



DATE: November 14, 2017

TO: Mayor and City Council

FROM: Interim Development Services Director

SUBJECT: Proposed subdivision and construction of 35 townhomes and a mixed-use building of 39 apartment units with 1,020 square feet of ground floor commercial use on a 2.7-acre project site located at 26601 Mission Boulevard (west side, north of Sorenson Road) Assessor Parcel Number (APN) 452-0036-30-05, requiring: 1) approval of an amendment to South Hayward BART/Mission Boulevard Form-Based zoning code (Article 24) to allow residential density transfer/averaging among like-zoned development sites in the Urban General transect zones T4 (17.5 DU/Acre min; to 35 DU/Acre max) and T5 (35 DU/Acre min; to 55 DU/Acre max); 2) Site Plan Review; 3) Warrants for: (a) roof pitch, (b) excess parking in the T4 zone, (c) glazing less than 30% for the first story along Mission Boulevard, and (d) parking within the Layer 2 setback area; 4) Vesting Tentative Map 8335 associated with the subdivision; and 5) Mitigated Negative Declaration. KB Home (Applicant) and DNS Capital Partners LLC/Robert Telles (Owner/Applicant). Application No. 2016-01022.

RECOMMENDATION

That the City Council:

Option #1

Adopts a Resolution rejecting the Mitigated Negative Declaration and denying the proposed project with all related applications. (Attachment II)

Option #2

(1) Introduces the Ordinance amending the South Hayward BART/Mission Boulevard Form-Based zoning code (Article 24) to allow residential density transfer/averaging among like-zoned development sites in the Urban General transect zones T4 (17.5 DU/Acre min; to 35 DU/Acre max) and T5 (35 DU/Acre min; to 55 DU/Acre max) (Attachment IV); and

(2) Adopts a Resolution:

- Adopting the Mitigated Negative Declaration (MND); and
- Approves the applications for Site Plan Review; warrants for roof pitch, excess parking, glazing less than 30% for the first story along Mission Boulevard, and parking within the Layer 2 setback; and Vesting Tentative Map 8335 (subject to City Council approval of the Final Map) to subdivide and construct 35 townhomes and a mixed-use building of 39 apartment units with 1,020 square feet of ground floor commercial use based on the analysis set forth in this report including Findings (Attachment III) subject to the revised Conditions of Approval (Attachment III – Exhibit A).

SUMMARY

On [October 3, 2017](#), the City Council reviewed the above-referenced application based on a recommendation of approval by the Planning Commission made at its meeting of [September 14, 2017](#). The City Council voted unanimously to continue the item and directed staff to present findings for denial of the proposed project. Since that meeting, the applicant has submitted a proposal, Attachment V, to amend their project to address the concerns expressed by the Council during the October 3 public hearing. Staff is providing both the requested Findings for Denial as well as the project alternative for the Council's consideration.

BACKGROUND AND DISCUSSION

The City Council discussed the matter on October 3 after hearing the presentation, and taking testimony from the applicant and the public. There were several issues and concerns.

1. **Economic Development** - The primary issue of concern by the City Council was the relationship of the project site to the City's "[Economic Development Strategic Plan \(FY 2014 – FY 2018\)](#)." The Plan identifies Opportunity Sites in Hayward's industrial areas and Catalyst Sites in Hayward's Service and Retail areas which are shown on pages 22 through 24 of the Plan. The purpose of identifying the sites is to focus limited city resources on the areas that will provide the most immediate positive economic results. Haymont Center is designated as one of those Catalyst Sites.

Key Retail Areas and Catalyst Sites such as Haymont Center are shown on page 24 of the Plan. The Catalyst Sites in this Plan were selected using the following criteria: 1) the potential impact on the associated retail area; 2) high visibility; 3) vacant or underutilized parcel/building; 4) single or few owners; and 5) acreage.

The City's Economic Development Strategic Plan lists six goals for Service & Retail uses. The City Council questioned the degree of the proposed project's conformance with the following goals of that Plan:

- SR2: Recruit and secure new businesses in priority locations/industries that are a good fit for Hayward, and
 - SR4: Create proactive, site-specific land use policies that clearly convey information to potential businesses.
2. **Zoning** - Also expressed by the Council was the belief that the proposed uses do not reflect the objectives of the T4 Urban General transect zone of the South Hayward Bart/Mission Boulevard Form-based zoning code, especially given the number of requested warrants.
 3. **Land Use** - The Mixed-Use land use designations in the General Plan, including Sustainable Mixed Use, envision a balance of residential uses and retail/service/employment options. The distribution of non-residential use for the proposed project represented an imbalance given previous use of the site as 100% commercial retail.
 4. **Sustainability** - The number of sustainable amenities, such as solar power and electric vehicle charging stations, seemed inadequate and not in conformance with the designated land use of Sustainable Mixed Use.
 5. **Affordable Housing** - Under the Affordable Housing Ordinance, residential developers are given the option of providing the required number of units or may opt to pay an in-lieu fee. Recent discussion with the Council has been to develop better requirements for providing actual units as a preference or priority over in-lieu payments.

If the City Council wishes to deny the project, a Resolution with Findings for Denial is included as Attachment II.

Current Proposal/Modifications

To satisfy the concerns expressed at the previous hearing held on the proposed project, the Applicant has had discussions with staff and has proposed to revise or modify the proposal (See Attachment V). A synopsis of the applicant's modifications is as follows:

1. **Affordable Housing** – The Applicant will execute an Affordable Housing agreement to provide 6 Affordable Housing Units on the project site. The combination of ownership and rental units remains to be determined.
2. **Townhome Floor Plans** – The townhome floor plans will be revised to include, as an option, at least one floor plan that incorporates Universal Design Principles to accommodate an individual with physical limitations with such options available at the ground floor level.
3. **Commercial Use** – The mix of uses within the apartment/mixed use structure will be redistributed to accommodate a total of approximately 2,500 square feet of non-

residential/commercial use by reconfiguring certain areas shown as dedicated storage space on the second floor. This figure would include the 1,020 square feet of commercial use on the ground floor along Mission Boulevard shown with the original plans.

4. **Community Benefit** – The Applicant will make a Community Benefit payment of \$40,000 for public facilities and/or services to be determined as needed by the City for public art or any renovation of any public space or park. This payment would be made to help offset the described deficiencies of the proposed project and the site limitations including the limited replacement of commercial space, limited opportunities for onsite outdoor group open space, and lack of public art.
5. **Sustainability**
 - a. Solar Energy - The townhomes will be redesigned to accommodate solar energy in excess of the limited solar facilities anticipated with the original submittal.
 - b. Electric Vehicle Charging Station(s) – The Applicant has stated that they would provide capability to facilitate future installation of electric vehicle charging in the parking spaces for multi-family residential units. At least one of the spaces must be accessible.

Should the City Council determine that the applicant’s proposed modifications are sufficient and the proposed project can be approved, Attachment III provides findings for approval. Those Findings have been enhanced to reflect the applicant’s proposal and included with the attachment is Exhibit A, Conditions of Approval that have also been augmented and enhanced (revised Condition #138 and new Conditions of approval #147-150) to assure provision of the items referenced in the applicant’s modified proposal.

FISCAL AND ECONOMIC IMPACTS

The fiscal and economic impacts of this project were discussed in the October 3 staff report for this item.

PUBLIC CONTACT

This is a continued public hearing and no further notification was required. No additional comments from the public were received.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities Initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving, promising place to live, work and play for all. This item 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.

NEXT STEPS

If the City Council determines that the project is to be denied, a Resolution (Attachment II) is provided which includes findings for denial.

If the City Council sees fit to approve the project with the modifications suggested by the applicant, the Ordinance approving the amendment to the South Hayward BART/Mission Boulevard Form-Based Code will return to the City Council for a second reading. The Site Plan Review, Warrants and Vesting Tentative Map 8335 would be approved subject to adoption of the Ordinance. The Final Map is subject to City Council review and approval, after which construction permit applications will be processed and permits issued to ultimately allow for construction of the project (Attachment III).

Prepared by: Mike Porto, Consulting Planner

Recommended by: Stacey Bristow, Interim Development Services Director

Approved by:



Kelly McAdoo, City Manager