

**DRAFT FINDINGS FOR MAJOR SITE PLAN REVIEW  
AND CONDITIONAL USE PERMIT NO. 202102725  
DEVELOPMENT OF A 219,656 SQUARE FOOT INDUSTRIAL SHELL  
BUILDING AND ASSOCIATED SITE IMPROVEMENTS AND APPROVAL  
OF A MITIGATED NEGATIVE DECLARATION WITH MITIGATION  
MONITORING AND REPORTING PROGRAM FOR DERMODY  
PROPERTIES AT 3636 ENTERPRISE AVENUE, HAYWARD**

**CALIFORNIA ENVIRONMENTAL QUALITY ACT**

- A. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15220, an Initial Study (IS) was prepared for this project with the finding that a Mitigated Negative Declaration (MND) was appropriate because all potential impacts could be mitigated to a level of less than significant with the implementation of Mitigation Measures that were incorporated as conditions of approval for the Project.
- B. That the proposed MND was prepared by Rincon Consultants Inc., on behalf of the City of Hayward acting as the Lead Agency, and that the MND was circulated with a thirty (30) day public review period between July 29, 2022, and August 29, 2022.
- C. That the City received three comment letters from three public agencies, namely, the Bay Area Air Quality Management District (BAAQMD), California Department of Toxic Substances Control (DTSC), and San Francisco Bay Conservation and Development Commission (BCDC). Comments from BAAQMD and DTSC included practices and additional measures to further reduce air quality and Hazards and Hazardous Materials impacts. These practices and measures were incorporated as conditions of approval for the proposed project although they are not necessary to reduce the identified impacts to a level of less than significant.
- D. That the proposed MND was independently reviewed, considered, and analyzed by the Planning Commission and reflects the independent judgment of the Planning Commission; that such independent judgment is based on substantial evidence in the record; that the Planning Commission adopts the proposed MND and its findings and conclusions as its source of environmental information; and that the proposed MND is legally adequate and was completed in compliance with CEQA.
- E. That the proposed MND identified all potential adverse impacts and mitigation measures to reduce the effects of such impacts in the areas of Air Quality, Biological Resources, Cultural Resources, Geology & Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Transportation/Traffic and Tribal Cultural Resources. Based on the MND and the whole record before the Planning Commission, there is no substantial evidence that the project will have a significant effect on the environment.
- F. That the project complies with CEQA, and that the proposed MND was presented to the City Council, which reviewed and considered the information contained therein prior to approving the project. The custodian of the record of proceedings upon which this decision is based in the Development Services Department of the City of Hayward located at 777 B Street, Hayward, CA 94544.

**MAJOR SITE PLAN REVIEW**

Pursuant to Hayward Municipal Code (HMC) Section 10-1.3081, the Planning Commission may approve or conditionally approve the application for Major Site Plan Review for the approximately 10.9-acre industrial shell building when all of the following findings are made:

**A. The proposed development is consistent with the General Plan, Zoning Ordinance, Design Guidelines, and any other applicable plan or program.**

The proposed development would meet *Hayward 2040 General Plan* goals and policies related to the Industrial Technology and Innovation Corridor (Industrial Corridor) land use designation in that the proposed development would yield a new economic and employment facility that would expand the employment base in Hayward (Land Use Goal 6), and in that the proposed development would enhance the visual character of the site by employing building and site design strategies, which would also include employee amenity and landscaping. (Land Use Policies- 6.6, 6.7 and 6.8).

The proposed industrial building and related site improvements meet the standards and requirements set forth in the IG (General Industrial) District. Specifically, the site meets minimum lot requirements; the building meets the setbacks, Floor Area Ratio (FAR) and maximum height standards for structures; and the proposed site improvements including parking, circulation, employee amenity and landscaping all meet or exceed minimum requirements set forth in the Municipal Code. In addition, the proposed development meets the Hayward Industrial District Design Guidelines in that:

- The proposed crosswalks from the pedestrian walkway in front of the building to the sidewalk along Enterprise Avenue enhance area connectivity.
- The proposed custom design metal screen that marks the front entrance to the building is a unique design element that complements building architecture.
- The proposed bicycle racks near the front entrance would be clearly visible and enhance safety and security and the truck loading docks and parking are located to the side of the building.
- The development is designed with a primary building entrance that is oriented toward the street and the building entrance includes substantial glazing and sculptural design elements clearly distinguishable from the street.
- The building mass is broken up with vertical elements, roof line variation and façade treatment with color and score lines.
- There are internal pedestrian walkways that run from the right-of-way, around the buildings and to the employee amenity area that is accessible from the interior of the building.
- Trash enclosures are designed with walls, roofs and are shielded from the right of way with landscaping.

**B. The development is consistent with the purpose, intent, and standards of the applicable zoning district and General Plan or Specific Plan designation and applicable design guidelines.**

As detailed in Finding A above, the proposed industrial development meets the applicable standards set forth in the IC General Plan land use designation, the

applicable IG District, and the Industrial Design Guidelines. The proposed development is also consistent with the purpose and intent of those regulations in that it would result in a significant investment in the City that could attract advanced manufacturing and other high tech uses. The proposed site and building design would provide a desirable working environment and enhance the surrounding industrial neighborhood and district.

**C. The subject site is physically suitable for the type and intensity of the land use and development being proposed.**

The approximately 10.9-acre rectangular site is relatively flat and is suitable for the scale and intensity of the proposed development. The proposed Floor Area Ratio (FAR), which measures the intensity of the proposed land use, is 0.46, well below the 0.8 permitted FAR maximum. The site, as designed, will provide adequate vehicular and pedestrian circulation around the building, ample landscaping, and an employee amenity area at the southwestern corner of the building.

The majority of the project site is subject to inundation in a 100-year flood event and in the event of two or more feet of sea level rise. The proposed development addresses this constraint by grading to raise majority of the site above the 100-year flood plain elevation of approximately 11 feet (NAVD). Raising the site in this manner allows for the constructability and operation of the proposed development on this site in the future and during storm events.

**D. The proposed development will be compatible with the planned land use character of the surrounding area and make a positive impact to the site and surrounding area.**

The proposed project will be a significant investment on the site, resulting in a positive impact to the site and surrounding industrial area. The proposed site includes ample parking and landscaping, which would be compatible with and complementary to other large scale industrial developments in the general vicinity, including the industrial development at 25450-25550 Clawiter Road, which is located approximately 0.6 miles east of the project site. The proposed development would also enhance its surroundings with high quality architectural details, including a decorative metal screen at the entrance.

**E. The proposed development will not have a substantial adverse effect on surrounding development and land uses.**

The project site is located across the Hayward wastewater treatment facility on Enterprise Avenue and is adjacent to an industrial/commercial facility to its west. The character of the area is industrial, and the proposed development would result in the construction of a building that would be designed to be compatible with the surrounding IG District. Any uses allowed in the IG District that would require an Administrative Use Permit or Conditional Use Permit would be subject to a separate review process and conditioned to minimize or eliminate potential nuisances. Additionally, any future uses within the subject buildings would be subject to Performance Standards set forth in the Industrial Districts regulations thus minimizing potential nuisances.

**CONDITIONAL USE PERMIT**

Pursuant to Hayward Municipal Code (HMC) Section 10-1.3225, the approving authority may approve or conditionally approve an application for Conditional Use Permit for the speculative industrial buildings that exceed 150,000 square feet when all of the following findings are made:

**A. The proposed use is desirable for the public convenience or welfare.**

The proposed use includes the development of an industrial shell building with over 150,000 square feet, which is desirable for the public convenience and welfare in that large-scale warehouses and distribution facilities are necessary to provide consumers with goods and services in a convenient and timely manner. While the future tenant(s) of the proposed facility have not been identified, a condition of approval requires that future uses follow the use regulations set forth in the IG District. As described in Major Site Plan Review Finding C above, the proposed scale and intensity of the proposed development is appropriate for the site and similar to other industrial projects in the vicinity.

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

The proposed project is consistent with the purpose and intent of the Industrial Corridor General Plan land use designation and the General Industrial (IG) zoning district in that the proposed development would provide a major investment in the area by creating a new facility that would be capable of attracting advanced manufacturing and other high tech uses. The site and building design, including the employee amenity and landscaping, would create an environment that enhances the surrounding industrial neighborhood and district as a whole.

The project site is located across the Hayward wastewater treatment facility on Enterprise Avenue and is adjacent to an industrial/commercial facility to its west. The character of the area is industrial, and the proposed development would result in the construction of a building that would accommodate uses compatible with other projects the surrounding IG District. It would signal a significant investment in the subject property and industrial area thus resulting in a positive impact to the zoning district and surrounding area.

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

The proposed speculative industrial building that exceeds 150,000 square feet in size will not be detrimental to the public health, safety, or general welfare provided that future uses follow the use regulations set forth in the IG District. In the event the use(s) proposed requires an Administrative or Conditional Use Permit, additional site and business specific plans will be reviewed and evaluated for conformance with the City's regulations and conditioned to reduce or eliminate potential nuisances and ensure neighborhood compatibility.

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

As detailed in the Findings above, the proposed industrial shell building meets the applicable standards set forth in the Industrial Corridor General Plan land use designation, the applicable IG District, and Industrial Design Guidelines.

The proposed development is also consistent with the purpose and intent of those regulations in that it would signal a significant investment in the City that could attract advanced manufacturing and other high tech uses. Additionally, the site and building design including the employee amenity and landscaping areas that that would enhance the surrounding industrial neighborhood and district as a whole.