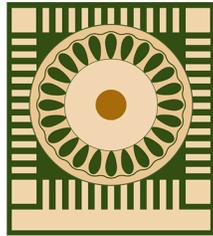


CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
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CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Tuesday, January 12, 2016

7:00 PM

Conference Room 2A

City Council

Mayor Barbara Halliday
Mayor Pro Tempore Al Mendall
Council Member Francisco Zermeño
Council Member Marvin Peixoto
Council Member Greg Jones
Council Member Sara Lamnin
Council Member Elisa Márquez

SPECIAL CITY COUNCIL WORK SESSION**CALL TO ORDER Pledge of Allegiance: Mayor Halliday****ROLL CALL****PUBLIC COMMENTS**

The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Work Session or Information Items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.

WORK SESSION

Work Session and Informational Staff Presentation items are non-action items. Although the Council may discuss or direct staff to follow up on these items, no formal action will be taken. Any formal action will be placed on the agenda at a subsequent meeting in the action sections of the agenda.

1. [WS 16-001](#) Work Session to Provide Feedback on a Conceptual Plan for the Proposed New Community Park Adjacent and West of the Approved La Vista Development that will be Served via an Eastward Extension of Tennyson Road from Mission Boulevard (Report from Development Services Director Rizk)

Attachments: [Attachment I La Vista Park Conceptual Plan](#)
[Attachment II La Vista Park Narrative](#)

Adjourn to Special City Council Meeting in the Council Chambers

SPECIAL CITY COUNCIL MEETING**CALL TO ORDER****PUBLIC COMMENTS**

The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Work Session or Information Items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.

ACTION ITEMS

The Council will permit comment as each item is called for the Consent Calendar, Public Hearings, and Legislative Business. In the case of the Consent Calendar, a specific item will need to be pulled by a Council Member in order for the Council to discuss the item or to permit public comment on the item. Please notify the City Clerk any time before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.

CONSENT

2. [MIN 16-001](#) Approval of the Minutes of the City Council Meeting on December 15, 2015

Attachments: [Attachment I Draft Minutes 12/15/15](#)

3. [CONS 16-001](#) Adoption of Ordinance Amending Hayward Building Code Section 105.3.1 (Relating to Restrictions on Issuance of Building Permits) and Section 105.5 (Relating to Time Limitations on Building Permit Expiration)

Attachments: [Attachment I Summary of Ordinance Published on 01/09/16](#)

PUBLIC HEARING

4. [PH 16-001](#) Proposed subdivision and construction of six detached single-family homes around a central open space area located at 1151 Overlook Avenue, requiring adoption of a resolution and introduction of an ordinance for a zone change from Sustainable Mixed Use (SMU) to Planned Development (PD) and approval of Tentative Tract Map 8244 - Overlook Terrace, LLC (Applicant/Owner) (Report from Development Services Director Rizk)

Attachments: [Attachment I Resolution](#)
[Attachment II Ordinance](#)
[Attachment III PC minutes 12/17/15](#)
[Attachment IV Public Comment Letter](#)
[Attachment V Project Plans](#)

5. [PH 16-002](#) Proposed amendments to the City of Hayward Livestock Regulations, including establishment of a revised, simplified permit process for the keeping of bees, hens, and other small animals in residential areas; and Establishment of Proposed New Fees to reduce the cost for processing of permits for such uses (Report from Development Services Director Rizk)

Attachments: [Attachment I Resolution Adopting Proposed Amendments](#)
[Attachment II Resolution Adopting New Fees](#)
[Attachment III Ordinance Amending Section 10-1.215](#)
[Attachment IV Ordinance Amending Section 10-1.315](#)
[Attachment V Ordinance Amending Section 10-1.2735.e](#)
[Attachment VI Ordinance Amending Definition of Terms](#)
[Attachment VII Draft Planning Commission Minutes](#)
[Attachment VIII Public Comments](#)

LEGISLATIVE BUSINESS

6. [LB 16-007](#) Draft Purchase and Sale Agreement with the California Department of Transportation for the City of Hayward to Acquire Excess Property in the 238 Bypass Corridor (Report from City Manager David)

Attachments: [Attachment I Resolution](#)
[Attachment II Partial List of Major Properties](#)
[Attachment III Alternate Valle Vista Concept Area](#)

CITY MANAGER'S COMMENTS

An oral report from the City Manager on upcoming activities, events, or other items of general interest to Council and the Public.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Oral reports from Council Members on their activities, referrals to staff, and suggestions for future agenda items.

ADJOURNMENT**NEXT REGULAR MEETING, JANUARY 19, 2016, 7:00 PM****PUBLIC COMMENT RULES**

The Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens or organization. Speakers will be asked for their name before speaking and are expected to honor the allotted time. Speaker Cards are available from the City Clerk at the meeting.

PLEASE TAKE NOTICE

That if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.

PLEASE TAKE FURTHER NOTICE

That the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

****Materials related to an item on the agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, City Hall, 777 B Street, 4th Floor, Hayward, during normal business hours. An online version of this agenda and staff reports are available on the City's website. Written comments submitted to the Council in connection with agenda items will be posted on the City's website. All Council Meetings are broadcast simultaneously on the website and on Cable Channel 15, KHRT.****

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.



CITY OF HAYWARD

Hayward City Hall
777 B Street
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Staff Report

File #: WS 16-001

DATE: January 12, 2016

TO: Mayor and City Council

FROM: Director of Development Services

SUBJECT

Work session to Provide Feedback on a Conceptual Plan for the Proposed New Community Park Adjacent and West of the Approved La Vista Development that will be Served via an Eastward Extension of Tennyson Road from Mission Boulevard

RECOMMENDATION

That Council reviews this report and attachments and provides direction to staff on the basic conceptual design and desired features for the park.

BACKGROUND

Staff has provided a [page on the City's website <http://www.ci.hayward.ca.us/CITY-**GOVERNMENT/SPECIAL-PROJECTS-&-STUDIES/lvp.shtm**>](http://www.ci.hayward.ca.us/CITY-GOVERNMENT/SPECIAL-PROJECTS-&-STUDIES/lvp.shtm) that provides background and other information related to the park. In July of 2005, the City Council approved a General Plan Amendment, Zone Change, Development Agreement and related Mitigated Negative Declaration for the 179-unit single-family residential development called La Vista. Those entitlements require development of a park adjacent and to the west of the residential development, where Tennyson Road is planned to be extended.

Although the La Vista residential development is in the final stages of administrative approval by staff, the park design has not been developed or approved. City staff has been meeting with the consultant, David Gates and Associates, as well as with HARD staff and the property owner, over the last few months to develop a conceptual plan (see Attachment I and subsequent discussion). The major objective stressed during these meetings is for this park to serve as a destination park consisting of high quality unique features and amenities for all age groups.

One opportunity that has evolved over the last few months is incorporating additional land into the park area, consisting of approximately 12 acres of Open-Space zoned area of the adjacent State-owned properties to the west that the City is in the process of acquiring. Attachment I includes that area.

At this time, staff seeks input on the conceptual plan and desired improvements. A narrative that provides context for the conceptual plan, along with identification of primary design objectives, is included as Attachment II.

DISCUSSION

As described in Attachment II, various “zones” represented by different colors are shown (see page 2 of Attachment I) that include varying types of activity: a sports zone; adventure/education playground; water playground; science interaction/creativity play zone; picnic area; nature/gardens zone; and yoga zone. More passive areas and activities, like the yoga and nature zones, are shown to the north; and highly active areas, such as the sports zone that includes a multi-use sports field, are shown to the south. An art/tech walkway along the western (left) boundary of the park area helps link the zones and will provide opportunities for walking and enjoying incredible views of Hayward and the Bay to the west and north. A centralized restroom building is planned as well.

A major requirement of the park is that it provide adequate area for stormwater detention for runoff from the future development and hillside slopes to the east. The centralized amphitheater provides such capacity and function. During large storm events, that area will hold stormwater until it evaporates and/or drains out through an inlet that will lead down to Mission Boulevard.

Maintaining access to a two privately-owned properties to the north (one is owned by the La Vista development property owner) is another requirement for the park design. Access to those properties is shown to be provided through the park parking lots. It is anticipated that the parking lots would have gates that would be locked beyond certain hours of the day, with the owners of those properties to receive gate access keys.

Pages 3 through 5 of Attachment I include photographs showing a variety of park features and improvements, some of which relate to the various use “zones” described above. Specifically, staff seeks guidance from the City Council on:

1. the various use/activity zones and the grouping by activity level of those areas/zones and, due to likely phasing of construction, what are the most desired activities;
2. the main amphitheater feature as a central element and functional stormwater detention basin;
3. identification of which features included in the photographs in the plan set are most desirable, as well as identification of any other desired features; and
4. a suggested name for the park, if desired, other than La Vista Community Park.

Regardless of which features and design are ultimately selected, staff will ensure as much as budget allows that those features are of the highest quality and are unique. For reference, Council has mentioned the over fifty-year old, 2.45-acre [Dennis the Menace Playground in El Estero Park in Monterey](https://www.youtube.com/watch?feature=player_embedded&v=OibCI7TCr0I) <https://www.youtube.com/watch?feature=player_embedded&v=OibCI7TCr0I> as an example of desired features.

ECONOMIC IMPACT

A destination community park of this size will help attract development to the City and this area of Hayward, adding value to future and existing properties in the area.

FISCAL IMPACT

Until final design is developed, the cost of development of the park cannot be determined. However, the project consultant roughly estimates that the total park construction costs with high-end improvements could range from \$6M to \$10M, likely closer to \$10M. The La Vista development proponent will finish mass grading and lay infrastructure for the park in 2016 when similar work is done for the development. The proponent/property owner is also paying for the development of plans by the consultant. Also, per the original project conditions of approval, the proponent is obligated to contribute the project's \$2.14M park in-lieu fees toward park construction "such as playfields, play structures and trails/paths and parking areas within the approximately 30-acre" park area. Additional funds will obviously need to be identified to pay for the type of park the City desires and/or consideration be given to phasing construction.

One source of additional funds for the park construction is park in-lieu fees collected with new developments, currently equal to \$11,953 per single-family unit, \$11,395 per attached unit, and \$9,653 per multi-family/rental unit. To generate \$8M in park in-lieu fees, 670 single-family homes, 702 townhomes, or 829 apartments would need to be constructed. As is done with maintenance of the Skywest Golf Course, in-lieu fee funds from various in-lieu fee park zones throughout the City could be used for this City-serving community park.

Another potential source of funds for improvements is from a high-tech company related to some features of the park, such as in the science/technology zone.

Maintenance of the park, to be provided by HARD, is another fiscal consideration. Design of the park to minimize maintenance costs is another objective for the park design.

PUBLIC CONTACT

Notice of this work session and the related January 12 community meeting to be held from 4:00 to 6:00 pm were published in *The Daily Review* on January 2 and on January 9. Additionally, over 350 notices were sent to the Council members, Planning Commissioners, executive City staff, all of the residential HOAs in the City, HARD Board members and executive staff, Hayward's Chamber of Commerce President, Hayward Mobile Home Association and various mobile homes, and to various neighborhood, social, church, and non-profit organizations. Staff has responded to a few comments/questions received.

Also, on December 28, City staff met with HARD's President, General Manager, and Parks Superintendent to discuss the conceptual plan. HARD's representatives were generally supportive of the conceptual plan and emphasized the importance of providing adequate parking for planned events, particularly related to the amphitheater and sports field. They also indicated it would be desirable to have a full-sized soccer field that could provide two youth fields and practice opportunities, were supportive of lighting of the ball field, and asked what alternative material besides grass could be used for the amphitheater that would allow stormwater to percolate into the ground in order to minimize maintenance costs. They indicated if grass was to be used, that the design allow space for HARD's mowers between rows. Drought

File #: WS 16-001

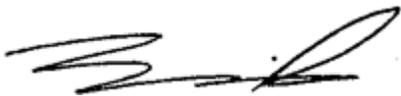
tolerant and low-maintenance landscaping, including on slopes, was also mentioned as a desirable feature.

NEXT STEPS

Staff will incorporate direction from the Council and work with the consultant and HARD staff to develop a preferred plan, which staff plans to present to the Council and Planning Commission later this winter. Subsequently, construction drawings for the park improvements will be developed, a budget developed, and funding sources identified.

Prepared and Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

Attachment I
Attachment II

Conceptual Plan Set (5 pages)
Park Design Narrative



- ENTRY PLAZA
- SPORT ZONE
- ADVENTURE/ EDUCATION PLAYGROUND
- WATER PLAYGROUND
- SCIENCE INTERACTION ZONE/ CREATIVITY PLAY
- PICNIC AREA
- TURF/ AMPHITHEATER
- VIEW/ART TRAIL
- VIEW POINTS
- NATURE ZONE/ GARDENS
- YOGA ZONE
- PARKING



ACTIVITIES



INNOVATIONS



ART/MUSIC



SCIENCE INTERACTION



NATURE TRAIL



SPORT



FLOWER GARDENS



VIEW



EDUCATION/ ADVENTURE



CREATIVITY



PLAY





LA VISTA PARK NARRATIVE

12.18.2015

La Vista Park is a destination park with activities for a large range of users ranging from seniors to toddlers. The range of activities varies from a passive area at the northern end, suitable for yoga, wedding parties and other social events, to active sports on the soccer field and organized events such as Farmer's Markets in the south. The large detention basin would be a recessed lawn area suitable for active play, large gatherings and group events.

The park responds to a unique hillside condition. Its organization is a function of stormwater drainage and detention requirements. The terraced park sits below the future neighborhood and serves a detention basin function for the stormwater runoff generated from the new community.

Thus, the shape of the terrace and the configuration has been partially determined by the hydrologic needs of the site. The site is re-graded with one large flat terrace surrounded by 3 to 1 slopes separating the park from the new community above and the established existing community below.

The design includes amphitheater seating (seat walls) on the perimeter and a stage-like hardscape element at the deep end. During heavy rain events the bowl would detain excess water, as needed, making the area usable within a minimal period of time after the inundation.

Other uses in the park include play areas for toddlers to teens emphasizing educational play adventure and high-tech activities. A promenade acts as a plaza-like space, allowing for events such as Open Markets, garden shows and other programmed events, which could flow over into the

amphitheater area. An area we are calling the 'Science Garden' would sit adjoining the promenade/plaza and provide activity area for technology-oriented activities such as robotic competitions, drone flights, interactive laser shows run by an app on your I-phone, and other high-tech family-oriented educational activities.

The perimeter of the park, which commands 200° views of the Bay Area, is nicely perched high above the existing Hayward community and offers a promenade walk that takes you through the full western perimeter of the park. We have created a series of seating areas for various small events that focus on the dramatic views. We see this promenade as a sequence of events that may include display areas for art, seating areas for small social gatherings and picnic areas dotted along this pedestrian promenade. We see it as a string of pearls with each pearl being an event place or an activity along the corridor.

The park concentrates all of the parking to the upper sector of the park. The parking lot also serves as an ingress and egress roadway to two existing homes which need to be accessed through the park.

Summary:

1. Create a major destination for the community.
2. Create a range of activities that are not found in other parts of the community.
3. Create a range of activities from very active sports to zen-like passive events.
4. Serve as a hydrologic water quality and storage basin for the community proposed above the park.

5. Serve as access to existing homes to the north.
6. Take advantage of the fantastic views that overlook the community and celebrate the views of the entire Bay Area.
7. Take advantage of these views by creating a linear promenade along the outer upper edges of the park. This promenade would house the series of events that take great advantage of the view - from art to weddings.
8. Take advantage of the large detention basin space for an amphitheater event space. This low area will be inundated during major storm events. Thus, it must be designed accordingly.



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Staff Report

File #: MIN 16-001

Attached is a copy of the Draft Minutes of the City Council Meeting on December 15, 2015.



MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD
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The City Council meeting was called to order by Mayor Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Mayor Halliday.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Mendall, Jones, Peixoto, Lamnin, Márquez
MAYOR Halliday
Absent: None

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Márquez was not present when the City Council convened in closed session.

Council Member Zermeño noted that the fence located at the corner of A and Montgomery Streets needs to be improved. Council Member Zermeño spoke about the Project Labor Agreement (PLA). There was Council support to direct staff to prepare a work session report related to PLAs.

Mayor Halliday referred to an email regarding a resolution to urge the California State Legislature and Governor to adopt a law banning powdered alcohol for consumption in California. There was Council support to direct staff to review the letter and prepare a letter for the Mayor to sign, and prepare an analysis and present it to the City Council.

Council Member Lamnin referred to a letter addressed to the California Public Utilities Commission regarding the power charge indifference adjustment proposed increase and proposed decision in A.15-16-001, PG&E's 2016 ERRRA Proceeding.

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced that the Council convened in closed session regarding three items: (1) Conference with property negotiators pursuant to Government Code 54596.8 regarding the 9/11 Memorial; (2) Conference with legal counsel pursuant to Government Code 54956.9 regarding three anticipated litigation cases; and (3) Conference with property negotiators pursuant to Government Code 54956.8 regarding approximately 400 Parcels owned by the California Department of Transportation in the Route 238 Corridor; and there was no reportable action. Mr. Lawson added that the City Council did not have time to discuss Item (4) Public employment regarding the City Manager.

PUBLIC COMMENTS

Mr. Antonio Isais, Community Services Commission member, thanked the Hayward Police Department for its work.

Mr. Jim Drake, Hayward resident, spoke about the Fire Chief and requested that a breathalyzer be placed in his City vehicle.

Ms. Wynn Grcich, Hayward resident, spoke about a newspaper article “Hayward fire chief allowed to keep job”, and also referred to the incident during a Hayward Unified School District Board closed session.

Mr. Ray Baker, Hayward business owner, commended the Hayward Police Department, and expressed concern about the high speed traffic in downtown.

Ms. Nina Marley, Hayward resident, commended the Hayward Police Department for its work in improving the Tennyson area.

Mr. John Super, Hayward resident, noted a police officer was killed in the area at Myrtle and C Streets and requested that a traffic calming measure be installed and dedicated to the officer.

Consent Item Nos. 2, 3, 4, and 6 were removed for discussion and separate vote.

CONSENT

1. Approval of the Minutes of the City Council Meeting on December 1, 2015 [MIN 15-038](#)
It was moved by Council Member Márquez, seconded by Council Member Mendall, and carried unanimously, to approve the minutes of the City Council Meeting on December 1, 2015.

2. Adoption of Ordinance Adding Article 6 to Chapter 11 of the Hayward Municipal Code Regarding Recycled Water Use [CONS 15-363](#)

Staff report submitted by City Clerk Lens, dated December 15, 2015, was filed.

Mr. Jim Drake, Hayward resident, expressed concern about putting recycled water in the aqueducts and suggested increasing its use for non-drinking purposes.

It was moved by Council Member Mendall, seconded by Council Member Peixoto, and carried unanimously, to adopt the following:

Ordinance 15-33, “An Ordinance Adding Article 6 to Chapter 11 of the Hayward Municipal Code Regarding Recycled Water Use”

3. Adoption of Resolution Approving an Amendment to the City of Hayward Salary Plan for Fiscal Year 2016 [CONS 15-381](#)

Staff report submitted by Human Resources Director Collins, dated December 15, 2015, was filed.



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In response to Council Member Márquez' inquiry about an update on the salary surveys for the other union groups, Human Resources Director Collins responded that the only one outstanding was SEIU Local 1021, which was anticipated to be done by February.

It was moved by Council Member Márquez, seconded by Council Member Lamnin, and carried unanimously, to adopt the following:

Resolution 15-232, "Resolution Approving the Amended Fiscal Year 2016 Salary Plan Designating Positions of Employment in the City Government of the City of Hayward and Salary Range; and Superseding Resolution No. 15-189 and All Amendments Thereto"

4. Authorization for the City Manager to Execute Professional Services Agreements with Lordy Rodriguez, Rob Ley, Kana Tanaka, and We Are Matik for Structural Art Installations in the 21st Century Library [CONS 15-385](#)

Staff report submitted by Library and Community Services Director Reinhart and Public Works Director Fakhrai, dated December 15, 2015, was filed.

Ms. Gail Lundholm, Hayward resident, expressed disappointment that the art community was not contacted about the proposed art installations in 21st Century Library facility, and stressed the importance of having local artists be a part of the public process.

Council Member Lamnin shared the same concern expressed by Ms. Lundholm noting that only one out of ninety responses to the Requests for Qualifications (RFQ) was from Hayward, and added it was not evident that there was a public process and she was concerned about some of the elements in the proposed art installations.

Council Member Lamnin offered a motion to reopen the selection process.

Council Member Zermeño seconded the motion.

Mayor Halliday was disappointed there was not a public member on the committee that reviewed the responses to the RFQ.

Library and Community Services Director Reinhart noted that the consultant, Beth Jones Art Consultant, had personally contacted arts organizations in Hayward as stated in the staff report, and assured the Council that a public process was in place for the proposal. Discussion ensued about the process.

Discussion ensued among City Council and staff about reopening the selection process.

Council Member Zermeño withdrew his support for the motion and the motion on the floor died for lack of a second.

Council Member Mendall offered a motion to table the item until January, and directed staff to bring back recommendations.

Council Member Jones seconded the motion.

Mayor Halliday suggested that the item be placed under legislative business to allow for discussion.

It was moved by Council Member Mendall, seconded by Council Member Jones, and carried unanimously, to table the item until January and direct staff to bring back recommendations.

5. Resolution Approving a Memorandum of Understanding between the City of Hayward and the Hayward Police Management Unit [CONS 15-389](#)

Staff report submitted by Human Resources Director Collins, dated December 15, 2015, was filed.

It was moved by Council Member Márquez, seconded by Council Member Mendall, and carried unanimously, to adopt the following:

Resolution 15-231, “Resolution Approving the Memorandum of Understanding between the City of Hayward and the Hayward Police Management Unit”

6. Amendment to Agreement for Consulting Services with Dutra Cerro Graden [CONS 15-393](#)

Staff report submitted by Economic Development Manager Hinkle, dated December 15, 2015, was filed.

Mr. Jim Drake, Hayward resident, inquired about the consulting services with Dutra Cerro Graden. City Manager David provided information from the staff report.

It was moved by Council Member Márquez, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 15-233, “Resolution Authorizing the City Manager to Negotiate and Execute Amendment to Agreement for Consulting Services between the City of Hayward and Dutra Cerro Graden for Valle Vista Catalyst Site”



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Mayor Halliday asked if Legislative Business Item No. 12 could be heard after the Work Session. There was City Council consensus to move Legislative Business Item No. 12 prior to Public Hearing Item No. 9.

WORK SESSION

7. FY 2015 Preliminary Year-End General Fund Review [WS 15-033](#)

Staff report submitted by Acting Budget Officer Barton, dated December 15, 2015, was filed.

Director of Finance Vesely provided a synopsis of the report.

Discussion ensued among Council Members and City staff regarding: the General Fund forecast; OPEB Liability Contribution; economic development and potential new revenue sources; Sales Tax; Council's budget policies for one-time revenues; moving positions from the General Fund into the Enterprise Fund; healthcare cost; pension cost; and the renewal of the Utility Users Tax Measure.

8. Review of First Quarter Progress for Police Department [WS 15-035](#)

Staff report submitted by Program Analyst Turner, dated December 15, 2015, was filed.

Police Chief Urban provided a synopsis of the report.

Discussion ensued among Council Members and City staff regarding: the high speed traffic in downtown and enforcement mechanisms; "Avoid the 21" DUI Campaign and Selective Traffic Enforcement Program during the holiday season; mail packages theft; the E.Y.E.S Program and registering privately owned surveillance camera systems with the Hayward Police Department; homeless encampments and social services; bicycle police presence in the Tennyson area; long-term trends or multi-year statistics for different priorities and reporting on a category per quarter; the Hayward Neighborhood Alert and neighborhood watch groups; vacancies in the Department; and discussion on how Measure C has improved the operations of the Department.

Legislative Business Item No. 12 was moved up and heard prior to Public Hearing No. 9.

PUBLIC HEARING

9. Proposed subdivision and construction of forty-two detached single-family homes on a 3.2-acre site at 81 Fagundes Court, requiring adoption of a Resolution and Introduction of an Ordinance for a Zone Change from Medium Density Residential and Single-Family Residential to Planned Development District, Vesting Tentative Tract Map 8266, and Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; KB Home Bay Area (Applicant)/ Steven Amaral (Owner) [PH 15-106](#)

Staff report submitted by Assistant Planner Christensen, dated December 15, 2015, was filed.

Development Services Director Rizk announced the staff report and introduced Assistant Planner Christensen who provided a synopsis of the staff report.

Discussion ensued among Council Members and City staff regarding: lack of a sound wall along the railroad on the east side of the property; the proposed gated community and the contradiction with the walkable community objective; parking standard requirements and informing prospective buyers; the ratio of bedroom to parking spaces; parking impact to already impacted neighborhoods; requirement for tree replacement; permeable pavement; gates; and public comments.

Mayor Halliday opened the public hearing at 10:11 p.m.

Mr. John Compaglia, Senior Planner with KB Home Bay Area, noted support for the proposed Conditions of Approval, and added the project would have a Homeowners' Association and a permeable paving at the entrance.

Mayor Halliday closed the public hearing at 10:17 p.m.

Council Member Zermeño offered a motion per the staff recommendation. There being no second, the motion died.

Council Member Mendall liked the detached single-family nature of the project, but was concerned about the inadequacy of parking in the neighborhood and the gated aspect of the proposal.

Council Member Mendall offered a motion to refer the item back to the Planning Commission with the following recommendations: to eliminate the private gated community nature of the project, create a public park, and consider mitigation measures for the current parking situation.

Council Member Peixoto seconded the motion.

Council Member Lamnin encouraged the project proponent to consider community improvements by environmental design and also contemplate park-in-lieu fees for



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neighborhood improvements.

Council Member Márquez expressed support for the motion acknowledging that there was a perception issue with gated communities.

Council Member Jones asked staff to clarify the policy related to gated communities and noted the inadequacy of parking in the proposed neighborhood needed to be addressed or perhaps mitigated by the apartment complex across the street of the proposal.

Mayor Halliday expressed support for the motion because she was concerned about the gated aspect for a single-family residential, and added that perhaps the project needed additional parking spaces.

It was moved by Council Member Mendall, seconded by Council Member Peixoto, and carried unanimously, to refer the item back to the Planning Commission with the following recommendations: to eliminate the private gated community nature of the project, create a public park, and consider mitigation measures for the current parking situation.

10. Adoption of a Resolution of Intention to Introduce an Ordinance Approving an Amendment to the Contract between the City of Hayward and the California Public Employees Retirement System (PERS) for Miscellaneous Members in HAME, Local 21, and the Unpresented Employee Group [PH 15-107](#)

Staff report submitted by Human Resources Analyst II Adams, dated December 15, 2015, was filed.

Human Resources Director Collins provided a synopsis of the staff report.

There being no public comments, Mayor Halliday opened and closed the public hearing at 10:34 p.m.

It was moved by Council Member Peixoto, seconded by Council Member Jones, and carried unanimously, to adopt the following:

Resolution 15-237, "Resolution Authorizing Intention to Approve an Amendment to Contract Between the Board of Administration, California Public Employees Retirement System and the City of Hayward"

Introduction of Ordinance 15-_, "An Ordinance Authorizing the Amendment of the Contract between the City of Hayward and the Board of Administration of the California Public Employees' Retirement System"

LEGISLATIVE BUSINESS

11. Introduction of an Ordinance to Amend the Hayward Building Code to Rescind Previously Adopted Amendments to the State Building Code that Restricts Issuance of Permits Only to Licensed Contractors and Resident Owners, and that Limits all Building Permits to a Duration of One Year [LB 15-034](#)

Staff report submitted by City Building Official Cullum, dated December 15, 2015, was filed.

City Building Official Cullum provided a synopsis of the staff report and responded to questions related to the staff report.

There being no public comments, Mayor Halliday opened and closed the public hearing at 10:39 p.m.

Council Member Lamnin offered a motion per staff recommendation noting that the safety measures were in place to deal with nuisance abatement in the event a project is not completed.

Council Members Jones and Mendall seconded the motion.

Council Member Jones thanked staff for bringing the item forward noting that the proposed amendment will encourage property owners to apply for a building permit and make sure such building projects are done in a safe manner and consistent with the California Building Code.

Council Member Mendall expressed support for the motion and noted a minor typographical error in the third line of Section 105.5 of the proposed Ordinance amendment, which needed to be fixed.

It was moved by Council Member Lamnin, seconded by Council Members Jones and Mendall, and carried unanimously, to adopt the following:

Introduction of Ordinance 15-_, “An Ordinance Amending Hayward Building Code Section 105.3.1 (Relating to Restrictions on Issuance of Building Permits) and Section 105.5 (Relating to Time Limitations on Building Permit Expiration)”

12. Authorization for the City Manager to Implement Near-Term Strategies to Assist Homeless Individuals in Hayward [LB 15-042](#)

Staff report submitted by Community Services Manager Jaeger, dated December 15, 2015, was filed.



MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, December 15, 2015, 7:00 p.m.

Library and Community Services Director Reinhart provided a synopsis of the staff report.

Discussion ensued among Council Members and City staff regarding: funding for employment and job skills training for homeless individuals beyond the one-year pilot; location for the winter warming center; and the social services component at the winter warming center.

Council Member Márquez recommended that the location of the winter warming center be accessible and that the City's lobbyist explore State revenue opportunities to fund the employment program beyond the one-year pilot such as resources through the Mattress Recycling Council.

Council Member Peixoto encouraged staff to tap into the expertise of Building Opportunities for Self Sufficiency (BOSS), make direct contact with Workforce Investment Board, and consider other federal employment resources.

Council Member Lamnin requested information about the number of people who have been placed in housing by Abode Services in Hayward; and that staff incorporate data into the report from the Hayward Homeless Count and the Alameda County Everyone Counts Campaign.

Council Member Jones asked for a contingency plan for funding the program in the event of an emergency when the warming center needs to be open beyond the estimated fifty nights.

Council Member Zermeño encouraged staff to continue to collaborate with BOSS and County agencies.

Mayor Halliday opened the public hearing at 9:22 p.m.

Ms. Sue Merrill, Executive Director of South Hayward Parish, thanked everyone for the support and noted that she expected there would be a need for additional funding in anticipation of a wet winter.

Ms. Marcy Timberman, Hayward resident, praised the Downtown Streets Team model in San Jose.

Mayor Halliday closed the public hearing at 9:26 p.m.

Council Member Lamnin was concerned that stakeholders were not given an opportunity to be a part of the proposal.

Council Member Lamnin offered a motion to authorize the execution of an agreement to provide up to \$25,000 to open a new winter warming center for homeless individuals and

coordinate social services; have a letter of support for the \$180,000 county effort with language that speaks for accountability standards; and recommend that the \$205,000 in Community Development Block Grant be allocated for a workforce model and that there be a short RFP process.

Council Member Zermeño seconded the motion and asked that the motion include language that would provide flexibility to increase the allocation in the event the center needs to be open for more than fifty nights.

Council Member Mendall did not support the motion, but was inclined to support the three recommendations offered in the staff report.

Council Member Jones noted that staff responded to Council's direction for immediate action and suggested that each of the three resolutions be taken as separate items to allow for discussion related to specific elements in the recommendation.

Mayor Halliday expressed support for staff's recommendation.

Council Member Márquez expressed support for staff's recommendation because the service for homeless individuals was needed immediately.

Council Member Lamnin withdrew her motion and offered a motion per staff's recommendation with two requests for staff: include at least one individual in Hayward who has been affected by homelessness in future proposals that are developed; and that proposed policies be reviewed by the Community Services Commission for community vetting before they are presented to the City Council.

Council Member Márquez seconded the motion.

Council Member Zermeño asked that the motion include language that would provide flexibility to increase the allocation in the event the winter warming center needs to be open for more than fifty nights. Council Members Lamnin and Márquez were amenable to the motion.

Council Member Mendall supported the motion and noted that it was implied in the motion that future recommendations would have a more deliberate process.

Mayor Halliday expressed support for the motion.

It was moved by Council Member Lamnin, seconded by Council Member Márquez, and carried unanimously, to adopt the following with request of staff to: include at least one individual in Hayward, who has been affected by homelessness, in future proposals that are developed; that proposed policies be reviewed by the Community Services Commission for community vetting before they are presented to the City Council; and give staff the flexibility, in the event of an emergency, to increase the allocation in the event the winter warming center needs to be open for more than fifty nights.



MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, December 15, 2015, 7:00 p.m.

Resolution 15-234, "Resolution Appropriating \$25,000 from the City of Hayward Fiscal Year 2016 General Fund and Authorizing the City Manager to Partner with the County of Alameda and Community-Based Service Providers to Implement a Winter Warming Center for Homeless Individuals in North Hayward"

Resolution 15-235, "Resolution In Support of the Efforts of the County of Alameda and Abode Services to Expand Outreach Services to Homeless Individuals Living in Outdoor Encampments in Hayward"

Resolution 15-236, "Resolution Amending the City of Hayward Community Development Block Grant (CDBG) FY 2016 Annual Action Plan to Utilize \$205,000 in Restricted Program Income Funds for the Implementation of the Hayward Downtown Streets Team Homeless Employment Program"

CITY MANAGER'S COMMENTS

There were none.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Lamnin asked staff to consider unbundling parking from housing for the KB Home Bay Area housing project.

Council Member Jones reported that 21 animals were adopted at the Hayward Animal Shelter during the "Home for the Holidays" event sponsored by the SantaCon Hayward on December 12 and 13, 2015.

Council Member Zermeño thanked City staff and his colleagues for a productive 2015 and wished everyone a happy holiday season.

Mayor Halliday shared a video clip of the performance by Mayor Halliday, Council Member Lamnin, City Attorney Lawson, Development Services Director Rizk, and Mr. Jonathan Zimmerman at the Ballet Petit's 37th Annual Nutcracker production on December 6, 2015.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 10:51 p.m., in memory of Mr. Edward "Eddie" Muniz and Ms. Vana Chavez.

Mr. Edward “Eddy” Muniz was a longtime Hayward resident, attended Hayward schools, excelled in sports, had a great sense of humor, dedicated his life serving the Hayward Police Department from 1968 to 1999, and had been selected Policeman of the Year for the City of Hayward.

Ms. Vana Chavez served on the Eden Youth and Family Center’s Board of Directors representing as the President, Vice President and Treasurer; and was honored at the Hayward Volunteer Recognition and Awards Dinner on October 6, 2015.

Mayor Halliday noted the City Council would reconvene on January 12, 2016.

APPROVED:

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

Staff Report

File #: CONS 16-001

DATE: January 12, 2016

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adoption of Ordinance Amending Hayward Building Code Section 105.3.1 (Relating to Restrictions on Issuance of Building Permits) and Section 105.5 (Relating to Time Limitations on Building Permit Expiration)

RECOMMENDATION

That the City Council adopts the Ordinance introduced on December 15, 2015.

BACKGROUND

The Ordinance was introduced by Council Member Lamnin at the December 15, 2015, meeting of the City Council with the following vote:

AYES: Council Members: Zermeño, Jones, Mendall, Peixoto, Lamnin, Márquez
Mayor Halliday
NOES: Council Members: None
ABSENT: Council Members: None
ABSTAIN: Council Members: None

The Ordinance was approved with a minor typographical correction in Section 105.5 Expiration. The extra word in the section was eliminated and is proposed to read as follows:

SECTION 105.5 EXPIRATION

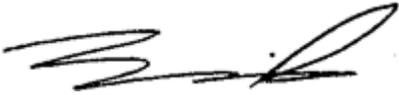
105.5 Expiration: Every permit issued shall become invalid unless the work on the site authorized by such permit commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods of not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, January 9, 2016. Adoption at this time is therefore appropriate.

File #: CONS 16-001

Recommended and Prepared by: Miriam Lens, City Clerk

Approved by:

A handwritten signature in black ink, appearing to read 'Fran David', with a stylized flourish at the end.

Fran David, City Manager

Attachments: Summary of Ordinance Published on 1/9/16

PUBLIC NOTICE OF AN INTRODUCTION OF ORDINANCE
BY THE CITY COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE AMENDING HAYWARD BUILDING CODE SECTION
105.3.1 (RELATING TO RESTRICTIONS ON ISSUANCE OF BUILDING
PERMITS) AND SECTION 105.5 (RELATING TO TIME LIMITATIONS ON
BUILDING PERMIT EXPIRATION)

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Sections 105.3.1 and 105.5 of The Hayward Building Code, established by adoption of Ordinance 13-21, are hereby deleted and in substitution thereof a new Section 105.3.1 and Section 105.5 are added as follows:

BUILDING CODE
OF THE CITY OF HAYWARD

SECTION 105.3.1 ACTION ON AN APPLICATION

SECTION 105.5 EXPIRATION

A copy of such Building Code is on file in the office of the City Clerk, to which reference is hereby made for further particulars. Reference is also made to the State's Matrix amendments.

Section 2. Severance. Should any part of this ordinance be declared by a final decision of a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 3. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

Introduced at the meeting of the Hayward City Council held December 15, 2015, the above-entitled Ordinance was introduced by Council Member Lamnin.

This Ordinance will be considered for adoption at a special meeting of the Hayward City Council, to be held on January 12, 2016, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: January 9, 2016
Miriam Lens, City Clerk
City of Hayward



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

Staff Report

File #: PH 16-001

DATE: January 12, 2016

TO: Mayor and City Council

FROM: Director of Development Services

SUBJECT

Proposed subdivision and construction of six detached single-family homes around a central open space area located at 1151 Overlook Avenue, requiring adoption of a resolution and introduction of an ordinance for a zone change from Sustainable Mixed Use (SMU) to Planned Development (PD) and approval of Tentative Tract Map 8244 - Overlook Terrace, LLC (Applicant/Owner)

RECOMMENDATION

That City Council adopts the attached resolution (Attachment I), adopting the Negative Declaration (ND) and approving the Vesting Tentative Tract Map Application; and introduces the attached ordinance (Attachment II), approving the Zone Change Application to build six detached single-family homes as proposed.

SUMMARY

The project is supported by staff because the proposed density of 6.8 dwelling units per net acre is consistent with the General Plan designation of Sustainable Mixed Use, which allows a density range of 4.3 to 100 dwelling units per net acre. In addition, the overall project site density is consistent with the zoning of properties in the area (6,000 sq. ft. minimum) and clusters development on this sloped property, which is encouraged in the City's Hillside Design Guidelines. The homes are well-designed with high-quality architectural features and each has a unique design to avoid a tract home appearance. In addition, as described in this report, the project includes amenities to support making the required Planned Development (PD) rezone findings.

BACKGROUND

The project site was acquired by the State of California as part of the Hayward Foothill Freeway Project. After the project was abandoned, the property was rezoned to Sustainable Mixed Use as part of the 2009 [Route 238 Bypass Study <http://www.ci.hayward.ca.us/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/rp/2009/rp063009-07.pdf>](http://www.ci.hayward.ca.us/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/rp/2009/rp063009-07.pdf). The rezone of the property to Sustainable Mixed Use was related to planning for future development of the nearby large former quarry site to the north. One conceptual proposal for the quarry site, the [Bayview Quarry Village Project <http://bayviewvillage.us/>](http://bayviewvillage.us/), was presented as a higher density project with a project-serving shuttle, minimal on-site parking spaces, and a small neighborhood-serving retail use, but did not materialize into a formal application. The

former quarry site was also considered by HUSD staff for a new middle school, but that project also never materialized. No active applications are on file for any other project at the quarry site. The existing development pattern of the area is relatively low-density, single-family homes.

Planning Commission Review - The project was reviewed by the Planning Commission at a public hearing held on December 17, 2015. The Planning Commission was not able to provide a recommendation to the City Council, due to the absence of two Commissioners, since a recommendation would require a minimum of four votes. A motion to approve the project failed on a 3 to 2 vote. The draft meeting minutes are included as Attachment III. The two key items discussed by the Planning Commission were the provision of open space for residents and the compatibility of the density of the project with existing development in the area.

Clustering Development - Open space is often an issue with small lot-single family developments. It is staff's view that the applicant has done all that can be done to accommodate open space on such a constrained site. Far greater amounts of open space for each unit could be provided if the units were spread out over the entire development site, but doing so would have other consequences, such as impacting an area of environmental value. The southern portion of the site has two terraces where the ground is depressed below the surrounding soils, creating areas where water has pooled. In these areas, several red willow trees are present, and there is a high percentage of hydrophytic vegetation (wetland plants).

In terms of compatibility with surrounding development, the current zoning requires a minimum of twenty-two units on this site, which staff views as far too high given the steep topography and environmentally sensitive southern areas of the site, and because this property is not being considered as part of a future quarry development. The applicant instead proposed six units, which equates to an overall site density of one unit for each 6,600 square feet of lot area. This is consistent with the density in the area; the only key difference is that in this case the units are clustered to leave approximately 56% of the site untouched. This clustering results in the same number of units on the site as if it were developed similarly to the existing homes in the area, though the units are closer together in order to preserve portions of the site in its current state. Clustering is supported by the City's Hillside Design Guidelines because it maintains the same overall density while shifting intensity of development to areas with less environmental sensitivity. Specific sections of the '[City's Hillside Design and Urban/Wildland Interface Guidelines <http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/DEVELOPMENT-SERVICES/documents/planning/RES%2093-037.pdf>](http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/DEVELOPMENT-SERVICES/documents/planning/RES%2093-037.pdf)' related to clustering home development and site design that support this development type include:

- F1: Preferred hillside development includes clusters of approximately 8 to 12 single-family dwellings or large clusters of multi-family structures separated by inter-connected natural open space corridors.
- F2: Development should be clustered to avoid geologic hazards and preserve significant natural site features, including but not limited to rock outcroppings, woodland and riparian vegetation, mature trees, natural drainage courses, important wildlife habitat areas and corridors, and scenic views.
- G1: Structures should be sited outside of the dripline of mature trees to minimize impacting tree roots and to avoid creating a fire safety hazard.

DISCUSSION

Project Description - The project site is an infill site, totaling 0.88 acres, and borders single-family homes to the west and north, and vacant hillside land to the south and east. The overall development intensity is consistent with the zoning of adjacent development and the project design clusters development to avoid more sensitive areas and reduce grading.

This project requires a Zone Change from Sustainable Mixed Use to Planned Development because it does not meet certain development standards of the existing zoning district (lot size, required minimum number of residential units, minimum lot frontage, minimum average lot width, setbacks, and maximum number of parking spaces allowed). A Vesting Tentative Tract Map is also proposed to subdivide the property in order to construct six detached single-family homes and open space (see plans, Attachment V).

Site Plan - The proposed homes will be constructed on lots ranging from 2,632 to 3,762 square feet in size. The units will range from 2,450 to 2,800 square feet in size. The overall site plan provides pedestrian oriented frontages along both Overlook Avenue and Palisade Street, keeping garages and driveways out of view from the public street as much as possible. Based on staff's direction, patios were added to facades facing Overlook Avenue, creating better curb appeal and connection to the public realm.

Public utility easements are proposed along public frontages, and access easements are provided throughout the driveways and group open space areas. A portion of the site adjacent to Carlos Bee Boulevard is proposed to be provided to the City as right-of-way dedication. The southern portion of the site is included as part of the Planned Development district and could not be further developed without a modification of the Planned Development District, requiring approval by the City Council.

In terms of open space, the primary open space is provided by the group open space area at the center of the development. This area is directly accessible to all units and includes a stairway to the units on the upper terrace. The open space area provides seating, including a decorative informal seating wall. Surfaces are stamped concrete and pavers, and landscaping is provided throughout to create an environment where residents can gather. In addition, four of the six units also have private balconies on upper floors, with an average size of sixty feet. Additional open space areas were explored during the review of the project, but additional private or group open space areas would potentially impact areas which are preserved in a natural state.

Transportation and Circulation - The development proposes two access points. Four units would be accessed from Overlook Avenue via a private driveway, and two units would be accessed from Palisade Street via a private driveway. No direct vehicular access onto Carlos Bee Boulevard would be provided. The City's transportation analysis concluded that these roads are capable of supporting the proposed development. In addition, the site is approximately a 0.3-mile walk to the nearest AC Transit stop, which is located downhill from the project site at the corner of Carlos Bee Boulevard and Mission Boulevard. The stop is served by lines 22, 99, and 801, which provides loop service throughout the City of Hayward.

All driveways and private courts shall have a minimum twenty-four-foot wide travel lane to be adequate for circulation and meet Fire Department accessibility requirements. The driveways and courts are to be designated as fire lanes and no parking will be allowed in them. Fire lane signage will be installed along the common driveways and curbs will be painted red as directed by the Fire Chief and City Engineer. Full frontage improvements, including curb, gutter and sidewalk, will be installed along all public frontages.

Building Elevations and Floor Plans - As shown on Attachment V, the six homes are individually designed to create a development more similar to custom homes than a tract development. The units are well sized and will fit into the existing neighborhood character. Four of the six units have a full bedroom and bathroom on the ground level or the main living level to assist with “aging in place” and multi-generational housing needs. The homes were redesigned between the initial submittal and the current plan to integrate into the existing slope. Unit heights were reduced so that half of the units are two-story in height, in keeping with typical development in the area. The three units which are three-story (partial stories) in height are integrated into the existing slope to reduce the effects of their heights.

Deviation from City Standards - Under the current zoning designation, the project would not be possible without modifications to some of the development standards. The purpose of the Planned Development District is to encourage development through efficient and attractive space utilization that might not otherwise be achieved through strict application of the existing zoning development standards.

The current zoning designation for the property is Sustainable Mixed Use (SMU), which was created primarily in association with redevelopment of the former quarry site. Thus, the zoning for the property was crafted to facilitate the use of the quarry site as a middle school or as a relatively dense residential project with a focus on environmental sustainability and alternative transportation. The intent of the SMU zoning designation was to provide flexibility for adaptive reuse of the quarry site, just as the intent of the Planned Development district is to provide flexibility for development of sites where deviation from standards may result in a better project. This project meets such criteria, providing a better fit with existing development in the area and reducing development intensity on a site where sensitive environmental features are present.

The northern portion of the site is proposed to be developed with six detached single-family units, which is far below the residential density range of twenty-five to fifty-five units per net acre that is required by the SMU zoning. However, because there are no formal plans to redevelop the quarry site at this time, given the character of development around the site, the existing grade of the site, and the potential for impacts to the environmentally sensitive portions of the site, staff feels that the proposed density is preferable to the density range allowed by zoning. The reduction in density is consistent with the General Plan designation for the site and will not impact the City’s ability to meet regional housing goals.

To accommodate the proposed project, deviations from the following Hayward Municipal Code requirements are required:

- Minimum Lot Size (2,632 to 3,762 square feet square feet where at least 20,000 square feet is required)
- Minimum Lot Frontage (45.7 to 53.0 feet where at least 100 feet is required)
- Minimum Average Lot Width (46 to 60 feet where at least 100 feet is required)
- Setbacks (project meets setbacks from public streets, but does not between units, where a range

- of 6-11 feet is provided where a minimum of 10 feet is normally required)
- Parking (2 garage spaces per unit proposed where a maximum of 1.5 spaces per unit is normally allowed)
- Residential Density (6.82 units per acre where 25 to 55 units per acres is normally allowed)

The deviations from standards are required because the proposed project type is different than what was envisioned for the site (and quarry site) when the SMU zone was created, when the site was envisioned to accommodate a multi-family residential project with twenty-two to forty-eight units.

Amenities Provided in Excess of Standards - For “functional facilities or amenities not otherwise required or exceeding other required development standards,” the applicant proposes the following:

- A 400 square foot central open space area in the courtyard and not in the common driveway area, is designed to connect the upper and lower units and tie the upper and lower areas of the project together. The open space area is well designed with colored concrete and pavers to complement the design of the homes. The area is proposed to have tables and chairs, as well as informal seat-walls in order to give residents a place to gather.
- Installation of solar photo-voltaic systems on all units
- Installation of electric vehicle charging stations within the garages of all units

The inclusion of a central open space area is not required by the performance standards of single family residential zones. Inclusion of this open space area helps reduce the impact of the reduced lot sizes and associated lack of open space on each lot. In addition, the group open space area serves to tie the two levels of the development together, creating a central area where residents of all six homes can come together. This feature, along with the patios and balconies facing public streets and common driveways, serves to create a friendlier, more neighborly atmosphere in the development. Also, the group open space will be separated from the drive lane by an informal seatwall, which is a decorative element and about three feet in height, which will block anyone from parking in that area.

Environmental Impact Analysis - An Initial Study was prepared for the project, which found that the project, as proposed, has no potential for any significant impacts to the environment. The [Initial Study and Negative Declaration <http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/DEVELOPMENT-SERVICES/documents/2015/Initial_Study-Neg_Dec-Overlook_Ave_Homes.pdf>](http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/DEVELOPMENT-SERVICES/documents/2015/Initial_Study-Neg_Dec-Overlook_Ave_Homes.pdf) were posted for public review between October 2, 2015 and November 23, 2015. No comments were received.

ECONOMIC IMPACT

There would be generated a few construction-related temporary jobs for this development. However, given this is a six-unit infill development, economic impacts are considered minimal.

FISCAL IMPACT

Based on the City’s fiscal impact model, if the units are sold at the expected price of at least \$600,000, the cost of providing services to the project will initially equal the expected revenues from the project. Thus, the fiscal impact is negligible.

PUBLIC CONTACT

Initial notices of receipt of the Project applications were sent on March 18, 2015 to property owners and residents within a 300-foot radius of the Project site, as well as to interested parties in the neighborhood. A total of 653 notices were sent. In addition, a preliminary meeting was held on December 10, 2015 for the public to comment on the project. No persons were in attendance of such meeting.

Notices of the December 17, 2015 Planning Commission public hearing and plans to adopt the Draft Negative Declaration were sent to all property owners within a 300-foot radius of the project on November 13, 2015. A total of 653 notices were sent. In addition, notice of that hearing was published in *The Daily Review* on November 13, 2015.

Notices of this public hearing and plans to adopt the Draft Negative Declaration were sent to all property owners within a 300-foot radius of the project on December 21, 2015. A total of 653 notices were sent. In addition, notice of this public hearing was published in *The Daily Review* on January 2, 2015.

One public comment was received prior to the Planning Commission hearing from the owner of the adjacent property to the east regarding the project, included as Attachment IV. That owner voiced objections to the project related to the suitability of the site for any development, and the impact of the new structures on the bay views afforded to neighboring properties. The suitability of the site was analyzed by staff through the project review and CEQA analysis, and staff views the intensity and layout of the development to be appropriate for the site. The impact to views was also analyzed via cross-sections provided in the project drawings. Based on the results of that analysis, the height of some of the units was reduced to two-stories from the initially proposed three-stories. With that modification, no significant impact to views was found by staff, given most of the existing view corridor from the adjacent residence (to the west and south) will be preserved. Any additional comments that are received before the City Council meeting will be forwarded to the Council for consideration.

NEXT STEPS

Assuming the Council approves the Project, the applicant will need to submit a Precise Development Plan, Final Map and Improvement Plans for review by various City departments. Staff will forward the Final Map to City Council for review and approval, after which construction permit applications will be processed and permits issued to ultimately allow for construction of the project.

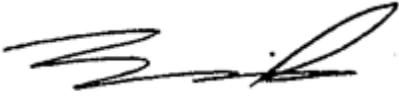
Prepared by: Michael Christensen, Assistant Planner

Reviewed by: Sara Buizer, Planning Manager

Recommended by: David Rizk, Director of Development Services

File #: PH 16-001

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution
Attachment II	Ordinance
Attachment III	December 17, 2015 Draft Planning Commission Meeting Minutes
Attachment IV	Public Comment Letter from Adjacent Property Owner
Attachment V	Project Plans

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

Introduced by Councilmember _____

RESOLUTION ADOPTING THE NEGATIVE DECLARATION AND APPROVING VESTING TENTATIVE TRACT MAP APPLICATION AND ZONE CHANGE APPLICATION 201501012 PERTAINING TO THE DEVELOPMENT OF SIX DETACHED SINGLE-FAMILY HOMES AT 1151 OVERLOOK AVENUE

WHEREAS, on March 3, 2015, Sandeep Aujla, Overlook Terrace, LLC (Applicant/Owner) submitted Zone Change and Vesting Tentative Tract Map Application No. 201501012 for the property located at 1151 Overlook Avenue, requesting a zone change from Sustainable Mixed Use to Planned Development District and a property subdivision to facilitate construction of six detached single-family homes (the "Project"); and

WHEREAS, an Initial Study and Negative Declaration have been prepared to assess the potential environmental impacts of the Project; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on November 17th and forwarded the project to the City Council without providing a recommendation; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on January 12, 2016.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Pursuant to CEQA Guidelines Section 15220, an Initial Study ("IS") was prepared for this project with the finding that a Negative Declaration ("ND") was appropriate because all potential impacts are below a level of significance.
2. That the proposed ND was prepared by the City of Hayward as the Lead Agency and was circulated with at least a twenty (20) day public review period, beginning on October 2, 2015 and continuing through Monday, November 23, 2015.
3. That the proposed ND was independently reviewed, considered and analyzed by the

City Council and reflects the independent judgment of the City Council; that such independent judgment is based on substantial evidence in the record (even though there may be differences between or among the different sources of information and opinions offered in the documents, testimony, public comments and such responses that make up the proposed ND and the administrative record as a whole); that the City Council adopts the proposed ND and its findings and conclusions as its source of environmental information; and that the proposed ND is legally adequate and was completed in compliance with CEQA.

4. That the proposed ND identified all potential adverse impacts, and based on the ND and the whole record before the City Council, there is no substantial evidence that the project will have a significant effect on the environment.
5. That the project complies with CEQA, and that the proposed ND was presented to the City Council, which reviewed and considered the information contained therein prior to approving the project. The custodian of the record of proceedings upon which this decision is based in the Development Services Department of the City of Hayward located at 777 B Street, Hayward, CA 94544.

ZONE CHANGE

6. The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies, including the following General Plan Policies:

Land Use Policies

LU-3.6 Residential Design Strategies: The City shall encourage residential developments to incorporate design features that encourage walking within neighborhoods by:

- Orienting homes, townhomes, and apartment and condominium buildings toward streets or public spaces.
- Locating garages for homes and townhomes along rear alleys (if available) or behind or to the side of the front facade of the home.
- Enhancing the front facade of homes, townhomes, and apartment and condominium buildings with porches, stoops, balconies, and/or front patios.
- Ensuring that windows are provided on facades that front streets or public spaces.

LU-3.7 Infill Development in Neighborhoods: The City shall protect the pattern and character of existing neighborhoods by requiring new infill developments to have complimentary building forms and site features.

Housing Policies

Goal H-2.1 Homeownership Housing: The City shall encourage the development of ownership housing and assist tenants to become homeowners to reach a 60 percent owner occupancy rate, within the parameters of federal and state housing laws.

H-3.1 Diversity of Housing Types: The City shall implement land use policies that allow for a range of residential densities and housing types, prices, ownership, and size, including low density single-family uses, moderate-density townhomes, and higher-density apartments, condominiums, transit-oriented developments, live-work units, and units in mixed-use developments.

H-3.3 Sustainable Housing Development: The City shall improve affordability by promoting sustainable housing practices that incorporate a ‘whole system’ approach to siting, designing, and constructing housing that is integrated into the building site, consumes less water and improves water quality, reduces the use of energy use, and other resources, and minimizes its impact on the surrounding environment

H-3.4 Residential Uses Close to Services: The City shall encourage development of residential uses close to employment, recreational facilities, schools, neighborhood commercial areas, and transportation routes.

H-3.6 Flexible Standards and Regulations: The City shall allow flexibility within the City’s standards and regulations to encourage a variety of housing types.

H-4.1 Flexible Development Standards: The City shall review and adjust as appropriate residential development standards, regulations, ordinances, departmental processing procedures, and residential fees that are determined to be a constraint on the development of housing, particularly housing for lower- and moderate-income households and for persons with special needs.

7. Streets and utilities, existing or proposed, are adequate to serve the development, in that the proposed development is located on an in-fill site surrounded by existing streets and there are utilities available with adequate capacity to serve the proposed development. In addition, the project is required to underground any overhead utilities in front of the site and fronting any public street.
8. Through the inclusion of amenities such as solar energy systems, electric vehicle chargers, and a central area for group gathering, the development creates a residential environment of sustained desirability and stability. The development will have no substantial adverse effect upon surrounding development, as evidenced in the Negative Declaration.
9. Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards. Proposed exceptions are offset by the incorporation of a large group open space area and installation of both solar photovoltaic systems and electric vehicle charging stations

on all units. In addition, the majority of the site is proposed to be protected from future development.

VESTING TENTATIVE TRACT MAP 8266

10. The proposed map is consistent with applicable general and specific plans as specified in Section 64541 of the Subdivision Map Act. [Subdivision Map Act §66474(a)]
11. The design and improvement of the proposed subdivision are consistent with applicable general plan and specific plans. [Subdivision Map Act §66474(b)]
12. The site is physically suitable for the type of development, as demonstrated through the findings of the Initial Study and Negative Declaration. Subdivision Map Act §66474(c)]
13. The site is physically suitable for the proposed density of development, as it is consistent with the General Plan designation for the site and the traffic infrastructure in the area is sufficient to support the density of the project. [Subdivision Map Act §66474(d)]
14. That the design of this infill project and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. A Negative Declaration prepared pursuant to the guidelines of the California Environmental Quality Act (CEQA) for the development of this site demonstrates that substantial adverse environmental damage, including to fish or wildlife and their habitat, would not result from the proposed project. [Subdivision Map Act §66474(e)]
15. That the design of the subdivision or type of improvements are not likely to cause serious public health problems as adequate capacity exists to provide sanitary sewer service to the Project site. There are no other aspects of the Project with the potential to cause serious public health problems. [Subdivision Map Act §66474(f)]
16. That the design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. There are no existing public easements within the boundary of the proposed subdivision, nor are any easements necessary. Upon completion of the proposed improvements, the streets and utilities would be adequate to serve the project. New public easements are to be offered for dedication as necessary. [Subdivision Map Act §66474(g)]

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the Negative Declaration and approves Zone Change and Vesting Tentative Tract Map Application 201501012, subject to the adoption of the companion ordinance (Ordinance No. 16-XXX) rezoning the property

located at 1151 Overlook from Sustainable Mixed Use to Planned Development District, subject to the attached conditions of approval (Exhibit "A").

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

EXHIBIT A

CONDITIONS OF APPROVAL

January 19, 2016

Overlook Terrace, LLC (Applicant/Owner),

Zone Change and Tentative Tract Map Application No. 201501012 (Tract 8244)

Zone Change from Sustainable Mixed Use (SMU) to Planned Development (PD), and Tentative Tract Map 8244 for the subdivision and construction of six single-family homes on a 0.88-acre site at 1151 Overlook Avenue

GENERAL

1. In accordance with Zoning Ordinance §10-1.2500 (Planned Development District), this approval is for the Preliminary Development Plan, subject to all conditions listed below, included herein as:

Exhibit A –Planned Development and Tentative Tract Map 8244 submitted by Overlook Terrace, LLC, September 23, 2015, respectively.

2. The project approval shall coincide with the approval period for the Tentative Tract Map. If a building permit is issued for construction of improvements authorized by the Zone Change approval, said approval shall be void two years after issuance of the building permits, or three years after approval of Precise Plan application, whichever is later, unless the construction authorized by the building permits has been substantially completed or substantial sums have been expended in reliance upon the Precise Plan approval.
3. This approval is tied to Tentative Tract Map 8244 and all conditions of approval of that map shall also apply to this approval.
4. The subdivider shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.

PRECISE PLAN SUBMITTAL

5. In accordance with Zoning Ordinance §10-1.2550 and prior to submitting a building permit application, a Precise Development Plan shall be submitted for review and approval.
6. The Precise Development Plan shall be in substantial conformance with the approved Preliminary Development Plan and incorporate conditions herein, and shall be submitted in conjunction with the subdivision improvement plans and Final Map.

EXHIBIT A

7. The project approval includes the following project amenities to support the finding required to be made that “any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards”. These three amenities include:
 - a. Installation of photovoltaic solar systems on all units;
 - b. Install electric vehicle charging equipment within the garages of all units; and
 - c. Inclusion of a group open space area in a central area of the development
8. The applicant shall submit revised project plans for review and approval by the Planning Director that clearly shows the details of each project amenity. Such project amenity details shall be included in the Precise Plan submittal for final approval.
9. The Precise Development Plan shall include the following information and/or details:
 - a. A copy of these conditions of approval shall be included on a full-sized sheet(s).
 - b. Proposed location for construction staging, designated areas for construction employee parking (on- and off-site), construction office, sales office (if any), hours of construction, provisions for vanpooling construction workers or having them use transit to access the site, provisions for noise and dust control, and common area landscaping.
 - c. Details of address numbers shall be provided. Address number shall be decorative. Building addresses shall be minimum 4-inch self-illuminated or 6-inch on contrasting background. Address numbers shall be installed so as to be visible from the street.
 - d. Proposed locations, heights, materials and colors of all walls and fences.
 - e. A minimum of one exterior hose bib shall be provided for each residential unit.
 - f. Proposed pavement materials for all drive aisles, parking areas, and pedestrian paths.
 - g. Proposed mailbox design and locations, subject to Post Office approval. All mailboxes shall be locking mailboxes.
 - h. A final lighting plan prepared by a qualified illumination engineer shall be included to show exterior lighting design. Exterior lighting shall be erected and maintained so that adequate lighting is provided along the private street. The Planning Director shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of houses within the project.
 - i. All air conditioners and utility connections for air conditioners shall be located behind solid board fences or walls and shall not exceed the height of the fence or wall, unless otherwise approved. Infrastructure for air

EXHIBIT A

- conditioning systems is required to be installed as a standard feature.
- j. Proposed color and materials board for all buildings, fences and walls. No changes to colors shall be made after construction unless approved by the Planning Director.
 - k. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened with shrubs and/or an architectural screen.
 - l. No mechanical equipment, other than solar panels, shall be placed on the roof unless it is completely screened from view by the proposed roof structure. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by building code. Roof apparatus, such as vents, shall be painted to match the roof color.
 - m. Large expanses of blank wall shall not be allowed. Articulate or otherwise treat such expanses to avoid bulkiness.
 - n. All decorative window treatments shall be extended to all elevations.
 - o. All rear and side entries visible from the street shall be protected by roofs with rooflines to match the pitch of the roof.
 - p. An area within each garage for individual garbage and recycling receptacles shall be provided and shall be clear of the required area for two cars. As an alternative, an area within the fenced side yard may be used for the garbage and recycling containers but shall be shown.
 - q. All parking stall dimensions shall conform to the City's Off-street Parking Ordinance. All two car garages shall have minimum interior dimensions of 20-foot width by 19-foot depth. The dimensions shall be shown on plans. No doors, stairs, landings, laundry facilities, trash/recycle containers or HVAC shall project within the required interior parking areas.
10. Any proposal for alterations to the proposed site plan and/or design which does not require a variance to any zoning ordinance standard must be approved by the Development Services Director or his/her designee, prior to implementation.
11. Details of all project amenities shall be submitted for review and approval by the Planning Director during the Precise Plan phase of the project.
12. All final exterior building finishes, paint colors and other architectural details shall be reviewed and approved by the Planning Division in accordance with the City of Hayward's Design Guidelines prior to issuance of a building permit for the project.
13. The project shall comply with the 2013 California Energy Code Section 110.10 for Solar Ready Homes, involving coordination between the project architect and energy consultant regarding the design and orientation of roof surfaces.

PRIOR TO SUBMITTAL OF SUBDIVISION IMPROVEMENT PLANS AND FINAL MAP

14. Subdivision improvement plans shall implement all items noted on "Exhibit T".
15. In conjunction with the Precise Plan, the applicant/developer shall submit subdivision improvement plans including Landscape and irrigation plans and a final

EXHIBIT A

map application for the entire project. Said improvement plans and final map shall meet all City standards and submittal requirements except as expressly approved for this Planned Development.

16. Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed, at no cost to the City of Hayward.
17. Unless indicated otherwise, the design for development shall comply with the following:
 - a) All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Articles 1 and 3, and Standard Specifications and Details.
 - b) All construction shall meet the California Building Codes (CBC) and all applicable City of Hayward Building Codes and amendments.
 - c) Design and construction of all pertinent life safety and fire protection systems shall meet the California Fire Code and all applicable City of Hayward Fire Codes and amendments.
18. A Registered Civil Engineer shall prepare all Civil Engineering improvement plans; a Licensed Architect shall prepare all architectural plans; and a Licensed Landscape Architect shall prepare all landscape unless otherwise indicated herein.

Subdivision Improvement Plans

19. Subdivision Improvement Plans shall be approved in concurrence with the Precise Development Plan. Submit the following proposed improvement plans with supporting documents, reports and studies:
 - a) A detailed drainage plan, to be approved by the Alameda County Flood Control and Water Conservation District (ACFC&WCD) and the City Engineer, designing all on-site drainage facilities to accommodate the runoff associated with a ten (10) year storm and incorporating onsite storm water detention measures sufficient to reduce the peak runoff to a level that will not cause capacity of downstream channels to be exceeded. Existing offsite drainage patterns, i.e., tributary areas, drainage amount and velocity shall not be altered by the development. The detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be approved by the City Engineer and by the ACFC&WCD prior to issuance of any construction or grading permit.
 - b) A detailed Stormwater Treatment Plan and supporting documents, following City ordinances and conforming to Regional Water Quality Control Board's Staff recommendations for new development and redevelopment controls for storm water programs.

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Storm Water Quality Requirements

20. The following materials related to the Storm water quality treatment facility requirements shall be submitted with improvement plans and/or grading permit application:
- a) The owner/developer shall enter into a City's standard "Storm Treatment Measures Maintenance Agreement" (as prepared by the City and is available in the Engineering and Transportation Division); the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
 - b) Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the City for review and approval by the City Engineer. All reports such as Soil Report, SWPPP, and SWMP are to be submitted in bound form. The Soil Report and SWMP shall be wet-stamped and signed by the engineer. The certification page of the SWPPP shall be signed by a Qualified SWPPP Developer (QSD) person who prepared the report. Documents that are clipped or stapled will not be accepted.
 - c) Before commencing any grading or construction activities at the project site, the developer shall obtain a National Pollutant Discharge Elimination System (NPDES) permit and provide evidence of filing of a Notice of Intent (NOI) with the State Water Resources Control Board.
 - d) The project plans shall include the storm drain design in compliance with post-construction stormwater requirements to provide treatment of the stormwater according to the National Pollutant Discharge Elimination System (NPDES) permit's numeric criteria. The design shall comply with the C.3 established thresholds and shall incorporate measures to minimize pollutants to the maximum extent practicable (MEP).
 - e) The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site in order to limit the entry of pollutants into storm water runoff to the maximum extent practicable.
 - f) The proposed BMPs shall be designed to comply with the hydraulic sizing criteria listed in Provision C.3 of the Alameda County Clean Water Program (ACCWP) NPDES permit (page 30). In addition, the California Stormwater Quality Association's Stormwater best Management Practice Handbook New Development and Redevelopment, Subsection 5.5 on pages 5-12 has a section titled "BMP Design Criteria for Flow and Volume". These materials are available on the internet at www.cabmphandbooks.com
 - g) The project shall be designed with a Bioretention Treatment Area and shall use a Bioretention Soil Mix (BSM) per Attachment L of the C.3 Stormwater Technical Guidance dated May 14, 2013, with a minimum infiltration rate of 5 inches per hour.
 - h) All inlet rims in the Bioretention Treatment Area (BTA) shall be 6" minimum above the flow line of the BTA. The design of the longitudinal flow line shall be level.
 - i) The following documents shall be completed and submitted with the improvement and/or grading plans:

EXHIBIT A

- i. Hydromodification Management Worksheet;
- ii. Infiltration/Rainwater Harvesting and Use Feasibility Screening Worksheet;
- iii. Development and Building Application Information Impervious Surface Form;
- iv. Project Applicant Checklist of Stormwater Requirements for Development Projects;
- v. C.3 and C.6 Data Collection Form; and,
- vi. Numeric Sizing Criteria used for stormwater treatment (Calculations).

21. The developer shall be responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.

Private Streets and Court (Common Driveway)

22. Any damaged and/or broken curb, gutter and sidewalks along the property frontages shall be removed and replaced as determined by the City.
23. The on-site streetlights and pedestrian lighting shall be LED lights and have a decorative design approved by the Planning Director. The locations of the lights shall be shown on the improvement plans and shall be approved by the City Engineer. Submit photometric plans with the improvement plans. Such fixtures shall have shields to minimize "spill-over" lighting on adjacent properties that are not part of the tract.
24. Proposed private courts (common driveways) improvements shall be designed, generally reflective of the alignment and width shown on the submitted Tentative tract map, and as approved by the City Engineer.
25. Entrances to Private Court shall conform to the City Standard SD-108A with detectable warning surface on both sides.
26. No parking shall be allowed within the private court. Curbs shall be painted red along BOTH sides of the private courts.
27. The private court shall not extend more than 5 feet beyond the garage door entries of the end units served by such court, unless needed for designated parking spaces.
28. The private court pavement sections shall be designed to public street standards. The private court shall be designed with a TI of five and minimum AC thickness of four inches.

Public Streets

29. All existing driveways to be abandoned shall be removed and replaced with standard curb, gutter and sidewalk.

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Storm Drainage

30. The project streets, driveways, and parking areas shall be designed to facilitate street sweeping, including the layout of tree and handicap ramp bulb outs. The HOA shall be responsible for street sweeping on a regular basis.
31. The project shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
32. Storm water inlets shall be installed at the curb face per the City of Hayward Standard Details. The design and location shall be approved by the City Engineer.
33. Improvements for storm drain system shall incorporate the following:
 - a) The locations and design of storm drains shall meet the City's standard design and be approved by the City Engineer and if necessary, the Alameda County Flood Control and Water Conservation District (ACFC&WCD). Any alternative design shall be approved by the City Engineer prior to installation.
 - b) Storm drain pipes in streets and courts shall be a minimum of twelve inches in diameter with a minimum cover of three feet over the pipe.
 - c) The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to determine storm drainage runoff. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be submitted, which shall meet the approval of the Alameda County Flood Control and Water Conservation District (ACFC&WCD) and the City. Development of this site shall not augment runoff to the ACFC&WCD's downstream flood control facilities. The hydrology calculations shall substantiate that there will be no net increases in the quantity of runoff from the site versus the flow rate derived from the original design of downstream facilities.
 - d) The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the project hydrology design shall clearly indicate all areas tributary to the project area. The developer is required to mitigate unavoidable augmented runoffs with offsite and/or on-site improvements.
 - e) No surface runoff is allowed to flow over the sidewalks and/or driveways. Area drains shall be installed behind the sidewalks to collect all runoff from the project site.
 - f) All storm drain inlets must be labeled "No Dumping - Drains to Bay," using City-approved methods.

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- g) Post-development flows should not exceed the existing flows. If the proposed development warrants a higher runoff coefficient or will generate greater flow, mitigation measures shall be implemented.

Sanitary Sewer System

- 34. All sewer mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Sewer Mains and Appurtenances (12" Diameter or Less)," latest revision at the time of permit approval (available on the City's website at <http://user.govoutreach.com/hayward/faq.php?cid=11188>). Sewer cleanouts shall be installed on each sewer lateral at the connection with the building drain, at any change in alignment, and at uniform intervals not to exceed 100 feet. Manholes shall be installed in the sewer main at any change in direction or grade, at intervals not to exceed 400 feet, and at the upstream end of the pipeline.
- 35. There is an existing 8" sanitary sewer main in Overlook Avenue and an 8" sanitary sewer main in Palisade Street. Lots 3-6 will be served by an 8" building court sewer main that connects to the sewer main in Overlook Avenue, per SD-301. Lots 1-2 will have individual sanitary sewer laterals that connect to the sewer main in Palisade Street.
- 36. Each single family dwelling unit shall have an individual sanitary sewer lateral. The sewer laterals shall have cleanouts and be constructed per City Standard Detail SD-312.
- 37. The current sewer connection fees for single-family residential is \$7,700 per unit. Sewer connection fees shall be paid prior to final inspection.

Water System

- 38. All public water mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Water Mains and Fire Hydrants," latest revision at the time of permit approval (available on the City's website at <http://user.govoutreach.com/hayward/faq.php?cid=11188>).
- 39. There is an existing 8" water main in Overlook Avenue and a 6" water main in Palisade Street. The proposed development will have water service for Lots 3-6 off of the water main in Overlook Avenue and Lots 1-2 off of the water main in Palisade Street.
- 40. The new public water main shall include all valves and appurtenances required by the City and shall be constructed at the applicant's/developers expense.
- 41. All water services from existing water mains, if any, shall be installed by City Water Distribution Personnel at the applicant's/developer's expense. The developer may only construct new services in conjunction with the construction of new water mains.
- 42. Domestic & Fire Services:

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- a. Domestic: Each single-family residence (SFR) shall have an individual domestic water meter. Currently, the cost for a new residential water meter for a SFR (any size up to 1") and service line is \$11806, each (\$3500 installation fee + \$8106 facilities fee + \$200 radio read fee). If the new services are constructed by the applicant/developer in conjunction with their construction of the new water main, the installation fee is reduced to \$310, for a total of \$8616 each service.
 - b. Fire: Each structure shall have its own fire service, sized per the requirements of the Fire Department. Fire services shall have an above ground Double Check Valve Assembly, per City Standards SD-201 and SD-204.
 - c. Combined Residential Services: The development could use combined residential domestic and fire services for each residence. Residential combined domestic and fire services are allowed, per City Standard SD-216. The minimum size for a residential fire service connection is 1 inch (combined or not) and the maximum size for combined services is 2 inches. If the calculated fire demand exceeds 160 GPM, a separate fire service will be required. Note that, per CBC 2010 R313, flow-through or multipurpose systems may not require a backflow device (SD-216 is attached). Also note that combined services must connect directly to the water main (manifold layouts are not allowed).
43. Irrigation: It is anticipated that one or more separate irrigation water meters and services shall be installed for development landscaping. Currently, the cost for an irrigation service and meter is \$19,910 for 1", \$37,200 for 1.5" and \$56,940 for 2". The applicant/developer shall install an above ground Reduced Pressure Backflow Prevention Assembly (RPBA) on each irrigation water meter, per SD-202. Backflow preventions assemblies shall be at least the size of the water meter or the water supply line on the property side of the meter, whichever is larger.
 44. All domestic and irrigation water meters shall be radio-read type.
 45. Water meters and services are to be located a minimum of two feet from top of driveway flare as per SD-213 thru SD-218.
 46. Water mains and services, including the meters, must be located at least 10 feet horizontally from and one-foot vertically above any parallel pipeline conveying untreated sewage (including sanitary sewer laterals), and at least four feet from and one foot vertically above any parallel pipeline conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade (i.e., pressure) piping materials.
 47. Water service is available from the City of Hayward and is subject to standard conditions and fees in effect at the time of application.

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Solid Waste

48. Applicants must comply with applicable City standards to obtain building permits, as follows:
- a. Residential Collection of Garbage and Recyclables: Residents are required to place their garbage, recycling, and organics carts at the curb for weekly collection service by contracted service providers:
 - i. The standard type of garbage, recycling, and organics containers are (1) 32-gallon cart for Garbage, (1) 64-gallon cart for Recycling, and (1) 64-gallon cart for Organics.
 - ii. The total space required for the standard service is approximately 3 feet by 9 feet. Sufficient space should be allocated in the garage to allow residents to keep the containers inside. Alternatively, the containers may be kept in a side yard behind a fence. Trash and recycle containers shall be stored out of public view on non-pickup days.
 - iii. Residents shall not place carts at the curb any earlier than 6:00 a.m. the day before scheduled collection, and are required to retrieve them no later than midnight the days the carts are emptied. (Hayward Municipal Code Section 5-1.15).
 - b. Requirements for Recycling Construction & Demolition Debris: City regulations require that applicants for all construction, demolition, and/or renovation projects, in excess of \$75,000 (or combination of projects at the same address with a cumulative value in excess of \$75,000) must recycle all asphalt and concrete and all other materials generated from the project. Applicants must complete the Construction & Demolition Debris Recycling Statement, a Construction and Demolition Debris Recycling Summary Report, and weigh tags for all materials disposed during the entire term of the project, and obtain signature approval from the City's Solid Waste Manager prior to any off haul of construction and demolition debris from the project site.
49. Each unit shall have sufficient space allocated to trash, recycle, and organics carts.

Other Utilities

50. All service to dwellings shall be an "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T (phone) Company and Comcast cable company regulations. Transformers and switch gear cabinets shall be placed underground unless otherwise approved by the Planning Director and the City Engineer. Underground utility plans must be submitted for City approval prior to installation.
51. All proposed surface-mounted hardware (fire hydrants, electroliers, etc.) along the proposed streets shall be located outside of the sidewalk within the proposed Public Utility Easement in accordance with the requirements of the City Engineer or, where applicable, the Fire Chief.

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52. The developer shall provide and install conduits and junction boxes to allow for the installation of future fiber optic network within the subdivision, which will be owned and maintained by the City.
53. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.

Landscape and Irrigation Plans

54. Park Dedication In-Lieu Fees are required for all new dwelling units. Fees shall be those in effect at the time of issuance of the building permit.
55. All proposed shrubs shall be spaced according to their natural mature sizes without routine maintenance for cutbacks or shear in compliance with Bay-Friendly Water Efficient Landscape Ordinance. Proposed plant spacing shall in compliance with either Sunset Western Garden Book and East Bay Plants or Landscapes for Summer-Dry Climates.
56. Prior to issuance of the first building permit, detailed landscaping and irrigation improvement plans shall be approved by the City's Landscape Architect. Copies of approved landscape and irrigation improvement plans shall be submitted with building permit submittal package. Planting and irrigation shall comply with the City's Hayward Environmentally Friendly Landscape Guidelines and Checklist for professional, Bay-Friendly Water Efficient Landscape Ordinance, and Municipal Codes.
57. Mylar of the approved landscape and irrigation improvement plans shall be submitted to the Engineering Department. The size of Mylar shall be twenty-two (22) inches by thirty-four (34) inches without an exception. A signing block shall be provided in the low right side on each sheet of Mylar. The signing block shall contain a signature line and date for City of Hayward, Landscape Architect. Upon completion of installation, As-built/Record Mylar shall be submitted to the Engineering Department by the developer.
58. Individual water meter and sewer cleanout shall be located in the driveway with traffic bearing lids.
59. One twenty-four-inch box tree shall be planted at every twenty to forty feet on center along Austin Avenue and Huntwood Avenue.
60. Root barrier shall be provided for all trees that are located within seven feet of paved edges or structure.
61. Trees shall be planted according to the City Standard Detail SD-122.
62. Group open spaces shall be connected well planned and safe pedestrian network attractive and appropriate design to promote maximum interaction with neighbors.

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The walkway connecting paseo to the group open space shall be generous and wide. The open space shall be connected with safe pedestrian networks with enhanced paving and crossings throughout the development and through the private street.

63. Minimum twelve inches wide leveled landscape area shall be provided where bio-treatment area is located adjacent to hardscape such as curbs, sidewalks, walkways and structure before starting side slope.
64. Tree can be located in the C.3 treatment area on the side slope when all other tree planting setback requirements are met. Required tree planting shall not be compromised due to compliance with C.3 treatment requirements.

Fire Protection

65. All public streets, private streets and private courts shall be designed and engineered to withstand 75,000 lbs. gross vehicle weight of fire apparatus. Such standard is also applicable to pavers or decorative concrete. Design of the public streets and private streets and courts shall meet City of Hayward Fire Department Standards.
66. The minimum width of fire lane is 20 feet. The minimum width of fire lane with fire hydrants is 26 feet. An unobstructed vertical clearance of not less than 13 feet 6 inches shall be maintained at all time.
67. Fire lane of 20 to 26 feet wide shall be posted on both sides as a fire lane; 26 feet to 32 feet shall be posted on one side of the road as a fire lane. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.
68. Addressing of the buildings shall be in compliance with the Hayward Fire Department requirements. All buildings shall have a minimum 4 inch self-illuminated address installed on the front of the building so as to be visible from the street. A decorative address monument sign shall be installed at each court entrance, indicating the building addresses for the units served by such court. Minimum size numbers shall be 6 inches in height on a contrasting background.
69. If fire hydrants are located so as to be subjected to vehicle impacts as determined by the Hayward Fire Department, crash posts shall be installed around the fire hydrant(s).
70. Spacing and locations of fire hydrants shall be subject to review and approval by the Hayward Fire Department.
71. All new fire hydrants shall be Modified Steamer Hydrant (Clow Valve Co. Model LB 614 with one 2-1/2" outlet and one 4-1/2" outlet). The capacity of each individual hydrant shall be a minimum 1,500 GPM. Vehicular protection may be required for the fire hydrants. Blue reflective fire hydrant blue dot markers shall be installed on the roadways indicating the location of the fire hydrants.

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72. A health-based and water quality clearance shall be obtained from either the State Department of Toxic Substances Control or the California Regional Water Quality Control Board – San Francisco Bay Region. If it is determined that remediation of soil and/or groundwater is necessary, oversight of one of these two agencies would be required.
73. Submit for proper building permits for the construction of the building to the Building Department. All building construction shall meet the requirements of the 2013 California Residential Code.
74. Buildings are required to install fire sprinkler systems in accordance with NFPA 13D.
75. Per the requirement of Hayward Public Works Department, a static pressure of 80 PSI should be used when a water test data indicates a higher pressure. The residual pressure should be adjusted accordingly.
76. Underground fire service line serving NFPA 13D sprinkler systems shall be installed in accordance with the Hayward Public Work Department SD-216. Water meters shall be minimum one-inch in diameter.
77. An interior audible alarm device shall be installed within the dwelling in a location so as to be heard throughout the home. The device shall activate upon any fire sprinkler system water flow activity.
78. All bedrooms and hallway areas shall be equipped with smoke detectors, hard-wired with battery backup. Installation shall conform to the California Building Code (CBC).
79. CO detectors should be placed near the sleeping area on a wall about 5 feet above the floor. The detector may be placed on the ceiling. Each floor needs a separate detector.
80. An approved type spark arrestor shall be installed on any chimney cap.

Prior to Certificate of Occupancy

81. Final fire department/hazardous materials inspection is required to verify that requirements for fire protection facilities have been met, and actual construction of all fire protection equipment has been completed in accordance with the approved plan. Please contact the Fire Marshal's Office at (510) 583-4910 at least 24 hours before the desired final inspection appointment.
82. Prior to issuance of Building or Grading Permits, a final clearance shall be obtained from either the California Regional Water Quality Control Board or the Department of Toxic Substance Control and submitted to the Hayward Fire Department. The clearance certificate will ensure that the property meets investigation and cleanup

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standards for residential development. Allowance may be granted for some grading activities, if necessary, to ensure environmental clearances.

83. Prior to grading, structures and their contents shall be removed or demolished under permit in an environmentally sensitive manner. Proper evaluation, analysis and disposal of materials shall be done by appropriate professional(s) to ensure that hazards posed to development construction workers, neighbors, the environment, future residents and other persons are mitigated. All hazardous materials and hazardous waste must be properly managed and disposed of in accordance with state, federal and local regulations.
84. Any wells, septic tank systems and other subsurface structures - including hydraulic lifts for elevators - shall be removed properly in order not to pose a threat to the development, construction workers, future residents or the environment. Notification shall be made to the Hayward Fire Department at least 24 hours prior to removal. Removal of these structures shall be documented and done under permit, as required by law.
85. The Hayward Fire Department's Hazardous Materials Office shall be notified immediately at (510) 583-4910 if hazardous materials are discovered during demolition or during grading. These shall include, but shall not be limited to, actual/suspected hazardous materials, underground tanks, vessels that contain or may have contained hazardous materials.
86. During construction, hazardous materials used and hazardous waste generated shall be properly managed and disposed.

Final Tract Map

87. Prior to recordation, a proposed Final Tract Map shall be submitted for review by the City. The Final Tract Map shall be presented to the City Council for review and action. The City Council meeting will be scheduled approximately sixty (60) days after the Improvement Plans with supporting documents and Final Map are deemed technically correct, and Subdivision Agreement and Bonds are approved by the City. The executed Final Map shall be returned to the City Public Works Department if Final Map has not been filed in the County Recorder's Office within ninety (90) days from the date of the City Council's approval.
88. Prior to the recordation of the Final Tract Map, all documents that need to be recorded with the final map shall be approved by the City Engineer and any unpaid invoices or other outstanding charges accrued to the City for the processing of the subdivision application shall be paid.
89. The final map shall reflect all easements needed to accommodate the project development. The private street and driveways shall be dedicated as a Public Utility Easement (PUE), Public Access Easement (PAE), Water Line Easement (WLE), Sanitary Sewer Easement (SSE), and Emergency Vehicle Access Easement (EVAE).

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90. Prior to the approval of the Final Map, the developer shall pay the costs of providing public safety services to the project should the project generate the need for additional public safety services. The developer may pay either the net present value of such costs prior to issuance of building permits, or the developer may elect to annex into a special tax district formed by the City and pay such costs in the form of an annual special tax. The developer shall post an initial deposit of \$20,000 with the City prior to submittal of improvement plans to offset the City's cost of analyzing the cost of public safety services to the property and district formation.

PRIOR TO ISSUANCE OF BUILDING OR GRADING PERMITS AND CONSTRUCTION WITH COMBUSTIBLE MATERIALS

91. Pursuant to the Municipal Code §10-3.332, the developer shall execute a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements. Insurance shall be provided per the terms of the subdivision agreement.
92. Prior to issuance of building permits, a final map that reflects and is in substantial compliance with the approved Tentative tract map, shall be approved by the City Engineer and is in the process for filing with the office of the Alameda County Clerk Recorder.
93. Submit the following documents for review and approval, or for City project records/files:
- a) Copy of the Notice of Intent filed with State Water Resources Control Board;
 - b) Engineer's estimate of costs, including landscape improvements;
 - c) Signed Final Map;
 - d) Signed Subdivision Agreement; and
 - e) Subdivision bonds.

114. Plans for building permit applications shall incorporate the following:

- a) A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
- b) A lighting plan prepared by a qualified illumination engineer shall be included to show exterior lighting design. All exterior lighting shall be designed by a qualified lighting designer and erected and maintained so that light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights-of-way. Such lighting shall also be designed such that it is decorative and in keeping with the design of the development. Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas. The Planning Director or his/her designee shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the buildings. Exterior lighting shall be shielded and deflected

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away from neighboring properties and from windows of proposed buildings.

- c) Plans shall show that all utilities will be installed underground.

115. Required water system improvements shall be completed and operational prior to the start of combustible construction.
116. The developer/subdivider shall be responsible to adhere to all aspects of the approved Storm Water Pollution Prevention Plan (SWPPP) per the aforementioned condition of approval.
117. A representative of the project soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe all grading operations and provide any recommended corrective measures to the contractor and the City Engineer.
118. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.

PRIOR TO ISSUANCE OF CERTIFICATES OF OCCUPANCY

During Construction

119. The developer shall ensure that unpaved construction areas are sprinkled with water as necessary to reduce dust generation. Construction equipment shall be maintained and operated in such a way as to minimize exhaust emissions. If construction activity is postponed, graded or vacant land shall immediately be revegetated.
120. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
- a. Grading and site construction activities shall be limited to the hours 7:00 AM to 7:00 PM Monday through Saturday and 10:00 AM to 6:00 PM Sunday and Holidays. Grading hours are subject to the City Engineer's approval. Building construction hours are subject to Building Official's approval;
 - b. Grading and construction equipment shall be properly muffled;
 - c. Unnecessary idling of grading and construction equipment is prohibited;
 - d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
 - e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. Letters shall be mailed to surrounding property owners and residents within

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300 feet of the project boundary with this information and a copy provided to the Planning Division.

- f. The developer shall post the property with signs that shall indicate the names and phone number of individuals who may be contacted, including those of staff at the Bay Area Air Quality Management District, when occupants of adjacent residences find that construction is creating excessive dust or odors, or is otherwise objectionable. Letters shall also be mailed to surrounding property owners and residents with this information prior to commencement of construction and a copy provided to the Planning Division.
- g. Daily clean-up of trash and debris shall occur on Austin Avenue, Huntwood Avenue, and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
- h. Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution;
- i. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work;
- j. The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions;
- k. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;
- l. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- m. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- n. Sweep public streets daily if visible soil material is carried onto adjacent public streets;
- o. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
- p. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
- q. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
- r. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
- s. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4)

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saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;

- t. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill;
 - u. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See "Building Maintenance/Remodeling" flyer for more information;
 - v. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
 - w. The developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the Alameda County Department of Health and the Regional Water Quality Control Board.
121. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.
122. In the event that human remains, archaeological resources, prehistoric or historic artifacts are discovered during construction of excavation, the following procedures shall be followed: Construction and/or excavation activities shall cease immediately and the Planning Division shall be notified. A qualified archaeologist shall be retained to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedure for evaluation accidental finds and discovery of human remains shall be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.
123. The applicant shall comply with standards identified in General Plan Appendix N – Noise Guidelines for the Review of New Development. Measures to ensure compliance with such standards shall be developed by a state licensed acoustical engineer and incorporated into building permit plans, to be confirmed by the Planning and Building Divisions. Also, confirmation by a state licensed acoustical engineer that such standards are met shall be submitted after construction and prior to issuance of certificates of occupancy.
124. Prior to final inspections, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.
125. Prior to the issuance of Certificate of Occupancy, all landscape and irrigation shall be completed and installed in accordance with the approved plan and accepted by the project landscape architect prior to submitting a Certificate of Completion. The

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final acceptance form must be submitted prior to requesting an inspection with the City Landscape Architect. An Irrigation Schedule shall be submitted prior to the final inspection and acceptance of landscape improvements.

126. Landscape and tree improvements shall be installed according to the approved plans prior to the occupancy of each building. All common area landscaping, irrigation, and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of eighty percent of the dwelling units, whichever first occurs, and a Certificate of Completion, as-built Mylar and an Irrigation Schedule shall be submitted prior to the Final Approval of the landscaping for the Tract to the Public Works – Engineering and Transportation Department by the developer.

Homeowners Association

127. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever occurs first, Conditions, Covenants and Restrictions (CC&R's), creating a homeowners association (HOA) for the property, shall be reviewed and approved by the Planning Director and City Attorney and recorded. The CC&R's shall describe how the stormwater BMPs associated with privately owned improvements and landscaping shall be maintained by the association. The CC&Rs shall include the following provisions:
 - a. The CC&R's 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:
 - i) 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.
 - ii) It is understood that by the provisions hereof, the City of Hayward is

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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.

- iii) 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.
 - iv) 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.
 - v) 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.
- b. The above five paragraphs cannot be amended or terminated without the consent of the Hayward City Council.
 - c. Each owner shall automatically become a member of the association(s) and shall be subject to a proportionate share of maintenance expenses.
 - d. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association(s).
 - e. The HOA shall be managed and maintained by a professional property management company.
 - f. The HOA shall own and maintain the private access roads and on-site storm drain systems in the development, excluding those located within the public right-of-way.
 - g. A provision that the building exteriors and fences shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly

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basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City.

- h. The HOA shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The HOA representative(s) shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within fifteen days of notification to the homeowner. Plants in the common areas shall be replaced within two weeks of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
- i. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
- j. The garage of each unit shall be maintained for off-street parking of two vehicles and shall not be converted to living or storage areas. The HOA shall conduct at least semi-annual inspections to confirm that all residents are using their garages for parking their cars and not for storage. Residents shall make garages available for such inspections, as appropriate. An automatic garage door opening mechanism shall be provided for all garage doors.
- k. Individual homeowners shall maintain in good repair the exterior elevations of their dwelling. The CC&Rs shall include provisions as to a reasonable time period that a unit shall be repainted, the limitations of work (modifications) allowed on the exterior of the building, and the right of the home owners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean and free of debris at all times. Color change selections shall be compatible with the existing setting.
- l. The HOA shall maintain all fencing, parking surfaces, common landscaping, lighting, drainage facilities, project signs, exterior building elevations, etc. The CC&Rs shall include provisions as to a reasonable time period that the building shall be repainted, the limitations of work (modifications) allowed on the exterior of the buildings, and its power to review changes proposed on a building exterior and its color scheme, and the right of the home owners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean.
- m. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
- n. On-site streetlights and pedestrian lighting shall be owned and maintained by the HOA and shall have a decorative design approved by the Planning Director and the City Engineer.

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- o. Street sweeping of the private street and private parking stalls shall be conducted at least once a month.
- p. The association shall ensure that no less than 75 percent of the units shall be owner-occupied. The CC&Rs shall further provide that the leasing of units as a regular practice for business, speculative investment or other similar purpose is not permitted. However, to address special situations and avoid unusual hardship or special circumstances, such as a loss of job, job transfer, military transfer, change of school or illness or injury that, according to a doctor, prevents the owner from being employed, the CC&Rs may authorize the governing body to grant its consent, which consent shall not be unreasonably withheld, to a unit owner who wishes to lease or otherwise assign occupancy rights to a specified lessee for a specified period.

Prior to the Issuance of Certificate of Occupancy or Final Report

- 128. All buildings shall be designed using the California Building Codes in effective at the time of submitting building permit applications.
- 129. All common area landscaping, irrigation and other required improvements shall be installed according to the approved plans.
- 130. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
- 131. Park Dedication In-Lieu Fees are required for all new dwelling units. Fees shall be those in effect at the time of the Tentative Tract Map is approved. All Park dedication in-lieu fees shall be paid prior to issuance of a Certificate of Occupancy for a residential unit.
- 132. Landscaping shall be maintained in a healthy, weed-free condition at all times and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection. Three inches deep mulch should be maintained in all planting areas. Mulch should be organic recycled chipped wood in the shades of Dark Brown Color. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Municipal Code. Irrigation system shall be tested periodically to maintain uniform distribution of irrigation water; irrigation controller shall be programmed seasonally; irrigation system should be shut-off during winter season; and the

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whole irrigation system should be flushed and cleaned when the system gets turn on in the spring.

133. The developer/subdivider shall be obligated for the following additional fees. The amount of the fee shall be in accordance with the fee schedule in effect at the time Tentative Tract Map was accepted as complete, unless otherwise indicated herein:
 - a) Supplemental Building Construction and Improvement Tax,
 - b) School Impact Fee
134. Final Hayward Fire Department inspection is required to verify that requirements for fire protection facilities have been met and actual construction of all fire protection equipment have been completed in accordance with the approved plan. Contact the Fire Marshal's Office at (510) 583-4910 at least 24 hours before the desired final inspection appointment.
135. The improvements associated with the Pacific Gas and Electric Company, AT&T (phone) company and local cable company shall be installed to the satisfaction of the respective companies.
136. The Stormwater Treatment Measures Maintenance Agreement for the project, prepared by Public Works Engineering and Transportation Division staff, shall be signed and recorded in concurrence with the Final Map at the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
137. The applicant/subdivider shall submit an AutoCAD file format (release 2010 or later) in a CD of approved final map and 'as-built' improvement plans showing lot and utility layouts that can be used to update the City's Base Maps.
138. The applicant/subdivider shall submit an "as built" plans indicating the following:
 - a) Approved landscape and irrigation improvements;
 - b) All underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric, AT&T (phone) facilities, local cable company, etc.;
 - c) All the site improvements, except landscaping species, buildings and appurtenant structures; and
 - d) Final Geotechnical Report.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY REZONING CERTAIN PROPERTY IN CONNECTION WITH ZONE CHANGE APPLICATION NO. 201501012 RELATING TO A SIX UNIT RESIDENTIAL DEVELOPMENT AT 1151 OVERLOOK AVENUE

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Rezoning.

Article 1 of Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the property located at 1151 Overlook Avenue (APNs: 445-0170-038-06, 445-0170-038-07, 445-0170-038-08 and 445-0170-038-09) from Sustainable Mixed Use (SMU) to Planned Development (PD) District.

Section 2. Severance.

Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided the remainder of the ordinance, absent the excised portion, can be reasonable interpreted to give effect to intentions of the City Council.

Section 3. Effective Date.

This ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held on the 12th day of January, 2016, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of January, 2016, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, December 17, 2015, 7:00 p.m.
777 B Street, Hayward, CA94541**

MEETING

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair Parso-York.

ROLL CALL

Present: COMMISSIONERS: Willis Jr., Enders, Schott, Faria
CHAIRPERSON: Parso-York
Absent: COMMISSIONER: Goldstein, McDermott

SALUTE TO FLAG

Commissioner Faria led in the Pledge of Allegiance.

Staff Members Present: Alvarado Jr., Christensen, Cruz, Rizk, Schmidt

General Public Present: 46

PUBLIC COMMENT:

Mr. Kim Huggett, President of the Hayward Chamber of Commerce, spoke about the publication of the new Hayward Business directory. He shared that the 72nd annual Chamber of Commerce Awards Gala will be held on Saturday, January 30, 2016, and would honor the Fire Fighter, Police Officer, Educator, and Business Person of the year.

PUBLIC HEARINGS: For agenda item No. 1, the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of the decision. If appealed, a public hearing will be scheduled before the City Council for final decision. For agenda item No. 2 and agenda item No. 3, the Planning Commission may make a recommendation to the City Council.

1. Proposed Demolition of a Portion of the Southeastern Part of Southland Mall and Construction of a New Five-Theater Cinema with Ancillary Beer and Wine Sales at One Southland Mall Drive, requiring approval of a Conditional Use Permit in the Central Business (CBB20) District, Ashton Simmons (Applicant)/ Southland Mall L.P. (Owner).



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, December 17, 2015, 7:00 p.m.
777 B Street, Hayward, CA94541**

Senior Planner Schmidt provided a synopsis of the staff report.

Chair Parso-York opened the public hearing at 7:11 p.m.

Mr. Edward Bogue, President of the Southgate Homeowner's Association, expressed his support of the project and offered a couple of modifications to the project. In regards to the landscaping, he noted that a requirement of 30" buffer of plants for the site lines may impact visibility of traffic from La Playa Drive. He added that his Association preferred the original iteration of the project which featured a different elevation plan, which included different accents, a larger LED display, and a slightly different façade.

Mr. Kim Huggett, indicated that the proposed project was a step in the right direction for Hayward as it promoted residents to stay in town for entertainment options. He stated that individuals residing in the Eden Shores, Southgate, and Kennedy Park who would frequent Century Theaters in Union City and San Leandro could now attend a closely situated theater at Southland Mall. He commented that the proposed project would make Southland Mall financially viable and would increase revenue in Hayward generated from sales tax. Mr. Huggett stated that the General Manager of Rouse Properties was doing an excellent job in keeping the stores in Southland Mall filled, bringing exciting restaurants and a new sports facility.

Ms. Jenine Garcia, a Hayward resident, stated that although she supported the proposed theater as an addition to the mall, she was not favorable to alcohol sales at the theater. She commented that as a parent, she could presently drop her kids off at the mall to shop around but would feel uncomfortable doing this if alcohol was being sold at the mall. Ms. Garcia mentioned that if individuals want to consume alcohol, there were opportunities for this at the surrounding restaurants.

Ms. Sophia Espinosa, a member of the Hayward Youth Commission and a member of the Hayward Coalition for Healthy Youth, stated that the Hayward youth supported a new theater in Hayward in a recently conducted survey. She expressed concern over alcohol sales being permitted in conjunction with the new project. Ms. Espinosa commented that the image of the City be protected and strongly advised against going along with the new fad of allowing alcohol sales at movie theaters. She pointed out that the reason many attendees in the audience were holding teddy bears in hand was to remind the City to keep children in mind first when making such planning decisions.

Ms. Jennifer Armenta, a Hayward student, expressed concern about how the Conditional Use Permit would change the culture at Southland Mall. She shared that according to



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research, increased exposure and access to alcohol, contributes to lower perception of the harm of alcohol to young people. She urged the Planning Commission to reconsider the proposed project and also keep in mind how decisions about similar projects are made in the City.

Mr. Robert Dousa, a Hayward resident, noted that he has participated in DUI prevention programs for Hayward schools. He described that although the proposed project was beautiful, he raised the question of whether relying on alcohol sales was the only way to increase revenue opportunities in the City. He commented that amount of funds generated from sales tax would not be sufficient to cover the cost of the first DUI crash resulting from a noninsured patron of the proposed project. Mr. Dousa shared facts about problems arising from alcoholism. He expressed concern about young adolescents being in an environment such as a movie theater where alcohol may be permitted to be sold. He pointed out that in a restaurant setting, individuals consuming alcohol could be seated at different tables from those not drinking alcohol; however, with the proposed project, a non-consumer of alcohol could be sitting right next to someone who had been drinking.

Ms. Elisa Vigil, a member of a local youth coalition called Make Your Mark, expressed concern about the developing theater at Southland Mall that may be permitted to sell alcohol. She mentioned that the Kids Come First Campaign was developed in conjunction with the Hayward Coalition for Healthy Youth, which were created to protect youth friendly places in the City from exposure to substances such as alcohol, tobacco, marijuana, electronic cigarettes, and prescription drugs. Ms. Vigil noted that Southland Mall was one of the few remaining youth friendly places in Hayward. She underscored that there were many pressures for adolescents to engage in underage consumption of alcohol.

Mr. Andy Krake, a Castro Valley resident and a member of the Hayward Rotary Club, commended the youth present at the meeting who have voiced their concern about the proposed project. He stated that the proposed project would create jobs, it would help fulfill an entertainment need in the community, and would boost sales tax revenue for the City. He spoke favorably of Mr. Ashton Simmons who was the General Manager of Southland Mall.

Ms. Monica Ackerman, a longtime Hayward resident, stated that although she favored the proposed project, she stressed the importance of preserving Southland Mall as a kid friendly environment and objected the sale of alcohol at Southland Mall. She commented that she would not want her grandchildren to be exposed to inebriated individuals at the mall.



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Chair Parso-York closed the public hearing at 7:32 p.m.

Commissioner Enders thanked the members of the public who raised concern about the proposed project, especially the youth. She asked staff if there was any sales loss anticipated due to the movie theater that was being newly constructed at Newpark Mall.

Development Services Director Rizk noted that Rouse Properties also owned Newpark Mall. Mr. Ashton Simmons, with Rouse Properties and also the General Manager of Southland Mall, shared that in his experience in managing both malls, Southland Mall tended to draw customers from Northern Alameda County and Newpark Mall drew in customers from Southern Alameda County. He indicated that the movie theaters at both malls should not impact one another. He added that the AMC theater at Newpark Mall would be selling alcohol.

Commissioner Enders requested that the applicant elaborate on the loss of an 800 square foot senior center that was presently located in Southland Mall. Mr. Simmons stated that the senior center which was formerly inside Southland Mall was decommissioned for the last two years.

Commissioner Willis Jr. asked staff how employees of the cinema would monitor and document activities of patrons consuming alcohol at the theater.

Senior Planner Schmidt clarified that staff would not monitor alcohol consumption activity through surveillance cameras, but noted that individuals drinking alcohol would receive a wristband and would be drinking out of cups that would look much different than the regular concession cups. She shared that some of the conditions that staff has worked on with the Hayward Police Department (HPD) included requirements where staff members of the movie theater would be walking through movie theaters to ensure that people drinking alcohol were wearing wristbands and that individuals were drinking out of appropriate cups.

Mr. Simmons added that the Century Theater in Mountain View which now sold beer and wine included a process of requiring individuals consuming alcohol to present proper photo identification, they had to wear a wristband, and a maximum number of beverages sold per individual was also enforced. He shared that the movie theater was not completely dark and that there was ambient lighting which permitted employees to effectively monitor alcohol consumption. Mr. Simmons noted that although movie theaters have security cameras in place, it was unbeknownst to him whether the Century Theater in Mountain View relied on video surveillance for monitoring alcohol sales and consumption.



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Commissioner Willis Jr. asked how the staff at the proposed movie theater would enforce and document the two beverage maximum. Senior Planner Schmidt responded that the documentation kept would be for the number of alcohol sales over a given period of time, a record of the walkthroughs that employees did of each screening room, and any record kept of any potential issues or belligerent behavior. She added that the Hayward Police Department could request this documentation from the movie theater on a quarterly or monthly basis.

Senior Planner Schmidt elaborated for Commissioner Willis Jr. that CineArts could feature films that may not typically be shown at a larger blockbuster type movie theater, such as independent films.

Senior Planner Schmidt indicated for Commissioner Faria that the restrictions outlining the hours for alcohol sales were in the Conditions of Approval and stated that alcohol could be sold up to one hour after the start time of the last film for the day. She noted that this would give an individual sitting through the last show time of the night ample time to metabolize the consumption of the alcoholic beverage. She emphasized that in no case would alcohol sales be permitted after 12:30 a.m. Ms. Schmidt stated that no start time for alcohol sales was indicated in the Conditions of Approval.

In regards to Century Plaza located on B Street, Commissioner Schott noted that the City Council and the Planning Commission were adamant about not having a marquee on the outside of the building. He commented that with the current marquee located at Century Plaza, there was still the problem of some individuals braking in front of the movie theater in an attempt to read information on the marquee. He asked the applicant if the sign for Southland Mall visible from I-880 would be a marquee for the movie theater.

Mr. Simmons mentioned that it had not been determined yet if movie show times would appear on the electronic billboard for Southland Mall. He understood the concerns expressed by Commissioner Schott for the potential traffic hazard this may create for motorists travelling on I-880 who were trying to read cinema times. He shared that the method to see show times would be to go on the mall website, Cinemark website, or seeing the show times being played at the mall itself.

Mr. David Shesgreen, with Cinemark and the former CEO of Century Theaters, commented that utilizing marquees was becoming an obsolete practice at movie theaters as these presented too much information and were difficult for people to read.

Senior Planner Schmidt indicated for Commissioner Schott that in regards to the downtown



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movie theater, there was an existing agreement between the Successor Agency to the Redevelopment Agency and Cinemark. She elaborated that per the agreement, if another theater opened up which was not under Cinemark's ownership, then the Agency and the City would be responsible to pay a certain sum of money to Cinemark. She indicated that per Condition of Approval No. 4, Cinemark has agreed to enter into an agreement that will rescind this requirement in the event that the ownership of the proposed movie theater changes. Ms. Schmidt added that staff did not anticipate this occurring.

Development Services Director Rizk stated that the City's outside legal counsel has been working with Cinemark's legal counsel to establish an agreement related to Condition of Approval No. 4. He summarized that the agreement would protect the City from exposure to a potential \$5 million penalty related to the development of the proposed theater at Southland Mall. He added that this agreement would not apply to potential theaters at other locations in the City, as these would have to be evaluated separately.

Senior Planner Schmidt indicated for Commissioner Schott that the limitations for alcohol sales were as stated in the Conditions of Approval. She stressed that individuals who had purchased alcohol inside the movie theater could not leave the theater premises with their beverage, emphasizing that consumers could not walk into the mall with their beverage.

Commissioner Schott asked whether individuals could sit down in the lobby of the theater and purchase and have drinks in this area after watching a film.

Mr. James Blissett, architect for the cinema, noted that there was not a designated seating area in the movie theater plans for the consumption of alcohol. He mentioned that there was a bar area in the concession stands with a couple seats but there was no lounge type of environment.

Commissioner Schott admired the students for voicing their concerns about alcohol sales at the proposed movie theater. He gave the example of how bowling alleys have full service bars without measures such as wristbands in place to control alcohol sales and consumption. Mr. Schott commented that as a business owner himself, he stated that the operator of the proposed movie theater was a professional business operator who would not risk their ABC license enterprise-wide.

Chair Parso-York appreciated the input received from the public in audience. In regards to the comments expressed by Mr. Bogue, Chair Parso-York asked staff if there would be sufficient line of sight for traffic, considering that there was no sidewalk on La Playa Drive where the



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hedges are proposed to be placed for landscaping. Senior Planner Schmidt noted that included in the Conditions of Approval was the final submittal of a Landscape Design, adding that this concern could be reviewed during the process of the landscape design. She stated that sight distance would be evaluated by the Engineering and Transportation division.

Chair Parso-York commented that it was his understanding that landscaping could not obstruct line of sight for traffic. Senior Planner Schmidt responded that the landscaping requirements had height restrictions for plants that were in areas adjacent to driveways.

Chair Parso-York asked the applicant what the longest hours were alcohol sales for a theater managed by the applicant and what his experience had been with such facilities. Mr. Shesgreen mentioned that for a theater he managed in Evanston, Illinois, which was situated next door to Northwestern University, there was a successful 18 screen movie theater in operation with no issues. Mr. Shesgreen commented that this theater featured children's movies and art movies and pointed out that moviegoers were primarily there to watch movies. Mr. Shesgreen confirmed for Chair Parso-York that individuals would have to purchase a movie ticket before they could buy alcohol inside the theater.

Chair Parso-York requested that a representative from the Hayward Police Department share what the Police Department included in its evaluation before approving the sale of alcohol for the proposed project.

Lieutenant Darin Nishimoto with the Hayward Police Department, noted that he managed the VICE Intelligence Bureau. He stated that when the project application came forward, his department contacted police departments located in nearby jurisdictions that have movie theaters currently selling beer and wine. He reported that all of these jurisdictions did not have any problems occurring at their movie theaters. He stated HPD and Planning staff had worked together to establish regulations that would safeguard alcohol sales at the proposed movie theater.

Development Services Director Rizk clarified for Commissioner Willis Jr. that there would be a limit of two alcoholic beverages sold per customer per transaction.

Commissioner Willis Jr. expressed concern about the types of the movies that may be shown at the proposed movie theater attracting crowds similar to those who consume alcohol at bowling alleys.



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Senior Planner Schmidt commented that arthouse movie theaters typically draw in audiences ranging in the age group of thirties to forties, noting that children generally are drawn to blockbuster movie theaters that can showcase 3D or animated films. She highlighted that arthouse films usually consisted of award-winning foreign films. She did not feel that alcohol sales in conjunction with showing art movies would result in any type of nuisance.

Commissioner Willis Jr. asked what type of marketing study revealed that showing alcohol at a movie house would improve business. Mr. Shesgreen responded that it was evident in the revenue generated at movie theaters selling alcoholic beverages, noting that this has been immensely successful in drawing in a lot of people and making movie theaters more viable.

Commissioner Schott noted that in his experience in going to a movie with his wife, he usually goes to the concession stand and purchases food and drinks for himself and his wife. He shared that in his youth, he sold alcohol at a concession stand at the Oakland Coliseum where there were similar restrictions of a certain number of drinks being sold per sales transaction. He recalled that the ABC department would always conduct inspections to ensure adherence to alcohol sales regulations. Mr. Schott stated that the theater operators do not solely rely on revenue generated from the sales of movie tickets and also relied upon earnings from the concession stands. He commented that proposed project including alcohol sales was not very different than what was currently permitted at sporting events. He underscored that he had no problem with alcohol sales at the proposed movie theater as this would be done in a controlled environment, adding that the theater operator would not risk the liability of selling alcohol.

The applicant confirmed for Commissioner Schott that there would be no marketing restriction on which films could be shown at the proposed theater.

Commissioner Enders supported the project as it was crucial to promote business in the City. She understood the concerns expressed by the youth and other members of the community about alcohol sales at the movie theater; however, she pointed out that alcohol was a controlled substance. She was highly concerned about the uncontrolled substances that were being consumed in the City and were a ravaging issue. She highlighted that alcohol sales would be limited to beer and wine, and would not include hard liquor. She also noted that there were full service bar options located approximately 100 feet away from the movie theater and commented that individuals who want to consume a greater quantity of alcohol and create more of a raucous would be likely to concentrate at an establishment with a full service bar. Ms. Enders stated that Southland Mall would still have a family friendly environment whether alcohol is sold at the proposed movie theater or not.



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Commissioner Faria appreciated the concerns expressed by the youth. She agreed with Commissioner Enders' comments regarding there being numerous restaurants around Southland Mall with full service bars and happy hour specials in place. She noted that these same restaurants selling alcohol have seating areas for families that were not too far from the bar area. She supported the project noting that there would be less issues with alcohol being sold at a movie theater in comparison to a restaurant with a full service bar as the former offered a different type of environment than a restaurant. She indicated that the movie theater would be a great addition to the City and preferred the marquee and façade discussed by Mr. Bogue as these brought class to the area. She thanked the applicant for bringing this project to Southland Mall as it would make the shopping area more viable and would lead to further growth.

Chair Parso-York supported the marquee and façade mentioned by Mr. Bogue as this side of the movie theater would be facing the freeway. He thanked the members of the public for expressing their concern about alcohol sales at the proposed project; however, he shared that alcohol was a substance that was present within our homes and that individuals need to exercise self-control when consuming it. He pointed out that HPD had done ample research on the restrictions that will be in place at the proposed project site and that other theaters selling alcoholic beverages have had a positive experience. Mr. Parso-York stated that it wasn't uncommon to hear that malls were closing down across the nation, and he was delighted that an investment was being made to keep Southland Mall alive and going.

Commissioner Willis Jr. appreciated the comments received from the public about the proposed project; however, he was supportive of the proposed project as it would improve business in Hayward and there would be a controlled environment inside the movie theater in regards to the sales of alcohol. He made a motion to approve the proposed project per staff recommendation. The motion was seconded by Commissioner Schott.

Commissioner Enders was highly concerned with traffic impacts on the intersection of La Playa Drive and Winton Avenue. Senior Planner Schmidt shared that the recommendations in the memorandum were included as conditions for the proposed project which were on Attachment III. Ms. Schmidt indicated that one of the southbound lanes on the intersection Winton and La Playa will be restriped and that westbound lane would be re-channelized. She indicated for Commissioner Enders that although a representative from the Engineering and Transportation Division was not present, staff had carefully evaluated traffic concerns in this area and it was staff's conclusion that the recommendations outlined in the traffic study would improve traffic conditions.



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Commissioner Faria noted for Commissioner Enders that the barrier that was in place preventing traffic coming off Winton Avenue and preventing a left-turn on La Playa Drive was temporary for the holidays.

Senior Planner Schmidt confirmed for Commissioner Enders that the moving of the intersection from Winton Avenue would presently not occur as the mall property was under different ownerships. She noted that the restriping option was cost effective and would enhance traffic circulation in the area.

Commissioner Enders voiced that there were traffic flow concerns throughout the City, emphasizing that it was impactful to public transportation and she was worried that traffic congestion problems would deter the public from using public transit options. She stated that the Winton Avenue area was along a major public transit route. She underscored that traffic concerns need to be addressed as more residents move into the City.

The motion passed with the following vote:

AYES:	Commissioners Willis Jr., Enders, Schott, Faria Chair Parso-York
NOES:	None
ABSENT:	Goldstein, McDermott
ABSTAIN:	None

- Proposed subdivision and construction of six detached single-family homes around a central open space area located at 1151 Overlook Avenue requiring a zone change from Sustainable Mixed Use (SMU) to Planned Development (PD) and approval of Tentative Tract Map 8244 - Overlook Terrace, LLC (Applicant/Owner)

Assistant Planner Christensen provided a synopsis of the staff report. He noted that the original application was for eight homes; however, at staff's request, the project was redesigned to feature six homes and this yielded in enhanced architectural definitions for the proposed units. He added that the elevation for four of the units was reduced from three stories to two stories. Mr. Christensen shared that a letter was received from a citizen after the publication of the Agenda Packet expressing concerns about views. He added that in staff's field survey and view study, it was determined that Unit 2 which was an upper tier unit, did have the potential to block some views to the west; however, these views were already impacted by trees and



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existing development. He stated with a reduction of the elevation, it was shown to have no impact on views.

Chair Parso-York opened and closed the public hearing at 8:25 p.m.

Commissioner Willis Jr. requested that staff elaborate on Condition of Approval No. 127, Section A. Assistant Planner Christensen responded that many of the sections for Conditions, Covenants and Restrictions (CC&R) for Homeowners Associations were standardized and applied to proposed developments in the City, noting that Condition of Approval No. 127 would provide some flexibility to the City.

Commissioner Willis Jr. expressed concern that if the City were at some point to withdraw interest in the proposed development, would it lose jurisdiction over the abatement of nuisances.

Assistant City Attorney Alvarado noted that Condition of Approval No. 127 applied to obligations under the CC&R's to the residents of the proposed development, the City was included in the provisions as the City maintains the authority to abate nuisances on private property and did not relinquish the City's ability to enforce generally applicable public nuisance laws.

Commissioner Willis Jr. commented that two of the homes appear to be isolated from the remaining four units as the two homes would face Palisade Street and the four units would have its own separate entryway. He wondered the reasoning for this design as there was a Homeowners Association. He mentioned that there was a current property owner adjacent to the proposed project site who expressed concern that their privacy would be violated due to the view from the higher level property overlooking their activity. He described that the same property owner was concerned that excavation work may cause erosion of the land and damage to the property.

Assistant Planner Christensen noted that although the site was located on a high grade, creating a two level structure severely limits the amount of grading that is required for the site. He described that it was staff's preference that a development mold into the hillside rather than tear the hillside. He added that in order to integrate the two levels, there would be central open space area and also pointed out that the applicant designed a stairwell system to tie the development together. In regards to the upper tier, Mr. Christensen noted that staff did have the same privacy concerns for the adjacent property owner initially. He added that the initial application was for a three story product for both of the units on the upper tier; however, the redesign to a two story reduced the height.



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Commissioner Willis Jr. asked staff to elaborate on the architectural requirements for the City. Assistant Planner Christensen stated that the owner of a nearby rental property had expressed concern about the architectural design of the proposed project, he mentioned that staff felt that the overall architecture proposed for the project was fitting with the existing neighborhood and noted that the existing housing stock was older.

Assistant Planner Christensen stated that although the units may have a smaller floorplate and is slightly taller, this was because the units are on smaller lots. The benefit of this resulted in the preservation of the southern portion of the property. He added that incorporating the taller units into the hillside helped minimize the impact. He commented that the initial application was for all three story towers on the hillside and this did not fit in with the neighborhood; however, the redesign of the proposed development had made it more compatible with its surroundings.

Commissioner Schott shared that the street of the project site was formerly a dangerous location and that the street had been repaired a few years ago. He had a strong concern about the number of cars that make a left-hand turn on this street while going up a 14% grade onto Overlook Avenue. He commented that properties such as the project site which were previously under the ownership of Caltrans had caused the City of Hayward much blight, noting that the Caltrans Real Estate Division's method of selling its properties should be examined. He indicated that he was aware that Caltrans had purchased single family homes in RSB6 neighborhoods and stated that he would not be supportive of zone changes for neighborhoods that were originally purchased as RSB6 neighborhoods. He commented that Caltrans was now selling this property and developers were purchasing them for a relatively cheap price in his opinion. He mentioned that there were still approximately 400 parcels still owned by Caltrans and described these properties as being boarded up and not in good condition. He stated that he would not be supportive of projects going further down Palisade Street in the areas of Redstone.

Commissioner Enders requested that staff elaborate on the environmental sensitivities in the area. Assistant Planner Christensen responded that there were some vegetative species identified in the area and these were included in the background report for the initial study. He noted that a thorough environmental analysis was not conducted as the project will place southern portion into a protected status.



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Commissioner Enders asked staff who the other developers were proposing to develop the quarry site, noting that the potential development of the surrounding area needs to be carefully evaluated in order to determine what the uses will be for this new neighborhood.

Assistant Planner Christensen indicated that there was no active application for the quarry site. He stated that over the years there have been numerous conversations about the potential uses of the quarry site, commenting that City View Apartments used to be a quarry site and there was also the La Vista quarry. In terms of active parcels, he shared that there were applications further up Overlook Avenue which were still a part of the RSB6 zone. He indicated that Caltrans sells these parcels individually and shared that these were just single family homes. Mr. Christensen shared the long term vision for this area and the quarry site, the intent was to facilitate the site as a middle school or as an environmentally friendly high density development with unbundled parking; however, there were no applications received fitting this vision and noted that this may be developed in the future. He stated that for a highly dense community, it was envisioned that there would be access to a wide variety of alternative transportation options such as shuttles to BART.

Commissioner Enders commented that the point in having a sustainable mixed use area is to have a walkable area where there is less of a reason to have a car, and did not feel that the proposed project was conducive to a sustainable mixed use. She didn't envision the units being used for housing college students nor did it seem like there would be transportation available from this pocket neighborhood to the college. Ms. Enders stated that there was single family residential on two sides of the development, there was complete open space on another side, and she felt that the project would be encroaching on land that should be preserved. She expressed that the proposed density belonged in a hub of public transportation options.

Commissioner Faria asked if there was a better drawing depicting the group open space. She had a hard time grasping what type of amenity the group open space would provide for the units proposed in the project.

Assistant Planner Christensen stated that more detailed information would follow in the Precise Plan and pointed out that if there were any specific amenities that were desired, these could be added as Conditions of Approval. He stated that the basic vision for the group open space consisted of having tables and gathering spaces where people could congregate as most of the units would not have enough private open space.



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Commissioner Faria commented that the proposed units were close together and that they would not be able to have fences creating a separation.

In response to Commissioner Enders' comments about the use of the quarry site, Commissioner Schott responded that it was to be used as a potential relocation site for Bret Harte Middle School or for a development project proposed by Mr. Sherman Lewis and a group. He commented that the proposed project worked at the proposed site and noted that the sustainable features of the project were the provision of electric vehicle charging stations and solar panels.

Chair Parso-York stated that the size of the open space area seemed inadequate to him and asked where the closest place was for outdoor recreational opportunities for children.

Assistant Planner Christensen responded that the Eden Greenway was located nearby along Mission Boulevard and pointed out that there were some areas on campus at California State University East Bay that provided outdoor recreational space. Mr. Christensen mentioned that in planning the project, staff did struggle with how open space would be included in the development. He noted that the original application included plans to use some of the southern portion of the property to fulfill the open space requirement; however this option did not work as it would be difficult to create a path and this would be too great a distance from the units.

Chair Parso-York expressed that he had an issue with creating large family homes that did not provide the family enough space to be outdoors. He indicated that the streets around the development posed a hazard to children residing in the proposed units and for these safety reasons, he did not support the project.

Commissioner Willis Jr. made a motion to recommend that the City Council approve the proposed project per staff recommendation. The motion was seconded by Commissioner Schott. The motion failed with the following vote:

AYES:	Commissioners Willis Jr., Schott, Faria
NOES:	Commissioner Enders Chair Parso-York
ABSENT:	Goldstein, McDermott
ABSTAIN:	None



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Development Services Director Rizk stated that since the motion did not pass, the item could go to the City Council without a recommendation from the Planning Commission.

Assistant City Attorney Alvarado shared that the motion failed as four affirmative votes were needed to approve or deny the project. He said that if the Planning Commission could not come to a decision, then the item could be referred to the City Council without a recommendation from the Planning Commission. He added that in this circumstance, the City Council could make a decision without a recommendation from the Planning Commission.

Assistant City Attorney Alvarado clarified for Commissioner Willis Jr. that the item could be appealed to the City Council if the Planning Commission had voted to deny the project.

Development Services Director Rizk stated that it was staff recommendation at this point to let the item go before the City Council without a formal recommendation from the Planning Commission, noting that the City Council could review the Planning Commission Meeting Minutes in order to determine what transpired at the meeting. He outlined that the second option was to move to continue the item at a future Planning Commission meeting when there would be a full commission present to take action on the item.

Commissioner Faria made a motion to allow the item to go before the City Council for a decision without a recommendation from the Planning Commission. The motion was seconded by Commissioner Schott. The motion passed with the following vote:

AYES:	Commissioners Willis Jr., Enders, Faria Chair Parso-York
NOES:	Schott
ABSENT:	Goldstein, McDermott
ABSTAIN:	None

- Amendments to the City of Hayward Livestock Regulations, including establishment of a revised, simplified permit process for the keeping of bees, hens, and other small animals in residential areas.

Assistant Planner Christensen provided a synopsis of the staff report.

Chair Parso-York opened and closed the public hearing at 9:09 p.m.

Assistant Planner Christensen noted for Commissioner Schott that turkeys were not specifically defined as permissible livestock that could be kept, adding that this could be



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determined by the Planning Director and could be evaluated on an individual case by case basis.

Development Services Director Rizk stated that he did not consider turkeys as a type of fowl that could be kept under the proposed regulations.

Assistant Planner Christensen noted for Commissioner Schott that an apiary was the land used for beekeeping, noting that the general regulations would limit the number of hives to two. Currently this regulation is allowed for the flood plain areas and the agricultural district, and there are no limits set for these areas.

Assistant Planner Christensen clarified for Commissioner Enders that per the revised fees, staff was proposing to eliminate the line item from the Administrative Use Permit, and would be reflected under the Zoning Conformance Permit. For chickens, staff would have to create a second tier for the Zoning Conformance Permit, right now staff was proposing to have the \$210 fee which would apply to beekeeping in order to cover the noticing cost. A separate tier of \$52.50 would be created for urban chickens and could be expanded to other uses in the future as needed.

Commissioner Enders asked if there was a scientific basis requiring beekeepers to have a six foot tall fence surrounding the bees' home. Assistant Planner Christensen responded that this was a common practice by other cities in the area and noted that it was also recommended by those who have hives. The City's current limit for a rear yard fence was six feet. He elaborated that if there was a hive that was four feet in height and a bee that is leaving the hive, if the bee encounters a physical barrier such as a solid fence, then the bee has to fly up. Mr. Christensen described that for the adjacent neighbor, this forces the bees to fly a little higher and would decrease the probability that the bee would fly at a lower level in the adjacent neighbor's yard.

Commissioner Enders asked what evidence would be used to determine which neighbors located within a distance of 100 feet of a beekeeping area was allergic to bees. Assistant Planner Christensen indicated that per the current proposed regulations, if the City received a notice that someone is allergic, the City would impose the restrictions. He added that if these regulations need to be modified and applied in a more stringent manner in the future, it could be done so.

Commissioner Enders commented that there could be the case that some individuals oppose the idea of beekeeping and could falsify information claiming that they are allergic when they are not. She urged staff to investigate guidelines that could be used to determine what course



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, December 17, 2015, 7:00 p.m.
777 B Street, Hayward, CA94541**

of action to follow for beekeeping restrictions in regards to neighbors who were allergic to bees.

Chair Parso-York appreciated the thorough staff report. Assistant Planner Christensen confirmed for Chair Parso-York that the current permitting process was challenging for residents where some residents opt to not obtain a permit.

Development Services Director Rizk stated that the proposed regulations provided realistic standards for residents to follow, emphasizing that the regulations would provide an opportunity to provide the public with information and educate them.

Commissioner Faria asked if the educational material would be made available in other languages. Assistant Planner Christensen indicated that staff could look into this, adding that many of staff's handouts at the Permit Center were available in English and Spanish.

Chair Parso-York stated that many people have chickens and bees in their yards and asked what would be the impact of these regulations on these residents. Assistant Planner Christensen commented that for these residents, they may be currently operating without a permit which would be a violation of the Hayward Municipal Code; however, the intent of the City was to have those without permits in conformance.

Chair Parso-York asked staff if there would be efforts made to inform the general citizenry of Hayward of the new regulations. Assistant Planner Christensen noted that there would be an outreach event conducted at the Hayward Library in February 2016. He noted that there was a lot of public interest on the proposed regulations.

Assistant Planner Christensen indicated for Commissioner Schott that the initial set up for the application would have to be conducted in person, adding that the benefit of this would be that staff could talk to the applicant and provide them with information on the regulations. Mr. Christensen mentioned that in the near future, the City would implement an online permitting process but would still strive to equip citizens with resources and the information they need to be in compliance with regulations.

Assistant Planner Christensen noted for Commissioner Schott that the application was generally linked to the address of the applicant.



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Commissioner Willis Jr. made a motion to recommend that the City Council approve the proposed regulations per staff recommendation. The motion was seconded by Commissioner Enders.

Commissioner Enders thanked the members of the community who took the time to express their concerns about the proposed regulations. She stated that disagreements between neighbors about various nuisances were inevitable, and this included complaints about the keeping of livestock and she pointed out that the City would take action to address these issues. Ms. Enders noted that farming was part of Hayward's history and she was paying her homage to this by supporting the proposed regulations.

Commissioner Schott offered a friendly amendment to include llamas in the language defining large livestock. Mr. Schott noted that there were a couple llamas in his neighborhood that assisted with controlling the growth of plants on the hillside.

Commissioners Willis Jr. and Enders were agreeable to the friendly amendment.

The motion passed with the following vote:

AYES:	Commissioners Willis Jr., Enders, Schott, Faria Chair Parso-York
NOES:	None
ABSENT:	Goldstein, McDermott
ABSTAIN:	None

COMMISSION REPORTS

4. Oral Report on Planning and Zoning Matters

Development Services Director Rizk wished everyone Happy Holidays.

5. Commissioners' Announcements, Referrals

Chair Parso-York thanked staff for their hard work over the year and wished everyone Happy Holidays.

APPROVAL OF MINUTES

6. Approval of Minutes

There were none.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, December 17, 2015, 7:00 p.m.
777 B Street, Hayward, CA94541**

ADJOURNMENT

Chair Parso-York adjourned the meeting at 9:25 p.m.

APPROVED:

Brian Schott, Secretary
Planning Commission

ATTEST:

Yolanda Cruz, Deputy City Clerk
Office of the City Clerk

RE: Planning Application
201501012 TTM 8244 & PD (1151 Overlook Ave Hayward)

We wish to make you aware of a number of strong objections that we have with regard to the proposed development of additional properties on open space to the side of my property.

As an immediate neighbor to the site of the proposed development, we are of the view that the proposed development will have a serious impact on our standard of living. Our specific objections are as follows:

1. Detrimental impact upon residential amenities

Proposals for development should be of good design and respect the character of the surroundings. The Local Planning Authority should have regard for i) the appearance and treatment of spaces between and around buildings ii) the amenities of neighboring residents.

We believe that the proposed development is a direct contravention of these policies. It does not respect local context and street pattern or, in particular, the scale and proportions of surrounding buildings, and would be entirely out of the character of the area, to the detriment of the local environment. The properties along Overlook and Palisade St are typically characterized by large plots with large spacing between. Road and the new proposed property would be extremely limited. The proposed dwellings are two level houses, yet its proportions are smaller than the neighboring properties.

The proposal would demonstrably harm the amenities enjoyed by local residents, in particular safe and available on road parking, valuable green space, privacy and the right to enjoy a quiet and safe residential environment.

2. Ground stability and drainage

the principle aims of considering land instability at the planning stage are to minimize the risks and effects of land instability on property, infrastructure and the public, and to assist in safeguarding public and private investment by a proper appreciation of site conditions and necessary precautionary measures

We have serious concerns about the impact the proposed works could have on the stability of our property. The land is steeply graded, and subsidence is already a concern with the existing properties. Any excavation work could have a serious adverse impact upon the stability of the existing structures.

3. Loss of views, privacy and overlooking

New developments are expected to (i) provide a high standard of layout and design that ensures adequate privacy for the occupants of the building and of adjacent residential properties. The proposed site of development is at such an angle that the primary amenity area of our garden, a raised terrace with seating, would be severely overlooked from the top rooms of the new development, resulting in a serious invasion of our privacy. The design of the proposed development does not afford adequate privacy for the occupants of the building or of adjacent residential properties, particularly with regard to their right to the quiet enjoyment of garden amenities.

Most importantly our property will devalue with views restricted due to elevation proposed as well as the height of the second of two level proposed houses. We are deeply concerned that our home will quickly devalue as a result of limited or loss of unhindered views from our property.

We would be grateful if the planning commission would take our objections into consideration when deciding this application.

Sincerely,

M. A. Omer
Owner, 1155 Palisade St Hayward CA 94542
(415) 513-5777

OVERLOOK TERRACE

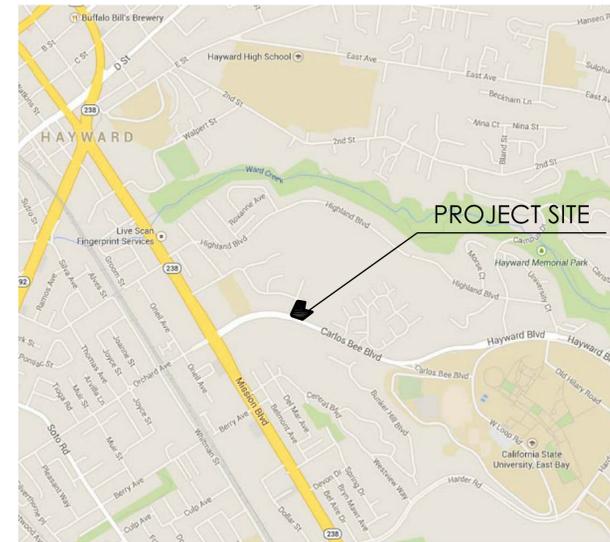
1151 OVERLOOK AVE. HAYWARD, CALIFORNIA

SIX SINGLE FAMILY HOMES
INDIVIDUAL LOT SUBDIVISION

DESIGN SET



PARCEL MAP



VICINITY MAP



AERIAL MAP

PROJECT DATA

APN	445-0170-038-04, 445-0170-038-05	CONSTRUCTION TYPE	TYPE V B
LOT AREA	39,767 SF (0.91 ACRE)	FIRE SPRINKLER	PROVIDED
ZONING	SMU (SUSTAINABLE MIXED USE DISTRICT)	MAXIMUM HEIGHT	40'-0"
USE:	SINGLE FAMILY RESIDENTIAL		

PROJECT DIRECTORY

OWNERS	OVERLOOK TERRACE LLC. 856 LESTER AVENUE, HAYWARD, CA (510) 755-7311 CONTACT: SUNNY AUJLA	CIVIL ENGINEER	HUMANN COMPANY 1021 BROWN AVE. LAFAYETTE, CA 94549 (925) 283-5000 CONTACT: IZZAT NASHASHIBI, PE
ARCHITECT	BKBC ARCHITECTS INC. 1371 OAKLAND BLVD. ST. 101, WALNUT CREEK, CA (925) 930-9700 CONTACT: COURTNEY FOGAL	ENVIRONMENTAL CONSULTANT	LSA ASSOCIATES INC. 157 PARK PLACE PT. RICHMOND, CA 94801 (510) 236-6810 CONTACT: CLINTON KELLNER PHD.

LANDSCAPE ARCHITECT
BORRECCO / KILIAN & ASSOCIATES, INC.
1241 PINE STREET
MARTINEZ, CA 94553
(925) 372-5306
CONTACT: BRIAN KILIAN

SHEET INDEX

ARCHITECTURE	CIVIL	
Ov-24a COVER SHEET	C.01 VESTING TENTATIVE TRACT MAP 8244	
Ov-24b SITE PLAN	C.02 VESTING TENTATIVE TRACT MAP 8244	
Ov-24c ENLARGED SITE PLAN		
Ov-24d UNIT 1 PLANS / ELEVATIONS	LANDSCAPE	
Ov-24e UNIT 2 PLANS / ELEVATIONS	L-1 CONCEPTUAL LANDSCAPE PLAN	
Ov-24f UNIT 3 PLANS / ELEVATIONS	L-2 LANDSCAPE DETAILS	
Ov-24g UNIT 4 PLANS / ELEVATIONS		
Ov-24h UNIT 5 PLANS / ELEVATIONS		
Ov-24i UNIT 6 PLANS / ELEVATIONS		
Ov-24j SITE SECTIONS		

*FOR COLORED PLANS AND ELEVATIONS
SEE Ov-25 SERIES 11X17 DOCUMENTS

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PROJECT
OVERLOOK TERRACE
1151 OVERLOOK AVE.
HAYWARD, CA 94542

SEAL

ISSUES:



PROJECT NUMBER: A-13-08

DRAWN: CHECKED: CF

DATE: 07/21/15

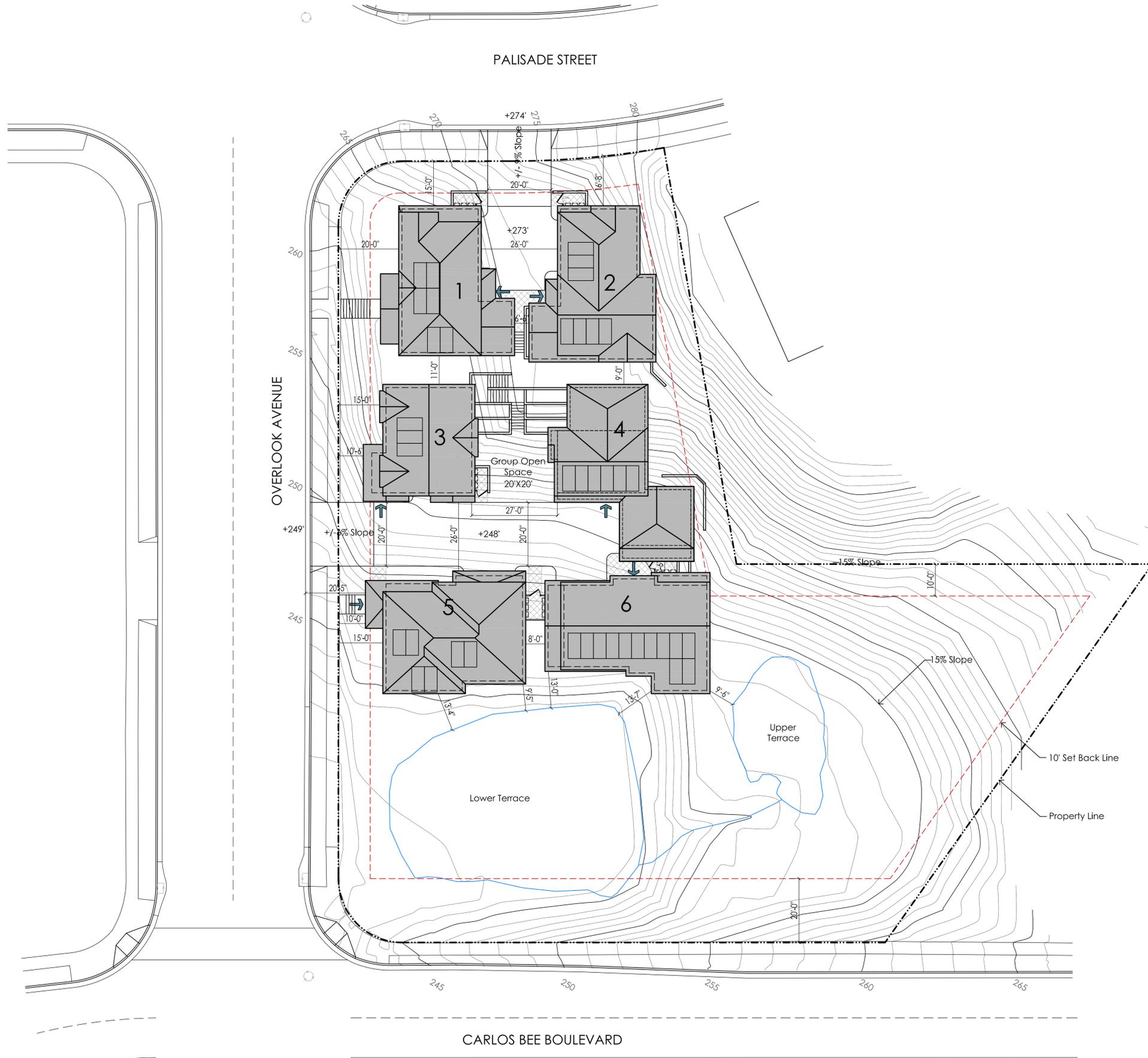
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TITLE:
COVER SHEET

DRAWING NO:

Ov-24a

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NOTE: Solar panel locations are diagrammatic and preliminary only. Final size and location to be determined.

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PROJECT
OVERLOOK TERRACE
 1151 OVERLOOK AVE.
 HAYWARD, CA 94542

SEAL

ISSUES:



PROJECT NUMBER: A-13-08

DRAWN: CHECKED: CF

DATE: 7/21/15

SCALE: 1/16" = 1'-0"

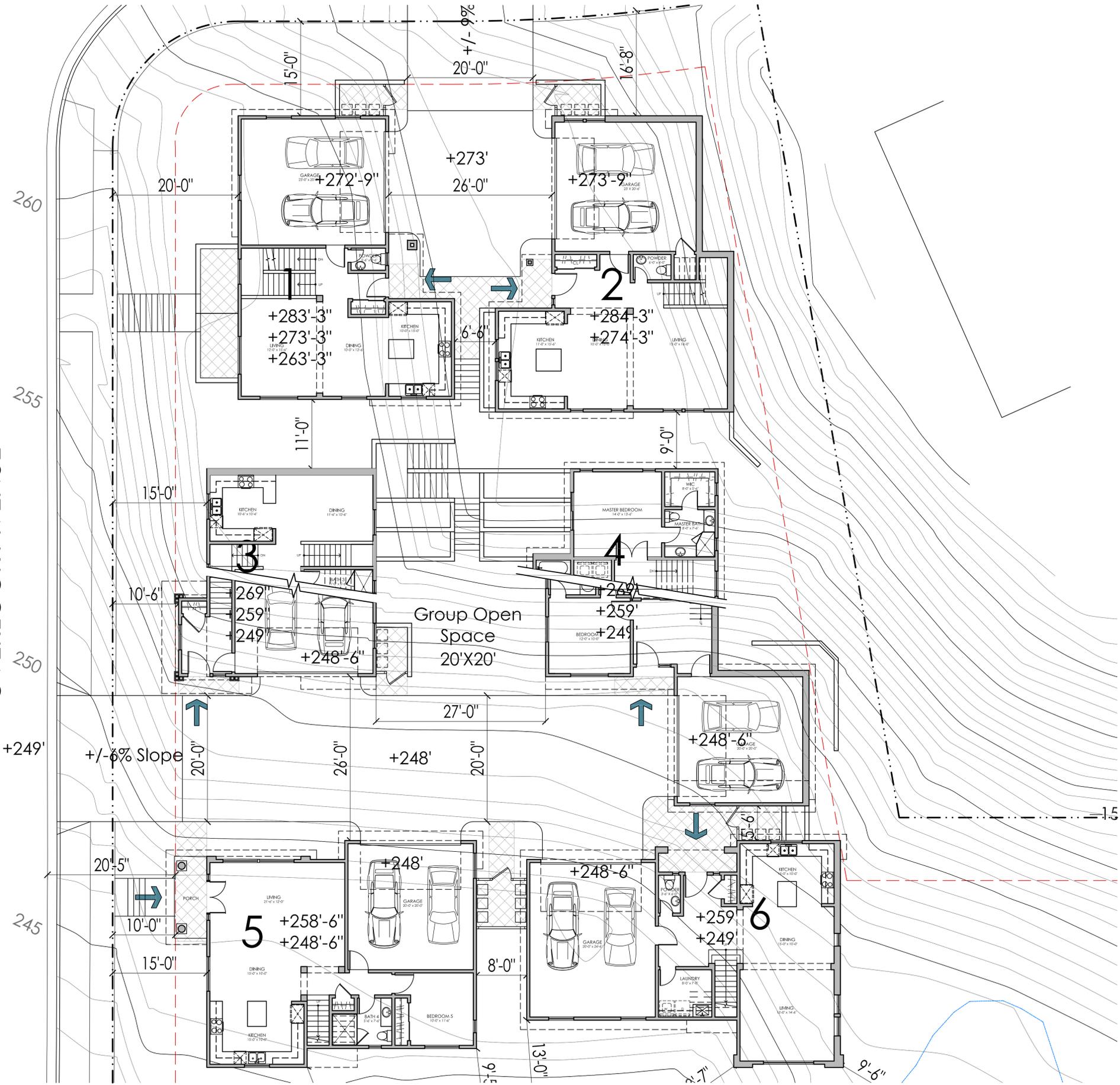
TITLE:
SITE PLAN

DRAWING NO:

Ov-24b

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OVERLOOK AVENUE



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PROJECT

OVERLOOK TERRACE

1151 OVERLOOK AVE.
HAYWARD, CA 94542

SEAL

ISSUES:



PROJECT NUMBER: A-13-08

DRAWN: CHECKED: CF

DATE: 7/21/15

SCALE: 1/8" = 1'-0"

TITLE:
**ENLARGED
SITE PLAN**

DRAWING NO:

Ov-24c

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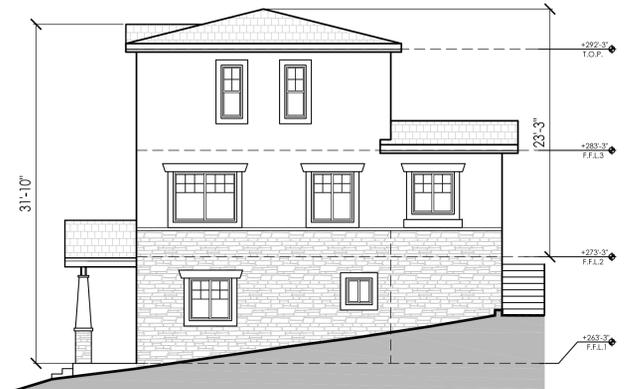
Unit 1
 Approx. 2,750 sf on 3 Levels
 4 Bd + 3½ Ba + 2 car garage



NORTH ELEVATION
 1/8"=1'-0" 5



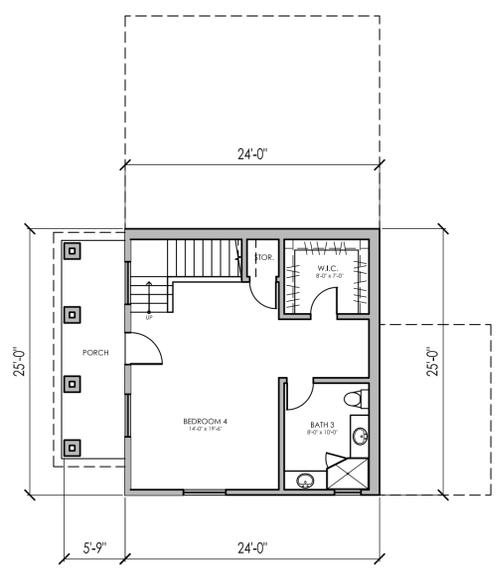
EAST ELEVATION
 1/8"=1'-0" 6



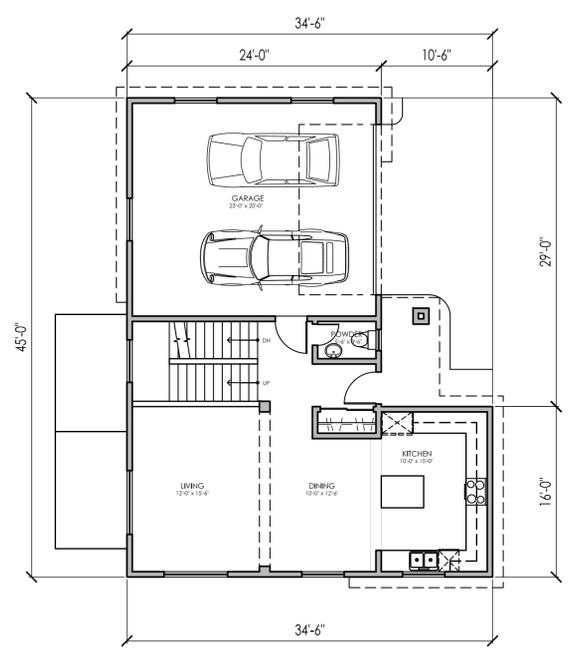
SOUTH ELEVATION
 1/8"=1'-0" 7



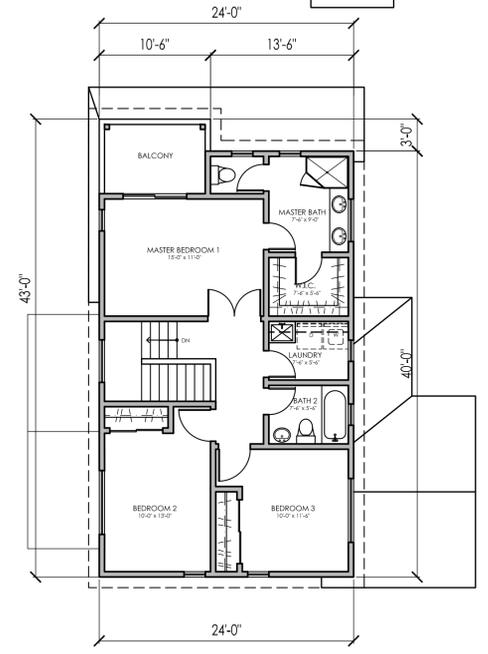
WEST ELEVATION
 1/8"=1'-0" 8



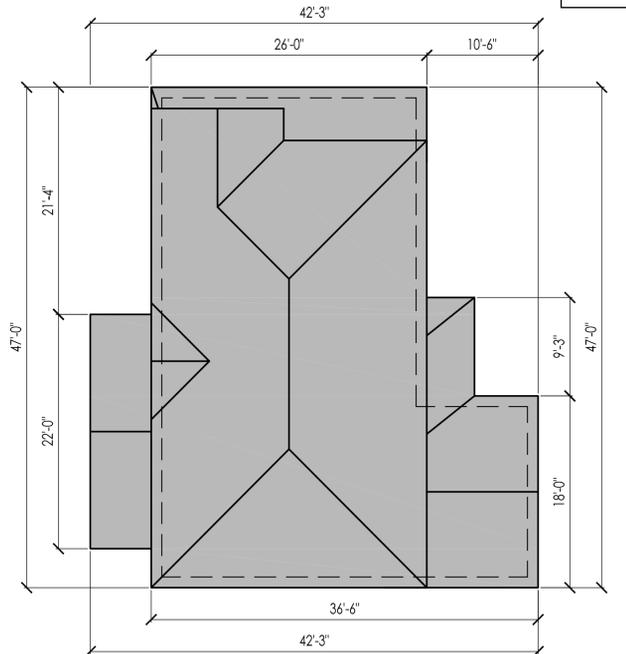
LOWER FLOOR PLAN
 1/8"=1'-0" 1



MAIN FLOOR PLAN
 1/8"=1'-0" 2



UPPER FLOOR PLAN
 1/8"=1'-0" 3



ROOF PLAN
 1/8"=1'-0" 4

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PROJECT
OVERLOOK TERRACE
 1151 OVERLOOK AVE.
 HAYWARD, CA 94542

SEAL

ISSUES:

PROJECT NUMBER: A-13-08
 DRAWN: CHECKED: CF
 DATE: 7/21/15
 SCALE: 1/8" = 1'-0"
 TITLE:
**UNIT 1
 PLANS &
 ELEVATIONS**
 DRAWING NO:

Ov-24d

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Unit 2
 Approx. 2,520 sf on 2 Levels
 4 Bd + 3½ Ba + 2 car garage



NORTH ELEVATION
 1/8"=1'-0"

4



EAST ELEVATION
 1/8"=1'-0"

5



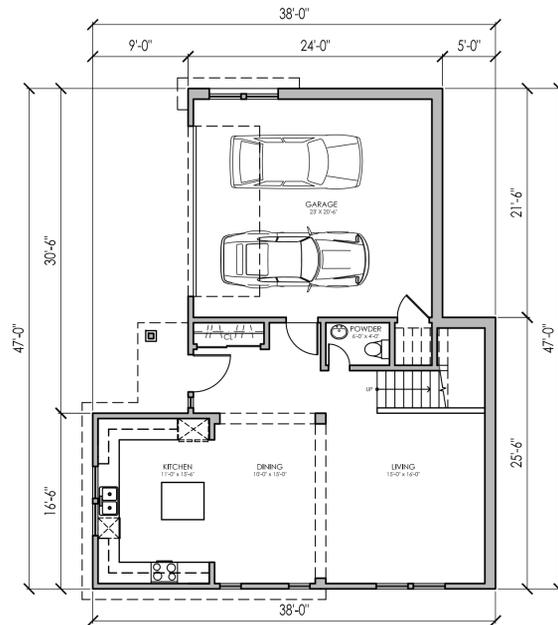
SOUTH ELEVATION
 1/8"=1'-0"

6



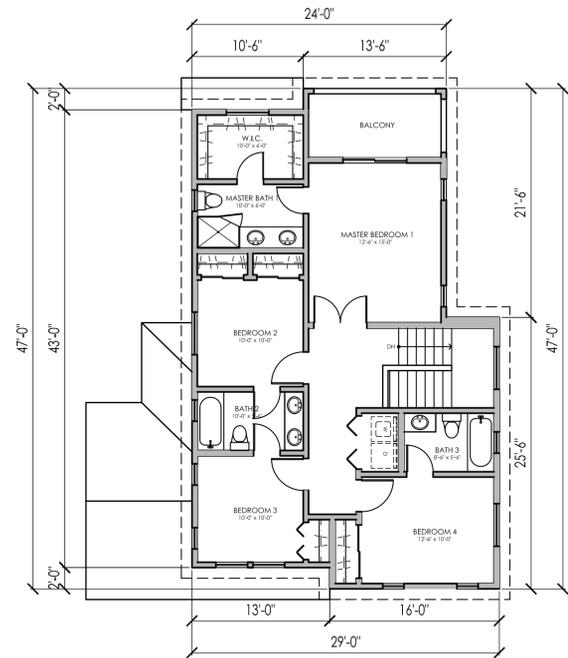
WEST ELEVATION
 1/8"=1'-0"

7



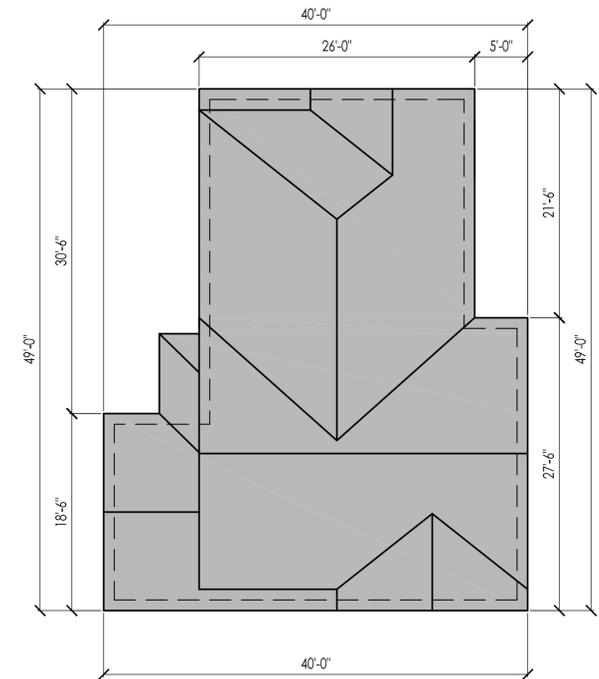
MAIN FLOOR PLAN
 1/8"=1'-0"

1



UPPER FLOOR PLAN
 1/8"=1'-0"

2



ROOF PLAN
 1/8"=1'-0"

3

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PROJECT

OVERLOOK TERRACE

1151 OVERLOOK AVE.
 HAYWARD, CA 94542

SEAL

ISSUES:



PROJECT NUMBER: A-13-08

DRAWN: CHECKED: CF

DATE: 7/21/15

SCALE: 1/8" = 1'-0"

TITLE:

**UNIT 2
 PLANS &
 ELEVATIONS**

DRAWING NO.:

Ov-24e

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PROJECT
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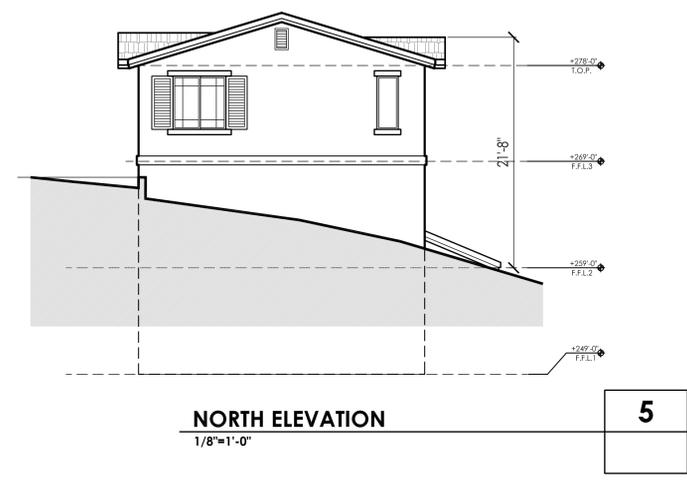
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ISSUES:

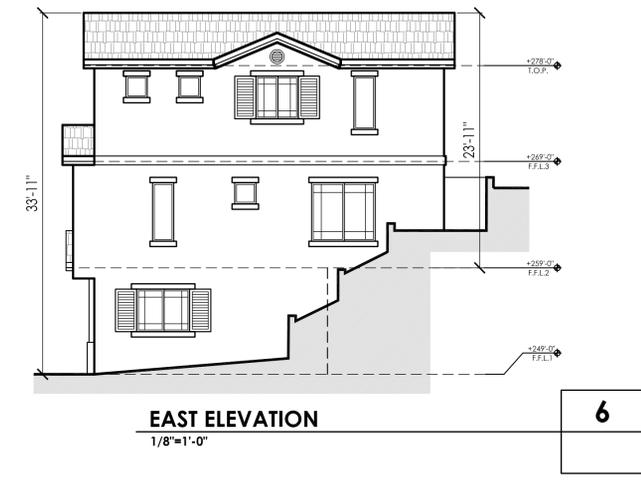
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 DATE: 7/21/15
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 TITLE:
UNIT 3
PLANS & ELEVATIONS
 DRAWING NO:

Ov-24f

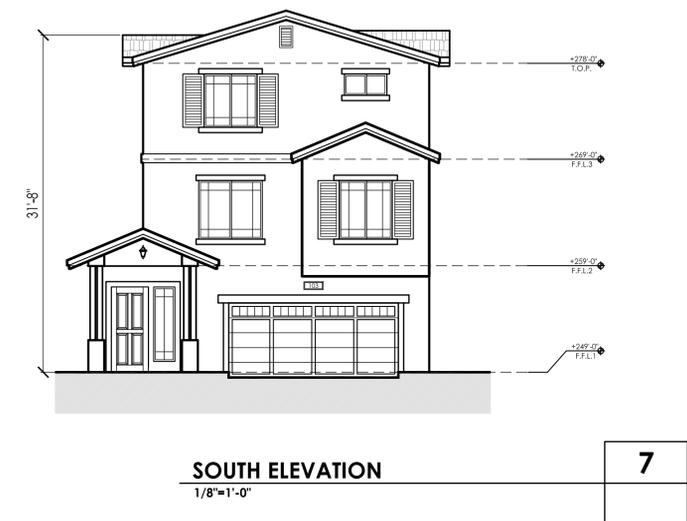
Unit 3
 Approx. 2,450 sf on 3 Levels
 4 Bd + 3 Ba + 2 car garage



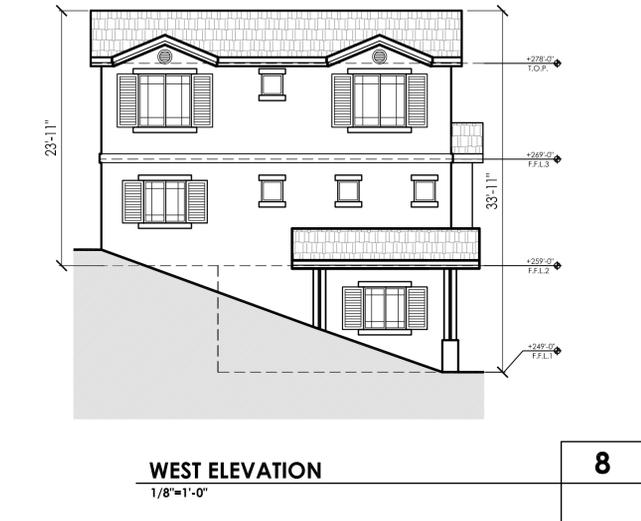
NORTH ELEVATION
 1/8"=1'-0" 5



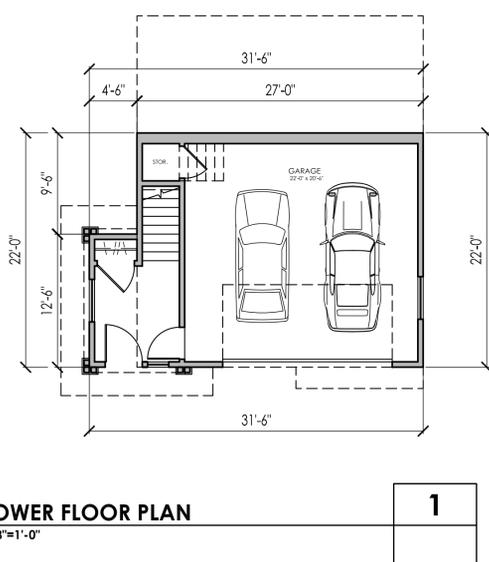
EAST ELEVATION
 1/8"=1'-0" 6



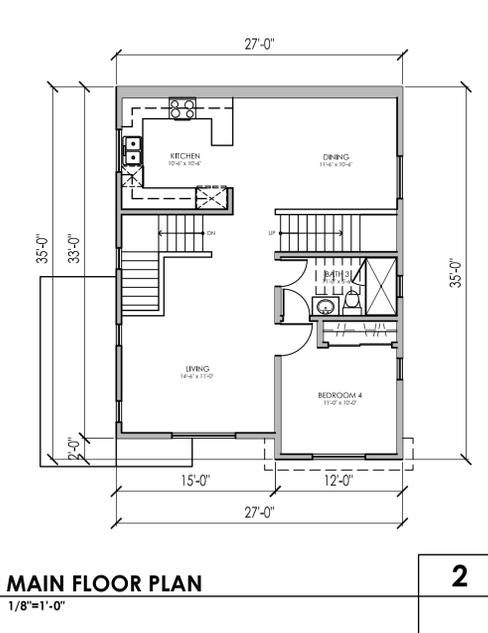
SOUTH ELEVATION
 1/8"=1'-0" 7



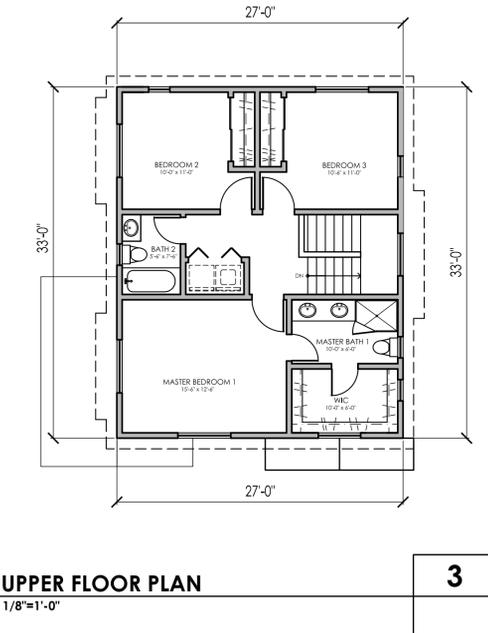
WEST ELEVATION
 1/8"=1'-0" 8



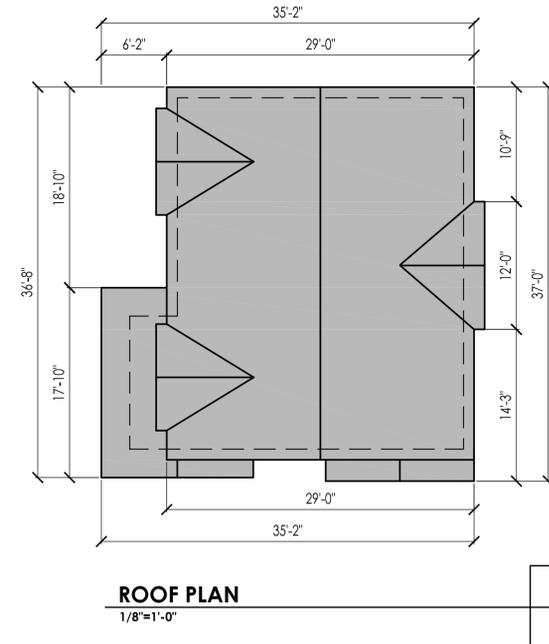
LOWER FLOOR PLAN
 1/8"=1'-0" 1



MAIN FLOOR PLAN
 1/8"=1'-0" 2



UPPER FLOOR PLAN
 1/8"=1'-0" 3



ROOF PLAN
 1/8"=1'-0" 4

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PROJECT
OVERLOOK TERRACE
 1151 OVERLOOK AVE.
 HAYWARD, CA 94542

SEAL

ISSUES:

PROJECT NUMBER: A-13-08

DRAWN: CHECKED: CF

DATE: 7/21/15

SCALE: 1/8" = 1'-0"

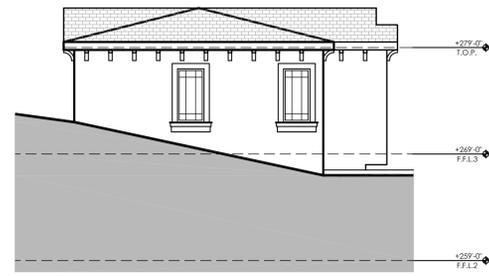
TITLE:

**UNIT 4
 PLANS &
 ELEVATIONS**

DRAWING NO.:

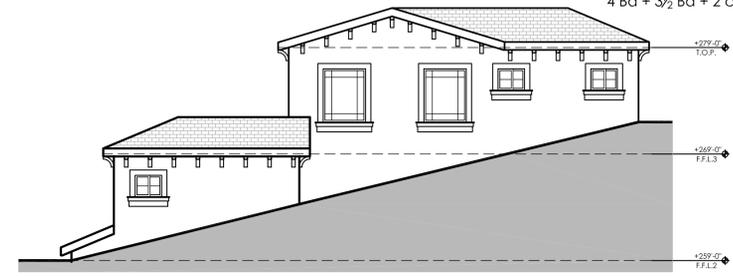
Ov-24g

Unit 4
 Approx. 2,800 sf on 3 Levels
 4 Bd + 3 1/2 Ba + 2 car garage



NORTH ELEVATION
 1/8"=1'-0"

5



EAST ELEVATION
 1/8"=1'-0"

6



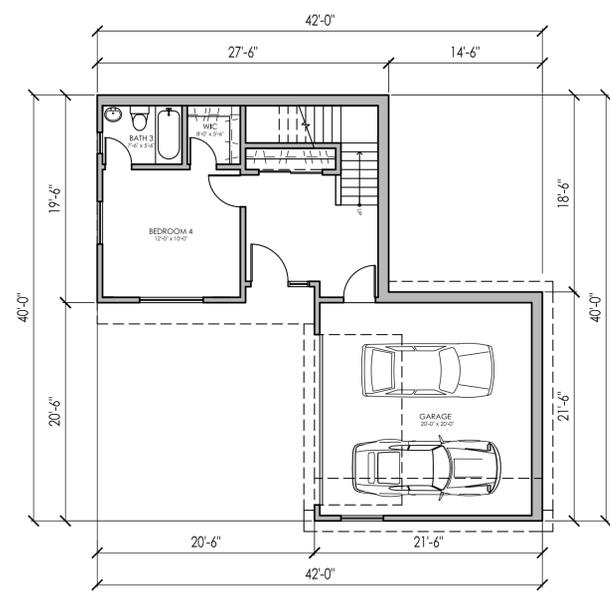
SOUTH ELEVATION
 1/8"=1'-0"

7



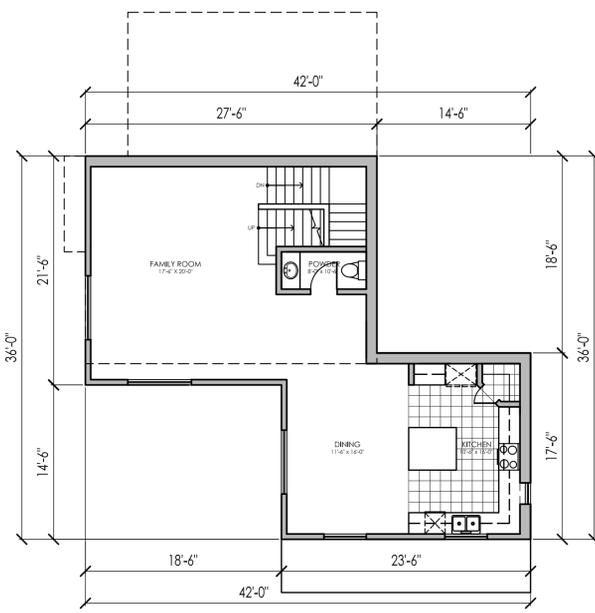
WEST ELEVATION
 1/8"=1'-0"

8



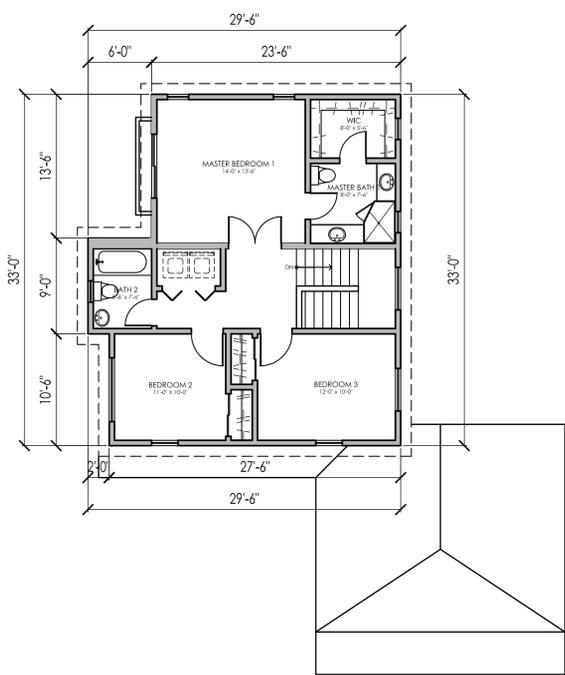
LOWER FLOOR PLAN
 1/8"=1'-0"

1



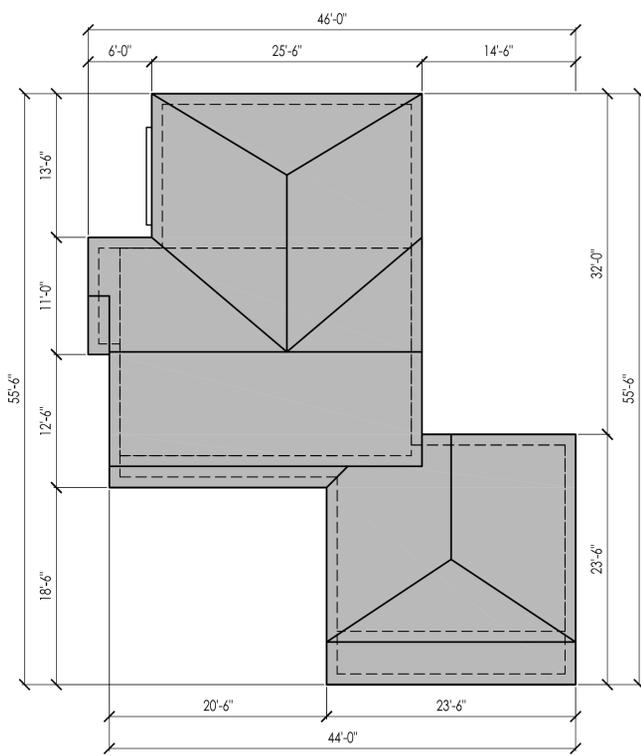
MAIN FLOOR PLAN
 1/8"=1'-0"

2



UPPER FLOOR PLAN
 1/8"=1'-0"

3



ROOF PLAN
 1/8"=1'-0"

4

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ARCHITECTS
BKBC ARCHITECTS INC.
 1371 OAKLAND BLVD. SUITE 101
 WALNUT CREEK, CA 94596
 925-930-9700 www.bkbcarch.com

PROJECT
OVERLOOK TERRACE
 1151 OVERLOOK AVE.
 HAYWARD, CA 94542

SEAL

ISSUES:



PROJECT NUMBER: A-13-08

DRAWN: CHECKED: CF

DATE: 7/21/15

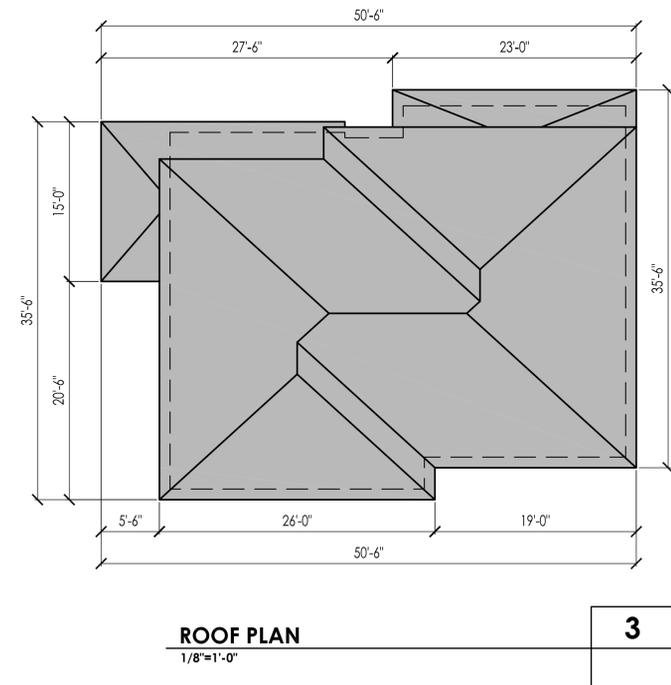
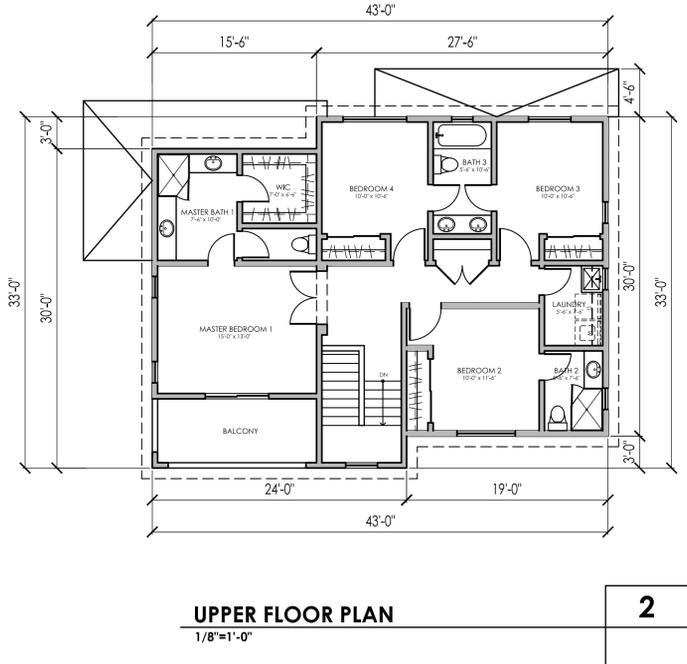
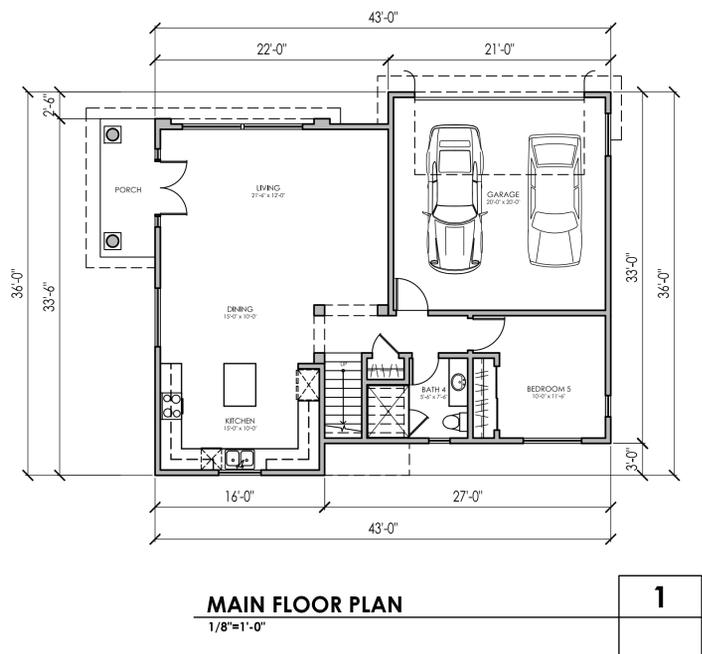
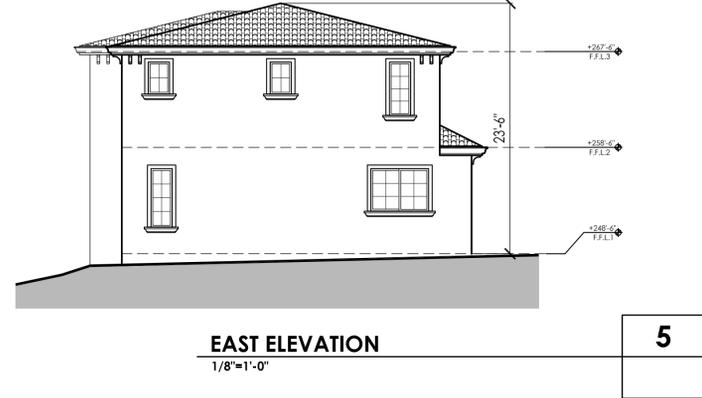
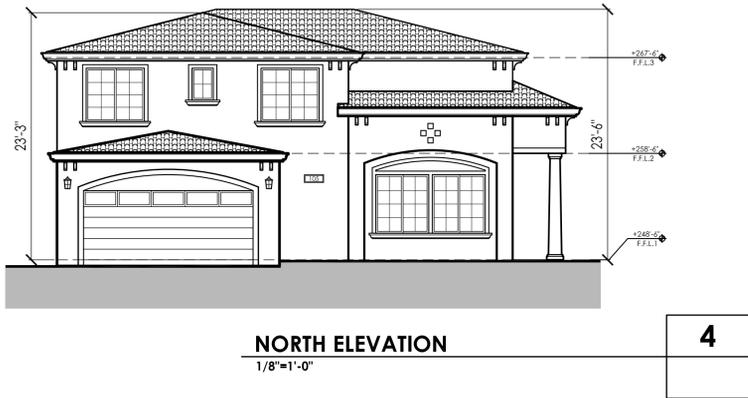
SCALE: 1/8" = 1'-0"

TITLE:
**UNIT 5
 PLANS &
 ELEVATIONS**

DRAWING NO.:

Ov-24h

Unit 5
 Approx. 2,600 sf on 2 Levels
 5 Bd + 4 Ba + 2 car garage



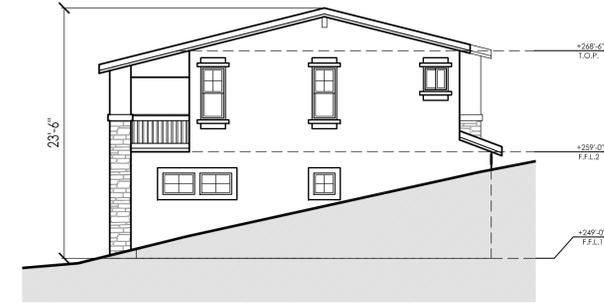
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Unit 6
 Approx. 2,600 sf on 2 Levels
 4 Bd + 3½ Ba + 2 car garage



NORTH ELEVATION
 1/8"=1'-0"

4



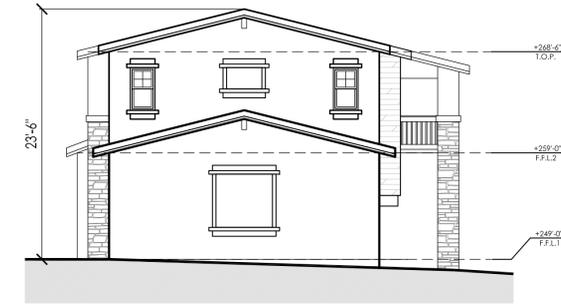
EAST ELEVATION
 1/8"=1'-0"

5



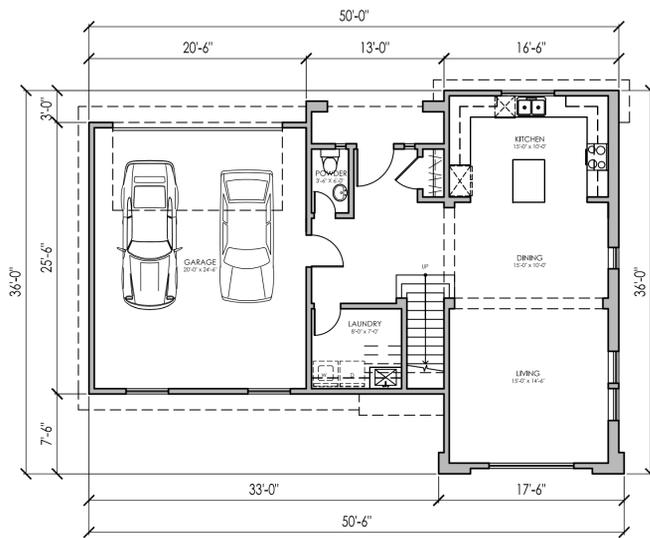
SOUTH ELEVATION
 1/8"=1'-0"

6



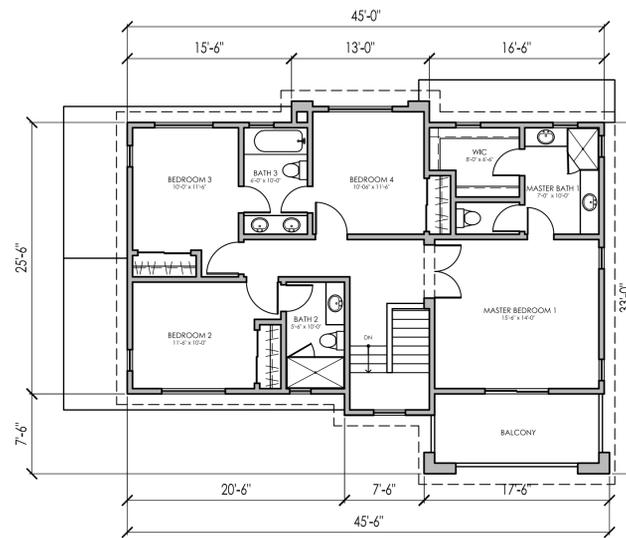
WEST ELEVATION
 1/8"=1'-0"

7



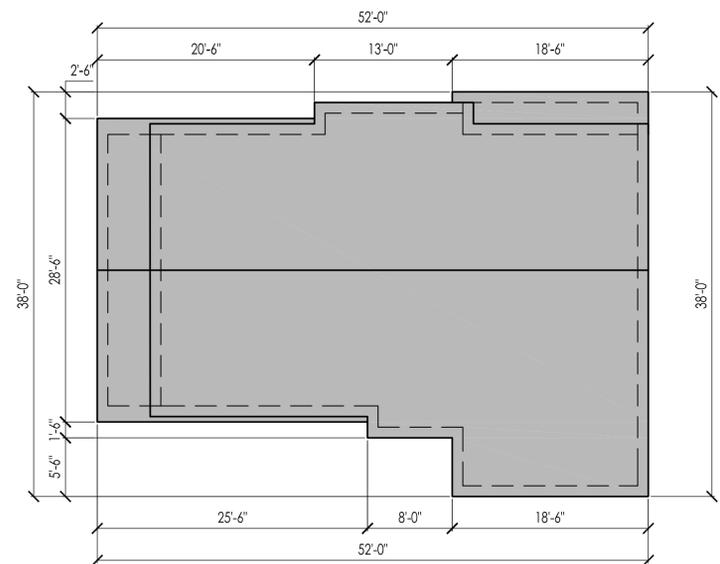
MAIN FLOOR PLAN
 1/8"=1'-0"

1



UPPER FLOOR PLAN
 1/8"=1'-0"

2



ROOF PLAN
 1/8"=1'-0"

3

ARCHITECTS

BKBC ARCHITECTS INC.

1371 OAKLAND BLVD, SUITE 101
 WALNUT CREEK, CA 94596

925-930-9700 www.bkbcarch.com

PROJECT

OVERLOOK TERRACE

1151 OVERLOOK AVE.
 HAYWARD, CA 94542

SEAL

ISSUES:



PROJECT NUMBER: A-13-08

DRAWN: CHECKED: CF

DATE: 7/21/15

SCALE: 1/8" = 1'-0"

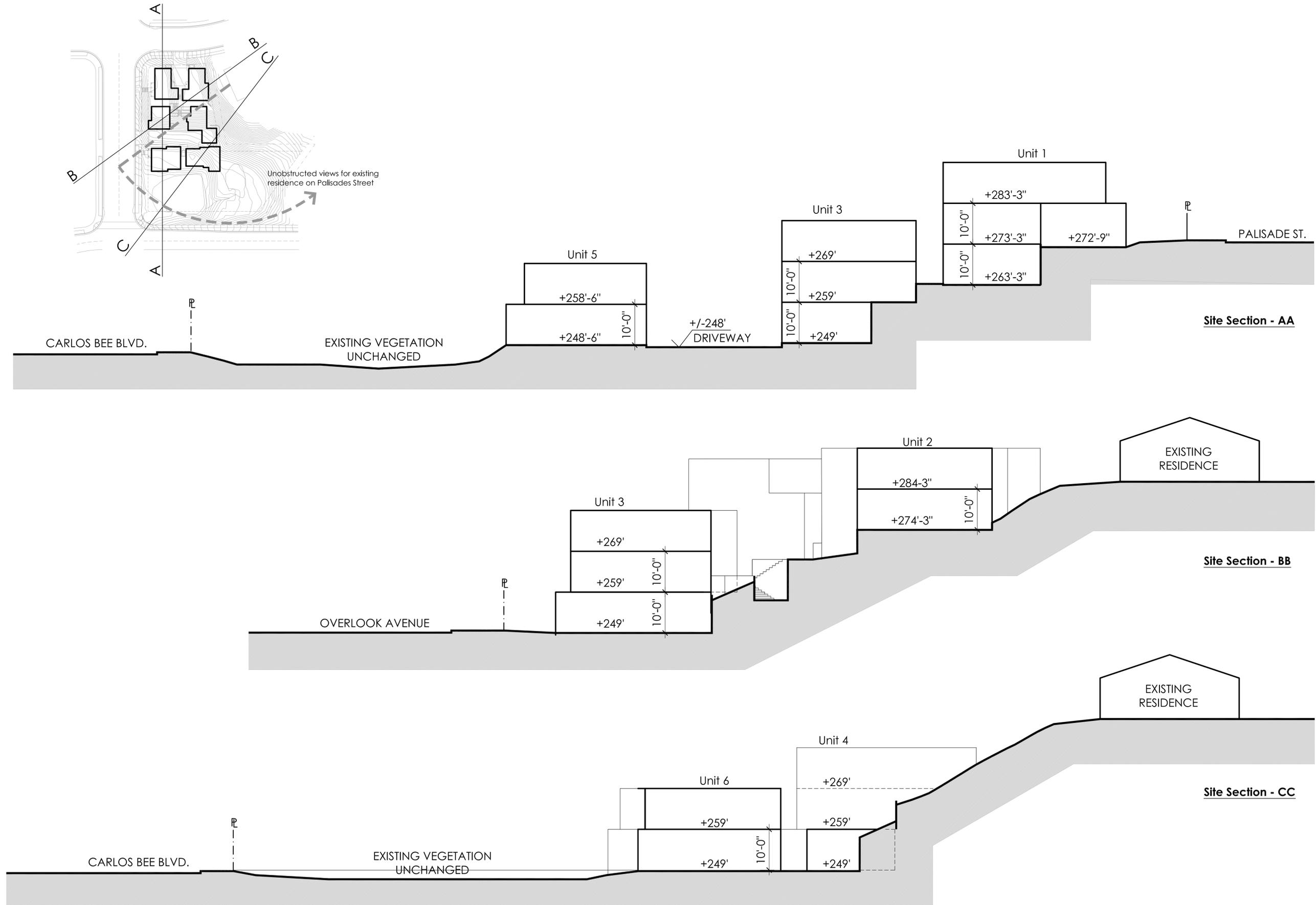
TITLE:

**UNIT 6
 PLANS &
 ELEVATIONS**

DRAWING NO.:

Ov-24i

ALL IDEAS, DESIGN, ARRANGEMENTS AND PLANS INDICATED OR REPRESENTED BY THIS DRAWING ARE OWNED BY, AND THE PROPERTY OF BKBC ARCHITECTS, INC. AND WERE CREATED, EVOLVED AND DEVELOPED FOR USE ON, AND IN CONNECTION WITH, THIS PROJECT. NONE OF SUCH IDEAS, DESIGN ARRANGEMENTS, OR PLANS SHALL BE USED BY, OR DISCLOSED TO, ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF BKBC ARCHITECTS INC. FILING THESE DRAWINGS OR SPECIFICATIONS WITH ANY PUBLIC AGENCY IS NOT A PUBLICATION OF SAME. NO COPYING, REPRODUCTION OR USE THEREOF IS PERMISSIBLE WITHOUT THE CONSENT OF BKBC ARCHITECTS INC.



ARCHITECTS
BKBC ARCHITECTS INC.
 1371 OAKLAND BLVD, SUITE 101
 WALNUT CREEK, CA 94596
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PROJECT
OVERLOOK TERRACE
 1151 OVERLOOK AVE.
 HAYWARD, CA 94542

SEAL

ISSUES:

PROJECT NUMBER: A-13-08

DRAWN: CHECKED: CF

DATE: 7/21/15

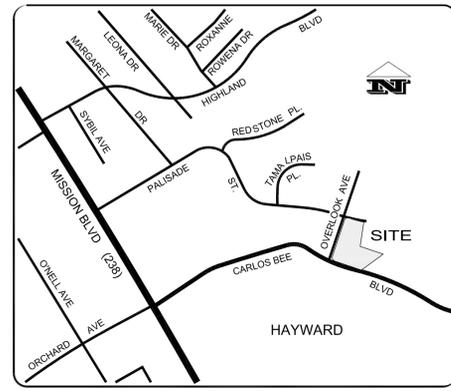
SCALE: -

TITLE:

SITE SECTIONS

DRAWING NO:

Ov-24j



VICINITY MAP N.T.S.

NOTES:

OWNER/DEVELOPER: OVERLOOK TERRACE, LLC
SUNNY AUJLA
856 LESTER AVENUE
HAYWARD CA 94541
(510) 755-7311
sunnyaujla@gmail.com

CIVIL ENGINEER: HUMANN COMPANY, INC.
1021 BROWN AVE.
LAFAYETTE, CA 94549

A.P.N. 445-0170-038-06, 07, 08 and 09

EXISTING ZONING: SMU (SUSTAINABLE MIXED USE DISTRICT)
VACANT

PROPOSED USE: PD
(SINGLE FAMILY RESIDENTIAL)

ACREAGE: 0.91± ACRES (39,767± SF)

UTILITIES: SEWER - CITY OF HAYWARD
WATER - CITY OF HAYWARD
STORM DRAINAGE - CITY OF HAYWARD
FIRE PROTECTION - HAYWARD FIRE DEPT.
POWER - PG & E

LAND USE SUMMARY: NUMBER OF LOTS - 6
MINIMUM LOT SIZE - 1,627 S.F.

LEGEND

EXISTING	PROPOSED	DESCRIPTION
---	---	PROPERTY LINE
---	---	CURB, GUTTER
SS	SS	SANITARY SEWER & MANHOLE
SD	SD	STORM DRAIN & MANHOLE
---	---	STORM DRAIN COLLECTING IMPERVIOUS SURFACE
---	---	STORM DRAIN COLLECTING SELF TREATING LANDSCAPE
---	---	STORM DRAIN CATCH BASIN
---	---	FIRE HYDRANT
---	---	STREET LIGHT
---	---	WATER MAIN
---	---	WATER VALVE
---	---	GAS LINE
---	---	SIGN
---	---	FINISH GRADE ELEVATION UNLESS NOTED OTHERWISE.
---	---	TRAFFIC SIGNAL BOX
---	---	ELECTRIC BOX
---	---	UTILITY BOX

BASIS OF BEARINGS

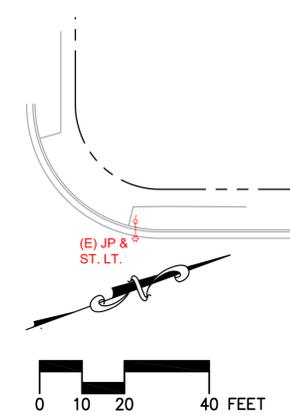
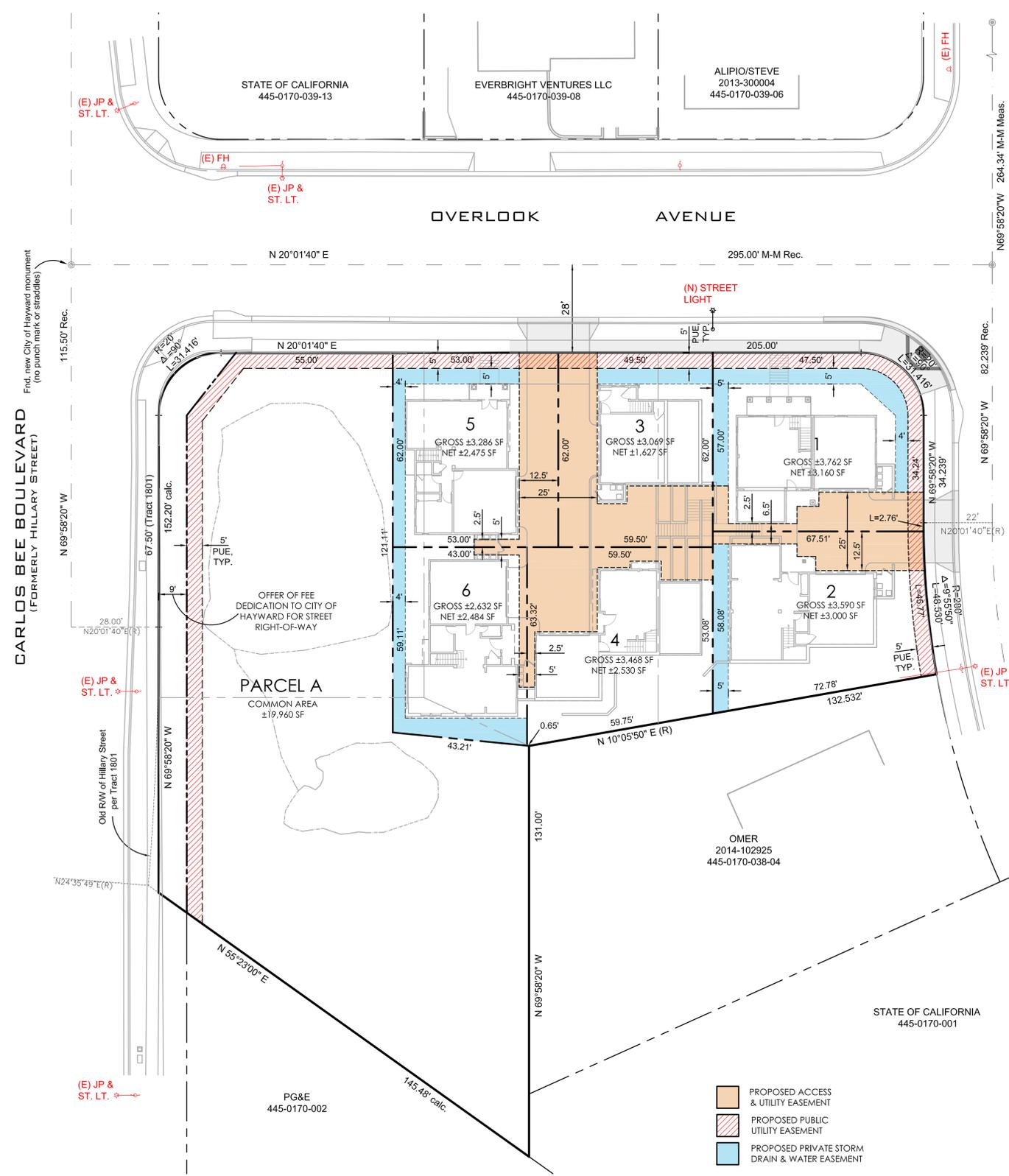
THE BASIS OF BEARING IS BASED UPON THE MONUMENT LINE OF PALISADE STREET AS SHOWN ON MAP OF TRACT 1801, RECORDED IN BOOK 38 OF MAPS, PAGE 43, OFFICIAL RECORDS OF ALAMEDA COUNTY; SAID BEARING IS TAKEN AS NORTH 69° 58' 20" WEST.

DATUM NOTE

ALL ELEVATIONS SHOWN HEREON ARE BASED UPON THE INVERT ELEVATION OF THE SANITARY SEWER MANHOLE AT THE INTERSECTION OF OVERLOOK AVENUE AND PALISADE STREET AS SHOWN IN THE CITY OF HAYWARD SANITARY SEWER SYSTEM MAPS. ELEVATION TAKEN AS 256.74 FEET.

SURVEY NOTE

ALL BOUNDARY AND EXISTING TOPOGRAPHIC INFORMATION SHOWN HEREON PREPARED BY GREENWOOD AND MOORE, INC., JOB No. 2014.055, DATED 06/26/2015. TITLE REPORT WAS NOT AVAILABLE AT THE TIME OF SURVEY, OR TO THIS OFFICE AT THE TIME OF PREPARING THIS TRACT MAP; EASEMENTS AND/OR RESTRICTIONS AFFECTING THIS PROPERTY MAY EXIST AND ARE NOT REFERENCED OR SHOWN HEREON.



HAYWARD WATER SYSTEM TEST No. 382
FIRE FLOW TEST

DATE: 6/25/2014 TIME: TEST BY: Water Distribution

LOCATION: 1127 Palisade Street

HYDRANT NUMBER	Location	PRESSURE - PSI				DISCHARGE - GPM	
		Static	Residual	Pilot	Orifice	Observed	20 psi calc.
4527-01	1036 Palisade Street (on Tamalpais Place)	120	110		2.5	1,453.1	5,038.6
4526-04	1139 Overlook Avenue (on Palisade Street side)			75	2.5		

OWNER & APPLICANT SIGNATURES:
I, SUNNY AUJLA AGREE TO THE FILING OF SAID MAP AND AGREE TO COMPLY WITH THE PROVISIONS OF THE CITY OF HAYWARD SUBDIVISION ORDINANCE AND THE STATE MAP ACT AS THEY APPLY TO THE PROCESSING AND APPROVAL OF THE SAID MAP.

SUNNY AUJLA _____ DATE _____

NOTES:

- THE DEVELOPER WILL BE RESPONSIBLE FOR CONTRIBUTING ITS PROPORTIONATE SHARE OF COST FOR THE INSTALLATION OF A TRAFFIC CALMING DEVICE AT THE INTERSECTION OF OVERLOOK AVENUE AND PALISADE STREET.
- HOMEOWNERS' ASSOCIATIONS WILL BE FORMED AND WILL OWN AND MAINTAIN ALL COMMON AREAS.
- REMOVE AND REPLACE DAMAGED CURB, GUTTER AND SIDEWALK ALONG PROJECT FRONTAGES ON ALL SIDES.
- PROJECT WILL BE REQUIRED TO GRIND AND OVERLAY HALF OF OVERLOOK AVENUE AND PALISADE STREET FRONTAGES WITH 2" HOT MIX ASPHALT, AND DIG OUTS AND REPAIR FAILED PAVEMENTS AS NECESSARY.

NO.	DATE	BY	REVISIONS

SCALE 1" = 20'

DATE 09/14/2015

ENGINEER H. N.

JOB NO. 15079

IZZAT S. NASHASHIBI R.C.E. 29528

VESTING TENTATIVE TRACT MAP 8244

OVERLOOK TERRACE

1151 OVERLOOK AVENUE

HAYWARD CALIFORNIA

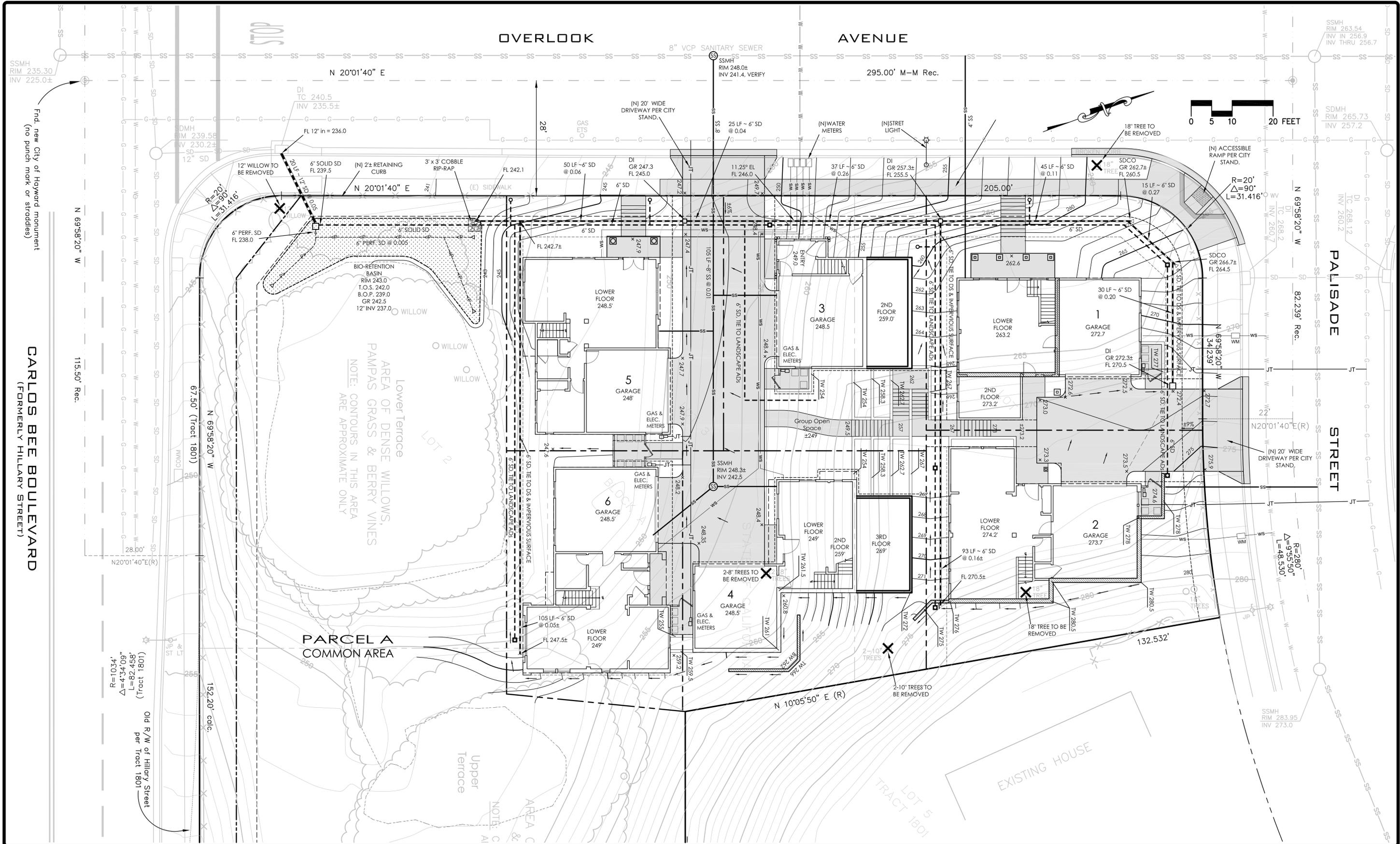
HUMANN COMPANY INC.

ENGINEERING - SURVEYING
1021 BROWN AVE. LAFAYETTE, CA 94549
PH (925)283-5000 FAX (925)283-3578

SHEET **C01**

OF 2 SHEETS

JOB NO. **15079**



NO.	DATE	BY	REVISIONS

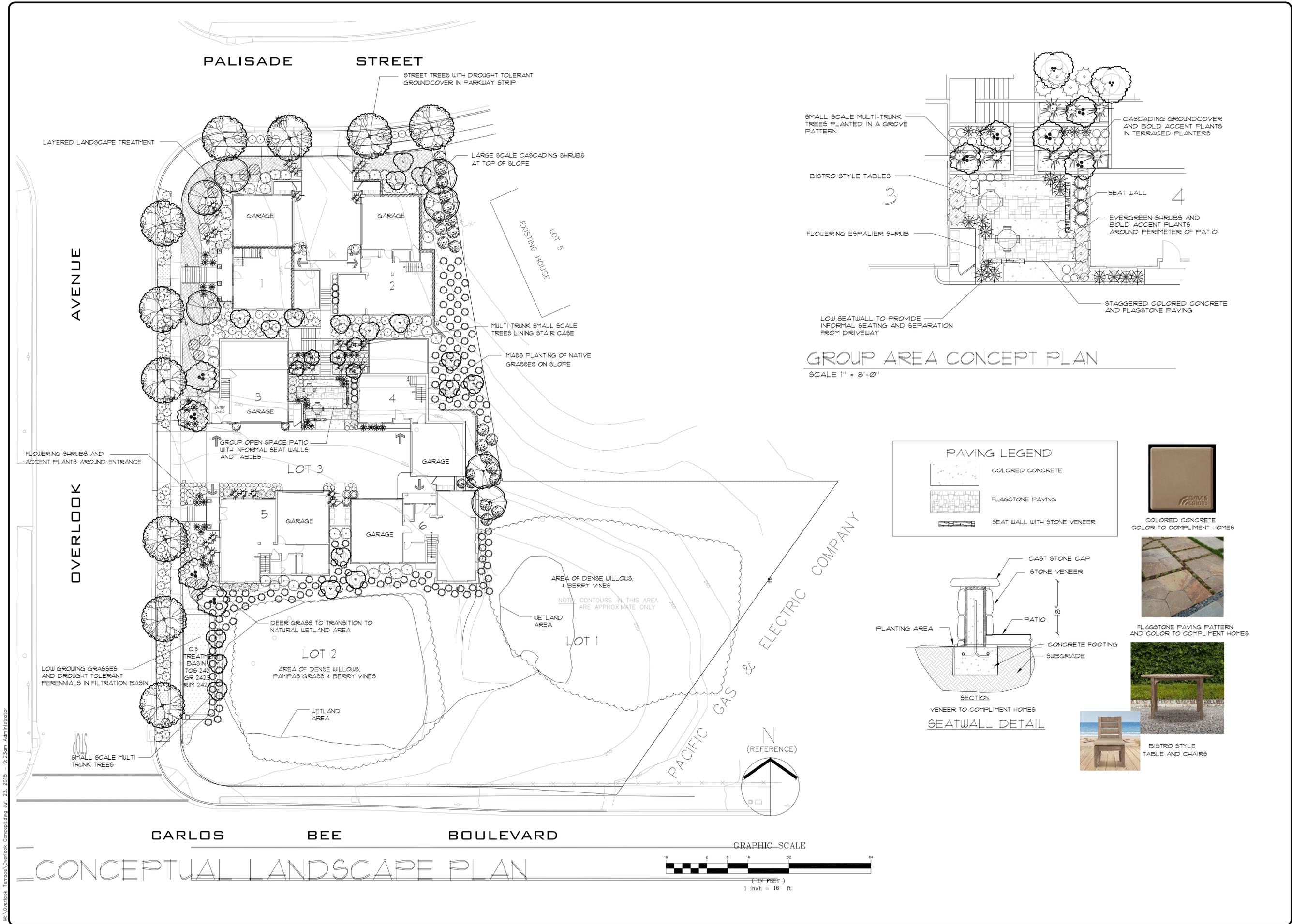
SCALE	1" = 10'
DATE	09/14/2015
ENGINEER	H. N.
JOB NO.	15079

REGISTERED PROFESSIONAL ENGINEER
 IZZAT S. NASHASHIBI
 No. 29528
 CIVIL
 STATE OF CALIFORNIA
 R.C.E. 29528

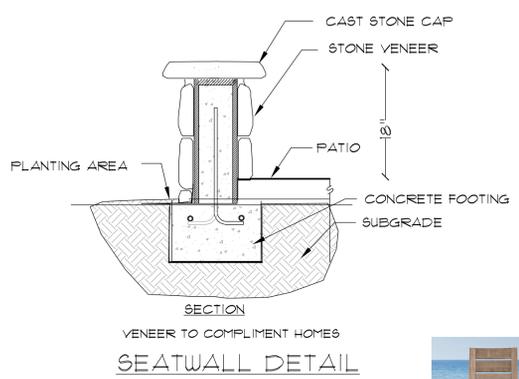
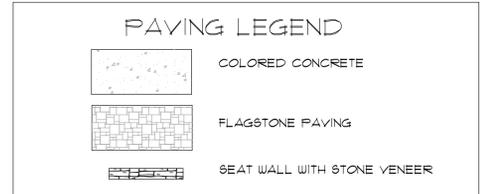
VESTING TENTATIVE TRACT MAP 8244
OVERLOOK TERRACE
1151 OVERLOOK AVENUE
HAYWARD CALIFORNIA

HUMANN COMPANY INC.
 ENGINEERING - SURVEYING
 1021 BROWN AVE. LAFAYETTE, CA 94549
 PH (925)283-5000 FAX (925)283-3578

SHEET	C02
OF 2 SHEETS	
JOB NO.	15079



GROUP AREA CONCEPT PLAN
SCALE 1" = 8'-0"



NOTE: THIS IS AN ARCHITECTURAL CONCEPT DRAWING. IT IS NOT TO BE USED FOR CONSTRUCTION. ANY CHANGES TO THIS PLAN MUST BE APPROVED BY THE ARCHITECT. THE ARCHITECT'S SIGNATURE AND SEAL ARE REQUIRED FOR ANY CHANGES TO THIS PLAN.

BORRECCO/KILIAN & ASSOCIATES, INC.
LANDSCAPE ARCHITECTS
1241 Pine Street
Martinez, CA 94553
PHONE: 925/972-5308
FAX: 925/972-5308

REGISTERED LANDSCAPE ARCHITECT
No. 2559
State of California

REV	DATE	DESCRIPTION

OVERLOOK TERRACE
HAYWARD, CA

DATE: 7/21/15
DRAWN BY: KDF
THIS PLAN IS:
CONCEPT

SHEET NUMBER: L-1

M:\Overlook Terrace\Overlook Concept.dwg Jul 23, 2015 9:23am Administrator

CONCEPTUAL PLANT LIST

TREES		
	CITY APPROVED STREET TREE	
	ARCTOSTAPHYLOS 'DR HURD'	TREE MANZANITA
	CERCIS 'OKLAHOMA'	REDBUD
	LAGERSTROEMIA HYB. 'PINK VELOUR'	DWARF CRAPE MYRTLE
	VITEX ANGUS-CASTUS	CHASTE TREE
TALL NARROW SHRUBS		
	CUPRESSUS SEMPERVIRENS 'TINY TOWER'	DWARF ITALIAN CYPRESS
	EUONYMUS 'CHOLLIPO'	NARROW VARIEGATED EUONYMUS
	NANDINA DOMESTICA	HEAVENLY BAMBOO
LARGE SCALE SHRUBS		
	CEANOTHUS 'CONCHA'	WILD LILAC
	FLUMBAGO CAPENSIS	CAPE FLUMBAGO
	ROMNEYA COULTERI	MATILUJA POPPY
	RUSSELLIA Equisetiformis	FIRE CRACKER PLANT
MEDIUM SCALE SHRUBS		
	BERBERIS T. 'ATROPURPUREA'	JAPANESE BARBERRY
	CALLISTEMON V. 'LITTLE JOHN'	DWARF BOTTLE BRUSH
	LEONOTUS LEONORUS	LIONS TAIL
	NERIUM 'FETITE SALMON'	DWARF OLEANDER
	SALVIA HYB. 'AMISTAD'	FLOWERING SAGE
MEDIUM SCALE SHRUBS		
	LOROPETALUM HYB. 'SUZANNE'	LOW GROWING FRINGE FLOWER
	MYRTUS COMPACTA 'COMPACTA'	DWARF MYRTLE
	FRAXINUS L. 'OTTO LUYKEN'	DWARF ENGLISH LAUREL
	FUNICIA G. 'NANA'	FLOWERING POMEGRANATE
LOW GROWING SHRUBS		
	COLEONEMA P. 'SUNSET GOLD'	YELLOW BREATH OF HEAVEN
	LAVANDULA HYB. 'SUPER'	LAVENDER
	RHAPHIOLEPIS 'BALLERINA'	DWARF INDIAN HAWTHORN
	SALVIA G. 'HEATWAVE SERIES'	FLOWERING SAGE
ORNAMENTAL GRASSES		
	CALAMAGROSTIS A. 'OVERDAM'	VARIEGATED REED GRASS
	LOMANDRA LONGIFOLIA	MAT RUSH
	MULLENBERGIA RIGENS	DEER GRASS
	FENNETUM ORIENTALE	FOUNTAIN GRASS
PERENNIALS / ACCENT PLANTS		
	AGAVE ATTENUATA	FOX TAIL AGAVE
	ANIGOSANTHOS SPP.	KANGAROO PAWS
	BILLEINE FRUTESCENS	N.C.N.
	PHORMIUM TENAX - DWARF VARIETIES	DWARF NEW ZEALAND FLAX
SMALL SCALE GROUND COVER		
	CAREX DIVULSA	BERKELEY SEDGE
	ERIGERON KARVINSKIANUS	SANTA BARBARA DAISY
	FESTUCA I. 'SISKIYOU BLUE'	BLUE FESCUE
	SENECIO MANDRALISCAE	CHALK FINGERS
MEDIUM SCALE GROUND COVER		
	HELIOTRICHON SEMPERVIRENS	BLUE OAT GRASS
	GREVILLEA LANIGERA 'COASTAL GEM'	WHOLLY GREVILLEA
	LOMANDRA LONGIFOLIA	MAT RUSH

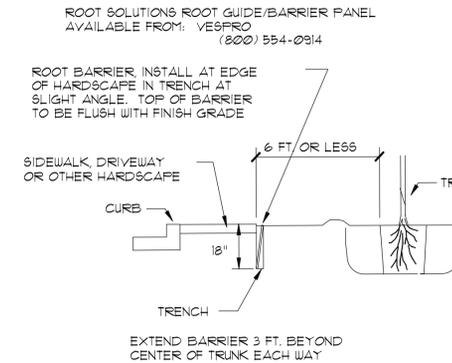
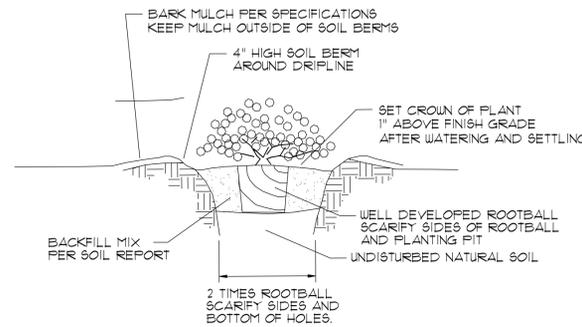
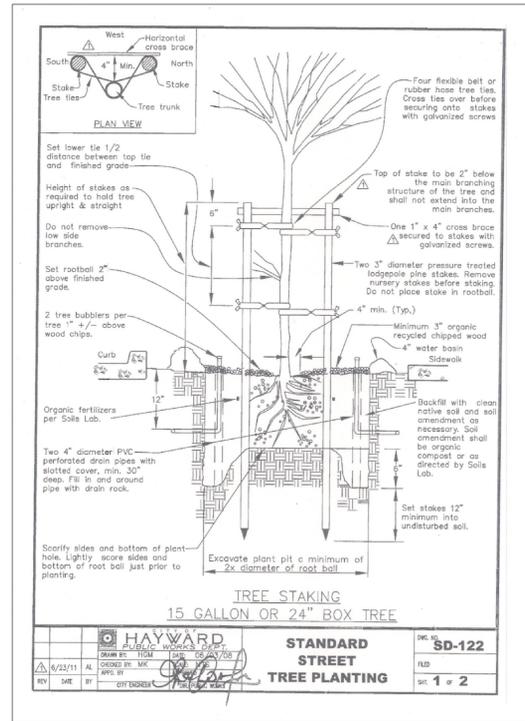
GENERAL LANDSCAPE NOTES

ALL LANDSCAPE AREA SHALL BE WATERED WITH A BURIED, AUTOMATICALLY CONTROLLED IRRIGATION SYSTEM. LOW VOLUME, MPR NOZZLES AND DRIP WILL BE USED WHERE APPROPRIATE FOR WATER CONSERVATION. PLANS SHALL INCORPORATE A WEATHER BASED ET CONTROLLER.

ALL LANDSCAPE AREAS SHALL BE COVERED WITH A 3" LAYER OF BARK MULCH TOP DRESSING.

STREET TREES SHALL BE INSTALLED AT A MINIMUM OF 24" BOX SIZE. INTERIOR TREES SHALL BE A MIXTURE OF 24" BOX AND 15 GALLON. ALL SHRUBS SHALL BE INSTALLED AT A MINIMUM 5 GAL. SIZE, EXCEPT ACCENT AND GROUND COVER SHRUBS.

LANDSCAPE PLANS COMPLY WITH THE CRITERIA OF THE WATER EFFICIENT LANDSCAPE ORDINANCE AB680 AND HAVE APPLIED SUCH CRITERIA FOR THE EFFICIENT USE OF WATER IN THE LANDSCAPE DESIGN. WATER USE CALCULATIONS SHALL BE SUPPLIED WITH THE CONSTRUCTION DOCUMENTS.



- THE LANDSCAPE CONTRACTOR SHALL VISIT THE SITE PRIOR TO BIDDING IN ORDER TO DETERMINE EXISTING CONDITIONS. ADDITIONAL COMPENSATION RESULTING FROM ALLEGED IGNORANCE OF LOCAL AND/OR EXISTING CONDITIONS AND THEIR EFFECT UPON THE COST OF THE WORK WILL NOT BE SUBSEQUENTLY APPROVED.
 - PRIOR TO COMMENCING WORK, THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING WITH THE GENERAL CONTRACTOR THAT THE PRELIMINARY GRADING AS SHOWN ON THE CIVIL ENGINEER'S DRAWING HAS BEEN COMPLETED, AND THAT ALL CONCRETE, ASPHALT, LARGE ROCKS, BASE ROCK MATERIAL AND ANY OTHER DEBRIS HAS BEEN REMOVED FROM ALL LANDSCAPE PLANTER AREAS. THE LANDSCAPE CONTRACTOR SHALL PROVIDE A WRITTEN COPY OF THE VERIFICATION TO BK&A PRIOR TO PLANTING.
 - LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR FINISH GRADING OF ALL PLANTING AREAS. FINISH GRADE SHALL BE SMOOTH EVEN AND UNIFORM PLANE WITH NO LOW SPOTS OR ABRUPT CHANGE OF SURFACE. SLOPE TO DRAIN, AND SLOPE ALL GRADES AWAY FROM BUILDINGS A MINIMUM OF 2%. FINISH GRADE SHALL BE TWO INCHES (2") BELOW ADJACENT PAVING, CURB, SIDEWALK AND HEADERBOARD, AND GENERALLY CROWNED TOWARDS THE CENTER OF THE PLANTER. THE ADDITION OF BARK MULCH OR LAWN SHALL RAISE ALL PLANTER AREAS LEVEL WITH ADJACENT SIDEWALKS AND OTHER PEDESTRIAN AREAS.
- AS PART OF THIS WORK, THE LANDSCAPE CONTRACTOR SHALL HIRE A SOIL & PLANT LABORATORY TO TAKE SAMPLES AND PROVIDE A SOILS TEST AND RECOMMENDATIONS FOR SOIL AMENDMENTS AND SOIL PREPARATION FOR EACH OF THE FOLLOWING LANDSCAPE AREAS:
TREE, SHRUB AND GROUND COVER PLANTING AREAS.
- TEST SHALL BE COMPLETED AFTER THE SITE IS GRADED AND PRIOR TO PLANTING. CONTRACTOR SHALL PROVIDE COPIES OF THE SOIL TEST TO BK&A AND THE OWNER'S REPRESENTATIVE PRIOR TO AMENDING THE SOIL. THE WRITTEN RESULTS SHALL BE PROVIDED TO BK&A AND THE OWNER PRIOR TO THE FINAL WALK-THROUGH AND ACCEPTANCE.
- UNLESS MODIFIED OTHERWISE BY THE SOIL REPORT, THE LANDSCAPE CONTRACTOR SHALL PROVIDE PLACE AND GRADE SANDY LOAM TOPSOIL FOR ALL PLANTING AREAS REQUIRING BACKFILL AND/OR MOUNDING TO MEET SPECIFIED FINISH GRADES. THE LANDSCAPE CONTRACTOR SHALL COORDINATE BACKFILL REQUIREMENTS WITH THE GENERAL CONTRACTOR PRIOR TO PLANTING. RIP SUBSOIL TO A DEPTH OF 6" PRIOR TO PLACING TOPSOIL.
- FOR BIDDING PURPOSES ONLY, CONTRACTOR SHALL INCLUDE A UNIT PRICE PER CUBIC YARD OF TOPSOIL INSTALLED.
- FOR ACTUAL CONSTRUCTION PROVIDE TOPSOIL/SOIL AMENDMENTS PER THE SOIL REPORT, AND PROVIDE OWNER'S REPRESENTATIVE WITH WRITTEN DOCUMENTATION ON TOTAL QUANTITY OF TOPSOIL USED.
- THE PLANT LIST IS FOR THE CONVENIENCE OF THE CONTRACTOR. THE CONTRACTOR SHALL VERIFY TOTAL QUANTITY IN THE FIELD BASED ON THE LANDSCAPE PLANS, AND SHALL NOT RELY SOLELY ON THE PLANT LIST.
 - CONTRACTOR SHALL PROVIDE THE NAME OF THE NURSERY FROM WHERE THE PLANTS ARE BEING PURCHASED FROM, AND, IF REQUIRED AS PART OF THE BID PACKAGE, ARRANGE A TREE INSPECTION AT THE NURSERY WITH THE OWNER'S REPRESENTATIVE. A THREE (3) DAY ADVANCED NOTICE IS REQUIRED TO SET UP THE INSPECTION.
 - ANY TREE PLANTED CLOSER THAN SIX FT. (6') TO ANY HARDSCAPE SURFACE OR FOUNDATION SHALL HAVE A ROOT BARRIER INSTALLED. ROOT BARRIER SHALL BE A CONTINUOUS BARRIER 18 INCHES DEEP, PLASTIC ROLL WITH RAISED RIBS FACING PLANTER AREA. ROOT BARRIERS SHALL BE INSTALLED AT THE BACK OF SIDEWALK, ALONG CURB OR OTHER HARDSCAPE IN TRENCH AT SLIGHT ANGLE. INSTALL ROOT BARRIER ALONG SIDE OF HARDSCAPE AREA ONLY, FOR A DISTANCE OF 3 FT. TO BOTH SIDES OF TREE TRUNK.
 - PERCOLATION TEST - CONTRACTOR SHALL PERFORM A PERCOLATION TEST ON TWO (2) RANDOMLY SELECTED TREE PITS AND DEMONSTRATE TO THE OWNER'S REPRESENTATIVE IN THE FIELD THEIR DRAINAGE PERFORMANCE. LOCATION OF PITS SHALL BE DOCUMENTED ON THE RECORD DRAWINGS AND RETURNED TO THE OWNER FOR THEIR RECORD. IF WATER LEVEL IN TREE PITS DROPS LESS THAN 6" WITHIN A 6 HOUR PERIOD, CONTACT THE OWNER'S REPRESENTATIVE IN WRITING FOR RESOLUTION PRIOR TO CONTINUING WORK.
 - DO NOT INSTALL ANY PLANT IN A SWALE OR IN SUCH A MANNER WHICH WILL INTERFERE WITH DRAINAGE.
 - ALL PLANTED SLOPES 2:1 AND GREATER SHALL HAVE EROSION CONTROL NETTING INSTALLED PER MANUFACTURER'S RECOMMENDATIONS.
 - BARK MULCH - ALL AREAS (EXCEPT LAWN) SHALL RECEIVE A THREE INCH (3") LAYER OF BARK MULCH, 1/2" TO 3/4" SIZE. KEEP ALL MULCH 6 INCHES AWAY FROM THE TRUNK OF PLANTS. SUBMIT SAMPLE OF BARK MULCH FOR APPROVAL PRIOR TO DELIVERY TO PROJECT. NO GORILLA HAIR OR SHREDDED MULCH ALLOWED.
 - THE CONTRACTOR SHALL SECURE ALL VINES TO WALLS / FENCES WITH APPROVED FASTENERS, ALLOWING FOR TWO (2) YEARS GROWTH. SUBMIT SAMPLE OF FASTENER TO OWNER'S REPRESENTATIVE FOR APPROVAL PRIOR TO PLANTING.

BORRECCO/KILIAN & ASSOCIATES, INC.
LANDSCAPE ARCHITECTS
1241 Pine Street
Martinez, California 94553
Phone: 925/372-5306
FAX: 925/372-5308



REV	DESCRIPTION	DATE

FILE OF PROJECT: **OVERLOOK TERRACE**
HAYWARD, CA

DATE: 7/21/15
DRAWN BY: KDF
THIS PLAN IS:

SHEET NUMBER: **L-2**
TITLE OF DRAWING: **CONCEPT**

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CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

Staff Report

File #: PH 16-002

DATE: January 12, 2016

TO: Mayor and City Council

FROM: Director of Development Services

SUBJECT

Proposed amendments to the City of Hayward Livestock Regulations, including establishment of a revised, simplified permit process for the keeping of bees, hens, and other small animals in residential areas; and Establishment of Proposed New Fees to reduce the cost for processing of permits for such uses.

RECOMMENDATION

That City Council adopts the attached two resolutions making findings to support the proposed text amendments (Attachment I) and approving related new fees (Attachment II); and introduces the attached ordinances to approve the proposed amendments to Hayward Municipal Code (HMC) Sections 10-1.215, 10-1.315, 10-1.2735.e, and 10-1.3500 (Attachments III through VI).

SUMMARY

In response to City Council direction and in line with General Plan policies that encourage access to healthy foods, the City is updating its livestock regulations in order to reflect established best practices for the management of small livestock in urban environments, in order to encourage the keeping of hens/domestic fowl, small livestock and bees in residential areas.

Specifically, the proposed revisions:

- redefine the keeping of four or fewer hens, ducks, pigeons, or other small fowl as household pets, changing the permit requirement from an Administrative Use Permit to a Zoning Conformance Permit;
- redefine Potbelly Pigs as Household Pets instead of Livestock, in keeping with longstanding city policy;
- revise zoning regulations to allow apiaries (beekeeping) as a secondary use in the Single-Family Residential (RS) and Residential Natural Preservation (RNP) Districts, pursuant to approval of a Zoning Conformance Permit;
- modify certain minimum setback and performance standards to allow more properties to keep chickens and bees;
- provide additional flexibility for residents to modify the location of coops and other livestock-related structures over time, in keeping with best practices;

- establish a simple permit process wherein the City retains the ability to enforce and/or revoke a permit if a nuisance is caused; and
- amend the City's Master Fee Schedule to provide fee tiers for Zoning Conformance Permits to reduce cost for simple projects.

BACKGROUND

The last major update to the City's livestock regulations occurred in 1999 as part of a comprehensive zoning ordinance update. The intent of that update was to address concerns with the raising of horses on large properties in the hillside areas. No major code update has been completed specifically for the keeping of hens or bees in residential areas. However, in recent years, the City has taken steps to reduce the regulatory barrier to the keeping of hens in residential backyards. Specifically, the fee for processing of an Administrative Use Permit for livestock in a residential zone has been reduced to a \$500 flat fee. However, this fee remains much higher than other cities in the bay area due to the nature of work that is needed to process such a permit (e.g., providing notice to owners and tenants within at least 300 feet of a project site; determining if required findings can be made).

In response to community feedback and direction from the City Council, staff analyzed the City's regulations for consistency with best practices that have been adopted by other cities in the region. As part of that analysis, staff found that the City lacked a simple permit process for minor uses, such as livestock or unattended collection boxes. To lay the groundwork for potential future code updates, regulations creating the Zoning Conformance Permit were adopted in 2015. The creation of this new permit gave the City a new tool for regulating minor uses that may not require extensive public notification and analysis.

On August 18, 2015, the City hosted a public meeting to receive feedback from residents regarding current regulations and desired code changes. There were twenty community members in attendance and all who spoke supported encouraging the keeping of chickens on residential properties. Staff provided an overview of current regulations and facilitated a discussion among attendees on what process would be preferred and what design and performance standards are necessary to ensure that the keeping of chickens on a residential lot does not cause a nuisance to neighboring properties. The consensus among attendees at the meeting was that current standards need to be modified to encourage the keeping of hens and a simplified permit, such as the Zoning Conformance Permit, is more appropriate than a use permit for the regulation of livestock in residential areas.

Following the community meeting, staff conducted work sessions before the City Council and Planning Commission on November 15, 2015 and November 17, 2015, respectively. The minutes for the City Council Work Session are attached as Attachment VI, and the minutes for the Planning Commission Work Session are attached as Attachment VII. During the City Council Work Session, no public comments were received. Council members indicated support for having as simple a permit process as possible and that the standards for livestock should be as clear and effective as possible. During the Planning Commission Work Session, similar sentiments were voiced by Planning Commissioners, though less support was voiced for requiring a permit.

In response to this direction, staff has proposed a very simple permit process for the keeping of up to

four hens in certain residential zones. By limiting the cost and regulatory barriers to obtaining a permit, residents are encouraged to follow the legal process for keeping chickens. Staff will design a permit application for the Zoning Conformance Permit that is 'self-certified' where residents will sign the permit certifying that they will comply with key points from the City's standards. A permit would then be issued along with additional information on best practices.

Both the Planning Commission and City Council also indicated support for revising the City's regulations for beekeeping in residential zones, which staff incorporated into the attachments. Due to the possibility of health risk from exposure to bees by persons who are allergic to stings, staff is recommending a higher fee for permits for beekeeping to allow for noticing of all property owners within one hundred feet of a site where beekeeping is proposed. If the City receives documented notification within ten business days of the mailing of the notice that a resident of a property within one hundred feet of the proposed site is allergic to bee stings, the application would be denied for the protection of the health and safety of that person.

Planning Commission Public Hearing - The Planning Commission reviewed the proposed ordinances during a December 17, 2015 public hearing (see Attachment VII, draft meeting minutes). Key comments from Commissioners were that the noticing process for zoning conformance permits for beekeeping should be clarified to require a respondent to provide some form of proof of allergy to bee stings, such as a doctor's note. The Commission also included in the motion to recommend approval of an amendment to include llamas in the definition of 'Large Livestock.' Both recommendations have been incorporated into the attached ordinances.

DISCUSSION AND STAFF ANALYSIS

Overview of Proposed Changes -

Hens/Fowl - The proposed changes would change the definitions of certain terms in the Municipal Code to create a distinction between the keeping of four or fewer hens and the keeping of other large livestock, such as cows or horses. Currently, there is only one definition, "Livestock," which encompasses all of these activities/animals, making it difficult to have a simpler permit process for less impactful animals. The proposed change would stipulate that the keeping of hens, ducks, pigeons, or other small fowl is only considered "Livestock" when the number of animals kept is greater than four. When the number of animals proposed to be kept is four or fewer, the activity would instead be considered "Pets, Household," similar to the keeping of dogs or cats on a property. A Zoning Conformance Permit would be required, instead of the current requirement for an Administrative Use Permit.

To allow additional properties to legally keep hens, ducks, pigeons, and other fowl as determined by the Planning Director; to encourage properties which have already been keeping hens to come into a conforming state by obtaining a permit; and to ensure the protection of neighboring property residents, the following modifications are proposed to the General Regulations section of the Zoning Ordinance:

1. The minimum lot size for the keeping of poultry is reduced from 5,000 square feet to 4,000 square feet.
2. The maximum number of hens, ducks, pigeons, or other small fowl is limited to a total of four

unless an Administrative Use Permit is approved.

3. A coop is required for the animals, and the structure must be no taller than six feet, located no less than five feet from any side or rear property line, and located no less than six feet from any residence. This requirement is a reduction from the current requirement for a forty foot separation from any residence and a twenty foot separation from any property line. Also, the Planning Director may waive this requirement if found to not be necessary for the protection of nearby residences.
4. Residents that have already been keeping hens would have to verify compliance to obtain a permit, including possibly having to modify the placement of chicken coops or reduce their flock, including relocating any roosters.

Bees - Apiaries are already allowed in the Agricultural (A) Zoning District. The *Permitted Uses* sections of the Single-Family Residential (RS) and the Residential-Natural Preservation (RNP) Districts are proposed to be modified to include Apiaries as a secondary use. The keeping of bees in these zones will require approval of a Zoning Conformance Permit. Such permit would only be approved if the proposed activity is consistent with the standards and limitations set forth in the General Regulations Section of the Municipal Code.

To allow additional properties to legally keep bees, to encourage residents that have already been keeping bees to come into conformance by obtaining a permit, and to ensure the protection of neighboring property residents, the following modifications are proposed to the General Regulations section:

1. The minimum lot size for the keeping of bees is reduced to 4,000 square feet from 40,000 square feet.
2. The maximum number of hives is set to two for properties that are less than 40,000 square feet in size.
3. Specific standards are set, including a requirement that a beekeeper reside on the site where bees are proposed, a minimum separation of five feet between any hive and any adjacent property line, a minimum separation of six feet between any hive and any residence, and a requirement for a six foot tall solid fence along any property line within ten feet of the proposed location of a hive. The fence requirement forces bees to ascend prior to crossing a property line, reducing impact to directly adjoining properties.
4. In order for a permit to be issued for the keeping of bees, noticing of all neighbors within one hundred feet of the site where bees are proposed is required. If any resident submits to the city a statement and documentation acceptable to the Planning Director, such as a doctor's note, that they or another resident within that one hundred foot buffer is allergic to bees, the permit shall not be issued.
5. Residents that already have beehives would need to verify compliance in order to obtain a permit.

More detailed information on proposed modifications can be found in Attachments III through VI.

General Plan Consistency - The proposed amendments are consistent with the General Plan in that the livestock regulations promote community health, access to foods, and lifelong learning while preserving the quality of residential areas of the city. There are two directly relevant General Plan

policies from the *Community Health and Quality of Life* chapter, which are incorporated in Attachment I and identified below with explanations from staff regarding how the proposed new regulations implement such policies:

Policy HQL-3.1 Access to Healthy Foods: The City shall strive to ensure that all residents are within walking distance of sources of fresh and healthy foods (e.g., grocery stores, healthy corner stores, farmers' markets, and community gardens).

Reducing regulatory barriers to the keeping of chickens on residentially zoned properties would allow more residents to pursue this activity. The keeping of chickens provides for immediate access to fresh eggs and provides more certainty with respect to the quality of the eggs, the humane treatment of the birds, and the type of feed and supplements that are provided to the animals.

Policy HQL-9.1 Resiliency: The City shall strive to create a strong and resilient community and region that can withstand or accommodate change and respond to challenges.

Food prices are subject to market demands and supply constraints, and changes in food prices can have a severe impact on some residents in the City, particularly those with limited incomes. Keeping chickens can provide a stable price for eggs, which is a primary source of protein for many individuals. Keeping of bees allows for access to fresh honey. Producing more food locally also enhances the overall resiliency of the City by providing an alternative food source for residents in the event of a disruption in food supply due to a natural disaster or other event.

Environmental Impact Analysis - As reflected in the attached resolution, the proposed text amendments are exempt from environmental impact analysis under the California Environmental Quality Act; CEQA Regulation 15321 (exemption for governmental regulatory activities) and CEQA Regulation 15061(b)(3). Section 15061(b)(3) from the CEQA Guidelines states “[t]he activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” Staff concludes there is no possibility the text changes would cause a significant environmental impact.

ECONOMIC IMPACT

Economic activity relating to the purchase of equipment and supplies for the keeping of chickens or bees is likely to be negligible.

FISCAL IMPACT

Proposed permit fees are estimated to cover the cost to the City to process applications, and other fees are already in place to cover the cost of enforcement in the event of a nuisance. Thus, the fiscal impact to the city is negligible.

PUBLIC CONTACT

Notices of this public hearing were sent to all interested parties (including participants from the public meeting), all local Homeowners Associations (HOAs), the Planning Commission and the City Council, and was posted at City Hall and the Hayward public libraries. Additionally, notice of this hearing was published in *The Daily Review* on December 5, 2015. Comments received from the public, which include opposition and support, are included as Attachment VIII.

NEXT STEPS

Should Council adopt the attached resolutions and introduce the attached ordinances, staff will present the ordinances for adoption at the next Council meeting on January 19, 2016. The ordinances would be effective upon adoption.

Prepared by: Michael Christensen, Assistant Planner

Reviewed by: Sara Buizer, Planning Manager

Recommended by: David Rizk, Director of Development Services

Approved by:



Fran David, City Manager

Attachments:

- | | |
|-----------------|--|
| Attachment I | Resolution Approving Amendments |
| Attachment II | Resolution Approving Fees |
| Attachment III | Ordinance Amending Section 10-1.215 of the Hayward Municipal Code |
| Attachment IV | Ordinance Amending Section 10-1.315 of the Hayward Municipal Code |
| Attachment V | Ordinance Amending Section 10-1.2735.e of the Hayward Municipal Code |
| Attachment VI | Ordinance Amending Section 10-1.3500 of the Hayward Municipal Code |
| Attachment VII | December 17, 2015 Draft Planning Commission Meeting Minutes |
| Attachment VIII | Public Comments Received |

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

Introduced by Councilmember _____

RESOLUTION DETERMINING PROJECT IS EXEMPT FROM ENVIRONMENTAL IMPACT ANALYSIS, PER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING AMENDMENTS TO THE HAYWARD MUNICIPAL CODE REGARDING LIVESTOCK, HOUSEHOLD PETS, AND APIARIES.

WHEREAS, at the direction of the City Council, staff has prepared revisions to Sections 10-1.200, 10-1.300, and 10-1.2735 of the Hayward Municipal Code related to livestock, household pets, and apiaries; and amendments to the City's Definitions Section of the Zoning Ordinance (Section 10-1.3500) (the "Project"); and

WHEREAS, the Planning Commission considered the Project at a legally noticed public hearing held on December 17, 2015, and unanimously recommended, with two Commissioners absent, that the City Council approve the proposed text amendments (Application No. 201505957 TA); and

WHEREAS, notice of a public hearing was published in the manner required by law and the hearing was duly held by the City Council on January 19, 2016.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- A. The text amendment is exempt from environmental review under California Environmental Quality Act (CEQA) Guidelines Sections 15321 (exemption for governmental regulatory activities) and 15061(b)(3) (projects clearly not impacting the environment).

TEXT AMENDMENTS

- A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The proposed standards are consistent with best practices for managing livestock in

urban areas, and similar standards have been adopted by many other jurisdictions in the Bay Area. While some standards are reduced from what is currently required, sufficient separation requirements are maintained to ensure preservation of the public health, safety, convenience, and general welfare of the residents of Hayward without creating an unnecessary burden on applicants. In addition, these reduced standards will allow many more properties to become eligible for the keeping of some small livestock and/or bees, which will allow the residents of those properties to have access to a dependable, local food source. Having access to a dependable, local food source increases the resiliency of the residents of Hayward and can provide health benefits by ensuring a dependable supply of a staple protein source when food prices increase.

- B. The proposed change is in conformance with all applicable, officially adopted policies and plans.

Providing residents more access to healthy food sources is consistent with Hayward General Plan Community Health and Quality of Life Element Goal 3, relating to access to healthy foods. Recognizing that Livestock and Beehives can potentially become nuisances for neighboring residences, regulation of these facilities is consistent with the intent of HMC Chapter 5, Article 7, Community Preservation and Improvement. The proposed regulations would allow the keeping of some types of livestock and bees in many residential areas, subject to specific performance standards. The standards will ensure that the keeping of such animals does not have a negative impact on neighboring residents. Further, the proposed text amendments will ensure that the City has a mechanism to enforce the proposed regulations as a public nuisance if the animals or bees are not maintained properly.

- C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified.

No properties are proposed to be reclassified. New businesses are required to have adequate streets and facilities before operating, as currently mandated.

- D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

No properties are proposed to be reclassified. The proposed regulations and text amendment would provide clarification regarding which types of activities are permissible and which are not permissible, to help ensure that such activities are operated in a manner that would not generate impacts to surrounding properties and neighborhoods.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts findings in support of the text amendments, subject to the adoption of the companion ordinances.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2013

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO 16-

Introduced by Council Member _____

RESOLUTION AMENDING THE CITY OF HAYWARD FISCAL YEAR 2016
MASTER FEE SCHEDULE ASSOCIATED WITH AMENDMENTS TO THE
HAYWARD MUNICIPAL CODE FOR LIVESTOCK, HOUSEHOLD PETS,
AND APIARIES

WHEREAS, Section 15273 of the California Environmental Quality Act (CEQA) Guidelines states that CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purposes of:

1. Meeting operating expenses, including employee wage rates and fringe benefits;
2. Purchasing or leasing supplies, equipment, or materials;
3. Meeting financial reserve needs and requirements;
4. Obtaining funds necessary for capital projects necessary to maintain service within existing service areas; or,
5. Obtaining funds necessary to maintain intra-city transfers as are authorized by city Charter; and

WHEREAS, the City Council finds and determines that this action is exempt from CEQA based on the foregoing provisions.

WHEREAS, in November 2010, California voters approved Proposition 26, which amended Article XIII C of the State constitution regarding the adoption of fees and taxes. Proposition 26 seeks to assure that taxes, which must be approved by the voters, are not disguised as fees, which can be approved by legislative bodies, such as a city council. The proposed amendment to the Master Fee Schedule (MFS) to set a new fee to process simple, ministerial Planning permits is considered a Planning Permit fee pursuant to Exception 1 for Fees for Benefits and Privileges, Article XIII C, § 1(e)(1) of Proposition 26.

WHEREAS, the City's goal is to provide a ministerial planning permit to provide efficient, over the counter service to support applications for minor projects that are permitted as a matter of

right, subject to fixed standards or objective measurements set forth in the HMC, and to achieve cost recovery cost recovery for the staff time in implementing such a permit.

WHEREAS, the ministerial planning permit fee would be expanded to include multiple fee tiers dependent on the amount of staff time needed to ensure cost recovery during the initial intake, consistency review, issuance of permit and records management post-permit issuance.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby adopts certain changes in the Master Fee Schedule, as reflected in attached Exhibit A.

BE IT RESOLVED that this resolution shall become effective on the date that the companion ordinances (Ordinances No. 15-) become effective.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Exhibit A

B PLANNING		
1. Pre-Application Meeting1 (includes Fire Dept. fee) No Charge	No Charge	
2. Code Assistance Meeting 1 (payable with Fire Dept. fee)	No Charge	
3. Annexation Proceedings Costs shall also include, but not be limited to, current annexation filing fees established by the Board of Equalization in manner provided by the State Government Code Section 54902.5.	\$15,000	Time & Material; Initial Deposit*
4. LAFCO Utility Service Agreement (Preparation and processing of documents in connection with utility service to property outside of the City limits)	\$5,000	Time & Material; Initial Deposit*
5. Environmental/Technical Analysis (Contract) Consultant	\$5,000	Time & Material; Initial Deposit*
6. General Plan Amendment1	\$12,000	Time & Material; Initial Deposit*
7. Text Change to Zoning Ordinance1	\$12,000	Time & Material; Initial Deposit*
8. Rezoning and Prezoning (Including New or Major Modification to a Planned Development) 1	\$12,000	Time & Material; Initial Deposit*
9. Rezoning (Planned Development Precise Plan or Preliminary Plan Minor Modification)	\$6,000	Time & Material; Initial Deposit*
10. Conditional Use Permit1	\$6,000	Time & Material; Initial Deposit*

11. Administrative Use Permits		
a Chickens	\$500	Per Application
b Food Vendors	\$700	Per Application
c Processed Administratively	\$2,000	Time & Material; Initial Deposit*
d Involve Public Hearing	\$6,000	Time & Material; Initial Deposit*
12. Site Plan Review 1		
a Processed Administratively	\$2,000	Time & Material; Initial Deposit*
b Involving Public Hearing	\$6,000	Time & Material; Initial Deposit*
13. Variance/Warrants - Processed Administratively	\$2,000	Time & Material; Initial Deposit*
14. Variance/Warrants & Exceptions – Involving Public Hearing	\$6,000	Time & Material; Initial Deposit*
15. Modification of Approved Development Plan – Processed Administratively	\$2,000	Time & Material; Initial Deposit*
16. Modification of Approved Development Plan – Involving Public Hearing	\$6,000	Time & Material; Initial Deposit*
17. Extension of Approved Development Plan/Applications	\$1,000	Time & Material; Initial Deposit*
18. Designation of Historical or Architectural Significance ¹	\$6,000	Time & Material; Initial Deposit*
19. Development Agreement		
a Review of application, negotiation of agreements, processing through Planning Commission and City Council	\$12,000	Time & Material; Initial Deposit*
b Amendment Processing	\$6,000	Time & Material; Initial Deposit*

c Annual Review	\$1,000	Time & Material; Initial Deposit*
20. Written Verification of Zoning Designation or Similar Request	\$500	Per Application
21. Research	\$216 plus \$41	per hour after first 15 minutes
22. Zoning Conformance Permit	\$210	Per Application
a Tier One: Apiaries, Unattended Collection Boxes	\$210	Per Application
b Tier Two: Household Pets (when required)	\$52.50	Per Application
23. Sign Permits		
a Sign Permit (one business)	\$300	
b Sign Permit (each additional business – same application)	\$250	
	\$1,500	
24. Sign Program	\$6,000	
25. Appeal Fee for Applicant		Time & Material; Initial Deposit*
26. Appeal Fee Other Than Applicant	\$250	
27. Tentative Tract or Tentative Parcel Map		
a Processed Administratively	\$4,000	Time & Material; Initial Deposit*
b Involving Public Hearing	\$6,000	Time & Material; Initial Deposit*
28. Final Parcel Map	\$2,000	Time & Material; Initial Deposit*
29. Final Tract Map	\$6,000	Time & Material;

		Initial Deposit*
30. Lot Line Adjustment	\$4,000	Time & Material; Initial Deposit*
31. Certificate of Merger or Certificate of Compliance	\$4,000	Time & Material; Initial Deposit*
32. Grading Permit Application	\$4,000	Time & Material; Initial Deposit*
33. Security Gate Application	\$2,000	
34. Encroachment Permit – Street Events The City Manager may reduce or waive this fee for certain events. (See Fee Reduction, Waiver, and Sponsorship for Special Events Policy)	\$1,500	
35. Encroachment Permit Application – Major Work	\$4,000	Time & Material; Initial Deposit*
36. Encroachment Permit Application – Minor Work	\$2,000	Time & Material; Initial Deposit*
37. Food Sharing Event	No charge	
38. Tree Preservation:		
a Annual Pruning Certification	\$126	
b Tree removal/pruning	\$211	
39. Mobilehome Park Closure/Change of Use	\$12,000	Time & Material; Initial Deposit*
40. Review of Building Permit Applications		
a Commercial/Industrial Tenant Improvements or Additions	\$416.00	

b	Addition - Single-Family Dwelling	\$274.00
c	Addition - Multi-Family Dwelling	\$568.00
d	New Accessory Structure	\$186.00
e	New Single Family Dwelling	\$499.00
f	New Single-Family Dwelling – Hillside	\$721.00
g	New Industrial Building	\$686.00
h	New Commercial Building	\$742.00
i	Over-the-Counter Approvals	\$149.00

41. Inspections - Planning and Landscape

a	Single-Family Residential - Subdivision	\$212
b	Multi-Family Residential Development	\$319
c	Single-Family Residential - Hillside	\$255
d	Re-Inspection	\$212
e	Miscellaneous	\$79

42. General Plan Update Fee	12% of Building Permit Fee
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1 It is recommended that major projects be reviewed at a Pre-Application Meeting prior to submittal of a Development Review Application.

*If during the review of the project the Planning Director estimates that the charges will exceed the deposit, additional deposit(s) will be required. Also, the Planning Director may authorize a lesser initial deposit than shown if he/she determines that processing of an application will not entail need for the full initial deposit. Prompt payments of deposits or outstanding fees owed in association with the application will assure continued staff review of the project. Failure to provide requested deposit or fees associated with the application within an appropriate time frame as determined by the Planning Director will be treated as a withdrawal without prejudice of the application. Any surplus deposit remaining shall be refunded promptly upon project completion.

ORDINANCE NO. _____

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE
SECTION 10-1.215: SINGLE-FAMILY RESIDENTIAL, TO
REVISE THE PERMITTED USE TABLE WITH RESPECT TO
HOUSEHOLD PETS AND APIARIES

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES
HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council incorporates by reference the findings contained in Resolution No. 16-____ approving the text changes requested in Text Amendment Application 201505957.

Section 2. Zoning Ordinance Section 10-1.215, which establishes the permitted uses for the Single-Family Residential District, is hereby amended to add certain text as indicated by underline red text in attached Exhibit A, related to implementing revisions to the City’s Livestock Regulations.

Section 3. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward,
held the _____ day of January, 2016, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held
the _____ day of _____, 2016, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

EXHIBIT ASEC. 10-1.215 USES PERMITTED.

- a. Primary Uses. The following uses, or uses determined to be similar by the Planning Director, are permitted in the RS District as primary uses.
- (1) Residential Uses.
 - (a) Single-family dwelling.
 - (b) Group home (6 or fewer residents, excluding staff).
(See definitions)
 - (2) Other Uses.
 - (a) Day care home. (State-licensed, less than 24-hour care for children or adults, 14 or fewer persons, excluding staff. See definitions)
 - (b) Public agency facilities. (See definitions)
- b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the primary uses permitted in the RS District:
- (1) Residential Uses.
 - (a) Attached second dwelling unit. (Also referred to as a “Granny or in-law unit.” See Section 10-1.245n., for criteria)
 - (b) Second single-family dwelling. (Where one single-family dwelling already exists on a lot, one additional single-family dwelling may be constructed provided the minimum development standards (lot size, setbacks, height, etc., can be met for each dwelling).
 - (2) Other Uses.
 - (a) Accessory buildings and uses. (See Section 10-1.245a. & b.)
 - (b) Garage sales. (4 per year per dwelling. See General Regulations Section 10-1.2735.d.)
 - (c) Home Occupation. (See definitions)
 - (d) Household pets. ([\(See definitions and Section 10-1.2735\)](#))
 - (e) Apiaries ([\(See definitions and Section 10-1.2735\)](#))

ORDINANCE NO. _____

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE
SECTION 10-1.315: RESIDENTIAL-NATURAL
PRESERVATION DISTRICT, TO REVISE THE PERMITTED
USE TABLE WITH RESPECT TO HOUSEHOLD PETS AND
APIARIES

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES
HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council incorporates by reference the findings contained in Resolution, approving the text changes requested in Text Amendment Application 201505957.

Section 2. Zoning Ordinance Section 10-1.315, which establishes the permitted uses for the Single-Family Residential District, is hereby amended to add certain text as indicated by underline red text in attached Exhibit A, related to implementing revisions to the City’s Livestock Regulations.

Section 3. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward,
held the _____ day of January, 2016, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held
the _____ day of _____, 2016, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

EXHIBIT A**SEC. 10-1.315 USES PERMITTED.**

- a. **Primary Uses.** The following uses, or uses determined to be similar by the Planning Director, are permitted in the RNP District as primary uses.
- (1) **Residential Uses.**
 - (a) Single-family dwelling. (6 or fewer residents, excluding staff).
(See definitions)
 - (b) Group home
 - (2) **Other Uses.**
 - (a) Day care home. (State-licensed, less than 24-hour care for children or adults, 14 or fewer persons, excluding staff. See definitions)
 - (b) Public agency facilities. (See definitions)
- b. **Secondary Uses.** The following uses are permitted as secondary or subordinate uses to the primary uses permitted in the RNP District:
- (1) **Residential Uses.**
 - (a) Attached second dwelling unit. (Also referred to as a “Granny or in-law unit.” See Section 10-1.245n., for criteria)
 - (2) **Other Uses.**
 - (a) Accessory buildings and uses. (See Section 10-1.245a. & b.)
 - (b) Garage sales. (4 per year per dwelling. See General Regulations Section 10-1.2735.d.)
 - (c) Home Occupation. (See definitions)
 - (d) Household pets. ([See definitions and Section 10-1.2735](#))
 - (e) Apiaries. ([See definitions and Section 10-1.2735](#))

ORDINANCE NO. _____

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE
SECTION 10-1.2735.e: GENERAL REGULATIONS, TO
REVISE THE STANDARDS FOR THE KEEPING OF
LIVESTOCK AND HOUSEHOLD PETS, AND TO INCLUDE
ADDITIONAL REGULATIONS FOR THE OPERATION OF
APIARIES

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES
HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council incorporates by reference the findings contained in Resolution, approving the text changes requested in Text Amendment Application 201505957.

Section 2. Zoning Ordinance Section 10-1.2735.e, which establishes regulations which are applicable in all zoning districts for certain uses, is hereby amended to add certain text as indicated by underlined red text in attached Exhibit A, and remove certain text as indicated by strikethrough text in attached Exhibit A, related to revisions to the City’s Livestock Regulations.

Section 3. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward,
held the _____ day of January, 2016, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held
the _____ day of _____, 2016, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

EXHIBIT A10-1.2735.e. Livestock, ~~Apiaries,~~ and Household Pets.1. Minimum Lot Area.

The minimum lot area for any lot used to maintain livestock and other animals, except for household pets, whether a temporary use or principal use of the property, shall be the ~~greater~~ lesser of either the minimum lot area specified in the zoning district in which the property is located or the area hereinafter specified:

- a. For large and medium livestock, the minimum lot area shall be 20,000 square feet;
- b. For exotic animals, poultry or other birds, the minimum lot area shall be ~~5~~4,000 square feet, or greater, depending on the species of the animal, as determined by the Planning Director;
- c. For apiaries, the minimum lot area shall be ~~40~~4,000 square feet.

2. Maximum Number of Animals.

The maximum number of livestock or any other animals allowed pursuant to this section is subject to a determination by the Planning Director that the site is suitable, including consideration of size, configuration and location, and can support the number of livestock or other animals without creating nuisance problems for surrounding residential properties. The following limits shall apply:

- a. **Livestock:** In no case shall the number of livestock, as defined herein, kept or maintained on any lot exceed one large livestock for each 20,000 square feet of land contained in such parcel, or one medium livestock for each 10,000 square feet of land contained in a minimum 20,000 square foot parcel.
- b. Fowl: In no case shall hens, ducks, pigeons, or other small fowl be kept on a parcel that is less than 4,000 square feet in size.
- c. Apiaries: For apiaries, in no case shall the number of hives exceed two for a parcel which is less than 40,000 square feet in size or zero for a parcel which is less than 4,000 square feet in size.
- d. Duration of Limit: Once a ~~use~~ permit is granted establishing the maximum number of animals allowed on a property, the permittee is entitled to maintain that maximum number of animals indefinitely as long as an animal(s) has existed continuously, in that six months have not passed where there were no animals on the property.

3. Minimum Available Open Area.

All livestock or other animals shall be provided with the minimum available open area specified below (such area may include barns, stables, sheds or similar structures used to house animals):

- a. For large livestock, the minimum available open area per animal shall be 5,000 square feet;
- b. For medium livestock, the minimum available open area per animal shall be

- 2,500 square feet;
- c. For poultry, the minimum available open area per animal shall be ~~200~~36 square feet;
 - d. For exotic animals, the minimum available open area per animal shall be as determined by the Planning Director, based on the species of the animal.
4. Buildings and Structures.
All animals shall be provided with adequate shelter or other protection from the elements. Shelter may be provided through the construction of a coop, stable, or other structure, as appropriate for the species of animal and as determined by the Planning Director. Buildings and structures used for the housing of animals shall be located behind the principal structure on the lot. Such buildings and structures may be located elsewhere on the lot due to topography or other special characteristics of the lot, subject to approval of the Planning Director. Such structures shall be large enough and designed such that all animals may lie down, stand up, fully extend their limbs and turn around freely, as required by the section 1350 of Title 3 of the California Code of Regulations, as may be amended from time to time. Hives and accessory structures for the keeping of livestock or household pets shall not be located in front of a primary structure.
5. Maximum Height of Structures.
No building or structure used for the housing of animals shall be erected or maintained on any lot to a height greater than that permitted for accessory structures in the respective zoning district. For small livestock and household pets, the maximum height of an enclosure shall be six feet, except for beehives. For beehives, the maximum height shall be limited to four feet. A greater height may be permitted based on consideration of special characteristics of the lot, including, but not limited to, topography, lot size, and building placement, and subject to approval of the Planning Director.
6. Minimum Setback Requirements.
All barns, stables, and other structures used for the housing of animals, except for household pets, on any lot shall be located not less than 20 feet from any property line and not less than 40 feet from any dwelling on the same or adjoining lot. Beehives and all structures for the housing of household pets, including chicken coops, shall be located not less than 5 feet from any property line and not less than 6 feet from any dwelling on the same or adjoining lot. The distances as specified in this subsection may be reduced or waived upon the finding that such distances are not necessary for the protection of nearby residences.
7. Fence Requirements.
All areas containing livestock or other animals shall be enclosed by fences which are good, strong, substantial, and sufficient to prevent the ingress and egress of livestock or other animals. Such fences shall be designed and constructed of appropriate materials and be of an adequate height so as to control and contain such animals at all times, while avoiding injury to such animals, preventing such animals from reaching across any property lines, and of a design that does not detract from the appearance of the site or surrounding area. Where bees are proposed to be kept, a solid fence of at least six feet in height shall be erected along all property lines within ten feet of the hive. Hives shall not be located in areas

where this requirement cannot be met due to height limitations for fences.

8. Maintenance of Livestock and Other Animals.

All livestock and other animals shall be kept or maintained so as to minimize and prevent production of flies, excessive odor, dust, noise, or other conditions detrimental to the community health and welfare, by applying the following minimum requirements:

- a. Manure must be removed daily from the corral, stable, paddock, or other holding areas and stored in fly-tight containers, cans or holding boxes, until disposal; roosts, lofts, and rabbit hutches must be cleaned daily unless worm beds are maintained under the rabbit hutches. Composting or similar treatments may be permissible if performed to appropriate standards so as not to constitute a nuisance, as determined by Planning Director.
- b. Watering troughs must be so constructed and located that they do not overflow excessively in the stall, corral or paddock area, as to promote mosquito larvae growth.
- c. Hay must be stored in such a manner so as not to become a nesting place for rodents, i.e., stored in rodent-proof buildings or off the floor and away from walls, other material or equipment.
- d. Grain feeds shall be stored in rodent-proof containers or buildings, i.e., metal cans or rodent-proof feed cribs; all other feed must be stored in vermin-proof containers.
- e. The entire area set aside for the animals shall be cleared of all rubbish and debris.
- f. Livestock shall not be abandoned on any property or right-of-way in the City of Hayward. Any application for a permit to keep livestock shall include a preliminary plan for the eventual discontinuation of the keeping of livestock on the site, including a method for the relocation of livestock.
- g. Where apiaries are proposed to be sited within one-hundred feet of any residence, a person responsible for management of the hives must reside on the property.

9. Livestock as a Legal, Nonconforming Use.

Livestock existing as a legal, nonconforming use may continue indefinitely as long as (a) the livestock have existed continuously in that six months have not passed when there were no livestock on the site, (2) the maximum number of livestock established as a nonconforming use is not increased, and (3) as long as there is no intensification of livestock, e.g., legal, nonconforming medium livestock may not be intensified by replacing them with large livestock. The burden of proof for establishing the legal, nonconforming status of livestock rests with the property owner subject to the endorsement of the Planning Director.

10. Permit Required.

As provided in the Zoning Ordinance, a Zoning Conformance Permit is required prior to the establishment of household pets or apiaries as a secondary use. This requirement shall be waived for household pets where the enclosure is located at least forty feet from any residence, and for apiaries where the hives are located at least one hundred feet from any residence. An application for a Zoning Conformance Permit shall be reviewed by the Planning Director or their designee

and shall be approved if all of the standards of this section are met.

- a. Household Pets: A Zoning Conformance Permit is required for the establishment of the following household pets: Hens, ducks, pigeons, rabbits and other similar small animals, as determined by the Planning Director, where the proposed total number on a property does not exceed four (4) of such animals. An application for a Zoning Conformance Permit shall be submitted on a self-certification form, wherein an applicant shall acknowledge with their signature or initials that they understand the requirements of the Hayward Municipal Code with respect to the maintenance and management of the animals that are proposed. Where the City determines that compliance with such standards is impossible given the characteristics of the site where the animals are kept, then the permit shall be deemed null and void.
- b. Apiaries: An application for a Zoning Conformance Permit for beekeeping shall require noticing of all property owners within one hundred feet of the property where the bees are proposed to be kept. Such notice shall be mailed within five business days of receipt of such application. If the City receives notification and documentation acceptable to the Planning Director (such as a doctor's note) that an individual who is allergic to bees resides within one hundred feet of the property where bees are proposed, the application shall be denied. Such notification and documentation may be received from any person who received an official notice from the City or from any person who can establish that they reside within one hundred feet of the property where bees are proposed to be kept. If no notification is received within thirty calendar days of the mailing of the official notice, and if the application meets all other city design criteria, the permit shall be issued.

ORDINANCE NO. _____

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE
SECTION 10-1.3500: DEFINITIONS, TO REVISE
DEFINITIONS RELATING TO HOUSEHOLD PETS,
LIVESTOCK, AND APIARIES

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES
HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council incorporates by reference the findings contained in Resolution, approving the text changes requested in Text Amendment Application 201505957.

Section 2. Zoning Ordinance Section 10-1.3500, which establishes definitions of terms in the Zoning Ordinance, is hereby amended to add certain text as indicated by underlined red text in attached Exhibit A, and remove certain text as indicated by strikethrough text in attached Exhibit A, related to revisions to the City’s Livestock Regulations..

Section 3. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward,
held the _____ day of January, 2016, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held
the _____ day of _____, 2016, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

EXHIBIT ASEC. 10-1.3500 DEFINITIONS

The following definitions are to be revised:

ANIMAL, LIVESTOCK. ~~The word “livestock” shall mean animals customarily kept, used, maintained or raised on a farm or ranch for commercial purposes, including horses, cattle, sheep, goats, or similar animals, as determined by the Planning Director. For the purposes of this section, the word “livestock” may be further categorized in terms of “large livestock”, defined as horses, cattle, or similar animals, and “medium livestock,” defined as sheep, goats, llamas, or similar animals. See Livestock~~

APIARY. The word “apiary” shall mean any premises where bees, hives, and related appliances are located. See General Regulations Section 10-1.2735(e) "Livestock, Apiaries, and Household Pets” for regulations.

LIVESTOCK. Domesticated farm animals kept for use or profit (See Section 10-1.2735.e. for regulations of livestock) and further defined as follows:

- a. Large Livestock. Horses, cattle, llamas, or similar large animals, as determined by the Planning Director.
- b. Medium Livestock. Sheep, goats, and pigs, or similar medium animals, as determined by the Planning Director.
- c. Small Livestock. ~~Hens, ducks, pigeons, rabbits and other similar small animals, as determined by the Planning Director, totaling five (5) or more such animals on a property.~~

PETS, HOUSEHOLD. Small animals ordinarily and customarily domesticated and permitted in a dwelling and kept for company or pleasure and not for profit, **including the following subcategories:**

- a. Traditional Household Pets: Dogs, cats, canaries, parakeets, fish, domestic mice, rats, guinea pigs, potbelly pigs, up to four (4) rabbits, or similar animals, as determined by the Planning Director. The keeping of more than four cats or dogs requires an "Animal Fancier's Permit from the City Animal Control Officer.
- b. Other Household Pets: Hens, ducks, pigeons and other similar small animals, as determined by the Planning Director, where the total number on a property does not exceed four (4) of such animals. Other Household Pets are subject to approval of a Zoning Conformance Permit based on consistency with the standards prescribed in Section 10-1.2735 of the Hayward Municipal Code.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, December 17, 2015, 7:00 p.m.
777 B Street, Hayward, CA94541**

MEETING

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair Parso-York.

ROLL CALL

Present: COMMISSIONERS: Willis Jr., Enders, Schott, Faria
CHAIRPERSON: Parso-York
Absent: COMMISSIONER: Goldstein, McDermott

SALUTE TO FLAG

Commissioner Faria led in the Pledge of Allegiance.

Staff Members Present: Alvarado Jr., Christensen, Cruz, Rizk, Schmidt

General Public Present: 46

PUBLIC COMMENT:

Mr. Kim Huggett, President of the Hayward Chamber of Commerce, spoke about the publication of the new Hayward Business directory. He shared that the 72nd annual Chamber of Commerce Awards Gala will be held on Saturday, January 30, 2016, and would honor the Fire Fighter, Police Officer, Educator, and Business Person of the year.

PUBLIC HEARINGS: For agenda item No. 1, the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of the decision. If appealed, a public hearing will be scheduled before the City Council for final decision. For agenda item No. 2 and agenda item No. 3, the Planning Commission may make a recommendation to the City Council.

1. Proposed Demolition of a Portion of the Southeastern Part of Southland Mall and Construction of a New Five-Theater Cinema with Ancillary Beer and Wine Sales at One Southland Mall Drive, requiring approval of a Conditional Use Permit in the Central Business (CBB20) District, Ashton Simmons (Applicant)/ Southland Mall L.P. (Owner).

Senior Planner Schmidt provided a synopsis of the staff report.



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Chair Parso-York opened the public hearing at 7:11 p.m.

Mr. Edward Bogue, President of the Southgate Homeowner's Association, expressed his support of the project and offered a couple of modifications to the project. In regards to the landscaping, he noted that a requirement of 30" buffer of plants for the site lines may impact visibility of traffic from La Playa Drive. He added that his Association preferred the original iteration of the project which featured a different elevation plan, which included different accents, a larger LED display, and a slightly different façade.

Mr. Kim Huggett, indicated that the proposed project was a step in the right direction for Hayward as it promoted residents to stay in town for entertainment options. He stated that individuals residing in the Eden Shores, Southgate, and Kennedy Park who would frequent Century Theaters in Union City and San Leandro could now attend a closely situated theater at Southland Mall. He commented that the proposed project would make Southland Mall financially viable and would increase revenue in Hayward generated from sales tax. Mr. Huggett stated that the General Manager of Rouse Properties was doing an excellent job in keeping the stores in Southland Mall filled, bringing exciting restaurants and a new sports facility.

Ms. Jenine Garcia, a Hayward resident, stated that although she supported the proposed theater as an addition to the mall, she was not favorable to alcohol sales at the theater. She commented that as a parent, she could presently drop her kids off at the mall to shop around but would feel uncomfortable doing this if alcohol was being sold at the mall. Ms. Garcia mentioned that if individuals want to consume alcohol, there were opportunities for this at the surrounding restaurants.

Ms. Sophia Espinosa, a member of the Hayward Youth Commission and a member of the Hayward Coalition for Healthy Youth, stated that the Hayward youth supported a new theater in Hayward in a recently conducted survey. She expressed concern over alcohol sales being permitted in conjunction with the new project. Ms. Espinosa commented that the image of the City be protected and strongly advised against going along with the new fad of allowing alcohol sales at movie theaters. She pointed out that the reason many attendees in the audience were holding teddy bears in hand was to remind the City to keep children in mind first when making such planning decisions.

Ms. Jennifer Armenta, a Hayward student, expressed concern about how the Conditional Use Permit would change the culture at Southland Mall. She shared that according to research, increased exposure and access to alcohol, contributes to lower perception of the



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harm of alcohol to young people. She urged the Planning Commission to reconsider the proposed project and also keep in mind how decisions about similar projects are made in the City.

Mr. Robert Dousa, a Hayward resident, noted that he has participated in DUI prevention programs for Hayward schools. He described that although the proposed project was beautiful, he raised the question of whether relying on alcohol sales was the only way to increase revenue opportunities in the City. He commented that amount of funds generated from sales tax would not be sufficient to cover the cost of the first DUI crash resulting from a noninsured patron of the proposed project. Mr. Dousa shared facts about problems arising from alcoholism. He expressed concern about young adolescents being in an environment such as a movie theater where alcohol may be permitted to be sold. He pointed out that in a restaurant setting, individuals consuming alcohol could be seated at different tables from those not drinking alcohol; however, with the proposed project, a non-consumer of alcohol could be sitting right next to someone who had been drinking.

Ms. Elisa Vigil, a member of a local youth coalition called Make Your Mark, expressed concern about the developing theater at Southland Mall that may be permitted to sell alcohol. She mentioned that the Kids Come First Campaign was developed in conjunction with the Hayward Coalition for Healthy Youth, which were created to protect youth friendly places in the City from exposure to substances such as alcohol, tobacco, marijuana, electronic cigarettes, and prescription drugs. Ms. Vigil noted that Southland Mall was one of the few remaining youth friendly places in Hayward. She underscored that there were many pressures for adolescents to engage in underage consumption of alcohol.

Mr. Andy Krake, a Castro Valley resident and a member of the Hayward Rotary Club, commended the youth present at the meeting who have voiced their concern about the proposed project. He stated that the proposed project would create jobs, it would help fulfill an entertainment need in the community, and would boost sales tax revenue for the City. He spoke favorably of Mr. Ashton Simmons who was the General Manager of Southland Mall.

Ms. Monica Ackerman, a longtime Hayward resident, stated that although she favored the proposed project, she stressed the importance of preserving Southland Mall as a kid friendly environment and objected the sale of alcohol at Southland Mall. She commented that she would not want her grandchildren to be exposed to inebriated individuals at the mall.

Chair Parso-York closed the public hearing at 7:32 p.m.



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Commissioner Enders thanked the members of the public who raised concern about the proposed project, especially the youth. She asked staff if there was any sales loss anticipated due to the movie theater that was being newly constructed at Newpark Mall.

Development Services Director Rizk noted that Rouse Properties also owned Newpark Mall. Mr. Ashton Simmons, with Rouse Properties and also the General Manager of Southland Mall, shared that in his experience in managing both malls, Southland Mall tended to draw customers from Northern Alameda County and Newpark Mall drew in customers from Southern Alameda County. He indicated that the movie theaters at both malls should not impact one another. He added that the AMC theater at Newpark Mall would be selling alcohol.

Commissioner Enders requested that the applicant elaborate on the loss of an 800 square foot senior center that was presently located in Southland Mall. Mr. Simmons stated that the senior center which was formerly inside Southland Mall was decommissioned for the last two years.

Commissioner Willis Jr. asked staff how employees of the cinema would monitor and document activities of patrons consuming alcohol at the theater.

Senior Planner Schmidt clarified that staff would not monitor alcohol consumption activity through surveillance cameras, but noted that individuals drinking alcohol would receive a wristband and would be drinking out of cups that would look much different than the regular concession cups. She shared that some of the conditions that staff has worked on with the Hayward Police Department (HPD) included requirements where staff members of the movie theater would be walking through movie theaters to ensure that people drinking alcohol were wearing wristbands and that individuals were drinking out of appropriate cups.

Mr. Simmons added that the Century Theater in Mountain View which now sold beer and wine included a process of requiring individuals consuming alcohol to present proper photo identification, they had to wear a wristband, and a maximum number of beverages sold per individual was also enforced. He shared that the movie theater was not completely dark and that there was ambient lighting which permitted employees to effectively monitor alcohol consumption. Mr. Simmons noted that although movie theaters have security cameras in place, it was unbeknownst to him whether the Century Theater in Mountain View relied on video surveillance for monitoring alcohol sales and consumption.

Commissioner Willis Jr. asked how the staff at the proposed movie theater would enforce and document the two beverage maximum. Senior Planner Schmidt responded that the documentation kept would be for the number of alcohol sales over a given period of time, a



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record of the walkthroughs that employees did of each screening room, and any record kept of any potential issues or belligerent behavior. She added that the Hayward Police Department could request this documentation from the movie theater on a quarterly or monthly basis.

Senior Planner Schmidt elaborated for Commissioner Willis Jr. that CineArts could feature films that may not typically be shown at a larger blockbuster type movie theater, such as independent films.

Senior Planner Schmidt indicated for Commissioner Faria that the restrictions outlining the hours for alcohol sales were in the Conditions of Approval and stated that alcohol could be sold up to one hour after the start time of the last film for the day. She noted that this would give an individual sitting through the last show time of the night ample time to metabolize the consumption of the alcoholic beverage. She emphasized that in no case would alcohol sales be permitted after 12:30 a.m. Ms. Schmidt stated that no start time for alcohol sales was indicated in the Conditions of Approval.

In regards to Century Plaza located on B Street, Commissioner Schott noted that the City Council and the Planning Commission were adamant about not having a marquee on the outside of the building. He commented that with the current marquee located at Century Plaza, there was still the problem of some individuals braking in front of the movie theater in an attempt to read information on the marquee. He asked the applicant if the sign for Southland Mall visible from I-880 would be a marquee for the movie theater.

Mr. Simmons mentioned that it had not been determined yet if movie show times would appear on the electronic billboard for Southland Mall. He understood the concerns expressed by Commissioner Schott for the potential traffic hazard this may create for motorists travelling on I-880 who were trying to read cinema times. He shared that the method to see show times would be to go on the mall website, Cinemark website, or seeing the show times being played at the mall itself.

Mr. David Shesgreen, with Cinemark and the former CEO of Century Theaters, commented that utilizing marquees was becoming an obsolete practice at movie theaters as these presented too much information and were difficult for people to read.

Senior Planner Schmidt indicated for Commissioner Schott that in regards to the downtown movie theater, there was an existing agreement between the Successor Agency to the Redevelopment Agency and Cinemark. She elaborated that per the agreement, if another theater opened up which was not under Cinemark's ownership, then the Agency and the City would be responsible to pay a certain sum of money to Cinemark. She indicated that per



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Condition of Approval No. 4, Cinemark has agreed to enter into an agreement that will rescind this requirement in the event that the ownership of the proposed movie theater changes. Ms. Schmidt added that staff did not anticipate this occurring.

Development Services Director Rizk stated that the City's outside legal counsel has been working with Cinemark's legal counsel to establish an agreement related to Condition of Approval No. 4. He summarized that the agreement would protect the City from exposure to a potential \$5 million penalty related to the development of the proposed theater at Southland Mall. He added that this agreement would not apply to potential theaters at other locations in the City, as these would have to be evaluated separately.

Senior Planner Schmidt indicated for Commissioner Schott that the limitations for alcohol sales were as stated in the Conditions of Approval. She stressed that individuals who had purchased alcohol inside the movie theater could not leave the theater premises with their beverage, emphasizing that consumers could not walk into the mall with their beverage.

Commissioner Schott asked whether individuals could sit down in the lobby of the theater and purchase and have drinks in this area after watching a film.

Mr. James Blissett, architect for the cinema, noted that there was not a designated seating area in the movie theater plans for the consumption of alcohol. He mentioned that there was a bar area in the concession stands with a couple seats but there was no lounge type of environment.

Commissioner Schott admired the students for voicing their concerns about alcohol sales at the proposed movie theater. He gave the example of how bowling alleys have full service bars without measures such as wristbands in place to control alcohol sales and consumption. Mr. Schott commented that as a business owner himself, he stated that the operator of the proposed movie theater was a professional business operator who would not risk their ABC license enterprise-wide.

Chair Parso-York appreciated the input received from the public in audience. In regards to the comments expressed by Mr. Bogue, Chair Parso-York asked staff if there would be sufficient line of sight for traffic, considering that there was no sidewalk on La Playa Drive where the hedges are proposed to be placed for landscaping. Senior Planner Schmidt noted that included in the Conditions of Approval was the final submittal of a Landscape Design, adding that this concern could be reviewed during the process of the landscape design. She stated that sight distance would be evaluated by the Engineering and Transportation division.



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Chair Parso-York commented that it was his understanding that landscaping could not obstruct line of sight for traffic. Senior Planner Schmidt responded that the landscaping requirements had height restrictions for plants that were in areas adjacent to driveways.

Chair Parso-York asked the applicant what the longest hours were alcohol sales for a theater managed by the applicant and what his experience had been with such facilities. Mr. Shesgreen mentioned that for a theater he managed in Evanston, Illinois, which was situated next door to Northwestern University, there was a successful 18 screen movie theater in operation with no issues. Mr. Shesgreen commented that this theater featured children's movies and art movies and pointed out that moviegoers were primarily there to watch movies. Mr. Shesgreen confirmed for Chair Parso-York that individuals would have to purchase a movie ticket before they could buy alcohol inside the theater.

Chair Parso-York requested that a representative from the Hayward Police Department share what the Police Department included in its evaluation before approving the sale of alcohol for the proposed project.

Lieutenant Darin Nishimoto with the Hayward Police Department, noted that he managed the VICE Intelligence Bureau. He stated that when the project application came forward, his department contacted police departments located in nearby jurisdictions that have movie theaters currently selling beer and wine. He reported that all of these jurisdictions did not have any problems occurring at their movie theaters. He stated HPD and Planning staff had worked together to establish regulations that would safeguard alcohol sales at the proposed movie theater.

Development Services Director Rizk clarified for Commissioner Willis Jr. that there would be a limit of two alcoholic beverages sold per customer per transaction.

Commissioner Willis Jr. expressed concern about the types of the movies that may be shown at the proposed movie theater attracting crowds similar to those who consume alcohol at bowling alleys.

Senior Planner Schmidt commented that arthouse movie theaters typically draw in audiences ranging in the age group of thirties to forties, noting that children generally are drawn to blockbuster movie theaters that can showcase 3D or animated films. She highlighted that arthouse films usually consisted of award-winning foreign films. She did not feel that alcohol sales in conjunction with showing art movies would result in any type of nuisance.



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Commissioner Willis Jr. asked what type of marketing study revealed that showing alcohol at a movie house would improve business. Mr. Shesgreen responded that it was evident in the revenue generated at movie theaters selling alcoholic beverages, noting that this has been immensely successful in drawing in a lot of people and making movie theaters more viable.

Commissioner Schott noted that in his experience in going to a movie with his wife, he usually goes to the concession stand and purchases food and drinks for himself and his wife. He shared that in his youth, he sold alcohol at a concession stand at the Oakland Coliseum where there were similar restrictions of a certain number of drinks being sold per sales transaction. He recalled that the ABC department would always conduct inspections to ensure adherence to alcohol sales regulations. Mr. Schott stated that the theater operators do not solely rely on revenue generated from the sales of movie tickets and also relied upon earnings from the concession stands. He commented that proposed project including alcohol sales was not very different than what was currently permitted at sporting events. He underscored that he had no problem with alcohol sales at the proposed movie theater as this would be done in a controlled environment, adding that the theater operator would not risk the liability of selling alcohol.

The applicant confirmed for Commissioner Schott that there would be no marketing restriction on which films could be shown at the proposed theater.

Commissioner Enders supported the project as it was crucial to promote business in the City. She understood the concerns expressed by the youth and other members of the community about alcohol sales at the movie theater; however, she pointed out that alcohol was a controlled substance. She was highly concerned about the uncontrolled substances that were being consumed in the City and were a ravaging issue. She highlighted that alcohol sales would be limited to beer and wine, and would not include hard liquor. She also noted that there were full service bar options located approximately 100 feet away from the movie theater and commented that individuals who want to consume a greater quantity of alcohol and create more of a raucous would be likely to concentrate at an establishment with a full service bar. Ms. Enders stated that Southland Mall would still have a family friendly environment whether alcohol is sold at the proposed movie theater or not.

Commissioner Faria appreciated the concerns expressed by the youth. She agreed with Commissioner Enders' comments regarding there being numerous restaurants around Southland Mall with full service bars and happy hour specials in place. She noted that these same restaurants selling alcohol have seating areas for families that were not too far from the bar area. She supported the project noting that there would be less issues with alcohol being sold at a movie theater in comparison to a restaurant with a full service bar as the former



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offered a different type of environment than a restaurant. She indicated that the movie theater would be a great addition to the City and preferred the marquee and façade discussed by Mr. Bogue as these brought class to the area. She thanked the applicant for bringing this project to Southland Mall as it would make the shopping area more viable and would lead to further growth.

Chair Parso-York supported the marquee and façade mentioned by Mr. Bogue as this side of the movie theater would be facing the freeway. He thanked the members of the public for expressing their concern about alcohol sales at the proposed project; however, he shared that alcohol was a substance that was present within our homes and that individuals need to exercise self-control when consuming it. He pointed out that HPD had done ample research on the restrictions that will be in place at the proposed project site and that other theaters selling alcoholic beverages have had a positive experience. Mr. Parso-York stated that it wasn't uncommon to hear that malls were closing down across the nation, and he was delighted that an investment was being made to keep Southland Mall alive and going.

Commissioner Willis Jr. appreciated the comments received from the public about the proposed project; however, he was supportive of the proposed project as it would improve business in Hayward and there would be a controlled environment inside the movie theater in regards to the sales of alcohol. He made a motion to approve the proposed project per staff recommendation. The motion was seconded by Commissioner Schott.

Commissioner Enders was highly concerned with traffic impacts on the intersection of La Playa Drive and Winton Avenue. Senior Planner Schmidt shared that the recommendations in the memorandum were included as conditions for the proposed project which were on Attachment III. Ms. Schmidt indicated that one of the southbound lanes on the intersection Winton and La Playa will be restriped and that westbound lane would be re-channelized. She indicated for Commissioner Enders that although a representative from the Engineering and Transportation Division was not present, staff had carefully evaluated traffic concerns in this area and it was staff's conclusion that the recommendations outlined in the traffic study would improve traffic conditions.

Commissioner Faria noted for Commissioner Enders that the barrier that was in place preventing traffic coming off Winton Avenue and preventing a left-turn on La Playa Drive was temporary for the holidays.

Senior Planner Schmidt confirmed for Commissioner Enders that the moving of the intersection from Winton Avenue would presently not occur as the mall property was under



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different ownerships. She noted that the restriping option was cost effective and would enhance traffic circulation in the area.

Commissioner Enders voiced that there were traffic flow concerns throughout the City, emphasizing that it was impactful to public transportation and she was worried that traffic congestion problems would deter the public from using public transit options. She stated that the Winton Avenue area was along a major public transit route. She underscored that traffic concerns need to be addressed as more residents move into the City.

The motion passed with the following vote:

AYES:	Commissioners Willis Jr., Enders, Schott, Faria Chair Parso-York
NOES:	None
ABSENT:	Goldstein, McDermott
ABSTAIN:	None

- Proposed subdivision and construction of six detached single-family homes around a central open space area located at 1151 Overlook Avenue requiring a zone change from Sustainable Mixed Use (SMU) to Planned Development (PD) and approval of Tentative Tract Map 8244 - Overlook Terrace, LLC (Applicant/Owner)

Assistant Planner Christensen provided a synopsis of the staff report. He noted that the original application was for eight homes; however, at staff's request, the project was redesigned to feature six homes and this yielded in enhanced architectural definitions for the proposed units. He added that the elevation for four of the units was reduced from three stories to two stories. Mr. Christensen shared that a letter was received from a citizen after the publication of the Agenda Packet expressing concerns about views. He added that in staff's field survey and view study, it was determined that Unit 2 which was an upper tier unit, did have the potential to block some views to the west; however, these views were already impacted by trees and existing development. He stated with a reduction of the elevation, it was shown to have no impact on views.

Chair Parso-York opened and closed the public hearing at 8:25 p.m.

Commissioner Willis Jr. requested that staff elaborate on Condition of Approval No. 127, Section A. Assistant Planner Christensen responded that many of the sections for Conditions, Covenants and Restrictions (CC&R) for Homeowners Associations were standardized and applied to proposed developments in the City, noting that Condition of Approval No. 127



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would provide some flexibility to the City.

Commissioner Willis Jr. expressed concern that if the City were at some point to withdraw interest in the proposed development, would it lose jurisdiction over the abatement of nuisances.

Assistant City Attorney Alvarado noted that Condition of Approval No. 127 applied to obligations under the CC&R's to the residents of the proposed development, the City was included in the provisions as the City maintains the authority to abate nuisances on private property and did not relinquish the City's ability to enforce generally applicable public nuisance laws.

Commissioner Willis Jr. commented that two of the homes appear to be isolated from the remaining four units as the two homes would face Palisade Street and the four units would have its own separate entryway. He wondered the reasoning for this design as there was a Homeowners Association. He mentioned that there was a current property owner adjacent to the proposed project site who expressed concern that their privacy would be violated due to the view from the higher level property overlooking their activity. He described that the same property owner was concerned that excavation work may cause erosion of the land and damage to the property.

Assistant Planner Christensen noted that although the site was located on a high grade, creating a two level structure severely limits the amount of grading that is required for the site. He described that it was staff's preference that a development mold into the hillside rather than tear the hillside. He added that in order to integrate the two levels, there would be central open space area and also pointed out that the applicant designed a stairwell system to tie the development together. In regards to the upper tier, Mr. Christensen noted that staff did have the same privacy concerns for the adjacent property owner initially. He added that the initial application was for a three story product for both of the units on the upper tier; however, the redesign to a two story reduced the height.

Commissioner Willis Jr. asked staff to elaborate on the architectural requirements for the City. Assistant Planner Christensen stated that the owner of a nearby rental property had expressed concern about the architectural design of the proposed project, he mentioned that staff felt that the overall architecture proposed for the project was fitting with the existing neighborhood and noted that the existing housing stock was older.

Assistant Planner Christensen stated that although the units may have a smaller floorplate and is slightly taller, this was because the units are on smaller lots. The benefit of this resulted



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in the preservation of the southern portion of the property. He added that incorporating the taller units into the hillside helped minimize the impact. He commented that the initial application was for all three story towers on the hillside and this did not fit in with the neighborhood; however, the redesign of the proposed development had made it more compatible with its surroundings.

Commissioner Schott shared that the street of the project site was formerly a dangerous location and that the street had been repaired a few years ago. He had a strong concern about the number of cars that make a left-hand turn on this street while going up a 14% grade onto Overlook Avenue. He commented that properties such as the project site which were previously under the ownership of Caltrans had caused the City of Hayward much blight, noting that the Caltrans Real Estate Division's method of selling its properties should be examined. He indicated that he was aware that Caltrans had purchased single family homes in RSB6 neighborhoods and stated that he would not be supportive of zone changes for neighborhoods that were originally purchased as RSB6 neighborhoods. He commented that Caltrans was now selling this property and developers were purchasing them for a relatively cheap price in his opinion. He mentioned that there were still approximately 400 parcels still owned by Caltrans and described these properties as being boarded up and not in good condition. He stated that he would not be supportive of projects going further down Palisade Street in the areas of Redstone.

Commissioner Enders requested that staff elaborate on the environmental sensitivities in the area. Assistant Planner Christensen responded that there were some vegetative species identified in the area and these were included in the background report for the initial study. He noted that a thorough environmental analysis was not conducted as the project will place southern portion into a protected status.

Commissioner Enders asked staff who the other developers were proposing to develop the quarry site, noting that the potential development of the surrounding area needs to be carefully evaluated in order to determine what the uses will be for this new neighborhood.

Assistant Planner Christensen indicated that there was no active application for the quarry site. He stated that over the years there have been numerous conversations about the potential uses of the quarry site, commenting that City View Apartments used to be a quarry site and there was also the La Vista quarry. In terms of active parcels, he shared that there were applications further up Overlook Avenue which were still a part of the RSB6 zone. He indicated that Caltrans sells these parcels individually and shared that these were just single family homes. Mr. Christensen shared the long term vision for this area and the quarry site, the intent was to facilitate the site as a middle school or as an environmentally friendly high



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density development with unbundled parking; however, there were no applications received fitting this vision and noted that this may be developed in the future. He stated that for a highly dense community, it was envisioned that there would be access to a wide variety of alternative transportation options such as shuttles to BART.

Commissioner Enders commented that the point in having a sustainable mixed use area is to have a walkable area where there is less of a reason to have a car, and did not feel that the proposed project was conducive to a sustainable mixed use. She didn't envision the units being used for housing college students nor did it seem like there would be transportation available from this pocket neighborhood to the college. Ms. Enders stated that there was single family residential on two sides of the development, there was complete open space on another side, and she felt that the project would be encroaching on land that should be preserved. She expressed that the proposed density belonged in a hub of public transportation options.

Commissioner Faria asked if there was a better drawing depicting the group open space. She had a hard time grasping what type of amenity the group open space would provide for the units proposed in the project.

Assistant Planner Christensen stated that more detailed information would follow in the Precise Plan and pointed out that if there were any specific amenities that were desired, these could be added as Conditions of Approval. He stated that the basic vision for the group open space consisted of having tables and gathering spaces where people could congregate as most of the units would not have enough private open space.

Commissioner Faria commented that the proposed units were close together and that they would not be able to have fences creating a separation.

In response to Commissioner Enders' comments about the use of the quarry site, Commissioner Schott responded that it was to be used as a potential relocation site for Bret Harte Middle School or for a development project proposed by Mr. Sherman Lewis and a group. He commented that the proposed project worked at the proposed site and noted that the sustainable features of the project were the provision of electric vehicle charging stations and solar panels.

Chair Parso-York stated that the size of the open space area seemed inadequate to him and asked where the closest place was for outdoor recreational opportunities for children.



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Assistant Planner Christensen responded that the Eden Greenway was located nearby along Mission Boulevard and pointed out that there were some areas on campus at California State University East Bay that provided outdoor recreational space. Mr. Christensen mentioned that in planning the project, staff did struggle with how open space would be included in the development. He noted that the original application included plans to use some of the southern portion of the property to fulfill the open space requirement; however this option did not work as it would be difficult to create a path and this would be too great a distance from the units.

Chair Parso-York expressed that he had an issue with creating large family homes that did not provide the family enough space to be outdoors. He indicated that the streets around the development posed a hazard to children residing in the proposed units and for these safety reasons, he did not support the project.

Commissioner Willis Jr. made a motion to recommend that the City Council approve the proposed project per staff recommendation. The motion was seconded by Commissioner Schott. The motion failed with the following vote:

AYES:	Commissioners Willis Jr., Schott, Faria
NOES:	Commissioner Enders Chair Parso-York
ABSENT:	Goldstein, McDermott
ABSTAIN:	None

Development Services Director Rizk stated that since the motion did not pass, the item could go to the City Council without a recommendation from the Planning Commission.

Assistant City Attorney Alvarado shared that the motion failed as four affirmative votes were needed to approve or deny the project. He said that if the Planning Commission could not come to a decision, then the item could be referred to the City Council without a recommendation from the Planning Commission. He added that in this circumstance, the City Council could make a decision without a recommendation from the Planning Commission.

Assistant City Attorney Alvarado clarified for Commissioner Willis Jr. that the item could be appealed to the City Council if the Planning Commission had voted to deny the project.

Development Services Director Rizk stated that it was staff recommendation at this point to let the item go before the City Council without a formal recommendation from the Planning Commission, noting that the City Council could review the Planning Commission Meeting



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Minutes in order to determine what transpired at the meeting. He outlined that the second option was to move to continue the item at a future Planning Commission meeting when there would be a full commission present to take action on the item.

Commissioner Faria made a motion to allow the item to go before the City Council for a decision without a recommendation from the Planning Commission. The motion was seconded by Commissioner Schott. The motion passed with the following vote:

AYES: Commissioners Willis Jr., Enders, Faria
Chair Parso-York
NOES: Schott
ABSENT: Goldstein, McDermott
ABSTAIN: None

3. Amendments to the City of Hayward Livestock Regulations, including establishment of a revised, simplified permit process for the keeping of bees, hens, and other small animals in residential areas.

Assistant Planner Christensen provided a synopsis of the staff report.

Chair Parso-York opened and closed the public hearing at 9:09 p.m.

Assistant Planner Christensen noted for Commissioner Schott that turkeys were not specifically defined as permissible livestock that could be kept, adding that this could be determined by the Planning Director and could be evaluated on an individual case by case basis.

Development Services Director Rizk stated that he did not consider turkeys as a type of fowl that could be kept under the proposed regulations.

Assistant Planner Christensen noted for Commissioner Schott that an apiary was the land used for beekeeping, noting that the general regulations would limit the number of hives to two. Currently this regulation is allowed for the flood plain areas and the agricultural district, and there are no limits set for these areas.

Assistant Planner Christensen clarified for Commissioner Enders that per the revised fees, staff was proposing to eliminate the line item from the Administrative Use Permit, and would be reflected under the Zoning Conformance Permit. For chickens, staff would have to create a second tier for the Zoning Conformance Permit, right now staff was proposing to have the \$210 fee which would apply to beekeeping in order to cover the noticing cost. A separate tier



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of \$52.50 would be created for urban chickens and could be expanded to other uses in the future as needed.

Commissioner Enders asked if there was a scientific basis requiring beekeepers to have a six foot tall fence surrounding the bees' home. Assistant Planner Christensen responded that this was a common practice by other cities in the area and noted that it was also recommended by those who have hives. The City's current limit for a rear yard fence was six feet. He elaborated that if there was a hive that was four feet in height and a bee that is leaving the hive, if the bee encounters a physical barrier such as a solid fence, then the bee has to fly up. Mr. Christensen described that for the adjacent neighbor, this forces the bees to fly a little higher and would decrease the probability that the bee would fly at a lower level in the adjacent neighbor's yard.

Commissioner Enders asked what evidence would be used to determine which neighbors located within a distance of 100 feet of a beekeeping area was allergic to bees. Assistant Planner Christensen indicated that per the current proposed regulations, if the City received a notice that someone is allergic, the City would impose the restrictions. He added that if these regulations need to be modified and applied in a more stringent manner in the future, it could be done so.

Commissioner Enders commented that there could be the case that some individuals oppose the idea of beekeeping and could falsify information claiming that they are allergic when they are not. She urged staff to investigate guidelines that could be used to determine what course of action to follow for beekeeping restrictions in regards to neighbors who were allergic to bees.

Chair Parso-York appreciated the thorough staff report. Assistant Planner Christensen confirmed for Chair Parso-York that the current permitting process was challenging for residents where some residents opt to not obtain a permit.

Development Services Director Rizk stated that the proposed regulations provided realistic standards for residents to follow, emphasizing that the regulations would provide an opportunity to provide the public with information and educate them.

Commissioner Faria asked if the educational material would be made available in other languages. Assistant Planner Christensen indicated that staff could look into this, adding that many of staff's handouts at the Permit Center were available in English and Spanish.

Chair Parso-York stated that many people have chickens and bees in their yards and asked what would be the impact of these regulations on these residents. Assistant Planner



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Christensen commented that for these residents, they may be currently operating without a permit which would be a violation of the Hayward Municipal Code; however, the intent of the City was to have those without permits in conformance.

Chair Parso-York asked staff if there would be efforts made to inform the general citizenry of Hayward of the new regulations. Assistant Planner Christensen noted that there would be an outreach event conducted at the Hayward Library in February 2016. He noted that there was a lot of public interest on the proposed regulations.

Assistant Planner Christensen indicated for Commissioner Schott that the initial set up for the application would have to be conducted in person, adding that the benefit of this would be that staff could talk to the applicant and provide them with information on the regulations. Mr. Christensen mentioned that in the near future, the City would implement an online permitting process but would still strive to equip citizens with resources and the information they need to be in compliance with regulations.

Assistant Planner Christensen noted for Commissioner Schott that the application was generally linked to the address of the applicant.

Commissioner Willis Jr. made a motion to recommend that the City Council approve the proposed regulations per staff recommendation. The motion was seconded by Commissioner Enders.

Commissioner Enders thanked the members of the community who took the time to express their concerns about the proposed regulations. She stated that disagreements between neighbors about various nuisances were inevitable, and this included complaints about the keeping of livestock and she pointed out that the City would take action to address these issues. Ms. Enders noted that farming was part of Hayward's history and she was paying her homage to this by supporting the proposed regulations.

Commissioner Schott offered a friendly amendment to include llamas in the language defining large livestock. Mr. Schott noted that there were a couple llamas in his neighborhood that assisted with controlling the growth of plants on the hillside.

Commissioners Willis Jr. and Enders were agreeable to the friendly amendment.

The motion passed with the following vote:

AYES: Commissioners Willis Jr., Enders, Schott, Faria
Chair Parso-York

NOES: None



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ABSENT: Goldstein, McDermott
ABSTAIN: None

COMMISSION REPORTS

4. Oral Report on Planning and Zoning Matters

Development Services Director Rizk wished everyone Happy Holidays.

5. Commissioners' Announcements, Referrals

Chair Parso-York thanked staff for their hard work over the year and wished everyone Happy Holidays.

APPROVAL OF MINUTES

6. Approval of Minutes

There were none.

ADJOURNMENT

Chair Parso-York adjourned the meeting at 9:25 p.m.

APPROVED:

Brian Schott, Secretary
Planning Commission

ATTEST:

Yolanda Cruz, Deputy City Clerk
Office of the City Clerk

Comments submitted by Roberta dePonte-Jacobs on 12/16/2015

Re: Amendments to the City of Hayward Livestock Regs.

I own property in Hayward and was raised in that home. My mother nearly always had hens and we had fresh eggs. I think it was wonderful and believe citizens should be able to have chickens.

Regarding bees, I don't know how we can protect those that are allergic to bee stings so keeping bees in densely populated area seems problematic.

Keeping other small animals; I am glad the city will require permits and will be willing to monitor to protect citizens from odors, flies and other unhealthy affects of anyone that does not do the work to responsibly maintain the animals and environment. I believe people keeping small animals should be required to have a vet and to take their animals to the vet at least one time per year to make sure the animals get their rabies shots etc. as a requirement of having the "small animals" in our city limits.

Thank you for your consideration.

Comments submitted by Deborah McHenry on 8/18/2015

I am unable to attend tonight's discussion, but I would like to state my strong opposition to allowing chickens or other livestock to be raised in backyards. A few reasons follow:

.When we moved to Hayward 25+ years ago, we were consciously choosing city living.

.Some years ago, our next door neighbor attempted to raise chickens, and we were constantly awakened and disturbed by the noise. (When we complained, they got rid of the animals.) .There were/are undesirable odors associated with these animals.

.Our home backs up to a canyon, and the presence of chicken or other livestock will encourage insects, predators and other unwanted animals.

Please inform me of the next step after this discussion, but it is my hope that the discussion tonight will end any consideration for allowing chickens or any livestock to be raised at residences within the city's boundaries.

**Deborah McHenry

(Will provide address if needed)

Comments submitted by Frank Andel on 8/18/2015

Dear Michael,

In lieu of attending this evening's meeting about keeping chickens in residential backyards due to a schedule conflict, I am sending this email in hopes that you read it and pass it on to the planning committee for their consideration. I am against the keeping of backyard chickens in the city of Hayward.

I am a resident of Hayward who lives on Skyline Drive. Last year, my neighbor acquired 3 chickens and thank goodness the city ordinance/code did not allow them to be kept. I experienced the following problems:

- Constant clucking and screeching

- Terrible smell from feces
- A subsequent invasion of rats feasting on the seed spread on the ground for the chickens

Between the noise and the smell and my subsequent efforts at trapping and removing a large number of rats, I finally contacted animal control who required removal of the chickens. I honestly don't know how the owners could stand it themselves.

I urge caution on loosening the requirements for livestock use permits in the city. For every potentially responsible chicken owner, there will be many more irresponsible ones like the neighbor I experienced. Think about how the city can truly enforce that any neighbor won't experience the same problems that I have if you allow backyard chickens. And, think of the escalation of the number of complaints about backyard chickens and also how many chickens are going to end up at the animal control shelter from irresponsible owners.

I also live right up against an open space that has many wonderful natural features including wildlife. Some of the animals are bobcats, cougars, and coyotes who would be enticed by these backyard chickens. How will you control this aspect of the proposed change? Will only certain zones in Hayward be allowed to have backyard chickens based upon these concerns?

There is also the compatibility with other animals that are pets such as dogs and cats. Since my own personal backyard chicken neighbor experience, I have adopted a dog that I am training to be a field champion. This means hunting large game birds. Having chickens next door would be an incompatible nightmare for me and my dog. How will you ensure that the permitted individuals for backyard chickens are compatible with the nearest neighbors?

I therefore oppose the allowance of backyard chickens in residential areas for the following reasons:

1. Difficulty in enforcing proper animal husbandry and sanitation.
2. Difficulty in mitigating chicken noise.
3. Difficulty in controlling smell from feces.
4. Potential rise in filed complaints, animal abandonment, and increase in shelter drop offs.
5. Difficulty in controlling interaction with wildlife (predatory or otherwise) in zones that abut open space districts.
6. Lack of compatibility with traditional pets owned by neighbors.

Can the residents in Hayward who are pushing so hard for backyard chickens simply go to the grocery store and buy eggs? Are my neighbors going to be able to get backyard chickens again and make my life hell?

It seems that these changes are being pushed through by political will rather than what is reasonable for most residents in Hayward. I've been told that moving ahead to change the ordinance is likely since residents are already violating the established rules therein. I hope that this is not the case. I'm sure that there are not many people in Hayward who have had to experience backyard chickens like we did. But if they did, they would surely be opposed to their neighbors having them. Think about what I went through and please ask yourself, would you want your next door neighbor to have chickens?

Not in my backyard please, nor my neighbor's,

Frank Andel

Please acknowledge receipt of this email and feel free to contact me anytime for follow up.

Comments submitted by Rob Ludlow on 8/18/2015

Hello Mr. Christensen,

I'm the owner of www.BackYardChickens.com & co-author of the book "Raising Chickens For Dummies". My wife and I lived in Hayward for 3 years when we got married (right off of D Street), her grandparents have lived there for 30 years, I went to school at CSU Hayward, and also worked as an intern for the VP of Finance / Business at CSU Hayward.

I'd like to submit my support of allowing chickens to be raised legally in Hayward!

There are still a lot of misconceptions about raising backyard chickens as pets. People remember grandparents with stinky / noisy chickens, but in most of those cases they were talking about 50+ chickens raised in very tight conditions and that were raised just for eggs & meat, and in less-than ideal situations. In comparison, think about what a dog pound or kennel is like: noisy, smelly, etc. What if everyone thought owning a dog in your backyard would smell / sound like a dog kennel?

While there are definitely some legitimate concerns that need to be addressed when considering allowing chickens in an urban or suburban environment, they can all be addressed with proper pet maintenance guidelines... just as is the case with any other backyard pet.

Some complain of smell, predators, noise, etc. It is true that these issues may arise in situations where too many chickens are kept, or they are kept improperly. With that said, there are tens of thousands of urban and suburban chicken owners throughout the country that have small flocks that are maintained properly and have none of these problems.

It is the experience of thousands that a properly cared for flock of 3 to 6 hens (no roosters) cause less problems with smell, disease, predators, noise, etc. than the same yard with a similar number of dogs and cats. Improperly cared for chickens should be addressed, but

so should the same with dogs and cats that also cause problems when not cared for properly.

I encourage anyone with concerns about a neighbor raising backyard chickens to visit the residence of someone who is properly caring for a small flock of hens. Talk to their neighbors and see (smell) for themselves if there really are issues. Just make sure they come with an empty egg carton!

If you have any further questions or concerns, please feel free to contact me!

Rob Ludlow
www.BackYardChickens.com

Comments submitted by Flo Samuels on 8/18/2015

Pluses: comforting clucking as they eat and lay eggs.
Minuses: uncomfortable squaking when they fight or other noises in the night or are stalked by cats and coyotes.
Rooster crowing (not welcome when you do not have a job that starts at 8 am)
Smell from coops.
Possible road deaths if allowed near busy streets and interchanges.
How will they interact with our resident wild turkeys? (Hayward Hills area off Highland)

Net probability, lots of complaints, misuse of police and enforcement officials time.
Flo Samuels
24556 Margaret Drive
Hayward, CA 94542

"Obstacles are those frightful things you see when you take your eyes off your goal."
- Henry Ford (1863-1947)

Comments submitted by Anna Smith on 8/18/2015

Hi Michael: I'm opposed to chickens in backyards. If the Council would allow X number of chickens in yards who will monitor the adherence to the law?

I had a neighbor who had chickens when the area was still county, and kept them even after the area became city owned. At one point he had a rooster--it crowed all hours day and night. His excuse was when he bought the chick he didn't know it was a rooster. I didn't 'buy' that and before long chickens were invading my yard--so much for responsibility. The rooster disappeared shortly after I asked if he was raising a 'fighter'.

Unfortunately, if you give some people an inch they will take a mile.

If chickens are allowed in our City what will be next? A goat to keep weeds down? Ducks for Thanksgiving dinners?

I cry foul if fowl are allowed in the City.

Unfortunately, I'm unable to attend the meeting, but I hope my opinions and thoughts on the matter of chickens is taken into consideration.

Thank you, Michael, for your time.
Anna Smith



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

Staff Report

File #: LB 16-007

DATE: January 12, 2016

TO: Mayor and City Council

FROM: City Manager

SUBJECT

Draft Purchase and Sale Agreement with the California Department of Transportation for the City of Hayward to Acquire Excess Property in the 238 Bypass Corridor

RECOMMENDATION

That Council adopts the attached Resolution (Attachment I) declaring a public purpose for the City's purchase of Route 238 excess property and authorizing the City Manager to complete negotiations with the California Department of Transportation (Caltrans) for the City to acquire specific parcels of land along the 238 Corridor, which have been declared excess by Caltrans; said purchase to be in general accord with the terms set forth below.

SUMMARY

In the mid-1960s, Caltrans purchased over 400 parcels of property for the construction of the then-planned 238 Bypass Freeway project. In 1971, the community filed a lawsuit to stop the planned 238 Bypass Freeway: *La Raza Unida of Southern Alameda County, et al v. California Department of Transportation and the City of Hayward* (Alameda County Court Case No. RG 09476468.) As a result, Caltrans declared the project dead and abandoned.

Caltrans and the City have moved almost all residential parcels and a few commercial properties out of State ownership and back onto the property tax rolls through private ownership. Caltrans' normal land disposition process is to put each parcel up for auction for an "as is" purchase, which, for undeveloped property, poses several problems and creates lost opportunity for the City. As a result, over the last five years, staff worked with Caltrans on a proposal where the City would assume responsibility for disposing of the undeveloped properties in the 238 Bypass Freeway Project area. These conversations have resulted in the current terms for a Draft Purchase and Sales Agreement as presented herein for Council's consideration.

This report recommends to Council the adoption of a Resolution declaring a public purpose for this process and authorizing the City Manager to complete negotiations with Caltrans. The report also outlines the benefits and risks of the proposal.

BACKGROUND

In the mid-1960s, Caltrans purchased over 400 parcels of property for the construction of the then-planned 238 Bypass Freeway project. In 1971, the community filed a lawsuit to stop the planned 238 Bypass Freeway: *La Raza Unida of Southern Alameda County, et al v. California Department of Transportation and the City of Hayward* (Alameda County Court Case No. RG 09476468.) As a result, Caltrans declared the project dead and abandoned. Almost forty years later, in 2007, staff entered into negotiations with Caltrans, the CTC, Local Alternative Transportation Improvement Program (LATIP) partners, the Alameda County Transportation Commission, tenants' rights advocates, housing advocates, and interested legislators to resolve outstanding legal and other issues in an effort to divest Caltrans of the parcels they owned within the City of Hayward boundaries, to return these properties to the property tax rolls, and to start a productive development process for all undeveloped properties.

On December 11, 2009, after approximately two years of good-faith negotiations, the City entered into a Joint Stipulation of Class Settlement and Class Settlement Agreement and Release ("Settlement Agreement") with all applicable parties. At the conclusion of this process, and per the terms of the Settlement Agreement, Caltrans declared the parcels they originally purchased for the 238 Bypass Freeway project to be "excess" or "surplus" and began a process of land disposition, which included the City-funded Opportunity to Purchase a Home Program (OPHP) for those tenants living in Caltrans residential units.

Through the OPHP, City staff assisted twenty-four tenants to purchase the homes in which they lived or another eligible home in the Corridor project area; and assisted over two hundred other tenants to successfully move to other non-Caltrans housing in preparation for their properties being sold by Caltrans. This assistance was both financial per the terms of the Settlement Agreement and through staff support. Council will recall that the Settlement Agreement required a \$6M commitment from the City: up to \$1M for the First Time Homebuyers Program and up to \$5M for financial payments to tenants.

Per the terms of the 1982 LATIP legislation, all money received for these excess or surplus properties was not to go back to Caltrans, but rather to be placed in a special LATIP fund to fund a pre-determined list of local transportation projects in Hayward, San Leandro, Union City, and Unincorporated Alameda County. Caltrans determined that the amount of money going into the LATIP would be defined as the revenue from the sale of the properties less Caltrans' cost of selling the property.

The LATIP was established and approved through Assembly Bill 1391, which added Sections 14528.5 and 14528.6 to the Government Code on highways. It was later amended through additional legislation in 2004 (SB 509), 2005 (AB 1462) and in 2009 (AB 1386). It was further impacted by the terms and agreements contained in the Settlement Agreement.

Caltrans and the City have moved almost all residential parcels and a few commercial properties out of State ownership and back onto the property tax rolls through private ownership, which generated approximately \$36,000,000 for the LATIP. Hayward projects are at the top of the pre-determined LATIP list. So far, the City has received \$10,100,000 in LATIP funds: \$8.1M for Phase I of the Mission Corridor Improvement Project and \$2M for Phases II (Mission south of Industrial) and III (Mission north of A

Street) planning and design. The entire Mission Corridor/Route 238 project has an identified allocation of \$30,000,000. Therefore, the balance of \$19.9M will be applied toward the completion of Phase II and III to supplement other funds such as funds from Measure BB. Other Hayward-oriented projects on the LATIP list include: auxiliary lanes along I-880 between Paseo Grande and Winton and between Whipple and Industrial; new interchanges at I-880/Whipple, I-880/Industrial, I-880/Winton, I-880/A Street, and Whitesell/Clawiter/SR92. Most of these projects are projected to be funded by a combination of Measure BB and LATIP money.

While Caltrans has started the disposition process for commercial and undeveloped properties, and the disposition of the occupied commercial properties (e.g., the remnant parking lot for the Taco Bell on Foothill) was a welcome action for the property owners and the City, sale of the undeveloped land poses a problem. Caltrans' normal land disposition process is to put each parcel up for auction for an "as is" purchase. Parcel, as they define it, is usually based on how they originally purchased the land with no regard for County Assessor parcels or historical lot lines. Nor do they extend any effort to assemble properties for improved development opportunities and potential increased value.

Selling properties in this manner poses several issues:

1. It leaves a large amount of money "on the table" out of the LATIP fund and out of public benefit, and allows private speculators to potentially profit by "flipping" the properties without adding any value. For example, a group of parcels on the west side of Mission Blvd. between Valle Vista and Industrial were bought from Caltrans in July 2014 through this process for \$1,191,000 and were immediately listed back on the market by the new owner for \$3.1M, actually selling in September 2015 for \$2.7M. Another example is the property located at Second and Walpert, which Caltrans sold for approximately \$600,000 per acre. However, estimates from experts in the field indicated that had the City added even a minimum amount of entitlement certainty to the property, the price would have been closer to \$1.2M per acre.
2. It does not allow for logical assemblage of properties to encourage desired development in a given area, either residential or commercial. For example, as can be seen in Attachment III, the above defined parcel on the west side of Mission Blvd. was in the middle of what could and should have been a "grouped" number of Caltrans parcels to encourage the development of the City's vision for that area.
3. It takes "front-end" control away from the City and the community. Certainly, the City still holds control related to basic land use approvals. However, it does not allow the community to shape development and to actively seek preferred projects such as was common under Redevelopment. It only allows project approval or denial after the fact based on applicable zoning, General Plan designation, and related laws, and only for the specific parcels or properties on which the project is being proposed.
4. It prevents collaborative negotiations with developers. A good example of what could be accomplished if the City controlled the property on the front-end is the development of an Exclusive Negotiating Agreement (ENA) with a particular developer willing to work in partnership with the City to produce a desired project or achieve a specific vision for a neighborhood.

As a result, staff approached Caltrans in 2011 with a proposal that the City assume responsibility for disposing of the undeveloped properties in the 238 Bypass Freeway Project area. Those conversations

did not prove productive. In January of 2014, staff again approached Caltrans with a specific written proposal, which was also not productive. Most recently, in January 2015, staff renewed the conversation with Caltrans, exploring the possibility of the City assuming responsibility for disposition of undeveloped 238 Bypass Freeway properties. With the active participation of staff from the CTC, these recent conversations have resulted in a tentative agreement as to the terms being presented to Council for consideration through this report. The final agreement is scheduled to be considered for approval by the CTC on January 20-21, 2016.

DISCUSSION

The benefits of the City assuming the disposition responsibilities of the Corridor properties are many. The lack of investment and development activity in the Caltrans properties has negatively impacted land values and limited the vibrancy throughout the neighborhoods adjacent to or incorporating the state owned properties. Through this process, the Council could provide a vision and a development pathway to revitalizing the entire corridor in a proactive manner.

Another major potential benefit could be the ability to generate cash over and above the purchase price to Caltrans. This is possible by adding entitlement value to the property before reselling it. The purpose of the “excess” cash would be to fill the gap created by the dissolution of the City’s Redevelopment Agency by the State. Such cash would allow the City to provide additional funding to economic development, have cash to use as an incentive for land uses desired by the Council and community, allow the City to be a proactive partner in development possibilities, and even to assist property owners in attracting new and innovative tenants. Other benefits to this deal are: better land use planning; elimination of blight; greater City control; keeping more cash in the public arena; and having the direct ability to more successfully achieve the Council’s development vision in certain geographic areas.

Along with benefits, come risks. The biggest risk is potentially not reselling the properties at an increased value so that the City’s General Fund is put at risk to make up the difference. The most likely way that might occur is if the economy slows down or again collapses during the period the City is trying to resell the property; or if the City cannot effectively and efficiently add value to the property through improved entitlement efforts as planned. The risk of a softening market has increased with the amount of time it has taken to agree on the terms of the property transfer with Caltrans. Therefore, time remains of the utmost essence.

Other notable areas of risk include the large amount of land in the group of properties currently zoned open space, as well as the geological and topographical constraints of each property. Clearly, staff will need to move expeditiously to assess key properties for geological and topographical constraints, as well as for possible existing environmental contamination. This will be done in parallel to the appraisal process, which would start next week.

The Draft Purchase and Sale Agreement contains the following major points:

1. Allows the City to buy the agreed upon properties (See Attachment II for a partial list reflecting the major parcels) from Caltrans with an option to return the unsold properties in five years without penalty.

- a. Defines a process by which value will be determined.
 - b. Defines how and when the City will pay for the properties.
2. Applies the Caltrans statutory process of selling the property “as is”.
3. Assures that all proceeds of the sale from Caltrans to the City are deposited in the LATIP fund according to existing laws.
4. Allows the City to sell to third parties as deemed prudent by the City and to retain the full amount received in such a sale over and above the agreed upon/appraised “as is” price, which is determined according to the process defined in the Draft Purchase and Sale Agreement.
5. Provides a five-year time period in which the City can sell the properties.
 - a. Allows the City to return unsold properties at the end of five years per the definitions and processes defined in the Draft Purchase and Sale Agreement.
 - b. Five-year deadline can be extended according to specific guidelines spelled out in the Draft Purchase and Sale Agreement.
6. Assigns a small number of existing leases to the City along with the sale of the properties.

The acquisition of this property from Caltrans by the City serves a major public purpose as described above. The piecemeal auction of these properties lot-by-lot by the California Department of Transportation will lead to fractionalized ownership and will not provide for sufficient or timely investment to develop the needed infrastructure to promote harmonious communities in a timely manner. This includes sewer service, water service, parks, open space, roads, and other required infrastructure. The piecemeal auction of the extensive Route 238 properties will not allow the residents of the City of Hayward opportunity to express their vision for these areas in a comprehensive manner consistent with quality community development.

The City’s purchase of the Route 238 properties will allow the public to weigh in on their vision for these areas on a more meaningful level and allow the City, at an accelerated pace, to remediate the blight caused by the lack of investment and underdevelopment of the properties. It will ensure that the needed infrastructure is built, and will allow the City to select development that will put the land to the highest and best use consistent with years of community planning and visioning for the area.

ECONOMIC IMPACT

The economic impact of Caltrans getting out of land ownership and property management within the City limits is significant. They have not been an attentive landlord and many properties were run down, poorly maintained, and subject to long-term trespass. As a result of these last eight or nine years of negotiations, almost all residential properties have been sold or the uninhabitable structures on the property demolished. This has helped improve the overall quality of life for affected neighborhoods.

If the City is able to gain control of the property on the front end, it will be possible for Council to proactively define a specific vision for a community or neighborhood, rather than simply react to a proposed project; and, it will allow staff to creatively work with developers to achieve that vision.

Getting all these developable parcels of land under development will add vibrancy and tax dollars to the community as a whole. With the goal of having quality, sustainable projects including retail, recreation, housing, and open space, this will allow the Council to clearly define the corridor’s future development

direction.

A wrinkle occurred late in this process when Caltrans determined that not all the properties under discussion were actually purchased for the 238 Corridor By-Pass project. Rather, they were purchased for the original SR 92 Extension project, which has also been abandoned. Therefore, Caltrans, CTC staff, and City staff are discussing a second agreement (or Phase II of this agreement) that will incorporate those SR 92 properties at a later date. This is likely to impact the Quarry site and a few others.

FISCAL IMPACT

Clearly, there are both positive and negative financial impacts possible with this project. The benefits include dramatically improved property tax revenue, as well as increased cash for economic development and related activities. It is not possible to accurately project the dollar amounts at this time. However, one rough calculation of Property Tax benefit is that each residential unit sold into private ownership in the Corridor area could generate an average of approximately \$5,000 a year in additional gross Property Tax (i.e. not all of that returns to the City. For even 150 existing units, that alone could equal \$750,000 in additional taxes. This does not take into account any newly constructed units resulting from the new projects.

As stated earlier, there could also be negative impacts to the City's General Fund if the entitlement efforts and sales to third parties are not successful in generating cash over and above the agreed upon base purchase price from Caltrans plus the presale/entitlement costs. As with the beneficial amounts, it is not possible to calculate or project what the financial exposure could be here. As stated earlier, the largest factors that could negatively impact the financial outcome of this effort is the development economy: if the City suffers another huge recession during the period we are trying to market these properties, the City will likely suffer short-term financial loss. Similarly, the possible "delta" to be garnered from sale to a third party may be small to none if the appraisal process establishes a higher-than-expected base price for the properties (from Caltrans to the City).

After due consideration of all the factors, staff continues to recommend moving forward due to the enormous benefit this effort could have to the entire community and for the control this action provides Council in proactively setting and accomplishing their vision for the affected neighborhoods.

PUBLIC CONTACT

There has been no public contact on this project due to the confidential nature of the negotiations with Caltrans. This report is the first public exposure of the proposal. As projects are identified and/or are in development, staff will assure that affected and impacted neighborhood residents are involved in the project definition and the related overall conversations.

NEXT STEPS

If Council approves the attached Resolution authorizing the City Manager to complete negotiations with Caltrans and execute a Purchase and Sales Agreement for the City to acquire specific parcels of land along

File #: LB 16-007

the 238 Corridor as described in this report, staff will move expeditiously to complete the administrative process, begin land appraisals, and to gain control of the identified Caltrans properties. Once that has occurred, including agreed upon pricing, staff will continue the visioning, entitlement, and marketing process for all parcels with the intent of concluding land disposition within five years of the date of the property transfer.

Prepared and Recommended by: Fran David, City Manager

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution
Attachment II	Partial List of Properties to be Purchased from Caltrans by the City Reflecting Major Parcels
Attachment III	Map of Valle Vista Concept Area and Auctioned Properties

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

Introduced by Council Member _____

RESOLUTION DECLARING PUBLIC PURPOSE AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH THE STATE OF CALIFORNIA ACTING THROUGH THE DEPARTMENT OF TRANSPORTATION FOR THE PURCHASE OF CERTAIN EXCESS ROUTE 238 PROPERTIES

WHEREAS, the anticipated conversion of the Route 238 corridor for highway purposes discouraged large scale investment;

WHEREAS, the litigation which ultimately led to the abandonment of the Route 238 extension project caused additional uncertainty in the ultimate disposition of the property thereby discouraging investment;

WHEREAS, ownership of the aforementioned properties was divorced from possession for approximately half a century in some cases thereby further discouraging investment;

WHEREAS, the lack of investment in infrastructure and improvements in the Route 238 Corridor has led to blight, missed opportunities to create sustainable development with community amenities, and a general state of underdevelopment;

WHEREAS, the piecemeal auction of these properties lot-by-lot by the California Department of Transportation will lead to fractionalized ownership and will not cause sufficient or timely investment to develop the needed infrastructure to promote harmonious communities in a timely manner including: sewer service, water service, parks, open space, roads, and other required infrastructure;

WHEREAS, the piecemeal auction of the Route 238 properties will not provide the residents of the City of Hayward enough latitude to express their vision for these areas through public input;

WHEREAS, the City's purchase of the Route 238 properties will allow the public to weigh in on their vision for these areas on a more meaningful level and allow the City, at an accelerated pace, to remediate the blight caused by the lack of investment and underdevelopment, ensure the needed infrastructure is built, allow the City to select development that will put the land to the highest and best use, and ensure first class amenities are included in the development of this area for the present and future residents of the City of Hayward;

NOW, THEREFORE, BE IT RESOLVED by the City Council that in order to address the public issues described herein, the City Manager is hereby authorized to negotiate and execute a Purchase and Sale Agreement and all necessary supporting documents between the City and the State of California, acting through the Department of Transportation, to facilitate the purchase of the former Route 238 properties identified herein in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



Location: Mission Blvd/Dixon St/Valle Vista Ave

Total Acres: 11.76

Open Space Acres: 0





APNs

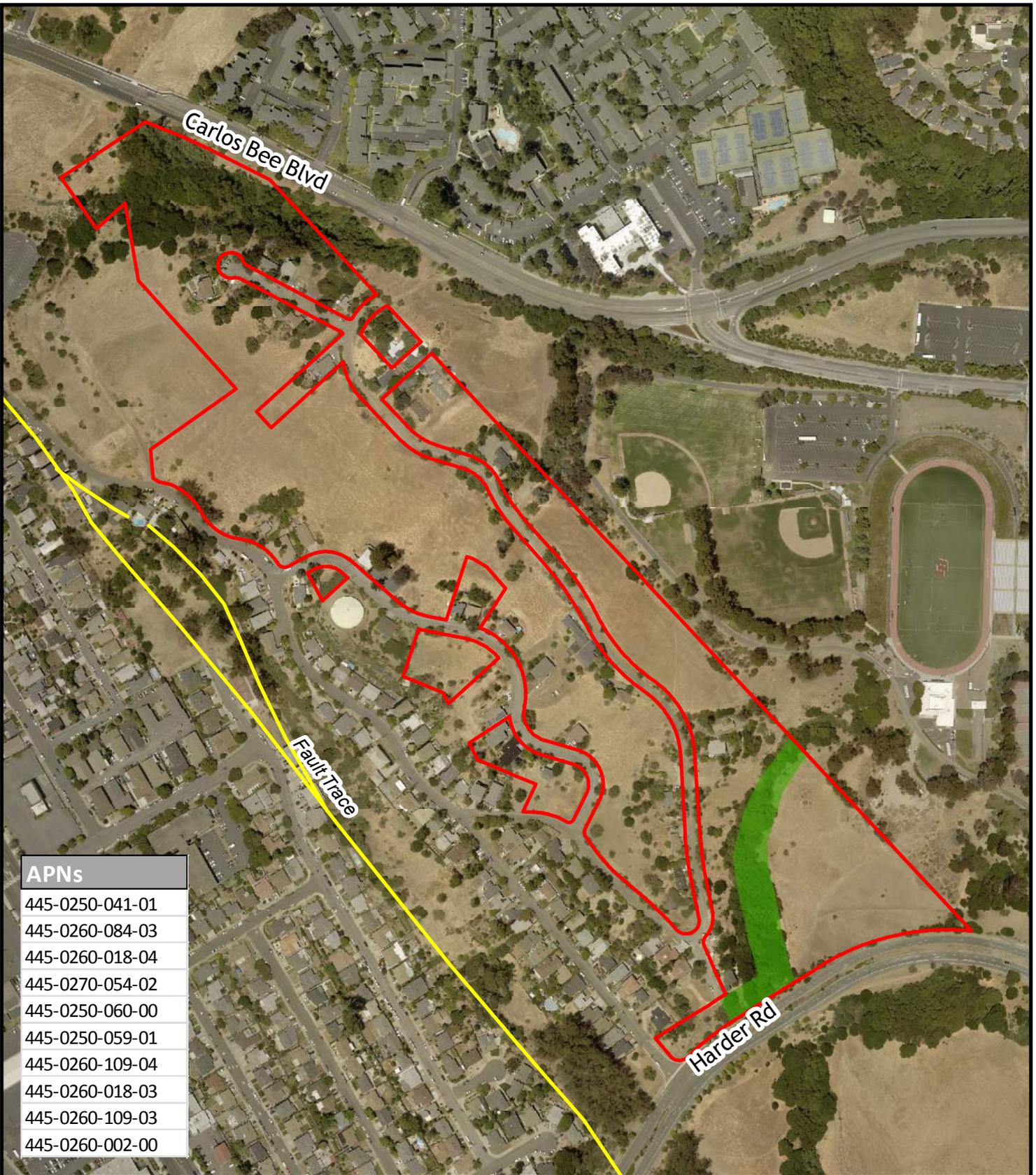
- 078C-0436-001-07
- 078C-0436-010-03
- 078C-0435-006-00
- 078C-0435-002-01
- 083-0460-006-03

Total Acres: 6.65

Open Space Acres: 0

Location: Dixon St/Industrial Pkwy





APNs
445-0250-041-01
445-0260-084-03
445-0260-018-04
445-0270-054-02
445-0250-060-00
445-0250-059-01
445-0260-109-04
445-0260-018-03
445-0260-109-03
445-0260-002-00

Location: Bunker Hill Blvd/Maitland Dr/Harder Rd

Total Acres: 37.22
Open Space Acres: 1.7





APNs

445-0200-012-01

Location: Mission Blvd/Carlos Bee Blvd

Total Acres: 9.75

Open Space Acres: 0





APNs
078C-0626-003-16
078C-0626-003-09
078C-0626-001-07

Total Acres: 25.69
Open Space Acres: 13.28

Location: Mission Blvd





Total Acres: 8.7
Open Space Acres: 0

Location: Mission Blvd





APNs

- 415-0180-070-00
- 415-0180-068-01
- 415-0180-076-00
- 415-0180-084-01
- 415-0180-073-00
- 415-0180-074-00
- 415-0180-075-00
- 415-0180-072-00
- 415-0180-071-00
- 415-0180-069-01
- 415-0190-064-00
- 415-0180-083-01
- 415-0180-080-00
- 415-0180-082-01
- 415-0180-081-01

Total Acres: 18.86
Total County Acres: 13.26
County Open Space Acres: 7.25

Location: Grove Way/Foothill Blvd/Gary Dr





APNs
415-0160-001-00
415-0160-002-00
415-0160-003-00
415-0160-004-00
415-0160-005-00
415-0160-006-00
415-0160-007-00
415-0160-008-00
415-0160-009-00
415-0160-010-00
415-0170-002-00
415-0170-003-00
415-0170-004-00
415-0170-005-00
415-0170-006-00
415-0170-007-00
415-0170-008-00
415-0170-009-00
415-0170-010-00
415-0170-011-00
415-0170-012-00

Total Acres: 4.26
Total County Acres: 1.59

Location: North of Apple





APNs
445-0180-001-00

Location: Overlook Ave/Highland Blvd

Total Acres: 29.42
Open Space Acres: 5.28





APNs
078C-0800-002-02

Total Acres: 78.61
Open Space Acres: 78.61

Location: Harder Rd



