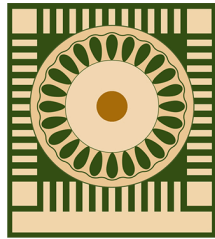


CITY OF HAYWARD

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



CITY OF
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HEART OF THE BAY

Agenda

Thursday, January 12, 2023

7:00 PM

Council Chambers & Remote Participation (Zoom)

Planning Commission

PLANNING COMMISSION MEETING

NOTICE: The Planning Commission will hold a hybrid meeting in the Council Chambers and virtually via Zoom.

How to watch the meeting from home:

1. Comcast TV Channel 15
2. Live stream <https://hayward.legistar.com/Calendar.aspx>
3. YouTube Live stream: <https://www.youtube.com/user/cityofhayward>

How to submit written Public Comment:

Send an email to cityclerk@hayward-ca.gov by 3:00 p.m. the day of the meeting. Please identify the Agenda Item Number in the subject line of your email. Emails will be compiled into one file, distributed to the Planning Commission and staff, and published on the City's Meeting & Agenda Center under Documents Received After Published Agenda. Written comments received after 3:00 p.m. that address an item on the agenda will still be included as part of the record.

How to provide live Public Comment during the Planning Commission Meeting:

Please click the link below to join the meeting:

<https://hayward.zoom.us/j/86176138354?pwd=Z05RVWswTEdKN2xjcWprMDVobzVQZz09>

Webinar ID: 861 7613 8354

Passcode: PC11223@7p

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

1 669 900 6833 or +1 646 931 3860 (Toll Free)

Webinar ID: 861 7613 8354

Passcode: 7759236488

A Guide to attend virtual meetings is provided at this link: <https://bit.ly/3jmaUxa>

CALL TO ORDER Pledge of Allegiance

ROLL CALL

PUBLIC COMMENTS

The PUBLIC COMMENTS section provides an opportunity to address the Planning Commission on items not listed on the agenda. The Commission 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 Commission 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 for further action.

ACTION ITEMS

The Commission will permit comment as each item is called for Public Hearing. Please submit a speaker card to the Secretary if you wish to speak on a public hearing item.

PUBLIC HEARING

For agenda item No. 1 the Planning Commission may make a recommendation to the City Council.

- 1 [PH 23-001](#) Proposal to Amend Chapter 10, Article 1 (Zoning Ordinance) Section 10-1.2750 of the Hayward Municipal Code for Updates to the Alcoholic Beverage Outlets Ordinance and Related Regulations in the City of Hayward, Requiring Approval of a Zoning Text Amendment.

Attachments: [Attachment I Staff Report](#)
 [Attachment II Findings for Approval](#)
 [Attachment III Proposed Zoning Text Amendments](#)

WORK SESSION

Work Session 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.

- 2 [WS 23-001](#) Parking Analysis for Hayward Residential Design Study

Attachments: [Attachment I Staff Report](#)
 [Attachment II Parking Analysis](#)

APPROVAL OF MINUTES

- 3 [MIN 23-002](#) Minutes of the Planning Commission Meeting on December 8, 2022

Attachments: [Attachment I Draft Minutes of December 8, 2022](#)

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters

Commissioners' Announcements, Referrals

ADJOURNMENT

NEXT MEETING, JANUARY 26, 2023, 7:00PM

PLEASE TAKE NOTICE

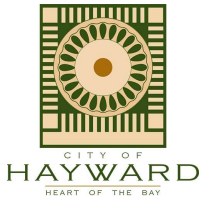
That if you file a lawsuit challenging any final decision on any public hearing item listed in this agenda, the issues in the lawsuit may be limited to the issues which were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.

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 this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Permit Center, first floor at the above address. Copies of staff reports for agenda items are available from the Commission Secretary and on the City's website the Friday before the meeting.****

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 cityclerk@hayward-ca.gov.



CITY OF HAYWARD

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

File #: PH 23-001

DATE: January 12, 2023

TO: Planning Commission

FROM: Steve Kowalski, Associate Planner

SUBJECT

Proposal to Amend Chapter 10, Article 1 (Zoning Ordinance) Section 10-1.2750 of the Hayward Municipal Code for Updates to the Alcoholic Beverage Outlets Ordinance and Related Regulations in the City of Hayward, Requiring Approval of a Zoning Text Amendment.

RECOMMENDATION

That the Planning Commission recommend to the City Council approval of the proposed Zoning Text Amendments (Attachment III) to Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code (HMC) to make various modifications to the definition of “Full-Service Restaurant” aimed at supporting existing full-service Hayward restaurants and encouraging more new full-service restaurants with ancillary alcohol sales to locate in the City and to update regulations requiring the provision of information to patrons on safe alternatives for getting home as a performance standard for new and deemed-approved alcoholic beverage sales establishments where on-site alcohol consumption is permitted.

SUMMARY

The City’s Strategic Roadmap contains various priorities identified by the City Council, one of which is to “Grow the Economy” by investing in programs that support Hayward businesses and workers. One of the projects listed in the Strategic Roadmap calls for implementing revisions to the City’s Alcoholic Beverage Outlets (ABO) Ordinance (HMC Section 10-1.2750) to better support existing full-service restaurants and encourage more new full-service restaurants to locate in the city.

Currently, the ABO Ordinance requires all full-service restaurants to maintain a minimum of 60 percent of gross revenues from food sales with a maximum of 40 percent allowed to be derived from alcohol sales. The ABO Ordinance also does not currently allow for arrangements wherein different entities own the food service and alcohol service components of an establishment, and it currently limits the time when restaurants can offer “happy hour” discount pricing on alcoholic beverages from 4:00 to 9:00 PM.

The proposed Amendments would modify the ABO Ordinance to include the following revisions:

- Change the required ratio of food-to-alcohol sales at full-service restaurants from 60:40 to 50:50 to enable such restaurants to earn higher revenues overall from the resulting increase in allowable revenues from alcohol sales;
- Update the definition of a “full-service restaurant” to include various types of arrangements wherein separate entities own the food service and alcohol beverage service components of the establishment;
- Allow kitchens to be built within freestanding structures on an establishment’s premises to provide operators with even more flexibility when considering establishment layouts/arrangements;
- Modify the hours when alcohol serving establishments can offer “happy hour” discount pricing; and
- Require establishments that sell alcohol for on-site consumption to provide patrons with information on safe alternatives for getting home in the event they are too intoxicated to drive themselves.

Staff believes the proposed Amendments will help to improve business at the City’s full-service restaurants by allowing them to increase total revenues from alcohol sales and provide additional flexibility for new and existing restaurants wanting to establish in Hayward while creating an updated regulatory framework that will ensure a significant amount of revenue be derived from food sales. It will also enhance public safety and welfare by requiring all alcohol-serving establishments to provide information for patrons on ways to get home safely in the event they are too intoxicated to drive.

ATTACHMENTS

- | | |
|----------------|---------------------------------|
| Attachment I | Staff Report |
| Attachment II | Findings for Approval |
| Attachment III | Proposed Zoning Text Amendments |



SUBJECT

Proposal to Amend Chapter 10, Article 1 (Zoning Ordinance) Section 10-1.2750 of the Hayward Municipal Code for Updates to the Alcoholic Beverage Outlets Ordinance and Related Regulations, Requiring Approval of a Zoning Text Amendment.

RECOMMENDATION

That the Planning Commission recommend to the City Council approval of the proposed Zoning Text Amendments (Attachment III) to Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code (HMC) to make various modifications to the definition of “Full-Service Restaurant” aimed at supporting existing full-service Hayward restaurants and encouraging more new full-service restaurants with ancillary alcohol sales to locate in the City, and to update regulations requiring the provision of information to patrons on safe alternatives for getting home as a performance standard for new and deemed-approved alcoholic beverage sales establishments where on-site alcohol consumption is permitted.

SUMMARY

The City’s Strategic Roadmap¹ contains various priorities identified by the City Council, one of which is to “Grow the Economy” by investing in programs that support Hayward businesses and workers. One of the projects listed in the Strategic Roadmap calls for implementing revisions to the City’s Alcoholic Beverage Outlets (ABO) Ordinance (HMC Section 10-1.2750)² to better support existing full-service restaurants and encourage more new full-service restaurants to locate in the city.

Currently, the ABO Ordinance requires all full-service restaurants to maintain a minimum of 60 percent of gross revenues from food sales with a maximum of 40 percent allowed to be derived from alcohol sales. The ABO Ordinance also does not currently allow for arrangements wherein different entities own the food service and alcohol service components of an establishment, and it currently limits the time when restaurants can offer “happy hour” discount pricing on alcoholic beverages from 4:00 to 9:00 PM.

The proposed Amendments would modify the ABO Ordinance to include the following revisions:

¹ City of Hayward Strategic Roadmap FY2021 to FY2023:

<https://www.hayward-ca.gov/sites/default/files/Update%20Strategic%20Roadmap%204.26.22.pdf>

² Hayward Municipal Code Section 10-1.2750 (Alcoholic Beverage Outlets):

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.2750ALBEOU

- Change the required ratio of food-to-alcohol sales at full-service restaurants from 60:40 to 50:50 to enable such restaurants to earn higher revenues overall from the resulting increase in allowable revenues from alcohol sales;
- Update the definition of a “full-service restaurant” to include various types of arrangements wherein separate entities own the food service and alcohol beverage service components of the establishment;
- Allow kitchens to be built within freestanding structures on an establishment’s premises to provide operators with even more flexibility when considering establishment layouts/arrangements;
- Modify the hours when alcohol serving establishments can offer “happy hour” discount pricing; and
- Require establishments that sell alcohol for on-site consumption to provide patrons with information on safe alternatives for getting home in the event they are too intoxicated to drive themselves.

Staff believes the proposed Amendments will help to improve business at the City’s full-service restaurants by allowing them to increase total revenues from alcohol sales and provide additional flexibility for new and existing restaurants wanting to establish in Hayward while creating an updated regulatory framework that will ensure a significant amount of revenue is still derived from food sales. It will also enhance public safety and welfare by requiring all alcohol-serving establishments to provide information for patrons on ways to get home safely in the event they are too intoxicated to drive.

BACKGROUND

The current ABO Ordinance was adopted on November 19, 2013, to address the proliferation of alcohol-selling establishments that existed in the city at that time, including the problems often associated with those establishments such as public intoxication, drunk driving, littering, and loitering. The Ordinance contains numerous stringent regulations that restrict the location and quantity of alcohol-selling establishment and requires Conditional Use Permits for most types of establishments. The Ordinance also establishes rigorous performance standards which they must adhere to and provides exceptions for full-service restaurants, but it strictly defines such restaurants and requires that at least 60% of their gross revenues be derived from food sales.

On January 28, 2020, the City Council adopted its FY 2021-23 Strategic Roadmap which was subsequently updated in April 2022. The Roadmap identified six strategic priorities for staff to work on over its three-year lifespan, one of which was to “Grow the Economy.” Included as one of the five projects under this priority was to invest in programs that support Hayward’s businesses and workers. One of the projects listed in the Council’s Strategic Roadmap calls for “revising the alcohol use regulations to support existing and encourage more full-service restaurants”. This project was identified as a priority in response to concerns from local restaurants and bar owners who felt that the requirements to meet the definition of a full-service restaurant were too strict.

In early 2022, Planning Division staff began working with the Hayward Police Department and Economic Development Division to identify possible changes to the ABO Ordinance to support

Council's vision. Concurrently, staff began conducting outreach to key stakeholders during Spring of 2022 to solicit feedback on the topic prior to drafting updates to the Ordinance, which are included as Attachment III.

Public Outreach. Over a four-month period between April-July 2022, Planning Division staff reached out to restaurant owners and several other stakeholders via multiple channels in an effort to solicit input on potential amendments to the current ABO Ordinance that could help to achieve the goal as listed in the Council's Strategic Roadmap. The outreach included collaborating with the Chamber of Commerce to circulate a flyer to all 1,200 of its membership inviting anyone interested to offer opinions on the subject, and sending a separate email to a list of nearly 110 local restaurant owners maintained by the Economic Development Division inviting them to a meeting with the Council Economic Development Committee (CEDC) to discuss potential amendments. The results of these outreach efforts, which included interviews of several key stakeholders, yielded a number of potential amendments which staff ultimately presented to the CEDC in September. Those amendments were as follows:

- Relax the current requirement that full-service restaurants must maintain at least 60 percent of their gross revenues from the sale of food with only 40 percent allowed to be derived from the sale of alcohol;
- Allow alcohol-serving establishments that contain a full kitchen and lease/sublease it to a food service provider through a business partnership to be considered as full-service restaurants;
- Allow a restaurant's kitchen to either be constructed within the actual establishment or as a freestanding on-site structure that is constructed in compliance with the applicable development standards of the establishment's underlying zoning, permanently anchored to the ground, and connected to all necessary utilities such as water and sewer; and
- Allow restaurants to offer "happy hours" with earlier start times.

Many of the stakeholders who were interviewed felt that the City should revise the ABO Ordinance to relax the current requirement that full service restaurants must maintain at least 60 percent of their gross revenues from the sale of food with only 40 percent allowed to be derived from the sale of alcohol. They suggested that a ratio of 50:50 for revenues from food sales to alcohol sales was more reasonable, and more in line with other agencies' requirements, such as the State Department of Alcoholic Beverage Control (ABC). Historically, the ABC considered establishments that met the 50:50 ratio to be "bona fide eating places" and allowed families with children and minors to patronize them since they functioned as restaurants rather than bars by offering full food service in addition to alcohol service.

Some of the stakeholders also suggested revising the ABO Ordinance to allow alcohol-serving establishments that contain a full kitchen and lease/sublease it to a food service provider through a business partnership to be considered as full-service restaurants. Under such an arrangement, one individual could own the bar and kitchen but lease/sublease the kitchen to a chef who would run the food service component using a separate point of sale, thus enabling the establishment to operate like a full-service restaurant even though it would technically house two separate businesses. This practice is currently allowed by ABC, as long as the kitchen remains open up until 30 minutes prior to the bar's closing time. It was further suggested that

the kitchens of such establishments be allowed to be constructed separately from, but on the same premises as the alcohol-serving operation, such as in a freestanding structure – an arrangement that is also allowed by ABC. In addition, staff received feedback from one restaurant owner who believed that allowing restaurants to offer “happy hours” with earlier start times could further help increase business and cover operating expenses.

Another member of the public contacted staff and expressed opposition to any amendments based on concern about the potential for them to result in an increase in alcohol consumption and associated problems, such as drunk driving.

Council Economic Development Committee. On September 22, 2022³, staff presented the list of proposed amendments to the Council Economic Development Committee for review and feedback. The CEDC generally expressed support for the proposed amendments and directed staff to proceed with presenting them to the Planning Commission and City Council for consideration. One CEDC member asked staff to look into the recent history of alcohol-related crimes such as drunk driving and public intoxication being committed by persons who may have overconsumed in one of the City’s full-service restaurants, and to compare the regulations of neighboring municipalities to the City’s to determine if they are more or less permissive. Another CEDC member asked staff to explore ways to require all establishments where alcohol can be sold for on-site consumption to offer information for patrons on ways to get home safely (for instance, via taxicab or ridesharing services such as Uber and Lyft). In response to these requests, staff surveyed the regulations of several neighboring municipalities to compare them with Hayward’s and analyzed alcohol-related crime data in order to identify clear evidence that a significant amount of these crimes resulted from overconsumption of alcohol. The results of these efforts are discussed in greater detail in the Staff Analysis section below.

PROJECT DESCRIPTION

The proposed amendments include a number of revisions to HMC Section 10.1-2750, as summarized below. Specifically, staff is recommending amendments to relax the required food sales to alcohol sales ratio, allow different owners/operators to operate on the same premises, extend happy hour times and pricing, and require alcohol service establishments provide alternatives for customers to get home safely when intoxicated. A summary of the proposed changes is included below with a full text of the proposed Amendments contained in Attachment III.

Relaxing the Required 60:40 Ratio of Food Sales to Alcohol Sales: Per HMC Section 10-1.2751(i), the current definition of “full-service restaurant” affords full-service restaurant operators many benefits by allowing them to offer a full bar on the premises, “happy hour” discount pricing, and live or recorded music until midnight without requiring discretionary approvals such as a use permit from City staff, the Planning Commission, or the City Council. However, the existing definition also requires that such restaurants maintain a minimum of 60 percent of gross receipts from food sales. As indicated in this report, staff proposes to amend and reduce the required ratio of food-to-alcohol sales from 60:40 to 50:50 in order to be consistent with how the California Department of Alcohol Beverage Control (ABC) has

³ September 22, 2022 Council Economic Development Committee Meeting video recording:
http://hayward.granicus.com/MediaPlayer.php?view_id=1&clip_id=1441

historically defined bona-fide eating places apart from bars and other drinking establishments. The proposed modification would also maintain that a significant amount of business activity continues to be derived from and support food sales.

Allow Different Bar/Restaurant Owner/Operators on Same Premises: This proposed Amendment to the definition of a “full-service restaurant” would allow the owner of an establishment that sells alcohol and has a full-service kitchen to lease the kitchen to a food service operator through a business partnership, and still allow this type of venture to be considered a full-service restaurant. To provide additional flexibility for prospective hybrid business owner/operators, a further modification is proposed which would allow the restaurant’s kitchen to either be constructed within the actual establishment or as a freestanding on-site structure that is constructed in compliance with the applicable development standards of the establishment’s underlying zoning, permanently anchored to the ground, and connected to all necessary utilities such as water and sewer.

The proposed amendments include a provision to allow a hybrid business to operate under one of three ABC liquor license types (Type 41, Type 47, or Type 75) to ensure that an establishment with separate ownership maintains food service at all times while alcohol is being served. All three license types require the establishment to operate as a restaurant (or bona fide eating place) with meal service provided up until 30 minutes prior to closing time. A Type 41 license only allows for the sale of beer and wine with meals; a Type 47 license allows for the sale of beer, wine, and spirits with meals; and a Type 75 license allows for the sale of beer, wine, and spirits with meals as well as a limited amount of onsite beer brewing. If a holder of any of these license types is found to not be operating as a bona fide eating place, then ABC may take enforcement action to resolve the issue, including suspension or revocation.

Extend Happy Hour Discount Pricing Times: This proposed Amendment would change the hours when a full-service restaurant is allowed to offer discount (“happy hour”) pricing for alcoholic beverages. Currently, full-service restaurants are permitted to offer happy hour pricing from 4:00 PM to 9:00 PM. The proposed Amendment would change the permissible hours to 2:00 PM to 7:00 PM. The current requirement in the definition that discounted appetizers and non-alcoholic beverages be offered at the same time as discounted alcoholic beverages would not change.

Require Alcohol-Serving Establishments to Provide Information on Safe Alternatives for Getting Home: The other proposed Amendments were added in response to feedback received at the CEDC to require alcohol-serving establishments offer information to patrons on alternative ways to get home safely in the event of intoxication. To achieve this, Planning staff worked in collaboration with the Hayward Police Department to propose amendments that assign updated performance standards for both new alcoholic beverage sales establishments and deemed approved establishments (i.e., those that were already operating legally prior to the adoption of the ordinance and now have legal nonconforming status). Specifically, the amendments would require that establishments provide information to patrons on safe alternatives for getting home through a means to be determined by, and maintained to the satisfaction of, the Chief of Police.

POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan. Staff believes the proposed Zoning Text Amendments are consistent with the goals and policies set forth in the *Hayward 2040 General Plan*⁴ in that they are designed to help increase business for the City's many existing full-service restaurants and entice new restaurants to locate in the City. The General Plan contains numerous goals and policies aimed at providing a robust economy that offers a wide variety of goods and services, establishing a lively downtown district that features an array of shopping, restaurant, and entertainment options, and attracting and retaining local businesses of all sizes and types. Specifically, the proposed amendments are consistent with the following goals and policies set forth in the *Hayward 2040 General Plan*:

- *Land Use Policy LU-2.1 – Downtown Arts and Entertainment:* The City shall encourage private-sector investment in Downtown to transform it into a safe, vibrant, and prosperous arts and entertainment district that offers enhanced shopping, dining, recreational, and cultural experiences and events for residents, families, college students, and visitors.
- *Land Use Policy LU-2.16 – Uses to Attract the Creative Class:* The City shall encourage the development of uses and amenities to attract creative-class professionals and businesses to Hayward, including restaurants and cafes; art studios and galleries; and entertainment and cultural venues.
- *Land Use Policy LU-5.1 – Mix of Uses and Activities:* The City shall encourage a mix of retail, service, dining, recreation, entertainment, and cultural uses and activities in regional and community centers to meet a range of neighborhood and citywide needs.
- *Economic Development Goal ED-1:* Diversify the economic base of Hayward to support a robust and stable economy with a diverse range of employment, shopping, and cultural opportunities for local residents.
- *Economic Development Policy ED-1.14 – Hospitality and Entertainment Business Clusters:* The City shall encourage the development of a hospitality and entertainment business cluster within Downtown Hayward and other appropriate locations to improve opportunities for shopping, dining, arts and entertainment, lodging, business conventions, and cultural events.
- *Economic Development Goal ED-3:* Grow the local economy and employment base by supporting efforts to expand and retain local businesses.
- *Economic Development Goal ED-5:* Encourage economic investment by enhancing the image and reputation of Hayward.

Additionally, the proposed Amendments are consistent with Council's Strategic Roadmap and the recently adopted *Downtown Specific Plan (DSP)*⁵, which contains a goal to establish the

⁴ Hayward 2040 General Plan: <https://www.hayward2040generalplan.com/>

⁵ Hayward Downtown Specific Plan: <https://www.hayward-ca.gov/sites/default/files/Hayward-Downtown-Specific-Plan.pdf>

downtown area as the heart of the City and create a lively, safe and attractive regional destination for people of all ages that features a mix of land uses, including ground-floor retail shops, restaurants, cafes, business offices and bars/nightclubs, and residential uses on upper floors of mixed-use buildings.

Zoning Ordinance. Pursuant to HMC Section 10-1.3425(a)⁶, the Planning Commission shall hold a public hearing on all proposed text amendments to the Zoning Ordinance. The Planning Commission may deny a text amendment or recommend approval of the amendment to the City Council. Pursuant to HMC Section 10-1.3425(b), all recommendations for approval shall be based upon the following findings:

- Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;
- The proposed change is in conformance with all applicable, officially adopted policies and plans;
- Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and
- 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.

Staff believes the Planning Commission can make the required findings to support the proposed text amendments and has included more detailed analysis in Attachment II.

STAFF ANALYSIS

The proposed amendments are consistent with numerous goals and policies of the *Hayward 2040 General Plan* and *Downtown Specific Plan* as enumerated above. In addition, the proposed Amendments would achieve one of the Council's Strategic Roadmap goals of revising the Alcoholic Beverage Outlet Ordinance to support existing full-service restaurants and encourage more full-service restaurants to locate in the City. Furthermore, the proposed Amendments incorporate several modifications that provide additional flexibility to alcohol serving establishments by allowing them to increase the amount of revenues from alcohol sales in relation to food sales, since the current requirement of 60 percent of gross receipts from food sales was very difficult to comply with, particularly for establishments with full bars that offer premium cocktails and wine. The Amendments would also allow restaurants to offer earlier happy hour discount pricing which could enable restaurants the ability to capture more business from people who work earlier shifts and finish work in the early afternoon.

The proposed Amendments are also designed to provide additional flexibility and accommodate a greater variety of business models wherein different entities own the food service and alcohol service components of an establishment. These models are becoming increasingly popular, particularly with microbreweries and other similar operations where the primary business owner specializes in alcohol production, service and sales and is less familiar

⁶ Hayward Municipal Code Section 10-1.3425 (Planning Commission Procedures):
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.3400AM_S10-1.3425PLCOPR

with operating a full kitchen with food service. This change could attract some alcohol-oriented businesses, such as microbreweries, to the City by giving their owners who may not have experience running a full-service restaurant the ability to find a food service provider to run the kitchen and handle the food service component. The Amendments would also provide greater flexibility to some operators by allowing the kitchens in such arrangements to be built in a freestanding structure on the premises, separate from the alcohol-serving facility. Finally, they would also help reduce the likelihood of drunk driving by requiring all alcohol-serving establishments to provide information to patrons on safe alternatives for getting home in the event they are too intoxicated to drive.

Alcohol-Related Crimes Attributable to Restaurants. In response to the request of CEDC, the Hayward Police Department pulled data from the previous four years and was unable to identify any clear evidence that a significant amount of crimes resulted from overconsumption of alcohol at local restaurants. During the past four years, there were an average of 397 alcohol-related arrests (for either being drunk in public or driving drunk) throughout the entire City. The downtown area consistently sees the highest volume of such arrests, but it is difficult to determine how many are attributable to restaurants because the information regarding where the perpetrator originated from is not always readily available on police reports. Generally, the Hayward Police Department supports, and assisted in the crafting of, the proposed amendments and does not believe that they will result in a significant increase in alcohol-related crimes by persons dining out at full-service restaurants.

Other Municipalities' Alcohol Regulations. In response to a request from one of the CEDC members, staff examined the alcohol regulations of the Cities of San Leandro, Alameda, Fremont and Union City in an effort to determine if the existing regulations of neighboring cities are more restrictive, more permissive, or similar to Hayward's. None of the cities surveyed require a minimum ratio of food-to-alcohol sales or specify times when "happy hour" discount pricing may be allowed. In addition, none of the jurisdictions specifically allow partnerships wherein separate entities own the food service and alcohol service components. A summary of the staff's research is noted below:

- San Leandro's regulations were the most permissive from a land use perspective, with the city generally allowing restaurants with full bars and brewpubs that offer food service and have tasting rooms for beer that they produce on-site in nearly all of its 16 commercial zoning districts by right.
- The City of Alameda's regulations were more restrictive, only allowing restaurants with full bars in the central business district by right. This is presumably because much of Alameda consists of older, mixed-use neighborhoods wherein residential uses abut commercial and/or industrial uses, so zoning regulations must be geared more toward protecting the health, welfare, and property values of those residents.
- Union City's and Fremont's regulations are similar to Hayward's in that they allow for restaurants with full bars to be open until midnight in all commercial zoning districts. However, while Union City allows non-amplified live music until midnight, it does require a Zoning Administrator Permit for any establishments offering amplified live music. Fremont is more restrictive in that it requires a restaurant that wishes to offer any form of live music (either amplified or not) to obtain a Zoning Administrator Permit.

Generally, Hayward's current regulations are consistent with, if not slightly more permissive than, those of its neighboring jurisdictions. The proposed Amendments would make them even more favorable for prospective restauranteurs who are considering locating in the City.

ENVIRONMENTAL REVIEW

The proposed text amendments to HMC Section 10-1.2750 are exempt from the California Environmental Quality Act (CEQA) under the "common sense" exception set forth in CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment. The proposed Text Amendments to the Zoning Ordinance will relax the required ratio of food-to-alcohol sales at full-service restaurants from 60:40 to 50:50; change the definition of "full-service restaurant" to include arrangements wherein separate entities own the food service and alcohol beverage service components of the establishment and allow kitchens to be built in freestanding structures that comply with all applicable development standards of the underlying zoning, modify the hours when such restaurants can offer "happy hour" discount pricing, and require all establishments that are permitted to sell alcohol for on-site consumption to provide information to patrons on safe alternatives for getting home in the event they become too intoxicated to drive themselves.

NEXT STEPS

Following Planning Commission feedback and recommendation, staff will forward the proposed Zoning Text Amendments to the City Council for a public hearing and first reading tentatively scheduled for February 14, 2023. If approved, the proposed amendments would become effective immediately upon the second reading and adoption of the Ordinance amending the HMC by the Council.

Prepared by: Steve Kowalski, Associate Planner

Approved by: Leigha Schmidt, Principal Planner



 Jeremy Lochirco, Planning Manager



 Sara Buizer, AICP, Acting Development Services Director

**PROPOSED ZONING TEXT AMENDMENTS TO CHAPTER 10, ARTICLE 1(ZONING
ORDINANCE) SECTIONS 10-1.2750 RELATED TO ALCOHOLIC BEVERAGE OUTLETS AND
RELATED REGULATIONS**

FINDINGS FOR APPROVAL

Zoning Text Amendments

Pursuant to HMC Section 10-1.3425(b), all recommendations for approval of Zoning Text Amendments shall be based upon the following findings:

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

The proposed Text Amendments will promote the public health, safety, convenience and general welfare of Hayward residents by potentially attracting more full-service restaurants to the City through the relaxing of certain standards that restaurant owners who offer alcoholic beverage service must abide by, by affording greater flexibility in the types of restaurant establishments that are allowed to sell alcoholic beverages, and by ensuring that all establishments that are permitted to sell alcohol for on-site consumption offer information for patrons on ways to get home safely in the event that they drink too much. Furthermore, these amendments will assist existing restaurants and entice new restaurants to locate in the City in order to add to the vitality of the downtown area and other commercial districts and provide a greater offering of choices for residents and workers looking to dine out.

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

The proposed Text Amendments are consistent with the goals and policies set forth in the *Hayward 2040 General Plan* in that they are designed to help increase business for the City's many existing full-service restaurants and also entice new restaurants to locate in the City. The General Plan contains numerous goals and policies aimed at providing a robust economy that offers a wide variety of goods and services, establishing a lively downtown district that features an array of shopping, restaurant and entertainment options, and attracting and retaining local businesses of all sizes and types. Specifically, the proposed amendments are consistent with the following goals and policies set forth in the *Hayward 2040 General Plan*:

Land Use Policy LU-2.1 – Downtown Arts and Entertainment: The City shall encourage private-sector investment in Downtown to transform it into a safe, vibrant, and prosperous arts and entertainment district that offers enhanced shopping, dining, recreational, and cultural experiences and events for residents, families, college students, and visitors.

Land Use Policy LU-2.16 – Uses to Attract the Creative Class: The City shall encourage the development of uses and amenities to attract creative-class professionals and businesses to Hayward, including restaurants and cafes; art studios and galleries; and entertainment and cultural venues.

Land Use Policy LU-5.1 – Mix of Uses and Activities: The City shall encourage a mix of retail, service, dining, recreation, entertainment, and cultural uses and activities in regional and community centers to meet a range of neighborhood and citywide needs.

Economic Development Goal ED-1: Diversify the economic base of Hayward to support a robust and stable economy with a diverse range of employment, shopping, and cultural opportunities for local residents.

Economic Development Policy ED-1.14 – Hospitality and Entertainment Business Clusters: The City shall encourage the development of a hospitality and entertainment business cluster within Downtown Hayward and other appropriate locations to improve opportunities for shopping, dining, arts and entertainment, lodging, business conventions, and cultural events.

Economic Development Goal ED-3: Grow the local economy and employment base by supporting efforts to expand and retain local businesses.

Economic Development Goal ED-5: Encourage economic investment by enhancing the image and reputation of Hayward.

Additionally, the proposed Amendments are consistent with Council’s Strategic Roadmap projects and the recently adopted *Downtown Specific Plan* (DSP), which contains a goal to establish the downtown area as the heart of the City and create a lively, safe and attractive regional destination for people of all ages that features a mix of land uses, including ground-floor retail shops, restaurants, cafes, business offices and bars/nightclubs, and residential uses on upper floors of mixed-use buildings.

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

This finding is not applicable as the proposed Amendments will not rezone or reclassify any properties in the City of Hayward. Additionally, staff does not anticipate that the proposed amendments will generate a significant increase in traffic volumes throughout the City or result in an undue strain on public facilities.

4. 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.

The proposed Amendments will result in a beneficial effect on existing and future restaurants in that they are designed to help introduce flexibility and encourage a variety of new types of restaurants to open in the City. Increasing business at restaurants will support Hayward’s small business community, while attracting new restaurants which will benefit the community at large by offering a wider variety of local choices to patronize when dining out. Finally, requiring establishments that can sell alcohol for on-site consumption to provide information for patrons on safe alternatives for getting home will clearly provide a beneficial effect for the general

public by helping reduce the likelihood of persons driving while intoxicated after patronizing such establishments.

California Environmental Quality Act

The proposed Zoning Text Amendments are exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed amendments would relax the required ratio of food-to-alcohol sales at full-service restaurants from 60:40 to 50:50, change the definition of “full-service restaurant” to include arrangements wherein separate entities own the food service and alcohol beverage service components of the establishment and allow kitchens to be built in freestanding structures that comply with all applicable development standards of the underlying zoning, modify the hours when such restaurants can offer “happy hour” discount pricing, and require information to be made available to patrons on safe alternatives for getting home as a performance standard for new and deemed-approved alcoholic beverage sales establishments where on-site alcohol consumption is permitted.

PROPOSED ZONING TEXT AMENDMENTS TO CHAPTER 10, ARTICLE 1 (ZONING ORDINANCE) SECTION 10-1.2750 OF THE HAYWARD MUNICIPAL CODE REGARDING UPDATES TO THE ALCOHOLIC BEVERAGE OUTLETS ORDINANCE AND RELATED REGULATIONS

Proposed text amendments to Hayward Municipal Code Sections 10-1.2751, 10-1.2752 and 10-1.2769; all added text is shown as underlined, while all deleted text is shown as ~~stricken through~~. All other Sections of 10-1.2750 (Alcoholic Beverage Outlet Ordinance) are to remain unchanged and in effect.

SEC. 10-1.2751 DEFINITIONS.

For the purpose of these regulations, certain terms and words shall have the following meaning:

- a. "Alcoholic Beverage Sales Establishment" shall mean an establishment involving the retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages. All alcoholic beverage sales establishments are required to obtain the appropriate license from the State of California Department of Alcoholic Beverage Control (ABC), and an annual alcoholic beverage retail license and a conditional use permit from the City, unless otherwise indicated in these regulations. The fees for the annual alcoholic beverage retail licenses shall be established by the City Council from time to time in the City's Master Fee Schedule, and is payable at the time the establishment obtains or renews its business license.
 - i. "On-Sale Alcohol-Related Establishment" means any business wherein alcoholic beverages are sold on the premises and are to be consumed on the premises including all related buildings, structures, open spaces and parking areas. This shall also include any facility, inclusive of a portion thereof, which is rented out for special event functions wherein alcoholic beverages are sold or given away on the premises and are to be consumed on the premises.
 - ii. "Off-Sale Alcohol-Related Establishment" means any business that sells alcoholic beverages in original, unopened packages for consumption off of the premises where sold.
- b. "Cabaret" is defined in Chapter 6, Article 2 of this Code. All cabarets that serve alcohol must obtain a conditional use permit, unless the cabaret has deemed approved status as defined herein, and a cabaret license as required by Chapter 6, Article 2 of this code.
- c. "Critical Incident" means any event that, in the sole discretion of the Chief of Police, results in a crime of violence; or a large, unruly gathering necessitating a police response of five (5) or more police officers, directly or indirectly resulting from the operation of an alcoholic beverage sales establishment. Crimes of violence include but are not limited to discharge of firearms, robbery, physical assault or assault with a deadly weapon. Police response is the arrival of a police officer at the scene of a disturbance to render whatever service is reasonably required in order to protect public health, safety or welfare.

- d. "Deemed Approved Alcoholic Beverage Establishments" means those establishments identified in Section 10-1.2767.
- e. "Downtown Entertainment Area" means that area generally between A and D Streets and between Second Street and Grand Street.
- f. "Licensee" means the holder of an ABC license, an alcoholic beverage retail license, a cabaret license and/or a use permit for the operation of an alcoholic beverage sales establishment.
- g. "Liquor store" is defined in Section 10-1.3500 of this Ordinance ("Definitions"). All liquor stores must obtain a conditional use permit, unless the liquor store has deemed approved status as hereinafter provided. Liquor stores shall not be permitted in the Downtown Entertainment Area, until such time as ABC indicates that the census tract encompassing the Downtown Entertainment Area does not have an overconcentration of off-sale ABC licenses.
- h. "Night Club" see definition of "Bar" in Section 10-1.3500 of this Ordinance ("Definitions"). All night clubs must obtain a conditional use permit, unless the night club has deemed approved status as hereinafter provided. Any night club that permits dancing or live entertainment on a regular basis must obtain a cabaret license as required by Chapter 6, Article 2 of this code, in addition to a conditional use permit.
- i. Restaurant—Full Service. A "full service restaurant" means a sit-down alcoholic beverage sales establishment which is regularly used and kept open for the primary purpose of serving meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals, and which may include an incidental bar, cocktail lounge, or other area designated primarily for the service of alcohol on the premises, which operates as part of the restaurant and is subservient to the primary function of the establishment, and which maintains a minimum of ~~60~~ 50 percent of its gross receipts from the sale of meals. Full service restaurants may consist of an arrangement wherein one entity or individual owns the alcoholic beverage sales establishment and leases its kitchen facilities to a separate entity or individual who owns and/or provides the meal service to the establishment's customers; however, such full service restaurants may only be allowed to operate under either a: (1) Type 41; (2) Type 47; or (3) Type 75 California Department of Alcoholic Beverage Control license. Kitchen facilities may be located either physically within the alcoholic beverage sales establishment or within a separate, freestanding, permanently constructed structure or structures situated on the same property and designed to comply with all applicable development standards of the zoning district in which the property is located. For purposes of these regulations, a full-service restaurant does not include fast food restaurants. For the purpose of verifying compliance with the foregoing sales requirement, the sales receipts, accounting ledgers, and any other business records pertaining to the sales of food and alcohol shall be open for inspection by the Chief of Police or his or her designee during regular business hours of the restaurant upon seventy-two (72) hours' prior written notice. Full-service restaurants may

operate without a conditional use permit, provided that the restaurant observes the performance standards set forth in Section 10-1.2752 and meets the following criteria.

- (1) A full service restaurant shall serve meals to guests at all times the establishment is open for business. An establishment shall not be considered a full-service restaurant if it serves alcohol without meal service being provided.
 - (2) Any bar/lounge area cannot remain open when the dining area is closed. However, the dining area may be open while the bar/lounge area is closed.
 - (3) A full service restaurant may offer live or recorded music until midnight without a cabaret license or permit, provided the music is within the parameters established by the City's Noise Ordinance. Dancing or other form of live entertainment besides music is not allowed unless a conditional use permit and a cabaret license or permit is obtained, in accordance with Chapter 6, Article 2 of this code. The right to have live or recorded music in a full-service restaurant may be revoked or suspended if violations of the requirements in this section or performance standards contained in Section 10-1.2752 occur, in accordance with the procedures outlined in Section 10-1.2770 of these regulations.
 - (4) A full service restaurant may offer reduced price alcoholic beverages served on the premises between the hours of ~~4:00~~ 2:00 p.m. and ~~9:00~~ 7:00 p.m., provided that such beverages are offered in conjunction with reduced price appetizers and reduced price non-alcoholic beverages. The right to have reduced price alcoholic beverages in a full-service restaurant may be revoked or suspended if violations of the requirements in this section or performance standards contained in Section 10-1.2752 occur, in accordance with the procedures outlined in Section 10-1.2770 of these regulations.
- j. "Wine Shop" is defined in Section 10-1.3500 of this Ordinance ("Definitions"). All wine shops must obtain an administrative use permit, unless the wine shop has deemed approved status as hereinafter provided.

SEC. 10-1.2752 PERFORMANCE STANDARDS FOR ALCOHOLIC BEVERAGE SALES ESTABLISHMENTS.

All alcoholic beverage sales establishments shall abide by all of the following performance standards:

- a. The establishment does not result in adverse effects to the health, peace or safety of persons residing, visiting, or working in the surrounding area; and
- b. The establishment does not result in jeopardizing or endangering the public health or safety of persons residing, visiting, or working in the surrounding area; and
- c. The establishment does not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to

- disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests; and
- d. The establishment does not result in violations to any applicable provision of any other city, state, or federal regulation, ordinance or statute; and
 - e. The establishment's upkeep and operating characteristics are compatible with and do not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood; and
 - f. The establishment's employees, except those employees with no customer contact, attend and successfully complete a training class on Responsible Beverage Service within ninety (90) days of being employed (exempting employees at retail stores having 10,000 square feet or more of floor area and which devote not more than five (5) percent of such floor area to the sale, display, and storage of alcoholic beverages); and
 - g. The establishment complies with all of ABC's Retail Operating Standards; and
 - h. The establishment does not sell alcoholic beverages to minors; and
 - i. The establishment makes information available to patrons on safe alternatives for getting home, such as taxicab or rideshare services, to the satisfaction of the Chief of Police (this standard applies to on-sale alcohol-related establishments only).

SEC. 10-1.2769 DEEMED APPROVED PERFORMANCE STANDARDS.

An alcoholic beverage sales establishment shall retain its deemed approved status only if it conforms to all of the following deemed approved performance standards:

- a. It does not result in adverse effects to the health, peace or safety of persons residing or working in the surrounding area;
- b. It does not result in jeopardizing or endangering the public health or safety of persons residing or working in the surrounding area;
- c. It does not result in repeated nuisance activities within the premises or in close proximity to the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests;
- d. It does not result in violations of any applicable provision of any other City, state, or federal regulation, ordinance or statute; and

- e. Its upkeep and operating characteristics are compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.
- f. The establishment's employees, except those employees with no customer contact, attend and successfully complete a training class on Responsible Beverage Service within ninety (90) days of being employed; and
- g. The establishment complies with all of ABC's Retail Operating Standards; and
- h. The establishment does not sell alcoholic beverages to minors; and
- i. The establishment makes information available to patrons on safe alternatives for getting home, such as taxicab or rideshare services, to the satisfaction of the Chief of Police (this standard applies to deemed approved on-sale alcohol-related establishments only).



File #: WS 23-001

DATE: January 12, 2023

TO: Planning Commission

FROM: Taylor Richard, Assistant Planner and Elizabeth Blanton, Senior Planner

SUBJECT

Parking Analysis for Hayward Residential Design Study

RECOMMENDATION

That the Planning Commission provide feedback on the recommendations included in the Parking Analysis for the Hayward Residential Design Study.

SUMMARY

The Hayward Residential Design Study is a long-range planning project that will result in the development of objective residential standards and zoning amendments to ensure General Plan and Zoning Ordinance consistency. As part of this effort, a Parking Analysis (Attachment II) was conducted by the project team (consultants Mintier Harnish and DKS Associates in collaboration with City staff) to determine if any changes to the City's existing parking regulations for residential development should be considered. Specifically, the Analysis recommends that the City:

- Maintain parking requirements within the Mission Boulevard Code area
- Do not increase parking requirements for multi-family developments outside of the Mission Boulevard Code and Downtown Specific Plan Areas
- Develop Transportation Demand Management (TDM) strategies for multi-family developments
- Allow for the unbundling of parking
- Revise parking requirements for single-family dwellings that are abutting a street with no permitted parking on both sides of the street

At this work session, staff is requesting specific feedback from the Planning Commission on the following questions related to the Parking Analysis for the Hayward Residential Design Study:

- Which of the recommendations do you think are right for Hayward?
- Do you support the development of TDM requirements or credits for multifamily development?
 - If so, which TDM strategies should be included?
 - Are there specific areas of the city, such as Downtown, along Mission Boulevard, and/or around major transit stops where TDM requirements or credits should apply?

- Would you be supportive of differentiating TDM requirements or credits based on project size, location, level of affordability and/or tenure (rental vs. ownership)?
- Are there any other parking design issues (i.e., setbacks, visibility, etc.) that should be addressed as part of the Hayward Residential Design Study?

Following this work session, subsequent work sessions will be scheduled with the Planning Commission and City Council to obtain feedback on the various options for the Objective Standards and Recommendations Report, including any zoning amendments necessary to codify the updated requirements within the Hayward Municipal Code.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Parking Analysis



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BACKGROUND

In 2019, the City of Hayward was awarded an SB2 Planning Grant by the California Department of Housing and Community Development (HCD) for various housing projects including the Hayward Residential Design Study (previously named the Residential Objective Standards and Zoning Consistency Update). The grant funds allocated to this project cover the development of objective residential standards and zoning amendments to ensure General Plan and Zoning Ordinance consistency.

Over the past several years, the California state legislature adopted numerous housing bills to address the State's Housing Crisis, including Senate Bill (SB) 35, SB 330 and SB 8, which are aimed at streamlining land use entitlements and processes. Streamlining is generally used to limit and define local control and discretion thus providing developers with more certainty in timing and outcomes for residential and mixed-use developments. Specifically, local jurisdictions have limited ability to deny housing projects that meet all objective standards. As defined by State law, "objective standards are those that involve no personal or subjective judgement by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official." In other words, an objective standard must be written in such a way that anyone reading them would have the same understanding as to what the standard requires. Therefore, the Hayward Residential Design Study will focus on updating the City's residential standards to make them "objective" by including measurable and enforceable parameters.

Kickoff Meeting Joint Session. On February 1, 2022,¹ the City Council and Planning Commission held a joint work session to provide initial guidance and feedback on the Hayward Residential Design Study. The Council and Planning Commission provided significant feedback during this session, including that the project should address community parking concerns through evaluating current regulations and identifying strategies to reduce parking necessity (shuttles, bike infrastructure, car sharing programs, unbundled parking).

Public Outreach. To date, outreach efforts for the Hayward Residential Design Study have included an online community survey, an online interactive mapping tool, in-person "walkshops" (walking workshops) and various in-person community events. These efforts were promoted through the City's e-newsletter, social media platforms, Permit Center,

¹ Joint Session of City Council and Planning Commission, February 1, 2022:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=5397460&GUID=B175606F-4591-4D2E-B41A-328BD292B038>

libraries, and community-based organizations. The community survey and promotional materials were provided in Spanish, Mandarin, and English.

Through these outreach efforts, staff has gathered both quantitative and qualitative data that will be used to inform the development of objective residential standards and zoning amendments. Key findings from the outreach thus far include a range of community priorities, including managing off-street parking concerns. A full summary and analysis of public outreach to date is available on the City's website.²

Informational Reports. On October 11, 2022³ and October 27, 2022,⁴ the City Council and Planning Commission respectively, received Informational Reports from staff providing a status update on the Hayward Residential Design Study. The Reports and their attachments provide a detailed overview of community outreach conducted to date, a project vision statement and objectives, and background information related to relevant State legislation, the City's current regulations for residential development, and best practices from surrounding communities. As these items were included on the meeting agendas as Informational Reports, no discussions were held, or actions taken.

Summary of Recent State Legislation. As noted above, the State legislature passed several laws in recent years that reducing parking requirements for certain projects to help remove financial barriers for residential development, including Senate Bill 330 (SB 330) and more recently, Assembly Bill 2097 (AB 2097).

SB 330 prohibits jurisdictions from adopting development standards, including minimum off-street parking requirements, that would effectively reduce the overall residential development potential that is currently allowed. Furthermore, AB 2097 prohibits jurisdictions from imposing any minimum parking requirements for residential, commercial, or other development projects that are located within one half mile of a major transit stop. The Hayward Amtrak Station, the Hayward BART Station, and the South Hayward BART Station are currently the only qualifying major transit stops within Hayward. However, there are several bus stops along Mission Boulevard that may qualify in the future if the frequency of bus service increases slightly. Overall, these laws limit the City's ability to increase off-street parking requirements.

POLICY CONTEXT

Within the Parking Analysis for the Hayward Residential Design Study, the project team evaluated relevant State legislation and the City's current off-street parking requirements to develop recommendations to address residential parking concerns. A summary of existing regulations are described below and detailed in Attachment II.

² Project Webpage on City of Hayward Website:

<https://www.hayward-ca.gov/your-government/departments/planning-division/residential-design-study>

³ Informational Report to the City Council, October 11, 2022:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=5866918&GUID=894C7C53-DC5C-4221-B088-0EBF8B2AEA96>

⁴ Informational Report to the Planning Commission, October 27, 2022:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=5892998&GUID=7857C30F-1A87-4B4B-9E5E-A8B0339C69FF>

Summary of Current Off-Street Parking Requirements. Current residential parking requirements are determined by the City's Off-Street Parking Regulations, Mission Boulevard Code, and Downtown Specific Plan. The project team determined that the City's parking requirements are generally consistent with or higher than comparable rates in the Institute of Transportation Engineer's (ITE) Parking Generation Manual. The minimum and maximum number of required parking spaces are summarized in Table 1 below.

Table 1: City of Hayward Residential Parking Regulations

Use	Number of Required Parking Spaces
Single-Family Dwellings	
Single-Family Dwellings	2 Covered per Dwelling Unit
Single-Family Dwellings that are abutting a street with no permitted parking on both sides of the street	2 Covered <u>AND</u> 2 Uncovered per Dwelling Unit (spaces cannot block the covered spaces)
Single-Family Dwellings built prior to March 24, 1959	1 Covered per Dwelling Unit
Multi-Family Dwellings	
Studios	1 Covered <u>AND</u> 0.5 Uncovered Per Dwelling Unit
One-Bedrooms	1 Covered <u>AND</u> 0.7 Uncovered Per Dwelling Unit
Two or More Bedrooms	1 Covered <u>AND</u> 1.10 Uncovered Per Dwelling Unit
Mission Boulevard Code	
All Residential Developments	No Parking Minimums, A Maximum of 1 Per Dwelling Unit within ½ Mile of BART Station and A Maximum of 2 Per Dwelling Unit Elsewhere
Downtown Specific Plan	
All Residential Developments	1 Per Dwelling Unit, No Parking Maximums

The Off-Street Parking Regulations also contain methods for residential developments to reduce their overall parking requirement. These include credit for senior citizen housing and housing for people with disabilities, credit for two-wheel parking spaces, credit for off-site parking, and allowing tandem parking for single-family dwellings. However, the City does not currently have any requirements or credits for Transportation Demand Management (TDM) strategies for residential developments.

Infill Housing Report. In December 2019, the Council of Infill Builders released their report on efforts to accelerate and accommodate infill housing in the City of Hayward and presented this report to the City Council on January 14, 2020⁵. The Report recommends that the City develop optimal parking policies to encourage market-driven supply that boosts walkability, biking, and transit usage. Excess parking supply and requirements add to project costs and can reduce the walkability and transit-friendly nature of downtowns and commercial corridors. Ongoing operation and maintenance of parking structures can also be costly for rental properties. At the same time, it was noted that lenders are reluctant to finance new projects in Hayward without sufficient on-site parking. As a result, the report recommends the City consider parking policies that allow the market to determine supply while providing options to reduce the demand for

⁵ Work Session with the City Council, January 14, 2020:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=4288614&GUID=8884B223-5825-443E-AEB7-561FE7CECC64&Options=&Search=>

on-site, decentralized parking that can increase project costs. The Mission Boulevard Code update relied on this information to support no parking minimum within the Code Area.

ANALYSIS

Over the past year, the City's project team has been working to develop a suite of recommendations to address residential parking concerns expressed by stakeholders as well as support the development of high-quality, accessible, and attractive housing. The recommendations, which are summarized below, are based on analysis of state legislation, the City's current off-street parking regulations, and best practices. Additional details for each recommendation are provided in Attachment II.

- **Maintain parking requirements within the Mission Boulevard Code area.** Given current State legislation (AB 2097, SB330) and an upcoming AC Transit network redesign, current parking requirements within the Mission Boulevard Code should be maintained. State legislation severely limits the City's ability to increase parking minimums, especially along Mission Boulevard.
- **Do not increase parking requirements for multi-family developments outside of the Mission Boulevard Code and Downtown Specific Plan Areas.** Given that the parking requirements for multi-family dwellings outside the Mission Boulevard Code and Downtown Specific Plan Areas are generally higher than the ITE Manual rates, current parking requirements should not be increased. Staff should monitor the parking supply and occupancy of recent multi-family dwellings to determine if a reduction from current standards is needed.
- **Develop Transportation Demand Management (TDM) strategies for multi-family developments.** Current regulations do not have any requirements, nor do they provide credits for TDM strategies employed in multi-family developments. The City should consider allowing for a reduction in off-street parking supply in multi-family residential developments under certain conditions, such as a site's proximity to transit, the provision of active transportation amenities (bike parking), a car-share program, the provision of subsidized transit passes, and other options that reduce car ownership.
- **Allow for the unbundling of parking.** Unbundling parking is the act of separating out the cost of parking from the cost of living, by charging separately for parking. Current regulations do not allow for unbundling parking without specific conditions of project approval that state otherwise.
- **Revise parking requirements for single-family dwellings that are abutting a street with no permitted parking on both sides of the street.** To maintain the supply of parking in single-family neighborhoods with constrained roadway conditions, and support residential development, it is recommended to allow driveway spaces to satisfy the uncovered parking space requirements for single-family dwellings that are abutting a street with no permitted parking on both sides of the street.

As previously indicated in this report, staff is requesting specific feedback from the Planning Commission on the following questions related to the Parking Analysis for the Hayward Residential Design Study:

- Which of the recommendations do you think are right for Hayward?
- Do you support the development of TDM requirements or credits for multifamily development?
 - If so, which TDM strategies should be included?
 - Are there specific areas of the city, such as Downtown, along Mission Boulevard, and/or around major transit stops where TDM requirements or credits should apply?
 - Would you be supportive of differentiating TDM requirements or credits based on project size, location, level of affordability and/or tenure?
- Are there any other parking design issues (i.e., setbacks, visibility, etc.) that should be addressed as part of the Hayward Residential Design Study?


NEXT STEPS

Following this work session, staff plans to present the Parking Analysis to the City Council for feedback at a work session tentatively scheduled for January 24, 2023. In February 2023, staff anticipates presenting the Objective Standards and Recommendations Report to both the Planning Commission and City Council to highlight the various options tied to the adoption of new residential development standards. Using the feedback received from decision makers at these work sessions, as well as the additional feedback from the public, staff will present the updated draft of proposed objective standards with related zoning amendments by early Summer, 2023.

Prepared by: Taylor Richard, Assistant Planner
Elizabeth Blanton, AICP, Senior Planner

Recommended by: Leigha Schmidt, AICP, Principal Planner

Approved by:



Jeremy Lochirco, Planning Manager



Sara Buizer, AICP, Acting Development Services Director

HAYWARD COMPARATIVE PARKING STUDY MEMO

DATE: December 6, 2022

TO: Elizabeth Blanton | City of Hayward

FROM: Josh Pilachowski, Alexandra Haag | DKS Associates

SUBJECT: Hayward Residential Design Study

Project # 22049-000

INTRODUCTION

The Hayward Residential Design Study is an update to the City's zoning regulations to support the development of quality housing. Currently, the City of Hayward's (City) Municipal Code provides minimum off-street parking requirements for various land uses, with the purpose of providing off-street parking and loading facilities in developments that are in proportion to the demand created by the use. The purpose of this memorandum is to provide an overview of recent State legislation that impacts residential parking requirements, summarize the City's residential Off-Street Parking Regulations as required by the Municipal Code, compare the requirements to parking generation rates published in the Institute of Transportation Engineer's (ITE) Parking Generation Manual, 5th Edition (ITE Manual), and determine if any changes are necessary either at a city-wide or location/land-use specific level to manage parking demand and community needs.

This review focuses on the quantity of off-street parking and loading spaces required by the Municipal Code and does not cover specific design considerations such as the location of parking spaces on-site. Development standards and specific design options will be considered in the forthcoming Option and Recommendations Report.

SUMMARY OF STATE LEGISLATION

SB 330 HOUSING CRISIS ACT

SB 330 strengthens the Housing Accountability Act and Permit Streamlining Act to address California's housing crisis by removing barriers to residential development, protecting existing housing inventory, and expediting permit processing. It prohibits local jurisdictions from enacting new laws that would have the effect of reducing the capacity for new housing or delaying housing development via administrative or other regulatory barriers. Specifically, SB 330 prohibits local jurisdictions from adopting development standards, including minimum off-street parking

requirements, that would reduce the intensity of the residential use that is currently allowed by the General Plan and Zoning Ordinance.

Applicability: The City cannot increase minimum parking requirements in some zoning districts without making a commensurate reduction in others so that overall residential development potential does not decrease.

DENSITY BONUS LAW

State Density Bonus Law provides developers with tools to encourage the development of affordable and senior housing. Under Density Bonus Law, local jurisdictions may not require more than the following off-street parking requirements for a density bonus project.

Studio	1 parking space per unit
1 Bedroom	1 parking space per unit
2 Bedroom	1.5 parking spaces per unit
3 Bedroom	1.5 parking spaces per unit
4 Bedroom	2.5 parking spaces per unit*

**Note: The Municipal Code only requires 2.1 parking spaces per unit for a four-bedroom multifamily unit*

There are further reductions for projects that meet certain affordability levels, serve specific populations and are near transit. Additionally, developers can request a concession as part of their density bonus application to further reduce their off-street parking requirements.

Applicability: The City is required to grant parking reductions and concessions related to parking for qualifying density bonus projects.

SB 9

SB 9 is intended to enable housing development in single-family residential zones by allowing lot splits and two dwelling units per parcel, which may result in up to four units total. Local jurisdictions may require up to one off-street parking space per unit for SB 9 projects. However, if the project site is located within one half mile walking distance of either a high-quality transit corridor or a major transit stop or is within a block of a car share vehicle, then no off-street parking is required.

Applicability: Within Hayward, this law applies to most Single-Family Residential (RS) zoned parcels. This limits the City's ability to enforce the off-street parking requirements summarized later in this report for these projects.

AB 2097

AB 2097 prohibits a public agency from imposing any minimum automobile parking requirements on any residential, commercial, or other development project that is located within one half mile of a major transit stop. A "Major Transit Stop" is defined as:

- An existing rail or bus rapid transit station.
- A ferry terminal served by either a bus or rail transit service.
- The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

AB 2097 allows local jurisdictions to impose minimum off-street parking requirements if *not* imposing the requirements would have a substantially negative impact on the jurisdiction's ability to either meet its share of specified regional housing needs or the utilization of existing parking within one half mile of the housing development. However, this provision is not applicable if the project dedicates a minimum of 20 percent of the total number of housing units to very low, low-, or moderate-income households, students, the elderly, or persons with disabilities, contains fewer than 20 housing units, or is subject to parking reductions based on any other applicable law.

Applicability: Under AB 2097, the developments in Hayward that will no longer have parking minimums are within one half mile of the Amtrak Station, the Hayward BART Station, and the South Hayward BART Station as shown in **Figure 1**. Currently, Hayward does not have any intersections of two or more major bus routes with a service interval frequency of 15 minutes or less. However, there are some bus routes, such as Route #99 and Route #10, that have short headways (20 minute and 17 minutes, respectively). Service increases or major transit changes in the future may result in new locations qualifying as major bus routes, limiting the city's ability to impose parking minimums in those areas.

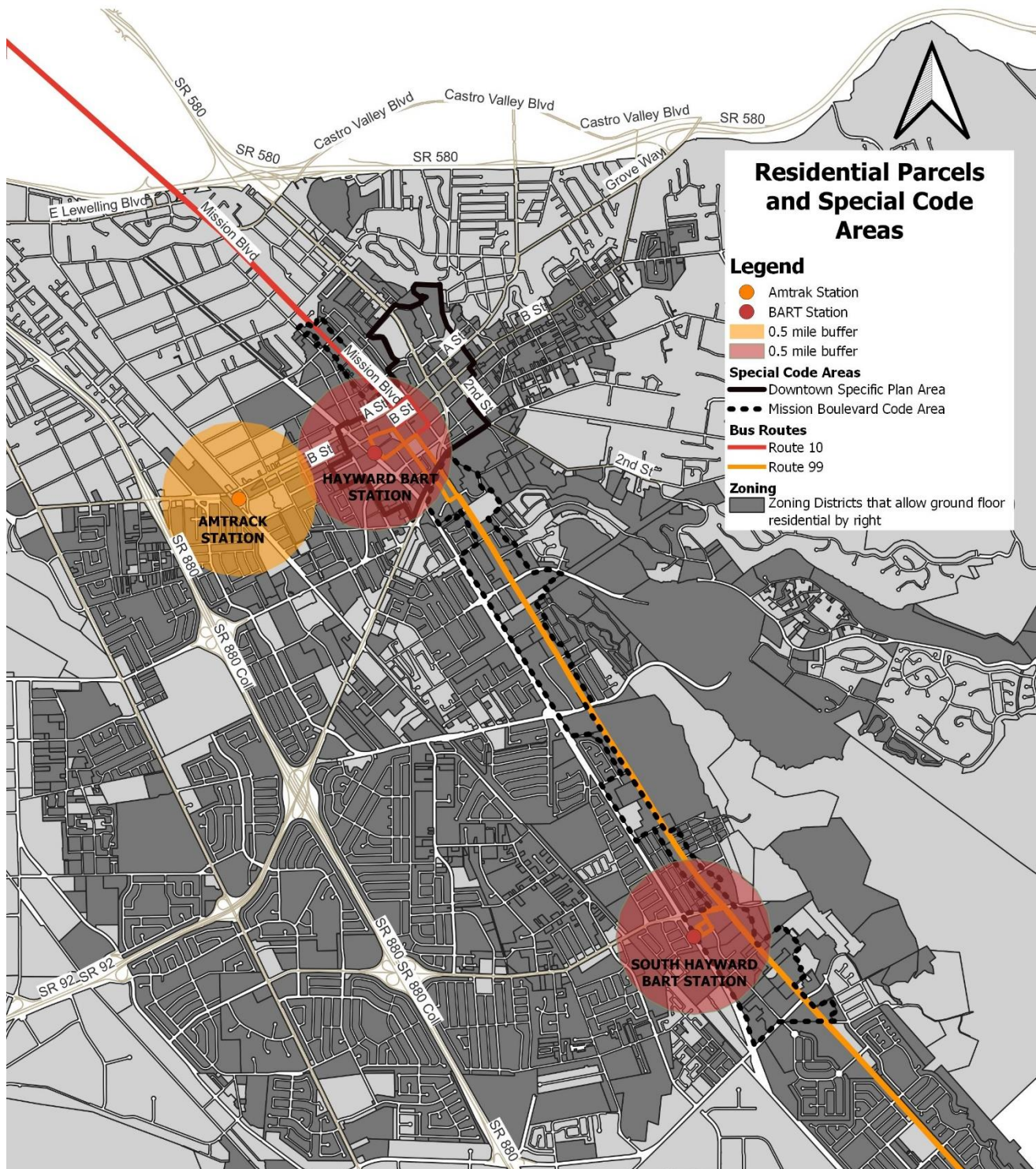


FIGURE 1: PARCELS IMPACTED BY ASSEMBLY BILL 2097

SUMMARY OF OFF-STREET PARKING REQUIREMENTS

The off-street parking requirements for residential land uses in the City's Off-Street Parking Regulations, Mission Boulevard Code, and Downtown Specific Plan are summarized below and compared against parking rates published in the ITE Manual. The areas where residential parking rates are determined by the Mission Boulevard Code and Downtown Specific Plan are shown in **Figure 3** and **Figure 4**.

Parking rates in the ITE Manual are determined based on a range of land use descriptions, such as gross floor area, and further classified based on urban and rural land uses and by time period (typically weekday and weekend). For the purpose of comparing these rates to the City's Parking Regulations, weekday parking generation rates have been used and the most conservative land use context has been selected when applicable. ITE Manual reference codes and a full list of parking rates used are located in **Appendix A**.

RESIDENTIAL PARKING REQUIREMENTS

The number of off-street parking spaces required for residential land uses are summarized in **Table 1** below. ITE Manual rates are provided as a range for low-, mid-, and high-rise multi-family residential developments and have been converted to an equivalent unit rate for comparison against the City's parking regulations.

SINGLE-FAMILY DWELLINGS

For single-family residential land uses, the City designates spaces on a per dwelling-unit basis. For single-family dwellings, 2.0 parking spaces in an enclosed garage are required. Single-family dwelling units abutting a street with no on-street parking are required to provide an additional 2.0 uncovered spaces per dwelling unit, which cannot block the garage spaces. For dwellings with a single car garage built prior to March 24, 1959, only 1.0 covered parking space per dwelling unit is required. The ITE Manual does not list rates for single-family dwelling units.

MULTI-FAMILY DWELLINGS

For multi-family dwelling units outside of the Mission Boulevard Code Area and Downtown Specific Plan Area, the City's parking provisions are classified by the number of bedrooms in each unit. For a studio unit, 1.0 covered and 0.50 uncovered spaces are required. For a one-bedroom unit, 1.0 covered and 0.70 uncovered spaces are required. For a two or more-bedroom unit, 1.0 covered and 1.10 uncovered spaces are required. For all unit sizes, the City requires that 10 percent of all multi-family parking spaces are designated as visitor parking. The Municipal Code does not allow "unbundling" of parking (where parking spaces are rented or owned separately from the residential units) unless explicitly stated in a condition of approval. The Municipal Code also does not allow unused spaces to be rented out to another party.

The ITE Manual's parking generation rate for multi-family units varies from 1 to 1.3 parking spaces per dwelling unit for low-, mid-, and high-rise multifamily developments. Even at a rate of 1.3 spaces per unit, the parking spaces required per the City's Parking Regulations exceed the rates published in the ITE Manual.

DOWNTOWN SPECIFIC PLAN PARKING REQUIREMENTS

The Downtown Specific Plan determines parking requirements for developments within the Downtown Specific Plan Area shown in **Figure 2**. Within the Downtown Specific Plan Area, the residential parking requirement is 1 parking space per dwelling unit or 1 parking space per 500 square feet, whichever is less.

The Downtown Specific Plan allows for residential parking requirements to be located off-site, subject to the approval of the reviewing authority.

MISSION BOULEVARD CODE PARKING REQUIREMENTS

The Mission Boulevard Code determines parking requirements for development within the Mission Boulevard Corridor, shown in **Figure 3** and **Figure 4**.

The Mission Boulevard Code does not require a minimum amount of parking, and instead, sets a maximum parking requirement, which is determined based on a development's proximity to transit. There is a maximum of two off-street parking spaces per residential unit allowed, except for within one-half mile of the Hayward and South Hayward BART Stations, where a maximum of 1 off-street space is allowed.

While the Mission Boulevard Code does stipulate a parking maximum, it does allow for additional parking to be provided in some circumstances. In these cases, the approving body may approve additional residential parking if all the following findings can be made:

- The request is consistent with the goals and policies of the Hayward General Plan, the Mission Boulevard Code, and any other adopted policies related to parking and the multi-modal network.
- The request is supported by a quantitative justification from the applicant that the demand for the additional parking spaces exists and providing additional parking spaces is warranted; and
- The additional parking will not impede bicycle and pedestrian circulation and safety.

Table 1 compares the residential parking requirements in the Off-Street Parking Regulations, Mission Boulevard Code, and Downtown Specific Plan, against rates published in the ITE Manual. The parking generation rates published in the ITE Manual are generally lower than the City's minimum parking requirements in the Municipal Code.

**TABLE 1: RESIDENTIAL PARKING REQUIREMENTS COMPARED TO ITE PARKING GENERATION MANUAL RATES
(REGULATIONS SECTION 10-2.310)**

Uses	Hayward Off-Street Parking Regulations	Mission Boulevard Code	Downtown Specific Plan	ITE Parking Generation Manual, 5th Edition
Single Family Dwellings				
Single Family Dwelling	2.0 covered per dwelling unit	no minimum	1.0 space per dwelling unit, provided that the aggregate supply for all units at buildout is 1.5 spaces per dwelling unit	No Data
Single Family Dwelling - abutting public or private street with no parking lane, or no parking is permitted on both sides of street	2.0 covered per dwelling unit AND 2.0 uncovered per dwelling unit	maximum of 2.0 spaces per residential unit if greater than 0.5 miles from BART Station. Maximum 1.0 spaces if less than 0.5 miles from BART Station		No Data
Single Family Dwelling - with a single car garage built prior to March 24, 1959	1.0 covered per dwelling unit			No Data
Multiple Family Dwellings				
Studio	1.0 covered AND 0.50 uncovered per dwelling unit AND 0.1 visitor spaces per residential	no minimum	1.0 space per dwelling unit, provided that the aggregate supply for all units at buildout is 1.5 spaces per dwelling unit	1.0 to 1.3 per dwelling unit
One-bedroom	1.0 covered AND 0.7 uncovered per dwelling unit AND 0.1 visitor spaces per residential parking space	maximum of 2.0 spaces per residential unit if greater than 0.5 miles from BART Station. Maximum 1.0 spaces if less than 0.5 miles from BART Station		1.0 to 1.3 per dwelling unit
Two or more bedrooms	1.0 covered AND 1.10 uncovered per dwelling unit AND .1 visitor spaces per residential parking space			1.0 to 1.3 per dwelling unit

ITE Parking Manual rates have been normalized against the same independent variable and values as the Bylaw, where applicable. Rates are rounded to the nearest 0.1

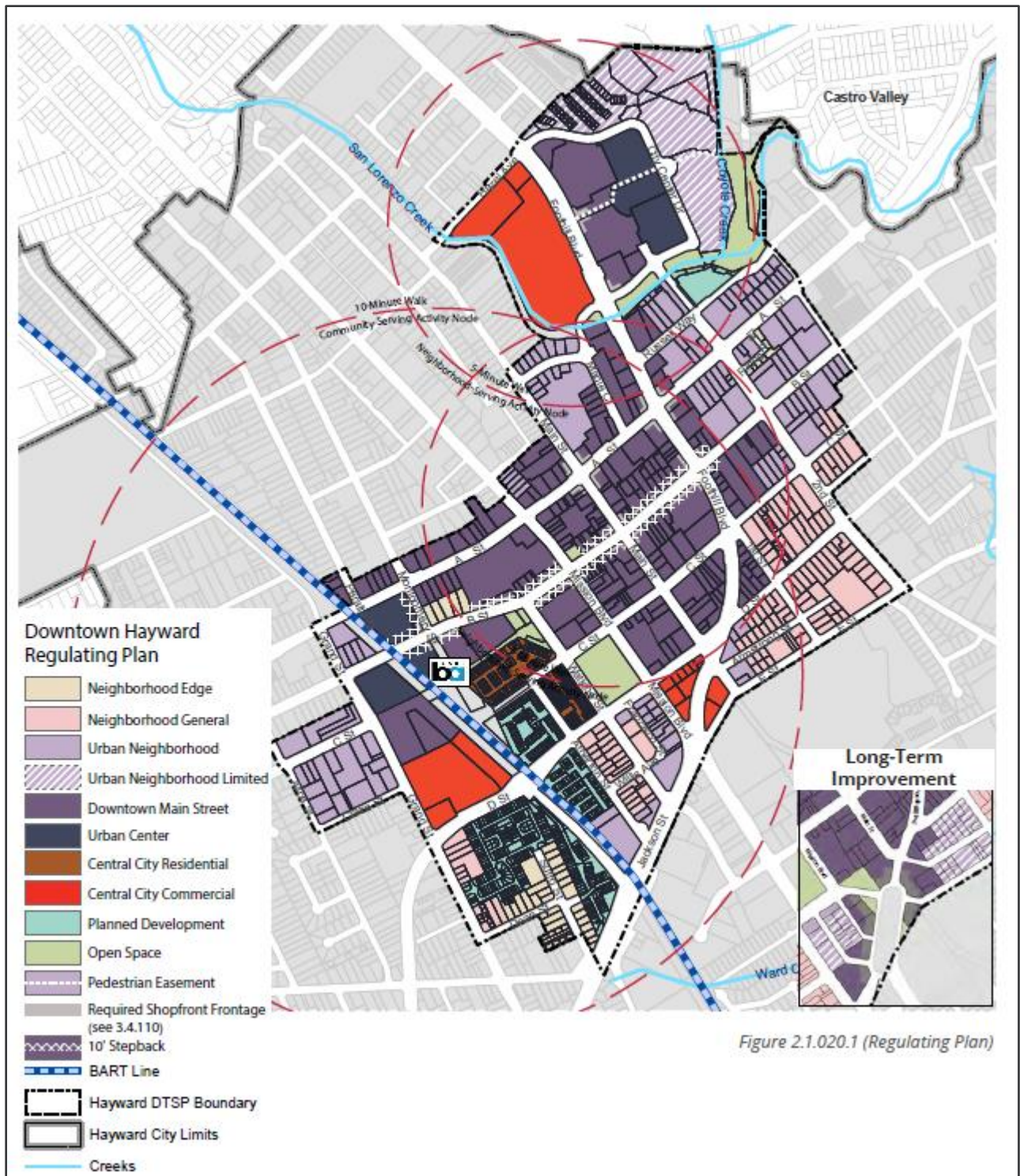


FIGURE 2: DOWNTOWN SPECIFIC PLAN CODE AREA

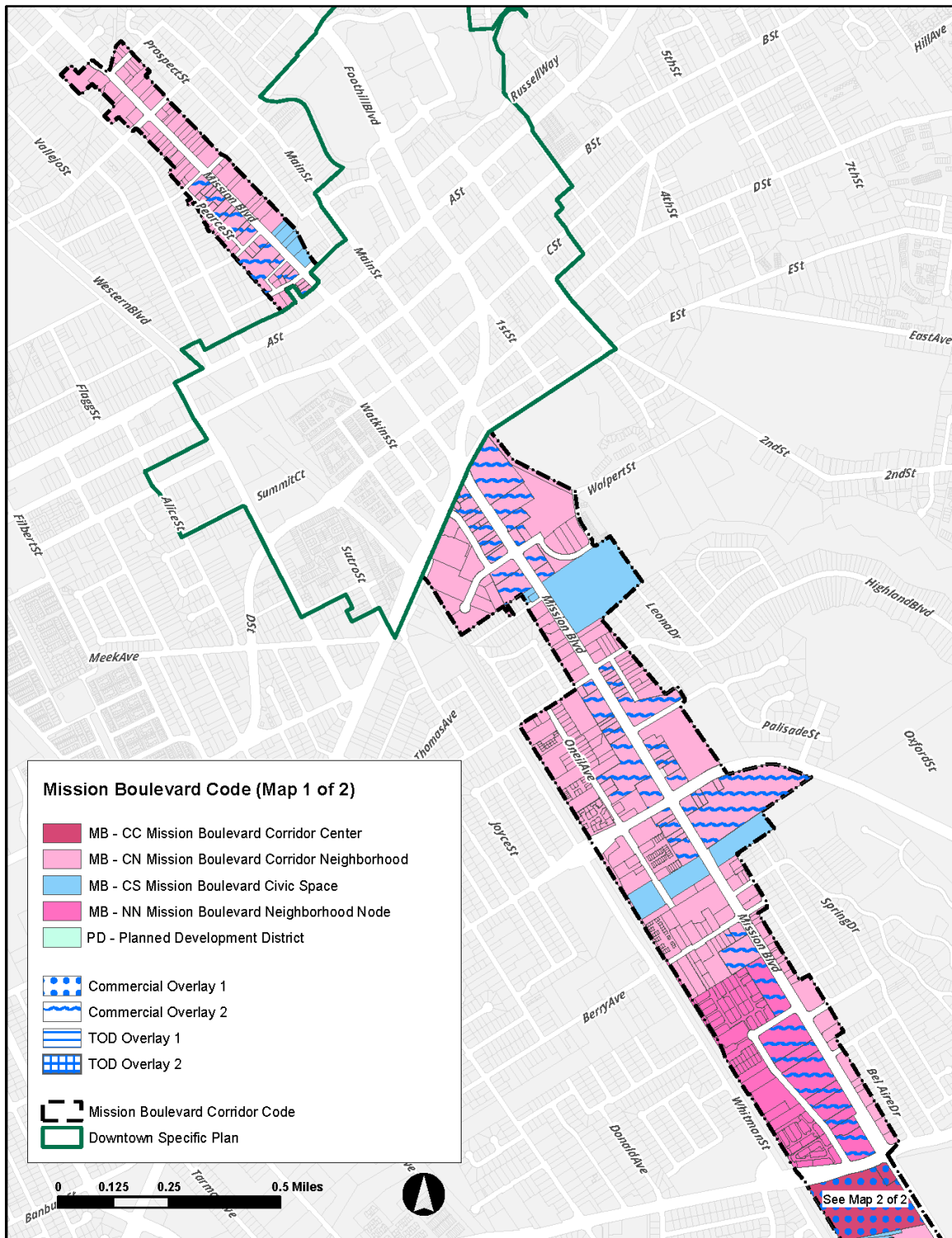


FIGURE 3: MISSION BOULEVARD CODE AREA - NORTH

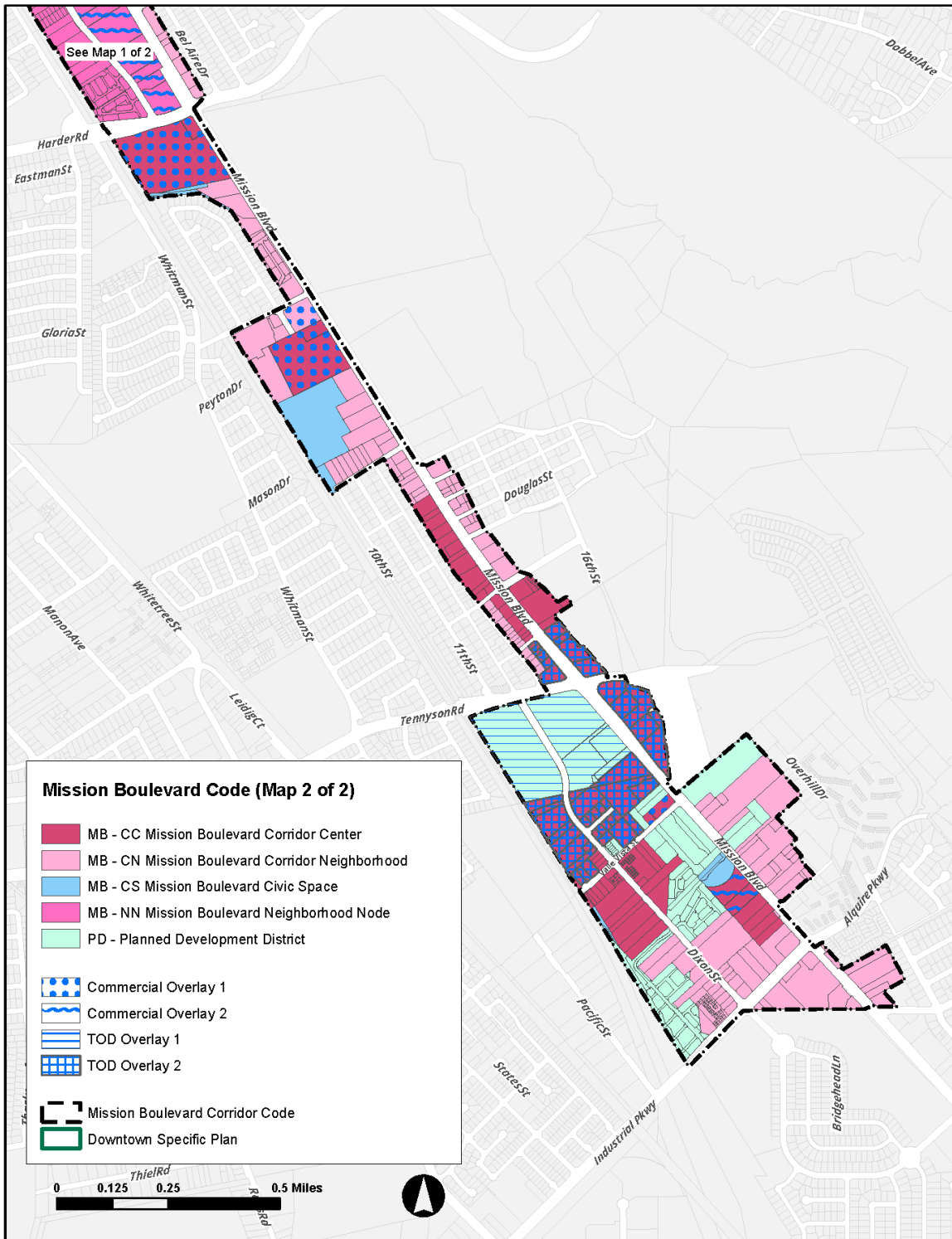


FIGURE 4: MISSION BOULEVARD CODE AREA - SOUTH

EXCLUSIONS, REDUCTIONS AND EXCEPTIONS

There are some opportunities for residential developments to reduce their overall minimum parking requirements from the standard rates published in the City's Off-Street Parking Regulations, as summarized below.

CREDIT FOR SENIOR CITIZEN HOUSING AND HOUSING FOR PEOPLE WITH DIABILITIES

The City's Off-Street Parking Regulations allow for the reduction of parking space requirements for developments that are provided exclusively for individuals aged 62 years of age or older and/or for persons with disabilities. In these cases, the overall parking requirements may be reduced by up to 25 percent as approved by the Planning Director if

- The facility is conveniently located with respect to shopping, services, and public transportation;
- Units are permanently made available to low-income persons;
- Tenant vehicles are limited to the number of parking spaces provided, exclusive of guest parking spaces; and
- The Planning Director finds that these conditions substantially reduce the need for on-site parking.

The percent reduction obtained cannot be in addition to any other reductions.

CREDIT FOR TWO WHEEL VEHICLE PARKING SPACES

The City's Off-Street Parking Regulations allows for the reduction of parking spaces in exchange for the provision of parking facilities for two-wheeled vehicles, such as bicycles and motorcycles. Additional parking spaces or facilities for bicycles, motorcycles and similar two-wheel vehicles shall be provided when more than 50 parking spaces are required. Credit for one parking space is given for every four bicycle spaces provided, and credit for one parking space is provided for every two motorcycle spaces provided. However, credit for parking spaces cannot exceed five percent of total required parking spaces.

TANDEM PARKING

The City's Off-Street Parking Regulations allows tandem parking for single-family and mobile homes, and for multi-family residences in the Central Parking District when spaces are assigned to the same dwelling unit and are enclosed within a garage. If the multi-family residences are located

outside the Central Parking district, tandem parking is allowed when spaces are assigned to the same dwelling unit and are enclosed within a garage, and when

1. The development contains at least 20 units and is located within 1,000 feet of a bus route with 7-day service or a rail station;
2. No more than 35 percent of the residences are provided tandem spaces;
3. The tandem garages are spaced or grouped such that vehicular movement conflicts are minimized; and
4. The tandem garages are located such that vehicles back out into an alley or courtyard that provides access to parking facilities only.

CREDIT FOR OFF-SITE PARKING

The City's Off-Street Parking Regulations allows for off-site parking through an administrative use permit, providing the following findings and conditions of approval:

1. The building or use for which application is being made shall have the main entrance located within 500 feet along a traversable pedestrian route from the farthest proposed parking space;
2. There is a useable pedestrian route along public streets or permanently established easements between the parking and the uses or structures served;
3. The adjacent or nearby properties will not be adversely affected relative to parking;
4. The proposed traffic circulation will not be detrimental to the health, safety, and welfare of residents residing or working in or adjacent to the parking; and
5. The property owner(s) must enter into a written, recorded agreement with the City, in a form satisfactory to the City Attorney, describing the off-site parking plan and including a guarantee that there will be no substantial alteration in the uses that will create a greater demand for parking, a recording of a covenant among the properties for access to and use of the off-site parking facilities, a provision stating that the City may, upon a finding by the Director of Community and Economic Development/Planning Director that there has been a change in use, modify, amend, or unilaterally terminate the agreement.

CITY STAFF INTERVIEWS

Planning staff from the City of Hayward were interviewed on October 24, 2022 to provide local context regarding existing conditions, challenges, and opportunities related to residential off-street

parking. Staff emphasized a desire to “right-size” parking to meet demand without over parking and sacrificing housing units. They suggested adding an unbundling provision to the code, which would allow parking spaces to be sold or rented separately from housing units. Further, they identified sections of the code which may warrant revision, including the standard that for single family neighborhoods with no on street parking, a total of four parking spaces per home, excluding driveway spots, is required.

With respect to Mission Boulevard, staff observed that most developers are still providing parking for residential projects, even though none is required. The original reasoning for providing a parking maximum in this area was to not be overly prescriptive with parking, but rather to let the market dictate what is necessary. City staff noted that some neighborhoods in the area have instituted parking permit programs, but there are issues with expanding this program due to lack of resources for enforcement, as well as it being a staff intensive process.

ANALYSIS AND RECOMMENDATIONS

SUMMARY KEY FINDINGS

- Parking rates in the Municipal Code are generally consistent with or higher than comparable rates in the ITE Parking Generation Manual. Some parking rates for single family homes are notably higher, such as the requirement for four spaces if there is no on-street parking.
- The Municipal Code as it is currently written does not allow for unbundling of parking costs from the cost of renting or owning a multifamily unit.
- The Municipal Code allows for a reduced number of off-street parking spaces to be provided for non-residential developments that implement a Transportation Demand Management Plan but does not have a similar allowance for residential developments. The recently signed into law Assembly Bill 2097 prohibits any public agency from imposing minimum automobile parking requirements on development projects located within 0.5 mile of a major public transit stop and SB 9 prohibits on-street parking requirements for single family housing zones within the same distance of transit. Illustrated in Error! Reference source not found., this will primarily impact land parcels currently governed by the Mission Boulevard Code and Downtown Specific Plan or parcels adjacent to these Code Areas. Near the Amtrak Station, it will impact properties in the Santa Clara and Burbank neighborhoods.
- Due to SB 330, any increase in parking requirements that could result in reduced housing potential must have a commensurate reduction in parking requirements elsewhere to maintain overall housing potential.
- Per the Density Bonus Law, the City is required to grant parking reductions and concessions related to parking for qualifying density bonus projects.
- Staff expressed an appetite for increased flexibility in requirements and regulations so that parking supply can be right-sized for the various residential land uses and neighborhoods across the city.

RECOMMENDATIONS

The following recommendations have been based on a review of the existing parking requirements in the Hayward Municipal Code, a review of the recent legislation, and discussion with City staff about existing residential parking conditions and challenges.

- **Maintain no parking minimums within the Mission Boulevard Code Area and Downtown Specific Plan Code Area and evaluate impacts of AB 2097 and new projects as they come online.** It is recommended that parking minimums should not be added to the Mission Boulevard Code Area, with consideration given to Covid-19's ongoing disruption to transit service and travel patterns, the upcoming AC Transit network redesign, as well as the recently adopted AB 2097, which eliminates parking minimums within 0.5 miles of rail stations and major bus routes. This will also avoid causing any required parking reductions in other locations per SB 330. The code should continue to defer to State laws regarding parking minimums.
- **Maintain current multifamily parking minimums and monitor parking occupancy and capacity data of existing residential developments to determine if minimums can be further reduced consistent with ITE parking demand rates.** Hayward's Municipal Code parking minimums for multifamily developments are generally higher than ITE Manual rates and as such should not be increased. Recent development has shown that developers still provide parking even when no minimums are established. A better understanding of parking supply and occupancy in recent multifamily developments in Hayward would provide stronger evidence supporting any reduction in parking requirements in the Municipal Code while ensuring that parking goals are still met.
- **Consider developing Transportation Demand Management (TDM) guidelines for multifamily residential developments.** While the Municipal Code allows for a reduced number of off-street parking spaces to be provided for non-residential developments that implement a transportation demand management plan, no such option is available for residential developments that provide TDM strategies. The objective of a TDM program is to work with developers provide on-site amenities that will encourage a range of travel options and reduce car ownership, in exchange for providing parking at a reduced rate. The City should consider allowing for a reduction in off-street parking supply in multifamily residential developments under certain conditions, such as a site's proximity to transit, provision of active transportation amenities (bike parking, bike share, scooter share), car-share, provision of subsidized transit passes, and other options for reducing car ownership.

The City of San Francisco has had a TDM plan¹ for new developments in place since 2018. San Francisco provides a comprehensive overview of TDM measures² that can be used as a starting point to develop relevant measures for Hayward along with a point-based system for scoring proposed TDM. Key items relevant to reducing residential parking demand include:

- Bicycle Parking – Scored based on the number and location of Class 1 and Class 2 bicycle parking spaces
- Bicycle Support facilities – Availability of showers and clothes lockers, repair and maintenance facilities
- Vehicle share – Bike share, Car share parking and membership
- Delivery – Curb management and delivery amenities
- High Occupancy Vehicle support – Contributions or incentives for sustainable transportation

An example scoring rubric is shown in **Table 2**.

TABLE 2: EXAMPLE TRAVEL DEMAND MANAGEMENT RUBRIC

DESCRIPTION	POINTS
BICYCLE PARKING	
Class 1 and 2 bicycle parking meeting code requirements	1
At least 1.25 Class 1 Bicycle Parking spaces for every Dwelling Unit, and 2 Class 2 Bicycle Parking spaces for every 20 Dwelling Units	2
At least 1.5 Class 1 Bicycle Parking spaces for every Dwelling Unit, and 3 Class 2 Bicycle Parking spaces for every 20 Dwelling Units	3
At least 2 Class 1 Bicycle Parking spaces for every Dwelling Unit, and 4 Class 2 Bicycle Parking spaces for every 20 Dwelling Units	4

¹ <https://sfplanning.org/transportation-demand-management-program>

² https://default.sfplanning.org/transportation/tdm/TDM_Measures.pdf

DESCRIPTION	POINTS
BICYCLE SUPPORT FACILITIES	
Include a bicycle repair station consisting of a designated, secure area within the building, with tools and supplies	1
Offer free bicycle maintenance services to each Dwelling Unit and/or employee, at least once annually	1
BICYCLE SHARE	
Provide one complimentary bike share membership annually and be located more than 1000' from an existing or proposed bikeshare station	1
Provide one complimentary bike share membership annually and be located less than 1000' from an existing or proposed bikeshare station	2
Provide a fleet of bicycles for residents for their use. The number of bicycles in the fleet shall be equivalent to the number of Class 2 Bicycle Parking spaces required by the Planning Code	1
CAR SHARE	
Car-share parking spaces as required by the Planning Code with a minimum of one car-share parking spaces	1
One car-share parking space for every 80 Dwelling Units, with a minimum of two car-share parking spaces	2
One car-share membership for each Dwelling Unit, and car-share parking spaces as required by the Planning Code with a minimum of one car-share parking spaces	3
One car-share membership for each Dwelling Unit, and one car-share parking space for every 80 Dwelling Units, with a minimum of two car-share parking spaces	4
One car-share membership for each Dwelling Unit, and one car-share parking space for every 40 provided Dwelling Units, with a minimum of three car-share parking spaces	5

DESCRIPTION	POINTS
DELIVERY	
Facilitate delivery services by providing an area for receipt of deliveries that offers temporary storage for package deliveries, laundry deliveries, and other deliveries, and/or providing temporary refrigeration for grocery deliveries	1
HIGH OCCUPANCY VEHICLE SUPPORT	
Offer contributions or incentives for sustainable transportation, such as public transit subsidies [25%, 50%, 75%, 100%]	[2, 4, 6, 8]
Provide local shuttle service with a posted schedule (that does not replicate existing transit lines) [15-minute peak hour headways, 7.5-minute peak hour headways]	[7, 14]

- Allow for the unbundling of parking.** The Hayward 2040 General Plan states the City shall encourage multifamily development projects to separate (i.e., unbundle) the cost of parking from lease or rent payments. However, this is currently not permitted by the Municipal Code. Many residential and commercial leases in buildings that include off-street parking include the cost of those spaces in the total cost of the lease. Unbundling the cost of parking means separating out the cost of parking from the cost of living or working space, by charging separately for parking. To accomplish this, the City can require that new residential and commercial projects with common parking areas unbundle the full cost of parking from the cost of the property itself, by identifying parking costs as a separate line item in the lease and to allow tenants to lease as few parking spaces as they wish.
- Revise parking provisions for single family homes with no adjacent on street parking to require a driveway with sufficient space for at least one additional car.** This will maintain consistency of required parking areas with other neighborhoods while ensuring that sufficient driveway space is provided to support garage storage, allowing greater flexibility for residents. If driveway space is counted, the saved curb space no longer needed to provide sufficient parking can potentially be better utilized for complete street facilities.



CITY OF HAYWARD

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

File #: MIN 23-002

DATE: January 12, 2023

TO: Planning Commission

FROM: Acting Development Services Director

SUBJECT

Minutes of the Planning Commission Meeting on December 8, 2022

RECOMMENDATION

That the Planning Commission approve the minutes of the Planning Commission meeting of December 8, 2022

SUMMARY

The Planning Commission held a meeting on December 8, 2022

ATTACHMENTS

Attachment I Draft Minutes of December 8, 2022



**PLANNING COMMISSION MEETING
COUNCIL CHAMBERS AND VIRTUAL (ZOOM)
PARTICIPATION
Thursday, December 8, 2022, 7:00 p.m.**

The Planning Commission meeting was called to order at 7:05 p.m. by Chair Ali-Sullivan. The Planning Commission held a hybrid meeting in the Council Chambers and virtually via Zoom.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: COMMISSIONERS: Goldstein, Lowe, Roche, Stevens
CHAIRPERSON: Ali-Sullivan
Absent: COMMISSIONER: Bonilla Jr.
CHAIRPERSON: None

Staff Members Present: Lochirco, Madhukansh, Morales, Ochinero, Ott, Parras, Schmidt, Sidelnikov, Tabari, Vigilia

PUBLIC COMMENTS

Ms. Ro Aguilar, Zoom participant, made the following comments about state regulations on affordable housing: the state had to intervene as locals were not doing an effective job of resolving the housing issue, that the state has contributed billions and that there was only 2% improvement in homelessness as a result of all the funding, stated that there are over 400 members of the homeless population in Hayward in need of shelter, expressed these numbers would be higher in 2023, and urged the Planning Commission to advise the City Council to buy or lease more hotels and motels for the homeless especially during the winter months. She wished everyone happy holidays.

Mr. Gabriel Altamirano, with South Hayward Neighborhood Association participated via Zoom, expressed the following concerns related to the St. Regis project: that there would be no planning approval and that the project would be exempt from a CEQA review, due to the increased intensity of this use the project may have adverse impacts, could not imagine a project of this size not going through the Planning Commission for discretionary review, there were no formal notices online of hearings and noted that the hearings held were related to grant funding.

WORK SESSION

1. Affordable Housing Ordinance Feasibility Study: Review and Discuss Findings and Policy Recommendations **(WS 22-038)**

Housing Division Manager Morales shared that the City Council had identified evaluation of the Affordable Housing Ordinance as one of the priority items for their Strategic Roadmap



**PLANNING COMMISSION MEETING
COUNCIL CHAMBERS AND VIRTUAL (ZOOM)
PARTICIPATION
Thursday, December 8, 2022, 7:00 p.m.**

in 2020, and that in March 2022 staff initiated the process of evaluating outcomes and performance of the existing ordinance which was modified in 2018. Based on the recommendations from the City Council, Homelessness-Housing Task Force and the Planning Commission, the city contracted with Strategic Economics to conduct a feasibility study with a purpose of maximizing amount of affordable housing that could be produced by the ordinance. She introduced Mr. Derek Braun, consultant with Strategic Economics, who presented the findings of the feasibility study.

Commissioner Lowe indicated the presentation was thorough and informative, stated that the consultant was surmising Hayward is producing more inclusionary units than other communities because the city has lower requirements and asked if the consultant had looked at Fremont's ordinance or policies so that Hayward can mirror what they are doing to produce more inclusionary units while maintaining higher requirements. Mr. Braun responded that his firm had pulled detailed information on comparable cities including Fremont and noted that they have high requirements for in-lieu fees and inclusionary units especially for ownership housing products. He added that Fremont commands high sales prices and rental rates, which are higher than many communities including Hayward.

Commissioner Lowe was aware that Fremont does demand higher sales prices and wondered if there was something within Fremont's policy that could be adopted by Hayward to have higher requirements than what was recommended as she was concerned that the proposed was a mere increase from 10% to 12% and the ordinance was not modified often and only every five to seven years. She asked what the process was to ensure the identified percentages would keep up with inflation commenting that 12% seemed low.

Mr. Braun responded that the requirement was not just changing from 10% to 12% overall, adding that it was being split so that 6% would be for moderate income households and 6% to low-income households, and emphasizing this was a significant change in adapting the policy to target lower income households than historically done in the past. In terms of projecting forward, he shared that a sensitivity analysis was conducted to look at increases in construction costs that may occur, interest rate changes, and other potential conditions that may be changing that can limit what can be done with the projection. The goal is to leave enough room in the policy so that even if a development were to become less feasible, it may still work. With regards to inflation, he indicated that the effect of this right now was driven by the return requirements for lenders of market rate developers and what they were hearing throughout the Bay Area was that capital markets were starting to freeze up as there were uncertainties adding to complications about the future.

Commissioner Lowe asked why 12% was specifically selected rather than 14% or 15%. Mr. Braun stated that 12% was selected based on an analysis that showed if there were increases in hard costs of construction such as a 2-5% rise, then single family homes would remain



**PLANNING COMMISSION MEETING
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Thursday, December 8, 2022, 7:00 p.m.**

feasible or marginally feasible making production still likely. He shared that with construction cost increases around 5%, townhomes with modified inclusionary requirements would likely be infeasible and therefore they did not want to increase the percentage further due to risk of ceasing development and resulting in no inclusionary units.

Commissioner Lowe expressed that she was confused about the recommendation and stated that she was aware that there were incentives and bonuses for the developer in order to get them to create the inclusionary units rather than pay for the in-lieu fees. She asked if the recommendation gives the city discretion versus the developer having the discretion. She was concerned about developers having total control and discretion to decide when to build or pay in-lieu fees and felt that this decision should be up to the city.

Housing Manager Morales responded that based on staff's research, discussions with developers and in looking at how construction costs can affect feasibility, she noted that an increase of 5% in construction cost was low and that this was the trend on an annual basis. Having this flexibility increases feasibility as it provides developers with options. She pointed out that projects that were choosing to do on-site inclusionary units tended to occur without the city restrictions for larger projects. Ms. Morales exemplified that presently, of the projects that are entitled or have submitted applications under the new requirements, 19 projects had opted to do onsite inclusionary units. She added that an average project size was under eighty units for a total of 1,480 units, which would be 144 inclusionary units. There were 25 projects that were choosing to pay fees, with an average project size of six units, total of 156 units, underscoring that the actual number of units actually scheduled to pay fees was low. Ms. Morales stated that it was these small projects that create a lot of burden for staff in terms of negotiating affordable housing agreements, monitoring for compliance, and the developers are usually smaller with less experience. These are the types of projects that staff try to encourage that developers pay in-lieu fees as the fees are needed in order to produce the units for very low and extremely low-income households. She added that the fees are also needed for the staff who do the compliance monitoring for the affordable housing ordinance. Ms. Morales emphasized that in deciding that certain types of projects should be scheduled to pay fees, that this would not only reduce flexibility for the developer, but it would also affect staff being able to negotiate which types of projects are best suited for paying in-lieu fees versus providing on-site units.

Assistant City Manager Ott commented that every project site for development projects is different, with different conditions, developers with varying experience and levels of sophistication, financing, and staff need flexibility to be able to respond to the specific conditions of their deal, transaction, and site. By taking the flexibility away it would make it harder, staff does not have the due diligence on every parcel as the developer would and may not understand the financing transaction as the developer would, and it was valuable for the developer to have the flexibility to move projects forward and to do so expeditiously. Ms. Ott



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said that staff wants to ensure that there are requirements in place to produce housing through fees or onsite construction.

Commissioner Stevens said that in a world where developers compete as they look to develop projects, as the City of Hayward competes with other cities, how does changing these rules change developer's perception and ease of development, wondering if they may choose a different community to build their project in.

Mr. Braun responded that Commissioner's Stevens comments are the reason for the analysis reviewing the requirements of neighboring cities or those with similar market conditions. He stated if the city adopts inclusionary requirements and in-lieu fees at a level allowing developments to proceed then there are still incentives for developers to produce housing in Hayward, underscoring that it was the intent of the analysis to identify a good balance to move projects forward.

Commissioner Stevens stated that it was impossible to predict the future, it was discussed that construction cost increases were estimated to be 5%, noted that the California Construction Index went up 25% and that it was starting to come down and become more reasonable. He stated that for builders who have to predict the future when faced with high costs, increasing interest rates, housing prices falling, it was worrisome to him to be changing rules when going into a mysterious future.

Assistant City Manager Ott shared that staff was also worried and therefore want to balance desire from various commissions and policymakers that the city should do more, staff's recommendations are walking a fine line, and this was prior to knowledge of an impending recession. She stressed that the chances of pushing this over and impacting housing production are greater now. Based on the analysis and feasibility study done by Strategic Economics, she stated that marginally increasing inclusionary ownership products of lower density and staff was concerned that if they increased requirements then this could impact production and potentially have the opposite effect than was intended with the policy.

Commissioner Stevens asked if everything remained the same and of the 10%, if 5% went to moderate and 5% to low-income, this would be consistent with unknown moving towards.

Assistant City Manager Ott responded that this would be less likely to impact the feasibility and make it less of cost impact to development.

Commissioner Stevens stated in looking at Fremont and Hayward being successful with their production rates, wondered if Hayward's geographic location and being an employment center were the reasons for its success. Mr. Braun responded that it was reasonable to deduce this as Fremont was a major employment center and was well positioned to transportation



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connections, and this factors into market considerations for why they have higher housing prices.

Mr. Braun clarified for Commissioner Goldstein that the approach used to display results is a residual land value analysis that is the amount left to pay for land after subtracting project costs from the project sale price and required return on investment, adding that it was based on the per square foot of land area. He elaborated that the residual land value for a higher density rental product could not support paying for land after accounting for value of rents it could receive after construction costs and return on investment.

Commissioner Goldstein commented that this was a scary realization for the five-story podium projects indicating that these projects should not be built and wondered why they are getting built. Mr. Braun responded that that a lot of projects that are being built that are higher density rental projects were permitted under the previous iteration of the affordable housing ordinance prior to 2018.

Assistant City Manager Ott added that the Lincoln Landing project which is the City's most recent market rate multifamily housing project, is an opportunity zone and the project was able to take advantage of federal financing and tax benefits, enabling the project to advance.

Mr. Braun underscored that the Lincoln Landing project had special circumstances including approval under previous inclusionary housing requirements and other housing advantages. Commissioner Goldstein commented that the recommendation was a great representation of feasibility but noted that it does not factor in outside funding which a developer may receive.

Commissioner Roche asked if there was a range considered when arriving at 12%. Mr. Braun responded that several inclusionary requirements were evaluated with ranges varying from 12% to 20%, staff reviewed the impact of feasibility of each requirement, looked at different variations of moderate-income units versus the low and moderate income split, and ultimately based on feasibility results and policy guidance arrived at incorporating the low income requirement and increasing the inclusionary requirement while leaving some room for changing conditions. He confirmed for Commissioner Roche that 12% was the stopping point.

Housing Manager Morales noted for Commissioner Roche that the sensitivity analysis accounts for how much increase in costs can be absorbed by a project over time to ensure that requirements continue to be feasible. She shared that a prior study included a similar range, and that staff decided that due to market conditions it was better to be lower than maximum, to do otherwise would risk production of housing being affected. Considering neighboring cities who have 15% inclusionary housing requirements but are not producing any moderate-income units for ownership such as San Leandro and Union City, and that have similar median



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income levels and rent as Hayward, there is concern that a high inclusionary requirement will have the same effect of slowing the market as experienced by adjacent jurisdictions. She underscored the importance of being sensitive to changing market conditions, and that going on the aggressive side may cause constraints to production of ownership units.

Housing Manager Morales confirmed for Commissioner Roche that with all of the housing types, the developer did have the option to choose between in-lieu fees or providing onsite affordable units.

Commissioner Roche pointed out that in reviewing the number of inclusionary units built in Hayward compared to neighboring cities, Hayward had more, adding that some of these did come from the smaller projects. Ms. Morales responded that there are number of projects that have been entitled and are smaller projects that will produce inclusionary units. She noted that it was staff's experience with working with smaller developers, it takes a lot of time to negotiate the affordable housing agreements, to educate developers on the affordable rents that are required, what is required in marketing and management of these units, and it takes a lot of staff resources. She shared that there is one staff member responsible for overseeing compliance with affordable housing requirements. Having a lot of small projects producing a few units will place a substantial burden on staff, especially if there is no fee revenue coming in to pay for costs for staff to perform this work. Ms. Morales added that what was apparent was projects would get entitled and not many of these were being built, these projects are not pulling permits. The underlying concern is to evaluate the feasibility of rental housing projects based on the study, when there is a pause in getting entitlement and getting built it is because the developer is looking for financing, the longer this takes the less likely it is that these projects may not actually get built.

Commissioner Roche asked if there was a shift in the policy for small projects to readily accept in-lieu fees and not push for inclusionary units. Housing Manager Morales shared that there may be a need for flexibility by smaller projects that choose to access the density bonus and would not want staff to be constrained to require these projects pay fees as they are smaller projects if the developer was inclined to provide a couple inclusionary units and provide more overall units. In conjunction with the two ordinances, staff thought it was an ideal situation and to discuss with the developer what the best approach is, as they have been doing. Ms. Morales stated that naturally the smaller projects have been paying fees and the larger ones have been constructing the onsite inclusionary, not requiring a lot of intervention.

Housing Manager Morales noted for Commissioner Roche that the loosening of requirements on implementation were in reference to developers wanting the city to allow use of tax credit rents instead of the rents produced by the Health and Safety Code. She stated that this would have to be carefully evaluated by attorneys to see if the tax credit rent could be used for these projects. For projects that use a density bonus, they would have to use Health and Safety Code



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for at least 20% of the units. She noted that this comment was regarding a perception that the city required the use of a specific organization to market units, when in reality it was the previous owner of the same development who selected the company doing the initial marketing and sale of the units, noting this was not a city requirement. She said that it was good to know what type of flexibility is desired by the developer and ensure that marketing is equitable and ensure that all Hayward residents have access to these units.

In regards to in-lieu fees, Housing Manager Morales noted for Commissioner Roche that the collected fees are restricted for production of affordable housing units in Hayward. She shared that the city has been noticing funding availability to allocate funds and in subsequent years when there were projects with funding gaps, there would be City Council approval of available funds to close funding gaps and to move forward with affordable housing projects. As a result of this, three affordable housing projects were able to move forward, with one project closing on all loans and starting construction in November, it was anticipated a second project was to close middle of next year, and a third project had started construction last year.

Commissioner Lowe asked if in-lieu fees could be used by the city to purchase hotels to house members of the unhoused population. Housing Manager Morales responded that there was language in the affordable housing ordinance which stated that funds can be used to subsidize projects that serve populations that are experiencing homelessness, if it is determined that the use will offset the rate of market rate development. Ms. Morales indicated that this would require further analysis if in-lieu funds are to be considered for target populations. She added that the funds may be used for affordable housing developments that target extremely low-income households and provide permanent supportive of housing. She shared that with home key projects and in receiving submittals from hotels interested in selling their properties, there had been an increase in sales prices of these hotels which affects the feasibility whether the City has sufficient money to acquire a hotel. In relation to the amount of affordable housing in-lieu fees and the sales prices for acquisition of the hotels, it would not be enough money to acquire a hotel.

Chair Ali-Sullivan appreciated the well-thought-out analysis. He shared that one conclusion he drew from the presentation was there should be no expectation of any rental units to be built in Hayward, which was shocking and problematic to him. He stated that presently without any affordable housing requirements, that no high-density projects and very few smaller rental projects seem feasible with the current affordable housing requirements. He stated that losing out on rental property in the city was a significant problem, and that both rental and home ownership on the affordable side. If the existing affordable housing requirements preclude the ability of any type of rental to be developed then, not making any changes to the rental piece of the recommendation was questionable. Housing Manager Morales responded that these concerns were raised in March of this year and that they were not seeing high density rental projects being proposed. She stated that the study reinforced that it would be



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difficult to build high density rental housing in Hayward. In previous iterations of the analysis, rent would need to increase by 40% for rental housing to be feasible. However, Ms. Morales stated that the affordable housing ordinance would create an opportunity if fee revenue is collected, this could be used to subsidize the development of affordable rental housing to get a mixture of homeownership of moderate income and low-income households through market rate development and use in-lieu fees to subsidize rental housing. Ms. Morales added that populations identified from the displacement study could be targeted of those most at risk of being displaced and potentially becoming homeless due to affordability concerns. She stated that there are two opportunities there when market conditions are such that the market can't produce rental housing that's when the affordable housing developers could help fulfill that need.

Assistant City Manager Ott added that there was multifamily rental being built in the city, this was affordable housing heavily subsidized by public subsidies or cases of it being built on the city's own land such as Parcel Group 3 or Parcel Group 8 which had almost 300 units of multifamily residential housing.

Chair Ali-Sullivan asked if there was any thought given to reduce requirements on rental projects. Housing Manager Morales shared that this was considered initially and was proposed to the Homelessness-Housing Task Force and there was concern about reducing the requirements, in essence this would not change the feasibility as the requirements are a small percentage of the development costs. She said that considering the point from East Bay Housing Organizations and its minimal effect on feasibility, they want to make sure that the city is in a position when rental housing is feasible to collect the fee revenue or have onsite inclusionary units when the market changes. Ms. Morales added that there were small rental projects in the pipeline and would not want to lose any potential fee revenue or onsite units if removed the requirement suddenly.

Chair Ali-Sullivan stated that the impacts would be on low density projects. He asked what was being built in Hayward, noting in the last couple years what had gone before the Planning Commission was a vast majority of a higher density type. He was concerned that the affordable housing requirements were being increased on a product not already being built in Hayward and therefore would not achieve an increase in affordable housing.

Housing Manager Morales shared the following products that had been recently approved that are not subsidized including La Playa Commons which will provide 6 units of affordable housing, TrueLife project with 50 townhomes, noted that Mission Crossings had 14 affordable units for sale, TrueLife project located in parcel group 2 will provide 20 affordable units, underscoring that more of this product type will become available.



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Planning Manager Lochirco shared that with developments in the pipeline right now, majority are a townhome style development and constituted a detached units and were under 50 units in size making it a smaller sized project. He stated that with market rate rental projects, Maple and Main was recently entitled and this proposed affordable units but was not under construction yet. He noted that there was not a lot of rental market rate coming forward as was discussed by Ms. Morales. He shared that some projects had slowed down due to the temperature of the economy and financing hurdles, highlighting that most of what is being built was entitled pre-pandemic and these projects had secured their financing a couple years ago when the interest rates and costs were low.

Chair Ali-Sullivan appreciated the comments expressed by Commissioner Stevens on the impact these policies will have for development in Hayward. He underscored the desire of the Planning Commission to see affordable units constructed in the City of Hayward, what was clear was the desire and the economic reality were not aligning, and this was troubling. The challenge was balancing policy with actual effect and hoping that the proposals will lead to a positive result.

Chair Ali-Sullivan opened the public hearing at 8:30 p.m.

Ms. Ro Aguilar, participated via Zoom, expressed comments focusing on owner occupied inclusionary affordable housing as this was the most effective in strengthening the middle class. She stated that it appeared that single-family townhouses in the moderate and low-income can be profitable under the current requirements due to the city incentives. She added that if the City Council were to require onsite affordable housing for single family townhouses within an optimum of 20-30 units as a trial, and not raise the percentage, and require that the decision-making go back to the City Council. Ms. Aguilar said that if this category is profitable then the low number of owner-occupied inclusionary housing to date must primarily be a result of anticipated community opposition. She stated that without deed restricted affordable housing, moderate and low-income people are being barred from homeownership. With gentrification, such as the Oak Street townhouse development, only market rate houses are being built pushing out lower income families who live in the neighborhood now. Ms. Aguilar underscored if the developer is required to build affordable housing, then there will be no backing out and the City Council can focus on addressing concerns rather than considering rejection. She urged that the Planning Commission recommend that the City Council explore this model.

Mr. Gabriel Altamirano with South Hayward Now Association participated via Zoom, echoed Ms. Aguilar's comments about the need for low, very low and extremely low housing in Hayward. He shared that the Association of Bay Area Governments regional housing needs determination makes it half of what is required. He understood the recommendations for in-lieu fees, it seemed the city was taking a position to build higher, moderate or above moderate



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units and cautioned to be careful about this. He shared what community members could do to make certain that in-lieu fees are being spent appropriately and to hold the city and developers accountable.

Chair Ali-Sullivan closed the public hearing at 8:37 p.m.

Commissioner Lowe understood the staffing issues and not being overburdened by too much discretion being placed on the city, however, ideally it would be great to see the developer build the inclusionary housing and for the in-lieu fees to be at the discretion of the city. She commented that the in-lieu fees that are paid are not worth the same amount as a new inclusionary unit and felt that the in-lieu fees should be the exception and not the rule. She understood the fear of having a percentage that is too high, and it seemed logical that if Hayward remained less strict than surrounding cities, developers would still choose to build here. She worried that the city was being too cautious and thereby not maximizing what it could as it relates to affordable housing.

APPROVAL OF MINUTES

2. Minutes of the Planning Commission Meeting of September 8, 2022

- A motion was made by Commissioner Stevens, seconded by Commissioner Lowe, to approve the meeting minutes of September 8, 2022.

The motion passed with the following roll call votes:

AYES:	Commissioners Goldstein, Lowe, Roche, Stevens
NOES:	None
ABSENT:	Commissioner Bonilla Jr.
ABSTAIN:	Chair Ali-Sullivan

3. Minutes of the Planning Commission Meeting of November 10, 2022

A motion was made by Commissioner Goldstein, seconded by Commissioner Roche, to approve the meeting minutes of November 10, 2022.

The motion passed with the following roll call votes:

AYES:	Commissioners Goldstein, Lowe, Roche Chair Ali-Sullivan
NOES:	None
ABSENT:	Commissioner Bonilla Jr.



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ABSTAIN: Commissioner Stevens

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters

Planning Manager Lochirco acknowledged that this meeting was Commissioner Roche's last as a Planning Commissioner noting that she had served on the Planning Commission since 2019 and served on the Community Services Commission prior to this, being appointed in 2015; and wished her the best and congratulated her on being elected to serve on the City Council. He shared that a resignation was received from Commissioner Oquenda in November and announced that on December 6, 2022, the City Council had appointed Ms. Arti Garg to the Planning Commission. In the meantime, a special recruitment was being held for any vacancies occurring on the Planning Commission, followed by an election of officers for this meeting body in January 2023. Mr. Lochirco shared that due to upcoming holidays, the Planning Commission meeting scheduled for December 22, 2022, was being cancelled, and wished everyone a safe and pleasant holiday season.

Commissioners' Announcements, Referrals

Chair Ali-Sullivan wished everyone a wonderful end of the year and appreciated all the hard work put into the Commission. He congratulated Commissioner Roche on being elected to the City Council, thanked her for her friendship and professional mentorship on the Planning Commission, and was proud with her dedication to the city noting that it would continue.

Commissioner Roche thanked everyone and indicated that she had learned so much from her time serving on the Planning Commission and that this experience will aid her in the future.

ADJOURNMENT

Chair Ali-Sullivan adjourned the meeting at 8:46 p.m.

APPROVED:

Brigitte Lowe, Secretary
Planning Commission



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ATTEST:

Avinta Madhukansh-Singh
Interim Planning Commission Secretary
Office of the City Clerk