

FINDINGS TO APPROVE ZONING TEXT AND ZONING MAP AMENDMENTS TO CHAPTER 1, ARTICLE 10 (PLANNING, ZONING AND SUBDIVISIONS) OF THE HAYWARD MUNICIPAL CODE TO ESTABLISH AN AFFORDABLE HOUSING OVERLAY DISTRICT AND TO REZONE THREE PROPERTIES TO BE SUBJECT TO THE NEW OVERLAY TO ALLOW FOR MINISTERIAL DESIGN REVIEW OF NEW RESIDENTIAL DEVELOPMENT SUBJECT TO AFFORDABILITY AND OTHER CRITERIA AS ANALYZED IN AN ADDENDUM TO THE GENERAL PLAN EIR AND PERMITTED BY GOVERNMENT CODE

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- A. In July 2014, the City Council certified a Final Program Environmental Impact Report, adopted the Statement of Overriding Considerations, approved the Mitigation Monitoring and Reporting Program, Adopted the Hayward 2040 General Plan, and Approved related amendments to the General Plan Land Use Map for certain properties in the Planning Area.
- B. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15164, Rincon Consultants prepared an Addendum to the General Plan EIR analyzing the Housing Element Update, Hazards Element Update and New Environmental Justice Element, dated January 2023. In accordance with Section 15164 of the CEQA Guidelines, a lead agency shall prepare an Addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. Specifically, an Addendum is appropriate when there has been no substantial change proposed in the project or the circumstances under which the project is being undertaken, nor is there any new information that would require additional environmental review. In this case, the proposed Project would not require land use changes not previously known or analyzed in the General Plan EIR; therefore, the previously certified Mitigation Monitoring and Reporting Program remains valid and applicable with the Amendments.
- C. Pursuant to CEQA Guidelines 15164(g), an Addendum need not be circulated for public review.
- D. The adopted Final EIR identified all potential significant adverse impacts and feasible mitigation measures that would reduce impacts to a level of less than significant, and that all the applicable mitigation measures identified in the Mitigation Monitoring and Reporting Program and related to the proposed project will be implemented, if applicable, as described in the Addendum. Based on the Final EIR and the Addendum, there is no substantial evidence that the Project would have a significant effect on the environment.
- E. The project complies with CEQA, and the previously certified Final EIR, Mitigation Monitoring and Reporting Program and Addendum was reviewed and considered prior to approving the project.

- F. Pursuant to Government Code Section 65583.2(i), ministerial design review for new development that meets minimum affordability criteria and all applicable object standards shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

ZONING TEXT AND MAP AMENDMENTS

Pursuant to Hayward Municipal Code Section 10-1.3425(b), the Planning Commission may recommend approval of an amendment to the Zoning Ordinance and Zoning Map upon making the following findings:

- A. **Substantial proof exists that the proposed change will promote the public health, safety, convenience and general welfare of the residents of Hayward;**

In adopting State Housing Element Law, the legislature found that “California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives.” (Government Code Section 65589.5.). As documented in the adopted, certified 6th Cycle Housing Element Appendix A, Housing Needs Assessment, Hayward’s residents are also experiencing a crisis in affordability which is related to a lack of affordable housing, particularly for low-income and special needs households.

There is substantial proof that the proposed change will promote the public health, safety, convenience and general welfare of the residents of Hayward in that the amendments are being undertaken to comply with the adopted, certified Housing Element and State Law. Compliance with State Law and annual reporting on ongoing Housing Element compliance is required for local jurisdictions to access State funding sources. In addition, a compliant Housing Element makes the City more competitive for grant funding to construct affordable housing and infrastructure improvements. While it will not solve the State, regional or local housing crisis, the City’s Housing Plan, and specifically Program H-11 will remove constraints for housing development on three parcels by creating a ministerial planning review process for development that meets minimum affordability criteria. Ministerial planning review processes streamline development approvals by reducing the time and cost associated with the development process thus supporting more efficient market rate and affordable housing development.

- B. **The proposed change is in conformance with the purposes of the Zoning Ordinance and all applicable, officially adopted policies and plans;**

The proposed Streamlined Affordable Housing Overlay District and related Zoning Map Amendment conforms to the purposes of the Zoning Ordinance, and all applicable, adopted policies and plans in that it will implement the City’s

adopted, certified Housing Element, adopted Strategic Properties related to housing development, and is consistent with State Housing Law.

The proposed Overlay will not change the existing Zoning District or General Plan land use designation for the properties and will not result in any changes in allowable densities, uses or other development standards, notwithstanding any modifications afforded as part of a Density Bonus request as permitted by local and State Law. Future development on these sites would be subject to the minimum objective standards of their respective zoning district and General Plan land use designation including but not limited to minimum lot size, density, setbacks, maximum floor area ratio, maximum building height or number of stories, minimum group and private open space, minimum landscaping requirements, and minimum design and façade standards.

Further, any future development would also be subject to other sections of the Municipal Code including the Off-Street Parking Ordinance (Article 2), Subdivision Ordinance (Article 3), Tree Preservation Ordinance (Article 15), and the Affordable Housing Ordinance (Article 17), and the Reach Code, as applicable.

C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified;

The proposed Streamlined Affordable Housing Overlay District and reclassification of three properties to be subject to the new Overlay District will not result in any changes to the existing Zoning District or General Plan land use designation for the properties. As a result, the Amendments will not impact streets or public facilities in that they will allow for a streamlined ministerial planning process provided that any proposed development on the three subject properties are consistent with objective zoning standards, objective subdivision standards, objective design review standards and performance standards set forth in General Plan, Specific Plan, Zoning Ordinance, Subdivision Ordinance and other applicable sections of the Hayward Municipal Code.

D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and further, a beneficial effect will be achieved which is not obtainable under existing regulations.

The proposed Streamlined Affordable Housing Overlay District and reclassification of three properties to be subject to the new Overlay District will not result in any changes to the existing Zoning District or General Plan land use designation for the properties. The proposed amendments would not change any potential future uses in that it would establish a ministerial design review process for high density residential development subject to minimum affordability requirements, which are permitted uses on all three sites. Ministerial planning review processes are beneficial and support efficient development of high-density housing in that they streamline development approvals by reducing the time and cost associated with the discretionary design review process.

Further, adoption of these regulations would implement Program H-11 of the Housing Element and ensure that the City remains in compliance with the adopted and certified Housing Element. Ongoing compliance with the adopted certified Housing Element is required for local jurisdictions to access State funding sources, to make the City more competitive for grant funding to construct affordable housing and infrastructure improvements, and to protect the City from lawsuits by housing advocates.