



DATE: February 7, 2017

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Appeal by the Hayward Area Planning Association of the Planning Commission's December 15, 2016 Approval of the Maple & Main Mixed-Use Project and Related Adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; the project includes 192 Market-Rate Apartments, 48 Apartments Affordable to Very Low Income Households, Rehabilitation of a 48,800 Square-Foot Medical Office Building, and Approximately 5,500 Square-Feet of Retail Space, Located Generally Within the Block Bounded by A Street, Main Street, McKeever Avenue and Maple Court in Downtown Hayward; Bay Area Property Developers, LLC and Klein Financial Corp (Applicants/Owners)

RECOMMENDATION

That the City Council denies the appeal and approves the project and related Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program as approved by the Planning Commission, subject to the findings and recommended conditions of approval in the attached resolution (Attachment II).

Should the Council support moving some of the retail space from Main Street to the Maple Court frontage, as reflected in Attachment IV, staff recommends Council indicate such decision in any action to approve the project or continue action on the project to a future meeting (see red text in the attached resolution), while also adopting an Addendum to the Mitigated Negative Declaration (Attachment XVII).

SUMMARY

Sherman Lewis, on behalf of the Hayward Area Planning Association, filed an appeal of the Planning Commission's December 15, 2016 approval of this mixed-use project (Attachment III). The appeal is discussed later in this report and is the purpose for this hearing.

As was indicated to the Planning Commission, this significant mixed-use project is proposed on a nearly four-acre site on the fringe of the Downtown core and adjacent to the Prospect Hill neighborhood. It would provide significant investment in the downtown and include residential, office and retail uses in close proximity and walking distance to BART and the Downtown core. Staff is supportive of the project because it:

- a) Is consistent with many of the policies of the General Plan, as indicated in Attachment II;
- b) Complies with land uses, density and floor area ratio (FAR) limits of the *Central City- Retail Office and Commercial* General Plan Land Use designation (Attachment IX),
- c) Complies with the [Central City – Commercial \(CC-C\) Zoning District development standards](#), including maximum height (65 feet) and density (65 units per acre) (Attachment X);
- d) Would provide 48 apartments affordable to very-low income households;
- e) Is well designed and integrates a mix of materials, colors, and architectural features, including balconies/patios in most of the residential units, along with three large courtyards, a fitness center, and a rooftop terrace;
- f) Includes benefits and amenities above minimum requirements, such as a community/neighborhood meeting room and a Native American history plaque;
- g) Would be a GreenPoint Rated project offering sustainable features like solar photovoltaic panels and 24 electric vehicle charging stations;
- h) Would provide economic benefits to Hayward and the Downtown with a nearly 50,000 square foot rehabilitated medical office building and residential units in close proximity to Downtown merchants and businesses; and
- i) Incorporates a number of transportation and parking demand management measures, like shuttle service, shared auto service, unbundled parking, and payment for a parking permit program, if determined necessary through surveys.

BACKGROUND

Although the project does not front onto A Street, the site is located within the block framed by Maple Court to the east, McKeever Avenue to the north, Main Street to the west, and A Street to the south (see Attachment V). The site is currently developed with a variety of vacant buildings and uses including a medical office building, the former Bryman College campus, and detached single-family homes located along Maple Court and McKeever Avenue. A majority of the site consists of surface parking lots. Adjacent development to the east is a commercial shopping center anchored by Dollar Tree and various retailers providing goods and services. South of the project fronting A Street is office buildings and a Wienerschnitzel restaurant. West and north of the project site along Main Street and McKeever are residential and medical office uses. The Hayward BART station is within a half-mile of the site.

Past Meetings

City Council Work Session – On May 19, 2015, as part of the City’s Economic Development Concierge Program, the City Council held a work session to discuss a conceptual plan for the development. As the minutes indicate (Attachment VI), Council was generally supportive of the project, and among other things, recommended consideration of unbundled

parking, as is encouraged in the General Plan, and indicated five stories may be too tall.

Planning Commission Work Session – The proponent submitted a formal application on September 10, 2015. On March 17, 2016, the Planning Commission held a Work Session to review the project and provide early feedback. The Commissioners indicated support of the project, but also requested the proponent consider a variety of items, including sustainability/green features, traffic reduction, pedestrian-friendly environment, and massing/compatibility with the existing neighborhood. Several members of the public spoke on the project, indicating both support and opposition towards components of the project (see meeting minutes – Attachment VII). Those who spoke against the project mainly cited concerns with the building height and potential impacts to traffic. See later discussion under Public Outreach regarding engagement with the community and surrounding neighborhood.

Planning Commission Public Hearing – On December 15, 2016, the Planning Commission voted 4 to 1 (one absent, one recusal) to approve the project and adopt the related Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. The minutes from that meeting are included as Attachment VIII. In summary, the majority of Commissioners expressed support for the project, including supporting integration of affordable apartments into the project and the rehabilitation and upgrade of the medical office building.

Activity Since December 15 Planning Commission Hearing

Appeal – Sherman Lewis, on behalf of the Hayward Area Planning Association, filed an appeal of the Planning Commission’s approval of the project. As Attachment III indicates, Mr. Lewis indicates to the Development Services Director that “compared with a worse suburban project, this proposal is worth supporting for the reasons in the summary of your report to the Planning Commission” and indicates he is “seeking to have staff advise, and for Council to approve, unbundling at the economic rate, improvements to the pedestrian crossing of A St. at Main St., moving retail to Maple and green parking management on Maple for a possible multi-modal pedestrian environment, and economic research to take advantage of the new economy.” Staff discusses the letter in the Discussion and Staff Analysis section of this report.

Communications from the public – In response to notices of this appeal hearing, staff received two letters and an e-mail from Prospect Hill residents. Those letters from Frank Goulart and Nathan Williams/Per Bothner, and an e-mail from the Prospect Hill Neighborhood Association (Attachments XIX – XXI) raise concerns, some previously expressed, about the need for an environmental impact report, including related to cultural resources and aesthetics. Such issues have previously been addressed and are discussed later in this report.

Proposed Minor Revision to the Plans – In response to requests from the appellant and community, the project proponent has offered to relocate 3,653 square feet of retail space proposed north of the garage entry along Main Street to Maple Court (see Attachment IV), and to include a 564 square foot meeting room and 330 square foot entry gallery by the main pedestrian entrance along Maple Court. The net result of the change

would be seven (versus four) residential units along Main Street, and two (versus five) units along Maple Court. There would still remain about 2,100 square feet of retail space along Main Street, south of the parking garage entrance. Related to relocating the retail space and maintaining consistency in the vertical stack of unit types, there are also some changes to the number of unit types, though the number of affordable units remains at 48 (one less 1-bedroom unit and one less 3-bedroom unit, and two more 2-bedroom units).

Policy Context and Development Standards

General Plan - The [Hayward 2040 General Plan](#) adopted in July of 2014 designates the project site as *City Center - Retail and Office Commercial*. As indicated in the General Plan (see Attachment IX), “Typical building types include storefront commercial buildings and mixed-use buildings that contain commercial uses on the ground floor and residential units or office space on upper floors. Other building types that may be appropriate on properties outside of the retail core of the Downtown include townhomes, apartment and condominium buildings, and live-work units.” Although A Street, a major arterial road, exists just to the south of the project site, staff considers the site to be on the fringe of the Downtown core, given the Prospect Hill residential neighborhood to the north of the site. “Mixed-use with multi-family homes or office on upper floors” is indicated as an allowed use, while “multi-family homes” are listed as supporting uses. The project is consistent with several General Plan policies, as indicated in the findings in the attached resolution (Attachment II).

North Hayward Neighborhood Plan - The North Hayward Neighborhood Plan (NHNP) was adopted in July of 1994, and pertains to the areas just north of the project site, including the Prospect Hill neighborhood. Some of the policies in the Neighborhood Plan are outdated, including those associated with the previously pursued 238 bypass freeway. These policies will be replaced with a new Downtown Specific Plan, which is being developed and is expected to be completed by mid-2018. Policies in the NHNP promote preservation of the Prospect Hill neighborhood, including new development along Main Street north of McKeever Avenue (area was rezoned to Residential Office zoning), as well as managing traffic through the neighborhoods (e.g., placing a stop sign on Main Street at Hazel Avenue).

Downtown Specific Plan - The Downtown Specific Plan project will entail development of a new plan for the Downtown, including a new development code. Heavy community outreach and engagement is planned, including a design charrette that will occur over several days in the first quarter of 2017, which will help ensure a successful, community-supported Plan for the future of the downtown.

Zoning Designation and Development Standards - The site is also located in the [Central City - Commercial Sub-district](#) (CC-C), whose purpose is “to establish a mix of business and other activities which will enhance the economic vitality of the downtown area. Permitted activities include, but are not limited to, retail, office, service, lodging, entertainment, education, and multi-family residential uses.” Residential dwelling units are permitted above first floor commercial uses by right (no discretionary use permit

required) and on the ground floor with the approval of a Conditional Use Permit.

As shown in Attachment X, the project is proposed in compliance with development standards related to height¹, density, and parking, given State Density Bonus Law. Because the project entails 20% very low income units, it may be built up to 35% above the City's maximum density. As reflected in Attachment XII, the proponent is requesting and is entitled per the Law, a project that is 23% above City's maximum density standards. Also, the proponent is requesting that parking for the 48 affordable units be 24 versus 41 spaces, as allowed by the State Density Bonus Law. Attachment X also includes a discussion of the architectural details of the project.

DISCUSSION AND STAFF ANALYSIS

Appeal Letter from the Hayward Area Planning Association (Sherman Lewis)

Below are the four salient points included in Mr. Lewis' appeal letter, along with staff's responses.

Unbundling Parking at the Economic (versus Market) Rate - Mr. Lewis is requesting that the proponent lease parking spaces at an economic rate based on the true cost of the spaces (reflective of the costs of land, garage construction and operations), which would be higher than a market rate that is geared toward ensuring all spaces are used/leased. The proponent has indicated the desire to have all spaces leased (market approach), and will adjust lease rates accordingly. Such approach would provide less incentive to not lease parking spaces, compared to a higher economic-based lease rate, which would result in higher lease rates for units (given developer expects a certain return based on unit and parking lease revenues) and less use of transit, as Mr. Sherman points out. However, there are several factors that influence the decision by a tenant to not have an automobile, much less lease a space, such as availability of other modes of transportation to get from home to work, the need to have quick access to various locations at different times of day based on need (such as children's schedules), etc. Also, it is reasonable to expect that utilizing an economic-based higher lease rate approach could increase likelihood of spillover parking into the neighborhood. The City's parking permit program areas identified later are all successful, though should one be needed in this area, it would be geared toward highest demand periods (evenings and on weekends), unlike any other permit program area. Also, the City is working on developing and implementing a comprehensive Downtown parking management program, expected this calendar year, and the area surrounding the proposed development would be included in such a program. Parking spaces for the medical office building, which comprise the majority of the lower levels of the parking garage, are not proposed to be unbundled during the day, but property management and security will

¹ Zoning regulations indicate a maximum height of 55 feet, and state, "Maximum height shall be established in substantial compliance with the Downtown Hayward Design Plan." Page 8 of the [Downtown Design Plan](#) states that the maximum height may be increased by 10 feet if the lot coverage of the project is reduced to no more than 80% (lot coverage proposed is 64%).

ensure those spaces are not used by residents. During the evenings, those spaces would be unbundled and offered to residents at lower rates than spaces offered for lease 24/7.

Pedestrian Crossing Improvements at A and Main Streets – Mr. Lewis is recommending that the project proponent participate in improving the pedestrian crossing across A Street at Main Street. While Council may wish to require such participation with this project, improvements like bulb-outs will be developed and implemented as part of the Downtown Specific Plan that will address improving the entire pedestrian environment in our downtown.

Intermodal Social Hub on Maple Court – As shown in Attachment IV, the proponent is willing to relocate approximately 3,400 square feet of retail and public meeting space from Main Street to Maple Court, creating the potential for some of the elements along Maple Court that Mr. Lewis describes. There are benefits regarding the pedestrian environment that Maple Court has compared with Main Street, such as reduced street width and “connection” to retail across Maple Court and potentially to the proposed Lincoln Landing development to the north. However, there is no pedestrian crossing at A Street and Maple Court, given there is not a traffic signal there due to the proximity to the Foothill Boulevard intersection, like exists at Main and A Streets.

Unanswered Economic Questions – Staff agrees with many of the points made by Mr. Lewis regarding the economic benefit and market analysis performed by *The Concord Group* (Attachment XIII).

The following paragraphs reflect the project as presented to the Planning Commission, unless otherwise noted.

Project Overview - The proposed Maple and Main project is a mixed-used development designed to complement downtown Hayward. The project is composed of a five-story residential building, wrapping around a 462-space six-level parking garage structure and two courtyards. The project includes 240 residential units consisting of 15 studios, 82 one- bedroom units, 123 two-bedroom units and 20 three-bedroom units with an average unit size of 990 square feet. Because the proposed project is a rental project and will not receive any City assistance, no affordable units are required to be provided pursuant to the City’s Affordable Housing Ordinance. However, all projects consisting of 20 units or more are required to pay the affordable housing impact fee unless the applicant elects to provide affordable units in conformance with the Ordinance. The proponent proposes 48 units (twenty percent) integrated within the development, which will be made affordable to very low income households who earn no more than 50% of the area median income. On-site amenities include three open space courtyards (one of which includes a swimming pool), a 3,600 square foot club house with fitness facilities located in the central portion of the residential building, and a 6,460 square foot rooftop terrace. The applicant also proposes up to 5,571 square foot of new retail space on Main Street, along with a 1,560 square foot leasing office/lobby, and retention of most of the existing multi-story medical office building at the corner of Maple Court and McKeever Avenue. In addition, the proponent proposes a professional on-site management company, [Alliance Residential](#)

Company, that manages several properties in the Bay Area, including those with unbundled parking. Alliance will address site maintenance and security, leasing, affordable housing agreement implementation, on-site parking management and enforcement, etc.

Residential Floor Plans – The project includes 15 studio units (14 with the proposed revision), 82 (84 with the revision) one-bedroom units, 123 (122 with the revision) two-bedroom units, and 20 three-bedroom units. The studio and one-bedroom units have one bathroom and the 2-3 bedroom units have two bathrooms. All units have their own washing machine and dryer, and common area laundry facilities are also provided. Each unit type, except for the studios, has a private balcony. Each unit will have a secure, enclosed storage closet within the building. The storage closets will be located in storage rooms on each floor of the residential building in designated areas on each floor. Some units have storage units off of the private balconies. A 52-stall bicycle storage room and four trash rooms will also be provided in the parking garage. Additionally, a six-bike rack is proposed near Courtyard #2 towards McKeever Avenue, and another one is proposed at the pedestrian entry off Maple Court (see green rectangles on sheet A-1 of Attachment XI).

Parking Garage – A six-level parking garage is proposed on the western portion of the project site to be “wrapped” by the proposed residential units and also two surface parking lots along McKeever Avenue. The proposed garage will provide 462 parking spaces while the two surface parking lots provide 23 spaces for a total of 504 spaces, which complies with the City’s Parking regulations. Parking for the office use will utilize the 23 surface parking spaces and another 135 spaces located in the garage for a total of 158 spaces. Parking for the retail portion of the project will utilize 18 spaces provided in the garage. The first two and a half floors of the garage will be accessible to the office and retail uses, and will include standard (automobile), motorcycle (12 stalls), bicycle (52 stalls), 24 electric vehicle spaces, and two car-share spaces (i.e. Zipcar). The remaining 309 spaces in the garage will be dedicated to residents.²

Medical Office Building (MOB) - Over the years, several additions have been made to the original structure (former Levine Hospital), including one- and two-story sections along Levine Court. These buildings have been occupied by various office uses and by the former Bryman College. A section of the building, primarily along Levine Court, will be demolished, maintaining approximately 48,000 square feet of the commercial office space in the four- and two-story building on the corner of Maple Court and McKeever Avenue. The building is proposed to be completely renovated, including a façade renovation, which will update the existing building. The proposed façade renovation will be consistent with the architectural design of the proposed new primarily residential building. Interior improvements to the existing building will include the creation of a more prominent front lobby at the corner of McKeever Avenue and Maple Court (see Attachment XI, plan sheets A-12 and L-5).

² As the proposed project will provide 12 motorcycle space and 52 bicycle spaces, it is eligible for a parking credit of 19 spaces, which is being applied to the residential component.

Once renovated, the building will provide needed quality office space in Downtown, particularly since the Downtown lacks such space. The highest quality commercial office space in Downtown is generally considered to be Plaza Center, located at 2nd Street and City Center Drive near the Safeway retail center. The renovated medical office building would generate several permanent jobs (see later discussion under Economic Benefits).

Community Benefits – As reflected in recommended condition of approval No. 26 in Attachment II, and per the revised plan layout as discussed previously, the applicant has offered to provide an approximately 600-square foot community meeting room along Maple Court for use by the neighborhood and community, which would be managed by the Property Management Company.

In response to a request from a resident of the Prospect Hill neighborhood, the applicant has also offered to pay for development of a plaque related to the history of the Native Americans (Ohlone) in this area, with the design and location of the plaque to be approved by the City in consultation with the Native American Heritage Commission, local tribe representative and the neighborhood (see recommended condition of approval No. 27).

Landscaping - The landscape plan sheets for the proposed project are included as part of Attachment XI. The plans show the planting of new trees and shrubs along Main Street and Maple Court and throughout the site and in the courtyards, as well as vines along a wire mesh or laser cut screen fence along the southern boundary of the property. A total of 114 new trees would be added to the project site, including 14 palm trees; 12 trees are proposed to be preserved; while 15 trees are proposed to be removed, including a large redwood tree in the center of the site towards Main Street. Per the arborist's report ([Appendix C of the Initial Study/Mitigated Negative Declaration](#)), the large redwood tree has moderate suitability for preservation. The plans, including proposed tree replacement plan, show compliance with the City's Tree Preservation Ordinance.

Parks – The City's regulations require that a proponent pay in-lieu fees and/or dedicate public parkland, where projects entail more than 50 units. The proponent is proposing to pay park in-lieu fees for the project. Section 10-16.11(b) of the Hayward Municipal Code states that the following units are exempt from the regulations: "Rental housing owned by a private non-profit corporation with rents which on the average remain affordable, for a period of at least thirty (30) years, to households with incomes of no more than sixty (60) percent of area median income, adjusted for household size, as defined by the State of California Department of Housing and Community Development. Developers of such rental housing shall enter into a regulatory agreement with the City to be approved by the City Council, which shall guarantee the term of affordability." The 48 units proposed to be affordable to very low income households and to be deed-restricted, would be exempt from the City's park obligation regulations. Therefore, the total in-lieu fees owed for the 192 market rate units, based on the current fee of \$9,653 per apartment, would be \$1,853,376. The General Manager of the Hayward Area Recreation and Park District has indicated support for payment of in-lieu fees, to be used for parkland acquisition and/or park improvements in the area.

As stated previously, the Downtown Specific Plan process will entail heavy public outreach and input and will address parks and identification of sites where new parks in the Downtown would be desired. A potential site for a new park in the immediate vicinity, as reflected on page 8 of the [North Hayward Neighborhood Plan³](#), would be at the southeast corner of Hazel Avenue and Main Street, about a quarter-mile to the north of the project site. Such site encompasses two parcels owned by the City totaling approximately a half-acre, and a privately owned 0.17-acre private property at 22192 Main Street that contains an uninhabited residence that may have historic value. The project proponents have agreed to pay for a historic resource evaluation of that house, should it be identified as a potential park site. HARD staff has indicated they would not support use of the home in a future park, given the costs to maintain such structure. Staff has included as recommended conditions of approval Nos. 28 and 29 that the in-lieu park fees from this project be used for acquisition of land and/or improvements for new parks in the immediate area, and a requirement that the proponent pay for a historic resource evaluation of the house at 22192 Main Street, should that site be identified as a desirable park location through a community vetting process. Staff is also exploring other revenue sources, such as State grants, that could be used for acquisition and/or improvement of that site.

Open Space - Regarding open space, residential uses within the Central City-Commercial (CC-C) District are required to provide a minimum of 100 square feet of usable open space per dwelling unit, 30 square feet of which must be group open space. Also, the zoning regulations state, "Balconies shall be not less than 60 square feet in area with a minimum dimension of 6 feet." Based on the proposed unit count of 240 units, a total of 24,000 square feet of open space is required, 7,200 square feet of which must be group open space. As shown on the project landscape plans (Attachment XI), 32,485 square feet of total landscaped area is proposed (including 20,005 square feet of courtyards (group open space)), plus a 3,600 square foot club house/fitness facility and a 6,460 square foot rooftop terrace.

Also, all of the units, except the 15 studio units, are proposed to have private balconies or patios. Staff is recommending that the balcony size for the 32 proposed B2 Units be increased from 40 sq. ft. to 60 sq. ft., as required by the Zoning Ordinance (see recommended condition of approval No. 39g in Attachment II).

Parking and Transportation Demand Management – A Parking Management Plan is included as Attachment XIV that indicates results of a parking survey conducted in May of 2016, where evening parking revealed the greatest demand time. The attachment also identifies a variety of Transportation Demand Management and Parking Management measures, including shuttle service (either a private service or fair-share contribution to a

³ The North Hayward Neighborhood Plan states, "Dedicate City land on Main Street near the Hazel Avenue bridge to park use and seek acquisition of corner property for a picnic spot or tot lot [to] make neighborhood more attractive to families."

City shuttle service), car- share program, secured bike storage area, preferential parking areas for shared vehicles and EV vehicles (to include charging stations), unbundled parking (where parking spaces are offered for lease separately from the lease rates of apartment units at two different lease rates - one 24/7 access and one during evening hours when office use is closed), and discounted transit passes, all of which are required via recommended conditions of approval.

Garage parking spaces will be secured with an electronic gate and keycard entry, to be managed by the property management company. Resident guest spaces will also be within the gated portion of the garage; a gate code will be necessary for guests to access the parking.

Parking Permit Program - Section 3.95 of the [City's Traffic Regulations](#) contain provisions related to Parking Permit Programs, including methodology for establishing them by the City Council. The City contains several parking permit program areas as shown below, which restrict parking via passes during daytime hours when demand is highest.

1. The Eden Gardens neighborhood near **Chabot College**, which is in effect between 8:00 am and 8:00 pm.
2. Santa Clara Street near the **Alameda County offices** and the Post Office, which is in effect between 8:00 am. and 6:00 pm.
3. Edloe Drive/Ocie Way near the **Alameda County offices**, which is in effect between 8:00 am and 4:00 pm.
4. University Court/Highland Boulevard neighborhood near **Cal State campus**, which is in effect between 8:00 am and 9:00 pm.
5. Spencer Lane, Hemmingway Court and portions of Dobbel Avenue and Civic Avenue neighborhood near **Cal State campus**, which is also in effect between 8:00 am and 9:00 pm.
6. Happyland Avenue south of A Street, Fuller Ave from A Street to Elmwood Street between 8:00 am and 9:00 pm.
7. Marvin Way, Barker Avenue, Westpark Street from Barker Avenue to 21651 Westpark Street between 8:00 am and 9:00 pm.
8. Parkside Drive from Hayward Boulevard to Tribune Avenue and Rainbow Court between 8:00 am and 9:00 pm.
9. **South Hayward BART** JPA, which regulates parking during work hours on weekdays.

Such programs have proven to be very successful. If a parking permit program is determined to be necessary based on surveys related to impacts from residential developments in the Downtown, enforcement and restrictions would likely occur during evening hours and weekends, when demand is highest. A recommended condition of approval requires the proponent to pay fair-share costs to establish such program, if needed.

Affordable Housing Units – The Bay Area is experiencing an affordable housing crisis. One can read reports every day on the internet that indicate the situation is critical and

expected to worsen without changes at the local and state levels. One good source for such information is the California Department of Housing & Community Development's (HCD) [WEB NEWS](#) service. Unlike most developments recently in Hayward that simply pay affordable housing impact fees, this project proponent proposes integrating 48 affordable units into the project that will be restricted for 55 years to be affordable to very low income households ($\leq 50\%$ of the area median income (AMI) - see table below). As indicated in the attached Affordable Housing Plan (Attachment XV), the affordable units will comprise 19 of the total 82 one-bedroom units, 25 of the total 123 two-bedroom units, and 4 of the 20 three-bedroom units. Staff particularly supports this aspect of the project, given the affordable housing crisis in the Bay Area. Per the City's regulations, an Affordable Housing Agreement will be submitted and approved prior to issuance of permits.

Section 6932. 2016 Income Limits

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Alameda County 4-Person Area Median Income: \$93,600	Extremely Low	20500	23400	26350	29250	31600	33950	36730	40890
	Very Low Income	34150	39000	43900	48750	52650	56550	60450	64350
	Low Income	52650	60150	67650	75150	81200	87200	93200	99200
	Median Income	65500	74900	84250	93600	101100	108600	116050	123550
	Moderate Income	78600	89850	101050	112300	121300	130250	139250	148250

Impacts on Schools – The project site is served by Strobridge Elementary School, Bret Harte Middle School, and Hayward High School. Per State law, a City can only require a developer to pay school impact mitigation fees. Currently, that rate for the Hayward Unified School District is \$2.97 per square foot of habitable space. Based on information on the California Department of Education website and recent communication with the school principals:

- Hayward High School's enrollment for last school year was 1,580 students, the lowest in 20 years. According to the principal, the enrollment this year is similar to last year, and the capacity of the school is 1700-1750 students.
- Bret Harte Middle School's enrollment for last school year was 613 students, the lowest it has been since the 2007/08 school year. The school principal indicates the enrollment for this school year is 655 students and that the school has a capacity of 725 students.
- Strobridge Elementary School's enrollment for last school year was 598 students, the lowest it has been since the 2009/10 school year. According to the principal, enrollment for this school year is 550, and the school's current capacity is 620.

Findings - To approve a Conditional Use Permit to allow for ground floor residential units, four findings must be made, which are identified in the attached resolution.

Related to the overall project design and layout, approval of the submitted Site Plan Review application is also required if the project is to be approved. Four findings are required to be made, which are similar to the Conditional Use Permit findings and which are also included in

the attached resolution.

Environmental Review

As indicated in the [December 15, 2016 Planning Commission packet](#), a draft initial study and mitigated negative declaration (IS/MND) was circulated for public review and comment from August 22 through September 21, 2016. The Initial Study found that the proposed project would result in potential impacts in the areas of Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Noise, and Mandatory Findings of Significance, and contains mitigation measures reducing the identified impacts to a less-than-significant level. Staff received six comment letters on the draft document.

In response to some of those comments, City staff subsequently determined that the cumulative impacts analysis in the draft IS/MND should have included reasonably foreseeable projects; specifically, the 476-unit, 80,500 square foot mixed use project (Lincoln Landing) proposed approximately 400 feet to the north. Therefore, a revised draft IS/MND was prepared and recirculated for public review and comment from November 7 through 28, 2016. Four comment letters were received.

In accordance with the California Environmental Quality Act (CEQA), a Final IS/MND document was then prepared that included all comment letters received, including to the originally circulated IS/MND, and responses to those comments (Appendix L to the Final IS/MND). It also included revisions/clarifications to the original document (Appendix K to the Final IS/MND). Finally, a Mitigation Monitoring and Reporting Program (MMRP) was prepared (Appendix M to the IS/MND) that identifies mitigation measures to reduce potentially significant impacts to less-than-significant levels and identifies entities responsible for ensuring those measures are implemented.

The following paragraphs address environmental impact areas and provides information in response to comments received on the CEQA analyses.

Aesthetic Impacts – Although issues regarding design and massing are addressed in this report and in the Aesthetic Impacts section of the IS/MND, in September 2013, Governor Brown signed Senate Bill 743, which made several changes to CEQA for projects located in areas served by transit (i.e., transit-oriented development or TOD). One of the changes included a provision to exempt from analysis the aesthetic impacts of the project if the proposed project is a “residential, mixed-use residential, or employment center project on an infill site within a transit priority area.” The proposed project would qualify for such exemption.

Parking Impacts – Although an issue that is to be considered by the City approving authority, CEQA does not require analysis of parking impacts. As stated in the Final IS/MND, it is expected that on-site parking, even with unbundled parking, will be sufficient to accommodate the project demand for parking. Also, as indicated previously

in this report, a recommended condition of approval requires that surveys be conducted once the project is built and if spillover parking in the neighborhood occurs, a parking permit program at the proponent's fair-share expense, shall be developed and implemented.

Traffic Impacts – The City received numerous comments regarding traffic associated with the proposed project. As discussed in the Transportation/Traffic section of the IS/MND, the proposed project would employ several TDM measures to reduce vehicle trips, including “unbundled” multifamily parking, parking for shared vehicle services (i.e., Zipcar), electric vehicle charging stations, and onsite bicycle storage. In addition, the proposed project will provide shuttle service to occupants either through a private system or via fair-share contribution to an established City system. Not only will these TDM measures reduce vehicle trips generated by the proposed project, but they will also reduce parking demand.

As indicated on page 19 of the [Traffic Impact Study](#) (Appendix G to the Initial Study and available on the City's website), the Project trip distribution estimated for the Project is as follows:

- 10% to/from Mission Boulevard, north of Grove Street
- 35% to/from Foothill Boulevard, north of Hazel Avenue-City Center Drive
- 10% to/from A Street, east of Foothill Boulevard
- 5% to/from A Street, west of Mission Boulevard
- 5% to/from B Street, east of Foothill Boulevard
- 25% to/from Jackson Street, west of Mission Boulevard
- 10% to/from Mission Boulevard, south of Foothill Boulevard

Regarding project-generated traffic impacts under “project plus existing conditions,” page 22 of the [Traffic Impact Study](#) states, “As shown in Table 5, all study intersections are projected to operate at acceptable LOS “E” or better conditions during the AM and PM peak hour. CA-MUTCD based peak hour signal warrant-3 (urban areas) is projected to be met at the unsignalized Maple Court / A Street intersection during the PM peak hour under “Existing plus Project” conditions. However, the intersection operates at LOS “A” conditions for both the AM and PM peak hour and given its proximity to the Foothill Boulevard /A Street intersection, a traffic signal would not be recommended at this location.”

Regarding project-generated traffic impacts under “project plus background conditions,” page 30 of the [Traffic Impact Study](#) states, “As shown in Table 7, the unsignalized Mission Boulevard / Simon Street intersection is projected to operate at AM and PM peak hour LOS “F” under “Background plus Project” conditions for the minor street approach. The unsignalized Mission Boulevard / Hotel Avenue intersection is projected to operate at PM peak hour LOS “F” under “Background plus Project” conditions for the minor street approach. The signalized Foothill Boulevard / Hazel Avenue - City Center Drive and Foothill Boulevard / City Center Drive intersections are projected to operate at average PM peak hour LOS “F” under “Background plus Project” conditions. All of the remaining

study intersections are projected to operate at acceptable LOS “E” or better during AM and PM peak hour “Background plus Project” conditions. CA-MUTCD based peak hour signal warrant-3 (urban areas) is projected to be met at the unsignalized Maple Court / A Street intersection during the AM and PM peak hours under “Background plus Project” conditions. However, the intersection operates at LOS “B” conditions for both the AM and PM peak hour and given its proximity to the Foothill Boulevard /A Street intersection, a traffic signal would not be recommended at this location.”

Regarding project-generated traffic impacts under “cumulative plus project conditions,” page 38 of the [Traffic Impact Study](#) states, “As shown in Table 9, the unsignalized Mission Boulevard intersections with Rose Street, Simon Street, and Hotel Avenue are projected to operate at AM and PM peak hour LOS “F” conditions for the minor street approach. The signalized intersections of Mission Boulevard / A Street and Foothill Boulevard / City Center Drive are projected to operate at PM peak Hour LOS “F” conditions. The signalized Mission Boulevard / Grove Way and Foothill Boulevard / Hazel Avenue - City Center Drive intersections are projected to operate at LOS “F” conditions during both the AM and PM peak hours. The Mission Boulevard / Simon Street intersection experiences “Overflow” conditions during the AM and PM peak hours when “worst-case” movement delays are too high to accurately estimate average delays. The increase in average delay for the Mission Boulevard / Simon Street intersection from “Cumulative Base” to “Cumulative plus Project” conditions can be assumed to be similar to the increase in average delay between “Background” and “Background plus Project” conditions for the same intersection (about 0.2 seconds), which is below the 5.0 second threshold of significance. All of the remaining study intersections are projected to operate at acceptable LOS “E” or better during AM and PM peak hour “Cumulative plus Project” conditions. CA-MUTCD based peak hour signal warrant-3 (urban areas) is projected to be met at the unsignalized Main Street / Hazel Avenue and Maple Court / A Street intersections under “Cumulative plus Project” AM and PM peak hour conditions. However, the Main Street / Hazel Avenue intersection maintains an acceptable LOS “E” both with and without the addition of Project trips. The Maple Court / A Street intersection operates at LOS “B” conditions for both the AM and PM peak hour and given its proximity to the Foothill Boulevard /A Street intersection, a traffic signal would not be recommended at this location.” In other words, although cumulative conditions without the project will operate at LOS F, the project impacts to those cumulative conditions are minor and considered insignificant.

In summary, the CEQA analysis concludes that the traffic impacts generated by the project operating under existing, background and cumulative with project conditions will not generate significant traffic impacts.

Why was an Environmental Impact Report Not Required? – As stated in response to several comments received on the IS/MND, and as demonstrated by the analysis contained in the IS/MND, with the incorporation of the proposed mitigation measures, the proposed project would not result in significant impacts on the environment. Therefore, preparation of an Environmental Impact Report (EIR) is not required.

Also, regarding comments received regarding why the Lincoln-Landing project requires an environmental impact report (EIR) and this project does not, an EIR was required for the Lincoln Landing project because the traffic study for that project found that the additional traffic generated by the project would result in significant impacts at some study area intersections under both project-level and cumulative conditions. The cumulative impacts were determined to be significant because that project would increase delay at intersections operating poorly (level of service (LOS) F) under project-level and cumulative conditions by more than five seconds (the City's established threshold of significance in determining traffic impacts at intersections with LOS F). Thus, the Lincoln Landing project's incremental effect on traffic would be cumulatively considerable. The analysis determined that no feasible mitigation measures were available to reduce the project-level and the cumulative impacts to a less than significant level. The traffic study prepared for the proposed Maple and Main project, which contains approximately half the number of residential units than the amount proposed for the Lincoln-Landing project, found that traffic from the proposed project would result in less-than-significant impacts at the study intersections under both project-level and cumulative conditions. The project-level and cumulative impacts were determined to be less than significant because this project would increase delay at intersections operating poorly under project-level and cumulative conditions by less than 5 seconds. As a result, the proposed project's incremental effect on traffic would be less than cumulatively considerable, and therefore, an EIR is not required.

Letters/E-mail received for this hearing from Prospect Hill residents - Related to the concerns expressed in a letter (Attachment XIX) by Prospect Hill resident Frank Goulart, who again advocates that an environmental impact report (EIR) be prepared, the information presented by him, which is generally similar to the information presented to the Planning Commission (see page 4 of the meeting minutes, Attachment VIII), is consistent with what was reported in the recirculated and adopted Initial Study and Mitigated Negative Declaration (IS/MND). The Northwest Information Center (NWIC) at Sonoma State was contacted to conduct an archaeological records search for the project site and surrounding area. According to the NWIC, there is a moderately high potential of identifying Native American archaeological resources and historic-period archaeological resources on or near the project site. The Recirculated and Adopted IS/MND acknowledges that any inadvertent damage to significant pre-historic archaeological resources and historic-period archaeological resources, and human remains, during site grading and excavation represents a potentially significant impact, and mitigation is required that would reduce such impacts to a less-than significant level. In addition, preparation of an EIR is only required if a significant impact is identified. As the proposed mitigation would reduce impacts to cultural resources to a less-than-significant level, preparation of an EIR is not required.

Regarding the letter from residents Nathan Williams and Per Bothner (Attachment XX) claiming aesthetic impacts associated with the project would be significant, aesthetics impacts are highly subjective. While the letter indicates that they feel that the views of the hills from the vicinity of the project site qualify as a "scenic vista," it could be fairly argued that the views in the area are not scenic as the views in the fore- and mid-ground are

dominated by urban development and utility lines, and views of the hills are distant and not dominant or expansive. While the views shown from Main Street and McKeever Avenue are publicly accessible, such views are not considered a high valued landscape. Also, as noted earlier, per SB 743, the project is exempt from analysis of aesthetic impacts. The analysis in the Recirculated and Adopted IS/MND was provided for information purposes only.

The e-mail from the Prospect Hill Neighborhood Association requests that an environmental impact report (EIR) be prepared for the project. Also, the Association requests the following items. Staff's responses are also provided below.

- We think the entire ground floor of the development should be retail/commercial/office as is called for in the General Plan.

As explained previously, the General Plan Land Use Designation of Central City – Retail and Office Commercial allows ground-floor residential units as secondary or supporting uses, as well as outside the retail core of the Downtown. Also, as shown on the project plans, approximately 50% of the linear frontage along Maple Court is comprised of residential units (5 units) and approximately 30% of the frontage along Main Street is comprised of units (4 units). The revised plan that “flips” location of retail space and units indicates approximately 15% of the frontage along Maple Court is residential units (2 units) and approximately 50% (7 units) along Main Street. Also, the entire frontage along McKeever and about half the frontage on Maple Court is associated with the medical office building.

- We think the project should include no more than 2 floors of residential.

As indicated previously, the Zoning Ordinance indicates a maximum height for this site as 65 feet, well above a two-story structure.

- We think this project requires an EIR...

See previous explanation.

- Other concerns related to views, parking, etc. are addressed above and in the CEQA document and project conditions of approval.

Addendum to the IS/MND – An Addendum to the IS/MND is included as Attachment XVII, should Council wish to approve the project with the proposed changes associated with moving some retail space from Main Street to Maple Court, as shown in Attachment IV. As explained in the Addendum, the minor revisions would not create significant impacts, and therefore, in accordance with CEQA, a recirculation of the IS/MND due to the proposed revisions is not required.

ECONOMIC IMPACT

The applicant commissioned The Concord Group, a provider of real estate advisory services to developers, homebuilders, financial institutions, and public-sector agencies, to prepare a "Retail Market Opportunity and Feasibility Analysis" for the project site (Attachment XIII). The analysis, completed in November 2016, provides an analysis of the viability of existing retail assets at the site and provides an order of magnitude estimate of the potential economic benefits of the proposed project. Key findings of the study are summarized as follows:

- The Concord Group's analysis suggests a low economic feasibility for retail at the project site. The study examined a trade area consisting of a half-mile radius from the site and concluded that "commercial development in this location at current will not be feasible." The study states that the site holds "no distinct competitive advantage over any existing or future retail developments."
- The study states the project will have significant economic benefits to the City of Hayward and region. Specifically, the 240 new units and the projected population of 440 residents is estimated to contribute more than \$1.9M annually to Hayward retail establishments, generating \$19,000 in retail sales tax revenue.
- The study concludes that the non-residential uses on the site will generate an additional \$156,000 annually in sales tax for the City.
- The study estimates new property tax revenues of more than \$270,000 annually once the project is completed.
- Job creation from the project is estimated at 314 construction jobs and 116 permanent jobs.
- The preservation and improvement of the 48,000 square foot medical office building, which is currently primarily vacant, will activate the area and improve building occupancy.

While the project will undoubtedly help stimulate economic growth and activity due to an updated medical office building and 240 apartments that will house a variety of households due to affordability and size of the units, staff believes the permanent job creation estimates may be slightly overstated. Also, staff agrees that the small amount of retail space proposed (5,500 square feet) without frontage along A Street will be challenging to fill, whether it is along Main Street or Maple Court.

FISCAL IMPACT

Staff conducted a very rough fiscal impact analysis on the proposed project using the City's Fiscal Impact Model developed three years ago by Applied Economic Development, Inc. The model forecasts the total project revenue, which includes property, sales and utility users and related taxes and fees, to be over \$345,000 annually. The total project costs to the City, which includes provision of services and maintenance, is estimated to be over \$415,000 annually. As a result, the project is estimated to have a net annual negative financial impact of approximately \$68,000.

It should be noted that assumptions in the model developed by Applied Economic Development, Inc. may be outdated and not reflective of the current or future market, and is not reflective of the City's current and future budgets. It should also be noted that staff believes that The Concord Group's estimate of sales tax revenue to be generated by retail establishments on the site to be overstated. The study estimates sales tax revenue generated by onsite businesses will be \$156,000 annually (see Attachment XIII, Exhibit I-17). In comparison, the City's Fiscal Impact Model forecasts this figure to be approximately \$104,000. The difference amounts to roughly \$52,000 or 33 percent less than the Concord study's estimate.

SUSTAINABILITY FEATURES

A summary of the project's sustainability features is included as Attachment XVIII. Note the attachment indicates the 2013 codes will be in effect, which is not true (2016 Codes are in effect, which have higher energy efficiency standards). The attachment indicates the residential building will be GreenPoint Rated and includes a preliminary GreenPoint Rated checklist. A recommended condition of approval requires such rating/certification, which ensures that sustainable/green features related to energy efficiency, water conservation, air quality, and materials preservation will exceed those of the Code. Some features that will exceed those of the Code:

Energy: Electricity/natural gas/other fossil fuels.

The project includes installation of solar panels on the main building and atop the garage, installation of electric vehicle charging stations within the parking garage, an on-site car share facility and a shuttle program. Staff is recommending the panels also be installed over the northern row of parking spaces atop the garage.

Transportation: Green Mobility

As indicated previously, the project incorporates several Transportation Demand Management measures.

PUBLIC OUTREACH

The project proponent has worked with the Prospect Hill neighborhood in an effort to address concerns. Revisions since initial design included increasing the sustainability features within the development (including adding solar panels atop the garage), developing a more robust parking management plan (where spaces used during the day by the medical office use would be available for residents during evening hours), offering to pay for a residential parking permit program (if it is determined to be needed based on surveys the proponent will pay for), and reducing the height of the parking structure. The proponent has also offered use of space in the project for lease by the neighborhood as a community meeting room, and has also offered to pay for a historic resource evaluation of a nearby home for a potential park site, and to pay for development of a plaque that would identify the history of Native Americans in the area.

Staff and the proponent have also met on several occasions with the appellant, where progress has been made to address some of his concerns. Relocating some of the retail space is a reflection of that continued effort on the part of the proponent.

On January 20, 2017, notices of this public hearing were sent to all property owners within a 300-foot radius of the project site and to interested parties who requested to be notified about the project. In addition, notice of this public hearing was published in *The Daily Review* on January 20, 2017.

NEXT STEPS

Should the City Council take action, such action would be the final decision on the project by the City of Hayward. As indicated previously, staff is recommending that Council approve the project either as approved by the Planning Commission, or revised as shown in Attachment IV. Below are options for action for Council's consideration.

- Option 1: Adopt the attached resolution to approve the project, including the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (MND/MMRP), as approved by the Planning Commission.
- Option 1A: Option 1, along with approving the proposed minor revision to the retail space location and also adopting the attached Addendum to the MND. Council consideration might need to be continued to allow staff to draft new language.
- Option 2: Refer the project back to the Planning Commission for review and action, should major revisions be desired.
- Option 3: Deny the project. When choosing this option, staff should be instructed to prepare and return with findings for denial, based on the testimony and input from Council members. Such findings, based on substantial evidence in the record, should also include the State-mandated additional findings for denial, which staff believes would be difficult to make (see Attachment XXII).

Prepared and Recommended by:

David Rizk, AICP, Development Services Director

Approved by:



Kelly McAdoo, City Manager