



**Better**  
NEIGHBORHOODS

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June 26, 2018

Mr. Jay Lee  
Associate Planner  
City of Hayward, Planning Division  
777 B Street  
Hayward, CA 94541  
**Via email:** [jay.lee@hayward-ca.go](mailto:jay.lee@hayward-ca.go)

Re: Re: The 4<sup>th</sup> and B Street Residential Project  
Application No. 201704074 (the "Project")

Dear Mr. Lee,

Thank you for extending the deadline for comments and questions to July 2, 2018 regarding the above-referenced Project.

Better Neighborhoods Inc. is an organization established to help people have a voice in local development decisions that will be heard equally to that of the planners and developers, to encourage smart growth that is consistent with the needs of the community, to protect the natural environment and our places of historical and esthetic significance, to support affordable housing, and to balance the needs for growth and livable cities.

We have reviewed the Initial Study, MND and the Notice to Adopt the MND prepared for the pending Planning Commission hearing scheduled for June 28, 2018 with respect to the above-referenced Project. Unfortunately, one of our staff will be unable to attend the hearing to provide oral testimony. Accordingly, please provide this letter to the Planning Commission as one of the public comments for the hearing and include this letter in the administrative record for this project.

Also, it is our understanding that the Planning Commission will merely make a recommendation to the City Council for consideration and final action, and that the City Council meeting is tentatively scheduled for July 10, 2018. Please let us know when the City Council meeting date for this Project is finalized.

We have a number of comments, issues and concerns with the Project, as stated below.

### **The Project**

The Project requires a Planned Development (PD) rezoning, Tentative Tract Map, and Site Plan Review to subdivide an approximately 5.1-acre site into 45 lots and develop 41 detached single-family residences, common open space, and private streets. Forty-one of the 45 lots would be developed with single-family residences and the other four parcels would contain designated open space totaling 46,126 square feet and a bioretention area containing 1,702 square feet. The residential lots would range in size from 2,012 to 5,020 square feet. Twenty-five of the homes would be located in the northern portion of the Project site north of B Street and 16 units would be located in the southern portion of the project site south of B Street. The Project includes a request for a zone change from the existing RS (Single-Family Residential) District to a new PD (Planned Development) District to accommodate the Project. Currently, the 5.1-acre site is undeveloped but previously was developed with five single-family residences that were demolished in 2017.

### **Historic Character/Aesthetics**

The Project is located in a low and medium density, single-family neighborhood with some multifamily and commercial buildings no more than two stories high. Architectural styles, including Queen Ann cottages, Folk Victorian houses, Neoclassical rowhouses and cottages, make the neighborhood a potential historic district. According to the report, the district is one of the city's first residential neighborhoods and is a noteworthy example of residential development in pre-World War II Hayward. An estimated 125 of maybe 230 properties within the district were identified as contributors to the neighborhood's historic status.

An important component of the neighborhood's historic significance is scarcity. Indeed, previous development demolished at the now vacant site consisted of only five homes while the proposed development calls for a whopping 41 homes. Although 41 new houses in the neighborhood may not exceed the maximum permitted under the General Plan, the proposed zoning change would override well-reasoned and no doubt vigorously argued lot size minimums, which are intended to ensure residents have adequate green space and privacy thereby preventing the stress of overcrowding all too common in the urban environment.

### **Land Use and Planning**

The MRD designation permits a maximum density of 17.4 units per acre or 43 units at the project site, which suggests the proposed 41 units are within range. However, assessing the impact of density requires a comparison between the current number of units per acre in the neighborhood and the number of units per acre if the project were approved. That information is not in the report.

In fact, the only way to achieve the proposed 41 units would be with approval for a zoning change.

A PD rezone is necessary for the project as proposed because the project does not otherwise meet the RS District development standards related to lot size and yard size. The project involves lot sizes ranging from 2,012 to 5,020 square feet. All but one of the lots would be smaller than the minimum lot size requirement of 5,000 square feet required by HMC Section 10-1.230. Additionally, only 10 of the 41 units would meet or exceed the 20-foot rear yard setback required by HMC Section 10-1.230. Finally, the combined driveways and paving surface area in the front yards of 17 of the 41 residences exceed a maximum of 50 percent of the required front area, contrary to what is required by Section 10-1.245(k)(3)(d).

Inadequate lot sizing and setback along with an excess of paving and the loss of increasingly rare neighborhood green space, including a significant number of mature trees, would substantially degrade the existing visual character and quality of the site and its surroundings. The sudden addition of new homes so close together would reduce the historic significance of the area and also create a new source of light, glare and noise as an estimated 133 new residents, not including their visitors, come and go.

### **Biological Resources**

As the report indicates, San Lorenzo Creek provides a wildlife movement corridor through a heavily developed urban landscape, and the presence of vegetation along the creek, including large trees, provides abundant nesting opportunities for resident and migratory birds. The single red-shouldered hawk observed during the site visit was perched in a eucalyptus tree to the west of the site and displayed courting calls. There are also a number of large trees at the project site and adjacent to it, which would provide nesting opportunities. The report states that the potentially significant impact of the project on birds will be reduced to less than significant levels with the implementation of Mitigation Measure BIO-1, but how exactly does weed control protect birds?

BIO-2 Designated No-Access Area involves raising a six-foot fence along the property boundary to prevent access along the top bank of the creek, but how would a fence protect the wildlife corridor? Wouldn't a fence impede wildlife access to the corridor even more?

BIO-4 Nesting Bird Avoidance and Minimization Efforts requires a qualified biologist to monitor nesting birds to determine if construction activities are causing any disturbance to the birds and shall increase the buffer if birds show signs of unusual or distressed behavior associated with project activities. What is meant by increasing the buffer? What kind of buffer? Increase how and how long would the buffer be in place? How long might distressed nesting birds delay the project or preclude it altogether? More information about these important mitigation measures is required to properly assess the project's impact on neighborhood birds and wildlife.

Although no formal jurisdictional delineation was conducted during the site visit, the creek is likely under the jurisdiction of the USACE as Waters of the U.S. and under the jurisdiction of the CDFW and San Francisco Bay RWQCB (SFRWQCB) as Waters of the State. Were these agencies notified of the proposed development?

## **Trees**

As the report indicates, 79 of 109 trees at the project site qualify as protected trees. Of the 84 trees the project has slated for removal, 55 are protected. Their protection would require a number of onerous, very labor-intensive mitigation measures, which continue for an extended period of years. How many similar measures is the city currently monitoring at other project sites and is there a progress report available? How would the city ensure the monitoring program continues when the Homeowner Association (HOA) is appointed?

BIO-6 Tree Preservation Measures require that any herbicides placed under paving materials must be safe for use around trees and labeled for that use. Which herbicides, if any, are contemplated and what notice, if any, to surrounding residents would be required?

## **Geology and Soils**

The site is located in an area of relatively high seismic potential. The faults in the area are capable of generating large earthquakes that could produce strong to violent ground shaking at the project site. The active fault nearest the site is the Hayward fault, which is located approximately half a mile away. The project site is also in a state-designated Liquefaction Hazard Zone. Development of the lots could be susceptible to soil instability resulting from erosion of the creek banks. Of the lots adjacent to the creek, seven lots would require slope stabilization measures, which would remove the creek bank erosion risk but not the risk of earthquake damage. Why not simply reduce project density by those lots at risk of soil erosion, thereby also reducing the risk of death and injury in an earthquake?

## **GHG**

Houses at the project would include solar panels to reduce energy use and associated greenhouse gas (GHG) emissions. However, the report fails to consider the likely significant impact of an estimated 133 new residents' cars and those of their visitors.

## **Hazardous Materials**

As the report observes, soil samples detected lead concentrations above residential screening levels, arsenic above its published background concentration, and organochlorine pesticides (OCP) compounds chlordane and dieldrin above their residential screening levels. These elevated concentrations were detected in several samples within the upper approximately 0.5 foot of soil. In addition, concentrations of soluble lead and chlordane exceeded their respective non-RCRA hazardous waste limits. Based on these site conditions, construction activities could expose construction workers and nearby residents to potentially unacceptable health risks from contaminated media. Therefore, impacts associated with lead, arsenic, and OCP compounds chlordane and dieldrin are potentially significant.

The report assures us that implementation of Mitigation Measure HAZ-1 would reduce the potential for construction workers and adjacent residences to be exposed to subsurface contaminants. Would merely reducing the potential of catastrophic injury constitute sufficient mitigation? Has this mitigation measure been applied to a similar project? More information is required.

### **Hydrology and Water Quality**

The project would alter the drainage pattern of the site by adding approximately 95,281 square feet of impervious surface area, increasing the potential to introduce pollutants to receiving waters, including San Lorenzo Creek, which borders the Project site to the north. Might a reduction in the number of houses to be built reduce impervious surface area and thus reduce this risk?

Further, the disruption and potential release during construction into the nearby creek of the identified hazardous substances present in the soil is a significant impact that has not been studied, addressed or mitigated.

### **Noise**

At the school located approximately 400 feet from the project site, construction activity would generate noise levels likely to disturb students in classrooms and outdoor activity areas. The construction of 41 houses would mean an extended period of perhaps intolerable noise during school hours. What is the estimated duration of construction? Could students lose a year of study because of noise? Would a reduction in the size of the project make a difference?

The report also reveals that the project could expose future residents to noise levels beyond General Plan standards, which could be a very significant environmental impact.

### **Traffic**

The project also poses traffic safety hazards. Vehicles using the project driveways may conflict with westbound queues at the intersection of 4th Street and B Street, which provides a single shared westbound left-through-right lane. Queue length is forecasted to exceed the distance between the intersection and the driveway to the northern portion of the project site during both peak hours. Further, vehicles using the Chestnut Street northern driveway to access the northern portion of the site may face excessive queues during the morning peak. How would the proposed signs and stripes mitigate anticipated traffic congestion?

### **Mandatory Findings of Significance**

The proposed development would reduce the number of large trees thus habitat for birds. It would impede an important corridor for wildlife and by its size and density reduce the historic value and significance of a neighborhood notable for its rare historic architectural style. Rezoning to reduce lot size would reduce future residents' privacy and green space, both of which are crucial to urban

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livability. In addition, a substantial number of the lots contemplated in the proposed development would be at serious risk of soil erosion.

Disturbing toxic soil during construction would pose a substantial health risk to construction workers and nearby residents, including students at a neighborhood school. Noise levels could have a significant impact on students and, even after construction, could exceed the maximum for single-family dwellings in the General Plan.

The large addition of impervious surface area created by the project would increase the risk of pollutants entering receiving waters, a potentially devastating consequence.

The project would also pose traffic safety hazards in addition to an increase in traffic congestion during peak hours.

### **Conclusion**

Despite an earnest effort to mitigate the many significant environmental impacts and dangers posed by a project of this size and density at the proposed location, it appears that the cumulative impact of negatives is not only considerable but completely unacceptable.

Sincerely,



J. Michael Goolsby  
President and CEO  
Better Neighborhoods, Inc.