



DATE: April 2, 2018

TO: Council Economic Development Committee

FROM: Economic Development Manager

SUBJECT: Preliminary Concept Review-United Growth Drive Through- 2429 Whipple Road

RECOMMENDATION

That the Council Economic Development Committee reviews and evaluates the policy questions related to drive through restaurants and provides high-level feedback on this project concept (Attachment II).

SUMMARY

The project proponent, United Growth Capital Management (United Growth), is a development and asset management firm that has specialized in the development and redevelopment of first-class retail centers throughout the United States for over twenty years. United Growth would like to entitle a drive-through restaurant at 2429 Whipple Road within the Industrial (I) district. Current zoning prohibits drive-through restaurants within a half-mile radius of an existing restaurant that has a drive-through. As this zoning would not allow United Growth to proceed at the Whipple Road location, they are seeking feedback on their proposed development.

PURPOSE OF REVIEW

An initial review of a concept policy issue is before the Council Economic Development Committee (CEDC) to obtain feedback prior to conducting any further studies. A concept review of preliminary project proposals is typically conducted with catalyst developments or to discuss policy issues where upfront feedback is beneficial to a proponent of a project. This project is in the preliminary phase; therefore, no technical studies or complete plans are available. The purpose of this review is to introduce the preliminary concept and policy issues to the CEDC and obtain high-level feedback on the concept and policy issues related to drive-through restaurants.

BACKGROUND/DISCUSSION

The primary objective for United Growth is to attract a productive mix of quality restaurant and retail tenants that serve the community and complement its centers and the surrounding area, focusing on retail trade areas with high traffic, excellent visibility, strong demographics, and ease of property ingress/egress. Examples of tenants United Growth has developed for in the past include:

- The Habit Burger Grill
- T-Mobile
- Bank of America
- Burger King
- Five Guys
- Panera Bread
- Petco
- Verizon wireless
- Pei Wei Asian Diner
- Starbucks
- Dick's Sporting Goods

United Growth has made intensive efforts to attract commercial retail and restaurant tenants to this Hayward site for over four years. United Growth reports that over the years, many quality restaurant tenants have expressed interest in the subject property but have passed due to the current zoning limitation of drive-throughs. Some of the potential tenants elected to focus their efforts in other jurisdictions that allow drive-throughs given that these establishments provide tenants greater store sales, which enable them to afford high Bay Area rents.

The development site is a vacant lot at the northeast intersection of Whipple Road and Wiegman Road, anchored by City Sports located within the City. It joins at the edge of the 880 Key Retail Area identified in the [Economic Development Strategic Plan](#). Destination retail includes:

- 24 Hour Fitness
- Target
- Home Depot
- Food Maxx

Nearby restaurants include:

- Starbucks
- McDonald's
- Taco Bell
- Denny's

On the west side of the 880 Retail Area is Union Landing, a major retail center anchored by Walmart, Best Buy, Lowes, and Cinemark Theatre. Union Landing is a major regional draw for the area. There is easy access into this retail area both from the south and north direction. Major arteries are Whipple Road and Industrial Parkway SW. The cluster of existing retail makes this area a prime location to expand its commercial use. An aerial map of the site is included as Attachment III.

POLICY DISCUSSION AND CURRENT ZONING

Current Zoning. The subject property, is located within the City's Industrial zoning district in which drive-in establishments (e.g. drive-through restaurants, drive-in theaters, car washes, gas stations, etc.) require the review and approval of an Administrative Use Permit. Drive-in establishments are further referred to comply with the minimum design and performance standards set forth within the General Commercial ("CG") zoning district in addition to the development standards (setbacks, lot coverage, height, etc.) of the "I" zoning district. However, [Section 10-1.1045\(j\)\(5\)](#) of the Hayward Municipal Code outlines the following standard with respect to drive-in and drive-through restaurants:

"Drive-in or drive-through restaurants shall be prohibited within half-mile radius of one another as measured from the building walls of existing or proposed buildings".

Given that the proposed project site is located within 0.4-miles of an existing McDonald's Restaurant located at 30147 Industrial Parkway SW, a drive-through establishment would be prohibited, thereby eliminating a potential applicant's ability to apply for an Administrative Use Permit to operate another drive-through establishment.

Policy Analysis. As noted above, the half mile prohibition standard does not allow the opportunity to apply for an Administrative or Conditional Use Permit if there is another drive-through restaurant within the specified distance. For this project to move forward, the applicant would need to receive City Council approval of a Zoning Text Amendment, changing the drive-thru regulations to allow greater flexibility. As such, the project proponent is requesting that the CEDC provide high level feedback of their concerns, issues, and/or support to United Growth related to an amendment to the Hayward Municipal Code that may introduce greater flexibility to this standard, where appropriate.

The existing regulations were put into place to eliminate possible overconcentration and saturation of drive-through establishments. From a staff perspective, there could be some level of flexibility provided to freeway/auto oriented locations where drive-thrus would provide benefits to the Hayward and traveling community. Potential language could include maintaining the current ½ mile prohibition but including some form of "special required finding" that grants applicants the ability to apply for a Use Permit (Planning Commission). For example, the finding or criteria of the amended language may include, but not be limited to, visibility from an interstate or major freeway (I-880, I-580, or S-92), distance from residential land uses, or a maximum number along some arterial and

secondary streets. Further study of this language and its associated impacts would be part of the application process, should the applicant elect to move forward with a Zoning Text Amendment.

ECONOMIC IMPACT

City staff have taken multiple inquires on additional restaurants with drive-thrus but were not able to move forward given the existing 1/2-mile distance requirements. The Hayward drive-thru restaurant market remains strong. Depending on restaurant type and demand, sales tax revenues could range between \$15,000 to \$75,000 annually. In addition, a long-standing vacant retail location, could be developed. Currently Chik-fil-A, Dunkin Donuts, In and Out, El Pollo Loco and Habit Burger are looking for additional locations within the East Bay, including the Hayward market.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities Strategic Initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. This agenda item supports the following goal and objective:

Goal 3: Develop a regulatory toolkit for policy makers.

Objective 1: Update, streamline and modernize zoning and codes.

Objective 3: Develop and refine other regulatory tools.

NEXT STEPS

After the Council Economic Development Committee reviews and provides comments on the project concept, the project proponent will determine if they would like to pursue the project. At that time, the project proponent would start preparing a formal application to the City.

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Approved by:



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