



## **SUBJECT**

Proposal to Subdivide a 5.1Acre Site into 45 Parcels to Allow the Construction of 41 Detached Single-Family Residences with Common Open Space Areas and Related Site Improvements at 22626 4<sup>th</sup> Street (APNs 427-0036-033-05, 427-0036-033-06, 427-0036-033-07, 427-0036-055-19, & 427-0036-085-01) by Applicant: Tony Dutra on Behalf of Owner: Dutra Enterprises, Requiring Approval of a Vesting Tentative Tract Map, Planned Development (PD) Rezone, Site Plan Review, and the Adoption of a Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program (MMRP). Application No. 201704074.

## **RECOMMENDATION**

That the Planning Commission recommend approval of Vesting Tentative Tract Map No. 8427, PD Rezone, Site Plan Review Application No. 201704074, and adoption of a Mitigated Negative Declaration (MND) with a Mitigation Monitoring and Reporting Program (MMRP) to the City Council, based on the analysis set forth in this report and the attached Findings (Attachment II) and subject to the Conditions of Approval (Attachment III).

## **SUMMARY**

The applicant is requesting approval of Vesting Tentative Tract Map No. 8427, PD Rezone and Site Plan Review Application No. 201704074, and the adoption of a Mitigated Negative Declaration (MND) with a Mitigation and Monitoring Reporting Program (MMRP) to subdivide five existing parcels totaling 5.1 acres into 45 parcels to allow the construction of 41 single-family residences with common open space areas and private streets at 22626 4<sup>th</sup> Street. The project site is currently zoned RS (Single-Family Residential) District and designated as LDR (Low Density Residential) and MDR (Medium Density Residential) in the *Hayward 2040 General Plan*. The project site is also subject to the Hayward Foothills Trail Special Design Overlay District to ensure the orderly development of a continuous trail as properties involved in the 238 Bypass Land Use Study are developed.

## **BACKGROUND**

The project site is currently undeveloped but was previously developed with single-family residences, which were demolished in 2017 in preparation for this project. The site has a history of illegal trash dumping, graffiti, and homeless encampments. Caltrans previously owned these five parcels, and since purchasing the property, Dutra Enterprises has been cleaning up the site and has demolished the single-family homes, which were dilapidated and created blight. Dutra Enterprises originally submitted this project application on July 12, 2017 and following staff review and input, the original proposal has been revised as follows:

1. The site layout has been modified to simplify the private street network and minimize turns and dead ends.
2. The architectural and site plan types were rearranged to provide a diverse street scene. The original proposal included rows of the narrower houses facing 4<sup>th</sup> Street and B Street, but the current proposal provides homes along these public streets that vary in width, which is more consistent with the diverse housing pattern in the neighborhood.
3. The common open space area was relocated close to 4<sup>th</sup> Street and the new trail will be more accessible to the surrounding community and preserve several mature trees.
4. Street side architectural elevations for the houses located on corner lots have been enhanced along with interior side and rear elevations.
5. The overall color scheme has been revised to provide a more varied color palette.
6. The front elevations with front-loaded garages have been revised to include trellises above garage doors and the garage door designs have been enhanced with additional detailing and windows to minimize the prominence of the garages.

Public Outreach. Following receipt of application, staff conducted the following public outreach:

- On July 21, 2017, a Notice of Receipt of Application was sent to all property owners and interested stakeholders within 300 feet of the subject property. Several neighbors expressed general support for the project but also have concerns related to density, compatibility with the existing neighborhood, and potential traffic and parking impacts (Attachment VI). Friends of San Lorenzo Creek has also expressed concern regarding proposed fencing and other potential development within the 20-foot setback from the top of bank of San Lorenzo Creek (Attachment VI). The letter also provided recommendations for the proposed trail along the project frontage on 4<sup>th</sup> Street and improving the creek bank with riparian vegetation.
- On March 30, 2018, staff conducted empathy interviews with homeowners and stakeholders in the project's vicinity as part of the Hayward Empathy Action Response Team (HEART) community outreach policy. Neighbors generally indicated support for the architecture and expressed a desire for varied colors and enhanced garage designs. Following the public outreach efforts, the applicant revised the architectural elevations to incorporate enhanced garage designs and provide a more varied color palette.
- On May 18, 2018, a Notice of Intent (NOI) to adopt a Mitigated Negative Declaration (MND) and Notice of Public Hearing were posted at City Hall and delivered to the Hayward libraries. Copies of the NOI and Notice of Public Hearing were also sent to interested parties and property owners within 300 feet of the project site and published in the Daily Review newspaper for a public comment period that extends to July 2, 2018. To date, the City has not received any additional public comments regarding the MND or the project.

## **PROJECT DESCRIPTION**

Existing Conditions. The 5.1-acre project site consists of five parcels to the north and south of B Street, which are currently undeveloped and generally flat except for the northern portion of the site, which contains the San Lorenzo Creek banks and channel. The site contains 65

trees on-site and 14 trees off-site that have canopies encroaching into the project area. A portion of the existing site, north of B Street, is surrounded by a 6-foot tall chain link fence while the portion of the site south of B Street is surrounded by a combination of a 6-foot tall chain link and a 6-foot tall wooden fence.

The site is located in the Upper B Street neighborhood, which is characterized by older, historical and single-family homes and larger multi-family residential and commercial buildings that are one to two stories in height. The site is bordered by San Lorenzo Creek and A Street to the north, Chestnut Street and single-family residential development to the east, single-family residential development to the south, and 4<sup>th</sup> Street and commercial development to the west. The project site is currently zoned RS (Single-Family Residential) District and contains LDR (Low Density Residential) and MDR (Medium Density Residential) land use designations in the *Hayward 2040 General Plan*.

*Project Overview.* The project requires a rezoning and subdivision of five existing parcels into 45 parcels to allow the construction of 41 single-family residences with common open space areas and private streets that provide vehicular access from 4<sup>th</sup> Street, B Street, and Chestnut Street. A zone change from the existing RS District to a PD District is required to allow for exceptions to the development standards for single-family homes related to lot size, lot coverage, and setbacks. More detail regarding the requested exceptions is provided later in this report in Table 1. The proposed single-family residential lots range in size between 2,012 and 5,020 square feet and will include a parcel along the northern end of the site, adjacent to the creek, that would remain free from development and be maintained by a homeowner's association. The project will also include numerous frontage and site improvements including on-site water and sewer utilities, new private streets, new landscaping, a new trail along the project frontage on 4<sup>th</sup> Street, and reconstruction and repair of existing road and sidewalks along 4<sup>th</sup> Street, B Street, and Chestnut Street.

*Building Architecture.* The development includes five housing plan types, three of which provide 3-bedroom, 2.5-bathroom units and two of which provide 4-bedroom, 3-bathroom units. The homes range in size between 1,452 and 2,223 square feet. Each new home will contain two stories, with maximum heights between 22 feet, 11 inches and 24 feet, 7 inches. The development proposes two architectural styles, Victorian and Craftsman style homes with tile roofs and stucco exteriors or variations of full-wrap siding. The proposed building colors consist of a variety of natural colors including shades of green, tan and brown. Trim colors are lighter or darker depending on the primary color and alternative color options have been provided, which will be incorporated through the PD Precise Plan process. Architectural details include stone veneer, detailed garage doors, decorative railing and wood posts, front entry porches, exterior shutters, and sill treatments.

*Parking and Circulation.* Each home contains a two-car garage and 15 of the 41 homes will have a driveway long enough to accommodate two additional vehicles. The proposed network of private streets will be 24-foot wide and will provide vehicular access from B Street and Chestnut Street. The private streets, which will be maintained by the HOA, will also provide 30 street parking spaces for guests and provide adequate turnaround space for fire and emergency vehicle apparatus. The project includes the replacement of the sidewalk on the project frontage along B Street and Chestnut Street and will include a five-foot wide sidewalk

on one side of the private streets to provide direct pedestrian access around the site and connecting to the sidewalk network on B Street and Chestnut. The trail area along 4<sup>th</sup> Street ranges from 12.5 to 20 feet wide and will include an 8-foot wide paved trail and landscaping buffer to provide a visual separation from 4<sup>th</sup> Street. The trail will be accessible to the public through a dedication of a public access easement. The project will also install other pedestrian improvements including a crosswalk with bulb-outs on the east side of the 4<sup>th</sup> Street and B Street intersection. Furthermore, the project will install bicycle improvements including “Bike Route” signage and “Sharrow” pavement markings on 4<sup>th</sup> Street along the project frontage.

*Landscaping and Open Space.* The project’s landscaping and open space plan proposes to preserve 24 existing trees, plant 44 new trees, and plant a varied palette of shrubs and groundcover along the trail area, common open space areas, and within the front yards of the homes. The common open space area will be 7,065 square feet in size and located in the northern portion of the site near 4<sup>th</sup> Street. The common open space area will be directly accessible from the trail and improved with new landscaping, an outdoor seating area, exercise stations, and pedestrian pathway. Each home will also contain private open space areas. All proposed landscaping and irrigation will meet the City’s landscape water efficiency standards. Additionally, the project will treat storm water run-off on-site with five new bioretention treatment areas.

*Tree Removals.* The project requires the removal of 84 trees, 55 of which are protected by the City’s Tree Preservation Ordinance. Pursuant to [HMC Chapter 10, Article 15](#), the City’s Tree Preservation Ordinance requires mitigation equal in value to the total appraised value of all protected trees to be removed through replacement trees or alternative forms of mitigation acceptable to the City Landscape Architect. The project proposes mitigation in the form of 44 larger replacement trees and permeable paving. The City Landscape Architect will review the final landscape plan to confirm that the proposed mitigation cost matches or exceeds the appraised value of the removed trees prior to the issuance of a building permit.

*PD Amenities.* The project requires a PD Rezone to provide flexibility in the site layout and allow for exceptions to certain development standards related to lot size, lot coverage, and setbacks. Per [Section 10-1.2535](#) of the HMC, any requested exceptions to development regulations or policies must be adequately offset or compensated for by providing amenities not otherwise required or exceeding required development standards. As such, the project is proposing the following amenities:

- Rooftop solar panels on each home;
- A bedroom suite on the first floor of 14 homes to allow for aging in place and multi-generational lifestyles; and
- 7,065 square feet of common open space area, which is typically not provided or required for detached single-family home developments.

*Homeowners Association.* As part of the standard conditions of approval, the project is required to form a new Homeowners’ Association (HOA) with required Covenants, Conditions and Restrictions (CC&R’s) to ensure the future homeowners will be responsible for maintaining all the project components, including the private street, street lights, utilities, and other privately owned common areas and facilities on the site, including the

bio-retention areas, landscaped areas, preservation and replacement of trees, and decorative paving. The CC&R's will also contain a standard condition that if the HOA fails to maintain the common areas, private streets, lights and utilities, the City of Hayward will have the right to enter the subdivision and perform the necessary work to maintain these areas and special assess and/or lien the properties for their proportionate share of the costs as described in Attachment II. Also, staff is recommending that the CCR's require that at least 75 percent of the units be owner-occupied, which will be enforced by the HOA.

*Utilities and Street Improvements.* The existing utilities that serve the project site, including sanitary sewer, water, and storm drain systems, have sufficient capacity to adequately serve the proposed development. On-site sewer and water utilities will be installed within new public utility easements within the project site and connect to the existing utilities on 4<sup>th</sup> Street and B Street. As previously discussed, the project will be served by new private streets. While the existing roadways are sufficient to accommodate the additional traffic generated from the project, frontage improvements will be required, including the reconstruction and repair of the existing road and sidewalks along 4<sup>th</sup> Street, B Street, and Chestnut Street to meet the City's street standards.

*Sustainability Features.* The project will provide rooftop solar panels on each home and be required to meet the CALGreen and 2016 California Energy Code standards for energy efficiency as well as meet the City's requirements with respect to water efficient landscaping. Additionally, the project will comply with the City standards for recycling of waste during construction and operation and will comply with the Municipal Regional Stormwater requirements for storm water runoff prevention and treatment.

## **POLICY CONTEXT AND CODE COMPLIANCE**

*Hayward 2040 General Plan.* The project site has two General Plan land use designations: LDR (Low Density Residential) and MDR (Medium Density Residential). Of the entire five-acre site, approximately four-acres is designated LDR and one-acre is designated MDR in the General Plan (Attachment V). The LDR land use designation allows for a density range of 4.3 to 8.7 dwelling units per net acre. Properties with the LDR land use designation are typically characterized by suburban areas with single-family residential development. The MDR land use designation allows for a residential density range of 8.7 to 17.4 dwelling units per net acre. Properties with the MDR land use designation are typically characterized by suburban and urban areas that contain a mix of housing types. Policy LU-3.5 of the *Hayward 2040 General Plan* allows for individual parcels within a development to be developed at higher or lower densities than allowed, provided that the net density of the entire development is within the allowed density range. The project is consistent with the *Hayward 2040 General Plan* in that it is a single-family residential development with a total net density of 9.9 dwelling units per net acre, which is within the allowed density range as shown in the General Plan Exhibit (Attachment V). The project is also consistent with applicable General Plan policies in that it will increase the housing inventory for the City of Hayward, is located close to services and amenities, and is considered an in-fill development that will result in a more complete neighborhood. The project's consistency with the goals and policies of the *Hayward 2040 General Plan* are discussed in greater detail in the project findings (Attachment II).

Zoning Ordinance. The project site is currently zoned RS (Single-Family Residential) but the applicant is requesting to rezone the site to PD District to allow for modified development standards related to lot size, lot coverage, and setback requirements. Pursuant to [Section 10-1.2505](#) of the HMC, the purpose of the PD District is to facilitate development of land in an innovative fashion to allow for flexibility in site design and encourage development that is sensitive to environmental and site-specific considerations. The project site is irregularly shaped and bordered by the San Lorenzo Creek to the north, which limits the buildable area and number of dwelling units the site can accommodate under the RS development standards. As such, these modified standards are necessary to allow the project to provide more dwelling units and comply with the maximum allowable density in the *Hayward 2040 General Plan*. The project will meet the development standards of the RS District related to building height, lot frontage, and off-street parking but the project proposes to modify the development standards as shown in the Table 1 below.

**Table 1**

<b>Development Standard</b>	<b>HMC Requirement</b>	<b>Proposed Project</b>
Min. Lot Size	5,000 sq. ft.	2,012 sq. ft. <sup>1</sup>
Min. Lot Frontage	35 ft.	35 ft.
Min. Average Lot Width	50 ft. (interior) / 60 ft. (corner)	35 ft. <sup>1</sup>
Min. Average Lot Depth	80 ft.	61 ft. <sup>1</sup>
Max. Lot Coverage	40%	53% <sup>1</sup>
Min. Front Yard Setback	20 ft.	5 ft. <sup>1</sup>
Min. Side Yard Setback	5 ft. or 10% of lot width (10 ft. max.)	4 ft. <sup>1</sup>
Min. Side Street Yard Setback	10 ft.	5 ft. <sup>1</sup>
Min. Rear Yard Setback	20 ft.	4 ft. <sup>1</sup>
Max. Building Height	30 ft.	24 ft. 7 in.
Min. Off-Street Parking Req.	82 enclosed spaces	82 enclosed spaces

1. The PD Rezone is required to allow for an exception to this development standard.

Per [Section 10-1.2535](#) of the HMC, the following PD Rezone findings are required for the project:

- The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies;
- Streets and utilities, existing or proposed, are adequate to serve the development;
- In the case of a residential development, that the development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development;
- In the case of nonresidential uses, that such development will be in conformity with applicable performance standards, will be appropriate in size, location, and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding development;

- In the case of a development in increments, each increment provides a sufficient proportion of total planned common open space, facilities, and services so that it may be self-contained in the event of default or failure to complete the total development according to schedule; and
- Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.

Hayward Foothills Trail Special Design Overlay District. The project site is located within the [Hayward Foothills Trail Special Design Overlay District](#). The purpose of this overlay zoning district is to ensure the orderly development of a continuous trail as properties involved in the 238 Bypass Land Use Study are developed. The district establishes a general location for the trail as well as design guidelines for establishing the trail in accordance with the Hayward Area Recreation and Park District's trail standards. As such, the project proposes a trail along the project frontage on 4<sup>th</sup> Street. As previously discussed, the trail area ranges from 12.5 to 20 feet wide and includes an 8-foot wide paved trail and landscaping along the outer edge to provide a buffer from 4<sup>th</sup> Street. The trail will be accessible to the public through a public access easement. Staff believes the proposed trail meets the intent of the Hayward Foothills Trail Special Design Overlay District and HARD has approved the trail design.

Vesting Tentative Map. The project proposes to create a total of 45 new parcels, including 41 single-family parcels, and four common parcels containing open space or bioretention areas. Pursuant to [Section 10-3.010](#) of the Hayward Municipal Code (HMC), the purpose of the Subdivision Ordinance is to ensure that all proposed subdivisions are consistent with the procedures, policies, and programs of the *Hayward 2040 General Plan*, underlying zoning district, and Subdivision Map Act. Per Section 10-3.150 of the HMC, the following Vesting Tentative Tract Map findings are required for the project:

- The proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans;
- The proposed subdivision meets the requirements of the City Zoning Ordinance; and
- No approval of variances or other exceptions are required for the approval of the subdivision.

If approved, the applicant may submit a Final Map and improvement plans to the City for review. The City Engineer must determine that the Final Map and improvement plans are in substantial compliance with the approved Vesting Tentative Tract Map prior to approving the Tract Map. Prior to approval of the Final Tract Map, the developer shall enter into a Subdivision Agreement and post bonds with the City at which time the map can be recorded with the Alameda County Recorder's Office and commence construction activities. In accordance with HMC Section 10-3.246, approval of this Vesting Tentative Tract Map shall expire 36 months after the effective date of approval subject to statutory and discretionary extensions as allowed by the HMC and Subdivision Map Act. A copy of the Vesting Tentative Tract Map is included within the Project Plans (Attachment IV).

Site Plan Review. Pursuant to [Section 10-1.3005](#) of the HMC, the purpose of the Site Plan Review is to foster development that complies with the intent of City development policies

and regulations and is operated in a manner determined to be acceptable and compatible with surrounding development. Per [Section 10-1.3025](#) of the HMC, the following Site Plan Review findings are required for the project:

- The development is compatible with on-site and surrounding structures and uses and is an attractive addition to the City;
- The development takes into consideration physical and environmental constraints;
- The development complies with the intent of City development policies and regulations; and
- The development will be operated in a manner determined to be acceptable and compatible with surrounding development.

Staff has provided a more detailed analysis for the required Vesting Tentative Map, PD Rezone, and Site Plan Review findings in Attachment II.

*Affordable Housing Ordinance.* The project is subject to the City's Affordable Housing Ordinance (AHO), which allows residential development projects either provide affordable units on site or pay an affordable housing in-lieu fee. The applicant has decided to pay the in-lieu fee, which is calculated at the point the project application is deemed complete. In this case, the project application was deemed complete on December 6, 2017 and as such, the previous in-lieu fee schedule applies. The applicable in-lieu fee rate for this project is \$9.09 per square foot of habitable space if paid prior to issuance of a building permit, or \$10 per square foot of habitable space if paid prior to approval of a certificate of occupancy.

*Strategic Priority.* This project supports Complete Communities Strategic Initiative. The purpose of the Complete Communities Strategic Initiative is to create and support services and amenities that provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. This project supports the following goals and objectives:

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

Objective 4: Create resilient and sustainable neighborhoods.

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: Facilitate the development of diverse housing types that serve the needs of all populations.

The purpose of the Complete Streets Strategic 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. The project, as proposed, will create new housing opportunities near public transit stops and provide a mix of housing in the City. The project will require the construction of new private streets that will meet City standards and be designed to safely accommodate vehicles, pedestrians



and bicyclists. The project also proposes (1) a publicly-accessible trail along the project frontage on 4<sup>th</sup> Street, which currently does not provide a sidewalk, (2) a new crosswalk with bulb-outs at the 4<sup>th</sup> Street and B Street intersection, and (3) bicycle signage on 4<sup>th</sup> Street along the project frontage. As such, the project supports the following Strategic Initiative goals and objectives that were established by the City Council:

Goal 1: Prioritize safety for all modes of travel.

Objective 3: Ensure that roadway construction and retrofit programs and projects include complete streets elements.

## **STAFF ANALYSIS**

As referenced above and pursuant to the required findings for a Vesting Tentative Tract Map, PD Rezone, and Site Plan Review included in Attachment II, staff believes the project complies with the intent of City development policies and regulations, including the *Hayward 2040 General Plan*, Zoning Ordinance, and Subdivision Ordinance. The project also supports several of the City's Strategic Initiatives and is consistent with the intent of the *Hayward Foothills Trail Special Design Overlay District*. Overall, staff believes the project is well-designed and appropriate for the neighborhood. The project is considered an in-fill development and will replace a vacant and underutilized site with attractive homes to complement the existing neighborhood.

*Land Use Compatibility.* The project would be compatible with the land uses and developmental pattern of the existing neighborhood, which consists of a mix of housing types and some commercial development. Although the project proposes some lots that are smaller than the other single-family developments nearby, the lot size is similar to other parcels that were created in the downtown areas that accommodate residential and commercial uses. The development also serves as a transition between the lower density single-family developments and higher density multifamily developments nearby. The project provides a variety of architectural styles and is a size and scale that is similar to other homes in the neighborhood.

*Building Architecture.* Overall, the homes are attractively designed and compatible with the existing character of the neighborhood. The development provides five plan types and two architectural styles with varied building colors and materials to provide a diverse and interesting street scene. The new homes incorporate Victorian and Craftsman architectural styles with tile roofs and stucco exteriors or variations of full-wrap siding to blend in with the existing neighborhood character. The building facades are articulated to provide visual interest from all sides of the homes, especially the front elevations, which incorporate recesses and projections through windows with sill treatments and shutters, front entry porches, stone veneer, and breaks in the building mass. Furthermore, the location of the garages on the street is minimized through enhanced trellises placed above the garages and the garage doors containing windows with enhanced designs.

*Vehicular and Pedestrian Circulation.* The project will be well-integrated into the existing neighborhood. The private street network and sidewalks provide vehicular and pedestrian access to each home from B Street and Chestnut Street, which are public streets. The new

private streets will be designed to meet the City's public street standards and will provide adequate circulation throughout the development and from public streets. The proposed trail also provides pedestrian access from 4<sup>th</sup> Street, which currently does not have a sidewalk along the project frontage. Additionally, the project proposes various pedestrian and bicycle improvements along the project frontage to improve connections from the proposed development to the surrounding neighborhood and to Downtown. The project also provides driveways and street parking within the private street to accommodate the vehicles of guests and minimize street parking on nearby public streets.

*PD Amenities.* Staff believes the project amenities adequately offset the requested exceptions. The rooftop solar panels result in a more environmentally-sensitive development and the multigenerational-friendly floor plan allows the homes to accommodate a more diverse population. The 7,065-square-foot group open space, which will be maintained by a homeowner's association, provides the future residents with a usable outdoor area for recreation and public interaction. The group open space is of ample size, improved with desirable features such as exercise stations and outdoor seating, and directly accessible from the proposed trail.

*Creek Protection.* The project proposes to create a parcel along the northern end of the site adjacent to the creek that would remain free from development and be maintained by a homeowner's association and the new homes will be located outside the required 20-foot creek setback area. Furthermore, the MND provides mitigation measures to protect San Lorenzo Creek from grading associated with the project and avoid impacts to slope stability and drainage. Therefore, staff believes the project will not adversely impact San Lorenzo Creek. However, the parcel adjacent to the creek primarily contains nonnative vegetation and will be left in its current state as the project is currently proposed. Therefore, as recommended by Friends of San Lorenzo Creek and to better protect and enhance San Lorenzo Creek, the project would provide an additional community benefit if the parcel adjacent to the creek were improved and restored to its natural state with the planting of a native-riparian vegetation. Currently this area is unkempt and contains mostly non-native vegetation. Staff recommends the Planning Commission consider requiring the removal of nonnative vegetation and planting of riparian vegetation within the part of the creek bank that is within the boundaries of this parcel.

## **ENVIRONMENTAL REVIEW**

Pursuant to CEQA Guidelines Section 15220, an Initial Study was prepared by Rincon Consultants on behalf of the City of Hayward (Lead Agency) for this project with the finding that a Mitigated Negative Declaration (MND) was appropriate because all potential impacts could be mitigated to a level of less than significant with the implementation of mitigation measures. The Initial Study found that the project would result in potential impacts to Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Transportation/Traffic, Tribal Cultural Resources, and Mandatory Findings of Significance. With mitigation, any potential impacts would be reduced to a level of less than significant.

A Notice of Intent (NOI) to adopt the MND with Mitigation and Monitoring Reporting Plan (MMRP) were posted at City Hall and delivered to the Hayward libraries, and copies of the NOI were sent to interested parties and property owners within 300 feet of the project site on May 18, 2018. The NOI was filed with the Alameda County Clerk on June 1, 2018. The public comment period for the MND was extended thru July 2, 2018 and to date, the City has received comments from Friends of San Lorenzo Creek expressing concerns regarding the project's potential impact on San Lorenzo Creek (Attachment VI). These comments will be addressed and incorporated into an MND Response to Comments Memorandum once the public comment period expires.

Additionally, as part of the formal consultation process established by California Assembly Bill 52 (AB 52), the Ione Band of Miwok Indians requested a consultation with staff but has not provided written comments on the project. Any written comments from the Ione Band of Miwok Indians received after the Planning Commission public hearing will be addressed and incorporated into an MND Response to Comments Memorandum through minor modifications to the recommended mitigation measures prior to the City Council public hearing. The modifications will not change the impact analysis or the level of mitigation required to reduce possible impacts to a level of less than significant. Copies of the MND and MMRP are attached to this report for the Commission's review and consideration (Attachments VII and VIII).


#### **NEXT STEPS**

Following the Planning Commission hearing, the City Council will consider the proposed project, along with the Planning Commission's recommendation, at a noticed public hearing, tentatively scheduled for July 10, 2018.

If the project is approved by the City Council, the applicant may proceed with submitting a Precise Development Plan, Final Tract Map and improvement plans to the City for review. The City Engineer must find that the Map and site improvement plans are in substantial compliance with the approved Vesting Tentative Tract Map and recommend to the City Council for approval and recordation with the Alameda County Recorder's Office. Once the Precise Plan, Final Map and improvement plans are approved by the City, the applicant may then proceed with obtaining building permits.

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