

**CITY COUNCIL MEETING
TUESDAY, JANUARY 8, 2019**

PRESENTATIONS

ITEM 3 – PH 19-001

**APPROVAL OF A REVISED APPLICATION FOR
THE PROPOSED ESTABLISHMENT OF A
COCKTAIL BAR AND LOUNGE WITH FOOD
SERVICE AND CABARET ENTERTAINMENT
LOCATED AT 990 “B” STREET, ASSESSOR
PARCEL NO. 428-0056-057-00. VGJB, INC.
(APPLICANT); CORINNE AND TIMOLEON
ZARACOTAS (PROPERTY OWNERS),
REQUIRING APPROVAL OF CONDITIONAL USE
PERMIT APPLICATION NO. 201802339**



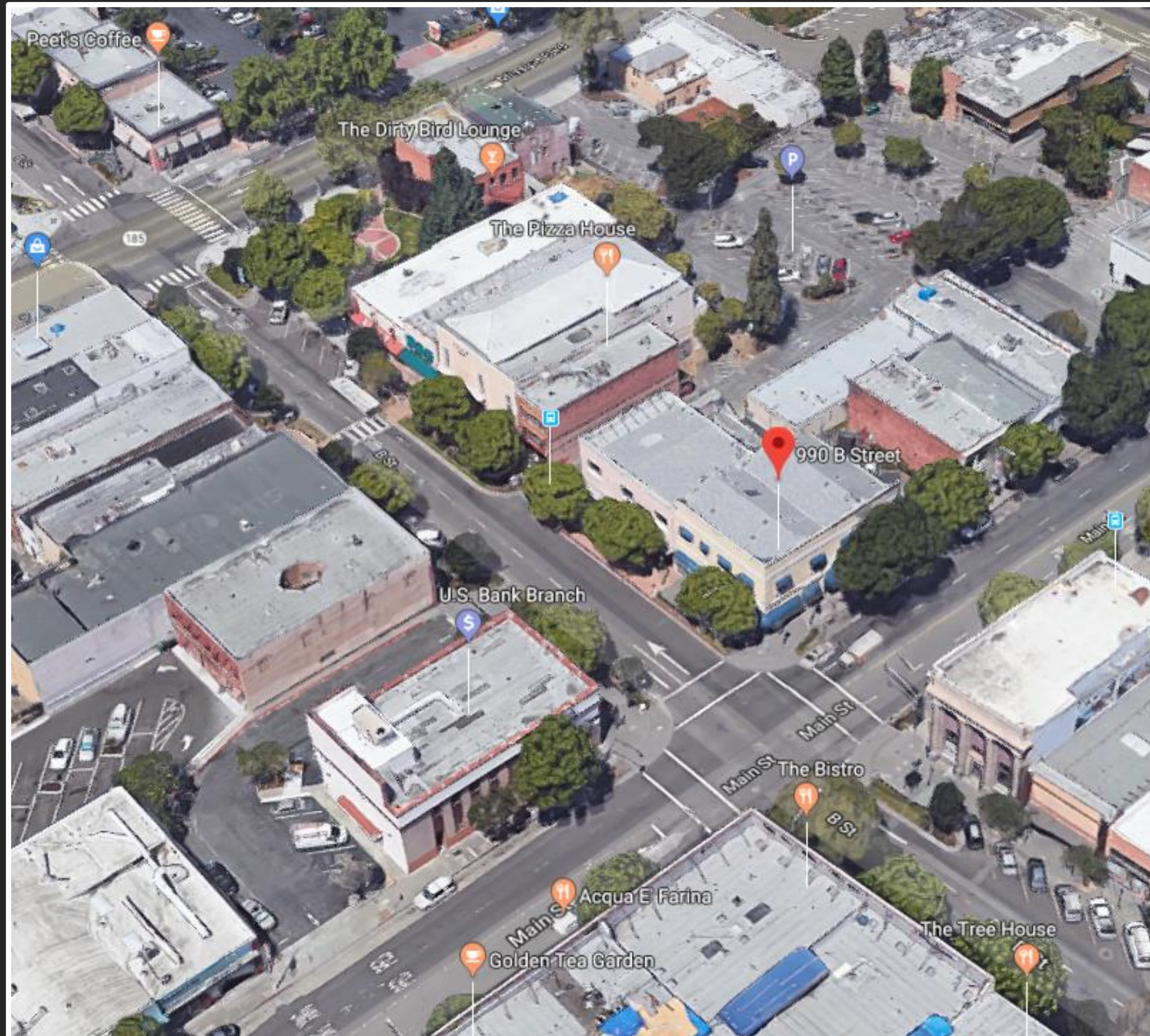
Revised Conditional Use Permit Application for 990 Bar and Lounge

City of Hayward
City Council Public Hearing
January 8, 2019

PROJECT CHRONOLOGY

- **July 26, 2018** – Planning Commission voted **4-0-0** (two Commissioners absent) to Approve the Conditional Use Permit application
- City Council Call-Up of the Planning Commission's Approval
- **September 18, 2018** – City Council voted **6-0-1** (one Councilmember abstained) to deny the Conditional Use Permit application without prejudice allowing applicant to revise their application.
- **January 8, 2019 (Tonight)** – City Council will review the revised Conditional Use Permit application based on comments from previous public hearing.

PROJECT SUMMARY



Operations:

- ✓ Upscale cocktail bar and lounge;
- ✓ Cabaret entertainment with security plan; and
- ✓ Small kitchen and food preparation area

Tenant Space:

- ✓ Approximately 2,350 square-feet;
- ✓ 50-75 seats; and
- ✓ Maximum Occupancy - 89 persons

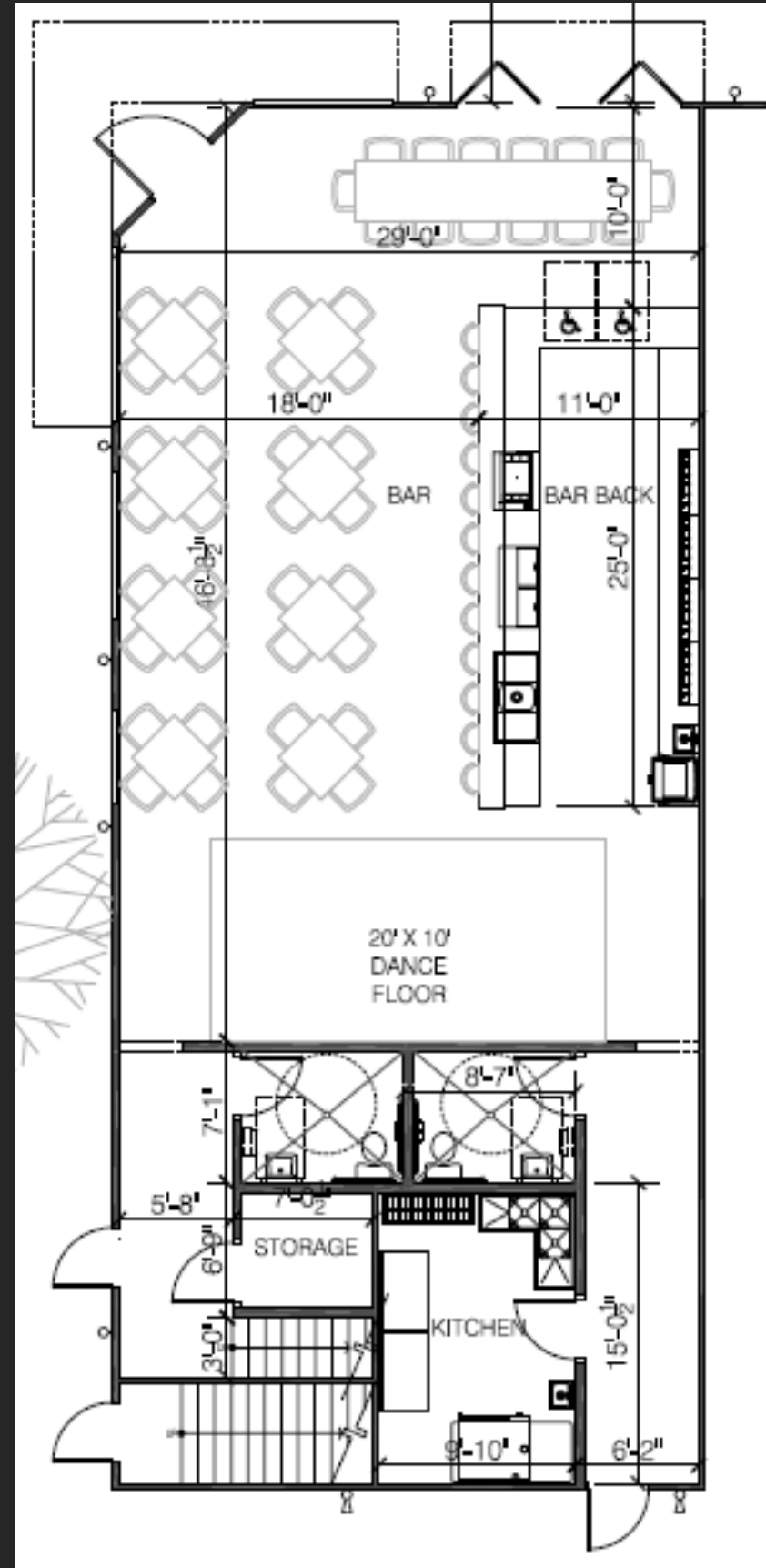
Hours of Operation:

- ✓ Seven days a week – 12 p.m. to 1:30 a.m.
- ✓ Cabaret hours – Thursdays, Friday, Saturday and Sunday from 9 p.m. until closing

TENANT IMPROVEMENT AND REMODEL

Interior

- Upgrade for Americans with Disabilities Act (ADA) standards;
- New unisex restrooms;
- Non-fixed seating;
- Bar area;
- DJ mezzanine area;
- Dance floor area; and
- New kitchen facilities for

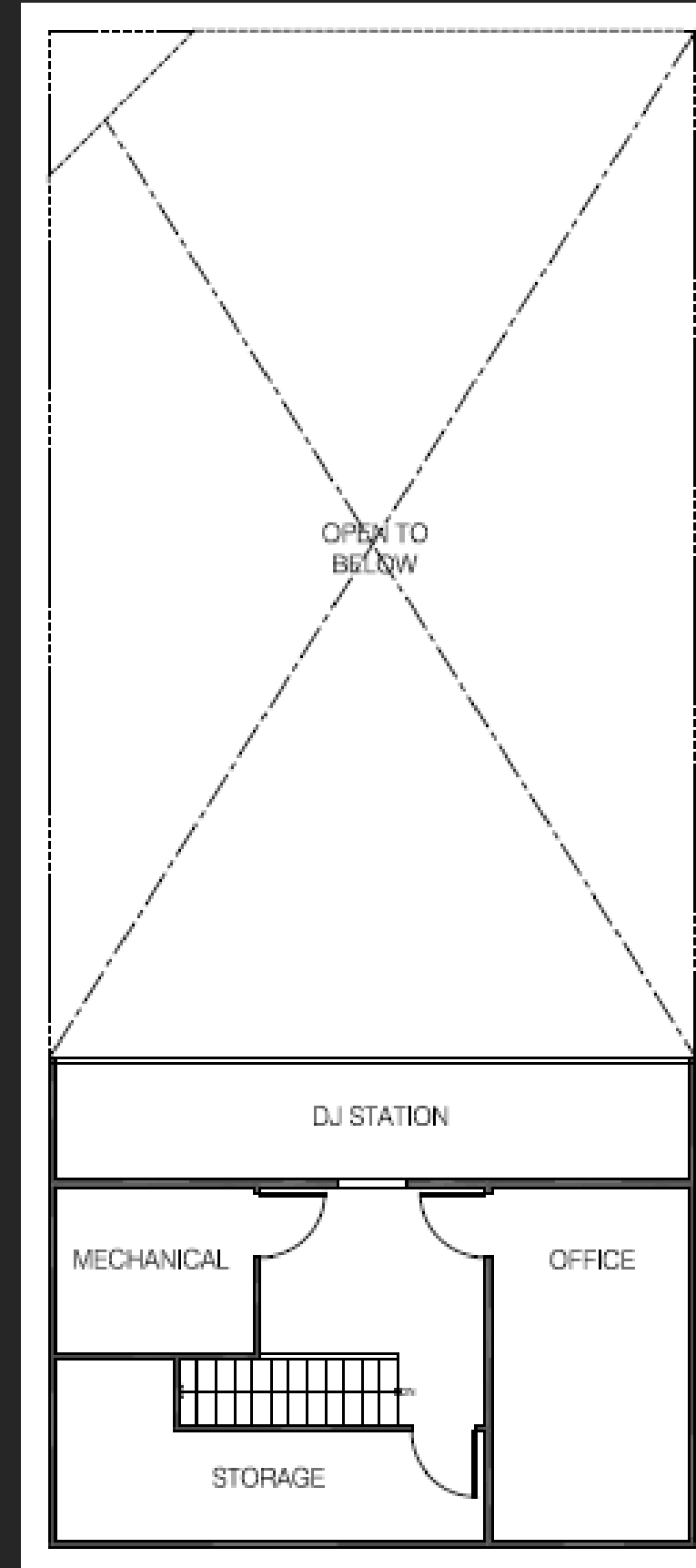


Exterior

- Major façade improvement
- Exterior lighting improvements
- Art installation on building

Materials will include:

- New paint;
- Metal awnings;
- Wood siding with anti-graffiti coat; and
- Stone wainscoting





990 LOUNGE

COCKTAILS

HAYWARD MULE

HANGAR 1 VODKA, GINGER BEER,
FRESH LIME JUICE

OLD FASHION

WHISKEY, BITTERS, ORANGE

SAZERAC

BRANDY, FRESH LEMON JUICE

GIMLET

GIN, FRESH LIME JUICE

THE LAST WORD

GIN, FRESH LIME JUICE, MARASCHINO LIQUEUR
AND GREEN CHARTREUSE

NEGRONI

GIN, CAMPARI, VERMOUTH

PEAR MOJITO

RUM, FRESH LIME JUICE, PEAR PUREE,
MINT LEAVES, CLUB SODA

THE SIDECAR

HENNESSY, COINTREAU, FRESH LIME JUICE

MARGARITA

TEQUILA, COINTREAU, FRESH LIME JUICE

THE LOVE POTION

PROSECO, FRESH BERRIES

BEERS ON TAP

21ST AMENDMENT HELL OR HIGH WATERMELON

ALAMEDA'S IPA

LAUGHING MONK 3RD ST. PALE ALE

GREAT WHITE ALE

ASSORTED CRAFT BOTTLED BEERS

KOMBUCHA BEER

HOUSE MADE SANGRIA'S

BLOODY MARY BAR

MIMOSA'S

FOUNTAIN DRINKS

COKE

COKE ZERO

SPRITE

SNACKS

POPCRON

BAR MIX

KALE CHIPS

EDAMAME

Menu



990 LOUNGE

BITES

990 APPETIZER TOWER

PINCHITOS

GARLIC PARMESAN FRIES

MAPLE CANDIED BACON

MEDITERRANEAN CHARCUTERIE PLATE

FRESH SEASONAL FRUIT

SLICED CUCUMBER

SALAMI

PITA BREAD

HUMMUS

ASSORTED CHEESE

FLAT BREAD PIZZA

MARGHERITA

CHICKEN PESTO

GARLIC CHEESE PULL BREAD

SLIDERS

CHICKEN PESTO

BOURBON BACON

SNACKS

POPCORN, BAR MIX, KALE CHIPS, EDEMAME



Chicken Pesto



Margherita



Garlic Cheese Pull Bread



Bourbon Bacon Sliders



Pesto Chicken Sliders



Pinchitos



Kale Chips

SAMPLE FOOD DISHES



Interior Photos



EXISTING CONDITIONS



From “B” Street



From Main Street

EXISTING CONDITIONS



P R O P O S E D E L E V A T I O N S

STAFF RECOMMENDATION

Staff believes the proposed application is consistent with the goals and policies of the Hayward 2040 General Plan and Downtown Core Area Plan.

That the City Council:

- ✓ Approve the revised Conditional Use Permit application based on the required Findings and Subject to the Conditions of Approval in the Draft Resolution

QUESTIONS?



ITEM 4 – LB 19-001

INTRODUCTION OF AN ORDINANCE OF THE CITY OF HAYWARD, AMENDING CHAPTER 7 OF THE HAYWARD MUNICIPAL CODE BY AMENDING SECTIONS 7-2.00, 7-2.10 AND 7-2.15 AND ADDING SECTIONS 7-2.46 AND 7-2.47 TO ESTABLISH A “DIG-ONCE” POLICY OF INSTALLING UNDERGROUND CONDUITS AND ADOPTION OF A RESOLUTION AMENDING THE MASTER FEE SCHEDULE FOR RELATED PROGRAM FEES

Introduction of Dig-Once Ordinance, Policy, and Resolution for Related Program Fees

January 8, 2019

John Stefanski, Management Analyst II



Why Dig-Once

- Encourage **cooperation** and **coordination** between cities and a variety of utility and telecommunication providers.
- Dig-Once aims to:
 - Protect newly and recently paved roads and sidewalks;
 - Ensure efficient, non-duplicative placement of infrastructure in the Public Right-Of-Way (PROW);
 - Minimize impacts from construction on residents and businesses;
 - Reduce overall costs of underground work by capitalizing on economies of scale;
 - Example: It costs \$90-\$120/ft. for an individual entity to trench and lay conduit/fiber.
 - Leverage construction for the deployment of a public communications network.

Ordinance and Policy Development

- Council adopted Fiber Master Plan recommends adopting a Dig-Once Policy.
- City engaged Magellan Advisors to assist in the development of this ordinance and policy
 - Magellan has experience developing these policies and have done so for various communities throughout California.
- Staff convened an internal working group including staff from Development Services, Public Works, Information Technology, City Attorney's Office, and City Manager's Office.
- The CTAC reviewed this draft policy at their September 13, 2018 meeting

Ordinance and Policy Structure

- Technology and physical plant in this field are changing rapidly.
 - City desires to remain nimble in the future, as technology changes.
- Proposed Hayward Dig-Once is broken into two components:

DIG-ONCE ORDINANCE	DIG-ONCE POLICY
Higher level requirements, references Dig-Once Policy.	Administrative, technical minimum standards.

Proposed Dig-Once Ordinance

- **Noticing Requirements**

- City and/or applicant required to notify all telecommunication providers of excavation and afford them the opportunity to utilize excavation to install, upgrade, co-locate, repair, or improve their facilities.
- Must be provided 30 days prior to start.
- Entities responsible for their proportionate share of costs.

- **Moratorium**

- Excavations shall not take place more than once on a particular City street within a 5-year period.
- This provision may be waived by the Public Works Director for a \$5,000 deposit.
 - Applicants under these scenarios will be responsible for repairing the roadway to it's prior standard.

Proposed Dig-Once Ordinance

- **Project Applicability**

- All construction, reconstruction, and repaving of City right-of-way shall include a provision for the installation of a public utility infrastructure, such as conduit, tube, duct, or other device designed for enclosing telecommunications wires, fibers, or cables, wherever practical and feasible.

- **Policy Maintenance and Exemptions**

- The Department of Public Works will be responsible for the enforcement and maintenance of this policy.
- The PW Director may exempt a project from these requirements in cases where it is not practical or feasible. Cost is not a factor in this determination. Appeals elevate to the City Manager.

Proposed Dig-Once Ordinance

- **Incremental Costs**

- The Department of Public Works will be responsible for determining the incremental costs of installing City communications infrastructure.
 - Examples of incremental costs are labor and materials required for installation.

- **Micro-Trenching**

- Due to the its detrimental effects on pavements, micro-trenching is not permitted without the prior express written permission from the Public Works Director.

Proposed Dig-Once Policy

- **De-Minimis Excavation Standard**

- The Dig-Once Policy requirements are only applicable when an excavation projects with a minimum length of 300ft or less if determined by the Public Works Director.

- **Design Standards**

- Sets the standards and specifications of materials for the installation of conduit and fiber.

- **Ownership & Documentation of Infrastructure**

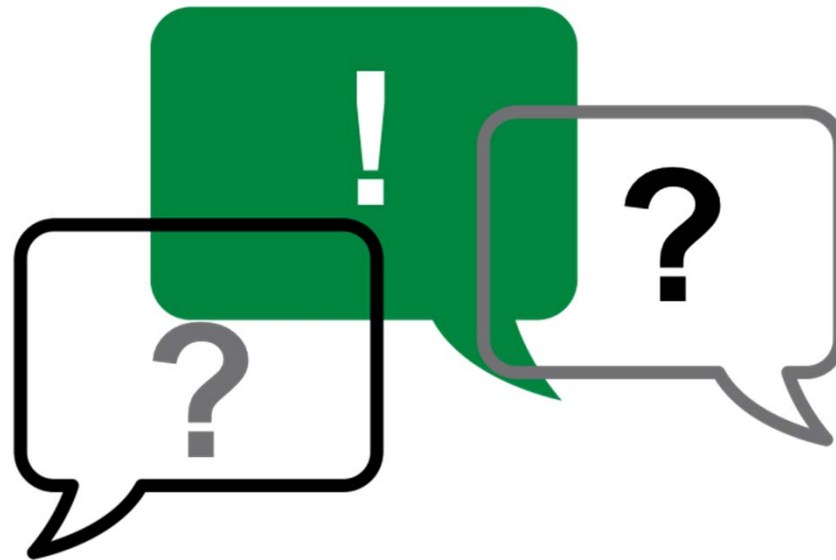
- All conduits installed under this policy will be owned by the City and will be documented in GIS whenever feasible.

Proposed Dig-Once Policy

- **Interagency Cooperation**

- The PROW permittee will be required to make a documented efforts to work with other utility agencies to co-locate infrastructure in the same trench.
- Each agency/utility shall participate in periodic coordination meetings as requested by the City.

Questions & Comments



ITEM 5 – LB 19-002

**INTRODUCTION OF AN ORDINANCE OF THE
CITY OF HAYWARD, ADDING ARTICLE 4 OF
CHAPTER 7 TO THE HAYWARD MUNICIPAL
CODE FOR REGULATING WIRELESS
COMMUNICATION FACILITIES IN THE PUBLIC
RIGHT OF WAY AND ADOPTION OF A
RESOLUTION AMENDING THE MASTER FEE
SCHEDULE FOR RELATED PROGRAM FEES**

Introduction of Wireless Ordinance and Resolution for Related Program Fees

January 8, 2019
John Stefanski, Management Analyst II



Wireless Communication Facilities (WCF)

- Small cells are antenna and related equipment that telecommunication providers deploy to increase their overall network capacity and to extend wireless coverage.



Current Situation

- Existing regulations are 21 years old.
- Telecommunication companies are rolling out 5G technology, rapidly.
 - Designed to densify coverage through “micro-cells” placed every 800ft.
 - Actively pursuing a legislative agenda to remove barriers to deployment.
- **The Takeaway:** They want to force local governments to lease out public infrastructure, eliminate reasonable local environmental and design review, and constrain the ability for local governments to negotiate fair leases or public benefits for use of public infrastructure.
- Current FCC Small Cell order attempts to do just that.

FCC Small Cell Order

- Issued by the FCC in September 2018, with an effective date of January 14, 2019.
- The Order has been appealed to the 10th Circuit Court of Appeals
 - This will delay and defer the effectiveness of the FCC's Order
 - The Order will most likely be modified following the 10th Circuit ruling.
- This Ordinance will not impair or impede the deployment of small cells and 5G.
 - The policy provides a framework for allowing these small cells in the City while protecting the interests of the Public and the usage of it's assets by private enterprise.

Ordinance and Policy Development

- City engaged Magellan Advisors to assist in the development of this ordinance
 - Magellan has experience developing these policies and have done so for various communities throughout California.
- Staff convened an internal working group including staff from Development Services, Public Works, Information Technology, City Attorney's Office, and City Manager's Office.
- CTAC Reviewed the draft ordinance at their September 2018 meeting.
- Proposed ordinance will be managed through the Public Works Department.

Proposed Wireless Ordinance

- Governs all telecommunication antennas and related facilities within the PROW.
 - Separate from the existing regulations within the Planning Code.
 - Design standards will remain consistent.
- Outlines the process for approving WCF PROW permits:
 - **Discretionary Approval:** New installations, modifications, or additions.
 - **Administrative Approval:** Routine maintenance, minor modifications, etc.
- Sets the following requirements:
 - **Noticing Standards:** 300 ft. radius of site.
 - **Term:** 10 years with two 5 year extensions.
- Provides a Pre-Submittal Review opportunity.



Master License Agreements

Proposed Terms and Conditions

Master License Agreements (MLA)

- Rollout of 5G and ongoing 4G requires a consistent and comprehensive approach across telecommunication providers.
- MLAs articulate procedures, terms, conditions the City requires when small cells are deployed on PROW infrastructure.
- Telecommunication providers are still required to execute WCF PROW permits as outlined in the Wireless Ordinance.
- These agreements will be negotiated and managed through the Department of Public Works with consultation with the City Attorney's Office. **Each MLA will require Council authorization**

MLA Terms and Conditions (1)

- **Term:** 10 years with two 5 year extensions.
- **Lease Rate:** Range from \$1,500-\$2,500.
 - Includes 4% annual rate increase.
 - “Favored Nations” Clause.
- **Fiber-in-Lieu of Payment**
 - The City may negotiate, as partial consideration paid to the City, a minimum of 6 strands of fiber and associated conduit. At the end of the MLA this infrastructure shall become owned by the City.
- **Security Deposits**
 - \$25,000 to cover any fees and costs to remedy any default under the MLA.

MLA Terms and Conditions (2)

- **Municipal Preference**

- In situations where the Licensee has the option to install equipment to either City owned poles or similar third-party poles, they shall use good faith efforts to attach to City poles.

- **Commencement of Installation**

- All installations must take place within one year of MLA execution.

- **Infrastructure Relocation**

- Per CTAC feedback, each MLA will provide flexibility for the City to relocate its leased infrastructure.

Questions & Comments

