



## **SUBJECT**

Proposed Vesting Tentative Tract Map, Planned Development (PD) Rezone, Site Plan Review, and Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program (MMRP) to subdivide two existing parcels into 21 parcels to allow the construction of 18 detached single-family residences with common open space areas and related site improvements at 25941 Gading Road (APNs 454-0020-062-02 & 454-0020-069-00). Application No. 201706285; Tony Dutra (Applicant) on behalf of Dutra Enterprises (Owner).

## **RECOMMENDATION**

That the Planning Commission recommend approval of Vesting Tentative Tract Map No. 8432, PD Rezone, Site Plan Review Application No. 201706285, and adoption of a Mitigated Negative Declaration (MND) with a Mitigation Monitoring and Reporting Program (MMRP) to the City Council, 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 Vesting Tentative Tract Map No. 8432, PD Rezone and Site Plan Review Application No. 201706285, and the adoption of a Mitigated Negative Declaration (MND) with a Mitigation and Monitoring Reporting Program (MMRP) to subdivide two existing parcels totaling 1.7 acres into 21 parcels to allow the construction of 18 single-family residences with common open space areas and a private street at 25941 Gading Road. The northern parcel (APN 454-0020-062-02) is zoned RS (Single-Family Residential) District and the southern parcel (APN 454-0020-069-00) is zoned PD District. Both parcels are designated as MDR (Medium Density Residential) in the *Hayward 2040 General Plan*.

As proposed, the project requires a Planned Development rezoning, Vesting Tentative Tract Map, Site Plan Review and is subject to Environmental Review and analysis. Staff has outlined the project and additional analysis in the sections below.

## **BACKGROUND**

The 0.9-acre northern parcel was previously developed with two single-family residences, each with a detached garage. All structures were demolished after the approval of a demolition permit in August 2017 in preparation for the proposed development. The southern parcel has long been undeveloped. The 0.8-acre southern parcel was rezoned from RS District to PD District in 1998 to allow the subdivision of the site into four lots and develop each lot with a two-story, single-family home. However, the approved development was never

constructed. Staff received this application on October 31, 2017 and following review and input, the original proposal has since been revised to include the following: 1) enhanced street side elevations for corner lots; 2) additional articulation on the side and rear elevations; and 3) a more varied color palette.

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

- On November 13, 2017, a Notice of Receipt of Application was sent to all property owners and interested stakeholders within 300 feet of the subject property.
- On April 6, 2018, a Notice of Intent (NOI) to adopt a Mitigated Negative Declaration (MND) was posted at City Hall, the Alameda County Clerk's Office and delivered to the Hayward libraries. Copies of the NOI were also sent to interested parties and property owners within 300 feet of the project site and posted in the newspaper. Following the posting of the NOI, the City has not received any public comments.
- On April 26, 2018, a Notice of Public Hearing was published in the Daily Review newspaper and sent to all property owners and interested stakeholders within 300 feet of the subject property. To date, staff has not received any comments from the public regarding the project.

## **PROJECT DESCRIPTION**

Existing Conditions. The 1.7-acre project site consists of two parcels, which are currently undeveloped and generally flat. There are 49 trees protected by the City's Tree Preservation Ordinance on site and six protected trees that are off-site but have canopies encroaching onto the site. An existing 6-foot tall chain link fence borders the front property line and the remainder of the site perimeter contains a 6-foot tall wooden fence. The site is located in the Harder-Tennyson neighborhood, which is characterized by single-family and multi-family suburban residential development and a mix of one- and two-story commercial buildings. The site is bordered by medical offices and multi-family residential development to the north, single-family residential development to the east and west, and multi-family residential development to the south. The northern parcel is zoned RS District and the southern parcel is zoned PD District. Both parcels are designated as MDR (Medium Density Residential) in the *Hayward 2040 General Plan*.

Project Overview. The project requires a rezoning and subdivision of two existing parcels into 21 parcels to allow the construction of 18 single-family residences with common open space areas and a private street that provides vehicular access from Gading Road. A zone change from the existing RS District and PD District to a new PD District is required to allow for exceptions to the development standards for single-family homes related to lot size, lot coverage, and setbacks. More detail regarding the requested exceptions is provided later in this report in Table 1. The proposed lots range in size between 2,657 and 3,206 square feet. The project will also include numerous frontage and site improvements including on-site water and sewer utilities, a new private street, new landscaping, and reconstruction and repair of existing road and sidewalks along Gading Road.

*Building Architecture.* The development includes three plan types, two of which provide 3-bedroom, 2.5-bathroom units and one of which provides 4-bedroom, 3-bathroom units. The homes range in size between 1,638 and 1,956 square feet. Each new home will be two stories, with maximum heights between 24 feet and 25 feet, 7 inches. Three architectural styles of the homes consist of variations of Spanish Colonial Revival architecture with stucco walls and concrete tile roofs. The proposed building colors consist of shades of tan with darker contrasting trim and accent colors. Architectural details include stone veneer, arches, detailed garage doors, front porches, exterior shutters, and sill treatments.

*Parking and Circulation.* Each home will contain a two-car garage and a driveway that could accommodate two additional vehicles. A 24-foot-wide private street from Gading Road is proposed to provide vehicular access to the site. The private street, which will be maintained by the HOA, provides seven street parking spaces for guests and ends in a hammerhead configuration to provide adequate turnaround space for fire apparatus. The project includes the replacement of the sidewalk on the project frontage along Gading Road. The project also includes a 5-foot-wide sidewalk on one side of the private street to provide direct pedestrian access to Gading Road.

*Landscaping and Open Space.* The project proposes to plant 20 new trees throughout the project site and a varied palette of shrubs and groundcover in the common open space area and front yards of the homes. The common open space area will be 2,330 square feet in size and located in the rear of the site at the end of the private street. The common open space area will be improved with landscaping and provide an outdoor seating area. Each home will also have a private yard. All proposed landscaping and irrigation will meet the City's landscape water efficiency standards. Additionally, the project will treat storm water run-off on-site with five new bioretention treatment areas.

*Tree Removals.* The project requires the removal of 81 trees, 47 of which are protected by the City's Tree Preservation Ordinance. The City's 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 project proposes mitigation in the form of 20 larger replacement trees, larger shrubs, and permeable paving. The City Landscape Architect 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.

*PD Amenities.* As noted earlier, the project requires a PD Rezone to provide flexibility in the site layout and allow for exceptions to certain development standards related to lot size, lot coverage, and setbacks. Any requested exceptions to development regulations or policies must be adequately offset or compensated for by providing amenities not otherwise required or exceeding required development standards. As such, the project proposes the following amenities:

- Rooftop solar panels on each home;
- A bedroom suite on the first floor of six homes to allow for aging in place and multi-generational lifestyles; and

- 2,330 square feet of common open space area, which is typically not provided or required for detached single-family home developments.

*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&R's) to ensure the future homeowners will be responsible for maintaining all the project components, including the private street, street lights, utilities, and other privately owned common areas and facilities on the site, including the bio-retention areas, landscaped areas, preservation and replacement of trees, and decorative paving. The CC&R's will also contain a standard condition that if the HOA fails to maintain the common areas, private streets, lights and utilities, 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 as described in Attachment II. Also, staff is recommending that the CCR's require that at least 75 percent of the units be owner-occupied, which will be enforced by the HOA.

*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 new public utility easement within the project site and connect to the existing utilities on Gading Road. As previously discussed, the project will be served by a new private street. While the existing roadway is sufficient to accommodate the additional traffic generated from the project, frontage improvements will be required, including the reconstruction and repair of the existing road and sidewalks along Gading Road to meet the City's street standards.

*Sustainability Features.* As mentioned earlier, the project will provide rooftop solar panels on each home. The project is also required to meet CALGreen and 2016 California Energy Code standards for energy efficiency and will meet the City's requirements with respect to 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.

## **POLICY CONTEXT AND CODE COMPLIANCE**

*Hayward 2040 General Plan.* The project site is designated MDR, which allows for a residential density range of 8.7 to 17.4 dwelling units per net acre, in the *Hayward 2040 General Plan*. Properties with the MDR land use designation are typically characterized by suburban and urban areas that contain a mix of housing types. The project is consistent with the *Hayward 2040 General Plan* in that it is a single-family residential development with a density of approximately 15.3 dwelling units per net acre, which is within the allowable density range. The project is also consistent with applicable General Plan policies in that it 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. The project's consistency with the *Hayward 2040 General Plan* and its specific goals and policies is discussed in greater detail in the project findings (Attachment II).

**Zoning Ordinance.** As mentioned earlier, the northern parcel is zoned RS District and the southern parcel is zoned PD District. The project proposes to rezone both parcels to a new PD District to allow for exceptions to the lot size, lot coverage, and setback requirements that are required of the RS District. As proposed, the project is proposing modified development standards related to lot size, lot width, lot coverage, and building setbacks for the front, side and rear yards. The subject parcels are narrow and deep, which limits the number of dwelling units the project site can accommodate under the typical single-family residential development standards. As such, these modified standards are necessary to allow the project to provide more dwelling units and still comply with the maximum allowable density in the *Hayward 2040 General Plan*. PD Districts are also subject to the development standards of the zoning district most similar to the proposed use, which is the RS (Single-Family Residential) District in this case. The project will meet the applicable development standards of the RS District related to building height, lot frontage, and off-street parking as shown below.

**Table 1**

| <b>Development Standard</b>   | <b>HMC Requirement</b>                  | <b>Proposed Project</b>    |
|-------------------------------|---|----------------------------|
| Min. Lot Size                 | 5,000 sq. ft.                           | 2,657 sq. ft. <sup>1</sup> |
| Min. Lot Frontage             | 35 ft.                                  | 40 ft.                     |
| Min. Average Lot Width        | 50 ft. (interior) / 60 ft. (corner)     | 40 ft. <sup>1</sup>        |
| Min. Average Lot Depth        | 80 ft.                                  | 65 sq. ft. <sup>1</sup>    |
| Max. Lot Coverage             | 40%                                     | 47% <sup>1</sup>           |
| Min. Front Yard Setback       | 20 ft.                                  | 18 ft. <sup>1</sup>        |
| Min. Side Yard Setback        | 5 ft. or 10% of lot width (10 ft. max.) | 4 ft. <sup>1</sup>         |
| Min. Side Street Yard Setback | 10 ft.                                  | 5 ft. <sup>1</sup>         |
| Min. Rear Yard Setback        | 20 ft.                                  | 10 ft. <sup>1</sup>        |
| Max. Building Height          | 30 ft.                                  | 25 ft. 7 in.               |
| Min. Off-Street Parking Req.  | 36 enclosed spaces                      | 36 enclosed spaces         |

1. The PD Rezone is required to allow for an exception to this development standard.

**Vesting Tentative Map.** The project proposes to create a total of 21 new parcels, including 18 single-family parcels, and three common parcels containing open space or bioretention areas. Pursuant to [Section 10-3.010](#) of the Hayward Municipal Code (HMC), 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 Section 10-3.150 of the HMC, 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 approved, the applicant may submit a Final Map and improvement plans to the City 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 Tract Map. Prior to approval of the 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, 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. A copy of the Vesting Tentative Tract Map is included within the Project Plans (Attachment IV).

*PD Rezone.* Pursuant to [Section 10-1.2505](#) of the HMC, the purpose of the PD District is to facilitate development of land in an innovative fashion to allow for flexibility in site design and encourage development that is sensitive to environmental and site-specific considerations. Any requested exceptions to development regulations or policies must be adequately offset or compensated for by providing amenities not otherwise required or exceeding required development standards. Per [Section 10-1.2535](#) of the HMC, the following PD Rezone findings are required for the project:

- The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies;
- Streets and utilities, existing or proposed, are adequate to serve the development;
- In the case of a residential development, that the development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development;
- In the case of nonresidential uses, that such development will be in conformity with applicable performance standards, will be appropriate in size, location, and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding development;
- In the case of a development in increments, each increment provides a sufficient proportion of total planned common open space, facilities, and services so that it may be self-contained in the event of default or failure to complete the total development according to schedule; and
- Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.

*Site Plan Review.* Pursuant to [Section 10-1.3005](#) of the HMC, 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 [Section 10-1.3025](#) of the HMC, the following Site Plan Review findings are required for 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;

- 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.

Staff has provided a more detailed analysis for the required Vesting Tentative Map, PD Rezone, and Site Plan Review findings in Attachment II.

*Affordable Housing Ordinance.* The project is subject to the City's Affordable Housing Ordinance (AHO), which allows residential development projects to pay an affordable housing in-lieu fee instead of providing affordable units on site. The in-lieu fee for single-family residential projects providing 10 or more units is \$18.18 per square foot of habitable space if paid prior to issuance of a building permit or \$20 per square foot of habitable space if paid prior to approval of a certificate of occupancy. The applicant has decided to pay the affordable housing in-lieu fee.

*Strategic Initiatives.* The project supports several of the City's Strategic Initiatives, including Complete Communities and Complete Streets. The purpose of the Complete Communities strategy 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 purpose of the Complete Streets Strategic Initiative is to build streets that are safe, comfortable, and convenient for travel for everyone, regardless of age or ability, including motorists, pedestrians, bicyclists, and public transportation riders. The project, as proposed, will create new housing opportunities that provide a mix of housing in the City and will require the construction of a new private street that will be designed to accommodate vehicles and pedestrians. The project supports the following Strategic Initiative goals and objectives that were established by the City Council:

*Complete Communities*

- 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.

*Complete Streets*

- Goal 1: Prioritize safety for all modes of travel.
- Objective 3: Ensure that roadway construction and retrofit programs and projects include complete streets elements.

## STAFF ANALYSIS

As referenced above and pursuant to the required findings for a Tentative Tract Map, PD Rezone, and Site Plan Review included in Attachment II, staff believes the project complies with the intent of City development policies and regulations, including the *Hayward 2040 General Plan*, Zoning Ordinance, and Subdivision Ordinance. The project also supports several of the City's Strategic Initiatives. Staff's analysis regarding the key features of the project is discussed below.

*Land Use Compatibility.* The project would be compatible with the land uses and developmental pattern of the existing neighborhood, which consists of a mix of housing types. Although the project proposes lots smaller than the other single-family developments nearby, there are multifamily developments in the vicinity that contain a higher density. The project would complement the mix of housing types in the neighborhood and be consistent with surrounding land use densities. Furthermore, the new homes would be compatible in size and scale of other single-family homes nearby.

*Building Architecture.* Overall, the homes are attractively designed and compatible with the existing character of the neighborhood. The development provides three plan types and three architectural styles with varied building colors and materials to provide a diverse and interesting street scene. The building facades are articulated to provide visual interest from all sides of the homes, especially the front elevations, which incorporate recesses and projections through windows with sill treatments and shutters, front entry porches, stone veneer, and breaks in the building mass. Furthermore, the location of the garages on the street is minimized through enhanced trellises placed above the garages and the garage doors containing windows with enhanced designs.

*Vehicular and Pedestrian Circulation.* The project will be well-integrated into the existing neighborhood. The private street and sidewalk provide vehicular and pedestrian access to each home from Gading Road, which is a public street. The new private street will be designed to meet the City's public street standards and will provide adequate circulation throughout the development and from Gading Road. The project also provides driveways and street parking within the private street to accommodate the vehicles of guests and minimize street parking on Gading Road.

*PD Amenities.* Staff believes the project amenities adequately offset the requested exceptions. The rooftop solar panels result in a more environmentally-sensitive development and the multigenerational-friendly floor plan allows the homes to accommodate a more diverse population. The additional group open space, which will be maintained by a homeowner's association, provide the future residents with a usable outdoor space for recreation and public interaction, which is unique to this single-family development.

Additionally, staff believes the project is well-designed and appropriate for the neighborhood. The project is considered an in-fill development and will replace a vacant and underutilized site with attractive homes to complement the existing neighborhood.



## **ENVIRONMENTAL REVIEW**

Pursuant to CEQA Guidelines Section 15220, an Initial Study was prepared by Rincon Consultants on behalf of the City of Hayward (Lead Agency) for this project with the finding that a Mitigated Negative Declaration (MND) was appropriate because all potential impacts could be mitigated to a level of less than significant with the implementation of mitigation measures. The Initial Study found that the project would result in potential impacts to Biological Resources, Cultural Resources, Geology and Soils, and Tribal Cultural Resources. With mitigation, any potential impacts would be reduced to a level of less than significant.

A Notice of Intent (NOI) to adopt the MND with Mitigation and Monitoring Reporting Plan (MMRP) was filed with the Alameda County Clerk on April 6, 2018. The NOI and MND were posted at City Hall and delivered to the Hayward libraries, and copies of the NOI were sent to interested parties and property owners within 300 feet of the project site on April 6, 2018. The public comment period for the MND expired on April 26, 2018 and the City did not receive any public comments.

However, as part of the formal consultation process established by California Assembly Bill 52 (AB 52), the Ione Band of Miwok Indians provided written comments outlining a treatment plan for the project. These comments have been addressed and incorporated into the MND Response to Comments Memorandum through minor modifications to the recommended mitigation measures. The modifications do not change the impact analysis or the level of mitigation required to reduce possible impacts to a level of less than significant. The Initial Study and MMRP have been updated to reflect these modifications. A copy of the MND, MMRP, and MND Response to Comments Memorandum are attached to this report for the Commission's review and consideration (Attachments V, VI, and VII). The MND, MMRP, and MND Response to Comments Memorandum should be considered together as part of the complete CEQA document.

## **NEXT STEPS**

Following the Planning Commission hearing, the City Council will consider the proposed project, along with the Planning Commission's recommendation, at a noticed public hearing, tentatively scheduled for May 22, 2018.

If the project is approved by the City Council, the applicant may proceed with submitting a Precise Development Plan, Final Tract Map and improvement plans to the City for review. The City Engineer must find that the Map and site improvement plans are in substantial compliance with the approved Vesting Tentative Tract Map and recommend to the City Council for approval and recordation with the Alameda County Recorder's Office. Once the Precise Plan, Final Map and improvement plans are approved by the City, the applicant may then proceed with obtaining building permits.

Prepared by: Jay Lee, AICP, Associate Planner

Approved by:

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Sara Buizer, AICP, Planning Manager

A handwritten signature in blue ink, appearing to read "Stacey Bristow", written above a horizontal line.

Stacey Bristow, Interim Development Services Director