



**DATE:** January 16, 2018

**TO:** Mayor and City Council

**FROM:** Interim Director of Development Services Stacey Bristow

**SUBJECT:** Proposed Amendments to Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code to Amend Airport Terminal (AT) District Regulations Related to Height; Application No. 201706359; City of Hayward (Applicant/Owner)

## **RECOMMENDATION**

That the City Council adopts the attached Ordinance (Attachment II) and associated Resolution (Attachment III) amending Chapter 10, Article 1 of the Hayward Municipal Code related to Airport Terminal (AT) District height regulations for parcels located within the boundaries of the Hayward Executive Airport Property.

## **SUMMARY**

This is a City-initiated request to amend AT District properties (AT-Commercial, AT-Aviation Commercial, AT-Operations, AT-Recreational, and AT-Industrial Park) located within the boundaries of the Hayward Executive Airport to allow an increase in height for new development with special findings that the increased height will not pose a safety hazard pursuant to Federal Aviation Administration (FAA) review and approval, and if staff finds that the proposed increase in height will result in a better site layout for future projects or provide additional amenities that would not be achievable under current zoning regulations.

## **BACKGROUND**

Hayward Executive Airport was constructed in 1941 by the U.S. Army for military use during World War II. In 1947, the federal government declared the Hayward Army Airfield surplus and conveyed the airport to the City of Hayward. In the following decades, the federal government conveyed additional airport lands to the City, all of which fall within the boundaries of the Hayward Executive Airport (Attachment IV).

On June 27, 2017, the City Council adopted Resolution No. 17-102 and introduced Ordinance No. 17-10, establishing a new Airport Overlay Zone Ordinance (Hayward Municipal Code (HMC) Chapter 10, Article 6). The Ordinance ensured that all land uses and development within the Airport Overlay Zone are compatible with the existing and future airport operations. However, pursuant to HMC Section 10-6.20(i), the regulations do not apply to property located within the boundaries of the Hayward Executive Airport.

On October 12, 2017, the Council Airport Committee (CAC) considered proposals for two hotels on City-owned Airport properties and recommended that staff encourage high quality design as well as full-service restaurants and other on-site amenities.

On November 14, 2017, the City Council adopted Resolution No. 17-168, authorizing the City Manager to negotiate and execute land leases with two hotel developers for three parcels located on Airport property. Staff anticipates that the hotels will submit development applications in early 2018, pending approval of these amendments.

On December 14, 2017, the Planning Commission held a public hearing on the proposed amendment and voted 6:0, with one member absent, to recommend Council approval of the amendments as recommended by staff. The Commissioners discussed the potential heights of buildings based on FAA review and staff clarified that the base height would remain 40 feet unless the special findings are made to support the increase in height.

## **DISCUSSION**

Existing Conditions: The Hayward Executive Airport property is composed of about 470 acres on 14 separate parcels. Airport operations and support services occur on the four largest parcels totaling about 442 acres at the core of the Airport property with a mix of other uses located within the Airport boundaries. The Skywest Golf Course and Kennedy Park are located along the northern Airport boundary, Fire Station No. 6 and Fire Training Center and industrial uses are located along the southern Airport boundary, and various commercial uses are located on parcels (totaling approximately 28 acres) between Skywest Drive and Hesperian Boulevard along the eastern Airport boundary. Commercial uses within the boundaries of the Airport include La Quinta Hotel, Home Depot, Smart and Final Grocery Store and several multi-tenant office and commercial buildings built between the mid-1970s and late 2000s.

The Airport property is surrounded by industrial uses to the south and west, and commercial and residential uses to the north, east and south.

Proposed Project: The proposed text amendments to the City's Zoning Ordinance consist of revisions to the maximum allowable height in the Air Terminal (AT) District (Attachment III).

The AT District (HMC Section 10-1.1900 et. seq.) is divided into six sub-districts (Operations, Industrial Park, Aviation Commercial, Commercial, Recreational, and Medium Density Residential). The proposed project would amend the development and performance standards within the AT-Operations, AT-Industrial Park, AT-Aviation Commercial, AT-Commercial and AT-Recreational sub-districts to allow for an increase in building height over the current maximum 40 feet, based on specific findings that the proposed structure will not pose a hazard based on FAA review; and that the increased building height is necessary to achieve a more beneficial site layout with increased landscaping, enhanced architecture (e.g. varied rooflines, enhanced entrances, raised ceiling heights), and on-site amenities that could not be achieved under current zoning standards.

Future development proposals will be evaluated through the existing discretionary Site Plan Review or Administrative/Conditional Use Permit processes, as applicable. The applicant would be required to submit a request for increased height as part of their development proposal and the additional special findings would be evaluated based on the specific project proposal, potential site constraints, and other surrounding circumstances.

The proposed text amendments would also include removal of HMC Section 10-1.2730(a), which references airport height regulations that are already covered within the AT District standards and within HMC Chapter 10, Article 6, Airport Overlay Zone.

#### POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan: The Hayward Executive Airport is covered by various General Plan land use designations that reflect the underlying uses. The core of the airport property which is utilized for airport operations is designated *Public and Quasi-Public*; a small portion of Airport property along the southern boundary is designated *Industrial Corridor*; and, the commercial strip along the eastern property boundary between Skywest Drive and Hesperian Boulevard is designated *Retail and Office Commercial*.

The proposed text amendment would not conflict with the underlying General Plan descriptions or development standards. Rather, flexibility in height with special findings is supported by the following General Plan policies related to implementing flexible land use regulations (Policy LU-5.2), and offering incentives for amenity-rich new development (Policy ED-6.7).

Hayward Executive Airport Master Plan/Airport Layout Plan: The Hayward Executive Airport Master Plan was adopted in 2002. The Master Plan was comprehensively updated with the adoption of the Hayward Executive Airport Layout Plan Update adopted in January 2011, and subsequently amended in April 2015. The Plans set forth an inventory of Airport properties, aviation demand forecasts and requirements, development alternatives and a financing plan for long term maintenance of the Airport property. The proposed text amendments would not conflict with the information provided in the Airport Master Plan in that all proposed development must be reviewed and approved by the FAA prior to City approval.

#### STAFF ANALYSIS

Staff believes that the Council can make the findings to support the City-initiated text amendment to allow flexibility in building height provided that the increase in height will not result in a safety issue for airport operations and if the increase in height results in a more beneficial or amenity-rich site plan or building than can be achieved under current zoning.

One of the special findings proposed to allow an increase in height would be review and approval by the FAA to ensure that any increase in height would not result in a safety issue at the Airport. This is a standard practice for all structures proposed within a 20,000-foot radius of airports throughout the United States. The FAA considers whether a proposed structure

penetrates the protected (Federal Aviation Regulations Part 77) airspace established around the airport and if it will interfere with electronic navigational aids, among other factors. Per the recommended findings, any potential developer would be required to submit notice to the FAA in advance of Site Plan Review or Use Permit review and approval, to ensure that the proposed development would not pose a safety hazard prior to planning approval of the height increase.

There is a precedent for construction of higher structures within the boundaries and vicinity of the Airport. A comparative height analysis was conducted for parcels on airport property and in the immediate vicinity (Attachment V). While most of the structures were found to be single story and less than 40 feet in height, a commercial food processing building located on Corsair Boulevard is approximately 52 feet in height and the FAA Hayward Air Control Tower is 72 feet in height. Thus, the FAA has found that taller structures may be permitted on a case by case basis.

In exchange for the increase in height, a proposed development would be required to provide amenities or architectural enhancements that could not be achieved under the current zoning. Under current zoning standards, a building envelope is prescribed by setbacks, maximum height, maximum floor area ratio (the ratio of the building square footage to the site acreage), and lot coverage. In addition, a proposed development site must accommodate parking requirements, circulation, trash enclosures, stormwater capture and treatment, and landscaping, among others. In discussions with Economic Development and Airport staff who are actively marketing airport properties for commercial uses, developers have indicated that flexibility in height would allow them to more effectively combine uses (i.e. hotel with full service restaurant) with various regulatory requirements per use, amenities, and enhanced architecture with higher ground floor entrances and varied roof pitches on a single site.

Staff believes that an increase in height would not negatively impact the area in that the scale of the Airport property could easily accommodate larger and taller buildings. Further, the Airport property is separated from nearby residential uses by Hesperian Boulevard which is approximately 120 feet in width. Through the Site Plan Review process, staff would ensure that all proposed development would be sensitive to surrounding uses and structures and step back from more sensitive land uses.

## **ENVIRONMENTAL REVIEW**

The proposed project is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed project includes zoning text amendments to allow for an increase in building height for future development, subject to special findings. Future development projects would be evaluated on a case-by-case basis for environmental impacts pursuant to CEQA.

## **ECONOMIC IMPACT**

The properties located within the boundaries of the Hayward Executive Airport are owned by the City of Hayward so future development of those parcels would provide both direct and indirect economic benefits to the City. Direct economic benefits would occur through the ground leasing of property for development which would generate property tax, sales tax and transient occupancy tax depending on use. Indirect economic benefits would result through job creation and utilization of the airport properties providing needed services for the community. Flexibility in height would allow for construction of multiple uses on a parcel such as a hotel or office development and amenities that may include a full-service restaurant and conference space that may not be accomplished under the more restrictive regulations.

Further, development of these parcels with hotels, restaurants and other services and amenities would increase the attractiveness of the Hayward Executive Airport to air visitors which could generate additional air-related trips to and from the Airport resulting in fuel sales, additional user, storage and maintenance fees for the Airport and businesses located at the Airport. Development of these uses would also contribute to the economic vitality of the Hesperian retail corridor and provide additional amenity options to nearby industrial district businesses, their customers and employees as well as the Hayward community at large.

## **FISCAL IMPACT**

The proposed zoning text amendment would have a neutral fiscal impact in that the proposed regulations would be implemented on a case-by-case basis through the developer funded Site Plan Review or Use Permit application processes.

## **STRATEGIC INITIATIVES**

This item involves a zoning text amendment that does not specifically relate to any of the Council's Strategic Initiatives. Rather, individual projects subject to the proposed regulations will be evaluated for consistency with the Council's Strategic Initiatives on a case-by-case basis.

## **SUSTAINABILITY FEATURES**

While the proposed text amendments would modify the language of the Hayward Municipal Code, future development projects would be reviewed for conformance with State and local requirements and policies related to sustainability.

## **PUBLIC CONTACT**

On January 5, 2018, notice of this public hearing was published in The Daily Review and mailed to approximately 1,600 residents, businesses and property owners within 300 feet of the Airport property.

*Prepared by:* Leigha Schmidt, Senior Planner

*Recommended by:* Stacey Bristow, Interim Director of Development Services

*Approved by:*

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

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Kelly McAdoo, City Manager