



## **SUBJECT**

Proposed Development of 14 Residential Condominium units and one Commercial Condominium unit on a 0.47-acre site located at 32513 Mission Boulevard for which a Corresponding Site Plan Review Application (201900754) was Previously Approved in 2021 (APNs: 076G-2760-009-07 and 07G6-2760-021-00), Requiring a Vesting Tentative Tract Map (Tract 8660) Application No. 202204947. Applicant: Murthy Ayyagari, HAMAARA LLC.; Owner: Uday Sista, HAMAARA LLC.

## **RECOMMENDATION**

That the Planning Commission approve the proposed Vesting Tentative Tract Map for Condominium Purposes (Tract 8660) as shown in Attachment IV 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 approval of a Vesting Tentative Tract Map (VTTM) for Condominium Purposes (Tract 8660) to create a 14 residential and one commercial condominium subdivision on a 0.47-acre site at 32513 Mission Boulevard. In 2021, the Planning Director approved a corresponding Site Plan Review application for the same mixed-use development. Prior to construction of the project, the owner is proposing to subdivide the project, which requires the approval of a VTTM for Condominium Purposes in order to sell the units individually. The proposed subdivision would create a single parcel with each condominium owner owning the airspace within their individual unit and an equal share of the common areas and improvements within the development, which would be maintained by a newly formed Homeowners Association (HOA).

To comply with the requirements of the City's Affordable Housing Ordinance (AHO), the owner has committed to providing one moderate income unit and plans to pay the applicable fractional 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.

## **BACKGROUND**

On February 7, 2019, the City received a Site Plan Review application to develop a three-story mixed use building with 14 residential development units and an 853 square foot commercial tenant space on a 0.47-acre site at 32513 Mission Boulevard. On September 1, 2021, the Site Plan Review application was administratively and conditionally approved by the Planning

Director. No appeals were filed, and the decision became effective on September 17, 2021. The applicant subsequently filed the subject application for a VTTM nearly one year later on October 20, 2022, requesting to sell the condominium units. Additionally, the applicant submitted the appropriate Building and Grading Permits to construct the previously approved project and to date, both permits are currently under review. Following a determination on this application, any necessary changes (i.e. utility connections) will be made to the construction permits prior to issuance. **A copy of the previously approved plans is included as Attachment V.**

Public Outreach: On October 27, 2022, the Planning Division mailed out 138 Notice of Receipt of Application (NOR) for the proposed VTTM to the owners and occupants of all property within 300 feet of the site, as well as to the Fairway Park Neighborhood Association and South Hayward Neighborhood Group. No public comments were submitted in response to the NOR.

On February 10, 2023, a total of 117 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 groups who received the NOR. A public hearing notice was also published in *The Daily Review* newspaper on this same date. 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 is composed of two contiguous parcels, totaling 0.47-acres at 32513 Mission Boulevard. The site located along the southwestern side of Mission Boulevard between Lexington Avenue and Lafayette Avenue. It is surrounded by a mix of single-family homes and multi-family apartments to the south and west, a commercial office to the north and the Chapel of the Chimes Cemetery to the east. The site is currently developed with a 1,320 square foot vacant restaurant building to be demolished, a parking lot, driveway approaches along Mission Boulevard and Lexington Avenue and 37 trees scattered throughout the site.

Proposed Project: The proposed project consists of a VTTM for Condominium Purposes for a previously approved mixed-use development (Site Plan Review Application No. 201900754). The approved plan features a three-story mixed-use building with 14 residential units above a ground floor parking garage and an 853 square foot commercial tenant space. There are two common outdoor open spaces located in front of the building along Mission Boulevard and on the roof deck above the tenant space.

Vehicular access to the site is provided by two driveway connections along Mission Boulevard and Lexington Avenue. The connection along Mission Boulevard is existing and will provide access to five commercial tenant parking spaces. The connection along Lexington will provide residents access to the parking garage which contains 26 parking spaces and 5 dedicated bike parking spaces.

The residential units include a mix of studio (2), two-bedroom (8) and three-bedroom (4) units that range from 830 to 2,992 square foot. The one on-site affordable unit is proposed as a two-bedroom, 2,608 square foot unit located near the common open space on the roof deck.

The proposed Vesting Tentative Map would overlay the previously approved Site Plan and enable the owner to subdivide the development and sell each of the units individually. No changes to the previously approved site or architectural plans are proposed and the previously approved conditions of approval for the Site Plan Review application will remain unchanged.

The development will connect to the existing sewer and the new water facilities in Lexington Avenue. Stormwater runoff will be collected and treated in three separate bioretention areas located along the rear, street side and front property lines before being discharged into the storm drain line in Lexington Avenue. Street improvements include a new concrete driveway approach along Lexington Avenue and the undergrounding of all existing utilities along the two frontages.

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 and 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.

## **POLICY CONTEXT AND CODE COMPLIANCE**

Hayward 2040 General Plan: The project site is designated Commercial/High Density Residential in the *Hayward 2040 General Plan*<sup>1</sup>. This land use designation allows for multi-family residential development, including townhomes, apartments, and condominiums, at a maximum density of 34.8 dwelling units per net acre (no minimum density is prescribed). The approved development plan features 14 residential units with a density of 28.8 units per net acre; as such, the project is consistent with the site's General Plan land use designation.

The project is also consistent with a number of General Plan Goal 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).

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

Zoning Ordinance: The project site is zoned Neighborhood Commercial (CN) District<sup>2</sup>. This zoning classification allows for a wide variety of professional office, service and retail commercial uses which are generally compatible with abutting residential uses. It also allows for residential dwelling units above first floor commercial uses. As a mixed-use condominium development, the proposed subdivision complies with the property's zoning classification. The project's density, site plan design and building design were all found to be in compliance with the applicable standards of the CN zoning district when the Site Plan Review application was approved by the Planning Director in 2021, and no changes to the approved plans are proposed.

Subdivision Ordinance: In accordance with Section 10-3.150 of the Subdivision Ordinance<sup>3</sup>, in order to approve an application for a Vesting Tentative Tract Map, 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. Furthermore, there are no required variances or exceptions for the proposed subdivision. Additional detail 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 (SB 330) that is 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 development project that complies with the objective standards of the General Plan and Zoning Ordinance cannot be disapproved or conditioned upon development at a lower density unless the City is able to make written findings based on the preponderance of the evidence in the record that: (1) the housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or developed at a lower density; and (2) there is no feasible method to satisfactorily mitigate or avoid the adverse impact other than disapproval or development at a lower density. "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 Site Plan Review approval was issued in 2021 after being found consistent with the General Plan and Zoning Ordinance. The proposed VTTM is also consistent with applicable objective criteria.

Regional Housing Needs Allocation & Affordable Housing Ordinance: Local jurisdictions report progress annually on meeting their Regional Housing Needs Allocation (RHNA) goals which

<sup>2</sup> [Hayward Municipal Code Section 10-1.800 – Neighborhood Commercial District](#)

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

are included in the City’s Housing Element. The Table below demonstrates progress made toward meeting Hayward’s RHNA goals for the period between 2015-2023 as of the last report year (2021), which is shown in the column titled “Reported 2021.” The State allows local jurisdictions to report the units when building permits are issued to construct the units. The “Approved” and “Pending Approval” columns provide an estimate of potential compliance by counting both entitled projects and projects going through the entitlement process. Please note that this Table will be updated with the 2023-2031 RHNA goal after the State certifies the City’s Updated Housing Element.

**Table 1: 2023 RHNA Goal Progress in the City of Hayward**

Income Category*	Unit Goal	Reported 2015-2021		Approved		Pending Approval		Estimated Compliance		Estimated Deficiency	
		Units	% of Goal	Units	% of Goal	Units	% of Goal	Units	% of Goal	Units	% of Goal
<b>Very low</b>	851	168	20%	293	34%	26	3%	487	57%	364	43%
<b>Low</b>	480	174	36%	226	47%	4	1%	404	84%	76	16%
<b>Moderate</b>	608	128	21%	60	10%	0	0%	188	31%	420	69%

\*The City has achieved the Above Market Rate housing goals for the 2015-2023 RHNA cycle.

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<sup>4</sup>. 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 doing both. In this case, the applicant has elected to provide one moderate income unit and 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 unit.

Parkland Dedication: HMC Chapter 10, Article 16 – Property Developers-Obligations for Parks and Recreation<sup>5</sup> 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 rates are \$17,034 for a three-bedroom unit, \$9,753 for a two-bedroom unit and \$3,453 for a studio unit. The proposed plans feature eight three-bedroom units, four two-bedroom units and two studio units. As such, if and when the project is developed, the developer would be obligated to pay \$182,190 in Park Impact Fees under the current fee rates. A condition of approval was included requiring the applicant to pay the applicable Park Impact Fees in effect at the time of building permit issuance for the Site Plan Review Application.

## STAFF ANALYSIS

Staff believes the Planning Commission can make the findings required to approve the VTTM for Condominium Purposes. The findings to support the recommendation for approval and

<sup>4</sup> [Hayward Municipal Code Chapter 10, Article 17 – Affordable Housing Ordinance](#)

<sup>5</sup> [Hayward Municipal Code Chapter 10, Article 16 – Property Developers-Obligations for Parks and Recreation](#)

related conditions of approval are included in Attachments II and III to this staff report, respectively.

The findings required for approval of VTTM mandate that the 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 determined to comply when the corresponding Site Plan Review application was approved by the City in 2021. The proposed subdivision would not result in any modifications to the previously approved plans and would simply enable the property owner to sell each of the units individually as condominiums. Furthermore, the proposed subdivision design does not require any variances from or exceptions to the applicable standards for a mixed-use condominium development. For these reasons, staff believes that the Commission can make the findings to approve the project.

### **ENVIRONMENTAL REVIEW**

In 2021, the Site Plan Review application was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, In-fill Development Projects. The application for a VTTM for Condominium Purposes would not result in any physical changes to the project; it would only enable the subdivision of the development which would provide the owner with the option to sell each unit individually. Further, the VTTM application is exempt from CEQA pursuant to Guidelines Section 15061(b)(3), which exempts projects from CEQA where it can be seen with certainty that there is no possibility that the proposed activity could have a significant effect on the environment.

### **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 the applicant would then be able to proceed with the application for the Final Map and Subdivision Improvement Plans for the project. If an appeal is filed, then a hearing by the City Council will be scheduled for a date to be determined.

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Approved by:

  
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