

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

Introduced by Councilmember _____

RESOLUTION ADOPTING THE MITIGATED NEGATIVE
DECLARATION AND THE MITIGATION MONITORING
AND REPORTING PROGRAM AND APPROVING ZONE
CHANGE AND ADMINISTRATIVE USE PERMIT
APPLICATION 201505867 PERTAINING TO
ESTABLISHMENT OF CALIFORNIA CROSSPOINT MIDDLE
AND HIGH SCHOOL AT 25500 INDUSTRIAL BOULEVARD

WHEREAS, on December 17, 2015, Robin Hom (Applicant) submitted Zone Change Application No. 201505867, requesting a zone change from Industrial District to Planned Development District to allow for establishment of California Crosspoint Middle and High School at the former Heald College campus located at 25500 Industrial Boulevard (Assessor Parcel Number 441-0055-017-00). The zone change is accompanied by an Administrative Use Permit containing conditions of approval for the “Project”; and

WHEREAS, an Initial Study and Mitigated Negative Declaration were prepared to assess the potential environmental impacts of the Project; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on June 9, 2016, and recommended that the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; and approve the Zone Change and Administrative Use Permit; 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 June 28, 2016.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. 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.
2. That the proposed MND was prepared by the City of Hayward, acting as the Lead Agency, and that the MND was circulated with a minimum thirty (30) day public review

period between May 16, 2016 and June 14, 2016.

3. That the proposed MND was independently reviewed, considered and analyzed by the City Council and reflects the independent judgment of the City Council; that such independent judgment is based on substantial evidence in the record (even though there may be differences between or among the different sources of information and opinions offered in the documents, testimony, public comments and such responses that make up the proposed MND and the administrative record as a whole); that the City Council 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.
4. That the proposed MND identified all potential adverse impacts, and based on the MND and the whole record before the City Council, there is no substantial evidence that the project will have a significant effect on the environment.
5. 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.

ZONE CHANGE

6. The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies. The proposed project is appropriate for the specific site in that it would result in re-use of an existing building developed to accommodate such a use. The proposed project is in harmony with the adjacent residential and educational uses and would result in construction of a gymnasium and community center and daycare that would be made available to the community. In addition, establishment of a high achieving, college preparatory school with international ties would result in economic investment by enhancing the City's image and reputation in the region and offer opportunities for community/school/business partnerships and investment.

The project is consistent with the existing General Plan designation and policies related to land use, educational and economic development, specifically:

Land Use Policy 3.1 - Complete Neighborhoods. The City shall promote efforts to make neighborhoods more complete by encouraging the development of a mix of complementary uses and amenities that meet the daily needs of residents. Such uses and amenities may include parks, community centers, religious institutions, daycare centers, libraries, schools, community gardens, and neighborhood commercial and mixed-use developments.

Land Use Policy 5.1 - Mix of Uses and Activities. The City shall encourage a mix of retail, service, dining, recreation, entertainment, and cultural uses and activities in regional and community centers to meet a range of neighborhood and citywide needs.

Land Use Policy 5.2 - Flexible Land Use Regulations. The City shall maintain flexible land use regulations that allow the establishment of economically productive uses in regional and community centers.

Land Use Policy 5.6 - Adaptive Reuse, Renovation or Redevelopment. The City shall support the adaptive reuse, renovation, or redevelopment of community and regional shopping centers that are no longer viable due to changing market conditions, demographics, or retail trends. The City shall consider alternative land uses if market conditions limit the feasibility of commercial uses.

Education and Lifelong Learning Goal 4. Improve Hayward's "education-to-job bridge" through community partnerships that prepare students and residents for the future economy and expand their career choices.

Economic Development Goal 4. Develop a robust college-town economy through "town-gown" and "communiversity" partnerships.

Economic Development Goal 5. Encourage economic investment by enhancing the image and reputation of Hayward.

7. Streets and utilities, existing or proposed, are adequate to serve the development in that the proposed project site involves re-use of an existing structure. Future phases involve development of the in-fill site which is surrounded by existing streets and utilities with adequate capacity to serve the proposed development.
8. The development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development.

Initial establishment of the school would not include a residential component; however, future phases of the school would include construction of a gymnasium/community center and a residential dormitory for students and staff. The residential dormitory would be incidental to the school use and would only serve students and staff attending school and working at the school. The proposed dormitory would be located adjacent to existing multi-family residential uses and would include a student plaza and outdoor common areas use by the residents, students and staff at the site. In addition, a gymnasium and community center on the site which would be developed prior to the residential dormitory would offer recreational opportunities that would create a stable and desirable campus for residents and day students alike.

9. Any latitude or exception(s) to development regulations or policies is adequately offset or

compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards. The applicant is not seeking deviation from the applicable development standards. Rather the proposed project seeks flexibility in the allowed uses to establish a K-12 private school with ancillary uses at the site. The location of the project site, adjacent to multi-family residential uses and in close proximity to other educational facilities make it appropriate for the proposed school use, subject to an administrative use permit.

ADMINISTRATIVE USE PERMIT

10. The proposed use is desirable for the public convenience or welfare in that it would result in the establishment of a highly regarded, college preparatory middle and high school in Hayward that will benefit local students and attract families to the community. Future phases of the development would result in construction of a gymnasium and community center that would be made available for social, athletic, recreational, civic and cultural activities for the community at large. Further, the school has numerous sister schools in Southeast Asia that would offer extension programs to and from those countries thereby establishing deep connections between Hayward and international communities that could result in increased investment and economic benefits to the City.
11. The proposed use will not impair the character and integrity of the zoning district and surrounding area in that it would result in re-use of a structure built to accommodate an educational use with a similar use. There is positive land use compatibility between the proposed school and ancillary uses and the adjacent residential and nearby educational uses. The proposed use would not negatively impact the adjacent Industrial and Residential Districts in that it is located at the edge of both of those zoning districts and would act as a buffer between the typically incompatible zoning districts.
12. The proposed use will not be detrimental to the public health, safety or general welfare in that the school will re-use a well-maintained and appropriately sized building to accommodate an educational use; and in that conditions of approval will require that new structures be subject to Site Plan Review to ensure that they are sited appropriately to minimize noise and air emissions impacts and to prohibit queuing onto Industrial Boulevard during high volume drop off and pick-up times; and,
13. The proposed use is in harmony with applicable City policies and intent and purpose of the zoning district involved in that the proposed use would be conditionally permitted in a newly established PD District that is intended to allow the specific use in this specific location. The proposed project is appropriate for the site in that it would result in re-use of an existing building developed to accommodate such a use. The proposed project is in harmony with the surrounding area in that the proposed project is compatible with the adjacent residential uses and can serve as a buffer to the industrial uses primarily located west of the project site. In addition, establishment of an internationally recognized, college preparatory school with ties to sister schools in Southeast Asia would result in economic investment by enhancing the City's image and reputation in the region and offer opportunities for community/school/business partnerships.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the Mitigated Negative Declaration and approves Zone Change and Administrative Use Permit Application 201505867, subject to the adoption of the companion ordinance (Ordinance No. 16-_____) rezoning the property located at 25500 Industrial Boulevard (APN 441-0055-017-00) from Industrial District to Planned Development District, subject to the attached conditions of approval attached to this resolution.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2016

ADOPTED BY THE FOLLOWING VOTE:

- AYES: COUNCIL MEMBERS:
- 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

**CITY OF HAYWARD
PLANNING DIVISION
ZONE CHANGE AND ADMINISTRATIVE USE PERMIT
CONDITIONS OF APPROVAL**

ZONE CHANGE AND ADMINISTRATIVE USE PERMIT APPLICATION NO.

201505867 – Request to rezone a property from Industrial District to Planned Development District to establish a private middle and high school for up to 600 students for California Crosspoint Middle and High School. Phase 1 of the project includes establishment of the school in an existing structure; Phase 2 of the project includes construction of a gymnasium/community center and establishment of a pre-school for up to 50 children; and, Phase 3 includes construction of a residential dormitory for up to 150 people. The property is located at 25500 Industrial Boulevard in a Planned Development (PD) District, Assessor Parcel Number 441-0055-017-00.

Zone Change and Administrative Use Permit Application No. 201505867, authorizing establishment of Phase 1 of California Crosspoint Middle and High School (CCMHS) is approved subject to the plans labeled Attachment III and as described in the attached staff report. Phases 2 and 3 of the project shall be subject to Site Plan Review approval, as noted in the conditions listed below.

A copy of the conditions of approval for this Zone Change and Administrative Use Permit must be kept on the premises of the establishment and posted in a place where it may readily be viewed by the general public. This approval is void three years after the effective date of approval unless the use has been established pursuant to this approval. Any modification to this permit shall require review and approval by the Planning Director. Violation of any approved land use conditions or requirements will result in further enforcement action by the Code Enforcement Division. Enforcement includes, but isn't limited to fines, fees/penalties, special assessment, liens, or any other legal remedy required to achieve compliance including revocation.

CONDITIONS OF APPROVAL

General Operations and Phase 1

1. This Administrative Use Permit shall take effect with the approval of a Planned Development District rezoning for the subject property.
2. The permitted uses and development standards for the applicable PD District shall be the same as those set forth in Hayward Municipal Code Chapter 10-1.1600, Industrial District, except that K-12 Educational Facilities and supporting uses such as gymnasium, community center and residential dormitory to serve the primary Educational Facility may be permitted subject to approval of an Administrative Use Permit.
3. The project shall be completed in substantial compliance with the approved plans, labeled "Exhibit A" received February 4, 2016, and on file with the Hayward Planning Division.

4. The school shall be operated in substantial conformance with the project materials received on December 17, 2015, and as outlined in the staff report prepared for the item.
5. The school shall implement, maintain and operate bus and shuttle service as outlined beginning in Chapter 4 (page 57) of the *Final California Crosspoint School Transportation Assessment* (Fehr & Peers, May 4, 2016) and encourage students/parents and staff to utilize the shuttle service.
6. The school shall implement and operate the pick-up and drop-off plan as outlined in Figure 10 and on page 49 of the *Final California Crosspoint School Transportation Assessment* (Fehr & Peers, May 4, 2016) daily and for the entirety of scheduled student drop-off and pick-up times. CCHS staff shall ensure that vehicle queuing, pick-up and drop-off activities do not occur on, or spillover onto Industrial Blvd. If spillover occurs onto Industrial Boulevard, the school shall submit a revised plan that includes staggered start times, additional shuttle service or other measures to reduce congestion.
7. There shall be no more than 600 students in attendance at California Crosspoint School. Any expansion in the number of students shall require review and approval of an amendment to the Administrative Use Permit.
8. The final location, height and materials of the proposed perimeter fence and gates shall be submitted to and approved by the Planning Division prior to issuance of Building Permits.
9. All signs shall comply with the Sign Ordinance. Signs shall be approved by the Planning Director. Sign Permits for both temporary and permanent signs are required prior to installation or display.
10. The property owner and property manager shall be responsible for keeping the premises free of graffiti. Graffiti shall be removed within forty-eight hours after the owner has been advised of the occurrence.
11. The permittee, property owner or designated representative, shall allow code enforcement staff access to the property for a site inspection(s) to confirm all approved use conditions have been completed and are being maintained in compliance with all adopted city, state and federal laws.
12. Violation of conditions is cause for revocation of permit after public hearing before the Planning Commission.
13. The permittee 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.

Mitigation Measures

14. **Mitigation Measure AQ-1:** Implementation of the following BAAQMD best management practices would reduce construction dust impacts to a less than significant level. During any construction period ground disturbance, the contractor shall implement the following:
- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - All visible mud or dirt track-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.
 - All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
 - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
 - Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five 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.
 - 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.
 - Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
15. **Mitigation Measure GEO-1:** The applicant shall conduct a Preliminary Geotechnical Investigation to determine the types of soils underlying the future development pads. The Investigation shall be submitted for review and approval and any recommendations shall be incorporated into design level geotechnical evaluations for each new structure. The studies shall be submitted for review and approval and any recommendations shall be incorporated into the final design of the project prior to issuance of building permits.
16. **Mitigation Measure NOI-1** –The residential dormitory (Phase 3) shall be oriented and designed to shield the student plaza and social area from Industrial Boulevard in order to meet the 65 dBA L_{dn} maximum exterior noise level. The final design of the building with exterior plaza and student gathering area shall be submitted to the Planning Department and approved through Site Plan Review.

17. **Mitigation Measure NOI-2** – Impact NOI-2 can be reduced to a level of less than significant if the following mitigation measures are incorporated as conditions of approval of the Administrative Use Permit for the proposed school and if all improvements are review and approved by the Planning Division prior to issuance of building permits for later phases of development:
- a. **NOI-2.1** – Forced-air mechanical ventilation shall be provided for all residential units in dormitory so that windows may be kept closed to reduce noise.
 - b. **NOI-2.2** – Provide sound rated windows and doors to maintain noise levels at acceptable levels. Preliminary calculations made based on the data contained in the conceptual site plan indicates that sound-rated windows and doors with a sound transmission class (STC) rating of STC 28 to 32 would be sufficient to achieve suitable interior noise levels. The specific determination of what noise insulation treatments are necessary shall be conducted on a room-by-room basis during the final design of the project.
 - c. **NOI-2.3** – A qualified acoustical specialist shall prepare a detailed analysis of interior residential noise levels to confirm that interior noise levels will be reduced to 45 dBA. The analysis shall review the final site plan, building elevations and floor plans prior to construction and recommend building treatments to reduce interior noise levels. Treatments may include but are not limited to sound rated windows and doors, sound rated wall and window construction, acoustical caulking, protected ventilation openings. The analysis shall be submitted to and approved by the Planning Division prior to issuance of building permits for the residential dormitory.
18. **Mitigation Measure TRANS-1:** The impact at Industrial Boulevard/SR 92 WB Ramps intersection can be mitigated to a level of less than significant by optimizing signal timing length with adjacent intersections that are in the same signal coordination group. Along with the subject intersection, the Industrial Boulevard/SR 92 EB Ramps cycle length must be optimized as well to mitigate the impacts at this intersection. This intersection is under the jurisdiction of and must be approved by Caltrans prior to implementation. This mitigation measure shall be completed prior to full operational expansion of the school to 600 students.
19. **Mitigation Measure TRANS-2:** The impact at Industrial Boulevard/SR 92 WB Ramps intersection can be mitigated to a level of less than significant by optimizing signal timing length with adjacent intersections that are in the same signal coordination group. Optimization of signal timing would reduce the change in delay from 114.7 seconds to 2.9 seconds. Along with the subject intersection, the Industrial Boulevard/SR 92 EB Ramps cycle length must be optimized as well to mitigate the impacts at this intersection. This intersection is under the jurisdiction of and must be approved by Caltrans prior to implementation. This mitigation measure shall be completed prior to full operational expansion of the school to 600 students.

20. **Mitigation Measure TRANS-3:** The impact at the Winton Avenue/Clawiter Road intersection can be mitigated to a level of less than significant by optimizing green time at the intersection with the adjacent intersections in the same single coordination group. Optimization of signal timing would reduce the change in delay from 5.9 seconds to 1.2 seconds. The subject intersection is owned and controlled by the City of Hayward. This mitigation measure shall be completed prior to full operational expansion of the school to 600 students.

Phase 2 and 3

21. Future phases of development shall be subject to Site Plan Review approval and shall meet all applicable standards and requirements for development at the time of project submittal.
22. Detailed landscape and irrigation plans in full compliance with the City's Water Efficient Landscape Ordinance for future phases of development shall be submitted with future Site Plan Review applications.
23. The applicant shall submit a Master Site Plan showing pedestrian walkways, plazas and outdoor gathering areas, parking areas and a circulation and queuing plan with the Site Plan Review application for the next phase of development.
24. Phase 2 and 3 structures shall include installation and operation of solar photovoltaic panels, fuel cell or other sustainable, alternative energy technology for the gymnasium, community center and residential dormitory structures. The Planning Division shall review and approve the proposed alternative energy proposal prior with the applications for Site Plan Review.
25. All Mitigation Measures shall be incorporated into the Site Plan Review approvals for subsequent phases of development.
26. Residential dormitory rooms shall not be rented out, sold or otherwise offered to any person that is not a student enrolled at or an employee, volunteer or short-term guest of the school.
27. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.

Building Division

28. Installation of fume hoods and equipment and the eight foot tall perimeter fence shall require approval of a Building Permit Application. The Building Permit Application shall also include a Building Code Review due to the change in occupancy and use from Group B (office) to Group E (school). Building Permit Plans to document the change of use shall be reviewed and approved by the Building Division prior to establishment of the

use at the site (Phase 1). The Building Permit Plans shall be prepared, designed and stamped by a licensed architect and shall contain the following information:

- a. Provide a complete site plan at the time of Building Permit application submittal. Show property lines, setbacks from property lines on all sides of the building, building lines, easements, street center line, alley, parking spaces, and location of all buildings.
 - b. Provide a comprehensive floor plan at the time of Building Permit application submittal. Show all the dimensions, existing and proposed walls, windows, doors, roll-up doors, identify all the rooms, and complete layout of the rooms, restrooms, classrooms office, etc.
 - c. The type of construction, scope of work, floor area of the project, occupancy group, and number of stories and building sprinkler status.
 - d. A building area analysis to determine the allowable heights and area for the project.
 - e. The use for each room and/or area and include verification if separation of occupancies is required and details showing compliance.
 - f. The minimum plumbing fixtures analysis (California Plumbing Code (CPC) 422 and Table 4-1).
29. The supplemental building construction and improvement tax shall be required at the time of issuance of building permit.

Environmental Services - Utilities

30. Water and Sewer Service are available and subject to standard conditions and fees in effect at time of issuance of applicable permits:
- a. Water Services – The property at 25500 Industrial Boulevard is served by a two-inch water service line with manifold to a two-inch domestic meter (account number 35985); a one-inch irrigation meter (account number 35986); and an eight-inch fire service. If the existing water service lines and meters cannot be reused, they must be abandoned by City Water Distribution Personnel at the owner's/applicant's expense. As no interior renovations are proposed in Phase 1, the existing domestic water meter is adequate for the proposed operation. However, any modifications needed to the water services and/or water meters (upsized, downsized, relocate, etc.) must be performed by City crews at the owner's/applicant's expense.
 - b. Sewer Services – The parcel currently has an existing sewer service with a previously purchased discharge capacity of 18,000 gallons per day of domestic

strength discharge. Based on the information provided on the number of student, teaches and staff, no additional sewer system capacity will need to be purchased with the establishment of the school in Phase 1. Additional sewer system capacity may need to be purchased to accommodate future phases of development.

31. All domestic & irrigation water meters must have Reduced Pressure Backflow Prevention Assemblies, per City of Hayward Standard Detail 202. Backflow Prevention Assemblies shall be at least the size of the water meter or the water line on the property side of the meter, whichever is bigger. City records indicate that the existing domestic and irrigation services are protected.

Environmental Services - Solid Waste

32. Bins stored in the on-site enclosure shall not exceed four (4) cubic yards in size and shall be wheeled. Frequency of pickup can be increased to accommodate an increased student population. Please ensure any organics carts are stored under a roof outside of collection days.
33. City Ordinance, effective March 1, 2015, requires all businesses that generate recyclable and significant organic waste (food, food-soiled paper, and plant debris) to separately collect those materials. The facility shall provide indoor containers for all three waste streams (trash, recyclables, and organics) that are clearly labeled for use by students and staff. Please contact Jennifer Yee, Sustainability Technician, at (510) 583-4709, or Jennifer.Yee@hayward-ca.gov for further questions.
34. A Debris Recycling Statement is required with submittal of a building permit for tenant improvement. The form statement is available at the following link <http://www.hayward-ca.gov/sites/default/files/Construction%20and%20Demolition%20Recycling%20Statement.pdf>

Fire Department

35. 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. Dimensions of address numbers or letters on the front of buildings shall be approved by the Fire Department.
36. A key switch shall be mounted on a stationary place three to five feet above ground on the outside of the perimeter security gate. The key switch shall be purchased from Hayward Fire Department. A separate fire permit is required if it is an automatic gate.
37. Submit for proper building permits for the construction/alterations of the building to the Building Department. Provide five year certification on the overhead fire sprinkler system.