIVATELY OWNED AND MAINTAINED BY HOME OWNERS ASSOCIATION.
3. PROJECT PLAN SHALL IDENTIFY BEST MANAGEMENT PRACTICES (BMP'S) APPROPRIATE TO THE USE CONDUCTED ON-SITE IN ORDER TO LIMIT ENTRY OF POLLUTANTS INTO STORM WATER RUN OFF TO THE MAXIMUM EXTENT PRACTICABLE.
4. APPLICABLE CODES AND SUMMARIES

a. 2010 CALIFORNIA RESIDENTIAL CODE
b. 2010 CALIFORNIA BUILDING CODE CHAPTER 7A
c. CITY OF HAYWARD, HILLSIDE DESIGN AND URBAN/WILDLAND INTERFACE GUIDELINES

SHEET INDEX

Number	Name
General Plan	
G0.00	Cover Sheet
G0.01	Abbreviations, Index
G0.02	Information & Data
G0.03	Green Page
G0.04	Demolition Plan & Traffic Access
G0.05	Fire Access Analysis & Signage
G0.06	Preliminary Retaining Wall Plan
G0.07	Preliminary Earthwork & Haul Route
G0.08	Trash Enclosure & Project Sign Details
G0.09	Project Enhancement Page
Civil, Landscape, Structural	
C1.02	Grading Plan
C3.01	Utility Plan
C3.02	Utility Plan Details
L1.00	Landscape Plan
S1.00	Structural Specifications
Architectural	
A2.01	Cluster 1 Plans
A2.02	Cluster 2 Plans
A2.03	Cluster 3 Plans
A2.04	Cluster 3 Plans
A3.01	Cluster 1 Exterior Elevations
A3.02	Cluster 2 Exterior Elevations
A3.03	Cluster 3 Exterior Elevations
A3.11	Cluster 1 Sections
A3.12	Cluster 2 Sections
A3.13	Cluster 3 Sections

GRAPHIC SYMBOLS

ASPHAULT CONCRETE
PERMEABLE PAVERS
EARTH
SAND
RIGID INSULATION
DEMO EX. PARTS
FIRE ACCESS

BUILDING SECTION (00 / A00)
DATUM REFERENCE
DETAIL REFERENCE (1 / A0)
DOOR TYPE (101a)
KEYNOTE (?)
REVISION (1)

WALL TYPE (A0)
WINDOW TYPE (A00)
FIRE HYDRANT (FH)
ROOM TAGS (1.00)
CATCH BASIN (CB OR)
STORM DRAIN PERFORATED TUBE
APPROXIMATE LINE OF WORK

REMOVE
CHECK VALVE,SD-201
FIRE SERVICE,SD-204 (FS)
DOMESTIC WATER SERVICE,SD-213
IRRIGATION WATER SERVICE
DOMESTIC WATER METERS
IRRIGATION WATER METER,SD-202 (IWM)
SANITARY SEWER MANHOLE (SSMH)

CLEAN OUT BOX,SD-313
STANDARD HOUSE SEWER SD-312
BACK FLOW PREVENTOR SD-314

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Phone 917-743-3939

Site Survey
Debolt Engineering

Structural
Duquette Engineering

Landscape Architects
Gates and Associates

Civil Engineer
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Designer
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The Roof Garden Villas
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Abbreviations, Index

Not for Construction

G0.01

SCALE 1/32" = 1'-0"

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PROJECT DESCRIPTION

THE HAYWARD ROOF GARDEN VILLAS IS LOCATED IN THE CITY OF HAYWARD ON A GREEN PIECE OF HILLSIDE AND CLASSIFIED AS DRY LAND. THE PROPOSED PROJECT HAS THREE CLUSTERS WHICH HAVE A TOTAL OF EIGHT CONDOMINIUMS WITH 2 TO 3 FLOORS AND USEABLE ROOF DECKS.

THE PROJECT SITE HAS A MINIMUM WIDTH OF 86 FEET AND A STEEP GRADE THAT EXCEEDS 25% TOWARDS THE TOP. THE PROJECTS INTENTIONS ARE TO CONVINCE THE CITY OF HAYWARD TO GRANT A ZONE CHANGE FROM A, SINGLE FAMILY RESIDENTIAL (RSB6) TO A PLANNED DEVELOPMENT TO CONSTRUCT EIGHT RESIDENTIAL CONDOMINIUMS INCONJUNCTION WITH A TENTATIVE MAP BY IMPLEMENTING AN ENVIRONMENTALLY RESPONSIVE DESIGN PROCESS AND LEED CERTIFICATION.

PROJECT INTENT

THE INTENT OF THE DRAWINGS IS TO CONSTRUCT A SUSTAINABLE, PLANNED DEVELOPMENT IN ACCORDANCE WITH THE CITY OF HAYWARD HILLSIDE DESIGN AND URBAN/WILD INTERFACE GUIDELINES AND CALIFORNIA CODE OF REGULATIONS TITLE 24. SHOULD ANY CONDITION DEVELOP NOT COVERED BY THE CONTRACT DOCUMENTS WHEREIN THE FINISHED WORK WILL NOT COMPLY WITH CALIFORNIA CODE OF REGULATIONS TITLE 24, A CHANGE ORDER DETAILING AND SPECIFYING THE REQUIRED WORK SHALL BE SUBMITTED TO AND APPROVE BY THE AGENCY HAVING JURISDICTION BEFORE PROCEEDING WITH THE WORK.

THE BUILDING IS LOCATED WITHIN THE CITY OF HAYWARD WILDLAND / URBAN INTERFACE AREA, AND SHALL MEET THE CONSTRUCTION REQUIREMENTS (AS REFLECTED ON THE APPROVED PLANS) AS STATED IN THE CITY OF HAYWARD DESIGN GUIDELINES, WHICH INCLUDES CLASS A ROOFING MATERIALS AND EXTERIOR NON-COMBUSITBLE SIDING MATERIALS (STUCCO), DOUBLE- PANE WINDOWS. PROJECT WILL NOT USE WOOD SHAKE OR TREATED WOOD SHAKE ROOFS.

PROJECT DATA & SUMMARY

STREET ADDRESS

26736 HAYWARD BOULEVARD, HAYWARD CALIFORNIA 94542

CODE SUMMARY

PLAN LAND USE & CONSTRUCTION:

HAYWARD ROOF GARDEN VILLAS - IS CURRENTLY CLASSIFIED AS, SINGLE FAMILY RESIDENTIAL (RSB6), TYPE V-B, SPRINKLERED CONSTRUCTION. THE INTENT OF THIS DOCUMENT IS TO REQUEST A REZONE TO A PLANNED DEVELOPEMENT DISTRICT (PD).

ALLOWABLE BUILDING HEIGHT & AREA: (SEC. 10-1.235) & (SEC. 10-1.225)

	ACTUAL	ALLOWABLE	
STORIES:	3	3	OKAY
HEIGHT:	30'	30'	OKAY
TOTAL LOT COVERAGE:	16.1%	40%	OKAY

SEC. 10-1.225 LOT REQUIREMENTS: BASIC ALLOWABLE AREA
MAX LOT COVERAGE 40%
TOTAL LOT SIZE = 32,268.32 SF
BASE ALLOWABLE = 32,268.32 X .40 = 12,907.33 SF
ACTUAL BUILDING COVERAGE = 5,214 SF / 32,268.32 SF = 16.1% OKAY

CONSTRUCTION TYPES:

TYPE I - A (FLOOR 1 - GARAGE)
TYPE V - B, SPRINKLERED (FLOOR 2 - LIVING)
TYPE V - B, SPRINKLERED (FLOOR 3 - LIVING)

YARD REQUIREMENTS:

SEC. 10-1.230 YARD REQUIREMENTS
MINIMUM SIDE YARD 5 FEET OR 10% OF LOT WIDTH AT THE FRONT SETBACK LINE WHICHEVER IS GREATER UP TO A MAXIMUM OF 10 FEET.

MIN WIDTH 86' X 10% = **8.5 FEET SIDE YARD SETBACK** OKAY

PARKING ANALYSIS

NUMBER OF OFF- STREET PARKING

SEC. 10-2.310 RESIDENTIAL USES THE NUMBER OF OFF STREET PARKING SPACES REQUIRED FOR RESIDENTIAL SHALL BE: MULTIPLE-FAMILY DWELLING(S):

- ONE- BEDROOM MULTIPLE FAMILY DWELLINGS, 1.0 COVERED AND 0.70 OPEN PER DWELLING UNIT.
- TWO OR MORE BEDROOMS MULTIPLE FAMILY DWELLINGS, 1.0 COVERED AND 1.10 OPEN PER DWELLING UNIT.
- AT LEAST ON COVERED PARKING PER DWELLING UNIT
- 10% OF TOTAL NUMBER OF SPACES SHALL BE CLEARLY MARKED FOR VISITORS' PARKING.

PARKING SCHEDULE	1 BDR	2 BDR	3 BDR	REQUIRED	PROPOSED
COVERED PARKING	2.0	4.0	2.0	8.0	13.0
OPEN PARKING	1.4	4.4	2.2	8.0	1.0
VISITORS UNASSIGNED	16 X 10% = 1.6			2.0	2.0
TOTAL PARKING				16.0	**16.0**

SEE SHEET G0.05 FOR OPEN PARKING LOCATIONS
SEE SHEETS A2.01- A2.03 FOR COVERED PARKING LOCATIONS

RESIDENTIAL SUMMARY

CLUSTER I, UNITS 1-3, PROJECT DATA SUMMARY	TOTAL GROSS SF
FIRST FLOOR (AT GRADE)	860 SF
GARAGE	**1224 SF**
SECOND FLOOR (PODIUM)	2302 SF
TOTAL (LIVING AREA)	**3162 SF**
USABLE ROOF (PRIVATE OPEN SPACE)	2225 SF

CLUSTER II, UNITS 4-5, PROJECT DATA SUMMARY	TOTAL GROSS SF
FIRST FLOOR (AT GRADE)	401 SF
GARAGE	**743 SF**
SECOND FLOOR (PODIUM)	1274 SF
TOTAL (LIVING AREA)	**1675 SF**
USABLE ROOF (PRIVATE OPEN SPACE)	1010 SF

CLUSTER III, UNITS 6-8, PROJECT DATA SUMMARY	TOTAL GROSS SF
FIRST FLOOR (AT GRADE)	690 SF
GARAGE	**1299 SF**
SECOND FLOOR (PODIUM)	2272 SF
THIRD FLOOR	2206 SF
TOTAL (LIVING AREA)	**5168 SF**
USABLE ROOF (PRIVATE OPEN SPACE)	1910 SF

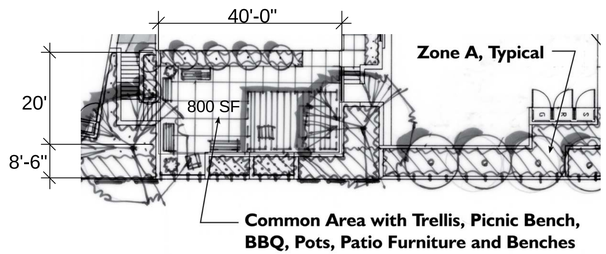
SUMMARY BY UNIT TYPE	GROSS SF (NOT INCLUDING ROOF)		OPEN SPACE, PUBLIC & PRIVATE	
UNIT 1	**1 BDR, 1 BATH, 2 CAR** STORAGE SPACE	**1768 SF** 477 CF	**ROOF DECK** GROUP OPEN	**887 SF** 100 SF
UNIT 2	**2 BDR, 3 BATH, 2 CAR** STORAGE SPACE	**1709 SF** 423 CF	**ROOF DECK** GROUP OPEN	**861 SF** 100 SF
UNIT 3	**2 BDR, 3 BATH, 1 CAR** STORAGE SPACE	**909 SF** 369 CF	**ROOF DECK** GROUP OPEN	**477 SF** 100 SF
UNIT 4	**2 BDR, 3 BATH, 2 CAR** STORAGE SPACE	**1528 SF** 423 CF	**ROOF DECK** GROUP OPEN	**581 SF** 100 SF
UNIT 5	**1 BDR, 1 BATH, 1 CAR** STORAGE SPACE	**890 SF** 414 CF	**ROOF DECK** GROUP OPEN	**429 SF** 100 SF
UNIT 6	**3 BDR, 3 BATH, 2 CAR** STORAGE SPACE	**2300 SF** 864 CF	**ROOF DECK** GROUP OPEN	**665 SF** 100 SF
UNIT 7	**2 BDR, 3 BATH, 1 CAR** STORAGE SPACE	**1577 SF** 1008 CF	**ROOF DECK** GROUP OPEN	**460 SF** 100 SF
UNIT 8	**3 BDR, 4 BATH, 2 CAR** STORAGE SPACE	**2590 SF** 1224 CF	**ROOF DECK** GROUP OPEN	**785 SF** 100 SF
TOTALS	**16 BDR, 21 BATH, 13 CAR**	**13268 SF**	**ROOF DECK TOTAL** GROUP OPEN	**5145 SF** 800 SF

GROUP OPEN SPACE

OPEN SPACE:

SEC. 10-1.400 GROUP OPEN SPACE

a. GROUP OPEN SPACE SHALL NOT INCLUDE THE REQUIRED FRONT, SIDE YARD, OR STREET SIDE YARD, OFF- STREET PARKING, DRIVEWAYS, SERVICE AREAS, OR AREAS OF MORE THAN 5% SLOPE.
b. GROUP OPEN SPACE SHALL BE CENTRALLY LOCATED TO ALL RESIDENTS.
c. EXTERIOR GROUP OPEN SPACE SHALL NOT BE LESS THAN 400 SQUARE FEET IN AREA, AND A RECTANGLE INSCRIBED WITHIN IT SHALL HAVE NO DIMENSION LESS THAN 20 FEET.
d. A MINIMUM OF 100 SQUARE FEET PER UNIT SHALL BE UTILIZED FOR GROUP OPEN SPACE.



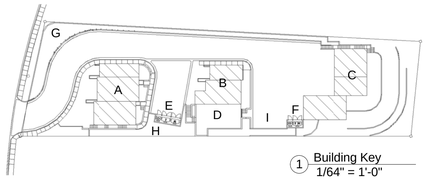
2 Group Open Space
1/16" = 1'-0"

GROUP OPEN SPACE AREA : 20'-0" X 40'-0" = **800 SF**
MINIMUM DIMENSION OF RECTANGLE : 20'-0"
SLOPE: 4%
LOCATION : CENTER OF PLANNED DEVELOPMENT

UTILITIES

GAS & ELECTRIC - P.G & E
TELEPHONE - AT&T
SEWER - CITY OF HAYWARD
WATER - CITY OF HAYWARD
STORM - CITY OF HAYWARD

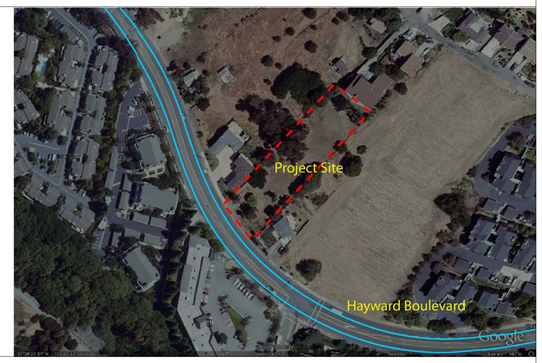
BUILDING KEY



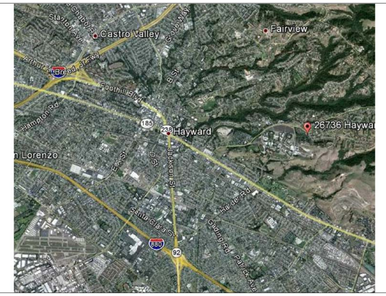
1 Building Key
1/64" = 1'-0"

A	CLUSTER I
B	CLUSTER II
C	CLUSTER III
D	GROUP OPEN SPACE
E	TRASH ENCLOSURE UNITS 1-5
F	TRASH ENCLOSURE UNITS 6-8
G	BIO-DETENTION POND
H	BIO-INFILTRATION
I	OPEN PARKING

LOCATION MAP



VICINITY MAP



SITE PHOTO

Prepared by, Gordon Wong
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Phone 917-743-3939

Information & Data

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Information & Data

Not for Construction
G0.02

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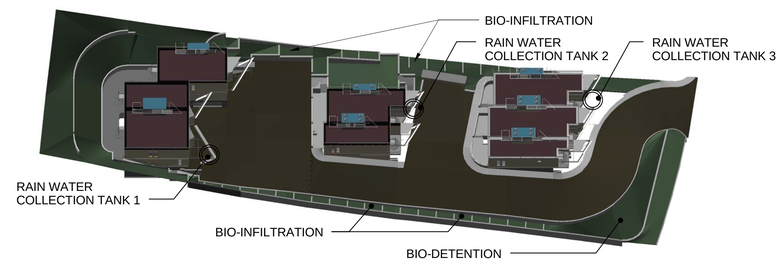
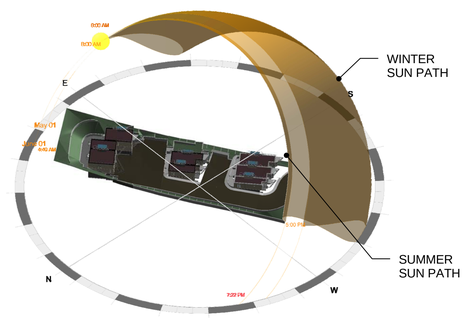
GROUP OPEN SPACE

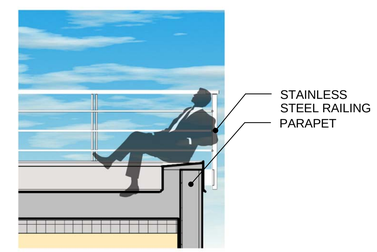
RAIN WATER COLLECTION SYSTEM



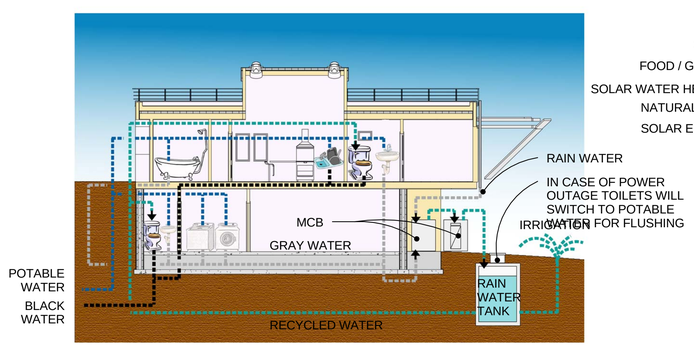
SUN ANGLE ANALYSIS



ROOF SEATING DIAGRAM



GRAY WATER SYSTEM



SUSTAINABLE RESOURCES

INFRASTRUCTURE REDUCTION

- RAIN WILL BE HARVESTED FOR TOILET FLUSHING AND PLANT IRRIGATION RESULTING IN A REDUCTION FROM INTERNAL USE OF POTABLE WATER.
- THROUGH GRAY WATER, RAINWATER REUSE AND SELECTIVE NATIVE CALIFORNIA PLANTS, THE WATER SYSTEM WILL REDUCE POTABLE WATER USE FOR IRRIGATION.
- SOLAR WATER HEATING WILL PROVIDE ENERGY FOR HOT WATER.
- SOLAR PANELS WILL PROVIDE ENERGY FOR INHABITANTS.
- NATURAL LIGHT FROM SOLAR TUBES AND INTERNAL NATURAL LIGHT ANALYSIS WILL REDUCE ENERGY FOR LIGHTING.
- ALL SUSTAINABLE ENHANCEMENTS ARE SUBJECT TO VALUE ANALYSIS PRIOR TO FINAL DESIGN.

Green Page

Designer
Gordon Wong

Landscape Architects
Gallas and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Diboll Engineering

Structural
Duquette Engineering

Client: Yue Tung Hing Ent. and Glenford Demse

The Roof Garden Villas

26736 Hayward Boulevard Between Tribune Street and Call Avenue

TENTATIVE MAP

Project Schedule Revision		
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Green Page

Not for Construction

G0.03

SCALE

8/11/2012 12:29:23 PM

Prepared by, Gordon Wong
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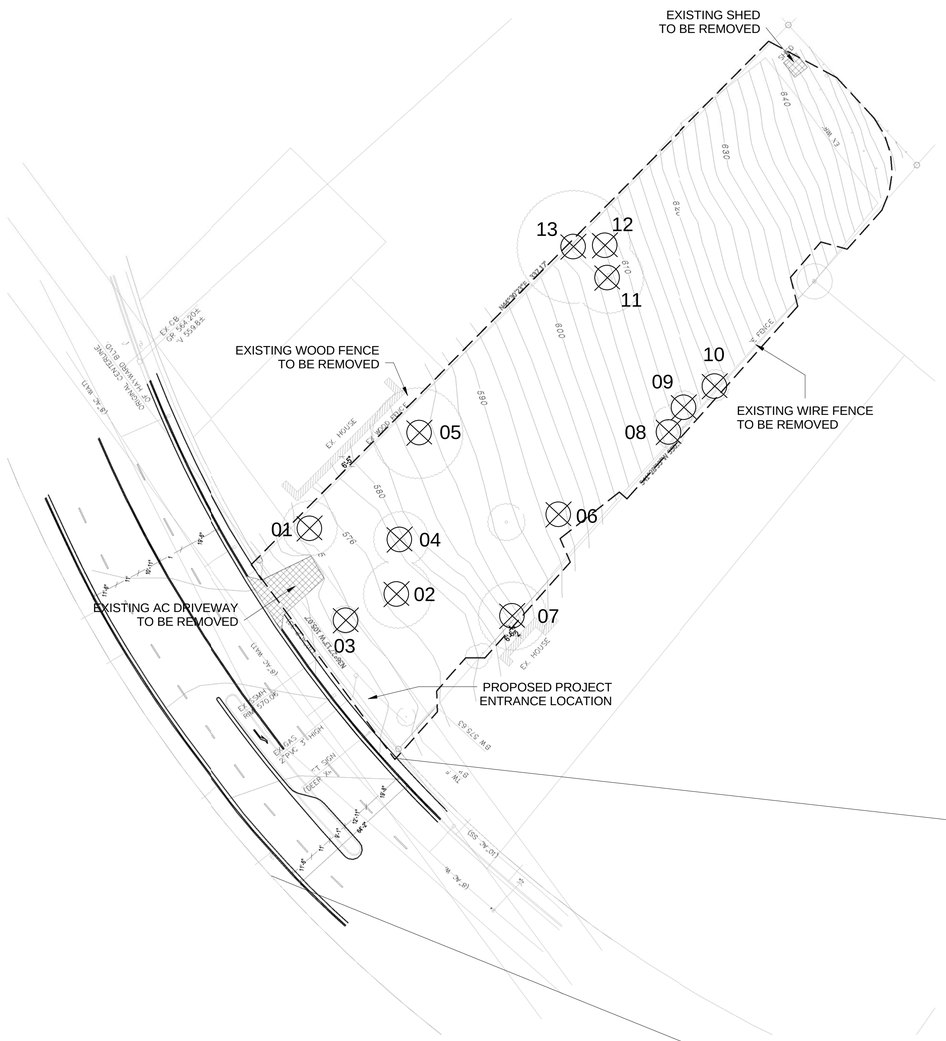


1 Demolition Plan
1/32" = 1'-0"
0' 16' 32' 64' N

GRADING ACTIVITY NOTES

1. PRIOR TO GRADING: HOUSES, STRUCTURES AND THEIR CONTENTS SHALL BE REMOVED OR DEMOLISHED UNDER PERMIT IN AN ENVIRONMENTALLY SENSITIVE MANNER. PROPER EVALUATION, ANALYSIS AND DISPOSAL OF MATERIALS SHALL BE DONE BY APPROPRIATE PROFESSIONAL(S) TO MITIGATE HAZARDS.
2. ALL WELLS, SEPTIC TANK SYSTEMS AND OTHER SUBSURFACE STRUCTURES SHALL BE REMOVED PROPERLY IN ORDER NOT TO POSE THREAT TO THE DEVELOPMENT CONSTRUCTION WORKERS, FUTURE RESIDENTS OR THE ENVIRONMENT. THESE STRUCTURES SHALL BE DOCUMENTED AND REMOVED UNDER PERMIT WHEN REQUIRED.
3. THE HAYWARD FIRE DEPARTMENT'S HAZARDOUS MATERIALS OFFICE SHALL BE NOTIFIED IMMEDIATELY AT (510) 583-4910 IF HAZARDOUS MATERIALS OR ASSOCIATED STRUCTURES ARE DISCOVERED DURING DEMOLITION DURING GRADING. THESE STRUCTURES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO: ACTUAL HAZARDOUS MATERIALS, UNDERGROUND TANKS, OR OTHER VESSELS THAT MAY HAVE CONTAINED HAZARDOUS MATERIALS.

1. DURING CONSTRUCTION, HAZARDOUS MATERIALS USED AND HAZARDOUS WASTE GENERATED SHALL BE PROPERLY MANAGED AND DISPOSED.
2. FIRE HYDRANTS AND FIRE LANES FOR THE DEVELOPMENT SHALL BE OPERATIONAL AND IN SERVICE PRIOR TO THE START OF ANY COMBUSTIBLE CONSTRUCTION AND /OR STORAGE OF COMBUSTIBLE CONSTRUCTION MATERIALS.

Tree Schedule

	Type	Description
01	Deodar Cedar	16" MODERATE CONDITION
02	Blackwood Acacia	20" POOR CONDITION
03	Blackwood Acacia	6,4,3,3" MODERATE CONDITION
04	Box Elder	15" POOR CONDITION
05	Coast Live Oak	19" NOT SUITABLE FOR PRESERVATION, CODOMINANT TRUNKS AT 4'; EMBEDDED BARDED WIRE; BLEEDING FROM CRACK FORMING ON WESTERN STEM
06	monterey cypress	13" MODERATE CONDITION
07	Blackwood Acacia	18,17" MODERATE CONDITION
08	Blackwood Acacia	7" POOR CONDITION
09	Blackwood Acacia	6" POOR CONDITION
10	Blackwood Acacia	11,6" POOR CONDITION
11	Blue Gum	27,17,15,14,9,7,6" MODERATE CONDITION
12	Blue Gum	10,8,7" MODERATE CONDITION
13	Blue Gum	16,15" GOOD CONDITION

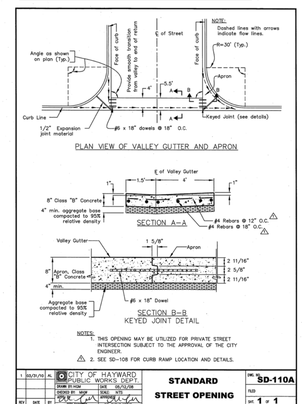
MATERIALS & ABBREVIATIONS

DEMO EX. PARTS

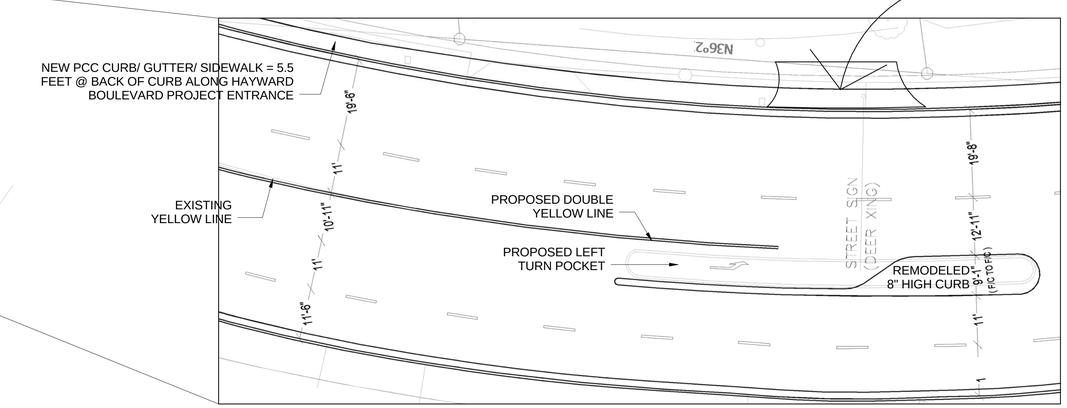
APPROXIMATE LIMIT OF WORK

REMOVE

PROJECT ENTRANCE DETAIL



CURRENT ROAD ACCESS



3 Road Plan
1/16" = 1'-0"
0' 8' 16' 32' N

Demolition Plan & Traffic Access

Site Survey
Diboll Engineering

Structural
Duquette Engineering

Landscape Architects
Gates and Associates

Civil Engineer
Bellecci & Associates

Designer
Gordon Wong

Client Yue Tung Hing Ent. and Glenford Demse

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Demolition Plan & Traffic Access

Not for Construction

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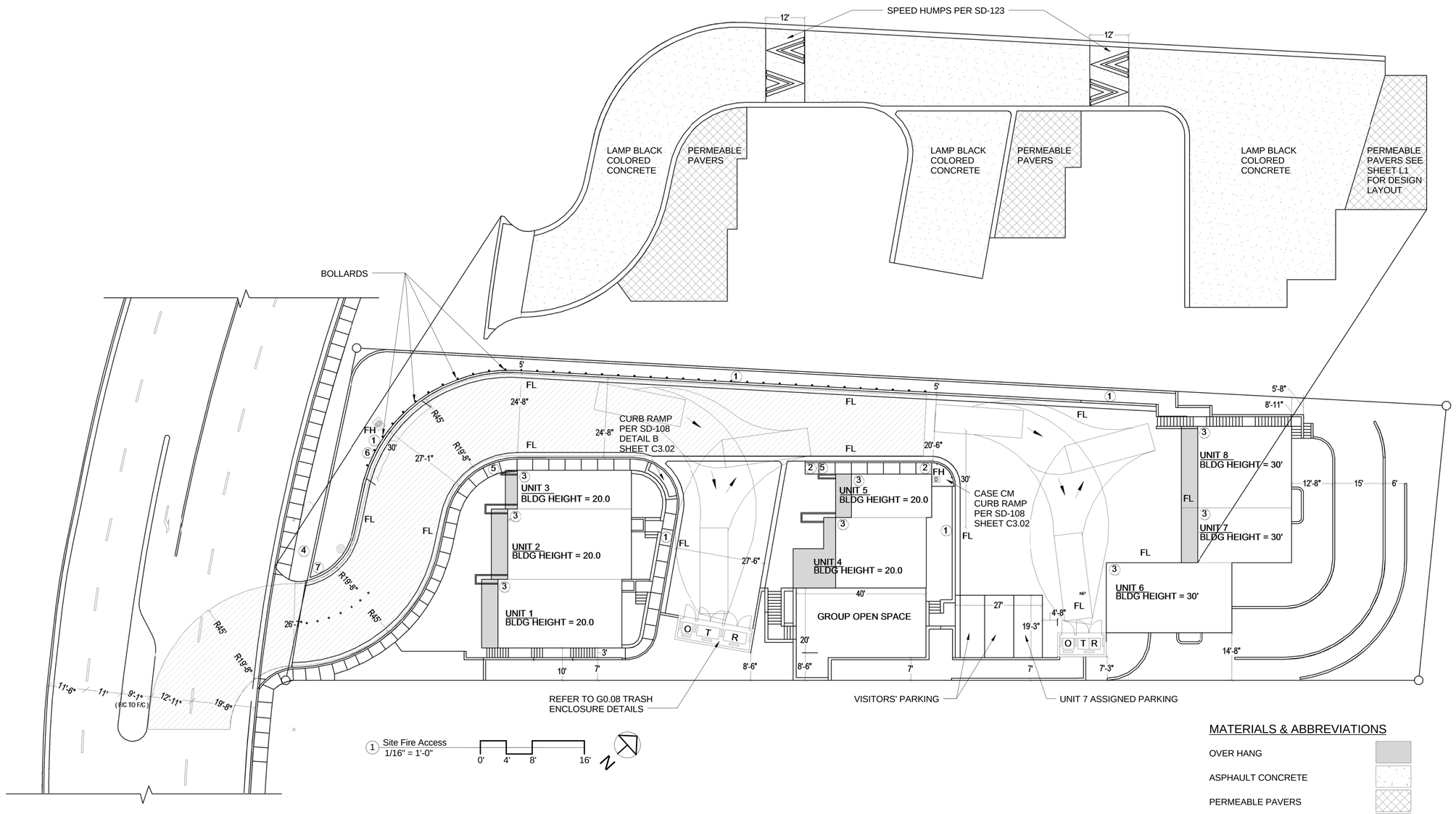

MATERIALS & ABBREVIATIONS

OVER HANG	
ASPHAULT CONCRETE	
PERMEABLE PAVERS	
EARTH	
FIRE ACCESS	
FIRE HYDRANT	FH
FIRE LANE SIGNAGE	FL
NO PARKING SIGN, PER SD-117	1
ADDRESS MINIMUM 6" MONUMENT SIGN	2
ADDRESS MINIMUM 4" ILLUMINATED SIGN	3
PROJECT SIGNAGE, SEE SHEET G0.08	4
TURN POCKET MIRROR	5
SPEED LUMP SIGNING, PER SD-123	6
STOP SIGN, PER SD-117	7

FIRE SAFETY NOTES

1. ALL BUILDINGS SHALL BE INSTALLED WITH AUTOMATIC FIRE SPRINKLER SYSTEM IN ACCORDING TO THE 2010 NFPA 13. CLUSTER 2 (2-UNIT BUILDING) SHALL BE ALLOWED TO INSTALL THE FIRE SPRINKLER SYSTEM IN ACCORDING TO THE 2010 NFPA 13D. FIRE PERMITS ARE REQUIRED FOR FIRE SPRINKLER INSTALLATION AND UNDERGROUND FIRE SERVICE LINES. (SEE SHEET C3.01 FOR PLANS)
2. FIRE ACCESS ROADS SHALL BE DESIGNED AND MAINTAINED TO SUPPORT THE IMPOSED LOAD OF FIRE APPARATUS 75,000 LBS AND SHALL BE DESIGNED AND SURFACED AS TO PROVIDE ALL-WEATHER DRIVING CAPABILITY AND HAVE, A FRICTION COEFFICIENT TO ACCOMMODATE EMERGENCY VEHICLES. SUCH STANDARD IS ALSO APPLICABLE TO PAVERS OR DECORATIVE CONCRETE.
3. FIRE ACCESS ROADS SHALL USE PORTLAND CEMENT CONCRETE 6" MINIMUM THICKNESS TO ADDESS LOADING, TIRE GRIP, STORM WATER SHEETING AT CRITICAL AREAS OF TRAFFIC AND FIRE ACCESS.
4. A DEDICATED (PRIVATE) FIRE LINE SHALL BE INSTALLED PER CITY STANDARD DETAILS (SEE UTILITY PLAN & DETAILS SHEET C3.01 & C3.02). THIS FIRE LINE CAN BE USED FOR PRIVATE FIRE HYDRANTS AND TO SUPPLY THE BUILDING SPRINKLER SYSTEMS. INDIVIDUAL SPRINKLERS FOR EACH UNIT SHALL BE REVIEWED UNDER BUILDING PERMIT APPLICATION.

1. DECORATIVE LIGHTS FOR PRIVATE STREET REFER TO (UTILITY PLANS C3.01 SYMBOL #13).
2. ADDRESSING OF THE BUILDINGS SHALL BE IN COMPLIANCE WITH HAYWARD FIRE DEPARTMENT REQUIREMENTS: MINIMUM 4 INCH SELF- ILLUMINATED ADDRESS INSTALLED ON THE FRONT OF THE BUILDING SO AS TO BE VISIBLE FROM THE STREET. A DECORATIVE ADDRESS MONUMENT SIGN SHALL BE INSTALLED AT EACH COURT ENTRANCE, INDICATING THE BUILDING ADDRESSES FOR THE UNITS SERVED BY SUCH COURT. MINIMUM SIZE NUMBERS SHALL BE 6 INCHES IN HEIGHT ON A CONTRASTING BACKGROUND.
3. FIRE HYDRANTS SHALL BE A DOUBLE STEAMER WITH ONE (1) 2-1/2" OUTLET AND TWO (2) 4- 1/2" OUTLETS, CAPABLE OF FLOWING 1,500 GALLONS PER MINUTE. HYDRANTS SHALL HAVE BLUE REFLECTIVE MARKERS AT THEIR LOCATION. IF HYDRANTS ARE SUBJECT TO VEHICLE IMPACTS, CRASH POSTS SHALL BE INSTALLED AROUND THE FIRE HYDRANT (SEE SHEET C3.01).
4. CONTACT THE FIRE MARSHAL'S OFFICE (510) 583-4900 AT LEAST 24 HOURS BEFORE THE DESIRED REQUIRED FINAL INSPECTION APPOINTMENT TO VERIFY THAT REQUIREMENTS FOR FIRE PROTECTION FACILITIES HAVE BEEN MET & ACTUAL CONSTRUCTION OF ALL FIRE PROTECTION EQUIPMENT HAVE BEEN COMPLETED IN ACCORDANCE WITH APPROVED PLAN.
5. BLUE REFLECTIVE PAVEMENT MARKERS SHALL BE INSTALLED AT FIRE HYDRANT LOCATIONS.

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Fire Access Analysis & Signage

Designer
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Site Survey
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Fire Access Analysis & Signage

Not for Construction

G0.05

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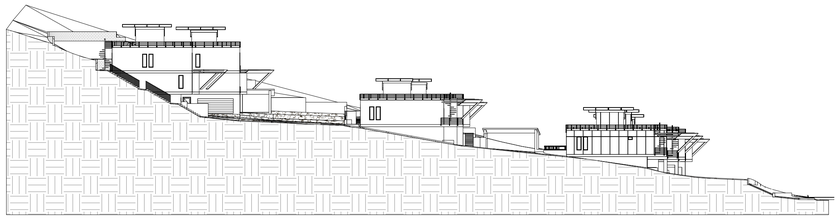
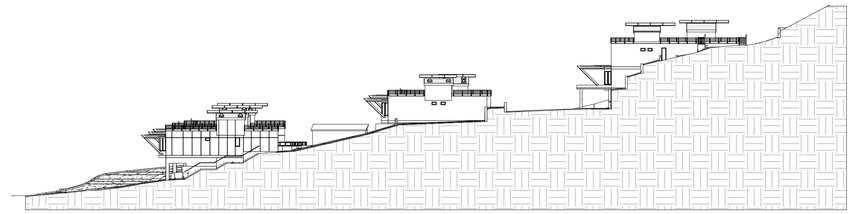
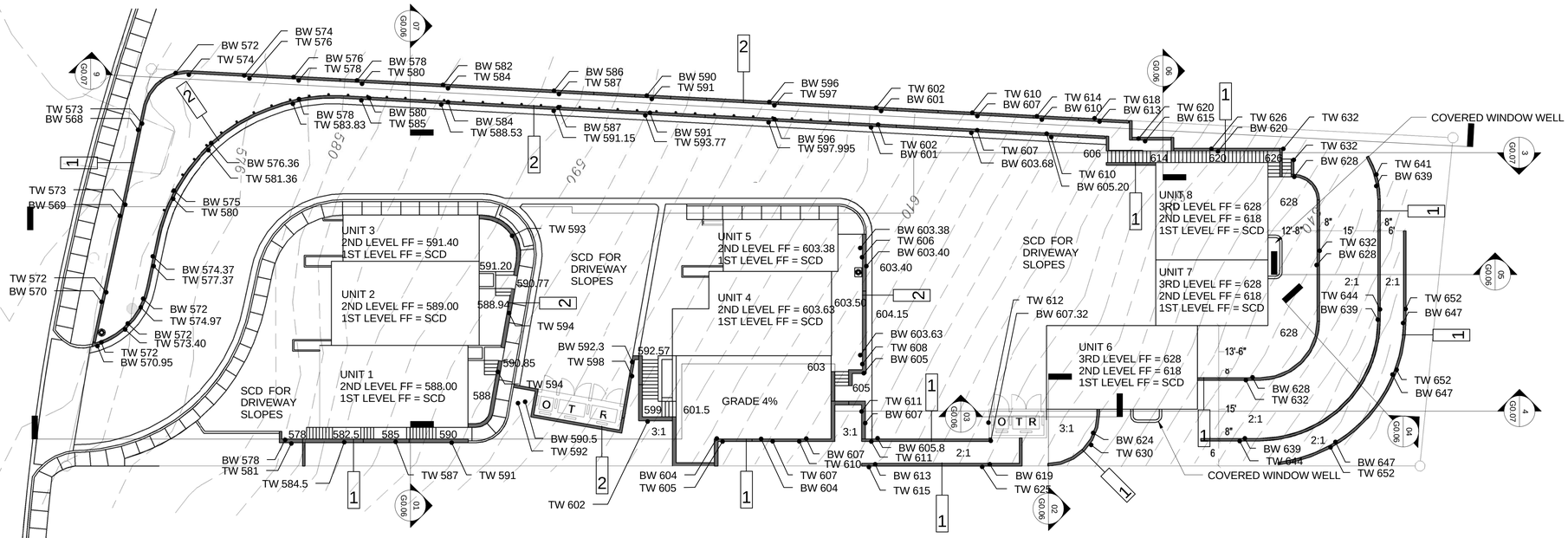


2 North Side Cluster Grades
1/32" = 1'-0"



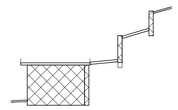
3 South Side Cluster Grades
1/32" = 1'-0"



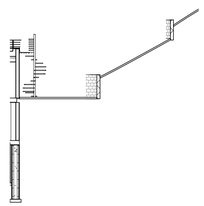
1 ROOF GARDEN VILLAS GRADING PLAN
1/16" = 1'-0"

01 South - Retaining Walls
1/16" = 1'-0"

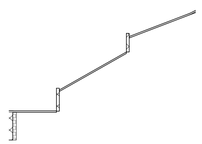
02 South - Retaining wall, Garbage Bins
1/16" = 1'-0"



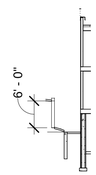
03 South - Inner Retaining Walls
1/16" = 1'-0"



04 East South - Retaining Walls
1/16" = 1'-0"



05 East - Retaining Walls
1/16" = 1'-0"



06 North - Retaining Walls
1/16" = 1'-0"

07 North - Bioswale Wall
1/16" = 1'-0"

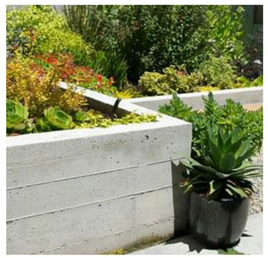
MATERIALS & ABBREVIATIONS

BOTTOM OF WALL	BW
TOP OF WALL	TW
FINISH FLOOR	FF
SEE CIVIL DRAWINGS	SCD

RETAINING WALL TYPES

SEE STRUCTURAL DRAWINGS SHEET S1, SECTIONS FOR DETAILS. ALL WALLS ARE 6 ' MAX HEIGHT OR LESS PER CITY HILLSIDE GUIDELINE REQUIREMENTS.

1 STEEL SOLDIER BEAM WITH WOOD LAG (OPTIONAL REINFORCED CONCRETE).



2 REINFORCED CONCRETE RETAINING WALL.

RETAINING WALL SUMMARY

RETAINING WALL WITH 3:1 BACK FILL SLOPE ARE DESIGNED TO RESIST **55 PCF** PER PETERS & ROSS, SOILS REPORT RECOMMENDATION (PAGE 10 ITEM 6 RETAINING WALLS).

RETAINING WALL WITH 2:1 BACK FILL SLOPE ARE DESIGNED TO RESIST **65 PCF** PER PETERS & ROSS SOILS REPORT RECOMMENDATION (PAGE 10 ITEM 6 RETAINING WALLS).

Preliminary Retaining Wall Plan

Designer
Gordon Wong

Landscape Architects
Gates and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Diboll Engineering

Structural
Duquette Engineering

Client Yue Tung Hing Ent. and Glenford Demse

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Preliminary Retaining Wall Plan

Not for Construction

G0.06

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Prepared by, Gordon Wong
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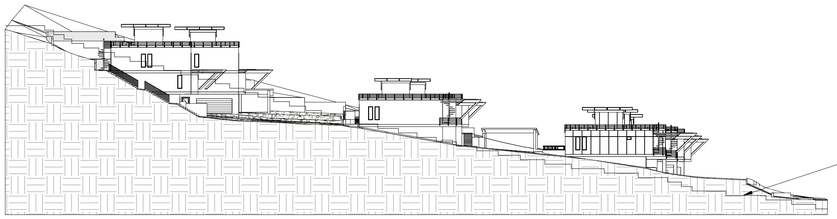
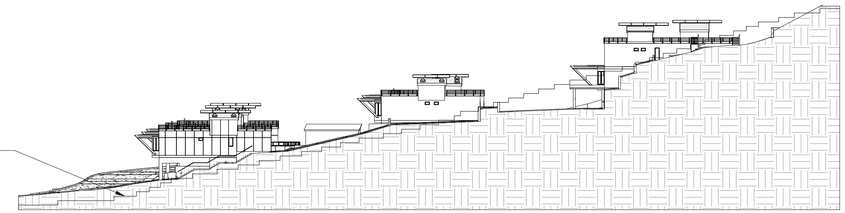


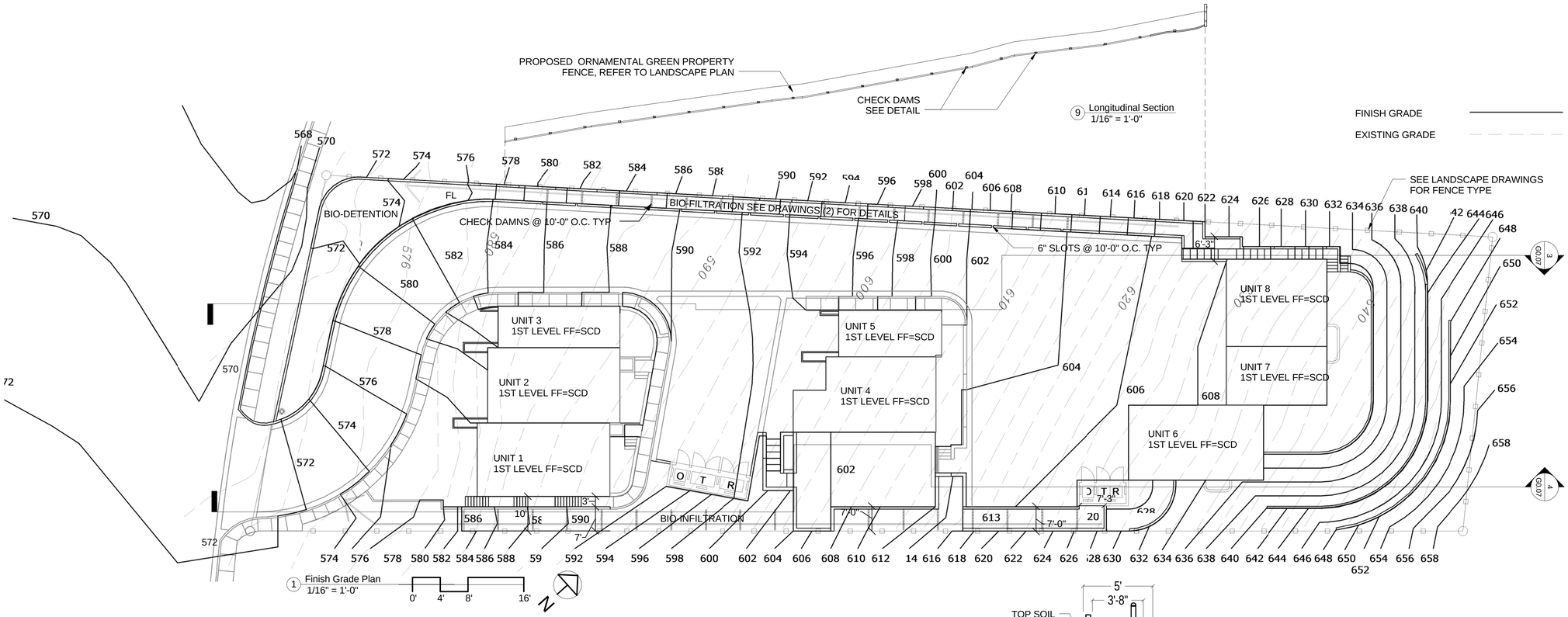
3 Cut Fill Street Longitudinal
1/32" = 1'-0"

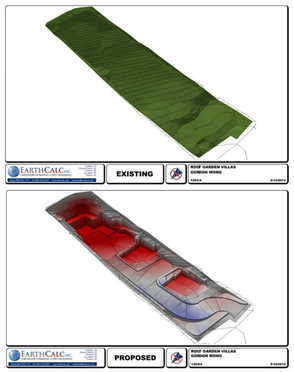
0' 16' 32' 64'

EXISTING CONTOUR LINE



4 Cut Fill South Longitudinal
1/32" = 1'-0"

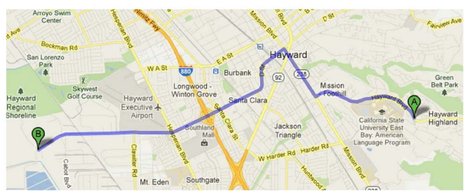




SEE EARTH CALC, SEPERATE PACKET CONTAINING EARTHWORK ESTIMATE FOR FURTHER DETAILS.

DRIVING PATH ANALYSIS

1. HAYWARD BLVD TOWARD TRIBUNE 0.9 MI
2. STRAIGHT TO CARLOS BEE BLVD 0.6 MI
3. RIGHT ON MISSION BLVD 0.8 MI
4. LEFT ONTO D ST 0.7 MI
5. STRAIGHT ONTO WINTON 0.7 MI
6. DESTINATION 3.3 MI



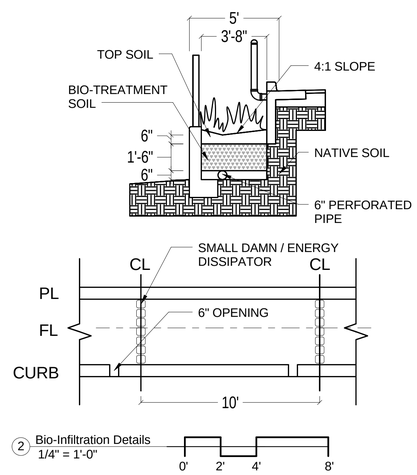
EARTHWORK MITIGATION ANALYSIS

7,885 CUBIC YARDS, EXPORTED SOIL
SOIL WILL BE EXPORTED AT WEST WINTON AVE APPROXIMATELY 6.5 MILES FROM SITE. ROUND TRIP PER TRUCK LOAD IS 13 MILES.

FOR AN 18 WHEELER TRUCK MOVING 18 CUBIC YARDS OF DIRT PER TRIP: 7,885 CUBIC YARDS / 18 CUBIC YARDS = 438 TRIPS (PLUS 10% SOIL EXPANSION FACTOR) = 481 TRIPS.

481 TRIPS X 13 MILES PER TRIP = 6,253 MILES OF TRAVEL.

TRANSPORTATION ROUTE HAS BEEN LOCATED ON 2 LANE ROAD PATHS SHOWN ON FOLLOWING MAP.



GRADING & DRAINAGE NOTES

1. DO NOT USE UNCONDITIONED NATIVE SOILS.
2. SOIL IN PROJECT IS TYPE C, SANDY LOAM/ LOAMY SAND SHALL BE IMPORTED TO MEET INFILTRATION REQUIREMENTS.
3. SANDY LOAM/ LOAMY SAND: FINES SHALL BE LIMITED TO 20% OR LESS PASSING THROUGH A # 200 SIEVE.
4. THE EXTENSION OF THE EXISTING 15 INCH RCP IN HAYWARD BOULEVARD WITH NEW 15 INCH RCP TO THE PROJECT SITE TO PICK UP STORM DRAIN RUN OFF GENERATED FROM THE PROJECT SITE.
5. THE ALAMEDA COUNTY CLEAN WATER PROGRAM TECHNICAL GUIDANCE (ACCWP C3 TECHNICAL GUIDANCE VERSION 2.1) SHALL BE USED TO DESIGN THE PROPOSED ON-SITE CLEAN WATER TREATMENT FACILITIES.

Preliminary Earthwork & Haul Route

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Preliminary Earthwork & Haul Route

Not for Construction

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Prepared by, Gordon Wong
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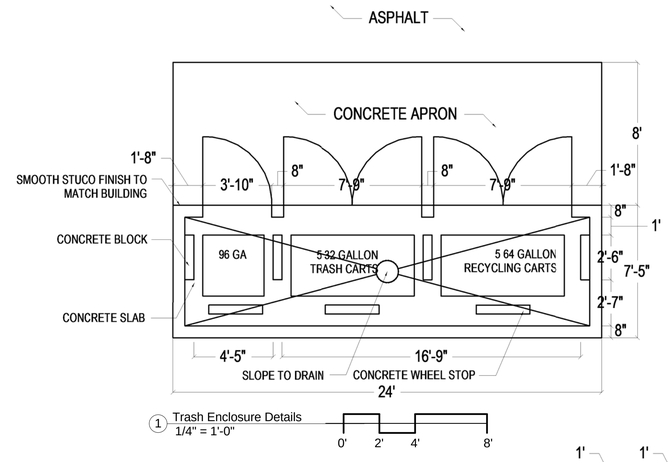
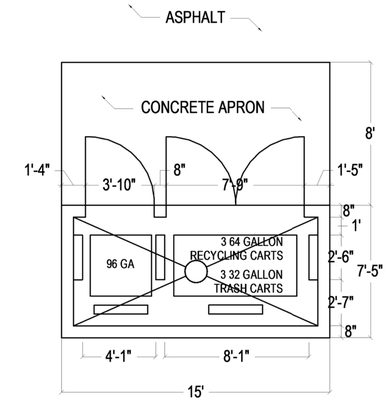
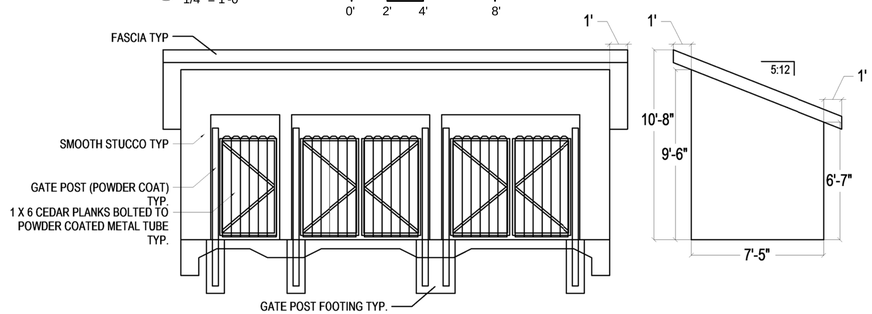


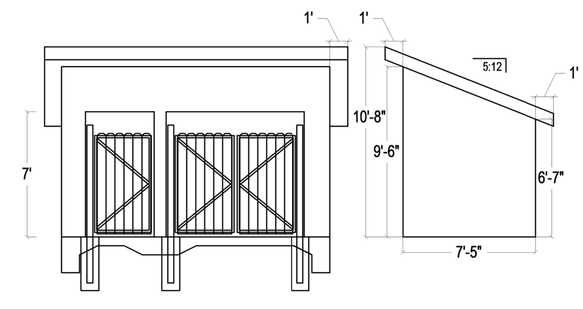
1 Trash Enclosure Details
1/4" = 1'-0"



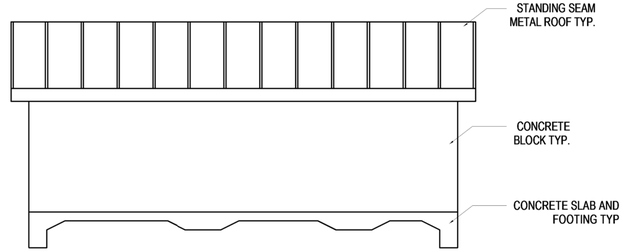
2 PLANS TRASH ENCLOSURE 2



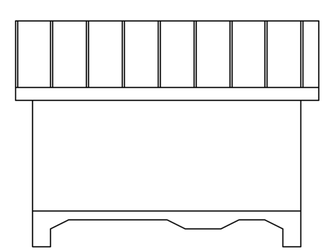
3 FRONT ELEVATIONS TRASH ENCLOSURE 1



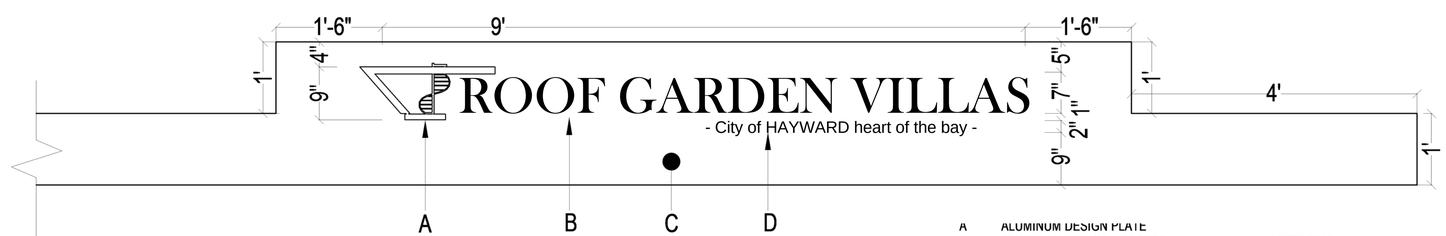
4 FRONT ELEVATIONS TRASH ENCLOSURE 2



5 BACK ELEVATIONS TRASH ENCLOSURE 1



6 BACK ELEVATIONS TRASH ENCLOSURE 2



2 Front Sign Details
1" = 1'-0"

A	ALUMINUM DESIGN PLATE	
B	7" HIGH ALUMINUM *(BASKEF*	LETTERING
C	CONCRETE RETAINING WALL	
D	2" HIGH ALUMINUM *(ARIAL)* LETTERING	

Trash Enclosure & Project Sign Details

Designer
Gordon Wong

Landscape Architects
Gates and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Diboll Engineering

Structural
Duquette Engineering

Client Yue Tung Hing Ent. and Glenford Demse

The Roof Garden Villas

26736 Hayward Boulevard Between Tribune Street and Cali Avenue

TENTATIVE MAP

Project Schedule Revision		
01	Pre-App	02/03/10
02	Tent. Sub.	10/04/10
03	Tent. ReSub.	03/17/12
04	Tent. ReSub.	07/25/12

Trash Enclosure & Project Sign Details

Not for Construction

G0.08

Prepared by, Gordon Wong
2665 Glenbriar Dr. Saratoga CA 95070
Phone 917-743-3939

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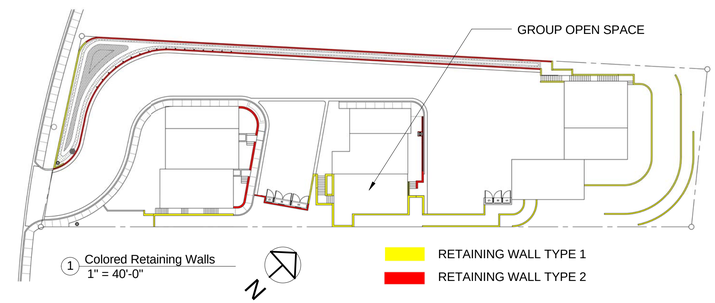
BIRD'S EYE

COLOR DIAGRAM



PROJECT STRATEGY

- IMPACT RESISTANT, DURABLE EXTERIOR FINISHES
- CENTRALIZED GROUP OPEN SPACE
- FLAT USABLE ROOFS ALLOW LIGHT, AIR, AND VIEWS
- ENTRANCE AREAS CREATE DEFENSIBLE SPACE
- CLUSTER DEVELOPMENT FOR SUSTAINABLE PLANNING

EXTERIOR MATERIALS

- HARDIE BOARD REVEAL PANEL, 4 X 8 FOOT OFF WHITE (SMOOTH FINISH)

- LIGHT GREY SMOOTH STUCCO FINSH

- REVEAL 1/2 INCH ANODIZED TRIMS & JOINTS

MATERIAL IDENTIFICATION

1	HARDIE REVEAL PANEL	6	FIBER CEMENT BOARD PANEL
2	HARDIE TRIM	7	STAINLESS STEEL ROD RAILING
3	STEEL TRELLIS PAINTED	8	METAL COPING PAINTED
4	STANDING SEAM METAL ROOF	9	DOWN LIGHTS
5	ROLL UP GARAGE DOOR	10	CEDAR PLANKS

HILLSIDE VIEW

Project Enhancement Page

Designer
Gordon Wong

Landscape Architects
Gallas and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Diboll Engineering

Structural
Duquette Engineering

Client Yue Tung Hing Ent. and Glenford Demse

The Roof Garden Villas

26736 Hayward Boulevard Between Tribune Street and Call Avenue

TENTATIVE MAP

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04	Tent. ReSub.	07/25/12

Project Enhancement Page

Not for Construction

G0.09

Prepared by, Gordon Wong
2665 Glenbriar Dr. Saratoga CA 95070
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SCALE 1" = 40'-0"

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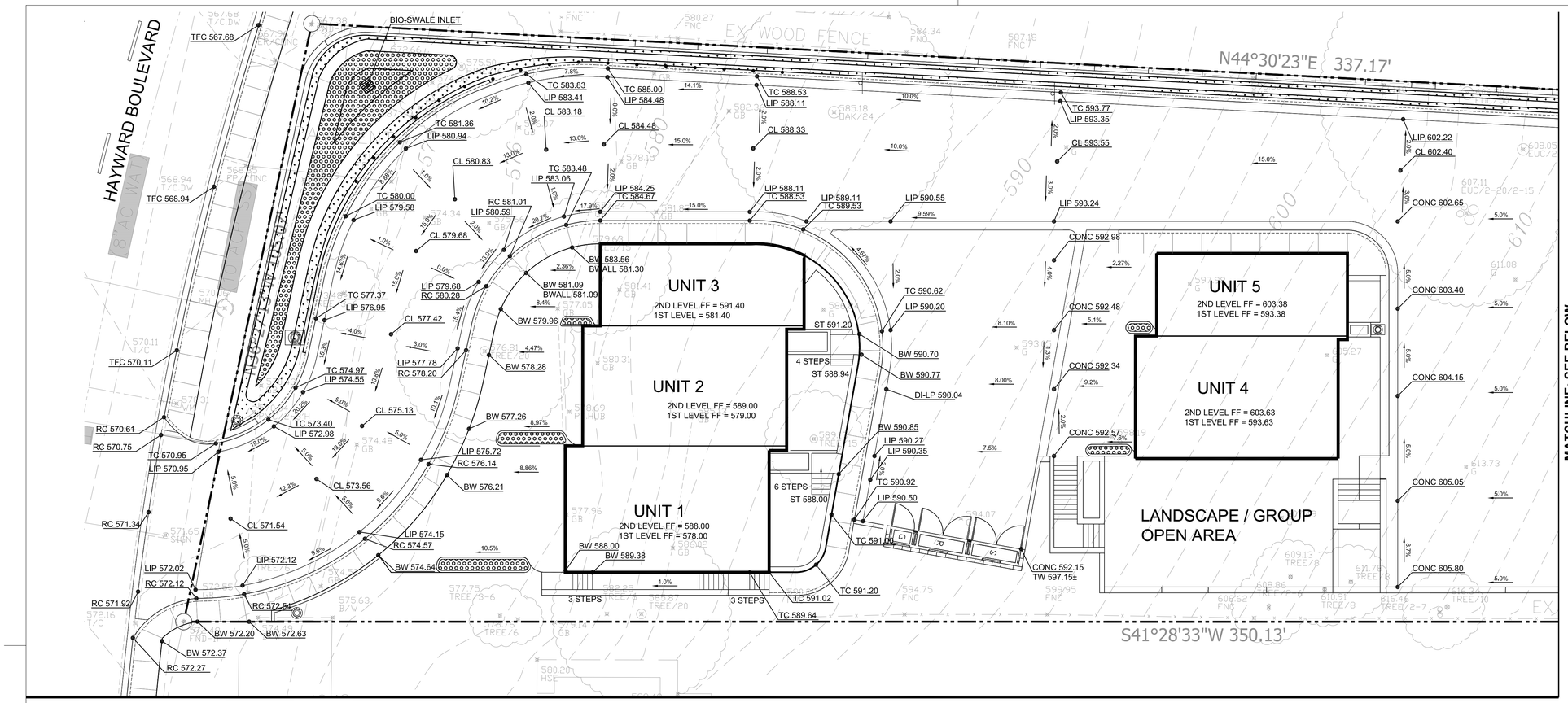

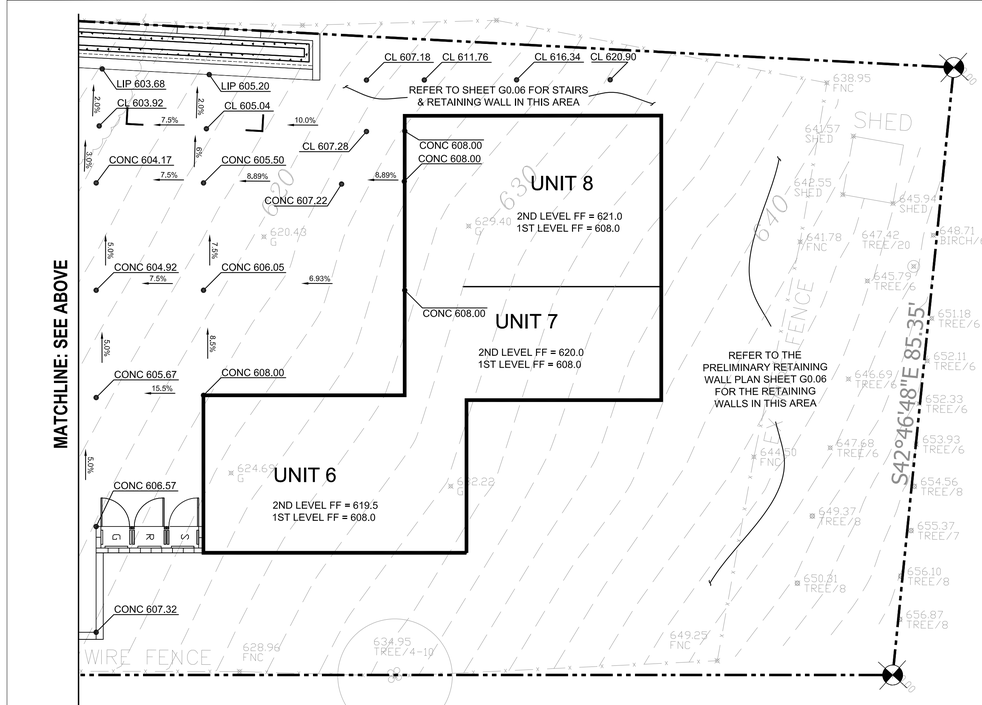

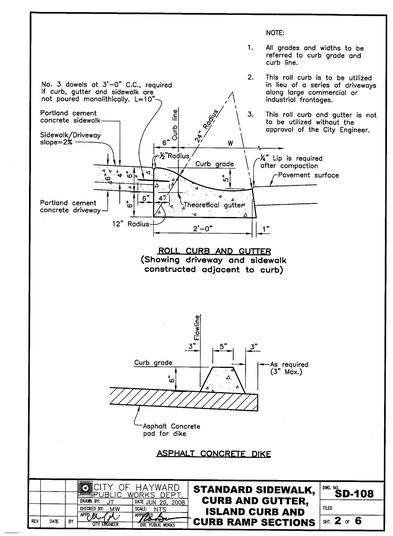

ROLLED CURB DETAIL

ABBREVIATIONS:

BW	BACK OF WALK
BWALL	BOTTOM OF WALL
CONC	CONCRETE
CL	CENTERLINE DRIVEWAY ELEVATION
DI	DRAINAGE INLET
FF	FINISHED FLOOR ELEVATION FROM BUILDING ARCHITECT
LIP	LIP OF GUTTER
LP	LOW POINT
RC	ROLLED CURB
ST	TOP OF STAIR
TFC	TOP OF CURB
TW	TOP OF WALL

10 5 0 10 20 30
SCALE IN FEET

REGISTERED PROFESSIONAL ENGINEER DANIEL C. LEARY No. 48394 CIVIL STATE OF CALIFORNIA

FOR TENTATIVE MAP ONLY - NOT FOR CONSTRUCTION

Bellecci & Associates, inc.
Civil Engineering • Land Surveying
6601 Koll Center Pkwy, Suite 240 Pleasanton, CA 94566
Phone (925) 681-4885 Fax (925) 417-0559

Grading and Drainage Plan

Designer: Gordon Wong

Landscape Architects: Gates and Associates
Civil Engineer: Bellecci & Associates
Site Survey: Debolt Engineering
Structural: Duquette Engineering

Client Yue Tung Hing Ent. and Glenford Dennee
5700 Stoneridge Mall Rd, #235 Pleasanton, CA 94588

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TENTATIVE MAP

Project Schedule Revision		
01	Pre-App	02/03/10
02	Tent. Sub.	10/04/10
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04	Vesting Tent. Map	8/2/12

Tentative Map, Grading Plan

C1.02

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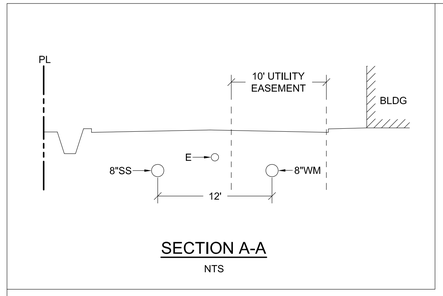


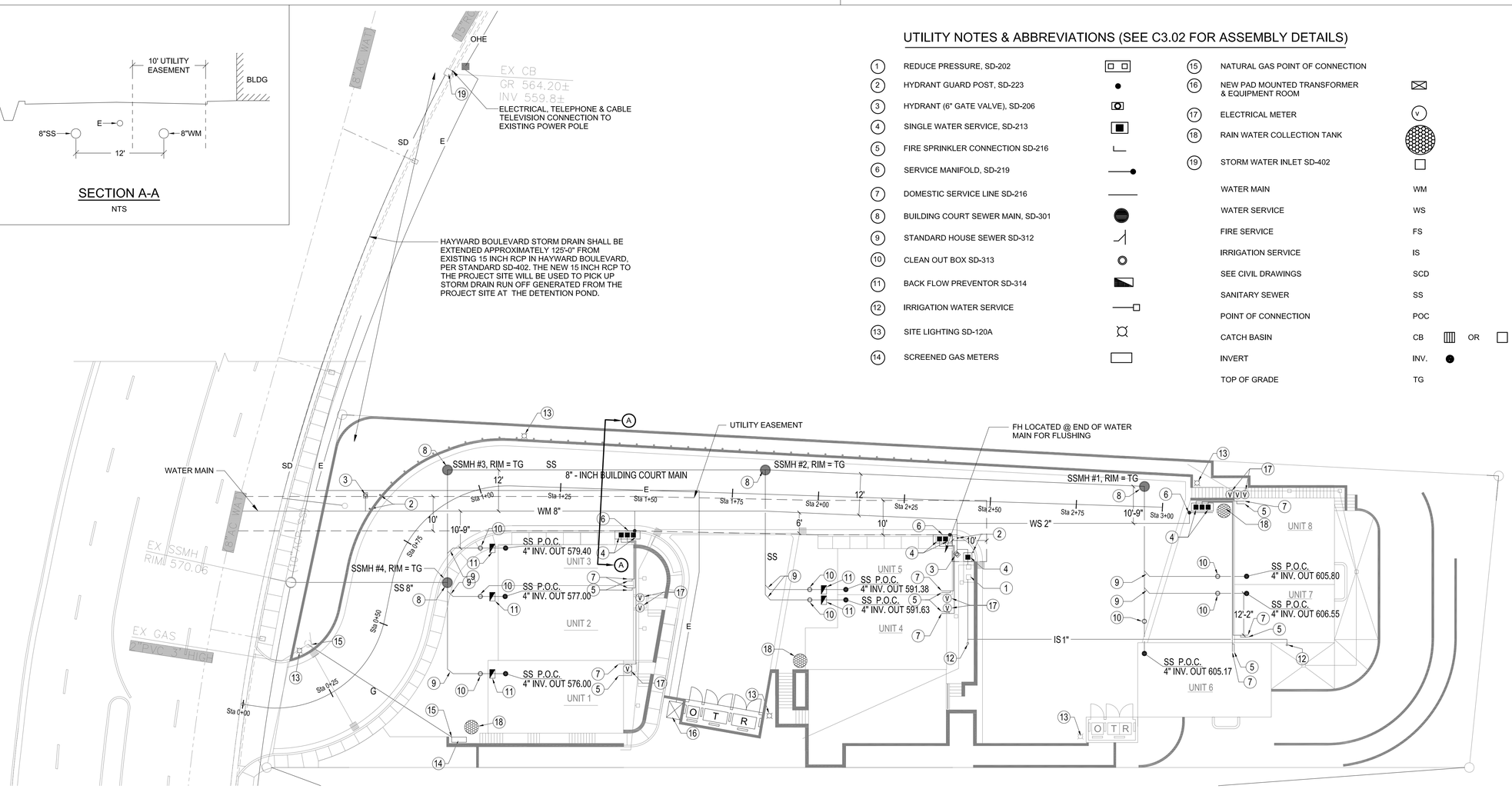
SECTION A-A

NTS

UTILITY NOTES & ABBREVIATIONS (SEE C3.02 FOR ASSEMBLY DETAILS)

1. REDUCE PRESSURE, SD-202
2. HYDRANT GUARD POST, SD-223
3. HYDRANT (6" GATE VALVE), SD-206
4. SINGLE WATER SERVICE, SD-213
5. FIRE SPRINKLER CONNECTION SD-216
6. SERVICE MANIFOLD, SD-219
7. DOMESTIC SERVICE LINE SD-216
8. BUILDING COURT SEWER MAIN, SD-301
9. STANDARD HOUSE SEWER SD-312
10. CLEAN OUT BOX SD-313
11. BACK FLOW PREVENTOR SD-314
12. IRRIGATION WATER SERVICE
13. SITE LIGHTING SD-120A
14. SCREENED GAS METERS
15. NATURAL GAS POINT OF CONNECTION
16. NEW PAD MOUNTED TRANSFORMER & EQUIPMENT ROOM
17. ELECTRICAL METER
18. RAIN WATER COLLECTION TANK
19. STORM WATER INLET SD-402

WATER MAIN	WM
WATER SERVICE	WS
FIRE SERVICE	FS
IRRIGATION SERVICE	IS
SEE CIVIL DRAWINGS	SCD
SANITARY SEWER	SS
POINT OF CONNECTION	POC
CATCH BASIN	CB OR
INVERT	INV.
TOP OF GRADE	TG



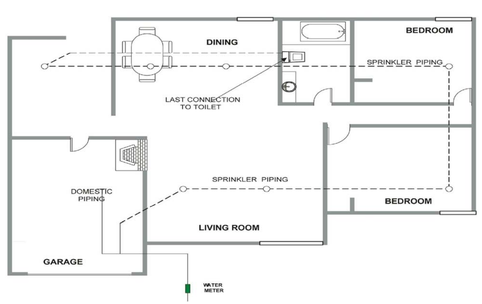
1 Utility Plan
1/16" = 1'-0"

0' 4' 8' 16'

HAYWARD WATER SYSTEM / FIRE FLOW TEST

HYDRANT NUMBER	HYDRANT ADDRESS	PRESSURE --- PSI			ORIFICE (INCH)	DISCHARE --- GPM	
		STATIC	RESIDUAL	PITOT		OBSERVED	20 PSI CALC
TEST NO. 172, HAYWARD BLVD @ CIVIC AVE 02/22/05						1,404	2,690
5224 - 4	26937 HAYWARD BOULEVARD	120	90		2.5		
5224 - 3	26857 HAYWARD BOULEVARD			70	2.5		

FLOW THROUGH SYSTEM SPRINKLERS DIAGRAM, PER SD-216



WATER NOTES

1. CITY RECORDS INDICATE THAT THE SITE HAS ONE 5/8" DOMESTIC METER (ACCOUNT #56-02830.00) ON A 3/4" SERVICE. IF THE METER AND SERVICE LINE CANNOT BE REUSED, IT MUST BE ABANDONED BY CITY OF HAYWARD WATER DISTRIBUTION PERSONNEL AT THE OWNER'S/APPICANT'S EXPENSE.
2. THE DEVELOPMENT'S WATER SYSTEM SHALL BE PRIVATE, OWNED AND MAINTAINED A HOMEOWNER'S ASSOCIATION OR SIMILAR MAINTENANCE RESPONSIBILITY AGREEMENT.
3. THE APPLICANT/DEVELOPER SHALL INSTALL AN ABOVE-GROUND REDUCE PRESSURE BACKFLOW PREVENTION ASSEMBLY ON EACH IRRIGATION WATER METER, PER CITY STANDARD DETAIL SD-202. PROVIDE SUFFICIENT AREA BEHIND THE PROPERTY LINE FOR THE BACKFLOW DEVICE PAD AND REQUIRED LANDSCAPE SCREENING. THE SIZE OF THE PAD WILL BE DEPENDENT UPON TYPE, SIZE, AND MODEL OF THE BACKFLOW DEVICE SELECETED, PER SD-202.
4. FIRE DEPT. MAY REQUIRE ADDITIONAL FIRE SERVICE APPURTENANCES, SUCH AS A POST-INDICATOR-VALVE, ALARM, ETC.
5. ALL DOMESTIC AND IRRIGATION WATER METERS SHALL BE RADIO-READ TYPE.
6. COMBINED DOMESTIC AND FIRE SERVICE SHALL BE USED PER STANDARD SD-216 (NOTE 3. FOR FIRE SYSTEMS DESIGNED AS FLOW-THROUGH, SUCH THAT WATER IS CIRCULATED AND CONNECTED TO THE WATER FIXTURES IN THE RESIDENCE, NO BACKFLOW PREVENTION ASSEMBLY IS REQUIRED.) SEE FLOW THROUGH SYSTEM SPRINKLER DIAGRAM FOR DETAILS.

SEWER NOTES

1. THE DEVELOPMENT'S SANITARY SEWER MAINS AND MANHOLES SHALL BE PRIVATE, OWNED AND MAINTAINED A HOMEOWNER'S ASSOCIATION OR SIMILAR MAINTENANCE RESPONSIBILITY AGREEMENT.
2. ALL SEWER MAINS AND APPURTENANCES SHALL BE CONSTRUCTED IN ACCORDANCE TO THE CITY'S "SPECIFICATIONS FOR THE CONSTRUCTION OF SEWER MAINS AND APPURTENANCES (12" DIAMETER OR LESS)," LATERST REVISION AT THE TIME OF PERMIT APPROVAL.
3. THE CURRENT SANITARY SEWER CONNECTION FEE FOR SINGLE-FAMILY RESIDENTIAL IS $7,700 PER UNIT. SEWER CONNECTION FEES ARE DUE AND PAYABLE PRIOR TO FINAL INSPECTION.

NOTES

1. EXISTING OVERHEAD LINES ALONG PROPERTY FRONTAGE ON HAYWARD BOULEVARD SHALL BE UNDERGROUND.

REGISTERED PROFESSIONAL ENGINEER DANIEL C. LEARY No. 48394 CIVIL STATE OF CALIFORNIA

FOR TENTATIVE MAP ONLY - NOT FOR CONSTRUCTION

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Phone (925) 681-4885 Fax (925) 417-0559

Utility Plan

Designer: Gordon Wong
Landscape Architects: Gates and Associates
Civil Engineer: Bellecci & Associates
Site Survey: Debolt Engineering
Structural: Duquette Engineering

Client Yue Tung Hing Ent. and Glenford Dennee
5700 Stoneridge Mall Rd, #235 Pleasanton, CA 94588

The Roof Garden Villas
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04	Tent. ReSub.	08/02/12

Utility Plan

Not for Construction

C3.01

SCALE 1/16" = 1'-0"

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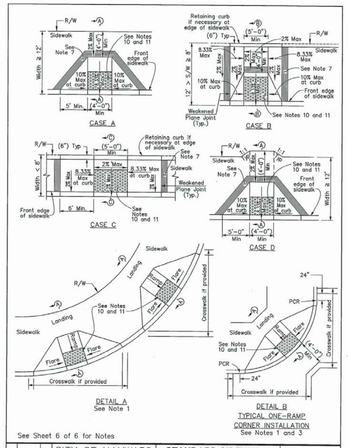

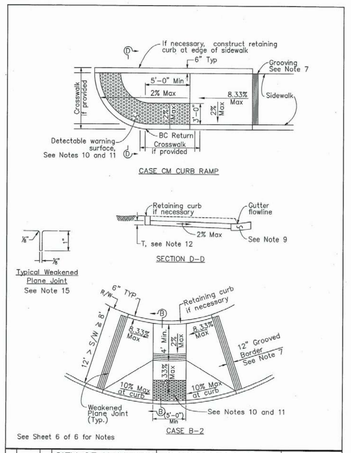

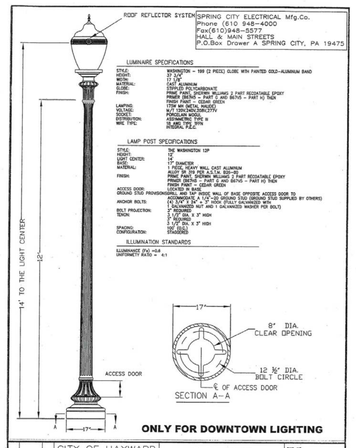

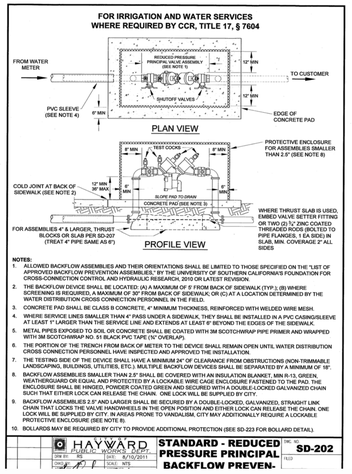

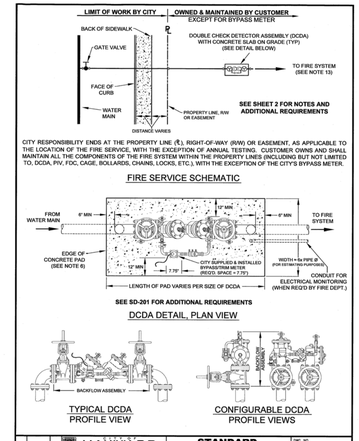

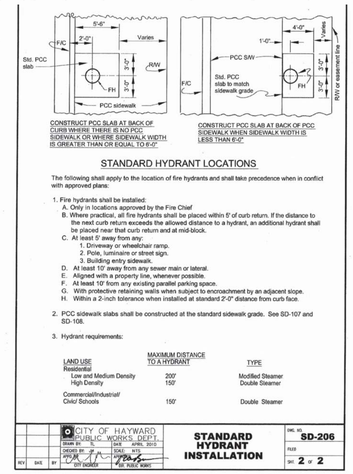

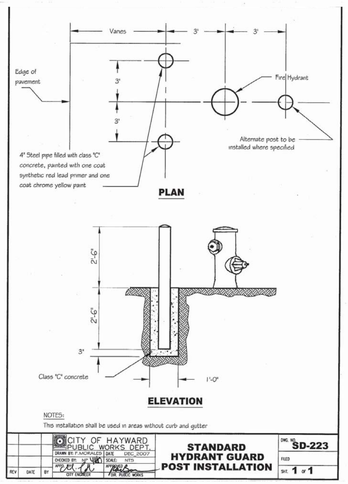

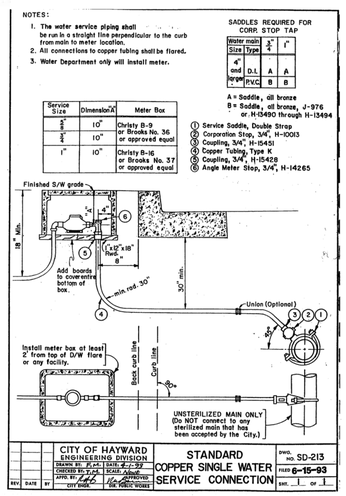

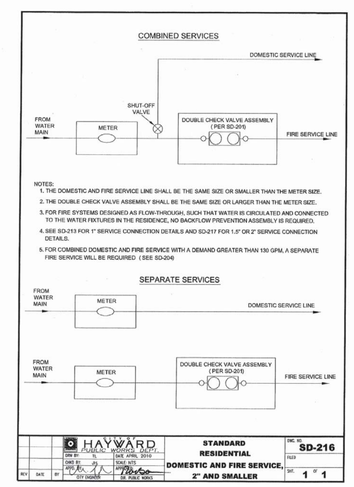

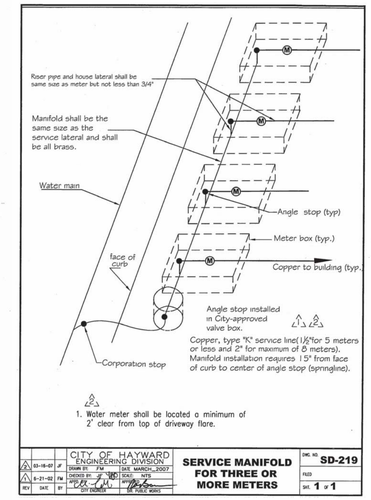

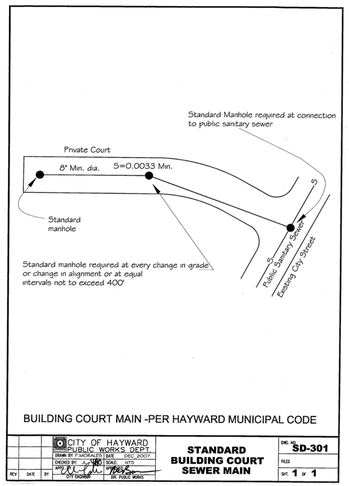

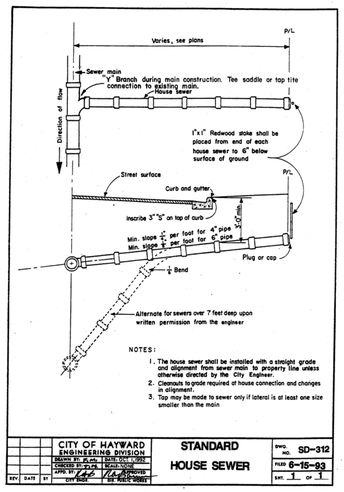

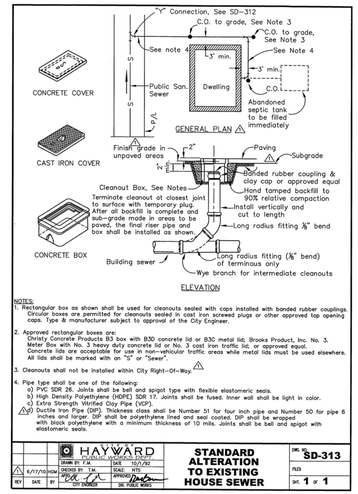

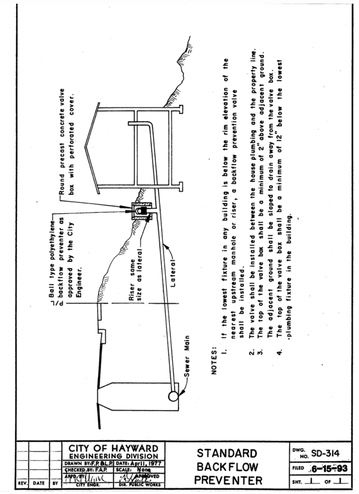

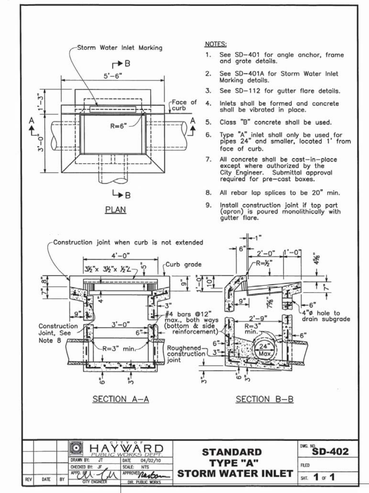

Prepared by, Gordon Wong
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Phone 917-743-3939

Site Survey
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Structural
Duquette Engineering

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Utility Plan Details

The Roof Garden Villas

26736 Hayward Boulevard Between Tribune Street and Call Avenue

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04	Tent. ReSub.	07/25/12

Utility Plan Details

Not for Construction

C3.02

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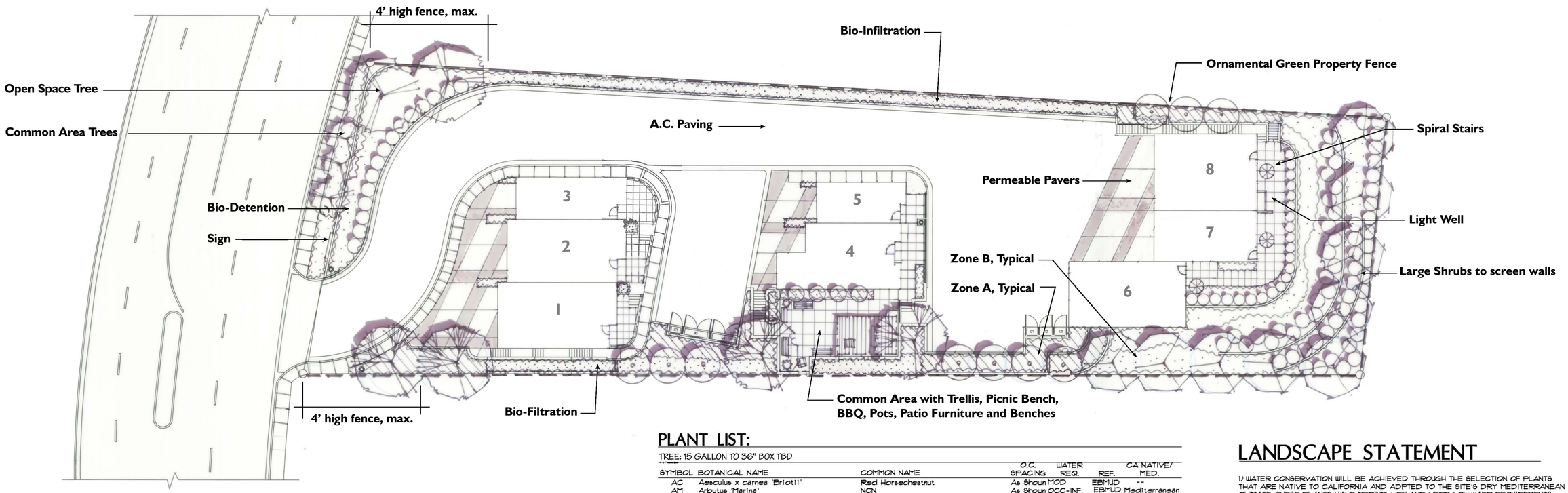
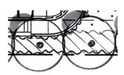
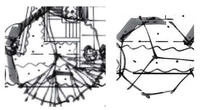


TREE LEGEND:



COMMON AREA TREES:
Acer palmatum/Japanese Maple
Cercis canendensis 'Forest Pansy'/Eastern Redbud
Chitalpa tashkentensis
Lagerstroemia indica 'Muskogee' (Std)/Crape Myrtle



OPEN SPACE TREES:
Aesculus x carnea 'Briotii'/Red Horsechestnut
Pyrus calleryana 'Chanticleer'/Flowering Pear
Quercus agrifolia/Coast Live Oak
Zelkova serrata 'Musashino'/Musashino Columnar Zelkova

TREE MITIGATION

TOTAL PROTECTED TREES TO BE REMOVED	13
TOTAL APPRAISED VALUE OF PROTECTED TREES TO BE REMOVED	$26,550
Mitigation will be done through upsizing of required trees and green features on the project that is above and beyond requirements by the City's ordinances and regulations.	

NOTE: REFER TO ARBORIST REPORT DATED AUGUST, 2010 PREPARED BY HORTSCIENCE.

Typical Landscape Zone:

"A": WATER-CONSERVING PLANTS WITH DRIP EMITTERS

"B": WATER-CONSERVING PLANTS WITH BUBBLIERS

WATER USE RATING LEGEND

EBMUD CATEGORIES OF WATER NEEDS FROM:
PLANTS & LANDSCAPES FOR SUMMER DRY CLIMATES OF THE SAN FRANCISCO BAY REGION
BY THE EAST BAY MUNICIPAL UTILITY DISTRICT, 2004

MOD	MODERATE WATER
OCC	OCCASIONAL WATER
INF	INFREQUENT WATER
NONE	NO ADDITIONAL WATER

WUCOLS III CATEGORIES OF WATER NEEDS FROM:
UNIVERSITY OF CALIFORNIA COOPRATIVE EXTENSION, CALIFORNIA DEPARTMENT OF WATER RESOURCES, UNITED STATES BUREAU OF RECLAMATION

HIGH
MODERATE
LOW
VERY LOW

CALIFORNIA NATIVE PLANTS (CNP)
FOR THE GARDEN, 2005 BY
CAROL BORNSTEIN, DAVID FROSS, BART O'BRIEN

MOD	MODERATE WATER
OCC	OCCASIONAL WATER
INF	INFREQUENT WATER

PLANT LIST:

TREE: 15 GALLON TO 36" BOX TBD

SYMBOL	BOTANICAL NAME	COMMON NAME	O.C. SPACING	WATER REQ.	REF.	CA NATIVE/ MED.
AC	Aesculus x carnea 'Briotii'	Red Horsechestnut	As Shown	MOD	EBMUD	--
AM	Arbutus 'Marina'	NCN	As Shown	OCC-INF	EBMUD	Mediterranean
AP	Acer palmatum	Japanese Maple	As Shown	MOD	WUCOLS	--
CC	Cercis canadensis 'Forest Pansy'	Eastern Redbud	As Shown	MOD	EBMUD	--
CT	Chitalpa tashkentensis	Chitalpa	As Shown	OCC-INF	EBMUD	--
LI	Lagerstroemia indica 'Muskogee' (Std.)	Crape Myrtle	As Shown	LOW	WUCOLS	--
PCC	Pyrus calleryana 'Chanticleer'	Flowering Pear	As Shown	MOD	WUCOLS	--
PH	Pyrus calleryana 'Holmford'	Flowering Pear	As Shown	MOD	WUCOLS	--
QA	Quercus agrifolia	Coast Live Oak	As Shown	OCC	WUCOLS	--
QS	Quercus shumardii	Shumard Oak	As Shown	MOD	WUCOLS	--
ZS	Zelkova serrata 'Musashino'	Musashino Columnar Zelkova	As Shown	MOD	WUCOLS	--

SHRUB/ PERENNIALS

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	O.C. SPACING	WATER REQ.	REF.	CA NATIVE/ MED.
* AA	Alstroemeria aurea hybride	Peruvian Lily	1 Gal.	3'-0"	MOD-OCC	EBMUD	--
AD	Arctostaphylos d. 'Howard McMinn'	Manzanita	5 Gal.	5'-0"	OCC-NONE	EBMUD	CA Native
AF	Achillea filipendulina	Fern Leaf Yarrow	1 Gal.	3'-0"	OCC-INF	EBMUD	Mediterranean
AT	Achillea tomentosa	Woolly Yarrow	1 Gal.	1'-6"	OCC-INF	EBMUD	Mediterranean
* CC	Camellia sasanqua	Camellia- shrub	5 Gal.	3'-6"	MOD	SUNSET	--
* DA	Dryopteris arguta	California Wood Fern	1 Gal.	4'-0"	NONE	EBMUD	CA Native
* DB	Dietes bicolor	Fortnight Lily	1 Gal.	2'-6"	LOW	WUCOLS	--
DV	Dietes grandiflora 'Variegata'	Fortnight Lily	1 Gal.	3'-0"	LOW	WUCOLS	--
ES	Epilobium septentrionale 'Select Mattole'	California Fuchsia	1 Gal.	3'-0"	OCC-NONE	EBMUD	CA Native
EU	Eriogonum umbellatum	Sulfur Buckwheat	1 Gal.	2'-0"	INF-NONE	EBMUD	CA Native
EC	Euphorbia characias	Euphorbia	1 Gal.	4'-0"	OCC	EBMUD	Mediterranean
* HM	Heuchera micrantha	Coral Bells	1 Gal.	2'-0"	MOD-OCC	EBMUD	CA Native
* HO	Helleborus orientalis	Helleborus	1 Gal.	2'-6"	MOD	EBMUD	--
* ID	Iris douglasiana	Pacific Coast Iris	1 Gal.	2'-0"	OCC-NONE	EBMUD	CA Native
LD	Lavendula dentata	French Lavender	1 Gal.	2'-0"	OCC	EBMUD	Mediterranean
PM	Phormium 'Maori Maiden'	New Zealand Flax	5 Gal.	3'-6"	LOW	WUCOLS	--
* PTT	Phormium 'Tom Thumb'	New Zealand Flax	5 Gal.	3'-0"	LOW	WUCOLS	--
PT	Phormium 'Tricolor'	New Zealand Flax	5 Gal.	3'-6"	LOW	WUCOLS	--
PP	Penstemon palmeri	Beard Tongue	1 Gal.	2'-0"	OCC	EBMUD	CA Native
* RH	Rhamnus californica 'Mound San Bruno'	Coffeeberry	5 Gal.	4'-0"	OCC-INF	EBMUD	CA Native
SO	Salvia officinalis	Garden Sage	1 Gal.	1'-6"	OCC	EBMUD	Mediterranean
MS	Mimulus spp.	Monkey Flower	1 Gal.	3'-0"	OCC	EBMUD	CA Native

GRASS FOR BIO-SWALE AREA:

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	O.C. SPACING	WATER REQ.	REF.	CA NATIVE/ MED.
CP	Carex pansa	California Meadow Sedge	1 Gal.	2'-0"	INF	CNP	CA Native
CT	Carex tumulicola	Berkeley Sedge	1 Gal.	2'-0"	OCC	EBMUD	CA Native
JP	Juncus patens	California Rush	1 Gal.	12"	OCC	EBMUD	CA Native

GROUNDCOVER

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	O.C. SPACING	WATER REQ.	REF.	CA NATIVE/ MED.
* FC	Fragaria chiloensis	Wild Strawberry	1 Gal.	2'-0"	MOD	CNP	CA Native

NOTE: "*" ARE PLANTS APPROPRIATE FOR SHADE LOCATIONS.

SHRUBS AND GRASSES FOR FLOW-THROUGH PLANTERS

Symbol	Botanical Name	Common Name	Size	Spacing	Water	Ref.	CA Native/Med.
CA	Carpenteria californica	Bush Anemone	1 Gal.	As shown	MOD-OCC	EBMUD	CA Native
CH	Chondropetalum tectorum	Cape Rush	1 Gal.	As shown	MOD-OCC	EBMUD	--
MR	Muhlenbergia rigens	Deergrass	1 Gal.	As shown	MOD-OCC	EBMUD	CA Native
CS	Cornus stolonifera	Redosier Dogwood	1 Gal.	As shown	MOD	SUNSET	CA Native
MR	Mahonia repens	Creeping Oregon Grape	1 Gal.	As shown	MOD-OCC	EBMUD	CA Native
VO	Vaccinium ovatum	Evergreen Huckleberry	1 Gal.	As shown	MOD	EBMUD	CA Native

LANDSCAPE STATEMENT

1) WATER CONSERVATION WILL BE ACHIEVED THROUGH THE SELECTION OF PLANTS THAT ARE NATIVE TO CALIFORNIA AND ADPTED TO THE SITE'S DRY MEDITERRANEAN CLIMATE. THESE PLANTS HAVE MEDIUM, LOW AND VERY LOW WAER REQUIREMENTS. THE PLANT PALETTE IS DIVERSE OF VARIOUS TEXTURES, FORMS, FOLIAGE COLORS AND SEASONAL FLOWER COLORS. PLANT DEBRIS IS CONSIDERED TO BE INCORPORATED INTO THE MULCH LAYER AND TO BE COMPOSTED IN THE PARK AREA (COMPOST BIN LOCATION IS TO BE DETERMINED) IN ORDER TO REDUCE GREEN WASTE. NO PROPOSED SPECIES IN THE PLANT LIST WILL REQUIRE SHEARING. THE PROPOSED PLANT SPACING IS AT THE PLANT'S MATURE SIZE. LOW PLANTINGS WILL BE PROPOSED WITHIN THE SIGHT TRIANGLE ZONE TO PRESERVE SIGHT DISTANCE.

2) LANDSCAPE CONSTRUCTION DOCUMENTS SHALL INCORPORATE INTEGRATED PEST MANAGEMENT PRACTICE AND SPECIFY RECYCLED CONSTRUCTION MATERIALS TO THE EXTENT POSSIBLE, SUCH AS RECYCLED ORGANIC MULCH.

3) THE PROPOSED PLANT PALETTE AND SITE ELEMENTS SHALL COMPLEMENT ARCHITECTURAL STYLE, COLORS AND MATERIALS, AND PROVIDE ENTRY STATEMENT TO THE BUILDINGS.

4) THE IRRIGATION SYSTEM SHALL BE DESIGNED WITH WATER CONSERVATION IN MIND WHILE ACHIEVING THE GOAL OF EFFECTIVELY AND EFFICIENTLY PROVIDING THE LANDSCAPE WITH WATER BY MEANS OF SPRAY IRRIGATION TO THE TURF AREA AT A MINIMUM OF 8' WIDE AND DRIP IRRIGATINO TO SHRUBS/GROUNDCOVER AREAS LESS THAN 8' WIDE AND BUBBLERS TO THE TREES.

5) THE SPRAY SYSTEM SHALL BE TORO SPRAY HEADS WITH PRESSURE COMPENSATING NOZZLES IN A HEAD TO HEAD LAYOUT TO ACHIEVE AN EVEN LEVEL OF PRECIPITATION THROUGHOUT THE IRRIGATION SYSTEM.

6) A STATE-OF-THE-ART IRRIGATION CONTROLLER SHALL BE SPECIFIED FOR THIS PROJECT TO CONTROL THE WATER ALLOCATED TO EACH VALVE GROUPED PER INDIVIDUAL HYDROZONE (BASED ON PLANT TYPE AND EXPOSURE).

7) USE RECYCLED CONSTRUCTION MATERIALS, SUCH AS RECYCLED ORGANIC MULCH.

8) PROJECT SHALL FOLLOW:

a. HAYWARD ENVIRONMENTALLY FRIENDLY LANDSACPE GUIDELINES AND CHECKLIST FOR THE LANDSCAPE PROFESSIONAL, MARCH 2003.
b. HAYWARD'S HILLSIDE DESIGN AND URBAN/WILDLAND INTERFACE GUIDELINES.
c. EBMUD'S FIRESCAPE - LANDSCAPING TO REDUCE FIRE HAZARD GUIDELINES.
d. IRRIGATION DESIGN TO COMPLY WITH AB1881.

REGISTERED LANDSCAPE ARCHITECT
DAVID GATES - No. 5669
Signature
6/21/2013
Renewal Date
Date
L.A.
STATE OF CALIFORNIA

LANDSCAPE CONCEPT PLAN

GATES +ASSOCIATES
LANDSCAPE ARCHITECTURE

THE ROOF GARDEN VILLAS

HAYWARD, CALIFORNIA

0 16 32 64ft

April 2012

L-1

STRUCTURAL SPECIFICATIONS

LAGGING

SBX/DOT OR ZINC BORATE PRESSURE TREATED DOUGLAS FIR COAST REGION, CONFORMING TO WEST COAST LUMBER INSPECTION BUREAU STANDARD GRADING AND DRESSING RULE NO. 17 AS AMENDED TO DATE. 4x LAGGING NO.1 (1000F-b), PARA. 123-b.

CONCRETE

ALL CONCRETE SHALL HAVE PROPERTIES AS LISTED BELOW.
MAXIMUM WATER-CEMENT RATIO, BY WEIGHT SHALL BE AS FOLLOWS:

	W/O FLY ASH	W/ UP TO 15% FLY ASH
5000 PSI CONCRETE AT 28 DAYS	.48	0.43
4000 PSI CONCRETE AT 28 DAYS	.55	0.5
3500 PSI CONCRETE AT 28 DAYS	.55	0.5
3000 PSI CONCRETE AT 28 DAYS	.55	0.5
2500 PSI CONCRETE AT 28 DAYS	.55	0.5
2000 PSI CONCRETE AT 28 DAYS	.67	0.60

APPROXIMATELY 3 OUNCES PER SACK OF CEMENT OF POZZOLITH 300R OR APPROVED EQUAL SHALL BE USED AS A WATER DISPERSING ADDITIVE. AT CONTRACTOR'S OPTION, AN AIR ENTRAINING AGENT CONFORMING TO THE LATEST REVISION OF ASTM SPECIFICATION C 260 MAY BE ADDED TO THE CONCRETE TO PROVIDE SPECIFIED AMOUNTS OF ENTRAINED AIR.

CONCRETE ELEMENT	MIN. 28 DAY COMPRESSIVE STRENGTH	MAX. SIZE AGGREGATE (INCHES)	MAX. SUMP	TOTAL AIR CONTENT
FOOTINGS & WALLS	*3000	3/4	4	--%
SLAB ON GRADE	*3000	3/4	4	4%±1.5%
YARD CONCRETE, WALKS, AND CURBS	2000	3/4	4	--

*2500 PSI USED FOR DESIGN, NO SPECIAL INSPECTION REQUIRED

REINFORCING STEEL

BARS FOR REINFORCING SHALL BE GRADE 60 DEFORMED BARS CONFORMING TO ASTM A-615 INCLUDING SUPPLEMENT S1. LAP SPLICES SHALL BE IN ACCORDANCE WITH ACI 318 UNLESS NOTED OTHERWISE ON THE PLANS.

STRUCTURAL STEEL AND MISCELLANEOUS IRON

ALL STRUCTURAL STEEL AND MISCELLANEOUS IRON SHALL BE HOT DIPPED GALVANIZED. INDIVIDUAL SPECIFICATIONS ARE AS FOLLOWS.

1.) WIDE FLANGE – ASTM A992, Fy=50 ksi
2.) MISCELLANEOUS IRON – ASTM A36M Fy = 36ksi

EARTHWORK

EARTHWORK SHALL BE IN STRICT ACCORDANCE WITH THE RECOMMENDATIONS OF THE FOUNDATION INVESTIGATION BY PETERS & ROSS GEOTECHNICAL & GEOENVIRONMENTAL CONSULTANTS DATED APRIL 19, 2010.

SHOP DRAWINGS

FOR THE ENGINEERS REVIEW WILL BE REQUIRED AS FOLLOWS:

1. MIX DESIGNS;
2. REINFORCING STEEL;
3. STRUCTURAL STEEL AND MISCELLANEOUS METALS;

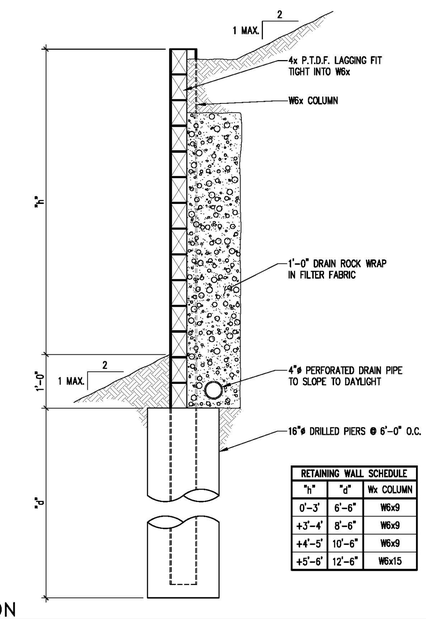
CONTRACTOR SHALL SUBMIT THREE SETS OF PRINTS FOR REVIEW. FABRICATION SHALL NOT PROCEED UNTIL SHOP DRAWINGS HAVE BEEN REVIEWED BY THE ENGINEER.

CONSTRUCTION LIABILITY

CONSTRUCTION CONTRACTOR AND HIS SUBCONTRACTORS AGREE THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR AND HIS SUBCONTRACTORS WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR AND HIS SUBCONTRACTORS FURTHER AGREE TO DEFEND, INDEMNIFY AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPT LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF DESIGN PROFESSIONAL.

EXISTING CONDITIONS

THE CONTRACTOR OR SUBCONTRACTOR SHALL FIELD VERIFY ALL EXISTING CONDITIONS PRIOR TO BEGINNING CONSTRUCTION AND OR ORDERING MATERIAL, ANY DISCREPANCIES DISCOVERED SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER IMMEDIATELY.

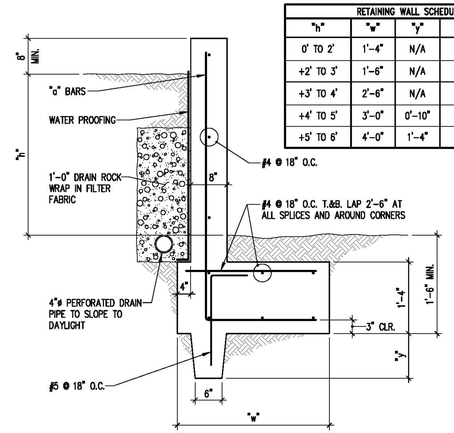


RETAINING WALL SCHEDULE		
"h"	"d"	Wx COLUMN
0'-3'	6'-6"	W6x9
+3'-4'	8'-6"	W6x9
+4'-5'	10'-6"	W6x9
+5'-6'	12'-6"	W6x15

SECTION 1

SCALE: 3/4" = 1'-0"

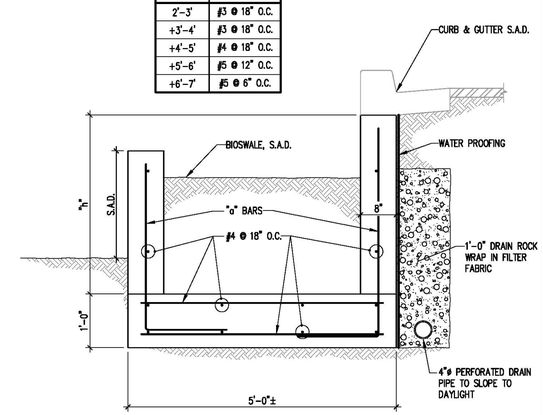
RETAINING WALL SCHEDULE			
"h"	"w"	"y"	"a" bars
0' TO 2'	1'-4"	N/A	#3 @ 18" O.C.
+2' TO 3'	1'-6"	N/A	#3 @ 18" O.C.
+3' TO 4'	2'-6"	N/A	#4 @ 18" O.C.
+4' TO 5'	3'-0"	0'-10"	#5 @ 12" O.C.
+5' TO 6'	4'-0"	1'-4"	#5 @ 12" O.C.



SITE RETAINING WALL 2

SCALE: 3/4" = 1'-0"

RETAINING WALL SCHEDULE	
"h"	"a" BARS
2'-3'	#3 @ 18" O.C.
+3'-4'	#3 @ 18" O.C.
+4'-5'	#4 @ 18" O.C.
+5'-6'	#5 @ 12" O.C.
+6'-7'	#5 @ 6" O.C.



BIOSWALE RETAINING WALL 3

SCALE: 3/4" = 1'-0"

DUQUETTE ENGINEERING

4340 STEVENS CREEK BLVD. #200
SAN JOSE, CALIFORNIA 95129

TELEPHONE: 408.615.9200
FACSIMILE: 408.615.9900
WEBSITE: www.duquette-eng.com

REGISTERED PROFESSIONAL ENGINEER
KEVIN P. DUQUETTE
No. S3019
Exp. 3-31-2013
STRUCTURAL
STATE OF CALIFORNIA

ISSUE	DATE	DESCRIPTION
0	3-7-12	RELEASED FOR PLAN CHECK

PROJECT
The Roof Garden Villas
Retaining Walls
26736 Hayward Boulvard
Hayward, California

SHEET CONTENT
STRUCTURAL SPECIFICATIONS
RETAINING WALL DETAILS

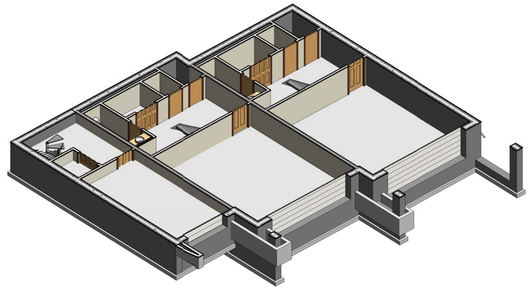
CLIENT
Gordon Wong
60 Pierce Avenue
San Jose, CA 95110
917-743-3839

DESIGNED BY: BC
DRAFTED BY: JQL / MF
CHECKED BY: SPD
INITIAL DATE: March 7, 2012

JOB No. 12-0010

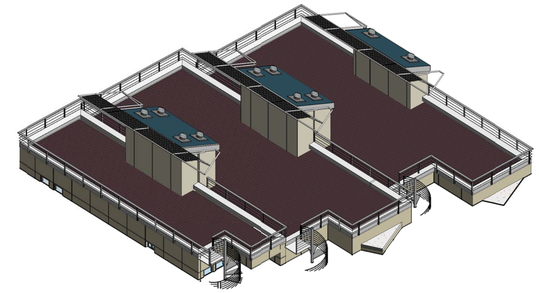
SHEET No. S1

SHEET PAGE SHEET 1 OF 1

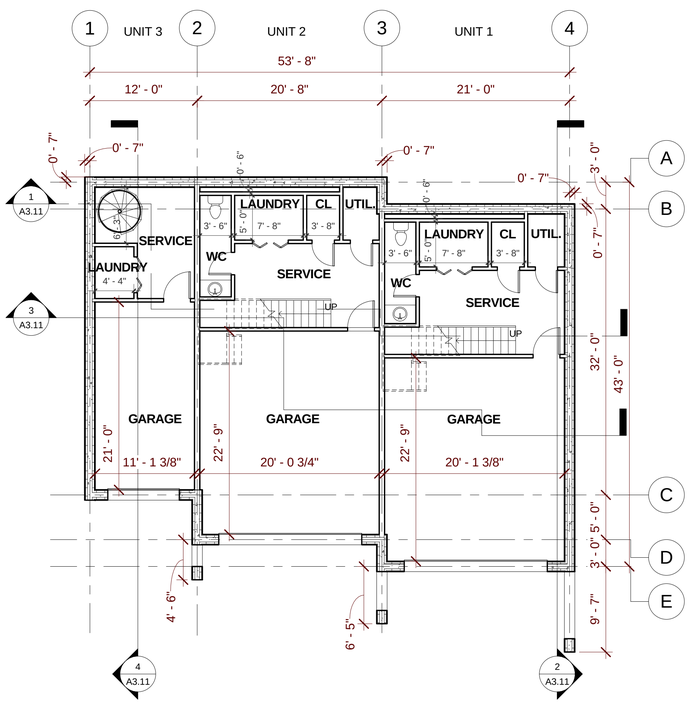


5 Cluster 1 1st Floor Interior

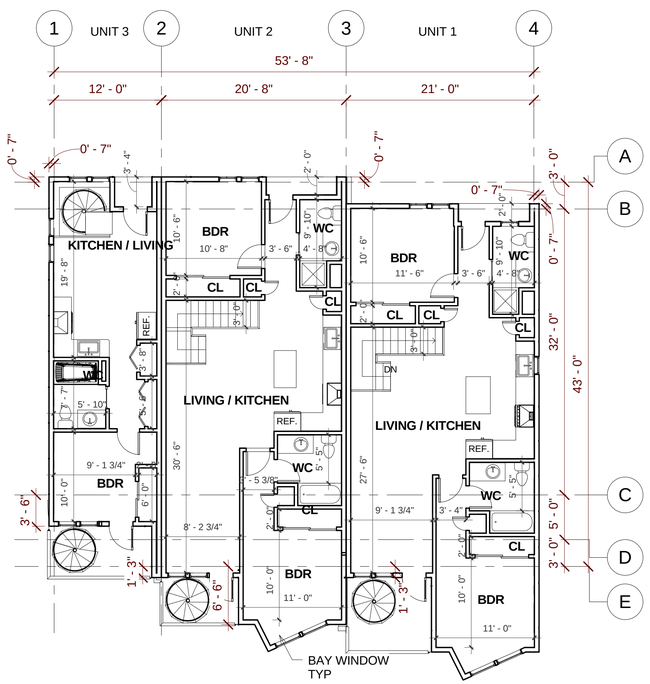
6 Cluster 1 2nd Floor Interior



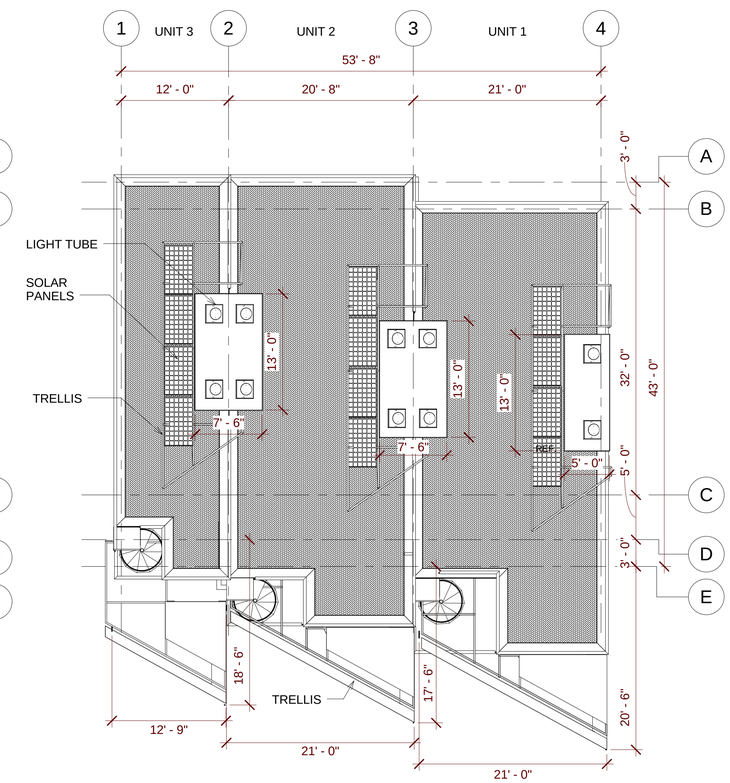
7 Cluster 1 Roof



1 LEVEL1 (Grade)
1/8" = 1'-0"



2 LEVEL 2 (Podium)
1/8" = 1'-0"



3 ROOF LEVEL
1/8" = 1'-0"

0' 4' 8' 16'

N

LEVEL1 (Grade)	C1 LIVING AREA	860 SF
LEVEL1 (Grade)	C1 NON USABLE	1224 SF
LEVEL 2 (Podium)	C1 LIVING AREA	2302 SF
ROOF LEVEL	C1 USABLE ROOF	2225 SF

SEE SHEET G0.02 FOR UNIT SUMMARY

Cluster 1 Plans

Designer
Gordon Wong

Landscape Architects
Gallas and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Diboll Engineering

Structural
Duquette Engineering

Client Yue Tung Hing Ent. and Glenford Demse

The Roof Garden Villas

26736 Hayward Boulevard Between Tribune Street and Call Avenue

TENTATIVE MAP

Project Schedule Revision		
01	Pre-App	02/03/10
02	Tent. Sub.	10/04/10
03	Tent. ReSub.	03/17/12
04	Tent. ReSub.	07/25/12

Cluster 1 Plans

Not for Construction

A2.01

Prepared by, Gordon Wong
2665 Glenbriar Dr. Saratoga CA 95070
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SCALE 1/8" = 1'-0"

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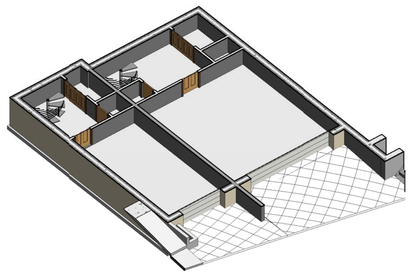
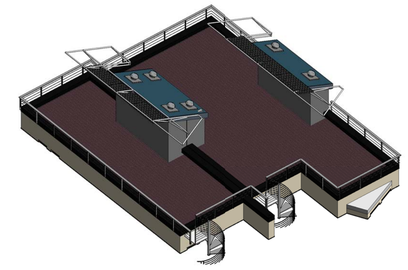
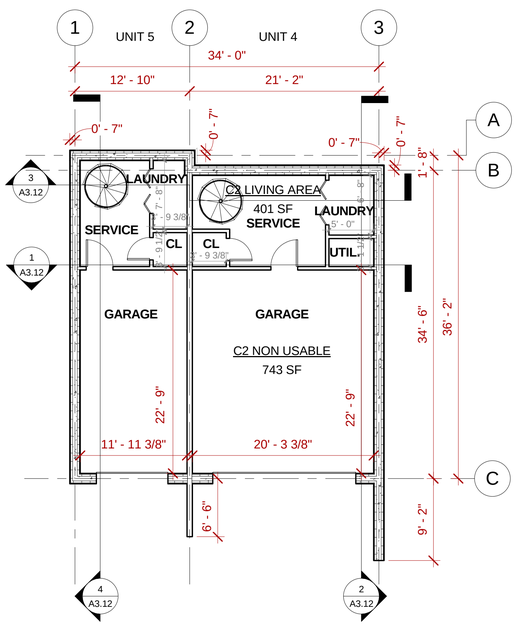


5 Cluster 2 1st Floor Interior

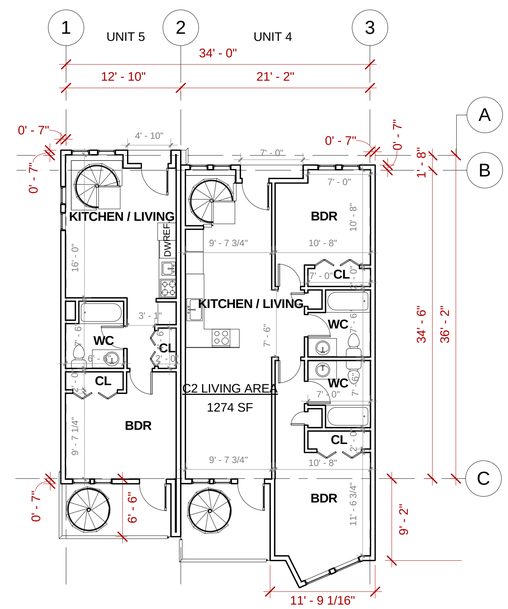
6 Cluster 2 2nd Floor Interior



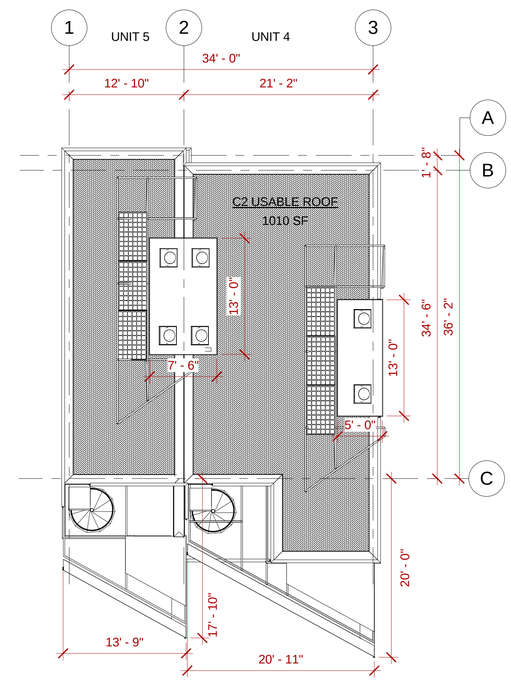
7 Cluster 2 Roof



1 1st Floor (Grade)
1/8" = 1'-0"



2 2nd Floor (Podium)
1/8" = 1'-0"



3 3rd Floor (Roof Deck)
1/8" = 1'-0"

0' 4' 8' 16'

1st Floor (Grade)	C2 LIVING AREA	401 SF
1st Floor (Grade)	C2 NON USABLE	743 SF
2nd Floor (Podium)	C2 LIVING AREA	1274 SF
3rd Floor (Roof Deck)	C2 USABLE ROOF	1010 SF

SEE SHEET G0.02 FOR UNIT SUMMARY

Cluster 2 Plans

Designer
Gordon Wong

Landscape Architects
Gallas and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Diboll Engineering

Structural
Duquette Engineering

Client: Yue Tung Hing Ent. and Glenford Demse

The Roof Garden Villas

26736 Hayward Boulevard Between Tribune Street and Cail Avenue

TENTATIVE MAP

Project Schedule Revision		
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02	Tent. Sub.	10/04/10
03	Tent. ReSub.	03/17/12
04	Tent. ReSub.	07/25/12

Cluster 2 Plans

Not for Construction

A2.02

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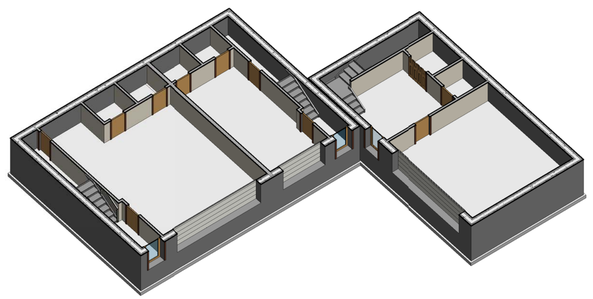
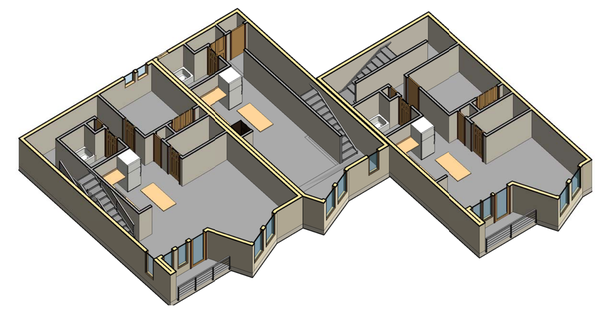
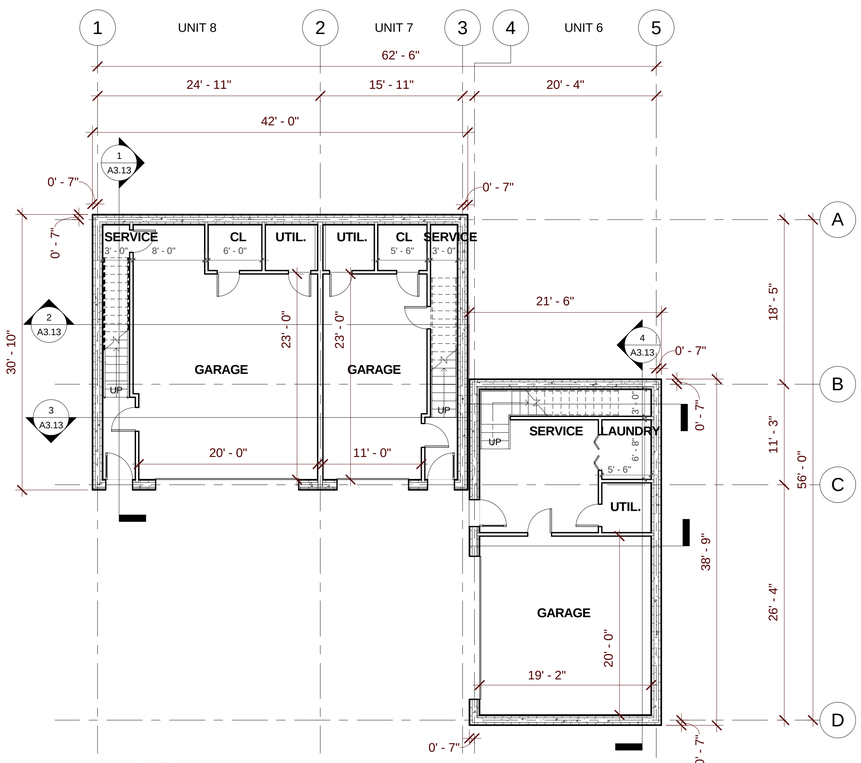


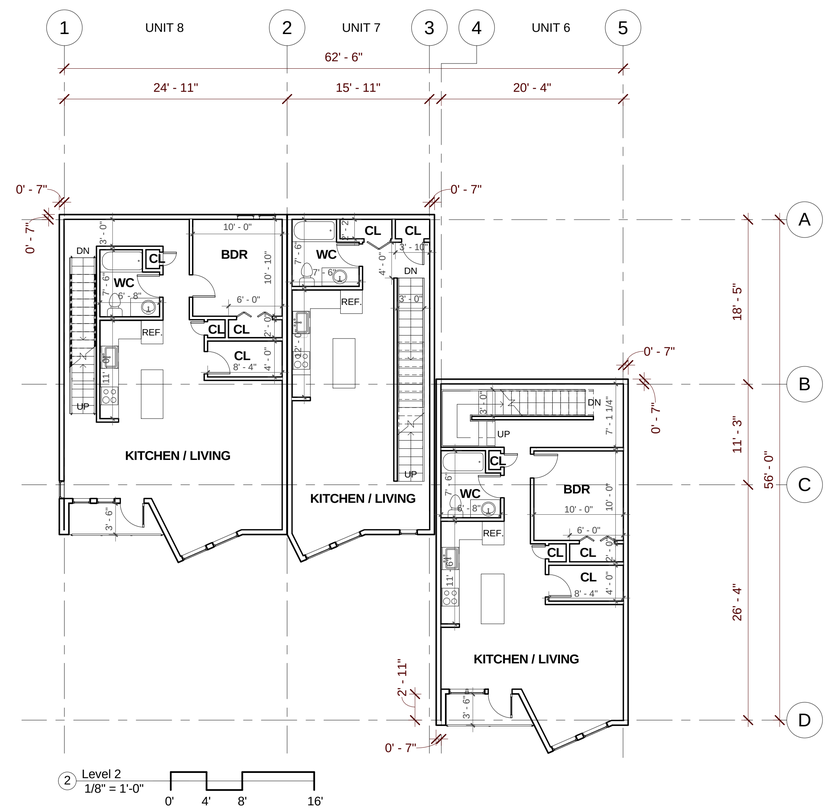
4 Cluster 3 1st Floor Interior



5 Cluster 3 2nd Floor Interior



1 Level 1
1/8" = 1'-0"



2 Level 2
1/8" = 1'-0"
0' 4' 8' 16'

Level 1	C3 LIVING AREA	690 SF
Level 1	C3 NON USABLE	1299 SF
Level 2	C3 LIVING AREA	2272 SF
Level 3	LIVING AREA	2206 SF
Roof Level	USABLE ROOF	1910 SF

SEE SHEET G0.02 FOR UNIT SUMMARY

Cluster 3 Plans

Designer
Gordon Wong

Landscape Architects
Gallas and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Deboli Engineering

Structural
Duquette Engineering

Client: Yue Tung Hing Ent. and Glenford Demse

The Roof Garden Villas
26736 Hayward Boulevard Between Tribune Street and Call Avenue

TENTATIVE MAP

Project Schedule Revision		
01	Pre-App	02/03/10
02	Tent. Sub.	10/04/10
03	Tent. ReSub.	03/17/12
04	Tent. ReSub.	07/25/12

Cluster 3 Plans

Not for Construction

A2.03

SCALE 1/8" = 1'-0"

8/11/2012 11:53:33 AM

Prepared by, Gordon Wong
2665 Glenbriar Dr. Saratoga CA 95070
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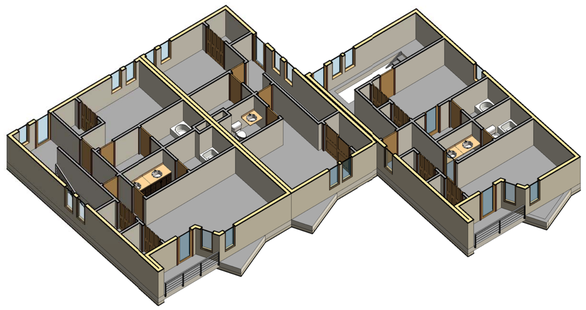
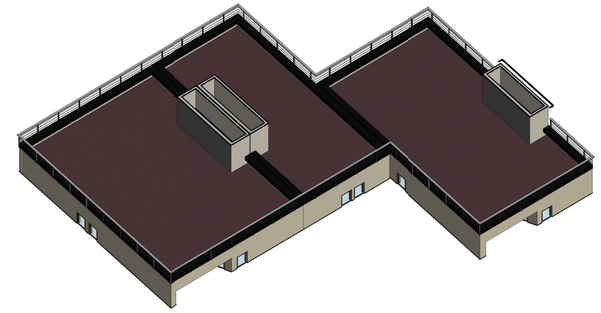
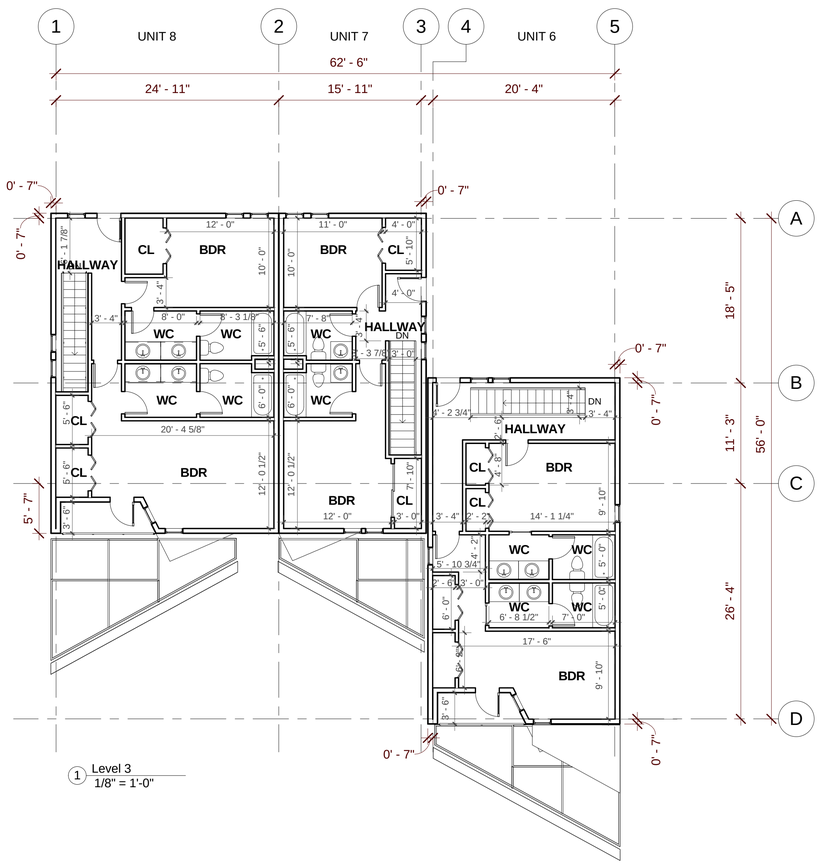


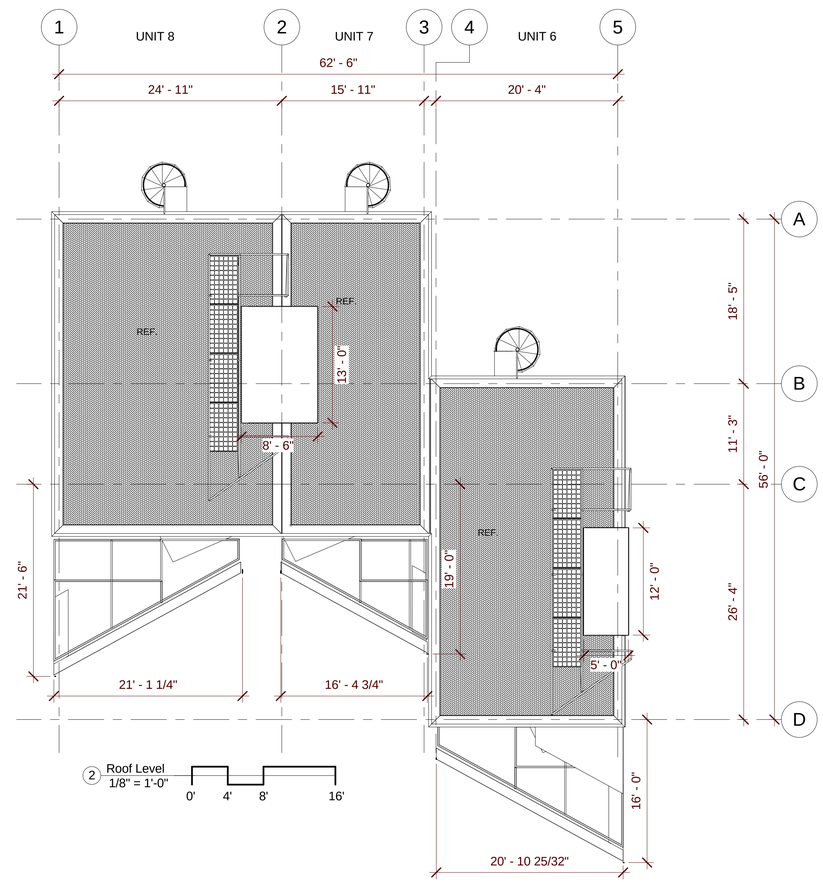
4 Cluster 3 3rd Floor Interior



5 Cluster 3 Roof



1 Level 3
1/8" = 1'-0"



2 Roof Level
1/8" = 1'-0"
0' 4' 8' 16'

Level 1	C3 LIVING AREA	690 SF
Level 1	C3 NON USABLE	1299 SF
Level 2	C3 LIVING AREA	2272 SF
Level 3	LIVING AREA	2206 SF
Roof Level	USABLE ROOF	1910 SF

SEE SHEET G0.02 FOR UNIT SUMMARY

Cluster 3 Plans

Designer
Gordon Wong

Landscape Architects
Gates and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Deboli Engineering

Structural
Duquette Engineering

Client: Yue Tung Hing Ent. and Glenford Demse

The Roof Garden Villas

26736 Hayward Boulevard Between Tribune Street and Call Avenue

TENTATIVE MAP

Project Schedule Revision		
01	Pre-App	02/03/10
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03	Tent. ReSub.	03/17/12
04	Tent. ReSub.	07/25/12

Cluster 3 Plans

Not for Construction

A2.04

Prepared by, Gordon Wong
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SCALE 1/8" = 1'-0"

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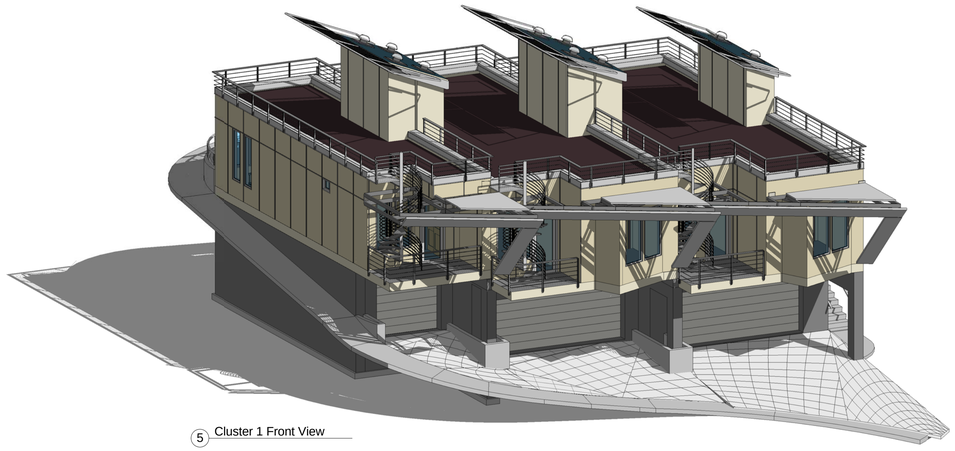
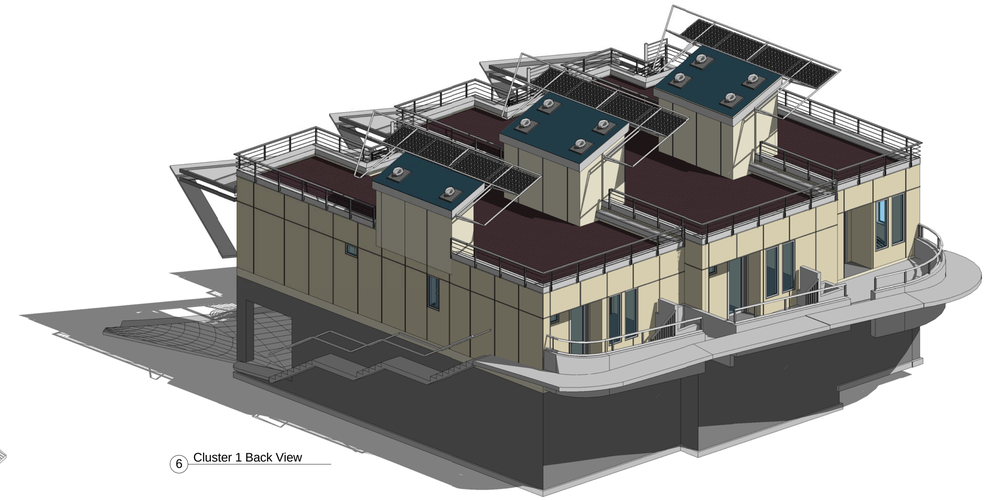


5 Cluster 1 Front View



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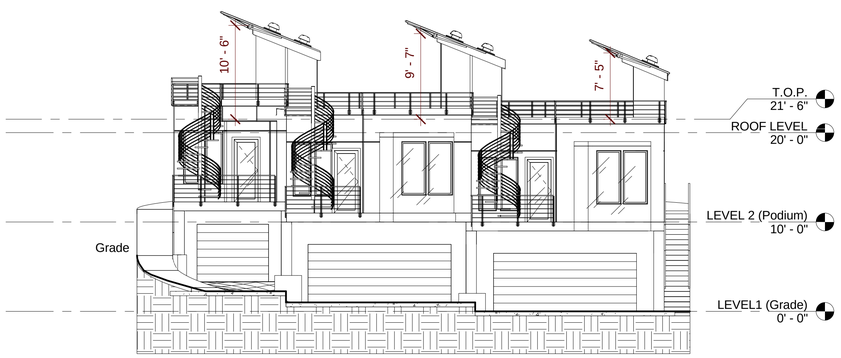

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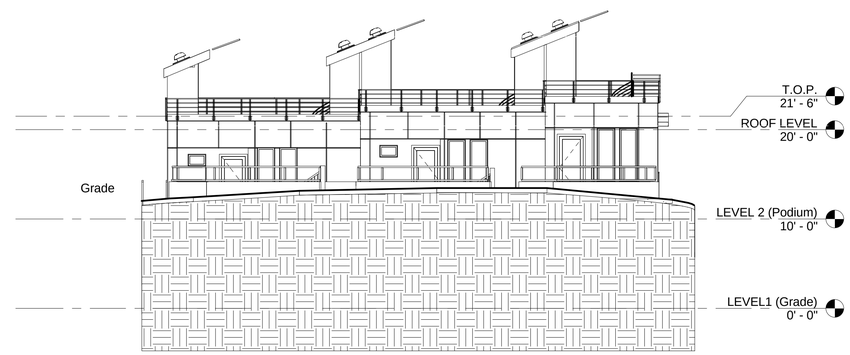

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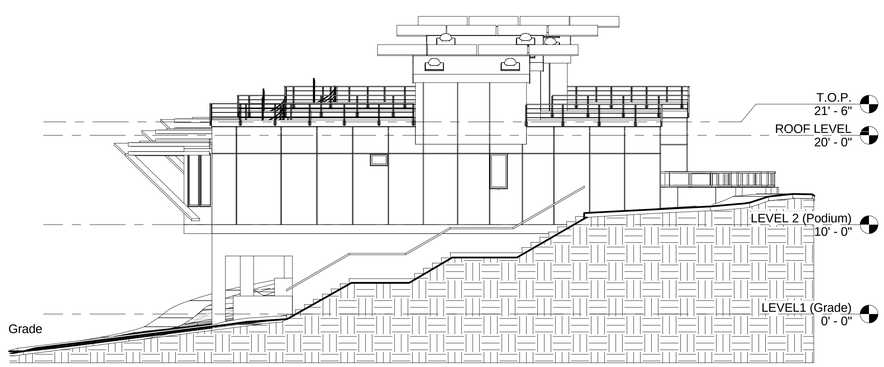

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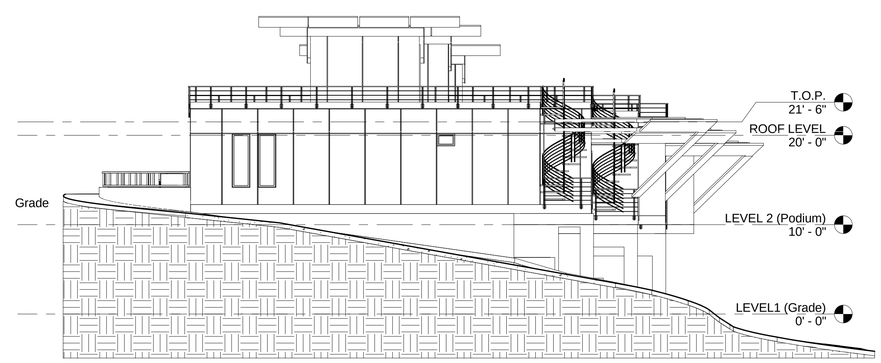

4 West
1/8" = 1'-0"

0' 4' 8' 16'

SEE SHEET G0.09 FOR EXTERIOR MATERIAL IDENTIFICATION

Cluster 1 Elevations

Designer
Gordon Wong

Landscape Architects
Gates and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Diboll Engineering

Structural
Duquette Engineering

Client: Yue Tung Hing Ent. and Glenford Demse

The Roof Garden Villas

26736 Hayward Boulevard Between Tribune Street and Cail Avenue

TENTATIVE MAP

Project Schedule Revision		
01	Pre-App	02/03/10
02	Tent. Sub.	10/04/10
03	Tent. ReSub.	03/17/12
04	Tent. ReSub.	07/25/12

Cluster 1
Elevations

Not for
Construction

A3.01

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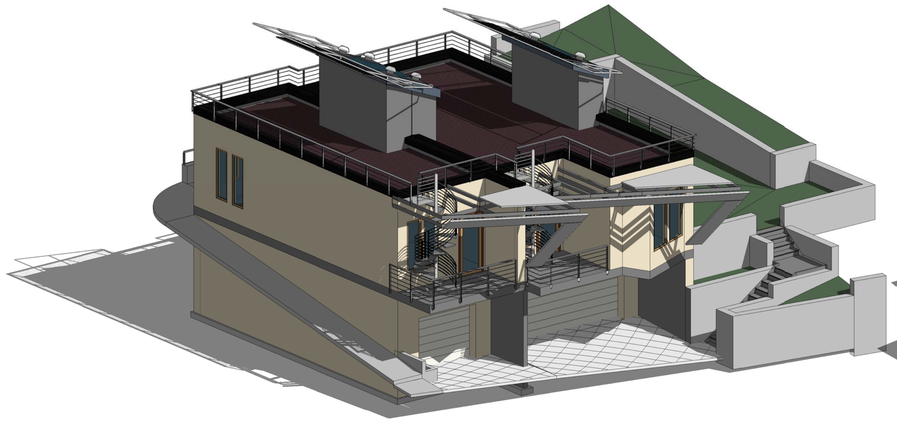
SCALE 1/8" = 1'-0"

8/11/2012 11:49:37 AM



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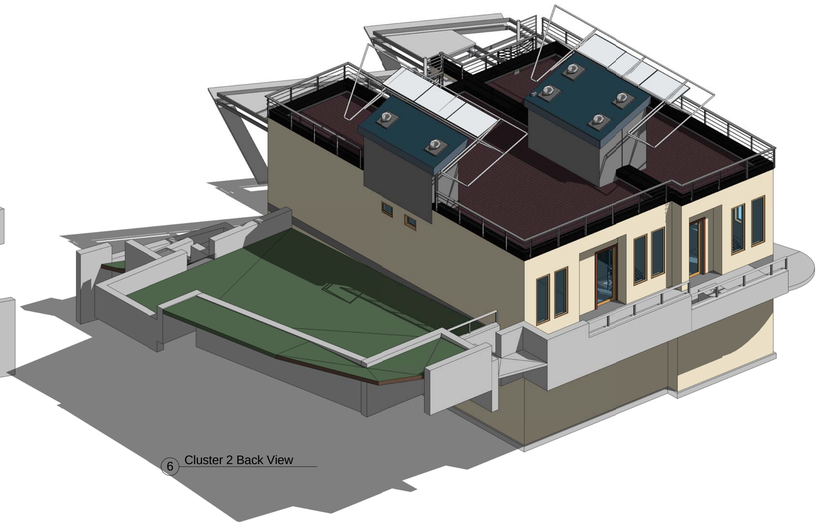

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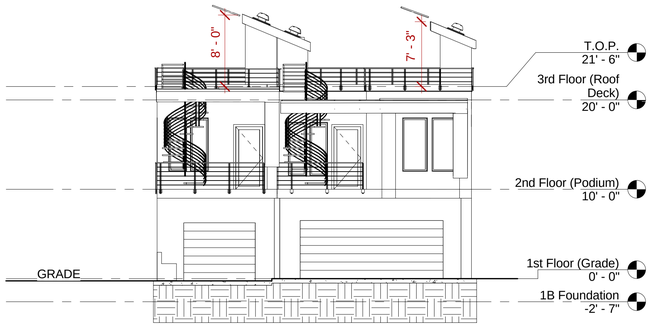

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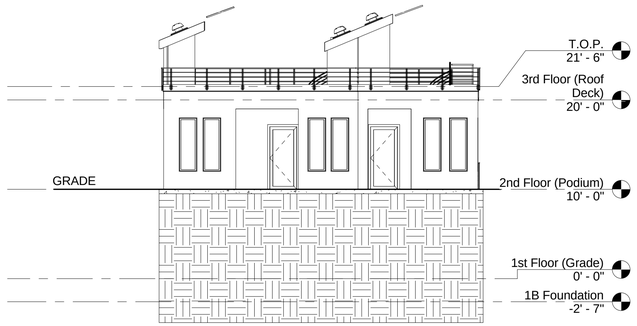

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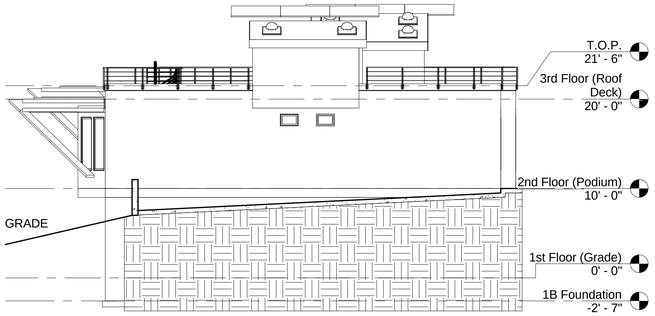

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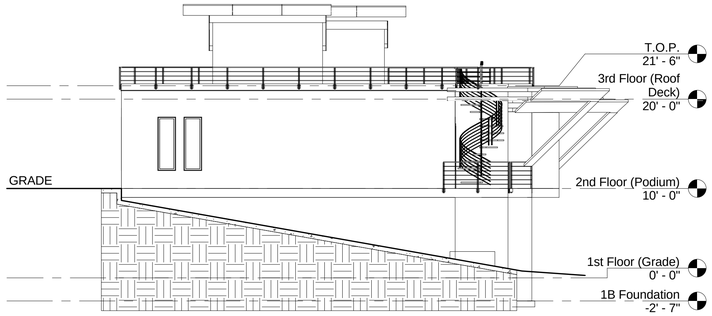

4 West
1/8" = 1'-0"

0' 4' 8' 16'

SEE SHEET G0.09 FOR EXTERIOR MATERIAL IDENTIFICATION

Cluster 2 Elevations

Designer
Gordon Wong

Landscape Architects
Gallis and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Diboll Engineering

Structural
Duquette Engineering

Client: Yue Tung Hing Ent. and Glenford Demse

The Roof Garden Villas

26736 Hayward Boulevard Between Tribune Street and Cali Avenue

TENTATIVE MAP

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04	Tent. ReSub.	07/25/12

Cluster 2
Elevations

Not for
Construction

A3.02

SCALE 1/8" = 1'-0"

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Prepared by, Gordon Wong
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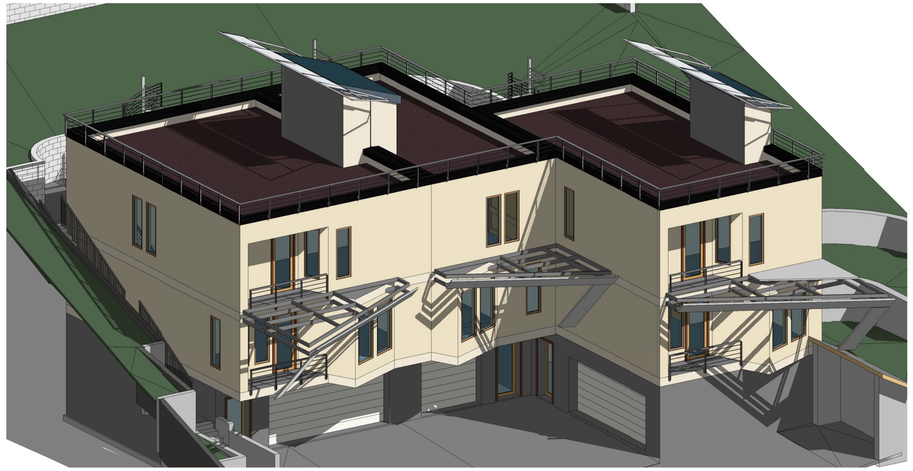

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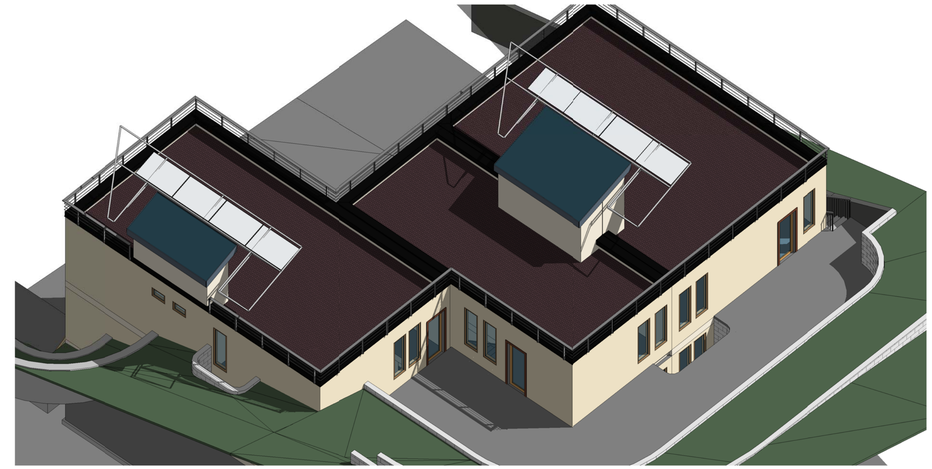

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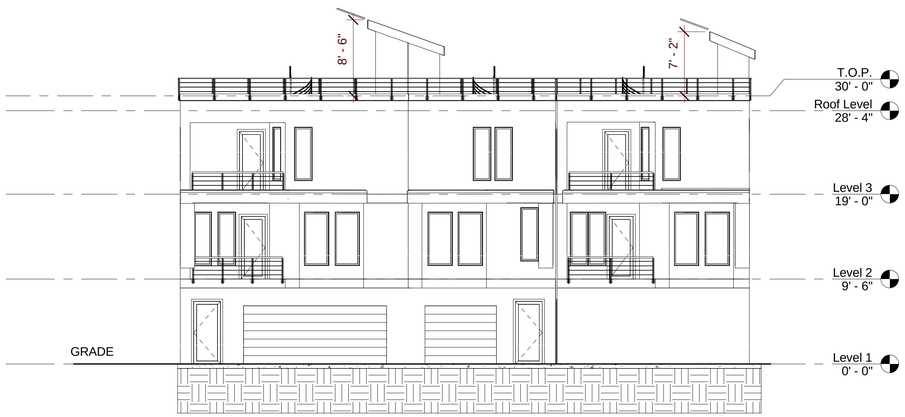

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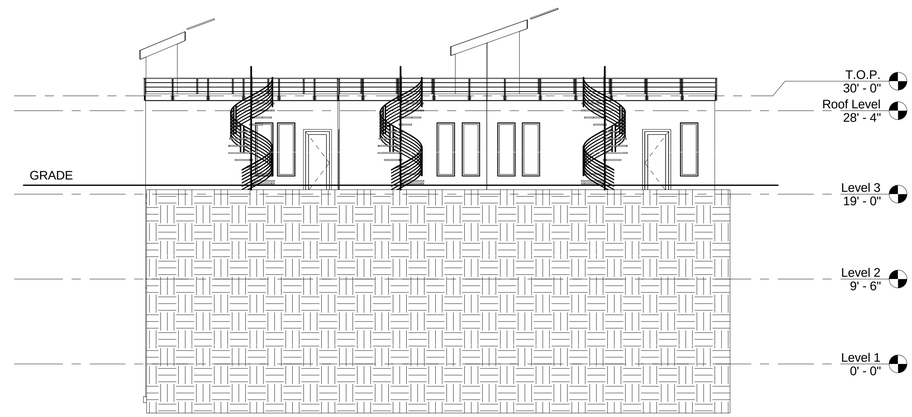

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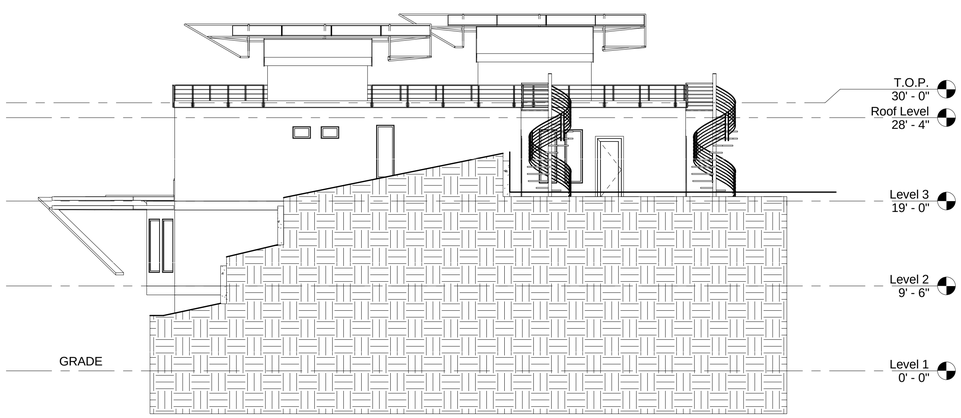

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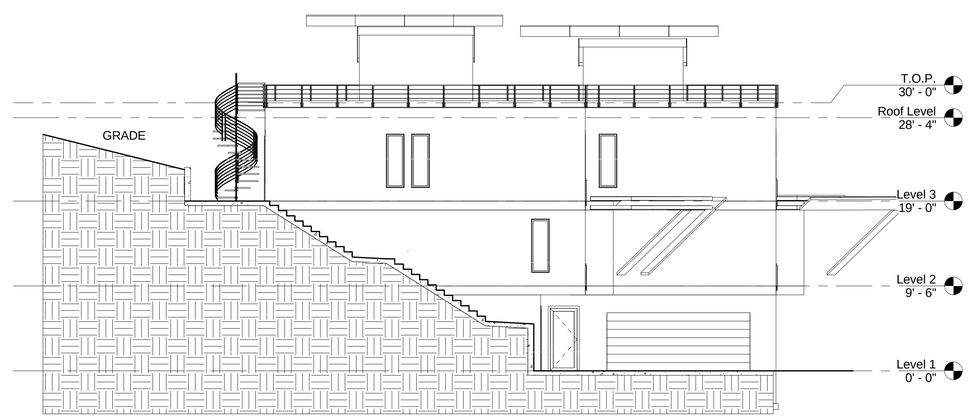

4 West
1/8" = 1'-0"

0' 4' 8' 16'

SEE SHEET G0.09 FOR EXTERIOR MATERIAL IDENTIFICATION

Cluster 3 Elevations

Designer
Gordon Wong

Landscape Architects
Gates and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Diboll Engineering

Structural
Duquette Engineering

Client Yue Tung Hing Ent. and Glenford Demse

The Roof Garden Villas

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04	Tent. ReSub.	07/25/12

Cluster 3
Elevations

Not for
Construction

A3.03

SCALE 1/8" = 1'-0"

8/11/2012 11:54:09 AM

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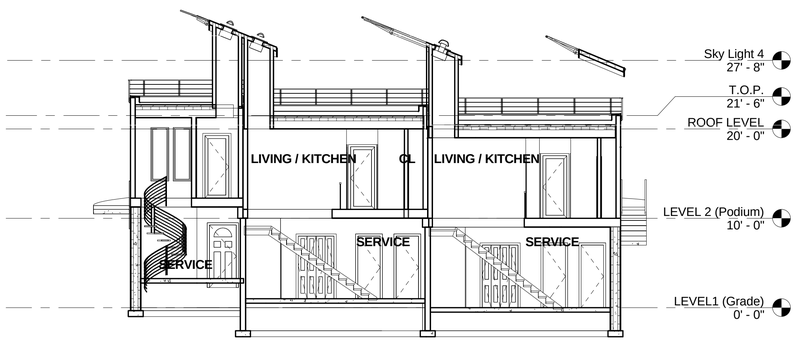
Entrance Rendering



1 S1 Stair Section
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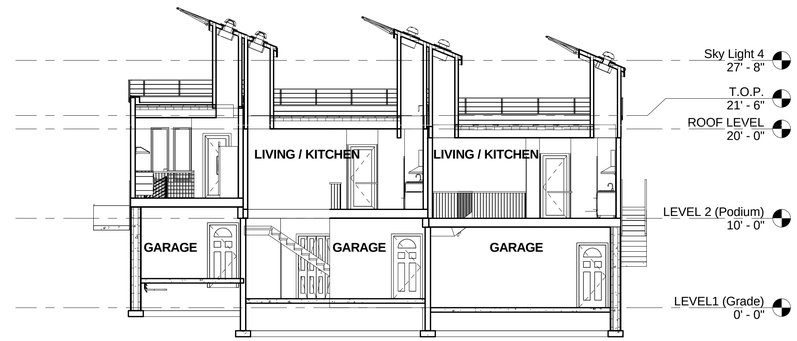

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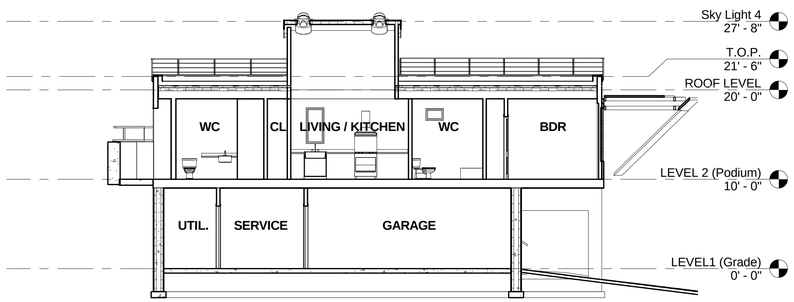

2 S2 Longitudinal
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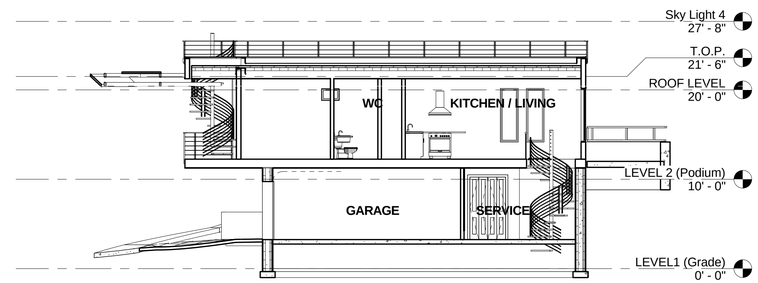

4 S4 Longitudinal
1/8" = 1'-0"

0' 4' 8' 16'

Cluster 1 Sections

Designer
Gordon Wong

Landscape Architects
Gallas and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Deboli Engineering

Structural
Duquette Engineering

Client Yue Tung Hing Ent. and Glenford Demse

The Roof Garden Villas

26736 Hayward Boulevard Between Tribune Street and Call Avenue

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Cluster 1 Sections

Not for Construction

A3.11

SCALE 1/8" = 1'-0"

8/11/2012 11:49:42 AM

Prepared by, Gordon Wong
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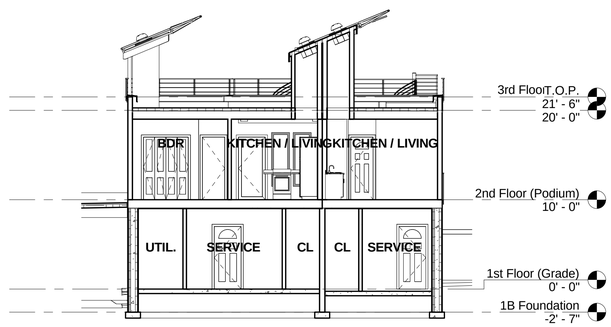
Entrance Rendering



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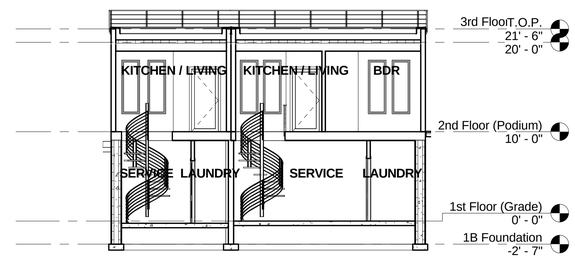

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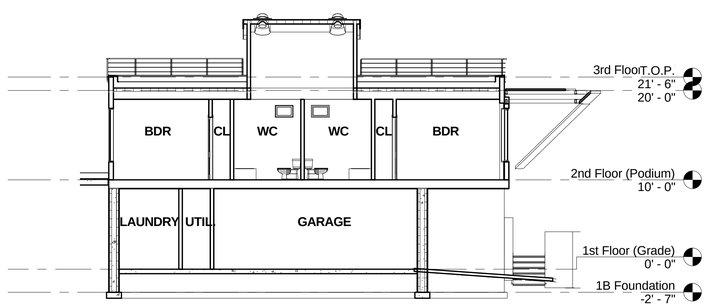

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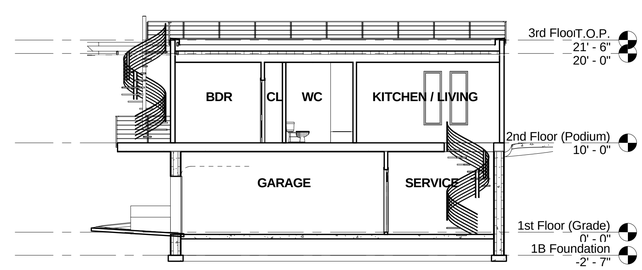

4 West Section
1/8" = 1'-0"

0' 4' 8' 16'

Cluster 2 Sections

Designer
Gordon Wong

Landscape Architects
Gallas and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Deboli Engineering

Structural
Duquette Engineering

Client Yue Tung Hing Ent. and Glenford Demse

The Roof Garden Villas

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04	Tent. ReSub.	07/25/12

Cluster 2 Sections

Not for Construction

A3.12

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Prepared by, Gordon Wong
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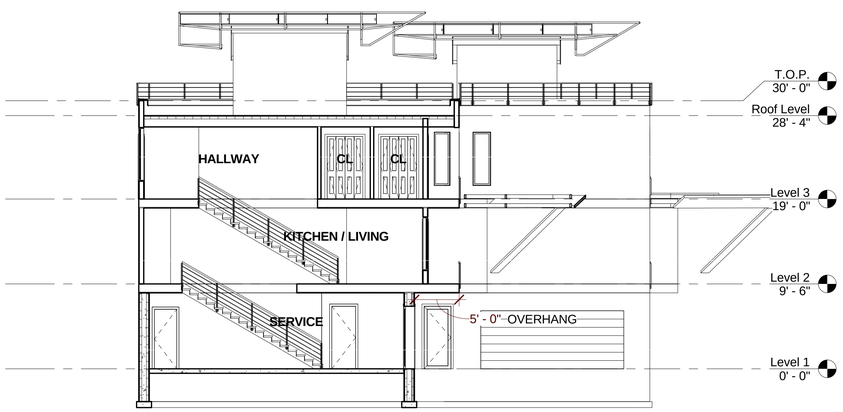

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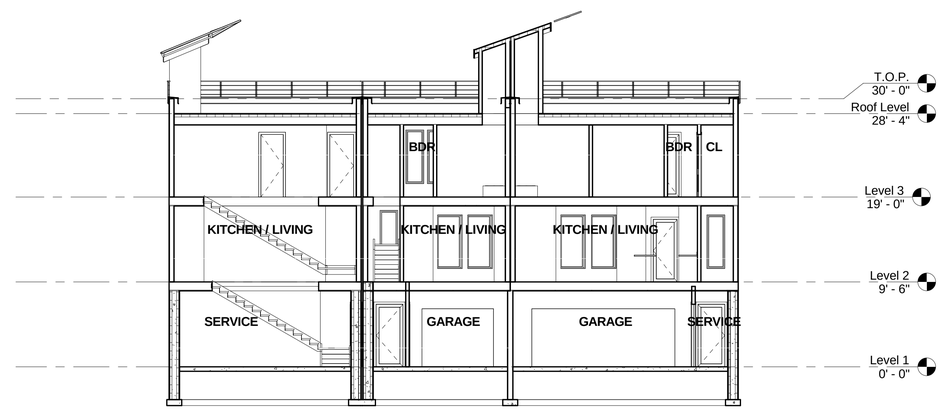

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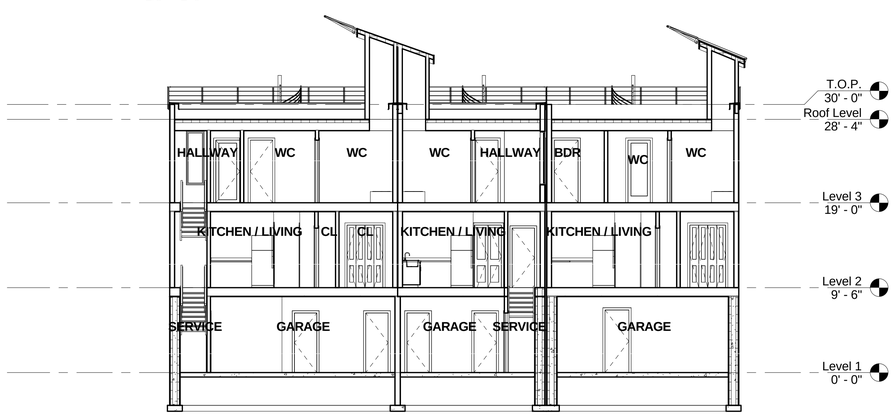

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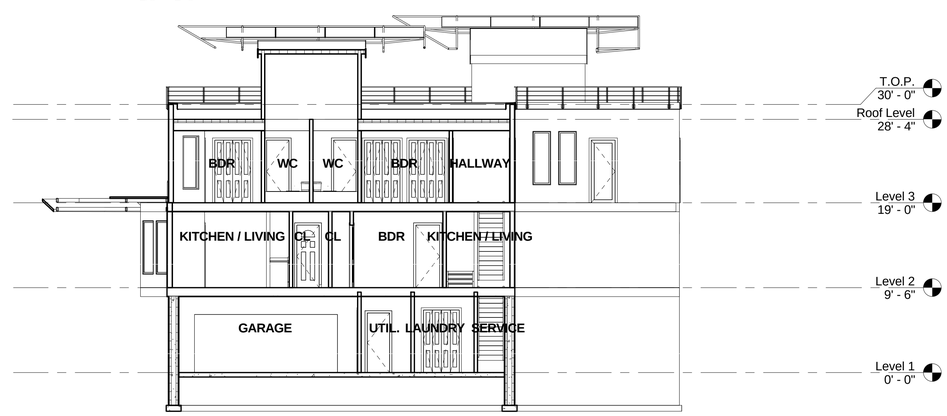

4 S4 Longitudinal Sky Light
1/8" = 1'-0"

0' 4' 8' 16'

Cluster 3 Sections

Designer
Gordon Wong

Landscape Architects
Gallas and Associates

Civil Engineer
Bellecci & Associates

Site Survey
Diboll Engineering

Structural
Duquette Engineering

Client Yue Tung Hing Ent. and Glenford Demse

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04	Tent. ReSub.	07/25/12

Cluster 3 Sections

Not for Construction

A3.13

SCALE 1/8" = 1'-0"

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POLICY ANALYSIS

Zone Change Application No. PL-2010-0380 and Tentative Tract Map Application No. PL-2010-0381

Zoning Ordinance §10-1.2535(a) requires that proposed Planned Development Districts must be in conformity with applicable City policies. The following text identifies applicable policies and an analysis of the Project under them.

General Plan

Land Use Map

The Land Use Map designates the Project site as Medium Density – Residential with a density range of 8.7 to 17.4 dwelling units per acre (du/acre). The Project consists of a residential land use with a density of 10.8 du/acre.

Land Use Element

Goal 8: Promote infill development that is compatible with the overall character of the surrounding neighborhood.

Policy 1: Encourage visual integration of projects of differing types or densities through the use of building setbacks, landscaped buffers, or other design features.

Analysis: The Project includes individual buildings of a similar type and design in building mass, height and materials.

Policy 4: Promote walkable neighborhoods by encouraging neighborhood-serving commercial activities within residential areas.

Analysis: The Project is adjacent to commercial activities located at the southwest corner of Hayward Boulevard and Civic Avenue. The Project would improve the walkability of the neighborhood, including pedestrians accessing the commercial activities, through the installation of a sidewalk along the Project site frontage.

Policy 5: Encourage development that is designed to provide direct pedestrian connections between housing and supporting activities.

Analysis: The Project would improve pedestrian connections through the installation of a sidewalk along the Project site frontage.

Goal 9: Design hillside development to be sensitive to the maintenance of a natural environment through retention of natural topographic features such as drainage swales, streams, slopes, rock outcroppings, and natural plant formations.

Policy 2: Avoid development on unstable slopes, wooded hillsides, and creek banks.

Analysis: A geotechnical investigation of the Project site demonstrates the absence of unstable slopes. The Project site does not constitute wooded hillsides and does not contain a creek.

Policy 3: Respect natural topography in street layouts and require streets to be only as wide as necessary for public safety and traffic flow in order to minimize grading and disruption of ground cover.

Analysis: The Project includes an access drive aisle that varies between twenty-seven (27) feet to twenty (20) feet in width. These dimensions, including turning radii, are the minimum necessary to support safe traffic flow; including fire trucks. Additionally, the placement of the drive aisle on the west side of the lot helps to minimize grading since it includes flatter slopes. Grading has also been minimized through the Project's use of three (3) staggered building clusters.

Policy 4: Respect natural contours in the siting of development; structures on ridges should be landscaped so as to blend with the hill form and building height and location should be adjusted to retain views where feasible.

Analysis: Because of the narrowness of the Project site, the ability to disrupt natural contours of the hillside is inherently lessened. The Project site is not located on a ridge. From the Project site's hillside location, views of the San Francisco Bay are possible. The Project would not obstruct views from upslope properties; nor views from existing developed properties to the west and east.

Policy 5: Densities of development in the hill area should feather out to very large lot development near the Urban Limit Line to provide for appropriate transition to permanent open space.

Analysis: The Project complies with the General Plan Land Use Map density range and is not located in proximity to the Urban Limit Line.

Circulation Element

Goal 5: Improve Coordination among Public Agencies and Transit Providers.

Policy 1: Consider the needs of transit riders, pedestrians, people in wheelchairs, cyclists, and others in long-range planning and the review of development proposals.

Analysis: The Project would improve pedestrian connections through the installation of a sidewalk along the Project site frontage.

Goal 8: Create Improved and Safer Circulation Facilities for Pedestrians.

Policy 1: Complete planned sidewalk system and maintain and repair sidewalks to ensure pedestrian safety.

Analysis: The Project would improve pedestrian connections through the installation of a sidewalk along the Project site frontage.

Policy 4: Encourage design of development that contributes to continuous pedestrian pathways and pedestrian connectivity.

Analysis: The Project would improve pedestrian connections through the installation of a sidewalk along the Project site frontage.

Goal 10: Encourage Land Use Patterns that Promote Transit Usage.

Policy 6: Encourage design of development that facilitates the use of transit.

Analysis: The Project site is located within five-hundred (500) feet from three (3) bus stops. This close proximity facilitates the use of existing transit service.

Conservation Element

Goal 3: Protect existing watercourses and enhance water quality in surface water and groundwater sources.

Policy 10: Encourage the use of dual plumbing systems in new buildings to recycle grey water.

Analysis: The Project includes the use of grey water.

Goal 13: The City will seek to protect the public health, safety and welfare against the adverse effects of excessive noise.

Policy 3: Encourage mitigation of noise through appropriate site planning, building orientation, and building materials.

Analysis: Because of the narrowness of the Project site and location of existing residences on abutting lots, unmitigated construction noise may adversely impact nearby residences. However, the Mitigated Negative Declaration prepared for the Project includes mitigation measures to ensure that potentially significant noise impacts resulting from construction are sufficiently reduced or buffered.

Public Utilities and Services Element

Goal 2: The City will seek to minimize urban wildfire hazards in the hill area.

Policy 1: Implement the Wildland/Urban Interface Guidelines during the planning and design of development in high fire hazard areas.

Analysis: The Project is located within a locally designated Wildland/Urban Interface area. Potential fire hazards inherent to the Project site are limited to its steep topography. There are no nearby expanses of fuel sources (e.g., riparian) presenting a potential fire hazard. Additionally, the Project must adhere to the mandatory construction standards applicable to residential structures within a Wildland/Urban Interface.

Goal 5: Hayward will promote energy conservation.

Policy 1: Promote development patterns that are integrated with existing transit systems and encourage transit, bike and pedestrian circulation.

Analysis: The Project is located in proximity to existing public transit, would increase safe pedestrian travel through sidewalk construction, and abuts an existing Class II bikeway.

Design Review Guidelines

The Project is in general conformity with the Design Review Guidelines. In particular, the Project conforms to the following guidelines:

- Cluster development in order to maintain continuity of open space, to shape more usable outdoor areas, and to avoid more hazardous areas such as active fault traces.

- Site new buildings and landscaping to transition gracefully to permanent development around them and to preserve privacy of adjacent residential uses.

- Use grading techniques to retain as much run-off on site as practical, allowing for percolation in detention basins, dry wells and porous surfaces. Consider porous paving materials, e.g., interlock pavers, porous asphalt mixes, decomposed granite, and turfblock as consistent with required loadbearing capacity.

- Vary setbacks to provide good solar access where street orientation is not favorable. In Planned Developments, zero-lot-lines may permit buildings to abut the north property line, thereby providing the greatest possible yard area to the south of each buildin.

- Configure buildings so that adjacent ·open spaces are visible and easily surveyed. Greater surveillance and safety result from encouraging a variety of uses. Minimize remote, inaccessible outdoor spaces.

- Provide separate identifiable entries for each unit wherever possible with private control of that space clearly indicated by the layout.

- Incorporate all the exterior components of a structure- the chimney, the decks, the eaves, the windows- in the overall configuration and form of a building.

- Wrap the materials used on buildings around outside corners to avoid a false façade appearance. Utilize materials for additions which relate to original building to avoid tacked-on appearance.

- Consider awnings to provide shade from sun and protection from rain, to protect windows from excessive heat gain and glare, and to give a comfortable, human-scale to entrances. Awnings along a row of contiguous buildings should be related. A Fire Department permit is needed to check intervals for ladder access. Consider replacement/

maintenance schedule of materials used in order to maintain awnings in attractive conditions.

- Use plant materials to define outdoor spaces such as the street edge or outdoor eating areas, or movement paths between parking area and building entry and to tie buildings into the landscape.

- Take advantage of good views and natural light for living areas.

- Utilize sloping land for drive-under parking or split-entry adaptation in order to maximize open space and views.

- Generally utilize a consistent design theme with compatible materials and colors. Special durable details which relate to the design theme give character to the development.

Hillside Design Guidelines

The Project is in general conformity with the Hillside Design Guidelines. In particular, the Project conforms to the following guidelines:

- Street systems should be established to permit safe and efficient travel for motor vehicles, bicycles, and pedestrians, yet ensure ready access for fire and emergency vehicles.

- Streets should generally follow the natural contours of the lands and should not be placed perpendicular to contour lines, unless absolutely w1avoidable. Curvilinear streets are preferred, but sharp curves should be avoided that will hamper emergency access.

- On streets with low traffic volumes that serve a small number of residents, sidewalks should be provided on one side of the street only; however, curbs should be provided on both sides.

- Driveways or access ways serving structures located beyond 150 feet from a public street must comply with Fire Department design standards.

- Where the existing slope is 15 percent or steeper, dwellings should exhibit a stepped design that follows the natural terrain and should not stand out vertically from the hillside. The height of skirt, foundation or retaining walls at the base of a structure should be minimized. The lower or ground floor elevation of a dwelling should not exceed eight feet above the adjacent exterior finish grade. (Note: The Zoning Ordinance also limits the height of single-family dwellings to 30 feet, measured from the midpoint of a sloping roof to the existing or finish grade, whichever is lower.)

- Massive multifamily developments should be avoided by dividing long or large buildings into smaller structures and providing variations and offsets in rooflines, building walls, windows, and balconies. Multifamily housing should be designed to provide for view corridors to adjacent open space and vistas. Where multifamily housing abuts a single-

family zoning district, a transition should be provided by designing the multifamily units with lower heights and/ or additional setbacks along the common boundary.

- For large sloping lots exceeding 10,000 square feet, solid fencing should only be used to enclose the immediate private outdoor space around the house and should not be used to delineate property lines where it would visually interrupt natural open areas and views. (Also see Part II, Guideline A.4, if applicable.) Where fencing is needed to delineate private property from public or common areas, open or unobtrusive fencing should be installed.

- All developments should m1mmize grading and the use of retaining walls. If retaining walls are unavoidable, they should be designed with native rock or should exhibit a natural-looking texture or veneer. Walls should be buffered with landscaping. (Note: The Zoning Ordinance limits the height of retaining walls to six feet. A minimum separation of six feet is required between two parallel walls; a 15-foot separation is required for a third wall.)

- Dwellings should be designed with stepped or pier and grade beam foundations to reduce grading, to avoid contiguous stair-stepped padded lots, and to retain a more natural appearance.

- A void planting trees and shrubs in a straight line to define property lines, driveways, or edges. Plants should be clustered informally to blend with the natural vegetation.

Hayward Highland Neighborhood Plan

Land Use

Policy 1: Retain the single family character of the Hayward Highlands area by allowing only appropriate residential inflll development which is consistent in size, scale and appearance with existing residential structures, and encourage owner-occupied housing.

Strategy 1.1: Reflect the following land use considerations on the General Policies Plan Map (see Figure - I: Recommended General Policies Plan Map Changes and Figure 2: Recommended Zoning Changes): (a) Reduce the density from High Density (17.4 - 34.8 units per net acre) to Medium Density (8.7 -17.0 units per net acre) and change the zoning from RH to RSB6 (single family detached housing with a minimum parcel size of 6,000 square feet) on those properties with additional development potential fronting Hayward Boulevard. However, in order to achieve the best site design possible, development applications are encouraged to be processed through the PD (Planned Development) District in order to allow either single family detached or single-family attached development. Retain the HIGH Density designation on properties which have already been developed with multiple-family housing.

Analysis: The Project has the General Plan Land Use and Zoning Map designation encouraged by this strategy. Also consistent with this strategy, the Project includes a request for a change of zone to Planned Development. Lastly, the Project would provide ownership housing, as encouraged by this strategy.

Neighborhood Character

Policy 2: Allow only infill development which is respectful of natural features Including steeply sloped hillsides, creeks and riparian corridors, significant trees, and rock outcroppings.

Strategy 2.1: Allow only new residential construction which features stepped-back building envelopes on sloped areas and minimal on-site grading consistent with the City's Hillside Design Guidelines.

Strategy 2.2: In accordance with the City's Hillside Design Guidelines, clustering of residential development is strongly encouraged in order to preserve natural site features such as steep hillsides, rock outcroppings, significant trees or tree clusters and any creeks or natural waterways.

Analysis: The Project minimizing grading to the extent practical on a narrow, steeply sloping lot. Evidence of this exists in the Project's clustering of building pads and placement of an access drive aisle on the shallowest on-site slopes. The Project would not remove any rock outcroppings, creek or natural waterway. The ability to retain existing trees on-site is impractical given the steepness and narrowness of the site. All trees would be removed in conformance with the Tree Protection Ordinance; including through replacement plantings and fee payment.

Arborist Report

Green Roof Villas
Hayward, CA

Prepared for:
Gates and Associates
2671 Crow Canyon Rd
San Ramon, CA 94583

Prepared by:
HortScience, Inc.
2150 Rheem Dr., Suite A
Pleasanton, CA 94588

August 2010

HORT SCIENCE

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PLANNING DIVISION

Arborist Report
Green roof Villas
Hayward CA

Table of Contents

	Page
Introduction and Overview	1
Survey Methods	1
Description of Trees	2
Suitability for Preservation	3
Evaluation of Impacts and Recommendations	5
Appraisal of Value	6
Tree Preservation Guidelines	7

List of Tables

Table 1. Condition ratings and frequency of occurrence for trees	2
Table 2. Tree suitability for preservation	4
Table 3. Recommended action	5
Table 4. Appraised value of trees recommended for removal	6

Attachments

Tree Survey Form

Tree Survey Map

Introduction and Overview

Gates and Associates are coordinating development of the site located at the 26736 Hayward Blvd., in Hayward California. The site is a former residential development, with no structures currently on it. HortScience, Inc. was asked to prepare an **Arborist Report** for the site for review by the City of Hayward.

This report provides the following information:

1. A survey of trees growing within and adjacent to the proposed project area.

2. An assessment of the impacts of constructing the proposed project on the trees.

3. Guidelines for tree preservation during the design, construction and maintenance phases of development.

Survey Methods

Trees were surveyed on July 23, 2010. The survey included all trees 4" and greater in diameter per section 10, Article 15 of the City of Hayward municipal code. The survey procedure consisted of the following steps:

1. Identifying the tree as to species;
2. Measuring the trunk diameter at a point 54" above grade;
3. Evaluating the health and structural condition using a scale of 1 – 5:
   - ***5*** - A healthy, vigorous tree, reasonably free of signs and symptoms of disease, with good structure and form typical of the species.
   - ***4*** - Tree with slight decline in vigor, small amount of twig dieback, minor structural defects that could be corrected.
   - ***3*** - Tree with moderate vigor, moderate twig and small branch dieback, thinning of crown, poor leaf color, moderate structural defects that might be mitigated with regular care.
   - ***2*** - Tree in decline, epicormic growth, extensive dieback of medium to large branches, significant structural defects that cannot be abated.
   - ***1*** - Tree in severe decline, dieback of scaffold branches and/or trunk; most of foliage from epicormics; extensive structural defects that cannot be abated.
5. Rating the suitability for preservation as "good", "moderate" or "poor". Suitability for preservation considers the health, age and structural condition of the tree, and its potential to remain an asset to the site for years to come.

Good:	Trees with good health and structural stability that have the potential for longevity at the site.
Moderate:	Trees with somewhat declining health and/or structural defects than can be abated with treatment. The tree will require more intense management and monitoring, and may have shorter life span than those in 'good' category.
Poor:	Trees in poor health or with significant structural defects that cannot be mitigated. Tree is expected to continue to decline, regardless of treatment. The species or individual may have characteristics that are undesirable for landscapes, and generally are unsuited for use areas.

Description of Trees

Fifteen (15) trees were evaluated, representing seven (7) species (Table 1). Two (2) off-site trees were included in the survey, where portions of their crowns extended onto the development site (#88 and 89). Tree #89 represented approximately 15 individuals of the same species and in generally similar condition, along the eastern property line. Descriptions of individual trees are found in the ***Tree Survey Form***, and locations are plotted on the ***Tree Survey Map*** (see attachments).

The site sloped steeply from the north to the south. Seven (7) of the trees were spread across the southern third of the site (#75-81), with the remaining trees concentrated along the eastern and western edges in the middle of the site (#82-87).

The most frequently occurring species was blackwood acacia (7 trees, or 47% of the population). Blue gum eucalyptus (3 trees, or 20%) was the next most common species. The remaining five species were represented by single individuals. Tree size ranged from 5" to 57" in diameter. Seven (7) trees had multiple trunks arising below 54".

Blackwood acacias were in fair condition (6 trees), with one (1) in good. In general, the trees were typical for the species, with weak stem and branch attachments, a history of branch or stem failures and varying amounts of twig and branch dieback. It appeared that some of the trees were volunteers and that they were reproducing and spreading across the site.

A group of three (3) blue gum eucalyptus was located along the western property line, mid-slope. This group included the largest trees surveyed, #87, which measured 57" in diameter. A fire in this area had damaged the trees, causing trunk wounds and branch dieback in the two smaller blue gums (#85 and 86). Two (2) of the blue gums were in good condition (#85 and 87), and one (#86) was in fair, as it leaned heavily to the north.

Coast live oak #79 was an oddity. It had two trunks emerging at approximately 4' and measuring 19" and 18" in diameter (Photo 1, following page). From a distance, it appeared in good health, with a one-sided crown to the east. On closer inspection, the lower portion of the trunk had been wrapped in chicken wire at some point in the past (a practice noted on other trees on the site). Over time, the chicken wire had become embedded in the trunk. The internal damage caused by the chicken wire had produced a crack between the stems, and a possible infection by unknown pathogens, as the tree was now bleeding at the point of attachment of the two stems.

Table 1: Condition ratings and frequency of occurrence of trees.
Green Roof Villas, Hayward

Common Name	Scientific Name	Condition Rating			No. of Trees
		Poor (1-2)	Fair (3)	Good (4-5)	
Bailey acacia	*Acacia bailyana*	-	1	-	1
Blackwood acacia	*Acacia melanoxylon*	-	6	1	7
Box elder	*Acer negundo*	1	-	-	1
Deodar cedar	*Cedrus deodara*	-	1	-	1
Monterey cypress	*Cupressus macrocarpa*	-	-	1	1
Blue gum	*Eucalyptus globulus*	-	1	2	3
Coast live oak	*Quercus agrifolia*	-	1	-	1
Total		**1**	**10**	**4**	**15**
		7%	66%	27%	100%

Photo 1: Coast live oak #87 appeared health. Embedded chicken wire had lead to internal defects, cracks and bleeding between the stems (inset).

Overall, tree condition was fair (66%) to good (27%). Box elder #78 was the only tree in poor condition, as a result of extensive trunk decay.

The City of Hayward defines any tree with a diameter of 8" or greater, or certain native species with a diameter of 4" or greater, as "Protected". Based on this definition, 13 of the trees surveyed are considered Protected. The ***Tree Survey Form*** provides the Protected status for each of the surveyed trees (see attachments)

Suitability for Preservation

Before evaluating the impacts that will occur during development, it is important to consider the quality of the tree resource itself, and the potential for individual trees to function well over an extended length of time. Trees that are preserved on development sites must be carefully selected to make sure that they may survive development impacts, adapt to a new environment and perform well in the landscape.

Our goal is to identify trees that have the potential for long-term health, structural stability and longevity. For trees growing in open fields, away from areas where people and property are present, structural defects and/or poor health presents a low risk of damage or injury if they fail. However, we must be concerned about safety in use areas. Therefore, where development encroaches into existing plantings, we must consider their structural stability as well as their potential to grow and thrive in a new environment. Where development will not occur, the normal life cycles of decline, structural failure and death should be allowed to continue.

Evaluation of suitability for preservation considers several factors:

- **Tree health**
  Healthy, vigorous trees are better able to tolerate impacts such as root injury, demolition of existing structures, changes in soil grade and moisture, and soil compaction than are non-vigorous trees.

- **Structural integrity**
  Trees with significant amounts of wood decay and other structural defects that cannot be corrected are likely to fail. Such trees should not be preserved in areas where damage to people or property is likely.

- **Species response**
  There is a wide variation in the response of individual species to construction impacts and changes in the environment. In our experience, for example, blue gum is moderately sensitive to site disturbance, while coast live oak is more tolerant of root loss.

- **Tree age and longevity**
  Old trees, while having significant emotional and aesthetic appeal, have limited physiological capacity to adjust to an altered environment. Young trees are better able to generate new tissue and respond to change.

- **Species invasiveness**
  Species which spread across a site and displace desired vegetation are not always appropriate for retention. This is particularly true when indigenous species are displaced. Blackwood acacia produces copious amounts of wind-spread seed and will sprout vigorously from roots and trunks and can be considered invasive.

Each tree was rated for suitability for preservation based upon its age, health, structural condition and ability to safely coexist within a development environment (see attached ***Tree Survey Form***). Table 2 provides a summary of the suitability ratings. Suitability ratings for individual trees are provided in the ***Tree Survey Form***.

Table 2: Tree Suitability for Preservation
Green Roof Villas, Hayward

Good	These are trees with good health and structural stability that have the potential for longevity at the site. Blue gum #87 was the only tree of good suitability for preservation.
Moderate	Trees in this category have fair health and/or structural defects that may be abated with treatment. Trees in this category require more intense management and monitoring, and may have shorter life-spans than those in the "good" category. Eight (8) trees were of moderate suitability for preservation, including deodar cedar #75, Monterey cypress #77, blackwood acacias #81 and 89, blue gums #85 and 86, and bailey acacia #88.
Poor	Trees in this category are in poor health or have significant defects in structure that cannot be abated with treatment. These trees can be expected to decline regardless of management. The species or individual tree may possess either characteristics that are undesirable in landscape settings or be unsuited for use areas. Six (6) trees were of poor suitability for preservation, including blackwood acacias #76 and 82-84, box elder #78, and coast live oak #79.

Evaluation of Impacts and Recommendations for Preservation

Appropriate tree retention develops a practical match between the location and intensity of construction activities and the quality and health of trees. The ***Tree Survey*** was the reference point for tree condition and quality. Potential impacts from construction were evaluated using the Preliminary Development Plan prepared Gates and Associates, no date.

The plan proposes to construct 10 condominium units across the site, from property line to property line. The entry point will replace the existing driveway in the southwest corner of the site, with a new road constructed along the east side of the lot. The lot will be terraced to create level building pads for the condominium units. Water, storm drain and other utilities will be placed within the proposed road. The sidewalk along Hayward Blvd. will be continued onto the project site and around the units, providing pedestrian access and flow across the site.

Potential impacts from grading and drainage were estimated for each tree. The most significant impacts to the trees would occur as a result of the grading for the lots and subdivision improvements. Even though trees are located along the periphery of the site, the steep terrain and narrowness of the lot leave little room for tree preservation.

Based on our evaluation of the plans and their impacts on the trees, I recommend preservation of off-site trees #88 and 89. Preservation is predicated on establishing a **Tree Protection Zone** and other recommendations listed in the ***Tree Preservation Guidelines*** (following page).

Off-site trees #88 and 89 are recommended for preservation and will require maintaining a minimum of 5' between the trunks and development. These trees may require pruning to provide construction and building clearances. Pruning of off-site trees must be performed with the property owner's permission. Pruning guidelines are provided in the ***Tree Preservation Guidelines*** (following page).

Removal is recommended for the 13 on-site trees (#75-87), 11 of which qualified as Protected. All 13 trees would be impacted by grading for the lots or road. Six (6) of the trees recommended for removal were of poor suitability for preservation. Table 3 provides a list of recommended action for each tree, along with their Protected status and a description of the associated impacts.

Table 3: Trees recommended for removal
Green Roof Villas, Hayward

Tree #	Species	Trunk Diameter	Protected?	Impacts
75	Deodar cedar	16	Yes	Remove, within 1' of sidewalk
76	Blackwood acacia	20	Yes	Remove, within sidewalk
77	Blackwood acacia	6,4,3,3	Yes	Remove, within road
78	Box elder	15	Yes	Remove, within building
79	Coast live oak	19,18	Yes	Remove, within building
80	Monterey cypress	13	Yes	Remove, within sidewalk
81	Blackwood acacia	18,17	Yes	Remove, within 2' of road
82	Blackwood acacia	7	No	Remove, within road
83	Blackwood acacia	5	No	Remove, within road

(Continued, following page)

Table 3: Trees recommended for removal, continued
Green Roof Villas, Hayward

Tree #	Species	Trunk Diameter	Protected?	Impacts
84	Blackwood acacia	11,6	Yes	Remove, within road
85	Blue gum	27,17,15,14,9,7,6,6, 6	Yes	Remove, within building
86	Blue gum	10,8,7	Yes	Remove, within 1' of sidewalk
87	Blue gum	57	Yes	Remove, within 1' of sidewalk
88	Bailey acacia	16,15	Yes	Preserve, off-site
89	Blackwood acacia	8 to 12"	Yes	Preserve, off-site

Appraisal of Value

The City of Hayward requires that the value of all trees identified for removal be established. To accomplish this, I used the standard methods found in *Guide for Plant Appraisal*, 9th edition (published in 2000 by the International Society of Arboriculture, Champaign IL). In addition, I referred to *Species Classification and Group Assignment* (2004), a publication of the Western Chapter of the International Society of Arboriculture. These two documents outline the methods employed in tree appraisal.

The value of landscape trees is based upon four factors: size, species, condition and location. Size is measured as trunk diameter, normally 54" above grade. The species factor considers the adaptability and appropriateness of the plant in the East Bay area. The *Species Classification and Group Assignment* lists recommended species ratings and evaluations. Condition reflects the health and structural integrity of the individual, as noted in the ***Tree Survey Form***. Location considers the site, placement and contribution of the tree in its surrounding landscape.

The appraised value of the 13 trees recommended for removal is $26,550 (**Table 4**).

Table 4: Appraised value of trees recommended for removal

Tree No.	Species	Trunk diameter (in.)	Appraised value ($)
75	Deodar cedar	16	1,450
76	Blackwood acacia	20	1,000
77	Blackwood acacia	6,4,3,3	200
78	Box elder	15	350
79	Coast live oak	19,18	3,800
80	Monterey cypress	13	1,800
81	Blackwood acacia	18,17	1,150
82	Blackwood acacia	82	150
83	Blackwood acacia	83	50
84	Blackwood acacia	11,6	350
85	Blue gum	27,17,15,14,9,7,6,6,6	5,550
86	Blue gum	10,8,7	500
87	Blue gum	57	10,200
Total			**26,550**

Tree Preservation Guidelines

The goal of tree preservation is not merely tree survival during development but maintenance of tree health and beauty for many years. Trees retained on sites that are either subject to extensive injury during construction or are inadequately maintained become a liability rather than an asset. The response of individual trees will depend on the amount of excavation and grading, the care with which demolition is undertaken, and the construction methods. Coordinating any construction activity inside the **Tree Protection Zone** can minimize these impacts.

The following recommendations will help reduce impacts to trees from development and maintain and improve their health and vitality through the clearing, grading and construction phases.

Design recommendations

1. Evaluate designing improvements adjacent to off-site trees #88 and 89 to maintain a minimum of 5' between the trunks and improvements.

2. A **TREE PROTECTION ZONE** shall be established around each tree to be preserved. No grading, excavation, construction or storage of materials shall occur within that zone. The **TREE PROTECTION ZONES** for off-site trees # 88 and 89 shall be a minimum of 5' from the trunks.

3. All plans affecting trees shall be reviewed by the Consulting Arborist with regard to tree impacts. These include, but are not limited to, demolition plans, grading and utility plans, landscape and irrigation plans.

4. Underground services including utilities, sub-drains, water or sewer shall be routed around the **TREE PROTECTION ZONE**. Where encroachment cannot be avoided, special construction techniques such as hand digging or tunneling under roots shall be employed where necessary to minimize root injury.

5. **Tree Preservation Notes**, prepared by the Consulting Arborist, should be included on all plans.

6. Irrigation systems must be designed so that no trenching will occur not within the **TREE PROTECTION ZONE**.
7. No underground services including utilities, sub-drains, water or sewer shall be placed in the **TREE PROTECTION ZONE**.

8. Any herbicides placed under paving materials must be safe for use around trees and labeled for that use.

Pre-construction treatments and recommendations

1. The construction superintendent shall meet with the Consulting Arborist before beginning work to discuss work procedures and tree protection.

2. Fence all trees to be retained to completely enclose the **TREE PROTECTION ZONE** prior to demolition, grubbing or grading. Fences shall be 6 ft. chain link or equivalent as approved by the City. Fences are to remain until all grading and construction is completed.

3. Pruning trees to provide construction and access clearance may be required. Pruning of off-site trees must be performed with the property owner's permission. All pruning shall be completed by a Certified Arborist or Tree Worker and adhere to the *Tree Pruning*

Guidelines of the International Society of Arboriculture. Brush shall be chipped and spread beneath the trees within the **TREE PROTECTION ZONE.**

4. Structures and underground features to be removed within the **TREE PROTECTION ZONE** shall use the smallest equipment, and operate from outside the **TREE PROTECTION ZONE**. The Consulting Arborist shall be on-site during all operations within the **TREE PROTECTION ZONE** to monitor demolition activity.

Recommendations for tree protection during construction

1. Prior to beginning work, all contractors working in the vicinity of trees to be preserved are required to meet with the Consulting Arborist at the site to review all work procedures, access routes, storage areas and tree protection measures.

2. Any grading, construction, demolition or other work that is expected to encounter tree roots should be monitored by the Consulting Arborist.

3. No grading, construction, demolition or other work shall occur within the **TREE PROTECTION ZONE**. Any modifications must be approved and monitored by the Consulting Arborist.

4. Do not lime within 50' of any tree. Lime is toxic to tree roots.

5. Fences have been erected to protect trees to be preserved. Fences define a specific **TREE PROTECTION ZONE** for each tree or group of trees. Fences are to remain until all site work has been completed. Fences may not be relocated or removed without permission of the Consulting Arborist.

6. Construction trailers, traffic and storage areas must remain outside fenced areas at all times.

7. Prior to grading, pad preparation, excavation for foundations/footings/walls, trenching, trees may require root pruning outside the **TREE PROTECTION ZONE** by cutting all roots cleanly to the depth of the excavation. Roots shall be cut by manually digging a trench and cutting exposed roots with a saw, vibrating knife, rock saw, or other approved root pruning equipment. The Consulting Arborist will identify where root pruning is required and monitor all root pruning.

8. All underground utilities, drain lines or irrigation lines shall be routed outside the **TREE PROTECTION ZONE**. If lines must traverse through the protection area, they shall be tunneled or bored under the tree as directed by the Consulting Arborist.

9. Supplemental irrigation may be required and shall be specified by the Consulting Arborist.

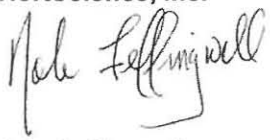
10. If injury should occur to any tree during construction, it should be evaluated as soon as possible by the Consulting Arborist so that appropriate treatments can be applied.

11. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the **TREE PROTECTION ZONE**.

12. Any additional tree pruning needed for clearance during construction must be performed by a Certified Arborist and not by construction personnel.

Maintenance of impacted trees
Preserved trees will experience a physical environment different from that pre-development. As a result, tree health and structural stability should be monitored. Occasional pruning, fertilization, mulch, pest management, replanting and irrigation may be required. In addition, provisions for monitoring both tree health and structural stability following construction must be made a priority. As trees age, the likelihood of failure of branches or entire trees increases. Therefore, annual inspection for hazard potential is recommended.

HortScience, Inc.



John Leffingwell
Board Certified Master Arborist WE-3966B
Registered Consulting Arborist #442

Attached: ***Tree Survey Forms***
Tree Survey Map

Tree Survey

Green Roof Villas
Gates and Associates
Hayward, California
July 2010

HORT SCIENCE

TREE No.	SPECIES	SIZE DIAMETER (in inches)	PROTECTED?	CONDITION 1=POOR 5=EXCELLENT	SUITABILITY FOR PRESERVATION	COMMENTS
75	Deodar cedar	16	Yes	3	Moderate	Sweeps west from base; stubs and dead wood; thin crown.
76	Blackwood acacia	20	Yes	3	Poor	Codominant trunks at 10'; stems splitting at attachment; low lateral south.
77	Blackwood acacia	6,4,3,3	Yes	4	Moderate	Multiple attachments at base; trunk wounds.
78	Box elder	15	Yes	2	Poor	Leans south; extensive trunk decay.
79	Coast live oak	19,18	Yes	3	Poor	Codominant trunks at 4'; embedded barbed wire; bleeding from crack forming on western stem.
80	Monterey cypress	13	Yes	4	Moderate	Corrected lean south; basal wounds; narrow crown.
81	Blackwood acacia	18,17	Yes	3	Moderate	Codominant at base; fence between stems; weak attachments.
82	Blackwood acacia	7	No	3	Poor	One-sided west; poor form and structure.
83	Blackwood acacia	6	No	3	Poor	One-sided west; branch failure.
84	Blackwood acacia	11,6	Yes	3	Poor	Multiple attachments at base; weak attachment on 11" stem.
85	Blue gum	27,17,15,14,9,7,6,6,6	Yes	4	Moderate	Multiple attachments at base; one-sided east; suppressed below #87.
86	Blue gum	10,8,7	Yes	3	Moderate	Multiple attachments at base; leans north; fire damage; suppressed below #87.
87	Blue gum	57	Yes	4	Good	Upright form; heavy lateral limb north with dieback from fire damage; dead wood.
88	Bailey acacia	16,15	Yes	3	Moderate	Off-site, no tag; codominant trunks at base; eastern branch of 16" stem cracked and bleeding at attachment.

Tree Survey

Green Roof Villas
Gates and Associates
Hayward, California
July 2010

HORT SCIENCE

TREE No.	SPECIES	SIZE DIAMETER (in inches)	PROTECTED?	CONDITION 1=POOR 5=EXCELLENT	SUITABILITY FOR PRESERVATION	COMMENTS
89	Blackwood acacia	8 to 12"	Yes	3	Moderate	Off-site, no tag; group of 15 trees growing along eastern propety line; dieback.

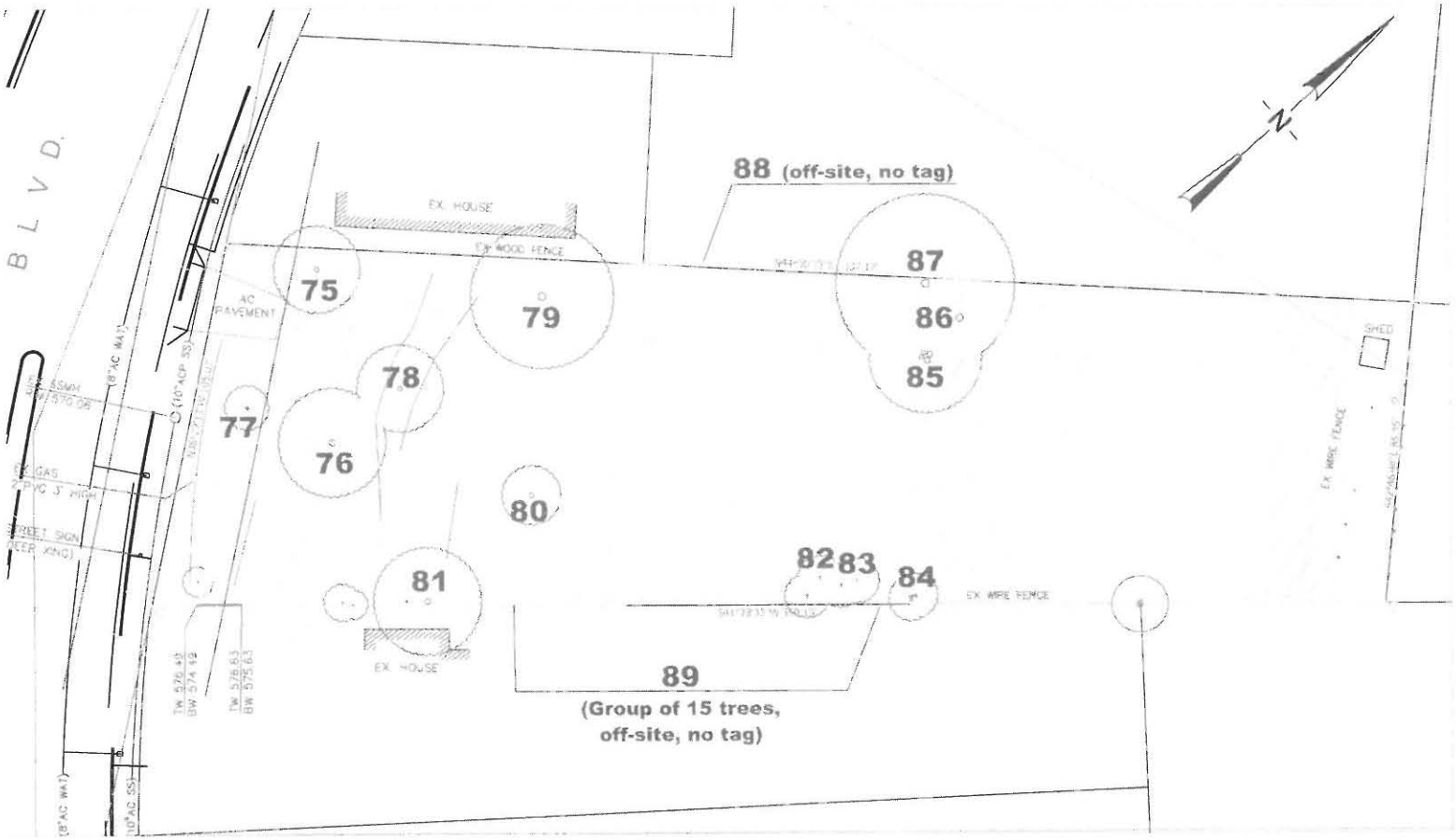
Tree Survey Map

Green Roof Villas
26736 Hayward Blvd.
Hayward, CA

Prepared for:
Gates and Associates
San Ramon, CA

July 2010

No Scale



Notes:
Base map provided by:
DeBolt Civil Engineering
Danville, CA

Numbered tree locations are approximate.

HORT SCIENCE

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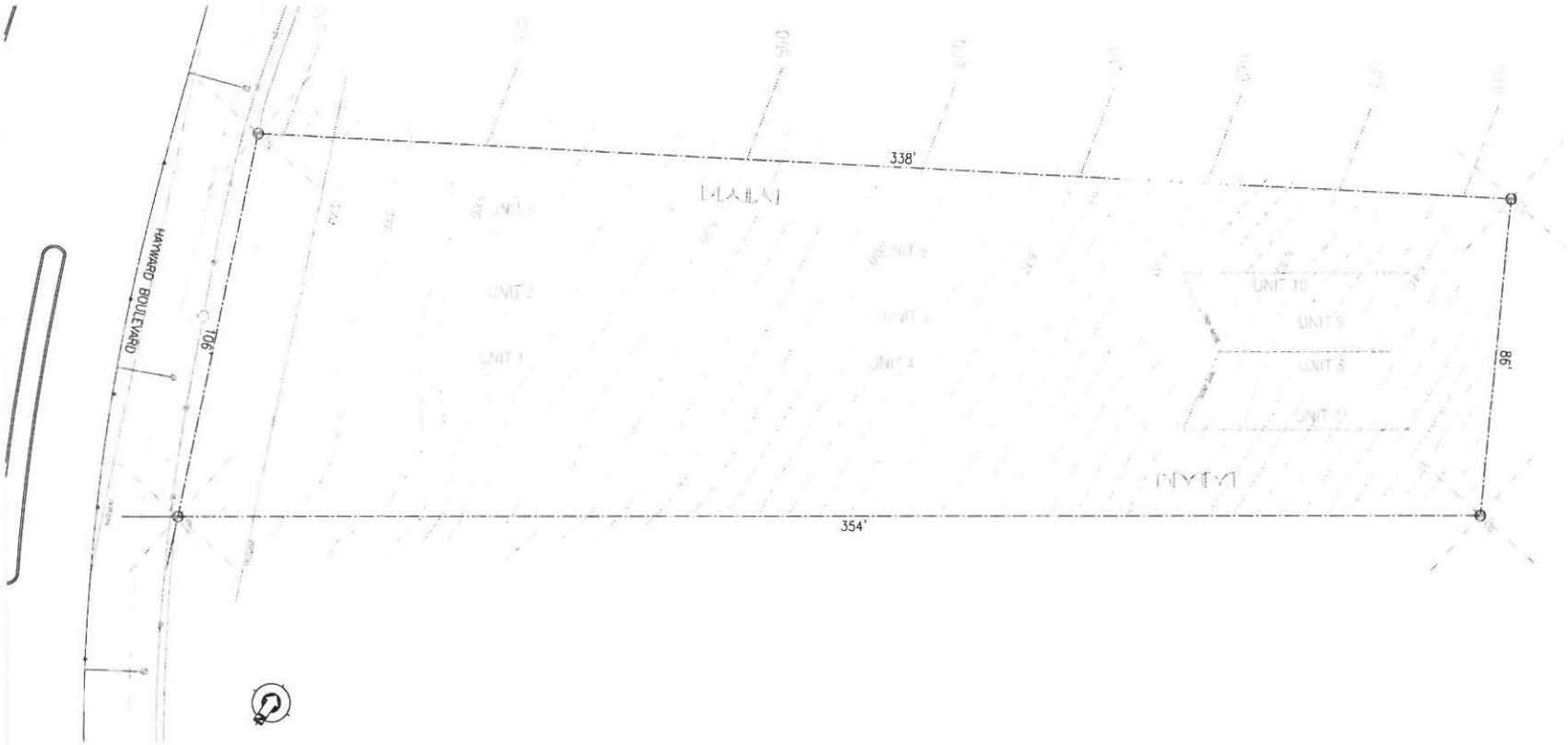
Attachment X

OVERALL MASTER PLAN



N.T.S. JAN 26th 2010

CITY OF
HAYWARD
HEART OF THE BAY

DATE: June 4, 2013

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Amendment of City's Card Club Regulations (PL-2011-0213 TA) to allow transfer of ownership and potential relocation of the Palace Card Club and additional regulatory oversight, among other modifications; Conditional Use Permit Modification application (PL-2011-0303 CUP) to increase the number of gaming tables from 11 to 13 and allow for a two-story addition to the Palace Card Club at 22821 Mission Boulevard; and related amendments to the City's Master Fee Schedule.

The Palace Poker Casino, LLC (Applicant); Catherine Aganon and Pamela Roberts (Owners/Trustees)

RECOMMENDATION

Staff recommends that the City Council:

1. Adopts the attached resolution (Attachment I) determining the project is categorically exempt from the California Environmental Quality Act (CEQA) and approving the proposed conditional use permit modification application;
2. Adopts the attached resolution amending the City's Master Fee Schedule (Attachment II); and
3. Introduces the attached ordinance (Attachment III) approving the proposed text amendment to Chapter 4, Article 3 of the Hayward Municipal Code, including allowing for potential sale and relocation of the Palace Card Club.

SUMMARY

The current owners of the Club have displayed responsible management and ownership of the Palace Card Club, as evidenced by input from the Hayward Police Department and others. Staff supports the proposed project that makes various modifications to the City's card club regulations and to the previous approvals related to the Palace Card Club, as summarized below:

- The partial or whole sale of the Club to another entity would be subject to extensive financial and criminal investigation of that entity by both the City and the State, and would specifically require City Council approval;

- The relocation of the Club to another site, should it be proposed now or in the future, would be subject to approval of a new conditional use permit by the Planning Commission at a public hearing; and if the new location is in another zoning district, a text amendment allowing clubs in that zoning district would also have to be approved by the City Council after review and recommendation by the Planning Commission;
- Third party providers, who do not work for the Club and are separate business entities, would also be subject to improved financial and criminal background investigations;
- New internal control standards would be applicable that would ensure the operations of the Club are in accordance with improved Hayward Police Department standards;
- Proposed expansion of the Club, to include a new customer dining area, would not only improve the customer experience at the Club, but also provide an additional eating venue for visitors to the Downtown, including late-night visitors;
- Recommended conditions of approval would ensure a parking space is reserved for the Club's shuttle in the Watkins Street parking garage for an annual mitigation fee of over $114,000; and
- The proposed recommendations would increase revenue to the City by over $210,000 annually to offset the impacts of the Club on City services.

Such modifications to the regulations and the conditional use permit would allow/encourage investment in the property (or another property) that would result in a more attractive and accommodating (for customers) operation (including possible on-site parking at any new site), encouraging the continuation of the only card club in Hayward and the entertainment venue it represents. The continued operation of the Club would ensure employment for at least 150 employees, the approximate number of employees currently working for the Club. Should the Club develop into a problematic business that requires undue Police Department attention or generates unacceptable negative impacts to the community, the conditional use permit that allows the Club to operate may be revoked, involving a public hearing before the Planning Commission.

BACKGROUND

History of the Palace Card Club and Previous City Reviews – The Palace Card Club has existed in Hayward since approximately 1950 and has been operated by the same family. At one point in time in the mid-1960s, there were six card clubs in Hayward, and there were concerns with the proliferation and impacts with those clubs. Following is a summary of previous reviews of the Club over the last decades.

July 1979 (New Card Club Regulations) – In response to growing concerns with the proliferation of card clubs and their impacts, the City adopted its first set of regulations associated with card clubs. The meeting minutes are included as Attachment V, and reflect a concern among community members with the number of clubs.

August 1991 (Request for Extended Hours) – Palace Card Club owner Katherine Bousson requested that her business be allowed to operate twenty-four hours a day, and the City Council gave the Chief of Police authority to allow a 24-hour operation, subject to the Club not being proximate to residentially zoned and used properties and that security be provided from 8:00 pm to 5:00 am.

February 1992 (Relocation to Current Address) - In 1992, when downtown redevelopment plans were being implemented, the City of Hayward Redevelopment Agency relocated the business to its current address just south of D Street at 22821 Mission Boulevard.

July 1998 (Card Club Regulations Revisions) – The City amended the regulations to comply with new State regulations and limited the number of tables at the Club to eight.

October 2006 (Allow Transfer of Ownership) – The City allowed ownership of the Club to be transferred from Katherine Bousson to her three children (Charles Blanchard, Cathy Aganon, and Pam Roberts – Ms. Bousson and Mr. Blanchard have since passed away). The City Council meeting minutes from the two meetings in October of 2006 are included as Attachments VI and VII. As the meetings minutes reflect, some Council members expressed concern with over ninety Club employees becoming unemployed if the Club was forced to cease operations and some Council members wanted to give Downtown merchants more time for input. Some opined that the Club was not a desirable use for the Downtown, while others expressed that the Palace Card Club operated in a responsible matter.

September 2009 (Increase in Number of Card Tables from 8 to 11) - After withdrawing an application in 2008 due to the passing of Mr. Charles Blanchard that sought to relocate the Palace Card Club operation to a location on Foothill Boulevard that was previously occupied by Kumbala Night Club, the Palace owners requested and received approval to expand the number of card tables in the Club from 8 to 11. The July 23, 2009 Planning Commission meeting minutes are included as Attachment VIII and the September 22, 2009 City Council meeting minutes are included as Attachment IX. Some Commissioners and Council members expressed concern with the expansion of number of tables, given the lack of on-site parking and the proximity of the Club to the nearby library, tot lot, and residences.

May 9, 2013 Planning Commission Meeting – The Planning Commission unanimously recommended that the proposed text amendment and conditional use permit modification be approved by City Council (see meeting minutes, Attachment X). As the minutes reflect, the Commissioners unanimously supported the staff-recommended modifications and felt the business was operated in a responsible and professional manner and was an asset to the community.

DISCUSSION

As has been stated in the past, the Hayward Police Department (HPD) continues to note that the Palace Card Club has had few calls for service and has further indicated that there is a good relationship between HPD staff and the Club's security team. Since November of 2011, there have been eight calls for service to HPD, most initiated by the Club's security personnel, including one call for forgery, one for assault, and another related to public intoxication. HPD staff indicates these calls do not entail significant events and that HPD has conducted thirteen compliance checks since November of 2011, which resulted in few minor violations, which were immediately corrected. The relatively few calls for service and cooperative attitude of the Club's security personnel over the years reflect the responsible management of the Palace Card Club by the current owners and their family.

However, it should also be noted, as reflected in some of the attached previous meeting minutes, that it was the City's policy and desire to have all card clubs cease operations as soon as possible, primarily related to the proliferation and associated negative impacts of various clubs, massage establishments, and adult movie theaters, especially in the 1950s and 1960s. Such concerns led to the 1979 adoption of the City's first set of card club regulations. As indicated during the October 10, 2006 Council meeting minutes (Attachment VI), former Chief of Police Charlie Plummer indicated there were six card clubs in Hayward in 1966, when he was directed by the City Council to "clean up the town, modernize the regulations, and get rid of the eyesores." The long-standing policy to have card clubs phased out of existence dates back to those times when there were several locations of concern, which generated negative impacts and activities, and prior to improved regulatory ordinances for the City.

This project entails three components:

- A conditional use permit modification to allow an increase in the number of card tables from eleven to thirteen at the Palace (as allowed by State law) and to allow an approximately 2,440 square foot, two-story addition;
- A text amendment application requesting modifications to Chapter 4, Article 3 of the Hayward Municipal Code (Card Club Regulations), including allowing possible whole or partial sale and/or relocation of the Palace Card Club; and
- Amendments to the City of Hayward's Master Fee Schedule.

Project Description – As reflected in the project plans (Attachment XI), a two-story addition is proposed along the north side of the existing building where an alley currently exists. This would accommodate a ground floor customer dining area, additional set of bathrooms, expanded cashier cage area, a counting room, indoor trash storage area, and elevator; and a second floor employee unisex bathroom, offices, security office, employee lounge and second floor outdoor deck area. The plans also reflect a façade improvement along Mission Boulevard, to include stone veneer at the entry with a curved entry feature over the front door, and a new painted copper standing seam roof over the addition. No additional on-site parking is provided: soon there will be no parking allowed on Mission Boulevard in front of the Club, and the public parking lot across Mission Boulevard where Club customers currently park will have limited parking (i.e., one or two hour limits).

Overview of Proposed Text Amendments – City staff, including representatives from the Police and Development Services Departments, and the City Attorney's Office, has been working over the last several months with a consultant and the California Department of Justice (DOJ) in developing the attached set of revisions. DOJ has approved the draft revisions. As reflected in Attachments III **(**clean version of ordinance) and IV (red-lined version), the proposed text amendments are in response to the Club's owners request that the regulations be modified:

- To allow sale of the Club to another entity as authorized by the City Council (Section 4-3.16);
- To allow for potential relocation of the Club to another site, which if approved would require a new conditional use permit and an additional text amendment if the Club is

proposed in another zoning district besides the Central City-Commercial district (Section 4-3.47(d)); and

- To allow for additional games in accordance with State law (see Sections 4-3.30.2 and 4-3.34(g)).

Staff also has made several other edits, including providing additional requirements for criminal and financial background investigations for new owners, key employees, and third party providers[1]; establishing requirements for third party providers, which are not included in the current provisions; and establishing for the first time internal control standards developed by Hayward Police Department staff, which specify how the Club operations should be conducted. These revisions, along with the requirement that any new partial or full club owner must be approved by City Council, will help ensure that the Palace Card Club continues to be operated in a responsible manner. The revisions include:

- Purpose and Intent (Section 4-3.00);
- Definitions (Section 4-3.01) – including providing a new definition for "Third Party Providers";
- Establishing provisions for conducting financial and criminal background investigations (Section 4-3.13(b) and (c));
- Third Party Provider standards (Sections 4-3.30(f), 4-3.35(d) and (e) and other sections);
- Establishing Internal Control Standards (Section 4-3.30.1); and
- Establishing Appeal provisions (Sections 4-3.40 to 4-3.42).

In staff's opinion, the key land use policy (regarding the proposed project and text amendments especially), is whether it is still desirable to have the remaining single card club in Hayward (which has 150 employees) phased out as soon as possible due to concerns with the Palace's operation and related impacts; or whether the Palace Club should be allowed to continue its problem-free operations, even with a different owner, as a valued entertainment venue in Hayward, conditioned on tight regulatory authority and enforcement. As indicated toward the end of this report, there are still concerns from at least one nearby business owner with the customers' behavior and activity associated with the Palace Card Club. The following discussion regarding findings focuses on this key policy question regarding whether the Palace Card Club represents a positive land use in Hayward.

Text Amendment Findings – The proposed text amendment involves portions of the Hayward Municipal Code that are not part of the Zoning Ordinance. Therefore, staff is providing text amendment findings below that are similar to the findings for the use permit modification. Staff provides reasons below to support these text amendment findings, which are incorporated into Attachment II.

[1] "Third Party Providers" are providers of proposition player services in and to a card club under an agreement with the card club, which services include play as a participant in any controlled game that has a rotating player-dealer position as permitted by California Penal Code section 330.11 or any successor legislation. Prior to providing proposition player services for a permittee, the Third Party Provider and its owners and employees must register with the California Gambling Control Commission and submit a written contract and playing book forms for approval, in advance, by the Bureau of Gambling Control.

A. The proposed amendment is desirable for the public convenience or welfare.

The proposed amendment will afford the opportunity for the Palace Card Club to exist longer than it otherwise could, providing an entertainment venue for visitors to the Club and continued job opportunity for the 150 employees that currently work at the Club. The minimal expansion by two card tables would not generate significant impacts, and the greater variety of games proposed to be allowed and the building expansion/remodel would provide a more attractive venue for the Club's visitors. Visitors to the Palace Card Club will have the opportunity to visit other retail establishments in the Downtown (or in areas near a possible future Club location), and with enhanced regulatory oversight and enforcement of the Club related to the text amendment, especially related to third-party providers, the opportunity for criminal behavior of future owners related to gambling and the Club's operations will be diminished.

B. ***The proposed amendment will not impair the character or integrity of the zoning district and surrounding area.***

Minimal impacts are anticipated with the proposed text amendment, given the added regulatory framework and conditions of approval associated with the related conditional use permit regarding security (1991 Condition of Approval No. 9), responsibility for trash/litter pick up (Condition of Approval No.5), noise (Condition of Approval No. 4), property maintenance (Condition of Approval No. 22), and parking impacts (Condition of Approval No. 3 requiring shuttle service and Condition of Approval No. 25). Also, should the Club be proposed to be moved to another location, it would require a conditional use permit and related findings, and if moved outside the Central-City Commercial zoning district, a text amendment would be required, with associated findings to ensure impacts to the surrounding area at that new site would be addressed.

C. The proposed amendment will not be detrimental to the public health, safety, or general welfare.

The text amendment will not be detrimental to the public health, safety, or general welfare due to oversight by the Chief of Police (and the California Gaming Board) of the Club operations, including criminal and financial background investigations of third party providers and new owners. Additionally, new internal control standards will help ensure that operations at the Club are legitimate and free of criminal activity. Additionally, the Palace Poker Casino has had few police service calls, and the service calls that have occurred are minor in nature and commensurate with commercial establishments.

D. The proposed amendment is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

The policies and strategies in the Land Use Chapter of the General Plan include:

Policy 1, Strategy 4: *"Promote mixed-use development where appropriate to ensure a pedestrian friendly environment that has opportunities such as housing, jobs, child care, shopping,* ***entertainment****, parks and recreation in close proximity."*

> The Palace Card Club, with minimal calls for service to the Hayward Police Department, exists as the only card club and as an entertainment venue in Hayward in an area that is comprised of a mixture of commercial and residential uses.

The stated purpose of the Economic Development Element is *"to identify the current economic conditions, constraints and opportunities in the City of Hayward and to establish policies and strategies that:*

- *Support economic growth;*
- *Maintain a healthy balance between economic growth and environmental quality;*
- *Provide the necessary support to businesses;*
- *Eliminate cumbersome and unnecessary regulations;*
- *Prevent the wasteful underutilization of physical resources;*
- *Encourage businesses that create permanent, higher wage jobs to locate and/or expand in Hayward; and*
- *Assist City residents to acquire skills so that they may fill the jobs of the future."*

> Approval of the text amendment is consistent with the purpose of the Economic Development Element in that the Palace Card Club is a large employer in Hayward's downtown, and additional tables and expansion will result in an eventual demand for more employees.

Policy 2, Strategy 2 of the Economic Development Chapter states, "*Work cooperatively with local business and industrial associations to improve the general business climate and to stimulate new business investment."*

Policy 6, Strategy 2: "*Retain small businesses and facilitate their expansion efforts.*"

> The text amendment will allow for the Palace Card Club to exist longer than it otherwise would, encouraging investment in the building and operation by the current owners, and possibly future owners.

Related to the finding regarding harmony with the intent and purpose of the applicable zoning district, the proposed text amendment is consistent with the purpose of the Central City-Commercial zoning subdistrict, which is, "…to establish a mix of business and other activities which will enhance the economic vitality of the town area. Permitted activities include, but are not limited to, retail, office, service, lodging, **entertainment,** education and multi-family residential uses."

> The proposed text amendment would help facilitate the continued responsible operation of the Palace Card Club as an entertainment venue in the Central City-Commercial Zoning subdistrict.

Conditional Use Permit Modification Findings - The Central City Commercial (CC-C) District allows card clubs with the approval of a conditional use permit and subject to compliance with the City's Card Club Regulations. The purposes for requiring conditional use permit approval are to assure certain uses, as specified in the various districts, are permitted where there is a community need, and to assure said uses occur in maximum harmony with the area and in accordance with official City policies and regulations.

Staff supports expansion of the Palace Poker Casino, including the proposed increase from eleven to thirteen tables and the 2,437 square foot addition to the existing facility. The increased number of tables is consistent with the most current State Gaming Regulations and the City's Card Club Regulations, which are being amended concurrently with this application.. The proposed expansion project would create a dining area to accommodate patrons and provide offices and a staff lounge for Casino employees.

In order for the Conditional Use Permit Application to be approved, the following findings must be made. The applicant's responses to the findings are included as Attachment XII and staff's responses to the findings are shown below and reflected in Attachment II.

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

The proposed use permit modification to allow two additional gaming tables will be desirable for the public convenience in that greater opportunities for entertaining the public may be provided within the City with minimal impacts; further, additional tables are desirable for the public welfare by providing additional annual revenue, which will benefit the public welfare. In addition, the proposed expansion and façade improvements to the existing building will be compatible in size with the adjacent structures and with surrounding uses in that it is adjacent to and in the vicinity of other two-story buildings of a similar scale; and, as designed, the proposed addition and façade improvements to the existing building will creates a more attractive frontage along Mission Boulevard.

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

The two additional gaming tables will not impair the character or integrity of the zoning district in that there will be no marginal change in use or operation on the site from what is existing. The proposed addition and façade improvements will improve the character of the zoning district and surrounding area by updating the architectural design of an older, outdated building and existing conditions and ordinance standards requiring adequate security and no alcohol sales would remain in effect. In addition, the imposition of the annual mitigation fee will offset the impacts to the City's parking facility created by the Club's round-the-clock shuttle. A parking space will be reserved in the garage for use by the Club's shuttle vehicle, minimizing any traffic conflicts related to Club operations.

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

The two proposed additional gaming tables in the existing card club will not be detrimental

to the public health, safety, or general welfare, in that the existing card club has been in operation in this location since 1992 and will continue to be operated in a manner that is acceptable and compatible with surrounding development and in accordance with all City and state regulations. In addition, newly developed Internal Control Standards will ensure that the Club is operated in a lawful, safe and responsible manner.

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

The proposed project is an expansion of an existing business and will continue to be harmonious with all applicable City policies and the intent of the CC-C Zoning District. In addition, the proposed building expansion and façade improvements conform to the City's Design Guidelines in that the architectural design incorporates offsets to break up building mass, utilizing a variety of materials on the front façade and a continuous roof around the building and accented entry features.

The proposed use would be in harmony with applicable City policies in that the expanded Card room establishment would be consistent with the General Plan Economic Development goal to *retain small businesses and facilitate their expansion efforts; and create a sound local economy that attracts investment, increases the tax base, creates employment opportunities for residents and generates public revenues,* in that the proposed building addition and additional gaming tables would allow the expansion of the existing business. The expansion of the business will provide additional jobs in the area, as well as increase the tax revenue generated within the City.

Environmental Review – Staff has determined that the proposed use permit modification and text amendment to Chapter 4, Article 3 of the Hayward Municipal Code is categorically exempt from environmental impact analysis, per Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) guidelines.

ECONOMIC IMPACT

The proposed project would enhance the front façade of an aging building along a visible major arterial roadway, and would also provide a more inviting entertainment venue, including customer dining area. Also, the project would provide additional provisions to ensure third party providers, as well as new managers and potentially new owners, would be subject to a complete and thorough financial and criminal background investigation. Additional games and more tables would be allowed – all contributing to making the Palace Card Club a more inviting place for customers seeking that type of entertainment.

FISCAL IMPACT

In terms of fiscal impacts, staff is recommending several modifications to fees, and the Club owners have agreed to such modifications, which are:

Cost Recovery Fees - Staff is recommending that adjustments to the City's Master Fee Schedule be made (see Attachment II) that will ensure cost recovery associated with the Police Department staff administering the City's regulations, conducting compliance checks each year, and conducting employee background checks and permitting the approximately 150 Club employees on an annual basis. The existing annual employee permit fee of $153 and $23 fingerprinting fee is not proposed to be changed ($26,400 annually, assuming 150 employees), nor is the annual $40 business license application processing fee. The current per table fee for the club is $1,500 per table ($16,500 annually for 11 tables). As shown in Attachment II, staff is proposing (and the project proponent has agreed to) a new annual fee of $8,693 per table (assuming 13 tables), which equals approximately $113,009 annually, equivalent to 0.5 FTE police officer.

To cover the costs associated with conducting criminal and financial background investigations for new club owners, managers and third party providers, a deposit will be required to pay for a City-hired consultant to conduct such investigations. The costs for such investigations often are tens of thousands of dollars.

Business License Tax - The current annual business license tax for card clubs is well below the tax for card clubs in other jurisdictions: monthly fee of $33.35 for initial table and $16.70 for each additional table. At those rates, the current annual business license tax that is paid by the Club would be $2,805 (for 13 tables). Only with a majority vote of voters in an election can the business license tax be increased. Because the City's business license ordinance has not been amended in several years, staff will consider recommending that an election be held in the next one to five years that would amend the business license tax categories and rates not only for card clubs, but for other businesses in general.

Mitigation Fee – To address the impacts associated with the shuttle from the Club parking illegally in the public parking garage and the associated litter from users of the shuttle, a mitigation fee is recommended by staff equal to $114,146, to which the Club owner has agreed. A space will be reserved in the garage for the shuttle. New recommended condition of approval number 12 for the conditional use permit reflects such fee (see Attachment XIII). Staff is recommending such fee be required for a period of five years, with the ability to amend, delete, or increase it, with Planning Commission approval at a public hearing.

Below is a table that summarizes existing fees and their related changes as well as the newly proposed fees and licenses.

Fee/Tax Description	Proposed Annual Fee/Tax Amount	Existing Annual Fee/Tax Amount	Increased Revenue to City from New Fees
Business License Tax	$2,805 (13 tables)	$2,402.20 (11 tables)	$403
Cost Recovery Fee	$113,009 (13 tables @ **$8,693** per table)	$16,500 (11 tables @ $1,500 per table)	$96,509
Mitigation Fee	**$114,186**	$0	$114,186
TOTAL TO GENERAL FUND	**$ 230,000**	**$18,902**	**$211,098**

Note: Fees will be required to be paid to cover cost of conducting criminal and background investigations of new owners, managers and third party providers, which will be on a Time & Materials basis. Such fee would over and above what is listed in the above table and would be a deposit (initial deposit estimate of $50,000) to cover the costs of consultant(s) hired by the City to conduct such investigations. Also, employees and others would continue to pay for their background checks and fingerprinting in addition to the above Club fees, just as they do now. Finally, the existing License Application Fee of $40 will continue unaffected for now.

PUBLIC CONTACT

Staff has met on numerous occasions with the project proponents over the last several months related to the proposed amendments to the Municipal Code and the proposed project. Related to notice for the May 9, 2013 Planning Commission hearing, an e-mail from the daughter of the owner of the adjacent restaurant to the north (La Paradis La Patissere) was received, expressing concerns with the proposed increase in number of tables and associated parking impacts (Attachment XIV). Ms. Nguyen indicates that allowing for additional tables will exacerbate problems that already exist associated with customers of the Club who create negative impacts on her mother's business and surrounding residences. No testimony from Ms. Nguyen was provided at the May 9 Planning Commission meeting, nor was there any testimony in opposition to the project.

A notice of this public hearing was sent to owners/residents of properties within 300 feet of the subject property, as well as to the Chamber of Commerce, downtown businesses and the downtown BIA members, and downtown homeowners associations. Also, a notice of this public hearing was published in *The Daily Review* on May 25, 2013. Other than the one response noted above, no additional responses to the notices have been received as of the finalization of this staff report.

SCHEDULE

Should Council introduce the attached ordinance, it will be scheduled for adoption on June 18. If it is adopted, it would become effective 30 days after adoption. If the Council adopts the attached resolution regarding the conditional use permit modification, it would become effective when the

ordinance becomes effective and the resolution regarding an amendment to the Master Fee Schedule would become effective immediately upon adoption.

Prepared and Recommended by: David Rizk, AICP, Development Services Director

Approved by:

_____

Fran David
City Manager

Attachments:

Attachment I	Draft Resolution
Attachment II	Draft Resolution regarding amendments to Master Fee Schedule
Attachment III	Draft Ordinance - Revisions to Chapter 4, Article 3 of the Hayward Municipal Code
Attachment IV	Draft Revisions to Chapter 4, Article 3 of the Hayward Municipal Code (red-lined version)
Attachment V	July 10, 1979 City Council Meeting Minutes (partial)
Attachment VI	October 10, 2006 City Council Meeting Minutes (partial)
Attachment VII	October 17, 2006 City Council Meeting Minutes (partial)
Attachment VIII	July 23, 2009 Planning Commission Meeting Minutes (partial)
Attachment IX	September 22, 2009 City Council Meeting Minutes (partial)
Attachment X	Draft May 9, 2013 Planning Commission meeting minutes (partial)
Attachment XI	Project Plans
Attachment XII	Applicant response to Findings for Conditional Use Permit Modification
Attachment XIII	Recommended Conditions of Approval
Attachment XIV	May 2, 2013 letter and July, 2011 e-mail from Nathalie Nguyen, daughter of Alice Nguyen, owner of La Paradis La Patissere Restaurant, adjacent and north of the subject property

HAYWARD CITY COUNCIL

RESOLUTION NO. 13-

Introduced by Councilmember _____

RESOLUTION FINDING THE PROJECT CATEGORICALLY EXEMPT FROM CEQA REVIEW AND APPROVING PROPOSED TEXT AMENDMENTS TO THE CITY'S CARD CLUB REGULATIONS AND RELATED CONDITIONAL USE PERMIT MODIFICATION ASSOCIATED WITH THE PALACE CARD CLUB AT 22821 MSISION BOULEVARD

WHEREAS, the Palace Poker Casino, LLC (Applicant) and Catherine Aganon and Pamela Roberts (Owners/Trustees) submitted Text Amendment Application No. PL-2011-0213 TA and Conditional Use Permit Modification Application No. PL-2011-0303 CUP, requesting amendments to the City of Hayward's card club regulations, including the ability to sell partial or whole ownership interest in the Palace Card Club (the "Club") and to relocate the Club to a different site, and proposing an increase in the number of card tables from 11 to 13 and the development of an approximately 2,400 square foot, two-story addition at the Palace Card Club (the "Project'); and

WHEREAS, the proposed use permit modification and text amendment are categorically exempt from environmental impact analysis, pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) guidelines; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on May 9, 2013, and unanimously recommended that the City Council find the Project categorically exempt from CEQA review and approve the text amendment (Application No. PL-2011-0213 TA) and related Conditional Use Permit Modification (Application No. PL-2011-0303 CUP); and

WHEREAS, amendments to the Master Fee Schedule are proposed related to card club fees, to offset costs to the City from the enforcement and administration of the proposed regulations; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on June 4, 2013.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Pursuant to CEQA Guidelines Section 15301 (Existing Facilities), the Project is categorically exempt from environmental impact analysis.

TEXT AMENDMENT

2. **The proposed amendment is desirable for the public convenience or welfare.**

   The proposed amendment will afford the opportunity for the Palace Card Club to exist longer than it otherwise could, providing an entertainment venue for visitors to the Club and continued job opportunity for the 150 employees that currently work at the Club. The minimal expansion by two card tables would not generate significant impacts, and the greater variety of games proposed to be allowed and the building expansion/remodel would provide a more attractive venue for the Club's visitors. Visitors to the Palace Card Club will have the opportunity to visit other retail establishments in the Downtown (or in areas near a possible future Club location), and with enhanced regulatory oversight and enforcement of the Club related to the text amendment, especially related to third-party providers, the opportunity for criminal behavior of future owners related to gambling and the Club's operations will be diminished.

3. **The proposed amendment will not impair the character or integrity of the zoning district and surrounding area.**

   Minimal impacts are anticipated with the proposed text amendment, given the added regulatory framework and conditions of approval associated with the related conditional use permit regarding security (1991 Condition of Approval No. 9), responsibility for trash/litter pick up (Condition of Approval No.5), noise (Condition of Approval No. 4), property maintenance (Condition of Approval No. 22), and parking impacts (Condition of Approval No. 3 requiring shuttle service and Condition of Approval No. 25). Also, should the Club be proposed to be moved to another location, it would require a conditional use permit and related findings, and if moved outside the Central-City Commercial zoning district, a text amendment would be required, with associated findings to ensure impacts to the surrounding area at that new site would be addressed.

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

   The text amendment will not be detrimental to the public health, safety, or general welfare due to oversight by the Chief of Police (and the California Gaming Board) of the Club operations, including criminal and financial background investigations of third party providers and new owners. Additionally, new internal control standards will help ensure that operations at the Club are legitimate and free of criminal activity. Additionally, the Palace Poker Casino has had few police service calls, and the service calls that have occurred are minor in nature and commensurate with commercial establishments.

5. **The proposed amendment is in harmony with applicable City policies and the intent**

and purpose of the zoning district involved.

The policies and strategies in the Land Use Chapter of the General Plan include:

Policy 1, Strategy 4: *"Promote mixed-use development where appropriate to ensure a pedestrian friendly environment that has opportunities such as housing, jobs, child care, shopping, entertainment, parks and recreation in close proximity."*

> The Palace Card Club, with minimal calls for service to the Hayward Police Department, exists as the only gambling establishment and as an entertainment venue in Hayward in an area that is comprised of a mixture of commercial and residential uses.

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- *Support economic growth;*
- *Maintain a healthy balance between economic growth and environmental quality;*
- *Provide the necessary support to businesses;*
- *Eliminate cumbersome and unnecessary regulations;*
- *Prevent the wasteful underutilization of physical resources;*
- *Encourage businesses that create permanent, higher wage jobs to locate and/or expand in Hayward; and*
- *Assist City residents to acquire skills so that they may fill the jobs of the future."*

> Approval of the text amendment is consistent with the purpose of the Economic Development Element in that the Palace Card Club is a large employer in Hayward's downtown, and additional tables and expansion will result in an eventual demand for more employees.

Policy 2, Strategy 2 of the Economic Development Chapter states, "*Work cooperatively with local business and industrial associations to improve the general business climate and to stimulate new business investment."*

Policy 6, Strategy 2: "*Retain small businesses and facilitate their expansion efforts."*

> The text amendment will allow for the Palace Card Club to exist longer than it otherwise would, encouraging investment in the building and operation by the current owners, and possibly future owners.

Related to the finding regarding harmony with the intent and purpose of the applicable zoning district, the proposed text amendment is consistent with the purpose of the Central City-Commercial zoning subdistrict, which is, "…to establish a mix of business and other activities which will enhance the economic vitality of the town area. Permitted activities

include, but are not limited to, retail, office, service, lodging, **entertainment,** education and multi-family residential uses."

The proposed text amendment would help facilitate the continued responsible operation of the Palace Card Club as an entertainment venue in the Central City-Commercial Zoning subdistrict.

CONDITIONAL USE PERMIT MODIFICATION

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

   The proposed use permit modification to allow two additional gaming tables will be desirable for the public convenience in that greater opportunities for entertaining the public may be provided within the City with minimal impacts; further, additional tables are desirable for the public welfare by providing additional annual revenue, which will benefit the public welfare. In addition, the proposed expansion and façade improvements to the existing building will be compatible in size with the adjacent structures and with surrounding uses in that it is adjacent to and in the vicinity of other two-story buildings of a similar scale; and, as designed, the proposed addition and façade improvements to the existing building will creates a more attractive frontage along Mission Boulevard.

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

   The two additional gaming tables will not impair the character or integrity of the zoning district in that there will be no marginal change in use or operation on the site from what is existing. The proposed addition and façade improvements will improve the character of the zoning district and surrounding area by updating the architectural design of an older, outdated building and existing conditions and ordinance standards requiring adequate security and no alcohol sales would remain in effect. In addition, the imposition of the annual mitigation fee will offset the impacts to the City's parking facility created by the Club's round-the-clock shuttle. A parking space will be reserved in the garage for use by the Club's shuttle vehicle, minimizing any traffic conflicts related to Club operations.

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

   The two proposed additional gaming tables in the existing card club will not be detrimental to the public health, safety, or general welfare, in that the existing card club has been in operation in this location since 1992 and will continue to be operated in a manner that is acceptable and compatible with surrounding development and in accordance with all City and state regulations. In addition, newly developed Internal Control Standards will ensure that the Club is operated in a lawful, safe and responsible manner.

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

The proposed project is an expansion of an existing business and will continue to be harmonious with all applicable City policies and the intent of the CC-C Zoning District. In addition, the proposed building expansion and façade improvements conform to the City's Design Guidelines in that the architectural design incorporates offsets to break up building mass, utilizing a variety of materials on the front façade and a continuous roof around the building and accented entry features.

The proposed use would be in harmony with applicable City policies in that the expanded Card room establishment would be consistent with the General Plan Economic Development goal to *retain small businesses and facilitate their expansion efforts; and create a sound local economy that attracts investment, increases the tax base, creates employment opportunities for residents and generates public revenues,* in that the proposed building addition and additional gaming tables would allow the expansion of the existing business. The expansion of the business will provide additional jobs in the area, as well as increase the tax revenue generated within the City.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby approves Text Amendment Application No. PL-2011-0213 TA and Conditional Use Permit Modification Application PL-2011-0303 CUP, subject to the attached conditions of approval and the adoption of the companion ordinance.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2013

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward

Attachment II

HAYWARD CITY COUNCIL

RESOLUTION NO _____

Introduced by Council Member _____

RESOLUTION AMENDING THE CITY OF HAYWARD MASTER FEE SCHEDULE WITH RESPECT TO CERTAIN FEES ASSOCIATED WITH CARD CLUBS

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

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

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

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

WHEREAS, the City is not achieving cost recovery associated with review and oversight of the Palace Card Club under the current fee structure.

NOT, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby amends the Master Fee Schedule and adopts a new Card Club permit annual table fee in the amount of $8,693.00 per table, as more specifically reflected in Attachment A.

BE IT RESOLVED that this resolution shall become effective immediately.

IN COUNCIL, HAYWARD, CALIFORNIA JUNE 4, 2013

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____

City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____

City Attorney of the City of Hayward

Attachment A

B. OPERATING PERMITS

1.	Bingo Permit (Reference HMC 4-3)		
	a.	Initial or renewal Fee	$50.00
2.	Card Club Permit (Reference HMC 4-3)		
	a.	Application Fee	$40.00
	b.	Annual Table Fee	~~$1,500.00~~ per table $8,693.00
3.	Closeout Sale Permit (Reference HMC 6-4)		
	a.	Initial Fee	$76.00
	b.	Renewal	$67.00
4.	Public Dance Permit (Reference HMC 6-2)		
	a.	Annual Fee (payable quarterly in advance)	$103.00/year
5.	Preferential Parking Permit (Reference Hayward Traffic Regulations Section 3.95 and Hayward Traffic Code 6.36)		
	a.	Initial Fee and Biennial Renewal Fee (for up to two residential or visitor permits)	$50.00
	b.	Each additional residential permit	$25.00
	c.	Each additional visitor permit	$25.00
6.	Peep Show Permit (Reference HMC 6-9)		
	a.	Peep Show Device	Time & Material
	b.	Investigation Fee	Time & Material

C. MISCELLANEOUS FEES

1.	Monthly Listing of New Hayward Based Businesses	$5.50/month
2.	Business Verification/Ownership Research	$8.00/business
3.	Parking Tax Offset Fee	$2.50

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 4, ARTICLE 3 OF THE CITY'S MUNICIPAL CODE, RELATING TO CARD CLUB REGULATIONS

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

Section 1. Upon the adoption of this Ordinance, Sections 4-3.00 through 4-3.47, relating to Card Club Regulations, of the City's Municipal Code are hereby repealed and new Sections 4-3.00 through 4-3.47 are enacted to read as follows:

"ARTICLE 3

CARD CLUB AND BINGO REGULATIONS

Section	Subject Matter
4-3.00	PURPOSE AND INTENT
4-3.01	DEFINITIONS
4-3.10	CARD CLUB PERMIT REQUIRED
4-3.11	APPLICATION FOR NEW CARD CLUB PERMIT
4-3.12	APPLICATION FEE
4-3.13	APPLICATION ACCEPTANCE, REFERRAL, INVESTIGATION, AND REPORT FOR NEW CARD CLUB PERMITS
4-3.14	PERMIT ISSUANCE
4-3.14.1	COMPLIANCE WITH STATE GAMBLING CONTROL ACT
4-3.15	EXPIRATION DATE
4-3.16	PERMITS NONASSIGNABLE
4-3.17	PERMIT RENEWALS AND RENEWAL APPLICATION FEES

4-3.18	LIMITATIONS ON NUMBER OF CARD TABLES
4-3.19	ANNUAL PERMIT FEE

OPERATING REGULATIONS

Section	Subject Matter
4-3.30	NUMBER OF TABLES RESTRICTED
4-3.30.1	INTERNAL CONTROL STANDARDS
4-3.30.2	CHANGE OF CARD GAME AT A TABLE
4-3.31	ALCOHOL, NARCOTICS, DRUGS PROHIBITED
4-3.32	MINORS PROHIBITED
4-3.33	REGISTRATION OF EMPLOYEES AND AGENTS; THIRD PARTY PROVIDERS
4-3.34	CERTAIN ACTS PROHIBITED
4-3.35	OBLIGATION TO INFORM OF CERTAIN CHANGES CONCERNING PERMITTEES, THIRD PARTY PROVIDERS, AGENTS, AND EMPLOYEES
4-3.36	HOURS OF OPERATION
4-3.37	POSTING OPERATING REGULATIONS
4-3.40	SUSPENSION AND REVOCATION OF PERMITS; APPEALS
4-3.41	SUSPENSION AND REVOCATION OF EMPLOYEE OR AGENT REGISTRATION; APPEALS
4-3.42	APPEAL OF DENIAL OF PERMIT
4-3.43	INJUNCTIVE RELIEF

4-3.44 OPERATION OF GAMES

4-3.45 PATRON SAFETY AND SECURITY

4-3.46 WAGERING LIMITS

4-3.47 LOCATION OF THE CARD CLUB

ARTICLE 3
CARD CLUB REGULATIONS

SEC. 4-3.00 PURPOSE AND INTENT. The City Council finds that the existence of card clubs within the City of Hayward has the potential to increase the Police Department's investigation of and response to criminal activity occurring in and around such establishments. Furthermore, the City Council finds that card clubs may encourage compulsive gambling and aggravate criminal behavior where such establishments exist. The purpose of this Article is to maintain the integrity of card club operations by requiring strict regulatory controls and enforcement practices to carefully monitor gaming activity at licensed card clubs within the City of Hayward. In order to mitigate the deleterious effects that card clubs may have on the safety and welfare of the residents of the City, the City Council finds that it is necessary to enact regulations governing the establishment, operation, management and continued existence of card clubs in the City. This Article is designed to regulate the persons, locations and practices permitted at card clubs and their funding sources. It is the intent of the City Council to regulate card clubs to the full extent authorized by the California Gambling Control Act, and the regulations implementing said Act. The provisions of this Article shall be broadly construed for the purpose of authorizing strict regulatory controls and oversight of card clubs located in the City.

SEC. 4-3.01 DEFINITIONS. For the purpose of this Article, certain words are defined and shall be construed as herein set out unless it is apparent from their context that a different meaning is intended.

a. "Applicant" is any individual person, partnership, corporation, limited liability company, or business entity of any kind seeking to establish, operate, manage, or maintain a card club.

b. "Card club" is any building or structure, or any portion of a building or structure, wherein any person or persons are permitted to play a card game in return for a fee, charge, or other compensation.

c. "Card game" is any game played with cards, including the Chinese tile game Pai Gow, for money or any other thing of value, or for checks, credits, or any other representation of value, the playing of which is allowed by the laws of the State of California, and approved by the Chief of Police following the receipt of written

notification from the applicant of the intent to conduct a State-sanctioned game.

d. "Card table" is any table or other surface upon which a card game is played and at which no more than ten players may be seated in any such card game being played, exclusive of dealers and bankers.

e. "Employee" is any person who, as employee, agent, or otherwise, is under the direction of the owner or operator of a card club, excluding Third Party Providers as defined below.

f. "Owner" is any person, persons, partnership, corporation, limited liability company, or other business entity, or any combination thereof, that has any interest, legal or equitable, in any card club permit.

g. “Permittee” is any individual, individuals, partnership, corporation, limited liability company or other form of business entity to whom a permit or license to establish, operate, manage, and maintain a card club has been issued pursuant to the provisions herein.

h. “Person” includes natural persons, partnerships, corporations, limited liability companies and any other legal unit or entity.

i. “Revenue Division” is the Revenue Division of the Finance Department of the City of Hayward.

j. “Third Party Providers” are providers of proposition player services in and to a card club under an agreement with the card club, which services include play as a participant in any controlled game that has a rotating player-dealer position as permitted by California Penal Code section 330.11 or any successor legislation. Prior to providing proposition player services for a permittee, the Third Party Provider and its owners and employees must register with the California Gambling Control Commission and submit a written contract and playing book forms for approval, in advance, by the Bureau of Gambling Control.

SEC. 4-3.10 CARD CLUB PERMIT REQUIRED.

a. No applicant shall establish, operate, manage, or maintain any card club or suffer any card club to be established, operated, managed, or maintained within any building or structure, or any portion of a building or structure, owned, occupied, or controlled by such applicant unless a valid, unexpired permit for such establishment has been issued pursuant to the provisions of this Article and such permit is neither suspended nor revoked. The holder of any such permit shall be required to exercise personal control and direction over the operation of the card club, and shall be available at reasonable times, during regular business hours, to the Chief of Police or a designated representative thereof.

b. A permit issued under this Article does not authorize the permittee to commence operations as a card club until the permittee has complied with all City business license, zoning and planning requirements, and all other federal, state and local laws and regulations.

c. Prior to commencing operations pursuant to a card club permit, an applicant must also obtain a conditional use permit under the City's Zoning Ordinance.

SEC. 4-3.11 APPLICATION FOR NEW CARD CLUB PERMIT. An application for a new card club permit, as required herein, shall be completed and filed with the Revenue Division upon such forms as may be furnished by that division. The application shall set forth and include the following:

a. The location of the card club for which the permit is requested, including a specific description of the building or structure, or portion of the building or structure, within which the card club is to be maintained;

b. The true and complete name and address of each owner of the building or structure within which the card club is proposed to be maintained;

c. The types of card games proposed to be played within the card club;

d. The true and complete name, home and business address of the applicant. If the applicant is a corporation, limited liability company or other business entity, the true and complete name, home and business address of each manager, general and limited partner, officer, member, and all shareholders of the business entity, except that for publicly-traded corporations, the names of shareholders with five percent or greater financial interest in the applicant;

e. The name and address of each third party provider, contract employee/company and person to be employed in the card club to the extent that such information is known at the time the application is filed;

f. The name and address of each lender or any other person to whom a share or percentage of the income of the card club is to be paid;

g. A photograph of the applicant(s) and a set of clearly identifiable fingerprints for which the applicant shall have paid to the Police Department the current fee set by the Department of Justice for receiving and processing the fingerprints so taken. For partnerships, corporations, limited liability companies and other business entities, each general and limited partner, manager, member, officer and all shareholders of the business entity shall be subject to this requirement; as to publicly-traded corporations, all natural person shareholders with five percent or

greater financial interest in the applicant shall be subject to the provisions of this subsection;

h. A statement by the applicant indicating whether or not such applicant has at any time been convicted of any crimes other than minor traffic offenses and, if so, the nature of the crime for which the applicant was convicted and the date and jurisdiction of the conviction. For partnerships, corporations, limited liability companies and other business entities, each general and limited partner, manager, member, officer and all shareholders of the business entity shall be subject to this requirement; for publicly-traded corporations, all shareholders with a five person or greater financial interest in the applicant shall be subject to this requirement;

i. A statement as to whether the applicant has had any permit or license to establish, operate, manage, or maintain a card club suspended, revoked or denied, the date and jurisdiction of such suspension, revocation or denial, and the reasons therefor. For partnerships, corporations, limited liability companies and other business entities, each general and limited partner, manager, member, officer and all shareholders of the business entity shall be subject to this requirement; for publicly-traded corporations, all shareholders with a five percent or greater financial interest in the applicant shall be subject to this requirement;

j. A statement that the applicant understands and agrees that the card club established or maintained under any permit issued pursuant to the application filed shall be established, operated, managed, and maintained in full conformity with the regulations of the City and the laws of the State, and that any violation of such regulation or law in the card club shall render the permit therefor subject to suspension or revocation;

k. A full and complete financial statement of the applicant on forms provided by the Revenue Division;

l. A statement that the applicant understands and agrees that the Chief of Police or a designated representative thereof, or contracted investigation company, shall have access to the card club premises and to the business records of the applicant for the purpose of investigating compliance with the provisions of this Article and all other applicable laws and regulations, and the applicant consents to any such search and consequential seizure;

m. A statement that the applicant understands and agrees to the inclusion in any report to the City Manager of any criminal conviction that the Chief of Police considers pertinent and necessary;

n. A statement that the applicant understand and agrees to abide with an established set of Internal Control Standards established by the Chief of Police as set forth in section 4-3.30.1; and

o. Such other information as the applicant considers pertinent.

p. A shareholder of a publicly-traded corporation, which is an applicant for, or holds a license to own, operate or manage a card club, having a five percent or greater financial interest in the corporation, may be required to file an application for a card club permit consistent with the requirements of this Article.

SEC. 4-3.12 APPLICATION FEE. An application fee, as established by the City Council from time to time in the City's Master Fee Schedule, shall be paid to the Revenue Division for the cost of processing and investigating the information contained in the application. The application fee shall be paid before the application is accepted by the Revenue Division. The application fee is separate from the fees for any criminal background investigations, financial background investigations or periodic compliance checks that may be required under this Article. The application fee and the fees for any criminal background investigation and financial background investigation shall be retained by the City whether or not the application is approved.

SEC. 4-3.13 APPLICATION ACCEPTANCE, REFERRAL, INVESTIGATION, AND REPORT FOR NEW CARD CLUB PERMITS.

a. The Revenue Division shall accept any application which contains all of the information required by section 4-3.11 herein and upon proof that the application fee required by section 4-3.12 herein has been paid. Upon such acceptance, the application shall be referred to other City offices as provided in the following subsections.

b. A copy of the application shall be forwarded to the Chief of Police, who shall investigate, or cause to be investigated, the contents of said application. The Chief of Police is hereby authorized to conduct a criminal background investigation and financial background investigation for each person named in the application for the purpose of determining whether any such person has been convicted of any crime involving gambling, larceny, usury, bribery, extortion, bookmaking, fraud, prostitution, pimping, or pandering.

c. At a minimum, the applicant shall be required to submit documentation that details the following for criminal/financial background investigation purposes:

(1) Any applicant who wishes to obtain a permit shall be in good standing with the California Gambling Control Commission. The applicant must show proof of a pending application and/or approval of a gambling license issued by the California Gambling Control Commission at the time of application with the City.

(2) Any applicant, including each individual owner, operator, partner, manager, member, officer and/or shareholder of any applicant that is a

business entity, who wishes to obtain a permit shall be subject to a criminal and financial background investigation. This background investigation shall be conducted by a reputable and licensed investigation company that specializes in criminal and forensic accounting backgrounds of gaming applicants. The investigation company shall be selected by the Chief of Police or his/her designee and all reasonable costs as determined at the sole discretion of the Chief of Police to conduct this investigation shall be paid for by the applicant(s), with the funds to be deposited into a fund maintained by the Revenue Division. An advance, non-refundable deposit for the investigation company to conduct said background may be required, as determined by the investigation company.

(3) Third Party Providers, including owners, partners, members, officers, managers and shareholders who will perform services under contract with the card club permittee, shall be subject to the same criminal and financial background investigation as applicants for a card club permit. The permittee shall inform the Chief of Police of the identity of all Third Party Providers. No Third Party Provider shall perform services at the card club prior to completion of the criminal and financial background investigation required by this Article.

Within 90 days after referral of a complete application, the Chief of Police shall send a written report to the Revenue Division containing a recommendation as to whether the requested permit should be granted, and shall give the reasons for the recommendation. Upon notification to the applicant, the Chief of Police can extend the background investigative process for any applicant for 30 days or longer, if necessary.

d. A copy of the application shall be forwarded to the Planning Director. The Planning Director shall investigate the information set forth in the application and determine whether or not the proposed use conforms to all applicable zoning laws and regulations. Within 30 days after referral of a complete application, the Planning Director shall send a written report to the Revenue Division containing the results of such investigation.

e. A copy of the application shall be forwarded to the Fire Chief. The Fire Chief shall investigate the information set forth in the application and determine whether or not the proposed use conforms to all applicable fire laws and regulations. Within 30 days after referral of a complete application, the Fire Chief shall send a written report to the Revenue Division containing the results of such investigation.

f. A copy of the application shall be forwarded to the Building Official. The Building Official shall investigate the information set forth in the application and determine whether or not the proposed use conforms to all applicable building laws and regulations. Within 30 days after referral of a complete application, the

Building Official shall send a written report to the Revenue Division containing the results of such investigation.

SEC. 4-3.14 PERMIT ISSUANCE. The Revenue Division shall issue the permit applied for unless it appears that one of the following facts exists:

a. The total number of card tables that would be maintained within the City, should the application be approved, exceeds the number authorized by section 4-3.18;

b. The report of the Planning Director, Fire Chief or Building Official indicates that the application would result in a violation of the laws or regulations such official administers; or

c. The report of the Chief of Police indicates that:

(1) Approval of the application would aggravate the crime problems in the area where the card club is proposed, or otherwise be detrimental to the crime prevention efforts of the Police Department; or

(2) The applicant is unfit to be entrusted with the operation of a card club business because of prior criminal convictions, prior license or permit history, business and credit history, or that the application contains false statements knowingly made.

In the event an application is denied, the Revenue Division shall notify the applicant within 5 days of such denial and the reasons therefor.

SEC. 4-3.14.1 COMPLIANCE WITH STATE GAMBLING CONTROL ACT. A permit shall not be issued to any person who would be disqualified based on any of the applicable licensing criteria set forth in California Business and Professions Code section 19850, or has been objected to in writing by the Division of Gambling Control of the State Department of Justice. Such criteria include:

a. Failure of the applicant to clearly establish eligibility and qualification.

b. Failure of the applicant to provide information, documentation and assurances required.

c. Conviction of a felony, including conviction by a federal court or a court in another state or jurisdiction for any crime that would constitute a felony in California.

d. Conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within a 10-year period preceding submission of the application in any jurisdiction.

e. Association with a criminal profiteering activity or organized crime.

f. Contumacious defiance by the applicant of any legislative investigatory body, or other official investigatory body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling.

g. The applicant is less than 21 years of age.

SEC. 4-3.15 EXPIRATION DATE. The Revenue Division shall indicate an expiration date on the face of each permit issued pursuant to section 4-3.14 herein. The expiration date so indicated shall not be more than one year from the date of such permit issuance or date of renewal.

SEC. 4-3.16 PERMITS NONASSIGNABLE.

a. Except as otherwise provided hereinafter, no card club permit or any table operated under a card club permit may be sold, transferred, or assigned by the permittee or by operation of law, to any other person, persons, or legal entity, without the prior approval of the City Council, which approval shall be conditioned upon the proposed transferee's compliance with the provisions of this Article and the Gambling Control Act of the State of California. Any sale, transfer, or assignment, or attempted sale, transfer, or assignment, without such prior approval shall be deemed a voluntary surrender of the permit, which permit shall thereupon be terminated and void; provided, however, that if the permittee is a business entity and one or more of the owners dies, the surviving owner may acquire, by purchase or otherwise, the interest of the deceased owner without effecting a surrender or termination of the permit.

b. A permittee may not incorporate after approval of the permit without the prior approval of the City Council, which approval shall be conditioned upon the proposed corporation's compliance with the provisions of this Article and the Gambling Control Act of the State of California.

c. Notwithstanding subsection (b) of this section, Catherine (Cathy) Aganon and Pamela Roberts, the current owners of the Palace Poker Casino located at 22821 Mission Boulevard, Hayward, California, may create a corporation, limited liability company, or partnership to own and manage the Palace Poker Casino; provided, however, that the ownership interest in such entity shall be limited to Catherine (Cathy) Aganon and Pamela Roberts only and shall be nontransferable, except as provided above.

SEC. 4-3.17 PERMIT RENEWALS AND RENEWAL APPLICATION FEES. A valid permit issued pursuant to the provisions of this Article or its predecessor, which has neither been surrendered or revoked, may be renewed for respective periods of not longer than one year upon the following terms and conditions:

a. An application for renewal shall be completed and filed 30 days prior to the expiration of the existing permit upon forms provided by the Revenue Division with such division. Applicants shall be responsible for City's reasonable costs as determined at the sole discretion of the Chief of Police of investigation of the information submitted for review with the renewal application, should any new information be submitted;

b. Applications for renewal shall contain the same information required by section 4-3.11 herein, and shall be accepted, referred, investigated, reported, issued, and dated as provided in sections 4-3.13 through 4-3.15 herein; provided, however, that if there is no change in the information previously submitted pursuant to the requirements of section 4-3.11andno material event has occurred requiring a full background investigation, in the discretion of the Chief of Police, the applicant for permit renewal shall not be required to undergo the comprehensive criminal and financial background investigation contemplated by section4-3.13; and

c. If an application for renewal is not filed, or the application fee is not paid within the time specified by section 4-3.17(a) herein, the permit shall expire one year after the date of its issuance or last renewal.

SEC. 4-3.18 LIMITATIONS ON NUMBER OF CARD TABLES. At no time shall there be issued and in effect card club permits for more than 13 tables at more than one location; provided, however, that if and when any existing permit is surrendered, revoked, or not renewed as required by these provisions, the maximum number of card club permits shall be reduced by that extent.

SEC. 4-3.19 ANNUAL PERMIT FEE. An annual permit fee shall be paid to the Revenue Division by each permittee. The fee shall be as established by the City Council from time to time in the City's Master Fee Schedule, which fee may be paid in full at the time of permit issuance or renewal, or on a quarterly basis, the first installment of which is payable at the time the permit is issued or renewed, and remaining installments in three-month intervals from the date of last such installment payment.

OPERATING REGULATIONS

SEC. 4-3.30 NUMBER OF TABLES RESTRICTED. No permittee or any other person in charge or control of a card club at any time shall manage, maintain, use, operate, or have any interest in more tables than the number specified on the permit issued to such permittee. No card club shall have more tables in use or available for use than the number for which the operator has paid the appropriate table fee.

SEC. 4-3.30.1 INTERNAL CONTROL STANDARDS. Each permittee of a card club must abide by a set of internal control standards established, and as may be amended from time to time, by the Chief of Police. These internal control standards are needed to thwart criminal activity and prevent undue stress on public safety resources. The auditing of these internal

control standards will be completed by compliance check(s) conducted by the Police Department. Random compliance checks may be conducted monthly; however, the frequency and scope of any compliance checks are at the discretion of the Chief of Police. Reasonable efforts will made by the Police Department to ensure a minimal disruption or hardship upon the permittee to conduct business.

The internal controls standards shall include, but are not limited to the following:

Organizational Standards
Casino Cage Standards
Table Games Standards
Internal Audit Standards
Accounting Standards
Anti-money laundering controls
IT (Information/Internet Technology) Standards
Security/Surveillance Standards
Vendor/Contractor Standards
Food and Beverage Standards.

SEC. 4-3.30.2 CHANGE OF CARD GAME AT A TABLE. A permittee may change the type of State-sanctioned card game played at a particular card table consistent with the rules of the State Gambling Commission, upon furnishing notification in writing to the Chief of Police of the intent to change the card game at that table.

SEC. 4-3.31 ALCOHOL, NARCOTICS, DRUGS PROHIBITED. No permittee or any other person in charge or control of any card club shall permit any person to enter or remain on the premises of such card club or to play any card game permitted by the provisions of this Article while such person is under the influence of any intoxicating beverage, narcotic, or drug, nor shall any alcoholic beverage, narcotic, or drug be sold, served, given, or delivered, or permitted to be sold, served, given, or delivered to any person within the card club.

SEC. 4-3.32 MINORS PROHIBITED. No permittee or other person in charge or control of any card club shall permit any person under the age of 21 to enter or remain in any card club, and no such person may participate, directly or indirectly, in any card game being played in the card club.

SEC. 4-3.33 REGISTRATION OF EMPLOYEES AND AGENTS; THIRD PARTY PROVIDERS.

a. No permittee or other person in charge or control of any card club shall employ or allow any person to work in such card club or for such card club permittee without such person having first applied for registration with the Chief of Police, except nothing herein shall be construed to prohibit the employees or agents of permittees who are actually working in a card club or for a card club permittee on the effective date of this Article from continuing such work, and thereafter within a period of 30

days submit the required application for registration.

b. Registration with the Chief of Police shall not be deemed complete until the prospective employee or agent has completed an application on forms provided by the Chief of Police setting forth:

(i) The true name of such person, including all other names by which such person is or has been known;

(ii) The address of such person;

(iii) The name of the card club and card club permittee in and for which such person intends to work;

(iv) A statement indicating whether or not such person has at any time been convicted of any crimes other than minor traffic offenses, and, if so, the nature of the crime for which such person was convicted and the date and jurisdiction of the conviction;

(v) A photograph of such person and a set of clearly identifiable fingerprints for which the prospective employee or agent shall have paid the Police Department the current fee set by the Department of Justice for receiving and processing the fingerprints so taken; and

(vi) A statement that such person understands and agrees to the inclusion in any report to the City Manager of any criminal conviction that the Chief of Police considers pertinent and necessary.

c. The Chief of Police is hereby authorized to obtain criminal history information for such person and conduct such other investigation deemed necessary for the purpose of determining whether the application accurately sets forth the information requested.

d. In the event the Chief of Police determines that the application contains false statements knowingly made, or that the applicant is unfit to be involved in the operation of' a card club business because of prior criminal convictions involving gambling, larceny, usury, bribery, extortion, bookmaking, fraud, prostitution, pimping or pandering, or because of prior license or permit history, the Chief of Police shall notify the prospective employee within 5 days of such determination.

e. In the event of approval of the application, the Chief of Police shall provide the prospective employee or agent with an identification card, which card shall be worn in sight at all times that such person is actually on the premises of the card club permittee.

f. In addition to the registration requirements set forth above, all Third Party Providers, and their owners and managers, shall be subject to a criminal and financial background investigation prior to performing services at a permitted card club. Upon satisfactory completion of the criminal and financial background investigation, the Third Party Providers will be issued identification cards that shall be worn in sight at all times that the Third Party Providers are on the premises of the card club.

SEC. 4-3.34 CERTAIN ACTS PROHIBITED. No permittee or any other person in charge or control of any card club shall allow or permit to be allowed, any employee, third party provider or agent of such permittee or person to:

a. Loan any money, check, or anything of value, or any representation of value, to any person who is playing, or intends to play, any card game;

b. Extend credit to any person who is playing, or intends to play, any card game;

c. Purchase, or agree to purchase, any real or personal property from any person who is playing, or intends to play, any card game;

d. Charge any fee to cash a check of any person who is playing, or intends to play, any card game;

e. Engage in, or permit any other person on the premises to engage in, any act that violates the laws of the State of California;

f. Communicate in any way, whether verbally or nonverbally, to any other person, whether playing a card game or not, any information concerning the cards held, or the card game being played, by any person in the card club; or

g. Play any games other than permitted games. Permitted games must meet the following criteria:

(i) The permittee may only facilitate the playing of games allowed by California State Law. All games the permittee wishes to play must be approved in advance by the Chief of Police. The permittee must notify the Chief of Police in writing of the intent to commence playing a new card game.

(ii) All games conducted, dealt or carried on with dice, dominos, or devices other than cards, tiles, or for money, checks, credit, or other representations of value where chance is any determining factor in the outcome of the game are prohibited.

(iii) All approved games must have the rules and game play conspicuously displayed where all players and employees can observe them at all times.

(iv) The permittee must also display in a conspicuously location, the following house rules governing disputes in play:
"Players are Responsible for their Hands"
"The Floor Person/Supervisor's Decisions Are Final"
"Free Gaming Instructions Offered"

SEC. 4-3.35 OBLIGATION TO INFORM OF CERTAIN CHANGES CONCERNING PERMITTEES, THIRD PARTY PROVIDERS, AGENTS AND EMPLOYEES.

a. The permittee shall notify the Revenue Division in writing and within 14 days of any change in the information required in an application for permit issuance or renewal as provided in section 4-3.11 herein, except that no such change need be reported if such change occurs within the 60 days immediately preceding the expiration of such permit.

b. Each person registered as a card club employee or agent shall notify the Revenue Division in writing and within 14 days of any change in the information such employee or agent provided in the registration application required by section 4-3.33 herein.

c. The Revenue Division shall promptly inform the Chief of Police of any notification received pursuant to the provisions of subsections (a) and (b) herein.

d. The permittee shall inform Chief of Police immediately of any changes in ownership of any Third Party Provider or contract company (i.e., security, janitorial services). The permittee shall also show proof to the Chief of Police that any new Third Party Provider has been notified by the permittee of the criminal and financial background investigation requirements for any new Third Party Provider. Any new persons shall be subject to licensing and qualification.

e. Third Party Providers shall not engage in any gaming activity at permittee's card club until granted approval by the Chief of Police.

SEC. 4-3.36 HOURS OF OPERATION.

a. No permittee or any other person in charge or control of any card club shall permit any person to enter or remain on the premises of any such card club, or to play any card game permitted by the provisions of this Article, between the hours of 2 a.m. and 9 a.m. of any day other than Saturday during the year.

b. Notwithstanding the provisions of the preceding subsection, the Chief of Police shall approve the application of a card club to operate 24 hours a day on Sundays

through Fridays if the Chief finds that the following conditions are met:

(1) The card club is not located in a building that is proximate to property that is zoned and used for residential purposes. For purposes of this subsection, the Palace Poker Casino card club, located at 22821 Mission Boulevard, is not considered proximate to residential property; and

(2) The card club operator provides security personnel, screened and approved by the Chief of Police, during all hours of operation.

Continued compliance with both conditions shall be required for continued reliance upon the approval granted hereunder and if either condition is not met for any period of time, the card club permit shall be subject to suspension or revocation as set forth in section 4-3.40 hereof.

SEC. 4-3.37 POSTING OPERATING REGULATIONS. A set of operating regulations in a form approved by the Chief of Police and containing the provisions of Sections 4-3.30,4-3.31, 4-3.32, 4-3.34 and 4-3.36 of this Article shall be prominently posted in a conspicuous location within the card club.

SEC. 4-3.40 SUSPENSION AND REVOCATION OF PERMITS; APPEALS.

a. Any card club permit issued under the provisions of this Article shall be subject to suspension or revocation by the City Manager in the manner provided by Article 1, Chapter 6, of this Code for failure of such permittee, or any employee or agent of such permittee, to comply with any of the provisions of this Article, or for any grounds that would require denial of an application for issuance or renewal of such permit if such application were then pending, or for violation by such permittee, or any employee or agent of such permittee, of any statute or any duly adopted regulation of the City of Hayward, which violation pertains or relates to the establishment, maintenance, operation, or management of the card club authorized by such permit. The costs of any hearing conducted under Article 1, Chapter 6, of this Code will be borne by the affected party. Notice of revocation or suspension of a permit will be given to the affected party in writing no later than ten business days after conclusion of the hearing.

b. A decision by the City Manager, or his or her designee, to suspend or revoke a permit issued under the provisions of this Article may be appealed to the City Council. Such appeal must be filed with the City Manager within 14 days after notice of revocation or suspension has been sent to the permittee, employee or agent of the permittee. The appeal must be in writing, set forth the specific grounds for such appeal and be accompanied by the appropriate fee. The fee for the appeal shall be established by the City Council by resolution. The appeal shall be heard by the City Council, which may affirm, reverse or amend the decision of the City Manager.

SEC. 4-3.41 SUSPENSION AND REVOCATION OF EMPLOYEE OR AGENT REGISTRATION; APPEALS. Any person registered as a card club employee under the provisions of this Article shall be subject to having such registration suspended or revoked by the City Manager in the manner provided by Article 1, Chapter 6, of this Code for violation of any provision of this Article or for violation of any statute or any duly adopted regulation of the City of Hayward, which violation pertains or relates to the establishment, maintenance, operation, or management of a card club. A decision by the City Manager, or his or her designee, to suspend or revoke a permit under the provisions of this Article may be appealed as set forth in section 4-3.40.

SEC. 4-3.42 APPEAL OF DENIAL OF PERMIT. Any action of denial of a permit taken by the Revenue Division or the Chief of Police shall be subject to appeal to the City Manager in the manner provided by Article 1, Chapter 6, of this Code. A decision by the City Manager, or his or her designee, to deny a permit may be appealed as set forth in Section 4-3.40.

SEC. 4-3.43 INJUNCTIVE RELIEF. In addition to the legal remedies provided for in this Article, the operation of any card club in violation of the provisions of this Article or other applicable laws and regulations shall be deemed a public nuisance and the City of Hayward may bring an action in any court of competent jurisdiction to enjoin such violation.

SEC. 4-3.44 OPERATION OF GAMES. The rules of the games to be played in the card club pursuant to section 4-3.34g (ii) shall be prominently posted in a conspicuous location visible from each table. Each card table shall have posted the card game being played.

SEC. 4-3.45 PATRON SAFETY AND SECURITY. The Chief of Police may require, at his or her discretion, all permittees to implement reasonable security measures, as set forth in a security plan, to insure the safety of patrons including, but not limited to, hiring private uniformed security guards. If security guards are required, the Chief of Police shall determine the number and hours of coverage. All security personnel and the contracted security company must be licensed by the California Department of Consumer Affairs and be registered as card club "Contract Employees" with the Police Department.

SEC. 4-3.46 WAGERING LIMITS. There are no mandatory limits on the amount wagered in any permitted games. A card club permittee may impose wagering limits on any game, at his or her discretion. If wagering limits are established by the card club for games, the limits for each game must be clearly posted.

SEC. 4-3.47 LOCATION OF THE CARD CLUB.

a. A card club permit is valid only for the location provided in the permit. Relocation of a card club to a site other than the one permitted is prohibited and results in automatic termination except as provided herein.

b. Relocation of a card club to a location different from that described in the card club

permit is permitted where governmental acquisition of an existing permitted card club premises under threat of eminent domain or an actual exercise of the powers of eminent domain would result in the closing of the card club. In such a case, the permittee may apply for a new location on which to conduct the card club subject to the requirements for issuance of a permit as well as approval by the City Council. For purposes of this subsection, the expansion of the Palace Poker Casino card club, located at 22821 Mission Blvd., onto an adjacent parcel is not considered relocation.

c. In the event that the government takes possession of the property subject to a card club permit under threat or actual exercise of the power of eminent domain, the permit for the card club shall be deemed to be valid and remain in effect for a period of twelve months from the date of closing of the card club.

d. A card club may relocate to another site in the City; provided, however, that the card club is an allowed use in the zoning district in which the card club is to be located, the permittee has obtained a conditional use permit for the proposed location and the permittee has complied with all other applicable laws and regulations. If the owner of the real property to which the card club proposes to relocate is someone other than the permittee, then owner of the real property shall be subject to the criminal and financial background investigations set forth in section 4-3.13(c).

e. Prior approval of the Planning Commission is required for any physical expansion of the card club. A permittee must comply with all applicable laws and regulations for any physical expansion of the card club."

Section 2. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this Ordinance shall become effective thirty days after adoption.

Section 3. Severance. Should any portion of this ordinance be declared by court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of the City, such decision shall not affect the validity of the remainder of the ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance absent the excised portion, can be reasonably interpreted to give effect to the intentions of the City Council

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the _____ day of June, 2013, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of _____, 2013, 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

Revised 5/22/13

ARTICLE 3

CARD CLUB AND BINGO REGULATIONS

Section	Subject Matter
4-3.00	PURPOSE AND INTENT
4-3.01	DEFINITIONS
4-3.10	CARD CLUB PERMIT REQUIRED
4-3.11	APPLICATION FOR NEW CARD CLUB PERMIT
4-3.12	APPLICATION FEE
4-3.13	APPLICATION ACCEPTANCE, REFERRAL, INVESTIGATION, AND REPORT FOR NEW CARD CLUB PERMITS
4-3.14	PERMIT ISSUANCE
4-3.14.1	COMPLIANCE WITH STATE GAMBLING CONTROLACT
4-3.15	EXPIRATION DATE
4-3.16	PERMITS NONASSIGNABLE
4-3.17	PERMIT RENEWALS AND RENEWAL APPLICATION FEES
4-3.18	LIMITATIONS ON NUMBER OF CARD TABLES
4-3.19	ANNUAL PERMIT FEE

OPERATING REGULATIONS

Section	Subject Matter
4-3.30	NUMBER OF TABLES RESTRICTED
4-3.30.1	INTERNAL CONTROL STANDARDS
4-3.30.2	CHANGE OF CARD GAME AT A TABLE
4-3.31	ALCOHOL, NARCOTICS, DRUGS PROHIBITED
4-3.32	MINORS PROHIBITED
4-3.33	REGISTRATION OF EMPLOYEES AND AGENTS; THIRD PARTY PROVIDERS
4-3.34	CERTAIN ACTS PROHIBITED
4-3.35	OBLIGATION TO INFORM OF CERTAIN CHANGES CONCERNING PERMITTEES, THIRD PARTY PROVIDERS, AGENTS, AND EMPLOYEES
4-3.36	HOURS OF OPERATION
4-3.37	POSTING OPERATING REGULATIONS
4-3.40	SUSPENSION AND REVOCATION OF PERMITS; APPEALS
4-3.41	SUSPENSION AND REVOCATION OF EMPLOYEE OR AGENT REGISTRATION; APPEALS
4-3.42	APPEAL OF DENIAL OF PERMIT
4-3.43	INJUNCTIVE RELIEF
4-3.44	OPERATION OF GAMES
4-3.45	PATRON SAFETY AND SECURITY
4-3.46	WAGERING LIMITS
4-3.47	LOCATION OF THE CARD CLUB

BINGO GAMES FOR CHARITY

Section	Subject Matter
4-3.50	AUTHORITY
4-3.51	DEFINITIONS
4-3.52	ORGANIZATIONS ELIGIBLE FOR CITY PERMIT
4-3.55	APPLICATION FOR PERMIT
4-3.56	APPLICANT MUST BE QUALIFIED (Repealed by Ord. No. 77-039 C.S., adopted August 23, 1977.)
4-3.57	CONTENTS OF APPLICATION
4-3.58	INVESTIGATION OF APPLICANT
4-3.59	CONTENTS OF PERMIT
4-3.60	INSPECTION
4-3.65	EQUIPMENT
4-3.66	MAXIMUM AMOUNT OF PRIZE
4-3.67	PROFITS - SEPARATE FUND OR ACCOUNT
4-3.68	FINANCIAL INTEREST - PERMITTEE ONLY
4-3.69	EXCLUSIVE OPERATION BY PERMITTEE
4-3.70	BINGO GAMES OPEN TO PUBLIC
4-3.71	ATTENDANCE LIMITED TO OCCUPANCY CAPACITY
4-3.72	BINGO GAMES CONDUCTED ON PROPERTY UTILIZED BY PERMITTEE FOR ITS CHARITABLE PURPOSES
4-3.73	MINORS NOT TO PARTICIPATE

4-3.74	ALCOHOLIC BEVERAGES
4-3.75	HOURS OF OPERATION
4-3.76	PARTICIPANT MUST BE PRESENT
4-3.80	RECEIPT OF PROFIT BY A PERSON A MISDEMEANOR UNDER STATE LAW
4-3.81	SUMMARY SUSPENSION OF PERMIT
4-3.82	REVOCATION OF PERMIT - HEARING
4-3.85	CITY MAY ENJOIN VIOLATION
4-3.90	GAMING

ARTICLE 3
CARD CLUB REGULATIONS

SEC. 4-3.00 PURPOSE AND INTENT. The City Council finds that the existence of card clubs within the City of Hayward has the potential to increase the Police Department's investigation of and response to criminal activity occurring in and around such establishments. Furthermore, the City Council finds that card clubs may encourage compulsive gambling and aggravate criminal behavior where such establishments exist. The purpose of this Article is to maintain the integrity of card club operations by requiring strict regulatory controls and enforcement practices to carefully monitor gaming activity at licensed card clubs within the City of Hayward. In order to mitigate the deleterious effects that card clubs may have on the safety and welfare of the residents of the City, the City Council finds that it is necessary to enact regulations governing the establishment, operation, management and continued existence of card clubs in the City. This Article is designed to regulate the persons, locations and practices permitted at card clubs and their funding sources. It is the intent of the City Council to regulate card clubs to the full extent authorized by the California Gambling Control Act, and the regulations implementing said Act. The provisions of this Article shall be broadly construed for the purpose of authorizing strict regulatory controls and oversight of card clubs located in the City.

SEC. 4-3.01 DEFINITIONS. For the purpose of this Article, certain words are defined and shall be construed as herein set out unless it is apparent from their context that a different meaning is intended.

a. "Applicant" is any individual person, partnership, corporation, limited liability company, or business entity of any kind seeking to establish, operate, manage, or maintain a card club.

b. "Card club" is any building or structure, or any portion of a building or structure, wherein any person or persons are permitted to play a card game in return for a fee, charge, or other compensation.

c. "Card game" is any game played with cards, including the Chinese tile game Pai Gow, for money or any other thing of value, or for checks, credits, or any other representation of value, the playing of which is allowed by the laws of the State of California, and approved by the Chief of Police following the receipt of written notification from the applicant of the intent to conduct a State-sanctioned game.

d. "Card table" is any table or other surface upon which a card game is played and at which no more than ten players may be seated in any such card game being played, exclusive of dealers and bankers.

e. "Employee" is any person who, as employee, agent, or otherwise, is under the direction of the owner or operator of a card club, excluding Third Party Providers as defined below.

f. "Owner" is any person, persons, partnership, corporation, limited liability company, or other business entity, or any combination thereof, that has any interest, legal or equitable, in any card club permit.

g. “Permittee” is any individual, individuals, partnership, corporation, limited liability company or other form of business entity to whom a permit or license to establish, operate, manage, and maintain a card club has been issued pursuant to the provisions herein.

h. “Person” includes natural persons, partnerships, corporations, limited liability companies and any other legal unit or entity.

i. “Revenue Division” is the Revenue Division of the Finance Department of the City of Hayward.

j. “Third Party Providers” are providers of proposition player services in and to a card club under an agreement with the card club, which services include play as a participant in any controlled game that has a rotating player-dealer position as permitted by California Penal Code section 330.11 or any successor legislation. Prior to providing proposition player services for a permittee, the Third Party Provider and its owners and employees must register with the California Gambling Control Commission and submit a written contract and playing book forms for approval, in advance, by the Bureau of Gambling Control.

SEC. 4-3.10 CARD CLUB PERMIT REQUIRED.

a. No applicant shall establish, operate, anage, or maintain any card club or suffer any card club to be established, operated, managed, or maintained within any building or structure, or any portion of a building or structure, owned, occupied, or controlled by such applicant unless a valid, unexpired permit for such establishment has been issued pursuant to the provisions of this Article and such permit is neither suspended nor revoked. The holder of any such permit shall be required to exercise personal control and direction over the operation of mthe card club, and shall be available at reasonable times, during regular business hours, to the Chief of Police or a designated representative thereof.

b. A permit issued under this Article does not authorize the permittee to commence operations as a card club until the permittee has complied with all City business license, zoning and planning requirements, and all other federal, state and local laws and regulations.

c. Prior to commencing operations pursuant to a card club permit, an applicant must also obtain a conditional use permit under the City’s Zoning Ordinance.

SEC. 4-3.11 APPLICATION FOR NEW CARD CLUB PERMIT. An application for a new card club permit, as required herein, shall be completed and filed with the Revenue Division

upon such forms as may be furnished by that division. The application shall set forth and include the following:

a. The location of the card club for which the permit is requested, including a specific description of the building or structure, or portion of the building or structure, within which the card club is to be maintained;

b. The true and complete name and address of each owner of the building or structure within which the card club is proposed to be maintained;

c. The types of card games proposed to be played within the card club;

d. The true and complete name, home and business address of the applicant. If the applicant is a corporation, limited liability company or other business entity, the true and complete name, home and business address of each manager, general and limited partner, officer, member, and all shareholders of the business entity, except that for publicly-traded corporations, the names of shareholders with five percent or greater financial interest in the applicant;

e. The name and address of each third party provider, contract employee/company and person to be employed in the card club to the extent that such information is known at the time the application is filed;

f. The name and address of each lender or any other person to whom a share or percentage of the income of the card club is to be paid;

g. A photograph of the applicant(s) and a set of clearly identifiable fingerprints for which the applicant shall have paid to the Police Department the current fee set by the Department of Justice for receiving and processing the fingerprints so taken. For partnerships, corporations, limited liability companies and other business entities, each general and limited partner, manager, member, officer and all shareholders of the business entity shall be subject to this requirement; as to publicly-traded corporations, all natural person shareholders with five percent or greater financial interest in the applicant shall be subject to the provisions of this subsection;

h. A statement by the applicant indicating whether or not such applicant has at any time been convicted of any crimes other than minor traffic offenses and, if so, the nature of the crime for which the applicant was convicted and the date and jurisdiction of the conviction. For partnerships, corporations, limited liability companies and other business entities, each general and limited partner, manager, member, officer and all shareholders of the business entity shall be subject to this requirement; for publicly-traded corporations, all shareholders with a five person or greater financial interest in the applicant shall be subject to this requirement;

i. A statement as to whether the applicant has had any permit or license to establish, operate, manage, or maintain a card club suspended, revoked or denied, the date

and jurisdiction of such suspension, revocation or denial, and the reasons therefor. For partnerships, corporations, limited liability companies and other business entities, each general and limited partner, manager, member, officer and all shareholders of the business entity shall be subject to this requirement; for publicly-traded corporations, all shareholders with a five percent or greater financial interest in the applicant shall be subject to this requirement;

j. A statement that the applicant understands and agrees that the card club established or maintained under any permit issued pursuant to the application filed shall be established, operated, managed, and maintained in full conformity with the regulations of the City and the laws of the State, and that any violation of such regulation or law in the card club shall render the permit therefor subject to suspension or revocation;

k. A full and complete financial statement of the applicant on forms provided by the Revenue Division;

l. A statement that the applicant understands and agrees that the Chief of Police or a designated representative thereof, or contracted investigation company, shall have access to the card club premises and to the business records of the applicant for the purpose of investigating compliance with the provisions of this Article and all other applicable laws and regulations, and the applicant consents to any such search and consequential seizure;

m. A statement that the applicant understands and agrees to the inclusion in any report to the City Manager of any criminal conviction that the Chief of Police considers pertinent and necessary;

n. A statement that the applicant understand and agrees to abide with an established set of Internal Control Standards established by the Chief of Police as set forth in section 4-3.30.1; and

o. Such other information as the applicant considers pertinent.

p. A shareholder of a publicly-traded corporation, which is an applicant for, or holds a license to own, operate or manage a card club, having a five percent or greater financial interest in the corporation, may be required to file an application for a card club permit consistent with the requirements of this Article.

SEC. 4-3.12 APPLICATION FEE. An application fee, as established by the City Council from time to time in the City's Master Fee Schedule, shall be paid to the Revenue Division for the cost of processing and investigating the information contained in the application. The application fee shall be paid before the application is accepted by the Revenue Division. The application fee is separate from the fees for any criminal background investigations, financial background investigations or periodic compliance checks that may be required under this Article. The application fee and the fees for any criminal background investigation and financial

background investigation shall be retained by the City whether or not the application is approved.

SEC. 4-3.13 APPLICATION ACCEPTANCE, REFERRAL, INVESTIGATION, AND REPORT FOR NEW CARD CLUB PERMITS.

a. The Revenue Division shall accept any application which contains all of the information required by section 4-3.11 herein and upon proof that the application fee required by section 4-3.12 herein has been paid. Upon such acceptance, the application shall be referred to other City offices as provided in the following subsections.

b. A copy of the application shall be forwarded to the Chief of Police, who shall investigate, or cause to be investigated, the contents of said application. The Chief of Police is hereby authorized to conduct a criminal background investigation and financial background investigation for each person named in the application for the purpose of determining whether any such person has been convicted of any crime involving gambling, larceny, usury, bribery, extortion, bookmaking, fraud, prostitution, pimping, or pandering.

c. At a minimum, the applicant shall be required to submit documentation that details the following for criminal/financial background investigation purposes:

(1) Any applicant who wishes to obtain a permit shall be in good standing with the California Gambling Control Commission. The applicant must show proof of a pending application and/or approval of a gambling license issued by the California Gambling Control Commission at the time of application with the City.

(2) Any applicant, including each individual owner, operator, partner, manager, member, officer and/or shareholder of any applicant that is a business entity, who wishes to obtain a permit shall be subject to a criminal and financial background investigation. This background investigation shall be conducted by a reputable and licensed investigation company that specializes in criminal and forensic accounting backgrounds of gaming applicants. The investigation company shall be selected by the Chief of Police or his/her designee and all reasonable costs as determined at the sole discretion of the Chief of Police to conduct this investigation shall be paid for by the applicant(s), with the funds to be deposited into a fund maintained by the Revenue Division. An advance, non-refundable deposit for the investigation company to conduct said background may be required, as determined by the investigation company.

(3) Third Party Providers, including owners, partners, members, officers, managers and shareholders who will perform services under contract with the card club permittee, shall be subject to the same criminal and financial background investigation as applicants for a card club permit. The

permittee shall inform the Chief of Police of the identity of all Third Party Providers. No Third Party Provider shall perform services at the card club prior to completion of the criminal and financial background investigation required by this Article.

Within 90days after referral of a complete application, the Chief of Police shall send a written report to the Revenue Division containing a recommendation as to whether the requested permit should be granted, and shall give the reasons for the recommendation. Upon notification to the applicant, the Chief of Police can extend the background investigative process for any applicant for 30 days or longer, if necessary.

d. A copy of the application shall be forwarded to the Planning Director. The Planning Director shall investigate the information set forth in the application and determine whether or not the proposed use conforms to all applicable zoning laws and regulations. Within 30 days after referral of a complete application, the Planning Director shall send a written report to the Revenue Division containing the results of such investigation.

e. A copy of the application shall be forwarded to the Fire Chief. The Fire Chief shall investigate the information set forth in the application and determine whether or not the proposed use conforms to all applicable fire laws and regulations. Within 30 days after referral of a complete application, the Fire Chief shall send a written report to the Revenue Division containing the results of such investigation.

f. A copy of the application shall be forwarded to the Building Official. The Building Official shall investigate the information set forth in the application and determine whether or not the proposed use conforms to all applicable building laws and regulations. Within 30 days after referral of a complete application, the Building Official shall send a written report to the Revenue Division containing the results of such investigation.

SEC. 4-3.14 PERMIT ISSUANCE. The Revenue Division shall issue the permit applied for unless it appears that one of the following facts exists:

a. The total number of card tables that would be maintained within the City, should the application be approved, exceeds the number authorized by section 4-3.18;

b. The report of the Planning Director, Fire Chief or Building Official indicates that the application would result in a violation of the laws or regulations such official administers; or

c. The report of the Chief of Police indicates that:

(1) Approval of the application would aggravate the crime problems in the area where the card club is proposed, or otherwise be detrimental to the crime prevention efforts of the Police Department; or

(2) The applicant is unfit to be entrusted with the operation of a card club business because of prior criminal convictions, prior license or permit history, business and credit history, or that the application contains false statements knowingly made.

In the event an application is denied, the Revenue Division shall notify the applicant within 5 days of such denial and the reasons therefor.

SEC. 4-3.14.1 COMPLIANCE WITH STATE GAMBLING CONTROL ACT. A permit shall not be issued to any person who would be disqualified based on any of the applicable licensing criteria set forth in California Business and Professions Code section 19850, or has been objected to in writing by the Division of Gambling Control of the State Department of Justice. Such criteria include:

a. Failure of the applicant to clearly establish eligibility and qualification.

b. Failure of the applicant to provide information, documentation and assurances required.

c. Conviction of a felony, including conviction by a federal court or a court in another state or jurisdiction for any crime that would constitute a felony in California.

d. Conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within a 10-year period preceding submission of the application in any jurisdiction.

e. Association with a criminal profiteering activity or organized crime.

f. Contumacious defiance by the applicant of any legislative investigatory body, or other official investigatory body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling.

g. The applicant is less than 21 years of age.

SEC. 4-3.15 EXPIRATION DATE. The Revenue Division shall indicate an expiration date on the face of each permit issued pursuant to section 4-3.14 herein. The expiration date so indicated shall not be more than one year from the date of such permit issuance or date of renewal.

SEC. 4-3.16 PERMITS NONASSIGNABLE.

a. Except as otherwise provided hereinafter, no card club permit or any table operated under a card club permit may be sold, transferred, or assigned by the permittee or by operation of law, to any other person, persons, or legal entity, without the prior approval of the City Council, which approval shall be conditioned upon the proposed transferee's compliance with the provisions of this Article and the Gambling Control Act of the State of California. Any sale, transfer, or assignment, or attempted sale, transfer, or assignment, without such prior approval shall be deemed a voluntary surrender of the permit, which permit shall thereupon be terminated and void; provided, however, that if the permittee is a business entity and one or more of the owners dies, the surviving owner may acquire, by purchase or otherwise, the interest of the deceased owner without effecting a surrender or termination of the permit.

b. A permittee may not incorporate after approval of the permit without the prior approval of the City Council, which approval shall be conditioned upon the proposed corporation's compliance with the provisions of this Article and the Gambling Control Act of the State of California.

c. Notwithstanding subsection (b) of this section, Catherine (Cathy) Aganon and Pamela Roberts, the current owners of the Palace Poker Casino located at 22821 Mission Boulevard, Hayward, California, may create a corporation, limited liability company, or partnership to own and manage the Palace Poker Casino; provided, however, that the ownership interest in such entity shall be limited to Catherine (Cathy) Aganon and Pamela Roberts only and shall be nontransferable, except as provided above.

SEC. 4-3.17 PERMIT RENEWALS AND RENEWAL APPLICATION FEES. A valid permit issued pursuant to the provisions of this Article or its predecessor, which has neither been surrendered or revoked, may be renewed for respective periods of not longer than one year upon the following terms and conditions:

a. An application for renewal shall be completed and filed 30 days prior to the expiration of the existing permit upon forms provided by the Revenue Division with such division. Applicants shall be responsible for City's reasonable costs as determined at the sole discretion of the Chief of Police of investigation of the information submitted for review with the renewal application, should any new information be submitted;

b. Applications for renewal shall contain the same information required by section 4-3.11 herein, and shall be accepted, referred, investigated, reported, issued, and dated as provided in sections 4-3.13 through 4-3.15 herein; provided, however, that if there is no change in the information previously submitted pursuant to the requirements of section 4-3.11and no material event has occurred requiring a full background investigation, in the discretion of the Chief of Police, the applicant for permit renewal shall not be required to undergo the comprehensive criminal and financial background investigation contemplated by section4-3.13; and

c. If an application for renewal is not filed, or the application fee is not paid within the time specified by section 4-3.17(a) herein, the permit shall expire one year after the date of its issuance or last renewal.

SEC. 4-3.18 LIMITATIONS ON NUMBER OF CARD TABLES. At no time shall there be issued and in effect card club permits for more than 13 tables at more than one location; provided, however, that if and when any existing permit is surrendered, revoked, or not renewed as required by these provisions, the maximum number of card club permits shall be reduced by that extent.

SEC. 4-3.19 ANNUAL PERMIT FEE. An annual permit fee shall be paid to the Revenue Division by each permittee. The fee shall be
as established by the City Council from time to time in the City's Master Fee Schedule, which fee may be paid in full at the time of permit issuance or renewal, or on a quarterly basis, the first installment of which is payable at the time the permit is issued or renewed, and remaining installments in three-month intervals from the date of last such installment payment.

OPERATING REGULATIONS

SEC. 4-3.30 NUMBER OF TABLES RESTRICTED. No permittee or any other person in charge or control of a card club at any time shall manage, maintain, use, operate, or have any interest in more tables than the number specified on the permit issued to such permittee. No card club shall have more tables in use or available for use than the number for which the operator has paid the appropriate table fee.

SEC. 4-3.30.1 INTERNAL CONTROL STANDARDS. Each permittee of a card club must abide by a set of internal control standards established, and as may be amended from time to time, by the Chief of Police. These internal control standards are needed to thwart criminal activity and prevent undue stress on public safety resources. The auditing of these internal control standards will be completed by compliance check(s) conducted by the Police Department. Random compliance checks may be conducted monthly; however, the frequency and scope of any compliance checks are at the discretion of the Chief of Police. Reasonable efforts will made by the Police Department to ensure a minimal disruption or hardship upon the permittee to conduct business.

The internal controls standards shall include, but are not limited to the following:

Organizational Standards
Casino Cage Standards
Table Games Standards
Internal Audit Standards
Accounting Standards
Anti-money laundering controls
IT (Information/Internet Technology) Standards
Security/Surveillance Standards
Vendor/Contractor Standards
Food and Beverage Standards.

SEC. 4-3.30.2 CHANGE OF CARD GAME AT A TABLE. A permittee may change the type of State-sanctioned card game played at a particular card table consistent with the rules of the State Gambling Commission, upon furnishing notification in writing to the Chief of Police of the intent to change the card game at that table.

SEC. 4-3.31 ALCOHOL, NARCOTICS, DRUGS PROHIBITED. No permittee or any other person in charge or control of any card club shall permit any person to enter or remain on the premises of such card club or to play any card game permitted by the provisions of this Article while such person is under the influence of any intoxicating beverage, narcotic, or drug, nor shall any alcoholic beverage, narcotic, or drug be sold, served, given, or delivered, or permitted to be sold, served, given, or delivered to any person within the card club.

SEC. 4-3.32 MINORS PROHIBITED. No permittee or other person in charge or control of any card club shall permit any person under the age of 21 to enter or remain in any card club, and no such person may participate, directly or indirectly, in any card game being played in the card club.

SEC. 4-3.33 REGISTRATION OF EMPLOYEES AND AGENTS; THIRD PARTY PROVIDERS.

a. No permittee or other person in charge or control of any card club shall employ or allow any person to work in such card club or for such card club permittee without such person having first applied for registration with the Chief of Police, except nothing herein shall be construed to prohibit the employees or agents of permittees who are actually working in a card club or for a card club permittee on the effective date of this Article from continuing such work, and thereafter within a period of 30 days submit the required application for registration.

b. Registration with the Chief of Police shall not be deemed complete until the prospective employee or agent has completed an application on forms provided by the Chief of Police setting forth:

(i) The true name of such person, including all other names by which such person is or has been known;

(ii) The address of such person;

(iii) The name of the card club and card club permittee in and for which such person intends to work;

(iv) A statement indicating whether or not such person has at any time been convicted of any crimes other than minor traffic offenses, and, if so, the nature of the crime for which such person was convicted and the date and jurisdiction of the conviction;

(v) A photograph of such person and a set of clearly identifiable fingerprints for which the prospective employee or agent shall have paid the Police Department the current fee set by the Department of Justice for receiving and processing the fingerprints so taken; and

(vi) A statement that such person understands and agrees to the inclusion in any report to the City Manager of any criminal conviction that the Chief of Police considers pertinent and necessary.

c. The Chief of Police is hereby authorized to obtain criminal history information for such person and conduct such other investigation deemed necessary for the purpose of determining whether the application accurately sets forth the information requested.

d. In the event the Chief of Police determines that the application contains false statements knowingly made, or that the applicant is unfit to be involved in the operation of' a card club business because of prior criminal convictions involving gambling, larceny, usury, bribery, extortion, bookmaking, fraud, prostitution, pimping or pandering, or because of prior license or permit history, the Chief of Police shall notify the prospective employee within 5 days of such determination.

e. In the event of approval of the application, the Chief of Police shall provide the prospective employee or agent with an identification card, which card shall be worn in sight at all times that such person is actually on the premises of the card club permittee.

f. In addition to the registration requirements set forth above, all Third Party Providers, and their owners and managers, shall be subject to a criminal and financial background investigation prior to performing services at a permitted card club. Upon satisfactory completion of the criminal and financial background investigation, the Third Party Providers will be issued identification cards that shall be worn in sight at all times that the Third Party Providers are on the premises of the card club.

SEC. 4-3.34 CERTAIN ACTS PROHIBITED. No permittee or any other person in charge or control of any card club shall allow or permit to be allowed, any employee, third party provider or agent of such permittee or person to:

a. Loan any money, check, or anything of value, or any representation of value, to any person who is playing, or intends to play, any card game;

b. Extend credit to any person who is playing, or intends to play, any card game;

c. Purchase, or agree to purchase, any real or personal property from any person who is playing, or intends to play, any card game;

d. Charge any fee to cash a check of any person who is playing, or intends to play, any card game;

e. Engage in, or permit any other person on the premises to engage in, any act that violates the laws of the State of California;

f. Communicate in any way, whether verbally or nonverbally, to any other person, whether playing a card game or not, any information concerning the cards held, or the card game being played, by any person in the card club; or

g. Play any games other than permitted games. Permitted games must meet the following criteria:

(i) The permittee may only facilitate the playing of games allowed by California State Law. All games the permittee wishes to play must be approved in advance by the Chief of Police. The permittee must notify the Chief of Police in writing of the intent to commence playing a new card game.

(ii) All games conducted, dealt or carried on with dice, dominos, or devices other than cards, tiles, or for money, checks, credit, or other representations of value where chance is any determining factor in the outcome of the game are prohibited.

(iii) All approved games must have the rules and game play conspicuously displayed where all players and employees can observe them at all times.

(iv) The permittee must also display in a conspicuously location, the following house rules governing disputes in play:
"Players are Responsible for their Hands"
"The Floor Person/Supervisor's Decisions Are Final"

"Free Gaming Instructions Offered"

SEC. 4-3.35 OBLIGATION TO INFORM OF CERTAIN CHANGES CONCERNING PERMITTEES, THIRD PARTY PROVIDERS, AGENTS AND EMPLOYEES.

a. The permittee shall notify the Revenue Division in writing and within 14 days of any change in the information required in an application for permit issuance or renewal as provided in section 4-3.11 herein, except that no such change need be reported if such change occurs within the 60 days immediately preceding the expiration of such permit.

b. Each person registered as a card club employee or agent shall notify the Revenue Division in writing and within 14 days of any change in the information such

employee or agent provided in the registration application required by section 4-3.33 herein.

c. The Revenue Division shall promptly inform the Chief of Police of any notification received pursuant to the provisions of subsections (a) and (b) herein.

d. The permittee shall inform Chief of Police immediately of any changes in ownership of any Third Party Provider or contract company (i.e., security, janitorial services). The permittee shall also show proof to the Chief of Police that any new Third Party Provider has been notified by the permittee of the criminal and financial background investigation requirements for any new Third Party Provider. Any new persons shall be subject to licensing and qualification.

e. Third Party Providers shall not engage in any gaming activity at permittee's card club until granted approval by the Chief of Police.

SEC. 4-3.36 HOURS OF OPERATION.

a. No permittee or any other person in charge or control of any card club shall permit any person to enter or remain on the premises of any such card club, or to play any card game permitted by the provisions of this Article, between the hours of 2 a.m. and 9 a.m. of any day other than Saturday during the year.

b. Notwithstanding the provisions of the preceding subsection, the Chief of Police shall approve the application of a card club to operate 24 hours a day on Sundays through Fridays if the Chief finds that the following conditions are met:

(1) The card club is not located in a building that is proximate to property that is zoned and used for residential purposes. For purposes of this subsection, the Palace Poker Casino card club, located at 22821 Mission Boulevard, is not considered proximate to residential property; and

(2) The card club operator provides security personnel, screened and approved by the Chief of Police, during all hours of operation.

Continued compliance with both conditions shall be required for continued reliance upon the approval granted hereunder and if either condition is not met for any period of time, the card club permit shall be subject to suspension or revocation as set forth in section 4-3.40 hereof.

SEC. 4-3.37 POSTING OPERATING REGULATIONS. A set of operating regulations in a form approved by the Chief of Police and containing the provisions of Sections 4-3.30,4-3.31, 4-3.32, 4-3.34 and 4-3.36 of this Article shall be prominently posted in a conspicuous location within the card club.

SEC. 4-3.40 SUSPENSION AND REVOCATION OF PERMITS; APPEALS.

a. Any card club permit issued under the provisions of this Article shall be subject to suspension or revocation by the City Manager in the manner provided by Article 1, Chapter 6, of this Code for failure of such permittee, or any employee or agent of such permittee, to comply with any of the provisions of this Article, or for any grounds that would require denial of an application for issuance or renewal of such permit if such application were then pending, or for violation by such permittee, or any employee or agent of such permittee, of any statute or any duly adopted regulation of the City of Hayward, which violation pertains or relates to the establishment, maintenance, operation, or management of the card club authorized by such permit. The costs of any hearing conducted under Article 1, Chapter 6, of this Code will be borne by the affected party. Notice of revocation or suspension of a permit will be given to the affected party in writing no later than ten business days after conclusion of the hearing.

b. A decision by the City Manager, or his or her designee, to suspend or revoke a permit issued under the provisions of this Article may be appealed to the City Council. Such appeal must be filed with the City Manager within 14 days after notice of revocation or suspension has been sent to the permittee, employee or agent of the permittee. The appeal must be in writing, set forth the specific grounds for such appeal and be accompanied by the appropriate fee. The fee for the appeal shall be established by the City Council by resolution. The appeal shall be heard by the City Council, which may affirm, reverse or amend the decision of the City Manager.

SEC. 4-3.41 SUSPENSION AND REVOCATION OF EMPLOYEE OR AGENT REGISTRATION; APPEALS. Any person registered as a card club employee under the provisions of this Article shall be subject to having such registration suspended or revoked by the City Manager in the manner provided by Article 1, Chapter 6, of this Code for violation of any provision of this Article or for violation of any statute or any duly adopted regulation of the City of Hayward, which violation pertains or relates to the establishment, maintenance, operation, or management of a card club. A decision by the City Manager, or his or her designee, to suspend or revoke a permit under the provisions of this Article may be appealed as set forth in section 4-3.40.

SEC. 4-3.42 APPEAL OF DENIAL OF PERMIT. Any action of denial of a permit taken by the Revenue Division or the Chief of Police shall be subject to appeal to the City Manager in the manner provided by Article 1, Chapter 6, of this Code. A decision by the City Manager, or his or her designee, to deny a permit may be appealed as set forth in Section 4-3.40.

SEC. 4-3.43 INJUNCTIVE RELIEF. In addition to the legal remedies provided for in this Article, the operation of any card club in violation of the provisions of this Article or other applicable laws and regulations shall be deemed a public nuisance and the City of Hayward may bring an action in any court of competent jurisdiction to enjoin such violation.

SEC. 4-3.44 OPERATION OF GAMES. The rules of the games to be played in the card club pursuant to section 4-3.34g (ii) shall be prominently posted in a conspicuous location visible from each table. Each card table shall have posted the card game being played.

SEC. 4-3.45 PATRON SAFETY AND SECURITY. The Chief of Police may require, at his or her discretion, all permittees to implement reasonable security measures, as set forth in a security plan, to insure the safety of patrons including, but not limited to, hiring private uniformed security guards. If security guards are required, the Chief of Police shall determine the number and hours of coverage. All security personnel and the contracted security company must be licensed by the California Department of Consumer Affairs and be registered as card club "Contract Employees" with the Police Department.

SEC. 4-3.46 WAGERING LIMITS. There are no mandatory limits on the amount wagered in any permitted games. A card club permittee may impose wagering limits on any game, at his or her discretion. If wagering limits are established by the card club for games, the limits for each game must be clearly posted.

SEC. 4-3.47 LOCATION OF THE CARD CLUB.

a. A card club permit is valid only for the location provided in the permit. Relocation of a card club to a site other than the one permitted is prohibited and results in automatic termination except as provided herein.

b. Relocation of a card club to a location different from that described in the card club permit is permitted where governmental acquisition of an existing permitted card club premises under threat of eminent domain or an actual exercise of the powers of eminent domain would result in the closing of the card club. In such a case, the permittee may apply for a new location on which to conduct the card club subject to the requirements for issuance of a permit as well as approval by the City Council. For purposes of this subsection, the expansion of the Palace Poker Casino card club, located at 22821 Mission Blvd., onto an adjacent parcel is not considered relocation.

c. In the event that the government takes possession of the property subject to a card club permit under threat or actual exercise of the power of eminent domain, the permit for the card club shall be deemed to be valid and remain in effect for a period of twelve months from the date of closing of the card club.

d. A card club may relocate to another site in the City; provided, however, that the card club is an allowed use in the zoning district in which the card club is to be located, the permittee has obtained a conditional use permit for the proposed location and the permittee has complied with all other applicable laws and regulations. If the owner of the real property to which the card club proposes to relocate is someone other than the permittee, then owner of the real property shall be subject to the criminal and financial background investigations set forth in section 4-3.13(c).

e. Prior approval of the Planning Commission is required for any physical expansion of the card club. A permittee must comply with all applicable laws and regulations for any physical expansion of the card club.

BINGO GAMES FOR CHARITY

SEC. 4-3.50 AUTHORITY. The regulations following relating to bingo games for charity are enacted under Section 19 of Article IV of the State Constitution and the implementing provisions of Section 326.5 of the State Penal Code.

SEC. 4-3.51 DEFINITIONS. Whenever in these regulations the following terms are used they shall have the meanings respectively ascribed to them in this section.

"Bingo" is a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random.

SEC. 4-3.52 ORGANIZATIONS ELIGIBLE FOR CITY PERMIT. Bingo may be conducted by organizations which have obtained an exemption from the payment of the bank and corporation tax by State Revenue Code Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g), and 23701(1). Said organizations are of the following types:

Labor, agricultural, or horticultural

Fraternal beneficiary societies, orders, or associations operating under a lodge system

Religious, charitable, scientific, literary, educational and humanitarian

Business leagues, chambers of commerce, real estate boards, and boards of trade

Civic leagues, social welfare and employee organizations

Nonprofit pleasure and recreation clubs

Bingo may also be conducted by mobile home park associations and senior citizen organizations.

SEC. 4-3.55 APPLICATION FOR PERMIT. Eligible organizations desiring to obtain a permit to conduct bingo games in the City of Hayward shall file an application in writing therefor with the Division of Permits and Licenses upon forms to be provided by the Division. Applicants granted tax exempt status by the State Franchise Tax Board shall file with said Division a certificate that will show that the organization is currently exempted from the payment of the bank and corporation tax by reason of one or more of the State Revenue and Taxation Code sections mentioned in Section 4-3.52 hereof.

Mobile home park associations and senior citizen organizations which have not been granted tax exempt status by the State Franchise Tax Board shall file with said Division documentation that will show that such organization is eligible to conduct bingo games.

The permit issued shall be for a term of one year from the date of issuance, subject to renewal and annual fee.

SEC. 4-3.57 CONTENTS OF APPLICATION. Said application for a permit shall contain the following:

(1) The name of the applicant organization and a statement that applicant is an eligible organization as described in Section 4-3.52.

(2) The name and signature of at least two (2) officers, including the presiding officer, of the organization.

(3) A list of all members of the organization who will operate the bingo games, including full names and date of birth.

(4) The particular property, within the City of Hayward, including the street number, owned or leased by the applicant, used by such applicant for the performance of the purposes for which the applicant is organized on which property bingo games will be conducted, together with the occupancy capacity of such place.

(5) Proposed days of week and hours of day for conduct of bingo games.

(6) That the applicant agrees to conduct bingo games in strict accordance with the provisions of Section 326.5 of the State Penal Code and these regulations, as they may be amended from time to time, and agrees that the permit to conduct bingo games may be summarily suspended by the Chief of Police and/or revoked by the City Manager upon violation of any of such provisions.

(7) Said application shall be signed by the applicant under penalty of perjury.

(8) The annual permit fee established by resolution of the City Council, whether for the initial permit or renewal, shall accompany the application. If an application for a permit is denied, one-half of any fee paid shall be refunded to the organization.

SEC. 4-3.58 INVESTIGATION OF APPLICANT. Upon receipt of the completed application and the fee, the Division shall refer the same to interested departments of the City, including but not limited to, the City Manager, City Attorney, Building Inspection Division, Police Department, Planning Department, and the Fire Department, for investigation as to whether or not all the statements in the application are true and whether or not the property of

the applicant qualifies and the extent to which it qualifies, as property on which bingo games may lawfully be conducted, as to fire, occupancy, and other applicable restrictions.

SEC. 4-3.59 CONTENTS OF PERMIT. Upon being satisfied that the applicant is fully qualified, under the law, to conduct bingo games in the City, the Permit and License Division shall issue a permit to said applicant, which shall contain the following information:

(1) The name and nature of the organization to whom the permit is issued.

(2) The address where bingo games are authorized to be conducted.

(3) The occupancy capacity of the room in which bingo games are to be conducted.

(4) The date of the expiration of such permit.

(5) Such other information as may be necessary or desirable for the enforcement of the provisions of these regulations.

SEC. 4-3.60 INSPECTION. Any peace officer of the City shall have free access to any bingo game authorized under these regulations. The permittee shall have the bingo permit, the list of approved staff, and proof of ownership of the bingo equipment available for inspection at all times during any bingo game. It shall be unlawful for any person to interfere, block doorways, or otherwise impede the efforts of a peace officer to make such inspections.

SEC. 4-3.65 EQUIPMENT. The permittee must own the gaming equipment necessary to conduct the bingo games. No gaming equipment may be rented, leased, or shall any fee be paid to anyone for such gaming equipment used in bingo games. Proof of ownership shall be displayed to any peace officer of the City upon request.

SEC. 4-3.66 MAXIMUM AMOUNT OF PRIZE. The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars ($250.00) in cash or kind, or both, for each separate game which is held.

SEC. 4-3.67 PROFITS - SEPARATE FUND OR ACCOUNT. The proceeds of bingo games shall be used only for charitable purposes.

With respect to organizations granted tax exempt status under the provisions of State Revenue Code Section 23701(d) all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account.

With respect to other organizations authorized to conduct bingo games, all proceeds shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such proceeds, however, may be used for prizes. A portion of such proceeds not to exceed 10% after the deduction for prizes, or five hundred dollars ($500) per month, whichever is less, may also be used for rental of property, overhead and administrative expenses.

The permittee shall keep full and accurate records of the income and expenses received and disbursed in connection with its operation, conduct, promotion, supervision and any other phase of bingo games which are authorized by these regulations. The City, by and through its authorized officers, shall have the right to examine and audit such records at any reasonable time and permittee shall fully cooperate with the City by making such records available. (As amended by Ordinance No. 77-039 C.S., adopted August 23, 1977.)

SEC. 4-3.68 FINANCIAL INTEREST - PERMITTEE ONLY. No individual, corporation, partnership, or other legal entity except the permittee shall hold a financial interest in the conduct of such bingo game.

SEC. 4-3.69 EXCLUSIVE OPERATION BY PERMITTEE. A bingo game shall be operated and staffed only by members of the permittee organization. Such members shall not receive a profit, wage, or salary from any bingo game. Only the permittee shall operate such game, or participate in the promotion, supervision or any other phase of such game.

SEC. 4-3.70 BINGO GAMES OPEN TO PUBLIC. All bingo games shall be open to the public, not just to members of the permittee organization.

SEC. 4-3.71 ATTENDANCE LIMITED TO OCCUPANCY CAPACITY. Notwithstanding that bingo games are open to the public, attendance at any bingo game shall be limited to the occupancy capacity of the room in which such game is conducted as determined by the Fire Department and Building Inspection Division of the City in accordance with applicable laws and regulations. Permittee shall not reserve seats or space for any person.

SEC. 4-3.72 BINGO GAMES CONDUCTED ON PROPERTY UTILIZED BY PERMITTEE FOR ITS ORGANIZED PURPOSES. A permittee shall conduct a bingo game only on property owned or leased by it, and which property is used by such organization for an office or for the performance of the purposes for which the organization is organized. The permit issued hereunder shall authorized the holder thereof to conduct bingo games only on such property, the address of which is stated in the application. In the event the described property ceases to be used as a place for the performance of the purposes for which the permittee is organized, the permit shall have no further force or effect. A new permit may be obtained by an eligible organization, upon application under these regulations, when it again owns or leases property used by it for the performance of the purposes for which the organization is organized.

Nothing in this section shall be construed to require that the property owned or leased by the organization be used or leased exclusively by such organization.

SEC. 4-3.73 MINORS NOT TO PARTICIPATE. No person under the age of eighteen (18) years of age shall enter or remain or be permitted to enter or remain in any place while bingo games are being played, nor shall such person participate or be permitted to participate directly or indirectly in any bingo game conducted or being played in any place where bingo games are authorized.

SEC. 4-3.74 ALCOHOLIC BEVERAGES. No alcoholic beverages shall be consumed, sold, or given away, served or delivered to any person within the place where any bingo games are being conducted.

SEC. 4-3.75 HOURS OF OPERATION. No permittee shall conduct any bingo game more than four hours out of any twenty-four hour period. No bingo game shall be conducted before 10.00 a.m. nor after 12:00 midnight of any day.

SEC. 4-3.76 PARTICIPANT MUST BE PRESENT. No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted.

SEC. 4-3.80 RECEIPT OF PROFIT BY A PERSON A MISDEMEANOR UNDER STATE LAW. It is a misdemeanor under Section 326.5(b) of the State Penal Code for any person to receive a profit, wage, or salary from any bingo game authorized hereunder, a violation of which is punishable by a fine not to exceed ten thousand dollars ($10,000), which fine shall be deposited in the general fund of the City of Hayward.

SEC. 4-3.81 SUMMARY SUSPENSION OF PERMIT.

(a) Whenever it appears to the Chief of Police or his representative that the permittee is conducting a bingo game in violation of any of these provisions, said Chief of Police or his representative shall have the authority to summarily suspend the permit for the day in question and order the permittee to immediately cease and desist any further operation of any bingo game on said day.

(b) Any person who continues to conduct a bingo game after any summary suspension thereof under subsection (a) shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not exceeding $500 or by imprisonment in the County jail for a period not exceeding six months, or by both such fine and imprisonment.

SEC. 4-3.82 REVOCATION OF PERMIT - HEARING. Whenever it appears to the City Manager that the permittee has been or is conducting bingo games in violation of State Penal Code Section 326.5 or any of these provisions, or that the permit was obtained by fraudulent representation, the permit may be revoked.

No permit shall be revoked unless written notice shall have first been given at least ten (10) days before the hearing thereof by depositing in the United States mail a notice directed to the permittee at the address given in the application. The notice shall set forth a summary of the ground(s) advanced as the basis of the revocation.

At the hearing before the City Manager or a Hearing Officer in the manner provided by Section 6-1.30 of this Code the permittee or its authorized representative shall have the right to present evidence and a written or oral argument, or both, in response.

The City Manager or the Hearing Officer shall not be bound in the conduct of such hearing by the common law or statutory rules of evidence and procedure, but inquiry shall be made in such a manner to ascertain the substantial rights of the public and the permittee.

No decision shall be invalidated because of the admission into the record and the use as any proof of any fact in dispute of any evidence not admissible under the common law or statutory rules of evidence.

Within twenty (20) days after close of hearing the City Manager shall enter his decision based upon the record presented, and notify in writing, the permittee of such decision. The decision of the City Manager shall be final.

SEC. 4-3.85 CITY MAY ENJOIN VIOLATION. The City of Hayward may bring an action in a court of competent jurisdiction to enjoin a violation of Section 326.5 of the State Penal Code or of these regulations.

SEC. 4-3.90 GAMING. Except as provided under Section 4-3.00 through Section 4-3.85 of this article:

(a) It shall be unlawful for any retail or commercial establishment or any other place open to the public, to keep, conduct or maintain such establishment or place in whole or part as a gambling house or place where any game is played, conducted, dealt or carried on with cards, dice, dominos, or other devices for money, checks, credit or other representations of value, as the result of which game chance is any determining factor.

(b) It shall be unlawful for any person for a fee, charge, or other compensation, to keep, conduct, or maintain, any house, room, apartment, or place, used in whole or part as a gambling house or place where any game is played, conducted, dealt, or carried on with cards, dice, dominos, or other devices, for money, checks, credit or other representations of value, as the result of which game chance is any determining factor.

(c) This section shall not apply to the games of draw poker, panguingue, and bingo, regulated elsewhere in this article, or to any other game prohibited or expressly permitted by the laws of the State of California.

As amended by Ord. No. 77-039 C.S. adopted August 23, 1977; Sections added by Ordinance No. 79-032 C.S., July 24, 1979; amended by Ord. No. 84-006 C.S., adopted March 6, 1984; Ord. No. 87-001 C.S., adopted January 6, 1987; Ord. No. 89-046 C.S., adopted September 19, 1989; Ord. No. 89-060 C.S., adopted October 24, 1989; Ord. No. 91-04 C.S., adopted April 2, 1991; Ord. No. 91-24, adopted September 24, 1991; Ord. 98-012, adopted July 28, 1998; Ord. 99-11, adopted May 18, 1999; Ord. 06-17, adopted October 24, 2006; Ord. 09-10, adopted October 6, 2009

ANNEXATIONS (Continued)

RESOLUTION NO. 79-250 C.S., "Ordering the Annexation of Foothill Annex No. 9;"

RESOLUTION NO. 79-251 C.S., "Authorizing the Execution of That Certain Foothill Annex No. 9 Annexation Agreement;"

RESOLUTION NO. 79-252 C.S., "Declaring Territory Known as Foothill Annex No. 9 be Withdrawn from Eden Consolidated Fire Protection District;" and

RESOLUTION NO. 79-253 C.S., "Declaring Territory Known as Foothill Annex No. 9 be Withdrawn from Castro Valley Fire Protection District;" were introduced by Councilman Florence and adopted UNANIMOUSLY.

COMMISSIONS AND COMMITTEES - REPORTS AND RECOMMENDATIONS

10. HEARING ON REPORT AND RECOMMENDATION FROM COUNCIL'S AD HOC COMMITTEE ON ADULT ENTERTAINMENT REGULATIONS RE NEW CARD CLUB ORDINANCE

Filed: Staff Report dated July 10, 1979

City Manager Hanley explained that California State law provides local option with respect to whether or not certain card games may be permitted in card parlors within the City, and it is within Council's prerogative to determine if continued existence of card parlors will be permitted. If the parlors are to be allowed in the City, the standards, criteria and obligations by which they may function are at Council's discretion. Because card parlor operations and associated activities have been a matter of concern in Hayward, a new Card Club Ordinance has been developed for Council's consideration. The proposed ordinance would produce the following changes in existing operations: (1) Permits would be nonassignable, and incorporation would be prohibited. This would require individual or partnership operation for the prime purpose of eliminating possible "shadow corporations" which may obscure who is actually operating and/or controlling the card parlor. Card club owners would not be allowed to lease tables to others or delegate control of the clubs to any other individual. (2) Requirements regarding registration of card room employees would be altered in such a manner as would allow the Chief of Police to withhold issuance of club employee permits to individuals convicted of vice-related criminal offenses. Provision would be made, however, to permit employees to work on a temporary basis pending outcome of their background investigation. (3) In addition, provisions in the proposed ordinance would prohibit the participation by club owners, employees or agents in any games conducted in the club unless they were not involved in any betting activity and only if they were clearly identified by appropriate employee identification. There are also provisions against extending credit or making loans. The purpose of these provisions would be to prevent any owner or employee serving as a "shill" in the games. (4) Hours of operation would be modified to require the closure of clubs from 2:00 a.m. to 9:00 a.m. on every day except Saturday. The current ordinance permits 24-hour-per-day operation on weekends. (5) The number of tables would be reduced from a current maximum of 20 to 16 tables. Those 16 tables would be distributed equally at two locations in the City. The purpose of this proposal is to minimize the necessary law enforcement monitoring efforts.

Mr. Hanley noted that Council committee meetings have been held, at which card parlor operators have been in attendance, where it was concluded that a proposed July 1981 ban on card parlors as included in the originally proposed ordinance would not be necessary. Operators were concerned that an imminent phase-out date would not allow sufficient amortization of their investments, and the Committee responded to this concern with the conclusion that nonassignable permits held by current operators could continue in effect for properly operated card parlors for the life of the permit holders. No new permits would be issued, although a surviving partner could continue to hold a permit he shared with a deceased partner. The committee believed these new conditions in the ordinance would provide for adequate control of the operation of card parlors and minimize the effect on the City's central business district.

(Council Minutes - July 10, 1979)

COMMISSIONS AND COMMITTEES - REPORTS AND RECOMMENDATIONS (Continued)

Mayor Weinreb declared the hearing open, calling for written and/or oral testimony relevant to the proposed card club ordinance.

Gus DuBois, 22634 Second Street #101, Hayward, inquired as to licensing fees for the card tables. Mr. Hanley replied that the proposed annual licensing fees are $1,500 per table. Dr. DuBois stated that during the 25 years since he opened his chiropractic office in downtown Hayward, he has witnessed a steady decline in the area. He believed this decline, initiated with card rooms, encouraged the location of pornographic book stores, theaters and massage parlors. He said a citizens' petition effectively blocked a card room operator from acquiring property on Mission Boulevard adjacent to the Cadillac dealer in 1966, and Dr. DuBois believed this action was significant. He was of the opinion that card rooms were of no benefit to the City and touted their elimination. Dr. DuBois questioned that the phasing out of card rooms would present an economic hardship to operators of these establishments, commenting that they have apparently enjoyed an extremely lucrative business for many years.

Ken Tierce, 28924 Ruus Road, Hayward, offered the opinion that card parlors were the beginning of deterioration of the City's dowrtown area, as he believes they have attracted an undesirable element. He urged that more stringent regulations be imposed on card parlors and noted, as pastor of a local church, that more stringent regulations are likely placed on churches than apply to card parlors.

John Pappas, 22192 Prospect Street, Hayward, stated that the presence of card parlors, pawn shops, etc., are detrimental to the downtown community and not vital social or economic establishments necessary for the composition of a good community in which to live. He was also concerned with regard to the findings of the Chief of Police who has pointed out problems inherent with such operations. Mr. Pappas recommended that the proposed ordinance be altered to provide more stringent requirements including the phasing out of card rooms by July 1981. By allowing the card rooms to continue with operation limited to the existing two licensees, he was concerned that a monopoly would be created. He asked Council to consider what need is being filled and how many Hayward citizens are being served and to whom benefits are received by continuing existence of the card rooms.

Edward Martins, 22698 Mission Boulevard, Hayward, attorney representing the Palace Club, intimated that card rooms have been judged unfairly by a negative emotional response on behalf of citizens. He emphasized that his law office has been located near the card clubs in the downtown area since 1954, and he has not found the location undesirable nor chosen to relocate his office. He referred to other long-established businesses which have remained successful in the area despite the existence of card clubs. Mr. Martins believed it unfair to consider gambling undesirable entertainment and remarked that there is a place for this type of entertainment under proper City control. He summarized the history of the ownership of the Palace Club and said the Club has been managed well by Kathryn Bousson who, after many years of financial struggle, has finally begun to realize a reasonable return on her investment. Mr. Martins was concerned that a time limit for the operation of card rooms may be imposed.

Mayor Weinreb confirmed that the currently proposed ordinance did not include a phase-out date. She said the controversial regulation in the proposed ordinance, insofar as the card operators were concerned, was the prohibition against owners or employees participating in card games. City Attorney Scanlon clarified that the ordinance would not allow the participation for financial gain by owners, employees or agents. Participation without monetary involvement, such as acting as dealer, could occur if employees were clearly identified as such. This requirement and the proposed altered hours of operation on weekends were reportedly contested by card room operators during committee meetings, but the committee concluded that proposed regulations were an equitable compromise between allowing card room operations to continue unabated or legislating the elimination of their existence in the City.

(Council Minutes - July 10, 1979)

In response to Mr. Martins' questioning the hours of operation, Councilman Ratto, who served on the involved committee, explained that it had initially been recommended that card rooms be closed between 2:00 a.m. and 9:00 a.m. daily. The committee compromised this proposal to provide for 24-hour operation on Saturdays, and Councilman Ratto held the opinion that all concerned parties were in agreement that this was a reasonable compromise. Mr. Martins said his clients now wished reconsideration regarding the hours of operation in order to facilitate 24-hour operation during the entire weekend.

Mr. Martins also indicated that the ability of owners/employees to participate in card games was deemed essential to the operation in order to initiate card games and stimulate business. He said it would not be objectionable for owners/employees to be properly identified while playing in games.

In response to Councilman Ratto's request for the Police Chief's opinion regarding this request, Chief Plummer offered reasons and examples to illustrate why he would not recommend owner/employee/agent participation in card games. If Council were to approve such participation, Chief Plummer urged that in addition to individuals being clearly identified with appropriate badges, a background investigation and issuance of licenses be required for individuals who are to serve in such capacity in card games. This would allow card room operators to have several regular customers properly "cleared" with badges available if they wished to use such persons to initiate games. Mr. Martins said he had no argument with the Chief's recommendations.

Councilman Oakes pointed out that the $1,500 fee per table does not even cover the City's expense for police activity involved.

Councilwoman Steele questioned Mr. Martins as to his possible observation of a negative element in and around the card rooms since his law office is located nearby. Mr. Martins related that he experiences fear when visiting Market Street in San Francisco but has not experienced that same apprehensiveness in Hayward in the vicinity of card clubs. Responding to further inquiries as to the reactions of his clients to the area and the effect on his business, Mr. Martins indicated that many prominent citizens frequent the card room. He said he has been disturbed by noise emanating from a nearby bar; however, he has encountered no difficulties related to the proximity of his office to the card club.

Kathryn Bousson, partner, Palace Club, asked which Councilmembers had visited her establishment and what their impression of the atmosphere there had been. Several Councilmembers acknowledged having visited the card club and observing an array of clientele.

Councilman Bras noted that there may be a charge for conducting necessary background investigations to allow individuals to work in the capacity of a "shill." Chief Plummer confirmed that $9 for local and $12 for nonlocal background investigations are the usual fees. Mr. Martins believed the fees were fair and said he would not object to them.

In response to an inquiry directed to him by Councilman Florence, Mr. Martins voiced no objection to the number of tables specified in the ordinance.

Paul Bernhardt, 350 Winton Avenue, Hayward, represented Frank Wedge. He clarified that during committee meetings two types of owner, employee or agent participation had been discussed; i.e., stakes participation wherein an individual is given money by the house to initiate a game and receives a "piece of the action" vis-a-vis his winnings, and a salaried employee who participates without remuneration from any proceeds of the game. It was his belief that salaried employees wearing name badges and not playing for a share of winnings should be allowed to participate in games. Mr. Bernhardt said his client's primary concerns, however, are the number of locations and tables. He indicated Mr. Wedge is agreeable to ultimately restricting total card room operations in the City to two locations, but he requested that he be allowed to operate his current

two locations until 1983 at which time his lease on one of the locations will expire. At that time, he would be willing to commit to consolidate his operation at a single location. Regarding the number of tables, Mr. Bernhardt complained that the decision of the committee was to rescind permits for two of Mr. Wedge's tables, reducing the number from ten to eight tables; while Bousson/Riccetti, who held permits for seven tables, would be granted one additional permit so they likewise would operate eight tables. Summarizing the history of leases involved, it was Mr. Bernhardt's conclusion that his client was treated unfairly in regard to the number of tables permitted. He argued that Bousson/Riccetti leased three of their seven tables which, therefore, should be eliminated.

City Attorney Scanlon provided information that, following court litigation regarding the questioned lease, Bousson/Riccetti are the legitimate operators of the three tables in question.

Councilman Ratto emphasized that as a member of the committee, his decision that there be 16 tables equally divided between the two operators was completely independent of any information regarding leases. He cautioned Mr. Bernhardt that the committee reached what it believed an equitable compromise after commencing negotiations which were aimed at phasing out all card parlors by 1983, an alternative which remained available to the Council.

Mr. Bernhardt sustained his objection, stating that it would be proper to reduce the total number of tables to 11, seven for Mr. Wedge and four for Bousson/Riccetti.

On a motion by Councilman Oakes, the public hearing was closed.

Councilman Ratto stated his intention to introduce the ordinance and requested staff's assistance in revising the proposed ordinance (Section 4-3.34,b) in such a way as would permit owners/employees/agents to participate in card games, if properly investigated, authorized and identified by appropriate badge, on a salaried basis only without share in the game stakes. He indicated he would introduce the ordinance sans language which would refer to any phase-out date for card parlors, emphasizing that current operators would remain such for their lifetimes provided they continued to renew their permits and operated within the terms of the ordinance. Councilman Ratto further stipulated that an annual review of card parlor activity should be required in the ordinance to provide Council the opportunity to make appropriate changes as necessary.

Staff pointed out that adoption of the ordinance would require elimination of one of Mr. Wedge's locations, and a discussion ensued regarding which of his two locations would be abandoned. Chief Plummer recommended that Mr. Wedge's card parlor located farthest from the Palace Club operated by Bousson/Riccetti be retained since such separation of the two locations would aid police monitoring.

(Note: Council recessed briefly at this point in the meeting from 10:03 to 10:16 p.m.)

Mayor Weinreb reviewed provisions of the proposed ordinance. On behalf of the Palace Club, Mr. Martins accepted the proposed regulations. Mr. Bernhardt said his client was agreeable to the proposed ordinance but may wish to consolidate his business at the Hayward Club West (adjacent to the Palace Club operated by Bousson/Riccetti). Mr. Martins argued on behalf of his clients that they did not wish Mr. Wedge's operation to be permitted next door to their establishment. City Attorney Scanlon explained that the current three card club locations are in areas properly zoned for such activity where use permits have been granted. The City Council is without power to specify which location Mr. Wedge must use if it conforms to required zoning. Councilman Randall speculated whether or not the zoning ordinance could be amended to require a specified number of feet between card club establishments. City Manager Hanley stated research would be necessary to determine if this is possible; however, it could not be applied to existing locations which would become legal nonconforming uses if the ordinance were amended.

ORDINANCE NO. _____ C.S., "Repealing that Portion of Article 3, Chapter 4, of the Hayward Municipal Code, Relating to Games of Chance, and Adopting in Lieu Thereof New Card Club Regulations," was introduced by Councilman Ratto.

All Councilmembers with the exception of Councilman Bras stated it was their intention to vote in favor of adopting the ordinance (scheduled for July 24, 1979).

In response to Mayor Weinreb's inquiry, Mr. Scanlon advised Council that should the $1,500 annual permit charge per table prove insufficient to cover City expenses, Council could alter the regulation accordingly.

Councilman Randall commented that card rooms are legitimate businesses as defined by State law, and he did not believe that the respectability of the business or the clientele involved is a central issue. However, he said there is an identifiable law enforcement problem in the area where the card clubs are located, and the proposed ordinance is a reasonable response to that problem. Councilman Ratto echoed Councilman Randall's remarks and expressed appreciation for the cooperation evidenced by Mrs. Bousson during committee meetings regarding this matter.

Councilwoman Steele voiced concern that there appeared to be an uncooperative spirit on behalf of Mr. Wedge and his relationship with the Palace Club operators. It was her opinion that this proposed ordinance is an attempt to create good will although the card parlors are unpopular with many citizens. She cautioned operators that disputes between them would further damage their standing in the community.

Councilman Bras expressed concern regarding the type of clientele attracted by card parlors and possible inequitable game practices. He said he does not believe that card rooms enhance the City, and he is opposed to their continued existence.

CONTRACTS AND AGREEMENTS

11. "A" STREET WIDENING - MONTGOMERY STREET TO NIMITZ FREEWAY - NEGOTIATIONS SERVICE AGREEMENT (MONTY CAVENDER)

Filed: Staff Report dated July 10, 1979

RESOLUTION NO. 79-254 C.S., introduced by Councilman Florence, "Authorizing the Execution of That Certain Agreement with H. A. 'Monty' Cavender in Connection with the 'A' Street Widening - From Nimitz Freeway to Hathaway and Burbank to Montgomery Streets, Project No. 8020," was adopted UNANIMOUSLY.

12. "A" STREET GRADE SEPARATION - PROJECT 8010, FROM HATHAWAY AVENUE TO BURBANK STREET

a. APPRAISAL SERVICES AGREEMENT (HECTOR R. LESLIE)

b. APPRAISAL SERVICES AGREEMENT (DONALD H. ASHLEY)

c. NEGOTIATIONS SERVICE AGREEMENT (MONTY CAVENDER)

Filed: Staff Report dated July 10, 1979

RESOLUTION NO. 79-255 C.S., "Authorizing the Execution of That Certain Agreement with Hector R. Leslie, Jr. for Appraisal Services in Connection with the 'A' Street Grade Separation, Project No. 8010;"

RESOLUTION NO. 79-256 C.S., "Authorizing the Execution of That Certain Inspection Agreement with Donald H. Ashley in Connection with the 'A' Street Grade Separation, Project No. 8010;" and

RESOLUTION NO. 79-257 C.S., "Authorizing the Execution of That Certain Negotiations Agreement with H. A. 'Monty' Cavender in Connection with the 'A' Street Grade Separation, Project No. 8010," were introduced by Councilman Oakes and adopted UNANIMOUSLY.

There being no members of the public wishing to speak regarding this matter, Mayor Sweeney opened and closed the public hearing at 8:39 p.m.

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to adopt the resolution and introduce the ordinance that follow:

> Resolution 06-120, "Resolution Approving the Negative Declaration and Text Change Application No. PL-2006-0631, Removing Tattoo Parlor as a Conditional Use in the Central City-Commercial and Central City-Plaza Subdistricts"
>
> Introduce Ordinance 06-___, "An Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code Relating to Tattoo Parlors"

5. Introduction of an Ordinance Amending the Hayward Municipal Code Pertaining to Card Club Regulations

> Staff report submitted by Assistant City Attorney Cambra, dated October 10, 2006, was filed.

Assistant City Attorney Cambra presented the staff report. He noted that the amendment does not create a divisible, transferable interest in the operating permit, create a new permit, or establish any greater rights for the three children than what currently exists in the present card club operating permit held by Ms. Bousson. Additionally, Ms. Bousson will be required to notify the City in writing within 21 days of any change in the ownership status of the permit. Each of the three individuals will be required to comply with the permit application process contained in the Hayward Municipal Code section 4-3.13 and 4-3.14, including background checks, credit history review and compliance with the State Gambling Control Act. He responded to questions from Council.

In response to Council Member Halliday's question as to what would happen if Ms. Bousson were to pass away under the current provisions, Assistant City Attorney Cambra stated that the business would not have an operating permit.

City Manager Armas provided background information on the card club. He stated that Ms. Bousson is the only recipient of a card club permit in Hayward. Within the last 10 to 15 years, additional games have been authorized and the club was allowed to operate 24 hours. Alcohol is not permitted on the premises. The business provides security personnel who handle the majority of security issues. Several years ago there was a homicide, but it was due to mistaken identity. In general, Ms. Bousson is known to operate a clean business.

In response to Council Member Dowling's concern regarding the business not having an expiration date, Assistant City Attorney Cambra stated that the permit is renewed annually. The City Manager has some discretion if there are outstanding issues and can suspend the permit based on any criteria he would deem fit. City Manager Armas noted that it is the norm that a permit does not have time limits.

It was also noted that the annual permit fee is $1500 per table and the business also pays standard business license fees and any other state mandated fees.

In response to Council Member Ward's inquiry if this action would open up the possibility of litigations by someone else who might want to operate a similar business and unfairly not being permitted to do so, City Attorney O'Toole stated that the proposed action does not do so.

Mayor Sweeney opened the public hearing at 8:57 p.m.

Mr. Edward Martin, representing Ms. Bousson, stated that the ordinance properly responds to the request. He pointed out family members in the audience. The Palace Card Room has operated in Hayward for 54 years. The image of card clubs has changed over time and is now seen as a more mainstream entertainment business. He reiterated that Ms. Bousson runs a proper business and has no major complaints from the Police Department. The business has brought additional business to downtown Hayward. He urged Council's approval of the ordinance.

Mr. Charles Blanchard, Ms. Bousson's son, was called upon to respond to questions from Council. He explained in detail some of the games that are played and how a patron would get involved in a game. He described their security stating the personnel are licensed by the State. They have also invested $45,000 in a camera surveillance system for both the interior and exterior of the property. He stated that he believed that their clients play within their means. He noted that the City is paid $30,000 a year in fees. They also pay fees for background checks and State permits. The club and its employees go through an investigation process, including with the FBI. The State also audits their financial records. They do not loan money or cash checks, but do have an ATM. He added that the club provide brochures regarding gambling problems available in seven languages.

Council Member Halliday expressed concern for the livelihood of the 90 employees who would be unemployed if something were to happen to Ms. Bousson.

Mayor Sweeney asked how many other card rooms currently exist in the Bay Area. Council Member Dowling responded that there are 10 others. However, it was noted that this was the only one in the East Bay area.

Charles Plummer stated that as Chief of Police in June 1966, he was directed by Council to clean up the town, modernize the regulations and get rid of the eyesores, including the six card rooms at the time, along with the massage parlors and adult movie theaters. Two card rooms were operating without a permit at the time. It was determined that ultimately there should only be one card club, and Ms. Bousson wanted her business to be the one. She worked directly with Mr. Plummer who personally would check her books and the facility. He stated that Ms. Bousson was cooperative and she ran a good legitimate business. He added that he was not asked to come here by anyone but noticed the item in the newspaper. He said it would be an injustice not to allow her to hand the business over to her heirs.

The following are Palace Card Room employees as well as patrons of the club who urged Council's approval of the proposed amendment: Vincent Caballero, Barbara Gibson, Steve Louisa, Del Lee, Steve Numoto, Alan Tang, Cheryl Walton, and Ruben Andrade.

Julie McKillop, Hayward resident and business owner, questioned the consistency of the card room with the other types of businesses that have been noted as desirable in the downtown area. She asked Council to postpone action pending review and input from local merchants.

Ralph Martin, Hayward resident and owner of property across the street from the card club, reiterated Ms. McKillop's request to postpone action pending input from other downtown merchants.

Steve Murtaugh, spoke about gambling addiction and its impact on families as well as the cause of financial problems including bankruptcy.

Ed Mullins, on behalf of the Chamber of Commerce, also asked for postponement of action for a few weeks in order to review the matter.

Ed Avelar, local merchant doing business over 20 years with the card club, stated it was an outstanding business. He stated that the clientele were mostly prominent and affluent individuals.

Mayor Sweeney closed the public hearing at 10:00 p.m.

Mayor Sweeney noted the request from the merchants and Chamber of Commerce for more time to review the matter.

Council Member Quirk said he was impressed with Ms. Bousson and her family. He acknowledged the City Attorney staff for their work. He added that it might be good to talk with the local merchants and the Chamber and delay action for a few weeks to determine that this business is compatible with the plans for the downtown area.

Council Member Dowling suggested that the Downtown Committee might be the appropriate body to review the matter and get more input. However, he stated that it appeared that the business is well run and there is annual oversight and opportunity for review of the license. He added that he also agreed with Ms. McKillop that the downtown should be more upscale, but there is a need for all levels of business and entertainment, like the Kumbala night club. The image of poker has changed and the downtown area does not need to be entirely "G-rated." He does support safe entertainment for all levels. He added that closing down a business that has 90 employees with all of the vacant buildings, does not make sense.

Council Member Henson stated the he wondered if there would really be a negative impact if the matter was approved, as most of the other businesses in the area are aware of the card club.

Council Member Halliday said she appreciated the history and the testimony and felt that she had heard enough to make a decision. Card playing has a different image today and more people are comfortable with it. She felt it was a big responsibility for Ms. Bousson that her death could result in the loss of employment for 90 individuals.

Council Member Rodriquez stated that Hayward is a diverse city and that there is enough room in the city and downtown for a variety of entertainment. She expressed concern for the vacant buildings and the businesses that are leaving the downtown area. She thanked those who came to tonight's meeting and even though the merchants may not have received word about this item, she said she was ready to make a decision at this time.

Council Member Dowling moved, seconded by Council Member Henson, as per staff recommendation to amend the card club regulations allowing for the transfer of the operating permit.

Mayor Sweeney said he would like to hold the item over for one week in order for all the businesses in the area to have an opportunity to review the matter. He used his Council prerogative.

COUNCIL REPORTS

Council Member Dowling announced that the Commercial Center Improvement Committee will be holding a special meeting on Thursday, October 12, 7:00 p.m., at Treeview Elementary School, to discuss the Fairway Park Shopping Center. He also asked that the City Manager agendize consideration of resolutions of support for propositions 1B regarding Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, and 1C regarding Housing and Emergency Shelter Trust Fund Act of 2006.

Council Member Henson provided an activities update on the National League of Cities Public Safety Committee. He also gave a computer disk to Police Captain Phil Ribera for Chief Lowe, regarding problems with hybrid vehicles and proposed equipment standardization.

Council Member Quirk reported on his recent trip to sister-city Funabashi in Japan, along with members of Jazz Bands from Tennyson High School and Chabot College. He noted the importance of the sister city relationship with Funabashi, which has 500 people involved in the organization. He shared photos from his trip. He presented Mayor Sweeney with gifts to the City from Funabashi and said there will be another trip in 2007 and he hoped that the other Council Members will go to Funabashi at that time. He invited all to participate in the Funabashi Sister City monthly meetings which take place on the first Thursday of the month, 5:30 p.m., Room 1C in City Hall.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 10:26 p.m.

APPROVED:

Michael Sweeney, Mayor, City of Hayward

ATTEST:

for Connie G. Macias, Deputy City Clerk, City of Hayward

RA Resolution 06-22, "Resolution Authorizing the Executive Director to Execute a Fund Transfer Agreement with the State of California for the State Route 238 Bypass Corridor Land Use Study"

RA Resolution 06-23, "Resolution Amending Resolution RA 06-15, as Amended, the Redevelopment Budget Resolution for Fiscal Year 2006-07, Relating to an Appropriation of Funds from the Redevelopment Tax Increment Fund, Fund 451 for a Land Use Study of the Route 238 Bypass Corridor Properties"

HEARING

6. Introduction of an Ordinance Amending the Hayward Municipal Code Pertaining to Card Club Regulations *(continued from 10/10/06)*

Staff report submitted by Assistant City Attorney Cambra, dated October 17, 2006, was filed.

City Manager Armas reported that staff is available for questions. It was noted that new speakers will be allowed to speak.

Mayor Sweeney opened the public hearing at 8:16 p.m.

Gary Steinberger spoke in opposition to the proposed change in the card club regulations.

Laura Swan serves on the Downtown BIA and spoke in favor of the proposal, noting that the Patisserie next door would be impacted by this closure. She noted that she offered some suggestions to the owners of the card club and noted the social acceptance of them.

Doug Ligibel spoke against the proposal and noted that there are six large residential developments in the downtown whose residents would be impacted if this business continues. He is a certified rehab counselor and has dealt with individuals with gambling addiction. His primary concern is to reduce crime and violence in the downtown. He was disappointed last week that Council was ready to approve this without more community input. He also offered concerns related to parking for handicapped and the location of the card club within one hundred feet of the children's park and library.

Steve Rubiolo spoke in favor of the card club, noting that it employs 97 individuals.

William R. Huffman, Diuba Street, Union City, stated that he has been a customer of the Palace Card Club since 1968, and noted its excellent customer service. He stated that both he and his wife are customers. He spoke in favor of the transfer of the club ownership.

Ador Villaneueva resides on Taylor Avenue and has worked at the card club for a number of years.

MINUTES OF THE SPECIAL JOINT MEETING OF THE CITY COUNCIL/REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, October 17, 2006, 8:00 p.m.

Doug Knudson, a Hayward resident and business owner, stated that he and his family run the IHOP restaurants in the area and spoke in favor of this family run business.

Mike Safa resides in Foster City and owns several businesses in San Mateo and Belmont. He spoke in favor of the business and compared it to two other larger establishments in San Bruno and San Jose. He preferred being in a family-run business.

Chris Ray, a Lodi resident, stated that he is retired from law enforcement and has experience with gambling and card clubs. With his experience in compliance issues, he started a consulting

firm and has worked with the owners of the Palace Card Club to develop procedure manuals in response to two oversight State agencies as well as local agencies. He reported that all owners and employees' backgrounds are checked annually.

Catherine Aganon, a Livermore resident, stated that she is the daughter of Katherine Boussard. She has been the casino's manager for over 23 years, stating that her family has had the business for over 53 years.

Edward Martin, Attorney for the Palace Card Club, stated that he was available for questions.

Larry Sullivan, an Oakland resident, spoke in favor of the Palace Card Club. He emphasized the networking that he does at the club.

Tom Oggers resides on Meekland Avenue and recently began to visit the club. He suggested the card club be moved to an area that has sufficient and secured parking.

Mayor Sweeney closed the public hearing at 8:51 p.m.

Council Member Quirk thanked everyone who participated in this discussion. He was of the opinion that additional investigation needs to be done. He agreed with Mayor Sweeney that the Council who approved this permit 25 years ago wanted to phase gambling out of the downtown. He stated that this is one establishment in the downtown. There has been no discussion as to whether gambling should be in the downtown. He noted a patron's comment related to security. Council Member Quirk moved to continue this item for further review. Mayor Sweeney seconded his motion for the purpose of discussion.

Council Member Ward offered a substitute motion to approve the staff recommendation to amend the card club regulations.

Council Member Halliday seconded his motion and appreciated all who attended. She commented favorably of the family-run business. She commented on her recent experience at the card club and was impressed by Ms. Boussard's dedication to support her family by running this business. She

understood that gambling can be addictive and noted that alcohol can also be addictive. She also commented on the number of individuals who would lose their jobs if the permit ceased. Later she emphasized that the only change in Council's policy on gambling is to accommodate the family of this business, noting the statement from the Chamber of Commerce.

Council Member Dowling indicated that the club was previously in another location on Mission Boulevard, but was acquired to build the parking garage. He commented favorably, noting that it is an alcohol-free establishment. He would not support this club if the Police Chief had any issues against this establishment. His vision is to see entertainment in the downtown. He noted the work session and two hearings to discuss this issue. He encouraged staff to inform the downtown homeowner associations about downtown topics.

Council Member Henson commented favorably on the card club business that has been well-run for over fifty years. He supported the family efforts to take the compliance initiative He also appreciated the downtown homeowners that attended the hearings. He felt assured that this approval would not be a gateway for other clubs coming into Hayward.

Council Member Rodriquez commented on the past efforts made by former Police Chief Plummer to clean up Hayward. She noted his attendance last week and that he spoke in favor of the business. She noted that this card club has been a respectable business in the downtown.

Mayor Sweeney stated that he would be voting against the substitute motion. He felt that this motion would run counter to the investments made towards the revitalization of the downtown making a safe pedestrian-oriented downtown. He felt that the intent of the Council was previously set 25 years ago. This agreement was to run the permit with the owner and the permit would lapse when the owner passed. He did not believe that it is appropriate to change what was previously decided. Mayor Sweeney also referred to the letter from Scott Raty, CEO of the Hayward Chamber of Commerce that raised some questions suggesting further study.

It was moved by Council Member Ward, seconded by Council Member Halliday, and carried to introduce this ordinance by the following roll call vote:

> Intro Ordinance 06-_, "An Ordinance Amending Chapter 4, Article 3 of the Hayward Municipal Code, by the Addition of Section 4-3.16(c) Relating to the Palace Card Room Permit"

AYES:	Council Members Rodriquez, Halliday, Ward, Dowling, Henson
NOES:	Council Members Quirk MAYOR Sweeney
ABSENT:	None
ABSTAINED:	None

MINUTES OF THE SPECIAL JOINT MEETING OF THE CITY COUNCIL/REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, October 17, 2006, 8:00 p.m.

COUNCIL REPORTS

Council Member Quirk noted that the California Library Association has awarded former Library Director Marilyn Baker-Madsen and her husband Carl Baker-Madsen, for their individual contributions to libraries.

Council Member Quirk reported his experience, at a Muslim school at the end of Ramadan. He noted that Council Member Halliday also joined in that experience in learning about this culture.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 9:16 p.m.

APPROVED:

Michael Sweeney, Mayor, City of Hayward
Chair, Redevelopment Agency

ATTEST:

Angelina Reyes, City Clerk, City of Hayward
Secretary, Redevelopment Agency

MINUTES OF THE REGULAR MEETING OF THE CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, July 23, 2009, 7:30 p.m.
777 B Street, Hayward, CA 94541

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2. **Text Amendment Application No. PL-2009-0188 - Palace Poker Casino (Applicant/ Owner)** - Request to Amend Hayward Municipal Code Section 4-3.18 to Increase the Number of Card Tables Allowed at a Single Location from 8 to 11

   Modification of Use Permit Application No. PL-2009-0190 - Palace Poker Casino LLC (Applicant/Owner) - Request to Modify the Use Permit for the Palace Poker Casino to Increase the Number of Card Tables from 8 to 11. The Property is Located at 22821 Mission Boulevard in the Central City Commercial (CC-C) Zoning District

Planning Manager Richard Patenaude gave the report indicating some modifications were made to the conditions of approval for the conditional use permit and provided a list of the changes to the Commissioners.

Referring to a copy of a letter the Commissioners received from Dyana Anderly, consultant for the applicant, that states that the California Department of Justice regularly inspects the operations of the casino, Commissioner Márquez asked staff about the role of the agency and whether or not they've expressed any concerns. Planning Manager Patenaude said the Hayward Police Department would know of any concerns and nothing has been passed along to staff. Commissioner Márquez confirmed that the Casino is open 24/7 and asked if it is ever closed. Staff didn't know, but audience members indicated no.

Commissioner Loché asked if there have been a significant number of calls to police regarding the towing of vehicles. Planning Manager Patenaude said nothing has been reported to staff.

Commissioner Mendall asked if any fees or taxes are collected on a per table basis from the Casino. Mr. Patenaude indicated yes. Commissioner Mendall then asked when the City Council voted to extend the license of the Casino. He thought it was two or three years ago and staff was unable to confirm the date.

Commissioner Peixoto asked for more information about several emails mentioned, but not attached to, the written report expressing concerns such as loitering, late-night noise, trash, and illegal parking around the casino. Mr. Patenaude said staff was not able to verify that the noise was caused by the casino in particular and that the trash came from casino clients. Staff noted that the casino provides a shuttle to and from a nearby parking structure and that no complaints have been issued with police regarding any of the aforementioned matters. Commissioner Peixoto asked if there were any representatives in the audience from the police department. There were none.

Chair Lavelle opened the Public Hearing at 7:57 pm.

Steve Namoto, San Ramon resident and one of the general managers of the casino, spoke on behalf of owner Katherine Bousson and her two daughters Catherine Aganon and Pamela Roberts, saying that on most nights all the tables are full. Especially on weekends, the three tables being requested are needed and would be appreciated by customers who are currently forced to wait up to an hour or

more to play. The Bousson Family has been successful for over 50 years in downtown Hayward and has maintained a good relationship with the City and the community, and a positive rapport with the Hayward Police Department. The casino employs over 100 people making them one of the largest employers in the downtown area. Mr. Namoto said the casino always staffs three security guards and one shuttle driver 24 hours a day which allows them to provide a friendly and secure environment. This allows them to constantly monitor club activities and provide services such as a complimentary shuttle service. He said in the past year, the casino has invested over half a million dollars in these services. The club also has over 24 surveillance cameras over each table, at the entrance, and looking up and down Mission Boulevard. Recently their cameras helped the police solve an unrelated crime. On any given day, the casino has 50 employees and 250 customers who have a positive economic effect on surrounding downtown businesses. They strive to have positive relations with both business and residential neighbors. Signs posted in the casino remind the customers to use the complimentary shuttle service and be respectful of neighbors and to avoid parking in private lots. In conclusion, he said they have shown that over the last 50 years the Palace is a responsible business that has maintained a positive relationship with the City. On behalf of the Bousson Family, loyal customers and employees, Mr. Namoto asked that the Planning Commission grant them approval to add three additional, much needed, gaming tables.

Dyana Anderly, Cameron Park, California, said it has already been established that the casino is an appropriate land use so the only question is increasing the number of tables. She suggested the commissioners compare the request to adding more tables in a restaurant, which is not required to ask permission to do so. The casino is not required to provide additional parking when expanding because the City wants businesses to bring more people downtown and that is what the club is doing, she said. The addition of three tables would follow City policy which considers the downtown the social center of the city and encourages night-time activities plus the club has 24-hour security and absolutely no alcohol. She noted there is plenty of room to add the additional tables and maximum capacity would still not be reached. The area is zoned Central City Commercial which allows for a number of different uses including entertainment. The casino is compatible with surrounding businesses and actually brings in business to these establishments. She pointed out that the noise complaints could come from these surrounding businesses that are also open late. She concluded by urging the Commission to recommend approval to the City Council because the expansion would benefit the downtown and supports the Bousson family who have been such a big part of the community.

Vencent Caballero, Winsdor, California resident and Palace tournament director and shift manager, said he's worked at the casino for seven years and he's still one of the youngest employees because "most have been around for a long, long time". That says a lot about the organization, he said. He said one thing the Commissioners may not be aware of is the casino's charitable history. They started with small donations, then started giving more including donating computers to schools. Now they hold poker tournaments and Casino Nights for local charities with all employees working at their own expense. For the last two years, they have been working with four charities in the area. In February, the Palace Casino, along with neighboring casinos in California, raised $150,000 for the Kidney Foundation. In September they are working with the Police Association to host a poker tournament to raise money for a scholarship program and separately, the upcoming golf tournament. Through the years they have raised a lot of money, he said, and all the employees work for free.

Commissioner Peixoto thanked Mr. Caballero for a recent tour and the information about the charities. During the tour, he said one of things that impressed him the most was the amount of supervision at the casino. Each table has a point person, Commissioner Peixoto recalled, but asked Mr. Caballero to explain what other types of supervision are in place. Mr. Caballero explained that there are three floor managers for eight tables to make sure everything goes smoothly. The shift manager oversees the floor managers and there may also be a general manager on site as well. Commissioner Peixoto asked about the certification process for various employees. Mr. Cabellero explained that managers are required to hold two different licenses, both issued from the state, one from the California Department of Justice. Clearance for the Key License, or Manager License, takes about two years, and the casino must have someone on the floor with that license at all times. He noted that guests can tell who has the license by the color of their shirt.

Commissioner McKillop asked Mr. Cabellero if he commutes from Windsor and if there are any card clubs there. Mr. Cabellero said he does commute and there are five casinos in the area, but none in Windsor itself.

Jim Wieder, President of the Hayward Chamber of Commerce and owner of Hayward Ace Hardware, said that his sister manages a casino in Palm Springs and she tells him about the other side of gambling, of people losing everything, or stealing to gamble, and he isn't sure expanding a casino or building more is the right approach for generating revenue in Hayward. With that said, however, Mr. Wieder said owner Bill Roberts and the casino staff are courteous and professional. Mr. Roberts is a member of the Hayward Rotary, the Chamber, and is "a man of his word" running a professionally, well-run operation, therefore Mr. Wieder said the chamber supports the expansion.

Bob Aganon read a letter on behalf of Paul Martin who could not attend. In his letter, Mr. Martin states that he owned property directly across from the casino and found that the casino was instrumental in the survival of surrounding businesses. If there were any issues with the club or its patrons, management was always responsive and cooperative. Without reservation Mr. Martin stated that the Palace Casino was a good neighbor to his tenants. He said in the past, card clubs have had the stigma of catering to an undesirable element, however, with the advent of on-line poker sites and the world series of poker televised on ESPN, card clubs and the gaming they provide have now become mainstream entertainment. The Palace provides that entertainment opportunity for folks patronizing downtown businesses; additional tables will serve to increase that opportunity. Mr. Martin states that he knows Mr. Roberts personally and has been to the club to see that it is a "clean operation". Mr. Martin concludes his letter by strongly urging the Planning Commission to recommend approval of the item to City Council.

William Roberts, Oakdale resident and one of the general managers at the Palace, member of the Chamber of Commerce and an honorary Deputy Sheriff with Alameda County, said he has worked for the Palace for over 16 years. He said the Bousson family has done everything in its power to do whatever the community has asked of them. The Palace is an equal opportunity employer with 107 current employees, many from the Hayward area, he said. They run the business in a safe and professional manner always striving to provide a safe and positive environment for their customers

and the surrounding neighborhood. He said the casino provides 24/7 security and shuttle service for the safety of their customers but also for the surrounding businesses and neighbors. That service, he said, is at the annual cost of $700,000. Also on an annual basis, Mr. Roberts said the club pays $12,000 in table fees to the City; $21,400 in badge fees for the employees; and $22,000 in table fees to the State. Mr. Roberts expanded on the list of local and national charities the Palace contributes to and concluded that the Palace has been a good business for the Hayward community.

Commissioner Peixoto thanked Mr. Roberts for the information and asked about the size of casino operations and how much revenue is produced each year. Mr. Roberts deferred the question to the club owners.

Commissioner McKillop asked Mr. Roberts how much sales tax is generated and he again deferred the question to the owners.

Commissioner Loché read condition of approval number four which states that management shall take all necessary steps to assure the orderly conduct of employees, patrons, and visitors on the premises. He asked Mr. Roberts what steps, if any, are going to take place if the requested tables are added. Mr. Roberts said it would depend on the customer base and need. Right now security is more than sufficient, he said. Besides the three security guards and shuttle driver, the managers are trained to provide intervention if a situation appears to be escalating. Commissioner Loché said that he had recently toured the casino and asked where the three additional tables were going to go and if any services would be eliminated or changed if the tables are added. Mr. Roberts said an unused fireplace would be eliminated and a counter that is currently being used as a waiting area would be removed to create more space for the additional tables.

Commissioner Márquez thanked Mr. Roberts for a tour of the casino and asked what specific complaints were made in the three emails received and who made them. Mr. Roberts said he didn't know who they came from but he does know one did not come from Alice Nguyen, the owner of the restaurant next door. In the past she had complained about casino patrons parking in her lot, but since the casino started the shuttle service and posted notices reminding patrons not to park in private lots, the problem has almost been eliminated. Commissioner Márquez asked what the parking shuttle looks like and how it was identified. Mr. Roberts said there are three Toyota Prius with the name of the security service on the door. Commissioner Márquez then asked if job opportunities would be created by adding the tables and Mr. Roberts said yes. She suggested that under Directions on the casino's website they add the location of the municipal parking lot and information about the shuttle.

Commissioner Mendall asked where customers would wait if the previously mentioned counter was eliminated. He expressed concern that people would be waiting outside of the casino. Mr. Roberts said the interior of the club would be modified to use the space more effectively and create a waiting area. He said there is also a sheltered area on the side of the building for people to wait and no patrons are allowed to loiter out front.

Lorenzo Gamero, Francisco Street resident, said he lives right behind the casino and the rosy picture casino representatives are painting is false. He said there is not enough room in the club to fit three more tables and if tables are added that will drive people outside into the area around his home. While they wait they drink, start problems and don't respect his property or his neighbor's

property. He said he's been harassed, and his property burglarized and vandalized. When he called the police it didn't do any good, the vandalizing continued. He said he came to the meeting to let the Commissioners know what was really happening. He pointed out that while casino managers are more than willing to say how much they spend on security and different charities they won't say how much revenue the club generates. He said he opposes the expansion. He said casino representatives blame the Ranch Restaurant for the problems in the area, but he said they aren't open late. None of the businesses downtown are open late, only the casino, he said. He has lived at this location since 1982; he has watched downtown develop into a nice city. The casino definitely helps the City, he said, but the club is big enough, they don't need to expand.

Robert Sakai, Chatham Court resident since 1948, said he has watched the city grow and is proud of the city. He said it's important to help local businesses be as successful as possible and the casino has been around for a long time with long-time employees and customers. The City should support businesses like that, he said. He pointed out that the downtown area doesn't have a lot of successful entertainment venues so it's even more important to support one that is a "very good" community member. He said he personally knows the owner, Mr. Roberts, who has a very good reputation and supports local community organizations. Someone like that should be allowed to expand so he can continue to contribute to the community.

Catherine Aganon and Pamela Roberts, daughters of owner Katherine Bousson, introduced themselves as the co-owners of the Palace Poker Casino and thanked staff and the commissioners for their time and consideration. On behalf of the family and their extended family of employees and customers, Ms. Aganon respectfully requested that the commission approve the request to add three more gaming tables. Ms. Aganon thanked the commission and said that retired Sheriff Plummer was supposed to be at the meeting to speak on the club's behalf but he had an accident, broke a rib, and wasn't able to attend.

Commissioner Loché said he had heard that Palace clients have walked right through the neighboring restaurant to get to their cars, he asked Ms. Aganon and Ms. Roberts if they had been made aware of this concern. Ms. Roberts said she has a good relationship with restaurant owner Alice Nguyen and although this has happened in the past, security has been on alert and Ms. Nguyen has reported no new problems.

Commissioner Mendall asked why the Palace didn't pursue an application submitted a year or two ago to move to another location with more room for expansion. Ms. Aganon confirmed that the family had considered purchasing the Kumbala space on Foothill Boulevard because at their current location they have no dedicated parking and they wanted to expand and add amenities like a restaurant. Their brother was involved in that process but when he passed away suddenly, their mother asked them not to pursue it. Commissioner Mendall expressed his condolences and asked about condition of approval number eight that requests the improvement of the current building's plain front façade. Ms. Aganon said they would be happy to comply. He then asked about making the shuttle service a requirement rather than a voluntary service. Ms. Aganon said she doesn't have a problem with that but pointed out that the casino can't patrol all the streets all the time in regards

to illegal parking. The casino is not the only business on the street; the Ranch Restaurant doesn't close until 2am, she said. While casino staff is trying very hard to monitor where patrons park, they can't control everyone. While Commissioner Mendall agreed that the casino can't control every patron, he said what the casino really needs is a location that has its own parking. He explained that that's why the Kumbala location made sense to him. Ms. Aganon said that building isn't an option for them but they would like to move to a location away from residential housing and with plenty of parking.

Ms. Roberts sympathized with Mr. Gambero saying she wouldn't want a casino in her back yard either, but they have been there long before 1982 and they are doing the best they can with the little space they have. Ms. Roberts mentioned that the building next to the casino is really an eyesore and should be considered if the City wants to improve the look of the street.

Commissioner McKillop asked for information about sales tax revenues for the casino. Ms. Aganon said she didn't have those figures with her, but said the casino pays the City $1,500 per table, or $12,000 annually for all tables. Commissioner McKillop asked if the bulk of the club's revenue was subject to sales tax. Ms. Aganon said she didn't have that information but from the audience Mr. Roberts confirmed Commissioner McKillop's understanding that it was not.

Alberta Gambero, Francisco Street resident and wife of Mr. Gambero, said years ago, the City asked them if the Palace Poker Casino could move into their current location. The Gamberos said yes because it was a small business and the City told them when Katherine Bousson passed away the business would close. Mrs. Gambero asked what happened with that. Chair Lavelle said staff would answer the question at another time since it didn't pertain to the matter at hand. She suggested Mrs. Gambero give her phone number to staff or talk to someone after the meeting. Mrs. Gambero said they have been there longer than the Casino. She understands it's difficult to control patrons, but it's hard for them too because they have to get up very early for work and day and night there are people coming and going, starting their cars, fighting; it makes them afraid and worried that something might happen to them.

Chair Lavelle closed the Public Hearing at 8:45 pm.

Commissioner McKillop asked for confirmation that the expiration of the use permit was extended to include Ms. Bousson's children. Assistant City Attorney Maureen Conneely confirmed that the use permit will expire when the last of her three children passes away. Commissioner McKillop asked when that was changed and Ms. Conneely said four or five years ago when Ms. Bousson requested that the permit include her children.

Commissioner Mendall said he doesn't oppose the expansion of the casino, but he does have a problem with the expansion at this site. He said there is currently a parking problem and if more tables are added the additional customers will add to it. He said he's also concerned that adding more tables will push waiting customers outside and create issues for local businesses and residents. He said he was interested in hearing the opinions of the other commissioners.

Commissioner Thnay thanked staff for their work and Mr. Caballero for the tour of the Palace. He agreed with Commissioner Mendall that the main issue in approving the expansion is parking, but he said the Palace should be proud that they've been around for 50 years. While he personally

doesn't support excessive gambling, he said the City should support long-time businesses in Hayward. He suggested that the casino could help their residential neighbors by assisting with the cost of installing an alarm system or dual-pane windows; something "to make their life easier". Commissioner Thnay also suggested that handouts be given to customers promoting the shuttle service. He said security should ask everyone coming in where they parked and ask them to move their car if the location is inappropriate. Steps like these, he said, would make the casino a better neighbor. He said by modifying the floorplan, the casino can accommodate the additional tables.

Commissioner Thnay moved, seconded by Commissioner Peixoto, to recommend to City Council to approve the Negative Declaration, the request to amend Hayward Municipal Code Section 4-3.18, and the modification to the Poker Palace Casino conditional use permit, subject to the attached findings and conditions of approval. Commissioner Thnay asked that the conditions of approval include monitoring of customer parking by casino staff; promotion of the shuttle service to all customers; and assistance for nearby residences to mitigate noise and security issues.

Commissioner McKillop said while the operation is very well run and they've done everything necessary to make the casino a strong, safe, viable business, she disagrees with Findings for Approval A in the written report that states: "Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward." She said she doesn't see that. She also questioned Finding D, which states all uses are compatible with present and future uses. She notes that the casino is right across, and kiddie-corner to, the library park and a playground park for children. If the casino was to relocate to another spot in the City away from residential buildings and with plenty of parking, she would fully support the motion, but at the current location she does not.

Commissioner Márquez agreed that the Palace was a well-run operation and was pleased that the police department has no stated concerns about the establishment. However, she requested adding to the conditions of approval a requirement for signage on surrounding streets prohibiting parking by casino patrons; patrols by the casino of local streets to monitor customer parking; and making the shuttle service mandatory. On a personal level she said she's fully supportive of the casino making donations to charities but hopes they would focus more specifically on Hayward organizations to reach out further to the community.

Chair Lavelle asked Assistant City Attorney Conneely if the City could restrict parking on local streets by club patrons. Ms. Conneely said if the street is a public right-of-way parking cannot be restricted to any particular member of the public. Commissioner Márquez then asked about the patrol request. Planning Manager Richard Patenaude pointed out that a patrol person would not know what cars are owned by casino patrons and said condition number three already requires the casino to inform customers of the shuttle service.

Chair Lavelle also pointed out that Commissioner Thnay had already requested that handouts be given to all patrons regarding the parking shuttle service.

Commissioner Thnay said if the neighbors don't mind, signs could be added directing casino patrons where to park.

Chair Lavelle confirmed that he meant that patrons would be encouraged to use the near-by parking structure and utilize the shuttle. Planning Manager Patenaude said residents could also work with the police department to form neighborhood parking districts that could require decals or restrict parking to certain times of day, but that would take some work by the residents on Francisco Street.

While he had the floor, Planning Manager Patenaude gave more information about the aforementioned emails. He said one was sent by Alice Nguyen's husband regarding parking, but Mr. Nguyen didn't indicate how he felt about the expansion. The other two emails came from nearby property owners making complaints regarding noise, furniture dumping, vandalism, etc. Mr. Patenaude pointed out that nearby businesses (such as Pizza Hut and The Ranch) have driveways that exit to Francisco Street and there's a vacant lot on Francisco. These factors, he said, could certainly attract these types of problems and without any indication of trouble from police; these concerns are not necessarily related to the casino.

Commissioner Loché said he has no objection to gambling. He said he was very impressed with what he saw when he toured the facility and agrees the business is well-run. He applauds the casino for instituting the shuttle service on its own prerogative. It bothers him to impede a business's growth; businesses should be allowed to thrive, he said, but the lack of a parking lot will only make a bad situation worse by expanding at that location. At that location, he thinks it would be a mistake to expand and he said he will not be supporting the motion.

Commissioner Peixoto said he visited the casino the day before and found it to be a well-run business. He points out that the casino employees 107 people, many of whom live in Hayward; casino customers patronize nearby businesses; it's been in Hayward for many years; and the business donates to local charities. If this was a new applicant he would be concerned, he said, but this is a business that has shown its desire to make a contribution to the community. The casino brings people outside of Hayward to the City to spend their money. He was very impressed with the security. Commissioner Peixoto said he realizes that parking is an issue, but that's why the City built the parking structures. He said improved signage regarding the availability of the municipal lot and the shuttle service should mitigate any of the parking problems that might occur on Francisco Street. In the past, when patronizing The Ranch, he admitted he parked on Francisco Street which is a public street. "You can't just blame it on the Palace," he said, "they've done everything they can to mitigate this parking issue." He said the City wants to encourage businesses that have done well and contributed to the community and this is an example of that. He said he fully supports the motion.

Commissioner Mendall confirmed that Commissioner Márquez's amendment to the motion would require the shuttle service to be mandatory but said he would be voting against the motion because of the parking. If this request was at a larger location that had parking and no residences next door, he said he would probably support the motion. But at this location with no parking, residential units next to it, and a fairly small building that could be crowded inside and perhaps outside, he said adding more tables just doesn't seem the right way to expand. He said he would not be supporting the motion.

MINUTES OF THE REGULAR MEETING OF THE CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, July 23, 2009, 7:30 p.m.
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Chair Lavelle thanked the public for participating and the Palace staff for the tour and information. She said she participated in a charity Poker Night here at City Hall and really enjoyed her experience with the dealers from the casino. She said she is in favor of the motion. She appreciates the efforts the business makes to help patrons find parking. When she toured the casino on a Wednesday night she was frankly surprised to see every seat occupied. There probably is a need, she said, and expects the customers will start using the new tables the moment they are added. Chair Lavelle said she's a customer in downtown, is pleased with the efforts the City has made to improve and expand downtown and the Palace's request is an expansion of an existing business; it's not adding another facility. The City needs more businesses, more people, more customers, more visitors, and more parkers to come to Hayward, she said. The availability of entertainment is lacking in the downtown. She concluded by saying that she looks forward to the continued success the Bousson Family has brought to Hayward. She said she agrees with all the comments expressed by the other commissioners about the care and concern of neighbors who live in the neighborhood and the nearby businesses. She hopes the casino will be receptive to any complaints they receive, not just those from residents. She said she appreciates the added condition of approval number eight that requires an improvement to the façade. She recalled a beautiful historic mural that was on the side of a restaurant that was recently torn down and expressed a preference for a replacement mural on the casino.

Chair Lavelle asked staff if they needed any clarification on the amendments to the motion and when told no, called for a vote.

The motion was approved with the following vote:

AYES:	Commissioners, Márquez, Peixoto, Thnay, Chair Lavelle
NOES:	Commissioner McKillop, Mendall, Loché
ABSENT:	None
ABSTAINED:	None

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Planning Manager Richard Patenaude encouraged Commissioners to enjoy the August break and indicated that election of officers would take place when they return. He also reminded members that the Commission is now switching meeting times to the 1st and 3rd Thursday of each month for the rest of 2009.

4. Commissioners' Announcements, Referrals

Commissioner Mendall said in a recent trip downtown that he was pleased to see some new businesses and fewer empty storefronts. He encouraged everyone to visit downtown and checkout

the new stores and restaurants.

Commissioner Thnay asked staff to contact the owner of the property at Mission Boulevard and Tennyson Avenue which is becoming unsightly due to high weeds.

Commissioner Márquez said last week's downtown street party was very well attended and she was pleased to see so many people enjoying downtown Hayward. She encouraged people to come to the next two parties.

Commissioner McKillop agreed with Commissioner Márquez and complemented the City on their efforts saying the party just keeps getting bigger and better. The new Kids Section of the party was a great addition, she said.

Chair Lavelle said there's a new opportunity to hear free music downtown; on three future Friday evenings the Chabot College Jazz Band will perform by the fountain outside of City Hall. She encouraged people to come enjoy the music. She complimented staff on the beautiful landscaping in the formerly empty fountain outside of the main library. And finally she thanked the Commissioners for their courtesy and patience while she served as Chair, is looking forward to the new Chair come September, and said she hopes they enjoy their summer break and come back fully charged for a busy Fall.

APPROVAL OF MINUTES

5. Minutes from June 11, 2009 were unanimously approved.

6. Minutes from June 25, 2009 were unanimously approved with one minor change by Commissioner Loché.

ADJOURNMENT

Chair Lavelle adjourned the meeting at 9:21 pm.

APPROVED:

Rodney Loché, Secretary
Planning Commissioner

ATTEST:

Suzanne Philis, Senior Secretary
Office of the City Clerk

7. Text Amendment Application No. PL-2009-0188 – Palace Poker Casino, LLC (Applicant/Owner) - Request to Amend Hayward Municipal Code Section 4-3.18 to Increase the Number of Card Tables Allowed at a Single Location from 8 to 11

   Modification of Use Permit Application No. PL-2009-0190 - Palace Poker Casino, LLC (Applicant/Owner) - Request to Modify the Use Permit for the Palace Poker Casino to Increase the Number of Card Tables from 8 to 11. The Property is Located at 22821 Mission Boulevard in the Central City - Commercial (CC-C) Zoning District

   Staff report submitted by Associate Planner Koonze, dated September 22, 2009, was filed.

Development Services Director Rizk turned the presentation to Planning Manager Patenaude, who in turn gave a synopsis of the report.

Mayor Sweeney opened the public hearing at 8:41 p.m.

Mr. William Roberts, General Manager of the Palace Poker Casino, spoke on behalf of the Bousson family and requested approval of the three additional tables and thanked the Mayor and Council for their consideration in this matter.

Mr. Abdul Nangyalai, owner of A&F Private Security Service, stated that his company has been providing security services to the Palace Poker Casino for the past nine years. Mr. Nangyalai indicated that three officers provide security 24-hours a day at the casino. He explained the duties and responsibilities of the security personnel inside of the casino and the shuttle service to and from the Municipal Parking lot. He added that there are measures in place to ensure that patrons and their vehicles are safe and not disturbing the surrounding businesses.

Council Member Halliday mentioned the complaints from Francisco Street residents regarding the noise coming from patrons of the Palace Poker Casino late at night. Mr. Nangyalai noted that The Ranch Diner does not have any security and does not have a lighted parking area. He stated that the lack of lights on Francisco Street makes for an unsafe street.

Mr. Charles Plummer, Lancaster Road resident and former Police Chief, recalled Hayward when he was the Police Chief and there were questionable establishments such as 30 massage parlors (where only one actually offered massages), six card rooms, and one of the biggest X-rated theaters in the area. Mr. Plummer spoke to the honesty and integrity of Ms. Bousson and her establishment. Mr. Plummer expressed support for the additional tables and urged Council approval.

Ms. Dyana Anderly, Cameron Park resident and Land Planning and Development Support consultant for the casino, spoke in support of the expansion. Ms. Anderly addressed the terms of the current Use Permit and its purpose of ensuring compatibility with the surrounding uses. She said the casino has a proactive approach in making sure it is a good neighbor. Ms. Anderly stated that the casino is a quiet place that does not sell liquor, keeps the volume of the music low, and where the patrons are focused on the gaming. Ms. Anderly mentioned that the Redevelopment Agency selected and endorsed this site as a location for the casino suggesting that a downtown area is usually a

vibrant place with a lot of activity with some noise associated with the many businesses. Ms. Anderly urged Council to support the addition of the three tables.

Mr. Robert Sakai, Chatham Court resident, expressed support for the casino expansion and said the Palace has been a community supporter for many years. Mr. Sakai noted that the casino is a successful downtown Hayward business that has many long-time employees. Mr. Sakai noted that the addition of three tables would have minimal impact. He also spoke about the benefit of the security patrols.

Mr. Paul Martin, Fletcher Lane resident and previous owner of a property across the street from the casino, noted that his tenants had benefitted from the business generated by patrons of the card club. Mr. Martin indicated that the club is a well run establishment, supported the additional tables, and urged Council to support the expansion.

Ms. Cathy Aganon, Livermore resident and daughter of Ms. Bousson, representing her mother and family, thanked the Mayor and Council for their time and consideration and those who spoke on the Palace Poker Casino's behalf. Ms. Aganon said that the family has operated the casino for over 50 years, employs 107 people, and serves over 200 patrons per day. She added that her family is committed to continuing to offer a downtown entertainment venue that is safe and consistent with the downtown policies and goals.

Mayor Sweeney closed the public hearing at 9:01 p.m.

Council Member Dowling indicated that the Palace Poker Casino is a successful downtown business that has supported the efforts of the Hayward Police Department. Mr. Dowling has visited the establishment and noted that it provides quality entertainment and is an alcohol-free establishment. He added that the Palace is one of the largest downtown employers and that the club brings people to downtown. He made a motion per the staff recommendation.

Council Member Henson concurred with Council Member Dowling and added that the Palace is a good neighbor. Mr. Henson mentioned that the Palace is a well-lit establishment with a security guard at the front. Mr. Henson spoke about the Palace's use of surveillance cameras and how the cameras could be of help to the Police Department. Mr. Henson noted that the addition of three tables will not cause any negative impact and will enhance the area as the City continues to build a vibrant downtown. Mr. Henson endorsed the addition of the three tables.

Council Member Zermeño said he also visited the Palace and was very impressed with the cleanliness of the establishment and the surrounding area. Mr. Zermeño endorsed the parking shuttle and said that patrons frequent the businesses close by. Mr. Zermeño appreciates that the Palace brings folks to Hayward. Mr. Zermeño supported the motion, but expressed disappointment about the ugly green house next door and inquired about its status.

Council Member Halliday supported the motion, but was concerned about the complaints received and requested that staff ask the Police Department to check into the complaints on Francisco Street and investigate the activity at The Ranch parking lot. Ms. Halliday commended the Club for doing a good job, complying and cooperating with the City, and for being a good neighbor. Ms. Halliday visited the Palace and saw how the additional tables would fit with some modifications to the card club. Ms. Halliday concurred with Ms. Anderly that the City wants people to make use of the existing parking lots the City has provided, and for people to park and walk around downtown. Ms. Halliday supports the security provided for employees and customers and the owner's agreement to making some improvements to the front façade.

Council Member May spoke about her personal experience visiting the card club. Ms. May expressed support for allowing businesses that operate at their full capacity, but was on the fence whether to allow the addition of the three tables. Ms. May considered the 2006 extension of the operating use permit as a "free pass" and said that Council would not have to discuss this issue if the prior Council had not made that decision. She added that Council represents the community and it has to consider the quality of life for all residents and businesses. She added that the City's image is very important and that the City is working hard every day to improve that image. Ms. May noted that right across the street there is a library and a tot lot and believed that the wholesomeness of a library and tot lot in relation to the location of the Palace Poker Casino did not mix. Ms. May did not favor the additional three tables.

Council Member Quirk stated that three additional tables did not constitute a major impact to the neighborhood and indicated that the business is run in a very responsible way. Mr. Quirk supported the motion.

Mayor Sweeney referred to the Findings for Approval in Exhibit D, Section B, which states that this application needs to be in conformance with the City's plans, including making the downtown "pedestrian friendly." Mayor Sweeny spoke about the distance between the Municipal Parking lot and the card club as being one city block and asked how having a shuttle service could be consistent with the pedestrian orientation. Director of Development Services Department Rizk replied that the shuttle service came at the recommendation of the Planning Commission. Mr. Rizk noted that even though people are provided with the choice to take the shuttle between the parking garage and the casino, there would be an opportunity for patrons, when they get off the shuttle, to walk and frequent other businesses. Mr. Rizk noted that there was concern with the Planning Commissioners that patrons would park in the residential area along Francisco Street and the Commissioners wanted to minimize the impact on the neighborhood and address all concerns by formalizing the practice of the shuttle. Mayor Sweeney stated that the shuttle service was probably a good requirement, but did not agree that staff can make the finding for approval that the application is consistent with the pedestrian oriented policy. Mayor Sweeney stated that Council Member May's point about the proximity of the library and tot lot across the street was well taken. Mayor Sweeney noted that Ms. Bousson is an honorable person and has run a good business, but was receptive to the neighboring resident, Berta Gamero, who pointed out that the neighboring residents were originally told that when Ms. Bousson passed away, the use permit would end and the club would close. Mayor Sweeney noted that he voted against the extension of the use permit to include the lifetime of her three children near the end of 2006. Mayor Sweeney did not agree with the finding for approval.

Council Member Quirk noted that the shuttle can assist people who do not feel secure walking by the library at night. He stated that the casino is a 24-hour business and people could potentially leave with large amounts of cash. Mr. Quirk said it was his understanding that the purpose of the shuttle is to make sure customers get safely to their cars. Mr. Quirk thought that the Planning Commission required the shuttle as part of the expansion to alleviate complaints by neighbors that the Club customers were parking on Francisco Street. Mr. Quirk does not feel there is any more or less impact on the park and library with the additional tables.

It was moved by Council Member Dowling, seconded by Council Member Henson, and carried by the following roll call vote to adopt the staff recommendation:

AYES: Council Members Zermeño, Quirk, Halliday, Dowling, Henson
NOES: Council Member May
Mayor Sweeney
ABSENT: None
ABSTAINED: None

Resolution 09-145, "Resolution Certifying That the Initial Study and Negative Declaration Have Been Completed in Compliance with the California Environmental Quality Act, Approving Text Amendment No. 2009-0188 and Conditionally Approving Modification of Use Permit No. 2009-0190"

Intro Ord 09-_, "An Ordinance Amending Section 4-3.18 of the Hayward Municipal Code Relating to Card Club Regulations"

COUNCIL REPORTS

Council Member Halliday reported on her attendance at the Annual League of California Cities Conference on September 16th to 19th at the San Jose Convention Center. Ms. Halliday stated the major news of the conference was authorizing the League to develop an initiative on the November 2010 ballot to protect City revenues. Ms. Halliday noted that the League attempted to remedy the State take-away a couple of years ago with Proposition 1A, but it has not been effective. Ms. Halliday reported that the attempt this time would be a constitutional amendment to prohibit the State from taking local revenues, including Redevelopment and Gas Tax monies. Ms. Halliday also attended a California Redevelopment Agency session and the Agency is continuing to legally pursue getting the City's money back and/or prohibit the State from taking any additional Redevelopment funds. Ms. Halliday said other sessions she attended covered topics having to do with the Library, Fire Department and social media.

Council Member Zermeño reminded attendees of the last free concert by the Chabot College Jazz Orchestra on September 25th at the City Hall Civic Plaza. Mr. Zermeño also mentioned the free movie "BOLT", which will be shown at 7:30 p.m., at City Hall Civic Plaza on September 26th.

ADJOURNMENT

Mayor/Chair Sweeney adjourned the meeting at 9:31 p.m.

APPROVED:

Michael Sweeney, Mayor, City of Hayward
Chair, Redevelopment Agency

ATTEST:

Miriam Lens, City Clerk, City of Hayward
Secretary, Redevelopment Agency

MINUTES OF THE REGULAR MEETING OF THE CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, May 9, 2013, 7:00 p.m.
777 B Street, Hayward, CA94541

4. Amendment of City's Card Club Regulations (PL-2011-0213 TA) to Allow Transfer of Ownership and Potential Relocation of the Palace Card Club, Fee Increases, and Additional Regulatory Oversight, Among Other Modifications; and Conditional Use Permit Modification Application (PL-2011-0303 CUP) to Increase the Number of Gaming Tables From 11 to 13 and Approve a Two-Story Addition to the Palace Card Club. The Palace Poker Casino, LLC (Applicant); Catherine Aganon and Pamela Roberts (Owners/Trustees). The Project is Located at 22821 Mission Boulevard, in a Central City Commercial (CC-C) Zoning District.

Development Services Director Rizk gave the report and noted staff had been working with Lieutenant Jason Martinez and Sergeant Ryan Cantrell of the Hayward Police Department who were present and available to answer questions, as were owners Cathy Aganon and Pam Robert and their consultant Dyana Anderly.

Commissioner Lamnin disclosed that she had been invited to and had visited the card club the week before.

Commissioner Lamnin asked why a new condition use permit (CUP) would be needed if the card club moved but had no substantial changes to operations. Development Services Director Rizk explained that a CUP was site specific and the characteristics of every site were different including proximity to residential. Commissioner Lamnin confirmed that any businesses that required a CUP would have to get a new one if it moved and Mr. Rizk said yes.

Commissioner Lamnin asked Sgt. Cantrell to comment on a letter received that mentioned a potential increase in crime due specifically to gambling. She asked if the police department (PD) had noticed a direct connection between the two and Sgt. Cantrell said no, PD had noticed no correlation.

Regarding the revised language for the Hayward Municipal Code, Commissioner Lamnin said she understood the background investigation of an applicant could take longer than 30 days, but asked if the Chief of Police could extend the process indefinitely. Development Services Director Rizk said the investigation could take longer than 30 days depending on the number of people being investigated, and the complexity of the financial investments of the entity. Commissioner Lamnin said she appreciated that the City had been working to make the permitting process as smooth as possible.

Commissioner Lamnin asked if a shareholder would have to file a separate permit and Assistant City Attorney Conneely said the shareholder would need to identify themselves on the application.

Commissioner Márquez asked for confirmation that in 2009 the Planning Commission approved the recommendation to increase the number of tables from 8 to 11 and Development Director Risk said yes. Commissioner Márquez asked how many tables were in use and when Mr. Rizk said they had permission to have 11 tables, she asked if it was lack of space that stopped them from using all 11. Mr. Rizk explained that there was physical space for 11 tables, but if the owners wanted to provide an eating area they would have to use some of the tables for that purpose.

Commissioner Márquez disclosed that she also visited the location and met with owner Cathy Aganon.

Commissioner Márquez noted that staff was recommending approval because of the revenue generated from the business license fee and she asked how often the license had to be renewed. Development Director Rizk explained that the business license tax was annual and could only be increased with voter approval. He added that the other fees mentioned in his report were strictly cost recovery for police services and background checks.

Commissioner Márquez asked Sgt. Cantrell if police had received any calls or had any issues related to the shuttle service or the municipal parking garage. Sergeant Cantrell said no and noted the shuttle was good tool for crime prevention because patrons were escorted directly to the location.

Commissioner Márquez confirmed with Sgt. Cantrell that the establishment did not sell alcohol and he said that was correct.

Regarding the possible sale of all or some of the ownership of the business, Commissioner Márquez noted that according to the report, a background check of potential owners would have to be conducted by the Department of Justice (DOJ) and she asked if the City of Hayward also had a process. She also asked how the business would be kept accountable if there were several owners. Development Director Rizk confirmed that the City would require a criminal and financial investigation of all potential new owners and that would require a deposit for the cost of the consultant the City would hire for that type of investigation. He emphasized that new ownership would be subject to Council approval. Assistant City Attorney Conneely added that the business would have an obligation to advise the City any time there was a proposed change to ownership so the City could conduct the appropriate background checks and receive Council approval.

Commissioner Márquez asked if the Gaming Commission had anything to do with the process or just the City Council and Sgt. Cantrell explained that because it was a gambling establishment, an application with the Gaming Commission would have to be submitted before the City could even be approached.

Regarding selling ownership of the business, Commissioner Loché asked what was allowable right now. Assistant City Attorney Conneely explained that a text amendment would have to be brought forward because the current ordinance did not allow the transfer of ownership; the only authorized owners were the two sisters. Commissioner Loché confirmed that included partial ownership and Ms. Conneely said that was correct.

Commissioner Loché asked staff if concerns expressed by a neighboring business regarding Card Palace patrons using their parking lot or walking through their business had been discussed since the issue first came up. Development Director Rizk said staff not conducted any surveys or had any discussions, but he said he did speak to author of the letter (the daughter of the owner of the neighboring business), but noted she had no specific information about the complaint. Mr. Rizk mentioned that Club proponents acknowledged The Ranch Restaurant also had a parking lot that Club patrons might be using, but the City had received no complaints.

Commissioner Trivedi noted he was new to the Commission and had never been to the club, and it seemed to him that there were a lot of issues regarding the item. He said it appeared the aim of the proposal was to give the owners more flexibility regarding selling or moving or renovating and he asked staff for the context of the proposal. Development Director Rizk said the request by club owners to transfer ownership was the primary reason for the item, but then there was also a desire to increase the

number of tables, to have more flexibility in the types of games allowed under State regulations, and to improve the facility. Commissioner Trivedi asked if the additional conditions of approval came from staff in response to the requests and Mr. Rizk said yes, as well as updates and revisions from staff to the card club regulations. Development Director Rizk mentioned that the City had hired a consultant to help with the text amendment and also had the Department of Justice Gaming Commission review the draft language, for which they had indicated support.

Commissioner Lavelle asked how many card clubs were located in the Bay Area or in East Bay. Development Director Rizk said he didn't have an exact number, but there were a handful. Commissioner Lavelle said she knew of one in Emeryville, a new one in San Jose, another in San Bruno, and then further away, Indian gaming casinos. Commissioner Lavelle pointed out that the Palace Card Club was relatively unique business in Hayward and had been here for more than her lifetime. She said she was impressed that the business had lasted through the tremendous growth of the City.

Commissioner Lavelle asked Sergeant Cantrell to confirm statements made by staff in the report regarding calls for service by police. She said she was shocked to read that since November of 2011 there had only been eight calls for service and most were initiated by club security for minor issues. Sergeant Cantrell confirmed that was correct. Commissioner Lavelle pointed out that that information rebuts the comments made by the neighboring business owner's daughter and noted security personnel at the club must be doing a good job and clearly not having alcohol was useful in keeping crime down. Reading from the report, Commissioner Lavelle noted that City staff had indicated that the relatively few calls for service and the cooperative attitude of club security personnel reflected the responsible management of the Palace Card Club, the current owners and their family. Commissioner Lavelle commented that whether or not the Club moved to a new location or there were different owners, responsible management was something that Hayward residents would want to be maintained. She added that with reductions to the City budget and safety service personnel over the last few years, the low number of calls for service should be noted when considering the application.

Looking at the proposed regulations, Commissioner Lavelle noted that some of the language was left over from the 1960s and 1980s and that she objected to a sentence that read card clubs may have a deleterious effect on the "safety, welfare and morals" of City residents. She asked that "morals" be removed or the phrase replaced with "health, safety and welfare" of City residents. Commissioner Lavelle said the City government had no business regulating or talking about people's morals.

Commissioner Lavelle asked if the proposed restaurant portion and dining area of the club would be located in what was presently an outdoor parking alley between the card club and the neighboring business. Development Director Rizk said the area was being used as a temporary location for employees to eat, not for parking, but confirmed it was the same area. Commissioner Lavelle asked if the idea was to turn the area into a lunch counter or dining area, would it be open to the public including those not interested in gambling and Mr. Rizk said he would assumed no, but suggested Commissioner Lavelle ask the owners.

Commissioner Lavelle asked staff if any comments had been received from residents who lived behind the business on Francisco Street and Development Director Rizk said no.

Regarding parking, Commissioner Lavelle noted that there had been a lot of discussion in 2009 about the shuttle between the business and the municipal parking lot, and since then the City had undergone a tremendous transformation, the loop had been initiated, and there was a new parking lot directly across from the card club. She asked how many parking spots were in that new lot. Director of Public Works, Engineering and Transportation Morad Fahkrai replied that there were 30 spots. Commissioner Lavelle made the point that while considering the application, the Commissioners should keep in mind there were 30 additional parking spots in that area and she considered that a tremendous bonus to the card club as well as the other businesses.

Commissioner Lavelle disclosed that she had visited the card club in 2009 and didn't feel the need to go back for this discussion.

Commissioner McDermott asked if the parking lot across the street from the card club had a two hour limit. Development Director Rizk confirmed that parking would be limited to one to two hours. Commissioner McDermott said she assumed that most people who go to a card club stayed longer than an hour or two and Mr. Rizk said that was a safe assumption.

Commissioner McDermott noted that part of the recommendation was an expansion of tables from eleven to thirteen and she asked how the business could expand if they already had to use some of the tables for dining, and she commented that expanding at the current location was restricted unless the owners built upward. Development Director Rizk said he didn't know if all eleven tables were being used all the time, but acknowledged that adding two more tables without expanding would be difficult.

Commissioner Márquez asked if the City had received any complaints about patrons jaywalking across Mission Boulevard from the new parking lot and Mr. Rizk said that Director of Public Works Fakhrai had received some complaints. Commissioner Márquez asked if there had been any accidents or major issues and staff said no.

If the Commission supported the increase in the number of tables, Commissioner Márquez asked if the card club would have to work with police to increase security to accommodate increased patronage. Sergeant Cantrell said that would all be part of the internal control standards.

Commissioner Lamnin asked if she understood correctly that the table fee would go up from $1,500 to $8,700 and staff said no. Development Director Rizk explained that there were other associated fees that all together they would total $8,700, but added all were related to cost recovery. Commissioner Lamnin asked what the current total was for all fees and Mr. Rizk said he didn't know, but estimated several thousand dollars.

Chair Faria asked Development Director Rizk if he had spoken to the daughter of the neighboring business recently because the email was dated July of 2011, and Mr. Rizk said that he had. He pointed out the email was old, but the City had received the attached letter just last week. Chair Faria noted that there had been only eight calls for service since November of 2011 and she asked if that was due to some action that was taken as a result of the daughter's complaint. Mr. Rizk said he didn't know if that was the case and he noted the number of calls for service had always been minimal. He concluded that the two were not related.

Chair Faria asked if the alleyway between the card club and the neighboring business would be absorbed into the proposed expansion and Development Director Rizk said yes.

Chair Faria opened the Public Hearing at 8:46 p.m.

Cathy Aganon, resident of Livermore and one of the two owners of the Palace Card Club, stated that for over two years, she, her sister and their representatives had worked hard with City staff and the Gaming Commission to craft a revised card club ordinance. As a result of their work, she said, the proposed ordinance promoted the welfare of City, provided an opportunity to maintain an appealing entertainment venue, and supported a viable business.

Ms. Aganon pointed out that the current ordinance dated back to the 1960s. Times change, she said, businesses needed to remain competitive, and poker was no different. She noted that the card club was the largest downtown employer with 150 employees, was one of the longest running businesses in the City, and had an upstanding reputation in the community. She noted that the staff report stated that the business had 130 employees, but she said they had hired 20 more employees in the last two years. Ms. Aganon said between 300 and 350 patrons visited the establishment every day, some from out of state, with many choosing to dine or shop in Hayward.

She said those Commissioners who had visited the club would have a better idea of why relocation or expansion was so vital; they were busting at the seams. Ms. Aganon explained that they didn't have adequate office space, an employee break room, a dining area for the patrons, and parking was very limited. She said it was their greatest desire to make the Palace a beautiful venue not only for customers and employees, but for the City as well.

Ms. Aganon said a key factor to the continued success of their business was the amendment that would allow them to sell all or any portion of their interest in the business. She said the current stipulation caused extreme circumstances and burdens. She noted that she and her sister could not travel together because if anything happened to them the business would be no more.

Ms. Aganon said it was not her and her sister's intention to relinquish all of their interest in the business, but they would like the opportunity to enjoy their golden years. Due to the current ordinance, their mother had continued to work in poor health, from her bed, until she passed away at the age of 83. Ms. Aganon said she and her sister should not have to work until they died.

Ms. Aganon said the Palace was a landmark that she and her sister wanted to continue to build with their children, if they so desired. If they were allowed to sell all or part of the business, she said, they could renovate the building or consider moving to a suitable location. If they could not sell then moving or expanding was no longer a viable option. She said they had given it tremendous thought and together with their financial advisors had determined that spending over a million dollars on a building expansion would not be financially wise if they could not eventually sell the business.

Ms. Aganon concluded that she hoped the Commission could see how dedicated they were to the future success of the business as well as to the City of Hayward.

Commissioner Loché confirmed with Ms. Aganon that she was only interested in selling part of the business. When she said yes, Commissioner Loché asked Ms. Aganon if it would be acceptable to her if the ordinance stipulated that. Ms. Aganon said she wanted to maintain a portion of her interest in the business to pass to children, but she didn't want them to have to work there in order for the business to

stay alive. Ms. Aganon said she also wanted the ability to retire and she noted that she and her sister had been there for 30 years and not being able to travel together was just sad.

Commissioner Lamnin asked if an elevator was included in the proposed expansion and Ms. Aganon said yes. Commissioner Lamnin asked Ms. Aganon what the approximate cost per table was in fees paid to the City and Ms. Aganon said $1,500 per table, per year. Commissioner Lamnin noted that staff had mentioned there were additional fees and she asked Ms. Aganon what that totaled. Ms. Aganon said between badging, fees and taxes she paid between $40,000 and $50,000.

Pam Robert, Ms. Aganon's sister and the other owner, said the majority of the time people ask her two questions: how do you make your money and how did the City made its money. Ms. Robert noted that Development Director Rizk had explained the fees the City collected and for those who visited the club, they were shown the business' entire process from the gaming table, to how the boxes were pulled, the money counted, and how everything was logged.

Ms. Robert thanked her father for starting the business over 60 years ago and noted when it passed to mother upon his death, the palace had only 20 employees and the same number of customers. In 2000 there was a downturn in the industry and business was so bad their mom came to them and said she could only stay open for one more month. Ms. Robert said she and her sister took her out to lunch and asked her for the chance to save the business and turn it around, which they did in three years, working 24/7 and restructuring the entire business. Ms. Robert continued saying that many card rooms struggled to stay open, but business exploded when ESPN started showing the World Poker Series and made the industry legitimate. "Suddenly everyone wanted to learn Texas Hold 'em," she said.

Ms. Robert said her payroll was approximately $3 million annually with an additional $500,000 for security and the 24-hour shuttle. She noted her customers patronize local businesses.

Speaking of neighboring businesses, Ms. Robert said she thought they had a good relationship with their neighbor, ate there all the time, and had told her to come to them if there were any problems. Ms. Robert said the complaints expressed in the letter were news to her.

Regarding Commissioner Lavelle question about the number of casinos in the area, Ms. Robert said the club in Emeryville was the closest. She said all casinos had been playing Three Card Poker and Baccarat for over two years and the Palace was the only casino that did not. She said the proposed ordinance would allow them to play the games, approved by the State Gaming Commission, and that would make them more competitive. Ms. Robert said the Hayward location was nothing less than ideal, and they had the potential to be the industry leader and greatly contribute to the expansion of downtown.

Ms. Robert said she would never sell her entire share because she wanted to have something to pass down to her family, and by retaining some shares she would have the choice of staying active in the business. She reiterated than any new owners would have to be licensed and go through the same background checks.

Ms. Robert pointed out that if the ordinance was not changed, death or retirement by her and her sister would close the business, end some good paying jobs, and stop 300 customers per day from coming to Hayward.

Ms. Robert said if the card club was now considered an entertainment venue then they should relocate in the downtown area. She said that even if they absorbed the alley behind their current location during the renovation, there still wouldn't be enough room to accommodate what they wanted to do. The whole

idea of having a restaurant was so customers would eat there, but they also wanted to attract people who might eat but not gamble. Ms. Robert said because they were open 24-hours, movie goers or club patrons might want to eat there before they went home.

Ms. Robert said City staff had worked hard to create an ordinance that worked well for the Hayward community and their business endeavors and she asked the Commission for their support.

Commissioner Márquez asked Ms. Roberts if the ordinance was approved, would more employees be hired and security increased. Ms. Robert said if they decide to relocate hopefully they wouldn't have to increase their shuttle service, but if they were allowed to expand they would definitely increase the number of employees. She said with more tables and new games, the number of employees could easily jump to 300 to 400 employees.

Based on a flyer provided by the card club, Commissioner Lavelle asked Ms. Robert to describe the demographics of their customers. Ms. Robert said it had changed over the years. She said it used to be a lot of Asians, but now included every kind of background, lots of women, and was a very eclectic mix. Commissioner Lavelle asked if IDs were checked and Ms. Roberts said yes, that was why they had security at the front and she noted that they also checked backpacks and large bags.

Commissioner Trivedi commended her family's reputation for having such a well-run establishment for so long. He said he appreciated that her business had been operating under fairly strict constraints, especially in regards to ownership, and he asked her if they were looking for a partner so they could reinvest in the business. Ms. Robert said not necessarily, it was just an option they wanted to secure as they get older. She said just because they had the option didn't mean they would exercise it right away. Commissioner Trivedi asked if she wanted to remain involved to some extent and Ms. Robert said speaking for herself, yes.

Commissioner Trivedi asked her what her preference was between relocation and renovating in place and Ms. Robert said relocation mainly because the business needed at least 200 parking spaces. Ms. Aganon added that she was not only thinking about the businesses' needs, but also accommodating the Department of Justice requirements including a requirement for a separate counting room and that was very challenging in their current space.

Commissioner Trivedi asked Ms. Robert how the majority of patrons got to the club and where they parked. Ms. Robert listed BART, public transportation, driving their car, and being dropped off. She noted the shuttle ran a loop every 15 minutes, 24 hours a day. Commissioner Trivedi asked if most took the shuttle and Ms. Roberts said the shuttle was partly for ensuring employee safety to and from work.

Commissioner Trivedi asked Ms. Robert to explain the scope of the proposed dining area. He asked if meals would be served, snacks, or fast food. Ms. Roberts said they wanted to build a full-sized restaurant. She explained that they had a kitchen now, but they were only able to serve their customers and there was no place for people to eat. Commissioner Trivedi asked what type of food would be served and Ms. Robert said their customer base was so eclectic they would try to have something for everyone.

Commissioner McDermott thanked the sisters for coming and commented that if this was an application for a new business she wouldn't be supportive, but because their business had such good reputation and things had worked so well for 60 years, they had an excellent record, had been a good business partner for the community, and it was so sad that sisters go anywhere together, she said she was supportive of business. Commissioner McDermott asked if the club dealers were contract employees and Ms. Robert said no, they were full and part time employees except for the Third Party. Commissioner McDermott asked who that was and Ms. Robert explained the Third Party was the banking branch of the business, did not work for them, and had to be contracted. She also noted that the security company was also contracted.

Commissioner McDermott asked if there were peak hours and Ms. Robert said no. She explained that tournaments, held at 9:00 in the morning, were very popular, but she noted that they were busy all day through the swing shift starting at midnight. Ms. Aganon added that graveyard could also be very busy.

Commissioner Loché asked Ms. Robert if she'd ever had a discussion about parking with her neighbor and Ms. Robert said all the time. Ms. Aganon said she was in the restaurant when the owner mentioned that some of her customers walked through to get to the card club. Ms. Aganon told her she would put a stop to it immediately and spoke with her security. She said it never happened again. Ms. Robert said she had also spoken to her about parking but noted she couldn't do anything if she didn't know there was a problem. Commissioner Loché asked Ms. Aganon when their last discussion was and Ms. Aganon said they had the conversation about customers walking through the restaurant just last year.

Dyana Anderly, with address in Cameron Park, said she represented the Palace Poker Casino and noted that providing sufficient parking was not required for expansion. She pointed out that the design of downtown was based on straight facades with big lots located separately. Ms. Anderly said when the card club was located across from City Hall they had some parking, but when they were relocated to their current location no parking was provided and now the City was further reducing parking by eliminating street parking. She noted that when theater came in the City built a parking structure, but the club had to create a shuttle. In all fairness, Ms. Anderly said that parking should not be an issue associated with this application. She also mentioned that if the business expanded in place, it would be to add a restaurant and required rooms and that probably wouldn't add to the number of patrons.

Ms. Anderly said other complaints about the card club included its location close to the library and the tot lot, but she pointed out the library was already there when Council moved the card club to its current location and Council knew the card club was there when they approved the tot lot. She said most people didn't know the card club was even there. Because the building was so understated, Ms. Anderly said its location shouldn't be an issue and the establishment had outdoor and inside cameras that provided extra security.

Regarding other safeguards, Ms. Anderly said the family was a pleasure to work with and noted Ms. Robert's daughter had recently graduated from culinary school and was working in the kitchen and learning the administration of the business and Ms. Aganon's son was learning to be a manager. Regarding concerns of what would happen if someone else had ownership in the business, Ms. Anderly explained that the new ordinance had safeguards written into it. She noted that the Planning Commission would have the authority to revoke the use permit (as could Council), and the Chief of Police, City Manager and City Council could abates uses, as could the State Gaming Commission. She also noted the club had recently made an $112,000 donation to the police department to help costs for any calls for service.

Ms. Anderly noted that the new ordinance would change the culture associated by the club by separating

it from massage parlors and adult movie theaters, which were now being replaced by spas and home videos, and would instead recognize the club as a viable, respectable business. She also spoke to the concern that the club promoted unhealthy habits and its demise would benefit the community. Ms. Anderly noted that people said the same thing about smoking, gay marriage, and carbonated beverages and good government needed to balance the need to protect the community with an individual's right to choose. Commissioners should not allow personal bias to influence their decision, she said. She also noted that the City's General Plan set the values of the City and the State already sanctioned card rooms, bingo, the lottery and Indian gaming.

She concluded that it should not be assumed that the card club had or would do anything wrong and noted the establishment was voluntarily contributing to the police department and also to the City itself through the business tax.

Commissioner Trivedi asked if the Palace was currently funding the extra officer and Ms. Anderly said no. She pointed out that every employee, including the dish washer, had to have a background check. She said the State was responsible for monitoring for cheating, but the owners would pay for cost of the vice officer. Commissioner Trivedi asked if that was a separate proposal and Ms. Anderly said no, the proposed table fee would include the cost for the extra officer.

John Cammack, attorney for owners, said in the interest of time, the applicant was ready to cut it short by not having so many speakers and move to a discussion as a group. He said one point that a speaker was going to make was that their security at the club created a presence and kept that area of downtown very safe.

Chair Faria said people who submitted speaker cards should be given the opportunity to speak.

Gloria Martinez, Pleasanton resident and a 30 year employee, said when she started she thought it was a unique business, but now poker was very popular and was played everywhere. She said the only difference between the Palace and other casinos was the other establishments had so much more to offer. Ms. Martinez said customers wanted more parking, more games and a bigger location. She said without a doubt the card club should have the same opportunity as other businesses in Hayward to succeed and she wished the Commissioners could see what a great attraction it was. Ms. Martinez noted that many of her co-workers were long-time employees who worked well together and got along with customers. She said she loved her job and at this time of her life, did not want to be looking for another job. Ms. Martinez said she wanted to continue working at the Palace and see it and the City of Hayward thrive.

Charles Skidmore, Valley View Drive resident, shift manager, and a key employee by the State, said he had worked in gaming for 37 years. He said the Palace was the biggest attraction in downtown and pulled in people from all over and stimulating the local economy. All they were asking, he said, was to be competitive and he pointed out that the card games they were asking to play were already sanctioned by the State. Mr. Skidmore commented that Hayward had improved a lot and was a very nice city.

Anthony Cilibrasi, Amador Village Circle resident, said he was also a key employee and was in charge of running the tournaments. Mr. Cilibrasi said he had been with the Palace for eight years. He noted that besides the money contributed to the City, the Palace also participated in charities and had raised

hundreds of thousands of dollars for charities, on their own time, and the owners, Cathy and Pam, had provided all the supplies. Regarding parking, Mr. Cilibrasi said they work closely with neighboring businesses and if they get a call that someone had parked in their lot, they immediately tried to find the owner of the car. Mr. Cilibrasi asked for the Commissioners' support stating the Palace wanted to stay competitive and stay in business.

In the interest of time, Steve Numoto, a San Ramon resident, chose not to speak.

Doug Knudson, resident of San Ramon and property and business owner in Hayward, said he was a customer of the club. He said he had lived in Hayward and had just bought a condo for his daughter who attended what he still called CSU Hayward. He said he was big on supporting local businesses and noted he and his mother had been playing at the casino for almost 30 years. He said the casino was a great place with a safe, fun environment and a family atmosphere that fit well in the community. Mr. Knudson said that with a card club right here in Hayward he shouldn't have to leave their hometown to go to Livermore or San Jose to play all the games.

Mr. Knudson said he owned the iHop on Foothill Boulevard and noted it was given to him by his parents who had since passed. He said he and his brothers and sisters had worked there and now their children worked there and were thankful for the family business. If they wanted to sell the business they could, he said, or if the kids wanted to take it over, they could because those options were available to them. Mr. Knudson reiterated that the Palace was safe and fun and he encouraged the Commission to give them what they needed in order to survive.

Ed Avelar, Castro Valley resident and owner of the Computer Center of Hayward located on Mission Boulevard, said he was an independent contractor who installed the state-of-the-art camera system at the Palace. He said the system provided a high level of security and the equipment was verified several times a week and that he worked with security staff to verify it was functioning 24 hours a day. Mr. Avelar said the surveillance system had been inspected by the Department of Justice and had met all requirements. Mr. Avelar said he had dealt with the club for 29 years, providing support for computers and cameras, and noted they were a very reputable firm to deal with.

Commissioner Lamnin asked Mr. Avelar if due to his close location to the card club he had ever had any concerns about the customers at the Palace. Mr. Avelar said no because they had very good video security and if anything did happen they could always play back the recording. He also noted that the cameras at the club had captured car accidents on Mission and the recent robbery at the pizza parlor next door. Commissioner Lamnin asked him if there had been any negative impacts to his business because of the card club and he said no.

Chris Ray, Lodi resident, also in the interest of time declined to speak.

Mr. Cammack, attorney for the applicant and Stockton resident, said he worked with City staff, the Chief of Police, and City Manager to work through the proposal before them. He noted that one question that kept coming up was the question of change of ownership.

Commissioner McDermott asked Mr. Cammack how ownership was currently held. Mr. Cammack said the business was an LLC (Limited Liability Company) with the two principle owners (the sisters). He noted that both Ms. Aganon and Ms. Robert must apply and receive a license with the State Gaming Commission each year, as did the LLC, and that included an extensive background check in a heavily regulated industry. Mr. Cammack said the new language would allow the Chief of Police to have a lot of powers as well.

Commissioner McDermott asked if there were any restrictions on ownership by the DOJ and Mr. Cammack said yes, and he explained that nobody could share in the profit of the business unless they had a license with the Gaming Commission. Commissioner McDermott asked if the business could incorporate and he said yes, but then the corporation would have to apply and receive a license as well as all of the shareholders right down to a minority interest. Mr. Cammack emphasized the Gaming Commission was very, very restrictive. Commissioner McDermott asked for confirmation that there was a way for the business to be held in another ownership type so that the sisters could travel together. Mr. Cammack said no and explained that the sunset language in the Hayward ordinance, drafted in 1971as a result of Chief Plummer's directive to clean up the industry, stated that the business ended with the death of the owner. Later that language was amended to allow the children of Katherine Bousson (Ms. Aganon and Ms. Robert's mother) to keep the business open until their death. Mr. Cassack commented that one child had already passed away and now the two remaining sisters were saying they would like to retire and wanted to know what was going to happen with the business. That was the genesis of the proposal, he said.

Mr. Cassack asked how the City could allow a business in the core area of downtown, with 150 employees, a payroll of three million dollars, security for the downtown, and 300 customers a day, to go away. He said that didn't make any sense and that was the appeal of the owners when they approached the City.

Commissioner Márquez asked how business decisions would be made if the two sisters decided to sell shares of business. Commissioner Márquez said the City didn't know what was going to happen in the future and if the sisters sold half or a part of their ownership. Mr. Cassack pointed out that eventually they would both be gone, like the rest of us, and the next person would have to follow the rules and regulations of both the Chief of Police and the Gaming Commission. He said in the short term, Pam Robert said she would continue to be involved as a manager. He noted that the LLC would designate who the manager was and that person would make the decisions. Commissioner Márquez asked if those things would be worked out in the agreement and Mr. Cassack said not only worked out, but approved by the Chief and the Gaming Commission.

Commissioner Trivedi asked if the City Council would have final say on not only background checks but who ownership got extended to and Assistant City Attorney Conneely said that was correct. Commissioner Trivedi said the current language was an attempt to freeze out businesses like the club and seemed outdated.

Kim Huggett, with business address on Main Street and president of Chamber of Commerce, said he was there representing the Palace club as a Chamber member and one of downtown's biggest employers outside of City Hall. Mr. Huggett pointed out that the Palace was one of the safest areas in downtown and didn't experience the vagrancy and panhandling problems like other areas of downtown because of their security. He noted the business hired and served a diverse population. He also noted that the Palace club paid Downtown Business Improvement fees, which went toward the downtown's appearance and various events.

Chair Faria closed the Public Hearing at 9:51 p.m.

Chair Faria called for a five minute intermission.

Commissioner McDermott made a motion per staff recommendation and Commissioner Lavelle seconded the motion.

Commissioner Lamnin said she was supportive motion, but wanted to bring back the subject of morality and asked if the Commission could have the word "morals" removed from the language of the proposed ordinance. Development Director Risk said that they could and Commissioner McDermott said she had no opposition to an amendment to the motion.

Commissioner Lamnin said she was concerned about the jump in cost per table from $1,500 to $8,700 and she acknowledged that they were ballpark numbers. Commissioner Lamnin said she understood the need for cost recovery and totally appreciated the applicant's willingness to help fund the vice officer, but was concerned that the jump was too high. She said she didn't know what to do because language was already included in the proposal. She also said that she would like to see emphasis on relocation rather than expansion. She commented that the proposed expansion looked nice and fulfilled good business practices, but said she'd heard too many reasons why the current location wasn't ideal. Acknowledging that the City pushed the card club to its current location, Commissioner Lamnin asked the City to help find another location downtown that worked for everybody and she mentioned several available locations.

Commissioner Trivedi pointed out that according to Ms. Aganon, the total cost per year was $50,000 and divided by eight that was approximately $6,000 that they already paid and he made the point to Commissioner Lamnin that the cost was not doubling. Commissioner Lamnin said she used $44,000 divided by eleven, or the maximum number of tables currently allowed.

Commissioner Trivedi said he was sympathetic to their case and noted they had been operating under onerous regulations that were outdated and made sense to revise. Although not a card player himself, Commissioner Trivedi said he had no objections about card playing, but favored a new facility in a more appropriate location with plenty of parking and room for all the amenities they wanted to offer. He said his second choice was renovating in place although he said he had serious reservations that the current footprint could accommodate the additional uses, and his final choice was to maintain operations as they were. Commissioner Trivedi said he understood that with the restrictions as they were, there was no incentive to renovate. Commissioner Trivedi said he was in favor of the motion, and supported finding a better spot.

Commissioner Márquez said she would be supporting motion and mentioned that she had visited in 2009 and when she recently went back liked the improvements that had been made. She said she saw that they were running out of room and she said the owners were doing an excellent job of running a well-managed business under those conditions and it spoke highly of the family that they were the biggest employer and had been in business in Hayward for so long. Commissioner Márquez thanked the owners for sharing their story and said it was a Catch 22 to have such a successful legacy and so many restrictions and she commented that the decision of whether or not to sell was both a personal and professional matter. Regarding relocating or remodeling, Commissioner Márquez said that was also a business decision that they would make based on the City's decision. Commissioner Márquez said she would be supporting the motion, but commented that if the business were allowed to expand, that they increase security, hire more people, and possibly increase the shuttle service. She commended them for a doing a great job and wished them lots of luck.

Commissioner Loché said he visited the club earlier in the week and was extremely impressed by the security system and saw how it could also be beneficial to the City. He commented that the Commission had seen applications for lots of different businesses and as stated in the past, he was less concerned by the nature of business as he as by the quality of management. He said regardless if there was alcohol or dancing, if it was a well-run business that was what the City wanted. Commissioner Loché said an establishment that had been in business for 60 years was obviously a well-run business and a benefit to the City.

Commissioner Loché expressed some concern with the possibility of transfer of ownership, but all the regulation and the amount of control the City and the Gaming Commission still had, made him relax a bit. He said he would support the motion and applauded City staff for some of their suggestions. Commissioner Loché said having the business move to a new location in downtown that had more parking would be a great thing and not having the shuttle would be beneficial to the business. He said they continued with the shuttle because they needed to have it.

Chair Faria remembered in the early 1970s when there were multiple card clubs down Mission Boulevard and she commented that the atmosphere hadn't been good and contributed to the language of the current ordinance. Chair Faria said the community had evolved, it was 40 years later, things were much different and the survival of the business and the improvement that have been were made were enough that she would be supporting the motion.

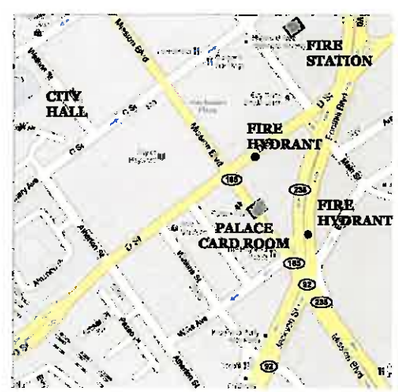
The motion to recommend to City Council to find the project categorically exempt from the California Environmental Quality Act and approve the proposed text amendment to Chapter 4, Article 3 of the Hayward Municipal Code and the proposed conditional use permit modification application, subject to the findings and recommended conditions of approval, was approved 7:0:0.

AYES: Commissioners Loché, Trivedi, McDermott, Lamnin, Márquez, Lavelle
Chair Faria
NOES:
ABSENT:
ABSTAINED:

PALACE CARD ROOM ADDITION AND REMODEL
22821Mission Blvd.
Hayward, California

RECEIVED
SEP 15 2011
PLANNING DIVISION

1 AERIAL PHOTO



2 VICINITY MAP

PROJECT DATA	
Address	22821 Mission Blvd.
Zoning	Central City Commercial
Parcel Number	428-0081-033-00
Existing Construction	Type V One Hour, with exterior CMU walls and wood roof joist and trusses with built up roof.
Proposed Addition Construction	Type V One Hour, with exterior 2x6 stud walls and stucco skin, concrete stepped footings, 2nd floor over open web steel trusses and roof of curved paralam rafters 24" OC
Sprinklers Year Built	Yes, adding to Existing Structure as well as Addtion 1953
Occupancy	A-3 Assembly/ State Monitored Card Room
Existing Height	Existing Single Story, front parapet 14'-6"
Max Height of Addition	24'-4"
Gross site area	4,500 Square Feet
Existing Building Area	3108 Square Feet
Proposed Addition Area	First Floor 1, 292 SF, Second Floor 1,145 for a total of 2,437 SF
Proposed Total Area with Addition	5,545 Square Feet
PRPOSED ADDITION	Revise and Modernize front Façade of existing Legal and Approved Card Room. Add new 2 story Wood framed Addition with Dining, Offices and Staff Lounge. Include new Elevator, Fire Sprinkler System for both structures and State mandated "Counting Room"

SHEET INDEX

A-0.1	VICINITY MAP AND NOTES
A-0.2	PHOTOGRAPHS
A-0.1	EXISTING FLOOR PLAN
A-1	PROPOSED FIRST FLOOR PLAN
A-2	PROPOSED SECOND FLOOR PLAN
A-3	RENDERING FROM SOUTH EAST
A-4	RENDERING FROM NORTH EAST
A-5	RENDERING OF ADDITION REAR
A-6	INTERIOR CONCEPT
A-7	PROPOSED FRONT ELEVATION
A-8	NORTH SOUTH SECTIONS
A-9	EAST WEST SECTION

PROJECT NUMBER
PL-2011-0303 CUP

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Dave@WalnutCreekArchitect.com

PALACE CARDROOM
22821 Mission Blvd.
Hayward, California

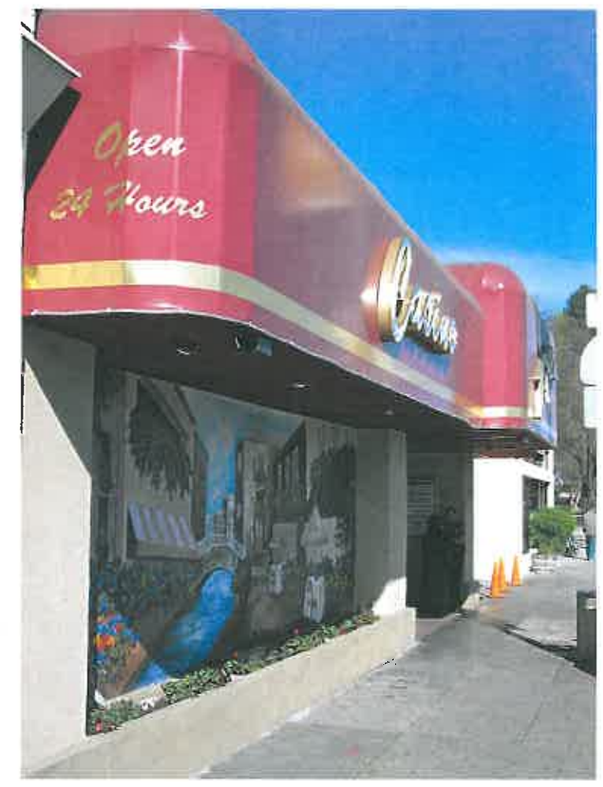
DESIGN REVIEW
ISSUE DATE: 9-8-11
SCALE: AS NOTED
DRAWN BY: D RUFFIN
VICINITY MAP AND NOTES
SHEET NO.
A-0.1

1 FRONT OF PALACE FACING MISSION

5 PALACE AND LE PARADIS

4 PALACE FROM NORTH

3 FRONT FROM SOUTH



6 PALACE CLOSE UP

2 CARD ROOM INTERIOR

7 MURAL AND SIGN

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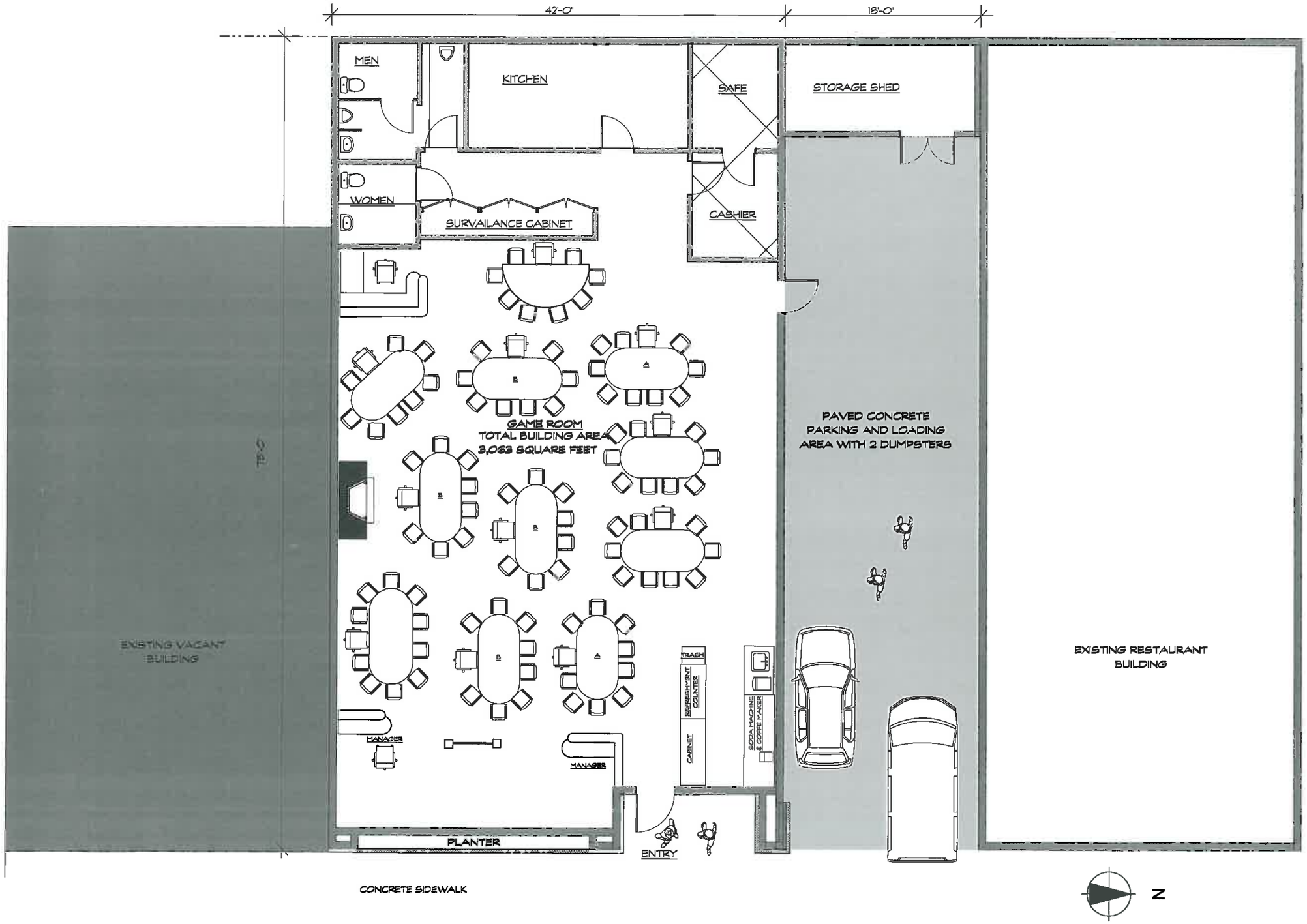
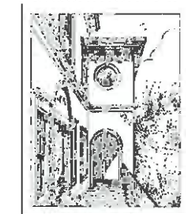
PHOTOGRAPHS

SHEET NO:

A-0.2





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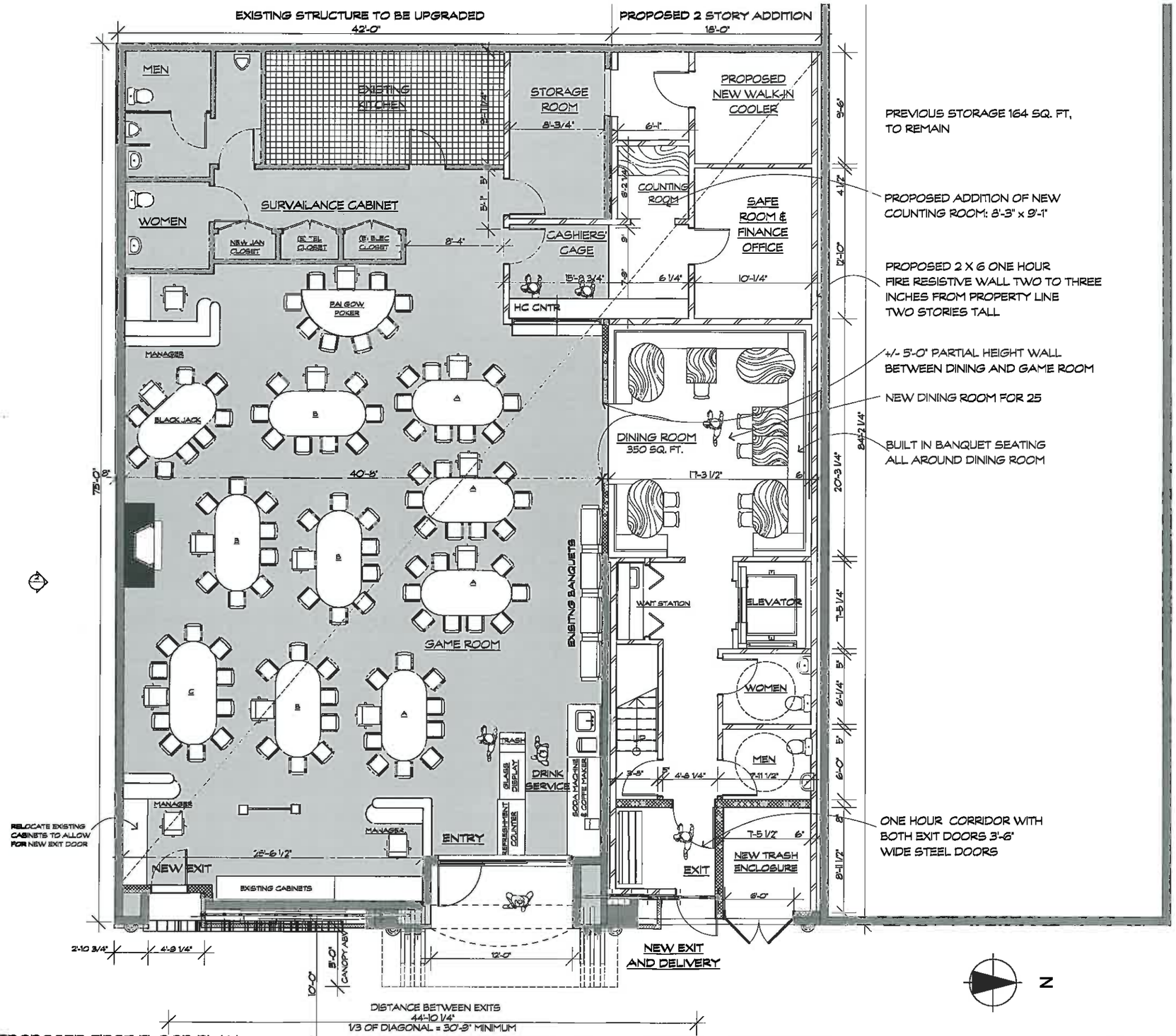
EXISTING FLOOR PLAN

SHEET NO.

A-0.3



1 PROPOSED FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

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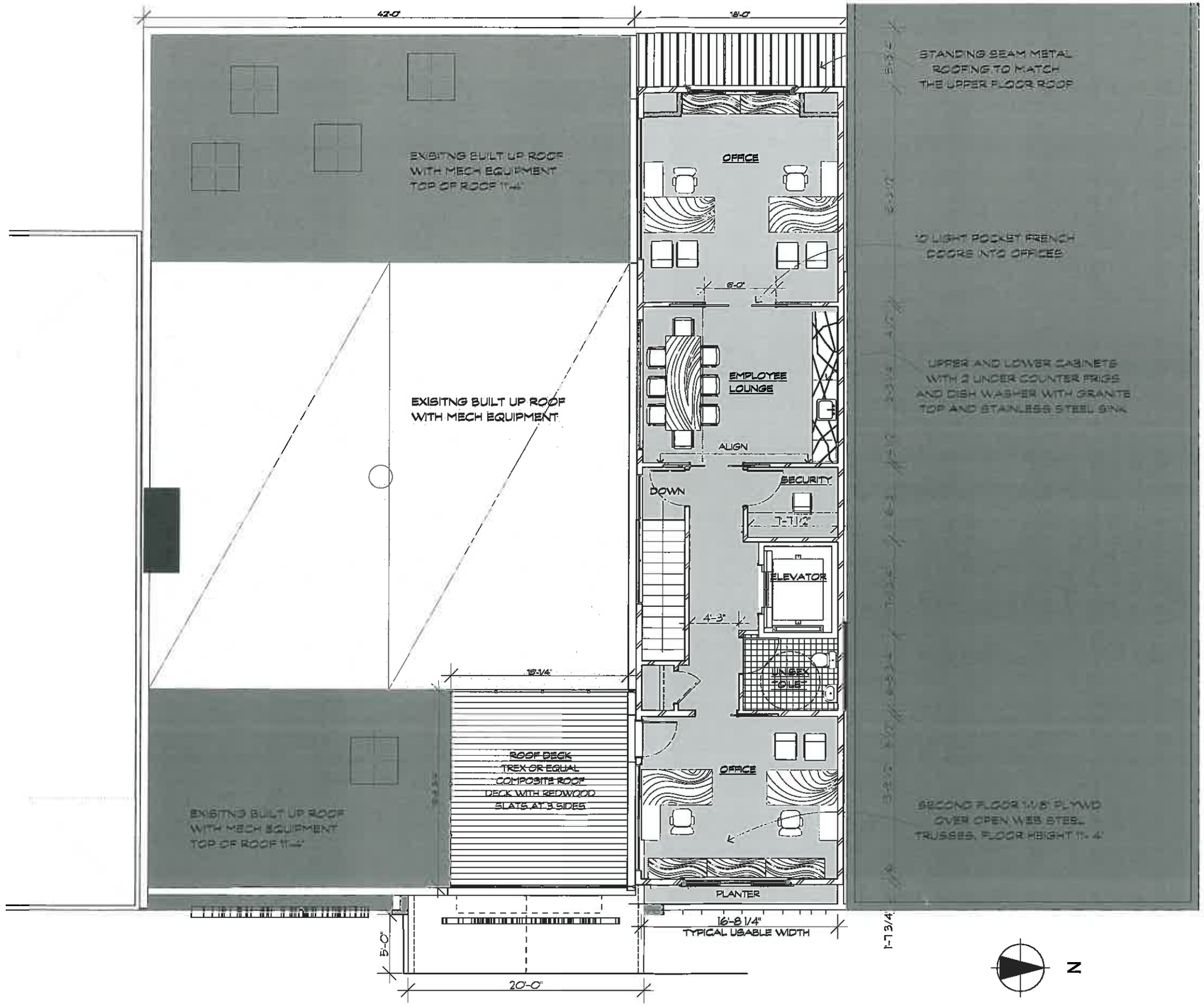
PROPOSED FIRST FLOOR PLAN

SHEET NO:
A-1



1 PROPOSED SECOND FLOOR
SCALE: 1/4" = 1'-0"

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PROPOSED SECOND FLOOR PLAN

SHEET NO.

A-2

1 FRONT RENDERING

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RENDERING FROM SOUTH EAST

SHEET NO.

A-3

1 NEW FACADE RENDERING

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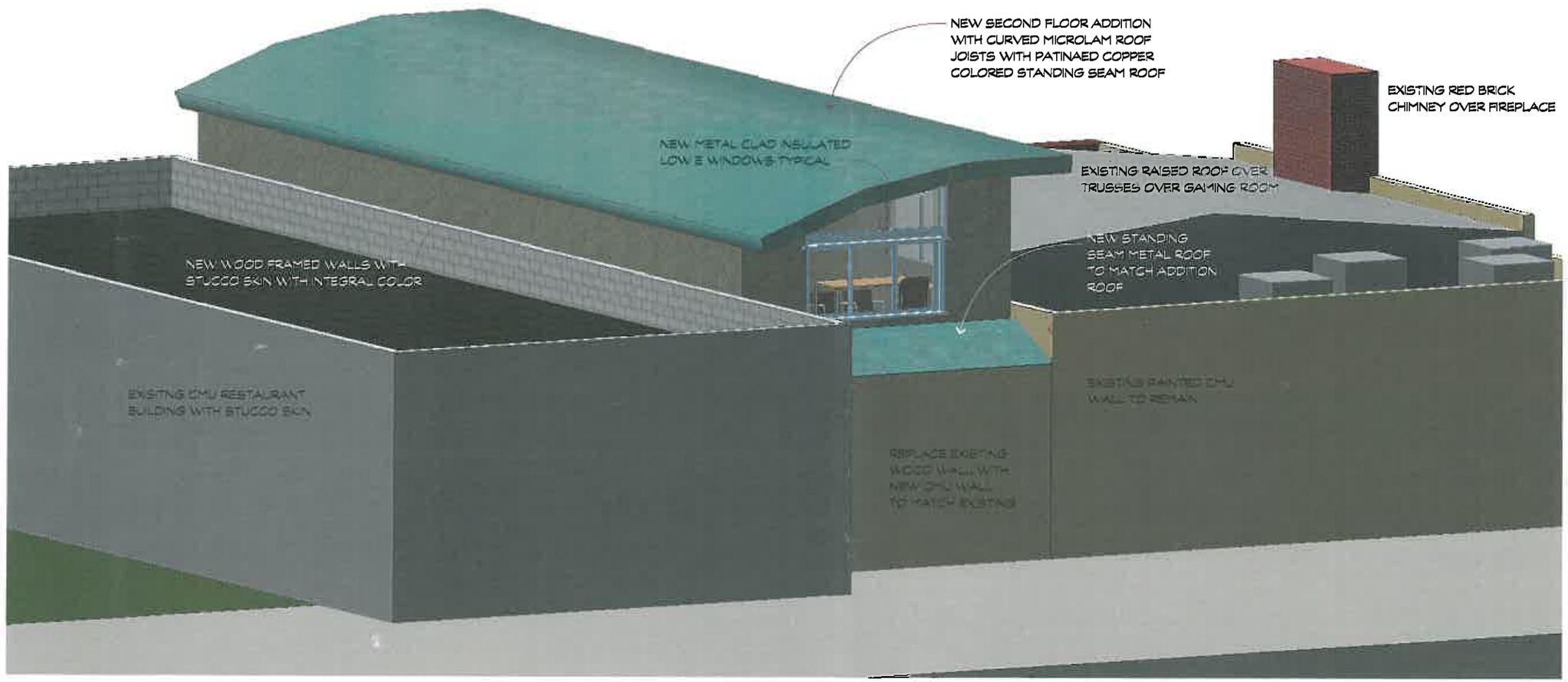
RENDERING FROM NORTH EAST

SHEET NO:

A-4



1 RENDERING BEHIND ADDITION FROM NORTH WEST

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PALACE CARDROOM
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Hayward, California

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ISSUE DATE: 9-8-11

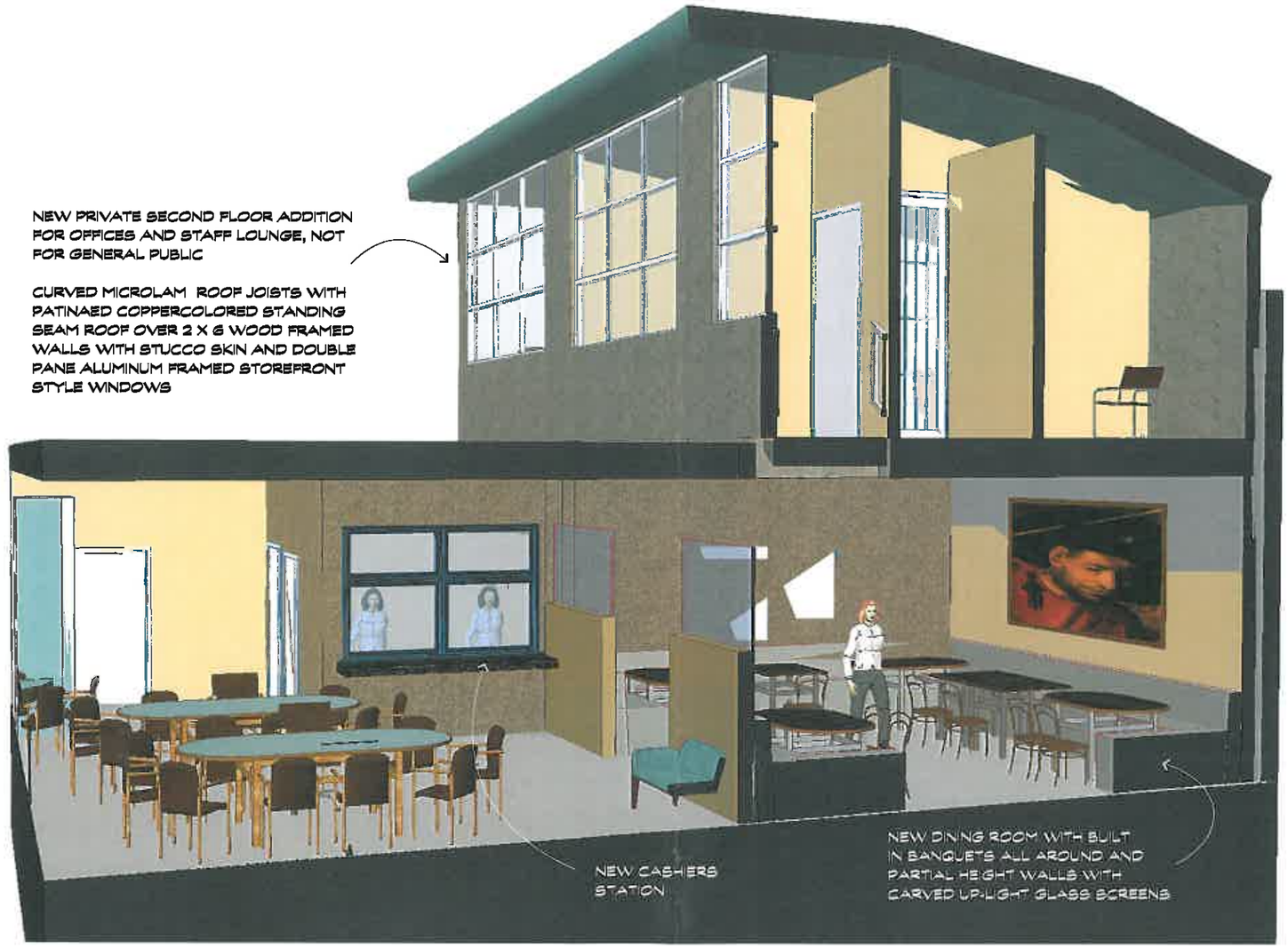
SCALE AS NOTED

DRAWN BY: D RUFFIN

RENDERING OF ADDITION REAR

SHEET NO.

A-5



1 INTERIOR CONCEPT

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PALACE CARDROOM
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Hayward, California

DESIGN REVIEW

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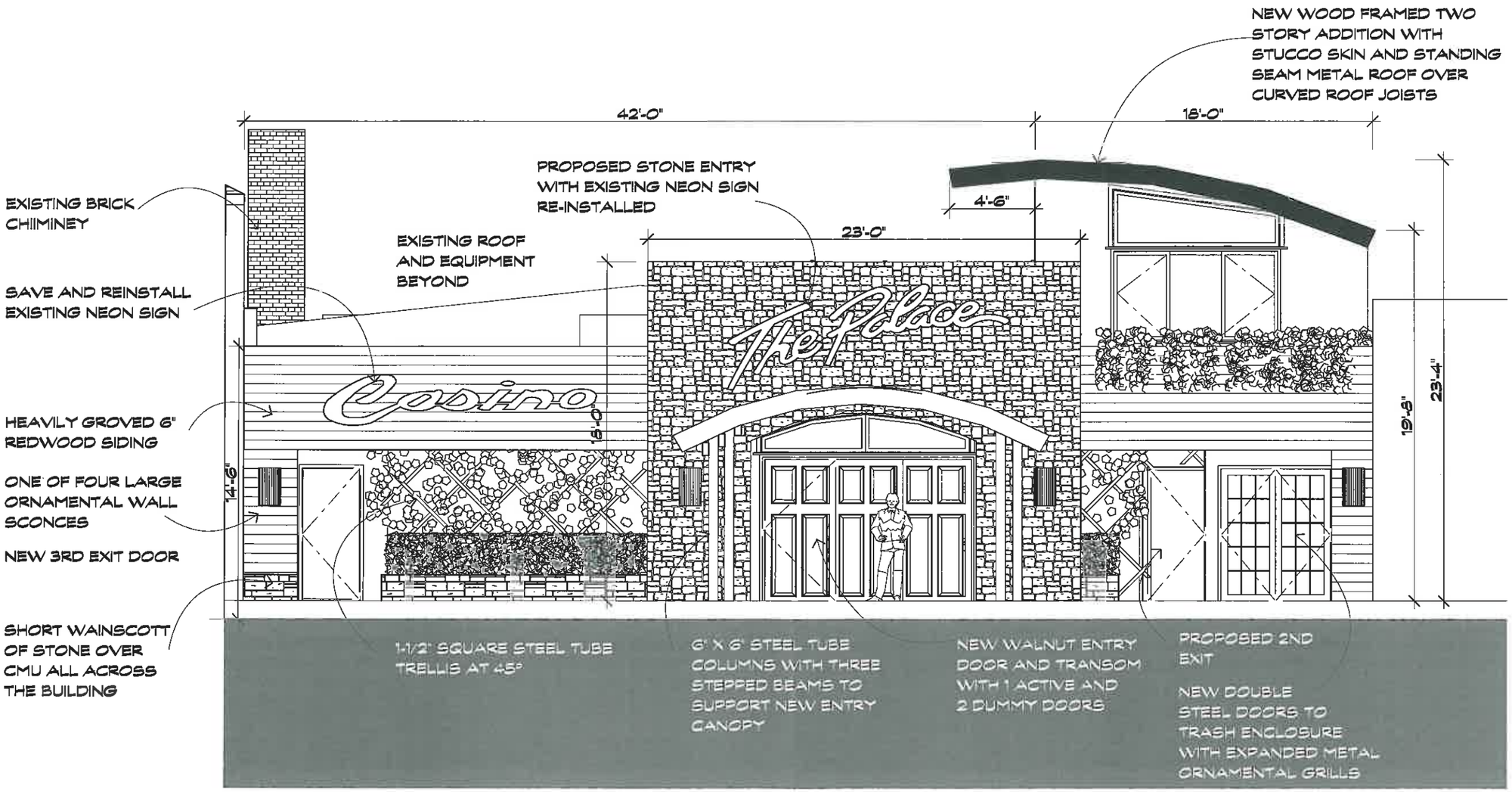
INTERIOR CONCEPT

SHEET NO.

A-6



1 EAST ELEVATION MISSION BLVD.
SCALE: 3/8" = 1'-0"

RUFFIN ARCHITECTURE + ARCHITECTURE + INTERIORS
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PALACE CARDROOM
22821 Mission Blvd.
Hayward, California

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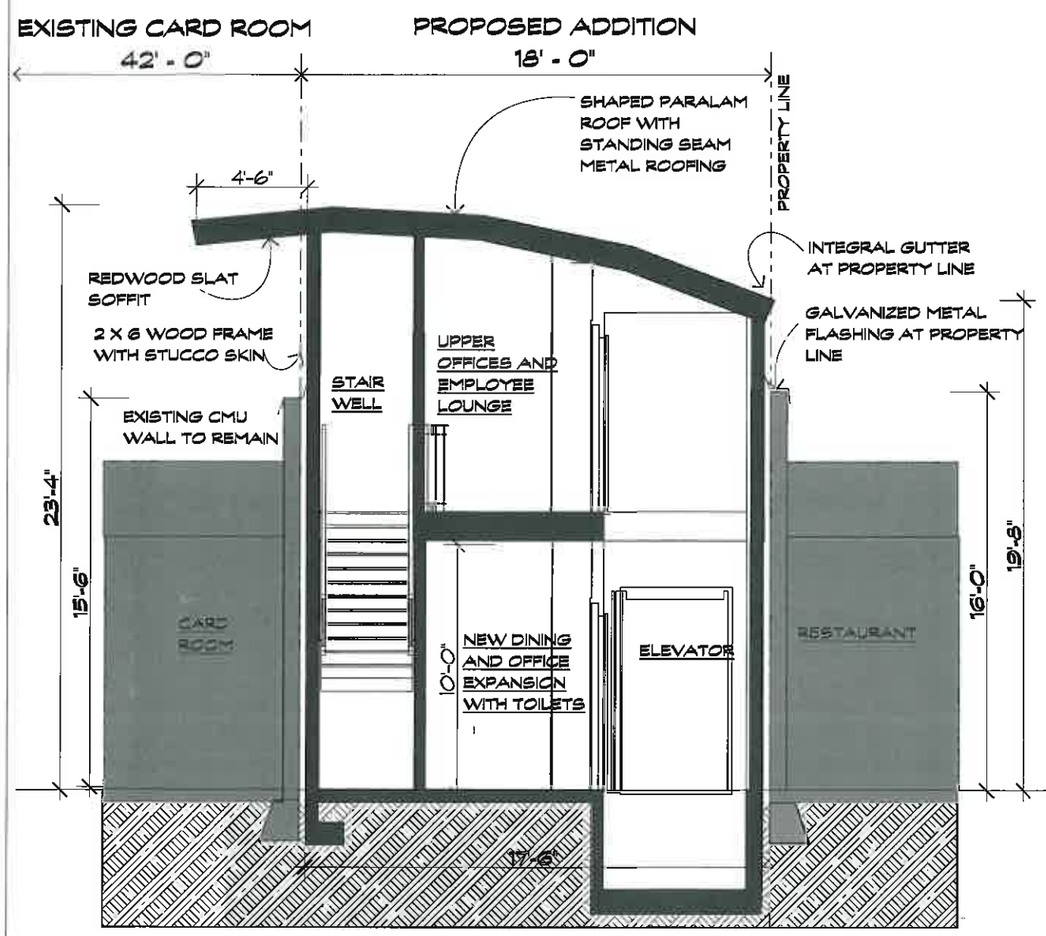
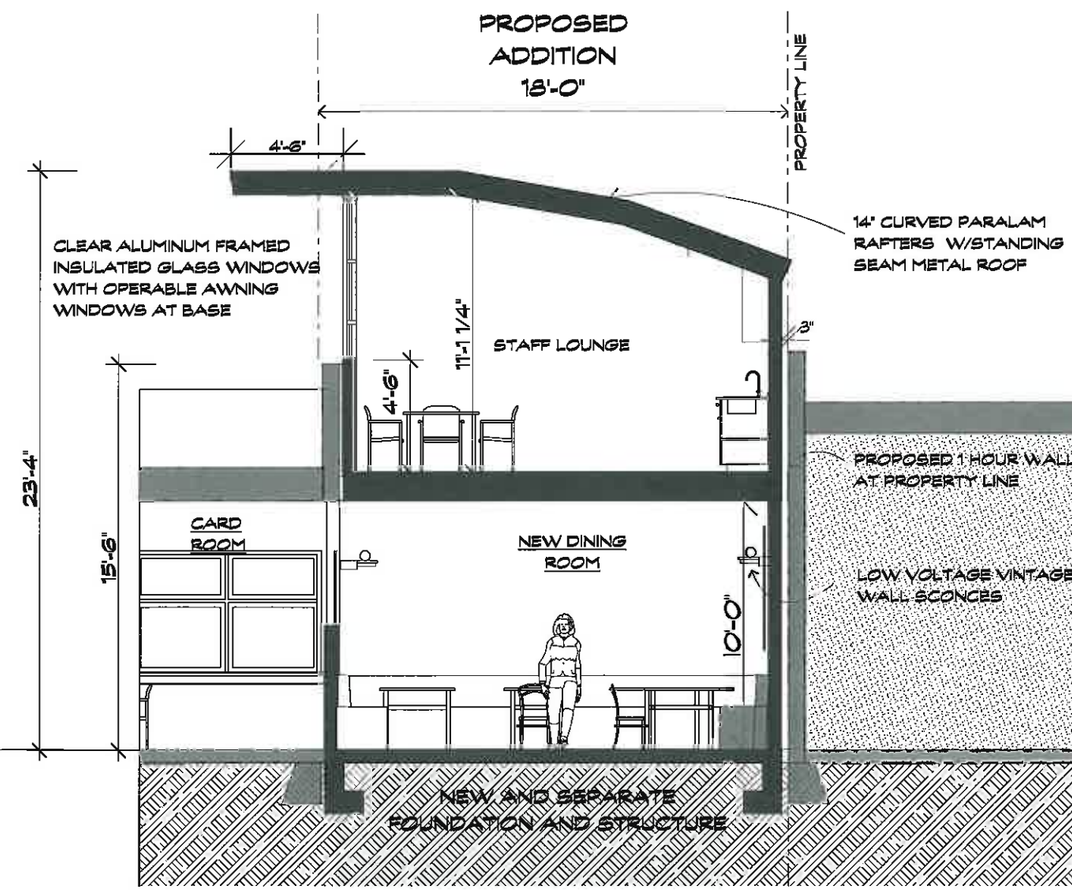
PROPOSED FRONT ELEVATION

SHEET NO:

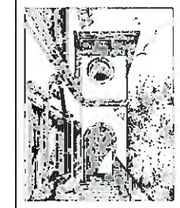
A-7



2 ACTIVE STAIRWELL SECTION
SCALE: 3/8" = 1'-0"



1 NORTH SOUTH DINING SECTION
SCALE: 3/8" = 1'-0"



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PALACE CARDROOM
2821 Mission Blvd.
Hayward, California

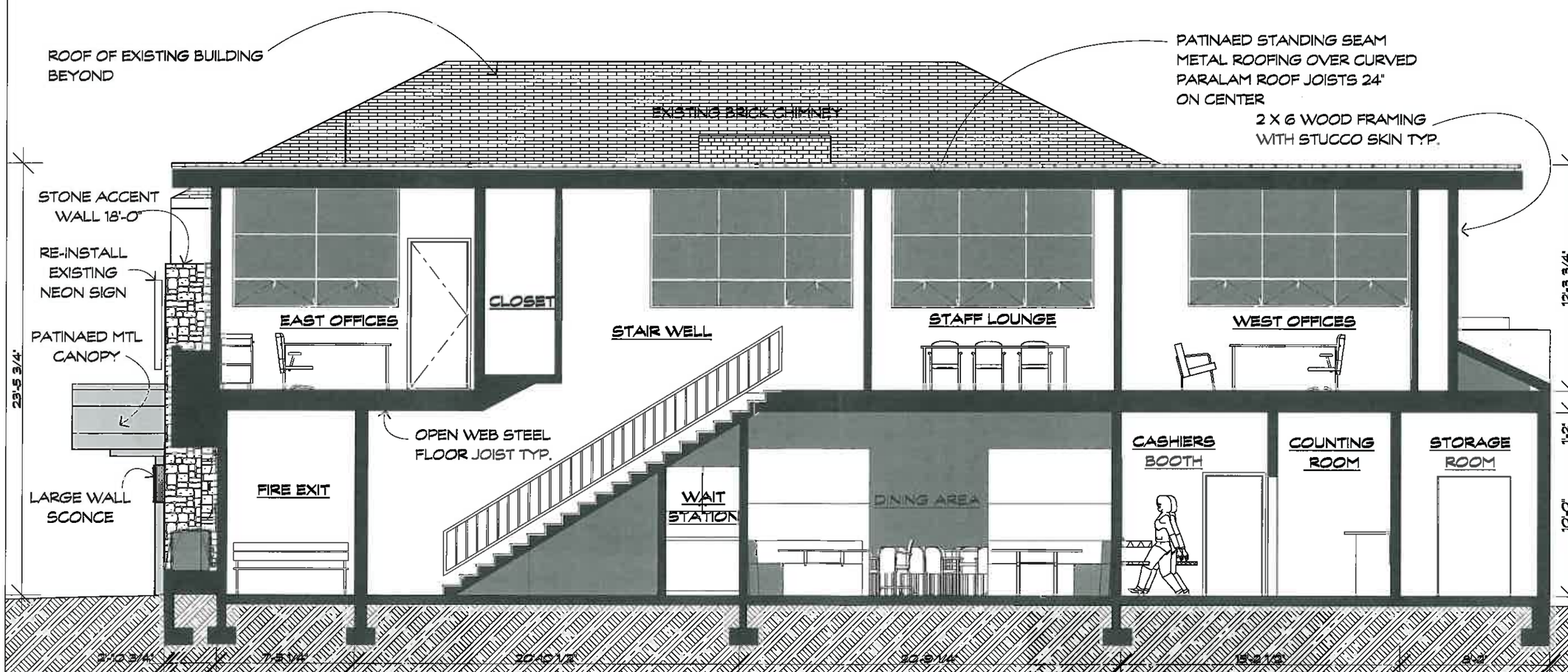
DESIGN REVIEW

ISSUE DATE:	9-8-11
SCALE:	AS NOTED
DRAWN BY:	D RUFFIN

NORTH SOUTH SECTIONS

SHEET NO.

A-8



1 ADDITION SECTION EAST WEST
SCALE: 3/8" = 1'-0"

RUFFIN ARCHITECTURE + ARCHITECTURE + INTERIORS
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DESIGN REVIEW
ISSUE DATE 9-8-11
SCALE AS NOTED
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EAST WEST SECTION

SHEET NO.
A-9

FINDINGS IN SUPPORT OF A MODIFICATION TO A USE PERMIT TO ALLOW TWO ADDITIONAL GAMING TABLES TO BE HELD IN RESERVE

- The proposed use is desirable for the public convenience or welfare;

  That the modification of the use permit to allow the Palace Poker Casino to reserve two additional gaming tables for future use will be desirable for the public convenience in that greater opportunities for entertaining the public may be provided; further, additional tables are desirable for the public welfare by providing additional tax revenue to the City of Hayward and the State of California for the benefit of the public as a whole.

- The proposed use will not impair the character and integrity of the zoning district and surrounding area;

  That the modification of the use permit to allow the Palace Poker Casino to reserve two additional gaming tables for future use will not impair the character and integrity of the Central City – Commercial zoning district and surrounding area in that additional tables reserved for future use will not alter the current operation. The current operation of the Palace Poker Casino does not and has not impaired the character and integrity of that district. Should two additional gaming tables be put to use at a future date, the number of tables is not significant and, therefore, would not appreciably change the gaming operation nor the impact on the surrounding area.

- The proposed use will not be detrimental to the public health, safety, or general welfare;

  That the modification of the use permit to allow the Palace Poker Casino to reserve two additional gaming tables for future use will not be detrimental to the public health, safety, or general welfare in that, with the conditions of approval in the use permit as well as oversight by the California Gaming Board, any future use of the gaming tables will not result in compromising the health, safety or general welfare of the public. Further, the potential increase in the number of gaming tables would be under the control of the Palace Poker Casino, currently operating with 11 gaming tables and which has proven to be a well-run facility. The Palace Poker Casino has had very few incidents requiring police service calls. The service calls that have occurred are minor in nature and commensurate with any commercial establishment. In addition, the Palace Poker Casino and all California card rooms are under the authority of the State Gaming Board which monitors and regulates the operation to ensure that the card room is not detrimental to the public health, safety, or general welfare.

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

  That the modification of the use permit to allow the Palace Poker Casino to reserve two additional gaming tables for future use is in conformance with the policies set forth in the City's General Plan and the policies and strategies within the Urban Design Objectives of the Downtown Core Area specified in the Downtown Hayward Design Plan, and the Central City Zoning District as indicated below:

The land use policies and strategies of the City's General Plan include:

- *"Promote mixed-use development where appropriate to ensure a pedestrian friendly environment that has opportunities such as housing, jobs, child care, shopping, entertainment, parks and recreation in close proximity."*

  The Palace Poker Casino is located among a mixture of commercial and residential uses in a mixed-use downtown area. The Casino employs licensed security personnel to ensure that a pedestrian friendly environment is maintained, and the eventual use of two additional tables will provide for additional jobs in the downtown.

- The stated purpose of the Economic Development Element is *"to identify the current economic conditions, constraints and opportunities in the City of Hayward and to establish policies and strategies that:*

  - *Support economic growth;*
- *Maintain a healthy balance between economic growth and environmental quality;*
  - *Provide the necessary support to businesses;*
- *Eliminate cumbersome and unnecessary regulations;*
  - *Prevent the wasteful underutilization of physical resources;*
    - *Encourage businesses that create permanent, higher wage jobs to locate and/or expand in Hayward; and*
    - *Assist City residents to acquire skills so that they may fill the jobs of the future."*

  Approval of the modification of the use permit is consistent with the purpose of the Economic Development Element in that

- The Palace Poker Casino is the largest employer of Hayward's downtown, and approval of the modification of the use permit could result in an eventual demand for more employees;
- The modification of the use permit involving reserving two additional gaming tables in reserve would not result in a significant impact on the environment as indicated in the Negative Declaration prepared for this project;

- The Palace Poker Casino maintains an active business within the confines of a single address, which does not exhaust environmental resources;

- And the modification of the use permit will not hinder the Palace Poker Casino's operation that provides career opportunities and decent standards of living for employees.

- A strategy of the Economic Development Element states, *"Approve development opportunities that result in minimal impacts to the City's environment."*

  The modification of the use permit allows holding gaming tables in reserve for possible future use. This action, as indicated in the Negative Declaration, is insignificant from an environmental standpoint.

- Another strategy of the Economic Development Section of the General Plan states,"2. *Create a sound local economy that attracts investment, increases the tax base, creates employment opportunities for residents and generates public revenues."*

  The proposal to hold two additional gaming tables in reserve is consistent with this strategy in that it would result in an increase in revenue to both the City of Hayward and the State of California and eventually provide for additional employment opportunities by adding dealers and support staff.

- Another strategy of the Economic Development Section of the General Plan states, "2. *Work cooperatively with local business and industrial associations to improve the general business climate and to stimulate new business investment."*

  Approval of the modification of the use permit would contribute to the implementation of this strategy.

- The Economic Development Section of the General Plan promotes employment opportunities, and a related policy and a strategy are as follows:

- ***"3. Facilitate the development of employment opportunities for residents.***
  Promote commercial and industrial development to create and maintain the maximum job opportunities for area residents."

  Approval of the modification of the use permit would contribute to the implementation of this strategy.

- The Economic Development Section of the General Plan seeks to retain existing businesses by the following means:
- "2. Retain small businesses and facilitate their expansion efforts."
- "4. Continue business retention visits and assistance"

Approval of the modification of the use permit would contribute to the implementation of this strategy.

Conditions of Approval

June 4, 2013

Modification of Use Permit, Application Number PL-2011-303 - Palace Poker Casino LLC (Applicant/Owner): Request to Modify the Use Permit for the Palace Poker Casino to Increase the Number of Card Tables from 11 to 13 and allow additional games. Property is located at 22821 Mission Boulevard.

Revised text to previous conditions of approval is bolded.

General:

Conditional Use Permit Application No. PL-2011-303 is approved subject to the conditions listed below:

1. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
2. A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishment and posted in a place where the general public may readily view them.
3. A shuttle shall be provided and maintained to transport customers between the card club and the municipal parking garage at 805 B Street. **The shuttle driver shall park in an identified parking space in the garage while waiting for customers and shall ensure litter from Club customers is removed promptly from the garage.** A sign shall be prominently displayed inside the card club, and written materials shall be provided to patrons, advising customers to park in the municipal parking garage and use the card club shuttle program. The sign and written materials shall also inform patrons not to park on the surrounding properties.
4. Management shall take all necessary steps to assure the orderly conduct of employees, patrons, and visitors on the premises including loitering and excessive noise from patrons that are entering or leaving the establishment.
5. The subject property and the adjacent public sidewalk must be kept free of litter and debris and all necessary steps shall be taken to minimize the amount of wind-blown debris into surrounding properties.
6. The **applicable** conditions of approval associated with the original Use Permit 91-114 **shall** remain in full force and effect **(see attached)**.
7. Violation of conditions is cause for revocation of this permit, subject to a public hearing before the duly authorized reviewing body.
8. The owner is encouraged to make improvements to the blank wall of the building façade so that the building has greater appeal from the public way. Such improvements may include a trellis, false window, a mural, or other similar elements, subject to the approval of the Planning Director and any building permit, if required.

9. **Proposed expansion and remodel shall be in compliance with the California Fire Code, California Building Code, City of Hayward ordinances and codes, as approved by the Hayward Fire Department and Building Division staffs.**

10. **City of Hayward water and sewer services associated with the proposed expansion and remodel are available and subject to standard conditions and fees in effect at time of building permit applications submittal.**

11. **The proposed expansion and remodel shall be subject to the City of Hayward's construction and demolition debris recycling requirements, as well as trash and recycling container storage area standards.**

12. **Related to the Palace Card Club's shuttle and impacts it generates in the public parking garage between Watkins Street and Mission Boulevard, an annual mitigation fee equal to $114,146 shall be paid to the City by the Club owners, related to reserving a space in the garage for the shuttle. Such fee shall be paid annually at the time the business license tax is paid for an initial period of five years, with the ability of such fee to be modified or deleted by the Planning Commission at a noticed public hearing.**

USE PERMIT APPLICATION NO. 91-114
CONDITIONS OF APPROVAL

13. All improvements indicated on the approved site plan, as amended by staff and labeled Exhibit **'A',** must be installed prior to authorization for gas or electric service.

14. Outside utility meters, when not enclosed in a cabinet, shall be screened allowing sufficient distance for reader access.

15. The developer shall contact the Fire Prevention Bureau for the location of standard pipe systems, first aid fire appliances, and/or Fire Department connections.

16. As part of the building permit application, the developer shall, subject to the approval of the Planning Director:
    a . Submit detailed awning plans including materials and colors. Awning material shall be either fire-treated or non-combustible. Indicate removal of existing wood-shingle fascia around entire building perimeter.
    b . Submit detailed trash enclosure plan. Provisions for the recycling of glass, paper, aluminum, cardboard, etc. shall be provided within the trash enclosure. Trash enclosure construction shall be of non-combustible materials.
    c. Submit detailed fencing plan . Existing fencing along the westerly property line adjacent to the service alley shall be replaced with a masonry block wall 8 feet in height.
    d. Revise building elevations to indicate the northerly and westerly building walls to be repainted.
    e. Revise roof elevation to include notation roof-mounted satellite antenna shall be painted black or dark brown.
    f. Submit a detailed sign plan. Signs shall be limited to three in number and shall not exceed 31 square feet in area.
    g. Submit a detailed exterior lighting plan which shall conform to city security Ordinance Requirements.

17. Prior to final occupancy, the developer shall:
    a. Repair damaged concrete within service alley.
    b. Repair existing drain within service alley.

18. The building interior and exterior shall comply with all requirements of the Uniform Fire and Building Codes as adopted by the City of Hayward including but not limited to State Title 24 requirements.

19. Any revision to this use permit shall be prohibited without modification of the use permit pursuant to City regulations.

20. Ninety days after commencing operation, an administrative review of the operation of the facility to ensure compatibility with adjacent uses shall be made by the Planning Director and Police Chief. If problems exist that cannot be administratively resolved, the permit shall be brought back to the **Planning Commission** for modification or addition to the

conditions of approval. A similar review shall be made one-year after commencing operation. Nearby residents shall be contacted as part of these reviews.

21. The operator shall comply with all requirements of the security Ordinance and requirements of the Chief of Police relating to security and City regulations governing the operation of a card room.

22. Fencing, paved areas, and building exteriors shall be properly maintained and repaired when necessary.

23. Violation of conditions is cause for revocation of permit after public hearing before the duly authorized review body.

24. This permit becomes void on February 19, 1993, unless prior to that time an application for a building permit has been accepted for processing by the Building Official or an extension is approved. A request for an extension must be submitted 15 days prior to the above date.

25. The applicant, with the assistance of City staff, shall attempt to work with the owners of open parking lots located on Francisco Street to ensure that patrons of the Palace Club do not utilize these parking lots.

26. With approval of the Public Works Department and within City policies, the signage of the City-owned parking lot located at the northeast corner of 'D' street and Mission Boulevard shall be clearly marked to indicate hours of available public parking.

To: The City of Hayward Planning Commission
From: Nathalie Nguyen
Date: May 2, 2013
Re: The Palace Club

My name is Nathalie Nguyen, a native, long –time resident and citizen to the City of Hayward. My mother owns Le Paradis formerly known as La Patisserie located at 22809 Mission Blvd. In the past, I have written numerous times on various issues that the City of Hayward engages in.

On July 6th, 2011 – almost two years ago, I had written an email of concern regarding the expansion of the Palace club's petition and request to increase their card tables. It has been brought to my attention that a staff report will be published, which is the reason I am writing once again to express my concerns on the proposal.

As a public policy advocate and law enforcement supporter - I believe that upgrading the number of tables the Palace Club has requested will create more problems. Currently, the crime rate in Hayward is already relatively high. The implementation of additional tables will only attract more crime, gambling and the need for more law enforcement and security on the streets. The Palace Club currently has 1-2 security men on duty, however that is only staff for the front entrance. More tables will mean more precaution, the need for higher security and protection for businesses in the area. There is no added security for the perimeter of the building, the 1-2 block radius, or even across the street.

The proposal to add additional tables could mean attracting suspicious crowds and groups of people. Law enforcement has already reported to be short staffed and in need of more confinement areas. It is also important to note that there is a playground just across the street. With families nearby, the last thing the City of Hayward needs is a decision to increase tables eventually leading to other realignment and future plans to curb unnecessary issues of crime and security.

The Palace Club may generate additional revenue for the City, but the attention and concern should really be allocated for the areas that need redevelopment. Main Street currently has multiple vacant buildings that could generate an exceeding amount of revenue, more than additional tables at a card club could ever bring. Hayward needs a new image that will bring investors and business leaders to the city.

It is also important to note that various homeowners live behind the Palace Club. They have reported noise issues, trespassing and the everyday concern of growing crime and added security. The City's duty to their citizens and natives should be protecting their residents, the ones who contribute to the local economy on an everyday basis.

On a personal note – my mother, Alice Nguyen, a self-employed business owner and devoted resident to Hayward has suffered more than enough from the Palace Club. Almost 8 years ago when my mother opened her business, she immediately witnessed the Palace Club's negligence and various groups of odd cliental.

The Palace Club attracts various troublesome cliental, some of which Le Paradis has been accustomed and victimized to. The card players often use our lot as their parking facility, proceed to walk through our business as a short cut and make their way to the card tables. Number after number, cars have been towed all of which belong to the Palace Club's cliental. Business owners like my mother should not have to deal with the inappropriateness and irresponsibility of their customers.

Money well spent on renovation of the building, city codes and imagery to attract people to Hayward have been vandalized, damaged and stolen off of Le Paradis. The Palace Club has had incidents of where their customers have been caught vandalizing buildings through activities of public urination to damaging property owned items. And on numerous occasions, the Hayward Police has had to show up on premise to remedy various situations.

As the City knows gambling is currently a huge problem in society, in fact it has been labeled as a psychological issue, an addiction and uncontrollable erratic behavior. Allotting extra tables at the Palace Club confirms society's view that gambling is completely approved and not an issue. As Californians, city leaders, advocates, policy-makers and citizens we have a duty to make decisions that improve our society and its well being.

As a public affairs advocate, I urge Hayward's Planning Commission and city leaders to step forth and take on the role of providing what is best for their people. It is your duty to protect and serve those that make Hayward, "the heart of the bay". Approving the additional card tables for the Palace Club located on Mission Blvd will only create more of a nuisance. Therefore, the Hayward Planning Commission and city leaders should disregard the proposal and vote to not allow additional card tables be implemented at the Palace Club.

I appreciate your time and willingness to listen to Hayward's voices.

Sincerely,

Nathalie Nguyen
California State Sheriffs' Association
M.A, Public Policy
B.A Political Science

From: Nathalie Nguyen [nathalie.p.nguyen@gmail.com]
Sent: Wednesday, July 06, 2011 9:56 PM
To: Tim Koonze
Subject: The Palace Club Hearing

Greetings Tim &Planning Commission,
I am writing in regards to the project and request of the Palace Club to increase their tables. My name is Nathalie and I am the daughter of Alice Nguyen, owner of Le Paradis La Patisserie located next door to this location at 22809 Mission Blvd. My email is mainly to express my complaints and concerns for the Palace Club on their wish to increase their tables and games allowed. I believe that this is not a good idea. My mother's business has already dealt with enough trouble with their customers. They have used our parking lot for the luxury of parking their vehicles and have used our premises as an alternate shorter route to enter through their facility. This has caused vandalism and property damage to the plants and other various parts. Just last week, my mother caught a man who was their customer trespassing and urinating in public on private property. When ousted by their security guard, they did nothing to express concern. How can Hayward let a casino raise their game tables, increase their customers ---if they cannot control the amount of chaos breaking through? They do not have well equipped security and do not show any hospitality toward their friendly business neighbors around them. They are only increasing more trouble, more crime rates, and more concern for other local business owners that also contribute to Hayward. I would like to submit this email as an official concern for this proposal. I cannot attend the hearing as I am a full time professional grad student. Any questions --please email me. My contact information is below!
Thank you.

--
Nathalie Nguyen
University of San Francisco
Master of Public Affairs 2012 Candidate

Contacts:
(510) 851-1260
Nathalie.P.Nguyen@gmail.com
NPNguyen2@dons.usfca.edu