

**LINCOLN LANDING
SITE PLAN REVIEW, VESTING TENTATIVE PARCEL MAP AND
CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS
APPLICATION NO. 201501148**

SITE PLAN REVIEW FINDINGS

Pursuant to Hayward Municipal Code (HMC) Section 10-1.3025, the approving authority may approve or conditionally approve an application for Site Plan Review when all of the following findings are made:

A. The development is compatible with on-site and surrounding structures and uses and is an attractive addition to the City.

The proposed development would include the demolition of two currently vacant buildings, and a surface parking lot to allow the construction of a large-scale, mixed use development consisting of 80,500 square feet of ground floor commercial and retail uses, 476 multi-family residential units, and associated site and landscaping improvements. The proposed site improvements would consist of installation of surface parking lots; rehabilitation of the existing structured parking lot; site landscaping; and establishment of a publicly accessible pocket park and a Creek Walk that would activate the northwestern corner of the site and provide a bicycle and pedestrian path along the existing, underutilized maintenance path along the western edge of the project site, owned by Alameda County Flood Control District. The proposed development would provide an attractive addition to the City and would result in significant investment on an identified catalyst site, located in close proximity to downtown Hayward. Such investment will result in development of a regional destination that will enhance Hayward's reputation in the Bay Area.

The proposed mixed-use project is surrounded by other commercial and residential land uses, and is compatible with those uses. In addition, the proposed conditions of approval related to minimum landscaping widths along project frontages and throughout the site, the installation of public art on long, flat building planes fronting public right-of-way and a requirement that commercial storefronts built to Foothill Boulevard be transparent and oriented toward the right-of-way would further ensure compatibility with surrounding development.

B. The development takes into consideration physical and environmental constraints.

The proposed development takes into consideration physical and environmental constraints in that it will result in upgraded infrastructure designed to serve the development and will include frontage improvements, such as installation of

sidewalks along all frontages. In addition, the project will enhance the existing maintenance easement for San Lorenzo Creek by creating a pocket park at the northwestern corner of the site and a new Creek Walk recreational amenity to serve the residents and neighbors of the development. The project, as proposed, is well within the allowable FAR and density permitted under the *Central City – Retail Office and Commercial* General Plan land use designation and the CC-C zoning district development standards regarding parking, landscaping, common and private open space. As such, the project takes into consideration both the physical and environmental constraints of the property and adjacent sites.

The Draft and Final EIR prepared for the proposed development found that the project would result in *less than significant* impacts or impacts that could be mitigated to a *less than significant* level in all impact areas except for Transportation and Circulation. Specifically, the proposed project would result in significant and unavoidable traffic related impacts at three roadway intersections for both the Background Plus Project and Cumulative Conditions analysis. Mitigation measures designed to reduce impacts to vehicles were found to have undesirable impacts on pedestrians by eliminating on-street parking and widening roadways, which were determined to be unacceptable, infeasible and inconsistent with General Plan policies related to complete streets.

See the related CEQA Findings below for a thorough description of impacts, mitigation measures, findings and a statement of overriding considerations related to traffic-related impacts.

C. The development complies with the intent of City development policies and regulations.

The proposed project is consistent with the intent and purpose of the City Center-Retail and Office Commercial (CC-ROC) General Plan land use designation, which generally applies to properties in Downtown Hayward in that it consists of a large-scale mixed use development within the allowable floor area ratio and density set forth in the General Plan. The proposed development is also consistent with the uses and development standards set forth in the CC-C (Central City - Commercial) District, which is intended to establish a mix of business and other activities which will enhance the economic vitality of the downtown area. The proposed development consists of ground floor commercial uses and off-street parking with multi-family residential units above. Off-street parking is permitted as an Accessory Use in the CC-C District.

General Plan Goals and Policies support establishment of large-scale mixed use development on strategic sites located in close proximity to Downtown Hayward and on the subject site, as well as establishment of small urban pocket parks and revitalization of Creekside pathways which are included as part of the proposed project. Specific Goals and Policies include, but are not limited to, the following:

- Land Use Goal LU-1, and Policies LU-1.3 and LU-1.5, directing population and employment growth to infill sites in close proximity to transit and within identified Priority Development Areas;
- LU-1.4 calling for revitalization and redevelopment of abandoned and underutilized properties to accommodate growth;
- Goal LU-2, and Policies LU-2.1 through LU-2.6, supporting pedestrian activity and encouraging a variety of uses and urban housing opportunities to extend the hours of activity in and around Downtown Hayward; and,
- Goals LU-3, LU-4 and LU-5 as well as Policies LU-3.3, LU-4.1, LU-4.3 and LU-5.1, encouraging placement of large-scale neighborhood centers and mixed use development along corridors and arterials such as Foothill Boulevard.
- Mobility Goal M-8 and Policy M-8.4, supporting multimodal transportation choices as well as transportation demand management programs to reduce single occupancy automobile trips by locating mixed use development and high density housing close to transit and jobs;
- Health and Quality of Life Policy HQL-10.4, to create small urban spaces and plazas that are appropriate in high density, high intensity urban areas; HQL-2, to support new developments and infrastructure improvements in existing neighborhoods to enable people to drive less and walk, bike or take public transit more; and HQL-11.3, to support creekside paths and trails; and
- Natural Resources Policy NR-1.11, to identify and create opportunities for public access to and maintenance of creek corridors.

While the proposed development is generally consistent with General Plan elements related to land use, mobility and open space, the inclusion of photovoltaic solar panels to service the common residential areas would bring the proposed project into significant conformance with the City's long term commitment to Sustainability, as well as General Plan Natural Resources Policies to promote efficient use of energy in design, construction and operation; to maximize the use of renewable resources (General Plan Policies NR-4.1, NR-4.3 and NR-4.11).

D. The development will be operated in a manner determined to be acceptable and compatible with surrounding development.

Standard and project specific conditions of approval would ensure that the proposed development would be operated in a manner acceptable and compatible with surrounding development. During construction, the project would be subject to control measures for air quality, traffic, construction noise, grading and other construction-related activities to minimize impacts on surrounding businesses and neighbors. Post-construction, a property management firm would be required to submit a property management plan to the City for review and approval. Further, proposed conditions related to ongoing maintenance of the site and publicly accessible pocket park and Creek

Walk would ensure that the development would operate in a manner acceptable and compatible with surrounding development.

With regard to traffic-related impacts, proposed Mitigation Measure 3.1.2 and related conditions of approval would ensure implementation of Transportation Demand Management strategies, and participation in a shuttle system to and from the site to BART in order to reduce traffic generated by the proposed project. Additional conditions of approval related to minimizing cut-through traffic and spillover parking into adjacent residential neighborhoods would reduce the proposed project's impact on surrounding neighborhoods.

PARCEL MAP FINDINGS

Pursuant to HMC Section 10-10-3.150(b), the approving authority shall approve a Vesting Tentative Parcel Map where:

A. The proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans.

See further discussion about the proposed project's consistency with applicable General Plan Goals and Policies under Site Plan Review Finding C.

B. The proposed subdivision meets the requirements of the City Zoning Ordinance.

See further discussion about the proposed project's consistency with applicable General Plan Goals and Policies under Site Plan Review Finding C.

C. No approval of variance or other exceptions are required for approval of the subdivision.

As described in Site Plan Review Finding C above, the proposed development is consistent with the development standards set forth in the CC-C District and does not require approval of any variances or other exceptions.

D. None of the findings set forth in Section 66474 of the Subdivision Map Act¹ have been made, and the approval of the tentative parcel map is granted subject to the recommended conditions of approval.

¹ The findings of Section 66474 set forth the grounds for denial of a tentative map which are as follows:

- (a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
- (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- (c) That the site is not physically suitable for the type of development.
- (d) That the site is not physically suitable for the proposed density of development.
- (e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.

See Site Plan Review Findings A through D, CEQA Findings III through VIII below, and the Staff Report prepared for the project for additional support.

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

I. Introduction

The City of Hayward (City) prepared a Final Environmental Impact Report (Final EIR) for the proposed Lincoln Landing (project).

The Final EIR addresses the potential environmental effects associated with the development of the project site, including a large-scale mixed-use development consisting of 476 multi-family residential units above 80,500 square feet of commercial uses with a combination of surface and structured parking.

The Findings and Statement of Overriding Considerations (Findings) set forth below are presented for adoption by the Planning Commission, as the City's findings under the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) relating to the project. The Findings provide the written analysis and conclusions of this Planning Commission regarding the project's environmental impacts, mitigation measures, alternatives to the project, and the overriding considerations, which in this Commission's view, justify approval of the proposed project, despite environmental effects.

II. General Findings and Overview

A. Relationship to the City of Hayward General Plan

The project site is designated Central City-Retail and Office Commercial (CC-ROC) in the Hayward General Plan. The CC-ROC designation generally applies to downtown Hayward. The General Plan notes that 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. The existing zoning for the site is Central City-Commercial (CC-C). The purpose of the CC-C district is to establish a mix of business and other activities to enhance the economic vitality of the downtown area. Permitted activities include retail, service, lodging, entertainment, education and multi-family residential. The project is consistent with the existing General Plan land use designation and zoning land use and development standards for the project site.

(g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property with the proposed subdivision.

B. Procedural Background

The City prepared a Notice of Preparation (NOP) on July 8, 2016, stating that an EIR for the project would be prepared. This notice was circulated to the public, local, state, and federal agencies, and other interested parties to solicit comments on the project. Concerns raised in response to the NOP were considered during preparation of the Draft Environmental Impact Report (Draft EIR). The Notice of Availability for the Draft EIR was published on September 23, 2016. The Draft EIR was published for public review and comment on September 23, 2016, and was filed with the California Office of Planning and Research under State Clearinghouse No. 2016072018. The review period for the Draft EIR ended on November 7, 2016.

The City prepared written responses to the comments received during the comment period and included these responses in a separate volume entitled Lincoln Landing Final Environmental Impact Report. The Final EIR includes a list of those who commented on the Draft EIR, copies of written comments (coded for reference), written responses to comments regarding the environmental review, and errata with minor text changes made to the Draft EIR as a result of comments. The Final EIR was made available for public review on February 10, 2017.

E. Consideration of the Environmental Impact Report

In adopting these Findings, the Planning Commission finds that the Final EIR was presented to this Commission, the decision-making body of the lead agency, which reviewed and considered the information in the Final EIR prior to approving the proposed Lincoln Landing. By these Findings, the Commission ratifies, adopts, and incorporates the analysis, explanations, findings, responses to comments, and conclusions of the Final EIR. The Planning Commission finds that the Final EIR was completed in compliance with the California Environmental Quality Act. The Final EIR represents the independent judgment of the City.

F. Severability

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the proposed Lincoln Landing project, shall continue in full force and effect unless amended or modified by the City.

G. Summary of Environmental Findings

The Planning Commission has determined that based on all of the evidence presented, including but not limited to the EIR, written and oral testimony given at meetings and hearings, and submission of comments from the public, organizations, and regulatory agencies, and the responses prepared to the public comments, the following environmental impacts associated with the project are:

1. Potentially Significant Impacts That Cannot Be Avoided or Reduced to a Less Than Significant Level

Project-Specific. According to Draft EIR Chapter 3.1, Transportation and Circulation, significant project-related impacts were found in the area of contribution to vehicle trip generation.

Cumulative. According to Draft EIR Chapter 3.1, Transportation and Circulation, significant cumulative impacts were found in the area of contribution to vehicle trip generation.

2. Potentially Significant Impacts That Can Be Avoided or Reduced to a Less Than Significant Level Through Implementation of Mitigation Measures

Project-Specific. According to Draft EIR Chapter 3.0, Impacts Found Not Significant, project-related impacts in the areas of Biological Resources, Cultural Resources, Hazards and Hazardous Materials and Transportation and Circulation could be mitigated to a level of less than significant with mitigation.

Cumulative

- N/A

3. Less Than Significant and No Impacts That Do Not Require Mitigation

Project-Specific. According to Draft EIR Chapter 3.0, Impacts Found Not Significant, project-related impacts that do not require mitigation were found in the areas of Aesthetics; Agricultural and Forest Resources; Air Quality; Biological Resources; Cultural Resources; Geology and Soils; Greenhouse Gas Emissions; Hazards and Hazardous Materials; Hydrology and Water Quality; Land Use Planning; Mineral Resources; Noise; Population and Housing; Public Services; Recreation and Utilities and Service Systems.

Cumulative. According to Draft EIR Chapter 3.0, Impacts Found Not Significant, cumulative impacts in the areas of Air Quality and Greenhouse Gas Emissions were found less than significant.

III. Findings and Recommendations Regarding Significant and Unavoidable and Cumulatively Considerable Impacts

A. Traffic and Circulation

- 1. Project Phase 1 (consisting of development of the commercial portion and the southern residential tower) would generate vehicle trips that would impact traffic operation at intersections as compared to background conditions (EIR Impact 3.1.2)**

- a) **Potential Impact.** Two intersections would operate at level of service (LOS) F during the PM peak hour. Modifications to the roadways to improve conditions at these intersections would require restriping existing roadways to add dedicated travel and turn lanes and the removal of existing on-street parking, which is not considered feasible or desirable. Further, the loss of on-street public parking for commercial uses along Foothill Boulevard was deemed unacceptable to the City. See Draft EIR pages 3.1-31 through -38.
 - b) **Mitigation Measures.** Project mitigation measure MM 3.1.2 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program. After the implementation of MM 3.1.2, the impact will still be considered significant and unavoidable.
 - c) **Findings.** Based on the Draft EIR and the entire record before this Planning Commission, the Commission finds that:
 - (1) **Mitigation is infeasible.**
 - (2) **Remaining Impacts.** Development of the project site would permanently alter the existing level of service at two intersections in the project area. Because modifications to the roadways surrounding the intersections are not feasible and are undesirable, there are no feasible mitigation measures that would meet the objectives of the project while maintaining the existing level of service at the site. Therefore, this impact is considered significant and unavoidable.
 - (3) **Overriding Considerations.** The environmental, economic, social, and other benefits of the project override any remaining significant adverse impact of the project resulting in the decrease in operations at two intersections, as more fully stated in the Statement of Overriding Considerations in Section VIII, below.
- 2. Project Phases 1 and 2 (consisting of development of the remaining northern residential tower) would generate vehicle trips that would contribute to traffic operational impacts at intersections as compared to background conditions (EIR Impact 3.1.3)**
- a) **Potential Impact.** Project traffic would be added at six study intersections and driveways under Background plus project Phases 1 and 2 conditions. Two intersections, projected to operate at LOS F under background conditions, would experience an increase in delays during the PM peak hour by more than 5.0 seconds. See Draft EIR pages 3.1-38 through -43.
 - b) **Mitigation Measures.** There are no feasible mitigation measures to mitigate this impact. Because modifications to the roadways to improve conditions at these intersections are not considered feasible or desirable, no mitigation measures are available. Therefore, mitigation is considered infeasible.

- c) **Findings.** Based on the Draft EIR and the entire record before this Planning Commission, the Commission finds that:

(1) Mitigation is infeasible.

(2) Remaining Impacts. Development of the project site would permanently alter the existing level of service at two intersections in the project area. Because modifications to the roadways surrounding the intersections are unfeasible and undesirable, there are no feasible mitigation measures that would meet the objectives of the project while maintaining the existing level of service at the site. Therefore, this impact is considered significant and unavoidable.

(3) Overriding Considerations. The environmental, economic, social, and other benefits of the project override any remaining significant adverse impact of the project resulting in the decrease in operations at two intersections, as more fully stated in the Statement of Overriding Considerations in Section VIII, below.

3. Cumulative traffic operational impacts to intersections (EIR Impact 3.1.8)

- a) **Potential Impact.** The project would generate vehicle trips that could contribute to significant traffic operational impacts to intersections as compared to cumulative conditions. Three study intersections will experience an increase in delays by more than 5.0 seconds. See Draft EIR pages 3.1-50 through -56.
- b) **Mitigation Measures.** There are no feasible mitigation measures to mitigate this impact. Because modifications to the roadways to improve conditions at these intersections are not considered feasible or desirable, no mitigation measures are available. Therefore, mitigation is considered infeasible.
- c) **Findings.** Based on the Draft EIR and the entire record before this Planning Commission, the Commission finds that:

(1) Mitigation is infeasible.

(2) Remaining Impacts. Development of the project site would permanently alter the existing level of service at three intersections in the project area. Because modifications to the roadways surrounding the intersections are unfeasible and undesirable, there are no feasible mitigation measures that would meet the objectives of the project while maintaining the existing level of service at the site. Therefore, this impact is considered significant and unavoidable.

(3) Overriding Considerations. The environmental, economic, social, and other benefits of the project override any remaining significant adverse

impact of the project resulting in a decrease in operations at three intersections in the project area, as more fully stated in the Statement of Overriding Considerations in Section VIII, below.

IV. Findings and Recommendations Regarding Significant Impacts Which Are Avoided or Mitigated to a Less Than Significant Level

A. Biological Resources

1. Potential impacts to migratory birds, raptors, and bats as a result of tree removal (EIR Impact BIO-1)

a) Potential Impact. The proposed project would remove trees and demolish structures, which may cause adverse impacts to birds, raptors, and bats. See Draft EIR pages 3.0-9 through -10.

b) Mitigation Measures. Project mitigation measures MM BIO-1a and MM BIO-1b are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) Findings. Based on the Draft EIR and the entire record before this Planning Commission, the Commission finds that:

(1) Effects of Mitigation. The impacts related to nesting birds and roosting bats will be mitigated to a less than significant level by requiring surveys to be conducted by a qualified biologist prior to demolition activities and project construction in order to ensure that any disturbance is avoided.

(2) Remaining Impacts. Any remaining impacts related to migratory birds, raptors, and bats would not be significant.

B. Cultural Resources

1. Potential disturbance of undiscovered archaeological resources (EIR Impact CUL-2)

a) Potential Impact. Because of the high archaeological sensitivity in the project area, there is the possibility of accidentally uncovering archaeological resources during project construction. See Draft EIR pages 3.0-15 and -16.

b) Mitigation Measures. Project mitigation measure MM CUL-2 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) Findings. Based on the Draft EIR and the entire record before this Planning Commission, the Commission finds that:

(1) Effects of Mitigation. The impacts related to archaeological resources will be mitigated to a less than significant level by requiring that construction activities be halted in the event that an archaeological resource is encountered.

(2) Remaining Impacts. Any remaining impacts related to archaeological resources would not be significant.

2. Potential disturbance of undiscovered paleontological resources (EIR Impact CUL-5)

a) Potential Impact. There is a possibility that construction activities could uncover paleontological resources during excavation on the project site. See Draft EIR pages 3.0-17 and -18.

b) Mitigation Measures. Project mitigation measure MM CUL-5 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) Findings. Based on the Draft EIR and the entire record before this Planning Commission, the Commission finds that:

(1) Effects of Mitigation. The impacts related to paleontological resources will be mitigated to a less than significant level by requiring that construction activities be halted in the event that a paleontological resource is encountered.

(2) Remaining Impacts. Any remaining impacts related to paleontological resources would not be significant.

C. Hazards and Hazardous Materials

1. Impacts to construction workers as a result of unknown contamination at the project site during construction (EIR Impact HAZ-2)

a) Potential Impact. The proposed project identified areas of soil contamination and the potential presence of hazardous building materials that require removal prior to site development. See Draft EIR pages 3.0-27 through -29.

b) Mitigation Measures. Project mitigation measures MM HAZ-2a and MM HAZ-2b are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) Findings. Based on the Draft EIR and the entire record before this Planning Commission, the Commission finds that:

(1) Effects of Mitigation. The impacts to construction workers and unknown contamination would be mitigated a less than significant level by removing impacted soils prior to development and requiring that a qualified environmental professional be present in the event that additional impacted areas are encountered when the existing buildings and other improvements are removed. Additionally, a survey for asbestos-containing building materials, lead-based paint, polychlorinated biphenyl, or other potentially hazardous building materials will be conducted prior to the initiation of demolition. Should any materials be present, materials must be removed by qualified professionals in accordance with applicable laws and regulations prior to any activities that involve demolition.

(2) Remaining Impacts. Any remaining impacts related to unknown contamination would be less than significant.

2. Impacts to adopted emergency response plans or evacuation plans (EIR Impact HAZ-6)

a) Potential Impact. The proposed project would generate traffic trips during construction that may impact service levels at intersections in the project area. See Draft EIR pages 3.0-30 and -31.

b) Mitigation Measures. Project mitigation measure HAZ-6 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.

c) Findings. Based on the Draft EIR and the entire record before this Planning Commission, the Commission finds that:

(1) Effects of Mitigation. The impacts related to emergency response plans or evacuation plans would be mitigated to a less than significant level by submitting and obtaining approval of a Construction Traffic Control Plan (CTCP) by the City of Hayward Public Works–Engineering and Transportation Division, or other applicable regulatory agency. The CTCP will ensure the safe flow of traffic and adequate emergency access, including maintaining an open lane for vehicle travel at all times.

(2) Remaining Impacts. Any remaining impacts related to emergency response plans or evacuation plans would be less than significant.

D. Transportation and Circulation

1. Potential impact related to limited site distance at the City Center driveway (EIR Impact 3.1.4)

- a) **Potential Impact.** The proposed eastern driveway at City Center Drive does not provide adequate sight distance from Foothill Boulevard and the driveway.
 - b) **Mitigation Measures.** Project mitigation measure MM 3.1.4 calling for the elimination of the eastern driveway access and redesign of the north curb line to recess the lane 10-12 feet to accommodate a westbound right turn deceleration lane for the full access driveway at City Center Drive is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.
 - c) **Findings.** Based on the Draft EIR and the entire record before this Planning Commission, the Commission finds that:
 - (1) **Effects of Mitigation.** The impacts related to sight distance along City Center Drive will be mitigated to a level of less than significant with the elimination of the limited access driveway and improved access at the full-access driveway.
 - (2) **Remaining Impacts.** Any remaining impacts related to inadequate sight distance along City Center Drive would be less than significant.
2. **Potential impacts related to discontinuous sidewalks along project frontages (EIR Impact 3.1.5)**
- a) **Potential Impact.** The proposed project would generate demand for sidewalks, crosswalks and pedestrian signals to allow pedestrians to access nearby bus stops and adjacent land uses. Currently, there are portions of the project frontages with discontinuous sidewalks that are not designed to accommodate the projected demand.
 - b) **Mitigation Measures.** Project mitigation measure MM 3.1.5 requiring installation of continuous sidewalks along all project frontages that are consistent with City of Hayward standards and ADA requirements is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.
 - c) **Findings.** Based on the Draft EIR and the entire record before this Planning Commission, the Commission finds that:
 - (1) **Effects of Mitigation.** The impacts related to inadequate and discontinuous sidewalks will be eliminated with the construction of continuous sidewalks along all project frontages.
 - (2) **Remaining Impacts.** Any remaining impacts related to inadequate and discontinuous sidewalks would be less than significant.

V. Other Impacts and Considerations

A. Growth-Inducing Impacts of the Proposed Project

CEQA Guidelines Section 15126.2(d) requires that an environmental impact report evaluate the growth-inducing impacts of a proposed action.

a) Findings. Based on the Draft EIR and the entire record before this Planning Commission, the project would generate further population and employment growth and development in the City as anticipated in the City's (2014b) 2040 Hayward General Plan EIR. The proposed project would not result in growth inducement beyond that which was envisioned in the General Plan.

b) Explanation. As identified on Draft EIR page 5.0-2, the project proposes to develop commercial space that may generate new jobs, which could indirectly result in population growth. However, the proposed development would be consistent with the General Plan and would be within the employment and population projections in the 2040 Hayward General Plan EIR.

B. Significant Irreversible Environmental Changes Involved If the Project Is Implemented

CEQA Sections 21100(b)(2) and 21100.1(a) require that EIRs prepared for the adoption of a project include a discussion of significant irreversible environmental changes of project implementation.

a) Findings. Based on the Draft EIR and the entire record before this Planning Commission, the project would result in consumption of renewable, nonrenewable, and limited resources including, but are not limited to, oil, gasoline, lumber, sand and gravel, asphalt, water, steel, and similar materials, but would not result in any significant irreversible environmental changes greater than already addressed in the General Plan EIR which anticipated a large-scale, mixed use development on the subject site.

b) Explanation. As identified on Draft EIR pages 5.0-3 through 5.0-9 the project would result in consumption of renewable, nonrenewable, and limited resources. The project is consistent with the existing General Plan land use designation and zoning for the project site and would include sustainable site and building elements including installation of a green roof on the central commercial building; reuse and rehabilitation of the existing parking garage; installation of highly efficient appliances and fixtures; use of low emission and low VOC finishes and materials; electric vehicle charging stations for commercial and residential uses; and short and long term bicycle parking spaces; as well as implementation of MM 3.1.2 to implement TDM strategies resulting in reduced stationary and mobile source emissions related to the project.

VI. Project Alternatives

A. Background – Legal Requirements

CEQA requires that environmental impact reports assess feasible alternatives or mitigation measures that may substantially lessen the significant effects of a project prior to approval (Public Resources Code Section 21002). With the exception of the “no project” alternative, the specific alternatives or types of alternatives that must be assessed are not specified. CEQA “establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its own facts, which in turn must be reviewed in light of the statutory purpose” (*Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553, 556 [1990]). The legislative purpose of CEQA is to protect public health and welfare and the environment from significant impacts associated with all types of development by ensuring that agencies regulate activities so that major consideration is given to preventing environmental damage while providing a decent home and satisfying living environment for every Californian (Public Resources Code Section 21000).

In short, the objective of CEQA is to avoid or mitigate environmental damage associated with development. This objective has been largely accomplished in the project through the inclusion of project modifications and mitigation measures that reduce the potentially significant impacts to an acceptable level. The courts have held that a public agency “may approve a developer’s choice of a project once its significant adverse environment effects have been reduced to an acceptable level—that is, all avoidable significant damage to the environment has been eliminated and that which remains is otherwise acceptable” (*Laurel Hills Homeowners Assoc. v. City*, 83 Cal.App.3d 515, 521 [1978]).

B. Identification of Project Objectives

The CEQA Guidelines state that the “range of potential alternatives to the project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one of more of the significant effects” of the project (CEQA Guidelines Section 15126.6(c)). Thus, consideration of the project objectives is important to determining which alternatives should be assessed in the EIR.

The Draft EIR identified the following objectives for the proposed Lincoln Landing:

- Create a high-quality, regionally significant development that enhances the project site and aids in the revitalization of downtown Hayward by creating a project that is socially vibrant and economically viable.
- Provide development of high-quality retail, commercial, and residential uses that are consistent with existing General Plan land use designations and densities envisioned on the project site.

- Foster economic, employment, and residential opportunities in Hayward through the revitalization of a currently vacant, underutilized property.
- Create a mixed-use development that provides a combination of retail and residential uses to serve a wide range of users in close proximity to BART, Amtrak, and downtown Hayward.
- Create a development that is financially feasible and that will contribute to Hayward's economic base without negatively affecting existing City resources.
- Create a regional destination that will enhance Hayward's reputation in the larger Bay Area and signal increased investment and opportunities in the city.
- Create a development that is consistent with and promotes the City's Economic Development Strategic Plan, which identified this property as a key retail and catalyst site as appropriate for a large-scale mixed-use development.

VII. Alternatives Analysis in Draft EIR

1. Alternatives Considered But Rejected

Alternatives considered but rejected from further consideration include a reduction of residential parking alternative and an off-site alternative.

- a) **Findings.** The reduction in residential parking alternative was rejected from further consideration because it would not eliminate any significant and unavoidable impacts identified for the project, as discussed on pages 4.0-2 and -3 of the Draft EIR. An off-site alternative was rejected from further consideration because the proposed project site was the only identified site that complied with City of Hayward General Plan Policy LU-1.3, Growth and Infill Development, and was located in the downtown area of the city, as discussed on page 4.0-3 of the Draft EIR. Additionally, the off-site alternative does not meet the project objectives listed on pages 4.0-1 and -2 of the Draft EIR.
- b) **Explanation.** The reduction in residential parking alternative analyzes parking reductions in the several areas of the project. While the alternative would reduce the overall size and scale of the project by eliminating the need for structured parking along Hazel Avenue, it would not eliminate any of the significant impacts identified for the project which are related to trip generation rates related to the total commercial square footage and residential unit count. Thus the reduction in size and scale would not reduce an identified significant impact of the project. Also, it could result in spillover parking affecting nearby residential neighborhoods and could negatively affect the viability of the project's retail and residential components. For these reasons, this alternative was not further analyzed.

The off-site alternative identifies several other sites that are identified in the City's Economic Development Strategy Plan (FY 2014–2018). While many of the sites are sized and zoned to accommodate the large-scale mixed use project, they are located outside of the downtown area and would not comply with the project objective to promote growth in the city's downtown.

2. Alternatives Analyzed in the Draft EIR

The CEQA Guidelines state that the “range of potential alternatives to the project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects” of the project. The City evaluated the alternatives listed below.

No Project/Building Reuse Alternative

The Draft EIR considers the potential effects of this alternative on pages 4.0-4 and -5. The No Project/Building Reuse Alternative assumes that the proposed project consisting of a mixed-use development with housing and retail would not be developed on the site. The project site would not undergo site improvements including but not limited to landscaping, repaving the parking lot, construction of Creek Walk among others. Under this alternative, the project site would remain occupied by the two currently vacant buildings, and the buildings would remain vacant. Assuming no development, the project site's existing visual character would be maintained and there would be no change in the need for utilities, or water service, and no traffic would be generated at the site. The need for public services would be the same due to crime, trespassing and Code Enforcement issues at the site. However, because it is not reasonable to assume the site would remain vacant indefinitely, it is assumed for this alternative that the existing buildings would be reused for office use. This constitutes the No Project/Building Reuse Alternative.

- a) Findings.** The No Project/Building Reuse Alternative is rejected as a feasible alternative because it would not achieve many of the project objectives, as listed on pages 4.0-1 and -2 of the Draft EIR.
- b) Explanation.** The No Project/Building Reuse Alternative would still result in significant and unavoidable traffic impacts related to re-use of the site as an office, but would not provide any of the benefits of the proposed project, such as transit-oriented development in close proximity to downtown Hayward and transit. In addition, this alternative would not be consistent with the project objectives, which call for a mix of retail and residential uses consistent with General Plan densities envisioned for the site; the addition of new residents within walking distance of downtown Hayward; and the creation of a socially vibrant destination that is active in the daytime and evening, as well as promoting the City's Economic Development Strategic Plan policies.

Reduced Development Alternative

The Reduced Development Alternative would include 200 apartments and approximately 45,500 square feet of retail space, which represents a reduction from the proposed project of 276 residential units and 35,000 square feet of commercial space. This alternative would eliminate the entire 35,000-square-foot anchor retailer use assumed in the traffic analysis for the proposed project.

- a) **Findings.** The Reduced Development Alternative is rejected as a feasible alternative because although it is generally consistent with project objectives and is consistent with the City's General Plan, it would result in a missed opportunity to fully utilize the project's potential.
- b) **Explanation.** Text on pages 4.0-5 through -7 of the Draft EIR analyzes the Reduced Development Alternative as compared to the proposed project. This alternative's ability to fulfill the objectives is less than the proposed project, and it represents a missed opportunity to capitalize on the size and allowable densities under current zoning. Specifically, infill redevelopment sites like the one under consideration which are within approximately half-mile to downtown services and businesses and transit are unique opportunities to maximize sustainable development consistent with regional and local goals to place appropriately scaled development within priority development areas. Similarly, this alternative's consistency with the City's Economic Development Strategic Plan would be less than the proposed project.

Significantly Reduced Development Alternative

The Significantly Reduced Development Alternative would include 100 apartments and approximately 45,500 square feet of retail space. The buildings for this alternative would be of smaller scale and size to accommodate the smaller development footprint.

- a) **Findings.** The Significantly Reduced Development Alternative is rejected as a feasible alternative because, similar to Alternative 2, although it is generally consistent with project objectives and is consistent with the City's General Plan, it would result in a missed opportunity to fully utilize the project's potential.
- b) **Explanation.** Text on pages 4.0-7 and -8 of the Draft EIR analyzes the Significantly Reduced Development Alternative as compared to the proposed project. This alternative would be generally consistent with the General Plan designation for the site, though densities would be at the lower end. Because of the substantial reduction in density compared to the proposed project, this alternative would provide less retail and residential activity on the site and less of a financial advantage in that it would result in fewer residents patronizing downtown and other local commercial businesses. Further, this alternative would not take full advantage of the site's proximity to downtown and transit, such as BART. Thus, while the Significantly Reduced Development Alternative is

generally consistent with the project objectives, its ability to fulfill the objectives is less than the proposed project, and it represents a missed opportunity to capitalize on the size and allowable densities under current zoning. Similarly, this alternative's consistency with the City's Economic Development Strategic Plan would be less than the proposed project.

Off-Site Alternative Within Downtown Hayward

The Off-Site Alternative would entail the implementation of the project on an alternate site. The City Center site is analyzed on page 4.0-9 of the Draft EIR.

- a) Findings.** The Off-Site Alternative is rejected as a feasible alternative because it would not does not present a superior alternative to the proposed project and would not reduce project impacts.
- b) Explanation.** Text on pages 4.0-9 and -10 of the Draft EIR analyzes the Off-Site Alternative as compared to the proposed project. This alternative would generally be consistent with the project objectives, though to a lesser degree than the proposed project because the amount of development is reduced due to the size of the site, which is 5.94-acres or roughly half the size of the subject site. Subject zoning would allow development of all 80,500 square feet of the commercial development (in that there is no Floor Area Ratio limit for the site), and up to 386 residential units if the allowable density of 65 units per acre is realized. This alternative site is farther from the BART station than the proposed project site, portions of which are within one-half mile of the station. Further, while this alternative would reduce the significant and unavoidable intersection impacts identified for the project, the reduction would be largely attributable to the reduction in development intensity, rather than the location. Consequently, this alternative site would not represent a substantial advantage over the project site with respect to reducing project impacts.

Environmentally Superior Alternative

The environmentally superior alternative is discussed on pages 4.0-10 and -11 of the Draft EIR. Under CEQA Guidelines Section 15126.6(e)(2), if the environmentally superior alternative is the No Project Alternative, another environmentally superior alternative must be identified. For the Draft EIR analysis, the Significantly Reduced Development Alternative is the environmentally superior alternative that meets the project objectives and is consistent with the City's General Plan.

However, as discussed on page 4.0-11 of the Draft EIR, while the Significantly Reduced Development Alternative meets some project objectives to create a mixed-use development, it represents a missed opportunity to capitalize on the large size of the site, its proximity to downtown and BART, and the allowable densities under current zoning. Project objectives specifically call for creation of a regionally significant development that is consistent with the densities envisioned in the General Plan, which include a range of 40 to 65 units per acre. A reduction in density

on a site that is located in an identified Priority Development Area, where higher-density, higher-intensity development in proximity to a transit station is deemed appropriate, represents a significant missed opportunity to provide much needed housing in a city and region that are experiencing a documented housing affordability and supply crisis. Other project sites that are smaller or located farther away from downtown businesses, services, and transit will not result in the benefits to the community and the region that would be accomplished with development at the scale, intensity, and density described for the proposed project. Further, the Significantly Reduced Development Alternative may result in a financial infeasibility where minimum densities are required to justify land acquisition and construction costs associated with high-density, mixed-use development.

VIII. Statement of Overriding Considerations Related to the Lincoln Landing Project Findings

A. Consistency with the City's General Plan

The project implements the construction and development of Lincoln Landing, which will allow for residential and mixed-use commercial activities, consistent with General Plan Goals and Policies as detailed in Site Plan Review Finding C above and the staff report prepared for the project, as well as and the requirements of CEQA Guidelines Section 15126.6(e)(3)(A).

The proposed mitigation of removing on-street parking and widening roadways to mitigate identified traffic impacts in considered infeasible and undesirable because it would conflict with the City's General Plan. Specifically, the removal of the on-street parking and/or widening roadways to accommodate additional vehicular traffic would result in the degradation of the pedestrian environment and the prioritization of cars over pedestrians. Elimination of on-street parking which serves as a buffer to pedestrians on the sidewalk is not supported by the General Plan Mobility Element Goal M-3, which prioritizes the importance complete streets, and includes a diagram of a complete street section with parking on both sides of the street.

B. Employment Opportunities

The proposed project would directly provide over 600 temporary construction jobs and over 275 permanent commercial employment opportunities according to a Fiscal and Economic Impact Analysis prepared by Economic & Planning Systems, Inc. Further, the proposed development would be consistent with the General Plan and would be within the employment and population projections in the 2040 General Plan EIR.

C. Support the City's Economic Development Goals

The proposed project would increase economic activity through the short-term creation of jobs during construction. However, current residents of the city and other nearby areas who are employed in the construction industry would be sufficient to meet the demand for construction workers that would be generated by the project.

In addition, the proposed development would add over 450 middle income households whose expenditures would increase retail sales in the City by approximately \$12 million annually with the majority of those sales going to businesses located in and near downtown Hayward due to the project's proximity. In addition, the on-site commercial uses could generate approximately \$29 million in retail sales and provide opportunities for new, high quality retail spaces to minimize sales leakage whereby residents of Hayward leave the city to make purchases from undersupplied retailers and service providers within the city.

Based on the objectives identified for the project, review of the project, review of the EIR, and consideration of public and agency comments, the Planning Commission has determined that the project should be approved and that any remaining unmitigated environmental impacts attributable to the project are outweighed by the specific social, environmental, land use, and other overriding considerations.

The Planning Commission has determined that any environmental detriment caused by the proposed Lincoln Landing project has been minimized to the extent feasible through the mitigation measures identified herein and, where mitigation is not feasible, has been outweighed and counterbalanced by the significant social, environmental, and land use benefits to be generated to the city.