



## **SUBJECT**

Vesting Tentative Tract Map (Tract 8104) and Site Plan Review Application No. TM-23-0003 for a 12-lot, 10-unit, 100 percent affordable Townhouse-Style Residential Subdivision on a Vacant 0.74-acre Site Located at 123 A Street for which a Corresponding Planned Development District Rezoning Application (PL-2013-0290) and Now-Expired Vesting Tentative Tract Map Application (PL-2013-0291) were Previously Approved in 2015 (APN 431-0016-088-03). Applicant: Ben Grubb, Habitat for Humanity East Bay/Silicon Valley; Property Owner: City of Hayward.

## **RECOMMENDATION**

That the Planning Commission approve the proposed Vesting Tentative Tract Map and Site Plan Review application based on the analysis set forth in this staff report and the recommended Findings contained in Attachment II, and subject to the Conditions of Approval contained in Attachment III.

## **SUMMARY**

The applicant is requesting approval of a Vesting Tentative Tract Map (Tract 8104) and Site Plan Review application for a 12-lot, 10-unit, 100 percent affordable townhouse-style subdivision on a vacant 0.74-acre site at 123 A Street. On January 27, 2015, the City Council approved Planned Development District Rezoning Application No. PL-2013-0290, related Development Plan and Vesting Tentative Tract Map Application No. PL-2013-0291 for the project. However, the applicant was unable to proceed with the completion of the Final Map and implementation of the Development Plan at that time for various reasons beyond its control and as detailed in the Background section of the report. As a result, the Development Plan and Vesting Tentative Tract Map approvals have expired. The applicant is requesting re-approval of the Vesting Tentative Tract Map as well as Site Plan Review approval for the proposed development, which is nearly identical to the development initially approved in 2015.

## **BACKGROUND**

In 2013, the applicant, Habitat for Humanity East Bay/Silicon Valley (“Habitat”), submitted concurrent applications to change the zoning of the project site from Medium Density Residential to Planned Development District (Application No. PL-2013-0290) with an accompanying Preliminary Development Plan featuring a 10-unit affordable housing development for low-income households, and to subdivide the property into 12 parcels through a Vesting Tentative Tract Map (application no. PL-2013-0291). The lot is currently owned by the City; however, on June 24, 2014, the City Council approved a Disposition

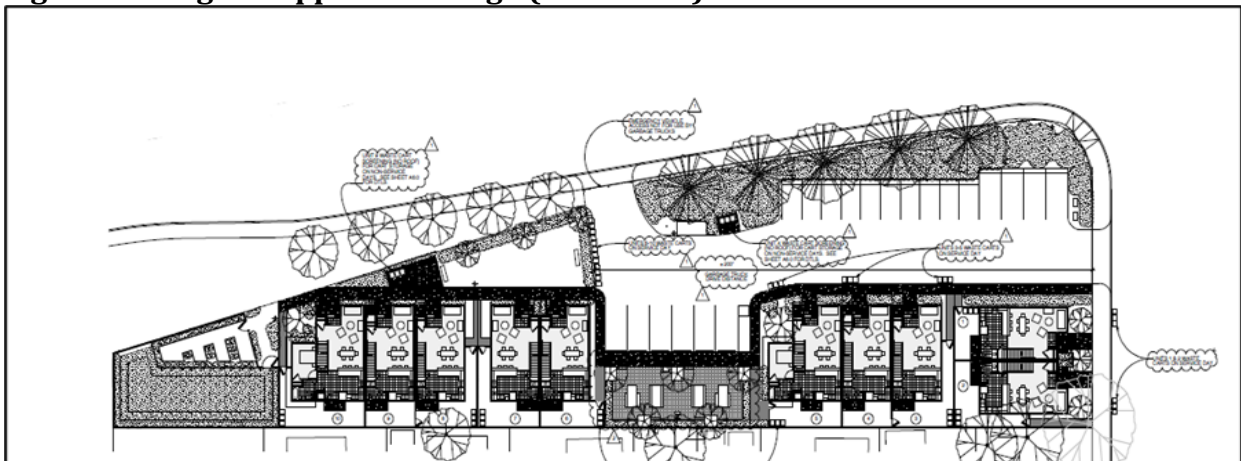
Development and Loan Agreement (DDLA) for the sale of land to Habitat, with the transfer of ownership contingent on approval and recordation of the Final Subdivision Map for the project.

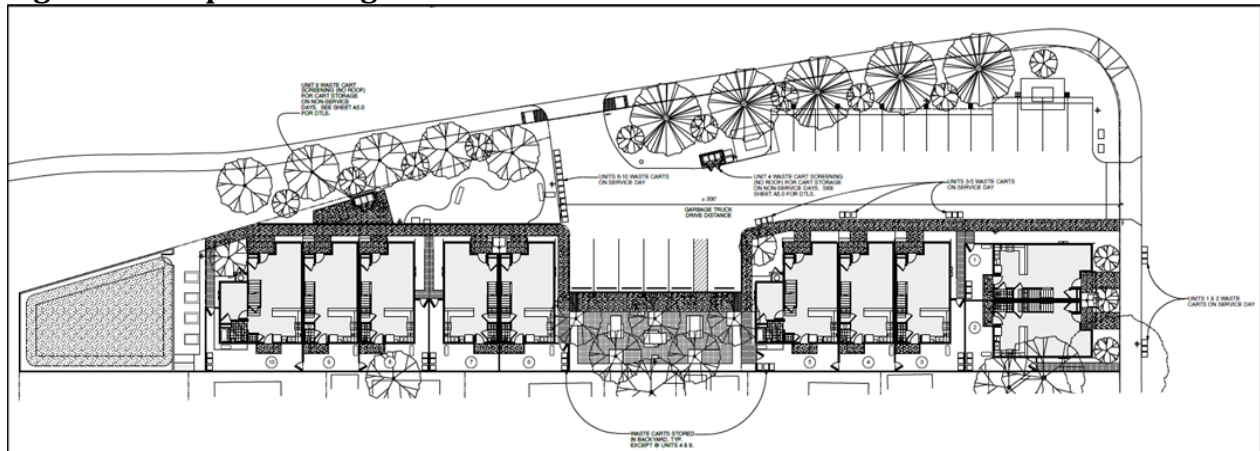
On January 27, 2015, the City Council approved the Zone Change with accompanying Preliminary Development Plan and Vesting Tentative Tract Map for the project. Subsequently, Habitat obtained Planning Director approval of the Precise Development Plan for the project on December 7, 2015. Habitat then began the process of obtaining jurisdictional funding awards to subsidize the project. Habitat had previously been awarded funding from the City including \$29,500 in Community Development Block Grant funds (2013), and a Project Development Loan of \$600,000 (2014) through the project's DDLA. Concurrently with applying for additional funding, Habitat began working with the State Department of Toxic Substance Control (DTSC) on addressing soil contamination on the site. From 2016-2018, Habitat worked with various consultants to prepare a Remedial Action Workplan to clean up the site, which was required to quantify the cost of the remediation work prior to applying for additional funding.

In 2021, Habitat was awarded a \$1,000,000 loan from the State Housing and Community Development Department's CalHome program. In 2022, Habitat received additional awards from the Alameda County Measure A1 Bond Program for Homeownership (\$2,500,000), the Federal Community Project Funding program (\$1,000,000), an additional \$200,000 from the City's Inclusionary Housing Fund, and the Federal Home Loan Bank AHP (\$236,990) to complete project funding requirements. However, sourcing all of the funds took longer than expected and with the COVID-19 pandemic causing much of the delay, the approvals for the Preliminary and Precise Development Plans and Vesting Tentative Tract Map expired, with the exception of the Zone Change, which remains valid (under State law, rezonings do not expire).

On April 6, 2023, with funding secured, Habitat re-applied for project approvals of the Vesting Tentative Tract Map and Site Plan Review. Site Plan Review applications require the same level of detail as a Precise Development Plan and generally cover the same scope of review; therefore, staff determined that a Tentative Map and Site Plan Review approval for the development was the appropriate entitlement approach. The current plans are largely the same as those approved in 2015, with the only changes being those needed to bring the project into compliance with current State and Municipal Code requirements that changed since the 2015 approval dates (see Figures 1 & 2, below for a comparison of the original and proposed plans).

**Figure 1 – Original Approved Design (from 2015)**



**Figure 2 – Proposed Design**

**Public Outreach:** On April 12, 2023, the Planning Division mailed out 122 Notices of Receipt of Application (NOR) for the proposed project to the owners and occupants of all property within 300 feet of the site, as well as to the Burbank Task Force and other interested parties. Staff was contacted by one neighboring property owner residing along B Street in response to the NOR who was pleased to hear the site was planned to be developed with housing because it had occasionally been utilized by homeless persons and was the site of illegal dumping.

On September 14, 2023, a total of 129 public hearing notices were mailed to the owners and occupants of all properties within a 300-foot radius of the project site, as well as the same neighborhood group and other interested parties that received the NOR. A public hearing notice was also published in *The Daily Review* newspaper on this same date. As of the date this staff report was published, Planning Division staff has not received any additional comments from any members of the public regarding the proposed project.

## **PROJECT DESCRIPTION**

**Existing Conditions.** The project site is currently vacant and enclosed with a chain-link fence. The property is located at the southwest corner of the intersection of A Street and Walnut Street and is surrounded by a mix of single-family homes, duplexes and multi-family apartments along B and Walnut Streets to the south and west, and a mix of commercial and residential development across Walnut and A Streets to the east and north. The properties located across A Street to the north are located in unincorporated Alameda County.

The land is generally flat and contains 14 existing trees, 10 of which are subject to protection under the City's Tree Preservation Ordinance. Five of these trees are mature redwoods located adjacent to A Street, all of which will be preserved and incorporated into the project. The site is wedge-shaped, with the widest portion fronting Walnut Street, and tapers down gradually to the west where it abuts the downhill embankment of the A Street railroad overpass. An existing driveway leads into the site off Walnut Street.

**Proposed Project:** The project proposes to subdivide the .74-acre site into 12 lots, including two common parcels containing the private driveway, parking, open space and shared amenities, and 10 residential lots, each containing one townhouse. All 10 townhomes will be

deed restricted in perpetuity for sale to first-time homebuyers whose households qualify as low-income, or those earning at-or-below 80% of the area median income (AMI). To make its homes affordable, Habitat utilizes a “sweat equity” model wherein homebuyers spend approximately 500 hours helping to build their new homes in lieu of having to make a traditional downpayment. Habitat then helps the homebuyers secure 30-year fixed-rate mortgages prior to purchase.

The proposed plans feature 10 three-story townhomes grouped in two- and three-unit buildings. The townhomes feature two floor plans, with eight of the units containing three bedrooms and 1,341 square feet, and two containing four bedrooms and 1,553 square feet. One of the two-unit buildings will front on Walnut Street and have a similar setback to the existing duplex on the adjacent property. The remaining eight units will front along the private driveway and common open space and generally face A Street. The buildings feature craftsman-style architecture, with a combination of horizontal and board-and-batten siding, pitched gable roofs with composition shingle roofing, and single-hung windows with wood trim and sunshades. A copy of the project plans are included as Attachment IV.

Open Space. The development features three common useable areas, including a centrally located open space with picnic tables and barbecue grill, a small lawn area with benches, and a community garden with raised planter boxes. Additionally, each unit includes a private rear yard ranging in size from 190 to 320 square feet. A stormwater detention basin is proposed at the western end of the site near the community garden and a generously landscaped area is proposed around the five existing redwood trees along A Street. On-site water, sewer and storm drain lines will be installed within new public utility easements within the development and connect to existing public mains in Walnut and A Streets.

Parking and Circulation. Parking for both residents and guests will be provided in 20 uncovered parking stalls located along the project’s private driveway. All the parking spaces will be equipped with electric vehicle chargers. The project also includes eight on-site bicycle parking spaces. Additional on-street parking for residents and guests is available along Walnut Street. Circulation through the development will be provided via one two-way driveway along Walnut Street and one driveway along A Street. The A Street driveway will be restricted to right-turn-in and right-turn-out only movements, while the Walnut Street driveway will have no turning restrictions.

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, electric vehicle parking spaces, and solar panels on each home. Additionally, all landscaping and irrigation will be required to comply with the City’s Bay-Friendly Water Efficient Landscape Ordinance.

## **POLICY CONTEXT AND CODE COMPLIANCE**

Hayward 2040 General Plan: The project site is designated Medium Density Residential in the *Hayward 2040 General Plan*<sup>1</sup>. This land use designation allows for single- and multi-family

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<sup>1</sup> [Hayward 2040 General Plan](#)

residential development, including townhomes, apartments and condominiums, at a density ranging from 8.7 to 17.4 dwelling units per net acre. The project proposed 10 townhomes on 0.74 acres resulting in a proposed density of 13.3 units per net acre, consistent with the City's General Plan land use designation. By providing ownership housing opportunities for low-income households on a vacant infill site located close to schools, parks, commercial uses and transit service, the project is consistent with several General Plan goals and policies including, but not limited to, the following:

- Land Use Policy LU-1.4: The City shall encourage property owners to revitalize or redevelop abandoned, obsolete, or underutilized properties to accommodate growth.
- Housing Goal H-2: Assist in the provision of housing that meets the needs of all socioeconomic segments of the community.
- Housing Policy H-2.1: The City shall encourage the development of ownership housing and assist tenants to become homeowners to reach a 60 percent owner-occupancy rate, within the parameters of federal and state housing laws.
- Housing Policy H-3.1: 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-3.4: The City shall encourage development of residential uses close to employment, recreational facilities, schools, neighborhood commercial areas, and transportation routes.
- Housing Policy H-6.8: The City shall facilitate and encourage the development of larger rental and ownership units for families with children, including lower- and moderate-income families, and the provision of services such as childcare and after-school care, when feasible.
- Community Health & Quality of Life Policy HQL-5.3: The City shall promote urban design principles that support active use of public spaces in neighborhoods, commercial areas, and employment centers at all times of day. Active use of public spaces provides “eyes on the street” to enhance public safety in these areas.

Zoning Ordinance: The project site was rezoned as a Planned Development in 2015, and Preliminary and Precise Development Plans were approved which featured a project nearly identical to the current proposal. The proposed layout of the subdivision, total number and size of the units, and the setbacks from the adjacent property lines and adjoining developments are all the same as those proposed in the original project. The only changes from the original plans are those needed to bring the project into compliance with current code requirements that have changed since 2015, including the requirement that all parking spaces be equipped with electric vehicle chargers, and including photovoltaic systems for each unit. The current proposal otherwise fully complies with the development plan included in the Planned Development District rezoning and that was reviewed and approved by the Planning Commission and City Council in 2015.



Subdivision Ordinance<sup>2</sup>: In accordance with the Subdivision Map Act, in order to approve an application for a Vesting Tentative Tract Map, the Planning Commission must make the following findings:

1. The proposed map is consistent with applicable general and specific plans as specified in Government Code Section 65451;
2. The design or improvement of the proposed subdivision is consistent with applicable general and specific plans;
3. The site is physically suitable for the type of development being proposed;
4. The site is physically suitable for the proposed density of development;
5. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
6. The design of the subdivision or type of improvements is not likely to cause serious public health problems; and
7. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Staff believes the Planning Commission can make the necessary findings to approve the project as the proposed subdivision conforms to the *Hayward 2040 General Plan* and complies with the applicable requirements of the Municipal Code. A geotechnical investigation was completed for the project which concluded that the site was physically suitable for the type and density of development being proposed, and the project is not likely to have an adverse impact on public health and safety in that its construction will comply with the California Building and Fire Codes and recommendations from the geotechnical investigation. All site improvements will be required to be constructed in accordance with the applicable City standards.

The subdivision will not cause substantial environmental damage or avoidably injure fish or wildlife or their habitat in that the site does not contain any environmentally sensitive features or habitats save for the existing trees, and Habitat will be required to conduct pre-construction surveys of the trees to ensure that no protected bird species are utilizing them for nesting or foraging purposes. Finally, the subdivision design will not conflict with any existing public easements in that no such easements currently encumber the property. More detail for each of the required findings is provided in the Draft Findings for Approval contained in Attachment II.

SB 330 and Housing Crisis Act: In 2019, the State of California adopted new legislation (SB 330) intended to address the State's housing crisis. SB 330 strengthens the Housing Accountability Act (Government Code Section 65589.5), which states that a housing project that complies with the objective standards of the General Plan and Zoning Ordinance must be approved 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 located on agricultural land; (4) approval of the project would violate State or Federal law and this violation cannot be mitigated; or (5) the project is

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<sup>2</sup> [Hayward Municipal Code Chapter 10, Article 3 - Subdivision Ordinance](#)

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 described above, the project was originally approved in 2015 after being found consistent with the General Plan and Subdivision Map Act and meeting the requirements of the Planned Development District ordinance. As noted above, the proposed plan is largely the same as the one approved in 2015, with minor changes, and the previously approved project is consistent with the approved PD District plans and the General Plan land use designation.

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 6<sup>th</sup> Cycle Housing Element (2023-2031) was adopted by the City Council on February 7, 2023, and subsequently certified by the State Department of Housing and Community Development. In the next eight-year cycle (2023-2031), the City is required to build 4,624 units at a variety of income levels. According to the Housing Element, Appendix C, Table C-3, Planned, Approved and Pending Projects, there are a total of 2,073 units that are approved or otherwise pending at various income levels during the upcoming cycle. The proposed development would add 10 low-income ownership units to the City’s total.

HMC Section 10-17.210 – On-Site Units in Ownership Residential Projects<sup>3</sup> requires all new ownership residential projects providing on-site affordable units to include a minimum of 12 percent of the total units as for-sale affordable units, with one-half being affordable to moderate-income households and one-half affordable to low-income households. The project features 10 new housing units, all of which will be deed restricted as affordable in perpetuity to first-time homebuyers meeting the definition of low-income households. As a 100 percent affordable housing development for low-income households, the proposed project exceeds the minimum requirements of the Affordable Housing Ordinance. A copy of the approved Affordable Housing Plan for the project is included as Attachment V.

Parkland Dedication/Park Impact Fees: Pursuant to HMC Section 10-16.11 – Exemptions from Requirements<sup>4</sup>, as a project being developed by a non-profit housing developer providing home ownership opportunities with 100 percent of the units available to low-income households in perpetuity, the project is exempt from Park Impact Fees.

## **STAFF ANALYSIS**

Staff believes that the findings in support of the approval of the Vesting Tentative Tract Map and Site Plan Review application can be made by the Planning Commission. The recommended findings and conditions of approval are included in Attachments II and III to this staff report, respectively. The findings required for approval of Vesting Tentative Map mandate that the

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<sup>3</sup> [Hayward Municipal Code Section 10-17.210 – On-Site Units in Ownership Residential Projects](#)

<sup>4</sup> [Hayward Municipal Code Chapter 10, Article 16 – Property Developers-Obligations for Parks and Recreation](#)

subdivision be consistent with the City's General Plan and adhere to all applicable standards of the Zoning Ordinance and Subdivision Ordinance, and this project was found to do both when the previous Vesting Tentative Tract Map application and Planned Development District Rezoning application with accompanying Development Plan were approved by the Planning Commission and City Council in 2015. The proposed subdivision would not result in any significant modifications to the previously approved Vesting Tentative Tract Map, with the only changes being those needed to bring the project into compliance with the local and state code requirements that have changed since the original approval date. Furthermore, the proposed subdivision design does not require any variances from or exceptions to the applicable development standards for a townhouse-style development with private driveway.

Since the subject property is zoned PD District, there are no applicable zoning-related development standards to apply to the Site Plan Review application in this case other than reviewing the proposed development against the previously approved Development Plan. As described above, the proposed development plan is largely the same as the plan that was reviewed and approved by the Planning Commission and City Council in 2015. Staff believes that the Commission can again make the required findings to approve the Vesting Tentative Map and Site Plan Review application. The current plans incorporate all of the amenities featured in the original plans, and do not propose any changes to the density, parking count, or overall size, height of layout of any of the dwelling units. As such, they would not pose any new adverse impacts on the adjoining residential uses or the surrounding neighborhood.

## **ENVIRONMENTAL REVIEW**

A Mitigated Negative Declaration was originally prepared for the project in accordance with the requirements of the California Environmental Quality Act (CEQA) and adopted by the City Council when it approved the Planned Development District rezoning and now-expired Vesting Tentative Tract Map on January 27, 2015 (see Attachment VI). The proposed project is essentially the same as the one for which the Mitigated Negative Declaration was adopted, with the only changes being those required to bring it into compliance with the current requirements of the Municipal Code, California Building Code, and Subdivision Map Act. The proposed layout of the subdivision, total number of units, and size of the units are all substantially the same as those proposed in the original project for which the Mitigated Negative Declaration was adopted. Furthermore, no physical changes to the project site have occurred since the Mitigated Negative Declaration was adopted that could result in new effects on the environment that were not already analyzed during the review of the original project; and no new information of substantial importance was discovered that would indicate that the project would result in any new impacts or that any previously adopted mitigation measures are not feasible. Therefore, in accordance with Section 15162 of the CEQA Guidelines, no subsequent environmental analysis is required.

## **NEXT STEPS**

Following the Planning Commission hearing, a ten-day appeal period will take place. If no appeal is received, then the Commission's decision will become final, and Habitat would then be able to proceed with the applications for the Final Map and Subdivision Improvement Plans for the project, as well as the building and grading permits needed to construct it. If an appeal





is filed, then a hearing by the City Council will be scheduled for a date to be determined to consider the appeal.

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