

**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 01/24/06  
AGENDA ITEM 4  
WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council  
**FROM:** Director of Community and Economic Development  
**SUBJECT:** Extension of Moratorium on Condominium Conversions

**RECOMMENDATION:**

It is recommended that the City Council accept the report on action taken during the 45 day moratorium and adopt the attached ordinance continuing the interim moratorium on land use approvals of condominium conversions in the City of Hayward.

**REPORT ON ACTION UNDERTAKEN DURING MORATORIUM:**

On October 11, 2005, staff presented a report to the City Council on possible revisions to the Subdivision Ordinance relating to residential condominium conversions. The report briefly addressed the history of condominium conversion regulations within Hayward, including the original provisions governing such conversions adopted in 1981 and the changes adopted by City Council in 1995 in conjunction with adoption of the seventy percent homeownership goal in the Housing Element.

Since October, several unanticipated issues have arisen regarding the provisions of the current ordinance that were not discussed with Council. These relate specifically to the requirement that each unit in the project must be issued a Certificate of Occupancy by the Building Official prior to initial sale of the unit and that the issuance of the Certificate of Occupancy be based on the building code in effect at the time of the inspection. Given the changes in building codes over the last ten to fifteen years, it is likely that cost of meeting that standard would be substantial. The current building code requirements for one hour walls, draft stops in attics, energy saving insulation, lower egress window sill heights, seismic strength and disability access are certain to have a significant impact not only on the cost of conversions, but also on their physical viability. In addition, there are other standard condominium requirements that require further consideration, including fire sprinklers, separately metered utilities and individual sewer laterals.

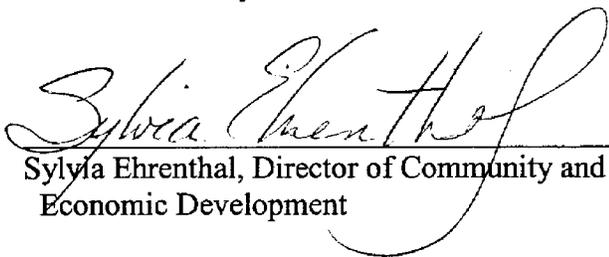
The City continues to receive inquiries regarding and must process applications for condominium conversions. In order to give these inquiries and applications fair consideration, staff suggested that the implications of the provisions on the building and fire codes, tenant and buyer protections and assistance, parking ratios and limitations on the number of conversions should be more fully identified and properly addressed.

Because these issues are essential to assuring the health and safety of the residents of the units to be converted, staff recommended on December 20, 2005 that a more comprehensive analysis be undertaken prior to revising the condominium conversion provisions of the subdivision ordinance. In order to provide time for such a comprehensive analysis, Council adopted an interim moratorium on land use approvals of condominium conversions in the City of Hayward for a period of 45 days, or until February 3, 2006. Staff noted that such an interim moratorium may be extended for up to 10 months and 15 days after a public hearing, and that such a duration would have limited impact on property owners in the short run and significant benefits in the long run. Providing adequate time for consideration of issues and alternatives will protect the public health, safety and welfare while simultaneously allowing for revisions that do not make the ordinance unduly restrictive. Council specifically asked staff to look at programs that could avoid displacement and assist current renters to become condominium owners.

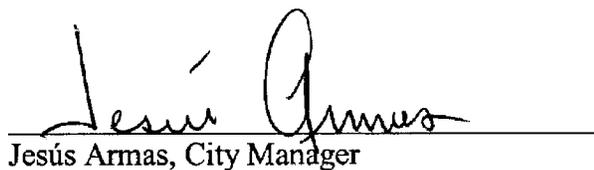
The recent holiday season has impeded staff's ability to meet with affected rental property owners and tenant representatives. Because their input is essential to defining the extent and nature of the issues to be addressed, it will not be possible to complete this effort prior to the expiration of the interim moratorium. In the interim, staff has continued to research recently revised condominium conversion ordinances from other cities and hold interdepartmental meetings to ascertain the implications of various requirements in the existing ordinance. It is estimated that the time required for analysis of technical issues and tenant protection provisions, public outreach, and drafting of revisions would be approximately six months. Even considering the need to hold hearings on any proposed ordinance changes subsequently, it is unlikely that this ordinance revision process will require the full term of the extension. Nevertheless, staff recommends adopting the ordinance for the full ten month and 15 day term to avoid any unforeseen issues requiring an additional extension. Termination of the moratorium can be adopted by the City Council simultaneously with adoption of the revised condominium conversion provisions.

The proposed action is exempt from CEQA based on CEQA Guidelines 15061(b)(3), projects which have no potential for causing a significant impact on the environment.

Recommended by:

  
Sylvia Ehrental, Director of Community and  
Economic Development

Approved by:

  
Jesús Armas, City Manager

Exhibits: Ordinance

**DRAFT**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO EXTEND INTERIM EMERGENCY  
ORDINANCE NO.05-22 OF THE CITY OF HAYWARD  
ADOPTED PURSUANT TO GOVERNMENT CODE  
SECTION 65858, IMPOSING A TEMPORARY  
MORATORIUM ON THE ISSUANCE OF USE PERMITS,  
VARIANCES, BUILDING PERMITS AND OTHER LAND  
USE APPROVALS OF CONDOMINIUM CONVERSIONS**

WHEREAS, on October 11, 2005, staff presented a report to the City Council on possible revisions to the Subdivision Ordinance relating to residential condominium conversions, briefly addressing the history of condominium conversion regulations within Hayward including original provisions governing such conversions adopted in 1981 and the changes adopted by City Council in 1995 in conjunction with adoption of the seventy percent homeownership goal in the Housing Element; and

WHEREAS, the on December 20, 2005, the City Council adopted Ordinance No. 05-22, pursuant to Section 65858 of the California Government Code, imposing a 45-day emergency moratorium on the issuance of use permits, variances, building permits and other land use approvals of condominium conversions.

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

Section 1. This ordinance is to extend the interim ordinance adopted on December 20, 2005, as an emergency measure pursuant to Government Code Section 65858 and is necessary for the immediate preservation of the public health, safety and welfare. The facts constituting the urgency are these: Several unanticipated issues have arisen regarding the provisions of the current ordinance relating specifically to the requirement that each unit in the project must be issued a Certificate of Occupancy by the Building Official prior to initial sale of the unit and that the issuance of the Certificate of Occupancy be based on the building code in effect at the time of the inspection. Given the changes in building codes over the last ten to fifteen years, it is likely that cost of meeting that standard would be substantial. The current building code requirements for one hour walls, draft stops in attics, energy saving insulation, lower egress window sill heights, seismic strength and disability access are certain to have a significant impact not only on the cost of conversions, but also on their physical viability. There are standard condominium requirements that require further consideration, including fire sprinklers, separately metered utilities and individual sewer laterals. In addition, the implications of the provisions of the building and fire codes, tenant and buyer protections and assistance, parking ratios and limitations on the number of conversion should be more fully identified and properly addressed.

Because these issues are essential to assuring the health and safety of the residents of the units to be converted, staff recommended on December 20, 2005 that a more comprehensive analysis be undertaken prior to revising the condominium conversion provisions of the subdivision ordinance.

Section 2. Notwithstanding any provision of the Hayward Municipal Code to the contrary, this ordinance extends the 45-day moratorium on the issuance of use permits, variances and other land use approvals of condominium conversions for ten months and fifteen days from February 3, 2006, except as may be extended as provided by Government Code Section 65858.

Section 3. The Planning Director is hereby authorized to administer and interpret the provisions of this ordinance, including but not limited to, review of specific use permits applications, variance requests, building permit applications, and other land use approvals, to determine whether the requested use permit, variance, building permit or other land use approval is subject to the terms of this ordinance.

Section 4. The ordinance shall take effect immediately upon passage by at least six affirmative votes of the City Council and in accordance with Government Code Section 65858.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the \_\_\_\_ day of \_\_\_\_\_, 2006, by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the \_\_\_\_ day of \_\_\_\_\_, 2006, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

**ABSTAIN: COUNCIL MEMBERS:**

**ABSENT: COUNCIL MEMBERS:**

**APPROVED:** \_\_\_\_\_  
Mayor of the City of Hayward

**DATE:** \_\_\_\_\_

**ATTEST:** \_\_\_\_\_  
City Clerk of the City of Hayward

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney of the City of Hayward