



DATE: February 4, 2020

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: 25036-25096 Carlos Bee Blvd Housing Development: Approve Proposed Residential Development Consisting of Nine Detached Single-Family Homes and Six Accessory Dwelling Units on a Single Parcel Located at 25036-25096 Carlos Bee Boulevard (Assessor Parcel Number 445-0170-039-13) Requiring Approval of Zone Change to Planned Development and Vesting Tentative Map (8473) Application No. 201802159, and Related Initial Study and Mitigated Negative Declaration; Kodama Diseno Architects/Zalman Investments LLC (Applicant/Owner)

RECOMMENDATION

That the City Council introduces an Ordinance (Attachment II) approving the Zone Change to Planned Development District and adopts a Resolution (Attachment III) approving the Vesting Tentative Map (8473) and the Initial Study and Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project (Attachments V and VI), subject to findings and conditions of approval.

SUMMARY

The proposed development includes a Zone Change from RSB6 (Single Family Residential with a Minimum 6,000 Square Foot Lot) District to Planned Development (PD) District and approval of a Vesting Tentative Tract Map (8473) to construct nine detached single-family homes and six accessory dwelling units on a single parcel. The proposed project would be consistent with the density permitted by the applicable Low Density Residential General Plan land use designation.

The applicant is seeking PD District approval to eliminate minimum lot sizes and required side yard setbacks in order to cluster the residential development to avoid the steepest slopes along the northern property line and the earthquake fault hazard area located on the western portion of the site. The proposed project includes alley loaded garages, a meandering pedestrian pathway along the development frontage, and an approximately 3,200 square foot pocket park and 18 guest parking spaces in addition to two car garages for each residential unit.

BACKGROUND

According to Assessor's Records, the proposed project site was subdivided into six single family lots in 1957. Building permit records from the early 1960s indicate that two single family homes were developed on the lots at 25036 Carlos Bee Blvd and 25096 Carlos Bee Blvd; however, there are no records indicating that single family homes were constructed on the interior lots. In the late 1960s-early 1970s, Caltrans purchased all of the properties for the Route 238 Bypass. The single-family homes were demolished by Caltrans between 2008 and 2012 before the property was sold at auction in 2017.

On January 24, 2019, the Planning Commission¹ held a work session on the proposed project, which consisted of 14 detached, three-story single-family homes. Three nearby residents attended the meeting and spoke against the project on the grounds that it was not consistent with the surrounding neighborhood of larger lot single family homes, that the three story homes would obstruct their views and lead to a loss of privacy, that the development would lower surrounding property values, and that development could lead to slope instability. Following public comment on the project, the Planning Commission urged the applicant to reduce the number of homes to better fit on the constrained site, to add accessory dwelling units and/or affordable housing units on the site, and to redesign the homes to have a more traditional architectural style to reflect the surrounding development.

On January 9, 2020, the Planning Commission² held a public hearing and voted 7:0:0 to recommend that the Council approve the proposed project (Attachment VIII). Prior to the Commission meeting, two nearby residents submitted comments related to the Initial Study/Mitigated Negative Declaration prepared for the project citing concerns about traffic impacts and slope stability issues (see further discussion under Environmental Review below). At the meeting, three public speakers raised similar issues to those raised in the comment letters in addition to concerns about spillover parking and loss of views. The Commission discussed the commenters' issues, asked clarifying questions related to slope stability and the review process for grading plan review and inspections during construction, and analyzed section drawings that showed the relative heights of the existing and proposed homes. The Commissioners appreciated the applicant's modifications to the plans in response to the January 2019 Work Session (see Discussion below for additional detail), felt that the proposed development was appropriately scaled to the site, and recommended that the pedestrian pathways providing access to the ADUs be connected to the larger pedestrian spine that runs along Carlos Bee Boulevard.

Project Description

Existing Conditions: The proposed 1.64-acre project site is vacant and covered in trees and grasses. The irregularly shaped site is steeply sloped from the north to the south and from the east to the west. Specifically, the north-south slopes range from a 215-foot elevation near the northern property line to an approximately 188-foot elevation at Carlos Bee Boulevard; and, from a 240-foot elevation at Overlook Street on the eastern property line to an approximately

¹ January 24, 2019 Planning Commission Work Session: <https://hayward.legistar.com/LegislationDetail.aspx?ID=3839500&GUID=9B5E384E-8CF6-479B-A200-3FD0DB060CCF&Options=&Search=>

² January 9, 2020 Planning Commission Public Hearing: <https://hayward.legistar.com/LegislationDetail.aspx?ID=4292899&GUID=895F0422-F3CA-4554-A710-99B6DA2F9BE9&Options=&Search=>

180-foot elevation near the western property line. A utility easement with overhead power lines and various utility boxes runs along the southern property line along Carlos Bee Blvd.

The western half of the project site falls within the Alquist Priolo Fault Zone. A Fault Rupture Hazard Evaluation (Attachment V, Appendix C1) prepared for the project site found no active fault traces within an exploratory trench. However, the Evaluation recommended that no residential construction occur within 95 feet of the western boundary of the project site. This area is referred to as the “No Residential Construction Zone” on the proposed architectural and civil plans.

Surrounding land uses include single family residential development to the north and east and Silver Oak High School to the west. Currently, the City is processing an application for a 57,500 square foot Subaru dealership and service station at the southeastern corner of Mission Boulevard and Carlos Bee Boulevard, southwest of the project site.

Project Description: The proposed project consists of a Zone Change from RSB6 District to PD District and a Vesting Tentative Map for Condominium Purposes to develop nine new single-family homes and six accessory dwelling units on a single lot.

The development would be a mix of two- and three-story single-family homes. The detached homes would be staggered along Carlos Bee Boulevard with front yard setbacks ranging from 20 to 60 feet and side yard setbacks ranging from six to 10 feet between each unit. Three of the units would be three-stories tall, and six of the units would be two-stories tall and include ADUs within the building footprint. The three-story units (Unit Type A) would have three bedrooms and four bathrooms and provide approximately 2,200 square feet of living space. The two-story units (Unit Type B and C) would be approximately 2,700 square feet in area and would have three bedrooms and two bathrooms in the main residence and approximately 603 square foot ground floor ADUs. Unit Type B ADUs would have one bedroom and bathroom, and Unit Type C ADUs would have two bedrooms and one bathroom. The ADUs would be located on the ground floor of Type B and C units and have separate entries from the main residences (Attachment IV, Sheets A2.1 through A2.3). Each of the homes would have private balconies and Units 5 through 7 would have private, fenced yards. The maximum height of the proposed homes would be 30 feet to the top of the roofline.

The buildings would be designed in a contemporary style with pitched roofs and building pop-outs to break up the building form, particularly on the front and rear of the homes. The exterior building materials would include a mix of stucco siding and horizontal fiber cement siding, balconies with metal railings, vinyl windows, and doors with wood trim (Attachment IV, Sheets A3.1 and A3.2). Amenity space would be provided in the form of an approximately 3,200 square foot pocket park with playground on the western portion of the site, and the yards fronting Carlos Bee Boulevard would have a meandering pedestrian pathway that would parallel the existing sidewalk.

Vehicular access to the project site would be provided via a 20-foot wide two-way driveway on Overlook Avenue and an emergency vehicle access on Carlos Bee Boulevard. The roadway would run along the rear of the site and would provide access to alley-loaded individual

garages. The project would provide two car garages for each single-family unit (18 enclosed parking spaces) plus 18 guest surface parking spaces on the western portion of the site and along the northern side of the roadway. Pedestrian access would be provided via paved pathways connecting the existing sidewalks on Carlos Bee Boulevard and Overlook Avenue to the interior of the site.

The project proposes new landscaping that would consist of primarily low to moderate water use trees, shrubs, and groundcover. A total of 84 trees on and adjacent to the site were surveyed as part of the project according to the Arborist Report prepared for the project and 56 of those trees are considered “protected” per the Ordinance (Attachment V, Appendix B). Between 52 and 54 trees would be removed by the project (with 30-32 preserved depending on suitability and adjacency to construction), and 87 new trees would be planted on the site. Landscaped areas would be located along the site perimeter and intermittently throughout the site. Trees would be planted along the sidewalk on Carlos Bee Boulevard to provide visual screening of the residences.

Policy Context and Code Compliance

Hayward 2040 General Plan³: The project site has a *Low Density Residential* General Plan land use designation where detached single-family homes are identified as a primary use at a density range of 4.3 to 8.7 dwelling units per net acre. According to the General Plan, net acreage excludes land required for public and private streets, parks, and other public facilities. Subdividing the site into a single parcel with air rights as proposed allows the developer to avoid netting out acreage for the driveway because driveways are not considered “private streets.” As proposed, the density of the proposed project is about 5.5 units per acre, which is within the allowable density range for the Low Density Residential land use designation. Further, the project meets the intent of the applicable land use designation in that it includes construction of detached single-family homes.

The Housing Element contains policies to allow flexibility within the City’s standards and regulations to encourage a variety of housing types (H-3.6); and, to allow for a range of residential densities, housing types, prices, ownership and size (H-3.1). In addition, the proposed development follows the Residential Design Strategies called for in General Plan Policy LU-3.6 in that the project includes a pedestrian pathway that connects to sidewalks, orients the fronts of the homes toward public right-of-way and the garages along a rear alley, and ensures windows front streets and public spaces; and in LU-3.2, to provide neighborhood amenities in centralized locations whenever feasible.

Zoning Ordinance: The PD District is intended 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. The applicant is seeking deviations from the minimum lot size and side yard setbacks to cluster the development on the least sloped portion of the site that is outside of the identified “No Residential Construction Zone.”

³ Hayward General Plan. <https://www.hayward2040generalplan.com/>

Pursuant to the Hayward Municipal Code (HMC) Section 10-1.2535(d)⁴, Findings for the Planned Development designation, any deviations from or exceptions to the base district standards shall be compensated by the installation of amenities not otherwise required. The applicant is proposing to off-set the deviations from the base standards by installing solar panels on all residences and provision of common open spaces including the meandering pathway in front of the homes and the pocket park and playground at the western end of the project site, which are not required by the Hayward Municipal Code for single family developments.

Parking Regulations: Pursuant to HMC Section 10-2.310⁵, single family dwellings shall provide two covered parking spaces per dwelling unit. Each of the proposed homes includes a side by side two car garage. In addition, the proposed development provides 18 uncovered parking spaces along the driveway and near the pocket park for guests and residents of the ADUs.

Accessory Dwelling Units: Pursuant to HMC Section 10-1.2743(c)⁶, ADUs are permitted within Planned Development Districts provided that ADUs are specifically called out as permitted uses within the applicable Planned Development District. In addition, the proposed ADUs meet the applicable Design and Development Standards set forth in HMC Section 10-1.2744.

Affordable Housing: The proposed project is subject to the requirements set forth in HMC Chapter 10, Article 17, Affordable Housing Ordinance⁷. Per HMC Section 10-17.205, the applicant intends to satisfy the requirements of the ordinance by paying an affordable housing in lieu fee. The current fee for low density detached single family development is \$18.33 per square foot of habitable space if paid at building permit issuance, or \$20.16 per square foot if paid at issuance of occupancy permit. Based on the current proposal of two single family homes at approximately 1,767 square feet and seven single family homes at approximately 1,645 square feet (plus 603 square foot ADUs), the total projected affordable housing fee would be \$342,166 at issuance of building permit, or \$376,326 at issuance of occupancy permit.

Regional Housing Needs Allocation (RHNA): The Bay Area's housing needs across all income levels are determined by the California Department of Housing and Community Development (HCD). The Association of Bay Area Governments (ABAG) is responsible for distributing those housing needs to each city and county in the nine-county Bay Area every eight years. Each city and county is required to demonstrate the ability to accommodate its RHNA in their Housing

⁴ HMC Section 10-1.2500, Planned Development District.

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.2500PLDEDIPD

⁵ HMC Chapter 10, Article 2, Off Street Parking Regulations.

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART2OREPARE

⁶ HMC Section 10-1.2740, Accessory Dwelling Units.

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.2740ACDWUN

⁷ HMC Chapter 10, Article 17, Affordable Housing Ordinance.

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART17AFHOOR

Element and must submit an Annual Progress Report to HCD to demonstrate progress towards meeting those housing goals. The current cycle runs from 2015-2023.

The table below provides a breakdown of residential units reported to HCD, approved and pending since 2015. Briefly, each of the table columns include:

- 1) Income Category - The number of housing units required to be deed restricted for a specific level of affordability. Income limits are updated and released on an annual basis by HCD⁸. Income limits are set by County and are adjusted by number of persons in the household.
- 2) Unit Goal - Hayward’s RHNA allocation by income level
- 3) Reported to HCD in 2018 APR - Total number of units reported to HCD (through 2018) as building permits
- 4) Approved - Total approved units but building permits have not been issued
- 5) Pending Approval - Total number of units going through the approval process
- 6) Estimated Deficiency - This is the deficiency between what was reported, approved, and pending versus RHNA requirements

Income Category	Unit Goal	Reported 2018		Approved		Pending Approval		Estimated Compliance		Estimated Deficiency	
		Units	% of goal	Units	% of goal	Units	% of goal	Units	% of goal	Units	% of goal
Very low	851	40	5%	224	26%	103	12%	444	52%	407	48%
Low	480	19	4%	241	50%	22	5%	314	65%	166	35%
Moderate	608	0	0%	40	7%	21	3%	61	10%	547	90%
Above Moderate	1981	873	44%	2,617	132%	318	16%	3,808	192%	0	N/A

As noted in the Affordable Housing section above, the applicant is electing to pay the affordable housing in lieu fee; therefore all nine single family units would fall into the Above Moderate-income category. However, the six ADUs would be considered Moderate Income housing units regardless of deed restriction.

Parkland Dedication: Pursuant to HMC Chapter 10, Article 16, Property Developers – Obligations for Parks and Recreation⁹, developers shall dedicate land, pay a fee in lieu thereof or do a combination of both for park and recreation purposes. The applicant intends to pay the park in lieu fee to satisfy the requirement. Based on the updated park fee schedule, which was adopted by the City Council on December 17, 2019, the applicable in lieu fees for nine three-bedroom single family units is \$137,241. Pursuant to State Law, as of January 1, 2020, ADUs less than 750 square feet in size are exempt from park fees.

⁸ HCD 2019 Income Limits. <https://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/Income-Limits-2019.pdf>

⁹HMC Chapter 10, Article 16, Property Developers – Obligations for Parks and Recreation. https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART16PRDEBLPAR E

Tree Preservation: HMC Chapter 10, Article 15, Tree Preservation¹⁰, provides guidance on the preservation of protected trees and procedures for removal and mitigation of protected trees. Pursuant to the Ordinance, native trees with four inches or larger trunk diameter, all trees with eight inches or greater trunk diameter, and all street trees are protected. Based on these standards, a total of 56 trees are protected and cannot be removed without a permit and appropriate mitigation. Proposed conditions of approval relate to updating the Arborist Report to reflect missing tree appraisal values and required updates to the Landscape and related plans to ensure consistency (proposed Condition Nos. 16 through 23). Mitigation Measures BIO-5.1 and 5.2 (proposed Condition Nos. 7 and 8) provide guidance on tree preservation, permits, and related mitigations.

Hillside Design Guidelines: The project site is subject to the City of Hayward Hillside Design Guidelines. Generally, the Hillside Design Guidelines support clustering development to avoid steep slopes and natural site features and hazards. The average slope of the lot is 20%. While the proposed homes are sited on the flattest part of the site along Carlos Bee Boulevard, it is clear that there will be a large amount of grading along the northern property line where the project driveway is proposed (Attachment IV, Sheet C-3 Cross Sections). To shore up the slopes, approximately three-foot-tall keystone retaining walls will be constructed along the driveway.

Vesting Tentative Map Tract 8473: The proposed project includes a Vesting Tentative Tract Map (8473) for a one lot subdivision for condominium purposes. Property owners would own the individual homes but the land under the homes, the driveways, and open spaces would be under common ownership. The proposed project site is an infill site and the City of Hayward provides water and sanitary sewer service to the site and has adequate capacity to serve the proposed development. Access to the site would be provided through a combination of public and privately dedicated streets.

Per proposed Condition No. 33, the applicant will be required to enter into a Subdivision Improvement Agreement prior to Final Map approval to ensure that related site infrastructure and improvements are constructed in a timely manner. Maintenance of publicly accessible, private facilities (driveway, common open space, landscaping and stormwater facilities) would be handled through a Homeowners' Association (HOA) (proposed Conditions of Approval 40-41).

DISCUSSION

Staff believes that the City Council can make the findings to approve the Zone Change and Vesting Tentative Map based on the findings and conditions of approval included in Attachment III, to this staff report.

As noted above, there are significant site constraints including the unbuildable Alquist Priolo Zone on much of the western portion of the site and steep unbuildable slopes along the northern part of the site. Further, the project site fronts Carlos Bee Boulevard, a steep and

¹⁰ HMC Chapter 10, Article 15, Tree Preservation Ordinance.
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART15TRPR

curvilinear arterial that provides primary access to Cal State East Bay. To reduce the potential for traffic accidents, the Public Works – Transportation Division would not permit vehicular access to the proposed development from Carlos Bee Boulevard other than emergency vehicle access. To address these various site constraints and access issues, the applicant is seeking the flexibility of the PD District zoning designation in order to cluster development on the flattest portion of the site because adherence to minimum lot size and minimum side yard setbacks is not be possible due to the irregularly shaped lot and the required project access.

In the first project iteration, which was considered by the Planning Commission in January 2019, the applicant sought to maximize density on the site by constructing up to 14 three story narrow single-family homes with very small setbacks between homes (between three and six feet), which led to a crowded and unattractive site plan. Per Planning Commission recommendation, the applicant reduced the number of units on site from 14 to nine, developed a two story elevation and floor plan that could accommodate ground floor ADUs in six of the units, applied a more traditional architectural style reflective of the surrounding development, and provided more open space between the units. It is important to note that the reduction of units resulted in the availability of more on-site guest parking per unit.

The revised, proposed site design is more attractive with varied setbacks along the project frontage, a meandering pedestrian landscaped pathway that provides access to the front doors, and a small pocket park on the unbuildable western portion of the site. There is variety in the building types (mix of two- and three-story structures) and in unit types from three-bedroom single-family homes to one and two-bedroom ADUs that would be appropriate for Cal State East Bay students among others. Staff believes that the proposed parking, which includes up to four on-site parking spaces per residential unit, will accommodate the demand on the site. Overall, staff believes that the proposed development is appropriately scaled for the project site and would make a positive addition to the surrounding neighborhood.

ENVIRONMENTAL REVIEW

An Initial Study evaluating the potential environmental impacts of this project was prepared in accordance with the California Environmental Quality Act (CEQA). The Initial Study found that the proposed project would result in potential impacts in the areas of Biological Resources, Geology and Soils, Hazards and Noise, and contains standard or project-specific mitigation measures reducing the identified impacts to a level of less than significant.

A Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) was filed with the Alameda County Clerk on December 13, 2019. The NOI and the Initial Study were posted at the Permit Center and the City Clerk's Office at City Hall, delivered to both Hayward libraries, and posted on the City's website. Copies of the NOI were sent to interested parties and property owners within 300 feet of the project site on December 13, 2019. The public comment period for the proposed Mitigated Negative Declaration and Initial Study ran from December 13, 2019 through January 6, 2020. A copy of the Initial Study/Mitigated Negative Declaration (IS/MND) and related appendices are attached to this report for the Council's review and consideration (Attachment V).

Two comment letters were submitted during the public comment period (Attachment VII). The comments generally discussed issues related to increased traffic and safety along Carlos Bee Boulevard and concerns about slope stability.

On the topic of traffic impacts, the traffic counts are based on nationally accepted Institute of Traffic Engineers (ITE) generation rates. They are not arbitrary or subjective. According to the Initial Study, the project would generate 103 daily trips with 8 AM peak trips and 11 PM peak trips (Attachment V, Table 4.17-1). Based on the low peak traffic counts generated by this project, it will not result in an impact to the roadways nor does it trigger any new signals or other traffic controls.

On the topic of slope stability, several geotechnical investigations were prepared for the project, which were reviewed by the City's Engineering Division, incorporated into the Initial Study by reference, and made conditions of approval for the project (Attachment III, proposed Condition No. 38). Through the grading permit and inspections process, City engineers will require that grading on site be performed under the supervision of a qualified and State Licensed geotechnical engineer. Final grading and its stability shall be certified by the geotechnical engineer retained by the applicant to oversee the grading operation.

ECONOMIC IMPACT

The proposed development would have a positive economic benefit in that it would result in development of a currently vacant site. Currently, the site is vacant and there is a history of dumping and nuisance activities on and near the site. The proposed development is expected to attract up to nine market rate households and would provide housing for an additional six households in the Accessory Dwelling Units. Expenditures from these new households would contribute positively to the City's sales tax base. Further development of the project is also expected to generate temporary construction jobs, which will draw workers to the site who will patronize surrounding businesses.

FISCAL IMPACT

According to an estimate based on the City of Hayward Fiscal Impact Model (2017) prepared by Applied Development Economics, Inc., the project would generate about \$23,892 in annual revenue from taxes including: property, real property transfer, business license, emergency facilities and intergovernmental transfer among others. It would generate approximately \$22,098 in annual costs related to City services including but not limited to Fire, Police, Library, Maintenance Services, resulting in a net positive impact of approximately \$1,794 per year.

STRATEGIC INITIATIVES

The proposed project, as conditioned, supports the City's 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 and promising place to live, work and play for all. This item supports the following goal and objective:

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: Increase the supply of affordable, safe and resilient housing in Hayward.

SUSTAINABILITY FEATURES

The development will follow the requirements of the California Green (CALGreen) Building Code, which requires that all single-family development be zero net energy.

PUBLIC CONTACT

On May 9, 2018, Notice of Receipt of Application was mailed to all property owners, residents and business owners within 300 feet of the project site. Staff received a written letter opposing the project due to traffic, environmental and density concerns. On December 13, 2019, notices of the public review period for the project Initial Study/Mitigated Negative Declaration were sent to all property owners and residents within a 300-foot radius of the project site; was posted at the Alameda County Clerk Recorder's Office; and, was published in The Daily Review. On January 24, 2020, notices for the Council public hearing were sent to all interested parties, property owners, and residents within a 300-foot radius of the project site and were published in The Daily Review.

NEXT STEPS

Following Council approval, the Ordinance approving the Zone Change to Planned Development District will return to the City Council for a second reading after which the applicant will submit a Precise Development Plan and Final Map. The Final Map will be subject to City Council review and approval, after which construction permits will be processed and issued to ultimately allow for development of the project.

Prepared by: Leigha Schmidt, Senior Planner

Recommended by: Laura Simpson, Development Services Director

Approved by:



Kelly McAadoo, City Manager