

CITY OF HAYWARD

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



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Thursday, June 8, 2017

7:00 PM

Council Chambers

Planning Commission

MEMBERS OF THE AUDIENCE WISHING TO ADDRESS THE PLANNING COMMISSION:

Obtain a speaker's identification card, fill in the requested information, and give the card to the Commission Secretary. The Secretary will give the card to the Commission Chair who will call on you when the item in which you are interested is being considered. When your name is called, walk to the rostrum, state your name and address for the record and proceed with your comments. The Chair may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens for organization. Speakers are expected to honor the allotted time.

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 HEARINGS

For agenda item No. 01, the Planning Commission may make a recommendation to the City Council.

01. [PH 17-060](#) Proposed Airport Overlay Zone Ordinance Regulations

Attachments: [Attachment I - Staff Report.docx](#)
 [Attachment II - Draft AOZ Regs 5-31-17.docx](#)
 [Attachment III - Council Airport Committee Minutes 1-28-16.pdf](#)
 [Attachment IV - City Council Work Session 4-19-16.pdf](#)
 [Attachment V - Planning Commission Work Session](#)
 [5-12-16.pdf](#)

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters

Commissioners' Announcements, Referrals

ADJOURNMENT

NEXT MEETING, JUNE 22, 2017, 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 TDD (510) 247-3340.



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Hayward City Hall
777 B Street
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File #: PH 17-060

DATE: June 8, 2017

TO: Planning Commission

FROM: Development Services Director

SUBJECT

Proposed Airport Overlay Zone Ordinance Regulations

RECOMMENDATION

That the Planning Commission recommends that the City Council determines that the project is exempt from the California Environmental Quality Act and adopts the proposed Airport Overlay Zone Ordinance (Attachment II) via amendments to the Hayward Municipal Code.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Draft Airport Overlay Zone Ordinance
Attachment III	City Council Airport Committee Meeting Minutes of January 28, 2016
Attachment IV	City Council Work Session Minutes of April 19, 2016
Attachment V	Planning Commission Work Session Minutes of May 12, 2016



SUBJECT:

Proposed Airport Overlay Zone Ordinance Regulations

RECOMMENDATION

That the Planning Commission recommends that the City Council determines that the project is exempt from the California Environmental Quality Act and adopts the proposed Airport Overlay Zone Ordinance (Attachment II) via amendments to the Hayward Municipal Code.

SUMMARY

Consistent with Hayward 2040 General Plan policies, City staff is recommending adoption of a new Airport Overlay Zone (AOZ) Ordinance to help ensure that future development within the AOZ is consistent with state and federal FAA regulations and guidelines. The new regulations would not apply to airport property itself, nor to properties outside the City limits. Currently, [Hayward's Airport Approach Zoning Regulations](#), which were adopted in 1964, are outdated and will be repealed. The purpose of the new regulations is to:

- a. Implement the City's General Plan Policies to ensure that all land uses within the Airport Overlay Zone (AOZ) are consistent with the State Aeronautics Act, [Cal. Public Utilities Code § 21670, et seq.](#), federal law, FAA regulations, and the California Department of Transportation's Division of Aeronautics [2011 California Airport Land Use Planning Handbook](#) (Handbook) guidance;
- b. Ensure that land uses and development within the AOZ are compatible with existing and future Hayward Airport operations;
- c. Avoid or minimize exposure of persons to potential hazards associated with current and future Hayward Airport operations;
- d. Prohibit development, uses or any installations or activities which represent a hazard to existing and future flight operations;
- e. Achieve a necessary balance between the economic vitality and long term development goals of the City, and the growth and economic integrity of the Airport;
- f. Recognize unique constraints and considerations applicable to properties potentially affected by airport operations by establishing regulations and review criteria for land use and development which applies specifically to properties within the AOZ; and
- g. Recognize the AOZ as encompassing the "Airport Influence Area"¹.

¹ Per the Handbook, "An Airport Influence Area (AIA) is the area or areas in which current or future airport-related noise, over flight, safety, and/or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses."

BACKGROUND

Hayward's Current Regulations – Chapter 10, Article 6 of the Hayward Municipal Code ([Airport Approach Zoning Regulations](#)) was adopted over fifty years ago “for the purpose of promoting the health, safety, and general welfare of the inhabitants of the City of Hayward by preventing the creation or establishment of airport hazards, thereby protecting the lives and property of the users of the Hayward Air Terminal and of the occupants of the land in its vicinity, and preventing destruction or impairment of the utility of the airport and the public investment therein.” However, due to changes in regulations associated with airport land use planning, this five-page set of regulations has become outdated. For example, Section 10-6.35 (Use Restrictions) provides little guidance in terms of objective development standards for developers and planners as it states, “Notwithstanding any other provisions of this Article, no use may be made of land within any airport approach zone, airport turning zone or airport transition zone in such a manner as to create harmful electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and other lights, result in harmful glare in the eyes of the flyers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, take off or maneuvering of aircraft.”

Policy Foundation/Context – Hayward's [General Plan](#), which was adopted in 2014, contains several policies from the Hazards and Mobility Chapters that encourage the adoption of the proposed regulations. Those specific policies are identified later in this report under Findings in the DISCUSSION AND STAFF ANALYSIS section.

Alameda County Airport Land Use Commission and Hayward Airport Land Use Compatibility Plan- An updated [Hayward Executive Airport Land Use Compatibility Plan \(ALUCP\)](#) was approved by the Alameda County Airport Land Use Commission (ALUC) on July 18, 2012. Per Section 21676(b) of the California Public Utilities Code (PUC), the City was therefore required to refer any amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation, to the ALUC. The ALUC would then make a determination of whether the proposal would be consistent with the adopted ALUCP.

If the ALUC determined that the proposed amendment or adoption was not consistent with the ALUCP, the City would have up to 180 days after such determination to modify its General Plan to achieve consistency or take an overrule action (requiring a 2/3 vote of City Council and making certain findings) on the ALUC's determination of inconsistency. If Hayward did not modify its General Plan or take an overrule action within 180 days, it would need to refer to the ALUC any local land use action, regulation, and permit within the Airport Influence Area.²

2013 Overrule Action - On May 28, 2013, after making findings and expressing concerns related to potential impacts on future development at Southland Mall, the [City Council](#) took an

² The City referred a proposed zone change for a new fitness facility at Southland Mall (since constructed as *City Sport*) in September of 2013. The ALUC voted 3 to 1 that such facility was consistent with the ALUCP; however, a minimum vote of four was required for action and therefore, technically, no action was taken (or subsequently taken).

overrule action on ALUCP Section 2.7.5.7. That section of the ALUCP contained provisions related to infill development, nonconforming uses, and other related items. The City forwarded the overrule determination with findings to the ALUC and the State Department of Transportation's Division of Aeronautics. In response, the ALUC and the State provided several responses to the Council's findings, and staff determined a better strategy would be to wait until a new General Plan was adopted and, if necessary, take an overrule action if the ALUC determined the General Plan was inconsistent with the ALUCP. That way, the City and developers could have some assurance that development applications that were consistent with the General Plan would be processed in a timely fashion. Therefore, no required final overrule action that considered written comments received related to ALUCP Section 2.7.5.7 was taken by the City Council.

2014 General Plan Referral to the ALUC and Adoption - Related to the General Plan, the City satisfied the referral requirement by sending a draft of the new General Plan to the ALUC in January of 2014. Although City staff received some comments from ALUC staff in March of 2014, no notice of determination of inconsistency was ever received from the ALUC. Under CA Public Utilities Code Section 21676(d), the ALUC had 60 days from the City's January 2014 referral to make a determination regarding consistency. In the absence of such timely determination of inconsistency, the General Plan was automatically deemed consistent with the ALUCP. Thus, by operation of law, there is no longer a need to refer development projects that are consistent with the existing General Plan to the ALUC. The proposed regulations are simply implementing General Plan policy, as identified earlier in this report.

Review by the Council Airport Committee on January 28, 2016 – Staff presented an overview of the regulations and an early draft of the airport safety zones map and related land use compatibility table to the Committee in late January. Committee members asked how the new regulations would impact Southland Mall and general questions about the regulations. The manager of Southland Mall attended the meeting. The minutes from that meeting are included as Attachment III.

Review by the City Council – The City Council held a work session on April 19, 2016 to discuss proposed regulations (see meeting minutes, Attachment IV). A few speakers at the beginning of the meeting expressed concerns about noise and safety as they relate to the Hayward Executive Airport. Council members asked questions about various aspects of the regulations and generally expressed support for the new provisions.

Review by the Planning Commission – The Planning Commission held a work session on May 12, 2016 to discuss the proposed new regulations (see meeting minutes, Attachment V). Commissioners asked questions about height restrictions, intensity of uses, history of the Hayward Airport Land Use Compatibility Plan, land use authority, and clarification regarding to what areas the regulations would apply.

DISCUSSION AND STAFF ANALYSIS

The new AOZ Ordinance requires that all ministerial and discretionary actions within the AOZ be reviewed for consistency with the AOZ Ordinance prior to approval. Attachment II contains the proposed new regulations. While some of the proposed regulations are similar to those in the Hayward Airport ALUCP, they differ in that they allow a greater overall intensity per acre than do the ALUCP standards, and utilize the 2011 California Airport Land Use Planning Handbook, versus the previous 2002 version upon which the ALUCP was developed.

Overview of the AOZ Ordinance - The proposed AOZ regulations comply with federal statutes and regulations, including, but not limited to, 49 U.S.C. § 47107 (establishing the City's contractual obligations to the federal government); 14 C.F.R. Part 77 (governing allowable heights of structures surrounding airports); and with state law setting forth criteria related to land use, safety and airspace protection. The proposed AOZ Ordinance addresses the compatibility of surrounding land uses with aircraft operations so as to maintain the safety and efficiency of aircraft operations while at the same time protecting occupants of surrounding land uses from unacceptable levels of noise and/or safety hazards. More specifically, the proposed AOZ Ordinance addresses, among other items, density and intensity of uses, noise requirements, overflight and height and obstruction provisions, and disclosure requirements regarding airport operations.

Land Use and Density (Section 10-6.30 in Attachment II) - Land uses within the AOZ are more restricted the closer a property is to the Haywawrd Airport's runways. Figure 1 in Attachment II shows locations of the various airport safety zones. Table 1 is a land use compatibility table that indicates where various uses are allowed, conditionally allowed, or prohibited. The table was developed utilizing Table 3-2 of the ALUCP and to be consistent with Handbook criteria and standards. There are differences between this table and the one in the ALUCP adopted by the Alameda County Airport Land Use Commission in 2012. Unlike the ALUCP table, there are no uses listed as being conditionally compatible with the ALUCP that would normally need to be referred to the ALUC for a consistency determination. As long as new uses would be consistent with the new AOZ regulations and criteria, there would be no need to refer development projects to the ALUC. Only if amendments are proposed to the General Plan, Zoning Ordinance, AOZ Ordinance, applicable specific plans, or building regulations, would there be a need for referral to the ALUC.

Readers will note that most of the central portion of the Southland Mall property is in Zone 2 (Inner Approach/Departure Zone), which is very restrictive, as indicated in Table 1 in Attachment I. The southwest portions of the Mall, including along Hesperian Boulevard, are located in Zone 3 (Inner Turning Zone), which allows a greater variety of uses than does Zone 2; with the northern and eastern portions of the Mall, including Sears and the approved new theater complex, located in Zone 6 (Traffic Pattern Zone), which is the least restrictive safety zone.

Although new uses are restricted in Zones 2 and 3, which comprise the majority of the Southland Mall property, provisions in the recommended new regulations allow for infill

development or new development that replaces nonconforming development as long as it is no more intense than existing development. Specifically, Section 10-6.10(b) references the nonconforming provisions of the Zoning Ordinance. Those provisions include the following language:

“A nonconforming use or a portion of a nonconforming commercial or industrial center or complex may be established or replaced by another similar nonconforming use when the Planning Director finds:

- (1) That the nonconforming use is similar to or less intensive than the ones originally allowed in the center or complex;
- (2) That the nonconforming use will not adversely affect or be materially detrimental to adjoining properties; and
- (3) That the use of the entire center or complex has not been vacant or discontinued for a period of six or more calendar months.”

Construction of Famous Dave’s BBQ restaurant that replaced Marie Callender’s restaurant, Buffalo Wild Wings restaurant that replaced Mimi’s Café, and the new City Sport Fitness/Health center that replaced commercial space were all processed and approved using this approach.

Noise (Section 10-6.50 in Attachment II) - Regarding noise, the proposed AOZ Ordinance will ensure that development in the Safety Compatibility Zones will not expose persons or property to excessive noise levels and will meet noise standards of the Handbook, the 2002 Hayward Airport Master Plan, and the General Plan.

Airspace Protection(Section 10-6.40 in Attachment II) – Airspace protection standards are intended to reduce the risk of harm to people and property resulting from an aircraft accident by preventing the creation of land use features, and the prohibition of any activities, that can pose hazards to the airspace used by aircraft in flight. The AOZ Ordinance requires proponents of a project to file a Notice of Construction or Alternation with the FAA if it meets certain standards, including if a proposed structure rises more than 200 feet above ground level or exceeds one foot in height for every 100 feet from the edge of the nearest point on the runway for a distance up to 20,000 feet. Building permits shall not be issued for a project until a determination of no hazard has been issued by the FAA and any conditions in that determination are met. Other hazards, such as lighting; sources of smoke, dust, and plumes; and concentration of wildlife are also be addressed in the attached AOZ Ordinance.

Overflight Notice (Section 10-6.60 in Attachment II) – In that the Handbook states that “overflight” is “the acceptability of a given noise level with respect to a particular type of land use [and] should solely be a function of the noise level and the land use,” the proposed AOZ Ordinance requires that all discretionary actions for projects within safety zones 5 and 6 include a condition of approval requiring owners of property offered for sale or lease within the AOZ to provide the Real Estate Transfer Disclosure Statement required by law prior to selling or leasing property. For new residential land uses, the overflight notification shall be recorded and appear with the property deed as required by the Handbook.

Future Referrals to the ALUC - Proposed future General Plan land use amendments, zoning amendments and specific plan amendments that impact density or intensity of development within the AOZ in such a way so as to be inconsistent with the existing General Plan shall be referred to the ALUC for a determination of compatibility with the adopted ALUCP. The City will still have the ability to take an overrule action on any finding by the ALUC of inconsistency with the ALUCP.

Findings – In order for a text amendment to be approved, the City Council, upon recommendation by the Planning Commission, shall make four findings. Staff's responses to those findings are below.

- 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 AOZ Ordinance will establish land use and development standards in compliance with state and federal laws to minimize exposure of the public to unreasonable noise and operations hazards associated with the Hayward Executive Airport.
- (2) The proposed change is in conformance with the purposes of this Ordinance and all applicable, officially adopted policies and plans.
The proposed AOZ Ordinance implements the following policies of the General Plan:

Mobility Chapter, Policy M-10.2: Airport Land Use Compatibility

The City shall ensure uses surrounding the Hayward Executive Airport are compatible with existing and planned airport operations and comply with all applicable federal statutes (including 49 U.S.C. 47107), federal regulations (including 14 Code of Federal Regulations 77 et seq.), the FAA's Airport Compliance Manual, FAA Advisory Circulars and other forms of written guidance, and State law, with respect to criteria related to land use safety and airspace protection.

Hazards Chapter, Policy HAZ-7.1 Land Use Safety Compatibility and Airspace Protection Criteria

The City shall consider all applicable federal statutes (including 49 U.S.C. 47107), federal regulations (including 14 Code of Federal Regulations 77 et seq.), the FAA's Airport Compliance Manual, FAA Advisory Circulars and other forms of written guidance, and State law, with respect to criteria related to land use safety and airspace protection when evaluating development applications within the Airport Influence Area of the Hayward Executive Airport.

Hazards Chapter, Policy HAZ-7.2 Airport Land Use Compatibility Plan

The City shall require all development projects within the Airport Influence Area designated in the Airport Land Use Compatibility Plan of the Hayward Executive Airport to comply with all applicable federal statutes (including 49 U.S.C. 47107), federal regulations (including 14 Code of Federal Regulations 77 et seq.), the FAA's Airport Compliance Manual, FAA Advisory Circulars and other forms of written

guidance, and State law, with respect to criteria related to land use safety and airspace protection.

Hazards Chapter, Policy HAZ-7.3 Commission Review

The City shall ensure that all applicable plans, ordinances, and development applications are reviewed by the Alameda County Airport Land Use Commission if required by State law.

Hazards Chapter, Policy HAZ-8.15 Airport Noise Evaluation and Mitigation

The City shall require project applicants to evaluate potential airport noise impacts if the project is located within the 60 dB CNEL contour line of the Hayward Executive Airport or Oakland International Airport (as mapped in the Airport Land Use Compatibility Plan). All projects shall be required to mitigate impacts to comply with the interior and exterior noise standards established by the Airport Land Use Compatibility Plan.

Hazards Chapter, Policy HAZ-8.16 Airport Disclosure Notices

The City shall require that all new development within an airport-defined over-flight zone provide deed notices disclosing airport over-flights and noise upon transfer of title to future residents and property owners.

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

The proposed provisions would limit development in certain areas that would otherwise be allowed; thus, the proposed regulations would not create potential for new development beyond that already allowed.

- (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 regulations would further ensure that development within the Airport Influence Area would be compatible with the Hayward Executive Airport operations and state and federal laws related to land use intensity, airspace protection, noise, and aircraft overflight notices.

ECONOMIC BENEFITS AND FISCAL IMPACTS

Regarding economic benefits, having regulations that bring predictability regarding regulations associated with properties in proximity to the Hayward Executive Airport will help streamline the development review process and help attract new developments. Although restrictions will exist regarding future development at Southland Mall and within the AOZ, such restrictions would allow for redevelopment at the Mall that is not more intensive than existing development. Also, the proposed regulations are in line with State and Federal laws and will ensure safe and compatible uses exist in the vicinity of the Hayward Airport. Finally, such

regulations will also help ensure the City remains eligible for FAA grants and awards related to the Airport operations and facilities. There are no identified fiscal impacts related to the General Fund associated with these regulations.

ENVIRONMENTAL REVIEW

CEQA Guidelines Section 15061(b)(3) indicates a project is exempt from CEQA if, “The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. (Emphasis Added)

The proposed AOZ Ordinance implements policies of the General Plan related to mobility and hazards, as noted previously in this report, by establishing land use and development standards on properties within the Airport Influence Area of the Hayward Executive Airport. Those standards relate to land use and density/intensity, noise, airspace protection (including heights of buildings), and overflight notices, which are established to preclude uses and activities that increase exposure to airport noise and hazards, in compliance with state and federal laws and regulations. Because the proposed AOZ Ordinance merely implements General Plan policies which are already in place, the proposed ordinance will not result in any significant effects beyond those previously analyzed in the environmental review of the General Plan.

PUBLIC OUTREACH

Nearly 2,000 notices were sent last year to owners of property within Hayward and unincorporated areas within the Airport Safety Zones for the Council and Commission work sessions held in April and May of last year.

Notice of this public hearing was published in The Daily Review newspaper on May 26, 2017. Additionally, on May 26, over 1,600 notices were mailed to owners of property within the City and in Airport Safety Zones 1 through 5 (the most restrictive of the six zones), including the owner of Southland Mall, informing them of this hearing. Staff also met with the Southland Mall manager to discuss these draft regulations. As of writing of this report, no responses to the public notices were received.

NEXT STEPS

Staff will forward the Planning Commission’s recommendations on the new regulations to the City Council at a public hearing, currently scheduled for June 27, 2017.

Prepared by: David Rizk, Development Services Director

Approved by:



Sara Buizer, AICP, Planning Manager



David Rizk, AICP
Development Services Director

ARTICLE 6

AIRPORT OVERLAY ZONE ORDINANCE

SEC. 10-6.00 PURPOSE AND INTENT.

The purpose and intent of the Airport Overlay Zone (AOZ) Ordinance is to:

- a. Implement the City's General Plan Policies to ensure that all land uses within the AOZ are consistent with the State Aeronautics Act, Cal. Pub. Util. Code § 21670, et seq., federal law, FAA regulations, and the California Department of Transportation Division of Aeronautics' 2011 California Airport Land Use Planning Handbook ("Handbook") guidance;
- b. Ensure that land uses and development within the AOZ are compatible with existing and future Airport operations;
- c. Avoid or minimize exposure of persons to potential hazards associated with current and future Airport operations;
- d. Prohibit development, uses or any installations or activities which represent a hazard to existing and future flight operations;
- e. Achieve a necessary balance between the economic vitality and long term development goals of the City, and the growth and economic integrity of the Airport;
- f. Recognize unique constraints and considerations which apply to properties potentially affected by airport operations by establishing regulations and review criteria for land use and development which applies specifically to properties within the AOZ;
- g. Recognize the AOZ as encompassing the "Airport Influence Area" ("AIA") as defined in the Airport Land Use Compatibility Plan of the Hayward Executive Airport (see Figure 1 herein).

SEC. 10-6.01 SHORT TITLE.

This Article shall be known and may be cited as "The Airport Overlay Zone Ordinance of the City of Hayward."

SEC. 10-6.10 APPLICABILITY.

Regulations in this Article shall apply to all uses, activities and existing and proposed development on properties within the City of Hayward that are also located within the AOZ, which shall be coterminous with the AIA designated in the Handbook.

- a. Conflicting Regulations. In the event of conflict between this Article and any other regulations applicable to the same area or parcel of land, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such other regulations were adopted by the City of Hayward or by some other public agency having land use approval authority, the more stringent limitations or requirements shall govern and prevail.
- b. Specific Plans. For properties located within the AOZ which are also located within Specific Plan areas, development regulations, standards and policies shall be followed per respective Specific Plans. In cases where policies or standards are not provided within the Specific Plan, the policies and standards within this Chapter shall apply in addition to other applicable zoning regulations, General Plan, or other standards and regulations which apply to the project or land use. In no case will a land use, activity or development be allowed to violate airspace protection standards set forth in Section 10-6.40 below.
- c. Nonconforming Uses. Existing land uses that are not consistent with this AOZ Ordinance are nonconforming uses and may continue, subject to the limitations and constraints specified in Zoning Ordinance, Sec. 10-1.2900, et seq. No increase in density for nonconforming residential land uses is permitted, nor is expansion of nonconforming nonresidential uses, unless such expansion complies with the Infill Development provisions herein. Nonconforming uses shall also comply with the provisions below.

The regulations prescribed herein shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date hereof or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Article and is diligently prosecuted and completed within two (2) years thereof. Before any non-conforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher or replanted, a permit must be secured authorizing such replacement, change or repair. No permit shall be granted for a development that fails to conform to the requirements of Section 10-6.40, Airspace Protection, of this Ordinance.
- d. Infill Development. Proposed development of undeveloped land contiguous to, and surrounded by, existing land uses ("infill") shall be subject to the approval of the Development Services Director, in accordance with the following criteria:
 - (1) whether the proposed development is a conforming or nonconforming use;
 - (2) size of the parcel proposed for infill; (3) the extent to which the parcel is bounded by uses of similar type and dimension, so as not to extend the perimeter of incompatible uses; (4) the density and intensity of the uses

- proposed for development; and (5) applicable development conditions to be imposed (e.g., aviation easements).
- e. “Existing” Development and Land Uses. Development or land uses shall be considered “existing” if one of the following conditions is met:
- (1) A Vesting Tentative Map or Development Agreement has been approved, and has not expired, or all discretionary approvals have been obtained and have not expired;
 - (2) Building Permits have been issued and have not expired, and construction has commenced; or
 - (3) The structures and site development have been legally established and physically exist.

SEC. 10-6.20 PROCEDURES.

- a. Approval. All ministerial and discretionary actions within the AOZ shall be reviewed for consistency with the AOZ Ordinance prior to approval.
- b. Mandatory Findings for Approval. When a project or activity is subject to discretionary actions requiring a public hearing or notice, the applicable review authority shall make all of the following findings, as applicable:
 - (1) The project or use complies with the noise compatibility policies of the AOZ Ordinance.
 - (2) The project or use complies with the residential and nonresidential density standards in Table 1 of the AOZ Ordinance.
 - (3) The project or use complies with the airspace protection policies of the AOZ Ordinance.
 - (4) The project or use complies with the overflight policies of the AOZ Ordinance.
- c. Amendments. Other than General Plan, Specific Plan, or Zoning Code changes addressed through a previous referral to the Alameda County Airport Land Use Commission (“ALUC”), and/or any action to overrule any determination of the ALUC, proposed General Plan land use amendments, zoning amendments and specific plan amendments that impact density or intensity of development within the AOZ in such a way so as to be inconsistent with previously referred documents shall be referred to the ALUC for a determination of compatibility with the adopted Alameda County Airport Land Use Compatibility Plan (“ALUCP”), pursuant to Cal. Pub. Util. Code § 21676(b), and Cal. Gov. Code § 65302.3(a) and (b).
- d. Overrule Provisions. Should the ALUC find any action referred pursuant to Cal. Pub. Util. Code § 21676 inconsistent with then applicable ALUCP, or if the ALUC updates the ALUCP, the City Council of the City of Hayward shall review the

- finding of inconsistency or the updated ALUCP and may either make changes to applicable General Plan sections, zoning and implementing ordinances pursuant to Cal. Gov. Code § 65302.3(a) and (b), or pursuant to Cal. Pub. Util. Code § 21676(b), overrule the ALUC.
- e. Variances. Any person desiring to erect any structure or increase the height of any structure or permit the growth of any tree or otherwise use his property in a manner that is different that required in this Article, may apply to the Planning Commission for a variance from the regulation in question, pursuant to the variance procedures set forth in Hayward Municipal Code § 10.1.3300, et seq.. Such variance shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations and this Article; provided that any variance may be allowed, subject to any reasonable condition that the administrative agency may deem necessary to effectuate the purpose of this Article.
 - f. City Council. The City Council shall have the authority to amend regulations governing the restrictions and boundaries of such zones as are herein established, in accordance with the procedure prescribed for amendments and reclassification of the Zoning Ordinance of the City. The Planning Commission, in addition to the powers delegated pursuant to subsection e of this Section, shall serve as an advisory body to the City Council in the implementation of the City Council's authority as set forth in this section.
 - g. Administrative Agency. The Development Services Director of the City of Hayward is hereby designated the administrator charged with the duty of administering and enforcing the regulations herein described. The duties of the Development Services Director or his/her designee shall include that of reviewing all applications for planning applications and building permits within the approach zones, turning zones and transition zones of the Hayward Executed Airport, but the Development Services Director shall not have or exercise any of the powers or duties delegated to the City Council or Planning Commission.
 - h. Violation. A Public Nuisance. In the event that any person should erect, construct, move, alter or attempt to erect, construct, move or alter any structure or allow any tree to grow to a height in violation of the provisions of this Article, the same is hereby declared a public nuisance, as defined in Chapter 4, Article 1 of the Hayward Municipal Code.
 - i. Limitation of Jurisdiction. The provisions of this Article shall only apply and be enforced on areas within the AIA as defined herein and set forth in Figure 1, excluding the Hayward Executive Airport property, but including airport approach zones, the turning zones, and the transition zones within the limits of the City of Hayward.

SEC. 10-6.30 AIRPORT OVERLAY ZONES/DEVELOPMENT STANDARDS AND USES.

Land use compatibility standards are intended to minimize the risk to people and property on the ground as well as to occupants of aircraft in the event of accident or emergency occurring outside the Airport boundary.

- a. Allowable Uses. All uses allowed by the General Plan and Zoning Ordinance are allowed, some of which require discretionary use permits and approvals, unless such uses conflict with the allowance of uses identified in Table 1. Table 1 lists the uses that are allowable in the Safety Zones.

- (1) Residential Uses and Density. The applicable maximum density standards for residential uses shall be based on General Plan, Land Use and Community Character Element, Part 3, and with the Zoning Ordinance, or as indicated in Table 1. Density shall generally be calculated by dividing the number of housing units on the site (excluding second units on single-family lots) by the net acreage of the site (net acreage excludes land required for public and private streets, parks and other public facilities).

In addition, population density, or intensity, can be expressed as people per gross acre and determined by multiplying the maximum number of units allowed per net acre within a specific General Plan land use designation by the average number of persons per household in accordance with the most current California Department of Finance estimate.

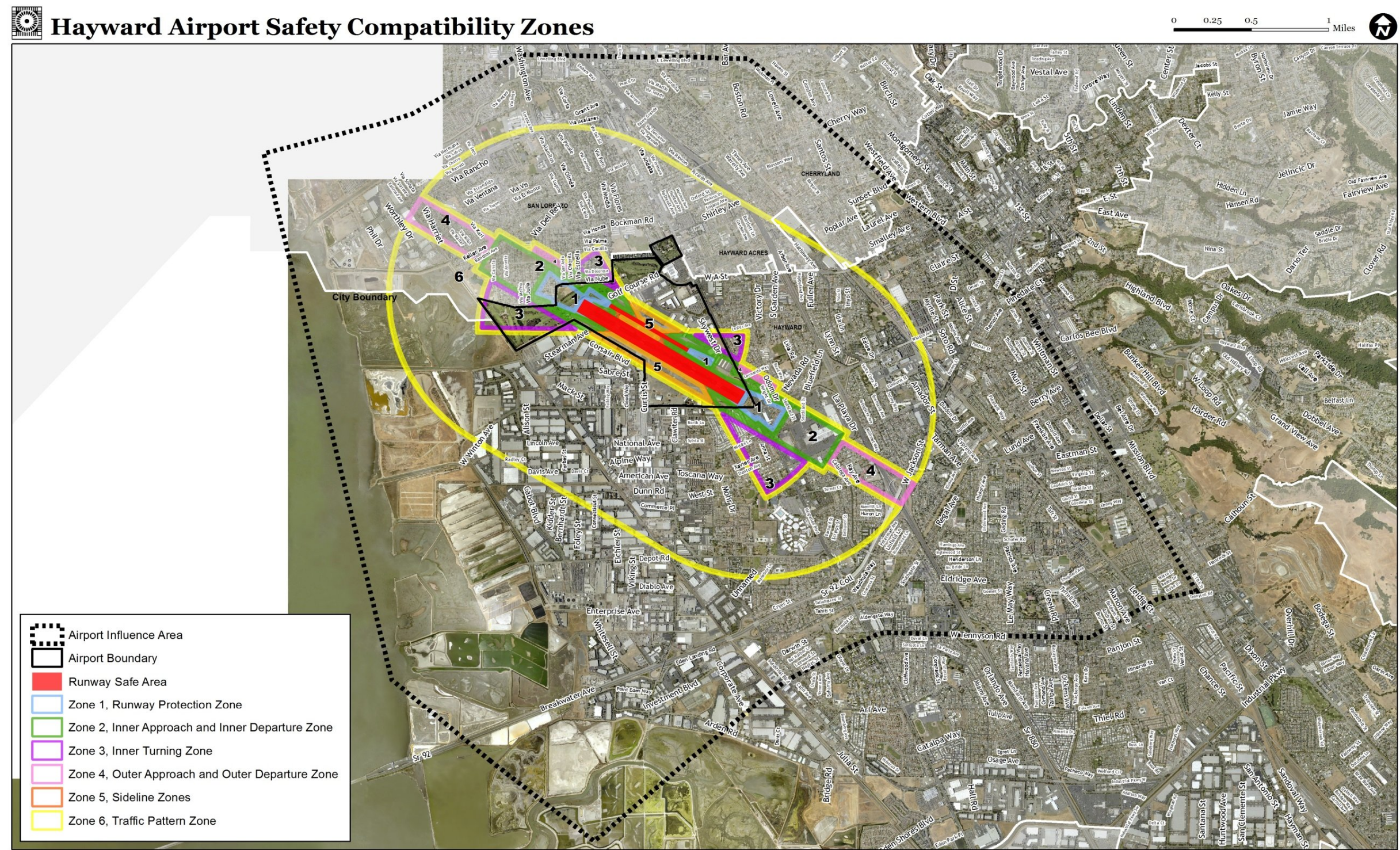
- (2) Nonresidential Uses and Intensity. The maximum intensity standards for nonresidential development shall be based on General Plan, Land Use and Community Character Element, Part 3, or as indicated in Table 1, and shall be regulated by a maximum Floor Area Ratio ("FAR") standard as indicated in the General Plan and in terms of square feet per person or people per gross acre, as indicated in Table 1. FAR is calculated by dividing the floor area of all buildings on the site by the total square footage of the site. For example, a 12,500-square foot one-story building on a 25,000-square foot site has a FAR of 0.5. When calculating FAR, the building square footage includes finished interior spaces and excludes parking garages, structured parking levels, and exterior open space, such as courtyards, roof gardens, and balconies. The net acreage of the site is also used for the FAR calculation. Net acreage excludes land required for public and private streets, parks and other public facilities.

- (3) Mixed-Use Development. The density and intensity of mixed-use developments that include both nonresidential and residential uses are

regulated by both the maximum residential density and nonresidential intensity standards stated above, and the Maximum Intensities per Single Acre standards (People/Gross Acre) indicated in Table 1.

- b. Exceptions. The Director of Development Services/Planning Director may determine another method of density calculation is appropriate based on the particular characteristics of the proposed use and/or development. The method of calculations shall remain consistent, to the extent practicable, with recommended methodologies from Appendix “G” of the Handbook. In addition, when a use is not specifically listed as allowed, it shall be assumed that such uses are prohibited unless it is determined by the Planning Director or on appeal to the Planning Commission or City Council, per the appeal procedures of Hayward Municipal Code Section 10-1.2845, that the use is similar to and not more objectionable or intensive than the uses listed.

Figure 1 – Airport Safety Zones



Source: Airport Land Use Compatibility Plan GIS Data

April, 2016

Table 1 – Airport Overlay Zone – Allowable Land Uses
(Areas within AOZ and Outside Specific Plans)

Land Uses	Safety Compatibility Zones					
	1 Runway Protection Zone	2 Inner Approach/ Departure Zone	3 Inner Turning Zone	4 Outer Approach/ Departure Zone	5 Sideline Zones	6 Traffic Pattern Zone
Maximum Intensities (all uses) per Single Acre (People/Gross Acre) (Per Figures 4B-4G in the California Airport Land Use Planning Handbook)	0	160	450	600	450	No Limit (Large stadiums and similar uses should be avoided.)
Non -Residential Land Uses						
Maximum Site-wide Average Non-Residential Intensity (People/Gross Acre) (Per Figures 4B-4G in the California Airport Land Use Planning Handbook)	0 (Exceptions can be permitted for agricultural activities, roads, and automobile parking provided that FAA criteria are satisfied.)	80	150	200	150	No Limit (Large stadiums and similar uses should be avoided.)
Note: Infill development is allowed in all zones, in accordance with Section 10-6.10(d) or as stated above. Land uses within Safety Zones 2 through 5 should be clustered, to the greatest extent practical, to preserve open space. No development shall be clustered in a manner that would exceed the intensity limits listed above.						
Offices (approx. 100 sq. ft./ person)	X	C	C	C	C	P
Small eateries/drinking establishments (approx. 15 sq. ft./person)	X	X	C	C	C	P
Medium sized business (approx. 30 sq. ft./person)	X	C	C	C	C	P
Mixed use retail centers with restaurant facilities (approx. 45 sq. ft./ person)	X	C	C	C	C	P
Retail center with no restaurant facilities (approx. 30 sq. ft./ person)	X	C	P	P	P	P

Land Uses	Safety Compatibility Zones					
	1 Runway Protection Zone	2 Inner Approach/ Departure Zone	3 Inner Turning Zone	4 Outer Approach/ Departure Zone	5 Sideline Zones	6 Traffic Pattern Zone
Residential Land Uses						
Maximum Site-wide Average Residential Density (Dwelling Units/Gross Acre) (Per Figures 4B-4G in the California Airport Land Use Planning Handbook)	0	0	Allow infill at up to the average of the surrounding residential area.	Allow infill at up to the average density of comparable surrounding uses	Allow infill at up to the average of the surrounding residential area.	No Limit (Noise and overflight should be considered.)
Note: Infill development is allowed in all zones, in accordance with Section 10-6.10(d) or as stated above. Land uses within safety zones 2 through 5 should be clustered, to the greatest extent practical, to preserve open space. No development shall be clustered in a manner that would exceed the intensity limits listed above.						
Short-term lodging Facilities (≤ 30 nights): hotels, motels, etc. (approx. 200 sq. ft./person)	X	X	C	C	C	P
Long-term lodging facilities (>30 days): extended-stay hotels, dormitories, etc.	X	X	X	C	X	P
Single-family residential: detached dwellings, duplexes, townhomes, mobile homes	X	C	Zones 3 and 4: Incompatible at density > 9.0 units/ac		X	P
Multi-family residential: low-to-high density apartments, condominiums	X	X	Zones 3 and 4: Incompatible at density >12.0 units/ac		X	P
Sensitive Land Uses (Land Uses of Particular Concern)						
Note: Infill development is allowed in all zones, in accordance with Section 10-6.10(d). Where uses are listed as “C”- Conditional, please refer to Note 1 at the end of this table.						
Schools, K-12	X	X	X	C	X	C
Commercial Daycare (≥6 children)	X	X	X	X	X	C
Nurseries/In-home day care (≤14 children)	X	X	X	X	X	P
Inpatient facilities: hospitals, sanitariums, psychiatric facilities (approximately 240 sq. ft./person)	X	X	X	X	X	C
Outpatient facilities (>5 patients): dentist offices, clinics, etc. (approximately 100 sq. ft. /person)	X	X	C	C	X	P
Congregate Care Facilities- ambulatory and non- ambulatory (includes assisted living, convalescent/rehab facilities, retirement homes)	X	X	X	X	X	C
Correctional Facilities	X	X	X	X	X	C
High Capacity Indoor assembly room (≥ 1,000 people)	X	X	X	X	X	X
Medium to large indoor assembly room (≥300. <1,000 people)	X	X	X	C	X	C
Low capacity indoor assembly Room (≤ 300 people)	X	X	C	C	X	C
Large outdoor assembly area (≥1,000 people)	X	X	X	X	X	X
Medium outdoor assembly area (≥300, <999 people)	X	X	C	C	X	C
Small outdoor assembly area (>50, <299 people)	X	X	C	C	X	C

Land Uses	Safety Compatibility Zones					
	1 Runway Protection Zone	2 Inner Approach/ Departure Zone	3 Inner Turning Zone	4 Outer Approach/ Departure Zone	5 Sideline Zones	6 Traffic Pattern Zone
Manufacturing, R&D, Industrial Land Uses						
Note: Infill development is allowed in all zones, in accordance with Section 10-6.10(d). Land uses within safety Zones 2 through 5 should be clustered, to the greatest extent practical, to preserve open space. No development shall be clustered in a manner that would exceed the intensity limits listed above.						
Manufacturing, research and development (approx. 100 sq. ft./person)	X	X	C	C	C	P
Occupancies utilizing hazardous (flammable, explosive, corrosive, or toxic) materials	X	X	Zones 3 - 5: C "Conditional": Special measures to minimize risk in the event of an aircraft accident to be determined by Hayward Fire Department or Approving Authority			P
Storage of hazardous materials: gas stations, etc.	X	X	C	P	P	P
Warehouses, distribution facilities (approx. 500 sq. ft./person)	X	C	C	P	P	P
Repair garages not requiring use of flammable objects	X	P	P	P	P	P
Open parking garages	X	P	P	P	P	P
Private garages, carports, and agricultural buildings	X	P	P	P	P	P
Agriculture, Natural Features, Resource Operations						
Note: Infill development is allowed in all zones, in accordance with Section 10-6.10(d). These uses may attract birds or other wildlife considered potentially hazardous to flight. For uses listed as C- Conditional, see Note 2 at the end of this table and FAA Advisory Circular 150/5200-33B.						
Tree farms, landscape nurseries, and greenhouses	X	X	C	C	X	P
Community Gardens	X	X	C	C	X	P
Fish farms	X	X	X	X	X	P
Land reserves and open space	X	P	P	P	X	P
Waterways (rivers, creeks, swamps bays, lakes)	X	X	X	C	X	C
Reservoirs; quarry lakes; detention ponds; aquifer recharge; recycled water storage; flood control or water conveyance channels.	X	X	C	C	C	C
Utilities						
Note: Infill development is allowed in all zones, in accordance with Section 10-6.10(d). These uses may generate dust, smoke, thermal plumes, or other hazards to flight. These uses may attract birds or other wildlife considered potentially hazardous to flight. Power lines, smoke stacks, or other tall objects associated with these uses may be hazards to flight. For uses listed as C-Conditional, see Note 3 at the end of this table.						
Water treatment	X	C	C	C	X	C
Electrical substations	X	X	C	X	P	P
Power plants	X	X	X	C	X	X
Power lines	X	X	X	X	X	P
Roadways	C	P	P	P	P	P
Other transit-oriented uses (train stations, bus stations, etc.)	X	C	P	P	P	P

Land Uses	Safety Compatibility Zones					
	1 Runway Protection Zone	2 Inner Approach/ Departure Zone	3 Inner Turning Zone	4 Outer Approach/ Departure Zone	5 Sideline Zones	6 Traffic Pattern Zone
Recreational Land Uses						
Note: Infill development is allowed in all zones, in accordance with Section 10-6.10(d). Golf courses and parks may attract birds or other wildlife considered potentially hazardous to flight. For uses listed as C- Conditional, see Note 4 at the end of this table.						
Golf courses	C	C	C	C	X	P
Parks (playgrounds, picnic areas, athletic fields, tennis courts, etc.)	X	C	C	C	X	P
Riding stables and trails	X	P	P	P	P	P
<p>X – INCOMPATIBLE: Uses should not be permitted under any circumstances as they may expose persons to airport-related safety hazards.</p> <p>C – CONDITIONAL: Uses or activities that may be compatible with airport operations depending on their location, size, bulk, height, density and intensity of use. See notes below for conditional criteria on specific land uses.</p> <p>P – PERMITTED: Uses or activities are compatible with airport operations; however, these activities should be reviewed to ensure that they will not create height hazard obstructions, smoke, glare, electronic, wildlife attractants, or other airspace hazards. Noise, airspace protection, and/or overflight policies may still apply.</p> <p><i>Secondary units, as defined by state law, shall be excluded from density calculations, and may be constructed on existing, non-conforming residential parcels.</i></p> <p><i>All uses or activities identified in Table 1 are subject to intensity and density limitations as indicated. Particular attention should be given to developments that, when located in combination with other permitted or limited activities, may create cumulative impacts on airport operations. All uses should be reviewed to ensure that they will not create airspace hazards. Noise, airspace protection, and/or overflight policies may still apply.</i></p>						

Notes:

1. Land uses which pose the greatest concern are those in which the occupants have reduced effective mobility or are unable to respond in emergency situations. Children's schools, day care centers, hospitals, nursing homes, and other uses in which the majority of occupants are children, elderly, and/or handicapped shall generally be prohibited within Zones 1 through 5.
 - a. For the purposes of these criteria, children's schools include all grades through grade 12. For zones 4 and 6, new schools should be reviewed on a case-by-case basis, considering such factors as age of school children, size of school, etc.
 - b. Day care centers and family day care homes are defined by state law. Non-commercial day care centers ancillary to a place of business are permitted in Zones 2 through 5 provided that the overall use of the property meets the intensity criteria indicated below. Family day care homes are permitted in any location where residential development is permitted and the intensity of the day care home is ≤ 14 people. Commercial day care centers are conditionally compatible in Zone 6.
 - c. In-patient health care facilities include hospitals, health care facilities, and other types of non-ambulatory medical centers. Land uses of these types are prohibited in Safety Zones 1 through 5, and permissible in Zone 6.
 - d. Out-patient health care facilities such as health care centers, clinics, dentists' offices, and other types of ambulatory facilities are conditionally acceptable in Safety Zone 3 and 4.
 - e. Storage of fuel and other hazardous materials within the airport environs are restricted as follows:
 - i. Within Zones 1 and 2, storage of any such substance is prohibited.
 - ii. Within Zones 3, 4, and 5, special measures to minimize risk in the event of an aircraft accident are to be determined by the Hayward Fire Department or approving authority.
 - f. Land uses within safety zones 2 through 4 should be clustered, to the greatest extent practical. No development shall be clustered in a manner that would exceed the intensity limits listed as incompatible in Table 1 above.
2. Land uses that may cause visual, electronic, navigational, or bird strike hazards to aircraft in flight shall be allowed within the airport influence area only if the uses are consistent with FAA rules and regulations, and/or have demonstrated consideration/application of appropriate FAA guidelines. Specific characteristics to be avoided include: Features that create an increased attraction for wildlife as identified in FAA rules, regulations, and guidelines including, but not limited to, FAA Order 5200.5A, *Waste Disposal Sites On or Near Airports*, and Advisory Circular 150/5200-33B, *Hazardous Wildlife Attractants On or Near Airports*. Land uses with the possibility of attracting hazardous wildlife include landfills and certain recreational or agricultural uses that attract large flocks of birds.
3. Due to their propensity to generate smoke, steam, and other visual and physical hazards to aircraft in flight, power plants should be avoided in the AIA. However, given the varying types of power plants (i.e., thermal, solar farms, wind farms, etc.), proposed land uses of this type should be evaluated on a case-by-case basis, and in accordance with FAA criteria and the policies set forth in this Article.

SEC. 10-6.40 AIRSPACE PROTECTION.

Airspace protection standards are intended to reduce the risk of harm to people and property resulting from an aircraft accident by preventing the creation of land use features, and the prohibition of any activities, that can pose hazards to the airspace used by aircraft in flight. Airspace protection standards regarding obstructions and hazards to air navigation are exclusively within the domain of the FAA and are defined in FAA regulation Part 77. FAA regulation Part 77 applies to land uses and development within the Airport Overlay Zone as summarized below:

- a. Objects Affecting Navigable Airspace. Federal Aviation Regulation (“FAR Part 77”) and Cal. Pub. Util. Code § 21659 require that structures not penetrate the airspace protection surfaces of the airport and require a determination by the FAA that the structure does not constitute a hazard to air navigation or would not create an unsafe condition for air navigation. The airspace surrounding the Airport is divided into segments called “imaginary surfaces” which identify height limits for objects that require further study by the FAA to avoid creating hazards to air navigation. Structures that fall within the areas specified in Part 77 shall be subject to the provisions listed below.
 - (1) Proponents of a project shall file a Notice of Construction or Alternation (Form 7460-1) with the FAA if it meets any of the standards set forth in FAR Part 77, including if a proposed structure rises more than 200 feet above ground level or exceeds one foot in height for every 100 feet from the edge of the nearest point on the runway for a distance up to 20,000 feet. Filing Form 7460-1 will initiate an aeronautical study that will ensure a proposed structure does not constitute a hazard to air navigation or would not create an unsafe condition for air navigation, including impeding any en route or terminal instrument procedures as per the United States standard for terminal instrument procedures (“TERPS”) described in FAA Order 8260.3B (14 C.F.R. Part 77.29, Evaluating Aeronautical Effect).
 - (2) Where a structure is found by the FAA to be an obstruction but does not constitute a hazard to air navigation, approvals for such projects may include the requirement for an aviation easement, marking or lighting of the structure, or modifications to the structure. The aviation easement shall be consistent with the form and content of the illustration in Handbook, Appendix H, Exhibit H1.
 - (3) Building permits shall not be issued for a project until a determination of no hazard has been issued by the FAA and any conditions in that determination are met.
- b. Other Flight Hazards Prohibited. Any activities within the AOZ which could pose

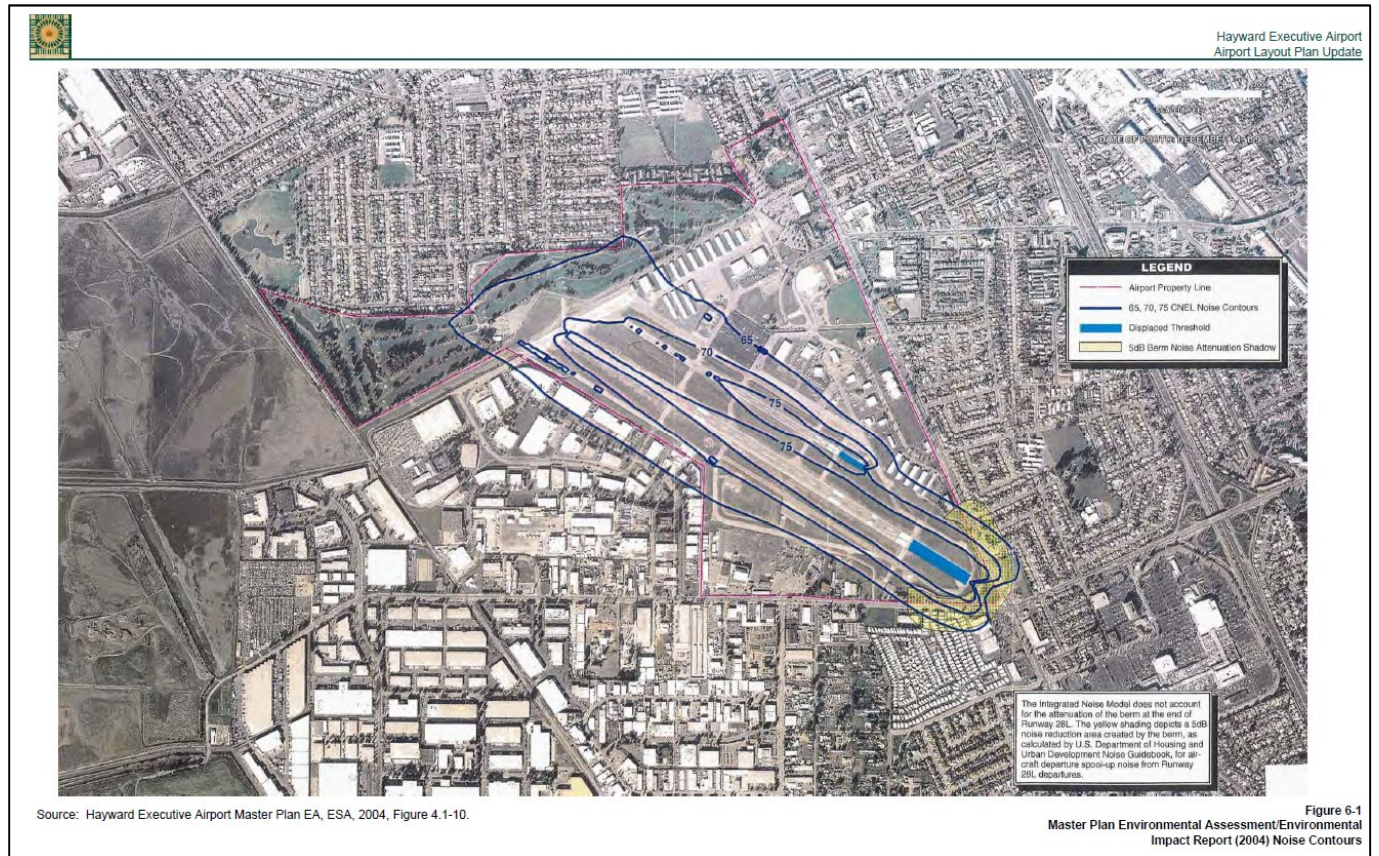
a hazard to flight operations are prohibited, including, but not limited to:

- (1) Glare or distracting lights that could be mistaken for Airport lights;
- (2) Sources of dust, heat, steam, or smoke that may impair pilot vision, or light shows, or laser shows or spotlights;
- (3) Any emissions that may cause thermal plumes or other forms of unstable air that generate turbulence within the flight path;
- (4) Sources of electrical interference with aircraft communications or navigations;
- (5) Features that create an increased attraction for wildlife that may be hazardous to Airport operations such as attractants of birds to the extent of creating a significant hazard of bird strikes (examples are outdoor storage or disposal of food of grain, or large, artificial water features). Features which may pose these risks shall be reviewed for consistency with the FAA's Advisory Circular 150/5200-33B, Hazardous Wildlife Attractants On or Near Airports by Hayward Executive Airport's Manager. This provision is not intended to prevent enhancement or protection of existing wetlands or the mitigation of wetlands' impacts. Similarly, the effect of wildlife attractants may be mitigated by methods set forth in Advisory Circular 150/5200-33B.

SECT. 10-6.50 AIRPORT NOISE.

- a. Airport Related Noise. Noise compatibility standards are intended to prevent the establishment of noise sensitive land uses in areas surrounding the Airport that are exposed to significant levels of aircraft noise. Noise policies from the most current Hayward Airport Master Plan and analyses from the Airport Master Plan Environmental Impact Report, or subsequent noise analysis used to update the Airport Master Plan, shall be used for mapping of the long term noise impacts of the Airport's aviation activity which includes future planned facilities development depicted in the FAA approved Airport Layout Plan. The relevant noise contours are shown below in Figure 2.

Figure 2 - Noise Contour Map



Where permitted within the AOZ, the following noise sensitive land uses shall comply with applicable noise exposure criteria.

b. New Residential Development.

- (1) Maximum Exterior Noise Levels. New residential uses within the 60 dB CNEL contour shall demonstrate consistency with the maximum exterior noise levels set forth in Table HAZ-1, General Plan, 2014, p. 3-146 (see Table 2 below).

Table 2 – Exterior Noise Compatibility Standards

TABLE HAZ-1 Exterior Noise Compatibility Standards for Various Land Uses	
Land Use Type	Highest Level of Exterior Noise Exposure that is Regarded as “Normally Acceptable” ^a (CNEL ^b)
Residential: Single-Family Homes, Duplex, Mobile Home	60
Residential: Townhomes and Multi-Family Apartments and Condominiums	65
Urban Residential Infill ^c and Mixed-Use Projects ^d	70
Lodging: Motels and Hotels	65
Schools, Libraries, Churches, Hospitals, Nursing Homes	70
Auditoriums, Concert Hall, Amphitheaters	Mitigation based on site-specific study
Sports Arena, Outdoor Spectator Sports	Mitigation based on site-specific study
Playgrounds, Neighborhood Parks	70
Golf Courses, Riding Stables, Water Recreation, Cemeteries	75
Office Buildings: Business, Commercial, and Professional	70
Industrial Manufacturing, Utilities, Agriculture	75

Source: Governor’s Office of Planning and Research, *State of California General Plan Guidelines 2003*, October 2003.

- As defined in the *State of California General Plan Guidelines 2003*, “Normally Acceptable” means that the specified land uses is satisfactory, based upon the assumption that any building involved is of normal conventional construction, without any special noise mitigation. For projects located along major transportation corridors (major freeways, arterials, and rail lines) this “normally acceptable” exterior noise level may be exceeded for certain areas of the project site (e.g. the frontage adjacent to the corridor or parking areas) with the exception of primary open space areas (see policies HAZ-8.5 and HAZ-8.6).
- CNEL or Community Noise Equivalent Level measurements are a weighted average of sound levels gathered throughout a 24-hour period.
- Urban residential infill would include all types of residential development within existing or planned urban areas (such as Downtown, The Cannery Neighborhood, and the South Hayward BART Urban Neighborhood) and along major corridors (such as Mission Boulevard).
- Mixed-Use Projects would include all mixed-use developments throughout the City of Hayward.

(2) Maximum Interior Noise Levels. Noise analysis, construction details, or other information deemed necessary by the Director of Development Services/Planning Director shall be submitted to verify conformance with maximum interior noise levels as set forth below:

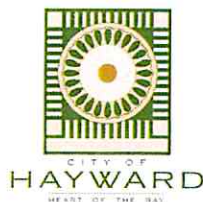
- (a) Interior Noise Levels Not to Exceed 45 dB CNEL. As set forth in Handbook, Chapter 3, p. 3-4, for the following noise-sensitive land uses, aircraft related, interior noise levels shall not exceed 45 dB CNEL (with windows closed):
 - (i) Living or sleeping areas of single or multi-family residences;
 - (ii) Hotels and motels;
 - (iii) Hospitals and convalescent homes;
 - (iv) Places of worship, meet halls, and mortuaries; and
 - (v) Schools.
- (b) Interior Noise Levels Not to Exceed 50 dB CNEL. For noise sensitive land uses such as those listed below, aircraft related, interior noise levels shall not exceed 50 dB CNEL (with windows closed):
 - (i) Office environments;
 - (ii) Eating and drinking establishments; and
 - (iii) Retail stores.

SEC. 10-6.60 AIRCRAFT OVERFLIGHT NOTICE.

Aircraft overflight standards are intended to provide overflight notification for land uses within Safety Compatibility Zones 5 and 6. All discretionary actions for projects within such areas shall include a condition of approval requiring owners of property offered for sale or lease within the AOZ to provide the Real Estate Transfer Disclosure Statement required by Cal. Civ. Code § 1103.4(c)(1) prior to selling or leasing property. For new residential land uses, the overflight notification shall be recorded and appear with the property deed as required by Handbook, § 4.3.1, pp. 4-13, 14.

SEC. 10-6.70 OPEN LAND.

Open land areas are intended to increase the chances of a pilot successfully landing an aircraft in an emergency situation when he/she is unable to reach the runway. Where open space or conservation easements have been obtained and the topography supports it, the City shall not allow uses to be established that conflict with their availability to be used as a landing option in the event of an emergency. Where easements have yet to be obtained, the City shall explore opportunities to incorporate the requirement for open land as part of the discretionary approval process. Open land areas shall be consistent with Handbook standards for size, orientation and topography as per Handbook, § 4.4.5, pp. 4-31, 32.



CITY OF HAYWARD

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Cover Memo

File #: MIN 16-034, **Version:** 1

DATE: April 28, 2016

TO: Council Airport Committee

FROM: Director of Public Works

SUBJECT

Approval of Minutes of the Council Airport Committee Meeting on January 28, 2016

CALL MEETING TO ORDER

Council Member Zermeño called the meeting to order at 5:30 p.m. with Council Member Jones and Council Member Márquez present.

City staff: Morad Fakhrai, Director of Public Works
Doug McNeeley, Airport Manager
Michael Lawson, City Attorney
Joseph Brick, Assistant City Attorney
David Rizk, Director of Development Services
David Decoteau, Airport Operations Supervisor
Noemi Dostal, Management Analyst II
Sean Moran, Noise Abatement Analyst
Debbie Summers, Senior Secretary

Members of the public present:

Gary Briggs
James H. Swanson
Steven L. Senegal
Pete Fleming
Ashton Simmons

PUBLIC COMMENTS

None

1. Approval of Minutes for January 28, 2016

Minutes approved as submitted.

2. Recognition of Steve Senegal

Airport Manager, Doug McNeeley, provided background on the Reno Air Races and stated that based tenant Steve Senegal won the most recent Formula 1 Class race. The Formula 1 Class consists of home built aircraft that reach speeds up to 250 miles per hour.

Council Member Zermeño presented Mr. Senegal with a certificate of recognition for his achievement. Mr. Senegal thanked the City Council, Airport staff, and Hayward residents. He added that he received support from the Airport Manager and FAA Air Traffic Control Tower in conducting flight tests in preparation for the race.

3. Airport Overlay Zoning Regulations

Director of Development Services, David Rizk, gave an overview of the staff report and proposed changes to the Airport Overlay Zone, focusing on a draft airport safety zone map and land use compatibility table. He noted land use is an important component of the airport zoning regulations given the proximity of Southland Mall.

Council Member Márquez asked if there is a representative from the City currently appointed to the Alameda Airport Land Use Commission and inquired about the line of communication between the commission and the City. Mr. Rizk replied that there is not a City representative appointed to the commission at the present time, but Mr. McNeeley is an alternate commissioner. Mr. Rizk stated that we regularly receive the commission agenda and we are aware of current issues.

Council Member Márquez asked about discussions with Southland Mall regarding the proposed changes to the Airport Overlay Zone, and Mr. Rizk replied that we work closely with Mall Manager Ashton Simmons. Mr. Rizk also confirmed that any future development on the California Air National Guard site would not be affected because it is located on airport property.

Council Member Jones asked if we are aware of any development opportunities we have lost because of the current regulations, but Mr. Rizk said he was not aware of any lost opportunities.

Mall Manager Simmons commented that in the last year he received interest from retail companies interested in space at the mall, and he will continue to work with Mr. Rizk to bring in compatible development.

Council Member Zermeño asked if the proposed changes would affect future development of vacant airport property along Hesperian Ave. Mr. Rizk replied that airport property would be exempt.

Council Member Zermeño also asked for clarification regarding permissible development in the compatibility zones adjacent to the ends of the airport's runways. Mr. McNeeley stated that zones closest to the ends of the runways are more restrictive.

Council Member Zermeño asked if there are hazards other than the height of physical structures that would be a source of concern. Mr. Rizk responded that changes generating additional noise and the introduction of certain types of lighting could create issues.

Council Member Zermeño asked about height restrictions for future development at the La Quinta Inn. Morad Fakhrai, Director of Public Works, replied the height limit in that area is approximately seventy feet, which is adequate for three stories and a parapet.

PUBLIC CONTACT

None

4. Super Bowl 50 Preparations Update

Mr. McNeeley provided an overview of the staff report stating that plans are progressing well to host Super Bowl 50 aircraft. He noted that an aircraft reservation system used successfully during Super Bowl 49 in Phoenix has been implemented for Bay Area airports including Hayward Executive Airport. To date, APP Jet Center has received reservations for fifty-three aircraft including twenty large corporate jets. He added that regular meetings have been held with stakeholders in preparation for the event including based tenants, the Federal Aviation Administration (FAA), Hayward Police Department, Hayward Fire Department, and the Transportation Security Administration (TSA).

Mr. McNeeley stated that Super Bowl 50 will provide a number of benefits for the airport and the community. Fuel sales will increase providing additional revenue for the airport, and arriving visitors will patronize area ground transportation companies, restaurants, and hotels. The event should also result in good publicity for the City.

Council Member Zermeño commented that in view of the costs anticipated for security and logistical support the event may result in a net financial loss, but the overall benefits to the community should outweigh the cost. Mr. McNeeley said that many of the arriving visitors will be seeing Hayward for the first time, and the event represents an opportunity to win new customers.

Council Member Márquez inquired about the reception planned for arriving visitors. Mr. McNeeley replied that APP Jet Center will be handling customer service for the event. The plans include a special reception area, convenient aircraft parking areas, and a fleet of buses to transport pilots and passengers from their aircraft to the reception center and waiting ground transportation.

PUBLIC COMMENTS

None

5. Unmanned Aerial Vehicles (UAV) Update

Mr. McNeeley gave an overview of the staff report and stated that sightings of UAVs have increased nationwide. Beginning in December 2015, the registration of drones is now required by the FAA. Mr. McNeeley noted that in most cases federal regulations supersede local regulations due to federal preemption. This is becoming an issue nationwide as local governments attempt to regulate the use of recreational drones on their own.

City Attorney Michael Lawson asked how operators determine the altitude of their drones. Mr. McNeeley replied that it is typically based upon a visual estimate, but Mr. Moran added that more expensive drones use Global Positioning Satellite (GPS) technology to determine altitude.

Council Member Zermeño asked if we foresee the City enacting drone regulations. Mr. McNeeley replied that would be at the discretion of Council, subject to federal preemption.

Council Member Jones added there are already state regulations currently in effect regarding drone operation.

PUBLIC COMMENTS

None

6. Evaluation of Airport Noise Program

Noise Abatement Analyst Sean Moran provided an overview of the staff report stating that noise complaints were up by 2.45% in CY 2015 for a total of 511 complaints. However, this number of annual complaints is still relatively low in comparison with previous years. The modest increase in CY 2015 was due in part to Visual Meteorological Conditions (VMC) prevailing throughout the year that in turn spurred more flying activity.

Mr. Moran mentioned that San Lorenzo residents submitted the most complaints. This is due to the location of their homes near the departure end of Runways 28L and 28R. Mr. Moran said he also received complaints from residents in other jurisdictions, such as Santa Clara due to banner-towing aircraft over Levi Stadium. Council Member Zermeño asked how residents in Santa Clara know that banner-towing aircraft are based at Hayward. Mr. Moran replied that some of the residents are very resourceful and conduct online research.

Mr. McNeeley informed the committee that as of December 31, 2015, the FAA outlawed the operation of the noisiest Stage II aircraft, primarily older corporate jets. Civilian Stage II aircraft are no longer allowed to routinely fly within the Continental United States.

Council Member Márquez asked if we have a policy on response time to address noise complaints. Mr. Moran responded that the response time is no more than forty-eight hours.

PUBLIC COMMENTS

San Lorenzo resident James Swanson commented he was aware of the airport when he moved into the neighborhood. He lives near the departure end of Runway 28R and has no issue with noise from aircraft flying nearby.

Future Agenda Items

- Mosquito Abatement

File #: MIN 16-034, **Version:** 1

Staff announcements

None

Next CAC meeting will be April 28, 2016.

ADJOURNMENT

The meeting adjourned at 6:39pm.



MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 19, 2016, 7:00 p.m.

The City Council meeting was called to order by Mayor Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Márquez.

ROLL CALL

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

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Peixoto noted that he had received complaints from residents on Virginia Street about unfair street sweeping tickets.

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced that the Council convened in closed session concerning a conference with legal counsel pursuant to Government Code 54956.9 regarding S.E.I.U., Local 1021/City of Hayward, P.E.R.B., Case Nos. SF-CE-1075-M, SF-CE-1117-M, SF-CE-1118-M, SF-CE-1174-M, SF-CO-320-M, SF-CE-321-M; and reported there was no action.

PRESENTATION

Mayor Halliday noted the City of Hayward 2016 Environmental Awards honored residents, schools, businesses and property managers of multi-family homes for excellent environmental practices. Efforts by members of the community were acknowledged in recognition of Earth Day, April 22, 2016. Mayor Halliday and Council Member Mendall, who also serves as the Chair of the Council Sustainability Committee, presented the 2016 Environmental Awards to the following recipients: Stonebrae Elementary School; Longwood Elementary School; Lea's Christian School; Cesar Chavez Middle School; Bret Harte Middle School; Tennyson High School; residents and managers of multi-family housing for participating in the City's residential recycling program and energy-efficiency programs; and former Mayor Michael Sweeney for his contributions to environmental sustainability in the City of Hayward. Mr. Kim Huggett, President of the Hayward Chamber of Commerce, recognized the following: Felson Companies; Pepsi Beverages Company (Hayward facility); Alphabet Energy; Hayward Area Senior Center; and South Hayward Parish.

PUBLIC COMMENTS

Mr. Charlie Peters, Clean Air Performance Professionals representative, provided documents related to voluntary genetically modified corn fuel.

Mr. Mark Stillman, Hayward resident, spoke about the improvements of the Green Shutter Hotel.

Mayor Halliday announced the League of Women Voters- Eden Area was hosting forums for the June 7, 2016 Ballot Measures C and D on April 20, 2016 at Hayward City Hall.

The following speakers expressed concerns about noise and safety as they relate to the Hayward Executive Airport.

Mr. Tommy Paich, San Lorenzo resident
Mr. Al Herrera, Hayward resident
Mr. Fred Carrillo, Hayward resident
Ms. Rebeca Mendoza, Hayward resident
Mr. Paul Steinbrink, San Lorenzo resident

Mr. Victor Medina, Hayward resident, reported that commercial trucks were driving on the residential area of Baumberg Avenue.

CONSENT

1. Authorization to Withdraw Membership in the East Bay-Delta Housing and Finance Agency, dba Bay Area Homebuyer Agency, a Joint Powers Agency **CONS 16-034**

Staff report submitted by Housing Development Specialist Cortez, dated April 19, 2016, was filed.

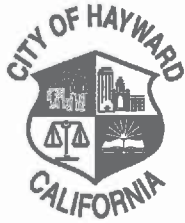
It was moved by Council Member Mendall, seconded by Council Member Márquez, and carried unanimously, to adopt the following:

Resolution 16-048, "Resolution of the City Of Hayward Authorizing Withdrawal from Membership in the East Bay-Delta Housing and Finance Agency, dba Bay Area Homebuyer Agency, a Joint Powers Agency"

2. Filing Nuisance Abatement/Municipal Code Liens with the County Recorder's Office for Non-Abatable Code Violations **CONS 16-168**

Staff report submitted by Code Enforcement Supervisor Espitia, dated April 19, 2016, was filed.

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



MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD
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Staff report submitted by City Clerk Lens, dated April 19, 2016, was filed.

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

Resolution 16-054, "Resolution Accepting the Resignation of Anjanette Scott from the Council Economic Development Committee and Dania Frink from the Community Services Commission"

9. Park In-Lieu Fee Appropriation to the Hayward Area Recreation and Park District (HARD) for the Greenwood Park Expansion and Enhancement Project **CONS 16-190**

Staff report submitted by Management Analyst Kim, dated April 19, 2016, was filed.

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

Resolution 16-055, "Resolution Approving Request from Hayward Area Recreation and Park District for Final Appropriation of Park Dedication in-Lieu Fees for the Greenwood Park Expansion and Enhancement Project"

WORK SESSION

10. Overview of Draft Airport Overlay Zoning Regulations **WS 16-027**

Staff report submitted by Development Services Director Rizk, Consultant Lichman of Buchalter Nemer, and Assistant City Attorney Brick, dated April 19, 2016, was filed.

Development Services Director Rizk provided a synopsis of the report and noted that the proposed regulations in the staff report did not apply to the Hayward Executive Airport operations.

Discussion ensued among Council Members and City staff regarding: the proposed Airport overlay zoning regulations; the Airport Land Use Compatibility Plan and infill developments; public outreach regarding the Airport overlay zone ordinance; potential airport noise impacts of projects to surrounding areas; land use compatibility regulations and non-conforming uses. There was general support for staff to continue to work with the consultant to develop regulations and return with final draft regulations.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, May 12, 2016, 7:00 p.m.
777 B Street, Hayward, CA94541**

MEETING

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

ROLL CALL

Present: COMMISSIONERS: Willis Jr., Goldstein, Enders, Schott, McDermott, Faria
CHAIRPERSON: Parso-York
Absent: COMMISSIONER: None

SALUTE TO FLAG

Commissioner Goldstein led in the Pledge of Allegiance.

Staff Members Present: Alvarado Jr., Brick, Buizer, Chan, Hamilton, McNeeley, Rizk

General Public Present: 8

PUBLIC COMMENT:

There were none.

WORK SESSION

1. Overview of Draft Airport Overlay Zoning Regulations

Development Services Director Rizk provided a synopsis of the staff report. Mr. Rizk noted this presentation was provided to Council at a Work Session on April 19, 2016.

Development Services Director Rizk noted for Commissioner Schott there will be a Public Hearing before the Planning Commission.

Development Services Director Rizk responded to Commissioner Willis Jr. that maximum height is generally 200 feet but was dependent on different variables such as airport traffic and other aspects. Mr. Rizk pointed out the height was not set on a straight plane but more like a curve.

Development Services Director Rizk explained for Commissioner Goldstein that the 'intensities' presented in the staff report was based on non-residential use of people per acre based on floor area and noted staff was still refining the Land Use guidelines.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, May 12, 2016, 7:00 p.m.
777 B Street, Hayward, CA94541**

Development Services Director Rizk noted for Commissioner Faria that per the staff report, the City satisfied the referral requirement of providing the Alameda County Land Use Commission (ALUC) with a draft of the City's new General Plan, and since no notice of determination was ever received within the allowed time frame the General Plan was automatically deemed consistent with the Airport Land Use Compatibility Plan (ALUCP). Mr. Rizk added that if there was an amendment to the General Plan, the amendment would need to be referred to the ALUC.

Development Services Director Rizk noted for Commissioner McDermott that the land use authority is the responsibility of the City Council for land use development within the city limits. Mr. Rizk emphasized that in light of how busy the Hayward Executive Airport is, the Airport Overlay Zone (AOZ) regulations were vital as it applies to the land surrounding the airport.

Development Services Director Rizk responded to Commissioner Schott that the building height would be dependent on how far the structure would be from the runway and this would be determined by the Federal Aviation Administration (FAA). Airport Manager McNeeley added that developers would need to fill out an FAA Form 7460 which is a separate evaluation by the FAA for height determination to meet safety standards.

Development Services Director Rizk confirmed for Chair Parso-York that land outside of the City limits were under Alameda County's jurisdiction and the AOZ was strictly for development of land within the city limits and around the airport.

PUBLIC HEARINGS: For agenda item No. 2, the Planning Commission may make a recommendation to the City Council.

2. Proposed Subdivision and Construction of Twenty-Three (23) Single-family Homes and Related Site Improvements Located at the Northeastern Corner of Olympic and Huntwood Avenues Requiring Zone Change from Single-Family Residential District to Planned Development (PD) District and Approving of Vesting Tentative Map (Tract 8302) for Olympic Station Subdivision (Application No. 201504833); Applicant: Fortbay Woods, LLC

Associate Planner Hamilton provided a synopsis of the staff report. Ms. Hamilton noted the applicant and design team were available for questions.

Chair Parso-York opened and closed the public hearing at 7:31 p.m.

Commissioner Enders inquired about the water element, the development's plans that shows the majority of the activity located in the rear of the units and if there would be useable space