



SUBJECT

Proposed Multi-Family Residential Development with Nine (9) Dwelling Units on a Vacant 0.27-Acre Infill Site Located at 24997 O'Neil Avenue, Assessor Parcel No. 444-0057-006-00 Requiring Approval of Site Plan Review and Density Bonus Application 201901824. Marc DiGiacomo (Applicant) on behalf of Pawan Kumar (Property Owner)

RECOMMENDATION

That the Planning Commission approve the Site Plan Review and Density Bonus application based on the analysis set forth in this report and the required Findings (Attachment II), and subject to the Conditions of Approval (Attachment III).

SUMMARY

Marc DiGiacomo (DiGiacomo Architect) is requesting approval of a Site Plan Review (SPR) and Density Bonus application to develop a three-story, multi-family residential development on a vacant 0.27-acre infill site. The proposed development will include nine (9) rental units including one (1) on-site affordable unit restricted for very-low income, nine (9) parking spaces, and 1,040 square-feet of common open space. Pursuant to State Density Bonus law, the applicant is requesting an increase in density and that one (1) concession/incentive be granted with respect to providing less than the required common open space requirement (15% of net lot area required). The project site is located within the Urban General Zone (MB-T4-1) of the Mission Boulevard Corridor Form Based Code area with a Sustainable Mixed Use (SMU) land use designation in the *Hayward 2040 General Plan*.

BACKGROUND

Public Outreach. On April 8, 2019, a Notice of Application Receipt was sent to 172 addresses including property owners, businesses, and residents within a 300-foot radius of the project site, as well as interested parties as well as the Mission Foothill Neighborhood Task Force. Upon sending the Notice of Application Receipt, the Planning Division received calls and emails from four (4) residents who reside across the street from the project site who stated their concerns related to the lack of availability of on-street parking, and that the proposed development should include more spaces to offset its potential impact. Said correspondence is included as part of this staff report as Attachment VI.

On June 26, 2020, a Notice of Public Hearing for the Planning Commission public hearing was circulated to all property owners, businesses, residents and interested stakeholders within a 300-foot radius of the project site as well as published within The Daily Review newspaper

as a Legal Ad. As of the date this staff report was written, no additional correspondence has been received beyond what was stated above.

PROJECT DESCRIPTION

Existing Site Conditions. The project site consists of one individual vacant parcel along O'Neil Avenue with a gross lot area of 0.27-acres situated approximately 220-feet southeast from the Orchard Avenue and O'Neil Avenue intersection. The site is approximately 325-feet deep with approximately 300 lineal-feet of frontage along the Mission Boulevard corridor. The topography of the property is a relatively flat, vacant parcel with no site improvements and contains one (1) existing tree that will be removed to accommodate the development.

Surrounding development and land uses include the Hayward Toyota satellite parking lot to the north (right side), a mix of residential uses (including the Hayward Glen condominium complex) to the east, a contractor office, warehouse and storage yard to the south (left side) and west (rear) of the project site.

Proposed Project. The proposed project will include the construction of one, three-story building on a vacant infill site. The project will result in the construction of 9 apartment units (including one on-site affordable unit). The development will include on-site amenities for the residents including in-unit washer and dryers, centralized and secured mail lockers, on-site automobile parking, and a common open space area. The project will include one and two-bedroom units as seen in Table 1 below. Dwelling units will range between 638 square-feet and 868 square-feet of net area depending on the number of bedrooms.

Table 1 – Bedroom Unit Mix

| Unit Type | 1st Floor | 2nd Floor | 3rd Floor | TOTALS |
|-----------|-----------|-----------|-----------|--------|
| 1-Bedroom | 1 | 1 | 1 | 3 |
| 2-Bedroom | 2 | 2 | 2 | 6 |
| | 3 | 3 | 3 | 9 |

Architecture. The principal building is designed with a contemporary approach incorporating flat roofs along all four sides of the structure coupled with varying wall planes and reliefs to avoid blank, monotonous facades. The roof also consists of parapet walls to screen required rooftop mechanical equipment from the public right-of-way. Private balconies will also be installed along several of the eastern and southern facing dwelling units to enhance the activation of building facades. As proposed, the overall total building height, at its tallest point, parapet, is measured at 31'-0". The exterior building materials will include a combination of cement plaster and wood siding with a two-tone light color palette for the two materials to provide contrast and help articulate the design.

Parking and Site Circulation. Pursuant to the Mission Boulevard Corridor Form-Based Code (MB-FBC), there is no minimum parking requirement for residential uses; however, the FBC establishes a maximum cap of 1.75 parking spaces per rental unit, as well as requires minimum bicycle parking for short- and long-term use. As proposed, the project will include a total of 9 parking spaces for automobiles (including 1 ADA parking space) and 4 long-term

bicycle spaces in compliance with the Code. Access to the project site will be secured along O'Neil Avenue with a singular driveway approach that will be able to accommodate two-way traffic.

In addition, the development of the project site will require a public right-of-way street dedication to accommodate sidewalk, curb, and gutter as no frontage improvements currently exist. This street dedication reduces the lot area of the project site from a gross 11,920 square-feet (0.27-acres) to a new net lot area of 9,199 square-feet (0.21-acres). The dedication will result in an increase in the width of the street immediately in front of the project site which will create a minimum of two (2) on-street public parking spaces and pedestrian sidewalk continuity which previously did not exist.

Landscaping and Open Space. The project plans (Attachment IV) include preliminary landscape and irrigation plans for the proposed development which consist of the new trees, shrubs and groundcovers to be planted at the site in compliance with City's Bay Friendly Water Efficient Landscape Ordinance (WELO)¹. WELO requires new developments with landscape areas greater than 500 square-feet to prepare water budget calculations and design for drought-tolerant, native trees and plantings appropriate for the project climate to ensure sustainable water efficient landscaping and irrigation practices.

Pursuant to the FBC, new developments within the MB-T4-1 zoning district are required to dedicate 15% of the net lot area for common open space within the development, and plant street trees for every 30 linear-feet along the project frontage. As shown on the plans, the project will provide more than 1,042 square-feet of common open space area (11.3%), inclusive of the interior courtyard for the residents with picnic and barbeque amenities. The building also includes a total of six private open space balconies (average size of 44 square-foot each) on the 2nd and 3rd floors which equate to 262 square-feet total.

In addition, there is currently one (1) existing tree at the site that is proposed to be removed to accommodate the development which may require mitigation in accordance with the City's Tree Preservation Ordinance². As conditioned, the landscaping and irrigation plans will be reviewed in greater detail during the building permit phase to ensure that all mitigation is adequate if deemed required. Additionally, the City Landscape Architect will inspect the construction site to verify the trees are planted correctly with proper irrigation that will maximize the health of the trees.

Sustainability Features. The project will be required to be designed to meet all applicable California Building Code and CalGreen Standards, which require a minimal level of energy efficiency, conservation, material recycling, and air quality, for new construction. In addition, the landscaping areas and irrigation system will be compliant with Bay Area-Friendly Water Efficient Landscape Ordinance, which requires the use of drought tolerant planting with water-efficient irrigation systems. Furthermore, the applicant will comply with ordinances related to construction debris and recycling to divert waste from landfills.

¹ Chapter 10, Article 12 of the Hayward Municipal Code – Bay Friendly Water Efficient Landscape Ordinance:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART12BIEWA_EFLAOR

² Chapter 10, Article 15 of the Hayward Municipal Code – Tree Preservation Ordinance:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART15TRPR

POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan. The project site is designated Sustainable Mixed Use (SMU)³ in the *Hayward 2040 General Plan* which allows for a residential density range of 4.3 to 100 dwelling units per net acre, and up to a maximum floor area ratio (FAR) of 2.0. Based on the General Plan density and cumulative lot area of the project site, the proposed development falls within the permissible density range of 1 to 27 dwelling units, and the FAR of the development does not exceed the maximum cap of 14,718 square-feet of floor area (7,587 square-feet proposed).

The SMU land use designation generally applies to properties that are transit adjacent and are planned as walkable urban neighborhoods. Typical building types will vary based on the zoning of the property, but will generally include single-family homes, duplexes, triplexes, fourplexes, second units, townhomes, live-work units, multi-story apartment and condominium buildings, commercial buildings, and mixed-use buildings that contain commercial uses on the ground floor and residential units or office space on upper floors. SMU areas are expected to change substantially in the future, as properties are planned to be developed or redeveloped at relatively high densities and intensities to create walkable and mixed-use neighborhoods and multi-modal corridors.

The project is also consistent with numerous goals and policies of the General Plan in that the development will increase the housing stock of affordable housing within the City of Hayward, the site is located adjacent to multiple bus lines (AC Transit 99, 801) near the Mission Boulevard and Orchard Avenue/Carlos Bee Boulevard intersection, and that the development is considered an infill development that will result in a more complete community. The project consistency with the *Hayward 2040 General Plan* goals and policies are further discussed in greater detail in the Required Findings (Attachment II).

Zoning Ordinance. The project site is within the Urban General Zone (MB-T4-1) of the Mission Boulevard Corridor Form Based Code⁴ area which allows for a residential density range of 17.5 to 35 dwelling units per net acre. Of the subdistricts within the MB-FBC, the MB-T4-1 zone is of moderate intensity with respect to development given that it is envisioned to consist of higher density mixed-use buildings that accommodate retail, office, and residential uses, along with townhouses and apartment buildings. The zone consists of mixed use but primarily residential urban fabric. It envisions a mix of building types: townhouses, apartment buildings, mixed-use buildings, and commercial buildings. Setbacks and landscaping are variable.

Based on the project net lot area (post street dedication), the maximum dwelling unit cap for the site is 7 dwelling units; however, the applicant has requested to incorporate a density bonus to increase the total unit count to 9 dwelling units (25% increase). As proposed, the development complies with most of the development standards such as minimum setbacks, lot coverage, height, building design and materials, frontage buildout except for those

³ Hayward 2040 General Plan: <https://www.hayward2040generalplan.com/land-use/mixed>

⁴ Chapter 10, Article 25 of the Hayward Municipal Code (Mission Boulevard Corridor Form Based Code): https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART24SOHAB_AMIBOFSECO

standards requested to be reduced and/or waived through state density bonus law. Additional information on the requested density bonus and concessions/incentives to modify the open space requirements are further described in the sections below.

Site Plan Review. Major development applications which require environmental review are subject to the Site Plan Review process and the associated findings contained in Section 10-1.3025 of the Hayward Municipal Code⁵. Per the HMC, the Planning Commission may approve or conditionally approve an application for Site Plan Review when all the following findings are made:

- 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.
- The development will be operated in a manner determined to be acceptable and compatible with surrounding development.

Staff has provided a more detailed analysis on the required Site Plan Review findings above in Attachment II of this report.

Density Bonus Ordinance. The applicant is requesting a Density Bonus and one concessions/incentives from the Mission Boulevard Corridor Form Based Code pursuant to Section 65915 of the Government Code⁶ and the City's Density Bonus Ordinance (DBO). A density bonus is a zoning tool granted by State law that allows for an increase in density with concessions and/or incentives to development standards when affordable housing units are included on-site. According to the submitted Affordable Housing Unit Plan/Density Bonus Plan (Attachment VI), the applicant is proposing that 1 of the 9 dwelling units be restricted by the City of Hayward for a very low-income household. Given that the project is restricting 1 dwelling unit, or 14%, of the 7 rental units (maximum dwelling unit cap per zoning) for low-income households or lower, the project is entitled up to a 35% increase in density (10 unit cap); however, the applicant is only requesting a 25% density bonus increase for a total of 9 dwelling units.

In exchange for restricting 1 dwelling unit as affordable, the project is entitled to one (1) concession or incentive. Concessions/incentives are defined as a reduction in site development standards or a modification of zoning code, or other regulatory incentives or concessions which result in identifiable and actual cost reductions. In addition, pursuant to state law, the City *shall* grant the concessions or incentives proposed by the developer unless it finds that the proposed concession or incentive does not result in identifiable and actual cost reductions, would cause a public health or safety problem, would cause an environmental problem, would harm historical property, or would be contrary to law. Accordingly, the applicant has requested the following concessions/incentives:

⁵ Chapter 10, Article 1, Section 10-1.3000 (Site Plan Review):

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.3000SIPLRE

⁶ Section 65915 of Government Code (State Density Bonus Law):

http://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65915.&lawCode=GOV

1. Common Open Space. For the MB-T4-1 zoning district, the FBC establishes a minimum common open space area requirement of 15% of the net lot area (1,379 square-feet). The applicant is proposing to provide 1,042 square-feet of common open space (11%) which is four (4) percent below the required amount. To assist in supplementing the on-site open space, the applicant is including a total of 232 square-feet of total private open space through balconies on the 2nd and 3rd floors.

Affordable Housing Ordinance. Residential development projects with two or more dwelling units are subject to the City's Affordable Housing Ordinance (AHO)⁷ where projects may either provide affordable units on-site or pay an in-lieu fee to comply. For rental projects, the AHO requires 6% of units be restricted as affordable units with half of those required to be reserved for very-low income households and the remainder for low-income households. Pursuant to the AHO, the minimum requirement for the project is calculated on the base density cap (6% of 7 = 0.42 units rounded up to 1 unit); thus, one rental unit is required to be restricted for a very-low-income household. All restricted units, either to satisfy the AHO or DBO, will be maintained as affordable in perpetuity. As a Condition of Approval and per the AHO, the applicant will be required to execute an Affordable Housing Agreement, in coordination with the City's Housing Division, prior to the issuance of building permits.

Strategic Initiatives. This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Strategic Initiatives is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all consistent with the objectives of the General Plan. Specifically, the item supports the following adopted goals and objectives:

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

- Objective 1b: Foster a sense of place and support neighborhood pride.
- Objective 1d: 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 2b: Facilitate the development of diverse housing types that serve the needs of all populations.

STAFF ANALYSIS

Staff believes that the Planning Commission can make the required Findings to approve the Site Plan Review and Density Bonus application based on the analysis provided herein and included within the required Findings. Aside from the one requested concession/incentive granted through Density Bonus law, the project complies with all objective development standards of the FBC and meets the intent of the MB-T4-1 zoning district, as well as the goals and policies of the *Hayward 2040 General Plan*.

⁷ Chapter 10, Article 17 of the Hayward Municipal Code (Affordable Housing Ordinance):

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

The proposed project represents sustainable planning principles by focusing infill developments within proximity of transit corridors along Mission Boulevard that provide multi-modal options for residents to commute via walking, scootering, bicycle, bus, and train. As mentioned above, AC Transit has northbound and southbound stops on Mission Boulevard located within 0.2-miles of the project site (approximately 5-minute walk). The 99 and 801 lines provide connections between San Leandro, Hayward, Union City and Fremont with stops at the San Leandro, Bay Fair, Hayward, South Hayward, Union City, and Fremont BART stations as well as the Fremont Amtrak station which expands the regional connections available via transit. These options provide working class families, students, opportunities to commute via public transit versus single-occupancy automobiles. Staff understands that there may be perceived issues related to parking, but for the reasons identified above and considering technological advancements that allow for ridesharing, carsharing, carpooling, autonomous vehicles, etc., the necessity for owning a personal vehicle as a primary form of transportation has dropped.

Land Use Compatibility. As indicated previously, the project site is located within the FBC area which stretches the majority of the Mission Boulevard, except for the Downtown Specific Plan area. Within this FBC area, numerous new developments⁸ for housing, mixed-use, and commercial have been approved (e.g. SoHay, Campways, Mission Seniors, Mission Crossings, Mission Family Apartments) that will transform the image and scale of the Mission Boulevard corridor within the next five years. Staff understands that the proposed urban compact development does not currently complement align the existing scale of the abutting properties; however, the project does align with the established height limitations of the FBC and the project architect has taken efforts to provide ample setbacks along the side property lines to avoid the massing impact onto adjacent structures while articulating the front facade. At the corner of O'Neil and Orchard Avenues, there exists a three-story, 50-unit multi-family apartment complex which this proposed project would be compatible in form, density and height. Further, as properties continue to redevelop along and in proximity to the Mission Boulevard corridor in accordance with the vision and standards of the FBC – the project will become more compatible in size and intensity to support the shift from suburban pattern to a more urban, compact form with walkable streets, nearby uses, and greater emphasis on utilizing mass transit to reduce vehicular congestion. The site is also located approximately one-mile away from California State University, East Bay (CSUEB) which will be attractive to prospective students and/or faculty/staff that could utilize direct access from Orchard Avenue which turns into Carlos Bee Boulevard.

Housing Element. According to the 2014 City of Hayward Housing Element⁹, the proposed project site was *not* identified within the Residential Sites Inventory for the Mission Boulevard Corridor Specific Plan Area (Figure B-5, Vacant Land Inventory) for the potential development of future housing. Given that the property was not listed within the residential site inventory, a realistic development capacity was not assigned to the property for it to include on-site affordable housing, likely due to its small lot area. Given that the proposed development will consist of 9 dwelling units, inclusive of a density bonus, the project site will not be considered as underdeveloped and will further assist the City in meeting its Regional

⁸ Major Development Activity, City of Hayward: <https://www.hayward-ca.gov/business/for-developers/development-activity>

⁹ 2014 Housing Element, City of Hayward: https://www.hayward-ca.gov/sites/default/files/documents/HayHE_FINAL_Adopted.pdf

Housing Needs Allocation (RHNA) targets for very-low and above-moderate income households. In consideration that some sites identified within the Residential Sites Inventory have already been entitled and/or developed at lower densities than originally forecasted for in the Housing Element, the proposed project will fill in the gap for much-needed affordable housing units to alleviate the State's housing crisis.

ENVIRONMENTAL REVIEW

The proposed project is deemed categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332, Class 32 of the CEQA Guidelines for infill development. Further analysis is included within the required Findings in Attachment II.

NEXT STEPS

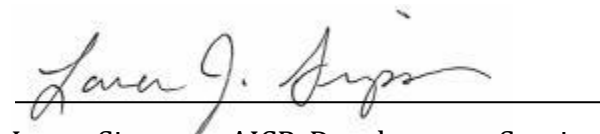
If the Planning Commission approves the Site Plan Review and Density Bonus application, then a 10-day appeal period will commence from the date of decision. If no appeal is filed, then the decision will be deemed final. If an appeal is filed within the 10-day time frame, then the application will be heard by the City Council for final disposition.

Prepared by: Marcus Martinez, Associate Planner

Approved by:

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Sara Buizer, AICP, Planning Manager

A handwritten signature in black ink, appearing to read "Laura J. Simpson", is written over a horizontal line.

Laura Simpson, AICP, Development Services Director