



SUBJECT

Proposed Vesting Tentative Tract Map (Tract 8600) and Modification of an Affordable Housing and Density Bonus Plan from the Previously Approved Zone Change, Site Plan Review, Density Bonus and Environmental Review Application No. 202101491 for a 22 Unit Townhome Development located at 27865 Manon Avenue (APN 453-0090-014-00). Application: TM-23-0009; Applicant: Abraham Halaw, Briscoe Construction; Owner: Sunflower Manon LLC.

RECOMMENDATION

That the Planning Commission approve the proposed Vesting Tentative Tract Map for Tract 8600 (Attachment IV) and the modified Affordable Housing/Density Bonus Plan (Attachment V) based on the analysis set forth in this staff report and the findings contained in Attachment II, and subject to the conditions of approval contained in Attachment III.

SUMMARY

In October 2022, the Council adopted Resolution 22-251 and Ordinance 22-08 approving Zone Change, Site Plan Review and Density Bonus application (202101491) to construct a 22-unit townhome development at 27865 Manon Avenue. Following these approvals, the applicant applied to subdivide the development, requiring approval of a Vesting Tentative Tract Map (Tract 8600) for Condominium Purposes to be able to sell each of the townhomes individually. The proposed subdivision would feature a single parcel with each condominium owner owning the airspace within their individual unit and an equal share of the common areas and improvements within the development, which would be maintained by a Homeowners Association. No changes to the originally approved buildings, landscaping plan, or site improvements are proposed, other than an adjustment to the location of the security fence.

To comply with the requirements of the City's Affordable Housing Ordinance (AHO) for ownership projects, a modification of the previously approved Affordable Housing/Density Bonus Plan is required. The project will now provide two on-site ownership units that are deed restricted to be affordable to very low-income households in perpetuity. Additionally, the applicant will pay an in-lieu fee for a 0.04-fractional unit. The applicant further requests two additional Density Bonus waivers related to the installation of a security fence around the perimeter of the property.

BACKGROUND

In April 2021, the applicant submitted Zone Change, Site Plan Review, and Density Bonus Application 202101491 for 27865 Manon Avenue, requesting to rezone the property from

Single Family Residential (RS) to Medium Density Residential (RM) and allow for a 22-unit townhome style rental development. On September 8, 2022, the Planning Commission recommended that the Council approve the proposed Zone Change, Site Plan Review, and Density Bonus application.¹ On October 11, 2022, the application was formally approved with the Council's adoption of Ordinance 22-08 and Resolution 22-151 (Attachment VII).²

In September 2023 and prior to construction of the project, the applicant applied requesting approval of a Vesting Tentative Tract Map to subdivide the development and to modify the previously approved Affordable Housing/Density Bonus Plan.

Public Outreach: On September 15, 2023, the Planning Division mailed 267 Notices of Receipt of Application (NOR) for the proposed Vesting Tentative Tract Map and Affordable Housing/Density Bonus Plan modification to the owners and occupants of all properties within 300 feet of the site, as well as to the Harder-Tennyson Neighborhood Task Force, Harder-Tennyson Community (HACTO), Tennyson-Alquire Neighborhood Task Force, and the South Hayward Parish. No comments from the public were submitted in response to the NOR.

On February 9, 2024, a total of 267 Notices of Public Hearing were again mailed to owners and occupants of properties within a 300-foot radius of the project site, as well as to the same neighborhood groups who received the NOR. A public hearing notice was also published in *The Daily Review* newspaper on this same date. As of the date this staff report was published, staff has not received any comments from the public regarding the proposed project modification.

PROJECT DESCRIPTION

Existing Conditions. The project site is an approximately one-acre lot situated 150-feet north of Tennyson Road and one block west of Huntwood Avenue. The site is 143-feet deep with 320 lineal-feet of frontage along Manon Avenue. The topography of the property is relatively flat. The site is currently vacant with no trees or significant vegetation.

Surrounding development and land uses include single family residential development to the north and west, two story multifamily development to the east and commercial uses to the south along Tennyson. Additionally, the site is approximately one-half mile west of the South Hayward BART station and within a quarter-mile of Cesar Chavez Middle School, Tennyson Park, Mia's Dream Playground, and the future Stack Center.

Proposed Project: The proposed project consists of a Vesting Tentative Tract Map for a previously approved 22-unit townhome development (Zone Change, Site Plan Review, and Density Bonus Application No. 202101491). As shown in Attachment VI, the approved plan features 22 three-story townhomes housed in four separate buildings laid out along a U-shaped private driveway and a centrally located common outdoor open space. The townhomes range from three to five bedrooms in size, each with a private one car garage. The development also includes an additional 19 uncovered parking spaces along the rear of the property.

¹ Planning Commission Public Hearing, September 8, 2022:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=5812105&GUID=D1DC63F7-08D1-4DF3-A42B-4521513595C4&Options=&Search=>

² Council Public Hearing, October 11, 2022: <https://hayward.legistar.com/LegislationDetail.aspx?ID=5866923&GUID=934ECDC0-2C9B-4063-80DB-77E9855E24B1&Options=&Search=>

The proposed Vesting Tentative Tract Map would overlay the previously approved Site Plan and enable the owner to subdivide the development and sell each of the townhomes individually. No changes to the previously approved building design, landscaping plan, or site improvements are proposed, other than an adjustment to the location of the security fence, so that it is setback approximately 10 feet from the front property line rather than 25 feet.

As a result of the proposed change from a rental project to an ownership project, the Affordable Housing/Density Bonus Plan included as Attachment V has been updated to reflect the different requirements for ownership projects. These changes are also discussed further in the Affordable Housing Ordinance section below.

POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan: The project site is designated Medium Density Residential (MDR)³ in the *Hayward 2040 General Plan*, which allows for a residential density range of 8.7 to 17.4 dwelling units per net acre. While the previously approved project exceeds the allowable General Plan density at approximately 22 dwelling units per acre, a 30 percent density bonus was granted as part of Application No. 202101491. The MDR land use designation generally applies to suburban and urban areas that contain a mix of housing types. Typical building types include single-family homes, duplexes, triplexes, fourplexes, townhomes, and multi-story apartment and condominium buildings.

The project is consistent with numerous goals and policies of the General Plan in that the proposed subdivision will increase the ownership housing stock within the City of Hayward, provide on-site affordable units, and take advantage of easy access to the South Hayward BART station as well as nearby parks, schools, and amenities. The application's consistency with the *Hayward 2040 General Plan* goals and policies are discussed in greater detail in Attachment II.

Zoning Ordinance: The project site is within the Medium Density Residential (RM) zoning district, which allows for a range of housing types, including attached townhome-style development. The project's site plan and building design were all found to be compliant with the applicable standards of the RM zoning district when the Zone Change, Site Plan Review, and Density Bonus application was approved by the Council in 2022, and no changes to the approved buildings or site layout are proposed.

Subdivision Ordinance: In accordance with Chapter 10, Article 3 of the Hayward Municipal Code, the following findings must be made in order to approve an application for a Vesting Tentative Tract Map:

1. The proposed subdivision is not in conflict with the General Plan and applicable specific plan and neighborhood plans;
2. The proposed subdivision meets the requirements of the City Zoning Ordinance; and
3. No approval of variances or other exceptions are required for the approval of the subdivision.

³ [Hayward 2040 General Plan](#)

As stated above, the proposed subdivision conforms to the *Hayward 2040 General Plan* and complies with the applicable requirements of the Zoning Ordinance. More detail for each of the required findings is provided in Attachment II.

Regional Housing Needs Allocation: Local jurisdictions report progress annually on meeting their Regional Housing Needs Allocation (RHNA) goals which are included in the City's Housing Element. The 6th Cycle Housing Element (2023-2031) was adopted by the City Council on February 7, 2023, and subsequently certified by the State Department of Housing and Community Development. In the next eight-year cycle (2023-2031), the City is required to build 4,624 units at a variety of income levels. According to the Housing Element, Appendix C, Table C-3, Planned, Approved and Pending Projects, there are a total of 2,073 units that are approved or otherwise pending at various income levels during the upcoming cycle. This project was included in the Planned, Approved and Pending projects because it was approved by the City Council in 2022. With the proposed map, the two very-low-income units will be converted from rental units to ownership units.

Affordable Housing Ordinance: The proposed project is subject to the requirements of the City's Affordable Housing Ordinance⁴ set forth in Chapter 10, Article 17 of the Hayward Municipal Code. An applicant may satisfy the requirements of the ordinance by paying an affordable housing in-lieu fee, including affordable units within the proposed development, or a combination of the two.

The Affordable Housing/Density Bonus Plan that was approved as part of the original project entitlement in 2022 met the requirements of the AHO by deed-restricting two of the 22 rental units to be affordable to very-low-income households. Now that the applicant is proposing to subdivide the townhomes into ownership units, the Affordable Housing/Density Bonus Plan needs to be modified to meet the requirements of the AHO for ownership projects. The applicant is proposing to deed-restrict two of the ownership units to be affordable to very-low-income households in perpetuity and will also pay an in-lieu fee for an additional 0.04 fractional unit that is now required. Based on the current affordable housing in-lieu fees listed in the City's Master fee schedule, the fee for this fractional unit is approximately \$49,000.

Density Bonus: A density bonus is a zoning tool granted by State law that allows for an increase in density with concessions and/or waivers to development standards when affordable housing units are included on-site. Pursuant to State law, the City *shall* grant the concessions and waivers proposed by the developer unless it finds that the proposed concessions do not result in identifiable and actual cost reductions, or the waivers are not necessary to construct the project at the permitted density. Proposed concessions and waivers could be rejected if they would cause a public health or safety problem, cause an environmental problem, harm historical property, or are contrary to law.

In the original Zone Change, Site Plan Review, and Density Bonus application, the applicant requested a 30 percent density bonus, two waivers from standards in the Hayward Municipal Code related to the front and rear setbacks, and a reduction in parking, as permitted by State Density Bonus Law. As part of their application for a Vesting Tentative

⁴ [Hayward Municipal Code Chapter 10, Article 17 – Affordable Housing Ordinance](#)

Tract Map and modification to the previously approved Affordable Housing/Density Bonus Plan (Attachment V), the applicant is requesting an additional two waivers related to a security gate surrounding the development:

- *Waiver for Required Security Gate Setback:* Section 10-14.201 of the Hayward Municipal Code⁵ requires a security gate to be setback to a sufficient width for two side-by-side entry vehicles or sufficient depth to allowed for two queued-entry vehicles. Per the City’s Transportation Division, this is defined as a depth of 50 feet for two queued entry vehicles or a depth of 25 feet for two side-by-side entry vehicles. As the project proposes sufficient width for two side-by-side vehicles, per the Transportation Division’s Condition of Approval 95 of Resolution 22-251, 25 feet is the required setback between the gate and the sidewalk.⁶ In order to locate the security gate 25 feet from the front property line, significant portions of four townhomes would need to be removed. As a result, the applicant requests a waiver to reduce the security gate setback to nine feet and eight inches.
- *Waiver for Required Security Gate Turnaround:* Section 10-14.201 of the Hayward Municipal Code also requires there to be a turnaround area in front of a security gate that allows vehicles the ability to turnaround and exit the complex facing forward, as opposed to backing out onto the roadway if they are not granted access through the gate. Again, providing the required turnaround space would necessitate the removal of significant portions of four of the development’s townhomes. Thus, the applicant requests an additional waiver to eliminate the required turnaround area.

As shown in Attachment III, additional conditions of approval have been added to reduce some of the potential impacts of these requested waivers. This includes restricting parking along Manon Avenue near the project driveways to allow for vehicular queuing space. In addition, the project is conditioned to designate a single-entry gate and single exit gate for the development to maintain one-way traffic flow.

Park Impact Fee: As conditioned, the project is subject to park impact fees. Based on the bedroom counts of each townhome, the total fee would be \$479,774 per the City’s current Master Fee Schedule.

STAFF ANALYSIS

Staff believes the Planning Commission can make the findings required to approve the Vesting Tentative Tract Map and modified Affordable Housing/Density Bonus Plan. The proposed subdivision map is consistent with the requirements of the City’s General Plan, Zoning Ordinance, and Subdivision Ordinance. Further, it would not result in any modifications to the previously approved plans, other than relocating the security gate, and would simply enable the property owner to sell each of the units individually as condominiums. The proposed subdivision design does not require any variances from or exceptions to the applicable

⁵ Hayward Municipal Code Chapter 10, Article 14, Security Gate Regulations: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART14SEGARE

⁶ City Council Resolution 22-251: <https://portal.laserfiche.com/Portal/DocView.aspx?id=396316&repo=r-b6d2994c>

standards for a townhouse-style condominium development. For these reasons, staff believes that the Commission can make the findings to approve the project.

ENVIRONMENTAL REVIEW

In 2014, the City certified the EIR for the *Hayward 2040 General Plan*.⁷ Pursuant to CEQA Guidelines Section 15183, projects consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified may not require additional review unless there may be project-specific effects that are peculiar to the project or site that were not adequately addressed in the EIR for the General Plan.

An Infill Consistency Checklist (Attachment VIII) was prepared as part of the previously approved Zone Change, Site Plan Review, and Density Bonus application, which tiered off the Hayward 2040 General Plan EIR. The checklist concluded that the proposed project would not have any new or more significant effects on the environment than were previously analyzed in the General Plan EIR. As a result, no further environmental analysis was required.

The proposed Vesting Tentative Tract Map and modified Affordable Housing/Density Bonus Plan propose no changes to the buildings, landscaping plan, grading, and site improvements that were analyzed in the previous Infill Consistency Checklist. As a result, no further environmental analysis is required.


NEXT STEPS

Following the Planning Commission hearing, the project will be brought before the Council at a public hearing. If approved, the Council's decision would take immediate effect, and the applicant would then be able to proceed with an application for a Final Map.

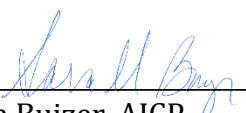
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⁷ Hayward 2040 General Plan Final Environmental Impact Report: <https://www.hayward-ca.gov/General%20Plan%20Final%20Environmental%20Impact%20Report>