



DATE: June 16, 2020

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Route 238 Parcel Group 9: Proposal to Rezone Former Caltrans Property known as Rte. 238 Parcel Group 9 Located at the Intersection of Apple Avenue and Oak Street (Assessor Parcel Nos. 415-0160-052-00, & 415-0170-037-00) from High Density Residential (RH) and Commercial Office (CO) to General Commercial (CG), Requiring Approval of Rezoning Subject to an Addendum of the Hayward 2040 General Plan EIR per the California Environmental Quality Act (CEQA) Section 15164; City of Hayward (Applicant/Property Owner; Application No. 202000605)

RECOMMENDATION

That the City Council introduces the attached Ordinance (Attachment II) approving the rezoning application for Parcel Group 9 at the intersection of Apple Avenue and Oak Street (Assessor Parcel Nos. 415-0160-052-00, & 415-0170-037-00) from High Density Residential (RH) and Commercial Office (CO) to General Commercial (CG) and adopts a Resolution (Attachment III) approving the Addendum to the Hayward 2040 General Plan EIR, based on Planning Commission's recommendation and the analysis set forth in this report.

SUMMARY

The applicant, the City of Hayward, is requesting to rezone 2.67 acres, which is currently zoned High Density Residential (RH), and Commercial Office (CO) (Attachment V Figure 3). The project site is located at the intersection of Apple Avenue and Oak Street and was acquired in 2016 by way of a purchase and sale agreement between the City of Hayward and the California Department of Transportation (Caltrans). Currently known as Parcel Group 9, some of the land acquired from Caltrans is in unincorporated Alameda County. The 1.59-acre portion of land located in Alameda County would remain as is and is not subject to the rezoning request (Attachment V Figure 2). The remainder of Parcel Group 9, 2.67 acres, lies within the City of Hayward jurisdiction, which is subject to the proposed rezoning application (Attachment V Figure 2).

Pursuant to the Hayward 2040 General Plan, the subject parcels have a General Plan designation of Commercial High Density Residential (CHDR), which allows for residential, commercial retail, entertainment and lodging uses. However, the parcels zoned RH (APN: 415-0160-052-00) and CO (APN: 415-0170-037-00) do not allow for retail, or entertainment

uses and limits the allowed lodging uses. If approved, the rezone would reclassify the RH parcel and the CO parcel as General Commercial (CG) Zone, consistent with the underlining General Plan designation that allows for retail, entertainment, and lodging uses. Additionally, the rezone would not preclude residential projects, and it would maintain the currently allowed maximum residential density of 34.8 units per net acre. Further, this application does not include entitlement for development, but if approved, City staff is likely to release a Request for Proposals (RFP) to potentially develop the site.

BACKGROUND

In the mid-1960s, Caltrans purchased more than 400 parcels of property for construction of a 14-mile 238 Corridor Bypass Freeway to run through the City of Hayward and parts of unincorporated Alameda County. In 1971, a lawsuit, filed in federal court on behalf of residents to be displaced by the freeway construction, blocked the project. Caltrans subsequently abandoned the freeway plan.

In 2011, the City approached Caltrans with a proposal to allow the City to take responsibility for the disposition and development of some Caltrans-owned property. Caltrans agreed to negotiate, and a Purchase and Sale Agreement was approved by City Council and the California Transportation Commission in January 2016.

DISCUSSION

Existing Conditions. The area proposed to be rezoned has a combined acreage of 2.67 acres, it is relatively flat, and primarily consists of vacant grassland with a few scattered trees (Attachment V Figure 3). To the west, the site abuts the I-580 freeway. To the north, the site abuts vacant Alameda County land. To the east, the parcel abuts a multifamily planned development, and to the south, the site fronts on Apple Avenue. The nearest main street is Foothill Boulevard, which has multiple commercial uses such as a church, auto sale dealerships, a discount mattress store, a used appliance store, and a mix of offices.

Proposed Project. There is no proposed entitlement as part of the rezone. However, if approved, City staff is likely to release a RFP to develop the site. If any proposals are received and a proposal is selected, the applicant would be required to obtain any necessary land use entitlements and secure any related site and building permits prior to construction.

As proposed, the rezone would be consistent with the intent of the CHDR General Plan land use designation, which supports retail, entertainment, and lodging uses in addition to residential uses. No changes in General Plan land use designations would be required. The project site would be rezoned from RH and CO to CG to allow for retail, entertainment, and lodging, as well as continue to allow for residential development. Overall, the impacts of the COVID-19 crisis are creating substantial market and financing uncertainty for all types of development for the foreseeable near-term future. However, the Bay Area is well-positioned to recover quickly due to the tech industry, lower transmission rates, and decades of pent up demand. While it may be difficult to know what type of development will be successful at this location in the future, the rezoning of the site to CG provides the most flexibility in terms of allowed uses. A map of the existing and proposed land uses is included as Attachment V.

Hayward 2040 General Plan. The project site is designated Commercial High Density Residential (CHDR) with a small sliver designated as Public-Quasi Public (PQP) in the *Hayward 2040 General Plan*¹. Allowable uses include retail, dining, and service uses, professional office uses, mixed-use with multi-family homes or office on upper floors, attached single-family homes, multi-family homes, live-work units, and lodging, among other uses.

Zoning Ordinance. The project site is located within the RH (415-0160-052-00) and CO (415-0170-037-00) Zones. Pursuant to the Hayward 2040 General Plan designation, the site allows for retail and lodging uses. However, the existing RH and CO zones preclude retail, entertainment, and limit the allowed lodging uses. As proposed, rezoning the site to CG would allow for retail, entertainment, lodging, and/or residential uses, which would be more consistent with the General Plan land use designation. Additionally, the rezone would not preclude residential projects, and would maintain the currently allowed maximum residential density of 34.8 units per acre.

Pursuant to Section 10.1-3425 of the Hayward Municipal Code, City Council may approve or deny a rezoning application based on several findings. The recommendations for approval shall be based upon all the following:

1. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;
2. The proposed change is in conformance with the purposes of this Ordinance and all applicable, officially adopted policies and plans;
3. Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified; and
4. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

Planning Commission Public Hearing:

On May 14, 2020, Planning Commission unanimously voted to recommend approval of the proposed rezone.² Planning Commission highlighted that the rezone would:

- Be consistent with the Hayward 2040 General Plan Designation
- Increase the allowed uses while not limiting the existing uses
- Planning Commission also recommended that the City Council-maintain flexibility on what type of land use would be the best use for Parcel Group 9 when soliciting any further developer interest, as a hotel project may not be the best option post COVID-19.

Staff has provided a more detailed analysis and findings to support the proposed rezoning in Attachment III.

¹ Hayward 2040 General Plan
<https://www.hayward2040generalplan.com/>

Environmental Review: On February 24, 2020, LSA processed an addendum to the Environmental Impact Report for the Hayward 2040 General Plan adopted in 2014. The addendum was prepared pursuant to CEQA Guidelines Section 15164. Pursuant to CEQA Guidelines Section 15164(e), the purpose of the Addendum was to describe and evaluate the proposed rezone and possibly the future construction of a 150-room hotel project and assess the proposed modifications to the project evaluated in the General Plan Environmental Impact Report, and identify the reasons for the conclusion that changes to the proposed project and associated environmental effects would not require the preparation of a subsequent or supplemental EIR. A copy of the proposed addendum to the Hayward 2040 General Plan EIR is included as (Attachment IV).

ECONOMIC IMPACT

The proposed rezone would allow for more uses on site, such as retail, entertainment, and lodging, while not limiting the existing uses. Rezoning the parcels would allow for flexibility as it relates to development, which will be crucial post COVID-19. Further, development of the site would generate tax revenue for the City while providing temporary employment during construction and permanent employment after construction, depending on the use.

FISCAL IMPACT

If rezoned, the site would allow for flexibility and any proposed project would include significant investment in an existing, vacant parcel that would generate revenues related to provision of building permits, sales tax revenues and/or residential taxes depending on the use.

Any future proposed project would be required to obtain all necessary land use entitlements and secure any related site and building permits prior to construction. Further, the multiple City departments/divisions can add conditions of approval to ensure no fiscal impact to City services.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Grow the Economy. Specifically, this item relates to the implementation of the following project:

Project 2, Part 2b: Engage owners and encourage activation of vacant sites.

PUBLIC CONTACT

On November 15, 2018, the City conducted a community outreach meeting, held at the Matt Jimenez Community Center, to solicit feedback from the community as to their desires for future development of the various parcel groups, including Parcel Group 9.

On March 14, 2019, staff conducted an additional community outreach meeting, held at the Douglas Morrison Theater, to solicit feedback specifically on Parcel Groups 8 and 9.

On August 26, 2019, the City presented work to date and solicited additional feedback about these two parcel groups as part of the Castro Valley Municipal Advisory Council meeting.

On February 4, 2020, an initial Notice of Application Receipt for the project application was sent to property owners, residents, and businesses within a 300-foot radius of the project site. Feedback received during these outreach events included: (1) concerns over hotel management and if not run well could become a draw for crime; (2) wanting more community facilities or spaces; and (3) increased traffic on Grove Way.

Following Notice of Receipt of Application, the City received two items of written correspondence on the project (Attachment VI): one email from the Alameda County Planning Director, who did not see an issue with the proposed rezone, but asked for access to be maintained to the County's land located to the south of the site. The Alameda County Planning Director also asked that staff maintain communication with the Alameda County constituents. The second letter was from a member of the public who did not see the need for a hotel on that site.

On May 1, 2020, a Notice of Public Hearing for the Planning Commission meeting was sent to property owners, residents, and businesses within 300-feet of the project site and published in The Daily Review newspaper. Four public comments were provided by email. Both highlighting that the City should not support a hotel development (Attachment VI).

On June 5, 2020, a Notice of Public Hearing for the City Council meeting was sent to property owners, residents, and businesses within 300-feet of the project site and published in The Daily Review newspaper.

NEXT STEPS

Following City Council approval, the Ordinance approving the rezone will return to the City Council for a second reading. If the Rezoning application and Addendum to the Hayward 2040 General Plan is approved by City Council, City staff would likely release a Request for Proposals to develop the site.

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Recommended by: Laura Simpson, AICP, Development Services Director

Approved by:



Kelly McAdoo, City Manager