



SUBJECT

Proposed Mixed-Use Development of 314 Rental Apartments, including 19 Units Affordable to Very Low and Low-Income Households, 7,100 Square Feet of Ground Floor Retail Space, and related Site and Frontage Improvements at 22330 Main Street (APN 428-0061-061-03, 428-0061-061-04) Requiring an Addendum of a Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program and Approval of a Major Site Plan Review, Administrative Use Permit, and Density Bonus Application No. 202003725; Nick Clayton for Project Management Advisors, Inc. (Applicant); Amit Goel for Goel Hayward MF LLC (Owner).

RECOMMENDATION

That the Planning Commission adopts the Addendum to the Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program (Attachment IV) and approves the Major Site Plan Review, Administrative Use Permit, and Density Bonus Application, subject to the attached findings (Attachment II) and conditions of approval (Attachment III).

SUMMARY

The applicant is requesting approval of a Major Site Plan Review, Administrative Use Permit, and Density Bonus application to construct a development with a five-story residential building and a four-story, mixed-use building on a 3.93-acre parcel, located at the corner of McKeever Avenue, Main Street and Maple Court. The project will include 314 apartment units, 7,100 square feet of ground floor retail space, a six-level parking garage with 420-spaces, and related project amenities, including site and frontage improvements.

The project is subject to Major Site Plan Review due to the overall development area in excess of three acres, an Administrative Use Permit due to the retail space less than 10,000 square feet and is requesting one development concession and one waiver as part of the Density Bonus application. The site is located within the Urban Neighborhood (UN) and Downtown Main Street (DT-MS) zoning districts, is subject to the Downtown Specific Plan, and is designated as CC-ROC (City Center – Retail and Office Commercial) in the *Hayward 2040 General Plan*.

On June 9, 2022, the Planning Commission voted to continue this item to June 23, 2022, to allow the applicant additional time to respond to the number of public comments received on the project. The applicant is still exploring various options and intends to provide the Commission with an update prior to or during the public meeting on June 23, 2022. Following Commission action on the continuance, staff updated two conditions of approval at the applicant's request (Condition #26 and #81) to address comments received from the Prospect

Hill Neighborhood Association and staff amended a third condition (Condition #141) related to utility meters and connections. All three of these updates have been incorporated into revised Conditions of Approval (Attachment III) and all the recent public correspondence received has been added as Attachment XIV. No other changes to this report, the proposed findings (Attachment II), or the draft conditions of approval (Attachment III) have been made following the Planning Commission meeting on June 9, 2022.

BACKGROUND

On February 7, 2017, the City Council¹ denied an appeal and approved the Maple and Main project with related Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, as approved by the Planning Commission on December 15, 2016². At that time, the project proposed the demolition of all buildings on site except for the medical office building, which was located on the corner of McKeever Avenue and Maple Court and construction of a five-story mixed-use building that would include 240 rental apartments with numerous site amenities, including approximately 5,500 square feet of ground floor retail space fronting Main Street, and a leasing office. As part of the original project, the four-story medical office building was planned to be reduced in size, improved, and modernized to meet current office needs. The renovated medical office building was to include approximately 47,750 square feet of office space but the office component of the mixed-use project was later determined to be infeasible due to lack of demand and the overall cost to renovate the building. Following numerous code enforcement complaints and pending public health and safety issues on the site, the previous owner filed for bankruptcy and the project went into receivership by the City. The new and current owner of the site, Amit Goel of Goel Hayward LLC, later demolished the medical office building in 2019 and the site remains vacant.

In September 2020, the applicant submitted a revised planning application that includes an expansion of the residential component and an increase in the amount of commercial retail space. The proposed architectural design and site layout largely remain the same from the original project application, but the revised project is now subject to a different set of land use, zoning and development regulations following the adoption of the Downtown Specific Plan and Development Code. The previous set of project entitlements approved by Council in 2017 have since expired and are no longer active.

Public Outreach. On October 2, 2020, a Notice of Application Receipt was sent to 263 addresses, including all property owners, businesses, and residents within a 300-foot radius of the project site, as well as interested parties including the Downtown Hayward Improvement Association, the Chamber of Commerce and Prospect Hill neighborhood. In response to this notice, staff received several phone and email inquiries from adjacent property owners asking about updates to the project, including any changes that occurred since the original project was approved in 2017. Following the initial feedback, staff has received no additional correspondence from members of the public except that several stakeholders regularly inquire about the project status.

¹ City Council Meeting: <https://hayward.legistar.com/LegislationDetail.aspx?ID=2952478&GUID=8DE40C12-8A9C-4420-98FF-3647D44EE0E9&Options=&Search=>

² Planning Commission Meeting: <https://hayward.legistar.com/LegislationDetail.aspx?ID=2906295&GUID=407F7506-B349-4FB4-97CA-79E025E9F9C0&Options=&Search=>

On May 27, 2022, a Notice of Public Hearing for the Planning Commission public hearing was circulated to a mailing list of 263 property owners, businesses, residents and interested stakeholders within a 300-foot radius of the project site as well as published within *The Daily Review* newspaper as a Legal Ad. Following the publication of this report, staff received several comments from members of the public related to this project and has included those comments as Attachment XIV.

In addition to the public notices, the applicant has also met with representatives of the Prospect Hill neighborhood, the Downtown Hayward Improvement Association, and the Chamber of Commerce to highlight the project revisions and address any concerns raised.

PROJECT DESCRIPTION

Existing Site Conditions. The project area consists of two irregularly shaped parcels totaling 3.93-acres, which are largely undeveloped and underutilized. The project site slopes gently toward the southeast. Main Street bounds the western side of the project, and Maple Court follows the eastern boundary. McKeever Avenue borders the northern side, and parcels along “A” Street are on the southern side of the project. Levine Court presently enters the property from Main Street, accessing several existing buildings in the northern half of the site. Remnants of the previously demolished office building, a small residence, and a paved parking lot occupy much of the remainder of the project area.

The southwestern side of the project site encroaches into the Alquist-Priolo Earthquake Fault Zone for the Hayward fault and a significant portion of the project area is also within a State Seismic Hazard Zone of potential liquefaction. The project site is surrounded by single-family residential uses to the north, office and residential uses to the west, and commercial uses to the south and east.

Project Overview. The proposed “Maple and Main” project is a mixed-use development composed of two buildings: a five-story residential building containing 251 units, wrapping around a 420-space six-level parking garage structure; and a four-story mixed-use building containing 63 residential units and 7,100 square feet of ground floor commercial space. Of the 314 total residential units, the project is proposing a mix of 19 affordable units on-site, which will be designated for low- and very low-income households.

On-site amenities including an 1,813 square foot indoor clubhouse on the ground floor that will serve as a communal lounge space for residents, with seating areas and electric only appliances to prepare and store food; an 1,128 square foot indoor gym on the ground floor with fitness equipment; a 1,535 square foot outdoor swimming pool with heated spa; and a common open space area adjacent to the pool that includes a BBQ counter, community tables, outdoor showers, and custom cabana/shade structures.

The applicant also proposes 7,100 square feet of new retail space on the corner of Maple Court and McKeever Avenue and the project is proposing numerous site and frontage improvements that include new lighting, landscaping, sidewalks, and bicycle facilities. A copy of the site, landscaping and civil plans are included as Attachment VI.

Similar to the previously approved project, staff has included a condition of approval that requires the applicant incorporate a plaque following an earlier request by the Prospect Hill neighborhood, related to the history of the Native Americans (Ohlone) in this area, with the design and location of the plaque to be approved by the City in consultation with the Native American Heritage Commission, local tribe representative and the neighborhood.

Building Architecture. As noted previously, the proposed project will include one five-story residential building with related tenant amenities, and one four-story mixed-use building comprising of commercial, community, and residential uses on the ground floor. Humphreys and Partners, the project architectural firm, has designed the main building to hide the multi-level parking garage and also incorporated the common courtyard area and pool areas near the center of the project site to create privacy for residents. The residential buildings are designed with a contemporary approach incorporating flat and shed roofs along all four sides of the structure coupled with varying wall planes, a varied color palette, and architectural reliefs to provide visual interest and avoid blank, monotonous facades. The roof also consists of a series of parapet walls and stairwell towers to screen the rooftop mechanical equipment from the public right-of-way and provide added articulation.

Several facades of the building include prominent focal tower design elements with triangular, multi-colored control joints to maintain visual interest and continuity throughout the development. Private balconies will also be installed along several of the side, rear, and interior-facing dwelling units to enhance the activation of building facades. As proposed, the overall total building height, at its tallest point, is measured at 66 feet, which is below the 70-foot height limit. The exterior building materials, inclusive of the commercial and residential components, will include a combination of stucco with a six-tone color palette. The proposed building elevations are included with the project plans (Attachment VI).

Residential Floor Plans. The project includes 27 studio, 126 one-bedroom, 138 two-bedroom, and 23 three-bedroom units, ranging in size from 567 square feet (studio) to 1,230 square feet (three-bedroom unit). The studio and one-bedroom units have one bathroom each and the two- and three-bedroom units have two bathrooms each. All units will have their own washer and dryer and each unit type, except for the studios, will feature a private balcony and a secure, enclosed storage closet. The storage closets will either be contained in larger storage rooms on each floor or located on private balconies, depending on unit type and location.

Landscaping and Open Space Areas. The conceptual landscaping and irrigation plan for the proposed project are included as part of the Project Plans (Attachment VI). The plans show the planting of new trees and shrubs along Main Street and Maple Court and throughout the site and in the courtyards. A total of 77 new trees are proposed around the project site, including Chinese Pistache, California Lilac, and Windmill Palms. In addition to the 7 different tree varieties, the project is proposing 596 new shrubs and a substantial number of accent plants, groundcovers, and vines, including plants suitable for placement in bioretention areas. For a Lined Building type in the Downtown Code, there are no open space requirements for ground floor or 2nd floor units; however at least 25 percent of the 3rd and 4th floor units are required to have a usable balcony of 5-foot minimum depth. The project, as proposed, meets

this requirement for the residential units and includes nearly 24,000 square feet of combined open space, including balconies, landscaped courtyards, and pedestrian paths around the site.

Tree Preservation and Removals. Hayward Municipal Code (HMC) Chapter 10, Article 15, Tree Preservation³, provides guidance on the preservation of protected trees and procedures for removal and mitigation of protected trees. Pursuant to the Ordinance, native trees with four inches or larger trunk diameter; all trees with eight inches or greater trunk diameter; and all street trees are considered protected. Consistent with these requirements, an Arborist Report was prepared by HortScience (dated February 2021) which evaluated a total of 21 trees, including 7 trees on-site and 15 trees off-site. Due to the size of the project, the most significant impact to the trees are the grading activities associated with constriction of the new buildings. Per the Arborist Report, 11 trees are recommended for preservation with the remaining 10 trees proposed for removal, with a combined appraised value of \$27,550, which will require mitigation through the on-site planting of trees with like size, or like kind to meet or exceed the appraised value of the removed trees. As conditioned, the landscaping and irrigation plans will be reviewed in greater detail during the building permit phase to ensure that all mitigation is adequate. Additionally, the City Landscape Architect will inspect the construction site to verify the trees are planted correctly with proper irrigation that will maximize the health of the trees. A copy of the Arborist Report is included as Attachment VIII.

Parking and Circulation. A six-level parking garage is proposed on the western portion of the project site, adjacent to Main Street. The proposed garage is designed to be concealed behind the residential units as to not be visible from the street and be accessed by a two-way ingress/egress from Main Street. In addition, two surface parking spots are located along an internal driveway connecting McKeever Avenue and Maple Court.

The project is required to provide 329 parking spaces for the residential use and 16 parking spaces for the retail use, for a total of 345 spaces. In addition, the applicant is required to provide 17 short-term bicycle spaces, 15 long-term bicycle spaces, 10 motorcycle spaces and 32 guest parking spaces. As currently proposed, the project will provide 422 standard and compact spaces, including 19 accessible spaces, 39 EV charging spaces; 40 short and long-term bicycle parking spaces; and 14 motorcycle spaces, which complies with and exceeds the City's parking requirements outlined in the Downtown Code.

In addition to the parking improvements, the project will add new multi-modal improvements, including new curb, gutter and sidewalks for pedestrians along the street frontages, new bike lanes along McKeever Avenue, and a new Class IV separated bike lane on Main Street between A Street and McKeever Avenue. The applicant has also committed to administrating a Parking Management Plan and Transportation Demand Management Plan to help manage parking and reduce parking demand, which is discussed in more detail below.

Parking Management Plan and Transportation Demand Management Plan. At the time the original Maple and Main project was approved in 2017, there was significant concern from the Prospect Hill Neighborhood Association and adjacent businesses about the potential increase to both traffic and parking demand as a result of the new project. To help mitigate these

³ Tree Preservation Ordinance: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART15TRPR

concerns and reduce total vehicle miles traveled (VMT), the previous applicant agreed to implement a Parking Management Plan and Transportation Demand Management (TDM) program, which was included as a condition of approval. In 2020, the new applicant hired a transportation consultant, Fehr & Peers, to develop site specific recommendations for the implementation of a Parking Management Plan (Attachment X) and a Transportation Demand Management Plan (Attachment XI). As part of the Parking Management Plan, Fehr & Peers conducted a site visit and conducted a parking occupancy survey to capture typical peak parking demand in early 2021. Details of that survey are contained in the Plan (Attachment X) and include strategies to help reduce parking demand, including unbundling parking, requiring a fair share contribution for a city shuttle to the Hayward BART Station, discounted transit passes, and on-site bicycle parking and bikeshare. Fehr & Peers believes the parking provided by the project will meet the overall parking demand but recommends that if parking becomes an issue in the future, a Parking Permit Program for residents may be an option that could be analyzed and addressed at a later date once the extent of the issue is identified. Fehr & Peers also prepared a Preliminary Transportation Demand Management Plan that was intended to reduce total vehicle miles traveled (VMT) by 20 percent for the project. Given the project location and proximity to various multi-modal transportation options, Fehr & Peers believes there is a high likelihood that if implemented, heavily marketed and supported, the proposed TDM program could achieve a 40 percent reduction in VMT by utilizing various programs including transit subsidies, future shuttle service and car/bike share programs. More details on the program and operational strategies recommended as part of the preliminary TDM Plan can be found in Attachment XI. Conditions of approval to implement the Parking Management Plan and the TDM Plan are contained in Attachment III.

Density Bonus Application. The applicant submitted a Density Bonus application (Attachment V), requesting one concession and one waiver from the HMC pursuant to Section 65915 of the Government Code.⁶ A density bonus is a zoning tool granted by State law that allows for an increase in density with concessions, waivers, and/or incentives to development standards when affordable housing units are provided on-site.

The City's Affordable Housing Ordinance ("AHO") requires a residential project that intends to satisfy the requirements through the provision of onsite rental units to provide 6 percent affordable units, evenly split between low-income and very low-income units with the ability to provide units at lower affordability levels. Per the approved Affordable Housing Plan (Attachment IX), the applicant is proposing a total of nineteen (19) affordable rental units with sixteen (16) units (or 5 percent of the 314-unit base project) dedicated as very low-income units restricted to very low-income households, and the other three (3) units dedicated as low-income units restricted to low-income households. The Project's proposed affordable units exceed the City's AHO requirements by delivering more very low-income units than is otherwise required. A mixed-use project, such as Maple and Main, that provides at least 5 percent very low-income units qualifies for the following benefits under the State's Density Bonus law: "(1) a 'density bonus;' (2) 'incentives and concessions;' (3) 'waivers or reductions' of 'development standards;' and (4) prescribed 'parking ratios.'" In this case, the Affordable Units qualify the Project for a 20 percent density bonus, unlimited waivers, one concession, and reduced parking ratios.

In exchange for exceeding the requirements of the AHO, the applicant is requesting one concession and one waiver. Concessions/incentives are defined as a reduction in site development standards or a modification of zoning code, or other regulatory incentives or concessions which result in identifiable and actual cost reductions. Waivers or Reductions of Development Standards are defined as any development standard that would physically prevent the project from being built at the permitted density allowed by State Density Bonus law. Per State law, the City cannot apply any development standard which physically precludes the construction of the project at its permitted density with the granted concessions/incentives, unless the waiver or reduced development standard would cause a public health or safety problem, cause an environmental problem, harm historical property, or would be contrary to law. Accordingly, the applicant has requested the following concession/incentive and the following waiver/reduction:

- *Concession #1 – Ground Floor Commercial Ceiling Height.* Per Section 10-28.2.2.060⁴ of the HMC, Urban Neighborhood (UN) districts require that the minimum retail ceiling height be 14'. Although the project exceeds this standard at the retail corner of Main and McKeever, the retail heights are reduced to 12'+/- over the remaining 85% of the retail frontage, which is due to the sloping grade at the corner of the project site. As a result, the applicant is proposing that the retail spaces be designed to follow the slope of the adjacent streets. Extending the ceiling line of the McKeever and Maple Street retail space to the remaining retail spaces would require the loss of the market-rate residential units above those spaces, resulting in an identifiable substantial loss of revenue which is needed to subsidize the affordable units or would require substantial redesign to the interior of the space which could impact accessibility. Alternatively, raising the entire building by 2'4" to meet the minimum retail height requirements in all retail spaces would require structural steel lateral bracing elements throughout the 1st floor level of the building. Avoiding the need to use structural steel in the building design would result in a substantial construction cost reduction to help offset the costs of the affordable units.
- *Waiver #1 - Lined Building Width along Main Street.* Per Section 10-28.3.3.140⁵ of the HMC, the maximum allowed width of the exterior building main body is 320'. The Lined Building width is 350 feet, which exceeds the maximum allowed width. Reducing the building width or breaking the building into multiple structures would result in the loss of residential units as space on the site is limited and the parcel is irregularly shaped. Therefore, compliance with the Lined Building width requirements would physically preclude construction of the proposed density bonus project.

Staff has reviewed the density bonus application and believes the Commission can approve the requested waiver and concession as these will result in identifiable and actual cost reductions, would not cause a public health or safety problem, would not cause an

⁴ Downtown Code, Urban Neighborhood Development Standards:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART28DECO_ART10-28.2SPZO_DIV10-28.2DOZO_10-28.2.2.060URNEUN

⁵ Downtown Code, Lined Building Requirement:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART28DECO_ART10-28.3SUZO_DIV10-28.3SPBUTY_10-28.3.3.140LIBU

environmental problem, would not harm historical property, and would not be contrary to any State or local laws applicable to this project.

Sustainability. The project incorporates several sustainability features. The project is located within a half mile of the downtown Hayward BART station, making commuting by public transit a feasible option and reduces dependency on single occupancy vehicles. In addition, the project will provide the additional sustainability features:

- Provide a fair share contribution towards any future City's shuttle service;
- Provide electric vehicle charging stations as shown in the garage plans;
- Provide on-site bicycle storage at the ground level of the garage;
- Locate high-density housing in close proximity of downtown core/transit services;
- Provide shared vehicle services (i.e., Zipcar);
- Roof areas will accommodate new solar panels;
- Include "Bay Friendly Landscape Guidelines" for drought tolerant plants;
- Provide on-site water quality and filtration basins;
- Project uses natural stone and other sustainable materials;
- Provide energy- and water-efficient appliances, compliant with Energy Star standards;
- Project will comply with California Title 24 and Cal Green Requirements; and
- The building will be constructed as all-electric pursuant to the adopted REACH Code.

Environmental Justice Analysis. In 2016, the California State Legislature passed Senate Bill (SB) 1000 into law, requiring local governments to identify environmental justice communities (called "disadvantaged communities") in their jurisdictions and address Environmental Justice in their General Plans. In June 2020, the Governor's Office of Planning and Research (OPR) issued updated General Plan Guidelines, including guidance for Environmental Justice Elements of General Plans to identify environmental justice policies and gaps in existing policies in relation to disadvantaged communities. Consistent with State requirements, the city is currently drafting an update to the *Hayward 2040 General Plan* to include an Environmental Justice element. In recent years, the city has been a leader regarding sustainability, justice, equity, and inclusivity. In 2015, Hayward served as a case study: *Advancing Social Equity Goals to Achieve Sustainability: Case Study Series* and has continued to apply the lessons learned to the betterment of the city.

Environmental Justice communities are identified as disadvantaged communities. Disadvantaged communities are defined as an area identified by the California Environmental Protection Agency (CalEPA) pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation by a variety of means, including history and adverse environmental living conditions. Indicators for disadvantaged communities include educational attainment, employment, housing- cost burdened low-income households, income, linguistic isolation, poverty, race and ethnicity, single parent households, U.S. citizenship, violent crime rate, and ability to vote.

As is noted in the Environmental Justice Memo (Attachment XII) prepared by Impact Sciences (dated September 2021), the guiding principles from the Downtown Specific Plan set the long-

term vision to establish Downtown Hayward as a regional destination, celebrated for its distinct history, culture, and diversity; providing shopping, entertainment, employment, and housing options for residents and visitors of all ages and backgrounds; that is accessible by bike, foot, public transit, and car, and public transit. Building upon this long-term vision, the following guiding principles were established through a collaborative process:

- Promote Downtown as safe, lively, and business friendly.
- Improve the circulation network to better serve Downtown businesses, residents, and visitors.
- Preserve the history, arts, and culture of Downtown.
- Build on and enhance natural features and open spaces.
- Establish Downtown as a regional destination.

In the Specific Plan, the original Maple and Main project was called out as a “catalytic revitalization project” to help the city realize this vision. While the Environmental Justice Memo is not required by the city or as part of CEQA analysis, the Memo explains how the project will serve the diversity of the residents and businesses throughout the city.

POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan. The *Hayward 2040 General Plan*,⁶ adopted in July of 2014, designates the project site as City Center - Retail and Office Commercial (CC-ROC). Per the General Plan, the CC-ROC land use designation generally applies to developments in Downtown Hayward and the “typical building types include storefront commercial buildings and mixed-use buildings that contain commercial uses on the ground floor and residential units or office space on upper floors. Other building types that may be appropriate on properties outside of the retail core of the Downtown include townhomes, apartment and condominium buildings, and live-work units.” Mixed-uses with multi-family homes or office on upper floors are an allowed use, while “multi-family homes” are listed as supporting uses. The project is consistent with the following goals and policies of the *Hayward 2040 General Plan*:

- *LU-1.3 Growth and Infill Development.* The City shall direct local population and employment growth toward infill development sites within the city, especially the catalyst and opportunity sites identified in the Economic Development Strategic Plan.
- *LU-1.4 Revitalization and Redevelopment.* The City shall encourage property owners to revitalize or redevelop abandoned, obsolete, or underutilized properties to accommodate growth.
- *LU-1.5 Transit-Oriented Development.* The City shall support high-density transit-oriented development within the city’s Priority Development Areas to improve transit ridership and to reduce automobile use, traffic congestion, and greenhouse gas emissions.

⁶ Hayward General Plan: <https://www.hayward2040generalplan.com/>

- *LU-1.6 Mixed-Use Neighborhoods.* The City shall encourage the integration of a variety of compatible land uses into new and established neighborhoods to provide residents with convenient access to goods, services, parks and recreation, and other community amenities.
- *LU-2.5 Downtown Housing.* The City shall encourage the development of a variety of urban housing opportunities, including housing units above ground floor retail and office uses, in the Downtown to increase market support for businesses, extend the hours of activity, encourage workforce housing for a diverse range of families and households, create housing opportunities for college students and faculty, and promote lifestyles that are less dependent on automobiles.
- *LU-2.6 Downtown BART Station.* The City shall encourage a mix of commercial, office, high-density residential and mixed-use development in the area surrounding the Downtown BART Station.
- *LU-3.4 Design of New Neighborhood Commercial and Mixed-Use Development.* The City shall require new neighborhood commercial and mixed-use developments to have a pedestrian-scale and orientation by placing the building and outdoor gathering spaces along or near the sidewalk; locating parking to the rear of the building or along the internal side yard of the property; designing the building with ground floor retail frontages or storefronts that front the street; and enhancing the property with landscaping, lighting, seating areas, bike racks, planters, and other amenities that encourage walking and biking.
- *H-3.4 Residential Uses Close to Services.* The City shall encourage development of residential uses close to employment, recreational facilities, schools, neighborhood commercial areas, and transportation routes.
- *M-1.6 Bicycling, Walking, and Transit Amenities.* The City shall encourage the development of facilities and services, (e.g., secure term bicycle parking, streetlights, street furniture and trees, transit stop benches and shelters, and street sweeping of bike lanes) that enable bicycling, walking, and transit use to become more widely used modes of transportation and recreation.

Downtown Specific Plan. In April 2019, the City adopted the Downtown Specific Plan⁷ and related Development Code, which established a new set of goals and policies for downtown Hayward, as well as created new development regulations for the project site, which included rezoning the parcels to the newly created zoning districts of Urban Neighborhood (UN) and Downtown Main Street (DT-MS). The Plan Area encompasses 320 acres bounded loosely Grand Street (west), E Street (south), 3rd Street (east), and Hazel Avenue (north).

The Downtown Specific Plan and Development Code were intended to provide the City with “a strategy to achieve the community’s vision of a resilient, safe, attractive, and vibrant historic downtown by clearly outlining an implementation plan, delineating an inclusive, multi-modal circulation system, integrating public open spaces, and establishing new regulations that

⁷ Downtown Specific Plan: <https://www.hayward-ca.gov/sites/default/files/Hayward%20Downtown%20Specific%20Plan.pdf>

clearly establish Downtown Hayward as the heart of the City and a destination for visitors and residents.” The Plan guides initiatives and investments that capitalize on the City’s unique assets, such as its central location in the Bay Area, its proximity to educational institutions, the Downtown Hayward BART station, parks, creek and public gardens, the compact street grid, the historic buildings, and the extensive public art. The Specific Plan calls for significant infill development in Downtown Hayward over the next 20 or more years and while land uses are flexible and may vary according to market demand, the Plan envisioned up to 3,430 new housing units and 1.9 million square feet of non-residential space such as retail, hospitality, office, and education. This project aligns with the following policies of the Downtown Specific Plan, including:

- *Policy LU 1 Diversity of Uses.* Attract more downtown visitors, including families and college students and faculty from Cal State University, East Bay, and Chabot College, by offering a wide array of retail, dining, services, and entertainment uses that create a dynamic environment and depend on pedestrian foot traffic.
- *Policy LU 2 Transit Supportive Development.* Create an urban environment and development regulations in the Plan Area for transit supportive development that benefits from and promotes a rapid transit public transportation system.
- *Policy LU 3 Opportunity Sites.* Encourage the development and improvement of opportunity sites that have the potential to attract developer interest in the Downtown and generate more economic activity.
- *Policy CD 2 Coordinate Public and Private Investments.* Coordinate public and private investment to improve the quality and appearance of new and existing structures and streetscapes.
- *Policy H 1 Housing Supply.* Encourage residential development at the maximum density allowed in the General Plan, where feasible, to spur more housing production, including affordable and market rate housing, and attract a wide spectrum of people to live Downtown.
- *Policy H 2 Affordable Housing.* Strongly encourage the production of on-site affordable housing in the Plan Area, including options for extremely low, very low, low, and moderate-income households, consistent with the inclusionary housing ordinance.
- *Policy TP 2 Manage and Market TDM.* Manage and market transportation demand management (TDM) programs to provide employers, employees, and residents with transportation alternatives to single-occupancy vehicle use and to reduce parking demand.
- *Policy ED 5 Skilled Labor Force.* Contribute to the stabilization of regional construction markets by spurring applicants of housing and nonresidential developments to require contractors to utilize apprentices from state-approved, joint labor-management training programs, and to offer employees employer-paid health insurance plans.

Development Code and Zoning Districts. The project is located on sites that contains split zoning: Urban Neighborhood (UN) and Downtown Main Street (DT-MS), as shown in Attachment XIII. The intent of the Urban Neighborhood district is to create a walkable, urban neighborhood environment with small-to-large building footprint from Rowhouses and Large Multiplex Buildings to Stacked Flats, supporting and within short walking distance of neighborhood-serving retail and services. The intent of the Downtown Main Street district is to create a walkable, vibrant urban main street serving as the citywide focal point for Hayward with commercial, retail, entertainment, and civic uses, public transportation, and small-to-large footprint, moderate-to-high-intensity housing choices, from Main Street Buildings to Lined Buildings.

Per Section 10-28.5.3.030 of the HMC⁸, the project is subject to Major Site Plan Review due to the overall size of the project on a site over three acres. The intent of this requirement is to create new, walkable neighborhoods and reinforce walkable urban environments with a mix of residential, civic, retail, and service uses within a compact, walkable, and transit-supportive environment. As part of this requirement, the Planning Commission may approve or conditionally approve an application when all the following findings are made:

- 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 policies and regulations;
- The development will be operated in a manner determined to be acceptable and compatible with surrounding development.

In addition to Major Site Plan Review, projects that propose less an 10,000 square feet of General Retail space are required to obtain an Administrative Use Permit (AUP), pursuant to Section 10-28.2.3 of the HMC⁹. In approving an AUP, the Planning Commission may approve or conditionally approve an application when all the following findings are made:

- The proposed use is desirable for the public convenience or welfare;
- The proposed use will not impair the character and integrity of the zoning district and surrounding area;
- The proposed use will not be detrimental to the public health, safety, or general welfare; and
- The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

As part of the Site Plan Review requirements of the Downtown Specific Plan and Development Code¹⁰, projects that are “30,000 square feet or larger must comply with contractor prequalification requirements, demonstrating the contractor utilizes apprentices from state-approved, joint labor-management training programs, and offers

⁸ Major Site Plan Review: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART28DECO_ART10-28.5PEPR_DIV10-28.5.3SIPLRE_10-28.5.3.030MASIPLRE

⁹ Downtown Code Land Use Table: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART28DECO_ART10-28.2SPZO_DIV10-28.2.3USTA

¹⁰ Major Site Plan Review: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART28DECO_ART10-28.5PEPR_DIV10-28.5.3SIPLRE

employees employer-paid health insurance plans.” To ensure compliance with this requirement, staff has included a condition of approval (Attachment III) and will continue to work with the applicant to satisfy this requirement prior to permit issuance.

Staff believes the Planning Commission can make the necessary findings to approve the Major Site Plan Review and Administrative Use Permit application and has provided more detailed analysis in Attachment II.

Housing Element, RHNA & Affordable Housing. Local jurisdictions report progress annually on meeting their RHNA goals, which are included in the City’s Housing Element. Table 2, (below) demonstrates progress made toward meeting Hayward’s RHNA goals for the period between 2015-2023 as of the last reporting year, which is shown in the column titled “Reported 2020.” The State allows jurisdictions to “report” the units when building permits are issued to construct the units. The “Approved” and “Pending Approval” columns provide an estimate of potential compliance by counting both entitled projects and projects going through the entitlement process.

Table 2. 2023 RHNA Goal Progress in the City of Hayward

Income Category*	Unit Goal	Reported 2020		Approved		Pending Approval		Estimated Compliance		Estimated Deficiency	
		Units	% of Goal	Units	% of Goal	Units	% of Goal	Units	% of Goal	Units	% of Goal
<i>Very low</i>	851	65	8%	205	24%	145	17%	461	54%	390	58%
<i>Low</i>	480	153	32%	315	66%	84	18%	552	115%	-72	-15%
<i>Moderate</i>	608	72	12%	95	15%	43	7%	210	35%	398	65%

*The City has achieved the Above Market Rate RHNA housing goals for the 2015-2023 RHNA cycle.

The proposed project is subject to the requirements set forth in HMC Chapter 10, Article 17, Affordable Housing Ordinance (AHO).³ An applicant may satisfy the requirements of the AHO by paying an affordable housing in lieu fee, providing on- or off-site affordable units, or proposing an alternative plan. Pursuant to HMC Section 10-17.210, rental projects shall deed restrict no less than 6 percent of total units on-site for affordable housing. 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 rate units pursuant to HMC Section 10-17.220.

As detailed in the project’s Affordable Housing Plan (Attachment IX), the applicant proposes to meet the standard requirement for on-site affordable by providing sixteen (16) rental units as affordable to Very Low-Income Households and three (3) rental units as affordable to Low-Income Households. Under the standard requirements, the applicant is required to provide 19 affordable units with 50 percent of units being dedicated towards low and 50 percent of units being dedicated towards very low-income households. Because the applicant is proposing to provide a greater number of units at the very low-income level, the project exceeds the requirements of the AHO and additionally, is eligible for one concession and/or unlimited waivers as part of their Density Bonus request. The affordable units will include a mix of studio, one, two and three-bedroom units as reflected in the Affordable Housing Plan.

SB330 and Housing Crisis Act. In 2019, the State of California adopted new legislation (SB330) that is intended to address the State’s housing crisis. SB330 strengthens the Housing Accountability Act (Government Code Section 65589.5), which states that a housing development project that complies with the objective standards of the General Plan and Zoning Ordinance must be approved by the City, unless the City is able to make written findings based on the preponderance of the evidence in the record that either: (1) the City has already met its Regional Housing Needs Assessment (RHNA) requirement; (2) there is an impact to the public health and safety and this impact cannot be mitigated; (3) the property is agricultural land; (4) approval of the project would violate State or Federal law and this violation cannot be mitigated; or (5) the project is inconsistent with the zoning and land use designation and not identified in the General Plan Housing Element RHNA inventory. “Objective” means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

SB330 applies to housing projects, including mixed use projects with at least two-thirds of square footage dedicated to residential units. The residential portion of this project makes up over two-thirds of the overall project square footage, which means that the provisions of SB330 apply. In addition, SB330 specifies that use of a density bonus and related incentives, concessions, or waivers does not make a project ineligible for SB330. As shown in Table 3, the project complies with the objective development standards of the Urban Neighborhood District when the Density Bonus concessions and waivers are included.

Table 3 - Zoning Compliance with Density Bonus - Urban Neighborhood District (UN)					
STANDARD	HMC REQUIREMENT		PROPOSED PROJECT		COMPLIANT
	WIDTH	DEPTH	WIDTH	DEPTH	
<i>Stacked Flats</i>	100' min.;	200' min.	approx. 140'	approx. 240'	YES (Corner Building)
	250' max.				
<i>Lined Building</i>	320' max.	420' max.	approx. 390'	approx. 190'	YES (Main Building)
<i>Building Stories</i>	5 stories max		5 stories		YES
Height To Eave/Parapet	60' max.		60' Max Parapet Height		YES
<i>Building Height</i>	70' max.		66'		YES
<i>Ground Floor Finish Level</i>					
Residential	12" min. (except entries)		0'		YES
Non-Residential	6" max.		0'		YES
<i>Ground Floor Ceiling</i>					
Residential	9' min.		10'-1"		YES
Non-Residential	14' min.		Varies between 11.2' and 18'		YES*
<i>Upper Floor Ceiling</i>	8' min.		9'-1"		YES
<i>Lot Coverage Max</i>	75%		64% for project site		YES
Bldg. depth, Gr. Floor	30' min.				YES
<i>Setbacks</i>					
Front (Interior Lot)	5' min 10' max		Varies Within Range		YES

Front (Corner Lot)	0'min 10'max	Varies Within Range		YES
Street Side	5'min 10'max	Varies Within Range		YES
Rear	0'min	Varies Within Range		YES
Parking				
Residential	329		406	YES
Non-Residential	16		16	YES
* With Density Bonus				

As shown in Table 4 below, the project complies with the objective development standards of the Downtown Main Street District when the Density Bonus concessions and waivers are granted.

Table 4. Zoning Compliance with Density Bonus - Downtown Main Street District (DT-MS)					
STANDARD	HMC REQUIREMENT		PROPOSED PROJECT		COMPLIANT
	WIDTH	DEPTH	WIDTH	DEPTH	
Lined Building	400' max.	400' max.	180'	80'	YES (Main building)
Building Stories	7 stories max		5 stories		YES
Height To Eave/Parapet	75' max.		60' Max Parapet Height		YES
Building Height	85' max.		67'		YES
Ground Floor Finish Level					
Residential	6" min. (except entries)		0'		YES
Non-Residential	6" max.		0'		YES
Ground Floor Ceiling					
Residential	9' min.		9'1"		YES
Non-Residential	14' min.		Varies between 11' and 18'		YES
Upper Floor Ceiling	8' min.		9'1"		YES
Lot Coverage Max	95%		64% for project site		YES
Bldg. depth, Gr.Floor	40' min.				YES
Setbacks					
Front (Interior Lot)	0'min 10'max		Varies Within Range		YES
Front (Corner Lot)	0'min 10'max		Varies Within Range		YES
Street Side	0'		Varies Within Range		YES
Rear	0'		Varies Within Range		YES
Parking					
Residential	329		406		YES
Non-Residential	16		16		YES

Park Impact Fee. The City's regulations require that a proponent pay impact fees and/or dedicate public parkland, where projects entail more than 50 units. The proponent is proposing to pay park impact fees for the project. For the 19 units proposed to be affordable to very low-income households and deed-restricted, the City's Park obligation is reduced by 50%. Based on the current rate adopted as part of the FY 2022 Master Fee Schedule, the total estimated park impact fees for the project are \$2,179,392.50

Alquist-Priolo Fault Zone. As previously noted, the southwestern side of the project site encroaches into the Alquist-Priolo Earthquake Fault Zone for the Hayward fault. A significant portion of the project area is also within a State Seismic Hazard Zone of potential liquefaction. Projects that will include new structures for human occupancy within such zones are subject to regulations and requirements of the Alquist-Priolo Act¹¹ (Division 2, Chapter 7.5 of the California Public Resources Code), and Chapter 7.8, the Seismic Hazards Mapping Act.

For projects within Hayward, the city is the lead agency responsible for compliance and enforcement of those acts and filing approved reports and their related reviews to the State Geologist. In 2014, a feasibility investigation was completed by engineering company, Stevens Ferrone & Bailey (SFB). The investigation included preliminary geotechnical recommendations for the construction of the project and an analysis of the liquefaction potential. In 2018, a follow up geotechnical investigation was completed by SFB that included 14 borings throughout the property. The report also contained the results of laboratory testing and analyses and provides geotechnical recommendations for project construction. An updated report that conforms to the 2019 California Building Code was later prepared by SFB in February 2021, which supersedes earlier project recommendations.

In accordance with State requirements, an independent peer review of the geotechnical report was completed by Louis Richardson, Consulting Geologist, in February 2021 and found no evidence of an active fault trace, fault creep, or fault-related distress on the project site, which was determined following site-specific trenching. The closest active fault trace is approximately 375 feet southwest of the project site. The peer review concluded that the project could be built, incorporating accepted principals and best practices for construction, which are included as a condition of approval. A copy of the geotechnical investigation and peer review is included as Attachment VII.

STAFF ANALYSIS

Staff believes that the Planning Commission can make the required Findings to approve the Major Site Plan Review, Administrative Use Permit, and Density Bonus application based on the analysis provided herein and included within the required Findings. The proposed project complies with the applicable objective development standards and meets the intent of the UN and DT-MS zoning districts, the Downtown Specific Plan, as well as the goals and policies of the *Hayward 2040 General Plan*.

The proposed development includes 314 new rental units in downtown Hayward to support local businesses, including 19 affordable housing units with a range of unit sizes at very low and low-income affordability levels, which will provide Hayward's lower income households with desperately needed housing units. In addition, the proposed commercial spaces will provide small retail tenants the opportunity to expand or establish a new business in Downtown Hayward. The infusion of tenants into this underutilized site will support existing businesses and help attract future ones to the Downtown, while eliminating the opportunity for trespassing and vagrancy at the site. Additionally, the project will generate over \$2.1M in

¹¹ Alquist-Priolo Fault Act: https://leginfo.ca.gov/faces/codes_displayText.xhtml?division=2.&chapter=7.5.&lawCode=PRC

park impact fees, which will be used for parkland acquisition and/or park improvements in the city.

Staff notes that the materials of the proposed new residential and mix-use building will utilize good quality products and architectural design to reflect a modern development with numerous project amenities to serve future tenants. Additionally, the six-level parking garage will be screened from public view around the property and the implementation of a variety of parking management and transportation demand management measures, such as transit passes, shared car/bike program, unbundled parking, and on-site secured bicycle storage facility, will reduce trips from the site. Further, the Downtown Hayward BART Station is within a half mile from the project site, which makes it convenient for walking and biking as an easy commute to other local and regional destinations.

ENVIRONMENTAL REVIEW

As described in the background section, on February 7, 2017, the City Council approved a Mitigated Negative Declaration, Initial Study, Mitigation Monitoring and Reporting Program in conjunction with the approval of a mixed-use project that included 192 Market-Rate Apartments, 48 Apartments Affordable to Very Low Income Households, Rehabilitation of a 48,800 Square-Foot Medical Office Building, and Approximately 5,500 Square-Foot of Retail Space, Located Generally Within the Block Bounded by A Street, Main Street, McKeever Avenue and Maple Court in Downtown Hayward.

Pursuant to CEQA Guidelines Section 15164, Impact Sciences prepared an Addendum, dated May 2022, analyzing the proposed project to allow a revised mixed-use project with 314 apartment units, including 19 affordable units, and 7,100 square feet of ground floor commercial space at the subject address. Pursuant to CEQA Guidelines 15164(g), an Addendum need not be circulated for public review but can be included in or attached to the Final EIR or MND.

There has been no substantial change proposed in the project or the circumstances under which the project is being undertaken, nor is there any new information that would require additional environmental review. New CEQA analysis related to Vehicle Miles Traveled (VMT) found that the proposed project would not result in a significant impact in that the employer will implement Parking Management Plan and Transportation Demand Management measures and ongoing monitoring and reporting as part of the project. Therefore, the previously certified IS/MND and Mitigation Monitoring and Reporting Program remains valid.

The adopted MND identified all potential significant adverse impacts and feasible mitigation measures that would reduce impacts to a level of less than significant, and the vast majority of those mitigation measures have yet to be implemented. The applicable mitigation measures identified in the Mitigation Monitoring and Reporting Program include ongoing measures tied to Air Quality, Biological Resources, Cultural Resources, Geology, Hazards and Hazardous Materials, and Noise. Based on the MND, the Addendum, and the whole record before the Planning Commission, there is no substantial evidence that the project would have any new or more significant effects on the environment.

The project complies with CEQA, and that the previously certified MND, Initial Study, Mitigation Monitoring and Reporting Program and Addendum was presented to the recommending and deciding bodies, which reviewed and considered the information contained therein prior to forming a recommendation related to the project. A copy of the original Initial Study and Mitigation Negative Declaration with Mitigation Monitoring and Reporting Program and the proposed Addendum, reflecting the Revised Project analysis, is included as Attachment IV.

NEXT STEPS

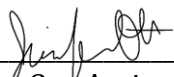
If the Planning Commission approves the Major Site Plan Review, Administrative Use Permit, and Density Bonus application, then a 10-day appeal period will commence from the date of decision. If no appeal is filed, then the decision will be deemed final. If an appeal is filed within the 10-day time frame, then the application will be forwarded to the City Council for their review and consideration.

Prepared and Recommended by: Jeremy Lochirco, Planning Manager

Approved by:



Sara Buizer, AICP, Deputy Development Services Director



Jennifer Ott, Assistant City Manager/Development Services Director