



## **SUBJECT**

Proposed Establishment of a Car Wash and Expanded Convenience Store at an Existing Gas Station at 438 West Tennyson Road (Assessor Parcel No. 465-0001-002-00) from Kevin Chiang, KC Associates/Xu Ying and Fan Li (Applicant/Owners) Requiring Approval of Conditional Use Permit Application No. 201601868

## **RECOMMENDATION**

That the Planning Commission approve the Conditional Use Permit based on the analysis set forth in this report and the attached Findings (Attachment II), and subject to the Conditions of Approval (Attachment III).

## **SUMMARY**

The proposed project would result in renovation of the Tennyson Valero service station to replace an existing small convenience store with a new, two-story commercial structure containing an approximately 3,000 square foot convenience store with offices above, and the installation of a new self-service car wash within a concrete shell structure. The existing gas station canopy, fuel stations and related underground equipment would remain in place and the gas station would continuously operate during construction.

## **BACKGROUND**

The service station was built in 1960. In 1973, the Zoning Board of Adjustments approved a Use Permit (Use Permit 73-146) to remodel the station to become a self-service facility. The service station has operated continuously since that time with minor upgrades and modifications to the building, fuel stations and service station canopy.

Public Outreach: An initial Notice of Receipt of the project application was sent to 146 property owners and residents within a 300-foot radius of the site on April 18, 2016. In addition, the application was routed to the Eastwood Homeowners Association and the South Hayward Neighborhood Group.

On June 15, 2018, public hearing notices related to the Conditional Use Permit was published in The Daily Review and sent to all property owners and residents within a 300-foot radius of the project site. To date, no comments have been received on the project.

## PROJECT DESCRIPTION

Existing Conditions: The approximately half-acre site is located at 438 West Tennyson Road (Assessor's Parcel Number 465-0001-002-00). The site is flat and currently developed with three fuel pumps covered by an approximately 2,000 square foot canopy, a 980-square foot convenience store, paved drive aisles and haphazard, unmarked parking areas. The convenience store is operated by one employee and sells miscellaneous snacks, drinks, automotive products and tobacco products within a 24-cubic foot area that is accessible to employees only. There are two, two-way driveways (measuring between 40 and 45 feet in width), providing access to the site from West Tennyson Road and small pockets of landscaping that frame the driveways. Approximately 9,000 square feet of the lot along the southern property (adjacent to Tennyson Park) is vacant and undeveloped.

Surrounding uses include commercial uses along north, east and west along Tennyson Road and Tennyson Park to the south of the project site. The Hayward Police South District Office, the Eden Youth and Family Center and the Matt Jimenez Community Center are located approximately five hundred feet west of the project site, and Hayward Fire Station No. 7 is located approximately 500 feet east of the project site.

Proposed Project: The proposed project includes construction of a new two-story, 3,000 square foot commercial structure that would contain a convenience store and offices; construction of a new 1,205 square foot self-service car wash; trash enclosure; and installation of related site improvements. The existing fuel stations and canopy would remain in place and the business would maintain continuous operation during construction.

As proposed, the existing convenience store would be demolished and relocated from the center of the site to the eastern part of the site. The proposed use would be expanded from a single room to a larger, two story structure that would contain a mini-market convenience store with restrooms on the ground floor and two ancillary offices with restrooms above. The entrance and glazing for the convenience store would be located on the western elevation to provide a visual connection to the fuel and car wash areas. The entrance to the store would be framed by a wooden trellis with climbing ivy. The northern and southern elevations would be decorated with a curved standing seam metal roof, color trim, bracing elements and an arched breezeway to create plane breaks in the building. The eastern elevation which would be sited right at the property line would be a one-hour rated concrete masonry wall.

The convenience store would continue to operate 24 hours a day with two in-store employees covering each shift. The mini-market would sell fuel, food and drinks and would continue selling tobacco products as a legal, nonconforming use (see additional analysis under Policy Context and Code Compliance below). The self-serve car wash unit would be located at the rear of the site within a concrete masonry structure that would be painted to match the convenience store. An approximately 100-foot long drive aisle along the western property line would provide ample queuing area for cars waiting to enter the car wash. The car wash would operate from 6 a.m. to 8 p.m. and would be accessed using a self-serve console along the queuing aisle.

Site access would continue to be from two driveways along West Tennyson however the driveways would be reduced in width (from 45 feet to 34 feet in width), and upgraded with driveway aprons that meet City standards. The driveways would be framed with landscaped pockets and the landscaped island between the driveways would be expanded. Overall, approximately 5,553 square feet of the site would be landscaped within front and rear setbacks, pocket landscaped areas at the entrance to the convenience store, and around the parking area/car wash queue aisle. A row of trees and an eight-foot-tall open metal fence are proposed between the project site and Tennyson Park.

Nine 90-degree parking spaces would be located behind the fueling area. The parking spaces would be equipped with stations and covered by a canopy. Two additional parallel parking spaces would be located along the eastern property line in front of the convenience store. Bicycle parking for up to two bicycles will be located at the entrance plaza.

Sustainability Features: The new development will meet the code requirements set forth in the Cal Green Building Code standards in effect when the applicant pulls a building permit.

## **POLICY CONTEXT AND CODE COMPLIANCE**

Hayward 2040 General Plan: The project site has a [Medium Density Residential General Plan](#) land use designation where neighborhood commercial uses, including but not limited to service stations are, considered allowable supporting uses (General Plan 3-14). The proposed expansion of the convenience store and the car wash use is consistent with the policies and guidelines of the *Hayward 2040 General Plan*.

Zoning Ordinance: The project site is located within the [CN \(Neighborhood Commercial\) District](#) where service stations and car washes are subject to Conditional Use Permit approval. Pursuant to [HMC Section 10-1.3205](#), the purpose for requiring conditional use permit approval are to assure certain uses, as specified in the various districts, are permitted where there is a community need, and to assure said uses occur in maximum harmony with the area and in accordance with official City policies. All conditions of approval and all elements of the exhibit approved with the use permit are required to be completed before occupancy or onset of business unless specifically indicated otherwise.

As noted above, the existing service station was approved with Use Permit No. 73-146; therefore, the applicant is seeking the subject Conditional Use Permit to install a car wash at the site and to relocate and expand the convenience store. The proposed convenience store and car wash structures and site improvements are consistent with the required setbacks, lot coverage and height limit for the CN District.

Parking: Pursuant to the [Hayward Municipal Code \(HMC\) Section 10-2.340](#), service stations with convenience stores shall provide one parking space for each employee with the longest shift, one parking space for air/water dispensers, and one parking space for each 400 square feet of gross floor area of the convenience store for a total of eleven parking stalls. In addition, self-service car washes shall provide area for three queuing spaces

(approximately 60 feet in length). The proposed development is consistent with these requirements.

Noise Regulations: Pursuant to [HMC Section 4-1.03.1\(a\)](#), noise generated by a person, device or machine on commercially zoned property shall not exceed 70 dBA at any point outside of the property plane. According to the car wash equipment details, the dryer system component has the highest potential for generating noise that exceeds 70 dBA at the property plane. See further discussion under Staff Analysis below.

Tobacco Retail Sales: Pursuant to [HMC Section 10-1.2780, Tobacco Retail Sales Establishments](#), all tobacco retails shall obtain a Conditional Use Permit to sell tobacco and tobacco related products. Tobacco retailers legally existing prior to the adoption of the regulations may exist without the approval of a Conditional Use Permit but must otherwise comply with all local, state, or federal laws applicable to tobacco products, electronic smoking devices or tobacco paraphernalia, and all requirements and operational standards contained within the City's Ordinance.

According to City records, the subject business was legally established prior to the adoption of the Tobacco Retail Sales Ordinance and has a current Tobacco Retail License. Per [HMC Section 10-1.2915, Nonconforming Uses](#), tobacco retail sales may continue with the proposed redevelopment of the site if the use is not discontinued for a period of six month or longer. If the use is discontinued or if the applicant fails to meet the standards set forth in the Tobacco Retail Sales Ordinance, then the right to engage in tobacco sales may be terminated in accordance with the Ordinance.

Strategic Priority: This agenda item supports the Tennyson Corridor Strategic Initiative. The purpose of the Tennyson Corridor Strategic Initiative is to develop an attractive, cohesive, thriving, Tennyson Corridor through thoughtful engagement of residents, businesses and community partnerships. This item supports Goal 3, Improve Community Appearance and Objectives 3.a to enhance landscaping by expanding the landscaping along the property frontage; 3.b to decrease dumping and littering by utilizing the entire site for the development; and 3.c to decrease blight by redeveloping the site with a new convenience store and car wash structure.

## **STAFF ANALYSIS**

Staff believes that the Commission can make the findings to approve the Conditional Use Permit for the service station remodel and expansion and the installation of a new car wash. Redevelopment of the site will result in construction of a new expanded convenience store, increased site landscaping, a more attractive boundary along Tennyson Park, a more efficient site circulation and parking, and a self-serve car wash that will support public convenience and welfare.

As noted above, the convenience store on the site currently has a Tobacco Retailer's License because tobacco sales were occurring on the site prior to the adoption of the Ordinance. Typically, tobacco sales would not be permitted in the CN District nor would it be permitted

within 500 feet of a public park and community centers; however, as described above, the use is considered a legal non-conforming use if the use is not discontinued for longer than six months; the owner maintains a current Tobacco Retailer License; and, the owner abides by the standards and requirements of the Ordinance (proposed Condition No. 13).

Staff does not believe that the car wash use will be detrimental to public health, safety or general welfare in that the car wash equipment most likely to generate noise impacts that exceed applicable noise standards would be enclosed within a concrete masonry block structure. In addition, the exit of the car wash would be shielded from the property boundaries by the trash enclosure structure and the new convenience store which will significantly reduce noise leakage from the car wash. Staff does recommend that the Commission adopt Condition No. 19 requiring that the applicant install noise suppression equipment or automatic doors at the exit to further buffer any potential noise impacts if noise generated from the car wash exceeds allowable levels.

Staff also recommends design modifications to ensure that the development does not impair the character and integrity of the surrounding area. Specifically, the eastern façade of the convenience store which is visible from the adjacent property, is proposed to be a one-hour rated, plain concrete masonry unit (CMU) wall with little articulation. In addition, the southern elevation of the car wash is slated to be a CMU wall with cement finish despite the fact that it will be visible from Tennyson Park. To ensure that the development is well designed and is well integrated visually from adjacent properties, staff recommends that the Commission adopt Condition Nos. 20 and 21, requiring that the applicant add articulation to the eastern elevation of the convenience store and the southern elevation of the car wash by matching the colors and materials to the other elevations and adding faux windows and trim, a belly band, a mural, mosaic or other artistic elements to the applicable walls.

## **ENVIRONMENTAL REVIEW**

This project is categorically exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15332, Infill Development Projects, in that the proposed project is consistent with applicable general plan policies and zoning designation and requirements; is located on a half-acre site that is surrounded by development on a site that is current being used as a gas station; is adequately served by utilities and public services; and, has no value as habitat for endangered, rare or threatened species. Redevelopment of the site to expand the convenience store and to add a car wash will not result in any significant effects related to traffic, noise, air quality or water quality.

## **NEXT STEPS**

There will be a 10-day appeal period following the Planning Commission decision on the Conditional Use Permit. If an appeal is not received, the decision will become final.

Prepared by: Leigha Schmidt, Senior Planner

Recommended by: Sara Buizer, Planning Manager

Approved by:



---

Sara Buizer, AICP, Planning Manager



---

Stacey Bristow, Interim Development Services Director