



INTEGRAL
Communities
A DIVERSIFIED REAL ESTATE COMPANY

To: Planning Commissioners Mariellen Faria, Sara Lamin, Mary LaVelle,
Rodney Loche, Elisa Marquez, Dianne McDermott, and Vishal Trivedi

From: Evan Knapp
Principal, Integral Communities

Date: November 7, 2013

Subject: Integral Response to Findings for Denial

Dear Honorable Members of the City of Hayward Planning Commission:

The purpose of this letter is to object, on behalf of Integral Communities (“Integral”), to the proposed Findings for Denial relating to Integral’s applications for a Conditional Use Permit (PL-2012-0069) and Vesting Tentative Tract Map (PL-2013-0070) in connection with the proposed development of 194 townhomes and 16,800 square feet of commercial space at the former Mervyn’s headquarters site in downtown Hayward (the “Project”).¹

The proposed findings represent a shocking turn of events, and an arbitrary change in the City’s interpretation of its General Plan and Zoning Code, as the Project was wholeheartedly supported by City staff prior to the October 17, 2013 Planning Commission meeting. The proposed Project is intended to greatly enhance downtown Hayward, but if the Planning Commission adopts these findings, the downtown area will remain blighted for the foreseeable future. This letter responds to each proposed finding in turn:

PROPOSED CITY FINDING:

2. *The proposed use is not desirable for the public convenience or welfare.*

The Project, and specifically residential uses on the first floor of the Project, is not desirable for the public convenience and welfare because the Project will convert a large, vacant commercial building into a mixed-use community without ground floor commercial uses along the entire Foothill Boulevard frontage. This Project will not create the desired economic stimulus and high-density housing inventory near adjacent employment and retail centers to reduce vehicle miles

¹ Prior to its October 17, 2013 meeting, City Staff recommended that the Planning Commission approve the Project, and in so doing, made specific findings supporting the approval of Integral’s applications for a CUP and vesting tentative tract map.

traveled, nor will the Project, through both its site plan and its amenities, be considered a transit-oriented development. A transit oriented community is desirable at this location, which is less than one-half mile to the Hayward BART Station. No rental units are proposed as part of this Project. The Project would provide a low-density ownership housing product with few on-site amenities. Providing ground-floor residential units could provide more active "eyes on the street" later in evenings, in line with "crime prevention through environmental design" (CPTED) principles; however, ground floor commercial development along the entire Foothill Boulevard frontage with high density housing would better serve this part of Downtown Hayward. The site is considered a key opportunity site for Hayward commercial and office development due to its location close to Downtown Hayward, extensive frontage on Foothill Blvd., transit access, and size (11.33 acres). Sufficient lands exist elsewhere in the City for the type of residential, low-density development which this Project proposes.

INTEGRAL RESPONSE:

The Project significantly enhances the public convenience and welfare by replacing a large, neglected and vacant building with a vibrant mixed-use community. The Project will create economic stimulus and housing inventory near adjacent employment and retail centers to reduce vehicle miles traveled. The design and features of the Project will attract middle-income residents who are expected to spend their incomes to support businesses in Hayward, particularly in the Downtown, and/or attract new businesses. Economic and Planning Systems has already demonstrated that the development will add \$488,000 to the City's general fund revenues each year. The development will generate \$9.138 million in annual retail sales, including \$5.2 million of annual retail by project residents plus \$3.4 million of on-site retail spending (net of spending by residents). The Project's one time near term benefits include \$8.137 million in development fees and 292 construction jobs. Moreover, the construction of the Project will provide jobs to Hayward residents during the build out of the community as a result of Integral's local hire program.

These benefits starkly contrast the current condition of the site, which has provided almost no economic benefit to the City over the past five years, much like the nearby City Center Tower located across Foothill Blvd., which has been vacant since 1998. The Project site is not an opportunity site for downtown development. The owner of the site has reported no interest from any office space users throughout its five-year vacancy. Rejecting the Project on the theory that the Project site will eventually be developed differently is clearly flawed based on the history and current state of the downtown area.

The Project would provide aesthetically-pleasing ownership housing with on-site amenities (open spaces and the San Lorenzo Creek pathway) within walking distance of transit. As admitted by the City, providing ground-floor residential units would provide more active “eyes on the street” later in evenings, in line with “crime prevention through environmental design” (CPTED) principles, which would not be realized with commercial ground floor development. Integral originally planned higher density rental housing for this community but revised the plan to include for-sale housing at the suggestion of several members of City Council and nearby residents who expressed concerns about rental housing on the site. Nothing in the General Plan or Zoning Code requires rental housing.

Additional ground floor commercial development along the entire Foothill Blvd Frontage will better serve the downtown. The current vacancy rate among retail spaces in the downtown is relatively high. Retail experts Applied Development Economics, Inc. that prepared the Hayward Retail Analysis in March 2013 agree that downtown revitalization needs more residents with disposable income living near downtown, which is precisely what this Project provides. Hayward should follow the lead of prosperous communities in Alameda County by providing high quality, safe residential uses in the downtown area to support local businesses and create jobs. The Project is consistent with the shopping center across the street from the Project site, which does not include continuous retail along Foothill Blvd., but instead, the majority of the mall’s frontage along Foothill Blvd. consists of a parking lot.

The proposed findings inaccurately characterize the site as “low density housing” because the Project meets the City’s definition of medium density housing. (See, City of Hayward General Plan (“General Plan”), Appendix C, p. C-2) This incorrect characterization is carried forward throughout the City’s proposed findings, leading the City to state that opportunities exist elsewhere for low density housing and make many other statements regarding low density development. The Project is not a low density housing project, but instead a mixed-use project with medium density housing, and therefore all statements in the proposed findings regarding low density development should be disregarded and rejected.

PROPOSED CITY FINDING:

3. *The proposed use will impair the character and integrity of the zoning district and surrounding area.*

The Project site is surrounded by a mix of residential uses, commercial uses and offices uses. The proposed addition of 194 townhomes would introduce a new residential product different from the existing residential mix of single family and medium density residential homes fronting Hazel Avenue and much of the neighborhood to the north (Rex Road, Oakview Avenue, Kimball Avenue, and Rio

Vista Street). Also, more neighborhood-serving commercial space should be oriented towards the existing neighborhood to the north. Larger existing commercial space exists south of the project site serving the needs of downtown shoppers looking for such services. Specifically, this Project, as currently designed, focuses on complementing the existing downtown area and not the existing neighborhood to the north. Locating more neighborhood-serving commercial space oriented towards the north would not impair the character and integrity of the surrounding area and would serve as a bridge or connection to this neighborhood. As currently designed, the project would impair the character of the lower density neighborhoods to the north.

As designed, traffic leaving the Project on Hazel Avenue will be required to turn right eastward so that existing neighborhoods to the west would not experience increased traffic through their neighborhoods; however, the opportunity for pass-through traffic remains a potential problem associated with the design of the proposed development. The applicant had proposed islands in the middle of Hazel Avenue while a "pork chop island" design on the Project site was thought to be the best way to direct traffic back to Foothill Boulevard, a major arterial, instead of into the existing residential neighborhood. There is no guarantee that either traffic design feature will preclude Project traffic from making illegal left turns from the Project site into the existing neighborhood, even with medians within Hazel Avenue or with pork chop islands designed into each Hazel Avenue egress point; thus, the Project has the potential to negatively impact the character and integrity of the existing lower density residential neighborhoods adjacent to the Project.

No specific evidence was presented at the Planning Commission hearing on October 17, 2013, that the Project would entail higher quality materials/finishes and architecture envisioned by the City. Only verbal affirmation by the applicant that these features would be incorporated into the Project at the time of building permit submittal has been provided. The Commission finds the Project submittal lacking in detail as to superior high quality materials, finishes and architecture. The applicant testified that the standard specification level for the townhomes would consist of tile entries, wood cabinets, pre-wiring, etc., but formal details of such specifications were not shown on the submitted plans, nor presented to the Commission for either interior or exterior treatments.

INTEGRAL RESPONSE:

The Project does not introduce a new residential product different from the current use mix near the Project site. The Project site is surrounded by both lower density and higher density residential uses and similarly-zoned properties. The Project does not offer a different density than the neighborhoods to the north of the Project site. Instead, the Project call for construction of medium density housing, which is consistent with the mix of apartments and single family homes directly across the street along Hazel Avenue.

The Project will undoubtedly improve the character of the existing neighborhoods to the north, which are characterized by a hodge-podge of densities, and inadequate parking. The Project will improve property values to the north of the site by adding quality development to the area in the place of vacant blight. The Project will entail higher quality materials/finishes and architecture, and the planting of new, irrigated landscaping, including 278 new trees. The standard specification level for the townhomes will consist of tile entries, wood cabinets, pre-wiring, and the like. There will be numerous optional upgrades typical of today's new homes, such as granite countertops, hardwood flooring, upgraded fixtures, solar roof panels, and the like. Placing additional retail along the Hazel Avenue frontage to "serve" the neighborhoods to the north would not only be unsuccessful based on Integral's analysis of downtown Hayward's economics, but more importantly, retail along Hazel Avenue would create more cut-through traffic in the Prospect Hills neighborhood. The Project instead directs retail traffic from Foothill Blvd. directly into designated retail parking lots along Foothill, keeping the traffic away from Prospect Hills.

As a result of the Project's conditions of approval, traffic leaving the project on Hazel Avenue would not be able to turn westward and drive through the neighborhoods to the west, directing traffic generated by the project onto Foothill Boulevard, a major arterial. The proposed findings state that there is no guarantee that the "pork chop island" designs will prevent vehicles from making an illegal left turn onto Hazel Avenue, but the City should assume that generally, its citizens will follow the law.

Moreover, the proposed findings' criticisms of the Project are clearly inconsistent, showing that a rejection of the Project would be unfounded and arbitrary. In the same breath as criticizing increased traffic that "has the potential to negatively impact the character and integrity of the existing lower density residential neighborhoods adjacent to the Project," the proposed findings (improperly) criticize the Project as "low density housing" and advocate a more intensive, higher density use. This type of development will only result in more traffic impacts and additional illegal left turns onto Hazel Ave. The Project as proposed was designed to minimize impacts to the surrounding Prospect Hills neighborhood by providing four distinct ingress and egress points.

Finally, Integral's Conditional Use Permit application was deemed complete by the City, in writing, on three separate occasions. The City never requested additional information regarding interior finishes and architecture, but Integral remains ready, willing and able to provide more information, including examples of these finishes. As stated at the October 17, 2013 Planning Commission hearing, the finishes will be in line with similar developments in City of Fremont, such as Tavenna by Pulte Homes in the Ardenwood area.

PROPOSED CITY FINDING:

4. *The proposed use will be detrimental to the public health, safety, or general welfare.*

Public testimony identified issues that might be a detriment to the public health, safety and welfare. Those issues include concerns that cultural resources might be uncovered on-site during the demolition and construction phase of the Project and traffic impacts from the Project that could potentially worsen levels of service at intersections along Foothill Boulevard and the surrounding City street system. Based upon the analysis in the Project Initial Study, it is highly unlikely that cultural resources would be uncovered as part of any site construction; and traffic impacts would not worsen beyond the Hayward General Plan Circulation Element's established environmental impact threshold policy for roadway intersection levels of service. The existing Mervyn's headquarters building may be considered "historic" since the existing on-site structure is over 50 years old (the threshold for structures designated as historic) The recent Historical Resources Survey and Inventory Report doesn't show the former Mervyn's Headquarters site as a historic resource even though it technically qualifies based upon the age of the structure. Although the City's park dedication standards require up to 3.18 acres of on-site public parkland, no public park would be provided as part of the Project (the nearest public park, Carlos Bee, is approximately one mile away from the Project site). Also, demand for on-street parking surrounding the site would increase if the Project were to be built.

The use of the reduced trip generation rates for access to BART may not be appropriate because the market for home-buyers, according to the developer, would be San Francisco Peninsula residents who work in Silicon Valley and BART does not serve that market. The transit orientation of the development has not been established, since the Project has no bus stop, no shuttle or other transit-friendly amenities and is providing three-car garages with tandem parking in many cases and a minimum of two-car garages for all units. The prior use,

Mervyn's headquarters offices, provided a frequent shuttle to the Hayward BART Station.

The small commercial spaces proposed do not provide the size or type of commercial use warranted on Foothill Blvd. or the type of job generation commensurate with use of one of the last large commercial parcels centrally located in Hayward.

INTEGRAL RESPONSE:

It is clear that the Project's proposed residential and commercial uses will not have a negative effect on the public health, safety, or general welfare, as clearly demonstrated by the Initial Study/mitigated Negative Declaration ("IS/MND") prepared in connection with the Project. Specifically, a conditional use permit allowing first-floor residential units has no effect on the public health, safety or general welfare. If analysis demonstrates that public services demands warrant it, as stated above, Integral will be required to make a one-time payment for such costs, or form and/or be annexed into an existing CFD, which through assessments, would pay for needed public safety services.

The currently existing, run-of-the-mill commercial "glass box" building is not a historical resource, regardless of the building's age. As stated in the IS/MND, there are no historical resources associated with the improvements on the site or the affected parcels, and because the Project site has already been significantly disturbed and completely developed, the probability of impacting cultural resources is virtually nonexistent. The appropriate analysis for this previously developed, infill Project is much different from a "green field" project in that regard.

The IS/MND demonstrates that no substantial adverse environmental effects would occur after implementation of mitigation measures included therein, including no significant impacts on public services or hazards. Traffic impacts are not expected to be significant and would be less than peak-hour trips compared with the previously existing Mervyn's office building use, which is undoubtedly a more intensive use with regard to traffic than the proposed Project. The proposed finding that trip generation rates for access to BART may not be appropriate with the proposed use complete lacks support and is speculative. However, even if that finding is true, the Project's traffic impacts are still not expected to be significant.

The IS/MND also concludes that the impacts on recreation are less than significant because the Project proposes to include some amenities and common areas within the development, including open space and trails, and Integral will be required to pay applicable park in-lieu fees.

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Based on the City's Off-Street Parking Regulations, the Project would comply with most of the City's minimum parking standards. Thus, contrary to the insinuations in the proposed findings, including open space and the Project provides ample parking for both its residential and commercial uses. According to on-street parking surveys conducted by TJKM staff, there are 60 spaces available on public streets within the one block segment of the project, which include Hazel Avenue between Main Street and Foothill Boulevard and McKeever Avenue between City Center Drive and Main Street. During the a.m. peak period, the maximum parking occupancy within the project vicinity is approximately 45 percent and during the p.m. peak period, it is approximately 37 percent. Based on the parking survey, there are 33 on-street parking spaces available during the a.m. peak period and 38 parking spaces available during the p.m. peak period. These available on-street parking spaces could be utilized by project residents and visitors/guests to the proposed development, in addition to the on-site parking spaces. Moreover, even if demand for street parking is increased (which it will not be), street parking is not a proper basis for rejecting a project, as increased street parking is a "social cost" that must be borne by all citizens, not one Project proponent.

Finally, assertion in this proposed finding that "the small commercial spaces proposed do not provide the size or type of commercial use warranted on Foothill Blvd. or the type of job generation commensurate with use of one of the last large commercial parcels centrally located in Hayward" is incredible and nonsensical in the face of the existence of the long-vacant commercial properties throughout the downtown area. Furthermore, as discussed above, Economic and Planning Systems has already demonstrated that the development will add \$488,000 to the City's general fund revenues each year. The development will generate \$9.138 million in annual retail sales, including \$5.2 million of annual retail by project residents plus \$3.4 million of on-site retail spending (net of spending by residents). The Project's one time near term benefits include \$8.137 million in development fees and 292 construction jobs. Moreover, the construction of the Project will provide jobs to Hayward residents during the build out of the community as a result of Integral's local hire program.

PROPOSED CITY FINDING:

5. The proposed use is not in harmony with the applicable City policies and the intent and purpose of the zoning district involved.

The current General Plan designation of the site is Downtown - City Center Retail and Office Commercial (CC-ROC). On page C-4 of Appendix C of the General Plan, the Downtown - City Center Area has the following text that explains the unique vision for this area:

"This area is a major activity center in the planning area. It contains major public facilities such as City Center and the Main Library, retail and office areas, and high-density residential areas. Mixed-use development is encouraged to promote the pedestrian orientation and to maintain the downtown area as an integrated living, working, shopping and recreational area. The boundary of this area is delineated in the Downtown Hayward Design Plan."

Although this development is identified as a mixed use project, the attached single family townhomes cannot be considered "high-density residential." The proposed density of the project is 21 units per acre. The allowable density is up to 65 dwelling units per acre. There is no lower end or minimum density standard for the site. With the exception of the new pedestrian/bicycle trail along San Lorenzo Creek, the Project as a whole cannot be viewed as pedestrian-oriented, given the great amount of covered parking that accompanies each new townhome fostering possible automobile usage, as well as the lack of sidewalks in the development and the lack of transit orientation. Also given the minimal amount of commercial space proposed, this development may not be considered an "integrated living, working, shopping and recreational area" in the Downtown area.

Page C-3 of that General Plan appendix lays out the vision for areas with a Retail and Office Commercial land use designation:

"These areas include the regional shopping center (Southland Mall), community shopping centers, concentrations of offices and professional services, and portions of the downtown area and South Hayward BART Station area where mixed retail and office uses are encouraged. Not shown are neighborhood convenience centers that support and are compatible with residential areas."

Again, the minimal amount of proposed commercial space in relationship to the proposed attached single family townhome units cannot be considered the right mix of such uses as envisioned by the General Plan.

One additional section of the General Plan further speaks to what the Project should be pursuant to City policies:

"Recognize the importance of continuous retail frontage to pedestrian shopping areas by discouraging unwarranted intrusion of other uses that weaken the attractiveness of retail areas; encourage residential and office uses to locate above retail uses."

This Project does not carry forward this key notion of having "continuous retail frontage to pedestrian shopping areas" since the design of the proposed commercial uses along Foothill Boulevard creates an "unwarranted intrusion" of attached single family housing unit to the detriment of other retail/commercial uses along this key frontage in Downtown Hayward. This Project does not "encourage residential and office uses to locate above retail uses."

These sections of the General Plan show that the proposed Project is not consistent with the policies of the General Plan in that the Project provides ground floor residential use and minimal ground floor commercial use. City residents testified to their strong desire to have a major retail/office presence and a use that will generate good jobs at this key City development site.

It should be noted that this section of Foothill Boulevard is different from other sections of Downtown Hayward. This section of Foothill Boulevard is a multi-lane arterial with high speed, high-volume vehicular traffic that is not very pedestrian-friendly. B Street is considered an example of a more pedestrian-friendly environment with a continuous retail frontage and presence, with lower volumes of traffic traveling at lower speeds in just two lanes. Future development plans for this site should try to design to this unique area of Downtown Hayward.

INTEGRAL RESPONSE:

The City's findings for approval of the Project (and specifically, Integral's application for a CUP) issued before the October 17, 2013 Planning Commission meeting cited the three exact same provisions of the City's General Plan that are cited above in the City's new proposed finding. Before the October 17 2013 meeting, City staff asserted that "[t]hese sections of the General Plan indicate the proposed project is consistent with the policies," yet these exact same sections are now being used to support the City's proposed finding that the proposed project is **not** consistent with the General Plan's policies. This change in the City's interpretation of the same provisions is arbitrary and capricious.

The Project is consistent with the above-cited General Plan policies because it provides a residential use with a commercial use in Downtown, in close proximity to the Downtown BART station. The current development, with the surface parking lot, unoccupied Mervyn's office building and parking garage, does not create a continuous retail frontage interfacing with the more pedestrian-oriented part of Downtown. It should be noted that this section of Foothill Boulevard is quite different from other sections of Downtown Hayward. Specifically, this section of Foothill is a multi-lane arterial with

high-speed, high-volume vehicular traffic that is not very pedestrian-friendly. B Street is considered an example of a more pedestrian-friendly environment with a continuous retail frontage and presence, with lower volumes of traffic traveling at lower speeds in just two lanes.

Additionally, simply because the Project site's General Plan designation includes high density residential uses, high density residential is not required. Instead, the medium density mixed-use Project proposed by Integral is permitted by and consistent with the General Plan, and specifically, the Downtown - City Center Retail and Office Commercial designation. The proposed density is within the permitted density range. (See, General Plan, Appendix C)

The Project site is zoned Central City Commercial (CC-C), which permits first floor residential uses (along with commercial uses), provided the City approves a Conditional Use Permit. (Hayward Municipal Code ("HMC") § 10-1.1523(b)(4)) The proposed use is permitted, not prohibited, by the HMC.

The Project adds synergy to Downtown. Adding townhomes along with commercial space would contribute to the City's stated goal of making Downtown an active and vibrant area, as referenced in the above-cited provisions of the General Plan and HMC section 10-1.1521. Recent economic studies concerning both Downtown and this specific Project conclude that the Project would add to the City's revitalization of Downtown by providing housing that would attract middle-income households, who would spend disposable income in the Downtown area. The Project also fulfills the intent and purpose of the CC-C zone by replacing an underutilized site with a vibrant, pedestrian-friendly mixed use development, and as a result, revitalizing the Central City and creating economic stimulus, as discussed above.

Finally, as established by the IS/MND, the Project's proposed uses are not only consistent with the General Plan and zoning, but proposed uses are also consistent with surrounding adjacent abutting uses, which consist of mixed-use, commercial and residential uses.

PROPOSED CITY FINDING:

6. That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451. [Subdivision Map Act §66474(a)]

The proposed subdivision is not consistent with the Hayward General Plan, since the mixed use development request provides for an attached single family townhome product instead of a desired "high-density residential" development

envisioned by the City's General Plan. With the exception of the new pedestrian/bicycle trails along San Lorenzo Creek, the Project cannot be considered pedestrian oriented given the great amount of covered parking that accompanies each new townhome fostering possible automobile usage. Also given the minimal amount of commercial space proposed, this development would not be considered an "integrated living, working, shopping and recreational area" in the downtown area pursuant to the provisions of the "City Commercial – Residential Office Commercial (CC - ROC)" land use category of the General Plan.

INTEGRAL RESPONSE:

As stated in the City staff's findings prior to the October 17, 2013 Planning Commission meeting, the proposed subdivision is consistent with the City's General Plan and allows a development project that is consistent with allowed uses and densities designated by the CC – ROC land use category of the General Plan. No Specific Plan applies to the Project. This finding is reiterated in IS/MND, which establishes that the project is consistent with the General Plan and surrounding uses.

The Planning Commission's apparent "desire" for a high-density residential development does not mean that the Project is now inconsistent with the General Plan. No portion of the General Plan mandates high-density residential development throughout the CC – ROC designation. The proposed Project greatly enhances a long-neglected portion of the City, and the proposed development is consistent with surrounding uses, including the lower density uses near the Project site. A higher density use would have the potential to negatively impact these surrounding uses through increased short term and long term environmental impacts that would result from a more intense development of the Project site

PROPOSED CITY FINDING:

7. That the design or improvement of the proposed subdivision is inconsistent with applicable general and specific plans. [Subdivision Map Act §66474(b)]

The proposed subdivision is not of an acceptable design consistent with the Hayward General Plan, since the internal access roads within the Project are narrower than the required width for such private streets and require an exception to the City's standard circulation design and roadways standards. The proposed Project is an underutilization of the site. A previous development plan for the site incorporated more housing units and additional ground floor

commercial space designed into the Project, which was more in keeping with what the General Plan envisioned for this section of Downtown Hayward.

INTEGRAL RESPONSE:

As stated in the City staff's findings prior to the October 17, 2013 Planning Commission meeting, the proposed subdivision/Project design is consistent with the General Plan because the circulation design and roadways are provided to accommodate the anticipated traffic, and utilities, including water, sewer, and storm drain facilities, will be provided to accommodate the proposed development. As demonstrated by the IS/MND, the Project will have no significant impacts on aesthetics or land use. Additionally, TJKM Transportation Consultants reviewed the Project site plan to evaluate on-site circulation and access, which was determined to be adequate.

Replacing a building that has been vacant for 5 years – and is adjacent to a building that has been vacant for 30 years – is not an underutilization of the Project site. The previous development plan presented by Integral was modified to respond to complaints from both the City Council and neighboring residents. Rejection of this Project will not result in higher density development, but instead, will result in continued underutilization of the Project site for the foreseeable future.

The exterior designs of the townhomes employ five different and distinct styles. Plans show Agrarian Contemporary, Contemporary Craftsman, Contemporary Monterey, Contemporary Spanish and Coastal Contemporary styles that would be used. Each is unique and can be seen as a transition to the existing neighborhood beyond Hazel Avenue. The proposed exterior color selection for each design style is warm and aesthetically pleasing.

PROPOSED CITY FINDING:

8. *That the site is not physically suitable for the type of development.*
[Subdivision Map Act §66474(c)]

The geotechnical investigation performed by Berlogar, Stevens & Associates (February 10, 2012), which is referenced in the Project IS and MND, shows that the proposed subdivision might not be suitable for the proposed development since an additional geotechnical evaluation of the site is necessary prior to a building permit issuance for the Project. This site was formerly impacted by flooding and may be subject to future flooding.

INTEGRAL RESPONSE:

Contrary to this proposed finding, as recognized by City staff prior to the October 17, 2013 meeting, the geotechnical investigation performed by Berlogar, Stevens & Associates (February 10, 2012) demonstrates that the proposed subdivision/Project would occur on a site suitable for the Project's type of development, in compliance with the City's parking, open space, and traffic impact standards. This is confirmed by the IS/MND, which concludes that impacts on geology will be less than significant.

The Project site has already been fully developed, which is strong evidence that the site is suitable for this type of development; indeed, a large commercial building, surface lot and parking structure have existed on the Project site for decades. The appropriate analysis of this fully developed, infill Project is much different from a "green field" project.

PROPOSED CITY FINDING:

9. That the site is not physically suitable for the proposed density of development. [Subdivision Map Act §66474(d)]

The site is too large and important by way of its location, size, zoning and existing structures (multi-level parking garage and office building) to dedicate to low density residential development. A Project that generates jobs and high density use is more appropriate for this key site in the City.

INTEGRAL RESPONSE:

This proposed finding is not relevant to the Project's **physical** suitability for the proposed density. This finding is contrary to the geotechnical investigation performed by Berlogar, Stevens & Associates, which demonstrates that the proposed subdivision would occur on a site suitable for the proposed Project, including the proposed density.

Notwithstanding the foregoing, the Project is not "low density," but instead qualifies as a medium density mixed used development. (General Plan, Appendix C, p. C-2) Moreover, as discussed above, the Project will result in significant economic stimulus. Economic and Planning Systems has already demonstrated that the development will add \$488,000 to the City's general fund revenues each year. The development will generate \$9.138 million in annual retail sales, including \$5.2 million of annual retail by project residents plus \$3.4 million of on-site retail spending (net of spending by residents). The Project's one time near term benefits include \$8.137 million in development fees and 292 construction jobs. Moreover, the construction of the Project

will provide jobs to Hayward residents during the build out of the community as a result of Integral's local hire program. Rejection of this project will result in continued vacancy and blight on this "key site."

PROPOSED CITY FINDING:

10. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. [Subdivision Map Act §66474(e)]

The Project, as proposed, raises concerns about public service access, traffic and parking, consistency with local and regional plans, flooding hazards, a potentially important structure in the history of Hayward's development, Native American artifacts and remains, and lack of usable open space in the common areas.

INTEGRAL RESPONSE:

The IS/MND demonstrates that substantial adverse environmental damage would not result from the proposed subdivision, with incorporation of required mitigation measures. As such, as discussed in detail above and in the IS/MND, Project will not result in substantial impacts to public services, traffic, parking, consistency with local and regional plans, hazard, historical resources or recreation. Moreover, the Project is subject to conditions of approval that assure proper funding for public services and adequate parking through CFD requirements.

The Project will not impact Native American artifacts or remains on the Project site, as the Project site has already been fully developed and therefore is significantly disturbed. Additionally, as a fully developed infill site, the Project site contains no fish or wildlife habitats.

PROPOSED CITY FINDING:

11. That the design of the subdivision or type of improvements is likely to cause serious public health problems. [Subdivision Map Act §66474(f)]

At the hearing, the public voiced concerns regarding safe access to adjacent neighborhoods due to the traffic into and out of the development and its impact on the surrounding street system. In addition, concerns were voiced about noise, parking, traffic and air quality during construction of the Project. The Project adds minimal housing inventory near adjacent employment and retail centers to reduce vehicle miles traveled, which reduces impacts on air quality and greenhouses gases. A more intensive project (more housing units and additional commercial square footage) would provide greater benefit to adjacent employment and retail centers as envisioned by the City's General Plan.

INTEGRAL RESPONSE:

Prior to the October 17, 2013 hearing, City staff specifically found that the Project adds housing inventory near adjacent employment and retail centers to reduce vehicle miles traveled, which reduces impacts on air quality and greenhouses gases.

The IS/MND specifically considered all the impacts raised in this proposed finding, and concluded that all impacts would be less than significant with mitigation. Additionally, adequate capacity exists to provide sanitary sewer service to the Project site.

This proposed finding also contradicts itself. The proposed finding raises concerns regarding noise, parking, traffic and air quality during construction of the Project and concerns regarding safe access to adjacent neighborhoods due to the traffic into and out of the development and its impact on the surrounding street system in the same breath as requesting a “more intensive project.” Such a project would **increase** these very same impacts the City is concerned about, and therefore the Commission appears to be paradoxically requesting a project with a more dense/intensive use and yet less environmental impacts.

PROPOSED CITY FINDING:

12. That the design of the subdivision or the type of improvements may conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. [Subdivision Map Act §66474(g)]

There are no existing public easements within the boundary of the proposed subdivision, nor are any easements necessary. The Project site is fully developed and currently consists of a 336,000 square foot unused office building and

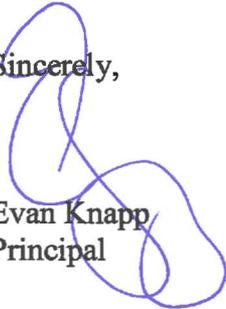
parking facilities, and therefore, there is currently no public access though the property.

INTEGRAL RESPONSE:

No response necessary.

Integral appreciates the opportunity to comment on these proposed findings, and for the reasons discussed above, respectfully requests that the Planning Commission reject these findings and approve the Project as proposed. Integral looks forward to a long, productive working relationship with the City and an opportunity to greatly enhance the downtown area through this Project.

Sincerely,



Evan Knapp
Principal

cc: City Manager Fran David
Councilmember Barbara Halliday
Councilmember Greg Jones
Councilmember Al Mendall
Councilmember Marvin Peixoto
Councilmember Mark Salinas
Mayor Michael Sweeney
Councilmember Francisco Zermeno