



CITY OF
HAYWARD
HEART OF THE BAY

CITY COUNCIL AGENDA
JANUARY 28, 2014

**MAYOR MICHAEL SWEENEY
MAYOR PRO TEMPORE MARK SALINAS
COUNCIL MEMBER BARBARA HALLIDAY
COUNCIL MEMBER FRANCISCO ZERMEÑO
COUNCIL MEMBER MARVIN PEIXOTO
COUNCIL MEMBER GREG JONES
COUNCIL MEMBER AL MENDALL**

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CITY COUNCIL MEETING FOR JANUARY 28, 2014
777 B STREET, HAYWARD, CA 94541
WWW.HAYWARD-CA.GOV

CLOSED SESSION
Closed Session Room 2B – 5:45 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; Senior Human Resources Analyst Collins; Senior Human Resources Analyst Monnastes; Jack Hughes, Liebert, Cassidy and Whitmore

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 Salinas

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PRESENTATION

- Beacon Award Presentation by Pacific Gas & Electric Company to the City of Hayward for Energy Savings in City Facilities

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.

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 any time before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.)*

CONSENT

1. Approval of Minutes of the Special City Council Meeting on January 14, 2014
[Draft Minutes](#)
2. Resolution Calling for and Ordering a General Municipal Election and Requesting the Board of Supervisors of Alameda County to Provide for the Consolidation of a General Municipal Election to be Held on June 3, 2014, for the Purpose of Electing a Mayor and Two Members of the City Council for Terms of Four Years
[Staff Report](#)
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3. Adoption of an Ordinance Reinstating the Energy Efficiency Provisions of the City of Hayward's Green Building Requirements for Private Developments (Formerly Chapter 10, Article 22 of the Hayward Municipal Code)
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4. Utility Service Agreement 13-01 - Gary Parham (Owner/Applicant) - Request for Water Service for Assessor's Parcel Number 085A-6100-005-03, located in the Castle Homes Area of Unincorporated Alameda County
[Staff Report](#)
[Attachment I Draft Resolution](#)
[Attachment II Project Location Map](#)
[Attachment III Castle Homes Service Connections Map](#)
5. Resolution Supporting The Conversation Campaign To Encourage End-of-Life Planning Discussions Between Families, Health Care Providers and Others
[Staff Report](#)
[Attachment I Resolution](#)



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

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

PUBLIC HEARING

6. Adoption of Negative Declaration and Request for Text Amendment (PL-2013-0437 TA) to: (1) Add a definition for Transitional and Supportive Housing to Section 10-1.3500 of the Zoning Ordinance; (2) Amend Table 9 of Section 10-24.300 of the South Hayward BART/Mission Boulevard Form-Based Code by removing reference to both Transitional and Supportive Housing as Allowed Functions; and (3) Replace Section 10-1.145 of the Zoning Ordinance with new Section 10-1.145 related to Reasonable Accommodation for Persons with Physical Disabilities. Applicant: City of Hayward (Report from Development Services Director Rizk)

[Staff Report](#)

[Attachment I Draft Resolution](#)

[Attachment II Ord for definition](#)

[Attachment III Ord for Table 9](#)

[Attachment III-a](#)

[Attachment IV Reasonable Acc](#)

[Attachment V CEQA](#)

[Attachment VI PC Minutes](#)

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, FEBRUARY 4, 2014

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 before speaking and are expected to honor the allotted time. Speaker Cards are 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:





**MINUTES OF THE SPECIAL CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, January 14, 2014, 7:00 p.m.**

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

ROLL CALL

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

CLOSED SESSION ANNOUNCEMENT

Mayor Sweeney reported that the Council met in closed session regarding the performance evaluation of the City Manager pursuant to Government Code 54957; met with labor negotiators pursuant to Government Code 54957.6 regarding all groups; met with legal counsel pursuant to Government Code 54956.9 regarding McGraw v. Top Grade, et al., Alameda County Superior Court Case No. HG12617574; and met with legal counsel Pursuant to Government Code 54956.9 regarding two anticipated cases. There was no reportable action.

PUBLIC COMMENTS

Mr. Jim Drake, Hayward resident, inquired about the status of the solid waste and recycling services request for proposal (RFP) and the terms of the prospective contract.

Council Member Mendall advocated for an increase in the minimum wage for workers who live below the poverty line and work for lucrative corporations. Mr. Mendall urged the Council to consider this matter county-wide or locally.

Mr. Jordan Leopold, Cal State University, East Bay student and director of Legislative Affairs, introduced himself to the Council and wished the mayoral candidates a good campaign.

CONSENT

1. Approval of Minutes of the Special City Council Meeting on December 10, 2013
It was moved by Council Member Zermeño, seconded by Council Member Mendall, and carried unanimously, to approve the minutes of the Special City Council Meeting on December 10, 2013.
2. Approval of Minutes of the City Council Meeting on December 17, 2013
It was moved by Council Member Zermeño, seconded by Council Member Mendall, and carried unanimously, to approve the minutes of the City Council Meeting on December 17, 2013.

3. 238 Bypass Corridor Settlement Agreement Update

Staff report submitted by Neighborhood Partnership Manager Bristow, dated January 14, 2014, was filed.

It was moved by Council Member Zermeño, seconded by Council Member Mendall, and carried unanimously, to accept the staff report updating the status of the City's obligations under the Route 238 Corridor Settlement Agreement.

4. Authorization for City Manager to Execute a Master Lease Purchase Agreement for the Purchase of Police and Fire Department Vehicles

Staff report submitted by Director of Finance Vesely, dated January 14, 2014, was filed.

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

Resolution 14- 001, “A Resolution of the City Council of the City of Hayward, Authorizing the City Manager to Negotiate and Execute an Equipment Lease-Purchase Agreement and an Escrow Agreement for the Acquisition of New Police and Fire Vehicles”

PUBLIC HEARING

5. Introduction and Adoption of an Ordinance to Approve an Amendment to the City of Hayward’s Contract with the California Public Employees Retirement System (CalPERS) and Authorizing Staff to Execute the Contract

Staff report submitted by Senior Human Resources Analyst Collins, dated January 14, 2014, was filed.

Human Resources Director Robustelli announced the report and introduced Senior Human Resources Analyst Collins who provided a synopsis of the report.

There being no public comments, Mayor Sweeney opened and closed the public hearing at 7:09 p.m.

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

Ordinance 14-01, “An Ordinance Authorizing the Amendment of the Contract between the City of Hayward and the Board of Administration of the California Public Employees’ Retirement System”



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, January 14, 2014, 7:00 p.m.**

6. Adoption of Negative Declaration and Request for Text Amendment (PL-2013-0437 TA) to: (1) Add a definition for Transitional and Supportive Housing to Section 10-1.3500 of the Zoning Ordinance; (2) Amend Table 9 of Section 10-24.300 of the South Hayward BART/Mission Boulevard Form-Based Code by removing reference to both Transitional and Supportive Housing as Allowed Functions; and (3) Replace Section 10-1.145 of the Zoning Ordinance with new Section 10-1.145 related to Reasonable Accommodation for Persons with Physical Disabilities. Applicant: City of Hayward

It was noted that the item was carried over to January 28, 2014.

LEGISLATIVE BUSINESS

7. Adoption of Interim Urgency Ordinance Imposing a Temporary Moratorium on the Development, Establishment and Operation of New Small-Format and Large-Scale Tobacco Retailers and all New E-Cigarette Retailers, Electronic Cigarette Lounges, Vapor Bars, and Hookah Bars within the City of Hayward. The Adoption of the Ordinance is Exempt from Environmental Review under the California Environmental Quality Act (CEQA), pursuant to Public Resources Code Section 21065 and State CEQA Guidelines Sections 15061(b)(3), 15306 and 15378

Staff report submitted by Development Services Director Rizk and City Attorney Lawson, dated January 14, 2014, was filed.

Development Services Director Rizk announced the report and introduced Associate Planner Ajello who provided a synopsis of the report and noted that staff was in receipt of ten e-mail comments objecting to a ban on electronic cigarettes. Ms. Ajello clarified that the proposed ordinance did not ban electronic cigarettes, but it placed a temporary restriction on the issuance of business licenses, business permits, building permits for the establishment of tobacco retailers, electronic cigarette retailers, electronic cigarette lounges, vapor bars/lounges and hookah bars/lounges, to allow staff time to fully develop comprehensive regulations.

Discussion ensued among Council and City staff.

Mayor Sweeney opened the public hearing at 7:30 p.m.

The following speakers expressed concern about a moratorium that would prohibit the establishment of tobacco retail establishments and offered the following comments: electronic cigarettes contain Food and Drug Administration (FDA) approved ingredients and serve as tobacco cessation tools; vapor stores generate revenue for the City; and electronic cigarettes “vaping” do not have the smoke and harmful side effects of traditional cigarettes.

Ms. Jennifer Mish, Vapor 5 business owner
Mr. Steven Hernandez, Vapor 5 business owner
Mr. Ben Jewell, owner of a Castro Valley vapor store
Ms. Charlene Shores, Hayward resident
Mr. Jim Drake, Hayward resident
Mr. Nicholas Morales, Vapor 5 employee

The following speaker expressed support for the ordinance imposing a temporary moratorium on the establishment of tobacco retail establishments and offered the following comments: flavored electronic cigarettes and hookah pens were becoming a major problem among the youth; more scientific cases for or against the effects of vaping needed to be researched in order to draft coherent tobacco regulations; the moratorium would help understand good business practice demonstrated by existing businesses; and the moratorium would help develop strategies to prevent the marketing and sale of electronic cigarettes to the youth.

Ms. Karishma Khatri, Tobacco and Alcohol Decoy and Hayward Coalition for Healthy Youth representative
Ms. Jocelyn Bonilla, Undercover Decoy Program member
Ms. Janice Louie, Alameda County Public Health Department representative
Ms. Serena Chen, American Lung Association representative
Ms. Sara Lamnin, Hayward resident
Ms. Linda Pratt, COMMPRE representative
Mr. Jordan Leopold, Hayward resident

Mayor Sweeney closed the public hearing at 8:04 p.m.

Council Member Mendall said he would favor regulating electronic cigarettes, similarly to tobacco products, unless there was scientific evidence to prove that electronic cigarettes were healthier. Mr. Mendall offered a motion to adopt the interim urgency ordinance establishing a temporary moratorium on the establishment of new tobacco retailers, electronic cigarette retailers, electronic cigarette lounges, vapor bars, and hookah bars, in order to provide staff with the necessary time to conduct research and develop regulations.

Council Member Halliday seconded the motion and noted that while her focus was on preventing young people from getting into the smoking habit she was sensitive to the assertion that electronic cigarettes could help reduce nicotine intake. Ms. Halliday indicated that it was important to find an approach that balanced all interests. Ms. Halliday requested that staff provide Council with the information submitted by the owners of Vapor 5 or to include that information in the analysis for developing regulations.

Council Member Zermeño supported the motion and also asked for the information that was submitted by Vapor 5. Mr. Zermeño disclosed having met with Ms. Jennifer Mish and Mr. Ben Jewell. Mr. Zermeño stated that he needed to have arguments for and against electronic cigarettes in order to make an informed decision.



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING
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Council Member Salinas supported the motion, shared health statistics and health risk factors in Alameda County, and noted that the Council needed to consider all the relevant information when making decisions.

Council Member Peixoto supported the motion and commented that absent reliable and scientific evidence, he was not ready to advocate either way on the use of electronic cigarettes and the moratorium was a common sense approach. Mr. Peixoto requested that staff provide the Council with the information provided by Vapor 5.

Council Member Jones supported the motion and noted that the moratorium would allow the Council to learn more about electronic cigarettes. Mr. Jones indicated it was the Council's responsibility to protect the health of the community and to regulate behavior. Mr. Jones added he was disturbed to learn about flavored vapor products because they directly targeted minors.

Mayor Sweeney supported the moratorium and he expressed he would review the results of scientific, credible and objective evidence on the use of electronic cigarettes and vapor products. Mayor Sweeney concurred with prior speakers that tobacco products were marketed to target young people and to get them started on smoking.

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

Ordinance 14-02, "An Urgency Measure Adopting an Interim Ordinance Pursuant to Government Code Section 65858 Imposing a Moratorium on the Establishment, Operation, Permitting and/or Licensing of New Small-Format and Large-Scale Tobacco Retailers and All New Electronic Cigarette Retailers, Electronic Cigarette Lounges, Vapor Bars/Lounges, and Hookah Bars/Lounges Within the City of Hayward"

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño wished all students in attendance a prosperous 2014.

City Manager David reported on the successful City of Hayward Job Fair which was sponsored by the Human Resources Department on January 11, 2014. It was noted that over 1,100 people attended the fair.

Council Member Halliday spoke about a mailer from Alameda County Waste Management Authority regarding the consideration of a fee of \$9.55 per year per residential unit to support the countywide household hazardous waste program.

Council Member Jones noted there was an important football game between the San Francisco 49ers and the Seattle Seahawks on January 19, 2014.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 8:34p.m., in memory of Mr. Guy Emanuele, a former New Haven Unified School District Superintendent. It was noted that the New Haven Unified School District and Union City were improved during his tenure. Mayor Sweeney asked staff to work with Mr. Emanuele’s family to find a place in Hayward, within the boundaries of the New Haven District, and plant a tree in memory of Mr. Emanuele.

APPROVED:

Michael Sweeney
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward

DATE: January 28, 2014

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Resolution Calling for and Ordering a General Municipal Election and Requesting the Board of Supervisors of Alameda County to Provide for the Consolidation of a General Municipal Election to be Held on June 3, 2014, for the Purpose of Electing a Mayor and Two Members of the City Council for Terms of Four Years

RECOMMENDATION

That the City Council adopts the attached resolution (Attachment I) calling for and ordering a General Municipal Election on June 3, 2014; and requesting the Alameda County Board of Supervisors to authorize reimbursable services from the Registrar of Voters.

DISCUSSION

The Hayward General Municipal Election will be conducted on June 3, 2014, for the purpose of electing the Mayor and two Council Members for terms of four years each. The first day for issuing nomination papers is Monday, February 10, 2014, and the last day is Friday, March 7, 2014, at 5:00 p.m. If an incumbent decides not to seek re-election, the nomination period extends to Wednesday, March 12, 2014. On March 13, 2014, the random alpha drawing by Secretary of State will be conducted to determine the order in which candidate names will appear on the ballot. The General Municipal Election Calendar (Attachment II) provides a list of pertinent dates for the election.

The City of Hayward has been consolidating its municipal elections with the California State Primary since 1996. As provided by statute, the Council may request the consolidation from the Alameda County Board of Supervisors and request that services be provided by the Registrar of Voters. The Registrar will provide the following services: verify signatures on nomination papers; prepare and supply indices to precinct information; provide voter registration information; assist in election services as required in the conduct of this election; and provide services to complete the canvass of returns. With this consolidation, the City's sample ballot and optional candidate statements will be incorporated into the Alameda County Voter Pamphlet.

It is recommended that the 200-word limit be maintained on the optional candidate statement as in the past, and that the costs of printing and translating to Spanish, Chinese, Tagalog, and Vietnamese be assessed to the candidate. The candidate statement cost is approximately \$2,491. The final cost

will be adjusted by the Alameda County Registrar of Voters after the final cost for election services provided is determined.

The 2014 Consumer Price Index adjustment for the City's Campaign Voluntary Expenditure Limit has been calculated to be \$64,292. The Hayward Municipal Code Section 2-13.02(c), states that if a candidate accepts the voluntary expenditure limit for his or her campaign, then s/he is entitled to accept the established \$1,000 contribution limit, now adjusted to \$1,261 per contributor. If a candidate rejects the voluntary expenditure limit, then the contribution limit is \$308 per contributor. During the election cycle, campaign disclosure documents for all candidates will be posted on the City's website within forty-eight hours of receipt, as individual addresses will need to be redacted from the reports.

FISCAL IMPACT

The budget for the consolidation of Hayward's General Municipal Election is \$180,000, which is included in the current budget for the City Clerk's Office.

PUBLIC CONTACT

Information regarding the election is available on the City's website at <http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/CITY-CLERK/>.

The call and notice of the Hayward Municipal Election will be published in the Hayward Daily Review on Tuesday, February 4, 2014.

NEXT STEPS

The General Municipal Election Calendar 2014 provides important dates for the election. The tentative date for the official canvass of the Hayward Municipal Election and installation of the Mayor and two Council Members is scheduled for July 1, 2014.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachments:

- Attachment I Resolution for Municipal Election 2014
- Attachment II General Municipal Election Calendar

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Council Member

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD CALLING FOR AND ORDERING A GENERAL MUNICIPAL ELECTION AND REQUESTING THE BOARD OF SUPERVISORS OF ALAMEDA COUNTY TO PROVIDE FOR THE CONSOLIDATION OF A GENERAL MUNICIPAL ELECTION OF THE CITY OF HAYWARD WITH THE STATEWIDE DIRECT PRIMARY ELECTION TO BE HELD ON JUNE 3, 2014, FOR THE PURPOSE OF ELECTING A MAYOR AND TWO MEMBERS OF THE CITY COUNCIL FOR TERMS OF FOUR YEARS

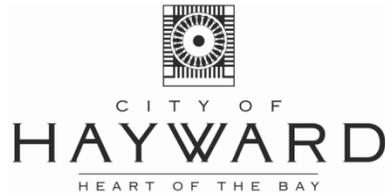
WHEREAS, the City of Hayward General Municipal Election is to be held on June 3, 2014, for the purpose of electing a Mayor and two Members of the City Council for terms of four years; and

WHEREAS, a Statewide Direct Primary Election will be held on Tuesday, June 3, 2014; and

WHEREAS, the voters of Hayward have elected to consolidate the City of Hayward General Municipal Election with the Statewide Direct Primary Election, utilizing the same precincts, polling places, and election officers.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward, as follows:

1. The City Council does hereby call for and order a General Municipal Election for the purpose of electing a Mayor and two Members of the City Council as set forth above.
2. The Board of Supervisors of Alameda County is hereby requested to order the consolidation of the General Municipal Election of the City of Hayward with the Statewide Direct Primary Election to be held on Tuesday, June 3, 2014, insofar as the City is concerned, and to further provide that within the territory affected by said order of consolidation, to wit, the City of Hayward, the election precincts, polling places, and voting booths shall in every case be the same and there shall be only one set of election officers in each of said precincts, and to further provide that the candidates for the City Council hereinabove set forth shall be set forth in the form of ballot to be used at the Statewide Direct Primary Election insofar as the same is held within the City. The Board



GENERAL MUNICIPAL ELECTION CALENDAR
Tuesday, June 3, 2014

DAYS PRIOR TO ELECTION	DATE	ACTION TAKEN	CODE SECTION
113 88	February 10, 2014 - March 7, 2014	Filing Period - Candidate nomination papers to be obtained and filed during this period. <i>City Hall closed</i> <i>February 12, 2014 – Lincoln’s Birthday</i> <i>February 17, 2014 – President’s Day</i>	EC 10220
88	March 7, 2014	Last day for the City to request election services/consolidation from the Alameda County Board of Supervisors.	EC 10002
87 83	March 8, 2014 - March 12, 2014	Extended candidate filing period. Filing is extended if an incumbent eligible for re-election does not file for re-election prior to 5:00 p.m., March 7, 2014. Incumbents are not eligible to file during the extended period.	EC 10225
82	March 13, 2014	Random Alpha Drawing by Secretary of State. It is conducted to determine the order in which candidate names will appear on the ballot.	EC 13112
57 14	April 7, 2014 - May 20, 2014	Filing period for Write-In Candidates.	EC 8601
71	March 24, 2014	First Pre-Election Campaign Statement due	GC 84200.7
40 21	April 24, 2014 - May 13, 2014	Voter Information and Sample Ballot Pamphlet mailing period.	EC 13303-04, 13306
29 7	May 5, 2014 - May 27, 2014	Vote-By-Mail (VBM) ballots may be obtained between these dates.	EC 3001
15	May 19, 2014	Last day to register to vote.	EC 2102, 2107
12	May 22, 2014	Second Pre-Election Campaign Statement due.	GC 84200.7
0	June 3, 2014	Election Day – Polls open at 7:00 a.m. and close at 8:00 p.m.	EC 1000
28	July 1, 2014	Last day for County to certify election results.	EC 15372
28	July 1, 2014	Council to adopt and certify election results. <i>(Tentative)</i>	EC 10262- 10263

EC = California Elections Code

GC = California Government Code

<http://leginfo.legislature.ca.gov/faces/codes.xhtml>

DATE: January 28, 2014
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Adoption of an Ordinance Reinstating the Energy Efficiency Provisions of the City of Hayward's Green Building Requirements for Private Developments (Formerly Chapter 10, Article 22 of the Hayward Municipal Code)

RECOMMENDATION

That the City Council adopts the Ordinance introduced on January 21, 2014.

BACKGROUND

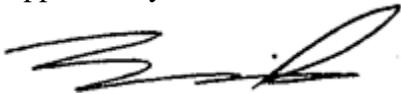
The Ordinance was introduced by Council Member Mendall at the January 21, 2014 meeting of the City Council with the following vote:

AYES:	Council Members:	Zermeño, Jones, Halliday, Peixoto, Salinas, Mendall
	Mayor:	Sweeney
NOES:	Council Members:	None
ABSENT:	Council Members:	None
ABSTAIN:	Council Members:	None

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, January 25, 2014. Adoption at this time is therefore appropriate.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachment: Attachment I Summary of Ordinance Published on 01/25/14

PUBLIC NOTICE OF AN INTRODUCTION OF ORDINANCE
BY THE CITY COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE REINSTATING THE ENERGY EFFICIENCY PROVISIONS OF THE
CITY OF HAYWARD'S GREEN BUILDING REQUIREMENTS FOR PRIVATE
DEVELOPMENTS (FORMERLY CHAPTER 10, ARTICLE 22 OF THE HAYWARD
MUNICIPAL CODE)

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

Section 1. The energy efficiency standards contained in the City of Hayward's Green Building Requirements for Private Developments (formerly Chapter 10, Article 22 of the Hayward Municipal Code, attached hereto as Exhibit "A" and incorporated herein by reference) are hereby reinstated until such time as the 2013 California Energy Code and affected portions of the 2013 California Green Building Standards Code become effective. At that time, those State codes and standards, and the amendments thereto adopted by the City Council on December 17, 2013, shall be effective immediately and this ordinance will be of no further force and effect.

Section 2. Effective Date. This ordinance is effective 30 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 the meeting of the Hayward City Council held January 21, 2014, the above-entitled Ordinance was introduced by Council Member Mendall.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on January 28, 2014, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: January 25, 2014
Miriam Lens, City Clerk
City of Hayward

DATE: January 28, 2014

TO: Mayor and City Council

FROM: Director of Development Services

SUBJECT: Utility Service Agreement 13-01 – Gary Parham (Owner/Applicant) – Request for Water Service for Assessor’s Parcel Number 085A-6100-005-03, located in the Castle Homes Area of Unincorporated Alameda County

RECOMMENDATION

That the City Council adopts the attached resolution (Attachment I) authorizing the City Manager to direct staff to file an application with the Alameda County Local Agency Formation Commission (LAFCo) for approval of an out-of-service- area agreement, and, upon receiving LAFCo’s approval, execute Utility Service Agreement No. 13-01, and a Public Street Improvement Agreement related to providing water service for the property located at 4901 Matilda Lane, bearing County Assessor’s Parcel Number 085A-6100-005-03.

BACKGROUND

Government Code §56133 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires that LAFCo approve an out-of-area service agreement before a city provides utility services to a property located within that city’s Sphere of Influence, but outside its jurisdictional boundaries.

In 1954, prior to the aforementioned law, the City and Castle Homes, Inc., executed a Water Service Agreement that requires the City to maintain sufficient water supply for approximately 800 acres of the Castle Homes area, subject to the execution of a Utility Service Agreement (USA) and reasonable conditions. The subject property is located in the unincorporated area of Alameda County, within the boundaries of the Castle Homes area and the Ultimate Water Service Area and Sphere of Influence of the City of Hayward (Attachment II). Many properties in the Castle Homes area, including those in the vicinity of the subject property, already have water connections to the Hayward water system (see Attachment III).

DISCUSSION

The property owners have been in discussion with the Alameda County Planning and Building Inspection Departments regarding their proposed single-family dwelling unit in the Castle Homes area. They know that one of the conditions of approval will be to obtain approval from LAFCo and the City of Hayward for water service, and are also aware that the process for obtaining water service could take several months. The LAFCo Executive Officer has indicated that LAFCo staff must be able to deem the out-of-area service agreement application complete at least thirty days prior to the scheduled LAFCo public hearing. LAFCo meets every other month, and the next LAFCo public hearing would be March 13, 2014.

Therefore, the property owners wish to apply for the utility service agreement while they are working to resolve requirements by the County Building Inspection Department, with an understanding that a water connection cannot be commenced until they obtain all necessary approvals from appropriate local agencies. The City of Hayward's eight-inch water main in Five Canyons Parkway has capacity to provide water usage for the proposed single-family dwelling with second caretaker residence and 20,000 SF barn structure on this parcel of land.

Pursuant to the City's practice for providing utility services to properties within its sphere of influence, but outside its jurisdictional boundaries, the owner will sign a Public Street Improvement Agreement committing to install roadway improvements and pavement tie-in along Five Canyons Parkway at a future date, and also agreeing to not object to a future annexation of the property, if and when requested by the City. Requiring such an agreement is consistent with past practice.

In conjunction with City Attorney's review, it is staff's opinion that this action of approving of a utility service agreement and related connection is exempt from CEQA. Government Code §15268(b)(4) defines approval of individual utility service connections as one of the four actions that are presumed to be ministerial actions. Ministerial projects are exempt by statute from the requirements of CEQA. Staff has concluded that the action being recommended is a Ministerial Project and therefore is exempt from CEQA; therefore, it is not subject to environmental review pursuant to the aforementioned section of the Code.

FISCAL IMPACT

There will be no fiscal impact to the City's General Fund as a result of execution of this agreement. The owners will pay into the City's Enterprise Fund for all the expenditures, added maintenance costs, and applicable fees associated with the water service, in accordance with the City's fee schedule in effect at the time of issuance of the utility service permits.

PUBLIC CONTACT

A public hearing is not required for the filing of a utility service agreement or a Public Street Improvement Agreement. Staff sent a copy of this report to the owner.

NEXT STEPS

Should the Council adopt the attached resolution to authorize filing an application with LAFCo, staff will file a CEQA Notice of Exemption with the Alameda County Clerk and submit an application to LAFCo within the next ten days and aim to get on their March 13, 2014 meeting agenda. Upon receiving LAFCo approval, the agreements will be executed, and, assuming the home is approved by County Planning and Building Inspection and built, the property owner can commence the water connection upon payment of the applicable water fees.

Prepared by: Mike O'Connor, P.E., Acting Development Review Engineer

Reviewed by: Pat Siefers, Planning Manager

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

Attachment I Draft Resolution

Attachment II Project Location Map

Attachment III Map showing Castle Home Area Properties Connected to Hayward
Water System

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE ALAMEDA COUNTY LOCAL AGENCY FORMATION COMMISSION FOR APPROVAL TO ALLOW THE CITY TO PROVIDE WATER SERVICE TO THE PROPERTY LOCATED AT 4901 MATILDA LANE, BEARING ASSESSOR'S PARCEL NUMBER 085A-6100-005-03, AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE UTILITY SERVICE (USA 13-01) AND PUBLIC STREET IMPROVEMENTS AGREEMENTS

WHEREAS, water service from the City of Hayward (City) has been requested by the owner of the property located at 4901 Matilda Lane, bearing Assessor's Parcel No. 085A-6100-005-03 (the Property); and

WHEREAS, the Property is located within the City of Hayward's Sphere of Influence; and

WHEREAS, pursuant to City policy, the Property owner has signed a Public Street Improvement Agreement and a Utility Service Agreement to install street improvements across the Property frontage at a future date and to agree to annexation of the Property into Hayward when requested by City; and

WHEREAS, the City is required to apply to the Alameda County Local Agency Formation Commission (LAFCO) for approval of out-of-service area agreements to allow the City of Hayward to provide water service to properties located outside the City limits; and

WHEREAS, the Property owner has agreed to pay the LAFCO application processing costs;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is authorized to direct staff to file an application with the Alameda County Local Agency Formation Commission requesting that the City of Hayward be allowed to provide water service for the Property.

BE IT FURTHER RESOLVED that, provided LAFCO approves an out-of-area service agreement pursuant to Government Code §56133, the City Manager is also authorized to execute a utility service agreement (Utility Service Agreement 13-01) and a public street improvement agreement in the form of the agreements on file in the office of the City Clerk, to which reference may be made for further particulars.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2014

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

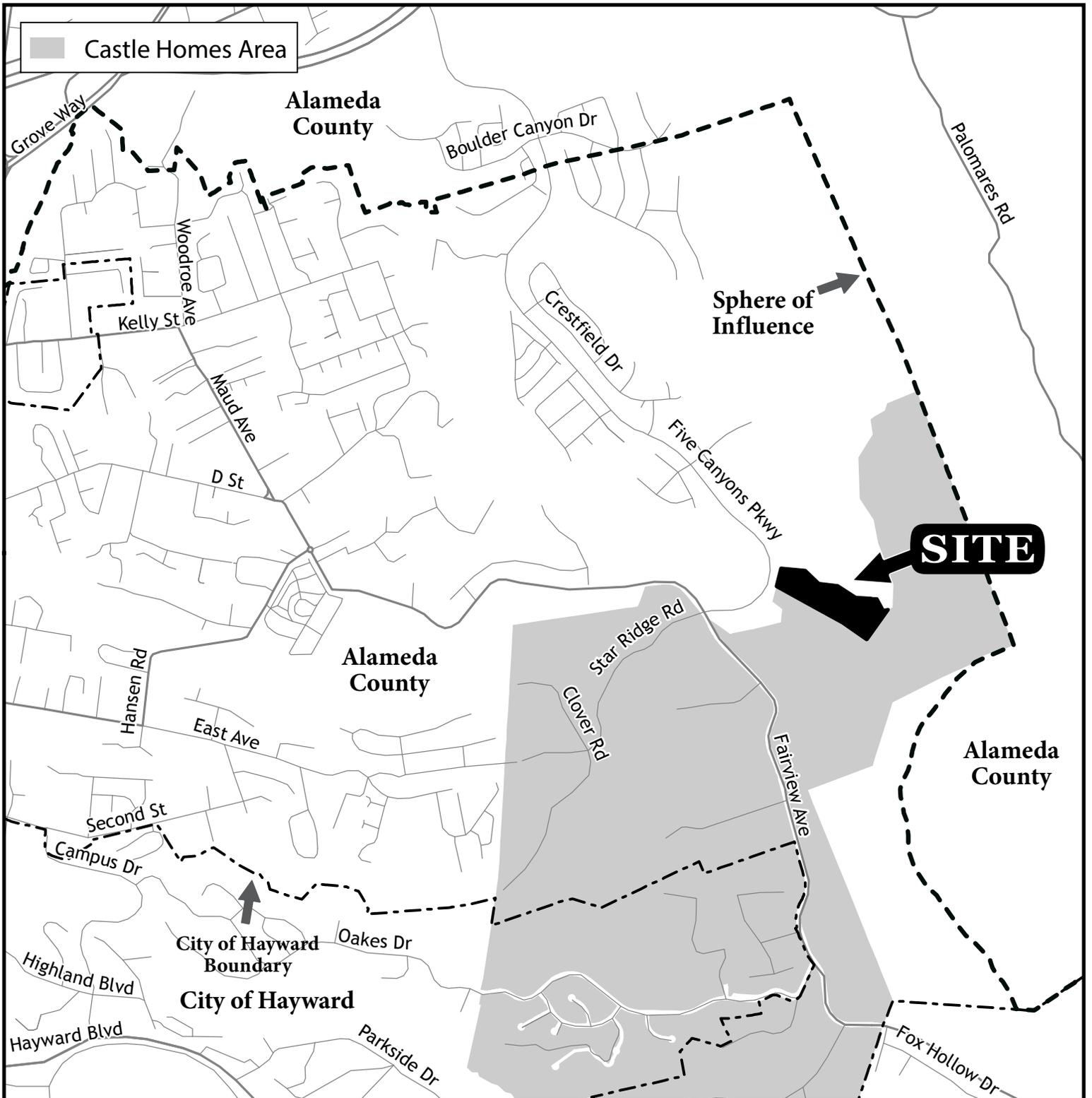
ABSENT: COUNCIL MEMBERS:

ATTEST:

Miriam Lens, City Clerk

APPROVED AS TO FORM:

Michael Lawson, City Attorney



Project Location

PL-2013-0135 USA 13-01
4901 Matilda Lane

Feet 0 1000 2000 3000 4000

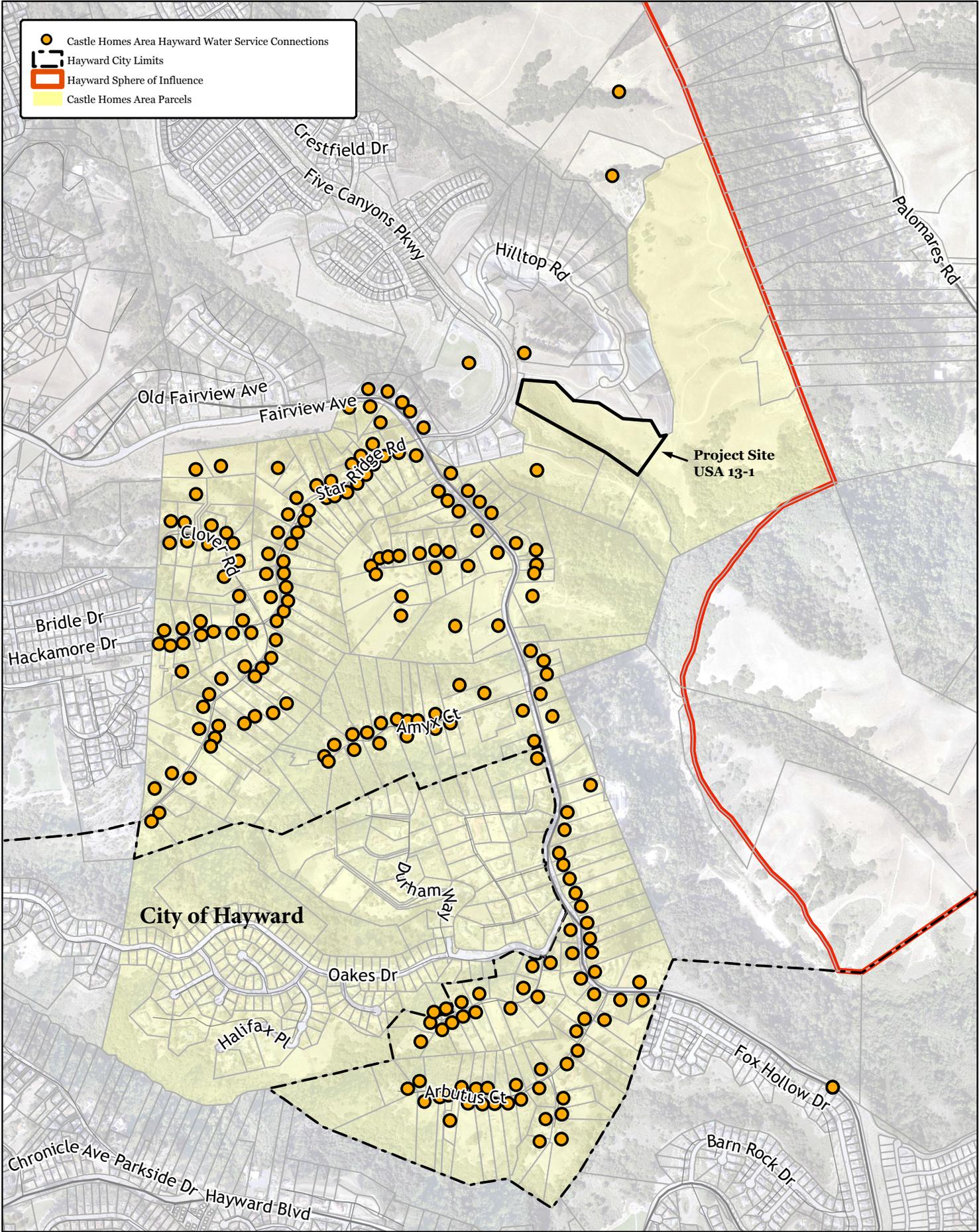




Castle Homes Service Connections



-  Castle Homes Area Hayward Water Service Connections
-  Hayward City Limits
-  Hayward Sphere of Influence
-  Castle Homes Area Parcels



DATE: January 28, 2014

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Resolution Supporting *The Conversation Campaign* To Encourage End-of-Life Planning Discussions Between Families, Health Care Providers and Others

RECOMMENDATION

That Council adopts the attached resolution (Attachment I) supporting *The Conversation Campaign*, a Campaign which encourages discussions between families and health care providers for end-of-life planning.

BACKGROUND

In 2012, the Institute for Healthcare Improvement (IHI), a group of end-of life experts, and concerned health care organizations launched the “Conversation Ready” Initiative. Together with other organizations such as the Alameda County Health Care Services Agency, they are leading a massive effort to highlight the importance of advance healthcare decision-making.

This campaign encourages and promotes pre-emptive discussions within families of their end-of-life wishes at home, with their loved ones, rather than waiting for a health crisis situation and being forced to have the conversation and decision-making in an emergency room or intensive care department. It encourages communication between patients and doctors, so that patients’ wishes are respected and followed by all involved when that difficult time arrives.

DISCUSSION

The goal of this campaign is to train 250 Conversation Starters, who will conduct over 800 advanced care discussions within Alameda County. This is a nine-month initiative that will bring pioneering organizations and expert faculty to becoming Conversation Ready.

There are five core principles for this campaign. Medical providers must:

1. Engage with patients and facilities to understand what matters most to patients at the end of life
2. Be reliable and persistent stewards of this information

3. Partner with patients to develop appropriate goals for end-of-life care
4. Exemplify this work in our own lives so that we understand the benefits and challenges
5. Connect with each patient in a manner that is culturally and individually respectful

Multiple “Decision Day” events will take place throughout Alameda County to celebrate volunteers and supporters and further engage the public on advance care planning topics. At these events, seniors, patients, and their families will have the opportunity to meet, at no cost, with hospice providers and advocates to learn more about health care planning.

As supporters of this Campaign, the City is being asked to attend at least two of the four monthly planning meetings; issue a National Healthcare Decisions Day (NHDD) Proclamation and/or attend a local Decision Day event or otherwise promote National Healthcare Decisions Day on April 16, 2014; and identify two community organizations, of fifteen people or more, who would like to receive Conversation Training and advanced care planning resources.

The City of Dublin, City of Berkeley and City of Emeryville have pledged their support as well as the Alameda County Board of Supervisors and several hospice organizations. In conclusion, for the reasons stated above, staff recommends that Council adopt the attached resolution supporting The Conversation Campaign.

FISCAL IMPACT

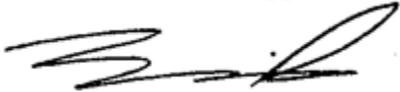
There are no fiscal impacts associated with adopting this resolution. Limited short-term staff resources will be allocated to assure the City’s stated level of participation is met.

NEXT STEPS

Upon adoption of the attached resolution, staff will be contacted by a Campaign Coalition member to provide further information and instruction.

Prepared by: Angel Groves

Recommended and Approved by:



Fran David, City Manager

Attachments:

Attachment I: Draft Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-____

Introduced by Council Member _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD SUPPORTING THE CONVERSATION CAMPAIGN, A CAMPAIGN WHICH ENCOURAGES DISCUSSIONS BETWEEN FAMILIES AND HEALTH CARE PROVIDERS FOR END-OF-LIFE PLANNING.

WHEREAS, the City of Hayward is dedicated to community involvement, improved public health, and promoting quality of life for the Hayward community; and

WHEREAS, the Conversation Campaign is dedicated to assisting communities and encouraging communication to empower people to be proactive in protecting their own well-being and peace of mind; and

WHEREAS, recent reports show that 70% of Americans come to the end of their life in hospitals when that same amount would prefer to be at home with their loved ones; and

WHEREAS, having an honest and open conversation within families before that moment comes makes it possible to grant the wishes of those nearing the end of life and easing the minds and hearts of all involved;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Hayward hereby supports the Conversation Campaign and offers their commitment to promote and support this campaign.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2014

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DATE: January 28, 2014

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Adoption of Negative Declaration and Request for Text Amendment (PL-2013-0437 TA) to: (1) Add a definition for Transitional and Supportive Housing to Section 10-1.3500 of the Zoning Ordinance; (2) Amend Table 9 of Section 10-24.300 of the South Hayward BART/Mission Boulevard Form-Based Code by removing reference to both Transitional and Supportive Housing as Allowed Functions; and (3) Replace Section 10-1.145 of the Zoning Ordinance with new Section 10-1.145 related to Reasonable Accommodation for Persons with Physical Disabilities. Applicant: City of Hayward

RECOMMENDATION

Staff recommends that the City Council adopts the attached Resolution (Attachment I) adopting the Negative Declaration and introduces the attached ordinances (Attachment II, III and IV) related to the proposed text amendment to: (1) add a definition for Transitional and Supportive Housing to Section 10-1.3500 of the Zoning Ordinance; (2) amend Table 9 of Section 10-24.300 of the South Hayward BART/Mission Boulevard Form-Based Code by removing reference to both Transitional and Supportive Housing as Allowed Functions; and (3) replace Section 10-1.145 of the Zoning Ordinance with new Section 10-1.145 related to Reasonable Accommodation for Persons with Physical Disabilities.

SUMMARY

The General Plan Housing Element and Municipal Code, including the South Hayward BART/Mission Boulevard Form-Based Code and Zoning Ordinance, need to be modified to be consistent with State law and to qualify for a streamlined review of the Hayward Housing Element update by the State Housing and Community Development (HCD) Department. Without these amendments in place, the certification of the Housing Element would be in jeopardy, funding may not be possible for future housing projects and it leaves the City vulnerable to lawsuits by various advocate groups and the State. Staff recognizes that there may be concerns related to allowance of Transitional and Supportive housing. However, the City is in a better position to address any issues related to such housing (or any other use) with the recent adoption of the Social Nuisance Ordinance, which provides City staff the ability to effectively address nuisance-creating behaviors

existing on properties in Hayward. Such provisions will help the City achieve its overall goals in providing neighborhood livability, safety and cleanliness.

BACKGROUND

The City is in the process of a Comprehensive General Plan Update, including an update to the 2010 adopted Housing Element. Government Code Sections 65583 and 65583.2 require the housing element to provide opportunity for a variety of housing types, including multifamily rental housing, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

The housing element must also identify a zone, or zones, where emergency shelters are a permitted use without discretionary review (Government Code Section 65583(a)(4)). The Housing Element must demonstrate that transitional housing and supportive housing are considered a residential use and subject to only those restrictions that apply to other residential dwellings of the same type in the same zone.

Government Code Section 65583(a)(4) also requires an analysis of potential and actual government constraints upon the maintenance, improvement, or development of housing for persons with disabilities, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis should also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the need for housing for persons with disabilities.

Government Code Section 65583(c)(3) requires that the housing element provide a program to address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing for persons with disabilities. The program shall remove constraints to and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

November 7, 2013 Planning Commission Public Hearing - The Planning Commission reviewed the proposed Text Amendment on November 7, 2013 (see Attachment VI, meeting minutes).

The Planning Commission staff report with attachments can be viewed at <http://www.hayward-ca.gov/CITY-GOVERNMENT/BOARDS-COMMISSIONS-COMMITTEES/PLANNING-COMMISSION/2013/PCA13PDF/pca110713full.pdf> (meeting agenda meeting item number 2).

The Planning Commission expressed concerns related to how the City would address issues associated with Transitional or Supportive Housing projects that are poorly operated, if the City does not require discretionary permits for these uses. Staff indicated that the City could respond to any issues as we would other issues, including, but not limited to Code Enforcement and referral to state licensing agencies and the Alameda County Environmental Health Department. Additionally, the City Council unanimously adopted Ordinance 13-11 on November 19, 2013, which added Article 15 to Chapter 4 of the Hayward Municipal Code related to Social Nuisances. This Ordinance creates an administrative process to hold property owners accountable for their own nuisance-creating behaviors and/or those of the occupants of their property. The Ordinance authorizes City staff to issue orders to abate nuisance-creating behaviors on properties and impose a

monetary penalty when a property owner fails to take the necessary actions within the purview of their property management responsibilities.

The Planning Commission also inquired about the “reasonable accommodations” process and whether the accommodation would extend to future households. Staff indicated that the reasonable accommodation would only be granted to the household that needs the accommodation and does not apply to any successors in interest in the site.

The Planning Commission unanimously recommended that the City Council adopt the Negative Declaration and approve the text amendments with one modification to add the word “fee” to Section 10-1.145(F)(3) of the proposed Reasonable Accommodations Ordinance. Staff has made the one minor change, as reflected in Attachment IV.

DISCUSSION

Transitional and Supportive Housing - State law requires and all jurisdictions in California are required to ensure that zoning treats transitional and supportive housing as a residential use, subject to those restrictions that apply to other residential dwellings of the same type in the same zone. Transitional and supportive housing is not the same as emergency shelters, cold night shelters or homeless day centers. Both transitional and supportive housing provide more stable and permanent living situations for individuals and families that might otherwise be homeless with stay lengths that are typically six months or longer, whereas emergency shelters or cold night shelters are short-term stays, generally a night or two.

Transitional housing is rental housing for stays of at least six months, but where the units are re-circulated to another program recipient after a set period of time. Transitional housing is often operated by non-profits and serves homeless individuals and families, including victims of domestic violence, veterans, and other homeless individuals wishing to transition to permanent housing. This housing can take several forms, such as single family or multifamily units, and may include supportive services, such as workforce training, to help individuals gain necessary life skills in support of independent living.

Supportive housing is more permanent housing with no limit on the length of stay, is linked to onsite or offsite services, and is occupied by a target population defined in State law, often people with disabilities. Services typically include assistance designed to meet the needs of the target population in retaining housing, living, and working in the community, and/or improving health and may include case management, mental health treatment, and life skills.

Transitional and supportive housing must be permitted in all zones that allow residential uses and cannot be subject to any restrictions not imposed on similar dwellings in the same zone. Staff is proposing to make two amendments to comply with this State law. The first is to add a definition for Transitional and Supportive Housing to Section 10-1.3500 (Definitions) of the Zoning Ordinance, as follows:

TRANSITIONAL AND SUPPORTIVE HOUSING. Transitional and supportive housing are more permanent housing options providing a more stable living situation for individuals

and families that might otherwise be homeless with stay lengths that are typically six months or longer. Transitional and supportive housing uses are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone.

Please note that the definition provided above and as part of Attachment II has been modified since the Planning Commission review on November 7. The definition has been modified to include some description as to what this type of housing includes, to assist staff and the public.

Secondly, staff is proposing to amend Table 9 of Section 10-24.300 of the South Hayward BART/Mission Boulevard Form-Based Code by removing reference to both small (six or fewer, allowed by right) and large (seven or more, allowed with a conditional use permit) transitional and supportive housing as allowed functions. This action is needed because otherwise an inconsistency would be created between the Citywide Zoning Ordinance, which would allow these uses by right in residential zoning districts, and the South Hayward BART/Mission Boulevard Form Based Code, which requires a conditional use permit for large transitional and supportive housing.

Reasonable Accommodations - State law also requires that the City have an established program or process to provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. Section 10-1.145 of the Hayward Zoning Ordinance includes a statement that the “Zoning Ordinance do(es) not preclude providing reasonable accommodations for persons with disabilities.” However, the section does not outline a program or process for reasonable accommodations.

Staff is proposing to replace Section 10-1.145 with a new section outlining such a process. The proposed process requires a written request for reasonable accommodations be submitted to the Development Services Director that identifies the specific zoning code provision, regulation, or policy from which reasonable accommodation is being requested as well as why the reasonable accommodation is necessary. Staff reviews the submitted request and within 45 days makes a written determination that either grants, grants with modifications, or denies the request for reasonable accommodation. Attachment IV includes the proposed new text for Section 10-1.145, including specific submittal requirements and required Findings to support the granting of the reasonable accommodation.

Why should Hayward have a State-Certified Housing Element? - Not being compliant with State law regarding transitional and supportive housing could lead to Hayward’s General Plan Housing Element not being certified by the State. Since the Housing Element is one of seven required elements of a general plan, if the housing element is out of compliance, the General Plan could be considered invalid and the City risks approving projects based on an invalid General Plan. In addition, if the City is sued, the courts could impose requirements for land use decisions until the General Plan and Housing Element are compliant. It should be noted that the requirements and penalties have increased in severity over the years.

Absent a certified Housing Element, the City would not be competitive or may simply be ineligible for funding for future housing development projects, including those that entail affordable housing. Some grant funds require housing element compliance, whereas others use compliance as a scoring criterion. Funding that requires compliance include the Community Development Block

Grant (CDBG) Program, HOME Investment Partnership Program (HOME – Federal), and the California Infrastructure and Economic Development Bank (CIEDB). Funding that uses compliance as a scoring criterion include Building Equity and Growth in Neighborhoods (BEGIN), Housing Related Parks (Parks), Local Housing and Trust Fund (LHTF), California Infrastructure and Economic Development bank (I-Bank), Infrastructure State Revolving Fund (ISRF), and the California Housing Finance Agency Housing Enabled by Local Partnerships Program.

Absent a certified and compliant Housing Element, the City is vulnerable to lawsuits by advocacy groups as well as the State. Numerous jurisdictions have successfully been sued recently, including ten in the Bay Area alone. Potential consequences of a lawsuit include mandatory compliance, suspension of local control on building matters, court approval of housing developments and legal fees.

Findings for Text Amendment Approval - The City Council must make the following findings in order to approve a text amendment. Staff's responses to the findings are included in the following paragraphs.

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

The Text Amendment is to treat transitional and supportive housing as permitted uses in residential zones as any other residential use in the same zone. Transitional housing is a type of supportive housing, with typical lengths of stay of six months or longer and used to facilitate the movement of homeless individuals and families to permanent housing. Supportive housing is permanent rental housing linked to a range of support services designed to enable residents to maintain stable housing and lead fuller lives. Providing development opportunities for a variety of housing types promotes diversity in housing price, style and size, and contributes to neighborhood stability by offering more affordable and move-up homes and accommodating a diverse income mix. Any nuisances arising from these types of uses can be addressed under the provisions established in the Social Nuisance ordinance, which allows City staff the ability to effectively and efficiently address nuisance-creating behaviors on properties including the imposition of a monetary penalty when property owners fails to take the necessary actions to abate the nuisance. The Text Amendment related to Reasonable Accommodation will identify and describe the process for requesting a reasonable accommodation from established regulations to address the needs of persons with disabilities and address the housing needs of the disabled.

2. The proposed change is in conformance with the purposes of this Ordinance and all applicable, officially adopted policies and plans

The Text Amendment brings the existing Zoning Ordinance into conformance with State law requirements related to the process of providing reasonable accommodations from existing requirements for persons with disabilities as well as the treatment of Transitional

and Supportive Housing the same as any other residential use would be treated in the same zone.

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

The Text Amendment does not involve the reclassification of any property.

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

The Text Amendment does not involve the reclassification of any property.

Environmental Review - This proposal is defined as a “project” under the parameters set forth in the California Environmental Quality Act (CEQA) Guidelines. Staff has prepared a Negative Declaration and Initial Study, which indicates there will be no significant environmental impacts resulting from the project. The environmental document was made available for public review from October 25, 2013 through November 13, 2013. No comments were received.

ECONOMIC/FISCAL IMPACT

The proposed text amendment would not have a fiscal impact to the City’s General Fund, nor would it have a material economic impact, in that it would help ensure that transitional and supportive housing are allowed in residential zones and subject to the same requirements and standards as other residential uses in the same zone and provide a defined process for providing reasonable accommodation for persons with disabilities. Any nuisance issues that may arise from the operation of these types of uses can be addressed under the provisions of Hayward’s Social Nuisance Ordinance. Those regulations help alleviate any negative economic impact by providing efficient enforcement and the availability of cost recovery.

PUBLIC CONTACT

As part of the Housing Element Update, the City held a stakeholder workshop on August 15, 2013. Staff sent a survey to Housing advocacy groups, housing developers and social service providers, inquiring about issues to include in the Housing Element Update. In addition, staff also posted a series of Housing Element related questions on the Hayward2040 site. Notice of the November 7, 2013 Planning Commission meeting and this City Council meeting was provided in *The Daily Review* newspaper, with this hearing noticed in the newspaper on January 18, 2014. In addition, a notice was provided to housing stakeholders.

NEXT STEPS

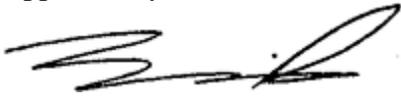
If the City Council adopts the attached resolution and introduces the attached three ordinances, staff will present the ordinances to Council for adoption at the next Council meeting on February 4. If Council subsequently adopts the ordinances, staff will make related changes to the Housing Element and will bring the draft Housing Element back to the Planning Commission and City Council for review and recommendation in the late winter/early spring of 2014, prior to submittal to the California Department of Housing and Community Development for their review of the updated Housing Element.

Prepared by: Sara Buizer, AICP, Senior Planner

Reviewed by: Pat Siefers, MPA, Planning Manager

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Draft Resolution
Attachment II	Draft Ordinance adding Definition for Transitional and Supportive Housing
Attachment III	Draft Ordinance Amending Table 9 of Section 10-24.300 of the South Hayward BART/Mission Boulevard Form-Based Code
Attachment IIIa	Exhibit A to Ordinance
Attachment IV	Draft Ordinance showing revised Section 10-1.145 related to Reasonable Accommodation for Persons with Physical Disabilities
Attachment V	Initial Study and Negative Declaration
Attachment VI	November 7, 2013 Planning Commission Meeting Minutes

HAYWARD CITY COUNCIL

RESOLUTION NO. 13-

Introduced by Council Member _____

RESOLUTION ADOPTING THE NEGATIVE DECLARATION AND
ADOPTING FINDINGS SUPPORTING THE TEXT AMENDMENTS
RELATED TO TRANSITIONAL AND SUPPORTIVE HOUSING AND
REASONABLE ACCOMMODATIONS

WHEREAS, at the direction of the City Council, staff is in the process of preparing a Comprehensive Update to the General Plan, including an update to the 2010 Housing Element; and

WHEREAS, State law requires that the Housing Element provide for a variety of housing types, including transitional and supportive housing; and

WHEREAS, State law requires that the Housing Element provide a program to address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing for persons with disabilities; and

WHEREAS, a Negative Declaration and Initial Study have been prepared and circulated for public review and comment, in accordance with the California Environmental Quality Act (CEQA) and its Guidelines, which conclude that the proposed text amendments would not have a significant environmental impact; and

WHEREAS, the Planning Commission considered the text amendments at a public hearing held on November 7, 2013, and unanimously recommended that the City Council approve the Negative Declaration and the proposed text amendments (Application No. PL-2013-0437 TA), including (1) adding a definition for Transitional and Supportive Housing to Section 10-1.3500 of the Zoning Ordinance; (2) Amending Table 9 of Section 10-24.300 of the South Hayward BART/Mission Boulevard Form-Based Code by removing reference to both Transitional and Supportive Housing as Allowed Functions; and (3) Replacing Section 10-1.145 of the Zoning Ordinance with new Section 10-1.145 related to Reasonable Accommodation for Persons with Physical Disabilities; 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 January 28, 2014.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist and Negative Declaration have been prepared for the proposed project. The Initial Study and Negative Declaration have determined that the proposed project could not result in significant effects on the environment.
2. The project will not result in any development that would adversely affect any scenic resources.
3. The project will not result in any development that would have an adverse effect on agricultural land.
4. The project will not result in any development that would have significant impacts related to changes into air quality.
5. The project will not result in any development that would have significant impacts to biological resources such as wildlife and wetlands.
6. The project will not result in any development that would have significant impacts to known cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains.
7. The text amendments will not affect on geological hazards.
8. The text amendments will not affect any greenhouse gas emissions.
9. The text amendments will not affect water quality standards.
10. The text amendments are not in conflict with the policies of the City General Policies Plan or the Zoning Ordinance, as amended.
11. The text amendments could not result in a significant impact to mineral resources since no construction will take place as part of this project.
12. The text amendments could not result in a significant noise impact.
13. The text amendments could not result in a significant impact to public services.
14. The text amendments could not result in a significant impact to traffic or result in changes to traffic patterns or emergency vehicle access.
15. The text amendments could not result in a significant impact to parking.

AMENDMENTS TO THE MUNICIPAL CODE RELATED TO TRANSITIONAL AND SUPPORTIVE HOUSING AND REASONABLE ACCOMMODATIONS (COLLECTIVELY REFERRED TO AS THE “TEXT AMENDMENTS”)

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

The Text Amendments propose to treat transitional and supportive housing as permitted uses in residential zones as any other residential use in the same zone would be treated. Transitional housing is a type of supportive housing used to facilitate the movement of homeless individuals and families to permanent housing. Supportive housing is permanent rental housing linked to a range of support services designed to enable residents to maintain stable housing and lead fuller lives. Providing development opportunities for a variety of housing types promotes diversity in housing price, style and size, and contributes to neighborhood stability by offering more affordable and move-up homes and accommodating a diverse income mix. Any nuisances arising from these types of uses can be addressed under the provisions established in the Social Nuisance ordinance, which allows City staff the ability to effectively and efficiently address nuisance-creating behaviors on properties including the imposition of a monetary penalty when property owners fail to take the necessary actions to abate the nuisance.

The Text Amendment related to reasonable accommodation identifies and describes the process for requesting a reasonable accommodation from established regulations to address the needs of persons with disabilities and the housing needs of the disabled.

2. The proposed change is in conformance with the purposes of this Ordinance and all applicable, officially adopted policies and plans

The Text Amendments bring the existing Zoning Ordinance into conformance with State law requirements related to the process of providing reasonable accommodations from existing requirements for persons with disabilities, as well as the treatment of Transitional and Supportive Housing the same as any other residential use would be treated in the same zone.

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

The Text Amendments do not involve the reclassification of any property.

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

The Text Amendments do not involve the reclassification of any property.

BE IT FURTHER RESOLVED that the City Council hereby adopts the Negative Declaration and approves the Text Amendments, subject to the adoption of the companion ordinances.

IN COUNCIL, HAYWARD, CALIFORNIA __, 2014

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

ORDINANCE NO. _____

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE
SECTION 10-1.3500, ZONING ORDINANCE DEFINITIONS,
RELATING TO TRANSITIONAL AND SUPPORTIVE
HOUSING

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

Section 1. The City Council incorporates by reference the findings contained in Resolution
_____, approving the text changes requested in Zone Change Application PL-2013-0437 TA.

Section 2. Zoning Ordinance Section 10-1.3500, relating to Definitions, is hereby amended
to add definitions for Transitional and Supportive Housing. The definition of “Transitional and
Supportive Housing” is hereby added to read as follows: “Transitional and supportive housing are
more permanent housing options providing a more stable living situation for individuals and
families that might otherwise be homeless with stay lengths that are typically six months or longer.
Transitional and supportive housing uses are permitted as a residential use and only subject to those
restrictions that apply to other residential dwellings of the same type in the same zone.”

Section 3. Severance. Should any part of this ordinance be declared by a final decision
by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the
authority of the City, such decision shall not affect the validity of the remainder of this ordinance,
which shall continue in full force and effect, provided that the remainder of the ordinance, absent the
unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

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

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the
day of _____, 2014, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held
the _____ day of _____, 2014, 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

ORDINANCE NO. _____

ORDINANCE AMENDING TABLE 9 OF SECTION 10-24.300 OF THE SOUTH HAYWARD BART/MISSION BOULEVARD FORM BASED CODE, RELATING TO TRANSITIONAL AND SUPPORTIVE HOUSING

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

Section 1. The City Council incorporates by reference the findings contained in Resolution _____, approving the text changes requested in Zone Change Application PL-2013-0437 TA.

Section 2. South Hayward BART/Mission Boulevard Form Based Code Section 10-24.300, relating to Table 9 Allowed Functions, is hereby amended to remove Transitional and Supportive Housing as shown on Exhibit A.

Section 3. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

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

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the day of _____, 2014, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the _____ day of _____, 2014, 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

FORM-BASED CODE**TABLE 9. SPECIFIC FUNCTION & USE**

South Hayward BART / Mission Boulevard

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

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

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

(-) = NOT PERMITTED

(P) = BY RIGHT

(AU) = ADMINISTRATIVE USE PERMIT

(CU) = CONDITIONAL USE PERMIT

* Places of Assembly and Religious Facility: for properties fronting Mission Blvd., such uses are not allowed within one half mile of existing similar uses that front Mission Blvd.

** Unless exempted by the Alcohol Beverage Outlet Regulations contained in Section 10-1.2735(b) of the Hayward Municipal Code or specifically exempted by this Code

⁽¹⁾ An application for conditional use Permit for a Large Motion Picture Theater shall be accompanied by a study acceptable to the Planning Director documenting the absence of negative impact upon the downtown of the opening of another Large Motion Picture Theater.

ORDINANCE NO.
ORDINANCE AMENDING SECTION 10-1.145
OF THE
HAYWARD MUNICIPAL CODE
REGARDING REASONABLE ACCOMMODATION

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

Section 1. Section 10-1.145 in Chapter 10, Article 1 of the Hayward Municipal Code is hereby amended to read as follows:

“SEC. 10-1.145 REASONABLE ACCOMMODATION.

- A. Purpose. The purpose of this Section is to provide a procedure for individuals with disabilities to request reasonable accommodation in seeking equal access to housing under the federal Fair Housing Act and the California Fair Employment and Housing Act (hereafter “Acts”) in the application of zoning laws and other land use regulations, policies, and procedures.
- B. Applicability.
 - 1. A request for reasonable accommodation may be made by any person with a disability or their representative, when the application of a requirement of this zoning code or other City requirement, policy, or practice acts as a barrier to fair housing opportunities. For the purposes of this section, a “person with a disability” is any person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has record of such impairment. This section is intended to apply to those persons who are defined as disabled under the Acts.
 - 2. A request for reasonable accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.
 - 3. A reasonable accommodation is granted only to the household that needs the accommodation and does not apply to successors in interest to the site.
 - 4. A reasonable accommodation may be granted in compliance with this Section without the need for the approval of a variance.
- C. Procedure.
 - 1. A request for reasonable accommodation shall be submitted on an application form provided by the Development Services Department or in the form of a letter

to the Director of Development Services, and shall contain the following information:

- a) The applicant's name, address, and telephone number;
 - b) Address of the property for which the request is being made;
 - c) The current use of the property;
 - d) The basis for the claim that the individual is considered disabled under the Acts, including verification of such claim;
 - e) The zoning code provision, regulations, or policy from which reasonable accommodation is being requested; and
 - f) Why the reasonable accommodation is necessary to make the specific property accessible to the individual.
2. If the project for which the request for reasonable accommodation is being made requires some other discretionary approval (including use permit, design review, etc.), then the applicant shall file the information required by Subsection C1 of this Section for concurrent review with the application for discretionary approval.
 3. A request for reasonable accommodation shall be reviewed by the Director of Development Services or his/her designee, if no approval is sought other than the request for reasonable accommodation. The Director or his/her designee shall make a written determination within 45 days of the application being deemed complete and either grant, grant with modifications, or deny a request for reasonable accommodation.
 4. A request for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the Planning Commission. The written determination on whether to grant or deny the request for reasonable accommodation shall be made by the Planning Commission in compliance with the applicable review procedure for the discretionary review.
- D. Approval Findings. The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:
1. Whether the housing in the request will be used by a person with a disability under the Acts;
 2. Whether the request for reasonable accommodation is necessary to make specific housing available to a person with a disability under the Acts;
 3. Whether the requested reasonable accommodation would impose an undue financial administrative or enforcement burden on the City;

4. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to, land use and zoning;
 5. Potential impact on surrounding uses;
 6. Physical attributes of the property and structures; and
 7. Other reasonable accommodations that may provide an equivalent level of benefit.
- E. Conditions of Approval. In granting a request for reasonable accommodation, the Director of Development Services or his/her designee, or the Planning Commission as the case might be, may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings. The condition shall also state whether the accommodation granted shall be removed in the event that the person for whom the accommodation was requested no longer resides on the site.
- F. Appeals.
1. Any person dissatisfied with any action of the Director of Development Services pertaining to this Section may appeal to the Planning Commission within 10 days after written notice of the Director's decision is sent to the applicant. The appeal is taken by filing a written notice of appeal with the Director of Development Services and shall specify the reasons for the appeal and the grounds asserted for relief.
 2. Any person dissatisfied with any action of the Planning Commission pertaining to this Section may appeal to the City Council within 10 days after the rendition of the decision of the Planning Commission. The appeal is taken by filing a written notice of appeal with the Director of Development Services and shall specify the reasons for the appeal and the grounds asserted for relief.
 3. The City Council shall, by resolution, adopt and from time to time amend a fee for the filing of appeals. Such fee shall be for the sole purpose of defraying costs incurred for the administration of appeals. The fee for an appeal shall be paid at the time of and with the filing of an appeal. No appeal shall be deemed valid unless the prescribed fee has been paid.
 4. If an appeal is not filed within the time or in the manner prescribed in this subsection, the right to review of the action against which the complaint is made shall be deemed to have been waived.
 5. After filing an appeal, the appropriate hearing body shall conduct a public hearing for the purpose of determining whether the appeal should be granted. Written notice of the time, date, and place of hearing shall be given to the appellant, and to any other persons who have filed a written request for notice. Such notices shall be mailed to the appellant and the applicant at least ten days prior to the hearing.

- 6. The Planning Commission or City Council shall review *de novo* the entire proceeding or proceedings relating to the decision, and may make any order it deems just and equitable, including the approval of the application. Any hearing may be continued from time to time.”

Section 2. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

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

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ___ day of ___, _____2014, by Council Member _____ .

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of _____ , 2014, 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



**DEPARTMENT OF
DEVELOPMENT SERVICES
Planning Division**

NEGATIVE DECLARATION

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

I. PROJECT DESCRIPTION:

Text Amendment to: (1) Add a definition for Transitional and Supportive Housing to Section 10-1.3500 of the Zoning Ordinance; (2) Amend Table 9 of Section 10-24.300 of the South Hayward BART/Mission Boulevard Form-Based Code by removing reference to both Transitional and Supportive Housing as Allowed Functions ; and (3) Replace Section 10-1.145 of the Zoning Ordinance with new Section 10.1.145 related to Reasonable Accommodation for Persons with Physical Disabilities and renumber the remaining sections accordingly. City of Hayward (Applicant)

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

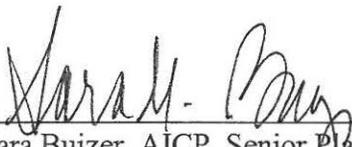
The proposed project could not have a significant effect on the environment.

III. FINDINGS SUPPORTING DECLARATION:

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project could not result in significant effects on the environment.
2. The project will not result in any development that would adversely affect any scenic resources.
3. The project will not result in any development that would have an adverse effect on agricultural land.
4. The project will not result in any development that would have significant impacts related to changes into air quality.
5. The project will not result in any development that would have significant impacts to biological resources such as wildlife and wetlands.
6. The project will not result in any development that would have significant impacts to known cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains.

7. The text amendment will not affect on geological hazards.
8. The text amendment will not affect any greenhouse gas emissions.
9. The text amendment will not affect water quality standards.
10. The text amendment is not in conflict with the policies of the City General Policies Plan, and the Zoning Ordinance.
11. The text amendment could not result in a significant impact to mineral resources since no construction will take place as part of this project.
12. The text amendment could not result in a significant noise impact.
13. The text amendment could not result in a significant impact to public services.
14. The text amendment could not result in a significant impact to traffic or result in changes to traffic patterns or emergency vehicle access.
15. The text amendment could not result in a significant impact to parking.

IV. PERSON WHO PREPARED INITIAL STUDY:

Signature: 
Sara Buizer, AICP, Senior Planner

Dated: October 24, 2013

V. COPY OF INITIAL STUDY IS ATTACHED

For additional information, please contact the City of Hayward Planning Division, 777 B Street, Hayward, CA 94541-5007 or telephone (510) 583-4207



**DEPARTMENT OF DEVELOPMENT SERVICES
Planning Division**

INITIAL STUDY CHECKLIST

Project Title: Zoning Text Amendments – Transitional and Supportive Housing and Reasonable Accommodations

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

Contact person: Sara Buizer, AICP, Senior Planner

Project location: Citywide

Project sponsor's

Name and Address: City of Hayward; 777 B Street, Hayward, CA 94545

General Plan Designation: N/A

Zoning: N/A

Project description: Text Amendment to: (1) Add a definition for Transitional and Supportive Housing to Section 10-1.3500 of the Zoning Ordinance; (2) Amend Table 9 of Section 10-24.300 of the South Hayward BART/Mission Boulevard Form-Based Code by removing reference to both Transitional and Supportive Housing as Allowed Functions ; and (3) Replace Section 10-1.145 of the Zoning Ordinance with new Section 10.1.145 related to Reasonable Accommodation for Persons with Physical Disabilities and renumber the remaining sections accordingly.

Surrounding land uses and setting: Various; Citywide

Other public agencies whose approval is required: None

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

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

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

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

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

Signature *Sara M. Buizer* Date 10/24/13
 Printed Name Sara M. Buizer For _____

EVALUATION OF ENVIRONMENTAL IMPACTS:

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment: The Text Amendment will not affect a scenic vista, damage scenic resources, impact the visual character nor create a source of substantial light and glare, thus no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

II. AGRICULTURE AND FOREST

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

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use, or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment: The Text Amendment will not convert any agricultural land, conflict with any known Williamson Act Contracts, involve the loss or conversion of forest land, thus no impact.				
III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people? Comment: The Text Amendment will not obstruct implementation of an air quality plan, violate any air quality standard, expose sensitive receptors to pollutant concentrations nor create objectionable odors, thus no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
IV. BIOLOGICAL RESOURCES -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				
Comment: The Text Amendment will not affect sensitive species, riparian habitat, wetlands, interfere with the movement of migratory fish or wildlife species, conflict with the tree preservation ordinance or habitat conservation plan, thus no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
V. CULTURAL RESOURCES -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?				
Comment: The Text Amendment will not impact any historical resource, archaeological resource, paleontological resource nor disturb any human remains, thus no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Comment:</u> The Text Amendment will not expose people or structures to adverse effects of earthquake ground shaking, landslides, ground failure or liquefaction, risks associated with expansive soils or involve the use of septic tanks, thus no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VII. GREENHOUSE GAS EMISSIONS --

Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Comment:</u> The Text Amendment will not generate greenhouse gas emissions no conflict with the City's Climate Action Plan aimed at reducing greenhouse gas emissions, thus no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comment: The Text Amendment will not involve the use of hazardous materials, or be within the vicinity of an airport or private airstrip, thus no impact.

IX. HYDROLOGY AND WATER QUALITY

-- Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
j) Inundation by seiche, tsunami, or mudflow? Comment: The Text Amendment will not violate any water or wastewater standards, alter existing drainage patterns, contribute to water runoff, degrade water quality, or subject people or structures within a flood hazard area, thus no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
X. LAND USE AND PLANNING -- Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan? Comment: The Text Amendment will not physically divide the community, conflict with any land use plan or a habitat conservation plan, thus no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XI. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? Comment: The Text Amendment will not involve the loss of any local, regional or state mineral resources, thus no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XII. NOISE -- Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment: The Text Amendment will not generate excessive noise, expose people to excessive noise, increase ambient noise levels nor be within the vicinity of an airport or private airstrip, thus no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIII. POPULATION AND HOUSING --

Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment: The Text Amendment will not induce substantial population growth nor displace people or existing housing, thus no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIV. PUBLIC SERVICES --

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment: The Text Amendment will not create a need for construction of new or altered public facilities whose construction would cause significant environmental impacts; thus, no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XV. RECREATION --

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment: The Text Amendment will not increase the use of existing parks or facilities that would substantially deteriorate such facilities, nor involve the construction or expansion of existing recreational facilities; thus, no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVI. TRANSPORTATION/TRAFFIC --

Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment: The Text Amendment will not affect the performance of the circulation system, conflict with the congestion management program, change any air traffic patterns, increase hazards due to a design feature, or impact any emergency access, thus no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVII. UTILITIES AND SERVICE SYSTEMS

-- Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?				
Comment: The Text Amendment will not exceed wastewater treatment requirements, involve construction or expansion of existing wastewater treatment facilities, impact any water supply or wastewater treatment, nor exceed the capacity of any landfill, thus no impact.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) 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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? Comment: The Text Amendment will not impact the quality of the environment, reduce habitat, eliminate important examples of California history, involve cumulative impacts or involve any environmental impacts that may cause substantial adverse impacts on human beings, thus no impacts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, November 7, 2013, 7:00 p.m.
777 B Street, Hayward, CA94541**

Commissioner Lavelle supported the reconsideration motion and commented that the proposed development will bring in new residents with higher levels of income to Hayward, which will have a positive impact on the downtown area. She urged the developer to take into account the comments expressed by the Planning Commission about the style and architecture of the proposed development, as this will help the buildings of the proposed project blend well with and further improve the downtown area. She agreed with the comments made by Mr. Clark about the former Mervyns site being a scary and unsafe place in the neighborhood. Commissioner Lavelle highlighted that it was not in the interest of the City to leave unoccupied buildings vacant for long periods of time, noting that this was also the case with the currently vacant Holiday Bowl site. She noted that building a new development and bringing in new community members would improve the safety of the neighborhood and encouraged that Integral Communities and the builder of the development continue to stay in communication with the community members of Prospect Hill.

Chair Faria indicated her support of the motion and stated that the proposed development would help boost the economic activity in the downtown area.

AYES: Commissioners Trivedi, McDermott, Lamnin, Márquez, Lavelle,
Chair Faria
NOES: Commissioner Loché
ABSENT: None
ABSTAINED: None

2. Text Amendment (PL-2013-0437 TA) to: (1) Add a definition for Transitional and Supportive Housing to Section 10-1.3500 of the Zoning Ordinance; (2) Amend Table 9 of Section 10-24.300 of the South Hayward BART/Mission Boulevard Form-Based Code by removing reference to both Transitional and Supportive Housing as Allowed Functions; and (3) Replace Section 10-1.145 of the Zoning Ordinance with new Section 10.1.145 related to Reasonable Accommodation for Persons with Physical Disabilities

Senior Planner Buizer provided a synopsis of the staff report.

Senior Planner Buizer confirmed for Commissioner Lamnin that the draft housing element will be presented to the Commission when it is available for public comments.

Commissioner Lamnin asked what the motivation was for removing the reference to Transitional and Supportive Housing as allowed functions in the Form-Based Code Section. Senior Planner Buizer responded that Table 9 of Section 10-24.300 of the South Hayward BART/Mission Boulevard Form-Based Code breaks down the Transitional and Supportive housing based on an occupancy number which would be in opposition to state law requirements. By removing reference to Transitional and Supportive Housing and adding the definition into the zoning ordinance, they would be considered allowed uses. In response to Commissioner Lamnin's concerns about how some of the housings are run, Senior Planner Buizer responded that state law requires that they not be treated differently than other residential dwellings of the same type in the same zone.

Senior Planner Buizer confirmed for Commissioner Lavelle that no comments were received from the public regarding the Text Amendment. In response to Commissioner Lavelle’s question as to when “Reasonable Accommodation for Persons with Physical Disabilities” applies, she stated that reasonable accommodation provide someone with disability with an administrative process that allow them to be given access to housing that maybe otherwise a violation of the zoning regulations for a particular zone. She added that the reasonable accommodation is granted only to the household that needs accommodation and does not apply to successors of interest to the site.

Commissioner Lavelle noted a correction to the typographical error on Attachment IV, Letter F - Appeals, the word “fee” should be added after the word “prescribed” in the last sentence.

Commissioner Márquez asked if the City had funding to assist homeowners who needed modifications to their homes. Senior Planner Buizer responded that there were some programs for minor home repairs but she was not sure of the current status. Development Services Rizk added that the funds have been eliminated or significantly reduced.

Chair Faria opened and closed the Public Hearing at 8:21 p.m.

Commissioner Trivedi made a motion to adopt the Negative Declaration and approve the proposed text amendment, subject to the findings for approval, with an amendment to Chapter 10, Section 10-1.145 (F) (3) by adding the word “fee” after the word “prescribed” in the last sentence.

Commissioner Lavelle seconded the motion.

AYES:	Commissioners Loché, Trivedi, McDermott, Lamnin, Márquez, Lavelle Chair Faria
NOES:	None
ABSENT:	None
ABSTAINED:	None

Commissioner Márquez left the Council Chambers at 8:24 p.m.

3. Related to internet gaming establishments, proposed revisions to the definitions section of the Hayward Zoning Ordinance (Section 10-1.3500) and proposed amendment to the Hayward Municipal Code adding Article 16 to Chapter 4 regarding simulated gambling devices; the project is exempt from environmental impact analysis, per the California Environmental Quality Act (CEQA Guidelines Sections 15321 (exemption for governmental regulatory activities) and 15061 (b) (3) (projects clearly not impacting the environment)); Text Amendment Application No. PL-2013-0388 TA; Applicant: City of Hayward

Development Services Director Rizk provided a synopsis of the staff report. Mr. Rizk referenced letters from representatives of two of the establishments and the letters have been distributed to the Planning Commission. He noted that Assistant City Attorney Vigilia, Assistant City Attorney Conneely and Hayward Police Department Detective Agustin were available for