



WSKZ

**DATE:** July 29, 2008  
**TO:** Mayor and City Council  
**FROM:** Director of Community and Economic Development  
**SUBJECT:** South Hayward BART/Mission Boulevard Concept Design Plan

### **RECOMMENDATION**

That Council reviews this report and provides staff with policy direction on the South Hayward BART/Mission Boulevard Concept Design Plan.

### **SUMMARY**

The contents of this staff report are threefold: (1) summary of the South Hayward BART/Mission Boulevard Concept Design Plan; (2) description of proposed developments since the Concept Design Plan's adoption; (3) synopsis of a different community building tool – Form-Based Codes – for discussion purposes; and (4) introduction to Community Facilities Districts. Staff is asking for Council's direction on whether the Concept Design Plan is adequate, and whether it meets Council's current policy and land use objectives.

### **BACKGROUND**

On June 27, 2006, after an 18-month study, the City Council approved the South Hayward BART/Mission Concept Design Plan. That action followed the Planning Commission's June 15, 2006 approval recommendation.

In a Council work session held in January regarding Council priorities, a majority on Council requested staff bring the approved plan back for discussion in work session. This report addresses that request.

### **DISCUSSION**

#### **South Hayward BART / Mission Boulevard Concept Design Plan –**

The South Hayward BART/Mission Boulevard Concept Design Plan covers approximately 240 acres along Mission Boulevard, between Harder Road and Garin Avenue. It speaks to some, but not all, properties along Mission Boulevard (see Exhibit A); and the Plan identified the potential for development of an additional approximate 1,800 to over 3,200 dwelling units at build-out. The City

Council will be provided a copy of the Concept Design Plan under separate cover due to its length. The public may review a copy of the Plan at the Permit Center in City Hall.

Before summarizing the Concept Design Plan, it is necessary to clarify where planning policies and standards are located for this portion of Hayward. On the whole, the Concept Design Plan documents the history and thought process that lead to General Plan and Zoning Ordinance changes. Thus, it is not a plan in the conventional sense. Actual development policy and regulation, reflecting the contents of the Concept Design Plan, is found in the General Plan and Zoning Ordinance. This was intended and is clearly acknowledged in the Concept Design Plan on page 41, where it states, "This Concept Plan does not provide the level of specificity required to fully describe development standards and opportunities. It is intended to be implanted in conjunction with Hayward's General Plan and Zoning Ordinance, which was amended as a result of the South Hayward BART/Mission Boulevard Study." So, when describing this document, it is most accurate to qualify the Concept Design Plan as the starting point for the conversation about community revitalization and visioning. With this point clarified, the following text will summarize the Concept Design Plan's contents.

Chapter 2. Existing Conditions (Pages 9 to 40) – Approximately one-third of the Concept Design Plan is devoted to the documentation of existing conditions. Subject matter includes a land use/urban form assessment, identification of real estate market conditions/demographic trends, and two pages devoted to a transportation assessment.

The *Land Use and Urban Form Assessment* (Pages 9 to 33) provides brief descriptions of site character and buildings, and the pedestrian environment, along with identification of needs. The descriptions of existing conditions focus primarily on such issues as parcel depths and sizes, locations of buildings related to street frontage and setbacks, etc. Information presented is, on the whole, qualitatively described. Amidst this information, many suggestions (i.e., "opportunity assessments" for sub-areas) are provided relative to both private and public properties. These are most often advanced in generic land use terms. Of note is the absence of a clear linkage between suggestions and an implementing policy, program, or regulation found later in the document or elsewhere.

The *Real Estate Market Conditions and Demographic Trends* section (Pages 34 to 37) states on page 35, "Continued population growth and rising income levels in the Primary Market Area are good indicators of its marketability as a housing location, and also signal potential new retail market opportunities." In terms of potential for new retail opportunities, the Plan indicates that although strong local support exists for, "newer generation retail formats and tenants in the Plan area, high traffic volumes and diffuse, outmoded commercial development on some stretches of Mission Boulevard have constrained potential development opportunities." The lack of new retail development in the Plan area since the 2006 adoption seems to support this statement.

The *Transportation Assessment* (pages 38 to 39) does identify specific opportunities/measures that could facilitate enhanced pedestrian and bicycle movement in the Plan area. However, specific ways to implement such improvements, including identification of funding sources, are not identified.

Chapter 3. Concept Land Use Plan (Pages 41 to 55) – This chapter summarizes land uses that resulted in General Plan Land Use and Zoning designations. It does not convey the sum total of planning policy and zoning regulation applicable to the area. Rather, it provides the highlights of standards found largely within various Zoning Ordinance chapters; explains some of the intentions of changed policies and regulations; and, occasionally provides design ideas (in text) and/or land use suggestions for certain properties. Policy and regulation revisions mentioned here include:

- General Plan Land Use Map and Zoning Map changes that were adopted as a result of the Plan (see Exhibit B). Zoning Ordinance development standards for those designations are identified below:
  - New Station Area Residential (SAR) General Plan and Zoning designations for certain properties in closest proximity to the South Hayward BART station.
    - 75-100 units per net acre required, with some ground floor commercial use required
    - 60 feet in height allowed (up to 80 feet allowed with certain findings)
    - maximum of 1.0 to 1.3 parking spaces allowed per residential unit
    - 100 square feet minimum of private open space per unit be provided for at least 40% of the units in a development; and that group or common open space be provided totaling at least 20% of the lot area, plus the area that is not provided as private open space for units
  - New Mission Boulevard Residential (MBR) General Plan and Zoning designations in two locations for certain properties near the South Hayward BART station and along Mission Boulevard.
    - 34.8 to 55.0 units per net acre required
    - maximum 55 feet in height allowed
    - maximum of 1.3 to 1.5 parking spaces allowed per residential unit
    - 100 square feet minimum of private open space per unit be provided for at least 40% of the units in a development, and that group or common open space be provided totaling at least 15% of the lot area, plus the area that is not provided as private open space for units
  - Existing High Density Residential (HDR or RH) designations to enable residential (only) land use along portions of Mission Boulevard and Dixon Street, which, along with the MBR designation, rendered many properties with commercial development along Mission Boulevard nonconforming.
    - 17.4 to 34.8 units per net acre required
    - maximum of 40 feet in height allowed
    - up to 2.1 parking spaces required

Note that no changes to this Zoning District were made as a result of the Plan adoption.

- Modifications to existing Neighborhood Commercial-Residential (CN-R) Zoning

District standards to require mixed use developments for properties at selected intersections along the west side of Mission Boulevard, and along the east side of Mission Boulevard between Hancock and Webster Streets (the Mission Paradise site – see later discussion).

- minimum density required at 27-55 units per net acre above ground floor (no minimum required outside Plan area)
  - maximum height allowed up to 60 feet (compared to 40 feet outside Plan area)
  - minimum lot size of 20,000 square feet required (compared to 10,000 square feet outside Plan area)
- Public and Quasi-Public (P) General Plan Land Use designation for a future Bowman School expansion, the central portion of the BART station property west of Dixon Street, and for a future public park and community center along the south side of Valle Vista Avenue.
  - Zoning Ordinance changes also included creation of a new overlay district: the South Hayward BART/Mission Boulevard Special Design District (SD-6) codifying: (a) additional development standards (sometimes duplicative) to be used in conjunction with those found elsewhere in the Zoning Ordinance and in the Concept Design Plan; and (b) certain conceptual circulation improvements described in the Concept Design Plan.

Viewed as a whole, all of these planning policy and regulation changes resulted in: (a) increased building intensity and massing (including residential density); (b) allowed residential land uses in certain locations where they were previously prohibited; (c) required ground-floor commercial land use at certain locations; (d) provided for a general increase in building height at certain locations; and (e) reduced off-street parking spaces ratios, including permissive alternative configurations (i.e., tandem), to better facilitate Transit Oriented Development (TOD) and BART and bus transit ridership.

Chapter 4. Design Guidelines (Pages 60 to 79) – The Concept Design Plan contains design guidelines that address three subjects: (1) street frontage character; (2) site access and parking; and (3) building character. Provisions are implemented through the SD-6 Special Design District in the Zoning Ordinance; however, the level of design and architectural specificity is based on these three general guideline aspects. Projects would typically still be subject to the City’s discretionary Site Plan Review process. In fact, developments within the Station Area Residential and Mission Boulevard Residential Zoning Districts are specifically required to undergo Site Plan Review before both the Planning Commission and City Council. These guiding principles are intended to be applied in conjunction with the existing Citywide Design Guidelines. In other words, both sets of guidelines apply.

Chapter 5. Circulation Improvements (Pages 81 to 87) – The Concept Design Plan’s final component consists of a list of recommended circulation improvements, including measures to enhance north-south and east-west pedestrian and bicycle connectivity. While some are suggested future capital improvement projects, others are intended to be carried out by private developers in

conjunction with their project(s). Direction provided is highly conceptual and not clearly articulated in plan details, nor are there specific funding strategies identified for such improvements. None of the noted circulation improvements have been constructed.

### **Subsequent Development Proposals**

No development projects have been constructed since approval of the Concept Design Plan's resulting General Plan and Zoning Ordinance changes. In two years, only the Mission Paradise Project has acquired entitlement.

The Mission Paradise Project (see Exhibit C), located at property fronting the east side of Mission Boulevard between Webster and Hancock Streets, although recommended by staff and the Planning Commission, was initially denied by the City Council on July 17, 2007. Council expressed concerns primarily related to scale and massing. However, the applicant subsequently revised the project's design and submitted a separate, new application for review. The project's two residential corner towers above the retail and parking garage were reduced by 4 to 6 feet, and the two central towers were reduced by 13 to 15 feet and one story. After nearly twelve months after the original denial, the Planning Commission approved the revised project on June 12, 2008. That approval is now final and the applicant may submit a building permit application to pursue construction, provided a tract map for the residential ownership units is processed. It took approximately 24 months for the applicant to entitle a project for this location, which was frustrating for all parties involved.

Planning staff has received many other general inquiries concerning the development feasibility of properties in the Concept Design Plan area. Only one of these culminated in a development application. The Haymont Village Project (see Exhibit D) would have revitalized an aging strip commercial center fronting the west side of Mission Boulevard north of Sorenson Road with pedestrian-oriented retail and new attached homes in an innovative mixed-use project. Unfortunately, that application was closed due to inactivity. The applicant indicates the current real estate market climate is not conducive to the proposal.

Another proposed project in the Plan area entails a mixed use project directly east and across Dixon Street from the BART station, which also would have frontage along Mission Boulevard. Such development would encompass a private property and the BART overflow parking lot site. Although no application has been submitted, staff held a pre-application meeting with the project proponent. The project would entail development of 343 condominium units in five-story residential structures over one level/story of parking and ground floor retail use, at a total overall maximum height of 60 feet (see Exhibit E).

### **Form-Based Codes**

Staff has received comments about some aspects of the Concept Design Plan, including the Plan's lack of parkland designations, the extent of potential height and density allowed, lack of retail sites, etc. As indicated previously, the Concept Plan provides the starting point for discussions about community revitalization and vision. Using traditional Zoning standards and general guidelines, the Plan lays out a general vision and direction. However, as evidenced by the two-year Mission

Paradise project process, the lack of specificity leaves decision-makers, developers, and staff without clear direction and predictability. Form-Based Codes offer a remedy for this situation through increased clarity of rules and, consequently, more certain results. This often results in reduced real estate development risk and, as a result, a valuable incentive to further neighborhood revitalization. Form-Based Codes also tend to quell neighborhood opposition and may even turn project opponents into project advocates.

This staff report section will *briefly* introduce the concept of Form-Based Codes. While much can be said on this topic, the following discussion will be limited to the definition and core components of a Form-Based Code. A brief comparison to the Concept Design Plan area will also be provided.

### Definition and Core Components

When considering the regulatory tools currently applicable to the South Hayward BART/Mission Boulevard Concept Design Plan area, a Form-Based Code would be functionally similar to the combined application of the Zoning Ordinance (Zoning District, Special Design District, Off-Street Parking Requirements, Tree Preservation, Administrative Provisions), the Subdivision Ordinance, the Citywide Design Guidelines, and the South Hayward BART/Mission Boulevard Design Guidelines. Thus, the first notable distinction of a Form-Based Code is its ability to consolidate all development regulations into one comprehensive yet succinct document.

The Form-Based Code Institute provides the following definition which further explains what Form-Based Codes are.

*Form-Based Codes are a unified method of regulating development to achieve a specific urban form. Form-Based Codes create a predictable public realm by primarily controlling physical form, with a lesser focus on land use, through city or county regulations.*

*Form-Based Codes address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. The regulations and standards in Form-Based Codes, presented in both diagrams and words, are keyed to a regulating plan that designates the appropriate form and scale (and therefore, character) of development rather than only distinctions in land-use types. This is in contrast to conventional zoning's focus on the micromanagement and segregation of land uses, and the control of development intensity through abstract and uncoordinated parameters (e.g., FAR, dwellings per acre, setbacks, parking ratios, traffic LOS) to the neglect of an integrated built form. Not to be confused with design guidelines or general statements of policy, Form-Based Codes are regulatory, not advisory.*

*Form-based codes are drafted to achieve a community vision based on time-tested forms of urbanism. Ultimately, a Form-based code is a tool; the quality of development outcomes is dependent on the quality and objectives of the community plan that a code implements.*

It is important to note Form-Based Codes are always calibrated to local conditions and often contain the following four core components:

- A Regulating Plan – A plan or map assigning the code’s various standards to physical locations.
- Public Space Standards – Specifications for the elements within the public realm including, for example, thoroughfares and civic spaces.
- Building Form Standards – Regulations controlling the configuration, features, and functions of buildings that define and shape the public realm. These typically include, for example, regulations for lot sizes, building placement and form, use, parking, and frontage types.
- Administration – Requirements for the project application and review process including, for example, a glossary to define uncommon technical terms and phrases used in the code.

Depending upon individual community needs, a Form-Based Code may also contain building type standards, architectural standards or guidelines, green building standards and landscape standards. To further aid in an understanding of what Form-Based Code may look like, please review Exhibit F, which contains a list of website resources.

### South Hayward BART/Mission Boulevard Concept Design Plan Comparison

Contrary to Form-Based Codes, the Concept Design Plan results in a dispersed set of development regulations and guidelines that control development intensity and building design. Rules are imposed through a conventional zoning approach of abstract and uncoordinated parameters (e.g., dwellings per acre, setbacks, parking ratios). There is also no clear relationship to a planned integrated built form. This is not to say that current Concept Design Plan area tools would render good projects impossible. By way of example, the Mission Paradise Project (discussed above) provides a relevant case study. In the case of Mission Paradise, the planning process was difficult for both the City and the applicant, because the adopted zoning parameters led to a proposed development that was initially found to be unacceptable, although after design modifications the project was approved, and is considered to be well-designed.

To illustrate the ability of such codes to provide succinct and clear rule sets, Exhibit G contains an example of the primary components of a Form-Based Code necessary to substantially understand the development potential of a property in downtown Ventura. Staff’s code consultant will be available at the work session to elaborate further, at Council’s discretion, on the application of Form-Based Codes to development proposals, and to also illustrate the hypothetical application of a Form-Based Code to a portion of the Concept Design Plan area.

### Community Facility Districts

The Concept Design Plan resulted in regulatory changes that would enable development of approximately 1,800 to over 3,200 net new dwelling units at build-out. This increase in population naturally raises a question of funding for community services and facilities. One way communities may address these funding needs is through a Community Facilities District.

The Mello-Roos Community Facilities Act of 1982 has become an increasingly common tool for cities, counties and special districts to finance public facilities and the provision of certain local

services eligible under the Act. The Act authorizes a public entity to form a Community Facilities District (a "CFD") within a specified geographic area upon approval by a two-thirds vote of registered voters or landowners within the CFD.

Upon formation, the District can fund the authorized public facilities or services through the levy of special taxes on properties within the CFD. Typically, facilities are funded by issuance of bonds secured by the levy of a facilities special tax; and services are funded on a pay-as-you-go basis from a services special tax. At the time of formation, local agencies can determine to establish either or both a facilities and/or a services special tax, depending on its funding priorities or objectives.

Unlike assessments, special taxes are not required to be derived based on the benefit to the property. This provides great flexibility in designing the special tax to be imposed on properties within the CFD. The special tax is not an ad valorem tax, but the lien of the special tax has the same priority as the ad valorem tax.

The following are authorized services that may be funded under the Act:

- Police protection services;
- Fire protection and suppression and ambulance and paramedic services;
- Recreation program services, library services, maintenance services for elementary and secondary school sites and structures, and the operation and maintenance of museums and cultural facilities;
- Maintenance of streets, roads, parks, parkways and open space;
- Flood and storm protection, including operation and maintenance of storm drainage systems and sandstorm protection systems; and
- Removal and remedial action services for the cleanup of any hazardous substance released or threatened to be released into the environment.

Such services may only be paid for by a CFD to the extent that they are in addition to those provided in the territory of the CFD before it was created. The additional services may not supplant services already available when the CFD was created.

As the two-thirds registered voter approval threshold is often difficult to obtain, the common application of new CFD's for local services is as a requirement of new development. New subdivisions or other new development of a predetermined size or scale would be required as a conditional of approval to form a new CFD or annex to a pre-existing CFD to fund certain services. Prior to development, the CFD special tax is approved by landowner election.

Staff's fiscal consultant will be available at the work session to elaborate further, at Council's discretion, on Community Facilities Districts.

## **FISCAL AND ECONOMIC IMPACT**

In the event that the City Council determines to reconsider or refine all or portions of the South

Hayward BART/Mission Boulevard Concept Design Plan, the FY 2009 Redevelopment Agency budget includes \$300,000 for this purpose. A comprehensive reconsideration of the plan, including development of a Form-Based Code for this area and a fiscal impact analysis, would likely require this level of funding. A more selective reconsideration or refinement of the Plan would require less funding.

## **PUBLIC CONTACT**

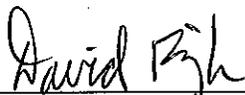
As previously noted, the South Hayward BART/Mission Boulevard Concept Design Plan was adopted in June 2006. The public participation process for considering the Plan included three community meetings, which were held beginning in January 2005 through early 2006. In addition, BART and AC Transit staff was included in the technical advisory group that led the planning process. BART also performed a more specific planning study involving its own South Hayward BART Station properties, and an additional community meeting to review that study was held in September 2005.

On June 4, 2008, the Sustainability Committee received a presentation on Transit-Oriented Development. This included mention of the role new regulatory tools (e.g., form-based codes) local governments could utilize to combat global climate change. The Sustainability Committee took no action as a result of that presentation. No other community meetings occurred prior to this work session. Notice of this work session was provided by the regular posting and distribution of the Council meeting agenda.

## **SCHEDULE**

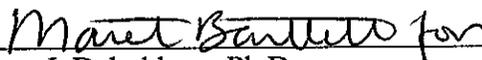
Next steps concerning this work session are entirely dependent upon direction provided by the City Council. If the City Council is satisfied with the current South Hayward BART/Mission Boulevard Concept Design Plan, staff will continue to evaluate development proposals under existing General Plan policies, City guidelines, and Zoning Ordinance regulations. If, however, the City Council would like to refine, clarify, and evolve the Concept Design Plan into a more definitive policy and implementation document, including possibly through a form-based code, staff is prepared to return to the Council in the fall with a proposed work scope, budget and timeline.

Prepared by:



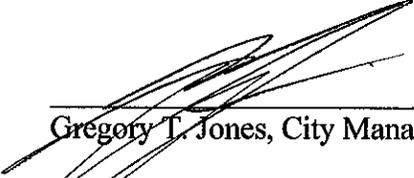
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David Rizk, AICP  
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Recommended by:



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Susan J. Daluddung, Ph.D.  
Director of Community & Economic Development

Approved by:



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Gregory T. Jones, City Manager

- Exhibit A. South Hayward BART/Mission Boulevard Concept Design Plan Area
- Exhibit B. General Plan Land Use Map & Zoning Map Changes
- Exhibit C. Mission Paradise (28000 Mission Boulevard) Project Plans
- Exhibit D. Haymont Village (26601-26699 Mission Boulevard) Project Plans
- Exhibit E. Wittek/Montana (28931 Mission Boulevard) Conceptual Plans
- Exhibit F. Form-Based Code Resources
- Exhibit G. Ventura Form-Based Code Example
- Exhibit H. South Hayward BART/Mission Boulevard Concept Design Plan, dated June 27, 2006 (distributed previously)

**THE REFERENCED EXHIBIT(S) IS/ARE  
ATTACHED AS A SEPARATE LINK**