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DATE: March 17, 2009

TO: Mayor and City Council
Redevelopment Agency Boardmembers

FROM: Director of Development Services

SUBJECT: Zone Change Application No. PL-2008-0547 PD – Wittek Development LLC/Redevelopment Agency of the City of Hayward (Applicants), Big Sky Holdings and Bay Area Rapid Transit (Owners) - Request to Develop a Mixed-Use Project Consisting of 788 Multi-Family Residential Units and a Grocery Store, Including 206 Units of Affordable Housing and a 910-Space BART Parking Garage, requiring:

- 1) a Change of Zoning from Station Area Residential (SAR) District to Planned Development (PD) District;
- 2) Approval of the Preliminary Development Plan subject to the Attached Conditions of Approval;
- 3) an Amendment to the South Hayward BART/Mission Boulevard Concept Design Plan to Address a Revised Circulation System, a Relocated Grocery Store Site and the BART Parking Structure;
- 4) Conditional Commitment of up to \$19.8 Million From Redevelopment Agency Funds; and
- 5) Authorization for the City Manager to Submit, on Behalf of the City and Redevelopment Agency, an Application to the State's Housing and Community Development Department to Seek up to \$30 Million in State Proposition 1C Grant Funds for the Project's Infrastructure Components.

The Project Site is Located at the South Hayward BART Station, between the Station and Mission Boulevard, at 28601 & 28850 Dixon Street and 28901 – 28953 Mission Boulevard; APNs 078C-0441-001-16,-17,-28,-29

RECOMMENDATION

That the City Council and Redevelopment Agency Board introduce the attached ordinance and adopt the attached resolutions, thereby adopting the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program, approving the Zone Change, the Preliminary Development Plan and Amendments to the Concept Design Plan, conditionally committing up to \$19.8 million in Agency funds and bonds, and authorizing the City Manager to submit a Proposition 1C Infill Infrastructure grant application to the State Housing and Community Development Department, subject to the attached findings and conditions of approval.

SUMMARY

Wittek Development, LLC, and Montana Properties, Inc. (Wittek & Montana) are proposing to develop the South Hayward BART Station parking lots and the former Perry and Key site along Mission Boulevard. BART has entered into an exclusive negotiating agreement with Wittek & Montana to facilitate development of the portion of the project on BART property. The project would be a mixed-use retail and housing development that includes 788 units of housing and a Safeway lifestyle store. The proposal includes 125 affordable family apartments and 81 affordable senior apartments to be developed by Eden Housing. Included in the development will be a 910-space replacement parking garage for BART patrons. The site will also integrate circulation features required for AC Transit, and the various residents, commuters, and visitors associated with the project and BART station.

Generally, the proposed development would comply with the South Hayward BART/Mission Boulevard Concept Design Plan that was adopted by the City Council in June of 2006. However, due to the Safeway store that was not contemplated at the proposed location in the Plan, residential densities on the northerly portion of the BART properties would not meet the minimum density threshold of 75 units per net acre, although the entire development would do so. Given the benefits the Safeway store would provide, staff is supportive of the conceptual plan from a density standpoint.

Also, a proposed BART replacement parking structure and the structure on Parcel 2 that would contain affordable senior housing apartments over parking levels, with heights of 70 feet, would exceed the normal height limit of 60 feet for the zoning district. Staff supports the additional height to 70 feet on Parcel 2, as the area with the additional height is a minor portion of the building, is located within the interior of the site, and would provide additional interest to this building from various vantage points. Staff also recommends that a public art feature or features be provided within the project to mitigate the impact of the additional height and that enhanced architectural features and landscaping be incorporated into this structure.

Staff recommends approval of the project in that it would provide high-quality, transit-oriented, higher-density housing opportunities in an urban setting for future residents, including lower income families and seniors; would provide a full-sized, modern grocery store that would provide a desired retail use for the currently underserved southeastern portion of Hayward; would, as conditioned, provide more than the minimal amount of required open space and public parkland dedication and in-lieu fee payments; would be required to contribute to future costs of enhanced public services, including police services through establishment of a community facilities district (CFD); and would stimulate future development in the South Hayward BART station area, all in close proximity to transit services. Finally, as conditioned, the financial risk to the City and Agency will be minimized via performance criteria upon which financial commitments to the project will be conditioned. The Planning Commission unanimously (5-0-2) recommended that the City Council approve the project.

BACKGROUND

Project Description –

The project comprises a total site area of approximately 12 acres centered along Dixon Street, generally bordered by Tennyson Road to the north, Mission Boulevard to the east, and the BART tracks and station to the west. A multi-family residential neighborhood abuts the project site to the south on the west side of Dixon Street. To the south of the project on the east side of Dixon Street, there exists a vacant approximately 0.6-acre set of parcels owned by Caltrans, which separates the project site from additional multi-family residential development. A single-family residential neighborhood and the Spanish Ranch II Mobilehome Park lie westerly across the BART railway.

Big Sky Holdings (Wittek & Montana) are the owners of the approximately three-acre Perry and Key site, which fronts on Mission Boulevard and is located directly adjacent to BART's satellite parking lot on Dixon Street. BART has entered into an exclusive right to negotiate a future agreement by December of 2009 with Wittek & Montana that will entail, among other things, a land sale, exchange, or ground lease involving both the east-of-Dixon Street satellite parking lot and the main BART parking lots directly adjacent to the South Hayward station; acceptance of the proposed 75 percent BART replacement parking; as well as details of project phasing that will minimize impacts to BART patrons.

The development plan is generally consistent with Hayward's Station Area Residential (SAR) District zoning and the City's planning efforts for the area. However, densities on the northerly portion of the property by the BART station (Parcels 1 and 2 as shown on the attached plans) are shown to be less than the minimum 75 units per net acre. Also, the South Hayward BART/Mission Boulevard Concept Plan did not contemplate a full-service grocery store at this location, which impacts the ability to provide higher residential densities in buildings that provide adequate on-site parking and comply with the City's height limitations. The Plan indicates a grocery store at Mission Boulevard and Valle Vista Avenue, slightly more than ¼-mile away. Finally, a seven-level, 910-space BART parking garage is proposed along the BART tracks south of the station, which would provide 75 percent of the approximately 1,200 existing surface lot spaces. Such structure is currently proposed to exceed the 60-foot height limit (as called for by the SAR Zoning District) by 10 feet (see Parcel 4 in Site Section 3 on sheet A5 of Plans).

Due to the Safeway store, parking for the 125 affordable family apartments proposed above it would be accommodated in a separate structure to the west, along the BART tracks. This structure would also incorporate 81 affordable senior apartments in three stories over three levels of parking (see Parcel 2 in Site Section 1 on sheet A5 of Plans); the height of a portion of this structure is proposed at 70 feet. With additional findings, the Council could approve structures with heights that exceed 60 feet, but not greater than 80 feet, under the provisions of the South Hayward BART/Mission Boulevard Concept Plan and the SAR Zoning District.

Current market conditions and the need to assure adequate BART parking necessitate that the project be developed in phases. The long-term economics of the project are also contingent upon the ability to fund the affordable housing and major infrastructure improvements associated with reuse of the station parking lots, including creation of replacement parking and bus transfer

facilities. In recognition of this, the developers are working to make the project competitive for infrastructure and transit-oriented development (TOD) funding available from the State of California under its Proposition 1C (the Housing and Emergency Shelter Trust Fund Act of 2006) grants program. This is a significant funding source that may only be available in 2009 and, if a successful application is made for the funds, could generate up to approximately \$30 million for the infrastructure components of the project and \$17 million for the affordable housing developments. The deadline to submit applications for these programs is April 1, 2009, necessitating City Council/Redevelopment Agency Board public hearings for the project by no later than late March. The City Council reviewed preliminary plans for this project at a work session on November 18, 2008, at which time council members indicated general support.

Planning Commission Action –

As indicated in attached Exhibit E, on February 19, the Planning Commission unanimously (5-0-2) recommended that the City Council approve the project. Commissioners expressed excitement to see the implementation of the centerpiece of the South Hayward BART/Mission Boulevard Concept Design Plan with this major project. Commissioners commented on the project's positive impact to the surrounding neighborhood, the opportunity for increased use of public transportation, the incorporation of green building elements, the quality product provided by Eden Housing, and the importance of the grocery store as an amenity to the greater neighborhood. Commissioners also commented that, when reviewing the Precise Development Plan, they would pay attention to the street-level pedestrian and architectural features, acquisition of the Caltrans properties to provide adequate open space, and the softening of the taller buildings with architectural details, landscaping and public art. Staff had recommended that a pedestrian bridge be provided above the street between Parcels 1 and 2; the bridge would provide safe access to the residents of Parcel 1 to their parking spaces on Parcel 2, and to the senior residents to the grocery store. However, the Commission recommended deletion of this requirement in order to promote activity at the street level, with the recommendation that particular attention be made to making the street-level crossing safe.

DISCUSSION (Please refer to Plans)

South Hayward BART/Mission Boulevard Concept Design Plan -

This project occupies Sub-Area #4 of the Concept Design Plan (see Exhibit C), which is the core of the Plan area and provides the greatest opportunity for development of a transit village. The Concept Plan supports this by allowing the highest residential density designation around the BART station properties. The Plan places neighborhood-serving retail services and amenities within walking distance from the station. The Plan calls for improved pedestrian and bike connections along the existing streets, or introduced in locations that link the BART station with Mission Boulevard and the envisioned grocery store and community center.

While the Plan indicates a preference, though not requirement, for a grocery store at the corner of Mission Boulevard and Valle Vista Avenue, Safeway is interested in developing a store as part of the structure on Parcel 1 of this project (Phase 1), in conjunction with the Eden Housing affordable family housing project. Approval of this proposal would require an amendment to the Design Plan

to incorporate a major retail use at this location. The proposed project introduces smaller blocks of buildings than those originally shown in the Plan, providing a greater number of pedestrian pass-throughs to better connect the BART station with Mission Boulevard and surrounding neighborhoods. Staff has included a recommended condition of approval (#117) that requires that the grocery store be operational prior to occupancy of all of the Eden Housing apartments.

At the BART station itself, the intermodal bus facility is envisioned to be reconfigured from the design shown in the Plan to both maximize development opportunities and better connect Dixon Street with the station. The design is supported by AC Transit staff. BART patron parking, rather than being allowed in conjunction with nearby residential structures, would be housed in a separate seven-level garage southerly of the station building.

Phases I & II: Mixed-Use Affordable Housing/Commercial Development, BART Parking Structure, and Reconfigured Bus Transfer Facility/Roadway -

The first phase of the project would be the development of Parcels 1 and 2, as shown on the attached site plan (sheet A2 of Plans), to include a 58,500-square-foot Safeway grocery store (Parcel 1). It will include other local serving retail uses (e.g., Jamba Juice and Starbucks). Phase I would also require reconfiguration and construction of the bus transfer facility, including access for buses and bus parking bays.

Directly above the Safeway will be 125 units of affordable family apartments to be designed, constructed, and managed by Eden Housing. Eden will develop a combination of two- and three-bedroom units affordable to households earning between 20 and 60 percent of Alameda County Area Median Income, as adjusted for family size. Rents would range from approximately \$354 to \$1,078 per month (2008 levels).

Proposed on Parcel 2 are 81 affordable senior apartments, also to be designed, constructed, and managed by Eden Housing, over a three-level parking structure that would serve both affordable housing projects. Eden will develop one-bedroom units affordable to senior households earning between 30 and 50 percent of Alameda County Area Median Income. Rents would range from approximately \$460 to \$780 per month (2008 levels).

The housing on Parcel 1 alone would enable the entire project to meet the City's inclusionary requirement as the 125 units would constitute 15.9 percent of the overall unit count. With the 81 units of senior housing on Parcel 2, the affordable housing component would constitute 26.1 percent of the overall unit count, which would not only provide affordable housing for a specific segment of the Hayward population, but would also allow the project to qualify for approximately \$14 million more in Proposition 1C funding and be more competitive for this program funding.

With the additional 241 market-rate rental units proposed as Phase III of the project (see later discussion), approximately 56 percent of the total number of units in the project would be rental units. A stated Hayward General Plan policy indicates the City should, "Encourage the development of ownership housing and assist tenants to become homeowners in order to reach a 70% owner-occupancy rate, within the parameters of Federal and State housing." While some may

view the proposed number of rental units currently proposed to be contrary to this stated policy, staff is supportive of the unit mix in that:

- the affordable units would be built and managed by a local, reputable affordable housing entity that has demonstrated the ability to build high-quality affordable rental units in this City;
- the recommended project conditions of approval require the market-rate apartments be individually metered for water, which could allow for easier future conversion of apartments to ownership condominiums, should market conditions encourage such conversion;
- the overall mix of ownership and rental units would provide affordable housing for lower income families and seniors, as well as market rate rental and ownership units for the general population, which would encourage a community of varied households in an integrated, connected transit village near the BART station; and
- a mix of rental and ownership housing will allow the developer additional flexibility in financing and marketing the development, and thus provide greater assurance that the development will be successfully completed.

Because the overall site density associated with master plan development would meet the minimum 75 unit per net acre density required in the South Hayward BART Plan, staff is supportive of the proposed concept as it allows for a major amenity in the form of a full-sized grocery store. A Safeway store adjacent to the BART station would provide convenient shopping opportunities for BART riders and nearby residents, and a high activity level and synergy for other development in the area.

Another issue related to the structure on Parcel 2 is the fact that approximately 25% of its roof is shown to have a height of 70 feet, exceeding the standard 60-foot height limit of the district. This building is not yet fully designed. However, staff supports the concept of the additional height as the additional height is limited in area, is located within the interior of the site, and would provide additional interest to this building from various vantage points. Staff also recommends, as a condition of approval and associated with the findings discussed later in this report, that a public art feature or features be provided to enhance the overall development and help mitigate the visual impacts of the additional height. In its review of the Precise Plan, the Planning Commission will review the details of the building design to ensure that it is consistent with the following findings, which are required to be made related to the additional height:

- (a) The additional height makes a positive contribution to the overall character of the area and will be compatible with its surroundings in terms of site planning, scale, building design, color, exterior materials, roof styles, lighting, landscaping and signage.
- (b) The additional height will not result in unreasonable restrictions of light and air to adjacent properties or the public right-of-way, or otherwise be detrimental to the public health, safety and welfare.
- (c) The additional height will support other policies and standards of the South Hayward BART/Mission Boulevard Concept Design Plan and will result in a better overall project.

Finally, as Phase II, a seven-level parking garage for BART commuters is proposed, which is more fully described later in this report.

Phases III & IV: Housing Development -

Beyond the affordable housing, the developers are proposing to develop several types of housing in configurations that are consistent with the Station Area Residential (SAR) District. They are proposing standard market-rate rental and ownership residential developments in subsequent phases:

- Phase III: Rental Apartment Housing (parcels 3N and 3S on the attached Plans): Directly adjacent to the station, the developers are proposing to build 241 units of rental housing in two buildings. These will be market-rate units with associated amenities such as a health club and a business center. Subterranean parking would be continuous under the street between the two buildings, with one access point to each parcel off Dixon Street.
- Phase IV: Flats and Lofts (Between Dixon Street and Mission Boulevard): The Perry & Key site and the BART satellite parking lot would be developed with 341 units of ownership housing over a podium and subterranean parking. These units would be developed in four phases of approximately 85 units per phase. A small commercial space and live work units are shown along/near Mission Boulevard, in accordance with the SAR Zoning district provisions.

Open Space Amenities -

Residential projects in the SAR Zoning District are required to provide both private open space, accessible only from individual dwellings, and group open space, accessible to all project residents. The developers are proposing an amount of private open space that meets the minimum requirement of the Station Area Residential (SAR) District. However, the developer has proposed group open space totaling only 98,900 square feet; a total of 129,224 square feet is required by the SAR District. Conditions of approval recommended by staff, as outlined below, would provide a total group open space area of 136,386 square feet.

Two vacant Caltrans-owned parcels, associated with the previously pursued Route 238 Bypass Freeway and totaling approximately 0.64 acres (27,878 square feet), are adjacent to and southerly of the Perry and Key site along Mission Boulevard. Such parcels are shown on the project plans as open space area, although not shown in the open space calculations. Since such area would be necessary for the project to meet its minimum group open space requirements, the recommended conditions of approval require the applicant to acquire, improve, and dedicate this area for public use and/or provide the funding for the Redevelopment Agency to acquire the land and improve it. Per the State's established land disposition process, the Agency would have the opportunity to acquire such land prior to it being available to the general public for sale.

Although not indicated by the applicant, a 9,608-square-foot emergency vehicle access area along the southerly edge of Parcel 3S to the east of Dixon Street is also required by staff's recommended conditions to be included in the group open space total to meet the minimum requirements. It is anticipated that these additional areas will not only enhance pedestrian linkages, but also provide the kind of 'unfettered' green space that is usually not found in high-density developments.

The amenity packages for each parcel are designed to support the proposed populations residing there. For the Perry and Key site and Parcels 3N and 3S, where market rate units are proposed, courtyard gardens, a swimming pool, and exercise facilities would be provided.

Regarding public parkland, the parks in closest proximity to the development are Valle Vista Park (1.00 acre), located 3/10 mile to the south at Dixon Street and Valle Vista Avenue, and Stony Brook Park (4.5 acres), located across Mission Boulevard about 4/5 mile southeasterly at Vanderbilt Street and Woodland Avenue. The Haymont Tot Lot (0.49 acres) and Nuestro Parquesito (2.60-acre linear park) provide additional parkland opportunities, though limited, in the area to the north of Tennyson Road. The 2006 Concept Design Plan envisions a new community center and 4+ acre park in the location of Valle Vista Park at the southwest corner of Mission Boulevard and Valle Vista Avenue. In fact, the developers for the La Vista and Garin Vista projects that were approved in 2005 and 2006, to be built in the foothills east of Mission Boulevard, offered to contribute \$2.5 million toward the development of the community center (\$8,380 per single-family unit), which was incorporated into conditions of approval for those projects.

To address developers' obligations regarding public parks, the City's park dedication ordinance indicates that 604 square feet of public parkland should be provided for every multi-family residential unit, or an in-lieu fee of \$11,395 per attached ownership unit, and a fee of \$9,653 per rental unit shall be paid (currently, a total of \$6,212,068 for the 582 market rate units), or a combination of both payment of fees or parkland dedication. The City's ordinance indicates that affordable housing projects are exempt from these requirements. However, the residents of the 206 affordable units would be expected to use both private and public open space amenities, as would other residents within the project. The South Hayward BART Design Plan did not envision the dedication of public parkland on this site, but encourages open space and related amenities to facilitate a successful transit village.

Therefore, to compensate for the lack of public parkland that could be accommodated on site and the exemption of affordable housing projects from the park dedication ordinance provisions, staff is recommending as a condition of approval that additional contributions be considered by the developer for the proposed community center at Mission Boulevard and Valle Vista Avenue. Staff suggests that such amount be equal to the difference between in-lieu fees that would be associated with the 206 affordable units (\$1,988,518) and the cost of acquiring and developing the Caltrans parcels (approximately \$1.17 million, assuming \$15 per square foot for acquisition of 0.64 acres, and \$750,000 to improve those parcels). The Planning Commission endorsed staff's recommendations for providing additional group open space.

Parking -

The development will provide a total of 2,191 parking spaces, which is consistent with the SAR District standards (1.0 space maximum for each studio and 1-bedroom unit; 1.3 spaces maximum for each unit with 2 or more bedrooms; 1 space minimum for each 315 gross square feet of commercial space), as follows:

Residential/Commercial Parking (Phase I): There will be a total of approximately 394 parking spaces in two garages and surface parking areas constructed for Phase I. One hundred seventy-two parking spaces will be located in one subterranean floor beneath the Safeway store on Parcel 1, 18 surface parking spaces are shown in front of the store, and 204 spaces for the 206 affordable family and senior housing units will be located in a separate three-level (with one level below grade) parking garage on Parcel 2. The parking spaces provided for the affordable housing calculate to 1.3 per family unit and 0.5 per senior unit, for an average of approximately one space per unit.

BART Parking (Phase II): This includes a 7-level parking garage in the southwest corner of the site adjacent to the BART tracks (Parcel 4) that will house 910 replacement parking spaces for BART users, which is equal to approximately 75 percent of the total number of existing surface parking lot spaces on both sides of Dixon Street. As mentioned previously, the proposed garage would exceed the 60-foot height limit of the zoning district. Staff recommends that the height of the structure be reduced by having the lowest level be subterranean. This modification would add an additional approximately \$1.3M cost to the project (assuming an additional \$10,000 per space). However, should the height not be reduced, per earlier discussion in this report regarding the height of the structure on Parcel 2, the 70-foot height could be justified during review of the Precise Development Plan using similar findings and conditions of approval, including contribution to public artwork (based on 1% of the construction costs for this structure) and enhanced landscaping and design features of the garage.

Housing (Phases III & IV): The housing phases will not exceed the residential parking ratios established by the Station Area Residential Zoning District. All spaces will be housed in parking garages in the first level beneath the proposed housing units. The 241 market-rate apartment development on Parcels 3N and 3S (Phase III) will include approximately 277 spaces for a mix of one-, two- and three-bedroom units, resulting in an average parking ratio of 1.1 spaces per unit. The 341-unit townhome development on the Perry & Key site (Phase IV) will include 417 parking spaces for a similar unit mix and an average parking ratio of 1.2 spaces per unit.

Parking standards are typically expressed as minimum ratios; however, the parking standards for the Station Area Residential Zoning District were established at maximum ratios to encourage the use of pedestrian and bicycle circulation around the BART station, as well as use of BART and AC Transit. It is not known whether there would be any impact to surrounding neighborhoods related to “spillover” parking from BART and the residential units until project build out. In order to address any unknown potential impacts associated with “spillover” parking, staff recommends that one year after build out and occupancy of the project, the developer or the developer’s designee, shall conduct a neighborhood parking survey to determine if there are any substantial impacts to the surrounding areas, as determined by the City Transportation Planning staff. If so, the future homeowners’ association(s) would be required to incorporate and fund measures to reduce impacts. One potential measure would be the use of a residential parking program with the consent of the impacted residents. Other solutions might include increasing the on-street parking supply through implementation of angled parking on appropriate streets, or managing the existing on-street parking using time restrictions to improve turnover and provide a pool of short-term parking. Such mitigation is included in the attached draft Mitigated Negative Declaration/Initial Study.

Traffic -

The project will generate additional vehicle trips in the vicinity, which is generally consistent with the projected trips identified in previous studies. An update of the traffic analysis for the South Hayward BART Concept Plan was prepared by Dowling Associates, Inc. The update, dated February 3, 2009, concludes that while the traffic increase was similar, a revised mitigation measure was identified to bring the intersection of Dixon Street and Tennyson Road to an acceptable level of service. The necessary improvements to this intersection, as identified in the attached Mitigated Negative Declaration/Initial Study, are (1) provide split phasing for the Dixon Street/East 11th Street traffic; (2) provide a right turn overlap (green arrows when the cross-street protected left phases are active) on the southbound right turn (East 11th Street onto Tennyson Road); (3) restripe the northbound approach to provide an exclusive left turn lane and a shared through/right-turn lane and prohibit on-street parking; (4) prohibit on-street parking on the southbound approach (East 11th Street) between the intersection with Tennyson Road and the driveway for the adjacent townhouses, a distance of about 100 feet back from the cross-walk; and (5) provide phasing for the eastbound and westbound left-turns (Tennyson Road) that allows both protected turns and "permitted" turns when opposing through-traffic allow. The developer would pay for these intersection improvements.

Additionally, to address circulation issues associated with multiple users, additional measures/conditions are required, including installation of a new traffic signal at the main southerly entrance that leads to the bus intermodal facility and BART parking garage, as well as a stop sign for northbound traffic within the site at the entrance to the garage proposed under the Safeway store off Tennyson Road, which will allow for unconstrained vehicular movement from Tennyson Road into such garage. Such measure will reduce the likelihood for traffic queuing impacts onto Tennyson Road. These improvements would also be provided by the developer.

Green Building Requirements -

The developers are committed to green building principles. For the first phase of the development, Eden Housing is proposing to meet the standards of Build it Green's "GreenPoint Rating" system and will design the project to score at least 90 points. All residential aspects of the entire project will be required to be GreenPoint Rated, in accordance with the City's Private Development Green Building Ordinance, and the retail uses will be required to comply with the City's green building standards for non-residential projects, in accordance with the Ordinance.

FISCAL AND ECONOMIC IMPACT

The proposed Safeway store and the later market-rate housing components of the project are anticipated to generate roughly \$1.6 million in tax increment funds to the Agency per year. Also, sales tax revenues to the City are estimated to be approximately \$45,000 per year. In addition, the project would generate park dedication in-lieu fees, currently estimated at \$6.2 million, as well as school impact fees (at \$2.97 per square foot of habitable area).

As noted above, Proposition 1C funding would require a minimum local funding match of \$12.7 million, and the developer currently estimates a gap funding request of up to \$19.8 million. These funds will likely be spent before any of the market rate development is completed. As a result, it would be several years before the Agency's investment is recouped. However, the Agency would then receive tax increment from the development until 2047. Moreover, the development would serve as a catalyst for further redevelopment and economic revitalization for the entire southern end of the Mission Boulevard corridor.

Redevelopment Agency/City Financial Participation –

The proposed project includes an extraordinary amount of public infrastructure, including over 900 spaces of BART replacement parking, and on-site circulation improvements. The proposed project also includes 206 affordable housing units. As a result, the project proponents are seeking the maximum \$17 million available from the Proposition 1C TOD Housing program grant funds and \$30 million from Proposition 1C Infill Infrastructure program grant funds, for a total of \$47 million in Proposition 1C funding. The City and the Agency will be listed as co-applicants for the \$30 million in Infill Grant funds, and Eden Housing, Inc. will be the applicant for the \$17 million TOD Housing Grant funds.

The project proponents are requesting Redevelopment Agency or other local funding sources in a total amount of up to \$19.8 million, including approximately \$7.1 million for the affordable housing component, and \$12.7 million for infrastructure and site improvements. While some of the affordable housing gap could be funded from Hayward's federal CDBG or HOME funds, the majority of funds would be supplied by the Agency's Low/Moderate Income Housing fund. The City Council/Agency Board recently discussed a number of proposed new affordable housing programs and projects at a work session held on February 17, 2009, and the South Hayward BART project was included among them, with a funding level of \$5 million. In order to fund the South Hayward BART project at the currently projected levels, it is likely that one or more lower-level priority housing projects would need to be deferred for a year or two. In addition to Agency funding, Eden Housing Inc. would also seek to issue mortgage revenue bonds, and utilize affordable housing tax credits and other financial sources available to them.

Regarding the requested funding for public improvements and on-site infrastructure, the Agency's bond financing consultants, conservatively estimate that the Agency has bonding capacity that is more than sufficient to fund the requested \$12.7 million. Like other financial markets, the municipal bond market is currently in turmoil, and would need to be carefully monitored going forward. The market for taxable bonds is not currently a favorable one. The Agency's prior two bond issues were for tax exempt bonds, and many types of public improvements, including public parking structures, can be financed with them. However, these funds are limited as to the amount and kind of private assistance that can be provided.

In order to provide funding for the affordable housing and public improvements, the Agency would need to enter into agreements with Eden Housing Inc. pertaining to the operation of the affordable housing, as well as an Owner Participation Agreement with Wittek-Montana, and with BART regarding the total project. Such an agreement would need to specify what the developer will build, the timing of the development, responsibilities of the parties regarding construction and operation of

the BART Replacement parking structure and the other public improvements, among other things. The Agency would seek assurance from both BART and the developer that in the event the project does not go forward, the Agency has a right to terminate its funding obligations, or to take control of the land and re-assign the project to another developer in order to ensure that the development is completed.

The Proposition 1C grant applications require that the local entity provide evidence of its commitment to provide the local matching funds. The attached Redevelopment Agency resolution is intended to provide such a commitment, and the commitment contains a number of conditions that would need to be met in order for the funding to be provided. These conditions include the award of the requested Proposition 1C funds, the Agency's ability to issue bonds, the execution of a sale or ground lease documents between BART and the developer, Eden Housing and Wittek-Montana securing additional financing for the development, and the assurances regarding Agency's right to take assignment of or purchase the developer's interests in the event the developer cannot perform. If the project meets such conditions, the developer and staff would return for approval of the agreements and appropriation of funds at the appropriate time.

PUBLIC NOTICE

Last fall, a notice of receipt of application was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the then-latest assessor's records, asking for comments on the project. The Planning Division received comments from the residents westerly of the BART railway. In response, a community meeting, hosted by the project applicant, was held at the clubhouse of the Spanish Ranch II Mobilehome Park on December 8, 2009. The residents of the single-family homes off Beatron Way and the mobilehome park were invited. Several residents expressed concerns regarding traffic, and one resident commented on the loss of hillside views. Several also commented on non-project-related concerns regarding safety due to intruders jumping the existing 6-foot-high wall along the railroad into the residential rear yards. Overall, the residents expressed a favorable view about the project, indicating that it would bring needed attention and improvements to this South Hayward neighborhood.

NEXT STEPS

Proposition 1C Applications Submittal –

The developers are suggesting that awarded funds associated with the Proposition 1C Grant applications be dedicated towards the construction of the BART replacement parking garage, the affordable housing projects, and related improvements. The developers and Eden Housing staff will work with City staff and its consultant to prepare the most competitive applications possible. By adopting the attached resolutions, the City Council and the Redevelopment Agency would authorize the City Manager to submit the Proposition 1C Infill Infrastructure Grant application on behalf of the City and the Agency, and conditionally commit up to \$19.8 million in Agency funds toward the project. The two applications are due by April 1, 2009. The State is expected to award the Proposition 1C grants in June 2009. Prior to the awards, staff will begin discussions with BART and the developer in order to clarify issues that will have to be addressed going forward. If the grants are awarded for this project, staff will return to the Agency Board in the summer or early fall

2009 to obtain approval to enter into negotiations with Wittek-Montana, Eden Housing, and BART regarding the project.

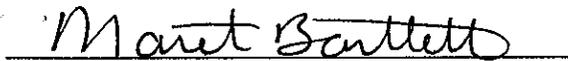
Staff currently expects that the following issues will need to be addressed in more detail during the negotiations: 1) refinement of development costs and design, 2) market feasibility, including Safeway and other sub-leases, 3) phasing of pre-development and development activity, 3) refined financing plan, 4) operation and maintenance of the public improvements, 5) Agency/BART assurances regarding rights to acquire, terminate and re-assign the developer's interests and rights in the Perry & Key and BART properties as necessary to ensure completion of the project, if developer cannot deliver the development. The Agency would also work with Eden Housing regarding the financing of its affordable housing and parking components. It is anticipated that these negotiations would lead to an Owner Participation Agreement with Wittek Montana; and a "master" agreement among all the parties. Finally, Agency staff will continue to work with financial advisors and the Agency Board regarding the amount, timing, and budget for a future bond issue.

Precise Development Plan –

The plans submitted as part of the proposed project constitute a Preliminary Development Plan. The next step associated with rezoning property to a Planned Development (PD) District entails development of a Precise Development Plan, which must be submitted for approval within one year of approval of the Preliminary Plan. The applicant may request up to two one-year extensions of time. Since the Preliminary Plan is limited in the information provided, the Planning Commission, per Code, must review and approve the Precise Plan. The process is primarily ministerial, outside the design review conducted by the Planning Commission. All other project submittals would be reviewed for consistency with the attached Conditions of Approval.

Prepared by:

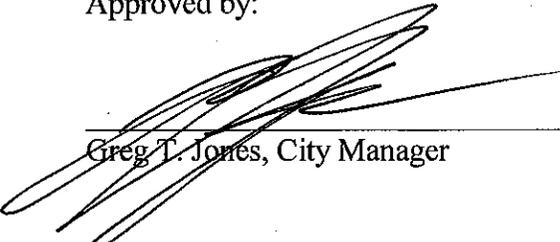

Richard E. Patenaude, AICP
Planning Manager


Maret Bartlett
Redevelopment Director

Recommended by:


David Rizk, AICP
Director of Development Services

Approved by:



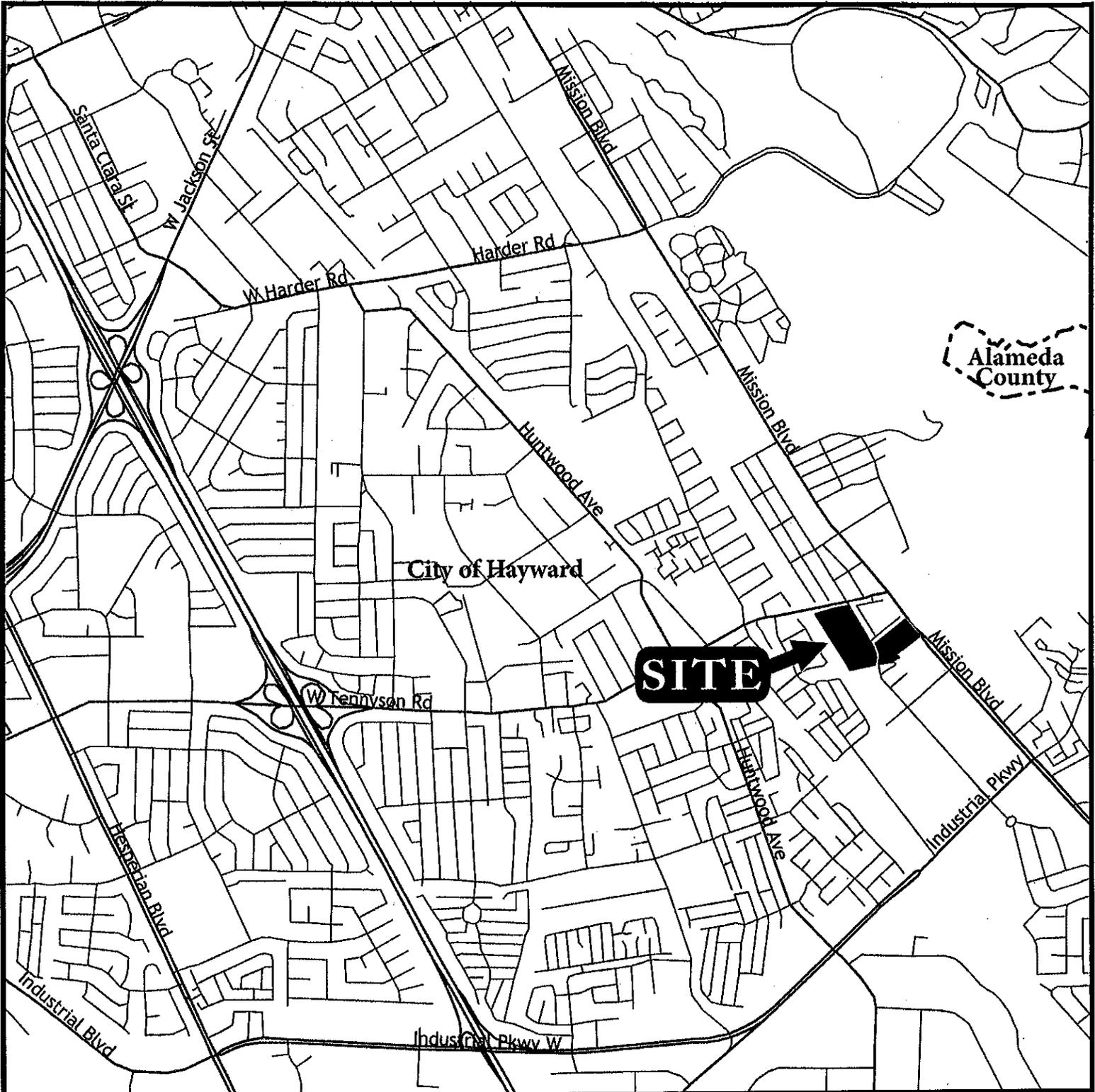
Greg T. Jones, City Manager

Attachments:

- Exhibit A: Aerial Photo (Vicinity)
- Exhibit B: Area/Zoning Map
- Exhibit C: S. Hayward BART/Mission Blvd. Concept Design Plan Map Section
- Exhibit D: Recommended Conditions of Approval
- Exhibit E: February 19, 2009 Planning Commission Meeting Minutes
- Exhibit F: February 19, 2009 Planning Commission Meeting Staff Report (including Mitigated Negative Declaration)

Plans

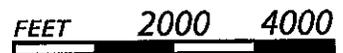
- Draft City Council Ordinance Related to the Proposed Zone Change
- Draft City Council Resolution Related to the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program
- Draft City Council Resolution Authorizing Submittal of Proposition 1C Infill Infrastructure Grant Application
- Draft Redevelopment Agency Board Resolution Authorizing RDA as Co-Applicant for Proposition 1C Infill Infrastructure Grant Application
- Draft Redevelopment Agency Board Resolution Approving Conditional Commitment of Funds

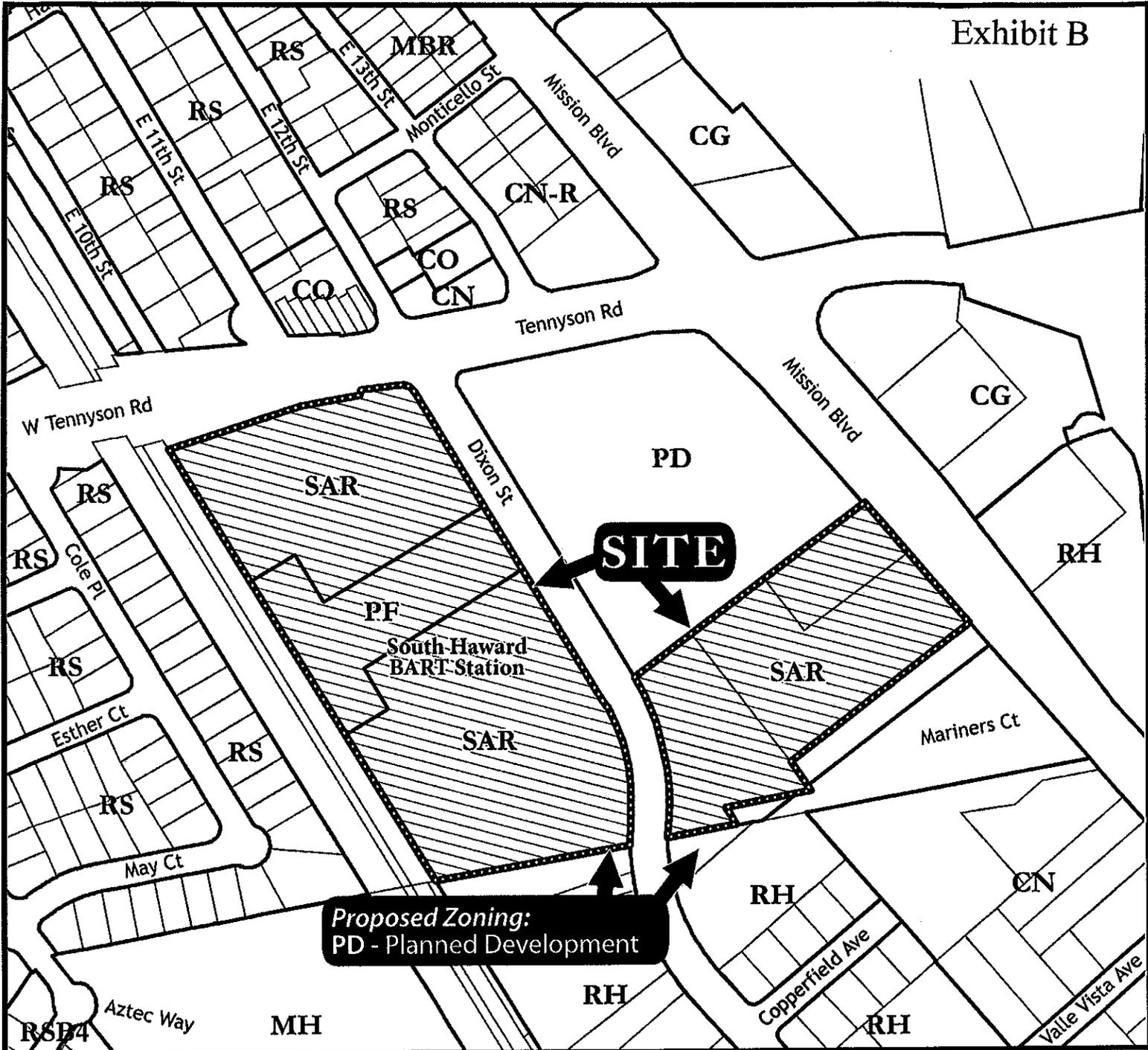


Vicinity Map

PL-2008-0547 PD

South Hayward BART Station





Area & Zoning Map

PL-2008-0547 PD

Address: South Hayward
BART Station

Applicant: Wittek Development

Owner: Kurt Wittek/BART

Zoning Classifications

RESIDENTIAL

- MH Mobile Home Park
- RH High Density Residential, min lot size 1250 sqft
- RS Single Family Residential, min lot size 5000 sqft
- RSB4 Single Family Residential, min lot size 4000 sqft
- MBR Mission Boulevard Residential
- SAR Station Area Residential

COMMERCIAL

- CG General Commercial
- CN Neighborhood Commercial
- CN-R Neighborhood Commercial/Residential
- CO Commercial Office

OTHER

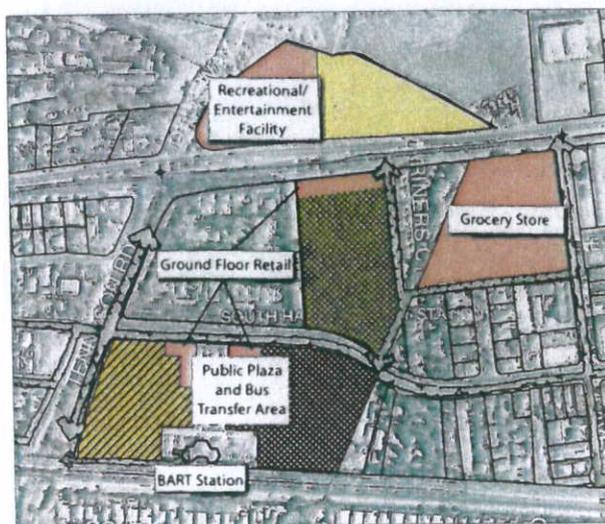
- PD Planned Development



3.3.4 Sub-Area #4 – BART Site and Vicinity

This sub-area is the core of the Plan area and provides the greatest opportunity for development of a transit village (see Figure 3-5). The Concept Plan supports this by allowing the highest residential density designation around the BART station properties. Neighborhood-serving retail services and amenities are also included in close walking proximity from the station, including a new grocery store and community center at Valle Vista Avenue and a recreation/entertainment center across Mission Boulevard at Tennyson Road. Pedestrian and bike connections are either improved along the existing streets, or introduced in locations that link the BART station with Mission Boulevard, the grocery store and the community center.

As shown in a conceptual illustrative plan (Figure 3-6), within the station property itself, the intermodal bus facility is envisioned to be reconfigured to both maximize development opportunities and better connect Dixon Street with the station building. Ground floor retail uses and entries to residential uses would line the looped entry road, with bus stops located on a central island. Along Dixon Street frontage public and semi-public uses associated with the development, such as offices and community rooms could front the street. BART patron parking would be allowed in the development on the southern side of the existing parking lot and within new development on the east side of Dixon Street. BART parking is precluded from the north side of the existing parking lot due to circulation and access constraints.



Legend	Densities
Station Area Residential (Resident Parking Only)	75.0 - 100.0 du/ac
Station Area Residential (BART/Resident/Tenant Parking Allowed)	75.0 - 100.0 du/ac
High Density Residential (HDR)	17.4 - 34.8 du/ac
Commercial (C)	n/a
Open Space/Multi-Purpose Trail (OS)	n/a

Figure 3-5 Sub-Area #4



Figure 3-6 BART Properties and Perry & Key Site Illustrative Plan

CONDITIONS OF APPROVAL

**SOUTH HAYWARD BART STATION DEVELOPMENT
28601 DIXON STREET
Zone Change Application No. PL-2008-0547 PD
Wittek Development LLC (Applicant)**

Planned Development District No. PL-2008-0547 PD to accommodate construction of a mixed-use development consisting of 788 multi-family residential units, including 206 units of affordable housing, a grocery store and other miscellaneous retail uses, and a 910-space BART parking garage shall be developed according to these conditions of approval and in substantial conformance with the preliminary development plan labeled in the City files as "Exhibit A." Prior to final inspection, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.

The Zone Change for the Planned Development District becomes void one year following the effective date of approval of the Preliminary Development Plan by the City Council, unless before that time, a Precise Development Plan is submitted. A one-year extension for the Preliminary Development Plan, approval of which is not guaranteed, may be granted by the City Council, provided the request for such extension is submitted at least 30 days prior to the expiration of the original approval. A request for a second one-year extension, approval of which is not guaranteed, may also be granted by the City Council, provided the request for such second extension is submitted at least 30 days prior to the expiration of the first extension.

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

Any proposals for minor alterations to the proposed site plan and/or design that do not require a variance to the Zoning Ordinance standards must be approved by the Planning Director prior to implementation.

Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed at no cost to the City of Hayward. The applicant/developer's engineer shall perform all design work unless otherwise indicated.

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

PRIOR TO APPROVAL OF THE PRECISE DEVELOPMENT PLAN

1. Prior to submittal of improvement plans and/or final map(s) for the development, a Precise Development Plan consistent with the approved Preliminary Development Plan shall be submitted for approval by the Planning Commission, and shall include detailed landscaping and irrigation plans, detailed plans for all site amenities, including decorative

paving, decorative electroliers, fencing, sign and entry features, detailed architectural and lighting plans, samples of exterior colors and building materials, and screening of all above-ground utilities, transformers and utility meters. The Precise Plan shall also reflect the ultimate configuration of the streets and other public improvements. The Precise Development Plan shall include/address the following:

- a. A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
- b. A color and materials board, consistent with that proposed with the preliminary development plan, shall be submitted for Planning Commission review and approval. No changes to colors shall be made after construction unless previously approved by the Planning Director.
- c. Decorative pavement shall be installed at the project entrances and at all interior private street intersections within the project. The Planning Director shall approve the material, color and design, and the City Engineer shall approve the pavement section.
- d. **Mitigation Measure 1:** Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas, including pathways. The Planning Commission shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of homes within the project. Lighting within the BART station plaza shall conform to BART standards.
- e. Regarding the architectural details/plans for submittal with the Precise Development Plan:
 - i. For the building proposed on Parcel 2, which is shown to exceed 60 feet in height, building design must be such that the Planning Commission makes the following findings: 1) the additional height makes a positive contribution to the overall character of the area and will be compatible with its surroundings in terms of site planning, scale, building design, color, exterior materials, roof styles, lighting, landscaping and signage; 2) the additional height will not result in unreasonable restrictions of light and air to adjacent properties or the public right-of-way; and 3) the additional height will support the policies and standards of the South Hayward BART/Mission Boulevard Concept Design Plan and will result in a better project. The following items would contribute to the ability to make these findings: 1) the provision of public art; and 2) a contribution towards the proposed community center at Mission Boulevard and Valle Vista Avenue, or at another location within the South Hayward BART/Mission Boulevard Concept Design Plan area.
 - ii. The ground floor of each mixed-use building should be proportionately higher and architecturally distinguished from the upper façade to afford generous and inviting commercial uses and to distinguish the change in use.
 - iii. Buildings on corner lots should give architectural emphasis to the building corner by incorporating a tower, plaza recess, or other architectural and urban design elements. Such elements should be well-proportioned in relation to the height of the building.
 - iv. Auto entries into buildings should be designed with articulation and detail similar to other window and door openings, such as jambs and headers.
 - v. Building form should provide a “base” and a “top” that are human-scaled.

- vi. Amenities shall be provided within the street/pedestrian corridor, connecting Dixon Street and the BART station, to support a pedestrian-oriented lifestyle, including, but not limited to, wireless access, tables and umbrellas.
 - vii. Store entries in retail sections should be spaced no farther than 50 feet apart. Entries should be recessed to enhance circulation space for pedestrians.
 - viii. Ground-floor residential units facing a street should be designed to ensure privacy, such as raised windowsill heights and elevated interior floor elevations.
 - ix. Residential lobby entries should be clearly defined and directly accessible from the main thoroughfare.
 - x. Where appropriate, accent lighting should be used to highlight interesting architectural features, signs, storefront displays, landscape features, and public art.
 - xi. Public art features, at a value of 1% of project construction costs for Parcels 1, 2 and 3, and the Perry & Key site, not including transit facilities and infrastructure improvements, shall be required and installed prior to build-out of the project. The design of such feature(s) shall be submitted with the Precise Development Plan.
 - xii. The senior housing project on Parcel 2 shall include multi-function rooms for passive recreation, which with on-site group open space, would total to an area of at least 20% of the building footprint.
- f. A street tree plan and landscape and irrigation plans shall be submitted for review and approval by the City, which shall include:
- ii. An overall landscape concept statement addressing the quality of the proposed landscape design, the quality of the pedestrian environment, safety, water conservation and stormwater treatment. Consult the South Hayward BART/Mission Boulevard Concept Design Plan for guidelines regarding development street landscape treatments and the quality of pedestrian environments.
 - iii. A comprehensive arborist report for all existing trees. The report shall be prepared by a licensed arborist and shall include the health, species, caliper, approximate height, canopy diameter and value using the latest edition of “Guide for Plant Appraisal” by the International Society of Arboriculture. Provide an ISA worksheet for each tree.
 - iv. Information providing the preliminary soil volume and structural support for the raised planters on the podium levels for trees and other planting.
 - v. A 24-inch box street tree provided at every 20-40 linear feet of street frontage.
 - vi. A table showing 1) total required and provided common open space for each parcel, and 2) total area of irrigated landscape area for each parcel.
 - vii. Conceptual plans for project entry monuments and identification signs.
 - viii. Plan showing the locations, types and description of enhanced paving throughout the project, as shown on the preliminary landscape plan.
 - ix. Conceptual plan showing linkages with nearby open space/park areas.
 - x. Conceptual plan for BART plaza improvements.
 - xi. Conceptual plan to “soften” the appearance of the structures on Parcels 2 and 4 with landscaping or alternative materials.

- xii. Screening for all above-ground utility equipment with either architectural or landscape features.
- g. Landscape plans shall specify site amenities such as, benches, tables, fencing, play equipment and barbecues, and public art for the common open space areas. The two Caltrans-owned properties adjacent to and south of the Perry & Key/BART overflow parking sites, and the emergency vehicle access area shown adjacent to Parcels 3 and 4 shall include pedestrian walkways and benches, and shall otherwise be developed to allow free-style play and recreation to meet the project's group open space requirements.
- h. Details of address numbers shall be provided. Address number shall be decorative. Building addresses shall be minimum 4-inch self-illuminated or 6-inch on contrasting background. Address numbers shall be installed so as to be visible from the street.
- i. All air conditioners and utility connections for air conditioners shall be located such that all external equipment is located within an area that can be screened, and located so as to minimize noise impacts on adjacent properties. Infrastructure for air conditioning systems is required to be installed as a standard feature.
- j. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened from the streets with minimum five-gallon shrubs and/or an architectural screen, to be approved by the Planning Director.
- k. No mechanical equipment shall be placed on the roof unless it is completely screened from view by the proposed roof structure. Roof apparatus, such as vents, shall be painted to match the roof color. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by Building Code.
- l. In accordance with the City's Tree Preservation Ordinance, trees shall be provided to mitigate for any protected trees that are removed, with such trees to be at least equal in value to the trees that are being removed. These mitigation trees are required to be in addition to any required street trees, screening trees, or parking lot trees.
- m. A phasing plan shall be submitted with the Precise Plan for approval by the Planning Commission, which shall include the possible phasing of common area improvements.
- n. Regarding circulation:
 - i. The plan must include a designated paratransit stop adjacent to the BART faregates, consistent with ADA standards.
 - ii. The placement of bollards may not interfere with the effective movement of vehicles or persons.
 - iii. The plan must indicate on-site bicycle circulation and its access to the City's existing and/or planned bicycle route network, particularly access from the station to the bicycle lanes on Dixon Street.
 - iv. Indicate how the planned future pedestrian/bicycle bridge across Tennyson Road would connect with pedestrian/bicycle access to the BART Station.
 - v. The driveway into the grocery store parking garage off Dixon Street shall be improved to ensure that right-in/right-out-only movements will be available for entering and exiting.
 - vi. Indicate how adequate provision of the kiss-and-ride and taxi area will be maintained to avoid conflicts.

- vii. Where pedestrian paths cross auto lanes, the path must be clearly delineated by contrasting color, pavement pattern, lighted pedestrian crosswalks and/or raised slightly to form a raised crosswalk.
- p. A subdivision map application shall be submitted in concurrence with a Precise Development Plan consistent with the approved Preliminary Development Plan for approval by the Planning Director and the City Engineer.
- q. A geotechnical report shall be submitted for review and approval by the City Engineer prior to approval of any tentative map or building permit applications. The report shall investigate the potential hydrostatic pressure exerted onto the underground parking structures and provide necessary mitigation measures.
- r. **Mitigation Measure 10:** Prior to approval of the Precise Plan, the applicant shall submit a noise study, prepared by a qualified acoustical engineer, that makes recommendations for construction techniques to be implemented within the residential units on parcel 2 and those that face Mission Boulevard on the Perry and Key property.
- s. **Mitigation Measure 11:** A site-specific acoustic report shall be prepared for the project. The report shall include a summary of existing noise levels, an analysis of potential noise exposure levels, consistent with City of Hayward noise exposure levels and specific measures to reduce exposure levels of indoor spaces and required outdoor open spaces to City of Hayward noise standards. The acoustical report shall be submitted as part of the Precise Plan application. Implementation of this mitigation measure will reduce impacts to a less than significant level.
- t. **Mitigation Measure 13:** The formation of a Community Facility District (CFD) shall be formed to pay for the cost of providing public services prior to occupancy of any residence. The developer shall post a deposit in the amount of \$10,000 with the City in concurrence with the submittal of the Precise Development Plan application to cover the City's costs for the formation of the CFD. The exact extent of the responsibilities and public services of the CFD shall be determined during the formation of the District. Formation shall be completed prior to occupancy of the first residential unit.
- u. The Precise Plan shall incorporate features encouraged to discourage crime, such as adequate lighting, visible and accessible areas, etc., and shall be reviewed and approved by the Hayward Police Department staff.
- v. An agreement between the developer, BART, the City, and Eden Housing, as appropriate, shall be executed regarding the consequences of partial or non-development of the project. Such agreement shall include requirements for project completion and timing. The developer shall obtain building permits and commence construction of Parcels 3N & 3S and 4 no later than five years beyond the date of the award of the Proposition 1C Infill Grant, and to complete the project for all residential development no later than eight years beyond the award of the Grant, unless otherwise mutually agreed upon by all parties.
- w. Concurrence by BART and AC Transit via formal agreements that their service needs will be met by the Plan and during construction shall be executed and submitted to the City prior to start of construction.
- x. An agreement between the developer and BART shall be executed regarding the land transaction elements, replacement parking and the Community Facilities District.

y. Regarding solid waste:

I. **General Comments**

1. **Trash Enclosures:** Trash enclosures with a roof are required (Federal Clean Water Act) and must be able to be serviced at street level, not below grade. Storage space for recyclables is required by state law and City regulations.
2. **Collection Requirements:** Collection vehicles will only service enclosures by following the direction of traffic and making right turns. Trucks will not make left turns on a street that would result in the truck obstructing on-coming traffic while servicing a trash enclosure.
3. **Servicing Containers Inside Enclosures:** Residential buildings will receive service between 6:00 a.m. and 6:00 p.m., Monday – Friday. If trash enclosures are sited close to residential units, residents must be apprised of the collection schedule since the hauler may not be able to accommodate a request for a later collection time. Trash containers at retail sites more than 200 feet from residences may be serviced between 5:00 a.m. and 7:00 p.m., Monday – Friday.
4. To facilitate service, on-site staff may remove and return all carts or bins for garbage or recyclables from trash enclosures, or the City's franchisee, Waste Management of Alameda County (WMAC), may do so. If on-site staff removes the containers, time-certain collection services would need to be scheduled with the City's franchisee to ensure that the containers are returned to the enclosure as soon as possible. If WMAC retrieves the bins from trash enclosures, WMAC will require a key or card key if enclosures are locked. Either arrangement will need to be made by calling (510) 537-5500. Locks are available from WMAC for a nominal fee. Bins can be serviced provided that curbs are collapsed.
5. **Trash Enclosure Dimensions & Layout for Retail and Residential Premises**
 - a. Dimensions of trash enclosures for various bin sizes, including equivalent storage space for recyclables:
 - 2cy bin: 10 feet deep x 10 feet long
 - 3cy bin: 10 feet deep x 12 feet long
 - 4cy bin: 10 feet deep x 15 feet long
 - b. If compactor bin(s) are proposed for some sites, then a larger trash enclosure will be needed to accommodate the larger space required for that bin type. The architect will need to obtain specifications for compactor bins from a leasing company and provide for City review.
6. **Layout**
 - a. A six-inch-wide curb or bumper along the interior perimeter of the enclosure walls to protect them from damage by containers.
 - b. A six-inch-wide curb or bumper, at least three feet long, between the garbage and recycling containers, in order to secure each container in its designated area.
 - c. A minimum space of 12 inches between the garbage and recycling containers and the walls of the enclosure to allow for maneuvering the containers.

- d. Enclosure gates that hinge from the right and left corners of the enclosure and open straight out to allow the bin(s) to be pulled straight out and returned to their original location.
 - e. Enclosures constructed on a flat area with no more than a 2% grade to ensure that the driver can adequately maneuver the bin(s) in and out of the enclosure.
 - f. Signage indicating that one-half of each enclosure is for “Recyclables Only”, while the other half is for “Garbage Only”. Signs must be posted at eye-level on the exterior gates, on the interior walls (if the enclosure fronts on public property), or both, or other highly visible place.
 - g. A concrete pad located just outside each enclosure is recommended in order to accommodate the weight of the truck while servicing the containers, since asphalt can fail over time at these locations.
7. Placement and Size of Trash Enclosures: Factors that were considered in determining number, size and general location of enclosures for garbage and recyclables include convenience to residents and businesses and space constraints due to the proposed layout. Regular collection services can be accommodated using bins that are smaller than those proposed but would require collection as often as 6x/week (Monday – Saturday; the maximum available), though increased services would result in more noise and increased use of the streets.
8. Retail Garbage and Recyclables Service
- a. Trash enclosures are required for each of the retail sites. Occasionally, businesses share a trash container, though most prefer not to do so.
 - b. Recommended garbage service for restaurants (fast-food or some combination of sit-down services): 4cy bin serviced 3-6x/week; book stores, gift/print shops and similar services assumed for the sites shown typically require a 2 or 3cy bin serviced one or more times weekly.
 - c. Each enclosure must allow equivalent storage space for recyclables.
9. Residential Garbage and Recyclables Service
- a. Recommended Options for On-Site Storage of Trash and Recyclables
 - i. Require Residents to Deliver Trash and Recyclables to Designated Trash Enclosures using Steps or Elevators. Trash enclosures located equidistant from one another provide convenience and help to reinforce good habits to properly dispose of unwanted items.
 - ii. Storage Rooms on Each Floor for Garbage & Recyclables Serviced by On-Site Maintenance Staff: On-site staff would empty the carts containing garbage into compactor bin(s) or if only one trash enclosure is provided for each parcel to minimize the inconvenience created for residents’ units that are the most distant from the single enclosure. Storage rooms would use 96-gallon carts for trash and recyclables provided by WMAC. All carts would have decals provided by WMAC indicating proper use.
 - b. Options **NOT** Recommended for On-Site Storage of Trash and Recyclables
 - i. Install Compactor Bin(s) or Roll-off Compactor(s) for Garbage: If a compactor bin or compactor is proposed, on-site staff would be required

to retrieve the carts and empty the contents into the compactor to eliminate access by residents to this equipment. This option may not be required if changes to the site plans can be made to accommodate the recommended number of enclosures and collection vehicles. Doing so would avoid the additional expense to construct, install and maintain the compactors. It is also very difficult to visually evaluate effective recycling programs when using compactor bins since the storage units may not be opened.

- ii. Construct Chutes for Garbage Collection Accessible to Residents on Each Floor: The door to each chute would need to have signage provided by the property manager indicating acceptable and unacceptable items. Chutes must be three feet in diameter to avoid obstructions. On-site staff would remove obstructions from the chutes, secure the bins so that they remain at the bottom of each chute, monitor the fill-rates of the trash bins, remove bins filled with trash and replace with empty bins, and push the filled bins to the trash enclosure. Chutes may only be used to collect garbage, not recyclables, since bins are not available to store and collect recyclables. If chutes are installed, storage areas on each floor would be required for recyclables and would need to be serviced by on-site staff.

II. **Parcel 1: Affordable Housing Over Retail**

1. Retail Garbage and Recyclables Collection: Includes proposed grocer, and two other retail stores with square footage from 1,500 - 2,000 SF.
 - a. Compactor for grocer: Maximum capacity to ensure that it can be serviced: 30cy; loading height required: 30 feet since the compactor will be serviced at a below-grade loading dock.
 - b. Large supermarket chains typically install a downstroke baler to bale cardboard boxes for backhaul to their distribution centers for recycling. State law also requires that such stores accept plastic grocery bags from the public for recycling, if they provide such bags to customers (See <http://www.ciwmb.ca.gov/LGCENTRAL/Basics/PlasticBag.htm>). Such material may also be backhauled, either in large plastic bags or in bales. Balers should be installed indoors with adequate fire suppression features for storage of loose and baled materials. Baled materials may not be stored outside. Some supermarket chains, including Safeway, are backhauling waste produce, which is composted in Southern California (See <http://www.jgpress.com/archives/free/001527.html>).
2. Residential Garbage and Recyclables Collection: 165 Units
 - a. Recommend four trash enclosures, each measuring 10x12 feet, two for each of the two, three-story residential complexes and located near each of the four ends of the multi-family complex. Residents would carry their trash and recyclables to the designated enclosures.
 - b. All bins for trash would be 3cy and would require service 2x/week. Layout would be as described in 5.b.

III. Parcel 2: Residential Over Parking Structure

1. Residential Garbage and Recyclables Collection: 65 Units
 - a. Recommend two trash enclosures, each measuring 10x12 feet, one near each end of the three-story residential complex. Residents would carry their trash and recyclables to the designated enclosures.
 - b. All bins for trash would be 3cy and would require service 2x/week. Layout would be as described in 5.b. *Trash Enclosure Dimensions & Layout*.
2. Retail Garbage and Recyclables Collection: One 1,920 SF retail – Trash enclosure dimensions and layout are described under General Comments, 5.a. and b. *Trash Enclosure Dimensions & Layout*.

IV. Parcel 3N: Residential; 138 Units

1. Recommend four trash enclosures, each measuring 10x15 feet, two located near each end of the two, three-story residential complexes. Residents would carry their trash and recyclables to the designated enclosures.
2. Trash bins would be 4cy and would require service 2x/week. Layout would follow 5.b. *Trash Enclosure Layout*.

V. Parcel 3S: Residential; 103 Units

1. Recommend three trash enclosures each of which would measure 10x12 feet.
2. Two on the street between Dixon and the BART parking structure; both enclosures should be near but not at each end of the complex for residents' convenience.
3. Enclosure #3 should be located near the intersection of Dixon and the entrance to the below-grade parking. Recommend enclosure not be visible from Dixon to avoid illegally-dumped trash.
4. Residents would carry their trash and recyclables to the designated enclosures.
5. Trash bins would be 3cy and would require service 3x/week. Layout would follow 5.b. *Trash Enclosure Dimensions & Layout*.

VI. Parcel 4: Perry Site Residential (341 Dwelling Units and Four Retail Sites)

1. Building 1 (116 Units)
 - a. Recommend three enclosures each measuring 10x15 feet and located as follows:
 - i. Two on Dixon located at opposite ends of the dwelling units; both enclosures should be near but not at each end for the residents' convenience.
 - ii. Enclosure #3 should be located nearer the 25 dwelling units, rather than the proposed location near the B-2 garage entrance. However, if only two trash enclosures can be sited (i.e., one on Dixon and the other in the proposed location) due to the garage entrance and property line, then service to those 25 dwelling units would be inconvenient, but may not pose any other problems.
 - b. Residents would carry their trash and recyclables to the designated enclosures. Layout would follow 5.b. *Trash Enclosure Dimensions & Layout*.
2. Building 2 (85 Units):
 - a. Recommend two enclosures, each measuring 10x12 feet, and located at opposite ends of the building site, i.e., along the fire lane and near the

- property line. If the only trash storage area available is along the fire lane, then service to the 85 dwelling units would need to be a minimum of 4 or possibly 5 times per week. This level of anticipated service is not recommended since service could only be increased to 6 times per week, i.e., Monday - Saturday. To store the significant amount of trash generated, the only other option would be to require on-site staff to remove trash from storage areas (located on each floor of each building) and empty the contents into a compactor bin, as described in 9.b., *Options Not Recommended for On-Site Storage*.
- b. Residents would carry their trash and recyclables to the designated enclosures.
 - c. The two 3cy bins for trash would require service 3 times each week. Layout would follow 5.b. *Trash Enclosure Dimensions & Layout*.
3. Building 3 (80 Units):
- a. Recommend two enclosures, each measuring 10x15 feet, and located at opposite ends of the building site, i.e., along the fire lane and near the property line. If the only trash storage area available is along the fire lane, then service to the 80 dwelling units would need to be 4 or possibly 5 times per week. This level of anticipated service is not recommended since service can only be increased to 6 times per week, i.e., Monday - Saturday. To store the significant amount of trash generated, the only other option would be to require on-site staff to remove trash from storage areas (located on each floor of each building) and empty the contents into a compactor bin, as described in 6.B., *Options Not Recommended for On-Site Storage*.
 - b. Residents would carry their trash and recyclables to the designated enclosures.
 - c. The two 4cy bins for trash would require service 2x/week. Layout would follow 5.b. *Trash Enclosure Dimensions & Layout*.
4. Building 4 (60 Units):
- a. Residential Trash and Recyclables Collection
 - i. Recommend two enclosures, each measuring 10x10 feet, and located at opposite ends of the building site, i.e., along the two fire lanes. None is recommended on Mission Boulevard for residents' use to minimize illegal dumping. If the only trash storage area available is along the fire lane between Dixon and Mission Boulevard, then service to the 60 dwelling units would need to be 4 or possibly 5 times per week from an enclosure that would need to measure 10x15 feet to accommodate a 4cy bin for garbage. This level of anticipated service is not recommended since service can only be increased to 6 times per week. To store the significant amount of trash generated, the only other option would be to require on-site staff to remove trash from storage areas (located on each floor of each building) and empty the contents into a compactor bin, as described in 9.b., *Options Not Recommended for On-Site Storage*.
 - ii. Residents would carry their trash and recyclables to the designated enclosures.

- iii. The two 2cy bins for trash would require service 3 times each week. Layout would follow 5.b. *Trash Enclosure Layout*.
- b. Four Retail Sites: Estimated trash generation rates for each of the two retail sites are described in Section i, *General Comments*. See also Section 5.a., *Trash Enclosure Dimensions & Layout*.

PRIOR TO APPROVAL OF, OR RECORDATION OF, THE FINAL MAP(S)

IMPROVEMENTS

Improvement plans, including a hydrology map and drainage calculations, and erosion and sediment control plan, a landscaping and irrigation plan, and street lighting plan, shall be submitted to the City Engineer for review and approval. Subject plans shall, in addition to the standard improvements, incorporate the following special design requirements:

Streets

1. An Encroachment Permit must be obtained prior to the start of any construction within the City of Hayward rights-of-way.
2. An Encroachment Permit must be obtained from the California Department of Transportation (CalTrans) prior to the start of any construction within their right-of-way.
3. Any damaged and/or broken sidewalks along the property frontages shall be removed and replaced as determined by the City inspector.
4. Upon any necessary repairs to the facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the homeowners association or commercial property owners association established to maintain the common areas within the subdivision boundary.
5. The site plan shall be reviewed with the Fire Department and Engineering and Transportation Division to ensure that the street and driveway layout is adequate to provide access for emergency, service and utility vehicles, and other commercial trucks. Changes may be necessary including increasing corner radii, driveway widths or intersection alignments.
6. The developer shall implement the signing and striping for the interior streets as shown on the site plan dated January 26, 2009. Signing and striping plans shall be approved by the City Engineer.

Mission Boulevard

7. Existing utilities shall be placed underground.

8. Mission Boulevard frontage improvements shall be consistent with the City's Route 238 Corridor Improvement Project plans. Required improvements, including streetlights, shall be installed, and paid for, by the developer at the time of construction on Parcel 4.
9. New decorative street lights shall be installed along the Mission Boulevard street frontage. The design and location shall be shown on the improvement plans and approved by both the Planning Director and City Engineer.

Tennyson Road

10. **Mitigation Measure 14:** The following improvements to the Dixon Street/Tennyson Road intersection shall be made to reduce impacts to an acceptable level: (1) provide split phasing on the Northbound and southbound approaches; (2) provide a right turn overlap (green arrows when the cross-street protected left phases are active) on the Southbound right turn; (3) restripe the northbound approach to provide an exclusive left turn lane and a shared through/right turn lane and prohibit on-street parking; (4) prohibit on-street parking on the southbound approach between the intersection and the driveway for the adjacent townhouses, a distance of about 100 feet back from the cross-walk; and (5) provide protected+permitted phasing for the eastbound and westbound left-turns. Implementation of this mitigation measure will reduce impacts to a less than significant level. Prior to construction, the design will be approved by the City Engineer. The developer will be responsible for 100% of the design and construction costs for this mitigation.
11. Handicap ramps shall be installed where required by the City Engineer.
12. Existing utilities shall be placed underground.
13. Decorative pavements shall be capable of supporting a 50,000 lb. gross vehicle weight load. Curb returns shall have a minimum radius of 30 feet at the curb face.
14. The entry features, signs and monuments shall be designed to not impede sight distances.
15. New decorative streetlights shall be installed along the Tennyson Road street frontage. The design and location shall be shown on the improvement plans and approved by both the Planning Director and City Engineer.

Dixon Street

16. New decorative street lights shall be installed along the Dixon Street frontage. The design and location shall be shown on the improvement plans and approved by both the Planning Director and City Engineer.
17. The existing curb, gutter and sidewalk shall be replaced.
18. The developer shall construct a traffic signal at the intersection of Dixon Street and the southern entrance into the project (BART parking structure). The design of the traffic signal shall be approved by the City Engineer. The developer is responsible for paying 100% of the cost of design and construction of this signal.

19. Signage at the signalized intersection shall indicate the direction to the BART parking structure.

Interior Public Streets

20. Street intersections shall be designed and constructed per City Standard Detail SD-110A.
21. All interior streets within the development shall be private. The curb return radius shall be 30 feet from the face of the curb, except as otherwise permitted by the City Engineer to allow for truck and bus turning movements.
22. The sidewalk segments on either side of the northwesterly auto entrance to the grocery store parking garage shall be eliminated, as well as the crosswalk at that entrance, except to allow for access to required exits and service entries.
23. Decorative on-site private streetlights shall be installed along all interior streets. Pedestrian lighting shall be provided throughout the development, including interior walkways, to enhance safe pedestrian movement. The location of the lights shall be shown on the improvement plans and shall be approved by the City. Selected fixtures shall minimize “spill-over” lighting on adjacent properties that are not part of the development. Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association and shall have a decorative design approved by the Planning Director and the City Engineer.
24. The party/parties responsible for the maintenance of all interior streets, traffic control, signage and amenities shall be identified.
25. A reciprocal agreement for ingress and egress, and parking, shall be executed between all involved parties, and that document shall be provided to the City for review and approval prior to approval of improvement plans.

Parking and Driveways

26. The applicant/developer shall provide sufficient parking spaces for the development to meet the requirements of the City of Hayward Municipal Code, and of BART for its parking structure. Parking stall dimensions and driveways shall meet City requirements as approved by the Planning Director and City Engineer, or as approved by BART for its parking structure.
27. The applicant/developer shall provide a deposit equal to the cost of funding a neighborhood parking survey, as determined by the Director of Public Works, to determine if adequate parking has been provided and whether any deficiency in parking has created parking impacts outside of the project area.
28. ADA compliant parking stalls and loading areas, and handicap ramps and accessible pathways shall be provided throughout the project, per federal and state standards and exceptions.

29. The entry drives of the grocery store and BART parking garages shall be designed to eliminate conflicts with movements into and out of parking spaces, as approved by the City Engineer.
30. Parking for residential uses shall not exceed one space per studio or one-bedroom unit, or 1.3 spaces for units with two or more bedrooms.
31. Parking for non-residential uses shall be provided at a minimum of one space per 315 square feet of gross floor area.

Landscaping and Irrigation

32. Prior to the approval of the improvement plans, a detailed landscaping and irrigation plan for all common areas, front yard areas to fence lines and all rear slope areas shall be prepared by a licensed landscape architect and submitted for review and approval by the City's Landscape Architect. Planting and irrigation plans shall comply with the City's *Hayward Environmentally Friendly Landscape Designs & Checklist*.
33. Prior to issuance of building permits for Parcel 1, the developer shall form a Landscape and Lighting District to fund operation and maintenance of common areas within the development. Prior to approval of the first final map, the developer shall provide a \$10,000 deposit to the City to cover the costs associated with formation of the District. The exact limits of responsibility for the District will be determined during processing of the Precise Plan for the development.
34. Within all required landscape areas, a complete automatic sprinkler system with an automatic on/off mechanism shall be installed. A hose bib shall be provided within each private open space area.

Storm Drainage

35. The on-site storm drain system within the development, excluding that located within the public right-of-way, shall be a private system owned and maintained by the homeowners association or property owners.
36. The Hydrology and Hydraulics Criteria Summary, Alameda County Flood Control and Water Conservation District, latest edition shall be used to determine storm drainage runoff. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be reviewed and approved by the Alameda County Flood Control and Water Conservation District and the City Engineer. Development of this site is not to augment runoff to the District flood control facility downstream, Zone 3A, Line D. The hydrology study shall substantiate that there will be no net increase in the quantity of runoff from the site versus the flow rate derived from the original design of Line D and any augmented runoff will need to be mitigated on-site.
37. The proposed realignment of Alameda County Flood Control & Water Conservation District (Flood Control District), Zone 3A, Line D project, a 72-inch storm drain pipe

- traversing BART's parking lot shall be reviewed and approved by the Flood Control District prior to the approval of improvement plans by the City.
38. An encroachment permit shall be obtained from ACFC&WCD prior to commencement of any work within the Flood Control District right-of-way and for the construction, modification or connection to District-maintained facilities. All workmanship, equipment and materials shall conform to District standards and specifications.
 39. **Mitigation Measure 8:** The applicant shall prepare a storm drainage report that includes storm drain calculations associated with expected runoff and downstream drainage facilities and remediate if necessary, to determine adequacy to serve the proposed development. The storm drainage report shall be reviewed and approved by the Hayward Public Works Department staff and Alameda Flood Control and Water Conservation District staff prior to approval of the improvement and grading plans. Implementation of this mitigation measure will reduce impacts to a less than significant level.
 40. **Mitigation Measure 9:** A site-specific drainage plan shall be prepared for the project area prior to approval of the associated grading and improvement plans. The report shall include a summary of existing (pre-project) drainage flows from the project site, anticipated increases in the amount and rate of stormwater flows from the site and an analysis of the ability of downstream facilities to accommodate peak flow increases. The analysis shall also include a summary of new or improved drainage facilities needed to accommodate stormwater increases. The drainage plan shall be reviewed and approved by the Hayward Public Works Department staff and Alameda Flood Control and Water Conservation District staff prior to approval of the improvement and grading plans. Implementation of this mitigation measure will reduce impacts to a less than significant level.
 41. The developer shall provide a copy of the Notice of Intent filed with the State Water Resources Control Board, prior to the issuance of a grading permit for the project site.
 42. The project plans shall include storm water measures for the operation and maintenance of the project to be approved by the City Engineer. The project plans shall identify and incorporate Best Management Practices (BMPs) appropriate to the uses conducted onsite to effectively prevent the entry of pollutants into storm water runoff. Roof leaders shall discharge into a landscaped area prior to storm runoff entering a pipe system. **Mitigation Measure 2:** The applicant shall employ the following basic and enhanced control measures during site construction to address potential temporary air quality impacts: (a) water all active construction areas at least twice daily; (b) cover all trucks hauling soil, sand, and other loose materials; (c) pave, apply water three times daily, or apply soil stabilizers on all unpaved access roads, parking areas and staging areas; (d) sweep daily all paved access roads, parking areas and staging areas; (e) sweep streets daily if visible soil material is carried onto adjacent public streets; (f) hydro seed or apply soil stabilizers to inactive construction areas or previously graded areas that are inactive for ten or more days; (g) enclose, cover, water twice daily or apply soil binders to exposed stockpiles of dirt, or sand; (h) limit traffic speeds on unpaved roads to 15mph; (i) install sandbags or other erosion control measures to prevent silt runoff to public roadways; (j) replant vegetation in

disturbed areas as quickly as possible; (k) install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site; and (l) suspend excavation and grading activity when winds exceed 25mph. Implementation of this mitigation measure will reduce the impact to a less than significant level.

43. The developer shall prepare a Maintenance Agreement for storm water BMP's constructed as part of this project. The Maintenance Agreement shall be reviewed and approved by the City prior to recordation with the Alameda County Recorder's Office. The Agreement shall be recorded to ensure that the responsibility for maintenance is bound to the property in perpetuity.
44. The project streets, driveways and parking areas shall be designed to facilitate street sweeping, including the layout of the tree and handicap ramp bulb-outs.
45. The project plan measures shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
46. The developer is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop work order.
47. The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the hydrology design shall clearly indicate all the areas tributary to the project area. The developer is required to mitigate augmented runoffs with off-site and/or on-site improvements.
48. All storm drain inlets must be labeled "No Dumping - Drains to Bay" using City approved methods.
49. Storm water inlets shall be installed at the curb face per the City of Hayward Standard Details. The design and location shall be approved by the City Engineer.

Sanitary Sewer System

50. Sanitary sewer service is available subject to standard conditions and fees in effect at the time of application.
51. The development's sanitary sewer mains and manholes, where located on BART or State owned parcels, shall be public, owned and maintained by the City. In the Perry/Key parcel, the sewer main and manholes in the roadway along the northwest property line shall also be public. Where public sewer mains and manholes are located in an unpaved easement, an all-weather utility truck accessible surface must be provided.
52. All public sewer mains, building court mains, building sewers and appurtenances, shall be constructed in accordance with the City's "Specifications for the Construction of Sewer

Mains and Appurtenances (12” Diameter or Less),” latest revision at the time of permit approval.

53. The proposed development will impact the existing City of Hayward Wastewater Collection System. The Development shall be responsible for its share of upsizing downstream sewer mains that have been identified by City staff as having inadequate capacity as a result of the Development’s impact, and such share shall be determined by the City.
54. Per Section 11-3.501, “Parcel Frontage Extension for Sewer Mains,” of the City Municipal Code, the applicant/developer is required to construct roughly 830 lf of 8” sewer main in Dixon St., from the existing manhole at Sea Mist Ct. towards Tennyson Rd.
55. To better distribute the impact the development will have on the City’s Wastewater Collection System, the development’s sewer system shall be designed to discharge wastewater to both the existing sewer main in Tennyson Rd. and the new sewer main to be constructed in Dixon St.
56. Each building and retail or commercial space with wastewater shall have an individual sanitary sewer lateral, at a minimum.
57. Any food service establishment shall install a grease control device to control the discharge of fat, oil and grease (grease trap or grease interceptor), unless this requirement is expressly waived by the Director of Public Works. The type, size and location of the device shall be approved by the Deputy Director of Public Works.

Water System

58. Water service is available from the City and is subject to standard conditions and fees in effect at the time of application.
59. All public water mains shall be constructed in accordance with the City’s “Specifications for the Construction of Water Mains (12” Diameter or Less) and Fire Hydrants,” latest revision at the time of permit approval.
60. The existing South Hayward BART station site is currently served by an 8” water main that connects to the 8” water main in Dixon St. and dead ends at a fire hydrant near the middle of the site. This existing water main will be insufficient for the proposed development. The proposed development will impact the existing City water system. To mitigate this impact and provide the area with sufficient fire flows for the proposed structures, the applicant/developer shall construct approximately 1800 LF of new 12” public water main that connects to the existing 12” water main in Tennyson Rd., heads southeast across the South Hayward BART site, turns and heads northeast between parcels 3N and 3S, connects to the existing 8” water main in Dixon St., continues northeast across the Perry/Key parcel and connects to the existing 12” water main in Mission Blvd. Additional public water mains may be needed to provide water service to other areas of the development, as determined by the Director of Public Works and the Fire Chief.

61. The existing South Hayward BART 8” water main shall be abandoned and removed where it connects to the existing 8” water main in Dixon St, by City Water Distribution personnel at the applicant’s/developer’s expense. The existing on-site 8” and 6” asbestos cement water mains shall be removed and disposed of by the applicant/developer in accordance with State and Federal (EPA) requirements.
62. The development’s water mains shall be public, owned and maintained by the City. The water mains shall be configured in a looped system and located 5 feet from the face of curb.
63. Where a public water main is in an unpaved easement or under decorative, stamped, or colored concrete (including turf-blocks), the water main shall be constructed of ductile iron. Shut-off valves are required where a water main transitions from a paved area to an unpaved easement.
64. Each dwelling unit and retail or commercial space shall have an individual domestic water meter.
65. Separate irrigation water meters shall be installed for landscaping purposes.
66. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each commercial and irrigation water meter, per City Standard SD-202.
67. All fire services shall have a Double-Detector Check and Trim/Fire meter installed by City Water Distribution Personnel at the applicant’s/developer’s expense, per City Standard SD-204. Minimum sizing shall be per Fire Dept. requirements.
68. All domestic, commercial and irrigation water meters shall be Radio-Read type.
69. Water meters and services shall be located a minimum of two feet from the top of driveway flairs, per City Standard Detail SD-213 thru SD-218.
70. Water mains and services, including the meters, must be located at least 10 feet horizontally from and one foot vertically above, any parallel pipeline conveying untreated sewage (including a sanitary sewer laterals), and at least four feet horizontally from and one foot vertically above any parallel pipeline conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade piping materials.

Utilities

71. All utility services shall be "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T, and Comcast regulations. Transformers, and switch gear cabinets, shall be placed underground unless otherwise approved by the Planning Director and the City Engineer. Underground utility plans must be submitted for City approval prior to installation.
72. The developer shall submit conceptual undergrounding plans with the Precise Plan submittal.

73. The developer shall provide and install the appropriate facilities, conduit, junction boxes, etc., to allow for installation of a City-owned and –maintained fiber optic network within the subdivision.
74. All proposed surface-mounted hardware (fire hydrants, electroliers, etc.) along the proposed streets shall be located outside of the sidewalk within the proposed Public Utility Easement in accordance with the requirements of the City Engineer or, where applicable, the Fire Chief.
75. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.

Fire Protection

76. The new site and circulation plan submitted appears to be suitable with the exception of the south areas of the Perry and Key mixed use residential / commercial project, as well as the west side of Parcel 2 (residential over parking structure) and Parcel 4 (BART Parking structure) where access is restricted on one side of the buildings mentioned above. Areas where access is restricted or ladder operations and aerial ladder operations are not possible, shall provide features matching the high rise requirements of the 2007 CFC and CBC, in order to make fire fighting operations possible including rescue and evacuation of the building. A request has been made to omit the installation of an emergency generator as one of the construction features matching the high rise requirements of the 2007 CFC and CBC. The request will be entertained at the time of construction plans submittal with an official AMP request to the Fire chief.
77. Fire department operations required to use a 26' access roadway with a 13'-6" vertical clearance in areas where the building exceeds 35' in height. All finished surface of fire department access roadways shall be designed and engineered to withstand the GVW of 50,000 lbs. Fire department access from the podium shall be in such way as to present a safe access way from grade level, up through the exterior stairwell to the podium to allow firefighters for safe laddering operations at the podium level. Roof firefighting operations will be performed from the 26' fire department access, providing the roof line of all buildings is accessible from the fire department access roadways.
78. Existing fire hydrants and fire flows need to be noted on improvement plans. Fire flows of the total square footage of the buildings will be verified at the time of submittal to identify the need for the fire hydrant spacing requirements. Fire hydrants on Commercial/High density projects need to be spaced within 300 feet of each other. The fire hydrants shall be capable of delivering a fire flow of 5000 GPM @ 20 PSI. (50% reduction of the fire flow is allowed due to the buildings being protected with an automatic fire sprinkler system thus the fire flow per fire hydrant shall be 2500GPM @ 20 PSI). New private fire hydrants shall be Modified Double steamer with (1) 4-1/2" outlet and (1) 2-1/2" outlet. Public fire hydrants shall be equipped with (2) 4-1/2" outlets and (1) 2-1/2" outlet. Blue reflective fire hydrant blue dot markers shall be installed on the roadways indicating the location of the fire hydrants. Vehicular protection may be required for the fire hydrants.

79. Underground fire service lines shall be reflected on the plans, establishing the locations of each underground fire service line for the commercial structures as well as the multi-family buildings, including underground fire sprinkler laterals, locations of PIV, FDC and fire hydrants. Installation of underground fire service line shall be installed as per NFPA 24 and COH Standard Requirements. Underground fire service lines shall be looped.
80. The proposed structures within this development shall be protected with an automatic fire sprinkler system as per NFPA 13 Standards. Buildings shall be provided with not less than one standpipe for use during construction. Such standpipe shall be provided with fire department hose connections at accessible locations adjacent to such usable stairs. Standpipe systems shall be extended as construction progresses. At each floor landing a 2-1/2" valve outlet shall be provided for fire department use as well as inside the corridors of every floor. Where construction height requires the installation of class 1 standpipe, fire pumps and water main connections shall be provided to serve the standpipes. Standpipes shall be accessible in the finished building in the stairwells and interior corridors. Design and installation of the class -1 wet standpipe systems shall be in conformance with NFPA-14 Standards. Underground fire service laterals for fire sprinkler systems as well as fire department connections and post indicators valves shall be installed in acceptable locations as approved per the fire department.
81. Fire alarm system shall be provided as per NFPA 72 Standards for all buildings within the complex. Individual buildings shall be provided with their own designated fire alarm and each fire sprinkler system riser shall have exterior local alarm bell(s). Interior notification device(s) shall be installed within each living unit and within the commercial spaces. The alarm shall be activated upon any fire sprinkler system waterflow activity.
82. A manual and automatic fire alarm (evacuation) system shall be required for the buildings. The system shall include common areas, smoke detectors, manual pull stations and audible and visual devices. The system shall also meet ADA compliance and elevator recall system.
83. Each building with residential units shall have its own fire alarm addressing and its own fire control center tied into a PA system/ alarm enunciator system/ evacuation system.
84. Each building with residential units shall have its own fire alarm addressing and its own fire control center tied into a PA system/ alarm enunciator system/ evacuation system.
85. Pressurization/smoke removal/ rated corridors or any other building features that would be provided for high rise buildings would have to be incorporated to any floors where fire department ladder operations are not possible due to building construction features that would impede the deployment of the ladders or aerial ladder operations for rescue or fire fighting operations. These features may include any part of the building exceeding 30' (Feet) in height from a fire apparatus access where the Fire Marshal feels it is essential to the safe evacuation of residents and firefighting operations during an actual fire situation.
86. Building exiting requirements shall meet the latest adopted edition of the 2007 CBC, Chapter 10, or such code in effect at the time of submittal of building permit applications.

87. Extinguisher placement shall conform to CFC, Chapter 9.
88. Address and premise identification approved numbers shall be placed on all buildings in such a position as to be plainly visible and legible from the road or street fronting the property. Dimensions of address numbers or letters on the front of the buildings shall be approved by the Fire Department.

Dedications, Easements and Deed Restrictions

89. The final map shall reflect:
 - a. Six-foot-wide public utility easements (PUE) along the edge of the public/private streets where necessary as determined by the City Engineer.
 - b. Dedication of all right-of-way and easements for the new water main extension, including access roads.

Subdivision Agreement

90. Execute a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements per Section 10-3.332, Security for Installation of Improvements, of the Municipal Code. Insurance shall be provided per the terms of the subdivision agreement.

PRIOR TO ISSUANCE OF GRADING PERMITS

91. **Mitigation Measure 4:** Prior to any grading or site earthwork, the applicant shall submit an Erosion and Sediment Control Plan to the City for review and approval, as part of improvement plans. The Plan shall incorporate measures consistent with the City's Grading Ordinance and Best Management Practices for construction projects. Implementation of this mitigation measure will reduce impacts to a less than significant level.
92. **Mitigation Measure 6:** Prior to construction/grading permits being issued and a certificate of occupancy being granted, the applicant shall obtain environmental and health based clearances from the department of Toxic Substances and Hayward Fire Department-Hazardous Materials Section. Some allowances for grading or construction may be granted if specifically requested in writing and allowed by the Department of Toxic Substances Control and the Hayward Fire Department.
93. **Mitigation Measure 7:** The applicant shall submit an erosion and sediment control plan and a stormwater pollution prevention plan (SWPPP) as part of the Grading and Improvement Plan application submittal, utilizing best management practices in accordance with the Alameda County Clean Water Program NPDES Permit Section C.3, including but not limited to limiting periods during which grading occurs.
94. **Mitigation Measure 12:** A Construction Noise Management Plan shall be prepared for the project. The plan shall specify measures to be taken to minimize construction noise on

surrounding developed properties. The Noise Management Plan shall be approved by City staff prior to issuance of grading or building permits and shall contain, at minimum, a listing of hours of construction operations, a requirement for the use of mufflers on construction equipment, limitation on on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in appropriate contractor plans and specifications. Implementation of this mitigation measure will reduce impacts to a less than significant level.

95. The developer shall complete a Development Building Application Form Information comprised of 1) Impervious Material Form and 2) Operation and Maintenance Information Form.
96. A copy of the Notice of Intent (NOI) from the State Water Resources Control Board shall be provided to the City.
97. Prior to the issuance of a grading permit, the developer shall provide a tree preservation bond, surety or deposit, equal in value to the trees to be preserved on the site that are within 50 feet of any grading or construction. The bond, surety or deposit shall be returned when the tract is accepted if the trees are found to be in a healthy, thriving and undamaged condition, as determined by the City's Arborist.
98. Trees shall be preserved in accordance with the Tree Preservation Ordinance. Prior to the issuance of a grading or building permit, all trees to be preserved or removed shall be indicated on the grading, site and landscape plans, and trees to remain in place shall be noted and provided with tree protection measures in compliance with City codes and per tree preservation guidelines, including installation of tree protection fencing prior to the start of grading, as recommended by the project consulting arborist. A tree removal permit is required prior to the removal of any tree. Replacement trees shall be required for any trees removed, as determined by the City Landscape Architect.
99. A formal agreement with BART shall be delivered to the City for its review and approval regarding the construction of the BART parking structure, which shall identify project phasing and construction coordination to ensure that there is no disruption of bus service.
100. A formal agreement with AC Transit shall be delivered to the City for its review and approval regarding the construction of the bus transfer facilities, which shall identify project phasing and construction coordination to ensure that there is no disruption of bus service.

PRIOR TO ISSUANCE OF BUILDING PERMITS

101. Prior to the approval of improvement plans or issuance of the first building permit, detailed landscaping and irrigation plans for all common areas shall be prepared by a licensed landscape architect and submitted for review and approval by the City. Landscaping and

irrigation plans shall comply with the City's Hayward Environmentally Landscape Designs & Checklist.

102. Prior to issuance of the first building permit, the final map shall be approved by the City and filed with the County Clerk-Recorder Office.
103. **Mitigation Measure 3:** The applicant shall have prepared a geotechnical investigation by a licensed geotechnical engineer, which will outline recommendations for construction given the location of the project site near the Hayward fault. Submittal of the geotechnical report shall be submitted as part of the building permit application. Implementation of this mitigation measure will reduce impacts to a less than significant level.
104. **Mitigation Measure 5:** The applicant shall submit a detailed soils report, prepared by a licensed geotechnical engineer, as part of the building permit application that demonstrates the type of construction suitable for the project site, based on recommendations in the soils present. Implementation of this mitigation measure will reduce impacts to a less than significant level.

PRIOR TO CONSTRUCTION WITH COMBUSTIBLE MATERIALS

105. Required water system improvements shall be completed and operational prior to the start of combustible construction to the satisfaction of the Fire Chief.

DURING CONSTRUCTION

106. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
 - a. Grading and construction activities shall be limited to the hours 7:00 AM to 6:00 PM on weekdays and Saturdays; there shall be no grading or construction activities on Sundays or holidays;
 - b. Grading and construction equipment shall be properly muffled;
 - c. Unnecessary idling of grading and construction equipment is prohibited;
 - d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
 - e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. Letters shall be mailed to surrounding property owners and residents within 300 feet of the project boundary with this information, including the residents/owners at properties in the Beatron Way neighborhood and within Spanish Ranch II Mobilehome Park.
 - f. The developer shall post the property with signs that shall indicate the names and phone number of individuals who may be contacted, including those of staff at the Bay Area Air Quality Management District, when occupants of adjacent residences find that construction is creating excessive dust or odors, or is otherwise objectionable. Letters shall also be mailed to surrounding property owners and residents with this information prior to commencement of construction.
 - g. The developer shall participate in the City's recycling program during construction;

- h. Daily clean-up of trash and debris shall occur on Dixon Street, Tennyson Road and Mission Boulevard and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
- i. The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions;
- j. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;
- k. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- l. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- m. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
- n. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
- o. Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution;
- p. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work;
- q. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
- r. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
- s. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;
- t. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill;
- u. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See "*Building Maintenance/Remodeling*" flyer for more information;
- v. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
- w. The applicant/developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the Alameda County Department of Health and the Regional Water Quality Control Board.

107. A representative of the soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the

soils engineer shall observe grading operations with recommended corrective measures given to the contractor and the City Engineer.

108. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.
109. The developer shall be responsible to adhere to all aspects of the Storm Water Pollution Prevention Plan (SWPPP) as approved per conditions of approval above.
110. Construction Administration services shall be provided by the project landscape architect. Services to include:
 - a. Observation of irrigation system before burying pipes;
 - b. Observation of plant material upon delivery to the site;
 - c. Observation of layout and placement of plant material upon delivery to the site;
 - d. Observation for maintenance period commencement; and
 - e. Observation for final acceptance.

PRIOR TO CONNECTION OF UTILITIES AND ISSUANCE OF CERTIFICATES OF OCCUPANCY

111. The final map shall be filed and approved by the City and recorded in the County Recorder's Office prior to the issuance of a Certificate of Occupancy of any unit.
112. The developer shall pay all required fees, including those indicated below, with the amount of such fees to be in accordance with the fee schedule in effect at the time of issuance of the building permits, unless otherwise specified:
 - a. Supplemental Building Construction and Improvement Tax;
 - b. Building Construction and Improvement Tax;
 - c. School Impact Fee;
 - d. Water facilities Fee (payable prior to final inspection);
 - e. Sewer Connection Fee for each dwelling unit at the rate in effect when the utility service permit for the dwelling unit is issued; and
 - f. Park dedication in-lieu fees for each dwelling unit shall be calculated at the rate in effect when the building permit for unit is issued.
113. Subject to agreement with the developer, additional payment shall be made toward development of a community center at Mission Boulevard and Valle Vista Avenue, or at another location within the South Hayward BART/Mission Boulevard Corridor Concept Design Plan, associated with the 206 affordable housing units. Such contribution shall equal an in-lieu fee amount for the 206 affordable units, minus the cost of acquiring and developing the Caltrans parcels for group open space and recreation. Such areas shall be offered for public recreation use.
114. Any damaged curb, gutter and/or sidewalk along the Tennyson Road, Dixon Street and Mission Boulevard property frontages shall be repaired or replaced to the satisfaction of the City Engineer.

115. All common area landscaping, irrigation and other required improvements in the current phase shall be installed according to the approved plans.
116. The on-site street light electroliers shall be in operating condition as approved by the Planning Director and the City Engineer.
117. Prior to occupancy of all the Eden Housing units on Parcels 1 and 2, the grocery store shall be occupied and open for business to the public.

PRIOR TO CITY APPROVAL OF THE TRACT IMPROVEMENTS AS BEING COMPLETED

118. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
119. The developer shall submit a final statement of water main extension costs and notarized bill of sale to the Utilities Administration prior to application for water service.
120. All common area landscaping, irrigation and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of 80% of the dwelling units, whichever first occurs. All individual lot landscaping shall be installed prior to occupancy of each unit and prior to the final acceptance of tract improvements.
121. Prior to completion of tract improvements for the development proposed east of Dixon Street, the developer shall acquire, improve, and offer for dedication for public use the adjacent Caltrans parcels. As an alternative, the developer shall make a contribution to the Hayward Area Recreation & Park District equal to the cost to fully acquire and improve these parcels. In the event that the requisite land for group open space is not acquired prior to completion of tract improvements, the developer shall (1) enter an agreement with the City to complete the improvements at such time the City acquires an interest in the land that will permit the improvements to be made, or (2) the developer shall pay the total amount of park in-lieu fees required for the requisite land, at the City's sole discretion. The developer shall also be responsible for any costs associated with City's efforts to acquire such land.
122. An AC overlay along Tennyson Road, Dixon Street and Mission Boulevard may be required by the City Engineer, if it is determined that it is necessary due to deterioration resulting from heavy traffic during the construction of the development.
123. The improvements associated with the Pacific Gas and Electric Company, EBMUD, Comcast and SBC shall be installed to the satisfaction of the respective companies.
124. Landscape improvements and street trees shall be installed according to the approved plans and a Certificate of Substantial Completion, and an Irrigation Schedule shall be submitted prior to the issuance of a Certificate of Occupancy for each unit.

125. The subdivider shall submit an "as built" plan indicating the following:
- a. All the underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric Company, SBC and Comcast, etc; and
 - b. All the site improvements, except landscaping species, buildings and appurtenant structures.

Homeowners Association

126. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever first occurs, a homeowners' association shall be created to maintain the common area landscaping and open space amenities as depicted on the approved tentative tract map. The exact limits of responsibility for the Association will be determined during processing of the Precise Development Plan for the development.
127. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever first occurs, Covenants, Conditions and Restrictions (CC&R's) shall be prepared for the project which shall be reviewed and approved by the Planning Director and City Attorney that shall include the following provisions:
- a. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses.
 - b. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association.
 - c. The association shall be managed and maintained by a professional property management company.
 - d. The homeowners' association shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The homeowner's association representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within 14 days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
 - e. A provision that if the homeowners' association fails to maintain the landscaping and irrigation in all common areas for which it is responsible so that owners, their families, tenants, or adjacent owners will be impacted in the enjoyment, use or property value of the project, the City shall have the right to enter upon the project and to commence and complete such work as is necessary to maintain the common areas and private streets, after reasonable notice, and lien the properties for their proportionate share of the costs, in accordance with Section 10-3.385 of the Hayward Subdivision Ordinance.
 - f. A requirement that the building exteriors and amenities shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City.
 - g. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
 - h. Utility meters, when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen, allowing sufficient access for reading.

- i. Any transformer shall be located underground and shall be located outside any front or side street yard.
- j. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
- k. The CC&Rs shall specify the outdoor collection locations of trash and recycle containers. In addition, trash and recycle containers shall not be moved to the collection location more than 24 hours prior to collection and shall be removed within 24 hours after collection.
- l. Upon any necessary repairs to the facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the homeowners association established to maintain the common areas within the subdivision boundary.
- m. Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association and shall have a decorative design approved by the Planning Director and the City Engineer.
- n. Contribution to the Community Facilities District to pay for proportionate share of the cost for public services, including police services.
- o. Contributions to fully fund implementation of measures to relieve potential overflow parking impacts, including such measures as implementing, funding and administering of a residential parking permit program according to City requirements, increasing the on-street parking supply through implementation of angled parking on appropriate streets, or managing the existing on-street parking, using time restrictions to improve turnover and provide a pool of short-term parking.

Commercial Property Owners' Association

128. Prior to the acceptance of site improvements, a Commercial Property Owners' Association (CPOA) shall be created to maintain the frontage landscaping and other amenities as depicted on the approved tentative tract map. The exact limits of responsibility for the Association will be determined during processing of the Precise Development Plan for the development. The City shall have the ability to place liens on all private properties within the development if the CPOA fails to fulfill its maintenance obligations.
129. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever first occurs, Covenants, Conditions and Restrictions (CC&R's) shall be prepared for the project which shall be reviewed and approved by the Planning Director and City Attorney that shall include the following provisions:
130. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses.
 - a. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association.
 - b. The association shall be managed and maintained by a professional property management company.
 - c. The association shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The homeowner's association representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be

- replaced within 14 days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
- d. A provision that if the association fails to maintain the landscaping and irrigation in all common areas for which it is responsible so that owners, their families, tenants, or adjacent owners will be impacted in the enjoyment, use or property value of the project, the City shall have the right to enter upon the project and to commence and complete such work as is necessary to maintain the common areas and private streets, after reasonable notice, and lien the properties for their proportionate share of the costs, in accordance with Section 10-3.385 of the Hayward Subdivision Ordinance.
 - e. A requirement that the building exteriors and amenities shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City.
 - f. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
 - g. Utility meters, when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen, allowing sufficient access for reading.
 - h. Any transformer shall be located underground and shall be located outside any front or side street yard.
 - i. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
 - j. The CC&Rs shall specify the outdoor collection locations of trash and recycle containers. In addition, trash and recycle containers shall not be moved to the collection location more than 24 hours prior to collection and shall be removed within 24 hours after collection.
 - k. Upon any necessary repairs to the facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the association established to maintain the common areas within the subdivision boundary.
 - l. Streetlights and pedestrian lighting shall be owned and maintained by the association and shall have a decorative design approved by the Planning Director and the City Engineer.
 - m. Contribution to the Community Facilities District to pay for proportionate share of the cost for public services, including police services.

ONE YEAR AFTER PROJECT BUILDOUT

131. **Mitigation Measure 15:** One year after build out and occupancy of the project, the developer or the developer's designee, shall conduct a neighborhood parking survey to determine if adequate parking has been provided. If the results of the survey indicate substantial impacts to the surrounding areas, as determined by Hayward Engineering and Transportation Planning staff, then the developer or the developer's designee shall incorporate measures to reduce impacts to a less than significant level. The City of Hayward Traffic Regulations Section 3.95 indicates that a significance threshold for a

residential parking permit program would be met if 75% of all on-street parking spaces within six adjacent block faces are occupied during any two one-hour periods between 8am and 6pm. Such measures to address potential impacts may include, but are not limited to: implementing, funding and administering a residential parking permit program according to City requirements, increasing the on-street parking supply through implementation of angled parking on appropriate streets, or managing the existing on-street parking, using time restrictions to improve turnover and provide a pool of short-term parking. Implementation of this mitigation measure will reduce impacts to a less than significant level.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, February 19, 2009, 7:30 p.m.
777 B Street, Hayward, CA 94541**

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chair Lavelle.

ROLL CALL

Present: COMMISSIONERS: McKillop, Mendall, Thnay, Loché
CHAIRPERSON: Lavelle
Absent: COMMISSIONER: Márquez, Peixoto

Commissioner McKillop led in the Pledge of Allegiance.

Staff Members Present: Rizk, Patenaude, Conneely, Koo, Philis

General Public Present: 19

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARING

1. **Zone Change Application No. PL-2008-0547 - Wittek Development, LLC (Applicant / Owner) - Request to:**
 - A) **Change the Zone District from Station Area Residential (SAR) District to Planned Development (PD) District;**
 - B) **Amend the South Hayward BART/Mission Boulevard Concept Design Plan to Address a Revised Circulation System, a Relocated Grocery Store Site and the BART Parking Structure; and**
 - C) **Authorize the Planning Director to Accept an Application for a Development Agreement in Order to Develop a Mixed-Use Development Consisting of 788 Multi-Family Residential Units and a Grocery Store, Including 206 Units of Affordable Housing and a 910-Space BART Parking Garage;**

The Project Site is Located Generally at the South Hayward BART Station at 28601 & 28850 Dixon Street and 28901 – 28953 Mission Boulevard

Planning Manager Richard Patenaude said he was excited to bring this project to the Planning Commission; at an earlier community meeting the attendees were pleased that this project was being proposed for the South Hayward area, which they felt hadn't received a lot of attention from the City. He then gave the report on the project.

When he finished, Chair Lavelle thanked Mr. Patenaude and asked commissioners for any questions.

Commissioner Mendall complimented Mr. Patenaude on the report. He said he noticed that the retail units in the Perry site appear to only have seven parking spots and asked if there will be more parking available curbside on Mission. Staff confirmed his observation and replied that street parking is available further south on Mission Boulevard. When he asked if the fire lane north of Perry property was also a road, staff said it will be paved but access will be limited so it will not accommodate through traffic. Commissioner Mendall expressed a desire for this lane to be open for pedestrians.

Commissioner Mendall asked if BART is contributing or receiving any dollars for the project and was told BART representatives could address that later.

Commissioner Mendall then asked what the amenities are for Parcel 3N. Mr. Patenaude said residents would have access to a business center and also a health club or exercise room. A courtyard area would have outdoor spaces for play for young residents. He explained that the project is conditioned so that the health club could be accessed by all residents in the project area, not just those in 3N. Commissioner Mendall said he would like it if the fire lane between 4 and 3S could provide an open play area but asked staff if there was enough room to have a play area and extend the road that runs by Parcel 2 and 4 to the south. Staff replied that there was enough room and that any replacement open space could be worked out.

As his final question, Commissioner Mendall asked how much money is being contributed from the Redevelopment Agency. Department of Development Services Director David Rizk said there hasn't been any decision to contribute anything to the project yet, but the projected gap in funding is about \$20 million even after grant monies from State and other sources are received.

Commissioner McKillop asked what impact a formed-base code would have on this project. Mr. Patenaude said this project would not be impacted. She then asked if the design review would have any form-based code elements included. Mr. Rizk said the consultants for a form-based code looked at this project and said there are already elements included, but concurred with Mr. Patenaude that this project precedes any form-base code zoning changes.

Commissioner Loché said the report was in-depth and thanked staff. He asked what would happen if the project didn't receive the \$47 million in Proposition 1C grant funding and how that would affect its outcome. Mr. Rizk said it is "doubtful" that the project could happen without it.

Commissioner Loché then asked about the impact of Parcels 2 and 4 on the privacy of nearby single family homes. Mr. Patenaude said privacy would not be compromised because of the distance created by the railroad tracks and the open space between the two areas. Commissioner Loché then asked about the BART parking structure, but staff pointed out regardless of height, that structure won't house any residents.

Chair Lavelle asked if nearby condominium and apartment residents have made any comment regarding the proposed project and staff said no. Regarding the fire lane on the Perry & Key site, (the same lane Commissioner Mendall inquired about earlier), she said that according to the report,



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the applicant isn't interest in acquiring the CalTrans land. In anticipation of this she asked if it will be safe for residents to walk down the fire lane to get to the store and BART station. Mr. Patenaude said there won't be any through traffic but there will be cars coming in and out at each end of the lane. Staff indicated that there would be pedestrian and bike access to BART.

Chair Lavelle then asked about the condition of approval regarding public art and asked whether residents would be able to participate in choosing art. Mr. Patenaude said the recommendation is to use public art as mitigation for the extra height on the two buildings. The developer would be providing art, he said, but it could come in many different forms. Mr. Rizk added that the Precise Plan should be submitted with art shown but the Commission could change the timeframe to allow for resident input.

Chair Lavelle opened the public hearing at 8:27 p.m.

Paula Krugmeier with BAR Architects, introduced the other members of the applicant team and thanked the commission for allowing them to present the project. She said her team has been working with the client for about a year and has found that transit-oriented development is "truly the wave of the future" and a nationwide trend. She said this project has many positive aspects that lower impact on both the land and the environment.

Ms. Krugmeier pointed out that existing conditions are very blighted at the Perry Site and that the developer will be combining that property with the BART satellite parking lot. Other key elements of the project, she said, are the redevelopment of the intermodal, and the redevelopment of the parking. One of the main points of the project, she said, is that it provides a phasable and integrated plan that will hopefully set the precedent for future development and provide a heart for the South Hayward community. It supports Dixon Street as a neighborhood street and eliminates some of the unsurveilled areas such as the BART parking lot.

On the Perry Site she noted that Mission Boulevard is 18 feet higher than Dixon Street so the development is stepping. That parcel includes an on-site pedestrian path, she said, so the fire lane that's been mentioned by Commissioners would be an additional pedestrian thoroughfare.

She reviewed the key design elements and amenities of each parcel describing the promenade space between parcels 1 and 3 as the "heart of the project". She said this area will be the most active with a south-facing sidewalk with retail entrances along it. This will also be the pedestrian access point for buses and BART.

Commissioner Loché asked her to comment on Parcel 1 residents using parking in Parcel 2. Would they have to cross truck traffic coming into Safeway, he asked, or would the pedestrian bridge eliminate this conflict? Ms. Krugmeier said there are several opinions about the bridge. Some are concerned that the bridge would actually compromise safety by allowing access to housing by the general public. BART representatives think the bridge will dilute pedestrian traffic on the street below. As a planner she agrees with the theory of keeping pedestrians on the ground level, and

points out that truck volume will be low; only 16 vehicles a day, four of which are semi trucks. To mitigate any safety concerns they could install flashing buttons and/or other safety measures.

Commissioner Thnay agreed that it's better to keep pedestrian traffic on the street level. He said a crosswalk would be a good solution, a good compromise. But he was concerned about the truck entrance; the design conflicts with traffic on Tennyson which is fairly busy and that could create a safety issue. Is there any way to push the truck entrance further down? Ms. Krugmeier said there are three places for people to park going to Safeway minimizing conflicts with truck movement. She said there is also plenty of "view" to see trucks from Tennyson Road and the proposed street modifications will allow the truck to get out of the flow of traffic.

Project Manager Jacob Nguyen with BKF Engineers said Ms. Krugmeier answered most of the questions but clarified that there would be dedicated lanes for Safeway shoppers to get into the parking garage. The trucks would be using another lane. Mr. Patenaude added that northbound traffic approaching Tennyson Road will have a stop sign at the garage. The left hand turn doesn't stop so queuing on Tennyson getting into project will be minimized.

Chair Lavelle asked Ms. Krugmeier if Safeway is planning on operating 24 hours a day. Ms. Krugmeier said that may be the intent. Chair Lavelle suggested consulting with Eden Housing to see if this would be an issue regarding the noise and traffic. Ms. Krugmeier pointed out that Safeway trucks don't have the backing beepers and can come in any time during the day so she doesn't expect there will be any late night deliveries. She also pointed out that incoming trucks are under a podium that would contain the noise.

Director of Real Estate Development for Eden Housing, Andrea Papanastassiou, said noise and traffic haven't been an issue at a similar project in Dublin. She said most deliveries will take place early in the day. The seniors on Parcel 2 are on top of two levels of parking, she said, so they should be high enough to not be disturbed either. Ms. Krugmeier added that CEQA has limits on decibel levels of noise within a housing development and those have been considered and elements have been incorporated into the project design. CEQA's fresh air requirements are also going to be met, she said, so residents won't have to open their windows.

Chair Lavelle asked Ms. Papanastassiou of Eden what she thought about the residents walking across the street rather than using a pedestrian bridge. Ms. Papanastassiou said Eden Housing is very concerned about safety and they think there are ways to provide sufficient pedestrian safety to keep traffic on ground level. She said a bridge could provide unwanted public access to the housing portion of the development and would remove "eyes" on the street, but Eden will further explore all possibilities with the City's Planning Department.

Kurt Wittek of Wittek Development, LLC, asked to speak to some of the financial considerations. Mr. Wittek said they are not against acquiring the CalTrans property, but they don't agree on the City's estimated value of the land because, separate from this project, there's not much that could be done with it. He said the cost would be a lot lower if the City participated in the purchasing of the land, and that it's "certainly" not worth \$800,000. He agrees, however, that having the land to add to the overall open space would be amenity to the project.

Regarding the viability of the project without the 1C grant funds, Mr. Wittek said there was "no



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way” the development could support the estimated \$60 million in infrastructure costs. Without the IC grants this project won’t happen in its current iteration. Also, regarding the pedestrian bridge, besides violating the philosophy of urban developments by removing people from the street, it is an added cost in the high six figures.

They are amendable to the art work requirement because the vision of the project is to create an attractive and comfortable environment, Mr. Wittek said. However, the aggregate cost of the development is going to be around \$300 million, so to add a \$3 million art requirement is “pretty onerous”.

Mr. Wittek understands the social obligation of contributing towards a community center and that they are bound by ordinance, but he thinks the contribution should be limited to the \$6.2 million for park in lieu fees. He argued that this project could potentially serve as a catalyst for the area leading to many new projects, and new taxes for the City. Also, the cost of dropping the seventh level of BART parking to subterranean rather than slightly exceeding the current height limitations would be easily twice the \$1.3 million cost the City estimates. “It seems to us an excessive cost for little to no benefit aesthetically and certainly not operationally,” Mr. Wittek said.

Commissioner Loché thanked Mr. Wittek for his comments. He said the plan is to complete the project in phases based on current market conditions. Commissioner Loché asked how the current market would affect the project. “If the current market remains the market, we may not see this at all,” Mr. Wittek replied. Even in good times a project of this size would have to be completed in phases, Mr. Wittek explained. Even with a lease with Safeway; Eden Housing is taking responsibility for the financing of its developments; and with the availability of extensions to use the IC grant funding, he still can’t promise that current market conditions will allow this project to happen. “All we can say beyond the first phase is that we’d be subject to market conditions just like anyone else,” Mr. Wittek said.

In response to Mr. Wittek’s comment about the CalTrans property, Mr. Patenaude pointed out that costs are estimates only. Also, he said, conditions of approval would allow acquisition by the developer or by the developer working with HARD. It’s possible that HARD could purchase the land for less money, he said. Regarding the community center contribution, it is not required but recommended as a condition of approval that the developer contribute more than the \$6.2 million. And although the City would like the height of the BART parking structure lowered, there are no conditions of approval requiring it. In lieu of that, however, the City would like to see enhanced design and landscape elements especially as it affects residents to the west side of the project.

Bruno Peguese, Principal Property Development Officer for BART, said BART supports the project but do have concerns regarding the amount of replacement parking. BART will address these concerns in an exclusive negotiating agreement. Commissioner Mendall asked whether BART is receiving or contributing any money toward the project. Mr. Peguese said there will be a trade in land to recapture costs.

Chair Lavelle said she read that South Hayward is the least used BART station, and asked if this project would increase ridership. Mr. Peguese said it was BART's objective to increase pedestrian use of BART while still reducing the parking footprint. He spoke candidly saying that providing parking for the planned extension to San Jose is going to be a problem. Bayfair is also "in the mix" in terms of sufficient parking levels, he said, but BART is looking at different configurations to "soften the harsh realities of parking".

Mimi Bauer, Fairway Park resident, said the report was very thorough and the project wonderful. She expressed a number of concerns. She confirmed that residents at the Perry Site would most likely walk to BART. She said the public open space really needs to be addressed and hopes that CalTrans property purchase works out to provide a wider pedestrian access and more open space. When reviewing the plans for the Perry Site, she said she wanted to see more front doors facing the promenade as suggested under a form-based code. Right now, she said, this project looks like "very nice college dorms"; she doesn't see the home/village-type front door with everyone coming out onto the same street. Regarding the pedestrian bridge, she agreed that safety would be an issue. She can imagine an elderly person getting accosted on the bridge with no one around to help. Also, she pointed out, who would maintain it? She asked if buildings will have any green elements, if the South Hayward BART would receive a facelift, and who will manage the other apartment buildings. She asked if public art could be used to distract the eyes away from the parking structure. And finally she was concerned that by constructing this project in phases it is possible that one building could be constructed but the entire project would never get completely finished.

Chair Lavelle closed the public hearing at 9:14 p.m. and asked for Commissioner comments.

Commissioner Thnay said it's an exciting project with a lot of potential. He's noticed, however, that the overflow BART parking lot on Dixon has been fuller lately. With replacement parking planned at only 75%, will there be adequate parking in the future? Mr. Patenaude said that is a common replacement rate, but the final number of spots will be determined in the exclusive negotiating agreement. The intent of the transit-oriented project is to reduce the need for parking, he said, however, parking management such as time limits for the garage could help. Commissioner Thnay pointed out that if the lots are filling up now then future residents would be additional patrons. Also, the project plan only provides 1.1 parking space per housing unit. Although it's a good project, he said, there could be a lot of parking inconveniences for the surrounding neighborhoods. This is potentially a big issue, he said. At the development near the Dublin BART station the City is already experiencing similar problems regarding rider/residential parking. He also agreed with Ms. Bauer that the BART garage should be better looking than Dublin's. And finally, he said the project promenade area should be "dressed up" to make it really appealing.

Commissioner Mendall said overall he is quite pleased with the project. He did have several concerns, however. He agreed with Ms. Bauer that at the pedestrian level the building frontage needs improvement. He would like to see more stoops and ground level windows to make it more pedestrian friendly and welcoming. He said that's the only element of the project that's lacking. He doesn't mind losing the pedestrian bridge, but he would really like to see the CalTrans property developed as a park. He wants to see more public open space in this development. He also thinks the community center money is a reasonable request; other developers in the area have contributed toward it. He said the \$3 million for public art would improve the overall aesthetics of the project and could be a compromise for the additional height of the parking garage.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, February 19, 2009, 7:30 p.m.
777 B Street, Hayward, CA 94541**

Commissioner Loché appreciates high density in transit areas, but asked staff to comment on how “green” the buildings will be. Mr. Patenaude responded that they will be required to meet the basic provisions of the City’s green building ordinance. Commissioner Loché also wants the developer to work with HARD to acquire the CalTrans property and agrees with the in lieu fees to support the community center which, he feels, will be a huge benefit to the community. In general, he was very happy about the project.

Commissioner McKillop confirmed that there are several options regarding the purchase of the CalTrans property. She was really excited about the various aspects of the project including Eden Housing’s participation and the potential Safeway store. She thought this would be an outstanding project for Hayward.

Commissioner McKillop then made a motion for the Planning Commission to recommend to Council to adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program, approve the Zone Change, and the Amendments to the Concept Design Plan, subject to the attached staff findings and conditions of approval. Commissioner Mendall seconded the motion.

Commissioner Thnay confirmed that the CalTrans property and the contributions to the community center were included in conditions of approval.

Commissioner Mendall asked whether the motion included the condition to lower the parking garage. Mr. Patenaude said that was a recommendation, not a condition. He also confirmed with staff that providing public art is a condition of approval.

Mr. Rizk asked for clarification regarding whether the pedestrian bridge was a condition of approval and included in the motion.

Commissioner McKillop thanked him and changed her motion to strike out the requirement for a pedestrian bridge. Commissioner Mendall seconded.

Commissioner Thnay confirmed that lowering the garage was not part of the motion. Staff confirmed.

Commissioner Mendall said it didn’t have to be part of the motion but suggested the BART parking structure should be lowered as part of the aesthetic improvement and the public art requirement.

Chair Lavelle said personally she is very excited to see this major project come to Hayward. She said the City worked very hard to develop the South Hayward Concept Design Plan and took significant effort to improve this part of town. She sees a “great opportunity” to increase use of public transit and to incorporate green building elements. She likes that the developer worked well with local government including the City’s Redevelopment Agency, BART, and AC Transit. She’s

especially pleased with the quality of low income and senior housing from Eden and also the residential units overall. She is also extremely excited about Safeway coming in because it would be utilized by many, many people, not just those living at the site. She's OK with the height of the parking garage, but a lot can be done to soften the look and anyone concerned should give their input prior to the final plan submission. Open space is always a concern with a high density development like this, so whatever happens with the CalTrans property is important. She pointed out that the nearby Garin Park is huge and highly underutilized. Maybe AC Transit, working with the developer and BART, could create a shuttle van to make the park more accessible. Lastly, parking is an issue, but it's the developer's responsibility to market to people who understand that parking is not available. The developer needs to stress that it's a transit-oriented project.

Chair Lavelle then called for a vote and the motion was passed unanimously 5:0.

2. Hayward Environmentally Friendly Landscape Guidelines and Checklists for Private Development Projects

Planning Manager Richard Patenaude gave some background on the City's landscape design policy. New announcements included the expected completion of StopWaste.org's Bay Friendly Landscape System in late spring 2009, and the release of the state's Final Model Water Efficiency Standards in March. He expects it may take up to one year from this point for the City to develop an ordinance in response to these new Bay Friendly Landscape programs. The City will also have to look at how a new ordinance could impact existing ordinances including the Zoning Ordinance. In the meantime the Council Sustainability Committee wanted some guidelines.

Exhibit C of the report, Hayward Environmentally Friendly Landscape Guidelines and Checklist for Single-Family Development, is a response, he said, to direction by the Sustainability Committee to provide something for the homeowner, or the non-professional, in the landscape realm. The guidelines and checklist are designed for developments of 1-3 homes or for major remodels or additions that increase the buildings footprint by no more than 50 percent. Submittal of the checklist would be required with building permit application submittals and include provisions for planting and irrigation. Guidelines would include gardening tips, and a plant list to help homeowners be in compliance, and desired landscape practices. Staff would not be conducting final inspections, but would require submittal of verification stating compliance with the improved plans. The compliance form would be attached to the guidelines.

Exhibit B, Hayward Environmentally Friendly Landscape Guidelines and Checklist for the Landscape Professional, was developed, per the request of the Sustainability Committee, for larger developments and therefore provides more comprehensive guidelines, Mr. Patenaude said. These guidelines are for development of 4 or more single family homes, multi-family developments, commercial developments, and commercial tenant improvements or additions with more than 5,000 square feet of landscape area renovation. These projects would require landscape plans prepared by a landscape professional. As is currently practiced, the City's landscape architect would review plans and conduct inspections.

At a community meeting, at which only three landscape professionals and one member of the public attended, one concern expressed was the development of one single standard to avoid any loopholes. This concern will be addressed during the development of the ordinance. The City



DATE: February 19, 2009

TO: Planning Commission

FROM: Richard E. Patenaude, AICP, Planning Manager

SUBJECT: **Zone Change Application No. PL-2008-0547 PD – Wittek Development LLC (Applicant) and Big Sky Holdings and Bay Area Rapid Transit (Owners) - Request to 1) Change the Zone District from Station Area Residential (SAR) District to Planned Development (PD) District, and 2) Amend the South Hayward BART/Mission Boulevard Concept Design Plan to address a revised circulation system, a relocated grocery store site and the BART parking structure, in Order to Develop a Mixed-Use Development consisting of 788 Multi-Family Residential Units and a Grocery Store, including 206 Units of Affordable Housing and a 910-Space BART Parking Garage**

**The Project Site is Located Generally at the South Hayward BART Station, between the Station and Mission Boulevard, at 28601 & 28850 Dixon Street and 28901 – 28953 Mission Boulevard
APNs 078C-0441-001-16, -17, -23, -24, -28 & -29**

RECOMMENDATION

Staff recommends that the Planning Commission recommends that the City Council adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program, approve the Zone Change, the Amendments to the Concept Design Plan, and the Preliminary Development Plan, subject to the attached findings and conditions of approval.

SUMMARY

Wittek Development, LLC, and Montana Properties, Inc. (Wittek & Montana) are proposing to develop the South Hayward BART Station parking lots and the former Perry and Key site along Mission Boulevard. BART has entered into an exclusive negotiation agreement with Wittek & Montana to facilitate the portion of the project on BART property. The project would be a mixed-use retail and housing development that includes 788 units of housing, and a Safeway lifestyle store. The proposal includes 206 units of affordable housing to be developed by Eden Housing. Included in the development will be a 910-space replacement parking garage for BART parking. The site

will also integrate circulation features required for a multi-modal transit station, including bus transfer stops and bicycle storage.

Generally, the proposed development would comply with the South Hayward BART/Mission Boulevard Concept Design Plan that was adopted by the City Council in June of 2006. However, due to the Safeway store that was not contemplated at the proposed location in the Plan, residential densities on the northerly portion of the BART properties would not meet the minimum density threshold of 75 units per net acre, although the entire development would do so. Given the benefits the Safeway store would provide, staff is supportive of the conceptual plan from a density standpoint. Also, a proposed BART replacement parking structure and the structure on Parcel 2 that would contain residential units over parking levels, with heights of 70 feet, would exceed the normal height limit of 60 feet for the zoning district. Staff supports the additional height on Parcel 2, to 70 feet, as the area with the additional height is limited in area, is located within the interior of the site, and would provide additional interest to this building from various vantage points. Staff also recommends that a public art feature or features be provided within the project to mitigate the impact of the additional height. The BART parking structure is not subject to the City's height limitations; however, staff would recommend that enhanced architectural features and landscaping be incorporated into this structure to mitigate the impact of its additional height and enhance the pedestrian experience.

BACKGROUND

The project comprises a total site area of approximately 12 acres, generally bordered by Tennyson Road to the north, Mission Boulevard to the east, and the BART tracks and station to the west. A multi-family residential neighborhood abuts the project site to the south. A single-family residential neighborhood and the Spanish Ranch II Mobilehome Park lie westerly across the BART railway.

Big Sky Holdings (Wittek & Montana) are the owners of the Perry and Key site, which fronts on Mission Boulevard and is located directly adjacent to BART's satellite parking lot on Dixon Street. BART has entered into an exclusive right to negotiate with Wittek & Montana for a land transaction involving both the Dixon Street satellite lot and the main BART parking lots directly adjacent to the South Hayward station.

The development plan is generally consistent with Hayward's Station Area Residential (SAR) District zoning and the City's planning efforts for the area. However, densities on the north portion of the property by the BART station (Parcels 1 and 2) are shown to be less than the minimum 75 units per net acre. Also, the South Hayward BART/Mission Boulevard Concept Plan did not contemplate a full-service grocery store at this location, which impacts the ability to provide higher residential densities in buildings that provide adequate on-site parking and comply with the City's height limitations. The Plan indicates a grocery store at Mission Boulevard and Valle Vista Avenue, slightly more than ¼-mile away. A full-service grocery store is something that is desired for the neighborhood and would provide an amenity not just for the new residents at the BART site, but for the neighborhood at large and BART commuters. Finally, a seven-level, 910-space BART parking garage is proposed along the BART tracks south of the station, which would provide 75 percent of the approximately 1,200 existing surface lot spaces. Such structure is currently proposed to exceed the 60-foot height limit by 10 feet (see Parcel 4 in Site Section 3 on sheet A5 of Plans).

Due to the Safeway store, parking for the 125 affordable apartments proposed above it would be accommodated in a separate structure to the west, along the BART tracks. This structure would also incorporate 81 affordable senior apartments in three stories over three levels of parking (see Parcel 2 in Site Section 1 on sheet A5 of Plans); the height of a portion of this structure is proposed at 70 feet. However, with additional findings, the Council could approve structures with heights that exceed 60 feet, but not greater than 80 feet.

Current market conditions and the need to assure adequate BART parking necessitate that the project be developed in phases. The long-term economics of the project are also contingent upon the ability to fund the affordable housing and major infrastructure improvements associated with reuse of the station parking lots, including creation of replacement parking and bus transfer facilities. In recognition of this, the developers are working to make the project competitive for infrastructure and transit-oriented development (TOD) funding available from the State of California under its Proposition 1C program. This is a significant funding source that may only be available in 2009 and, if a successful application is made for the funds, could generate up to approximately \$30 million for the infrastructure components of the project and \$17 million for the affordable housing developments.

Proposition 1C, the Housing and Emergency Shelter Trust Fund Act of 2006, was an initiative bond act that authorized the state to sell \$2.85 billion in general obligation bonds to fund new and existing housing and development programs, including an Infill Infrastructure and TOD program, which are the funds for which this project would apply. The program will provide grants for infrastructure improvements that are necessary to promote infill housing development, as well as for the affordable housing construction. Infill improvements would include parks, utilities, streets, parking structures, and transit improvements. The deadline to submit applications for these programs is April 1, 2009, necessitating City Council/Redevelopment Agency Board public hearings for the project by no later than late March.

DISCUSSION (Please refer to Plans)

Phases I & II: Mixed-Use Affordable Housing/Commercial Development, BART Parking Structure, and Reconfigured Bus Transfer Facility/Roadway:

The first phase of the project would be the development of Parcels 1 and 2, as shown on the attached site plan (sheet A2 of Plans), to include a 58,500-square-foot Safeway grocery store that will be done in their lifestyle format (Parcel 1). It will include other local serving retail uses (e.g., Jamba Juice and Starbucks). Phase I would also require reconfiguration and construction of the bus transfer facility, including access for buses and bus parking bays.

Directly above the Safeway will be 125 units of affordable family apartments to be designed, constructed, and managed by Eden Housing. Eden will develop a combination of two- and three-bedroom units affordable to households earning between 20 and 60 percent of Alameda County Area Median Income, as adjusted for family size. Rents would range from approximately \$354 to \$1,078 per month.

For 2008, a four-person household would be considered:

- an extremely low income household if it made less than 30% of the area median income (\$25,830), with an affordable rent amount of \$547 per month (30% of income);
- very low income if it made less than 50% of the area median income (\$43,050), with an affordable rent amount of \$1,076 per month; and
- low income if it made less than 60% of the median (\$51,660), with an affordable rent amount of \$1,292 per month.

Proposed on Parcel 2 are 81 affordable senior apartments, also to be designed, constructed, and managed by Eden Housing, over a three-level parking structure that would serve both affordable housing projects. Eden will develop one-bedroom units affordable to senior households earning between 30 and 50 percent of Alameda County Area Median Income. Rents would range from approximately \$460 to \$780 per month.

The housing on Parcel 1 would enable the entire project to meet the City's inclusionary requirement as the 125 units constitute 15.9% of the overall unit count. With the 81 units of senior housing on Parcel 2, the affordable housing component would constitute 26.1% of the overall unit count, which would not only provide affordable housing for a specific segment of the Hayward population, but would also allow the project to qualify for approximately \$14 million more in Proposition 1C funding and be more competitive for this program overall.

Eden's presence in this project also enhances the competitiveness of the Proposition 1C applications, which have threshold affordability requirements that could only be met through the construction of affordable rental housing, and the more affordable housing projects include, the more competitive they are for funding. Additional affordable units also unlock greater financial grant amounts. Projects funded in the first round of 1C funding had similarly structured affordable components to what is being proposed for the South Hayward BART project.

The affordable family apartments on Parcel 1 are proposed to include amenities common to Eden's high quality projects – a community room, a computer learning center, and outdoor recreational space located on the podium above the Safeway. Staff has included as a recommended condition of approval that similar resident-serving rooms be included in the senior housing development on Parcel 2. Eden will also have its service coordination staff provide programming that helps build community and support the residents, including after school, summer, and technology programs for youth and financial management; and homebuyer training for adults.

Because the overall site density associated with master plan development would meet the minimum 75 unit per net acre density required in the South Hayward BART Plan, staff is supportive of the proposed concept as it allows for a major amenity in the form of a full-sized grocery store. A Safeway store adjacent to the BART station would provide convenient shopping opportunities for BART riders and nearby residents, and a high activity level and synergy for other development in the area.

Another issue related to the structure on Parcel 2 is the fact that approximately 25% of its roof is shown to have a height of 70 feet, exceeding the standard 60-foot height limit of the district. This building is not yet fully designed. However, staff supports the concept of the additional height as

the additional height is limited in area, is located within the interior of the site, and would provide additional interest to this building from various vantage points. Staff also recommends, as a condition of approval and associated with the findings discussed later in this report, that a public art feature or features be provided to enhance the overall development and help mitigate the visual impacts of the additional height. The architectural design of this building and details of design of the public art feature(s) will be required to be submitted as part of the Precise Development Plan. In its review of the Precise Plan, the Planning Commission will review the details of the building design to ensure that it is consistent with the following findings, which are required to be made related to the additional height:

- (a) The additional height makes a positive contribution to the overall character of the area and will be compatible with its surroundings in terms of site planning, scale, building design, color, exterior materials, roof styles, lighting, landscaping and signage.
- (b) The additional height will not result in unreasonable restrictions of light and air to adjacent properties or the public right-of-way, or otherwise be detrimental to the public health, safety and welfare.
- (c) The additional height will support other policies and standards of the South Hayward BART/Mission Boulevard Concept Design Plan and will result in a better overall project.

Staff is recommending various conditions of approval that are discussed below and later in this report that it feels allows these findings to be made.

Also, the project has been designed such that the affordable family apartment residents of Parcel 1, who would park in this structure on Parcel 2, would need to walk across the roadway separating their apartment building from their parking spaces. Staff is concerned about the conflicts with such pedestrian movement and the vehicular traffic on this roadway connecting Tennyson Road with the BART station and associated with Safeway truck loading docks, and feels that there would be an unsafe and undesirable pedestrian environment. Staff recommends that a pedestrian bridge be constructed between the two buildings, and above the roadway, to provide a convenient and safe connection for the residents. The senior residents of Parcel 2 would also benefit by having this safe, separated pedestrian connection to the grocery store on Parcel 1.

Finally, as Phase II, a seven-level BART parking garage is proposed, which is more fully described later in this report.

Phases III & IV: Housing Development:

Beyond the affordable housing, the developers are proposing to develop several types of housing in configurations that are consistent with the Station Area Residential (SAR) District. They are proposing standard market-rate rental and ownership residential developments in subsequent phases:

- Phase III: Rental Apartment Housing (parcels 3N and 3S on the attached Plans): On the parking lot directly adjacent to the station, the developers are proposing to build 241 units of rental housing in two buildings. These will be market-rate units with associated amenities such as a health club and a business center. Subterranean parking would be continuous under the street between the two buildings, with one access point to each parcel off Dixon Street.

- Phase IV: Flats and Lofts (Between Dixon Street and Mission Boulevard): The Perry & Key site and the BART satellite parking lot would be developed with 341 units of ownership housing over a podium and subterranean parking. These units would be developed in four phases of approximately 85 units per phase. A small commercial space and live work units are shown along/near Mission Boulevard, in accordance with the SAR Zoning district provisions.

Open Space Amenities:

The Station Area Residential District requires that open space be provided such that (a) at least 40% of the units include a minimum of 100 square feet of usable private open space in the form of a private yard, patio, porch, deck or balcony, and (b) group open space be provided in the amount of 20% of the lot area plus 100 square feet for each residence not provided private open space. The developers are proposing private open space that meets the minimum requirement. The total group open space proposed and required as recommended conditions of approval by staff would comprise an area of 136,386 square feet, while an area of 129,224 square feet is required.

Two vacant approximately 0.64-acre (27,878-square-foot) Caltrans-owned parcels, adjacent to, and southerly of, the Perry site along Mission Boulevard, are shown on the project plans as open space area, although not shown in the open space calculations. Since such area is necessary for the project toward meeting the minimum group open space requirements, the recommended conditions of approval by staff require the applicant to acquire, improve and dedicate this area for public use; or provide the funding for the Hayward Area Recreation & Park District to do so. As indicated on sheet A2.b of the plans, the two parcels will also provide opportunity for a pedestrian link between Mission Boulevard and Dixon Street, midway between Tennyson Road and Valle Vista Avenue, consistent with the South Hayward BART/Mission Boulevard Concept Design Plan. The applicant has indicated that he is not willing to absorb the cost of acquiring and improving this property.

Although not indicated by the applicant, a 9,608-square-foot emergency vehicle access area along the southerly edge of Parcel 3S to the east of Dixon Street is also required by staff's recommended conditions to be included in the group open space total to meet the minimum requirements; this area will be paved with turf block and landscaped, and would need to include such features as benches and pedestrian pathways and lighting, and incorporate features required by the Hayward Police Department related to crime prevention design. It is anticipated that these additional areas will not only establish enhanced pedestrian linkages, but also provide the kind of 'unfettered' green space that is usually not found in high-density developments. These areas will be much appreciated by more active residents with frisbees or dogs and would provide children with free-play areas.

The amenity packages for each parcel are designed to support the proposed populations residing there. For the Perry site and Parcels 3N and 3S where market rate units are proposed, courtyard gardens, a swimming pool and exercise facilities will be a part of the market rate rental and sales packages. The Eden Housing family units will have direct access to their community room, play structures, and paved and soft courtyard space for social and play gatherings. As indicated above, staff is recommending that community rooms for the seniors occupying Parcel 2 be incorporated into the final design of the building on that site.

At densities above 50 units per acre, an urban living style is the expectation. Direct access to regional transportation is the most significant amenity of the project. Secondly, a pedestrian-oriented lifestyle, such as that afforded by the supermarket and its associated street retail, will create an urban living nucleus uncommon in this part of the Bay. The south-facing, large sidewalk areas outside the market will provide areas for desirable 'street life' often unavailable in suburban communities. Coffee, wireless access, tables and umbrellas are one of the 21st century recipes for "open space", where people linger and chance encounters with friends and neighbors take place.

The parks in closest proximity to the development are Valle Vista Park (1.00 acre), located 3/10 mile to the south at Dixon Street and Valle Vista Avenue, and Stony Brook Park (4.5 acres), located across Mission Boulevard about 4/5 of a mile southeasterly at Vanderbilt Street and Woodland Avenue. The Haymont Tot Lot (0.49 acres) and Nuestro Parquesito (2.60-acre linear park) provide additional parkland opportunities, though limited, in the area to the north of Tennyson Road. The 2006 Concept Design Plan envisions a new community center and 4+ acre park in the location of Valle Vista Park at the southwest corner of Mission Boulevard and Valle Vista Avenue. In fact, the developers for the La Vista and Garin Vista projects that were approved in 2005 and 2006, to be built in the foothills east of Mission Boulevard, offered to contribute \$2.5 million toward the development of the community center (\$8,380 per single-family unit), which was incorporated into conditions of approval for those projects.

The City's park dedication ordinance indicates that 604 square feet of public parkland should be provided for every multi-family residential unit, or an in-lieu fee of \$11,395 per attached ownership unit and a fee of \$9,653 per rental unit shall be paid (currently, a total of \$6,212,068 for the 582 market rate units), or a combination of both payment of fees or parkland dedication. The City's ordinance indicates that affordable housing projects are exempt from these requirements. However, the residents of the 206 affordable units would be expected to use both private and public open space amenities, as would other residents within the project. The South Hayward BART Design Plan did not envision the dedication of parkland on this site, but encourages open space and related amenities to facilitate a successful transit village.

Therefore, to compensate for the lack of public parkland (except for the two Caltrans parcels discussed previously) that could be accommodated on site and the exemption of affordable housing projects from the park dedication ordinance provisions, and the need for finding "a positive contribution to the overall character of the area" associated with the request for additional height for Parcel 2, staff is requesting that additional contributions by the developer be made for the proposed community center at Mission Boulevard and Valle Vista Avenue. Staff suggests that such amount be equal to the difference between in-lieu fees that would be associated with the 206 affordable units (\$1,988,518) and the cost of acquiring and developing the Caltrans parcels (approximately \$800,000, assuming \$25 per square foot for acquisition of 0.64 acres, and \$100,000 to improve those parcels). The applicant has indicated that he is not in agreement in making this additional contribution.

Parking:

The development will provide a total of 2,191 parking spaces, which is consistent with the SAR District standards (1.0 space maximum for each studio and 1-bedroom unit; 1.3 spaces maximum

for each unit with 2 or more bedrooms; 1 space minimum for each 315 gross square feet of commercial space), as follows:

Residential/Commercial Parking (Phase I): There will be a total of approximately 394 parking spaces in two garages and surface parking areas constructed for Phase I. One hundred seventy-two parking spaces will be located in one subterranean floor beneath the Safeway store on Parcel 1, 18 surface parking spaces are shown in front of the store, and 204 spaces for the 206 affordable family and senior housing units will be located in a separate parking garage on Parcel 2. The parking spaces provided for the affordable housing 1.3 per family unit and 0.5 per senior unit, for an average of approximately one space per unit.

BART Parking (Phase II): This includes a 7-level parking garage in the southwest corner of the site adjacent to the BART tracks (Parcel 4) that will house 910 replacement parking spaces for BART users, which is equal to approximately 75 percent of the total number of existing surface parking lot spaces on both sides of Dixon Street. As mentioned previously, the proposed garage would exceed the 60-foot height limit of the zoning district. While the City will not have jurisdiction over this structure, staff recommends that the height of the structure be reduced by having the lowest level be subterranean. This modification would add an additional approximately \$1.3M cost to the project (assuming an additional \$10,000 per space). However, BART staff has indicated that its parking structure may have to be privatized with a private sector party owning and operating the facility over the duration of a lease. In that case, the structure may not be exempt from local code compliance. As discussed earlier in the report regarding the height of the structure on Parcel 2, the 70-foot height could be justified during review of the Precise Development Plan using similar findings and conditions of approval.

Housing (Phases III & IV): The housing phases will not exceed the residential parking ratios established by the Station Area Residential Zoning District. All spaces will be housed in parking garages in the first level beneath the proposed housing units. The 241 market-rate apartment development on Parcels 3N and 3S (Phase III) will include approximately 277 spaces for a mix of one-, two- and three-bedroom units, resulting in an average parking ratio of 1.1 spaces per unit. The 341-unit townhome development on the Perry & Key site (Phase IV) will include 417 parking spaces for a similar unit mix and an average parking ratio of 1.2 spaces per unit.

Parking standards are typically expressed as minimum ratios; however, the parking standards for the Station Area Residential Zoning District were established at maximum ratios to encourage the use of pedestrian and bicycle circulation around the BART station, as well as use of BART and AC Transit. It is not known whether there would be any impact to surrounding neighborhoods related to "spillover" parking until project build out. In order to address any unknown potential impacts associated with "spillover" parking, staff recommends that one year after build out and occupancy of the project, the developer or the developer's designee, shall conduct a neighborhood parking survey to determine if there are any substantial impacts to the surrounding areas, as determined by the City Transportation Planning staff. If so, the future homeowners' association(s) would be required to incorporate and fund measures to reduce impacts. One potential measure would be the use of a residential parking program with the consent of the impacted residents. Other solutions might include increasing the on-street parking supply through implementation of angled parking on

appropriate streets, or managing the existing on-street parking using time restrictions to improve turnover and provide a pool of short-term parking.

Another potential shorter-term impact lies with the phasing of the proposed development to ensure there is sufficient parking for the BART station during construction. It is the intention of the developer to construct the BART parking structure as part of the second phase of the development. As Parcels 1 and 2 are developed, temporary parking for the BART station can be accommodated on the Perry & Key property located between Mission Boulevard and Dixon Street as well as on Parcel 3 until such time as the BART parking structure is built. Once the BART station parking structure is constructed, the residential development proposed for Parcel 3 and the Perry & Key property can commence. As reflected in recommended conditions of approval, any phasing would be required to be approved by BART via a formal agreement, to ensure customer parking opportunities are not disrupted. A formal agreement with AC Transit is also suggested as a condition, to ensure bus services are also not disrupted during construction of the development.

Traffic

The project involves the construction of 788 dwelling units and a new grocery store, both of which will generate additional vehicle trips in the vicinity, which is generally consistent with the trips identified under previous studies. An update of the traffic analysis for the South Hayward BART Concept Plan was prepared by Dowling Associates, Inc. The update, dated February 3, 2009, concludes that while the traffic increase was similar, a revised mitigation was identified to bring the intersection of Dixon Street and Tennyson Road to an acceptable level of service. The necessary improvements to this intersection, as identified in the attached Mitigated Negative Declaration/Initial Study, are (1) provide split phasing for the Dixon Street/East 11th Street traffic; (2) provide a right turn overlap (green arrows when the cross-street protected left phases are active) on the southbound right turn (East 11th Street onto Tennyson Road); (3) restripe the northbound approach to provide an exclusive left turn lane and a shared through/right-turn lane and prohibit on-street parking; (4) prohibit on-street parking on the southbound approach (East 11th Street) between the intersection with Tennyson Road and the driveway for the adjacent townhouses, a distance of about 100 feet back from the cross-walk; and (5) provide phasing for the eastbound and westbound left-turns (Tennyson Road) that allows both protected turns and "permitted" turns when opposing through-traffic allow.

Greenhouse Gas Emissions/Green Building:

The *Bay Area 2005 Ozone Strategy* is the current and applicable air quality plan. This plan was based on ABAG's *2003 Projections* report, which did not include the population projections resulting from the adoption of the South Hayward BART/Mission Boulevard Concept Design Plan, and associated amendments to the Hayward General Plan. The South Hayward BART/Mission Boulevard Concept Design Plan Program-level EIR required that City staff work with ABAG staff to ensure ABAG's future projections include these population increases. Staff has worked with ABAG staff and these changes have been reflected in the latest ABAG projections. According to the Bay Area Air Quality Management District (BAAQMD), an update to the air quality plan is underway and will be released by the end of the calendar year. BAAQMD staff indicated this updated plan will be based on ABAG's *2007 Projections*. The *2007 Projections* includes the land

use changes that were adopted as part of the South Hayward BART/Mission Boulevard Concept Design Plan and related General Plan amendments.

A project would be judged to conflict with or obstruct implementation of the air quality plan if it would be inconsistent with the growth assumptions, in terms of population, employment or regional growth in Vehicle Miles Traveled. In terms of these issues, the proposed project is consistent with the adopted South Hayward BART/Mission Boulevard Concept Design Plan, and the population growth estimated as a result of implementation of that plan has been accommodated by the Association of Bay Area Government's (ABAG's) population projections. In addition, the Air Quality District's air quality plan encourages the development of transit-oriented developments that propose construction of residential and neighborhood serving commercial uses near transit stations in order to reduce vehicle miles traveled and encourage pedestrian circulation. The proposed project involves construction of 788 residential dwelling units, of which 206 units will be affordable, and 64,680 square feet of neighborhood serving retail uses, including a grocery store. The site design includes a series of pedestrian pathways to facilitate pedestrian circulation, including direct access to the South Hayward BART station. The proposed project not only is consistent with the adopted South Hayward BART/Mission Boulevard Concept Design Plan and Hayward General Plan, but also with ABAG population projections and goals identified in the current clean air plan. Also, the proposed project will be constructed and occupied after adoption of the 2009 Clean Air Plan, and will be consistent with population projections assumed in that plan. Such consistency and the transit-oriented aspect of this project proposed at the South Hayward BART Station will result in a less-than-significant impact related to this topic area.

In addition, the developers are committed to green building principles. For the first phase of the development, Eden Housing is proposing to meet the standards of Build it Green's "GreenPoint Rating" system and will design the project to score at least 90 points. The entire project will be required to be GreenPoint Rated, in accordance with the City's Private Development Green Building Ordinance.

Zone Change/Preliminary Development Plan:

The applicant is proposing and staff is supportive of the proposed Planned Development (PD) District, since:

1. the individual parcels within the project would not meet the minimum residential density required by the Station Area Residential District, but the project as a whole would conform to the minimum density required by the zone district and the Concept Design Plan;
2. group open space is more appropriately addressed from a total master development perspective, versus on an individual parcel basis; and
3. the complexity of the project that involves multiple entities would be more appropriately processed with a PD Zoning District and associated Preliminary Development Plan, which allows for approval of the basic aspects of the project and an opportunity for subsequent development with associated costs of a more detailed Precise Development Plan.

In order for a Planned Development District to be approved, certain findings must be made. Those findings and related discussion follow.

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

The overall project is consistent with the General Plan designation of Station Area Density, and of the South Hayward BART/Mission Boulevard Concept Design Plan, (75 to 100 units per net acre) in that the development is proposed at 76 units per net acre; excluding the BART parking structure on Parcel 4, the net density of the project would be 84 units per net acre. Also, the project will further the City's goal to provide ownership housing opportunities as expressed in the Housing Element of the General Plan and will help further the City's Housing Element policy to provide housing opportunities for all household income levels in that 206 rental housing units for low-income senior and family households would be provided in the City as a result of the project.

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

Existing infrastructure and utility improvements, as conditioned, would be adequate to serve the development, which is proposed at a density that is consistent with existing General Plan designations. Also, the project, as conditioned, would have no significant impacts related to neighborhood traffic.

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

The Mission-Garin neighborhood is deficient in park space. However, the project would provide its residents with a combination of both private and public internal recreation space. To mitigate the proposed shortfall of group open space, staff is recommending that the developer acquire and improve and offer to the public the adjacent CalTrans parcels along the southern edge of the project area between Dixon Street and Mission Boulevard. In addition, the project would contribute \$6,212,068 of park dedication in-lieu fees associated with the 582 market rate units proposed, to improve area park facilities. Future park and recreation areas in this neighborhood include a community center and park proposed at Mission Boulevard and Valle Vista Avenue, which are located approximately a quarter-mile from the project site. An estimated approximately \$1.2M is contribution toward development of this community center, which is requested from the proposed development.

Additionally, a full-sized modern Safeway store that is proposed would contribute to the viability and "synergy" of the area, affording nearby residents, BART commuters, and others convenient and desired retail services in this portion of Hayward, as well as incentive for future development in the immediate vicinity.

Also, to address public safety and services, the project is conditioned on participation in a future Community Facilities District, which would generate a funding source for such services, including police services.

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

The averaging of the density across the entire project, rather than requiring it to be met on each parcel, is offset by the provision of the grocery store and public art as a neighborhood amenity; this amenity would be not only an asset to the project residents, but also to the residents of the greater South Hayward area.

As stated previously, the building proposed on Parcel 2 would exceed 60 feet in height (approximately 70 feet). In order to exceed the 60-foot height limit stated in the SAR District provisions, three findings are required to be made. Staff's responses to those findings are indicated in the following paragraphs.

- a. The additional height makes a positive contribution to the overall character of the area and will be compatible with its surroundings in terms of site planning, scale, building design, color, exterior materials, roof styles, lighting, landscaping and signage.**

This conceptual design reflects an urban design of high quality and interest. Also, the additional height is limited in area, is located within the interior of the site, and would provide additional interest to this building from various vantage points. A condition of approval requires that more detailed plans be submitted as part of the Precise Development Plan, and undergo design review approval where the Planning Commission will ensure the architectural features, materials, and design are in accordance with this condition. A condition of approval also requires that a public art feature or features be provided to enhance the overall development. In summary, the project, as conditioned, allows this finding to be made.

- b. The additional height will not result in unreasonable restrictions of light and air to adjacent properties or the public right-of-way, or otherwise be detrimental to the public health, safety and welfare.**

The portions of the proposed building on Parcel 2 that would exceed the normal 60-foot height standard are limited in area and confined to the central portion of the site, minimizing impacts related to light and air. As with any development, the building construction drawings will be required to be prepared by a licensed professional and be in accordance with current codes, which will ensure no impacts will occur associated with public health, safety and welfare.

- c. The additional height will support other policies and standards of the South Hayward BART/Mission Boulevard Concept Design Plan and will result in a better overall project.**

The additional height would not only provide a variation in building form and massing that would add interest to the building and overall project design, but also afford additional opportunities to maximize west-facing window areas, to take full advantage of views and natural light. Also, staff recommends that a pedestrian bridge be constructed between the two buildings, and above the roadway, to provide a convenient and safe connection for the residents. The senior residents of Parcel 2 would also benefit by having this safe, separated pedestrian connection to the grocery store on Parcel 1. Such feature will enhance pedestrian environment, in accordance with the Concept Design Plan policies.

South Hayward BART/Mission Boulevard Concept Design Plan:

This project occupies Sub-Area #4, which is the core of the Plan area and provides the greatest opportunity for development of a transit village. The Concept Plan supports this by allowing the highest residential density designation around the BART station properties. The Plan places neighborhood-serving retail services and amenities within walking distance from the station, including a new grocery store and community center at Valle Vista Avenue and a recreation/entertainment center across Mission Boulevard at Tennyson Road. The Plan calls for improved pedestrian and bike connections along the existing streets, or introduced in locations that link the BART station with Mission Boulevard and the envisioned grocery store and community center.

While the Plan indicates a preference, though not requirement, for a grocery store at the corner of Mission Boulevard and Valle Vista Avenue, Safeway is interested in developing a store as part of the structure on Parcel 1 of this project (Phase 1), in conjunction with the Eden Housing project. Approval of this proposal would require an amendment to the Design Plan to incorporate a major retail use at this location.

At the BART station itself, the intermodal bus facility is envisioned to be reconfigured from the design shown in the Plan to both maximize development opportunities and better connect Dixon Street with the station. Ground floor retail uses, including the grocery store, and entries to residential uses would line the looped entry road, with bus stops located along a street looping to Dixon Street. BART patron parking, rather than being allowed in conjunction with nearby residential structures, would be housed in a separate seven-level garage southerly of the station building.

The vision of the South Hayward BART/Mission Boulevard Concept Design Plan calls for Mission Boulevard to not only function as a street of city-wide and regional importance for vehicular traffic, but also as a unifying urban design element linking together neighborhoods, civic areas, and retail activities along the corridor. Attractive and safe pedestrian spaces are essential ingredients of community revitalization, both for support of multimodal travel and for providing successful public spaces. Improvements to the urban design of Mission Boulevard and incorporation of good design into new developments around the BART station would also support the desired economic revitalization of the corridor.

The proposed project is consistent with the guiding principles for planning for a transit-oriented environment along Mission Boulevard and around the BART station that integrates into the

existing built fabric. Consistent with the Plan's vision, the project would give pedestrians safe, comfortable, and interesting walking spaces. Pedestrians are provided wide pathways, not simply for room to maneuver, but also to feel comfortable. Beyond width, pedestrians desire shelter from sun and rain, as well as a sense of being enclosed by nearby buildings or trees, rather than being directly exposed to expanses of asphalt and high speed traffic. Lastly, visually-interesting, highly-detailed surroundings and amenities, such as seating, outdoor retail displays, and sidewalk cafes would render a walk more enjoyable, and will entice people to linger and relax. These amenities are proposed by the applicant and will be detailed in the Precise Development Plan.

The project proposes well-designed urban public spaces near the BART station and retail uses. These spaces will cater to pedestrians, bicyclists, transit riders, and residents or workers from adjacent developments that either need to be outside, want to walk to retail and services, or simply want to enjoy the outdoors. Pedestrians are particularly sensitive to circuitous routes and long blocks because, at walking speeds, longer distances translate into much longer travel times. The proposed project introduces smaller blocks of buildings than those originally shown in the Plan, providing a greater number of pedestrian pass-throughs to better connect the BART station with Mission Boulevard and surrounding neighborhoods.

The proposed project will retain the existing bicycle lanes on Dixon Street. The attractive linear park to the north, Nuestro Parquecito, between Tennyson Road and Bowman School, could be connected to the project's pedestrian routes in the future to create the Plan's anticipated "Station Area Trail." Ultimately, this would require upgrading the crossing of Tennyson Road immediately to the east of the BART tracks, through construction of a bridge cantilevered off the BART track platform. City staff will continue to seek funding from federal, state and other sources for such connection.

Route 238 Corridor Improvement Project

The Route 238 Corridor Improvement Project currently underway has identified locations of signalized pedestrian crossings on Mission Boulevard. These include crossings at Tennyson Road, currently signalized, and Valle Vista Avenue, which will be signalized as part of the Route 238 Corridor Improvement Project. Along Dixon Street, two signalized intersection crossings exist at Tennyson Road and Industrial Parkway. To enhance overall pedestrian connectivity in the Plan area, the project proposes an additional signalized crossing along Dixon Street at the southerly end of the BART property. In addition, the conditions of approval require improvements to Dixon Street to enhance the visibility of marked crosswalks, such as raised intersections and, possibly, pedestrian-controlled lighted signals. Staff also proposes a pedestrian bridge, above the interior street, between the buildings on Parcels 1 and 2. The residents of Parcel 1 must park in the garage on Parcel 2 across a street that serves traffic to the BART station from Tennyson Road as well as grocery store delivery trucks. Senior residents of Parcel 2 will also benefit from this safe access to the grocery store.

Transit service in the Plan area is provided by BART and AC Transit, which operates bus services. The 99-Mission Boulevard Route is the most important bus route in the Plan area and runs the length of Mission Boulevard to provide transfers to rail and other bus services. Other

bus lines serve the neighborhoods to the west, and are lower-ridership, coverage-oriented services. Base frequencies on the 99-Mission Boulevard route are every 30 minutes, with lower frequencies in the evenings and on the weekends. It is hoped that the higher densities along the Mission Boulevard corridor will encourage AC Transit to improve this line to provide 15-minute frequencies throughout the day, and in the longer term, seek to implement Rapid Bus service on this corridor. As part of the project, the bus stops at the South Hayward BART Station will be reconfigured to provide for parallel-parked buses along the westerly and northerly curbs of Parcel 3N. AC Transit has been involved in the development of this configuration and believes that it will work for the bus circulation, and staff is recommending as a condition of approval that a formal agreement between the developer and AC Transit and BART be executed to ensure the final design is acceptable to both. It is anticipated that the new passenger shelters will include additional passenger amenities such as bus route and schedule information.

FISCAL IMPACT AND ECONOMIC ANALYSIS

The proposed project would be anticipated to generate increased tax increment funds to the Redevelopment Agency, particularly the later phases of the project, and increased funding for affordable housing development in that the project is located in the Redevelopment Project Area. Also, sales tax revenues, anticipated to be approximately \$45,000 per year, would be generated associated with the new Safeway store, as would park dedication in-lieu fees (\$6,212,068 per current rates), and additional contribution to a future community center and school impact fees. As with any new major development, there also would be associated costs for such development. To address costs associated with public services, including police services, staff would assess impacts and is recommending as a condition of project approval that a community facilities district (CFD) be formed to allow the project to pay for its proportional share of such services, as Council has previously encouraged in relation to the South Hayward BART planning area and as will be established in the Cannery area. Actual assessment amounts will be determined when the district is formed.

In order for the project to be competitive for State Proposition 1C grant funding, the City must provide a commitment of local funds which total approximately \$22 million. These funds are required to maximize scoring in the local match and readiness sections of the Proposition 1C program. To maximize readiness points, the identified gap for both the affordable housing and infrastructure components of the project must be committed. These funds, which would be required to be authorized by the Agency Board, are anticipated to come from the Redevelopment Agency's low/moderate-income housing set-aside fund for the affordable housing component, as well as via Agency-issued bonds. Staff will be providing the City Council with a preliminary fiscal analysis in regards to the anticipated full level of financial participation.

ENVIRONMENTAL REVIEW (CEQA)

This proposal is defined as a "project" under the parameters set forth in the California Environmental Quality Act (CEQA) Guidelines. Staff has prepared a Mitigated Negative Declaration and Initial Study (see attached), which indicates there could be potentially significant environmental impacts related to traffic. However, as indicated in the Initial Study, staff concludes that those potentially significant environmental impacts will be mitigated to a

level of insignificance through the implementation of mitigation measures. Some of the major substantial measures include the previously discussed improvements to the Tennyson Road-Dixon Street intersection, parking impact mitigation, participation in a Community Facilities District, and noise impact assessment and required mitigation. Those measures and the timing and implementing/monitoring responsibility for them are indicated in the attached Mitigation Monitoring and Reporting Program.

PUBLIC NOTICE

A notice of receipt of application was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the then-latest assessor's records, asking for comments on the project. The Planning Division received comments from the residents westerly of the BART railway. In response, a community meeting, hosted by the project applicant, was held at the clubhouse of the Spanish Ranch II Mobilehome Park on December 8, 2009. The residents of the single-family homes off Beatron Way and the mobilehome park were invited. Several residents expressed concerns regarding traffic, and one resident commented on the loss of hillside views. Several also commented on non-project-related concerns regarding safety due to intruders jumping the existing 6-foot-high wall along the railroad into the residential rear yards. Overall, the residents expressed a favorable view about the project, indicating that it would bring needed attention and improvements to this South Hayward neighborhood. Regarding the safety issue, a request was made to the developer to install a new, taller wall along the railroad at the rear of the properties along the tracks.

This neighborhood is approximately 150 feet westerly and across the BART tracks from the proposed development. Views from individual homes will not be significantly impacted as this neighborhood is relatively flat and the primary views of the Hayward hills, affected by existing structures and trees, are from the public streets. The impact on views (see Sheet A13 of Plans) was analyzed during review of the South Hayward BART/Mission Boulevard Concept Design Plan, which envisioned structures on this site of five stories, with the ability with certain findings to construct up to seven stories. Therefore, the visual impacts from the proposed development will be no worse than previously analyzed. In addition, the applicant has designed the project to maintain view corridors between proposed structures and the project includes design elements that reduce the height of portions of the project that are nearest existing development to reduce visual impacts as much as possible.

On January 31, 2009, a Notice of Public Hearing and Availability of a Mitigated Negative Declaration was published in *The Daily Review*, and property owners and occupants within 300 feet of the project boundaries were notified, as were interested parties and appropriate public agencies. At the time of completion of this report, the Planning Division had not received any correspondence related to such notice.

NEXT STEPS

Proposition 1C Application Submittal:

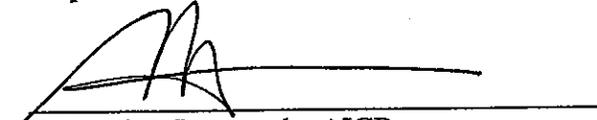
The City must act as the applicant for the two Proposition 1C grant applications to the State. The developers are suggesting that the funds be dedicated towards the construction of the BART

replacement parking garage and affordable housing projects and related improvements. The developers and Eden Housing staff will work with City staff and its consultant to prepare the most competitive applications possible, and the City Council will need to authorize submittal of such applications. The two applications are due by April 1, 2009.

Precise Development Plan:

The plans submitted as part of the proposed project constitute a Preliminary Development Plan. The next step in the process entails development of a Precise Development Plan, which must be submitted for approval within one year of approval of the Preliminary Plan. The applicant may request up to two one-year extensions of time. Since the Preliminary Plan is limited in the information provided, the Planning Commission must review and approve the Precise Plan. The process is primarily ministerial, outside of the design review conducted by the Planning Commission. All other items are reviewed for consistency with the attached Conditions of Approval.

Prepared and recommended by:


Richard E. Patenaude, AICP
Planning Manager

Attachments:

- ~~Exhibit A: Aerial Photo (Vicinity)~~
- ~~Exhibit B: Area/Zoning Map~~
- ~~Exhibit C: S. Hayward BART/Mission Blvd. Concept Design Plan Map Section~~
- ~~Exhibit D: Findings for Approval~~
- ~~Exhibit E: Conditions of Approval~~
- Exhibit F: Draft Mitigated Negative Declaration
- Exhibit G: Initial Study
- Exhibit H: Draft Mitigation Monitoring & Reporting Program

Plans



**CITY OF HAYWARD
MITIGATED NEGATIVE DECLARATION**

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

I. PROJECT DESCRIPTION:

Zone Change Application No. PL-2008-0547 PD – Wittek Development LLC (Applicant/Owner) - Request to 1) Change the Zone District from Station Area Residential (SAR) District to Planned Development (PD) District, 2) Amend the South Hayward BART/Mission Boulevard Concept Design Plan to address a revised circulation system, a relocated grocery store site and the BART parking structure, and 3) Authorize the Planning Director to Accept an Application for a Development Agreement, in Order to Develop a Mixed-Use Development consisting of 788 Multi-Family Residential Units and a Grocery Store, including 206 Units of Affordable Housing and a 910-Space BART Parking Garage

The project is located within the South Hayward BART area and is bounded by Mission Boulevard, Dixon Street, the BART tracks, Tennyson Road and existing residential developments.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

The proposed project, with the mitigation measures identified in the attached initial study checklist and project narrative, will not have a significant effect on the environment.

FINDINGS SUPPORTING DECLARATION:

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment.
2. The project will not adversely affect any scenic resources. A lighting plan will be required to ensure that light and glare do not affect area views. Also, compliance with the City's Design Guidelines will ensure visual impacts are minimized. Landscape plans will also be required to ensure that structures are appropriately screened.
3. The project will not have an adverse effect on agricultural land since the subject site is not used for such purposes, does not contain prime, unique or Statewide important farmland.

4. The project is consistent with the General Plan Land Use designation for the site and the South Hayward BART/Mission Boulevard Concept Design Plan and will not result in significant impacts related to air quality.
5. The project, proposed on properties surrounded by other residential development and within an urbanized area, will not result in significant impacts to biological resources, including protected trees.
6. The project will not result in significant impacts to known cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains.
7. The project will not result in significant impacts to geology and soils as the site is not located within a geologic hazard zone or liquefaction zone. The project is, however, located west of the Hayward fault, which poses potential risk to any development in the city of Hayward. Recommendations of the project geotechnical engineer will be required to be incorporated into project design and implemented throughout construction, to address such items as expansive soils and seismic shaking. Construction will also be required to comply with the California Building Code standards to minimize seismic risk due to ground shaking.
8. Any hazardous materials, including potential lead and asbestos associated with buildings to be demolished, will be required to be removed/treated in accordance with State and local regulations. A site clearance will also be required to be obtained from either the State Department of Toxic Substances Control or the Regional Water Quality Control Board.
9. The project will be required to meet all water quality standards as part of the normal development review and construction process, to be addressed in a Stormwater Pollution Prevention Plan and Erosion Control Plan that utilize best management practices. Drainage improvements will be required to accommodate stormwater runoff, so as not to negatively impact the existing downstream drainage system of the Alameda County Flood Control and Water Conservation District.
10. The project proposes amendments to the Hayward zoning designation for the site, but is still consistent with the overall density supported by the Hayward General Plan. In addition, the project will be required to be consistent with the City of Hayward's Design Guidelines.
11. Noise reducing measures/features will be required in the design of the units near the BART tracks and Mission Boulevard, so that such areas comply with the City's noise standards. Also, as is typical for larger development projects in Hayward, construction noise will be mitigated through restriction on construction hours, mufflers, etc., to be approved as part of a Construction Noise Management Plan.
12. The project will not result in significant impacts related to population and housing in that the amount of development proposed is within the range of development analyzed in the Hayward General Plan Environmental Impact Report (SCH #: 2001072069), certified by Hayward in March of 2002, and in the South Hayward BART/Mission Boulevard Concept Design Plan Program-level Environmental Impact Report (SCH #: 2005092093), certified by Hayward in May of 2006.

13. The project will not result in a significant impact to public services in that development at least as intensive as that proposed was analyzed in the Hayward General Plan EIR and the South Hayward BART/Mission Boulevard Concept Design Plan Program-level EIR and found to have less-than-significant impacts.
14. The project will not result in a significant impact to parking provided the proposed development is phased to provide parking spaces for the BART station until such time as the BART parking structure is constructed.

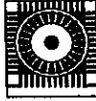
III. PERSON WHO PREPARED INITIAL STUDY:



Richard Patenaude, AICP, Planning Manager
Dated: January 30, 2009

IV. COPY OF INITIAL STUDY IS ATTACHED

For additional information, please contact the City of Hayward, Planning Division, 777 B Street, Hayward, CA 94541-5007, telephone (510) 583-4213, or e-mail richard.patenaude@hayward-ca.gov.



CITY OF
HAYWARD
HEART OF THE BAY

Initial Study Checklist

pursuant to the California Environmental Quality Act of 1970, as amended

1. Project title: South Hayward BART Mixed Use
2. Lead agency name and address: City of Hayward, Planning Division
777 B Street
Hayward, CA 94541
3. Contact person and phone number: Richard Patenaude, AICP, Planning Manager
(510) 583-4213
4. Project location: The project is located within the South Hayward BART area and is bounded by Mission Boulevard, Dixon Street, the BART tracks, Tennyson Road and existing residential developments.
(APNs: 078C-0441-001-17, 078C-0441-001-23, 078C-0441-001-24, 078C-0441-001-28, 078C-0441-001-29)
5. Project sponsor's name and address: Wittek Development, LLC
Kurt Wittek
1375 Kings Highway East, Suite 240
Fairfield, CT 06824
6. General Plan designation: Station Area Density
(existing and proposed)
7. Zoning: Station Area Residential
(existing) ; Planned
Development (proposed)
8. Description of project: The project involves a zone change from Station Area Residential to Planned Development and the construction of a Mixed-Use Retail and Housing development consisting of 788 residential dwelling units, of which 206 units will be affordable, 64,680 square feet of retail including a grocery store and a 910-space parking garage for BART on an approximate 12 acre site.
9. Surrounding land uses and setting: The project area consists of a few parcels and two main areas. The first area is bordered by Mission Boulevard to the east, Dixon Street to the west, residential uses to the north and vacant land and residential uses to the south. The first area is developed with a warehouse

building that was previously used for auto repair. The second area is bordered by Dixon Street to the east, BART tracks to the west, Tennyson Road and residential uses across Tennyson Road to the north and residential uses to the south. This area is currently developed with the South Hayward BART station and associated surface parking lots.

The project site is located within the South Hayward BART/Mission Boulevard Concept Design Plan area. The project densities are consistent with those densities assumed in that adopted plan. That specific plan was considered under a program-level Environmental Impact Report and this Mitigated Negative Declaration tiers off that previously certified CEQA analysis.

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

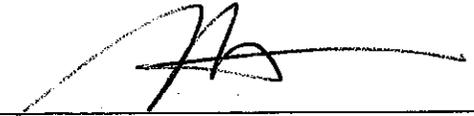
DETERMINATION: (To be completed by the Lead Agency)

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.


Richard Patenaude, AICP, Planning Manager
Dated: January 30, 2009

EVALUATION OF ENVIRONMENTAL IMPACTS:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California 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) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input 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 checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) Expose sensitive receptors to substantial pollutant concentrations? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e) Create objectionable odors affecting a substantial number of people? | <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?

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

V. CULTURAL RESOURCES -- Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

d) Disturb any human remains, including those interred outside of formal cemeteries?

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:

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.

ii) Strong seismic ground shaking?

iii) Seismic-related ground failure, including liquefaction?

iv) Landslides?

b) Result in substantial soil erosion or the loss of topsoil?

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

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

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

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?

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

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

VIII. HYDROLOGY AND WATER QUALITY --
 Would the project:

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

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

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

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

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

f) Otherwise substantially degrade water quality?

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

j) Inundation by seiche, tsunami, or mudflow?

IX. LAND USE AND PLANNING - Would the project:

a) Physically divide an established community?

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?

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

X. MINERAL RESOURCES -- Would the project:

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

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

XI. NOISE -- Would the project result in:

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

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

XII. POPULATION AND HOUSING -- Would the project:

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

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

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

XIII. PUBLIC SERVICES

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

Fire protection?

Police protection?

Schools?

Parks?

Other public facilities?

XIV. RECREATION --

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

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

XV. TRANSPORTATION/TRAFFIC -- Would the project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

e) Result in inadequate emergency access?

f) Result in inadequate parking capacity?

g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

XVI. UTILITIES AND SERVICE SYSTEMS -- Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

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?

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

g) Comply with federal, state, and local statutes and regulations related to solid waste?

XVII. MANDATORY FINDINGS OF SIGNIFICANCE --

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

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?



CITY OF
HAYWARD
HEART OF THE BAY

Project Narrative

I. AESTHETICS

a. Would the project have a substantial adverse effect on a scenic vista?

Less Than Significant Impact. The proposed project involves the construction of new residential units that are proposed within five story buildings as well as a BART parking structure that is seven stories tall. The nearest adjacent residential development is located approximately 130 feet north of the proposed development on the Perry and Key site. This development varies in height from 3 to 4 stories. The views of the Hayward Hills from this existing development will not be impacted by the proposed development. Across the BART tracks is an existing single family residential neighborhood. The views from the local streets in this neighborhood will be impacted, though not significantly. This existing single family neighborhood is approximately 150 feet or so west and across the BART tracks from the proposed development. Views from individual homes will not be significantly impacted as this neighborhood is relatively flat and the primary views of the Hayward hills, affected by existing structures and trees, are from the public streets. This impact was analyzed in the Program-level Environmental Impact Report (EIR) prepared for the South Hayward BART/Mission Boulevard Concept Design Plan. The impacts from this development will be no worse than previously analyzed as evidenced by a visual simulation submitted as part of the development application. In addition, the applicant has designed the project to maintain view corridors between proposed structures and the project includes design elements that reduce the height of portions of the project that are nearest existing development to try and reduce visual impacts as much as possible. No additional mitigation is required.

b. Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No Impact. The project will not damage any scenic resources as it is not located within a state scenic highway.

c. Would the project substantially degrade the existing visual character or quality of the site and its surroundings?

Less Than Significant Impact. The proposed project involves construction of new buildings that would range from five to seven stories tall, which would be taller than the existing buildings in the area that are typically two to three stories tall. This has the potential to result in shade and shadow effects on adjacent residences, depending on the season of the year and the position of the sun, and reduced privacy for adjacent

dwellings and occupants. This impact was analyzed in the Program-level Environmental Impact Report (EIR) prepared for the South Hayward BART/Mission Boulevard Concept Design Plan. The applicant has designed the project to help integrate the project with the surrounding development, including stepping down of the building massing where the project is nearest adjacent residential development. In addition, the project has been designed with greater setbacks between residential living units across property lines to aid in preserving privacy of existing residential units. The proposed architecture integrates good elements of design, including articulation that will aid in reducing any potential shade and shadow effects on adjacent development. No additional mitigation is required.

d. Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Less Than Significant Impact with Mitigation Incorporation. The project proposes construction of buildings ranging from five to seven stories, which will introduce new building lights at higher elevations than the existing surrounding buildings. This could result in impacts of light and glare from building and deck/balcony lighting, especially as viewed from outside the project area. Also, new light sources at upper levels could spill over into residential areas adjacent to the project area. This impact was analyzed in the Program-level Environmental Impact Report (EIR) prepared for the South Hayward BART/Mission Boulevard Concept Design Plan. In order to mitigate the impacts of light and glare, projects are required to submit lighting plans for review. Any lighting from the project would be required to be confined to the premises and not spill over onto adjacent properties. This detailed lighting plan is typically submitted as part of the improvement/precise plan submittals, which are reviewed in advance of building permit issuance.

Mitigation Measure 1: As part of the precise plan and improvement plan submittals, the applicant shall include a detailed lighting plan that demonstrates that all proposed lighting will remain on site and not spill over onto adjacent properties. Implementation of this mitigation measure will reduce the impact to a less than significant level.

II. AGRICULTURE RESOURCES

a. Would the project 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?

No Impact. The project is not proposed on any land meeting this designation, thus no impact.

b. Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?

No Impact. The project is proposed on land that is not zoned for agricultural use nor is the property under Williamson Act contract, thus no impact.

c. Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

No Impact. The project does not involve any changes that will result in conversion of Farmland, thus no impact.

III. AIR QUALITY

a. Would the project conflict with or obstruct implementation of the applicable air quality plan?

Less Than Significant Impact. The *Bay Area 2005 Ozone Strategy* is the current and applicable air quality plan. This plan was based on ABAG's *2003 Projections* report, which did not include the population projections resulting from the adoption of the South Hayward BART/Mission Boulevard Concept Design Plan, and associated amendments to the Hayward General Plan. The South Hayward BART/Mission Boulevard Concept Design Plan Program-level EIR required that City staff work with ABAG staff to ensure ABAG's future projections include these population increases. Staff has worked with ABAG staff and these changes have been reflected in the latest ABAG projections. According to the Bay Area Air Quality Management District (BAAQMD), an update to the air quality plan is underway and will be released by the end of the calendar year. BAAQMD staff indicated this updated plan will be based on ABAG's *2007 Projections*. The *2007 Projections* includes the land use changes that were adopted as part of the South Hayward BART/Mission Boulevard Concept Design Plan and related General Plan amendments.

A project would be judged to conflict with or obstruct implementation of the air quality plan if it would be inconsistent with the growth assumptions, in terms of population, employment or regional growth in Vehicle Miles Traveled. The proposed project is consistent with the adopted South Hayward BART/Mission Boulevard Concept Design Plan, and the population growth estimated as a result of implementation of that plan has been accommodated by the Association of Bay Area Government's (ABAG's) population projections. In addition, the Air Quality District's air quality plan encourages the development of transit-oriented developments that propose construction of residential and neighborhood serving commercial uses near transit stations in order to reduce vehicle miles traveled and encourage pedestrian circulation. The proposed project involves construction of 788 residential dwelling units, of which 206 units will be affordable, and 64,680 square feet of neighborhood serving retail uses, including a grocery store. The site design includes a series of pedestrian pathways to facilitate pedestrian circulation, including direct access to the South Hayward BART station. The proposed project not only is

consistent with the adopted South Hayward BART/Mission Boulevard Concept Design Plan and Hayward General Plan, but also with ABAG population projections and goals identified in the current clean air plan. Also, the proposed project will be constructed and occupied after adoption of the 2009 Clean Air Plan, and will be consistent with population projections assumed in that plan. Such consistency and the transit-oriented aspect of this project proposed at the South Hayward BART Station will result in a less-than-significant impact related to this topic area.

b. Would the project violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Less Than Significant with Mitigation Incorporation. The project may involve short-term construction related impacts to air quality due to excavation, grading, demolition, vehicle travel on paved and unpaved surfaces and vehicle and equipment exhaust. The Bay Area Air Quality Management District (BAAQMD) has established a set of feasible control measures to address any potential impacts during construction activities. Implementation of these feasible control measures will reduce impacts to a level of insignificance.

Mitigation Measure 2: The applicant shall employ the following basic and enhanced control measures during site construction to address potential temporary air quality impacts: (a) water all active construction areas at least twice daily; (b) cover all trucks hauling soil, sand, and other loose materials; (c) pave, apply water three times daily, or apply soil stabilizers on all unpaved access roads, parking areas and staging areas; (d) sweep daily all paved access roads, parking areas and staging areas; (e) sweep streets daily if visible soil material is carried onto adjacent public streets; (f) hydro seed or apply soil stabilizers to inactive construction areas or previously graded areas that are inactive for ten or more days; (g) enclose, cover, water twice daily or apply soil binders to exposed stockpiles of dirt, or sand; (h) limit traffic speeds on unpaved roads to 15mph; (i) install sandbags or other erosion control measures to prevent silt runoff to public roadways; (j) replant vegetation in disturbed areas as quickly as possible; (k) install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site; and (l) suspend excavation and grading activity when winds exceed 25mph. Implementation of this mitigation measure will reduce the impact to a less than significant level.

c. Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the projected region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

Less Than Significant Impact. The BAAQMD has established guidelines for determining if a project will have a significant cumulative air quality impact. If a project is consistent with the local general plan and the general plan is consistent with the regional air quality plan, then the project is determined to not have a significant cumulative air quality impact. As stated in IIIa, above, the project is consistent with the adopted South Hayward BART/Mission Boulevard Concept Design Plan and General Plan, and the population growth estimated as a result of implementation of

the Concept Design Plan has been accounted for by the Association of Bay Area Government's (ABAG's) population projections, which are used as the basis for the local air quality plan. This air quality plan is in the process of being updated and shall be in effect prior to the ultimate construction of this project. Thus, the project will not have a significant cumulative impact to air quality. No mitigation is required.

d. Would the project expose sensitive receptors to substantial pollutant concentrations?

Less Than Significant with Mitigation Incorporation. Sensitive receptors are facilities that house or attract children, the elderly, and people with illnesses or others who are especially sensitive to the effects of air pollutants. The project involves the construction of 788 new residential dwelling units in an area that is already established with other residential development or sensitive receptors. The project is also proposed adjacent to the South Hayward BART station which should aid in reducing auto trips in the area. In addition, the site has been designed to create landscape buffers between proposed residential buildings and adjacent streets. There may be some temporary impacts during the construction phase, however, implementation of Mitigation Measure #2, above, shall reduce this temporary impact to a less than significant level.

e. Would the project create objectionable odors affecting a substantial number of people?

No Impact. The project involves construction of new residential units and some commercial, neither of which will create objectionable odors; thus, no impact is anticipated.

IV. BIOLOGICAL RESOURCES

a. Would the project have a substantial adverse affect, 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?

No Impact. According to the South Hayward BART/Mission Boulevard Concept Design Plan Program-level EIR, the project area is largely developed and does not contain plant or wildlife special status species so there would be no impact with regard to this topic

b. Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

No Impact. According to the South Hayward BART/Mission Boulevard Concept Design Plan Program-level EIR, there are no riparian habitats or other sensitive natural communities located on the project site so there would be no impact with regard to this topic.

- c. **Would the project 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?**

No Impact. According to the South Hayward BART/Mission Boulevard Concept Design Plan Program-level EIR, there are no identified wetlands on the project site; thus, no impact is anticipated.

- d. **Would the project 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?**

No Impact. According to the South Hayward BART/Mission Boulevard Concept Design Plan Program-level EIR, there are no wildlife corridors on-site or creeks that would provide habitat for migratory fish; thus, no impact is anticipated.

- e. **Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?**

No Impact. The project does not conflict with any local policies and ordinances related to biological resources or tree preservation; thus, no impact is anticipated.

- f. **Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?**

No Impact. There is not an adopted habitat conservation plan that covers the project site; thus, no impact is anticipated.

V. CULTURAL RESOURCES

- a. **Would the project cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?**

No Impact. According to the South Hayward BART/Mission Boulevard Concept Design Plan Program-level EIR, no sites that contain historical resources was identified within the project area; thus no impact is anticipated.

- b. **Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?**

No Impact. According to the South Hayward BART/Mission Boulevard Concept Design Plan Program-level EIR, there are no known archaeological resources on the project site; thus, no impact is anticipated.

- c. **Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?**

No Impact. According to the South Hayward BART/Mission Boulevard Concept Design Plan Program-level EIR, there are no known paleontological resources on the project site; thus no such impacts are anticipated.

- d. **Would the project disturb any human remains, including those interred outside of formal cemeteries?**

No Impact. According to the South Hayward BART/Mission Boulevard Concept Design Plan Program-level EIR, there are no known burial sites on the project site; thus, no such impacts are anticipated. Standard procedures for grading operations should be followed during any development projects on undeveloped sites, which require that if any such remains or resources are discovered, grading operations are halted and the resources/remains are evaluated by a qualified professional and, if necessary, mitigation plans are formulated and implemented.

VI. GEOLOGY AND SOILS

- a. **Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:**

- i. **Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?**

Less Than Significant with Mitigation Incorporation. The active Hayward earthquake fault is located to the east of the project site and poses a significant hazard to the City. The fault is the principal seismogenic source in the eastern San Francisco Bay area, and poses both a surface rupture and strong ground-shaking hazard. Considerable geological and geotechnical work has been conducted along the Hayward fault throughout Hayward over the past several decades, leading to more accurate plotting of the location of the main fault trace and knowledge of its characteristics, as well as information associated with additional active traces of the Hayward fault. No portion of the project site, however, lies within the State Earthquake Fault Zone. Through design, such impacts will be reduced to levels of insignificance in accordance with specific project development review and construction through oversight and implementation of recommendations of a registered geotechnical engineer, in accordance with the California Building Code and standard geotechnical practices.

Mitigation Measure 3: The applicant shall have prepared a geotechnical investigation by a licensed geotechnical engineer, which will outline recommendations for construction given the location of the project site near

the Hayward fault. Submittal of the geotechnical report shall be submitted as part of the building permit application. Implementation of this mitigation measure will reduce impacts to a less than significant level.

ii. Strong seismic ground shaking?

Less Than Significant with Mitigation Incorporation. The severity of ground shaking at a particular site is controlled by several factors, including the distance from the earthquake source, the earthquake magnitude, and the type, thickness and condition of underlying geologic materials. Areas underlain by unconsolidated, recent alluvium and/or man-made fill have been shown to amplify the effects of strong seismic ground shaking. The presence of such deposits and the fact that the active Hayward fault is located approximately 2,000 feet to the east of the project site increase the chances that severe ground shaking will likely occur during a major seismic event, which could result in loss of life and/or property associated with the project. However, through design, such impacts will be reduced to levels of insignificance in accordance with specific project development review and construction through oversight and implementation of recommendations of a registered geotechnical engineer in accordance with the California Building Code and standard geotechnical practices. See Mitigation Measure #3, above.

iii. Seismic-related ground failure, including liquefaction?

Less Than Significant with Mitigation Incorporation. As shown in Appendix L of the City of Hayward General Plan, and as reflected in the State Seismic Hazard Zone Map (Hayward Quadrangle), the project site is located in a low liquefaction hazard area. However, due to the proximity of the Hayward fault, there may be the potential for liquefaction and other types of ground failures resulting from seismic events. However, through mitigation related to design and location of developments, such impacts will be reduced to levels of insignificance in accordance with specific project development review and construction through oversight and implementation of recommendations of a registered geotechnical engineer in accordance with the California Building Code and standard geotechnical practices. See Mitigation Measure #3, above.

iv. Landslides?

No Impact. The project site is not located within an area prone to landslides as the project site is flat; thus, no impact is anticipated.

b. Would the project result in substantial soil erosion or the loss of topsoil?

Less Than Significant Impact with Mitigation Incorporation. The project will involve the loss of topsoil and be subject to potential erosion through the grading and preparation of the site prior to actual construction. In order to address impacts, the applicant will be required to submit an erosion and sediment control plan indicating how this will be addressed during construction including, but not limited to incorporation of best management practices and adherence to the City's Grading Ordinance.

Mitigation Measure 4: Prior to any grading or site earthwork, the applicant shall submit an Erosion and Sediment Control Plan to the City for review and approval, as part of improvement plans. The Plan shall incorporate measures consistent with the City's Grading Ordinance and Best Management Practices for construction projects. Implementation of this mitigation measure will reduce impacts to a less than significant level.

- c. **Would the project 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?**
Less Than Significant with Mitigation Incorporation. The project site is not located in an area prone to landslides and will be required to submit a soils report as part of the building permit application which will recommend the type of construction to use based on the soil types found on site such that there will be no on- or off-site impacts.

Mitigation Measure 5: The applicant shall submit a detailed soils report, prepared by a licensed geotechnical engineer, as part of the building permit application that demonstrates the type of construction suitable for the project site, based on recommendations in the soils present. Implementation of this mitigation measure will reduce impacts to a less than significant level.

- d. **Would the project 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?**
Less Than Significant with Mitigation Incorporation. As shown in Figure 9.3 of the certified EIR associated with the General Plan Update, the project area is mantled by clayey soils of the Clear Lake-Omni series, which are expansive soils that have a high shrink-swell potential. Such soils, when exposed to natural seasonal or man-made moisture content changes, can damage structures and other improvements and utilities. However, such impacts will be mitigated to levels of insignificance in accordance with specific project development review and construction through oversight and implementation of recommendations of a registered geotechnical engineer in accordance with the Uniform Building Code and standard geotechnical practices. See Mitigation Measure #3, above.
- e. **Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?**
No Impact. The project does not involve the use of septic tanks or other alternative wastewater disposal systems, thus no impact.

VII. HAZARDS AND HAZARDOUS MATERIALS

- a. **Would the project create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?**

No Impact. The project does not involve the transport, use or disposal of hazardous materials, thus no impact.

- b. **Would the project 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?**

Less Than Significant with Mitigation Incorporation. The project involves the demolition of existing structures in order to construct the proposed development. Potential impacts could include the release of asbestos containing materials, including within the soil, lead based paints and other hazardous materials during demolition of these existing structures. This could potentially result in a health hazard to construction employees and visitors to the area. Removal of older utility installations within the project area could also release potentially hazardous materials into the atmosphere. Implementation of the following mitigation measures will reduce potential demolition activities and release of hazardous air-borne substances to a less than significant level.

Mitigation Measure 6: Prior to construction/grading permits being issued and a certificate of occupancy being granted, the applicant shall obtain environmental and health based clearances from the department of Toxic Substances and Hayward Fire Department-Hazardous Materials Section. Some allowances for grading or construction may be granted if specifically requested in writing and allowed by the Department of Toxic Substances Control and the Hayward Fire Department.

- c. **Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

No Impact. The project will not involve the hazardous emissions or handle hazardous materials; thus, no impact is anticipated.

- d. **Would the project 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?**

No Impact. The project site is not located on a list of hazardous materials sites; thus, no such impact is expected.

- 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?**

No Impact. The project site is not located within two miles of a public airport and is not covered by any airport land use plan; thus, no impact is anticipated.

- 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?**

No Impact. The project site is not located within the vicinity of a private airstrip; thus, no impact is expected.

- g. **Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

No Impact. The project will not interfere with any emergency response plan; thus, no impact is anticipated.

- h. **Would the project 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?**

No Impact. The project site is not located within the designated Urban/Wildland Interface Fire Hazard Area; thus, no such impacts are anticipated.

VIII. HYDROLOGY AND WATER QUALITY

- a. **Would the project violate any water quality standards or waste discharge requirements?**

Less Than Significant With Mitigation Incorporation. The project will involve substantial grading and construction activity. However, implementation of City grading and erosion control provisions, including utilizing best management practices designed in accordance with applicable provisions of the Alameda County Clean Water Program NPDES permit Section C.3, limiting periods during which grading occurs, and developing stormwater pollution prevention plans (SWPPPs) will reduce such impacts to less than significant levels.

Mitigation Measure 7: The applicant shall submit an erosion and sediment control plan and a stormwater pollution prevention plan (SWPPP) as part of the Grading and Improvement Plan application submittal, utilizing best management practices in accordance with the Alameda County Clean Water Program NPDES Permit Section C.3, including but not limited to limiting periods during which grading occurs.

- b. **Would the project 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 not support existing land uses or planned uses for which permits have been granted)?**

No Impact. The project does not involve the use of any wells for its water supply and will not impact groundwater supplies; thus, no impact is expected.

- c. **Would the project 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?**

Less Than Significant With Mitigation Incorporation. The project will involve substantial grading and construction activity which has the potential to result in erosion both on and off-site. However, implementation of City grading and erosion control provisions, including utilizing best management practices designed in accordance with applicable provisions of the Alameda County Clean Water Program NPDES permit Section C.3, limiting periods during which grading occurs, and developing stormwater pollution prevention plans (SWPPPs) will reduce such impacts to less than significant levels. See Mitigation Measure #7, above.

- d. **Would the project 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?**

Less Than Significant with Mitigation Incorporation. As indicated in item a) above, the project will involve substantial grading, which will increase stormwater runoff and could negatively impact downstream properties. The project shall be required to develop a storm drainage report, including storm drain calculations associated with expected runoff and downstream drainage facilities, to determine adequacy of both private and public facilities (managed by the City of Hayward and the Alameda County Flood Control and Water Conservation District). Any requisite improvements to existing facilities or construction of new facilities shall be implemented in order to mitigate potential impacts to a less than significant level.

Mitigation Measure 8: The applicant shall prepare a storm drainage report that includes storm drain calculations associated with expected runoff and downstream drainage facilities and remediate if necessary, to determine adequacy to serve the proposed development. The storm drainage report shall be reviewed and approved by the Hayward Public Works Department staff and Alameda Flood Control and Water Conservation District staff prior to approval of the improvement and grading plans. Implementation of this mitigation measure will reduce impacts to a less than significant level.

- e. **Would the project 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?**

Less Than Significant with Mitigation Incorporation. Approval of the proposed project would increase the amount of stormwater runoff generated from the project area, although a substantial portion of the project area is currently developed with buildings, paved parking areas, walkways and other impervious surfaces. Intensification of land uses proposed under this project could add to the amount of impervious surfaces that could increase both the rate and amount of stormwater leaving the site. The ability of downstream drainage facilities to safely accommodate increased flows, especially during intense storm events when the rate of stormwater flows would be the greatest, could be significantly impacted.

Mitigation Measure 9: A site-specific drainage plan shall be prepared for the project area prior to approval of the associated grading and improvement plans. The report shall include a summary of existing (pre-project) drainage flows from the project site, anticipated increases in the amount and rate of stormwater flows from the site and an analysis of the ability of downstream facilities to accommodate peak flow increases. The analysis shall also include a summary of new or improved drainage facilities needed to accommodate stormwater increases. The drainage plan shall be reviewed and approved by the Hayward Public Works Department staff and Alameda Flood Control and Water Conservation District staff prior to approval of the improvement and grading plans. Implementation of this mitigation measure will reduce impacts to a less than significant level.

- f. **Would the project otherwise substantially degrade water quality?**

Less Than Significant With Mitigation Incorporation. The project will involve substantial grading and construction activity which has the potential to degrade water quality. However, implementation of City grading and erosion control provisions, including utilizing best management practices designed in accordance with applicable provisions of the Alameda County Clean Water Program NPDES permit Section C.3, limiting periods during which grading occurs, and developing stormwater pollution prevention plans (SWPPPs) would reduce such impacts to less-than-significant levels. See Mitigation Measures #7 and #9, above.

- g. **Would the project 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?**

No Impact. The project site is not located within a 100-year flood hazard area; thus, no impact is expected to occur.

- h. **Would the project place within a 100-year flood hazard area structures which would impede or redirect flood flows?**

No Impact. The project site is not located within a 100-year flood hazard area; thus, no impact is expected to occur.

- i. **Would the project 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?**

No Impact. The project is not located in the vicinity of any dams or levees, nor in an area prone to flooding; thus, no impact is expected to occur.

- j. **Would the project expose people or structures to inundation by seiche, tsunami, or mudflow?**

No Impact. The project is not located in an area impacted by seiche, tsunami or mudflow; thus, no impact is expected to occur.

IX. LAND USE AND PLANNING

- a. **Would the project physically divide an established community?**

No Impact. The project will be an enhancement to the existing community in terms of providing retail services and residential opportunities adjacent to a transit station, and will in and of itself be creating a new transit-oriented community near the South Hayward BART station; thus, no impact related to dividing an established community is expected to occur.

- b. **Would the project 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?**

Less Than Significant Impact. The project proposes to rezone the properties from Station Area Residential to Planned Development to accommodate the proposed configuration of the Mixed-Use development. The proposed project is consistent with the residential densities (75-100 du/acre) envisioned for these properties as was analyzed in the South Hayward BART/Mission Boulevard Concept Design Plan (SHBMBCDP) and as reflected in the General Plan and associated EIR, and in fact, is on average at the lower end of the density range required. The SHBMBCDP, however, envisioned the potential for a grocery store at the northeast corner of Mission Boulevard and Valle Vista Avenue. Although a grocery store has been incorporated into this development at the southeast corner of Dixon Street and Tennyson Road, the location near proposed residential development and the BART station will make it more convenient for existing and future residents than would the location contemplated in the Concept Design Plan, and is in the same general area as was shown in the Plan. No impacts related to inconsistency with adopted plans are anticipated and therefore, no mitigation is necessary.

- c. **Would the project conflict with any applicable habitat conservation plan or natural community conservation plan?**

No Impact. There is not a habitat conservation plan or natural community conservation plan that is applicable to the project site; thus, no impact is anticipated.

X. MINERAL REOSURCES

- a. **Would the project 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?**

No Impact. There are no known mineral resources on the project site; thus, no impact is anticipated.

- b. **Would the project 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?**

No Impact. The project site is not delineated as a resource recovery site on any general plan or specific plan; thus, no impact is anticipated.

XI. NOISE

- a. **Would the project result in 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?**

Less Than Significant with Mitigation Incorporation. Existing major noise sources in and near the project area include vehicle-generated noise along Mission Boulevard at the eastern boundary of the project and noise from BART operations at the western boundary of the proposed project. Previous noise analyses for residential developments proposed in the City of Hayward adjacent to BART tracks or other major arterials have indicated that sound walls and building construction techniques have been sufficient at mitigating any potential noise impacts. The residential units proposed on parcel 2 are setback approximately 80 feet from the BART tracks and the parking structure below the units will act like a soundwall for these residential units. In order to mitigate potential impacts to the residential units that are on parcel 2, including the outdoor use areas and for the residential units facing Mission Boulevard on the Perry and Key property, the applicant shall submit a noise study addressing specific recommendations, including construction techniques such as special rated windows, that shall be reviewed, approved and incorporated into the construction plans. This noise study shall be prepared by a qualified acoustical engineer and submitted prior to approval of the Precise Plan.

Mitigation Measure 10: Prior to approval of the Precise Plan, the applicant shall submit a noise study, prepared by a qualified acoustical engineer, that makes recommendations for construction techniques to be implemented within the residential units on parcel 2 and those that face Mission Boulevard on the Perry and key property.

- b. **Would the project result in the exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?**

Less Than Significant with Mitigation Incorporation. The residential units proposed on parcel 2 may experience groundborne vibration or groundborne noise levels due to

the close proximity to the BART tracks. The units themselves are approximately 80 feet and two and one half stories above the BART tracks. A parking structure is located below these units and the exterior wall of the parking structure may act as a soundwall for these units. The U.S. Department of Housing and Urban Development (HUD) recommends a 100-foot setback from rail tracks to minimize exposure to ground vibration. Implementation of mitigation measure #10, above, should reduce potential impacts to a less than significant level with regard to this topic.

c. Would the project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

Less Than Significant with Mitigation Incorporation. The project would result in increasing the number of dwelling units, retail operations and vehicle trips within the project area. Long-term noise increases would include additional vehicles entering and leaving the project area and noise from residential uses, including but not limited to mechanical noise from heating, ventilating and air conditioning units, use of lawn equipment and human conversation and similar activities. Future residents within the project area could be subject to noise levels in excess of City noise exposure levels caused by existing and future vehicle traffic along Mission Boulevard, BART operations and commercial operations. There may be some temporary noise impacts to residents on Parcels 1 and 2 due to truck deliveries at the proposed grocery store. It is anticipated that the grocery store will receive four large wide body truck deliveries and up to a dozen small truck deliveries per day and these may occur at anytime. It is not anticipated that this will be a significant impact thus no mitigation is required with regard to the temporary noise impact from truck deliveries.

Mitigation Measure 11: A site-specific acoustic report shall be prepared for the project. The report shall include a summary of existing noise levels, an analysis of potential noise exposure levels, consistent with City of Hayward noise exposure levels and specific measures to reduce exposure levels of indoor spaces and required outdoor open spaces to City of Hayward noise standards. The acoustical report shall be submitted as part of the Precise Plan application. Implementation of this mitigation measure will reduce impacts to a less than significant level.

d. Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

Less Than Significant with Mitigation Incorporation. Should the proposed project be implemented, short-term, temporary increases in noise during construction phases of implementation can be expected. Such noises would be related to demolition and deconstruction of existing buildings and improvements, construction of new structures, upgrading of roadways and related infrastructure facilities. Typical noise generated by demolition and construction activities include use of heavy equipment for demolition and earthmoving, truck traffic, back-up bells, air compressors, hammering and other mechanical equipment normally used during demolition and construction. Short-term construction noise is anticipated to be an impact due to the number of existing and anticipated residences and buildings within and adjacent to

the project site. Short-term construction noise would be greater and would extend for a longer period of time due to the construction phasing of the proposed project.

Mitigation Measure 12: A Construction Noise Management Plan shall be prepared for the project. The plan shall specify measures to be taken to minimize construction noise on surrounding developed properties. The Noise Management Plan shall be approved by City staff prior to issuance of grading or building permits and shall contain, at minimum, a listing of hours of construction operations, a requirement for the use of mufflers on construction equipment, limitation on on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in appropriate contractor plans and specifications. Implementation of this mitigation measure will reduce impacts to a less than significant level.

- e. **For a project located within an airport land use plan or, where such 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?**

No Impact. The project site is not located within two miles of a public airport and is not covered by any airport land use plan; thus, no impacts are expected.

- 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?**

No Impact. The project site is not located within the vicinity of a private airstrip; thus, no impacts are expected.

XII. POPULATION AND HOUSING

- a. **Would the project 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)?**

Less Than Significant Impact. The proposed project will be providing approximately 788 new residential units and incorporating 64,680 square feet of new retail space, which will create growth in this area. This was analyzed as part of the South Hayward BART/Mission Boulevard Concept Design Plan EIR and was determined to be a significant impact. The mitigation proposed at that time was to coordinate with the Association of Bay Area Governments (ABAG) regarding the potential build out was incorporated within future regional projections. City staff has completed this coordination with ABAG; thus, no additional mitigation is required.

- b. **Would the project displace substantial numbers of existing housing necessitating the construction of replacement housing elsewhere?**

No Impact. The project does not involve the displacement of existing housing, but rather proposes to construct additional housing units; thus, no such impacts would occur.

- c. **Would the project displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?**

No Impact. The project does not involve the displacement of any people, but rather proposes to construct additional housing for people; thus, no such impacts would occur.

XIII. PUBLIC SERVICES

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

i. **Fire Protection?**

Less Than Significant with Mitigation Incorporation. Construction of new residential development could increase the risk of fire to future residents and visitors by adding new dwelling units within the area. The number of calls for service for medical emergencies would also increase, based on a higher resident population. Approval of the proposed project could represent a significant impact to the Hayward Fire Department, since the number of dwellings and taller structures may not be served by existing department resources and facilities. The applicant has coordinated with the Hayward Fire Department to include within their proposed project design elements such as fire lanes and buildings that will be built to meet current building code standards applicable to each Parcel's height, area and accessibility and alternate means as appropriate for building height and accessibility, which will allow the Department to maintain acceptable levels of service. There would also be increased vehicular traffic along Mission Boulevard, a major route used for emergency apparatus.

Mitigation Measure 13: The applicant is required to annex the project area into the City Community Facilities District (CFD) which will off-set the impacts associated with providing Fire, Police and other necessary city services and facilities to the project site. Implementation of this mitigation measure will reduce impacts to a less than significant level.

ii. **Police Protection?**

Less Than Significant with Mitigation Incorporation. Approval of the proposed project would result in incremental increase in calls for service to the Police Department. The numbers of calls for service are assumed to increase, commensurate with the rate of population increase. Impacts to the Department could be significant since current staffing and equipment may not

be adequate to accommodate the increased service calls. There is, however, a new police substation located nearby on Tennyson Road which may also help to reduce response times to this development. See Mitigation Measure #13, above. Implementation of this mitigation measure will reduce impacts to a less than significant level.

iii. Schools?

Less Than Significant Impact. The project proposes additional residential units which may impact the schools in the vicinity. However, schools near the project (Bowman Elementary School, Cesar Chavez Middle School and Tennyson High School) are currently operating below maximum capacity and can accommodate the additional 118 (68 for Bowman Elementary School, and 25 each at Cesar Chavez Middle School and Tennyson High School) students anticipated to be generated at buildout of the project. The project is required to pay school impact fees to off-set the impacts of additional student generation from the proposed project. No additional mitigation is required.

iv. Parks?

Less Than Significant Impact. Approval and implementation of the proposed project would increase the demand for local and community parks and recreational facilities within the project area due to an increase in the number of permanent residents. Implementation of the proposed project would generate a need for approximately 10.9 acres of parkland within the proposed project area based on Article 16 of the City's Municipal Code which requires 604 square feet of parkland per dwelling unit. The project area is recognized by HARD as an underserved area. The South Hayward BART/Mission Boulevard Concept Design Plan also anticipated an expansion of Valle Vista Park and creation of a community center, approximately 4 acres, at the southwest corner of Valle Vista Avenue and Mission Boulevard that could also serve the development. In addition, the project incorporates private group recreational amenities, such as courtyards and swimming pools, and private balconies, for the proposed residential units. New development would be required to at least make payment of required park dedication in-lieu fees to the City of Hayward, which will off-set any impacts to parks. No additional mitigation is required.

v. Other Public Facilities?

Less Than Significant with Mitigation Incorporation. Approval of the project may impact long-term maintenance of roads, streetlights and other public facilities. In order to off-set this potential impact the applicant is required to annex into the City CFD. See Mitigation Measure #13, above. Implementation of this mitigation measure will reduce impacts to a less than significant level.

XIV. RECREATION

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

Less Than Significant Impact. Approval and implementation of the proposed project would increase the demand for local and community parks and recreational facilities within the project area due to an increase in the number of permanent residents. Implementation of the proposed project would generate a need for approximately 10.9 acres of parkland within the proposed project area. The project area is recognized by HARD as an underserved area. In addition, the project incorporates recreational amenities such as courtyards and swimming pools for the proposed residential units. New development would be required to at least make payment of required park dedication in-lieu fees to the City of Hayward, which will off-set any impacts to parks. No additional mitigation is required.

- 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?**

Less Than Significant Impact. No mitigation is required in that no such facilities are proposed, other than those integrated into the project on the project site.

XV. TRANSPORTATION/TRAFFIC

- a. **Would the project cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?**

Less Than Significant with Mitigation Incorporation. The project involves the construction of additional residential dwelling units and involves a new grocery store, both of which will generate additional vehicle trips in the vicinity. An updated traffic analysis prepared by Dowling Associates, Inc., dated January 2009, indicates that due to increased residential densities, the levels of service for the intersection of Dixon Street and Tennyson Road would be operating at a LOS F during the AM peak hour for the year 2025. The traffic study proposes mitigation to improve the levels of service to an acceptable level. In order for the Dixon Street/Tennyson Road intersection to be operating at an acceptable level of service, mitigation will need to be incorporated that involves improvements and modifications to this intersection.

Mitigation Measure 14: The following improvements to the Dixon Street/Tennyson Road intersection shall be made to reduce impacts to an acceptable level: (1) provide split phasing on the Northbound and southbound approaches; (2) provide a right turn overlap (green arrows when the cross-street protected left phases are active) on the Southbound right turn; (3) restripe the northbound approach to provide an exclusive

left turn lane and a shared through/right turn lane and prohibit on-street parking; (4) prohibit on-street parking on the southbound approach between the intersection and the driveway for the adjacent townhouses, a distance of about 100 feet back from the cross-walk; and (5) provide protected+permitted phasing for the eastbound and westbound left-turns. Implementation of this mitigation measure will reduce impacts to a less than significant level.

- b. Would the project exceed, whether individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?**

Less Than Significant Impact with Mitigation Incorporation. The proposed project is consistent with the South Hayward BART/Mission Boulevard Concept Design Plan and through the adoption of that plan it was determined that the build out of the plan area would not result in any significant impacts to roads or highways identified by the county congestion management agency. The updated traffic study prepared for this project by Dowling Associates, Inc., indicates that due to increased residential densities, the levels of service for the intersection of Dixon Street and Tennyson Road would be operating at a LOS F during the AM peak hour for the year 2025. That study proposed mitigation to improve the levels of service to an acceptable level. In order for the Dixon Street/Tennyson Road intersection to be operating at an acceptable level of service, mitigation will need to be incorporated that involves improvements to this intersection. See Mitigation Measure #14, above. Implementation of this mitigation measure will reduce impacts to a less than significant level.

- c. Would the project result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?**

No Impact. The project will have no impact on current air traffic patterns; thus, no impacts are anticipated.

- d. Would the project substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?**

No Impact. The project does not involve any design features that will cause hazards or involve any incompatible uses; thus, no such impacts are anticipated.

- e. Would the project result in inadequate emergency access?**

No Impact. The project applicants have coordinated with the City of Hayward Fire Department to incorporate elements such as fire lanes to address any potential impacts in providing emergency access. No additional mitigation is required.

- f. Would the project result in inadequate parking capacity?**

Less Than Significant with Mitigation Incorporation. The project proposes development in the location of current surface parking for the South Hayward BART

station. The development proposal, however, does include a 910-space parking garage that will be for the sole use of BART transit riders, to provide 75% replacement parking. Each of the proposed retail and residential elements of the proposal will have sufficient parking under the city of Hayward parking ordinance. Parking standards are typically expressed as minimum ratios; however, the parking standards for this zoning district were established at maximum ratios to encourage the use of pedestrian and bicycle circulation around the BART station. It is not clear whether there will be an impact until project build out. In order to address the potential impacts associated with "spillover" parking into neighborhoods due to insufficient on-site parking, the mitigation measure below has been included and will reduce any potential impact to a less than significant level. Another potential impact lies with the phasing of the proposed development to ensure there is sufficient parking for the BART station during construction. It is the intention of the developer to construct the BART parking structure as part of the second phase of the development. Temporary parking for the BART station can be accommodated on the Perry and Key property located between Mission Boulevard and Dixon Street as well as on Parcel 3 until such time as the BART parking structure is built. Once the BART station parking structure is constructed, the residential development proposed for Parcel 3 and the Perry and Keys property can commence. Phasing the project construction will mitigate this potential impact to a less than significant level.

Mitigation Measure 15: One year after build out and occupancy of the project, the developer or the developer's designee, shall conduct a neighborhood parking survey to determine if adequate parking has been provided. If the results of the survey indicate substantial impacts to the surrounding areas, as determined by Hayward Transportation Planning staff, then the developer or the developer's designee shall incorporate measures to reduce impacts to a less than significant level. The City of Hayward Traffic Regulations Section 3.95 indicates that a significance threshold for a residential parking permit program would be met if 75% of all on-street parking spaces within six adjacent block faces are occupied during any two one-hour periods between 8am and 6pm. Such measures to address potential impacts may include, but are not limited to: instituting and funding a residential parking permit program, increasing the on-street parking supply through implementation of angled parking on appropriate streets, or managing the existing on-street parking, using time restrictions to improve turnover and provide a pool of short-term parking. Implementation of this mitigation measure will reduce impacts to a less than significant level.

g. Would the project conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

Less Than Significant Impact. The proposed project is a Transit-Oriented Development (TOD) involving a mix of residential and commercial/retail uses in close proximity to the South Hayward BART Station. The proposed development is consistent with the adopted South Hayward BART/Mission Boulevard Concept Design Plan adopted in June 2006. The proposed project is also in compliance with adopted Hayward General Plan policies such as those that encourage land use patterns that promote transit usage including encouraging intensive new residential and

commercial development within ½ mile of transit stations, encouraging mixed use residential and commercial development to reduce the need for multi-destinational trips, promoting high density new residential development above commercial uses near transit facilities and encouraging design of new development that facilitates transit use. No mitigation is required.

XVI. UTILITIES AND SERVICE SYSTEMS

a. Would the project exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

Less Than Significant Impact. Wastewater generation would be increased as a result of the proposed project primarily due to an increase in domestic water use from the 788 proposed residential dwelling units. The project is consistent with the approved South Hayward BART/Mission Boulevard Concept Design Plan. According to the South Hayward BART/Mission Boulevard Concept Design Plan Program-level EIR, the additional wastewater anticipated from build-out of the entire plan area could be accommodated at the City's wastewater treatment facility as there is sufficient capacity. The additional wastewater that would be generated for the proposed project can be accommodated at the City's wastewater treatment plant, which complies with the Regional Water Quality Control Board standards, as there is currently sufficient capacity. No mitigation is required.

b. Would the project 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?

Less Than Significant Impact. The project has been reviewed by the City of Hayward Public Works Department Utilities Division and they have determined that the project will not require the construction of new water or new wastewater treatment facilities or require an expansion of the existing facilities as capacity exists at the existing treatment plant. No mitigation is required.

c. Would the project 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?

Less than Significant Impact. The project may be required to upgrade the size of existing pipes and/or facilities for storm water drainage to accommodate the proposed development, however, the construction of these will not be a significant impact. See Mitigation Measures #8-10, above.

d. Would the project have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

Less Than Significant Impact. Implementation of the proposed project and construction of additional dwellings and additional commercial square footage would increase demand for water for domestic and fire fighting purposes. The project is

consistent with the approved South Hayward BART/Mission Boulevard Concept Design Plan. According to the South Hayward BART/Mission Boulevard Concept Design Plan Program-level EIR, the 2005 Urban Water Management Plan, despite being approved prior to the approval of the concept plan, assumed water capacity to serve build out of the plan. According to the information provided by the Hayward Utility Division staff, the City's 2005 Urban Water Management Plan, which is a water supply assessment for the City of Hayward in accordance with SB 610, has determined water capacity can accommodate the proposed development. No mitigation is required.

- e. **Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

No Impact. As mentioned in discussion under item a, above, there is sufficient wastewater treatment capacity to serve this project's projected needs while still maintaining existing commitments; thus, no impact is anticipated.

- f. **Would the project be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?**

Less Than Significant Impact. The proposed project will generate solid waste due to the number of residential dwelling units and additional commercial square footage, however, the existing landfill has sufficient capacity to serve the needs of the project; thus, no mitigation is required.

- g. **Would the project comply with federal, state, and local statutes and regulations related to solid waste?**

Less Than Significant Impact. The project will be required to comply with all applicable standards and regulations related to solid waste, including local regulations requiring recycling/deconstruction of existing buildings and materials; thus, no mitigation is required.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE

- a. **Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause 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?**

No Impact. The project area is within an existing urban environment and would not be expected to contain plant or wildlife special status species, wetlands, wildlife corridors, significant stands of trees, nor examples of major period of California history or prehistory; thus no impacts are anticipated..

b. Does the project have impacts that are individually limited, but cumulatively considerable?

No Impact. The project is consistent with the South Hayward BART/Mission Boulevard Concept Design Plan which is consistent with the City of Hayward General Plan. Both of these documents are long-range documents that address desired goals and future development. Since the project is consistent with the adopted plans it is therefore not expected to have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals. In addition, the project proposes to significantly increase residential densities near a major transit center, which is consistent with regional planning and transportation goals; thus no impact is anticipated.

c. Does the project have environmental effects which will cause substantial adverse effect on human beings, either directly or indirectly?

No Impact. As noted in previous sections, the project is consistent with both the South Hayward BART/Mission Boulevard Concept Design Plan and the City of Hayward General Plan. Both documents are long-range documents that address desired goals and future development for the City of Hayward. Since the project is consistent with the adopted plans it is therefore not expected to cause substantial adverse effects on human beings either directly or indirectly; thus no impact is anticipated.

INITIAL STUDY PREPARERS

City of Hayward

Richard Patenaude, AICP, Planning Manager, City of Hayward

References

City of Hayward General Plan

Environmental Impact Report, for the City of Hayward General Plan Update SCH # 2001072069, Lamphier-Gregory Associates, November 2001

Environmental Impact Report for South Hayward BART/Mission Boulevard Project, SCH # 2005092093, Jerry Haag, Urban Planner, May, 2006

Focused Traffic Analysis for the South Hayward BART TOD, Dowling Associates, Inc., January 2009.

Addendum to Draft Traffic Study for South Hayward BART TOD, Dowling Associates, Inc., January 2009.

South Hayward BART Mixed Use Mitigation Monitoring and Reporting Program

**Planned Development Application No. PL-2008-0547 PD;
Wittek Development, LLC (Owner and Applicant)**

January 30, 2009

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Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact I-d (light and glare):</u> The project proposes construction of buildings ranging from five to seven stories, which will introduce new building lights at higher elevations than the existing surrounding buildings. This could result in impacts of light and glare from building and deck/balcony lighting, especially as viewed from outside the project area. Also, new light sources at upper levels could spill over into residential areas adjacent to the project area. This impact was analyzed in the Program-level Environmental Impact Report (EIR) prepared for the South Hayward BART/Mission Boulevard Concept Design Plan. In order to mitigate the impacts of light and glare, projects are required to submit lighting plans for review. Any lighting from the project would be required to be confined to the premises and not spill over onto adjacent properties. This detailed lighting plan is typically submitted as part of the improvement/precise plan submittals, which are reviewed in advance of building permit issuance.</p>	<p><u>Mitigation Measure 1:</u> As part of the precise plan and improvement plan submittals, the applicant shall include a detailed lighting plan that demonstrates that all proposed lighting will remain on site and not spill over onto adjacent properties.</p>	<p>Project developers, including project landscape architect and contractor.</p>	<p>City of Hayward Planning Division, Engineering and Transportation Division and Building Division</p>	<p>Lighting plan: Prior to Precise Plan approval</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact III-b (temporary air quality):</u> The project may involve short-term construction related impacts to air quality due to excavation, grading, demolition, vehicle travel on paved and unpaved surfaces and vehicle and equipment exhaust. The Bay Area Air Quality Management District (BAAQMD) has established a set of feasible control measures to address any potential impacts during construction activities.</p>	<p><u>Mitigation Measure 2:</u> <i>The applicant shall employ the following basic and enhanced control measures during site construction to address potential temporary air quality impacts: (a) water all active construction areas at least twice daily; (b) cover all trucks hauling soil, sand, and other loose materials; (c) pave, apply water three times daily, or apply soil stabilizers on all unpaved access roads, parking areas and staging areas; (d) sweep daily all paved access roads, parking areas and staging areas; (e) sweep streets daily if visible soil material is carried onto adjacent public streets; (f) hydro seed or apply soil stabilizers to inactive construction areas or previously graded areas that are inactive for ten or more days; (g) enclose, cover, water twice daily or apply soil binders to exposed stockpiles of dirt, or sand; (h) limit traffic speeds on unpaved roads to 15mph; (i) install sandbags or other erosion control measures to prevent silt runoff to public roadways; (j) replant vegetation in disturbed areas as quickly as possible; (k) install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site; and (l) suspend excavation and grading activity when winds exceed 25mph.</i></p>	<p>Project Developers, including project geotechnical consultant and grading and building contractors</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>During Construction</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact III-d (sensitive receptors):</u> <i>Sensitive receptors are facilities that house or attract children, the elderly, and people with illnesses or others who are especially sensitive to the effects of air pollutants. The project involves the construction of 788 new residential dwelling units in an area that is already established with other residential development or sensitive receptors. The project is also proposed adjacent to the South Hayward BART station which should aid in reducing auto trips in the area. In addition, the site has been designed to create landscape buffers between proposed residential buildings and adjacent streets. There may be some temporary impacts during the construction phase. Earthquake Fault Zone. Through design, such impacts will be reduced to levels of insignificance in accordance with specific project development review and construction through oversight and implementation of recommendations of a registered geotechnical engineer, in accordance with the California Building Code and standard geotechnical practices.</i></p>	<p><u>Mitigation Measure 2:</u> <i>The applicant shall employ the following basic and enhanced control measures during site construction to address potential temporary air quality impacts: (a) water all active construction areas at least twice daily; (b) cover all trucks hauling soil, sand, and other loose materials; (c) pave, apply water three times daily, or apply soil stabilizers on all unpaved access roads, parking areas and staging areas; (d) sweep daily all paved access roads, parking areas and staging areas; (e) sweep streets daily if visible soil material is carried onto adjacent public streets; (f) hydro seed or apply soil stabilizers to inactive construction areas or previously graded areas that are inactive for ten or more days; (g) enclose, cover, water twice daily or apply soil binders to exposed stockpiles of dirt, or sand; (h) limit traffic speeds on unpaved roads to 15mph; (i) install sandbags or other erosion control measures to prevent silt runoff to public roadways; (j) replant vegetation in disturbed areas as quickly as possible; (k) install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site; and (l) suspend excavation and grading activity when winds exceed 25mph.</i></p>	<p>Project Developers, including project geotechnical consultant and grading and building contractors</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>During Construction</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VI-ai (earthquake fault):</u> <i>The active Hayward earthquake fault is located to the east of the project site and poses a significant hazard to the City. The fault is the principal seismogenic source in the eastern San Francisco Bay area, and poses both a surface rupture and strong ground-shaking hazard. Considerable geological and geotechnical work has been conducted along the Hayward fault throughout Hayward over the past several decades, leading to more accurate plotting of the location of the main fault trace and knowledge of its characteristics, as well as information associated with additional active traces of the Hayward fault. No portion of the project site, however, lies within the State Earthquake Fault Zone. Through design, such impacts will be reduced to levels of insignificance in accordance with specific project development review and construction through oversight and implementation of recommendations of a registered geotechnical engineer, in accordance with the California Building Code and standard geotechnical practices.</i></p>	<p><u>Mitigation Measure 3:</u> <i>The applicant shall have prepared a geotechnical investigation by a licensed geotechnical engineer, which will outline recommendations for construction given the location of the project site near the Hayward fault. Submittal of the geotechnical report shall be submitted as part of the building permit application. Implementation of this mitigation measure will reduce impacts to a less than significant level.</i></p>	<p>Project Developers, including project geotechnical consultant and grading and building contractors</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>Geotechnical report due prior to issuance of building permits; “as-built” letter due prior to project finalization and before framing inspections, confirming on-site observations by project geotechnical consultants were done</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VI-a11 (seismic ground shaking):</u> <i>The severity of ground shaking at a particular site is controlled by several factors, including the distance from the earthquake source, the earthquake magnitude, and the type, thickness and condition of underlying geologic materials. Areas underlain by unconsolidated, recent alluvium and/or man-made fill have been shown to amplify the effects of strong seismic ground shaking. The presence of such deposits and the fact that the active Hayward fault is located approximately 2,000 feet to the east of the project site increase the chances that severe ground shaking will likely occur during a major seismic event, which could result in loss of life and/or property associated with the project. However, through design, such impacts will be reduced to levels of insignificance in accordance with specific project development review and construction through oversight and implementation of recommendations of a registered geotechnical engineer in accordance with the California Building Code and standard geotechnical practices.</i></p>	<p><u>Mitigation Measure 3:</u> <i>The applicant shall have prepared a geotechnical investigation by a licensed geotechnical engineer, which will outline recommendations for construction given the location of the project site near the Hayward fault. Submittal of the geotechnical report shall be submitted as part of the building permit application. Implementation of this mitigation measure will reduce impacts to a less than significant level.</i></p>	<p>Project Developers, including project grading and construction contractors</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>Geotechnical report due prior to issuance of building permits; “as-built” letter due prior to project finalization and before framing inspections, confirming on-site observations by project geotechnical consultants were done</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><i>Impact VI-a-iii (liquefaction):</i> As shown in Appendix L of the City of Hayward General Plan, and as reflected in the State Seismic Hazard Zone Map (Hayward Quadrangle), the project site is located in a low liquefaction hazard area. However, due to the proximity of the Hayward fault, there may be the potential for liquefaction and other types of ground failures resulting from seismic events. However, through mitigation related to design and location of developments, such impacts will be reduced to levels of insignificance in accordance with specific project development review and construction through oversight and implementation of recommendations of a registered geotechnical engineer in accordance with the California Building Code and standard geotechnical practices.</p>	<p><i>Mitigation Measure 3:</i> The applicant shall have prepared a geotechnical investigation by a licensed geotechnical engineer, which will outline recommendations for construction given the location of the project site near the Hayward fault. Submittal of the geotechnical report shall be submitted as part of the building permit application. Implementation of this mitigation measure will reduce impacts to a less than significant level.</p>	<p>Project Developers, including project grading and construction contractors</p>	<p>City of Hayward Public Works Department and Planning and Building Divisions</p>	<p>Geotechnical report due prior to issuance of building permits; “as-built” letter due prior to project finalization and before framing inspections, confirming on-site observations by project geotechnical consultants were done</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VI-b (soil erosion):</u> <i>The project will involve the loss of topsoil and be subject to potential erosion through the grading and preparation of the site prior to actual construction. In order to address impacts, the applicant will be required to submit an erosion and sediment control plan indicating how this will be addressed during construction including, but not limited to incorporation of best management practices and adherence to the City's Grading Ordinance.</i></p>	<p><u>Mitigation Measure 4:</u> <i>Prior to any grading or site earthwork, the applicant shall submit an Erosion and Sediment Control Plan to the City for review and approval, as part of improvement plans. The Plan shall incorporate measures consistent with the City's Grading Ordinance and Best Management Practices for construction projects. Implementation of this mitigation measure will reduce impacts to a less than significant level.</i></p>	<p>Project developers, including project architect, sound consultant and contractors</p>	<p>Hayward Public Works Department, Planning and Building Divisions</p>	<p>Plan to be reviewed and approved prior to issuance of grading permit.</p> <p>Implementation during construction.</p>
<p><u>Impact VI-c (unstable soil):</u> <i>The project site is not located in an area prone to landslides and will be required to submit a soils report as part of the building permit application which will recommend the type of construction to use based on the soil types found on site such that there will be no on- or off-site impacts.</i></p>	<p><u>Mitigation Measure 5:</u> <i>The applicant shall submit a detailed soils report, prepared by a licensed geotechnical engineer, as part of the building permit application that demonstrates the type of construction suitable for the project site, based on recommendations in the soils present.</i></p>	<p>Project developers, including project grading and construction contractors.</p>	<p>Hayward Public Works Department, Planning and Building Divisions</p>	<p>Soils report to be reviewed and approved prior to issuance of a grading permit.</p> <p>Implementation during construction.</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><i>Impact VI-d (Expansive Soils):</i> As shown in Figure 9.3 of the certified EIR associated with the General Plan Update, the project area is mantled by clayey soils of the Clear Lake-Omni series, which are expansive soils that have a high shrink-swell potential. Such soils, when exposed to natural seasonal or man-made moisture content changes, can damage structures and other improvements and utilities. However, such impacts will be mitigated to levels of insignificance in accordance with specific project development review and construction through oversight and implementation of recommendations of a registered geotechnical engineer in accordance with the Uniform Building Code and standard geotechnical practices.</p>	<p><i>Mitigation Measure 3:</i> The applicant shall have prepared a geotechnical investigation by a licensed geotechnical engineer, which will outline recommendations for construction given the location of the project site near the Hayward fault. Submittal of the geotechnical report shall be submitted as part of the building permit application. Implementation of this mitigation measure will reduce impacts to a less than significant level.</p>	<p>Project Developers, including project grading and construction contractors</p>	<p>City of Hayward Public Works Department and Planning and Building Divisions</p>	<p>Geotechnical report due prior to issuance of building permits; “as-built” letter due prior to project finalization and before framing inspections, confirming on-site observations by project geotechnical consultants were done</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VII-b (Hazardous Materials):</u> <i>The project involves the demolition of existing structures in order to construct the proposed development. Potential impacts could include the release of asbestos containing materials, including within the soil, lead based paints and other hazardous materials during demolition of these existing structures. This could potentially result in a health hazard to construction employees and visitors to the area. Removal of older utility installations within the project area could also release potentially hazardous materials into the atmosphere.</i></p>	<p><u>Mitigation Measure 6:</u> <i>Prior to commencement of demolition or deconstruction activities within the project site, project developers shall contact the Alameda County Environmental Health Department, Bay Area Air Quality Management District, Department of Toxic Substances Control and the Hazardous Materials Division of the Hayward Fire Department for required site clearances, necessary permits and facility closure with regard to demolition and deconstruction and removal of hazardous material from the site. All work shall be performed by licensed contractors in accord with State and Federal OSHA standards. Worker safety plans shall be included for all demolition or deconstruction plans.</i></p>	<p>Project Developers, including project grading and construction contractors</p>	<p>City of Hayward Fire Department</p>	<p>Phase I Assessment report completed and reviewed prior to issuance of Grading Permit.</p> <p>Any remediation work completed prior to issuance of a building permit.</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VIII – a (water quality standards):</u> The project will involve substantial grading and construction activity. However, implementation of City grading and erosion control provisions, including utilizing best management practices designed in accordance with applicable provisions of the Alameda County Clean Water Program NPDES permit Section C.3, limiting periods during which grading occurs, and developing stormwater pollution prevention plans (SWPPPs) will reduce such impacts to less than significant levels.</p>	<p><u>Mitigation Measure 7:</u> The applicant shall submit an erosion and sediment control plan and a stormwater pollution prevention plan (SWPPP) as part of the Grading and Improvement Plan application submittal, utilizing best management practices in accordance with the Alameda County Clean Water Program NPDES Permit Section C.3, including but not limited to limiting periods during which grading occurs.</p>	<p>Project Developers, including project grading and construction contractors</p>	<p>City of Hayward Public Works Department and Planning and Building Divisions</p>	<p>Submittal of plan prior to issuance of a grading permit. Adherence during project construction.</p>
<p><u>Impact VIII - c (drainage):</u> The project will involve substantial grading and construction activity which has the potential to result in erosion both on and off-site. However, implementation of City grading and erosion control provisions, including utilizing best management practices designed in accordance with applicable provisions of the Alameda County Clean Water Program NPDES permit Section C.3, limiting periods during which grading occurs, and developing stormwater pollution prevention plans (SWPPPs) will reduce such impacts to less than significant levels.</p>	<p><u>Mitigation Measure 7:</u> The applicant shall submit an erosion and sediment control plan and a stormwater pollution prevention plan (SWPPP) as part of the Grading and Improvement Plan application submittal, utilizing best management practices in accordance with the Alameda County Clean Water Program NPDES Permit Section C.3, including but not limited to limiting periods during which grading occurs.</p>	<p>Project Developers, including project grading and construction contractors</p>	<p>City of Hayward Public Works Department and Planning and Building Divisions</p>	<p>Submittal of plan prior to issuance of a grading permit. Adherence during project construction.</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><i>Impact VIII-d (flooding potential):</i> As indicated in item a) above, the project will involve substantial grading, which will increase stormwater runoff and could negatively impact downstream properties. The project shall be required to develop a storm drainage report, including storm drain calculations associated with expected runoff and downstream drainage facilities, to determine adequacy of both private and public facilities (managed by the City of Hayward and the Alameda County Flood Control and Water Conservation District). Any requisite improvements to existing facilities or construction of new facilities shall be implemented in order to mitigate potential impacts to a less than significant level.</p>	<p><i>Mitigation Measure 8:</i> The applicant shall prepare a storm drainage report that includes storm drain calculations associated with expected runoff and downstream drainage facilities and remediate if necessary, to determine adequacy to serve the proposed development. The storm drainage report shall be reviewed and approved by the Hayward Public Works Department staff and Alameda Flood Control and Water Conservation District staff prior to approval of the improvement and grading plans.</p>	<p>Project Developers, including project engineer, grading and construction contractors</p>	<p>City of Hayward Public Works Department and Planning and Building Divisions</p>	<p>Submittal of drainage plan and report prior to issuance of a grading permit.</p> <p>Adherence during project construction.</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VIII-e (runoff):</u> Approval of the proposed project would increase the amount of stormwater runoff generated from the project area, although a substantial portion of the project area is currently developed with buildings, paved parking areas, walkways and other impervious surfaces. Intensification of land uses proposed under this project could add to the amount of impervious surfaces that could increase both the rate and amount of stormwater leaving the site. The ability of downstream drainage facilities to safely accommodate increased flows, especially during intense storm events when the rate of stormwater flows would be the greatest, could be significantly impacted.</p>	<p><u>Mitigation Measure 9:</u> A site-specific drainage plan shall be prepared for the project area prior to approval of the associated grading and improvement plans. The report shall include a summary of existing (pre-project) drainage flows from the project site, anticipated increases in the amount and rate of stormwater flows from the site and an analysis of the ability of downstream facilities to accommodate peak flow increases. The analysis shall also include a summary of new or improved drainage facilities needed to accommodate stormwater increases. The drainage plan shall be reviewed and approved by the Hayward Public Works Department staff and Alameda Flood Control and Water Conservation District staff prior to approval of the improvement and grading plans.</p>	<p>Project Developers, including project engineer, grading and construction contractors</p>	<p>City of Hayward Public Works Department and Planning and Building Divisions</p>	<p>Submittal of drainage plan and report prior to issuance of a grading permit.</p> <p>Adherence during project construction</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact VIII-f (water quality):</u> <i>The project will involve substantial grading and construction activity which as the potential to degrade water quality. However, implementation of City grading and erosion control provisions, including utilizing best management practices designed in accordance with applicable provisions of the Alameda County Clean Water Program NPDES permit Section C.3, limiting periods during which grading occurs, and developing stormwater pollution prevention plans (SWPPPs) would reduce such impacts to less-than-significant levels.</i></p>	<p><i>Mitigation Measure 7: The applicant shall submit an erosion and sediment control plan and a stormwater pollution prevention plan (SWPPP) as part of the Grading and Improvement Plan application submittal, utilizing best management practices in accordance with the Alameda County Clean Water Program NPDES Permit Section C.3, including but not limited to limiting periods during which grading occurs.</i></p> <p><i>Mitigation Measure 9: A site-specific drainage plan shall be prepared for the project area prior to approval of the associated grading and improvement plans. The report shall include a summary of existing (pre-project) drainage flows from the project site, anticipated increases in the amount and rate of stormwater flows from the site and an analysis of the ability of downstream facilities to accommodate peak flow increases. The analysis shall also include a summary of new or improved drainage facilities needed to accommodate stormwater increases. The drainage plan shall be reviewed and approved by the Hayward Public Works Department staff and Alameda Flood Control and Water Conservation District staff prior to approval of the improvement and grading plans.</i></p>	<p>Project Developers, including project engineer, grading and construction contractors</p>	<p>City of Hayward Public Works Department and Planning and Building Divisions</p>	<p>Submittal of erosion and sediment control plan and SWPPP plan prior to issuance of a grading permit.</p> <p>Submittal of drainage plan and report prior to issuance of a grading permit</p> <p>Adherence during project construction.</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact XI-a (excess noise levels):</u> Existing major noise sources in and near the project area include vehicle-generated noise along Mission Boulevard at the eastern boundary of the project and noise from BART operations at the western boundary of the proposed project. Previous noise analyses for residential developments proposed in the City of Hayward adjacent to BART tracks or other major arterials have indicated that sound walls and building construction techniques have been sufficient at mitigating any potential noise impacts. The residential units proposed on parcel 2 are setback approximately 80 feet from the BART tracks and the parking structure below the units will act like a soundwall for these residential units. In order to mitigate potential impacts to the residential units that are on parcel 2, including the outdoor use areas and for the residential units facing Mission Boulevard on the Perry and Key property, the applicant shall submit a noise study addressing specific recommendations, including construction techniques such as special rated windows, that shall be reviewed, approved and incorporated into the construction plans. This noise study shall be prepared by a qualified acoustical engineer and submitted prior to approval of the Precise Plan</p>	<p><u>Mitigation Measure 10:</u> Prior to approval of the Precise Plan, the applicant shall submit a noise study, prepared by a qualified acoustical engineer, that makes recommendations for construction techniques to be implemented within the residential units on parcel 2 and those that face Mission Boulevard on the Perry and Key property.</p>	<p>Project developers and construction contractors</p>	<p>City of Hayward Planning and Building Division</p>	<p>Submittal of acoustical plan prior to issuance of Precise Plan approval.</p> <p>Recommendations incorporated into construction documents.</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact XI –b (groundborne vibration):</u> <i>The residential units proposed on parcel 2 may experience groundborne vibration or groundborne noise levels due to the close proximity to the BART tracks. The units themselves are approximately 80 feet and two and one half stories above the BART tracks. A parking structure is located below these units and the exterior wall of the parking structure may act as a soundwall for these units. The U.S. Department of Housing and Urban Development (HUD) recommends a 100-foot setback form rail tracks to minimize exposure to ground vibration.</i></p>	<p><u>Mitigation Measure 10:</u> <i>Prior to approval of the Precise Plan, the applicant shall submit a noise study, prepared by a qualified acoustical engineer, that makes recommendations for construction techniques to be implemented within the residential units on parcel 2 and those that face Mission Boulevard on the Perry and Key property.</i></p>	<p>Project developers and construction contractors</p>	<p>City of Hayward Planning and Building Division</p>	<p>Submittal of acoustical plan prior to issuance of Precise Plan approval.</p> <p>Recommendations incorporated into construction documents.</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><i>Impact XI – c (ambient noise):</i> The project would result in increasing the number of dwelling units, retail operations and vehicle trips within the project area. Long-term noise increases would include additional vehicles entering and leaving the project area and noise from residential uses, including but not limited to mechanical noise from heating, ventilating and air conditioning units, use of lawn equipment and human conversation and similar activities. Future residents within the project area could be subject to noise levels in excess of City noise exposure levels caused by existing and future vehicle traffic along Mission Boulevard, BART operations and commercial operations. There may be some temporary noise impacts to residents on Parcels 1 and 2 due to truck deliveries at the proposed grocery store. It is anticipated that the grocery store will receive four large wide body truck deliveries and up to a dozen small truck deliveries per day and these may occur at anytime. It is not anticipated that this will be a significant impact thus no mitigation is required with regard to the temporary noise impact from truck deliveries.</p>	<p><i>Mitigation Measure 11:</i> A site-specific acoustic report shall be prepared for the project. The report shall include a summary of existing noise levels, an analysis of potential noise exposure levels, consistent with City of Hayward noise exposure levels and specific measures to reduce exposure levels of indoor spaces and required outdoor open spaces to City of Hayward noise standards. The acoustical report shall be submitted as part of the Precise Plan application.</p>	<p>Project developers and construction contractors</p>	<p>City of Hayward Planning and Building Division</p>	<p>Submittal of acoustical plan prior to issuance of Precise Plan approval.</p> <p>Recommendations incorporated into construction documents.</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact XI – d (temporary noise):</u> <i>Should the proposed project be implemented, short-term, temporary increases in noise during construction phases of implementation can be expected. Such noises would be related to demolition and deconstruction of existing buildings and improvements, construction of new structures, upgrading of roadways and related infrastructure facilities. Typical noise generated by demolition and construction activities include use of heavy equipment for demolition and earthmoving, truck traffic, back-up bells, air compressors, hammering and other mechanical equipment normally used during demolition and construction. Short-term construction noise is anticipated to be an impact due to the number of existing and anticipated residences and buildings within and adjacent to the project site. Short-term construction noise would be greater and would extend for a longer period of time due to the construction phasing of the proposed project.</i></p>	<p><u>Mitigation Measure 12: A</u> <i>Construction Noise Management Plan shall be prepared for the project. The plan shall specify measures to be taken to minimize construction noise on surrounding developed properties. The Noise Management Plan shall be approved by City staff prior to issuance of grading or building permits and shall contain, at minimum, a listing of hours of construction operations, a requirement for the use of mufflers on construction equipment, limitation on on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in appropriate contractor plans and specifications.</i></p>	<p>Project Developers</p>	<p>City of Hayward Planning and Building Divisions</p>	<p>Plan submitted prior to issuance of grading or building permits.</p> <p>Adherence during project construction.</p>

<p>Significant Environmental Impact</p>	<p>Mitigation Measure</p>	<p>Implementing Responsibility</p>	<p>Monitoring Responsibility</p>	<p>Timing</p>
<p><u>Impact XIII – ai (Fire Protection):</u> <i>Construction of new residential development could increase the risk of fire to future residents and visitors by adding new dwelling units within the area. The number of calls for service for medical emergencies would also increase, based on a higher resident population. Approval of the proposed project could represent a significant impact to the Hayward Fire Department, since the number of dwellings and taller structures may not be served by existing department resources and facilities. The applicant has coordinated with the Hayward Fire Department to include within their proposed project design elements such as fire lanes and buildings that will be built to meet current building code standards applicable to each Parcel's height, area and accessibility and alternate means as appropriate for building height and accessibility, which will allow the Department to maintain acceptable levels of service. There would also be increased vehicular traffic along Mission Boulevard, a major route used for emergency apparatus.</i></p>	<p><u>Mitigation Measure 13:</u> <i>The applicant is required to annex the project area into the City Community Facilities District (CFD) which will off-set the impacts associated with providing Fire, Police and other necessary city services and facilities to the project site.</i></p>	<p>Project Developers</p>	<p>City of Hayward Planning Division and Hayward Fire Department</p>	<p>Annexation to the CFD prior to issuance of a building permit.</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact XIII aii (Police Protection):</u> <i>Approval of the proposed project would result in incremental increase in calls for service to the Police Department. The numbers of calls for service are assumed to increase, commensurate with the rate of population increase. Impacts to the Department could be significant since current staffing and equipment may not be adequate to accommodate the increased service calls. There is, however, a new police substation located nearby on Tennyson Road which may also help to reduce response times to this development.</i></p>	<p><u>Mitigation Measure 13:</u> <i>The applicant is required to annex the project area into the City Community Facilities District (CFD) which will off-set the impacts associated with providing Fire, Police and other necessary city services and facilities to the project site.</i></p>	<p>Project Developers</p>	<p>City of Hayward Planning Division and Hayward Fire Department</p>	<p>Annexation to the CFD prior to issuance of a building permit.</p>
<p><u>Impact XIII – av (Other Public Facilities):</u> <i>Approval of the project may impact long-term maintenance of roads, streetlights and other public facilities. In order to off-set this potential impact the applicant is required to annex into the City CFD.</i></p>	<p><u>Mitigation Measure 13:</u> <i>The applicant is required to annex the project area into the City Community Facilities District (CFD) which will off-set the impacts associated with providing Fire, Police and other necessary city services and facilities to the project site.</i></p>	<p>Project Developers</p>	<p>City of Hayward Planning Division and Hayward Fire Department</p>	<p>Annexation to the CFD prior to issuance of a building permit.</p>

<p>Significant Environmental Impact</p>	<p>Mitigation Measure</p>	<p>Implementing Responsibility</p>	<p>Monitoring Responsibility</p>	<p>Timing</p>
<p><i>Impact XV –a (traffic congestion):</i> <i>The project involves the construction of additional residential dwelling units and involves a new grocery store, both of which will generate additional vehicle trips in the vicinity. An updated traffic analysis prepared by Dowling Associates, Inc., dated January 2009, indicates that due to increased residential densities, the levels of service for the intersection of Dixon Street and Tennyson Road would be operating at a LOS F during the AM peak hour for the year 2025. The traffic study proposes mitigation to improve the levels of service to an acceptable level. In order for the Dixon Street/Tennyson Road intersection to be operating at an acceptable level of service, mitigation will need to be incorporated that involves improvements and modifications to this intersection.</i></p>	<p><i>Mitigation Measure 14:</i> <i>The following improvements to the Dixon Street/Tennyson Road intersection shall be made to reduce impacts to an acceptable level: (1) provide split phasing on the Northbound and southbound approaches; (2) provide a right turn overlap (green arrows when the cross-street protected left phases are active) on the Southbound right turn; (3) restripe the northbound approach to provide an exclusive left turn lane and a shared through/right turn lane and prohibit on-street parking; (4) prohibit on-street parking on the southbound approach between the intersection and the driveway for the adjacent townhouses, a distance of about 100 feet back from the cross-walk; and (5) provide protected-permitted phasing for the eastbound and westbound left-turns.</i></p>	<p>Project Developers</p>	<p>City of Hayward Public Works Department, Traffic Division</p>	<p>All measures must be shown on Improvement plans and implemented prior to Certificate of Occupancy</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p><u>Impact XV - b (congestion management):</u> <i>The proposed project is consistent with the South Hayward BART/Mission Boulevard Concept Design Plan and through the adoption of that plan it was determined that the build out of the plan area would not result in any significant impacts to roads or highways identified by the county congestion management agency. The updated traffic study prepared for this project by Dowling Associates, Inc., indicates that due to increased residential densities, the levels of service for the intersection of Dixon Street and Tennyson Road would be operating at a LOS F during the AM peak hour for the year 2025. That study proposed mitigation to improve the levels of service to an acceptable level. In order for the Dixon Street/Tennyson Road intersection to be operating at an acceptable level of service, mitigation will need to be incorporated that involves improvements to this intersection.</i></p>	<p><u>Mitigation Measure 14:</u> <i>The following improvements to the Dixon Street/Tennyson Road intersection shall be made to reduce impacts to an acceptable level: (1) provide split phasing on the Northbound and southbound approaches; (2) provide a right turn overlap (green arrows when the cross-street protected left phases are active) on the Southbound right turn; (3) restripe the northbound approach to provide an exclusive left turn lane and a shared through/right turn lane and prohibit on-street parking; (4) prohibit on-street parking on the southbound approach between the intersection and the driveway for the adjacent townhouses, a distance of about 100 feet back from the cross-walk; and (5) provide protected+permitted phasing for the eastbound and westbound left-turns.</i></p>	<p>Project Developers</p>	<p>City of Hayward Public Works Department, Traffic Division</p>	<p>All measures must be shown on Improvement plans and implemented prior to Certificate of Occupancy</p>

Significant Environmental Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Timing
<p>Impact XV – f (parking capacity): The project proposes development in the location of current surface parking for the South Hayward BART station. The development proposal, however, does include a 910-space parking garage that will be for the sole use of BART transit riders, to provide 75% replacement parking. Each of the proposed retail and residential elements of the proposal will have sufficient parking under the city of Hayward parking ordinance. Parking standards are typically expressed as minimum ratios; however, the parking standards for this zoning district were established at maximum ratios to encourage the use of pedestrian and bicycle circulation around the BART station. It is not clear whether there will be an impact until project build out. In order to address the potential impacts associated with “spillover” parking into neighborhoods due to insufficient on-site parking, the mitigation measure below has been included and will reduce any potential impact to a less than significant level. Another potential impact lies with the phasing of the proposed development to ensure there is sufficient parking for the BART station during construction. It is the intention of the developer to</p>	<p>Mitigation Measure 15: One year after build out and occupancy of the project, the developer or the developer’s designee, shall conduct a neighborhood parking survey to determine if adequate parking has been provided. If the results of the survey indicate substantial impacts to the surrounding areas, as determined by Hayward Transportation Planning staff, then the developer or the developer’s designee shall incorporate measures to reduce impacts to a less than significant level. The City of Hayward Traffic Regulations Section 3.95 indicates that a significance threshold for a residential parking permit program would be met if 75% of all on-street parking spaces within six adjacent block faces are occupied during any two one-hour periods between 8am and 6pm. Such measures to address potential impacts may include, but are not limited to: instituting and funding a residential parking permit program, increasing the on-street parking supply through implementation of angled parking on appropriate streets, or managing the existing on-street parking, using time restrictions to improve turnover and provide a pool of short-term parking.</p>	<p>Project Developers</p>	<p>Project developers and City of Hayward Planning Division and Public Works department – Traffic Division</p>	<p>One year post build out and occupancy of project</p>

<p>Significant Environmental Impact</p>	<p>Mitigation Measure</p>	<p>Implementing Responsibility</p>	<p>Monitoring Responsibility</p>	<p>Timing</p>
<p><i>construct the BART parking structure as part of the second phase of the development. Temporary parking for the BART station can be accommodated on the Perry and Key property located between Mission Boulevard and Dixon Street as well as on Parcel 3 until such time as the BART parking structure is built. Once the BART station parking structure is constructed, the residential development proposed for Parcel 3 and the Perry and Keys property can commence. Phasing the project construction will mitigate this potential impact to a less than significant level.</i></p>				

DRAFT

ORDINANCE NO. _____

me
3/9/09

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY REZONING CERTAIN PROPERTY LOCATED WITHIN THE SOUTH HAYWARD BART STATION CONCEPT DESIGN PLAN AREA FROM STATION AREA RESIDENTIAL TO PLANNED DEVELOPMENT PURSUANT TO ZONE CHANGE APPLICATION NO.2008-0457

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

Section 1. The Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code is hereby amended by rezoning certain property located within the South Hayward BART Station Concept Design Plan area from Station Area Residential (SAR) District to Planned Development (PD) District. The addresses of the parcels are 28601 Dixon Street, 28850 Dixon Street, 28901-28953 Mission Boulevard, Assessor Parcel Numbers 078C-0441-001-16, 078C-0441-001-17, 078C-0441-001-23, 078C-0441-001-24, 078C-0441-001-28, and 078C-0441-001-29.

Section 2. 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 _____, 2009, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of _____, 2009, 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

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 09-

Introduced by Council Member _____

mal
3/11/09

RESOLUTION ADOPTING THE MITIGATED NEGATIVE
DECLARATION AND RELATED MITIGATION
MONITORING AND REPORTING PROGRAM AND
APPROVING ZONE CHANGE APPLICATION NO.
PL-2008-0547 FOR A MIXED-USE PROJECT IN THE SOUTH
HAYWARD BART/MISSION BOULEVARD CONCEPT
DESIGN PLAN AREA

WHEREAS, Zone Change Application No. PL-2008-0547, submitted by Wittek Development LLC (Applicants) and Big Sky Holdings and Bay Area Rapid Transit (Owners), concerns a request to: 1) Change the zoning district from Station Area Residential (SAR) District to Planned Development (PD) District and approve the preliminary development plan; and 2) amend the South Hayward BART/Mission Boulevard Concept Design Plan to address a revised circulation system, a relocated grocery store site and the BART parking structure in order to construct a mixed-use development consisting of 788 multi-family residential units and a grocery store, including 206 units of affordable housing and a 910-space BART parking garage (the "Project"), located generally at the South Hayward BART station, between the BART station and Mission Boulevard, at 28601 and 28850 Dixon Street and 28901-28953 Mission Boulevard, APN Nos. 078C-0441-001-16, -17, -23, -24, -28, & -29; and

WHEREAS, at the hearing on February 19, 2009, on the Project, the Planning Commission recommended that the City Council adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program, and approve the Zone Change, the Preliminary Development Plan and the amendments to the Concept Design Plan; and

WHEREAS, a notice of the City Council Public Hearing was mailed to property owners and occupants within 300 feet of the project site and a notice of public hearing was published in the Daily Review, as required by law.

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

CEQA

1. The Project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA), and an Initial Study has been prepared for the Project. The Initial Study has determined that the Project, with

the recommended mitigation measures, will not result in significant effects on the environment, and a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program have been prepared and are hereby adopted.

Zone Change- Planned Development

2. The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies. The Project is consistent with the policies and designations of the City's General Plan designation of Station Area Density and the South Hayward BART/Mission Boulevard Concept Design Plan (75 to 100 units per net acre), in that the development is proposed at 76 units per net acre, and, excluding the BART parking structure on Parcel 4, the net density of the project would be 84 units per net acre. Also, the project will further the City's goal to provide ownership housing opportunities as expressed in the Housing Element of the General Plan and will help further the City's Housing Element policy to provide housing opportunities for all household income levels in that 206 rental housing units for low-income senior and family households would be provided in the City as a result of the Project.
3. Streets and utilities, existing or proposed, are adequate to serve the development, in that existing infrastructure and utility improvements, as conditioned, would be adequate to serve the development, which is proposed at a density that is consistent with existing General Plan designations. Also the project, as conditioned, would have no significant impact related to neighborhood traffic.
4. The development creates a residential environment of sustained desirability and stability, in that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse affect upon surrounding development. The Mission-Garin neighborhood is deficient in park space; however, the Project would provide its residents with a combination of both private and public internal recreation space. To mitigate the proposed shortfall of group open space, a condition of approval requires that the developer acquire, improve and offer to the public as parkland the adjacent Caltrans parcels along the southern edge of the project area between Dixon Street and Mission Boulevard. In addition, the project would contribute \$6,212,068 of park dedication in-lieu fees associated with the 582 market rate units proposed, to improve area park facilities. A full-sized modern Safeway store proposed as part of the Project would contribute to the viability and "synergy" of the area, affording nearby residents, BART commuters, and other convenient and desired retail services in this portion of Hayward, as well as incentive for future development in the immediate vicinity. Additionally, the Project is conditioned on participation in a future Community

Facilities District, which would generate a funding source for public safety services, including police services.

5. Any latitude or exception(s) to development of regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards. The averaging of the density across the entire Project, rather than requiring it to be met on each parcel, is offset by the provision of the grocery store and public art as a neighborhood amenity; this amenity would be not only an asset to the project residents, but also the residents of the greater South Hayward area.

Findings In Support of Heights in Excess of Sixty Feet

6. The additional height makes a positive contribution to the overall character of the area and will be compatible with its surroundings in terms of site planning, scale, building design, color, exterior materials, roof styles, lighting, landscaping and signage. The conceptual design of the development reflects an urban design of high quality and interest. Also, the additional height is limited in area, is located within the interior of the site and would provide additional interest to this building from various vantage points. A condition of approval requires that more detailed plans be submitted as part of the Precise Development Plan and undergo design review approval, through which the Planning Commission will ensure the architectural features, materials and design are in accordance with this condition. A condition of approval also requires that a public art feature or features be provided to enhance the overall development. In summary, the Project, as conditioned, allows this finding to be made.
7. The additional height will not result in unreasonable restrictions of light and air to adjacent properties or the public right-of-way, or otherwise be detrimental to the public health, safety and welfare. The portions of the proposed building on Parcel 2 that would exceed the normal 60-foot height standard are limited in area and confined to the central portion of the site, minimizing impacts related to light and air. As with any development, the building construction drawings will be required to be prepared by a licensed professional and conform to current code requirements, which will ensure that no impacts associated with public health, safety and welfare will occur.
8. The additional height will support other policies and standards of the South Hayward BART/Mission Boulevard Concept Design Plan and will result in a better overall project. The additional height would not only provide a variation in building form and massing that would add interest to the building and overall

Project design, but the height would also afford additional opportunities to maximize west-facing window areas, to take full advantage of views and natural light.

BE IT FURTHER RESOLVED that, based on the above findings, Zone Change Application No. PL-2008-0547, the related Preliminary Development Plan and the amendments to the South Hayward BART/Mission Boulevard Concept Design Plan are hereby approved, subject to the adoption of the companion ordinance and the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

mae
3/11/09

Introduced by Council Member _____

RESOLUTION APPROVING THE SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE INFILL INFRASTRUCTURE GRANT PROGRAM, PROPOSITION 1C

WHEREAS, the City of Hayward wishes to apply for and receive an allocation of funds through the Infill Infrastructure Grant Program (Proposition 1C); and

WHEREAS, the California Department of Housing and Community Development (hereinafter referred to as "HCD") has issued a Notice of Funding Availability ("NOFA") for the Infill Infrastructure Grant Program established under the Housing and Emergency Shelter Trust Fund Act of 2006 (Proposition 1C), pursuant to the Infill Infrastructure Grant Program established as Part 12 of Division 31 of the Health and Safety Code, commencing with Section 53545.12. Pursuant to that statute, HCD is authorized to approve funding allocations utilizing monies made available by the State Legislature, subject to the terms and conditions of the statute and the Infill Infrastructure Grant Program Guidelines implemented January 30, 2009; and

WHEREAS, the City of Hayward wishes to submit an application to obtain from HCD an allocation of the Infill Infrastructure Grant Program funds in the amount of \$30,000,000.

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

1. The City of Hayward shall submit to HCD an application to participate in the Infill Infrastructure Grant Program in response to the NOFA issued on January 30, 2009, which will request a funding allocation in the amount of \$30,000,000 for the following activities: The development of the South Hayward Mixed Use Project, a transit-oriented development, comprised of 788 housing units, including 206 units of affordable housing, a 58,500 square-foot Safeway supermarket, residential and commercial parking and a seven-level 910-space parking structure to serve the South Hayward BART Station. The South Hayward Mixed Use Project is located at 28601 and 28850 Dixon Street and 28901-28953 Mission Boulevard, Hayward, California.

2. If the application for funding is approved, the City of Hayward hereby agrees to use the Infill Infrastructure Grant Program funds for eligible activities in the manner presented in the application as approved by HCD and in accordance with program Guidelines cited above.

It also may execute any and all other instruments necessary or required by HCD for participation in the Infill Infrastructure Grant Program.

3. The City Manager is hereby authorized to execute in the name of the City of Hayward the application, the Standard Agreement, and all other documents required by HCD for participation in the Infill Infrastructure Grant Program, and any amendments thereto.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

RESOLUTION NO. _____

Introduced by Agency Member _____

Mal
3/11/09

RESOLUTION APPROVING THE SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE INFILL INFRASTRUCTURE GRANT PROGRAM, PROPOSITION 1C

WHEREAS, the City of Hayward wishes to apply for and receive an allocation of funds through the Infill Infrastructure Grant Program (Proposition 1C) and the Redevelopment Agency of the City of Hayward wishes to be a co-applicant for the program funds; and

WHEREAS, the California Department of Housing and Community Development (hereinafter referred to as "HCD") has issued a Notice of Funding Availability ("NOFA") for the Infill Infrastructure Grant Program established under the Housing and Emergency Shelter Trust Fund Act of 2006 (Proposition 1C), pursuant to the Infill Infrastructure Grant Program established as Part 12 of Division 31 of the Health and Safety Code, commencing with Section 53545.12. Pursuant to that statute, HCD is authorized to approve funding allocations utilizing monies made available by the State Legislature, subject to the terms and conditions of the statute and the Infill Infrastructure Grant Program Guidelines implemented January 30, 2009; and

WHEREAS, concurrently herewith, the Agency has adopted Resolution _____, conditionally approving the commitment of up to \$19,800,000 in local matching funds for the South Hayward Mixed Use Project, and wishes to be a co-applicant with City of Hayward on its application to obtain from HCD an allocation of the Infill Infrastructure Grant Program funds in the amount of \$30,000,000.

NOW, THEREFORE, BE IT RESOLVED, by the Redevelopment Agency of the City of Hayward that:

1. The Agency shall be a co-applicant with the City of Hayward on its application to HCD to participate in the Infill Infrastructure Grant Program in response to the NOFA issued on January 30, 2009, which will request a funding allocation in the amount of \$30,000,000 for the following activities: The development of the South Hayward Mixed Use Project, a transit-oriented development, comprised of 788 housing units, including 206 units of affordable housing, a 58,500 square-foot Safeway supermarket, residential and commercial parking and a seven-level 910-space parking structure to serve the South Hayward BART Station. The South Hayward Mixed Use Project is located at 28601 and 28850 Dixon Street and 28901-28953 Mission Boulevard, Hayward, California.

DRAFT

REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

RESOLUTION NO. _____

Introduced by Agency Member _____

me
3/12/09

RESOLUTION CONDITIONALLY APPROVING THE REDEVELOPMENT AGENCY'S COMMITMENT OF LOCAL MATCHING FUNDS FOR PROPOSITION 1C GRANT FUNDS FOR THE PROPOSED SOUTH HAYWARD BAY AREA RAPID TRANSIT ("BART") STATION MIXED-USE DEVELOPMENT IN AN AMOUNT NOT TO EXCEED NINETEEN MILLION, EIGHT HUNDRED THOUSAND DOLLARS (\$19,800,000), WITH A MAXIMUM OF SEVEN MILLION, ONE HUNDRED THOUSAND DOLLARS (\$7,100,000) ATTRIBUTABLE TO AFFORDABLE HOUSING DEVELOPMENT AND A MAXIMUM OF TWELVE MILLION, SEVEN HUNDRED THOUSAND DOLLARS (\$12,700,000) ATTRIBUTABLE TO PUBLIC IMPROVEMENTS INCLUDING PUBLIC PARKING

WHEREAS, the City Council of the City of Hayward ("City") has adopted a redevelopment plan for the Downtown Hayward Redevelopment Project ("Redevelopment Project Area") by Ordinance No. 75-029C.S., as amended, which is being implemented by the Redevelopment Agency of the City of Hayward ("Agency"); and

WHEREAS, in June of 2006, the City Council adopted a South Hayward BART/Mission Boulevard Concept Design Plan ("Design Plan") which seeks to encourage and provide the framework for redevelopment that will result in a transit village around the South Hayward BART Station ("BART Station") and an enhanced Mission Boulevard corridor; and

WHEREAS, also in 2006, BART completed a "South Hayward BART Development, Design and Access Plan" for the BART Station, which plan was created to complement the City's planning efforts and to analyze access improvements and transit-oriented development opportunities in the area of the approximately 12-acre BART Station and the approximately one-half mile surrounding it. The approximately 12 acres comprising the BART Station includes 2 surface parking lots, having approximately 1,200 surface parking spaces, and a bus intermodal facility and is zoned in compliance with the City's Station Area Residential ("SAR") Zoning District; and

WHEREAS, Wittek Development, LLC ("Developer") owns certain real property adjacent to the BART satellite parking lot on Dixon Street ("BART Satellite Lot"), having a primary frontage on Mission Boulevard and consisting of about 2.9 acres ("Developer Property"), and intends, together with Montana Properties, Inc., to develop the BART Satellite Lot along with the Developer Property; and

WHEREAS, Developer's proposed project ("Project") would be a mixed-use retail and housing development that is generally in compliance with the Design Plan, the SAR Zoning District and the City's General Plan, and includes 788 units of housing and a Safeway grocery store. The proposal includes 206 units of affordable housing to be developed by Eden Housing. Also included in the Project will be a seven-level, 910-space replacement parking garage for BART parking and circulation features required for Alameda County Transit ("AC Transit"); and

WHEREAS, the current market conditions require that the Project be developed in phases: (A) Phase 1 - a 58,500 square-foot Safeway grocery store with 125 affordable family apartments directly above the store, to be designed, constructed and managed by Eden Housing, and 81 affordable senior apartments, also to be designed, constructed and managed by Eden Housing, over a 3-level parking structure that would serve both affordable housing projects; (B) Phase 2 - the seven-level BART parking garage; (C) Phase 3 - 241 units of market-rate rental housing with contiguous subterranean parking in two buildings directly adjacent to the BART Station; and (D) Phase 4 - 341 small commercial and live-work ownership units over a podium and subterranean parking, these particular units to be built in 4 phases of approximately 85 units each; and

WHEREAS, Developer and the Bay Area Rapid Transit District, a rapid transit district established pursuant to Public Utilities Code Section 285000 *et seq.* (also known as BART), have entered into an Exclusive Negotiating Agreement ("ENA") effective February 5, 2009, providing for the further assessment of the feasibility of developing the Project consistent with the manner described above, and, should the Project prove feasible, the ENA provides for the establishment of terms governing the sale, exchange or ground lease of all or part of the BART-owned surface parking areas; and

WHEREAS, because the long-term economics of the Project are contingent in great part upon the ability to fund the affordable housing and major infrastructure improvements associated with reuse of the BART-owned surface parking areas, Developer is working to make the Project competitive for infrastructure and transit-oriented development ("TOD") funding available from the State of California under its Proposition 1C (the Housing and Emergency Shelter Trust Fund Act of 2006) program. This significant funding source may only be available during 2009, and a successful application could generate approximately \$30,000,000 for the infrastructure components of the Project and \$17,000,000 for the affordable housing developments. As the deadline to submit these applications is April 1, 2009, time is of the essence in this application process, necessitating City Council and Redevelopment Agency Board public hearings for the Project no later than March 2009; and

WHEREAS, the City, as the necessary applicant for the Proposition 1C funds described above, is seeking the maximum \$47,000,000 in grant funds, and, in order to obtain maximum scoring for the Proposition 1C grant, there is an associated goal of providing matching funds: \$6,000,000 to be spent by the partnering agencies from stimulus funds and \$19,800,000 from the Agency (anticipated to come from the Agency's low/moderate-income housing set-aside fund for the affordable housing component, as well as from Agency-issued bonds); and

WHEREAS, in connection with the Project, City staff have prepared both an initial study and mitigated negative declaration ("Mitigated Negative Declaration") pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 *et seq.*), including a mitigation monitoring plan, and notice of intent to adopt the Mitigated Negative Declaration has been given as required by law; and

WHEREAS, the Agency has independently reviewed and considered the information contained in the initial study upon which the Mitigated Negative Declaration is based, certifies that the Mitigated Negative Declaration has been completed in compliance with the requirements of CEQA and finds that the Mitigated Negative Declaration, which must be viewed and analyzed in light of the Conditions of Approval, reflects the independent judgment of the Agency; and

WHEREAS, the Agency independently agrees with the City staff's conclusion that potentially significant environmental impacts related to traffic will be mitigated to a level of insignificance through the implementation of mitigation measures.

NOW THEREFORE, BE IT RESOLVED by the Redevelopment Agency of the City of Hayward that it is committed to pursuing and providing the Proposition 1C local matching funds for the Project in the maximum amount of \$19,800,000, consisting of approximately \$7,100,000 for affordable housing developments and \$12,700,000 for public improvements, including public parking, said commitment of the Agency, being specifically conditioned upon the occurrence of the following to the Agency's satisfaction:

1. The City, Agency and Eden Housing successfully obtain Proposition 1C grant funding for the Project in the approximate amount of \$47,000,000.
2. The Agency is able to issue sufficient tax exempt bonds for the Project and the privately-held market-rate portion of the Project generates sufficient tax increment to repay the Agency's total financing costs related to the project within a commercially reasonable time period, but no later than the expiration of the term of the bond issue.
3. Developer and Eden Housing make a good faith effort to obtain other affordable housing funding, equity capital and institutional lender financing sufficient to build the affordable housing portions of the Project, including, but not limited to, Community Development Block Grant (CDBG) funding, City and/or County HOME funding, the Federal Home Loan Bank's Affordable Housing Program (AHP) funding, the Metropolitan

Transportation Commission's Transportation for Livable Communities (TLC) program funding, mortgage revenue bonds and affordable housing tax credits.

4. Developer and BART make a good faith effort to pursue and obtain other public and private sources of financing, as available, to finance the entire proposed Project, including market rate residential, retail, parking and other site improvements. Residual financing proceeds shall be used to offset the Agency's investment.

5. Developer shall sufficiently address any and all requests for financial information related to the Project from the Agency to the Agency's satisfaction, and the Agency shall make the appropriate determinations related to the Developer's financial capability to perform.

6. Developer enters into a Disposition and Development Agreement (or other acceptable land exchange agreement) with BART for the site, and, in the event said land disposition is not consummated, the Agency, at its option, is relieved of any and all financial obligations hereunder.

7. Developer enters into an Owner Participation Agreement with the Agency, in a form approved by the Agency Board, specifying not only the applicable design and development standards, but the conditions associated with the Agency's provision of a portion of the Proposition 1C local matching funds (including the Project securing the maximum Proposition 1C funds possible and the proponents of the Project securing other funds from BART, AC Transit and other entities).

8. To address costs associated with public services, including police services, City and/or Agency will assess impacts and are recommending, as a condition of approval of the Project, the formation of a Community Facilities District ("CFD") to provide for the Project's payment for its proportional share of such services. Actual assessments will be determined when the CFD is formed.

9. Agency, Developer and BART enter into an agreement (or agreements) in a form approved by the Agency Board, containing provisions regarding, but not limited to the following:

A. Developer's commitment to obtain building permits and commence physical construction of the market rate for-sale and rental portions of the Project within a reasonable period of time, but in no event later than five years beyond the date of the award of the Proposition 1C Infill Grant, and to pursue continuous construction of the Project to completion within three years, and, in any event, to complete the entire Project to certificates of occupancy for all residential development and the acceptance of public improvements no later than eight years beyond the award of the Proposition 1C Infill Grant, unless otherwise mutually agreed upon by the applicable parties.

B. Agency's, BART's and Developer's agreement regarding construction, ownership, maintenance and operation of the BART replacement parking structure.

C. Assurances to the Agency regarding its right and option to assume and assign the Developer's development rights to the previously BART-owned parking areas, subject to the applicable land transfer agreement entered into by said parties, including both market rate and affordable housing and retail, in the event of non-performance for a period of time deemed unreasonable in the Agency's sole discretion.

D. Upon entering into the subject agreement(s) with the Agency, Developer shall, either through use of a quitclaim deed, right of first refusal or some other mutually acceptable method, provide for the Agency's ability to acquire the Developer Property and any of the BART-owned parking areas related to the Project, in the event that the Developer does not start and complete the development in accordance with the general conditions outlined herein and/or the terms of any agreement between the Agency, the Developer and/or BART.

HAYWARD, CALIFORNIA _____, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES: AGENCY MEMBERS:
CHAIR:

NOES: AGENCY MEMBERS:

ABSTAIN: AGENCY MEMBERS:

ABSENT: AGENCY MEMBERS:

ATTEST: _____
Secretary of the Redevelopment Agency
of the City of Hayward

APPROVED AS TO FORM:

General Counsel