



**DATE:** November 13, 2018

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Proposal to Construct Eight (8) Attached Townhouse Condominium Units and Related Site Improvements at 420 Smalley Avenue (APN 431-0008-020-00) by GKW Architects (Applicant) on behalf of Tommy Tam (Owner), Requiring Introduction of an Ordinance and Adoption of a Resolution to Approve a Vesting Tentative Tract Map, Planned Development (PD) Rezone, and Site Plan Review, and Adopt a California Environmental Quality Act (CEQA) Infill Checklist. Application No. 201704262

## **RECOMMENDATION**

That the City Council introduces the attached Ordinance (Attachment II) approving the Planned Development (PD) Rezone and adopts the attached Resolution (Attachment III) approving Tentative Tract Map No. 8429 and Site Plan Review Application No. 201704262 and adopting the related California Environmental Quality Act (CEQA) Infill Checklist for the proposed development.

## **SUMMARY**

The applicant is requesting approval of Vesting Tentative Tract Map No. 8429, PD Rezone and Site Plan Review Application No. 201704262, and the adoption of a CEQA Infill Checklist to construct eight attached townhouse condominium units, with a common open space area and related on and off-site improvements at 420 Smalley Avenue. The project site, which is 0.47 acres in size, is currently zoned RM (Medium Density Residential) District and designated as MDR (Medium Density Residential) in the *Hayward 2040 General Plan*. The existing single-family home and detached garage will be demolished.

The project requires a Zone Change from the RM District to a new PD District, a Vesting Tentative Tract Map to subdivide the property for townhouse condominium units, and Site Plan Review for development of the site. The project is also subject to environmental review. Staff has outlined the project details and analysis in this report.

## **BACKGROUND**

The project site is currently developed with a single-family home, which was built in 1939. In 2005, the Planning Commission approved a Tentative Tract Map and Site Plan Review application to subdivide the subject property and construct five townhouse units with related

site improvements. However, this proposed development was never constructed. The applicant, GKW Architects, submitted this current project application on July 20, 2017 and following staff review and input, the original proposal has been revised as follows:

1. The elevations have been revised to incorporate more offsets and recesses in the building form and wall surfaces to minimize the bulk and massing of the proposed building.
2. The elevations have been revised to incorporate additional private balconies and patios throughout all elevations to provide additional articulation and eyes on the street for a safer and more active environment.
3. The overall color scheme has been revised to provide a more neutral color palette that blends in with the surrounding neighborhood.
4. The proposed materials have been revised to incorporate stone veneer throughout all elevations to add visual interest and improve the overall quality of the elevations.

Planning Commission. On October 25, 2018, the Planning Commission held a public hearing and voted 4:3 to recommend approval of the project to the City Council. One member of the public spoke at the hearing and expressed concern regarding the potential impact of the project on the existing street parking in the neighborhood. Although the Planning Commission expressed general support for the project density, sustainability features, and provision of an affordable housing unit on site, the Commission had concerns that the project would not fit into the existing character of the neighborhood and exacerbate the existing street parking condition on Smalley Avenue. The minutes of the hearing provide greater detail regarding the discussion that took place (Attachment VI).

## **DISCUSSION**

Existing Conditions. The 0.47-acre project site is generally flat and currently developed with one single-family home, which was constructed in 1939, and a detached garage. Archeological Resources Management conducted a historic evaluation of the existing structures and concluded that the existing structures have no historical significance. There are seven trees protected by the City's Tree Preservation Ordinance on site and 12 protected trees that are off-site but have canopies encroaching onto the site. The site is surrounded by a 4-foot tall chain link fence in the front yard and a 6-foot tall chain link fence along the side and rear property lines.

The site is located in the Burbank neighborhood, which is characterized by a mix of housing types, including older single-family homes and small multi-family residential developments that are mostly one to two stories in height, as well as commercial uses along A Street and Jackson Street. The site is bordered by small multi-family residential developments to the north, south across Smalley Avenue, east, and west. Downtown is also a quarter mile to the east. The project site is currently zoned RM (Medium Density Residential) District and designated as MDR (Medium Density Residential) in the *Hayward 2040 General Plan*.

Project Overview. The project requires a rezoning and condominium subdivision of one existing parcel to allow the construction of eight (8) townhomes with a common open space

area, a private driveway that provides vehicular access from Smalley Avenue, along with other related site improvements. A zone change from the existing RM District to a PD District is required to allow for an exception to the minimum lot area per dwelling unit for multi-family residential development. To meet the City's inclusionary housing requirement, the developer has elected to designate one of the units as a moderate-income affordable dwelling unit and will also provide rooftop solar panels. The proposed development includes numerous frontage and site improvements including on-site water and sewer utilities, new landscaping, and reconstruction and repair of the existing sidewalk along Smalley Avenue.

*Building Architecture.* The development includes one 3-bedroom, 3-bathroom unit; three 4-bedroom, 4-bathroom units; three 4-bedroom, 3.5-bathroom units; and one 3-bedroom, 2-bathroom unit. Units range in size between 1,289 and 2,016 square feet and each unit will contain three stories and be constructed to a maximum height of 30 feet, 8 inches. Three of the eight units will provide a bedroom suite on the first floor to allow for aging in place. The building architecture incorporates a blend of contemporary and traditional architectural styles with full-wrap siding with a standing seam metal roof and will include private balconies and wall offsets throughout all elevations. The proposed color palette consists of a darker brown as the primary color with lighter shades of tan as accent colors and white trim to provide contrast. Architectural details include stone veneer, various garage door treatments, front entry porches, exterior shutters, and sill treatments.

*Parking and Circulation.* Seven of the proposed units will include a two-car garage and one unit will include a one-car garage. The project will also provide three uncovered parking spaces. The proposed 20-foot wide private driveway will provide vehicular access from Smalley Avenue and be designed to provide adequate turnaround space for fire and emergency vehicle apparatus. The driveway will be maintained by the HOA. The project also includes the replacement of the sidewalk on the project frontage along Smalley Avenue and a new 4.5-foot-wide sidewalk on one side of the private driveway will provide direct pedestrian access to each unit from Smalley Avenue.

*Landscaping and Open Space.* The project's landscaping and open space plan proposes to preserve 13 existing trees, plant eight new trees, and plant a varied palette of shrubs and groundcover within the common open space area, common landscaped areas, and private rear yards. The common open space area will be 1,660 square feet in size and located in the rear of the property. The common open space area will be accessible from Smalley Avenue through a private sidewalk and improved with new landscaping and an outdoor seating area. Each unit will also have a private rear yard and private balcony, which meets the City's open space requirements. All the proposed landscaping and irrigation will meet the City's landscape water efficiency standards and will treat storm water run-off on-site with a series of new bioretention treatment areas.

*Tree Removals.* The project requires the removal of six (6) trees protected by the City's Tree Preservation Ordinance. The 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 appraised value of the trees to be removed is \$6,850. The project proposes mitigation in the form of one

replacement tree and permeable paving. The City Landscape Architect has approved the preliminary mitigation plan and 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 an exception to the minimum lot area per dwelling unit. 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. 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;
- One moderate-income affordable dwelling unit on site instead of paying the affordable housing in-lieu fee;
- A bedroom suite on the first floor of 3 of the 8 units to allow for aging in place and multi-generational lifestyles; and
- 3,070 square feet of private and common open space, which exceeds the open space requirement for the development.

*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&Rs) to ensure the future homeowners will be responsible for maintaining all the project components, including the private driveway, utilities, and other privately owned common areas and facilities on the site, including the bioretention area, landscaped areas, preservation and replacement of trees, and decorative paving. The CC&Rs will also contain a standard condition that if the HOA fails to maintain these common areas, the City of Hayward will have the right to enter the subdivision and perform the necessary work to maintain these areas and special assessment and/or lien the properties for their proportionate share of the costs as described in Attachment III.

*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 the project site and connect to the existing utilities on Smalley Avenue. As previously discussed, the project will be served by a new private driveway. 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 sidewalk along Smalley Avenue to meet the City's street standards. The applicant will also provide pedestrian improvements within the project to provide access to Smalley Avenue via a new 4'5" wide sidewalk.

*Hayward 2040 General Plan.* The project site is designated MDR (Medium Density Residential) in the *Hayward 2040 General Plan*, which 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. The project is consistent with the *Hayward 2040 General Plan* in that it is a multifamily residential development with a total net density of 17 dwelling units per net acre, which is within the allowable density range. 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 *Hayward 2040 General Plan* and its specific goals and policies is discussed in greater detail in the project findings (Attachment III).

*Zoning Ordinance.* The project site is currently zoned RM (Medium Density Residential) but the applicant is requesting to rezone the site to PD District to allow for a reduced minimum lot area per dwelling unit. Pursuant to HMC Section 10-1.25052, 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. Although the minimum lot area per dwelling unit for the RM District allows for five dwelling units on this site, the *Hayward 2040 General Plan* allows for eight dwelling units. The proposed reduction in the minimum lot area per dwelling unit would allow the project to provide more dwelling units and still comply with the maximum allowable density in the *Hayward 2040 General Plan*. The project will meet the development standards of the RM District related to lot size, lot coverage, setbacks, building height, and off-street parking but proposes to modify the minimum lot area per dwelling unit as shown in the table below.

<b>Development Standard</b>	<b>HMC Requirement</b>	<b>Proposed Project</b>
Min. Lot Size	N/A for townhomes	N/A for townhomes
Min. Lot Area per Dwelling Unit	3,500 sq. ft.	2,556 sq. ft.
Max. Lot Coverage	40%	29.4%
Min. Front Yard Setback	20 ft.	20 ft.
Min. Side Yard Setback	7 ft. 2 in.	7 ft. 2 in.
Min. Rear Yard Setback	20 ft.	68 ft. 1 in.
Max. Building Height	40 ft.	30 ft. 8 in.
Min. Off-Street Parking Req.	17 spaces (8 covered and 9 uncovered)	18 spaces (15 covered and 3 uncovered)

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

Per Section 10-2.2535 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.

Any action to rezone the subject parcel would also require a modification of the official zoning map of the City of Hayward from RM to PD, as shown in the Rezoning Exhibit (Attachment V).

Vesting Tentative Map. The project proposes a subdivision to create eight condominium units and a common area on one lot. Pursuant to HMC Section 10-3.0104, 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 HMC Section 10-3.1505, 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 Final 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 10-3.2466, 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 III.

*Affordable Housing Ordinance.* The project is subject to the City's Affordable Housing Ordinance (AHO)9, which allows residential development projects either provide affordable units on site or pay an affordable housing in-lieu fee. The applicant has decided to provide one moderate-income affordable unit, which exceeds the requirement of 10 percent of the total number of dwelling units. for ownership projects.

*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 III, 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. Staff's analysis regarding the key features of the project is discussed below.

*Land Use Compatibility.* The project would be compatible with the land uses and development pattern of the existing neighborhood, which consists of a mix of housing types and some commercial development. Although the project proposes a three-story building in a neighborhood consisting primarily of one- and two-story buildings, the height of the proposed building will be similar to the height of other two-story buildings in the area. Additionally, the RM District allows for three-story buildings and a maximum height of 40 feet. Furthermore, the proposed density is similar to several other multifamily developments in the vicinity and the project is a size and scale that is similar to other buildings in the neighborhood.

*Building Architecture.* Overall, the homes are attractively designed and compatible with the existing character of the neighborhood. The architecture incorporates an attractive mix of traditional and contemporary elements that blends in with the existing neighborhood character. The building facades are varied and articulated to provide visual interest from all sides of the homes. The elevations incorporate varied building colors and materials, wall offsets, and additional articulation through private balconies, and front entry porches. Additional private balconies are proposed on the front and rear elevations, which face

Smalley Avenue and the common open space area respectively, to provide a strong connection between public and private areas and foster a more active environment.

*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 on-site affordable dwelling unit will provide a social benefit to the community. The 1,660-square-foot common open space area, which will be maintained by a homeowner's association, provides the future residents with a usable outdoor area for recreation and public interaction. Each home will have a private back yard and private balcony, which will provide additional outdoor space.

*Environmental Review.* Pursuant to CEQA Guidelines Section 15183.3, an Infill Checklist was prepared by Michael Baker International on behalf of the City of Hayward (Lead Agency) for this project with the finding that no additional environmental review is required. The Infill Checklist for this project tiers off the Environmental Impact Report (EIR) for the *Hayward 2040 General Plan* and confirms that the project would not have any significant effects on the environment that either have not already been analyzed in the *Hayward 2040 General Plan* EIR, are more significant than previously analyzed, or would not be substantially mitigated by uniformly applicable development policies.

The purpose of an Infill Checklist is to streamline the environmental review process for eligible infill projects by limiting the topics subject to review at the project level where the effects of infill development have been previously addressed in a planning-level decision or would be addressed by uniformly applicable development policies. The Infill Checklist has been prepared in accordance with Public Resources Code Section 21000 et seq. and the CEQA Guidelines, California Code of Regulations Section 15000 et seq.

A Notice of Intent (NOI) and public comment period are not required for an Infill Checklist. However, as part of the formal consultation process established by California Assembly Bill 52 (AB 52), staff sent a letter to the Ione Band of Miwok Indians on August 17, 2018 and provided 30 days to request a consultation with the City. The Ione Band of Miwok Indians has not contacted staff regarding this project.

A copy of the Infill Checklist is attached to this report for the Commission's review and consideration (Attachment VII).

## **ECONOMIC IMPACT**

The proposed project would result in the development of a currently underutilized lot in an existing residential neighborhood. The proposed development would not require the expansion of public utilities or services and is not expected to have a negative impact on the City regarding public utilities or public services. Furthermore, the project would result in new residents moving into Hayward, which should generate demand for goods and services, thereby providing stimulus for new or existing jobs in the City's economy.



## **FISCAL IMPACT**

According to the City of Hayward Fiscal Impact Model (2017) prepared by Applied Development Economics, Inc., the project would generate an estimated \$18,206 in annual revenue from property and utility user taxes and approximately \$17,059 in annual costs related to City services, resulting in a net positive impact of approximately \$1,147 per year. Additionally, the project would generate an estimated \$263,691 in one-time revenue prior to occupation through the payment of various development impact fees such as park dedication fees, affordable housing impact fees, school impact fees, and utility fees (Attachment VIII).

## **STRATEGIC INITIATIVES**

The project supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities 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.

This project also supports the Complete Streets Strategic Initiative. The purpose of the Complete Streets Initiative is to build streets that are safe, comfortable, and convenient for travel for everyone, regardless of age or ability, including motorists, pedestrians, bicyclists, and public transportation riders. This project supports the following goal and objective:

Goal 1: Prioritize safety for all modes of travel.

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

The project will create new housing opportunities, including one new affordable unit, near the Hayward BART Station and expand the mix of housing types in the City. The project will also incorporate vehicular and pedestrian upgrades to Smalley Avenue to meet City standards and provide a private driveway with a sidewalk for pedestrians.

## **SUSTAINABILITY FEATURES**

As mentioned earlier, the project will provide rooftop solar panels on the proposed building 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.

## **PUBLIC CONTACT**

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

- On August 9, 2017, a Notice of Receipt of Application was sent to all property owners and interested stakeholders within 300 feet of the project site.
- On October 11, 2018, a Notice of Public Hearing for the Planning Commission meeting held on October 25, 2018 was posted at City Hall, sent to all property owners and interested stakeholders within 300 feet of the project site, and published in the Daily Review newspaper.
- On November 9, 2018, a Notice of Public Hearing for the City Council meeting to be held on November 13, 2018 was posted at City Hall, sent to all property owners and interested stakeholders within 300 feet of the project site, and published in the Daily Review newspaper. To date, staff has not received any public comments regarding the project.

## **NEXT STEPS**

Following City Council approval, the Ordinance approving the Planned Development Rezone will return to the City Council for a second reading, after which 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 Final 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.

*Prepared by:* Jay Lee, Associate Planner

*Recommended by:* Laura Simpson, Director of Development Services

Approved by:



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Kelly McAdoo, City Manager