

VIA EMAIL

September 13, 2011

Mayor Sweeney and Council Members Henson, Halliday, Quirk, Zermeno, Peixoto, & Salinas  
City of Hayward  
777 B Street  
Hayward CA 94541-5007

Re: South Hayward BART / Mission Boulevard Form-Based Code

Subject: Table 9

Mayor & Council Members:

Together with certain others, I own the real property more particularly identified as Alameda County APN 078C-461-1-13 and -14; such parcels lie inside the City limits and are adjacent to a portion of the study area of the above-subject Form-Based Code.

On August 15, 2011, I wrote to you regarding Table 9 in the above-referenced Form-Based Code. A copy of my letter is included in the document packet for tonight's public hearing.

In the staff report for such hearing, Director of Development Services David Rizk responds to my letter; in part, he states the following:

"While staff agrees that such uses may not be compatible with residential uses, such uses could be compatible with commercial and retail uses, and they are allowed as conditional uses in the General Commercial zoning district, ***which is the zoning designation for some of the properties along Mission Boulevard in the project area.***" [emphasis added]

Attached please find a copy of page 106 of the document packet; I've highlighted such sentence thereon.

Attached also find a portion of the current City of Hayward (City) Zoning map; such portion shows lands near Mission Boulevard, from just north of Tennyson Boulevard to just south of Industrial. In addition, attached also is a copy of a portion of the legend for such map, showing residential and commercial zoning designations only. Both portions were obtained this afternoon from the City of Hayward's website.

As shown on the Zoning map portion, the zoning designation for quite a few of such properties — in particular, several along the easterly side of Mission Boulevard to the south of our property — is residential.

While the designation is General Commercial for several parcels near Tennyson Boulevard and for a small group of parcels near Overhill Drive, most of the parcels along the easterly side of Mission — spanning from the southerly side of the CalTrans parcel down to Alquire Parkway — are zoned residential.

Thus, Table 9 of the Form-Based Code — as drafted — includes a significant change to the uses permitted on such properties, including several located just south of our parcel.

We believe such change is unwise; to encourage development based on the Form-Based Code, the City benefits from restraining development here.

While the burdens of a conditional use permit may be — as Director of Development Services Rizk points out — significant for some, we believe the City is better served by prohibiting such uses. Doing so, the City would require such potential uses to apply for a variance from the existing City code.

We owners, thus, respectfully request the City do the following:

Prohibit alcohol sales, check cashing & loans, dance/nightclub, massage parlor, pawn shop, and tattoo parlor in Zone T4, modifying Table 9 of the Form-Based Code to reflect same.

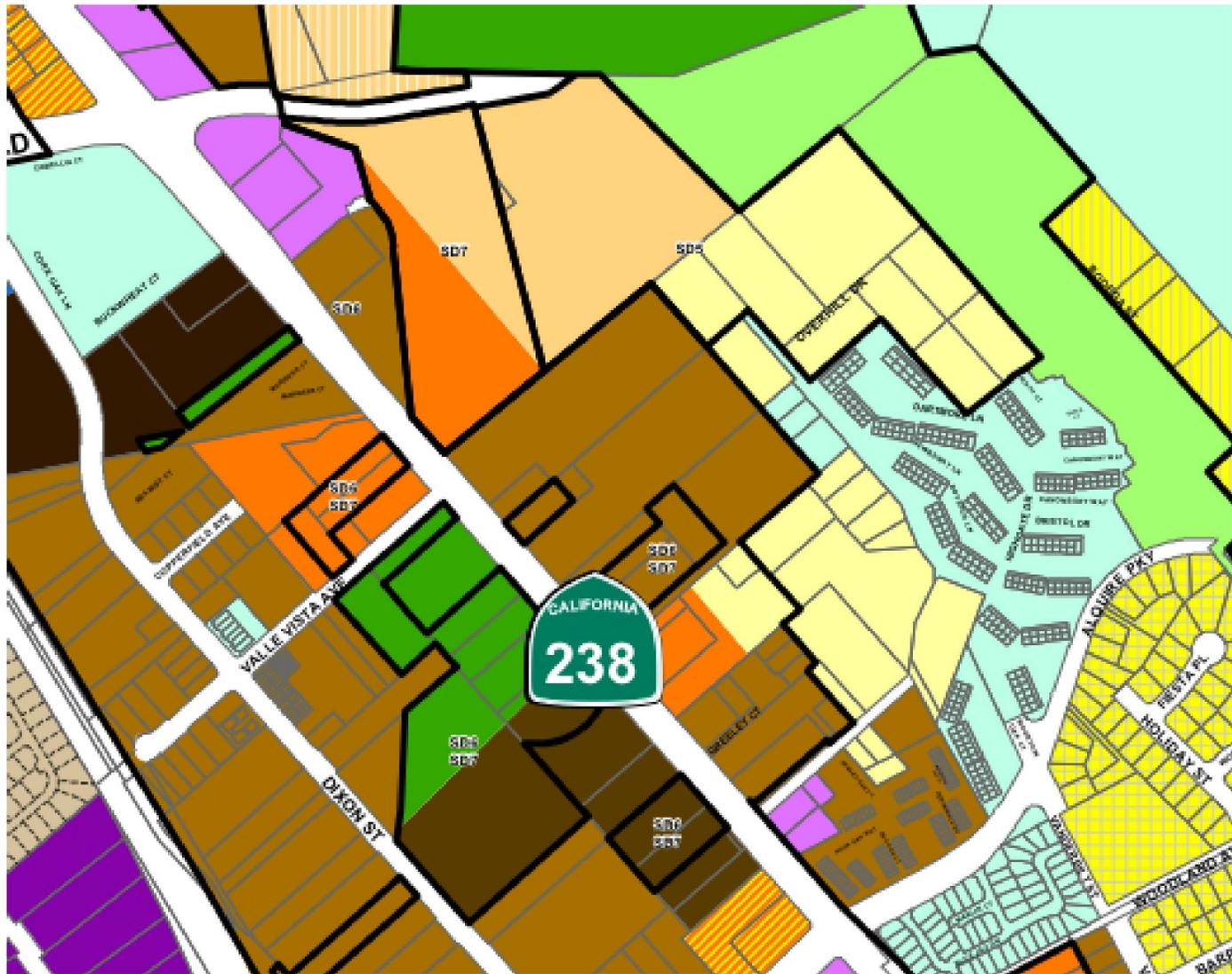
Thank you for your consideration of our request.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard C. Ersted", written over a circular scribble.

Richard C. Ersted

Enclosures



# ZONING DESIGNATIONS

## Residential

-  **RSB40** (Single Family Residential/Minimum Lot Size-40,000 Sq. Ft.)
-  **RSB20** (Single Family Residential/Minimum Lot Size-20,000 Sq. Ft.)
-  **RSB10** (Single Family Residential/Minimum Lot Size-10,000 Sq. Ft.)
-  **RSB8** (Single Family Residential/Minimum Lot Size-8,000 Sq. Ft.)
-  **RSB6** (Single Family Residential/Minimum Lot Size-6,000 Sq. Ft.)
-  **RS** (Single Family Residential/Minimum Lot Size-5,000 Sq. Ft.)
-  **RSB4** (Single Family Residential/Minimum Lot Size-4,000 Sq. Ft.)
-  **RMB4** (Medium Density Residential/Minimum Lot Area-4,000 Sq. Ft.)
-  **RMB3.5** (Medium Density Residential/Minimum Lot Area-3,500 Sq. Ft.)
-  **RM** (Medium Density Residential/Minimum Lot Area-2,500 Sq. Ft.)
-  **RH** (High Density Residential/Minimum Lot Area-1,250 Sq. Ft.)
-  **RHB7** (High Density Residential/Minimum Lot Area-750 Sq. Ft.)
-  **MH** (Mobile Home Park)
-  **MBR** (Mission Boulevard Residential - 34.8 to 55.0 dwelling units/net acre)
-  **SAR** (Station Area Residential - 75.0 to 100.0 dwelling units/net acre)
-  **SMU** (Sustainable Mixed Use - 25.0 to 55.0 dwelling units/net acre)

## Commercial

-  **RO** (Residential Office)
-  **CN** (Neighborhood Commercial)
-  **CN-R** (Neighborhood Commercial/Residential)
-  **CR** (Regional Commercial)
-  **CO** (Commercial Office)
-  **CB** (Central Business)
-  **CBB20** (Central Business/Minimum Lot Size-20,000 Sq. Ft.)
-  **CG** (General Commercial)
-  **CL** (Limited Access Commercial)

# FORM-BASED CODE

# TABLE 9. SPECIFIC FUNCTION & USE

South Hayward BART / Mission Boulevard

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

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

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

(-) = NOT PERMITTED

(P) = BY RIGHT

(AU) = ADMINISTRATIVE USE PERMIT

(CU) = CONDITIONAL USE PERMIT

\* Religious Facility: for properties fronting Mission Blvd., such use is not allowed within one half mile of an existing similar use that fronts Mission Blvd.

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