

HAYWARD CITY COUNCIL

RESOLUTION NO. 17-\_\_\_\_\_

Introduced by Councilmember \_\_\_\_\_

RESOLUTION REJECTING A MITIGATED NEGATIVE DECLARATION AND DENYING THE PROPOSED PROJECT FOR A SITE PLAN REVIEW, FOUR WARRANTS FROM PROVISIONS UNDER THE SOUTH HAYWARD BART/MISSION BOULEVARD FORM-BASED CODE, VESTING TENTATIVE TRACT MAP 8335, APPLICATION NO. 2016-01022 FOR THE SUBDIVISION AND CONSTRUCTION OF 35 TOWNHOME UNITS AND A MIXED USE BUILDING OF 39 MULTI-FAMILY UNITS AND 1,020 SQUARE FEET OF COMMERCIAL SPACE ON A 2.7-ACRE (2.14-ACRE NET) PROJECT SITE LOCATED AT 26601 MISSION BOULEVARD

WHEREAS, on February 3 and March 1, 2016, Applications were submitted by KB Home and DNS Capital Partners LLC/Robert Telles (Applicants/Property Owner) and deemed complete for a Site Plan Review, four warrants from provisions of the South Hayward BART/Mission Boulevard Form-Based code, and Vesting Tentative Tract Map 8335, Application No. 2016-01022 for the property located at 26601 Mission Boulevard for the subdivision and construction of a 35 townhome units and a mixed use building of 39 multi-family units and 1,020 square feet of commercial spaces on a 2.7-acre (2.14 net) project site (the “Project”); and

WHEREAS, the project site is located within the boundaries of the South Hayward BART/Mission Boulevard Form-Based code area; and

WHEREAS, the Project Site is identified as a Service and Retail Catalyst Site in the City’s Economic Development Strategic Plan (FY 2017 – FY 2018); and

WHEREAS, the Project Site has a designated land use of Sustainable Mixed Use in the City’s General Plan; and

WHEREAS, a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program was prepared to assess and mitigate the potential environmental impacts of the Project; and

WHEREAS, the four warrants requested with this application are:

- *Roof Pitch* (Section 10-24.250 vi. Architectural Standards) requires that roofs be symmetrically sloped at a pitch of no less than 5:12. The proposed roofs of the townhomes and the roof above the commercial/storage area have been designed as a combination of flat areas and other areas pitched at 4:12.

- *Excess Parking* (Section 10-24.245 b. ii) states that a maximum of 2.0 parking spaces may be provided for each residential condominium. The townhomes (condominiums) will be provided with 8 excess parking spaces in the form of on-site guest in addition to the 2 enclosed spaces (2-car garage) per unit.

- *Ground Floor Minimum Glazing* (Section 10-24.230 a. ii) states that all facades shall be glazed with clear glass no less than 30% of the first story. As designed, only 12% of the first floor of the townhomes is glazed with clear glass. For the mixed use/apartment building, clear glass on the first floor makes up approximately 25% along Mission Boulevard and 13% along Sorenson Road.

- *Parking Placement within the Layer 2 Setback* (Table 12B of the Form-Based code) allows parking within Layer 3 setback along Mission Boulevard. Ten spaces of ground level parking within the mixed use/apartment building fall within the Layer 2 setback. A portion of one guest parking space along Drive Aisle A within the townhome development, falls within the Layer 2 setback; and.

WHEREAS, the Planning Commission considered the Project at a public hearing held on September 14, 2017, and recommended that the City Council adopt the Mitigated Negative Declaration; adopt an Ordinance approving the Zoning Text Amendment which would allow averaging or transfer of density between and 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; approve all four requested warrants; and approve Vesting Tentative Tract Map 8335, Application No. 2016-01022 for the construction of a 35 townhome units and a mixed use building of 39 multi-family units and 1,020 square feet of commercial spaces on a 2.7-acre (2.14 net) project site located at 26601; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on October 3, 2017; and

WHEREAS, at its meeting of October 3, 2017, the City Council voted unanimously to continue the item for further analysis on issues raised by the City Council and public at the public hearing.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

ECONOMIC DEVELOPMENT STRATEGIC PLAN (FY 2014 – FY 2018)

1. The proposed project does not satisfy the following Goals for Service and Retail Catalyst Sites which say:
  - 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.

The distribution of non-residential use for the proposed project represents an imbalance given previous use of the site as 100% commercial retail.

GENERAL PLAN LAND USE

- 2. The proposed project does not satisfy the objectives of the Mixed Use land use designations in the General Plan, including Sustainable Mixed Use, because it does not provide a desirable balance between residential uses and retail/service/employment options.
- 3. The proposed project does not satisfy the objectives of Sustainability because it incorporates only a limited amount of energy saving measures which are significantly less than feasible.

ZONING

- 4. The proposed project does not comply with the objectives of the T4 Urban General transect zone in the South Hayward BART/Mission Boulevard Form-Based Code because of excessive warrants necessary to implement the proposed project that deviate from adopted standards.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby rejects the Mitigated Negative Declaration and denies all applications included with Application No. 2016-01022 for the Zoning Text Amendment the Site Plan Review, the four warrants listed above under the South Hayward BART/Mission Boulevard Form-Based Code (Article 24 of the Zoning Code), and Vesting Tentative Map 8335 for the subdivision and construction of 35 townhome units and a mixed use building of 39 multi-family units and 1,020 square feet of commercial spaces on a 2.7-acre (2.14 net) project site for the properties at located at 26601 Mission Boulevard.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2017

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:  
NOES: COUNCIL MEMBERS:  
ABSTAIN: COUNCIL MEMBERS:  
ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward