

HAYWARD CITY COUNCIL

RESOLUTION NO. 25-_____

Introduced by Council Member _____

RESOLUTION APPROVING A CONDITIONAL USE PERMIT AND SITE PLAN REVIEW FOR A NEW TWO-STORY MIXED-USE DEVELOPMENT FEATURING A STARBUCKS COFFEE SHOP WITH DRIVE-THROUGH FACILITY ON THE GROUND FLOOR AND SECOND-FLOOR OFFICE SPACE ON A VACANT PORTION OF THE PROPERTY LOCATED AT 22101 HESPERIAN BOULEVARD

WHEREAS, on January 15, 2019, the City of Hayward Planning Director approved Site Plan Review Application No. 201803495 allowing the construction of a new 4-story, 131-room hotel and a separate 5,300-square-foot multi-tenant commercial building at 22101 Hesperian Boulevard within the Air Terminal-Commercial (AT-C) zoning district (the “Subject Location”); and

WHEREAS, although the hotel was eventually completed in accordance with the 2019 Site Plan Review approval, however, the multi-tenant commercial building was never constructed due to financial feasibility issues, and the hotel owner/developer (“Applicant”) requested that the City consider supporting the development of a drive-through Starbucks at the subject site. To provide the applicant with guidance, staff recommended that the item be considered at a Council Economic Development Committee Meeting (CEDC); and

WHEREAS, on April 28, 2022, the Council Economic Development Committee (CEDC) reviewed the concept of amending the Zoning Ordinance to allow new coffee shops with drive-through facilities in the AT-C zoning district to enable the Applicant to proceed with his proposal, and was generally supportive of the concept, with a recommendation that the subject drive-through facility be part of a mixed-use development to make more intensive and efficient use of the land; and

WHEREAS, on March 19, 2024, the Applicant submitted Zoning Text Amendment, Conditional Use Permit and Site Plan Review Application No. MTA-24-0002 to request approval of the necessary text amendments as well as the entitlements needed to construct a new coffee shop with drive-through facility at the subject property; and

WHEREAS, on May 22, 2025, the Planning Commission held a duly-noticed public hearing to consider the Conditional Use Permit and Site Plan Review applications for the proposed mixed-use development featuring the ground floor coffee shop with drive-through facility, as well as the necessary text amendments to the Zoning Ordinance, received public testimony, and at the close of the public hearing did not make a recommendation to the City Council for approval or denial; and

WHEREAS, on May 16, 2025, notice of a public hearing was published in the manner required by law, and said hearing was duly held by the City Council and public testimony was received on June 3, 2025.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. The proposed mixed-use development featuring the ground-floor coffee shop with drive-through facility and second-floor office space is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, In-fill Developments, in that it would be a project: (1) that is consistent with the City's General Plan land use and zoning designations for the property, as amended with the companion Ordinance and Resolution; (2) located within the City limits on a site where the developable portion is less than five acres, surrounded by urban uses/development and already served by all necessary utilities and public services and which has no value as habitat for rare, threatened or endangered species; and (3) that will not result in any significant effects related to traffic, noise, air quality or water quality.

CONDITIONAL USE PERMIT

A. The proposed use is desirable to the public convenience or welfare;

The proposed project is desirable for the public convenience and welfare in that it will provide a popular coffee-based fast-food/beverage service for a variety of patrons. The location would provide easy access to drivers traveling along Hesperian Boulevard, residents from the adjacent neighborhoods and workers employed at the nearby Airport and surrounding commercial uses. Additionally, it would serve as an amenity for guests of the adjacent Home2Suites by Hilton hotel. The drive-through facility will enable customers to quickly and conveniently pick up beverages and food on their way to and from work or while running errands in the area from the comfort and safety of their vehicles, while the café will offer indoor and outdoor seating options for those with more time who prefer to consume their orders on the premises.

B. The proposed use will not impair the character and integrity of the zoning district and surrounding area;

The project has been designed to minimize impacts to the surrounding development and streets by locating the entrance to the drive-through facility closer to Skywest Drive than the much busier Hesperian Boulevard, and by providing sufficient depth in the drive-through lane for several vehicles in accordance with the City's standards to prevent spillover off the property. Additionally, there is access to plentiful parking for customers and employees both directly outside the proposed building and within

the existing parking lots on the adjoining parcels which the project has the rights to utilize through reciprocal parking/access easements. The mix of uses will also be compatible with the other existing commercial and office uses along Hesperian Boulevard and Skywest Drive and is consistent with the site's General Plan land use designation.

C. The proposed use will not be detrimental to the public health, safety or general welfare.

The proposed coffee shop with drive-through facility will not be determinantal to the public health, safety or welfare in that the use will operate during typical café business hours. Further, the project has been designed so that the entrance and exit of the drive-through lane do not adversely impact any existing pedestrian, bicycle or vehicular facilities either within or adjacent to the site. Furthermore, the building will be required to comply with all applicable building and life safety codes, and the coffee shop will be required to comply with all applicable environmental health and safety regulations pertaining to food- and beverage-serving uses, including maintaining sanitary facilities and properly disposing of hazardous waste materials. Finally, conditions of approval have been included which are designed to prevent vehicles queueing in the drive-through lane from spilling out into the adjacent streets and posing traffic safety hazards to other drivers, pedestrians or bicyclists.

D. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

The Retail & Office Commercial (ROC) General Plan land use designation allows for a wide variety of commercial and professional office uses that meet the everyday needs of Hayward residents. This includes all types of restaurants, from full-service sit-down establishments to fast food restaurants and coffee shops with drive-through facilities. Furthermore, the Economic Development Element of the General Plan calls for supporting economic growth and improving the overall quality of life for Hayward residents by attracting new businesses that offer a variety of goods and services. As such, the proposed use is consistent with the intent of the City's land use and economic development policies.

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 approval of Zoning Text Amendment, Conditional Use Permit and Site Plan Review Application No. MTA-24-0002, subject to the Conditions of Approval contained in this Resolution.

BE IT RESOLVED that this resolution shall become effective on the date that the companion Ordinance (Ordinance No. 25-___) and Resolution (Resolution No. 25-___) approving Zoning Text Amendments becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2025.

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

**ZONING ORDINANCE TEXT AMENDMENT,
CONDITIONAL USE PERMIT & SITE PLAN REVIEW APPLICATION NO. MTA-24-0002
STARBUCKS DRIVE-THROUGH FACILITY - 22101 HESPERIAN BLVD.
CONDITIONS OF APPROVAL**

General

Planning

1. The applicant 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 plans submitted for this Conditional Use Permit application prepared by MWT Architect dated January 15, 2025, with accompanying civil and landscape plans prepared by Sterling Consultants and Wilson & Associates, respectively, are hereby approved except as modified by the conditions listed below. Any alterations to the approved plans that do not require a variance to any zoning ordinance standard shall be subject to approval by the Development Services Director or his/her designee, prior to implementation. Any alterations requiring a variance shall be subject to review and approval by the Planning Commission.
3. The permittee, property owner or designated representative shall allow the City's staff to access the property for site inspections to confirm all approved conditions have been completed and are being maintained in compliance with all adopted city, state and federal laws.
4. 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 inspection 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 filed to construct the project.
5. 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.
6. The applicant shall apply for and obtain all necessary permits from the City and/or outside agencies prior to initiating any site work.
7. The trash enclosure shall be finished and painted to match the colors and materials of the main building.

8. The drive-through lane shall be constructed of decorative paving, such as turf block, pavers or stamped concrete. The final placement and decorative paving material shall be shown on the building permit application plans and shall be reviewed and approved by the Planning Division prior to the issuance of building permits. The decorative paving shall be installed prior to issuance of a Certificate of Occupancy for the building.
9. All vents, gutters, downspouts, flashings, electrical conduits, etc. shall be painted to match the color of the adjacent building material unless specifically designed as an architectural feature.
10. Roof-mounted equipment shall be screened from public view to the maximum extent feasible.
11. A separate building permit shall be required for all signage. Signage for the project shall be limited to one monument sign not to exceed 10 feet in height and 36 square feet per face and two wall signs with letters not to exceed 18 inches in height and logos not to exceed 24 inches in height. Total sign area and provisions for menu boards and directional signs shall comply with the applicable standards contained in Hayward Municipal Code (HMC) Section 10-7.502(d).
12. In accordance with HMC Sections 10-1.3055 and 10-1.3255, the Site Plan Review and Conditional Use Permit approval shall become 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 his/her designee. If a building permit is issued for construction of improvements authorized by this 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 this approval; or
 - b. A time extension of the approval has been granted by the Development Services Director or his/her designee, which requires that a request for an extension of this approval must be submitted in writing to the Planning Division at least 15 days prior to the expiration date of this approval; or
 - c. Business operations have commenced in accordance with all applicable conditions of approval.

Fire District

13. Fire apparatus access roads shall be maintained to have an unobstructed width of not less than 20 feet and to support the imposed load of fire apparatus 75,000 lbs. and shall be surfaced to provide all-weather driving capability.

14. Approved address and premise identification numbers shall be placed on all buildings in such a position as to be plainly visible and legible from the road or street fronting the property. The dimensions of address numbers or letters on the front of the buildings shall be approved by the Fire Department.
15. Building address numbers shall be a minimum of 6 inches high with 1.5-inch stroke. When a building is located greater than 50 feet from street frontage, the address shall be at least 16 inches high with 1.5-inch stroke. All individual tenant space numbers shall be at least 6 inches high with 0.75-inch stroke on a contrasting background to be visible from the street.
16. Portable fire extinguishers having a minimum size of 5 lbs. and a minimum rating of 2A:10BC shall be installed in centrally located and accessible locations within the tenant space as approved by the Fire Department at a maximum separation of 75 feet.
17. Duct smoke detectors that are installed within the HVAC system shall meet the California Mechanical Code (CMC) for installation (greater than 2,000 CFM) and California Fire Code (CFC). Such detectors shall be interconnected to the building's main fire alarm control panel and zoned separately.
18. Illuminated exit signs shall be installed in accordance with the California Building Code (CBC).
19. In accordance with the current edition of the CFC (2022) an overhead fire sprinkler system conforming to National Fire Protection Association (NFPA) 13 standards shall be installed within the building. The overhead fire sprinkler system shall be designed and installed by a licensed C16 contractor under separate permit from the Fire Department.
20. In accordance with the current edition of the CFC, a fire alarm system for waterflow monitoring of the new fire sprinkler system with enhancements for each occupancy proposed shall be provided.
21. Premise identification shall be provided in accordance with Chapter 5 of the 2022 CFC.

Hazardous Materials

22. All known structures and their contents shall be removed or demolished under permit in an environmentally sensitive manner. Proper evaluation, analysis and disposal of materials shall be done by a qualified environmental professional to ensure that hazards posed to development construction workers, the environment, future uses, and other persons are appropriately mitigated.

23. Any known wells, septic tank systems or other subsurface structures shall be removed properly to minimize threats to the health and safety of the development construction workers, future residents, or the environment. These structures shall be documented and removed under a permit from the appropriate regulatory agency as applicable.

Utilities

24. The building shall have its own separate domestic water meter and sanitary sewer lateral.
25. The applicant is responsible for applicable water and sewer installation and connection fees at the current rates in effect at the time of application for water and/or sewer service. The current utility installation and connection fees are available on the City's website, here: <https://hayward-ca.gov/water-service/connection-fees>.
26. Fire flow data may be required for this project. Information regarding existing fire flow data and how to request for new fire flow test data is available on the City's Fire Flow Testing website, here: <https://www.hayward-ca.gov/fireflow>.
27. The applicant shall install an above-ground reduced pressure backflow prevention assembly on all irrigation water services, non-residential domestic water services, and residential domestic water services where there is a water well on the property, per City Standard Detail 202 (SD-202). Backflow prevention assemblies shall be at least the size of the water meter or the water supply line on the property side of the meter, whichever is larger. Backflow prevention assemblies installed on potable water sources shall be lead-free.
28. Trash enclosures are required to be self-contained with a sanitary sewer connection plus a 5% grade to sanitary drain, no drainage beyond the walls of the enclosure. Hose bibs are prohibited, and approved clean-up methods include dry clean-up methods and/or a service that cleans and collects wash water for proper off-haul and disposal of treated waste. Please call the City's Water Pollution Source Control (WPSC) Division at 510-881-7900 to reach an inspector for inquiries.
29. All connections to existing water mains shall be performed by City Water Distribution personnel at the applicant's expense.
30. Any modifications to existing water services such as but not limited to upsizes, downsizes, relocations, and abandonments shall be performed by City Water Distribution personnel at the applicant's expense.
31. Water mains and services, including the meters, must be located at least ten (10) feet horizontally from and one (1) foot vertically above any parallel pipeline conveying untreated sewage (including sanitary sewer laterals), and at least four (4) feet from and one (1) foot vertically above any parallel pipeline conveying storm drainage, per the

current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade (i.e., pressure) piping materials.

32. Water meters and services are to be located a minimum of two (2) feet from top of driveway flares as per City Standard Detail 213 (SD-213) through 218 (SD-218). Water meters shall not be located in the driveway. Water meter lids shall be Nicor, Inc. brand.
33. All sanitary sewer mains and appurtenances shall be constructed in accordance with the City's latest "Specifications for the Construction of Sewer Mains and Appurtenances," available on the City's website, here: <https://www.hayward-ca.gov/your-government/departments/engineering-division>.
34. Sewer cleanouts shall be installed on each sewer lateral at the connection with the building drain, at any change in alignment, and at uniform intervals not to exceed 100 feet. Manholes shall be installed in the sewer main at any change in direction or grade, at intervals not to exceed 400 feet, and at the upstream end of the pipeline. Where sanitary sewer lines and/or laterals are the same size as the sanitary sewer line, the connection must be made with a manhole.

Solid Waste

35. The City requires that all construction and demolition debris be recycled. Submittal of the Debris Recycling Statement will be required at the time of your building permit application submittal. The form can be found online at <http://www.hayward-ca.gov/services/city-services/construction-and-demolition-debris-disposal>. You may also visit the City's Green Halo webpage at: <https://wastetracking.com/city/hayward/> and create a waste management plan online instead.
36. All businesses are required to arrange for separate collection of recyclables and organics (food, food-soiled paper, and plant debris). As this is a food and beverage serving establishment, separate collection of organics will also apply to both the front and back of house. For more information, please visit the City's website at <http://www.recyclingrulesac.org/city/city-of-hayward/>.
37. 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 HMC Section 11-5.22.
38. Per California Assembly Bill AB 827, all businesses must have front of house sorting. The building permit plan set shall show on the floor plan where sorting stations for customers will be located.

Water Pollution Source Control

39. The proposed café shall demonstrate the ability to comply with City of Hayward Wastewater Discharge Limits, including a limit of 300 mg/L of oil and grease of animal or vegetable origin, by: (1) installation of a properly sized pretreatment unit such as a gravity grease interceptor (GGI) or other similar device; (2) documentation of management practices for grease handling; and (3) documentation of management practices of area and equipment wash down. Please supply calculations for the grease control unit during plumbing plan check. "Gravity grease interceptor (GGI)" shall mean a water-tight receptacle receiving and retaining waste containing fats, oils and grease from food service establishments, and in all cases shall be located outside place of business or any structure. Minimum size shall be 750 gallons. Additional sizing criteria set forth in the current adopted plumbing code.

Airport

40. Landscaping must conform to the FAA AC 150/5200-33B Hazardous Wildlife Attractions on or Near Airports and the Hayward Executive Airport (HWD) Wildlife Hazard Mitigation Plan:
- a. **3.4.3 Airport Wildlife Hazard Mitigation Plan: Ornamental Landscaping.**
Landscaping at the airport must coincide with the airport's responsibility for ensuring air traffic safety. Trees and shrubs that are determined to offer hunting perches, roosting and loafing sites, nesting cover, and food for birds and other wildlife will be thinned or removed if necessary. A particular emphasis will be given to those ornamental trees that are used for communal roosting by starlings and crows. Ornamental trees and shrubs that are used to enhance airport aesthetics will be kept to a minimum, and varieties that are unattractive to wildlife will be selected. Species that produce edible fruits, nuts, or berries will not be used on HWD property.
41. Aviation-themed components shall be incorporated into the interior of the coffee shop to the extent possible under corporate design standards to the satisfaction of the Development Services Director.

Transportation

42. Pursuant to City of Hayward Traffic Code Article 9, the Property Owner shall maintain adequate visibility and sight distance, as defined by City of Hayward Traffic Code, at all project driveways.
43. Pursuant to City of Hayward Traffic Code Section 6.11, The property owner shall require that the operator of any vehicle exceeding the maximum gross weight, as defined in Traffic Code Section 6.11, shall drive only on City designated truck routes while within Hayward city limits, except where Traffic Code Section 6.11 grants exception, when coming from or going to the subject property. This Condition shall be included in any and all tenant lease agreements and documentation confirming as such shall be made available to the City of Hayward upon request. City designated Truck Routes can be found online on the City's website here:

<https://hayward.maps.arcgis.com/apps/mapviewer/index.html?webmap=cf702c85053a460c8744d1e9bc74240a>.

44. The property owner shall maintain, in fully functional condition and good repair, all pavement markings and signage on and along all private streets and drive aisles within the subject property, including but not limited to those shown in the project's Signage and Striping plans.
45. The property owner and/or their tenants shall be responsible for ensuring that vehicles queuing in the drive-through lane do not encroach into the public right-of-way, including, but not limited to, the sidewalk and/or general purpose travel lanes on Hesperian Boulevard and/or Skywest Drive, and that vehicles utilizing the drive-through lane shall be fully accommodated within the subject property. This Condition shall be written into any and all Tenant Lease Agreements, a copy of which shall be provided to the City upon request.
46. The property owner and/or their tenants shall continuously monitor vehicle and traffic queues in the drive-through during drive-through hours of operation and shall designate employees to direct traffic during busy periods in order to prevent vehicle and traffic queues from encroaching into the public right-of-way. Tenants and their employees shall direct vehicles to "curb side pickup" or "drive-through overflow" spaces, or any other available space within the subject property and not within the public right-of-way, as necessary, in order to prevent vehicle or traffic queues from encroaching into the public right-of-way. This condition shall be written into any and all Tenant Lease Agreements, a copy of which shall be provided to the City upon request.
47. The City reserves the right to impose additional restrictions on the operations of the drive-through lane, including but not limited to temporary closure, if it has been determined by the Public Works Director or his/her designee that vehicle or traffic queues associated with the drive-through lane are encroaching into, blocking or otherwise resulting in traffic operational or safety deficiencies within the adjacent public rights-of-way, including but not limited to the sidewalk or general purpose travel lanes on Hesperian Boulevard and/or Skywest Drive. Such restrictions shall remain in place until such deficiencies have been adequately addressed by the property owner and/or their tenants to the satisfaction of the Public Works Director or his/her designee.

Prior to the Issuance of Building Permit

Planning

48. All outstanding fees owed to the City, including permit charges and staff time spent processing the Conditional Use Permit and Site Plan Review and the accompanying Zoning Ordinance Text Amendment (MTA-24-002) shall be paid in full prior to the

issuance of a building permit and/or any consideration of a request for approval extensions.

Landscaping

49. Prior to issuance of a building permit for the project, detailed landscape improvement plans prepared by a licensed landscape architect on an accurately surveyed base shall be approved as a part of grading permit/ Final Map. The plans shall comply with the City's Bay -Friendly Water Efficient Landscape Ordinance (California Building Code Title 23) and all relevant Municipal Codes. The plans shall be stamped, signed and dated by the project Landscape Architect. The plans shall include the water efficiency compliance statement and water budget calculations. Once approved by the City, copies of the approved landscape improvement plans shall be submitted as a part of the building permit submittal.
50. The location of the irrigation water meter shall be as approved by the City of Hayward Utilities Division.

Engineering

51. A City grading permit will be required before issuance of any building permit for the proposed changes to the site improvements.
52. The design documents and plans for the site grading and improvements shall be prepared by or under the direction of a State licensed engineer and approved by the City Engineer. Plans shall provide details for all improvements proposed on the plans submitted for the project and required by the City's conditions of approval.
53. The property owner or an authorized agent shall obtain permits or approvals from all affected agencies or private parties. Copies of applicable permits or approvals shall be provided to the City Engineer upon request.
54. A building permit is required for earth retaining structures exceeding 4 feet in height (measured from the bottom of footing to top of wall). This permit shall require structural calculations and details prepared by a licensed civil or structural engineer and approval by the City's Building Division.
55. The project shall not block runoff from, or augment runoff to, adjacent properties. The applicant shall 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.
56. All grading, retaining walls, surface and sub-surface drainage, lot drainage, and utility trench backfilling shall be designed in accordance with the recommendations of the soils report prepared by the project's geotechnical engineer, subject to approval by the City Engineer. Plans for grading and drainage for the grading permit shall be reviewed

and signed by the geotechnical engineer certifying that the recommendations in the report have been followed. Arrangements shall be made with the geotechnical engineer to submit a certification to the City Engineer confirming that grading, drainage and backfill installation related work was performed in general compliance with the recommendations in the geotechnical report. All material testing reports will be submitted as attachments to the certification letter report.

57. 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 surface drainage shall be collected and conveyed to a 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.
58. Drainage plans shall include all proposed underground pipes, building drains, area drains and inlets. All building sites shall be graded to slope away from the building foundations per California Building Code, Chapter 18, Section 1804.3 - Site Grading, or as required by the geotechnical engineer. On-site collector storm drains shall be sized to minimize potential for blockages. Storm drains shall be designed to prevent standing water.
59. The on-site storm conveyance and treatment systems shall be owned and maintained by the property owner.
60. The project's Stormwater Control Plan and updated Stormwater Requirements Checklist shall be submitted with the site improvement plans 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 C.3 design guidelines.
61. All utility services to the development shall be underground, designed and installed in accordance with the service provider's regulations. Transformers and switch gear cabinets shall be installed underground. Underground utility plans must be submitted for City approval prior to installation per HMC Section 10-3.815.

Transportation

62. The applicant shall prepare and submit an on-site and off-site (fronting City right-of-way) Signage and Striping Plan in accordance with current Caltrans Standard Plans (refer to Caltrans Standard Plans Sheet A90A for more information regarding marking disabled stalls). Signage and Striping plans shall be included in Improvement Plans and shall be prepared to the satisfaction of the Public Works Director or his/her designee.
63. The applicant shall install "No Parking Any Time" (CA MUTCD R26(CA)) signage along the east side of Skywest Drive prohibiting parking for a length of 175 feet beginning at the project driveway and extending southward to a minimum of 15 feet beyond the existing fire hydrant along Skywest Drive. This item shall be included in the Signage

and Striping Plans and shall be prepared to the satisfaction of the Public Works Director or his/her designee.

64. The applicant shall prepare and submit an on-site and off-site Photometric Plan. The Photometric Plan shall conform to Standard Details available online here: <https://www.hayward-ca.gov/sites/default/files/documents/standard-details-updated-jan-2020.pdf>, including but not limited to SD-120, Design Criteria for Roadway Lighting and shall be prepared to the satisfaction of the Public Works Director or his/her designee.
65. Pursuant to HMC Section 7-1.10, and if required by the Public Works Director or his/her designee upon review of the Photometric Plan, the applicant shall install on-and/or off-site lighting at all locations (including but not limited to street lighting along project frontages) deemed necessary by the Public Works Director or his/her designee in order to comply with City code, Standard Details, lighting specifications and requirements. Proposed lighting shall be included in Improvement Plans, which shall be prepared to the satisfaction of the Public Works Director or his/her designee.
66. The applicant shall prepare and submit a Turning Analysis, which shall be prepared and stamped by a Professional Engineer (P.E.) or Traffic Engineer (T.E.) licensed by the State of California. The Turning Analysis shall be prepared using the AutoTURN software package and using the vehicle template determined by the Public Works Director or his/her designee as the largest vehicle expected on-site (typically WB-50).

Airport

67. Structures in proximity of the airport are required to follow [CFR Title 14 Part 77.9](#). This is required for all buildings and temporary structures such as cranes. If a project falls within the guidelines, you must submit Form 7460 to the Federal Aviation Administration (FAA) for review. You must file with the FAA at least 45 days (business days) prior to construction if:
 - The structure will exceed 200 feet above ground level;
 - The structure will be in proximity to an airport and will exceed the slope ratio;
 - The structure involves construction of a traverseway (i.e., highway, railroad, waterway, etc.) and once adjusted upward with the appropriate vertical distance would exceed a standard of 77.9(a) or (b);
 - The structure will emit frequencies, and does not meet the conditions of the [FAA Co-location Policy](#);
 - The structure will be in an instrument approach area and might exceed Part 77 Subpart C;
 - The proposed structure will be in proximity to a navigation facility and may impact the assurance of navigation signal reception;
 - The structure will be on an airport or heliport; or
 - A filing has been requested by the FAA.

The FAA has a Notice Criteria Tool to determine if a Form 7460 must be submitted at: <https://oeaaa.faa.gov/oeaaa/external/gisTools/gisAction.jsp?action=showNoNoticeRequiredToolForm>. The tool will immediately identify if an FAA Form 7460 is required. Note the Latitude and Longitude need to be exact and, if this information changes, the form will need to be resubmitted and the review process extended. Register, submit renew or extend an FAA Form 7460, available online here: <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>

68. Copies of all Determination Letters from the FAA in response to all filed FAA Form 7460 shall be submitted to the Hayward Executive Airport at airport@hayward-ca.gov prior to the issuance of building permits.

During Construction

Planning

69. In accordance with HMC Section 4-1.03-4, construction activities conducted between 7:00 a.m. and 7:00 p.m. Monday through Saturday or between 10:00 a.m. and 6:00 p.m. on Sundays or holidays shall not include any individual equipment that produces a noise level exceeding 83 dB measured at 25 feet, nor shall activities produce a noise level outside the project property lines exceeding 86 dB. During all other hours, noise shall not exceed the limits defined in HMC Section 4-1.03.1 (70 dB daytime or 60 dB nighttime, measured at residential property lines).
70. In order to comply with Bay Area Air Quality Management District (BAAQMD) fugitive dust regulations, the following BAAQMD Basic Construction Mitigation Measures shall be implemented:
- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud or dirt tracked out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
 - f. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - g. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

- h. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- i. A publicly visible sign shall be posted with the telephone number and person to contact at the City of Hayward regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD phone number shall also be visible to ensure compliance with applicable regulations.

Landscaping

- 71. Replacement trees shall be planted with sufficient space to accommodate the mature size of the species and maintained sufficiently to ensure establishment. Preserved trees shall also be maintained to ensure the continued long- term health of the tree. Trees on -site will require monitoring and routine maintenance by a landscape specialist such as occasional pruning, fertilization, mulch, pest management, replanting, and irrigation.
- 72. Tree Protection Pre-construction
 - a. A Tree Protection Zone shall be established around each tree to be preserved. For design purposes, the Tree Protection Zone shall be the dripline or property line for trees. No grading excavation, construction or storage of materials shall occur within the Protection Zone.
 - b. Non-movable chain link fencing shall be installed around the Protection Zone of each tree to be preserved. No entry is permitted into a Tree Protection Zone without permission of the Project Arborist.
 - c. Trees to be preserved may require pruning to provide clearance and/or correct defects in structure. All pruning shall be performed by an ISA Certified Arborist or Certified Tree Worker and shall adhere to the latest edition of the ANSI Z133 and A300 safety standards as well as the ISA Best Management Practices for Tree Pruning with a tree pruning permit from the City. The pruning contractor shall have the C-27/D-49 license specification.
 - d. All tree work shall comply with the Migratory Bird Treaty Act as well as California Fish and Wildlife Code Sections 3503-3513 to not disturb nesting birds. To the extend feasible, tree pruning and removal should be scheduled outside of the breeding season.
- 73. Tree Protection During Construction
 - a. Prior to starting work, all contractors working in the vicinity of any trees slated for preservation are required to meet with the Project Arborist at the site to review all work procedure, access routes, storage areas and tree protection measures.
 - b. Any grading, construction, demolition or other work that is expected to encounter tree roots should be monitored by the Project Arborist. Any necessary root pruning shall be performed by a qualified arborist and not by construction personnel. Roots shall be cleanly pruned with a handsaw. A tree pruning permit shall be required for cutting equal or larger than one -inch diameter roots.

- c. If damages should occur to any existing trees designated for preservation during construction, the tree should be evaluated as soon as possible by the Project Arborist so that appropriate treatments can be applied. If the damage to a tree result in its removal, the removed tree shall be replaced to its appraised value provided by the Project Arborist and approved by City Landscape Architect.
 - d. Tree protection fencing shall remain in place until all site work has been completed. No protection fencing shall be relocated or removed without the prior permission of the Project Arborist.
 - e. Any additional tree pruning needed for clearance during construction must be performed by a qualified arborist and not by construction personnel with a tree pruning permit from City Landscape Architect.
 - f. Existing trees designated for preservation shall be irrigated on a schedule to be determined by the Project Arborist. Each irrigation session shall wet the soil within the Tree Protection Zone to a depth of 30 inches.
74. If construction activities impact off-site Protected trees, the removed trees must be replaced with like-kind and like-size, or like-value based on the approved appraised value. The applicant will be allowed to obtain a tree removal permit with written permission of the adjacent property owner; however, the tree removal permit must provide a comprehensive arborist report and a tree mitigation plan providing a tree mitigation summary chart, location of replacement trees, tree species and sizes. The tree mitigation summary chart must demonstrate that the total number and value of replacement trees equal or exceed the total value of the removed trees.
75. All final tree locations shall be field verified by the project landscape architect prior to planting and resolve any conflicts arise in the field
76. All new trees shall be healthy, disease and insect-free, well-rooted, and properly trained with a straight trunk that can stand upright without support. They shall also exhibit a central leader, or a main branch that can be trained as a central leader. Branches shall be well-developed and shall be evenly and radially distributed around the trunk. The root ball shall not exhibit kinked or circling roots.

Hazardous Materials

77. Hazardous materials and hazardous wastes shall be properly stored, managed and disposed of during all grading and construction activities.
78. If any hazardous materials/wastes or their containers are discovered during grading/construction, the Hayward Fire Department shall be immediately notified at (510) 583-4910.
79. If found on the property, underground vessels and/or structures shall be removed under an approved plan filed with the Hayward Fire Department (HFD) and appropriate samples shall be taken under the direction of a qualified environmental consultant to ensure that contamination has not occurred to soil or groundwater. A

follow-up report shall be required to be submitted to document the activities performed and any conclusions reached. Below are specific requirements for each type of structure/vessel:

- a. Underground storage tank and associate piping: An approved removal plan, including appropriate sampling, an HFD permit for the removal, and a follow-up report by a qualified environmental consultant.
- b. Oil Water Separators: An approved plan including appropriate sampling, and follow-up report.
- c. Hydraulic Lifts: An approved plan, including appropriate sampling, and follow-up report.

Engineering

- 80. The property owner shall be responsible for preventing the discharge of pollutants or dust from the project site during and after construction in accordance with the HMC Section 11-5.19. Projects with construction activities between October 1st and April 30th, must have an erosion and sedimentation control program approved, and implemented prior to the start of any land disturbance. Trash and debris must be always contained during the project's construction period. Violations or other noncompliance with stormwater pollution prevention measures may result in the project being shut down, including any building permit activity, until full compliance with stormwater and air pollution prevention requirements are achieved.
- 81. The property owner shall remove and replace any damaged curb, gutter, sidewalks, driveways, signs, pavement, pavement markings, etc., within the public right-of-way along the project frontage and at any locations damaged by the construction of the project. Damaged pavement surfaces shall be overlain or micro-surfaced. All repairs shall be completed to the satisfaction of the City Engineer. Unused driveways or unused portions thereof shall be removed and replaced with curb, gutter and sidewalk constructed in accordance with the applicable City Standards.
- 82. The property owner shall be responsible for adjusting existing utility boxes/vaults to grade and locating and protecting existing communication conduits (fiber optic and copper) along the project's frontages.

Airport

- 83. The applicant shall comply with 14 Code of Federal Regulations Part 77.9 requirements. Information on the requirements is available online here: <https://www.ecfr.gov/current/title-14/chapter-I/subchapter-E/part-77#77.9>.
- 84. A valid FAA Determination Letter shall be associated with each crane location. The valid FAA Determination Letter shall be emailed to the Hayward Executive Airport at airport@hayward-ca.gov.

85. If applicable, two weeks prior to use of a crane, the applicant shall notify the Hayward Executive Airport by calling 510-293-8678 or emailing airport@hayward-ca.gov and provide the following details for Airport Staff to file the required Notice to Airman (NOTAM):
- Valid FAA Form 7460 Aeronautical Study Number (ASN);
 - Beginning date and time crane will be erected;
 - End date and time the crane will be dismantled;
 - Maximum height of the crane;
 - On site contact name and phone number & email; and
 - Whether the crane has lights and/or a flag.
 - Use approved lighting and flags on top the structure as required in accordance with [AC 70/7460-1M - Obstruction Marking and Lighting](#)
86. Use of a crane is **not** permitted unless a valid NOTAM has been issued by Airport Staff.

Prior to Issuance of Certificate of Occupancy

Landscape

87. 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.
88. 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. [SEC. 10-12.11 - IRRIGATION AUDIT, IRRIGATION SURVEY, AND IRRIGATION WATER USE ANALYSIS. | Municipal Code | Hayward, CA | Municode Library](#)
89. 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 9 or applicable parts shall be sent to the City Landscape Architect via email prior to requesting an inspection from the City. [SEC. 10-12.11 - IRRIGATION AUDIT, IRRIGATION SURVEY, AND IRRIGATION WATER USE ANALYSIS. | Municipal Code | Hayward, CA | Municode Library](#)

90. Landscape materials and signage within 10 feet of vehicle ingress and egress points shall be maintained below three (3) feet in height so as not to impair visibility or create a traffic hazard.
91. Standard Landscape Maintenance Requirements:
 - a. Landscaping shall be maintained in a healthy, weed -free condition at all times and minimize the use of fertilizers and pesticides, which contribute pollution to the Bay. The Irrigation system shall be maintained to function as designed performance.
 - b. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection.
 - c. Three-inch-deep mulch should be maintained in all planting areas. Mulch shall be organic recycled chipped wood and dark brown color, and shall not exceed 1.5 inches in diameter.
 - d. All nursery stakes shall be removed during tree installation. 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.
 - e. 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. Tree removal and pruning shall require a tree pruning or removal permit prior to removal by City Landscape Architect.
 - f. Any damaged trees or trees removed 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 Hayward Municipal Code.
 - g. The project's irrigation system shall be tested periodically to maintain uniform distribution of irrigation water. The irrigation controller shall be programed seasonally so that it shuts off during winter season; and the whole irrigation system should be flushed and cleaned when the system gets turn on in the spring.

Engineering

92. All improvements, including for streets, parking lots, walkways, storm drainage, underground utilities etc., shall be completed and accepted by the City Engineer before approval of the building occupancy.
93. All pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Public Works Director and Development Services Director or their designees.
94. The property owner shall execute the City's standard "Stormwater Treatment Measures Maintenance Agreement" prepared by the City. The Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance responsibility for the treatment control and site design measures is bound to the property in perpetuity.

95. The property owner shall submit to the City Engineer a letter from the project geotechnical engineer confirming they have observed all grading activities and that those activities were performed in conformance with their recommendations.
96. The property owner shall submit to the City Engineer a letter from the Engineer of Record confirming that all grading, drainage, and engineering components of the project have been performed in conformance with the approved plans and specifications.
97. The property owner shall submit to the City Engineer As-built records of site grading and improvements on electronic media in AutoCAD and .pdf formats.

-End of Conditions-