

**DATE:** April 27, 2010  
**TO:** Mayor and City Council  
**FROM:** Development Services Director  
**SUBJECT:** Draft South Hayward BART/Mission Boulevard Form-Based Code

## **RECOMMENDATION**

That Council comments on this report and the attached draft Form-Based Code (Attachment I) and provides direction for next steps.

## **SUMMARY**

The South Hayward BART/Mission Boulevard Form-Based Code (Code) is intended to replace the zoning and related regulations associated with the area along Mission Boulevard and surrounding the South Hayward BART station area east of the BART tracks (see project area map, Attachment II). The Code follows the *SmartCode* template in that it promotes walkability and neighborhood focus and connectivity; attractive public realms along streets; and planned civic spaces, including open space -- all of which are integrated into the urban fabric. The Code contains two transect zones of T4 and T5 (see later discussion), two transit-oriented development (TOD) overlay zones near the BART station, civic/open space zones, and new development standards, including new land use densities and only maximum (versus the typical minimum) parking standards.

The Code would not downzone any properties. In addition, the densities shown in the attached Code would, for certain properties, exceed those adopted as part of the 2006 South Hayward BART/Mission Boulevard Concept Design Plan, as do densities for some of the properties between Mission Boulevard and Dixon Street south of Valle Vista Avenue, associated with the 2009 238 Bypass Land Use Study. The attached map (Attachment III) identifies those properties where densities would exceed existing densities. Based on the densities shown in the attached Code, approximately 835 net new additional living units could be accommodated in the Code area compared with existing designations.

Should the City Council indicate support for the draft Code, staff would recommend that a preliminary traffic impact analysis be completed within the next two months, and be presented to the City Council before requesting permission to proceed with a full environmental impact analysis. Such preliminary analysis would provide City Council with an idea of anticipated impacts related to traffic as a result of anticipated development related to the Code.

## BACKGROUND

The City Council authorized the hiring of Hall Alminana, Inc. (Hall Alminana) in May of 2009 to prepare a form-based code and related technical studies. After receiving input from the community at a public charrette in early October 2009, the consultant team has been working with staff on developing a draft form-based code for the project area. The attached charrette poster (Attachment IV) is available on the City's website at <http://www.ci.hayward.ca.us/forums/SHBARTFBC/pdf/2010/Hayward%20charrette%20poster.pdf> and summarizes the input received during the charrette.

Additionally, a draft Parking and Transportation Demand (TDM) Strategy has been prepared that contains eight recommendations for parking management and TDM policies in the Code area, which was presented to the Council Sustainability Committee on April 7, 2010. As indicated toward the end of this report, a Market Analysis and Fiscal Impact Analysis have also been prepared identifying the level of anticipated future development associated with the Draft Form-Based Code. This analysis shows that such development would be an overall net positive fiscal impact, when also accounting for tax increment revenue generation that would go to the Redevelopment Agency.

## DISCUSSION

*Overview of the Draft Code* - The following sections provide a brief summary of the contents of the attached Code. The Code's organization follows that of the Model SmartCode<sup>1</sup>. The City's consultant team will make a presentation during the April 27 work session to summarize the Code and its contents.

Purpose and Applicability of the Code (pages SC4 to SC9) – This section indicates that the Code seeks to implement the policies and objectives of the Hayward General Plan, particularly those related to smart growth principles. Purposes of the Code related to the community, transect, block, and building scale are identified. The Code identifies two transect zones (the T-4 General Urban Zone and the T-5 Urban Center Zone) out of a possible six zones that could exist under the SmartCode. The Transect is defined in the Definitions section of the Code as, “a cross-section of the environment showing a range of different habitats. The rural-urban Transect of the human environment used in the SmartCode template is divided into six Transect Zones. These zones describe the physical form and

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<sup>1</sup> The SmartCode is an integrated land development ordinance. It folds zoning, subdivision regulations, urban design, public works standards and basic architectural controls into one compact document. It is also a unified ordinance, spanning scales from the region to the community to the building. The SmartCode was released by [Duany Plater-Zyberk and Company \(DPZ\)](#) in 2003, after two decades of research and implementation. The code is open source and free of charge. <http://www.smartcodecentral.org>

The non-profit [Center for Applied Transect Studies \(CATS\)](#) was founded in 2007 to promote understanding of the built environment as part of the natural environment, through the planning methodology of the rural-to-urban transect. The SmartCode is the foundational tool for implementation of this methodology.

character of a place, according to the Density and intensity of its land use and Urbanism.” Additional information on the concept of transect zones can be found at <http://www.transect.org/>.

The Code indicates that the regulations contained in the City’s Municipal Code still apply, except where the Code’s provisions conflict with those of the Municipal Code. In particular, as indicated on pages SC8 to SC9, the Code’s provisions would supersede provisions of certain sections of the Zoning Ordinance, Off-Street Parking Regulations, the Subdivision Ordinance, and the Sign Regulations. For example, the various zoning districts in the project area would be replaced with an Urban General Zone (Transect Zone T4), an Urban Center Zone (Transect Zone T5), with two TOD Density Overlay Zones, and a Civic Open Space Zone. Also, the parking standards applicable to the rest of the City that specify the amount of parking required for various uses would also be replaced with new standards that specify a maximum number of spaces, rather than the typical minimum number of spaces, with non-residential uses not being required to provide any parking.

Regulating Plan and Transect Zones (pages SC10 to SC34) – These sections of the Code indicate that the Regulating Plan (Figure 1-1) would serve as the Zoning Map for the Code area. Special requirements are included for mandatory and recommended Shopfront Frontage areas, as well as for Terminated Vista locations. (Downtown’s All-Saints Church provides an excellent example of a terminated vista looking eastward along D Street.) Transect zones in the Regulating Plan are referenced, with the T4 zone indicated in much of the Code area, except where the more intensive T5 zone is indicated. As shown in the Regulating Plan (Figure 1-1 near the end of the Code), the T5 zone is generally shown within a half-mile of the South Hayward BART station and at two selected neighborhood centers: the Mission Plaza Shopping Center site and at the K-Mart site at Harder Road and Mission Boulevard, both of which are envisioned for redevelopment. Planned Terminated Vistas are also shown at selected locations.

Two Transit-Oriented Development (TOD) density overlay zones are shown in the area near the BART station. The TOD Density Overlay 1 zone pertains to those properties very near the South Hayward BART station and includes the approved mixed use development site at the station and between Dixon Street and Mission Boulevard. The densities for that overlay zone reflects existing densities of 75 to 100 dwelling units per acre. The TOD Density Overlay 2 zone applies to properties generally within a ¼ mile of the BART station, including around the Mission Boulevard/Tennyson Road intersection, and indicates a density range of 40 to 65 dwelling units per acre. Such TOD overlay zone was not indicated in the preliminary regulating plan developed during the October 2009 charrette, but is recommended for various reasons:

1. To promote the concept recommended by the City Council to reduce densities as one moves further away from the BART station;
2. To promote smart growth principles that encourage higher densities near transit stations to promote walkability;
3. To incentivize new development by providing greater land value with increased densities; and
4. To provide land values that will more likely result in dedication of new public roadways. (Such roadways are shown in Figure 1-3 of the Code and are recommended to reduce block sizes and promote pedestrian connectivity.)

Also in this section of the Code, standards for the Civic Space (CS) Zone are identified. The purpose of the CS Zone is stated to be “for the provision of public Open Space, Civic Buildings, and Civic uses.” Table 10 (page SC49) identifies the four types of civic spaces and the transect zones where such spaces would be located. The Regulating Plan indicates that such spaces would be located at the BART station (plaza), at the southwest corner of Mission Boulevard and Valle Vista Avenue where a future park and community center are envisioned (park/square), at the southwest corner of the Code area along the BART tracks off Industrial Boulevard across from the Mission Hills of Hayward golf course complex (linear park), in the area around a future Bowman Elementary School site off Mission Boulevard (park/square), and along Zeile Creek in the northern part of the Code area near the existing K-Mart site (small neighborhood park).

The remaining sections in this portion of the Code contain written standards related to the following items, most of which are graphically depicted and/or summarized in Tables 11 and 12A and 12B (pages SC50 to SC52):

- *Building Disposition* - related to placement of buildings on lots;
- *Building Configuration* - related to the form of buildings, based on massing, private frontage, and height (note that the T4 and T5 zones require that at least 15 and 10 percent of lot areas be common open space (also allowing for such space atop roof decks);
- *Building Functions* - related to use of buildings, summarized in Table 9 on page SC48;
- *Density Standards* - defines the density standards for the two TOD overlay zones of 75 to 100 units per acre and 40 to 65 units per acre, respectively;
- *Parking Standards* – indicates no requirements at all for non-residential development, no minimum requirements for residential development, but maximum standards in the T4 zone of 1.75 spaces per rental unit and 2.0 spaces per ownership unit and 1.5 spaces and 1.8 spaces for each rental and ownership unit in the T5 zone (note additional allowance for ownership units, to promote those types of units);
- *Architectural Standards* – identifies standards related to architecture;
- *Fence and Wall Standards* - provides standards related to fences and walls;
- *Landscape Standards* – establishes a threshold for amount of impermeable surface coverage on lots; restricts mechanical and related structures and features to portions of the lot that are located away from the street frontage; requires security lighting in accordance with current standards; and details standards for trees along streets on properties in the two Transect zones;
- *Visitability Standards* - indicates standards to encourage accessibility and activity at the street level (related to universal design);
- *Sustainability Standards* – contains standards related to wind power (see Table 13A in the Code), solar power (Table 13B), food production (Table 13C), and stormwater management techniques (Table 13D);
- *Thoroughfare Standards and Plan* (reference Table 2 and Figures 1-2 and 1-3 in the Code) – identifies purposes of the standards and plan; contains standards for different types of thoroughfares with an emphasis on promoting pedestrian movement and accommodating bicycle movement; identifies where those various thoroughfares are located throughout the

Code area (Figure 1-2: Thoroughfare Plan) and where new streets are proposed (Figure 1-3); also identifies on page SC27 incentives to encourage property owners to dedicate new thoroughfares, including application processing priority, increased density (four additional units for every 100 linear feet of thoroughfare dedication and construction) and height (one additional story for new thoroughfare and dedication);

- *Subdivision Standards* – describes standards for subdividing land, including establishing maximum lot widths;
- *Sign Standards* – contains standards related to signs; and
- *Telecommunication Facility Standards* – includes standards associated with such facilities.

Standards and Tables (pages SC35-SC56) - This section of the Code contains various tables that relate to and summarize the previous section's content. Table 2 on pages SC37 to SC41 shows the various thoroughfares and includes cross sections for each thoroughfare type; Table 3 shows the various public lighting fixture styles; Table 9 lists the various functions and uses permitted in the T4 and T5 zones; Tables 11 and 12A & B provide a summary of the various standards for the two transect zones, including graphics to help depict desired development configurations; and Tables 13A-D show facilities and standards related to sustainability.

Procedures (pages SC57 to SC67) - This section outlines the general approval requirements and processes, with reviewing authorities and roles summarized in Table 14. Prohibited uses are also identified, as are structures, land uses, and activities that are exempt from the planning permit requirements of the Code. The remaining portions of this section outline the variance process to obtain exceptions and warrants to various development standards, and indicates that the Planning Commission shall review the outcomes of the Code every five years and forward any findings regarding such review to the City Council.

Definitions and Rules of Interpretation (pages SC68 to SC81) - Terms used in the Code are defined in this section, some of which are graphically depicted in Table 15. Rules of interpretation are also identified here, as well as the process and findings required for issuing official interpretations.

Form-Based Code Comparison to Existing Land Use & Development Rules - As indicated in presentations prior to and during the October, 2009 charrette, the Form-Based Code consolidates existing land use and development rules into a single, concise document. In doing so, the Form-Based Code makes the community's expectations clear to prospective developers. Prior ambiguous, conflicting, or antiquated rules are removed and will no longer apply.

In comparing the Form-Based Code to prior land use and development rules, the following would be accomplished:

- Nine (9) zoning designations consolidated into three zones (i.e., T4, T5 and Civic Space) with two TOD overlays. A comparison of changes to primary development standards is illustrated in Attachment V.

- A simplified land use classification scheme more in line with contemporary commercial activities, which provides the Director greater ability to interpret the classification of specific proposed businesses.
- Continuance of the prior decision-making bodies and steps for changes to existing development and/or new development.

*Environmental Review* – Staff has worked closely with the project team’s economic consultant in determining densities that would be supported by current and future market conditions. The total amount of anticipated new residential and commercial development per market conditions as indicated in the following “Economic Impact” section would be less than what could be realized based simply on land use densities and development standards. When conducting an environmental analysis, staff will utilize and tier off information in two previous environmental impact reports (EIRs): the 2006 South Hayward BART/Mission Boulevard Concept Design Plan and the 2009 238 Bypass Land Use Study. The Concept Design Plan EIR analyzed impacts of potential development based on land use densities and standards for three alternatives: Suburban Concept, Blended Concept, and the Urban Concept. The General Plan Land Use and Zoning Designations associated with the Concept Design Plan project that the City adopted were most similar to the Blended Concept. However, a full environmental analysis was conducted for all three concepts, including the Urban Concept, which envisioned 3,707 net new dwelling units and 520,106 square feet of new retail, office and other non-residential land uses, an increase of approximately 67,789 square feet over pre-project land use conditions.

As indicated previously, and because traffic impacts are often substantial and difficult to mitigate, staff recommends that a preliminary traffic impact assessment be completed and presented to City Council prior to conducting a full impact analysis on the Code and its impacts. Such analysis would assess impacts at key intersections within and near the Code area, due to new development related to implementation of the Form-Based Code.

It is anticipated such preliminary analysis would be presented to Council in approximately two months. However, should Council wish to authorize proceeding with a full impact analysis at this time, staff would do so and present the Final Code, environmental impact analysis per the California Environmental Quality Act (CEQA), and Final Parking Strategy Report to City Council during late summer or fall of this year. The CEQA analysis is anticipated to entail development of at least a Supplemental Environmental Impact Report (EIR) that tiers off previous related EIRs.

## **ECONOMIC IMPACT**

A market analysis was completed by consultant ERA/AECOM in September of 2009 for the project primary market area (PMA). The PMA, which includes areas outside the Code area to the east and south, is bounded by the railroad/BART tracks to the west, Harder Road to the north, the Hayward Hills to the east, and Whipple Road to the south. That report is available on the City’s website at [http://www.hayward-ca.gov/forums/SHBARTFBC/pdf/Market\\_Analysis\\_FINAL\\_REPORT.pdf](http://www.hayward-ca.gov/forums/SHBARTFBC/pdf/Market_Analysis_FINAL_REPORT.pdf) and indicates the following:

1. The consultant estimates that the PMA could support demand for an additional 1,300 to 1,600 market-rate residential units over the next 20 years, with almost all of that demand associated with multi-family units.
2. Including anticipated new affordable units, it is anticipated that the PMA would see development of approximately 2,000 multi-family units over the next 20 years.
3. Overall, the retail sector within the Form-Based Code project area has not kept up with the rest of the City. Despite robust growth in population and incomes, the presence of the BART station and the high number of Mission Boulevard commuters, practically no new retail space (only 2.8 percent growth) has been built in the Code area since the year 2000 and occupied space has in fact declined.
4. Retail demand analysis shows potential for approximately 170,000 to 205,000 square feet of retail and restaurants within the Code area (14 to 17 percent of total citywide retail demand), with the majority (60 percent) of that demand materializing over the 2020-2030 period.

## **FISCAL IMPACT**

A fiscal impact analysis has been prepared and is available on the City's website at:

<http://www.ci.hayward.ca.us/forums/SHBARTFBC/pdf/2010/South%20Hayward%20BART%20Area%20Fiscal%20Impact%20Report%202-25-2010.pdf>. Projected revenues would be generated from a variety of sources, including primarily property and sales taxes, the utility users' tax, and the real property transfer tax. Projected expenditures would be associated primarily with the provision of police and fire services.

According to the City's consultant, it is estimated that development spurred by the Form-Based Code in the project area will have a net negative impact on the General Fund of approximately \$379,000 per year between 2010 and 2020 and approximately \$403,000 annually between 2020 and 2030. However, that negative impact to the General Fund would be more than offset due to the tax increment that would be generated annually to the Redevelopment Agency (\$506,000 in 2020 and \$1,836,000 in 2030).

To reduce impacts due to future growth on the General Fund balance, and as required for the Wittek-Montana-Eden Housing mixed use project at the South Hayward BART station, a new community services district (CSD) fee could be imposed by the City on all new housing to offset the service requirements of the new population. If a CSD fee of \$500 per unit per year is assumed for all new housing developed from this point forward, including affordable housing units, then the impacts to the City's General Fund balance would be positive as well. The following table summarizes the results of the fiscal impact analysis.

	Scenario 1	Scenario 2
	2020	2030
Estimated Annual General Fund Revenues Generated from South Hayward BART Station Area FBC	\$380,360	\$1,224,635
Estimated Annual General Fund Expenditures Generated from South Hayward BART Station Area FBC	\$759,235	\$1,627,218
Assumed CSD for New Housing at \$500 per Unit <sup>1</sup>	\$394,000	\$886,500
<b>Net Impact on City of Hayward General Fund</b>	<b>\$15,125</b>	<b>\$483,917</b>
Annual Tax Increment Accrued to Redevelopment Agency as a result of new development in the S. Hayward BART Station Area FBC	\$505,941	\$1,835,880

<sup>1</sup> For all units including affordable units

## PUBLIC CONTACT

As mentioned previously, an intensive five-day charrette was conducted in early October, 2009. During that process, input was received from the public about what the community desires in the South Hayward BART/Mission Boulevard area, and a draft regulating plan and related drawings were developed. The attached draft Code reflects the input provided by the community during the charrette.

## NEXT STEPS

Depending on Council direction, staff will take one or more of the following actions:

1. Amend the Draft Code to reflect densities more in line with the 2006 Concept Design Plan and proceed with development of the Final Code and related documents, and a Supplemental Environmental Impact Report or Mitigated Negative Declaration, to be presented to City Council this summer;
2. Proceed with conducting a preliminary traffic impact analysis reflective of anticipated development associated with the Draft Code, and present the results of such analysis to the City Council in July;
3. Proceed with development of the Final Code and related documents; conduct a full environmental impact analysis reflective of anticipated development associated with the Draft Code; prepare a Supplemental Environmental Impact Report or full Environmental Impact Report; and present the Final Code, EIR, and supporting documents to City Council sometime in the fall of this year; or
4. Proceed with another course of action, based on City Council direction.

Staff recommends option #2 above: Proceeding with conducting a preliminary traffic impact analysis reflective of anticipated development associated with the Draft Code, and presenting the results of such analysis to the City Council in June or July.

*Prepared by:* David Rizk, AICP, Development Services Director

Approved by:



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Fran David, Acting City Manager

**Attachments:**

- Attachment I *Draft South Hayward BART/Mission Boulevard Form-Based Code, dated March 3, 2010*
- Attachment II *Map of Code Area*
- Attachment III *Properties That Would be “Up-Zoned”*
- Attachment IV *South Hayward BART/Mission Boulevard Charrette Poster*
- Attachment V *Existing and Form-Based Code Zoning Comparisons (table)*

4/23/2010