

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-

Introduced by Council Member _____

RESOLUTION TO ADOPT A ZONING TEXT AMENDMENT TO CHAPTER 10, ARTICLE 1 (ZONING ORDINANCE), SECTIONS 10-1.845.J (5) AND (6); AND 10-1.1045.J (5) AND (6) (MINIMUM DESIGN AND PERFORMANCE STANDARDS) OF THE HAYWARD MUNICIPAL CODE RELATED TO DRIVE-THROUGH RESTAURANTS AND DRIVE-THROUGH COFFEE/ESPRESSO SHOPS IN THE CITY OF HAYWARD

WHEREAS, On May 1, 2018, the United Growth Capital Management, LLC submitted a Zoning Text Amendment request to amend Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code (HMC) to allow additional flexibility for the establishment of new drive-through restaurants and drive-through coffee/espresso shops in the City within half-mile of another establishment;

WHEREAS, Current minimum design and performance standards within the Zoning Ordinance for drive-through restaurants and drive-through coffee/espresso shops prohibit the establishment of any drive-through restaurant or drive-through coffee/espresso shop within half-mile radius of another establishment as measured from the building walls of existing or proposed buildings;

WHEREAS, The proposed amendments would allow additional flexibility for the establishment of new drive-in and drive-through restaurants and coffee/espresso shops in the City within half-mile of another establishment if certain required findings can be made related the site location in addition to the findings required for the Administrative or Conditional Use Permit;

WHEREAS, On July 12, 2018, the Planning Commission considered Zoning Text Amendment Application No. 201802227 at a public hearing, and voted (4-0-0), that the City Council approve the Zoning Text Amendment; and

WHEREAS, Notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on July 24, 2018.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. The proposed Zoning Text Amendment is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Zoning Text Amendment to the Hayward Zoning Ordinance will allow additional flexibility related to the minimum distance requirements of drive-through establishments from one another. Future projects will be subject to additional CEQA review to evaluate any potential environmental impacts associated with that project.

FINDINGS FOR A ZONING TEXT AMENDMENT TO THE HAYWARD MUNICIPAL CODE**A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;**

The proposed Zoning Text Amendment (ZTA) would allow for flexibility, where appropriate, in the locations that currently conditionally permit the development of drive-through restaurants and expresso shops within the City of Hayward. The ZTA would ensure that drive-throughs be located appropriate by including required findings that would be in addition to those of the Administrative Use Permit (AUP) or Conditional Use Permit (CUP). The proposed Text Amendment would provide additional use permit findings that relate to the geographical location of any potential development site for a drive-through restaurant or expresso shop; the proximity of the site to Interstate-880 and State-Route 92; the impacts on private and public circulation; the establishment of adequate buffers from adjacent residential properties; and the consistency with adopted policies related to multi-modal transportation, streets, and mobility. With the inclusion of these findings and additional analysis required to grant greater flexibility, the proposed Amendment will promote public health by limiting the over-concentration of drive-through establishments in residential areas, and mixed-use areas in the City that are focused on improving and expanding bicycle and pedestrian access, such as Mission Boulevard, Foothill Boulevard, and Downtown Hayward.

B. The proposed change is in conformance with all applicable, officially adopted policies and plans;

The proposed ZTA would not conflict with the underlying General Plan goals and policies, or the Bicycle Master Plan. The proposed text amendment would support the City's Complete Communities and Complete Streets Strategic Initiative by providing additional flexibility for establishment of drive-through businesses in the City that would not have a detrimental impact on the multi-modal Complete Streets network. The proposed ZTA includes language and verbiage to ensure and strive for ongoing consistency and compatibility with these documents, stipulating that new drive-

through establishments be approved only upon demonstrating that they will not conflict with such long-range goals. Additionally, the proposed ZTA is consistent with the following Land Use and Economic Development General Plan Policies:

- Land Use Policy LU-5.2 - Flexible Land Use Regulations. To maintain flexible land use regulations that allow the establishment of economically productive uses in regional and community centers.
- Economic Development Policy ED-6.7 - Business Incentives. To provide incentives to attract, expand, and retain businesses that offer high quality jobs, generate local sales tax revenue, and/or provide needed goods or services to residents.

C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and

No properties are proposed to be reclassified, rezoned, or amended with this application. Rather, the proposed ZTA would introduce flexibility in where drive-through restaurants and expresso shops are conditionally permitted. Such land uses would still be required to obtain the appropriate review and approval of either a AUP or CUP, based on location and zoning district. The determination of whether the streets and public facilities, existing and proposed are adequate to serve the conditionally permitted uses would be reviewed as part of the standard AUP or CUP development review process.

D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

No properties are proposed to be reclassified, rezoned, or amended with this application. As stated previously, the proposed ZTA introduces flexibility in where drive-through establishments and expresso shops are conditionally permitted. Currently, the Zoning Ordinance does allow for drive-through establishments as conditional uses. However, the minimum design and performance standards for drive-through restaurants and expresso shops prohibit the establishment of similar facilities within a half-mile from each other – as measured from the exterior walls. The proposed Amendment would maintain the existing distance separation but incorporate a mechanism to allow for additional drive-through restaurants within a half-mile of each other upon meeting the new, required findings aimed to prevent an over-centration or addition of drive-throughs in areas not deemed appropriate (i.e. Mission Boulevard, Downtown Hayward, Foothill Boulevard).

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the findings in support of Zoning Text Amendment Application No. 201802227, subject to the adoption of the companion Ordinance.

BE IT RESOLVED that this resolution shall become effective on the date that the companion Ordinance (Ordinance No. 18-__) becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA __ of September 2018.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward