

**CITY OF HAYWARD PLANNING COMMISSION  
CONDITIONAL USE PERMIT, SITE PLAN REVIEW APPLICATION NO. 202101267  
PROPOSED DRIVE-THRU RESTAURANT  
LOCATED AT 411 INDUSTRIAL PARKWAY**

**DRAFT CONDITIONS OF APPROVAL**

**GENERAL**

1. The developer 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. The permittee, property owner or designated representative shall allow the City's staff to access the property for site inspection(s) to confirm all approved conditions have been completed and are being maintained in compliance with all adopted city, state and federal laws.
3. 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.
4. All outstanding fees owed to the City, including permit charges and staff time spent processing or associated with the development review of this application shall be paid in full prior to any consideration of a request for approval extensions and/or the issuance of a building permit.
5. 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. Violations of any approved land use conditions or requirements will result in further enforcement action 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 the City of Hayward instituting a revocation hearing before the Planning Commission.
6. A copy of these conditions of approval shall be scanned and included on a separate, full-sized sheet(s) in the building permit plan check set.

7. 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.
8. The Approving Body may revise or revoke the conditions of this use permit for failure to comply with, or complete all, conditions of approval or improvements indicated on the approved plans.
9. The proposed use shall operate according to these conditions of approval and the approved narrative/plan set. Any future change, modification or expansion of the approved use shall require the submittal of a new use permit application and be subject to additional review and approval by the City.
10. Within 60 days of project approval, the applicant shall install one non-illuminated "Coming Soon" sign on the project site that includes a project rendering, a project summary, and developer contact information. The sign shall be constructed of wood or recyclable composite material and be placed in a location at least ten (10) feet back from the property line and shall not impede pedestrian, bicycle, and vehicular visibility or circulation. The sign shall be maintained in accordance with Section 10-7-709 of the Hayward Municipal Code and may be up to thirty-two (32) square feet of sign area and shall not exceed ten (10) feet in height. Sign design, size and location shall be reviewed and approved by the Planning Division prior to placement.
11. Prior to operation, issuance of a Building Permit or the Certificate of Occupancy, the applicant shall contact the Planning Division and be subject to a site inspection by the designated project planner to verify that all applicable mitigations and conditions of approval have been satisfied. The cost of inspection, including any subsequent inspections that are deemed necessary by the City, shall be paid by the applicant.

**Expiration**

12. This Use Permit approval is void 36 months after the effective date of approval unless:
  - a. Prior to the expiration of the 36-month period, a building permit application has been submitted and accepted for processing by the Building Official or a time extension of the approval has been granted by the Planning Director.
  - b. If a building permit is issued for construction of improvements authorized by the conditional use permit approval, said approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance on the conditional use permit approval. A request for an extension must be submitted in writing to the Planning Division at least 30 days prior to the above date.

- c. Business operations have commenced in accordance with all applicable conditions of approval, have secured a business license and shall maintain a valid business license, including annual renewals, required for operation.

13. All administrative and conditionally permitted uses that cease operation for a period of more than six consecutive months shall be deemed to be discontinued, and the use permit establishing said use shall become null and void. Reestablishment of said use shall only be permitted upon obtaining a new use permit.

#### **Landscaping**

14. No building permit shall be issued prior to approval of landscape and irrigation improvement plans.

#### **Engineering**

15. This project shall comply with the conditions of approval for planning application 201504677 associated with Vesting Tentative Map 8304, Mission Villages.

#### **Transportation**

16. The Property Owner(s) and/or their Tenant(s) shall be responsible for ensuring that vehicles queuing in the drive-through lane do not spill back onto public right-of-way (Mission Boulevard, Industrial Parkway) and that vehicles utilizing the drive-thru lane are fully accommodated within the Project site.
17. Applicant shall require Tenant(s) to continuously monitor traffic queues in the drive-through during drive-thru hours of operation, and designate staff to direct traffic during busy periods to prevent traffic spillback onto public right-of-Way (Mission Boulevard and/or Industrial Parkway). Tenant(s) and tenant(s)' staff shall direct vehicles to the "Curbside Pickup/Drive-thru overflow" spaces, or any other space within the project site and not within the public right-of-way, as necessary to prevent traffic spillback onto Public right-of-Way.
18. City reserves the right to impose additional restriction(s) on the operation(s) of the drive-thru lane, including temporary closure, if it has been determined by the Public Works & Utilities Director or his/her designee(s) that vehicle queues associated with the drive-thru lane are spilling back onto, blocking, or otherwise resulting in traffic operational deficiencies within the public right-of-way. Restriction(s) shall remain in place until the deficiencies have been adequately addressed to the satisfaction of the Public Works & Utilities Director.

#### **Solid Waste**

19. Per AB 827, all businesses must have front of house recycling/composting sorting stations for customers.
20. The owner or property manager shall be responsible for litter-free maintenance of the property and shall remove any litter on or within 50 feet of the property daily to

ensure that the property and its street frontage remain clear of any abandoned debris or trash per Municipal Code Sec.11-5.22.

### **PRIOR TO THE ISSUANCE OF BUILDING PERMIT**

#### **Landscaping**

21. Prior to submitting the building permit, detailed landscape and irrigation improvement plans prepared by a licensed landscape architect on an accurately surveyed base plan shall be approved by the City. The plans shall comply with the City's Bay-Friendly Water Efficient Landscape Ordinance (California Building Code Title 23) and all relevant Municipal Codes. Once approved, a digital file of the approved and the project landscape architect signed improvement plans shall be submitted to the City for the City's approval signatures. Copies of the signed improvement plans shall be submitted as a part of the building permit submittal.

#### **Engineering**

22. Developer shall secure the required Street Encroachment and/or Grading Permit prior to the issuance of any Building Permits associated with the project. Plans for Grading Permit shall be prepared by a State licensed Civil Engineer and shall include details for required grading, material stockpiling, earth retaining structures, drainage, utility service connections, stormwater pollution prevention measures, landscape and lighting improvements and improvements in the street right-of-way complying with the Planning approval and necessary to develop the project site.

23. All plans and their related engineering studies and design documents shall be prepared by the State licensed and qualified professionals and shall comply with Chapter 10, Article 8 of the Hayward Municipal Code and the current City Standard Details, available online.

24. Structural calculations and details prepared by a licensed civil or structure engineer are required for all earth retaining structures greater than 4-feet in height (top of wall to bottom of footing) and shall be reviewed and approved by the Building Division of the Development Services Department.

25. The project shall not block runoff from, or augment runoff to, adjacent properties. The developer may be required to mitigate augmented runoff to maintain post-development site discharge rates to less than or equal to pre-development discharge rates to the satisfaction of the City Engineer.

26. The Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to design the storm drain system. On site drainage shall be collected and conveyed to public drainage system as per plans approved by the City Engineer. The storm drainage system shall be designed to convey a 10-year storm event.

27. Drainage plans should include all proposed underground pipes, building drains, area drains and inlets. All building sites shall be graded to slope away from the building foundations with minimum slope of two percent (2%) or as required by the Soils Engineer. On-site collector storm drains shall be sized to minimize potential for blockages. Storm drains shall be designed to prevent standing water.
28. The On-site storm conveyance and treatment systems shall be owned and maintained by the property owner.
29. The project's Stormwater Control Plan and updated Stormwater Requirements Checklist shall be submitted and shall show, at a minimum, drainage management areas, location and details of all treatment control measures and site design measures, and numeric sizing calculations in conformance with Alameda County Clean Water Program C3 design guidelines.
30. Developer shall comply with the pre-construction and post-construction requirements of the Municipal Regional Permit (MRP) The project shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
31. All existing public utilities shall be protected in place and if necessary, relocated as approved by the utility owner. No permanent structure is permitted within City easements and no trees or deep-rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas.
32. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from the City and notify the Supervising Construction Inspector in the City's Public Works Department.

### **Transportation**

33. Applicant shall submit the following items as part of Improvement Plans to Public Works-Transportation for review prior to issuance of Building Permits:
  - a. An on-site and off-site (fronting City right-of-way) Signing and Striping Plan in accordance with Caltrans' latest Standard Plans (refer to Caltrans Standard Plans Sheet A90A for more information on marking complaint disabled stalls).
  - b. A Photometric Plan, refer to Hayward's Standard Plans Sheet SD-120 for roadway lighting criteria, link: <https://www.hayward-ca.gov/documents/hayward-standard-detail>
  - c. Turning Analysis using the largest vehicle expected on-site (typically a delivery vehicle) using AutoTurn software. Turning Analysis shall not depict vehicles backing into public streets/right-of-way.
34. Applicant shall install "Do Not Enter" (CA MUTCD R5-1) and "WRONG WAY" (CA MUTCD R5-1a) signs and appropriate striping (as determined by Public Works-

Transportation staff) at the “J Street” and “I Street” intersection adjacent to the proposed Trash Enclosure. This item shall be included in the Signing & Striping Plan(s).

35. Directional flow of traffic on “J” Street and/or the drive-aisle accessed by the eastern-most project driveway along Industrial Parkway shall remain One-Way southbound only as indicated in Figure 7 of the Project’s *Traffic Operations Report* (Hexagon Transportation Consultants, May 2021). Applicant shall install all necessary signage and striping to indicate One-Way directional flow, as determined by Public Works-Transportation staff. This item shall be included in the Signing & Striping Plan(s).
36. The eastern-most project driveway along Industrial Parkway (“Driveway A”) shall remain right-in only as indicated in Figure 7 of the Project’s *Traffic Operations Report* (Hexagon Transportation Consultants, May 2021). No vehicles shall be allowed to exit from this driveway onto Industrial Parkway. Applicant shall install all necessary signage and striping, as determined by Public Works-Transportation staff. This item shall be included in the Signing & Striping Plan(s).
37. Applicant shall install two speed humps along the drive aisles “J Street” and “I Street” as indicated in Figure 7 of the Project’s *Traffic Operations Report* (Hexagon Transportation Consultants, May 2021). This item shall be included in the Signing & Striping Plan(s).
38. Applicant shall install a minimum two (2) long-term and five (5) short-term bicycle parking spaces and storage on-site consistent with City code requirements.
39. Applicant shall designate two (2) parking spaces for “Curbside Pickup” or “Drive-Thru Overflow”. This item shall be included in the Signing & Striping Plan(s).
40. Potential cut-through traffic at the project site should be monitored after project occupancy. If necessary, traffic calming measures such as speed bumps should be considered to discourage cut-through traffic at the project site.
41. Applicant shall install video camera(s) to monitor vehicle queues in the drive-through lane. Proposed camera location(s) shall be indicated on the Improvement Plans.
42. Upon review of Improvement Plan(s) and required item(s) listed above by Public Works-Transportation, Applicant shall modify Improvement Plan(s) to address any deficiency(ies) or item(s) identified by Public Works-Transportation staff, to the satisfaction of the Public Works Director or his/her designee, prior to issuance of Building Permit(s).

## **DURING CONSTRUCTION**

### **Engineering**

43. Construction Stormwater Management: Developer shall be responsible for the preventing the discharge of pollutants and sediments into the street and/or the public storm drain system from the project site during construction in accordance with the Hayward Municipal Code Section 11-5.19. Land disturbing activities between October 1st and April 30th, must have an erosion and sedimentation control program approved, and implemented. Trash and debris must be adequately contained at all times. Noncompliance with stormwater management measures may result in the project being shut down, including any building permit activity, until full compliance with stormwater management requirements is achieved.
44. Construction Damage: The Developer shall remove and replace curb, gutter, sidewalks, driveways, signs, pavement, pavement markings, etc. damaged during construction of the proposed project prior to issuance of the Final Construction Report by the City Engineer. Damaged pavement surfaces shall be overlain or micro-surfaced. Unused driveways or unused portions thereof shall be removed and replaced with curb, gutter and sidewalk per City standards.

## **PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY**

### **Landscaping**

45. Upon acceptance of the landscape installation in accordance with the approved landscape improvement plans by the City, As-Built digital plans shall be submitted to the Engineering Department by the developer.
46. Required Irrigation Audit as A Part of Certificate of Completion Prior to Issuance of Certificate of Occupancy:
  - a. Pursuant to HMC Section 10-12.11, the project applicant shall submit an irrigation audit report done by the third party as required in Appendix C - Certificate of Completion Part 5 to the City. The report may include, but not limited to inspection, system tune-up, system test with distribution uniformity, overspray or run off causing overland flow, an irrigation schedule, irrigation controllers with application rate, soil types, plant factors, slope, exposure and any other factors necessary for accurate programming.
  - b. Ordinance Section 10-12.11: In large projects or projects with multiple landscape installations (i.e., production home developments) an auditing rate of one (1) in seven (7) lots or approximately fifteen percent (15 %) will satisfy this requirement. All landscape irrigation audits shall be conducted by a third-party certified landscape irrigation auditor. Landscape audits shall not be conducted by the person who designed the landscape or installed the landscape.
47. Prior to the issuance of Certificate of Occupancy, all landscape and irrigation shall be completed in accordance with 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 e-mailed in prior to requesting an inspection from the City Landscape Architect.

**Engineering**

48. All public and private improvements including punch list items must be complete prior to occupancy of any unit.
49. Prior to final inspection and issuance of final certificates of occupancy, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Public Works Director and Development Services Director or his/her designees.
50. Post Construction Stormwater Maintenance: The property owner(s) 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.
51. Final Engineer's Report: Prior to the issuance of any Certificate of Occupancy, The Engineer of Record shall submit a confirming letter that all grading, drainage, and engineering components of the project have been performed in conformance with the approved plans and specifications.
52. As-Built Records: As-built records of site grading and improvements completed by the property owner shall be provided to the City Engineer on electronic media in AutoCAD and pdf formats.