



**DATE:** January 21, 2020

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Huntwood Townhomes: City Council Call Up of the Planning Commission's Denial on October 24, 2019 and the Approval of a Resolution to Subdivide a 1.21-Acre Site into 18 Parcels to Allow the Construction of 14 Townhomes with Common Open Space Areas and Related Site Improvements at 28538 Huntwood Avenue (APN 465-0025-005-03) Requiring Approval of a Vesting Tentative Tract Map and Site Plan Review. Application No. 201705535 by James Chao (Applicant) on behalf of Zhong Yin Liu (Owner)

## **RECOMMENDATION**

That the City Council approves the revised Vesting Tentative Tract Map No. 8456 and Site Plan Review application to construct 14 attached townhomes, common open space areas, and private street at 28538 Huntwood Avenue, based on the analysis set forth in this report and contained within the required Findings and Conditions of Approval in the attached Resolution (Attachment II).

## **SUMMARY**

On October 24, 2019, the Planning Commission voted to deny the Vesting Tentative Tract Map No. 8456 and Site Plan Review Application 201705535 based on the attached Findings for Denial (Attachment IV). Following the Planning Commission hearing, the City Council called up the project for review for final disposition in accordance with Section 10-1.2845 (Appeal and Review Process) of the Hayward Municipal Code. Following the City Council call-up of the project, the applicant further revised the project plans and is requesting City Council approval of the project. Due to the revised project application, staff is providing an updated Resolution with Findings and Conditions of Approval (Attachment II), based on the latest project alternative proposed by the applicant (Attachment III) for Council consideration.

## **BACKGROUND**

The project site was previously developed with a single-family home, which was demolished in 1989. In 1992, the City Council approved PD Rezone Application No. 89-15 and Tentative Tract Map No. 6043 to subdivide the subject property and construct 18 townhomes with related site improvements. However, this proposed development was never constructed.

In 2002, the City Council approved PD Rezone Application No. PL-2002-0210 and Tentative Tract Map No. 7263 to subdivide the subject property and construct 14 townhomes with related site improvements. However, this proposed development was also never constructed, and the entitlements expired.

On September 25, 2017, the applicant, James Chao, submitted this application to restart the project. Pursuant to Hayward Municipal Code (HMC) Section 10-1.2560, the PD District became void and reverted back to the original RM District due to the expiration of the Tentative Tract Map. A PD Rezone is no longer required because the RM District was revised to allow for lot sizes consistent with the building footprint for townhomes. The RM District previously required a minimum lot size of 5,000 square feet for all types of developments.

The applicant is requesting approval of Vesting Tentative Tract Map No. 8456 and Site Plan Review Application No. 201705535 to construct 14 attached townhomes, common open space areas, and a private street at 28538 Huntwood Avenue. The project site, which is 1.21 acres in size, is currently zoned RM (Medium Density Residential) District and designated as MDR (Medium Density Residential) in the *Hayward 2040 General Plan*.

Planning Commission Review: On March 28, 2019<sup>1</sup>, the Planning Commission voted to continue this item and directed staff to return to the Commission with Findings for Denial. The Commission expressed concern with the project related to density, the lack of affordable housing, lack of parking, and emergency vehicle access. Following the Commission meeting, the applicant revised the project to include the following components:

- Three on-street parking spaces were added for a total of eight guest spaces;
- One of the fourteen homes (Lot 10) will be designated as a BMR unit for sale with the remaining balance paid as in-lieu fee; and
- No parking signs will be placed around the project site and curbs will be painted red to ensure adequate emergency/fire lane access is provided.

On October 24, 2019<sup>2</sup>, the Planning Commission reviewed the revised project and voted 5-2 to deny the Vesting Tentative Tract Map No. 8456 and Site Plan Review Application 201705535, based on the Findings for Denial that were presented by staff. While the Commission believed some improvements had been made, there continued to be concerns related to the emergency vehicle access, the residential product type, density, and the size of the proposed houses in relation to the adjacent properties.

Following the Planning Commission denial and call-up by the City Council, the applicant is proposing to further revise the project to include the following features in addition to those that were previously committed to by the applicant:

- Construction of all electric homes; no natural gas installation;
- All houses will include rooftop solar panels with back-up battery to enable each home to operate off the grid;

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<sup>1</sup> PC Meeting Minutes, 3/28/19:

<https://hayward.legistar.com/View.ashx?M=E3&ID=682623&GUID=7980B5E9-A15A-41E4-AC0F-9CC9EB17C8B8>

<sup>2</sup> PC Meeting Minutes, 10/24/19:

<https://hayward.legistar.com/View.ashx?M=E3&ID=716041&GUID=CAB7844A-4047-43EE-A651-A5EF88345E91>

- Installation of an electric vehicle charging station in every garage; and
- Installation of bicycle racks in the common areas throughout the site.

A letter of commitment from the applicant on the revisions is included as Attachment III. Staff has also updated draft Conditions of Approval within the Resolution (Attachment II, Condition 34) to reflect the project revisions listed above.

## **DISCUSSION**

*Existing Conditions.* The 1.21-acre project site is generally flat and currently vacant. There are 16 trees protected by the City's Tree Preservation Ordinance on site and 6 protected trees that are off-site but have canopies encroaching onto the site. The property contains a 6-foot tall chain link fence, which is placed along the perimeter property lines.

The site is located in the Tennyson/Alquire neighborhood, which is characterized by a mix of housing types including older single-family homes, small multi-family residential developments, mobile home parks, commercial, and industrial uses. The site is bordered by a small multi-family residential development to the north, single-family residential development to the west across Huntwood Avenue, and a mobile home park to the east and south. Tennyson Park, Fire Station #7, and the commercial corridor along Tennyson Road are nearby. The site is currently zoned RM (Medium Density Residential) District and is designated MDR (Medium Density Residential) in the *Hayward 2040 General Plan*.

*Project Overview.* The project proposes to subdivide the existing parcel into 18 parcels to allow the construction of 14 townhomes, three common open space areas, and a private street that provides access from Huntwood Avenue. The proposed development also includes numerous site and frontage improvements including new sidewalk, expanded utilities, new landscaping, and several bioretention areas.

The two-story townhomes are attached in two groups of three units and two groups of four units. Each unit contains 4-bedrooms, 2.5-bathrooms and range in size from 1,888 and 1,897 square feet. The townhomes incorporate basic ranch-style architectural features such as cement plaster walls and composition shingle roofs, which are prevalent in suburban developments constructed in the 1980s and 1990s. The townhomes also incorporate private balconies and wall offsets on the front elevations. The proposed color palette consists of lighter shades of tan as the primary base color with darker shades of brown as accent colors and white trim for contrast. Architectural materials include brick or stone veneer, detailed garage doors, front entry porches, exterior shutters, and sill treatments. A copy of the Project Plans, with vesting tentative map, site and landscaping plans, are included as Attachment V.

*Parking and Circulation.* Each townhome will provide a two-car garage and the project will also provide a total of 8 uncovered parking spaces for guests. The proposed 20-foot-wide, two-way private street will be looped to provide vehicular access from Huntwood at two locations, to allow for safe and efficient vehicular circulation and provide adequate turnaround space for fire and emergency vehicle apparatus. No parking will be allowed on either side of the private street and will be marked with red curbs. Additionally, the street will be maintained by the HOA, including the new sidewalk, which provides pedestrian access from each home to Huntwood Avenue.

Landscaping and Open Space. The project's landscaping and open space plan proposes to preserve 5 existing trees, plant 32 new trees, and plant a varied palette of shrubs and groundcover within the common open space areas, common landscaped areas, and along the building frontages facing the private street. Additionally, a new 5-foot-wide landscape strip will provide a buffer between the private street and the adjacent property to the south. The common open space areas will be a total of 4,899 square feet in size and located in the rear of the property, between Lots 3 and 7. The area will be accessible from Huntwood Avenue through private sidewalks and improved with new landscaping. Each unit will also have a private rear yard and private patio. All the proposed landscaping and irrigation will meet the City's landscape water efficiency standards and will treat storm water run-off on-site with a new bioretention treatment area.

Tree Removals. The project requires the removal of 11 trees protected by the City's Tree Preservation Ordinance<sup>3</sup>. The Tree Preservation Ordinance requires mitigation equal in value to the total appraised value of all protected trees to be removed through replacement trees or alternative forms of mitigation acceptable to the City Landscape Architect. The appraised value of the trees to be removed is \$41,380. The project proposes mitigation in the form of upsizing required trees and permeable paving. The City Landscape Architect has approved the preliminary mitigation plan and will review the final landscape plan to confirm that the proposed mitigation cost matches or exceeds the appraised value of the removed trees prior to the issuance of a building permit.

Homeowners Association. As part of the standard conditions of approval, the project is required to form a new Homeowners' Association (HOA) with required Covenants, Conditions and Restrictions (CC&Rs) to ensure the future homeowners will be responsible for maintaining all the project components, including the private street, utilities, and other privately owned common areas and facilities on the site, including the bioretention area, landscaped areas, preservation and replacement of trees, and decorative paving. Staff has added a condition that if approved, the HOA be responsible to manage the parking and no-parking areas to ensure that emergency vehicles can safely access the site. The CC&Rs will also contain a standard condition that if the HOA fails to maintain these common areas, the City of Hayward will have the right to enter the subdivision and perform the necessary work to maintain these areas and special assessment and/or lien the properties for their proportionate share of the costs.

Utilities and Street Improvements. The existing utilities that serve the project site, including sanitary sewer, water, and storm drain systems, have sufficient capacity to adequately serve the proposed development. On-site sewer and water utilities will be installed within the project site and connect to the existing utilities on Huntwood Avenue. As previously discussed, the project will be served by a new private street with sidewalks on both sides. The existing roadways are sufficient to accommodate the additional traffic generated from the project. As such, no frontage improvements will be required.

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<sup>3</sup> Tree Preservation Ordinance:

[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART15TRPR](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART15TRPR)

Hayward 2040 General Plan. The project site is designated MDR (Medium Density Residential) in the *Hayward 2040 General Plan*<sup>4</sup>, which allows a residential density range of 8.7 to 17.4 dwelling units per acre. Properties with the MDR land use designation are typically characterized by suburban and urban areas that contain a mix of housing types. Typical building types include single-family homes, second units, duplexes, triplexes, fourplexes, townhomes, multi-story apartment and condominium buildings, and ancillary structures.

As proposed, staff believes the project is consistent with the *Hayward 2040 General Plan* in that it is a multifamily residential development with a total net density of 12 dwelling units per net acre, which is within the allowable density range. Additionally, the project will increase the housing inventory for the City of Hayward, is located close to services and amenities, and is considered an in-fill development that will result in a more complete neighborhood.

Zoning Ordinance. The project site is zoned RM<sup>5</sup> (Medium Density Residential) in the City's Zoning Ordinance, which allows for a mix of housing types and community services. As currently proposed, the project meets all the development standards of the RM District related to lot size, lot coverage, setbacks, building height, off-street parking, and open space as shown in the Table 1 below.

**Table 1: Development Standard Comparison**

Development Standard	HMC Requirement	Proposed Project
Min. Lot Size	Consistent with building footprint	Consistent with building footprint
Min. Lot Area per Dwelling Unit	2,500 sq. ft.	2,636 sq. ft.
Max. Lot Coverage	40%	32.9%
Min. Front Yard Setback	20 ft.	20 ft.
Min. Side Yard Setback	10 ft.	10 ft.
Min. Rear Yard Setback	20 ft.	20 ft.
Max. Building Height	40 ft.	23 ft. 8 in.
Min. Off-Street Parking Req.	30 spaces (14 covered and 16 uncovered)	36 spaces (28 covered and 8 uncovered)
Min. Open Space Req.	1,400 sq. ft. common and 4,900 sq. ft. total	4,899 sq. ft. open space and 7,879 sq. ft. total common area

Tennyson-Alquire Neighborhood Plan. The project is located within the Tennyson Alquire Neighborhood Plan<sup>6</sup> area. The Tennyson Alquire Neighborhood Plan provides policies related to residential densities, residential development standards, industrial development along Industrial Parkway, street improvements, and access and circulation. The policies encourage planning for lower densities to maintain the predominant single-family residential character and new developments that contribute to an attractive neighborhood pattern. The project is

<sup>4</sup> Hayward 2040 General Plan:

[https://www.hayward-ca.gov/sites/default/files/documents/HayGPU\\_Part%203.1\\_LU-Element\\_Approved\\_2014-07-01.pdf](https://www.hayward-ca.gov/sites/default/files/documents/HayGPU_Part%203.1_LU-Element_Approved_2014-07-01.pdf)

<sup>5</sup> RM, Medium Density Residential District:

[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART1Z00R\\_S10-1.400MEDEREDIRM](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1Z00R_S10-1.400MEDEREDIRM)

<sup>6</sup> Tennyson Alquire Neighborhood Plan:

<https://www.hayward-ca.gov/sites/default/files/documents/Tennyson-AlquirePolicies.pdf>

consistent with these policies in that the proposed density is relatively low and the building architecture is compatible with the surrounding neighborhood.

Vesting Tentative Tract Map. The project proposes a subdivision to create a total of 18 parcels, including 14 ground-level townhouse lots and four common parcels containing open space, bioretention areas, and a private street. Pursuant to HMC Section 10-3.010<sup>7</sup>, the purpose of the Subdivision Ordinance is to ensure that all proposed subdivisions are consistent with the procedures, policies, and programs of the *Hayward 2040 General Plan*, underlying zoning district, and Subdivision Map Act. Per HMC Section 10-3.150<sup>8</sup>, the following Vesting Tentative Tract Map findings are required for the project:

- The proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans;
- The proposed subdivision meets the requirements of the City Zoning Ordinance; and
- No approval of variances or other exceptions are required for the approval of the subdivision.

If Council decides to approve the project as revised, the applicant would be required to submit a Final Map and Improvement Plans for review. The City Engineer must determine that the Final Map and Improvement Plans are in substantial compliance with the approved Vesting Tentative Tract Map prior to approving the Final Tract Map. Prior to approval of the Final Tract Map, the developer shall enter into a Subdivision Agreement and post bonds with the City at which time the map can be recorded with the Alameda County Recorder's Office and commence construction activities. In accordance with HMC Section 10-3.246<sup>9</sup>, approval of this Vesting Tentative Tract Map shall expire 36 months after the effective date of approval subject to statutory and discretionary extensions as allowed by the HMC and Subdivision Map Act. The Vesting Tentative Tract Map is included with the Project Plans (Attachment V).

Site Plan Review. The purpose of the Site Plan Review is to foster development that complies with the intent of City development policies and regulations and is operated in a manner determined to be acceptable and compatible with surrounding development. Per HMC Section 10-1.3025<sup>10</sup>, the following Site Plan Review findings are required to approve the project:

- The development is compatible with on-site and surrounding structures and uses and is an attractive addition to the City;
- The development takes into consideration physical and environmental constraints;

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<sup>7</sup> Subdivision Ordinance, HMC Section 10-3.010:

[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART3SUOR\\_S10-3.010PU](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART3SUOR_S10-3.010PU)

<sup>8</sup> Tentative Tract Map Findings, HMC Section 10-3.150:

[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART3SUOR\\_GERE\\_S10-3.150ADAGAPAU](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART3SUOR_GERE_S10-3.150ADAGAPAU)

<sup>9</sup> Vesting Tentative Tract Map Time Limits, HMC Section 10-3.246:

[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART3SUOR\\_TEMA\\_S10-3.246TIEXENTRMAMAMAVETETRMAMAMAMA](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART3SUOR_TEMA_S10-3.246TIEXENTRMAMAMAVETETRMAMAMAMA)

<sup>10</sup> Site Plan Review Findings, HMC Section 10-1.3025:

[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART1ZOOR\\_S10-1.3000SIPLRE\\_S10-1.3025FI](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.3000SIPLRE_S10-1.3025FI)

- The development complies with the intent of City development policies and regulations; and
- The development will be operated in a manner determined to be acceptable and compatible with surrounding development.

A more detailed analysis for the required Vesting Tentative Map and Site Plan Review findings are included in Attachment II.

*Affordable Housing Ordinance.* The project is subject to the City's Affordable Housing Ordinance (AHO)<sup>11</sup>, which allows residential development projects to either provide affordable units on site or pay an affordable housing in-lieu fee. Following input from the Planning Commission at the March 2019 meeting, the applicant is proposing to dedicate one townhome (Lot 10) as an affordable unit. Additionally, the applicant is proposing to pay an in-lieu fee for the remaining portion of the project. A copy of the Affordable Housing Plan is included as Attachment VI.

*Environmental Review:* This project is categorically exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15332, Infill Development Projects, in that:

1. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;
2. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;
3. The project site has no value as habitat for endangered, rare or threatened species;
4. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
5. The site can be adequately served by all required utilities and public services.

As discussed earlier, the project is consistent with several *Hayward 2040 General Plan* policies and the Zoning Ordinance development standards. The project site is a 1.21-acre infill site, surrounded by development on all sides, adequately served by utilities, and contains ruderal vegetation, which has no value as natural habitat for species. Furthermore, the proposed development is compatible with the surrounding residential uses and is not expected to result in any significant impacts related to traffic, noise, air quality, and water quality. Additionally, the City's Transportation Division reviewed the project and concluded the project would not generate significant traffic or result in any traffic-related hazards. The project proposes 14 new townhomes, which would not generate significant emissions or noise beyond the existing noise level in the surrounding residential neighborhood. Additionally, the project will not result in any water quality impacts since it will comply with the Municipal Regional Stormwater requirements for storm water runoff prevention and treatment.

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<sup>11</sup> Affordable Housing Ordinance:  
[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART17AFHOOR](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART17AFHOOR)

## **ECONOMIC IMPACT**

The proposed project would result in the development of a currently underutilized lot surrounded by other single and multi-family residential uses. The proposed development would update and expand the existing utility service for the project site and connect to the existing public utilities or services and is not expected to have a negative impact on the City regarding public utilities or public services. Furthermore, the project would result in new residents moving into Hayward, which should generate demand for goods and services, thereby providing stimulus for new or existing jobs in the City's economy.

## **FISCAL IMPACT**

According to the City of Hayward Fiscal Impact Model (2017) prepared by Applied Development Economics, Inc., the project would generate an estimated \$34,190 in annual revenue from property and utility user taxes and approximately \$33,280 in annual costs related to City services, resulting in a net positive impact of approximately \$911 per year. Additionally, the project would generate one-time revenue prior to occupation through the payment of various development impact fees such as park dedication fees, affordable housing impact fees, school impact fees, and utility fees.

## **STRATEGIC INITIATIVES**

The project supports the City's Complete Communities Strategic Initiatives. The purpose of the Complete Communities initiative is to create and support services and amenities that provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. The project will create new housing opportunities near the Hayward BART Station, expand the mix of housing in the City, and provide a private street with a sidewalk for pedestrians. As such, the project supports the following Strategic Initiative goals and objectives:

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

Objective 4: Create resilient and sustainable neighborhoods.

Goal 2: Provide a mix of housing stock for all Hayward residents and community members, including the expansion of affordable housing opportunities and resources.

Objective 2: Facilitate the development of diverse housing types that serve the needs of all populations.

## **SUSTAINABILITY FEATURES**

The project will be constructed incorporating all-electric features and additionally provide rooftop solar panels on each home with a back-up battery to enable each home to operate off-the-grid to minimize energy use and reduce GHG emissions. The project will also add electric vehicle charging stations in each garage and be required to meet the CALGreen and updated Energy Code standards for energy efficiency, as well as meet the City's



requirements for installation of water efficient landscaping. Additionally, the project will comply with the City standards for recycling of waste during construction and operation and will comply with the Municipal Regional Stormwater requirements for storm water runoff prevention and treatment.

## **PUBLIC OUTREACH**

Following receipt of application, staff conducted the following public outreach:

- On October 5, 2017, a Notice of Receipt of Application was sent to all property owners and interested stakeholders within 300 feet of the project site.
- On March 15, 2019, a Notice of Public Hearing was posted at City Hall, sent to all property owners and interested stakeholders within 300 feet of the project site, and published in the Daily Review newspaper.
- On March 28, 2019, the Planning Commission held a public meeting to consider the project. The Commission voted 5-1-1 to continue this item and directed staff to return to the Commission with findings for denial.
- On October 11, 2019, a Notice of Public Hearing was posted at City Hall, sent to all property owners and interested stakeholders within 300 feet of the project site, and published in the Daily Review newspaper.
- On October 24, 2019, the Planning Commission held a public meeting to consider the project. The Commission voted 5-2 to deny the application based on the findings for denial included in the report.
- On January 6, 2020, a Notice of Public Hearing was posted at City Hall, sent to all property owners and interested stakeholders within 300 feet of the project site, and published in the Daily Review newspaper.

To date, staff has received no public correspondence either for or against the proposed project.

## **NEXT STEPS**

If the City Council approves the project, the decision will be deemed final and effective immediately. Once the final map and improvement plans are approved and recorded, the applicant may then proceed with obtaining building permits and all other necessary permits.

*Prepared by:* Jeremy Lochirco, Principal Planner

*Recommended by:* Laura Simpson, AICP, Development Services Director

Approved by:



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Kelly McAdoo, City Manager