

**PLANNING COMMISSION MEETING
THURSDAY, OCTOBER 23, 2025**

**DOCUMENTS RECEIVED AFTER
PUBLISHED AGENDA**

ITEM #1 PH 25-046

**Proposal to Subdivide an Existing 0.15-acre site to allow for the Construction of a 14-Unit Condominium Building at 1289 Russell Way, Requiring Approval of a Vesting Tentative Tract Map (VTTM) for Condominium Purposes (Tract No. 8762), Application No. 202205806.
Applicant/Property Owner: Horacio Woolcott, 4WR LLC**

PUBLIC COMMENT

From: James Lloyd <james@calhdf.org>

Sent: Wednesday, October 22, 2025 3:52 PM

To: CityClerk <CityClerk@hayward-ca.gov>

Cc: Jeremy Lochirco <Jeremy.Lochirco@hayward-ca.gov>; Michael Lawson <Michael.Lawson@hayward-ca.gov>; Miriam Lens <Miriam.Lens@hayward-ca.gov>; Ana Alvarez <Ana.Alvarez@hayward-ca.gov>

Subject: public comment re item 1 for the 10/23/25 Planning Commission meeting

CAUTION: This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Hayward Planning Commission,

The California Housing Defense Fund (“CalHDF”) submits the attached public comment re item 1 for tomorrow's Planning Commission meeting, the proposed 14-unit housing development project at 1289 Russell Street, which includes 1 very low-income unit.

Sincerely,

James M. Lloyd

Director of Planning and Investigations

California Housing Defense Fund

james@calhdf.org

CalHDF is grant & donation funded

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Oct 22, 2025

**City of Hayward
777 B Street
Hayward, CA 94541**

Re: Proposed Housing Development Project at 1289 Russell Street

By email: cityclerk@hayward-ca.gov

**Cc: Jeremy.Lochirco@hayward-ca.gov; Michael.Lawson@hayward-ca.gov;
Miriam.Lens@hayward-ca.gov; Ana.Alvarez@hayward-ca.gov**

Dear Hayward Planning Commission,

The California Housing Defense Fund (“CalHDF”) submits this letter to remind the City of its obligation to abide by all relevant state laws when evaluating the proposed 14-unit housing development project at 1289 Russell Street, which includes 1 very low-income unit. These laws include the Housing Accountability Act (“HAA”), the Density Bonus Law (“DBL”), AB 130 and California Environmental Quality Act (“CEQA”) guidelines.

The HAA provides the project legal protections. It requires approval of zoning and general plan compliant housing development projects unless findings can be made regarding specific, objective, written health and safety hazards. (Gov. Code, § 65589.5, subd. (j).) The HAA also bars cities from imposing conditions on the approval of such projects that would reduce the project’s density unless, again, such written findings are made. (*Ibid.*) As a development with at least two-thirds of its area devoted to residential uses, the project falls within the HAA’s ambit, and it complies with local zoning code and the City’s general plan. Increased density, concessions, and waivers that a project is entitled to under the DBL (Gov. Code, § 65915) do not render the project noncompliant with the zoning code or general plan, for purposes of the HAA (Gov. Code, § 65589.5, subd. (j)(3)). The HAA’s protections therefore apply, and the City may not reject the project except based on health and safety standards, as outlined above. Furthermore, if the City rejects the project or impairs its feasibility, it must conduct “a thorough analysis of the economic, social, and environmental effects of the action.” (*Id.* at subd. (b).)

CalHDF also writes to emphasize that the DBL offers the proposed development certain protections. The City must respect these protections. In addition to granting the increase in

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www.calhdf.org**

residential units allowed by the DBL, the City must not deny the project the proposed waivers and concessions with respect to parking, building type, frontage type, front yard setback, and façade zone design to accommodate the proposed building and site design. If the City wishes to deny requested waivers, Government Code section 65915, subdivision (e)(1) requires findings that the waivers would have a specific, adverse impact upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. If the City wishes to deny requested concessions, Government Code section 65915, subdivision (d)(1) requires findings that the concessions would not result in identifiable and actual cost reductions, that the concessions would have a specific, adverse impact on public health or safety, or that the concessions are contrary to state or federal law. The City, if it makes any such findings, bears the burden of proof. (Gov. Code, § 65915, subd. (d)(4).) Of note, the DBL specifically allows for a reduction in required accessory parking in addition to the allowable waivers and concessions. (*Id.* at subd. (p).) Additionally, the California Court of Appeal has ruled that when an applicant has requested one or more waivers and/or concessions pursuant to the DBL, the City “may not apply any development standard that would physically preclude construction of that project as designed, even if the building includes ‘amenities’ beyond the bare minimum of building components.” (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 775.)

Furthermore, the project is exempt from state environmental review under the Class 32 CEQA categorical exemption (In-Fill Development Projects) pursuant to section 15332 of the CEQA Guidelines, as the project is consistent with the applicable general plan designation and all applicable general plan policies as well as the applicable zoning designation and regulations; the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare, or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services. Furthermore, the project is eligible for a statutory exemption from CEQA pursuant to AB 130 (Pub. Res. Code, § 21080.66), which was signed into law on June 30, 2025 and effective immediately (Assembly Bill No. 130, 2025-2026 Regular Session, Sec. 74, available [here](#)) Caselaw from the California Court of Appeal affirms that local governments err, and may be sued, when they improperly refuse to grant a project a CEQA exemption or streamlined CEQA review to which it is entitled. (*Hilltop Group, Inc. v. County of San Diego* (2024) 99 Cal.App.5th 890, 911.)

As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit: by providing affordable housing, it will mitigate the state’s homelessness crisis; it will increase the city’s tax base; it will bring new customers to local businesses; and it will reduce displacement of existing residents by reducing competition for existing housing. It will also help cut down on transportation-related greenhouse gas emissions by providing housing in denser, more urban areas, as opposed to farther-flung regions in the state (and out of state). While no one

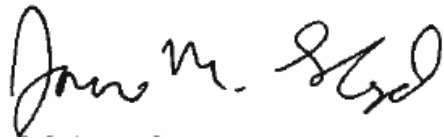
project will solve the statewide housing crisis, the proposed development is a step in the right direction. CalHDF urges the City to approve it, consistent with its obligations under state law.

CalHDF is a 501(c)(3) non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,



Dylan Casey
CalHDF Executive Director



James M. Lloyd
CalHDF Director of Planning and Investigations

Staff Responses to Commissioners' Questions



October 23, 2025 – Planning Commission Questions

ITEM #	QUESTION	STAFF RESPONSE
Question #1 PH 25-046	Currently this stretch of Russell Way has "No Parking" signs along it. This, along with the parking concession that the applicant utilized in exchange for committing one of the 14 proposed units for sale to a very low-income household, creates both legal and illegal parking concerns. Since one of the Conditions of Approval already requires that the developer widen and make street improvements to Russell Way for safety reasons, would it be possible to consider adding street parking as well?	There is insufficient right-of-way within Russell Way to provide on-street parking without requiring significant dedications from the front of each property located along Russell Way to the City to enable the road to be widened enough to accommodate on-street parallel parking. Furthermore, the dedication that was required in the conditions of approval was necessary to provide adequate street width to enable a fire ladder truck to access the building in the event of an emergency, so the property's frontage will serve as a fire lane along which no vehicular parking will be allowed. It should also be noted that if other developments are proposed along this segment of Russell Way, similar right-of-way dedications would be required of them as well to meet minimum fire roadway width/access requirements.
Question #2 PH 23-002	Attachment I, page 8 states, "Currently, Park Impact Fee rates are \$3,812 for a studio unit and \$10,764 for a two-bedroom unit. The proposed plans feature eight total studio units and six total 2-bedroom units. As such, the developer would be obligated to pay \$95,080 in Park Impact Fees." However, the Unit Mix Summary Table on Attachment V, page 1 shows that the developer is planning for eight 1-bedroom units (seven at market rate) and six 2-bedroom units. Can you clarify the number and size of the units being proposed for this project, as well as the amount of the Park Impact Fees that the developer would be obligated to pay?	This was an error by staff. The one-bedroom units appear to be studios in the floor plans because their "bedrooms" are not fully enclosed by solid stud walls with a door, but the applicant and architect both refer to them as one-bedroom units rather than studios. Park Impact Fee rates are \$5,967 for a one-bedroom unit and \$10,764 for a two-bedroom, unit. As such, a project with eight one-bedroom units and six two-bedroom units would be obligated to pay \$112,320 in Park Impact Fees.

Question #3 PH-23-002	Has the planning commission previously reviewed changes in approved projects from multi-family rental to condo ownership? If so, have developers shared why they're making this change?	Yes, it has been done before on more than one occasion. Two recent examples include the Manton Townhomes and Oak Street Townhomes projects, both of which were originally approved as rental projects but later converted to condominiums. Developers typically cite financial reasons for requesting permission to convert rental developments to ownership; however, the applicant is not required to justify their request and neither staff or the Planning Commission can request this information. The General Plan Housing Element contains a policy that prioritizes ownership housing. The Planning Commission is limited to only evaluating the tentative map being proposed and determining whether the project complies with the provisions of the Subdivision Map Act. The Subdivision Map Act specifies the findings that must be made to approve or deny a land use application, the category of housing tenancy is not a specified basis.
Question #4 PH-23-002	Can the applicant share what the target sales price for the market-rate homes will be, both studio and two-bedroom?	Staff does not request or require applicants provide this information as it's not a factor in evaluation of a planning entitlement application. Additionally, this information cannot be used to support approval or denial of a residential housing project.
Question #5 PH-23-002	Does the HOA or developer intend to hire a management company for common area needs (like trash removal) or will that be done at a later date?	This is a question that the Commission can ask the Applicant during the meeting. Typically, Homeowners Associations (HOAs) hire and utilize a property management firms to enforce and administer CC&R Covenants; however, how the applicant intends to manage their properties is outside the purview of the Planning Commission.
Question #6 PH-23-002	For calculating the density of the lot, the documents state the size of the lot is 0.12 acres after the dedication of public right-of-way, but the applicant uses the 0.15 acres original size. If it's the smaller size, why would the original size of the land not be used to calculate density?	When calculating residential densities, Hayward and most other cities use net density rather than gross density. Net density is calculated by deducting any land that will be dedicated to the City for right-of-way or used as commonly-shared private streets or open space by an HOA. Net density is used because it is a more accurate indicator of a project's intensity since it only involves the land that is developed for housing.



Question #7 PH-23-002	For individual waste disposal, will homeowners be expected to take their own trash downstairs or are there trash chutes? Are there individual garbage bins or individual large trash/recycling cans?	Yes, per the Applicant, residents will be able to use the elevator to bring their garbage, recycling and green waste to the trash room on the first floor. There will be commonly shared dumpsters for garbage and recycling, and smaller roll-out carts for green waste.
Question #8 PH-23-002	Does the Hayward fire code require the installation of manual fire alarms in addition to automatic fire alarms?	Per the Fire Marshal, it depends on the occupancy type of the building. For a building with an R2 occupancy such as the one in this application, both a manual and automatic fire alarm with occupant notification are required.
Question #9 PH-23-002	Will the parking spot assigned to the affordable unit be owned outright by that unit? Will they be free to sell it or will it be bound to the unit?	The parking space will be assigned to the affordable unit. The owner will not be able to sell it separately.
Question #10 PH-23-002	Will the applicant/developer control the unsold parking spots until they are sold to owners?	This is a question for the Applicant. The City does not regulate how parking spaces are assigned, managed or distributed on private property other than to ensure the project provides the minimum number of parking spaces prescribed by the Hayward Municipal Code. This project was previously entitled and obtained a parking reduction in conjunction with their Site Plan Review and Density Bonus application.
Question #11 PH-23-002	Will sold parking spots be conveyed through a grant deed or another instrument of Title?	See response to Question #10, above.
Question #12 PH-23-002	Once sold, will ownership of the parking spot be fully controlled by the owner? Will they have the right to sell it to other owners in the HOA?	See response to Question #10, above.
Question #13 PH-23-002	Will the developer be responsible for completing all improvements in the public right of way (besides utility improvements through PG&E and Hayward Water?	Yes. The Applicant will be required to enter into a Subdivision Improvement Agreement with the City and establish a bond for the on-site and off-site improvements, which will cover the work in the public right-of-way, including but not limited to street widening.

Question #14 PH-23-002	Will construction staging happen on the site or anywhere else?	Constriction staging will be required to occur on-site as staging of construction equipment and materials in the public right-of-way is not allowed per the Hayward Municipal Code.
Question #15 PH-23-002	If construction starts during bird nesting season and the survey required by Condition of Approval #66 finds nesting birds in any trees, will construction need to be delayed?	Yes. In such a case, the City would rely on the consulting wildlife biologist/ornithologist's recommendations and the Applicant would be obligated to adhere to those recommendations even if it resulted in construction delays. The City would not allow any activities to resume without first receiving the express written authorization from the consulting wildlife biologist/ornithologist.
Question #16 PH-23-002	What is the anticipated in-lieu fee to be paid for the fractional 0.05 affordable housing unit?	The in-lieu fee would be \$6,494 based on the City's current master fee schedule and the project's square footage.
Question #17 PH-23-002	What qualifies as a very low-income unit for homeownership? Is it 50% AMI (standard in multifamily) or 80-120% AMI (typical range seen in affordable homeownership)?	The very low-income unit targets households earning 50% of the Area Median Income (AMI).
Question #18 PH-23-002	Can the preliminary marketing and management plan shared with the Housing Division be shared with the Commission as well?	The purpose of the preliminary marketing plan is to put the Applicant on notice that they will be responsible for marketing the units and finding buyers. At this stage in the development process, the applicant is in the process of developing a marketing plan, which will ultimately be reviewed and approved by the Housing Division. It is not within the Planning Commission purview to consider how units are marketed or sold and as such, this information is not required for consideration of the tentative map application.
Question #19 PH-23-002	Does the applicant have any plans to provide support or assistance to the low-income ownership unit?	There is no direct assistance from the Applicant. The affordable sales price will be calculated using 30% of the income of a 40% AMI two-person household. The price calculation includes all housing costs such as principal, interest, HOA dues, utility allowances, taxes, insurance, etc. This home will be priced substantially below market prices and likely below cost to build, meaning there is an indirect subsidy from the Applicant. Just to give the Commission and idea, while these units will not be priced until prior to sale, other larger 50% AMI units have been priced at under \$70,000.



Question #20 PH-23-002	Will HOA fees for the low-income unit be the same as the market-rate units?	Yes. However, the HOA dues are factored into the affordable housing cost (Principal, interest, taxes, insurance, HOA dues, utility allowance, solar costs (if applicable) = 30% of monthly income at 40% AMI for a household of two). The higher the HOA dues, the lower the price.
Question #21 PH-23-002	What is the length of time for which the affordable ownership unit will be restricted?	In perpetuity, per the City's Affordable Housing Ordinance.
Question #22 PH-23-002	If the affordable unit is to be sold by owners, who will be responsible for facilitating the below-market-rate sale?	Under the Borrower Occupancy and Resale Agreement that is recorded to title, the owner has the responsibility for making sure the property is acquired by an eligible purchaser. However, based on the multiple steps involved, there are numerous opportunities for the City to ensure the unit is sold to an eligible household including: a) The owner must notify the City of their intention to sell the unit; b) The City calculates the affordable sales price; c) Owner finds a buyer and screens him/her/them for eligibility; d) The City verifies the buyer's eligibility; and e) The City releases the owner/seller from the affordable housing agreement documents recorded to title and records new such documents in the name of the buyer. In the event the owner does not notify the City about the sale and the escrow company does not reach out to the City about our documents recorded to title, the owner would be responsible to reimburse the City the difference between the affordable sale price and their actual sales prices, and the City's restrictions would still be on title and apply to the new owner.

Question #23 PH-23-002	Does Hayward currently need to build more apartments or condominiums to house our residents, or do we need an equal number of both? Please use data to explain.	The City's General Plan and Housing Element contain several goals that support the construction of both apartments and ownership units in various sizes and unit types to accommodate a diversity of resident needs and abilities. The Housing Element contains a policy that prioritizes ownership housing. There has been no analysis conducted to determine which category of housing is needed more. However, specific data to support rental units versus ownership units is not a factor the Planning Commission should be considering when evaluating a tentative map application. The Subdivision Map Act specifies the findings that must be made to approve or deny a land use application, and the category of housing tenancy is not a specified basis.
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