



**DATE:** May 28, 2019

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Application to Amend Chapter 10, Article 1 (Zoning Ordinance) and Article 2 (Off-Street Parking Regulations) related to the creation of new Industrial District Regulations within the Hayward Municipal Code and the Adoption of Industrial District Design Guidelines

## **RECOMMENDATION**

That the City Council approves the proposed Zoning Map and Text Amendments to Chapter 10, Planning, Zoning and Subdivision, of the Hayward Municipal Code Related to the City's Industrial District Regulations, including the Adoption of new Industrial District Design Guidelines.

## **SUMMARY**

This is a continued public hearing from the May 14, 2019 City Council meeting on the Industrial District Regulations Update involving Zoning Map and Text Amendments (Amendments) to the Hayward Municipal Code (HMC). The proposed Amendments would impact all land with *Industrial Corridor* and *Mixed Industrial* General Plan land use designations, and all properties that are zoned I (Industrial) District.

Proposed Amendments include establishment of industrial sub-districts with more appropriate land uses in over 3,200 acres and the creation of development standards that are tailored to each sub-districts' purpose, including the establishment of development, design, and performance standards for all industrial development. The Amendments would: bring the City's Industrial District Zoning regulations into conformance with Industrial-related General Plan Goals and Policies to promote well-designed, amenity-rich industrial development for employees and visitors to the area; address and minimize compatibility issues between industrial and adjacent sensitive uses; and encourage establishment and expansion of advanced manufacturing and high employee generating uses and discourage low-employment intensity, high-impact uses.

## **BACKGROUND**

For a thorough Background leading to the May 14, 2019 City Council meeting, please see Attachment II, Staff Report for the May 14, 2019 City Council meeting.<sup>1</sup>

On May 14, 2019, the City Council held a duly noticed public hearing on the proposed Amendments and took public testimony from three individuals. Two individuals, representing property owners on Pacific Street, expressed concerns about outdoor storage allowances in the proposed IL (Limited Industrial) District. A third individual, representing a property on Hathaway Street, stated that he was not adequately informed about the rezoning and requested that the property be zoned IG (General Industrial) District. The Council directed staff to consider the comments, meet with the property owner, and return with the item to the May 28, 2019 meeting.

On May 21, 2019, staff met with representatives of the property owners of 22302 Hathaway Avenue. They outlined their objections to the proposed IL District zoning on the grounds that the approximately eight-acre site has limited street frontage and is located between an industrial building and railroad tracks. Staff explained that the current tenant, Marelich, would be considered Light Manufacturing, which is a permitted use in the IL District. However, the property owner explained that they take a long-term vision for properties and are concerned about re-tenanting opportunities in the future. Staff pointed out that IL District would allow for an array of light industrial uses such as custom and light manufacturing, warehousing and distribution, wholesale as well as commercial and office uses. The most significant limitation on the subject property is the prohibition against General Manufacturing, which is consistent with the purpose of the IL District to limit heavy manufacturing in close proximity to residential land uses.

On May 22, 2019, staff was able to reach one of the two commenters on the Pacific Street properties. The other commenter did not leave a phone number. The commenter represents a buyer for 29265 Pacific Street, which is the subject of a robust Code Enforcement case related to illegal establishment of an outdoor storage yard. Staff has spoken to the buyer several times at the Permit Center since March 2019 and informed the buyer and their representatives about the Code Enforcement case as well as the pending Industrial District Regulations. The buyer wanted to continue to use the site as an outdoor storage yard, which would not be permitted under the proposed IL District regulations.

## **DISCUSSION**

Please see Discussion, Staff Analysis, Environmental Review, Economic Impact, Fiscal Impact, Strategic Initiatives and Sustainability Features Sections of Attachment II, Staff Report for the May 14, 2019 City Council meeting for a thorough rationale for supporting the proposed Zoning Map and Text Amendments and accompanying Design Guidelines.

The following Discussion relates to the specific modifications to the draft regulations, and issues and locations raised at the public hearing on May 14, 2019.

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<sup>1</sup> May 14 City Council Meeting: <https://hayward.legistar.com/LegislationDetail.aspx?ID=3945377&GUID=F091BBBE-D966-4851-AE41-898552900871&Options=&Search=>

Minor Amendments to the Proposed Regulations: The following minor amendments were made to Exhibits included under Attachment II, Ordinance:

- Exhibit A, Zoning Map. A portion of airport property was left blank on the proposed Zoning Map because it is not industrially zoned; however, that area was filled in with the current zoning, a combination of AT-AC (Air Terminal – Aviation Commercial) District, and AT-C (Air Terminal – Commercial) District, for clarity.
- Exhibit B, HMC Section 10-1.1600, Industrial Districts. The use table was amended to require Conditional Use Permit (CUP) for Storage Yards in the IG District.
- Exhibit H, HMC Section 10-1.2735(m), Food Vendor Permit. Amended this section to allow Food Vendor Permits per Zoning District; and to remove the requirement for a 300-foot buffer between vendors.

Outdoor Storage: Under current regulations, Minor Open Storage is permitted in the Industrial District provided that it does not exceed 10% of the site area. If the open storage area exceeds 10% of the open yard area, then the use is classified as Major Open Storage and requires Conditional Use Permit (CUP) approval.

Under the proposed regulations, minor open storage would be permitted in a tiered manner according to the proposed sub-district and percentage of lot used for outdoor storage as detailed below and in Attachment III, Exhibit B, Section 10-1.1606(L):

- Outdoor Storage up to 25% of Site: Minor open storage for up to 25% of the site would be permitted in all sub-districts provided that the storage is ancillary to a primary or conditional use on the site, that all uses other than passive storage occur within a building and that the materials stored outdoors are screened, covered, and located appropriately, among other standards.
- Outdoor Storage Between 25% and 50% of Site: Minor open storage that exceeds 25% of the site up to 50% of the site would be subject to Administrative Use Permit approval in all sub-districts.
- Outdoor Storage that Exceeds 50% of Site: Open storage that exceeds 50% of the site would not be permitted in the IL or IP sub-districts and would only be permitted in the IG District with a CUP.

The proposed approach allows for more outdoor storage than is currently permitted and includes strict, clear performance standards for such storage. The proposed regulations are more restrictive than the current regulations in that Storage Yards (previously classified as Major Outdoor Storage) would not be permitted in the IL or the IP Districts. Staff recommends these limitations because storage yards require minimal improvement to a site and allows property owners to make decent returns with little investment in the area; thus owners have little to no incentive to improve or develop a site with a structure and high-quality jobs. Staff believes that limiting Storage Yards to the IG District, subject to strict conditions of approval through the CUP process, would result in higher quality development throughout the industrial area as a whole.

Properties on Pacific Street and Hathaway Street: At the public hearing, three individuals representing property owners on Pacific Street and Hathaway Avenue, spoke against the

designation of their properties to IL District on the grounds that the proposed IL District would limit their ability to use and lease out property. As described in detail in the Research and Recommendations Report and in the Background documents leading up to the project, certain areas were identified as appropriate to change to a light industrial buffer district to limit impacts to nearby residents. All areas disconnected from the Industrial corridor crescent (along Jackson Street, on the north side of Industrial Parkway, north of A street, among other areas), and/or that touched residentially zoned land or land uses were determined to be appropriate candidates for the IL District zoning. The properties along Pacific Street and Hathaway Avenue meet these criteria.

On the subject of Pacific Street, there are several existing outdoor storage yards and uses, some of which are permitted with use permits dating back to the 1960s, prior to the area's annexation to the City in 1970. Pacific Street abuts a mobile home park on the north, single family residential development to the west, the Mission Hills Golf Course to the south, and the BART tracks and Sohay development to the west. An aerial image of the site is below.



There are several nonconforming outdoor storage uses both legally and illegally established on Pacific Street. Pursuant to the City's Nonconforming Ordinance, a use operating under an approved use permit or that was otherwise legally established is considered legal, nonconforming and may continue to operate indefinitely provided that the use does not cease for more than six months. If the use was not legally established, then it will not have the protection of the Nonconforming Ordinance and is required to come into conformance with applicable regulations. Staff believes that the IL District designation is appropriate on this street given its close proximity to residential uses and the future Sohay development.

The property located at 22302 Hathaway Street is currently zoned Industrial District. Under the proposed regulations, the site would be rezoned to IL (Limited Industrial) District. The property abuts the unincorporated Alameda County neighborhoods of Cherryland to the east beyond the railroad tracks, and Hayward Acres to the west. According to the applicable Zoning Map for the respective Alameda County neighborhoods, the surrounding land uses are a mix of low, medium, and high density residential and commercial uses. The northern and southern boundaries of the site abut City of Hayward properties. The site to the north is proposed to be rezoned to IL District, and the site to the south is the Costco Business Center, which is zoned PD (Planned Development) District. An aerial image of the site is included below.



As described above and in supporting documents for this item, the IL District is intended for parcels located in relatively close proximity to residential uses. The IL District would not allow for the establishment of new noxious uses that are incompatible with surrounding uses; however, it would allow for an array of industrial uses such as custom and light manufacturing, warehouses and distribution facilities, wholesale establishments as well as supporting commercial uses. As noted by Commissioner Willis in his statement of support for the project at the April 25, 2019 Planning Commission meeting, while some individuals will be unhappy about the changes, “these new changes are what is in the best interest for the majority of the City.”

Staff strongly believes that the buffer IL District is appropriate and warranted in circumstances where industrial uses are located in close proximity to residential uses, such as along Pacific Street and Hathaway Avenue. The buffer district creates a safer, cleaner and healthier environment for the adjacent residents, which contributes positively to their quality of life while still allowing several indoor, light industrial uses on the subject properties. Please

see Attachment III, Exhibit B, HMC Section 10-1.1602, Subdistricts, for more detailed information on each sub-districts' purpose and allowable uses.

## **ECONOMIC IMPACT**

The vacancy rate for the industrial area is hovering around 3.7%, and industrial rents average about \$11.47 per square foot per year, which is a historic high for Hayward. This is despite the fact that the average age of development within the Industrial District is about 40 years old (average building effective year is 1979), where the majority of industrial sites and buildings are low-intensity, concrete tilt-up construction with little to no building articulation and minimal site improvements, landscaping, or frontage improvements. The very low vacancy rate and high rents suggest that the area is poised to transform and redevelop to accommodate the pressure and demand for space throughout the Bay Area, so it is essential the City have appropriate regulations in place to encourage high quality development.

It is conceivable that implementation of some of these recommendations would result in disincentives to locating in Hayward. As noted in the Research and Recommendations Report, stakeholders consider the low cost of doing business, the relatively flexible development standards, and avoidance of a discretionary review process as incentives to locating in Hayward. However, the recommended zoning map amendments and regulations updates are in line with or slightly more flexible than surrounding jurisdictions (see Table 5, Sample Industrial District Standards of Other Bay Area Cities, of the Research and Recommendations Report).

Despite these potential drawbacks, staff believes that implementing the proposed zoning map and text amendments will result in a higher quality development and a more robust mix of advanced and logistics industries with higher sales tax generation and higher employment numbers that will result in beneficial economic impacts for the City. Further, upgrading the physical environment and requiring installation of infrastructure and amenities within the industrial areas will serve to attract other businesses which also lead to positive economic and social impacts. Given the relatively high rents and low industrial inventory, this is a good time to implement new regulations.

## **FISCAL IMPACT**

The costs associated with the Industrial District Regulations Update are included in the Development Service Department FY 2018-2019 operating budget.

## **STRATEGIC INITIATIVES**

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities Strategic Initiative is to create and support structures, services and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. This item supports the following goal and objective:

Goal 3            Develop a Regulatory Toolkit for Policy Makers

Objective 3    Update, streamline, and modernize zoning codes

### **SUSTAINABILITY FEATURES**

The proposed project includes zoning map and text amendments. According to the proposed regulations, all applications for new development or redevelopment of a site would be required to submit a Sustainability Plan that incorporates best practices of sustainability for site specific improvements and business operations. See Attachment I, Exhibit II, proposed HMC Section 10-1.1606(R), for additional information.

### **PUBLIC CONTACT**

Please see the Background Section in Attachment II, Staff Report for May 14 City Council Meeting and the Research and Recommendations Report for a thorough description of outreach efforts to date.

### **NEXT STEPS**

If the City Council approves the findings set forth in the attached resolution and introduces the attached ordinance and this evening, the ordinance with the accompanying resolution will be brought back for adoption at the following Council meeting on June 4, 2019. The zoning map and text amendments will be effective upon adoption.

*Prepared by:*            Leigha Schmidt, Senior Planner

*Recommended by:*    Laura Simpson, Development Services Director

Approved by:



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Kelly McAdoo, City Manager