



SUBJECT

Proposed Subdivision of a 0.35-Acre Site into Eight Lots and the Development of Five Townhomes and Two Common Areas Located at 1434 Grove Way (APN: 415-0170-027-00) Requiring Approval of a Vesting Tentative Tract Map 8426 and Site Plan Review (Application No. 201902285), and a Class 32 Exemption, In-Fill Development Project, Pursuant to the California Environmental Quality Act (CEQA). Applicant: Vrinder Makol, East Bay Developers; Owner: Vrinder Makol and Mohinder Dhillon.

RECOMMENDATION

That the Planning Commission approve the Vesting Tentative Tract Map and Site Plan Review Application No. 201902285 and determine that the project is exempt from CEQA, pursuant to Class 32 In-Fill CEQA Exemption for the proposed townhome development based on the analysis set forth in this staff report and the Findings contained in Attachment II, and subject to the Conditions of Approval contained in Attachment III.

SUMMARY

The applicant is requesting the Planning Commission approve the Vesting Tentative Tract Map Tract 8426 (VTTM) and Site Plan Review application to allow the subdivision of an existing 0.35-acre site into eight lots and construction of two new townhouse buildings, one with three attached units and the other with two attached units, for a total of five units. Two other lots will serve as common areas for the project, while one lot will provide access to the units via private roadway. The common areas and private street are to be maintained by the newly formed Homeowners Association (HOA).

To comply with the requirements of the City's Affordable Housing Ordinance (AHO) in Chapter 10, Article 17 of the Hayward Municipal Code (HMC), the owner has committed to pay the applicable in-lieu fees for the project. The in-lieu fees will be required to be paid either prior to issuance of building permits or prior to issuance of a certificate of occupancy in accordance with the Ordinance.

BACKGROUND

On February 18, 2019, the City received a Site Plan Review and VTTM application to subdivide a 0.35-acre lot into eight parcels and to construct six townhomes with one lot serving as common area and another lot providing vehicular access through a private street at 1434 Grove Way. On August 31, 2022, the applicant resubmitted the project plans and addressed comments from staff and as well as modified the project by reducing the number of residential units from six to five and increased the number of common areas from one to two.

Public Outreach: On April 23, 2019, the Planning Division mailed out 118 Notices of Receipt of Application (NOR) for the proposed SPR and VTTM to the owners and occupants of all property within 300 feet of the site.

On September 1, 2023, a Notice of this Public Hearing for the Planning Commission meeting was sent to property owners, residents, and businesses within 300-feet of the project site; emailed to interested parties and those who requested such notice; and, published in *The Daily Review* newspaper. As of the date this report, staff has not received any comments from members of the public regarding the proposed project.

PROJECT DESCRIPTION

Existing Conditions: The project site (415-0170-027-00) is approximately 0.35 acres and located on the northwest corner of the intersection of Oak Street and Grove Way. The project site is rectangularly shaped with a gentle upward slope from west to east and is bounded by a gas station to the west, Oak Street to the east, Grove Way to the south, and a vacant site to the north. There are two existing buildings on the project site, consisting of a single-family dwelling constructed in 1900 and a detached garage constructed in 1950, which would be demolished to allow for project construction. The existing single-family dwelling is sited near the southwestern corner of the project site and the existing garage is sited near the northwestern corner of the project site. A paved driveway located adjacent to the northeast side of the single-family dwelling provides vehicular access from Grove Way to the garage.

Proposed Project: The proposed project includes a VTTM to subdivide the existing 0.35-acre site into eight lots, and SPR to construct a new five lot townhome development and related site improvements. Of the eight newly-created lots, five lots would be developed with townhomes, two lots would be dedicated as common open space, bicycle parking, and guest parking, and the remaining lot would be a private street providing two-way ingress/egress to the site. The proposed lot sizes range from 967 square feet to 3,567 square feet and approx. 1,888 square feet of land will be dedicated to the City to widen Grove Way and extend the public sidewalk.

The proposed townhome development is comprised of two buildings total: one building containing three units and one building with two units. The three-story buildings are proposed at 40 feet in height and range in size from 1,745 square feet to 2,250 square feet. Each townhome will feature four bedrooms, three-and-a-half bathrooms, and a side-by-side two-car garage. Three floor plans are proposed; two of the floor plans will provide porches and decks on each floor, while the third floor plan has a porch at the first floor, a deck at the second floor, and a roof deck. A copy of the project plans, including the site plan and architectural renderings, are included as Attachment V.

Proposed Circulation and Access: Vehicular access to the townhomes is provided by a proposed private street (Cherry Court). The proposed private street would be perpendicular to Grove Way and will provide the only vehicular access to the site. The street will provide access at the southern property line and will terminate near northern property line of the proposed "B" and "C" lots. Two guest parking spaces and eight bicycle spaces are accessed from the private street.

Proposed Architecture: The proposed architecture is a contemporary design with elements of traditional styling, such as horizontal wood siding, stone veneer, and stucco. The buildings provide variation and massing breaks with the use of gable and shed roofs, balconies and recesses, modulation of the façades, and the use of color and enhanced materials. In addition, the project will incorporate a variety of building materials including stucco, metal railings, corrugated metal siding, horizontal cementitious siding, and composition roof shingles. The multi-tone color palette includes maroon, light gray, dark gray, beige, brown, and white. Materials, detailing, and colors will carry over to all building facades.

Landscaping and Open Space: The landscape plan proposes 4,474 square feet of landscaping and open space areas for the project, with a plant palette of trees, shrubs, ornamental plantings, and groundcovers. Ten protected trees on-site are proposed for removal and contain an assessed valuation of \$15,250. To satisfy the City's tree mitigation requirements, the project proposes to install ten, 36-inch box trees, including *Quercus Agrifolia* ("Coast Live Oak"), *Quercus Virginiana* ("Southern Live Oak") and *Acer Buergerianum* ("Trident Maple"), along with 12 varieties of shrubs. The proposed replacement landscape and hardscape materials are valued at \$15,250, which would satisfy the mitigation requirements for tree removal. In addition, all landscaping materials, including mitigation efforts, are subject to final review and approval by the City's Landscape Architect prior to building permit issuance and subject to inspection prior to occupancy. All landscaping is required to be compliant with the City's Bay-Friendly Water Efficient Landscape Ordinance and is subject to final inspection prior to occupancy.

The project also proposes several other open space features, such as decorative pavers, a community seat wall, trellis, lounge chairs and tables, and an eight-foot decorative masonry wall, which is proposed along the western and northern property lines. A copy of the proposed landscaping and irrigation plan is included as Attachment VI and a copy of the Arborist Report and supplemental letter is included as Attachment VII and VIII, respectively.

Historic Evaluation: On July 16, 2021, a historic resource evaluation (HRE) was prepared by Michael Baker International. The HRE found that although the existing single-family residence was constructed in 1900 and the garage was constructed in 1950, the features of both buildings have been replaced and non-original materials have been added to the buildings. Further, neither building displays elements which demonstrate outstanding attention to architectural design, detail, materials, or craftsmanship. Based on that analysis, the HRE concluded that the existing buildings at 1434 Grove Way are not eligible for listing in the California Historic Register or Hayward's Local Register under any criteria and, therefore, are not historic resources.

Sustainability Features: The project will be required to comply with the California Green Building Standards Code (CALGreen) and the City's Reach Code by featuring all-electric homes that contain no gas-powered appliances, be solar-ready, and provide parking spaces that are electric vehicle-ready. Additionally, all landscaping will be required to comply with the City's Bay-Friendly Water Efficient Landscape Ordinance for irrigation and drought tolerant plant materials.

POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan: The project site is designated Commercial/High Density Residential (CHDR) in the *Hayward 2040 General Plan*. This land use designation allows residential development, including single-family attached homes and multifamily homes, at a maximum density of 34.8 dwelling units per net acre. The project proposes five residential units on 0.25 net acre (netting out private roadway access), resulting in a density of 20 dwelling units per net acre, consistent with the City's General Plan land use designation.

The project is also consistent with several General Plan goals and policies, including but not limited to the following:

- The City shall encourage property owners to revitalize or redevelop abandoned, obsolete, or underutilized properties to accommodate growth (General Plan Land Use Policy LU-1.4).
- The City shall implement land use policies that allow for a range of residential densities and housing types, prices, ownership, and size, including low-density single family uses, moderate-density townhomes, and higher-density apartments, condominiums, transit-oriented developments, live-work units, and units in mixed-use developments (Housing Policy H-3.1).
- The City shall encourage development of residential uses close to employment, recreational facilities, schools, neighborhood commercial areas, and transportation routes (Housing Policy H-3.4).

Zoning Ordinance: The project site is zoned Commercial Office (CO) District. This zoning classification allows for variety of administrative, professional, business, and financial service uses as well as residential uses. Pursuant to Hayward Municipal Code (HMC) Section 10-1145, multi-family projects shall be subject to the development standards contained in the Medium Density Residential (RM) District or High Density Residential (RH) District, respectively, whichever is most consistent with the applicable General Plan designation. For this project, the most consistent zoning district to the CHDR General Plan land use designation is the RH, High Density Residential District¹.

Sections 10-1.525, 10-1.530, and 10-1.535 of the Zoning Ordinance outline the development standards for townhome developments in the RH district. Subsection 10-1.530 of the Zoning Ordinance require that the minimum lot area of townhome developments to be consistent with building footprint and project areas. In the proposed project, all proposed building footprints are coextensive with the proposed lot areas. Moreover, with a 20-foot front yard setback, a 10-foot street and street-side yard setback, and a 20-foot rear yard setback, the proposed project complies with the required setbacks of the Zoning Ordinance. Furthermore, the proposed building height of 40 feet complies with the maximum height limit in Subsection 10-1.535(a). Therefore, the proposed project is consistent with the development standards for the RH zoning district and does not require any variances or exceptions for the project.

¹ RH, High Residential District Regulations:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.500HIDEREDIRH

Subdivision Ordinance: In accordance with Section 10-3.150² of the Subdivision Ordinance of the HMC, in order to recommend approval an application for a Vesting Tentative Tract Map to the City Council, the Planning Commission must make the following findings:

1. The proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans;
2. The proposed subdivision meets the requirements of the City Zoning Ordinance; and
3. No approval of variances or other exceptions are required for the approval of the subdivision. As stated above, the proposed subdivision meets several goals and policies of the Hayward 2040 General Plan and complies with the applicable development standards of the City's Zoning Ordinance.

Additional details and analysis for each of the required findings is provided in the Draft Findings for Approval (Attachment II).

SB330 and Housing Crisis Act: In 2019, the State of California adopted new legislation (SB330) that is intended to address the State's housing crisis. SB330 strengthens the Housing Accountability Act (Government Code Section 65589.5), which states that a housing development project that complies with the objective standards of the General Plan and Zoning Ordinance must be approved by the City, unless the City is able to make written findings based on the preponderance of the evidence in the record that either: (1) the City has already met its Regional Housing Needs Assessment (RHNA) requirement; (2) there is an impact to the public health and safety and this impact cannot be mitigated; (3) the property is agricultural land; (4) approval of the project would violate State or Federal law and this violation cannot be mitigated; or (5) the project is inconsistent with the zoning and land use designation and not identified in the General Plan Housing Element RHNA inventory. "Objective" means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official. As noted above and following staff review, the project does comply with the objective standards of the applicable zoning district and General Plan land use designation.

Pursuant to SB330, the City may not approve a housing development project that requires the demolition of residential dwelling units unless the project will create at least as many units as will be demolished. Additionally, the City may not approve a housing development project if it requires demolition of a protected unit, unless the project will replace any existing, demolished, or removed protected units, imposes certain affordability conditions on the new units replacing the protected units, and provides any existing residents with specified benefits. "Protected units" are defined as:

1. Affordable units deed-restricted to households earning below 80 percent of area median income (AMI).
2. Occupied by low-income households earning below 80 percent of AMI.
3. Units vacated under the Ellis Act within 10 years prior to development application.

² Subdivision Ordinance:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART3SUOR

As stated above, the site has been developed with a single-family residence that will be demolished to accommodate the project. The five units created by the project satisfies the requirement to create at least as many units as were demolished. Additionally, based on documentation received from the applicant, staff determined that the existing single-family residence is not a “protected unit” under SB330 and, therefore, the new units created by the project do not need to meet any of the replacement conditions relating to demolition of protected units.

Regional Housing Needs Allocation & Affordable Housing Ordinance: Local jurisdictions report progress annually on meeting their Regional Housing Needs Allocation (RHNA) goals which are included in the City’s Housing Element. The 6th Cycle Housing Element (2023-2031) was adopted by the City Council on February 7, 2023, and subsequently certified by the State Department of Housing and Community Development³. In the next eight-year cycle (2023-2031), the City is required to build 4,624 units at a variety of income levels. According to the Housing Element, Appendix C, Table C-3, Planned, Approved and Pending Projects, there are a total of 2,073 units that are approved or otherwise pending at a variety of income levels during the upcoming cycle. The proposed development would add five above moderate-income units to the total.

The proposed project is subject to the requirements of the City’s Affordable Housing Ordinance set forth in HMC Chapter 10, Article 17 - Affordable Housing Ordinance. An applicant may satisfy the requirements of the ordinance by paying an affordable housing in-lieu fee, including affordable units within the proposed development, or both. For this project, the applicant has elected to pay the applicable fractional in-lieu fees for the project. Affordable housing in-lieu fees are required to be paid either prior to issuance of a building permit for each dwelling unit or prior to approval of a final inspection or issuance of an occupancy permit for the units. According to the 2024 Master Fee Schedule⁴, the current Affordable Housing In Lieu fees are \$26 per square foot for lower density (less than 35 units per acre) ownership projects with a 10% increase for fees paid at issuance of occupancy permit.

Parkland Dedication: HMC Chapter 10, Article 16⁵ (Property Developers – Obligations for Parks and Recreation) sets forth the parkland dedication requirements for private development based on residential unit count. Pursuant to the Ordinance, the applicant must pay fees in lieu of land dedication (also referred to as Park Impact Fees). Currently, Park Impact Fee rate for a four-bedroom dwelling unit is \$26,175. The project proposes five dwelling units, each with four bedrooms. As such, the developer is required to pay \$130,875 in Park Impact Fees, based on the current rate. A Condition of Approval (Attachment III) was included which requires the applicant to pay the applicable Park Impact Fees in effect at the time of building permit issuance for the development.

³ Hayward 6th Cycle Housing Element (2023-2031). <https://www.hayward-ca.gov/your-government/departments/planning-division/hayward-housing-element-climate-action-plan-safety-element-and-environmental-justice-update>

⁴ Hayward 2024 Fee Schedule. https://www.hayward-ca.gov/sites/default/files/documents/Adopted-FY-2024-Master-Fee-Schedule_0.pdf

⁵ Parkland Dedication Requirements:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART16PRDEBLPAR

STAFF ANALYSIS

Based on the staff's analysis in this staff report and per the draft findings in Attachment II, staff believes that the Planning Commission can make the necessary findings to approve the proposed project, as conditioned. As noted in this report, the proposed project adheres to all applicable standards of the City's Zoning and Subdivision Ordinance and does not require any variances or exceptions. In addition, the proposed project is consistent with several goals and policies of the *Hayward 2040 General Plan* and is designed to integrate well with the existing residential neighborhood. Specifically, staff notes that the project provided a suitable land use buffer between the commercial development to the west and the lower density residential development to the east of the project site; the buildings provide architectural variation and incorporates the use of gable and shed roofs, balconies and recesses, modulation of the façades, and incorporates a multi-tone color palette.

In addition, the project proposes a residential density of 20 units per acre, which is within the General Plan density range and will be operate in a manner compatible with surrounding developments because the proposed project is similar to other residential uses in the immediate vicinity and projects that have been recently approved by the City, such as Oak Street Townhomes project.

As previously noted, the project proposes to redevelop an underutilized 0.35-acre site with five new townhomes and will include guest parking, bicycle parking, new common areas, new landscaped areas and new pedestrian and vehicular access along Grove Way. The project, as conditioned, will also be subject to all applicable provisions of the Hayward Municipal Code related to construction, maintenance, and landscaping of the project site.

ENVIRONMENTAL REVIEW

This project is categorically exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15332, In-Fill Development, because the project, as analyzed above, (1) is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (2) is located on a 0.35-acre site in an urbanized area within the City of Hayward; (3) has no value, as habitat for endangered, rare or threatened species; (4) would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (5) can be adequately served by all required utilities and public services.

NEXT STEPS

Following the Planning Commission hearing, a ten-day appeal period for the project will occur. If no appeal is received, then the Commission's decision will become final, and the applicant will then prepare a Final Map for City Council approval and submit applications for improvement plans and building. If an appeal is filed, then a hearing by the City Council on the VTTM and SPR application will be scheduled for a date to be determined.

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