

# **CITY COUNCIL COMMITTEE**

## **Special Meeting**

### **HOUSING AND ECONOMIC DEVELOPMENT**

**Dan Helix, Chair**

**Ron Leone, Committee Member**

**5:00 p.m., Wednesday, February 8, 2012**

**Garden Conference Room  
1950 Parkside Drive, Concord**

#### **ROLL CALL**

#### **PUBLIC COMMENT PERIOD**

1. **CONSIDERATION** – Release of Resale Restrictions for Homes within the City’s Inclusionary Housing Program and Discussion of Existing Inclusionary Program Inventory, report by Joan Ryan, Senior Planner, Housing
2. **CONSIDERATION** – Auto District Street Signage Proposal, report by John Montag, Redevelopment & Housing Manager
- 3 **ADJOURNMENT**

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Distribution: City Council  
Dan Keen, City Manager  
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John Montag, Redevelopment & Housing Manager  
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Administrative Services  
Press

**REPORT TO COUNCIL COMMITTEE ON  
HOUSING & ECONOMIC DEVELOPMENT****REPORT TO THE HOUSING AND ECONOMIC DEVELOPMENT COMMITTEE:**

DATE: February 8, 2012

**SUBJECT: Release of Resale Restrictions for Homes within the City's Inclusionary Housing Program and Discussion of Existing Inclusionary Program Inventory****Report in Brief**

This report provides information for the Housing and Economic Development Committee on staff's proposed changes to the 45-year resale restrictions placed on homes made affordable through the City's Inclusionary Program. Resale restrictions have historically been a part of the Inclusionary and First Time Home Buyer programs. Staff has received requests for the release of these resale restrictions to assist homebuyers in completing short sales to avert foreclosure.

This report also discusses the existing Inclusionary Program Inventory and potential options for new units under construction within the Inclusionary Program.

Staff recommends that the Committee review the report and provide direction on staff's recommended changes to the City's Inclusionary Program.

**Background**

Historically, the City attempted to ensure the continued affordability of each individual home in the First Time Homebuyer (FTHB) Program through long-term 45-year deed restrictions. Similarly, the City ensured continued affordability with resale restrictions for below-market rate units within the City's Inclusionary Program. The resale restriction controls resale prices thereby assisting low and moderate-income homebuyers during increasing markets, as was experienced during 2001 to 2006. In both programs, repayment of loans includes a shared appreciation provision whereby a portion of the price appreciation is to be shared with the City at the time of sale or transfer. However, by 2009 a declining residential market made these restrictions detrimental to the FTHB and Inclusionary Programs. Potential buyers and private sector lenders viewed the restrictions as particularly onerous when the dollar amount of the City's second mortgage subsidy was relatively small in comparison to the purchase price.

***First Time Homebuyer Program***

In 2009, to address this challenge, staff researched other cities and found some were taking a more programmatic approach to their FTHB Programs. These cities were providing larger per unit FTHB assistance for a shorter loan period (10 to 15 years), increasing the percentage of shared appreciation and allowing the sale of the home at market rate at the time of resale, rather than restricting the sale price.

## Release of Resale Restrictions for Homes within the City's Housing Programs

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Redevelopment funds (20% set-aside) have historically funded the City's first Time Homebuyer Program. Redevelopment law (Section 33334.3(f)(1)(B)) requires new or substantially rehabilitated housing assisted with housing funds to remain affordable for 45 years, however sales at market rates may be allowed, pursuant to an equity sharing program that protects the Agency's investment. The intent with such an approach was to recapture a larger amount of funds sooner for reuse in the Program through the shared appreciation provision. Based on staff's research, a similar approach was recommended to the Council and the Council adopted the Program changes on July 27, 2009.

Since that time, eight (8) FTHB loans were recorded without a resale restriction. There are 20 loans recorded prior to July 2009 that still retain their resale restriction. The intent at the time of the Program change in 2009 was that those loans would be examined on a case-by-case basis when owners went to sell their homes, and that staff would negotiate an increased percentage of shared appreciation in return for the release of those resale restrictions. However, due to the continued market decline there typically is no appreciation for the City to share in currently for those homebuyers wishing to sell. But, staff would negotiate the release based on the repayment of the loan and revisit the issue annually. There are no current requests.

### *Inclusionary Program*

The City's Inclusionary Program was adopted in 2004. The program requires housing developers to construct 10% of homes for moderate-income homebuyers (or 6% for low income) or alternatively pay an in-lieu fee for each unit within the development. Since 2004, the Inclusionary Program has resulted in 22 homes constructed or rehabilitated (condo conversion) and an additional 32 homes have been approved but not constructed. In addition, approximately \$1.4 million has been collected through in-lieu fees. In October 2010, the City's fee was reduced from \$17,660 to \$5,043 in an effort to reflect the decrease in housing values in Concord and to remove a barrier to the construction of new housing developments.

Most homes within the City's Inclusionary Program were built during the peak of the residential market in 2006-7 and therefore, homeowners if required to sell are typically experiencing a large loss. City Ordinance restricts these homes for affordability for 45 years. The loans also include a shared appreciation provision. There is no provision within the Inclusionary Ordinance for staff to release resale restrictions. Homeowners wanting to sell their home, previously purchased within the Inclusionary Program during the peak years (2005-07), are unable to do so due to the resale restriction attached to their home, as new buyers view the resale restriction as onerous. A number of these home loans have been lost to foreclosure when attempts at loan modifications or short sales were unsuccessful by the owner. Staff anticipates 3-4 requests this year to facilitate sales, based on inquiries by homeowners and realtors.

There is some precedent for the release of resale restrictions, for a property under a Redevelopment Disposition and Development Agreement. In November 17, 2008, the City Council cancelled the resale restrictions on 16 units at 1771 Broadway. Homeowners at that time were attempting to sell condominium units and were experiencing undue hardship caused by the affordability restrictions and market prices dropping below the restricted resale prices of the affordable units.

### Discussion

Resale restrictions were designed with an appreciating market in mind, restricting the maximum sales price to retain affordability for low to moderate-income homebuyers. Currently, the calculation of maximum

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sales prices for resale homes results in pricing typically equal to or higher than market value. The Inclusionary Program certainly did not anticipate a decline of housing prices of the magnitude experienced over the last five years. Therefore, the Program has created challenges in recent years. Owners of homes with resale restrictions who have wanted to sell their homes have been unsuccessful because so many market rate homes are available at similar or less expensive prices without a resale restriction.

The low and moderate-income homeowners that have utilized the City's FTHB Program and/or the City's Inclusionary Program have been impacted to a large degree by the economy. Five homes within the City's inventory have been lost to foreclosure over the last three fiscal years, with two additional homes pending foreclosure, short sales and/or the loan modification process. A foreclosure generally eliminates the resale restriction placed on homes through the City's Inclusionary and First Time Homebuyer Programs and deflates home values within the broader neighborhood.

The City has three categories of housing units with resale restrictions for a total of 31 units, as noted below. In some cases, the homebuyers of an Inclusionary Unit also received a FTHB Program loan.

### Summary of Resale Restrictions

	Resale Restriction	No Resale Restriction
First Time Homebuyer Program	9	8
Inclusionary Program (BMRs)		
Includes FTHB Loan	11	
Without a FTHB Loan	11	
<b>Total</b>	<b>31</b>	<b>8</b>

### Current Situation

A number of realtors and owners of units with properties under the Inclusionary Program recorded resale restrictions have approached staff requesting the release of the restriction. These owners have been in the process of completing short sales to avert foreclosure. These owners have found it extremely difficult to sell due to the resale restriction recorded against their homes. The restriction limits the amount the owner can ultimately sell their home for and therefore potential homebuyers view the restriction as onerous when so many other homes are available at similar or lower prices, without a resale restriction attached. Currently, owners are selling their homes at market price or at a negotiated short sale price below market. In both situations, these prices are far below what the maximum sales price would be as allowed by the City's Resale Restriction Agreement, which is tied to increases in State income limits.

Based on the last request for the release of a resale restriction, the City Attorney's office advised Housing staff to prepare a list of criteria to use when considering future requests for release from their Inclusionary Program resale restrictions. As a result, Staff prepared a list of proposed criteria in consideration of such releases, as shown on page 5 of this report.

Staff recommends the release of resale restrictions for homeowners on a case-by-case basis, and believes it will have the following benefits to the City, the seller and the buyer:

- the home sale could move forward thereby assisting the new buyer;
- the foreclosure would be averted, reducing further financial hardship to the seller;

## Release of Resale Restrictions for Homes within the City's Housing Programs

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- the vacant home will be occupied more quickly stabilizing the neighborhood;
- the taxes and homeowners' association (HOA) fees will once again be collected from new owner, assisting HOAs with funding for maintenance;
- the new owners are likely to improve the deteriorating appearance of vacant properties.

### Inclusionary Program and Unit Inventory

Staff has also been considering the options for inclusionary units not yet built, but on the books within approved projects. There is currently little differential between the sales prices set for inclusionary units per the code and market rate units and therefore potential buyers lose interest once they become aware of the resale restriction. As an example, the current "affordable" price for the inclusionary unit at the Wisteria project is \$315,000. Although lower than the market pricing (\$355,000 to \$375,000) the price has not generated a large amount of homebuyer interest, due to the resale restriction on the home. The City's Housing consultant, Keyser Marston, has indicated that a 25% differential or more is typically required to generate homebuyers interest and follow through in purchasing a home with a 45-year resale restriction. In the Wisteria example, if market price is at \$355,000, interest level would typically not be strong for a home with a resale restriction unless priced at \$262,000 or lower. This is the case with the Wisteria development located on Willow Pass Road (Attachment 1), where only a handful of applications were submitted since August and two were cancelled by the owner once they understood the limitations of the resale restriction.

Lack of interest is attributed to the residential market and economy in general and the number of homes available for sale at a similar price point. Staff conducted a quick survey utilizing a local real estate broker in November, and approximately 69 percent of the homes sold at a price currently defined as "affordable" to moderate income homebuyers as defined for new developments. The following homes were found to be available on the multiple-listing service above and below the "affordable" price of \$315,000, within the City of Concord.

#### **Current Listings within Concord (Nov. 2011)**

	<b>Under \$315,000</b>	<b>Over \$315,000</b>	<b>Total units</b>	<b>% sold under affordable price</b>
Active	173	91	264	66%
Pending	339	89	428	79%
Sold Aug. 1 to date	314	139	453	69%

### Impact on RHNA

The City is required to respond to its "fair share" of the projected future housing need in the region. The regional housing need is determined by the Association of Bay Area Governments (ABAG) based upon an overall regional housing need established by the State. In accordance with State law, ABAG has determined the fair share of the regional housing need allocation (RHNA) that must be planned for by the City during 2007 to 2014 planning period. This need is divided into four income categories of housing affordability that are represented within the City's Housing Element (Chapter 3).

FTHB homes that do not have a resale restriction are not counted toward our RHNA numbers, but they do help meet a program goal within the Housing Element. Those units generated through the City's Inclusionary Program with a 45-year resale restriction are included toward the RHNA counts. Staff would

need to adjust the City's RHNA count, as needed within the next Housing Element (2014-2021), for any resale restrictions released for homes within the Inclusionary Program. However, staff anticipates this to be a minimal number each year and will revisit the issue annually, as the market improves.

Staff's Recommendations

The City's Redevelopment and Housing consultant Keyser Marston was asked if any other local jurisdictions are adjusting their Inclusionary Ordinances. Based on their response, staff is suggesting a few options for discussion:

- Amending the City Inclusionary Ordinance to provide release of the restriction on a case-by-case basis to homes within the Inclusionary inventory, similar to the provision allowed for FTHB units using the following criteria:
  - Owner has maintained Good Faith Effort ~ by maintaining home in good condition, contacting City, retaining a realtor or attempting to work with lender through a short sale process;
  - Owner has marketed home with realtor for a reasonable market price (based on appraisal, in consideration of restriction);
  - Owner has not been able to obtain a reasonable purchase offer within last 4 months;
  - Owner has an Income Eligible Low or Moderate-Income buyer;
  - Owner has buyer that will own and occupy the unit, not use the unit as a rental;
  - Owner has a current Notice of Default on the property; and/or
  - Owner has not used or has paid off City FTHB or BEGIN funds received as down payment assistance in purchase of the home.

*Staff Analysis: This option is acceptable for the short-term as it would prevent homes from stagnating on the market, but should be revisited annually, as the economy improves.*

- Requiring developers to provide units at the Low Income level for the Inclusionary Program. Currently, the City's Inclusionary Ordinance allows the construction of 10% of units for Moderate Income Homebuyers or 6% for Low Income level. Because there is current evidence that there is a large amount of housing within the City at the moderate income level, the City could focus efforts solely at the Low-Income level (80% of Area Median Income). Such income levels would be represented at \$65,750 for a family of four.

*Staff Analysis: This option would not be attractive to developers as it would cost them more money and they would most likely opt to pay the in-lieu fee.*

- Allowing developers that have already signed inclusionary agreements to pay in-lieu fees instead.

*Staff Analysis: The reduced fee amount (\$5,043 per unit) would yield less funding and not assist the City in meeting our affordable housing goals over the long-term. However, vacant homes that are not able to be sold create a hardship on the developer and can pose neighborhood issues. This option is recommended for short-term but should be revisited annually, as the economy improves. The in-lieu fee should also be revisited annually, as the market improves.*

**Fiscal Impact**

The release of resale restrictions within the Inclusionary Program on a case-by-case basis would have minimal fiscal impact. It could have a slightly beneficial impact in that homes could sell faster without the resale restriction. However, it could also result in less affordability in the market over the mid- to long-term. Staff does not anticipate substantial increases in the housing market in the short to mid-term, and particularly not those reflected by the housing bubble generated during 2003-2006.

**Public Contact**

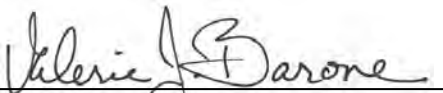
Agenda posted.

**Recommendation for Action**

Staff recommends that the Committee review the report and provide further direction on staff's recommended changes to the Inclusionary Program.

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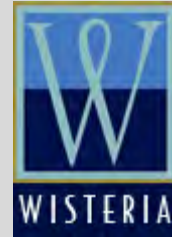
  
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Attachment 1: Wisteria Inclusionary unit flyer and pricing

## WISTERIA OFFERS A \*BELOW MARKET RATE HOME!

**Available for \$315,000**



**Unique and Distinctive Homes**

**Located in the Heart of  
Downtown Concord**



### **3 Bed, 3.5 Bath Home** (approx. 1726 sq. ft.)

#### Amenities

- Whirlpool Stainless Steel Appliances
- Granite Countertops
- Fireplace
- Upper Balcony off Living Room
- Attached Garage
- Close to two BART stations
- Walking Distance to Todos Santos Plaza with Restaurants, Shops and Farmers' Market

**First Time Home Buyer  
Down Payment Assistance  
Funds Are Available  
Through The City Through  
BEGIN Funds.**



These homes represent an amazing opportunity for qualified buyers. **All applications will be processed on a first-completed, first-served basis beginning October 22nd, 2011.**

#### **3 WAYS TO GET STARTED:**

See if you qualify! Applications can be downloaded or requested by phone or e-mail.

1. Log on: [www.homebricks.com/wisteria](http://www.homebricks.com/wisteria)
2. Call: (415) 495-HOME (4663), Option 618
3. Email: [cityofconcord@homebricks.com](mailto:cityofconcord@homebricks.com)

Household Members	Income 120% Limits
1	\$77,550
2	\$88,600
3	\$99,700
4	\$110,750
5	\$119,600
6	\$128,450

To Qualify:  
Incomes must not exceed limits by household size in table to the right

[WISTERIACONCORD.COM](http://WISTERIACONCORD.COM)



**REPORT TO COUNCIL COMMITTEE ON  
HOUSING & ECONOMIC DEVELOPMENT****TO HONORABLE COMMITTEEMEMBERS:**

DATE: February 8, 2012

**SUBJECT: AUTO DISTRICT STREET SIGNAGE****Report in Brief**

The Committee is asked to provide input and direction regarding the installation of signs along street fronts to define and brand Concord's Auto District. The proposed new signage would do the following:

- Increase awareness of Concord's 16 auto dealerships
- Support Concord's major sales tax industry
- Support Concord's efforts to market the City as the Car Capital of the East Bay
- Foster Goodwill with Concord's dealerships
- Improve customer service by providing directional signage to potential car buyers

**Background**

The City of Concord is the home to 16 new car dealerships. These dealerships represent a wide range of car choices from trucks to luxury models. The majority of these dealerships are sales leaders in their respective line of cars. As a result, Concord sells more cars than any other East Bay community.

Recognizing the important role Concord's auto dealerships have in generating sales tax, the City has, in the past and recently, taken actions to bolster the City's relationship with its dealerships. In particular the City, through its Redevelopment Agency, facilitated the development of Market Street into an auto row of high end and popular car brands. The City's Economic Vitality Strategy supports creating partnerships with its auto dealerships to promote Concord as a car buying destination. In the past, the City has supported Concord dealerships in hosting auto sale events at Waterworld and facilitated showcasing new cars during downtown events. Last year, the City partnered with its dealerships to host the first-ever Concord Auto Extravaganza Sales Event held President's Day weekend where Concord was branded the "Car Capital of the East Bay" and encouraged people to buy their next car in Concord. The event was successful and was well received by the dealers and the public.

**Discussion**

An opportunity exists to continue to support Concord's auto dealerships by branding the area where they are located as one unified area. Unlike other communities where all new dealerships are located along one main road or auto row, most of Concord's dealerships are located along three main roads. In addition, many dealerships in other communities are part of an association or pay into joint marketing programs through covenants, conditions, and restrictions on the dealerships to promote themselves in one unified manner. In Concord the dealerships operate autonomously and do not work on joint marketing efforts except for City initiated activities such as the Concord Extravaganza Sale event held last year.

In light of the need to continue to initiate partnerships with Concord's auto dealerships, a signage program to identify the area of Market Street, Concord Avenue, Burnett Avenue, Marsh Drive, and Meridian Park Boulevard as "Concord's Auto District" (see Attachment 2) could be created. This branding activity will support Concord's efforts to communicate the City's position as the "Car Capital of the East Bay." When car buyers come to Concord, they will be greeted by directional signs leading them to the areas where Concord's auto dealerships are located. This will enhance the shoppers experience and direct them to Concord's 16 dealerships. This signage will also foster goodwill with Concord dealerships by demonstrating that the City, with its limited funding, continues to look for ways to support its dealerships. If more shoppers are successful in purchasing cars in Concord, then more revenue is generated which goes back to the community to support important services that make Concord a premier location to live, work, and do business.

**Signage Design and Cost**

Attachment 1 to this report shows a first draft of a sign design concept that would be placed on traffic signals at highly visible intersections as shown on Attachment 2 (District Map). The signage would include two signs, one with the street name and one with proposed signage per location. Staff estimates there are approximately 30 locations where the new signs would be installed.

The proposed design and placement of the signs are initial ideas and still need input from the dealerships as well as from this Committee. The sign design is somewhat limited based upon traffic codes and placement. Staff will investigate other ideas and sign options based on input from dealership representatives and Committee members.

The signs would be manufactured using an outside vendor at a cost of \$300 per location, for a total estimated cost of \$9,000. Installation of signs, including staff labor and sign hardware, is estimated to cost approximately \$18,000. Therefore, the total estimated cost of manufacturing and installing the new street signs is approximately \$27,000.

**Next Steps**

Staff would incorporate the Committee's input and outreach to Concord auto dealerships to solicit their input on the sign project. A final design would then be created. Timing for creating and installing signage is estimated to take approximately 90 days once design is finalized and approved.

Creating and installing street signs does not require a Council action, but given that the proposed signs represent a new program and have an associated cost of \$27,000, Staff will take the proposed auto dealership sign program to the full City Council for approval.

**Fiscal Impact**

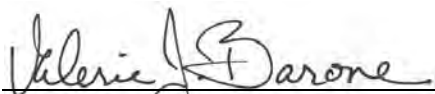
The cost for producing the proposed signs is estimated at \$9,000, and the cost for City staff and hardware to install the signs is estimated at \$18,000. The total estimated cost for the program would be \$27,000. It is also recommended that City staff approach the dealerships to ask them to partner on the costs for this new branding program for the auto district, which could reduce the City cost to implement the program. If the auto dealers fully funded the program it would cost approximately \$1,688 per dealership (\$27,000/16 dealerships).

**Public Contact**

Staff has discussed the street sign concept, except the cost, with four Concord dealerships. All encouraged the City to pursue this concept and continue this conversation with them as the idea begins to take shape. In addition, a letter inviting the dealerships to attend this meeting was sent on January 30, 2012.

**Recommendation for Action**

Provide input and direction on the proposed street signage concept. It is also recommended that staff begin additional outreach to all interested dealerships to gain input on signage concept and to see if dealerships would be willing to fund the cost of the program.



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Reviewed by: Victoria Walker  
Director of Community and  
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Reviewed by: Valerie Barone  
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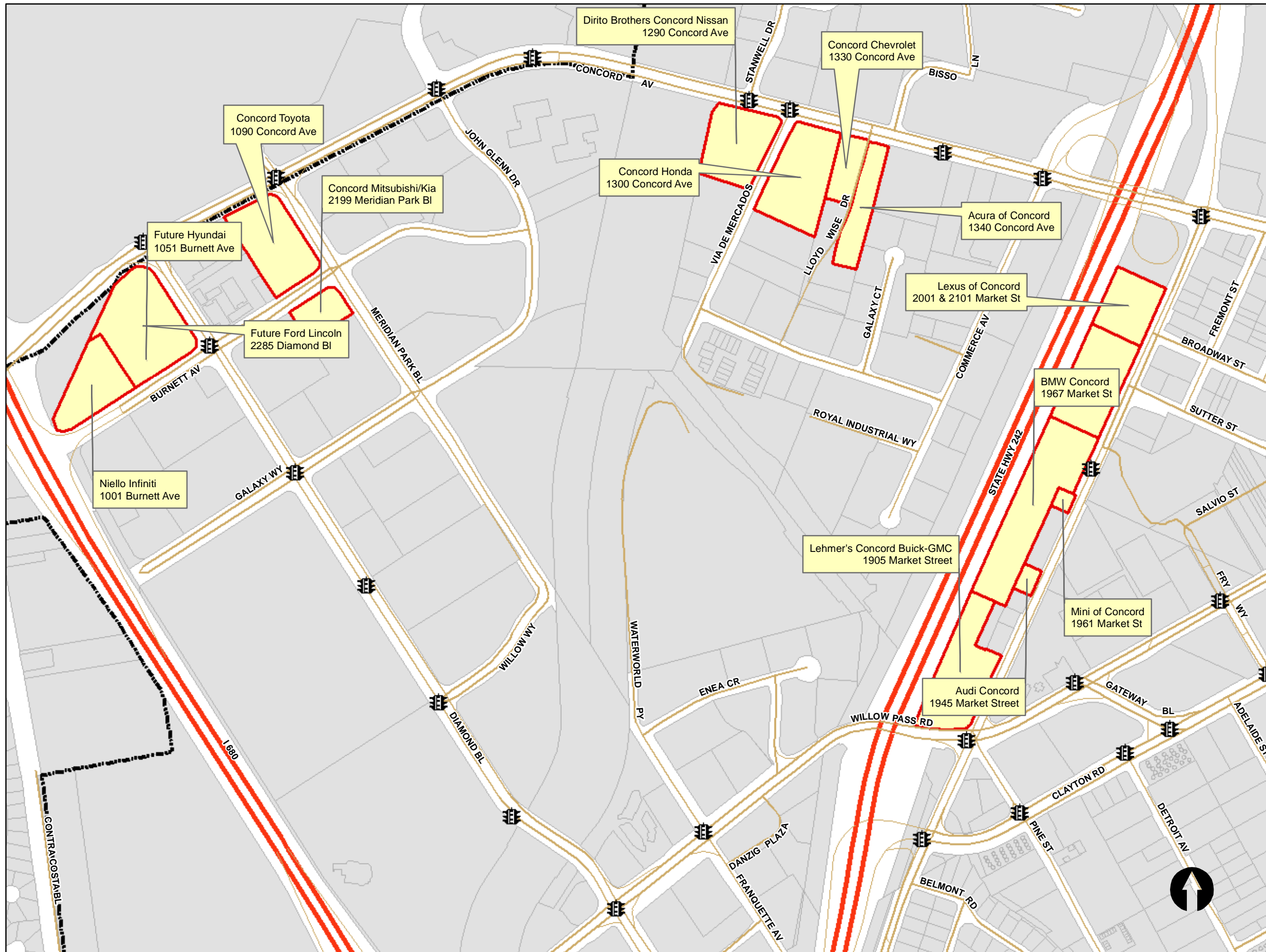
Attachment 1: Draft Sign Design Concept

Attachment 2: District Map

**Market St**

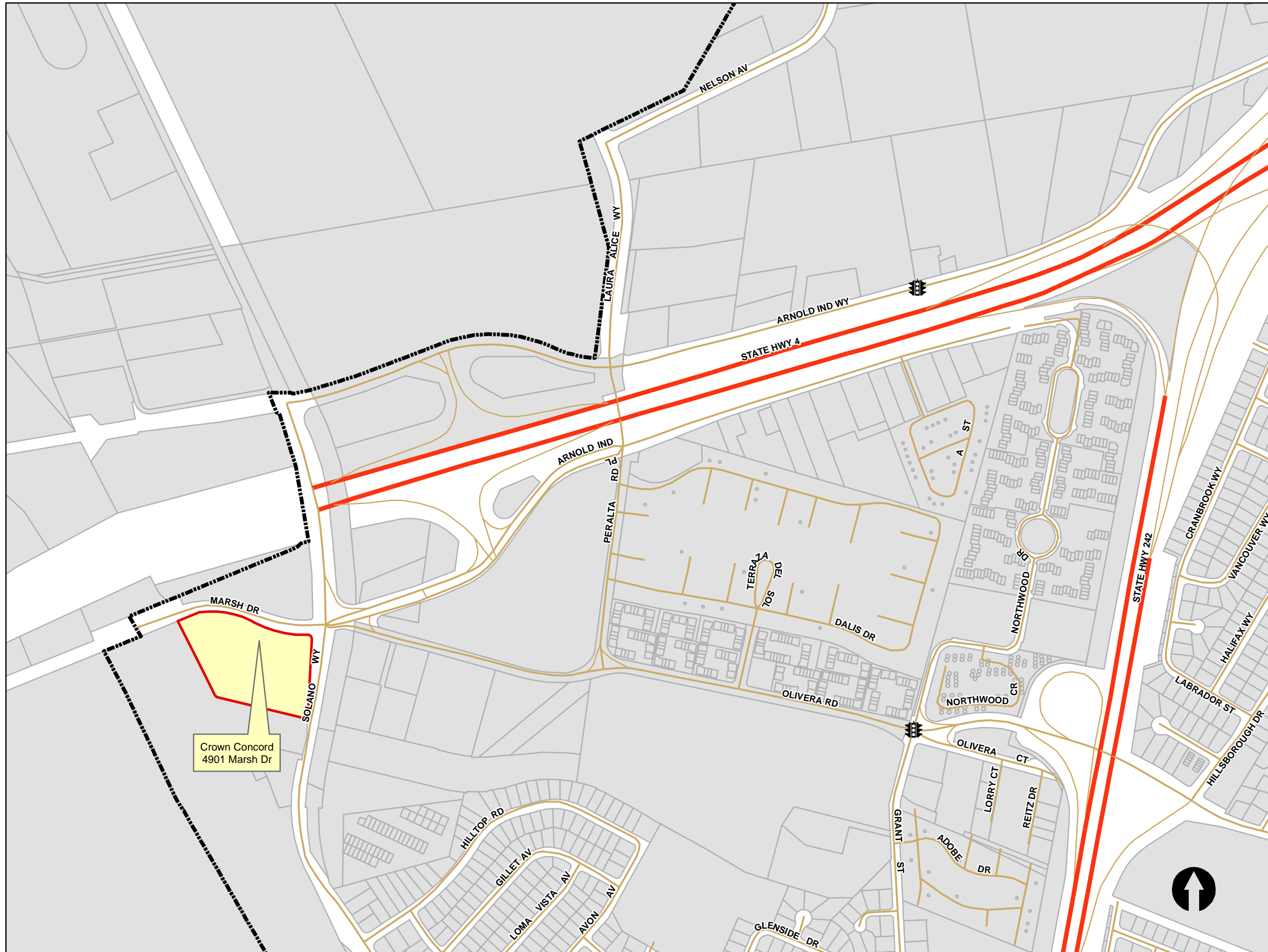
**Concord's  
Auto District**








- Legend**
- City Limit
  - Dealerships
  - Traffic Signals





### Legend

-  City Limit
-  Dealerships
-  Traffic Signals

