

**CITY OF HAYWARD
PLANNING COMMISSION
CONDITIONAL USE PERMIT
APPLICATION NO. 201601868
438 WEST TENNYSON ROAD
CONDITIONS OF APPROVAL**

GENERAL

1. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
2. Conditional Use Permit Application No. 201601868, is approved subject to the Architectural Plans included as Attachment IV to the staff report, except as modified by the conditions listed below.
3. Applicant shall apply for all necessary building permits and/or all other related permits from the Building Division. All structures shall be constructed and installed in accordance with the California Building Code, Uniform Mechanical and Plumbing Code, National Electrical Code, and the California Fire Code as adopted by the City of Hayward.
4. All signage shall comply with the City of Hayward Sign Regulations. Sign permits shall be obtained prior to the installation of any new or relocated signage.
5. The owner shall maintain in good repair all building exteriors, walls, lighting, drainage facilities, landscaping, driveways, and parking areas. The premises shall be kept clean and weed-free.
6. The applicant shall be responsible for graffiti-free maintenance of the property, and shall remove any graffiti within 48 hours of occurrence or City notification.
7. If determined to be necessary for the protection of the public peace, safety and general welfare, the City of Hayward may impose additional conditions or restrictions on this permit.
8. The applicant, property owner, or designated representative, shall allow code enforcement staff access to the property for site inspections to confirm all approved use conditions have been completed and are being maintained in compliance with all adopted city, state, and federal laws.

9. The Planning Director may revoke this permit for failure to comply with, or complete all, conditions of approval or improvements indicated on the approved plans.
10. All outstanding fees owed to the City, including staff time spent processing this application, shall be paid in full prior to issuance of a building permit or certificate of occupancy.
11. This approval is void three (3) years after the effective date of approval unless a building permit application has been submitted and accepted for processing by the Building Official and substantial improvements have been made as determined by the Planning Director.
12. Any modification to this permit shall require review and approval by the Planning Director and/or the Planning Commission, if necessary.
13. Tobacco retail sales may continue with the proposed redevelopment of the site if the use is not discontinued for a period of six month or longer. If the use is discontinued for a period of six months or longer, or if the applicant fails to comply with all local, state, or federal laws applicable to tobacco products, electronic smoking devices or tobacco paraphernalia, and all requirements and operational standards contained within the City's Ordinance then tobacco sales shall be terminated in accordance with the Ordinance.
14. Violations of any approved land use conditions or requirements will result in further enforcement actions by the Code Enforcement Division. Enforcement includes, but is not limited to, fines, fees/penalties, special assessment, liens, or any other legal remedy required to achieve compliance including instituting a revocation hearing before the Planning Commission.
15. Failure to comply with any of the conditions set forth in this approval, or as subsequently amended in writing by the City, may result in failure to obtain a building final and/ or a Certificate of Occupancy until full compliance is reached. The City's requirement for full compliance may require minor corrections and/ or complete demolition of a non-compliant improvement regardless of costs incurred where the project does not comply with design requirements and approvals that the applicant agreed to when permits were pulled to construct the project.

PLANNING

16. A copy of these conditions of approval shall be included on a full-size sheet in the building permit plan set.
17. Loitering on the site is prohibited.

18. The hours of operation for the car wash shall be 7 a.m. to 8 p.m.
19. If noise from the carwash exceeds 70 dBA, measured at any property plane, the applicant shall install noise suppression equipment or install automatic doors at the entrance/exit of the car wash.
20. Modify the eastern elevation of the new convenience store to match the colors and materials and articulation used on other elevations such as windows or faux windows, trim and awnings, a belly-band between the first and second stories, a mural, mosaic or other artistic elements. The final design of the eastern elevation of the convenience store shall be provided on the building permit plans and shall be reviewed and approved by the Planning Division.
21. Modify the southern elevation of the car wash structure to match the colors and materials and articulation utilized on other elevation such as windows or faux windows, trim and awnings, a mural, mosaic or other artistic elements. The final design of the southern elevation of the car wash structure shall be provided on the building permit plans and shall be reviewed and approved by the Planning Division.
22. A decorative wrought iron metal fence shall be installed along the southern property line between the project site and Tennyson Park. The openings between the vertical and/or horizontal pickets should be less than three and one-half inches. The final fence design shall be reviewed and approved by the Planning Division prior to the issuance of building permits.
23. A minimum of three trash receptacles, with self-closing metal lids, shall be located near the entrance to the convenience store and near the vacuum parking areas. The final locations shall be shown on the building permit submittals and approved by the Planning Division prior to issuance of the building permit.
24. Outdoor storage is prohibited.
25. All rooftop equipment shall be shown on building permit submittals and adequately screened from view.
26. Utility meters, when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen, allowing sufficient access for reading.

Building Division

27. At least one accessible route shall connect each story in multi-story buildings and facilities. If offices and bathing facilities are provided on a level not served by an elevator, then office and bathing facilities must be provided on the accessible ground floor. Some exceptions may apply (CBC 11B-206.2.3). Show details related to compliance on building permit submittal.

28. Car and van parking spaces shall be 216 inches (18 feet) long minimum (CBC 11B-502.2). Show details related to compliance on building permit submittal.
29. Access aisles shall extend the full required length of the parking spaces they serve (CBC 11B-502.3.2). Show details related to compliance on building permit submittal.
30. At least one of the parking stalls at the vacuum station must be accessible. Show details related to compliance on building permit submittal.
31. For clarity, provide building area analysis to show that the project complies within the allowable building heights and areas on plans.
32. Life and safety items such as fire-ratings of walls, opening protection (if any), egress, etc. shall be addressed on building permit submittal.
33. Eave overhangs and similar projections are not permitted to extend beyond the exterior wall if the fire separation distance (FSD) is two feet or less from the property line. Show details related to compliance on building permit submittal.
34. Remove the detectable warnings in the access aisles. Changes in level are not permitted in the access aisles (CBC 11B-502.4). Show details related to compliance on building permit submittal.
35. Provide the minimum plumbing fixtures analysis on building permit submittal.
36. Provide other building code requirement compliance details such as structural calculations, soils report, disabled access, plumbing, mechanical, electrical, T24 energy compliance, CALGreen compliance and others shall be reviewed at the building permit review process. Additional comments may apply depending on information provided in the building permit submittal.
37. The buildings shall be solar ready and comply with the requirements of CA Energy Code Section 110.10(b) through 110.10(d). Show details related to compliance on building permit submittal.
38. Provide capability to facilitate future installation of electric vehicle charging in the parking spaces. Provide and verify the required number of EV charging spaces. At least one of the spaces must be accessible. Show details related to compliance on building permit submittal.
39. Fuel-efficient vehicle parking and bicycle parking and locker may be required. Provide and verify the required number of fuel-efficient and car/van pool vehicle parking and short-term and long-term bicycle parking. Show details related to compliance on building permit submittal.

40. Supplemental building construction and improvement tax shall be required at the time of issuance of building permit.
41. School fee payment is required prior to issuance of building permit.

Development Review Services Engineering/Public Works Engineering

42. *Grading, Drainage, and Improvements:* A grading permit issued by the Public Works Department is required prior to the issuance of building permits. The grading permit application shall include engineered grading and drainage plans showing finish grades and site drainage along with improvement plans (both on-site and off-site) as part of the grading permit application. The grading and drainage plan shall include, but not be limited to, the following design & submittal requirements:
 - a) All on-site storm drainage conveyance facilities and earth retaining structures 4-foot in height or less (top of wall to bottom of footing) shall be reviewed and approved by Public Works. Earth retaining structures greater than 4-feet in height shall be reviewed and approved by the Building Division of the Development Services Department. The plans should include all proposed underground pipes, building drains, area drains and inlets. The on-site storm drainage system (if applicable) shall be designed to convey a 10-year storm event.
 - b) On-site and street lighting fronting the development shall comply with the City's Security Ordinance. Lighting shall be designed by a qualified lighting designer and erected and maintained so that light is confined to the property and will not cast a direct light or glare upon adjacent properties or rights-of-way.
43. *Stormwater Runoff Pollution Control Measures:* This project shall comply with the Alameda Countywide Cleanwater Program (ACCP) which requires the implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges from the project site.
 - i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance the ACCP.
 - ii. The property owner shall enter into the City's standard "Stormwater Treatment Measures Maintenance Agreement" as prepared by the City. The Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance responsibility for private treatment control and site design measures is bound to the property in perpetuity.

44. *Construction Damages*: The Developer shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project prior to issuance of the Final Construction Report by the City Engineer.

Landscaping

Landscaping and Irrigation Plans.

45. Detailed landscape and irrigation plans that are in full compliance with the City's *Bay-Friendly Water Efficient Landscape Ordinance, Tree Preservation Ordinance, Off-Street Parking regulations, and other applicable sections in Municipal Codes* shall be submitted and approved prior to the issuance of building permits. Plans shall be prepared by a licensed landscape architect, and minimum one set of plans shall be wet-stamped and wet-signed. In addition to the plans, a copy of the arborist report including appraised value of trees shall be submitted as a part of the building permit submittal package.
46. Tree mitigation for trees to be removed shall be provided above and beyond required trees. Required trees are in setback areas, parking lot shade trees and buffer trees. Plant a minimum of one twenty-four-inch-box tree at every twenty to forty feet on center depending upon tree species in the front yard setback areas and one fifteen-gallon evergreen screening tree at every twenty feet on center in the rear yard setback areas abutting Tennyson Park. The proposed Lagerstroemia is a deciduous tree therefore you must propose an evergreen tree.
47. Correct spelling in the tree mitigation summary chart prior to submittal of landscaping plans.
48. The plan base information shall include all above and underground utilities as well as bio-treatment areas. The architectural, site and civil plan plans shall be internally consistent.
49. Landscaping plans shall include the statement, "I have complied with the criteria of City of Hayward Bay-Friendly Water Efficient Landscape Ordinance and applied them for the efficient use of water in the landscape and irrigation design plan."
50. Landscape plans shall show plant spacing that is no less than the minimum spread at maturity. Proposed spacing for ground covers shall be revised and included on landscape plans.
51. Provide planting details and specifications on the landscape plans. Tree planting and staking detail shall conform to the City Standard detail SD-122 or equal except for palm planting. If SD-122 would be used, the detail shall be provided in the planting detail sheet.

52. A qualified soil testing laboratory shall complete a soil fertility test prior to amending the planting soil and shall provide recommendations for organic compost. The final testing results, recommendations and organic compost shall be submitted to City Landscape Architect prior to requesting the final landscape inspection with Appendix C Certification of Completion.
53. Root barriers shall be installed linearly against the paving edge in all instances where a tree is planted within seven feet of pavement or buildings, and as directed by the landscape architect.
54. Plant fertilizers shall be Organic Materials Review Institute (OMRI)-certified.
55. Detailed irrigation plan, specifications and details shall be submitted and approved prior to the issuance of building permits.
56. Irrigation plans shall show the dedicated irrigation meter size as well as the size and location of backflow prevention device. Backflow prevention device shall conform to the City Standard Detail SD-202 and the detail shall be provided on a detail sheet.
57. Bio-treatment areas that are wider than ten feet shall be irrigated with matched precipitation rotator type, or as efficient overhead spray irrigation system allowing “cycle and soaking” program function on a separate valve.
58. Prior to the issuance of Certificate of Occupancy, all landscape and irrigation shall be completed in accordance to the approved plan and accepted by the City Landscape Architect. Before requesting an inspection from the City Landscape Architect, the project landscape architect shall inspect and accept landscape improvements and shall complete Appendix C. Certificate of Completion in the City’s Bay-Friendly Water Efficient Landscape Ordinance. The completed Certificate of Completion Part 1 through Part 7 or applicable parts shall be faxed/e-mailed/turn in prior to requesting an inspection from the City Landscape Architect.

Tree Preservation.

59. A tree preservation bond will be required for all trees that are to remain, and the bond will be in effect throughout the construction period and until completion of the entire project improvements. If any trees that are designated as saved are removed or damaged during construction shall be replaced with trees of equal size and equal value.
60. Trees shall be preserved in accordance with the *Tree Preservation Ordinance*. Prior to the commencement of clearing and grading operations, all trees to be preserved or removed shall be indicated on the grading, site and landscape plans, and trees to remain in place shall be noted and provided with tree protection measures in compliance with City codes.

61. A tree removal permit shall be obtained prior to the removal of any tree in addition to demolition permit or grading permit.

Landscape Maintenance.

62. Landscaping shall be maintained in a healthy, weed-free condition at all times and the irrigation system shall reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which contribute pollution to the Bay.
63. The owner's representative shall inspect the landscaping on a monthly basis and replace dead or dying plants (plants that exhibit over 30% dieback) within ten days of the inspection.
64. Three inches deep mulch should be maintained in all planting areas. Mulch shall be organic recycled chipped wood in the shades of Dark Brown Color.
65. All nursery stakes shall be removed during tree installation and staking poles shall be removed when the tree is established or when the trunk diameter of the tree is equal or larger to the diameter of the staking pole.
66. All trees planted as a part of the development as shown on the approved landscape plans shall be "Protected" and shall be subjected to Tree Preservation Ordinance.
67. Tree removal and pruning shall require a tree pruning or removal permit prior to removal by City Landscape Architect. Any damaged or removed trees without a permit shall be replaced in accordance with Tree Preservation Ordinance or as determined by City Landscape Architect within the timeframe established by the City and pursuant to the Municipal Code.
68. The irrigation system shall be tested periodically to maintain uniform distribution of irrigation water. The irrigation controller shall be programmed seasonally and shall be shut-off during winter season, and shall be flushed and cleaned in the spring.

Utilities and Environmental Services

Water:

69. The property is served by a 5/8-inch domestic water meter (Account # 21722). If the existing water service and meter cannot be reused, it must be abandoned by City Water Distribution Personnel at the applicant's/owner's expense. Plans indicate that the existing 5/8-inch domestic water meter will be reused as an irrigation meter. The gallon-per-minute demand for the irrigation system must be provided to determine proper meter size.

- a. The gallon-per-minute demand for the irrigation system shall be provided to determine proper meter size. Plans for the building permit must show the gallon-per-minute demand of the irrigation system.
 - b. The civil plans indicate that there will be two Reduced Pressure (RP) backflow prevention assemblies installed for the irrigation water meter. On the civil and landscaping plans, revise the two RP backflow prevention assemblies to show one RP backflow prevention assembly.
70. Plans indicate that a new domestic water meter will be installed to serve the mini-mart building. Plans must be revised to show the size of the new domestic water meter, service line, and RP backflow prevention assembly. Based on the water fixtures show on the plans for the mini-mart building, the finished structure will have approximately 21.5 water fixture units, which requires a minimum 5/8" domestic meter. The cost for a new 3/4-inch service line and 5/8-inch domestic meter is \$9,984 (\$3,500 installation fee + \$6,484 facilities fee).
 - a. Building permit submittal plans shall indicate the size of the domestic water meter, service line, and the RP backflow prevention assembly that will be installed for the mini-mart.
71. Plans indicate that a new one-inch domestic meter will be installed to serve the car wash. Based on Sheet C2.1, the car wash will have a demand of 38 gallons per minute, which requires a minimum one-inch domestic water meter. The cost for a new one-inch service line and one-inch domestic meter is \$19,710 (\$3,500 installation fee + \$16,210 facilities fee). The building permit submittal plans shall show the location and size of the new service line, meter, and the RP backflow prevention assembly.
72. The civil plans and landscaping plans provided show inconsistent water supply lines for irrigation and domestic use. On the plans for the building permit, revise plans to ensure that they are consistent.
73. New fire services, if required, must be installed by City Water Distribution Personnel at the owner's/applicant's expense. Fire service installations are billed on an actual cost basis with a time and materials deposit due prior to the start of installation. The final billing of the job will be the actual costs of the work performed and materials used. If actual costs are less than the deposit amount, the owner/applicant will receive a refund in the amount of the unused deposit. If actual costs exceed the deposit amount, the owner/applicant will receive an invoice in the amount of the overage.
74. All domestic & irrigation water meters must have Reduced Pressure (RP) Backflow Prevention Assemblies, per City of Hayward Standard Detail 202. Backflow Prevention Assemblies shall be at least the size of the water meter or the water line on the property side of the meter, whichever is larger.

75. Water meters and services to be located a minimum of two feet from top of driveway flare as per City Standard Details SD-213 thru SD-218.
76. Water mains and services, including the meters, must be located at least ten feet horizontally from and one-foot vertically above any parallel pipeline conveying untreated sewage (including sanitary sewer laterals), and at least four feet from and on foot vertically above any parallel pipeline conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. Minimum horizontal separation distances may be reduced by using higher grade piping materials.
77. Per the City of Hayward Municipal Code, new commercial car washes must utilize recirculating water systems. Provide design detail showing compliance with this provision on the building permit submittal.

Sewer:

78. The sanitary sewer laterals shall have cleanouts and be constructed per City Standard Detail SD-312. Design details shall be provided on building permit submittal.
79. Sewer connection fees for non-residential connections are calculated based on the volume and strength of the wastewater discharge. The property has a permitted discharge capacity of 210 gallons per day of domestic strength discharge. Sewer System Connection/Capacity to accommodate the volume and waste strength of wastewater to be discharged from the subject project may need to be purchased, at the rates in effect at the time of purchase, prior to discharge. Based on the information provided on Civil Sheet C2.1, the discharge for the car wash has been calculated at 600 gallons per day. The cost for this additional wastewater discharge has been calculated at \$22,013. This fee will be due at the time the building permit is issued.

Solid Waste

80. All businesses shall arrange for separate collection of recyclables and all businesses that generate significant organics must arrange for separate collection of organics (food, food-soiled paper, and plant debris). For more information, please visit <http://www.recyclingrulesac.org/city/city-of-hayward/>.
81. Construction & Demolition Debris: All construction and demolition debris shall be recycled per certain ordinance requirements. Submittal of the Debris Recycling Statement is required with building permit submittal. The form can be found at <http://www.hayward-ca.gov/services/city-services/construction-and-demolition-debris-disposal>.

Fire Department/Hazardous Materials

82. The Hayward Fire Department shall be immediately notified if ground water and/or soil contamination is discovered during demolition, and/or removal of any fueling systems, underground storage tanks, associated piping, etc. An approved and acceptable means shall be established to remediate the contamination.
83. Any modifications/upgrades of the existing underground fuel system, underground storage tanks, monitoring panel, associated piping, clean air separator, under dispenser pans, dispensers, sensors, alarms, overfill prevention system, or any other element of the fueling system will require a separate Fire Department permit and review.
84. Installation of the aboveground Propane retail tank exchange and tank storage will require a separate fire permit. The location of the propane tanks may need to be relocated from under the AC deck to another approved location.
85. Removal, relocation, reinstallation of the existing underground storage tank monitoring system panel shall only be done by continuous uninterrupted power source. The underground storage tanks shall be continuously monitored at all times throughout the duration of the project.
86. Construction of the new building and new fuel islands and dispensers should meet California Fire Code and California Building Code.
87. Install approved type portable fire extinguishers within the mini-mart and at the fuel island(s), as required by the 2016 California Fire Code (CFC).
88. No commercial cooking equipment allowed within the mini-mart unless reviewed and approved by the Hayward Fire Department.
89. Signage and labeling on fuel islands shall meet compliance from the California Fire Code (CFC) and local Ordinance.
90. Address numbers shall be six-inches minimum on a contrasting background to be visible from the street.
91. New fuel island canopy footing locations shall be approved before they are installed.