



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

AGENDA DATE 10/11/05  
AGENDA ITEM \_\_\_\_\_  
WORK SESSION ITEM WS#2

**TO:** Mayor and City Council  
**FROM:** Director of Community and Economic Development  
**SUBJECT:** Revisions to the Condominium Conversion Ordinance

**RECOMMENDATION:**

It is recommended that the City Council review and comment on this report.

**BACKGROUND:**

In 1981 the City Council revised the Subdivision Ordinance by including a section relating to the conversion of existing multi-family rental units to condominiums or community apartments. The intent was to establish rules and standards that would result in the avoidance of conditions of mismanagement, neglect and blight. Concerns expressed at the time included the loss of rental housing stock affordable to low and moderate income households. Measures added to the Subdivision Ordinance at that time included:

- A limitation on the number of units to be converted on an annual basis to the number of non-assisted rental units built during the previous year, in years when the vacancy rate is three percent or lower. An override permitted approval of an application if at least 60 percent of the tenants signed consent forms.
- Provision for application of rent stabilization until the unit is sold, prohibition on remodeling without tenant consent and providing for just cause eviction protections.
- Addition of a tenant Assistance Plan requiring offer of leases to the disabled, elderly and family households; reimbursement for temporary displacement; and payment of \$500 in moving expenses and a rent differential for one year.

In 1995, as part of its Housing Element, the City of Hayward adopted the goal of a 70 percent homeownership rate. The homeownership rate at the time of the 1990 Census was approximately 51.5 percent. According to the 2000 Census, the rate was 53.3 percent. Measures adopted to implement the 1995 Housing Element policy on increasing homeownership included easing regulatory constraints to condominium conversions. In December of 1995, the Council adopted the following changes to the Subdivision Ordinance:

- Removal of the annual cap limiting the number of units of condominium conversion allowed;
- Reduction of the parking standard for condominium conversions from 2.0 spaces per unit to 1.7 spaces per unit for projects located within one-quarter mile of a transit corridor (e.g., major bus line) or within one-half mile of a transit hub (e.g., BART station);
- Allowance for tenant purchasers to apply their relocation and rent payments (\$1,000 each) to a down payment or closing costs.

Subsequent to the adoption of these changes, Council has adopted an Inclusionary Housing Ordinance which requires that 15 percent of converted units be made available for sale to households at 120 percent of the area median income. Because condo conversions are frequently less expensive than new construction condos, this provides additional opportunities for moderate income households to own a home.

Despite these changes, there have been almost no requests for conversion of rental units to condominiums in Hayward until very recently.

#### **DISCUSSION:**

This report seeks to review for Council aspects of the condominium conversion regulations that relate solely to residential development. The existing regulations require condominium conversions to conform to the current zoning ordinance and building codes, which assure certain protections with regard to quality of the development. The standard subdivision of a parcel into lots, even if there are residential units on the property, does not fall under the provisions of these regulations. In addition, the Municipal Code provides for an exception from fees for lots or units that were previously assessed, unless there is an increase in the number of lots or the square footage of the structures. Consequently, it is unlikely that conversions of existing rental units to condominiums would be required to pay park or school fees.

The conversion of apartments to condominiums is one way to increase the share of the housing stock that is owner-occupied. It is more effective than simply adding new ownership units, because it both adds for-sale units and deducts rental units from the housing stock. The rate of conversion of apartments to condominiums varies in response to several demographic and economic factors, such as population increases, rental rates and vacancy factors, appreciation rates, and tax incentives. While these factors have encouraged the conversion of rental housing to condominiums for several years in southern California, the interest in conversion has only become strong in the Bay Area in the last few years.

Government policies directed at creating a "Homeownership Society" over the past five to ten years have encouraged economic incentives for all forms of homeownership. These incentives include historically low mortgage interest rates, easing of housing cost to income criteria by the secondary mortgage market, and introduction of very high loan-to-value financing. Consequently, more renter households qualified to purchase a home, resulting in higher rental vacancy rates and flattening of rents. The shortage of new housing development sufficient to meet the growing demand, and the consequent upward spiral of appreciation in home values, has

made the conversion of apartments to sale housing very economically attractive to both sellers and buyers. The average price of a detached resale unit in Hayward in the first half of 2005 was \$535,000, while an attached unit was \$405,000.

Although Hayward has not yet received any formal applications for conversion of rental housing to condominiums, several projects are being seriously considered. One of these, the Creekwood Apartments on City Center Drive, involves approximately 300 rental units. In addition to conversions, there are several rental complexes (over 1,000 units) that have been constructed as condominiums and do not require any discretionary approvals by the City in order to become for-sale units. One recent example is the 258-unit Clarendon Hills Apartments on Alquire Parkway, which has ceased renting and is now selling units under the name of Montierra Condominiums. Two bedroom units that recently rented for \$1,200 at this project now are selling for between \$360,000 and \$420,000. A similar trend appears to be underway in relation to rezoning of parcels containing detached rental units. Several small, existing rental developments have begun to apply for Planned Development zoning in conjunction with a tentative map. Most of these contain fewer than 20 units and are not covered by the Inclusionary Housing Ordinance or the Condominium Conversion Ordinance.

For projects of twenty or more units that are covered by the Inclusionary Housing Ordinance, 15 percent of units built as apartments and converted to condominiums must be made available at an affordable price to moderate income households for a period of 45 years.

There are several issues that should be addressed when considering revisions to the Condominium Conversion, including:

- Whether to impose a limitation on conversions allowed, and if so, what standard to use;
- Whether the parking ratio required for condo conversion is appropriate; and
- Whether the tenant assistance provided is adequate.

#### Limitation on the Number of Units Converted

As noted above, prior to 1995, the limitation on the number of units converted was based on two primary factors: a vacancy rate of greater than 3 percent and the number of non-assisted rental units built during the previous year. Given the recent history of development of non-assisted rental units in the City of Hayward (only about 350 rental units have been constructed since 1995), re-imposition of this standard would likely result in few, if any condominium conversions in the near future. However, should the plans for the Mission Corridor revitalization currently under development and discussion come to fruition, there would be a substantial number of rental units that could be built in future years, paving the way for more condo conversions. The purpose of linking conversions to new rentals was to maintain the tenure balance. Given the goal of increasing the proportion of homeownership, limiting condominium conversions no longer appears to be an effective policy. Nevertheless, maintaining an adequate supply of rental housing to meet the needs of low and moderate income households is a continuing objective of the Housing Element, suggesting that some limiting factor is appropriate.

Staff suggests that a low vacancy factor continues to be an indicator of the need for rental units and that reinstatement of a standard for conversions based on a vacancy factor may be

appropriate. A five percent vacancy rate has long been accepted as an indicator of a healthy rental market. According to a recent analysis of the Hayward Area rental market by Real Facts, vacancy rates have hovered between 3.9 and 5.6 percent since mid-2003, and stood at 5.4 percent in the second quarter of 2005. Although average asking rent appears to have dropped significantly between mid-2003 and mid-2004, it has increased steadily since the third quarter of 2004, but not yet fully recovered. In mid-2003 it was around \$1,123 and in mid-2005 it was around \$1,100. A recent survey of 17 California jurisdictions indicated that eleven used a 5 percent vacancy factor and six used a 3 percent vacancy factor. Council may wish to discuss what would be an appropriate vacancy rate below which condo conversion applications should not be entertained. Given the preponderance of cities using 5 percent and that being generally considered an indicator of a healthy rental market, staff would suggest 5 percent. Although the postal service no longer issues vacancy data, staff could obtain a commercially available report once a year to use as the standard for the coming year.

Staff does not recommend reinstating the override provision if 60 percent of the tenants agree to the conversion because it encourages an unregulated system of payments to tenants in exchange for their agreement and ignores the ultimate impact on the tenure balance of the community.

#### Parking Ratio

In the 1995 revision to the Condo Conversion provisions, the allowable parking ratio was reduced from 2.0 per unit to 1.7 per unit to allow older rental developments to be considered for conversion to sale housing if they were within one-quarter mile of a major bus line or one-half mile of a transit hub, such as a BART or Amtrak station, or are in the Central City District. The General Plan encourages transit-oriented development within ½ mile of transit stations or ¼ mile of major bus routes. Current parking standards for multifamily development are 1.5 spaces for a studio, 1.7 spaces for a one bedroom, and 2.1 spaces for two or more bedrooms. These are reduced in the Central City District downtown to 1.5 spaces per unit, regardless of unit size.

Staff continues to support lower parking ratios for new or converting condominiums around major transit hubs such as BART and Amtrak stations, however, the allowance for lower ratios within one-quarter mile of any major bus line seems unusually generous, particularly since more recent data show that more vehicles are associated with ownership multi-family housing than with rental multi-family housing, and service on many major bus lines in Hayward is quite limited. A common standard for bus headways supporting transit-oriented development is every 15 minutes. Staff would, therefore, suggest that there be additional criteria for access to bus lines, such as requiring seven day service on the bus line. The current ordinance allows for requiring additional parking where on-street parking or public transportation is inadequate and to minimize on-street parking in the neighborhood, and staff recommends that this standard be retained to allow consideration of parking impacts of projects on an individual basis. Staff will also look at whether more specific standards for parking impacts on neighborhoods should be addressed in the ordinance.

### Tenant Assistance

Staff is not recommending changes to the basic provisions for tenants' rights or tenant assistance at this time. The ordinance appears to have sufficient protections for all tenants and specifically for those who are elderly and disabled. The primary concern would be whether the \$1,000 moving expense allowance is still sufficient. A recent survey of eight Bay Area jurisdictions showed that provisions for moving expenses were sometimes tied to monthly rent and ranged from one and one-half to three times the monthly rent. Another alternative is to simply select a standard for those payments that represents the current average rent for all unit sizes in Hayward, which now stands at approximately \$1,500. This could also be adjusted annually based on information from a commercially available source. While the relationship of a multiple of monthly rent to unit size may be useful, it is not necessarily related to actual moving cost incurred. Staff suggests use of a single standard, like average rent, because it can more easily be applied when developing a budget for a conversion project and treats each tenant household in a similar manner. Council members may wish to comment on whether, and in what manner, the moving expense payment should be structured.

### Other issues

Many other condo conversion ordinances, in addition to requiring compliance with current building codes, also speak to some additional development standards or buyer protections. These included: compliance with unit size and storage standards, provision of a warranty on all physical improvements, a requirement that the developer establish a reserve fund for capital maintenance and replacement, and requiring a conditional use permit or site plan review. Staff is particularly supportive of adding a site plan review requirement to the processing of the tract map for a condo conversion. Given the age and condition of some multifamily structures that may be eligible for conversion to condominium, enhancement of the structure facade should be given thorough consideration. If Council members are supportive of any of these provisions, staff will seek to include them in the ordinance.

### Next Steps

Once Council has commented on these issues, the staff will draft appropriate revisions to the ordinance. The proposed revised ordinance can then be reviewed with various interested parties, including the Rental Housing Owners Association, the Chamber of Commerce, Congregations Organizing for Renewal and other housing groups. It would then be forwarded to the Planning Commission for hearing and recommendation to the City Council. Depending on the complexity of issues Council would like addressed, it would probably be before Council in public hearing by the end of the year.

Recommended by:

  
Sylvia Ehrenthal, Director of Community  
and Economic Development

Approved by:

  
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Jesús Armas, City Manager

Exhibit A: Current Regulations

accordingly. Acceptance of portions of improvements shall not affect nor prejudice the rights of the City to assert or enforce any other obligation under said agreement and security.

- (b) Upon satisfactory completion and performance of all the improvements and other obligations under a subdivision agreement, the City shall accept and/or approve the work and performance of the other obligations and discharge the security for faithful performance of the agreement, except that the City may retain up to 10 percent of the security to guarantee and warrant the public improvements for a period of one year following the acceptance thereof against any defective work or labor done or defective materials used or furnished.
- (c) The security to guarantee payment of the persons supplying labor, materials, equipment, or the installation of public improvements may be reduced or released by the City as provided in paragraph (b) of section 66499.7 of the Subdivision Map Act.

CONDOMINIUM, COMMUNITY APARTMENT,  
AND STOCK COOPERATIVE SUBDIVISIONS

SEC. 10-3.350 INTENT AND PURPOSE. Condominium, community apartment, or stock cooperative subdivision projects create conditions that may result in a negative impact on the public health, safety, welfare, and economic prosperity for the City. The unique status of the ownership and management of these projects tend to magnify the effects associated with higher urban densities to the point where they may lead to conditions of mismanagement, neglect and blight that impact upon the public health, safety, welfare and economic prosperity of the City of Hayward. It is the intent of the City to treat such projects differently from other types of multi-family dwellings, industrial or commercial uses, and to establish rules and standards that regulate the construction of and conversion to condominiums or community apartments in the City.

Said rules and standards shall apply to a subdivision initially created as condominium units, community apartments, or stock cooperatives; the conversion of an existing multi-family unit to a condominium, community apartment, or stock cooperative; and the conversion of an existing industrial or commercial building to a condominium, or stock cooperative.

SEC. 10-3.355 DEFINITIONS. Whenever any of the following names or terms are used herein, each such name or term shall be deemed and construed to have the meaning ascribed to it as follows:

- (a) Association. The persons who own a condominium or right of exclusive occupancy in a community apartment unit.
- (b) Common Area. The entire project excepting all units therein.

- (c) **Community Apartment.** An estate in real property existing of individual interest in common in a parcel of real property in the improvement, therein coupled with the right of exclusive occupancy for residential purposes of an apartment located thereon.
- (d) **Community Apartment Project.** A community apartment containing two or more apartments to which there is the right of exclusive occupancy for residential purposes.
- (dd) **Community Housing.** Includes the following: a condominium development, a community apartment project, and a stock cooperative or membership association. Excludes a limited equity housing cooperative as defined in section 11003.4 of the Business and Professions Code for purposes of conversion.
- (e) **Condominium.** An estate in real property consisting of undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial or commercial building on such real property, such as an apartment, office or store. A condominium may include, in addition a separate interest in other portions of real property. Such estate may, with respect to the duration of its enjoyment, be either:
  - 1. An estate of inheritance or perpetual estate;
  - 2. An estate for life;
  - 3. An estate for years, such as leasehold or subleasehold.
- (f) **Conversion.** A change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, to that defined as community housing, regardless of the present or prior use of such land or structures and whether improvements have been made or are to be made to such structures.
- (g) **Condominium Project.** A condominium containing two or more condominiums for residential, commercial or industrial purposes.
- (h) **Organizational Documents.** The declaration of covenants, conditions, restrictions, articles of incorporation, bylaws, and any contracts for maintenance, management or operation of all or any part of a project.
- (i) **Project.** The entire parcel of real property divided, or to be divided, into condominiums or community apartments, including all structures thereon.
- (j) **Recreational Open Space.** The open space on the project that complies with all applicable provisions of the Zoning Ordinance.

- (jj) Stock Cooperative. A corporation which is formed or availed primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferrable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy.
- (k) Unit. The elements of a condominium that are not owned in common with the owners of other condominiums in the project, or is an apartment in a community apartment project to which the owner has a right of exclusive occupancy.

SEC. 10-3.360 PARCEL MAP NOT REQUIRED. If a project for a condominium, community apartment, or stock cooperative of four units or less involves only one parcel, and said parcel is shown on the latest adopted county tax roll, a tentative map or a parcel map will not be required.

SEC. 10-3.365 TENTATIVE MAP FOR CONDOMINIUM OR COMMUNITY APARTMENTS. The tentative map shall contain all the information required on a tentative map for any subdivision, plus the following:

- (a) The location indicated to the nearest one-half foot of the perimeter of the building or buildings in relationship to the parcel boundaries;
- (b) Estimated square footage of each unit and number of rooms in each unit;
- (c) General layout of all common areas;
- (d) General layout and location of all facilities and amenities provided within the common area for the use and enjoyment of the unit owners;
- (e) General layout of all parking spaces and driveways;
- (f) Public areas proposed for dedication, scenic easements proposed, land or money in lieu of land for park purposes;
- (g) Tree and landscaping removal or planting proposed.

SEC. 10-3.370 ADDITIONAL REQUIREMENTS FOR CONVERSION TO CONDOMINIUMS, COMMUNITY APARTMENTS, OR STOCK COOPERATIVES.

- (a) Notification of Tenants and Prospective Tenants.
  - 1. At least 60 days prior to the time of the filing of a tentative map for the conversion of rental units to community housing, the

subdivider shall send to each tenant of the building to be converted the following notice:

To the occupant(s) of

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(address)

The owner(s) of this building, at (address), plans to file an application with the City of Hayward to convert this building to a (condominium, community apartment, or stock cooperative project). You shall be given notice of each hearing for which notice is required pursuant to sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

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(signature of owner or owner's agent)

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(date)

2. Commencing at a date not less than 60 days prior to the filing of a tentative map for the conversion of rental units to community housing, the subdivider shall give notice of such filing to each person applying after such date for rental of a unit of the subject property immediately prior to the acceptance of any rent or deposit from the prospective tenant by the subdivider. The notice shall be as follows:

To the prospective occupant(s) of

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(address)

The owner(s) of this building, at (address), has filed or plans to file a tentative map with the City of Hayward to convert this building to a (condominium, community apartment, or stock cooperative project). No units may be sold in this building unless the conversion is approved by the City of Hayward and until after a public report is issued by the Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to sections 66451.3 and 66452.5 of the

Government Code and you have the right to appear and the right to be heard at any such hearing.

\_\_\_\_\_  
(signature of owner or owner's agent)

\_\_\_\_\_  
(date)

I have received this notice on \_\_\_\_\_  
(date)

\_\_\_\_\_  
(prospective tenant's signature)

Failure by a subdivider or his or her agent to give the notice required shall not be grounds to deny the conversion. However, if the subdivider or his or her agent fails to give notice pursuant to this section, he or she shall pay to each prospective tenant who becomes a tenant and who was entitled to such notice, and who does not purchase his or her unit pursuant to paragraph 4 of subsection (b), an amount equal to the sum of the following:

- (i) Actual moving expenses incurred when moving from the subject property, not to exceed \$1,000;
  - (ii) The first month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, not to exceed \$1,000.
3. Within 10 days after the filing of a tentative map for the conversion of rental units to community housing, the subdivider shall send to each tenant of the building to be converted, and provide to each person who becomes a tenant at any time subsequent to such date, a written notice containing the following information:
- (i) That the owner of the building in which the tenant resides has filed an application with the City to convert the building to a condominium, community apartment, or stock cooperative project, the date such application was filed, and if approved, that tenants will eventually be required to move unless they purchase a unit or qualify for and accept an offer of a lease as provided in this ordinance;

- (ii) That each tenant will be given at least 10 days' prior written notice by the City (at subdivider's expense) of the date, time, and place of any hearing held on the tentative map application by the Planning Commission or City Council;
- (iii) That each tenant will receive a copy of the staff report on the application by mail at least three days prior to such hearing, and that each tenant has the right to appear and be heard at such hearing;
- (iv) That each tenant will be notified in writing of the approval of the final map approving the conversion, if it is approved, within 10 days of such action; and
- (v) That each tenant will receive 10 days' written notification from the subdivider that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request when it has been issued.

4. Accompanying the notices required by paragraphs 1 and 2 of subsection (a) shall be written information describing, in general terms, what steps and actions the subdivider and others, including governmental agencies, must take in order for the building to be converted to a condominium or community apartment project or a stock cooperative. It shall also include information on what rights the tenants have. Specifically included with this information shall be:

- (i) A copy of "Tenant Rights on Conversion" as set forth in subsection (b); and
- (ii) The subdivider's proposed Tenant Assistance Plan, prepared by the subdivider in accordance with subsection (c).

All documents referred to in this subsection shall be in a format approved by the Planning Director.

5. All notices referred to in this section shall be sent by certified mail.

(b) Tenant Rights on Conversion. With regard to any conversion as defined above, each tenant shall have the following rights.

- 1. After receipt of the notice of intent to convert, each tenant will be permitted to terminate any lease or rental agreement without penalty upon written notification to the subdivider at least 30 days in advance

of such termination, provided, however, that this requirement shall cease upon notice to the tenant of the abandonment of subdivider's efforts to convert the building as evidenced by formal withdrawal of the application for subdivision approval.

2. Notwithstanding the date of construction of buildings proposed for conversion, or the number of rental units, each unit shall be subject to any rent stabilization ordinances adopted by the City of Hayward from the date of notification of intent to convert until the date the unit is sold; provided, however, that this requirement shall cease upon the happening of any of the following events:
    - (i) Abandonment of the subdivider's efforts to convert the building(s) as evidenced by formal withdrawal of the application for subdivision approval;
    - (ii) Execution of leases in accordance with paragraphs 1 and 2 of subsection (c).
  3. Each tenant will have a right of occupancy of 180 days from the date of the receipt of a notice from the subdivider that a subdivision public report has been issued by the Department of Real Estate; provided, however, that this subsection shall not alter or abridge the rights or obligations of the parties in the performance of their covenants, including but not limited to, the provision of services, payment of rent, or the obligations imposed by sections 1941, 1941.1, and 1941.2 of the Civil Code of the State;
  4. Each tenant will have an exclusive right or option to contract for the purchase of the dwelling unit or the share controlling the dwelling unit then occupied by the tenant, or any other available unit in the building, upon the same or more favorable terms and conditions than those on which such unit will be initially offered to the general public, and that such rights shall run for a period of not less than 90 days from receipt of a notice from the subdivider that a subdivision public report has been issued by the Department of Real Estate, unless the tenant gives prior written notice of intention not to exercise that right;
  5. No remodeling of the interior of tenant occupied units shall begin without consent of the tenant;
  6. No tenant may be evicted without just cause.
- (c) Tenant Assistance Plan. The Tenant Assistance Plan is a plan proposed by the subdivider to assist tenants who were in residence at the time of notification of intent to convert in securing decent, safe, sanitary, and

affordable replacement housing, either through relocation or purchase or lease of a converted unit. The subdivider shall describe those incentives and inducements that would increase the potential for, and ability of, tenants to become owners in the conversion, and shall also include actions and procedures to enable hard-to-relocate tenants to remain as tenants. The subdivider shall include all relocation and moving assistance and information to be provided to each tenant and also all steps the subdivider will take to ensure successful relocation of the tenants involved. In all cases, the Tenant Assistance Plan must meet the following minimum standards:

1. Lifetime leases shall be offered to elderly tenants and disabled tenants (as defined in paragraph 4 of subsection (d)) for the unit they occupy or, at the option of the tenant(s), for any other available unit in the project. Such lease rights shall expire no earlier than 180 days from the date of receipt of notice from the subdivider that a subdivision public report has been issued by the Department of Real Estate and such lease shall include the following conditions.
  - (i) Tenants shall have the option of canceling the lease at any time upon thirty (30) days' written notice to the owner;
  - (ii) Tenants cannot be evicted except for just cause;
  - (iii) Right of occupancy shall be nontransferable;
  - (iv) The first year's base monthly rent for the unit shall be set at no more than the rent existing on the unit at the time of the filing of the tentative map or tentative parcel map;
  - (v) Subsequent rent adjustments, if any, may be made no sooner than one year from the effective date of the lifetime lease, and shall be limited to no more than one per year, and to the annual percentage change in the U.S. Bureau of Labor Statistic's Consumer Price Index (CPI) for the San Francisco Bay Area.
  - (vi) Except as provided hereinabove, terms and conditions of the lifetime lease shall be the same as those contained in tenant's current lease or rental agreement.
2. Leases of at least two years shall be offered to tenants with a child or children under 18 years of age residing with them for their unit or, at tenant's option on any other available unit in the project. Such lease rights shall expire no earlier than 180 days from the date of receipt

of a notice from the subdivider that a subdivision public report has been issued by the Department of Real Estate and any such lease shall be subject to the same conditions as set forth above in paragraph 1 of subsection (c).

3. Assistance to Tenant-Purchasers.
    - (i) Reimbursement shall be made to tenant-purchasers for costs incurred as a result of temporary displacement during remodeling, including but not limited to, moving expenses and differentials in rents or temporary housing charges.
    - (ii) Payment shall be made to tenant-purchasers of \$1,000, which shall be applied towards the tenant-purchasers' down payment and/or closing costs.
  4. Relocation assistance shall be provided to displaced tenants in the form of:
    - (i) A complete current listing of vacant available replacement housing in the Hayward Planning Area which is comparable in location, size, amenities, and cost to the unit being converted and meets special needs of the household to be displaced;
    - (ii) Financial assistance, including but not limited to, payment of \$1,000 (per household) 30 days in advance for moving from the subject property, except that the actual amount of moving expenses shall be paid to elderly and disabled households;
    - (iii) Payment of the difference in rents between another comparable rental unit, if located within a 50-mile radius, and the converted unit for a period of one year.
- (d) Tentative Map Application Requirements. In addition to the other requirements of the Subdivision Ordinance, the subdivider shall include with the tentative map the following information:
1. Consent forms, as may be required;
  2. One copy each of the notices and other documents to be provided to all tenants pursuant to subsection (a);
  3. A rental history consisting of a complete list of the rents for each unit in the project over the previous two years;

4. A renter profile listing the names and addresses of current tenants, length of tenancy, and the number of tenants in the project in the following categories:
  - (i) Elderly, being any person who is over 62 years of age;
  - (ii) Disabled, being any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such an impairment;
  - (iii) Family households, having as members of the household children who are under 18 years of age.
  - (iv) Full-time college students. Students enrolled in an institution of higher learning such as a community college, technical school, college, or university, taking at least 12 units in any given semester.
5. A report from the City Building Official, based on an inspection of a random sample equal to or greater than 10 percent of the total number of units, advising if the dwelling units would be eligible for issuance of Certificates of Occupancy based on the building code in effect at the time of inspection, and if ineligible, listing those deficiencies which would have to be corrected;
6. A report describing the condition of and estimating the remaining useful life of the following elements: roof, exterior painting, paved surfaces, central or community heating and air conditioning systems, hot water heaters, and where they are reasonably accessible for inspection, other electrical, plumbing, and mechanical equipment; said report to be prepared by a contractor or engineer who is licensed in the element being reviewed;
7. A structural pest control report prepared by a licensed pest control operator pursuant to section 8516 of the California State Business and Professions Code;
8. A report prepared by an acoustical engineer demonstrating that wall and floor ceiling assemblies conform to the sound insulation performance criteria promulgated in Title 24, California Code of Regulations, section 1092, or its successor, and indicating whether permanent mechanical equipment, including domestic appliances, should be shock mounted, isolated from the floor and ceiling, or otherwise installed in a manner to lessen the transmission of vibration and noise.

- (e) Requirements for Approval of Tentative Maps. No tentative map for the conversion of rental housing units to community housing shall be approved unless the following findings are made:
1. The project is consistent with the housing goals and policies of the City of Hayward General Plan;
  2. The project is suitable for conversion to community housing as determined by a review of its physical characteristics, including those reports as required by paragraphs 5, 6, 7, and 8 of subsection (d);
  3. The proposed Tenant Assistance Plan and related information required by subsection (c) and paragraphs 3 and 4 of subsection (d) is acceptable and consistent with the purposes of these regulations;
  4. Sufficient replacement housing exists within the Hayward Planning Area to accommodate those tenants displaced as a direct result of the proposed conversion, as evidenced by information provided in paragraph 4(a) of subsection (e).
- (f) Information to be Filed with Final Map. In addition to the other requirements of the Subdivision Ordinance, the subdivider shall include with the Final Map the following information:
1. One copy of the application for a Public Report filed by the subdivider with the State Department of Real Estate;
  2. The proposed organizational documents, including the declaration of covenants, conditions, and restrictions, the proposed sales price of each unit, and the estimated homeowner association dues;
  3. One copy of notices to tenants required by section 66427.1 of the Subdivision Map Act together with evidence of each tenant's receipt of same;
  4. One copy of the Tenant Assistance Plan required by subsection (c) as approved with the tentative map;
  5. One copy of each document described in paragraphs 5, 6, 7, and 8 of subsection (d) as approved with the tentative map;
  6. A report disclosing the amount of deposit to be provided by the subdivider, and the manner in which it was calculated, to defray expenses to be incurred by the association in replacing the major mechanical and electrical equipment during the first five years.

- (g) Requirements for Approval of Final Maps. No final map for the conversion of rental housing units to community housing shall be approved unless the following findings are made:
1. The final map is in substantial conformance with the tentative map;
  2. Each tenant has been or will be given notification as described in subsections (a) and (b);
  3. Each dwelling unit in the project has been or will be issued a Certificate of Occupancy by the Building Official prior to initial sale of the unit;
  4. Each prospective buyer has been or will be given a copy of each report described in paragraphs 5, 6, 7, and 8 of subsection (d) as approved with the tentative map.
- (h) Notice of Subdivision Public Report. Upon receipt of the subdivision public report, the subdivider shall notify, in writing, the Planning Director and each tenant in the building to be converted of the date of issuance of said report, such notification to be accompanied by a copy of the Tenant Assistance Plan as required by subsection (c) and approved with the final map, and copies of notices required by paragraphs 3, 4, and 5 of subsection (b).

SEC. 10-3.375 STANDARDS OF DEVELOPMENT. Except as herein provided, standards in the Zoning Ordinance, Municipal Code, and General Plan, including the Housing Element, if a residential subdivision, shall apply, and the standards for improvements within the common area shall be those expressed as conditions to approval of the tentative map.

Parking shall be provided within the boundaries of the project at no less than 1.7 spaces per dwelling unit for those projects located within one-quarter mile of a transit corridor (e.g., major bus line) or within one-half mile of a transit hub (e.g., BART station). Additional parking may be required where on-street parking within the street width allowed in section 10-3.505 or public transportation is inadequate, or the number of bedrooms or type of occupancy is such that additional off-street parking is necessary to minimize on-street parking impacts upon the neighborhood.

SEC. 10-3.380 UTILITIES. Each unit shall be individually metered for water service and each unit shall have an individual lateral connection to a public sewer main. An exception to these requirements may be approved by an approving body, based on a recommendation by the City Engineer, that such individual connections are not in the best interest of the project or the City.

SEC. 10-3.385 ORGANIZATIONAL DOCUMENTS. There shall be required covenants, conditions and restrictions (CC&Rs), and the formation of an association or corporation for the purpose of managing and maintaining the project. This section shall also be applicable to residential Planned Developments (PD).

The CC&Rs shall state that the City of Hayward has the right to abate public nuisance conditions in the common area if the association or corporation fails to do so, and to assess the cost to the association, corporation or individual unit owners. In order to accomplish this, the CC&Rs shall contain the following typical statements.

In the event the Board fails to maintain the exterior portions of the common area so that owners, lessees, and their guest suffer, or will suffer, substantial diminution in the enjoyment, use or property value of the project, thereby impairing the health, safety, and welfare of the residents in the project, the City of Hayward, by and through its duly authorized officers and employees, shall have the right to enter upon the real property described in Exhibit "A" and to commence and complete such work as is necessary to maintain said exterior portions of the common area. The City shall enter and repair only if, after giving the Board written notice of the Board's failure to maintain the premises, the Board does not commence correction of such conditions in no more than 30 days from delivery of the notice and proceed diligently to completion. The Board agrees to pay all expenses incurred by the City of Hayward within 30 days of written demand. Upon failure by the Board to pay within said 30 days, the City of Hayward shall have the right to impose a lien for the proportionate share of such costs against each condominium or community apartment in the project.

It is understood that by the provisions hereof, the City of Hayward is not required to take any affirmative action, and any action undertaken by the City of Hayward shall be that which, in its sole discretion, it deems reasonable to protect the public health, safety, and general welfare, and to enforce it and the regulations and ordinances and other laws.

It is understood that action or inaction by the City of Hayward, under the provisions hereof, shall not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations, and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.

It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law shall be cumulative and not exclusive, and the maintenance of any particular remedy shall not be a bar to the maintenance of any other remedy. In this connection it is understood and agreed that the failure by the Board to maintain the exterior portion of the common area shall be deemed to be a public nuisance, and the City of Hayward shall have the right to abate said condition, assess the costs thereof and cause the collection of said assessments to be made on the tax roll in the manner provided by Chapter 4, Article 1, of the Hayward Municipal Code or any other applicable law.

The City Council of the City of Hayward may, at any time, relinquish its rights and interest in the project as herein set forth by appropriate resolution. Any such relinquishment by the City Council shall be effective on the date that the resolution is adopted and a copy thereof is placed in the United States mail, postage prepaid, addressed to the Board. The Board shall execute and record a declaration reflecting such relinquishment within 10 days of receipt of a copy of the resolution.

The above five paragraphs cannot be amended or terminated without the consent of the Hayward City Council.

SEC. 10-3.392 INFORMATION TO PRECEDE FINAL MAP SUBMISSION. The following information shall be submitted for review prior to submittal of the final map.

- (a) Copy of applicant's proposed application for subdivision permit, in the event a permit is required, from the California State Department of Real Estate;
- (b) Proposed sale price of each unit;
- (c) A report describing the manner in which the terms of the declaration of restrictions will guarantee responsible maintenance and repair of the common areas, notwithstanding the escalation of costs, emergency maintenance repairs, and the replacement of major mechanical and electrical equipment;
- (d) A copy of notices to tenants required by section 66427.1 of the Subdivision Map Act together with evidence of each tenant's receipt of same.

SEC. 10-3.395 PREPARATION AND FORM OF FINAL MAP. Where five or more condominiums or community apartments are being created, a final map will be required. In addition to the other requirements for a certificate sheet, the title shall contain in bold letters an indication that this is a condominium, a community apartment, or a stock cooperative subdivision, and specify the number of units.

#### DEDICATIONS AND RESERVATIONS

SEC. 10-3.400 DEDICATION FOR STREETS AND UTILITIES. As a condition of approval of a map, the subdivider shall dedicate or make an irrevocable offer of dedication of the following:

- (a) All parcels of land within the subdivision that are needed for streets, alleys, including access rights and abutters' rights, drainage, public utility easements, and other public easements.