



DATE: October 29, 2019

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Proposed Development of a Mixed-Use Project Consisting of 189 Condominium and Townhome Units; Approximately 10,800 Square Feet of Ground Floor Commercial Space; a Variety of Open Spaces; and Related Site Improvements Requiring Approval of a Purchase and Sale Agreement and Zone Change and Tentative Tract Map Application No. 201806355

RECOMMENDATION

That the City Council introduces the Ordinance (Attachment II) approving the Zone Change to Planned Development District and adopts the Resolution (Attachment III) approving the Vesting Tentative Map and Infill Checklist prepared for the project subject to findings and conditions contained therein; and, adopts the Resolution (Attachment IV) approving Government Code Section 52201 Summary Report and authorizing the City Manager to negotiate and execute a purchase and sale agreement with TTLIC Management, Inc. (the "Developer") for specified properties located in South Hayward near Mission Boulevard and Tennyson Road (Caltrans Parcel 2) and making specified findings in association therewith.

SUMMARY

The proposed project includes a Zone Change from S-T4 (South Hayward Form Based Code, T4) District, CN (Neighborhood Commercial) District, and RM (Medium Density Residential) District to PD (Planned Development) District to allow for a consistent and orderly development pattern across the 12.2-acre project site. The higher density, mixed use development would front Mission Boulevard and the relatively lower density townhomes would be sited at the steeply sloped, rear portion of the site, which is consistent with the underlying General Plan land use designations.

The proposed development is located within one-half mile of the South Hayward BART Station and would consist of: 189 residential units; approximately 10,800 square feet of ground floor commercial uses; an approximately 8,300 square foot park/plaza; a 17,165 square foot dog park; a bicycle and pedestrian trail that would run through the project site; and, an additional acre of group and private open space scattered throughout the site. The proposed project is subject to a Purchase and Sale Agreement between the City and the applicant, The True Life Companies, for the sale and disposition of former Caltrans-owned properties (referred to as Parcel Group 2) along the Mission Boulevard corridor.

BACKGROUND

The project site is composed of two parcels. Parcel 1 is privately owned by the project proponent. The site was previously developed with a gasoline service station, a roller-skating rink, and a contractor's yard, which have since been demolished and the site remediated. Currently, the site is vacant.

Parcel 2 was formerly owned by Caltrans as one of the 400 parcels purchased for the planned construction of the 238 Bypass Freeway project that was abandoned in the 1970s. On January 12, 2016, the City Council adopted Resolution No. 16-004¹, authorizing the City Manager to negotiate and execute an agreement with Caltrans to acquire 17 properties along the 238 Bypass Corridor to remediate blight, support transit-oriented, mixed-use development, and ensure redevelopment of the properties under a coherent plan that meets the City's land use goals and other public purposes.

On April 17, 2018, the City Council adopted Resolution No. 18-063, authorizing the City Manager to enter into an Exclusive Negotiating Rights Agreement (ENRA), with The True Life Companies, the applicant, to develop a conceptual land use plan for Parcel Group 2 of the Route 238 Corridor Lands Development Project. The goal of the land sale was to promote economic development opportunities and create transit-oriented development with public open spaces near the Mission Boulevard/South Hayward BART Station area.

On December 3, 2018, the Council Economic Development Committee² (CEDC) considered the sale of the former Caltrans parcel (Parcel 2) in conjunction with the larger, mixed use development. The CEDC responded positively to the proposed development and recommended that the applicant increase the amount of on-site parking to the greatest extent practicable. In response, the applicant added street parking along Street C that connects the project site to Tennyson Road, and designed the ground floor garages in the mixed-use buildings to allow for installation of car lifts if future parking demand at the condominiums exceeds the supply.

On October 10, 2019, the Planning Commission held a public hearing and voted 6:0:0, to recommend that the Council approve the proposed project. Prior to the Commission meeting, two residents submitted written comments recommending design and phasing concerns but voicing general support for the project. One public speaker at the meeting also voiced support for the proposed project with a caveat that they did not like the scale and bulk of the mixed-use buildings along Mission Boulevard. Commissioners asked clarifying questions about the project and recommended additional conditions of approval that the applicant make every effort to incorporate public art into the project, and to ensure that all retaining walls be designed to complement the proposed architecture and landscaping through use of color, texture and materials (added as proposed Condition Nos. 25d and 25g). With the added conditions, the Commission felt that the Council could make

¹ City Council Resolution No. 16-004: <https://hayward.legistar.com/LegislationDetail.aspx?ID=2545810&GUID=E2696F73-E81C-438B-8B7B-0F9DD081A836&Options=&Search=>

² CEDC Meeting Minutes: <https://hayward.legistar.com/LegislationDetail.aspx?ID=3767561&GUID=89B33E5D-C851-4845-95B6-2AE2CEB1CDE1&Options=&Search=>

the findings to approve the project, as conditioned. The Draft Meeting Minutes are included as Attachment IX to this report.

Project Description

Existing Conditions: The project site is composed of two parcels that total about 12.2 acres. Parcel 1 is a rectangular parcel that totals about 4.65 acres and is located at 29212 Mission Boulevard (Assessor's Parcel Number (APN) 078C-0445-001-04). Parcel 2 is an irregularly shaped parcel that abuts Parcel 1 on the south and extends from Mission Boulevard on the west to Tennyson Road on the north. Parcel 2 totals about 7.6 acres (no address, portion of APNs 078C-0461-10, -11, -12, -13, and -14). Combined, Parcels 1 and 2 extend for approximately 400 feet along Mission Boulevard and slope up about 90 feet in elevation to the eastern and northern parts of the project site. The vacant parcels are largely covered in vegetation and 13 trees.

Parcel 2 was never developed; however, the western half of Parcel 1 was previously developed with a gas station, contractor yard and a roller-skating rink, all of which have been demolished. The site was listed on the Regional Water Quality Control Board's (RWQCB) GeoTracker database due to possible contaminants related to the previous service station use. On August 15, 2019, following clean-up and monitoring activities on the site, the RWQCB publicly issued a Uniform Closure Letter and Case Closure Summary for the property (See Attachment VI, Infill Checklist Section 6.9 for more information).

Surrounding land uses include: the Tennyson Road extension and planned La Vista Park to the north; the Ersted Development project consisting of 59 attached single family homes to the east; the Mission Seniors project consisting of 203 condominium units to the south; and the Sohay development to the south and west across Mission Boulevard. Commercial and multi-family uses extend north and south of the project site along Mission Boulevard. The South Hayward BART Station is located approximately 0.3 miles from the project site.

DISCUSSION

Project Description: The proposed project requires a Zone Change from S-T4 District, CN District, and RM District to PD (Planned Development) District to allow for a consistent development pattern across the site; a Vesting Tentative Map; and approval of a Purchase and Sale Agreement for Parcel 2.

The proposed project would result in the development of 189 residential units, approximately 10,800 square feet of ground floor commercial uses, and related site improvements. The residential units would be split into 66 for sale condominium units within two mixed-use buildings (referred to as Mixed Use Buildings A and B) fronting Mission Boulevard, and 123 townhomes located within 23 separate buildings. The development would be clustered on the southern and western portions of the site due to steep slopes in the eastern and northern parts of the site with the mixed use and high-density residential uses along Mission Boulevard and the relatively lower density townhomes tucked behind the mixed-use development. Please note that the following Project Description references specific Sheets in Attachment V, Project Plans.

Mixed Use Development. Mixed Use Building A (Sheets A1.01 through A1.07) would contain 45 residential units, 8,049 square feet of ground floor commercial space fronting Mission Boulevard, and ground floor parking tucked behind the commercial tenant areas. Of the 45 residential units within the building, 24 would be two-bedroom units and 21 would be three-bedroom units. The structure would contain two ground floor lobbies measuring approximately 265 square feet and 481 square feet each, and the larger lobby would also provide access to a ground floor mail room and separate package room. Residents would have access to two rooftop terraces measuring approximately 350 square feet and 1,622 square feet each. Although a specific tenant has not been identified, the applicant has signed a letter of intent with a national daycare provider to occupy the ground floor commercial space.

Mixed Use Building B (Sheets A1.08 through A1.14) would contain 21 residential units and approximately 2,773 square feet of ground floor commercial area and ground floor parking tucked behind the commercial tenant area. Of the 21 residential units within the building, nine would be two-bedrooms and 12 would be three-bedroom units. The building would contain a 200 square foot ground floor lobby and an approximately 795 square foot rooftop terrace. The condominium units would be two- and three-bedroom units ranging from 1,127 square feet to 1,371 square feet in size (Sheets A1.15 through A1.18).

The mixed-use buildings would be four stories with ground floor commercial and garage uses and residential uses on upper floors. The buildings would reach between 45-55 feet in height to the roof structure, while decorative rooftop and building elements would reach up to 60-65 feet in height. The buildings would have a contemporary architectural style with flat roofs and horizontal and vertical building elements differentiated by off-set planes and a variety of colors and materials. Residential units would have exterior balconies with decorative perforated metal screens.

The ground floor commercial storefronts along Mission Boulevard would be designed with substantial glazing, a projecting canopy, steel tube columns, and decorative streetscape elements such as concrete planters and bollards. The ground floor garages would have large openings screened with perforated metal screens to allow in light and to break up the ground floor massing. The rear elevation of Building B, which fronts a proposed multi-use trail, would have perforated metal screens decorated with a printed image to create visual interest along the pathway.

According to a parking summary prepared for Building A, 29 of the condominium units would have access to one garage or carport space; eight of the units would have access to two parking spaces in a tandem configuration within the garage; and eight of the units would have no specific parking associated with the unit resulting on a one unit to one parking space ratio, but an uneven distribution of parking spaces across residential units. Building B would contain 21 parking spaces within the ground floor garage resulting in a ratio of one residential unit to one parking space ratio. Recognizing that there may be a future demand for additional parking for the condominium units despite the project's close proximity to the bus lines along Mission Boulevard and South Hayward BART, the applicant designed the

ground floor garages with enough height to allow for installation of a “stacked parking system” (Sheets A1.06 and A1.13).

In addition to the parking for residential uses, a total of 96 additional parking spaces (33 guest parking spaces and 63 parking spaces for the commercial uses) would be distributed on-street and throughout the site (see Sheets P3.0 and P3.1 for summary and locations).

Townhome Development. The townhome buildings would range from four- to seven-plexes, have two different architectural styles (A and B) and four different color schemes resulting in a variety in size, style and color (Sheet A2.10 for Townhome Style Index). Like the mixed-use buildings, the townhomes would have a contemporary architectural style with shed rooflines, horizontal and vertical building plane breaks, and a variety in color and material such as the use of horizontal siding to break up the massing of the buildings. All of the townhome units would be three- and four-bedroom units ranging from 1,548 square feet to 1,970 square feet in size. The units would have three levels with a garage and a den on the ground floor, the main common living area (kitchen, living room) on the second floor and bedrooms located on the second and third floors (Sheets A2.01 through A2.09). The building height would range from 36 and 42 feet, depending on roof elements.

The townhomes would front shared paseos that would be approximately 22 feet in width and garages would be accessed from shared private roadways. Each unit would have a two-car garage with 65 of the garages oriented in a side-by-side configuration and 58 of the garages oriented in a tandem configuration.

Bicycle Parking. The mixed-use buildings would contain short and long-term parking for both the residential and commercial uses. Building A would provide 24 long-term bicycle parking spaces for residential uses and four long-term spaces for commercial uses, and a total of ten short term bicycle parking spaces for both residential and commercial uses.

Building B would provide 12 long-term bicycle parking spaces for residential uses and two long-term spaces for commercial uses, and a total of seven short term bicycle parking spaces. Long term parking would be located within the lobbies and garages of the mixed-use buildings while short term bicycle parking would be sited near commercial and lobby entrances and around the park/plaza. See Sheets A1.03, A1.10 and Landscape Plans for long-term and short-term bicycle parking locations.

Circulation. The main entrance to the development would be located along Mission Boulevard between Mixed Use Buildings A and B at the existing Valle Vista signalized intersection. The main entrance would lead to Street A and Loop B, which would provide access to the mixed-use building garages and townhomes. Loop B would connect to Street C, which would provide a secondary access from Tennyson Road. Private drive aisles would provide access from Street A to the townhome garages.

Pedestrian circulation would be provided through sidewalk connections from Mission Boulevard up Street A to the east and north and south along paseos. In addition, an approximately 1,400-foot-long multi-use trail would run from the southern property boundary to the northern property boundary at Tennyson Road. The proposed trail would

align with an approved trail that would run northward from the Sohay development through the Mission Seniors development to the subject site. The multi-use trail would be 10-12 feet in width and would be covered by a public easement but would be privately maintained. See Sheet C4.0, which shows the pedestrian and vehicular circulation networks.

Open Space, Landscaping & Walls. In addition to the planned multi-use trail, the proposed development would contain a variety of common and private open space features. Approximately 11,277 square feet of private open space would be provided on decks, while approximately 41,587 square feet of common open space would be provided within rooftop terraces (for the condominiums), in the paseos (for the townhomes), and in a variety of small pocket parks and nodes located throughout the development (near Townhome Buildings 19 and 23; and near Townhome Buildings 13 and 14).

According to the Arborist Report, 20 on- and off-site trees that were evaluated as part of the project are considered protected. A total of four trees would be removed, three trees would be relocated, and 660 trees would be planted in conjunction with the proposed project (see Sheet L-1 and L-12.2). In addition, the development would include an 8,200 square foot urban park between Mixed Use Buildings A and B that would connect to the plazas fronting the commercial uses along Mission Boulevard. The park would be programmed with a variety of amenities such as decorative seating, pergola, tables and benches, string lights, an outdoor kitchen/barbeque, and community fire pit. Other on-site amenities include: an overlook area at the terminus of Street A; a deck over the bioretention area between Townhome Buildings 6 and 7; and an approximately 17,165 sq. ft. dog park and trail linking to Street C at the northeastern corner of the site. See Sheets L6, L10.1 and L-2 for details.

Sheet L-13.1 provides a Wall and Fence Plan for the proposed development. A variety of decorative retaining walls and fences would be installed along the property boundaries and along the eastern portions of the site. Retaining walls would be decorative and conform as closely as possible to the contours of the hills, particularly behind Townhome Nos. 15-18.

Policy Context and Code Compliance

Hayward 2040 General Plan: The proposed project site is split into two separate parcels with three General Plan land use designations (Sheet P1.0)³. Parcel 1 has a Sustainable Mixed-Use (SMU) General Plan land use designation. The SMU designation generally applies to areas near regional transit that are planned as walkable urban neighborhoods and allows residential development with a density range between 4.3 and 100 dwelling units per acre and commercial and retail uses at maximum 2.0 Floor Area Ratio (FAR).

Parcel 2 is split between the Medium Density Residential (MDR) General Plan land use designation for the easternmost 3.3 acres and Retail and Office Commercial (ROC) General Plan land use designation on the western 4.3 acres. The purpose of the MDR designation is to allow for a variety of housing types, while the purpose of the ROC designation is to allow commercial and mixed-use development along major arterials. The MDR allows residential

³ General Plan Land Use Overview: <https://www.hayward2040generalplan.com/land-use/intro>

development up to 17.4 units per acre; and the ROC land use designation allows for mixed use development with up to 17.4 units per acre and up to 0.6 FAR for commercial development.

Per the General Plan, residential density is calculated by dividing the number of housing units proposed on the site by the net acreage of the site. Net acreage excludes land required for public or private streets, public parks, and other public facilities (General Plan 3-4). According to the project plans, the average net density on Parcel 1 (designated SMU) is 24.42 units per acre; and the average density on Parcel 2 (designated MDR and ROC) is 16.43 units per acre; therefore, the average densities would not exceed the density allowed on each parcel. The proposed commercial development (approximately 10,800 square feet) is well below the FAR limits established in the ROC and SMU General Plan designations.

The *Hayward 2040 General Plan* contains policies to allow for flexible development standards for a site that is composed of multiple land use designations and to “encourage infill residential developments that provide a mix of housing types and densities within a single development on multiple parcels. Individual parcels within the development may be developed at higher or lower densities than allowed by the General Plan provided that the net density of the entire site is within the allowable density range” (General Plan Policy LU-3.5).

In addition to consistency with the General Plan land use designations, the proposed mixed-use, transit-oriented development is consistent with numerous General Plan Goals and Policies, including but not limited to the following:

- Support development of compact, mixed use and walkable neighborhoods within the City’s Priority Development Areas; near regional transit; within the South Hayward neighborhood; and that integrates a mix of land uses into new and established neighborhoods (General Plan Land Use Goal 2 and Policies LU-1.5, LU-1.6, and LU-2.8).
- Create complete neighborhoods with a mix of densities and uses and that provide convenient access to parks and other community amenities and foster commercial and social activity for nearby residents and businesses (LU Goals 3 and 4 and Policies LU-3.5, LU-4.1, and LU-4.3).
- Design mixed use neighborhoods to place retail frontages and outdoor gathering spaces along the public right-of-way while locating parking at the rear of the building; and enhance development with landscaping, lighting, planters and other amenities. Develop highly connected block and street networks; provide alley loaded garages for townhome development; locate parking for multifamily development below apartment buildings; and ensure that windows front streets and public right-of-way (Policies LU-3.4 and LU-3.5).
- Develop a comprehensive, integrated and connected network of transportation facilities to serve all modes of travel (Mobility Goal 1 and Policy M-8.4).
- Encourage active lifestyles and the development of urban infill parks where traditional, large-scale neighborhood and community parks are not appropriate; and construct infrastructure improvements in existing neighborhoods to enable people to drive less and walk, bike or take public transit more (Health and Quality of Life Goal 2 and Policies HQL-10.4 and HQL-11.2).
- Encourage the development of transit-oriented development and placement of residential uses close to services (H-3.2 and H3.4).

Zoning Ordinance: The proposed project site is composed of multiple parcels with a variety of zoning designations. The locations of the various zoning districts are shown in Attachment V, Sheet P1.1, and the specific acreages and zoning districts within the project area are as follows:

- Urban General Zone (S-T4) District⁴, 4.3 acres. Consists of mixed use but primarily residential urban fabric at 17.5 to 35 units per net acre. Includes a mix of building types such as townhouses, apartment buildings, mixed-use buildings, and commercial buildings.
- Neighborhood Commercial (CN) District⁵, 4.6 acres. The purpose of the zone is the provision of interconnected commercial and mixed-use developments with nearby residential neighborhoods.
- Medium Density Residential (RM) District⁶, 3.3 acres. Allows for detached and attached single family development and multi-family development with density that depends on site layout and orientation.

Pursuant to HMC Section 10-1.2505, the purpose of the PD District is to encourage development and redevelopment through efficient and attractive space utilization that is harmonious with characteristics of the land and incorporates open space, recreational opportunities; and to foster well designed development that incorporates a variety of housing types by allowing a diversification of uses, building architectural designs, lot sizes, yard areas and open spaces that may not be achievable under applicable zoning districts.

The proposed project includes a Zone Change from the various zoning districts to PD (Planned Development) District to allow for a consistent application of the S-T4 District standards across the project site. The S-T4 District standards allow for a mix of uses and support transit-oriented development with reduced parking requirements, which is appropriate for the project site since it is located less than one-half mile from the South Hayward BART Station. Further, the PD District designation would allow the developer to push the higher density, mixed use development to the flatter portions of the site fronting Mission Boulevard and the relatively lower density townhomes to the more steeply sloped rear portions of the site.

To off-set the benefits of establishing a PD District on the site and the exception related to parking, the applicant is proposing to install solar panels on the townhome and mixed-use buildings and to exceed minimum open space requirements. Specifically, the development would include extension of the multi-use trail beyond that required by the SD-7 Trail alignment and open spaces above and beyond that required by the Code including the Plaza/Park at the center of the development, an overlook at the eastern edge of the site, and a

⁴ South Hayward Form Based Code, HMC Chapter 10, Article 24.

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART24SOHABAMIBOFOSECO

⁵ Neighborhood Commercial District, HMC Section 10-1.800.

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOOR_S10-1.800NECODICN

⁶ Medium Density Residential District, HMC Section 10-1.400.

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOOR_S10-1.400MEDEREDIRM

dog park in addition to large paseos punctuated by small pocket parks throughout the development. Proposed Conditions of Approval 26b and 49 would require that open spaces be privately maintained and publicly accessible.

See additional discussion for findings related to the proposed Zone Change in the Discussion section below.

Parking Regulations: Parking regulations are related to the underlying zoning on the parcels. As noted above, Parcel 1 is zoned S-T4 District, while Parcel 2 is zoned a combination of CN District and RM District.

Parcel 1 Parking Requirements: Per HMC Section 10-24.245(b), there is a two-parking space per residential unit maximum (no minimum); and there is no minimum or maximum parking requirement for non-residential uses. Per HMC Section 10-24.245, tandem parking may be provided for multi-family residences when spaces are assigned to the same dwelling unit. According to the proposed plans, each townhome unit would have a two-car garage and the condominiums within Building B would have one parking space per unit, which is consistent with the applicable regulations. In addition, there would be 12 on-street guest parking spaces and 18 parking spaces allocated for commercial uses (15 on-site and three along Mission Boulevard).

The S-T4 District regulations also specifies short- and long-term bicycle parking requirements for multi-family and commercial uses. For the residential uses within the S-T4 District area, a total of three short term parking spaces and nine long-term bicycle parking spaces would be required for residential uses, and a total of four short term and two long term bicycle parking spaces would be required for commercial uses. Building B would contain twelve long term and seven short term bicycle parking spaces, which exceeds Code requirements.

Parcel 2 Parking Requirements: The areas subject to CN District and RM District are subject to the parking regulations set forth in HMC Chapter 10, Article 2, Off-Street Parking Regulations⁷. Per HMC Section 10-2.310 for single family homes (including townhome development), a total of two covered parking spaces plus two additional parking spaces per unit is required if the street abutting the units does not allow for on-street parking. For multi-family dwellings, parking for two- or more-bedroom units is set at 2.1 parking spaces per unit (one covered and 1.1 open). Based on these requirements, a total of 236 parking spaces (two covered and two additional spaces) would be required for the townhome development, and a total of 139 parking spaces (66 covered and 73 open) would be required for Building A for a total of 375 parking spaces.

Parking requirements for the commercial uses on Parcel 2 would depend on the specific use. If used as a daycare, the parking requirement would be one space for each four students plus a drop off area. If used as general retail, the requirement would be one parking space per 175 square feet of area or 46 parking spaces. The Article does not contain specific standards for

⁷ Chapter 10, Article 2, Off-Street Parking Regulations.

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART2OREPARE

bicycle parking, but both long term and short-term bicycle is provided in and around Building A as detailed above.

Parking in Proposed Development: As noted in Project Description above, Parcels 1 and 2 would meet the minimum requirement for commercial parking (62 required for general commercial uses and 63 provided on-site and on-street); however, the proposed development would not meet the minimum parking requirements for residential uses on Parcel 2. Thus, the applicant is seeking a reduction in the amount of parking required as an exception under the PD District designation. Additional discussion is contained in the Staff Analysis section below.

Hayward Foothills Trail: Parcel 2, the City-owned parcel, is covered by the SD-7 (Special Design Overlay) District. The purpose of the SD-7 District is to ensure the development of a continuous trail as properties previously involved in the 238 Bypass Land Use Study are developed. The proposed 12-foot wide trail would match the approved trail on the Sohay and Mission Seniors developments. Although only applicable to Parcel 2, the trail would run from the southern project boundary across Parcel 1 to the Tennyson Road extension to ensure connectivity from southerly developments to the future La Vista Park.

Affordable Housing: The proposed project is subject to the requirements set forth in HMC Chapter 10, Article 17, Affordable Housing Ordinance⁸. An applicant may satisfy the requirements of the ordinance by paying an affordable housing in lieu fee or including affordable units within the proposed development. Pursuant to HMC Section 10-17.210, ownership projects shall deed restrict no less than 10% of total units on-site for moderate income households.⁹ Further, the affordable units shall be integrated within the proposed residential development, shall be of similar or the same quality, and provide access to the same amenities as the market rates units pursuant to HMC Section 10-17.220.

Based on the Ordinance, the total requirement for the proposed development is 18.9 residential units (10% of 189 for sale units). To satisfy the requirement, the applicant is proposing to deed restrict 20 condominium units within Buildings A and B (one additional unit over what is required per the AHO). All of the units would be located on the second and third floors of the mixed-use buildings. Of the 20 affordable units, thirteen would be two-bedroom, two baths at approximately 1,127 square feet, and seven would be three-bedroom, two baths at approximately 1,408 square feet. The residents of the affordable units would have access to all building and on-site amenities (Attachment VIII).

The applicant is seeking flexibility from the requirement that the affordable units be integrated into the project as a whole and be equal in size to the market rate units because the project was expanded to include the City-owned Parcel 2. This increased the density of the project overall by expanding the project frontage along Mission Boulevard but led to significant project cost increases related to grading and slope stabilization requirements. HMC

⁸ Affordable Housing Ordinance:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART17AFHOOR

⁹ In 2019, the Area Median Income (AMI) in Alameda County was \$111,700 for a family of four with moderate-income households earning up to 120% of AMI or up to \$134,050 per year. <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/Income-Limits-2019.pdf>

Section 10-17.700(b)(1) allows such flexibility for residential projects that includes multi-story dwelling units in that the affordable units may only contain one story. See further discussion under Staff Analysis below.

Parkland Dedication: HMC Chapter 10, Article 16, Property Developers – Obligations for Parks and Recreation¹⁰ sets forth the parkland dedication requirements for private development based on residential unit count. Current land dedication and in lieu fees are as follows:

	Dedication Acreage (per unit)	Total Dedication Acreage Required	In Lieu Fee (per unit)	Total In Lieu Fee Required
Attached Single Family Residential (189 units)	713 sq. ft.	3.09 acres	\$11,395	\$2,153,655

Pursuant to HMC Section 16-16.31, the applicant may provide a land dedication, in lieu fees, or a combination thereof, and if the proposal is deemed acceptable by the City Council, the value of the dedicated land and park and recreation improvements shall be credited against the fees or dedication (HMC Section 10-16.47). The applicant is proposing to receive a land credit for the proposed dog park (17,165 square feet). If deemed acceptable by the Hayward Area Recreation and Park District (HARD) and the City Council, the credit would result in a reduction of land dedication acreage from 3.09 acres to 2.7 acres or a reduction in fees from \$2.15 million to \$1.88 million.

On October 7, 2019, the HARD Board considered the proposed credit and recommended that the Board approve the requested credit provided that the park has supporting amenities (benches, tables, shade structure or trees and a double gate at entry), that the park is well-maintained, and that it remains useable and open to the public (included as proposed Conditions of Approval 26b and 49). In addition, the Board recommended that the Council condition the development to pay the park fees in effect at the time of issuance of building permits/Certificate of Occupancy to capture any increase in potential fees associated with the Park Fee Study and increase slated for adoption later this year.

Vesting Tentative Map Tract 8502: The proposed project includes a Vesting Tentative Tract Map (8502) for the condominium units and the townhomes. The proposed project site is an infill site and the City of Hayward provides water and sanitary sewer service to the site and has adequate capacity to serve the proposed development. Access to the site would be provided through a combination of public and privately dedicated streets.

Per proposed Condition No. 65, the applicant will be required to enter into Subdivision Improvement Agreements prior to Final Map approval to ensure that related site infrastructure and improvements are constructed in a timely manner. Maintenance of publicly accessible, private facilities (trail, parks, private roads, driveways and courts, common open spaces, landscaping and stormwater facilities) would be handled through a Homeowners’ Association (HOA) (proposed Conditions of Approval 46).

¹⁰https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART16PRDEBLPA RE

Staff believes that the City Council can make the findings to approve the Zone Change and Vesting Tentative Map. The findings and conditions to support the recommendation for approval, as conditioned, are included as Attachment III, to this staff report.

The proposed project includes a request for a Zone Change from various zoning districts to PD District to allow for a cohesive, transit-oriented development. The PD District designation is appropriate and necessary in that the irregularly shaped project site consists of multiple parcels with varying topography and varying General Plan and Zoning designations that would be difficult to develop at the proposed scale and intensity individually.

The purpose of the proposed PD District is to tie Parcels 1 and 2 together under a coherent and consistent site plan while meeting the intent of the underlying General Plan designations. Specifically, the highest intensity, mixed-use development would be placed at the western edge of the site along Mission Boulevard in close proximity to the South Hayward BART Station while the lower intensity townhome development would be tucked behind the mixed use development adjacent to the lower intensity residential neighborhoods located east of the project site. To achieve this purpose, the applicant has generally applied the standards set forth in the S-T4 District, which are applicable on Parcel 1, across the project site. Specifically, the proposed development follows setbacks, placement and orientation of buildings, building form, minimum and maximum height, and open space requirements.

The most significant deviation from applicable Code requirements is related to the parking requirements on Parcel 2. As detailed in the Policy Context and Code Compliance section above, the townhomes and commercial development would not meet the minimum applicable parking requirements for the CN and RM District although they would be considered consistent with the S-T4 District parking requirements, which specify maximums rather than minimums. Staff believes that a deviation from parking standards for Parcel 2 is appropriate in that the site is constrained due to topographical conditions and utilizing the limited developable site area for parking or reducing the density to meet or accommodate high parking requirements is not an appropriate use of space within one-half mile of high intensity transit.

The proposed development contains a few strategies to address the reduced parking standards. First, to minimize parking demand on the site, the proposed project would include various Transportation Demand Management Strategies to reduce the use of single occupancy vehicles (see proposed Conditions of Approval 41 through 44). Secondly, in the event of significant and unanticipated parking demand on the site, the applicant has designed the ground floor garages to accommodate additional vehicular parking with the installation of lifts. Finally, the proposed public amenities and benefits including expansion of the proposed trail, and construction of common and private open space in excess of Code requirements, that would adequately off-set the reduced parking.

Affordable Housing: As described above, the applicant is proposing to offer 20 condominium units that would be deed restricted for moderate income households to satisfy the requirements of the AHO. This proposal is one more than would be required under the terms

of the Ordinance, and the applicant is seeking flexibility in the placement and type of affordable housing units.

Per HMC Section 10-17.700(b)(1), the Ordinance introduces flexibility in the development standards to allow for projects with an increased density. Specifically, for a residential project that includes multi-story dwelling units, affordable units may only contain one story. As noted above, the proposed development includes a PSA for the City-owned property (Parcel 2), which made it feasible for the project to include the mixed-use buildings with condominium units. Prior to the expansion of the project site to include Parcel 2, the project site had limited frontage along Mission Boulevard and did not include a mixed-use component. Expanding the project site to include the approximately 7.5-acre City-owned parcel provided an additional 150 feet along the Mission Boulevard frontage and allowed the project applicant to significantly increase the total number of units developed on site which proportionally increased the number of affordable units. In incorporating the City-owned parcel, the applicant also incurred significant costs related to topographical issues, additional dirt off-haul and grading and installation of retaining walls and underpinning for a latent landslide. Staff believes that allowing flexibility in the location and type of affordable units is appropriate for the proposed development due to its increased density and project costs related to increasing that density. The City and the applicant will enter into an Inclusionary Housing Agreement that ensures that the affordable units will be constructed in accordance with a City approved phasing plan. The City has conditioned the issuance of certificates of occupancy for market rate units on the timely completion of specified affordable units.

Terms of Purchase and Sale Agreement: City staff began negotiations with the applicant in August on the terms of the PSA. The key aspects of the proposed PSA are summarized as follows:

- The City commits to transfer “Caltrans Property” otherwise known as Parcel Group 2;
- The City will convey the Property (or such portion thereof as it acquires) to the Developer in fee in its “as-is” condition;
- The Developer will pay the City \$6,300,000 for the Property in the form of cash payment, covering the cost of the Caltrans purchase price;
- The City is not required to make any form of financial or other assistance to the Developer; and
- The Proposed Project is in compliance with the requirements of the City’s Inclusionary Housing Ordinance.

Creation of Economic Opportunity/Common Benefit. The proposed development, when constructed, will create economic opportunity in the South Hayward area. Section 52200.2 of the California Government Code defines “economic opportunity” as any of the following:

(a) Development agreements, loan agreements, sale agreements, lease agreements, or other agreements that create, retain, or expand new jobs, in which the legislative body finds that the agreement will create or retain at least one full-time equivalent, permanent job for every thirty-five thousand dollars (\$35,000) of city, county, or city and county investment in the project after full capacity and implementation;

(b) Development agreements, loan agreements, sale agreements, lease agreements, or other agreements that increase property tax revenues to all property tax collecting entities, in which the legislative body finds that the agreement will result in an increase of at least 15 percent of total property tax resulting from the project at full implementation when compared to the year prior to the property being acquired by the government entity;

(c) Creation of affordable housing, if a demonstrated affordable housing need exists in the community, as defined in the approved housing element or regional housing needs assessment;

(d) Projects that meet the goals set forth in Chapter 728 of the Statutes of 2008 and have been included in an adopted sustainable communities strategy or alternative planning strategy or a project that specifically implements the goals of those adopted plans;

(e) Transit priority projects, as defined in Section 21155 of the Public Resources Code.

Under the PSA, the City is not providing any form of financial assistance to the applicant. The City, however, has identified the following benefits that will be generated through the implementation for the PSA and will create economic opportunity as defined in Government Code Section 52200.2.

Increase in Property Tax Revenue

Currently, Parcel Group 2 is not generating any property tax revenue to the City or other taxing entities. Under this PSA, this property would have the potential to begin generating tax revenue for the City and others. Upon transfer to the Developer under the PSA, the assessed value of the property will change from \$0 to up to \$6,300,000. The exchange will result in estimated property tax payments of approximately \$63,000 (1% of assessed value), in its unimproved state. The change in assessed value will result in an increase in property tax revenue to all taxing entities prior to the full implementation of the proposed development. It is anticipated that the completion of the proposed project on the project site will further increase the Property's assessed value to more than \$64 million. Based on the change in property tax revenues generated by the transfer in an unimproved state, it can be concluded that after full project implementation, the proposed development will increase property tax revenues to all property tax collecting entities, by more than fifteen percent (15%) when compared to the year prior to the property being acquired by the government entity and the condition of Section 52200.2(b) will be satisfied.

Creation of Affordable Housing

The creation of affordable housing to meet demonstrated affordable housing needs identified in the Housing Element of the City's General Plan constitutes an economic opportunity. The proposed development is consistent with the AHO and will thus increase, improve, or preserve the supply of quality affordable housing in the community. The proposed development will create 20 units of on-site affordable housing as required by Section 10-17.205.

Job Creation

Under Section 52200.2(a), economic opportunity is achieved if an agreement results in the creation, retention or expansions of new jobs, at least one full-time equivalent, permanent job for every thirty-five thousand dollars (\$35,000) of city investment in the project. As previously discussed, the City is not providing any financial assistance for the proposed development and no part of the development costs for the proposed project will be publicly subsidized. Nevertheless, the sale of the Property under the PSA will result in job creation as a result of the anticipated construction of retail/commercial space. During the construction of the Proposed Project, it is anticipated that 235 full-time equivalent (FTE) temporary construction jobs will also be created. Upon completion and full implementation, the Proposed Project is also anticipated to generate an estimated 42 permanent jobs (associated with the commercial space) without investment of City funds.

Public Purpose/Common Benefit

The transfer of the Property and construction of the proposed development will create a common benefit and further the public purpose of economic development by creating jobs, market rate and affordable homes, parks, and vibrancy in an area of the City that has suffered from historic underdevelopment as a result of the proposed and now defunct SR 238 freeway project.

Government Code Summary Report

Government Code Section 52201 authorizes the City to sell or lease property to which it holds title for the purpose of creating economic opportunity. The City must first secure approval of the proposed sale from the City Council after a public hearing. A copy of the proposed PSA and a summary report that describes and contains specific financing elements of the proposed transaction is required to be available for public inspection prior to the public hearing. Staff prepared the Government Code Section 52201 Summary Report in compliance with the code (the "Section 52201 Summary Report"). The Section 52201 Summary Report is attached to this report as Attachment VII and is incorporated herein by this reference.

The Section 52201 Summary Report contains the following information:

- The cost of the PSA to the City, including land acquisition costs, clearance costs, relocation costs, and the costs of any improvements to be provided by the City, plus the expected interest on any loans or bonds to finance the agreement;
- The estimated value of the interest to be conveyed, determined at the highest and best use permitted under the general plan and zoning;
- The estimated value of the interest to be conveyed in accordance with the uses, conditions and covenants, and development costs required under the proposed PSA, i.e., the fair reuse value of the Property;
- An explanation of why the sale of the property will assist in the creation of economic opportunity; and
- If the sale price is less than the fair market value of the interest to be conveyed, determined at the highest and best use consistent with the general plan and zoning, then the City must provide as part of the summary an explanation of the reasons for the difference.

The conclusion of the Section 52201 Summary Report reflects that the estimated total cost to the City is projected to be less than the Purchase Price received from the Developer. The City will receive \$6,300,000 in compensation for the transfer of the Property, which is the estimated value of the Property at its highest and best use. The City fully expects that the purchase price received from the Developer will not be less than the costs paid by the City for the combined Property and the costs of the PSA as summarized in Section III of the Section 52201 Summary Report.

Environmental Review

Previous California Environmental Quality Act (CEQA) Documents: The City certified the EIR for its 2040 General Plan in 2014¹¹. The 2040 General Plan represents the community's view of its future and expresses the community's conservation and development goals for the next 26 years (2014-2040). The 2040 General Plan EIR assumed approximately 7,472 net new units of single-family housing and 7,339 net new units of multi-family housing would be developed through General Plan buildout.

The South Hayward (SH) BART/Mission Blvd FBC Project replaced the majority of the existing Zoning Regulations applicable to an approximately 240-acre area along Mission Boulevard and centered on the South Hayward BART Station. On September 13, 2011, the Hayward City Council certified the South Hayward BART/Mission Boulevard Form-Based Code Supplemental EIR (SEIR). This document tiered from the 2006 South Hayward BART/Mission Boulevard Concept Design Plan Program EIR and the 2009 Route 238 Bypass Land Use Study Program EIR.

At a programmatic level, both Parcels 1 and 2 were considered in the City's General Plan EIR, and Parcel 1 is located within the boundaries of the SH BART/Mission Boulevard Concept Design Plan Program EIR.

¹¹ Hayward General Plan and EIR <https://www.hayward-ca.gov/your-government/documents/planning-documents>

Aesthetics and Parking. Senate Bill (SB) 743, enacted in 2013, amended CEQA to provide that “aesthetics and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment.” Aesthetics and parking will no longer be considered in determining if a project has the potential to result in significant environmental effects, provided a project meets the following three criteria:

1. The project is in a transit priority area; and
2. The project is on an infill site; and
3. The project is residential, mixed-use residential, or an employment center.

Based on staff analysis, the project meets the above criteria as it is within 0.5 mile of the South Hayward BART Station, is located in an urban area that has previously been developed, and is a mixed-use residential project. Additionally, because of the project’s consistency with SB 743 criteria, aesthetics issues are not considered to be impacts under CEQA and are not addressed in the Infill Checklist prepared for the proposed development.

Infill Checklist. The project’s environmental assessment was completed using an Infill Checklist (Attachment VI), which tiers off the General Plan EIR and the South Hayward BART/Mission Boulevard Form-Based Code SEIR. The Infill Checklist was prepared in accordance with Public Resources Code Section 21000 et seq. and the CEQA Guidelines, California Code of Regulations Section 15000 et seq.

An Infill Checklist is intended to streamline the environmental review process for eligible infill projects by limiting the topics subject to review at the project level where the effects of infill development have been addressed in a planning-level decision or by uniformly applicable development policies and standards. In accordance with CEQA Guidelines Section 15183.3, if the infill project would result in new specific effects or more significant effects, and uniformly applicable development policies or standards would not substantially mitigate such effects, those effects are subject to CEQA. With respect to the effects that are subject to CEQA, the lead agency is to prepare an infill EIR if the written checklist shows that the effects of the infill project would be potentially significant.

The Infill Checklist prepared for the proposed development concludes that it would *not* have any significant effects on the environment that either 1) have not already been analyzed in a prior EIR or 2) that are more significant than previously analyzed or 3) that uniformly applicable development policies would not substantially mitigate (referred to in the Infill Checklist and Conditions of Approval as Standard Conditions of Approval or SCAs). Pursuant to Public Resources Code Section 21094.5, CEQA does not apply to such effects.

ECONOMIC IMPACT

The proposed development would have a positive economic benefit in that it would result in development of a currently vacant site with a mixed-use neighborhood with a mix of residential types, commercial uses and a network of open spaces that will beautify the site and increase surrounding property values.

The proposed development is expected to attract up to 169 market rate income households and 20 moderate income households whose expenditures would increase retail sales in the City. Further, the commercial component of the project (likely a daycare center and small commercial business) would generate tax revenues. Development of the project is also expected to generate up to 235 temporary construction jobs and up to 42 permanent jobs associated with the commercial space, homeowner's association and ongoing operation and maintenance of the site.

FISCAL IMPACT

As noted in the Background section above, Parcel 2 (the City-owned portion of the project site) is the subject of a Purchase and Sale Agreement (PSA) between the City and the applicant. The applicant has agreed to pay the City \$6.3 million for Parcel 2, which would be conveyed to the City upon satisfaction of the conditions precedent set forth in the PSA. Upon transfer of the property from the City to the developer, the property's assessed valuation and tax exclusions would change and would result in a projected ongoing increase in property tax revenue for the City. According to estimates based on projected value of the property and planned improvements the completed projected assessed valuation is estimated at more than \$64 million.

According to an estimate based on the City of Hayward Fiscal Impact Model (2017) prepared by Applied Development Economics, Inc., the project would generate about \$519,300 in annual revenue from taxes including: property, real property transfer, business license, emergency facilities, and intergovernmental transfer among others, and would generate approximately \$465,800 in annual costs related to City services including but not limited to Fire, Police, Library, Maintenance Services, resulting in a net positive impact of approximately \$53,500 per year.

STRATEGIC INITIATIVES

The proposed project, as conditioned, supports the City's Complete Communities and Complete Streets Strategic Initiatives. The purpose of the Complete Communities Initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. This item supports the following Complete Community goal and objectives:

- Goal 2: Provide a mix of housing stock for all Hayward residents and community members, including the expansion of affordable housing opportunities and resources.
 - Objective 2.b: Facilitate the development of diverse housing types that serve the needs of all populations.
 - Objective 2.d: Increase the supply of affordable, safe and resilient housing in Hayward.

The purpose of the Complete Streets Initiative is to build streets that are safe, comfortable, and convenient for travel for everyone, regardless of age or ability, including motorists,

pedestrians, bicyclists, and public transportation riders. As conditioned, this item supports the following Complete Streets goals and objectives:

- Goal 2: Provide complete streets that balance the diverse needs of users of the public right-of-way.
- Objective 2.a: Increase walking, biking, transit usage, carpooling, and other sustainable modes of transportation by designing and retrofitting streets to accommodate all modes.

SUSTAINABILITY FEATURES

The proposed project includes: placement of solar panels on all structures; installation of energy star appliances and tankless water heaters; and tools to harvest rainwater for landscaping from the residential structures.

In addition to the sustainable building elements, the proposed development would be located within one-half mile to the South Hayward BART Station. It will include an extensive network of pedestrian and bicycle connections and numerous open spaces throughout the development site and incorporate Transportation Demand Management (TDM) strategies to minimize single occupancy vehicle use, including the distribution of Clipper cards to all households, participation in commuter tax benefit programs, and dedication of car sharing spaces within the development (see Attachment III, proposed Conditions of Approval 41 through 44).

At staff and Councilmember urging, the applicant explored the feasibility of eliminating gas lines from the proposed development and declined to incorporate that feature into the development.

PUBLIC CONTACT

On December 11, 2018, a Notice of Receipt of Application was mailed out to 301 property owners, residents, and businesses within 300 feet of the project site. Staff received no comments or questions about the project from the surrounding community; however, two individuals representing trade unions did submit inquiries related to the project and related environmental analysis.

Beginning in December 2019, the project proponent directly contacted nearby Homeowners Associations and organized community groups including the Fairview Community Club, Fairway Parks Neighborhood Association, Spanish Ranch Mobile Home Association, Twin Bridges Homeowners Association and Briarwood Homeowners Association. On February 6, 2019, the project proponent met with representatives of Fairway Park Neighborhood Association. According to the project proponent, feedback was positive. On August 14, 2019, the project proponent presented the proposed development to community members at the Hayward Golf Course Grill. Additionally, the project proponent presented the proposed development to the Hayward Chamber of Commerce resulting in a unanimous vote supporting the project.

On October 18, 2019, notices of this public hearing were sent to all property owners and residents within a 300-foot radius of the project site; was posted at the Alameda County Clerk Recorder's Office; and, was published in The Daily Review.

NEXT STEPS

Following Council approval, the Ordinance approving the Zone Change to Planned Development District will return to the City Council for a second reading after which the applicant will submit a Precise Development Plan and Final Maps. The Final Maps will be subject to City Council approval, after which construction permits will be processed and issued to ultimately allow for development of the project.

Additionally, staff will take necessary steps to convey the property to the developer in accordance with the PSA.

Prepared by: Leigha Schmidt, Senior Planner

Recommended by: Laura Simpson, Development Services Director

Approved by:



Kelly McAdoo, City Manager