



SUBJECT

Proposed Development of 12 Townhome Condominium Units and Related Site Improvements on a 0.39-Acre Site at 22872 Main Street (APN 427-0001-046-01), Requiring Approval of Tentative Tract Map for Condominium Purposes (8678) and Site Plan Review Application No. TM-23-0004 and an Exemption for Residential Projects Implementing Specific Plans Pursuant to Section 15182 the California Environmental Quality Act (CEQA). Murthy Ayyagari for HAMAARA (Applicant); on behalf of Uday Sista and Swati Pappu (Owners).

RECOMMENDATION

That the Planning Commission approve the proposed Tentative Tract Map (TTM) and Site Plan Review (SPR) Application and determine that the project is exempt from CEQA, pursuant to Section 15182 of the CEQA based on the analysis set forth in this report and the attached Findings (Attachment II), and subject to the Conditions of Approval (Attachment III).

SUMMARY

The applicant is requesting approval of a Tentative Tract Map and Site Plan Review application to allow the construction of a new 12-unit “for-sale” townhome development on a 0.39-acre site bounded by Armstrong Street, Main Street and E Street. The site currently contains a 2,234 square foot occupied restaurant building and parking lot. The project proposes to construct the new residential building and related site improvements, which include two-way driveway with ingress/egress from Main Street that will provide access to alley loaded garages and a central mail area. The project also includes additional landscaping and utility improvements. The proposed three-story townhome units will range in size from 1,694 to 1,875 square feet and include ground floor living area, four bedrooms, three and a half bathrooms and two car garages.

BACKGROUND

On May 15, 2023, the City received this Tentative Tract Map (TPM) and Site Plan Review (SPR) application proposing to demolish the existing 2,234 square foot restaurant building and parking lot and construct 12 for-sale townhome condominium units.

Public Outreach: On May 22, 2023, the Planning Division mailed out 115 Notices of Receipt of Application (NOR) for the proposed project to the owners and occupants of all property within 300 feet of the site. Staff received no public comments in response to the NOR.

On March 1, 2024, a public hearing notice was sent to property owners, residents, and businesses within 300-feet of the project site; emailed to interested parties and those who

requested such notice; and, published in *The Daily Review* newspaper. Staff have received one public comment as of the date of the publication of this staff report. The public comment, available in Attachment VI, expressed concern regarding the loss of their privacy, the amount of provided parking and the design of the project.

On March 14, 2024, the Planning Commission continued this item due to a date certain, March 28, 2024, due to lack of quorum.

PROJECT DESCRIPTION

Existing Conditions: The project is proposed at a 0.39-acre site (APN 427-0001-046-01) bounded by Armstrong Street to the north, two duplex lots to the east, E Street and one duplex lot to the south and Main Street to the west. The site is predominantly surrounded by small multi-family developments with the exception of a gas station to the north, an art gallery and Bret Harte Middle School to the south. The project site, which is a flat, L shaped parcel, is currently developed with a 2,234 square foot restaurant and parking area.

The site is located within the Alquist Priolo Fault Zone. A peer-reviewed earthquake fault investigation was performed by a Licensed Geologist and concluded there are no fault traces within the project site. Nevertheless, the project will be required to comply with all applicable provisions of Alquist-Priolo Earthquake Fault Zoning Act and the California Building Code to ensure the residential building is seismically sound.

The project is also located in downtown Hayward and subject to the Downtown Specific Plan and Development Code. The project site is located approximately 0.4 miles from the Hayward BART Station and is in close vicinity of many commercial establishments which include a supermarket, coffee shops, restaurants, banks and other downtown-serving businesses and uses.

Proposed Project: The project proposes demolishing the existing restaurant to allow the construction of 12 new three-story townhomes. The townhomes would be located in two separate buildings separated by a driveway that provides access to the alley loaded garages.

The first building is rectangular, approximately 37 feet tall and fronts Armstrong Street. It features 6 townhouse units that range from 1,846 to 1,875 square feet with primary entrances along the street frontage. The second building is L-shaped, approximately 30 feet tall and fronts both Main Street and E Street. It also features 6 townhouses units that range from 1,694 to 1,873 square feet with primary entrances along the internal walkway or along E Street. All the units include four bedrooms and three and a half bathrooms with one bedroom and bathroom on the ground floor, a two-car garage and a small porch or stoop. A secured cluster mailbox is proposed along Main Street where it will be highly visible from several residences and the roadway, making it hard to break into unnoticed.

The development reflects a contemporary architectural design. Façade articulation and massing breaks are achieved through the placement of varied architectural elements including oriels, dooryards, balconies and recesses, modulation of the façades, and the use of varied

color palette and building materials, including channel siding, tiles, cement plaster, textured siding, and vinyl windows.

Landscaping and Open Space: The landscape plan proposes large landscape plantings along Main Street, Armstrong Street, and along the eastern property line. The proposed landscape plans include a plant palette of trees, shrubs, ornamental plantings, and groundcovers, and a bio-treatment area along the street side property line (Main Street). Additionally, there is 1,714 square feet of private open space, including 11 balconies and 1 ground level patio.

The project proposes to remove 9 protected trees. In conformance with the Tree Preservation Ordinance¹, 8 new trees will be planted and upsized from a 24" box to a 36" box to mitigate for the trees proposed for removal. The City's Landscape Architect reviewed the mitigation proposed and does support the proposed upsizing of the trees on site. A copy of the proposed project, including the landscaping and irrigation plans, is included in Attachment IV and a copy of the Arborist Report is included in Attachment V.

Proposed Circulation and Access: Vehicular access to the townhomes would be from a 21-foot-wide internal shared driveway that runs parallel to Armstrong Street and E Street and is accessible via a driveway entrance from Main Street. The driveway will accommodate two-way vehicular traffic. The project also proposes a new four-foot-wide sidewalk that runs parallel to the proposed driveway for pedestrian access. In addition to the new vehicular access, staff added a condition of approval that requires the applicant provide bicycle parking consistent with the provisions of the Downtown Specific Plan. The specific location of those bicycle spaces will be reviewed by staff prior to placement.

Sustainability Features: The project is 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, be solar-ready, and provide parking spaces that are electric vehicle-ready. Additionally, all landscaping is required to comply with the City's Bay-Friendly Water Efficient Landscape Ordinance for irrigation and drought tolerant materials.

POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan: The project site has a City Center- Retail and Office Commercial (CC-ROC)² land use designation in the *Hayward 2040 General Plan*. The CC-ROC land use designation applies to properties surrounding the core of Downtown Hayward, and allows for residential and mixed-use development, including townhomes, live-work units, apartment, and condominium buildings with a maximum allowed density that ranges from 40 to 110 dwelling units per net acre and a maximum Floor-to-Area Ratio (FAR) of 1.5. The project proposes 12 residential units on 0.39-acre lot resulting in a density of 30.7 dwelling units per net acre and a FAR of 1.25, consistent with the General Plan. The project is also consistent with the following General Plan goals and policies:

¹ Tree Preservation Ordinance:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART15TRPR

² Hayward 2040 General Plan: <https://www.hayward2040generalplan.com/land-use/mixed>

- Land Use Policy LU-1.4: The City shall encourage property owners to revitalize or redevelop abandoned, obsolete, or underutilized properties to accommodate growth.
- Land Use Policy LU-1.5: Transit-Oriented Development that creates high-density transit-oriented development within the city's Priority Development Areas to improve transit ridership and to reduce automobile use, traffic congestion, and greenhouse gas emissions.
- Land Use Policy LU-1.6: Mixed-Use Neighborhoods that support the integration of a variety of compatible land uses into new and established neighborhoods to provide residents with convenient access to goods, services, parks and recreation, and other community amenities.
- Land Use Goal LU 2: Create an urban environment and development regulations in the Plan Area for transit supportive development that benefits from and promotes a rapid transit public transportation system.
- Land Use Policy LU-2.5: The City shall encourage the development of a variety of urban housing opportunities, including housing units above ground floor retail and office uses.
- Housing Goal H-1: Maintain and enhance the existing housing opportunities, viable housing stock and neighborhoods within Hayward.
- 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-3.5: The City shall encourage compatible residential development in areas with underutilized land.

Downtown Specific Plan and Development Code: In April 2019, the City adopted the Downtown Specific Plan³ and related Development Code, which established a new set of goals and policies for downtown Hayward and created new development regulations for the project site, which also included rezoning the subject parcels to a newly created Urban Neighborhood (UN) district. The intent of the UN District is to create a walkable, mixed-use neighborhood with small-to-large footprint, moderate-intensity, and large house-scale within walking distance of neighborhood serving retail and service uses. Allowable uses in the UN District include multi-family residential and a variety of commercial uses. The table below demonstrates the project consistency with the applicable UN District standards set forth in Hayward Municipal Code (HMC) Section 10-28.2.2.060⁴ and

³ Downtown Specific Plan: <https://www.hayward-ca.gov/sites/default/files/Hayward%20Downtown%20Specific%20Plan.pdf>

⁴ Hayward Municipal Code Section 10-28.2.2.060: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART28DECO_ART10-28.2SPZO_DIV10-28.2.2DOZO_10-28.2.2.060URNEUN

Rowhouse Building standards in HMC Section 10-28.3.3.100⁵.

Standard	HMC Requirement	Proposed	Consistent?
Density	Max. 40-110 per acre	30.7 per acre	YES
Building Types Allowed	Rowhouse acceptable	Rowhouse	YES
Building Stories	5 stories max.	3 stories	YES
Building Height	70' max.	Ranges from 29'11.5" to 37'4.25"	YES
Ground Floor Finish Above Sidewalk	12" min.	12"	YES
Ground Floor Ceiling	9' min.	9'	YES
Upper Floor Ceilings	8 min.	Ranges 8' to 9'	YES
Front Setback (Corner Lot)	0' min, 10' max	5'	YES
Side Setback	5' min	5'	YES
Street Side Setback	5' min	Ranges from 5'1" to 16'7"	YES
Rear Setback	0' min	Ranges from 3'3" to 5'	YES
Building within Façade Zone (% of lot width)	75% min. front 50% min. street side	84% front 82% street side *	YES
Parking	1 per unit, or 1/500 sq. ft., whichever is less	2 per unit	YES
Frontage Type	Dooryard acceptable	Dooryard	YES
Rowhouse Per Run	3 min	6	YES
Width Per Rowhouse	18' min 36' max	Ranges from 21' to 34'8"	YES
Private Open Space	100 sq. ft. min. per rowhouse (8' min. width; 8' min. depth)	Ranges from 109 sf to 166.174 sf	YES

*Calculated using the street side and rear frontages

Per HMC Section 10-28.5.3.020⁶, Site Plan Review is required for all new development. The Planning Commission may approve or conditionally approve a Site Plan Review application when the following findings are made:

1. The development is compatible with on-site and surrounding structures and uses and is an attractive addition to the city;
2. The development takes into consideration physical and environmental constraints;
3. The development complies with the intent of City policies and regulations;
4. The development will be operated in a manner determined to be acceptable and compatible with surrounding development.

Staff believes the Planning Commission can make the necessary findings to approve the Site Plan Review as detailed in Attachment II, Findings.

Subdivision Ordinance: In accordance with Section 10-3.1502 of the Subdivision Ordinance

⁵ Hayward Municipal Code Section 10-28.3.3.100:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART28DECO_ART10-28.3SUZO_DIV10-28.3SPBUTY_10-28.3.3.100ROBU

⁶ Site Plan Review Requirement in the Downtown Specific Plan:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART28DECO_ART10-28.5PEPR_DIV10-28.5.3IPLRE

of the HMC, in order to recommend approval of an application for a Tentative Tract Map to the City Council, 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.

Staff believes the Planning Commission can make the necessary findings to approve the Tentative Map as detailed in Attachment II, Findings.

SB330 and Housing Crisis Act: In 2019, the State of California adopted new legislation (SB330) that is intended to address the State's housing crisis. SB330 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 must be approved by the City, unless the City is able to make written findings based on the preponderance of the evidence in the record that (A) the housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. A "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete; and (B) there is no feasible method to satisfactorily mitigate or avoid the adverse impact identified other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

The following additional denial criteria apply if the project includes affordable units: (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 agricultural land; (4) approval of the project would violate State or Federal law and this violation cannot be mitigated; or (5) the project is 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 noted above and following staff review, the project complies with the objective standards of the applicable zoning district and General Plan land use designation. On January 23, 2024⁷, the City Council adopted new objective standards as part of the Hayward Residential Design Study. This project is consistent with all applicable objective standards that were adopted as part of that effort.

Regional Housing Needs Allocation & Affordable Housing Ordinance: Local jurisdictions

⁷ City Council Meeting 01.23.24: <https://hayward.legistar.com/LegislationDetail.aspx?ID=6484923&GUID=DB9D5F07-51BC-449F-8654-4CE69B514C6B&Options=&Search=>

report progress annually on meeting their Regional Housing Needs Allocation (RHNA) goals which are included in the City's Housing Element. The 6th 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 Development⁸. 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 a variety of income levels during the upcoming cycle. The proposed development would add 12 above moderate- income units to the total.

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 Ordinance⁹. 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 both. For this project, the applicant has elected to pay the 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 units. According to the 2024 Master Fee Schedule¹⁰, the current Affordable Housing In Lieu fee is \$26.00 per square foot for lower density ownership housing, defined as projects with less than 35 units per acre (with a 10% increase for fees paid at issuance of occupancy permit). The approximate conditioned floor area of this residential development is 21,520 square feet, resulting in an estimated in-lieu housing fees of \$559,0520, if paid at issuance of building permits in fiscal year 2023-2024.

Park Impact Fee: Per HMC Section 10-16.10¹¹, the applicant will be required to pay park impact fees and/or dedicate public parkland. The applicant is proposing to pay the park impact fees for the project, which is due prior to building occupancy. According to the 2024 Master Fee Schedule, the current park impact fee is \$26,125 per each unit, resulting an estimated total impact fee of \$313,500 in fiscal year 2023-2024.

Traffic Impact Fee: Per HMC Section 10-30.20¹², the applicant will be required to pay traffic impact fees. The impact fees shall be the rate that is in effect at the time the application is deemed complete by the Planning Division. According to the 2024 Master Fee Schedule, the current Traffic Impact Fee is \$3,475 per townhome unit when the project was deemed complete on February 9, 2024. Thus, the approximate Traffic Impact Fee for the proposed development is \$41,700.

STAFF ANALYSIS

⁸ Hayward 6th Cycle Housing Element (2023-2031). <https://www.hayward-ca.gov/your-government/departments/planning-division/hayward-housing-element-climate-action-plan-safety-element-and-environmental-justice-update>

⁹ Affordable Housing Ordinance:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART17AFHOOR

¹⁰ Hayward 2024 Fee Schedule. https://www.hayward-ca.gov/sites/default/files/documents/Adopted-FY-2024-Master-Fee-Schedule_0.pdf

¹¹ https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART16PRDEBLPA_RE_S10-16.10RE

¹² Hayward Municipal Code Section 10-30.20:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART30PRDERAIME_S10-30.20AMFE

Based on staff's review and per the draft findings (Attachment II), staff believes the Planning Commission can make the necessary findings to approve the project, as conditioned. As noted in this report, the project adheres to all applicable standards of the City's Development Code and Subdivision Ordinance. The project is also consistent with several goals and policies of the *Hayward 2040 General Plan*, including the density range and allowable uses, that result in the redevelopment of a vacant and underutilized site in downtown Hayward. The proposed development is designed to integrate with the existing multi- and single-family residential uses in the surrounding neighborhood and the addition of 12 units will also contribute to the housing stock and assist the City in reaching its RHNA goals. Staff believes the project constitutes an attractive addition to the existing neighborhood, providing architectural interest and modulation of the façades that incorporate a variety of architectural features, including a multi-tone color palette and complimentary building materials. Further, the project includes parking garages, private open space areas, and new landscaped areas. As conditioned, the project is subject to all applicable provisions of the Hayward Municipal Code related to construction, maintenance, and landscaping on the site.

ENVIRONMENTAL REVIEW

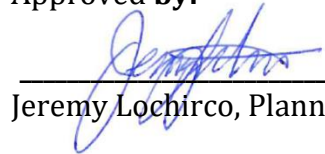
This project is exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15182 (c), Residential Project Implementing Specific Plans, because the project is a residential project pursuant to and in conformity with the Downtown Specific Plan for which there was an Environmental Impact Report (EIR)¹³ prepared.

NEXT STEPS

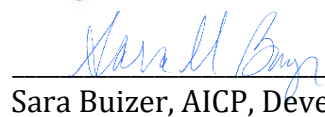
Following the Planning Commission hearing, a ten-day appeal period for the project will occur. If no appeal is received then the Commission's decision will become final, and the applicant can prepare a Final Map for City Council approval and submit applications for site improvement plans and building permits. If an appeal is filed, then a hearing by the City Council on the VTTM and SPR application will be scheduled for a date to be determined.

Prepared by: Taylor Richard, Associate Planner

Approved by:



 Jeremy Lochirco, Planning Manager



 Sara Buizer, AICP, Development Services Director

¹³ Downtown Specific Plan EIR: https://www.hayward-ca.gov/sites/default/files/documents/HaywardDowntownSpecificPlan_FinalEIR_032219_Revised.pdf